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Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 100^{th} CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, October 1, 1987*

The House met at 10 a.m.

Dr. Ronald F. Christian, assistant to the bishop, American Lutheran Church, Fairfax, VA, offered the following prayer:

O God, our Father, gracious Giver of all that we call our own, benevolent Ruler of everything we claim authority over.

Look kindly this day, we pray, upon the work of our hands and the deliberation of our minds.

Keep us, we pray, humble before Your power, patient in our troubles, joyful in our labors, forgiving in our relationships, and grateful for Your blessings.

Hear and grant our petition. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **CALLAHAN**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **CALLAHAN**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will inform absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 95, not voting 39, as follows:

[Roll No. 339]

YEAS—300

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bliley
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clinger
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Coyne
Craig
Crockett
Darden
Daub
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Holloway
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lipinski
Lowry (WA)
Lujan
Luken, Thomas
Lungren
MacKay
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Parris
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Roth
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—95

Armey
Badham
Barton
Bilirakis
Boehlert
Boulter
Buechner
Burton
Callahan
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Courter
Crane
Dannemeyer
Davis (IL)
DeLay
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fields
Frenzel
Gallegly
Gallo
Gekas
Gregg
Hastert
Henry
Herger
Hiler
Hopkins
Houghton
Hunter
Inhofe
Ireland
Jacobs
Konnyu
Lagomarsino
Latta
Leach (IA)
Lewis (FL)
Lightfoot
Lloyd
Lott
Lukens, Donald
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McGrath
Miller (OH)
Moorhead
Pashayan
Penny
Porter
Rhodes
Ridge
Roberts
Rogers
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schroeder
Sensenbrenner
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—39

Ballenger
Bentley
Biaggi
Boner (TN)
Bunning
Cheney
Conyers
Daniel
de la Garza
Dixon
Dowdy
Early
English
Florio
Frost
Gephardt
Gingrich
Goodling
Gray (IL)
Jenkins
Kemp

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Kolbe
Kyl
Lewis (CA)
Lewis (GA)
Livingston
Lowery (CA)
Matsui
McHugh
Molinari
Nichols
Panetta
Roemer
Rostenkowski
Spence
Sweeney
Tauzin
Waxman
Williams

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mrs. Emery, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2249. An act to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1417) entitled "An Act to Revise and Extend the Developmental Disabilities Assistance and Bill of Rights Act," with an amendment.

VETERANS' ADMINISTRATION HOME LOAN GUARANTEE PROGRAM

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1691) to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore (Mr. Kildee). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369), the provisions of section 1816(c) of title 38, United States Code, shall continue in effect through December 31, 1987.

(b) Notwithstanding subsection (c) of section 1829 of such title, fees shall be collected under such section with respect to loans closed during the period beginning October 1, 1987, and ending December 31, 1987.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Montgomery: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSIONS.

(a) Formula.—Notwithstanding section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369), the provisions of section 1816(c) of title 38, United States Code, shall continue in effect through November 15, 1987.

(b) Fees.—Notwithstanding subsection (c) of section 1829 of such title, fees may be collected under such section with respect to loans closed through November 15, 1987.

SEC. 2. SALE OF VENDEE LOANS.

Section 1816(d)(3) of title 38, United States Code, is amended to read as follows:

"(3) The Administrator may sell any note securing such a loan—

"(A) with recourse; or

"(B) without recourse but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent the amendment in the nature of a substitute be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I will not object, but at this time I yield to the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. Montgomery], for an explanation.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, on August 3, the House passed the Veterans' Housing Rehabilitation and Program Improvement Act of 1987, H.R. 2672. The bill includes a number of significant changes in the VA Loan Guaranty Program which are intended to make it operate more efficiently and at lower cost to the taxpayer. One provision of the bill would extend the expiring loan origination fee for 2 years, as well as the formula which determines how the VA handles lenders' claims on VA-guaranteed loans that have gone into default.

Since the loan origination fee expired at the close of business September 30, the Senate has passed and sent to the House a bill that would extend the fee for 90 days.

Our committee is very reluctant to agree to any extension of the fee unless other important housing reform measures contained in our bill are considered at the same time. The distinguished chairwoman of our Subcommittee on Housing and Memorial Affairs, Marcy Kaptur, feels strongly that these reforms are important to our Nation's veterans and should be considered as part of any housing legislation taken up by the Congress this year. I support her position.

In an attempt to be cooperative with the Senate, and with the approval of the gentlewoman from Ohio [Ms. Kaptur], and the very able ranking minority member of the committee, Mr. Solomon, and the ranking minority member of the subcommittee, Mr. Burton, we are proposing an amendment to the Senate measure that would extend the origination fee for 45 days. In addition, the amendment would require the VA to sell with recourse loans which it makes on the sale or acquired properties.

If the loan guaranty revolving fund is running short on cash, it makes no sense to sell loans without recourse at 50 percent of their face value. We need to get as much for these loans as we can, and the way to do that is to sell them with recourse. Thus, if the extension of the fee is going to be sent to the President, it is going to carry with it a commonsense provision to prohibit the sale of loans without recourse unless full value can be obtained. Otherwise, the fee imposed on the veteran for the privilege of getting a VA loan can expire.

I believe the other body will concur in the proposed House amendment to the Senate amendment. I would suggest to the other body that should the fee expire, it will be extremely difficult to get it reinstated in the House.

I urge the adoption of the proposed House amendment.

Again, I appreciate the gentleman from New York yielding to me.

Mr. SOLOMON. Mr. Speaker, continuing under my reservation of objection, I yield to the gentlewoman from Ohio [Ms. Kaptur], the chairman of the Subcommittee on Housing and Memorial Affairs of the Committee on Veterans' Affairs.

Ms. KAPTUR. I thank the gentleman from New York for his courtesy.

Mr. Speaker, the bill which passed the House unanimously on August 3, H.R. 2672, offered the first really comprehensive look at the VA Home Loan Guaranty Program that Congress has taken since the program's inception over 40 years ago.

Our bill made significant improvements in our efforts to assist veterans in obtaining and keeping quality, affordable housing. I am particularly proud of the provisions which would help veterans save their homes should they experience financial difficulty by providing additional servicing and other mortgage foreclosure relief. In addition, the bill included important reforms which would help the program operate more effectively and still save the Government money. One interim provision of our bill extended the 1-percent funding fee which home-buying veterans must pay for an interim period of 2 years to give us the time to identify ways to phase it out.

Mr. Speaker, although the veterans' housing bill has been before the Senate for 8 weeks, it has yet to act upon it or report a bill. In the meantime, because the funding fee is due to expire on September 30, the Senate has sent us S. 1691 which would extend this unpopular fee for another 90 days. In deciding whether to join the Senate in extending this provision, I must question whether this could mean that no further legislative activity would take place this year and that our major reform bill would not be acted upon by the other body.

Frankly, Mr. Speaker, there is very little support in our committee to extend this loan fee at all. I don't like this fee and certainly do not like extending it, except as a stopgap.

Nonetheless, in order to give the Senate more time to consider some of the major reform legislation that we have passed, of which the funding fee is but one small part, this amendment will allow it to be in effect for 45 more days. Hopefully, this will give the Senate ample opportunity to move on their other housing provisions and negotiate with us on the important reform measures contained in the House bill.

For us to consider this as a stopgap measure, I support the amendment to the Senate bill to require that VA loan portfolio sales continue to be made with recourse. The VA has been ordered by OMB to sell all of its loans without repurchase agreements effective October 1. Earlier this year, VA officials indicated that this change in policy would result in an average loss of 30 percent of the face value of loans sold from its portfolio. In the first "trial" sale without recourse—repurchase agreements—the VA received offers as low as 55 cents on the dollar, and in another instance the offer was 15 cents on the dollar. Although the VA did not accept these offers, the "fire sale" mentality reflected in the OMB guidelines poses a further threat to the long-range income of the VA Loan Program. If loans are to be sold without recourse, the amendment would require that they be sold at par. Therefore, if the Senate is willing to accept this provision as part of this agreement, I am willing to extend the fee. Without this provision, I am opposed to even a stopgap extension.

□ 1030

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I would like to thank the gentlewoman from Ohio [Ms. KAPTUR] as well as the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs, for their leadership on this issue.

Mr. Speaker, I rise as ranking member of the Veterans' Affairs Committee in support of the amendment in the nature of a substitute to S. 1691, to temporarily extend authority for the 1-percent user's fee of the VA's Home Loan Guarantee Program. But I want to make it clear that I do not favor this user's fee which veterans must pay in order to receive the loan guarantee benefit. This amendment has my reluctant support only because authority for the user's fee expired at the end of yesterday, and the Loan Guarantee Program's financial situation will consequently rapidly deteriorate, at the rate of about $20 million a month. We are placed in this position because the other body has failed to act timely on a House bill, H.R. 2672, which we passed on August 3, 1987.

The House bill was a bipartisan comprehensive reform of the Loan Guarantee Program and included the 1-percent user's fee. Instead, the other body, which has not yet even reported a housing bill, has sent us a stop-gap measure to extend the fee authority for 90 days, but it does nothing else. Thus, we are being forced by the other body's inaction to take money out of veterans' pockets without a plan to improve the Loan Guarantee Program for them.

Mr. Speaker, I don't like this one bit, and I know my chairman, SONNY MONTGOMERY, the Housing and Memorial Affairs Subcommittee's chairwoman, MARCY KAPTUR, and the subcommittee's ranking member, DAN BURTON, don't like this either. However, the alternative is to let the VA's Home Loan Guarantee Program fall into a financial mess that will only add to the budgetary woes already afflicting the Federal Government.

In addition to our proposed 45-day extension of the user fee authority, the amendment would contain a provision to allow the VA to sell notes securing loans with recourse, or without recourse under one circumstance, as so ably explained by my colleagues across the aisle.

At least, with the extension of the user's fee authority, the additional provision would do something to help the financial operation of the Loan Guarantee Program, and it would tell the other body in plain terms that the House is serious about improving the Loan Guarantee Program for veterans. We do not want to simply keep imposing on veterans a fee we never favored to begin with. Hopefully, we can find an alternative to this odious user's fee, and the sooner the better.

Mr. Speaker, in order to maintain the financial integrity of the VA's Loan Guarantee Program, I urge favorable consideration by this body of the amendment in the nature of a substitute to S. 1691.

Mr. Speaker, I understand that we are going to send this 45-day amendment over to the Senate. The Senate then is going to take part of our housing bill, tack it onto this bill and send it back over here. We then are going to make corrections and send it back over there.

This to me makes absolutely no sense. It is a waste of time. I just want to know what has happened to all the veterans' bills including the beneficiary travel bill, that we sent over almost 2 months ago? What are they doing over in the other house? Where are the veterans' bills? Let them act on them and do what they are supposed to do responsibly, not irresponsibly.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Mr. Speaker, I am happy to yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I would like to know what happened to our bills, too. I would like to point out to our colleagues in the House, we did our work for the veterans. We sent this legislation over to the Senate 2 months ago. We still have not heard from any of those bills.

I would say to the gentleman from New York [Mr. SOLOMON] that he makes a good point, what happened?

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, I would say to the gentleman from Mississippi [Mr. MONTGOMERY] that he has done an excellent job in getting all of our legislation through right from the very beginning of this 100th Congress. We worked day in and day out. We finished our work 2 months ago. Let us get on with it, Senate, let us get something done for the veterans of this Nation.

I reluctantly support this amendment and urge everyone else to do the same.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Mississippi [Mr. MONTGOMERY].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. MONTGOMERY: Amend the title so as to read: "An Act to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M., FRIDAY, OCTOBER 2, 1987, TO FILE SUNDRY REPORTS

Mr. BRYANT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 6 p.m. on Friday, October 2, 1987, to file reports on the following bills:

H. Res. 274. Resolution providing for the release of certain materials relating to the inquiry into the conduct of U.S. district judge Alcee L. Hastings;

H.R. 3307. An act cited as the Sentencing Guidelines Transition Act of 1987; and

H.R. 3258. An act to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs.

The minority has been consulted with respect to this unanimous-consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2310, AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 278 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 278

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed two and one-half hours, with sixty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, and with sixty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill (H.R. 3350) as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of section 311(a) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), and with clause 7 of rule XVI and clause 5 of rule XXI are hereby waived. No amendment to title II of said substitute shall be in order except pro forma amendments offered for the purpose of debate. Following the conclusion of consideration of title II, no further amendment to said substitute shall be in order, except the amendments printed in the report of the Committee on Rules accompanying this resolution, by and if offered by, the Member designated, to be debatable for the time specified and not subject to amendment or to a demand for a division of question in the House or in the Committee of the Whole, and all points of order against said amendments are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 278 is a modified open rule providing for the consideration of H.R. 2310, the Airport and Airway Improvement Amendments of 1987. In order to save the time of the Members of the House I will not describe the rule in detail. Instead, I will describe how this rule differs from House Resolution 275, the earlier rule on H.R. 2310 which the House defeated yesterday.

This rule is identical to House Resolution 275 except that it makes in order to the amendment in the nature of a substitute consisting of the text of H.R. 3350 two amendments printed in the report accompanying this resolution: An amendment by Mr. HAMMERSCHMIDT dealing with essential air service to small communities and an amendment by Mr. HOWARD to take the airport and airway trust fund off-budget and exempt trust fund expenditures from any Gramm-Rudman-Hollings sequestration. These amendments, which would create new titles of the bill, are in order after consideration of title II of the bill. The amendments are not subject to amendment or a demand for a division of the question. All points of order against consideration of the amendments are waived. The Hammerschmidt amendment will be debated under the 5-minute rule. Debate on the Howard amendment will be limited to 1 hour, with the time equally divided and controlled by Mr. HOWARD and an opponent of the amendment.

Mr. SPEAKER, I am sure that everyone here is aware of the situation with this rule. The Rules Committee had reported a rule for this bill which did not grant waivers to allow the Hammerschmidt and Howard amendments to be offered. The House yesterday made clear its desire to consider these amendments and the Rules Committee has acquiesced and reported this rule making those amendments in order.

Mr. Speaker, I urge Members to vote for this rule so that we can move ahead with consideration of this important legislation to fund airport and airway development.

COMPLETE DESCRIPTION OF HOUSE RESOLUTION 278

House Resolution 278 is a modified open rule providing for the consideration of H.R. 2310, the Airport and Airway Improvement Amendments of 1987. The rule provides for 2½ hours of general debate: 60 minutes for the Committee on Public Works and Transportation; 30 minutes for the Committee on Science, Space, and Technology; and 60 minutes for the Committee on Ways and Means. Of course, the time for each of those committees will be equally divided and controlled by the chairman and ranking minority member of the committee.

The rule makes in order the text of H.R. 3350 as an amendment in the nature of a substitute to be considered as original text. H.R. 3350 merely incorporates the committee amendments reported by the three committees of jurisdiction.

The rule provides that the amendment in the nature of a substitute shall be considered by titles, with each title considered as having been read. The rule waives clause 7 of rule XVI and clause 5 of rule XXI against consideration of the substitute. Clause 7 of rule XVI prohibits nongermane amendments and clause 5 of rule XXI prohibits appropriations in an authorization bill or revenue provision in a bill not reported by a committee with jurisdiction over revenue matters. This waiver is necessary because the substitute includes the revenue title reported by the Ways and Means Committee providing funding for the airport and airway trust fund, and the bill as introduced did not include any revenue provisions and was not formally referred to or reported by the Ways and Means Committee. The rule also waives section 311(a) of the Budget Act against consideration of the substitute. Section 311(a) prohibits consideration of legislation which would cause the new budget authority or outlay ceiling set by the budget resolution to be exceeded or the revenue floor to be breached. This waiver is necessary because the Ways and Means revenue title exempts emergency medical helicopters of nonprofit health care facilities from all applicable airport and airway excise taxes, thus reducing fiscal year 1988 revenues by a small amount.

The rule provides that no amendments to title II of the substitute—the revenue title—are in order except pro forma amendments for the purpose of debate, and that following the conclusion of the consideration of title II, no further amendments are in order to the substitute except two amendments printed in the report—H. Rept. 100-325—accompanying this resolution: An amendment by Mr. HAMMERSCHMIDT dealing with essential air service to small communities and an amendment by Mr. HOWARD to take the airport and airway trust fund off-budget and exempt trust fund expenditures from any Gramm-Rudman-Hollings sequestration. These amendments, which would create new titles of the bill, are in order after consideration of title II of the bill. The amendments are not subject to amendment or a demand for a division of the question. All points of order against consideration of the amendments are waived. The Hammerschmidt amendment will be debated under the 5-minute rule. Debate on the Howard amendment will be limited to 1 hour, with the time equally divided and controlled by Mr. HOWARD and an opponent of the amendment.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

There is no need to repeat yesterday's debate. This rule does permit Mr. HOWARD to offer his amendment removing the aviation trust fund from the unified budget. The Howard amendment should be adopted. The rule also permits Mr. HAMMERSCHMIDT to offer his amendment extending the essential air service program for smaller communities for 10 years. Likewise, this is a good amendment and it should be adopted.

The House did the right thing yesterday by rejecting the rule. Both the Howard and Hammerschmidt amendments deal with important matters which should be debated and voted on by the Members here on the floor. Both amendments should be approved today.

Mr. Speaker, I ask for a "yes" vote on the rule, a "yes" vote on both the Howard and Hammerschmidt amendments, and a "yes" vote on this important bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, this gentleman understands that there was a good deal of controversy over specific issues yesterday with regard to the rule, and there were a number of reasons for voting against the rule.

I personally voted against the rule, first because it was a closed rule and second because it waived the Budget Act.

This rule is no different. It is still a closed rule, and it still waives the Budget Act. Let me point out that the Budget Act waiver is not a minor waiver. It is in fact that section of the Budget Act which prohibits us from considering any kind of measure that would cause new budget authority or outlay ceilings to be breached.

So, therefore, we have a very significant budget waiver here. We are talking about a real budget buster. I would simply say to my colleagues that if my colleagues are concerned about the Budget Act, concerned about maintaining budget standards, concerned about breaching the budget, do not vote for this rule. If my colleagues also believe that we ought to debate these kinds of pieces of legislation under open rules rather than under closed rules, we ought to also be among those who vote against this rule.

I intend to ask for a vote on this rule.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I yield to the gentleman form Michigan.

Mr. TRAXLER. Mr. Speaker, there is another disturbing aspect to what this procedure will do. If I understand correctly, and I am sure proponents of the measure will explain this if I do not understand this correctly, that if we take this off budget, in a sense we have instantly increased the deficit and, therefore, we have a greater deficit amount to make up under the provisions of the Gramm-Rudman provisions and matters which concern many of us in the House such as education, health care, NASA, and, therefore, when sequestration occurs there will be larger amounts sequestered.

Mr. WALKER. And I am part of many of us.

☐ 1045

Mr. TRAXLER. I know the gentleman has great concern on several of those items. When sequestration hits, if it does, if the Congress and the President are unable to agree upon a funding measure, or in the alternative on appropriate cuts, it means sequestration is automatic and takes place.

What the gentleman has done, and if I am wrong, I know the gentleman will tell me if the gentleman knows, what the gentleman has done, therefore, is a disproportionate amount of the reductions will then again fall on a narrow range of programs which are very vital, I might add, to Members of this House and to the people of the United States.

This is a bad concept which is going to come back to haunt the proponents of this measure.

Mr. WALKER. I thank the gentleman, and the gentleman is absolutely correct.

I would say to the gentleman, I would not hesitate to move some of these items off-budget where we are dealing with capital improvements, if we structure a capital budget for this country versus an operating budget, and would go to a process that makes more sense.

I do not think we ought to do it under this process.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

I would simply say that, of course, passage of this rule does not mean that we are going to pass the Howard amendment. That has yet to be voted on.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. KILDEE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 42, not voting 24, as follows:

[Roll No. 340]

YEAS—368

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Bennett
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats

Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conyers
Cooper
Courter
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—42

Barton
Beilenson
Bilirakis
Burton
Carr
Combest
Conte
Coughlin
Craig
Crane
Dannemeyer
Daub
DeLay
Dickinson
Dornan (CA)
Dreier
Gekas
Hansen
Hefley
Holloway
Jeffords
Lagomarsino
Lewis (CA)
Lewis (FL)
Lowry (WA)
Lukens, Donald
Lungren
Mack
Obey
Penny
Porter
Regula
Sabo
Saiki
Schaefer
Sensenbrenner
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Stump
Walker
Young (FL)

NOT VOTING—24

Alexander
Bentley
Biaggi
Boner (TN)
Cheney
Daniel
Dowdy
Early
Frenzel
Gephardt
Goodling
Gray (IL)
Kemp
Lewis (GA)
Livingston
McHugh
Molinari
Murtha
Nichols
Roemer
Spence
Tauzin
Vucanovich
Williams

□ 1100

Mr. MACK changed his vote from "yes" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100–107)

The SPEAKER pro tempore (Mr. KILDEE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Thursday, October 1, 1987.)

ANNUAL REPORT REQUIRED BY SOIL AND WATER RESOURCES CONSERVATION ACT OF 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Agriculture:

(For message, see proceedings of the Senate of today, Thursday, October 1, 1987.)

AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 278, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2310.

□ 1108

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey [Mr. HOWARD] will be recognized for 30 minutes, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes, the gentleman from New Jersey [Mr. ROE] will be recognized for 15 minutes, the gentleman from New Mexico [Mr. LUJAN] will be recognized for 15 minutes, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2310, the Airport and Airway Improvement Amendments of 1987, is an important bill for the traveling public in this Nation. It provides the basic support through financing mechanisms and the spending authorization for the Nation's aviation system for the next 5 years.

The Subcommittee on Aviation, led by Chairman NORMAN MINETA and ranking Republican member NEWT GINGRICH, has done an excellent job in developing this legislation. Our ranking Republican on the full Committee on Public Works and Transportation. JOHN PAUL HAMMERSCHMIDT, also deserves credit for his efforts.

In 1978, almost 10 years ago, we deregulated the aviation system from an economic and competitive standpoint only. Deregulation permitted the growth of a system that would provide more service to a greater number of passengers at lower costs.

There have been disruptions and dislocations—no one can argue about that. However, there has been a virtual explosion in air travel in this

Nation. The number of annual passengers has increased from 275 million in 1978 to 450 million this year with 500 million projected for 1990.

To meet the demands caused by this growth in passenger traffic, we raised the taxes on the aviation industry and the traveling public in 1982 to pay for expansion and modernization of the airline system. That authorization expires today. The legislation before you today would extend the authorization for an expanded and upgraded aviation program for an additional 5 years.

H.R. 2310 authorizes $28.5 billion, all derived from dedicated aviation taxes, for the development of the aviation system. Under the bill, $8.6 billion is authorized for airport expansion and safety projects as part of the airport improvement program, $9.3 billion is authorized for modernizing the facilities and equipment of the air traffic control system, and $9.5 billion is authorized for the operations and maintenance of the aviation system.

We have an aviation system with projections of huge increases in passenger traffic, a 21-percent increase in flight delays in the last 2 years and mounting near mid-air collision statistics. The trust fund that is fully funded by the users—or benefiters—of the aviation system. The trust fund receives its revenues from an 8-percent tax on passenger tickets. A general aviation fuel tax and other aviation taxes.

I want to assure my colleagues that this bill is one part of a two-track effort to deal with the increasing frustrations of the aviation system. The funding authorized in this bill will improve airport capacity and upgrade the air traffic control system. These improvements will increase the capacity and reliability of the entire system allowing an increase in air traffic and a reduction in delays.

The committee has also reported the Airline Passenger Protection Act of 1987 which will provide basic consumer information and protections to airline passengers. We expect to bring that bill to the floor shortly, possibly within the next week.

With these two bills, we expect to see improvement in the performance of the airline system that has caused so much inconvenience to so many passengers this year. It is up to us to take the action that will make the system work gain.

The Airport and Airway Improvement Amendments of 1987 deserve the support of this body. We are collecting money for the airport and airway trust fund—there are no general revenues involved in this 5-year authorization. I urge strong support for H.R. 2310.

Mr. Chairman, as Members know, there will be an amendment offered near the end of consideration on this bill in relation to the trust fund, $5.6 billion, which is not being spent because it is on budget, and the amendment to be offered will take it off budget. We do have 1 hour allocated under the rule for debate on that, and for that reason we are not going into it at this time in the hopes that we will be able to handle this bill as expeditiously as possible, and thereby be able to complete the bill at a reasonable hour today.

Mr. Chairman, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill is perhaps the most important piece of aviation legislation that will come out of our committee during this session. It will reauthorize the FAA's trust fund programs for another 5 years.

This bill has the potential to be an important step in our effort to relieve congestion, reduce delays, and improve airline safety and service. It authorizes enough money to proceed with the National Airspace System [NAS] plan. The NAS plan is the long-term modernization effort to purchase new computers and navigation equipment. In addition, this bill authorizes $1.7 billion per year for airport improvements. The increased authorization for both the NAS plan and airport improvements could help our aviation system meet the explosive growth in passenger traffic that we have seen over the last few years.

I emphasize the words "could help our aviation system." Whether it will or not depends largely on whether actual appropriations match the authorized levels. And this, in turn, will depend on whether we decide to take the aviation trust fund off-budget. Unless the aviation trust fund is taken off-budget, there is no assurance that the authorized funds will actually be spent to improve the aviation system. Taking the trust fund off-budget will remove the incentive to hold down trust fund spending in order to make the deficit look smaller.

It is unfortunate that the trust fund issue has been portrayed as a budget issue. It is really more than that. It's a safety issue. It's also a passenger service issue. Many of the problems aviation is experiencing today can be traced to the lack of funding. People tend to blame deregulation or the airlines for these problems. But the lack of funding for the aviation infrastructure is also responsible. Unless we take this trust fund off-budget, congestion and delays at our Nation's airports will increase and the trust fund surplus will, according to GAO, approach $13 billion by the early nineties.

In addition to the authorized funding levels, this bill contains other important provisions.

It sets aside 10 percent of the AIP funds for noise abatement and another 10 percent for reliever airports.

It sets aside 12 percent of AIP funds for general aviation airports and another 5.5 percent for other small airports.

It sets aside some F&E funds to purchase additional instrument landing systems [ILS'].

It creates a discretionary fund that emphasizes the need to increase safety, capacity, and security.

It prohibits the FAA from closing flight service stations unless service in the area will be provided by an automated station using modern equipment.

It discourages the imposition of capacity controls at additional airports.

I believe all these changes are improvements over existing law. Mr. MINETA, the chairman of the Aviation Subcommittee, and Mr. GINGRICH, the ranking Republican member, are to be congratulated for their fine efforts in putting together this bill and, of course, a great deal of credit needs to be given to Mr. HOWARD, chairman of the full Committee on Public Works and Transportation for bringing this fine piece of legislation to the floor. I urge my colleagues to support it.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. STANGELAND].

□ 1115

Mr. STANGELAND. Mr. Chairman, I rise in strong support of H.R. 2310, the Airport and Airway Improvement Amendments of 1987. This legislation, when combined with new provisions on the essential Air Service Program, will offer stability and hope for the Nation's current aviation system.

First, let me commend Chairman JAMES HOWARD and ranking minority member JOHN PAUL HAMMERSCHMIDT of the Public Works and Transportation Committee as well as Chairman NORM MINETA and ranking minority member NEWT GINGRICH of the Aviation Subcommittee for their leadership and bipartisan cooperation. For the last 9 months, the committee has received volumes of testimony and comments on trust fund reauthorization, program reform, extended essential air service and other crucial aviation issues. H.R. 2310 is a worthy compromise that reflects the good judgment of the committee leadership.

Mr. Chairman, H.R. 2310 is a long-term, capital investment in the Nation's Airport Development Program. This $28.5 billion, 5-year reauthorization bill will expand airport capacity and improve air safety. By spending the money in the airport trust fund, we can provide a long term solution to the growing concerns about safety, delays and poor passenger service. This capital development bill will ensure our continued progress and help to solve the increasing traffic demands created by deregulation.

I am particularly pleased to see H.R. 2310 contains two provisions I included as amendments during full committee markup. The two amendments, contained in sections 3 and 7 of the bill, will guarantee increased funding for small airports and allow greater opportunity for all airports to develop their terminals. With these provisions, H.R. 2310 will help to put smaller airports on equal footing with others.

My amendment in section 3 expands the number of airports entitled to receive $300,000 of guaranteed funding each year without expanding the amount of funding or affecting the funding for other airports. In other words, it spreads out the entitlements among a larger group of airports.

Technically, the provision revises the definition of "primary" airports to include airports enplaning more than 18,000 passengers per year. This means an additional 80 to 90 nonhub commercial service airports would receive AIP entitlement funds.

Current law requires approximately 41,000 enplanements before an airport is eligible for entitlements. Before 1982, these 80 to 90 airports, as well as airports with enplanements between 2,500 and 18,000 enplanements, all received the minimum entitlement. So this provision returns the busiest airports to the status they enjoyed between 1970 and 1982.

My other amendment, in section 7 of the bill, provides funds for developing airport terminals. Specifically, it allows the Secretary to remove current percentage and Federal cost-sharing restrictions so that terminal projects receive the same treatment as all other eligible projects.

Current law discriminates against terminal projects by requiring 50/50 percent (Federal/non-Federal) cost-sharing while other projects have 75/25 and 90/10 percent cost sharing. The law also prohibits an airport from using more than 60 percent of its entitlement funds on terminal development. This type of use restriction does not apply to other kinds of projects. The result is that airports, particularly small ones, are restricted from doing needed terminal work.

This provision gives airport sponsors the flexibility they need to plan for terminal and capacity enhancement. The provision, however, does not mean airports will be able to pick terminal development over safety. Sponsors will continue to certify that they have completed all safety related projects before they can use Federal money for terminal projects.

Mr. Chairman, H.R. 2310 is timely, crucial legislation. I urge each of my colleagues to support it.

Mr. HAMMERSCHMIDT. Mr. Chairman, I have no further requests for time and I reserve the balance of my time.

Mr. HOWARD. Mr. Chairman, I yield 3 minutes to the distinguished chairman of our Subcommittee on Surface Transportation and the author of the airline deregulation bill several years ago, the gentleman from California [Mr. Anderson].

Mr. ANDERSON. I thank the gentleman for yielding time to me.

Mr. Chairman, the time has come to face the reality of the problems confronting the aviation industry and our Federal budget. We can no longer afford to withhold the use of much needed funds in the aviation trust fund simply to give the budget deficit a cosmetic improvement. By maintaining a surplus in the aviation trust fund, Congress has been penalizing both the industry and more importantly the people, who have paid for far greater service than they are receiving. For our efforts, we have made no long-term progress toward reducing the deficit figure.

Today, the House is considering H.R. 2310, a bill designed to fund the Nation's aviation system for the next 4 years. This legislation authorizes funding for greatly needed improvements in airport facilities and safety systems. If appropriated, these authorizations would reduce the level of the trust fund surplus from $5.6 billion at the end of fiscal year 1987 to $1.3 billion in fiscal year 1992. Because these funds are already designated for aviation development programs, their appropriation cannot add to the Federal deficit.

These appropriations are essential, but alone they are not enough to insure that in the future the aviation industry and the public will not be deprived of the system they have paid for and deserve. In order to permanently guarantee the rights and safety of all flyers, it is absolutely necessary that Congress act now to remove the aviation trust fund from the congressional budget. The amendment being offered by my esteemed colleague, Mr. Howard, would accomplish this essential step. Let us not focus our attention on creating a budget picture that "looks good" on the surface, but let us rather face the deficit problem more realistically, while we also take an important step toward making our aviation system safe for the long term.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. Rahall].

Mr. RAHALL. I thank the distinguished chairman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 2310, the Airport and Airway Improvement Amendments of 1987. I would like to begin by commending Chairman Howard, Chairman Mineta, and Chairman Roe for their fine work on this much needed legislation that will go a long way toward ensuring the increased safety and convenience of air travel in this country.

H.R. 2310 authorizes $29 billion for the next 5 fiscal years for the essential airport and airway programs that are funded from the airport and airway trust fund. The bill authorizes funding for the Airport Improvement Program, the air traffic control system for facilities and equipment, and for part of the costs of operating and maintaining the air traffic control system. Additionally, it authorizes funding in fiscal year 1988 and fiscal year 1989 for Federal Aviation Administration research, engineering and development programs, some of which will be designated for computer programs geared toward improving the air traffic control system and navigation programs in an effort to increase the safety and general service of the airline industry.

I strongly support Chairman Howard's amendment to remove the airport and airway trust fund from the unified budget. I am pleased that by our actions yesterday, we in the House will be given the opportunity to vote on this issue and to determine what in fact the majority of Members would like to do concerning the trust fund. I for one believe that the trust fund does not belong in the unified budget in view of the facts that spending from it is limited to specified programs and expenditures from it do not add to the Federal deficit.

The money in the trust fund is derived from aviation taxes and can be used only for aviation purposes. The programs funded are not competing with those funded from general revenues. The amendment would have strictly limited expenditures from the trust fund to those moneys generated by aviation taxes. DOT would not have been required to reduce or withhold disbursements from the fund if projected revenues were not expected to support obligations from aviation programs. That provision of the amendment makes moot the deficit reduction argument as aviation spending would have been restricted so as not to add to the Federal deficit.

Additionally, I am a very strong supporter of Congressman Hammerschmidt's amendment to extend the Essential Air Service for 10 years. I have long been an advocate of the EAS and am a cosponsor of legislation introduced by Congressman Hammerschmidt which parallels his proposed amendment. It is of utmost importance to the rural communities of this Nation, including many in West Virginia, that the authorization for the EAS be renewed in a timely manner so as to ensure adequate air travel throughout the country.

In my home State of West Virginia, there are five communities whose airports receive EAS assistance. Two of these communities, Beckley and Bluefield, are located in my congressional district and I can personally attest to the vital need for EAS support in these communities. The continuation of air service in southern West Virginia will be in severe jeopardy without reauthorization of the EAS.

Adequate air service is of critical importance in many ways to small communities in this country. My home State continues to suffer from inordinately high levels of unemployment for which we are seeking solutions by broadening our economic base and promoting new businesses in the State. One of the most promising areas of development is our tourism industry for which these community airports are a critical component for further promotion and expansion. Adequate air service is also an important factor in attracting other businesses which we in West Virginia so desperately need.

I would like to reiterate my full support for H.R. 2310 and for the amendments offered by Chairman HOWARD and Congressman HAMMERSCHMIDT, both of which are of urgent importance to safe and adequate air service in this country.

Mrs. MORELLA. Mr. Chairman, the vastly increased number of flights in recent years has led to increasing strain on the Nation's airports and airways and also on the ears of those who live below our more crowded skies.

H.R. 3350, the airport and airway improvement bill before us today, is a positive step toward improving the capabilities of our Nation's airports and airways. Additional funding is provided for the Airport Improvement Program, for air traffic control system facilities and equipment, and for the cost of operating and maintaining the air traffic control system. This funding will surely help reduce the delays and near-misses that have plagued our Nation's air transportation system.

This legislation also authorizes much-needed funding for Federal Aviation Administration research, engineering, and development programs. Included in this authorization is funding for research to examine new and innovative technologies to control aircraft noise. I am particularly pleased to see this initiative as a part of the final bill. It is the product of an amendment I introduced with Congressman MCMILLEN in the Science, Space, and Technology Committee which will play an important role in reducing the noise plaguing those of our constituents who live below the airways for BWI and National Airports. I call on my colleagues to approve this bill which will so greatly benefit both those who use our Nation's airways and those who live below them.

Mr. STARK. Mr. Chairman, I commend the gentleman from California for bringing this legislation to the floor today and I extend special compliments on the noise abatement provisions included in the bill. I would hope that the committee would continue its work in this direction.

I call particular attention to the provision in the bill which speaks to the issue of noise in the Burbank area. I speak in defense and support of the provision which would deny grants to the Burbank Airport Authority until it submits a feasible plan for dealing with its unique and serious noise problem. For the last year and a half I have dealt with a similar problem in my district, that has yet to be resolved despite multiple correspondences and meetings with the airport authority.

At some point we may all be forced to deal with this type of situation so we ought to be supportive of reasonable solutions to problems as they arise.

Mr. ARMEY. Mr. Chairman, today we are taking a major step toward air safety. We are not there yet but with this legislation, we are moving in that direction. For some time, now, I've told my constituents that air safety can't be had until we free up the trust fund to increase airport capacity and help air traffic control. I've also said we can't solve the problem of overcrowded skies landing and departing at the same time. Air traffic controllers and airport services must deal with flood or famine.

Today, we may free up the fund but apparently will do nothing about the rush-hour crunches. I do not feel any amount of expansion or technological innovations can solve the problem with the rush-hour blitzes. The challenge for us is to balance arrivals and departures without preempting the right of airlines to meet their passenger's needs. I feel an airport pricing mechanism based on bidding for the use of certain landing slots might be a good way to get funds to expand capacity, to distribute the use of rush-hour slots, and to reward the use of off-peak landing slots.

I understand that the passenger protection bill, H.R. 3051, which we will deal with shortly, would have limited landing slots by arbitrarily placing overall ceilings on capacity. This approach ignores the real problem. We state this explicitly with the sense of Congress provision included in this bill. It says that capacity restrictions are "not in the public interest" and should be repealed as soon as possible but "consistent with aviation safety." But this bill does not state how capacity limitations and general aviation and air safety can coexist. Until that issue is addressed, I feel capacity restrictions will continue and that is unfortunate.

Of course these capacity restrictions will do nothing to make air travel more pleasant for passengers. The same problem that overwhelm air traffic controllers—too many planes in too short a time period—also overwhelms passenger service—too many bags from too many passengers in too short a time period. Capacity limits say fewer passengers and fewer bags is a solution. But that is in the aggregate. You will still have the rush-hour blitzes overwhelming all components of air travel.

We have not addressed this problem in this bill and I don't anticipate it will be dealt with in the passenger protection bill. So one-half of the solution, both now and in the long-term, is still missing. Of course we addressed all sorts of other subjects. We're forcing some airports to use runways of questionable safety. In the Passenger Protection Act, we will institute labor protection provisions and other changes that will put an unbearable burden on the air industry.

So after all the discussion today, we have some simple problems but ones with grave consequences. The demand for air travel is, at times, greater than the supply of runways, terminals, air traffic controllers, and airport services. We need to act to expand the supply to meet the demand for air travel. That means we have to build more airports, terminals, and runways. In the 1970's we've built only one major new airport. That's got to change.

Immediate steps also entail getting the most out of current supplies by shifting air travel to the available supply of runways, terminals, air traffic control, and airport services. While this bill is a step in the right direction, it doesn't meet or promise to meet these needs. Until we look to the real problem and enact long-term solutions, passengers, pilots, and controllers will deal with the stress of inadequate solutions.

Mr. BONKER. Mr. Chairman, I am pleased to rise in support of H.R. 2310, the Airport and Airway Improvement Act and in favor of the amendment offered by the Public Works and Transportation Committee to take the aviation trust fund off-budget. The timing of this legislation has become particularly important in the wake of a flood of highly critical reports about our Nation's air transportation system—our skies are overcrowded, air traffic controllers are too few and overworked, airports lack adequate facilities to handle demand, on-time performance has lagged, baggage is frequently lost, and complaints about aircraft noise proliferate.

While this legislation is not intended to address all of the many problems facing air travel, it does authorize funds for the backbone of our country's air transportion network. Overall the bill authorizes $29 billion in fiscal year 1988 through fiscal year 1992 for programs ranging from air traffic control to airport construction. These funds are needed in order to equip our airports to handle the growing number of Americans traveling by air.

Specifically, funds are earmarked for airport improvement, noise abatement, air traffic control, Federal Aviation Administration sponsored research, as well as partial funding for the National Weather Service. In addition, the legislation includes a new provision to lower the taxes on tickets, cargo, and fuels if trust fund appropriations fall below 90 percent of authorizations.

This new funding mechanism is a positive step, but I do not feel it really addresses the issue of the legitimacy of including a dedicated trust fund in the unified budget. I hope my colleagues will recognize the folly of stealing from trust funds to reduce the deficit.

Mr. Chairman, I am pleased that we have adopted the rule which will provide an opportunity to vote on an amendment to take the airport and airway trust fund off-budget. I believe that the airport and airway trust fund, as well as the many other dedicated trust funds in the Federal Government, should be removed from the unified budget. These trust funds are funded by taxes for a dedicated purpose and their surpluses should not be held hostage to the Federal deficit.

Without question, we continue to face a serious problem with the enormous Federal budget deficit and I recognize the concerns raised by the Budget Committee regarding the impact of removing this and other trust funds from the unified budget. I am well-aware of the provisions of the Gramm-Rudman deficit reduction legislation which call for across-the-board budget cuts. But using creative accounting principles to take advantage of trust fund surpluses to hide the real magnitude of the deficit is clearly not in our Nation's best interst. We face a number of problems in air transportation, and if we have surplus funds in the trust fund, they should be used to respond to those needs.

I do not believe that the aviation and airway trust fund should be the only off-budget trust fund, but I believe that moving it off budget would be an important first step toward a more honest portrayal of our deficit. Papering over the actual level of the deficit with trust fund surpluses that by law can only be used for their dedicated purposes is not a solution to our deficit problem.

Mr. Chairman, I hope that we will be able to pass this legislation without delay. We need to move ahead and address the airport and air traffic problems that all of us who travel by air have experienced. Freeing up the trust fund would be a major step toward making these improvements possible. I urge my colleagues to vote in favor of taking the aviation trust fund off-budget and to support H.R. 2310 on final passage.

Mr. SKAGGS. Mr. Chairman, I want to urge my colleagues to support H.R. 2310, the Airport and Airway Improvement Amendments of 1987.

Our strength as a Nation depends on a safe and efficient public transportation system. And today, in the United States, public intercity transportation is aviation.

Since the deregulation of the airlines in 1978, air travel has increased enormously. There were 278 million domestic airline passengers in 1978; last year, there were 415 million. By 1990, there may be as many as 500 million passengers. Last year, of 330 billion passenger miles traveled on commercial trains, planes, and buses, over 300 billion miles were by air.

With air travel at an all-time high, new problems have arisen. Flight delays have increased 21 percent from 2 years ago. Passenger complaints have increased 600 percent in the last year. The number of near collisions will increase this year for the third straight year.

It's premature to look at reregulation of the airlines as the answer. Let's first use existing resources to their fullest extent, including the aviation trust fund.

The trust fund was established in 1970 to fund the capital improvements we need today. Every year, the fund takes in more than $3 billion from taxes on airline passengers and aviation fuel. Over the past 6 years, more than $10 billion from the fund has been used to improve our air travel system. But nearly $6 billion has been accumulated as surplus.

Of course, it's not a surplus at all. That money is needed in the field, and its accumulation represents a breach of trust with the air-traveling public who pay the taxes. The fund can be used only to pay for a limited range of aviation activities. If we don't use it for aviation, it is useless.

H.R. 2310 includes a sensible plan to spend the money in the trust fund for the aviation programs we so desperately need. Its spending levels, ratios, and rules establish a way to improve safety, increase capacity, and limit the amount from the fund that can be spent on general operating costs.

One of the places with the greatest need is in my home State, Colorado. Since deregulation, Denver's Stapleton International Airport has become the fifth busiest airport in the world. It simply isn't large enough to handle the traffic—especially the growth in traffic that's projected. A new airport for Denver is critical to the entire national air transportation system. The Nation doesn't just need improvements to the Denver airport, the Nation needs a new Denver airport.

This bill will help in two ways. As it stands now, the current Stapleton Airport property will revert to the Federal Government when the new airport is opened. The Aviation Subcommittee incorporated in the bill my amendment to allow the city and county of Denver to sell this land to help finance the new airport. This sale will permit the Federal Government to retain a contingent asset in the form of the new airport and will permit the people of Denver and Colorado to put together financing for the new airport that would otherwise have been extremely difficult.

Second, a large portion of the fund is earmarked to be used at the discretion of the Secretary of Transportation for programs to enhance the capacity, safety, and security of airports. The Committee on Public Works and Transportation, in the report accompanying this bill, has expressed its intent that these discretionary funds be used to expand capacity through the construction of new airports, as well as through improvements to existing airports.

The aviation trust fund was established to pay for airport capital improvements and for research and development in aviation facilities and equipment. However, use of the fund for maintenance and operation of the existing air traffic control system has been increasing. Enactment of this bill would end this trend. With it, we would limit the fund's use for maintenance and operations to half of the funding for research and capital projects.

The Airport and Airway Improvements Amendments of 1987 is an act of fiscal responsibility. It's a step toward openness and honesty in dealing with our country's problems, both in the budget and in the sky. It's a good bill, and I encourage you to support it.

Mr. VISCLOSKY. Mr. Chairman, I rise in strong support of H.R. 2310. I believe this legislation is essential for the restoration of our Nation's ailing air transportation system.

In recent months, public confidence in air transportation has been seriously eroded. Although airline deregulation has made air travel more accessible to many Americans, airports and airlines have been unable to cope with the increase in demand for air service. In recent years, we have witnessed a record increase in delays and a growing number of near midair collisions.

Due to a lack of funding, our national airspace plan has failed to stay on schedule in its attempts to modernize our Nation's air traffic control system and develop new airports to meet the growth in traffic. In addition, the administration has failed to adequately rebuild the air traffic control system so seriously impacted by the PATCO strike of 1981. The situation demands that we immediately provide increased funding for a rapid modernization of our air transportation system.

The legislation we consider today takes a significant step toward bringing American aviation into the 21st century. The $28.5 billion, 5-year authorization provides important funds to expand airport capacity and improve aviation safety systems.

Essentially, the sponsors of H.R. 2310 have realized that rhetoric will not solve the problems which airline consumers face today. Rather, a solid financial commitment must be made to improve our system. H.R. 2310 authorizes $9.3 billion for the Facilities and Equipment Program for capital development to modernize the air traffic control system. In addition, the bill authorizes $9.54 billion for operation and maintenance funding. These authorizations will significantly enable the system to operate more safely and efficiently on a daily basis.

I am particularly supportive of the increased authorization in H.R. 2310 for the Airport Improvement Program [AIP]. The bill would increase this authorization from approximately $1 billion annually to $1.7 billion. This increase will allow the expansion of airports—both large and small—to proceed at a more rapid pace. Long term planning efforts to build new airports and expand upon existing facilities depends upon this funding.

Grant money from the AIP is currently being utilized in the Chicago area in a study to determine what potential sites exist for the development of a third major airport. As most of us know, air traffic congestion in the Chicago area is intolerable. The Chicago area air carrier capacity study—funded largely through the FAA—is currently examining options for the development of a new airport which can restore order to this chaotic situation. I am pleased to say that the Gary Airport—which is in the First District of Indiana—is strongly being considered as a potential candidate for development as the third major Chicago airport.

Through the increased funding levels of H.R. 2310, projects like the third airport study in Chicago will be more possible, thus allowing for necessary airport expansion throughout the Nation.

Mr. Chairman, I wish to particularly commend the gentlemen from New Jersey and California for their leadership on this important issue. The legislation they have crafted comprehensively provides the funding which will guide our Nation's aviation infrastructure into the future. Indeed, our national interest truly depends upon this legislation; the maintenance and growth of our air transportation system is essential to a sound and competitive economy. I strongly urge my colleagues to support this bill.

Mr. LIGHTFOOT. Mr. Chairman, I rise in opposition to H.R. 3051, the Airline Passenger Protection Act of 1987, for several reasons that I want to share with my colleagues.

First, I want to state that I share the concerns of the authors of this bill with regard to the current state of the quality of service provided by the Nation's airlines. Flight delays and cancellations, lost and damaged luggage, overbooking, and missed connections are all problems that have become commonplace. As Members of this body, we are responsible for helping to correct these problems and ensure some minimum standard of airline service quality.

During the hearings we held on this legislation earlier this year it became apparent that the problems I just mentioned are caused primarily by several main factors: weather, air traffic control system capacity, airport capacity, and airline management practices. Because of a lack of specific data, it's difficult at this point to determine the extent to which each of these factors is to blame. Today we appear, nevertheless, to be rushing ahead with legislation that singles out one of these—

the airlines themselves—as the focus of punitive action.

The inclination of some to move in this direction is understandable. When we buy a ticket from a given airline, sit on the runway in their airliner for 2 hours, and then miss a connection to another one of their flights, that airline becomes the most immediate identifiable source of our frustration. And to some degree, that is probably an accurate attribution.

How often, however, does the typical passenger attribute their frustration to the overloaded air traffic control system, uncontrollable weather patterns, lack of runways, noise problems, multiyear delays in the FAA's technology procurement system, or—heaven forbid—the U.S. Congress for refusing to release the $5 billion aviation trust fund surplus? I would venture to say not near as often as an accurate assessment of the situation would demand.

The legislation we are considering today, H.R. 3051, contains several positive provisions that require the airlines to report information that will enable airline consumers to make an informed choice. These provisions, some of which have already been implemented by the Department of Transportation, are a movement in a positive direction and should be encouraged. Other provisions, such as the free-ticket requirements, are, in my view, an unwarranted movement backward toward reregulation. This type of requirement is not likely to solve any of our problems, but they are likely to increase the cost of living.

I want to remind my colleagues that for every degree we move in this direction, we diminish the estimated $6 billion in annual savings for the consumer that the Brookings Institute estimates is a result of deregulation of the airline industry.

Mr. Chairman, I simply do not believe the information we have available to us justifies the extremity of some of the provisions in this bill. I am requesting the General Accounting Office to perform a study to determine more precisely what are the causes of the delays, cancellations, lost luggage and other problems we currently face in this area. I will be happy to share that information with my colleagues as soon as I receive it. For now, however, I intend to vote against H.R. 3051 and I encourage my colleagues to do the same.

Ms. PELOSI. Mr. Chairman I am pleased to speak on H.R. 2310 for airport and airway improvement. While I think it is very important that the quality of airport and airway programs is upgraded, I would like to call attention to a problem that is not addressed in this legislation, a problem that many of my constituents in the Fifth Congressional District of California are concerned with.

Many of my constituents are frequent travelers who use the San Francisco International Airport, many of them also live near the airport. The increase in flights scheduled at San Francisco Airport has created problems for our residents, as well as for travelers. For our residents, the problem is severe.

Increased numbers of commercial airplanes are flying over many parts of the city creating irritating noise levels.

I have brought up this subject with Federal Aviation Administration officials and will continue to initiate discussions including a hearing on this issue until a resolution of this serious problem is agreed upon.

I urge my colleagues to address these problems as we pursue solutions to the airport and airway systems.

Mr. BORSKI. Mr. Chairman, I rise in support of H.R. 2310, the reauthorization of the airport and airway trust fund.

This legislation is one of the most important proposals that the 100th Congress will face. Since deregulation of the airline industry in 1978, air travel has soared. With the increased air traffic and congestion, serious questions have been raised about the safety of air transportation. The resources of the FAA have been strained by the rapid growth in air travel. Our air traffic controllers have been under enormous pressure during this period, beginning with the Reagan administration's firing of thousands of controllers in 1981. Many of the Nation's airports are experiencing capacity problems. While the needs of our Nation's air transportation system are at the highest, we are sitting on a huge surplus in the aviation trust fund.

It is critical that we improve the safety and efficiency of our air transportation system. Nothing is as important to the flying public as safety, and many are increasingly anxious about air travel. The Federal Government has a very clear and direct responsibility for ensuring the safety of our airways.

This legislation is a giant step forward in meeting the needs of our air traffic system. It will fund vital safety improvements. It will strengthen our air traffic control system. It will allow for the expansion of airport capacity.

As a representative from Philadelphia, I have a special interest in the legislation. Philadelphia's two airports, International and northeast Philadelphia, are city owned and operated. They do not have access to substantial sources of funding to finance improvements. As a result, the airports depend on the Federal Government, through its Airport Improvement Program, to help pay for capital projects.

Philadelphia International Airport is a primary airport that serves the entire tristate area of Pennsylvania, New Jersey, and Delaware. Northeast Airport is an important reliever airport. International Airport handled 13 million passengers in 1986, up from 10 million just 2 years ago, and it is growing. The city has ambitious plans to rebuild and expand to handle the demand from the public.

The new international terminal will have the capacity to serve one-half million passengers by 1990. Along with the new terminal will come new aprons, taxiways, loading bridges, and other improvements. But these plans will cost a lot of money. The city has issued revenue bonds to cover about $54 million dollars of the project's costs but that won't come close to paying all of the bills. It will take another $18 million.

These projects are essential to meet the region's demand for improved air transportation. That is why this legislation is so important. With support from the Airport Improvement Program, Philadelphia and many other of our Nation's major airports can make the improvements necessary to serve the public safely and efficiently. I urge support for the legislation.

Mr. BIAGGI. Mr. Chairman, I rise in full support of H.R. 2310, the Airport and Airway Improvement Amendments of 1987.

Simply put, our Nation's air transportation system has been the subject of much congressional and public concern recently—and for good reason. Seldom, it seems, does a day go by anymore when we don't get a news report of near misses, airline delays, safety violations, canceled flights and, worst of all, air tragedy. This bill would help provide an important solution to these problems by authorizing the efficient and responsible expenditure of vital airport and airway trust fund revenues.

H.R. 2310 authorizes a total of $29 billion in fiscal years 1988 through 1992 for a variety of airport and airway-related programs funded from the airport and airway trust fund.

Air safety has always been a major concern of mine and I am pleased to report that a substantial share of these funds will be used to improve air safety systems. My own efforts in this area have included authoring legislation to require smoke detectors and automatic fire extinguishers aboard commercial aircraft; and authoring legislation to require in-flight medical kits aboard airliners. I am pleased to report that both of these important safety improvements have been implemented.

Further, just last year, I joined the distinguished gentlelady from California [Ms. BOXER] in calling for a Federal airline safety rating system that could assist consumers in their choice of airlines. It has come to my attention that the General Accounting Office will soon be releasing their findings in this matter and I will be joining Ms. BOXER in soon introducing an appropriate legislative response to their findings.

I also want to take this opportunity to applaud the work of the International Airline Passengers Association, of which I am a member, and the International Foundation of Airline Passengers Associations for their outstanding and very responsible efforts to improve air safety. In fact, I was proud to work with the International Airline Passengers Association and Dr. Hans Krakauer in helping to convince the Federal Aviation Administration to establish a new Office of Passenger Safety in 1985.

Two other particularly noteworthy provisions in the bill would authorize $9.3 billion for equipment purchases to help improve the air traffic control system; and would help ensure that moneys deposited into the aviation trust fund are fully allocated.

My constituents in the New York City and Westchester County areas will be pleased to learn that the bill provides New York with approximately $95 million annually in airport improvement grants, with Kennedy and LaGuardia Airports being targeted for general facility expansion and improvement thanks to these funds.

Mr. Chairman, this Congress has begun to take a good hard look at the very serious problems that currently face our Nation's air transport industry and the more than 400 million passengers who fly each year. This legislation is only the beginning, but it is an essential first step toward a solution to these problems. I urge my colleagues to join me in supporting this vital measure.

Mr. DREIER of California. Mr. Chairman, I am pleased that the House today approved H.R. 2310, the Airport and Airway Improvement Act of 1987. For several years, the American public has been paying a stiff tax for aviation improvements, yet that money has been accumulating only to be used to finance the Federal deficit. In the meantime, our Nation's airports and air traffic control system have been straining under the weight of a 36-percent increase in the number of air travelers. Finally, we can begin the task of modernizing the Nation's airport facilities and air traffic control system.

Unfortunately, I must add that I was disappointed that the House rejected an amendment to remove the aviation trust fund from the unified Federal budget. By taking the trust fund off budget, Congress would have eliminated the underhanded device whereby an additional $1.5 billion in deficit spending is hidden from the American taxpayers.

For many years, users of the aviation system have been paying an 8-percent excise tax on airline tickets and on fuel used by general aviation. Through these taxes, aviation users have contributed more than $3 billion a year to the aviation trust fund, which was created for the purpose of improving air safety and modernizing our air traffic control system. Yet by maintaining the trust fund's status in the unified budget, it is being used to hide the monstrous deficit.

It is nonsense to suggest that removing the trust fund from the budget would increase the budget deficit in fiscal year 1988 by $1.5 billion. This money never belonged in the general budget in the first place. The taxes that are paid into the aviation trust fund cannot be used for any purpose other than airport and airway improvements. In actuality, we are not increasing the budget deficit by $1, we are merely facing up to the reality that we have been spending money that has never been intended to be used as general revenues.

Taking the trust fund off budget will not result in increased spending from the trust fund. Rather, it would prevent the money from being used for purposes other than improving aviation. If Congress is not spending the money on aviation improvements, then perhaps we should stop collecting those taxes under those auspices.

There is currently a $5.6 billion uncommitted balance in the trust fund. Removing the trust fund from the budget would provide the impetus for much needed improvements and modernizations in our aviation system.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 2310, the Airport and Airway Improvement Amendments of 1987. I commend my distinguished colleagues [Mr. MINETA and Mr. GINGRICH] of the Aviation Subcommittee for introducing this legislation, as well as the distinguished chairman [Mr. HOWARD] and the ranking minority member [Mr. HAMMERSCHMIDT] of the Committee on Public Works for their outstanding efforts in reporting this measure.

Mr. Chairman, the importance of safety in our Nation's airways cannot be overlooked by the 100th Congress. Safety in our airports and air traffic system affects the safety of peoples' lives. Unfortunately, we are too often reminded of the consequences of failure in air traffic safety. The recent tragedy of Northwest Airlines flight 225, which crashed at the Detroit Metropolitan Airport on August 16, 1987, confirms for all of Congress that no precaution can be avoided. The Congress must be able to say to the families of the 154 passengers and crewmembers killed in that accident that we have taken every possible step to ensure airline safety. The loss of life due to avoidable errors in the quality of our air traffic system is a loss which the people of this country cannot tolerate.

Mr. Chairman, our Nation's network of airlines is undoubtedly the best in the world, but it is not perfect. In spite of the dedicated performance of our Nation's pilots, air traffic controllers, maintenance crews, and other support personnel, there is a demonstrated need for further legislation in this area. The Airport and Airway Improvement Amendments reauthorize continuing programs for maintenance, modernization, and capital improvement. These programs will provide for the development and installation of sophisticated technologies to provide the most up-to-date information to pilots in the air and flight technicians on the ground. Such improvements are needed to guard against the devastating effects of wind shear and to manage our increasingly crowded airspace.

However, these measures will not address all of the problems which passengers have experienced since deregulation, particularly the decline in quality of passenger services. The committee has reported additional legislation, the Airline Passenger Protection Act of 1987 [H.R. 3051], which will take the additional steps necessary to ensure that quality in service is not sacrificed for the sake of fare reductions and other efficiencies which we all hope to be the long-term benefits of deregulation. I would hope that we could consider this legislation as soon as possible.

There are two issues of particular controversy in consideration of H.R. 2310 which I should like to touch upon briefly. I understand that some of my colleagues will offer amendments on these issues. The first concerns the issue of free trade in Federally funded airport construction. Apparently, several Japanese firms have been bidding on and participating in American construction projects without allowing reciprocal benefits on Japanese projects to American firms. In particular, there are several domestic companies eager to bid on the $8 billion Kansai International Airport near Osaka Bay which is now in the preliminary stages. During the 4 years 1981–85, Japanese participation in the United States construction market soared to nearly $2 billion, while United States participation in the Japanese construction market has been restricted to zero. My distinguished colleague from Tennessee [Mr. SUNDQUIST] will offer an amendment to correct this inequity by prohibiting foreign participation in domestic public works projects unless reciprocal opportunities are afforded to U.S. corporations. I was pleased to cosponsor the original language of this simple requirement for fairness in trade.

The second initiative promises to be an issue of contention. I refer here to the inclusion of the aviation trust fund in the unified Federal budget. Revenues in the trust fund have been collected from excise taxes on the purchase of airline tickets and aviation fuel, and the fund is intended to be used solely for improvement of the air traffic system. The fund is currently operating at a $5.7 billion surplus due to consistent congressional failure to appropriate revenues toward improvement projects. Mr. Chairman, I think it is past time that this surplus be released for its original purpose. Improvements in airline safety are urgently needed, and I think it is a shame to include these funds due to the false benefit that they mask the size of the deficit. Mr. Chairman, I submit that the safety of our Nation's airline passengers is more important than perpetuating the false impression of fiscal responsibility on the part of Congress, and I support the amendment offered by the distinguished public works committee chairman [Mr. HOWARD] to remove the aviation trust fund from the unified Federal budget.

We cannot afford to ignore the issue of airline safety any further. I urge my colleagues to vote in favor of the Airway and Airway Improvement Amendments of 1987.

Mr. FUSTER. Mr. Chairman, I commend my colleagues on the floor today for approving H.R. 2310, the Airport and Airway Improvement Act, and for including in that bill an amendment which will give Puerto Rico greater flexibility and discretion in its use of Federal funds for airport improvements.

In particular, I want to thank my distinguished colleague from California, NORMAN MINETA, the very capable chairman of the House Aviation Subcommittee, for including in the bill an amendment which gives Puerto Rico that flexibility and discretion which it needs in its special airport circumstances.

I worked very closely with Chairman MINETA and requested that he introduce the amendment on Puerto Rico's behalf so that it would carry the weight of his influence and excellent reputation as chairman of the Aviation Subcommittee.

Since 1982, Puerto Rico has received $3.5 million under State apportionment funds under section 2006 of the act. Like the States, the Commonwealth of Puerto Rico can only use the funds for improvement and development of noncommercial general aviation airports. However, unlike most of the States, Puerto Rico has only three airports of this type which have already been quite developed to provide facilities adequate to their operational requirements.

For this reason, although we forsee future needs at these airports, we do not anticipate using all the funds for the purpose they are intended. This presents a problem for the Commonwealth of Puerto Rico, because although the surplus of these funds is very much needed for development at other types of airports on the island, we are legally precluded from using them. Thus, the availability of these funds beyond the restrictions of section 2006 is of importance for the future development of our airport system.

My amendment thus allows the Secretary of Transportation to approve the use of State apportionment funds for projects in primary or commercial airports in Puerto Rico.

For Puerto Rico, the amendment will have a very positive impact, since we foresee the need for major development in our airports in the near future. My amendment, which Chairman MINETA graciously introduced, will give Puerto Rico the discretion to utilize the funding not only for small commuter airports but also in any of the 11 airports on the island. Those 11 include 4 primary airports, 4 other commercial airports and 3 noncommercial, general aviation airports.

Again, I want to thank Chairman MINETA for his vigorous and compassionate leadership in facilitating today the passage of this amendment which will certainly benefit his fellow American citizens in Puerto Rico.

Mr. LANTOS. Mr. Chairman, the noise generated by aircraft landing and taking off is one of the most irritating aspects of urban life. For many of my constituents in the San Francisco Peninsula, airport noise is the principal source of degradation in their quality of life.

In an effort to reduce airport noise in and around the San Francisco International Airport, airport officials refused to allow Burlington Air Express to operate retrofit Boeing 707 jet aircraft at the airport because they were too noisy. As a result of the airport's action, the FAA refused to issue $17 million in previously approved grants to the airport. These were funds that were generated by passengers using the San Francisco Airport and the money was to be used for needed safety equipment and work on the runways. The FAA's decision to withhold these funds—without first completing the legal proceeding—was challenged by the San Francisco Airport's Commission in the U.S. Court of Appeals, which dismissed the case because it lacked jurisdiction.

The FAA action was an inappropriate effort to bludgeon the airport into allowing noisy aircraft to land. It is an effort that disregards the legitimate concerns of the people living near the airport who are subject to the noise and inconvenience of these aircraft.

Mr. Chairman, language is included in the Airport and Airway Improvement Act which prohibits the Secretary of Transportation from withholding grant payments for alleged noncompliance unless the Secretary provides the applicant with an opportunity for a hearing. The bill also directs the Secretary to issue a finding that an airport had violated a requirement or grant condition before suspending, terminating, or denying grants or grant applications. Furthermore, the bill states that the U.S. Court of Appeals shall have jurisdiction over petitions for review of orders withholding grant approval or grant funds.

Mr. Chairman, the time has come to limit the ability of the FAA arbitrarily to terminate entitlement grants to airports without due processes of judicial review. And while San Francisco International Airport will still continue its battle with the FAA on its decision not to release grant funds, this language assures that there will not be this tremendous uncertainty about where judicial review should occur.

Mr. MILLER of California. Mr. Chairman, I rise in strong support for the airport and airway improvement bill before us today. By providing a 5-year authorization for increased funding, today's legislation is a long-term commitment to better and safer air travel.

Our Nation's aviation system is breaking down. Poor airline service, horrendous flight delays, and innumerable near misses are the obvious signs of a neglected and overburdened system. Deregulation has brought increased competition and lower prices for the consumer. But as the demand for air travel has skyrocketed, airports have not been able to keep pace and safety has taken a back seat.

Many Americans who once enjoyed flying now dread the prospect of boarding an airplane. They have heard and read the reports of overcrowded skies, too few air traffic controllers, and aging navigational aids and air traffic computer systems. We continue to face the prospect of air disasters with the loss of many lives, unless these problems are addressed immediately.

The airport and airway improvement bill provides much needed increased authorization to provide airport improvement, obtain facilities and equipment for modernizing the air traffic control system, and ensure the proper operation and maintenance of the system. The bill also provides for programs to improve the safety, productivity, and capacity of the Nation's air traffic control system.

I am particularly pleased that this bill authorizes the Buchanan Field Airport in my district, which has experienced an especially dramatic increase in traffic, to acquire radar equipment for its control tower. The radar will help prevent the recurrence of tragic accidents, like that at the Sun Valley Mall in Concord, CA.

Today we are seeking to restore American confidence in air travel. I am pleased to give my full support to this legislation, and I urge my colleagues to do the same.

Mr. LEWIS of Florida. Mr. Chairman, as a private pilot, Member of Congress, and ranking Republican on the Transportation, Aviation, and Materials Subcommittee, I strongly and wholeheartedly support current efforts to remove the Aviation Trust Fund from the unified budget.

Members may recall that when Congress passed legislation in 1982 authorizing funding for the National Airspace System [NAS] Plan and increased the taxes going into the Aviation Trust Fund, skeptics were assured that this time the funds would finally be appropriated for their intended purpose, air safety modernization.

Unfortunately, the Federal Government has not kept its side of the bargain. The Aviation Trust Fund, which presently has a $5 to $8 billion surplus, has not been fully utilized. This trust fund, made up of taxes on aviation users, has proven to be an irresistable temptation to those in Congress and the administration who wish to "reduce" the Federal deficit through illusionary means.

It is obvious that as long as budget deficits remain and the trust fund continues to be allowed to grow larger, the temptation to use this surplus to offset deficits can only increase.

In my view, if we in Congress are sincere in our desire to promote air safety, we must remove the Aviation Trust Fund from the unified budget. To continue to include this trust fund in the budget is a betrayal of the millions of transportation users who continue to pay into the trust fund in good faith.

Mr. Chairman, the current situation is a gross injustice, but worse yet, it is dangerously shortsighted. Simply put, there is no excuse to place the safety of the traveling public in jeopardy in order to allow Congress and the administration the luxury of continuing to avoid facing the real dimensions of the real deficit. If we are to put an end to the mishandling of the trust fund, we must put an end to the temptation now.

Therefore, I strongly urge that the entire House of Representatives vote to take the trust fund off budget.

Mr. McMILLEN of Maryland. Mr. Chairman, I wish to express my strongest support for H.R. 2310, the airport and airway improvement amendments of 1987.

Scarcely a week has gone by in recent months without a report of an incident involving some airline accident or mishap. Flight delays are rampant, maintenance is poor, and customer services are declining. Clearly, our air-travel system is under severe strain.

H.R. 2310 offers a ray of hope for the improvement of this dismal state. The bill provides $28 billion for 5-year authorizations, from 1988 through 1992, for programs funded by the airport and airway trust fund. These programs included grants for airport development and airport planning; airway facilities and equipment; aviation weather services; and a portion of the costs for operation and maintenance of the air traffic control system.

I am particularly pleased that H.R. 2310 contains a provision Congresswoman MORELLA and I offered as an amendment during full committee markup. Both this language and a separate provision of the bill focus attention on the problem of noise from airport operations and from airplane overflight.

The report directs the Federal Aviation Administration to concentrate research efforts to examine new and innovative technologies to control noise generated by aircraft and to develop effective noise abatement operating procedures. The language specifically states that the research should investigate noise abatement for airports that have a high density of private residences and educational and medical facilities in close proximity.

In addition, the bill makes a number of improvements in the Airport Improvement Program. One of those improvements is to increase the minimum funding for noise compatibility planning and programs from 8 to 10 percent of the total Airport Improvement Program.

I would like to reiterate my support for the airport and airway improvement amendments of 1987 which will benefit both the users of our air-travel system and those impacted by the noise it creates.

Mr. HOWARD. Mr. Chairman, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Arkansas [Mr. HAMMERSCHMIDT] has 29 minutes remaining and the gentleman from New Jersey [Mr. HOWARD] has 20 minutes remaining.

Under the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 15 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2310 was jointly referred to the Committee on Public Works and Transportation, and to the Committee on Science, Space, and Technology. The Science, Space, and Technology Committee has jurisdiction over the part of the bill dealing with research, engineering and development. The funds authorized by this part represent the "front-end" costs of a long, overdue modernization of our Nation's air traffic control system, a project that the Federal Aviation Administration began in 1982, largely as a result of legislation originated by the Science, Space, and Technology Committee.

The subcommittee, chaired by the gentleman from Oklahoma [Mr. McCURDY], held extensive hearings in March of this year, as part of our ongoing oversight of that project and the other research work being undertaken by the FAA. The principal finding of the subcommittee, which the full committee confirmed subsequently, is that the FAA had eliminated nearly all long-term research. The only work to be supported by its $150 million request for fiscal year 1988 is near-term development, needed to complete the aforementioned modernization of the air traffic control system. But what happens after that, 5 to 10 years down the road? No funds are included to provide for future needs in the areas of aviation safety and air system capacity.

Such work must go forward if we are going to develop weather sensors, the kind that might have prevented the Delta Airlines crash in Dallas in August 1985. One hundred thirty-five people lost their lives as a result of that accident. Such work must go forward if we are going to perfect collision avoidance systems, the kind that might have prevented the Aeromexico midair over Ceritos last year. And such work must go forward if we are going to develop new fire-resistant cabin materials, the kind that might have prevented the Air Canada fire in 1983 in which 23 people died.

These are just a few examples. The administration's request was virtually devoid of this kind of research.

The committee found this approach to be shortsighted in the extreme. Accordingly, we are recommending an augmentation of $51 million to the administration's request. This amount will restore most of the really high priority research projects that had long been envisioned as necessary to lay the basis for future improvements, but which were cut in the name of budgetary cosmetics.

I say cosmetics because, as my colleagues well know, the funds for this work come exclusively from an independent revenue stream. They are contributed by the flying public, largely in the form of airline ticket taxes. So, to cut R&D expenditures that are desperately needed, for the sake of making the overall Federal budget look a little better, is not only bad policy, it is also a blatant double-cross of the people who paid their money in good faith expecting it would be spent to improve their safety.

Mr. Chairman, the bill we bring to the floor today represents a bipartisan consensus that our air transportation system is in need of repair. All indicators point to the facts that safety is down and congestion is up. The warning signs are plainly evident. But, happily, we have the resources to do something before we have a series of tragedies. All we need is the resolve to apply them. H.R. 2310 reflects a realistic, long-term plan for safe growth of the air system. I strongly urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. LUJAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of H.R. 2310. The Committee on Science, Space, and Technology plays a small but a very important role in the formulation of the legislation which authorizes appropriations for airport and airway improvement. The much needed modernization of the air traffic control system cannot take place without the R&D authorized in this bill. The bill we passed 5 years ago authorizing the initiation of the national airspace system plan was a good beginning but much more still needs to be done.

The demand on the airspace system continues to grow. By the end of this decade, the number of tower operations, which is a pretty good measure of the demand on the system, will be 30 percent greater than when this modernization effort began. And adding to the congestion problem is the preference of most people to fly at the same time. This means we have some very crowded airspace around our Nation's airports and some very heavy workloads for the controllers.

Fortunately, we are doing something about it. Through increased automation we will be able to manage traffic flow better, do a better job of collision avoidance, weather detection and forecasting, and information dissemination, and alleviate some of that controller workload. We can make air travel safer and we can handle the increased traffic, but we are not there yet.

This bill authorizes $201 million for research, engineering, and development for fiscal year 1988 and an additional $215 million for the following fiscal year to be appropriated from the trust fund. This is somewhat more than the administration requested this year, but it is consistent with their earlier projections and I believe it can be justified. The bill had no opposition in the Committee on Science, Space, and Technology, and was reported out by voice vote.

Mr. Chairman, this legislation is needed to finish the job we started 5 years ago, and I urge all my colleagues to join with us on the Committees of Science, Space, and Technology and Public Works and vote "yes" on H.R. 2310.

Mr. ROE. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. McCURDY].

Mr. McCURDY. I thank the gentleman from New Jersey, chairman of the committee, for yielding this time to me and I want to briefly review with the committee the efforts of the Subcommittee on Transportation, Aviation, and Materials which I chair in the area of aviation safety, FAA, and R&D programs associated with those.

Our subcommittee has held oversight hearings each year on the progress of research and development programs relating to the national airspace system and also the general issues of aviation safety, aviation weather and the requirements of FAA to improve the technology available to those pilots in the cockpits and to the flying public, to increase safety in the air.

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The principal finding that we have discovered in the committee and subcommittee hearings has been the inadequate funding for many of the R&D programs. The administration has consistently in the past couple of years made requests that were below the authorization level, however, that have resulted in higher levels than actually was appropriated. This year's request provided only for near-term needs, however, associated with completing the current ATC modernization and the far-term needs of this plan, however, the national aerospace system plan, have not been met nor included in the administration's request.

The FAA research and development must be planned many years into the future to assure a safe system and allow for growth in air traffic.

One of the things that we have found recently in a hearing held yesterday on research and development effects on air weather and improvements in such systems as terminal Doppler radar system and Nexrad is that there is a tendency to fund only the hardware early on and concentrate on one specific project and not have the overall planning of the communications architecture for the transmission of the data to the aircraft which I think is a result of inadequate funding and inadequate planning because of the uncertainty of the funding issue.

The Subcommittee on Transportation, Aviation and Materials this year recommended adding $51 million to restore long-term research projects that had been planned but were cut this year. Items added include the—

Automatic generation and transmission of clearances;

Future communications systems;

Flight service station enhancements;

Controller human performance studies;

Advanced wind shear sensor development;

Civil uses of global positioning system;

Centralized weather information processing;

Weather sensor enhancements; and

Cabin fire safety.

Recent hearings have shown this research is necessary because a prototype collision avoidance system on one airliner, a Piedmont flight during a test, encountered a near collision every 15 hours.

In 6 months of regular usage, regular flights, they encountered a near collision once in every 15 hours. We need desperately to move forward on TCAS-II and TCAS-III and the funding has to be provided.

Reported near collisions are up 46 percent this year compared to 1986.

Reports of severe weather, which is a factor in half of all aircraft accidents, will not be sent to pilots automatically until the later 1990's.

Research must be expedited to develop the full capability threat alert and collision avoidance system, TCAS-III, and the data dissemination components of the advanced weather reporting system.

Mr. Chairman, I understand that the amendment offered by the gentleman from California is going to be controversial. I believe, however, that in order to ensure the proper funding of these research and development areas and to increase the emphasis on improving air safety, that we must take this step to fully utilize the aviation trust fund and that the Government should stop borrowing money and that we should expend the funds necessary to correct these problems.

Funds to correct these problems have been contributed in good faith by the flying public; but, the present budget system has no flexibility in dealing with a funding category with independent revenue stream.

Inclusion of safety of air transportation system is declining. Congestion is increasing, and it is time that we act.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Chairman, I rise today to speak about the noise compatibility program and how it affects my district of Memphis, TN.

With the expansion of the Memphis International Airport, about 1,300 families suddenly found themselves in an area where the noise levels of jets flying overhead became intolerable. They've complained and we worked closely with the airport authority and local community groups to solve this problem. The program which came out of this hard fought battle is a home buyout plan.

Under this program the airport authority will purchase the homes of citizens living in the most afflicted areas. Some of the funding for this program will be supplied by matching funds which we are about to authorize here. My concern is that due to logistic problems the buyout plan will take a minimum of 5 years to complete. However, I do not see why this program needs to take so long. The logistic problems could easily be solved and the FAA could take steps to ensure that the needed funds are released.

If any of you lived right next to an airport, you would not want to have to wait 5 years, or maybe more, before you could move. When you arrived home after work, you would not be able to relax. When you went to bed, you would not be able to sleep. When your children returned from school they would not be able to study. By reauthorizing this legislation we are taking the first step toward solving these problems. But the Memphis Airport Authority needs to study what they can do to speed up the program so that no one has to live in an airport terminal for 5 years or more.

Mr. Chairman, I would at this time wish to engage in colloquy with the gentleman from New Jersey [Mr. HOWARD] on the bill that is before the House today.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. FORD of Tennessee. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I am happy to engage in colloquy with the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Chairman, I would like to take this opportunity to enter into a colloquy with the gentleman from New Jersey [Mr. HOWARD], by saying I do not have an amendment to offer on the bill today, and I am not sure that an amendment would be in order, but we have asked the FAA to closely examine the Memphis program and to ensure that the buyout be completed as quickly as possible. Clearly, contrary to the airport authority belief, a city the size of Memphis has all the logistic support needed in order to guarantee that this program can be carried out in less than 5 years, which is the period of time that has been talked about in the preapplication.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROE. Mr. Chairman, I yield 1 additional minute to the gentleman from Tennessee [Mr. FORD].

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr FORD of Tennessee. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I wish to thank the gentleman from Tennessee [Mr. FORD] very much for his bringing this to the attention of the House and to the Committee on Public Works and Transportation. We do urge and will urge the FAA to give serious consideration to the concerns the gentleman has raised during the preapplication stage.

Mr. FORD of Tennessee. Mr. Chairman, that is the important part. I thank the gentleman very much for his colloquy, because the preapplication stage is where the FAA would have to step in.

Mr. LUJAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Chairman, I rise in strong support of H.R. 2310 and urge my colleagues to support its passage. The tremendous growth in air travel since deregulation makes it especially important to reauthorize the airport and airway trust fund as soon as possible in order to proceed with plans to expand and improve our air transportation system.

I'd like to take just a minute to refer to some report language included with the bill which commends the FAA for taking concrete steps toward charting preplanned departure and arrival routes in areas with complex airspace for pilots operating under visual flight rules [VFR]. These routes will improve air safety by helping to keep slow traffic separated from faster traffic.

I was greatly concerned when the FAA canceled the only existing VFR corridor through the Los Angeles terminal control area in August. I am encouraged, however, by comments made this morning at an aviation forum breakfast by the new FAA administrator, Allan McArtor. He indicated that the FAA is continuing to work on developing VFR routes through the Los Angeles terminal control area [TCA] and that the goal is to develop four or five such routes.

I am confident that the effort to develop these routes in the Los Angeles TCA will prove successful and lead to their development through other busy airspace across the country. I and other members of the Aviation Committee will continue to monitor progress in the development of VFR preplanned routes.

Mr. LUJAN. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, the FAA research, engineering and development budget request, part of the Airport and Airways Improvement Act now before the House, is truly a bipartisan effort. As is always the case in a compromise, neither side prevailed on all issues, but the FAA budget request represents a good product. I want to thank the subcommittee chairman, Mr. MCCURDY, for his assistance and cooperation in working toward a bipartisan budget. I also want to thank the full committee chairman, Mr. ROE, and the ranking minority member, Mr. LUJAN, for their leadership in getting this legislation before the House for consideration.

The recommendation for the FAA research programs includes an increase in the funding level. The increase comes from the airport and airways trust fund, which receives revenues from airplane ticket taxes and related taxes.

The trust fund has a surplus of over $4 billion in unobligated funds. I am opposed to this accumulation of excess funds and supported efforts to reduce the surplus and to allow the House to vote on removing the trust fund from the unified budget. Nevertheless, the trust fund was established to provide support for several FAA programs, including the Research, Engineering and Development Program. Therefore, the increase in FAA's research budget will not come from general revenue.

During the several days of subcommittee hearings, the picture that emerged is one that the level of air safety must be maintained. The concern is that the number of air-traveling passengers is increasing and at the same time, the number of near midair collisions is also increasing. For example, in 1984 there were almost 600 near midair collisions; this year through July, the total is 611. Therefore, FAA must increase its efforts to improve safety measures to meet the increased risk.

FAA has a good plan to resolve these problems and to modernize the system, which is the national aerospace system plan. However, the funding needed to keep the plan on schedule has lagged. The increase contained in this act will restore the funding to the level that FAA originally requested and will fund important research in several areas.

One such area is fire safety research. Past FAA research has shown a significant correlation between flammability and toxic emissions. In addition, the past studies showed that the severe hazard of toxic emissions occurs as a result of fires involving interior materials.

Currently, no research is underway on reducing toxic gas levels or on the lowering of flammability in materials utilized in airplane interiors.

This legislation directs that the research is to be conducted on materials utilized in airplane interiors to find ways of reducing flammability. In connection with this research, studies are to be conducted on reducing toxic gas levels that result from aircraft fires.

These are just a few of the reasons that I rise in support of the research portion of the Airport and Airways Improvement Act. I urge my colleagues to support this legislation.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of Florida. Mr. Chairman, I am happy to yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, I want to rise and commend the gentleman from Florida [Mr. LEWIS] for his statement, and also to thank him sincerely for his efforts in the Subcommittee on Transportation, Aviation and Materials, as the ranking member, and for the strong bipartisan spirit he brings to that subcommittee as one of the few Members of this body who has had a long-term practical experience in the aviation industry. He has been an invaluable asset not only to the committee but also to the Congress and the country as a whole. It is always a pleasure to work with him. I certainly concur in his remarks and commend him for all of his efforts and leadership in this area.

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman from Oklahoma for those kind remarks. It is a pleasure to work with him, and our four subcommittee chairmen, and certainly the gentleman from New Mexico [Mr. LUJAN], our ranking minority member.

Mr. LUJAN. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise today in strong support of this measure.

The problems of flight delays and other lapses in air travel service have received a lot of attention this year. In fact, there has been a sharp increase in the number of complaints I have received from my constituents about difficulties they have encountered in traveling by airplane. I am sure a number of my distinguished colleagues have their own horror stories. There was even one occasion when it took me almost as long to fly from Wisconsin to Washington as it would have taken to drive.

The reasons for the problems are clear. Millions more people are flying today than have ever flown before. Since deregulation of the airlines, we have seen a quantum leap in the number of people flying as lower fares have attracted new customers. Unfortunately, our airport and airway capacity has not been able to keep up with the demand. Some airports are being asked to handle 5 and 10 times more passengers than the designers ever dreamed would flow through the gates. Our air traffic control systems are being stretched to the limit. It is clear that something has to be done. It's not just service problems, it's air travel safety we must consider as well.

We on the Aviation Subcommittee, and in fact, the full public works committee, have spent a great deal of time discussing the long-term solutions to the problems facing our airports and air traffic control system. The answer seems obvious—we have to upgrade the system, using the money already collected from air travel system users.

Since 1970, the airport and airway trust fund has been the mechanism for funding capital improvements for our air traffic control system and airports. The trust fund is supported by an 8-percent tax on airline tickets and a tax on the fuel used by general aviation. Through these taxes, the users contribute more than $3 billion a year to the trust fund.

Now, there is a surplus in the trust fund of almost $6 billion. The Government has been collecting taxes from the air travel system's users without spending that money on the system. Why? Because keeping that money sitting in the trust fund makes the deficit look smaller.

We will have an opportunity today to take the airport trust fund off budget. I am pleased that the rule under which this measure is being considered will allow the Members to vote up or down on this issue.

I am also pleased that we are considering this legislation here today. H.R. 2310 is designed to reduce the surplus in the trust fund over the next 5 years. The spending will go toward updating and expanding our air traffic control system, increasing airport capacity, and other programs designed to enhance our Nation's air travel system. This bill should greatly reduce the problems we have heard about from all of our constituents, and have even experienced ourselves.

I urge my colleagues to support this measure.

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Mr. LUJAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI], on behalf of the Committee on Ways and Means, will be recognized for 30 minutes, and a member of the minority from the

Committee on Ways and Means will be recognized for 30 minutes.

The gentleman from Ohio [Mr. PEASE] is recognized for 30 minutes.

Mr. PEASE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, speaking on behalf of our chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], I rise today in support of H.R. 2310, the Airport and Airway Improvement Amendments of 1987.

On August 3, 1987, the Committee on Ways and Means approved a revenue title to H.R. 2310. Title II would extend the present law airport and airway trust fund excise taxes and the authority to spend from the trust fund for 5 years, through December 31, 1992. The airport and airway trust fund would be updated to reflect the new authorized expenditures in H.R. 2310.

Title II also contains a provision which provides for an automatic reduction in the air passenger ticket. Cargo, and fuels taxes if the trust fund balance is allowed to accumulate at unreasonably high levels. The reduction would occur only if the trust fund unobligated balance at the end of the fiscal year is $2 billion or more. In such a case, the reduction would be equal to the percentage of the funding shortfall, but in no event to exceed 50 percent.

Title II also provides an exemption from all applicable airport and airway excise taxes for emergency medical helicopters owned or leased by nonprofit health care facilities which derive insignificant benefits from the federally assisted facilities funded by these taxes. This provision will be effective September 30, 1987.

Mr. Chairman, I also want to express my strong opposition to the Mineta amendment which proposes to take the airport trust fund off budget. However, I will reserve my arguments against the off-budget amendment until it is formally offered later today.

In order to continue the necessary funding for support of our Nation's airports and airways. I urge my colleagues' support for title II of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. DAUB. Mr. Chairman, I appreciate this opportunity to discuss title II of the ways and means provisions regarding reauthorization of the airport and airway trust fund programs. In addition to extending the taxes for 5 years, the committee amendment reduces aviation excise taxes if they are not used for their intended purpose of funding airport improvement programs designed to enhance air traffic safety.

The airport and airway trust fund is supported by excise taxes which include an 8-percent tax on air passenger tickets, a 5-percent tax on domestic air freight, a $3 charge on international passenger flights, and a 12 cents per gallon and 14 cents per gallon levy on gasoline and other fuels respectively.

The purpose of the taxes is to finance airport development and safety programs. Specifically, these collected fees are supposed to be used for facilities and equipment, operation and maintenance, airport improvement, and research, engineering, and development. There is clear and pressing evidence that these programs are vitally needed if our Nation's air transportation system is to meet the increasing demands on airport facilities.

However, the trust fund is not being spent. In fact, nearly $5.6 billion are expected to be left in the trust fund at the end of this fiscal year. This situation is contrary to the purpose of the trust fund.

How can we recommend that the taxes continue to be collected if the money is not spent? How do we explain to the airline passenger or the cargo shipper that the tax they pay, which is essentially a user tax, is collecting dust on paper? We can't. And for that reason we have recommended that a catalyst for spending the funds be included in the reauthorization of the trust fund and its air safety programs.

Basically, the ways and means amendment automatically reduces passenger, cargo, and excise tax rates for the calendar year following any fiscal year for which total trust fund appropriations fall below 90 percent of the amount authorized. The tax rates are to be reduced by an amount equaling the percentage of the difference between what is authorized and what is spent.

In other words, if the trust fund is only spent at 85 percent of the authorized level, the excise taxes would be 85 percent of their normal rate. However, the tax rate reduction would not be allowed to exceed 50 percent. In additon, the tax rate reduction would go into effect only if the unobligated balance totals $2 billion or more at the end of the applicable fiscal year.

This revenue title would have the effect of encouraging expenditures on the aviation system. The trust fund is paid for by air travelers and air shippers. But the fact remains that they are not getting the air safety that they are paying for. The conclusion follows that it is not fair to ask taxpayers to put money into a fund that is not being used.

Keeping the funds at an amount above the authorized funding level is nothing less than an attempt to artifically boost the budget. By keeping the trust fund balance above the authorized level and within the unified budget, the true nature of the deficit is understated. Let's get the record straight: We should not be using a dedicated trust fund surplus to make the budget deficit any less of a reality than it is.

This revenue title makes sense, because it recognizes the proper mission of the trust fund—air safety. Air passengers who pay taxes to support the trust fund deserve a careful and reasonable stewardship of those funds. I encourage Members to support the revenue title as part of bill, so that the trust fund is spent. It will enable our Nation's aviation system to provide safe air travel to the people who pay for it.

The CHAIRMAN. The Chair is advised that the minority on the Committee on Ways and Means is not present to assume its 30 minutes, so the Chair would again recognize the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair understands that the gentleman from New Jersey [Mr. HOWARD] still has 20 minutes remaining and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] has 29 minutes remaining.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to ask a question of either the gentleman from New Jersey [Mr. HOWARD], the chairman of the full committee, or the gentleman from California [Mr. MINETA], the chairman of the subcommittee, and to gain some assurances, because I know there have been some discussions regarding the eligibility of funds out of the trust fund for a variety of purposes.

I was wondering if either gentleman could tell me whether the uses for which we would expend funds out of the trust fund have been enlarged over the 1982 bill?

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding.

In terms of enlargements, for instance, the Airport Improvement Program has been increased from $1 billion a year to $1.7 billion a year.

In other areas such as facilities and in equipment, we have varying amounts for equipment in the Facilities and Equipment Account Program, varying from $1.2 billion to about $2 billion a year; and then in terms for operational and maintenance purposes, we have again increased the amount that would be available from the trust fund, but in terms of, is there any expansion of purposes, no. In terms of expanded amounts, yes.

Mr. CARR. I would just state for the record here that between the subcommittee of the gentleman from California [Mr. MINETA] and our Committee on Appropriations, we did uncover a few years ago an attempt by the Commerce Department to fund about 70 percent, 76 percent actually, I believe, of Nexrad, and aviation uses are only 26 percent of the use.

I want to applaud the gentleman for keeping tight reins on the purposes for which trust fund moneys could be spent.

Mr. MINETA. I thank the gentleman for the gentleman's help on the Committee on Appropriations, and his support.

Mr. HOWARD. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the chairman of the subcommittee.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 2310, which will reauthorize the airport and airway trust fund for 5 fiscal years. The 17-year-old trust fund finances capital development of our Nation's airports and air traffic control system. This capital development can make a major contribution to increasing aviation safety and to reversing the serious deterioration in airline service which has occurred over the past year.

A major cause of airline service problems, particularly of delays and canceled flights, has been the failure of the Government to develop an air traffic control system that can accommodate the increased traffic created by deregulation. Low fares and increased service under deregulation have made it possible for millions more Americans to travel by air. The domestic traffic carried by scheduled airlines has increased dramatically from 275 million passengers in 1978, the first year of deregulation, to 418 million passengers in 1986. Unfortunately, the Government has failed to develop an air traffic control system which can handle this increased demand.

H.R. 2310 will authorize the funding which is needed to modernize and increase the capacity of our airports and air traffic control system. The bill authorizes funding of more than $28 billion over 5 years to accomplish these objectives.

For capital development of the air traffic control system under the Facilities and Equipment Program, H.R. 2310 establishes funding levels ranging from $1.4 to $2.2 billion a year. These authorizations are needed to keep FAA's plan for modification of the air traffic control system, known as the national airspace system plan, on track. It has been estimated that the 10-year NAS plan will produce 26.2 billion dollars' worth of benefits for the Federal Government and 37.4 billion dollars' worth of benefits to aviation users, resulting from improved air traffic control services, more efficient routings, and reduced delays.

The NAS plan will replace current air traffic control system equipment, much of which is based on vacuum tube technology of the 1960's. The NAS plan includes approximately 90 individual projects. I particularly call attention to the terminal Doppler weather radar program, which will provide advance detection of hazardous weather conditions, such as wind shear, which has been a primary cause of a number of major airline accidents.

H.R. 2310 also provides funding of approximately $1.7 million a year for capital development of our Nation's airports. This funding level will make a substantial contribution to meeting airport capital development needs.

The bill also authorizes funding for paying a portion of the expenses of operating and maintaining the air traffic control system. As in the past, the bill includes provisions to ensure that the primary purpose of the trust fund will be capital development and that the trust fund will not be spent disproportionately on controller salaries and other operating expenses. If there is full funding of the capital development programs, the reported bill would permit approximately 51 percent of FAA operations to be paid for out of the trust fund. Under the bill, trust fund spending as a whole would account for 76 percent of FAA's overall budget.

Mr. Chairman, in considering this bill, it is important to remember that the trust fund is fully supported by taxes paid by aviation users, including an 8-percent tax on airline tickets and taxes on general aviation fuel. In recent years budgetary pressures have caused spending from the trust fund to be less than trust fund revenues and, as a result, a $5 billion surplus has accumulated. The reported bill would permit this surplus to be drawn down over the next 5 years. At the end of 1992 the surplus would be reduced to approximately $1.3 billion.

Mr. Chairman, we fully recognize that this legislation is not the only congressional action which is needed to improve air service. The Committee on Public Works and Transportation has recently reported a comprehensive consumer protection bill, the Airline Passenger Protection Act of 1987, H.R. 3051. This legislation takes a variety of steps to improve airline service, including making information available to consumers on the quality of airline service, requiring FAA and DOT to take action to deal with overscheduling and missed connections at hubs, prohibiting economic cancellations of flights, and requiring full disclosure in advertising of limitations on discount fares. We hope to bring this bill to the floor in the near future.

In conclusion, Mr. Chairman, the reported bill will make major contributions to improving the safety and efficiency of our air transportation system.

I urge my colleagues to join in helping to pass this important legislation. And I thank you for voting yesterday to allow the membership of the House to consider the off-budget amendment which will help guarantee that the funds authorized here are actually spent.

Mr. HOWARD. Mr. Chairman, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time on general debate has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 350 is considered by titles as an original bill for the purpose of amendment under the 5-minute rule in lieu of the committee amendments now printed in the reported bill, and each title is considered as having been read.

No amendments to title II of said substitute are in order except pro forma amendments offered for the purpose of debate. Following the conclusion of consideration of title II, no further amendments are in order except the amendments printed in House Report 100-325, by and if offered by, the Member designated. Said amendments are not subject to amendment or to a demand for a division of the question, and are debatable as specified in House Report 100-325.

The Clerk will designate title I.

The text of title I is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

SECTION 101. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982; SECRETARY DEFINED.

(a) SHORT TITLE.—This title may be cited as the "Airport and Airway Improvement Amendments of 1987".

(b) TABLE OF CONTENTS.—

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Short title; table of contents; amendment of Airport and Airway Improvement Act of 1982; Secretary defined.
Sec. 102. Authorization of appropriations.
Sec. 103. Apportionment of funds.
Sec. 104. Criteria of primary airports.
Sec. 105. Use of funds.
Sec. 106. State sponsorship.
Sec. 107. Project costs.
Sec. 108. Project sponsorship.
Sec. 109. Grant agreements.
Sec. 110. Noise abatement.
Sec. 111. Limitation on powers.
Sec. 112. Part-time operation of flight service stations.
Sec. 113. Explosive detection K-9 teams.
Sec. 114. Inflation adjustment on collection of certain aviation fees.
Sec. 115. Declaration of policy.
Sec. 116. Inclusion of heliports as airports.
Sec. 117. Study on long-term airport capacity needs.
Sec. 118. Release of certain conditions.
Sec. 119. Restriction on grants for Burbank-Glendale-Pasadena Airport.
Sec. 120. Use of nonaviation land at Pompano Beach Airpark, Florida.

(c) AMENDMENT OF AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Airport and Airway Improvement Act of 1982.

(d) SECRETARY DEFINED.—As used in this Act, the term "Secretary" means the Secretary of Transportation.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) AIRWAY FACILITIES AND EQUIPMENT.—Section 506(a) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking out "For the purposes of" and all that follows through "remain available until expended." and inserting in lieu thereof the following:

"(1) GENERAL AUTHORIZATION.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)), there is authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $6,327,000,000 for fiscal years ending before October 1, 1987, $7,704,000,000 for fiscal years ending before October 1, 1988, $9,434,000,000 for fiscal years ending before October 1, 1989, $11,625,200,000 for fiscal years ending before October 1, 1990, $13,615,200,000 for fiscal years ending before October 1, 1991, and $15,653,500,000 for fiscal years ending before October 1,

1992. Amounts appropriated under this subsection shall remain available until expended.

"(2) Purchase and installation of instrument landing systems.—

"(A) Minimum obligation level.—Of amounts made available under paragraph (1) after September 30, 1987, the Secretary shall obligate not less than $27,000,000 in fiscal year 1988, $30,000,000 in fiscal year 1989, and $35,000,000 in fiscal year 1990 for the purposes of purchasing and installing instrument landing systems at airports under section 307(b) of the Federal Aviation Act of 1958.

"(B) Primary and reliever airports.—75 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at primary airports and reliever airports.

"(C) Other airports.—25 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at airports other than primary airports and reliever airports.".

(b) Research, Engineering and Development, and Demonstrations.—

(1) In general.—Section 506(b) is amended to read as follows:

"(b) Research, Engineering and Development, and Demonstrations.—

"(1) Demonstration projects.—The Secretary is authorized to carry out under section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section.

"(2) General authorization.—For research, engineering and development, and demonstration projects and activities under section 312 of the Federal Aviation Act of 1958 and paragraph (1) of this subsection, there is authorized to be appropriated from the Trust Fund—

"(A) for fiscal year 1988—

"(i) $127,192,000 solely for air traffic control projects and activities;

"(ii) $7,743,000 solely for air traffic control advanced computer projects and activities;

"(iii) $9,818,000 solely for navigation projects and activities;

"(iv) $21,957,000 solely for aviation weather projects and activities;

"(v) $6,307,000 solely for aviation medicine projects and activities;

"(vi) $24,988,000 solely for aircraft safety projects and activities; and

"(vii) $3,000,000 solely for environmental projects and activities; and

"(B) for fiscal year 1989—

"(i) $135,866,000 solely for air traffic control projects and activities;

"(ii) $15,716,000 solely for air traffic control advanced computer projects and activities;

"(iii) $11,395,000 solely for navigation projects and activities;

"(iv) $21,797,000 solely for aviation weather projects and activities;

"(v) $6,613,000 solely for aviation medicine projects and activities;

"(vi) $21,013,000 solely for aircraft safety projects and activities; and

"(vii) $2,600,000 solely for environmental projects and activities.

"(3) Authority to transfer funds.—

"(A) Unlimited.—Funds may be transferred among the projects and activities listed in paragraph (2), except that the net funds transferred to or from any category of such projects and activities listed in paragraph (2) in any fiscal year may not exceed 10 percent of the amount authorized for such category by paragraph (2) for such fiscal year.

"(B) After notice.—In addition, the Secretary may propose transfers to or from any category of projects and activities listed in paragraph (2) exceeding 10 percent of the amount authorized for such category. An explanation of the proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate. The proposed transfer may be made only when—

"(i) 30 calendar days have passed after transmission of such explanation; or

"(ii) each such Committee has transmitted to the Secretary written notice that such Committee has no objection to the proposed transfer.

"(4) Minimum expenditures for enhancing airport capacity.—

"(A) General rule.—Notwithstanding any other provision of this subsection, of funds made available under paragraph (2) in each of fiscal years 1988 and 1989, not less than $25,000,000 per fiscal year shall be expended for research and development on preserving and enhancing airport capacity (including research and development on improvements to airport design standards, airport maintenance, airport safety, airport operations, and airport environmental concerns) under section 312 of the Federal Aviation Act of 1958.

"(B) Report.—Not later than 60 days after the last day of each of fiscal years 1988 and 1989, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Science, Space, and Technology and the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report demonstrating that the Administrator has complied with subparagraph (A) in such fiscal year.

"(5) Period of availability.—Amounts appropriated under this subsection shall remain available until expended.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect October 1, 1987.

(c) Other Expenses.—

(1) General limitations.—Section 506(c) is amended by adding at the end thereof the following new paragraph:

"(3) Fiscal years 1988-1992.—

"(A) Maximum amount appropriated.—Subject to subparagraph (B) of this paragraph, the amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1988, 1989, 1990, 1991, and 1992 may not exceed 50 percent of the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(B) Reduction in maximum amount.—The maximum amount which may be appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) for any fiscal year, as determined under subparagraph (A) of this paragraph, shall be reduced by an amount equal to 3 times the excess, if any, of—

"(i) $3,297,000,000 in the case of fiscal year 1988, $3,450,000,000 in the case of fiscal year 1989, $3,840,000,000 in the case of fiscal year 1990, $3,700,000,000 in the case of fiscal year 1991, and $3,650,000,000 in the case of fiscal year 1992, over

"(ii) the amount appropriated under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(C) Transfer of reduced funds to discretionary fund.—If the maximum amount which may be appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) for any fiscal year is reduced under subparagraph (B), there shall be available from the Trust Fund for such fiscal year and thereafter to the Secretary for making grants at the discretion of the Secretary for the purposes described in section 507(c)(2) an amount equal to the amount of such reduction.".

(2) Limitation on funding for weather services.—Section 506(d) is amended—

(A) by striking out "$26,700,000" and all that follows through "1986; and"; and

(B) by inserting before the period at the end thereof the following: "and $30,000,000 per fiscal year for each of fiscal years 1988, 1989, 1990, 1991, and 1992".

(d) Limitation on Uses of Trust Fund.—

(1) Funding of airport improvement program.—Section 506(e)(1) is amended by inserting "and section 505" before the period.

(2) Extension.—Section 506(e)(5) is amended by striking out "1987" and inserting in lieu thereof "1992".

(e) Airport Development and Planning.—Section 505(a) is amended by striking out the second sentence and inserting in lieu thereof the following: "The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $5,116,700,000 of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 507(a)(3)(B) for fiscal years ending before October 1, 1987, $6,836,700,000 for fiscal years ending before October 1, 1988, $8,556,700,000 for fiscal years ending before October 1, 1989, $10,255,700,000 for fiscal years ending before October 1, 1990, $12,015,700,000 for fiscal years ending before October 1, 1991, and $13,727,700,000 for fiscal years ending before October 1, 1992.".

(f) Disadvantaged Business Enterprises.—Section 505 is amended by adding at the end thereof the following new subsection:

"(d) Disadvantaged Business Enterprises.—

"(1) General rule.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available under subsection (a) in a fiscal year beginning after September 30, 1987, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(2) Definitions.—For purposes of this subsection—

"(A) Small business concern.—The term 'small business concern' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $14,000,000, as adjusted by the Secretary for inflation.

"(B) Socially and economically disadvantaged individuals.—The term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged for purposes of this subsection.

"(3) Annual listing of disadvantaged business enterprises.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State.

"(4) Uniform certification.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resumé of principal owners, financial capacity, and type of work preferred.".

(g) Conforming Amendments.—(1) Section 506(a) is further amended—

(A) in paragraph (3), as redesignated by subsection (a)(1) of this section, by inserting "Site preparation work.—" before "The costs of"; and

(B) aligning such paragraph (3) with paragraph (1), as inserted by subsection (a)(2) of this section.

(2) Section 506(c) is further amended—

(A) in paragraph (1) by striking out "The balance" and inserting in lieu thereof "Description.—Subject to paragraph (3)(C) of this subsection, the balance";

(B) in paragraph (2) by inserting "Fiscal years 1982-1987.—" before "The amount appropriated"; and

(C) by indenting paragraph (1) and aligning such paragraph and paragraph (2) with paragraph (3) of such section, as added by subsection (c) of this section.

(3) Section 506(e)(2) is amended by striking out "third sentence of section (c)" and inserting in lieu thereof "second sentence of subsection (c)(2)".

SEC. 103. APPORTIONMENT OF FUNDS.

(a) General Rules.—Section 507 is amended to read as follows:

"SEC. 507. APPORTIONMENT OF FUNDS.

"(a) Apportionment.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for the fiscal year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

"(1) Primary airports.—To the sponsor of each primary airport, as follows:

"(A) $7.80 for each of the first 50,000 passengers enplaned at the airport;

"(B) $5.20 for each of the next 50,000 passengers enplaned at the airport;

"(C) $2.60 for each of the next 400,000 passengers enplaned at the airport; and

"(D) $0.65 for each additional passenger enplaned at the airport.

"(2) Cargo service airports.—To the sponsor of each airport which is served by aircraft providing air transportation of only property (including mail) with an aggregate annual landed weight in excess of 500,000,000 pounds, $50,000,000 of the amount made available under section 505 for such fiscal year as follows: In the proportion which the aggregate annual landed weight of all such aircraft landing at each such airport bears to the total aggregate annual landed weight of all such aircraft landing at all such airports.

"(3) States.—To the States, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

"(A) Insular areas.—For airports, other than primary airports, 1 percent of such amounts to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"(B) States.—For airports, other than primary airports and airports described in section 508(d)(3), ½ of the remaining 99 percent in the proportion which the population of each State (other than a State to which subparagraph (A) applies) bears to the total population of all such States and ½ of the remaining 99 percent in the proportion which the area of each such State bears to the total area of all such States.

"(b) Special Rules.—

"(1) Maximum and minimum amounts for primary airports.—The Secretary shall not apportion less than $300,000 nor more than $16,000,000 under subsection (a)(1) to an airport sponsor for any primary airport for any fiscal year.

"(2) Limitation on total apportionments to primary and cargo service airports.—

"(A) General rule.—In no event shall the total amount of all apportionments under subsections (a)(1) and (a)(2) for any fiscal year exceed 49.5 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title.

"(B) Distribution.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(3) Affect of obligation ceiling on primary and cargo service apportionments.—

"(A) Overall limit.—If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under subsections (a)(1) and (a)(2) for such fiscal year shall not exceed 49.5 percent of such limited or reduced amount.

"(B) Distribution.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(4) Maximum percentage of apportionments to any cargo service airport.—The Secretary shall not apportion to the sponsor of any airport more than 8 percent of the total amount of apportionments under subsection (a)(2) for any fiscal year.

"(5) Treatment of alaska.—

"(A) Alternative apportionment formula.—Notwithstanding any other provision of subsection (a), for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970.

"(B) Minimum apportionment.—In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act.

"(C) Hold harmless.—In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under subsection (a)(1).

"(D) Expenditures at commercial service airports.—In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year.

"(E) Discretionary funding.—Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established by subsection (c).

"(c) Discretionary Fund.—

"(1) Establishment.—Subject to section 508(d) and paragraph (2) of this subsection any amounts—

"(A) which are made available for a fiscal year under section 505,

"(B) which have not been previously apportioned by the Secretary, and

"(C) which are not apportioned under subsections (a) and (b)(5) of this subsection,

shall constitute a discretionary fund to be distributed at the discretion of the Secretary. Such discretionary fund shall be used for making grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

"(2) Level of funding for preserving and enhancing capacity, safety, and security.—Subject to section 508(d) and paragraph (4) of this subsection, not less than 75 percent of the funds in the discretionary fund pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987, shall be used for making grants for any of the following purposes: preserving and enhancing capacity, safety, and security at primary airports and reliever airports and carrying out airport noise compatibility planning and programs at primary airports and reliever airports.

"(3) Selection criteria.—In selecting projects for grants described in paragraph (2) for preserving and enhancing capacity at airports, the Secretary shall consider each proposed project's effect on overall national air transportation system capacity, project benefit and cost, and the financial commitment of the airport operator or other non-Federal funding sources to preserve or enhance airport capacity.

"(4) Limitation.—If the Secretary determines that he will not be able to comply with the percentage requirement established by paragraph (2) in any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such percentages, the portion of funds which the Secretary determines will not be so distributed shall be available for obligation during such fiscal year without regard to such requirement.

"(d) Calendar Year as Basis for Determining Certain Apportionments.—

"(1) Passengers enplaned.—For purposes of determining apportionments for any fiscal year under subsection (a)(1), the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

"(2) Landed weight.—For purposes of determining apportionments for any fiscal year under subsection (a)(2), the landed weight of aircraft landing at an airport referred to in subsection (a)(2) shall be based on the landed weight of aircraft landing at such airport and all such airports during the preceding calendar year.

"(e) Definitions.—As used in subsection (a)(3)—

"(1) Population.—The term 'population' means the population according to the latest decennial census of the United States.

"(2) Area.—The term 'area' includes both land and water.".

(b) Landed Weight Defined.—Section 503(a) is amended—

(1) by redesignating paragraphs (9) through (24), and any references thereto, as paragraphs (10) through (25); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) 'Landed weight' means the weight of aircraft providing scheduled and nonscheduled service of only property (including mail) in intrastate, interstate, and foreign air transportation, as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.".

(c) Conforming Amendments.—

(1) Section 505.—Section 505(a) is amended by striking out "sections 507(a)(1), (2), (3)(A), or" and inserting in lieu thereof "sections 507(a)(1), 507(a)(2), 507(a)(3), 507(c), and".

(2) Section 508.—Section 508 is amended—

(A) in subsection (a) by striking out "paragraph (1), (2), or (4) of section 507(a)" and inserting in lieu thereof "subsection (a) or (b)(5) of section 507";

(B) in subsection (a) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)";

(C) in subsection (c) by striking out "507(a)(2)" each place it appears and inserting in lieu thereof "507(a)(3)";

(D) in subsection (d)(3) by striking out "paragraph (4) of section 507(a)" and inserting in lieu thereof "section 507(b)(5)"; and

(E) in subsection (e)(1) by striking out "507(a)" and inserting in lieu thereof "507(a) or (b)(5)".

(3) Section 509.—Section 509 is amended—

(A) in subsection (a)(2) by striking out "507(a)" and inserting in lieu thereof "507"; and

(B) in subsection (e) by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or (a)(2)".

(4) Section 512.—Section 512(a) is amended by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or (a)(2)".

(5) Section 513.—Section 513(b) is amended—

(A) in paragraph (2) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)"; and

(B) in paragraph (4) by striking out "507(a)" and inserting in lieu thereof "507(a) or (b)(5)".

(6) Section 101 of noise abatement act.—Section 101(1) of the Aviation Safety and Noise Abatement Act of 1979 is amended by striking out section "503(17)" and inserting in lieu thereof "503(18)".

(d) Effective Date.—The amendments made by this section shall take effect October 1, 1987, and apply to fiscal years beginning on and after such date.

SEC. 104. CRITERIA OF PRIMARY AIRPORTS.

(a) Primary Airport Defined.—Section 503(a)(12), as redesignated by section 3(b)(1) of this Act, is amended by striking out ".01 percent" and all that follows through the period at the end thereof and inserting in lieu thereof the following: "more than 18,000 passengers enplaned annually.".

(b) Reduction in Set Aside for Small Airports.—Section 508(d)(3) is amended by striking out "5.5 percent" each place it appears and inserting in lieu thereof "4 percent".

SEC. 105. USE OF FUNDS.

(a) Noise Compatibility Planning and Programs.—Section 508(d)(2) is amended by striking out "8 percent" and inserting in lieu thereof "10 percent".

(d) Integrated Airport System Planning.—Section 508(d)(4) is amended by striking out "one percent" and inserting in lieu thereof "½ of 1 percent".

SEC. 106. STATE SPONSORSHIP.

Section 509(a) is amended by adding at the end thereof the following new paragraph:

"(3) State sponsorship.—Nothing in this title shall preclude a State from submitting, as sole sponsor, a project application under this title for an airport development project benefitting 2 or more airports in the State or airport planning for similar projects at 2 or more airports in the State if—

"(A) the sponsors of such airports consent in writing to State sponsorship of such projects or planning;

"(B) the Secretary is satisfied that there is administrative merit and aeronautical benefit to State sponsorship of such projects or planning; and

"(C) an acceptable agreement exists to ensure compliance by the State with appropriate grant conditions and other assurances required by the Secretary.".

SEC. 107. PROJECT COSTS.

(a) Authority To Modify Certain Limitations on Expenditures for Terminal Development.—Section 513(b) is amended by adding at the end thereof the following new paragraph:

"(7) Modification of certain limitations.—The Secretary may increase—

"(A) the maximum amount which, pursuant to the first sentence of paragraph (2), may be obligated in a fiscal year by the sponsor of an airport for project costs allowable under paragraph (1) to the amount apportioned under section 507(a)(1) to such sponsor for such fiscal year; and

"(B) the maximum United States share of project costs at such airport specified in paragraph (5) to 75 percent;

if the Secretary determines that such increases are in the public interest.".

(b) Costs Not Allowed.—Section 513(c) is amended—

(1) by striking out "or" the first place it appears; and

(2) by inserting before the period the following: "; or (3) the cost of decorative landscaping or the provision or installation of sculpture or art works".

(c) Reimbursement for Certain Advance Expenditures.—Section 513 is amended by adding at the end thereof the following new subsection:

"(d) Reimbursement for Certain Advance Expenditures.—

"(1) Letters of intent.—

"(A) Announcement of intention.—The Secretary is authorized to announce an intention to obligate for an airport development project (including formulation of the project) at a primary airport or a reliever airport under this subsection through the issuance of a letter of intent to the applicant.

"(B) Schedule of reimbursement.—Subject to the provisions of this paragraph, a letter of intent issued under this paragraph shall establish a schedule under which the Secretary will make payments under paragraph (2) of this subsection to the sponsor of the airport at which the airport development project will be carried out.

"(C) Limitation on projects eligible for advance funding.—The provisions of this subsection only apply to an airport development project which will be carried out in accordance with all applicable statutory and administrative requirements which would be applicable to the project if the project were being carried out with funds made available under this title and which the Secretary determines will result in a significant enhancement of system-wide airport capacity and meets the criteria of section 507(c)(3).

"(D) Limitation on effect.—An action under subparagraph (A) shall not be deemed an obligation of the United States Government under section 1501 of title 31, United States Code, and a letter of intent issued under this paragraph shall not be deemed to be an administrative commitment for funding.

"(E) Treatment of letter.—A letter of intent under this paragraph shall be regarded as an intention to obligate from future budget authority not to exceed an amount stipulated as the United States share of allowable project costs for the project under this subsection. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in authorization and appropriation Acts.

"(F) Limitations on aggregate amount.—The total estimated amount of future Federal obligations covered by all outstanding letters of intent under this paragraph shall not exceed the amount authorized to carry out section 505(a), less an amount reasonably estimated by the Secretary to be necessary for grants under section 505(a) which are not covered by a letter of intent.

"(2) Reimbursement.—If the Secretary issues under paragraph (1) a letter of intent to obligate funds for an airport development project (including formulation of the project) at a primary airport or reliever airport and if the sponsor of such airport proceeds with such project without the aid of funds under this title, the Secretary shall pay, as funds become available, the sponsor for the United States share of allowable project costs payable on account of such project in accordance with such letter of intent.".

SEC. 108. PROJECT SPONSORSHIP.

(a) Nondiscrimination Assurance.—Section 511(a)(1)(A) is amended—

(1) by inserting "with respect to facilities directly and substantially related to providing air transportation" after "and other charges";

(2) by striking out "and combined passenger and cargo flights or all cargo flights," and inserting in lieu thereof "and signatory carriers and nonsignatory carriers,";

(3) by inserting "or signatory" after "or status as tenant"; and

(4) by striking out "on tenant air carriers," and inserting in lieu thereof "on air carriers in such classification or status".

(b) Approval of Nonaeronautical Closing of Airports.—Section 511(a)(3) is amended by inserting before the semicolon the following: ", and any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary".

(c) Terminal Airspace Assurance.—Section 511(a)(4) is amended to read as follows:

"(4) appropriate action will be taken to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;".

(d) Revenue Assurance.—Section 511(a)(12) is amended to read as follows:

"(12) all revenues generated by the airport, if it is a public airport, and any local taxes on aviation fuel will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property; except that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in the governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply;".

(e) Disposal of Land Assurances.—Section 511(a) is amended by striking out paragraph (13) and inserting in lieu thereof the following new paragraphs:

"(13) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport noise compatibility purposes—

"(A) the owner or operator will, when the land is no longer needed for such purposes, dispose of such land at fair market value at the earliest practicable time;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will, at the discretion of the Secretary—

"(i) be paid to the Secretary for deposit in the Trust Fund; or

"(ii) be reinvested in an approved noise compatibility project as prescribed by the Secretary;

"(14) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport purposes (other than noise compatibility purposes)—

"(A) the owner or operator will, when the land is no longer needed for airport purposes, dispose of such land at fair market value;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will be paid to the Secretary for deposit in the Trust Fund;".

(f) Airport Layout Plan Assurance.—Section 511(a) is amended by adding at the end thereof the following new paragraph:

"(15) the airport owner or operator will keep up to date at all times a layout plan of the airport which meets the following requirements—

"(A) the plan will be in a form prescribed by the Secretary;

"(B) before the plan and an amendment, revision, or modification thereof may take effect, the plan, amendment, revision, or modification will be submitted to, and receive approval of, the Secretary;

"(C) the owner or operator will not make or permit any changes or alterations in the airport or in any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary or which might, in the opinion of the Secretary, adversely affect the safety, utility, or efficiency of the airport;

"(D) if a change or alteration in the airport or its facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport, the owner or operator will, if requested by the Secretary—

"(i) eliminate such adverse effect in a manner approved by the Secretary; or

"(ii) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities; and".

(g) Assurance Relating to Contracting for Engineering and Design Services.—Section 511(a) is amended by adding at the end thereof the following new paragraph:

"(16) each contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project will be awarded in the same manner as a contract for architectural and engineering services is negotiated under title IX of the Federal Property Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.".

(h) Consultation Requirement.—Section 511(c) is amended by striking out "shall undertake" and all that follows through the period and by inserting in lieu thereof the following: "shall undertake, before submission of the project application to the Secretary, reasonable consultations with affected parties using the airport by providing notice and an opportunity for comment by the person designated by each such party to represent such party for such purpose.".

(i) Use of State Taxes on Aviation Fuel.—Section 511 is amended by adding at the end thereof the following new subsection:

"(d) Use of State Taxes on Aviation Fuel.—Nothing in subsection (a)(12) of this section shall preclude the use of State taxes on aviation fuel to support a State aviation program or preclude use of airport revenue on or off the airport for noise mitigation purposes.".

(j) Use of Land Disposal Funds.—Section 511 is amended by adding at the end thereof the following new subsection:

"(e) Use of Land Disposal Funds.—

"(1) Airport noise compatibility lands.—Amounts deposited in the Trust Fund in accordance with subsection (a)(13) of this section shall be available to the Secretary for making grants for airport development and airport planning under section 505(a). Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).

"(2) Other airport lands.—Amounts deposited in the Trust Fund in accordance with subsection (a)(14) of this section—

"(A) shall be available to the Secretary for making grants at the discretion of the Secretary for the purposes described in section 507(c)(2) at primary airports and reliever airports; and

"(B) shall be available to the Secretary for use in accordance with section 507(a)(3) at other airports in the State in which the land disposition occurred under subsection (a)(14) and shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).".

(k) Procedures for Modifying Assurances.—Section 511 is amended by adding at the end thereof the following new subsection:

"(f) Procedures for Modifying Assurances.—If the Secretary proposes to modify any assurance required of a person receiving a grant under this Act and in effect on or after the date of the enactment of this subsection or proposes to require compliance with any additional assurance from such person, the Secretary shall first—

"(1) publish notice of such proposal in the Federal Register, and

"(2) provide an opportunity for comment on such proposal.".

SEC. 109. GRANT AGREEMENTS.

(a) Maximum Obligation of the United States.—Section 512(b) is amended to read as follows:

"(b) Maximum Obligation of the United States.—

"(1) General rule.—Subject to paragraphs (2) and (3) of this subsection, when an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased.

"(2) Exceptions for fiscal years 1987 and before.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this Act on or before September 30, 1987, may be increased—

"(A) by not more than 10 percent in the case of a project for airport development (other than a project for land acquisition);

"(B) by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to an acquisition of land or interests in land, based upon current credible appraisals.

Any increase under this section may be paid only from funds recovered by the United States from other grants made under this title.

"(3) Exceptions for fiscal years 1988 and thereafter.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved after September 30, 1987, may be increased by not more than 15 percent in the case of a project for airport development.".

(b) Workscope.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) Workscope.—The Secretary may amend, with the consent of the grant recipient, a grant agreement entered into under this title to change the workscope of a project funded under such grant if such amendment does not result in any increase in the maximum obligation of the United States authorized under subsection (b) of this section.".

(c) Conforming Amendment.—Section 512(c) is amended by inserting "Maximum Obligation for Grants Under the Airport and Airway Development of 1970.—" before "Notwithstanding".

SEC. 110. NOISE ABATEMENT.

(a) Reasonable Progress Requirement.—Section 505(c) is amended to read as follows:

"(c) Noise Abatement Reasonable Progress Requirement.—

"(1) General rule.—If the Secretary finds that the sponsor, owner, or operator of a public-use airport which is to receive funds made available under this section in a fiscal year is not making reasonable progress towards development and implementation of a noise compatibility program under section 104 of the Aviation Safety and Noise Abatement Act of 1979 at such airport, the Secretary shall make available 10 percent of the funds to be apportioned, with respect to such airport in such fiscal year to units of local government and public agencies in the area surrounding such airport for grants under subsection (c) of such section 104 for carrying out—

"(A) a noise compatibility program or parts thereof with respect to such airport; or

"(B) in any case in which such a program has not been approved under such Act with respect to such airport, a project with respect to such airport which would be eligible for funding under such Act if such a program were so approved.

"(2) Limitation.—If the Secretary determines that he will not be able to comply with the percentage requirement established by paragraph (1) in any fiscal year because the number of qualified applications submitted under paragraph (1) is insufficient to meet such requirement, the portion of funds which the Secretary determines will not be so distributed shall be available for obligation during such fiscal year without regard to such requirement.

"(3) Exception.—Since airport noise abatement planning requires the cooperation of all parties responsible for the noise, the general rule established by paragraph (1) shall not be applied where the Secretary determines that the lack of progress towards development of a plan has been primarily caused by a lack of cooperation by the airlines, impacted communities, and other involved parties.".

(b) Notice and Hearing Requirement.—The first sentence of section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 is amended by inserting after "any air carriers using such airport" the following: "and after notice and an opportunity for a public hearing".

(c) Federal Share.—Section 104(c)(1) of the Aviation Safety and Noise Abatement Act of 1979 is amended by inserting before the period at the end of the fourth sentence the following: "or the Federal share which would be applicable to such project if the funds made available for such project were being made available under the Airport and Airway Improvement Act of 1982 for a project at the airport, whichever percentage is greater".

(d) Soundproofing of Schools and Hospitals.—Section 104(c) of the Aviation Safety and Noise Abatement Act of 1979 is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to soundproof any public building (A) which is used primarily for educational or medical purposes in the noise impact area surrounding such airport, and (B) which is determined to be adversely affected by airport noise.".

(e) Noise Abatement Study.—

(1) Review of existing proposals.—The Administrator of the Federal Aviation Administration shall conduct a study of noise abatement proposals under consideration by airport operators and local governments for the purpose of identifying those proposals which, under existing law or administrative policy, are not currently eligible for Federal assistance and determining whether or not such proposals should be made eligible for Federal assistance.

(2) Report.—Not later than the 180th day following the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the results of the study conducted under paragraph (1) together with recommendations concerning modifications in existing law and administrative policy for making additional noise abatement proposals eligible for Federal assistance.

(f) Conforming Amendment.—Section 508(d)(2) is amended—

(1) by striking out "(A)"; and

(2) by striking out ", and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title".

SEC. 111. LIMITATION ON POWERS.

Section 519 is amended—

(1) by inserting "(a) General Rule.—" before "The Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(b) Limitations.—

"(1) Withholding of approval.—The Secretary may not withhold approval of a grant application for funds apportioned under sections 507(a)(1), 507(a)(2), and 507(b)(5) for a violation of an assurance or other requirement of this title unless (A) the Secretary provides the applicant with an opportunity for a hearing, and (B) within 90 days after the date of such application or the date the Secretary first knows of such noncompliance, whichever is later, the Secretary makes a determination that the violation has occurred.

"(2) Withholding of payment.—The Secretary may not withhold a payment under any grant agreement entered into under this title for more than 60 days after the date such payment is due—

"(A) without providing the recipient of such payment with notice and an opportunity for a hearing; and

"(B) without determining that the grant recipient has violated such agreement.

"(3) Extension of time limits.—The time limits established by paragraphs (1) and (2) of this section may be extended—

"(A) by mutual agreement of the Secretary and the grant applicant or recipient, as the case may be; or

"(B) at the discretion of the hearing officer if the hearing officer determines that such extension is necessary as a result a failure of the applicant or recipient to adhere to the hearing schedule established by such officer.

"(4) Judicial review.—A person aggrieved by an order of the Secretary withholding (A) approval of a grant application under paragraph (1), or (B) a payment under a grant agreement under paragraph (2), may obtain review of the order by petition to the Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the project is located. Such petition shall be filed not later than 60 days after the date on which the order is served on the petitioner.".

SEC. 112. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

Section 528 is amended to read as follows:

"SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

"On or after the date of the enactment of the Airport and Airway Improvement Amendments of 1987, the Secretary shall not close, or reduce the hours of operation of, any flight service station in any area unless the service provided in such area after the closure of such station or during the hours such station is not in operation will be provided by an automated flight service station with model 1 or better equipment.".

SEC. 113. EXPLOSIVE DETECTION K-9 TEAMS.

Section 529 is amended—

(1) in the first sentence by striking out "shall" and inserting in lieu thereof "may"; and

(2) by striking out the second sentence.

SEC. 114. INFLATION ADJUSTMENT ON COLLECTION OF CERTAIN AVIATION FEES.

Section 334 of title 49, United States Code, is amended by inserting before the period at the end of the first sentence the following: ", adjusted in proportion to changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed".

SEC. 115. DECLARATION OF POLICY.

(a) Comprehensive Air Space Plan.—Section 502(a)(4) is amended—

(1) by inserting ", a vertical visual guidance system," after "precision approach system"; and

(2) by inserting "distance-to-go signs for each primary and secondary runway, a surface movement radar system at each category III airport, a taxiway lighting and sign system," after "vertical guidance on all runways,".

(b) Limitation on Artificial Restrictions on Airport Capacity.—Section 502(a) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(10) artificial restrictions on airport capacity are not in the public interest and should not be imposed to alleviate air traffic delays unless other reasonably available and less burdensome alternatives have first been attempted.".

(c) Sense of Congress.—It is the sense of Congress that any regulation under which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft at certain airports should be phased out and eliminated at the earliest practicable date the Administrator finds that such phaseout or elimination is consistent with aviation safety.

SEC. 116. INCLUSION OF HELIPORTS AS AIRPORTS.

Section 503(a)(1), relating to the definition of airport, is amended—

(1) by inserting "(A)" before "means"; and

(2) by inserting "; and (B) includes any heliport" before the period.

SEC. 117. STUDY ON LONG-TERM AIRPORT CAPACITY NEEDS.

(a) Study.—The Secretary shall conduct a study for the purpose of developing an overall airport system plan through the year 2010 which will assure the long-term availability of adequate airport system capacity.

(b) Report.—Not later than January 1, 1990, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with the plan developed under such subsection.

(c) Funding.—There shall be available to the Secretary from the Airport and Airway Trust Fund $250,000 per fiscal year for each of fiscal years 1988 and 1989 for carrying out this section. Such funds shall remain available until expended.

SEC. 118. RELEASE OF CERTAIN CONDITIONS.

(a) Stapleton International Airport, Denver, Colorado.—Notwithstanding section 16 of the Federal Airport Act (as in effect on the date of each conveyance referred to in this subsection) with respect to such conveyance, the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of subsection (b) of this section, to grant release—

(1) from any of the terms, conditions, reservations, and restrictions contained in each deed of conveyance under which the United States conveyed property to the city and county of Denver, Colorado, on which portions of Stapleton International Airport are located; and

(2) from any assurance made by the sponsor of such airport for a grant under the Airport and Airway Improvement Act of 1982 for a project at such airport.

(b) Conditions.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(1) The city and county of Denver, Colorado, shall agree that in conveying any interest in the property which the United States conveyed to the city and county by the deeds described in subsection (a) the city and county will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(2) Any such amount so received by the city and county shall be used by the city and county for the development, construction, and improvement of a new Denver air carrier airport and a reliever airport in the event that the operation of the new air carrier airport severely restricts the operation of the nearby reliever airport. In no event shall such amount be used for operation or maintenance of such airports.

(3) The city and county shall agree not to convey any interest in the property which the United States conveyed to the city and county by the deeds described in subsection (a) until the opening and initial operation of a primary airport to replace Stapleton International Airport, unless the Secretary determines that any such property is not essential for the operation of Stapleton International Airport.

SEC. 119. RESTRICTION ON GRANTS FOR BURBANK-GLENDALE-PASADENA AIRPORT.

(a) General Rule.—The Secretary shall not make a grant under the Airport and Airway Improvement Act of 1982 for an airport development project involving the Burbank-Glendale-Pasadena Airport, Burbank, California, until the Burbank-Glendale-Pasadena Airport Authority—

(1) adopts a plan for the use of such airport and the navigable airspace in the vicinity of such airport which requires such authority to request the Administrator of the Federal Aviation Administration to allocate runway use at such airport so that as many of the flights which depart from such airport each day and are determined by the Administrator as being feasible and safe shall depart from the runway at such airport known as runway number 7; and

(2) enters into an agreement satisfactory to the Secretary which ensures that such plan will remain in effect during the shorter of—

(A) the period beginning on the date of approval of such grant application and ending on the last day of the useful life of such project, and

(B) the 20-year period beginning on such date of approval.

(b) Limitation.—A plan adopted under subsection (a) shall not require the ratio of—

(1) the total number of flights which depart from runway number 7 at the Burbank-Glendale-Pasadena Airport in a day, to

(2) the total number of flights which depart from such airport in such day,

to exceed 1 to 2.

SEC. 120. USE OF NONAVIATION LAND AT POMPANO BEACH AIRPARK, FLORIDA.

Notwithstanding any other provision of law, the Federal Aviation Administration shall not take any action (1) to compel the city of Pompano Beach, Florida, to redesignate any land designated as nonaviation use land at the Pompano Beach Airpark as of November 1, 1966, or (2) to revert such land to the Federal Government.

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lujan: Amend section 102(b) by adding on page 7 after line 4 the following:

"(C) for fiscal year 1990, $222,000,000;

"(D) for fiscal year 1991; $230,000,000; and

"(E) for fiscal year 1992, $238,000,000.

Mr. LUJAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. LUJAN. Mr. Chairman, my amendment will extend the authorization for the research, engineering, and development in this bill to 5 years. It will provide $222 million for fiscal year 1990, $230 million for 1991, and $238 million for fiscal year 1992. These are the projected funding requirements provided by the FAA which are what the 1989 figure is based on also.

The bill already contains a 5-year authorization for airway facilities and equipment and also for the airport improvement and noise programs. My amendment will make the research, engineering, and development authorization consistent with the remainder of the bill.

The R&D funding in this bill provides the front end funding for the whole NAS plan; the facilities and equipment programs authorized in this bill rely on the successful completion of the R&D programs. Mr. Chairman, it makes no sense to authorize funding for the operational hardware without first authorizing the necessary research and development programs. This, it seems to me, is backwards. Last year the Science and Technology Committee held 4 days of hearings to address the issue of funding for research programs, and although it was primarily directed at science projects, the conclusions drawn from the hearings are clearly applicable to this program as well.

Long-term R&D projects need the long-term funding commitment that a 5-year authorization would provide. I am certainly not suggesting that we shorten the authorization for procuring the hardware. I fully support the 5-year authorization that was reported out of Public Works. However, the justification given for a 5-year authorization for facilities and equipment is equally valid for the research program.

Our experience with the previous airport and airway bill certainly does not support the need for a biannual authorization. The authorized funding levels were nearly always cut by the administration and the Appropriation Committee. The Science Committee had annual oversight hearings and never found it necessary to increase the funding levels. Moreover, had it been necessary to do so it would have been no more difficult to introduce the necessary legislation than it would have been in the absence of the authorization.

There is no justification to further crowd an already overcrowded legislative calendar by the need to act on additional authorization legislation that could just as easily be dealt with today.

The 5-year authorization has the almost unanimous support of the aviation community, and I ask my colleagues to support this amendment.

Mr. McCURDY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have to reluctantly rise in opposition to the amendment offered by the gentleman from New Mexico [Mr. LUJAN], my good friend.

I rise reluctantly, because I know the gentleman is extremely serious in the gentleman's concerns, and has always been a very diligent member of the full committee.

I rise in opposition, however, because I believe that the gentleman's amendment is not appropriate to this bill for a number of reasons.

I think the gentleman knows, as do many of the Members of the House, that the gentleman from Oklahoma, as chairman of the subcommittee, but also as a member of the Committee on Armed Services, has been a proponent of extended authorizations.

As a matter of fact, I authored the amendment last year for a 2-year authorization for the defense bill; and I believe that we have to have stability.

It is important that we move beyond merely 1-year authorizations. However, in the area of research and development, I believe that a 2-year authorization is sufficient, and perhaps may be stretching the limit of that authorization process, primarily because in the area of research and development, we are not talking about mature systems.

We are not talking about mature technologies, and, because of that, I think it is important that we continue to take periodic snapshots and review the progress, relative progress, of those research and development programs.

The other point that I would raise in opposition to the gentleman's amendment is the fact that we have not held hearings on the detailed FAA R&D program needs beyond fiscal year 1990; therefore, any authorization beyond 1989, I think, would be just a guess, and therefore, unwise.

Furthermore, I think it is impossible to predict 5 years in the future in this rapidly changing arena of research and development and new technology. Because of that, I think we would be neglecting our responsibilities on the committee by going that far in advance.

New results and new requirements are constantly entering the picture, changing the need for funds and redirection of funding. For example, the administration found it necessary to request more than the authorization in 1986. Also as an example, explosives detection, which is a major research and development thrust now, was not even foreseen when the current authorization was passed in 1982.

Frequent authorization, that is, 2 years, is an important tool, I believe, for the Members to maintain close oversight over FAA programs.

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As the gentleman knows, this committee has been as supportive as any in the Congress and this gentleman has been as supportive as anyone of the research and development programs in the FAA and as it relates not only to the improvement of the NAS plan, but also in the area of air safety.

I believe it is somewhat premature to move beyond that which I feel is a carefully thought out approach in the full bill that was passed in the full committee of a 2-year authorization.

Because of that, Mr. Chairman, I respectfully rise in opposition and urge all Members to oppose this amendment offered by again my good friend and distinguished colleague, the gentleman from New Mexico.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. LUJAN].

The amendment was rejected.

Are there any further amendments to title I?

AMENDMENT OFFERED BY MR. SUNDQUIST

Mr. SUNDQUIST. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SUNDQUIST: Page 85, after line 20, insert the following new section:

SEC. 14. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

The Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new section:

"SEC. 533. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

"(a) IN GENERAL.—

"(1) PROHIBITION ON FUNDING.—No funds provided under this Act may be used to fund any project which uses any product or service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

"(2) LIMITATION ON APPLICATION.—Subsection (a) shall not apply with respect to the use of a product or service in a project if the Secretary determines that—

"(A) the application of subsection (a) to such product, service, or project would not be in the public interest,

"(B) products of the same class or kind as such product or service are not produced or offered in the United States, or in any foreign country that is not listed under subsection (c), in sufficient and reasonably available quantities and of a satisfactory quality, or

"(C) exclusion of such product or service from the project would increase the cost of the overall project contract by more than 20 percent.

"(b) DETERMINATIONS.—

"(1) DEADLINE.—By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

"(A) denies fair and equitable market opportunities for products and suppliers of the United States in procurement, or

"(B) fair and equitable market opportunities for United States bidders, for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country.

"(2) INFORMATION CONSIDERED.—In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181 of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

"(c) LISTING OF FOREIGN COUNTRIES.—

"(1) GENERAL RULE.—The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

"(2) REMOVAL FROM LIST.—Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

"(3) PUBLICATION.—The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

"(d) DEFINITIONS.—For purposes of this section:

"(1) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

"(2) Any article that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

"(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.".

Redesignate the subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Mr. SUNDQUIST (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mrs. VUCANOVICH. Mr. Chairman, will the gentleman yield?

Mr. SUNDQUIST. I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of H.R. 2310, the Airport Development and Improvement Act, which generally reauthorizes the programs supported by the airport and airway trust fund. I especially support the Airport Improvement Program, the effort to remove the aviation trust fund from the unified budget, the reopening of those flight service stations that were closed earlier in the year by the Federal Aviation Administration, and the extension of the Essential Air Services Program.

As you know, the Airport Improvement Program is important for airport planning and construction, development of airport terminals, acquisition of land for noise-abatement purposes, soundproofing of buildings, and funding for airport safety and other equipment.

Regarding the aviation trust fund, I am very encouraged by yesterday's vote on the rule which will allow us to take up the question of removing the trust fund from the general budget. It is my strong belief that it must be removed from the general budget and put to the use for which it was intended. This fund has been held hostage to the Federal deficit, and currently has a $5.7 billion surplus. I don't believe that the trust fund should be used to fund 85 percent of the aviation network and the FAA operating costs.

The aviation trust fund has a definite and useful purpose: To modernize the management of our airspace; not to pay controllers salaries. Additional revenues have been generated for the trust fund by the tax on a larger number of commercial air passengers than ever before in history. Unfortunately, instead of being able to use those trust funds for adding better equipment, developing more efficient use of our commercial airports, and giving grants to make better use of our hard-pressed general aviation airports, it is sitting dormant creating surpluses. While this may serve the purpose of making the overall Federal revenue picture look a little better, that is not the purpose of the trust fund. We succeeded in separating the Social Security trust funds from the general budget last Congress and I think it's high time that we do something positive with the aviation trust fund.

As you know, earlier this year when we passed the supplemental appropriations bill, we made it clear to the FAA that they were to halt any further closing of flight service stations until these stations were replaced with model one full-capacity coverage. Well they didn't listen very well, and proceeded to close certain stations. I support the amendment which will be offered today to reopen these stations. This clearly violated the intent of Congress stated in the supplemental. I want to make sure that general aviation pilots across the country will not be endangered by the closure of flight service stations. I support the automated stations, but I believe they should be online, tested, and working properly before any existing flight service stations are replaced.

I would like to express my support for the extension of the Essential Air Services Program for smaller communities. This program offers the possibility to smaller communities of commuter aircraft that may not be profitable to the airlines. This program is very important in my State of Nevada where logistics, larger distances, mountain ranges isolated in the wintertime, and few U.S. highways make conventional travel difficult.

Finally, I oppose the amendment which would restrict takeoffs and landings by general aviation aircraft at primary airports when they have reached runway capacity and are experiencing delays. General aviation is not the cause of delays at these primary airports. General aviation is only a fraction of the total operations and this high density rule sharply limits the number of slots available during the peak periods. The total elimination of general aviation at airports will not help the delay problem; one or two flight operations an hour will not make a dent in the delay problem. Capacity expansion, better scheduling techniques, and more ramp and high-speed taxiways would be far more effective in reducing delays and expanding capacity than placing this burden on general aviation.

In closing, this is a needed bill. It addresses many important aspects of the aviation system, from safety in the air to the passage of passengers through terminals. I urge your support for this bill.

Mr. SUNDQUIST. Mr. Chairman, this body has discussed the issue of unfair trade at length. But we have yet to address the most blatant and obscene unfair trade practice American businessmen are facing in Japan today.

Mr. Chariman, while Japanese construction firms are free to bid on all United States public works projects, United States firms are totally blocked from even bidding on Japanese projects. This is clearly the most atrocious one-sided relationship I have ever heard of.

My amendment addresses this issue. It will make foreign participation in the $29 billion U.S. airport and airway improvements, over the next 5 years, contingent upon reciprocal opportunities for U.S. companies overseas.

Japan will have $60 billion in major public works projects in the next decade. And currently, the Japanese are building the $8 billion Kansai International Airport. American firms are completely excluded from any direct participation in these projects. My amendment will deny Japanese access to airport and airway trust fund projects—unless they open up all of their public works projects for U.S. bids.

I believe my amendment will make the Japanese Government reconsider their bidding policies.

Ironically, this absurd lopsided relationship we have with Japan has existed since 1965. For more than 20 years, Japan has had free access to the United States market—while American businesses can't even submit a proposal.

The results of this are mind-boggling: American share of the global contracting export market has fallen—more than 50 percent—from $48.3 billion in 1980 to $22.6 billion in 1986—while Japanese share more than doubled—making Japan the second largest shareholder of world construction projects. Japan made the jump from 7th place to second in 5 years.

Additionally, Japan is the second largest foreign contractor in the United States. In 1986 alone, Japan had $1.9 billion in construction projects. Many of these projects are directly related to U.S. airport construction.

Mr. Chairman, this unfair relationship with Japan has gone on long enough. USTR and American industry representatives have been unsuccessful in getting a reasonable market opening commitment from Japan—despite exhaustive negotiations.

Japan has no intentions of giving away a totally one-sided advantage without some encouragement. Negotiations have proven fruitless. We must bargain from a position of strength. That means threatening to impose their own practices on them.

This amendment is truly fair trade legislation. It applies the same game rules to Japan as they do to us. We've played by two sets of rules for over 20 years. It's been like playing a football game where one team is not even allowed to attempt a touchdown, while the other team can score as many times as it wants. My amendment changes the rules so both teams can score.

This legislation puts the ball in Japan's court. It assigns a very specific cost to their market closing actions. It is our only recourse. But it is a fair and reasonable response. By passing this amendment we will be setting the record straight. America's open trade policy and free borders are not to be taken advantage of. Our open markets are for those that practice the same; not those that are opportunistic and nonreciprocating.

Let's stop giving away all the advantages to the Japanese. Let's help our American construction industry. Vote yes on this amendment which has already been attached to the airport and airways bill.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am pleased to support the amendment offered by the distinguished gentleman from Tennessee [Mr. SUNDQUIST]. This amendment would help assure that U.S. firms are treated fairly by foreign countries contracting for design, engineering, architectural, and construction services to improve their airports. In return, we would be offering foreign firms a fair chance at the close to $25 billion in U.S. airport projects that will be undertaken in the next decade. By making foreign participation in federally funded improvements at U.S. airports contingent upon reciprocal opportunities for U.S. firms abroad, we will help U.S. firms get a fair shake when they bid on foreign airport improvement projects.

I urge my colleagues to support this amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the gentleman's amendment which would deny funds for airport projects using products or services of foreign countries that deny fair market opportunities for U.S. design, construction, and engineering firms. In virtually every segment of our economy, U.S. firms face discriminatory and unfair trade practices by the foreign countries.

In part, the purpose of this legislation is to put pressure on the Japanese to provide fair market opportunities for United States construction firms which wish to bid on the Kansai International Airport at Osaka Bay. So far, our companies have been shut out of the bidding process.

While the amendment does provide for retaliation against unfair foreign trade practices, it also provides sufficient flexibility for the Secretary of Transportation to waive the requirements if it is found to be in the public interest, if the products are not produced in this country, or if exclusion of the product or service would increase the project cost by more than 20 percent.

I commend the gentleman for offering this amendment and I urge my colleagues to support it.

Mr. SUNDQUIST. Mr. Chairman, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Tennessee.

Mr. SUNDQUIST. Mr. Chairman, I would like to commend the chairman of the committee and the ranking member on the committee and the chairman and ranking members of the subcommittee. I do appreciate their support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. SUNDQUIST].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title I?

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. MOORHEAD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD: Page 90, strike out line 3, and all that follows through line 10 on page 91.

Page 91, line 11, strike out "20" and insert in lieu thereof "19".

Conform the table of contents on page 46 accordingly.

Mr. MOORHEAD. Mr. Chairman, Burbank Airport, run by the three cities of Burbank, Glendale, and Pasadena in southern California, has about 3 million passengers that use that terminal every year. At one time it was the major terminus of all flights from east to west in the United States toward Los Angeles.

There are two runways in that airport. One of them goes basically north and south. That is the shorter of the two runways. It is runway 7.

The other runway is runway 15, whose flights basically go out toward the west.

Runway 7 has been closed down because the administration building is too close to the runway and it is dangerous to use that at the present time, so the airport authority has attempted to obtain the financial means to build a new administration building so that they could put both those runways into operation. The authorization for that transfer is presently in this piece of legislation.

There is no question about which one of the two runways is the safest. Because the runway that goes basically north and south, runway 7, is a runway that leads straight into the mountains, mountains at the present time that are close by within a few blocks, some 3,000 feet high, and the traffic there if the traffic was to go east has to make an immediate right turn as soon as the plane takes off. It does run with its belly up directly into small aircraft that use that particular air space to fly their planes into Van Nuys Airport. If they go a little further to the north, they run into the air space that is used by the Ontario Airport and flights that are leaving in that direction.

There is basically no escape route from that north-south runway.

There are other differences between the two runways. The longer of the two runways, the one that is presently in use, is a down-hill runway that has a headwind which enables the planes to immediately rise and get out of the noise area that can bother people in the areas that are below.

The second runway runs into an adverse wind much of the time, so it has the additional problem.

Now, I would like to make it clear that it is the air traffic controllers that determine the runway that is to be used by each plane that takes off. The pilot after the air traffic controllers have made their decision does have the authority to say, "I won't take off because conditions are unsafe."

The people that run the airport authority have no ability to determine the direction or the runway that those planes are to take. That is a decision that must be made by the air traffic controllers.

Now, there is an amendment in this bill that was put in by the gentleman from California [Mr. MINETA] that says that the airport authority must adopt a plan that basically—there is some equivocating language in the amendment—that basically would put pressure on the air traffic controllers to have 50 percent of the traffic go off each runway. This is something that they have declared many times virtually impossible for them to do.

The airport authority, I should say, has done an awful lot of things to try to make the airport noise-proof. Its footprint has been reduced from more than 400 acres to less than 83 acres in the last 8 years. The airport authority conducts noise tests throughout the area with decibel meters for any group of citizens who have noise complaints, so this is something that we are really working hard on. I think Burbank has done virtually more than any airport in the country to reduce the noise that comes from their airport.

There is presently a study underway that will be out before too long, it is called a 150 study, that was started in July of 1985. Eighty percent of the study is being financed by the FAA, with 20 percent being funded by the airport. This study should be out soon and will give us a better idea about what we can do and what we cannot do.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. MOORHEAD was allowed to proceed for 5 additional minutes.)

Mr. MOORHEAD. Now, Mr. Chairman, $300,000 has been spent to date on this study. The people in the airport authority badly want to settle the differences that we have with the gentleman from California [Mr. BERMAN] and other people in the valley.

We have begged the Los Angeles airport authority and the people of Los Angeles to take this airport over when it was available from Lockheed. They were not interested and I could not convince them of it, and yet really the people in the city have been a nuisance in trying to interfere with the operation of this airport ever since the cities of Glendale, Burbank, and Pasadena have taken it over.

There have been some personality problems here and there, but that is not what we need to consider. We should not be legislating the direction or the runways in which planes take off. If we would do this, then Newark, O'Hare, and Kennedy and other airports in the country would be in one heck of a shape as far as airplane safety is concerned.

I think that if my amendment is not adopted and we keep the punitive portion of the bill in effect, it is going to set a bad example for the whole country, and really it is not taking into consideration the actual conditions that we have in this area.

I want to work very much with the gentleman from California [Mr. BERMAN] and the people in the airport authority to try to work out the problems we have here, but this airport is vital not only to my district, but to the district of the gentleman from California [Mr. BERMAN] and I think the gentleman would be the first to say that.

Lockheed Aircraft uses that airport, as do many other aircraft manufacturers in that valley.

I might say there are probably 40,000 or 50,000 people employed who depend upon that airport for their businesses.

I would also say that the people in the San Fernando Valley use that airport as their port of debarcation and landing, as much as the people in my district use it, or maybe more.

It is an important airport. It does an important job. I think we have to work out these programs in a gentlemanly way, trying to work out the differences and doing the best we can possibly do to meet the objections that the people have about noise, but the amendment that is in the bill is not the way to do it. It is a devastating amendment and in the long run could bring about the necessity to use only runway 15 and that takes the planes off in the direction of the district of the gentleman from California [Mr. BERMAN]. Perhaps I should be arguing in favor of keeping that in the bill.

We need to complete runway 7. We need the money that is in this bill if we are to get runway 7 back into operation to take many flights that can be operated safely, but we also need to use the safest runway available.

We need to believe in national aircraft safety. As we see planes go down in various places, none of us want to be responsible for an aircraft accident that could come about later if we put pressure on the air traffic controllers to use less than the safest runway for planes that are taking off.

□ 1215

I am going to use that airport in the future. I am sure my colleague, the gentleman from California [Mr. BERMAN] is going to use that airport in the future, as will many of our constituents.

I ask Members please to look at this thing very, very carefully and do not make the mistake of trying to legislate in the area that we are involved with here. Do not legislate the direction that planes take off. Let us work with the aircraft safety people, let us work with the FAA.

Every single organization that is involved with this matter, that use the airplanes, the pilots, the FAA, everybody else is opposed to this kind of legislation. Let us take it out of the bill.

I ask my colleagues to please vote for my amendment.

The CHAIRMAN. Prior to recognizing Members in opposition to the amendment, without objection, the Clerk will report the amendment in its proper form.

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD: Strike out section 119 of the bill.

Redesignate section 120 of the bill as section 119.

Conform the table of contents for title I of the bill accordingly.

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. MOORHEAD].

Mr. Chairman, I oppose the amendment to delete the provision in H.R. 2310 which deals with the serious noise problem at Burbank Airport. This provision is needed because of unique circumstances at Burbank Airport, and because of the airport's failure to comply with prior congressional directives to equalize the noise impact from the airport.

Underlying the noise problem at Burbank Airport is the fact that the governing body of the airport is composed of representatives from the cities to the east of the airport. There are no representatives on the authority of the city of Los Angeles to the west of the airport. As a result, most commercial flights from the airport fly to the west over Los Angeles. It is doubtful that the authority will permit flights to depart to the east, even if it is safe and feasible to do so.

Congressional efforts to obtain equalization of the noise burden at Burbank began 9 years ago. In 1986 the authority was directed to develop an equalization plan by the House Appropriations Committee in its report on the 1986 DOT appropriations bill. Unfortunately, the authority has failed to develop a plan. This lack of compliance with the Appropriations Committee's directives has made it appropriate to include a provision in H.R. 2310 requiring the authority to develop a noise equalization plan as a condition to future airport grants.

Opponents of the provision in H.R. 2310 argue that the provision undermines FAA's authority to determine whether flight operations are safe. The provision does nothing of the kind. The provision only requires the authority to adopt a plan which recommends to FAA that FAA achieve as close to a 50-50 split of runway use as FAA determines to be feasible and safe. Under the provision in H.R. 2310 the authority is only directed to make recommendations to FAA. FAA will have full authority to determine the number of flights which can be safely operated on all runways at the airport.

It is fully consistent with FAA policy for an airport authority to make this type of recommendation. Department of Transportation reports have specifically stated that one of the steps which an airport authority can take for noise abatement is to propose patterns of runway use to FAA. The approach followed in H.R. 2310 is fully consistent with the existing delineation of roles between an airport authority and FAA.

I urge defeat of the amendment to delete the Burbank provision from H.R. 2310.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to my colleague, the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding, I thank the gentleman for offering this amendment in the full committee, and I thank the gentleman for his support at this time.

I will seek my own time to discuss the amendment further, but I would like to use the gentleman's time, if I might, to clarify one point on section 19 dealing with the Burbank Airport. The provision requires the airport authority to adopt a plan requesting FAA to allocate runway use so that as many flights depart from runway 7 as FAA determines to be feasible and safe. The plan shall not require more than 50 percent of the daily flights to depart from runway 7.

It is my understanding that the intent of this provision is that the plan must provide that as many flights of commercial airline aircraft depart runway 7 as FAA determines to be feasible and safe up to the 50-percent cap.

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(By unanimous consent Mr. MINETA was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, general aviation flights and commuter aircraft of less than 30 seats which do not contribute in any significant fashion to the noise problem are not, it is my understanding, to be considered in determining the 50-percent requirement. Is this the committee's understanding?

Mr. MINETA. The gentleman has correctly stated my understanding of the intent of this provision.

The provision covers commercial airline flights and not general aviation or commuter flights.

Mr. Chairman, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in strong support of the gentleman's amendment which would eliminate the provision in the bill requiring the FAA to withhold Federal grant money from the Burbank-Glendale-Pasadena Airport in California unless the airport authority adopts a certain plan for the management of the navigable airspace around the facility. Obviously, the intent of this provision now in the bill is to solve a local noise problem. I have no quarrel with doing that except that the provision has a potential adverse impact on air navigation and air safety. In fact, the provision in the bill is opposed by the Aircraft Owners & Pilots Association, the American Association of Airport Executives, the Airport Operators Council International, the General Aviation Manufacturers Association, the National Business Aircraft Association, commercial airline pilots, the Federal Aviation Administration, the Burbank Airport Authority, and a number of airlines.

Under the provision in the bill, the Burbank Airport Authority would be forced to redirect one-half of the total departures from the airport to a certain runway which is unused because the Federal Aviation Administration has determined the runway unsafe for such departures. This determination was made because of the runway's close proximity to a terminal building.

By forcing more departures to the East, air carrier turbojet aircraft are placed in a belly up profile to the heavy flow of uncontrolled general aviation traffic using the north-south flyway between the Burbank-Van Nuys area and airports in the Ontario and Riverside area. Because of this location's noise sensitivity, these air carrier aircraft are required to make steep climbs which may detract from the flight crew's ability to look out the window for other traffic in the area. Obviously, this threat of midair collisions presents extremely grave safety concerns.

The provision in the bill establishes a bad precedent. It is not the business of Congress to micromanage the navigable airspace surrounding the airport. That is the job for air traffic control. Control of aircraft has always been and should remain an FAA decision in the hands of experts with the goal providing the safe and most effective air traffic control procedures for the traveling public.

I urge my colleagues to support the gentleman's amendment which would strike this language from the bill.

Mr. BERMAN. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, first I would like to say to my good friend from California, Mr. Moorhead, that if I truly believed that he and I could work this difficult problem out in discussions with ourselves, the problem has been in our efforts and in congressional efforts in the past to deal with the Burbank-Glendale-Pasadena Airport Authority. I would like to take my time to go back and give a little bit of the history of this particular issue.

As the gentleman from California has said, there are two runways, runway 15 which, as a general rule, has 95 percent of the departures or more; runway 7, which until recently had 5 percent or less of the flights taking off.

The Burbank-Glendale-Pasadena Airport Authority is an authority that consists of the appointees of the city councils of those three cities. Runway 7 takeoffs will send planes over Burbank and Glendale and to some extent to Pasadena as well. Runway 15 sends planes over a small portion of South Burbank and then over the Los Angeles area.

The city of Los Angeles is not a member of this authority, has no role in this authority, and has no governance.

The language in this bill is very clear. It does not mandate anything with respect to flight takeoffs. It directs an authority that at least three separate times in the past 6 years has promised that it would do so, it directs that authority to join the other 140 airports in this country that have developed runway utilization plans for submission to the FAA, to develop such a plan which, conditioned and contingent on safety and feasibility would equalize, not dump all of the noise, but equalize runway use only at those times and in those situations and under those wind conditions, and under those visibility conditions which make it totally safe and feasible. It is incredible to suggest, as some have, that the gentleman from California [Mr. Mineta] who has done more to try and deal with airport safety and aviation safety, or that this gentleman whose constituents are adjacent to and surrounding this airport, would ever think or want to try and put any kind of airport runway utilization package on that particular airport or mandate on that particular airport which would in any way jeopardize safety. Everyone agrees, safety is the first consideration.

Section 19 of this bill, which the gentleman seeks to strike, makes that absolutely clear. The plan that would be developed by the authority would simply be submitted to the FAA for approval. If in any sense they thought that plan or any portion of that plan was unsafe they would not approve that plan, and in any event, the local control tower chief who has said that when the terminal moves and is rebuilt with the discretionary funds that that airport authority seeks to get under this bill, when that terminal is moved there will be many, many occasions when runway 7 is safe for takeoff. And even if the authority and the FAA and the air traffic control tower chief at Burbank Airport said take off from runway 7 and the pilot though it was not safe, he has absolute rights, as everyone who is involved in this issue knows, to refuse to take off.

The political problem is that as far back as 1979 our colleague, John Burton, had hearings on this particular issue and the unfairness of the process that has taken place.

In 1983, shortly after coming here, the full Committee on Appropriations inserted report language doing much the same thing as this language does. The House passed that bill with that report language.

During the July recess my colleagues from California, Mr. Moorhead, Mr. Roybal, and myself met with the airport authority and they promised to develop a runway utilization plan, and they went so far as to adopt a resolution. It is called Resolution 135, which commits them to developing a runway utilization plan which seeks as its goal to equalize runway use when conditions are safe.

We dropped the report language from the bill; they dropped the resolution, they never chose to implement it and then formally rescinded it.

Two years later we went through the same process again. The gentleman from Michigan [Mr. Carr] of the Transportation Subcommittee of the Appropriations Committee, helped to negotiate language which said that as part of a part 150 study the runway utilization plan and equalization of runway use would be considered.

The CHAIRMAN. The time of the gentleman from California [Mr. Berman] has expired.

(By unanimous consent, Mr. Berman was allowed to proceed for 3 additional minutes.)

□ 1230

Mr. BERMAN. Congressman Carr negotiated language which was adopted by this Congress in 1985 for fiscal year 1986 which said that as part of that part 150 study, the airport authority will look at the runway equalization plan. They appointed an advisory committee, the airport authority did. The advisory committee recommended exactly what is in the bill at this time. The airport authority tabled that recommendtion. In the course of it, the city of Burbank City Council voted to instruct its delegates to the airport authority to never vote for anything which involves increased runway takeoffs which might bring noise over the four-fifths of the city of Burbank that is not now affected.

In the course of this discussion, the chairman of the authority, formerly a Glendale city councilman appointed by the city of Glendale told his constituents

> You can be assured I will do anything I can to fight any airplanes coming over the city of Glendale.

They tabled the part 150 study advisory committee recommendation. They have not adopted the technical committee recommendation. This modest language which asks them to do what Los Angeles Airport and many other airports around this country have already done, develop a runway utilization plan, is all that the section 19 requires them to do.

Perhaps if this House will support the language that has been put in by this committee and this committee did not do it lightly—Chairman Mineta did not do it lightly—we then during the intervening days and weeks can try to get the kinds of commitments that will really try to do something, not tomorrow. I would be against tomorrow there being an equalization of runway use without that terminal. But the point where the terminal is moved, where the capacity of that airport can double or triple, that we will not have the continued political motivation to dump all the noise over the constituencies that are not represented on that airport authority. That is the only purpose. It is not to change things tomorrow, it is only to change things when it is safe, when the new airport terminal is built.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Moorhead amendment and in support of the remarkable efforts of my good friends NORM MINETA and HOWARD BERMAN on their reasonable efforts to resolve the longstanding noise problem at Burbank Airport.

For nearly 10 years, Congress has worked to obtain a fair noise distribution at Burbank Airport. Yet, today, 90 percent of the noise is borne by the people who live under the airport's southwesterly takeoff pattern. Despite years of congressional efforts to have the noise redistributed, all commercial air jets at the airport depart from the south and west and fly over Los Angeles, while none fly over the cities east of the airport. The reason is simple. Burbank's Airport Authority represents only the three cities to the east of the airport—Burbank, Glendale, and Pasadena—and has thwarted all efforts to require that these residents also share a part of the noise burden.

In 1985, the House Appropriations Committee adopted report language in the 1986 DOT appropriations bill stating that a proposal to equalize the noise at Burbank Airport should be submitted to the FAA. In March 1987, the Burbank Airport Authority tabled a noise equalization plan drafted by an FAA-sanctioned Policy Advisory Committee. In addition, the Burbank City Council passed a resolution this year instructing its representatives on the airport authority to vote against any runway use program that includes the runway for easterly departures.

Clearly, the Burbank Airport Authority has no intentions of meeting Congress' directive to develop a fair noise distribution plan.

The language in H.R. 2310 that Mr. MOORHEAD seeks to strike is both modest and fair. It requires the Burbank Airport Authority to submit a long-overdue noise equalization plan. Contrary to what opponents say, the bill's provisions have no effect on airline safety. Under the measure, the FAA must approve the plan and will keep its full authority to veto easterly takeoffs if it deems them unsafe for any reason. In addition, the FAA air traffic controllers and pilots at Burbank Airport are not required to implement any plan for easterly takeoffs unless they believe they are safe.

I urge my colleagues to heed the committee's wisdom on this issue. The inequitable noise distribution at Burbank Airport has been an unreasonably drawn out and frustrating problem for thouands of residents in Los Angeles. The time has come for Congress to ensure that the rights of all residents near the airport are recognized and represented. I urge the defeat of the Moorhead amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(On request of Mr. MOORHEAD and by unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. I thank the gentleman for yielding.

Mr. Chairman, actually this part 150 study will not be released until next year and at that time they will make recommendations to the FAA about noise abatement and about runway utilization. That appears to be what Mr. MINETA and the gentleman from California [Mr. BERMAN] desire. At that time, they will make a decision about what flights we can use runway 7 for and how we can operate more to meet the desires of those two gentlemen. But unless we build the administration building that the gentleman would cut off funds for, unless they already have a plan, until we build that no flights can take off on runway 7.

Mr. BERMAN. Reclaiming my time, I would quickly say that the gentleman's sincerity I know exists in terms of trying to come to an equitable solution. But when the Burbank City Council instructs its membership on the airport authority not to vote for any plan, or support any plan which will send more flights and where the bylaws of the airport authority say any one city can veto any noise abatement proposals that the airport authority might seek to take up, we are dead in the water. All I am saying is when that new terminal is built in a location which allows both runways to be used, and the pilots have said so and the air traffic controllers at Burbank have said so, when that new terminal is built and the capacity is to have not 75 daily departures or 150 or 180, and they continue with the political motivation, I have to do something to try to prevent that from happening.

Mr. MOORHEAD. Mr. Chairman, will the gentleman continue to yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. MOORHEAD. I thank the gentleman.

Mr. Chairman, the chances of that runway being made available and to move the administration building depends upon getting the money here. If you tie so many strings about it so that the money is not available or will not be used, then we cannot do it. I am really trying to help the gentleman and he probably does not realize it.

Mr. BERMAN. I appreciate what the gentleman says. If this language passes within 2 months, the authority can develop the runway utilization plan that is called for in this bill, the FAA can look at it, they can then apply for the discretionary funds, they can get to work on the new terminal that is so needed there and we can move on with the assurance that when the new terminal is complete, there will be some equity.

Mr. MOORHEAD. If the gentleman will yield further, you need the completion of this part 150 study before you are able to draw the kind of plan you want. Failing to do that is disregarding the facts that are present that we spent $300,000 for and would certainly delay the building.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to ask my colleague, Mr. BERMAN, some questions, because I want to build a legislative record here for a second.

Let me preface this by saying that I represent the busiest airport in the country. We have all sorts of community problems at both ends of my airport, both of which are in my district; they get very excited.

Mr. BERMAN. If the gentleman will yield, is the gentleman from Chicago?

Mr. GINGRICH. No, no; we passed O'Hare last year. Hartsville is the busiest airport. We have, I think, 1,800 or 1,900 operations a day. It is a mess in terms of noise. All the communities get upset.

And I mean this quite sincerely when I say when this amendment first came up in the committee I did not pay much attention to it. I think I thought I understood the local politics of two Members each of whom has noise; I understand why my good friend, the chairman, was bringing it up; we had a pro forma debate, we knew who had the votes and it was put in.

And then I began reading about this particular airport. I want to walk you through a series of things that I think every Member who votes "no" on this amendment had better understand. I want to get the position of the gentleman on the record, because I want to draw a very clear distinction between being minimally safe and being safe, because I think you have established a safety clause here where you could say, "Well, if the pilot rolls down the runway, then he has given his professional judgment that it is safe. If the FAA permits the plane to roll down the runway, then the FAA gave its permission to say it was safe. Therefore, we Congressmen have no responsibility."

Now I think the Los Angeles Times on June 12 said it correctly when it said that Congress "should stay out of the cockpit." The Los Angeles Times said that your position—

> Might seem fair if the only issue was noise. But FAA and airline officials claim that takeoffs to the east are less safe because the runway is 900 feet shorter at only 6,000 feet, and the planes have to climb rapidly over the Verdugo Mountains. The problem is compounded by the fact that the prevailing winds are from the west. Standard safe aviation practice is to takeoff into the wind to give the airplane greater lift.

The Los Angeles Times states further,

> The Airline Transport Association said that Burbank is one of the few airports which are listed in Federal Aviation Advisory Circular 121.445-1A, titled "Pilot In Command Qualifications For Special Area/Routes and Airports, Federal Aviation Regulation 121.445." The airports listed in this publication require special airport qualification on the part of the air crews, with the mountainous terrain at Burbank being the governing reason for this particular airport. The requirements for an escape route in the event of loss of an engine during departure with the left turnout are not available in the proposal being discussed. At any point after being airborne, until being established westbound in the vicinity of the LAX VORTAC 342 degrees R, the loss of an engine with resultant climb rate/air speed deterioration would even in VFR conditions place an aircraft in close proximity to the Verdugo Mountains and could result in the inability to establish a climb rate sufficient to clear the terrain. An additional factor to consider in this area is that although the weather minimums are quite high (4,000 feet/3 miles) any loss of power above 4,000 feet could result in the aircraft having difficulty avoiding terrain to the east and north.

It goes on to point out,

> Any left turn-out east of Burbank places the air carrier turbo jet in a "belly-up" profile to the well-known heavy flow of general aviation traffic, using the VFR flyway between the Burbank/Van Nuys area and the airports is in the Ontario/Riverside area.

It goes on to say,

> The heavy mix of general aviation traffic and its interface with the air carrier operations is a long-standing problem.

Finally, Donald Engen at that time the Federal Aviation Administrator wrote the following:

> The Burbank/Glendale/Pasadena airport traffic pattern has been studied enumerable times with the ultimate conclusion in each study that runway 7 is the least desirable runway from a safety standpoint due to the mountainous terrain east of the airport.

Now the point I want to ask the gentleman is this: We may have and everyone hopes we will not, but we may have in the next 5 or 10 years a situation where an airplane loses power on takeoff because the airport is following the instructions you have written into this bill. That airplane crashes into the mountains which it would not have been going toward expect for the instructions you wrote into this bill. Or we may have the occasion in the most densely traveled area in the United States in terms of general aviation, the Los Angeles basin, of an airplane which is forced to turn into general aviation traffic because of what you wrote in this bill. It may end up with the chairman holding the hearings that review that crash. We will, of course, want to ask you to come to that hearing.

Now I want to put in the record today, because I want to know where the gentleman stands on this.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

(By unanimous consent Mr. GINGRICH was allowed to proceed for 5 additional minutes.)

Mr. GINGRICH. If the Federal Aviation Administration comes to the conclusion not that it is unsafe, which is a very tough standard, but that it is less safe than the alternatives, should the legislative record show that in your judgment as you understand what you have written into this bill, that the passengers and crews flying out of Burbank should not be subject to less safe than the alternative purely for the convenience of noise? And I would like to have you expand on that.

Mr. BERMAN. This gentleman, in response, would like to make it clear that he does not believe that his language will have any effect on a war, on famine, on pestilence or on any increase or endangerment of passenger or population safety. And if the gentleman looked at the language of the bill, he would fully accept and realize that. The fact is if you want your ideal world, then you close that airport and you close any airport that is in a population center, and the fact is in the Los Angeles area there is a tremendous need for a new regional airport away from population centers, and you operate on this basis.

I tell you that without some effort to try to provide equalization and get the politics out of this—that is all I want to do—and let me finish in answer to the gentleman's question, the politics of an airport authority that wants to protect its constituency, get that out and have it decided solely on safety, solely on feasibility. The Air Transport Association indicates their immediate survey is once the terminal is moved, at the very least, 30 to 40 percent, and this is the same people that the gentleman is quoting, the Air Transport Association says 30 to 40 percent of those flights can take off of runway 7 totally safe and without any jeopardy to passengers, to aircraft, to population.

You are wrong when you think, and the L.A. Times was mistaken when it assumed that this is to have planes head toward the mountains. This is to curve west but to go over the Los Angeles area that it now traverses, go over it 4,000 or 5,000 feet higher because it has used the easterly runway on the conditions that visibility and weight and wind are safe.

□ 1245

Mr. GINGRICH. Mr. Chairman, reclaiming my time, the Administrator of the Federal Aviation Administration, himself a pilot, said unequivocally two things, that runway 7 is the least desirable runway from which to take off due to the mountains east of the airport and that enforcement of a rule of this type would be virtually impossible, because safety considerations must always be the governing factor for runway selection and assignment.

Does the gentleman agree or disagree with Administrator Engen that in reading the bill as the gentleman had it written that the FAA in running Burbank Airport should place considerations of safety above all other considerations, period, and then have those flights other than those which it has for weather or other reasons which cannot use runway 7, of the remaining flights it would be useful to distribute them from a noise standpoint?

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. Mr. Chairman, I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I absolutely agree with the premise that safety should be the absolute first paramount concern, that neither my politics nor the airport authority's politics should ever encroach on safety consideration, and that is why the Federal Aviation Administration has been given the authority to look at whatever runway utilization program the authority puts forward, to accept or reject it. That is why the air traffic control tower has the final authority.

Mr. GINGRICH. And if they come back and say to you, I would close by saying, Mr. Chairman, having consulted with the Federal Aviation Administration we can only put 20 percent of their flights on, you would accept that?

Mr. BERMAN. If the reason was safety, absolutely. If they say 5 percent of the flights is all we can take because of safety, then we should do no more.

Mr. GINGRICH. Mr. Chairman, I yield back the balance of my time.

Mr. BOSCO. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to the amendment.

Mr. Chairman, there is a good irony in the fact that as we here in Washington discuss this amendment today, the very people that we are talking about on both sides of this airport have been struck with a fairly serious earthquake.

I think all of us would prefer to be helping them with the earthquake than determining which way their planes ought to take off.

I think there are ways of complicating this issue and ways of simplifying it. The ways of complicating it are to say that it has anything to do with safety because it does not. As usual, if you read the bill, that question is answered because it says that the Federal Aviation Administration will allocate runway use at such airports so that as many of the flights which depart from such airports each day and are determined by the Administrator as being feasible and safe shall depart from runway 7.

The safety question has been addressed by the committee. All of our committee reports and deliberations will show that there are no safety issues at all involved here, and none of us would think of requiring a pilot to take off under unsafe conditions.

Second, the issue is not local control. Half of the people in this locality have no control over this issue at all because the airport authority represents communities that they are not a part of.

Third, people have said that Federal involvement is inappropriate here, yet Federal involvement is called for here because the very funds that are going to be used to expand this airport do increase the noise, do increase the use of the airport and will operate to the detriment of these people who now have absolutely no say in which way the noise goes.

I believe that the committee made a fair judgment. The judgment was based on sharing the burdens of this airport as well as sharing the benefits, and that is our responsibility in providing Federal funds.

Mr. Chairman, I submit for inclusion in the RECORD an editorial titled "It's Only Fair," an article from the Los Angeles Daily News:

[From the Los Angeles Daily News, June 8, 1987]

IT'S ONLY FAIR

There are no perfect solutions to Burbank Airport's noise problem, at least not until someone develops a jet engine that purrs instead of roars. In the meantime, airport officials must take whatever imperfect steps they can to lessen the noise affecting the airport's neighbors.

To its credit, the Burbank-Glendale-Pasadena Airport Authority has forced airlines flying out of Burbank to use the quietest jets available. Even so, the authority has resisted putting similar pressure on the airlines to shift runway use to better distribute the noise burden. Given the authority's inaction, some prodding is in order.

Rep. Howard L. Berman, D-Panorama City, has written an amendment to an airport improvement bill that would hold up federal funds for Burbank Airport's new terminal unless the airport adopts a plan to divide takeoffs equally-between the east-west and north-south runways. About 90 percent of the flights now take off to the south.

Normally we would not support any measure that could impede the opening of a new terminal, which at best is five years away. But the Berman amendment is not as severe as it may at first seem, and there is no reason to believe that the Airport Authority cannot abide by it and build a new terminal as well.

The key ingredient in the amendment is a provision allowing pilots and Federal Aviation Administration officials to veto easterly takeoffs for safety reasons. This will apparently preclude such takeoffs until the new terminal is built, since the FAA currently bars airline takeoffs to the east because the existing terminal is so close to the east-west runway. More significantly, this provision makes safety the No. 1 consideration.

Because the east-west runway is shorter, and because the Verdugo Mountain rise directly to the east, airline pilots almost certainly will opt for the north-south airstrip during heat waves (when takeoff performance is diminished) or when they have a heavily loaded plane. Odds are that the north-south runway will still get the most use of the two. Why then, are airport officials so strongly opposed to shifting at least some of the flights to the east?

Although several reasons are cited, the heart of the matter is that airport officials do not want to stir up noise complaints from people who are now untouched by airport noise. Shifting some of the noise to the east won't stop people under the existing southwesterly takeoff pattern from complaining, but it is practically guaranteed to make the airport new enemies. Because these new adversaries would reside in two of the cities that co-own the airport, Burbank and Glendale, they would at least have some voice in airport operations, unlike residents of Los Angeles. In the long run, though, it doesn't matter where people live. No airport wants to increase the numbers of people who complain about it.

As sound as this reasoning may be, it stands in direct contradiction to the Airport Authority's claims that it can make the noise bearable by requiring air lines to use quiet jets. Airport Authority president Robert W. Garcin was quoted last week as saying the airport had "solved the noise problem" with its fleet of quiet aircraft. If so, then why hesitate to fly these quiet planes over east Burbank and Glendale?

The reality is that the noise problem hasn't been solved, and jets will continue to be an annoyance for some years to come. Sharing the noise is simply a question of fairness, nothing more and nothing less. People who happen to live under the airport's southwesterly takeoff pattern now get nearly all the takeoff noise. If the airport is to grow, as it should, other communities should be willing to accept some of the burden.

That editorial supports the gentleman from California [Mr. BERMAN] in his quest to instill fairness in this situation.

Mr. DENNY SMITH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think this is a bad precedent. I can understand the frustration of not getting the airport authority to do certain things. I would agree with one thing that the gentleman from California [Mr. BERMAN] said, and that is maybe we ought to close this airport until we can straighten this whole thing out.

I think what we are doing is opening ourselves up to a tremendous number of airports who want to try and adjust their flight patterns based on the constituency fears or whatever we have in a local political scene.

I would ask the question, if we got 95 percent of the traffic presently using runway 15, what is the percentage of time that the wind favors that runway?

I would almost guess that it is going to max to 95 percent.

I can understand the frustration of working with a local political body and with a local situation, but that is a bad precedent, so I am going to have to vote for the amendment.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, this is a particularly difficult issue for me, as the gentleman from California [Mr. BERMAN] has said in his remarks.

I have struggled with the gentleman from California [Mr. BERMAN] as a member of the Subcommittee of the Appropriations Committee on Transportation, and I have pledged to him to continue struggling with him on this particular issue. I have gone to Burbank, I have toured the airport, I have met with members of the airport authority, and I have also met with some constituents of the gentleman from California [Mr. BERMAN] who are interested in alleviating the noise problem.

Mr. Chairman, it is a difficult issue because the geographic terrain and the location of the Navaids do not apportion flights in a normal manner which would be an equal noise distribution.

For example, although the amendment by the gentleman from California [Mr. MINETA] in the bill talks only about departures, the gentleman from California's [Mr. BERMAN] constituents are nonetheless subjected not only to a disproportionate share of the noise on departure but all the navigation aids for landing put noise over their rooftops as well because the approach, the localizer and the NDB approaches to the airport are on runway 7. So landing on runway 7 is the norm while taking off on runway 15 is the norm.

I also agree with the gentleman from California [Mr. BERMAN] that there is a recalcitrance, a political recalcitrance on the ground in the Burbank-Glendale-Pasadena area which sought to be overcome. I also agree with the gentleman from California [Mr. BERMAN] that this particular amendment in the bill, should it survive, is not impacting on safety, does not direct any air traffic controller in the tower to order a plane to take off in an unsafe manner, but nonetheless I would say that I think the language in the bill is a little premature at this particular time.

The reason for that is that a part 150 noise study is underway right now. It will be concluded at the end of November, and it is on that study, it is upon that study which the airport authority should reflect before it makes any planned submission.

Ironically, if this piece of legislation were to pass, the airport authority would not be able to get an airport grant to pay for the study upon which they would be relying in making their recommendation.

Furthermore, the essential fact here is that this airport needs a grant to build a new terminal, and the gentleman from California [Mr. BERMAN] has been wonderful in helping work out a situation there to get the new terminal placed appropriately on that field, and some of the Burbank and Glendale folks have come to agreement on the location of the terminal.

We need to get that old terminal torn down, because that old terminal is creating an unsafe condition on runway 7.

If this piece of legislation were to pass, there would be no grant aid to effectuate the new terminal and the destruction of the old unsafe terminal location, so what we really have here today at this point in time, although I have much sympathy and agreement for the gentleman from California's [Mr. BERMAN] position and that of his constituents, having been there, but this is somewhat an effort to get the airport authority to cry uncle.

Mr. Chairman, I am in favor of making them cry uncle, but I am in favor in making them cry uncle if we need to after that part 150 study on noise abatement, after the environmental impact statement.

Mr. Chairman, I understand that the gentleman from California [Mr. BERMAN] and the other gentleman from California [Mr. MINETA], that this was the only game in town of the day. This is an effort to get this issue before the Congress, and I honor them for it. I want to end by saying while I am going to vote with the gentleman from California [Mr. MOORHEAD] today, I pledge to my good friend, the gentleman from California [Mr. BERMAN] to continue to seek a solution, and I admonish my good friend from southern California [Mr. MOORHEAD], who represents the cities of the airport that in the future if the airport expresses some kind of parochial political recalcitrance in this matter, we are going to be back here on an appropriations bill and we will direct an airport plan from the Congress of the United States, as regrettable as that is. I would rather not do that on this bill today until we give the airport authority the full benefit of the part 150 study.

Mr. CHANDLER. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, I do this reluctantly but I have to tell my colleague I want the gentleman from New Jersey [Mr. HOWARD], the chairman of the subcommittee, to know that I am feeling really left out. I have a noise problem, too.

Who came around to check with me to see if we could not solve that problem in this bill?

Nobody.

Who went to the gentleman from Georgia's [Mr. GINGRICH] district and asked him if there is anything we can do to solve his problem in Atlanta?

Is this a can of worms that we want to open? I will guarantee my coleagues it is not because if we do not pass this amendment and strike this provision, I will guarantee that Monday morning I am going to be in your office asking that my problem in Seattle be solved.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. Mr. Chairman, I am happy to yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, is the gentleman stating that the Committee on Public Works and Transportation is at fault because we did not go around and visit each office, knowing that an aviation bill was coming up, asking them about the airport in their home districts? Or do we presume that Members would be looking at their own districts and coming to the Committee on Public Works and Transportation with that particular problem?

Mr. CHANDLER. Mr. Chairman, if I might reclaim my time, what I have been doing is, I have been working in my own district with our own port authority and not assuming that it was appropriate to come to the Congress of the United States to work out a problem which is more appropriately handled in our own area.

I will tell my colleagues that if we put the airplanes out over the gentleman from Washington's [Mr. LOWRY] district, then he is going to be in to see you. If you put them up over the gentleman from Washington's [Mr. SWIFT] district, he will argue that the Snohomish County is not represented on the port of Seattle.

I think that we are really making a precedent here that is going to cause you fellows some grief that you are going to really regret, and I guarantee my colleagues that if we are going to solve the problem of the gentleman from California who proposes this idea, I am going to come back and ask that my problem be solved.

Am I going to be told "no" because I am a Republican?

Mr. HOWARD. Mr. Chairman, will the gentleman yield to me?

Mr. CHANDLER. Mr. Chairman, yes, I am happy to yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I would like to ask, if I might, of the gentleman from Georgia [Mr. GINGRICH], whether he feels in any way that I as chairman of this subcommittee would be inclined to say no to the gentleman just because he is a Republican? That is the question the gentleman from Washington [Mr. CHANDLER] asked me.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. Mr. Chairman, I am happy to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, let me say to my good friend, the gentleman from New Jersey [Mr. HOWARD], the chairman of the Committe on Public Works and Transportation, that I am confident that your door is always open for people to come in with problems. I will say, and in fact I was just talking with the gentleman from California [Mr. MINETA], and we may want to get involved in this for a couple of minutes if necessary, but had a Republican come to me as the ranking Republican member on the subcommittee and said, "I have a problem I want to deal with legislatively between two Members involving a noise issue at an airport," I would have said, I do not think that is an appropriate vehicle.

If they had furthermore said to me, "By the way, I happen to have this air transport letter on safety and I happen to have the Federal Aviation Administration Administrator's letter on safety," I would have said to them that I will personally actively oppose you should you bring that up.

So I would say to my good friend, the gentleman from New Jersey [Mr. HOWARD], that it is not a question of whether my door is open or whether your door is open, I would have suggested up until today that it was not within the precedence of this committee on this kind of bill to be doing quite this kind of decisionmaking or legislating about safety and about the use of an airport.

But I may have been misinformed.

In chatting with the gentleman from California [Mr. MINETA], the subject came up maybe we should say to every Member of the House to vote no on the gentleman from California's [Mr. MOORHEAD] amendment and come to us next week and let us open up to the Committee on Public Works and Transportation for every single local noise problem that our colleagues would like to have solved.

Mr. CHANDLER. Mr. Chairman, reclaiming my time, let me make my point. All I am saying to the gentleman from New Jersey [Mr. HOWARD] is that I do not question him, and I do not question the gentleman from California [Mr. MINETA]. I am convinced that fairness would prevail. I believe your door would be open. I just think that we are going to set aside an awful lot of time for Members like myself and others who are going to be in with just as legitimate a request as the one being brought before us here.

☐ 1300

It is not appropriate the Members of Congress from the rest of the country decide what is best for the city of Seattle, and I am not about to ask the gentleman, but I think it is inappropriate for this case to be brought here too for exactly the same reason.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I think the gentleman draws a very inappropriate inference with respect to Members willy-nilly coming to the Committee on Public Works and Transportation to solve a local problem, and somehow imply that is what went on here.

There is a 7-year history, political process which provides no alternative. We tried at the regional level and at the State level and through report language.

The CHAIRMAN. The time of the gentleman from Washington [Mr. CHANDLER] has expired.

(On request of Mr. BERMAN, and by unanimous consent, Mr. CHANDLER was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield further?

Mr. CHANDLER. I yield to the gentleman from California.

Mr. BERMAN. This is in effect a court of last resort, a process of last resort.

I cannot think of anything I would rather do less than spend a lot of my time dealing with the particularly runway utilization process in a local area; but there is a whole structure which denies representation to a huge group of people that the city of Los Angeles has come to us and asked us to do this, the mayor of Los Angeles.

We have had the Transportation Subcommittee of the Committee on Appropriations asking for authority to adjust this, and there has been a great deal of arrogance and promises that have been broken, and I think it is appropriate then to say that if there is no other solution, we look to the legislative process.

Mr. CHANDLER. Mr. Chairman, let me conclude by saying I can sympathize with the gentleman's position.

The airplanes not only go over the houses of my constituents, they go right over my own; but I can guarantee the gentleman, Mr. Chairman, I am not going to come and ask the gentleman to solve that problem.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto expire now.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MOORHEAD].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BERMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 341]

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaugther (NY)
Slaugther (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1315

The CHAIRMAN. Four hundred six Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California [Mr. BERMAN] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind Members that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 198, noes 211, not voting 25, as follows:

[Roll No. 342]

AYES—198

Akaka
Alexander
Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell
Carper
Carr
Chandler
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Glickman
Gradison
Grandy
Green
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Johnson (SD)
Kasich
Kastenmeier
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Penny
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Roybal
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skaggs
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Tauke
Taylor
Thomas (CA)
Torricelli
Udall
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—211

Ackerman
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Cardin
Chapman
Chappell
Clay
Coelho
Coleman (TX)
Collins
Cooper
Courter
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gonzalez
Gordon
Grant
Gray (PA)
Guarini
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jenkins
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Panetta
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Sisisky
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Synar
Tallon
Thomas (GA)
Torres
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—25

Bateman
Biaggi
Boner (TN)
Brown (CA)
Conyers
Dowdy
Early
Gephardt
Goodling
Gray (IL)
Kemp
Leach (IA)
Lewis (GA)
Livingston
McHugh
Molinari
Murtha
Nichols
Ortiz
Ridge
Roemer
Sharp
Spence
Tauzin
Weiss

The Clerk announced the following pairs:

On this vote:

Mr. Ridge for, with Mr. Lewis of Georgia against.

Mr. Spence for, with Mr. Weiss against.

Mr. SYNAR changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1330

AMENDMENTS OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MINETA: Page 13, line 19, insert "or airport sponsor" after "Each State".

Page 13, lines 24 and 25, insert "and airport sponsors" after "State governments".

Page 16, lines 12 and 13, strike out "other than primary airports,".

Page 20, after line 3, insert the following new paragraph:

(6) PUERTO RICO.—Notwithstanding subsection (a)(3)(B), funds appropriated under such subsection for airports in the Commonwealth of Puerto Rico may be made available by the Secretary for primary airports and airports described in section 508(d)(3) in such Commonwealth.

Mr. MINETA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MINETA. Mr. Chairman, the purpose of my first amendment is to make a perfecting change to the amendment adopted by our committee and authored in committee by my fine colleague from Georgia, Representative JOHN LEWIS. Mr. LEWIS' provision establishes a set-aside of at least 10 percent from funds made available each fiscal year, beginning in fiscal year 1988, for the Airport Improvement Program, for small business concerns owned and controlled by socially and economically disadvantaged individuals. This set-aside requirement will apply to funds made available for the Airport Improvement Program under the authorizations contained in this bill for fiscal year 1988 through 1992.

The amendment I now offer specifically provides for the annual survey and certification of disadvantaged business enterprises, pursuant to rules and procedures issued by the Secretary of Transportation, by airport sponsors as well as by States. Airport sponsors are already in the business of identifying such firms under the existing Department of Transportation's Minority Business Enterprise Program regulations. This amendment will thus build upon the experience gained by local airports since the DOT MBE requirements were put into effect in 1980.

I urge my colleagues to support this perfecting amendment which will apply to the Airport Improvement Program the same disadvantage business enterprise set-aside requirements that this House overwhelmingly supported in March of this year for the highway and transit programs.

Mr. Chairman, my second amendment is designed to give more flexibility to the insular areas in the use of apportioned funds for airport development. Under current law, the apportionment for airports in the insular areas must be used for small commercial service airports or general aviation airports. In the past, there have been years in which the insular areas have not had any development needs at small airports. As a result, they have been unable to use the funds which have been allocated to them. My amendment would give the insular areas flexibility to use their apportioned funds for development at commercial service airports.

This amendment has been cleared with the Delegates and Resident Commissioner from the insular areas. It is my understanding that FAA has no objection to it. Aviation is critical to the development of the insular areas and it is appropriate to allow them to apply their apportioned funds to airports where the capital needs are the greatest. I urge adoption of this amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I am pleased to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, we have examined the amendments offered by the gentleman from California, we accept them and support them from this side of the aisle.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. MINETA].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Strike out section 112 of the bill and insert in lieu thereof the following:

SEC. 112. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

Section 528 is amended to read as follows:

"SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

"(a) GENERAL RULE.—On or after July 15, 1987, the Secretary shall not close, or reduce the hours of operation of, any flight service station in any area unless the service provided in such area after the closure of such station or during the hours such station is not in operation will be provided by an automated flight service station with model 1 or better equipment.

"(b) SPECIAL RULE.—As soon as practicable after the date of the enactment of the Airport and Airway Improvement Amendments of 1987, the Secretary shall reopen any flight service station closed between March 25, 1987, and July 14, 1987 if the service provided in the area in which such station is located since the date of such closure has not been provided by an automated flight service station with model 1 or better equipment. The hours of operation for such station shall be the same as the hours of operation of such station on March 25, 1987. After reopening such station, the Secretary may only close or reduce the hours of operation of such station in accordance with subsection (a).".

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Chairman, I also ask unanimous consent that a printing error on the first line of the amendment which refers to section 12 be corrected to refer as it does in the title to section 112.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Chairman, between March 25, 1987, and July 14, 1987, the Federal Aviation Administration [FAA] closed eight flight service stations in northern New York, New Hampshire, Maine, and Vermont.

The FAA rushed these closings even though a bill was awaiting President Reagan's signature that would keep these stations open until the airports were provided with an automated flight service station with model one—or better—full capacity equipment. Current law requires this equipment.

This means that the FAA created nonautomated automated flight stations that do not comply with the law.

My amendment would require, as soon as practicable after the date of enactment of this bill, that the Secretary shall reopen these flight service stations if they have not been provided with an automated flight service station with model one or better equipment.

When Admiral Engem testified before the Transportation Appropriations Subcommittee on April 23, 1987, in answer to a specific question from Congressman BOB CARR, "it is our intention not to close any more flight service stations until they comply with the intent of this pending law."

Admiral Engem, subsequently went to the Paris Air Show and while he was gone the FAA bureaucracy went against his will and closed the eight flight service stations.

All I ask is that our pilots and passengers who use these airports be given the same air safety, protections that all other people have throughout the United States.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, the majority side has had an opportunity to look at this amendment. We are in agreement with it and feel we ought to move ahead and accept this amendment.

Mr. SOLOMON. I very much appreciate the support of the chairman of the subcommittee.

Mr. MARTIN of New York. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. MARTIN of New York. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my good friend and colleague, Mr. SOLOMON. This amendment would require the Federal Aviation Administration to reopen any flight service station closed between March 25, 1987, and July 14, 1987, if the service provided in the area in which such a station is located since the date of such closure has not been provided by an automated flight service station with model 1 or better equipment. The language is essentially identical to legislation Mr. SOLOMON and I introduced in July of this year.

In June the Federal Aviation Administration shut down the flight service stations in Massena and Watertown, NY, which are in my congressional district, and began operation of an Automatic Flight Service Center in Burlington, VT, which was not yet fully and adequately staffed and equipped. That action represented a callous attitude on the part of the FAA toward the safety of the flying public and a shocking disregard for the welfare of pilots and airline passengers. And, it is would appear, Mr. Chairman, that the FAA continues to disregard their safety and welfare as model 1 equipment still has not been installed at the facility in Burlington.

The legitimate concerns over the safety of air space through upstate New York must be addressed and the language of this amendment does just that. I intend to monitor the FAA's progress in this regard and to hold them accountable until they either reopen these flight service stations or provide the appropriate equipment in Burlington. It is the least they can do.

I urge my colleagues to approve this amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from Arkansas, the ranking member of the full committee.

Mr. HAMMERSCHMIDT. Mr. Chairman, we are very familiar with the gentleman's amendment, we commend him for it, and we accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

Mr. FLORIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 2310 and urge my colleagues to join in approving this legislation to reauthorize the Airport and Airway Improvement Act and continue funding to develop and improve our Nation's airports and airways.

I am particularly supportive of a provision dealing with the problem of aircraft noise pollution. I commend the Committee on Public Works for their efforts in addressing a program that exists in any community near a major airport.

Over 7 million people are impacted by aircraft noise and 900,000 acres of land are so impacted that HUD will not approve construction guarantees for this land.

As chairman of the House Subcommittee on Transportation and Commerce in the late 1970's, I was very involved in the enactment of serveral laws dealing with aircraft noise. Both the 1978 Quiet Communities Act and the 1979 Aviation Safety and Noise Abatement Act recognized the seriousness of this program and charged both the EPA and the FAA with the authority to do something about it.

The EPA has since gotten itself out of the noise regulating business simply by not having their noise program funded. This is what I will be working to address in the coming months.

The FAA was able to develop a procedure that airports could follow to assess noise problems in their communities and take steps, that would be funded partially by the Federal Government, to mitigate noise. This part 150 study process is a voluntary one. However, it is an effective way of objectively assessing the problem and dealing with it.

In my own State of New Jersey, airport noise has become a key issue. Increased activity and changes in routing patterns have sparked noise complaints from communities near Philadelphia International Airport and Newark International Airport.

As a result of these complaints and numerous meetings with both airport officials, studies are now underway at both airports. At my request, the Philadelphia airport study was completed this summer and a report is due in the coming weeks. The Port Authority of New York and New Jersey has agreed to begin a study at my request on the Newark problem.

Airport noise, however, is a problem in communities across the country. In many cases, airports have not been willing to meet community concerns. Out of over 400 airports, 125 have completed or are in the process of completing part 150 studies and developing noise compatibility plans.

For this reason, I am pleased that H.R. 2310 contains a provision that will hopefully provide impetus to airports to address the noise problem. If an airport does not make "good faith" efforts to deal with noise, then 10 percent of the airports AIP funding is taken away and given to the community. The community then can use this money to pay for noise mitigation.

I direct the attention of my colleagues—and, I hope airport operators will take note—to my colloquy with Mr. MINETA earlier where we pointed out that the preferred method of dealing with airport noise is an FAA-approved part 150 study.

This provision of H.R. 2310 will hopefully give airport operators a push in dealing with noise in their communities, or at the least, provide some funding to these communities to protect themselves form noise.

I hope that we can signal through this legislation our commitment to addressing valid concerns of communities that are plagued by airport noise than can be mitigated.

I would like to enter into a colloquy with the gentlemen from California [Mr. MINETA].

First, I would like to commend you and the Committee on Public Works for including in this legislation provisions to assist communities in addressing the problem of airport noise. As chairman of the House Subcommittee on Transportation and Commerce in 1979, I was involved in the enactment of the Aviation Safety and Noise Abatement Act of 1979. I share the interest of the committee in seeking to ensure that communities whose noise concerns are not being met by the local airport have the funding to address airport noise problems.

As the chairman knows, the Aviation Safety and Noise Abatement Act authorized a process that airports can use to determine the nature of a noise problem within a community and take effective steps to mitigate noise. The FAA's FAR part 150 airport noise compatibility planning program includes a systematic process that airports can use to make an objective assessment of the problem in the community and develop a noise compatibility plan that will meet the concerns.

The program involves community and local government input as well as Federal funding for implementation of the plan in agreeing to conduct a part 150 study, the airport undertakes the development of a noise exposure forecast for an airport over the next 5 years. The forecast incorporates information on flight operations and noise levels as well as consultation with the States, public and planning agencies, regular airport users and the FAA, as well as public comment.

Part of the 150 process involves developing a noise compatibility program. The program can include land acquisition, soundproofing, preferential runways, modification of flight procedures, restrictions on aircraft classes, capacity limitations, partial or complete curfews. The FAA must approve both the process and the plan an airport develops.

Though the process is a voluntary one, 125 airports across the country have undertaken or are in the process of a part 150 program. Unfortunately, many large airports have been reluctant to undertake part 150 programs in the face of complaints. I have recently worked with officials overseeing Philadelphia International Airport and Newark International Airport. I am pleased that the officials agreed to undertake limited noise studies. However, both airports are reluctant to undertake full-blown part 150 programs because of various factors.

I understand that this legislation stresses congressional preference for the part 150 process as the method airports should be using to address noise concerns. I would like to clarify that provision with the gentleman from California.

Mr. MINETA. If the gentleman will yield, I thank the gentleman from New Jersey for his interest and his involvement in the issue of noise pollution. I agree with him that the FAA has developed a process, as directed by the Congress, that meets the concerns of airport communities with a process that balances all aspects of the noise problem while including input from the communities involved, as well as airport users.

The gentleman is correct in stating that section 10 of H.R. 2310 reinforces the preferability of the part 150 process as the means for achieving the objective of addressing noise concerns. In the committee's report language, we have held that the preferable means of mitigating noise exposure is through the airport's implementation with AIP grant assistance of an FAA-approved part 150 program that has been developed with the cooperation of jurisdictions involved.

Under this provision, if an airport is not making a "good faith effort toward that end," 10 percent of the airport's development apportionment should be transferred to the impacted communities for noise abatement projects.

Mr. FLORIO. Is it also correct that the Transportation Secretary can waive the part 150 process in cases of a determination that there is no problem, or in cases where an airport has undertaken a comprehensive noise program that is consistent with the objectives of 1979?

Mr. MINETA. That is correct. In a sense, the burden of proof for not doing a part 150 study is placed on the airport and the Secretary needs to make a determination that the reasons for not conducting one are valid and still within the intent of the 1979 Aviation Safety and Noise Abatement Act.

Mr. FLORIO. I thank the gentleman for his clarification.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: On page 52, after line 18, insert the following new section:

SEC. 121. ATLANTIC CITY AIRPORT.

(a) LIMITATION ON FUNDING OR TRANSFER OF PROPERTY.—Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not convey any interest in property (pursuant to section 516 of this title) to any municipality or any other entity operating such airport, nor shall any funds authorized by this Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such, airport, until such time as—

(1) the Master Plan Update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

(2) the Administrator of the Federal Aviation Administration finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

(B) the standing to sue and be sued in its own name;

(C) the authority to hire and dismiss officers and employees;

(D) the power to adopt, amend and repeal bylaws, rules, regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the airport;

(F) the power to acquire property by the exercise of the right of eminent domain;

(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey;

(H) adequate financial resources to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an airport;

(I) a governing board which includes (but need not be limited to) voting representatives of the City of Atlantic City, the County of Atlantic, and the municipalities which are adjacent to or are directly impacted by the airport;

(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other qualifications as would be appropriate to oversee the planning, management, and operation of an airport; and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

(K) the authority to carry out comprehensive transportation planning to minimize the traffic congestion and facilitate access to and from the airport.

(b) SAFETY FUNDS NOT SUBJECT TO LIMITATION.—The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator of the Federal Aviation Administration determines is needed for safety purposes.

(c) EFFECTIVE DATE.—The restriction set forth in subsection (a) shall be applicable only to funds which are authorized for the fiscal year beginning October 1, 1987. Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied.

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, as my colleagues may know, there has been tremendous growth in recent years in my southern New Jersey congressional district, which includes the Atlantic City area. Indeed, Atlantic City, where casino gaming was legalized just 11 years ago, is now the leading tourist destination in the United States, with some 30 million people visiting the city each year.

While this growth is welcome, it has brought with it a number of major problems insofar as the existing transportation infrastructure has proven to be inadequate to serve the burgeoning needs of tourists and residents alike. In particular, the area desperately needs a large, modern, and efficient airport. The lack of such an airport has become a major transportation bottleneck, choking off the city's development as a destination resort, and forcing visitors to use forms of transportation which generate congestion and pollution.

The airports which currently serve the Atlantic City area consist of a small facility at Bader Field, which is not really suitable for expansion, and a second facility at Pomona, NJ, about 12 miles outside of Atlantic City. This latter facility, which includes 83 acres of city-owned land and 5,000 acres owned by the Federal Aviation Administration, holds great promise for expanded use and service. However, to fulfill that promise, a comprehensive regional plan needs to be adopted for the area. Also, a number of improvements need to be made at or near the airport, including the construction of a new terminal building on adjacent federally owned land, the expansion or relocation of nearby access roads, and coordination with a planned rail line that will run by the fringes of the airport.

Unfortunately, there are several serious legal and jurisdictional obstacles which have prevented such planning and improvements from going forward. One of the most serious problems is that the governmental power to take effective action at the airport or the surrounding environs is now fragmented among a number of local jurisdictions.

Atlantic City, which is currently the owner-operator of the airport, lacks the power to take certain essential actions at the airport, 12 miles beyond its own borders, such as planning, exercising the power of eminent domain, constructing new roads, zoning, and the like. Conversely, although the county of Atlantic has some of the powers which the city lacks, it currently has no voice in airport decisionmaking, including the adoption of policies which will require coordinated action from all the local jurisdictions.

Meanwhile, the townships which are immediately adjacent to the airport, which stand to experience the greatest impact from airport development, likewise have no institutionalized role in the development of airport policies, even though they will also be required to coordinate their actions with the airport management.

To further complicate the problem, the airport grounds are under split ownership. Atlantic City owns 83 acres including the existing terminal building, but the Federal Aviation Administration owns the balance of 5,000 acres, which includes the runways, control tower, and the site of a planned, new terminal building.

Finally, whatever the future of the airport, there is a need to make sure that airport planning protects the role of the Federal Aviation Administration's tech center, as well as the Air National Guard, both of which have major activities at Pomona.

As a result of the competing needs, and fragmented ownership and jurisdiction I have just described, there is now general recognition that ownership of the airport must be consolidated in a single regional entity, which will protect the FAA and DOD roles at the airport, as well as undertake the comprehensive planning and implementation of transportation policy that is required at a large, modern airport.

Unfortunately, Mr. Chairman, the local governments in the region have been very slow to make the compromises that are needed to establish such a regional authority. There is also a degree of competition and mistrust among the various units of local government that has sometimes generated friction instead of cooperation.

Since Atlantic City will be one of the airport's major clients, there is no question that it must have a meaningful role in airport planning and operation. By the same token, the county—with its area-wide powers—must be included so that regional concerns can be addressed. Cooperation is also required from those adjacent communities that will bear the impact of expanded airport operations. I liken the situation to a team of three horses: When they pull together, they can make progress; but when they pull in opposite directions, there can only be stalemate and inaction.

As the situation currently exists, we unfortunately have the latter situation. As a result, no major improvement have been made at the airport, except for band-aid plans to spruce up the old terminal building which is obsolete, and needs to be replaced with a new building elsewhere at the facility. Expansion of service has proved to be impossible, and the entire region has suffered.

Under the circumstances, Mr. Chairman, I find it very difficult to justify the expenditure of any further Federal funds at the Atlantic City Airport until such time as the local governments in the vicinity have compromised their differences and formed a regional authority that can undertake the long-range planning and improvements that are so absolutely necessary.

Accordingly, the amendment I am offering would fence off any further funding for the Atlantic City Airport, except for safety-related expenditures, until a regional authority has been created. My amendment also would prevent the transfer of any FAA land for airport purposes until a regional authority has been created.

The language of my amendment basically tracks the recommendations of the FAA's Atlantic City airports role study, released in 1983, which sets forth the characteristics required for an airport authority to operate and develop the Atlantic City Airport. These include the ability to sponsor Federal grants, the power of eminent domain, financial stability, and the like.

On the other hand, my amendment does not attempt to dictate to the local governments as to the composition or form of the regional authority. It does not set forth any requirement, for example, as to the balance of power on the authority or what percentage of the votes should belong to what parties. This is not a case of the Federal Government attempting to impose its will on local governments. Rather, it is a simple recognition that the current situation is not positive or constructive with regard to the future growth of the airport or for the prudent use of public funds and that further Federal funds should not be expended until an area-wide planning and implementing entity is in place to meet the needs of the area.

Mr. Chairman, I urge the adoption of my amendment.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I am pleased to urge your support of the amendment offered by my distinguished colleague from New Jersey, Mr. HUGHES, concerning the Atlantic City Airport. By adopting his amendment, we will encourage local and State officials in Atlantic City, Atlantic County and the neighboring townships to work together to plan for the improvement and expansion of the airport. Under the amendment, Federal airport improvement funds for safety-related projects would continue to flow while negotiations on the formation of a regional airport authority and airport planning continue.

Given the support for this amendment in the New Jersey State delegation and the fact that Federal assistance for safety improvements at the Atlantic City Airport will not be halted while the responsible local and State officials work to meet the needs of airline passengers traveling to Atlantic City, I urge support of this amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of this amendment. Currently, Atlantic City Airport is under the control of the city. Under this amendment, Federal funds for the airport will be denied unless a regional airport authority including voting representation of the city, the county, and adjacent municipalities is established to manage the airport. Adoption of this amendment should enhance development of this airport for this fast growing area.

I urge my colleagues to vote for this amendment.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, we certainly accept the amendment on our side.

Mr. HUGHES. Mr. Chairman, the long and the short of the amendment is that we have unfortunately a situation in Atlantic City where we can prevent the kinds of problems experienced around the country hopefully with noise because we are about to develop a new, perhaps $50 million airport desperately needed in our region to relieve some of the pressure on surrounding areas. The airport is located at a Federal facility, the FAA technical center at Pomona, NJ.

Atlantic City for years has operated a very small facility on 84 acres. The new facility will be operated on what is now Federal land across the field from where it is now. The Federal Government would have to convey land to an areawide entity, and unfortunately the areas that call Pomona home, which is where the major changes take place, need some role in shaping their destiny as part of a regional authority, just as Atlantic City, that has operated across the field, should play some meaningful role, and the county which has areawide transportation responsibilities needs to play a meaningful role in an areawide authority.

But the bottom line is whatever takes place across the field on Federal land, with mostly Federal resources, should be dealt with on an areawide basis with a meaningful role for all of the various entities involved, and I would urge my colleagues to support the amendment.

Mr. FAUNTROY. Mr. Chairman, I rise to speak in opposition to the amendment.

Mr. Chairman, I rise in reluctant opposition to this amendment, reluctant because the distinguished author, the gentleman from New Jersey [Mr. HUGHES], and the chairman of the committee have been long-distance runners in terms of dealing with basic problems confronting this Nation, and they are close personal friends.

But this weekend past we had nearly 20,000 black Americans here in the Nation's Capital for the Congressional Black Caucus' annual legislative weekend. We dealt with many of the basic problems confronting the country in some 65 workshops, and in one of them the question of the plight of Atlantic City was brought to our attention, and the fact that Atlantic City may become victim of a disturbing trend across the country, that of losing valuable opportunities to deal with some of their basic housing, crime and education programs.

The fact is that Atlantic City has developed the Atlantic City Airport which is operated in conjunction with the FAA. Atlantic City had the foresight to set aside land around the turn of the century for this purpose and has invested substantial funds in land and the airport terminal facilities.

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It has a contract with Pan American World Airlines to provide high quality professional management of the airport and for its future development as a first-class international airport. Atlantic City now has proposed regionalizing the airport's ownership, but it is important that the city retain control of that regional authority. Now Atlantic County is trying to take the airport, I understand, away from the city and this, of course, is a local dispute and I do not believe the Federal Government should be involved in that.

Thus, I do not believe that H.R. 3131 is necessary or desirable, but it ought to be made absolutely clear that should this amendment pass that the purpose of this legislation is not to wrest control of the airport from Atlantic City and place it under another jurisdiction. They are certainly willing, as they shared with us, and are planning to establish regional authority such as this amendment would require but are very much concerned that the economic revival on the boardwalk, having bypassed many of the people in the city who are residents, who need the housing and the education and the other services, that this tax base expansion would enable them to garner, they are afraid that the cream is again being skimmed by a county, not unlike what has happened in many such situations across the country.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me?

Mr. FAUNTROY. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Let me just assure the gentleman that I am as concerned about housing and crime in Atlantic City as the gentleman is about crime and housing in Washington, DC. Nobody works harder, any harder for their district in trying to improve the conditions in Atlantic City and throughout my congressional district which has major economic problems in parts of my district, than I do. I am very sensitive to that.

We are not talking about housing. We are talking about building a whole new airport on what is now Federal land in an area that is called home by tens of thousands of people who want to be represented as they shape their destiny, as they modify the road systems, as we develop intermodal transportation to make sure a rail line is tied in; it requires areawide planning to try to avoid some of the problems we spent about 2 hours on today.

Noise abatement, for instance, is one of the concerns we have. So I say to the gentleman that I would be opposed to any one entity, whether it be the county or the city, dominating. We need to have all parties represented so that we have a meaningful representation by the city of Atlantic City in any such areawide authority and by the county which has transportation responsibility throughout the county, intermodal in nature, not just this airport, and to the townships that call this area home but want to be able to shape their own destinies.

I say to my colleague that it is a major Federal facility, some 5,000 acres. Atlantic City owns 83 acres. It may very well be that Atlantic City once the areawide entity is in place will continue to operate that 83 acres as an air-cargo handling facility or for general aviation purposes or whatever the areawide entity puts in place. But unfortunately, what we see is 6 years of stalemate. We put additional Federal funds in there continuously and there is no areawide planning to make sure that the funds are being spent prudently in the transition years.

The CHAIRMAN. The time of the gentleman from the District of Columbia [Mr. FAUNTROY] has expired.

(On request of Mr. HUGHES and by unanimous consent Mr. FAUNTROY was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Will the gentleman continue to yield?

Mr. FAUNTROY. I yield to the gentleman.

Mr. HUGHES. I thank the gentleman for continuing to yield.

Mr. Chairman, we do not have an areawide entity in place to do the long-term planning for the new facility that is going to be created there. So we need to protect an FAA facility, major R&D facility that is doing much of the work for the National Air System plan and for the Air National Guard which has a major facility there and also make sure that we have meaningful representation by the folks that call the area home. That is all we are asking for. It has nothing to do with housing or crime.

Mr. FAUNTROY. Yes. But the gentleman understands first of all that the city of Atlantic City agrees with you that there ought to be a regional authority and that it is proceeding to put in place a regional authority.

The gentleman agrees also that the enormous increase in activity in the region has caused the Atlantic City Airport to be a great generator of revenues and a stronger tax base. And this community wants, as the gentleman will understand, to share the fruits of that. And I simply am concerned on their behalf that this action will not result in the county picking up the economic and tax base benefits of this to the exclusion of a community which has serious housing and community development problems that have not been resolved by the large influx of money on the boardwalk.

Mr. HUGHES. I can assure the gentleman that I want to see that Atlantic City is treated fairly, just as the county which has comprehensive areawide responsibility for transportation, has a role to play, a meaningful role to play, just as the townships that call the area home have to have a meaningful role to play as they shape really a new facility.

So I share the gentleman's concerns.

Mr. FAUNTROY. Yes. That is why they are advocating the regional authority in which they are all included.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

The amendment was agreed to.

Mr. MINETA. Mr. Chairman, I move to strike the last word.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I want to express my deep appreciation to the chairman for the understanding he has shown of the problems associated with airport noise in the classrooms. I want to thank the gentleman again for including language in this bill that addresses not only the noise in the classroom but in hospitals as well.

Mr. MINETA. The committee appreciates your bringing this matter to its attention. I am pleased we were able to assist in this regard.

Mr. HYDE. In addition, I see Mr. GINGRICH is here and he was also very helpful and I want to include him in my commendatory thoughts.

Mr. Chairman, it is my understanding that nothing in this bill changes or intends to change State laws governing the recovery of damages resulting from aircraft noise. Is this correct?

Mr. MINETA. If the gentleman would yield, in my opinion this bill does not in any way affect such State law remedies of airport neighbors as may exist.

Mr. HYDE. I thank the chairman.

AMENDMENT OFFERED BY MR. DENNY SMITH

Mr. DENNY SMITH. Mr. Chairman, I offer an amendment.

Mr. Chairman, my amendment to H.R. 2310 is a small package of measures designed to improve the performance of the Loran-C radio navigation system.

Loran-C is a navigation technology widely used on planes, boats, and on a growing number of cars, trucks, and trains. Over 50,000 general aviation aircraft are presently equipped with Loran receivers. Loran provides an accurate, real-time position based on latitudinal and longitudinal coordinates almost anywhere in the country. In addition, the Loran signal is largely unaffected by terrain features such as mountains and valleys.

For pilots, Loran is the best area navigation system on the market. Once a plane is equipped with a Loran receiver, all that is required of the pilot is that he enter in the coordinates of his destination. The receiver will then guide him there by the shortest, straightest route.

The FAA has also begun an aggressive program to develop nonprecision approaches based on Loran guidance. This move will open up more non-ILS airports to use in lower minimum weather conditions.

My amendment specifically authorizes $1.75 million over 2 years for two impact studies that will investigate making Loran and the global positioning satellite [GPS] system interoperable. Should the impact studies provide the green light we expect, we could look for a number of improvements to the performance of Loran and also see an earlier utilization of GPS.

Among the expected benefits to Loran will be increased signal availability, improved accuracy and greater system reliability. We will also be able to interchange Loran and GPS lines of position. The integrity from a system that combines Loran and GPS could make possible their use as a sole means air navigation system, eventually giving us the option of eliminating costly VOR's.

As we save money, I also believe that we will be saving lives. Anyone who flies can attest to the fact that knowing exactly where you are at all times is one of the first steps to avoiding accidents. The improvements to Loran anticipated by my amendment will also eliminate the possibility of dangerous signal outages.

Several agencies were involved in drafting the proposals contained in my amendment. As a result of this participation, you have before you a consensus proposal that is supported by the Department of Transportation [DOT], the Research and Special Projects Administration [RSPA], the Transportation System Center [TSC], the Coast Guard, and the Federal Aviation Administration [FAA].

I believe the committee has had a chance to review the amendment and agrees with its directive. I urge my colleagues to make this small investment in the future of aviation navigation.

The Clerk read as follows:

Amendment offered by Mr. DENNY SMITH: At the end of the bill, add the following new section:

SEC. 17. RADIO NAVIGATION SYSTEMS.

(a) SYNCHRONIZATION.—

(1) LORAN-C MASTER TRANSMITTERS.—Not later than September 30, 1989, the Secretary shall take such action as may be necessary to synchronize all loran-C master transmitters located in the United States and all loran-C master transmitters subject to the jurisdiction of the United States. Each such master transmitter shall be synchronized to within approximately 100 nanoseconds of Universal Time.

(2) OTHER LORAN-C TRANSMITTERS.—

(A) IMPACT STUDY.—The Secretary shall conduct a study of the impact on users of loran-C transmitted signals of synchronizing time of signal transmissions among all secondary loran-C transmitters in the United States in accordance with the standard set forth in the second sentence of paragraph (1).

(B) REPORT.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under subparagraph (A).

(3) AUTHORIZATION.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $750,000 for fiscal year 1988 and $500,000 for fiscal year 1989. Such funds shall remain available until expended.

(b) INTEROPERABILITY OF RADIO NAVIGATION SYSTEMS.—

(1) STUDY.—The Secretary shall study and evaluate methods of coordinating the time references of the loran-C transmitter system and the global positioning satellite system to within approximately 30 nanoseconds of each other for the purpose of making possible the interchange of positioning data between the two systems.

(2) REPORT.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(3) AUTHORIZATION.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $500,000 for fiscal year 1988. Such funds shall remain available until expended.

(c) DEVELOPMENT OF MINIMUM STANDARDS.—Not later than September 30, 1989, the Administrator of the Federal Aviation Administration shall establish by regulation minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft for operation in airspace of the United States.

Conform the table of contents of the bill accordingly.

Mr. DENNY SMITH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DENNY SMITH. Mr. Chairman, I understand the amendment has been accepted by the majority.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. DENNY SMITH. I yield to the gentleman from California.

Mr. MINETA. I thank the gentleman for yielding.

Mr. Chairman, we have had an opportunity to look at this amendment.

Mr. Chairman, I rise in support of the amendment offered by the Gentleman from Oregon. Loran-C is becoming one of the principal navigation systems used in aviation in this country. The Federal Aviation Administration is currently undertaking to cover the entire United States with coverage from loran-C transmitters.

This amendment would direct the FAA to take certain actions and develop minimum standards to make the loran-C system be as effective and useful as possible. The amendment would also authorize funding for studies and reports on further timing, synchronization, and interoperability with the global positioning navigation system.

My understanding is that the approach embodied in this amendment is supported by the Department of Transportation, the Federal Aviation Administration, and the Coast Guard.

I congratulate the gentleman on his interest and work on loran-C navigation and for this follow-through with this amendment.

Again, I urge adoption of the amendment.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. DENNY SMITH. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Chairman, the minority accepts this amendment.

The CHAIRMAN pro tempore (Mr. MILLER of California). The question is on the amendment offered by the gentleman from Oregon [Mr. DENNY SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HERTEL

Mr. HERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HERTEL: At the end of title I of the bill, insert the following new section:

SEC. 121. PENALTY FOR INTERFERENCE WITH AIRCRAFT ACCIDENT INVESTIGATIONS.

Section 902(p) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(p)) is amended by striking out "shall be subject to a fine of no less than $100 nor more than $5,000, or imprisonment for not more than one year, or both" and inserting in lieu thereof "shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both".

Conform the table of contents for title I of the bill accordingly.

Mr. HERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HERTEL. Mr. Chairman, the amendment requires harsher penalties for persons arrested for stealing debris from an aircraft after an accident.

The amendment is a result of problems stemming from the crash of Northwest flight 255 at Detroit's Metropolitan Airport last month. Immediately following the accident, personal belongings of the victims and pieces of airplane wreckage were taken from the crash site by looters.

"A thorough investigation of the cause of the airplane crash cannot be conducted without examining all of the evidence. The greatest hindrance is caused by people stealing so-called souvenirs of the wreckage."

Under current law, stealing airplane debris is considered a misdemeanor. The Hertel bill would make this crime a felony. Currently the penalty for stealing pieces of the wreckage would be a maximum of 1 year in prison or up to $5,000 in fines. Under the proposed legislation, penalties would increase to a maximum of 10 years imprisonment or $250,000 fine, or both.

"The stricter penalties will serve as a stern warning for looters to stay away." "Ultimately, our goal is to prevent such tragic accidents from recurring. To do that we must clear any obstacles that would interfere with the Federal Aviation Administration's investigation to determine the cause of the accident."

Theft of personal property is punishable under State and local laws.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the chairman of the subcommittee, the gentleman from California [Mr. MINETA].

Mr. MINETA. I thank the gentleman for yielding.

Mr. Chairman, we have looked at this amendment, we are in agreement with it, and we support it.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Chairman, we on the Republican side have no problem with this amendment and we accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan [Mr. HERTEL].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PORTER: Page 9, after line 11, insert the following new paragraph:

(1) STAFFING OF AIR TRAFFIC CONTROLLERS AT CERTAIN HIGH DENSITY AIRPORTS.—Section 506(c)(1) is amended by striking out "and (B)" and inserting in lieu thereof the following: "(B) costs of ensuring that air traffic controllers at airports at which the number of instrument flight rule takeoffs and landings of aircraft, are limited under regulations issued by the Administrator of the Federal Aviation Administration as of October 1, 1987, are maintained at full staffing levels (as determined by the Administrator) and that at least 75 percent of the air traffic controllers at such airports are full performance level air traffic controllers (as defined by the Administrator), and (C)".

Page 9, line 12, strike out "(1)" and insert in lieu thereof "(2)".

Page 9, line 19, strike out "and (B)" and insert in lieu thereof ", (B), and (C)".

Page 10, line 4, strike out "and (B)" and insert in lieu thereof ", (B) and (C)".

Page 10, line 20, strike out "and (B)" and insert in lieu thereof ", (B), and (C)".

Page 11, line 3, strike out "(2)" and insert in lieu thereof "(3)".

Mr. PORTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PORTER. Mr. Chairman, my amendment would provide help to insure that 75 percent of the air traffic controllers in all high-density airports are full performance level controllers, while maintaining the authorized level of the total number of controllers at each of those facilities. The staffing of air traffic controllers, Mr. Chairman, is of the utmost importance for air traffic safety. The high-density airports, at least, should have the highest number possible of the highest qualified controllers. Full performance controllers are controllers, Mr. Chairman, who are qualified to work any position in the facility compared to an operational controller who is qualified to work only the specific position to which he is assigned. High-density airports are those that still have flow control restrictions, that has restrictions on the movement, a ceiling on the amount of traffic.

And today the amendment defines them as those that exist today. Those airports are National Airport in Washington, LaGuardia and Kennedy in New York, and O'Hare International in Chicago. While the amendment only covers four airports, it affects a very, very large number of air travelers among the American public. The number of passengers at O'Hare last year was 26 million people passing through the facility; Kennedy had 13 million, LaGuardia had 11 million, National 7 million. That is 57 million passengers passing through those four airports. They handle 15 percent of all United States air traffic and they have over 1.8 million operations annually. They are very, very important to air traffic safety in the United States.

Since 1981, O'Hare has experienced a 50-percent growth in air travel. Unfortunately, since 1985 O'Hare has had an operational errors increase of 69 percent. That is a cause of great concern not only to me but to the traveling American public.

The FAA itself set a goal of 75-percent full performance level controllers for all facilities after the 1981 strike. Before the strike, FPL's were at 80 percent, and with new technology coming on board, FAA reviewed the need and determined 75 percent was a reasonable goal for all facilities. It seems to me that we ought to help the FAA to achieve that level.

Where are we today? O'Hare, if they can bring up five more that are in the pipeline, would be at 76 percent and meet the standard; Kennedy 69 percent; LaGuardia only 60 percent; Nation is presently at 77 percent.

So to reach the goal today we would only need to bring Kennedy up to 20 FPL's, LaGuardia up to 19, quite easy to achieve, Mr. Chairman. What would the cost be? It would be minimal. Perhaps it might reach $312,000 per year, but probably a great deal less. The goal is not one that is unreasonable. The FAA is already close to achieving it. But it seems to me we ought to give them some help to do so.

This amendment does not mandate any expenditures. It simply authorizes the payment of the trust fund necessary to achieve the 75 FPL level at high-density airports. There is no issue of relocation expenses involved, no issue of setting a mandated standard because it is not mandated. It simply states the goal that the FAA itself has stipulated as a goal for all airports in the United States and gives authority to reach into the trust fund to help achieve that goal at the high-density airports.

In other words, it simply helps the FAA achieve its own stated goal in a very, very important and sensitive area of air traffic safety.

Mr. MINETA. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I do not believe it is desirable to set standards for the percentage of full performance level controllers at a small group of air traffic control facilities.

First of all, it has not been clearly established that a particular group of facilities needs a higher percentage of FPL controllers than other facilities.

If we set standards for a select group of facilities, it is likely that other facilities will be short changed and end up with a lower percentage of FPL controllers than are needed.

I am also concerned that imposing an FPL standard may lead FAA to rush to certify controllers as FPL's.

Now this could result in air traffic controllers performing functions for which they are not fully qualified. I should add that I am sympathetic to the concerns which underlie this amendment. We have been working for years to get FAA to hire more air traffic controllers and to increase the percentage of FPL's. While I agree with the gentleman that there is a problem, I am concerned that the amendment would not improve the situation and could make the situation worse, particularly at air traffic control facilities not covered by the amendment.

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There are four airports covered by this, Kennedy, LaGuardia, O'Hare, and Washington National. The problem is that these are not the airports where there is the largest amount of operations or passengers in and out through those airports.

I think there would be a dislocation if we have to, for example, transfer people from Atlantic to O'Hare or to LaGuardia or to wherever because they do not meet this 75-percent FPL standard.

For these reasons, Mr. Chairman, I reluctantly but do oppose the amendment.

Mrs. COLLINS. Mr. Chairman, will the gentleman yield?

Mr. MINETA. Mr. Chairman, I am happy to yield to the gentlewoman from Illinois.

Mrs. COLLINS. Mr. Chairman, I rise to speak in favor of the amendment.

I rise in support of the amendment offered by Mr. PORTER to H.R. 3350.

Mr. PORTER's amendment would provide funding to increase the percentage of full performance level [FPL] controllers at four airports in the country that are critically short of fully qualified controllers and which not unexpectedly have an unacceptably high rate of air traffic controller errors. Mr. PORTER's amendment would increase the percentage of FPL controllers at those airports to a 75-percent level.

Those airports are Chicago's O'Hare International; Washington, DC's National Airport; and New York City's Kennedy International and LaGuardia Airports.

My subcommittee on Government Activities and Transportation has conducted hearings in Washington, DC, and Chicago on the shortage of FPL controllers. Testimony at those hearings revealed the percentage of FPL controllers at those four airports to be considerably below the FAA's own goal of 75 percent FPL controllers.

That situation has created what I have previously referred to as a catch-22. Too few FPL controllers forces those controllers to work excessive periods under overly stressful conditions while denying them the opportunity to help train junior-level controllers, which perpetuates the shortage of FPL controllers.

When I fly just as I want a senior, experienced crew in the cockpit on my plane, I want a senior, experienced crew of controllers available on ground to help direct that aircraft. I venture that all of you and your constituents want the same thing.

For too long now we have waited on the administration and the Department of Transportation to honor their commitment to rebuild the Nation's air traffic control work force. The amendment offered by the gentleman from Illinois will assure the availability of the funds needed to do that job.

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. MINETA. Mr. Chairman, I am pleased to yield to my colleague from Illinois.

Mr. PORTER. Mr. Chairman, I am not understanding why the gentleman says this sets a standard. All the amendment does is to authorize payment of costs out of the trust fund to help reach a level. There is no penalty in it if it is not reached. It simply puts in the law a facilitating by payment from the trust fund of meeting a standard that the Federal Aviation Administration itself has set.

Mr. MINETA. Mr. Chairman, if I might reclaim my time to respond to that, the standard being set is that 75 percent of the air traffic controllers at the facility shall be full performance level. We are struggling right now under the appropriations act where we have specified that 70 percent of the total air traffic control work force shall be full performance level. We are not going to meet that standard, I do not believe. We will get to the 15,000 but we will not even hit the 17,000 systemwide. When we take four of them and, in effect, say that at least 75 percent of the air traffic controllers at such airports are full performance level air traffic controllers, then that is establishing a standard that may not necessarily hold up in temrs of being a valid approach.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the gentleman's amendment which would make operations and maintenance money available so that 75 percent of the air traffic controllers at the high/density airports would be full-performance level.

Since the strike several years ago, staffing the air traffic control system has been a significant problem. As I'm sure the gentleman is aware, we do not have enough full-performance level controllers at this time. If the gentleman's amendment is adopted, the Federal Aviation Administration would be required to shift full-performance level controllers from other air traffic facilities in order to reach the 75-percent level. This means that other heavily utilized airports such as Los Angeles, Boston, Atlanta, or Denver, may have to relinquish these fully trained controllers to staff the high-density airports. Such a shift is not in the best interest of our traffic control system.

Moving these air traffic controllers to other facilities will also require the Federal Government to bear additional expenses for relocation. This type of expense has never been authorized out of the trust fund and we should not make money available for that purpose. The airport and airway trust fund is to modernize the air traffic control system and to provide for the capital development of our airports.

I urge my colleagues to vote down this amendment.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore (Mr. MILLER of California). Without objection, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

There was no objection.

Mr. PORTER. Mr. Chairman, in summary, I do not see this as an amendment at all to set standards. All the amendment does is to allow the trust fund to be used to reach an important level that the Federal Aviation Administration itself set for all airports in the United States. It seems to me particularly in those that have the highest density and that the Federal Aviation Administration considers a need to restrict the number of operations, those it seems to me at least ought to be given help to reach that level.

There is no question about relocation expenses. All it does is authorize payment from the trust fund to help them reach this level.

It seems to me there is not a mandate. The money is simply authorized and may be appropriated if Congress sees necessary to do so to help the FAA do its job and meet its own goal.

I do not understand the argument about affecting other airports. It simply helps to make them reach the goal, and there is no penalty in the amendment for them failing to do so. It merely gives added authority to reach into other funds to reach that goal.

Mr. Chairman, I urge an "aye" vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER].

The question was taken; and on a division (demanded by Mr. PORTER) there were—ayes 4, noes 16.

So the amendment was rejected.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take this opportunity to engage in a colloquy with the gentleman from California, concerning the closing of a flight service station [FSS] which serves many people in my congressional district.

Mr. MINETA. I would be pleased to engage in a colloquy with the gentleman from California and to discuss his concerns.

Mr. PANETTA. The FSS in Paso Robles, CA, was closed by the FAA on September 25, 1987, as part of its planned consolidation of flight service stations. I believe that this closure was unfortunate, and that it may raise serious concerns regarding both the safety of fliers in that area and the adequacy of the services which fliers may receive from the automated flight service station [AFSS] in Hawthorne, CA. For this reason, I would like to explore with the gentleman from California, the subcommittee chairman, possible ways to safeguard against these problems, if they do occur.

Mr. MINETA. Mr. Chairman, if the gentleman will yield, I certainly share the gentleman's interest in air safety, and I would be pleased to know of his concerns.

Mr. PANETTA. Let me begin by describing some of the important services which the Paso Robles FSS performed. With a staff of five persons, the station serviced about 325 to 400 contacts per day, including 100 advisories. It initiated approximately 3 to 10 searches, per week. Its clientele consisted primarily of nonprofessional pilots and students, who required more time to serve than professional pilots normally would.

These services were especially valuable because of the special and difficult conditions in the area. The area around the Paso Robles FSS is subject to coastal strata which can hinder safe aircraft operation, and fog can form quickly. The area around the Paso Robles FSS is also crossed by major flight paths, including 100-mile legs and the San Francisco-Los Angeles corridor traffic.

Persons in the area who expressed concern about the closing of the Paso Robles FSS also indicated that there were problems with the services provided by the Hawthorne AFSS. There have been reports of extensive delays in getting through to Hawthorne on the toll-free telephone line, and problems in the operation of Hawthorne's Model 1 computer have also been experienced.

In light of the importance of the services which the Paso Robles FSS has provided and the questions which have been raised about the service from Hawthorne, I would like to seek the assistance of the gentleman from California in assuring the safety of the flying public.

Mr. MINETA. I would be happy to be of assistance to the gentleman.

Mr. PANETTA. I would like to ask the gentleman whether he would be willing to support the reestablishment to the Paso Robles FSS, if experience in the coming months indicates that the safety of the flying public has been compromised by the loss of the Paso Robles FSS, or if the problems with the Hawthorne AFSS do not resolve themselves soon.

Mr. MINETA. The gentleman has made a persuasive case for the importance of the services which were provided by the Paso Robles FSS. If, in fact, experience shows that these services are still needed for the safety of pilots in that area, I would be pleased to support his efforts to reestablish the Paso Robles FSS. In addition, if operational problems at the Hawthorne AFSS cannot be remedied, I would be willing to consider reestablishment of the Paso Robles FSS.

Mr. PANETTA. I would like to thank the subcommittee chairman for this willingness to continue to work to ensure the safety of those flying in the central California area.

AMENDMENT OFFERED BY MRS. COLLINS

Mrs. COLLINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Collins: Page 35, line 19, strike out "and".

Page 36, line 9, strike out the first period and insert in lieu thereof "; and".

Page 36, after line 9, insert the following new subsection:

(h) Assurance Relating to Disadvantaged Business Enterprises.—Section 511(a) is amended by adding at the end thereof the following new paragraph:

"(17) the airport owner or operator will take such action as may be necessary to ensure that, to the maximum extent practicable, at least 10 percent of all businesses at the airport which sell food, beverages, printed materials, or other consumer products to the public are small business concerns owned and controlled by socially and economically disadvantaged individuals, as defined under section 505(d) of this title women shall be presumed to be socially and economically disadvantaged for purposes of this paragraph.".

Redesignate subsections (h), (i), (j), and (k) of section 108 of the bill as subsections (i), (j), (k), and (l), respectively.

Mrs. COLLINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. COLLINS. Mr. Chairman, as reported by the Public Works and Transportation Committee, H.R. 2310 provides for minority and female participation in airport improvement and development projects. However, it does not address the issue of minority and female participation in airport concessions and services.

DOT already has regulations in place that require airport authorities receiving Federal funds to structure their leasing activities so that minority and female-owned firms share some vague portion of major concessions and other service opportunities. My amendment provides the statutory authority for this regulation by requiring that minority and women-owned firms share in at least 10 percent of the revenues generated by businesses that sell food, beverages, printed materials, or other consumer products.

As airports continue to expand and grow across this country, more and more opportunities are becoming available for businesses which provide consumer goods and services. This represents a significant potential for the creation of jobs and additional revenues for small firms. I believe that there should be at least a minimum level of commitment to these small minority and women-owned firms.

To date, this commitment simply has not been made in view of increased business opportunities at airports. Airports sometimes give a long-term lease to a single business concern to conduct all food service or ground transportation activity. The exclusive nature of these contracts prohibits any other business including, by definition, any minority or women-owned businesses, from participating in that activity in any way. Similarly, rental car companies, which are tenants at virtually every airport, generate significant revenues but seldom have minority or female participation. My amendment would open up the business opportunities to minorities and females and encourage the larger airport tenants, such as rental car companies, to subcontract or establish partnerships with female and minority firms.

Let me provide you with two contrasting examples. At Chicago's O'Hare Airport there are 31 vendors on airport grounds, of which 7 are owned by minorities and 1 is owned by a woman. At first blush, this may seem to be a fair representation. But of the $189.1 million of total revenues that were generated in fiscal year 1986, only $2.5 million, or 1.5 percent, went to the minority and female firms. One nonminority vendor accounted for $48.5 million of the total revenues. Clearly, there is room for substantial improvement.

In contrast to O'Hare is Atlanta's Hartsfield Airport. There, of the $55 million in revenues generated by concessions and services, approximately $14 million, or 25 percent, went to minority and female-owned businesses. Further, the larger companies operating at the airport are required to provide for 35 percent minority participation in their leases. This requirement includes outside subcontracting for supplies, professional services, and advertising. This is a desirable approach which I think will be encouraged through my amendment.

Leasing opportunities, such as those for concessions at airports, are among the benefits created by DOT assistance to transportation facilities. In making these opportunities available to the business community, DOT recipients should be obliged to ensure that minority businesses have a fair share. Mr. Chairman, I strongly urge my colleagues to support this amendment.

Mr. MINETA. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS. I am happy to yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment. This amendment establishes the same 10-percent set-aside for disadvantaged business enterprises for the leasing of airport concession space as is in the bill for capital improvements financed under the Airport Improvement Program. The provision of food and retail services to airline passengers in terminals is an area where opportunities for DBE's should be encouraged.

I urge approval of Mrs. Collins' amendment.

Mr. GINGRICH. Mr. Chairman, will the gentlewoman from Illinois yield?

Mrs. COLLINS. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, we on the minority side have examined the amendment offered by the gentlewoman from Illinois [Mrs. Collins] and find no objection to it.

Mr. RICHARDSON. Mr. Chairman, will the gentlewoman from Illinois yield?

Mrs. COLLINS. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I wish to commend the gentlewoman for an outstanding amendment.

Mr. RICHARDSON. Mr. Chairman, I rise in support of the amendment of the gentlewoman from Illinois. Her proposal to raise the minority set-aside from 10 to 15 percent is quite moderate. Many FAA regions already exceed the proposed higher level. I am, however, greatly disturbed to learn that the FAA region with one of the lowest percentages of minority contract awards is the southwestern region. I do not believe there is any possible excuse for this sad state of affairs. I know that there are many qualified minority contractors in my own State of New Mexico, and am confident that there are many qualified minority contractors within the Southwest who are able to accomplish the work required by the FAA. We in Congress need to send a stronger message about our commitment to minority business development.

In addition to increasing the set-aside for minority contractors, the amendment increases the set-aside for minority operated concessions—food, magazines, et cetera. The concession set-aside is especially important if we are truly interested in helping small minority- and woman-owned businesses. As all of us who travel extensively already know, airport concessions have a captive market. An airport concession, unless poorly managed, is a sure way to a successful business. How better can we ensure that minority- and woman-owned businesses are to be successful than to provide the unique opportunity offered in an airport concession.

Another, more esthetic, reason for increasing minority participation in airport concessions is to provide variety to airport operations. It has gotten to the point that the services provided in any major airport are identical to all the other airports. Currently, only a limited number of firms have the majority of airport concessions throughout the country. If the marketplace is not to replace this oligopoly, we in the Congress are justified in opening the concession business to different groups. There is no reason that only a few large companies should hold the major concessions at our major airports. In closing, I ask that you join me in supporting this moderate, but needed amendment to the bill.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER: In section 108 of the bill, redesignate subsections (h), (i), (j), and (k) as subsections (i), (j), (k), and (l), respectively, and insert after subsection (g) the following new subsection:

(h) ASSURANCE RELATING TO PRIMARY AIRPORT USAGE DURING PERIODS OF AIR TRAFFIC DELAY.—Section 511(a) is amended by adding at the end thereof the following new paragraph:

"(17) in the case of a primary airport, during periods when substantial delays in scheduled air carrier service are occurring at the airport and when runway capacity limits are being reached at the airport, the airport operator or owner will take such action as may be necessary to ensure that aircraft landing and taking off from the airport are restricted, except in the case of an emergency, to aircraft used to provide scheduled common carrier air transportation of passengers and cargo.".

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SCHUMER. Mr. Chairman, this bill has a worthy purpose, to improve airport capacity. I applaud that long-range goal.

But it is time we also start setting new priorities in airports, priorities that protect the average airline passenger.

For instance, if an airport is experiencing delays of 1 hour per flight, should an American Airlines flight with over 200 people on it have to wait to land for a single-engine Piper Cub going 100 miles an hour?

The answer, of course, is "No."

The air system should be geared to efficiently serve the vast majority of its users. Like carpool-only lanes during rush hour, we should say that our biggest, our most crowded, our major airports, should be for airlines only during busy rush hours. That is what my amendment would do. It would say if an airport is very backed up, substantially delayed and has reached its runway capacity, then priority has to be given to the scheduled airline.

I do not need to tell you why that is necessary. The evidence for the amendment is in the outrageous delays we have all experienced and for which there is no end in sight.

In 1987 alone, delays are up by more than 10 percent and I know that this subcommittee and committee have worked diligently to end those delays.

The evidence is also in the near-miss accidents between big and small planes that pepper the nightly news, and in the great jokes that the air transport system is inspiring. I do not know if my colleagues have heard the most recent one about the new information boards at airports. They list "arrivals," "departures," and "odds."

This would be funny if there weren't some justification for it. A recent Federal Aviation Administration survey found that, over 6 hours, private aircraft made 175 intrusions into restricted air space.

Within those 6 hours there was six incidents that were extremely dangerous in which small planes came within 500 feet of commercial airlines.

I know that my amendment has caused great concern in the aviation community, but I think that concern is unfounded. They worry that only 50 airports even have delays and that my amendment is too broad. It makes all the other airports nervous. But those airports should not worry. If an airport does not have substantial delays and limited runway space, the amendment does not affect it.

They say weather and scheduling are the main causes of delays, not small planes. That may be, but why should we not fix what we can? There is no excuse in my opinion, for us to sit on runways in commercial airliners while little private airplanes have priority. When we fix the problems of airports capacity, as again this committee and its chairman have endeavored diligently to do, then we will not have this triage problem. Right now we have a choice, whether or not to make the average passenger in a 200-passenger-seat plane wait for a little private plane.

I urge passage of this amendment. The average airline passenger will thank us.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

It mistates the cause of the problem of conjestion at our Nation's airports. The rise in congestion we see at our major airports is not caused by general aviation. It has been brought about by an explosive growth in airline traffic.

At our most busy and congested airports, such as New York, the percentage of general aviation flights to the total is in the single digits.

This amendment would be unfair to general aviation and would not solve our congestion problem.

I would reference, for the Members, H.R. 3031 which is scheduled for the floor in the near future. This bill will require that capacity limits be established at our 44 largest airports. Airlines will be required to schedule accordingly.

This is how we should reduce delays and congestion. General aviation is not the problem.

Finally, the amendment puts the burden of restricting general aviation flights on the airport operators. The gentleman would basically place an air traffic control question into the hands of local airport authorities. This is inappropriate. The air traffic control system should be run by one entity, the Federal Aviation Administration.

Again, Mr. Chairman, I urge defeat of the amendment.

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Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the gentleman's amendment which would give priority to scheduled airline flights at the primary airports during periods of delay or congestion. I certainly sympathize with the intent of the gentleman to reduce congestion and delay at our airports, but general aviation is not the problem. The bill before us, of course, is designed to enhance and increase airport capacity and to modernize the air transportation system. The problems that we are now experiencing go well beyond the general aviation operations at the primary airports. General aviation is simply not a factor contributing to delays or congestion.

In normal situations, general aviation pilots stay away from primary airports simply because the utility of using general aviation aircraft is lessened by operating in congested areas. Or, if they do utilize these airports, general aviation aircraft operate early or late to avoid periods of congestion.

I would also point out that at the four high density airports, Kennedy, LaGuardia, Chicago, and National, general aviation operations are restricted on a per-hour basis with the vast majority of slots going to commercial operations. In short, general aviation is not causing a congestion or delay problem at these airports. These problems relate to modernization of the ATC system, lack of airport capacity and airline scheduling.

I urge my colleagues to defeat this amendment, and I yield back the balance of my time.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in stronger opposition to the Schumer amendment than the gentleman from Georgia rose in strong opposition to it.

Mr. LIGHTFOOT. Mr. Chairman, I rise in opposition to the Schumer amendment for a couple of reasons that I want to share with my colleagues.

First let me state that I sympathize with the gentleman from New York's intentions. New York City is part of one of the busiest air corridors in the Nation. I do, however, differ with the gentleman on whether this is the right approach to solving the safety problems related to congestion in the New York City area.

This amendment would require sophisticated and very expensive altitude recording equipment in all planes at 350 primary airports across the Nation. No consideration would be given to the relative congestion of each of those airports. LaGuardia would have the same requirements as Des Moines, IA, for example, and many other cities where air traffic is only a small percentage of that at LaGuardia. In fact, according to the FAA, in 1985 only 16 of these primary airports were capacity-constrained, and only 42 are projected to be capacity constrained by the year 2000. Clearly the amendment's across-the-board approach is not justified based on these figures.

As the gentleman may be aware, the FAA currently has a proposed rule pending to require mode C altitude-recording transponders in all aircraft within 30 miles of a primary terminal control area airport. Related legislation is also pending in the Public Works Committee, where hearings can be held to consider the various concerns the gentleman has raised today. I suggest we carry on this debate in the proper forums, and not attempt to set this policy based on a few minutes of debate here on the House floor.

The CHAIRMAN pro tempore (Mr. MILLER of California). The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. BUSTAMANTE

Mr. BUSTAMANTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUSTAMANTE: At the end of title I of the bill, insert the following new section (and conform the table of contents of such title accordingly):

SEC. 121. RELEASE OF RESTRICTIONS.

(a) GENERAL RULE.—Subject to subsection (b), in recognition of the benefits to the public, the city of Laredo, Texas, and its successors and assigns, are hereby released from all terms, conditions, reservations, and restrictions contained in the instrument of disposal dated February 21, 1975, by which the United States conveyed the property on which the Laredo International Airport, Laredo, Texas, is located to such city to the extent that such terms, conditions, reservations, and restrictions apply to the portion of such property consisting of approximately 680.1586 acres of land which is designated under the 1985 master plan and land use plan for the Laredo International Airport as being available for nonaviation purposes.

(b) CONDITIONS.—The release granted by subsection (a) shall be subject to the following conditions:

(1) All revenues derived from the property to which such release applies shall be used for development, improvement, operation, and maintenance of the Laredo International Airport.

(2) The use of property to which such release applies shall not interfere with the operation and maintenance of such airport.

(3) Property to which such release applies may only be rented or leased if the term of the rental or lease agreement is 20 years or less and if compensation which is not less than—

(A) ¼ of fair market value is received in the case of a rental or lease agreement for a term of 10 years or less; and

(B) ½ of fair market value is received in the case of a rental or lease agreement for a term of more than 10 years.

(4) Property to which such release applies may only be transferred if compensation which is equal to or more than fair market value is received.

(5) The city of Laredo, Texas, shall provide to the Administrator of the Federal Aviation Administration—

(A) an accounting and management plan acceptable to the Administrator for managing the Laredo International Airport general fund; and

(B) an explanation of the management by such city of such general fund in calendar years beginning after December 31, 1977, and ending before the date of the enactment of this Act.

(c) IMPLEMENATION.—The administrator of the Federal Aviation Administration shall take such action as may be necessary to carry out the provisions of this section.

Mr. BUSTAMANTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BUSTAMANTE. Mr. Chairman, the purpose of this amendment is to eliminate certain deed restrictions applicable to the nonaviation portion of the Laredo International Airport in Laredo, TX. This former Air Force base was given to the city of Laredo under an agreement which permits the Federal Government to reclaim title to the land. My amendment would permit the lease and rental of nonaviation portions of the airport at less than fair market value for the development of an industrial park.

The amendment stipulates, however, that none of the airport property can be transferred or sold at below fair market value. This was the major condition I assented to include in my amendment in accordance with my agreement with Chairman MINETA and ranking members Mr. HAMMERSCHMIDT and Mr. GINGRICH. This amendment enjoys, therefore, the bipartisan support of the majority and minority membership of the Public Works and Transportation Committee. It is noncontroversial legislation.

My amendment will allow the city of Laredo to offer economic incentives to aviation investors, who are considering renting or leasing property at the Laredo International Airport. It is one major step in improving the overall aviation capabilities of southwest Texas.

The amendment will also allow the city to go forward with the construction of an industrial park on the airport for the purpose of attracting aviation commerce at the airport. Airport operations would not be affected in the slightest by my amendment, because the amendment would only release the nonaviation portion of the airport. The actual airport—runways, tower, terminal, et cetera—would be preserved and maintained under current deed restrictions and FAA regulations.

I am urging adoption of this amendment in response to Laredo's highly depressed economy, which has forced the city to search for innovative ways of attracting outside investment to the area. The aviation industry is one of the most promising fields where the city believes it can attract outside investment. My amendment would accomplish that task without diminishing the airport's capability of meeting the air travel needs of southwest Texas. In fact, my amendment would enhance overall operations at the airport as a result of the increased aviation activity that would result from the passage of this amendment.

Mr. Chairman, the amendment that I am offering today will not cost the Federal Government a single penny. Actually, it will substantially improve our Nation's aviation capabilities by correcting administrative problems that have plagued the airport for 8 years.

This legislation enjoys the support of the Aircraft Owners and Pilots Association. The association and I agree that my amendment does not jeopardize the short term and long term viability of 24-hour-airport service in Laredo. It is my intention not to allow noise sensitive or other development which is inconsistent with the long term aviation needs of Laredo International Airport. I agree that any new development be set back from the existing runways which are not operational today, particularly 35 right/17 left, which may be used during future airport expansion.

My amendment is properly thought out legislation that was carefully drafted over the past 6 months under the guidance of the Public Works Committee and its Aviation Subcommittee. The amendment is noncontroversial and has the support of the majority and the minority.

In this regard, I would like to thank Chairman HOWARD and Chairman MINETA and the ranking members of the committee, Mr. HAMMERSCHMIDT and Mr. GINGRICH for making this amendment possible. These gentleman epitomize the professional manner in which the entire Public Works Committee goes about its business. I also wish to note the assistance of the committee's professional staff, in particular, David Traynham and David Heymsfeld, and Charles Ziegler.

Mr. Chairman, I urge adoption of my amendment.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. BUSTAMANTE. I yield to the gentleman from California. I will ask the gentleman, am I correct in my understanding that the amendment has been agreed to?

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding to me, and let me state to the gentleman that we have had an opportunity to look at this amendment.

Mr. Chairman, I rise in support of the amendment. As the gentleman from Texas has described, the amendment would release the Laredo Airport from certain deed restrictions enabling the city of Laredo to use some of the airport land for other than aeronautical purposes.

The amendment provides that the city will make certain assurances to the Federal Aviation Administration regarding their management and accounting practices. Also, none of the purposes for which the released land will be used will interfere with the operation or maintenance of the airport. Further, all revenues derived from the property released shall be used for development, improvement, operation, and maintenance of the Laredo International Airport.

I thank the gentleman from Texas for his work and accommodating the committee's interests in this matter. Again, I urge support of the amendment.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. BUSTAMANTE. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I thank the gentleman for yielding to me.

I want to thank our colleague, the gentleman from Texas [Mr. BUSTAMANTE], for the leadership he has shown on this item.

I hope it will be helpful to the gentleman's area. I appreciate very much the economic problems in that part of the State, and I want to thank the gentleman for the cooperation and leadership the gentleman has shown in helping put together a very creative amendment.

We certainly support it on our side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BUSTAMANTE].

The amendment was agreed to.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

I rise first to compliment the gentleman from California [Mr. MINETA], the chairman of the Subcommittee on Aviation, on the splendid job the gentleman has done bringing this enormous piece of legislation to the point where it is today, and so skillfully guiding it through the subcommittee, the full committee and here on the floor.

I wish to inquire of the chairman of the subcommittee on a related matter on which the subcommittee has held hearings; and that is the matter concerning foreign repair stations, the contracting out of scheduled maintenance and overhauls, even routine maintenance and overhauls on an aircraft while it is outside the United States.

It is a matter of very great concern, and I understand that the FAA is now considering a notice of proposed rulemaking, and I would like at this time to invite the chairman to give the Members a report on where that issue stands within the rulemaking process, and what the Subcommittee on Aviation plans to do further on this critically important matter.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from California.

Mr. MINETA. I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman for the gentleman's comments, and again for the inquiry that the gentleman has directed to me at this point.

The subcommittee held a hearing on this issue in July. At that time I and other Members expressed concerns about safety and about American jobs if there were a wholesale liberalization and expansion of the ability of the airlines, U.S. airlines, to maintain their aircraft offshore.

The FAA is expected to propose a new foreign service station rule in the near future, and so our subcommittee will be continuing to monitor the actions of the FAA, and stands prepared to take action depending upon what is in that proposed rule.

Mr. OBERSTAR. The chairman intends to continue pursuing this matter after the NPR is formally available, and I compliment the chairman of the subcommittee on that decision and will look forward to those further hearings.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

SEC. 201. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Airport and Airway Revenue Act of 1987".

(b) TABLE OF CONTENTS.—

TITLE II—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

Sec. 201. Short title.
Sec. 202. 5-year extension of aviation-related taxes.
Sec. 203. 5-year extension of airport and airway trust fund spending authority.
Sec. 204. Exemption for certain emergency medical transportation by helicopter.
Sec. 205. Reduction in aviation-related taxes where appropriations are significantly below authorizations.

SEC. 202. 5-YEAR EXTENSION OF AVIATION-RELATED TAXES.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "January 1, 1988" each place it appears and inserting in lieu thereof "January 1, 1993":

(1) Section 4261(f) (relating to transportation of persons by air).

(2) Section 4271(d) (relating to transportation of property by air).

(3) Section 9502(b) (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes).

(b) FUEL USED IN NONCOMMERCIAL AVIATION.—Paragraph (5) of section 4041(c) of such Code (relating to noncommercial aviation) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1992".

SEC. 203. 5-YEAR EXTENSION OF AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY.

(a) EXPENDITURES FROM TRUST FUND.—The material preceding subparagraph (A) of paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1992".

(b) TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by inserting before the semicolon "or under the Airport and Airway Improvement Amendments of 1987 (as such Act was in effect on the date of the enactment thereof)".

SEC. 204. EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY HELICOPTER.

(a) IN GENERAL.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax on transportation by air) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter for the purpose of providing emergency medical services if such helicopter—

"(1) does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970 during such transportation,

"(2) does not otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such transportation, and

"(3) is owned or leased by a nonprofit health care facility and is operated exclusively under the control of such facility."

(b) TAX FREE SALES.—Subsection (l) of section 4041 of such Code (relating to exemption for certain helicopter uses) is amended to read as follows:

"(l) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met."

(c) TECHNICAL AMENDMENT.—Subsection (e) of section 4261 of such Code is amended by striking out "System Improvement Act" and inserting in lieu thereof "Improvement Act".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after September 30, 1987.

SEC. 205. REDUCTION IN AVIATION-RELATED TAXES WHERE APPROPRIATIONS ARE SIGNIFICANTLY BELOW AUTHORIZATIONS.

(a) IN GENERAL.—Part III of subchapter C of chapter 33 of the Internal Revenue Code of 1986 (relating to facilities and services) is amended by adding at the end the following new section:

"SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES.

"(a) REDUCTION IN RATES.—The rate of any tax to which this section applies with respect to any taxable event occurring during any reduced-tax year shall be an amount equal to the funding shortfall percentage of the rate which would (but for this section) apply with respect to such event.

"(b) TAXES TO WHICH SECTION APPLIES.—This section shall apply to the taxes imposed by—

"(1) subsection (a) of sections 4261 (relating to tax on transportation of persons by air),

"(2) subsection (b) of section 4261 (relating to tax on seats, berths, etc.),

"(3) subsection (a) of section 4271 (relating to tax on transportation of property by air),

"(4) paragraph (1) of section 4041(c) (relating to tax on certain fuels used in noncommercial aviation), and

"(5) paragraph (2) of section 4041(c) (relating to tax on gasoline used in noncommercial aviation).

"(c) REDUCED-TAX YEAR.—For purposes of this section, the term 'reduced-tax year' means any calendar year after 1988 if the Secretary determines that—

"(1) as of the close of the most recent fiscal year ending before such calendar year, the unobligated balance of the Airport and Airway Trust Fund was at least $2,000,000,000, and

"(2) the percentage determined under subsection (d)(1) for such fiscal year was less than 90 percent.

"(d) FUNDING SHORTFALL PERCENTAGE.—

"(1) IN GENERAL.—For purposes of this section, the funding shortfall percentage for any calendar year is the percentage (determined by the Secretary) which—

"(A) the sum of—

"(i) the amounts obligated under section 505 of the Airport and Airway Improvement Act of 1982 for the most recent fiscal year ending before such calendar year, and

"(ii) the amounts appropriated under subsections (a) and (b) of section 506 of such Act for such fiscal year, bears to

"(B) the sum of—

"(i) the amounts authorized to be obligated under such section 505 for such fiscal year, and

"(ii) the amounts authorized to be appropriated under subsections (a) and (b) of such section 506 for such fiscal year.

For purposes of this paragraph, an amount shall not be treated as obligated or appropriated for any fiscal year if such amount was obligated or appropriated for a prior fiscal year.

"(2) FUNDING SHORTFALL PERCENTAGE MAY NOT BE LESS THAN 50 PERCENT.—If (but for this paragraph) the funding shortfall percentage would be less than 50 percent, such percentage shall be treated for purposes of this section as being 50 percent.

"(3) TREATMENT OF SEQUESTERED AMOUNTS.—The determination under subparagraph (A) of paragraph (1) shall be made without regard to the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

"(e) SPECIAL RULES.—

"(1) APPLICATION OF REDUCTION TO TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

"(A) IN GENERAL.—The funding shortfall percentage for any reduced-tax year shall apply to the aggregate taxes imposed by sections 4041(c)(2) and 4081 on fuel sold or used as described in section 4041(c)(2).

"(B) CREDIT OR REFUND WHERE REDUCTION EXCEEDS 3 CENTS.—For credit or refund where reduction of tax exceeds 3 cents, see section 6427(p).

"(2) TAXABLE EVENT FOR TAXABLE TRANSPORTATION BY AIR.—In the case of the taxes imposed by sections 4261 and 4271, the taxable event shall be treated for purposes of this section as occurring when the taxable transportation begins.

"(3) ROUNDING CONVENTIONS.—

"(A) PERCENTAGES.—

"(i) IN GENERAL.—If any percentage to which this subparagraph applies is not a multiple of 0.1 percent, such percentage shall be rounded to the nearest multiple of 0.1 percent (or if such percentage is a multiple of 0.05 percent and not a multiple of 0.1 percent, such percentage shall be reduced to the next lower multiple of 0.1 percent).

"(ii) PERCENTAGES TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to—

"(I) the rates of the taxes imposed by subsections (a) and (b) of section 4261 and section 4271 for any reduced-tax year (after the application of subsection (a)), and

"(II) the percentage determined under subsection (d)(1).

"(B) FUEL TAXES.—If the rate of any tax imposed by paragraph (1) or (2) of section 4041(c) for any reduced-tax year (after the application of subsection (a)) is not a multiple of 0.1 cent, such rate shall be rounded to the nearest multiple of 0.1 cent (or if such rate is a multiple of 0.05 cent and not a multiple of 0.1 cent, such rate shall be reduced to the next lower multiple of 0.1 cent).

"(4) DETERMINATION OF UNOBLIGATED BALANCE.—

"(A) IN GENERAL.—Not later than 15 days after the close of each fiscal year ending on or after September 30, 1988, the Secretary shall determine—

"(i) the unobligated balance of the Airport and Airway Trust Fund,

"(ii) the funding shortfall percentage (if any) for such fiscal year, and

"(iii) whether the following calendar year will be a reduced-tax year for purposes of this section.

"(B) DETERMINATIONS TO BE PUBLISHED IN FEDERAL REGISTER.—As soon as practicable after making the determinations under subparagraph (A), the Secretary shall publish such determinations in the Federal Register.

"(5) TREATMENT OF OBLIGATIONS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an amount shall be treated as obligated when it is appropriated.

"(B) AMOUNTS OBLIGATED UNDER SECTION 505 OF AIRWAY IMPROVEMENT ACT.—An amount shall be treated as obligated under section 505 of the Airport and Airway Improvement Act of 1982 when the obligational authority with respect to such amount is exercised."

(b) REFUND OF FUEL TAXES ON NONCOMMERCIAL AVIATION WHERE REDUCTION EXCEEDS 3 CENTS.—

(1) IN GENERAL.—Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) GASOLINE USED IN NONCOMMERCIAL AVIATION DURING REDUCED-TAX YEARS.—Except as provided in subsection (k), if—

"(1) any tax is imposed by section 4041(c)(2) or 4081 on any gasoline sold during any reduced-tax year (as defined in section 4283(c)), and

"(2) such gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under sections 4041(c)(2) and 4081 on the gasoline so used over the aggregate amount of tax properly payable after the application of section 4283."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 6427(i) of such Code is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (p)".

(B) Clause (i) of section 6427(i)(2)(A) of such Code is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (p)".

(3) CROSS REFERENCE.—Subsection (c) of section 4041 of such Code is amended by adding at the end thereof the following new paragraph:

"(6) REDUCTION IN RATES OF TAX IN CERTAIN CIRCUMSTANCES.—For reduction of rates of taxes imposed by paragraphs (1) and (2) in certain circumstances, see section 4283."

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter C of chapter 33 of such Code is amended by adding at the end the following new item:

"Sec. 4283. Reduction in aviation-related taxes in certain cases."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988.

The CHAIRMAN. Pursuant to the rule, no amendment to title II of the amendment in the nature of a substitute shall be in order except pro forma amendments offered for the purpose of debate.

Does any Member seek recognition for purposes of debate under title II?

AMENDMENT OFFERED BY MR. HAMMERSCHMIDT

Mr. HAMMERSCHMIDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAMMERSCHMIDT: At the end of the bill, add the following new title:

TITLE III

SEC. 301. ESSENTIAL AIR SERVICE.

(a) EXTENSION OF SMALL COMMUNITY AIR SERVICE PROGRAM.—Section 419 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389) is amended to read as follows:

"SEC. 419. SMALL COMMUNITY AIR SERVICE.

"(a) ELIGIBLE POINT DEFINED.—For the purposes of this section, the term 'eligible point' means any point in the United States—

"(1) which is defined as an eligible point under this section as in effect before October 24, 1988 and, in the 12-month period ending on such date, received scheduled air transportation, and

"(2) which the Secretary determines is—

"(A) 35 highway miles or more from the nearest hub airport, or

"(B) 35 highway miles or more from the nearest nonhub airport at which the Secretary determines that significant scheduled air service is available.

"(b) BASIC ESSENTIAL AIR SERVICE.—

"(A) DETERMINATION BY THE SECRETARY.—With respect to each eligible point for which a determination of what constitutes essential air transportation was made under this section before October 24, 1988, the Secretary shall determine what is basic essential air service for such point. Such determination shall be made no later than the last day of the 1-year period beginning on October 24, 1988, and only after consideration of the views of any interested community and the State agency of the State in which such community is located.

"(B) CONTINUATION OF REQUIREMENT; TRANSITION PROVISIONS.—An air carrier required to provide essential air transportation before October 24, 1988, to an eligible point shall be required to continue to provide such transportation to such point after such date and the level of such transportation shall be deemed to be basic essential air service for purposes of this subsection until a determination is made under subparagraph (A) with respect to such point. The rate of compensation in effect for essential air transportation before such date shall continue in effect until a new rate is determined in accordance with the guildelines under subsection (f) of this section.

"(C) REVIEW.—The Secretary shall periodically review the basic essential air service level for each eligible point, and may, based upon such review and consultations with the interested community and the State agency of the State in which such community is located, make appropriate adjustments to the basic essential air service level.

"(2) NOTICE REQUIRED BEFORE TERMINATION, SUSPENSION, OR REDUCTION IN SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to any eligible point below the level of basic essential air service established under paragraph (1) unless such air carrier has given the Secretary, the appropriate State agency or agencies, and the communities affected at least 90 days notice prior to such termination, suspension, or reduction.

"(3) DETERMINATION OF NEED FOR COMPENSATION.—

"(A) SELECTION OF CARRIER.—Whenever the Secretary determines that basic essential air service will not be provided to an eligible point without compensation, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide such service to such point for compensation under this subsection. In selecting an applicant to provide basic essential air service to a point for compensation the Secretary shall, among other factors, specifically consider—

"(i) the applicant's demonstrated reliability in providing scheduled air service;

"(ii) the contractual and marketing arrangements that the applicant has made with a larger air carrier to assure service beyond the hub airport;

"(iii) the interline arrangements which the applicant has made with a larger air carrier which allow passengers and cargo of the applicant at the hub airport to be transported by such large carrier through one reservation, one ticket, and one baggage check-in;

"(iv) the preferences of the actual and potential users of air transportation at the eligible point, giving great weight to the views of elected officials representing such users; and

"(v) with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 416 of this Act, in Alaska.

"(B) RATE OF COMPENSATION.—The Secretary shall establish, in accordance with the guidelines promulgated under subsection (f), the rate of compensation to be paid for providing basic essential air service under this subsection.

"(4) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to any air carrier to provide basic essential air service to an eligible point only for so long as the Secretary determines it is necessary in order to maintain basic essential air service to such point.

"(5) REQUIREMENT TO CONTINUE SERVICE.—Notwithstanding section 401(j) of this title, if an air carrier has provided notice to the Secretary under paragraph (2) of such air carriers intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice the Secretary has not been able to find another air carrier to provide basic essential air service to such point, the Secretary shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide basic essential air service to such point, whichever first occurs. If at the end of such 30-day period the Secretary determines that no other air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis, either with or without compensation, then the Secretary shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue basic essential air service to such eligible point until an air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis.

"(6) COMPENSATION FOR CONTINUED SERVICE.—

"(A) CARRIERS RECEIVING COMPENSATION.—If any air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection for providing such transportation, is required by the Secretary to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such point below the level of basic essential air service to such point, then after such date such carrier shall continue to receive such compensation until the Secretary secures another air carrier to provide basic essential air service to such point or the 180th day following such date, whichever is earlier. After such 180th day, such carrier shall receive compensation determined in accordance with subparagraph (B).

"(B) CARRIERS NOT RECEIVING COMPENSATION.—If the Secretary requires an air carrier which is providing air transportation to any eligible point without compensation pursuant to paragraph (4) to continue to provide basic essential air service to such point beyond the 90-day notice period after which, but for paragraph (5) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below basic essential air service for such point, then the Secretary shall compensate such air carrier in an amount sufficient to cover—

"(i) the carrier's fully allocated actual costs plus return on used and useful investment (at market value) attributable to the basic essential air service at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2); and

"(ii) the reasonably demonstrable cost of opportunities foregone as a result of being obliged to provide such extended service.

"(7) PROCEDURE FOR COMPENSATION CLAIMS.—

"(A) AIR CARRIER'S RIGHT OF APPEAL.—Within 90 days after a claim for compensation of an air carrier under paragraph (6) has been decided by the Secretary or deemed to have been decided by the Secretary under subparagraph (C), the air carrier may request the Secretary to review such decision. Any such request shall be heard and determined by an administrative law judge. The decision of the administrative law judge on the request shall be final, except that—

"(i) the air carrier may appeal the decision of the administrative law judge to the United States Court of Appeals for the Federal Circuit within 120 days after the date of such decision, or

"(ii) the Secretary, with the prior approval of the Attorney General, may appeal the decision of the administrative law judge to the Court of Appeals for the Federal Circuit within 120 days after the date of such decision.

"(B) ACTION IN CLAIMS COURT.—

"(i) General rule.—In lieu of requesting under subparagraph (A) a review of the decision of the Secretary on a claim for compensation of an air carrier, the air carrier may bring an action directly on the claim in the United States Claims Court, notwithstanding any contact provision, regulation, or rule of law to the contrary. Any action on a claim under this subparagraph shall be filed within 120 days after the claim has been decided by the Secretary or deemed to have been decided by the Secretary under subparagraph (C).

"(ii) Evidence.—If an administrative law judge has issued an initial decision after a hearing on the record on a claim for compensation under paragraph (6) before the Secretary, the United States Claims Court may, in its discretion, rely upon the evidence presented at such hearing and may give such initial decision such weight as the court deems appropriate.

"(C) Time limit for final decision by secretary.—Failure of the Secretary to issue a final decision on a claim under paragraph (6) within 1 year after it is filed with the Secretary, or by October 24, 1988, whichever is later, shall be deemed to be a decision by the Secretary denying the claim.

"(D) Interest.—Interest on amounts which are found to be due an air carrier in the decision of the Secretary or the judgment of the United States Claims Court, as the case may be, on a claim for compensation under paragraph (6) shall be paid to the air carrier from the date the Secretary receives the claim under paragraph (6) from the air carrier to the date on which the claim is paid. Such interest shall be paid at the rates provided in section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).

"(E) Payment of claims.—

"(i) Prompt payment.—Any judgment against the United States, or monetary award by an administrative law judge, under this paragraph on a claim of an air carrier under paragraph (6) shall be paid promptly in accordance with section 1304 of title 31, United States Code.

"(ii) Reimbursement.—The Secretary shall reimburse the funds provided by section 1304 of title 31, United States Code, for payments made pursuant to clause (i). Such reimbursement shall be made from funds available to the Secretary or from funds appropriated to the Secretary for such purpose.

"(F) Jurisdiction.—The United States Court of Appeals for the Federal Circuit shall have jurisdiction of appeals brought under subparagraph (A). The United States Claims Court shall have jurisdiction of actions brought under subparagraph (B).

"(8) Transfer of operational authority at certain high-density airports.—If an air carrier which is providing basic essential air service under this subsection between an eligible point and an airport which the Administrator of the Federal Aviation Administration limit the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such service and another air carrier is secured to provide such service on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service.

"(9) Effort to secure carriers.—During any period for which the Secretary requires any air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Secretary shall continue to make every effort to secure an air carrier to provide at least basic essential air service to such eligible point, on a continuing basis.

"(10) Prohibition on certain reductions in service.—Unless the secretary has determined what is basic essential air service for any eligible point pursuant to paragraph (1) of this subsection, the Secretary shall, upon petition of any appropriate representative of such point prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of basic essential air service, until the Secretary has completed such determination.

"(c) Enhanced Essential Air Service.—

"(1) Proposal.—

"(A) Submission.—A State or local government may submit a proposal to the Secretary for enhanced essential air service to an eligible point with respect to which basic essential air service is being provided under subsection (b).

"(B) Contents.—A proposal submitted under this subsection shall specify the level and type of enhanced essential air service which such government considers appropriate. Such proposal shall also include an agreement relating to compensation required for the proposed enhanced essential air service. Such agreement shall be subject to the requirements of subparagraph (C).

"(C) Compensation agreement.—The agreement relating to compensation included in the proposal submitted by a State or local government under this subsection shall either—

"(i) provide for the State or local government or any person to pay 50 percent of the compensation required for the proposed enhanced essential air service and for the Federal share of such compensation to be 50 percent; or

"(ii) provide for the Federal share for such compensation to be 100 percent and provide that, if the proposed service is not successful in terms of the criteria established under paragraph (3)(C) for not less than a 2-year period, the eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(2) Establishment of service.—Not later than 90 days after receiving a proposal under paragraph (1), the Secretary shall issue a decision on the proposal. The Secretary shall approve such proposal unless the Secretary determines that such proposal is not reasonable; in which case the Secretary shall disapprove such proposal and notify the State or local government submitting such proposal of such disapproval and the reasons therefor.

"(3) Review.—

"(A) Proposals for 50 percent federal share.—If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share, the Secretary shall periodically review the level and type of such service to an eligible point and may, based upon such review and consultations with the community and the government or person paying the non-Federal share, make appropriate adjustments to the level and type of enhanced essential air service to such point.

"(B) Proposals for 100 percent federal share.—If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share, the Secretary shall periodically review air service provided to an eligible point under this subsection. If the Secretary finds, after cônsultation with the State or local government which submitted the propsal, that such service has not been successful in terms of the criteria established under subparagraph (C) for not less than a 2-year period, such eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(C) Criteria of success.—The Secretary shall establish, by regulation, objective criteria for determining whether or not enhanced essential air service to an eligible point provided under this subsection is successful in terms of increasing passenger usage of the airport facilities at such point and reducing the amount of compensation provided by the Secretary under this subsection for such service.

"(4) Notice before termination, suspension, or reduction of service.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which a determination of enhanced essential air service has been made below the level of such service approved by the Secretary under this subsection unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days notice before such termination, suspension, or reduction. Nothing in this paragraph relieves an air carrier of its obligations under subsection (b).

"(5) Payment of compensation.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay the compensation to an air carrier to provide enhanced essential air service to an eligible point only for so long as such carrier maintains the level of enhanced essential air service and the government or person agreeing to pay any non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(6) Payment of non-federal share.—The Secretary may require appropriate payment in advance or such other security to assure that non-Federal payments for enhanced essential air service under this subsection are made on a timely basis.

"(7) Compensation for enhanced essential air service defined.—For purposes of this subsection, compensation for enhanced essential air service to any eligible point covers only those costs incurred for providing air service to such point which are in addition to the costs incurred for providing basic essential air service to such point under this section.

"(d) Compensation for Service to Other Small Communities.—

"(1) Proposal.—A State or local government may make a proposal to the Secretary for compensated air transportation in accordance with this subsection to a point that is not an eligible point under this section.

"(2) Determination of eligibility.—

"(A) Designation of points.—Not later than 90 days after the submission of a proposal under this subsection, the Secretary—

"(i) shall determine whether or not to designate the point for which such proposal is made as eligible to receive compensation under this subsection; and "(ii)(I) shall approve such proposal if the State or local government submitting the proposal or any other person is willing and able to pay 50 percent of the cost of providing the proposed compensated air transportation; or

"(II) if the Secretary determines that such proposal is not reasonable, shall disapprove such proposal and notify the State or local government submitting such proposal of the reasons therefor.

"(B) Notwithstanding subparagraph (A)(ii), the Secretary shall approve a proposal submitted under this subsection for compensated air transportation to a point in the continental United States—

"(i) if, at any time before October 23, 1978, the point was served by an air carrier that held a certificate issued under section 401;

"(ii) if the point is more than 50 miles from a hub airport or an eligible point;

"(iii) if the point is more than 150 miles from a medium or large hub airport; and

"(iv) if the State or local government submitting the proposal or any other person is willing and able to pay 10 percent of the cost of providing the proposed compensated air transportation.

"(C) Criteria for determining reasonableness.—In determining whether or not a proposal submitted under this subsection is reasonable, the Secretary shall consider, among other factors, the traffic generating potential of the point, the cost to the Federal Government of providing the proposed service, and the distance of the point from the closest hub airport.

"(D) Withdrawal of designation.—After notice and an opportunity for any interested person to comment, the Secretary may withdraw the designation of a point under this paragraph as eligible to receive compensation under this subsection if the point has received air service under this subsection for at least 2 years and the Secretary determines that withdrawal of that designation would be in the public interest. The Secretary shall establish, by regulation, standards for determining whether or not withdrawal of a designation under this paragraph is in the public interest. Such standards shall include but not be limited to the criteria established for determining reasonableness by subparagraph (C).

"(3) Level of service.—

"(A) Initial determination.—If the Secretary designates a point under paragraph (2), the Secretary shall determine the level of service to be provided under this subsection. The Secretary shall determine such level after considering the views of any interested community, the State agency of the State in which the point is located and the government or person agreeing to pay the non-Federal share of the cost of the proposed service. The Secretary shall determine such level not later than 6 months after the date on which the Secretary designates such point under paragraph (2).

"(B) Review.—The Secretary shall periodically review the level of air service provided under this subsection and may, based upon such review and consultation with any interested community, any State agency of the State in which the community is located, and any government or person providing the non-Federal share of the compensation for the service, make appropriate adjustments in that level of service.

"(4) Selection of carrier.—After making the determinations required by paragraph (3) with respect to a designated point, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide the level of air service determined under paragraph (3) with respect to such point. In selecting an applicant to provide such service the Secretary shall, among other factors, consider the factors set forth in subsection (b)(3)(A) and shall also consider the views of the government or person paying the non-Federal share of the cost of the service.

"(5) Nonfederal share.—The non-Federal share for compensation required for providing air service under this subsection shall be 50 percent.

"(6) Notice before termination, suspension, or reduction of service.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which compensation is paid under this subsection below the level of such service established by the Secretary under paragraph (3) unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days notice before such termination, suspension, or reduction.

"(7) Payment of compensation.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to any air carrier to provide service to a point designated under this subsection only for so long as such carrier maintains such service and the government or person agreeing to pay the non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(8) Payment of non-federal share.—The Secretary may require appropriate payment in advance or such other security to assure that the non-Federal payments for air service under this subsection are timely made.

"(e) Fitness.—

"(1) General rule.—Notwithstanding section 416(b) of this title, the Secretary shall prohibit any air carrier from providing service under this section, unless the Secretary determines that such air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator.

"(2) Limitation on compensation.—The Secretary may not pay compensation to any air carrier for providing air service under this section unless the Secretary finds that such carrier is able to provide the air service in a reliable manner.

"(f) Guidelines for Compensation.—The Secretary shall establish guidelines to be used in computing the fair and reasonable amount of compensation required to ensure the continuation of air service under this section. Such guidelines shall provide for a reduction in compensation in any case in which an air carrier fails to perform any agreed upon air services. Such guidelines shall take into account amounts needed by air carriers to promote public use of the service for which compensation is to be made and shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service. Amounts needed for promotion of such service shall be a special, segregated element of the required compensation.

"(g) Deadline for Payment of Compensation.—Not later than 15 days after receiving a written claim for compensation from an air carrier for providing air service under this section, the Secretary shall pay the Federal share of such claim or deny payment of the Federal share of such claim and notify the carrier of such denial and the reasons therefor.

"(h) Insurance.—An air carrier shall not receive compensation under this section unless such air carrier complies with regulations or orders issued by the Secretary governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

"(i) Carrier Obligations.—If 2 or more air carriers enter into an agreement to operate under or use a single air carrier designator code to provide air transportation, the air carrier whose code is being used under such agreement shall share responsibility with the other carriers for the quality of service provided under such code to the public by such other carriers.

"(j) Encouragement of Joint Air Service Proposals.—The Secretary shall encourage the submission of joint proposals by 2 or more air carriers for providing air service under this section through arrangements which will maximize service to and from major destinations beyond the hub.

"(k) Definitions.—For purposes of this section—

"(1) Basic essential air service.—The term 'basic essential air service' means scheduled air transportation of persons and cargo to a medium or large hub airport (or in any case in which the nearest medium or large hub airport is more than 400 miles and in the case of Alaska, to a hub or nonhub airport) which has connecting air service to a substantial number of destinations beyond such airport. Such transportation shall include, at least, the following elements:

"(A)(i) with respect to a point not in the State of Alaska, 2 daily round trips 6 days per week, with not more than 1 intermediate stop on each flight; or

"(ii) with respect to a point in the State of Alaska, a level of service that is not less than that which existed in calendar year 1976, or 2 round trips per week, whichever is greater, unless otherwise specified under an agreement between the Secretary and the State agency of the State of Alaska, after consultation with the community affected;

"(B) flights at reasonable times taking into account the needs of passengers with connecting flights at such airport and at rates, fares, and charges which are not excessive when compared to the generally prevailing fares of other air carriers for like service between similar pairs of points; and

"(C) with respect to a point not in the State of Alaska, service provided in an aircraft of 15 passenger seats or more if the average daily enplanements at such point in any calendar year beginning after December 31, 1975, and ending on or before December 31, 1986, exceeded 11 passengers unless—

"(i) requiring such service would require the payment of compensation in a fiscal year under subsection (b)(4) or (b)(6) with respect to such point when no compensation under such subsection would otherwise be paid with respect to such point in such fiscal year; or

"(ii) the community concerned agrees in writing with the Secretary to the use of smaller aircraft to provide service to such point;

"(D) service which accommodates the estimated passenger and cargo traffic at an average load factor of not greater than—

"(i) 50 percent, or

"(ii) in any case in which such service is being provided with aircraft with 15 passenger seats or more, 60 percent,

for each class of traffic taking into account seasonal demands for such service;

"(E) service provided in an aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation in aircraft with at least 2 engines and using 2 pilots has not been provided with respect to the point on each of 60 consecutive operating days at any time since October 31, 1978; and

"(F) in the case of service which regularly exceeds 8,000 feet in altitude, service provided with pressurized aircraft.

"(2) ENHANCED ESSENTIAL AIR SERVICE.—The term 'enhanced essential air service' means scheduled air transportation to an eligible point of a higher level or quality than basic essential air service.

"(3) HUB AIRPORT.—The term 'hub airport' means an airport than annually has 0.05 percent or more of the total annual enplanements in the United States.

"(4) LARGE HUB AIRPORT.—The term 'large hub airport' means an airport that annually has 1 percent or more of the total annual enplanements in the United States.

"(5) MEDIUM HUB AIRPORT.—The term 'medium hub airport' means an airport that annually has 0.25 percent or more but less than 1 percent of the total annual enplanements in the United States.

"(6) NONHUB AIRPORT.—The term 'nonhub airport' means an airport that annually has less than 0.05 percent of the total annual enplanements in the United States.

"(l) DURATION OF PROGRAM.—This section shall not be in effect after December 31, 1998.".

(b) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking out the item relating to section 419 and inserting in lieu thereof the following:

"Sec. 419. Small community air service.

"(a) Eligible point defined.

"(b) Basic essential air service.

"(c) Enhanced essential air service.

"(d) Compensation for service to other small communities.

"(e) Fitness.

"(f) Guidelines for compensation.

"(g) Deadline for payment of compensation.

"(h) Insurance.

"(i) Carrier obligations.

"(j) Encouragement of joint air service proposals.

"(k) Definitions.

"(l) Duration of program.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect October 24, 1988.

Conform the table of contents of the bill accordingly.

Mr. HAMMERSCHMIDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HAMMERSCHMIDT. Mr. Chairman, this amendment reauthorizes the Essential Air Service [EAS] Program. It combines the best features of H.R. 2318—introduced by myself and 35 cosponsors—and H.R. 2217 introduced by the gentleman from Minnesota [Mr. OBERSTAR] and 5 cosponsors.

The Essential Air Service Program was first enacted in 1978 as part of the Airline Deregulation Act. It was designed to protect small communities from the loss of air service following deregulation. Under this program, the Civil Aeronautics Board [CAB] was required to prevent airlines from abandoning small communities. The CAB was also able to pay a small subsidy to a commuter airline to serve a small community if there were not enough passengers there to make the service profitable on its own. This is not done by the Department of Transportation [DOT]. The amount of money needed to support this program is really quite small—about $25 million per year—and it has been steadily decreasing.

Unfortunately, the EAS Program is scheduled to expire next year. My amendment would reauthorize this program for another 10 years. It is important to do so now. If we wait until the last minute, it may become difficult to maintain quality air service at the small communities of this Nation.

Right now, there are more than 400 communities in 48 States that benefit from the service guarantees of the Essential Air Service Program. About 150 communities in 32 States actually need a subsidy to keep their air service. Most of them could be expected to lose that service if this program were allowed to expire.

My amendment would do more than merely extend the existing program. It would also improve it.

Over the last few years, many communities have seen their passenger traffic decrease dramatically. This has been mainly caused by the use of small aircraft at these communities. As smaller aircraft were used there, passenger traffic declined. This evidently justified the use of even smaller aircraft which, in turn, led to further deterioration in passenger levels. My amendment would break this downward spiral in air service.

It would require that larger aircraft be used for essential air service. As long as annual enplanements in any of the last 10 years exceeded 11 passengers, the community would be entitled to at least 15-seat aircraft.

In addition, my amendment:

Would guarantee communities at least 2 flights per day, 6 days per week.

It would guarantee service to a medium or large hub where, by definition, good connections will be available to passengers. This would replace the current requirement that flights go to a so-called community of interest.

It would guarantee that flights to the hub have no more than one stop. The current law has no limit on the number of stops.

The second part of the amendment would give a community the opportunity to seek further enhancements in its air service. A community could get more flights, flights with larger aircraft or other improvements that it desires if it were willing to share in the increased subsidy cost.

The third part of the amendment would give additional communities the opportunity to benefit from the service and subsidy guarantees.

There are several other features of the amendment that are noteworthy.

The amendment would continue the requirement that airlines must be found "fit" before providing essential air service.

It would require that subsidy rates for airlines providing essential air service set aside some money for the advertising and promotion of that service.

It would take away slots from airlines abandoning small communities to the extent that those slots were needed by the replacement carrier.

It would encourage major carriers to assume some responsibility for the quality of customer service provided by their regional carrier partners. Frequently, a larger carrier will allow a smaller one to use its computer code and even have its name painted on the smaller carrier's aircraft.

This arrangement has benefits for passengers from small communities. But sometimes when a passenger has a problem with the smaller carrier, the employees of the larger carrier act as if they never heard of it.

My amendment would assure that where passengers are on a trip involving two carriers using a common designator code, the carrier whose code is being used accepts responsibility for seeing that passenger service complaints directed to it are handled promptly, regardless of whether the complaints relate to service by that carrier or its code-sharing partner.

In sum, my amendment would preserve and improve small community air service. I would like to thank Mr. OBERSTAR for his help in crafting this amendment and also Mr. MINETA and Mr. GINGRICH for their cooperation in this effort. I urge my colleagues to support this amendment.

SECTION-BY-SECTION SUMMARY OF THE ESSENTIAL AIR SERVICE AMENDMENT

The amendment revises Section 419 of the Federal Aviation Act to create a new essential air service program.

Subsection (a) defines which communities are eligible for this air service program. It defines them as any community that was an eligible point under current law, was receiving scheduled air service under that law, and that is not close to alternate air service. Communities less than 35 miles from the nearest hub airport would be excluded as would those less than 35 miles from another non-hub where the Secretary determines that significant scheduled air service is available. Appendix P of the 1987 DOT study on essential air service was relied on in establishing these distances.

Subsection (b) creates the basic essential air service guarantee. It is similar to, but slightly better than, the current essential air transportation guarantee.

Paragraph (b)(1) requires the Secretary to establish a basic essential air service level for eligible points within 1 year. The level established must be based on the definition of basic essential air service in paragraph (k)(1) below. Eligible points would continue to be guaranteed their current essential air transportation until the new basic essential air service level was established under this paragraph.

Paragraph (b)(2) requires a carrier to give 90 days notice before terminating service at an eligible point or reducing it below the basic essential air service level.

Paragraph (b)(3) directs the Secretary to select a carrier to provide basic essential air service with subsidy where necessary. Subparagraph (B) of this paragraph lists several factors that the Secretary should consider in making the selection. These include the applicant's service reputation, the preferences of the community concerned, the existence of a contractual or marketing arrangement (such as code-sharing) between the applicant and a larger carrier, and the existence of interline agreements between the applicant and the major carrier at the hub.

Paragraph (b)(4) directs the Secretary to pay subsidy to a carrier to provide basic essential air service as long as necessary to maintain that service.

Paragraph (b)(5) directs the Secretary to prohibit a carrier from terminating service or reducing it below the basic essential air service level until a replacement is found.

Paragraph (b)(6) directs the Secretary to compensate a carrier that is required to continue service under paragraph (b)(5) above. If the carrier was already receiving subsidy, it would continue to receive that subsidy for 180 days or until it was replaced on the route. If it is still being forced to provide service after the 180th day, the carrier would be entitled to receive compensation for losses in the same manner as a carrier that was not receiving subsidy. These carriers get their fully allocated actual costs plus return on investment as well as the cost of opportunities foregone.

Paragraph (b)(7) permits a carrier that is dissatisfied with the compensation offered it by the Secretary under paragraph (b)(6) above to appeal that decision. The appeals process is based on the process in the Contract Disputes Act but has been modified to fit the Essential Air Service Program.

Paragraph (b)(8) requires a carrier that is terminating basic essential air service from an eligible point to a high density airport (LaGuardia, Kennedy, O'Hare, National and any that might be added in the future) to turn over the necessary number of slots to a replacement carrier if this replacement carrier wants to provide the basic essential service to the same high density airport. This would not apply if the carrier was using the same slots to provide essential air service to more than one small community (on a linear route, for example) and was terminating service at only some of those communities.

Paragraph (b)(9) requires the Secretary to make diligent efforts to find a replacement carrier when the incumbent carrier wants to end service to a community.

Paragraph (b)(10) addresses a potential problem that could arise where a small eligible point has never had an essential air transportation determination under existing law because it has always been served by at least 2 certificated air carriers. Until its basic essential air service determination is issued under this bill, this paragraph will protect it from significant reductions in service.

Subsection (c) creates a new enhanced essential air service option. This would be a higher level of service than the basic essential air service level guaranteed under subsection (b) above. There would be two different enhanced essential air service options. Under the first option, a community would submit a proposal for enhanced essential air service to the Secretary. The community must agree to pay 50 percent of the added cost of the enhancement. The Secretary would establish this enhanced level as the service that must be provided to that point unless the community's proposal was unreasonable. The enhancement could take the form of more flights, larger aircraft or other improvements that the community desires.

Under the second option, the community would not have to put up any of its own money. However, the community would risk losing even its basic essential air service guarantee if the enhanced service is not successful under this option. Under this option the community's proposal must state the level of enhanced essential air service that it wants and include an agreement that, if such service is not successful, the community will waive its right to basic essential air service under this section. The Secretary is directed to approve any reasonable proposal from a community and to pay the full subsidy cost of the enhanced service under this option.

Both these options require a carrier providing the enhanced essential air service to give 30 days notice before terminating or reducing that service. After the 30 days expires, the carrier can drop down to the basic essential air service level. If it wanted to reduce or terminate that basic service, it would have to file a further notice in accordance with subsection (a). The mere fact that a carrier filed a notice under this paragraph would not, by itself, justify a finding by the Secretary that the service had not been successful. In addition, both these options require the Secretary to pay subsidy to the carrier providing enhanced essential air service as long as (1) the carrier provides the enhanced level of service, (2) the community pays its share, if any, and (3) the Secretary determines the subsidy is needed in order for the carrier to maintain that service. The Secretary is also permitted to require advance payment from the community for its share of the subsidy.

Subsection (d) creates a program whereby communities that are not eligible for guaranteed basic essential air service under subsection (b) above can apply for alternate service guarantees that are described below.

Paragraph (d)(1) permits any community to apply for this guaranteed air service. Communities excluded under paragraph (a) above could also apply for air service under this paragraph.

Paragraph (d)(2) directs the Secretary to approve any reasonable proposal under this subsection if the community is willing to pay 50 percent of the subsidy. In determining whether a proposal is reasonable, the Secretary shall consider the number of potential passengers, the subsidy cost, and the distance of the community from alternate air service. Subparagraph (d)(2)(D) would permit the Secretary to withdraw the community's air service guarantee after 2 years if it was not working out.

Subparagraph (d)(2)(B) offers an alternate method for a community to get guaranteed air service if it had had certificated air service in the past. Such communities would be entitled to this service if they were more than 50 miles from a small hub or a non-hub eligible point, more than 150 miles from a medium or large hub, and were willing to pay 10 percent of the subsidy cost.

Paragraph (d)(3) directs the Secretary to establish the level of air service that will be guaranteed after considering the views of the community and anyone else contributing to the non-Federal share of the subsidy. The level could be different than the basic essential air service level required for eligible points under subsection (b).

Paragraph (d)(4) sets forth the factors that the Secretary should consider in selecting an applicant to provide the guaranteed air service.

Paragraph (d)(5) states that the non-Federal share of the subsidy is 50 percent.

Paragraph (d)(6) requires the carrier providing the guaranteed service to give 30 days notice before terminating or reducing that service. The carrier could not be required to continue beyond the 30-day period.

Paragraph (d)(7) directs the Secretary to pay subsidy to the carrier to provide the guaranteed air service. The Secretary would have to continue to pay the subsidy to the carrier as long as the carrier continued to provide the service and the non-Federal share was paid. The Secretary could also end the subsidy if the designation was withdrawn under subparagraph (d)(2)(c) above or if the carrier was able to provide the guaranteed service without subsidy.

Subsection (e) would prevent a carrier from providing air service under this section unless it was found fit by the Secretary to do so. It also prohibits the Secretary from paying subsidy to a carrier for providing essential air service unless the Secretary finds that the carrier will provide that service in a reliable manner.

Subsection (f) directs the Secretary to establish guidelines for calculating the subsidy to be paid carrier. The guidelines recognize the importance of advertising and promotion of the service to its ultimate success by making advertising and promotion a special, identifiable element of the subsidy rate. They also call for a reduction in subsidy in the event that the carrier does not provide some of the required flights.

Subsection (g) requires DOT to pay a subsidy claim within 15 days of receiving a valid bill from the carrier.

Subsection (h) requires the carrier to comply with DOT rules on insurance. This is the same as current law.

Subsection (i) is directed at the situation where a larger carrier allows a smaller one to use its computer code and may even paint its name on the smaller carrier's aircraft but refuses to take any responsibility when a passenger has a problem with the smaller carrier's service. This subsection would encourage major carriers to assume some responsibility for the quality of service provided by their regional partners. The purpose is to assure that, where passengers are transported on a connection involving two carriers using a common designator code, the carrier whose code is being used accepts responsibility for seeing that passenger service complaints directed to it are handled in a prompt and forthcoming manner, regardless of whether the complaint relates to service by that carrier or its code sharing partner. In response to concerns that this provision might disproportionately impact service to small communities, it has been made applicable to all code-sharing relationships, not just to those involving essential air service.

Subsection (j) directs the Secretary to encourage the submission of joint proposals by 2 or more carriers to provide service beyond the hub.

Subsection (k) defines several terms.

Paragraph (k)(1) sets forth the minimum requirements that must be met by airlines providing basic essential air service. They must provide service to a medium or large hub airport because such airports will provide the best connections for passengers from small communities. These hubs are listed in the joint DOT/FAA publication known as Airport Activity Statistics. Service would not be required to a medium or large hub for service in Alaska or if the nearest such hub was more than 400 miles away from the small community. The following subparagraphs impose additional minimum requirements.

Subparagraph (k)(1)(A) requires airlines to provide 2 round trips per day, 6 days per week with no more than 1 intermediate stop. There is a special provision for Alaska that is the same as the provision in current law.

Subparagraph (k)(1)(B) requires that flights be timed so as to provide good connections at the hub and that the fares be comparable to fares on similar routes.

Subparagraph (k)(1)(C) generally requires service with 15-seat or larger aircraft. If in any one year between 1976 and 1986 a community had average daily enplanements of 12 or more passengers, the community would be entitled to 15-seat or larger aircraft. These communities are listed in appendix E of the February 1987 DOT study on EAS. Both pre- and post-deregulation years are considered because small aircraft and deteriorating service have caused low passenger levels at some small communities in recent years. There are two exceptions to the 15-seat aircraft requirement. Smaller aircraft could continue to be used at communities where service with a small aircraft is now successful (i.e., unsubsidized) but where a larger aircraft requirement would force DOT to step in and pay a subsidy. Also, smaller aircraft could be used where the community agrees to it. It is expected that the 15-seat aircraft used would be aircraft capable of carrying 15 passengers and their baggage.

Subparagraph (k)(1)(D) requires that average load factor not exceed 50 percent when small aircraft, and 60 percent when 15-seat or larger aircraft, are used. If average load factors exceed these levels, larger aircraft or more flights would have to be added.

Subparagraph (k)(1)(E) generally requires service with aircraft that have 2 engines and use 2 pilots.

Subparagraph (k)(1)(F) requires that pressurized aircraft be used when flights will regularly exceed 8,000 feet.

Subsection (l) states that the program created by this amendment shall expire on December 31, 1998. It would commence on October 24, 1988, at the same time the current program expires.

Mr. MINETA. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the gentleman from Minnesota [Mr. OBERSTAR], our very fine distinguished colleague who has been long working on this whole issue of essential air service.

The EAS Program was first established in 1978 as part of the Airline Deregulation Act. The EAS Program assures that small communities which were receiving air service when deregulation was enacted will continue to receive at least a minimum level of service. The service is supported by Federal subsidy, if necessary.

The EAS Program protects air service at approximately 500 communities throughout the Nation, although only about 150 communities actually need the subsidy. The cost to the Federal Government has been quite low and now totals about $30 million a year.

The amendment now before us renews the program for an additional 10 years. The amendment also improves the program to provide better service to small communities and to give the Government flexibility to end the subsidy at cities within 35 miles of a major airport. The annual cost of the program, including the improved service, should not exceed $40 million a year.

Mr. Chairman, the cost to the Government of essential air service is quite low and the program is of great importance to small cities which are highly dependent on air service. I urge support of the amendment.

Mr. ROBERTS. Mr. Chairman, I move to strike the last work.

Mr. Chairman, I rise today to voice my strong support for the amendment offered by my good friend and colleague, Mr. HAMMERSCHMIDT, to extend the very successful Essential Air Service Program.

Mr. Chairman, as many members of this body are well aware, the trend toward deregulation in the past 10 years has eroded transportation services in rural communities across this country almost to the point of no return. In 1978, the Airline Deregulation Act went into effect. Since then, major air carriers have been able to abandon air services at will, especially to our rural communities.

That same year, the Essential Air Service Program was set in place to ensure that small communities would not lose air service through the transition period of deregulation. Well, deregulation and its long-lasting effects are still with us. And if the EAS Program is allowed to expire, many rural communities, more than 130 nationwide in 60 congressional districts, will be in jeopardy of losing whatever remaining air service they currently have.

The Essential Air Service Program was set in place to help keep air service in rural communities by taking the service routes that major air carriers had abandoned and servicing them with commuter airlines that use smaller, more cost efficient passenger planes.

Not only has the EAS Program assisted many rural communities nationwide, it also has proved cost efficient for taxpayers. Last year more than 40,000 Kansas passengers, plus thousands more across the country were served by airlines participating in the EAS Program at a cost to the Federal Government of $24 million less than the same air service cost in 1978.

Today, more than 130 cities nationwide, including Dodge City, Garden City, Goodland, Liberal, Hays, Great Bend, Wichita, Hutchinson, and Parsons in my home State of Kansas, still rely on EAS-subsidized airlines for their services. Unfortunately Mr. Chairman, the 10-year EAS Program expires in October 1988. If the EAS Program is allowed to expire, 75 percent of the communities now dependent on federally subsidized airlines will lose that valuable service. For many of those cities, their last link to the national transportation system will be lost.

The last thing our Nation's rural communities need is isolation. The essential air service subsidy is the major reason that commuter air service remains in many of our rural communities. If the EAS Program is discontinued most of the communities now surviving with EAS will be in jeopardy of being isolated from larger airports. It is likely that most of these communities would permanently lose all their commercial air service and be cut off from the Nation's air transportation system.

Mr. Chairman, I urge my colleagues to support the amendment to extend this important program.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

I rise in very strong support of the amendment offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT], which I appreciate the gentleman's very kind words.

We have worked together for many months to fashion a workable, reasonable, and practical solution to small communities need for continuation of essential air service. That is exactly what this legislation does.

It will help communities improve the quality and quantity of scheduled air service offered to their citizens, and will do so in a way that provides a quality of service which will in fact be the kind of service that will generate more passengers, more boardings, and eventually take those communities off this subsidy.

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We provide two kinds of essential air services: basic air service for those communities now in the Essential Air Service Program and enhanced essential air service, meaning more aircraft, larger planes, for those communities where the community and the State agree to pay 50 percent of the cost.

Mr. Chairman, I will withhold further comments at this time because I think there is a consensus in the committee and on the floor to accept this amendment. It has been carefully crafted over a long period of time to respond to the needs and the concerns to make this fiscally responsible and manageable, as well as to sunset over a period of a decade. I ask unanimous consent to include at this point in the RECORD a summary of the highlights of this amendment, and I yield back the balance of my time.

ESSENTIAL AIR SERVICE PROGRAM EXTENSION AND IMPROVEMENT

(Amendment to H.R. 2310, Airport Development And Improvement Act)

SUMMARY

Eligible Points are those communities currently receiving service, and which are 35 miles or more from a hub, or from a nonhub with significant scheduled air service.

Basic Air Service means scheduled air service from an eligible point to a medium or large hub which has connecting service to a substantial number of destinations beyond the hub. Additionally, it means:

2 daily round trips 6 days a week;

flights at reasonable times, taking into account the needs of the passengers, at reasonable rates;

generally service in aircraft of 15 passenger seats or more for communities which enplaned a daily average of 11 passengers in any calendar year between 1975 and 1986;

in most cases, aircraft must have at least 2 engines using 2 pilots; pressurized aircraft must be provided for flights exceeding 8,000 feet;

the community plays a major role in designing the service.

Enhanced Air Service means a higher level or quality of service.

A State or local government may submit a proposal for enhanced service to DOT:

the State or community may agree to pay 50% of the costs of enhanced service, *or*

the community may receive 100% Federal subsidy for the enhanced service *if* it agrees that if the proposed service is not successful within 2 years, the community loses its eligibility for any compensation, including for basic service. "Success" is to be defined by DOT in terms of increased passengers and reduced compensation.

DOT is required to approve the community or State's proposal unless the Department finds the proposal is not reasonable. DOT is to define "reasonable" through the regulatory process.

A carrier must give 30 days notice before terminating, suspending or reducing enhanced service. It must continue to provide basic air service.

OTHER SMALL COMMUNITIES

Small communities which are not now eligible points may make a proposal for subsidized air service. If DOT accepts the proposal, the community is designated as an eligible point. DOT would provide a 50% Federal match; or if the community received certified air service at any time before October 23, 1978, is more than 50 miles from a hub or an eligible point, and is more than 150 miles from a medium or large hub, the community can receive compensated service if it pays 10% of the cost. If the community has received this service for at least 2 years, and DOT determines that continued service is not in the public interest, DOT may withdraw its designation as an eligible point.

The carrier will be compensated for such service. It may withdraw service after 30 days notice.

TERMINATION, SUSPENSION OR REDUCTION OF SERVICE

If an air carrier wants to suspend or terminate basic service, or reduce it below basic service, it must give 90 days notification to the Secretary of Transportation, the State, and communities affected.

DOT must then select an alternative carrier. If no alternative carrier is found, the existing carrier is "held in" for 30-day increments until a carrier is found. Carriers are to be compensated for such hold-in period.

Carriers must be reliable, and must assure connecting service beyond the hub.

When a new carrier is found, it would "inherit" the previous carrier's slots at high-density airports.

COMPENSATION

Carriers already receiving compensation for basic service would continue to receive the same level of compensation for 180 days, after which compensation is increased to the level of carriers not currently receiving compensation.

Carriers not receiving compensation at hold-in time would receive their fully allocated actual cost plus return on used and useful investment (at market value) attributable to the basic essential air service at the time the carrier notified DOT of its intention to terminate, suspend or reduce service, plus the reasonably demonstrable costs of opportunities foregone.

Carriers would have the right to appeal DOT's decision on the level of compensation.

DURATION OF THE PROGRAM

The program becomes effective October 24, 1988, and terminates December 31, 1998.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment, which would extend the essential air service program for 10 years.

Rural America is facing a passenger transportation crisis.

Passenger train service is almost nonexistent; bus service is declining dramatically; and air service—if available—is at barebones minimum and will end for many communities in 1988 if the essential air service program is allowed to expire.

Congress needs to take a careful look at the entire rural transportation issue.

This amendment, which would extend the essential air service program for 10 years, is the best place to begin.

The essential air service program is designed to ensure that small communities are provided with low-cost air service sufficient to assure that they are not cut off from the national air transportation system, and to ease the communities into an era of deregulation.

Essential air service provides air service for about 150 communities in 32 States—10 of them in the Third District of Nebraska.

And DOT estimates that about 70 percent of those communities now receiving essential air service funding would lose air service if the program is not extended.

I think I can speak for nearly every one of those EAS communities when I say that losing EAS would be a disaster.

By voting to extend this program, we assure these communities that they will not lose their air service when the program is set to expire next year.

And by acting early, we can alleviate much of the concern and uncertainty about the future of the program.

As I have said many times before, I believe that the revitalization of rural America will not occur unless adequate transportation is available for its residents.

It's as simple as that.

At this time, a completely free market in the airline industry would only isolate many rural communities.

This is certain: The EAS subsidy program is all that many communities have to ensure that they will not be cut off from the Nation's air transportation system.

The Congress has made a commitment to help ease small communities into an era of deregulation, and we should stand by that commitment.

I urge a "yes" vote on this amendment.

Mr. JOHNSON of South Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Arkansas.

Mr. Chairman, today we have the opportunity to approve an amendment to H.R. 2310 that could mean the difference between economic development and economic stagnation in rural communities throughout the United States.

Essential air service is well-named. If not for this program, many small cities in the State of South Dakota would most likely not have air transportation. Mass transit is practically unknown in rural areas like South Dakota. Rail passenger service is nonexistent; bus service is limited. Some form of air service is essential, and this program has provided that. South Dakota has four small cities that would lose all air service, or at least have it severely curtailed, if essential air service is allowed to expire. Seven cities in all are designated EAS points.

South Dakota's economy has been almost totally dependent on agriculture. The plight of the agricultural economy is well known, and as family farmers go bankrupt and leave their farms, small towns and cities are being pulled under with them. These small rural communities have been imaginative and resourceful in trying to attract new businesses. State and local governments are pursuing an aggressive course of economic development, promoting South Dakota's work force and quality of life, and voting for sales taxes and bond issues earmarked for economic development. But all of this will be for naught, if businesses cannot fly to these small cities. A major component of the ability to attract business is adequate transportation, as provided by the essential air service program. If prospective businesses cannot easily travel to these towns, they go elsewhere.

If this program is allowed to expire, or if it is terminated prematurely, it will be terminating businesses, it will be terminating jobs, and it will be terminating the hopes of people in South Dakota who simply want to stay in their own part of the country and find a job. The need for this program is overwhelming. The loss of it would be devastating.

I strongly support the amendment being offered by Representative HAMMERSCHMIDT. I think this amendment would estalbish a basic service that would address the needs of the small communities at a reasonable cost to the Federal Government.

Mr. DAUB. Mr. Chairman, I stand in strong support of the amendment offered by Mr. HAMMERSCHMIDT to extend the authorization of the essential air services for 10 years.

This program remains a vital link in the transportation mix in rural areas that depend on this small program to continue air service to these areas.

In extending the program for 10 years, rural communities can rest assured that economic development will remain a possible reality. Economic development can only occur if a minimum of air transportation exists for these communities.

We spend hundreds of millions of dollars each year to provide adequate transportation to urban areas. Equity demands that a minimum amount be reserved for these rural communities who need the essential air service for future growth and successful development.

Mr. MARLENEE. Mr. Chairman, in 1978, when Congress deregulated the airline industry, we made a commitment to communities served by commuter and smaller airline services to ensure continuation of their service through the essential air service [EAS].

It's time for us to renew that commitment. The Hammerschmidt amendment on H.R. 2310 does exactly that, by extending EAS for an additional 10 years, to the end of 1998.

In addition, it gives the EAS carriers the necessary assurances that they can continue their business planning well into the next decade.

Seven Montana communities—Lewistown, Glendive, Miles City, Glasgow, Wolf Point, Havre, and Sidney—are currently served by EAS, which allows these communities to be connected with the outside world. Without EAS, people who live in these communities would have to travel several hours away in order to use our air traffic system.

Big Sky Airlines/Northwest Airlink is enjoying one of its best years ever, and I'd like to see them continue to serve these communities into the next decade. Without EAS, Big Sky would be hard pressed to continue its current level of service to these communities.

With an annual budget of approximately $33 million a year, EAS is inexpensive when compared to many Federal programs that support transportation to the urban centers in the Eastern United States.

Mr. WEBER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT] which will reauthorize the Essential Air Service Program for the next 10 years. Since the deregulation of the airline industry in 1978, the Essential Air Service Program has provided Federal assistance so that small communities, distant from major airports, can maintain their air service. Without this program many of these small airports would have shut down unable to survive in the new regulatory environment.

Many cities in my district depend on smaller, regional airports to fill crucial transportation needs. At a time when rural areas are especially hard hit by the downturn in the farm economy, and communities are aggressively trying to attract new businesses to diversify their economies, it is imperative that we reauthorize essential air service.

More and more businesses are making decisions on where to locate based on the accessibility of airport facilities. Many businesses, now operating in rural areas, will consider moving to urban locations, if they were to lose local air service. The impact on small towns would be devastating and cripple many promising economic development efforts.

In addition to reauthorizing essential air service, the Hammerschmidt amendment makes some positive changes in the program. It enables those communities that want to further upgrade their air service to augment the Federal assistance they receive with local funds. It also allows cities not covered by the program to become eligible under a 2-year test period.

Essential air service deserves and needs to be renewed.

Mr. STANGELAND. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Arkansas.

This amendment will extend and improve the essential Air Service Program. The current program is set to expire in October 1988, threatening to leave rural communities throughout the Nation stranded without adequate air service. Recent testimony before the Aviation Subcommittee illustrated the essential aspect of the EAS Program, its previous successes, and its current needs for extension and improvement.

Mr. Chairman, we cannot and must not abandon our small and rural communities. We need to act promptly and responsibly to extend and improve this modest program. Hundreds of communities across America depend on these small subsidies in order to survive, grow, and diversify their economies. Many rural areas simply need some form of assistance to keep vital transportation routes and commercial opportunities available in today's age of deregulation.

Like many States, Minnesota would certainly benefit from an extension and improvement of the Essential Air Service Program. Our State has many rural, small communities which need some type of continued assistance. In Bemidji, for example, citizens have very limited transportation opportunities and rely strongly on air travel. Ground transportation is simply not as efficient.

Subsection (d), compensation for service to other small communities, is a particularly important part of the amendment. Generally, it allows the Secretary to determine new eligible points under the EAS Program and requires the Secretary to approve such proposals when the non-Federal interests are willing and able to pay a portion of the cost. This means a small number of communities will now be able to participate in the expanded program. I want to thank the leadership of the subcommittee and full committee for agreeing to these provisions which will address a particular problem in Fergus Falls, MN, one of the towns in my district in need of essential air service.

Mr. Chairman, the wisdom of establishing the EAS Program years ago continues today. Many rural and small communities face difficult economic times these days. It is fair and reasonable to continue this modest program to ensure that small communities do not become isolated form this Nation's great air transportation system. I urge all of my colleagues to support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COUGHLIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 385, noes 14, not voting 35, as follows:

[Roll No. 343]

AYES—385

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Barton
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza

DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Stallings
Stangeland
Stark
Stenholm
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—14

Armey
Bartlett
Carr
Chandler
Crane
DeLay
Dornan (CA)
Frank
Henry
Lungren
Miller (WA)
Schumer
Walker
Yates

NOT VOTING—35

Bateman
Biaggi
Bilirakis
Boland
Boner (TN)
Conyers
Dixon
Dowdy
Early
Edwards (OK)
Foley
Frost
Gephardt
Gray (IL)
Kemp
Kleczka
Lancaster
Lewis (GA)
Livingston
Lott
Lowery (CA)
McHugh
Molinari
Murtha
Nichols
Ortiz
Oxley
Rangel
Roemer
Sharp
Spence
Staggers
Stokes
Tauzin
Weiss

□ 1445

Mr. DELAY changed his vote from "aye" to "no."

Mrs. SCHROEDER and Mr. MOORHEAD changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, on rollcall 343, I was unavoidably absent. Had I been present, I would have voted "aye."

Mr. ERDREICH. Mr. Chairman, I rise in support of H.R. 2310, and appreciate the opportunity to mention a few items in the bill that are important for medium-sized primary airports, such as the Birmingham Airport in my district.

One assumption that underlies this bill is that air service and passenger safety will improve if the medium-sized airports are able to function at their fullest potential. This is certainly true. The bill continues the priority of safety and navigational uses of trust fund money, but it does allow the use of funds for terminal development projects up to the amount of the airport's entitlement, and the use of an increased Federal match, if the Secretary of Transportation finds that such increases are in the public interest. Terminal development is a major expenditure that airports face for which there has been little help from the Federal Government. While I understand why safety-related projects receive priority, I have been working for increased support for medium-sized airport development, and am glad that the committee has included a means by which some airports will be able to receive help with the major expense of terminal development.

The committee has also included a requirement that the FAA study long-term airport capacity needs. The FAA will project the volume of air traffic to 2010 and will specify options best suited to accommodating this traffic. I suspect that one option the FAA will find feasible is the increased development of medium-sized airports to handle some of the traffic that has been causing havoc at the largest airports.

Except for flights between major cities, air travel for most Americans means a change of planes at a hub airport. That system multiplies takeoffs and landings, crowding limited airways even more, adding to passenger delays and eroding the safety margin. Greater use of our medium-sized airports has to be the answer to current air travel problems. One commentator recently called the hub and spoke system a "hub and choke bottleneck." We need to do better, and soon.

I am encouraged by the work that the committee has done with this measure and look forward to additional efforts to improve our national transportation system.

AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOWARD: At the end of the bill, add the following new Title:

TITLE IV

SEC. 401 BUDGETARY TREATMENT OF AIRPORT AND AIRWAY TRUST FUND.

(a) TREATMENT OF TRUST FUND OPERATIONS.—

(1) IN GENERAL.—The receipts and disbursements of the Airport and Airway Trust Fund allocable to the transportation-related operations of such Trust Fund—

(A) shall not be included in the totals of—

(i) the budget of the United States Government as submitted by the Presidnet, or

(ii) the congressional budget (including allocations of budget authority and outlays provided therein), and

(B) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(2) TRANSPORTATION-RELATED OPERATIONS DEFINED.—For purposes of paragraph (1), the receipts and disbursements allocable to the transportation-related operations of the Airport and Airway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from the Airport and Airway Trust Fund for the airport and airway program).

(b) ADJUSTMENTS OF AUTHORIZATIONS AND APPROPRIATIONS OUT OF TRUST FUND.—The Airport and Airway Improvement Act of 1982 is amended by adding at the end the following new section:

"SEC. 533. ADJUSTMENTS OF AUTHORIZATIONS AND APPORTIONMENTS.

"(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary of Transportation, in consultation with the Secretary of the Treasury, shall estimate—

"(1) the amount which would (but for this section) be the unfunded aviation authorizations at the close of the next fiscal year, and

"(2) the net aviation receipts for the 24-month period beginning at the close of such fiscal year.

"(b) PROCEDURE WHERE THERE IS EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If the Secretary of Transportation determines for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the

Secretary shall determine the amount of such excess.

"(c) Adjustment of Authorizations Where Unfunded Authorizations Exceed 2 Years Receipts.—

"(1) Determination of percentage.—If the Secretary of Transportation determines that there is an excess referred to in subsection (b), the Secretary of Transportation shall determine the percentage which—

"(A) such excess, is of

"(B) the total of the amounts authorized to be appropriated and the amounts available for obligation from the Airport and Airway Trust Fund for the next fiscal year.

"(2) Adjustment of authorizations.—If the Secretary of Transportation determines a percentage under paragraph (1), each amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by such percentage.

"(d) Availability of Amounts Previously Withheld.—If, after an adjustment has been made under subsection (c)(2), the Secretary of Transportation determines that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) is less than the amount previously determined, each amount authorized to be appropriated or available for obligation that was reduced under subsection (c)(2) shall be increased, by an equal percentage, to the extent the Secretary of Transportation determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) (but not by more than the amount of the reduction). The Secretary of Transportation shall apportion amounts made available for apportionment by reason of the preceding sentence. Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence.

"(e) Definitions.—For purposes of this section—

"(1) Unfunded aviation authorizations.—The term 'unfunded aviation authorizations' means, at any time, the excesses (if any) of—

"(A) the total amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund which has not been appropriated or obligated, over

"(B) the amount available in the Airport and Airway Trust Fund at such time to make such appropriation or to liquidate such obligations (after all other unliquidated obligations at such time which are payable from the Airport and Airway Trust Fund have been liquidated).

"(2) Net aviation receipts.—The term 'net aviation receipts' means, with respect to any period, the excess of—

"(A) the receipts (including interest) of the Airport and Airway Trust Fund during such period, over

"(B) the amounts to be transferred during such period from such Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than paragraph (1) thereof).

"(f) Reports.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary of Transportation to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.".

(c) Conforming Amendments and Limitations to the Budget Process.—

(1) Exemption from sequestration order.—Section 255(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905; 99 Stat. 1083) is amended by inserting after the 1st undesignated paragraph (relating to activities resulting from private donations) the following new undesignated paragraph:

"Airport and Airway Trust Fund (69-8106-0-7-402; 69-8107-0-7-402; 69-8108-0-7-402; 69-8104-0-7-402);".

(2) Treatment of trust fund receipts for deficit calculation purposes.—Section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the second sentence the following new sentence: "In calculating the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and in calculating the excess deficit for purposes of sections 251 and 252 of such Act of 1985 for any fiscal year, the receipts of the Airport and Airway Trust Fund allocable to the transportation-related operations of such Trust Fund for such fiscal year shall be included in total revenues for such fiscal year, and the disbursements allocable to the transportation—related operations of such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year. For purposes of the preceding sentence, the receipts and disbursements allocable to the transportation-related operations of such Trust Fund are the disbursement, and the receipts allocable to such disbursements, under paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from the Airport and Airway Trust Fund for the airport and airway program).".

(3) Limitations on congressional budget process.—Section 310 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following new subsection:

(h) Limitation on Changes to the Airport and Airway Trust Fund.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider—

"(1) any concurrent resolution on the budget for any fiscal year, or any amendment thereto or conference report theeon, that assumes or contains in the aggregate totals or functional categories provided for by section 301(a) any amount of budget authority or budget outlays from the Airport and Airway Trust Fund,

"(2) any concurrent resolution on the budget for any fiscal year, or any amendment thereto or conference report thereon, that contains reconciliation instructions with respect to the Airport and Airway Trust Fund, or

"(3) any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 301 or 304, or a resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, or any amendment thereto or conference report thereon, that contains recommendations with respect to the Airport and Airway Trust Fund.".

(4) Conforming enforcement procedures.—Sections 301(c), 302(f), 303(a), 311(a), and 402 of the Congressional Budget and Impoundment Control Act of 1974 shall not apply to any bill, resolution, or amendment (including a conference report thereon) which provides budget authority, contract authority, or budget outlays from the Airport and Airway Trust Fund.

(d) Applicability.—Subsections (a), (b), and (c) and the amendments made by such subsections shall apply to fiscal years beginning after September 30, 1987.

Conform the table of contents of the bill accordingly.

Mr. HOWARD [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. Howard] will be recognized for 30 minutes and the gentleman from South Carolina [Mr. Derrick] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Howard].

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman, the American people pay taxes to maintain our roads and our bridges and our airports. They do so every time they buy a gallon of gas or an airline ticket.

Congress has promised the taxpayers of our country that this money would be used solely for those purposes. Thus, Congress takes the taxes so collected and places them into trust funds. These funds can be used by law only for the purposes for which the tax was collected.

Mr. Chairman, I stand today supporting the amendment offered by the gentleman from New Jersey [Mr. Howard] to move the aviation trust fund off the unified Federal budget. I do so because by leaving it on that budget it will be left there at the mercy of Gramm-Rudman manipulation.

The American people pay a tax. They do not like it, but they pay that tax. Congress has made political commitments that that money would be used for those purposes. So I think it is time today that Congress honors that commitment.

The American people have paid the tab, and too often we forget that around here. Every trust fund we have should be moved off that unified Federal budget, and I think we start here today.

I am asking every Member to look at this very carefully, to vote today and send a message that we will take this trust fund off the budget, and we will do that in the future with our highway trust fund and every trust fund that we have.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I think this debate has been trivialized if we think it is simply a clash between committees. It is not just the Public Works and Transportation Committee versus the Appropriations Committee or the Budget Committee or anything else. That might have been the case a few years ago before Gramm-Rudman came along, but now it is a different situation.

We are talking about an imminent sequestration that all of us know may well be coming down the pike because this President seems to think that it is impossible to increase taxes during his term in office. What we are doing here today, therefore, is voting on whether or not we are going to take $1.5 billion more in cuts in programs across the board. It is all well and good, and we all like to pour concrete, and we hate this fight. It is all well and good to tell people outside here who are in the building trades or some other element of the airline industry that we are going to do what is right for them given the problems that our airlines and our airports have these days. But what about the other people who really are part and parcel of this debate who are not here? What about those who care about AIDS research, or programs for childen or toxic waste cleanup or all of the other things that we have cutting back reluctantly and will be cutting back across the board in this meat ax approach that Gramm-Rudman brings? Those people have to be part of this debate too.

So I have one message that I really want to give my colleagues today, and that is that this is our first test in the aftermath of the adoption of the fix of Gramm-Rudman. If my colleagues really are serious about making across-the-board cuts, if they really do not think we can be selective, then we begin the process today if we exempt this trust fund of making if difficult for everybody else.

There are some 100 other trust funds that could follow this precedent. That is 20 percent of our budget. Are we going to take that off budget? I hope we will think of all of the other people who are part of this debate and vote down this amendment.

Mr. HOWARD. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the full Committee on Public Works and Transportation.

□ 1500

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in very strong support for this amendment to take the aviation trust fund off-budget. This action would have far-reaching implications for our Nation's airport and airway system. Growing concern over the system's deterioration demands that we act without any further delay. We simply cannot continue with business as usual where our Federal aviation program is concerned.

The current airport chaos, flight delays, and uncertainty about safety in the skies are really unnecessary. We have a trust fund already in place that was created specifically to address these concerns.

Unfortunately, this deficit-free, self-supporting trust fund is not being used fully because the practice to this point has been to use the fund's surplus to make the Federal deficit look smaller than it is in fact.

The current policy completely ignores the fact that the traveling public has paid for a great deal of air safety they are not getting. Safety—that is what this issue is all about.

People in and out of the Halls of Congress are beginning to wonder why air travel is becoming such a hassle and a hazard when the airport and airway trust fund is running a balance of almost $5.7 billion—money that could go a long way toward addressing many of the problems that exist today.

Those of us who support this amendment want to see that money used. That is why we want to remove the airport and airway trust fund from the constraints of the Unified Budget, Gramm-Rudman, and sequestration. Until we do this, the growing balances in the trust fund will continue to be held hostage to the problem of general fund deficits.

Some may tell you that we are spending all we can on aviation improvements. But this is not true. Billions of dollars worth of airport improvements have been identified. Yet over the past 5 years actual funding for airport improvements has fallen $459 million below authorized levels. If the trust fund remains on-budget, this underfunding can be expected to continue while congestion and delays will get worse and surplus will continue to grow.

It is time to restore trust to the trust fund and put those trust fund dollars to work for an air system that badly needs some work. When we do this—when we stop breaking faith with air travelers and stop insulting the integrity of the budget process—then we can begin to put an end to the delays, the chaos, and the safety risks that are making our skies a lot less friendly than we would like them to be.

Therefore, if you want to do something to improve service, reduce delays, and enhance safety, I urge you to support this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MACKAY], for purposes of debate only.

Mr. MACKAY. Mr. Chairman, I have been part of a bipartisan group for the past 3 years that has been trying to enforce the budget act. I am looking on both sides of the aisle now because there are Members on both sides who have been supportive of this. Most recently this group attempted to bring about credit reform. We found ourselves fighting the Appropriations Committee. In fact, we have found ourselves fighting the Appropriations Committee on a number of occasions. I have the feeling now and it is a fairly sad feeling that we are seriously considering moving in the wrong direction.

And for those of us who are not members of Public Works and who are not familiar with airport matters, I hope you will look at this very closely as a question of budget policy. This is a step in the wrong direction. The Committee on Appropriations is right on this. Fiscal policy should be looked at as a whole. It does not make sense to have part of it on-budget and part of it off-budget. If we are going to continue this battle for budget reform and for serious fiscal policy in both parties, then we have got to see this issue in terms of whether it helps or hurts or strengthen the budget process and strengthen fiscal policy.

And I can tell you this would be a major step in the wrong direction. I hope those 80 percent of this House who are not on either of those committees, who have not fought this issue out in the trenches, will take a look at the implications of this in terms of the big picture.

I strongly oppose this amendment and I urge those who care about fiscal policy to stay with the Appropriations Committee.

Mr. Chairman, I yield back the balance of my time.

Mr. HOWARD. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, this bill authorizes $28 billion over 5 years to keep our skies safe. That is double what we authorized over the past 5 years. This money really does not go for concrete; the money goes for safety. Yes, we have a crisis in the budget but we also have a crisis in our skies. The issue is will we spend the money that our constituents pay every time they fly to keep the skies safe, to modernize the system and to prevent midair collisions? I believe that adopting the Howard amendment will move us in that direction.

In my view, this is an amendment on air safety and I hope my colleagues will support the Howard amendment.

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I would like to state my strong opposition to this amendment which removes the airport and airway trust fund from the unified budget and sequestration under Gramm-Rudman.

It is important that the Congress and the administration have the opportunity to consider all expenditures and receipts of the Federal Government in determining the budget policy, including those related to this trust fund. Off-budget activities of the Federal Government do not receive the same level of budget review as on-budget activities.

This amendment exempts the trust fund from sequestration under Gramm-Rudman. Only 60 percent of the Federal Aviation Administration budget currently is derived from the airport trust fund—the remainder is financed out of general funds. Removing the trust fund from the budget and Gramm-Rudman sequestration means the remaining 40 percent of the FAA budget must take additional cuts. That 40 percent covers the spending most directly related to safety: Salaries for controllers, inspectors, and equipment maintenance personnel.

In the event of sequestration, an exemption of these funds would also increase the hit on other nondefense programs such as Head Start, social services block grant, and drug and law enforcement activities.

It would also establish a precedent for taking other programs off-budget such as the highway trust fund and exempting more programs from sequestration. On Tuesday of this week, the President signed into law a revitalized Gramm-Rudman law. We should not take any steps today to further amend Gramm-Rudman and undercut the political pressure needed to achieve $23 billion of deficit reduction instead of sequestration.

The simple fact is that taking the airport trust fund off-budget will increase the budget deficit by $1.8 billion in fiscal year 1988, $6.4 billion over the next 3 fiscal years.

However, removing these funds from the budget will not necessarily increase spending from them. Expenditures from the funds will still be subject to the appropriations process.

In addition to all my previous points, I believe the Committee on Ways and Means' tax title is designed to solve the "surplus" problem since airway taxes will automatically be lowered if the trust fund balance exceeds $2 billion and funds in the trust fund are not spent.

I urge all of my colleagues to reject the amendment.

Mr. HOWARD. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, it is time for truth in taxing. I want to give what might appear to be a convoluted theory here and I know I am at risk in doing so, but I will do it anyway.

The theory is that the American people do not mind paying taxes if they are convinced—and that is an important if—if they are convinced that the revenue raised is being used prudently for a worthy purpose.

The American traveling public pays 8-percent tax on all airline tickets. That money goes into a fund which is accumulating at a $3.1 billion rate per year. It is dedicated, it cannot be used to house anybody or to feed anybody or for any other purpose. It can only be used for its intended purpose, to make our Nation's air system safer and more efficient.

What more can we ask for at this time in our history?

We are hearing daily from all our constituents.

Let us do it. It is time for truth in taxing.

I urge adoption of the Howard amendment.

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I rise in strong opposition to this amendment. Let me just make three very important points. First is technical problems; it is technical problems, not funding, that is holding up the modernization program of the FAA.

Let me quote from our hearings. The distinguished chairman of our subcommittee, the gentleman from Florida [Mr. LEHMAN], asked the representatives of the General Accounting Office: "Your recent report on the NAS plan indicates that there have been considerable slippages in all of the major systems. What, in your view, are the major reasons for these delays and has the lack of funding been a cause for these delays? My interpretation of your remark was that lack of funding was not the cause."

The GAO through Mr. MCCLURE stated, "That is correct." At a hearing about a month ago FAA agreed with us. There has been no particular instance they can point to where funding has been the major problem that has caused delay.

In program after program, GAO stated the reasons for delay: technical problems, contract delays, slippage problems, not lack of funding.

To take the trust fund off budget will not solve the problems because they are technical problems.

Second, it is community opposition, not lack of funding that is holding up airport construction. We cannot build airports. We cannot get communities to agree to have airports. We have environmental problems; we have congestion; we have noise.

Taking the trust fund off budget will not build more airports.

Third, taking the trust fund off budget will hurt, not help, air safety. If you have a sequestration and you have this off budget, you will be cutting funding for air traffic controllers and for inspectors. Let us make it very clear: The major funding for the operations of the FAA come not from the trust fund but from the General Treasury.

If you force sequestration in that area or have budgetary considerations that cause cuts in that area, you will be hurting air safety.

Taking the trust fund off budget will not help the airlines meet their schedules, it will not help you get your baggage, it will not spend the funds more quickly.

What taking the trust fund off budget will do is to hurt air safety.

Mr. HOWARD. Mr. Chairman, I yield 1 minute to a member of our committee, the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, why did Congress tax airline passengers, establish a trust fund and then somewhere along the line later on decide not to use that money?

If we do not take the aviation trust fund off budget that is what we will be doing, breaking faith with airline travelers. People of this country agreed to be taxed when they get on board an airplane everytime they buy a ticket, for the specific purpose of making their travel safe and efficient and dependable.

That is the purpose of the aviation trust fund. If you do not use the money you have broken faith with the taxpayers and with the law that we passed to set the tax up in the first place and establish the trust fund to assure the continuity of funding. If the argument prevails that sequestration will be shoved off onto other functions of the budget because we have taken the aviation trust fund off budget, then why is not the Social Security trust fund subject to sequestration? Why are not a number of other trust funds subject to sequestration? Because we removed some of those from the ambit of sequestration. The argument is empty.

Vote to take the trust fund off budget.

□ 1515

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Chairman, I would make the point that a vote to take the trust fund off budget is a vote to hurt air traffic safety. The point has already been made, 70 percent of the operations of the FAA come out of the general fund. That is the air traffic controllers, that is all of the flight service, which my colleagues have been standing up and talking about, and we have people who are complaining in the airframe and powerplant area that they cannot get certification rapidly enough of modern new equipment.

All of that is done by people whose salaries come out of the general fund, not out of the trust fund.

The effect really here is that, if you take this trust fund off budget, you will not allow us to score that as we appropriate more money, and we have increased the FAA operating about 30 percent, we have appropriated $2.3 billion out of the trust fund that remains down at FAA unobligated.

The problem is not at the appropriation level. The problem is not our uninterest in spending this money to keep faith with the American taxpayers, as the previous speaker has alluded to. The problem is down the street. There are mismanagements, the FAA took on a $12 billion modernization plan that they were ill-equipped to take on. They have missed every deadline, every target.

The General Accounting Office points out that they are behind in 11 out of 11 programs.

So we have still appropriated money faster than they have been able to spend it. What this all really amounts to is that we are all angry at lost bags, we are all angry at misconnections, we are all terrified of airline crashes, but instead of getting on with fixing the problem, we want to go kick the dog. It is somewhat like being mad at your spouse and wanting to go kick the dog.

In this case the dog is the Appropriations Committee that has to deliver the bad news that a vote for the Howard amendment is a vote to cut air traffic controller salaries, inspector salaries, and positions, and maintenance. These are the things that are day-to-day safety in this aviation environment.

I say to my colleagues please do not vote to make the skies less safe than they are already.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, we are going to probably hear about two letters during this debate, one from the Department of Transportation, one from the Office of Management and Budget, perpetrating the myth that taking these trust funds off budget will increase the deficit, and will do some violence, grievous violence to the unified budget and therefore should be rejected.

We ought to find out which position these two departments basically are taking. In the case of the Department of Transportation, they object to this at the same time the Secretary has been going around the country attacking us in the Congress for failing to spend the surplus in the trust fund. So there is a real inconsistency here.

In the second place, with regard to the Director of OMB, Mr. James C. Miller's objection, earlier this year in a hearing before the Subcommittee on Investigations and Oversight in response to questions from our colleague, the gentleman from Georgia [Mr. GINGRICH], Mr. Miller took exactly the opposite position with respect to the trust fund. He was asked by the gentleman from Georgia [Mr. GINGRICH]:

> First of all it does not matter if the trust fund is off budget or on budget?
>
> Mr. Miller. "Yes."

The gentleman from Georgia [Mr. GINGRICH] said:

> I better write that down because I want to come back to that. I want to know, is that a correct quote?
>
> Mr. Miller. "Right."

Further on, the gentleman from Georgia [Mr. GINGRICH] said:

> Before you go on and complicate it on technicalities, are you going to withdraw your previous statement that it does not matter about the trust fund?

Mr. Miller's answer:

> No, I was saying it does not matter with respect to the deficit. It would not have mattered whether the airport and airways trust funds were on budget or off budget.

So here we have two positions totally contradictory with what we are hearing today.

Mr. Chairman, the argument that taking it off budget is going to do damage to the orderly budget process is nonsense. In this case, our budget process is a shambles already. Today is the first day of the fiscal year, and we have yet to appropriate any money for any purpose.

Mr. Chairman, I urge an "aye" vote for the Howard amendment.

Mr. DERRICK. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Chairman, I rise in strong opposition to this amendment that proposes to remove the airport and airway trust fund from the budget and Gramm-Rudman sequestration processes.

The Committee on Government Operations has jurisdiction over the Budget and Accounting Act as well as parts of the Congressional Budget Act. In chairing this committee it has become very clear that fragmenting the Federal budget process by removing accounts from the budget will make even more difficult the already arduous task of gaining some control over Federal budget issues. Removing the airport trust fund from the budget process would be a major defeat for the effort to bring all accounts into the process so that the President and the Congress will have more control over the entire Federal budget.

In addition, exempting the airport trust fund from the Gramm-Rudman sequestration will have significant budget impacts. Exempting this program from sequestration will increase the cuts experienced by all remaining sequestrable programs in the event a sequester occurs.

While proponents of this amendment argue that the dollar impact of removing the airport trust fund from the sequestration process will be minute, to do so will set a very dangerous precedent for similar trust funds. According to the General Accounting Office, there are over 100 other similarly situated trust funds which account for close to 20 percent of on-budget outlays. Should these funds be granted the same treatment as is proposed for the airport trust fund, the impact on other sequestrable programs as well as the budget process could be enormous.

In closing, I would like to remind you that just a few days ago we approved the work of the conference on the debt limit bill. A major part of this conference involved budget reform issues. After much discussion, it was agreed that matters of budget reform would be pursued but with great care so as to not create more problems than they purportedly solved. In the aftermath of this carefully crafted agreement on budget reform, it would be a travesty to approve this amendment as our first act of reforming the Federal budget process.

Mr. Chairman, I yield back the balance of my time.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BOSCO], a member of the committee.

Mr. BOSCO. Mr. Chairman, one of the amusing things about the Congress is that we never agree on the facts. One can only imagine that if we could agree on the facts, what arguments we would still have on the politics, but we never even agree on the facts. There are a few facts though that I would want to state today that are uncontroverted.

One is that we have heard that there are over 100 trust funds, and that this is the same as all of them. That is not true. There are three trust funds that are completely separate and apart from the general fund that receive no general fund revenues, and this is one of them.

Second, the second fact is our airports in this country are a shambles. I would like to have the name of any Member of Congress that would argue with that, and in just a few minutes we are going to those airports, and I ask my colleagues to take a close look around and see if there is any debate concerning that statement.

Third, in 1970 we made a promise with the American people. We said that we will repair those airports, we will get the equipment we need, we will build the runways, we will set up a completely separate fund not of the general fund, but a separate fund. We said to them, give us your tax money for that fund and we will spend it.

Now our colleagues are here saying, what about education, what about defense, what about AIDS?

Mr. Chairman, we have not set up trust funds for those items. In fact, I would like to posit this thought with you. What if we did set up a trust fund, for instance, to eliminate AIDS and we know how dearly every one of us would want to do that. What if we set, for instance, a very small surcharge on pharmaceuticals that every time someone bought a bottle of aspirin or drugs, that that money would go into a special trust fund for research on AIDS? It might actually be a good idea, it might help solve the problem, but what if we did not spend that money in research on AIDS? I wonder if my colleagues can imagine the outrage there would be in this country.

That is exactly what we are doing with the airport trust fund, and I say today let us pass this amendment and get on with building our country's airports.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise to oppose this amendment. Under the Gramm-Rudman-Hollings budget process we are forced to face up to some tough budget choices because if we fail to do that, we are faced with automatic cuts across the board. That should result in both Congress and the President getting their heads together in order to avoid those automatic cuts by coming up with some kind of a budget compromise that will help us to reduce this deficit.

Unfortunately, Gramm-Rudman-Hollings already exempts too much from that process. We do not need to exempt more. Spreading the pain around to as many programs as possible is the best way to assure that all of us get into the act in terms of working out a deal with the administration that will avoid the automatic cutting process.

It will force us to set priorities, to pick and choose, and to work out a compromise. This is not an aviation or safety issue, it is a budget issue.

Mr. Chairman, I urge rejection of the amendment.

Mr. HOWARD. Mr. Chairman, I yield 1½ minutes to the gentleman from Nebraska [Mr. DAUB], a member of the Committee on Ways and Means.

Mr. DAUB. Mr. Chairman, I applaud the esteemed chairman of the Committee on Public Works and Transportation for taking this initiative to remove the airport and airways trust fund from the Federal budget. In removing the trust fund from the budget, a victory with respect to making sense of the budget process will be achieved. For once, taxes collected from aviation users for the purposes of updating and improving airports will be reserved for that use.

The revenue title contained within title II of this bill ensures that those excise taxes that finance the trust fund will be spent on the air safety programs. By adding a trigger mechanism to encourage expenditures on these programs, the mission of the trust fund is properly recognized.

I authored the trigger tax mechanism in the Committee on Ways and Means. That was not authored to suggest that the trust fund, therefore, should be retained within the unified budget. Truth in budgeting requires us in addition to the support of the trigger tax, to put this trust fund off budget.

Mr. Chairman, there is no assurance from here to conference that we will maintain the ability to utilize that trigger tax to force the spending of the passenger tax, the fuel aviation tax, the cargo tax, all to be spent as they should. Let us unmask the improper spending in the general sections of our revenue effort around here and let us put the trust fund off line and be assured at the same time that we have a trigger tax to force that spending.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. ROWLAND], a member of the committee.

Mr. ROWLAND of Georgia. Mr. Chairman, I think it is important for Members of this House to understand how this trust fund is used and how it works. I think that that is very important. The money comes into this trust fund comes from dedicated revenues. That money comes from aviation and it is only to be used for airports and airways.

However, that is not what happens.

There is a surplus now in that fund, and under the law government securities have to be purchased with that surplus. Over $5 billion at this point has been spent in that fashion. The money from that goes into the general fund, and then it can be used anywhere. It can be used for AIDS, it can be used for welfare, it can be used for education. That is what Members are saying. Actually it is only a paper exchange, but if it is a real exchange, remember this, that that money has to be used from the general fund to repurchase those securities. So you are really nowhere. You have not gained anything at all.

This is a cockeyed way to try to balance this budget. People are scurrying around all over the place to try to find money to balance the budget under our present budgetary constraints. That is not the way to do it. It is sleight of hand, legerdemain, and it is just fooling everyone.

□ 1530

Mr. Chairman, that is not the way to do it. We need to balance this budget by being realistic.

I urge support of this amendment. Let us get that trust fund out of the unified budget.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong opposition to this amendment, which would remove the airport and airway trust fund from the unified budget.

In my opinion, this amendment is simply a bad idea.

First, taking the trust fund off-budget would hinder congressional oversight of a major Federal program. Since these transportation programs are authorized on a multiyear basis, Congress would not be required to review these programs for as long as 5 years.

I believe, as many of our constituents do, that annual controls are necessary for Congress to review Government spending and set priorities.

Second, taking the aviation trust fund off-budget would increase the congressional budget deficit in fiscal year 1988 by $1.5 billion, assuming enactment of House-passed transportation appropriations.

If automatic reductions are triggered under the Gramm-Rudman law, exempting aviation programs from Gramm-Rudman would require other programs, such as education, health care, and agriculture, to take additional automatic reductions in fiscal year 1988—or would require an increase in taxes of the same amount.

In fact, trust funds already receive favored status under Gramm-Rudman. When an automatic cut is made in general-funded programs, that spending authority is permanently cancelled; when an automatic cut is made in trust fund accounts, spending is merely deferred. The unspent revenues remain in the fund to be spent in future years, and the funds earn interest until they are spent.

Third, increased spending will not improve airline service as long as airlines schedule more flights per hour than airports can handle. The problems facing today's consumers who fly—lost bags, cancellations and late flights, and overbookings—won't be solved by more Federal spending, but by better airline management.

I urge a vote against this amendment.

Mr. HOWARD. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. GINGRICH], the ranking member of the Subcommittee on Aviation.

Mr. GINGRICH. Mr. Chairman, I thank the gentleman for yielding me this time.

I was fascinated earlier when one of the Members said, and I quote, "Spreading the pain around requires that we keep the trust fund on budget."

Let me suggest, first of all, to all of the Members that when the Members leave here this afternoon, and you encounter the first pain of the delays, the confusion getting home, the absence of the computers due to breakdowns at National, as you leave but do not leave, and you sit for an hour waiting for the computer to go back up, that the pain will have been spread.

Do we really seriously want to make a fiscal bookkeeping argument that in order to spread fiscal pain, we are going to run safety risks, maximize delays, avoid buying new computers, minimize new radars and not do the things necessary for safety, necessary for a well-developed air transport system?

Is the kind of pain you want to spread the next airplane crash, the next 100,000 people who are trapped? I do not think so, and I think it is irrational to suggest that in order to have good bookkeeping over here, we are not going to spend money over here that was gathered for only one purpose.

The gentleman from the Committee on Appropriations want to have it both ways. On the one hand, they will say to the Members, we are spending every dime we can spend on aviation; on the other hand, but by the way, if we take this off budget, there are a lot of other things over here we are going to have to start cutting. They cannot have it both ways.

The truth is, and if the Members listen to the Committee on Appropriations carefully, they will fess up, and they have not been spending all of the trust fund they could have spent for a safe and well-developed infrastructure, because they have been trying to meet budget requirements by avoiding expenditures which they then use to lower the paper deficit.

Just yesterday in an absolutely mindless bookkeeping fight between the Committee on the Budget of the House and the Budget Committee of the other body, it was decided that the other body cannot count $240 million as income they had thought they could count.

Just yesterday we were informed that aviation spending by the Senate appropriations will be lower than anticipated because of the overall budget.

I think the choice is simple. If the Members want to continue the delays, vote no. If the Members want to run the safety risks, vote no.

If the Members want to take tax money away for the purpose of a trust fund but not use it for that purpose, and instead over here use it to cover up the deficit, vote no; but if the Members want to spend the money honestly for the purpose for which it was raised, if the Members want to buy the new computers, new radars, and build the new airports, then the Members have to vote yes, because this is the key decisive vote.

Mr. DERRICK. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding me this time.

All I can say in response to the last speech is malarkey.

Yes, air service is a mess. Some people suggest that the way to deal with that mess is to take the FAA off budget. Why? Because, it is a trust fund.

That argument would be valid if the trust fund paid for all of the costs of air service in this country, but it does not.

The fact is that 40 percent of the cost of air service in this country, 40 percent of the FAA budget, is not paid for out of that trust fund.

It is paid for by the general taxpayer out of general fund revenues, so I have a suggestion to people who are in support of the Howard amendment.

If you really want to level with the taxpayer, do not support the Howard amendment. If you really want to level with the taxpayer, bring in an amendment to require that all of the costs of FAA be paid for out of that trust fund. Then your amendment is an honest one. Then your amendment is correct on policy, and then I will vote for it, but not until, because unless you do that, you are peddling a half-truth on this floor, and a half-truth to the taxpayer, and unless you do that, what you are really doing is setting a lousy budget precedent, because you are giving an excuse to other Members to come onto this floor and say, take off from out of Gramm-Rudman AIDS, take off from out of Gramm-Rudman whatever is your pleasure.

The Members cannot vote for Gramm-Rudman one week and then pass this amendment the next without walking both sides of the street.

If the Members want to correct air service, I would suggest to the Members that it is a dumb way to do it, to pass this amendment, because what the Members are doing is then requiring further cuts in the general fund which pays for air traffic controllers, and which pays for air safety inspectors. That is not safety, that is stupid.

Mr. HOWARD. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to bring two perspectives to this debate. One is characteristic perhaps of the perspective that I have, and other Members have not had who have spoken, being a commercial pilot, and a pilot for well over 30 years, and also being a freshman.

Insofar as being a pilot is concerned, I recognize firsthand peddling around up there in those obscure clouds, that we are now operating with over 200 million more people that are now flying since deregulation in 1978 with fewer controllers.

I have been up there in this general area talking to a controller, having him handle me between the airplanes with some 20 and 25 other planes that one individual is handling.

These are very qualified, competent individuals; but they cannot handle a system where they are supposed to double the number of people they are handling and yet with fewer controllers.

Their dedication can only go so far.

Second, the fact that that money is coming from those individuals who are paying for that expanded airspace makes it immoral not to spend it, and to spend it as soon as possible.

Third, being a freshman, I know whatever we have been doing has not worked. Let us try something else.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to this amendment. First of all, let me say that there has been a discussion on one side that one side is for air traffic safety, and that the other side is not, and the opposite argument has been made. That is not true obviously.

The proponents of this amendment are for air traffic safety, and the opponents of this amendment are for air traffic safety. However, those Members who have spoken to the fiscal planning of this institution and how we ought to manage the money, and what in fact in terms of a macroeconomic impact on the budget and expenditures on the deficit, and the reason presumably that OMB and others in the administration are opposed to this amendment are valid, in my opinion, so it is not a question of traffic safety or commitment of this body or individual Members to safety.

It is how we ought to plan our expenditures. It is what pressures we will place on alternative expenditures if this amendment passes; and for those reasons, I would hope that we would defeat this amendment.

Mr. HOWARD. Mr. Chairman, I yield 3 minutes to the gentleman from

California [Mr. MINETA], the chairman of our Subcommittee on Aviation.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the amendment.

Taking the trust fund off-budget is one of the most important steps we can take toward improving the safety and efficiency of our Air Transportation System. At the same time, taking the trust fund off-budget will not add to the basic budget deficit and will not interfere with the jurisdiction of other committees.

Over the past 5 years, more than $2 billion of trust fund money which was authorized for needed airport and airway improvement was not appropriated. The amounts not appropriated include $460 million for airport development and $1.6 billion for facilities and equipment, the program under which FAA plans to modernize the Air Traffic Control System and replace the antiquated vacuum tube technology with up-to-date computers and radars. The failure to appropriate funds for capital development also resulted in a shortfall of more than $3 billion of authorized spending from the trust fund for FAA operations.

It has been suggested that the failure to appropriate capital development funds was due to the fact that FAA could not spend them even if they were appropriated. I strongly disagree. There was no excuse for not spending $460 million for airport development. There are always a large number of airport development projects ready to go forward and these projects do not depend on any technological innovations.

I further believe that most of the $1.6 billion shortfall in facilities and equipment spending was due to budgetary pressures rather than technical problems. A good example is the Terminal Doppler Radar Program. In the fiscal year 1988 budget, the FAA proposed making a contract award in fiscal 1988, but because of budget pressures the House Appropriations Committee cut $120 million from the program, deferring the contract awards until fiscal year 1989 at the earliest.

A similar delay because of budgetary pressures took place in 1985 when the Office of Management and Budget ordered a stop in the Terminal Doppler Radar Program for a study of whether off-the-shelf technology could meet the objectives of the program. The study concluded to no one's surprise that off-the-shelf technology was not sufficient. In my opinion, the study was conducted simply to delay the program and save some money in the budget. We find similar delays in other FAA programs.

Inclusion of the trust fund in the budget gives strong incentives to delay programs and reduce spending. When the trust fund operates at a surplus in a given year, that surplus reduces the deficit in the general budget. The opportunity to use the trust fund to reduce the overall deficit creates strong and enticing incentives to spend less than is authorized or needed. Taking the trust fund out of the budget will remove the incentives.

In reality the trust fund is not a part of our deficit problem since the trust fund is fully supported by taxes paid by aviation users. The money in the trust fund cannot be spent for other purposes, so in reality building a surplus in the trust fund does not help reduce the deficit in the rest of the budget.

Finally, Mr. Chairman, I would point out that the off-budget amendment would not limit the jurisdiction of the Appropriations Committee. The Appropriations Committee would still oversee the FAA's Facilities and Equipment Program and annual appropriations would still be required for this program. The Appropriations Committee would still have the authority to impose obligation ceilings on the Airport Improvement Program. The only change which taking the trust fund off-budget would make, would be to remove the incentive to spend less than airline passengers are contributing to reduce the deficit in the rest of the budget.

Mr. Chairman, I believe that the amendment now before us is the single most important step we can take to improve airline service and ensure the safety of air transportation. I urge support of this amendment.

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GRAY], the distinguished chairman of the Committee on the Budget.

Mr. GRAY of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong opposition to this amendment. I know the proponents of this amendment have an argument that sounds very good, particularly when most of the Members in this Chamber fly around the Nation. It sounds good to you out there on television, air safety, particularly when you have heard so much about midair collisions and also about crashes.

Let me tell the Members something. What we are doing here today has nothing to do with any of that. Let us answer some questions factually and get rid of the emotion.

No. 1, why do we have a surplus? A surplus in the trust fund is there because the money has not been spent. Is it because Congress has not appropriated the money? Of course not. In fact, under the House-passed budget resolution and also the House-passed appropriation, there was an increase in funding of 63 percent for airport construction, 35 percent for improving facilities, 27 percent for operations to hire more controllers, and 9 percent for increased research and engineering activities.

□ 1545

So it is not because Congress is not providing the money. The reason is, and most of us know it, because of the delays over at the other end of Washington where you have got over in the executive branch the inability to deal with the technical delays in modernization.

Second, we have some very interesting quirks in our authorization laws that provide penalties and restrictions. For instance, take the Doppler Radar System. Well, if it is not ready and you do not buy it, you cannot get it out of the trust fund; but then we have a restriction that says you cannot therefore use the trust fund money for operations; so we have a catch-22. So the surplus is there and everybody who says there is a surplus is right.

This Congressman would like to see it spent. Lord knows I would like to see it spent, but it is not because of the fact that it is on-budget or off-budget. That is not the reason.

So when you vote today, do not think you are going to increase spending on safety and control and operations by moving it on- or off-budget. That is not the issue.

Second, we have heard a great hue and cry here about budget and budget pressures, the evil budget. Let me tell you something. I remember so many of the people who used to come down in the well, just the other day, talking about the need for deficit reduction. Now they say, "Don't worry about those things. Don't worry about it." Even though yesterday the President signed a Gramm-Rudman fix.

Well, I cannot help but notice the tremendous inconsistency in what this House did yesterday.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. DERRICK. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. GRAY of Pennsylvania. I cannot help but notice a tremendous inconsistency in what this House did yesterday and the tremendous inconsistency on what happened July 13 this year when many of the same Members came down here and argued for a 2-percent cut across-the-board in transportation which would have eliminated 500 FAA personnel.

Now they are saying air safety, we cannot do anything about that, we have got to move the trust fund over.

I simply say, we know what the real issue here is. It has nothing to do with air safety. It has to do with jurisdiction, folks. America, what you have got is a fight going here between committees of Congress over jurisdiction.

Second, you have got some good pork in the bill and that makes a lot of folks take sides, based on what goodies they are going to get.

The real issue here is whether or not you believe that the trust fund ought to be on- or off-budget. It has nothing to do with safety.

I would simply urge you all to recognize what the issue is. Take it off. I will just have to find $1.5 billion somewhere else to reduce in order to meet the goal.

Mr. DERRICK. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. CONTE] for purposes of debate only.

Mr. CONTE. Mr. Chairman, I rise in strong opposition to this amendment that would take the aviation trust fund off budget and have the effect of exempting certain aviation programs from any possible Gramm-Rudman-Hollings sequester. This amendment will not achieve its advertised purpose, and it would actually damage the safe operation of our air traffic control system.

Mr. Chairman, if anyone voted against the rule on this bill yesterday because they thought this amendment has anything to do with air safety or airline delays and service, they were seriously mistaken. This amendment is not about air safety—it is about special interests, plain and simple. It would take one single group of programs and give them a special priority above every other Federal program except Social Security.

By taking these aviation programs off budget, and exempting them from the kind of across-the-board cuts that Gramm-Rudman-Hollings may eventually require, we are not only penalizing every other Federal program, but most significantly penalizing the general revenue funds used for the actual operation of the air traffic control system. This amendment puts at risk the salaries of controllers, safety inspectors, and other safety-related personnel who may have to be laid off under this Howard amendment.

We are all concerned about the delays in purchasing critical safety equipment for the air traffic control system. But the problems there are technical—according to the General Accounting Office, the radars and computers just are not ready yet. In fact, over $1 billion in previously appropriated funds are currently sitting in the trust fund because the equipment is not ready. As I said, the problem is technological, not monetary. And this amendment will not get a nickel spent any faster.

We all agree that the trust fund should be spent for its intended purpose, and in fact it is. But the problem of the accumulated trust fund surplus will not be solved by this Howard amendment. The solution is already in this bill—the trigger in the title reported from the Ways and Means Committee. If the surplus builds up, the tax will be reduced. That is the way to address this problem, not through some accounting gimmick in the Howard amendment.

Mr. Chairman, I do not see how my colleagues can go back home and tell their constituents that they have preserved the aviation trust fund at the expense of national defense, Coast Guard, education, health care, job training, law enforcement, drug interdiction, and even highway safety. How can they go back and explain that this amendment, which will not even improve air safety, is more important than elderly housing, veterans' pensions, and the cleanup of toxic wastes?

Mr. Chairman, as I said yesterday, if this amendment is adopted the President's advisers will recommend a veto of this measure. Given the controversy on this issue, I doubt that the votes are there to override such a veto.

Mr. Chairman, the critical programs in this measure expired at midnight last night. Let's not delay them further. Let's not get bogged down in a fight with the President.

Let's defeat the Howard amendment, adopt the bill, and get on with the improvement of our Nation's airports and airway system.

Mr. Chairman, do I look suicidal? Does anybody on the Appropriations Committee look suicidal? That is what the gentleman from New Jersey [Mr. HOWARD] is implying by saying that we do not want to spend the money in the trust fund. Of course we want to spend the money. We are for air safety, too.

Mr. Chairman, as I said yesterday, the gentleman from New Jersey [Mr. HOWARD] is a great friend of mine. But this is simply a power grab by the Public Works Committee. Defeat the Howard amendment.

Mr. Chairman, I include the following letter from James C. Miller, Director of the Office of Management and Budget:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 28, 1987.

Hon. SILVIO O. CONTE,
House of Representatives, Washington, DC.

DEAR SIL: I must advise you in your position as ranking minority member of the Appropriations Committee of the Administration's strong opposition to removing the Airport and Airway Trust Fund from budget totals and statutory budget limitations. Should such legislation be presented to the President, the President's senior advisors would recommend that he veto the bill.

User fee financing of the trust fund does not justify off-budget status. Congress and the President have an obligation to account to the public for the economic consequences of all Government receipts and spending, regardless of their source. Comprehensive budget coverage openly shows the public precisely how much the Government is spending, collecting, and borrowing. It also helps the Executive and Legislative branches make informed choices regarding public spending.

Removing the aviation trust fund from the unified budget would be unlikely to accomplish significant gains for aviation interests. The unobligated balance in the fund has not accumulated because of a desire to hold back funding for aviation. Rather, the unobligated balance in the trust fund is the consequence of congressional "penalty provisions" in the Airport and Airways Improvement Act of 1982. These provisions have resulted in $3.2 billion of Federal Aviation Administration (FAA) Operations costs being spent out of general fund revenues, rather than from the trust fund as authorized. The way to reduce the trust fund balance is to eliminate the penalty provisions, not to take the trust fund off-budget.

Further, the Federal deficit is not reduced by the cash balances in the trust fund at the end of the year. The deficit is simply the difference between total spending and receipts in that year, excluding intergovernmental transactions. In fact, Federal outlays for aviation actually contributed to the deficit in the 1982-1987 period, because outlays for aviation programs are projected to exceed user fee receipts by $10.3 billion.

Continued budgetary control of the trust fund is critical to sound fiscal management. If the fund were specifically exempted from Gramm-Rudman-Hollings requirements and the Congressional Budget Act, trust fund authorizations and appropriations would be enacted without regard for budget resolution or deficit reduction targets. For this to occur, the remaining domestic programs, including that portion of aviation and other transportation programs funded out of the general fund, would be required to bear additional reductions. Not only would this create pressure for more programs to be granted exemptions, but it could cause serious problems in meeting transportation priorities, such as maintaining a fully operational and safe air traffic control system, since Congress has insisted on funding most FAA Operations from the general fund.

In summary, the Administration strongly supports a complete, unified budget subject to statutory budget controls. Given that programs should be user-financed wherever appropriate, self-financed programs are growing in number. They do not deserve special treatment, but, instead, should be included in the overall budget, since only a comprehensive, unified budget defines the entire scope of Government activity and spending, assures effective use of all public resources, and contributes to a single national economic policy.

Priority spending needs can be met without taking the trust fund off-budget. The President proposed a 20 percent increase—$1 billion—in FAA's budget from 1987 to 1988. These critical spending needs can be met without abandoning budgetary discipline if Congress acts responsibly.

The Administration strongly objects to moving the aviation trust fund off-budget and urges the Congress not to enact any legislation that would do so. If such legislation were passed, the President's senior advisors would recommend that he veto the bill.

Sincerely yours,

JAMES C. MILLER III,
Director.

PARLIAMENTARY INQUIRY

Mr. HOWARD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOWARD. Mr. Chairman, if the gentleman was stating something about suicide and the Appropriations Committee, that was not in the amendment offered to be voted on, I believe, is that correct?

The CHAIRMAN. The gentleman has not stated a parliamentary inquiry.

Mr. HOWARD. Mr. Chairman, I yield 4 minutes to a member of our committee, the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, make no mistake about it, the crucial vote is here right now on whether you want to improve the aviation mess facing our country, and indeed it is a mess. There were 417,644 delays last year, not counting mechanical delays; over 1,000 delays, 1,000 flights delayed every day in the skies above our country.

Near misses have increased by 70 percent, 834 near misses last year, more than 2 near misses in the skies above our country every day out of the year.

Complaints: complaints from your constituents have increased by 300 percent.

Now, when your constituents ask you, "Congressman, what are you doing about the mess in aviation?" If you are satisfied with the status quo, if you are satisfied with these delays and the way things are going along, then I suppose you can feel comfortable in saying, "Well, nothing. Things are going to get better. We are proceeding down the same path."

But if you are like many of us and if you feel we have got to do something to improve the situation, now you have that opportunity today to vote for this amendment to free the aviation trust fund for all the reasons which have already been given here, to free the aviation trust fund so you can tell your constituents, "I voted to free up that money so we can address the terrible problems facing us in aviation today."

Two years ago, Mr. Chairman, in August of 1985, a Delta plane crashed in a thunderstorm down at Dallas. One hundred and thirty-three Americans were killed, many of them from Florida where the plane originated. We were told in testimony that that crash, that fatal crash, could have been avoided had Dallas Airport had a doppler radar system.

We asked, "Why didn't they have a doppler radar system?"

And we were told, "Because they didn't have the funds to move the research and development along."

The doppler radar system was not ready; but that is not the worst of it. Get this.

Today, 1987, we are told that the doppler radar system this year is ready. And do you know, it is still not funded in the appropriations this year. Why is it not funded? Because the money is not there.

The answer is to free the aviation trust fund, to stop playing with American lives in the sky.

Indeed, we had the Science and Technology Committee before us here to say just a few hours ago that the Air Mexico crash out in California might have been avoided had we had the more modern equipment, had we had the funding for research and development.

So let us not turn our backs on the needs. Let us provide this funding. There is a solution and the solution is to send that surplus that is in the aviation trust fund. The solution is to embrace honesty in budgeting so we can provide the modernized equipment, so we can provide the runways and the gates.

Mr. Chairman, I urge support for the Howard amendment.

Mr. ANDERSON. Mr. Chairman, I rise today recognizing this body's important budgetary concerns, but in firm support of the amendment being offered by our esteemed colleague, Mr. HOWARD. The budget deficit is of great concern to all of us. However, to keep the aviation trust fund on budget does not bring us any closer to dealing with this tremendous problem. Rather, keeping the trust fund on budget only puts off the hard decisions we must make concerning the budget by allowing the deficit figure to look better than it really is. This is deceiving to the Congress and to the American people.

We cannot continue to keep these much needed funds away from the public as a concession to Federal bookkeeping. The American people have invested billions of dollars for safety and service. In return they see delays, lost baggage and safety controversy—as well as a trust fund surplus of $5.6 billion. The FAA needs these funds to give the American people what they have paid for. Quite simply, the use of the aviation system is growing at a far faster rate than Congress has appropriated funds to expand and modernize the system. Past experience has shown that the only way to insure that the people will get what they deserve—the most efficient and safe aviation system possible—is to take this trust fund off budget.

I urge my colleagues to recognize the needs of this country's aviation system, and resist the temptation to use this trust fund as a superficial deficit reduction tool by voting for this most important amendment.

Mr. BORSKI. Mr. Chairman, I favor taking the aviation trust fund off budget.

Since the airport improvement program was last reauthorized in 1982, the aviation trust fund has grown to the point where it has a surplus of over $5 billion. That is the money left over after spending over a billion dollars a year on airport programs. The fund has taken in much more than it has spent on aviation activities.

We all know that the money in the trust fund cannot be used for any other Government programs. The taxes are collected from airport users and can only be used for airport programs.

But instead of cutting taxes on airport users, or spending more money on much-needed airport improvements, the administration and the Congress have used the surplus to hide the budget deficit. When you have a $5 billion surplus in the airport trust fund, it hides $5 billion worth of deficit somewhere else in the budget. So there is an incentive to run up a big surplus in the trust fund and not spend money on aviation programs, because it masks the deficit.

I favor removing the aviation trust fund from the budget. If the fund is removed from the unified budget, then the Congress and the administration will no longer have this incentive to reduce spending on aviation programs. The trust fund was established to fund airport safety and capacity improvements, and that's what it should be used for. I urge my colleagues to vote for the amendment.

Mr. MCEWEN. Mr. Chairman, I am most pleased to join my colleagues on the Public Works Committee as we finally address the very vital issue of the aviation trust fund and the unified budget process.

As the sponsor of legislation in the 99th and 100th Congresses which would remove the three 100-percent user financed infrastructure trust funds from misleading budget practices, H.R. 372, you may be assured that I am a strong supporter of this amendment.

Allow me to quote, please from the 1985 Off-Budget Report language:

> • • • inclusion of the Airport and Airway Trust Funds in the general budget process has prevented the Trust Fund from functioning as intended and has led to the users contributing far more in taxes than has been spent for development of the airport and airway systems. If we are to continue to realize the benefits of the Trust Fund, this situation must be charged.

Mr. Chairman, we finally have an opportunity to put our money where our mouth is. Let us make certain we can say, honestly, to the American public that we are truly doing everything within our power to improve and enhance airline safety and airline travel. Let us further tell them, honestly, that we are treating their user fees—paid with the purchase of each and every airline ticket—fairly and in the case of the aviation trust fund, for their intended purpose.

I look forward to the overwhelming support of my colleagues on this important amendment.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of the time.

Mr. Chairman, I have before me a letter dated today, addressed to the minority leader, from the Administrator of the Federal Aviation Administration, in which he says:

> Taken together, there are three things that will severely undermine my ability to operate the FAA.

The first one is:

> Excluding Trust Fund expenditures from the budget will force future Budget and Appropriations Committees to assign future across-the-board cuts or other fiscal restraints to other domestic programs, includ-

ing air traffic controller salaries and other transportation programs.

Now, that is the Administrator of the FAA speaking.

And aside from that, to really think that we are here talking about taking something else off budget is just mind boggling, because if we do this, what are we going to do when the retirement system comes to you and wants to go off budget at $24 billion?

What are you going to do when the military retirement comes and wants to go off budget at $18 billion?

What are you going to do when health insurance at $76 billion comes; unemployment at $22 billion; the highway trust fund, the railroad retirement trust fund and the foreign military sales come on? They do not have any more right to be off budget than we do.

Please vote to defeat this amendment for fiscal sanity, if for nothing else.

Mr. HOWARD. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I wish to thank all my colleagues for the debate that we have had this afternoon.

First, in order to clarify a few things that were said recently, we just heard from the gentleman from South Carolina talking about the head of the FAA saying he opposes taking this off budget, using this $5.6 billion.

Well, we all know for the last 2 months in trying to defend her record as far as aviation and aviation safety is going, the Secretary of Transportation who left office yesterday was going around this country blaming us in the Congress for not releasing that $5.6 billion so that she could do more for safety.

□ 1600

Now today the FAA says they do not want it to be taken off the budget.

We have one other thing here which was mentioned before, that Mr. Miller, the head of the Office of OMB, has said that if we take this off budget they would recommend a veto. This is the very same Mr. Miller who testified recently before our committee, and the gentleman from Pnnnsylvania [Mr. Clinger] referred to it, and said taking this off budget makes no difference this year whatever, within the budget or with the deficit. So I think we can take these two arguments and put them aside.

We have heard some scare tactics here. Somehow or other if this trust fund, that cannot be used for other purposes and is already paid comes off budget, when they get to Gramm-Rudman and when they get to sequestration, that will hurt all kinds of programs, domestic programs that people need. If sequestration, according to CBO, and we asked them what would happen with sequestration, and they said it would be less than one-tenth of 1 percent nondefense programs, exempting many programs, exempting Social Security and the safety net. There are 192 programs exempt from sequestration, and those are the programs for the poor, the programs for women, the programs for children, the health programs.

So it is not true at all that those programs can in any way suffer from sequestration if we take this off budget. All of the money, including the $5.6 billion, is authorized in this bill before us today, and we still stayed within the budget limitations for transportation. So that is in the authorization. We have no fear that we are going overboard in this at all.

All of this money they are talking about that they say incorrectly could be used for other programs, it would not even be here if it were not collected under law by the users of the aviation system and the people who pay 8 percent of their tickets into the trust fund which we collect only for the purpose of improving aviation.

This vote very simply is going to be a simple vote where we are going to determine whether we are going to have less congestion in our airways, whether we are going to be able to have state of the art air traffic control, whether we can have better weather warning for our passengers, more research on safety, more user funds for air traffic controllers.

Would it not be wonderful if we can do that? Is the money there? Yes, it is there. It has been paid by the users. May it be used for other purposes in the Government? No, it may not.

So we are either going to vote yes for safety and honesty in budgeting and keeping our word with the people, or we are going to vote no and say we are satisfied with what is going on in the air system, we do not mind paying money for one purpose and having it used on paper maybe for some other purpose.

Let us be honest in the budgeting and let us get to the work for which we collected the money: Improving air efficiency and air safety by voting yes on this amendment.

I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. Howard].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HOWARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 202, not voting 35, as follows:

[Roll No. 344]

AYES—197

Alexander
Anderson
Applegate
Archer
Armey
Badham
Ballenger
Barnard
Bartlett
Barton
Bennett
Bentley
Berman
Bilbray
Bliley
Boehlert
Bonker
Borski
Bosco
Boxer
Broomfield
Brown (CA)
Brown (CO)
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Chandler
Chapman
Clinger
Coats
Coble
Coelho
Coleman (MO)
Collins
Combest
Courter
Craig
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeFazio
DeWine
Dickinson
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Dymally
Eckart
Emerson
Evans
Fawell
Feighan
Fields
Florio
Gallegly
Gallo
Gaydos
Gekas
Gilman
Gingrich
Glickman
Gordon
Grant
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Henry
Herger
Hertel
Hochbrueckner
Holloway
Hopkins
Howard
Hubbard
Hughes
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Johnson (CT)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kleczka
Kolter
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lukens, Donald
Marlenee
Martin (NY)
Mavroules
McCandless
McCollum
McCurdy
McGrath
Miller (WA)
Mineta
Moorhead
Morrison (WA)
Murphy
Nelson
Nowak
Oakar
Oberstar
Packard
Pashayan
Pelosi
Pepper
Perkins
Petri
Pickett
Quillen
Rahall
Ravenel
Ray
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roth
Rowland (CT)
Rowland (GA)
Savage
Saxton
Schneider
Schroeder
Schuette
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Solomon
Staggers
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Torres
Torricelli
Towns
Traficant
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Weldon
Whittaker
Wise
Wortley
Wyden
Wylie
Yatron
Young (AK)

NOES—202

Ackerman
Akaka
Andrews
Annunzio
Anthony
Aspin
AuCoin
Baker
Bates
Beilenson
Bereuter
Boggs
Bonior (MI)
Boucher
Boulter
Brennan
Brooks
Bruce
Bryant
Buechner
Burton
Carper
Carr
Chappell
Cheney
Clarke
Clay
Coleman (TX)
Conte
Cooper
Coughlin
Coyne
Crane
Crockett
Davis (MI)
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Downey
Durbin
Dwyer
Dyson
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Fascell
Fazio
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gejdenson
Gibbons
Gonzalez
Goodling
Gradison
Grandy
Gray (PA)
Green

Gregg
Hamilton
Hansen
Hawkins
Hefley
Hefner
Hiler
Horton
Houghton
Hoyer
Huckaby
Hunter
Hutto
Jenkins
Johnson (SD)
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Konnyu
Kostmayer
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martinez
Matsui
Mazzoli
McCloskey
McDade
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nielson
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Parris
Patterson
Pease
Penny
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rangel
Regula
Richardson
Rogers
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Saiki
Sawyer
Schaefer
Scheuer
Schulze
Schumer
Sensenbrenner
Sharp
Skeen
Skelton
Slattery
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Robert (NH)
Snowe
Solarz
Spratt
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Thomas (CA)
Thomas (GA)
Traxler
Udall
Vento
Walker
Watkins
Waxman
Weber
Wheat
Whitten
Wilson
Wolf
Wolpe
Yates
Young (FL)

NOT VOTING—35

Atkins
Bateman
Bevill
Biaggi
Bilirakis
Boland
Boner (TN)
Conyers
Dowdy
Early
Frank
Garcia
Gephardt
Gray (IL)
Hayes (LA)
Kemp
Latta
Lewis (CA)
Lewis (GA)
Livingston
Lott
McEwen
McHugh
Mica
Molinari
Nichols
Ortiz
Oxley
Roemer
Spence
St Germain
Synar
Tauzin
Weiss
Williams

□ 1615

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Illinois for, with Mr. Weiss against.

Mr. Lewis of Georgia for, with Mr. Mica against.

Mr. Bilirakis for, with Mr. Lewis of California against.

Mr. McEwen for, with Mr. Oxley against.

Mr. WILSON changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to the rule, no further amendments are in order.

The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of Union, reported that that Committee, having had under consideration the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, pursuant to House Resolution 278, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 396, nays 0, not voting 38, as follows:

[Roll No. 345]

YEAS—396

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bliley
Boehlert
Boggs
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—38

Atkins
Bevill
Biaggi
Bilirakis
Boland
Boner (TN)
Bonior (MI)
Conyers
Cooper
Daniel
Dowdy
Early
Frank
Garcia
Gephardt
Gray (IL)
Hayes (LA)
Kemp
Latta
Lewis (CA)
Lewis (GA)
Livingston
Lott
Lukens, Donald
McEwen
McHugh
Mica
Molinari
Nichols
Ortiz
Oxley
Roemer
Smith (FL)
Spence
St Germain
Synar
Tauzin
Weiss

□ 1630

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2310, AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

Mr. MINETA. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 2310, the Clerk be authorized to correct section numbers, punctuation, and cross references and make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2310, the bill just passed.

The SPEAKER pro tempore (Mr. CARPER). Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2897, FEDERAL TRADE COMMISSION ACT AMENDMENTS OF 1987

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 100-327) on the resolution (H. Res. 279) providing for the consideration of the bill (H.R. 2897) to amend the Federal Trade Commission Act to extend the authorization of appropriations in such act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for the balance of the week and his projections for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, this concludes the program for today, and the House will not be in session tomorrow, so the work for the week has been concluded.

We will be in session on Monday at noon to consider the Consent Calendar and 13 bills under suspension of the rules, as follows:

H.R. 3226, to allow travel expenses for certain participants in the White House Conference for a Drug Free America;

H.R. 3307, Sentencing Guidelines Transition Act of 1987;

H.R. 3258, to impose criminal penalties for damage to religious property;

H. Res. 274, to provide for the release of certain materials relating to the inquiry into the conduct of U.S. District Judge Hastings;

H.R. 3051, Airline Passenger Protection Act of 1987;

H.R. 2325, Big Bend National Park addition;

H.R. 2416, Jimmy Carter National Historic Site and Preservation District;

H.R. 1548, California Military Lands Withdrawal Act of 1987;

H.R. 2486, to add certain lands to wilderness areas in Texas;

H.R. 2652, to revise the boundaries of Salem Maritime National Historic Site;

H.R. 1567, to agree to Senate amendments to the Cow Creek Band of Umpqua Indians Judgment Distribution Act;

H.R. 2631, U.S. Mint authorization; and

H.R. 3391, to prohibit importation of all Iranian products into the United States.

On Tuesday, October 6, the House will meet at noon to consider the Private Calendar, and H.R. 3030, the Agricultural Credit Act of 1987, to complete consideration, following which recorded votes, if ordered on suspensions postponed from Monday, October 5, will be considered.

On Wednesday and Thursday, October 7 and 8, the House will meet at 10 a.m. and consider H.R. 2897, the Federal Trade Commission authorization, with an open rule, and 2 hours of debate; and H.R. 2961, the Federal Communications Commission authorization, subject to a rule.

On Friday, October 9, the House will not be in session.

This announcement is made subject to the usual reservations of conference reports may be brought up at any time. Any further program will be announced later.

I might say that there is a possibility of some additional legislation on the Iran trade issue.

□ 1645

Mr. MICHEL. Did I hear the gentleman say that the rollcalls that would be rolled over from Monday would be following any consideration of the Agricultural Credit Act?

Mr. FOLEY. That is correct. There will be no rollcall votes other than procedural votes.

Mr. MICHEL. Is the gentleman sure that that credit act, that we will be able to consider that at that time?

Mr. FOLEY. That is our understanding, that it will be available for consideration on Tuesday.

Mr. MICHEL. That is the portion that was reported out of the Committee on Energy and Commerce, is that correct?

Mr. MADIGAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding to me.

On the point the gentleman has just raised with the distinguished majority leader, I understand that the Committee on Energy and Commerce subcommittee has had a hearing on this bill.

The full committee has not yet done anything, and there is no markup of the bill that has yet been announced or scheduled by the full Committee on Energy and Commerce.

The bill is also referred to the Committee on Banking, Finance and Urban Affairs, and I am not aware of them having completed their consideration of the bill.

Mr. FOLEY. Mr. Speaker, will the gentleman yield further?

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for again yielding.

I am told that there is some effort to hope that the bill could come up, and that a compromise amendment could be offered by the chairman of the Committee on Agriculture under the rule.

Mr. MICHEL. Is the gentleman aware of anything in that area?

Mr. MADIGAN. If the gentleman will yield further, the subcommittee of the full Committee on Energy and Commerce had a hearing on the bill today, but no action has been scheduled in the full committee.

If there is some agreement pending, the minority on the Committee on Energy and Commerce and the minority on the Committee on Agriculture are not aware of it.

Mr. FOLEY. All I can tell the gentleman from Illinois is our checking with the committees, we understood the bill will be ready for Tuesday.

If it is not, we will have to make an announcement later.

Mr. MICHEL. In any event, there would be rollcalls from the Suspension Calendar from Monday.

I would assume that in the event we cannot take up that measure, that there will be rollcalls then Tuesday from the suspensions carried over from Monday, or would the program be trashed for Tuesday?

Mr. FOLEY. There will be a Tuesday schedule in addition to the votes on any suspensions ordered on Tuesday, even if we are not able to bring up the Agricultural Credit Act which we had planned to bring up and still plan to bring up, but I might say that there is no formal referral to the Committee on Energy and Commerce.

It is an understanding that those committees would be able to consider the legislation informally, and that we would work out some adjustment on the floor to the concerns that they had, so I am not sure that technical reporting of the bill is required.

We intend to consult further with the committees. Obviously the intention of the postponement of consideration of title III was to try and reach any accommodation that could be made between the differing jurisdictions and their concerns; but again the formality of the report from the committee with the usual 3-day layover is not required, since the bill has never been formally recommitted to either the Committee on Banking, Finance and Urban Affairs or the Committee on Energy and Commerce.

Mr. MADIGAN. Mr. Speaker, will the gentleman yield briefly?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding to me.

I take this opportunity to call to the attention of the distinguished majority leader that there are issues outstanding on title IV of that bill that also have not yet been resolved, and there is no language agreed to on title IV of H.R. 3030.

Mr. FOLEY. The gentleman from Illinois is one of the most distinguished Members of the House, and one of the few Members who serves on both the Committee on Energy and Commerce and the Committee on Agriculture; and if there is a way to accommodate these differences, I know the gentleman will attempt to do so.

Our object is to try to smooth the passage of this bill and to make it possible to consider it without a long and difficult floor consideration.

At the present time, I am not able to give any assurance that we are planning, other than H.R. 3030 on Tuesday, and I hope we can work out whatever differences there are between now and then to allow for an expeditious consideration of the bill.

Mr. MICHEL. Might I inquire of the distinguished majority leader whether there is any possibility of the Independent Counsel Act legislation being brought up next week?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding to me.

There is some possibility that it could be brought up as early as next week, but I think it is more likely to be brought up the week after.

If there is some possibility of next week, I would like to put the distinguished Republican leader on notice that we might make an announcement about consideration later in the week next week.

At the present time I would think it more likely to come up the week after.

Mr. MICHEL. And then one final question, since the following Monday is Monday, October 12, Columbus Day, has that been determined?

Mr. FOLEY. That day the House will not be in session.

I can assure the gentleman that both Friday tomorrow, Friday next week, and the following Monday, there will be no votes, and Members can plan their schedules accordingly.

ADJOURNMENT TO MONDAY, OCTOBER 5, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. STAGGERS). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M. FRIDAY, OCTOBER 2, 1987, TO FILE SUNDRY REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m. Friday, October 2, 1987, to file three reports. The ranking minority member concurs in this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SUPPORT FOR COMPLETION OF COLORADO RIVER STORAGE PROJECT

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute.)

Mr. OWENS of Utah. Mr. Speaker, today I join with all my Utah colleagues in both the House and Senate to introduce a bill of major importance to the West and to Utah in particular: a bill which will authorize the completion of all the major construction components of the Colorado River storage project.

The Bonneville unit is the last of the major elements in this project, and the one which will supply water to Salt Lake County, whose residents have been paying taxes for over 20 years to build other units of the central Utah project.

Much damage has been inflicted on the mountains and streams of Utah over the 30 years of construction of the central Utah project. Authorized funds have been spent mostly on construction, very, very little on replacing the wildlife habitat and mountain streams that have been destroyed. That legal obligation must now be fulfilled, as we move to complete construction. That is the purpose of this legislation.

Salt Lake County has already overbuilt its water supply and needs this water now. The last major water supply for this area came with the Deer Creek project, which was built between 1938 and 1941. Most of that water was subscribed for by seven cities in Salt Lake County and six cities in Utah County. None was subscribed for by Salt Lake County itself.

The population of Salt Lake County in 1940 was only 212,000. Today, that number now approaches 700,000 for an increase of over 300 percent. By the year 2000 it is projected to be 912,000. Over the next 25 years, Salt Lake County is projected to increase by 425,000. This growth will require an additional 140,000 acre-feet of water for municipal and industrial uses. Only 70,000 acre-feet of this water, or about one-half of what will be needed, will be supplied by the Bonneville unit.

During the past several years there have been accepted a number of proposed changes resulting from a comprehensive review of the project. These changes include:

First, agreements to guarantee instream flows along the feeder streams in the Uintah basin, a key objective of environmental groups;

Second, abandonment of the large pump-back storage power project at Diamond Fork;

Third, modification of the Jordan Aqueduct to reduce cost and impacts on private property; and

Fourth, other changes to downscale the project to its essential features.

Another significant improvement, made through the hard work and diligent efforts of those involved with the project, particularly the management of the Central Utah Water Conservancy District and the Utah congressional delegation, is the enactment of restrictions on the Bureau of Reclamation's funding to limit administrative "overhead." This will maximize the projects construction activities.

The most important function of the bill that we are introducing today is to bring the fish and wildlife mitigation and recreation, so-called section 8 spending, back in line with the cost of the project. Because the efforts to complete the construction features of the project, wildlife and recreation mitigation spending has lagged behind, the logic being, I suppose, that we would catch up on this later. This is not, in my opinion, the ideal way to manage the mitigation aspects of the project, leaving the majority of them until the end. But the fact of the matter is that approximately one-third of the funds authorized in this bill will go toward section 8, and that these funds are necessary to complete the environmental and recreation mitigation required by Congress. I am committed to see that the environmental concerns that Congress has had from the beginning be addressed, and that the project live up to its obligations to protect the environment where possible, and to mitigate its effects when those effects are unavoidable. This bill is necessary to see that this is done.

I support and endorse completion of the project and urge the Congress to consider the needs of the people of my district in its approval of this measure.

THE PLIGHT OF FOUR SOVIET REFUSENIKS

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HORTON. Mr. Speaker, earlier this afternoon, several constituents of mine from the Rochester, NY, area were standing before the Soviet Embassy here in Washington. They were there in an effort to publicize the plight of four Soviet refuseniks who have been trying for years to leave the Soviet Union and to join their families in the United States and Israel.

These refuseniks, all Jewish, have been denied their rights under the Helsinki accords to be united with their families. Today, 2 days before Yom Kippur—the most holy of the Jewish holidays—my constituents stand together to remember their Soviet friends and urge their prompt release.

Mr. Speaker, we have all heard, time and time again, the now-famous Russian word of "glasnost," so frequently used by Mr. Gorbachev. That word, and the policy of openness, should be applauded by all as an excellent step in the right direction for improved relations between our two countries. But, Mr. Speaker, "glasnost" is just another word if the deeds do not follow.

We have heard about some of the most famous dissidents and refuseniks being released and allowed to emigrate from the Soviet Union. These acts of good faith by the Soviet leaders are not forgotten. But one of my constituents, who last month spoke with Andrei Sakharov in the Soviet Union, noted that of the 25 imprisoned dissidents he spoke of, only 4 or 5 had actually been addressed.

I join my constituents who have traveled this great distance to ask Mr. Gorbachev to allow these four refuseniks to join their families, and I say to the Soviet leader: "Your words are encouraging. Your deeds are what is important."

Two of the people involved in this—Rabbi Judea Miller and Sandy Gradinger—were in the Soviet Union last month, for several weeks. They met with a number of dissidents and refuseniks, including Mr. Sakharov. Some of the details of that trip are included in an article which will follow this statement.

The event today has strong support from numerous organizations around the country, including: Union of Councils of Soviet Jewry in Boston, Washington and Long Island, the National Conference of Soviet Jewry; the Rochester Board of Rabbis; the Jewish Federation of Rochester and of South Broward, FL; the Temple Youth Groups of Rochester; as well as many others.

I congratulate my constituents from Rochester—Mr. Gradinger, Rabbi Miller, Boris, and Helen Zapesochny, and others, and wish them the best in their efforts. I commend to my colleagues an article that recently appeared in the Rochester Democrat and Chronicle written by Rabbi Miller following his trip to the Soviet Union.

Mr. Speaker, the article referred to earlier follows:

IT TAKES COURAGE FOR RUSSIAN JEWS TO BECOME "REFUSENIKS"

(By Judea M. Miller)

They will be gathering today from all corners of the Soviet Union, Jewish Refuseniks will travel in groups of two and three to Babi Yar, a ravine in a suburb of Kiev.

It was there on Sept. 29, 1942, that the Nazis herded 100,000 Jews. During the next three days they were machinegunned and their bodies thrown into the ravine that became a mass grave.

Soviet authorities have resisted acknowledging the site with a Jewish memorial. The composer, Dimitri Shostakovich, tried to memorialize the massacre in his 13th symphony; but authorities found it faulty on "ideological grounds."

Yavgeni Yevtushenko wrote a stirring poem about Babi Yar. It was denounced for "overconcern with Jews, for singling out Jews as particular victims of Nazi genocide policy, and for slandering the Soviet people."

At last, after years of protest, there is a monument at Babi Yar. But it has no mention of Jews, even though the overwhelming majority of victims murdered there were Jews.

When I visited Russia earlier this month, I learned from Jews who had lived in Kiev, that a reason Soviet authorities are embarrassed by the Jewish aspect of the Babi Yar massacre is that though it was planned and administered by Germans, local Russian anti-Semites had collaborated in carrying it out.

Refuseniks are Jews who have applied for exit visas to leave the Soviet Union in accordance with international agreements signed by the Soviet government at Helsinki in 1975. They have been refused permission to leave.

But for asking to leave, most have had to lose their jobs and position, often forfeiting apartments and their children's place in schools.

Refused, they languish for years as pariahs, harassed by authorities and shunned by neighbors. It takes courage for a person to risk becoming a "Refusenik."

Refuseniks have in the past tried to observe the anniversary of the massacre at Babi Yar with memorial services. Each time they were beaten and arrested, the wreaths of flowers brought were rolled over and trampled by the police. Will this happen again today?

It is doubtful that newspaper reporters will be at Babi Yar today. But the world must know what is happening there and whether the memorial service is allowed to take place. For this will be a measure of the sincerity of *glasnost*, the supposed opening of Soviet society to intellectual dissent and religious freedom.

I was with refuseniks in Moscow when they were planning the worship service. Each person was himself a tale of courage and faith.

One young refusenik, Aleksey Margarik, had just been released from prison camp where he had served 18 months of a three-year sentence because he dared to teach Hebrew. Another had been arrested for the same illegal activity.

The actual charges were alleged possession of a pistol or drugs or anti-Soviet propaganda, all placed in their homes by the KGB to frame them for arrest. But everyone knew that the actual crime was teaching Hebrew.

I sat for hours speaking with Alexander Kholmiansky and his young wife. He is 37. He is also one of the few truly free people I have ever met. He now fears mothing.

He was threatened with arrest; he has already served two sentences in a Siberian prison. He was threatened with solitary confinement; he was kept in solitary confinement for six months.

He was threatened with reduction of rations; he went on a hunger strike for 208 days, until he was force-fed by prison guards. There is nothing he now fears.

At his last sentencing he made this statement to the court: "This court is not dependent upon justice, but rather upon the fact that I am a Jew, a teacher of the Hebrew language and the Jewish culture," and that I am committed to leaving Russia to go to Israel.

"Still, I must believe the time will come when Jews in the Soviet Union will be free, just as I believe the time will come when I will live as a Jew in Israel."

Kholmiansky and his wife, Anna, and their infant daughter were arrested again last week for daring to protest in Moscow. Their sentence was light. They were detained for the day and fined fifty rubles.

They will be at Babi Yar today. The world must be aware of what is happening today at that ravine in Kiev.

SOVIET COSMONAUT YURIY ROMANENKO BREAKS OWN RECORD

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NELSON of Florida. Mr. Speaker, a space record was broken today. It was broken by a Soviet cosmonaut, Yuriy Romanenko.

Romanenko broke his own space endurance record of 237 days, for today is the 238th day; and we have every reason to believe that the Soviets intend to go on for a total of a long endurance record of 10 months in zero gravity in low Earth orbit.

What this says to us is that this record was previously held from Salud, from their space station Salud No. 7, and they now have a new space station called Mir, the new endurance record, and that crew is up there right now.

We best be upon the plans of putting our space station together and getting it up, planned, delayed as it is, but at least by the mid-1990's.

That zero-gravity environment, Mr. Speaker, is extraordinary for manufacturing new materials and wonderful drugs, and the future of this country, indeed the future of planet Earth.

"THANKS FOR THE MEMORIES," JOHNNY

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BOEHLERT. Mr. Speaker, this evening when that familiar "Heeeere's Johnny" is beamed across America, we all know that will follow: Once more millions of us from coast to coast will be able to sit back, relax and be entertained by the master, Johnny Carson. And if the past 25 years are any indication, we won't be disappointed.

As Steven Stark reported in the New York Times, "this Thursday night, Mr. Carson marks his 25th anniversary as host of the 'Tonight Show,' making him one of television's longest running continuous stars ever. He has gone beyond popular: Most of us have seen him more frequently than almost anyone else in history."

I won't try to match Johnny's genius with words but choose simply to borrow from Bob Hope and say "thanks for the memories." And on behalf of all of us who are so appreciative of his great talent I'll add—keep it up.

I would like to share with my colleagues the Stark people of Johnny Carson which appeared in the Sunday, September 27, New York Times.

The article referred to follows:

[From the New York Times, Sept. 27, 1987]

HEEEERE'S JOHNNY—WHOEVER HE IS

(By Steven Stark)

In the age of television, nothing lasts, much less forever. Today's Oliver Norths are tomorrow's Charles Van Dorens. Bill Cosby is considered irreplaceable, but so were Milton Berle and "Laugh-In." We now know that even "great communicators" can get overexposed if they try the same routine too often.

Yet Johnny Carson, often hailed as an embodiment of the conventional, has defied the conventional wisdom. This Thursday night, Mr. Carson marks his 25th anniversary as host of the "Tonight Show," making him one of television's longest-running continuous stars ever. He has gone beyond popular: More of us have seen him more frequently than almost anyone else in history. For more than 5,000 nights, we have watched the same imaginary golf swings, the same references to his alimony, the same pets from the San Diego Zoo and the same jokes about Ed McMahon's drinking or Doc Severinsen's clothes. And we keep on watching, eight million a night. "By now, people consider Johnny a regular part of the family," said his executive producer of 17 years Fred de Cordova.

Yet despite constant exposure on a medium thought to reveal the deepest intimacies of character, Mr. Carson remains remarkably impenetrable. "He's been able to present to the camera this unshakable facade, this indestructible presence," said Mark Crispin Miller, who heads the film studies program at Johns Hopkins University.

"It's his elusivity that keeps him fresh," said Jimmie Reeves, an assistant professor of communications at the University of Michigan. "We can put ourselves into him. He's familiar enough to be recognizable yet unique enough to be interesting. There's more to Johnny Carson than meets the eye."

In far less time than 25 years, we became familiar with Jack Paar's temper, Howard Cosell's assertiveness and Joan Rivers' abrasiveness. If we have imagined inviting Barbara Walters, Bill Cosby or even Ronald Reagan into our homes, television has already disclosed how they might act and what they might say. But Mr. Carson? Aside from a few chosen facts—the long vacations, the frequent divorces, the love of tennis, the Nebraska boyhood—we have little sense of the man. In the world of the utterly known, Mr. Carson remains unknowable.

It is a facet of his persona that others have noted. Mr. Carson is rarely photographed and even more infrequently sits for interviews (he only granted one about this anniversary—to his own publicist). The few reporters who get through usually come away frustrated. A Playboy magazine interviewer in 1967 described him as "paradoxical"; Rolling Stone, 12 years later, found him "elusive." "Nobody really knows Johnny," an associate was once quoted as saying. "He's sealed as tight as an egg. And the shell is unbreakable."

Even the show defies easy description. It is a talk show with little talk, a variety show without variety, a "live" show taped earlier in the day. Opening every night with an excited "Here's Johnny," an orchestra blast and a host who appears from behind a curtain, the "Tonight Show" promises the old-time glitz of show business. Yet its major attraction lies in its relentlessly upbeat regularity. Looking back over 25 years of Mr. Carson's "Tonight Show," in fact, it is hard to recall many extraordinary moments. Tiny Tim's wedding in 1969? Alex Haley's 1977 presentation of Mr. Carson's genealogical chart? Another appearance by Carl Sagan? Mr. Carson invokes the familiar so repeatedly that his prime-time anniversary shows are often reduced to showing bloopers: When something goes awary on the "Tonight Show," that's news. The show, like its host, is unique in popular culture, memorable yet incapable of being remembered.

Part of the mystery of Mr. Carson derives from his many roles. He is an outstanding stand-up comedian, an improviser and a host who lets others talk while he politely listens. He also plays himself, a somewhat unusual role for a regular television entertainer, though one explored earlier on the medium by George Burns and Jack Benny. (Mr. de Cordova produced their shows too.) After all, when Don Johnson plays Sonny Crockett or Michael J. Fox plays Alex Keaton, it is easy to separate the performer from his role, a fictional composite of the efforts of writers, directors and camera personnel, not to mention the actor.

But when the "Tonight Show's" 100-member staff pushes Mr. Carson forward every night into one of television's last bastions of nonfictional entertainment, who is he? "Himself," said Mr. de Cordova. "George Burns and Jack Benny assumed a facade. Johnny Carson is not a character named Johnny Carson." Yet Mr. Carson reads many of his lines, just like other actors. And it is difficult to judge where reality stops and facade takes over. Does Johnny actually pay all that alimony? Does Ed really drink that much? As David Mark, an assistant professor of American studies at Brandeis University, points out in a forthcoming book on comedy, the stand-up comic traditionally creates a persona, making no distinction between stage and world, teller and tale. Mr. Carson, the one-time host of the quiz show "Who Do You Trust?," seems to profess: "I'm telling you the truth; I am who I am." Is it possible to believe him?

The hour at which Mr. Carson appears also adds to his mystery. "unlike other shows, we tend to watch 'Tonight' in bed, lying down, when we're tired," said Brian Rose, who is director of media studies at Fordham University's Lincoln Center campus and author of a scholarly survey of talk shows. Mr. Carson rarely appears outside that late-night time slot, a time when we drift between wakefulness and sleep. "Television extends the dream world," the anthropologist Edmund Carpenter once said. "Its content is the stuff of dreams and its format is pure dream." Ordinary yet dislocated, relevant yet forgettable, the "Tonight Show" serves as a bridge between the tangible world and the world of our dreams. And at its center stands the ambiguous Mr. Carson, refusing to disclose himself.

He started out as a magician, performing sleights of hand. He is now a magician of persona, performing sleights of mind. Yet Mr. Carson's inscrutability is what has enabled him to survive and prosper. By defying the reductionism that renders all things knowable and ultimately trivial, Mr. Carson has made himself television's only character worth watching night after night. After 25 years we know Johnny Carson like we know ourselves, which is to say, we hardly know him at all.

□ 1700

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3204

Mr. ESPY. Mr. Speaker, I ask unanimous consent to have the name of the gentleman from North Carolina, Mr. DAVID PRICE removed as a cosponsor of H.R. 3204, otherwise known as the Mississippi River National Heritage Corridor Act of 1987. I inadvertantly placed the name of Congressman PRICE on that bill. I apologize to the gentleman and to his staff.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1572

Mr. ESPY. Mr. Speaker, I ask unanimous consent that my own name be removed as a cosponsor of H.R. 1572, the Family Care Act of 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONGRESSMAN MEL LEVINE INTRODUCES H.R. 3393, BANNING ALL IMPORTS INTO UNITED STATES OF PRODUCTS OF IRAN

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, today I have introduced legislation which would ban all imports from Iran to the United States.

I am pleased to be joined in this effort by the chairman of the Foreign Affairs Committee, DANTE FASCELL; the ranking minority member, WILLIAM BROOMFIELD; the chairman and ranking minority member of the Europe and Middle East Subcommittee, LEE HAMILTON and BEN GILMAN, respectively; the chairman of the International Economic Policy and Trade Subcommittee, Mr. BONKER; Mr. ATKINS; Mr. SMITH of Florida; and Mr. BERMAN. I commend my colleagues on the Ways and Means Committee for taking similar action earlier today.

Mr. Speaker, in the last few months, the United States has been actively engaged in an attempt to control the conflict in the Persian Gulf:

We have deployed a naval armada unsurpassed in size since World War II to protect reflagged Kuwaiti ships and to help ensure the free flow of oil;

We have led efforts in the United Nations to press both combatants in the war to accept a U.N.-sponsored cease-fire;

Our naval forces have been forced to attack an Iranian ship laying mines in the shipping lanes of the gulf; and

We have attempted to get our allies to support our efforts in the gulf and to support a total arms embargo on whichever country does not agree to a cease-fire—in this case, Iran.

Our policy and our presence in the gulf are obviously not without risk. This essential point is vividly underscored by the deaths of 37 of our sailors on the U.S.S. *Stark*; by the constant threat of military actions undertaken by Iranian revolutionary guards; by the presence of silkworm missiles along the Strait of Hormuz; and by the maze of mines almost certainly laid down by Iran.

Under these circumstances, when Iran is threatening the lives of our men in the gulf, it is an outrage to learn that the American dollars have been allowed to flow into the Iranian war machine.

How is it possible that an increase in tensions in the gulf over the last several months has actually coincided with a dramatic increase in United States purchases of Iranian oil, to the point that Iran has become the second largest supplier of crude oil to the United States?

Why have we allowed United States trade with Iran, and particularly the purchase by the United States of Iranian oil—which in recent years has averaged more than one-half a billion dollars annually—to enhance so demonstrably Iran's ability to sustain and escalate its war against Iraq, against the United States, against our allies, against the other states in the gulf, and to ignore calls for a cease-fire?

Mr. Speaker, it simply does not make sense. It is time to take a stand. It is time to bring our economic policies in line with our military posture. And it is time to end our inexcusable subsidy of the Iranian war effort.

The bill that we are introducing today accomplishes this goal. It calls for the President, under the authority vested in him by the International Emergency Economic Powers Act, to expand the embargo on trade with Iran to include prohibiting the importation into the United States of all products of Iran. This will effectively cut off the flow of funds from the U.S. Treasury to the Ayatollah's pockets.

Equally as important, the bill directs the President to undertake consultations with the member nations of NATO, the Gulf Coordination Council, and other nations concerning the feasibility of negotiating a multinational agreement to embargo products of Iran. Clearly, only a multilateral approach will have the kind of economic impact on Iran which will force it to ameliorate its conduct in the gulf and to seek a settlement of the gulf war.

I thank my colleagues on the Foreign Affairs Committee for joining me in this effort, and urge the other Members of the House to support this important initiative.

THE MORNING AFTER

(Mr. PANETTA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PANETTA. Mr. Speaker, I would like to share with all Members an excellent article which appears in the October issue of Atlantic Monthly. In "The Morning After" Peter G. Peterson presents a brilliant analysis of where we have been and where we are going in terms of our economic situation. Mr. Peterson provides an exhaustive analysis of our domestic and international economic and budget problems and prescribes a number of bold policy changes for the next 20 years and beyond. This article is an important contribution to the debate over which path the United States must take to ensure our future economic health. I recommend it to all Members.

[From the Atlantic Monthly, October 1987]

THE MORNING AFTER

(By Peter G. Peterson)*

In 1981 Ronald Reagan took the helm of a nation whose economy was reeling, with inflation in double digits, the prime rate hurtling past 20 percent, and the national spirit sagging into bewilderment. Today other countries gaze enviously over an American economic landscape that shows little trace of past convulsions and, indeed, seems to burst with new businesses, new jobs, new Dow Jones records, and a newfound confidence.

Yet, six years after the radical reforms of Reaganomics got under way, Americans are about to wake up to reality: for some time now the foundations of their economic future have been insidiously weakening. This awakening is currently being delayed by the widespread preoccupation with "competitiveness." Under the prodding of a trade balance in manufactured goods that collapsed from a $17 billion surplus in 1980 to a $139 billion deficit in 1986, including the first deficit ever in high-technology goods, and with additional shoves from a shaky dollar, from nervous financial markets, and from stagnating real wages, the so-called competitiveness problem is quickly climbing to the top of America's political agenda.

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*The author wishes to thank Neil Howe, the research director of Americans for Generational Equity for his considerable help in preparing this article.

What does competitiveness mean? In many American households today it means worry about future living standards and about whether one's children, ten to fifteen years into their careers, will be able to outearn their parents. In corporate boardrooms competitiveness means the executive nightmare of seeing Americans gorge themselves on goods from foreign firms.

For many blue-collar workers competitiveness has an even crueler meaning: layoffs and the understandable desire to get even with the anonymous forces behind them. Over the past three years America's import deluge has resulted in pink slips for one to two million domestic manufacturing workers each year. More than a third of them remain indefinitely out of work; more than half the rest have taken pay cuts of 30 to 50 percent in new jobs that cannot make use of their experience. Economists are looking closely at this dislocation for signs of structural disintegration in U.S. communities, and of the decay of skills and habits that once made manufacturing an engine of U.S. a comparative advantage in world trade.

In Washington competitiveness seems to mean both nothing and everything. Some senators advocated a speed limit of sixty-five miles an hour on rural highways as a "competitiveness" measure. House members are justifying yesteryear's jobs bills by renaming them "competitive adjustment programs." And lobbyists are arguing for stricter world cartels on everything from shoes to semiconductors on the ground that such agreements will improve our "competitiveness." After announcing in its 1987 Economic Report of the President that recent U.S. performance in manufacturing has vindicated our competitiveness, the White House has refused to be upstaged on the issue, even going so far as to claim that the Strategic Defense Initiative is "pro-competitive."

Democrats are demanding that the Administration get back America's "rightful share" of jobs and wages through protectionist measures. If imports are cut back, they say, the jobs and income generated by producing for American consumers will be miraculously transferred from foreign to U.S. firms. Get tough on the other guys and our situation will improve—that seems to be the general idea. What all public statements on "getting back" our competitiveness neglect to mention is that Americans will have to give up something to get it back. Over the next few years policymakers will wake up to the true cause of our "competitiveness" predicament: the incalculable damage we have inflicted on our economy in recent years.

An x-ray of the damage would show its antecedents stretching far back in the past, across several Administrations. Our national preference for consumption over investment—the root malady—did not begin with the Reagan Administration. Still, that set of policies loosely known as Reaganomics has certainly worsened the damage. In the finest tradition of Euripidean irony, measures meant to save us have worked in the end to afflict us, so much so that even our nation's non-economic hopes—cultural, social, and strategic—have been clouded by our disastrous fiscal mismanagement. It has been a hard lesson in the law of unintended results.

Intent: From a decade of feeble productivity growth (0.6 percent yearly in the 1970s) and early signs of rising poverty rates, we entered the 1980s flush with expectations of "supply-side" prosperity. Result: we have ended up with still feebler productivity growth (0.4 percent yearly from 1979 to 1986) and, despite a debt-financed rise in personal income, with an upward leap in every measure of overall poverty. More important, we have witnessed a widening split between the elderly, among whom poverty is still declining, and children and young families, among whom poverty rates have exploded—a development with dire implications for our future productivity.

Intent: After a decade of worry about our low level of net private domestic investment (6.9 percent of GNP from 1970 to 1979) and an unsustainable real decline in the construction of public infrastructure, we wanted the 1980s to be a farsighted decade of thrift, healthy balance sheets, and accelerating capital formation. Result: We have ended up with by far the weakest net investment effort in our postwar history (averaging 4.7 percent of GNP from 1980 to 1986) and have acquiesced in the crumbling of our infrastructure. Moreover, far from renewing our saving habits or our balance sheets, or bolstering the "supply side" of our economy, the 1980s have turned out to be the most consumption-biased "demand-side" decade experienced by any major industrial country during the postwar era.

Intent: In 1980 American voters decisively endorsed a smaller and leaner federal government, with special exceptions for defense spending and for poverty-related "safety-net" benefits. Result: we ended up with a significantly higher level of federal spending in 1986 (23.8 percent of GNP) than we had in 1979 (20.5 percent of GNP)—with most of the growth concentrated in precisely what needed to be controlled: interest costs and entitlement benefits unrelated to poverty (or, to put it bluntly, welfare for the middle class and up). Federal interest payments on the national debt, $136 billion in 1986, are now equivalent to the total taxpayer savings originally projected from the 1981 income-tax cut. As for federal benefits doled out regardless of financial need, these have grown from about $200 billion in 1979 to $400 billion in 1986. They totaled $46 billion in 1968.

Intent: Entering the 1980s, we acknowledged that it was bad policy to allow federal outlays to exceed federal revenues (with deficits averaging 1.7 percent of GNP from 1970 to 1979). We promised ourselves to do better. Result: We made the gap between spending and taxes wide beyond precedent (with deficits averaging 4.1 percent of GNP from 1980 to 1986, and rising to 4.9 percent of GNP, or 90 percent of all private-sector net savings, in 1986). Our publicly held federal debt is nearly three times larger now than it was in 1980. The projected deficit numbers have improved somewhat, but the much heralded future declines are premised on very rosy assumptions—no recession, for example, and an interest rate of 4.0 percent.

Intent: Americans voted in 1980 for leadership that emphasized greater global competitiveness and freer world markets as the most advantageous means of achieving balanced economic growth. Result: America's steep decline in savings during the 1980s has precisely reversed our intentions. We were promised a $65 billion trade surplus by 1984; instead we suffered a $123 billion trade deficit. Today, despite four years of extraordinary luck on the energy front, we have managed to twist the global economy into the most lopsided imbalance between saving (foreign) and spending (American) ever witnessed in the industrialized era. In the process—as we all know—we have transformed ourselves from the world's largest creditor into the world's largest debtor. In reaction to this shift the rest was inevitable: a more than tripling (from about five percent to 18 percent) in the share of U.S. imports subject to quotas, a colossal about-face in public opinion away from free trade, and the appearance of the most blatantly protectionist bills before Congress since the days of Senator Reed Smoot and Congressman Willis C. Hawley—despite the President's free-trade convictions.

Intent: America came into the 1980s longing to strengthen its military defenses and to project its power abroad more effectively. Result: We now find that budget deficits and an evaporation of the public's pro-defense consensus are drawing an ever tighter circle around all our strategic options. Not only must we now replay the wasteful 1970s by cutting short production runs on dozens of weapons systems, but once again we are about to demonstrate to the rest of the world that America is incapable of sustainable long-term defense planning.

Intent: More than just a defense build-up, Americans wanted a more assertive, unilateral foreign policy, a way to make ourselves stand tall again in our leadership of the free world. Result: Our fast-growing debt to the other industrial countries has diverted our diplomatic energy into placating foreign central banks with exchange-rate agreements (already by May of this year the interventions to support the dollar amounted to a staggering $70 billion), into jawboning foreign governments to get their people to buy more of our exports, and into pawning off our Third World financial leadership onto more solvent economies. When action requires money, we now scrape our "discretionary" budget to produce the most meager support. We spend virtually nothing to try to avert the growing risk of social, economic, and political chaos right at our doorstep in Mexico. An additional $50 million was nearly considered too much to send to the Philippines after the 1986 democratic election of Cory Aquino. Even the Administration now publicly declares that our "foreign-affairs funding crisis" could mean "the end of U.S. global leadership." Eight years ago no one imagined an austerity-led shift toward U.S. isolationism. Now we're seeing it: an attempt to stand tall on bended knees.

Intent: Going into the 1980s, America's deepest wish was that renewed economic strength might foster a renewed cultural and ideological strength and an ethic of saving, hard work, and productivity. We wanted to replace malaise with a confident sense of forward motion. Result: As the ideological enthusiasm of 1981 has gradually been worn down by economic reality, this wish, too, has foundered, leaving many of our political leaders as defensive and uncertain as those of a decade ago—and almost relieved to have us fixated on public and private scandals.

While many in the Administration believe or act as if there is no problem—and hence no need for a solution—others want to avoid all association with the dreaded next act of the economy. The Democrats' fears show up in a darkly humorous story told by Democratic leaders: On January 20, 1989, after the inauguration, President Reagan flies off to Santa Barbara. While he is in the air, the the stock and bond markets crash, the dollar plunges, and interest rates soar. When Reagan lands in Santa Barbara, he announces to a swarm of reporters, "See, I told you the Democrats would screw up the economy!"

For the time being, the competitiveness issue remains a sort of curtain that Americans have hung between Reaganomics and the future. Neither political party dares to disturb it, for it allows every policy leader to keep our attention fixed on the trivial. For example, we are told to get furious about the trade effects of Japanese "dumping" of semiconductors or enthusiastic about the federal sale of loan assets as a way to plug the budget deficit, even though every expert denies that such things make much difference one way or the other.

The truth is that the most astonishing success of Reaganomics has been the myth of our own invincibility. This myth rests upon an enduring, bipartisan principle of American political life which in the 1980s has become gospel: never admit the possibility of unpleasantness—especially when it appears inevitable.

If you allow for unpleasantness, the mechanics of our trade deficit cease to be confusing. America runs a deficit because it buys more than it produces. By systematically discouraging measures that would boost its anemic net savings rate, the United States has acquired a structural deficit economy, meaning that at no stage of the business cycle can we generate the amount of savings necessary for minimally adequate investment. In 1986, in fact, nearly two thirds of our net investment in housing and in business plant and equipment would not have occurred without dollars saved by foreigners. (This level of investment was, to be sure, very low by historical standards, but without the capital inflows that accompanied our trade deficit in 1986 it would have been at the rock-bottom level of a severe recession year—lower, in fact, than during the recession years of 1980, 1975, 1970, and 1958.)

Washington debate over trade policy invariably neglects this elementary fact about our balance of payments: dollars that flow abroad to buy imports always flow back. (Since foreigners don't use dollars, they spend them as soon as they get them.) The only question is how our dollars flow back—to buy our goods and services or to buy our IOUs. During the 1980s we have decided that our biggest "export" should be IOUs. In 1986 we sold to foreigners, net, a total of $143 billion in U.S. financial assets. Most of this consisted of stocks, bonds, T-bills, repos, bank balances, and other assorted paper, but a steeply increasing proportion of it was in real estate and other direct investment. This financial surplus was the flip side of our trade deficit, and if we had invested more at home, our surplus (in selling IOUs) and deficit (in selling trade goods) would have been even greater. As long as we cannot function without dollars saved abroad, exchange rates will fluctuate and interest rates will go up until we can attract those dollars back as loans. America must learn the basic distinction between capital flows for investment, which produce future return, and capital flows for consumption-related debt (for example, inflows to fund the budget deficit), which simply produce future debt service.

Correcting the current imbalance assumes that America can embark on an enormous shift from consumption to savings, and that this shift will not throw the world's economy into a tailspin, either by trade-led recessions in the other industrialized countries or by a chain of debt defaults among the less-developed countries (against whom we will be competing for trade surpluses). The alternative to this daunting scenario, of course, is the crash: a huge plunge in the dollar, unaffordable imports, a long recession, garrison protectionism, rampant inflation, and a marked decline in American living standards. The crash alternative prescribes that we pay off our debts through indefinite poverty. Can we avoid the crash? Yes, but doing so will require Americans to produce more while consuming less, and very close macroeconomic coordination among nations.

A European critic is reported to have said this about the link between America's fiscal and international deficits: "Your policies in the 1980s remind me of Christopher Columbus's travels. Like you, he didn't know where he was going. He didn't know where he was when he got there. And he didn't know where he'd been when he got back. All he knew for sure was that the whole trip had been financed with foreign money." Or, as Fred Bergsten, the director of the Institute for International Economics, recently quipped, "We finally understand the true meaning of supply-side economics: foreigners supply most of the goods and all of the money."

How America has reached the end of an avenue with no pleasant exit is too long a story to be told here. But it is worth mentioning the key contribution made by two sweeping institutional developments that have taken place since the beginning of the 1970s. Both are what might be called changes in the rules of the game, rules that used to protect us from our own folly.

The first change has been in how we legislate federal budgets. Until fifteen years ago most federal spending was discretionary and unindexed, and federal tax policy still functioned under the very strong presumption that federal dollars spent should be paid for out of revenue. Large deficits, therefore, were difficult to achieve, because so many easy corrective options were available, both in spending and in taxing. The spending rule was eliminated in the early 1970s by our decision to transform most non-poverty benefit programs into untouchable and inflation-proof entitlements. The taxing rule was eliminated in the early 1980s by the jihad prayers of supply-side economists. Our deficit has thus become no one's responsibility. It is subject to "projection" but no longer to control.

The second big change has been the transformation of the world financial system. Back in the early 1970s we all accepted the basic postulates of the postwar Bretton Woods arrangements: fixed exchange rates and relatively little mobility of capital between nations. But the problem with fixed exchange rates was that they led to inconvenient balance-of-payment crises and didn't allow us the freedom to determine our own macro-economic fate. So we closed the gold window in 1971 and shook ourselves loose from fixed parities by 1973. By the late 1970s and early 1980s, as the dollar sloshed up and down in ever larger waves, the world financial community accommodated our proud creation, the "float," and greatly liberalized the flow of capital across borders. The inevitable result has been to give every nation—especially the United States, as the owner of the world's reserve currency—much greater latitude to borrow as it pleases, with few restrictions other than the specter of national bankruptcy in the mind of the creditor. Fifteen years ago if the United States had begun to borrow the equivalent of 3.5 percent of its GNP from abroad, that would have created a national emergency, with Churchillian presidential addresses and wartime austerity measures. Today it creates—well, nothing, really. It's a number you can read about toward the end of the business section of your newspaper.

Most of these rule changes, with the exception of the new revenue-ignorant tax policy, took place before Ronald Reagan assumed office. Countless commentators have decided that Reaganomics represents a total reversal in inherited economic policy. But not so many years from now historians may simply be calling it an acceleration of inherited policy.

For staying the course while double-digit inflation was tamed—the only Reagan, or Reagan-Volcker, measure that seriously tested our threshold of pain—President Reagan deserves credit, as he does for courageously taking on the air-traffic controllers (which helped moderate the wage binge of the 1970s). He deserves credit as well for helping renew the popularity of markets and of entrepreneurial risk, here and abroad, and for persuading us to abandon the worst vices of regulation in such industries as airlines, banking, and energy. And he was surely correct in advocating cuts in marginal tax rates. We now know, for instance, that a maximum tax rate of 50 percent actually generates more revenue from the wealthy than a maximum tax rate of 70 percent, and provides real incentives for budding entrepreneurs. And for now, at least, Reagan has swept off the agenda such policies as national planning, wage-and-price controls, and wide-scale jobs programs.

We need, though, to be honest: as far as the basic allocation of our economy's resources is concerned, Reaganomics has either opted for or acquiesced in some of the worst, future-averting choices America has ever made, the full implications of which will not be known for years.

VICIOUS-CIRCLE ECONOMICS

To begin to grasp what Reaganomics has wrought, go back to the presidential campaign of 1980. It was the evening of October 28, and the eyes of many American voters were fixed on the television debate between Ronald Reagan and Jimmy Carter. Facing the camera squarely, Reagan posed his famous question: "Are you better off than you were four years ago?" The next day newspaper polls began to report a surge of support for Reagan, which led to a Reagan landslide one week later.

Now, imagine that Reagan had immediately followed up his question with this guarantee: "I promise to make you feel better. While real personal consumption per fully employed American hardly budged during the Carter presidency, I will make it rise by about $300 per worker every year over the next six years. I'm also going to kick in another $140 per worker per year that we in government will be spending mainly to repair the fall in our defense budget during the seventies.

"How will I do it? Well, let me tell you. I will not do it by increasing the quantity of real goods and services produced per working American to any appreciable degree. Instead, I will do it by diverting to consumption, between last year and 1986, about three-quarters of the resources per worker now devoted to savings. Half of the money will be obtained by simply cutting domestic investment, and to do this we will run enormous federal deficits—so big that the federal debt the public has bought since the time of the Founding Fathers, about $645 billion at the end of 1979, will have nearly tripled by the end of 1986. The other half will come from borrowing abroad. By 1986, in fact, our foreign borrowing alone will fund all of our net housing investment and a good 40 percent of our declining level of net business investment—freeing up by that year a fantastic $2,100 of extra personal consumption per employed American. From the end of last year to the end of 1986 our national per-worker balance with foreigners will fall from a credit of $989 to a debt of $2,500; and our federal per-worker balance with creditors, wherever they are will plunge from a debt of $6,750 to a debt of $16,562. I'll bet you're feeling better already. Thank you and good night."

This speech might not have won the presidency for Reagan. But it would have forecast precisely the performance of the economy during the candidate's subsequent term of office.

Reagan was right in the debate with Carter: the 1970s were tough by comparison with the 1960s. He was also right in observing that lower productivity growth and higher federal-benefit growth during the 1970s "squeezed out" defense spending in favor of privately earned spending on consumption. What looks quite significant in retrospect, however, is that at least the squeezing did take place. Few Americans watching the debate in 1980 ever imagined that over the coming decade we would just decide to ignore the law that limits consumption to production.

This is, quite simply, the dirty little secret of Reaganomics: behind the pleasurable observation that real U.S. consumption per worker has risen by $3,100 over the current decade lies the unpleasant reality that only $950 of this extra annual consumption has been paid for by growth in what each of us produces; the other $2,150 has been funded by cuts in domestic investment and by a widening river of foreign debt. From 1979 to 1986 the total annual increase in workers' production amounted to about $100 billion (in 1986 dollars). The comparable total for increases in personal consumption plus government purchases was about $200 billion. That leaves a difference of a bit more than $200 billion—just slightly more than the increase in annual federal deficits over the past six years. Deficit spending, of course, has been the primary engine behind this consumption bacchanalia—a super-hot and super-Keynesian demand-side tilt that replaced the reviled "Tax and spend" motto of the 1970s with the new motto "Borrow and spend." In every previous decade we consumed slightly less than 90 percent of our increase in production; since the beginning of the 1980s we have consumed 325 percent of it—the extra 235 percent being reflected in an unprecedented increase in per-worker debt abroad and a decline in per-worker investment at home. This is how we have managed to create a make-believe 1960s—a decade of "feeling good" and "having it all"—without the bother of producing a real one.

We cannot, of course, go on borrowing from foreigners indefinitely to finance our consumption. Soon we must stop and, at that point, decide whether to repay them the principal or to forever commit ourselves (and our children) to pay annual interest to foreigners as the price for our 1980s binge. Nor can we go on starving domestic investment to finance our consumption. Soon we must stop and replenish the factories, bridges, and schools we have forgone or else forever relegate ourselves (and our children) to slower growth in our standard of living. Supply-side economics without the "supply" can have only one sequel—something we may soon call vicious-circle economics.

It is therefore all but inevitable that our level of consumption must slow its climb, or even fall, while our level of production catches up. But of course the speed with which it can catch up depends in turn on how much we can invest, which depends on how much we can save.

The connection between exploding public deficits and a lower national saving rate is not absolute and unbreakable. Conceivably, we might have left overall national savings untouched if we had engineered a huge rise in private-sector savings at the same time that we embarked on a huge rise in deficit spending. In fact, however, net private savings—the net income saved by private households and firms—has been declining very sharply over the past decade (from 8.1 percent of GNP in the 1970s to 6.1 percent of GNP in the 1980s). Consequently, net national savings, which equals net private savings minus public-sector dissaving, has been declining over the past decade, from 7.1 percent of GNP in the 1970s to 3.4 percent in the 1980s. In fact, during three of the past six years—1982, 1983, and 1986—U.S. net national savings has dipped below two percent of GNP. Huge capital inflows from abroad have thus been inevitable.

The conservative stewards of Reaganomics, ironically, have themselves created the Keynesian nightmare—large and permanent deficits—they so much feared. And Americans have endured it with remarkably little protest, because, after all, if conservative Keynes-haters didn't know the dangers of deficits, who did?

Apologists for Reaganomics once claimed that "rational expectations" would lead people to increase private savings to compensate for public deficits and that the tax cut of the early 1980s would lead to a savings surge. The latter line of reasoning is legitimate and important—at the margin and over the long haul. Unfortunately, it is an idea that works well only when we tax saving less and consumption more. Most of the 1981 tax cut was simply an across-the-board cut in personal income-tax rates and thus did little to alter the relative tax burden on savings versus consumption. In any case, what is truly inexcusable is the expectation that we could come out ahead simply by cutting the overall level of taxation while still allowing federal spending to grow. When tax cuts go unmatched by spending cuts, they must be accompanied by additional public borrowing from households and firms—thus by a dollar-for-dollar reduction in otherwise investable private savings. Therefore, in a near-full-employment economy only a tiny fraction of the cut is likely to show up as additional private savings. If families and firms treat the tax cut just as they treat other income, the savings might be six or seven cents on the dollar—a tiny margin that can disappear entirely if there is a negative shift in the private sector's overall inclination to save. As we have already observed, there was such a negative shift.

Other apologists for the 1980s "boom" have claimed that there is no historical correlation between public-sector deficits in bust years and negative trade balances. Even after budget deficits had soaked up some private savings, they point out, there was still enough left over for Americans to be net investors abroad; that's why bust years typically brought us an improvement in our trade balance. Evidence that this time-tested pattern no longer obtained, however, was already surfacing in 1982, when the steepest recession in thirty years was accompanied by such large-scale federal borrowing that our current account—the ledger of our financial transactions with foreigners—did not break even. Since then we have been sailing in uncharted waters: a cyclical recovery accompanied by enormous and widening foreign-capital inflows.

Some apologists for the 1980s have gotten so carried away with the idea of market expectations—Reaganomics is all about psychology and expectations—that they can justify any catastrophe by references to a rosy future. Alan Reynolds, the supply-side guru, believes that heavy foreign borrowing is a sign of economic strength. He has compared our huge current-account deficit today to Japan's big trade deficits in the 1950s, claiming that what the two situations clearly have in common is buoyant growth expectations. Although some U.S. observers in the 1950s were dubious about the wisdom of Japan's foreign imbalance, "in retrospect, U.S. worries about Japan's trade deficits look rather foolish." Likewise for the United States today. "What has happened in the 1980s," Reynolds writes, "looks like a reversal of roles, with the U.S. becoming the relatively vigorous tax haven, attracting foreign capital and goods, while Europe and Japan slip into the stagnant, export-dependent role that the U.S. experienced in the Eisenhower years."

The argument is half right. Japan was a capital importer in the 1950s, because it was a rapidly growing economy—more than that, it was a country literally reconstructing itself after a war that had largely wiped out its industrial base. It borrowed abroad to finance a higher investment level than would have been possible by relying on its already hefty savings rate alone. The result was an incredible net investment rate of well over 20 percent of GNP. Did such capital inflows make sense? Of course, for they rapidly paid for themselves in increased economic output. From 1950 to 1960 the Japanese economy grew at an average real rate of nearly 10 percent a year; real net output per worker grew at the extraordinary rate of 6.6 percent a year. The relative burden of financing the nation's foreign-capital inflows (which ceased by the mid-1960s) thus fell over time.

The parallel between the United States and Japan, however, utterly escapes me. Over the course of the 1980s the U.S. investment rate has been the second-lowest in the industrialized world (just above Britain); meanwhile, the rate of growth in our real net output per worker, absolutely the lowest, has averaged about 0.4 percent a year. That is less than one fifteenth of what the Japanese were experiencing thirty years ago. Japanese productivity in the 1950s, in other words, grew more in nine months than ours now grows over ten years. And unlike Japan, we have been borrowing abroad for consumption, not investment.

To find the proper historical parallel for the United States in the 1980s we should not look to Japan in the 1950s, nor should we look to our previous experience with heavy borrowing from foreigners. That was in the 1870s, when we issued bonds (at half the current interest rate) to Europeans in order to finance our huge investment in railroads and heavy industry. Instead, we must look to those rare historical occasions when an economy's large size, its world-class currency, and its open capital markets have allowed it to borrow immense sums primarily for the purpose of consumption and without regard to productive return. The illustrations of lumbering, deficit-hobbled, low-growth economies that come most easily to mind are Spain's in the late sixteenth century, France's in the 1780s, and Britain's in the 1920s.

So there we have it: a conservative Republican Administration that promised us a high-savings, high-productivity, highly competitive economy, with trade surpluses, and gave us instead a torrid consumption boom financed by foreign borrowing, an overvalued currency, and cuts in private investment, with debt-financed hikes in public spending and huge balance-of-payments deficits. It's the same script, proceeding toward the same woeful finale, that we have seen played out over the years by many a Latin American debtor. As one wit has put it, just as the 1970s saw the "greening" of America, the 1980s is seeing the "Argentining" of America.

Now let us examine the pieces of this fiscal debacle in more detail. We will turn first to the critical near- and medium-term challenge of reducing our foreign-credit inflow—and, at the same time, of coping with the harsh policy choices and the danger of global crisis that must accompany such a reduction. Then we will take a longer-term view of the inexorable link between investment and living standards. Finally, we will discuss the manner in which American public policy treats our future. If before the 1980s this manner was one of neglect, today it borders on open contempt.

"OWING IT TO OURSELVES" NO LONGER

How much, exactly, do we now owe the rest of the world? Officially, our net position (what we are owed minus what we owe) at the end of 1986 was a negative $264 billion. By the end of 1987 we will be closing in on a negative $400 billion. The incredible speed of America's transformation from creditor to debtor can hardly be exaggerated. Only six years ago, at the end of 1981, the United States had achieved its all-time apogee as a net creditor, with an official position of a positive $141 billion. Over the past six years in other words, the United States has burned up more than $500 billion, net, by liquidating our foreign assets and by borrowing from abroad. That's an immense flow of capital, even in global terms. By 1986 our net borrowing had dwarfed the fabled bank recycling of OPEC surplus after the oil price hikes of 1973 and 1979. The sum was twice the size of all foreign interest payments by all the less-developed debtor nations, and about half the approximate dollar value of total net investment in all less-developed countries combined.

What does the future have in store for a nation that is borrowing such sums from foreigners? As a net debtor of growing proportions, the United States must inevitably become a sizable net exporter of goods and services. (I repeat: exporter.) This proposition is just a matter of arithmetic. Since our indebtedness cannot grow indefinitely as a share of our GNP—beyond some point, foreign creditors will regard us as a growing credit risk, a risk that must be compensated for by prohibitively high interest rates—our current-account deficit must eventually decline substantially. And when that happens, we will have to export more than we import in order to service our deficits on interest and dividend payments to foreigners. Just to say that something is inevitable, of course, does not tell you when it will happen. But I think it's fair to say that the growth of America's foreign debt may push us—painfully—to a current-account balance and a trade surplus by the mid-1990s, and almost certainly will do so by the year 2000.

Our opportunity for a relatively smooth readjustment is perilously narrow. On the one hand, it seems likely that the rest of the world will grow reluctant to keep lending to the United States once our net indebtedness rises much beyond 35 percent of our GNP, or a bit more than $1 trillion at today's prices. Some experts suggest that this debt may entail net U.S. debt-service payments equivalent, as a share of exports, to those of many developing nations and about on a par with Germany's reparations burden following the First World War. The experts agree that it is quite impossible for the United States to go on indefinitely borrowing principal at or near its current rate of 3.4 percent of GNP per year. Such borrowing, combined with accumulating debt-service costs, would dictate an absurd $3 trillion in net debt by the end of the century, and foreign investors would close down the pipeline long before we got there.

On the other hand, it is practically inevitable that our net debt will reach the $1 trillion mark by the early 1990s no matter how vigorously we act to stem the inflow of foreign savings. Obviously, there are limits to the speed with which the United States can curtail consumption and generate growth in net exports. Consider, for instance, a scenario in which the United States, starting next year, makes steady additions to the value of its net exports such that its current account reaches zero by 1994 and its net debt is reduced to today's level by the year 2000. That sounds like a rather modest achievement. Yet it will still lead to a net debt of about $1 trillion by 1994 and will require a real improvement in U.S. net exports of more than $20 billion a year, each year, for the next ten years, or a total positive shift of more than $200 billion. As Fred Bergsten has observed, the magnitude of the necessary adjustment facing us is equivalent to about two-thirds of our entire defense budget and is several times larger than the total shift resulting in the United States from the 1970s oil shocks.

According to the adjustment scenario above, we need to reduce our foreign borrowing stream by $20 billion yearly, or $200 yearly for each of our 100 million workers. Yet real net product per worker has been growing each year by just $135. Further, our continuing debt growth will mean that about $40 per worker per year must be devoted to rising foreign debt-service payments. And to increase productivity sufficiently to raise net exports will require at least our 1970s level of net investment at home—an additional $60 per worker per year over a decade.

So where are we going to find, each year, the extra $20 billion in unconsumed exportable production necessary to make this readjustment scenario work? Over the next decade, with only $35 per worker available ($135, minus $40, minus $60), consumption per worker in the United States may have to decline by $165 each year. That's $1,650 overall for the average worker, and of course we can expect those Americans with the most vulnerable incomes—minority workers, young adults laboring under two-tier contracts, and service employees who receive no benefits—to suffer losses that are far greater than average. Neither the American public nor the nation's politicians have even begun to face this prospect. In comparison, during the 1970s—a decade now known to most of us as "hard times"—U.S. consumption per worker nonetheless rose by $200 each year. What the early 1980s gave us, the 1990s may well take away.

In what exports, specifically, is the United States going to see the enormous gains it must achieve to lower its trade deficit? First of all, we can forget about any major contributions from the 22 percent of our trade exports now composed of agricultural goods and raw materials. The $25 billion trade surplus we had in agricultural exports in 1981 shrank to $3 billion last year. Over the past decade the European Economic Community has raised its grain balance, improbably enough, from a deficit of 25 million tons to a surplus of 16 million tons. India, Pakistan, and China have all become net farm-product exporters. Even the Soviet Union now seriously asserts the breathtaking goal of becoming a net food exporter by the year 2000. We will therefore be lucky to slow the current decline in our agricultural balance. Much the same goes for raw materials.

As for oil imports, nearly all experts expect that declining U.S. production will push our current 25 to 30 percent dependence on oil imports to 50 to 60 percent during the 1990s, and at higher prices. Philip Verleger, Jr., a visiting fellow at the Institute for International Economics, estimates that the value of our oil imports will rise from $44 billion in 1985 to $120 billion or $130 billion by the mid-1990s. The 1980s have been happy, quiescent years from an energy standpoint, but we may, in the 1990s, again face some of the energy turbulence of the 1970s. The $70 billion real improvement (in 1986 dollars) in the energy balance that Americans have enjoyed since 1980, in other words, will reverse direction. Let's be optimistic and assume that our annual total a farm and raw-materials balance for the foreseeable future will decline by only $10 billion per year. That means we need a good $30 billion yearly improvement in the remaining 75 percent of our exports—namely, manufacturing.

Some critics balk at this point and complain that this logic unfairly omits our exports in services. According to a recent *Fortune* article titled "The Economy of the 1990s," the United States will improve its balance on services by $125 billion between now and the year 2000. This service surplus, like some deus ex machina, is supposed to more than pay the debt service on what *Fortune* admits will be a "debt mountain" of some $1 trillion by the mid-1990s. This analysis confuses a large flow of services that are actually debt service (for example, the payment of interest and dividends) with a much smaller flow of services that are actually current production (for example, travel, shipping, and insurance). We already know what will happen to the balance on the former type—it's going to go deep into the red. And U.S. exports of the latter type, unfortunately, are both too small (a total of $49 billion in 1986) and too inflexible to make much difference. Two-thirds of these exports consist of shipping, transportation, and travel; the rest consist of business services that usually accompany trade exports. In fact, since so many of our high-tech service exports are linked to manufacturing exports, it strikes me as virtually meaningless to project one without the other.

Let's be optimistic and assume that service exports will eventually grow by fifty percent. That still leaves us with a need to increase our manufacturing exports by $275 billion, or achieve a real annual growth rate of 10 percent over the next decade. Can we emulate Japan and sustain such a prodigious performance in manufacturing over so many years? Perhaps we can, but the prospect seems daunting. So far in this decade our manufactured exports have actually declined in real terms, but over the coming decade we will be aiming for a higher export growth rate than we have yet achieved in the twentieth century. In every respect the achievement would be unprecedented: we would have not only to break our earlier record but to do it with a lower average level of domestic business investment, with a complete freeze on imports, and with steadily declining living standards.

Any way one looks at it, the arithmetic is cruel and inescapable. It's hard to imagine huge growth in our manufacturing output, for instance, without a very large increase in domestic business investment. But to further increase investment at home we may have to undergo a further decline in consumption, in order to hold constant our net export improvement. And, clearly, we are not going to see any decline in consumption in favor of saving unless there is a radical change in our public policy, especially our fiscal policy (something I will discuss later on), and in our politics as well.

There remains, moreover, yet another problematic assumption in our readjustment scenario: the willingness, or even the ability, of the rest of the world to absorb our proposed huge increase in manufacturing exports. Current thinking on this problem seems to grow out of two separate theories. One theory emphasizes foreign economic growth, the other exchange rates.

The foremost proponent of the first theory is the Reagan Administration, which has repeatedly insisted that higher rates of growth abroad—particularly in the stagnant-demand economies of West Germany and Japan—will solve our problem. This is worthy idea but hardly a solution. Consider, for instance, a sustained one-percent real increase in economic growth in the rest of the world—say, from about the current 2.5 percent to 3.5 percent (surely we cannot expect more). Then imagine that all this growth is purely domestic. Using rosy "multiplier" assumptions, we could get a two- or even four-percent real increase in exports. Recall, however, that we need a 10 percent real increase.

The second theory, to which many economists subscribe, is that any level of net export improvement is possible as long as we endure a "sufficient" decline in the exchange rate—that is, a continued fall in the value of the dollar relative to other currencies which will make our goods more attractive to foreign buyers.

Experience demonstrates, however, that exchange-rate adjustment also has its difficulties. Over the past few years nearly all economists have been humbled by how far they had overstated the extent to which world trade balances would adjust to the recent fall in the dollar. Given this track record, it is cause for deep reflection that forecasts now being made in major think tanks say that even a 25 percent further devaluation of the dollar will be lucky to push the annual U.S. current-account deficit much below $100 billion over the next few years. The underlying problem might be posed as follows: even if we accept a lower dollar, which I believe to be virtually inevitable, will economies in the rest of the world accept it? The challenge facing America—generating a $275 billion positive swing in manufactured exports over the next decade—sounds tough enough without worrying about whether our trading partners will accommodate our necessities. Yet we often forget that our objective of huge yearly increases in U.S. net exports translates directly into decreases in the net exports of our major trading partners (recently the very source of much of their growth). It's not just a question of our resolve; it's also a question of their resolve, something over which we have little or no control.

What we hope, of course, is that our trading partners will accept our agenda. In general, we want them to raise the demand for goods and services in their countries at the same pace at which we are suppressing demand, with smaller fiscal deficits and higher private savings rates, in our own country. Specifically, we hope they will stimulate their domestic demand with looser fiscal policy, keep their currency strong with restrained monetary policy, and pull down import barriers so that U.S. exports can expand with minimal pressure on exchange rates. Our unspoken assumption is that once we decide to act, they can be expected to cooperate.

In reality, foreign economies may be otherwise inclined. Instead of loosening fiscal policy, they may continue to tighten—raising their own national savings rates in tradem with ours even at risk of a collapse in global demand. And instead of embracing a lower dollar, they may continue to resist it, either by pushing their exports harder (with price cuts and aggressive marketing) or by discouraging imports (with official or unofficial import barriers or simply a social consensus not to "buy American"). Either way, readjustments may entail risks that persuade all parties to abandon the effort. In the former case the risk is worldwide economic stagnation. In the latter the risk is a precipitous fall in the dollar and the danger of financial panic.

Why might our trading partners not want to cooperate? For one thing, foreign leaders may be slow to believe that the United States will do what it says it intends to. Look at it from their point of view. Ever since 1983 the United States has been assuring the rest of the world that it is just about to cut back on is budget and current-account deficits and that other countries should therefore immediately begin stimulating their domestic demand in order to "pick up the slack." Other countries have responded with caution, and in retrospect—the U.S. deficits having grown rather than shrunk—their leaders must now be glad they were cautious. They still have their exports, they still have their productivity growth, and they still have stable prices.

Given the recent sharp fall in the dollar, many Americans figure that our trading partners have begun to see the handwriting on the wall. Surely, we think, Europe and Japan must soon opt for large-scale domestic stimulus in their own interest—especially when it means the instant pleasure for their own citizens of more disposable income and more consumption. Yet here we confront a deeper issue—the vast differences in culture, history, and politics which make it just as hard for other industrial countries to do what we find natural (stimulate consumption) as it is for us to do what they find natural (stimulate savings). We find inflation worth risking, but the West Germans, scarred by the memory of the 1920s, would rather risk recession. We find it easy to sacrifice exports on the altar of the high dollar, but the Japanese, who have spent generations fighting to earn dollars to pay for their food, raw materials, and oil, find the equivalent idea tantamount to economic surrender (particularly considering their long-sought, stunning manufacturing trade surplus of $150 billion, or about eight percent of their GNP). The necessary reversals in national economic direction are profound. If we assign Japan one third of the needed adjustment, for example, or $50 billion annually by 1994, this would amount to eight percent of its total manufacturing output (in a negative direction). To those who argue that Japan adjusted successfully to two oil shocks, and so can handle this challenge, I argue that those shocks required the Japanese to do more of what they had always been doing (namely, exporting), while the present predicament will require them to do less. American leaders think that stimulating domestic demand is child's play. Most leaders abroad do not. They are, in fact, extremely doubtful that their consumers will be able to pick up where exports to America leave off.

To allay doubts about our intentions, we must change our policy in credible and irrevocable ways, and announce these changes ahead of time. Readjustment becomes sticky when, even in the face of changing prices, foreign exporters hope to preserve their sunk costs, their hard-won market shares, and their relentless productivity and cost-reduction efforts—as Americans hooked on imports hope to preserve their buying habits. Those hopes are our enemy. We cannot cloud the air with chatter about painless global growth when in fact we are asking exporters abroad and importers at home to endure inevitable hardships.

Second, to eliminate uncertainty about the implications of our policy, we must talk realistically about a genuine transformation of the world's major political economies. "Fair trade" (whatever that means) isn't really the point. Our objective is to raise U.S. exports so that we avert a tragedy that threatens everyone—a global crash. Finally, to encourage political as well as economic balance in the world, we must renounce our recent policy of "global Keynesianism"—the policy of being everyone's buyer of last resort. The merchantilist aggressions bred by such a policy, including retaliatory protection and games of "chicken" with exchange rates, have themselves become a major obstacle ro readjustment. Confidence, not fear, is the best way to get foreigners to retool their export plants for their own domestic markets.

If we simply proceed with the "business as usual" approach to the world's growing imbalance, America's foreign creditors will ultimately become aware that the situation is unsustainable. At that point anything, from a small decrease in the value of the dollar to a mild political crisis, could cause investors around the world to decide to rid themselves of dollar-denominated assets. If the resulting plunge in the dollar's exchange rate persuades ever larger numbers of investors to follow suit, the "dollar overhang" might at last turn into the worst freefall nightmare of Paul Volcker, the former Federal Reserve chairman: an avalanche pouring down on the dollar's financial capitals, from London to San Francisco.

The United States, in response, would have little choice but to raise interest rates sky-high, in order to attract at least some investors to the dollar to finance our budget deficits. We would also have to acquiesce in a long and almost deliberate recession, both to shut down most of our foreign borrowing (in a matter of months rather than years) and to suppress U.S. demand for imports. Actually, the recession is likely to be of the "stagflation" variety, since higher import prices may double our inflation rate even before we prime the pump. The peak-to-trough downturn could be quite steep indeed and could easily become our most severe economic crisis since the 1930s. Nor have I yet mentioned how the razor-edge plight of many less-developed debtor nations will add to the danger. Every forecast I have seen warns that the largest South American debtors will be pushed from illiquidity to insolvency by a far milder recession, and far smaller interest-rate hikes, than those envisioned here. Many have even suggested that spreading defaults among less-developed countries may precipitate the crisis.

No one knows, of course, how long such a hard landing would last. It is possible, I hope, that it would be limited to a financial crunch followed by a severe but brief recession, rather than a lengthy depression. The economy could recover with relatively moderate increases in world unemployment, but surely the value of the dollar would be much lower and U.S. import levels would be much reduced. This is what I call the "bumpy start-and-stop" scenario—the one that has afflicted postwar Great Britain. Under this scenario the standard of living in the United States would have dropped, its indebtedness would be little changed (but no longer growing), its international responsibilities would be necessarily curtailed, and its people would be aware, through occasional jumps in interest rates and the yo-yo behavior of the dollar, that their economic fate was hostage to the tenuous and nervous confidence of outsiders. The British economist Michael Stewart recently observed that "anyone who has lived through our 40 years of balance of payments crises, and seen the constraints they have imposed on domestic policies, must stand amazed at the insouciance with which the United States is piling up external debt." These constraints, of course, were not only domestic; they also hobbled British foreign policy—most dramatically in the Suez crisis of 1956, when the United States, which held reserves of British sterling as foreigners hold our dollars today, warned the British that we would declare war on the pound if they did not stop their invasion of Egypt. So much for the perils of dependence on foreign investors.

Should we have the worst hard landing—a lengthy U.S. depression—let us simply be forewarned that our traditional policy responses would be of limited use. Hardship-bloated budget deficits would prevent us from applying more fiscal stimulus; a low and skittish dollar would defy our attempts to loosen monetary policy. Whereas the "start-and-stop" landing presumes that Americans could pay for their debts by a one-time shock in living standards, and thereafter by slower productivity growth and reduced international leadership, the true-depression hard landing presumes that Americans would service and pay off their debts through indefinite impoverishment. Either scenario could, or course, lead to a resurgence in state control over the economy (on a scale that might put Jimmy Carter's credit controls to shame)—an ironic last act in an opera that opened with the chorus singing praises to laissez-faire.

Some observers play down the possibility of such a crisis. They point to the apparent ease with which the world has so far endured a substantial decline in the dollar's value. Clearly, however, the easy stage is now coming to an end. In trade, the dollar has now reached the point at which further declines can no longer be absorbed by exporters' profit margins and will leave no foreign alternative other than structural change or economic stagnation. Just as the American economy has since 1980 suffered the tramua of de-industrialization, so the Japanese economy has begun to suffer from what some Japanese call the "hollowing out" of their industries—worker layoffs, unused capacity, and a scramble toward offshore assembly. In finance, further dollar declines are likely to be accompanied not by lower U.S. interest rates, as in the past, but by unchanged or even higher interest rates, as we experienced last spring. This will present the Fed with a no-win choice between defending the dollar and loosening credit. And it will hit foreign investors with the double whammy of further exchange-rate losses compounded by losses in bond-market values. The preconditions for a dollar-dump panic, in short, may already be moving into place.

Of course, one hopes that Americans will never have to live through these dismal outcomes. But avoiding them will take great effort—not just in changing policy but ultimately in changing our very self-image and in persuading our trading partners to change theirs. Japan's problem, a senior official there told me recently, is global-asset management; ours, alas, is global-debt management.

The financial expert David Hale has written, "The U.S. is a debtor nation with the habits of a creditor nation while Germany and Japan are creditor nations with the habits of debtor nations." Needless to say, America must soon change its habits, including its fixation on creative consumption. Our ability to do so safely, however, will depend on more than just our own hard work and determination. It will also depend on whether we can persuade our trading partners to change their habits, at the same speed and at the same time that we are changing ours.

TURNING AWAY FROM POSTERITY

Our growing foreign debt and trade deficit not only threaten a sacrifice in our consumption levels but also symptomize our unwillingness to acknowledge a deeper and more long-standing disease: a steady thinning out of those activities and attitudes that tend to generate, over the long term, a rising level of productive efficiency. When the seriousness of this problem became increasingly apparent, during the 1970s, we should logically have chosen to allocate fewer of our resources toward consumption and more toward investing in productive physical and human capital. Instead, under a supply-side banner, we have blindly chosen to do the opposite.

Does it matter that our productivity is growing only a fraction as fast as it was in the 1950s or 1960s? Indeed it does. To recognize some of the consequences, we have only to consider that to end foreign borrowing with no change in per-worker consumption or domestic investment will take us twelve years of productivity growth at the current rate. The same task would take us only a bit more than three years at the growth rate of the 1960s or only a bit more than two years at the rate of the 1950s. To put it another way: Our per-worker flow of foreign borrowing, as we have seen, is now running at about $1,350 a year. But whereas the net product per worker that is left after we service our debt, and that we can apply to reducing our current-account deficit, is rising by only $95 a year now, it would be rising by $630 a year at 1960s growth rates and by $985 a year at 1950s growth rates.

Yet it would be wrong to see productivity differences solely in terms of our foreign balances. Far more important is the role such differences must play in determining long-term growth in our future living standards. The cumulative impact of small differences in yearly growth rates cannot be underestimated. Consider the year 2020, when those who are now infants will be in the prime of their working life. If productivity growth proceeds at its 1980s rate (and does not decline still further), the average worker in 2020 will be producing $40,100 worth of real goods and services, only about 14 percent more than his or her parents are producing today ($35,300). Under the smoothest-possible-readjustment scenario already described, which would result in declining per-worker consumption through most of the rest of this century, even by 2020 his or her yearly consumption will have risen only eight percent above the 1986 level.

America's standard of living, for the first time in its history, will have hardly budged for a span of forty years. The 1980s and 1990s may be remembered, with bitterness, as a turning point in America's fortunes—a period of transition when we took the British route to second-class economic status. Britain's decline took seventy-five years of productivity-growth rates that were half a percentage point lower than those of its industrial competitors. Because America's corresponding gap is more than three times as large, its relative decline is proceeding far more swiftly.

If, however, U.S. productivity now started growing again at the 2.4 percent average rate that prevailed during the 1950s and 1960s, miraculous though that would seem, our sons and daughters in 2020 would each be producing $77,200 worth of real goods and services—some 120 percent more than their parents are each producing today. Consumption standards would rise by nearly as much, since we would have been able both to close our foreign-borrowing gap and to recoup our foreign liabilities by the early 1990s. In this case our grandchildren would look back on us as relative paupers, and by 2020 Americans would be enjoying buoyant prosperity and widening social opportunities in a nation that would still be a leading force in the world's economic and political affairs.

Understandably, most Americans do not want to confront the painful idea that we are headed toward the wrong future. Yet that is the melancholy fact of the matter. What is less understandable is the strident defense that so many opinion leaders offer for our present course. We hear time and again that the U.S. economy in the present decade has grown "as fast as" or "faster than" the collective economy of the rest of the industrial world. So far as this claim goes, it is correct. From 1979 through 1986 real U.S. GNP grew by a rate of 2.1 percent a year—about the same growth rate as that of the collective GNP of all other industrial nations. However, in the United States most of the growth (70 percent) was due to increases in the number of workers, while in the other countries most of the growth (85 percent) was due to increases in output per worker.

The rapid growth in U.S. employment has partly been the consequence of an entrepreneurial and new-business surge, the flexibility of our labor markets, and several booms (for example, a consumption boom, providing jobs in distribution; the health-care-for-the-elderly boom; the home-services and eating-out boom; and the postwar Baby Boom, which has no counterpart in other countries). According to a recent Commerce Department report, from 1981 to 1986 the equivalent of nine million full-time jobs were created. And yet, contrary to the widespread impression, this represents a job-creation slowdown; over the previous six years the equivalent of 14 million full-time jobs were created.

In any case, this kind of growth must cease within a few years, when all the Baby Boomers are employed, and reverse itself in future decades, when young adults will be scarce and retiring workers even more plentiful. More important, it is not the kind of growth that raises our standard of living. Augmenting production by adding more working bodies (what classical economists used to call the "dismal" Asian model) does not enhance the standard of living. Only augmenting production per working person does that, and Europe and Japan do that far more successfully than we do. The employment of the largest and best-educated generation of Americans in history should have caused U.S. GNP to rise far faster than GNP in any other country—as it should also have pushed up our savings rate, since presumably this working generation of young adults will want to allocate some of the extra production to provide for their children and their own retirement (as the Baby Boom becomes the Senior Boom). Instead, with the part-time nature and much lower value-added character of many of the new jobs, we have barely managed to keep pace with the GNPs of our competitors, and our savings rate has declined. This is not success but a large-scale admission of failure.

Yet it is surely true, the optimists say, that productivity growth and investment performance in the other industrial countries have declined sharply over the past fifteen years, and this must mean that we are doing better than they are. Not really. Because the performance of the other countries was so superior to begin with, and because our own performance has also fallen, product per worker is still growing considerably faster abroad than here in the United States.

How have these economies managed? The most apparent factor has been much higher investment levels. Here, Japan is the leader. From the 1960s to the 1980s its total net investment as a share of GNP (including investment in public infrastructure as well as in all private structures and equipment) has fallen from 22.6 percent to 16.1 percent; the latter figure, however, is still three times larger than the equivalent U.S. figure for the 1980s (5.3 percent). In fact, at 1986 exchange rates (as the dollar falls, the comparison is getting worse) Japanese net investment in 1986 amounted to $300 billion, while U.S. investment amounted to only $270 billion. (This has been the result, in part, of a cost of capital in Japan that has consistently been less than half ours—a situation not at all helped by the 1986 Tax Reform Act.) It is a spectacle that ought to shock Americans: a population half the size of our own, living on a group of islands the size of California, is adding more each year to its stock of factories, houses, bridges, and laboratories—in absolute terms—than we are to ours. And Japan still has savings left over, about $80 billion in 1986, to lend to thriftless foreigners. (About $50 billion of that sum was lent to us.) Between the two countries, therefore, the 1986 disparity in net savings ($380 billion in Japan versus only $125 billion in the United States, a six-to-one per capita difference) was even more lopsided.

For years many U.S. experts have been predicting that the relative productivity-growth advantage of the other industrial countries would soon slow down. Back in the 1960s and early 1970s such predictions were based on the "postwar reconstruction" thesis. Industrial phenomena like Japan and West Germany, it was said, were growing faster merely because they still had to "replace" the capital stock they had lost in the Second World War. More recently this line of reasoning has been abandoned, because it obviously cannot explain why these countries have replaced more of their business plant and equipment several times over since the early 1950s. In Japan, to take the extreme example, there is hardly a single factory now standing that has not been built, rebuilt, or entirely re-equipped since the mid-1970s. Indeed, each Japanese worker is supported by more than twice the plant and equipment that supports his or her American counterpart. A new argument, therefore, has become popular. This is the so-called convergence thesis, according to which other countries are getting a free ride by copying American technological breakthroughs. Once the other countries reach our level, it is said, their productivity growth must slow down sharply. At that point they will have to do the same tough "pioneer" work that we do.

The convergence thesis makes sense only if we assume that the other countries' overall disadvantage relative to the United States is spread about equally across economic sector, and that it is especially marked in manufacturing, where technology presumably is most important. Unfortunately, this assumption isn't plausible. Most economists agree that America's remaining absolute advantage is due mostly to superior productivity in agriculture, raw materials, and services, and that little if any of it is now due to superior productivity in manufacturing.

Instead of hoping for convergence, we Americans ought to recognize that we are already getting beaten in manufacturing. We must also recognize that over the foreseeable future the biggest productivity-growth opportunities in Europe and Japan will lie in improving efficiency in agriculture and services—something that requires no big research-and-development breakthroughs and could occur with disquieting suddenness.

The defenders of Reaganomics, of course, protest against any such conclusions. The growth of U.S. manufacturing productivity, they claim, has been one of our great achievements in the 1980s. And now that the dollar is back down where it was when President Reagan took office, American exporters will no longer have to compete against absurdly cheap foreign labor costs. The future, then looks bright.

But does it really? True enough, U.S. manufacturing productivity has recently run against our economy's declining trend. For example, from 1979 to 1985 Ford reduced its global employment by nearly 30 percent while reducing its car and truck output by only about five percent. Overall growth in manufacturing productivity rose from a yearly average of 2.3 percent in the 1970s to nearly 3.2 percent in the 1980s. What the optimists do not point out, however, is that such numbers are the perverse if pro-competitive result of seven catastrophic years for U.S. manufacturers—two domestic recessions (1980) and 1982-1983) followed by a high dollar export recession (1984-1986).

Still less do the defenders of the 1980s want to point out that U.S. manufacturing productivity, even with the help of its recent job-slashing acceleration, grew more slowly during the 1980s than the average for our major industrial competitors. And far from granting slower real pay raises, foreign manufacturing exporters have been using their productivity advantage to grant their workers much larger pay raises than firms in the United States have done. Since 1969 real manufacturing pay has risen by only 17 percent in the United States, but by a colossal 115 percent in Japan.

The fact that U.S. wages have grown even more slowly than U.S. productivity certainly reflects the adverse exchange-rate climb of the dollar during the early 1980s. But since the gap in wage growth was already apparent at the end of the 1970s—before the dollar's long climb—some experts suggest that it may also reflect a negative shift in the image of U.S. goods for quality and reliability. Our decline in underlying competitiveness, in other words, may be even greater than what the output-per-worker numbers indicate. For this reason the recent emphasis on quality by many U.S. manufacturers can only be regarded as gratifying.

A final defense of our economic performance in the 1980s rests on the sweeping claim that none of this "smokestack" productivity matters anymore because our economy will henceforth thrive on our alleged global monopoly on information and inventions. Pure products of the mind have limited appeal as final consumer products, however, and so one wonders how they can generate wealth unless we have the capability—the plants, tools, and production skills—to turn them into salable goods and services. Perhaps, it is said, we could sell this intellectual property directly to foreigners. A good idea, but the numbers hardly indicate that such sales could ever drive our economy by themselves. In 1986 our total net receipts from royalty and licensing contracts with unaffiliated foreigners (including movie and TV rights) amounted to about $1.5 billion, or about four ten-thousandths of our GNP. And in inflation-adjusted dollars our receipts of this kind have actually been declining over the past decade.

Knowledge and innovation, to be sure, are an absolutely vital precondition for long-term economic growth. But we Americans tend to overrate the significance of our leadership here. We forget that intellectual glitz and scientific glory do not always translate into the humble, wealth-generating chores of commercial innovation. Although we like to point out that we lead the world in the share of GNP that we devote to research and development, we neglect to add that much of this is devoted to obscure weapons R&D that leads to few commercial spinoffs. In civilian R&D we lag behind both Japan and West Germany. We should be pleased with the rapid growth of venture and equity financing for small high-tech businesses during the 1980s, but we should also be cautious: thus far we have seen no comparable surge in small-business R&D, no reversal in the downward trend in U.S. patent applications, and no resurgence in high-tech exports. As for U.S. universities, they are indeed a global showcase for Nobel laureates and pathbreaking research. Yet most of the brilliance emanating from our universities is as freely available to foreigners as it is to our own citizens.

More important, it is hard to imagine any long-term economic renaissance—especially one built on "working smarter"—without a determined investment in the most precious of our assets: the skills, intellect, work habits, health, and character of our children. Yet this is precisely where we may be courting our most catastrophic failure. In the words of one analyst cited by the 1983 National Commission on Excellence in Education, "For the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach, those of their parents." Recent trends indicate that each year the typical American child is increasingly likely to be born in poverty and to grow up in a broken family. And a study by the Committee for Economic Development points out that without major educational change, by the year 2000 we will have turned out close to 20 million young people with no productive place in our society. The CED study continues, "Solutions to the problems of the educationally disadvantaged must include a fundamental restructuring of the school system. But they must also reach beyond the traditional boundaries of schooling to improve the environment of the child. An early and sustained intervention in the lives of disadvantaged children both in school and out is our only hope for breaking the cycle of disaffection and despair." Our children represent the furthest living reach of posterity, the only compelling reason that we have to be serious about investing in the future. And we are failing them.

THE POLITICS OF DEBT

There is no question that Federal fiscal policy deserves much of the blame for our national failure to invest during the 1980s; recall that the 1986 federal deficit consumed the equivalent of 90 percent of all private-sector savings that year. On the one hand, opinion polls consistently show that the American public overwhelmingly favors, in theory, a balanced budget. On the other hand, serious attempts to reduce the deficit continue to encounter, in practice, enormous bipartisan resistance. Congress and the Administration invent countless reasons why solving the problem can be postponed just a bit longer or why the deficit can't really be doing us that much harm.

We have little time left to get beyond such rationalizations. It is sometimes asserted that our economy's saving behavior would be pretty much the same today without a federal deficit. But, again, consider the numbers. During the 1980s we have succeeded in nearly tripling the national debt, from $645 billion (at the end of fiscal year 1979) to $1.745 trillion (at the end of fiscal year 1986). We have, in addition, saddled ourselves with an informal debt of nearly $10 trillion in unfunded liabilities in Social Security, Medicare, and federal pensions. That astronomical figure is the difference between the benefits today's workers are now scheduled to receive and the future taxes today's workers are slated to pay for them. It amounts to a hidden tax of $100,000 on every American worker, and its toll will be exacted on our children.

For Americans to believe that their national balance sheet is in the same shape now as it used to be, they would have to believe that the enduring investments made by the federal government during the past seven years are comparable to all those made during the preceding two centuries—including the taming of the frontier, victories in several wars, the Marshall Plan, miracle vaccines, the Apollo missions, Grand Coulee Dam, and the interstate highway system.

From fiscal year 1979 to 1986 federal revenue fell from 18.9 percent to 18.5 percent of GNP, while federal outlays rose from 20.5 percent to 23.8 percent of GNP. Why has federal spending risen? The big growth areas over the past seven years have been defense, entitlement benefits, and interest on our national debt; all other spending has been cut back dramatically. Over the longer term, however, entitlement benefits dominate the picture. Since 1965 they have grown from 5.4 percent to 11.5 percent of GNP; all other spending excluding interest (which simply represents the permanent cost of cumulative deficits) has declined from 11.0 percent to 9.5 percent of GNP. This growth in entitlements over the past twenty-one years is equivalent to 6.1 percent of GNP—an amount greater than the entire investment we currently make in all business plant and equipment, plus all civilian R&D, plus all public infrastructure. Even defense spending, as a share of GNP, has risen only half as much during the 1980s as it declined during the 1970s. At 6.6 percent of GNP in 1986, defense spending is still lower than it was in any year from 1950 to 1973.

Our budget-cutting efforts during the 1980s have failed because they have allowed continued growth in the one type of spending—for entitlement benefits—that had already risen to unprecedented heights. Even where the 1980s budget ax has fallen hard, the major victims have been precisely those rare federal programs whose purpose is physical or human investment rather than consumption.

This last point is worth emphasizing, for it explains the unique vulnerability in recent years of that small area of the federal budget called discretionary non-defense spending. That's the old-fashioned type of spending in which Congress—unconstrained by automatic-indexing formulas and prior-year contracts—votes on bills each year, presumably for the best interest of our national future. Unfortunately, since the future has no lobby, no formula, and no contract, the Administration and Congress have found this the perfect place to demonstrate their budget-cutting zeal publicly even while allowing all other types of spending to keep rising. By 1986 discretionary non-defense spending had been cut to 4.09 percent of GNP, its lowest level since 1961.

This spending category includes that bellwether of federal investment activity, the maintenance and construction of America's public infrastructure. Net real investment in roads, bridges, mass transit, and other public works has dropped by 75 percent over the past two decades; much of our infrastructure is wearing out far more rapidly than it is being replaced. We do not have a new generation of infrastructure technology, from high-speed trains to under-water tunnels, because we have chosen not to pay for it.

But the steep decline in federal investment during the 1980s has not been limited to infrastructure. Investment in our environment and in human capital—research, education, job skills, and remedial social services—has also plummeted. These, too, have now been deemed superfluous. From 1979 to 1986, in real dollars, federal spending on natural resources has been cut by 24 percent, non-defense R&D by 25 percent, aid to schools by 14 percent, and energy preparedness by 65 percent.

Far from forcing a "revolution" in the role of the federal government, the 1980s have instead seen the federal budget become an ever larger and more efficient consumption machine. In the mid-1960s checks mailed out automatically (to bond owners, health insurers, retirees, state and local benefit administrators) accounted for about 58 percent of all federal non-defense spending. By 1979 their share stood at 68 percent; today it has grown to nearly 80 percent. We have now reached the point, in fact, where even if we eliminated all discretionary non-defense spending (imagine that we could fire all civil-service employees and replace them with a giant check-writing machine), the federal budget would still be running a deficit. Our government's function as an investor, a steward of our collective future, is small and shrinking. Its function as a consumer, a switchboard for income transfers, is large and growing.

Surely, it is argued in defense of the growth in entitlements, the alleviation of poverty also constitutes "investment" of a sort—an investment in the long-term social and economic benefits of preventing serious material hardship. If the premise were valid—that federal entitlements go to the poor—this would be a worthy argument. Unfortunately, the facts seem to be otherwise. In 1986 the U.S. public sector spent about $525 billion, or 12.5 percent of GNP, in benefit payments to individuals. Of this total, about $455 billion was financed at the federal level; about $360 billion consisted of cash payments, and the rest consisted of inkind payments (for example, health care, food stamps, and rental assistance). How much of all this went toward alleviating poverty? No one knows for certain, but probably no more than about 20 percent of the total, or approximately $100 billion. The rest represents income transfers from non-poor taxpayers to non-poor beneficiaries (and, increasingly, to non-poor purchasers of federal debt).

The result should not be surprising, considering that of the $455 billion dispensed from the federal budget, 85 percent was not means-tested—in other words, was not targeted to people living in poverty. These non-means-tested benefits went, by and large, to those groups least likely to be poor. The lion's share, $271 billion, consisted of Social Security and Medicare payments, which went indiscriminately to nearly every elderly person. The elderly now enjoy the lowest poverty rate—less than three percent when the calculation includes total benefit income—of any age group. Far from targeting the poor, Social Security cash benefits are actually regressive, in the sense that those with the highest life-time incomes receive the highest monthly payments. Another $47 billion was spent on the two most generous pension systems in America: civil-service and military retirement programs. Among the beneficiaries of these programs poverty is practically unheard of; most are not "retired" at all but working at another job and earning a second pension. The average annual income for a federal pensioner is now more than $35,000. Still another $26 billion went to agricultural subsidies. Though this is equivalent to about $18,000 per person working in agriculture, it doesn't help many farm workers. Instead it goes primarily to the owners of the farms with the largest sales, and to banks to service farm debt. Finally, about $43 billion was spent on assorted other non-means-tested programs, such as veterans' health care (going mostly to elderly people with higher-than-average incomes and without service-related illnesses). Unemployment compensation, amounting to less than $18 billion, almost gets lost in this sea of money.

Many of these programs, and especially Social Security, provide invaluable income support to millions of people who would be in poverty without them. This is true especially for members of what Stephen Crystal, in *America's Old Age Crisis,* calls the "multiple jeopardy" groups—those who can be characterized in two or more of these ways: over seventy-five (a group expected to grow by more than 50 percent by the year 2000), widowed, single, divorced, in poor health, without a private pension, and nonwhite. For example, the mean income of the black elderly was only 54 percent of the mean income of the white elderly in 1980. But these people are helped mainly by dint of the enormous sums of money spent, not by virtue of any rational allocation scheme.

It is also argued that federal retirement benefits "belong" to the recipient—despite the consensus among experts that the benefits payback for Social Security and Medicare is five to ten times greater than the actuarial value of prior contributions; plainly put, even middle- and upper-income groups get back vastly more than they put in (including interest and employers' contributions). As for civil-service retirement, we are told that it is a genuine pension system, under which federal workers and federal agencies each contribute seven percent of payroll to a "trust fund" in behalf of every workers' retirement or disability. Yet the pension level is so high (averaging 56 percent of pre-retirement pay), the retirement age so young (age fifty-five after thirty years of service), and the disability criteria so easy (one quarter of all civil-service pensioners are "disabled") that every outside actuary has found, here too, that benefits far exceed contributions. Most say that recipients get somewhere between two and three extra dollars for every dollar they contribute. Unlike any private pension, moreover, civil-service pensions are 100 percent indexed to the Consumer Price Index—with the absurd result that federal pensioners often outearn their successors in office.

As for military retirement, here we confront the ultimate bonanza. The serviceman contributes nothing to a trust fund, but upon reaching a median age of forty-one (and completing at least twenty years of service), he is entitled to 50 to 75 percent of pre-retirement pay, indexed yearly, for life. Typically, military pensioners—including many of the most valuable members of our Armed Forces, who are induced to quit by the retirement bonanza—spend more years collecting benefits than they ever spend in the service. Only one quarter are over age sixty-five, all are eligible for Social Security, and most pursue second careers to achieve a "triple-dip" private pension.

The Administration and Congress have often boasted of "cutting back" on excessive benefit spending. Unfortunately, nearly all the painful and high-visibility cuts have been made in the 15 percent of all benefit programs that are means-tested. One result is that means-tested benefits have hardly grown at all as a share of GNP during the 1980s (in fact, excluding Medicaid, they have actually shrunk; hardly any poverty cash benefits are indexed). Another result is that such benefits target the poor even better now than they did in the 1970s, since most of the cuts have effectively excluded many near-poor beneficiaries, those whom we do not consider truly needy. Meanwhile, the tremendous non-means-tested programs—protected by powerful middle-class lobbies and automatic 100-percent-of-CPI indexing—have burgeoned.

Over the past generation federal benefits have grown roughly twice as fast as our economy. What is most ominous about the long-term trend in the cost of non-means-tested benefits, however, is that these benefits will necessarily continue to grow faster than our economy even if we do nothing explicit to increase benefit levels. Just leaving the budget on "automatic pilot" will lead to fiscal disaster. The forces guaranteeing this result are threefold: the aging of America, the hyperinflation in health care, and the uncontrollability of benefit indexing.

The aging of America: Well over half (about 56 percent) of all federal benefits now go to the 12 percent of our population who are age sixty-five and over. We now direct, on average, about $9,500 a year in federal benefits to each elderly American (largely consumption). In contrast, we direct less than $950 in federal benefits, including aid to education, to each American child (largely investment). In fact, *total* federal spending on net infrastructure investment and non-defense R&D, the benefits of which will last several generations, amounted to only $357 per child in 1986. That's equivalent to the *increase* in federal benefits per elderly person that now occurs every six months.

But even if benefits per elderly person henceforth grow no faster than our economy, we can be certain that the total cost burden will. By about the year 2015 the age composition of the entire United States will be the same as that of Florida today. By 2040 there may be more Americans over age eighty than there are Americans today over age sixty-five. Over the next fifty years, depending on future fertility and longevity, our working-age population will grow by 2 to 18 percent, while our elderly population will grow by 139 to 165 percent.

The more "pessimistic" projection (to use the strange term applied by the Social Security Administration to the projection involving longer life-spans) implies that our labor force will grow by only six million people while our elderly population will grow by 46 million. Today each retired Social Security beneficiary is supported by the payroll taxes of 3.3 workers. By the year 2020 the ratio will have declined to at most 1:2.3. The official pessimistic picture shows the cost of all FICA-funded Social Security benefits rising to an obviously unacceptable 36 percent of every worker's taxable pay by 2040, from 13 percent today.

Health-care hyperinflation: The novel cost-saving reforms introduced four years ago to Medicare and Medicaid (such as the new prospective pricing now used by Hospital Insurance) stirred widespread hope that we had turned the corner on the rapid growth of health-care spending. Today such hope has faded. Although total U.S. health-care spending as a share of GNP fell slightly in 1984 (from 10.5 percent to 10.3 percent), it rose anew, to an unprecedented 10.7 percent, in 1985, and further, to 10.9 percent, last year. We already know that the rate of inflation for medical care was 7.9 percent in 1986, a rate about seven times higher than the rise in the Consumer Price Index. Optimistic projections made by federal health officials just two years ago are already in shreds. As the Health Care Financing Administration admitted in its report last year, "Little relief appears to be in sight. . . . The decline in the share of GNP going to health in 1984 appears to be a one-time blip in the historic trend rather than the start of a new trend." Health-care benefits as a share of the federal budget, meanwhile, did not experience even a one-year dip. They have risen every year of the 1980s and now amount to about $120 billion annually, or 25 percent of all federal benefit spending.

The underlying causes of America's health-care cost explosion have been discussed at length elsewhere: the rapid climb in real technological and labor costs per treatment, the impressive increase in the number of treatable acute and chronic illnesses, and, of course, the stubborn persistence, in both the public and private sectors, of inefficient health-care regulations and perverse, cost-plus reimbursement systems that insulate both health-care professionals and patients from the cost of treatment. Amazingly—even with the federal reforms enacted in this decade—Medicare has shown nearly the same real rate of annual growth in the 1980s (8.2 percent from 1979 to 1986) as it did in the 1970s (8.7 percent from 1969 to 1979). As recently as 1975 Medicare's total cost was only $14 billion. Last year it was $74 billion, and it may well hit $100 by 1990. By 1991 outlays for Hospital Insurance, which account for two thirds of Medicare benefits, may already start to exceed payroll-tax revenue. Thus, without further reform the Hospital Insurance trust fund will almost certainly go bankrupt by the end of the 1990s.

Why have the reforms thus far proved ineffective? A large part of the problem is that per capita health-care costs are rising much faster for the elderly than for the population as a whole. Longer life expectancy means disproportionate growth in the oldest age groups, and it is well documented that every measure of health-care utilization rises steeply from age sixty-five on. In 1982, for instance, the average reimbursed hospital cost for Medicare enrollees over age eighty-five was two thirds higher than that for enrollees aged sixty-five to seventy-five. The average per capita cost of long-term care is ten times higher for the "old" elderly than for the "young" elderly, and the high cost of long-term nursing care for the elderly, which is not covered by Medicare, is steadily encroaching on means-tested public benefits not primarily designed for the elderly. In 1984, for instance, though the elderly made up only 10 percent of Medicaid's beneficiaries, they accounted for nearly one third of Medicaid's total spending.

Experts at the Health Care Financing Administration now project that health-care spending in the United States will hit 15 percent of GNP by the year 2000. Do we really think we can become competitive in trade while allocating a still larger proportion of our scarce supply of capital and skilled labor to health-care consumption? According to Lee Iacocca, the Chrysler Corporation pays more money to Blue Cross/Blue Shield every year than it does to any other supplier. Sooner or later we must debate health-care spending in terms of affordability. We must ask why, for instance, we continue to devote so many resources to comforting us at the end of life (more than half of an American's lifetime health-care costs are incurred after age sixty-five), while we pay a Head Start teacher less than

$10,000 annually to prepare us at the beginning of life. Other industrial countries are facing such quesitons with both commonsense humanity and a steady eye on the future. We alone are not.

Uncontrollable indexing: The history of the indexing of non-means-tested benefits is one of the sorriest stories in federal policymaking. Perhaps the most flagrant case in point was the egregious "double indexing" of Social Security cash benefits enacted in 1972, which essentially pushed up the benefits for new retirees by two CPI indexes at once. This was a colossal error that caused the average retiree benefit to grow far faster than either prices or average wages during the mid-to-late 1970s. The error was apparent to nearly every policy expert as soon as the legislaton was passed. But though Congress took only several weeks to debate and pass the 1972 Social Security amendments, it required several years to correct the mistake. In the late 1960s only six percent of all benefits were indexed; today 78 percent of all benefits are indexed to one price index or another, including nearly every non-means-tested cash benefit. The result, quite simply, has been to render outlays for benefits uncontrollable by either Congress or the President.

Most important, indexing makes it impossible for elected policy-makers to reorder their spending priorities by gradually allowing real benefit levels in some programs to fall behind inflation while committing new resources to new problems. This perversity is highlighted by the names that we give to these two types of spending ("discretionary" to outlays earmarked for national investment, and "entitlements" to outlays earmarked for personal consumption).

Back in the early 1970s, when most federal benefit programs were first indexed, none of these problems seemed to matter much. Back then, after all, real federal spending, real GNP, and real wage levels were all still growing rapidly. Today such problems obviously do matter. Facing the prospect of declining or (at best) stagnant real consumption per worker over the next ten or fifteen years as we do, it follows almost by definition that during many of these years we will see prices rising faster than after-tax wages. Each year this occurs, indexing will automatically cause benefit spending to grow faster than wages are growing. The very nature of indexing will then pose genuine questions of equity: to what extent should beneficiaries not in poverty be "held harmless" from downward jolts in the standard of living that affect all other Americans?

To say that the fundamental forces driving up federally financed consumption are aging, health-care inflation, and indexing is not, of course, to say that there is any painless way to avoid them. They cannot be avoided, precisely because all three forces are so closely connected to the shape of our population, as well as our technology, expectations, and political culture. We can, however, speculate on the consequences of trying to avoid them. Recently I asked James Capra, an expert on the federal budget (an unequaled forecaster of our current deficits), to make a forty-year projection of the federal budget—given no change in defense or domestic policy and using the same long-term economic and demographic assumptions that are used by the Social Security Administration.

The results? Using the official pessimistic assumptions, total non-means-tested benefit spending—in the absence of any new benefit provisions—will rise by an amazing 9.6 percent of GNP by 2025, as the retiring Baby Boom generation claims its health-care and cash retirement benefits. By then the explosion in Medicaid-funded nursing care will add another 1.2 percent of GNP. All told, assuming that the totality of other federal costs grows no faster than our economy, the total projected federal outlays for fiscal year 2025 will amount to about 35.4 percent of GNP. Outlays for benefits will consume 22.3 percent of GNP—a sum nearly equal to the entire federal budget today—and outlays for Social Security and Medicare alone will consume more than 31 percent of workers' taxable payroll. These incredible results are most certainly not predictions; instead they are projections of the future of our present policies. That these outcomes seem impossible is a virtual guarantee that they will be just that. What they mean is that today's policies are unsustainable. They will be radically changed. The only question is how—whether in a political spasm or gradually, allowing those affected to plan ways of coping.

FROM DENIAL TO RECONSTRUCTION

We face a future of economic choices that are far less pleasant than any set of choices we have confronted in living memory. What, concretely, will these choices entail? Looking into the future is always a dangerous task, but here is an attempt to sketch a sequence of future economic issues that will change our lives. My sketch follows the probable chronological order—near-term, medium-term, and long-term—in which reality will impose these issues on us.

The near term (1988 to 1992): Over the near term (a period that already exceeds the "long-term" time horizon of almost every legislator and executive policy-maker) America's primary economic challenge will be to extricate itself from growing foreign indebtedness without touching off a global crisis. The single most important step toward a successful outcome will be for America to generate steady, large, and predictable increases in its net national savings rate over the next several years. This, in turn, cannot be accomplished without steps to eliminate the federal-deficit drain on private savings. Fiscal balance is thus the cornerstone of any plan to cut our trade deficit.

So long as the U.S. demand for foreign savings remains insatiable, any attempt to force-feed U.S. exports to foreigners in any one sector or to any one country will simply be vitiated by a stronger dollar, which will tend to worsen the U.S. trade balance in all other sectors or with all other countries. It's like placing a few sandbags on top of an overflowing dam: you can change where the water will spill over, but you can't change the fact that it will spill over somewhere. If there is little action on the federal budget over the next five years, therefore, the odds of a global crash landing will certainly grow.

As we have seen, a successful escape from our foreign-sector imbalance (barring an improbable near-term leap in U.S. productivity growth) could be accompanied by a decline in real consumption per U.S. worker. Over the next five years, in other words, we must be prepared for a perceptible fall in real-tax employee compensation combined with a similar decline, or at best a stagnation, in real government spending—both in benefit payments and in defense spending. On the positive side, we can look forward to a rapid expansion in U.S. manufacturing output and employment, a steady improvement in our trade balance, and a steady decline in the rate of foreign-capital inflows (slowing, though not stopping, the deterioration of the net U.S. investment position by 1992). But, in order to avoid the crash scenarios, there is plenty that we must also prepare for on the negative side: a further (though modest) decline in the exchange rate of the dollar, considerable inflationary import-price pressure, and a very tough assignment of the Federal Reserve Bank and its new chairman, Alan Greenspan—finding an interest rate high enough to control inflation and keep the dollar from collapsing, yet low enough to avoid a serious U.S. recession. Most likely, the Fed will have to strike a balance between bad news on both fronts: some accommodation to inflation (as import prices rise) and some accommodation to higher interest rate (as foreign lenders get finicky).

For most working Americans the coming decline in the growth of real household consumption will probably be felt not in any marked change in dollar salary raises but rather in the erosion of real dollar income caused by unavoidably swifter inflation. Wages in manufacturing, exportable business services, and energy will climb much more steeply than wages in other sectors—a trend reversal from the early and middle 1980s which many Americans will welcome. The indexing of federal benefits, meanwhile, will become a major political issue. Not only will steady reductions in budget deficits be difficult to sustain without a major reform of indexing, but 100 percent cost-of-living adjustments for middle- and upper-class federal beneficiaries during years of declining real income for most American workers will raise reform as a stark question of equity. The cost-effectiveness of defense and foreign-aid spending will also come under increasing scrutiny. Since we know full well that it will take a heroic effort to find the resources for economic investment alone, it is totally incredible that we could fund both our domestic obligations and our current global military obligations. By the end of this decade, therefore, it is likely that the United States will raise strategic "burden-sharing" as a routine point of discussion in our economic summits with other industrialized powers.

The medium term (1992 to 2007): The fifteen years that follow our near-term period promise to be a crossroads in our nation's future. As Americans enter this era, five years from now, they may still be uncertain whether the United States has successfully worked its way out of its foreign-sector imbalance. Ironically, it will probably be a signal of impending disaster if real per-worker U.S. consumption is significantly higher in 1992 than it is today, and it would almost certainly be a symptom of worsening global imbalance. Other symptoms would include minimal reductions in our budget deficits and in our credit inflows, further cuts in our net domestic investment, high interest rates, and special ad hoc arrangements to keep our creditors happy—such as yen-denominated Treasury bonds or de facto foreign veto power over U.S. monetary policy. More likely, we will see a considerable dampening in real per-worker consumption, and we will be worrying about (or trying to recover from) a long recession characterized by stagnant global demand.

But twenty years from now, when young adults currently entering the work force are approaching the peak of their careers and when the oldest Baby Boomers are contemplating retirement, the foreign-imbalance problem will have been resolved, one way or the other. By then we may have entered one of the prolonged crash scenarios sketched earlier—the decline of the bumpy British variety or the indefinite depression of the 1930s variety. If, on the other hand, we have resolved the problem successfully, we can expect that our current-account deficit will have declined steadily during the early 1990s and will be turning into a modest surplus by the late 1990s. As that happens, the focus of our policy debates will likely shift from the problem of reducing our foreign borrowing to the challenge of raising our level of domestic investment. Over the near term most of our extra savings must be focused on raising net exports, which is our sole means of weaning ourselves away from foreign creditors. Only later will we be able to concentrate on the more rewarding task of reconstructing our future. Only after paying off our credit-card bills, so to speak, can we think of buying a new home.

The long term (2007 on): Should America not make investment its number-one policy priority in the medium term, it will surely have to pay the price in the long term. It will not be a price denominated solely in terms of labor productivity, real wages, and global political influence. The price will also include an utter lack of preparation for the most stunning demographic transformation—from workers to dependents—in American history. In the fifteen years between 2010 and 2025 the number of Americans who are of working age will decline by perhaps as many as 12 million (from 174 million to 162 million). Meanwhile, assuming that current longevity trends persist, the population of elderly will grow from 42 million to 65 million. If investment, retirement, and health care for the elderly seem unaffordable to our society today and for the next twenty years, when a "boom" generation is working and a "bust" generation is retiring, we can only imagine how unaffordable they will be thirty years from now, when the situation is reversed.

If in the medium term the Baby Boom has channeled a sufficient share of its income into education, training, tools, and infrastructure to permit a quantum leap in productivity by the next generation of workers, it may enjoy a prosperous and contented old age. But if the flow of invested endowments from each generation to the next has ceased—and if each generation instead insists on its "right" to consume all its own product and part of the next generation's as well—then we can count on a meager and strife-torn future.

In any summary discussion of America's prospects in the near, the medium, and the long term, there is one theme that must be emphasized above all others: the indissoluble bond between the economic behavior of one decade or generation and the economic well-being of the next decade or generation. Over the near term we must accept the punishment we are inheriting from the ill-fated gamble of Reaganomics. Similarly, over the medium term we must overcome the low-investment heritage we have received from thirty years of postwar preoccupation with "demand management." Both tasks will require a determined effort to save. We will have to raise our net national savings rate, now somewhere between two and three percent of GNP, to between six and seven percent of GNP in the coming five years (a level still beneath our level in the 1970s) and to between 10 and 12 percent of GNP within twenty years (a level far beneath that of Japan's, but just about on par with the average for today's industrial countries). By the first decade of the twenty-first century, in other words, we will have to be rechanneling yearly into investment some $450 billion that we now spend on private and public consumption.

This broad prescription has implications not only for action but also for understanding. The question is not the easy and popular one of where to invest but the brute one, ignored by both political parties, of where to find the resources. Thus, in the coming election year we need to apply a critical yardstick to the policy proposals of the presidential candidates: Does this proposal face up to the long-term problems caused by our neglect of investment in favor of consumption?

Our problems are not, at bottom, economic. We are stymied by our lack of *political* consensus on economic policy—something unimaginable to our Japanese and German trading partners, for whom national consensus (born of national crisis) informs decisions on savings, investment, productivity-related wage increases, exports, and money-supply growth.

With the proviso that we must put a very large question mark over the capacity of our political system to deal with the nation's economic problems, I offer these brief policy suggestions.

First, we must tame the federal budget deficit. Real defense spending has been effectively frozen for the past couple of years, and we may be at a crossroads in foreign policy which will allow us to make substantial future savings in security expenditures. Greater sharing of the burden by our NATO allies is clearly on the horizon; it should proceed proactively, not reactively (that is, not simply in response to one financial crisis or another). I believe the time is also right for a historic arms treaty with General Secretary Mikhail Gorbachev, whose nation's resources are far more severely constrained than ours and who desperately needs breathing space. The deal I envision would cover the more costly and, when one considers the size of the Soviet tank armies, more plausibly threatening conventional forces, as well as strategic weapons. A new international division of labor remains to be worked out with Japan. The agreement that I think is needed would have Japan provide, for example, far more World Bank support, aid not tied to its exports, and more incentives for major capital flows to Third World countries; further, it would forge a U.S.-Japan strategic-economic partnership in areas of the world critical to both countries—Latin America, say. In turn, the United States would continue to provide military assistance to Japan. Finally, the newly industrializing countries can no longer simply be beneficiaries of an open world economy. They must now join the club of the industrial countries and pay their dues, including aid to the poorer countries.

As for domestic spending, we must above all slow the growth in non-means-tested entitlements, starting with a reform of benefit indexing. Cutting the non-poverty-benefit cost-of-living adjustment, or COLA, to 60 percent of the CPI (a "diet COLA"), for instance, would save about $150 billion in federal outlays annually by the year 2000. Gradually raising the retirement age and lowering initial benefits to the relatively well off (for example, those with histories of high wages) should be combined with the taxation of all benefits in excess of contributions, which could save well over $50 billion annually by the year 2000. Note that under this proposal the progressivity of the tax system would leave intact benefits that go to the poor. There are those who protest the "humiliation" of the means test; however, these reforms go far toward honoring the principle of need, doing so implicitly rather than explicitly.

We should also take a more serious look not simply at the unfunded liabilities of our federal retirement programs but at all the various elements of a grievously costly fringe-benefit pension program. Civil-service and military retirement programs should be made part of a *total* compensation package comparable to those in the private sector. They should gradually be made self-supporting (that is, funded as our corporate pension plans are), through a combination of benefit reductions (with special emphasis on lower initial benefits and later retirement, as well, of course, as reductions in COLA indexing) and higher contribution rates.

Second, we must act decisively to put a lid on America's excessive and wasteful consumption of health care, three quarters of which is either funded directly from public budgets or paid through publicly regulated insurance systems. This is not the place to enter the thicket of specific health-care reforms, but we must begin to experiment in earnest with various means by which to replace the horrendous, indeed perverse, inefficiencies of the current "cost-plus" system with the discipline of market forces (for example, greater cost-sharing, or the use of medical vouchers).

Third, to the extent that our federal deficits cannot be eliminated in the near term by simply deciding to spend less, we must increase federal revenue. The Reagan Administration has steadfastly opposed tax hikes by claiming that they would permanently sanction an increased "tax burden." But surely the alternative is worse: to sanction permanently an increased "debt burden." My choice among revenue options is some form of consumption-based tax. A phased-in tax on gasoline of twenty-five cents a gallon, for instance, would generate about $25 billion a year by 1990—and also serve to depress world energy prices and moderate the now-rapid rise in our oil trade deficit, without destroying the global competitive position of critical export products such as petrochemicals. A broad-based five-percent value-added tax on all products would of course generate considerably more revenue—more than $100 billion in 1990, or enough to halve the federal deficit.

Fourth, over the longer term we should encourage higher private-sector savings rates by trading off increases in consumption-based taxes for reductions in investment-based taxes. Our industrial competitors, after all, have already adopted the principle that people should be taxed more according to what they take out of the pot than according to what they put in. Most of those countries do not tax corporate income twice; most of them do not tax interest, dividends, and capital gains as ordinary income; and most of them do not allow sweeping personal exemptions for home-mortgage interest, for employer-paid health care, and for unearned public retirement benefits. At the same time, all our industrial competitors have much higher household and corporate savings rates than we do. It's time our policy-makers put two and two together.

The least productive Americans can engage in—though it is virtually second nature—is trying to place the blame for what has happened to our economy in the 1980s on one political party or ideology. Blame is beside the point, for it is something we all share. To be sure, it is easy to find fault with the conservative fiscal leadership of the current Administration. (Indeed, I will confidently predict that in the years to come President Reagan will lament his May, 1985, decision not to support his own party's leadership in its effort to freeze entitlement COLAs. President Richard Nixon, after all, has come to lament his decision to sign those COLAs into law.)

But, clearly, the liberals and the Democrats are equally to blame. Long before Reagan entered the White House, liberal opinion leaders persuaded the public to regard the budget and the tax code as engines of free national consumption. It was a Democratic Congress that argued in favor of deficit spending for so many years that no one could recall (with only one budget surplus since 1960) the rationale behind fiscal balance. And it was a Democratic President who pioneered the art of disingenuous forecasts (when President Johnson signed the Medicare Act, he said that an extra $500 million in federal spending would present "no problem"; today Medicare costs 150 times more than estimated). The very success that the Democrats enjoyed in promoting consumption, in fact, persuaded Reagan's conservative backers to dish the Whigs and beat the opposition at their own game.

Reaganomics was founded on a bold new vision for America, yet today—another irony—we hear every politican who is warming up for the 1988 campaign, Republican and Democrat alike, complaining about the lack of vision in America. The reason we feel adrift is that we are waking up to the fact that blind and self-indulgent gusto is not vision at all but denial. True vision requires the forging of a farsighted and realistic connection between our present and our future. It means recognizing in today's choices the sacrifices all of us must make for posterity. America's unfettered individualism has endowed our people with enormous energy and great aspirations. It has not, however, given us license to do anything we please so long as we do it with conviction.

THE OMNIBUS TRADE ACT OF 1987

(Mr. ROSTENKOWSKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, we all know that the conference on H.R. 3, the Omnibus Trade Act of 1987, is one of the largest in history. In an effort to provide some guidelines to both the members of the conference and to the public, the following summaries of the subject matter within the purview of the various subconferences have been prepared.

The documents list those committees which are the lead committees for each subconference and the additional conferees within each subconference. In using these documents, it can be easily determined which set of conferees have been appointed to consider each provision of both the House bill and the Senate amendment.

I hope that the information provided here is of use in expediting the work of the conference.

SUBCONFERENCE SECTION RESPONSIBILITY

SUBCONFERENCE NO. 1—TRADE AND TARIFF LAWS; TRADE AGREEMENTS

House bill

Title I (Secs. 101-199, except Sec. 186).
Title II (Secs. 201-212).
Title VI, Subtitle G (Secs. 691, 692).
Secs. 704.
Title VIII (Secs. 800-894).
Secs. 906, 908 and 909.
Title XV (Sec. 1501).

Senate amendment

Title I (Secs. 101-111).
Title II (Secs. 201-221).
Title III (Secs. 301-341).
Secs. 401.
Title V (Sec. 501).
Title VI (Secs. 601-605).
Title VII (Secs. 701-703).
Title VIII (Secs. 801-899D).
Title IX (Secs. 901-981, except Sec. 963-967; 968-972, 974, 975 and 977).

SUBCONFERENCE NO. 2—TRADE AND FOREIGN POLICY

House bill

Secs. 321, 363, and 907.

Senate amendment

Secs. 411-416,
Secs. 963-972 and 977.

SUBCONFERENCE NO. 3—EXPORT CONTROLS; EXPORT PROMOTION

House bill

Secs. 301, 302, 311-315, 317, 324-326, 331-341, 361, 362 and 364.

Senate amendment

Title X (Secs. 1001-1036).
Secs. 1104 and 1105.
Title XII (Secs. 1201-1207).

SUBCONFERENCE NO. 4—EXPORT ENHANCEMENT

House bill

Secs. 316 and 323.
Title III, Subtitle C (Secs. 341-346) except Sec. 341).
Sec. 351.
Sec. 912.

Senate amendment

Title XVIII (Secs. 1801-1809).
Title XX (Secs. 2001-2012), except Secs. 2001; 2008.
Sec. 4501.
Title XLVII (Secs. 4701-4711)
Sec. 4901.

SUBCONFERENCE NO. 5—INTERNATIONAL FINANCIAL POLICY

House bill

Sec. 322.
Title IV (Secs. 401-477), except Subtitle D (Secs. 461-471).
Sec. 702.

Senate amendment

Secs. 1101-1103, 1106 and 1107.
Title XIII (Secs. 1301-1305).
Title XV (Secs. 1501-1506).
Title XVII (Secs. 1701-1724).
Title XIX (Secs. 1910-1911).
Secs. 2001 and 2008.
Secs. 2178-2180A.

SUBCONFERENCE NO. 6—AGRICULTURAL TRADE

House bill

Secs. 318-320.
Title VI (Secs. 601-692), except Subtitle G (Secs. 691, 692).

Senate amendment

Secs. 974-975.
Title XXI (Secs. 2101-2199), except Secs. 2178-2180A; 2185-2188.

SUBCONFERENCE NO. 7—INVESTMENT; COMPETITIVENESS; FOREIGN CORRUPT PRACTICES ACT

House bill

Secs. 701, 703, 903-905 and 910.

Senate amendment

Title XIV (Sec. 1401).
Title XVI (Secs. 1601-1605).

SUBCONFERENCE NO. 8—EDUCATION AND LABOR

House bill

Title V.

Senate amendment

Titles XXII-XXXII.

SUBCONFERENCE NO. 9—TECHNOLOGY

House bill

No provisions.

Senate amendment

Title XXXVIII, Subtitles E (Sec. 3871) and F (Secs. 3881-3884).
Titles XL-XLIV.
Title XLV (Secs. 4501-4505), except Secs. 4501 and 4502.

SUBCONFERENCE NO. 10—GOVERNMENT PROCUREMENT

House bill

Title X (Secs. 1001-1004).

Senate amendment

No provisions.

SUBCONFERENCE NO. 11—PATENT LAW

House bill

Title XIV.

Senate amendment

Titles XXXIII-XXXVI.

SUBCONFERENCE NO. 12—SMALL BUSINESS

House bill

Title XIII (Secs. 1301-1312).
Sec. 186.

Senate amendment

Title XXXIX.
Title XXXVII.

SUBCONFERENCE NO. 13—COUNCIL ON COMPETITIVENESS

House bill

Title IV, Subtitle D (Secs. 461-471).

Senate amendment

Title XXXVII, Subtitle A (Secs. 3801-3809).

SUBCONFERENCE NO. 14—OCEAN AND AIR TRANSPORTATION

House bill

Title XI (Secs. 1101-1110).
Title XII (Secs. 1201-1203).

Senate amendment

Title XLVI (Secs. 4601-4602).
Sec. 4502.

SUBCONFERENCE NO. 15—SAFE FOOD IMPORTS

House bill

No provisions.

Senate amendment

Secs. 2185-2188.

SUBCONFERENCE NO. 16—FEDERAL BUDGET DEFICIT

House bill

Title XVI (Secs. 1601-1603).

Senate amendment

Title XLVIII (Secs. 4801-4803).

SUBCONFERENCE NO. 17—TRADE DATA AND STUDIES

House bill

Secs. 901, 902 and 911.

Senate amendment

Title XXXVIII, Subtitles B (Secs. 3811-3824), C (Secs. 3851-3854) and D (Secs. 3861-3867).

H.R. 3 TRADE SUBCONFERENCES

SUBCONFERENCE NO. 1—TRADE AND TARIFF LAWS; TRADE AGREEMENTS

House Conferees

Lead House Committee: Committee on Ways and Means

House bill:

Title I (Secs. 101-199)—Trade Law Amendments, *except:* Sec. 186
Title II (Secs. 201-212)—International Trade in Telecommunications Products and Services
Title VI, Subtitle G (Secs. 691, 692)—Trade Policy Formulation and Implementation
Sec. 704—Entry processing for textiles and apparel
Title VIII (Secs. 800-894)—Tariff and Customs Provisions
Sec. 906—Unreasonable practices
Sec. 908—Investigations of certain barriers pertaining to trade and services
Sec. 909—Effect imports on crude oil production and refining capacity in the United States
Title XV (Sec. 1501)—Most-Favored-Nation Treatment to Products of Romania

Senate amendment:

Title I (Secs. 101-111)—Authority to Negotiate Trade Agreements
Title II (Secs. 201-221)—Enhancing Competitiveness
Title III (Secs. 301-341)—Unfair International Trade Practices
Sec. 401—Remedies under the Tariff Act of 1930
Title V (Sec. 501)—National Security
Title VI (Secs. 601-605)—Agreements on Agricultural Trade; Miscellaneous Agricultural Trade Provisions
Title VII (Secs. 701-703)—Authorization of Appropriations for Trade Agencies
Title VIII (Secs. 801-899D)—Tariff Provisions
Title IX (Secs. 901-981)—Miscellaneous Trade Provisions, *except:* Secs. 963-967; 968-972; 974; 975; 977

Joint Conferees on specific provisions:

Committee on Energy and Commerce

House bill:

Title II (Secs. 201-212)—International Trade in Telecommunications Products and Services
Sec. 908—Investigations of certain barriers pertaining to trade and services
Sec. 909—Effect of imports on crude oil production and refining capacity in the United States

Senate amendment:

Sec. 310—Investigation of barriers in Japan to certain U.S. services
Title IX, Subtitle A (Secs. 901-913)—Telecommunications trade

Committee on Agriculture

House bill:

Title VI, Subtitle G (Secs. 691, 692)—Trade Policy Formulation and Implementation

Additional Conferees on specific provisions:

Committee on Foreign Affairs

Senate amendment:

Sec. 308—Use of export enhancement program in cases of alleged unfair agricultural trade
Sec. 311—Trade and economic relations with Japan
Sec. 958—Trade with Afghanistan

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 126 (insofar as it would add new sections 311(g) (1) and (2) to the Trade Act of 1974)—Currency manipulation

Senate Conferees

Committee on Finance

House bill:

Title I (Secs. 101-199)—Trade Law Amendments, *except:* Sec. 186
Title II (Secs. 201-212)—International Trade in Telecommunications products and Services
Title VI, Subtitle G (Secs. 691, 692)—Trade Policy Formulation and Implementation
Sec. 704—Entry processing for textiles and apparel
Title VIII (Secs. 800-894)—Tariff and Customs Provisons
Sec. 906—Unreasonable practices
Sec. 908—Investigations of certain barriers pertaining to trade and services
Sec. 909—Effect of imports on crude oil production and refining capacity in the United States
Title XV (Sec. 1501)—Most-Favored-Nation Treatment to Products of Romania

Senate amendment:

Title I (Secs. 101-111)—Authority to Negotiate Trade Agreements
Title II (Secs. 201-221)—Enhancing Competitiveness
Title III (Secs. 301-341)—Unfair International Trade Practices
Title IV, Subtitle A (Sec. 401)—Remedies under the Tariff Act of 1930
Title V (Sec. 501)—National Security
Title VI (Secs. 601-605)—Agreements on Agricultural Trade; Miscellaneous Agricultural Trade Provisions, *except:* Sec. 603
Title VII (Secs. 701-703)—Authorization of Appropriations for Trade Agencies
Title VIII (Secs. 801-899D)—Tariff Provisions
Title IX (Secs. 901-981)—Miscellaneous Trade Provisions, *except:* Secs. 963-967; 968-972; 974; 975; 977

Committee on Finance and
Committee on Agriculture

Senate amendment:

Sec. 602—Representation at negotiations relating to agricultural trade ageements

H.R. 3 TRADE SUBCONFERENCES—Continued

House Conferees

Senate amendment:

Sec. 108—Negotiations on currency exchange rates
Sec. 959—Annual trade report

Committee on Agriculture

Senate amendment:

Sec. 308—Use of export enhancement program in cases of alleged unfair agricultural trade.
Title VI (Secs. 601-605)—Agreements on Agricultural Trade; Miscellaneous Agricultural Trade Provisions, *except:* Sec. 603

Committee on Energy and Commerce

House bill:

Sec. 104—Congressional liaison regarding trade policy and agreements
Sec. 121*—Action required in response to determinations
Sec. 124*—Action decisions by Trade Representative
Sec. 181—Functions (USTR)
Sec. 183—Report by U.S. Trade Representative under sec. 181
Sec. 198—Purchases of U.S.-made automotive parts by Japan
Sec. 906—Unreasonable practices

Senate amendment:

Sec. 201 (insofar as it would add new sections 204(d)(1)(B)(ii) and (204(d)(2) (B) through (E) to the Trade Act of 1974)—Investigations under section 201 of the Trade Act of 1974
Sec. 306—Actions in response to investigations under Title II of the Trade Act of 1974
Sec. 307*—Miscellaneous amendments to section 301 of the Trade Act of 1974

Committee on the Judiciary

House bill:
Sec. 166—Civil actions for recovery of damages
Title I, Subtitle E (secs. 171-173)—Intellectual property rights
Sec. 872—Scofflaw penalties for multiple customs law offenders
Sec. 873—Import marking provisions

Senate amendment:

Sec. 201 (insofar as it would add new section 203(f) to the Trade Act of 1974)—Investigations under section 201 of the Trade Act of 1974
Sec. 401—Remedies under the Tariff Act of 1930

Committee on Rules

House bill:
Sec. 114(d), (e)—Implementation of trade agreements

Senate amendment:

Sec. 104—Implementation of trade agreements
Sec. 107—Accession of State trading regimes to existing multilateral trade agreements
Sec. 110—Implementation of trade agreements

Senate Conferees

* Except for those matters relating to suspension, withdrawal, or prevention of trade agreement concessions or to imposition of duties or other import restrictions on goods.

SUBCONFERENCE NO. 2—TRADE AND FOREIGN POLICY

House Conferees

Lead House Committee: Committee on Foreign Affairs

House bill:

Sec. 321—Findings and sense of Congress with respect to the European Community
Sec. 363—Relations with Mexico
Sec. 907—Bilateral trade between the U.S. and Mexico

Senate amendment:
Sec. 413—Monitoring foreign intellectual property systems
Sec. 414—Foreign assistance for development of programs to protect intellectual property rights
Sec. 415—U.S. intellectual property training institute
Sec. 963—Findings

Sec. 967—Relations with nations providing offensive weaponry to belligerent states in the Persian Gulf region
Secs. 968-972—"Fair Trade in Auto Parts Act of 1987"

Senate Conferees

Committee on Finance

House bill:

Sec. 321—Findings and sense of Congress with respect to the European Community
Sec. 363—Relations with Mexico
Sec. 907—Bilateral trade between the U.S. and Mexico

Senate amendment:
Title IV, Subtitle B (Secs. 411-416)—Access to Technology
Sec. 963—Findings

Sec. 964—Policy in the event of certain actions by Iran
Sec. 965—Policy toward purposeful attack from other states in the Persian Gulf region
Sec. 966—Definitions
Sec. 967—Relations with nations providing offensive weaponry to belligerent states in the Persian Gulf region
Secs. 968-972—"Fair Trade in Auto Parts Act of 1987"

SUBCONFERENCE NO. 2—TRADE AND FOREIGN POLICY—Continued

House Conferees

Sec. 977—Commercial relations with Mexico

Primary House Committee on specific provisions: Committee on Ways and Means

Senate amendment:

Sec. 411—Findings
Sec. 412—Monitoring of technology transfers
Sec. 416—Unfair competitive practice involving intellectual property
Sec. 964—Policy in the event of certain actions by Iran
Sec. 965—Policy toward purposeful attack from other states in the Persian Gulf region
Sec. 966—Definitions

Joint Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 321—Findings and sense of Congress with respect to the European Community
Sec. 363—Relations with Mexico
Sec. 907—Bilateral trade between the U.S. and Mexico

Senate amendment:

Sec. 977—Commercial relations with Mexico

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 907—Bilateral trade between the U.S. and Mexico

Committee on Agriculture

House bill:

Sec. 321—Findings and sense of Congress with respect to the European Community

Committee on the Judiciary

Senate amendment:

Sec. 415—U.S. intellectual property training institute

Additional Conferees on specific provisions:

Committee on Ways and Means

Senate amendment:

Secs. 968-972—"Fair Trade in Automotive Parts Act of 1987"

Committee on Foreign Affairs

Senate amendment:

Sec. 412—Monitoring of technology transfers
Sec. 964—Policy in the event of certain actions by Iran
Sec. 965—Policy toward purposeful attack from other states in the Persian Gulf region
Sec. 966—Definitions

Committee on Energy and Commerce

House bill:

Sec. 907—Bilateral trade between the U.S. and Mexico

Senate amendment:

Secs. 968-972—"Fair Trade in Auto Parts Act of 1987"

Committee on Science, Space, and Technology

Senate amendment:

Sec. 412—Monitoring of technology transfers

Committee on the Judiciary

Senate amendment:

Sec. 416—Unfair competitive practice involving intellectual property

Senate Conferees

Sec. 977—Commercial relations with Mexico

SUBCONFERENCE NO. 3—EXPORT CONTROLS: EXPORT PROMOTION

House Conferees

Lead House Committee: Committee on Foreign Affairs

House bill:

Sec. 301—Short title

Senate Conferees

Committee on Banking, Housing and Urban Affairs

House bill:

Sec. 301—Short title

SUBCONFERENCE NO. 3—EXPORT CONTROLS: EXPORT PROMOTION—Continued

House Conferees

Sec. 302—Findings and purposes
Sec. 311—U.S. and foreign commercial service
Sec. 312—Diplomatic missions
Sec. 313—Commercial service officers and development banks
Sec. 314—Market development cooperator program and trade shows
Sec. 315—Establishment of U.S. and foreign commercial service Pacific Rim initiative
Sec. 317—Printing at overseas locations
Sec. 324—Export promotion data system
Sec. 325—Preshipment inspection regulation program
Sec. 326—Report on export trading companies
Title III, Subtitle B (Secs. 331-340)—Export Controls
Sec. 341—International negotiations
Sec. 361—Trading with the Enemy Act
Sec. 362—Limitation on exercise of emergency authorities
Sec. 364—Budget Act

Senate amendment:

Title X (Secs. 1001-1036)—Export Administration Act Amendments
Sec. 1104—Office of Export Trade
Sec. 1105—Report on export promotion intermediaries

Title XII (Secs. 1201-1207)—Export Promotion

Senate Conferees

Sec. 302—Findings and purposes
Sec. 311—U.S. and foreign commercial service, *except:* Sec. 311(d)(2)
Sec. 312—Diplomatic missions
Sec. 314—Market development cooperator program and trade shows
Sec. 315—Establishment of U.S. and foreign commercial service Pacific Rim initiative
Sec. 317—Printing at overseas locations

Sec. 325—Preshipment inspection regulation program
Sec. 326—Report on export trading companies
Title III, Subtitle B (Secs. 331-340)—Export Controls

Sec. 341—International negotiations
Sec. 362—Limitation on exercise or emergency authorities
Sec. 364—Budget Act

Senate amendment:

Title X (Secs. 1001-1036)—Export Administration Act Amendments
Sec. 1104—Office of Export Trade
Sec. 1105—Report on export promotion intermediaries
Title XII (Secs. 1201-1207)—Export Promotion

Committee on Banking, Housing, and Urban Affairs and Committee on Foreign Relations

House bill:

Sec. 311(d)(2)—U.S. and foreign commercial service
Sec. 313—Commercial service officers and development banks

Committee on Banking, Housing, and Urban Affairs and Committee on Governmental Affairs

House bill:

Sec. 324—Export promotion data system

Committee on the Judiciary

House bill:

Sec. 361—Trading with the Enemy Act

Joint Conferees on specific provisions:

Committee on Ways and Means

Senate amendment:

Sec. 1030—Findings
Sec. 1031—Mandatory sanctions against Toshiba and Kongsberg
Sec. 1032—Mandatory sanctions
Sec. 1033—Discretionary sanctions authority

Committee on Banking, Finance and Urban Affairs

House bill:

Sec. 326—Report on export trading companies
Sec. 341—International negotiations

Senate amendment:

Sec. 1026—Responsibilities of the Under Secretary of Commerce for Export Administration
Sec. 1027—Authorization of appropriations
Sec. 1105—Report on export promotion intermediaries

Committee on Energy and Commerce

House bill:

Sec. 324—Export promotion data system

Committee on the Judiciary

House bill:

Sec. 326—Report on export trading companies

Senate amendment:

Sec. 1105—Report on export promotion intermediaries

Committee on Government Operations

Senate amendment:

Sec. 1030—Findings
Sec. 1031—Mandatory sanctions against Toshiba and Kongsberg
Sec. 1032—Mandatory sanctions
Sec. 1033—Discretionary sanctions authority

SUBCONFERENCE NO. 3—EXPORT CONTROLS: EXPORT PROMOTION—Continued

House Conferees

Committee on Armed Services

Senate amendment:

Sec. 1030—Findings
Sec. 1031—Mandatory sanctions against Toshiba and Kongsberg
Sec. 1032—Mandatory sanctions
Sec. 1033—Discretionary sanctions authority
Sec. 1034—Annual report of defense impact

Additional Conferees on specific provisions:
Committee on Banking, Finance and Urban Affairs

House bill:

Sec. 313—Commercial service officers and development banks

Senate amendment:

Sec. 1201—Export promotion activities of foreign commercial service officers
Sec. 1203—Multilateral development bank liaison

Committee on Energy and Commerce

House bill:

Sec. 311—U.S. and foreign commercial service
Sec. 312—Diplomatic missions
Sec. 313—Commercial service officers and development banks
Sec. 314—Market development cooperator program and trade shows
Sec. 315—Establishment of U.S. and foreign commercial service Pacific Rim initiative
Sec. 331—Oil exports

Senate amendment:

Title XII (Secs. 1201-1207)—Export Promotion, *except:* Sec. 1207

Committee on Small Business

House bill:

Sec. 314 (insofar as it would add new section 203(c) to the Export Administration Amendments Act of 1985)—Market development cooperator program and trade shows

Committee on Armed Services

Senate amendment:

Sec. 1021—National security review

Senate Conferees

SUBCONFERENCE NO. 4—EXPORT ENHANCEMENT

House Conferees

Lead House Committee: Committee on Foreign Affairs

House bill:

Sec. 316—Commerical personnel at the American Institute of Taiwan
Sec. 323—Country reports on economic policy and trade practices
Title III, Subtitle C (Secs. 341-346)—Debt, Development; and World Growth, *except:* Sec. 341
Title III, Subtitle D (Sec. 351)—Protection of U.S. intellectual property
Sec. 912—Reports on countertrade and offsets

Senate amendment:

Title XVIII (Secs. 1801-1809—Trade Enhancement
Title XX (Secs. 2001-2012)—International Financial Affairs: Miscellaneous Provisions, *except:* Secs. 2001; 2008
Sec. 4501—Office of Barter and Countertrade

Title XLVII (Secs. 4701-4711)—Assistance to Poland

Sec. 4901—Sense of the Senate regarding Japanese purchase of new fighter aircraft

Senate Conferees

Committee on Foreign Relations

House bill:

Sec. 316—Commerical personnel at the American Institute of Taiwan
Sec. 323—Country reports on economic policy and trade practices
Sec. 342—Trade liberalization in developing countries
Sec. 343—Overseas Private Investment Corporation
Sec. 344—Trade and Developemnt Program
Sec. 346—Limitation on procurement in foreign assistance programs
Title III, Subtitle D (Sec. 351)—Protection of U.S. intellectual property

Senate amendment:

Title XVIII—(Secs. 1801-1809—Trade Enhancement
Title XX (Secs. 2001-2012)—International Financial Affairs: Miscellaneous Provisions, *except:* Secs. 2001; 2008
Title XLVII (Secs. 4701-4711)—Assistance to Poland, *except:* Secs. 4705-4709
Sec. 4901—Sense of the Senate regarding Japanese purchase of new fighter aircraft

Committee on Foreign Regulations and
Committee on Agriculture

Senate Amendment:

Sec. 4705—Agricultural assistance for Poland
Sec. 4706—Donation of surplus agricultural commodities

SUBCONFERENCE NO. 4—EXPORT ENHANCEMENT—Continued

House Conferees

Senate Conferees

Sec. 4707—Use of Polish currencies
Sec. 4708—Eligible products
Sec. 4709—Joint commission

Committee on Commerce, Science, and Transportation

House bill:

Sec. 345—Countertrade
Sec. 912—Reports on countertrade and offsets

Senate amendment:

Sec. 4501—Office of Barter and Countertrade

Joint Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 323—Country reports on economic policy and trade practices
Sec. 351—Protection of U.S. intellectual property

Senate amendment:

Sec. 2002—Report

Committee on Banking, Finance and Urban Affairs

House bill:

Sec. 344—Trade and development program

Senate amendment:

Sec. 1801—Multilateral development bank procurement
Sec. 1805—Tied aid credits and Trade and Development Program
Sec. 2012—Effective date

Committee on Agriculture

Senate amendment:

Sec. 4706—Donation of surplus agricultural commodities

Committee on Energy and Commerce

Senate amendment:

Sec. 1801—Multilateral development bank procurement

Committee on the Judiciary

House bill:

Sec. 351—Protection of U.S. intellectual property

Senate amendment:

Sec. 1806—Protection of U.S. intellectual property

Committee on Merchant Marine and Fisheries

Senate amendment:

Sec. 2011—Reflagging Kuwaiti vessels

Additional Conferees **on specific provisions:**

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 345—Countertrade
Sec. 912—Reports on countertrade and offsets

Senate amendment:

Sec. 4501—Office of Barter and Countertrade

Committee on Energy and Commerce

House bill:

Sec. 316—Commercial personnel at the American Institute of Taiwan
Sec. 345—Countertrade
Sec. 912—Reports on countertrade and offsets

Senate amendment:

Sec. 1802—Commercial personnel at the American Institute of Taiwan
Sec. 4501—Office of Barter and Countertrade

Committee on the Judiciary

House bill:

Sec. 912—Report on countertrade and offsets

SUBCONFERENCE NO. 4—EXPORT ENHANCEMENT—Continued

House Conferees

Committee on Small Business

Senate amendment:

Sec. 1804 (insofar as it would add new section 661(d)(2)(B) to the Foreign Assistance Act of 1961)—Trade and Development Program

Committee on Armed Services

Senate amendment:

Sec. 4901—Sense of the Senate regarding Japanese purchase of new fighter aircraft

Senate Conferees

SUBCONFERENCE NO. 5—INTERNATIONAL FINANCIAL POLICY

House Conferees

Lead House Committee: Committee on Banking, Finance and Urban Affairs

House bill:

Sec. 322—Export-Import Bank
Title IV—International Financial and Trade Policy (Secs. 401-477), *except:* Subtitle D (Secs. 461-471)
Sec. 702—Financial services study

Senate amendment:

Sec. 1101—Definition of export trading company
Sec. 1102—Leverage
Sec. 1103—Inventory
Sec. 1106—Amendments to section 2(e) of the Export-Import Bank Act of 1945
Title XIII (Secs. 1301-1305)—Exchange Rates and International Economic Policy Coordination
Title XV (Secs. 1501-1506)—National Treatment of Financial Institutions
Title XVII (Secs. 1701-1724)—International Debt
Title XIX (Secs. 1901-1911)—Multilateral Investment Guaranty Agency
Sec. 2001—Budget offset for MIGA authorization of appropriations
Sec. 2008—Limited purposes special drawing rights for the poorest heavily indebted countries
Secs. 2178-2180A—"Foreign Agricultural Investment Reform (FAIR) Act" (except sec. 2180B)

Primary House Committee on specific provisions: Committee on the Judiciary

Senate amendment:

Sec. 1107—Amendments to the Export Trading Company Act

House bill:

Senate Conferees

Committee on Banking, Housing, and Urban Affairs

House bill:

Sec. 322—Export-Import Bank
Title IV, Subtitle A (Secs. 401-408)—Competitive Exchange Rate Act of 1987, *except:* Sec. 407
Title IV, Subtitle B, Chapter 1 (Secs. 411-414)—Short Title; Findings; Purposes; and Definitions
Sec. 422—Provisions relating to the regulation of depository institutions
Sec. 427—Structural adjustment lending
Sec. 428—Equal access to government debt instruments required
Sec. 432—Mobilization of private capital
Sec. 433—More flexible procedures for rescheduling of debt service payments for less developed countries
Sec. 452—Provisions relating to Export-Import Bank
Title IV, Subtitle E (Secs. 476, 477)—Export Trading Company Amendments
Sec. 702—Financial services study

Senate amendment:

Sec. 1101—Definition of export trading company
Sec. 1102—Leverage
Sec. 1103—Inventory
Sec. 1106—Amendments to section 2(e) of the Export-Import Bank Act of 1945
Sec. 1107—Amendments to the Export Trading Company Act
Title XIII (Sec. 1301-1305)—Exchange Rates and International Economic Policy Coordination
Title XV (Secs. 1501-1506)—National Treatment of Financial Institutions

Committee on Banking, Housing, and Urban Affairs and Committee on Foreign Relations

Sec. 407—Congressional recognition of the recommendations of the International Monetary Fund
Sec. 421—Limited purpose Special Drawing Rights for the poorest heavily indebted countries
Sec. 423—Negotiations to establish an international debt management authority to address sovereign debt
Sec. 424—Action by multilateral institutions
Sec. 425—Reducing capital flight
Sec. 426—Study and report on certain International Monetary Fund activities
Sec. 431—Private capital sources for developing nations
Sec. 451—Amendments to Trade and Development Enhancement Act of 1983

Senate amendment:

Title XVII (Sec. 1701-1724)—International Debt

Committee on Foreign Relations

House bill:

Title IV, Subtitle B, Chapter 4 (Secs. 436-445)—Multilateral Investment Guarantee Agency

SUBCONFERENCE NO. 5—INTERNATIONAL FINANCIAL POLICY—Continued

House Conferees

Title IV. Substitle B, Chapter 5 (Secs.446-447)—Inter—American Development Bank

Joint Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Sec. 451—Amendments to Trade and Development Enhancement Act of 1983
Sec. 702—Financial services study

Senate amendment:

Sec. 1304—International negotiations on exchange rates and economic policy coordination
Sec. 1504—Biennial reports on foreign treatment of U.S. financial institutions
Sec. 1505—Fair trade in financial services

Committee on Energy and Commerce

House bill:

Sec. 702—Financial services study

Senate amendment:

Sec. 1503—Effectuating the principle of national treatment for brokers and dealers
Sec. 1505—Fair trade in financial services

Committee on the Judiciary

Senate amendment:

Sec. 1908—Jurisdiction of U.S. courts and enforcement of arbitral awards
Sec. 1910—Arbitral awards

Additional Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Sec. 322—Export-Import Bank

Senate Conferees

Senate amendment:

Title XIX (Secs. 1901-1911)—Multilateral Investment Guaranty Agency
Sec. 2001—Budget offset for MIGA authorization of appropriations
Sec. 2008—Limited purpose special drawing rights for the poorest heavily indebted countries
Secs. 2178-2180A—"Foreign Agricultural Investment Reform (FAIR) Act" (except sec. 2180B)

SUBCONFERENCE NO. 6—AGRICULTURAL TRADE

House Conferees

Lead House Committee:
Committee on Agriculture

House bill:

Sec. 318—Agricultural trade policy
Sec. 319—Joint development assistance agreements with certain trading partners
Sec. 320—Food aid and market development
Title VI (Secs. 601-692)—Agricultural Trade, *except*: Subtitle G (Secs. 691, 692)

Senate amendment:

Sec. 974—U.S. access to the Korean beef market
Sec. 975—U.S. access to the Japanese beef market
Title XXI (Secs. 2101-2199)—Agriculture, *except*: Secs. 2178-2180A; 2185-2188

Joint Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 613—Study of Canadian wheat import licensing requirements

Sec. 626—Sense of Congress-Japanese beef market
Sec. 627—Sense of Congress-Korea's beef market
Title VI, Subtitle F (Secs. 671-682)—Domestic markets for Agricultural Commodities and Products, *except*: Sec. 676

Senate Conferees

Committee on Agriculture

House bill:

Sec. 318—Agricultural trade policy
Sec. 319—Joint development assistance agreements with certain trading partners
Sec. 320—Food aid and market development
Title VI (Secs. 601-692)—Agricultural Trade, *except*: Subtitle G (Secs. 691, 692)—Trade Policy Formulation and Implementation

Senate amendment:

Sec. 974—U.S. access to the Korean beef market
Sec. 975—U.S. access to the Japanese beef market
Title XXI (Secs. 2101-2199)—Agriculture, *except*: Secs. 2178-2180A; 2185-2188

SUBCONFERENCE NO. 6—AGRICULTURAL TRADE—Continued

House Conferees

Senate Conferees

Senate amendment:

Sec. 974—U.S. access to the Korean beef market
Sec. 975—U.S. access to the Japanese beef market
Sec. 2112—Agricultural trade with countries with large trade surpluses
Sec. 2128—Assistance for victims of unfair agricultural trade practices and policies
Sec. 2171—Application of marketing orders to imports
Sec. 2173—Reciprocal meat inspection requirement
Sec. 2174—Agricultural import data
Sec. 2175—Monitoring egg imports
Sec. 2191—Study of dairy import quotas
Sec. 2193—Study of honey imports
Sec. 2194—Study of circumvention of agricultural quotas

Committee on Foreign Affairs

House bill:

Sec. 318—Agricultural trade policy
Sec. 319—Joint development assistance agreements with certain trading partners
Sec. 320—Food aid and market development
Title VI, Subtitle A (Secs. 601-613)—Improvement of Agricultural Trade Policy and Market Development Activities, *except:* Sec. 613
Sec. 621—Sense of Congress—Export assistance programs
Sec. 622—Export Enhancement Program under section 1127 of the Food Security Act of 1985
Sec. 623—Sense of Congress—Implementation of sections 1129 and 1167 of the Food Security Act of 1985
Sec. 625—Export sales of government stocks at subsidized prices
Sec. Title VI, Subtitle C (Secs. 631-649)—Agricultural Aid and Trade, *except;* Sec. 638—
Sec. 651—Developing markets for wood and wood products under the short-term and intermediate-term export credit programs
Sec. 653—Use of Department of Agriculture programs
Sec. 663—International efforts to reduce grain production

Senate amendment:

Title XXI, Subtitle A (Secs. 2111-2114)—Findings, Policies, and Objectives, *except:* Sec. 2112
Title XXI, Subtitle B (Secs. 2121-2129)—Agricultural Trade Initiatives, *except:* Sec. 2128
Title XXI, Subtitle C (Secs. 2131-2139B)—Existing Agricultural Trade Programs, *except:* Secs. 2131; 2137; 2139
Title XXI, Subtitle D (Secs. 2121-2147)—Agricultural Aid and Trade Missions
Title XXI, Subtitle E (Secs. 2151-2159)—Public Law 480
Title XXI, Subtitle F (Secs. 2161-2166)—Section 416
Sec. 2180B—Use of commodities in lieu of cash
Sec. 2181—Developing markets for wood and wood products under Public Law 480
Sec. 2182—Developing markets for wood and products under the short-term and intermediate-term export credit programs
Sec. 2184—Use of Department of Agricultural programs
Sec. 2192—Report on intermediate export credit

Additional Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 605—Establishment of an Office to monitor trade practices
Sec. 606—Establishment of an Office to provide assistance to victims of unfair trade practices
Sec. 607—Long-term agricultural trade strategy
Sec. 611—Technical assistance in trade negotiations
Sec. 663—International efforts to reduce grain production

Senate amendment:

Sec. 2113—Elimination of barriers to agricultural trade
Sec. 2114—Japanese barriers and tariffs on U.S. agricultural products
Sec. 2136—Agricultural attaché reports

Committee on Foreign Affairs

House bill:

Sec. 664—Sense of Congress—Minimum level of food assistance

SUBCONFERENCE NO. 6—AGRICULTURAL TRADE—Continued

House Conferees

Committee on Rules

Senate amendment:

Sec. 2131—Triggered marketing loan program

Senate Conferees

H.R. 3 TRADE SUBCONFERENCES

SUBCONFERENCE NO. 7—INVESTMENT; COMPETITIVENESS; FOREIGN CORRUPT PRACTICES ACT

House Conferees

Lead House Committee:
Committee on Energy and Commerce

House bill:

Sec. 701—Foreign Corrupt Practices Act amendments
Sec. 703—Registration of foreign-held interests in U.S. property
Sec. 903—Competitiveness development program
Sec. 904—Related initiatives to support the program of enhanced competitiveness
Sec. 905—National security and essential commerce
Sec. 910—Impact of national defense expenditures on international competitiveness

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers
Title XVI (Secs. 1601-1605)—Foreign Corrupt Practices

Joint Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Sec. 701—Foreign Corrupt Practics Act amendments
Sec. 903—Competitiveness development program
Sec. 905—National security and essential commerce

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers
Title XVI (Secs. 1601-1605)—Foreign Corrupt Practices

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 905—National security and essential commerce

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers

Committee on the Judiciary

House bill:

Sec. 905—National security and essential commerce

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers

Additional Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Sec. 703—Registration of foreign-held interests in U.S. property

Committee on Education and Labor

House bill:

Sec. 904—Related initiatives to support the program of enhanced competitiveness

Committee on Science, Space, and Technology

House bill:

Sec. 904—Related initiatives to support the program of enhanced competitiveness

Senate Conferees

Committee on Banking, Housing, and Urban Affairs

House bill:

Sec. 701—Foreign Corrupt Practices Act amendments
Sec. 903—Competitiveness development program
Sec. 904—Related initiatives to support the program of enhanced competitiveness
Sec. 905—National security and essential commerce
Sec. 910—Impact of national defense expenditures on international competitiveness

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers
Title XVI (Secs. 1601-1605)—Foreign Corrupt Practices

Committee on Commerce, Science, and Transportation

House bill:

Sec. 703—Registration of foreign-held interests in U.S. property

H.R. 3 TRADE SUBCONFERENCES—Continued

House Conferees

Committee on the Judiciary

House bill:

Sec. 701—Foreign Corrupt Practices Act amendments
Sec. 703(h)—Registration of foreign-held interests in U.S. property

Senate amendment:

Title XVI (Secs. 1601-1605)—Foreign Corrupt Practices, *except:* Secs. 1601; 1602

Senate Conferees

SUBCONFERENCE NO. 8—EDUCATION AND LABOR

House Conferees

Lead House Committee:
Committee on Education and Labor

House bill:

Title V—Education and Training for American Competitiveness

Senate amendment:

Title XXII—Employment and Training for Dislocated Workers
Title XXIII—Education for Economic Security
Title XXIV—Foreign Language Assistance
Title XXV—Education for Disadvantaged Children
Title XXVI—Educational Partnerships
Title XXVII—Training Technology Transfer
Title XXVIII—Higher Education
Title XXIX—Vocational Education
Title XXX—National Center for Research and Development in the Education of Gifted and Talented Children and Youth
Title XXXI—Assistance to Address School Dropout Problems
Title XXXII—Literacy Assistance

Additional Conferees on specific provisions:

Committee on Science, Space, and Technology

Senate amendment:

Sec. 2305—Program for the coordination and joint support of mathematics, science, and engineering instruction authorized

Senate Conferees

Committee on Labor and Human Resources

House bill:

Title V—Education and Training for American Competitiveness

Senate amendment:

Title XXII—Employment and Training for Dislocated Workers
Title XXIII—Education for Economic Security
Title XXIV—Foreign Language Assistance
Title XXV—Education for Disadvantaged Children
Title XXVI—Educational Partnerships
Title XXVII—Training Technology Transfer
Title XXVIII—Higher Education
Title XXIX—Vocational Education
Title XXX—National Center for Research and Development in the Education of Gifted and Talented Children and Youth
Title XXXI—Assistance to Address School Dropout Problems
Title XXXII—Literacy Assistance

H.R. 3 TRADE SUBCONFERENCES

SUBCONFERENCE NO. 9—TECHNOLOGY

House Conferees

Lead House Committee:
Committee on Science, Space and Technology

Senate amendment:

Title XXXVIII, Subtitle E (Sec. 3871)—Committee on Symmetrical Access to Technological Research
Title XXXVIII, Subtitle F (Secs. 3881-3884)—National Critical Materials Council
Title XL—National Institute of Technology
Title XLI—Technology Extension Activities

Title XLII—Advanced Technology Program

Title XLIII—Reports on Semiconductors, Superconductors, and Advanced Manufacturing Technology
Title XLIV—Authorization of Appropriations for Technology Activities

Title XLV (Secs. 4501-4505)—Miscellaneous Technology and Commerce Provisions, *except:* Secs. 4501; 4502
Sec. 4902—Metric System

Senate Conferees

Committee on Commerce, Science, and Transportation

Senate amendment:

Title XL—National Institute of Technology

Title XLI—Technology Extension Activities

Title XLII—Advanced Technology Program
Title XLIII—Reports on Semiconductors, Superconductors, and Advanced Manufacturing Technology
Title XLIV—Authorization of Appropriations for Technology Activities
Title XLV (Sec. 4501-4505)—Miscellaneous Technology and Commerce Provisions, *except:* Secs. 4501; 4502
Sec. 4902—Metric System

Committee on Governmental Affairs

Senate amendment:

Title XXXVIII, Subtitle E (Sec. 3871)—Committee on Symmetrical Access to Technological Research
Title XXXVIII, Subtitle F (Secs. 3881-3884)—National Critical Materials Council

H.R. 3 TRADE SUBCONFERENCES—Continued

House Conferees	Senate Conferees
Joint Conferees on specific provisions:	
Committee on Ways and Means	
Senate amendment:	
Sec. 3871—Establishment of Committee	
Committee on Foreign Affairs	
Senate amendment:	
Sec. 3881—New national Federal program plan for advanced materials research and development	

SUBCONFERENCE NO. 10—GOVERNMENT PROCUREMENT

House Conferees	Senate Conferees
Lead House Committee: *Committee on Government Operations*	*Committee on Government Affairs*
House bill:	House bill:
Title X (Secs. 1001-1004—Buy American Act of 1987	Title X (Secs. 1001-1004)—Buy American Act of 1987
Joint Conferees on specific provisions:	
Committee on Ways and Means	
House bill:	
Title X (Secs. 1001-1004)—Buy American Act of 1987	

SUBCONFERENCE NO. 11—PATENT LAW

House Conferees	Senate Conferees
Lead House Committee: *Committee on the Judiciary*	*Committee on the Judiciary*
House bill:	House bill:
Title XIV—Patented Processes	Title XIV—Patented Processes
Senate amendment:	Sente amendment:
Title XXXIII—Process Patent Amendments Act of 1987 Title XXXIV—Patent Misuse Doctrine Reform Title XXXV—Licensee Challenges to Patent Validity Title XXXVI—Pharmaceutical Patent Term Restoration Act Amendments	Title XXXIII—Process Patent Amendments Act of 1987 Title XXXIV—Patent Misuse Doctrine Reform Title XXXV—Licensee Challenges to Patent Validity Title XXXVI—Pharmaceutical Patent Term Restoration Act Amendments

SUBCONFERENCE NO. 12—SMALL BUSINESS

House Conferees	Senate Conferees
Lead House Committee: *Committee on Small Business*	*Committee on Small Business*
House bill:	House bill:
Title XIII (Secs. 1301-1312)—Small Business	Title XIII (Secs. 1301-1312)—Small Business
Senate amendment:	Senate amendment:
Title XXXIX (Secs. 3901-3912)—Small Business	Title XXXIX (Secs. 3901-3912)—Small Business
Primary House Committee on specific provisions:	
Committee on Ways and Means	*Committee on Governmental Affairs*
House bill:	House bill:
Sec. 186—Trade remedy assistance office	Sec. 186—Trade remedy assistance office
Senate amendment:	Senate amendment:
Title XXXVII (Sec. 3701)—Office of Small Business Trade Remedy Assistance	Title XXXVII (Sec. 3701)—Office of Small Business Trade Remedy Assistance
Additional Conferees on specific provisions:	
Committee on Ways and Means	
Senate amendment:	
Sec. 3911—Trade negotiations	
Committee on Small Business	
House bill:	
Sec. 186—Trade remedy assistance office	

SUBCONFERENCE NO. 12—SMALL BUSINESS—Continued

House Conferees

Senate amendment:

Title XXXVII (Sec. 3701)—Office of Small Business Trade Remedy Assistance

Committee on Foreign Affairs

House bill:

Sec. 1303—Changes in existing Small Business Administration
Sec. 1304—Specific reports required
Sec. 1305—Export financing provided by the Administration
Sec. 1306—Small business development centers
Sec. 1310—National Conference on Small Business Exports

Senate amendment:

Sec. 3902—Declaration of policy
Sec. 3903—Changes in existing Small Business Administration International Trade Office
Sec. 3904—Authorization of appropriations: Office of International Trade
Sec. 3905—Specific reports required
Sec. 3906—Export financing provided by the Administration
Sec. 3907—Small Business Export Assistance Centers
Sec. 3910—National Conference on Small Business Exports
Sec. 3912—Promulgation of regulations

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 1303—Changes in existing Small Business Administration

Senate amendment:

Sec. 3903—Changes in existing Small Business Administration International Trade Office
Sec. 3906—Export financing provided by the Administration

Committee on Science, Space, and Technology

Senate amendment:

Sec. 3909—Small business innovation research

Senate Conferees

SUBCONFERENCE NO. 13—COUNCIL ON COMPETITIVENESS

House Conferees

Lead House Committee:
Committee on Banking, Finance, and Urban Affairs

House Bill:

Title IV, Subtitle D (Secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Additional Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Title IV, Subtitle D (secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Committee on Energy and Commerce

House bill:

Title IV, Subtitle D (secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Committee on Science, Space, and Technology

House bill:

Title IV, Subtitle D (secs. 461-471)—Council on Industrial Competitiveness Act

Senate Conferees

Committee on Governmental Affairs

House bill:

Title IV, Subtitle D (Secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

SUBCONFERENCE NO. 13—COUNCIL ON COMPETITIVENESS—Continued

House Conferees

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Committee on Government Operations

House bill:

Title IV, Subtitle D (secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Senate Conferees

SUBCONFERENCE NO. 14—OCEAN AND AIR TRANSPORTATION

House Conferees

Lead House Committee: Committee on Merchant Marine and Fisheries

House bill:

Title XI (Secs. 1101-1110)—Ocean Transportation

Senate amendment:

Title XLVI (Secs. 4601, 4602)—Foreign Shipping Practices

Lead House Committee: Committee on Public Works and Transportation

House bill:

Title XII (Secs. 1201-1203)—International Air Transportation Fair Competitive Practices

Senate amendment:

Sec. 4502—Amendments to International Air Transportation Fair Competitive Practices Act of 1974

Senate Conferees

Committee on Commerce, Science, and Transportation

House bill:

Title XI (Secs. 1101-1110)—Ocean Transportation

Title XII (Secs. 1201-1203)—International Air Transportation Fair Competitive Practices

Senate amendment:

Sec. 4502—Amendments to International Air Transportation Fair Competitive Practices Act of 1974

Title LXVI (Secs. 4601, 4602)—Foreign Shipping Practices

SUBCONFERENCE NO. 15—SAFE FOOD IMPORTS

House Conferees

Lead House Committee: Committee on Energy and Commerce

Senate amendment:

Secs. 2185-2188—Safe Food Imports

Joint Conferees on specific provisions:

Committee on Agriculture

Senate amendment:

Sec. 2188—Report

Senate Conferees

Committee on Agriculture

Senate amendment:

Secs. 2185-2188—Safe Food Imports

SUBCONFERENCE NO. 16—FEDERAL BUDGET DEFICIT

House Conferees

Lead House Committee: Committee on Government Operations

House bill:

Title XVI (Secs. 1601-1603)—Federal Budget Competitiveness Impact Statement

Senate amendment:

Title XLVIII (Secs. 4801-4803)—Reducing the Trade Deficit by Eliminating the Federal Budget Deficit

Joint Conferees on specific provisions:

Committee on Rules

House bill:

Title XVI (Secs. 1601-1603)—Federal Budget Competitiveness Impact Statement

Senate Conferees

Committee on Finance

Senate amendment:

Title XLVIII (Secs. 4801-4803)—Reducing the Trade Deficit by Eliminating the Federal Budget Deficit

Committee on Governmental Affairs

House bill:

Title XVI (Secs. 1601-1603)—Federal Budget Competitiveness Impact Statement

SUBCONFERENCE NO. 16—FEDERAL BUDGET DEFICIT—Continued

House Conferees

Additional Conferees on specific provisions:

Committee on the Judiciary

Senate amendment:

Title XLVIII (Secs. 4801-4803)—Reducing the Trade Deficit by Eliminating the Federal Budget Deficit

Senate Conferees

SUBCONFERENCE NO. 17—TRADE DATA AND STUDIES; SEMATECH

House Conferees

Lead House Committee: Committee on Energy and Commerce

House bill:

Sec. 901—Competitiveness impact statements
Sec. 902—National trade data bank

Sec. 911—Development of semiconductor manufacturing technology

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank
Title XXXVIII, Subtitle C (Secs. 3851-3854)—Studies
Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Joint Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 901—Competitiveness impact statements
Sec. 902—National trade data bank

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank

Committee on Foreign Affairs

House bill:

Sec. 901—Competitiveness impact statements
Sec. 902—National trade data bank

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank
Sec. 3851—Study of U.S. barriers to U.S. exports
Sec. 3854—Impact of foreign financial and regulatory systems

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 902—National trade data bank
Sec. 911—Development of semiconductor manufacturing technology

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank
Sec. 3854—Impact of foreign financial and regulatory systems
Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Committee on Science, Space, and Technology

House bill:

Sec. 911—Development of semiconductor manufacturing technology

Senate amendment:

Sec. 3852—Resource needs
Sec. 3853—Manufacturing base
Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Committee on the Judiciary

Senate Conferees

Committee on Governmental Affairs

House bill:

Sec. 901—Competitiveness impact statements
Sec. 911—Development of semiconductor manufacturing technology

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank
Title XXXVIII, Subtitle C (Secs. 3851-3854)—Studies
Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Committee on Governmental Affairs and Committee on Banking, Housing, and Urban Affairs

House bill:

Sec. 902—National trade data bank

SUBCONFERENCE NO. 17—TRADE DATA AND STUDIES; SEMATECH—Continued

	House Conferees	Senate Conferees
Senate amendment:		
Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech		

OUTRAGE OVER SOVIETS TURNING HAWAII INTO AN INTERCONTINENTAL BULLSEYE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. SAIKI] is recognized for 5 minutes.

Mrs. SAIKI. Mr. Speaker, a little more than 24 hours ago, the Soviet Union test fired an intercontinental ballistic missile into the Pacific. That missile landed only 500 miles northwest of the Hawaiian Islands. Forty-eight hours before, another Soviet missile was scheduled to be fired toward the same target zone. That test was a failure.

The Soviets also had a second zone just 360 miles southwest of Hawaii. Had that target area been used, those Soviet missiles would have flown over the sovereign territory of the United States before splashing down.

Mr. Speaker, I know I speak for every resident of the 50th State in expressing my outrage and concern about the Soviets turning Hawaii into an intercontinental bullseye. If one of those missiles had strayed, if the guidance system had failed, our Nation could have faced a disaster in the Pacific.

We must not let the Soviet Union turn American territory into missile targets without expressing our gravest opposition. This is more than a shot across our bow; these tests were shots targeted directly at the ship of State.

This is the first time that a superpower has tested an ICBM as close to another's territory. The just concluded tests appear to be a further Soviet violation of the SALT II Treaty.

Mr. Speaker, I cannot help but conclude that the Soviet Union has deliberately provoked the United States. Its brazen action is a direct threat to the security of our country.

In the missile age, Hawaii is the next door neighbor of California, of Kansas, of Ohio, and of New York. A Soviet missile test into Hawaiian waters is a test into the waters of Virginia or Florida.

Mr. Speaker, the Congress needs to make a clear statement to the Soviet Union that we will not tolerate this or any other form of nuclear intimidation. I have introduced a concurrent resolution condemning the Soviet action and requesting that the President report to the Congress on the Soviet's explanation for these tests. This resolution calls upon our Government to protest to the Soviet Union at the highest levels.

I encourage my colleagues to cosponsor this resolution and I hope that the House will take up this matter quickly so that we can send a firm and strong message to the Soviet Union.

Mr. DORNAN of California. Mr. Speaker, will the gentlewoman yield?

Mrs. SAIKI. Certainly, I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I am certainly glad the gentlewoman took this special order tonight to bring this to the attention of the House, because we have been so busy with other business today that the other body, which we are now allowed to refer to by its proper name, the U.S. Senate, did something that is unusual. Usually we are more on top of the news, but in this case this morning they spent several hours, and I am very proud of our junior Senator from California, Senator PETE WILSON, because he took the lead and kicked off a debate this morning with maps, charts, and graphs and discussed this in depth, not only this incident—there could have been two incidents, because as the gentlewoman has pointed out, there was the failed launch, that thank heavens we know about from our surveillance—but this has happened in the past and it shows up that the Soviet Union has a business-as-usual attitude.

I had a briefing in my office this morning on the shooting incident, that thank heavens did not turn out to be the "let 'em bleed to death" murder of Maj. Arthur D. Nicholson, but with these new Americans that were shot, one of them wounded in the arm by a flying fragment, it was not border guards, but it was Russian special forces, dressed, if you can believe this, right out of a James Bond film, in black tennis shoes, black raincoats, and black berets, and because our men did not respond to a command, a legal team allowed to be surveilling in Potsdam, they opened fire with machine pistols and blew all the windows out of this vehicle. Our men stayed on the floor. One of them was wounded in the arm by a ricochet. Then they came over and tried to force entry into the vehicle, finally took our men out of the vehicle, put them spread legged up against the vehicle and would not allow the driver to help the wounded officer, in the same manner as they allowed Arthur D. Nicholson to bleed to death when his partner wanted to apply a tourniquet.

So it is business as usual, down the missile range to Hawaii, shooting our men, and all smiles in Geneva and in New York.

The SPEAKER pro tempore. The Chair would tell the Members that they are not to make reference to debate in the other body. The Chair would ask that Members consider that in their comments.

THE AIDS PANDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the articulate gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today a number of us, including Congressman DORNAN and Congressman DANNEMEYER and some staff folks, had an opportunity to meet with Dr. Allen Salzberg, an eminent doctor and scientist, to talk about the AIDS epidemic and a computer model which he has done which projects the AIDS epidemic through the year 2007.

Now, last night on this floor I talked to my colleagues urging them to attend. I think there were only four of us there, plus a number of staff people.

But the things that bothered me the most about this meeting were the figures, the devastating impact it is going to have on the United States as far as its citizenry is concerned, the number of people dying and the tremendous fiscal impact it is going to have on our country.

For instance, let me give you some figures. If we start testing, by 1990, within 2 years, we are still going to have 2.2 million people dead or dying by the year 1995.

Now, listen to that. If we start testing everybody in this country, by the year 1990, we are still going to have approximately 2.2 million dead or dying from AIDS and another 3.3 million carrying the disease, spreading the virus to other people, and those 3.3 million who will have the virus, but the actual full-blown AIDS would not yet be manifested in them, those 3.3 million on an average would get full-blown AIDS within 12 years.

Now, the fiscal impact, if we started testing in 1990, we would have a cost to the taxpayers of $220 billion and a net economic impact of $740 billion; but that is not the worst of it. That is the best-case scenario. If you take the worst-case scenario and continue going about business as usual, as we have been doing, we will have in 1995 almost 5 million Americans dead or dying from AIDS, and 14 million people infected, 80 percent of whom will get full-blown AIDS within 12 years and die if we keep going the way we are right now.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield for one moment here?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, these statistics that the gentleman is giving are so astounding and the newest available that I just want to set the scene for people who are paying attention to this special order.

The gentleman sent out a "Dear Colleague" letter to the entire House last night, all 434 Members, other than the gentleman himself. We have everybody here, every seat is filled now, 435, and only 3 people showed up——

Mr. BURTON of Indiana. Four.

Mr. DORNAN of California. Four, that is right, the gentleman from Georgia [Mr. ROWLAND]; four people showed up. Usually it is only three. Three of the four are the ones who are always there on this issue, the gentleman from Indiana and the two gentlemen from California, Congressmen DANNEMEYER and DORNAN, who coincidentally just happened to have adjoining districts and no reason at all to work the issue.

I just wanted our colleagues to understand that the figures the gentleman is giving tonight are bordering on apocalyptic and we had better start to pay attention. We finally got the President to understand this may be the major issue of his last year in office and a few of us hammered on him to come to that realization.

Now, other than the gentleman from California [Mr. WAXMAN] who has the Health Committee responsibility, the three of us are taking a special order tonight, three 5-minute special orders, to give a little 15-minute continuity to this.

I know the gentleman from Indiana has to catch an airplane within a few minutes, so go for it.

□ 1715

Mr. BURTON of Indiana. Mr. Speaker, I would like to go on with these figures because that is within 7 years. Within 7 years we are going to have a minimum of 2 million people dead or dying and 3.3 million carriers at a total cost and impact to this country of $740 billion, or we will have almost 5 million dead or dying if we continue like we are going and 14 million carriers with a net fiscal impact of $1.3 trillion.

Bear in mind that the national debt today is only about $2 billion or a little over $2 billion, and we are talking about a fiscal impact from AIDS alone of $1.3 trillion by the year 1995 if we continue the laissez-faire attitude toward AIDS that we have.

We must get on with mandatory testing.

But now let us take it to the year 2005, 17 years hence when our kids, 6, 7, 8 years old will be coming to the full bloom of life, their early twenties. By the year 2005 if we continue on the road we are traversing we are going to have 25 million Americans dead and dying, according to this computer model, and 45 million additional people carrying the virus, 80 percent of whom in all probability will be dead or dying within 12 years after that.

The fiscal impact will be $8.2 trillion, over four times the national debt we have today.

So as my colleagues can see it is going to have a devastating impact. However, if we get on with testing, mandatory testing, of everybody in our society, or at least those people from let us say the age 14 to age 60, we would see that figure drop from 25 million dead or dying to 3.4 million dead or dying and 1.4 million carriers instead of 43 million carriers. That is what testing, contact tracing and education combined can do to stem the tide of this epidemic.

The SPEAKER pro tempore (Mr. STAGGERS). The time of the gentleman from Indiana [Mr. BURTON] has expired.

CREDIT CARD ISSUERS' COSTS DROP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, credit card issuers often contend that high interest rates are a necessary consequence of what they call a high risk business. They often site that credit cards, as unsecured loans, carry higher rates than secured loans (auto loans, home mortgages, et cetera.) because of the greater risk to the issuer. I certainly do not contest the greater risks involved in issuing credit card credit. I will readily concede that the costs of doing business for credit card issuers are in many ways unique, and therefore higher than the costs involved in processing other types of consumer credit. Credit card credit is extended in relatively small amounts, can be called upon immediately, and can be repaid under highly flexible terms. All great conveniences to the consumer. Yet, I find that when listing the different costs of doing business, these companies frequently overlook, quite innocently I am sure, the cost of funds and what percentage of their total cost of business they represent.

Funds are now costing bank card issuers 6 percent, while they are charging the consumer 18, 19, 22 percent and more. It hardly takes Malcolm Forbes to show someone how to make money at those rates. Those funds represent almost 50 percent of the actual costs of doing business. When issuers do mention that the cost of funds comprise almost 50 percent of their cost of doing business, they are quick to point out that the cost of funds represents 80 to 90 percent of the interest charged to the consumer on other consumer loans. Demonstrating, they feel, the disproportionately higher cost of conducting their credit card business.

I will concede the truth of this and admit that the higher administrative costs of processing credit card debt are a necessary evil. These costs are rightfully passed on to the consumer. Credit cards are a convenience whose flexibility and usefulness extends beyond the scope of a conventional loan. But this does not give credit card companies the license to engage in sloppy business practices. There are no excuses for a lax response to credit card fraud or the extension of credit to unworthy or risky customers.

Second, and more to the point, comparison of funds' costs among different types of consumer loans is questionable at best. The reality is that the cost of funds for credit cards still represents almost 50 percent of the cost of doing business. It is an important and not-to-be-overlooked element in outlining the cost of extending credit card credit. This, I might add, is something credit card companies quickly pointed out when the cost of these funds was increasing. Why the sudden reluctance to address it now? As I said, an innocent oversight I'm sure.

Why is it then, that after drastic reductions in the cost of funds—reductions of over 50 percent in the past 6 years—that credit card interest rates have gone up rather than down?

If the market was functioning properly, the dramatic decline in the cost of funds should have resulted in at least a modest decline in credit card interest rates. I am forced to conclude, that when left to their own devices, credit card issuers are not averse to balancing their ledgers on the backs of the American people. Therefore, I fear that we cannot trust these institutions to act voluntarily to cut interest rates.

A number of credit card issuers are charging rates of 14 percent or below and are making money on their programs. For example, banks in both Arkansas and Connecticut, States with 11 and 15 percent caps respectively, profitably conduct credit card businesses. In fact, many rates in those States have dropped below the ceilings, and the caps appear to have spurred a competitiveness that had not previously existed. This appears to bolster the contention that banks have kept interest rates artificially high in order to generate record profits.

We must also remember that most of these lower rates come from smaller issuers. These are issuers that do not benefit from the economies of scale enjoyed by the large money-center banks. Also, increased automation and the distribution of costs to a broader base of card users should both act to diminish costs.

Rather than compete with lower-rate small issuers, the large issuers can afford to move their operations to States with more favorable (to them) usury laws and then market their cards at higher rates. This is why a national cap on interest rates is needed. Large money-center issuers must not be allowed to avoid the law by simply moving to another State. States hesitate to pass restrictive legislation fearing they will lose their largest card issuers to States with more lenient laws.

During the late 1970's and early 1980's, as the cost of funds increased, credit card companies offset those increases by modifying their charge structure. With interest rates already straining the tolerance of most card holders, issuers instituted new fees and charges. Annual fees were widely introduced a few years ago to compensate for the issuer's inability to raise interest rates in response to the increased cost of funds. But why, as the cost of funds has sharply fallen, have issuers not removed this charge?

While disclosure of credit card information is important, it is not a substitute for interest rate caps. The American people know this and overwhelmingly support—74 percent in an NBC News poll—legislation to bring these artificially high and usurious rates down. It is incumbent upon us as legislators to accept our regulatory responsibility and act to protect the American consumer from the tyranny of greed to which they are being subjected.

When the credit card information disclosure bill reaches the floor I will act to protect the American consumer from the depredations of an uncaged credit card industry. I will offer an amendment to cap credit interest rates. It is a floating cap at eight points above the yield on 1-year Treasury securities, adjusted quarterly. It would allow lower State caps to remain in effect. If in effect today, this would provide for a national cap of almost 15.5 percent. While I am sure that the credit card industry will cry out in pain, claiming this measure to be harsh and unfair, it is a gentle and reasoned response to a beast that has run wild long enough. Without this measure we are only throwing the American consumer to the lions of greed.

THE AIDS EPIDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 5 minutes.

Mr. DANNEMEYER. Mr. Speaker, I yield to my friend, the gentleman from Indiana [Mr. BURTON], to complete his statement.

Mr. BURTON of Indiana. Mr. Speaker, I appreciate the gentleman from California yielding.

Mr. Speaker, the fiscal impact, if we have this laissez-faire attitude through the year 2005, is going to be $8.2 trillion. But compare that to $1.3 trillion if we get on with the testing program, followed up with contact tracing and doing the other things that are rational to deal with this epidemic.

We are at the crossroads right now and we have about 2 years to start dealing with this problem.

My colleague from California, Mr. DANNEMEYER, and my colleague from California, Mr. DORNAN, understand the gravity of this situation. The problem is we need to convince another 225 Members of this body approximately to get on with doing what has to be done, and at least 51 Members in the other body.

I urge my colleagues who may be watching in their offices to please study the statistical data on these computer models we are going to send to you, because the future of the United States and possibly the world depends upon quick action.

Again I thank the gentleman from California for yielding.

Mr. DANNEMEYER. Mr. Speaker, I want to announce to my colleagues in the House that the gentleman from California [Mr. WAXMAN], chairman of the Health and Environment Subcommittee on which I serve, has announced that our subcommittee will probably hold hearings or a markup session rather next week on the subject of proposed legislation in the 100th Congress to deal with a rational response to the AIDS epidemic that we now have in this country. The bills that we will see introduced are in marked contrast to what this Member from California believes that we should be doing.

The gentleman from California [Mr. WAXMAN] is the principal author of H.R. 3071, which has a feature relating to testing in it, but the provision of H.R. 3071 relating to testing is decidedly not the program this Nation needs. The program to be offered by the gentleman from California [Mr. WAXMAN] in H.R. 3071 would authorize about $400 million a year for the next 3 years for the purpose of setting up alternate testing sites around the country where anonymous testing would take place. That is the wrong type of testing, because in anonymous testing the individual who tests positive for the virus is not accountable to anybody in the health care system as to what that status is.

The point that our colleague, the gentleman from Indiana [Mr. BURTON], was making just a few moments ago relates directly to this very point of anonymous testing versus how we normally test people for communicable disease. We identify the person and communicate that person's name to public health authorities, which is held in confidence, and it should be held in confidence. But the whole thrust of what the gentleman from Indiana [Mr. BURTON] is talking about is that if we want to reduce the incidence of this disease in America we have to test where persons who are tested are identified as to having or being positive for the virus. The rationale is that if a person knows they have the virus there is a chance that that person will conduct himself or herself more rationally and avoid engaging in conduct that will result in the transmission of this fatal virus to another human being. That would be what is called the duty side of the coin of which many thoughts today are being expressed about on the rights side. I have a right to do many things, but it is time we talk in this country about the people in this country having the duty to avoid afflicting other people with a virus.

So the concept of anonymous testing I think is the wrong course for the Nation to take.

This Member from California will be offering an amendment to that bill which will provide for testing of people whereby those treated are informed as to their status, the results of the test are communicated to public health authorities and retained in confidence. The existing system of confidentiality has worked effectively to control those with communicable disease. One of the ironies of this whole public debate in America is that we routinely report those with a communicable disease. In my State of California, 58 diseases are on the list of reportable diseases, and yet we are balking today as a nation at embarking on a course which historically and routinely has been used to control communicable disease; namely, testing people for the presence of the virus, and it is a policy option that we will be considering in the subcommittee next week. If the bill comes out of the committee and onto the floor of the House, I am sure that the Members will have a chance to vote on that issue here as well.

THE VETERANS' ADMINISTRATION: HUMANIZING HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I doubt there is a more just or more precise description of the quality of care delivered by the employees of our Veterans' Administration hospitals than the one contained in the following words of appreciation: "My heart goes out to the volunteers, the staff—so overworked and overloaded—and all those at the facility who take difficult, demanding, yet routine days and somehow manage to humanize an institution and remember the patients as people."

Though these words are directed at employees of our fine VA hospital at Salisbury, NC, they are representative of messages received by the Veterans' Affairs Committee from across the country—letters and calls from patients, family members and friends of patients who recognize and appreciate compassionate health care and treatment.

Mr. Speaker, the 194,000 employees of the Veterans' Administration Health Care Delivery System have been charged with a great responsibility, a noble mission—caring for the Nation's defenders. They are meeting and overcoming the challenges of this mission with a remarkable blend of dedication, tenacity and love. They have earned our admiration; they deserve our support. The following letter is but one reason why:

HARPERS FERRY, WV,
September 18, 1987.

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Veterans Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN MONTGOMERY: I had occasion these last 6 months to spend numerous week-ends at the Veterans Hospital in Salisbury, N.C. while my father was a patient there. I was greatly impressed by this facility and the personnel. Since one hears so many negatives regarding veterans care, I wanted to take this opportunity to give credit where credit is due. And as a Hill staffer for over 12 years (Rep. RUSSO), I also wanted to offer any assistance I might ever provide in vouching first-hand for the work of the veterans hospitals and why they need more funds and staff.

I can't speak to all the day-to-day particulars and decisions regarding my father's care since I was only there for visits. But I do know this—he is at home in Charlotte now, just released, after recovering from a stroke and pneumonia and finally gaining weight. He is 89 years old, a veteran of World War I and II, and no small amount of credit must go to him for his own spirit and determination, but I am also convinced that he is home now because the hospital personnel gave him such fine care. And I saw firsthand the outstanding work on the Intensive Care Ward and that when he went to 2-5/A from there, the excellent doctors, social worker, nurses, nurses aides, even cleaning staff paid attention, took a real interest.

You can stick someone in a room and give them meals and medicine, but that's not what gets them home. It was countless people, many of whom I probably never even met, who were taking care of my father's eyes, his teeth, his diet, his medication, his need for therapy, for conversation and reassurance. When he first arrived at the hospital last February and spent weeks in Intensive Care, I would never have anticipated that he would live to walk again, much less go home.

The hospital itself creates a healing environment. When I sat on the grounds, or in the lobby of the hospital, or visited the store or the cafeteria or the recreation room with my Dad, or just walked the hallways, I got a sense of a place in which one would be cared for. I could see how much is provided for the veterans, to the extent possible—materials and equipment in the therapy rooms, decorated bulletin boards and pretty display cases, T.V. lounges, lovely flowers planted out front and trimmed lawns, a library and volunteer services, good meals served on time, polished floors, attractive sitting areas, church services, entertainment.

I especially appreciated the personal touch—hospital police assisting me when I got dad in and out of a car, pleasant greetings wherever you went, nurses aides and nurses who took extra time to visit dad, the social worker who spent time with dad as well as my mother when she visited, the doctors' fine medical attention, the therapists retrieving him from withdrawal with drawing and rocking, and learning to walk. Once, I remember vividly, I broke down in tears in the cafeteria, exhausted and worried, and without missing a beat the cashier rushed over to me and hugged me and told me everything would be fine.

I'm sure there are many things I have forgotten to mention, but the main point is that the personnel care. Even the patients well out of touch receive smiles and greetings and there are efforts to provide "special occasions" for the patients—like Beach Week this past Labor Day week on Ward 5A. And even now the attentive doctors and social worker are doing important follow-up work to assist my parents at home and arrange check-in appointments for my Dad.

It is such a draining experience to be visiting in a hospital and your anxiety is so high regarding your loved one. However, as time passed, I was made to feel at home and I could be more reassured that Dad was in good hands. My heart goes out to the volunteers, the staff—so overworked and overloaded—and all those at the facility who take difficult, demanding, yet routine days and somehow manage to humanize an institution and remember the patients as people.

I don't doubt that this is not a perfect facility and that there are those working there who don't fit the description I've given. But I do know what I witnessed on 5A and how the hospital was kept in terms of appearance and opportunities provided for the veterans. I am deeply grateful and heartened to know that such a facility exists for veterans. The Salisbury Hospital is a very special place and 2-5A personnel exceptional.

Thank you for your attention. Again, if I can ever help in any way in speaking favorably about veterans hospitals and the vital role they play for countless veterans and their families, please feel free to contact me.

Sincerely,

CAROL GALLANT.

THE AIDS EPIDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, picking up, as I said, where my colleague from California [Mr. DANNEMEYER] left off, and where the gentleman from Indiana [Mr. BURTON] left off, this AIDS pandemic that is facing this Nation and the world, when explained carefully as this doctor did at the briefing that the gentleman from Indiana [Mr. BURTON] instigated this morning, when it is laid out carefully and projected beyond the year of 1991, which is the only year that my good friend, the Surgeon General, Dr. Everett Koop, has talked about, the figures are bad enough then, 300,000 dead and dying and possibly 1.5 to 4 million people carriers of this what will probably by then be proven always fatal disease, when we look at these scenarios worked out with this very careful computer modeling out to 1995, there are some stunning facts that have to get across to the country.

Coincidentally to the gentleman from Indiana's [Mr. BURTON] briefing this morning, which started at 10 o'clock, on the east coast the "Phil Donahue Show" was airing and Mr. Donahue and his producers devoted his whole hour to AIDS and all of the figures they were using were off by a considerable margin. For example, he put up on the screen that there were 30,000 cases in the United States. Every week, as I have said on this floor, I get an extract from the Health and Human Services Department of our Government, and the figure for this week is 42,200-plus confirmed cases. This does not include ARC's. If we double that, that is almost 48,000. Forty-eight thousand is way beyond the 42,000 cases, so more than half have died, it is pressing 60 percent dead already. If we take that doubled figure, 48,000, that is already a thousand deaths, and we have reached the halfway mark of that, beyond the 47,000 combat deaths in Vietnam. So we are already at a crisis figure.

Now when we look at this computer model just 8 years out we are hearing about a million deaths. This is three times the total of Americans lost in every war from the Revolutionary War, which gave birth to this Nation, where we lost 4,435, through the Civil War, which was way over half a million, through World War II, which is 312,000-some KIA and hundreds of thousands of casualties. The mind can hardly comprehend what is happening here.

At every one of these briefings there is one totally new thought that I walk away with, something just totally new to me. Here is the one from this 1½ hours briefing this morning.

When we say high-risk groups in these AIDS discussions, in polite conversation what we are really talking about today are homosexual groups and intravenous drugs users who are not using legal prescription drugs and needles, like say hemophiliacs that have already taken a tremendous death toll, almost 100 percent penetration of their ranks, 10,000, 12,000 in this country; we are not talking about people who have diabetes, we are talking about people who use dirty street needles. Those are what we call high-risk groups.

Guess what? The high-risk group 8 years from now is now in grade school, it is the teenagers. That is the high-risk group that these doctors that have run several models of a worst case scenario down to what he calls the way we are handling this issue today in the U.S. Congress, the laissez-faire attitude, he says whatever we are doing now, whatever they talked about on the "Donahue Show," the doctor saying education is the answer, he says all of that amounts to so little it is laissez-faire, nothing, and when we look at all of these scenarios for 8 years out, our children that are today in grade school, or about to enter grade school, as the oldest of my six grandchildren who entered first grade last week, these people are the people that are going to be the high-risk group out there. He said they talk about, and they did this on the "Donahue Show" this morning, blacks, poor economic groups in major cities, Hispanic groups in major cities, the homosexual groups, and then he said put all of them together and it does not matter compared to the high-risk group of teenagers.

One of my staffers just got back from the Philippines, my chief of staff, where he met with a Dr. Soriano, and Jose I believe is his first name, and he wears three hats for President Cory Aquino. He is head of the intelligence, he is their national security advisor, and he also is the head of the management crisis team of that country.

My final line. His first question to our staffers, with his country in chaos and the Communist army out there trying to overthrow them, his first question was about the United States exporting AIDS, and they spent an hour talking about AIDS.

The whole world is looking at us. We had better approach this carefully and begin mandatory testing of as many groups as we can across this country. Probably 150 million of us are going to have to be tested, and even if it costs $2 billion it is a bargain at any rate.

Here is a current analysis, Mr. Speaker:

ANALYZING AND CONFRONTING THE AIDS EPIDEMIC

AIDS is a unique threat. First it is a retrovirus which is incorporated into the genetic material of the cell. Second it attacks the immune system. Third it is deceptive in that although it is not thought to be transmitted by casual contact and has a very low infectivity per unit time, it has an average asymptomatic period of infectivity which is about 12 years. Furthermore, once infected the victim carries the virus for life, and infected mothers have about a 50 percent probability of transmitting it to their babies. Once symptoms appear, the mortality is 100 percent. Consequently this disease is out of the ken of our experience, and accurate estimates of its true lethality are dependent on mathematical analysis. Estimates limited to 1991, as bad as they are must markedly underestimate the deadliness of this disease.

We developed a mathematical model of this disease using a heterogeneous population consisting of high (gay males and IV drug users primarily) and low risk groups. The computer results which will appear later have been duplicated by other investigators independently, including a group at Los Alamos. Given 1.2 million carriers, 40,000 cases of which 2,000 are in the low risk heterosexual population, 24,000 deaths and a date of entry in the United States of 1976 we derived the following:

1. A mean lifetime of 1.5–1.8 years once the symptoms appear
2. An incubation time whose mean is 12 years.

The first of these needs no explanation. The second could be surprising. However various studies following infected populations through time, mainly male homosexuals but also one group of infected females who were lovers of infected males, yielded the following probabilities of developing clinical AIDS after being infected with HIV: 10 percent after 1 year, 20 percent after 2 years, 35 percent after 5 years and 50 percent after 10 years. These are consistent with a 12 year mean incubation. It is this very long incubation time which drives the epidemic. If the infectivity rate were less than one case per index case every 12 years the epidemic would be self limiting. If greater the disease will grow in a near exponential manner.

The same analysis which led to the above results yielded an average historical infectivity rate of one case every 8 months in the high risk groups, an average crossover rate from the high risk group to the heterosexual group of one case per index (already infected) case every 30 years and a heterosexual transmission rate of 1 case every 3–4 years of exposure. The crossover is mainly to sexual partners; however, there have been cases transmitted accidentally in medical settings. Helping to corroborate these estimates was a recent article in The Journal of The American Medical Association wherein it was found that about 25 percent of female lovers of HIV positive males became infected in 1 year. This translates to approximately a 0.3 percent probability of infection per unprotected vaginal intercourse. It is noteworthy that "safe" or a better nomenclature "less risky sex" would only serve to prolong the time to infection of a steady partner of an infected individual. However from an epidemiological standpoint "less risky sex" does slow the rate of spread of the epidemic. As will be shown it is most unlikely that it would, by itself contain the epidemic.

Sexual practices have improved among the gay males so that the baseline infectivity used in this analysis will be one case every 18 months. By contrast, there has been little improvement in the gonorrhea rates amongst heterosexuals. The model also allows us to examine the potential gains made by identification of the carriers through a generalized and cyclic testing program coupled with counseling and other possible measures. A nominal 85 percent test cycle (twice a year for the highest risks, yearly for the rest) efficacy was assumed. However reducing the test efficacy to 50 percent cycle has but a marginal effect on the results. This shows that a small number of carriers missed by the test will have little impact on the spread of the disease. However further reductions do have a profound negative impact, and so it is highly unlikely that a voluntary approach would suffice. The computations assume a 90 percent reduction in the average transmission rates for known carriers (hopefully by voluntary means). Sensitivity analysis shows that lowering the mean incubation time to 9 years, which is the value obtained by a British study of cases transmitted by transfusion, has less than a 20 percent change in the predicted outcomes.

The results of the computer projections are given in the next 5 graphs and table 1. Included are estimates of the dollar costs to the nation. Direct costs include the costs of testing ($3 billion/year) and the yearly cost of treatment coupled with lost productivity while ill ($65,000). The indirect costs include in addition to the direct costs, $300,000 for lost productivity for each premature death. In 1991 our analysis, as shown in table 2, is in reasonably good agreement with CDC extrapolations which are at the outer bounds of their methodology. It is in the outlying years that the full enormity of the pandemic is realized. In fact, by the mid to late 1990's, the high risk groups will be saturated with the virus. It is this fact which changes the shapes of the curves from a rapidly rising to slower rising values.

The costs of this disease will be exceedingly high. By 1995 under a laissez faire policy the number of sick and dead will approach 5 million with an additional 14 million carriers. The average yearly direct dollar cost will be of the order of $50 billion. Under a scenario which utilizes testing, supplemented by education and intervention, the respective values drop to 2.2 million sick or dead, 3.3 million carriers and an average yearly cost of $25 billion. By 2005 the costs of the laissez faire policy rise to 25 million sick or dead with an additional 40 million carriers. The average yearly direct economic cost would approach $120 billion. With a more effective strategy these numbers drop dramatically to 4.4 million dead or sick, 1.8 million carriers and an average annual direct cost of $20 billion. In many ways this is analogous to a protracted war. The first case represents an ineffectual strategy; the second a more optimal one. In both cases there are severe losses; however, in scenario one the losses are intolerable. It is in our hands to decide our fate.

The conclusions of this study are painfully obvious. AIDS, even under the most optimistic assumptions will probably not be contained in the absence of a hoped for cure or truly proven effective vaccine, under present official proposals. The projections of this and other analyses denote the failure of approaches which do not utilize widespread, and in fact universal testing. The cost in lives could well be in the tens of millions, the cost to the treasury in the trillions. However, a program which utilizes testing as its core can contain the disease, even under adverse conditions, in the United States. The use of "safe sex" and testing are shown to be synergistic, and so education should be vigorously pursued. With the present infectivity rates, after the initial effort, the test cycles could be reduced to 12 months for the high risk group and 24 months for the low risk group. The information gleaned from testing would dictate ultimate policy. Even with the best scenarios, there will be a large reservoir of infected persons well into the twenty first century. Consequently a long term effort will be required. Furthermore, since about 60,000 persons per month are being infected, a number which exceeds the death toll of the Vietnam war, there is minimal time for delay.

Allan M. Salzberg MD, PhD, Chief Medical Service, VAMC, Miles City, Mt 59301; Richard H. Runser MD, VAMC, Miles City, Mt 59301; Stanly L. Dolins PhD, Senior Projects Manager, NRC Washington DC.

APPENDIX A—AIDS IN AFRICA

The information for Africa is suspect at best. However estimates of the disease there are as follows:

1. About 5,000,000 carriers
2. The percent of infected prostitutes increases from 10 to 60 in the last 2 to 3 years
3. The sex ratio is 1:1

Modifying our basic computer model for the social situation in Africa and assuming the disease began there about 1970 completely yields virtually identical results without invoking any means of transmission other than heterosexual sex. It further indicates 200-300 thousand deaths to date with several hundred thousand ill. This is consistent with published reports. Indications are that the disease will run rampant in Africa in the next few years creating a disaster of untold magnitude.

THE CORPORATION FOR SMALL BUSINESS INVESTMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, on behalf of Mr. MCDADE, the ranking minority member of the Small Business Committee, and myself, I am pleased today to introduce legislation which may be cited as the Corporation for Small Business Investment [COSBI] Charter Act. This bill is designed to encourage the private sector to provide necessary venture capital for small businesses, thereby permitting them to continue to expand their role as the Nation's innovator and greatest job creator.

The Small Business Committee plans hearings on this legislation in the near future in order to document the need for venture capital for small businesses and the public policy role that COSBI could play.

Mr. Speaker, despite great obstacles, small business continues to play a vital role in preserving and improving our Nation's economic health. Small business has been our unquestioned leader in job creation product innovation, and the development of new technologies; and the small business sector of our economy represents the most productive entrepreneurial system in the world.

If newly established small firms and young companies with prospects for growth are to continue to flourish and play a major role in our economy, they must have access to an adequate flow of equity capital and long-term venture financing. These small, high-risk companies have traditionally found it difficult to obtain needed capital from conventional financing sources, and their access to sources of venture capital has been restricted.

Commercial banks are not able to furnish such financing; their function lies primarily in short and intermediate-term lending; they normally do not supply venture capital or long-term credit. Private venture capital funds selectively invest in a very narrow range of companies with exceptional prospect for growth. As a result, there is a huge gap between the small business sector's critical need for long-term growth capital and the availability of this type of financing.

The Small Business Investment Act of 1958, which authorized the Small Business Investment Company or SBIC Program, recognized that small business concerns are faced with a real difficulty in obtaining long-term and equity capital required for adequate growth and development. As a result, it sought to address this need through privatization, that is, the formation of new privately owned concerns.

These SBIC's are really the forerunners of private sector initiatives. They are privately captialized, owned and managed investment firms that provide equity capital, long-term financing, and management counsel to new and expanding small business concerns. They are licensed and regulated by the Small Business Administration and can borrow funds from the Government on a long-term basis for reinvestment in small business.

In 1972, Congress authorized MESBIC's as a specialized type of SBIC which would be provided certain additional funding benefits in return for restricting their investments to socially or economically disadvantaged firms. These incentives permit a MESBIC to sell its preferred stock to SBA on attractive terms and borrow funds on a long-term basis from SBA at below-market rates.

This SBIC/MESBIC industry provides equity capital, long-term loans and management assistance and is responsible for many of our Nation's great small business success stories. It has become a major source of equity capital for small businesses, and now represents over 20 percent of venture capital funds dispersed. Companies which have stimulated the economy and provided thousands of jobs, such as Cray Research Inc. and Essence magazine, would not have started without SBA financing.

Despite its successful track record of almost 30 years, the SBIC/MESBIC programs face very serious problems. In order to plan, operate and invest effectively, SBIC's and MESBIC's need a reliable source of funds and a stable regulatory process. Continued uncertainties of annual congressional funding and restrictive allocations of scarce dollars have made the financial process difficult. In addition, continually changing Government regulatory policies have created an unreliable and unstable operating atmosphere which is counterproductive to sound investment and business practices.

These funding and regulatory policy problems have recently been compounded by rapid expansion of both the industry and its level of investment activities. The SBIC/MESBIC industry has reached a critical stage in its development. The industry needs greater access to capital markets through a financial intermediary designed to meet its unique requirements. The proposed Corporation for Small Business Investment would give them that facility.

The SBIC/MESBIC industry has been a major source of venture capital for small business for almost 30 years. SBIC's and MESBIC's have invested more than $6.984 billion in over 85,000 small growth firms. In 1986 alone, SBIC's made 2,675 investments totalling $475 million in a wide variety of small growth companies in geographically diverse sections of the country; at the same time, MESBIC's financed 1,658 minority-owned small businesses for $145 million. Today, over 450 SBIC's and MESBIC's, with assets valued in excess of $3.2 billion, are actively engaged in the financing of thousands of small, job-creating growth companies.

The Congress has chartered a number of institutions designed to attract capital investment into sectors of the economy considered essential to the Nation's welfare. For example, the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Corporation were chartered to supply investment funds for housing and home mortgages. The Student Loan Marketing Association was designed to provide liquidity for loans for higher education.

All of these institutions have the following characteristics: First, they were established by acts of Congress and governed by boards of directors appointed in part by the President. Second, their capital, at least initially, was provided by the users of the facility. Third, the U.S. Treasury has the authority to purchase up to a specific amount of obligations of the institutions. This investment authority by the Treasury is viewed by the investment community as a Treasury backstop and serves as a symbol to investors that the U.S. Government has a vital interest in the financial soundness of the institution. Fourth, although not explicitly backed by the full faith and credit of the U.S. Government as U.S. Treasury securities, the securities of these institutions are considered U.S. "agency" securities and borrowing or interest costs generally are lower than corporate AAA securities, but with a spread somewhat above U.S. Treasury securities of comparable maturities. Fifth, as U.S. agency securities, they are exempt from SEC registration and are eligible for purchase by depository institutions and by many local and State government authorities. Sixth, as Federal instrumentalities, the institutions are exempt from State taxation. And seventh, the institutions are financial "middlemen," raising funds through the large-scale issue of standard, liquid securities and passing these funds on to those who divide the money into smaller amounts for lending to individuals, including small businesses.

Mr. Speaker, using these broad criteria, we have developed this legislation to establish a federally chartered but privately owned Corporation for Small Business Investment [COSBI]. The corporation would be operated by a permanent board of directors of 15 members, 9 being elected by the shareholders, 1 being selected by the MESBIC trust and 5 being appointed by the President. Existing SBA licensees or new companies who wish to affiliate with COSBI would be required to purchase stock in the corporation in an amount equal to 1 percent of their private capital, and any increase therein, plus 1 percent of any outstanding debentures, or, in the case of a MESBIC, 1 percent of the amount of outstanding preferred stock if it is a larger amount, plus 1 percent of any new financial assistance provided to them through COSBI. Those existing licensees not electing to affiliate with the new corporation would go out of existence within 2 years after the repayment of any outstanding debentures guaranteed by SBA, and SBA would cease having regulatory authority over the SBIC/MESBIC industries.

COSBI would obtain and purchase the outstanding portfolio of SBIC debentures guaranteed by SBA and now held by the Federal Financing Bank, which will be about $700 million as of start of fiscal year 1989. This portfolio would be purchased at full market value through a combination of cash and preferred stock. The Government would provide full coverage for defaults in the portfolio purchased by COSBI; that is, SBA would remain liable for any defaults in repayment of these previously guaranteed debentures just as it is now; the Government would not, of course, be in any way liable for any of COSBI's debts or for new financings. The Government would receive preferred stock that allows the Government to share in earnings as dividends and warrants to purchase common stock, which provides the Government with "upside participation" in the future growth and earnings of COSBI.

These warrants would give the Government the future right to acquire nonvoting common stock in COSBI at a favorable price. If the future value of the common stock is higher than the exercise price of the warrant, the Government would be in a position to make a profit, either by selling the warrant, or by exercising its rights to purchase the common stock and subsequently selling it.

COSBI would obtain capital to provide to its shareholders by issuing securities to private investors. This COSBI paper would not be federally guaranteed, although its issuance would be subject to the approval of the Secretary of the Treasury. In addition, in his discretion and subject to the appropriation of funds, the Secretary of the Treasury, as a backstop, would be authorized to purchase up to $500 million in COSBI paper; that is, if COSBI needed additional Federal money, the Government might provide it, if the need was justified. And, if the Secretary did decide to provide assistance, it would be on such terms and conditions and with such security as he might require. Moreover, any such government investment would be buffered by all of the private money invested in the corporation by the SBIC/MESBIC shareholders and other private investors.

In order to promote and assist minority small businesses, a MESBIC type trust, governed by five trustees would be established within the Corporation. The trust would be funded by transferring to it the existing $325 million portfolio of MESBIC debentures and prefered stock which SBA now holds along with $150 million from the sales proceeds of the SBIC debentures. The trust would provide debenture subsidies to and purchase preferred stock from special SBIC's; that is, those which provide assistance to socially or economically disadvantaged small businesses. The trust would terminate in 50 years, at which time its assets would be given to the Secretary of the Treasury.

Mr. Speaker, that, in a nutshell, is COSBI. I hope that the committee will be able to act on it expeditiously this year.

SECTION-BY-SECTION ANALYSIS

Provides that the Act may be cited as the "Corporation for Small Business Investment Charter Act."

Section 2 amends section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) by redefining one of the terms and adding the definitions of certain terms.

Subsection (1) adds the phrase "or a company qualified to conduct business with the Corporation under section 357 of this Act" to the definition of small business investment company, company or licensee.

Subsection (2) modifies the definition of "small business concern" to provide that for purpose of Title III of the Act, a "small business concern" is one that is independently owned and operated, is not dominant in its field of operations, does not have net worth in excess of $8,000,000 and does not have average net income for the preceding two years in excess of $2,500,000. In the alternative, the size qualification also may be met under standards established by the Small Business Administration (the "Administration").

Subsections (3) through (18) add ten new definitions to the end of section 103.

New paragraphs (9) through (18) define the terms "Corporation" and "Board of Directors" to mean the Corporation for Small Business Investment and its Board of Directors.

New paragraph (11) defines "disadvantaged small business concern" as a small business concern owned by a person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

New paragraph (12) defines the term "law" to include any law or rule of law or equity of the United States or any State.

New paragraph (13) defines the term "organization" to mean any corporation, partnership, association, business trust or other business entity.

New paragraph (14) provides that the term "security" has the meaning ascribed to it by Section (2)(1) of the Securities Act of 1933. Thus, the term includes "any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certifiate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a 'security', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing."

New paragraph (15) defines the term "small business investment security" to include debentures, bonds, promissory notes, obligations or securities currently issuable by small business investment companies plus such other small business investment company securities as the Corporation may permit to be issued.

New paragraph (16) defines "private capital" of a small business investment company to be the combined private paid-in capital and paid-in surplus or, in the case of an unincorporated small business investment company, the permanent partnership capital.

New paragraph (17) defines "licensee in good standing" to mean licensee as defined in the Act unless such licensee is in default under the provisions of preferred securities or debentures and such securities have been declared due and payable by the Administration, or the licensee is in liquidation for regulatory reasons.

New paragraph (18) defines books and records of the Corporation as including books, accounts, financial records, reports, files, all memoranda and documents obtained by COSBI or by CPA's during audits of Small Business Investment Companies, all reports and information from Small Business Investment Companies to COSBI, and all other Corporate papers.

Section 3 amends title III of the Small Business Investment Act of 1958 adding a new section 322.

New subsection (a) provides that a licensee in good standing shall have three months after the date the Administration receives notice pursuant to section 352(h)—that it is ready to conduct business—to qualify under sections 357 or 359 (section 357 establishes the criteria for qualification of small business investment companies to conduct business with the Corporation and section 359 establishes the criteria for qualification of special small business investment companies to do business with the Trust).

New subsection (b) provides that within six months after the Administration receives notice pursuant to section 352(h) (that the Corporation is prepared to do business), the Administration shall promulgate rules and regulations to effect the orderly termination of any licensee in good standing which has not qualified under sections 357 or 359 of the Act. It also requires the Administration to contract with the Corporation to administer these regulations.

New subsection (c) provides that such rules and regulations shall suspend a nonqualifying licensee's authority to obtain financial assistance from the Administration. It also requires its license to be revoked within two weeks of the publication of the rules and regulations, except if the licensee has outstanding debentures the revocation may be delayed until two years after the maturity or repayment of the debentures.

New subsection (d) provides that the Administration shall furnish to the Corporation all of its books and records necessary to carry out the provisions of the Act within thirty days of a written request by the Corporation unless the Administrator certifies that such books and records are not available within such time. Information on individual licensees shall not be furnished unless the licensee has agreed to such release and all information furnished shall be kept confidential.

Section 4 amends title III of the Small Business Investment Act of 1958 by revising the table of contents and by inserting the heading "Part A" prior to section 301.

Section 5 amends the Small Business Investment Act of 1958 by inserting the heading "Part B" at the end thereof and by adding new sections to this Act.

A new Section 351 sets forth the purpose of Part B of the Act, which is this Act. It declares that the purposes of this Part of the Act are (1) to establish a Government-sponsored private corporation, financed by private capital, which will serve as a secondary market and warehousing facility for loans to and investments in small business investment companies, and which will provide liquidity for small business loans and investments; (2) to stimulate and supplement the orderly and necessary flow of private equity capital and long-term loan funds to and improve the distribution of investment capital available for small business concerns; (3) to encourage the formation of new small business investment companies; and (4) to provide for an orderly transfer of certain functions of securities guaranteed or owned by the Small Business Administration to the Corporation for Small Business Investment.

A new section 352 would be added, entitled: "The Corporation for Small Business Investment."

Subsection 352(a) establishes a corporation to be known as the Corporation for Small Business Investment (the "Corporation") which would have succession until dissolved. The Corporation would maintain its principal office in the District of Columbia and would be deemed to be a resident and citizen of the District for purposes of venue and jurisdiction in civil actions. The Corporation would be authorized, however, to establish offices wherever necessary or appropriate for the conduct of its business.

New subsection 352(b) provides that the Corporation, as an instrumentality of the United States, would be exempt from State taxation, except that any real property of the Corporation would be subject to taxation to the same extent that other property is taxed. (The Corporation would not be exempt from Federal income taxes.)

New Subsection 352(c) requires the President, within 60 days of enactment of this legislation, to appoint an interim Board of Directors consisting of five members, one of whom would be designated by him as interim Chairman. Of the five members, one would be representative of small business, one would be an owner or operator of a small business, two would be representative of small business investment companies, and one would be the SBA Administrator. The main function of the interim Board is to arrange for an initial offering of common stock of the Corporation and to take whatever other actions are necessary to proceed with the operation of the Corporation.

New subsection 352(d) provides for a permanent Board of Directors consisting of fifteen persons. When $20,000,000 of common stock of the Corporation has been purchased by small business investment companies:

The holders of common stock would then elect nine members of the Board of Directors;

The trustees of the MESBIC trust would designate one of themselves as a director; and

The remaining five members would be appointed by the President, subject to confirmation by the Senate.

New subsection 352(e) provides that once the events described in paragraph (d) have occurred, the interim Board would turn over control of the affairs of the Corporation to the permanent Board.

The directors elected by the shareholders would serve until the next annual shareholder meeting, and the director selected by the MESBIC trustees would also serve for one year.

The directors appointed by the President would serve staggered 5-year terms and would serve until their successors have been appointed and have qualified. They could be removed only for cause. At least one of the directors appointed by the President must be a representative of small business and one shall be an owner or operator of a small business.

New subsection 352(f) sets forth the responsibility of the Board for determining the general policies which would govern the operations of the Corporation and for selecting, appointing, compensating and prescribing the functions, powers and duties of the executive officers of the Corporation.

New subsection 352(g) provides that the Corporation would have the normal powers exercised by a corporation including the power:

To sue and be sued, complain and defend, in its corporate name and through its own counsel;

To adopt, alter, and use a corporate seal, which shall be judicially noticed;

To adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

To conduct its business, carry out its operations, and have officers and exercise the powers granted by this section in any State without regard to any qualification, licensing or similar statute in any State;

To lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

To accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of the purposes of the Corporation;

To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

To appoint such attorneys, officers, employees, and agents as may be required, determine their qualifications, define their duties, fix their compensation, require bonds for them and fix the penalty thereof; and

To enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

New subsection 352(h) provides that when the permanent Board of Directors is duly constituted and the Corporation is ready to conduct business, it shall so notify the Administration and the Secretary of the Treasury.

A new section 353 would be added, entitled "Common and Preferred Stock."

Paragraph (a)(1) of this section 353 provides that the Corporation shall have voting common stock which may be issued only to small business investment companies. Each share of common stock shall have such par value as the Board of Directors may fix from time to time. Each share is entitled to one vote with cumulative voting rights at the elections of directors. The maximum number of authorized shares of voting common stock of the Corporation shall be 100,000,000 shares. This maximum number of authorized shares may be increased or decreased by an affirmative vote of a majority of the total outstanding shares. Such stock is freely transferable except as to the restriction on retention by small business investment companies for three years in subparagraph (5)(B) below and as to the Corporation, it is transferable only on its books.

Paragraph (a)(2) authorizes the Corporation's shareholders to issue nonvoting common stock. It limits the initial maximum number of authorized shares of such stock to 100,000,000, but it could be increased or decreased by an affirmative vote of a majority of the total outstanding shares.

Paragraph (a)(3) provides that holders of voting and nonvoting common stock shall not have preemptive rights.

Paragraph (a)(4) mandates that the Corporation raise funds for its capital surplus account by requiring nonrefundable capital contributions from each small business investment company as (i.e., require it to purchase stock) as follows:

1 percent of its private capital;

1 percent of any outstanding debentures, or in the case of Minority Enterprise Small Business Investment Companies with outstanding preferred stock, 1 percent of that amount if it is more than 1 percent of its outstanding debentures, except that the Corporation may exempt debentures with maturities of less than 3 months from the computation.

In addition, the Corporation may require small business investment companies which sell securities to the Corporation to make, or to commit to make, capital contributions not to exceed one percent of the unpaid principal balance of such securities and up to 1 percent of any increases in its private capital.

Paragraph (a)(5) provides that the Corporation will issue shares of its common stock to each small business investment company to evidence any capital contributions made pursuant to paragraph (a)(4) of this section. It is further provided that the Corporation may issue additional shares of nonvoting common stock in return for appropriate payments into capital or capital and surplus. Thus, the Corporation is authorized to issue nonvoting common stock to the general public. Any dividends declared by the Board of Directors are to be paid by the Corporation to the holders of its common stock. Common stock issued to small business investment companies under paragraph (a)(5) must be retained in accord with such conditions as may be established by the Corporation.

Paragraph (a)(6) of this section 353 provides that, notwithstanding any other provision of law, any depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act, is authorized to make capital contributions to the Corporation as provided in subsection, and to receive nonvoting common stock evidencing its contributions. The authorization is intended to encourage the purchase of Corporation stock by depository institutions which generally are prohibited from owning stock in other entities.

Subsection (b) authorizes the Corporation to issue a class of nonvoting preferred stock. Under the Act, if the Corporation so prescribes, such stock could be converted into voting or nonvoting common stock of the Corporation.

New section 354 is added, entitled "Obligations and Securities."

New subsection (a) of this section authorizes the Corporation (after approval by the Secretary of the Treasury) to issue obligations with maturities, rates of interest and terms and conditions as set by the Corporation. At the option of the Corporation, such obligations could be redeemed before maturity. This subsection makes clear that these obligations are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof. The Corporation is authorized to purchase in the open market and of these obligations at any time and at any price. Finally, the Corporation can prescribe that any obligation or security can be sold in definitive form or in book entry form with or without delivery of physical evidence of ownership.

New subsection 354(b) authorizes the Corporation to issue subordinated obligations with such maturities and rates of interest as set by the Corporation. If so specified in the obligation, it could be converted into shares of common stock.

New subsection 354(c) provides discretionary authority for the Secretary of the Treasury to purchase any obligations issued by the Corporation and authorizes the Secretary to utilize the proceeds of the sale of any securities under the Second Liberty Bond Act for the acquisition of any obligations of the Corporation.

The prospective Treasury acquisitions are limited in several important respects. First, the amount of such purchases must be approved in advance through appropriations

Acts of the Congress. Second, they could not exceed $500,000,000 at any time. Moreover, the yield must be at a rate determined by the Secretary in relation to the current average rate on outstanding Treasury obligations of comparable maturities. This will assure yields comparable to other Treasury holdings. The Secretary is authorized to sell the obligations of the Corporation at any time, price, and upon any conditions and to treat such sales or redemptions as public debt transactions.

A new section 355 would be added, entitled "Legal Investments and Exempt Securities."

This section makes all obligations issued by the Corporation lawful investments acceptable as security for all fiduciary, trust and public funds under the authority or control of the United States. The stock and obligations issued by the Corporation would be classified as exempt securities under the laws administered by the Securities and Exchange Commission. The Corporation is deemed to an agency of the United States for the purposes of section 355(2) of title 12 which gives the obligations of the Corporation the same investment status as other federally guaranteed obligations of the United States. With this status, the obligations of the Corporation would be considered liquid investments and, thus, could be used to satisfy reserve requirements of banks and savings and loan associations.

Finally, for purposes of the Bankruptcy Code, and, specifically section 101(41) of title II, the Corporation would be deemed to be a governmental agency and thus its obligations could be used for short term investments under repurchase agreements; but COSBI would not be deemed to be a governmental unit and thus its claims would not have first priority by law over other creditors in the event of dissolution, liquidation or winding up of the business of the Corporation.

A new section 356 would be added, entitled "Loan and Investment Operations."

Subsection (a) of this section authorizes the Corporation to issue commitments or otherwise deal in small business investment securities as soon as the permanent Board of Directors has been duly constituted and Administration-guaranteed debentures purchased under section 361 of the Act.

New subsection 356(b) simplifies the procedure for perfecting a security or ownership interest in small business investment securities created by the Corporation or by an eligible small business investment company. Notwithstanding the provisions of any state law to the contrary, including the Uniform Commercial Code as in effect in any State, a security or ownership interest in such small business investment securities may be perfected either through taking possession of such securities or by filing notice of an interest in such securities in the manner provided by State law for perfecting of security or ownership interests in accounts.

New subsection 356(c) authorizes the corporation to guarantee securities based on or secured by pools or trusts of the small business investment securities eligible for purchase by the Corporation under this section. The Corporation is further authorized to act either as an issuer or guarantor of such securities.

New subsection 356(d) provides that these securities may be in the form of debt obligations secured by pools of loans, or trust certificates of beneficial ownership in such pools of loans, or both.

New subsection 356(e) provides that nothing in this section shall be construed to impede special small business investment companies (i.e., those operating under section 359 of the Act) from receiving a proportionate and fair share of available funds.

A new section 357 is added, entitled "Qualification of Small Business Investment Companies."

New subsection (a) requires COSBI to establish appropriate criteria for determining the qualification of small business investment companies to conduct business with the Corporation. It specifies some of the factors (business reputation and character of the owners, and the probability of success of the proposed company) which must be taken into consideration in determining qualification. (The foregoing is basically a restatement of existing law regarding SBA authority to establish such criteria.) This section also provides that any small business investment company that is currently licensed and approved by (i.e., in good standing with) the Small Business Administration to operate under the provisions of the Small Business Investment Act of 1958 is automatically qualified to operate under the provisions of the new Act if such company subscribes to stock of the Corporation, as provided in section 353(a) of the Act, contracts with the Corporation, as provided in section 358(a) of the Act, and authorizes the release of records, as provided in section 322(d) of the Act.

New subsection 357(b) essentially restates section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682(a)) with the exception that the specific minimum private capital requirements of that section have been increased from $500,000 to $1,000,000, the current minimum requirement set by regulation by the Small Business Administration. The current Act, and this section, also go further and require that each small business investment company have sufficient private capital to assure sound and profitable operations and active and prudent management.

New subsection 357(c) restates the provisions of section 302(b) of the Small Business Investment Act of 1958 (15 U.S.C. 682(b)) which permits the purchase of ownership interests in small business investment companies by national banks, and by other Federal Reserve member banks, and FDIC-insured banks, when not prohibited by State law, up to an aggregate of 5 percent of the banks's capital and surplus. This authorization retains the current small business investment company exemption from the Glass-Steagall Act, and specifically, section 371(c) of title 12.

New subsection 357(d) essentially restates section 303(a) of the Small Business Investment Act of 1958 (15 U.S.C. 683(a)) by authorizing small business investment companies to borrow money and to issue obligations therefore, under conditions and rules prescribed by the Corporation. This subsection goes further, however, and authorizes small business investment companies to purchase stock issued by the Corporation since purchase of such stock will be a prerequisite for qualification as a small business investment company.

New subsection 357(e) provides that thirty days after the Administration receives notice from the Corporation under section 325(h) of the Act (that the Corporation is ready to conduct business), the provisions of sections 301-306, inclusive, sections 308-318, inclusive, and sections 320 and 321 of the Act shall be inapplicable to small business investment companies which qualify under section 357 and 359 of the Act (i.e., which qualify and affiliate with COSBI).

New subsection 357(f) provides that all specific references to small business investment companies operating under the Small Business Investment Act of 1958 in any federal or state law or regulation shall be deemed to refer to and include small business investment companies operating under the provisions of this new Act. The foregoing provision is intended to insure that small business investment companies are accorded the same treatment under the new Act as they currently enjoy under other statutes that make reference to small business investment companies operating under the provisions of the Small Business Investment Act of 1958. References to small business investment companies can be found, for example, in several statutes and regulations including, but not limited to, the following in the Internal Revenue Code, 26 U.S.C. sections 234(a)(2), 542(c)(8), 586, 1242 and 1243; in the Investment Company Act of 1940, 15 U.S.C. sections 80-18(k); and in regulations promulgated pursuant to the Internal Revenue Code, 26 C.F.R. section 1.533-1(d), and pursuant to the Investment Company Act of 1940, 17 C.F.R. sections 270.17(a)-6 and 270.18c-2(a).

A new section 358 is added, entitled "Operations of Small Business Investment Companies."

Subsection (a) of this new section authorizes the Corporation to enter into agreement with small business investment companies governing the operations of such companies to carry out the provisions of the new Act. This gives the Corporation the general authority to establish criteria for the operations of small business investment companies. It also specifically requires that the Corporation adopt rules effectuating the provisions of subsections (c) through (i) below and that such adoption include the votes of a majority of the five members appointed by the President.

New subsection 358(b) essentially combines the provisions of section 304(a) and 305 (a) and (b) of the Small Business Investment Act of 1958 (15 U.S.C. 684(a) and 685(b)) by authorizing small business investment companies to make equity investments and loans directly or in cooperation with other investors or lenders on a participation or guaranteed basis.

New subsection 358(c) adopts SBA's current regulations which provide that small business investment companies shall engage only in the activities contemplated by the Act and in no other activities.

New subsection 358(d) restates the provisions of section 312 of the Small Business Investment Act of 1958 (15 U.S.C. 687d). For the purpose of eliminating conflicts of interest, the Corporation is required to adopt rules governing transactions between or among small business investment companies and persons interested in them as officers, directors, shareholders, or partners.

New subsection 358(e) requires that the Corporation adopt rules that will prevent small business investment companies from assuming control over small business concerns, except under limited conditions, such as situations where it is necessary to do so to protect an investment.

New subsection 358(f) provides that financings of small business concerns by small business investment companies shall be for a minimum period of five years, except that in the case of special small business investment companies (i.e., those operating under section 359 of the Act) the minimum period is four years.

New subsection 358(g) prohibits, without the Corporation's approval, a small business investment company from acquiring obligations or securities for any single enterprise in excess of 20 percent of its private capital without the approval of the Corporation. In the case of special small business companies i.e., those operating under section 359 of the Act), this limitation is 30 percent.

New subsection 358(h) prohibits small business investment companies from providing financing to small business concerns for re-lending, foreign investments, passive investments or for the acquisition of real estate, except as a part of a project for residential or commercial construction or rehabilitation for sale. It exempts from this prohibition venture capital financing to a disadvantaged concern engaged primarily in relending or re-investing if it is insured by an agency of the Federal Government.

New subsection 358(i) prohibits the Corporation from providing more than 10 percent of its assets to any small business investment company. It also requires the Corporation's Board of Directors, including a majority of the members appointed by the President, to develop regulations to minimize the risk of loss on debentures or securities issued by companies under common control.

New subsection 358(j) requires each small business investment company to have an annual audit and to make such reports as the Corporation may require. These audits could be made by independent CPAs acceptable to the Corporation or the Corporation itself, in its discretion, could do the audits. The Administration shall have access to financial audit or certified financial report files with the Corporation by small investment companies having outstanding small business investment securities which are held by or guaranteed by the Administration.

New subsection 358(k) requires the Corporation to adopt appropriate measures to assure compliance by small business investment companies with the provisions of this section 358 of the Act. It specifies that in the event a small business investment company fails to comply with this section, the Corporation may terminate or suspend the agreement between the company and the Corporation and take other action such as assessment of penalties, removal of the companies' officers or directors, and referral of violations to SBA for investigation or to the United States Attorney.

New subsection 358(l) declares that the purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds from small business investment companies to small business concerns. Any business loan made by a small business investment company pursuant to the provisions of the Act is exempt from the provisions of the Constitution or the laws of any State that expressly limit the rate or amount of interest, discount points, finance charges or other charges that may be imposed by lenders. However, such exemption can be overridden if a State adopts a law or certifies that the voters of such State have voted in favor of a provision which states explicitly that the State does not want the exemption to apply to business loans made in such State. Even if a State overrides the exemption by passing a law or certifying voter action, such law or certification will not apply to any loans made by a small business investment company pursuant to a commitment to make such loan after the effective date of the Act and prior to the date such law was passed or such certification occurred.

A new section 359 is added, entitled "Special Small Business Investment Companies."

The provisions of this section essentially continue, with some modifications, the existing special small business investment program (i.e., the Minority Enterprise Small Business Investment Company Program) of preferred security purchases and subsidized interest rates for five year terms. In place of the Administration, these benefits would be provided by the Trust created in the section.

New subsection (a) is essentially a restatement of section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)). It requires that the Corporation adopt reasonable criteria for the qualification of a "special type of small business investment company" the investment policy of which is to facilitate ownership in small business concerns by persons whose participation in the free enterprise system has been hampered because of social or economic disadvantages. Existing MESBICs in good standing with SBA are automatically eligible.

New subsection 359(b) creates a special-purpose trust (the "Trust"). The Trust would be administered under a trust agreement between the Corporation and five trustees, three of whom would be special small business investment companies nominated by the MESBICs and appointed by the Board of Directors of the Corporation. These trustees would have staggered four-year terms and would be limited to two consecutive terms. One trustee would be appointed by the President, subject to the Senate confirmation, for a two-year term and would also be limited to two consecutive terms and could be removed only for cause. The fifth trustee is the Chairman of the Board of Directors of the Corporation, or his designee.

The trustees of the Trust are given full authority to administer, sell, invest and reinvest the trust estate, subject to the "prudent man" rule for fiduciaries. The Trust would establish separate accounting for all preferred securities, debentures and other funds held in trust and would provide an annual accounting of its operations under this subsection to the Secretary of the Treasury.

It specifically gives the trustees the power:

To sue and be sued, complain and defend through their own counsel,

to adopt, amend, and repeal such bylaws, rules, and regulations as may be necessary for the conduct of its business;

to conduct the business of the Trust, carry out its operations, and have officers and exercise the powers granted by this section in any State without regard to any qualification, licensing or similar statute in any States;

to lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

to accept gifts or donations or services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Trust;

to sell, to convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

to appoint such attorneys, officers, employees, and agents as may be required, determine their qualifications, define their duties, fix their compensation, require bonds for them and fix the penalty thereof; and

to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of the affairs of the Trust and the proper conduct of its business.

New subsection 359(c) provides that within 30 days after the Administration receives notice from the Corporation (under section 352(h)) that it is prepared to conduct business, the Administration shall convey to the Corporation in trust all preferred securities and outstanding debentures issued by small business investment companies under section 301(d) of the Act and while are not in liquidation.

New subsection 359(d) provides that the trust corpus and income shall be administered in the following manner: (1) to cover any losses on debentures purchased or guaranteed by the Corporation; (2) to reduce the interest rate on debentures purchased or guaranteed by the Corporation under subsection (e) of this section; (3) to purchase preferred securities under subsection (e) of this section; and (4) to cover operating costs of the Trust.

New subsection 359(e) authorizes the trustees to purchase preferred securities and the Corporation to purchase or guarantee debentures of special small business investment companies. The Trust's purchase of such non-voting securities is subject to such terms and conditions as determined by the Trust, including: (1) the insurer shall redeem the stock in 10 years and the dividends on the stock shall be preferred; (2) on liquidation or redemption, the Trust shall be entitled to the preferred payment of the par value of such securities; (3) the purchase price shall be $50,000 or more and (4) the amount of such securities purchased by the Trust shall not exceed 200 per centum of the private capital of such company. Also, the amount of such securities purchased by the Trust in excess of 100 per centum of such private capital may not exceed an amount equal to funds invested in venture capital by such company as determined by the Trust.

In lieu of preferred stock, the Trust may purchase or guarantee debentures with a fifteen year subsidy of four points interest.

In addition, the Corporation is authorized to purchase or guarantee debentures issued by special small business investment companies. The rate of interest on such debentures shall be determined by the Corporation based upon comparable small business investment securities purchased by the Corporation reduced to a lower rate provided by the Trust, not to exceed three per centum per annum. The amount of debentures purchased or guaranteed or transferred to the Corporation under subsection (c) of this section shall not exceed 400 per centum of a company's private capital less the amount of preferred securities outstanding.

New subsection 359(f) provides that the benefits of this section may be extended to special small business investment companies owned, in whole or in part, by other small business investment companies.

New subsection 359(g) exempts dividends on the preferred securities, interest on the debentures, gains on sales of securities and other income of the Trust from Federal, state and local taxes.

New subsection 359(h) provides that the Trust will terminate fifty years after the effective date of the Act. All of the preferred securities outstanding will be redeemed and the corpus and interest of the Trust, less any funds owed to the Corporation, will be transferred to the U.S. Treasury.

A new section 360 is added, entitled "Audits and Reports."

New subsection (a) provides that the Administration shall have review authority over the Corporation to insure that the public purposes of the Act are carried out. This review applies specifically to the Corporation's criteria for qualification of small business investment companies to conduct business with the Corporation and the Corporation's agreements, rules and regulations governing the operations of small business investment companies, and such other matters as the Administration deems appropriate.

New subsection 360(b) provides that the Administration may examine the books and records of the Corporation and may require the Corporation to make reports to the Administration. The Administration shall report to the Congress on its reviews under this section no later than January 31 of each year.

New subsection 360(c) requires an annual audit of the accounts of the Corporation to be performed by an independent certified public accountant, and such report must be furnished to the Secretary of the Treasury, whose representatives shall be given access to all of COSBI's books.

New subsection 360(d) requires the Secretary of the Treasury to deliver a report on each fiscal year audit of the Corporation to the President, and to the Small Business Committees of the Congress within six months of the end of such fiscal year. In addition to a normal report of the fiscal structure of the Corporation, the report is to include recommendations as the Secretary deems advisable and any indication of impairment of capital or insufficient capital.

New subsection 360(e) subjects the Corporation to audit by the General Accounting Office at the request of either of the Small Business Committees of the Congress.

New subsection (f) subjects the books and records of the Corporation to audit by the Inspector General of SBA during such time as small business investment company debentures, previously guaranteed by SBA and purchased by COSBI, remain outstanding, but only if the Inspector General (1) has reasonable cause to believe that there has been a violation of any of the provisions in subsections (c) through (i) of section 358 (or matters related to such provisions), or (2) has probable cause to believe that a small business investment company or special small business investment company has committed civil fraud or has violated a Federal criminal law. Individual small business investment companies and special small business investment companies are subject to similar audit as long as any such company has SBA guaranteed debentures outstanding.

New subsection (g) requires the Corporation, as soon as practicable after the end of each fiscal year, to transmit to the President, the Small Business Committees of the Congress and the Administrator of the Small Business Administration, a report of its operations and activities during each year.

A new section 361 is added, entitled "Transfer of Small Business Administration Guaranteed Securities to the Corporation."

New subsection (a) provides for the sale to the Corporation on September 30, 1988 of the Federal Financing Bank's portfolio of Administration-guaranteed debentures issued by small business investment companies due in fiscal year 1989 or later. The acquisition by the Corporation shall be with full recourse to the full faith and credit guarantee of the Administration. The Corporation would fully pay for such securities at a price determined as provided in subsection (b), but not less than $720 million of which $200 million would be in preferred stock in COSBI. $150 million of the purchase price would be paid by the Corporation to the Trust created under section 359 of the Act to carry out the trust functions of the Trust. The securities may not be sold by COSBI for a period of three years.

New subsection (b) provides that within 10 days of the date the Secretary of the Treasury receives notice pursuant to section 352(h) of this Act (that the Corporation is ready to conduct business), he proposes the sale price for the securities, that is, the outstanding portfolio which COSBI is to purchase. If the price proposed by the Secretary of the Treasury is acceptable to COSBI, it becomes the final purchase price.

If the proposed price is unacceptable, within 15 days COSBI's Board so notifies the Secretary. The Secretary then appoints a representative and the COSBI Board also appoints a representative to establish the sale price. Each of these representatives jointly designate a third representative to join them in establishing the final price, which must be done within 60 days by agreement of two of the three representatives.

A new subsection 361(c) provides that the preferred stock issued by the Corporation as part of the purchase price shall be nonvoting. It will pay preferred dividends to the extent of 5 per centum of par value per year on net after tax earnings in excess of $2 million per year, except that COSBI will not be required to pay any dividends during the first two years. The Corporation may redeem this preferred stock at any time.

A new subsection 361(d) requires the Corporation to issue to the Administrator of SBA warrants entitling the holder to purchase a 28 percent interest in the Corporation in nonvoting common stock. The price would be based on book value as of the date COSBI is ready to do business, plus a 50 percent premium. The warrants may be exercised in whole or in part at any time for 15 years.

A new subsection 361(e) provides that any money received by the Small Business Administration from the redemption of preferred stock of from the sale of warrants or from the sale of any common stock shall be paid into the United States Treasury. Any money received by SBA as dividends is kept by the Agency and placed in the business loan revolving fund and would be available for authorized expenditures such as the payment of claims on the SBA guaranteed debentures being sold to COSBI.

A new subsection 361(f) requires that within 30 days of the completion of the purchase, the Corporation shall report the details. The report is made to the Committees on Small Business of the House and the Senate.

Section 6 makes technical amendments to the provisions of section 4(c)(5) (of the Small Business Act) governing financing functions under that Act and the Small Business Investment Act of 1958; and it provides that SBA is relieved of further interest payment obligations to the Treasury on SBIC debentures sold to COSBI.

Section 7 amends section 5(b)(2) (of the Small Business Act to prohibit sale of small loans and debentures except under provisions of section 361 of the Small Business Investment Act of 1958, as added by this Act.

Section 8 amends the sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) by adding COSBI obligations or other instruments to the enumeration. The effect of this amendment is to authorize any national banking association to invest in COSBI securities without regard to the stated limitations and restrictions as to dealing in, underwriting and purchasing for its own account, investment securities issued by named entities such as the Federal National Mortgage Association and other government sponsored enterprises.

Section 9 provides that the powers and functions of the Corporation and its Board of Directors shall be exercisable, and the provisions of the Act shall be applicable and effective, without regard to any other law.

Section 10 provides that, notwithstanding any other law, the Act is applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territories, possessions and dependencies of the United States.

Section 11 amends section 1006 of Title 18 U.S.C. by adding the name of the Corporation for Small Business Investment to the enumerated list of federal departments, agencies and entities. The effect is to authorize a fine not more than $10,000 or imprisonment for not more than 5 years or both, if any officer, agent or employee of COSBI, with intent to defraud COSBI makes any false entries in books or reports, or deals with negotiable instruments, etc., with intent to defraud COSBI, or receives any money or profits obtained through any such transactions.

Section 12 authorizes the Committees of the Senate and the House to have access to all of the books and records of the Corporation.

Section 13 directs the General Accounting Office (GAO) to prepare a report to be transmitted to the House and Senate Small Business Committee by January 31, 1993. The report is to review the impact of COSBI in achieving the purposes of this Act, including an assessment of the impact on the individual small business investment companies, the financial situation of the Corporation, and the financial cost to and impact on small businesses receiving funding through COSBI. In preparing the report, the GAO is given excess to all of the books and records of the Corporation.

Section 14 provides that this Act is effective upon enactment except that the amendment made by subsection (2) of section 2 of this Act is effective October 1, 1988. The effect is to delay the effective date of the size standard change until COSBI is operational.

REAGANOMICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. DORGAN] is recognized for 5 minutes.

Mr. DORGAN of North Dakota. Mr. Speaker, the President was on the White House lawn the other day at the ceremony talking about the deficit. Once again, he suggested that it is everyone's fault but his own.

We now rack up $500 million a day in deficits that's $500 million a day in Federal deficit.

If you take a journey and go in the wrong direction, and discover it you make a U turn. Yet this President continues to insist we need higher defense spending, the biggest part of the Federal budget, and no new revenue to pay for it. He wants to stick to the tax cuts of 1981.

At some point we have to have a national debate about this fiscal policy called Reaganomics.

Rather than debating the President I decided to remind my colleagues of the words of David Stockman. Here's what the architect of this fiscal policy said. This is from David Stockman's book; David Stockman's own words about the President and his fiscal policy of borrow and spend, borrow and spend with no leadership to turn it around.

Here is what David Stockman says about the program:

I. "The Reagan Revolution was radical, imprudent, and arrogant. It defied the settled consensus of professional politicians and economists on its two central assumptions. It mistakenly presumed that a handful of ideologues were right and all the politicians were wrong about what the American people wanted from government. And it erroneously assumed that the damaged, disabled, inflation-swollen U.S. economy inherited from the Carter Administration could be instantly healed with history and most of the professional economists said it couldn't be." (pp. 395)

"By the time of the White House debate of early November 1981, it had become overwhelmingly clear that the Reagan Revolution's original political and economic assumptions were wrong by a country mile. By then the veil of the future had already parted and we were viewing reality from the other side. What we saw invalidated the whole plan—right there and then." (pp. 395-96)

"The ensuing years only amplified what we had already learned by the eleventh month. The final reckoning of the original fiscal plan of the Reagan Revolution shows where we were headed . . . . We were not headed toward a brave new world, as I had thought in February . . . . Where we were headed was toward a fiscal catastrophe." (pp. 396)

III. "I was appalled by the false promises of the 1984 campaign. Ronald Reagan had been induced by his advisers and his own illusions to embrace one of the more irresponsible platforms of modern times. He had promised, as it were, to alter the laws of arithmetic. No program that has name or line in the budget would be cut; no taxes would be raised. Yet the deficit was pronounced intolerable and it was pledged to be eliminated." (pp. 380)

"This was the essence of the unreality. The President and his retainers promised to eliminate the monster deficit with spending cuts when for all practical purposes they had already embraced or endorsed 95 percent of all the spending there was to cut." (pp. 380)

IV. "I cannot be a patient with the White House. By 1984 it had become a dreamland. It was holding the American economy hostage to a reckless, unstable fiscal policy based on the politics of high spending and the doctrine of low taxes. Yet rather than acknowledge that the resulting massive buildup of public debt would eventually generate serious economic troubles, the White House proclaimed a roaring economic success. It bragged that its policies had worked as never before when, in fact, they had produced fiscal excesses that had never before been imagined." (pp. 377)

V. ". . . In 1984 we were plainly drifting into unprecedented economic peril. But they had the audacity to proclaim a golden age of prosperity." (pp. 377)

"What do you do when your President ignores all the palpable, relevant facts and wanders in circles. I could not bear to watch this good and decent man go on this embarrassing way. I buried my head in my plate . . ." (pp. 375)

VI. "Our budget is now drastically out of balance not because this condition is endemic to our politics. Rather, it is the consequence of an accident of governance which occurred in 1981. That it persists is due to the untenable anti-tax position of the White House. After five years of presidential intransigence, all of the normal mechanisms of economic governance have become ensnared in a web of folly. But this condition can be remedied whenever the White House decides to face the facts of life." (pp. 392)

"Meanwhile, the economic danger mounts and the fiscal folly of the Reagan Revolution's aftermath reaches new heights." (pp. 392)

"In the years ahead, I continued to think that one day the President would realize the consequences of what had been done. The day never came, however." (pp. 353)

□ 1730

This was not Democrats taking issue with the President, but Republicans; David Stockman saying this fiscal policy is fundamentally wrong. Ronald Reagan travels to Connecticut and Colorado. On the steps of the capitol buildings he says, "I want to change the Constitution to prohibit deficits." Then, he engages in a fiscal policy that gives us a half billion dollars in deficits every single day.

Mr. President, we need some leadership, we need it now. We don't need slogans. We don't need quotes from Clint Eastwood or Vanna White. We need leadership. Give us some.

You will find the Congress willing and ready to work with you, Republicans and Democrats, to try to solve this country's fiscal problems.

THE HUMAN RIGHTS SITUATION IN TIBET

The SPEAKER pro tempore. Under a previous order of the House, the Gentleman from California [Mr. LANTOS] is recognized for 60 minutes.

Mr. LANTOS. I thank the Speaker.

Mr. Speaker, the topic that a number of my colleagues and I would like to address this evening is the ominous upsurge in human rights violations in Tibet by the Government of the People's Republic of China.

The Human Rights Caucus which has put this issue at the top of its agenda, as you know, Mr. Speaker, is a profoundly bipartisan body in the House of Representatives. Moreover, it is one of the few organizations that I know of, private and public, that would very much like to go out of business. And we will go out of business once human rights violations in various countries of the world come to an end. Nothing would please us more than not to get new items on our agenda.

It is the view of the Human Rights Caucus, Mr. Speaker, that human rights are indivisible and whether the rights of individuals are violated in the Soviet Union or Iran or Cuba or South Africa or Tibet, it is our responsibility as Republicans and Democrats in the free legislative body to stand up and to speak out against these outrages.

We have a particularly heavy responsibility when the human rights violations, which take place, are inflicted on a group of people who have no domestic constituency in the United States. And goodness knows the people of Tibet certainly have very small, if any, constituency here in the United States.

But what distinguishes us from other societies, from so many other countries, from so many other legislatures, that we in fact are the conscience of mankind when it comes to human rights violations.

Allow me, Mr. Speaker, to establish a brief chronology of recent events, why my colleagues and I are so anxious to bring this outrageous violation of human rights to the attention of the Congress and the American people.

In the late forties, China invaded Tibet and as a result of turbulence, famine, suppression, oppression, about 1 million Tibetans were killed. That represents one out of every six people in the nation of Tibet.

It was admitted by the Chinese when they finally came clean and told the world about the outrages of the cultural revolution, what had happened in Tibet: 1 million people perished, over 6,000 monasteries destroyed, and the attempt to wipe out culturally the Tibetan people.

There have been some improvements in recent years and we in the Congress of the United States along with the rest of the civilized world have been delighted to see those improvements. It came as a shock to us that in recent months there has been an upsurge of suppression and persecution of Tibetans who merely want to express their own distinct identity.

It was in view of this renaissance of violations of human rights that on June 18, 1987, the House of Representatives unanimously passed the resolution denouncing human rights violations in Tibet.

Three months later to the day, on September 18, the Embassy of the People's Republic of China here in Washington issued a cautionary statement warning the Dalai Lama, who was about to visit Washington and the Congress, not to make any statements. It was the Congressional Human Rights Caucus which properly issued an invitation to His Holiness the Dalai Lama and asked him to make a presentation on how he saw the situation in his native Tibet today. The speech of the Dalai Lama, as all of his speeches, was a speech of reason, harmony, decency, an anguished call for dialog with the Chinese authorities and a plea for the observance of human rights by the Chinese in Tibet.

Following his speech to the Congressional Human Rights Caucus, an unprecedented letter was sent to the Prime Minister of the People's Republic of China signed by the Democratic chairman of the Senate Foreign Relations Committee, Senator Claiborne Pell, the ranking Republican member of the Senate Foreign Relations Committee, Senator Jesse Helms, the Democratic chairman of the House Committee on Foreign Affairs, Congressman Dante Fascell, the ranking Republican member of that committee, Congressman Bill Broomfield of Michigan, my colleague, the Republican cochairman of the Congressional Human Rights Caucus, Congressman John Porter of Illinois, myself as the Democratic chairman of the Congressional Human Rights Caucus and two individuals who have been in the forefront of the fight for human rights in Tibet, Congressman Charles Rose of North Carolina, a Democrat and Congressman Benjamin Gilman of New York, a distinguished Republican. The letter to the Prime Minister of China is clear and friendly. This is what it says:

Congress of the United States,
Washington, DC, September 22, 1987.
His Excellency Zhao Ziyang,
The Prime Minister of the People's Republic of China.

Your Excellency: Members of the United States Congress were honored yesterday with a visit from His Holiness the Dalai Lama of Tibet, who addressed various meetings on Capitol Hill at our invitation.

As you are no doubt aware, the people of the United States and their representatives in the United States Congress take a keen interest in the welfare of the Tibetan people, whose great spiritual tradition and rich culture is a source of inspiration to people around the world. Our grave concern with the present situation in Tibet and the policies of your government towards its people was recently expressed in an amendment unanimously adopted by the House of Representatives on June 18, 1987.

We take note of a number of encouraging changes in your government's overall policies, but wish to express our dismay at the population transfer and other initiatives which threaten the survival of the culture and distinct identity of the Tibetan people.

His Holiness the Dalai Lama, whose wisdom and leadership we greatly admire, has now proposed a five-point plan to restore peace and respect for human rights in Tibet and to ensure the preservation of Tibet's identity, and the survival of its culture and spiritual tradition.

This plan can be summarized as follows:

1. Transformation of the whole of Tibet into a peace zone. This would be in keeping with Tibet's historical role as a peaceful Buddhist nation and a buffer state separating the continent's great powers. It would also be in keeping with Nepal's proposal to declare Nepal a peace zone, a proposal supported by your government.

2. Abandonment of China's population transfer policy. The population transfer of Chinese to Tibet, which will reduce the Tibetan population to an insignificant and disenfranchised minority in Tibet itself, threatens the very existence of the Tibetan people.

3. Respect for human rights and democratic freedoms. The fundamental human rights and democratic freedoms of the Tibetan people should be recognized and respected not only in theory but in practice. Thousands of political and religious prisoners should be released, freedom of religion implemented, culture and education promoted, and Tibetans should be free to determine their own destiny in an atmosphere free of oppression and intimidation and in a spirit of openness and reconciliation.

4. Restoration and protection of Tibet's natural environment and the abandonment of China's use of Tibet for the production of nuclear weapons and for dumping nuclear waste.

5. Conduct earnest negotiations on the future status of Tibet and relations between the Tibetan and Chinese peoples. His Holiness the Dalai Lama and the Tibetan government in exile wish to approach this subject in a reasonable and realistic way, in a spirit of frankness and conciliation and with a view to finding a solution that is in the long term interest of all: the Tibetans, the Chinese, and all other peoples concerned.

We welcome His Holiness the Dalai Lama's proposal as a historic step towards resolving the important question of Tibet and alleviating the suffering of the Tibetan people. We also believe that it is a significant contribution to relieving regional tensions and promoting world peace. His Holiness the Dalai Lama has addressed these issues in a most reasonable and statesmanlike manner, and we wish to express our full support for his proposal. We write to you in the hope that your government's response will be equally constructive.

Yours sincerely,

Claiborne Pell, U.S. Senator, Chairman of Senate Committee on Foreign Relations; Dante Fascell, Member of Congress, Chairman of House Committee on Foreign Affairs; Tom Lantos, Member of Congress, Co-Chairman of the Congressional Human Rights Caucus; Charlie Rose, Member of Congress; Jesse Helms, U.S. Senator, Ranking Member of Senate Committee on Foreign Relations; William Broomfield, Member of Congress, Ranking Member of House Committee on Foreign Affairs; John Porter, Member of Congress, Co-Chairman of the Congressional Human Rights Caucus; Benjamin Gilman, Member of Congress, Member of House Committee on Foreign Affairs.

□ 1745

This is the letter that Senator Pell, Senator Helms, and Congressmen Fascell, Broomfield, Porter, Gilman, Rose, and I signed.

What was the Chinese response? The Chinese response came in two forms, Mr. Speaker. One, it came by denouncing the unanimous vote of the Congress of the United States calling for the observance of human rights by allowing the Dalai Lama to speak freely in a free country, by calling this a wanton interference in the internal affairs of communist China.

Mr. Speaker, we have news for our colleagues in China, every time the Congress of the United States speaks out on the subject of human rights violations, the totalitarian regime that feels the heat always complains about congressional interference. The Soviet Government complained when we called for the release of Shcharansky and Sakharov and others. Cuba complained when we called for human rights in Cuba. South Africa complained when we denounced the despicable practice of apartheid, and now China complains when we call for the observance of human rights in Tibet.

This will not deter the Congress or the American people for calling for human rights in Tibet.

The second answer the Chinese gave to the peaceful plea for dialogue by the Dalai Lama was the public execution of three Tibetan nationalists in the capital of Tibet, Lhasa, 3 days ago. Mr. Speaker, 15,000 people were brought together for a phony mass meeting during the course of which some decent Tibetan nationalists who want nothing more than to preserve the cultural indentity of their people were executed.

Since that time, Mr. Speaker, we have had news reports that demonstrations are taking place in Lhasa. Peaceful Buddhist monks are putting their lives on the line to call in anguish for human rights for their people. The once weekly air flight between the Nepalese capital of Katmandu to the Tibetan capital of Lhasa has now been canceled because of the turmoil in Lhasa.

Mr. Speaker, we are calling on the Chinese Government to recognize that what we are asking for is something that they have accepted when they accepted membership in the community of nations, human rights for the people who live under their control.

The Congress will not go away and this issue and the American people will not rest until the long-suffering people of Tibet will have the right to fundamental human freedoms to which they are entitled.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. LANTOS. Mr. Speaker, I am delighted to yield to the gentleman from New York [Mr. Gilman], my good friend and colleague who has played such a key role in human rights as it relates to Tibet and other areas.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, I want to commend the gentleman for his leadership in this very important issue along with the gentleman from North Carolina [Mr. Rose], who for such a long time has attempted to bring to the attention of the Congress the problems confronting the beautiful land of Tibet.

Late last week some of the finest crews of our United States Air Force displayed their skills for the mainland Chinese military.

Little did our Air Force personnel realize at that time that in another part of China their hosts were putting on their own show.

At a staged rally attended by some 15,000 persons in Tibet's capital city, Lhasa, the PRC executed 2 Tibetan nationalists and announced the imprisonment of 9 others.

It is infuriating that in response to the U.S. Congress inviting and allowing His Holiness the Dalai Lama to address the Congressional Human Rights Caucus, the People's Republic of China carries out such an outrageous violation of human rights.

It is a slap in the face to the ideals of democracy and human rights that our country stands for and indeed to our Nation itself that while the leaders of the House Foreign Affairs Committee, the Senate Foreign Relations Committee, and the Human Rights Caucus praise His Holiness for his proposed peace plan, the government to which we supplied radar installations, antisubmarine missiles, artillery factories, and 50 advanced avionics packages, brutally suppresses people who want to practice their religion and administer their own country.

We question—isn't it enough that 1.2 million Tibetans have died as a result of the Chinese occupation—one-sixth of the population?

Isn't it enough that 7.5 million Chinese colonialists have already moved into Tibet, outnumbering the 6 million native Tibetans?

Isn't it enough that over 6,000 monasteries, temples, and historic structures have been looted and razed, their ancient, irreplaceable religious art and literature destroyed or sold by the Chinese?

We asked His Holiness, the Dalai Lama to be our guest in the Congress and to share his thoughts with us on how to put an end to the crisis his people face.

The PRC response to this peace initiation is repugnant and unacceptable.

In mid-June, this House adopted a resolution denouncing the human rights violations in Tibet by the People's Republic of China.

Today, I received the following letter from Tibet which I would like to share with my colleagues:

To the Congressmen of the United States:

We, the people of Tibet, are very thankful to the people of the United States and their representatives in government for having introduced and considered the amendments on Tibet. We are deeply appreciative for the acceptance these measures have gained so far and offer our deepest heart-felt prayers that they may pass through into law. For six million Tibetans, they constitute a recognition and response to what is still, in actuality, a desperate situation.

The people of Tibet continually beseech the great nation of the United States to grant aid to the just cause of His Holiness the Dalai Lama of Tibet and His Government in Exile.

LHASA, TIBET, *August 18, 1987.*

Mr. LANTOS. Mr. Speaker, I thank my friend from New York [Mr. Gilman] for his excellent statement, and I am proud at this time to yield to the gentleman from North Carolina [Mr. Rose], the individual who brought the plight of Tibet to the attention of the Congress of the United States and the American people.

The gentleman from North Carolina [Mr. Rose] has been the preeminent fighter for human rights in Tibet. We all take our lead from him. This has been his cause for years and years, and we are proud and privileged to be in a modest supportive role of his leadership on behalf of human rights in Tibet.

Mr. ROSE. Mr. Speaker, I thank the distinguished chairman of the Human Rights Caucus, the gentleman from California [Mr. Lantos], for his kind remarks, but his leadership this year in giving His Holiness a forum from which to present his five-point peace plan has caused more progress in bringing attention to the plight of Tibet than anything that any of us have done as long as we have been friends of His Holiness, the Dalai Lama. So your words are very kind but, Mr. Chairman, your support has been the catalyst that has made this great effort move as well as it has.

Mr. Speaker, I want to highlight one or two points. My colleagues, the gentleman from California [Mr. Lantos] and the gentleman from New York [Mr. Gilman], have done an excellent job of giving the broad strokes of this matter. In looking at this New York Times article of today, October 1, Thursday, it says that a western tourist says that he saw 150 people waving the flag in Lhasa.

Mr. Speaker, it just does something to me to think that they might be waving that flag knowing that we have given a forum to their spiritual leader, His Holiness, the Dalai Lama, who they knew was coming to the United States on a mission of peace to present a plan for the freedom of that great country and that as a result of all of that effort several of these people were taken out and summarily shot in the head in the traditional Chinese style of execution.

If the Chinese think that they have gotten our attention, they are right. If they think that we are going to quit being interested in freedom in Tibet because they have shot some people, they are wrong.

They will make a grave error if they continue to shoot and execute people for supporting peace and freedom in Tibet. This issue is not going to go away. This is only a country of some 6 million people in a nation of 1 billion people. I cannot conceive that the Chinese have taken the tack that they have. Something politically has gone askew in Tibet. Maybe it is concern about the upcoming realignment or elections or party changes in that great nation of China, but that should not occur.

I have been very interested in watching the "Today Show" and "NBC Nightly News" this week broadcast from China. I thought at the first of the week that, well, it looks like the Chinese may have brainwashed NBC a little bit by all this free publicity and all this access to the Forbidden City and things like that. But as the week has gone along, I must pay a great compliment to NBC, they have been extremely objective and they have asked some tough questions and they have brought up the problems that are occurring in Tibet.

They showed one picture of a student waving a sign in Chinese that said, "We want more democracy. We fight for democracy. We want freedom."

Mr. Speaker, Chairman Lantos has very well said what the people of Tibet want are their basic human rights, and that is what we in the Congress want to try to assure for them.

In closing, I would like to emphasize the five points in the letter that His Holiness, the Dalai Lama, came to this country to deliver. Those points are very telling and very simple. I am proud to be one of a group that I am very proud to be in the company of, Senator Claiborne Pell, Senator Jesse Helms, Congressman Dante Fascell, Congressman Bill Broomfield, Congressman John Porter, and Congressman Ben Gilman. Certainly there could have been others in the Congress that would have signed such a letter, and we will give our colleagues an opportunity to sign on concerning other issues this year.

The five-point peace plan is; First, transformation of the whole of Tibet into a peace zone. That is a real spooky type of proposal, is it not? The Chinese really ought to be frightened to death of the Dalai Lama, for the very idea of him over here asking for his country to be a peace zone. That is the kind of man His Holiness is. He is a man of peace, and he wants his country to be a peace zone. He does not want to be a political leader of his country, but he wants his country, his former homeland, to be at peace.

Second, the abandonment of China's population transfer policy which the gentleman from California [Mr. LANTOS] has explained.

Third, respect for human rights and democratic freedoms.

Fourth, restoration and protection of Tibet's natural environment and abandonment of China's use of Tibet for nuclear weapons or for a proposed dumping of nuclear waste materials.

Then, five, His Holiness wants to conduct earnest negotiations on the future status of Tibet and relations between the Tibetan and Chinese people.

Mr. Speaker, I believe, and my distinguished colleagues in the House and the Senate agree, that they are five reasonable proposals that the Chinese should take seriously. We as a country have no right to run or try to tell China how to do its business, but we as a Nation stand for principles of freedom and justice for all people wherever they are around the world.

□ 1800

One of the hallmarks of this country is freedom; and when Lafayette, whose picture hangs on the walls of this Chamber, left the shores of the United States after he had helped us win our Revolution from Great Britain, he went back home to France; and he wrote that liberty and freedom have finally found a home, and the home is in the United States of America.

That is why we stand here today on this floor. That is why the gentleman from California [Mr. LANTOS] chairs the Human Rights Caucus, to say to China, to all who would oppress people anywhere in this great planet of ours, we believe in freedom and justice.

If you want to live in this planet peacefully with us, respect justice, respect freedom.

I thank the gentleman especially for arranging for this special order, and I hope that those that read and see what has been said here today will be inspired that those of us who participated in this effort believe that this is a very basic human rights issue, and that we are not going to give up. We are going to stay with this one as long as we are here, as long as we have to.

Mr. LANTOS. Mr. Speaker, I am very grateful to the gentleman from North Carolina [Mr. ROSE], my friend, and the gentleman is absolutely correct.

We are not going away. This issue is not going away until the Chinese stop the violations of human rights in Tibet.

Mr. Speaker, I am very pleased that the gentleman from California [Mr. DORNAN], my good friend and colleague, has joined us in this special order.

The gentleman has been an indefatigable and totally dependable fighter for human rights on all of the human rights issues that have come before this Congress.

I have had the great pleasure of working with the gentleman inside and outside the Human Rights Caucus, and I am delighted to yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for yielding.

May I just say that it seems I am always following the gentleman's lead, and again I follow the gentleman's lead; and I am very happy to hear that the gentleman so graciously gives credit to the gentleman from North Carolina [Mr. ROSE], our good friend.

The gentleman said something earlier when the gentleman asked me if I would participate in this special order, the gentleman said that of all the groups being persecuted around the world, the Tibetan people have no representation in this country.

There has never been over history any migration of Tibetan people to this last vestige of freedom, as the gentleman from North Carolina [Mr. ROSE] put it, and liberty as Mr. Lafayette has put it, and because of that, they need voices.

The gentleman from Califorina is such a strong voice, as is the gentleman from North Carolina [Mr. ROSE], and every member on our caucus.

I have been impressed that the Chinese Government has been moving so swiftly and has been, to use an old expression of my father's, on its best behavior, that they actually let two reporters from Taiwan into their country last month.

It was a stunning fact, the fact that they are going to let international reporters from all over the world, I assume from all over the world, be at their next Communist Party Congress, something the Soviet Union has never done, to be in the chamber and see the show of hands as they take votes. These are amazing things that are happening.

I watched the NBC series over the last few nights, the freedom of camera movement around the country, and the growth of freedom of movement for tourists is stunning since I visited that country in 1981.

I was in Katmandu in Nepal in 1966 and talked with some of the refugees that were still coming out in small numbers from Tibet following the Dalai Lama's exodus 7 years before, 1959.

They were telling horrible stories of execution, persecution; and I thought all of that was something in the two decades past of China's persecution of these people, but now to think that they have actually forced the Chinese people into Tibet, 7 million or more, to outnumber the very Tibetans in their own land, I can only think of a debate years ago on television, on the William F. Buckley "Firing Line" show when it was a brandnew program and the English pacifist, Bertrand Russell, was trying to defend the Chinese invasion of Tibet.

Mr. Buckley pressed him about this invasion; and he said, "It is not an invasion," and Mr. Buckley said, "What do you call it then?"

He said after a long pause, "What the Chinese did was to include Tibet."

Well, this is one of the saddest inclusions, a verb that has got to be one of the strangest euphemisms for an invasion, this "inclusion" that has been a tragedy for over three decades, and to think that they are executing people in the stadium in Lhasa in front of 10,000 or 15,000 people forced to attend these executions. It is a sad throwback to the nightmares of the cultural revolution.

The gentleman used even a better metaphor than that weak word "included," kind of like Jonah and the whale being merged.

Ask Jonah how he feels about that merger, and I just appreciate the gentleman bringing it to the attention of the American people through our great Congress here, and I remember meeting the Dalai Lama in the Longworth Building about 8 years ago.

He is a gentle man, a man of peace with no political aspirations; and since the Chinese Government leaders under Deng Xiaoping, I hope they will realize that this is an ugly scar across the face of these improved relations that are growing between our two countries, and they had better understand that when people in this House stand up on both sides of the aisle and talk about human rights, we are talking about including the human rights of the beleaguered people of that faraway but beautiful section of the world called Tibet.

I thank the gentleman for making me very aware of this tragedy.

Mr. LANTOS. Mr. Speaker, I want to thank the gentleman from California [Mr. DORNAN], my friend and colleague, for the gentleman's moving and powerful and eloquent statement.

Mr. Speaker, the gentleman from Indiana [Mr. MCCLOSKEY], one of our colleagues, is a good fighter for human rights and has a very special reason for participating in this special order; and I am delighted to yield to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I thank the gentleman for yielding.

I truly and sincerely appreciate the leadership and the courage the gentleman from California is showing on this issue.

I might say that I am somewhat amazed that our Chinese allies do not have any greater awareness of the political and communications dynamics of the United States, but to in effect blast the gentleman from California, and blast all of the Members in the Congress for even taking an interest, or to say anything about this very pressing issue, their statements would indicate we have no right to even speak on this.

Obviously, that is not very realistic, because as the gentleman and other Members have noted, they are going to hear a lot more about this.

As the gentleman indicated also, we were very, very honored and gratified last week at the visit to the Human Rights Caucus, and quite frankly to other places in the Nation including my own hometown of Bloomington, IN, of the Dalai Lama, both in Washington, Bloomington, IN, and New York. He made an eloquent plea for human rights, self-determination for the people of Tibet, and gave us and the world the five-point plan which we all do hope is taken under serious consideration.

Knowledgeable Tibetan experts from all over the world last week informed Bloomington, that community, that in effect Tibet continues as perhaps in their words the world's largest gulag in that continuous jailings are occurring, something that I know the gentleman from California [Mr. Dornan] is very concerned about; and there is an ongoing pattern of forced abortions, cultural extermination.

We now have the reports that the gentleman is taking the time and trouble to highlight now, that two Tibetan nationalists have been executed recently at Lhasa, to send a message, in the words of the Chinese, I suggest, that it is time for us to send a message to the People's Republic of China and also to our own administration that it is time for the silence that our own administration has been guilty of to the point of dereliction to cease regarding the extermination of Tibetan culture and Tibetan people.

The State Department in recent weeks has told me that Tibet is a part of China, and that there is no—and I am concerned about this—there is no Tibet desk in the State Department, nor is there any interest in retaining Tibetan speakers in the Foreign Service.

In effect, we are cooperating in the extermination of that culture. The administration is on record opposing human rights violations perpetrated by Communist enemies. Surely they can work similarly against human rights violations perpetrated by Communist so-called friends.

Our State Department should act now to strongly oppose future executions and jailings in Tibet, all political prisoners should be freed.

I think the administration and the People's Republic of China must realize, as has been stated tonight, that this is not a passing issue. It is not going to go away because of any fatigue, inertia or various news developments or actions on their part.

I know the gentleman from California [Mr. Lantos] and the gentleman from North Carolina [Mr. Rose] and other members of the Human Rights Caucus and the Congress will speak loudly and constantly and work unceasingly until Tibet and its people receive better treatment.

Mr. LANTOS. Mr. Speaker, I thank the gentleman from Indiana [Mr. McCloskey] for the gentleman's powerful statement.

Mr. Speaker, the gentleman from California [Mr. Konnyu], a distinguished member of the Executive Committee of the Congressional Human Rights Caucus, led the fight in the Caucus and in the Congress for human rights for Hungarians who live in Transylvania, a very serious and major human rights issue on the face of this planet today.

Human rights are indivisible, and whether it is the rights of ethnic Hungarians that are being violated by the Ceausescu regime in Romania, or the rights of Tibetans being violated by the People's Republic of China, the gentleman from California [Mr. Konnyu] is there to fight the battle for human rights.

Mr. Speaker, I yield to the gentleman from California [Mr. Konnyu].

Mr. KONNYU. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I wish to note that I just returned 2 weeks ago from Nicaragua, a country infamous for human rights violations that they commit, where our information source from the human rights folks and leaders in Nicaragua showed that there are about 9,500 political prisoners in that country in jail, so as usual, to the leadership of the gentleman from California [Mr. Lantos], I found out about the latest human rights violations that have become infamous; and that is those in Tibet, and when we did some research on it and found what they did, I found out that I, once again, want to respond to the distinguished gentleman from California and to the gentleman's leadership and support this cause, because it is necessary that the People's Republic of China and their leadership realize that there is strong bipartisan support in this Congress that they change.

Last week I had the opportunity to meet the man most Tibetans regard not only as their spiritual leader, but their political leader as well. This holy man is the Dalai Lama, a man who fled Tibet after the People's Republic of China military forces invaded and occupied his country in 1959, almost 30 years ago. A man who, since then, has been living in exile in India, a man who has watched the turmoil and political instability increase in his country. Since the takeover in 1959 of Tibet by the People's Republic of China, over 1 million Tibetans have died as a result of imprisonment, political instability and famine.

Amnesty International reports that Tibetans are being imprisoned and killed for the nonviolent expression of their religious and political beliefs. Religious persecution has resulted in the destruction of over 6,000 Tibetan monasteries, where 1,300 years of Tibetan culture have been preserved and nurtured.

Now, the lastest in the long list of blatant human rights violations has been the execution of two Tibetan nationalists and the annoucement of long prison terms for others. These action by the People's Republic of China, no doubt are a direct reaction to the statements made by the Dalai Lama during this Washington visit last week, where he met with me and other Members of Congress and spoke out strongly in favor of Tibetan freedom, calling for China to end the great destruction they have undertaken in Tibet.

As a member of the Congressional Human Rights Caucus, I consider this most recent violation of human rights abhorrent, and call upon my colleagues to support Tibet's fight for freedom.

□ 1815

As we heard a few moments ago, Mr. Speaker, I noted that the People's Republic of China in response to American calls for keeping the human rights in China in proper perspective and following the dictates of that great policy, that they called our calls an interference in the internal affairs of the People's Republic of China.

While it is true that if we were totally divorced from that country, that would be interference, but the fact is that we are not. We trade with that country, sometimes on favorable terms, and when we favor a country in such a way we call that friendship and when a country that is a friend of ours violates human rights in such ways as murdering innocent people who nonviolently demonstrate, then I think it is appropriate for us, the 535 legislative leaders of America to remind the People's Republic of China as to where their duty lies to humanity and where their duty lies to their friend, the United States.

Mr. LANTOS. Mr. Speaker, I want to thank my friend and colleague and look forward to working with him as an executive committee member of the Human Rights Caucus on all human rights issues that come before us.

Mr. Speaker, my friend and colleague from Los Angeles has been one of the leaders in the fight for human rights on all continents. He has been forceful, articulate, and eloquent. We can always count on him to stand up and speak out when human rights are violated.

Mr. Speaker, I am delighted to yield to the gentleman from California, Mr. MEL LEVINE.

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding. I appreciate his kind and generous remarks.

I wish to begin my comments by expressing my admiration for the gentleman from California [Mr. LANTOS], my friend, who has so capably and eloquently led so many struggles for human rights, and I wish to especially commend him on this occasion for calling this special order on Tibet, a subject of extraordinary urgency and significance.

Mr. Speaker, there are unfortunately all too many people who are not aware of the systematic destruction of culture which has occurred in Tibet over the last three decades, and the cochairmen of the Human Rights Caucus, my friend, the gentleman from California [Mr. LANTOS], and our friend, the gentleman from Illinois [Mr. PORTER], along with our friend, the gentleman from North Carolina [Mr. ROSE], and the gentleman from New York [Mr. GILMAN] and others, deserve the recognition and the thanks of all of us for their untiring efforts to bring attention to this situation.

Mr. Speaker, it has been 36 years since the People's Republic of China invaded Tibet and robbed it of its independence. In those 36 years, the people of Tibet, a people dedicated to the principles of nonviolence and mutual coexistence, have suffered the ravages of a regime determined to stamp out their culture. Through population transfer, as the gentleman from California and others have mentioned, and through brutal repression that borders on the genocidal, the People's Republic has achieved dominion over Tibet today; but neither the Tibetan people nor their leadership has given up, and neither should they give up and neither will they give up. The struggle for Tibetan autonomy continues, embodied in the efforts of Tibet's spiritual leader, his Holiness, the Dalai Lama, to focus international attention on the plight of his countrymen.

Indeed, those efforts have been very successful. The U.N. General Assembly has three times now passed resolutions calling for the cessation of human rights violations in Tibet and for the implementation of the right of the Tibetan people to self-determination. Unfortunately, the People's Republic of China has ignored these resolutions.

More recently, the People's Republic of China reprimanded this House, as others have mentioned, for passing an amendment sponsored by Congressmen ROSE and GILMAN calling for similar measures. The amendment, which I strongly supported, and which was strongly supported on an across-the-board bipartisan basis by people of every philosophical stripe on the floor of this House, requres the President to certify in connection with any sale or transfer of defense articles to the People's Republic of China, that the People's Republic of China is making good-faith efforts to deal with the issues of human rights and self-determination in Tibet. This is an issue, as others have mentioned, which will remain significant and which will remain an issue of vital concern to the Members of this House.

The People's Republic of China, unfortunately, has accused us, as they put it, of "wantonly interfering" in their internal affairs by passing this amendment.

Astonishingly, in the recent past, the People's Republic of China has acted in the most brutal possible fashion by executing Tibetan nationals and Tibetan nationalists.

I think it is tragic at a time when the People's Republic is displaying an admirable open-mindedness toward Western economic and social concepts and when cooperation between the United States and the People's Republic of China in other areas is growing in a variety of pursuits, that the People's Republic of China should adopt such a defensive, antagonistic attitude about American concern for the survival of Tibetan culture. It is appropriate American concern and it is concern which will continue and it is concern which will affect relations between the United States and the People's Republic of China, as well it should.

The People's Republic prides itself on its ancient culture. It should not be so difficult for the People's Republic of China to understand American admiration for and concern for the survival of other similarly distinguished cultures.

Mr. Speaker, I hope that those People's Republic of China officials who are reluctant to admit that a problem exists here will recognize that in fact there is a problem and that their refusal to address this problem will make it a problem not just between them and Tibet, but between them and the United States. We would neglect our most basic duties as human beings and as American citizens if we stood by and ignored the destruction of an entire way of life.

So I wish to join with Members on both sides of the aisle in commending my colleagues for making sure that we cannot ignore this extraordinarily important issue. I want to encourage my colleagues to continue their admirable efforts and I want to especially compliment my friend from California for his leadership on this issue and to emphasize that this is an issue that not only will not go away, but will continue to be of great significance to the American people and to the people throughout this land.

Mr. LANTOS. Mr. Speaker, I want to thank my very distinguished and good friend from southern California for his statement of conscience and eloquence.

I would like to add, Mr. Speaker, that my distinguished friend from southern California made a very important point. The action of the House was unanimous, across the political spectrum, all 50 States, Republicans and Democrats, expressed their concern for the violation of human rights by China in Tibet.

It is singularly appropriate, Mr. Speaker, that as we celebrate this month the 200th anniversary of our Constitution that we put it to work, and there is no more effective way of putting it to work than by calling on the government of China to honor its international commitments to the people of Tibet, so that they may live in terms of their own identity with their religious beliefs, with the degree of freedom that all men and women in Tibet and elsewhere are so fully entitled to.

Mr. Speaker, my colleague and friend, Congresswoman PELOSI has submitted a statement, which I will have included in this special order under a request for general leave.

Mr. Speaker, I want to assure all my colleagues on both sides of the aisle that the fight for human rights in Tibet will go on until we achieve our objective.

Ms. PELOSI. Mr. Speaker, this special order was called to allow Members of Congress to express their outrage over recent Chinese human rights abuses against Tibetans. Just last week, theThe Dalai Lama, the spiritual leader of Tibet, appeared before the Congressional Human Rights Caucus to make an historic statement. The Dalai Lama went into exile in India in 1959, when military forces from the People's Republic of China occupied his country. A reign of terror ensued in Tibet, during which over 6,000 monasteries with their 13 centuries worth of Tibetan culture were destroyed. This kind of destruction is inexcusable.

I attended the Dalai Lama's talk here. He calmly and reasonably proposed a five-point peace plan which could prove to be a sound step toward a negotiated settlement with China on the Tibetan issue. The Dalai Lama was not speaking here risk-free, but freedom of speech is one of the fundamental rights in the United States. On September 18, the Chinese Embassy warned against political statements by the Dalai Lama. But, again, freedom of speech is a right in the United States. The Dalai Lama spoke to us on September 21. By September 25, we had received news of retaliatory actions taken by the People's Republic of China against Tibetans. Two Tibetans were executed and nine others were given prison sentences.

Mr. Speaker, I believe that these incidents are not coincidental. They are actions taken by the People's Republic of China in an attempt to silence the Dalai Lama and others who are trying to save the Tibetan way of life. I am outraged at this kind of intimidation tactic. The Dalai Lama came here with a message of peace and negotiation. He has a right to express that message. This blatant violation of human rights must not go unnoticed.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. SAIKI) to revise and extend their remarks and include extraneous material:)

Mr. WALKER, for 5 minutes, today.

Mr. HENRY, for 60 minutes, on October 6.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. DANNEMEYER, for 5 minutes, today.

Mr. DORNAN of California, for 5 minutes, today.

Mrs. SAIKI, for 5 minutes, today.

(The following Members (at the request of Mr. LANTOS) to revise and extend their remarks and include extraneous material:)

Mr. NELSON of Florida, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. DORGAN of North Dakota, for 5 minutes, today.

Mr. HAWKINS, for 60 minutes each day, on October 5 and 6.

Mr. DYMALLY, for 60 minutes each day, on October 5 and 6.

Mr. SKELTON, for 30 minutes, on October 6.

Mr. GONZALEZ, for 60 minutes each day, on October 5 and 7.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROSTENKOWSKI, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,210.

Mr. PANETTA, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $5,401.

Mr. FOLEY, immediately following the vote on rollcall 343.

(The following Members (at the request of Mrs. SAIKI) and to include extraneous matter:)

Mr. MARLENEE.

Mr. HORTON in two instances.

Mr. LEWIS of California.

Mr. LAGOMARSINO in three instances.

Mr. SOLOMON.

Mr. BILIRAKIS.

Mr. BEREUTER.

Mr. HENRY.

Mr. ARMEY.

Mr. WORTLEY.

Mr. CRAIG.

Mr. DREIER of California.

Mr. OXLEY.

Mr. HYDE.

Mr. GALLO.

Mr. JEFFORDS.

Mr. GUNDERSON.

Mrs. BENTLEY in two instances.

Mr. BADHAM.

Mr. SAXTON.

Mr. YOUNG of Florida.

Mr. PACKARD.

Mr. HERGER.

Mr. MCEWEN in three instances.

Mr. COLEMAN of Missouri.

Mr. LUJAN.

Mr. GILMAN in two instances.

Mr. SMITH of New Jersey.

Mr. DORNAN of California.

Mr. GINGRICH.

(The following Members (at the request of Mr. LANTOS) and to include extraneous matter:)

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. LELAND in three instances.

Mr. ROE.

Mr. RODINO in two instances.

Mr. FRANK.

Mr. KENNELLY.

Mr. WEISS.

Mr. LANTOS in five instances.

Mr. WHEAT.

Mr. LEHMAN of Florida.

Mr. ORTIZ.

Mr. BRYANT.

Mr. MONTGOMERY in two instances.

Mr. SKELTON.

Mr. BORSKI in two instances.

Mr. DANIEL.

Mr. TRAFICANT.

Mr. TOWNS.

Mr. MILLER of California in two instances.

Mr. RANGEL.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 84. Joint resolution to designate October 1987 as "National Down's Syndrome Month," and

S.J. Res. 142. Joint resolution to designate the day of October 1, 1987, as "National Medical Research Day."

A BILL AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on Sept. 30, 1987, present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

H.R. 1744. An act to amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund, and

H.J. Res. 355. Joint resolution designating September 27, 1987, as "Gold Star Mothers Day."

ADJOURNMENT

Mr. LANTOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 25 minutes p.m.) under its previous order, the House adjourned until Monday, October 5, 1987, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2178. A letter from the Secretary of Housing and Urban Development, transmitting the Department's fiscal year 1987 report on the Rental Rehabilitation Program, pursuant to 42 U.S.C. 1437o(n) (September 1, 1937, chapter 896, section 17(n) (97 Stat. 1206)); to the Committee on Banking, Finance and Urban Affairs.

2179. A letter from the Secretary of Education, transmitting the Department's 13th edition of the annual statistical report entitled, "The Condition of Education," pursuant to 20 U.S.C. 1231a(b); to the Committee on Education and Labor.

2180. A letter from the Secretary of Health and Human Services, transmitting the Department's report on personnel for health needs of the elderly, pursuant to 42 U.S.C. 285e note; to the Committee on Energy and Commerce.

2181. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the Agency's report on class V injection wells, pursuant to section 1426(b), 1986 amendments to the Safe Drinking Water Act; to the Committee on Energy and Commerce.

2182. A letter from the General Counsel, Department of Energy, transmitting notification of a meeting related to the International Energy Program to be held on October 1, 1987, San Francisco, CA; to the Committee on Energy and Commerce.

2183. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of travel advisories issued by the Department for Cuba, Haiti, Honduras, Panama, Sri Lanka, and Vietnam which have security implications for Americans traveling or residing in those countries, pursuant to 22 U.S.C. 2656e; to the Committee on Foreign Affairs.

2184. A letter from the Director, Division of Commissioned Personnel, Office of the Surgeon General, Public Health Service, Department of Health and Human Services, transmitting the annual report on the retirement system for the Commissioned Corps of the Public Health Service for the plan year ending September 30, 1986, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2185. A letter from the Records Officer, U.S. Postal Service, transmitting notice of two proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2186. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a copy of the report of the Administrator of Veterans' Affairs on his findings and conclusions of his investigation into allegations of patient abuse endangering the public health and safety, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2583. A bill to authorize additional appropriations for the San Francisco Bay National Wildlife Refuge (Rept. 100-326). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 279. Resolution providing for the consideration of H.R. 2897, a bill to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes (Rept. 100-327). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. A report on getting defense contractor profits in line with commercial experience and Government policy—difficult but possible (Rept. 100-328). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Defense Department, unable to account for more than $600 million in its foreign military sales program, promises reforms (Rept. 100-329). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. A report on how contractors provide defective cost estimates; defense department pays sticker prices (Rept. 100-330). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. A report relating how the Air Force and Navy are still proliferating radar warning receivers that duplicate each other (Rept. 100-331). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1548. A bill to withdraw certain Federal lands in the State of California for military purposes, and for other purposes; with an amendment (Report 100-332, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JACOBS:

H.R. 3389. A bill to amend title 18, United States Code, to punish persons who transfer blood knowing it is infected with the virus for acquired immune deficiency syndrome; to the Committee on the Judiciary.

By Mr. HYDE:

H.R. 3390. A bill to impose a criminal penalty for flight to avoid payment of arrearages in child support; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI (for himself, Mr. DUNCAN, Mr. GIBBONS, and Mr. DAUB):

H.R. 3391. A bill to prohibit the importation into the United States of all products of Iran, and for other purposes; to the Committee on Ways and Means.

By Mr. LAFALCE (for himself and Mr. McDADE):

H.R. 3392. A bill to amend the Small Business Investment Act of 1958 to create the Corporation for Small Business Investment, to transfer certain functions of the Small Business Act to the Corporation, and for other purposes; to the Committee on Small Business.

By Mr. LEVINE of California (for himself, Mr. FASCELL, Mr. BROOMFIELD, Mr. HAMILTON, Mr. GILMAN, Mr. BONKER, Mr. ATKINS, Mr. SMITH of Florida, and Mr. BERMAN):

H.R. 3393. A bill to require the President to expand the existing embargo on trade with Iran to include a prohibition on the importation of all products of Iran; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. LEVINE of California:

H.R. 3394. A bill to require the city of Los Angeles, CA, to make improvements to the Hyperion Wastewater Treatment Plant in accordance with a construction schedule; to the Committee on Public Works and Transportation.

By Mr. FORD of Michigan:

H.R. 3395. A bill making technical corrections relating to the Federal employees' retirement system, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MOLINARI:

H.R. 3396. A bill to provide for the rehiring of certain former air traffic controllers; to the Committee on Post Office and Civil Service.

By Mr. DIOGUARDI (for himself and Mr. GILMAN):

H.R. 3397. A bill to amend the Public Health Service Act to establish a program of grants to the States for the purpose of providing to the public information on Lyme disease; to the Committee on Energy and Commerce.

By Mr. FRANK:

H.R. 3398. A bill to amend section 3524 of title 18, United States Code, to modify the provisions with respect to visitation rights of parents whose children are relocated under the witness protection program; to the Committee on the Judiciary.

By Mr. SHARP (for himself, Mr. DINGELL, Mr. MOORHEAD, Mr. WYDEN, Mr. DANNEMEYER, Mr. OXLEY, and Mr. RICHARDSON):

H.R. 3399. A bill to develop a national alternative motor fuels policy and to coordinate efforts to implement such policy; to the Committee on Energy and Commerce.

By Mr. CLAY (for himself, Mr. FORD of Michigan, Mr. TAYLOR, Mrs. SCHROEDER, Mr. GILMAN, Mr. SOLARZ, Mr. PASHAYAN, Mr. GARCIA, Mr. HORTON, Mr. LELAND, Mr. MYERS of Indiana, Mr.YATRON, Mr. YOUNG of Alaska, Ms. OAKAR, Mrs.MORELLA, Mr. SIKORSKI, Mr. MCCLOSKEY, Mr. ACKERMAN, Mr. DYMALLY, Mr. UDALL, Mr. DE LUGO, Mr. ALEXANDER, Mr. APPLEGATE, Mr. BERMAN, Mr. BIAGGI, Mr. BILBRAY, Mr. BONIOR of Michigan, Mr. BORSKI, Mr. BOUCHER, Mr. BROWN of California, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CARPER, Mr. CARR, Mr. CLARKE, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. COYNE, Mr. DAVIS of Illinois, Mr. DEFAZIO, Mr. DELLUMS, Mr. DICKS, Mr. DIXON, Mr. DORGAN of North Dakota, Mr. DOWNEY of New York, Mr. DWYER of New Jersey, Mr. EARLY, Mr. EDWARDS of California, Mr. EVANS, Mr. FAZIO, Mr. FISH, Mr. FOGLIETTA, Mr. FRANK, Mr. FROST, Mr. GAYDOS, Mr. GEJDENSON, Mr. GONZALEZ, Mr. HAMILTON, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HOCHBRUECKNER, Mr. HOWARD, Mr. HOYER, Mr. JACOBS, Mr. JOHNSON of South Dakota, Mr. JONTZ, Ms. KAPTUR, Mr. KASTENMEIER, Mr. KENNEDY, Mr. KILDEE, Mr. KLECZKA, Mr. KOLTER, Mr. KOSTMAYER, Mr. LANCASTER, Mr. LEATH of Texas, Mr. LEHMAN of California, Mr. LOWERY of California, Mr. LOWRY of Washington, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mr. MCHUGH, Mr. MFUME, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. NAGLE, Mr. NEAL, Mr. NICHOLS, Mr. OBERSTAR, Mr. OLIN, Mr. OWENS of New York, Mr. OWENS of Utah, Ms. PELOSI, Mr. PENNY, Mr. PERKINS, Mr. PICKETT, Mr. RANGEL, Mr. RAY, Mr. ROBINSON, Mr. ROE, Mr. ROSE, Mr. ROWLAND of Connecticut, Mr. SABO, Mr. SAVAGE, Mr. SAWYER, Mr. SISISKY, Mr. SKAGGS, Ms. SLAUGHTER of New York, Mr. SMITH of Iowa, Mr. SMITH of Florida, Mr. STARK, Mr. SWIFT, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAXLER, Mr. VENTO, Mr. VOLKMER, Mr. WALGREN, Mr. WHEAT, Mr. WILLIAMS, Mr. WILSON, Mr. WOLPE, and Mr. WYDEN):

H.R. 3400. A bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GUNDERSON:

H.R. 3401. A bill to amend the Securities Exchange Act of 1934 to impose certain restrictions on the conduct of hostile takeovers by foreign-based persons, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JOHNSON of South Dakota:

H.R. 3402. A bill to amend the Agricultural Act of 1949 to require the Secretary of

Agriculture to make advance deficiency payment for the 1988 through 1990 crop years for certain crops; to the Committee on Agriculture.

By Mrs. KENNELLY (for herself, Mr. Downey of New York, Mr. Green, and Mr. Rangel):

H.R. 3403. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer; to the Committee on Ways and Means.

By Mr. LELAND:

H.R. 3404. A bill to provide a prepaid dental care program for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. McEWEN:

H.R. 3405. A bill to deny most-favored-nation treatment to the products of Iran and Libya until the governments of those countries renounce terrorism and take other appropriate actions; to the Committee on Ways and Means.

H.R. 3406. A bill to embargo trade between the United States and Iran until the Government of Iran renounces terrorism, negotiates in good faith to end regional warfare, and takes other appropriate action; jointly to the Committees on Ways and Means and Foreign Affairs.

By Mr. MOLLOHAN (for himself and Mr. Rahall):

H.R. 3407. A bill to establish the Blennerhassett National Historical Park in the State of West Virginia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OWENS of Utah (for himself, Mr. Nielson of Utah, and Mr. Hansen):

H.R. 3408. A bill to increase the amounts authorized for the Colorado River Storage Project; to the Committee on Interior and Insular Affairs.

By Mrs. PATTERSON (for herself, Mr. Montgomery, Mr. Hammerschmidt, Mr. Solomon, Mr. Johnson of South Dakota, Mr. Jontz, and Ms. Kaptur):

H.R. 3409. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide child day care services to employees of Veterans' Administration medical centers; to the Committee on Veterans' Affairs.

By Mr. SOLARZ:

H.R. 3410. A bill to amend title XIX of the Social Security Act to prohibit States, as a condition of Medicaid funding, from discriminating in its medical reciprocity standards—other than years of accredited graduate medical education—against foreign medical graduates; to the Committee on Energy and Commerce.

By Mr. STUDDS:

H.R. 3411. A bill to clarify the authority of the Administrator to utilize environmental improvement projects when enforcing the Ocean Dumping Act and the Clean Water Act; jointly to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. WAXMAN (for himself, Mr. Wyden, and Mr. Hyde):

H.R. 3412. A bill to amend the Consumer Product Safety Act to strengthen the authority of the Consumer Product Safety Commission over amusement devices; to the Committee on Energy and Commerce.

By Mr. WEISS (for himself, Mr. Rangel, Mr. Green, Mr. Horton, Mr. Ackerman, Mr. Biaggi, Mr. DioGuardi, Mr. Downey of New York, Mr. Fish, Mr. Flake, Mr. Garcia, Mr. McHugh, Mr. Manton, Mr. Martin of New York, Mr. Mrazek, Mr. Nowak, Mr. Owens of New York, Mr. Scheuer, Mr. Schumer, Ms. Slaughter of New York, Mr. Solarz, Mr. Stratton, Mr. Towns, and Mr. Wortley);

H.R. 3413. A bill to require the Administrator of General Services to convey certain property to the Museum of the American Indian; to the Committee on Government Operations.

By Mr. COLEMAN of Missouri:

H.J. Res. 367. Joint resolution designating October 16–22, 1988, as "National Pythian Sister Week"; to the Committee on Post Office and Civil Service.

By Mr. LELAND:

H.J. Res. 368. Joint resolution designating the week of November 8 through November 14, 1987, as "National Food Bank Week"; to the Committee on Post Office and Civil Service.

By Mr. WORTLEY:

H.J. Res. 369. Joint resolution designating November 7, 1987, as "The Memorial Day for Victims of Communism"; to the Committee on Post Office and Civil Service.

By Mrs. SAIKI:

H. Con. Res. 193. Concurrent resolution to express a sense of the Congress that the U.S. Government condemns the recent Soviet missile tests near the State of Hawaii, and that the President report to the Congress within 10 days on the details of the tests; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

220. By the SPEAKER: Memorial of the Legislature of the State of California, relative to a national maritime museum in San Francisco; to the Committee on Interior and Insular Affairs.

221. Also, memorial of the Legislature of the State of California, relative to information on antifouling paints; to the Committee on Merchant Marine and Fisheries.

222. Also, memorial of the Legislature of the State of California, relative to air traffic safety; to the Committee on Public Works and Transportation.

223. Also, memorial of the Legislature of the State of California, relative to Veterans' Administration funding; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CALLAHAN introduced a bill (H.R. 3414) for the relief of Meenakshiben P. Patel; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Studds.

H.R. 21: Mr. Studds.

H.R. 190: Mr. Roe, Mr. Weiss, and Mr. Ridge.

H.R. 303: Mr. Gonzalez, Mr. Daub, Mr. Kastenmeier, Mr. Lewis of Georgia, Mr. Biaggi, Mr. Oxley, Mr. Lantos, Mr. Mrazek, Mr. Foglietta, Mr. Sikorski, Mr. Rinaldo, Mr. Donnelly, Mr. Kolter, and Mr. Feighan.

H.R. 474: Mrs. Roukema.

H.R. 562: Mrs. Roukema.

H.R. 570: Mr. Neal.

H.R. 579: Mr. Swift.

H.R. 753: Mr. Upton.

H.R. 940: Mr. Rinaldo and Mr. Courter.

H.R. 1016: Ms. Kaptur and Mr. Richardson.

H.R. 1020: Mr. Shaw.

H.R. 1049: Mr. Espy.

H.R. 1106: Mr. Espy.

H.R. 1115: Mr. Martin of New York.

H.R. 1201: Mr. Borski.

H.R. 1234: Mr. Howard.

H.R. 1242: Mr. Borski and Mr. Boehlert.

H.R. 1337: Mr. Fish and Mr. Marlenee.

H.R. 1369: Mr. Howard.

H.R. 1432: Mr. Montgomery and Mr. Espy.

H.R. 1517: Mr. Buechner, Mr. Hammerschmidt, Mr. Henry, Mrs. Meyers of Kansas, Mr. Grant, Mr. Ortiz, Mr. Shaw, Mr. Mineta, Mr. Applegate, Mr. Foglietta, and Mr. Ritter.

H.R. 1587: Mr. Craig and Mr. Stallings.

H.R. 1606: Mr. Bryant.

H.R. 1620: Mr. Torricelli.

H.R. 1737: Mr. Walgren and Mr. Foglietta.

H.R. 1801: Mr. Nielson of Utah, Mr. Johnson of South Dakota, Mr. Foglietta, Mr. DeFazio, Mr. Hawkins, Mr. Mfume, Mr. Howard, Mrs. Morella, and Mr. Bates.

H.R. 1807: Mr. Bilbray.

H.R. 1834: Mr. Rangel.

H.R. 1938: Mr. Ackerman, Mr. Roybal, Mr. Bilirakis, Mr. Lewis of Florida, Mr. Penny, Mr. Oberstar, and Mr. Johnson of South Dakota.

H.R. 2045: Mr. Hayes of Louisiana, Mr. Callahan, Mr. Wilson, Mr. Harris, and Mr. Borski.

H.R. 2091: Mr. Bates, Mr. Gingrich, and Mr. Lagomarsino.

H.R. 2148: Mr. Durbin, Mr. Stangeland, Mr. Hyde, Mr. Foglietta, Mr. Owens of Utah, and Mr. Torres.

H.R. 2191: Mr. Lujan and Mr. Bustamante.

H.R. 2248: Mr. Manton and Mr. Hansen.

H.R. 2260: Mr. Quillen, Mr. Gingrich, Mr. Swift, Mr. Duncan, and Mr. Oberstar.

H.R. 2433: Mr. Lagomarsino and Mr. Holloway.

H.R. 2455: Mr. Johnson of South Dakota and Mr. Campbell.

H.R. 2508: Mr. Berman.

H.R. 2532: Mr. Pepper and Mr. Kildee.

H.R. 2546: Mr. Brennan.

H.R. 2567: Mr. Carper.

H.R. 2586: Mr. Whitten, Mr. Gaydos, Mr. Hall of Ohio, Mr. Gibbons, Mr. Jones of North Carolina, Mr. Gilman, Mr. Glickman, Mr. Bevill, Mr. Wolpe, Mrs. Morella, Mr. Green, Mr. Hammerschmidt, Mr. Bustamante, Mr. Pickett, Mr. Traxler, Mr. Hayes of Louisiana, Mr. Pepper, Mr. Gray of Illinois, Mr. Stark, Mr. Jenkins, Mr. Downey of New York, Mr. Rinaldo, Mr. Henry, Mr. Florio, Mr. Nielson of Utah, Mr. Erdreich, Mr. Hunter, Mr. Slattery, Mr. Derrick, Mr. Anderson, Mr. Thomas A. Luken, Mr. Borski, Mr. Dymally, Mr. Bennett, Mr. Wortley, Mr. English, Mr. Hatcher, and Mr. Huckaby.

H.R. 2604: Mr. Neal.

H.R. 2626: Mr. Fish.

H.R. 2649: Mr. Frost, Mr. Gray of Illinois, Mr. Kastenmeier, Mr. Miller of California, Mr. Savage, Mr. Hoyer, Mr. DeWine, Mr.

SCHUMER, Mr. THOMAS of Georgia, Mr. WALGREN, Mr. BARNARD, Ms. SLAUGHTER of New York, Mr. LEWIS of Florida, Ms. PELOSI, Mr. FAZIO, Mr. MAVROULES, Mr. CROCKETT, Mr. LEVINE of California, Mr. ATKINS, and Mr. CHAPMAN.

H.R. 2692: Mr. JONTZ, Mrs. JOHNSON of Connecticut, Mr. BORSKI, Mr. BROWN of California, Mr. TRAXLER, and Mr. KEMP.

H.R. 2717: Mr. STAGGERS, Mr. HOCHBRUECKNER, Mr. LOWRY of Washington, Mr. PEPPER, Mr. KILDEE, Mr. COYNE, Mr. PEASE, Mr. HUGHES, and Mr. FLAKE.

H.R. 2791: Mrs. ROUKEMA.

H.R. 2858: Mr. BLILEY, Mr. WEBER, Ms. SNOWE, Mr. ROTH, Mr. LOWRY of Washington, Mr. MINETA, and Mr. WYDEN.

H.R. 2862: Mr. CAMPBELL, Mr. DARDEN, Mr. BADHAM, Mr. DAVIS of Ilinois, Mr. JONTZ, and Mr. NELSON of Florida.

H.R. 2870: Mr. BUSTAMANTE and Mr. BIAGGI.

H.R. 2883: Mr. MANTON, Mr. HUBBARD, Mr. ENGLISH, Mr. RAHALL, and Mr. TORRICELLI.

H.R. 2934: Mr. WILSON.

H.R. 3010: Mr. JONTZ, Mr. BRUCE, Mr. MANTON, and Mr. WOLPE.

H.R. 3011: Mr. AKAKA, Ms. PELOSI, Mr. CONYERS, Mr. LEHMAN of California, and Mr. GRAY of Illinois.

H.R. 3021: Mr. HENRY, Mr. SCHUETTE, Mr. WORTLEY, Mr. LEWIS of Florida, Mr. DONALD E. LUKENS, Mr. DAUB, Ms. KAPTUR, Mr. WOLPE, and Mr. SLATTERY.

H.R. 3044: Mr. OBERSTAR.

H.R. 3045: Mr. OBERSTAR.

H.R. 3053: Mr. RITTER.

H.R. 3071: Mr. TORRES.

H.R. 3075: Mr. HUCKABY, Mr. MARTIN of New York, Mr. COATS, Mr. DANNEMEYER, Mr. LUNGREN, Mr. COELHO, Mr. HASTERT, Mr. DORNAN of California, Mr. MOORHEAD, Mr. COBLE, Mr. DONALD E. LUKENS, Mrs. VUCANOVICH, Mr. HUBBARD, Mr. NIELSON of Utah, Mr. MINETA, Mr. DeWINE, Mr. McCOLLUM, Mr. INHOFE, and Mr. QUILLEN.

H.R. 3127: Mr. CLINGER, Mr. SAVAGE, Mr. YATRON, Mr. WALGREN, Mr. RITTER, and Mrs. MARTIN of Illinois.

H.R. 3147: Mr. DORGAN of North Dakota.

H.R. 3171: Mr. McCLOSKEY, Mr. WILSON, Mr. BERMAN, Mr. BILBRAY, Mr. OXLEY, Mr. MAVROULES, Mr. LOWRY of Washington, Mr. ATKINS, Ms. SLAUGHTER of New York, Mr. SKEEN, Mr. YOUNG of Florida, Mr. BATES, Mr. MINETA, Mr. DeWINE, and Mr. EVANS.

H.R. 3195: Mr. BRUCE, Mr. CONYERS, Mr. OWENS of New York, Mr. WOLPE, Mr. BONIOR of Michigan, and Mr. BORSKI.

H.R. 3225: Mr. ROYBAL, Mr. DOWNEY of New York, Mr. FOGLIETTA, Mr. BONER of Tennessee, Mr. RICHARDSON, Mr. PEPPER, Mr. WISE, and Mr. DAVIS of Michigan.

H.R. 3290: Mr. FASCELL, Mr. SHAW, and Mr. MICA.

H.R. 3292: Mr. LEVINE of California, Mr. HAYES of Illinois, Mr. FAZIO, Mr. GARCIA, Mr. OWENS of New York, Mr. LEWIS of Georgia, Ms. PELOSI, Mr. FOGLIETTA, and Mr. ROE.

H.R. 3322: Mr. CONYERS, Mr. HUGHES, Mr. MRAZEK, Mrs. COLLINS, Mr. SKELTON, Mr. HAYES of Louisiana, Mr. SUNDQUIST, Mr. RODINO, Mr. MONTGOMERY, and Mr. HOLLOWAY.

H.R. 3336: Mr. TAUKE, Mr. HOWARD, Mr. SCHUETTE, and Mr. MARTINEZ.

H.R. 3338: Mr. MYERS of Indiana, Mr. BADHAM, Mr. WEISS, Mr. OXLEY, Mr. WOLF, Mr. PRICE of North Carolina, Mr. BROWN of Colorado, Mr. RHODES, Mr. HOYER, Mr. BALLENGER, Mr. ROBERTS, Mr. SIKORSKI, Mr. GINGRICH, Mr. MARKEY, Mr. COUGHLIN, Mr. COURTER, Mr. LAGOMARSINO, Mr. NEAL, Mr. PORTER, Mr. GARCIA, Mr. LANCASTER, Mr. OBERSTAR, Mr. LIPINSKI, Mr. FAWELL, Mr. WILSON, Mr. WELDON, Mr. OWENS of New York, Mr. BENNETT, Mr. DYMALLY, Mr. GORDON, Mr. PANETTA, Mr. INHOFE, Mr. SHAW, Mr. SKEEN, Mr. CALLAHAN, Mr. BATEMAN, Mr. VISCLOSKY, Mr. COBLE, Mr. BILIRAKIS, and Mr. BRENNAN.

H.R. 3343: Mr. BARTON of Texas.

H.R. 3344: Mr. TRAXLER and Mr. STANGELAND.

H.J. Res. 43: Mr. McEWEN, Mr. MOLINARI, Mr. VALENTINE, Mr. RAY, Mr. DORNAN of California, Mr. BROWN of California, Mr. LUJAN, Mr. MINETA, Mr. FLORIO, Mr. GONZALEZ, Mr. GREEN, Mr. LaFALCE, Mr. BENNETT, and Mr. HALL of Ohio.

H.J. Res. 61: Mr. BARTLETT.

H.J. Res. 112: Mr. WOLPE, Mr. TORRICELLI, Mr. CARPER, and Mr. KOSTMAYER.

H.J. Res. 148: Mr. MADIGAN.

H.J. Res. 176: Mr. GLICKMAN.

H.J. Res. 219: Mr. MARTINEZ, Mr. FOGLIETTA, Mr. WALGREN, and Mr. FISH.

H.J. Res. 246: Mr. MINETA and Mr. FOGLIETTA.

H.J. Res. 287: Mr. CARPER and Mr. SLATTERY.

H.J. Res. 300: Mr. BEVILL, Mr. HUGHES, Mr. McGRATH, Mr. McMILLEN of Maryland, Mr. NIELSON of Utah, Mr. OWENS of New York, Mr. FIELDS, Mr. GILMAN, Mr. KOSTMAYER, Mr. McHUGH, Mr. MacKAY, Mr. MRAZEK, Mr. WAXMAN, Mr. BERMAN, Mr. BLAZ, Mr. BLILEY, Mr. BONER of Tennessee, Mr. BRENNAN, Mr. BRYANT, Mr. CHANDLER, Mr. COELHO, Mr. CONTE, Mr. CROCKETT, Mr. DANIEL, Mr. DAUB Mr. de LUGO, Mr. DIOGUARDI, Mr. FASCELL, Mr. FAUNTROY, Mr. FLIPPO, Mr. FLORIO, Mr. FOGLIETTA, Mr. FOLEY, Mr. FRENZEL, Mr. FUSTER, Mr. GARCIA, Mr. GRAY of Illinois, Mr. GUARINI, and Mr. HALL of Texas.

H.J. Res. 328: Mr. PANETTA, Mr. HUTTO, Mr. SKELTON, and Mr. STAGGERS.

H.J. Res. 332: Mr. BATES, Mr. BUNNING, Mr. CALLAHAN, Mr. de la GARZA, Mr. DIOGUARDI, Mr. GARCIA, Mr. GINGRICH, Mr. HAMMERSCHMIDT, Mr. HUTTO, Mr. IRELAND, Ms. KAPTUR, Mr. McCOLLUM, Mr. McDADE, Mr. MACK, Mr. MADIGAN, Mr. NELSON of Florida, Ms. OAKAR, Mr. PEPPER, Mr. SKELTON, Ms. SNOWE, and Mr. YATRON.

H.J. Res. 349: Mr. COLEMAN of Missouri, Mr. VOLKMER, Mr. BONIOR of Michigan, Mr. HORTON, Mr. STRATTON, Mr. BATEMAN, Mrs. JOHNSON of Connecticut, and Mr. McCLOSKEY.

H.J. Res. 353: Mr. ROE, Mrs. MEYERS of Kansas, Mr. BILBRAY, Mr. MADIGAN, Mr. SUNIA, Mr. JONES of Tennessee, Mr. WYDEN, Mr. SYNAR, Mr. YATES, Mr. ORTIZ, Mr. TALLON, Mr. PERKINS, Mr. EVANS, Mr. DARDEN, Mr. MINETA, Mr. ESPY, Mr. VANDER JAGT, Mr. OWENS of New York, Mr. GORDON, and Mr. PEPPER.

H. Con. Res. 83: Mr. McEWEN, Mr. BALLENGER, Mr. CALLAHAN, Mr. DeLAY, and Mr. NICHOLS.

H. Con. Res. 128: Mr. BILIRAKIS.

H. Res. 65: Mr. NIELSON of Utah.

H. Res. 131: Mr. de LUGO, Mr. FLAKE, Mr. HOWARD, and Mr. BERMAN.

H. Res. 185: Mr. SMITH of New Hampshire, Mr. DELLUMS, Mr. SUNDQUIST, Mr. NOWAK, Mr. HALL of Ohio, Mr. LAGOMARSINO, Mr. BARNARD, Mr. HATCHER, Mr. HORTON, Mr. SYNAR, Mr. MINETA, Mr. MRAZEK, Mr. DANNEMEYER, Mr. PICKLE, Mr. DENNY SMITH, Mr. McEWEN, and Mr. SMITH of New Jersey.

H. Res. 188: Mr. HANSEN and Mr. BLILEY.

H. Res. 189: Mr. WEISS, Mr. LOWRY of Washington, Mr. MOAKLEY, Mr. SAVAGE, and Mr. BRENNAN.

H. Res. 269: Mr. VOLKMER, Mr. WILSON, Mr. DORNAN of California, Mr. BALLENGER, Mr. BERMAN, Mr. McCLOSKEY, Mr. RAVENEL, Mr. HYDE, Mr. HUNTER, Mr. PORTER, Mr. APPLEGATE, Mr. LIPINSKI, Mr. DONALD E. LUKENS, and Mr. COURTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1572: Mr. ESPY.

H.R. 3204: Mr. PRICE of North Carolina.

PETITIONS, ETC.

Under clause 1 of rule XXII,

80. The Speaker presented a petition of the Human Relations Commission, Contra Costa County, CA, relative to persons of Japanese ancestry interned during World War II; which was referred to the Committee on the Judiciary. October 1, 1987.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3100

By Mr. BEREUTER:

—Page 123, after line 6, insert the following:

SEC. 722. NONLETHAL MILITARY ASSISTANCE FOR URUGUAY.

Of the amounts authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), not less than $5,000,000 for each of the fiscal years 1988 and 1989 shall be available only for use in providing nonlethal defense articles to Uruguay.

SENATE—*Thursday, October 1, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 8:10 a.m., on the expiration of the recess, and was called to order by the Honorable Kent Conrad, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him, and He shall direct thy paths.—Proverbs 3:5-6.

Father in Heaven, in the wisdom of Solomon, we are reminded that You are willing and able to give us inerrant direction if we meet the simple conditions of trusting in You and acknowledging You. God of infinite wisdom, You alone know what the future holds for the Senators and their families—for the Nation and the world. You know the human propensity for thinking business as usual when a situation demands decisive action and the will is weak. Help us to remember Pearl Harbor as we struggle with international relations. Help us to remember the awful days of the Great Depression. Lest some unexpected event explodes into worldwide conflagration or precipitates unprecedented financial crisis. Holy Father, in these dangerously critical days, help the Senators to take you seriously and infuse them with the will to confront the issues squarely, dedicated to principle rather than expediency, whatever personal or political risk is involved. For the sake of truth and justice and peace, in His name in Whom they were incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, October 1, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Kent Conrad, a Senator from the duties of the State of North Dakota, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 5 minutes.

AMERICA'S CRUSHING DEBT—THE WORST SOLUTION

Mr. PROXMIRE. Mr. President, by every relevant comparison, debt in America has become the heaviest ever. It constitutes a threat that now seems almost certain to wreck our country's marvelous economy. Is it really this bad? Consider that in 6 short years, the Federal Government debt has zoomed from less than $1 trillion to nearly $2½ trillion. What is so Earth shaking about that? First, it means that you and I and other American taxpayers have to pay between $150 and $200 billion every year in interest on this monstrous debt. That interest now constitutes the single, most rapidly increasing cost of Government. It rises far faster than military spending. It grows much more rapidly than any social program. Indeed, it grows more rapidly than all social programs combined. It possesses a peculiar quality that makes it far more dangerous than other Federal expenditures. Why is it so dangerous? It is this: We cannot control it. Think of it. We can cut spending for housing or for education or for environmental protection. We can slash any military program. These cuts may or may not be wise. But if we are determined to reduce foreign aid spending or highway spending or community development spending or aircraft procurement, we can simply refuse to appropriate the money. But we cannot cut out interest payments on our debt.

So how do we reduce that charge we have to meet for interest on the national debt? Of course, we could simply repudiate it. We could renounce our solemn promise. But think of the consequences. Our credit would be ruined. We could not borrow in the future without paying higher interest than ever before as a risk premium against another repudiation. Also, an increasing proportion of our debt is now owed to foreigners. A failure of the U.S. Government to pay its legal debts to foreign nations would constitute a killing blow to our leadership of the free world and to the free world itself. So here is an expenditure rising faster than any or all others combined and with the best will in the world we cannot reduce it.

But why is this huge national debt so dangerous? It is dangerous because there is one insidious yet very tempting way to ease its immense burden. Over the next few years we will be sorely tempted to pursue it. It is a way that other nations have regularly followed when their debt exploded out of control. They ease their debt burden by engaging in a wholesale depreciation of their currency. Then they may pay it off in the far cheaper currency. Here is the policy we might pursue. Our national debt is well on its way to $3 trillion. Suppose the Federal Reserve Board, under pressure from the President and Congress, decides to deliberately flood the country with money. Overnight, it doubles or triples the supply of credit. With this influx of money chasing a finite supply of goods, prices rise. They rise very sharply. As in Argentina in 1985, they might rise by 1,000 percent; as in Germany after World War I, they might rise by 100,000 percent. What would a 1,000-percent inflation do to our national debt? It automatically and promptly would cut the $3 trillion material debt down, in real terms, to $300 billion. Overnight, without any painful cut in spending, without any increase in taxes, that huge burdensome loan on the backs of American taxpayers would be lifted.

Sounds dandy? What is wrong with it? What is wrong is that the 1,000-percent inflation would not only wipe out 90 percent of the liquid savings of thrifty American households and business; it is far worse. That 1,000-percent inflation would give us 1,000-percent-plus interest rates which would paralyze much of the economy. Housing sales would virtually stop. Automobile sales would slow to a trickle. The economy would collapse into a depression that would make the 1930's seem like easy times. No lender in his right mind will lend a nickel if he believes he will be repaid in currency that is worth only one-tenth of the value of the currency he loaned. He will insist that he be repaid with interest rates that fully reflect the expected inflation. That means the cost of servicing the national debt will be at least as high, in real terms, after superinflation as before. Oh, yes, the principal—the $3 trillion

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

debt—could be fully paid off in a far cheaper currency—for 10 cents on the dollar. But the future credit of the United States would carry an enormous interest cost reflecting the fear of a future repudiation.

The inflation solution is tempting. It is the most traveled road for indebted nations. But it brings wide-spread economic chaos and no real solutions for the Federal Government.

SEPTEMBER GOLDEN FLEECE GOES TO NATIONAL SCIENCE FOUNDATION

Mr. PROXMIRE. Mr. President, my Golden Fleece of the month for September goes to the National Science Foundation [NSF] for spending $9,992 on a study of "Bullfights and Ideology of the Nation in Spain." By supporting a trip to Spain and a year-long series of visits to bullfights around that nation, the NSF has given the American taxpayer a bum steer.

The summary of the project states:

> This research proposes to examine the dialectical relationship between the categories "nation" and "region" in Spain as these are manifested through the polemical spectacles known as the national fiesta, the Spanish bullfights in their several formats. * * * The research will entail ethnographic descriptions and comparisons of the local vs. national bullfighting formats, and intensive interviews with informants to record their identification with, or rejection of, the various forms of bullfights, as well as other specific socio-political categories of Spain.

While the proposed budget includes $500 for a camera and accessories, the assumed daily expenses are relatively modest. The researcher will probably not be staying in very many five star hotels during visits to the bullfights in Seville, Madrid, Valencia, and other exciting Spanish cities.

The project is being undertaken by an obviously highly qualified researcher who speaks Spanish fluently having lived and worked in Spain.

I have no objection as such to a study of bullfighting as a cultural manifestation of the Spanish regional and national character; although I suspect that a few hours spent with Ernest Hemingway's writing would be better reading and would probably give just as much understanding of the Spanish culture.

What I do object to is, given the giant Federal budget deficit and the needs of other Government programs, the decision by the NSF to fund this study. Clearly it is time for the NSF to grab the bull by the horns and get its priorities straight.

The bullfight study is a part of the NSF's anthropological science program whose budget the Foundation has purposed to increase by $640,000 to $8,220,000 next year.

I first raised questions about this and several other studies in the Appropriations Subcommittee hearings on the NSF budget. The NSF argued in favor of the studies and later provided me with additional information on them.

After examining the complete record, I continue to doubt the value of spending taxpayers money on two other studies but see the NSF's argument of some possible worth to the studies.

The first project involved spending $23,279 to study the cultural and social context of astronomical knowledge by two native groups in Indonesia. One group used the stars to do impressive feats of open seas navigation and the other studied the sky to predict the changing seasons for their primitive agricultural society.

The second project devoted $28,578 to study the role of nonmarriage in rural Irish family systems. Irish society has one of the highest rates of late and nonmarriage. A study of how these single adults fit into their families and culture might help us understand similar situations in our own Nation.

Funding these studies once again raises the question of priorities. The taxpayers cannot afford to fund every study on every subject everywhere in the world. To the question, Is this trip necessary? The NSF should more frequently answer with a resounding: No.

Mr. President, I thank my good friend, the leader, for reserving time for me this morning. I yield the floor.

RECOGNITION OF SENATOR PRYOR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arkansas is recognized for not to exceed 10 minutes.

NOMINATION OF JUDGE BORK

Mr. PRYOR. Mr. President, in article 2, section 2, clause 2, of the Constitution, the Members of this body were granted a unique and sacred responsibility—to advise and consent in nominations made by the President. Some scholars would argue this role to be a great and awesome power, or maybe even a stick to be held over the Executive.

I would argue it to be an obligation to our citizens. It is a time when we, as their elected voice, are given a responsibility to check an Executive decision by exercising legislative balance.

Today we reach one of those rare moments in our democratic process when the advise and consent role of the Senate becomes of ultimate importance. We are asked to consent to a lifetime appointment to our highest court.

Mr. President, as to the nomination of Robert Bork to the Supreme Court, I must state now that I cannot consent. I will vote against the nomination of Mr. Bork to become a Justice of the Supreme Court.

I will leave to the great legal scholars of our time the interpretation and translation of Judge Bork's opinions, writings, and speeches. I have no doubt as to his scholarly abilities or his general reputation as a brilliant legal mind.

No, I do not perceive him to be bad or evil. If he has an ultimate or hidden agenda, I do not know it. But I strongly believe that any lifetime appointment to a position that will affect the lives of every citizen of this land—and for generations to come—should have an additional qualification. It is something that seems to me to be absent from the makeup of Robert Bork. And that is "judicial temperament."

Robert Bork's nomination to the Supreme Court has divided not only the Senate but this Nation as well. This nomination has polarized America. It has divided groups and races. Where a Supreme Court nominee should—and must—trigger respect and admiration, his nomination has triggered passion and emotion.

Judge Bork is the most divisive nominee to have his name before the Senate in modern times. Mr. President, we do not need someone to divide us. We need someone to bring us together.

After writing mountains of opinions—and following a distinguished career in the law—Robert Bork is still an unknown. We ask ourselves on a daily basis in this Chamber, Who is Robert Bork? A shroud of uncertainty permeates his thinking. In fact, the more I read and hear of Mr. Bork, the less I know about him. If we named him today to our highest court, we could be embarking on a voyage into the unknown.

There is also something sad about the whole issue of Judge Bork's nomination. Here is a brilliant scholar, going through the agony of public hearings and public scrutiny. And yet we do not know him any better now than we did months ago. I would even submit the respectful opinion, Mr. President, that he does not know himself.

Having gone from extreme positions in his youth to unexplainable positions in later life, Robert Bork continues to wrestle with what he believes. Today he remains an unknown man with unknown beliefs.

Mr. President, I supported Justices O'Connor and Scalia, as well as Chief Justice Rehnquist. But the question of Robert Bork is not an issue of a person being conservative or liberal, Republican or Democrat. It is a larger question of temperament and understanding. It is like a large picture, with minute perimeters, that we are trying to bring into sharper focus.

Much of this exercise should be unnecessary. There are certainly good, qualified people throughout the country who could fill the requirements of this position, and they would and will command our respect and support for this nomination.

The hearings before the Judiciary Committee have just concluded. They have given our Nation a great education in the 200th year of our Constitution.

This public process has also afforded Judge Bork an opportunity to discuss his concept of what America is, and our citizen's individual relationship to its Government. He has made us think deeply and clearly about the purposes of the Constitution. And he has prompted us to examine the role of the Supreme Court in interpreting that Constitution.

In observing this process and watching the hearings unfold, my apprehensions have grown. At first, I could not overlook his great legal expertise. I then began to wonder if his presence on the Court would be an extension of our executive branch into the judicial arena.

I grew concerned as we heard the public response from those advocating "single issues." And it struck me that the great middle American voice was not coming through. But really, what is Judge Bork's principal basis for reaching decisions? Where does he stand on individual liberties? Where is he on individual privacy? Where does he really come down in interpreting that sensitive and delicate balance between rights of man and the limits of government?

I am from a Southern State that for 30 years has struggled to heal the ugly wounds of racial strife. Can I vote to take a chance or a gamble with a man we do not know? The questions are many, Mr. President, and the answers are few.

We vote on many issues in this body during the course of our service. But there will be no more critical vote than on the issue of Robert Bork.

Mr. President, I hope there will be a good debate when his nomination reaches the floor. At that time we should afford our President the opportunity to have his nominee voted on, up, or down. I will take part in no filibuster regarding this nominee. And I pray that this body reaches a decision that is right and just—not only for our generation, but for those to come.

Mr. President, whatever time I have remaining I yield back to the distinguished Senator from North Carolina. [Mr. SANFORD].

I yield the floor.

RECOGNITION OF SENATOR SANFORD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina, [Mr. SANFORD], is recognized for not to exceed 15 minutes, plus the time yielded to him by the Senator from Arkansas.

IS JUDGE BORK A RELIABLE SCHOLAR?

Mr. SANFORD. Mr. President, like a diamond, a Supreme Court Justice is forever. He or she ought to be flawless. The position of Justice demands scholarship of the utmost integrity. This quality is the best guarantee we have of a Justice's performance. All other attributes fall in comparison.

I have carefully read or listened to the testimony. I have read many of Judge Bork's articles, interviews, speeches, and opinions, searching for the reliability of his scholarship.

Scholarship is definable and recognizable. Intellectual integrity is its essence. Scholarship is the relentless, uncompromising search for truth. Like a laser beam reaching for the unknown in the fine structure of atoms, the scholar reaches sharply through the maze of facts, fiction, propositions, and prejudices, always probing for the ultimate truth, eschewing half-truths and false conclusions. Scholarship is far more than academic skills acquired; it is a frame of mind, a way of life.

Thus, we must examine Judge Bork's credentials as a scholar, not just in name and profession, but measured against his performance as a scholar among scholars, a scholar of impeccable intellectual integrity, a scholar inflexibly dedicated to the search for truth, a scholar worthy of the Supreme Court. This is the test on which I have finally based my decision on how to vote—not his politics or his ideology, not the pressure from groups either pleased or displeased by his nomination, but a clear, stark question: Does he possess the qualities of pure scholarship that should identify a Justice of our Supreme Court?

Our Constitution was written in a society in which women were given second rate citizenship, generally only property owners voted, poll taxes had not been invented, and slavery was an accepted, if disputed, institution. Yet the drafters of the Constitution drew a document with the stated intention that it could encompass the perfecting of the democratic principles of the new republic. Chief Justice John Marshall set the course for the Supreme Court, and the United States has done a pretty good job of perfecting itself since the beginning. That this is always to be an unfinished job is symbolized by the unfinished pyramid on our national seal.

Some insist that such flexibility for growth and change is not contemplated by the Constitution. This is and has always been a legitimate position in jurisprudence. Judge Bork has many times espoused this judicial philosophy.

In cases involving individual rights, Judge Bork has repeatedly urged a "strict construction" of the Constitution and a narrow role for judges in interpreting it. He expressed these views with clarity in his Indiana Law Review article in 1971, where he argued that the Constitution should protect the will of the majority unless there is explicit protection for the minority provided in the Constitution. The elected legislative bodies decide the majority view, and if that is at the expense of individual rights, so be it, unless there is something in the Constitution specifically protecting the individual. (Bork, "Neutral Principles and Some First Amendment Problems," 147 Indiana L.J. 1 (1971)).

In keeping with this philosophy, Judge Bork has declared the Court was wrong when it struck down Virginia's poll tax—Harper versus Virginia—wrong when it denied States the power to enforce racially restrictive covenants—Shelley versus Kraemer—wrong when it banned literacy tests for voters—Katzenbach versus Morgan—wrong when it decreed one-person-one-vote—Reynolds versus Simms. Judge Bork also has declared there is no constitutional right to privacy.

The decisions by the Court, in these and similar cases, Judge Bork has contended, "Could not have been reached through interpretation" (Catholic University Speech, Mar. 31, 1982). In other words, the Justices just made up this law because that is what they wanted it to be. There was nothing in the Constitution to justify such decisions. He may be right.

My problem with Judge Bork is that he does not stick with his views.

Over and over I get the impression that he follows his narrow interpretation only when it leads to the result he wishes it to lead to.

Over and over I get the impression that Judge Bork already knows where he wants to go and then selects the path that will get him there.

That is not consistent scholarship.

Judge Bork applies his majoritarian, the-legislature-is-right views only when this posture furthers the goals he wishes to achieve. For example, he has consistently been opposed to accepting the majority will as expressed by Congress in conflicts between the legislative and executive branches of Government.

Where it suits his purposes, he has been willing to brush aside his majoritarian philosophy, and to overlook fairly explicit constitutional authority, for example, dealing with congressional military powers. Judge Bork has written that it would have been unconstitutional for Congress, during the

Vietnam war, to limit President Nixon's right to send troops from Vietnam into Cambodia, on the theory that the President retained full discretion over the deployment of military forces once Congress has authorized military action in the area (Bork, "Comments on the Legality of U.S. Action in Cambodia." 1971, 65 Am. Jur. of Int. Law, 79-81). He may or may not be right, but he is not consistent.

Again, ignoring the majoritarian voice of Congress, he has testified that the special prosecutor statute is, in his view, clearly unconstitutional, arguing that once Congress passes substantive laws, full prosecutorial discretion as to their enforcement rests exclusively with the President ("The Hearings Before the Senate Committee on the Judiciary: The Special Prosecutor," 93d Cong., 1st sess. (1973)). He may or may not be right, but he is not consistent.

Again taking a different view from that which he used to limit individual rights, Judge Bork, in the 1985 case of Barnes versus Kline, which was brought by the U.S. Senate and other individual representatives, dessented. He wrote: "We ought to renounce the whole notion of congressional standing." The will of the majority does not fit what Judge Bork wants in this situation. He denies Congress the means to exercise even a modest rein on the Presidency in situations where the executive branch has overstepped its bounds.

Judge Bork's advocacy of judicial activism in antitrust matters, his primary field of scholarship, is similarly inconsistent with this theory of judicial restraint. He is a proponent of a movement to reinterpret radically the antitrust laws to conform to the Chicago school of free-market economics, disregarding the intent of Congress. He rationalizes his actions by arguing that the true purpose of the antitrust laws is not to control monopolies, but to protect, to use his expression, the "consumer welfare," a term not found anywhere in the antitrust legislation and certainly not in the Constitution. His peculiar economic theory can be served only if he abandons his majoritarian views, and more. So he does, charging that Congress is "institutionally incapable of * * * fashioning a rational antitrust policy" (Bork, "The Antitrust Paradox," 412-413 (1978)). Apparently he will leave only the simple matters to Congress and to the people.

In perhaps his most vulnerable writing, a 1963 article published in the New Republic ("Civil Rights—A Challenge," the New Republic, Aug. 31, 1963), which he has since in large part retracted, Judge Bork passionately condemned the Public Accommodations Act. Rationalization of his untenable opposition prompted him to disparage "Southern politicians," who are not to be trusted to enforce the law, letting it "become an unenforceable symbol of hypocritical righteousness." This is shoddy scholarship—or worse.

He did not, in drawing up his assault, first define the ill that was being confronted by the new legislation. That would have been a scholar's first step. Open access is wrong, he begins, because we place a "very high priority" on freedom. Indeed we do. It was individual freedom, denied because of discrimination, that was the problem. He missed that point. To him, this lack of access by blacks was merely an "insult"—that is his word—and what weight ought to be accorded a mere insult when measured against the freedom of lunch counter operators to conduct their activities unfettered by laws designed only to satisfy, in his words, a "gratification" by "coercing * * * other private individuals?"

These people, "barbers" and "chiropodists" and lunch counter operators, cannot be perceived to "hold themselves out to serve the public," he argues, because it is clear that they do not hold themselves out as wanting to serve the part of the public that is, in his word, "Negro." The best evidence that they do not, he says, is the proposed law. There is nothing scholarly about that argument. Furthermore, and I have seen this time and time again, his inflammatory inclusion of "barbers" and "chiropodists" is a recognizable racist trick, and is hardly scholarly.

Finally, Judge Bork's concluding words were, "a question of personal freedom is inescapably involved * * *." Indeed it was. But his faulty scholarship never led him to discover which freedom it was.

At the Senate hearings on his confirmation as Solicitor General, he retracted his article on open accommodations. His reason: "It seems to me the statute has worked very well." It may have been the politics of the situation that forced him to change his mind, but it is the lack of scholarship in this article that still condemns him.

In the course of these hearings, and in his confirmation hearings for both Solicitor General and the Circuit Court of Appeals, Judge Bork has changed his positions on several matters. He reversed himself on civil rights. He reversed himself on the protection afforded by the first amendment. He reversed himself on the protection of women against discriminatory legislation.

On several occasions Judge Bork stated he is "about where the Supreme Court is" on issues where he has repeatedly attacked its decisions. In other instances, he stated for the first time that he agreed with the result in particular cases but disagreed with the reasoning. Perhaps, he offered, he could find some other theory under which to justify the result.

Judge Bork preaches "judicial restraint," and "original intent" and "neutral principles." But there is a crucial question demanded by his frequent conversions. Was he adhering to his professed philosophy the first time around, or the second?

Bruce Fein of the Heritage Foundation is quoted in the New York Times—September 27, 1987—as having said:

> The week has been a magnifice*** BAD MAG TAPE ***nt triumph for the liberals," Fein said after Bork testified. "The basic message sent by the hearings so far is that the courts are about where they should be, that no great changes are needed. Bork is bending his views to improve his confirmation chances, and it's a shame.
>
> His ambition perhaps exceeds his intellectual devotion. * * *

At the turn of the century, the story goes, an eager young man had applied for a schoolmaster's job and had ridden half a day, a long distance by buggy, to be interviewed by the local school board. The old chairman squinted at him through his rimless glasses and asked, "Young man, do you believe the Earth is round or flat?" This young man, who wanted this job so badly, quickly replied, "I can teach it round or flat—however you want it!"

In the course of his public life Robert Bork has been a socialist, a libertarian, a conservative, and now, most recently, a moderate. There is no way to predict what he will be as a member of the Supreme Court. I certainly agree that rigidity of thought is generally an undesirable characteristic, that some flexibility is a good thing, and that changing one's views is a sign of intellectual development. But thinking should evolve, and scholarship should remain constant, with a dedication to the integrity of the pursuit of truth.

I have always been inclined to adhere to the John Marshall approach. Under well-established precedent of the Senate's role in Supreme Court confirmations, I could vote against Judge Bork because his views are so far different from what I believe is right. But I will not vote against Judge Bork for that reason.

I said in July:

> I am going to vote on my general impression, once I have carefully followed the hearings. The Constitution requires me, as a Senator, to 'consent' to Supreme Court appointments. I take that duty seriously. I will consent or not to nominees as I judge their competence and their open-minded sense of fairness and justice, and their vision and concept of this nation.

I am convinced that Judge Bork, as measured by the consistency and quality of his scholarship, fails on all these criteria.

As 1 of 100 charged by the Constitution with shaping our Supreme Court, I have satisfied myself as to my responsibility. I cannot be a part of placing Judge Bork on the Supreme Court of the United States.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, what is the next order?

The ACTING PRESIDENT pro tempore. The Senator from Texas is to be recognized for not to exceed 15 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may control the time of the Senator from Texas.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HAPPY NEW YEAR

Mr. BYRD. Mr. President, I would like to take this opportunity to wish my colleagues a happy new—fiscal—year. Today marks the beginning of fiscal year 1988. In and of itself that is hardly newsworthy. But this year something newsworthy has happened. The new fiscal year has begun without the threats of Government shutdown that had become all too common at this time of year in the recent past.

I need not remind my colleagues of the long nights and occasional round-the-clock sessions that have marked many a continuing resolution in the past. This year, the Congress completed action on a short-term continuing resolution a week before the start of the new fiscal year. That is well ahead of many past schedules.

Of course, reliance on a short-term continuing resolution is not the ideal. Funding for the normal operations of Government should be accomplished through the regular appropriations bills. That is my goal this year.

Already the Senate has passed four appropriations bills. More are on the calendar. I expect that the Appropriations Committee will shortly report the remaining bills it has received from the House. With good fortune, and the continued cooperation of my colleagues, the President will receive all or most of the regular bills before the expiration of the current continuing resolution on November 10. That is my goal for this year.

Mr. President, there are other fiscal issues that we must face this year. Most important will be enactment of a reconciliation bill and other deficit reduction measures that will avoid the prospect of automatic, across-the-board spending cuts under the new Gramm-Rudman law.

In that regard, I was disappointed by the remarks of the President in his radio address last Saturday and again at the White House on Tuesday. Deficit reduction will only be achieved through cooperation, not confrontation. Unfortunately, I saw no sign of cooperation in the President's statements.

Mr. President, this Nation desperately needs to keep reducing the deficit. I know that most Members of this body, on both sides of the aisle, believe that. I hope that a similar sentiment will eventually prevail at the White House. Without the cooperation of both Congress and the President, the deficit will start rising again and the mountain of debt will become even steeper for our children and grandchildren to climb.

So, while I wish my colleagues a happy new—fiscal—year, I do so with the knowledge that much work lies ahead before we can call fiscal year 1988 a happy year.

SENATOR BIDEN AND THE 1988 CAMPAIGN

Mr. BYRD. Mr. President, a few days ago, our colleague from Delaware, Senator BIDEN, announced the end of his Presidential campaign efforts. He continues as the chairman of the Senate Judiciary Committee and the junior Senator from Delaware. His credibility, as I said before, remains good with me and I am sure with the people of Delaware.

The Presidential campaign continues and as it does, we ought to be aware of how it affects our political process and the American people's sense of trust in their political leadership.

The recent decision of Congresswoman PAT SCHROEDER not to run—her frustration at the "isolation" of the process—highlights concerns that the process of choosing our nominee is more complicated and demanding than ever before. Clearly, it has changed.

For a great many years the process of choosing a Presidential candidate was very much an "in-house" affair of each political party. But running for President is no longer an "in-house" affair. Over the years the process of choosing a candidate has become more open, more involved, and more demanding.

In this upcoming election the demand for certainty and trust is even more pressing. This election is the first election in over 20 years when no incumbent President is running for office. Candidate "x," for most Americans, a candidate of unknown quality, will be the next President of the United States.

And, underneath the surface tranquility of public sentiment there is an increasing anxiety, a hidden anxiety, about our Nation's future. The American people have no clear sense of the future. They know a price must be paid for today's tranquility. They do not know how or who will solve the mounting problems of the Nation that they see on the horizon.

This hidden anxiety has been compounded by the mistrust created by the Iran hostage deal. President Reagan's decision to betray the American people's trust, by selling arms to Iran for hostages has only made Americans even more cynical and demanding. The people want to know who they can trust and how the candidates will measure up.

The intensity of the media's scrutiny of the candidates is not just good journalism. It reflects a deeper anxiety, people's uncertainty about America's future, and their demand that when they elect their next President, their trust not be betrayed again.

Presidential campaigns are now defined by a great many variables—the candidates, the state of our economy, the Nation's security, complicated spending limits, the size and shape of the press corps, even by the latest advances in technology. With the use of satellites, airplanes, and television videos, candidates are always under scrutiny.

What is said on the west coast is back east in a flash.

Living in a fishbowl is not the easiest of lives, as every Member of the body knows, but it is a requirement that the founder of the Democratic Party, Thomas Jefferson, well understood. Jefferson, writing to one of his many correspondents in 1807, wrote, "When a man assumes a public trust, he should consider himself public property." The candidates are public property.

Hundreds of members of the press now follow the campaign with the zeal of football fans. Thousands of concerned Democrats are even now making judgments about supporting the candidates; hundreds of thousands. And, a great many of our fellow Americans will watch with interest, as we begin the process of choosing our nominee.

As this campaign heat up, it is important for all the candidates, of both political parties, their staffs, and their consultants to remember that one test of character is whether they treat each other with respect and decency.

As the excitement mounts and each campaign strives to win, there is always a tendency to overreach. But overreaching, doing anything possible to win, often violates the American people's sense of fair play.

My point should be clear. Regardless of who our party nominee is in Atlanta, the individual candidates now campaigning collectively set a tone about the character of our political party and the larger political process as well.

As JOE BIDEN said last Wednesday, "What's going to happen when the white, hot, heat turns on?" When the "White, hot, heat, turns on" all the Democratic candidates must set a tone that is positive, enlarging, and inclusive—reaching out to all Americans.

The primary process is only the first part of a two-part play. It is the first act. But, it sets a tone about how the American people view both political parties in the general election. We are early in the campaign. The American people will not turn their full attention to Presidential politics for several months. They have their own good sense of timing.

But it may be time, even though the campaign is only in its early stages, for Democrats to have our own 11th commandment. Do not run a campaign that would embarrass your mother. Do not run a campaign that violates the American people's sense of fair play. We will never get in the front door of the White House by fighting in the gullies of the back alley.

All the candidates and their supporters should reaffirm their commitment to campaigns of integrity—campaigns with a positive message. The candidates have their differences and have an obligation to make those distinctions known to the voters. But in my opinion, an avalanche of constant negative campaign advertising, of "attack videos," will only bury the Democratic Party.

The candidates must demonstrate their ability to run positive campaigns while emphasizing their differences. I have every hope that their sense of fair play will prevail and dominate as the campaigns heat up. This sense of integrity and fair play will go a long way to shaping and defining how the American people feel about the Democratic Party.

The candidates know they are public property. But how they are treated as individuals and as candidates depends to a large extent on the good faith efforts of the journalists who cover the campaigns. The rules of journalism, of how a campaign should be covered and with what degree of intensity, are clearly evolving and under scrutiny, particularly within the journalistic community.

Clearly, the role of journalists and the media as a whole have changed, and changed dramatically. The smoke-filled room of political bosses has given way to the "white, hot, heat" of the television camera. The media has become part of the process, evolving to such an extent that journalists believe they have a responsibility to be "character cops."

Members of the media have an obligation to question the character of every candidate running for President. But if the spotlight shines consistently and too narrowly only on the faults and warts of the candidates, we have the equal danger of denying candidates a fair and objective portrait of their full character and their campaigns.

The entirety of a candidate's record and character should not be overwhelmed by one mistake on the campaign trail that may be captured on video. Shakespeare gave us a measure of common sense:

> They say best men are molded out of faults, and, for the most, become much more the better for being a little bit bad. (Measure for Measure, act V, l. 440.)

We are not electing a saint for President. We are electing an individual to one of the most difficult jobs in the world. The Presidency requires not just honesty, integrity, and a certainty of direction but also a strength and willingness to use the great power of this country, however difficult the options.

Running for the Presidency is a great, brutal test of character, judgment, political skill, and each candidate's sense of the future. It is a rough and ready system of judging a future leader that places the burden of proof on the candidates.

In this early stage of campaigning, the influence and power rests with political insiders and members of the the media. But, ultimately, the "politics of disclosure" must give way to the authority of the voters who have the final say about who will lead them. It is their democracy.

For all the complaints that small States like Iowa and New Hampshire get undue emphasis let us remember that in the general election it is the big States, with the votes in the electoral college that ultimately decide who wins the Presidency. Our current process of choosing a President is a roughly constructed—jerry-rigged system of "checks and balances" that the framers of the Constitution would at least recognize.

In this city there is always a tendency to believe that what we do here reflects the true measure of the greatness that is our country. But too often the Washington political community gets caught up in the politics of the moment—the fragments and side shows of what constitutes the politically current—and when this happens there is a loss of perspective.

Objectivity gives way to cynicism and jadedness. A sense of mistrust corrupts the original idealistic intent that brought many people to Washington in the first place. We forget we are part of the great flow of American history. We fail to see the natural exuberance, individuality, and idealism of the American people. It is a danger that we should avoid. The Democratic party, the party founded by Thomas Jefferson, a true renaissance man, will not serve itself well if we forget his breadth of vision.

As my democratic colleagues know the Democratic candidate for President will not be the only candidate running for election. A great many Democratic Senators will be up for reelection next year. So I urge my democratic colleagues to use their good offices to insure that the integrity of the process of choosing our Presidential nominee, remains at a high level. And, I urge my colleagues, whose States will hold primaries, to play instructive and constructive roles in enlarging the political debate in order to give all the voters a broader sense of the depth and breadth of the Democratic Party.

RESERVATION OF THE MINORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the Republican leeder's time be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I ask that the unfinished business be placed before the Senate.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1174. The clerk will report.

The legislative clerk read as follows:

> A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Weicker-Hatfield Amendment No. 712, to require compliance with the provisions of the War Powers Resolution.

(2) Byrd modified Amendment No. 732 (to Amendment No. 712), of a perfecting nature, to express the support of Congress for (1) continued U.S. presence in the Persian Gulf and the right of all nonbelligerent shipping to free passage in the Gulf; (2) continued work with the countries in the region and with our Allies to bring about a deescalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in this region; and (3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a cease-fire as called for by the United Nations Security Council Resolution 598, and take early actions toward imposing sanctions on any party which refuses to accept a cease-fire. (By 1 yea to 99 nays (Vote No. 292), Senate failed to table the amendment.)

CALL OF THE ROLL

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 25]

Breaux
Byrd
Conrad
Cranston
Fowler
Kasten

The PRESIDING OFFICER (Mr. Breaux). A quorum is not present. The clerk will read the names of absent Senators.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Massachusetts [Mr. Kennedy] are necessarily absent.

Mr. BYRD. Regular order, Mr. President.

The result was announced—yeas 89, nays 9, as follows:

[Rollcall Vote No. 294 Leg.]

YEAS—89

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Wilson
Wirth

NAYS—9

Bond
Evans
Helms
Moynihan
Murkowski
Nickles
Quayle
Wallop
Weicker

NOT VOTING—2

Gore
Kennedy

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. BYRD. Mr. President, I hope that the Senate can find a way to dispose of some of the matters today that are troubling us in connection with the DOD authorization bill.

I am wondering if the distinguished Republican leader would be willing to vote on the cloture motion on the war powers amendment today, and I would hope that we might have an opportunity to discuss that with him.

I also would hope that I could get consent to go to the catastrophic illness legislation after we dispose of this DOD bill, and then the State Department authorization bill, which would clear the way for the State-Justice-Commerce appropriation bill. Then I want to get to the airline legislation.

I will shortly yield the floor, and I hope that I might have an opportunity to have this discussion with the Republican leader. I would also hope that we could get a time agreement on the Verity nomination.

I now yield the floor. The distinguished Senator from Virginia, the ranking manager, is here, and Mr. Nunn is in the area, and other Senators are here to discuss the matter before the Senate.

Mr. WARNER. Mr. President, the Republican leader will be consulted on the offers by the distinguished majority leader, and it is hoped that very shortly we will have a course of action planned for the day. This side is perfectly prepared to resume the very important debate on the pending matter.

Mr. President, I understand that the pending matter is the amendment by the Senator from West Virginia. Is that correct?

The PRESIDING OFFICER. The Senator from Virginia is correct.

Mr. WARNER. This side is prepared to address that important amendment.

Mr. EXON. Mr. President, I am wondering if my friend from Virginia would enter into a brief colloquy with the Senator from Nebraska.

I have been in on many of the negotiations with regard to the War Powers Act. I cannot and am not authorized to speak for the chairman of the Armed Services Committee, but we have dealt together on this particular matter. It seems to me that the suggestion just made by the majority leader is an excellent one. The facts as I see them are these, and I wonder if the Senator from Virginia agrees:

No. 1, the War Powers Act has been debated to some extent. We may wish to debate it somewhat more. I suspect that the die is cast one way or the other. Basically, I think that what we must have is an expression of the Senate on this matter.

The Senator from Virginia has led the effort very ably, I might say, and there are legitimate differences of opinion on what we should do on the problem of the War Powers Act. I happen to see it one way; the Senator from Virginia sees it another.

As he knows full well, the Senator from Nebraska simply feels that we should be on board with the decision-making, that we should be deciding our responsibilities as defined in the War Powers Act. Even if there were not a War Powers Act, I remind everyone that the Constitution of the United States says that Congress is the only one who can declare war. I worry very much about the fact that there are shades of areas on this, but one shade that this Senator does not agree with is that the U.S. Senate should duck its responsibilities.

I might add that I have said that I would vote as of today to sustain the present activities in the gulf because I do think we have a role to play there, whether we want to play it or not. Circumstances dictate that.

My basic thought is—I would like the comment of the Senator from Virginia on this—that he and his side have very skillfully used the procedures, threatened to filibuster such an amendment on the defense authorization bill. It seems to me that the only way to dispose of this is to go to a cloture vote, an expedited cloture vote, and put the matter behind us. If cloture cannot be obtained on the War Powers Act, then I think it is only reasonable to assume that it is a dead issue so far as the present situation is concerned.

I feel that my friend from Virginia now realizes that we do want to move this bill ahead as promptly as we can, after all the delay. The request of the majority leader, as I understood it, was simply to ask whether we could get unanimous consent, in the opinion of the Senator from Virginia, to have an expedited cloture vote some time today and let that resolve the matter so far as the present time is concerned.

Mr. WARNER. Mr. President, I respectfully take difference with my good friend from Nebraska, a fellow member of the Armed Services Committee. There is not debate in the nature of a filibuster on the War Powers Act.

The distinguished Senator from Connecticut put his amendment at the desk and brought it up. The distinguished Senator from West Virginia amended that, and the Senate has been engaged for several days in what I think is a profitable and sincere debate.

At one point during the course of the debate yesterday, the Senator from West Virginia moved to table—in other words, to cut off the debate on the issue of the War Powers Act—and the whole Senate said, "No, we are not going to table this." All Senators joined and said, "It is significant and, in our judgment, we should continue the debate."

So, No. 1, I do not think there has been a filibuster, as that term is generally understood.

Today we are prepared to continue the debate on the underlying as well as an amendment in the second degree. The leadership is present here on the floor now and possibly discussing procedures by which that debate will be conducted.

Mr. EXON. Let me respond, if I might, Mr. President, and I am not sure that my friend from Virginia has correctly stated the result of the tabling motion by the majority leader yesterday.

I think the Senator from Virginia knows full well that there were some games being played on both sides of the aisle with regard to that tabling motion yesterday, and I think that tabling motion did not indicate exactly what the Senator from Virginia believes it did, but I might be wrong.

If there is no filibuster, then is it time to allow for an up or down vote on the Weicker amendment as amended by the Senator from West Virginia? Could we come to some kind of agreement on that today and get that behind us? I think further debate is not going to change any significant number of votes one way or another.

Mr. WARNER. Mr. President, this is but one Senator. It requires unanimous consent which involves all Senators before we can determine whether or not a matter is ready for a vote.

I have sent to the desk and had printed an amendment which indicates my feelings on the issue which are very strong. The War Powers Act is the law of the land. My amendment recognizes that. But it strikes from the War Powers Act those provisions which I believe are unconstitutional.

My amendment very carefully preserves the obligation on the President to send forth a report to the Congress within 48 hours after injecting troops into situations of hostility. My amendment requires prompt action by the Congress, not 60 or 90 days, but action within 21 days so that if we are going to inject ourselves into the decisionmaking process respecting the utilization of troops to implement our foreign policy, let us do it promptly.

My amendment further says that the Congress of the United States shall provide the President with a joint resolution of disapproval if we have in our judgment a viewpoint that differs from that of the President.

Those are three affirmative acts: one, by the President sending up the report; two, action within 20 days by this body; and then this body, if it disapproves with the President's policy, must say so, rather than being given the option as now existing under the War Powers Act of inaction which could trigger the requirement of the President to withdraw troops.

So, Mr. President, I am of a clear conscience. This Senator has tried the best he knows how to constructively address this important issue of the War Powers Act and the obligations of this body.

Mr. EXON. Let me ask this question of the Senator. It may well be——

Mr. WARNER. Mr. President, I see the majority leader about to seek recognition. I wonder if the Senator will yield.

Mr. EXON. I am glad to yield to the majority leader if he seeks recognition.

Mr. BYRD. Mr. President, I thank both Senators.

I have had discussions with the Republican leader and he is presently making calls to determine what we might do at this point.

My desire is to get on with this bill. It goes without saying I am ready to vote now on the Byrd-Nunn amendment, obviously. I guess that will not occur right now. But, as I said to the Republican leader and here, if we could have a cloture vote today rather than tomorrow on the Byrd-Nunn amendment I think that cloture vote will pretty much tell the tale as to where we are going on that amendment on this bill and at this time.

The DOD authorization bill does need to get on to the conference session.

Now, the remaining amendment, if the Byrd amendment could be disposed of, could be the Weicker-Hatfield amendment, and then the SALT amendment.

There has been a great deal of debate already on the war powers amendment. I think most everybody in here would know how they would vote if they vote on it. I think everybody knows how he or she would vote on the cloture motion. But there has not been debate on the SALT amendment. I hope we could reach an agreement of time on that today. We could have the cloture motion voted on war powers and have an agreement on SALT so we can dispose of it today and then we can vote on the bill today.

I would hope then to be able to go to catastrophic illness tomorrow, or State authorization, or both, and the Verity nomination. I hope to do the Verity nomination today or tomorrow.

We do not want to break into this bill too much. But that is about the way I see it, and I just feel encouraged to believe that this can be done today and we can dispose of this bill today.

Mr. WARNER. I will work, as I have, diligently, with our distinguished majority leader to see what we can do to address this bill and dispose of it.

I thank all Senators for the opportunity to speak.

Mr. BYRD. I thank the Senator.

Mr. EXON. I thank the Senator from Virginia and the majority leader.

I think the message is now very clear that we would like to dispose one way or the other of the defense authorization bill today so we can move ahead with the House of Representatives and work out a very lengthy conference that I am very fearful we are going to have on some very important matters affecting the national security of the United States.

Mr. BYRD. Yes.

Mr. EXON. I thank the Chair.

The PRESIDING OFFICER. The Senator yields the floor.

Mr. BYRD. Mr. President, I do not want to break the flow of the debate on war powers. If we start on the road doing morning business speeches, we are going to lose any momentum whatsoever we might hope for on the defense authorization bill.

Mr. President, I ask unanimous consent that the distinguished Senator from Delaware [Mr. ROTH] may speak for 10 to 15 minutes out of order and if he wishes to introduce legislation or petitions of any kind, that he may proceed with morning business during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware, Senator ROTH, is recognized.

Mr. ROTH. I thank the distinguished majority leader. He is always most gracious in trying to accommodate our requests.

GROWTH DAY

Mr. ROTH. Mr. President, in this morning's New York Times, there is a headline, "Economic Expansion in U.S. Continues into 59th Month."

This article begins with the sentence:

> The United States enters its 59th consecutive month of economic growth on Thursday, making the third longest expansion of the economy since monthly records were first kept in 1854.

The article goes on to say:

> The duration of the current expansion has confounded liberal skeptics, surprised some conservative ideologues and handed Republican candidates a political issue they can use to advantage in elections for the White House and Congress next year.

Mr. President, this is indeed good news for America. It is good news, because it shows that in contrast to what was said in the seventies, that our best days are ahead of us.

With all economic indicators pointing to continued growth, October will set a new record for economic prosperity. With this month the current expansion will become the longest peacetime upswing in over 130 years.

This expansion has gone on so long that it is easy to forget what things were like in the late 1970's and early 1980's. The failed policies of the Carter years—the policies which produced accelerating inflation, sky-high interest rates, higher taxes, and a slowdown in economic growth—had given rise to a new expression, stagflation.

Stagflation led to falling living standards and a general feeling of anxiety described by President Carter himself as malaise. In 1980, the American people voted to replace the policy of despair with one of growth and opportunity. Though it took several years to clean up the mess and restore economic growth, the American people rose to the occasion.

Under the Reagan administration with the Roth-Kemp tax cuts, tax rates were reduced, inflation collapsed, and interest rates declined. The Economy Recovery Tax Act of 1981, based on the Roth-Kemp bill, was the centerpiece of the administration's economic strategy. This measure improved incentives for workers, small businessmen, and farmers by sharply reducing the burden of taxation. This tax bill laid the groundwork for the record-breaking expansion that was to follow.

The economic improvement has been startling. According to new Commerce Department data, real economic growth over the last 4 calendar years has averaged 4.1 percent annually. The civilian unemployment rate now stands at 6 percent, the lowest since the end of 1979.

During this expansion, we have created 14 million new jobs—14 million. More Americans are working now than ever before.

And I might point out that during this same period, Western Europe has created virtually no jobs. What a contrast. And I think it should be pointed out that a higher proportion of the American population—61.8 percent—is employed today than ever before in our history. And despite the disinformation, most of the new jobs have been in average or well-paid occupations.

The disinformation has claimed improperly that the majority of these are low-paying jobs when in fact 47 percent of them are average pay and 47 percent are above average. A pretty good result.

And I might also point out that because of this, the American standard of living has risen. Real family income—that means real family income after being adjusted for inflation—has increased in the last 4 years. In 1986 alone, it was up 4.2 percent. Since 1982, real median family income has gained 10.7 percent. Moreover, none of these economic gains have been made by boosting the inflation rate, as has been true in other postwar upswings. Instead, inflation has declined from the double digit levels of 1979 and 1980 to 1.1 percent in 1986.

Now, does this mean that there are no remaining economic problems? Of course not. We continue to have problems. It is important to note that both interest rates and inflation continue to be matters of concern. The Congress in still spending too much money, and American competitiveness needs to be further improved.

Nonetheless, we have made enormous progress since 1981. The declines in income and living standards have been reversed, and turned into gains. Economic growth has been restored. Both interest rates and inflation have declined to more reasonable levels. As a result of this progress, the economic malaise of the seventies is only a fading memory. While some have been glooming and dooming, the economy has been booming. The average American knows that he or she is far better off now than mired in the stagflation and malaise of the late seventies.

The Congress should view the continuation of growth as the keystone of economic policy. Antigrowth measures such as tax increases, excessive regulation, and runaway Federal spending should be avoided. Every piece of financial or business legislation should be judged primarily on the basis of its effects on economic growth.

Mr. President, I think we as Americans can take satisfaction that come next month we will have had 5 years of economic growth.

Mr. President, I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 and 1989

The Senate resumed consideration of the bill.

AMENDMENT NO. 823

Mr. MELCHER. Mr. President, I intend to offer an amendment to the Department of Defense authorization bill that will amend the War Powers Act; a very short amendment. I have it printed in the RECORD. It is amendment No. 823. I will briefly describe it this morning.

The amendment to the War Powers Act would provide that the President would enter into negotiations with the government of any country benefiting from introduction of U.S. forces in order to establish a pro rata sharing of costs involved in such introduction and use of U.S. Armed Forces.

Further, the amendment would require a report from the President on assessment of cost and a plan for the pro rata sharing of such cost.

Mr. President, I fully understand that many of us here in the Senate believe that there is some question on the constitutionality of the War Powers Act. I personally believe that the act is good. I personally have supported the act and believe it is a proper role for Congress.

However, for those who doubt its constitutionality, I believe that all of us would agree that the thrust of my amendment is directed at a constitutional responsibility of Congress itself; and that is the responsibility of determining how much of U.S. Treasury funds should be spent, including for such actions in which we are engaged right now in the Persian Gulf.

In the Persian Gulf, our actions there benefit principally other countries, because we are protecting the oil traffic of countries dependent upon such oil. Japan and European countries that are the principal beneficiaries should pay to the United States a pro rata share for the protection of their commercial interests.

The U.S. taxpayers are picking up the whole tab, paying the whole bill, for the protection that U.S. Armed Forces, specifically the Navy, is providing for that oil traffic in the Persian Gulf. I do not believe that is right, and I do not believe the U.S. taxpayers think it is right either. I think the American public is convinced that even though we are the greatest power probably on the face of the Earth, that we continually are dipping into our Treasury on borrowed money, mind you, borrowing money so we have something to pay these costs and that the beneficiaries of it, such as in this case Japan and European countries, should be participating in paying those costs. So this amendment, I think, is entirely proper and entirely beneficial for taxpayers.

Now on the question of just how much teeth does the amendment have, the amendment goes as far as we can under the Constitution. It states that the President should enter into negotiations under the Constitution. Part of the plenary powers of the President is negotiating with other countries. So the amendment only goes, to that extent, to state that Congress believes the President should enter into negotiations to find out just what should be the cost sharing of countries benefiting from the actions such as we have in the Persian Gulf at present. Requiring a plan to be developed by the President for such pro rata sharing of costs is a part of the amendment. I believe that is entirely proper under the Constitution, that we direct the President to do that much. And then, further, to inform the Congress just what the plan is, what the costs are, how the negotiations are coming.

So I believe that the amendment that I seek to offer is entirely constitutional, is entirely the proper role of the Senate and Congress itself, and I hope my colleagues can support it.

When I can seek recognition for the offering of this amendment, I shall do so, and I hope at that time my colleagues will give it very serious consideration and support.

Mr. President, I yield the floor.

The **PRESIDING OFFICER** (Mr. SANFORD). The Senator from West Virginia.

Mr. BYRD. Mr. President, efforts are going foward in the interests of getting a time agreement on the SALT amendment, by Mr. BUMPERS, and I think those efforts are progressing. I should know in a very, very short time as to whether or not they might be able to reach an agreement. I know that the distinguished manager of the bill on the other side of the aisle is making contacts and discussing such agreements on his side. Mr. Bumpers is here and is willing to enter an agreement such as we have discussed. So, momentarily, I would hope to be able to announce an agreement, or to enter into such an agreement.

FIVE-MINUTE RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 10:04 a.m., recessed until 10:09 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. Sanford].

The PRESIDING OFFICER. The majority leader.

ORDER TO PROCEED TO CONSIDERATION OF S. 1394

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed at any time to the consideration of the State Department authorization bill, S. 1394.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Republican leader.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of the bill.

TIME LIMITATION AGREEMENT—AMENDMENT NO. 825

Mr. BYRD. As I understand it, the agreement has been discussed with respect to a SALT amendment by Mr. Bumpers. Perhaps a time limitation can be obtained. Mr. Bumpers is here.

I ask unanimous consent that the time on the Bumpers amendment be limited to not to exceed 5 hours, and that within that 5 hours Mr. Hollings have not to exceed 1 hour, and the time of Mr. Hollings to be equally divided between the two managers to come out of their time, the time remaining being divided between Mr. Bumpers, the offeror of the amendment and Mr. Warner, the ranking member.

I further ask unanimous consent that a vote on a motion to table the Bumpers amendment occur—

Mr. WARNER. At not later than 3 o'clock. There would be a slight inconsistency, if you look at the clock.

I think we could say we would engage now in debate on Mr. Bumpers for a period of time not to exceed the hour of 3 o'clock, at which time the Chair would recognize the Senator from Virginia for the purpose of making a tabling motion, and that the time to be allocated to the Senator from South Carolina not to exceed 1 hour would be equally divided between the two managers.

Mr. BYRD. Yes. That is already provided for in the request.

I have one further proviso. That is, if the motion to table fails, then debate is not curtailed on the amendment.

Mr. WARNER. Mr. President, my understanding is if the motion to table fails, we would then be back on the amendment.

Mr. BYRD. That is true. Therefore, it does not mean that there would be an immediate vote up or down on the Bumpers amendment.

Mr. WARNER. That is correct. And, Mr. President, the matter of second-degree amendment was not addressed by the majority leader.

Mr. BYRD. Mr. President, my request would have a provision; namely, that the Bumpers amendment would not be amended unless he sees fit to put a second-degree amendment on it.

Mr. DOLE. That is fine.

Mr. BYRD. So it is Mr. Bumpers' amendment or amendments that we are talking about. I would hope that he could have it all in one amendment, a first-degree amendment, with no amendments in order thereto until after the tabling motion. If the tabling motion fails, it is understood that his amendment then would be open to amendment.

Mr. DOLE. Reserving the right to object, as I understand, we will have 5 hours of debate on the Bumpers amendment with no amendments thereto, a motion to table and if the motion to table fails, everything is back where it was on the amendment. In the meantime, we are hopeful that we can figure out something else with the majority leader. We have no objection.

Mr. LEAHY. Reserving the right to object, I understand if the motion to table were to fail, if, for example, it was decided to make a meaningless motion to table, to have 100 Senators vote against tabling, for example, we could be back, technically, until cloture was filed and voted on. We could be ad infinitum on the Bumpers-Leahy-Chafee-Heinz amendment. I ask the distinguished majority leader if that is correct.

Mr. BYRD. If the motion to table fails, we are back on the Bumpers amendment. At that moment, however, we would be back on the war powers amendment by Byrd, Nunn, and others. But if the motion to table fails, insofar as the Bumpers amendment is concerned, it is open to amendment and further debate.

Mr. LEAHY. Mr. President, at least in this unanimous-consent agreement that would be absent any time certain for either a vote on Bumpers-Leahy-Chafee-Heinz either as it now stands or as it may be amended.

Mr. BYRD. That is correct.

Mr. LEAHY. With the exception of knowing that we cannot have a tabling vote before the expiration of 5 hours, and knowing that during that 5 hours 1 hour is reserved for the use of the Senator from South Carolina, we are basically in the position we would be had the amendment just come up absent the time agreement.

Mr. BYRD. Mr. President, the vote will occur no later than 3 o'clock and the time is not to exceed 5 hours.

Mr. LEAHY. But that does not bring a closure to this amendment.

Mr. BYRD. Not unless it is tabled.

Mr. LEAHY. I thank the majority leader.

Mr. EXON. Reserving the right to object, and I will not object, I would like to reserve 7 minutes not related to the matter at hand, and I am prepared to go forward with that at this moment, if it is agreeable.

Mr. BYRD. Mr. President, I lack 7 minutes and the half hour has already expired.

Mr. WARNER. Mr. President, I fully anticipate that during the course of this debate, which will continue in all likelihood until 3 o'clock, that there will occur a hiatus at which time the managers of the bill will find time to recognize the Senator from Nebraska.

Mr. EXON. With that understanding, I have no objection.

Mr. BYRD. Mr. President, so that the Chair may be clear, I ask unanimous consent that the Byrd-Nunn war powers amendment be temporarily laid aside until after the vote on the tabling motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

The PRESIDING OFFICER. The request of the majority leader has been agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 825

(Purpose: To limit the operational deployment of certain strategic offensive nuclear weapons systems and launchers)

Mr. BUMPERS. Mr. President, I ask that my amendment at the desk be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. Bumpers], for himself, Mr. Leahy, Mr. Chafee, Mr. Heinz, Mr. Adams, Mr. Baucus, Mr. Biden, Mr. Bingaman, Mr. Boren, Mr. Burdick, Mr. Byrd, Mr. Conrad, Mr. Cranston, Mr. Daschle, Mr. Dixon, Mr. Dodd, Mr. Exon, Mr. Ford, Mr. Fowler, Mr. Glenn, Mr. Gore, Mr. Harkin, Mr. Inouye, Mr. Johnston, Mr. Kennedy, Mr. Kerry, Mr.

LAUTENBERG, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. PROXMIRE, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. WIRTH, Mr. HATFIELD, Mr. SPECTER, Mr. STAFFORD, and Mr. WEICKER, proposes an amendment numbered 825.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . LIMITATION ON DEPLOYMENT OF CERTAIN STRATEGIC NUCLEAR WEAPONS.

(a) SHORT TITLE.—This section may be cited as the "Strategic Nuclear Weapons Interim Restraint Act."

(b) LIMITATION ON OBLIGATION OF FUNDS.—Notwithstanding any other provision of law and subject to subsection (c), none of the funds appropriated pursuant to this or any other Act to or for the use of any department or agency of the Federal Government may be obligated or expended before September 30, 1988, to overhaul, maintain, operate or deploy more than—

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(c) EXCEPTIONS.—(1) The limitation on the obligation and expenditure of funds in subsection (b) shall not apply if at any time more than 29 days after the date of enactment of this act the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a). If the President makes such a determination, he shall submit to Congress a report that includes the information on which such determination was based. Such report shall be submitted in both classified and unclassified form.

(2) If at any time more than 29 days after the date of the enactment of this Act the President notifies Congress in writing that, based on the best agreed intelligence Community assessments, he is unable to make a certification under paragraph (1) or to make a certification that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a), the limitation on the obligation and expenditure of funds in subsection (a) shall not apply for a period of 29 days after the date on which the notification is received by Congress.

(d) NOTIFICATION OF PLANS FOR COMPLIANCE.—Not more than 29 days after the date on which the President determines that funds are prohibited from being obligated or expended for the overhaul, maintenance, operation, or deployment of strategic offensive nuclear weapons in excess of the numbers specified in subsection (b), the President shall notify Congress of his plans for actions to comply with the limitations specified in subsection (b).

(e) NEW AGREEMENT.—If a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988, the restriction on the obligation and expenditure of funds in subsection (b) shall cease to apply.

(f) DEFINITIONS.—For purposes of this section:

(1) The terms "launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles" and "submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles" mean launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles.

(2) The term "air launched cruise missiles" means unmanned, self propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight paths and which are flight tested from or deployed on aircraft.

Mr. BUMPERS. Mr. President, this has often been referred to as the Bumpers amendment. That is regrettable. It really is the work of four Senators. It is the Bumpers-Leahy-Chafee-Heinz amendment. The list of cosponsors is: Senators ADAMS, BAUCUS, BIDEN, BINGAMAN, BOREN, BURDICK, BYRD, CONRAD, CRANSTON, DASCHLE, DIXON, DODD, EXON, FORD, FOWLER, GLENN, GORE, HARKIN, INOUYE, JOHNSTON, KENNEDY, KERRY, LAUTENBERG, LEAHY, LEVIN, MATSUNAGA, MELCHER, METZENBAUM, MIKULSKI, MITCHELL, MOYNIHAN, PELL, PROXMIRE, PRYOR, REID, RIEGLE, ROCKEFELLER, SANFORD, SARBANES, SASSER, SIMON, WIRTH, CHAFEE, HATFIELD, HEINZ, SPECTER, STAFFORD, and WEICKER.

Now, Mr. President, let me just say at the outset, there is one thing that always troubles me a lot more on my amendments than it does on others—and others feel their amendments are just as important—but it always troubles me, when you are starting off on an amendment that has the importance at least to this Senator that this one does and that you work hard to present in a sensible way, to know that Senators are in committee and are not going to be able to either hear or participate in the debate. But I guess we have always overcome that and so I will proceed.

This morning I picked up a Washington Post and I found two stories, one saying that the depletion of the ozone layer is proceeding at a much faster pace than anybody dreamed because of the use of what we call chlorofluorocarbons. You see that mostly as freon in refrigeration units and aerosol from hair and other spray-type cans.

It is an interesting thing to me because 13 years ago when I came to the Senate I was put on the Space Committee, and I did not have anything else much to do, but I had read where a couple scientists at the University of California at Irvine had discovered that these little innocent spray cans that women and men spray their hair with every morning contained what they called chlorofluorocarbons and over 10 to 20 years those chlorofluorocarbons were slowly but surely working their way into the atmosphere and destroying the ozone.

Until I came to the Senate I thought ozone was a little town in Johnson County, AR. It turns out the ozone is a layer of gas about 60,000 feet in the atmosphere that protects human beings from the worst parts of the ultraviolet rays of the Sun. And so Senator DOMENICI, who had not been here much longer than I, and I began to hold some hearings with the consent of the chairman of the committee, Ted Moss. We held nine hearings and we had the best atmospheric scientists in the United States appear before our committee, and every single one of them testified that the theory was eminently correct and that they had no doubt that in fact the roughly 2 billion tons of chlorofluorocarbons that were being emitted into the atmosphere would ultimately increase the incidence of skin cancer exponentially and affect plant life exponentially.

So we offered an amendment on the floor of the Senate to ban their use over a period of time. The opposition said, "Well, we need to study it some more. We need to have the National Academy of Science do a study." We lost on the floor of the Senate, and the lobby right outside that door was so full of lobbyists from the chemical industry you could not count them. So once again we could not counter the chemical industry. And so, 13 years after the Senate was worried about the politics of that issue and the effect it was going to have on our committee and the chemical industry, the ozone depletion is much greater than the National Academy of Sciences later predicted.

Story two from the Washington Post, the greenhouse theory, on the warming of the Earth, which scientists say will someday melt the polar caps and flood every major city in America. That was a theory just in its embryonic stages 13 years ago when I came to the Senate. Story two in the Post this morning is that the emission of nitrous oxides and their gravitating sort of initially into the stratosphere is also much worse than scientists originally predicted.

There are two stories in the Post this morning, neither one of which were on the front page, saying to the American people and to the world you have a couple problems that are going to cause unbelievable human tragedy and trauma. The reason we could not deal with them was because everybody in the U.S. Senate was worried about the politics of the issue. How many times have I heard that in the cloakroom and in the marble room about the Persian Gulf, the politics are not with us. That is to say the American people agree with the President that we have a right to be there. Nobody is arguing that, incidentally.

Then I think about the AIDS epidemic spreading exponentially and all the best doctors in the world saying that this has the potential of literally wiping out the human race. And now about 25 percent of American scientists say we will never develop a vaccine to prevent AIDS because it is a moving target; you can pray that it will mutate itself out of existence.

Now we are down to the politics of nuclear war, and whether or not we are going to incinerate every living thing on Earth, including my children. I do not want to be cynical saying I am not so concerned about your children, it is mine that I am worried about. But I am worried about yours, too. You can stand on ceremony today and you can make the legalistic arguments about how those Russians cheat and you can say your constituents do not trust the Russians either, and you can continue to make those legalistic arguments until all humanity stands as a little white blotch of powder on the ground.

I am pleased that the mainline churches at least in this country, the Catholic bishops and the Methodist bishops and the Episcopalians, have finally come to the conclusion that if God expects any kind of stewardship from them it is to preserve the planet. Therefore, they have come down very hard on the nuclear issue, saying we must bring sanity to this arms race.

I heard the minority leader yesterday—and I do not like to mention anybody when they are not on the floor, and I do not mean this disrespectfully, but I heard the minority leader yesterday say, on the Persian Gulf, the problem with you people is you just want to say that "if things go wrong there don't blame me." In other words, you are cleansing your skirts and absolving yourself of any liability or responsibility if things go wrong in the Persian Gulf.

I want to tell you how I feel about this amendment. The reason I feel so emotionally and so passionately about it is that I want the responsibility of bringing this nuclear arms race under control, because I do not want to face my Maker and say I did nothing, and I cannot imagine anybody else. When I face my Maker and he says, "Dale, what were you doing down there when they were getting ready to blow the planet apart?" I do not want to have to say, "Well, I was worrying about how my constituents felt about that. They didn't trust the Russians because they cheat."

Somehow or other, I do not think that would sell. I do not think that would register very well.

So, No. 1, to my colleagues, I plead with you. Look at the issue for what it means and not the politics of it. We have differences in thns body, legitimate differences, and on the nuclear issue, we have fears that are different. There is a fear among those who will vote against this amendment that the Russians are going to have more missiles and more warheads than we do; a fear that numerically we are going to get behind. You know what my fear is? That both the Soviets and the United States have too many. I do not know what the correct number is. And nobody else in this body knows. Maybe none. But I can tell you one thing: At the rate we are going, you will not have to worry about it.

The SALT II Treaty says that both sides may have 1,320 MIRVed launchers. For the record, a MIRVed missile is one with more than one warhead. A bomber with cruise missiles on board counts as a MIRVed launcher. A submarine with 24 missiles counts as 24 MIRVed launchers, if those missiles have more than one warhead.

So article V of the SALT II Treaty says either side may have 1,320 of them. The SALT II Treaty also said that both sides can have 2,400 launchers. So if you have a launcher like a Midgetman, which we are now in the process of developing, with one warhead, it counts against the 2,400 limit, but not the 1,320. We are talking about multiple warheads on a launcher.

Is that enough? On 1,320 MIRVed launchers and 2,400 launchers of all kinds, we have 13,000 to 14,000 warheads, every one of which makes the bomb we dropped on Hiroshima look like a popgun. Is that enough? 13,000 warheads? And if it is not, how much is enough? If 1,320 MIRVed launchers is not enough, you tell me how much is enough. If 2,400 launchers of all kinds is not enough, how much is enough?

If you take comfort in the fact that we have 13,000 nuclear warheads and the Soviet Union only has 12,500, if that makes you sleep better, that is just "jaky" with me. We may be approaching 14,000 warheads and the Soviets only have 13,000, and if that is the way you think that somehow or other we are superior to the Soviet Union because we have 14,000 and they only have 13,000, when you and I both know 100 on each side is enough to do the trick, sleep well. How can anybody take comfort in such nonsense?

I have said on this floor before but it bears repeating. After the first nuclear bomb exploded Albert Einstein said, "Now everything has changed except man's way of thinking". Surely to God that is what he was talking about, because for centuries man believed if he had more guns, tanks and planes than his ememy, he was superior. Now the very reverse is true. The more both sides have, the less secure both sides are.

Our defense posture is now based on paranoia, instead of common sense. The President says he wants a START Treaty and he wants to reduce the number of nuclear weapons by 50 percent. When he became President, that would ahve been 50 percent of 10,000. Today it is more likely 50 percent of 13,000. And at the rate we are going, 50 percent in 1995 will be about 10,000 which is where we started from.

We have added between 2,000 and 3,000 warheads since Ronald Reagan became President. The Soviets have not added quite that many but they have added their share. At this very moment we are adding about 400 warheads every 12 weeks, less than 3 months. You know what is paradoxical and absurd about this great INF Treaty which everybody seems to be getting euphoric about? That will cause the United States to remove 364 warheads from Europe. I do not know why it took so many years to negotiate the treaty. We are removing 364 warheads and the Soviet Union is removing 1,550. It would not take me very long to cut a deal like that. But my point is this: Everybody is excited about us removing 364 warheads from Western Europe and yet we are adding more than that to our strategic arsenal every 12 weeks.

If that is progress, this country boy does not understand progress.

I favor the INF agreement. I cannot imagine right now me not voting for it. But the chairman of the Armed Services Committee over in the House said earlier this week that he was inclined not to favor it, though they will not get a vote on it in the House. It is up to the U.S. Senate to ratify that treaty. But he said he would not favor it unless we tie it to a cap on other strategic warheads. That will never happen in this body, and I am not going to worry about it. I know what is doable and what is not around here. I am not going to worry about it. But that is a good idea.

You know, the day before yesterday, the President said over at the White House something that I found almost offensive—almost offensive certainly for a President to carry on that way. Here are a bunch of people standing behind the President when he signed the budget bill, which he said he would never sign. He says, "If Congress raises taxes, it's nuts." His words. "It's nuts." And if they cut defense, "It's nuts."

What he did not say but should have followed on by saying is, "And if the

American people think I give a damn about deficits, they are nuts." I remember in 1981 when the President said, "If you don't think I can cut taxes by 25 percent and double defense spending and balance the budget, you're nuts." Now I ask you and the American people after a whopping $1.3 trillion increase in the Federal deficit, who do you think is nuts?

And today if anybody thinks that we can continue adding thousands of nuclear warheads to our arsenal and the U.S.S.R. adds thousands of nuclear warheads to their arsenal, and not incinerate every living thing, animal, and vegetable, you are nuts.

There is one big difference. Some of us who voted against that nonsense back in 1981, and politicians are notorious for saying "I told you so," there is nothing that gives me as much satisfaction as being able to say I told you so when I was right and you were wrong.

Oh, my God, how wonderful that is! The difference in this issue is that there is not going to be anybody around to say, "I told you so."

One time, in my little church in my hometown, population 1,750—we may have 2,000 people now; I do not know. I have never worried about it. I did not want my town to get that big. I do not live there anymore. Anyway, I am a Methodist. There is always a Methodist lay speaker, with Sunday school, and all those things. This Senator even directed the choir for years. The only thing I miss in the Senate is that I do not get to sing anymore. I get to sing at this desk. But not really.

I was home 3 or 4 years ago, and I went to my church where I always go, and the preacher was preaching on the nuclear issue. He was saying that we have an obligation, as stewards of God, to protect this planet.

A young married woman, whom I remember from the day she was born—she was about 30 years old, with a couple of little children—grabbed her two children and walked out. She waited until after church, and I heard somebody ask her, "Why did you leave?"

She said: "The preacher ought to be preaching the Bible. He's got no business talking about nuclear issues."

I was not part of the conversation, so I did not engage myself in it.

I can tell you that the religion of the U.S. Congress is politics, and we do what politics dictates and what is popular at any given moment.

Walter Lippman said, in a great publication, at one time—I forget the name of it—"The key to survival in politics is not being right before it is popular." Everybody here understands that.

Now, down to the amendment. The amendment at the desk says that we will limit MIRV launchers to 1,320 as long as the Soviet Union does. That is article V.

You can get up here, as some Senators will do in opposition to this amendment, and say: "The SALT II Treaty was never ratified. How dare you come here and try to ask us to ratify the SALT II Treaty." I am not asking you to. I am saying that there is one little provision in the 19 articles of SALT II, which is article V, that says you may have 1,320 MIRV launchers, 1,200 MIRV launchers on both submarines and land-based, and within that, you may have up to 820 that are land-based.

We have chosen a different mix in our strategic forces. Fully half of our nculear warheads are on submarines, and I am very pleased about that, because the submarine is the least vulnerable to Soviet attack. You can mix it up within those numbers, but the important number is 1,320.

That treaty was signed in June 1979. It never was ratified—President Carter never submitted it to us. I guess he did submit it. We did not take it up because the Soviets invaded Afghanistan.

President Reagan ran against the SALT II Treaty as being fatally flawed. Well, now, as it turns out, the treaty would have expired, by its own terms, by December 31, 1985. So the President was not right about it being fatally flawed, was he? We did not ratify it. But we lived with it; and in 1982 he said as long as the Soviet Union does not undercut this treaty, we will not, either.

We effectively lived with SALT II, and until last November, we were still alive. So it was not fatally flawed. It might have had some flaws in it.

Mr. LEAHY. Mr. President, will the Senator yield for a question at that point?

Mr. BUMPERS. I yield.

Mr. LEAHY. The Senator mentions that we have lived with it, in compliance, and the Senator has had numerous briefings on the subject, as have I. Would not it be safe to say that in the briefings we received, whether from the military or the State Department, the intelligence agencies, or anything else, one thing has been very clear throughout—that our security was in no way endangered, diminished, or anything else, except that we had the security of the nuclear weapons by living within those limits? Is that not a fact?

Mr. BUMPERS. Not only is the Senator correct, but also, in this Senator's opinion, our security was enhanced by the Presidential decision. While I denigrated, ever so slightly, President Reagan a moment ago, as I said, he ran against the treaty in 1980 when he ran for President and said it was fatally flawed; and in 1982 when he said, "Well, we're going to continue to abide by it as long as the Soviets do," I applauded.

Mr. LEAHY. If the Senator will yield further, I join him in that applause, and did on the floor of the Senate at the time, and have continued to do so.

However, is it not also a fact, again referring to all the information that both of us have been able to receive, that abiding by the SALT II limits in no way inhibited our ability—did not stop us—to do anything significant in the strategic nuclear area that we had planned to do?

Mr. BUMPERS. The Senator is absolutely right. As the Senator will recall, we had started modernization of our strategic forces, and the SALT II Treaty did absolutely nothing to inhibit or impede that modernization.

Mr. President, if it is going to trouble anybody because we refer to this as the SALT II Treaty, then do not vote to table the amendment, and I will quit referring to it as the SALT II amendment. Then we will let the opposition to the amendment amend the amendment to put whatever they think is the right number of launchers in it, and we will forget about keying it to SALT II. You want 1,350? You want 1,300? 1,200? 2,000? 1,320 is the figure that was agreed to in Vienna in 1979. I think it is probably too high.

If the argument that we are effectively ratifying the SALT II Treaty is a problem for anybody, you just insert the figure you want. But if it is going to take this body another 8 years to get a START Treaty, then when we get the START Treaty and we cut warheads by 50 pecent, we will be about where we were 5 or 6 years ago.

As always comes up, Mr. President: "What about them Russkies? What about the Russians?" Have you ever in your life gotten into an argument about almost anything, when somebody has not said, "How about those lying, cheating, conniving Russians"? Sometimes I wish I could indulge myself in the luxury of not having to think and saying, "You just can't trust those Russians"; that we never have to worry about the arms race or even trying to get the Soviets to the bargaining table, or all those arguments that are made around here about you have to have MX, otherwise the Russians will not bargain, but you have to have SDI to get them back to the bargaining table, and it is always if we had not done this, that, or the other, we would never have gotten the Russians to the bargaining table.

Yet you tell me one thing we have ever bargained away. The President wanted MX as a bargaining chip. He wants SDI as a bargaining chip. I invite the opponents on this amendment to tell me what we have bargained away.

We have a START Treaty today that reduces the number of warheads to 5,000. What are you going to destroy? You are going to take out these new B-1's, the ones that the birds do not get? You are going to take those, our brandnew, $300 million a copy? You are going to eliminate the Stealth which is not even off the assembly line yet? You are going to eliminate the Midgetman which is in last stages of development or the rail mobile MX?

Mr. WARNER. Mr. President, will the Senator yield for one question for 1 minute?

Mr. BUMPERS. I am happy to yield.

Mr. WARNER. I say to my good friend what this amendment would bargain away is compliance. The reason that the President departed from the voluntary compliance with the SALT II is because the Soviets blatantly have violated this treaty and if we were to adopt this amendment, it would say to the Soviets now negotiating in Geneva, "Do not worry about the complicance provision; the United States just looks the other way."

Mr. BUMPERS. While the Senator is on his feet, would he mind answering a question for me?

Mr. WARNER. I will be pleased to.

Mr. BUMPERS. Will the Senator agree with me that the Soviets are out of compliance with the Anti-Ballistic Missile Treaty?

Mr. WARNER. The Senator is correct.

Mr. BUMPERS. Why do we not trash that treaty?

Mr. WARNER. We have done our very best. We are doing our very best to comply with that treaty, the SALT II Treaty, all treaties.

Mr. BUMPERS. I will come back to that in just a moment. Why is the argument not on all fours: If the Soviets are in violation of the ABM Treaty let us trash it.

Mr. WARNER. Mr. President, there are some in this Chamber who would agree with that position.

Mr. BUMPERS. Let me ask the Senator another question. Does he agree with me that the Threshold Test Ban Treaty that was never ratified, that both sides signed but was never ratified, said, both sides will agree not to test a device bigger than 150 kilotons?

Mr. WARNER. That is correct.

Mr. BUMPERS. That treaty was never ratified, was it.

Mr. WARNER. That is correct.

Mr. BUMPERS. Why have we continued to live with it—because the Russians cheat.

Mr. WARNER. Mr. President, it was in the spirt of trying to make it work.

Will the Senator from Arkansas agree with me that the Soviets have in fact violated this treaty, the SALT III Treaty?

Mr. BUMPERS. I have to agree with the Senator, but how have they violated it? They have violated it by encrypting their tests.

Mr. WARNER. That is correct.

Mr. BUMPERS. And they may be in violation not by violating the sublimits. Is that Senator from Virginia on the Intelligence Committee?

Mr. WARNER. Mr. President, I am, but I never discuss in any way the matters brought before that committee, so I ask the Senator not to bring it up. But the violations under SALT II are threefold.

Mr. BUMPERS. What are they?

Mr. WARNER. First, devise the new system. The truckmobile, the 25. Does the Senator agree that is a violation?

Mr. BUMPERS. I agree it is. They are starting to deploy it, and I admit that is a violation.

Mr. WARNER. Fine.

Mr. BUMPERS. Precisely the same kind of violation we are going to be in when we deploy the Midgetman.

Mr. WARNER. Then let us turn to the provision dealing with the nuclear delivery vehicle, the limit 2,504. Have they not violated that limit?

Mr. BUMPERS. They were in violation of that the day we signed the SALT II Treaty and they are in violation of that because of a bunch of old abandoned bombers that could not fly halfway across the ocean if they had to.

Mr. WARNER. Mr. President, there are three clear areas of SALT II that the Senator from Arkansas indicates in which they are in clear violation.

Mr. President, I have made my point. Adoption of this amendment clearly confirms a policy of worry not about compliance provisions; the United States in due course will look the other way.

Mr. BUMPERS. Mr. President, I will just make one additional comment on this, and I am not going to allude to any Intelligence Committee or any intelligence agency, but I am going to tell the Senator this and I think he knows it: The Soviets have stayed in scrupulous compliance with the sublimits provided for in article V, and that is all this amendment does. It says as long as they do we do the same thing.

Mr. LEAHY. Mr. President, will the Senator yield just for a question on that point?

Mr. BUMPERS. I yield.

Mr. LEAHY. Does not the Bumpers-Leahy-Chafee-Heinz amendment make very clear that this is compliance for compliance; that is, if the Soviets are out of compliance, then the President, even in the binding language, does not have to keep within these limits, the three limits? Is it not very clearly written that we are not saying by this amendment that the President of the United States must comply no matter what the Soviets do, but rather are we not saying within the three limits that it is compliance for compliance? Is that not really what the amendment says?

Mr. BUMPERS. The Senator is precisely correct.

Mr. LEAHY. I mention that, Mr. President, because I think it addresses the concerns raised by the distinguished senior Senator from Virginia, who we all respect and admire, but we are not asking the President of the United States, neither this President nor any subsequent President, to put himself in a position of doing something that the Soviet Union would not be willing to do.

I thank the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator from Vermont.

Mr. President, I can tell you that the Soviets are deploying SS-24's, which is a multiple warhead missile, and they are destroying SS-17's. I invite anybody in this body to check with any intelligence agency or anybody else to check that out. They are getting ready to deploy SS-25's, and they are destroying SS-11's.

We are placing MX missiles in silos. We are putting cruise missiles on B-52 bombers. We are violating that treaty twice a month. We are way out of compliance on the number of launchers today. We have about 1,340. We are 20 ahead. The Soviets have restrained themselves, but they are not going to forever.

And the arms race is really going to take off. It is insanity. It is a curious thing to me. Everybody talks about how the Soviets cheat, yet for years especially from that side of the aisle you heard that we cannot sign a treaty because they will not let us do onsite inspections and for years the Soviets steadfastly refused onsite inspections to verify compliance with the treaties, and about 3 months ago we threw this out at them again to try to keep them entering into agreement, and the Soviets all of a sudden said: "OK, let us do onsite inspection."

And all I have seen is the rear end of the administration since they have been running as hard as they can run. They were not about to let them come to this country and do onsite inspection.

Gorbachev, the first breath of fresh air in 70 years in the Soviet Union—you do not have to be naive about him—did not get to where he is by being a novitiate. He came up through the tough ladder of the Soviet hierarchy. But he did say one way to bring the arms race under control is to stop testing. He said we are going to quit testing and we invite you to join us.

Jack Kennedy in 1963 said, "We are not going to test in the atmosphere any more, we are going to do it on our own, and we hope you will join us."

And the Soviet Union fired off one more atmospheric test and quit because Jack Kennedy had enough faith to at least try it and we all knew atmospheric testing was poisoning the milk and the food chain of the world.

So after about 500 days, over a year and a half of the Soviet Union not testing during that period, in 1985 and 1986 we showed them our sincerity by firing off 26 tests in Nevada.

I am talking about common sense. As I said earlier, if you want to say the Soviets cheat, and that is a grounds for voting against this amendment, then let us scrap the Threshold Test Ban Treaty. Scrap the ABM Treaty. I admit they are violating the ABM Treaty with that facility at Krasnoyarsk. No, we do not want to do that because we do not want the wrath of the world down on our heads.

You know who favors this amendment? Six of the last seven Secretaries of Defense. Six of the last seven Secretaries of Defense favor this amendment. General Chain said it is stupid to continue failing to deal with the arms race because the Soviets cheat. Brent Scowcroft, who the President appointed to head up a commission came in and said, "Yes, we need the MX missile," even though we decided 4 years later we did not. Brent Scowcroft said it is in our national security interest to adopt this amendment.

Mr. President, the real issue is, is it in our interest, is it in theirs, to put a cap on MIRV launchers?

Or is it in our interest just to continue to pile unneeded nuclear warhead on top of unneeded nuclear warhead?

I can tell you with all the things we have got coming on stream—the B-1, the Stealth bomber, MX rail mobile, the Midgetman, the follow-on submarines, the Trident, the D-5 missile—Lord, all that stuff we have got coming on, if we do not get it under control now we will deploy every bit of it. There is not anybody in this body, hawk, dove, or somewhere in between, that does not believe that we are going to blow this planet up if we continue on our present course.

You ask the President which of those is he willing to give up. Happily, he will not be around when that decision has to be made because he would not give up any of it.

I have heard—to inject a little humor into this argument—that the Soviet Union, instead of a $150 billion air defense system around their country to defend against the B-1's and Stealth, have decided just to raise blackbirds. Birds took down a B-1 the day before yesterday. If we have to fly those planes 200 feet off the ground, just release those birds. Why spend $150 billion on rockets and missiles?

I can tell you that if you vote for this amendment, you are saying, "I don't want 20,000 warheads on each side. I don't even want 15,000. I think 13,000 to 14,000 is plenty. Start negotiating from that point."

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. BUMPERS. I yield the floor. I do not want any more time charged to me.

Mr. WARNER. I believe the Chair recognized the minority manager of the bill, which is the protocol.

I will just take a minute, because I see our distinguished colleague from Vermont is anxious to get into the debate.

Before the Senator departs the floor, the thrust of his remarks today, I think, is a common concern of every Senator and, indeed, every citizen of this Nation; and indeed, every citizen of the world. What can we do to contain the growth of what appears to be an ever-increasing arsenal of the nuclear weapon?

I say to my good friend that our President, through his negotiators in Geneva, today is making every effort not to just have a treaty like SALT II which grappled with launchers and allowed warheads to proliferate in numbers, but to have a series of agreements that actually, for the first time in history, brings down the inventory of the warheads themselves.

So I say to my good friend: Place yourself in the position of being a negotiator in Geneva today, and more specifically, Ambassador Ron Lehman, who is working on the START agreement, that agreement that deals with the intercontinental missiles, that agreement that hopefully will follow behind an INF agreement.

As we are here this morning, he is in Geneva. As we debate, he is negotiating. And across the ocean comes a message that the U.S. Senate is considering an amendment which would have the effect of separating the SALT II Treaty and taking out but one part—the other parts having been violated by the Soviet Union, as acknowledged by my good friend from Arkansas—but taking out one part and having this body require this President to continue as a matter of law with compliance but with one part of a treaty which has expired.

I ask a question of my good friend: Does that not undercut what our negotiator is endeavoring to do in the effort, which is toward the goal that you have stated, to bring down the inventory? Does that not undercut him at the very moment that he may be reaching some common ground to establish a reduction of inventories? What benefit do we, the United States, derive from complying with one part of an expired treaty?

Conceding for a moment that, give or take a few missiles here or there, the Soviets may have complied with this one section, what benefit do we derive in the negotiations in Geneva? That is my question. You are the negotiator. How do you look at your Soviet negotiators and say: The Senate has adopted an amendment which says the United States will continue to comply with an expired treaty, part 1, so to speak? What is the benefit to that negotiator?

Mr. BUMPERS. If I may just respond, and I do not want to use up a lot of your time.

Mr. WARNER. Mr. President, he can use that time, because that is the heart of this debate, as far as this Senator is concerned.

Mr. BUMPERS. I appreciate the Senator's question, and I think it is a relevant question.

What do we lose?

Mr. WARNER. I put the question: What do we gain? You answer the question of what we gain.

Mr. BUMPERS. You gain not allowing this arms race just to continue apace, not only from a military standpoint but from an economic standpoint. You think of the $1½ trillion we have spent in the last 7 years on defense. You think if we capped 1,320 MIRV launchers and the Soviets do the same.

These weapons, after you get past a couple of hundred, make no sense. How many does the Senator think is the right number? Forget the SALT Treaty. I made that as crystal clear in my presentation as I could. Forget the SALT Treaty, forget 1,320. You tell us. What is a legitimate cap? What do we gain by going to 2,000 or what do we lose?

Mr. WARNER. Mr. President, we will go adrift in the sea if we sit here and try to argue how many are necessary.

Mr. BUMPERS. Is that not a legitimate question, Senator? How much is enough?

Mr. WARNER. I remember President Carter saying one submarine is sufficient.

Mr. BUMPERS. That is true, is it not? That is true, one submarine can destroy the planet.

Mr. WARNER. Fine. Are we not in Geneva trying to bring down the number? Is that not the goal, to bring down that number?

Mr. BUMPERS. The Senator is absolutely correct. And why not bring it down to 1,320 instead of 2,000?

Mr. WARNER. Mr. President, if that is the common goal, why do we want to undercut the negotiator? I come back to the question. What is the advantage to the negotiator today working on bringing down the total number or warheads to have the Senate adopt this amendment? What is the advantage? What is it that the Soviets hand across the table to that negotiator representing the United States and saying: "The Senate did this. Now we, the Soviet Union, give you that."

What is it the Soviet Union gives us in return?

Mr. BUMPERS. Senator, is it not true that the Soviet Union has agreed conceptually to a 50-percent reduction? Would it not be better, if we are going to reduce the number of weapons by 50 percent, to reduce it to 1,300 rather than 2,000?

Mr. WARNER. Mr. President, I come back. What is it that we get in return for this action?

Mr. BUMPERS. You get just a little bit better night's sleep. You can look your children in the face and say: "I have done a little bit of something to try to save the planet."

Mr. WARNER. Mr. President, I thank the distinguished Senator. I rest on the answer. I will get a better night's sleep from the Soviet Union when we defeat this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I ask the Senator for such time as I may need.

Mr. BUMPERS. How much time does the Senator need? Twenty minutes?

Mr. LEAHY. Make it 25.

Mr. BUMPERS. I yield 25 minutes to the Senator from Vermont.

Mr. EXON. Will the Senator yield me 1 minute on this point preceding the statement by the Senator from Vermont?

Mr. BUMPERS. I am happy to.

Mr. EXON. Does the Senator from Vermont have any objection to that?

Mr. LEAHY. I have no objection.

Mr. EXON. Mr. President, I think the answer to the question, legitimate question, that has just been asked, is, we are trying to strengthen the hand, stengthen the hand of our negotiators with the Soviet Union. If the United States goes on record, as I suspect it will, to maintain the limits of SALT II or something like it, as the Senator from Arkansas has said, that will strengthen the position of the negotiators to help stop this maddening arms race, because the Senate will be on record.

I suggest, Mr. President, that the amendment offered by the Senator from Arkansas will help our negotiators, rather than hurt them.

I thank the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator.

Mr. President, if the Senator from Vermont will indulge me without charging him any time for this, I also want to make one additional point and that is that you say: What do we get out of it? This amendment says we only do this as long as the Soviet Union does it. If you do not adopt this amendment and we just keep building more launchers, nobody here believes the Soviet Union is going to sit on 1,320 forever. They are in the process, Senator, of dismantling SS-17's, a very heavy ICBM.

I ask the Senator this question: Does he think the United States security interest is served by the Soviets, instead of dismantling SS-17's as they deploy SS-24's, does he think we are better off by not dismantling those and then just continuing to add more lethal warheads on top of lethal warheads? Is our security interest served when they have 50 more launchers just like we have?

Mr. WARNER. Mr. President, my response to that is that under our Constitution it is not the U.S. Senate that negotiates a treaty; it is the chief executive officer of this country for external affairs, and that is our President. Our President is there now. Our President has negotiators working. Our President, and the General Secretary Gorbachev, have decided on a common goal to reduce by 50 percent the inventories. Progress is being made and I cannot find in the Senator's debate, in his amendment, or the debate of others, any advantage to this body, today, sending a signal such as called for by the amendment of the Senator from Arkansas. What do we get in response? What do we get in response? A good night's sleep? I think as the debate continues along that line, I may start that now.

Mr. BUMPERS. Who has the floor, Mr. President?

Mr. WARNER. Let me finish my reply and then I will be glad to yield the floor.

Mr. BUMPERS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. I believe I have the floor, Mr. President. I am willing to yield to the Senator from Virginia on his time, if he wants. But at some point I would like to make a few remarks myself, but I will yield to the Senator from Virginia on his time if he wishes.

Mr. WARNER. Of course, Mr. President. It is on my time. And then I think in fairness, my colleague might want to go back on the "good night sleep" for a moment.

I ask him: Has he had the opportunity to read today's Washington Times in which there is an article describing how the Soviet Union is testing new ballistic missiles and one landed, while the people of Hawaii were sleeping, not more than a thousand miles distant?

I would suggest that he——

Mr. BUMPERS. Senator, if that does not make the point of this debate, I do not know what does. That is the very point I am trying to make. What if that thing had had a nuclear warhead on it and it went awry?

Mr. WARNER. Mr. President, is the suggestion of the Senator from Arkansas that his amendment would cease and desist testing of this type?

Mr. LEAHY. Mr. President, there have been a number of points made here. Let us get a few things clarified.

One, this is not a vote on the SALT II Treaty. In fact, should somebody bring up the SALT II Treaty and seek the two-thirds vote for the advice and consent of the Senate, I would vote against the advice and consent to the President to allow the President to ratify SALT II. That is not the issue.

Most of SALT II is obsolete. It is not relevant to what is going on here.

The distinguished Senator from Virginia has said, and quite rightly, that we all ought to be looking for an attempt to lower the number of warheads. He has quite appropriately praised President Reagan for taking steps for an INF Treaty to lower the number of warheads. And I concur totally with the Senator from Virginia in saying that that is a praiseworthy step on the part of the President.

But let us not lose sight of what is happening while we are talking about that INF agreement. Because we are observing no limits in SALT II or anything else, we are adding 130 to 135 new strategic warheads a month.

We are not lowering the numbers of warheads.

(Mr. SHELBY assumed the chair.)

Mr. LEAHY. It has been said here that we ought to be seeking that goal. I could not agree more. But, with the general feeling of good will about the upcoming summit between the President of the United States and the General Secretary of the Soviet Union, Mr. Gorbachev, let us not lose sight in this euphoric attitude that they are talking about an agreement to cut only 3 to 4 percent of nuclear warheads; and let us not lose sight of the fact that starting in November when the President of the United States decided not to adhere to the SALT II limits, we were adding 130 to 135 new strategic warheads a month. In fact, during this year we will add many times more U.S. strategic warheads than will be cut from the U.S. arsenal in Europe in a Reagan-Gorbachev INF agreement. And the Soviets will add more, too.

So to those who stand up and say: Thank God, after 6 or 7 years we are finally having arms control—I say, we are having a little bit of arms control.

So I would hope that our willingness in the United States to break out of the subceilings of SALT II would not be lost in this debate. That the action to break out of SALT, the exact action which could be taken as an Executive decision by the President—and was done so last November—has allowed the United States to add many more strategic warheads, several times more strategic nuclear warheads, than will be removed in an INF arms control agreement.

Lastly, I would point out that the distinguished Senator from Virginia very rightly brings up the question of what do we get back from the Soviet Union if we do this? What do our negotiators in Geneva say when they look across the table and say: The Senate has taken this action. What do we get in return? It is written in the amendment. It is very clear in the Bumpers-Leahy-Chafee-Heinz amendment. Unless we get something, they get nothing. We are not unilaterally telling the President of the United States: Stick to those sublimits regardless of what the Soviets do. We are saying: We will do it only if they do it.

In fact, let me just show a chart, Mr. President. These are the operational nuclear forces dismantled to comply with SALT between 1973 and 1986.

In red are what the Soviet Union had to do to comply. Remember, this is in SALT II, an unratified treaty. The President never ratified it, the Senate never gave him advice and consent to do that. But President Reagan, to his credit, from the time he took office up until November of last year, complied with the limits, and look what it required.

The Soviet Union, in red, had to dismantle 556 launchers. The United States dismantled 48 launchers. We can assume both sides first got rid of those that were getting old and getting obsolete.

The question has to be asked: Was this really to our disadvantage, to follow this? I think not. And what would we have to do, I ask my colleagues, if we were to stick with Bumpers-Leahy-Chafee-Heinz, if we were to stick with the sublimits, again, only if the Soviets do?

Look at the future dismantling required by SALT through 1987 on this chart.

The United States, 32 launchers, even less than we did before; the Soviet Union 129 launchers.

Let us put the two together, Mr. President, and take the numbers from 1973 to 1987. The Soviet Union: 556 launchers plus 120; the United States: 48 launchers, plus 32.

Back in the days when I practiced law in Vermont and we were looking at contracts, we would say that the good guys won on that agreement and that we would end up with better numbers.

So, Mr. President, it is with a special pride that I join my distinguished colleagues, Senators BUMPERS, CHAFEE, and HEINZ, in offering the Strategic Nuclear Weapons Interim Restraint Act of 1987 to the defense authorization bill. Bumpers-Leahy-Chafee-Heinz really brings some control in the spread of nuclear weapons and the increase in strategic weapons.

It is also a bipartisan coalition worked out by the four of us over 3 years. In 1984 and in 1985 the Senate voted overwhelmingly for our amendment declaring the policy of observing certain limits in the unratified SALT II Treaty is in the national security interest of the United States.

The thing that we should not lose sight of is that by adhering to these numbers, not only has the Soviet Union been required to dismantle far more than we have; we have not been estopped from doing anything that we would have done without SALT II. We have been able to do every single thing in our strategic posture that we wanted to do.

The Senate has repeatedly urged the President not to abandon these fragile limits on our missiles and bombers.

Again, what are we talking about? These are not just the simple numbers. The charts, I think, are impressive, but it is more than that. It is the destruction power that we talk about. It is what kind of legacy we leave to the next generation. I have said in many contexts, in many different speeches, that my children will live most of their lives in the next century, so will the grandchildren of many of us and the grandchildren of many others. This speaks to that legacy. This speaks to what kind of a world we leave them or whether we leave them a world at all.

We have pleaded for a mutual restraint based on the agreed SALT ceiling until the superpowers could negotiate a new agreement. If I had the power to negotiate, I would want numbers much different than this. President Reagan himself has said he would like to see numbers much, much lower. But until that agreement comes, this is all the restraint that we have.

We have fought for this amendment for several years. I noticed the press once referred to us as the "Gang of Four." Well, I accept that label because it says that four of us, two Democrats and two Republicans, each representing very different States in size and population, economic interests, I might say, and political outlook, join together in a cause which transcends these differences.

Let us see what the amendment is. It derives from S. 415, a bill the four of us introduced earlier this year; 46 Senators joined us on S. 415 for a total of 50 cosponsors, four of us plus 46 more. That is one-half of the Senate, Republicans and Democrats alike. I congratulate them for standing up and having the courage to be counted. It is one of those rare times where being counted really makes a difference.

So that my colleagues who are about to vote on this today will understand, let me just go over very briefly the five-key elements in our amendment.

One, it prohibits expenditures of funds through September 30, 1987, to overhaul, maintain, operate or deploy any weapon system which could cause the United States to exceed 820 launchers and MIRVed ICBM's, 1,200 launchers of MIRVed ICBM's plus MIRVed SLBM's, submarine launched, or 1,320 launchers of MIRVed ICBM's and SLBM's plus heavy bombers equipped with long-range air-launched cruise missiles.

Two, the funding restriction does not take effect if, not earlier than 30 days after this act becomes law, the President notifies Congress that Soviet deployments are in excess of these numbers.

Let me emphasize that point because the distinguished Senator from Virginia raises a very valid point: What do we get in return? This says it very clearly. This restriction does not take effect if, not earlier than 30 days after this act becomes law, the President notifies Congress that the Soviets are in excess of these numbers. The President of the United States gives up absolutely nothing under this.

Three, if the President is unable to make this certification, he has an additional 30 days to make the certification or the funding restriction goes into effect. The President then can only prevent the funding restriction from taking effect either by certifying the Soviets exceed these numbers or by reporting to the Congress he still cannot certify that the Soviets are at or below or exceed these numbers. He then has to report again within another 30-day period, and so on, until he can either certify the Soviets are either exceeding these numbers or are at or below them. Each time he reports to Congress he has to base his determination on the "best agreed intelligence community assessment."

In other words, it is a situation where we do not give up anything unless the Soviets give up something. We do not agree unless they agree.

Four, it requires the President to inform Congress within 30 days of enactment of this act of his plans for complying with the provisions of the amendment.

Five, the funding restrictions are automatically terminated if a new agreement between the United States and the Soviet Union on strategic offensive forces enters into force before September 30, 1988.

It should be clear that our amendment gives the President sufficient time to determine U.S. forces below the 1,300 limit. This is the ceiling on the total of multiple warhead missiles and heavy bombers armed with long-range cruise misiles. We are now some 15 ALCM-armed B-52's above the 1,320 limit and adding more at the rate of about 2 per month.

In fact, let me give you an clearer idea of what we do each month. Here is what the United States does every month: We add two B-52's, each with 12 air-launched cruise missiles, each month, 24 warheads. We add two MX's a month, a net increase of 14 warheads a month.

The reason it does not come out to 20 is that when we add those, these new MX's that are supposed to be so invulnerable, we put them in the old vulnerable Minuteman III launching silos.

We add four B-1's with 20 warheads a month for 80 net. We add two Trident II launcher tubes average per month for a net increase of 16 warheads.

What can the President do to keep within the limits?

He can order the launch tubes on two old Poseidon missile submarines to be dismantled. Because of their age, he not only would improve our security but he also would help out the Treasury considerably.

He can order dismantling of a sufficient number of MIRV'd ICBM silos.

He can order the excess air-launch cruise-missile armed B-52's rendered inoperable and cease new conversions.

Or a combination of any of these. It is left up to the President, what works best within our security interests.

Eliminating some Minuteman III silos might be the most sensible. They are an open invitation to the Soviet Union for a preemptive strike and they are vulnerable. But the two Poseidon submarines are very old. We are going to have to replace their nuclear plants if we want to use them. That is a cost of over $150 million to give us just a few more years' use out of them. It seems not worth it when they can be dismantled for $20 million.

I suspect the Navy would be delighted to get rid of them, save that money and put it into something usable, like perhaps minesweepers. That might be a lot more worthwhile to the United States than a couple of old Poseidon submarines.

I am not going to go into a lot of detail, but let me talk briefly about some of the arguments I have heard when we have debated this in the past.

Mr. WARNER. Mr. President, at some point would my distinguished colleague entertain a question, whenever he is prepared to accept a question?

Mr. LEAHY. Go ahead.

Mr. WARNER. Then I will just cross the Chamber.

Mr. President, I would like to once again portray the chart that my distinguished colleague has prepared. It accurately reflects that under SALT II there has been reduction in the launchers, but I ask my good friend, as the Soviets have junked—and I refer to this chart as a junkyard launch chart—as they have junked these launchers what has been the growth in the warheads? After all, it is not the launcher that damages the world; it is the warhead. What is the growth in the warheads?

Mr. LEAHY. I am glad my friend from Virginia asked that question. I just happen to have a chart on that.

Mr. WARNER. I think this chart, if you look through it, indicates that in this period that they have junked the old launchers in the scrap yard, the Soviets have increased the warheads—and that is the thing that causes the damage—from somewhere between 4,000 and 11,000. They are up to around 11,000 now.

Mr. LEAHY. Let us take a look at where we will go. Let us see where we are going to be on this. Under this, current forces stand with the Soviets at 10,500, the United States at 11,800. By 1994, following SALT, 14,800 warheads for the Soviets; 12,100 for the United States. I suspect that either one of us could quickly drop 3,000 or 4,000 of those and still do a pretty good job destroying the planet. And without SALT by 1994, which is only 7 years away, 31,900 for them, 23,800 for us—rounded off, call it 32,000 and 24,000. The facts are, and I think we both would agree, this is too many on either side.

Mr. WARNER. Mr. President, I am glad he has brought this chart out because this is precisely what we are trying to do in Geneva today. The Geneva negotiations are to reach out and capture the number of warheads, to bring them down by 50 percent. The fishnet that we are looking for is the warhead fishnet, not the fishnet that just relegates the old planes and the old launchers to the junkyard. I say to my good friend if we adopt this amendment, we undermine in Geneva the very effort now underway to try to stop this from happening.

Mr. LEAHY. Mr. President, I would say also to my friend from Virginia, my good friend from Virginia, I might say—I mean it very seriously; we go beyond just the normal senatorial courtesy, when I say how much I respect and like him. But when he speaks of Geneva as being the place where we must negotiate, what he is saying in effect is let us go to Geneva with no limits whatsoever and we start renegotiating, reinventing the wheel—unfortunately, a nuclear wheel—when we go back to Geneva. We take what we have already agreed, throw that out, say there are no limits, and now we want to go to Geneva and cut back down to 50 percent of no limits. That is an open brief to both the Soviet Union and the United States. We say that we will go to Geneva in this era of good feeling because we are going to have an INF agreement that will cut down the number of nuclear weapons in the world when every several months we are adding more than all the weapons we will take out in the INF agreement.

Mr. President, I do not want to have to see us start all over again in Geneva. It does little good for speeches to be made, no matter how good they sound, that we want to go to 50 percent of the nuclear warheads when nobody can tell you how high those nuclear warheads are in the first place and nobody can tell you where the restraints are. Fifty percent of what? I agree with the distinguished Senator from Virginia that we should be at Geneva negotiating. I cannot believe that anybody with sanity would say we should have a wide open arms race in nuclear weapons.

What we are saying in the Bumpers-Leahy-Chafee-Heinz amendment is here are some sublimits that will exist only if both the United States and the Soviet Union are complying. The United States does not have to comply with them if the Soviet Union does not, but we will at least start out from that. We say to our negotiators in Geneva, "All right, if you are serious, on both sides, that you want to cut back, you are not going to cut back 50 percent from some ethereal number; you are going to cut back 50 percent from numbers that we know exist."

We hear the argument that we are going to tie our hands in Geneva. I have been in the Senate now for 13 years. In fact, when I ran for the Senate the very first time, I was back in Vermont, at that time a 33-year-old county prosecutor, somebody asked me why I was running for the Senate.

I said I was running for the Senate because of my concern about arms control. That concern has not been diminished one which but I keep hearing that if we do something in the Senate, to slow the arms race, we are going to interfere in the Geneva negotiations.

Well, what have we slowed down in Geneva? Has there ever been a time that we derailed or wrecked Geneva by doing something here, by saying could we have a little rationality, by the Senate giving voice to the concerns of our constituents, Republican and Democrat alike, who say to us constantly, "Do something about arms control." There are 250 million Americans in this country. I daresay we can go into any State in this Union and ask the people, "Do you want arms control?" And we will hear from all of them, "Yes, we do." And yet of those 240 to 250 million Americans, if there is indeed an arms control treaty, only 100 Americans ever get to vote on that arms control treaty, the 100 men and women of this body. We also, because of that, have a special interest in arms control, and if by taking this step we can move forward the progress of arms control so that someday we could actually have a treaty that we can give our advice and consent to, so the President can ratify it, are we not really doing what we are supposed to be doing in the Senate?

Mr. WARNER. Will the Senator yield?

Mr. LEAHY. In a moment, of course, I will yield. This does not tie the President's hands. It simply returns the United States to a position President Reagan, without consultation from Congress, has been following since 1981. For his own reasons, he unilaterally chose to abandon that last year. Keep in mind, the President in 1981 said, again without consultation of the Congress, "I am going to abide by SALT II," and then last year chose to abandon it.

The majority of the Senate does not agree with the President's unilateral decision, and just before I yield, Mr. President, I ask unanimous consent that a letter of last December to the President signed by 57 Members of this Senate supporting U.S. observance of the SALT numerical ceilings be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, December 15, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our serious concern over your decision to put the United States in violation of the SALT II limit of 1320 multiple warhead systems when the 131st B-52 equipped with cruise missiles left its conversion facility in Texas late last month. This action is an open invitation to the Soviets to exceed several numerical sublimits of SALT I and SALT II, actions which they have not as yet taken and are exceedingly well positioned to do in the very near future. U.S. violation of a central sublimit of SALT II may well result in a greater Soviet nuclear threat than would otherwise be the case, and it will have a chilling effect on the prospects for following up on the progress you made at Reykjavik.

As the Soviets soon begin to deploy their new MIRVed SS-24 ICBM, SALT II will force them almost immediately to begin dismantling existing silo-based MIRVed ICBMs, which you have rightly and repeatedly called the most destibilizing strategic weapons of all. Given the Soviets' past dismantling record and their ongoing strategic modernization program, U.S. violation of the key SALT sublimit is an open invitation to the Soviets to exceed those same limits, which to date they have respected. This situation will likely increase the Soviet nuclear threat to the U.S. in an especially destabilizing way, add a major new strain to the NATO Alliance, and aggravate the atmosphere necessary to reach the kind of new arms control agreement that we all want.

As you know, the House passed by a significant margin binding language proposed by Congressman Dicks dealing with the SALT sublimits. In the conference on the FY 1987 Defense Authorization bill, this language was dropped, despite strong House sentiments, in order not to tie your hands at Reykjavik. In its place, Congress stated that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits. This remains our view. In addition, in view of the progress you made at Reykjavik, it is especially damaging to U.S. security interests and the prospects for a new arms agreement for the U.S. to be the first to breach a central sublimit to SALT II.

Accordingly, we urge you to take the steps necessary to put the United States back into compliance with the SALT II numerical sublimits as long as the Soviets continue to remain within those sublimits. We also encourage you to raise with the Soviets possible approaches to strengthen the interim restraint framework to ensure that some restraints on offensive forces remain in place until a new arms agreement is reached. At the same time, we should continue to pursue our concerns about Soviet compliance with some aspects of existing agreements.

We look forward to working with you to forge a strong and durable bipartisan consensus on this and other security issues in the months to come.

Sincerely,

John H. Chafee, Dale Bumpers, Patrick Leahy, John Heinz, William S. Cohen, Sam Nunn, Mark O. Hatfield, Claiborne Pell, Edward M. Kennedy, J. Bennett Johnston, Joseph R. Biden, Daniel P. Moynihan, Albert Gore, Jr., Lawton Chiles, George J. Mitchell, Carl M. Levin, Wendell H. Ford, David Pryor, James R. Sasser, Bob Packwood, William Proxmire, Howard M. Metzenbaum, David Durenberger, Paul S. Sarbanes, John F. Kerry, Donald W. Riegle, Jr.

Jeff Bingaman, Robert T. Stafford, Max Baucus, Frank R. Lautenberg, John Melcher, Daniel K. Inouye, Quentin N. Burdick, Daniel J. Evans, Tom Harkin, Arlen Specter, J. James Exon, Alan J. Dixon, Christopher J. Dodd, Lowell P. Weicker, Jr., Spark M. Matsunaga, Alan Cranston, Paul Simon, John D. Rockefeller, Lloyd Bentsen, Kent Conrad, Barbara A. Mikulski, John B. Breaux, Brock Adams, Timothy E. Wirth, Harry Reid, Thomas A. Daschle, David L. Boren, Bill Bradley, Wyche Fowler, Jr., John Glenn, Terry Sanford.

LIST OF 57 SALT LETTER COSIGNERS

DEMOCRATS (47)

Adams, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bumpers, Burdick, Chiles, Conrad, Cranston, Daschle, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Harkin, Inouye.

Johnston, Kennedy, Lautenberg, Leahy, Levin, Matsunaga, Melcher, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Proxmire, Pryor, Reid, Riegle, Rockefeller, Sanford, Sarbanes, Sasser, Simon, Wirth.

REPUBLICANS (10)

Chafee, Cohen, Durenberger, Evans, Hatfield, Heinz, Packwood, Specter, Stafford, Weicker.

Mr. WARNER. Mr. President, just one question to my colleague.

Mr. LEAHY. I yield on the Senator's time.

Mr. WARNER. The Senator has all the time he needs to answer this question because it is a key question. It is a question the American people can understand. Perhaps in deference to them as they may be watching this debate, they are saying, well, now these charts are rather interesting and some of the arguments are interesting. The Senator is talking about the duty of this body, the U.S. Senate, under the Constitution to ratify treaties.

Mr. LEAHY. No. I said we advise and consent. The President ratifies treaties. I said that several times.

Mr. WARNER. That is fine. The Senator is correct. We advise and consent, and the President ratifies. I ask my good friend if this is such a red hot idea, why is it not up here for ratification? Why did the President of the United States at that time, one James Carter, decide to bring this treaty back? Why is it that this body, if this is such a red hot idea, has not ratified the treaty of which this is a part?

Mr. LEAHY. Mr. President, the Senate, of course, does not ratify treaties. Only the President ratifies treaties. We advise and consent to treaties and I do not think that the Senate is going to be too eager to go through the exercise of advising and consenting unless we have a President who says he then wants to ratify the treaty.

Mr. WARNER. Mr. President, do not leave this debate on a technicality. In my enthusiasm, I should have used the words "advise and consent." I know it as well as the other Senators here. I ask to rephrase the question.

Why is it that President Carter decided that he would not push this U.S. Senate to give its advice and consent on the SALT II Treaty? That is the question I pose to my good friend.

Mr. LEAHY. I have not discussed this with President Carter, Mr. President, but my understanding is that President Carter withdrew or asked the Senate to withdraw from consideration SALT II because of the Soviet invasion of Afghanistan. He knew full well that in that era with the reaction, very strong reaction, and very justifiably strong reaction here in the United States, we were never going to get two-thirds of the vote here.

President Reagan campaigned against SALT, calling it fatally flawed and never asked us to give advice and consent.

If, in fact, the SALT II Treaty could be brought up for ratification today for advice and consent, as I said several times on the floor today, I would vote against it because parts of it are obsolete. But I would note one thing: the President of the United States, President Reagan, who had campaigned against SALT II as being fatally flawed, made the unilateral decision without consultation with the Congress to abide by the subceilings in it until last November. And that was not legally enforceable. Nobody can force the President to do that or not do it. If he decided to do it or did not decide to do it, there was nothing the Soviets could do about it or not do about it. That was entirely up to him.

What we are saying in effect is let us continue to do what the President was doing until last November. We will make it binding that we keep to those numbers, but only if the Soviets are as well. We give about as great a flexibility as any President has ever had to say whether they are or not abiding by the ceilings.

We ask for certification from him and Congress will have no way of disagreeing with his certification.

Mr. WARNER. Mr. President, I thank my good friend. He answered the question. The President of the United States sent the treaty to the Senate under the advice and consent procedure. Then the treaty was not pushed by that President. It has not been brought back again for the very reason—that it has been violated over and over again.

I bring to the attention of my distinguished colleague that the Armed Services Committee, when it saw the SALT II Treaty, had many, many reservations about this treaty. And the President knew full well at that time that he was going to encounter a major battle in the United States Senate on SALT II irrespective of the tragedy of Afghanistan.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, the Senator from Virginia talks about noncompliance by the Soviet Union. Nobody is more concerned about that than I. But he also begs the question when he says that. The fact is under this, if the Soviet Union is not complying with the sublimits, all the President of the United States has to do is state that fact to Congress. At that point he is not bound to anything. What is so frightening about this amendment? Why do so many people who oppose it get concerned? Listen to what it says.

It says that there should be some sublimits on multiple warhead nuclear missiles and bombers. Even within that limit, there is a sufficient numbers to destroy this plant 20, 30, 40 times over. We are saying that is just more than enough. We are saying let us at least stop at that point at 20 or 30 or 40 times extinction, take a breath and see whether maybe we can cut back the numbers.

And further, it says that if the Soviet Union will not join us in this, then we will not do it. If they do join us in this road toward sanity, then we will march together. What could be more rational or more sensible? If both superpowers will march on the road to sanity, they march together. If they do not want to, then they do not march at all. But I would say, Mr. President, to all my colleagues they ought to listen to what their constituents are saying, they ought to listen to what the people of this country are saying. They are saying they are very frightened as they see the escalation of nuclear weapons, and they see the lack of the political will of the leaders of this country to do something about stopping that increase in nuclear weapons. That is what we are saying here.

At least 100 people in this country who get to vote on an arms control treaty can prior to that vote stand up, be counted, and say are they willing to take at least a little step down the road toward sanity or, they can say they are willing to put this off for another year, another year, and perhaps yet another year until that nuclear genie is so far out of the bottle that nobody will ever put it back in again.

Mr. President, adoption of this simple amendment would do little enough to hold the arms control process together. But it would provide a foundation for another agreement deeply reducing from SALT II levels. It would encourage the American people to believe that the arms race has not gone totally insane. Our amendment gives the Senate an opportunity I have sought ever since we failed to act on the SALT Treaty in 1979. It provides the Senate, which ought to be the conscience of our great Nation, a chance to act for arms control.

So let us join the House which did have the courage to pass similar legislation, and pass the Bumpers-Leahy-Chafee-Heinz amendment overwhelmingly.

Mr. President, I reserve the remainder of the time on this side, and I yield the floor.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. In behalf of the manager, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, it is difficult to try to pinpoint where to start in this debate. A lot of things have been said. Some I think are misleading, and some on the wrong point. But let me try to describe what I think this amendment is.

I believe that this amendment is a Rip Van Winkle amendment. I believe that this amendment is an amendment that leaps and grabs for the past, like Rip Van Winkle who slept, and dreamt for 20 years. I think this amendment yearns for the past; it celebrates it saying, boy, the past was really great. SALT I, SALT II—let's not let go of those. Well, as Rip Van Winkle did, the Senate will have to wake up. I was looking at all of the charts that the Senator from Vermont put up, and all of those charts talk about launchers—launchers, Mr. President.

The assumption is that what we ought to be concerned about is launchers.

Let me just state once again for the record—I think most people know this; if they do not, they should—that the problem we have today is ballistic missile warheads. The problem is not launchers.

Ballistic missile warheads, that's what is so destablizing. Those are the warheads we have absolutely no defenses against.

As we look to the dismantlement of ballistic missile warheads under SALT I and SALT II, let us not be misled by launcher dismantlement; let us look at warhead dismantlement. Under SALT I and II, the United States has dismantled 608 warheads, the Soviet Union 208. That's a 3-to-1 dismantlement of warheads.

If you look into the future, complying with the so-called sublimits will continue to cost us more than the Soviets in terms of warheads.

As a matter of fact, it is estimated that by 1994, warhead reduction under the sublimits proposed by this amendment would be 3,135 for the United States and 1,364 for the Soviet Union. So, obviously, the warhead count matters more than launchers.

Now let us look at what we are trying to do. This administration has been trying to go forward with deploying more cruise missiles on E-52's—second-strike weapons.

I have heard many people say that we ought to get away from some of the first-strike weapons, and I think we should. What the administration is doing is moving toward more second-strike weapons, which are more survivable, and useful as a retaliatory force. Now all of a sudden we are saying, "No, we don't want to do that." No, we want to cling to the past and make sure prompt mutually assured destruction is our only theme.

I have a whole litany of statements I could put into the RECORD by people who once said mutually assured destruction was the only way to preserve the peace.

But I think we ought to get into the future, and do better.

Let us look at some of the other things this amendment would do.

This amendment would basically say: "Well, we're going to take SALT II, even though it wasn't ratified, and we're just going to take the elements that the Soviet Union wants to comply with, and we're going to say, 'Well, the United States ought to comply with it.'" In other words, the Soviet Union has an absolutely free hand to violate whatever part of SALT II they do not like, but to comply with the parts of it they think may favor them, and then hope that the United States will follow them and comply with things that are unfavorable to them.

Mr. LEAHY. Mr. President, will the Senator yield on that point?

Mr. QUAYLE. I will yield only for a question.

Mr. LEAHY. I ask the Senator from Indiana, is it his contention that there has been anything under SALT II that the United States wants to do that it has not been able to do? Is it his contention that the administration has never testified other than to say that their modernization programs, their expansion of warheads program, in all those things, they have not been restrained to date by SALT II?

Mr. QUAYLE. Mr. President, in answer to that question, they have absolutely been constrained in one of the most important areas that the United States has a competitive advantage, and that is the long-range cruise missiles; because we have been prohibited by SALT II from going ahead with the cruise missiles on B-52's because that puts us in the position of taking out subs or Minutemen. As a matter of fact, there has been a negative impact on long-range cruise missiles. I point out to the Senator from Vermont, because he has raised questions in the past about destabilization and first-strike capacity, that these are second-strike weapons. These are weapons that are going to survive and will be used on a retaliatory basis. Yes, these restraints have had a very negative impact—a very negative impact on our developing and deploying long-range air-launched cruise missiles.

What we are going to do, Mr. President, is to basically allow the Soviet Union to determine what parts of the treaty they want to comply with and what parts they do not. That is one heck of a contract. That is one heck of an understanding.

What is interesting in this is that the authors of this amendment talk about sublimits. They had the sublimits in for the ICBM's and the SLBM's. They have the total MIRV systems, including the bombers, 1320. Do you know what they leave out? They leave out a very important other limit on strategic nuclear delivery vehicles, the SNDV's.

The Soviet Union violates that limit. The Soviet Union, when we signed the treaty, had 2,504, and they were supposed to come down to 2,250. Do you know what has happened since that? They were supposed to go from 2,504 to 2,250. They have gone up. They are now about 2,530. They have completely violated that agreement or sublimit of the SALT Treaty. It is interesting that that is not in this amendment.

Why is it not in the amendment, because the Soviets violate it? and, by golly, let us not try to put anything in this amendment that the Soviets do not like. Let us not put anything in this amendment that the Soviets violate. God forbid.

Let us just put in things there that the Soviets are willing to go along with and if they are willing to go along with it it is obvious they think it is in their best interests; otherwise, they will not go along with it, Mr. President.

They do not want to go along with the verification, giving us the data and the telemetry. No, they encrypt that. They do not want to go along with new missiles. They have already deployed the SS-24. They are going to get on another new type, the SS-25. The Soviets just tested an ICBM just north of Hawaii. We do not know. It's probably a new heavy ICBM that violates the SALT Treaty as well.

They go ahead and they violate that. They violate the SNDV limit.

And yet, for some reason, what we want to do is to put these constraints on ourselves. I presume that many of the authors of this amendment, perhaps now or at least when the administration was contemplating not observing the limits of SALT II of an unratified treaty, thought that the administration was not serious about arms control, that this would have a negative effect on arms control.

As a matter of fact, there was a statement recently at the Arms Control Association press conference. Senator LEAHY said essentially the same thing. I will just read from the statement:

> We are taking this step to demonstrate to the President the strong feeling in the Senate that scrapping the no undercut policy would not serve the U.S. national security interest, would damage relations with NATO allies and probably destroy any chances for arms control for the rest of his administration.

Some thought that—I do not think they think that now—but they thought that this administration was not serious about arms control and they made statements to that effect.

They said, "Boy, if you go out of the SALT II sublimits, arms control for this administration is gone," a goner, Mr. President.

Well, I just say that about the opposite has happened. We have an agreement in principle on the INF Treaty. The Secretary of State and others have indicated there is good progress being made on the SALT II Treaty.

Mr. President, let me just underscore that these violations of the SALT II Treaty, which was never ratified by the Senate, are serious and they were serious at the time.

Let me just read what former President Jimmy Carter said:

> It is the SALT II agreement itself which forbids concealment measures, many of them for the first time, forbids interference with our monitoring and forbids the encryption or encoding of crucial missile test information. A violation of this part of the agreement which would quickly detect would be just as serious as a violation of the limits on strategic weapons themselves.

I want everybody to listen to that and have it soak in. That is what former President Carter said, who negotiated this treaty, who submitted it to the Senate, and then because they did not have the votes in the U.S. Senate to get it ratified, withdrew it. But the negotiator of this treaty said that the encrypting would be as serious a violation as the limits on strategic weapons themselves.

That is not what this amendment does. This amendment basically ignores what former President Carter said and what a lot of others said at that time about how serious telemetry is to verification, how important verification is to the SALT Treaty.

Now, Mr. President, there is no doubt in my mind that the Soviets would like for us to comply, keep within the sublimits. Certainly they feel that it is in their best interests because what will it force us to do? Let us think about it. If this amendment would actually pass and become law—I do not think it will: there is not too much of a chance. I do not know where the votes are on this. I think it is going to be quite close and some are probably even making up their minds right now, but there is absolutely no way that this amendment will survive the scrutiny of the President. It will be vetoed and the veto will certainly be sustained. So it is not going to become law. We know that.

But let us assume for a minute that if it did become law then the President is forced with the decision. He can take out some more Poseidon boats, but I know the Senator from New Jersey has an amendment to that saying, "Oh, don't do that. I am not so sure that is a good idea."

If he does not take the Poseidon boats, then he is only left with another option. That is to take out the Minuteman III. Why would the Soviets want us to dismantle the Minuteman III? The Soviets would like for us to dismantle the Minuteman III because it does in fact threaten their missile silos on a prompt basis. It is something they do not like and they would enjoy seeing us having to get rid of Minuteman III.

That is not a very good decision to make, particularly when we are only going to go ahead and deploy 50 MX's, unless you want to go ahead and disregard the Dyad and I think there are reasonable men and women who say we disagree on that. Some say we ought to move to Dyad. Some do—and I am not there—but they eloquently argue to have a Dyad and that is certainly not what the military, the Department of Defense, this administration, or I think even the majority in the Senate wants to see, a Dyad. I think there is still an attachment for military, political, and strategic reasons that we have a Dyad.

So we would be forced to take out the Minuteman III.

What else would this amendment do and have an effect on? This amendment would have an effect of perhaps not going forward with our deployment of cruise missiles, on the B-52, even nonnuclear long-range cruise missiles. Mr. President, I submit, and it will not be contested here, I submit that with the long-range cruise missiles the United States of America, in the long term, has a competitive advantage of superior technology.

Now, obviously the Soviets would like to see that program constrained in any way. As a matter of fact, that was one of the big arguments that they had in the INF talks and one of the criticisms I have with the so-called agreement principle of the INF Treaty is that we are going to give—listen to this—we are going to give up ground-launched conventional nonnuclear cruise missiles that have ranges over 300 miles. We are going to give up nonnuclear conventional cruise missiles.

Why is that so important to the Soviet Union, because they know of our comparative advantage in this field.

Mr. President, let me just conclude in a couple quick minutes and my friend from California wants to speak.

Let me conclude by saying this: First, I believe that this is a Rip Van Winkle amendment. It is a leap to the past that is not to our benefit.

Second, the Joint Chiefs of Staff have said that these sublimits do not make any difference. With or without SALT the Soviet Union is not going to unleash—we received a letter to that effect—they are not going to unleash more weapons. The reason why is that the Soviets already have more than enough warheads to target the United States, NATO, and China.

Third, I think we are offering the House an invitation to get involved in the approval of treaties. President Carter thought long and hard about sending up an executive order that would require 51 percent. He did not do that. This is in fact imposing what he would have called for, a 51 percent vote in each House.

I daresay the U.S. Senate is beginning to abdicate its constitutional responsibilities as far as treaties are concerned. The advice and consent rests in this body, not in the House of Representatives, and we are doing this on all sorts of things and I think we will regret that day.

Finally, Mr. President, if we are serious about moving forward in arms control, we ought not to be tied down by these Rip Van Winkle amendments that keeps us in the past. We have to go forward. We have to go forward and let the President have flexibility and negotiate.

I know some say he is not serious about arms control. They cannot say that anymore. He is the Commander in Chief. He is negotiating. Certainly, we ought to be able to learn some lessons from INF. The reason we got an INF Treaty is because we had patience. We were willing to build up and look the Soviet Union, in the eye, saying "This is what we are going to do in our best interests and when you come to the table you are going to get a treaty that is in both of our best interests."

And I would say that we best leave the President to negotiate, to negotiate, the treaty in a free way, and he will move in that direction.

Mr. President, on behalf of the manager of the bill, I yield 10 minutes to the Senator from California.

The **PRESIDING OFFICER.** The Senator from California, Mr. WILSON, is recognized for 10 minutes.

Mr. WILSON. Thank you, Mr. President.

I thank my distinguished friend from Indiana.

First, I commend him for his statement.

Mr. President, relevant to the discussion underway is an event that has just recently taken place, an event that I will describe as outrageous, an effort at intimidation, a very dangerous effort in terms of the potential for harm to citizens of the United States, and the most provocative kind of action that I think we have yet seen in the entire annals, the entire history of testing of nuclear devices and their launchers and reentry vehicles by the two superpowers.

I refer, Mr. President, to the fact that the Soviet Union has yesterday completed two tests. The tests themselves involve violations of the SALT II Treaty. And I will specify the violations.

In the first place, they violate that restriction having to do with new types and also those having to do with heavy ICBM's. What was tested was the follow-on vehicle to the SS-18 Soviet missile. In a moment, my colleague from Wyoming, when he takes the floor, will demonstrate graphically, by means of visual aids, this follow-on missile. But it is the largest, most dangerous, most destabilizing in the Soviet inventory. And the Soviets have just completed a test, Mr. President, I repeat, of an absolutely outrageous character.

Why? Was it simply because of the stated violations of the SALT II Treaty? No. Was it because it also continues to violate the provisions of that treaty having to do with the encryption telemetry, the very provision that prompted President Carter to threaten our withdrawal were they ever violated?

No, Mr. President, this test was conducted in a way that physically endangered the residents of a State of the United States, the State of Hawaii, because the announced impact points for the reentry vehicles in these tests fell as close as 200 miles northwest and southeast of the State of Hawaii.

Mr. President, no superpower has ever conducted a test of this kind. And I might state that when he takes the floor the Senator from Wyoming will also, through a visual aid, indicate just how near these reentry vehicles fell to the State of Hawaii. They fell as near as is New York to Montpelier, VT; as near as Washington, DC, is to Charleston, WV; as near as St. Louis to Little Rock.

Mr. President, this was a dangerous test. It was dangerous because, if there had been the slightest miscalculation, if this test had misfired by only fractions of a second, then this Soviet ballistic missile test warhead could have landed on a center of population in the Hawaiian Islands. This action cannot be explained or excused as anything less than a deliberate provocation of the United States and a direct threat to our national security. It is clear that it is an effort to intimidate.

I must say that I think it is especially outrageous, falling as it does immediately upon the conclusion of joint actions by the United States and the Soviet Union taken to reduce the risk of nuclear accident. This was no accident, Mr. President. But if, indeed, an accident had occurred, if there had been the slightest miscalculation, indeed a terrible accident could have occurred. There is no excuse for this conduct.

As a result, Mr. President, I think it is incumbent upon the Congress of the United States to not only demand an explanation—and there can be no good explanation for this deliberate act—but we are required, we are obliged on behalf of our constituents, not just those in Hawaii, but those in Little Rock and in San Diego and in Montpelier to demand that the Soviet Union never, ever undertake anything like this again. The Senate should condemn this action for what it is—intimidation, a provocation of the worst kind, the most dangerous kind.

And I might point out, Mr. President, that because the United States has absolutely no antiballistic missile defense, this test reemphasizes the vulnerability of our people to this kind of attack. If this had, in fact, not been a test but indeed the real thing and if there had been not a careful calculation but one carefully calculated to land at Pearl Harbor, which was not very far from the actual impact point, then we would have had a repetition of history, Mr. President, and one against which this Nation should hasten to defend itself so that we do not see a tragic repetition of history.

So later in the day, the distinguished Senator from Wyoming will offer, on behalf of himself and on my behalf and on behalf of other Senators, a resolution condemning the Soviet Union for this absolutely irresponsible, dangerous, provocative act of intimidation. That resolution will demand that they pledge not to ever again undertake this kind of conduct. It will ask that the President report to the Congress in 10 days, in both classified and unclassified forms, the details of the test, any Soviet response to any diplomatic initiatives that we have made by protest, and what steps the United States will take in the future to ensure that such a test will not again endanger citizens of the United States.

Specifically, it will ask what effect the first phase of the strategic defense initiative system could have against a missile launched in a similar proximity to U.S. territory.

Mr. President, I will not take more time. I will instead yield to my friend from Wyoming so that he can at greater leisure take the Members of the Senate through the graphic aids that will I think make unmistakably clear exactly how outrageous and dangerous, how irresponsible this action on the part of the Soviet Union has been.

But the fact that I am not taking more time in no way should be taken as demeaning or belittling the significance of this action. To the contrary, it is outrageous, but it can be stated quickly.

I thank the Chair.

I yield the remainder of my time to the Senator from Wyoming.

The PRESIDING OFFICER. The time of the Senator from California has expired.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I do appreciate the courtesy of the Chair. What we have seen is an attempt to move the Presiding Officer down to the floor.

Mr. President, concerning the SALT II Treaty, we have heard this morning only a portion of the larger debate. I rise to set the record straight on several assertions regarding the SALT II Treaty which are completely inaccurate.

For example, I have listened to my distinguished colleague from Arkansas say that the treaty was not ratified because of the Soviet invasion of Afghanistan. That is pure revisionism. The truth is that SALT II failed on its merits—or, should I say, its lack of merit. We, the many Senators on the Armed Services and Foreign Relations Committees weighed the terms of the treaty with utmost care. We were greatly influenced by the Jackson amendment focusing on the balance, the equity, the verifiability of the treaty, and whether it imposed true limits and controls.

Mr. President, the Armed Services Committee, without a single dissenting Senator, voted that the SALT II Treaty was "unequal, unbalanced, destabilizing and not in the security interests of the United States." The committee would that the treaty shouldn't be ratified. So let us not rewrite history by claiming that the invasion of Afghanistan derailed SALT II. The facts are that Senators, after careful scrutiny in the course of committee ratification hearings, determined the SALT II Treaty to be "unequal, unbalanced, destabilizing and not in the national security interests of the United States."

The list of inequities written into the SALT II Treaty is a long one. Let us just consider the SS-18 and the warheads associated with it. There are supposed to be 10 warheads in the SS-18. With the heavy throw-weight missiles that the Soviets have concentrated on, it appears that those 10 very likely now total 14. The advantage granted the Soviets with heavy missiles in SALT would be locked in place by this amendment.

Warheads have increased under SALT II. In fact, when SALT I was negotiated, the Soviets had only 2,000 warheads. When SALT II was negotiated the Soviets had 6,000. Today they have nearly 17,000. And they show no sign of slowing up. That's the problem with SALT II. It does not control warheads—the real weapons.

Likewise, consider the fact that SALT II limited our B-52's, but placed no limits on the Backfire bombers. As a consequence, the Soviet Union today has no fewer than 300 Backfires.

So, as concerns those so-called sublimits in article V, bear in mind that the United States presently is in excess of the SALT II sublimit of 1,320 mirved missiles and cruise missile capable bombers, by only 15 bombers—13 B-52's and two B-1's. And while we do not now know for certain that the Backfires are equipped with cruise missiles, there is no question that they have the capability of being equipped with cruise missiles—and there are 300 of them not even being counted in the sublimits.

We were told at that time that the Backfires had no place to land if they were to attack the American mainland, and hence could not be considered intercontinental bombers. Yet we know now that the runways constructed in Cuba can accommodate the Backfire, and perhaps the runways under construction in Nicaragua can also accommodate them. So therein lies another inequity.

We were restricted to one new ABM system. They were restricted to five. They controlled our cruise missiles. Theirs were uncontrolled. We were controlled in our discourse with allies, as to how we could inform NATO nations about developments. Yet the Soviets faced no such constraints within the Warsaw Pact.

You can go right on down the catalog of inequities: the fact that SALT II was unequal; the fact that it was unverifiable, and so on. The crucial fact is that those Senators who studied the treaty most thoroughly came to the firm conclusion not only that SALT II was unequal but that it also created a dangerous and false sense of complacency and security. Because when you get to the bottom line, a close study of SALT II Treaty itself reveals that the treaty's terms did not control warheads or missiles or launchers.

Launchers were not controlled because they were not adequately defined. Secretary Harold Brown and Soviet Defense Minister Ustinov did not agree on the definition. As was reported at the time, the Soviets were talking about silos, and we were talking about cannisters. At Vandenberg Air Force Base, we put a Minuteman III at a crossmark right at the end of the tarmac, fired it off down range, and hit a target. And yet the Soviets could have a cold launch, so even if you had defined the matter of silos, you could not control it. But they very consciously did not define launchers.

I repeat, missiles were not controlled, and launchers were not controlled. And if anybody had any misgivings about warheads themselves, consider article IV, section 10, second agreed statement, which permits decoys. If you can put decoys on a missile, and if you're willing to violate the treaty by encrypting the telemetry—which is exactly what the Soviets proceeded to do—then it is impossible to tell how many true warheads are on a given missile. Therefore, warheads were uncontrollable.

We considered this flaw as thoroughly as I know how. I know there are those who resent the distinguished American, General Rowney. He was one of the few Americans at the negotiating table who could speak Russian and understand what was going on. He made his mark with Gen. George Marshall, and wrote his thesis on arms control. He is a true arms controller. But he is not consumed by buck fever, impatient to say we have got a good treaty when we do not have a good treaty.

General Rowney, the chief negotiator, realizing the flaws in SALT II, took off his stars and said: "In all due respect, Mr. President, my Commander in Chief, I cannot go along with this treaty." General Rowney did a very brave thing.

He said: "I would have to sacrifice my career, but I cannot mislead."

And it was not only General Rowney who said SALT II was fatally flawed. More importantly, President Reagan said exactly the same thing during his 1980 campaign. That stance was, in part, the reason for his landslide victory.

Regrettably, for President Reagan it was all downhill from there. What followed was Secretary of State Haig's intimation that we might invade El Salvador or blockade Cuba. There was loose talk about the feasibility of a limited nuclear war. The next thing you know, the polls say that people are not frightened by Breshnev. They are frightened by their own President.

Unfortunately, the President then attempted to recoup credibility on arms control by making the unfortunate statement that he was going to adhere to SALT II. In other words, he reneged on what he had represented in the campaign.

Now, we were in the soup. Yet, we hear it said that the Senate did not have a chance to debate the SALT II Treaty, that it was derailed by Afghanistan. But, Mr. President, we regularly tally up vote counts in the U.S. Senate. And the fact is that an overwhelming majority of U.S. Senators indicated that they would have opposed the treaty. Supporters of the treaty lacked the necessary two-thirds majority for ratification. Indeed, I doubt they could have mustered even a simple majority.

So, what we have with SALT II is an unratified, expired treaty that has long since been a legal nullity. It has been repudiated by the President himself until he reversed himself.

Now, we must suffer a budding peace movement in the Senate that embraces arms control as an exercise in atmospherics and feel good politics.

I believe we are misleading our people. Ask the average American if an INF Treaty will permit us to decrease the defense budget, he will answer, "Yes." But that is a false expectation.

The reality is that the costs of conventional defense are far greater than the costs of nuclear.

Mr. President, we have on our hands a much more clever, smarter Soviet Premier than Brezhnev. Brezhnev was for confrontation. He was going to assert hegemony over Europe with his intermediate SS-20's. He sought to intimidate Europe.

But, to President Reagan's credit, he countered by deploying the Pershing II and the cruise missiles. The lesson of history is that conventional arms have never preserved the peace; nuclear weaponry has.

That is a bitter lesson. No one wants to have a nuclear war, just as no one wants to have a conventional war. All of this talk on the floor about in the horror of the trenches—most of this crowd has not seen a parade ground, much less a trench.

Gorbachev's strategy is far more sophisticated than Brezhnev's. Brezhnev blustered, but Gorbachev woos. He calculates, "We will denuclearize Europe. We will go first for the INF. We will go for other nuclear weaponry. We will get rid of chemical warfare. Then with our 144 divisions against their 40 divisions, we will gain hegemony over Europe with our conventional weapons."

The Soviet Premier knows what he is about. If he succeeds in making it difficult for the parliamentary and congressional bodies to vote for adequate conventional defense, he will be able to Finlandize Western Europe. The jig will be up.

So we are arguing not just article V. Do not swallow that nonsense. This amendment talks only about article V as its sublimits. It ignores the Soviet violations of overall weapons ceiling contained in article III at the second new ICBM—the SS-25—prohibited by article IV.

What is being said to the U.S. Senate is, "Forget about your advise and consent. Forget about the solemnity of the ratification process. Just write in your treaty as a rider on the appropriations bill. Put it in with a majority vote on the authorizing bill, then corrupt the constitutional process further by including both Houses."

I say that advisedly. The distinguished Members of the House of Representatives have their own perspective. Under the Constitution, if you put in, a textile bill, Mr. President, the House will say that affects revenues. You pass it in the U.S. Senate and the House will blue-slip it, protecting their particular prerogative under the Constitution to originate all revenue measures within the House. I respect that.

In a similar fashion, there must be more respect and more adherence to the formal procedures and obligations we have as Senators. If we are going to fix votes in the back rooms, and I say that advisedly, then we might as well forfeit our claim to being the most deliberative body in the world.

It is like bringing a lawyer a client charged with drunk driving. That evening the client parks his car near the bar and puts two bits in the meter. He goes in, drinks his fill, then comes out and runs down a pedestrian. He's charged with drunk driving, but his lawyer pleads that he is law-abiding. After all, he adhered to the parking rules; he put two bits in the meter.

Well, regarding Soviet flouting of SALT II, we have the equivalent of a drunk driver on our hands. They have already blatantly exceeded the overall treaty limits. Yet, as in the example of the drunk driver and his lawyer, I listen to the Senator from Arkansas assure us that the Soviets are in scrupulous compliance with SALT II sublimits. Where is this scrupulous compliance? The Soviets have long since exceeded the limits.

In 1986, 57 of our colleagues wrote a letter to the President stating "adhere to SALT." In June of 1986, there was an effort by Senator BUMPERS requiring adherence to SALT II. We saw a similar effort in June 1985 and again on April 12, 1984.

Mr. President, I ask unanimous consent that we have these efforts printed in the RECORD at this point so we can see what has been going on. All of these are mischievous attempts to ratify an expired treaty by a majority vote. now the pro-SALT crowd, the crowd that favors arms proliferation and not arms reduction—if one can believe this thrust to lock the SALT II arms growth in place—comes in with the ploy of sublimits, sublimits, sublimits. It is very deceptive and very damaging to the security interests and to real arms control, if the truth was understood.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. —

At the appropriate place in the bill insert the following:

SEC. . LIMITATION ON DEPLOYMENT OF CERTAIN STRATEGIC NUCLEAR WEAPONS.

(a) SHORT TITLE.—This section may be cited as the "Strategic Nuclear Weapons Interim Restraint Act."

(b) LIMITATION ON OBLIGATION OF FUNDS.—Notwithstanding any other provision of law and subject to subsection (c), none of the funds appropriated pursuant to this or any other Act to or for the use of any department or agency of the Federal Government may be obligated or expended before September 30, 1988 to overhaul, maintain, operate or deploy more than—

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(c) EXCEPTIONS.—(1) The limitation on the obligation and expenditure of funds in subsection (b) shall not apply if at any time more than 30 days after the date of enactment of this act the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a). If the President makes such a determination, he shall submit to Congress a report that includes the information on which such determination was based. Such report shall be submitted in both classified and unclassified form.

(2) If at any time more than 30 days after the date of the enactment of this Act the President notifies Congress in writing that, based on the best agreed Intelligence Community assessments, he is unable to make a certification under paragraph (1) or to make a certification that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a), the limitation on the obligation and expenditure of funds in subsection (a) shall not apply for a period of 30 days after the date on which the notification is received by Congress.

(d) NOTIFICATION OF PLANS FOR COMPLIANCE.—Not more than 30 days after the date on which the President determines that funds are prohibited from being obligated or expended for the overhaul, maintenance, operation, or deployment of strategic offensive nuclear weapons in excess of the numbers specified in subsection (b), the President shall notify Congress of his plans for actions to comply with the limitations specified in subsection (b).

(e) NEW AGREEMENT.—If a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988, the restriction on the obligation and expenditure of funds in subsection (b) shall cease to apply.

(f) DEFINITIONS.—For purposes of this section:

(1) The terms "launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles" and "submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles" mean launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles.

(2) The term "air launched cruise missiles" means unmanned, self propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

S. RES. 431

Whereas it is in the national interest of the United States to continue the policy of not undercutting existing strategic offensive arms agreements;

Whereas the Senate supports the President's recent decision to order the dismantling of older launchers as the eighth Trident submarine commenced sea trials;

Whereas the Senate also supports the President's efforts to pursue the resolution of concerns over Soviet noncompliance with strategic arms control agreements, particularly the encryption of telemetry and the deployment of the SS-25, both clear violations of SALT II provisions;

Whereas Soviet violations of existing strategic offensive arms agreements weaken the integrity of those agreements and the positive environment necessary for successful negotiation of new agreements;

Whereas the Senate believes there are appropriate, proportionate responses to Soviet violations which can be implemented without abandoning existing strategic offensive arms agreements;

Whereas the Senate is concerned about the continuing Soviet buildup in strategic nuclear warheads, which will add significantly to the number of nuclear warheads deployed by the Soviet Union;

Whereas the Senate believes that the Soviet ability to deploy substantially more nuclear warheads would be enhanced by the absence of an interim restraint framework;

Whereas the Soviet Union has to date dismantled hundreds of operational missile launchers, and would have to dismantle hundreds more over the next few years, to stay within the numerical limits of existing strategic arms agreements;

Whereas ending the United States no-undercut policy has the potential for igniting an unlimited nuclear arms race; and

Whereas the Senate also believes that both the United States and the Soviet Union should intensify their efforts at the Geneva arms negotiations to agree upon substantial and verifiable reductions in their nuclear forces: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it is currently against the national security interests of the United States to abandon existing strategic offensive arms agreements by exceeding the numerical sublimits therein as long as the Soviet Union remains within these sublimits;

(2) the Soviet Union should take positive steps to resolve United States concerns about Soviet violations of existing strategic arms agreements in order to maintain the integrity of those agreements and to strengthen the positive environment necessary for the successful negotiation of a new agreement; and

(3) the Congress and the President should continue to review the policy of mutual adherence to the numerical sublimits on launchers of strategic nuclear delivery systems, how such adherence serves United States security interests, the significance of both Soviet compliance and noncompliance with existing strategic offensive arms agreements, and the advisability of taking appropriate, proportionate responses to Soviet violations.

At the end of title IX of division A of the bill, insert the following:

POLICY ON COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

SEC. . (a) The Congress finds that—

(1) it is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies;

(2) the President has declared that "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the soviet Union shows equal restraint":

(3) the President last year called this policy "helpful" and pointed out that "we have been eliminating some of the older missiles and taking out some of the submarines. We will continue on that ground";

(4) the President has also declared "that the United States is continuing to carry out its own obligations under relevant agreements";

(5) the President has reported to Congress that the soviet Union has violated certain of their political commitments with respect to the SALT II Treaty including the provisions of telemetry encryption and "new types" of ICBMs;

(6) the President has declared that "the United States will continue to press these compliance issues with the Soviet Union through diplomatic channels";

(7) the President has also declared that "the United States is continuing to carry out its own obligations under relevant agreements, subject to the Soviet Union reciprocally complying with SALT II";

(8) last month, the President stated in reference to the United States commitment to refrain from undercutting existing strategic arms agreements so long as the Soviet Union shows equal restraint that "there's considerable evidence now that that has been rather one-sided, and if it has been, then there's no need for us to continue";

(9) the President's Commission on Strategic Forces in its April 1983 report declared that a "more stable structure of ICBM deployments would exist if both sides moved toward more survivable methods of basing than is possible when there is primary dependence on large launchers and missiles" and, consistent with this goal, recommended that the United States proceed with engineering development of a small, mobile single-warhead ICBM (SICM);

(10) Lieutenant General Brent Scowcroft, Chairman of the President's Commission on Strategic forces, has testified with respect to the SICM that "it would stand arms control on its head to say that it (the SALT II treaty) would prevent us moving in the direction clearly in the interest of arms control and stability";

(b) It is the sense of the Congress that—

(1) the United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic arms control agreements and should seek corrective actions through confidential diplomatic channels, including, where appropriate, the Standing Consultative Commission and the renewed nuclear arms negotiations;

(2) the Soviet Union should take positive steps to resolve the compliance concerns of the United States about existing strategic offensive arms agreements in order to maintain the integrity of those agreements and strengthen the positive environment necessary for the successful negotiation of a new agreement;

(3) the United States should, through December 31, 1986, continue to refrain from undercuting the provisions of existing strategic offensive arms agreements to the extent that the Soviet Union refrains from undercutting those provisions, or until a new strategic offensive arms agreement is concluded; and provided, however, nothing in this section shall be construed as prohibiting the U.S. from carrying out other proportionate responses to Soviet undercutting or strategic arms provisions; and

(4) the President should carefully consider the impact of any change to this current policy regarding existing strategic offensive arms agreements on the long term security interests of the United States and its allies and should consult with Congress before making any changes in current policy.

(c) the President shall provide to the Congress on or before September 1, 1986, a report that provides:

(1) a projection and comparison, on a year-by-year basis, of United States and Soviet strategic weapons dismantlements that would be required over the next five years if the United States and the Soviet Union were to adhere to a policy of not undercutting existing strategic arms control agreements.

(2) a projection and comparison, on a year-by-year basis, of likely United States and Soviet strategic offensive force inventories over the next five years if the non-undercut policy were to lapse at the end of 1985;

(3) assesses possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy; and

(4) makes recommendations regarding the future of United States interim restraint policy.

(d)(1) To the extent that the President finds and reports to the Congress that the Soviet Union has violated the provisions of strategic arms agreements, and that the President finds and reports to the Congress that such violations impair of threaten the security of the United States, the President may propose such measures as shall be necessary to protect the security of the United States. Nothing herein should be construed as an attempt to restrain or inhibit the Constitutional powers of the President of the United States.

(2) Nothing in this section should be construed to endorse unilateral U.S. compliance with existing strategic arms agreements.

(3) Nothing in this section shall be construed as prohibiting or delaying the developing, flight testing or deployment of the SICM as authorized by Congress or as establishing a precedent to continuing the no-undercut policy beyond December 31, 1986, which should be a matter for consultation between the President and Congress and subsequent review and debate by the Congress.

S. CON. RES. 105

Whereas it is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies;

Whereas the President has declared that "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint";

Whereas the United States has legitimate concerns about certain Soviet actions and behavior relevant to limitations and other provisions of existing strategic arms agreements;

Whereas the President has declared that "the United States will continue to press compliance issues with the Soviet Union through diplomatic channels, and to insist upon explanations, clarifications, and corrective actions";

Whereas the President has also declared that "the United States is continuing to carry out its obligations under relevant agreements";

Whereas it would be detrimental to the security interests of the United States and its allies, and to international peace and stability for the last remaining limitations on strategic offensive nuclear weapons to break down or lapse before replacement by a new strategic arms control agreement between the United States and the Soviet Union;

Whereas the continuation of existing restraints on strategic nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms;

Whereas the Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table;

Whereas a termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult;

Whereas both sides have to date abided by important numerical and other limits contained in existing strategic arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits; and

Whereas it is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed, and to continue to remain at or below a level of eight hundred and twenty launchers of MIRV'd ICBM's, one thousand two hundred launchers of MIRV'd ICBM's and SLBM's, and one thousand three hundred and twenty launchers of MIRV'd ICBM's and SLBM's, and ALCM-equipped heavy bombers, and other related limits in existing strategic offensive arms agreements: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements through the Standing Consultative Commission and, where appropriate, other confidential diplomatic channels; and be it further

Resolved, That it is the sense of the Congress that the United States should continue to carry out its obligations and commitments under, and otherwise to observe the provisions of, existing strategic arms agreements so long as the Soviet Union continues to observe those provisions, or until a new strategic arms agreement is concluded; and be it further

Resolved, That it is the sense of the Congress that the President should carefully consider the impact of any changes to his current policy regarding existing strategic arms agreements on the long-term security interests of the United States and its allies, and should consult with the Congress before making any changes in current policy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. HOLLINGS. Mr. President, the time must come in this body when we adhere to some kind of discipline in procedures. What we have is a total breakdown now. You can write any treaty on any authorization bill. Take the ABM Treaty, where the Senate passed the amendment reinterpreting on a unilateral basis the provision dealing with future systems.

I have addressed that issue but my words are lifted out of context. We will debate again the ABM Treaty with the distinguished Senator from Georgia. I am not inconsistent. I never stated I was for immediate deployment. What I am for is the treaty itself. I have talked about the ambiguity in the treaty, the one dealing with deployment of future systems, but the distinguished Senator from Georgia talks of his manufactured ambiguity—on land-based systems and an alleged ban on all future technologies. Ridiculous. The treaty allows future technologies. I am all for testing and developing and have said that continually during the debate.

I have always said that I liked serving in the U.S. Senate because we had the adversary proceeding. You can talk to the jury. You can make the final argument. And then, better than anything else, you could go into the jury room and vote. Now that has changed materially. You cannot talk to anybody. In fact, most speakers just look up at the camera and do not look at you during discussion. There is no real deliberation. Votes are fixed outside. So what you have is instant replay in this Chamber.

We have degenerated into instant replay. There is no floor debate and exchange of views. Many care less what the other colleague thinks. This is part and parcel of what is happening on the SALT II Treaty debate. We will nibble at ratification little by little.

We are not that naive and they ought not take us as suckers along that line. They ought to have the candor to come out here and say what they are trying to do and argue that particular point.

With respect to the sublimits, Mr. President, let us look at it right now.

The Soviets are likely in violation of the 1,320 limit on MIRV'd warheads and cruise missile capable bombers.

We are in excess of the 1,320, perhaps up to 1,345. I am not acceding that the Soviets have meticulously abided by the level. We have had their word and we know what our intelligence information states on the subject. My distinguished colleagues from Arkansas says he has met with the Soviet officials, I believe the Foreign Minister, Shevardnadze. I would remind him what Gromyko told President Kennedy about missiles in Cuba. We could not rely on that statement. I remember what Brezhnev told one congressional delegation when they were arguing some 15 years ago about the Indian Ocean being an ocean of peace and they had no missilery whatsoever down there, and the distinguished Senator from Georgia, Senator NUNN, and the former Senator from Oklahoma, Dewey Bartlett, were down in Somalia and there were the missiles behind the hangars. Meanwhile, up in Moscow at the very same time we were being told there "ain't nobody here but us chickens." Come on. Come on.

We live in the real world. When we say the Russians are coming, I don't mean they are coming into Arkansas or South Carolina. Not today anyway. Today the Soviets are moving into Yemen, into Ethiopia, into Afghanistan, into Angola, into Cuba, into Nicaragua, into Cambodia, and into the Far East. They have trebled the size of the old United States base at Camrahn Bay. They now have a navy that is bigger if not better than ours. Yet the opposition attempts to ridicule us as a bunch of paranoids crying that "them Russkies are coming."

Well, John F. Kennedy wrote about this same syndrome in his famous treatise "why England Slept." This crowd is trying to put America to sleep. England was put asleep by the same types of arguments: "Don't worry about the Germans; they are only striking macho poses to protest the Versailles Treaty." Sure, the Germans were building a lot of arms, but, it was said, they had no place to use them. We hear the same arguments today. They say we cannot defend ourselves against nuclear attack, and they are trying to make that a self-fulfilling prophesy by blocking SDI. John F. Kennedy in "why England Slept" noted that the argument on the continent was that they could not defend themselves against a manned bomber, so why try?

Likewise, Kennedy wrote about the prevailing belief that arms caused war rather than that arms prevent war.

With all due respect to the opposition and the proponents of the SALT II Treaty, they are cut from that same cloth. They think that we are going to lay down our arms, we're not going to study war no more, and if we disarm, the Soviets will do the same. We will have peace in our time.

Well, I prefer the wisdom of the Father of our Country. In his farewell address he said the best way to preserve the peace was to prepare for war, and that is why we do it. That is why we vote billions for arms. Heavens above, this Nation has done nothing but win freedom for other nations the world around. We lost 58,000 men in Southeast Asia trying our dead-level best to give the South Vietnamese self-determination. We occupied the Philippines and gave it freedom. We occupied Cuba and gave it freedom. We occupied Europe and gave it freedom. We occupied Japan and gave it freedom. But, if you listen to this crowd caterwauling around here, you would think that America is the great threat to the world. This is a gross distortion of history.

Soon the Senate will be asked to ratify an INF Treaty. Knowing what I know now, I'd be inclined to support the INF Treaty with certain misgivings. Indeed, my main misgivings are not with the treaty itself. We give up a lesser amount of intermediate missiles for a far greater number of SS-20's. The arithmetic mandates ratification. And certainly the treaty itself does not bar a buildup in conventional capability.

No, my misgivings are with the body politic and how it will respond to an INF Treaty. We have not sold the American people on the need for defense. They do not understand the enormous expense. In World War II that B-17 cost $97,000; in contrast that B-1 that crashed earlier this week cost $350 million. People may well interpret an INF Treaty as license to cut back on defense.

We have a profound duty to educate the body politic in this land. Instead we mislead them with amendments of the kind now before the Senate. We are not dealing here with just little Article V and the various sublimits of SALT II. Likewise on SDI, it is folly to box ourselves in and talk about deals and limits. SDI is not a bargaining chip. The Armed Services chairman has done a clever job in his amendment to the defense authorization bill. He says, yes, I believe in SDI but, by the way, let us not test and let us not develop it—there are funds for that.

That reminds me, Mr. President, of my time as Governor when we were reorganizing our insurance department at the State level. This fine gentleman, the mayor of an all-American town, Mr. Lester Bates, organized Capital Life. He was looking for a slogan for the new insurance company. The winning slogan was "Capital Life would surely pay if the small print on the back didn't take it away."

Similarly, some Senators say they are for SDI, but, oh, no, no, no, then they take it away with the Nunn-Levin amendment. That threatens the security of the United States. We are building up a movement within the Armed Services Committee and within the Senate promising peace in our time. History repeats itself. We should issue each Senator an umbrella and a fedora.

We can support sound treaties. We can support, as the Senator from Arkansas said, more common sense. But common sense dictates that this particular measure be soundly defeated on all points: It should be defeated on a point of procedure for involving the House in a treaty-ratification process, and for attempting to get by with a majority vote instead of the two-thirds required for the ratification of a treaty. It should be defeated because its proponents falsely claim that the SALT II limits are being adhered to when in fact the limits are being exceeded at the present time.

People outside the Washington beltway are aghast that Senators would propose that we take an unratified treaty that has long since expired, that has been violated time and again by the Soviet Union, and unilaterally bind the United States to observing it.

Mr. President, I retain the balance of my time.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, may I say that I yield myself on behalf of the managers on the opposition side 20 minutes.

May I also say before I begin my remarks how much I hope that a press that has been unwilling to listen to the Senator with his articulate arguments on the interpretation of the ABM Treaty might just watch and pay attention to some wisdom that is contrary to their conventional acceptance of the way things go.

I salute the Senator from South Carolina for what he has told us and the American people. The press ought to pass that on had they any level of responsibility. What we see now, Mr. President, willingly or unwillingly, knowingly or unknowingly, conscientiously or unconscientiously, is the proponents of this amendment once again seeking in the face of Soviet violation, Soviet threats to American security, to restrict the actions of their own country and leave the Soviet Union unfettered.

Once again, the effect of this amendment is to give the Soviet Union total control over American behavior. It gives them the ability to select their own compliance regime, that which they want to restrict us in. They remain in compliance with those provisions which afford them significant advantages while they willingly violate those provisions which cause them pain, knowing full well that this country will not do anything about it.

So they select their own compliance pattern to restrict not their own behavior but that of the United States. Thus in three specific acts the sponsors of this Bumpers-Leahy amendment and those who support it really endanger our country, our America, and our world of freedom. First of all, they ratify Soviet violations on Soviet terms by simply saying those violations are irrelevant or not serious threats to us.

Second, they prohibit United States responses to Soviet violations except on Soviet terms. So not only do they violate on their own terms but they in effect force us to respond and restrict our behavior as well on Soviet terms.

Third, blindly, they simply undercut any negotiating posture that this country may have in Geneva at the START talks.

The Soviets, acting with marvelously typical disdain, know perfectly well: They follow the Senate, they sit in the galleries, they sit in the committee hearings, and they are around here. They know perfectly well that this Bumpers-Leahy amendment is to be debated. They know that absolutely. They know perfectly well that there are some, as the Senator from South Carolina has just so articulately stated, who have adopted an anticonstitutional process for treaty making. It is not against the Constitution for the Senate or the House to pass these things, but it is anticonstitutional. It is not what the Constitution contemplated in treaty-making processes.

So the Soviets know full well that those in this Senate and in this Congress who have adopted the anticonstitutional process serve their needs far better than does the negotiating process in Geneva. In point of fact, that is just exactly what is taking place.

So now, Mr. President, how do the Soviets show their disdain? The Senate should be aware that the Soviet Union yesterday and today has committed a provocation against America unprecedented in the nuclear age, unprecedented both in that it has never been done by either nuclear power, and unprecedented in the sense that this provocation takes place at a time when hopes—created by the press, created by sponsors of the amendment, created indeed by the administration's own self-professed euphoria—that United States-Soviet relations should be increasingly warm, and based on standards accepted by civilized nations. To speak of the Soviet Union as a civilized nation, in itself is an oxymoron.

So while the Members of the Senate and the House of Representatives and the administration all glow in anticipation of the warm light of a supposed new United States-Soviet détente, the Soviet Union has taken the following steps.

They notified us that they plan to conduct intercontinental ballistic missile tests against targets in the Pacific Ocean. Let me suggest that this test they just did is doubly a SALT II violation while we are seeking here to restrict ourselves while the Soviets know full well that this debate is in the offing. It violates three provisions. First, it is a new type. Second, the test was encrypted. And, third, it violates the specific provision prohibiting deployment of any heavy ICBM more capable than the SS-18. Is that something that is a serious violation or is it not? I ask you. Here is what it was, Mr. President. This is the SS-18 follow-on ICBM, heavier, longer range, more accurate, and a violation in and of itself.

Here is another rendition of it, the SS-18 follow-on, prohibited, and gloated over by Secretary Brown is the SALT II hearings that this treaty would act as the final cap on heavy missilery and prohibit this missile. We were told that we no longer have to worry about anything more powerful than the SS-18—gloated on as the cap, the crown, and the jewel of the SALT II Treaty. And so here we are.

Mr. President, let us take a look at the whole nature of this provocation. The whole nature of this provocation is the target zones that the Soviets notified us of in the Pacific Ocean. These areas on the map are the Hawaiian Islands. Let me suggest there are two impact zones which the Soviets notified the world to stay out of because of the danger of pending tests. Here to the North and West of Hawaii, and here are the South and East of Hawaii. This one is about 500 miles, this one about 200 miles from American territory, and just on the edge of the Hawaiian coastal air defense identification zone, the outer edge of the defenses of Hawaii, right touching the edge of the defense identification zone.

Mr. President, let me suggest that the Soviets were echoing Lenin's statement. This did not happen by accident. The Pacific Ocean is enormous, and the empty spots on it of that range are too innumerable to count. Why then do they choose these?

Essentially, Mr. President, to thumb their nose at the whole process—risk reduction centers, at the whole process of euphoria—in the absolute certainty that they will have a number of supporters on an amendment which would limit and restrict the ability of the United States in any way to respond.

So the impact coordinates of those are fully known. They are published in the world to keep shipping out, and they have been published by the Soviet news agency Tass.

I pointed out where the coordinates on the map have left us.

Mr. President, I ask unanimous consent that an article entitled "Soviets Test-Fire ICBM Just North of Hawaii" from the Washington Times this morning be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIETS TEST-FIRE ICBM JUST NORTH OF HAWAII

(By Bill Gertz)

The Soviet Union aimed its largest long-range ICBM missile at an area 350 miles north of Hawaii yesterday in a test-firing that has raised concerns of U.S. defense officials.

A second test aimed for an area the same distance south of the islands is imminent, U.S. intelligence sources said.

"This was a highly provocative act on the part of the Soviets," said one defense source. "It's the first time an ICBM has been fired so close to American territory, and now they are bracketing Hawaii."

The missile firings appear to be "bracket" tests of a missile designated the TT-09, the successor of the SS-18 heavy ICBM, the Soviets' largest and most powerful land-based nuclear missile to date, the sources said.

The second missile will pass directly over the Hawaiian islands if it follows the trajectory U.S. officials anticipate, according to the sources, who spoke on condition of anonymity.

"I don' know what to make of it, but I don't like it," said one administration official. "It's the principle of flying the damn thing at U.S. territory."

The first missile was fired from the missile test range at Tyuratam in the southwestern Soviet Union, the sources said. Dummy warheads, they said, re-entered the atmosphere en route to the target area north of Hawaii in the early morning.

U.S. space-based and naval intelligence monitors detected the first missile, and the second missile could be fired as early as today, the sources said.

Said a congressional source, "It's an obvious attempt at nuclear intimidation."

The test firing yesterday appeared to be a failure, since the reentry vehicles from the missile fell about 1,000 miles from Hawaii, the farthest end of a closed ocean area the intelligence sources said. But based on its flight path, U.S. intelligence analysts believe the missile's test warheads were targeted on an area 350 miles north of Hawaii.

Previous tests of long-range Soviet missiles have been conducted in remote areas of the northern Pacific.

One intelligence source said yesterday's firing was a "full, extended range test," denoting that the test missile was not a shorter-range submarine-based missile.

The Soviet Union recently notified international navigators that a large area of the northern Pacific totaling some 100 square nautical miles was closed for yesterday's test, intelligence sources said.

The Soviets subsequently requested the closure of ocean traffic through a "notice to mariners" for an area 350 miles south of Hawaii in an area that will bring the second Soviet test missile over the islands en route to the test impact area, the sources said.

The TT-09 will carry at least 10 independently targetable warheads and will have a maximum range of more than 7,000 miles, Pentagon sources said.

Nearly 100 feet long, the new missile will have a greater throw-weight or warhead-carrying capacity, than the SS-18, and its warheads are expected to have greater accuracy they said.

Mr. WALLOP. Mr. President, as I stated, this flight test is a violation of the two provisions of the SALT II Treaty, limit on new missile types and the specific limitations on no new heavy ICBM's. It is as well a violation because of telemetry encryption, a normal test for the Soviet Union.

Mr. President, no superpower since the dawn of the nuclear age has ever conducted ICBM tests with impact points so close to the sovereign territory of another country. There is no explanation for this action other than provocation. It was no mistake. The Soviets have the ocean to test in and they chose these places and they executed those tests.

So in effect the Soviets were practicing, Mr. President, attacks on America. Let me just show you how close that test came to the United States where the coordinates of that territory by comparing the distance in terms of cities on the American mainland.

Let me show the Senate that up here, at Montpelier, VT, and New York City, there is a circle, precisely this ring. Down here, as well, in West Virginia. Also, all the way down into North Carolina. Down here, as well, in Arkansas, the home State of the sponsor of this restriction. Here in Cheyenne, where the missile base of the Minuteman and the new MX are, in my home State. Here in Los Angeles and San Diego, in the home State of Senator WILSON, of California, who spoke before.

I ask, Mr. President, what is the Senate to make of this, and what is the country to make of a Senate that, in the face of these provocations and these three violations of the SALT II Treaty, might indulge itself in a signal restricting the behavior under the terms of that treaty, and ignore those violations and ignore that specific threat to America? What is America to think?

What is more important, what are the Soviets to think? I will tell you what they are to think. They are to think that they can violate and issue provocations at will, because this Senate has more of an interest in restricting the behavior of its own country—were we to adopt this—than they are to dealing with the real threat that is presented by these provocations and by these violations.

I would suggest, Mr. President, that this is precisely the kind of activity that both sides have agreed in lots of public statements could start accidental nuclear war.

It is also ironic that we have passed legislation on this Defense Department bill with respect to risk reduction centers, given this flagrant assault on U.S. sovereignty, given the euphoria with which Mr. Shevardnadze and Mr. Shultz talked about preventing accidental war and had the President sign an agreement on it. It now serves ironic that we held that funny little dual press conference, reading one sentence at a time, each reading one in his own language.

Mr. President, how can we begin to place greater and greater trust in a Soviet regime that repeatedly undermines any confidence we might have in the arms control process with these actions? Last week, an American military liaison mission team was assaulted in East Germany. This week, the Soviet Union test fired its most powerful ICBM directly at one of our States. What is next?

What do the sponsors of this amendment say to provocations like that and to threats like that and to the fact that these are three violations, while they are seeking to make us come into compliance with one miniscule portion of the SALT II Treaty?

Mr. President, I will now read the resolution that we are going to introduce at the conclusion of these efforts. It says:

Whereas the Union of the Soviet Socialist Republic and the United States of America have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

Whereas the Soviet Union has within the last twenty four hours conducted two tests of its intercontinental ballistic missile forces,

Whereas the announced impact points for re-entry vehicles from these tests are as close as two hundred miles northwest and southeast of the State of Hawaii,

Whereas one target area will require the overflight of sovereign U.S. territory by a Soviet ICBM,

Whereas neither superpower has ever conducted an ICBM test as close to the others' territory,

Whereas the missile used in this test is a new modern multiple warhead ICBM which is a violation of both the "new type" and the "heavy ICBM" provisions of the SALT II Treaty.

Whereas the Soviet Union allegedly encrypted telemetry from this first flight-test, as is their standard practice, in further violation of the SALT II Treaty,

Whereas the Soviet Union appears to have been practicing with this test a strike on the United States because of the use of polar trajectories of fire,

Whereas had this test misfired by only fractions of a second, tens of Soviet ballistic missile test warheads could have landed on centers of population in the Hawaiian Islands,

Whereas this action cannot be explained as anything but a deliberate provocation of the United States and a direct threat to our national security.

Be It Therefore Resolved that it is the Sense of the Senate that,

(1) This test has increased rather than decreased the risk of nuclear war.

(2) The Congress of the United States condemns the Soviet Union for its actions that demonstrate an utter disdain for civilized and acceptable standards of international behavior,

(3) The Senate condemns this new violation of the provisions of the SALT II Treaty,

(4) Because the United States has not even a very limited defense against ballistic missiles, the possibility of accidental impact of Soviet ballistic missile test warheads in the population centers on the Islands of Hawaii could not be prevented,

(5) The United States government should officially and at the highest levels protest this action by the Soviet government and should inform the Soviet Union that it will not tolerate another flight-test of this sort aimed directly at U.S. territory;

(6) The President should report to the Congress in ten days in both classified and unclassified forms on (a) the details of the tests; (b) Soviet explanations offered in response to U.S. diplomatic protests; (c) what steps the U.S. will take to ensure that such a test will not happen in the future; and (d) what effect a first-phase SDI system could have against a missile launched in similar proximity to U.S. territory.

Mr. President, at the appropriate moment, Mr. WILSON, Mr. DOLE, and I will introduce this resolution, which I think is a far more accurate expression of the danger that the United States finds itself in, and the mood of the American people in the face of provocation, than is the amendment that sits before us as the business of the Senate at this time.

I thank the Senators from Virginia and South Carolina for yielding me time.

Mr. WARNER. Mr. President, I have listened carefully to the statement by the distinguished Senator from Wyoming, and he has made a valuable contribution to all. As a matter of fact, it is one of the finer statements I have been privileged to witness.

Mr. WALLOP. I thank the Senator.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from South Carolina.

Mr. THURMOND. I yield myself 5 minutes.

Mr. President, I rise in opposition to the amendment which would prohibit the expenditure of any further funds for deployment of any weapon system which would cause the United States to exceed three numerical subceilings of SALT II, unless the Soviet Union violates these sublimits.

This amendment mandates compliance with an expired agreement that has never been ratified by the Senate. Moreover, the Soviet Union has for several years violated, and continues to violate, some of the central provisions of SALT II. The United States sought repeatedly to correct Soviet noncompliance, and gave the Soviets over a year and a half to correct the situation before deciding in May of last year to end our unilateral adherence.

While the sponsors of this amendment regard the numerical sublimits as the "essence" of SALT II, proponents of the treaty in 1979 argued that the essence of SALT II was found in three key provisions—the new types limit, the SNDV numerical limit, and the provisions on telemetry encryption—provisons which today are being violated by the Soviet Union.

The proponents of this amendment argue that continued adherence of the Soviets to the SALT II sublimits is important for the national security of the United States. Yet these limits have not constrained the Soviet inventory. In the 7 years since the signing of SALT II, the Soviet Union almost doubled its inventory of strategic weapons, and under SALT II sublimits, could add another 3,000 warheads, There is considerable evidence that the Soviets would not necessarily expand their forces significantly beyond the increases already projected with SALT II.

Mr. President, the Senate has engaged in considerable debate this year regarding the proper role of the Congress and the President with respect to the ABM Treaty. The issues raised by this amendment cuase me even greater concerns than the issue of legislating a particular treaty interpretation. This amendment legislates compliance with a treaty that has not been ratified by the Senate, and could not be ratified today if a vote were taken.

At the same time, the amendment undercuts the U.S. negotiating strategy contained in our START proposal. That proposal is now on the table in Geneva, and seeks to obtain real and substantial reductions in the numbers of nuclear weapons.

Mr. President, in making his interim restraint decision, President Reagan established the policy that as long as there is no significant change in the threat facing the United States, the United States will not deploy more strategic ballistic missile warheads or more strategic nuclear delivery vehicles than the U.S.S.R. That policy seems to me to form a much better foundation of mutual restraint as negotiations are ongoing than the Congress legislating compliance with part of the SALT II Treaty. SALT II does not constrain Soviet warhead growth. SALT II has not been ratified and has expired. Finally, and of great importance, the Soviets are violating key provisions of SALT II.

Mr. President, I urge my colleagues to oppose this amendment as I do not feel it is in the best interest of our Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I will accept such time as the distinguished Senator from Virginia feels comfortable in allotting to me because I have tried to manage bills myself on this floor.

Mr. WARNER. Fine. Might I suggest to my distinguished colleague that he proceed and that at a later point we will determine the amount of time but I am certain it would be adequate.

So for the moment, I yield the Senator from North Carolina such time as he feels necessary.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank Senator WARNER for his graciousness.

And I would just suggest to him that when another Senator arrives desiring time, he give me the high sign and I will conclude my remarks.

This is the kind of subject, Mr. President, that those of us who are especially interested in that it would be possible to talk for hours. I will not do that. I offer that comfort to those who may be listening. I will try to be as succinct and precise as I can.

Mr. President, I wish it were possible for all Americans either to hear or to read the text of the remarks by the distinguished Senator from Wyoming [Mr. WALLOP] just a little while ago.

Senator WALLOP identified three new violations of the SALT II Treaty by the Soviet Union, violations of unprecedented arrogance and provocation. Anybody who tries to sugarcoat this latest episode by the Soviets would be making a perilous mistake.

I congratulate Senator WALLOP on his outstanding analysis of this unprecedented event.

Indeed, the analysis shows that the Soviet Union is exceeding the sublimits of the SALT II Treaty in a most perilous fashion and I hope somehow the American people may be led to understand precisely what is going on.

The Soviet Union exceeds the SALT II sublimit on the number of units a missile can carry, the number of warheads. The SALT II sublimit on warheads that can be carried on ICBM's is 10, and the new ICBM tested near Hawaii carries more than 10. However, we already know that the Soviet Union is exceeding all the sublimits. Their other violations may not be as dramatic as the latest three identified by Senator WALLOP, but they are just as significant.

So, that is bound to lead to the inescapable conclusion that the amendment of the distinguished Senator from Arkansas [Mr. BUMPERS] is a retrogressive amendment. It would require the United States to go back to a level of strategic deployment which is obviously inadequate to the defense of the American people and which is dangerously destabilizing.

Now, I do not question Senator BUMPERS' good intentions. To the contrary, I think I know his intent is good, but the result of his amendment would be to sell short the best interest of the American people.

I know that the Senator from Arkansas believes his amendment would contribute to nuclear stability, but as I have already pointed out, it is in itself destabilizing. And it is so because the Soviets are not now in compliance with the SALT II sublimits which Senator BUMPERS would force upon the United States.

The Senator would have us believe that the Soviets might, and I emphasize the word "might", might come back into compliance at some future date. But the fact is that the Senator cannot assure us that the Soviets will actually come into compliance. The Soviets in absolute fact are not now in compliance with the SALT II sublimits.

The entire history of the Soviet Union spells out the danger in such a hope, such an assumption, that the Soviets will comply with treaties.

The Soviets have no reason and no interest in coming into compliance. They have not come into compliance and I do not believe that I shall live long enough to see them reverse all of their SALT violations.

The fact that the Soviets have not been in compliance can be clearly demonstrated in the violations report which the President of the United States has sent to Congress. On August 7, I reported to the Senate and the administration officially confirmed that the Soviets were not in compliance with the SALT II sublimits at that time and the Soviets are not in compliance today, and I have consulted in the past 24 hours with the same experts whom I consulted in August and they confirm to me that the Soviets are still not in compliance with the SALT II sublimits.

Of course, if you had a wish list, that could be said that they could come into compliance but they are not in compliance. We have no treaty guarantee that they will. I believe that the administration is ready to confirm once again that the Soviets are still not in compliance with the SALT II sublimits.

I believe that the administration will again confirm what I have just said, that the Soviets are not in compliance with the SALT II sublimits.

Now, Mr. President, let me address these points in more detail. First, let us look at President Reagan's most recent report on Soviet violations. It is report No. 6, incidentally. It contains some important statements that I feel should be brought to the attention of the Senate and hopefully the American people.

First, the President's unclassified report on Soviet noncompliance with arms control agreements of March 10, 1987 stressed and I quote "the importance of compliance to achieving effective arms control" and then the President added and I am quoting him "compliance with past arms control commitments is an essential prerequisite for future arms control agreements."

And, of course, it is. Mr. President, that statement is unassailable. I do not think anybody would question it. I hope not. How can we even think of establishing a new arms control regime and the amendment of the distinguished Senator from Arkansas is a new one. How can we even think of establishing a new one as long as the Soviets are not in compliance?

And I repeat, Soviet compliance is a prerequisite to future arms control agreements. If we get away from that logic, then we make a dangerous and perhaps fatal move.

President Reagan also made a second statement. He said: "Soviet noncompliance, as documented in this and previous administration reports, has made verification and compliance pacing elements of arms control today."

Mr. President, these statements apply to the proposed SALT II Treaty as much as they apply to a proposed INF Treaty. They mean that the United States would be foolish to return to compliance with the unratified, expired, and Soviet-violated SALT II Treaty. The President in his report was especially emphatic on this point when he explained the rationale for abandoning SALT II, and I quote: "The continuing pattern of noncompliant Soviet behavior * * *—was—the primary reason why I decided, on May 27, 1986, to end U.S. observance of the SALT I Interim Agreement and SALT II." Thus the continuing and expanding pattern of Soviet violations of SALT II was the primary reason that President Reagan decided to end U.S. unilateral compliance with SALT II. And this pattern of Soviet violations has not ceased.

The President added that: "The United States cannot, and will not, allow a double standard of compliance with arms control agreements to be established." What he is saying is that the United States should not comply with arms control treaties which the Soviets are violating. The Senate voted in 1983, 99 to 0 to uphold this principle. The Senate voted against unilateral U.S. compliance because the Senate realized at that time that compliance in the face of violation by the other party is nothing but U.S. unilateral disarmament. It is nothing but appeasement of the arms-control-at-any-cost advocates.

Let us focus on SALT II more specifically. President Reagan also stated in the same report which I just alluded to that: "A number of—Soviet—activities involving SALT II constituted violations of the core or central provisions of the treaty frequently cited by the proponents of SALT II as the primary reason for supporting the agreement." Of course, he was correct in that observation. The President added that "in no case where we determined that the Soviet Union was in violation did they take corrective action."

What does that tell us about the Soviet Union? The implication is clear.

Mr. President, let me repeat for the point of emphasis what Mr. Reagan said: "In no case—in no case . . . did they"—the Soviets—"take corrective action."

So I think the question before us is: Are the Soviets continuing to violate the SALT II sublimits, as I reported they were doing on August 7 of this year?

United States intelligence seems not to know the precise number of Soviet SS-24 railmobile MIRV'd ICBM launchers and how could they, considering the expanding pattern of Soviet camouflage, concealment, and deception? In fact, the Soviets are engaging in a clever deception operation regarding their whole SS-24 program. The Soviets are trying to make United States intelligence believe that their SS-24 deployment is consistent with SALT II sublimits, when it is not.

The Soviets have probably been exceeding the 820 sublimit since early October 1986. Soviet leader Gorbachev admitted as much, in fact, at the Iceland Summit on October 11, 1986. The Soviets clearly exceeded the 820 sublimit from July 1987 through September 1987, and this violation may still be occurring. Thus the Soviets have clearly already violated the most important SALT II sublimit, and United States intelligence can not assure the Senate that this violation has ceased because it undoubtedly has not ceased. Given the extensive Soviet concealment of their SS-24's, it is reasonable and prudent to believe that this violation has not been corrected and is still ongoing.

Mr. President, in my report to the Senate on August 7, I stated that the Soviets clearly were also exceeding the 1,200 sublimit from July 1987, all the way through up to that time and now we find it is true for the month of September, which just ended yesterday. The administration absolutely confirmed my report, much to the consternation of a number of Members of this body. More significantly, this violation is clearly still ongoing, as I will now explain.

I have just checked once more with the same top national security, intelligence, and arms control officials who declassified and confirmed my earlier report to which I have alluded. They confirm once again that the Soviets are clearly still violating the SALT II sublimit of 1,200. The administration has assured me that the following statement is both accurate and unclassified:

> Current information indicates that the Soviets are still over the 1,200 sublimit of SALT II, although the same information indicates that the Soviets could—

And the emphasis is on the word "could"—

> come into compliance at any time.

Now, that means that the Soviets are deliberately, intentionally violating the sublimits.

Now, let me direct the attention of those who may be interested to the phrase "could come into compliance." And I mention it again to emphasize the difference between "could" and "would."

Of course they "could," and if bullfrogs had wings, they would not bump their posterior so much. It would mean the Soviets would have to dismantle a significant part of their arsenal. Anybody who believes that the Soviets are going to do that, I have a little swampland down in North Carolina I want to sell them.

To assure the Senate that they will undertake such dismantlement would be to adopt an attitude of willing credulity.

Thus, there is no qualification needed at all. The current information, quote "indicates" unquote, I repeat, "indicates," quite clearly that the Soviets are still violating the 1,200 sublimit. The reason this judgment can be expressed so unequivocally is that the Soviet violation activity involves initiation of sea trials of new Soviet missile submarines; and, as the distinguished occupant of the chair knows, submarines are more difficult to hide than SS-24 railmobile ICBM launchers. As the White House stated on August 7, 1987: "Senator Helms' statement is especially timely because it calls public attention to the fact that the Soviets are exceeding the very limits that some members of Congress would impose unilaterally on U.S. strategic forces."

Mr. President, at this point I have another unclassified report to make to the Senate regarding the SALT II SNDV—The bureaucracy calls it the "Snid-vee"—ceiling. This is the ceiling on strategic nuclear delivery vehicles, SNDV's, or "Snid-vees." The administration has also assured me that the following statement is both accurate and unclassified:

> The Soviet Union continues to exceed the defacto SALT II overall Strategic Nuclear Delivery Vehicles (SNDVs) ceiling of 2,504. Their ongoing deployments of SS-25 ICBM launchers, TU-95 Bear H bombers, and SLBM launchers carried by Delta IV and Typhoon submarines, plus the presence of SALT II-accountable SS-X-24 ICBM launchers and Blackjack bombers results in the Soviets exceeding the SNDV limit by about 25.

I am still quoting, by the way, Mr. President, the statement that has been cleared by the administration.

> The Soviets have not compensated adequately for these new weapons, primarily because insufficient numbers of older Bison bombers and S-11 ICBM silos have been dismantled.

Therefore, the total Soviet level of strategic nuclear delivery vehicles is at least 2,529, compared to the 2,520 reported by the administration as of late 1985, both exceeding the SALT II level of 2,504. Indeed, the magnitude of the violation has grown.

Mr. President, note the language of this confirmed statement: "The Soviet Union continues to exceed—continues to exceed—the de facto SALT II overall ceiling." And further: "The Soviets have not compensated adequately—have not compensated adequately for these new weapons."

The Soviet SNDV violation has thus increased from 16 over the limit to now at least 25 over the limit.

However, Mr. President, the situation, in my judgment is far worse than what the administration has publicly confirmed. The Soviets probably are even farther above the SALT II SNDV ceiling. The Soviets probably have as many as 20 SS-25 roadmobile ICBM launchers at Plesetsk which are SALT II-accountable. The press has reported that they have as many as 30 SS-24 railmobile ICBM launchers at Plesetsk and elsewhere which are SALT II-accountable. Finally, the press has reported frequently that up to 200 roadmobile SS-16 ICBM launchers have been deployed. Thus the Soviets are probably at least 250 SNDV's over the SALT II ceiling, not just 25. Moreover, the 300 intercontinental range Backfire bombers should be counted under normal counting rules, especially because they are likely to be equipped with long-range air-launched cruise missiles. Mr. President, it is therefore a reasonable conclusion that the Soviets are about 550 to 600 SNDV's over the ceiling.

In sum, Mr. President, it would be United States unilateral disarmament and appeasement for the United States to return to SALT II compliance while the Soviets are so clearly violating SALT II, especially its sublimits. And I would say that before the disclosures relating to the outrageous Soviet firing of test missiles near Hawaii.

Mr. President, in closing I wish to remind the Senate what the White House stated on August 7, 1987:

> The administration will continue strongly to oppose congressional efforts to resurrect SALT II. Hopefully, Senator HELMS' statement will have a sobering effect on those in Congress who appear prepared to accept at

face value Soviet assertions that they are abiding by all SALT II restrictions.

Mr. President, I will now provide a complete and up-to-date unclassified listing of confirmed violations of SALT II, and I ask that they be printed in the Record at the conclusion of my remarks.

Mr. President, the Senator from Wyoming, Senator Wallop, has a very fine amendment and I ask that I be made a cosponsor of it. I think that I may already be one, but I want to be sure because I support it wholeheartedly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair and I yield the floor.

There being no objection, the material was ordered to be printed in the Record, as follows:

Presidentially Confirmed Expanding Pattern of Soviet SALT II Break Out Violations—Total of 24

I. SS-25 ROADMOBILE ICBM—PROHIBITED SECOND NEW TYPE ICBM:

1. Development since 1975;

2. Flight-testing (irreversible) since February, 1983;

3. Deployment (irreversible) since October, 1985, of over 100 roadmobile launchers—"direct violation;"

4. Prohibited rapid-refire capability—doubles or triples or quadruples the SS-25 force;

5. Re-entry Vehicle-to Throw-Weight ratio over 1 to 2 (and doubling of throw-weight over the old SS-13 ICBM)—probable covert SS-25 two or three MIRV capability—"direct violation;"

6. Encryption of telemetry—"direct violation."

II. EXCESS STRATEGIC NUCLEAR DELIVERY VEHICLES (SNDVS):

7. Strategic Nuclear Delivery Vehicle de facto limit of 2,504—Soviets have long been at least 25 to 600 SNDVs above the 2,504 SNDV number only the Soviets had when SALT II was signed in 1979, thus illustrating the clear fact that SALT II was fundamentally unequal.

III. PROHIBITED SS-N-23 HEAVY SLBM:

8. Heavy throw-weight prohibited—conclusive evidence (irreversible);

9. Development since 1975;

10. Flight-testing (irreversible);

11. Deployment on Delta IV and probably on Delta III submarines (irreversible);

12. Encryption of telemetry.

IV. EXCESS BACKFIRE INTERCONTINENTAL BOMBERS:

13. Arctic basing, increasing intercontinental operating capability;

14. Probable refueling probes, also increasing intercontinental operating capability;

15. Production of more than 30 Backfire bombers per year for an estimated period of over five years, making more than an estimated 12 extra Backfire bombers.

V. CAMOUFLAGE, CONCEALMENT, AND DECEPTION:

16. Expanding pattern of camouflage, concealment, and deception (Maskirovka), deliberately impeding U.S. verification.

VI. ENCRYPTION:

17. Reported almost total encryption of ICBM, IRBM, SRBM, GLCM, ALCM, and SLCM telemetry.

VII. CONCEALMENT OF LAUNCHER AND MISSILE (ICBM) RELATIONSHIP:

18. Reported probable concealment of relationship between SS-24 missile and its mobile ICBM launchers, and concealment of the relationship between the SS-25 missile and its mobile ICBM launchers.

VIII. PROHIBITED SS-16 ROADMOBILE ICBM:

19. Confirmed concealed deployment of 50 to 200 banned SS-16 roadmobile ICBM launchers at Plesetsk test and training range, now reportedly probably being replaced by a similar number of banned SS-25 mobile ICBM launchers.

IX. FALSIFICATION OF SALT II DATA EXCHANGE:

20. Operationally deployed, concealed SS-16 ICBM launchers not declared;

21. AS-3 Kangaroo Air-Launched Cruise Missiles falsely declared to have range less than 600 kilometers, and not counted.

X. EXCESS MIRV FRACTIONATION:

22. SS-18 super-heavy ICBM—NIE reportedly states that SS-18 is deployed with 14 warheads each instead of the allowed 10 each, adding over 1,230 illegal warheads.

XI. EXCEEDING SALT II MIRV MISSILE LAUNCHER SUBLIMITS:

23. and 24. The Reagan administration confirmed on August 7, 1987, that:

"The Soviets exceeded the SALT II sublimit of 1,200 permitted MIRVed ICBMs and MIRVed SLBMs when the 5th Typhoon submarine recently began sea trials. Moreover, some SS-X-24 MIRVed ICBM railmobile launchers should not be accountable under the SALT II sublimit on MIRVed ICBMs. It appears that the Soviets have not yet compensated for any of the SALT II-accountable SS-X-24 launchers. Therefore, the Soviets may also have exceeded the SALT II sublimit of 820 MIRVed ICBM launchers." This judgment has been further confirmed as accurate.

The Soviets reportedly informed U.S. arms control negotiators in Geneva in late 1983 that they intended to exceed the SALT II sublimits of 820, 1,200, and 1,320, which they are now in fact doing. And Soviet leader Gorbachev confirmed to President Reagan at the Iceland Summit on October 11, 1986, that the SS-24 was deployed.

Moreover, the Soviets are flight-testing the even heavier throw-weight follow-on to the super-heavy SS-18 ICBM, in violation of the SALT II absolute ceiling on SS-18 throw-weight. This SS-X-26 follow-on to the SS-18 will certainly result in further excess MIRVing on the SS-18 class missiles, because the SS-X-26 will probably carry 20 warheads. This new SS-X-26 ICBM was just provocatively flight-tested to extended range, with impact very near Hawaii. The Wallop Resolution correctly states: "Whereas the missile used in this test is a new modern multiple warhead ICBM which is a violation of both the 'new type' and the 'heavy ICBM' provisions of the SALT II Treaty, whereas the Soviet Union allegedly encrypted telemetry from this first flight test, as is their standard practice, in further violation of the SALT II Treaty."

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. I yield 12 minutes to the distinguished Senator from Rhode Island.

Mr. CHAFEE. I am pleased, once again, to join my distinguished colleagues from Pennsylvania, Arkansas, and Vermont in this effort to restore common sense to the U.S. policy on strategic arms. The four of us have been involved in this effort for a number of years now. Although the administration's position has changed, ours has not. We still believe that the core sublimits of the SALT II Treaty should not have been abandoned by the United States last November. We still believe that continued U.S. adherence to those sublimits serves our national security interests as long as the Soviets also adhere to those sublimits.

I do wish to respond to a point that was made by my distinguished colleague, the senior Senator from North Carolina, when he stated that the Soviets are in violation of the sublimits currently. If that is so, then this amendment does not apply.

This amendment is not a unilateral disarmament amendment. This amendment says that if the Soviets adhere to the sublimits of SALT II, then we, likewise, will do so. There is a 29-day period placed in here for the Soviets to come into compliance.

We decided to propose this amendment to the DOD bill after much consideration. It is not a step we take lightly, particularly when the administration is on the verge of signing the INF agreement with the Soviets. So we had to ask ourselves the same question that the Senate had to ask itself: Is it a good idea in light of our current relations with the Soviets for the U.S. Senate to use the power of the purse, namely through this legislation, to revive the SALT II sublimits? In other words, will passage of this amendment be a constructive step?

After studying this issue very closely, and familiarizing myself with the current strategic situation on both the United States side and the Soviet side, I have concluded the answer is yes. Renewed bilateral adherence to the sublimits will place a cap on the superpower arsenals until a new strategic arms agreement is reached. In my opinion, this is the wisest course the United States can follow.

Let me take a few minutes to explain the benefits of this legislation:

First, the amendment improves the chances that a strategic agreement will be reached. If the amendment passes and becomes law, and the Soviets agree to join the United States in adhering to the SALT II sublimits, I think this initiative will give a strong push to the strategic talks. Why? It will lend some stability and predictability to the nuclear arsenals of the two countries.

Second, the amendment is not unilateral. It states clearly that its restriction on U.S. forces will not apply if, after 29 days, "the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified." And the President is given

29 days to report on U.S. plans for compliance with the sublimits.

Thus, on the same day, 29 days after enactment, the Soviets must be under the sublimits, and the United States must report on how it will return to adherence. If the Soviets have not brought themselves under the sublimits, the restriction on United States forces is nullified.

This measure is truly bilateral.

Third, the amendment acknowledges Soviet violation issues. That will be hammered away at an has been hammered away at. Yes, in other sections of the SALT II Treaty which was never signed, the Soviets are in violation.

But we are only dealing here with the sublimits, not with ratification of the treaty.

I believe there are genuine violation problems with parts of the treaty other than the sublimits.

They are only permitted one new missile under SALT II. They have another one. There is no question that the SS-25 is a new second missile.

I am troubled by the encryption of telemetry which has increased significantly.

This administration was unable to resolve those issues within the Standing Consultative Commission, the so-called SCC, a forum which previous administrations had used quite effectively. Unfortunately, the SCC process broke down with this administration and a direct result of that breakdown was our decision to leave blind the entire SALT II framework which we had been adhering to.

The premise of this amendment is the heart of that framework, the sublimits, we believe should not be discarded so hastily. Up until the time the United States exceeded those sublimits, last year, November, with the addition of the B-52 cruise missiles on it, the U.S.S.R. had always agreed to abide by those sublimits and was not in violation. Any Soviet violations of the sublimits that have taken place since last November could easily be rectified in the 29-day period allowed for in this legislation.

In fact, this amendment will not take effect unless the President is absolutely certain that the Soviets are under the sublimits.

If there is a shred of doubt about a possible violation of those sublimits, the restriction on the U.S. forces does not apply.

If the President tells us, "The Soviets are not in compliance." Then there is no go with this legislation.

Fourth, the amendment works in favor of U.S. security. The arguments I have been making for years in favor of the SALT II framework continue to hold true today. Without the sublimits the entire strategic arsenal of the Soviet Union is out of the barn.

There is currently no limit on the number of strategic weapons that our adversary can point at the United States. That fact, it seems to me, is adequate to support this amendment. By abandoning the SALT II sublimits we have handed a strategic, nuclear carte blanche to Soviets. The sad truth is as their new ICBM's come into service, the Soviets are not under a requirement to make compensating cuts in older systems.

The whole question is, Are we better off now than we were when the SALT II sublimit restraints applied? I do not think we are. I do not think we want to get into a total race with the Soviets. Here is some limitation. It is not perfect. Yes, there will be all kinds of arguments about warheads, but this is a limitation.

If we revive the sublimits, the Soviets will be forced to dismantle more of their systems than the United States.

Under the SALT II limits, from 1973 to 1986 the Soviets dismantled five times more operational weapons than we had to. A return to the sublimits under this amendment would require Soviet dismantling actions that would numerically favor the United States.

The crucial fact remains that the Soviets are simply more capable of a quick buildup than we are. They do not have to go to any Congress to get approval for MX's, Minuteman, whatever it is. The lid is off.

The sublimits would fend off such a buildup and would therefore benefit, in my judgment, U.S. security.

Conclusion: Those who oppose this amendment argue that it will endanger U.S. security and undercut our chances of reaching a strategic arms agreement with the Soviets. They charge that our timing is all wrong, coinciding as it does with the final stages of the INF negotiations.

Finally, the claim is that we are reviving sublimits that are dead, are useless, and we ought to look toward the future and the potential strategic agreement that might be reached next year.

I take issue with each of these. Rather than endangering national security, this amendment, combined with the strict, verified Soviet adherence to the sublimits, will strengthen United States security by placing an upper limit on Soviet strategic forces.

Those who claim we enhance our security by removing all limits on the Soviet strategic arsenal are engaging, in my judgment, in sophistry. Their reasoning to me does not make sense.

For those reasons, Mr. President, I finally want to say that this is not a backward-looking amendment but an amendment aimed squarely at the future security of the United States. It is meant to serve as a concrete interim restraint lasting for 1 year, not in perpetuity, a restraint on the nuclear force buildup on both sides until the strategic arms agreement may be reached.

Without this sublimit framework the number of missiles on each side will continue to rise month after month, even as our negotiators in Geneva work for an agreement calling for bilateral reductions.

Here we are building up but at the same time we are saying let us not have a freeze, let us go down.

This amendment will correct what I believe to be an illogical situation in which we placed ourselves, working on one hand on an agreement to cut back the nuclear arsenals while at the same time allowing those arsenals to multiply without limit.

The sky is currently the limit in strategic nuclear weapons, Mr. President. I think we are playing a dangerous game with a dangerous opponent. I strongly believe we should seize this opportunity to turn the Soviet Union from steadily increasing its deadly stockpile.

Mr. COHEN. Mr. President, I commend the Senator for his statement. In 1979, when the Armed Services Committee held hearings on the SALT II Treaty, I strongly criticized elements of the treaty which I believed did not serve the national interest. Specifically, I had serious problems with the provisions dealing with encryption of telemetry, with the Soviet Union's Backfire bomber, and with the growth in strategic forces permitted under the Treaty. My concerns on these points remain.

At the same time, in considering the proposed treaty, in questioning witnesses, and in studying the testimony of experts such as the Chairman of the Joint Chiefs of Staff, I concluded that the central numerical sublimits of the SALT II Treaty could serve our military interests, promote stability, and serve as a basis for reductions in the strategic nuclear arsenals of the United States and U.S.S.R. The central numerical sublimits are the ceilings of 820 on launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles; that is, MIRV'd ICMB's; 1,200 on the combined number of launchers of MIRV's ICBM's and MIRV'd submarine-launched ballistic missiles [SLBM's]; and 1,320 on the combined number of MIRV'd ICBM's, MIRV'd SLBM's, and heavy bombers equipped for air-launched cruise missiles [ALCM's].

I think it is a fundamental mistake for the United States to dismiss the significance of these sublimits, dismiss the fact that there are unbounded growth opportunities for the Soviets and not ourselves, and to rationalize such a dismissed by saying that SDI will protect us against the proliferation of strategic systems.

These central numerical sublimits provide our military and defense decisionmakers with a mechanism by which to plan force requirements. In the past, as a number of our colleagues have noted in statements before this body, these limits have had a greater impact on the Soviet Union than on the United States in terms of strategic nuclear weapons required to be dismantled. In the future, the U.S.S.R.'s dismantling requirements would continue to significantly exceed those of the United States. Moreover, allowing the major numerical limits to be abandoned would be contrary to our military interests because the Soviets are better positioned to take advantage of the absence of these limits. Prior to the President's decision in May, 1986, to no longer base decisions regarding U.S. strategic forces on standards contained in the SALT structure, Congress repeatedly received testimony to this effect from our uniformed military leadership.

Our military leaders are not the only ones to express concern about the implications of abandoning these limits. Our allies have consistently urged that we not do so. At the 1986 NATO foreign ministers meeting in Halifax, the allies were unanimous in calling on the United States to not abandon the SALT regime.

And, of course, the Senate has repeatedly put itself on record in favor of the mutual retention of the SALT II central numerical sublimits.

Despite these strongly voiced concerns, on May 27, 1986, the President announced that he had decided that the United States should no longer base decisions regarding its strategic forces on standards contained in the SALT structure. At the same time, he announced that the United States would retire and dismantle two Poseidon submarines, effectively compensating for the deployment of additional cruise missile-equipped bombers and thus keeping the United States in what he termed "technical compliance" with the SALT sublimits through last November.

In November, the United States equipped the 131st B-52 bomber with cruise missiles without taking any compensating dismantling actions. This put the United States outside of one of the central numerical sublimits, the sublimit of 1,320 MIRV'd ballistic missiles and ALCM-equipped bombers. The Air Force has continued to convert B-52's for cruise missile carriage at a rate of about two bombers per month, so that at the present time the United States has 148 ALCM-equipped B-52's, which puts us 18 above the 1,320 sublimit. The United States continues to be within the other two central numerical sublimits.

The amendment now before us would require the United States to take action to come back within the 1,320 sublimit and remain within all three of the central numerical sublimits during fiscal year 1988. The President would be required to report within 30 days of enactment of his plans for carrying out this requirement to come back within the 1,320 sublimit.

In the event that the President determines and notifies the Congress in writing that the Soviet Union has deployed strategic forces in excess of any of the three central numerical sublimits, the requirement for the United States to come back within the 1,320 sublimit would be null and void. Let me emphasize that, under such circumstances, there is no requirement that the Congress act to repeal this amendment. All that is required is that the President notify the Congress in writing. This is important because of certain ambiguities that presently exist, which I will discuss in a moment.

Mr. President, some will argue that the SALT structure and, in particular, the central numerical sublimits have already been irretrievably abandoned. I do not think that this is the case. There is indeed a precedent in which a SALT numerical limitation on strategic force levels was exceeded for a period of months but nonetheless survived. In 1976, the Soviet Union put to sea ballistic missile submarines without complying with the provision in the SALT I interim agreement requiring dismantlement of older ICBM launchers. As a result, the Soviet Union had, by its own admission, 41 more SLBM launchers than was permitted by the relevant SALT provision. This situation in which the Soviets were outside the SALT numerical limit lasted for a period of months before it was rectified to the satisfaction of the United States.

Accordingly, Mr. President, I believe that precedent supports the view that it is still possible for the central numerical sublimits to remain in place, restricting an unbounded growth in strategic forces. What is necessary is for both sides to respect those limitations.

In this regard, it is important to consider recent discussion about the possibility that the Soviet Union has exceeded the sublimit of 820 on MIRV'd ICBM launchers and 1,200 on the combined number of MIRV'd ICBM and SLBM launchers. The issue on the 820 sublimit has to do with the status of the Soviet SS-X-24 program and the status of actions to compensate for movement of SS-X-24 ICBM's into the field. The SS-X-24 is a MIRV'd ICBM apparently capable of being deployed both on railcars and in silos. There have been press reports that some SS-X-24 ICBM's have been put on railcars. Such reports have been less than clear as to the exact status of the SS-X-24 missiles or the status of possible action to dismantle other MIRV'd launchers to compensate for the SS-X-24 missiles.

According to the executive branch's presentation to the Senate in 1979, under article VI, paragraph 2, of the SALT II Treaty, mobile ICBM launchers become accountable after they come out of the shop, plant or other facility where their final assembly occurs. This would seem to be the standard by which to measure whether the SS-X-24 missile launchers are accountable. There are also standards by which to determine whether compensating actions, which in this case would be the dismantling of MIRV'd ICBM silo launchers, have been taken in an adequate manner.

Similarly, press reports have indicated that additional Soviet MIRV'd SLBM launchers became accountable earlier this year and that, were adequate compensating steps not taken within the agreed time frame, this would put the Soviet Union outside the 1,200 sublimit. The appropriate compensating steps in this case would be dismantlement of MIRV'd SLBM launchers or MIRV'd ICBM launchers.

An administration press guidance of August 7 confirmed these reports but noted that "the Soviets could return to technical compliance by following through on dismantlement actions at certain SS-17 ICBM sites." An August 9 article in the New York Times stated that "the Russians have destroyed the blast-proof cover at an SS-17 silo, an official said. But at other silos, SS-17 missile were removed but action to dismantle the silos has not been taken, as required by the treaty." I would note that both this press guidance and this article are now nearly 2 months old.

As I indicated, the United States could review its policy should the Soviet Union move outside the bounds of any of the three central numerical sublimits, since there would no longer be a requirement for the United States to be within the sublimits.

This situation, Mr. President, highlights the importance for U.S. security of the central numerical sublimits remaining in place. The Soviet Union is far better positioned than the United States to take advantage of the absence of these limitations and could outdistance the United States in numbers of strategic weapons should the limitations be abandoned.

The current situation regarding the 820 and 1,200 sublimits suggests, Mr. President, that we may have arrived at a particularly important time for the question of whether there will be a frame work of interim restraint while the United States and U.S.S.R. continue negotiations toward a more comprehensive strategic offensive arms reduction agreement. If Soviet deployments proceed without the otherwise required compensating dismantlements being undertaken, the prospects for effective interim restraint would diminish. This amendment would remove from the Soviets the ready excuse they would have for following such a course. It would also put the burden back on the Soviet side to be the one to exceed the central numerical sublimits. Given General Secretary Gorbachev's apparent desire to court public opinion, particularly in Europe, the amendment could thus offer incentives for the Soviet Union to adhere to these limitations.

Moreover, while administration officials have indicated that they are seeking to conclude a START agreement early next year, we also have to consider the possibility that a security-enhancing, stabilizing, verifiable START agreement may not be concluded during the time remaining in the Reagan administration. In that case, it could be a number of years before such an agreement is concluded, given the time needed for a new administration to get its bearings. The absence of an interim restraint frame work during that period would put the United States in a less favorable strategic situation and, possibly, complicate efforts to conclude such an agreement.

This amendment is similar to one that Senator BIDEN and I cosponsored last year following the administration's May decision. My intent in offering that amendment was to indicate that the administration had to take seriously the possibility of binding legislative action should it continue to ignore the nonbinding legislative provisions adopted by the Senate. The Fiscal Year 1987 Defense Authorization Act adopted in October included such a nonbinding provision, as the defense authorization bills for the previous 2 years had. The administration, however, chose to ignore the Senate's views and proceeded to exceed the 1,320 sublimit in November. Subsequently, last December, 57 Members of the incoming Senate wrote the President to again urge him to bring the United States back within the central numerical sublimits. That call was also disregarded by the administration.

Mr. President, I would prefer that the administration follow this course on its own. Unfortunately, however, it has chosen to not do so. Accordingly, under the circumstances, I believe that it is appropriate for the Congress to adopt this legislative approach.

Mr. CHAFEE. Mr. President, will the Senator yield an additional 2 minutes?

Mr. BUMPERS. I yield an additional 2 minutes to the Senator.

Mr. CHAFEE. I would like to engage the Senator from Maine in a little colloquy, if I might, because he is familiar with this situation. He is on the Armed Services Committee and is deeply interested in arms control.

I would be interested in his rebuttal to the argument made by the other side of what good does it do to control launchers because they can add warheads to their weapons? If we agree to the SALT II sublimits which are based on launchers, that lets the horse out of the barn as far as the warheads go and the Soviets can go on and build.

Mr. COHEN. I am one who believes that we should be counting warheads. In response to your question, the fact is that the Soviets, by virtue of the SS-18's and 19's and the greater throw-weight that they have, could simply add warheads to the remaining launchers. However, there is the possibility they would reach the point where adding warheads degrades the system itself.

To the extent that we adhere to the counting rules under SALT, it seems to me that we take that into account because the counting rules ascribe so many warheads to each of the launchers. When you start building down—maybe we can use that term, building down—the launchers themselves, you thereby reduce the warheads.

In response to the argument that somehow there is no constraint against the Soviets if you do in fact constrain the launchers, I would say you necessarily constrain the ability to expand warheads without any limitation.

They can always add 12 warheads to the 10 they already have on the SS-18, or 14 or maybe more. There is always that possibility. They would have to test, in my judgment, to achieve that. I think monitoring those testing flights is where our own ability to determine the situation would come into play. But there is no absolute guarantee they would deliver on warheads. I think it makes sense to try to constrain the launchers in order to reduce them. I think it is a mistake on our part to lose the opportunity to constrain the numbers of launchers and therefore the warheads, themselves, by an SDI rationalization. I think we have to have limitations on both warheads and launchers, and indeed the SDI Program, itself, along with the Soviet BMD Program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHAFEE. I thank the manager of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I must say I am a bit intrigued at the charts I have noticed over there that are either about to be presented or have been presented. I guess I have seen some misrepresentations before, but I must say that ranks right up there with the best of them. I think it is important to point out some rather glaring omissions on those charts that might be of interest to my colleagues as we debate this very important amendment.

The facts are clear since 1979 the number of reentry vehicles on Soviet ICBM launchers has virtually doubled. Meanwhile, the number of launchers or delivery vehicles remains limited—2,400 ICBM's, SLBM's and bombers. This means that the Soviets can and have the capability to place multiple reentry vehicles against every U.S. launcher.

In particular, with no limit on the Soviet heavy ICBM, the SS-18 mod 4, the Soviets have 2,900 extremely lethal warheads which they can place on our roughly 1,050 ICBM launchers. This allows for a highly lethal 2-on-1 attack against our ICBM launchers, with plenty to spare.

It is unlikely that the Soviets, in the absence of SALT II, will substantially increase the number of launchers—that is, there will be no arms race.

According to Soviet experts, the Soviets negotiated a SALT II regime that is consistent with their targeting requirements. They have enough weapons to achieve their desired 90 percent probability of kill against the entire North American target base, some 4,000 targets, and still keep weapons in reserve. There is thus no need for the Soviets to engage in a substantial increase in launchers and RV's; rather there will be some increases in RV's on the same number of launchers.

Increasing the number of launchers takes time and a substantial commitment of resources. Again, there is no compelling reason for the Soviets to dramatically increase the number of launchers if their targeting objectives have been achieved.

Rather than dramatically increase the number of launchers, the Soviets will continue to deploy new, mobile ICBM launchers—the SS-25 and the SS-24—to replace fixed ICBM's and to ensure survivability.

They have also been increasing the number of reentry vehicles on their launchers and the lethality of these reentry vehicles. For example, the SS-24 has 10 very accurate RV's. It is replacing older SS-17's and SS-19's which have 4 and 6 less accurate RV's respectively.

Similarly, SS-N-20 SLBM's aboard the new Typhoon submarines—and I would urge my colleagues to investigate the Typhoon submarine, an incredible weapons system and one which, in the minds of many experts, outpaces the Trident submarine in many respects—have 8 RV's and SS-N-23 SLBM's aboard the D-IV submarine also have 10 RV's. These are replacing the SS-N-6 which has only 1 RV and is on the old and noisy Yankee SSBN. To dramatically make the comparison, one Typhoon, carrying 160 accurate RV's on its missiles, replacing one Yankee carrying 16 inaccurate RV's on its missiles, is a net plus for the Soviets.

I would like to close by mentioning something that seems to have been absent in the debate on the other side of this issue. Just in the last 2 days the Soviet Union has carried out missile tests aimed at a State of the Union in the United States of America with an encrypted test in total violation of the SALT II Treaty. I repeat, an encrypted missile test aimed at the Island of Hawaii which is in total violation of the SALT II Treaty, yet we are expected here in the United States to totally adhere to the SALT II Treaty. And I have not heard a murmur about the outrageousness and provocativeness of this kind of activity on the part of the Soviet Union.

I suggest to my distinguished colleagues who are supporting this amendment what is sauce of the goose is sauce for the gander. We have the right to expect at a minimum compliance with SALT II on the part of the Soviet Union for which they have shown as recently as the last 2 days they have little or no respect.

I yield the floor.

The **PRESIDING OFFICER**. Who yields time?

Mr. **BUMPERS**. Mr. President, I yield to the Senator from Pennsylvania 10 minutes.

The **PRESIDING OFFICER**. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. **HEINZ**. Mr. President, I thank the Chair. Mr. President, I today am joining with Senator BUMPERS, Senator CHAFEE, and Senator LEAHY, and I might add 45 or 46 of our colleagues, in proposing this amendment to return the United States to an interim restraint policy on strategic defense offensive forces.

Our amendment, as has been discussed, would in simplest form compel the administration to maintain our strategic forces within the numerical sublimits contained in the SALT Treaty so long as—and I emphasize so long as—the Soviet Union continues to do the same.

Let me provide a little background to this amendment. From 1982 until last November, the United States and the Soviet Union both respected the numerical sublimits of the SALT II Treaty as an interim step leading to a new strategic arms control agreement such as the strategic arms reduction talks now taking place between our two countries at Geneva. The idea was for both sides to keep a lid on the arms race. That policy made sense for both sides. President Reagan, for up until a year and a half ago, agreed that it made sense and, in the judgment of myself and our cosponsors, that policy still makes good sense.

Let me state at the outset clearly and unequivocally that Soviet violations of the provisions of the SALT regime such as the encryption of telemetry or for that matter the SS-25 missile are serious infractions, and I support thoroughly and completely appropriate responses by the United States to ensure our security.

But we gain nothing, and I believe we potentially invite a needless boost in strategic force competition by abandoning the numerical ceilings that both sides have respected for the past many years.

With the deployment of the 131st B-52, equipped as it was, as have others, with cruise missiles, the United States has exceeded the treaty limit of 1,320 multiple warhead systems. The Soviets have said that they will continue to stay within the ceilings at least for the moment.

Some may argue, although I would question that argument, that the Soviets are going to stick to those limits, no matter what we do. I think that is a very major risk that we would take and in my judgment it is not in this country's military, national security, or political interests to test a Soviet commitment to the SALT ceilings by our breaking them and inviting the Soviets to do the same.

There have been new developments in the Soviet Union's strategic forces that underline the value of these ceilings. The Soviets have moved their SSX-24 mobile missile program ahead and into deployment. At the same time, they have begun to dismantle the SS-17 sites to maintain their compliance with the 820 limit on MIRV'd ICBM launchers. Some Senators have denounced the Soviets for not dismantling their SS-17's quickly enough. The details of that issue, as I suspect many of our colleagues know, are classified. So we cannot debate that issue here on the floor of the Senate, at least in public session.

But it can be said that we are not in a position, none of us, at least not as yet, to declare with confidence that the Soviets are in violation of the SALT subceilings. And should, in the best estimate of our intelligence community, that be something we could be confident about, I will be the first to denounce the Soviets for breaking those ceilings or subceilings. But in part, that is why I want to point out one particular and important aspect of our amendment.

Our amendment will not take effect if the Soviets either are in violation of the numerical sublimits that we specified—this is very important—if there is uncertainty about the status of whether or not the Soviets are indeed breaking those limits. In other words, this amendment would not enter into force until and if it is clear, based on our best U.S. intelligence community assessment, that the Soviets are at or below the weapons ceilings specified in the amendment which of course are the same as in the SALT II agreement signed.

I think that the very concern over Soviet compliance we now see in the Senate confirms a point I made with my three original cosponsors, that without any interim restraint in place, there will be nothing—I repeat, "nothing"—to constrain the Soviet strategic program. Indeed, there will be nothing to constrain a mutual arms race.

Let me take a moment to explain the national security implications of our amendment, at least in as practicable terms as I can. If the Soviets were to discard the SALT ceilings as we have, they would have no reason to continue to dismantle their SS-17's. And as a result, the number of Soviet warheads targeted on the United States would be significantly greater than if they continued to comply with the 820 SALT II ceiling. The first question, therefore, is would that state of affairs enhance our security? Mr. President, the answer quite simply to a growth of Soviet strategic capability in the face of ours is no. That would not help our security. So the second question that might reasonably be asked: Is there some way in which this would give us greater bargaining leverage in Geneva?

Mr. President, it is hard, I would suggest it is impossible, to see how an inferior position in strategic arms would give us more leverage. I can frankly only see it would give us less.

Mr. President, the Soviet strategic forces are up against the most important sublimits in our amendment, the limit of 1,200 multiple warhead missiles and 820 multiple warhead ICBM's. Their programs, as the SSX-24 shows, will naturally carry them over the SALT ceilings unless—and I emphasize unless—they choose to continue dismantlements to stay within SALT numerical limits, the integrity of which our amendment seeks to preserve.

Let me say one other word about a related issue, namely the strategic defense initiative, which I have been a supporter of. It is clear that the Soviets are going to continue to modernize their systems. They also can clearly do a good deal more. If they felt they needed to ensure against possible U.S. strategic defenses, SDI, a treasured program I might add to many opponents of this amendment, they could quite easily because of the greater throw weight capability that they have add thousands of warheads and perhaps many more thousands of complicating decoys to their inventory.

The President himself, Ronald Reagan, has observed that the Soviets have an advantage in a new arms race. I think it would be the height of foolishness to give them both the legal excuse and the practical chance to exploit it. Opponents of this amendment will say that we are binding the President's hands just when real arms control progress is at hand and I say that is nonsense. It appears we are on the verge of concluding a historical deal with the Soviet Union to eliminate medium range and short range missiles on a global basis. That is well and good.

But while such reductions are clearly a welcome milestone, they do nothing to help stabilize the strategic force competition. The proposed INF deal will eliminate in grand total about 4 or 5 percent of the superpowers' nuclear arsenals—and not a single warhead that can hit the United States. The approximately 360 nuclear warheads removed from the equation in the INF deal will be replaced on the U.S. side by new strategic nuclear warheads in 12 weeks time.

Our amendment, if it becomes law, and we hope it does, would preserve a framework of restraint in strategic forces until a new strategic arms control agreement on those systems is reached.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HEINZ. I ask unanimous consent to proceed for 1 additional minute.

Mr. BUMPERS. Mr. President, I yield 1 additional minute to the Senator from Pennsylvania.

The PRESIDING OFFICER (Mr. WIRTH). The Senator is recognized for 1 additional minute.

Mr. HEINZ. It cannot possibly affect one way or another the negotiating dynamics on the INF Treaty.

So in sum, Mr. President, we may be about to conclude an INF Treaty but a strategic arms reduction pact remains well out of our grasp. Junking the only strategic limits we have and prodding the Soviets to do the same could hardly help bring us closer to a treaty reducing strategic nuclear forces. Indeed, as I fear, it could make such a strategic reduction on both sides more distant than ever.

Mr. President, a new and verifiable treaty with the Soviet Union on reduced strategic weapons on both sides—particularly if it contributes to strategic and crisis stability—would be very much in our national security interest, but a new arms race with the Soviet Union serves nobody's interest.

I urge the support of our amendment.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first, I would like to indicate to the Chair that I would like to reserve perhaps as much as 8 minutes for the distinguished chairman of the Senate Armed Services Committee, who has indicated to me that he would like to take time under which I have control.

I see on the floor the distinguished Senator from South Carolina, and he has an allocation of time left. This Senator has time remaining. The Senator from Texas can wait a minute, I would like to ask a question of my friend, the proponent of this amendment. Since his absence from the floor we have had considerable discussion about the Soviet test of a missile possibly an SS-18. More than likely, it is a new model. However, because they encrypted the telementry in clear breach of the SALT II agreements, we are not able at this point to determine the characteristics of that missile in such a way as to determine whether or not it is a follow-on to the 18.

If I could have the manager's attention, we are discussing elements relating to SALT II. I know how painful it is for him to turn to this because it appears to be a losing battle.

[Laughter.]

Mr. BUMPERS. Does the Senator have a question? I thought he just wanted an audience, maybe.

Mr. WARNER. Yes, I have a question.

Mr. LEAHY. The Senator has the attention of both of us, I say to the distinguished Senator from Virginia.

Mr. WARNER. I wanted to say to my good friend, there has been a considerable discussion about this test. One part of the test is a clear violation, encryption of telementry; a second undoubtedly in time will be proven as a clear violation, a new model of a missile. I was wondering what thoughts he might have and also if he would address the fact that the United States, throughout its test program of intercontinental missiles, has never aimed one near the Soviet Union, and has never indicated that it might traverse a part of the land mass of the Soviet Union.

From information I now possess and communications we received about these tests, which this Government protested, this missile came nearer than 1,000 miles. Had the first test been successful—and fortuantely it was not—it might well have traversed the land mass of Hawaii.

What saith my colleague, the proponent of this amendment?

Mr. BUMPERS. How does the Senator from Virginia see the defeat of this amendment as affecting that?

Mr. WARNER. Mr. President, one of the strengths of the argument against the amendment is that the adoption of this amendment recognizes but a part of the SALT II Treaty. It indicates not only to the Soviet negotiators, but also to much of the world, that the United States is going to close its eyes to violations by the Soviet Union of our treaties. Here is a clear violation of the provisions of SALT II—the encryption.

Mr. BUMPERS. When we test-fly our Midgetman, we will be out of compliance with the SALT II Treaty, and that we plan to do just as quickly as we possibly can.

Second, I have heard many arguments here made today about how the Soviets are not in compliance. Personally, I do not believe, based on what I know about this—and I have talked with the intelligence community—that the President could do this; but, let me tell you, here is a loophole big enough to drive a wagon and a team through, and that ought to make everybody in the Senate vote for this amendment. It says:

> The limitation on the obligation of the expenditure of funds in section (b) shall not apply if the President at any time more than 29 days after the enactment of this certifies to the Congress that the Soviet Union deploys strategic forces in numbers greater than those specified.

Subsection (c), exception. All the President has to do is to tell this Congress, either in classified or unclassified report, that the Soviets are not in compliance with the sublimits of the SALT II Treaty, and this amendment is over. We do not have to comply.

The PRESIDING OFFICER. If the Senator will suspend, the Chair notes that the Senator from Virginia has 7½ minutes remaining, the Senator from Arkansas has 13 minutes, and the Senator from South Carolina has remaining 28 minutes.

Mr. WARNER. I thank the Chair for advising the managers. Therefore, I will not have the time at this point to reply to my distinguished colleague. I reserve that amount of time for the chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Senator from Virginia reserves the remaining 7 minutes and 19 seconds of his time.

Who yields time?

Mr. HOLLINGS. I yield 5 minutes to the Senator from Texas.

Mr. GRAMM. I thank my dear friend from South Carolina for yielding.

Mr. President, I do not think it is very relevant that the President can escape this limit. We all know that the President would veto this bill if these limitations were in it.

What is relevant here is the reasonableness of the Senate and our credibility around the world and the degree of support that we show in Congress, in this great democratic institution, for the President of the United States.

Mr. President, it is a great paradox to me that we are here debating the implementation by law of parts of a treaty that this Senate never ratified, that the Soviets never lived up to, and that has expired. It seems to me that there is no logical explanation as to why we should, by law, be unilaterally binding the United States and attemtping to tie the hands of the President, in implementing portions of a treaty which only this week the Soviets have violated, not once but twice.

My colleagues who have been here longer than I recall that in 1979, the critical element in the SALT II debate in committee was our ability to verify; and as part of verification, the encryption of telemetry was a major issue, if not the major issue.

At that time a clear point was made that unless we had the ability to verify—and the encryption of telemetry prevents our ability to do that—the Senate was not willing to ratify this treaty and, in fact, it did not ratify this treaty.

Twice this week, the Soviets have violated that critical element. I feel that it makes absolutely no sense for us to be here saying to the Soviet Union, in the same week that they have violated the treaty twice, that not only are we going to look the other way, not only are we going to implicitly say that it is all right to cheat on an agreement with the United States, that not only is it all right to take action that in fact potentially would fly a test missile over the land mass of part of the United States of America—not only are we willing to do that, but in the same week, the Senate is ready to impose on the President the restrictions imposed under the same treaty that the Soviets are violating, a treaty the Senate would not ratify, and a treaty that has expired.

I have listened to many debates since I have been in the Senate, but I have never listened to one where I was so dumbfounded by the illogic of the opposition.

This week, of all weeks, we should not be saying to the Soviet Union that we are going to force our President to do what the Soviets have not done, in a week when they have violated SALT II twice, specifically by violating the most important elements of that treaty in the minds of the Senate when it was debated in committee in 1979.

We are now on the verge of seeing a vote in which the Senate may attempt to impose on our President what the Soviets cannot win at the bargaining table.

The **PRESIDING OFFICER**. The 5 minutes of the Senator has expired.

Mr. **GRAMM**. I ask for 1 additional minute.

Mr. **HOLLINGS**. I yield the Senator 1 additional minute.

Mr. **GRAMM**. So I want to urge my colleagues, however they feel on this issue, to simply weigh the following facts: No. 1, what happened this week in terms of two Soviet violations of this treaty; and No. 2, the implications of imposing these limits on the President.

If the Senate adopts this amendment, the Senate is going to veto this bill.

At this critical moment in our relations with the Soviet Union, when we are on the verge of a major breakthrough in arms control, let us not take action in the Senate that leads the Soviets to believe that if they will simply wait long enough, the U.S. Senate will force the Senate to do what they are negotiating to achieve.

We must really baffle the Soviet Union. They must have a difficult time figuring out our logic. We can help clarify the position of the United States for them by voting "no" on this amendment.

The **PRESIDING OFFICER**. Who yields time?

Mr. **WARNER**. I yield myself such time as I may take.

Mr. President, I want to read a statement on which I have just received clearance through the U.S. intelligence system. That statement is: "Accounting to current information provided by U.S. intelligence the Soviet Union are still over the 1,200 sublimit."

The Soviets are in violation of the very amendment that the proponents wish this body to accept.

Mr. President, I continue to reserve the time for the majority leader. The minority leader will draw from the time under the control of the Senator from South Carolina. The chairman of the Senate Armed Services Committee will draw from the time of the Senator from Virginia.

The **PRESIDING OFFICER**. Who yields time?

The Senator from South Carolina.

Mr. **HOLLINGS**. Mr. President, the point has just been made that have no fear, this amendment will not control anything, as it is a very harmless amendment. We hear that all that needs be done is for the President to certify that the Soviet Union is not in compliance and the amendment disappears.

The exact language of the amendment reads: "The President determines and certifies to the Congress that the Soviet Union deploys strategic forces in numbers greater than those specified."

In other words, that the Soviet Union is not in compliance.

Well, Mr. President, we have the President's statement on this particular matter as of December 23, 1985.

I ask unanimous consent that it be printed in its entirety in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S UNCLASSIFIED REPORT ON SOVIET NONCOMPLIANCE WITH ARMS CONTROL AGREEMENTS

The following is the text of a letter from the President to the Speaker of the House of Representatives and to the President of the Senate transmitting the President's report, in classified and unclassified versions, on Soviet noncompliance with arms control agreements as required by P.L. 99-145:

DEAR MR. SPEAKER (DEAR MR. PRESIDENT): In response to Congressional requests as set forth in Public Law 99-145, I am forwarding herewith classified and unclassified versions of the Administration's report to the Congress on Soviet Noncompliance with Arms Control Agreements.

Detailed classified briefings will be available to the Congress early in the new year.

I believe the additional information provided, and issues addressed, especially in the detailed classified report, will significantly increase understanding of Soviet violations and probable violations. Such understanding, and strong Congressional consensus on the importance of compliance to achieving effective arms control, will do much to strengthen our efforts both in seeking corrective actions and in negotiating with the Soviet Union.

Sincerely,

RONALD REAGAN.

The unclassified report is attached.

THE PRESIDENT'S UNCLASSIFIED REPORT ON SOVIET NONCOMPLIANCE WITH ARMS CONTROL AGREEMENTS

In reporting to the Congress on February 7 of this year on Soviet noncompliance with arms control agreements, I stated that:

"In order for arms control to have meaning and credibly contribute to national security and to global or regional stability, it is essential that all parties to agreements fully comply with them. Strict compliance with all provisions of arms control agreements is fundamental, and this Administration will not accept anything less. To do so would undermine the arms control process and damage the chances for establishing a more constructive U.S.-Soviet relationship."

I further stated that:

"Soviet noncompliance is a serious matter. It calls into question important security benefits from arms control, and could create new security risks. It undermines the confidence essential to an effective arms control process in the future. With regard to the issues analyzed in the January 1984 report, the Soviet Union has thus far not provided satisfactory explanations nor undertaken corrective actions sufficient to alleviate our concerns. The United States Government has vigorously pressed, and will continue to press, these compliance issues with the Soviet Union through diplomatic channels."

The important role of treaty compliance for future arms control was recently recognized by the United Nations. On December 12, 1985, the General Assembly passed by a vote of 131-0 (with 16 abstentions) a resolution on arms control compliance which had been introduced by the United States and other co-sponsors. The resolution:

Urges all parties to arms limitation and disarmament agreements to comply with their provisions:

Calls upon those parties to consider the implications of noncompliance for international security and stability and for the prospects for further progress in the field of disarmament; and

Appeals to all U.N. members to support efforts to resolve noncompliance questions "with a view toward encouraging strict observance of the provisions subscribed to and maintaining or restoring the integrity of arms limitation or disarmament agreements."

At the request of the Congress, I have in the past two years provided three reports to the Congress on Soviet compliance issues. The first, forwarded in January 1984, reviewed seven compliance issues, concluding that the Soviet Union had, in fact, violated a number of important arms control commitments.

In September 1984 I provided, at the request of the Congress, a report on Soviet noncompliance prepared by the independent General Advisory Committee on Arms Control and Disarmament. That report concluded that over a 25-year span the Soviets had violated a substantial number of arms control commitments.

One of those issues, Yankee-Class submarine reconfiguration, is not addressed in the current report. While a submarine reconfigured to carry long-range cruise missiles constitutes a threat similar to that of the original SSBN, I reported in February that Soviet reconfiguration activities have not been in violation of the SALT I Interim Agreement. This issue, therefore, requires no further judgment in terms of compliance at present.

Public Law 99-145 requires the Administration to provide on an annual basis by December 1 of each year a classified and unclassified report to the Congress containing the findings of the President and any additional information necessary to keep the Congress informed on Soviet compliance with arms control agreements.

The current report responds to this Congressional requirement. It is the product of months of careful technical and legal analysis by all relevant agencies of the United States Government and represents the administration's authoritative updated treatment of this important matter.

The current unclassified report examines one new issue and updates all of the issues studied in the classified report of February 1985, except the issue of Yankee-Class submarine reconfiguration. There are violations in nine cases. Of the nine cases involving violations, one SALT II issue—that of Soviet concealment of the association between missiles and their launchers—is examined for the first time. The Soviet Union has now also violated its commitment to the SALT I Interim Agreement through the prohibited use of remaining facilities at former SS-7 ICBM sites. In addition, Soviet deployment of the SS-25 ICBM during 1985 constitutes a further violation of the SALT II prohibition on a second new type of ICBM. Several other issues involve potential, probable or likely violations.

The current unclassified report reaffirms the findings of the February 1985 classified report concerning ABM issues, making public two of them for the first time. It also reaffirms the February findings concerning SALT II issues involving violations, including one concerning strategic nuclear delivery vehicles, which has not previously been made public. In two SALT II issues with respect to which the Soviets were not judged to be in clear violation in the classified report of last February, the findings are altered or updated. These two issues are the SS-16 and an issue made public for the first time—Backfire Bomber production rate.

The Administration's most recent studies support its conclusion that there is a pattern of Soviet noncompliance. As documented in this and previous reports, the Soviet Union has violated its legal obligation under or political commitment to the SALT I ABM Treaty and Interim Agreement, the SALT II agreement, the Limited Test Ban Treaty of 1963, the Biological and Toxin Weapons Convention, the Geneva Protocol on Chemical Weapons, and the Helsinki Final Act. In addition, the U.S.S.R. has likely violated provisions of the Threshold Test Ban Treaty.

While we remain concerned about Soviet violations of Basket I of the Helsinki Final Act and the limited Test Ban Treaty, there is no unambiguous evidence of new 1985 Soviet violations of these two treaties. With regard to the Biological and Toxin Weapons Convention, or the Geneva Protocol on Chemical Weapons, there also is no unambiguous evidence of new 1985 Soviet lethal attacks that meets our strict standards of evidence. However, the Soviets clearly remain in violation of the Biological and Toxin Weapons Convention.

In another sense, Soviet violations are not of equal importance. While some individual violations are of little apparent military significance in their own right, such violations can acquire importance if, left unaddressed, they are permitted to become precedents for future, more threatening violations. Moreover, some issues that individually have little military significance could conceivably become significant when taken in their aggregate.

The Krasnoyarsk radar

The radar under construction near Krasnoyarsk in Siberia is disturbing for both political and military reasons. Politically, the radar demonstrates that the Soviets are capable of violating arms control obligations and commitments even when they are negotiating with the United States or when they know we will detect a violation. The 1972 ABM Treaty prohibits the Soviets from siting an ABM radar, or siting and orienting a ballistic missile detection and tracking radar, as the Krasnoyarsk radar is sited and oriented.

Militarily, the Krasnoyarsk radar violation goes to the heart of the ABM Treaty. Large phased-array radars (LPARs) like that under construction near Krasnoyarsk were recognized during the ABM Treaty negotiations as the critical, long lead-time element of a nationwide ABM defense.

When considered as a part of a Soviet network of new LPARs, the Krasnoyarsk radar has the inherent potential to contribute to ABM radar coverage of a significant portion of the central U.S.S.R. Moreover, the Krasnoyarsk radar closes the remaining gap in Soviet ballistic missile detection and tracking coverage.

ABM territorial defense and other ABM activities

The Krasnoyarsk radar appears even more menacing when considered in the context of other Soviet ABM-related activities. Together they cause concern that the Soviet Union may be preparing an ABM territorial defense. Some of these activities, such as permitted LPARs and the Moscow ABM deployment area, are consistent with the ABM Treaty. Others involve potential or probable Soviet violations or other ambiguous activity, including:

The apparent testing and development of components required for an ABM system which could be deployed to a site in months rather than years;

The probable concurrent testing of air defense components and ABM components;

The development of a modern air defense system, the SA-X-12, which may have some ABM capabilities; and

The demonstration of an ability to reload ABM launchers and to refire the interceptor missile in a period of time shorter than previously noted.

Under the pretext of permitted modernization, the Soviets, since the last compliance report, have deployed a prohibited second new type of missile, the SS-25, which is mobile and could be made more lethal. The SS-25 also could be modified to carry more than a single warhead. Most worrisome is the technical argument by which the Soviets sought to justify the SS-25, for it might be applied to additional prohibited new types of ICBMs in the future.

Telemetry encryption and concealment of missile/launcher association

Two other Soviet violations impede our ability to verify the Soviet Union's compliance with its political commitments. Soviet use of encryption impedes U.S. verification of Soviet compliance and thus contravenes the provision of the SALT II Treaty which prohibits use of deliberate concealment measures which impede verification of compliance by national technical means. A new finding of this report is that current Soviet activities violate the provision of the Treaty which prohibits use of deliberate concealment measures associated with testing, including those measures aimed at concealing the association between ICBMs and launchers during testing. These deliberate Soviet concealment activities impede our ability to know whether a type of missile is in compliance with SALT II requirements. They could also make it more difficult for the United States to assess accurately the critical parameters of any future missile.

Since the SALT I agreement in 1972, Soviet encryption and concealment activities have become more extensive and disturbing. These activities, Soviet responses on these issues, and Soviet failure to take the corrective actions which the United States has repeatedly requested, are indicative of a Soviet attitude contrary to the fundamentals of sound arms control agreements. Soviet encryption and concealment activities present special obstacles to maintaining existing arms control agreements, undermine the political confidence necessary for concluding new treaties, and underscore the necessity that any new agreement be effectively verifiable. Soviet noncompliance, as documented in current and past Administration reports and exemplified by the encryption and concealment issues, has made verification and compliance pacing elements of arms control today.

Chemical, biological and toxin weapons

The Soviet Union's violations of its legal obligations under the Biological and Toxin Weapons Convention and the Geneva Protocol have important political and military implications. The Soviets had a program of biological and toxin weapons before they signed the multilateral Treaty. Upon signing the Treaty, the Soviets not only did not stop their illegal program but they expanded facilities and were instrumental in the use of prohibited agents.

The Soviet Union has a prohibited offensive biological warfare capability which we do not have and against which we have no defense. This capability may include advanced biological agents about which we have little knowledge. Evidence suggests that the Soviets are expanding their chemical and toxin warfare capabilities in a manner that has no parallel in NATO's retaliatory or defensive programs. Even though there has been no unambiguous evidence of lethal attacks during 1985, previous activities have provided testing, development and operational experience.

The following cases are relevant in this regard:

The use of remaining facilities at former SS-7 ICBM sites since the February 1985 compliance report (SALT I Interim Agreement);

Exceeding the strategic nuclear delivery vehicle limits (SALT II);

Probable deployment of the SS-16 (SALT II); and

Underground nuclear test venting (Limited Test Ban Treaty).

The 1981 Soviet violation of the military exercise notification provisions of the Helsinki Final Act involved an action contrary to the confidence building measures included in that agreement.

Soviet deployments of Backfire Bombers to Arctic staging bases are inconsistent with the Soviet Union's political commitment to the SALT II Treaty. In addition, while there are ambiguities concerning the data, there is evidence that the production rate of the Backfire Bomber was constant at slightly more than 30 per year until 1984, and slightly less than 30 per year since then. These Soviet Backfire Bomber activities will continue to be monitored and assessed.

THE SOVIET RESPONSE

At the same time as the Administration has reported its concerns and findings to the Congress, the United States has had extensive exchanges with the Soviet Union on Soviet noncompliance in the Standing Consultative Commission (SCC), where SALT-related issues (including ABM issues) are discussed, and through other appropriate diplomatic channels. I expressed my personal concerns directly to General Secretary Gorbachev during my recent meeting with him in Geneva.

All of the violations, probable violations and ambiguous situations included in this report and previously reported on have been raised with the Soviets, except certain sensitive issues. The Soviet Union has thus far not provided explanations sufficient to alleviate our concerns on these issues, nor has the Soviet Union taken actions needed to correct existing violations. Instead, they have continued to assert that they are in complete compliance with their arms control obligations and commitments.

U.S. POLICY

In contrast with the Soviet Union, the United States has fully observed its arms control obligations and commitments, including those under the SALT I and SALT II agreements. As I stated in my message to the Congress on June 10 of this year concerning U.S. interim restraint policy:

"In 1982, on the eve of the Strategic Arms Reductions Talks (START), I decided that the United States would not undercut the expired SALT I agreement or the unratified SALT II agreement as long as the Soviet Union exercised equal restraint. Despite my serious reservations about the inequities of the SALT I agreement and the serious flaws of the SALT II agreement, I took this action in order to foster an atmosphere of mutual restraint conducive to serious negotiation as we entered START.

States will continue to pursue vigorously with the Soviet Union the resolution of our concerns over Soviet noncompliance. We cannot impose upon ourselves a double standard that amounts to unilateral treaty compliance."

On June 10, I invited the Soviet Union to join the United States in an interim framework of truly mutual restraint on strategic offensive arms and to pursue with renewed vigor our top priority of achieving deep reductions in the size of existing nuclear arsenals in the ongoing negotiations in Geneva. I noted that the U.S. cannot establish such a framework alone and that it would require the Soviet Union to take positive, concrete steps to correct its noncompliance, to resolve our other compliance concerns, to reverse its unparalleled and unwarranted military buildup, and actively to pursue arms reduction agreements in the Geneva negotiations.

In going the extra mile, I have made clear that as an integral part of this policy, we will also take those steps required to assure our national security and that of our Allies that were made necessary by Soviet noncompliance. Thus, as I indicated to the Congress on June 10, "appropriate and proportionate responses to Soviet noncompliance are called for to ensure our security, to provide incentives to the Soviets to correct their noncompliance, and to make it clear to Moscow that violations of arms control obligations entail real costs."

As we monitor Soviet actions for evidence of the positive, concrete steps needed on their part to correct these activities, I have directed the Department of Defense to conduct a comprehensive assessment aimed at identifying specific actions that the United States could take to augment as necessary the US strategic modernization program as a proportionate response to, and as a hedge against the military consequences of those Soviet violations of existing arms control agreements which the Soviets fail to correct. We will carefully study this report as soon as it has been completed.

As we press for corrective Soviet actions and while keeping open all programmatic options for handling future milestones as new U.S. strategic systems are deployed, we will continue to assess the overall situation in light of Soviet actions correcting their noncompliance, reversing their military build-up, and promoting progress in Geneva.

I look forward to continued close consultation with the Congress as we seek to make progress in resolving compliance issues and in negotiating sound arms control agreements.

The findings on Soviet noncompliance with arms control agreements follow.

THE FINDINGS

Anti-ballistic missile (ABM) Treaty

Treaty status

The 1972 ABM Treaty and its Protocol ban deployment of ABM systems except that each party is permitted to deploy one ABM system around the national capital area or, alternatively, at a single ICBM deployment area. The ABM Treaty is in force and is of indefinite duration. Soviet actions not in accord with the ABM Treaty are, therefore, violations of a legal obligation.

Issue: The January 1964 and February 1985 reports examined the issue of whether the Krasnoyarsk radar meets the provisions of the ABM Treaty governing phased-array radars. This report reexamines this issue.

Finding: The US Government reaffirms the conclusion in the February 1985 report that the new large phased-array radar under construction at Krasnoyarsk constitutes a violation of legal obligations under the Anti-Ballistic Missile Treaty of 1972 in that in its associated siting, orientation, and capability, it is prohibited by this Treaty. Continuing construction and the absence of credible alternative explanations have reinforced our assessment of its purpose. Despite US requests, no corrective action has been taken. This and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

Mobility of ABM system components

Obligation: The ABM Treaty prohibits the development, testing or deployment of mobile land-based ABM systems or components.

Issue: The February 1985 report examined whether the Soviet Union has developed a mobile land-based ABM system, or components for such a system, in violation of its legal obligation under the ABM Treaty. This report reexamines this issue.

Finding: The US Government judges that the evidence on Soviet actions with respect to ABM component mobility is ambiguous, but that the USSR's development and testing of components of an ABM system, which apparently are designed to be deployable at sites requiring relatively limited site preparation, represent a potential violation of its legal obligation under the ABM Treaty. This and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

Concurrent testing of ABM and air defense components

Obligation: The ABM Treaty and its Protocol limit the Parties to one ABM deployment area. In addition to the ABM systems and components at that one deployment area, the Parties may have ABM systems and components for development and testing purposes so long as they are located at agreed test ranges. The Treaty also prohibits giving components, other than ABM system components, the capability "to counter strategic ballistic missiles or their elements in flight trajectory" and prohibits the Parties from testing them in "an ABM mode." The Parties agreed that the concurrent testing of SAM and ABM system components is prohibited.

Issue: The February 1985 compliance report examined whether the Soviet Union has concurrrently tested SAM and ABM system components in violation of its legal obligation since 1978 not to do so. It was the purpose of that obligation to further constrain testing of air defense systems in an ABM mode. This report reexamines this issue.

Finding: The US Government reaffirms the judgment made in the February 1985 Report that the evidence of Soviet actions with respect to concurrent operations is insufficient fully to assess compliance with Soviet obligations under the ABM Treaty. However, the Soviet Union has conducted tests that have involved air defense radars in ABM-related activities. The large number, and consistency over time, of incidents of concurrent operation of ABM and SAM components, plus Soviet failure to accommodate fully US concerns, indicate the USSR probably has violated the prohibition on testing SAM components in an ABM mode. In several cases this may be highly probable.

Issue: The February 1985 classfied report examined whether the Soviet Union has tested a SAM system or component in an ABM mode or given it the capability to counter strategic ballistic missiles or their elements in flight trajectory in violation of their legal obligation under the ABM Treaty. This report reexamines this issue.

Finding: The US Government reaffirms the judgment made in the February 1985 report that the evidence of Soviet actions with respect to SAM upgrade is insufficient to assess compliance with the Soviet Union's obligations under the ABM Treaty. However, this and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

Rapid reload of ABM launchers

Obligation: The ABM Treaty limits to 100 the number of deployed ABM interceptor launchers and deployed interceptor missiles. It does not limit the number of interceptor missiles that can be built and stockpiled. The Treaty prohibits the development, testing or deployment of "automatic or semi-automatic or other similar systems for rapid reload" of the permitted launchers.

Issue: The February 1985 classified report examined whether the Soviet Union has developed, tested or deployed automatic, semi-automatic, or other similar systems for rapid reload of ABM launchers in violation of its legal obligation under the ABM Treaty. This report reexamines this issue.

Finding: The US Government judges, on the basis of the evidence available, that the USSR's actions with respect to the rapid reload of ABM launchers constitute an ambiguous situation as concerns its legal obligations under the ABM Treaty not to develop systems for rapid reload. The Soviet Union's reload capabilities are a serious concern. These and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

ABM territorial defense

Obligation: The ABM treaty allows each party a single operational site, explicitly permits modernization and replacement of ABM systems or their components, and explicitly recognizes the existence of AMB test ranges for the development and testing of ABM components. The ABM Treaty prohibits, however, the deployment of an ABM system for defense of the national territory of the parties and prohibits the parties from providing a base for such a defense.

Issue: The February 1985 report examined whether the Soviets have deployed an ABM system for the defense of their territory or provided a base for such a defense. This report reexamines this issue.

Finding: The U.S. Government judges that the aggregate of the Soviet Union's ABM and ABM-related actions (e.g., radar construction, concurrent testing, SAM upgrade, ABM rapid reload and ABM mobility) suggests that the USSR may be preparing an ABM defense of its national territory.

SALT II Treaty

Treaty status

The SS-25 ICBM:

Obligation: In an attempt to constrain the modernization and the proliferation of new, more capable types of ICBM's, the provisions of SALT II permit each side to "flight test and deploy" just one new type of "light" ICBM. A new type is defined as one that differs from an existing type by more than 5 percent in length, largest diameter, launch-weight or throw-weight or differs in number of stages or propellant type. In addition, it was agreed that no ICBM of an existing type with a post-boost vehicle and a single reentry vehicle would be flight-tested or deployed whose reentry vehicle weight is less than 50 percent of the throw-weight of that ICBM. This latter provision was intended to prohibit the possibility that single warhead ICBMs could quickly be converted to MIRVed systems.

Issues: The January 1984 and February 1985 reports examined the evidence: whether the Soviets have tested or deployed a second new type of ICBM (the SS-25) which is prohibited; whether the reentry vehicle (RV) on that missile, if it is not a new type, is in compliance with the provision that for existing types of single RV missiles, the weight of the RV be equal to at least 50 percent of total throw-weight; and whether encryption of SS-25 flight test telemetry impedes verification. This report reexamines these issues.

Findings:

a. Second New Type—Testing and Deployment: The U.S. Government judges, based on convincing evidence about the SS-25, that the throw-weight of the Soviet SS-25 ICBM exceeds by more than five percent the throw-weight of the Soviet SS-13 ICBM and cannot therefore be considered a permitted modernization of the SS-13 as the Soviets claim. The SS-25 is a prohibited second "new type" of ICBM and its testing, in addition to the testing of the SS-X-24 ICBM, thereby is a violation of the Soviet Union's political commitment to observe the "new type" provision of the SALT II Treaty. The deployment of this missile during 1985 constitutes a further violation of the SALT II prohibition on a second "new type" of ICBM.

b. RV-to-Throw-weight Ratio: The US Government reaffirms the conclusion of the January 1984 report regarding the SS-25 RV-to-throw-weight ratio. That is, if we were to accept the Soviet argument that the SS-25 is not a prohibited "new type" of ICBM, it would be a violation of their political commitment to observe the SALT II provision which prohibits the testing of such an existing ICBM with a single reentry vehicle whose weight is less than 50 percent of the throw-weight of the ICBM.

c. Encryption: The US Government reaffirms its judgment made in the January 1984 report regarding telemetry encryption during tests of the SS-25. Encryption during tests of this missile is illustrative of the deliberate impeding of verification of compliance in violation of the USSR's political commitment.

Despite US requests for explanations and corrective actions with regard to the SS-25 ICBM-related activities, Soviet actions continue unchanged, and the Soviet Union has proceeded to deployment of this missile.

Strategic Nuclear Delivery Vehicle Limits:

Obligation: The Soviet Union's political commitment to abide by SALT II is interpreted by the US Government as including an obligation not to increase the number of strategic nuclear delivery vehicles (SNDVs) in its arsenal. The Soviet Union had 2,504 SNDV's when it signed SALT II.

SS-16 Deployment:

Obligation: The Soviet Union agreed in SALT II not to produce, test or deploy ICBMs of the SS-16 type and, in particular, not to produce the SS-16 third stage or the reentry vehicle of that missile.

Issue: The January 1984 and February 1985 reports examined the evidence regarding whether the Soviets have deployed the SS-16 ICBM in spite of the ban on its deployment. This report reexamines this issue.

Finding: The President's February 1985 Report to Congress which noted that the evidence is somewhat ambiguous and we cannot reach a definitive conclusion, found the activities at Plesetsk to be a probable violation of the USSR's legal obligation and political commitment under SALT II. Soviet activity in the past year at Plesetsk seems to indicate the probable removal of SS-16 equipment and introduction of equipment associated with a different ICBM.

Backfire Bomber Intercontinental Operating Capability:

Obligation: At the signing of SALT II, the USSR gave the US assurances about the BACKFIRE bomber's intercontinental operating capability. The Soviet statement of June 16, 1979, read, in pertinent part, as follows:

The Soviet side informs the US side that the Soviet "Tu-22M" airplane, called "BACKFIRE" in the USA, is a medium-range bomber, and that it does not intend to give this airplane the capability of operating at intercontinental distances. In this connection, the Soviet side states that it will not increase the radius of action of this airplane in such a way as to enable it to strike targets on the territory of the USA. Nor does it intend to give it such a capability in any other manner, including by in-flight refueling . . .

This unilateral statement is an integral part of the SALT II agreement and the US considers it to be incorporated in the Soviet Union's political commitment to abide by SALT II.

Issue: The February 1985 classified report addressed the issue of whether temporary deployments of BACKFIRE bombers to Arctic bases constitute actions inconsistent with Brezhnev's June 16, 1979, statement not to give the BACKFIRE an increased radius of action and the capability of operating at intercontinental distances. This report reexamines this issue.

Finding: The US Government judges that the temporary deployment of BACKFIREs to Arctic bases is cause for concern and continued careful monitoring. By such temporary deployment of BACKFIREs, the Soviet Union acted in a manner inconsistent with its political commitment in the June 1979 BACKFIRE statement not to give BACKFIRE the capability to strike targets on the territory of the United States.

Backfire Bomber Production Rate:

Obligation: At the signing of SALT II, the USSR gave the US assurances about the Backfire bomber's production rate. The Soviet statement read, in pertinent part, as follows: " . . . the Soviet side states that it will not increase the production rate of this airplane as compared to the present rate." Soviet President Breznev, according to Secretary Vance's SALT II transmittal letter to the Senate, "confirmed that the Soviet BACKFIRE production rate would not exceed thirty per year."

Finding: The US Government judges that the Soviet Union is obligated to produce no more than 30 BACKFIRE bomber aircraft per year. There are ambiguities concerning the data. However, there is evidence that the Soviet BACKFIRE production rate was constant at slightly more than 30 per year until 1984, and decreased since that time to slightly below 30 per year.

Encryption of Ballistic Missile Telemetry:

Obligation: Provisions of SALT II ban deliberate concealment measures that impede verification by national technical means. The Treaty permits each party to use various methods of transmitting telemetric information during testing, including encryption, but bans deliberate denial of telemetry, such as through encryption, whenever such denial impedes verification.

Issue: The January 1984 compliance report examined whether the Soviet Union has engaged in encryption of missile test telemetry (radio signals) so as to impede verification. This issue was reexamined in the February 1985 compliance report and is examined again in this report.

Finding: The US Government reaffirms the conclusion in the February 1985 report that Soviet encryption practices constitute a violation of a legal obligation under SALT II prior to 1981 and a violation of their political commitment since 1982. The nature and extent of such encryption of telemetry on new ballistic missiles, despite US requests for corrective action, continues to be an example of deliberately impeding verification of compliance in violation of this Soviet political commitment.

Concealment of Missile/Launcher Association:

Obligation: Article XV of the SALT II Treaty prohibits "deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this Treaty". This obligation is further clarified in a Common Understanding that states that Article XV applies to all provisions of the Treaty and "includes the obligation not to use deliberate concealment measures associated with testing, including those measures aimed at concealing the association between ICBMs and launchers during testing".

Issue: This report examines for the first time the issue of whether the Soviets have concealed the association between an ICBM and its launcher during testing in violation of their obligation not to use deliberate concealment measures which impede verification.

Finding: The US Government judges Soviet activities related to the SS-25 to be a violation of the Soviet Union's political commitment to abide by the SALT II Treaty provision prohibiting concealment of the association between a missile and its launcher during testing.

SALT I Interim Agreement

Treaty status

The SALT I Interim Agreement entered into force for the United States and the Soviet Union in 1972. Dismantling procedures implementing the Interim Agreement were concluded in 1974. The Interim Agreement, by its own terms, was of limited duration and expired as a legally binding document in 1977.

Any Soviet actions inconsistent with this commitment are violations of a political commitment with respect to the Interim Agreement and its implementing procedures.

Issue: The February 1985 report examined whether the USSR has violated the SALT I Interim Agreement prohibition against using facilities remaining at dismantled former SS-7 ICBM sites for the storage, support or launch of SS-25 ICBMs. This report reexamines this issue.

Finding: The US Government judges that Soviet use of former SS-7 ICBM facilities in support of the deployment and operation of the SS-25 mobile ICBMs is in violation of the SALT I Interim Agreement. Should the Soviets use "remaining facilities" in the future at other former SS-7 sites where the SS-25 is now in the process of being deployed, such use will also constitute Soviet violation of its political commitment under the SALT I Interim Agreement.

Biological Weapons Convention and 1925 Geneva protocol

Chemical, biological, and toxin weapons

Treaty Status: The 1972 Biological and Toxin Weapons Convention (the BWC) and the 1925 Geneva Protocol are multilateral treaties to which both the United States and the Soviet Union are parties. Soviet actions not in accord with these treaties and customary international law relating to the 1925 Geneva Protocol are violations of legal obligations.

Obligations: The BWC bans the development, production, stockpiling or possession, and transfer of microbial or other biological agents or toxins except for a small quantity for prophylactic, protective or other peaceful purposes. It also bans weapons, equipment and means of delivery of agents or toxins. The 1925 Geneva Protocol and related rules of customary international law prohibit the first use in war of asphyxiating, poisonous or other gases and of all analogous liquids, materials or devices and prohibits use of bacteriological methods of warfare.

Issue: The January 1984 and February 1985 reports examined whether the Soviets are in violation of provisions that ban the development, production, transfer, possession and use of biological and toxin weapons and whether they have been responsible for the use of lethal chemicals. This report reexamined this issue.

Finding: The US Government judges that ongoing Soviet activities confirm and strengthen the conclusion of the January 1984 and February 1985 reports that the Soviet Union has maintained an offensive biological warfare program and capability in violation of its legal obligation under the Biological and Toxin Weapons Convention of 1972.

Allegations concerning the use of lethal chemicals or toxins in Kampuchea, Laos, or Afghanistan have subsided in 1985. However, there is no basis for amending the February 1985 conclusion that, prior to this time, the Soviet Union has been involved in the production, transfer, and use of trichothecene mycotoxins for hostile purposes in Laos, Kampuchea, and Afghanistan in violation of its legal obligation under international law as codified in the Geneva Protocol of 1925 and the Biological and Toxin Weapons Convention of 1972.

The United States is seeking to negotiate improved verification measures for the Treaty. Both Parties have separately stated they would observe the 150 kiloton threshold of the TTBT.

Obligation: The Treaty prohibits any underground nuclear weapon test having a yield exceeding 150 kilotons at any place under the jurisdiction or control of the Parties beginning March 31, 1976. In view of the technical uncertainties associated with estimating the precise yield of nuclear weapon tests, the sides agreed that one or two slight, unintended breaches per year would not be considered a violation.

Issue: The January 1984 and February 1985 reports examined whether the Soviets have conducted nuclear tests in excess of 150 kilotons. This report reexamines this issue.

Finding: While ambiguities in the pattern of Soviet testing and verification uncertainties continued in 1985, the U.S. Government reaffirms the February 1985 finding that Soviet nuclear testing activities for a number of tests constitute a likely violation of legal obligations under the Threshold Test Ban Treaty of 1974, which banned underground nuclear tests with yields exceeding 150 kilotons. These Soviet actions continued despite U.S. requests for corrective measures.

Limited Test Ban Treaty

Underground nuclear test venting

Treaty Status: The Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Limited Test Ban Treaty) (LTBT) is a multilateral treaty that entered into force for the United States and the Soviet Union in 1963. Soviet actions not in accord with this treaty are violations of a legal obligation.

Obligations: The LTBT specifically prohibits nuclear explosions in the atmosphere, in outer space and under water. It also prohibits nuclear explosions in any other environment "if such explosions cause radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted".

Issue: The February 1985 report examined whether the USSR's underground nuclear tests have caused radioactive debris to be present outside of its territorial limits. This report reexamines this issue.

Finding: The U.S. Government reaffirms the judgment made in the February 1985 Report that the Soviet Union's underground nuclear test practices resulted in the venting of radioactive matter on numerous occasions and caused radioactive matter to be present outside the Soviet Union's territorial limits in violation of its legal obligation under the limited Test Ban Treaty. The Soviet Union failed to take the precautions necessary to minimize the contamination of man's environment by radioactive substances despite numerous U.S. demarches and requests for corrective action.

Issue: The January 1984 and February 1985 reports examined whether notification of the Soviet military exercise "Zapad-81" was inadequate and therefore a violation of the Soviet Union's political commitment under the Helsinki Final Act. This report reexamines this issue.

Finding: The U.S. Government previously judged and continues to find that the Soviet Union in 1961 violated its political commitment to observe provisions of Basket I of the Helsinki Final Act by not providing prior notification of exercise "ZAPAD-81". While the USSR has generally taken an approach to the confidence-building measures of the Final Act which minimizes the information it provides, Soviet compliance with the exercise-notification provisions was improved in 1983. In 1984 the Soviets returned to a minimalist approach providing only the bare information required under the Final Act. The Soviet Union continued this approach during 1985.

Mr. HOLLINGS. Mr. President, I refer to the various violations with respect to the provisions of the amendment stating that upon the certification by the President—the amendment goes awry. This is absurd, because the President has been certifying to violations all along and we all have received documents identifying them. I refer to the President's unclassified report on Soviet noncompliance. I would first address the SS-25 and the obligations not to deploy more than one new system under SALT II.

Now, of course, the proponents of the administration say who knows about deployment. We know the SS-24 is the one new one and the SS-25 may be prepared to be deployed but we do not know about that yet. False. We know about that from the unclassified report of the Department of Defense at the beginning of this year entitled "Soviet Military Power." It was issued in March of this year. If the colleagues turn to page 30, they will see that the number of deployed SS-25 missiles is 100.

So we do not have to get into any mystery books about this. We have pictures of them and we have had many reports on them. The President's compliance report lists further the violations of the SS-25 on page 9.

With respect to other violations, we only have to turn to page 9 again and read the section on "Strategic Nuclear Delivery Vehicle Limits," and see the Soviets have already exceeded those limits. They are up to approximately, and for the unclassified record, we use the rough figure of 2,530 SNOV's. That is more than the 2,250 permitted by the treaty, and once again now since we have the attention of some, this sublimit argument is the most spurious kind of nonsense I have witnessed.

I never heard of any kind of Soviet scrupulous compliance about anything.

We have a long list of Soviet violations, and I ask unanimous consent to have printed in the RECORD a list of them—the Soviet violations of arms control agreements, the ABM, SALT II, SALT I, the Biological Weapons Convention, the Geneva Protocol, the Limited Test Ban Treaty, and the Helsinki Treaty.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNAMBIGUOUS SOVIET VIOLATIONS OF ARMS CONTROL AGREEMENTS

ABM TREATY

1. Krasnoyarsk Radar, Violation.
2. Mobile Sams—Radar—Rapid Reload, Violation.

SALT II TREATY

1. SS-25, Violation.
2. Strategic Nuclear Delivery Vehicle Limit, Violation.
3. Encryption of Telemetry, Violation.
4. Concealment of the Association Between a Missile and its Launcher, Violation.

SALT I TREATY

Use of "Remaining Facilities" at Former SS-7 Sites, Violation.

BIOLOGICAL WEAPONS CONVENTION AND GENEVA PROTOCOL

Chemical, Biological and Toxin Weapons, Violation.

LIMITED TEST BAN TREATY

Underground Nuclear Test Venting, Violation.

HELSINKI FINAL ACT

Notification of Military Exercises, Violation.

Mr. HOLLINGS. Now the Senator from Arkansas comes around and talks about scrupulous compliance. The Soviets are in violation of the overall limits on nuclear launchers and that is what counts. That is what we are talking about.

Now, Mr. President, with respect to the encryption of ballistic missile telemetry, they are listed on page 11 of the President's report which clearly state the Soviets are encrypting tests of ballistic missiles—and the latest incident occurred just yesterday when they dropped one of those SS-18's within 500 miles from Hawaii.

Maybe if they could get one out on the lawn of the Capitol Grounds it might wake up our colleagues. We hear the assertions about scrupulous compliance but when they are dropping SS-18's around the State of Hawaii and have the encryption of telemetry therein, we seem to not notice what is going on in the real world. And we hope to get out of it because we put the sanctified language in the amendment "if the President certifies."

Again, there is another violation regarding the concealment of association between a missile and its launcher that is the fourth violation, that is on page 11 of the President's report.

So, if you assume what they want in the amendment is a certification by the President, he has already certified the Soviet violations—so that brings us down to the real intent of the amendment.

Mr. President, you and I and the entire body here and indeed in both the House and Senate, know that this is a driving force behind a ratification de facto of the SALT II Treaty. The sponsors have come up with this particular gimmick and will hail it to the American public that now we are promoting arms control. I have heard in these debates that, "If you take a poll, you will find that women are for arms control, Senator, and if you want the women's vote, you better get with it."

I want the women's vote, and I am getting with it, and I think threats of women are just as successful as anybody, and they want true arms control and they do not want this deceptive amendment that indicates somehow we are controlling arms. This is a deceptive device that allows both sides to build to over 16,000 warheads. If you adopt this you will not have control; you will have decontrol. The amendment misleads the public and makes way for reason and logic for cutting the Department of Defense budget when the reason and logic is otherwise.

The Soviets talk about doing away with the SS-20's, but we will have to watch that closely because all they need is one other propulsion stage and they can turn it into an SS-16 and look at you and say, "Look, we got rid of the SS-20's; that is an SS-16."

These are the kind of games being played by this scrupulous compliance crowd.

Mr. President, it is time that we awaken and understand exactly what is going on.

I know the distinguished Senator from Kansas wanted time. The distinguished chairman of our Armed Services Committee is momentarily on the floor, so I retain the remainder of my time.

The **PRESIDING OFFICER.** Who yields time?

The time is controlled by the Senator from Virginia, the Senator from Arkansas, and the Senator from South Carolina.

Mr. WARNER. Mr. President, I yield to the distinguished Republican leader such time as he may wish.

Mr. DOLE. Mr. President, I do not know how much time remains.

The **PRESIDING OFFICER.** The Senator from Virginia has 6 minutes and 8 seconds remaining.

Mr. DOLE. Does the Senator from South Carolina have anything?

The **PRESIDING OFFICER.** The Senator from South Carolina has remaining approximately 15 minutes.

Mr. DOLE. I do not know whether or not the Senator from South Carolina intends to use the remainder of his time. I have had one request for a different topic for about 8 minutes. Will the Senator be able to spare 8 minutes out of his 15?

Mr. HOLLINGS. I know we are all trying to wind it up. I doubt if we will wind this up in the next half-hour. I would like to stay on this subject. I am not trying to take the last word. The distinguished Senator from Arkansas deserves that. But we do have the debate by Senator NUNN, and I heard there were a couple others coming. I do not want to run out of time or get into the Bork nomination. I can tell you I was not asked about that. Or we can talk on S. 4, too.

Mr. DOLE. Mr. President, let me go ahead and make the statement and then I will try to accommodate the Senator from Pennsylvania.

Mr. President, I first wish to associate myself with the remarks I have been listening to with interest of the distinguished Senator from South Carolina, Senator HOLLINGS. I am not quite certain what we are here for today, but I hope it does not take long to dispose of it. The amendment ought to be tabled.

SOVIET ICBM SPLASHES HAWAII

I read with some interest this morning the Washington Times story—and I know it has been discussed earlier, but I have been elsewhere—that while we were debating the defense authorization bill, the Soviets fired one of their new intercontinental missiles pointed right at the United States—at the State of Hawaii.

I am still checking the details, but right now the newspaper account appears roughly accurate. Furthermore, I am told that there have been two missiles launched toward Hawaii. Every Member of this body should be deeply concerned.

The Soviet reentry vehicles—and let us be plain about it; they are what carry the nuclear warheads—splashed down just North of Hawaii. But there's more. Apparently, the Soviets had hoped their first test would hit even closer to our shores.

What are we to conclude from such a provocative act? What are we to make of TT-9 missiles, streaking across our skies just as Foreign Minister Shevardnadze leaves Washington? Was this an error? No. They have already fired yet another ICBM—again pointed at Hawaii.

I am sure that the administration is checking and rechecking its facts. In fact, I talked to Mr. Carlucci this morning to try to get more details. But when this is done, President Reagan must let the Soviets know in no uncertain terms that this kind of behavior is simply unacceptable—and we in Congress need to back him 100 percent.

Today, I am cosponsoring a resolution with Senators WILSON, WALLOP, and QUAYLE to do just that, and I am sure that all of my colleagues will join us in voting for it.

We should also recognize that those Soviet dummy reentry vehicles carried no warheads, but they did carry a few messages to Congress. Let's face it, while the Soviets tinker with their new TT-9, some people here would like to bind the United States to bits and pieces of SALT II.

SALT II was not ratified and was never a good agreement. It has expired by its own terms, and the Soviets never abided by their political commitment to it anyway.

In fact, the Senator from South Carolina just put in the RECORD a whole list of Soviet violations. I do not know whom we are trying to kid in this body, but the Senator from South Carolina has put in the RECORD a list of Soviet violations and I hope that we will look at that very carefully.

Let's recall that one of the Soviet violations of SALT II was that they built more than one type of new missile. As we now know, they proceeded with the SS-24 and SS-25. Now, the TT-9, which crossed the Hawaiian skies, clearly demonstrates that they have no intention of standing still. They are proceeding with yet another generation of large, accurate ICBM's—the ones which are most destablizing and the biggest stumbling blocks for arms control.

There are also those who would like to hobble SDI, or even to derail it altogether. But those TT-9 reentry vehicles simply underscore the fact that we do not now have a defense against Soviet missiles. Test or no test—just imagine the tension in our command centers as a Soviet missile approaches American soil. Just imagine the terror if people in Hawaii had been told that a Soviet missile was headed their way.

Hawaii's Congresswoman PAT SAIKI says that people in her State don't want it used as a bullseye for Soviet missiles. I think if you ask people in Honolulu today, they would tell you they want to be defended. And that would reflect the views of most American people. This week's reckless Soviet behavior will focus the anger of Americans toward those who would deny the President any legal option he has to pursue for their defense.

The Soviet missile test gives us a perfect opportunity to reflect upon this, and then remove the stumbling blocks which have been placed in the way of President Reagan's legal pursuit of SDI. Let's start by stripping the so-called Levin-Nunn language from the defense bill. That way the President can get on with his job.

The bottom line is that the Soviets are not hesitating for one split second with their strategic offensive or defensive programs. In response, we need to say—loud and clear—that we will not be intimidated. If we show a lack of resolve now, we lessen the chances for a good outcome to negotiations, and we certainly lessen America's security.

Mr. President, I reserve the balance of any time that I may have.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 14 minutes remaining.

Mr. HOLLINGS. I yield half of that time, 7 of the 14 minutes, to the distinguished Senator from Arkansas.

Mr. BUMPERS. Mr. President, based on the very magnanimous announcement just made by the Senator from South Carolina, how much time now does the Senator from Arkansas have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has remaining 12 minutes and 45 seconds.

Mr. BUMPERS. But, in addition to that, did the Senator yield me half the remaining time he has?

Mr. HOLLINGS. Yes; that would be 7 minutes.

Mr. BUMPERS. I now have 19 minutes?

The PRESIDING OFFICER. Nineteen minutes and forty-five seconds.

Mr. BUMPERS. I yield 2 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 2 minutes.

Mr. LEVIN. Mr. President, I thank my friend from Arkansas.

By unilaterally exceeding the SALT II limits, we would obviously be opening the door to a Soviet numerical buildup to correspond. In doing so, we are going to be playing right into the Soviets' strength.

As former Secretary of Defense Harold Brown pointed out:

> The Soviets are in a better position than we are in terms of military production capabilities and in terms of political constraints to build up the numbers of strategic launchers and warheads much more rapidly over the next 4 or 5 years than we could. That would adversely affect the military balance.

Listen to the results of a study of the Congressional Research Service entitled "Strategic Nuclear Forces: Potential U.S./Soviet Trends With or Without SALT." The CRS study notes that the Soviets had an estimated 10,500 strategic nuclear warheads in July 1986 and we had an estimated 11,800, giving us a lead of roughly 1,300 warheads. But by 1994, without the SALT numerical limits on launchers, this study shows that the Soviets could deploy an estimated 31,900 warheads to our 23,800. That would put us roughly 8,100 warheads behind the Soviets. That is without the constraints of SALT.

I do not see how, then, anyone can argue that these SALT constraints do anything except assist our national security. Right now, we are 1,300 warheads ahead with SALT constraints. Without those SALT constraints, this independent and objective CRS study shows that within just a few years the Soviets could be 8,100 warheads ahead. I think our security is clearly fostered by our maintaining those constraints.

It is clear to me that the opponents of this amendment do not recognize the two primary benefits of arms control. The amendment before the Senate goes to the heart of both.

The first such benefit is placing limits on the number and types of strategic nuclear weapons the Soviet Union deploys and targets on the United States of America. The second is establishing an essential measure of predictability regarding the nuclear threat we will face in the future.

It is in the national security interest to limit the number and type of Soviet strategic nuclear weapons targeted on the United States. It is in the national security interest to increase the predictability of Soviet strategic nuclear force developments. I don't think anyone here disagrees with either of those statements.

The question we face is, How do we achieve that goal? How can we limit or reduce the number of Soviet weapons targeted on our country? And how do we channel Soviet weapons development in a way that makes a highly threatening breakout of those limits difficult, if not impossible, to achieve?

The only way to achieve that goal is to agree to place limits on our own strategic nuclear forces in exchange for—I emphasize in exchange for—mutual limits on the Soviet arsenal.

These are benefits which the President himself apparently understood for his first 6 years in office. During that time, the President maintained that "it remains in our interest to establish an interim framework of truly mutual restraint on strategic offensive arms as we pursue with renewed vigor our goal of real reductions in the size of existing nuclear arsenals in the ongoing negotiations in Geneva." During that time, he decided "that the United States would not undercut the expired SALT I agreement or the unratified SALT II agreement as long as the Soviet Union exercised equal restraint."

I don't know why he changed his mind. The President apparently still believes that limits on Soviet nuclear weapons are in our interest. He is actively pursuing a 50-percent reduction in the number of Soviet nuclear weapons aimed at our Nation, and he is willing to reduce our forces by roughly the same percentage.

Compliance with the SALT II numerical limits, and staying within those limits as long as the Soviets do, we will improve the prospects for a new agreement which reduces Soviet forces.

The SALT II numerical limits do not undercut our negotiating leverage. There is nothing in those limits, the limits this amendment addresses, which prevents us from modernizing our forces in a way that increases the threat the Soviets face, if that is what you believe creates negotiating leverage. We were conducting such modernization before the President decided to reverse himself by exceeding those limits, and we have continued to modernize our forces since then.

Perhaps more to the point, I do not believe that exceeding the SALT II numerical limits creates additional negotiating leverage. We have no plans to embark on a massive numerical offensive buildup. Our strategic modernization program is primarily qualitative, not quantitative.

Continued superpower compliance with the SALT II numerical limits is not only important because it makes a new agreement more likely. It is also essential in case such an agreement cannot be concluded.

In the absence of such a new accord, there will be absolutely no limits on Soviet strategic nuclear forces if we do not act now to restore compliance with the SALT II numerical limits. This amendment would ensure that we do not enter negotiations on strategic—or long-range—systems with no numerical limits in effect, with no restraint whatsoever on Soviet deployments. It would provide a measure of interim restraint on which this or the next administration can build.

Thus, without this amendment President Reagan may find it harder to conclude a reductions agreement that enhances our security. Should President Reagan fail in his efforts, and should the Senate fail to enact this amendment, the next President will have to start from scratch.

I share the concerns of those who oppose this amendment regarding the Soviet Union's less than exemplary compliance record. However, I think this administration has expended far more time and effort publicizing Soviet compliance problems than they have actually doing anything about them. I guess I would characterize the administration's record on this point as being full of sound and fury, accomplishing nothing.

But let me get back to the amendment at hand.

There are other, better ways to deal with Soviet violations of specific provisions of the unratified SALT II agreement than exceeding the numerical limits, and damaging our own interests in the process. I think former Defense Secretary McNamara put it best when he wrote that:

> Responding to Soviet violations by scrapping SALT is tantamount to reacting to an increase in the crime rate by abolishing the criminal code.

Let's not cut off our nose to spite our face. Let's go back to the policy the President advocated and adhered to for 6 years.

The vote of the Senate on this issue will be a measure of this body's understanding of the purpose and value of arms control—and of limiting the number of warheads in Soviet hands.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I have 17 minutes remaining?

The PRESIDING OFFICER. Seventeen and a half minutes remaining.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use. There are a couple of Senators who have asked to speak on this for a couple of minutes and I will just hold the floor until they arrive.

First of all, I ask my colleagues to please note one thing: This is a very simple proposition. Do you believe that the world or the United States, or both, is more secure with a cap on the number of MIRV'd launchers that each side may have than we are without it?

I think the legitimate question that every Senator ought to ask himself this afternoon, or herself, when he or she walks on this floor is: If not 1,320, how many?

We have been living since 1979, with article V of the SALT II Treaty, which allows both sides 1,320 MIRV'd launchers; 2,450 overall, counting single-warhead missiles.

Mr. President, if this amendment is not tabled, I invite my friends to amend it.

You put in there, "insert 2,000" and see how many votes you get.

"Insert 3,000" and see how many votes you get.

I promise you, it is easy to get up here and kick the Soviets and go mindlessly on your way in this arms race, but that is not what is going to save civilization. Then I invite you to go back home and tell your constituents next year when you run for reelection that you thought we would be better off and the world would be better off when we have 20,000 strategic warheads and the Soviets have 25,000 warheads than we are when both sides have about 13,000.

You see those charts back there? I did not make those up. That is not either my art work or my statistics. But, as I said this morning, six out of the last seven Secretaries of Defense—you know, I do not consider Harold Brown and Jim Schlesinger and Don Rumsfeld and some of those people—I do not consider those people idiots. They studied the issue night and day. Why do you think six of the last seven Secretaries of Defense favor this amendment?

I will tell you why they do. It is because they thing it is in our security interests.

Why do you think Brent Scowcroft on whom Ronald Reagan depends so heavily, favors this amendment? Because he, too, has seen those charts.

Do you see how ominous that red looks back there. That is the Soviet Union. Since the SALT Treaty was signed in 1979, look how many missiles they have dismantled compared to how many we have dismantled. Look at how many they are going to have to dismantle compared to how are we going to have to dismantle. They have to dismantle a lot more than we do. And, by 1994, they have 31,000 warheads and we have 23,000.

I am not worried about that; the fact that we only have 23,000 warheads and they have 31,000, when 400 or 500 on either side is enough to blow this plant apart.

I can tell you those Secretaries of Defense and Brent Scowcroft and every last one of our NATO allies favor this amendment because they know what those charts mean. It means we will be shooting ourselves in the foot and that the Soviet Union is in a much better position to take advantage of trashing that treaty than we are.

Mr. President, I said rather flippantly to the Senator from Virginia this morning: what do we get out of it? I said, well, I get a better night's sleep. And while that is a sort of flip response, as the Senator well knows, there was a certain amount of seriousness in it because the fact that the Soviet Union will not have as many missiles aimed at the United States as they will have if this amendment is defeated does allow me to sleep a little better.

If the President wants to veto this he can. He says he is going to veto it because of the Nunn-Levin amendment anyway. You put this on there, maybe that gives him an additional incentive to veto it. But do you know what our fearless President said in 1982, Senator, after he ran all over the United States in 1980 saying this treaty was fatally flawed? Obviously it was not fatally flawed; we are all still alive and we have been living with it.

I might ask you why has not something terrible happened in the last 5 or 6 years that we have been living with it? The treaty has expired by its own terms, but we have been abiding by it and we are all still here and there is still the 1,320 cap on MIRV'd launchers.

But do you know what Ronald Reagan said after he ran against the SALT II Treaty in 1980, when he was elected President in 1980 on that? In 1982 he said, "Well, after all, I believe we will comply. We are going to comply with the number of MIRV'd launchers, 1,320.

Somebody said, well, Mr. President, you ran against that treaty. What are you talking about? Do you know what his response to that was? I just found out the Soviet Union is in a lot better position to break out of that treaty than we are. And there are the charts to validate exactly what the President meant.

So I do not care whether you just think we ought to stop the arms race at 1,320 or 1,000 or 2,000. If you do not like 1,320 and you do not want to keep to the SALT Treaty, pick out a number. But when we go to Geneva and start talking in the START talks, it is so much easier to reduce from 1,320 than it will be from 2,000.

When the President announced last November that we were no longer going to comply with the treaty and he was ordering the 131st B-52 bomber equipped with cruise missiles, that put us over the limit and we have been soaring ever since. Do you know how we are mostly over the limit, Senator? And I know this makes everybody feel a lot better and sleep a lot better at night. We have 19 of those old, 35-year-old B-52 bombers now equipped with cruise missiles. If that makes you sleep better, fine.

Finally, let me say, all I have heard today in response to this amendment is the Soviets cheat. My response to that is this amendment says the President does not have to comply with it if they are cheating.

I know you trust the President. If he comes over here 30 days after the enactment of this and says, "Senator, the Soviets are exceeding the SALT II limits," he can trash the amendment and he is not obligated to do it. I personally do not believe he can do that. I do not believe he can do it, unclassified or classified. But if he does, this amendment goes by the boards. It does not mean a thing.

So, Mr. President, I hope my colleagues will think about future generations and think about their stewardship of this planet and vote for something to control this arms race.

To put it in perspective, I have been sitting back in that Cloakroom today looking at a Los Angeles earthquake. Do you know Los Angeles had a 6.1 Richter-scale earthquake today and that is all you can get on the television.

Do you know what that earthquake in Los Angeles is compared to just one little old tensy nuclear bomb? Why, in the 24-hour telecast they would not give the Los Angeles earthquake 15 seconds. That is just how important that earthquake would be compared to the explosion anywhere in the world of one little old bitsy Hiroshima-sized bomb.

If you want to continue this insanity of thinking you are more secure because you have more weapons than they have, you do it. If you think you would feel more secure with no constraint on the number of nuclear warheads on both sides, vote against this amendment.

I yield the floor.

Mr. LEAHY. Mr. President, how much time remains to the proponents?

The PRESIDING OFFICER. The proponents 7 minutes and 15—about 7 minutes and 20 seconds; the opponents have 15.

Mr. LEAHY. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Vermont for 1 minute.

Mr. LEAHY. Let us not lose sight of what Bumpers-Leahy-Chafee-Heinz is. All we are saying is for the President of the United States to do what he did during the first 6 years of his Presidency; abide by the limits that we described here.

We also say in that, so that nobody will be fooled by red herrings, that he does not have to do that if the Soviet Union does not do the same thing. If the Soviet Union breaks out of those and puts us at a disadvantage, the President is not bound for a moment to follow it.

But, good Lord, Mr. President, this is the only constraint on nuclear arms that we have today in the world. We talk about treaties in the future. This is the only restraint that might exist today.

If we are not willing to do it for ourselves, do it for our children. My children will live most of their lives in the next century, if we have one. It is steps like this to determine that we will have one and I hope the Senate will vote for this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Will the manager yield me 30 seconds?

Mr. BUMPERS. How much time does the Senator need?

Mr. BIDEN. Two minutes.

Mr. BUMPERS. I yield 2 minutes.

Mr. BIDEN. Mr. President, I strongly support this legislation and I compliment my colleagues for their persistence in pursuing this legislation.

Indeed, along with Senator COHEN, I introduced binding SALT II legislation last year—the first such bill to be introduced in this body. Subsequently, in deference to the extensive work done on SALT II by Senators BUMPERS, LEAHY, CHAFEE, and HEINZ—and in recognition of their intent to introduce binding compliance legislation of their own—I chose not to proceed with my SALT II bill and to focus instead on the issue of ABM Treaty compliance.

That was done through extensive hearings, conducted jointly by the Judiciary and Foreign Relations Committees earlier this year, on Senate Resolution 167, the ABM Treaty interpretation resolution, which I sponsored.

In the current atmosphere of expectation surrounding a possible INF agreement, it is extremely important that the fundamental realities of arms control be kept in clear perspective. Those realities are twofold. First, on offensive strategic systems, the Reagan administration has unilaterally broken out of the key sublimits of SALT II—thus opening the possibility of an unconstrained competition in strategic nuclear delivery systems. Second, through its so-called reinterpretation of the ABM Treaty, the administration has laid the groundwork for an unconstrained competition in anti-nuclear defenses. When you put them both together, it spells, in my view, a disastrous precipitation of the arms race.

Unless the United States moves to reaffirm the ABM Treaty and, on that basis, to negotiate new limits on strategic offensive systems, any achievement on the INF front will be purely cosmetic. Since the likelihood of any such developments is, at this point, purely speculative, the Congress would be no more than prudent in facilitating, through this legislation, a continued adherence by both superpowers to the key sublimits on strategic arms established by SALT II.

As to the ABM Treaty, I call to the attention of my colleagues the report, issued by the Foreign Relations Committee last week, on the ABM Treaty Interpretation Resolution. That resolution and the accompanying report address the "reinterpretation" issue from a constitutional perspective and serve to affirm very clearly the factual and legal validity of the traditional interpretation of the ABM Treaty.

Two weeks, the Senate acted wisely to uphold U.S. compliance with the ABM Treaty, and it would act wisely again today in requiring continued U.S. adherence to the sublimits of SALT II.

The **PRESIDING OFFICER**. Who yields time?

Mr. **HOLLINGS**. Mr. President, I yield 2 minutes to the distinguished Senator from Missouri.

Mr. **BOND**. I thank my distinguished colleague from South Carolina.

There have been ample reasons set forth today by my colleagues as to why we should oppose this amendment.

Briefly, they are the following:

This is a treaty that has never been ratified;

The Soviets are in clear violation of the treaty with development of a new ICBM and encryption of missile test telemetry being the most blatant violations.

Most important, it is my strong view that we should not be imposing unilaterally on our negotiators limitations on their abilities to achieve mutual and verifiable reduction in arms.

Mr. President, I believe those are good enough reasons to oppose the amendment before us today. When I came to work today I did not need additional reasons to oppose this amendment. But today we have learned a new piece of information that should make this issue crystal clear for us all.

Today we have learned that the Soviets have test fired a new ICBM just a few hundred miles from United States territory.

We do not know much about the TT09. We do not because they encrypted their telemetry once again, another violation.

This is a highly provocative act, Mr. President, and I think it is time that we made clear to the Soviets that we will not stand by while they threaten our country and attempt to intimidate us with the test firing of a missile so close to United States territory and the United States citizens.

If we were to approve the amendment before us today, we would be telling the Soviets that we do not care what they do, that we do not care how they provoke us, that we do not care how they violate the treaties, or even worse that we are intimidated by their show of intercontinental ballistic missile force.

Mr. President, I submit that that would be precisely the wrong message to send today and I urge my colleagues to oppose this amendment.

Mr. **HOLLINGS**. How much time have I remaining?

The **PRESIDING OFFICER**. The Senator has 5 minutes remaining. The Senator from Arkansas has 2 minutes remaining.

Mr. **HOLLINGS**. Mr. President, on the point made by the distinguished Senator from Michigan, and the emphasis given by my friend from Arkansas, we hear that under the treaty there could be 31,000 on the Soviet side and 23,000 on our side without these sublimits. The Soviets would have 8,100 more warheads than the United States.

I go with that admonition by Winston Churchill, though I cannot remember the exact occasion, when he countenanced after you reach a certain capacity in the engagement of war, whatever was left was only to balance the rubble. In other words, when you get up to a certain number it is lost in the trash and the noise. I am worried about 1 nuclear missile, not 2,000 or 5,000. Look at the proposed INF Treaty. At the present time in Europe we have some 108 Pershing II's and 52 GLCM's. We have 160 missiles to the Soviet 553 SS-2 and SS-4 missiles. No one believes in their heart that the Soviets are being generous, even though they have almost a 4-to-1 advantage. They cannot knock out each and every one of our missiles. And, as long as five or six of the Pershing II's survive, we have a retaliatory capability that they cannot eliminate with a first strike and will be used against them—along with many other theater nuclear forces.

Yes, I am using the argument of the proponents of the amendment given to us with respect to the defense budget. "Why do you need more? Because we have to keep up a relative pace with the Soviets in this particular regard."

Right to the point that the Soviets are in excess of the overall limits. The Senator from Arkansas and others all talk about article V and they ignore article III. The overall limits of strategic nuclear delivery vehicles is being breached by the Soviets in far greater levels than our small breach of the bomber et al. sublimit. I would like to pose a question. In looking at the membership of our Foreign Relations Committee I notice that every Democratic member of the committee signed the letter to the President referred to by the distinguished Senator from Vermont. Plus there was one Republican committee member who signed the letter so the proponents, have a clear working majority for adhering to SALT II. I wonder why they have not reported out the SALT II Treaty? I know the answer. They cannot get ratification of that treaty with full debate on this floor. So they come indirectly and talk about sublimits and scrupulous compliance.

I would say yes, if you believe my friend from Arkansas about scrupulous compliance by the Soviets, vote for his amendment, and you will be voting also for certification by the President of the United States, and ignore that he has certified time and time again of the Soviet violations. The American public will not read it that way. They will think some kind of arms limitation has been enacted and they are being deceitfully misled into a false sense of security and complacency.

The Soviet system is different, as Harold Brown said. He testified for the treaty. You saw what the Armed Services Committee did when he testified. They rejected him.

President Carter said SALT II was a wonderful thing, and they rejected him, too.

If we go down step by step on the SALT II treaty, it is not in the security interest of the United States and this particular amendment is the most devastating of all. If we can start putting riders on authorization bills and appropriations bills and on the House side start ratifying treaties with majority votes in that body, and then a majority vote here, forget about treaties. We will make them up in our own mind. What we will do is put them on as riders and we will have total chaos and no security.

Mr. President, last year's decision by President Reagan to exceed one of the SALT II sublimits was a welcomed change from prior policy whereby we cowered in fear of radical and dangerous Soviet reprisals unless we unilaterally complied with the one-sided agreement. Our negotiators have often been quick to concede to unreasonable and unfair demands when the lesson learned repeatedly from our dealings with the Russians should lead to a far different reaction. From Kennedy's decision to resume nuclear testing that led to the Limited Nuclear Test Ban Treaty of 1963, to the Pershing II/GLCM deployment in Europe that spurred the ongoing INF talks, the message of United States strength and resolve has not been lost on the Soviets. When we show that we mean business, the Soviets get down to business. It takes no genius to figure out that Reagan's actions on SALT limits and on the SDI Program have prodded the Soviets to act now on a new strategic arms agreement.

To retreat on the policy of a flexible and proportionate U.S. response to numerous Soviet SALT violations—that the Bumpers amendment makes no attempt to rectify—would be as horrendous as the proposed sellout of SDI in the face of Soviet preparations for a breakout of the ABM Treaty.

President Reagan's SALT II decision reasserts a firm U.S. commitment to essential equivalence and force modernization in strategic capability. This was the objective of Senator Henry Jackson's 1972 amendment to the SALT I Treaty and the major reason why the Senate ratified that treaty.

Before reaching a decision on ratifying SALT II by a majority vote rather than the constitutional two-thirds—and that would be the impact of the amendment—we should consider several facts. SALT II would not have been ratified by the Senate in 1979, and it cannot be ratified today. There are not 67 votes for the treaty. So its proponents—many of whom are castigating the President over his disregard of the War Powers Act in the Persian Gulf—are asking the Senate to disregard the Constitution by this backdoor approach on ratification. And, might I add, ratification of a treaty that expired in December 1985.

In 1979, the Senate Armed Services Committee—under the capable leadership of our distinguished President pro tem—voted that SALT II was unequal, unbalanced, destabilizing, and not in the national security interest of the United States. The only thing that has changed since then is that the concerns of our colleagues 8 years ago have proven to be fully justified. The Soviet strategic arsenal in 1979 stood at roughly 5,500 to 6,000 warheads. Today, the number is nearly double, over 10,500, and they are more capable and accurate warheads. The U.S. warhead levels have similarly increased from roughly 8,000 to over 10,500. I believe when we say arms control we mean arms control—not arms proliferation. The Senate should not be endorsing any agreement—especially in hallowed tones—that legitimizes such an ominous growth in nuclear weapons.

There are many faults with SALT II and that is why it has not, and cannot, be ratified. The amendment offered by the Senator from Arkansas and others must be rejected. The amendment limits operational funds for our ICBM's, SLBM's, and cruise missile capable bombers to the levels prescribed in article V of SALT II. These are: 820 launchers of ICBM's with MIRV'd warheads; an aggregate of 1,200 launchers of these ICBM types plus submarine-launched ballistic missiles [SLBM's] with MIRV'd warheads; and an aggregate total of 1,320 launchers of the ballistic missiles described above plus heavy bombers equipped for air-launched cruise missiles.

The amendment's authors stress that the Soviets are honoring these levels so we should. There are contentions and evidence that this statement may be false though reality rests on the most current intelligence data; and, indeed, it is almost a day-to-day situation. From my perspective, I believe far too much emphasis is being placed on this factor when there are more compelling issues that should concern us—and cause us to repudiate this mischievious attempt to subvert the Constitution.

There are seven immediate problems with the amendment:

First, the amendment is addressed to only one provision in the treaty that the authors deem important when the treaty was sold to the Senate as a complete package. It is clear that President Carter and his administration's officials linked the various treaty's articles together in their importance—and stated repeatedly that each article did not stand on its own. Here are two quotes—from President Carter and Defense Secretary Brown—substantiating this view:

Mr. CARTER. It is the SALT II agreement itself which forbids concealment measures, many of them for the first time, forbids interference with our monitoring, and forbids the encryption or the encoding of crucial missile test information. A violation of this part of the agreement—which we would quickly detect—would be just as serious as a violation of the limits on strategic weapons themselves.

Mr. BROWN. * * * we have broken significant new ground in the qualitative area by limits on numbers of reentry vehicles on each type of ICBM (and SLBM) and by allowing each side only one new type of ICBM.

In essence, the Senate is being asked to require adherence by the United States to a provision in the Treaty that the Soviets may not be violating while ignoring provisions where Soviet compliance is absent. It creates the environment where United States strategic force policy is dictated by the Soviet's compliance with one area of the treaty.

Second. The sublimits of article V include only MIRV'd missiles. Adherence to this sublimit ignores totally the SS-25, a second new ICBM missile in violation of article IV. While the SS-25 is a single warhead missile, intelligence reports indicate it could be converted to a MIRV'd missile. There are roughly 100 SS-25's now deployed, and they lead to a second violation—regarding overall launchers—described in paragraph 5 below.

Third. The sublimits—and indeed the treaty itself—do not include Backfire bombers. There are now roughly 300 Backfire bombers. To assert that the Soviets are complying with the sublimits may techncially be true, but the fact is that the omission of the Backfire is ludicrous. This is especially true when one considers that the United States breach of the sublimits is very slight—only 13 B-52 and 2 B-1 bombers—a total far less than the 300 Backfire's.

Fourth. The sublimits allow for the SS-18. While U.S. negotiators agreed to this, the Senate would have required some offset for this heavy ICBM advantage ceded to the Soviets with nothing granted in return. This fact notwithstanding, they are allowed only 10 warheads on the SS-18 under the treaty's provisions. Evidence exists that SS-18's may be deployed with more than 10 warheads. This is a probable violation on top the advantage given the Soviets—plus it illustrates the ridiculousness of controlling launchers and not warheads.

Fifth. Adherence to the sublimits in article V ignores the overall strategic nuclear delivery vehicle [SNDV] limits established in article III. The Soviets are violating article III. The SNDV limits are 2,250 launchers and missiles—the Soviets have over 2,530 launchers and missiles. What we are being told by the authors of the amendment is that if sublimits are breached—doom and disaster will soon follow. But they are silent on the issue of the control in article III on overall launchers and missiles. I would ask my colleagues what is the sense in a sublimit if you do not require control on overall levels.

Sixth. The parties to a treaty should abide by all provisions of the treaty—and not pick and choose those they like and agree to follow. It seems to me that it is incredibly naive and stupid to negotiate treaties with the understanding that either side is free to violate provisions at their own call. Yet, the substance of this amendment would create such an environment and sets an unhealthy and undesirable precedent for subsequent treaties.

Seventh. The sublimits apply only to launcher levels and not to warhead levels. Thus, there is no real control on arms. Both sides could build up their forces to over 16,000 warheads and still remain within sublimits. To pass this amendment and assert that control of nuclear arms has been achieved is an outright distortion—and would lead to a false security and complacency totally underserved.

There are also lessons to be learned from dealing with the Soviets—and in confronting their confirmed and probable violations of arms control commitments. Twenty-five years of history of Soviet failures in abiding by its treaty obligations have provided six important lessons to United States policymakers. These are:

First, the violations are not loopholes but definite violations.

Second, the Soviets sign agreements with no intention to abide by them.

Third, the Soviets use arms control agreements as a means to constrain United States arms capabilities while they improve their own.

Fourth, when there are no substantial costs to meet obligations of the arms control agreement, the Soviet may comply.

Fifth, the Soviets often violate treaties just to save a few rubles.

Sixth, the Soviets avoid penalties for their actions by denying the violation, getting an apologist to say they didn't violate, or indicating that the alleged violation is insignificant.

I opposed SALT II first of all on its inequality. The Soviets were allowed to keep their 308 blockbuster heavies while we continued to be limited to none. We had to count our B-52's but their Backfire was exempt. Our intermediate range cruise missiles were limited, but their intermediate range ballistic missiles were not. Besides the inequality of it all, SALT was and is unverifiable. It was a budget buster with its sanctification of an arms race. My conclusion was and is that SALT II creates the illusion of security and a dangerous sense of national complacency. Unequal treaties must always be avoided, not only for the result they bequeath but also for the precedent they establish.

The 308 SS-18 blockbusters which the Soviets have go a long way toward giving the other side a first-strike capability—with 30 percent of their ICBM's, the Soviets could knock out 90 percent of ours, and still have 70 percent of theirs left over for an obliterating second strike on America. Similarly, verifiability remains a major problem now as it was then. Even if missiles and warheads were limited—which they are not—there is no way for us to tell how many are being produced and stockpiled, nor can we ascertain what happens to older missiles that are pulled off the launching pads when more modern weapons are deployed. We still cannot verify how many warheads are in that ICBM nose cone, particularly in light of article IV, section 10, second agreed statement which in effect allows decoys. Those decoys could be used either to trick our radars or they can be removed before the moment of launch and replaced with the real thing.

We still cannot verify changes which can significantly alter the capability of a Soviet weapons system. By adding a third stage to the SS-20, it can be made into an ICBM—an SS-16 in effect. But short of that, simply by loading fewer than its maximum number of warheads and by increasing the fuel supply, its range can be enhanced significantly. Finally, I'm sure you remember the debate over telemetry. The Soviets demanded the right to continue coding their telemetry, finally agreeing to the compromise of saying they'd leave open those channels which were pertinent to treaty limitations. So they determine what it is necessary for us to know, and the rest they encode, depriving us of one source of critical intelligence. We rely simply on trust.

If SALT really didn't limit the Soviets in the ICBM field because it clamped no limits on the production of missiles and warheads, neither did it limit launchers. In fact, it never defined what a launcher was or is. In the old days a silo was a launcher, but nowadays silos can be used repeatedly; and on our side we have demonstrated that a canister can be a launcher too. If missiles aren't being limited and warheads aren't being limited, and launchers aren't being limited, then what is being limited?

About the only thing being limited is America's lead in technology. The Soviets have always used arms negotiations to limit us where we are farthest ahead—technology. The cruise missile restraints in SALT II are perhaps the best example. On the cruise missiles, incidentally, it is interesting to remember that while we limited these weapons in various ways—range limitations for the ground and sea variety and limitations regarding the B-52 on the air-launched—we grandfathered their SSN-3 missile which can fly 700 miles and, of course, we excluded their Backfire bomber which can fly 5,000 miles and hit just about any target in the USA and then land in Cuba or somewhere or get refueled and fly home. In short, the Soviets get all the breaks, and we agree to count even B-52's which lie scrapped in the desert sun.

The passage of time doesn't make a bad treaty good, and the inequalities which endangered in 1979 still endanger today. SALT is twice voted against—the Carter administration counted heads in the Senate and knew it would lose, and it lost in the 1980 election when the people voted against that unequal approach. SALT should be history and to resurrect it now sends all the wrong signals out. What incentive is there to get the Soviets to a limiting and mutual and verifiable treaty on arms control if it can still get SALT II? All SALT II can do is deflect us from a real agreement. We don't need the illusion of progress in controlling the awful specter of nuclear arms—we need real progress.

I agree fully with our former distinguished colleague from Washington, Senator Scoop Jackson, who stated on June 12, 1979, before the Friends of Freedom Awards dinner hosted by the Coalition for a Democratic Majority—the significant problems of detente and the SALT arms control policy has been "the failure to insist that restraint must be reciprocal and forbearance must be mutual." A retreat now toward SALT II would be a travesty. I urge the rejection of the Bumpers amendment.

Mr. President, I yield the floor.

Mr. GLENN. Mr. President, I am a cosponsor of this legislation which bars for 1 year spending of funds for strategic weapons that exceed the SALT II Treaty numerical sublimits, provided that the Soviets refrain from exceeding those limits. I rise in support of this important measure.

I did not support the SALT II Treaty at the time the treaty was being considered by the Senate in 1979. My primary objection to SALT II was that I feared that our monitoring and verification capabilities at the time were inadequate. With the Iranian revolution, we had lost our monitoring facilities in Iran and other sources of verification were in disrepair. At that time, I stated that if "The administration can demonstrate that we have in place means to monitor permanently and adequately the treaty's provisions, I will gladly become one of SALT II's enthusiastic supporters, but not until then."

After closely monitoring the status of our verification capabilities, I became convinced that the United States did in fact acquire such verification capabilities and I announced my support for treaty ratification in October 1981.

I was deeply disappointed with the Reagan administration's decision to place the United States in violation of the SALT II numerical sublimit of 1,320 multiple warhead systems when the 131st B-52 equipped to launch cruise missiles left its conversion facility in late 1986. This unfortunate action was in direct violation of the will of the Congress and I am convinced that this change in policy has not only failed to enhance U.S. national security, but in fact could ultimately be detrimental to our national interests.

Our intelligence has indicated that the Soviets have violated the provision of SALT II in several areas—most notably in the encryption of telemetry and in the testing of two new ICBM's, rather than the one permitted. However, even the Reagan administration concedes that the Soviets had not exceeded the sublimit of numbers of delivery vehicles at the time the United States exceeded this numerical sublimit—perhaps the most critical restraint of the unratified SALT II Treaty.

While I am fully aware of the shortcomings of the SALT II Treaty, overall I am convinced that continued adherence to the SALT II numerical sublimits on launchers is in the best interest of the United States. The Soviets have more hot production lines for making intercontinental ballistic missiles than the United States and can quickly expand the number of warheads in their already deployed SS-18 heavy missiles. The Reagan administration's action gives the Soviets an incentive to exceed the numerical sublimits and potentially bring about a destablizing arms race.

Clearly, the United States has a strong national interest in the future of the arms control process. Despite the shortcomings of the SALT II Treaty, I believe that it is better to continue to adhere to the numerical sublimit provision and preserve the admittedly imperfect yet sole constraint on Soviet missile launchers, than to allow the Soviets to proceed in a strategic buildup without any constraints.

Mr. ROCKEFELLER. Mr. President, I rise in strong support of the amendment offered by Senators BUMPERS, LEAHY, CHAFEE, and HEINZ. Few issues come before the Senate which are more critical than controlling the nuclear arms race. This amendment is at the heart of that challenge.

It is no secret that President Reagan and many of his closest advisers came into office deeply skeptical of the value of arms control. Candidate Reagan rejected the SALT II Treaty as "fatally flawed." Yet, in spite of deep concerns over the utility of arms control in general and SALT specifically, the administration for over 5 years found it in the national interest to continue adherence to the provisions of SALT as long as the Soviets did likewise.

On May 27 of last year, the President reversed course and stated that the United States would no longer be constrained by the limits of SALT. At the time, he left the door open by ordering the dismantlement of two Poseidon submarines, thereby keeping us within the SALT limits. But last November, the Reagan administration deployed the 131st B-52 strategic bomber armed with cruise missiles, thereby surpassing the core weapons limits of SALT II. This was a grave mistake.

The key numerical limits in the SALT II accord serve our national security interests by constraining Soviet strategic forces and providing an important element of predictability in our nuclear relationship with the Soviet Union. Continued adherence to the SALT II limits of 1,320 MIRV'd missiles and cruise-missile carrying bombers—and the key sublimits of 1,200 MIRV'd ballistic missiles and 820 MIRV'd land-based missiles—would enhance our security. Yet the administration seems bent on disregarding those core provisions of SALT, thereby inviting the Soviet Union to engage with us in an unregulated arms competition.

The main argument advanced by the administration in defending their decision to disregard SALT is that the Soviets have continually violated that treaty. The charges—that the Soviets have constructed the SS-25 ICBM in violation of the ban on more than one "new" ICBM and that they have encoded missile flight test data in contravention of the commitment not to impede verification—are serious and must be fuly addressed. But rather than pursue these and other alleged violations fully in the Standing Consultative Commission [SCC] set up in the SALT process precisely to handle such issues, the administration has chosen to use these alleged violations as justification for overthrowing the entire treaty.

We should pursue alleged treaty violations with Moscow; if satisfactory results are not achieved, we should be prepared to engage in a policy of proportionate response. But we should not undermine what is useful in the treaty in order to retaliate for alleged violations of marginal treaty provisions. It is important to note that the administration does not claim the Soviets have violated any of the key numerical limits in SALT. As former Secretary of Defense McNamara recently stated: "Responding to Soviet violations by scrapping SALT is tantamount to reacting to an increase in the crime rate by abolishing the criminal code."

The military advantage in maintaining adherence to the core SALT limits is clear. On the one hand, SALT has required the Soviets to dismantle 541 missile launchers since 1972, while we have only had to dismantle 48. And this pattern will hold in the future: according to the Congressional Research Service, by the end of 1987 the Soviets will have to dismantle another 306 strategic launchers while we would only have to dismantle 32.

Without SALT, we could be faced with a continuing escalation of nuclear deployment. The chairman of the House Armed Services Committee, Representative LES ASPIN, has indicated that without SALT the Soviets would be in a position to increase their arsenal 65 percent by 1990, whereas we would only be capable of increasing by 45 percent the number of nuclear warheads. A senior ACDA official recently testified that without SALT the Soviets would be able to add up to 5,000 more warheads by 1994. Similar testimony was provided to the Joint Economic Committee by the CIA.

As we approach final negotiations on an intermediate-range nuclear force [INF] treaty with the Soviet Union, it becomes even more urgent to retain some limits on strategic forces. The "zero option" without limitations on strategic forces would be "zero" for us—but not for the Soviet Union. Long-range strategic missiles can easily be retargeted on Western Europe. The Soviets, even after dismantling all SS-20's, will be able to threaten Western Europe by adding strategic systems targeted on European targets. An INF treaty without parallel strategic constraints does little to strengthen Western security. In the face of an uncertain future for strategic arms accords, we should be holding on to what is valuable in the SALT framework—not jettisoning it.

The SALT accords are not perfect. The President is right in seeking deeper reductions in nuclear weapons through the ongoing arms talks in Geneva. But while we attempt to reach agreement on deep cuts in strategic systems, we should maintain the modest but important constraints embodied in SALT. To do otherwise would be sheer folly.

Continued adherence to the core provisions of SALT is not a favor to the Soviet Union. It is not a naive act of good will toward the Kremlin. It is in the best strategic interests of the United States. I strongly support the amendment offered by Senators BUMPERS, LEAHY, CHAFEE, and HEINZ.

Mr. NUNN. Mr. President, as the cosponsors of the amendment know, I agree with their view that President Reagan made a serious mistake in choosing to allow the deployment last November of the 131st B-52 bomber equipped with air-launched cruise missiles [ALCM's], thereby exceeding the SALT II central sublimit of 1,320 MIRV'd ICBM's and SLBM's and cruise missile-equipped bombers. On December 15, 1986, I joined 56 other Senators in writing a letter to the President urging him to reconsider this decision.

I do not believe, Mr. President, that the strategic situation has changed appreciably since last fall. Despite the President's action, the Soviet Union has continued to destroy older strategic launchers consistent with the SALT II dismantlement procedures, including the destruction of missile silos for the MIRV'd SS-17—an ICBM that was first deployed only 5 years ago, in 1982. Let me repeat that. Even though the United States is no longer observing the SALT II limits, the Soviet Union is unilaterally destroying missile silos that are only 5 years old.

I recognize there is an issue as to whether their dismantlement schedule is keeping exact pace with their deployment schedule—they may be lagging a few launchers behind in one or two of the categories—but no one denies that as a general principle the Soviets are taking out militarily significant weapons that they do not have to retire.

In addition, the Soviets have begun to move on START. Significant progress was made in this area during the Shultz/Shevardnadze meetings earlier this month; and the two nations announced that they had agreed to intensify their efforts in START. Most of my colleagues will remember that when President Reagan decided in May 1986 not to continue his SALT no-undercut policy, he cited as one of his three reasons a failure on the part of the Soviet Union to pursue START seriously.

That leaves the problem of Soviet arms control violations, and this is indeed a serious problem. The Soviets are in violation of certain arms control agreements, and that cannot be condoned. But I do not believe that it is a prudent response for the United States to decide to abandon a policy that is in our overall national security interests.

For all these reasons, I agree with the sponsors of this amendment that the President should take actions to place the United States back in compliance with the SALT II central sublimits.

Unfortunately, the amendment raises a problem all of its own—and that is the question of whether it is wise to enact into binding legislation the exact provisions of a treaty which was never ratified.

There is, I believe, a critical distinction between the action that is being proposed with respect to SALT II and the action taken by the committee and upheld by the Senate with regard to Levin-Nunn. The difference is that the ABM Treaty was duly ratified pursuant to the Senate's constitutional responsibilities for rendering its advice and consent. In that case, the treaty is the law of the land and the Congress, as well as the President, are tasked with seeing this law is faithfully observed.

In the case of SALT II, though, we are dealing with a treaty which—for whatever reason—did not gain the consent of the Senate. From 1979 through 1986, the United States chose to observe it as a matter of policy, not law.

I think the policy of observing SALT II is sound, particularly at a time when there appears to be perhaps a 50-50 chance of achieving a START accord. Observing SALT II would promote a stable negotiating climate for completing START and prevent the Soviets from exploiting their greater surge capacity in terms of production of new strategic offensive forces. But I do not think the Congress should enact legislatively the exact provisions of a treaty which, realistically, cannot achieve ratification in its own right.

I do want to tell my colleagues, though, that in voting against the Bumpers-Leahy amendment, I am not voting in favor of an unrestricted buildup in strategic arms. If Geneva is to succeed, we need some form of interim restraint regime. If the gains we may achieve in drawing down the number of Soviet INF warheads are not to be offset by proportionately larger deployments of Soviet strategic warheads, we will need an interim restraint regime.

Even in the course of abandoning his SALT no-undercut policy, President Reagan recognized the need for some form of interim restraint. On May 26, 1986, the President declared that the United States will not deploy more strategic nuclear delivery vehicles or more strategic warheads than the Soviet Union.

However, I do not believe the President's new interim restraint rules go far enough. Rather than capping the buildup of strategic weapons, it merely pledges that the United States will keep pace with any Soviet expansion.

For these reasons, I think it would make sense to consider possible options for defining some specific numerical caps which would both accommodate our minimum strategic modernization needs while facilitating progress in arms control. I believe both the Reagan administration and the Congress would begin thinking of these options.

Mr. President, I yield the floor.

SALT II NUMERICAL LIMITS

Mr. HARKIN. I rise with sadness to support the Bumpers-Leahy-Chafee-Heinz amendment to return the United States to the numerical sublimits of the SALT II Treaty. I am saddened that Congress must even consider this amendment. I am saddened that the President of the United States has led an unrelenting effort to destroy the few, fragile constraints we have established over decades to slow the nuclear arms race.

Five previous Presidents have sought vigorously to stop all underground nuclear weapons testing. This President has refused until recently to even continue negotiations, preferring instead to develop a new generation of dangerous and destabilizing nuclear explosion pumped directed energy weapons under the guise of the strategic defense initiative.

I am saddened that it was Secretary Gorbachev and not the President of the United States of America that unilaterally stopped underground nuclear weapons for a 19-month period.

Since 1972, every administration has accepted the original intent of the ABM Treaty to prohibit the development, testing and deployment of a nationwide defense system. This President is activily planning to violate this fundamental basis of restraint in the nuclear arms race, deploying a space-based weapons system that would lead to an unending offensive/defensive buildup of nuclear weapons on Earth and in space. Some may cling to the vision of an impenetrable shield, but in fact Star Wars will be nothing more than another round in the arms race, as the Soviet Union deploys their own Star Wars system to shoot down our space-based battle stations and sensors.

And I am deeply saddened that the President of this great country has chosen to violate the numerical limits of the SALT II Treaty. I am saddened that our country, not the "evil empire" has exceeded the only existing limits on offensive nuclear weapons. Some accuse the Soviet Union of violating periferal issues with regard to this treaty, but there is no serious charge that they have deployed too many nuclear weapons, which is, after all, the fundamental constraint and purpose of the treaty.

True, SALT II was never ratified. True, it has expired. True, the SALT limits are far too high. We should be debating 50, 80, or even 100 percent reductions. But this is the only constraint on the number of offensive nuclear weapons that we have at this time. Why discard the only constraint on the arms race? A constraint endorsed by six of the last seven Secretaries of Defense. A constraint endorsed by Congress when we stated in the fiscal year 1987 Department of Defense Authorization Act that:

> It is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

Previous speakers on this side have shown that the SALT II Treaty has forced the Soviet Union to dismantle 556 nuclear weapon launchers, while we have destroyed 48 launchers on 3 old submarines before the President chose to discard the treaty limits in December 1986. The Soviet Union would have to destroy another 129 launchers while we would have to destroy 32 more this year had we abided by the limits. Further, over the next 10 years, the Soviet Union could increase the number of nuclear warheads from existing levels of about 10,500 up to 31,900 without the SALT II limits. If we return to compliance, the Soviets would be limited to about 14,800 warheads.

Mr. President, these numbers are far too high. A few hundred warheads on survivable delivery vehicles such as submarine launched ballistic missiles would destroy either country. We need only a few hundred survivable nuclear warheads to maintain an effective deterrence until such time that improved political conditions and improved verification techniques allow us to rid ourselves of the nuclear menace.

A few hundred warheads are enough, and here we are debating whether we should continue a cap at 10,000 to 14,000 warheads—20 times more than we need. But discarding the meager SALT II limits would allow the Soviets to build up to over 30,000 warheads—60 times more than they need. Either limit is insane, but eliminating all limits is clearly moving in the wrong direction.

We are told that the SALT II Treaty is old and outdated, and we should be concentrating on the talks in Geneva aimed at 50 percent reductions. We should not "tie the President's hands" at Geneva.

We agree that current nuclear weapons levels are far too high. A 50 percent reduction to 5,000 strategic nuclear weapons on each side would be too high, still ten times more than we need for deterrence. And, depending on which delivery vehicles were eliminated, these reductions could be destabilizing: If one side or the other kept a disproportionate number of vulnerable weapons and the other kept a large number of accurate, first-strike capable delivery vehicles, then both sides would have strong incentive to use their nuclear weapons in a crisis.

Fewer weapons could be more dangerous.

On the other hand, careful reductions in vulnerable and accurate weapons would improve our mutual security, and we encourage the administration to proceed with vigorous negotiations on safe, 50 percent, or preferrably greater, reductions. However, the real block of large reductions in nuclear weapons is not a continuation of the modest SALT II limits; the real threat to reductions in nuclear weapons is the President's cherished mirage: the strategic defense initiative or star wars. It is clear that if we try to deploy a space-based defense, then the Soviets will build and deploy more offensive forces to assure that they can penetrate those defenses. Secretary Weinberger has written that we would do the same if the Soviets ever build a nationwide defense.

Mr. President, I fear that, as long as President Reagan clings to his dream of deploying a star wars defense, then we will see no progress in limiting strategic offensive weapons at Geneva. It then becomes more imperative that we not discard the SALT II limits. We must not be mesmerized by the hope of a 50-percent cut anytime soon. We must keep a lid on the nuclear arms race until a more rational administration can begin to bring some sanity to our nuclear weapons policy and can halt our insatiable quest for more and more nuclear weapons.

While I am saddened by the need to force continued compliance with such a meager nuclear arms limit, I look forward to the day that we can consider and approve ratification of truly effective and meaningful arms control and disarmament treaties in this body.

Mr. LEAHY. Mr. President, I do not want to finish debate on the SALT issue without expressing my gratitude and appreciation for the hard work of many staff persons over the last 4 years. Staff from my office and from the offices of my friends and colleagues, Senators BUMPERS, CHAFEE, and HEINZ have spent literally hundreds of hours working on this issue so that the Senate could take a stand on the nuclear arms race.

I want to mention George Tenet, Bill Powers, Dennis Culkin, and Scott Harris, who have at one time or another over the past 4 years, worked so hard on this.

Mr. President, I am sure none of these able and devoted staff would begrudge my paying special thanks to Eric Newsom, my legislative director and good friend, and Bruce MacDonald, from the staff of Senator BUMPERS.

These two brilliant, energetic and dedicated men have been the heart and soul of our bipartisan effort for arms control. The Senate and, indeed, the Nation, is fortunate to have people like Eric Newsom and Bruce MacDonald to serve them.

Mr. DANFORTH. Mr. President, I have always supported the SALT II Treaty. On April 9 of last year, I joined with 56 of my colleagues in writing a letter to the President in support of compliance with the SALT II Treaty sublimits. Earlier this year, I decided to cosponsor this amendment which would limit appropriations for strategic nuclear wepaons to ensure that the United States will not exceed the SALT II sublimits as long as the Soviet Union complies as well.

Mr. President, I have supported SALT because I believe that restraint is necessary to prevent an accelerated arms race. As my colleagues well know, since SALT II is an expired and unratified treaty, self-restraint is all that has kept us below the sublimits. Mainly, I have supported SALT for lack of a better alternative.

Two weeks ago, when Mr. Shevardnadze visited Washington, we had a taste of a better alternative. The better alternative to a Strategic Arms Limitation Treaty would be a Strategic Arms Reduction Treaty. Two weeks ago, we got a taste of arms reduction in the form of an agreement in principle on a global ban of short- and intermediate-range missiles.

I think there are two lessons to be learned from the proposed INF Treaty. First, the proposed INF Treaty is significant as a first step in arms reduction. The nuclear forces eliminated by the zero-zero proposal will be, of course, a very small percentage of the total nuclear forces in both the United States and Soviet nuclear arsenals. Hence, the primary importance of the treaty will be that it will establish some of the procedures in future arms reduction agreements. Work still remains to be done on verification procedures. But the INF Treaty will be a tremendous aid in the negotiating process, in building mutual confidence for arms reduction. This is a positive sign that the process has begun in earnest.

I emphasize that the INF Treaty is significant as a first step because without reductions in strategic arms and conventional forces, the INF Treaty will do very little to enhance our security. The INF Treaty may well go down as a minor footnote in arms control history, but it may also go down in history as the beginning of a process that led to a 50-percent reduction in strategic nuclear forces.

The second lesson to be learned from the proposed INF Treaty concerns negotiating with the Soviets. President Reagan should be commended for having initially proposed the zero option in 1981, and for having the resolve to deploy the Pershing II's and the GLCM's in the face of strong opposition. There can be little doubt that the deployment of these systems brought the Soviets to the negotiating table. Further, the President's insistance on holding to a global ban of these systems led to the agreement in principle we now have with the Soviets.

Mr. President, the administration believes that there is now a 6- to 8-month window open to gain a START agreement with the Soviets. We are facing a summit later this year. Secretary Shultz and our negotiators in Geneva are working assiduously toward an agreement on strategic arms reductions. I, for one, am willing to give our negotiators latitude in arms reduction talks. At this juncture in the arms reductions process, I am persuaded that the President must have the freedom to bring us a strategic arms reduction treaty.

If the President cannot conclude a treaty on strategic arms reductions over the next 6 to 8 months, then I will join the principal sponsors of this amendment in calling for compliance to the SALT II sublimits. But for now, I will vote to table this amendment.

Mr. BYRD. Mr. President, an important milestone on a long journey has been reached today in the Senate. After months of struggle and effort the Senate will get an opportunity to express itself on the issue of limiting U.S. Strategic Forces—on an interim basis—to the levels set by the subceilings of the unratified SALT II agreement.

Four Senators have pursued this issue relentlessly: Senator BUMPERS, Senator LEAHY, and Senators CHAFEE, and HEINZ. In particular I commend the Senator from Arkansas, who has worked tirelessly to bring this issue before the Senate.

It is worth recalling why we are addressing this issue today. Earlier this spring, in May, the interim restraint amendment was proposed as an amendment to the urgent supplemental appropriation bill. Senator BUMPERS withdrew that amendment from the bill in order to speed its passage in the Senate.

When the supplemental was in conference with the House, the provision was part of the House-passed bill. It was the last item dropped by House conferees, who made the concession in order to speed urgently needed assistance to our Nation's farmers. At that time, Mr. President, I made a commitment to the sponsors of this amendment that they would have the opportunity to make their case on the floor of the U.S. Senate and that the Senate would vote on the issue this year. That commitment has now been fulfilled, and I am pleased to be able to speak in support of this amendment and to urge the Senate to adopt it.

This is a very simple amendment. It does not call for ratification of any unratified treaties. It does not set into permanent law the levels of U.S. Strategic Forces. It simply says, as a matter of interim restraint, that while the United States is negotiating for new reductions in offensive nuclear warheads with the Soviet Union, we should refrain from building our own forces up to levels beyond the central numerical sublimits permitted by the SALT II agreement.

The restrictions would not apply if the Soviets were to exceed the limits. This amendment is not intended to impose any unilateral restrictions on the United States. The Soviet Union, if it chose to, could build warheads at a faster rate than the United States, the Soviet potential to break out of these limits is greater than ours. That is one of my principal reasons for supporting this amendment. It is in the national security interests of the United States to have each side observe these caps on nuclear weapons while the negotiations proceed.

Up until last year, the policy called for in this amendment, which the Senate has endorsed in previous nonbinding votes, was the policy of the administration. Within the past year, however, for reasons which have not been justified in terms of our national security, the administration has decided not to retire older systems as new ones—primarily cruise missiles—are introduced into the inventory.

The policy of continuing to increase the size of our strategic offensive nuclear forces at the same time we are negotiating in Geneva for 50-percent reductions in those forces is difficult to justify. If we are willing to cut our forces in half, why are we in such a hurry to build them up? Moreover, until we know the outcome of the talks in Geneva, how can we be certain that the forces on which we are spending valuable resources today will be the ones we need after any arms control agreement is reached?

It is also hard to understand why, if a proposed INF agreement and the elimination of nuclear weapons which it calls for are so important to this administration, the administration continues the strategic buildup rather than pressing ahead for an agreement on reducing strategic arms. The strategic systems are of far greater significance, both in numbers and in quality, than are the INF systems.

Therefore, I believe that restraining the buildup of strategic forces as an interim measure, while continuing to negotiate, is in our national security interests. And, if the administration would push as hard for an agreement on these important strategic systems as it appears to be pushing for the INF agreement, interim restraint could help to push the arms control negotiations process forward toward the conclusion of the major agreement reducing these forces.

Mr. PELL. Mr. President, I strongly support the amendment being offered by the Senator from Arkansas [Mr. BUMPERS], and other colleagues. I believe it is critically important at this point in our arms control negotiations that the United States comply with the limits of SALT.

Recently the administration and the Soviet Union reached an agreement on principle which would eliminate both long-range and short-range missiles in a new intermediate nuclear forces agreement. If successful, this agreement will be the first to eliminate whole classes of deployed nuclear weapons.

While the agreement would be very important, at least for its political symbolism, I believe that we should not lose sight of the overriding imperative to reduce our strategic offensive arsenals—a challenge critical to our long-term national security. An agreement on a 50-percent reduction in strategic offensive forces is stated to be a priority of the executive branch, and nothing should be done to undercut prospect for such an agreement.

Even if the reductions contemplated in the INF agreement occur, there will still be 4,000 nuclear weapons in Europe. By contrast, an agreement on strategic offensive nuclear arms could substantially reduce the threat we and the Soviet Union pose to each other. Such an agreement would do much to enhance strategic stability and reduce the risk of nuclear war. That agreement will be hard to achieve unless the sides can come to a meeting of the minds on how to handle space weapons. Nonetheless, there is cause for some optimism now, and we should not allow prospects for a truly significant reduction in strategic arms to be placed in jeopardy.

Mr. President, it is important to understand that the United States has not yet gone significantly beyond the 1,320 sublimit on strategic ballistic missile launchers carrying missiles with MIRVed warheads and heavy bombers equipped with long-range cruise missiles. A survey of our forces would show that reductions are possible without jeopardy to our deterrents. By contrast, the Soviet Union is remaining within the SALT ceiling of 1,320. It is to our advantage to keep them within the other subceilings and the overall limit imposed by SALT II. We certainly cannot expect good behavior on their part if we refuse to engage in it on our part.

Mr. President, we should remember that, under SALT I and SALT II, there has been significant restraint required of the Soviets. To stay within the ceilings, they have had to retire old land-based ICMB's and older ballistic missile submarines and launchers. They have been bound to refrain from expanding their land-based missile force, and they have been prohibited from increasing their warhead totals above specified limits. The ceiling on their heavy missiles has been in place for thirteen years. In addition, they have been required to refrain from interfering with our national technical means of verification. There are, of course, many other controls which, taken together, constitute major restraint upon Soviet activities.

Because of SALT I and SALT II, we have in place a significant fabric restraining the Soviet Union. It would be capricious and extremely shortsighted of us to take steps now which could lead to an unraveling of that fabric and jeopardize prospects for further controls.

Mr. President, I believe it is vitally important that the Senate go on record now in unequivocal support of resumed restraint. We cannot afford to do less.

Without SALT and without a strategic offensive arms agreement, the Soviets could have thousands more warheads within the next 8 years than they would with SALT. There is clear disagreement over how much the threat will increase without SALT, and that argument has to do both with Soviet intentions and capabilities, but there is little basis to dispute that the new SALT threat will be greater than the threat under SALT.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. BYRD. Mr. President, I ask unanimous consent that upon the expiration of 3 minutes of debate by Mr. BUMPERS, Mr. SPECTER be recognized for not to exceed 10 minutes on another matter, and upon the completion of his remarks the Senate will proceed to vote on the tabling motion.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object and I shall not object, may I first have a clarification of the yielding back of the time of the Senator from South Carolina, given the fact that the two managers yielded time equally to him.

It would seem to me that in the interest of equity that the time should be yielded back equally divided between the two Senators.

The PRESIDING OFFICER. That was done. That was done. When the time was yielded back, it was split between the Senator from Virginia and the Senator from Arkansas.

Mr. WARNER. Then how much time does each Senator have?

The PRESIDING OFFICER. The Senator from Virginia has no time remaining, and the Senator from Arkansas has 2 minutes and 53 seconds remaining. The Chair fastidiously after each speech has reminded the managers of the time remaining on both sides.

Mr. WARNER. Mr. President, I certainly concur in that; the Chair has been very careful. But as I understood, the Senator from South Carolina yielded back his time. We had given the time equally to him. It would seem to me such time as was yielded back in a sense of fairness would be equally divided.

The PRESIDING OFFICER. The Senator from South Carolina yielded time which was then split between the Senator from Virginia and the Senator from Arkansas. The Senator from South Carolina has no time remaining. The Senator from Virginia has no time remaining. The Senator from Arkansas has remaining 2 minutes and 53 seconds.

Mr. WARNER. Mr. President, I shall not make a further plea. I just make one last request of the majority leader. Under the original unanimous consent, from which we are now deviating to accommodate one of our colleagues on another matter, I was to make a motion to table. I would like to make that motion, and I ask the majority leader at what time, now that we are modifying the unanimous consent, that would I be recognized to make the motion to table?

Mr. BYRD. Immediately upon the conclusion of the statement by Mr. SPECTER.

Mr. WARNER. I thank the majority leader and I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request propounded by the distinguished majority leader? The Chair hears none. It is so ordered.

Mr. BUMPERS. Mr. President, I know that in the remaining 2 minutes, no minds are going to be changed, but I do want to plead in case there is some lingering doubt in somebody's mind about this amendment, please, do not vote no on the amendment because you think the Senate by a simple majority vote would be ratifying a treaty which by the Constitution requires a two-thirds vote.

This is not a ratification of the SALT II Treaty. It simply uses the sublimits of 1,320 MIRV'd launchers as a cap on nuclear weapons. As I have said repeatedly, if this amendment is not tabled and somebody thinks 1,320 is not enough, offer an amendment and insert a new figure. If you think it is too many, insert a figure cutting the number. But do not hang on that legalism that somehow or other the Senate is violating the Constitution by ratifying an amendment.

Nothing could be further from the truth. We are simply saying there ought to be some cap. I do not know that there is anything sacred about 1,320 and I am not saying that. But I am saying this. When you consider that 1 Trident submarine represents 24 of the 1,320 permitted under this amendment, 1 Trident submarine has the firepower to destroy every single city in the Soviet Union with over 100,000 people in it—1 submarine; we have got 36 submarines; we have got ICBM's in silos; we have got bombers and cruise missiles and the MX missiles—how much is enough.

Mr. President, finally let me just close by saying people who oppose this amendment are people that I hear making the arguments in favor of SDI and that is something I do not understand. Every military planner in the pentagon will tell you the more Soviet missiles they have, the more warheads they have, the more capability they have of defeating SDI. You cannot have it both ways. You cannot say let the Soviet Union have all the missiles and warheads they want and vote for trillions of dollars for SDI at the same time. It is a contradiction.

So, Mr. President, for those and all the arguments I have made plus just being able to face your children and say I have done somehing to try to save this planet, which ought to be plenty for voting against this tabling amendment, I sincerely hope my colleagues will do so.

Mr. President, do I have any remaining time?

The PRESIDING OFFICER (Mr. DASCHLE.) The Senator's time has expired.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order the Senator from Pennsylvania is recognized for not to exceed 10 minutes.

Mr. SPECTER. I thank the Chair and I thank the distinguished majority leader for arranging the unanimous-consent request.

JUDGE ROBERT BORK

Mr. SPECTER. Mr. President, I shall vote against Judge Bork on confirmation to the U.S. Supreme Court because I believe there is substantial doubt as to how he would apply fundamental principles of constitutional law. This is a difficult vote since I will be opposing my President, my party, and a man of powerful intellect whom I respect and like. I have spent hours discussing my concerns with Judge Bork both publicly at the hearings and privately in my office, with the last meeting for more than an hour yesterday afternoon.

This vote is especially hard since I know I will be disappointing many constituents who feel so strongly in favor of Judge Bork although there are about as many with equally strong feelings in opposition. At the end, politics and personalities must give way, for me, to my own judgment on the history and the future of the Constitution.

Constitutional separation of power is at its apex when the President nominates and the Senate consents or not for Supreme Court appointees who have the final word. The Constitution mandates that a Senator's judgment be separate and independent.

My judgment on Judge Bork is based on the totality of his record with emphasis on how he would be likely to apply traditional constitutional principles on equal protection of the law and freedom of speech.

I am troubled by his writings that unless there is adherence to original intent, there is no judicial legitimacy; and without such legitimacy, there can be no judicial review. This approach could jeopardize the most fundamental principle of U.S. constitutional law—the supremacy of judicial review—when Judge Bork concedes original intent is so hard to find and major public figures contend that the Supreme Court does not have the last word on the Constitution.

I am further concerned by his insistence on Madisonian majoritarianism in the absence of an explicit constitutional right to limit legislative action. Conservative Justices have traditionally protected individual and minority rights without a specifically enumerated right or proof of original intent when there are fundamental values rooted in the tradition of our people.

Thirty-three years after the fact, there is still not acceptable rationale for the desegregation of the schools in the District of Columbia according to Judge Bork's doctrine of original intent. It is not only that the majority in a democracy can take care of itself while individuals and minorities often cannot, but rather that our history has demonstrated the majority benefits when equality enables minorities to become a part of the ever-expanding majority.

These conceptual concerns might be brushed aside if it were not for his repeated and recent rejection of fundamental constitutional doctrines. Over the years, Judge Bork has insisted that equal protection applies only to race as originally intended by the framers. As recently as 1 month before his nomination, he said equal protection should have been kept to things like race and ethnicity. His view of the law is at sharp variance with more than a century of Supreme Court decisions which have applied equal protection to women, aliens, illegitimates, indigents, and others.

For the first time at his confirmation hearings, Judge Bork said he would apply equal protection broadly in accordance with the Court's settled doctrine under Justice Steven's reasonable basis standard. Without commenting on the various technical levels of scrutiny, I have substantial doubt about Judge Bork's application of this fundamental legal principle where he has over the years disagreed with the scope of coverage and has a settled philosophy that constitutional rights do not exist unless specified or are within original intent.

Similarly, Judge Bork had, prior to his hearings, consistently rejected the "clear and present danger" test for freedom of speech even though a unanimous Supreme Court had accepted it as an ingrained American value for years. Justice Holmes' famous dictum that "time has upset many fighting faiths," expressed the core American value to listen to others and permit the best ideas to triumph in the marketplace of free speech, short of a clear and present danger of imminent violence.

At the hearings, I asked Judge Bork about his position that Justice Holmes had a "fundamentally wrong interpretation of the First Amendment." After extended discussion, Judge Bork said for the first time he would accept the doctrine as settled and apply it although he still disagreed with the underlying philosophy. I have substantial doubt about Judge Bork's application of that standard to future cases involving different fact situations where he retains his deep-seated philosophical objections.

In raising these doubts about Judge Bork's application of settled law on equal protection and freedom of speech, it is not a matter of questioning his credibility or integrity, which I unhesitatingly accept, or his sincerity in insisting that he will not be disgraced in history by acting contrary to his sworn testimony, but rather the doubts persist as to his judicial disposition in applying principles of law which he has so long decried.

These concerns and doubts lead me, albeit with great reluctance, to vote against Judge Bork.

I thank the Chair, and I yield the floor.

The **PRESIDING OFFICER**. The Senator's time has expired.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate resumed consideration of the bill.

The **PRESIDING OFFICER**. The Senator from Virginia is recognized.

AMENDMENT NO. 825

Mr. **WARNER**. Mr. President, I move to table the pending amendment.

Mr. **LEAHY**. I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The question is on agreeing to the motion of the Senator from Virginia to lay on the table the amendment of the Senator from Arkansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **SIMPSON**. I announce that the Senator from California [Mr. WILSON], is necessarily absent.

Mr. **BUMPERS**. Regular order, Mr. President.

The **PRESIDING OFFICER**. Are there any other Senators who wish to be recorded?

Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 295 Leg.]

YEAS—44

Armstrong
Bond
Boschwitz
Chiles
Cochran
D'Amato
Danforth
DeConcini
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NAYS—55

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Specter
Stafford
Weicker
Wirth

NOT VOTING—1

Wilson

So the motion to table was rejected.

Mr. **BUMPERS**. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. **LEAHY**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The majority leader.

Mr. **BYRD**. Mr. President, I take the floor at this time to inquire as to whether it might be possible for us to have a cloture vote on the motion which I introduced on the Byrd-Nunn amendment. That cloture under the rule will occur tomorrow. I would hope we could vote on it today.

I also hope that we could dispose of the Weicker-Hatfield amendment in some way and get on with the finalization of the SALT issue and vote final passage of the bill today.

I wonder if I might inquire now of the distinguished Republican leader whether or not it would be possible to vote on the cloture motion this afternoon.

Mr. **DOLE**. Mr. President, if the majority leader will yield, there are actually two cloture motions filed: One on the Byrd amendment and one on the bill itself. The one filed on the bill was an effort—we adopted all the other amendments except the SALT amendment, war powers, and the Byrd amendment—and it was filed in an effort to bring debate to a close and go ahead and pass the bill without these added amendments.

I am wondering if it might be possible if we could agree to vote on cloture on the majority leader's motion, if we could also do the same with reference to the second cloture motion.

Mr. **BYRD**. Mr. President, I think that is a very logical approach from the standpoint of the distinguished Republican leader. I would understand that. There has been a great deal of debate on the war powers amendment. I do not presume to speak for the authors of the underlying amendment.

The cloture motion only goes to the amendment in the second degree.

As far as I am concerned as to this bill, that I am not interested in delaying, if we get the cloture vote, if we get cloture that is one thing. But on the matter of SALT and, as I say, I am not presuming to speak for the author of the underlying amendment, but as far as my own views are concerned on the amendment which I have offered on behalf of Senator NUNN and others if we could have a cloture vote on that, we have had a lot of debate on it, we have not had a great deal of debate on SALT, if we could dispose of the cloture motion on the war powers and then depending on what happens or what Senators may want to do on the underlying amendment, I would like to see us then proceed and get a finalization, if possible, on the SALT issue today and vote on final passage of the bill today, these being the only two remaining matters.

Tomorrow is Friday. I expect full attendance tomorrow because we all know that we are trying to reach a sine die adjournment in November or early December; hopefully at an earlier date than December. This bill has been before the Senate now off and on for months and months. I am simply wanting to at least get one matter out of the way at a time and as we do that perhaps we can more and more see the end in sight for the bill itself.

If we do not vote on cloture today, of course we have to vote on it tomorrow. But if the distinguished leader would consider with his colleagues letting us vote on cloture on the war powers amendment in the second degree today, that will at least tell us one way or the other what the prospects are on this bill for that matter.

Mr. DOLE. Mr. President, I am under no illusion that I would get cloture on the motion we filed. I think the vote we just had would indicate that that is probably not going to happen. But it would be a way to dispose of both cloture motions. If I can just visit for a minute or two with the majority leader privately.

Mr. BYRD. Yes.

Mr. DOLE. If we cannot work that out, I would be willing to try the other. But I think it might be easier to persuade some of my colleagues if they are going to have two votes rather than just one vote.

I do not have any illusion that we are going to get cloture. It is obvious, with the vote on the Bumpers-Leahy amendment, I do not imagine those votes are going to change unless people want to finish this bill. But apparently it is not a factor anymore.

But I would be happy to discuss that.

Mr. BYRD. Very well, I will be happy to discuss with our colleagues their feelings as to whether or not we should proceed to get consent on the second cloture motion today.

Mr. BUMPERS. Would the majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. BUMPERS. Perhaps this should be addressed as a parliamentary inquiry, but I will just address it to the majority leader.

We now have both the SALT amendment and the war powers amendment by Weicker-Hatfield, as amended by Byrd-Nunn, pending.

Mr. BYRD. That is right.

Mr. BUMPERS. First, for example, if we vote cloture on the Byrd-Nunn amendment, No. 1, what happens to the underlying amendment if it is nongermane? No. 2, what happens to the SALT amendment as it is presently constituted if we vote cloture on the bill?

Now, those are the two votes we are talking about, one on the Byrd-Nunn amendment and one on the bill.

Mr. BYRD. If cloture is invoked on the bill, any nongermane amendment then pending would fall.

Mr. BUMPERS. So if we vote cloture and the SALT amendment is pending, which it is——

Mr. BYRD. The Byrd-Weicker amendment is pending at the moment.

Mr. BUMPERS. Well, the SALT amendment in its present form, even though it is not pending, it would fall, would it not?

Mr. BYRD. If it is not germane.

Mr. BUMPERS. If it is not germane. Now, let me be sure I understand. If we vote cloture on Byrd-Nunn, if the underlying amendment is not germane, does it fall then and the Byrd-Nunn amendment stands alone?

Mr. BYRD. I would want the Senator to address that question to the Chair, because there have been some precedents that I think would be best answered by the Chair.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Mr. President, let me address the whole question to the Chair. If we vote this afternoon on the cloture motion on the Byrd-Nunn amendment, which is a second-degree amendment to Weicker-Hatfield, if Weicker-Hatfield is not germane, does it then fall?

The PRESIDING OFFICER. If cloture is invoked on the second-degree amendment, it will not affect the underlying amendment.

Mr. BUMPERS. The second question: If we vote cloture on the bill and both Weicker-Hatfield and Byrd-Nunn are nongermane, will both of those amendments then fall, even though we have voted cloture on the Byrd-Nunn amendment previous to that?

The PRESIDING OFFICER. If cloture is invoked on the Byrd amendment, the Senate must remain on that amendment until it is disposed of.

Mr. BUMPERS. If cloture fails——

The PRESIDING OFFICER. The Senator will suspend. The Chair is still consulting with the Parliamentarian.

The Chair will also inform the Members that if cloture is invoked on the bill, the Bumpers-Leahy amendment would fall.

Mr. LEAHY. Mr. President, could the Chair repeat that last statement?

The PRESIDING OFFICER. If cloture is invoked on the bill, the Bumpers-Leahy amendment would fall.

Mr. BUMPERS. Mr. President, if cloture fails on Byrd-Nunn, then we have a subsequent vote—as I understand it, that is the way we would do it. We would vote on both of these. If we vote on one, we vote on both, is that correct? As I understand it, that was the proposition.

Let me make that the third question. If we do not vote cloture on Byrd-Nunn and then we vote cloture on the bill and cloture is invoked, then all amendments now pending, or those that have not been voted—for example, the Bumpers-Leahy amendment, Weicker-Hatfield, and Byrd-Nunn—will fall, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. I thank the Chair.

Mr. BYRD. Mr. President, may I suggest the absence of a quorum?

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Following up on Senator BUMPERS' series of inquiries the rules state that when cloture is voted, then that is the pending business with no other business in order.

This is a unique situation with two clotures. Where does the second cloture petition stand, in that light? You have two conflicting rules, you see.

The PRESIDING OFFICER. Absent a unanimous consent, if cloture is invoked on the first amendment, the Senate will remain on that amendment until it is disposed of.

Mr. HELMS. And therefore the second cloture vote would not be in order?

The PRESIDING OFFICER. The second cloture vote would occur upon the disposition of the amendment upon which the first cloture motion had been invoked.

Mr. HELMS. Well, of course, absent a unanimous-consent request.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, while these little negotiations are going on, I cannot help but remark on the astonishingly thoughtless performance of the Senate this afternoon, in the face of, yesterday and today, three violations by the Soviet Union of the very SALT Treaty that we have now bound the United States to. We have done this without any thought of the consequences, the nature of the provocation, without any thought to the insult, without any thought to what this does to the so-called risk reduction procedures that were so celebrated last week when Mr. Shevardnadze and Mr. Shultz were in town.

This Senate has given to the Soviet Union the means by which it can control our behavior. It really is genuinely curious that the consequences of this act seem lost on this Senate. But, by allowing them to violate at will those provisions which they choose and holding us accountable only to those provisions which they are sometimes in and sometimes out of compliance, we have really just said to the Soviet Union: You call the shots. There is no reason for them to go through the process of treaty negotiations in the presence of this anticonstitutional action that the Senate has just once again performed. This is a treaty, keep in mind, that could not achieve ratification. This is a treaty, keep in mind, that Senator Jackson's Armed Services Committee voted unanimously to recommend against ratification.

So, by picking and choosing those little provisions in which the Soviets remain in partial compliance, we say to them: Choose what you will to violate and choose what you will to comply with and we will remove from the Government of the United States, the Department of Defense, any response that might be more in the strategic interests of the United States.

I just call the attention of Senators again to the chart, the map behind the Senator from Missouri, where you have those target zones, one of which lies right against the ADIZ, the Air Defense Indentification Zone of the U.S. sovereign territory and State of Hawaii. Next to it you have a follow-on to the SS-18, strictly prohibited and crowed over by Secretary of Defense Harold Brown as a missile that could never be built because of the SALT II Treaty.

You have an encrypted test and you have a test that took place right next to the sovereign territory of the United States when the whole Pacific Ocean was open to it. Yet this Senate ignored that provocation. It ignored that threat and said to the Soviet Union: So long as you keep one little portion of it, we will keep ourselves responsive to that level of compliance and this Senate has already voted down any means by which we could have responded in a similar kind of way to this threat.

It has restricted the MX. It has restricted the strategic defense initiative. It binds the hands of America which is having the violations committed against it. It is a truly astonishing concept, Mr. President. Every time the Soviets are in violation the majority in this Senate seek to bind not the Soviets but our own country and our own people.

I have to tell you that I cannot describe in myself the sense of shame and the sense of astonishment that we would do that to the people of the United States.

Mr. McCLURE. Would the Senator yield?

Mr. WALLOP. I would yield for a question from the Senator of Idaho.

Mr. McCLURE. I would like to commend the distinguished Senator from Wyoming for his statement. It is a brilliant analysis of exactly what we have done to ourselves, and I hope the American public listens and listens carefully because what we are doing here is not only astonishing, it is disconcerting to this Senator. It has implications for the very process in which our administration is now engaged, in trying to negotiate further limitations with the Soviet Union on other weapons systems to bring about reductions in the weapons systems throughout the world.

One of the things we have insisted upon in these negotations—we in the Senate by resolution at various times have expressed ourselves—that there must be absolute verification.

And yet we have said to the Russians right now: Go ahead and agree to anything in these negotiations because we will hold you to nothing.

So the Russian negotiators must be in a tremendously favorable position right now, knowing that they can make any concessions that we demand in the current negotiations because the evidence is on the table that they violate those conditions at will and those conditions become meaningless.

Mr. President, I think what we have done here today is not only inexplicable, it is the demonstration of one of the pitfalls in negotiating strategies in which the United States is at a disadvantage already.

I know the Senator from Wyoming has been very careful in his statement and extremely accurate in his assessment of what it means to this country. But my concern is that we become such a craven and abject negotiator, so anxious to get agreements we will agree to anything. We will not unsettle the debate by making charges that are absolutely obvious.

We even see Members of the United States Congress making trips to Russia looking at the Krasnoyarsk radar, coming home and saying: Well, we found that is no violation, which is simply and absolutely factually inaccurate.

I do not know whether the Members of the other body who made that trip and made that statement did so knowing that it was a lie or whether they were simply misled. But this Nation cannot afford to be lied to, and it cannot afford to be misled in matters so crucial to the security of this country.

Again, Mr. President, I want to commend the Senator from Wyoming for the statement that he has made.

Mr. MATSUNAGA. Mr. President, will the Senator from Wyoming yield?

Mr. WALLOP. I will yield to the question.

Mr. MATSUNAGA. How much truth is there in the news report this morning that a missile landed 350 miles off the shores of Hawaii?

Mr. WALLOP. It is a fact that the same thing happened yesterday. They have had two tests, each of which was a violation.

Mr. MATSUNAGA. Was that within 350 miles or 1,000 miles?

Mr. WALLOP. 350 miles.

Mr. MATSUNAGA. So a miscalculation could have caused one of the missiles to land right on Hawaiian soil. Is that correct?

Mr. WALLOP. The Senator can draw that conclusion, but for a number of seconds difference in burn time in this test they could have had the dummy warhead, coming down on the State of Hawaii.

Mr. MATSUNAGA. As I look at the map you have presented, there was a variance of as much as 650 miles from the target area. Am I correct?

Mr. WALLOP. The Senator is potentially correct. I do not want to get within the precise limits of where it happened. But as the Senator can see, both impact zones are shown on this chart, and one is but 200 miles from the Island of Hawaii.

Mr. MATSUNAGA. As I understand it, while they were aiming for a spot to the northwest of Hawaii, about 650 miles off the rectangular zone shown there, it went off about 650 miles?

Mr. WALLOP. I would say to the Senator from Hawaii, one of the things we cannot know is precisely where they intended to hit, partly because that was one of the violations, because of the encryption.

Mr. MATSUNAGA. I congratulate the Senator. I think while negotiations are going on, this matter should be brought into the negotiations and they should halt doing a thing like this which would endanger the territory of the United States, Hawaii being a State.

Mr. WARNER. Will the Senator yield for a point?

Mr. WALLOP. I yield.

Mr. WARNER. The most recent vote which we just cast, which the Senator is addressing, simply said the missile came over yesterday and we sent back today our missile in the form of the U.S. Senate saying that violations such as this one appear to be all right. That is the way this amendment will be interpreted.

Mr. WALLOP. Not only that, I would say to my friend from Virginia, not only did it contain three violations of the very treaty on which we have just cast our vote, but it is unprecedented in the history of the nuclear age that either nuclear power would choose a target zone so close to the sovereign territory of the other. It is, in fact, a distinct thumbing of the nose at the processes by which we have just found ourselves rejoicing. Shevardnadze's risk reduction agreement, where the spokesmen for the Soviet Union and the United States each read a statement in their own language at a press announcement, and all the hullabaloo about how we were advancing the relations between the two countries. This is their response.

(Mr. ADAMS assumed the chair.)

Mr. MATSUNAGA. I thank the Senator for calling this matter to the attention of the Senate, and I certainly intend to look into it much more closely.

Mr. WALLOP. Perhaps the Senator from Hawaii would be willing, along with his colleague from Hawaii, to help us get a freestanding vote on a sense-of-the-Senate resolution, perhaps today, condemning this activity. Perhaps you can speak with your leader.

Mr. President, I will not take more time of the Senate right now, except to express my real sense of discouragement that we indulge ourselves in the politics of feeling good, trying to tell ourselves, and hopefully by telling ourselves if we feel good the American people will feel good. But we know on the very day on which we cast this vote and the day before on which we cast our vote, that the sovereignty of the United States and a solemn agreement the United States never ratified, were totally violated.

The Senate chose to ignore that and make a vote that made them feel good. The Senate chose to ignore provocation unprecedented in the nuclear age. The Senate chooses to speak the Russian leader's language. The Senate chooses not to go to Geneva and negotiate these things but indulge itself in what I have called an anti-constitutional procedure. By anti-constitutional, clearly it is within the right of the Senate, through the power of the purse or other things, to restrict the actions of the President.

But these are restrictions that could not be passed in the treaty-making process. Make no mistake about it. The treaty-making process had nothing to do with Soviet invasion of Afghanistan. The treaty-making process failed because the treaty was unequal, because the treaty was unverifiable. Had it been verifiable, it would have merely ratified the rate of expansion of nuclear between the two countries, allowing the Soviet Union to continue its endless build-up while this country felt secure.

The Senator from New York, Senator MOYNIHAN, in a quotation I do not have presently with me, but will supply for the RECORD, on the floor of this Senate said: Make no mistake about it, this treaty could not have been ratified even before the Soviets went into Afghanistan.

Now, what we have is this anticonstitutional concept wholly outside the thoughts of the Founding Fathers that by a majority vote, we could force a behavior on our country that we could not do through the treaty-making process. It is a sad day for Americans with the Senate ignoring provocations, ignoring violations, yet it seeks to restrict the action of their own country without response to the Soviet Union's behavior.

What do we do to wake ourselves up? What in Heaven's name does it take to make us realize that it is not the weapons that threaten us, but the behavior of the Soviet Union? That imperial power, the likes of which the world has never seen in its expansion, we continue in our great little way not only here but throughout the West, to accommodate its behavior, trying to give understanding in the hope that someday when we have understood enough, they will understand and retreat from the expansions that they have undertaken.

What does it take to get us to take our eyes off the treaty verification and look at the strategic circumstances into which we have fallen as a result in part by arms control, partly through violations, and partly because those controlling-treaty clause cannot cover the advance of man's technology?

Everything the Joint Chiefs have ever said and any of the other advocates of these treaties have ever said we needed to enter into them to prevent has been exceeded. Every single thing.

Now once again, in the face of a Soviet provocation, with a target zone near the sovereign territory of the United States, the Senate chooses not to complain to the Russians but to restrict the behavior of the President of the United States and the response of ourselves. It is a very real danger.

You look up the hills, you look down the hills, you look somewhere for an answer. What sense is there? The sense, Mr. President, and the only one we are offered, is an emotional one, an emotional one that if a six-point something or other earthquake hit Los Angeles, that is dominating the news. If that had been a nuclear bomb, it really would have dominated.

Absent a nuclear bomb, of course, you are going to have a major concentration of attention on an earthquake. The earthquake, I would remind my fellow Senators, is an act of God. It was an act of man that shot that missile toward Hawaii. It was an act of man that decided that those were the test zone areas. It was an act of man. And I quote Lenin when he said, "It is not by accident." Those target zones were not picked because they were a matter of convenience. Those target zones were picked because they are in effect a test raid on the United States.

Earlier this morning when I spoke, I had a map showing the comparable ranges in this country where the Soviet tests might have landed. But we tell ourselves what we have just seen is of no importance. The only thing of importance is to tell the American public that somehow or another we believe in magical limits, which is the only segment of the treaty with which the Soviets are even remotely close to in compliance and then they are only in compliance from time to time.

So the Senate sees itself looking at target circles of this dimension on our country, looking at two tests, both of which are in violation of this treaty, that would have hit within these circles were they aimed this way.

Why do I point that out? Because it is a polar circular route that these two missiles were tested on, not the ordinary route of Soviet testing but one which matches an attack on the United States.

It was a practice test on our country and the Senate ignores it. The Senate refuses to allow the American people to believe that it is threatened, because how else can they interpret the action we took today? Why else would we restrain our own country in the face of Soviet violations unless the Senate was trying to tell the people they were safe when they are not. It is not a partisan thing. There were Senators from both parties on both sides of this vote. But it was a singularly thoughless act, a singularly thoughtless piece of self-indulgence in the politics of feeling good, singularly a chance to try to tell Americans that despite what the radicals are saying about the threats that you have with violations of missiles and everything else, you are safe, go sleep tonight. And if only they knew that we did it not to constrain the acts of the Soviet Union but to make them feel good about us.

There is no constraint on the Soviet Union by what we just did. There is a license to cheat. There is a license to take the treaty that the President says he has mostly negotiated—which we got in the face of people on the Left telling us was too severe a demand to make on the Soviets, which we got in the face of people on the Left telling us we would lose the chance forever if we put the Pershing missiles in Europe, which we got after the Soviet Union walked away from the table and we were told somehow or another we were too severe and we were not interested in arms control.

We have done that, and maybe one of the reasons was because tonight the Senate has told the Soviet Union, whatever it is you agree to, it is not important; so long as that portion of it which you comply with is agreeable to us, you can violate the rest at will. This is a ratification of Soviet behavior, this vote of the Senate's tonight. And it is a serious consequence because they sit in the balconies up here and listen to the debates on the floor of the Senate and they sit in the open hearings of the Senate and they knew that we were going to be debating this thing sometime within this time frame. And we were bold enough to be able to say, let us do it anyway because the Senate will not look, the Senate constrains Americans and arms control is the means by which the arms and the hands of Americans are controlled, not the arms and hands of the Soviet Union.

If this were a play, one would view it as silly, and I wish to God it were a play because it would be over and it would have been a story told. This is not a story told. This is an action taken. This is an action taken thoughtlessly without regard to the consequences either for arms control agreements that are extant or those that may be forthcoming.

This is a thoughtless act of people who are politicians, not leaders, people who put their fingers in the wind and take polls, people who do not look at hard strategic facts, that are the things which threaten our country.

Whatever the provisions with which we may be required to be in compliance under this treaty, whatever they may be, Mr. President, those are not what threaten us. The actions and behavior of the Soviet Union are the things which threaten us, and the behavior has been visible. In fearing to admit what we saw, we have turned our head away. When the American people look for leaders, they find us following, and they wonder how it is we can behave this way. They must think that these are acts of little consequence because why would reasonable men not respond to them by seeking to constrain and condemn and decry the behavior of the country which did it and not their own.

That is where we are tonight, Mr. President, and that is the consequence of the vote which we have just taken.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I wonder if we might learn what the outcome of the inquiries by the distinguished Republican leader and others may have produced at this time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Has the majority leader yielded to the Senator from Virginia?

Mr. WARNER. The Senator from Virginia is responding to a question.

The PRESIDING OFFICER. Yes.

Mr. WARNER. Mr. President, in response to the question of the majority leader, I am informed that the Republican leader has but two telephone calls to be returned and then he will be able to advise the leader.

Mr. BYRD. Very well.

RECESS FROM 5:45 P.M. TO 7 P.M.

Mr. BYRD. Mr. President, I want to be present at an extremely important function this evening. I want to give all Senators an opportunity to be there from about 5:30 to 7. So, I shall ask unanimous consent that the Senate stand in recess from the hour of 5:45 to 7 p.m. My wife and I are having a reception for a very gracious lady whom we all know and love. I want all Senators and their wives to be able to attend. So that Senators might be informed that there will be a recess to accommodate that event, I make this request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request that the Senate stand in recess from 5:45 until 7 p.m. this evening?

Without objection, it is so ordered.

Mr. BYRD. I thank the Chair. I thank all Senators.

That, Mr. President, would mean that the Senate will go into recess about 1 hour and 25 minutes from now which would accommodate a vote on cloture on the Byrd-Nunn amendment, and depending on the outcome of that amendment, it is conceivable that there could be a cloture vote on the bill itself. All this could be done before the recess. I hope that we might be able to learn as early as possible as to whether or not we could get consent to do these two cloture motions, hopefully today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Parliamentary inquiry: the pending business before the Senate, the Senator from Virginia is of the opinion it is the Byrd-Nunn amendment.

The PRESIDING OFFICER. That is the pending question before the Senate.

Mr. WARNER. Mr. President, momentarily I will address the amendments. But I want to say for the distinguished Senator from Wyoming that that statement by him, heartfelt, was one of the most brilliant statements that I have been privileged to hear on the floor of the U.S. Senate. I wish to associate myself with those remarks. I am deeply concerned that the missile that came over yesterday, our message today could be interpreted as a thank you note signed by 55 Senators that goes back the next day. I find this a most disturbing consequence. It is my hope that the Senate may revisit this issue before the pending matter becomes final.

Mr. BYRD. Mr. President, I hope we would not make too much of that so-called thank you note that went back with the 55 so-called signatures that were on it. I have no apologies to make for the vote I cast. I hope we will not engage in this kind of talk because we will be all afternoon and into the evening revisiting this little debate.

The votes were cast, and, Mr. President, let it be said here that the references by the distinguished Senator from Wyoming to those on the "left," I take it that means the Democrats. I do not know. I suppose that is what he meant, Democrats across the aisle to the left of where the distinguished Senator stands. I hope we will be careful not to say anything that would impugn the patriotism or the honesty of any Senator in this body. Not all Senators voted as I did. Not all Senators voted as I would wish they would vote. But I do not intend ever to impugn the patriotism or the honesty and integrity of any Senator, and I hope the Senator was not doing that.

Mr. WARNER. Mr. President, I assure my distinguished friend, the majority leader, it was not intended to impugn the patriotism of anyone.

Mr. BYRD. Very well.

Mr. WARNER. I assure him also that those of us on this side are indeed stunned by this vote because we think it sends a very serious signal. This comes at the very time when our negotiators are struggling to do the best they can to go about developing a formula to bring down the number of warheads. As the leader well knows, we tried in SALT II to grapple with the number of launchers and that formula failed. The number of warheads went from some 4,000 to 5,000, at the time that agreement was signed, to some 10,000 or 11,000 today. So, that formula was of no value.

Mr. BYRD. Mr. President, if we want to fight this battle over before the smoke has cleared, that is one thing. I hope we do not do that. I voted against the motion to table, and what I was saying is that vote was not putting my signature on any "thank-you note" back to the Soviet Union. My credentials here as an anti-Communist are as good as anybody else's. My credentials as a patriotic American here are as good as anybody else's—no better, but as good.

I have not seen anything happen this afternoon so catastrophic and cataclysmic as what I have been hearing here. What we are saying is that as long as the Soviets do not break through the central numerical sublimits, then we should not do so because if we do that, then we encourage them to do the same. The Soviet hotlines are ready, and they can produce faster and they can produce more warheads than we can immediately produce.

That is what we are saying. I was not saying by my vote that the Soviets are living up to the treaty. I was the one—not the Senator from Wyoming, or the Senator from Virginia—but I was the Senator who called Mr. Carter and said, I will not call up the SALT II Treaty. Why? Because the Soviet Union has invaded Afghanistan. The Soviets are still in Afghanistan today. Yet, we are about to enter into an agreement with the same Soviet Union on the INF. I may be one Senator who will join in a reservation to the INF treaty dealing with Afghanistan.

But all of this shedding of blood here, this shedding of tears, and these veiled insinuations about the 55 Senators who voted against tabling the Bumpers amendment, I take umbrage at such. I did not intend to say anything on this until my good friend, the distinguished Senator from Virginia, put it point blank, that those 55 Senators who vote against tabling has signed a "thank-you note" to the Soviet Union. I will not let the record stand unchallenged on that.

Mr. WARNER. Mr. President, the intention of the statement was that the vote could be interpreted in the eyes of the world, but so much for that. All of us in moments sometimes reflect on it. But my deepest concern is that this body has taken an action today in the nature of treatymaking.

There is no one that knows more about the functions of this Senate under the Constitution, and its responsibilities. But we have now reposed, by virtue of this amendment, with a simple majority of both Houses, the power to lift from a treaty that which the Senator himself refused to let this body deal.

Mr. BYRD. Mr. President, we have not done any such thing.

Mr. WARNER. Mr. President, I say to my distinguished friend, the majority leader, we have in a sense said to our President, "You will abide by the sublimits which contained exactly the same words as in the treaty that was sent back."

Mr. BYRD. We have not said that. We just said no to a motion to table the amendment. We have not and nobody is advocating ratification of a treaty that has already expired. Nobody is saying that we should ratify anything in any treaty by a majority vote.

Mr. WARNER. Mr. President, the leader is correct. We have not as yet voted up and down on the Bumpers amendment. But if we were to cast a vote in favor of the Bumpers amendment, as reflected by the motion to table of the Senator from Virginia in a sense we would be imposing on our President the sublimits as contained in the SALT II Treaty.

Mr. BYRD. We would not be imposing on our President any such thing. We would simply say let us live up to the central numerical sublimits as long as the Soviets do because once we cross that threshold they are in a much better position to more quickly increase those missiles than we are. They have the production hotlines ready to go. And that is what we are saying.

Mr. President, I have the floor. I did not intend to rehash this. But I am 1 of the 55 who voted against the tabling motion. I take umbrage when it is said here that 55 Senators today have sent a "thank you note to the Soviet Union" after one of their test missiles comes close to one of our States.

Why don't the Senators offer a resolution criticizing the Soviet Union. Offer a resolution spelling out the astonishment, the umbrage and indignation of the United States. I will join in. But let us not start impugning the patriotism of Members of this body.

Mr. President, I hope we can get an agreement to vote on the two cloture motions. We still have some time and this debate can go on afterward if cloture is not invoked.

Mr. DOLE. We are ready.

Mr. BYRD. Mr. President, the distinguished Republican leader has cleared this request.

I ask unanimous consent that at 5:45, which will be 15 minutes from now, so that all Senators have an opportunity to know that there will be a rollcall vote——

Mr. DOLE. Four forty-five.

Mr. BYRD. Mr. President, my hair has turned gray in the service of my people; now I think I am going blind. [Laughter.]

That does not mean that I do not know what I am voting on. [Laughter.]

Mr. President, I ask unanimous consent that the vote on the cloture motion offered by myself and the requisite number of other Senators on the amendment by Mr. BYRD and Mr. NUNN and other Senators occur at 4:45 p.m. today; that in the event that cloture motion fails, the Senate forthwith vote on the cloture motion by Mr. DOLE on the bill.

Mr. DOLE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. I wonder if we might do it the other way around. I do not know how the cloture vote will be on your amendment. We can have both cloture votes; and if cloture should be invoked on the Byrd amendment, we would still have the second vote before we start back, regardless of the outcome.

Mr. BYRD. Yes.

Mr. President, I change my request in accordance with the proposal by the distinguished Republican leader. I will make it again.

I ask unanimous consent that at 4:45 p.m. today, the Senate proceed to vote on the cloture motion on the Byrd-Nunn amendment, and regardless of the outcome of that vote, the Senate then proceed to the vote on the cloture motion by the distinguished Republican leader on the bill. In the event that cloture is invoked on the Byrd-Nunn amendment, then the Senate would revert to that amendment until disposed of.

Notwithstanding the fact that cloture on the bill would, in the meantime, have been invoked, the Senate would proceed, under the rule, to the exclusion of all other business, to dispose of the Byrd-Nunn amendment.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho reserves the right to object.

Mr. McCLURE. Mr. President, I do not want to interfere at all with the arrangmeent which has been achieved between the majority leader and the minority leader with respect to the pending amendment. However, the Senator from Idaho will object unless the Senator from Idaho can be recognized for 5 minutes, not to exceed 5 minutes, between now and that time.

I wonder if the majority leader might include in the unanimous consent agreement that the Senator from Idaho be recognized for 5 minutes, not to exceed 5 minutes, between now and that time.

Mr. BYRD. Yes.

Mr. President, I include that.

The PRESIDING OFFICER. That is included in the unanimous-consent request.

Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I thank the Republican leader, and I thank all Senators.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. I will protect the rights of the Senator.

Pursuant to the unanimous-consent request, the Senator from Idaho is entitled to 5 minutes. I will recognize the Senator from Idaho pursuant to the unanimous-consent request. Then the floor will be open for other Senators to seek recognition, until the hour of 4:45.

I will protect the Senator from Texas, if he remains on his feet to be recognized.

Mr. GRAMM. Mr. President, I would be happy to step down for the distinguished Senator, but the unanimous-consent request was for 5 minutes during that time period.

The PRESIDING OFFICER. That is correct. I am going to recognize the Senator form Idaho, which will take 10 minutes; and at the end of 5 minutes, if the Senator from Texas is on his feet, the Chair will recognize his right to the floor.

Mr. BYRD. Mr. President, I ask unanimous consent that the automatic quorum preceding the first cloture vote be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And there would be no automatic quorum between the first and second cloture votes.

The PRESIDING OFFICER. Pursuant to the unanimous-consent request, the Senator from Idaho is recognized for 5 minutes.

Mr. McCLURE. Mr. President, I have listened to the remarks of the distinguished Senator from Wyoming, and again I wish to commend him very strongly for the statement he made. I also commend the Senator from Virginia for the remarks he made.

I am mindful of the concerns expressed by the distinguished democratic leader this afternoon about what might be characterized, or what might or might not have been characterized. I understand the Senator from Wyoming to have said he was speaking of people on the left and not of the left. I suppose he might have been standing with his back to the Chair and made the same comment, because I do not believe he was talking about people who were on his left physically, on his left in this Chamber. He was talking about a political ideology, placing it in a political ideology, not physical placement on the floor.

I also say that the Senator from Virginia was correct, in my view, in his characterization of the way in which the action on the floor of the Senate today will be viewed with respect to commendation or condemnation to the Russians for the actions they have taken. I do not believe that those remarks in any way impugned the integrity or the patriotism of people who may have voted on that side.

I do think the Senator from Virginia was not only right but also within his rights to question the wisdom or the judgment of the action taken today, and I join in that questioning of the effect of the vote on the floor of the Senate today. I think it was a message back to the Soviet Union, Mr. President, and I say that with full knowledge that people who may have differed from my opinion with respect to that action, both in terms of the vote and its effect, may have a different opinion. But I state my own opinion, and my own opinion is that the Senator from Virginia is correct in his statement.

I would also say that, in my view, the Soviet Union was not testing a missile. It was testing the resolve of the American people.

(Mr. EXON assumed the chair.)

Mr. **McCLURE**. It was not designed to find out whether that missile would fly. It was designed to find out what we would do. And its aim was not some point off the shore of Hawaii; its aim was the Senate of the United States, and that missile struck that target and destroyed not a target but any illusions that we have about strong effective leadership in this body for response to Russian provocations.

That is what was at stake in that missile test, and that is what was hit and destroyed.

I hope there is no illusion left among the American public that within this body they will find the strong, effective, determined leadership necessary to protect the security of this country against those kind of actions and threatened actions on the part of the Soviet Union.

Mr. President, let us have no illusions about the reaction of the world in looking at the votes of the Senate of the United States as we have carefully constructed a scenario in which we say, yes, indeed they violate treaties; yes, indeed, it does not matter to us.

We will not even ratify treaties but we will observe them. We not only will observe their conduct to see where they have violated the provisions of that treaty which has not been ratified, but it matters not because we will do nothing if they do.

What kind of a message is that, Mr. President, for us to have sent as a result of the actions of this Senate today? I hope indeed the Senator from West Virginia is correct that it will not be read that way. My judgment tells me it will be.

I yield the floor.

The **PRESIDING OFFICER**. The majority leader.

Mr. **BYRD**. Mr. President, indeed those of us who voted against the motion to table did not say that it does not matter if the Soviets violate treaties. We did not say that. I did not say that. I am sorry that our friends across the aisle appear to be seeing ghosts. There is not a Communist under every desk in this Senate.

I am not content with having others characterize my vote. If they say it was an unwise vote, I have no problem with that.

The Bible says:

> Happy is the man that findeth wisdom, and the man that getteth understanding.
>
> For the merchandise of it is better than the merchandise of silver, and the gain thereof than fine gold.

Solomon prayed for wisdom and God was pleased. Solomon did not ask for power. He did not ask for riches. He asked for wisdom and understanding, so that he might judge the people. And God was pleased and gave him both riches and power and honor and wisdom.

I pray for wisdom. In my votes, it does not trouble me that other Senators may say or think me unwise. Perhaps I cast votes that are unwise in the eyes of others. I cast them according to my own lights. God did not bless me with the intellect of an Einstein. I only have what I have. But I do claim to be as patriotic as any other American. I hope that the American people who have been listening to this debate and watching it will not be misled by attempts to characterize the votes of the 55 as being votes of Senators who are willing to overlook violations of the Soviet Union and will overlook violations of the next treaty.

I hope we will all take a good look at this next treaty when it comes up here. I intend to read the fine print of it.

But I am willing to let this be enough on the subject for now. Senators may talk as long as they wish to, but if they are going to make statements that impugn or could be inferred to impugn the patriotism of other Senators here, then I will be bound, reluctant as I may be, to try to defend in as best way as I can my own integrity and patriotism and that of others.

I hope we will not do that. If Senators wish to say that I cast an unwise vote, fine. I can be wrong. I have been wrong many times. I might think that the vote of others was not wise because they did not agree with me, but I understand that every Senator here is bound to his own conscience, to his own god, and tries to represent his own constituents the best he knows how.

Many Senators did not vote with me on campaign finance reform, but I did not say that anybody was a crook in here. I did not imply that any Senator here was accepting bribes. I did not say that anybody who voted the other way was trying to buy a seat in the Senate. I did not make any such insinuations or charges.

I thought there were some unwise votes cast against cloture on campaign reform. But I can smile about that and go on with other business. I think we are all good Americans. I like to think I am. I think every Senator in here is a good American.

But I am not going to send the Soviet Union any "thank you note" for landing a missile in close proximity of Hawaii.

Mr. President, we have 2 minutes. I will yield the floor.

The **PRESIDING OFFICER** (Mr. ADAMS). The Senator from Texas is seeking recognition.

Mr. **GRAMM**. Mr. President, I ask unanimous consent that despite the fact that we set the vote that I have 5 minutes to speak.

The **PRESIDING OFFICER**. Is there objection to that part of the unanimous-consent request so that the Senator from Texas has a full 5 minutes? Is there objection?

Mr. **KERRY**. Mr. President, I reserve the right to object.

Are there any other requests for time after that?

The **PRESIDING OFFICER**. I will state to the Senator there has been no other requests for time. The Senator from Texas is on his feet. To that part of the unanimous-consent request, there has been a request it be set aside so he may have a full 5 minutes.

Is there objection? Without objection, it is so ordered.

The Senator from Texas is recognized for 5 minutes. Immediately thereafter we move to the vote on the cloture motion.

Mr. **GRAMM**. I thank the distinguished Presiding Officer.

Mr. President, we have all been treated to a rare occurrence here today. It is one that is so unusual that I could not let it pass without saying a few words about it. In the 3 years that I have been privileged to serve in the U.S. Senate, I have seen few actions that equal it.

I have often wondered as, in the midst of a budget crisis, we have debated bills, as we all spoke of the perils of the deficit, as almost all of us talked in our home States about balancing the budget, how we could then turn around and vote to fund weed research centers, beekeeper indemnity funds, and archaeological digs, calling them emergency items.

I have marveled as Members shouted their indignation at overcharges on hammers and cathode tubes and yet turned around and voted against saving hundreds of millions of dollars on what was no less waste, fraud, abuse, or theft, because it happened to be supported by some special interest group.

I had often wondered in those 3 years, Mr. President, if we had lost our ability to be outraged.

It was proven today that at least one in our body has not.

The power in the statement made by the distinguished Senator from Wyoming lay in the fact that behind it is one of the most powerful forces on Earth: an honest man speaking out at a critical moment on a righteous issue.

Now, I will not impugn anyone's motives. In any case, what we say here is not relevant, but what we do here is highly relevant to an adversary that imperils our freedom and our lives.

The Senator's statement was profound because we had just voted—after 2 days during which the Soviets have violated the SALT II agreement, where they have twice violated it in three different parts, where they have fired a test missile that fell close to the sovereign territory of a State in this country—voted to impose on the President compliance with a treaty that the Soviets have flaunted and violated today and yesterday.

Now, each of us has our own particular viewpoint as to what is happening, but I think the facts warrant a moral outrage. And now we have heard that righteous indignation expressed. It was a very powerful expression.

I am not sure that it will be covered in the news anywhere, but it was powerful and it clearly is going to have an impact. Might I say, Mr. President, on this issue and perhaps issues where I am on the other side, I believe that there are too few expressions of righteous indignation about actions that take place here, and I applaud them when they occur. Righteous indignation and moral outrage are things we need more of if we are to do the will of the people and if we are to promote the interest of the working men and women of America whose happiness is our primary objective.

I want to congratulate the distinguished Senator from Wyoming. I am proud to serve in this body with him and I count it a singular privilege to have served with him these 3 years. His leadership is needed to remind us that these votes are not meaningless political contests, that this is no debating society, that this is a great deliberative body and what we do speaks with a power that reaches far beyond the oratory abilities of any individual. It is what we did that the distinguished Senator objected to, not to the motivations of the people who may have done it, but what the action was and the context in which it took place, and that is why it was so powerful, so important, and that is why I take the opportunity to congratulate him and to thank him for his leadership.

CLOTURE MOTION

The **PRESIDING OFFICER.** The time of the Senator from Texas has expired. All time has expired.

Under the previous order the hour under the unanimous-consent request for the vote having arrived, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Byrd-Nunn amendment, No. 732, to the Weicker amendment, No. 712, to S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years foı the Armed Forces, and for other purposes.

Senators Robert C. Byrd, J.J. Exon, Dale Bumpers, Tom Harkin, George J. Mitchell, Howard M. Metzenbaum, Quentin Burdick, Frank R. Lautenberg, Tim Daschle, Jim Sasser, Brock Adams, Alan Cranston, Carl Levin, Jeff Bingaman, Kent Conrad, and Wendell H. Ford.

VOTE

The **PRESIDING OFFICER.** The question is, Is it the sense of the Senate that the debate on the Byrd-Nunn amendment No. 732 to S. 1174, the Department of Defense authorization bill, shall be brought to a close? The yeas and nays are automatic. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California (Mr. WILSON) is necessarily absent.

The **PRESIDING OFFICER** (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 45, as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—54

Adams
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Stennis
Weicker
Wirth

NAYS—45

Armstrong
Bond
Boren
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—1

Wilson

The **PRESIDING OFFICER.** On this vote the yeas are 54, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

CLOTURE MOTION

The **PRESIDING OFFICER.** Under the previous order, the clerk will now report the motion to invoke cloture on S. 1174.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate hereby move to bring to a close debate on S. 1174, the D.O.D. Authorization bill:

Senators Bob Dole, Malcolm Wallop, Steve Symms, Chuck Grassley, Jake Garn, Dan Quayle, Pete Wilson, Strom Thurmond, Ted Stevens, Chic Hecht, Thad Cochran, Don Nickles, John McCain, Daniel J. Evans, Paul Trible, James A. McClure, Jesse Helms, and Rudy Boschwitz.

VOTE

The **PRESIDING OFFICER.** The question is, Is it the sense of the Senate that debate on S. 1174, the Department of Defense authorization bill, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON], is necessarily absent.

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—41

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pell
Pressler
Quayle
Roth
Rudman
Simpson
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NAYS—58

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Weicker
Wirth

NOT VOTING—1

Wilson

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please be in order. Those Senators conversing will please retire from the Chamber.

The majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the order has been entered for a recess of the Senate from 5:45 p.m. today to 7 p.m. today for an event in which all Senators and their wives, if they possibly can, will want to participate. In the meantime, the distinguished Republican leader, the two managers, I, and others have been having some discussions and we would urge that Senators stay around following the recess. There is some hope that we may be able to find a way to finish this bill before the day is over. I would not want to raise expectations too high, but I think there is that chance. So I would urge that Senators not go home following the reception and let us see what we can do.

In the meantime, Mr. MITCHELL wishes to address the Senate for a period of 15 minutes. In view of the fact that we will not be able to transact any business otherwise in the meantime, I ask unanimous consent that Mr. MITCHELL be permitted to proceed for not to exceed 15 minutes and Mr. KARNES for not to exceed 3 minutes.

Mr. WARNER. Mr. President, reserving the right to object, I shall not; is it my clear understanding that the Senate will go off the bill for the purpose of these statements and therefore no action will be taken with reference to the bill until such time as the Senate reconvenes at about 7 o'clock?

Mr. BYRD. Yes.

Mr. EXON. Reserving the right to object, I believe the majority leader and the manager on the other side will recall that the Senator from Nebraska asked for 7 minutes very early this morning. I was assured I would have that time during the bill. I did not insist on that because we ran out of time. I would like to have 7 minutes at the convenience of the Senate, and if the Senate wishes to stay in past the appointed hour for adjournment for my remarks, I would have no objection.

Mr. BYRD. Would the Senator like to have his time order in at this point? What we would do is continue, and the Senate would not recess at 5:45. The Senate would proceed until such time as the orders or short speeches had ended. I hope we would not go too long. I can either put the order in for the Senator from Nebraska to occur after Mr. KARNES, after which the Senate would recess until 7, or we can arrange it at a later time. That might be a good time.

I thank the Senator. He has been very patient. He was on the floor earlier and seeking to speak. Why do I not include him at this time?

Mr. EXON. I wish the Senator would.

Mr. BYRD. Following Mr. KARNES, there be 7 minutes for Mr. EXON. Mr. President, I ask unanimous consent that upon the conclusion of Mr. EXON's remarks, the Senate stand in recess at that point until the hour of 7 p.m. today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine, Senator MITCHELL.

WAR POWERS RESOLUTION

Mr. MITCHELL. Mr. President, I have in the past opposed efforts to apply the War Powers Resolution to American forces deployed in the Persian Gulf, not because I believe that this deployment is either well considered or wise, but because I believe that the President has the constitutional authority to direct American military forces in situations short of war.

The structure of our Government, with power divided among three separate but equal branches, creates special problems in the use of armed force.

The Constitution grants to Congress the exclusive authority to declare war. In addition, the Congress has the responsibility to provide for the common defense, to appropriate moneys, and to make all laws necessary and proper for the powers vested in the Federal Government.

But the Constitution makes the President Commander in Chief of the Armed Forces. That authority gives him the power to direct the Armed Forces and to repel attacks against the United States. The President exercises the "Executive power" of the Federal Government, and he is obligated to execute faithfully the laws of the Nation, including defense commitments under treaties made with the Senate's consent.

Our Founding Fathers divided these war powers to enable the President to effectively lead the Armed Forces in defense of our Nation, while ensuring that Congress would concur in the weighty decision of war.

But the President's authority to send Armed Forces into dangerous or hostile situations without a declaration of war has generated great controversy, stemming largely from our Nation's recent experience in two protracted conflicts—Korea and Vietnam—which were in fact wars, but with respect to which Congress never formally declared war.

The congressional power to declare war eroded concurrently with the progressive Presidential commitment of American troops to the undeclared war in Vietnam. Congress reacted in 1973 by passing the War Powers Resolution. That was an attempt to reassert Congress' authority to decide when the United States would become involved in war.

The resolution was portrayed as an effort "to fulfill—not to alter, amend or adjust—the intent of the framers of the U.S. Constitution" to insure the collective judgment of both the Congress and the President in the decision to wage war. It seeks to do so by requiring the President to report to Congress on any decision on his part to introduce American forces "into hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances;" and, if he does not obtain congressional approval of his decision within a maximum of 90 days thereafter, the forces must be withdrawn.

Unfortunately, the effect of the War Powers Resolution—specifically the language I have just cited—may be to extend Congress' power beyond the limits established by the Constitution. Not every hostile situation, not every dangerous circumstance—even those which may involve death and destruction of property—is war.

By constraining the President's authority to deploy American forces in dangerous situations, the War Powers Resolution could in some situations deny the President the flexibility necessary to successfully defend U.S. interests.

That is not what the framers of the Constitution intended. In the 1770's the Continental Congress, which then possessed joint executive and legislative powers, interfered with General Washington's conduct of the War of Independence and nearly caused disaster. The lesson was not lost on the Founding Fathers, who designated the President as Commander in Chief. They recognized that some situations of national security would require the energy, secrecy and dispatch of one responsible person, to be found only in the executive branch. Furthermore, they knew that the executive, of necessity, would be responsible for preserving the security of the Nation. The framers therefore gave the President the power to move and direct troops and respond to attack, in order to ensure that the Nation could be swiftly and effectively defended.

Seeking to restrain the President from initiating war on his own, the framers gave the legislative branch more influence over warmaking decisions than was then possessed by the English Parliament. But awareness of the problems of shared powers led the Continental Convention to reject the clause giving Congress the power "to make war;" it instead gave Congress the power "to declare war." The convention further rejected a proposal giving Congress the power to declare peace and thereby end a war, probably in the belief that this, too, was the prerogative of the executive.

But the War Powers Resolution extends Congress' power beyond that of declaring war; the resolution allows Congress—without even casting a vote—to deprive the President of his authority to deploy and move troops in situations that may fall short of war.

The courts have been reluctant to enter into the area of war-making powers, often arguing that such controversies constitute nonjustifiable political questions that the political branches must resolve.

The few relevant judicial decisions support unilateral Presidential war-making power in some circumstances, including the protection of American citizens and property in foreign nations. These decisions are buttressed by the historical record; Presidents have long deployed American troops without congressional authorization and undeclared wars were common in the century preceeding the signing of the Constitution.

In 1982, in the case of Crockett versus Reagan, a Federal district court declined to determine whether American forces in El Salvador faced a situation of hostilites or imminent hostilities, declaring that this was an issue for the political branches to decide. The decision was affirmed by the DC Court of Appeals in 1983, and the following year the Supreme Court denied certiorari.

The court did not, however, rule out the possibility of resolving a dispute regarding the War Powers Resolution if Congress had invoked the law, or the President had reported under it.

Recent Supreme Court decisions indicate that the separation of powers doctrine is violated when one branch of Government attempts to enhance its powers at the expense of, or to the detriment of another. Applying this logic to the War Powers Resolution, the constitutional questions about the act become apparent.

Not surprisingly, no President has acknowledged the constitutionality of the War Powers Resolution. In practice, Presidents have been reluctant to report to Congress under the act—precisely because they have challenged the wisdom and constitutionality of automatic troop withdrawal deadlines. Only in the case of the *Mayaguez* rescue has a President reported under the section triggering the time clock on troop deployment.

Congress, too, has shown its reluctance to invoke the act, recognizing the dangers of limiting Presidential authority in situations of great importance to American national security.

Against this background, I state my intention to vote for the pending amendment. My support for this amendment is not an endorsement of the constitutionality of the War powers Resolution. Rather, it reflects my belief that since the War Powers Resolution is law, binding until the courts determine otherwise, the President must obey it.

Under the resolution, the President has an obligation to report to Congress within 48 hours of introducing U.S. Armed Forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances"—unless the President has received from Congress a declaration of war or other specific authorization.

Since President Reagan decided to reflag and escort Kuwaiti tankers, the United States has vastly increased its naval force in an area where war has raged, violent and unpredictable, for years.

Despite the death of 37 Americans in the attack on the U.S.S. *Stark*, and despite the August decision by the Defense Department to award danger pay to American troops stationed in the gulf, I defended the President's authority to determine whether a situation of "imminent involvement in hostilities" was present. I supported his right to interpret whether or not the War Powers Resolution applied to American actions in the Persian Gulf.

However on September 22, an American helicopter fired on an Iranian minelaying vessel, killing several crew members and taking the survivors into custody. Now clearly involved in hostilities, U.S. forces face an increasingly threatening situation in the gulf.

This is not an issue of defining defensive versus offensive action. It is not a question of supporting or opposing an American presence in the Persian Gulf. It is a question of whether or not American ships and troops have been introduced into a situation of hostilities or imminent involvement in hostilities.

Clearly, they have, and no words, by the President or anyone else, can change that fact.

Therefore, under the War Powers Resolution, the President is required to report to the Congress under section 4(a)(1).

The President, like his predecessors since the resolution was passed over Presidential veto, has refused to abide by this law. But he does not properly have that choice. The rule of law must be upheld. The President must either challenge the constitutionality of the law in court or he must obey it. He cannot simply refuse to obey it.

The pending amendment states that the circumstances in the Persian Gulf meet the conditions established in the War Powers Resolution.

While upholding the law, the amendment also avoids what could be a dangerous and possibly unconstitutional aspect of the War Powers Resolution itself—the ability of the Congress, through inaction, to require the withdrawal of American troops from a region in which it has already been determined that they face hostilities.

Under the amendment, the President is required to report to Congress on his decision to reflag and escort Kuwaiti tankers, a decision he made initially without consulting Congress. It is essential that Congress and the American people be informed of the policy's objectives and how they pertain to U.S. interests in the region, if that policy is to receive broad bipartisan support. As past foreign involvements have demonstrated, only with such support can the United States act effectively and consistently to defend its security interests.

More importantly, the amendment will not interfere with the President's constitutional authority as Commander in Chief, nor will it unnecessarily endanger U.S. troops. The amendment places no time limit on the deployment of American troops in the Persian Gulf.

The United States must maintain a military presence to defend our interests in the region. Regardless of whether one supports the President's policy of reflagging and escorting Kuwaiti tankers, or the dramatic increase in U.S. troops in the gulf, two facts are indisputable: the United States has vital interests at stake in the gulf, and our troops are already there. To require their withdrawal at a predesignated time could greatly jeopardize both the lives of our servicemen and our country's national interests.

The amendment does not interfere with the President's ability to command the Armed Forces, move troops, or direct military operations.

The amendment does place a 90-day time limit on the reflagging and escorting of Kuwaiti vessels, unless Congress specifically authorizes these activities. U.S. national security does not hinge upon the reflagging and escort of Kuwaiti's vessels. But that policy has very important potential consequences.

It involves supporting Iraq's ally in apparent contradiction of formal U.S. neutrality in the gulf war. It is unclear how much funding it will require, or how many vessels the administration ultimately plans to reflag. It appears to be an open-ended commitment. The policy deserves careful and deliberate consideration, which it has yet to receive. Therefore, Congress should have an opportunity to participate in that policy. The amendment will ensure such congressional involvement.

I do not believe that application of the War Powers Resolution is a substitute for true cooperation and consultation between the President and Congress in the crucial decisions regarding the defense of American interests abroad.

However, I do believe that no President is above the law. Unless and until the law in challenged and declared unconstitutional, it must be obeyed.

The President has only two choices: He must either challenge the constitutionality of this law, or he must obey it. He cannot properly, in our democratic system, decide for himself to disobey the law.

I believe there is a very serious question as to the constitutionality of this law, for the reasons I have stated. Therefore, I encourage the President, if he will not obey the law, to challenge it and to permit a court determination on whether or not this is a constitutional law. Unless and until that happens, the President has no alternative, if this is to remain a democracy, but to obey the law. He is bound by the law, as is every other person in our society.

RECOGNITION OF SENATOR KARNES

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the junior Senator from Nebraska [Mr. KARNES] for 3 minutes.

RESIGNATION OF TRANSPORTATION SECRETARY, ELIZABETH DOLE

Mr. KARNES. Mr. President, as the Senate is aware, the resignation of Elizabeth Dole from her post as Secretary of Transportation becomes effective today. In honor of her contributions to our transportation industry, I would like to take a moment to recognize some of Mrs. Dole's many accomplishments as a distinguished member, and the only female member, of President Reagan's Cabinet.

During Secretary Dole's 4-year tenure at the Department, our country has witnessed significant changes in our transportation industry. Great efforts have been taken to ensure safer travel in all major modes of transportation. Fatality rates in aviation, automobile, railroad, and boating have all been at record lows at some point within the past 3 years.

As a tribute to her ability to strengthen the industry, we can look to some of the steps Secretary Dole has taken to ensure that safety would not be overlooked in any mode of transportation. Early on in her position, Secretary Dole created a review task force to ensure that transportation experts would closely examine all safety aspects of our travel. This has been a critical element for the aviation industry, in particular, where dramatic growth has made it increasingly difficult to maintain adequate safety levels. Secretary Dole's air delay and inspection initiatives are testimony to her concern for efficiency in our airways. In addition, her leadership in the campaign against drug use by transportation industry employees, in her efforts against drunk driving, and in the privatization of Conrail, has laid the foundation for future improvements and efficiency in the industry.

I have great admiration for Secretary Dole for what she has been able to accomplish at the Department of Transportation. Through her long service in government, highlighted by her prior position as assistant to the President for public liaison and before that as Commissioner of the Federal Trade Commission, Elizabeth Dole has demonstrated her dedication and service to the needs of our country. I would like to take this opportunity to wish her well in her future endeavors and to express my personal appreciation for her outstanding record of public service.

RECOGNITION OF SENATOR EXON

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the senior Senator from Nebraska [Mr. EXON] for 7 minutes.

PRESCRIPTION DRUG BENEFITS ADVERTISEMENT

Mr. EXON. Mr. President, I rise today to discuss a situation which several of us, as Members of the U.S. Senate, recently faced. I am referring to the large ads recently placed in many of the Nation's daily newspapers by the Pharmaceutical Manufacturers Association concerning the prescription drug benefit amendment to be offered to the catastrophic health care bill.

Mr. President, my office in Omaha, NE, received over 900 calls in the 48-hour period immediately after the publication of that ad.

It was duplicated as I have indicated in many other States. The only significant change was the name of the U.S. Senator.

The senior citizens in Nebraska were scared—the ad told these people to call their Senator "today or get stuck with the bill tomorrow."

That was only one of the misleading statements in this ad because nothing happened the next day.

The ad tells these people that "The program may not pay for the medicine your doctor wants to prescribe. Instead, some bureaucrat in Washington will decide what medicines the Government will pay for." It is not the intent of any legislation to tell physicians what drugs they may prescribe. While this amendment does encourage the use of generic drugs for cost-containment purposes, physicians may prescribe brandname drugs simply by stating such on the prescription form. I would absolutely object, and I think most Senators would too, to the U.S. Senate or the Health Care Financing Administration getting into the business of prescribing drugs. That is not the intent of any legislation and that the Pharmaceutical Manufacturers Association inferred this in their ad is clearly deceptive action on their part to this Senator.

Now, I happen to agree with a couple of the points that the drug makers made as advertised. Mainly I am concerned about the cost of providing drugs under Medicare, which I say is certainly necessary, and I am concerned about how many people will actually qualify for reimbursement under the provisions suggested. So I am sympathetic with the message that the Pharmaceutical Manufacturers Association portrayed to senior citizens in that regard. But what I object to is that the ad does not state why the pharmaceutical manufacturers are primarily opposed to this amendment. They do not mention the fact that the increased use of less-expensive, generic drugs will cut into their profit margins.

And I submit that that was the real reason for the expensive ad. They have got enough money to run those kinds of ads all around the country. The Pharmaceutical Manufacturers Association must be doing pretty well on their present markup on drugs.

None of us should be pressured into acquiescence by the pharmaceutical industry which has a vested business interest in this issue. Their motives are suspect. I object strenuously to these tactics. Not only have I received over 900 calls inspired by this ad, but I have also received over 500 letters generated by this same organization.

Now I know that organizations have a right to address their concerns and I know that certainly it is a duty of our constituents to tell us of their concerns, and I support that as a very important right under our constitutional form of government. But I object to the tactics used by this organization in their attempt to scare citizens and blatantly coerce legislators. They have resorted to scare tactics and they have been less than fully informative in their attempt to advance their own hidden agenda in this matter which is primarily their profits from drugs. Today I am appealing for honesty, thoughtfulness, and truth in advertising.

I have sent a letter to every Nebraskan who responded to the ad that states quite clearly my displeasure with this campaign by the Pharmaceutical Manufacturers Association. I have also protested to the association directly. I hope that those who also feel this way will let the Pharmaceutical Manufacturers Association know that you do not appreciate their tactics.

Mr. President, I ask unanimous consent that the newspaper ad that I have referred to in these remarks be printed immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I suggest that all await the recommendations of the American Association of Retired Persons, AARP, before we take positions on the Medicare drug issue.

I assure all that AARP do not subscribe to the Pharmaceutical Manufacturers Association position. There can be no question that the AARP truly represents the interest of the senior citizen and that the Pharmaceutical Manufacturers Association does not.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

EXHIBIT 1

SENIOR CITIZENS—CALL SENATOR EXON TODAY OR GET STUCK WITH THE BILL TOMORROW

Do you, a friend, or a loved one participate in Part B of Medicare (the physician care section)?

The U.S. Senate is about to vote on increasing your Medicare premium for a new prescription drug program that six out of seven Nebraska seniors won't come out ahead on.

That will mean the average Nebraska senior will be forced to pay for a program that he or she may never get to use.

Some deal!

This deal is put forth as an amendment to the catastrophic health care bill the Senate is now considering.

Consider what this amendment will mean to you:

NOT VOLUNTARY

It's not voluntary. If you pay for Part B, you'll have to pay more for the drug program, even if you don't want it.

HIGH DEDUCTIBLE

Unless you qualify for the Medicaid poverty program, you'll have to spend more than $600 a year on prescription drugs before you'll see one cent of benefits under this program.

SKYHIGH COSTS

No one knows exactly how high the costs of this new program will go. Estimates range from $1 billion to $7 billion annually, with seniors slated to pay the whole bill. And, if the bureaucrats have guessed low, guess who'll pay more? You will.

BUREAUCRATIC INTERFERENCE

The program may not pay for the medicine your doctor wants to prescribe. Instead, some bureaucrat in Washington will decide what medicines the government will pay for.

It's time for all Nebraskans to say to our Senators: "Stop! Enough!"

Call Senator Exon today.

Tell whoever answers that you want your Senator to vote no on this unneeded drug amendment.

Please call today, so you don't get stuck with the bill tomorrow.

RECESS UNTIL 7 P.M.

The PRESIDING OFFICER. Under the previous order the Senate will now stand in recess until 7 p.m.

Thereupon, the Senate at 5:54 p.m. recessed until 7 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAHAM).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. WARNER. Mr. President, the Senator from Virginia, the chairman of the committee, and the two leaders, are about to have a meeting. I wonder if the Senators here will protect the floor in the interest of both parties.

Mr. BENTSEN. Mr. President, I assure my distinguished friend I will protect the floor as long as it takes for me to make a few comments concerning this issue, and I am sure the distinguished Senator from Nebraska will be in full accord.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I strongly support the Byrd-Nunn amendment to rechannel American policy in the Persian Gulf toward one in which the Congress and the President share the risks and responsibilities of these most serious decisions.

I believe—as this amendment declares—that the United States should maintain a presence in the Persian Gulf and should stand for the right of all nonbelligerent shipping to have safe passage through its waters. That policy entails risks and even the possibility of conflict. But such a policy reflects fundamental U.S. interests and is consistent with our historic principles.

The one I strongly disagree with, though, is the reflagging of the Kuwaiti tankers. I frankly think what that does is narrow our options. It does not give us the flexibility that we would have otherwise. You have a situation where the mayor of Kuwait can be jerking our chain when it comes to foreign policy. If you decide as a President or as a government that you are no longer in accord with policies of a little country like Kuwait, and now you decide that you want to take those flag off, you have yourself a high-profile diplomatic incident.

Much better to choose day by day those tankers you want to escort and those tankers you do not and the day that you are not allowed to bring your supplies through a country, to base your sailors in a country, the day that you do not have a conformity of objectives, a correlation of objectives, that is the day you turn your ships aside and you no longer escort that country's tankers and they get the message and you do not have the kind of high-profile diplomatic incident that you have with this foreclosure of your options and putting the American flag on those Kuwaiti tankers.

I noticed that our other allies, the French and the English, are also in there with their naval vessels and they are escorting ships, but they are not putting their flags on tankers other than their own national tankers.

So that is why I think this amendment does a job.

This amendment allows us to reconsider that policy in the light of recent developments, especially the escalating threats to shipping in the Gulf. It allows the President an opportunity to fashion a strong bipartisan policy which protects our interests while reducing our vulnerabilities. This measure also bases our actions on the joint decision of those who, under our Constitution, share the responsibility for choices which involve the risk of war.

This is not a "turn-tail, cut and run" policy. Rather, it is a "get smart" policy which puts us back in control of our own fate.

By agreeing to the Kuwaiti request to reflag and protect its tankers, the United States surrendered its flexibility to that nation. We have reduced our options. We have had to expose our sailors to hostile fire whenever

Kuwait chose to move its tankers. We linked ourselves to one side in this prolonged and deadly war, thus limiting our ability to work for a diplomatic end to the fighting. We have upped the ante and gambled the prestige of the United States on the willingness of the Ayatollah's followers to back away from a confrontation with us.

When we embarked on this policy, the military threats were considered low to moderate and the overriding diplomatic goal was to keep the Soviet Union from improving its position with the Gulf states.

Instead, what we see now is that the Kuwaitis are trading us off against the Russians, that they are leasing tankers from the Russians, thus giving them an enhanced role in the diplomacy of the region, and we found that the U.S. Navy was ill-prepared to overcome an old-fashioned threat of mines. Those developments also make it important for us to reconsider the policy we have been following in the gulf.

This amendment forces the administration to review its policy, to answer the questions which have been troubling so many of us, such as the costs and the risks and the way this action fits with our broader security objectives, and then to report back to the Congress with its recommendations.

This measure forces this reassessment by requiring the termination of the reflagging and of the naval escorts of reflagged ships in 3 months—unless Congress enacts a specific law authorizing such actions.

Mr. President, I really commend those who fashioned this piece of legislation in a way to protect our constitutional prerogatives while minimizing the challenge to our President. This amendment tracks the process of the War Powers Resolution without specifically invoking its strictures. It lets the President try to win congressional approval of his chosen policy with expedited procedures. It mandates a change in our current actions without forcing the President to admit the flaws and dangers of current policy.

Nevertheless, the situation envisaged by the War Powers Resolution is present in this case. We have a large flotilla of over 40 ships in or near the gulf. They are equipped for combat, and some of them have already been involved in hostilities. Just this week we learned of a new mine field off the coast of Dubai.

Before the situation becomes more dangerous, before more Americans come under attack, we need to pause for consultation, cooperation, and try to develop a consensus. Frankly, I think war is too important a matter to be decided by just one man. As the framers of our Constitution realized, that heavy responsibility is one which ought to be shared by the President and the Congress alike.

To prevail in the gulf, we must be strong. To be strong, we must be united and prepared. To be united and prepared, we need a policy that links our actions and capabilities to U.S. interests rather than to the whims and wishes of others.

Mr. President, I believe that the United States has important reasons for being in the gulf, for trying to prevent the domination of that region by the zealots in Teheran, for helping to protect our economy and that of our allies from the consequences of an interruption in the oil supplies from that area.

And I understand that this country has a small percentage of its imports coming from the Persian Gulf but that situation is beginning to escalate insofar as our dependence and even with a small percentage. If you closed down that supply of oil, oil is fungible, you have a situation where allies that were denied that kind of oil from that source would be competing with us and other foreign markets and we would have an economic chaos we would find visiting our shores.

So those are the interests that I think should govern us in trying to determine how we can minimize the risk to American sailors, soldiers, and airmen in the Middle East. This amendment would weigh those factors that make the needed change in our current policy. I strongly support it.

Mr. President, I yield back the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. Dodd). The Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to engage the distinguished chairman of the Armed Services Committee, Senator Nunn, in a brief colloquy regarding an Air Force program designed to ensure the accuracy of military aircraft navigational aids.

The program, known as C-FIN (Combat Flight Inspection Aircraft) involves a small number of aircraft which are specially equipped to validate the accuracy of NAVAIDS such as TACANS, ILS's, and VOR's. The mission of these aircraft is essential to the safe operation of all other military aircraft.

Just recently, the last C-140 which performed this mission was retired.

Earlier this year, the Air Force had proposed to fund five replacement aircraft through a reprogramming request. Unfortunately, that request was effectively denied last night when the funds identified for the program expired as the fiscal year ended.

We now have a situation, Mr. President, in which we have no aircraft to perform this vital mission, and no funds available to buy replacement aircraft.

It is my hope, Mr. President, working with our distinguished ranking member, Senator Warner, and the distinguished chairman, who has been most helpful in this effort, that the Air Force will carefully review its requirements during the new fiscal year and make every effort to find those funds necessary to support another reprogramming request to procure the vitally needed C-FIN aircraft.

I yield to my colleague, the distinguished chairman.

Mr. NUNN. Mr. President, I thank the Senator from Arizona.

Let me offer a few comments. First, the Senator from Arizona has been diligent in pushing this program. As the Senator noted, this was a reprogramming request. The Senator talked to me about it several times. I also talked to Senator DeConcini about it, and I have discussed it with other Senators. But Senator McCain, who is a valued member of our committee, has been very concerned about this program, and I think appropriately so.

Mr. President, this issue came to my attention just in the last 2 weeks, while we were on the floor in debate on this bill. It has been rather difficult to get all the facts concerning this request, and that has been one of the problems.

The Air Force currently operates six old and rather obsolete aircraft as flight inspection aircraft. I think the Senator has already alluded to that. These aircraft are used to check and calibrate ground-based electronic systems that are used for navigation of aircraft.

These aircraft are critical for major air operations. For example, if we had to have a major airlift operation and the major airlift aircraft—the C-5's, C-131's, C-130's, and so forth—were called into operational readiness and action, these flight inspection aircraft would go in advance to the destination where they would confirm that the local radars and the navigation devices worked properly so the flow of the transportation aircraft could proceed at maximum efficiency.

The six aircraft currently operated by the Air Force are obsolete. I think all of us would agree that they need to be replaced in some fashion. The current aircraft are expensive to operate and increasingly difficult to support logistically.

The committee had a reprogramming request from the Air Force to modernize these aircraft. The total programming cost would have been $100 million. And I believe we had a $81 million reprogramming request pending. Our committee did not take action on this request and, of course, the funds lapsed last evening.

We did not take action because there were Senators concerned about the program. I think the Appropriations Committee had serious concerns about it. That concern, I believe, was well founded based on the situation we were in at the last minute. Nonetheless I think there also was a consensus that somthing needs to be done.

The Air Force has never put this program in its budget. We expect them to address the problem now and address it in the normal budgetary fashion and come before our committee. There is certainly no prejudice intended to the program that the Air Force had planned.

We invite the Air Force to come forward with a program and put it in the regular budget cycle. I think there will be a great deal of receptivity to that kind of program in the committee, because we all know, as the Senator from Arizona has observed, that something has to be done. The status quo is not acceptable.

Mr. McCAIN. Mr. President, I wish to express my sincere appreciation to the chairman for his personal interest in this issue. There are a myriad of programs—planes, ships, tanks, guns—that come to the attention of the committee. I feel confident that, with the attention of the chairman, we will be able to arrive at a resolution to this very important problem and challenge that faces the Air Force.

I appreciate very much the chairman's interest and concern in this issue.

Mr. NUNN. I thank the Senator from Arizona. I pledge I will continue to work very closely with him and with the Air Force in trying to see that this problem is addressed properly and resolved.

Mr. WARNER. Mr. President, I have worked with the distinguished chairman of our committee on this matter. It was the judgment that we should have gone ahead, which I think should have been done in the Armed Services Committee. But for other reasons in the last few minutes the agreement failed.

Mr. NUNN. Mr. President, I will say the Senator from Virginia did urge the approval of that request. We thank him for his advice on that. Our committee did take action on that reprogramming request. We had gotten information that another committee was opposed to it and any action we took would have been moot because reprogramming would not have been culminated without approval of all the committees involved, the House and the Senate.

Mr. WARNER. Mr. President, the chairman is correct. The chairman and I met on that several times during the course of yesterday and communicated with each other up until just a few minutes before midnight.

Mr. EXON. Mr. President, at the present time, the majority leader, minority leader, and the chairman and ranking member of the Armed Services Committee are meeting to try and come up with a resolution to the difficulty that faces the Senate. I have been advised that they are likely to be on the floor very shortly.

If there are any other Senators who wish to speak on this subject before the Senate, or anything else, they are welcomed to do so at this time.

But, seeing no Senator seeking recognition, at this time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Byrd amendment in the second degree to the Weicker amendment.

AMENDMENT NO. 837

Mr. NUNN. Mr. President, I ask unanimous consent that I may offer an amendment which has been agreed to on both sides. It is simply a report. It has nothing to do with a mandate or action as far as substance is concerned. It is a report from the Pentagon.

I ask unanimous consent that the pending amendment be temporarily laid aside for the purpose of taking up this amendment offered by Senator WARNER and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I ask that the amendment be made in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. WARNER, proposes an amendment numbered 837.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . REPORT ON ELIMINATION OF BALLISTIC MISSILES.

(a) Not later than 30 days after the date of enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives examining the military consequences of any arms control agreement that would provide for the elimination of all U.S. and Soviet strategic ballistic missiles.

(b) Such report shall be submitted in classified and unclassified form and shall include a discussion of the strategic, budgetary and force structure implications of this proposal for:

(1) U.S. and allied conventional defenses in Europe, the Far East and other regions vital to U.S. national security;

(2) U.S. tactical nuclear deterrence in such areas;

(3) U.S. strategic offensive retaliatory systems not affected by this proposal, including U.S. bomber forces and cruise missiles;

(4) U.S. air defenses needed to counter Soviet bomber forces and cruise missiles;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) Any new programs which may be deemed necessary to maintain the position of the United States in light of the relative advantage conferred by this proposal on other nuclear powers, including the People's Republic of China, whose strategic ballistic missiles would not be limited.

Mr. NUNN. Mr. President, this amendment provides that no later than 30 days after the date of enactment of this act, the Chairman of the Joint Chiefs of Staff shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives examining the military consequences of any arms control agreement that would provide for the elimination of all United States and Soviet strategic ballistic missiles.

Mr. President, this is a report that we need in the Armed Services Committees not only to evaluate our arms control position, but also our arms modernization.

Mr. WARNER. Mr. President, this is a very important subject. I commend the chairman for working on this amendment and originating it. I am delighted to cosponsor it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 837) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AIRCRAFT CARRIER REPLACEMENTS

Mr. TRIBLE. Mr. President, I rise to underscore my strong support for authorizing two new aircraft carriers in this defense authorization act.

Carriers from the cornerstone of the 600-ship Navy. They are the most visible symbol of our naval power and the best general purpose naval weapons system in the world. America relies on the carrier as a flexible, powerful instrument of policy in times of peace, in times of crisis, and in times of conflict.

To meet out national needs we must have—at a minimum—15 deployable carriers. This minimum level has been endorsed by experts, the Joint Chiefs of Staff, and by the Chief of Naval Operations.

In order to maintain a level of 15, our aging carriers must be replaced.

That's why this bill authorizes funding for two new Nimintz-class nuclear-powered aircraft carriers.

Even with extensive overhaul and modernization, the experts tell us a carrier reaches the end of its useful service life in 45 years. The *Midway,* commissioned in 1945, is now 42. If we begin building a replacement carrier today, the *Midway,* will be 51 years old by the time a new carrier is available. We cannot delay, we must start the procurement process now.

Beginning the process of replacing carriers makes sense from a strategic viewpoint. And, it makes sense from a budgetary viewpoint as well.

Simply put, we must replace carriers and beginning now saves us money in the future. Studies indicate that each year of delay increases the cost of each proposed carrier by a minimum of $250 million in real, inflation-adjusted terms. Starting work on two new carriers now will save at least $700 million on their cost. That's a minimum savings estimate. After careful examination, the Navy concluded that by requesting the carriers now, the taxpayers will actually save $3 billion.

Mr. President, these figures are not merely speculative. They can be verified by examining the Navy's recent experience in construction outlays. Newport News shipbuilding recently delivered the U.S.S. *Theodore Roosevelt* to the Navy 16 months ahead of schedule and under projected costs. This outstanding shipyard is currently building the U.S.S. *Abraham Lincoln* and the U.S.S. *George Washington* using the same construction schedule used for the *Roosevelt.* These carriers will be delivered much earlier than originally scheduled and at a cost more than $1 billion under appropriated levels.

Mr. President, Newport News Shipbuilding employs a highly skilled and productive work force. These men and women have worked together for years and have clearly demonstrated their considerable skills and craftsmanship. They stand nearby to build these ships and help America promote the cause of peace and freedom around the world.

DIPLOMATIC CRIME

Mr. HELMS. Mr. President, last Friday I offered as an amendment to S. 1174, the Department of Defense authorization bill, a proposal to restrict diplomatic immunity in cases of violent and other crimes committed by family and support staff of foreign diplomats. The proposal was defeated, 48 to 46.

I am hopeful that, upon further study and reflection, Senators who opposed the proposal will recognize its merit and the need for prompt action.

In that regard, I call to the attention of the Senate an editorial which appeared in the Wall Street Journal of yesterday, and ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Sept. 30, 1987]

Diplomatic Crime

Last month, the 20-year-old son of Senegal's ambassador to the U.S. was released by Washington, D.C., police after he allegedly left the scene of a traffic accident in which he had injured two people. Although he was cited for reckless driving, a police statement said Sidy Kane was "not arrested because . . . he's protected by diplomatic immunity."

Like the 37,000 other members of the foreign diplomatic community living in the U.S., Mr. Kane enjoys diplomatic immunity and cannot be arrested, prosecuted or sued for damages in connection with any crime.

Under a bill introduced by Senator Jesse Helms of North Carolina, diplomatic immunity would be limited only to foreign diplomats and consular officials. Relatives, dependents and staff members attached to diplomatic missions could be prosecuted for drug trafficking, reckless driving and certain violent crimes.

Diplomatic immunity is a useful principle that enables emissaries to work abroad without being harassed. But why extend such privileges to people whose closest link with foreign policy may be chauffeuring an ambassador about town? Chuck Ashman, coauthor of a recent book on the misuse of diplomatic immunity, says most crimes are committed by the sons, daughters, spouses and aides of diplomats. "They are all briefed by their country's officials before they come here," he says, "and they are told our laws can't touch them. As soon as a policeman comes to the scene, they claim diplomatic immunity."

Peter Christiansen, a retired police detective, told a Senate hearing last month that after weeks of work he arrested a man linked to at least 15 rapes in the New York City area. Although the suspect was positively identified by two victims, he had to be released because he was the son of Ghana's ambassador to the United Nations. The man spent 45 minutes in custody and left the police station laughing. He later returned voluntarily to his homeland.

The State Department has recorded only 31 cases of crimes committed under diplomatic immunity, but the American Federation of Police, a nonprofit group of law-enforcement officers, says hundreds of other cases aren't reported because they are dropped on the spot by local police in Washington, New York and the 37 other cities with consulates.

The State Department argues that diplomatic immunity must be granted to all foreign members of the diplomatic community in order to ensure that foreign governments don't retaliate by filing trumped-up charges against U.S. diplomats. But under the 1961 Vienna diplomatic convention, the U.S. has the right to question the fairness of a foreign judicial system—as it did in the case of Turkey in the 1960s—and negotiate to use its own legal rules. In addition, the U.S. already waives its immunity for the crimes specified in Senator Helms' bill, thereby following the principle of international reciprocity and minimizing potential resentment abroad.

Last Friday, Senator Helms attempted to attach his limitation on diplomatic immunity to a defense appropriations bill, but the move was tabled by a vote of 48-46. He plans to bring up the issue again soon both in the Foreign Relations Committee and on the Senate floor.

U.S. diplomats need to feel secure as they go about their business abroad, but the American principle of equal justice under law also needs to be upheld. Closing a legal loophole that allows foreign citizens who aren't diplomats to avoid responsibility for their actions would both deter future incidents and send a message that in this country respect for the rule of law prevails.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, the Senator from Nebraska indicated on the floor earlier for the information of other Senators, so that we do not keep these things secret, that the chairman and the ranking member of the Armed Services Committee were off meeting with the minority leader and the majority leader, attempting to have a resolution to work ourselves out of the difficulty we find ourselves in now.

Could the chairman of the Armed Services Committee bring us up to date? Is the meeting still going on? Is it not being held? Could we have a little explanation of what we might expect for the rest of this evening, if it is not a secret?

Mr. NUNN. I will say to my friend from Nebraska, the good news is you can have an explanation; the bad news is we do not have it resolved. We have been with the majority and the minority leaders. We still have two substantive matters before the body, the War Powers Act and the SALT II extension. We have had a good discussion, a good meeting. The minority leader has gone back to talk to his side of the aisle with Senators interested in the two subjects. The majority leader is having another meeting in his office with those interested. Once we have both met with our respective Senators interested in this on both sides of the aisle, we hope to get back together this evening and try to propound a unanimous-consent request. The idea is to find a formula where we could handle or complete both of these matters in one fashion or another and pass this bill either tonight or tomorrow morning. That is the goal.

Mr. EXON. I thank my friend and I appreciate the explanation.

Mr. NUNN. I thank the Senator.

Mr. President, I want to thank the Senator from Nebraska for the tremendous leadership he has given our committee this year. He has done a fantastic job with one of the most difficult subcommittees we have. He has exercised exemplary leadership. He has created solutions to problems that we never thought we would find solutions for, certain problems that were almost unsolvable. That is the reason we have been able to go this far. I do thank the Senator from Nebraska, the chairman of the Strategic Subcommittee, for that effort and I also thank him for assisting me as manager of this bill during the entire 3-week period.

Mr. President, we have had, I believe, more hours on this bill than any bill we have had in a long number of years. I will be making a statement on that tomorrow. It has been a very long and a very important debate. The Senator has played a very important role and I thank him for his work.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PRESIDENT ARIAS' VISIT

Mrs. KASSEBAUM. Mr. President, last week, the day before President Oscar Arias of Costa Rica addressed the Congress, the state of Kansas was honored by his visit. On Monday, President Arias delivered the 77th Landon Lecture at Kansas State University.

President Arias' message in Kansas, which evoked a standing ovation, was similar to his message to us here in Congress. His message was simple and direct. President Arias made a strong appeal for U.S. support for the Central American peace plan.

This is a message we cannot afford to ignore, particularly from a leader of a country which has valued true democracy and individual freedom.

Promoting democracy has long been a U.S. foreign policy goal, but over the past 6 years, this has become a high priority, particularly in our policy toward Central America.

On August 7, the five presidents of the war torn Central American region took an unprecedented, courageous step by signing the Central American peace accord. The five presidents decided to put their regional differences aside and make a coordinated effort for peace and democracy. Despite the risks, the five presidents came together to redirect the future of their region toward peace and development.

As President Arias said, this is an historical moment, and it is one that directly responds to our own efforts to promote democracy, peace, and stability in Central America. I would like to underscore President Arias' statement that we stand at the crossroads of peace and development or war and poverty and that neither we nor the Central Americans can undertake this struggle separately.

Mr. President, this is the heart of the challenge facing our policy today. We cannot undertake this struggle alone, nor can the Central Americans. Our success in supporting the nascent democracies in the Central American region over the past several years is largely due to the fact that we worked with and supported the efforts of the Central American people. And these efforts had bipartisan support here in the United States. We must have the same response to the regional peace plan.

Mr. President, time is running on the Central American accord. And we need to get our act together. We must rise to the challenge that the Central American accord presents and respond with the sophisticated and bipartisan policy which it demands.

This is what our allies in the region are asking us. President Cerezo of Guatemala echoed President Arias' message to us in his address at the United Nations. He to asked us to "respect" the wishes of the Central American leaders and support the Central American peace accord. It behooves the United States as an ally and major power to respond positively.

Our policy, during this very critical time period, must be one of support and respect which includes an appropriate amount of skepticism, not vice versa.

This is exactly how the main crafters of the Central American accord have responded to their own agreement. President Arias acknowledged during his visit in Kansas that there are loopholes in the peace plan and that the road from signature to execution is fraught with stumbling blocks. He has warned his own countrymen not to rejoice prematurely.

But, he has also emphasized that there is political will in the region to comply. Given this political will, he did not see why all these loopholes and doubts could not be dealt with constructively.

Since the August 7 signing, we have seen positive, and constructive steps taken. Peace talks will start in El Salvador on October 4, the Sandinista government has pledged to reopen La Prensa and Radio Catolica without censorship.

But we have also seen actions that cause concern and add to our doubts about whether an accord that ensures a lasting democracy can be finalized. Among these is the Sandinista government's unilateral cease-fire announcement.

A binding cease-fire which moves Nicaragua on the path of national reconciliation cannot be satisfied by a unilateral cease-fire announcement. But under the peace accord, there is still well over a month before the cease-fire must be in place. During this time, we should be urging both sides to respond constructively and flexibly on this issue, as we have seen so far in El Salvador, to work out a formal cease-fire acceptable to both sides.

This is just one of many issues that must be addressed under the Central American accord. We also have our own national security concerns which we need to address constructively within the framework of the accord, including Soviet aid to the Sandinista government and our support for the Nicaraguan resistance.

I would urge the administration to approach these issues constructively and to work and consult closely with the Congress so that we do not squander this important opportunity for peace in the region.

I commend Speaker JIM WRIGHT and House Minority Leader BOB MICHEL for their recent bipartisan efforts to resolve the issue of humanitarian aid for the Contras between now and November 7. The Senate has now endorsed the same efforts, and I think it was a very constructive approach.

Whether Members voted for Contra aid or not, support for the Contras has been our official policy. Although I do not think we should address the military aid question at this time, we do have a responsibility to the Contras as allies during this critical phase in the negotiation process.

Mr. President, as President Arias has pointed out, much remains to be done. Time is short and our allies in the region are asking for our support and respect. I urge that we answer their call positively and with one voice.

ELIZABETH DOLE, SECRETARY OF TRANSPORTATION

Mrs. KASSEBAUM. Mr. President, Elizabeth Dole leaves office today as Secretary of Transportation, having served there 4½ years, with great distinction. I have had the pleasure of working with her both as chairman of the Aviation Subcommittee of the Commerce Committee as well as ranking member of that subcommittee.

I believe her record as Secretary of Transportation has been extraordinary in the field of safety. That is what she dedicated herself to when she became Secretary of Transportation.

I believe over the tenure of her service she has focused on that subject on highways, aviation, and railroads. It is to her great credit that she really galvinized all of the transportation modes to the importance of safety. She will be missed in that spot as she leaves, as she said, to take on another cause, which is campaigning with her husband Bob Dole. I am supportive of that cause as well.

I do know that whatever course Elizabeth Dole will follow, she will follow it with much dedication, integrity, distinction, perseverance, and good will, and I wish her well on all of the challenges which she will undertake in the future.

Mr. President, I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1988

CHANGE OF VOTE BY SENATOR DOMENICI ON ROLLCALL VOTE NO. 288

Mr. DOMENICI. Mr. President, with reference to rollcall vote No. 288 on the Interior appropriations bill (H.R. 2712) the Senator from New Mexico is officially recorded in the negative. According to the tally in the well my vote should have been "aye." I believe I voted "aye," and I was improperly recorded as "nay." I ask unanimous consent that the Record be corrected to reflect an affirmative vote on the subject that I just described to the Senate. This will not affect the outcome of the vote in that on the vote there were only five negative votes, including my erroneous negative vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I would like to say there is no objection on this side to that. I understand that happens from time to time. As hard as they try up there, either we say the wrong thing or they make mistakes. We are happy to accommodate my friend.

Mr. DOMENICI. I thank my friend from Nebraska.

(The corrected rollcall vote is as follows:)

[Rollcall Vote No. 288 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—4

Gramm
Helms
Proxmire
Roth

NOT VOTING—4

Dodd
Gore
Simon
Simpson

So, the bill (H.R. 2712) was passed.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

THE BORK NOMINATION

Mr. HUMPHREY. Mr. President, as a supporter of the Bork nomination, I was sorry to hear the speech of the junior Senator from Pennsylvania today. But the Senator, as a member of the Judiciary Committee, was at the hearing. And I would have to acknowledge in his case, and that of other Members, there was no need for a great deal of additional time-consuming study on his part.

I would hope other Senators would take a little more time in making a decision. The transcript of the hearing is very long, after all. The hearings comprised nearly 3 weeks. The committee has not even had time to issue a report. And a Supreme Court nomination is a very, very weighty matter. One hopes Senators will spend time studying the transcript and the committee report before taking a stand on the nomination.

Due process is a phrase that came up a number of times in the hearing. We have due process of our own in this body. It involves committee hearings and committee reports. It involves floor debate. All of this due process is designed to facilitate wise decisions by Senators. I know Senators want to act wisely in this matter. Surely, then, Senators will not want to short circuit the due process by which this body is supposed to function. Surely careful study and deliberation is in order.

I know some Senators are under immense pressure. The distinguished columnist, George Will, wrote recently about the political pressures on Senators in the Bork confirmation process. And there are immense political pressures. Pressures generated by a political campaign of unprecedented proportions in the context of Supreme Court confirmation votes. Indeed, so politicized has become this confirmation vote, George Will wrote, that some are "pioneering a constitutional wrinkle the framers neglected to provide—popular election of Supreme Court Justices."

Let us ponder those words for a minute. Let us savor those words for a minute because while the passage is brief, it is weighted with significance and meaning as is often the case with this writer, the columnist, George Will. Mr. Will notes in connection with all of this campaigning for and against Bork, and Will wrote that some are "pioneering a constitutional wrinkle the framers neglected to provide—popular election of Supreme Court Justices." It rings true to this Senator. This process has become so politicized in the last month that indeed the pressure on some Senators amounts to an attempt to institute the popular election of Supreme Court Justices. George Will is right, I believe. George Will's observation is correct, I am sorry to say. Special interest groups have generated so much pressure, Senators may well be swayed by such pressures rather than by a careful reading of the transcript built at a cost of so much labor by the Judiciary Committee of the U.S. Senate.

Will said:

> Reasonable people can disagree about the propriety of Bork's beliefs and the proper role of the Senate in confirmations. But surely some things * * * are lost when the ethic of routine political competition and transactions is extended to the solemn task of constituting a court.
>
> Today, fund-raising campaigns are financing media blitzes to shape opinion-poll results that will, the interest groups hope, reduce enough Senators to the status of passive electors in an electoral college sitting in the Senate Chamber.

Again, let us weigh those words. They ring true to this Senator:

> Today, fund-raising campaigns are financing media blitzes to shape opinion-poll results that will, the interest groups hope, reduce enough Senators to the status of passive electors in an electoral college sitting in the Senate Chamber.

Certainly, to the extent that we yield to such pressures, the pressures of special-interest groups who have sallied into this confirmation process, we become simple electors and the Senate becomes simply an electoral college. That is not the concept of the Senate. Electors do not need 6-year terms. We could serve for a few days only and fulfill the responsibility and function of electors. That is not our function. But it appears to George Will and to this Senator, and I suspect to many observers, that this politicization of the confirmation process indeed is turning Senators, to some extent, into simple electors and the Senate into a simple electoral college.

The vacancy to which we will consent or refuse to consent is not a vacancy on the U.S. "Court of Special Interests." It is a vacancy on the Supreme Court of the United States.

George Will goes on to say:

> Today's attempt to break the Supreme Court to the saddle of manufactured fictitious opinion is a more fundamentally radical attack of the Court than FDR's attempt to pack the Court by enlarging it. Packing was to be a one-time tactic that could not have been repeated regularly unless the Court's bench was going to be replaced by bleachers.

Mr. Will clearly implies here that if this new attack on the Court succeeds, there is no limit to future use of the same campaign tactics whenever there is a vacancy on the Court.

Mr. President, I will have remarks to deliver in due time about my position on Judge Bork's confirmation. But I thought it well on this day, when a number of Senators have come to the floor and announced their position—prematurely, I believe, with all due respect—to dwell for a moment on the concerns of George Will and many others of what is becoming of this confirmation process.

This concern is one shared by many wise and temperate men and women of all parties. Will speaks of Senators becoming simple electors, of the U.S. Senate becoming a simple electoral college, completely in contravention of its independent role. He speaks of a radical attack on the Court. I believe it is something for us to think about.

Each Senator will come to his or her conclusion on the Bork nomination, but let us proceed with decorum and care. We have seen an effort by special interest groups to stampede this body, but let us not be stampeded. Let us at least take the time to examine the transcript of the hearings. Let us at least wait until a committee report is available. If we let pressure groups stampede us, we can be sure that the tactic will be repeated with ever greater intensity and with ever more political, ever more expensive campaigns mounted to influence the vote of Senators.

Mr. President, I ask unanimous consent to have printed in the RECORD the opinion piece by George Will, to which I have alluded in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SCALE AND INTENSITY OF THE ANTI-BORK CAMPAIGN

Sen. Bob Packwood, an Oregon Republican, is an evenhanded moralist who, with fine impartiality, apportions his fervor on several sides of some issues. Today he is among those who are pioneering a constitutional wrinkle the Framers neglected to provide—popular election of Supreme Court justices.

Robert Bork's opponents are of three sorts: those who say he is dangerous because he is an "inflexible ideologue" (flexible ideologues are, presumably, preferred), those who say he is too changeable and those who, suffering cognitive dissonance in the service of their country, say both. Packwood, who will filibuster if necessary, says Bork is intolerable regarding "privacy," meaning abortion.

Now, no one expects Packwood or any other politician to be a martyr on the altar of consistency, but this is a bit thick coming from the man who, when opposed in an election by an anti-abortion candidate, was operatic in his denunciation of single-issue politics. Jack Minor, a reader of the Portland Oregonian, writes in a letter to the editor: "Is this the senator who said that the voters should not oppose him last election solely because of his pro-abortion stance because it should not be a one-issue campaign? Do I smell a hypocrite?"

Not really. Packwood's opposition to single-issue politics certainly does vary too much with the issue. But he also is showing fidelity.

He has sincerely supported and has received generous financial support from feminists. What is, however, dismaying about Packwood's current politics is the disappearance of an important inhibiting distinction. It is the distinction between fighting for friendly and worthy interests in purely political controversy, as Packwood did for Oregon's timber industry regarding tax reform, and putting one's political power at the service of constituents and others eager to guarantee certain results from judicial processes.

Reasonable people can disagree about the propriety of Bork's beliefs and the proper role of the Senate in confirmations. But surely some things—for starters, the ability to debate reasonable distinctions—are lost when the ethic of routine political competition and transactions is extended to the solemn task of constituting a court.

Today, fund-raising campaigns are financing media blitzes to shape opinion-poll results that will, the interest groups hope, reduce enough senators to the status of passive electors in an Electoral College sitting in the Senate chamber. Bork's supporters are now driven, against their correct sense of decorum, to arm themselves of a campaign, or else concede defeat. Such is the dialectic of the degradation of judicial institutions.

The scale and intensity of the anti-Bork campaign refute the premise that is supposed to legitimize the campaign. The premise is that there is nothing new going on, that the Senate has always "considered a nominee's judicial philosophy," as though that is what is going on.

This process has had its moments of unintended hilarity, as when the painter Robert Rauschenberg testified (by Lord knows what authority) on the tears and tremblings of America's artists—every paint-smeared one of them. In a statement that used words the way Rauschenberg uses paint (it was the rhetoric of random splatter), Rauschenberg announced that America's artists, who once cultivated an aura of Bohemian nonconformity, are remarkably "unanimous" in opposition to Bork. (Talk about a herd of independent minds.)

The anti-Bork army, which sometimes has attributes of a mob, has been swollen with organizations such as the Epilepsy Foundation of America, the United Cerebral Palsy Association, the Retarded Citizens Association, among others. Many Americans would be surprised to learn that their charitable support has been conscripted for the liberal onslaught on Bork.

The ease with which such groups have been swept together for the first time in such a campaign reflects, in part, the common political culture of the people who run the headquarters of the compassion industry.

Today's attempt to break the Supreme Court to the saddle of manufactured or (as in the Rauschenberg case) fictitious opinion is a more fundamentally radical attack on the court than FDR's attempt to pack the court by enlarging it. Packing was to be a one-time tactic that could not have been repeated regularly unless the court's bench was going to be replaced by bleachers.

The transformation of the confirmation process into a contest between massed battalions is a perverse achievement of people who, like Packwood, claim to be acting to protect the court from Bork's jurisprudence, which they say would leave all our liberties to be blown about by gusts of opinion.

ORDER OF PROCEDURE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may proceed as in morning business for about 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF ROBERT G. BLAIR

Mr. MURKOWSKI. Mr. President, Robert Blair died September 14, 1987, at the age of 62 in Kodiak, AK. I rise today in tribute to his life. Bob Blair's philosophy was hard work, love of family and love of his fellow man. He saw his share of adversity. His first child died at an early age. His first wife was killed in an automobile accident. He was a businessman, and his business ventures felt the effect of the roller coaster that marks the American economy. Bob reacted to adversity by renewing his life with even greater commitment and by devoting himself to his community. He expanded his ventures, and he helped those in need. He gave of his energy, his enthusiasm and his compassion; and his community, as well as his family and nation, were the beneficiaries of his life.

Bob's concern was as specific as ensuring a widow in his community had milk to drink, or helping rebuild the burned-out home of a neighboring family. His concern was as general as his active involvement in the American Legion, the Elks, Lions, VFW, Moose, and other organizations.

His commitment to life and his willingness to implement that commitment in the most personal way is perhaps best illustrated by his family. After remarrying, he and his wife raised 3 children from his first marriage, 5 from his second, and 20 Amerasian children he either adopted or sponsored. Twenty-eight children in all, Mr. President, named, James, Robin, Douglas, Kathy, Tony, Darrell, Raeann, David, Danny, Karen, Joe, Bobby, Lex, Dwayne, Steven, Heidi, Edward, Andrew, Sam, Norman, Alan, John, Dottie, Richard, Robert, Raymond, Gary, and Tommy. I can think of no finer way to transmit to the future the values of compassion and enterprises that embodied Bob Blair's life. Taking children into his home and raising them as his own was not a gesture; it was a commitment.

Mr. President, Bob Blair's philosophy was made concrete and tangible by his contributions to his community. And, perhaps more importantly, his philosophy was demonstrated in the intangible ways that touch the souls of those who knew him and took on some of his spirit. He was the source of great inspiration.

Bob earned many of the awards and rewards that come to those who strive for and achieve excellence. But his most important legacy will be written in the hearts of those who have been fortunate enough to know and learn from him. Time can erode and tarnish the sturdiest monument or memorial of stone or steel. But the monument carved in the souls of those who follow in Bob's footsteps will grow and flourish as it is passed on to the following generations. Bob Blair's most lasting memorial will be in the memories of those who knew him.

Mr. President, Alaska is a better place for Bob Blair having selected it as his home. However, the values of his life transcend time or place, and I commend those values to the U.S. Senate.

CHARTER OF UNITED STATES-FLAG VESSELS TO KUWAIT

Mr. MURKOWSKI. Mr. President, today I received news from the Maritime Administration that beginning this November, the first U.S.-crewed, U.S.-flag vessel will begin carrying oil for Kuwait in the Persian Gulf. This is an extraordinary and very significant event, in view of the debate that has centered around the issue of reflagging.

We have talked about reflagging the vessels of other countries and protecting them with our Navy in the Persian Gulf in a convoy concept. But today's announcement marks the first time that we will begin protecting in the gulf an American vessel, flying an American flag, and manned by an American crew.

MarAd advised me that the Chesapeake Shipping Co., a United States subsidiary of the Kuwait Oil Tanker Co., was the winning bidder for the charter of the United States vessel, the *Maryland*. Kuwait will be chartering the *Maryland* from MarAd for 2 years at a cost of approximately $5 million. The terms of the charter call for the vessel to be operated under the U.S. flag and fully manned by U.S. citizens.

Mr. President, on several occasions I have addressed this body to express my concerns over the policy implications of reflagging Kuwait vessels. I have urged the administration to pursue other alternatives as a means of accomplishing our objectives in the Persian Gulf, which clearly to keep the flow of oil. In July, this body adopted by unanimous consent my amendment to the trade bill urging the President to pursue the lease or charter of vessels of the U.S. tanker fleet as one alternative to reflagging.

I am pleased that the agreement reached between MarAd and the Chesapeake Shipping Co., demonstrates the administration's willingness to act on the concern expressed by this body. This is the right decision in defining our policy in the Persian Gulf.

I understand and support the President's desire the help Kuwait make sure its oil gets to market despite the threats by Iran. But until now, we have been providing the American flag for lease and our Navy's protection to ships that really remain Kuwaiti ships. They have Kuwaiti crews, with the exception of the master and the radio operator.

Further, under the application of the reflagging of those ships, it is legitimate under the law, but it is a bit of a subterfuge, because they can be reflagged with the U.S. flag with a U.S. master and a U.S. radio operator, until they touch a U.S. port, and then they must, of course, meet the requirements of putting on a U.S. crew. The subterfuge is simply that there is no intention that those ships will ever touch a U.S. port.

So the reality is that no matter what kind of legal fiction we have been engaged in regarding reflagging, now, for the first time, we are talking about a much more appropriate way to go about our objective in the Persian Gulf. It is to use the ships of our own idle tanker fleet, some 40 of which were built with U.S. construction subsidies, and involve ourselves in the carriage of this oil and appropriately protect that movement with our Navy.

This is simply what the British and the Soviets have been doing for an extended period of time and this is an approach that makes sense and it is an approach that I think supports the axiom that charity begins at home.

Certainly, our Navy must play a role in insuring that the sealanes of the gulf remain open for all free nations. However, a policy to deal with such important threats cannot depend for its cornerstone on transparent, legal fiction. Reflagging up until this point has been a transparent legal fiction.

We all know in this body, Mr. President, that the American flag is not just a piece of cloth available to be leased or for loan for convenience. There is a reason why our men and women in uniform commit themselves to defend it. You need only walk on the fantail of a destroyer sailing in harm's way to know what our flag represents. But the policy of loaning the flag away set a terrible precedent and greatly diminished its meaning.

When the U.S. owned, U.S. crewed vessel *Maryland* begins service in the gulf next month, escorted by the U.S. Navy, we will have made a significant step and a correct step forward.

I commend the administration for the action taken today. I trust that Kuwait will continue to pursue additional agreements to charter U.S.-flagged tankers and ultimately restore the true meaning of the reflagging in the sense of utilizing the American flag on U.S. ships with U.S. crews.

Mr. President, I ask unanimous consent that today's announcement from MarAd of the details of the charter agreement with Kuwait be printed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION

October 1, 1987.

TANKER "MARYLAND" CHARTERED FOR KUWAIT OIL SHIPMENTS

The Maritime Administration (MarAd) today announced that it has agreed to bareboat charter the 264,000-deadweight-ton tanker *Maryland* for a two-year period to Chesapeake Shipping, Inc., subject to certain terms and conditions. Chesapeake is a Delaware-based U.S. subsidiary of the Kuwait Oil Tanker Company and will operate the vessel in the Persian Gulf crude oil trade.

The agency had put the vessel up for sale or charter in late August after acquiring the vessel in foreclosure proceedings against Boston VLCC VI, a subsidiary of Seatrain Lines. Boston VLCC VI had defaulted on its government-guaranteed mortgage obligations.

Of the six bids received by the Sept. 4 cutoff date, Chesapeake's provided the greatest financial return to the government. It offered to charter the vessel for the two-year period for $5 million. The charter rate covers the reimbursement to MarAd of an estimated $2.5 million in drydocking and repair costs to put the ship in operation. Under the bareboat charter, all operating costs, including crew, fuel, insurance and subsequent maintenance and repair expenses, and positioning the ship in the Persian Gulf, are borne by the charterer.

Of the five other bids received, four were for the purchase of the tanker and one was for chartering.

The *Maryland* will be operated for Chesapeake by Gleneagle Shipping Management of Houston, Tex. The terms of the charter require the vessel to be operated under the U.S.-flag and fully crewed top to bottom by U.S. citizens.

The *Maryland* is scheduled for drydocking in late October for U.S. Coast Guard and American Bureau of Shipping surveys and attendant repair work. The vessel is expected to depart for the Persian Gulf in mid-November.

Mr. MURKOWSKI. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

THE IMPORTANCE OF SECURITY ASSISTANCE TO THE ISLAMIC REPUBLIC OF PAKISTAN

Mr. HUMPHREY. Mr. President, over the coming weeks, Congress will examine the relationship between the United States and the Republic of Pakistan.

Under current law, the President may extend foreign assistance to Pakistan only if Congress acts to waive prohibitions on United States foreign assistance to countries that acquire nuclear enrichment technology and do not place it under the inspection and safeguards system of the International Atomic Energy Agency.

In 1981, the Congress extended that waiver authority for 6 years. At midnight last night, the waiver expired. The President has asked the Congress to restore his waiver authority to continue assistance to Pakistan, and the request is now pending before the Congress.

Mr. President, approval of the President's request for economic and security assistance to Pakistan is critical to ensuring the security of both Pakistan and Southwest Asia.

Pakistan today is directly threatened by the Soviet Union. Afghanistan once provided a buffer between Pakistan and the Soviet empire. Today, 115,000 Soviet troops armed with the most modern weaponry are waging war in Afghanistan, much of it very near Pakistan's 1,200-mile border.

There is no place in the world today where Soviet aggression is more naked than Southwest Asia. In testimony before the congressional task force on Afghanistan, former U.S. Ambassador to the United Nations, Jeane Kirkpatrick, stated:

> The Soviet goal in Afghanistan is effective incorporation of Afghanistan and achievement of a warm water port and geopolitical access to Iran and Pakistan.

In Afghanistan, the Soviets have resorted to massive slaughter of civilians through air and ground attack upon villages. The death toll is near 1 million. Think of it. If you apply that proportion to our own population, it means 16 million dead Americans. Try to imagine 16 million dead Americans. For the Afghans, 1 million dead is not a matter of imagination, but a matter of daily and cruel reality. Fully one-third of the Afghan people have been driven into exile. Imagine 80 million Americans driven into foreign exile and you get some concept of the scope of this catastrophe visited upon the people of Afghanistan by the Soviet Army.

Throughout this horror, Mr. President, Pakistan has stood firmly behind the people of Afghanistan. Clearly, were it not for Pakistan, by now Moscow would have succeeded in dragging a bleeding Afghanistan into the Soviet empire.

For her courage and principle, Pakistan has come under direct attack by Moscow's puppet in Kabul. As far back as 1980, the Soviet-Puppet Regime in Kabul was responsible for nearly 200 airspace violations. In the past 2 years, they tripled their level of violence. Last year alone, the Soviet-Puppet Regime violated Pakistani airspace on 757 separate occasions—256 of these violations involved outright attacks upon Pakistani territory in which 45 innocent civilians were killed and 77 were wounded.

Mr. President, earlier this year, the situation along the border was much worse, as hundreds of innocent Afghans and Pakistanis were killed by almost daily bombing raids along the border.

Recently, the Soviets have increasingly supported wanton acts of terrorism within Pakistan. The vicious car bomb attack in Karachi earlier this year killed more than 70 people. Another bomb near Peshawar recently killed 14 innocent people. Last year, there were 233 acts of sabotage resulting in 162 deaths and more than 500 wounded.

This year the level of violence in these acts of terrorism has escalated.

Mr. President, despite the escalated threats and violence, Pakistan has stood her ground courageously. Standing firm as a bulwark against Soviet imperialism in an extremely complex and troubled region of the world, she has provided refuge to more than 4 million Afghan refugees—today, the world's largest refugee population.

Mr. President, the program of economic assistance and defense assistance President Reagan has requested will greatly help Pakistan continue the progress made over the past several years in economic development and growth. The economy has been growing at an average of 7 percent per year, while inflation has remained low.

The security assistance program will provide a level of assistance which is roughly the same as what Pakistan now receives.

Mr. President, I understand the concern occasioned by the recent arrest of a Canadian citizen who is accused of attempting to export to Pakistan materials which, under law, may not be exported. However, President Zia has unequivocally stated that the Government of Pakistan was in no way involved in the attempted export. The trial of the accused person has yet to begin, facts have not been proven or disproven, nor has guilt.

In any event, the central concern which Senators share, I believe, is proliferation of nuclear weaponry. Pakistan has recently and repeatedly assured us that it has not and will not build a nuclear weapon. Some may dispute the bounds of the Pakistan research effort, but what is clear is the United States should do those things which will encourage Pakistan to refrain from joining the nuclear club. Likewise, what is clear is we should avoid doing those things which will encourage Pakistan to exercise the option of building a weapon.

In this context, it seems to this Senator any action on our part which even appears to reduce the American commitment to Pakistan's well-being and security is an action that will work against our wish to limit the nations which possess nuclear weapons. Let us put ourselves in the shoes of our friends in Pakistan. A mighty and often ruthless imperial power occupies Afghanistan which borders Pakistan to the northwest. A large, and, unfortunately, hostile nation lies to the east. If Pakistan perceives American support for her survival weakening, will she be more inclined or less inclined to opt for force-multiplier weapons, including the nuclear option? The answer is perfectly obvious. She will be more inclined, not less.

Last July, I joined with the distinguished Senator from Ohio in drafting a resolution that placed the unclear question where it belongs: in the regional context. That resolution endorsed the position of the Government of Pakistan, in that it:

> Urges the President to pursue vigorously an agreement by India and Pakistan to provide for simultaneous accession by India and Pakistan to the Nuclear Nonproliferation Treaty, simultaneous acceptance by both countries of complete International Atomic Energy Agency safeguards for all nuclear installations, mutual inspection of one another's nuclear weapons through a joint declaration of the two countries, and the establishment of a nuclear weapons free zone in the subcontinent.

Mr. President, I should add that President Zia advanced these five proposals to India, in an address before the United Nations 2 years ago. These proposals have also been discussed directly between President Zia and the Indian Prime Minister.

Mr. President, yesterday the State Department stated:

> While we share Congress' concern over Pakistan's nuclear program, we are concerned that Congress' failure to act on the Symington authority sends the wrong signal about the continuing U.S. commitment to Pakistan's security.

Sends the wrong signal, indeed, it surely does.

The Soviets are listening with great interest. Any weakening of American friendship for Pakistan means greater opportunities for Soviet imperialism in South Central Asia. Just as the Soviets seem interested in withdrawal from Afghanistan, are we going to back away from Pakistan at this juncture? I hope not. And, of course, even apart from the noble and courageous role Pakistan has played in helping the people of Afghanistan, Pakistan is a very important country in its own right and one which lies along the narrow end of the funnel leading into the Arabian Sea and the Persian Gulf.

What message will the Congress and the United States send to friends and adversaries alike when it addresses the President's request for the Pakistan Aid Program? Will it be the message of strength and steadfastness in support of an ally standing courageously as a bulwark against naked and brutal Soviet imperialism, or will it be the message too often tragically sent by this Nation in recent years, the message of equivocation, the message of retreat? We can be sure Moscow is as anxious to know the answer as is Islamabad.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued the consideration of the bill.

Mr. NUNN. Mr. President, has anyone asked for third reading on this bill?

The PRESIDING OFFICER. Third reading has not yet been requested.

Mr. NUNN. Mr. President, I hope we will be able to do so within the next few hours, at least by tomorrow morning. We have had a meeting and the majority leader will be coming out in a few minutes. I hope he will be propounding some kind of unanimous-consent request that will be agreed to by the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

Mr. BYRD. Mr. President, shortly I anticipate presenting a unanimous-consent agreement to the Senate with respect to the DOD authorization bill and the amendments thereto. But while awaiting the arrival of Senators who are involved in that agreement, I should like to proceed with certain bills that are on the calendar and see if we can dispose of those.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader if the following calendar orders have been cleared on that side of the aisle: Calendar Orders numbered 266, 333, 337, 338, 340, 341, 342, 344, 347, 349, 352, and 355.

Mr. GARN. Those have been cleared on the Republican side.

Mr. BYRD. They have been cleared?

Mr. GARN. They have been cleared.

Mr. BYRD. I thank the distinguished Senator.

REQUIRING DOCUMENTATION FOR PAYMENTS AND REIMBURSEMENTS FROM THE CONTINGENT FUND OF THE SENATE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 266.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 258) to require documentation for payments and reimbursements from the contingent fund of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 838

(Purpose: To amend rule XLI of the Standing Rules of the Senate relating to political fund activities by staff assistants)

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. FORD.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), on behalf of Mr. FORD, proposes an amendment numbered 838.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, add the following new section:

SEC. 2. Paragraph 1 of rule XLI of the Standing Rules of the Senate is amended in the second sentence by striking out "two assistants" and inserting in lieu thereof "three assistants".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 838) was agreed to.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on agreeing to the resolution.

The resolution (S. Res. 258), as amended, was agreed to, as follows:

S. RES. 258

Resolved, That (a) no payments or reimbursements for expenses shall be made from the contingent fund of the Senate, unless the vouchers presented for such expenses are accompanied by supporting documentation.

(b) The Committee on Rules and Administration is authorized to promulgate regulations to carry out the purpose of this resolution and to except specific vouchers from the requirements of subsection (a) of this resolution.

(c) This resolution shall apply with respect to vouchers submitted for payment or reimbursement on and after October 1, 1987, or upon the adoption of this resolution if such adoption occurs at a later date.

(d) Senate Resolution 170, 96th Congress (agreed to August 2, 1979), is repealed as of October 1, 1987, or upon adoption of this resolution if such adoption occurs at a later date. Any regulations adopted by the Committee on Rules and Administration to implement Senate Resolution 170 shall remain in effect, after the repeal of Senate Resolution 170, until modified or repealed by such committee, and shall be held and considered to be regulations adopted to implement this resolution.

SEC. 2. Paragraph 1 of rule XLI of the Standing Rules of the Senate is amended in the second sentence by striking out "two assistants" and inserting in lieu thereof "three assistants".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the remaining bills, Calendar Order Nos. 333, 337, 338, 340, 341, 342, 344, 347, 349, 352, 355.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Wait. The fastest gun on Capitol Hill.

The PRESIDING OFFICER. I try.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the consideration of the foregoing measures; that they be considered en bloc, that amendments where shown be agreed to en bloc, that agreements to the preamble be agreed to en bloc, and that the measures all be agreed to en bloc; that the motion to reconsider en bloc be laid on the table and that statements, where shown by Senators, may be included in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, that is so ordered.

CIVIC ACHIEVEMENT AWARD PROGRAM

The Senate proceeded to consider the joint resolution (H.J. Res. 309) providing support for the Civic Achievement Award Program in honor of the Office of the Speaker of the House of Representatives which had been reported from the Committee on Rules and Administration, with an amendment:

On page 6, line 9, strike "such sums", through and including line 10, and insert in lieu thereof "$680,000 for the fiscal year ending September 30, 1989."

The amendment was agreed to.

The amendment was ordered to be engrossed, the joint resolution was read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble, are as follows:

H.J. RES. 309

Whereas the continuing strength and vitality of American democratic traditions depend on the civic awareness of future generations;

Whereas there is a need to improve the level of civic literacy of American elementary school students and to better their understanding of American history, government, geography, economics, and current events;

Whereas students in the fifth grade through the eighth grade are at a critical stage for development of values, character, and attitudes;

Whereas school libraries and local libraries, as repositories of the record of American history and democratic traditions, are appropriate focal points for civic literacy education;

Whereas in view of the central role of the House of Representatives in our system of government, it is appropriate, in conjunction with the Bicentennial of the House of Representatives and in honor of the office of Speaker of the House of Representatives, to support a national civic achievement award program for students, classes, and schools;

Whereas the Library of Congress, as a national symbol of learning, literacy, and culture, is an appropriate institution to assist in this endeavor; and

Whereas the Close Up Foundation, a nonpartisan, nonprofit, educational organization for citizen involvement in government, is an appropriate organization to conduct such a program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUPPORT FOR THE CIVIC ACHIEVEMENT AWARD PROGRAM IN HONOR OF THE OFFICE OF SPEAKER OF THE HOUSE OF REPRESENTATIVES.

The Librarian of Congress is authorized to make disbursements to the Close Up Foundation, a nonpartisan, nonprofit organization incorporated under the laws of the District of Columbia. Such disbursements—

(1) shall be made upon application by the Foundation and in such form and manner as the Librarian may prescribe by regulation; and

(2) shall be solely for the purpose of assisting the Foundation in conducting the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives described in section 2.

SEC. 2. DESCRIPTION OF THE PROGRAM.

(a) IN GENERAL.—The Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives shall be conducted by the Close Up Foundation, in cooperation with the National Association of Elementary School Principals. The program—

(1) shall be designed to inspire learning of American history, government, geography, economics and current events in the fifth, sixth, seventh, and eighth grades;

(2) shall recognize achievement in civic literacy by students, classes, and schools throughout the Nation;

(3) shall be based upon a specially designed set of learning materials and activities that will allow students to develop and demonstrate civic knowledge and skills; and

(4) may include such program elements as individual and group projects, mastery of academic materials, development of library skills, and community service.

(b) AWARDS.—The Close Up Foundation shall provide annual awards for the program. The awards, in the form of certificates signed by the Speaker of the House of Representatives and other persons designated by the Speaker, shall be presented in the following categories:

(1) Individual students who satisfy award standards.

(2) Classes with a specified percentage of students who satisfy award standards.

(3) Schools with a specified percentage of students who satisfy award standards.

(c) NATIONAL ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives) shall appoint 11 persons who, together with the Librarian of Congress, one representative of the Close Up Foundation, and one representative of the National Association of Elementary School Principals, shall constitute a national committee to advise the Close Up Foundation on the structure and administration of the program. The 11 persons appointed under the preceding sentence shall serve at the pleasure of the Speaker.

(2) EXPENSES.—Members of the committee shall serve without compensation, except that, while away from their homes or regular places of business in the performance of services for the committee, members shall be allowed expenses in the same manner as persons employed intermittantly in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) PARTICIPATION BY LIBRARIES.—School libraries and local libraries shall, to the extent practicable, serve as the primary centers for the distribution of materials and the coordination of testing and evaluation for the program.

SEC. 3. AUDITS AND REPORTS.

(a) AUDITS.—The Comptroller General shall conduct annual and other necessary audits of the program and shall submit reports of such audits to the House of Representatives and to the Librarian of Congress.

(b) REPORTS.—The Close Up Foundation shall submit to the House of Representatives and to the Librarian of Congress semiannual reports of the activities of the program as follows: (1) not later than July 31 of each year, a report relating to the 6-month period ending on the preceding June 30; and (2) not later than January 31 of each year, a report relating to the 6-month period ending on the preceding December 31.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this joint resolution not more than $680,000 for the fiscal year ending September 30, 1988 (of which not more than $100,000 shall be available for reimbursement of expenses of the program incurred during the period beginning on July 1, 1987, and ending on September 30, 1987), and $680,000 for the fiscal year ending September 30, 1989.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN FOREST SERVICE LANDS

The bill (S. 253) to convey Forest Service land to Flagstaff, AZ, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b)(1) of section 1 of Public Law 96-581, relating to land conveyances in the State of Arizona, is amended by striking out "Any conveyances" and inserting in lieu thereof "Except as provided in subsection (c), any conveyances".

(b) Subsection (c) of section 1 is amended to read as follows:

"(c)(1) Of the tract of land described in subsection (a) of this section, the Secretary shall offer to sell at the fair market value as determined on December 23, 1980, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and shall convey, without consideration, except for administrative costs associated with the preparation of title and legal description, to the city of Flagstaff, Arizona, 134.57 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff.

"(2) Title to any real property acquired by the city of Flagstaff pursuant to this section shall revert to the United States if the city attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or if the town permits the use of any portion of such property for any purpose incompatible with the purposes specified in paragraph (3) of this section.

"(3) Real property conveyed to the city of Flagstaff pursuant to this section shall be used for public open space, park and recreational purposes.

"(4) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the city of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a) of this section. All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be the most advantageous to the Government. Notwithstanding any other provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF TRAIL OF TEARS NATIONAL HISTORIC TRAIL

The Senate proceeded to consider the bill (S. 578) to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail.

Mr. FORD. Mr. President, I rise in support of passage of S. 578, to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail.

The bill would, in some small measure, pay tribute to the strength and dignity of the Cherokee Nation. The bill would, in some small measure, recognize the wrong done the Cherokee Nation some 150 years ago.

In 1830, with the support of President Andrew Jackson, Congress passed the Indian Removal Act.

Between 1830 and 1832, all but the Cherokees signed treaties and moved west to what is presently eastern Oklahoma. Twice the Cherokees fought their battle to the Supreme Court. Although the Court's second decision declared that the U.S. Government must protect the Indians, Jackson failed to enforce the decision, and State and local officials confiscated Indian lands. In 1835, a minority faction, speaking for the whole tribe, signed the removal treaty and moved west. During 1837 and 1838, Government soldiers moved the Indians into stockades and then moved them west by land and by water. Hundreds, even thousands, died along the "Trail of Tears."

Mr. President, the National Park Service has had the lead responsibility for the study of the Trail of Tears. The Department of the Interior has filed a favorable report on the study and on S. 578.

A working group considered the trail's eligibility for the designation, trail designation issues, management opportunities or constraints, and assured public involvement in the study process. In addition to the NPS working group, a Study Advisory Committee was organized with representatives from the Cherokee Indians, each of the nine States (Georgia, North Carolina, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, and Oklahoma) within the study area, Federal agencies and historians. The Advisory Committee furnished pertinent information to the working group, reviewed draft study report material, and assisted with public involvement.

The study effort identified a general "trail corridor"; evaluated the historic, cultural and national attributes through the corridor; determined broad landownership patterns; analyzed present and future land use; explored potential trail administration; examined the possible environmental impacts of national designation; and considered an array of trail alternatives.

Mr. President, I recommend that the Congress recognize the great Cherokee Nation and its trials and tribulations by enactment of S. 578 and request that a Department of the Interior communication endorsing the bill be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC. August 12, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 578, a bill "To amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail."

We recommend the enactment of S. 578.

Public Law 98-11, approved March 28, 1983, amended section 5(c) of the National Trails System Act to authorize a study of the Trail of Tears, extending from the vicinity of Murphy, North Carolina, through Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, and Arkansa, to the vicinity of Tahlequah, Oklahoma. The Trail of Tears refers to the routes taken by members of the Cherokee Indian Nation, in June of 1838 and during the fall and winter of 1838-39, from their traditional tribal territory in Georgia to Oklahoma. We have completed our study, and based on its findings we recommend that the Trail of Tears be designated by Congress as a component of the National Trails System.

The National Park System Advisory Board has determined that the Cherokee Trail of Tears is of national historical significance.

Our study report recommends designation of trail corridors comprising two routes: the water routes used for the removal of 3,000 Cherokees during the summer of 1838, and a principal overland route taken by most of 13,000 Cherokees during the fall and winter of 1838-1839. Three side or connecting trails would also be designated.

Under section 5(d) of the National Trails System Act, the Secretary is required within one year of designation to appoint an advisory council for the trail representing Federal land-managing agencies and States through which the trail passes, landowners, and interested private entities. Under section 5(f) of the Act, we are required within two years to prepare and submit to certain Congressional Committees a comprehensive plan for the management and use of the trail. With the help of the advisory council, the plan will identify historic sites and locations for interpretive exhibits which are authorized under section 7(c) of the act. No additional Federal land acquisition is contemplated.

We note that the bill would require us to give careful consideration to interpretive sites in the vicinity of Hopkinsville, Kentucky. The study report did find that interpretive facilities would be appropriate at Paducah or Hopkinsville, Kentucky, and our plan will reflect consideration of these areas. We estimate that the cost of preparing the plan will be approximately $150,000.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

SUSAN RECCE,
Acting Assistant Secretary.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding the following new paragraph at the end thereof:

"(14)(A) The Trail of Tears National Historic Trail, a trail consisting of water routes and overland routes traveled by the Cherokee Nation during its removal from ancestral lands in the East to Oklahoma during 1838 and 1839, generally located within the corridor described through portions of Georgia, North Carolina, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, and Oklahoma in the final report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Trail of Tears" and dated June 1986. Maps depicting the corridor shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Trail of Tears except with the consent of the owner thereof.

"(B) In carrying out his responsibilities pursuant to subsection 5(f) and 7(c) of this Act, the Secretary of the Interior shall give careful consideration to the establishment of appropriate interpretive sites for the Trail of Tears in the vicinity of Hopkinsville, Kentucky".

SEC. 2. Section 10(c)(2) of the National Trails System Act (16 U.S.C. 1249(c)(2)) is amended by striking out "(13)" and inserting in lieu thereof "(14)".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STUDY OF DESOTO TRAIL

The Senate proceeded to consider the bill (S. 1297) to amend the National Trails System Act to provide for a study of the DeSoto Trail, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 1297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "De Soto National Trail Study Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Hernando de Soto landed in the vicinity of Tampa Bay on May 30, 1539;

(2) de Soto then led his expedition of approximately 600 through the States of Florida, Georgia, South Carolina, North Carolina, Tennessee, Alabama, Mississippi, and Arkansas;

(3) de Soto died on the banks of the Mississippi River in 1542;

(4) the survivors of de Soto's expedition went on to Texas, then back through Arkansas, and into Louisiana in search of a route to Mexico;

(5) the de Soto expedition represented the first large group of Europeans to explore so deeply into the Southeastern region;

(6) archeologists have recently uncovered, in Tallahassee, Florida, what may have been de Soto's first winter camp;

(7) the State of Florida has completed identification and marking of close to three-fourths of de Soto's trail in that State; and

(8) several other states are in the process of identifying and marking de Soto's trail within their borders.

SEC. 3. DESIGNATION OF TRAIL.

Section 5(c) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1244(c)) is amended by adding the following new paragraph at the end thereof:

"(31) De Soto Trail, the approximate route taken by the expedition of the Spanish explorer Hernando de Soto in 1539, extending through portions of the States of Florida, Georgia, South Carolina, North Carolina, Tennessee, Alabama, Mississippi, to the area of Little Rock, Arkansas, on to Texas and Louisiana, and any other States which may have been crossed by the expedition. The study under this paragraph shall be prepared in accordance with subsection (b) of this section, except that it shall be completed and submitted to the Congress with recommendations as to **[**its**]** *the trail's* suitability for designation not later than one calendar year **[**from**]** *after* the date of enactment of this paragraph.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN PUBLIC LANDS

The bill (H.R. 242) to provide for the conveyance of certain public lands in Oconto and Marinette Counties, WI, was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DONATION OF CERTAIN LANDS TO THE GETTYSBURG NATIONAL MILITARY PARK

The bill (H.R. 797) to authorize the donation of certain non-Federal lands to Gettysburg National Military Park and to require a study and report on the final development of the park, was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELEASE OF REVERSIONARY INTEREST AND CONVEYANCE OF MINERAL RIGHTS IN CERTAIN LANDS

The bill (H.R. 1205) to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located on Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida, was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF KERN RIVER AS A NATIONAL WILD AND SCENIC RIVER

The Senate proceeded to consider the bill (S. 247) to designate the Kern River as a national wild and scenic river, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) (A) NORTH FORK KERN RIVER, CALIFORNIA.—The segment of the main stem from the Tulare-Kern County line to its headwaters in Sequoia National Park, as generally depicted on a map entitled 'Kern River Wild and Scenic River—Proposed' and dated June, 1987; to be administered by the Secretary of Agriculture; except that portion of the river within the boundaries of the Sequoia National Park shall be administered by the Secretary of the Interior. With respect to the portion of the river segment designated by this paragraph which is within the boundaries of Sequoia National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portion need not be published in the Federal Register. Such revision to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segment.

"(B) SOUTH FORK KERN RIVER, CALIFORNIA.—The segment from its headwaters in the Inyo National Forest to the southern boundary of the Domelands Wilderness in the Sequoia National Forest, as generally depicted on a map entitled 'Kern River Wild and Scenic River—Proposed' and dated June 1987; to be administered by the Secretary of Agriculture.

"(C) Nothing in this Act shall affect the continued operation and maintenance of the existing diversion project, owned by Southern California Edison on the North Fork of the Kern River, including reconstruction or replacement of facilities to the same extent as existed on the date of enactment of this paragraph.

"(D) For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed $100,000, to the Secretary of Agriculture for development and land acquisition.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF A SEGMENT OF THE KINGS RIVER AS A WILD AND SCENIC RIVER

The Senate proceeded to consider the bill (H.R. 799) to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF KINGS RIVER.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"(62) KINGS, CALIFORNIA.—The Middle Fork of the Kings River from its headwaters at Lake Helen between Muir Pass and Black Giant Mountain to its confluence with the main stem; the South Fork, Kings River from its headwaters at Lake 11599 to its confluence with the main stem; and the main stem of the Kings River from the confluence of Middle Fork and the South Fork to the point at elevation 1595 feet above mean sea level. The segments within the Kings Canyon National Park shall be administered by the Secretary of the Interior. The remaining segments shall be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public and within one year after the enactment of this paragraph, the respective Secretaries shall take such action as is required under subsection (b) of this section. In the case of the segments of the river administered by the Secretary of the Interior, the requirements of subsection (b) shall be fulfilled through appropriate revisions to the general management plan for Kings Canyon National Park, and the boundaries, classification, and development plans for such segments need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of the river under this paragraph. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary [to carry out the purposes of this paragraph.".] *but not to exceed $250,000, to the Secretary of Agriculture for development and land acquisition.".*

(b) Renumbering.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1247(a)) is amended by redesignating the paragraphs relating to the Cache La Poudre River, the Saline Bayou, Black Creek, the Klickitat, and the White Salmon as paragraphs (57) through (61), respectively.

SEC. 2. SPECIAL MANAGEMENT AREA.

(a) Establishment.—In order to provide for public outdoor recreation use and enjoyment of certain areas within the Sierra National Forest and the Sequoia National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate fish and wildlife management of those areas, there is hereby established the Kings River Special Management Area (hereinafter in this Act referred to as the "special management area"). The special management area shall be administered by [the Secretary of Agriculture (hereinafter in this Act referred to as "the Secretary") as a separate unit of the Sierra National Forest. The boundaries of the Sierra National Forest and the Sequoia National Forest shall be adjusted accordingly.] *the Secretary of Agriculture (hereinafter in this Act referred to as "the Secretary") through the Sierra National Forest.*

(b) Area Included.—The special management area shall consist of the lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Kings River Special Management Area," dated April 1987. The map shall be on file and available for public inspection in the offices of the National Forest Service, Department of Agriculture. The Secretary of Agriculture may from time to time make minor revisions of the boundary of the special management area.

(c) Administration.—The Secretary shall administer the special management area in accordance with this Act and with the provisions of law generally applicable to units of the national forest system. In the case of any conflict between the provisions of such Acts, the provisions of this Act shall govern. In the administration of the special management area the Secretary may utilize such statutory authority as may be available to him for the conservation of wildlife and natural resources as he deems necessary to carry out the purposes of this Act. Nothing in this Act shall be construed to prohibit grazing within the special management area to the same extent, and in accordance with the same rules and regulations as applicable in the absence of this Act. The Secretary may permit the cutting of timber within the special management area only in those cases where in the judgment of the Secretary the cutting of such timber is required in order to control the attacks of fire, insects, or diseases or to otherwise conserve the scenery or the natural or historical objects in the area.

(d) Mining and Mineral Leasing.—Subject to valid existing rights, lands within the special management area are withdrawn from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States and from operation of the Geothermal Steam Act of 1970.

(e) Hunting and Fishing.—The Secretary shall permit hunting, and fishing on lands and waters within the special management area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife management or public use and enjoyment. Except in emergencies and regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(f) Management Plan.—After consultation with the State of California, the Secretary shall publish a management plan for the special management area within three years after the enactment of this Act. The plan shall provide for public outdoor recreation use and enjoyment of the special management area, protect area's natural, archeological, and scenic resources, and provide for appropriate fish and wildlife management within the area. The plan shall contain provisions for management of vegetation within the area designed to enhance the wildlife carrying capacity of the area. The plan shall permit off-road vehicular use of off-road trails to the same extent and in the same locations as was permitted before enactment of this Act. The plan shall provide for the development of hiking trails in the special management area and shall include a trail from Garlic Creek to Little Tehipite Valley.

(g) Access to Private Lands.—If any State or privately owned land or any valid claim or other valid occupancy is within the special management area, or if State or private subsurface rights underly public lands within the special management area, the Secretary shall provide the State or private owner, claimant, or occupier and their successors in interest such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the site concerned. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of the special management area, taking into account the traditional and customary means of access used prior to the enactment of this Act.

(h) Specific Protections.—In recognition of the dispute that exists over whether a dam project should be constructed in the segment of the Main Stem of the Kings River from the point at elevation 1595 feet above mean sea level downstream in the point at elevation 990 feet above mean sea level, Congress declares its intention at this time not to designate that segment of the Kings River as a component of the Wild and Scenic Rivers System. Notwithstanding any other provisions of law, no Federal lands may be used for the construction of any dam or diversion within the boundaries of the special management area without specific authority of the Congress. In order to protect the natural, cultural, recreational, fishery, and wildlife values of the river segment referred to in this subsection, that segment shall be subject to the provisions of section 7(a) of the Act of October 2, [1986] *1968* (82 Stat. 906) in the same manner as if it were designated. Nothing in this Act shall preclude the Kings River Conservation District from conducting studies as it may deem appropriate.

Mr. WILSON. Mr. President, will the distinguished chairman of the Public Lands, National Parks and Forests Subcommittee yield for a question?

Mr. BUMPERS. I am happy to yield to my friend, the junior Senator from California.

Mr. WILSON. Section 2 of H.R. 799, as passed by the House of Representatives and reported by the Energy and Natural Resources Committee, would establish the Kings River special management area. Subsection 2(c) of the bill effectively prohibits timber cutting within the special management area except in limited circumstances. My question for the chairman of the subcommittee is whether or not the language of subsection 2(c) will permit the U.S. Forest Service to proceed with the sale of timber killed by the so-called "Deer Creek Fire" in this area in 1986?

Mr. BUMPERS. During the hearing held by the Public Lands Subcommittee on May 21, 1987, we were told that several million board feet of salvageable sawtimber lying within the boundary of the special management area was indeed killed by the "Deer Creek Fire" in 1986. Officials of the Sierra National Forest have advised us that unless they are cut and removed, these fire-killed trees pose a hazard to healthy trees on adjacent lands. Therefore, it is my belief that subsection 2(c) of the pending legislation does provide sufficient authority to the Forest Service to salvage the fire-killed timber assuming that such a sale is economically viable.

Mr. WILSON. I appreciate the Senator's assurances on this point. I am told that the timber in question can be salvaged with low-impact logging methods and without the construction of additional roads. I believe it is important to remove these fire-killed trees in order to protect the healthy trees within the special management area and to reforest this area, so that it can be restored to the conditions which existed prior to the fire.

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL AMENDMENTS TO LAWS RELATING TO INDIANS

The Senate proceeded to consider the bill (H.R. 2937) to make miscellaneous technical and minor amendments to laws relating to Indians, and for other purposes, which had been reported from the Select Committee on Indian Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Indian Law Technical Amendments of 1987".

SEC. 2. Section **[That section]** 2 of the Act of June 25, 1910 (36 Stat. 856) as amended, is further amended by deleting the phrase "the age of twenty-one years, or over" and inserting, in lieu thereof, the phrase "the age of eighteen years or older".

SEC. **[2.]** *3.* (a) The Act of September 14, 1961 (75 Stat. 500) is amended by—

(1) deleting the phrase "Section 5, lots 7 and 8;" in section 1, and

(2) inserting the phrase "Section 5, lots 7 and 8;" after the phrase "Township 15 north, range 3 east:" in section 2.

(b) Subsection (e) of section 2 of the Act of October 28, 1986 (100 Stat. 3243) is hereby repealed.

SEC. **[3.]** *4.* Section 1 of the Act of October 19, 1973 (87 Stat. 466) is amended by—

(1) inserting "(a)" before the word "That";

(2) deleting the phrase "any interest earned thereon" and inserting, in lieu thereof, the phrase "any investment income earned thereon"; and

(3) adding the following new subsections—

"(b) Except as provided in the Act of September 22, 1961 (75 Stat. 584), amounts which the Secretary of the Interior has remaining after **[implementation]** *execution* of either a plan under this Act, or another Act enacted heretofore or hereafter providing for the use or distribution of amounts awarded in satisfaction of a judgment in favor of an Indian tribe or tribes, together with any investment income earned thereon and after payment of attorney fees and litigation expenses, shall be held in trust by the Secretary for the tribe or tribes involved if the plan or Act does not otherwise provide for the use of such amounts.

"(c) This Act may be cited as the 'Indian Tribal Judgment Funds Use or Distribution Act'.".

SEC. **[4.]** *5.* Paragraph (2) of section 2 of the Old Age Assistance Claims Settlement Act (98 Stat. 2317) is amended by inserting a colon after the phrase "trust property" and the following proviso—

"*Provided*, That, except for purposes of section 4, the term also includes the reimbursements for welfare payments identified in either the list published on April 17, 1985, at page 15290 of volume 50 of the Federal Register, as modified or amended on November 13, 1985, at page 46835 of volume 50 of the Federal Register, or the list published on March 31, 1983, at page 13698 of volume 48 of the Federal Register, as modified or amended on November 7, 1983, at page 51204 of volume 48 of the Federal Register".

SEC. **[5.]** *6.* (a) Paragraph (1) of section 3 of the White Earth Reservation Land Settlement Act of 1985 (100 Stat. 61, 62) is amended to read as follows—

"(1) 'Heir' means a person who received or was entitled to receive an allotment or interest as a result of testate or intestate succession under applicable Federal or Minnesota law, or one who is determined under section 9, by the application of the inheritance laws of Minnesota in effect on March 26, 1986, to be entitled to receive compensation payable under section 8.".

(b) Subsection (b) of section 5 of the White Earth Reservation Land Settlement Act is amended to read as follows—

"(b) The 'proper county recording officer', as that term is used in subsection (a) of this section, shall be a county recorder, registrar of titles, or probate court in Becker, Clearwater, or Mahnomen Counties, Minnesota.".

(c) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to transfer to the White Earth Economic Development and Tribal Government Fund, out of funds in the Treasury of the United States not otherwise appropriated, an amount equal to the sum of—

(1) $55,917 for the interest that would have accrued on the settlement funds appropriated pursuant to section 15 of the White Earth Reservation Land Settlement Act of 1985 if such funds had been properly invested during the period beginning on November 17, 1986, and ending on January 12, 1987, plus

(2) an amount equal to the interest that would have accrued on $55,917 during the period beginning on January 12, 1987, and ending on the date the transfer required under this subsection is made by the Secretary of the Treasury if $55,917 had been invested as part of the White Earth Economic Development and Tribal Government Fund on January 12, 1987.

Amounts transferred to the White Earth Economic Development and Tribal Government Fund under this subsection shall be treated as interest accrued on such Fund.

SEC. **[6.]** *7.* The Secretary of the Interior shall calculate and certify to the Secretary of the Treasury for payment *out of funds in the judgments, awards, and compromise settlements account of the United States Treasury* to Cook Inlet Region, Inc., pursuant to section 2(a) and (e) of Public Law 94-204 (89 Stat. 1146), as amended by section 1411 of Public Law 96-487 (94 Stat. 2497) and section 22 of Public Law 99-396 (100 Stat. 846), a final determination of interest on funds withheld from revenues owed to Cook Inlet Region, Inc. under section 14(g) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1613(g), and paid to the Treasury as windfall profits taxes on oil production from the Swanson River and Beaver Creek units in Alaska of which Cook Inlet Region, Inc. may be regarded as a producer under 26 U.S.C. 4996(a)(1), as though such funds had been withheld before conveyance to Cook Inlet Region, Inc. of interests in leases within those units. Such interest shall be calculated and paid for the period from the dates on which such funds otherwise would have been paid to Cook Inlet Region, Inc. to the date of refund of the principal amounts withheld.

SEC. 8. Section 1514 of the Higher Education Amendments of 1986 (20 U.S.C. 4421) is amended—

(1) by striking out "During the 2-year period beginning on the date referred to in subsection (f) of this section" in subsection (d) and inserting in lieu thereof "Unless the Board provides otherwise",

(2) by inserting ", until October 1, 1989," after "Secretary of the Interior shall" in subsection (d), and

(3) by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e)(1) The transfers required under subsection (b) shall be completed by no later than June 1, 1988.

"(2) The Institute shall be under the direction and control of the Secretary of the Interior until the earlier of—

"(A) June 1, 1988, or

"(B) a date agreed to by the Board and the Secretary of the Interior.

"(f)(1) Before the later of October 15, 1987, or the date that is 10 days after the date of enactment of the Indian Law Technical Amendments of 1987, the Secretary of the Interior shall enter into a contract with the University of New Mexico, the terms of which shall—

"(A) include all administrative systems which are customary to the operation of a national art institute,

"(B) require the provision by the University of New Mexico of technical assistance to the Institute, including the monitoring of the transfers that are required to be made under subsection (b),

"(C) provide for the establishment by the University of New Mexico of an advisory council that makes recommendations to the University of New Mexico with respect to the operation of the contract,

"(D) allow the University of New Mexico to fulfill its obligations under the contract through subcontracts that are entered into in accordance with section 7 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450e),

"(E) provide for the expiration of the contract on the date that is 6 months after the date the contract is entered into, but the Board and the University of New Mexico may mutually agree to extend the contract for an additional 2-month period,

"(F) provide that any materials furnished to the Secretary of the Interior by the University of New Mexico, or any subcontractor of the University of New Mexico, under the contract shall become the property of the Institute, and

"(G) include such other terms as the Secretary of the Interior determines to be necessary.

"(2) The advisory council that is required to be established under the contract entered into under paragraph (1) shall be composed of—

"(A) a delegate of the executive director of the National Congress of American Indians,

"(B) a delegate of the president of the American Indian Higher Education Consortium, and

"(C) at least 5 individuals possessing knowledge and experience in Indian arts and culture and in postsecondary education, a majority of whom shall be Indians.".

SEC. 9. Subsection (e) of section 3 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (100 Stat. 675) is amended—

(1) by striking "Payments" in paragraph (4)(B) and inserting in lieu thereof "Except as otherwise provided in paragraph (5), payments",

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and

(3) by inserting after paragraph (4) the following new paragraph:

"(5)(A) The Tribal Council may accelerate the payment of the aggregate sum of $3,000 to those members of the tribe certified under paragraph (3) who—

"(i) are certified by a physician to be—

"(I) terminally ill, or

"(II) at least 50 percent permanently disabled, or

"(ii) are at least 60 years of age.

"(B) Notwithstanding any other provision of this Act, the Tribal Council may use interest accrued on the Investment Fund for the purpose of making accelerated payments under subparagraph (A).".

SEC. 10. The Frank's Landing Indian Community in the State of Washington is hereby recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and is recognized as eligible to contract, and to receive grants, under the Indian Self-Determination and Education Assistance Act for such services, but the proviso in section 4(c) of such Act (25 U.S.C. 450b(c)) shall not apply with respect to grants awarded to, and contracts entered into with, such Community.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LOWELL NATIONAL HISTORICAL PARK

The bill (HR. 2035) to amend the act establishing Lowell National Historical Park, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF CERTAIN VETERANS HOUSING PROGRAMS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1691.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1691) entitled "An Act to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. EXTENSIONS.

(a) FORMULA.—Notwithstanding section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369), the provisions of section 1816(c) of title 38, United States Code, shall continue in effect through November 15, 1987.

(b) FEES.—Notwithstanding subsection (c) of section 1829 of such title, fees may be collected under such section with respect to loans closed through November 15, 1987.

SEC. 2. SALE OF VENDEE LOANS.

Section 1816(d)(3) of title 38, United States Code, is amended to read as follows:

"(3) The Administrator may sell any note securing such a loan—

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was read the third time, and passed.

"(A) with recourse; or

"(B) without recourse but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.".

Amend the title so as to read: "An Act to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan, and for other purposes.".

S. 1691: INTERIM EXTENSION OF VETERANS' ADMINISTRATION HOME LOAN PROGRAM PROVISIONS AND RESTRICTIONS ON SALES OF VENDEE LOANS WITHOUT RECOURSE

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge that the Senate agree to the House amendments to S. 1691 and clear this bill for the President in the most expeditious manner. As amended by the House this morning, the bill would provide interim, 45-day extensions of the 1-percent fee on Veterans' Administration-guaranteed home loans and of the statutory formula—known as the no-bid formula—governing whether the VA acquires properties at liquidation sales, both of which expired on September 30, 1987, as well as permanently restrict the VA's sale of its vendee loans without recourse.

I wish to express my gratitude to my good friend, the ranking minority member of the Veterans' Affairs Committee, the Senator from Alaska [Mr. MURKOWSKI] for his invaluable support and cooperation in this effort. I also wish to acknowledge the cooperation of our counterparts in the House of Representatives, House Veterans' Affairs Committee Chairman "SONNY" MONTGOMERY and ranking minority member GERALD SOLOMON, as well as House Veterans' Affairs Subcommittee on Housing and Memorial Affairs Chairwoman MARCY KAPTUR and ranking minority member DAN BURTON, in acting on the Senate measure to preserve the fee and protect the operation of the VA home loan program.

Mr. President, on September 16, Senator MURKOWSKI and I introduced S. 1691 to provide 90-day extensions, through December 31, 1987, of the general requirement in section 1829 of title 38, United States Code, for the collection of a 1-percent fee on those receiving a housing loan guaranteed, insured, or made by the VA and of the provisions of section 1816(c) of title 38 establishing the no-bid formula for determining whether the VA acquires, or does not acquire, at a liquidation sale the property securing a VA-guaranteed loan that is in default.

These provisions were enacted in section 2512(a) of the Deficit Reduction Act of 1984—Public Law 98-369—and expired yesterday, September 30.

The House-passed version of S. 1691 would reinstate the 1-percent fee and the no-bid formula through November 15, 1987. It also would prohibit the VA from selling loans made to purchasers of VA-acquired foreclosed properties—known as "vendee loans"—without recourse, unless such loans are sold for par value.

As I noted in my introductory statement on S. 1691, the House has passed in H.R. 2672 on August 3 and the Committee on Veterans' Affairs has ordered reported—in S. 9, the proposed Omnibus Veterans' Benefits and Services Act of 1987—a 2-year extension of the fee and extensions of the "no bid" formula. As my colleagues in the House are well aware, because it had become clear by mid-September that there was not sufficient time to obtain Senate passage of the provisions in S. 9, resolve the differences with the House, and enact an extension in the context of those bills before the fee expired, we introduced S. 1691 as an interim measure in order to allow the continuous operation of these important home loan provisions pending enactment of a final, comprehensive home loan bill.

The administration strongly supports extensions of, indeed making permanent, the collection of a VA loan fee and the no-bid formula.

Although I have reservations regarding the imposition of a fee on what I am committed to preserving as a benefit program, unfortunately, the significant financial problems now facing the VA home loan program, in combination with the towering Federal deficits which are a burden to all taxpayers and all Government programs, require that we continue at least for the next 2 years the 1-percent fee on VA-guaranteed loans. I would note that the extension of the fee is assumed in baseline figures underlying the fiscal year 1988 congressional budget—House Concurrent Resolution 93.

A substantial hiatus in the collection of the fee would both be inequitable to those required to pay the fee before and after the hiatus and would jeopardize the solvency of the VA's loan guaranty revolving fund, and create a need for additional appropriations—currently about $20 million for each month the fee is not collected—to pay the claims of the holders of defaulted VA-guaranteed loans.

Every business day which passes without collection of the fee will cost the Federal Government about $1 million in foregone revenues, which will have to be made up by appropriations.

Mr. President, the formula governing VA acquisition of properties securing loans being foreclosed has been in effect for 3 years and provides principles, well-known throughout the housing and banking industries, by which the VA must abide. I believe that it is important to extend the termination date of this current no-bid formula in order to allay concerns among mortgage bankers and various concerned parties that the rules governing acquisition may be changed during the period between September 30 and the enactment of legislation to extend, and, possibly, revise the formula.

As I mentioned earlier, the House amendment also would prohibit the VA from selling vendee loans without recourse unless the purchase price at least equals the unpaid balance of the loan—that is, unless 100 percent of par value is obtained. The administration has announced that it is requiring, beginning in fiscal year 1988, that all vendee loans be sold without recourse. The administration is further requiring that, over the next 3 fiscal years, $900 million of loan assets from the VA's loan portfolio be sold on that basis. In May 1987, the VA attempted one sale of vendee loans without recourse. Despite extensive advertising of and major preparations for the sale, the results were a disastrous failure. The VA received bids for only about $8 million of the $84 million of the vendee loans it planned to offer for sale, and the amount of those bids ranged from only 15 percent to 65 percent of the par value of the loans. As a consequence, the VA withdrew all of the loans from sale.

The administration's plan is designed to make a series of reductions of the budget deficit over the next 3 years. However, it is of questionable policy justification particularly as applied to the $900 million in older VA loans. Not only will the sale of 30 percent of the VA's accumulated loan portfolio over each of the next 3 fiscal years greatly reduce payments—in the form of interest and principal—into the loan guaranty revolving fund, but, as the attempted sale in May indicates, in order to sell vendee loans without recourse the VA will have to discount these loans greatly. Thus, any revenues achieved through such sales will likely be far less over the long term than they would have been if the loans were sold with recourse. The House's amendment is designed to ensure that nonrecourse sales can be made only if the VA obtains fair value for the loans. However, it goes too far in a number of respects.

The House's amendment would have the effect of permanently prohibiting the VA from ever selling the loans it makes to purchasers of VA-acquired foreclosed properties—known as vendee loans—without a repurchase agreement which would make the VA ultimately liable for a subsequent default by the new purchaser. A sale under such conditions is termed a "without-recourse" sale. I do not believe such a permanent and rigid limitation on without-recourse sales is good public policy. There is nothing wrong with a without-recourse sale as long as the sale price of the loan is not discounted substantially from what the price would be if the loan were sold with recourse.

I know that Senator Murkowski agrees with me in this regard. However, despite our strong objection to this sweeping prohibition, we have felt compelled to accept it in order to preserve the loan fee and the solvency of the loan guaranty revolving fund which secures home loan guaranties. This morning the House committee leadership, during debate on S. 1691, indicated that if the short-term extension of the fee is not enacted they will not agree to reinstate it. Thus it is our intention if S. 1691 is enacted to work closely with the Administrator of Veterans' Affairs to find a way in the context of forthcoming legislation to repeal or substantially modify the objectionable without-recourse sale provision.

In view of the delay in filing the report for S. 9, due in part to the size and complexity of the bill—containing over 90 legislative provisions, including 15 provisions pertaining to the home loan program—Senator Murkowski and I are recommending to our committee that we move forward separately with the home loan legislation which our committee has already approved as a part of S. 9. We hope to send these provisions to the Senate floor in the near future in a separate bill—most likely to be taken up in the context of the House-passed measure, H.R. 2672.

Finally, Mr. President, I wish to thank the joint leadership for their outstanding cooperation in expediting this evening's consideration of this measure.

Mr. BYRD. Mr. President, I move the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PLACE 649 ON THE CALENDAR

Mr. BYRD. Mr. President, I move the Committee on Energy and Natural Resources be discharged from further consideration of S. 649 and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1012 INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent Calendar Order No. 348 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SENATE RESOLUTION (S. RES. 294)—CALLING FOR AN END TO THE 10-DAY-OLD PRO FOOTBALL STRIKE

Mr. GARN. Mr. President, I send a resolution to the desk on behalf of Mr. Dole and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 294) calling for an end to the 10-day-old pro football strike.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The name of Mr. Karnes was added as a cosponsor, by unanimous consent.)

The Senator from Utah.

Mr. GARN. Mr. President, I have a statement that I would like to read on behalf of Senator Dole. It is brief.

IT'S TIME FOR THE 2 MINUTE DRILL: LET'S NEGOTIATE AN END TO NFL STRIKE

Mr. DOLE. Mr. President, no doubt about it—Americans love their sports. That has been demonstrated during the past 10 days, as a Nation of diehard pro football fans experiences withdrawal symptoms.

Now, on a day where we have debated the subject of nuclear weapons, it might seem strange that we are considering a resolution dealing with a sports labor dispute.

But it just seems to me that there is more than enough heavy news to go around these days. When the weekend rolls around—let us face it—Americans are ready to relax. And millions of Americans relax by watching the NFL.

LET'S ADMIT IT—WE MISS IT

Judging by the fans' reaction to the strike, they're more than ready to start relaxing again. Let us admit it—we miss pro football.

Now, I am not taking sides in the strike. Nor is the Senate. But in a resolution I am introducing today, I am urging the key players in the ongoing dispute—the "NFL Players Association" and the "Management Council"—to get together again in a good faith effort to negotiate a settlement.

TIME FOR TWO MINUTE DRILL

Mr. President, I am signaling both sides in the strike to begin a "2 minute drill", that classic NFL hurry-up offense which often leads to "paydirt" just before the clock runs out.

So I urge my colleagues to support this resolution. And I have a feeling there will be a few million cosponsors joining you on this one.

The PRESIDING OFFICER. Is there further debate on the resolution?

Mr. LEAHY. Will the Senator yield?

Mr. GARN. I am happy to yield.

Mr. LEAHY. Mr. President, the only reason I rise to say anything is I know we are waiting on the distinguished Republican leader on another matter so it is not delaying the Senate.

I can imagine, knowing how good the U.S. Senate is in keeping to schedules and pushing things through and making it possible for things to go that way, that once they hear about this resolution, by golly, we will have football by Sunday. [Laughter.]

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 294) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 294

CALLING FOR AN END TO THE 10-DAY OLD PRO FOOTBALL STRIKE: SENATE RESOLUTION 294

Whereas American sports fans waited patiently all spring and summer for the opening of the 1987 National Football League season;

Whereas millions and millions of faithful fans spent the first 2 weeks of the NFL season at their favorite stadiums, or glued to their TV screens;

Whereas excitement and expectations were growing for yet another hardhitting adventure on the road to the Superbowl;

Whereas on the way to week No. 3, the NFL season was abruptly halted by the NFL players strike;

Whereas the strike will have an adverse economic impact on the teams surrounding communities;

Whereas those who care most for the game of football and the traditions of the NFL, the fans, are powerless to put an end to the strike;

Now, therefore, be it

Resolved, That the United States Senate hereby calls on the National Football League Players Association and the NFL Management Council to return to the bargaining table in a spirit of good faith to resolve their differences for the good of the players, management, and—most especially—the fans.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the acting Republican leader if the following nominations on the Executive Calendar have been cleared. Calendar No. 351, Calendar No. 352, and Calendar No. 353.

Mr. GARN. That is correct, they have been cleared.

Mr. BYRD. I thank the Senator.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned calendar items; that they be considered en bloc, confirmed en bloc, a motion to reconsider en bloc be laid on the table, and that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE TREASURY

John K. Meagher, of Virginia, to be a Deputy Under Secretary of the Treasury.

O. Donaldson Chapoton, of Texas, to be an Assistant Secretary of the Treasury.

EXECUTIVE OFFICE OF THE PRESIDENT

Alan F. Holmer, of Virginia, to be a Deputy United States Trade Representative, with the rank of Ambassador.

STATEMENT IN SUPPORT OF THE NOMINATIONS OF JOHN K. MEAGHER, OF VIRGINIA, TO BE UNDER SECRETARY OF THE TREASURY, AND O. DONALDSON CHAPOTON, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY

Mr. BENTSEN. Mr. President, I would like to say a few words on these two nominations. The Treasury Department's Offices of Tax Policy and Legislative Affairs are ones with which the Finance Committee and the Senate as a whole closely interact. That is why it is important that top-notch appointments fill those central posts. Having worked closely with both Mr. Chapoton and Mr. Meagher, I can speak highly of their abilities and qualifications.

Mr. Chapoton has been nominated to be the Assistant Secretary of the Treasury for Tax Policy, the Treasury's top tax position. Mr. Chapoton is currently acting in that post. He is a graduate of the University of Texas and the University of Texas Law School. He was a law clerk to Judge Brown of the fifth circuit court of appeals. For more than 20 years, he was an attorney with the Baker & Botts law firm in Houston. He first joined the Treasury Department as the Deputy to Assistant Secretary Roger Mentz in 1986. In that capacity, he worked closely and ably with the Congress in putting together the conference report on the tax reform bill last year.

The second nomination is Mr. John K. Meagher to be Under Secretary of the Treasury for Legislative Affairs. My colleagues and I on the Finance Committee have had the pleasure of working with John on legislative matters for the last 6 years, since John left the Ways and Means Committee staff to join the LTV Corp. LTV is a valued corporate constituent of mine, and I personally have had a particularly close and beneficial relationship with John. Mr. Meagher has more than 15 years of Government experience. He served for 5 years as legislative assistant to Representative Alexander Pirnie. He also served for 10 years as minority counsel and staff director to the Ways and Means Committee. At LTV, he has served as vice president for government relations, overseeing all of LTV's activities involving government. From personal experience, I know Mr. Meagher to be a tenacious advocate. If he represents the Treasury Department as effectively as he has represented LTV, the Treasury will be well served.

Mr. President, I have worked closely with both of these men. They both have valuable experience in government and tax law matters that will make them important assets in the Treasury Department. My colleagues in the Finance Committee join me in commending them both to the Senate, and we strongly recommend their confirmation.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 5 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 9:54 p.m., recessed until 9:59 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DASCHLE).

BICENTENNIAL MINUTE

OCTOBER 1, 1963: SENATE FLOOR PRIVILEGES FOR FORMER PRESIDENTS

Mr. DOLE. Mr. President, 24 years ago today, on October 1, 1963, the Rules of the Senate were revised to extend floor privileges to former Presidents of the United States. It was an idea that had been proposed from time to time by many Members, as far back as 1944, but it was not adopted until 1963.

Senator CLAIBORNE PELL introduced the rules change, arguing that it would add luster to the Senate to encourage the occasional participation of former Presidents in significant debates. "To be specific," said Senator PELL, "I think it would have been useful indeed if former Presidents Hoover, Truman, and Eisenhower had given their views to the Senate relative to the Test Ban Treaty right here on the Senate floor." Senator PELL also suggested that this rules change would be "a step in the direction of bridging the schism between our legislative and executive branches."

Despite the change in the rules, however, no former President has formally requested permission to deliver an address on the Senate floor. Former Presidents Truman and Ford did make brief remarks in this Chamber, in connection with their visits to the Capitol, but neither made any reference to policy matters then before the Senate.

One can speculate on the reasons why former Presidents have not taken advantage of this offer. There is no tradition of Presidential speeches in the Senate, but instead a strong history of separation of the branches. Former Presidents generally have had little trouble finding forums elsewhere for airing their views on current issues. And until recently, an address in the Senate Chamber would be limited to an audience in the galleries. Televising of Senate proceedings may make this option more attractive for former Chief Executives, as Senator PELL and others hoped in 1963.

TRIBUTE TO SECRETARY ELIZABETH DOLE

Mr. DURENBERGER. Mr. President, I rise today to pay my respects and express my appreciation to an outstanding public servant, Elizabeth Dole. In my mind, she is the epitome of a responsive and hard-working Cabinet Secretary, who serves her people and her President with equal distinction. While she leaves the public payroll today, I am sure that she will remain a visible and committed worker for the public good, to which she has devoted her life.

In a time of increasing cynicism and scrutiny of the person behind the position, Elizabeth Dole stands as a shining example to Americans of what a public person can be. I remember vividly her stirring address to the National Prayer Breakfast in 1986, at which she gave the major speech. She talked about the stresses of public life and the spiritual resources she draws on to serve wisely and conscientiously. Like Esther, on whom she spoke, Elizabeth Dole understands her duty to serve others, and in spite of the personal risks, strives to do it.

On behalf of the people of Minnesota, I will miss her unfailing responsiveness and eagerness to meet legitimate needs of the people of my State. Her successor has a tough act to follow.

I suspect that over the next several months that she will experience the transportation system of the United States to an almost unprecedented degree and I wish her "journey's mercies."

With all my colleagues here in the Senate, I hope she finds her new endeavor exciting and fulfilling. And I know I am joined at least by the Republican leader, in wishing her success.

AGENT ORANGE UPDATE

Mr. CRANSTON. Mr. President, last week I made a lengthy statement regarding questions arising from veterans' exposure in Vietnam to the herbicide agent orange and its highly toxic contaminant, dioxin, and the possible long-term adverse health effects resulting from that exposure—page S12392 of the RECORD for September 18. A major focus of my efforts and those of the Committees on Veterans' Affairs in both Houses has been research which might eventually lead to a greater understanding of the health effects of agent orange exposure and how best to address the special needs of those veterans who may have been exposed to it.

As I stated in detail last week, the Centers for Disease Control's [CDC] agent orange study has been stalled since January 1986 pending the outcome of efforts to determine if assumptions made on the basis of a review of military records about a veteran's exposure to agent orange for purposes of assigning the veteran to a particular study cohort can be validated. CDC refined a methodology from detecting residuals of dioxin in blood samples which, it was believed, could be used to validate a very intricate exposure-measuring methodology, developed by the Department of Defense in consultation with CDC, based on military records. This blood-testing methodology of determining dioxin exposure has also been validated and used successfully in other studies, including studies of Vietnam "Ranch Hand" veterans and civilians with known exposure to dioxin.

In preliminary results published on July 24, 1987, in the CDC's Morbidity and Mortality weekly Report, Volume 36, No. 28, the CDC serological study found no significant dioxin exposure among the Vietnam veterans studied regardless of whether their military records indicated high, intermediate, or low dioxin exposure; moreover, all of the Vietnam veteran participants, with one exception, had dioxin levels below so-called background levels—that is, the upper limit for United States residents without known dioxin exposure.

As I noted last week, the CDC agent orange study cannot begin until the Office of Technology Assessment [OTA] approves the protocol for it. In connection with this responsibility, OTA reviewed the CDC serological study.

This week I received a letter dated September 25 from OTA Director Dr. John H. Gibbons, which enclosed an OTA staff paper setting forth OTA's views following a review of the CDC serological study. OTA found generally that the CDC study was well designed and well carried out. Most noteworthy in this review are the following two OTA conclusions, based on the CDC's efforts and prior activity carried out by the Department of Defense's Environmental Support Group:

First, OTA concluded that "There is no support for the rationale for a large-scale epidemiologic study—that a large percentage of ground troops were heavily exposed to agent orange."

Second, OTA concluded that "There cannot be a general study of agent orange effects on ground troops."

As far as I am aware, the executive branch, as represented by the White House Domestic Policy Council, has yet to make a statement concerning either the results of the CDC serological study or the future of the agent orange study.

The Congress is currently awaiting the results of an evaluation of the CDC findings by the Agent Orange Working Group. The Working Group is scheduled to take up this matter at its October 6 meeting. When the executive branch reaches its conclusion and sends a recommendation to the Congress, OTA will be reviewing it. The Veterans' Affairs Committee will be very closely monitoring all of these activities.

Mr. President, the staff paper enclosed with Dr. Gibbon's letter also included views and comments following a review of the protocol for the "Women Vietnam Veterans Health Study"—mandated by Public Law 99-272—which had been prepared for the Veterans' Administration. OTA, at this point, has declined to approve the protocol for this study, as it must, pursuant to law, before the study can go forward. However, in view of the OTA Director's statement that "* * * there is still a way to go with the study of women veterans, but I believe that a good study can be designed and carried out, in accord with the congressional mandate," I trust that the VA will be working closely with OTA, to take its questions and concerns into account so as to produce a protocol that the OTA can approve.

In keeping with my policy of updating my colleagues and the public as to the progress of research regarding agent orange and OTA's and other entities' evaluations of studies on the possible long-term adverse health effects resulting from veterans' service in Vietnam, I ask unanimous consent that the report of the preliminary results of the CDC serological study and Dr. Gibbon's letter, with the enclosed staff paper prepared by the Special Projects Office of OTA, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SERUM DIOXIN [1] IN VIETNAM-ERA VETERANS—PRELIMINARY REPORT

Agent Orange, a defoliant used in Vietnam, was a mixture of 2,4-D [2] and 2,4,5-T[3]. During manufacture 2,4,5-T was contaminated with TCDD [1], a compound with marked toxicity in some species of experimental animals (1-4). In 1979, the U.S. Congress responded to concerns of Vietnam veterans by passing Public Law 96-151 mandating epidemiologic studies of the possible health effects on veterans of exposure to herbicides and their associated dioxin contaminants. In 1983, CDC developed a protocol (5) for a historical cohort study (the Agent Orange Exposure Study) of U.S. Army veterans who had served in heavily sprayed areas of Vietnam. The protocol specified that the degree of exposure to Agent Orange be based on a score estimating the "likelihood of exposure" and calculated from information in military records.

Men who served in the III Corps military region (around Saigon) during the period 1967-1968 were selected for study because this region was heavily sprayed during that time. The U.S. Army and Joint Services Environmental Support Group (ESG) found that 65 U.S. Army combat battalions had spent at least 18 months in the III Corps area during the period 1967-1968. The ESG abstracted daily locations of companies within these battalions from military records and obtained personnel records of men who had served in those companies. Using existing records of each application of Agent Orange by fixed-wing aircraft, helicopter, or ground-based equipment and ESG troop location data, CDC developed several different methods for computing exposure scores for each man. These methods were based on each man's daily proximity (in time and space) to recorded Agent Orange applications.

Subsequent evaluation of military records by CDC and ESG revealed that daily tracking of individual soldiers was not always possible. The ESG evaluation also suggested that many helicopter and ground-based sprays, which were often near troops, were not recorded. Consequently, CDC has conducted a validation study using current TCDD levels in serum as a biological marker to determine whether scores based on military records or on veterans' self-assessed exposures to herbicides could identify those veterans who had received heavy exposure in Vietnam.

During 1986, CDC's Division of Enviornmental Health Laboratory Sciences, Center for Environmental Health, developed a method for measuring TCDD in human serum. The measurement, which is based on lipid weight, is highly correlated with paired measurements of TCDD in adipose tissue ($r=.98$) (6,7). The same laboratory subsequently used paired sera (drawn in 1982 and 1987) to estimate the half-life of the TCDD body-burden in man as approximately 6-10 years (CDC, unpublished data). The sera came from Air Force personnel involved in spraying Agent Orange in Vietnam during 1968. Some of these sera still show markedly elevated TCDD levels in 1987. These new developments suggest that only about 2 to 2.5 TCDD half-lives have elapsed since potential exposure in Vietnam and that serum TCDD can serve as a biological marker for previous Agent Orange exposure. These findings are the basis for the study of U.S. Army veterans reported here.

Vietnam veterans invited to participate in this study had served in at least one of the 65 selected battalions between October 1966 and March 1969. They were chosen from the 9,727 men whose records were sufficiently complete for exposure scoring and who met the original selection criteria proposed in 1983 (e.g., only a single tour of duty in Vietnam and pay grade of E1 to E5 at discharge). The exposure score used to select Vietnam veterans participants was the total number of occasions on which the veteran's unit was within 2 km of a documented Agent Orange spray within 6 days after that spray. This score is based on the assumption that TCDD undergoes rapid degradation on vegetation (8-10). All but 10 [4] of the 314 men with a high exposure (a score of 5 or more) were invited to participate in this study. A stratified random sample of 235 of the 1,351 men with a score from 1 to 4 were invited, and a sample of 440 of the remaining 8,062, all of whom had a score of 0, were invited. These men averaged over 300 days of service in Vietnam. A stratified random sample of 200 non-Vietnam veterans of the same era were invited as a comparison group. While they did not have Vietnam-related exposure to Agent Orange, their demographic and other personal characteristics were similar to the Vietnam veterans.

Of the 979 invited Vietnam veterans, 871 (89%) completed telephone interviews, and 665 (68%) also completed medical examinations and gave blood for TCDD measurement at CDC. Those reporting health problems in the telephone interview were more likely to participate in the examinations and blood sampling than were those reporting good health. Of the 200 non-Vietnam veterans invited, 103 (52%) participated fully. This lower participation rate does not affect exposure scores or TCDD levels in Vietnam veterans. Each participant underwent a detailed interview regarding military and civilian exposures to herbicides. Table 1 shows selected characteristics of the participants by exposure groups. While 25% of Vietnam veterans reported direct exposures (present during spraying or handled spraying equipment) and 70% reported indirect exposure (walked through defoliated areas), 6% of non-Vietnam veterans reported such exposures. Those who were both interviewed and examined were similar with respect to the characteristics shown in Table 1 to those who were interviewed only.

The preliminary TCDD distributions, which are shown in Figure 1 and are based on the first 519 specimens processed, represent a 68% random sample of the participants. All of these men except one had TCDD levels (based on lipid weight) below 20 parts per trillion (ppt), which is considered the upper limit for residents of the United States without known TCDD exposure (6, 7, 11, 12). There was no significant difference among the three Vietnam veteran exposure groups selected on the assumption of short environmental availability of TCDD ($p=.83$). Likewise, no association was found between TCDD levels and two other methods of scoring exposure that were chosen to reflect a longer environmental persistence of TCDD (one method accounted for the distance from the spray, without regard to the time since spraying, and the other accounted for total days spent in heavily sprayed areas. Finally, no association was found between TCDD levels and self-perceived herbicide exposure in the military (either direct exposure or delayed exposure). The median TCDD levels for all exposure groups were between 3.5 and 4.3 ppt. Furthermore, TCDD medians for Vietnam veterans (median=3.9 ppt) and non-Vietnam veterans (median=3.9 ppt) were virtually the same. A full report will be published after TCDD measurements have been completed for all participants and the full report has been reviewed by the Agent Orange Working Group of the Domestic Policy Council (Executive Branch) and by the Congressional Office of Technology Assessment.

Reported by: Agent Orange Projects, Div. of Chronic Disease Control, Div. of Environmental Health Laboratory Sciences, Center for Environmental Health, CDC.

Editorial note: The purpose of this study was to determine whether estimates of exposure based on military records on or interviews of U.S. Army veterans can identify those with heavy exposure to TCDD. Serum TCDD levels measured in 1987 were not associated with any of the indirect exposure scoring methods evaluated. Because of the purpose of the study, men with higher exposure scores were deliberately over-sampled. The distribution of TCDD levels reported here cannot be generalized with confidence to all U.S. Army Vietnam veterans since the study did not use a random sample of all such veterans.

While CDC was processing sera from the U.S. Army veterans reported here, it was concurrently processing sera from other groups with known occupational exposure to dioxin prior to but not after 1970. Some of those who were occupationally exposed had TCDD levels more than 30-fold higher in 1987 (CDC, unpublished data) than the median levels of approximately 4 ppt reported here for Vietnam veterans.

The distribution of TCDD levels for the Vietnam veterans, with all but one below the upper limit for unexposed U.S. residents, suggests that few of the participants in this study have had unusually heavy dioxin exposure. No threshold level has been determined as yet for the health effects of TCDD on humans.

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[1] 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) of "dioxin".

[2] 2,4-dichlorophenoxyacetic acid (2,4-D).

[3] 2,4,5-trichlorophenoxyacetic acid (2,4,5-T).

[4] Ten men who were given scores of less than 5 at the time that invitations were issued were later assigned scores of 5 or more on the basis of corrected company location and military service data provided by ESG.

[Table and figure not reproducible for the RECORD.]

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, September 25, 1987.
Hon. ALAN CRANSTON,
Chairman, Committee on Veterans Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: OTA met with its Agent Orange Advisory Panel on August 27, 1987, to review the results of the Centers for Disease Control study, "Comparison of Serum Levels of 2,3,7,8-TCDD with Indirect Estimates of Agent Orange Exposure in Vietnam Veterans," and a proposed protocol for the "Women Vietnam Veterans Health Study," prepared under contract to the Veterans Administration in accord with the mandate of Public Law 99-272. The enclosed staff paper summarizes OTA's findings on these two items.

CDC's validation study and the dioxin half-life study provide convincing evidence that it is not possible to design a large-scale epidemiologic study to look for effects of Agent Orange in ground troops who served in Vietnam. There is no support for the rational for such a study—that a large percentage of ground troops were heavily exposed to Agent Orange—in the results of these studies and in the results of extensive studies of spray patterns and troop movement that have been carried out by the Environmental Support Group over the past several years. There cannot be a general study of Agent Orange effects on ground troops.

As difficult as it has been to arrive at the current state of knowledge, disseminating these findings to the veterans and the public at large in a meaningful way is likely to be at least as difficult. OTA believes that the Congress would benefit by being informed by the Executive Branch of the details of planned dissemination activities.

The "Women Vietnam Veterans Health Study" protocol was prepared by the New England Research Institute, chosen on the basis of a proposal submitted in a competitive process. The protocol we reviewed included several interlocking studies: a cohort study of a range of health outcomes, a case-control study of post reproductive outcomes, a substudy of post traumatic stress disorder, and several "validation" studies.

The general consensus of the Advisory Panel was that considerable work is necessary before OTA could approve a protocol. A major problem identified in this review is that the protocol does not present a clear description of the basic study designs or the populations to be studied. Perhaps of greater concern is that the rationales for testing specific hypotheses are not well described or supported.

OTA, therefore, does not approve the protocol for the "Women Vietnam Veterans Health Study" as submitted in August 1987. There is a need to clarify the aims of the study and to refocus the study design in line with the aims decided upon. The VA may wish to pursue other avenues for having the study designed and carried out.

I firmly believe that significant progress has been made in our understanding of the Agent Orange issue, and that CDC is to be commended on this most recent effort. There is still a way to go with the study of women veterans, but I believe that a good study can be designed and carried out, in accordance with the Congressional mandate.

If you have further questions or comments, please do not hesitate to call on me (at 4-3695) or on Hellen Gelband, OTA's Project Director for Agent Orange Activities (at 8-6590).

Sincerely,

JOHN H. GIBBONS.

"COMPARISON OF SERUM LEVELS OF 2,3,7,8-TCDD WITH INDIRECT ESTIMATES OF AGENT ORANGE EXPOSURE IN VIETNAM VETERANS" (A STUDY BY THE CENTERS FOR DISEASE CONTROL AUGUST 1987)

PROPOSED PROTOCOL FOR THE "WOMEN VIETNAM VETERANS HEALTH STUDY" PREPARED BY NEW ENGLAND RESEARCH INSTITUTE, INC. AUGUST 1987

INTRODUCTION

The Office of Technology Assessment (OTA) held an open meeting of its Agent Orange Advisory Panel on August 27, 1987 to review the results of CDC's study, "Comparison of Serum Levels of 2,3,7,8-TCD with Indirect Estimates of Agent Orange Exposure in Vietnam Veterans," and the proposed protocol for the "Women Vietnam Veterans Health Study," prepared by New England Research Institute, Inc., under contract to the Veterans Administration. Panel members had reviewed the written documents before the meeting. The CDC report was supplemented on the day of the meeting by updated tables and figures provided by CDC. Five members of CDC's Agent Orange Projects staff attended the OTA meeting to present an overview of the study results and answer questions. The principal investigator for the study of women Vietnam veterans also attended and answered questions about the protocol. There were also a number of observers at the meeting, including Congressional staffers, members of the press, the veteran community, and researchers.

These reviews, while solely the responsibility of OTA, reflect the advice and opinions of the Panel, which, in its sixth year, is the longest-serving Advisory Panel in the history of OTA.

OTA COMMENTS ON CENTERS FOR DISEASE CONTROL STUDY: "COMPARISON OF SERUM LEVELS OF 2,3,7,8-TCDD WITH INDIRECT ESTIMATES OF AGENT ORANGE EXPOSURE IN VIETNAM VETERANS"

Introduction

OTA approved CDC's protocol for this study in October 1986. The need for a study to relate level of dioxin in veterans to information from miltary records arose when meticulously researched military records of troop movements and herbicide spraying suggested that the vast majority of ground troops in Vietnam had little opportunity for heavy exposure to Agent Orange. This depiction of exposure was in sharp contrast to the broadly held view of veterans and the public that most ground troops in Vietnam were in frequent and heavy contact with Agent Orange.

Several comparisons of current blood serum dioxin levels were made in this study. CDC used five methods to rank Vietnam veterans according to likelihood of exposure to Agent Orange, including four methods dependent on military records and one in which veterans were asked to assess their own exposures. Dioxin levels were compared across these groupings. The entire group of Vietnam veterans was also compared to a group of veterans who were similar but did not serve in Vietnam.

The results showed no overall differences between Vietnam veterans and non-Vietnam veterans in average current serum dioxin levels and in the distribution of levels (see CDC's updated Figure 2, included in this review). In both groups, the levels are generally within the "background" range expected in the U.S. population. The rankings resulting from the five methods used within the Vietnam veteran group were not mirrored in gradations of dioxin levels; i.e., for each method, men classified as likely to have had higher exposures did not have systematically higher dioxin levels. Two Vietnam veterans (out of 573 completed tests) had dioxin levels of 25 and 45 parts per trillion (ppt), somewhat above the level of 20 ppt and CDC has thus far arbitrarily designated as the upper limit of "background" levels. Neither of these men had a "high" exposure ranking. None of the 88 tested non-Vietnam veterans had a level above 20 ppt, the highest measured at 15 ppt.

In contrast to the ground troops tested, a group of 30 Ranch Handers with known direct exposure to Agent Orange during the same time period in which the ground troops served, have much higher current serum dioxin levels. About half of them had levels greater than 100 ppt, and several were about 300 ppt.

OTA agrees with CDC's interpretation of these results as failing to show an association of the indirect exposure assessments evaluated and current dioxin levels. We would, however, put greater emphasis on a broader interpretation of these studies taken together with evidence from other research. In this broader context, we conclude that current dioxin levels for this group of veterans as a whole do strongly validate the records-based assessment that the probabilities of exposure of these veterans were very small. Within the low level of exposure and the very limited range of exposures of subjects in the study, it would not be expected that an important internal correlation between serum dioxin levels and the indirect exposure estimates could be recognized. It remains possible that military records do allow a valid estimate of exposure, but that the range of exposure in this population is too small to permit evaluation.

In a separate study, blood samples from the Ranch Handers that had been stored since 1982 were compared with 1987 samples to estimate a half-life of dioxin in the body. Based on this analysis, CDC estimates a half-life of between 7 and 8 years (according to the August update, 7.1 years).

Study design

The report from CDC actually describes two studies: the main "validation" study and a separate but related study to gather information about the half-life of dioxin in the human body.

In the validation study, 665 Vietnam veterans and 103 non-Vietnam veterans were interviewed, examined, and had blood drawn for dioxin analysis. Of the Vietnam veterans, 307 were in the "low hits" category (zero hits); 164 were in the "medium hits" category (1-4 hits); and 194 were in the "high hits" category (5 or more hits). The number of hits is an estimate of the probability of Agent Orange exposure based on military records of company-level day-by-day locations in Vietnam, which are applied to the individual men in those companies. Specific definitions are given below.

Men in the Vietnam veteran cohort were chosen from among the battalions whose records had been intensively studied by the Army and Joint Services Environmental Support Group (ESG) in an effort to identify a group of "highly-exposed" men. Non-Vietnam participants were sampled from among the later groups of non-Vietnam veterans interviewed (but not chosen for the physical examination) in the Vietnam Experience Study.

The study to determine the half-life of dioxin compared 1982 dioxin blood levels in a group of Ranch Handers with their levels in 1987. The rate of decline of dioxin blood levels was calculated based on the difference between the two samples. This study was possible because the Ranch Hand investigators had stored small samples of blood drawn during the first Ranch Hand Study physical examination in 1982 and were able to call upon selected participants to have blood drawn specifically for this half-life study this year. The men were selected by the Ranch Hand investigators as having had probable "high" Agent Orange exposures, based on their experiences in Vietnam. The study was necessarily limited to Ranch Hands with relatively high exposures. Because only small amounts of blood had been stored in 1982, and because the analytic technology for measuring dioxin levels has lower limits, only men with levels of at least 10 ppt in 1982 were included. There is no information, therefore, about the rate of change in dioxin levels among men whose previous levels were already in the "low background" range.

Agent Orange exposure estimate scales

Men were categorized using four measures of estimated Agent Orange and "unknown agents" exposure and one measure based on self-reported exposure. The methods are described briefly below.

1. Agent Orange hits: A hit is scored if a company is located, at any time during a given day, within two kilometers of a recorded Agent Orange spray (Ranch Hand or other) that took place anytime during the previous six days. If the company is within two kilometers of more than one spray, a hit is scored for each spray. Hit scores for each day a man was in Vietnam are added together to give his total individual hit score. Low, medium, and high hit scores were arbitrarily set at 0, 1-4, and 5+ hits.

Men were selected into this validation study on the basis of the Agent Orange hit scores, in order to assure an adequate distribution of men across the categories.

2. Agent Orange E3: E3 scores attempt to account for possible exposure to dioxin that may have remained in soil for long periods of time after Agent Orange spraying. If a company was near an area that had previously been sprayed with Agent Orange, regardless of how distant in time the spraying, some E3 score was computed. Scores decreased with increasing time since spraying. As with the hits score, each man's daily scores were totaled for his own individual E3 score. (Based on what is known about the concentration of dioxin in Agent Orange, the rate at which the herbicide was sprayed, and the fate of dioxin in the environment, soil concentrations after Ranch Hand sprays would be expected to fall well below 1 ppb, a level at which there is no reason to expect any health risk.)

3. Area Score: Five large areas of III Corps in Vietnam are known to have been sprayed with Agent Orange consistently throughout the late 1960's. Each veteran's area score is proportional to the number of days his unit spent in any of those five areas.

4. "Unknown agent" scores: Both hits and E3 scores were computed using information about all recorded herbicide sprays for which the chemical was not specified in the military records.

5. Self-assessed exposure: Study participants were asked during telephone interviews and at the time of the physical examinations about their in-service and post-service exposures to herbicides. In-service exposure was further broken down into "direct" and "indirect," representing actual contact with Agent Orange and presumed contract based on being in areas where Agent Orange was thought to have been sprayed. The categories given were "none," "low," "medium," and "high."

Results

CDC compared blood dioxin levels, a surrogate for Agent Orange exposure, across the spectrum of exposure groupings for each of the methods of categorization described above. In an August 27, 1987 update, CDC presented analyses that included blood dioxin levels for 573 Vietnam veterans and 88 non-Vietnam veterans, out of the total of 665 Vietnam veterans and 103 non-Vietnam veterans whose blood had been drawn. CDC was continuing to analyze the remaining samples, and will provide the completed analysis when it is finished. Since samples were analyzed in random order, no major changes in the findings are anticipated, but a final judgment will rest on the final analysis.

The median dioxin level (the level at which 50% of the sample values are above and 50% below) for the Vietnam veteran group as a whole was identical to that of the non-Vietnam group: 3.8 parts per trillion (ppt). The distributions of exposures in the two groups were nearly identical. Within the group of Vietnam veterans, there was no correlation between dioxin levels and any of the categories of exposure based on military records. Categories of self-reported direct exposure also showed no correlation with dioxin levels. For self-reported indirect exposure, CDC did find an association of dioxin levels with categories. The trend of higher dioxin levels with higher reported indirect exposure is very weak, however, both the "low" and "medium" exposure groups having lower dioxin levels than the "none" group.

The median half-life of dioxin determined from the paired Ranch Hand blood samples was 7.1 years. (The half-life calculation was based on the assumption that dioxin clearance from the body follows "first order kinetics," meaning that, for a given period of time, a constant fraction of the dioxin body burden is eliminated. There is some support for that assumption, but no corroboration from the Ranch Hand sample itself of the clearance kinetics during an early period after exposure.) The half-lives for individual men ranged from just under 5 years to very high, with half-lives measured in decades. In none of the men was there a high level in the 1982 sample and a very low level in the 1987 sample. Therefore, there is no reason to believe that the ground troops, whose dioxin levels were quite low, would have had high dioxin body burdens while in Vietnam or more recently.

In the Ranch Hands tested, 59 percent had dioxin levels above 20 ppt, about half had levels over 100 ppt and four had levels greater than 300 ppt.

OTA comments

OTA found the CDC study well designed and well carried out. It appears the study included appropriate quality control and standardization measures to assure reliability of the reported laboratory results reported; OTA accepts those assurances.

OTA's comments are directed largely at the interpretation of the study results as presented in CDC's discussion and conclusions. CDC's conclusions are reproduced below.

1. The results of the Ranch Hand half-life study, Missouri civilian study, and the NIOSH occupational study all suggest that current serum TCDD levels provide a reasonable reflection of heavy exposures to TCDD 15 to 20 years ago.

2. None of the indirect methods of exposure assessment evaluated in this study of U.S. Army Vietnam veterans showed any association with current serum TCDD levels.

3. The findings of this study and the conclusions from the AOWG Science Sub-Panel report on exposure assessment (June 1986) do not identify any method for utilizing military records or self-reported exposure to distinguish between exposed and unexposed Vietnam veterans, as would be needed for a cohort study of possible health effects.

4. Among the Vietnam veterans interviewed in this study, 32% reported direct exposure to Agent Orange in Vietnam, 71% reported indirect exposure, and 28% said that they have had a subsequent medical problem that they believe might be due to that exposure. Yet only 5% of the 510 Vietnam veterans reported here have current serum TCDD levels above 8 ppt, levels consistent (based on a half-life of 7.4 years) with definite elevations of TCDD in 1969. This perceptual gap requires careful consideration.

OTA is in full agreement with conclusion 1, based on the Ranch Hand half-life study and the Missouri civilian study, which we reviewed last year. We have not reviewed the NIOSH results, which have not yet been released.

We agree with conclusion 2 in its strict interpretation of the indirect exposure assessments used in this study. However, the study illuminates a clear reason for the lack of association in the very limited range of exposures of the subjects studied. In a broader context, the finding of uniformly low dioxin levels matches the expectations we had after examining the records-based exposure assessments in 1985. It was suggested by an OTA Advisory Panel member that the exposure categories used in the validation study might have been better termed "low," "lower," and "lowest," rather than "high," "medium," and "low." In this respect, we believe that the results of the dioxin analyses do validate the information in the military records. This validation study confirms a low probability for meaningful Agent Orange exposures for Vietnam veterans as a group.

Within the group of veterans included in the validation study, all with relatively low dioxin levels, we would not expect that the contribution of exposure from sprayings in Vietnam could be distinguished from other exposures that these veterans might be expected to have had in the normal course of life. The findings in these veterans, who were chosen as representative of a very large part of the total Vietnam veteran group, imply that the proportion of veterans with significantly increased dioxin levels is very small. Furthermore, these veterans were chosen as being potentially exposed in the period of greatest frequency of spraying. Men who had been in Vietnam in other years would be similarly expected to include a very small proportion with high dioxin levels.

We agree with the spirit of conclusion 3, that the type of large-scale epidemiologic study suggested by the laws mandating this research, and which was originally planned by CDC, is not feasible. Furthermore, the definition of the problem is changed by the results of the validation study and by all the records research that preceded it. All the existing data support the fact that most ground troops in Vietnam did *not* have heavy Agent Orange exposure, and that those who might have would be exceptions. No future studies should be contemplated without a clear acceptance of this. If studies are proposed, they should be narrowly focused on specific, testable hypotheses, and cannot have the aim of generalizability to all or most ground troops.

Conclusion 4 identifies one of the most important points of the group of Agent Orange studies, namely, the high frequency of exposure reported by veterans and the low frequency of elevated dioxin levels in the validation study. However, the term "perceptual gap" has a pejorative cast to the veterans. We strongly urge that this phrase be dropped and the problem stated more directly, e.g., as a gap between the perceived exposure and the exposure estimated from analytical measures. A similar gap between perceived exposure and what was suggested by military records, previously noted by OTA, was one of the motivating forces behind the validation study.

In one other section, on page 18 of the July 1987 "Provisional Report," we find the language to be confusing. This section attempts to explain why the study was not designed to detect "biologically meaningful" differences in dioxin levels. First, the term "biologically meaningful" is not defined, and it could be subject to various interpretations. The explanatory points listed are unclear. Point 2 states that it is not possible to extrapolate back 20 years to when exposure might have taken place because the tissue half-life of dioxin is not known, yet this is precisely what CDC does later in the paper. Without further explanation, the relevance of point 3 is also obscure. It sounds as though it is possible that components of Agent Orange other than dioxin might have affected health even in the absence of finding higher-than-expected dioxin levels in veterans. While it is possible that a component of Agent Orange other than dioxin could possibly affect health, it would not have been possible to have been exposed only to that component, without dioxin exposure.

Because of the differences in interpretation mentioned above, OTA would like an opportunity to review final drafts of reports of these studies before CDC submits them for publication in the open literature.

Summary

CDC's validation study and the dioxin half-life study provide convincing evidence that it is not possible to design a large-scale epidemiologic study to look for effects of Agent Orange in ground troops who served in Vietnam. There is not support for the rationale for such a study—that a large percentage of ground troops were heavily exposed to Agent Orange—in the results of these studies and in the results of extensive studies of spray patterns and troop movements that have been carried out by the Environmental Support Group over the past several years. There cannot be a general study of Agent Orange effects on ground troops.

As difficult as it has been to arrive at the current state of knowledge, disseminating these findings to the veterans and the public at large in a meaningful way is likely to be at least as difficult. OTA believes that the Congress would benefit by being informed by the Executive Branch of the details of planned dissemination activities.

OTA COMMENTS ON PROPOSED PROTOCOL FOR THE "WOMEN VIETNAM VETERANS HEALTH STUDY" PREPARED BY NEW ENGLAND RESEARCH INSTITUTE, INC., SEPTEMBER 1987

STUDY DESIGN

Several interlocking studies are proposed in the protocol: a cohort study of a range of health outcomes, a case-control study of reproductive outcomes, a substudy of post traumatic stress disorder, and several "validation" studies.

Cohort Study. The protocol describes a cohort study comparing women who served in Vietnam (cohort A), with a group of service- and military occupation-matched women who served during the Vietnam era in areas other than Vietnam, plus a control group of Air Force nurses (cohort B). About 70 percent of the women in cohort A are former Army nurses. According to the protocol, most of the matched control Army nurses in cohort B dealt with serious Vietnam casualties who had been evacuated from Vietnam during part of their service experience. They were, the investigators reasoned, exposed to aspects of the Vietnam war without actually having been in Vietnam. The Air Force nurses, who will be selected to exclude those who were in Vietnam or spent time treating heavy Vietnam casualties, were added for a comparison group without any "Vietnam experience."

The cohorts are partitioned further for certain aspects of the study. Four "data sets" are described:

1. All women in cohorts A and B.
2. All women in cohorts A and B alive at the time of the study.
3. All Army nurses from cohorts A and B, plus the Air Force nurses.
4. All living nurses in data set 3.

Members of the entire cohort (data set 1), or proxies for those who have died, will be asked to participate in a telephone interview. Those who agree will be asked for permission to obtain their medical records and those of their offspring. Questions that will provide information about the following categories of outcomes will be asked during the interview:

1. General physical health: physical disease diagnoses and hospitalizations.
2. General mental health: major psychiatric illnesses, hospitalizations, and institutionalizations.
3. Reproductive function: menstrual history.
4. Reproductive outcomes: complete reproductive history.

The hypotheses included in the protocol for the cohort study are somewhat vague, but generally appear to involve potential associations of the "Vietnam experience," as a whole, and exposure to war wounded specifically (for nurses, data sets 3 and 4), with a range of physical and mental health outcomes.

Case-Control Study of Reproductive Outcomes. "Cases" include all live women in cohort A (data set 2) reporting a pregnancy resulting in a child with a congenital anomaly, and women reporting two or more spontaneous abortions "not clearly attributable to an identified cause." "Controls" will be selected from live cohort A women *not* reporting either congenital anomalies or multiple spontaneous abortions, matched on age and reproductive history.

For this study, it is proposed that participants' blood be tested to determine 2, 3, 7, 8-TCDD (dioxin) levels. All live children of women in the study would be examined to verify the presence or absence of congenital anomalies.

The hypothesis to be tested in this study involves a potential link between exposure to dioxin (from phenoxyherbicides or hexachlorophene) and subsequent adverse reproductive outcomes.

Substudy of Post Traumatic Stress Disorder (PTSD). This study is restricted to data set 4: living Army nurses from cohorts A and B and the cohort B Air Force nurses. Based on questions asked during the telephone interview, women will be classified as having:

1. Acute PTSD,
2. Delayed PTSD,
3. Chronic PTSD, or
4. No evidence of PTSD.

Samples of nurses with acute, delayed, and chronic PTSD, and with no evidence of PTSD will be selected from cohort A, and a sample of women without evidence of PTSD will be selected from cohort B. Women who are in the reproductive outcome substudy would be excluded from this study.

Each participant who agrees would be given memory and neurobehavioral tests (in person) and would have blood drawn for a dioxin measurement.

The hypotheses proposed to be tested are 1) that phenoxyherbicide or hexachlorophene exposure is related to PTSD, and 2) that PTSD is related to neurobehavioral function. Presumably, the relationship of war-related stress to the occurrence of PTSD will be assessed from the results of the main questionnaire.

Validation Studies. Five studies have been proposed to examine the reliability of various pieces of information. These have mainly to do with checking reported information against medical and military records. The areas covered include: reproductive outcomes, selected disease diagnoses (including some cancers, cardiovascular events, various conditions of reproductive organs, and some psychiatric conditions), other health events (some surgical procedures, prolonged amenorrhea, attempted suicide, tropical diseases), validation of phenoxyherbicide exposure from military records, and validation of the completeness of the lists of female veterans used in this study.

OTA CRITIQUE

The general consensus of the Advisory Panel was that considerable work is necessary before OTA could approve the protocol. A major problem identified in this review is that the protocol does not present a clear description of the basic study designs, populations to be studied, and hypotheses. This may be attributable more to the way the protocol is organized and written than to a lack of clarity on the part of the investigators about the intended studies, but it did hamper the discussion. Dr. McKinlay, the principal investigator, answered many clarifying questions at the meeting, which aided our understanding.

In general, we agree that a cohort study is an appropriate approach. The appropriateness of the comparison groups described will depend, ultimately, on the aims of the study. As the protocol now stands, it is not possible to gauge accurately the characteristics of the Army and Air Force comparisons groups suggested. For the Army comparison women, reference is made to lists developed for the VA mortality study, the scope of which is not described, so it is difficult to judge their comparability with the Vietnam veterans. If, as is implied in the protocol, the non-Vietnam veteran army nurses actually had war-related experiences similar to those of the Vietnam veterans, and the Air Force nurses differ in significant ways (e.g., more of them likely to have chosen a career in the military), it is possible that neither group provides an adequate comparison for a hypothesis-testing study, though they could be useful in a descriptive study. A third possibility is to use a civilian comparison group, a path which the investigators apparently explored and found infeasible. Depending upon the direction the study finally takes, the issues related to choice of comparison groups should be reexamined.

The objectives of the studies are not entirely clear. They are presented as largely hypothesis-testing exercises, yet the rationales underlying the stated hypotheses are not well described. An alternative approach that could be of great value would be a study that describes both the pre-Vietnam characteristics and mental, reproductive, and general health experience of women Vietnam veterans, in comparison with military women who did not go to Vietnam and, for the nurses, with those who did not enter the military. In a study such as this, differences in health experience between groups might or might not be attributable to the Vietnam Experience, but if differences were found, it might be possible to focus more closely on studying those specific differences. Since research on the experience of women veterans is so scarce, such a study would be a major contribution. (If this approach were taken, a civilian control group would increase the value of the results.)

Particularly in light of CDC's findings in the dioxin validation study, OTA finds a rationale for the substudies of reproductive outcomes and PTSD to be lacking. The major hypothesis proposed in both of those studies had to do with dioxin exposure. Even if there were such exposure, however, it would be hard to justify the studies on any scientific basis.

Reproductive Outcomes—Cases-Control Study and Questionnnaire. It is unclear why a case-control study of reproductive outcomes would be contemplated before finding out whether there is an excess of adverse outcomes in the Vietnam veteran group. If there were no excess, the logical conclusion would be that the Vietnam experience had not adversely affected reproduction, therefore no further study would be necessary. If there were an excess, it would probably be better to design a follow-up study focusing more specifically on the types of problems identified in the cohort study.

Some specific comments were made on this study by advisory panel members. Some of these are applicable generally, and some would apply only if this subsidy is retained in the final design. First, the estimate of one percent adverse birth outcomes may be low. Two to four percent is a more commonly used figure, with the prevalence increasing as length of follow-up increases and such conditions as mental retardation and learning disabilities become apparent.

The consideration of "multiple spontaneous abortions" only may cause the study to miss a real increase in spontaneous abortions. The average number of children desired by American families is low enough that a woman could be at high (25 percent or greater) risk for abortion and still achieve two successful pregnancies with one or no abortions. Also, the decision to exclude karyotypic abnormalities is not well-supported.

Additional questions on pregnancy history may prove useful. For instance, there are no questions about drugs or other exposures or illnesses during the pregnancy. Questions about work during pregnancy might also help to refine exposure information.

In terms of reviewing abnormal outcomes, several suggestions are offered. First, would it be useful to have educational testing records to document such things as mental retardation and learning disabilities? In addition to hospitalizations, other types of records would be needed for a thorough investigation, e.g., ophthalmology, hearing, cardiology, genetics (counselors, test laboratories), orthopedics, neurology, plastic surgery. Releases for all of these records would be required, so names of all appropriate providers would be needed.

It is not clear why a pediatric neurologist has been chosen for the physical examinations of offspring. A dysmorphologist or pediatric geneticist might be a better choice. The physical examination described is for a neonate only. Most children will be older. A protocol for older patients and one for records review are needed. In addition, a way to compare examinations at different ages is required (e.g., use of percentiles instead of measurements). Would psychometric testing be carried out at the time of the physical examinations to verify claims of developmental disabilities?

Information about deceased offspring, including the presence of congenital anomalies and the cause of death is not sought in the questionnaire. Since congenital anomalies are a major cause of death, valuable information may be lost by this omission.

PTSD Substudy and Related Questionnaire Items. The hypothesized link between dioxin exposure and PTSD lacks support, though there are more fundamental questions that could be answered about PTSD. Perhaps the most important first step is to determine the incidence and/or prevalence of PTSD in women veterans. In addition, descriptive information about the types of events responsible for developing PTSD and the consequences it has had for the affected women would be valuable. The value of the proposed neurobehavioral testing is not so clear. OTA was unable to evaluate exactly how PTSD (acute, delayed, chronic) would be diagnosed, because, as reported by Dr. McKinlay, the instrument they intend to use is not yet available. It is, however, reported to be a 30-minute questionnaire that will be part of the telephone interview. OTA's experience with another study, the mandated PTSD study which is currently underway, suggests to us that such an instrument is unlikely to be a sufficient diagnostic tool to rely on for this study. If it is decided that determining actual rates of PTSD in women veterans is important, perhaps more effort could be made to validate diagnoses in at least a sample of women identified by the questionnaire as having PTSD.

In the medical history section of the questionnaire, psychiatric diagnoses are not specifically asked for. They might be offered by a participant, but they might not. In addition, while participants will be asked whether they have seen counselors or mental health professionals, the names of those providers are not requested. If diagnoses are to be verified, these names and addresses will be needed.

The medical history form lists "alcoholism" and "drug dependence" as possible diagnoses. Alcoholism might be expanded to alcohol dependence or abuse, or "drinking problem," to include the range of diagnoses. Also, questions on drug addiction seem skimpy given the relatively high prevalence of drug use by nurses in general. The lifestyle section might include "abuse of prescription drugs," or "other" as a category under drug use.

Validation Studies. The validation studies for medical information and to check on the completeness of the cohorts to appear to be worthwhile, but their final form will probably depend on the final protocol for the main study.

Other Comments. There was general agreement on the value of measuring blood-dioxin levels in a sample of women. This could take the form, for example, of a random sample of Vietnam and non-Vietnam participants. The information will be of value in itself, and need not be done in a hypothesis-testing mode. This determination would be expected to show no evidence of exposure, and the study should lay to rest fears that women in Vietnam were exposed to Agent Orange. There is no reason to consider hypotheses related to Agent Orange in a new protocol.

There was some concern among advisory panel members that sufficient medical records would not be available because of the passage of time since many events of interest (e.g., early births). Pilot testing of some of the proposed techniques for obtaining records might be worthwhile before the full study is launched.

SUMMARY

OTA does not approve the protocol for the "Women Vietnam Veterans Health Study" as submitted in August 1987. There is a need to clarify the aims of the study and to refocus the study design. We request a revised protocol and questionnaire to consider for approval.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON THE NATIONAL PROGRAM FOR SOIL AND WATER CONSERVATION—MESSAGE FROM THE PRESIDENT—PM 73

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the

Committee on Agriculture, Nutrition, and Forestry.

To the Congress of the United States:

Transmitted herewith is the annual report required by Section 7(b) of the Soil and Water Resources Conservation Act of 1977 (P.L. 95-192) as amended by P.L. 99-198.

The Soil and Water Resources Conservation Act of 1977 (RCA) requires the Secretary of Agriculture to appraise the condition of the soil, water, and related resources on the non-Federal lands of the Nation, and to develop a national soil and water conservation program for assisting landowners and land users in their future conservation activities on these lands.

The first appraisal, completed in 1980, was based primarily on the Department of Agriculture's (USDA) 1977 Natural Resources Inventory (NRI). The 1977 NRI was the most comprehensive and refined body of such data that had ever become available. It provided a solid foundation for the appraisal of the program.

The first program report, a National Program for Soil and Water Conservation, was completed in 1982. It set national conservation objectives and priorities, focused corrective action on the areas of the country with the most critical problems, and strengthened the existing partnership among local and State agencies, organizations, and the Federal Government for dealing with resource problems. Guided by this program, USDA has extended more technical and financial assistance than ever before in areas with the most serious problems of soil erosion and dwindling water supplies.

The USDA has been reshaping its conservation programs, using the 1980 appraisal and 1982 program as its blueprint. In addition, these two vital tools have enabled the USDA to analyze how its other programs, aside from those specifically for conservation, affect the condition of soil and water resources.

This annual report summarizes fiscal year 1986 soil and water conservation programs and activities, and progress being made under the 1982 National Program for Soil and Water Conservation. Accomplishment data included in the report are consistent with those reported in the 1988 budget request and the accompanying explanatory notes. I would like to reaffirm my support for the ongoing effort against soil erosion and other resource problems. I am confident that further progress can be made towards the goal of reasonable and judicious use of this country's important natural resources.

RONALD REAGAN.

THE WHITE HOUSE, *October 1, 1987.*

REPORT ON DEFERRAL OF CERTAIN BUDGET AUTHORITY MESSAGE FROM THE PRESIDENT—PM 74

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 13 deferrals of budget authority totaling $1,776,737,627.

The deferrals affect programs in the Funds Appropriated to the President and the Departments of Agriculture, Defense (Military and Civil), Health and Human Services, State, Transportation, and Treasury.

The details of these deferrals are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *October 1, 1987.*

MESSAGES FROM THE HOUSE

At 2:13 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1691. An act to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1495. An act to designate certain lands in Great Smokey Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

At 5:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 84. Joint resolution to designate October 1987 as "National Down's Syndrome Month"; and

S.J. Res. 142. Joint resolution to designate the day of October 1, 1987, as "National Medical Research Day."

The enrolled joint resolutions were subsequently signed by the Acting President pro tempore (Mr. CONRAD).

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1495. An act to designate certain lands in Great Smokey Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED JOINT RESOLUTIONS SIGNED

The Secretary of the Senate reported that on today, October 1, 1987, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 84. Joint resolution to designate October 1987 as "National Down's Syndrome Month"; and

S.J. Res. 142. Joint resolution to designate the day of October 1, 1987, as "National Medical Research Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1934. A communication from the President of the United States, transmitting, proposed amendments to the request for appropriations for fiscal year 1988 for the Legislative Branch and offsetting amendments for the Department of the Interior; to the Committee on Appropriations.

EC-1935. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, notice of a waiver of requirements for inclusion of the examination of records by the Comptroller General (Apr 84) clause; to the Committee on Armed Services.

EC-1936. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, notice of recent discovery and emergency disposal of two suspected chemical mortar projectiles and a suspected chemical bomlet at Dugway Proving Ground, UT; to the Committee on Armed Services.

EC-1937. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, a report on foreign policy export controls relative to Iran; to the Committee on Banking, Housing, and Urban Affairs.

EC-1938. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operations of the Exchange Stabilization Fund [ESF] for fiscal year 1986; to the Committee on Banking, Housing, and Urban Affairs.

EC-1939. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the effectiveness of penalties levied prior to and after the Motor Carrier Safety Act of 1984; to the Committee on Commerce, Science, and Transportation.

EC-1940. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "1986 Annual Report on Low-Level Radioactive Waste Management Progress;" to the Committee on Energy and Natural Resources.

EC-1941. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report containing recommendations for the future use and development of the southern portion of Ellis Island; to the Committee on Energy and Natural Resources.

EC-1942. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, notification of proposed refunds of certain offshore lease revenues where a refund recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1943. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Final Regulations for the Endowment Challenge Grant Program;" to the Committee on Labor and Human Resources.

EC-1944. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, notification of proposed refunds for certain offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1945. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the Trail of Tears, ; to the committee on Energy Natural Laws.

EC-1946. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "The Secretary's Annual Report to Congress, 1986;" to the Committee on Energy and Natural Resources.

EC-1947. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "Lowell National Historic Park Analysis Certification of Expenditures Statement;" to the Committee on Energy and Natural Resources.

EC-1948. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "National Dioxin Study;" to the Committee on Environment and Public Works.

EC-1949. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the "1987 Interstate Substitution Cost Estimate;" to the Committee on Environment and Public Works.

EC-1950. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, a draft of proposed legislation to amend 5 U.S.C. 8440 and 26 U.S.C. 7701(j) to exempt the Thrift Savings Plan [TSP] from the nondiscrimination requirements imposed on cash or deferred compensation arrangements by the Internal Revenue Code; to the Committee on Finance.

EC-1951. A communication from the Secretary of Labor, transmitting, pursuant to law, a third annual report entitled "Trade and Employment Effects of the Caribbean Basin Economy Recovery Act"; to the Committee on Finance.

EC-1952. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, a report on travel advisories recently issued by the Department of State for Cuba, Haiti, Honduras, Panama, Sri Lanka, and Vietnam, which have security implications for Americans traveling or residing in those countries; to the Committee on Foreign Relations.

EC-1953. A communication from the Records Officer, U.S. Postal Service, transmitting, pursuant to law, notices of two proposed computer matching programs; to the Committee on Governmental Affairs.

EC-1954. A communication from the Director, Office of Management Analysis, Department of the Interior, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1955. A communication from the Special Counsel, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report of the Administrator of Veterans Affairs relative to patient abuse; to the Committee on Governmental Affairs.

EC-1956. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1957. A communication from the Vice President, Farm Credit Banks, Springfield, MA, transmitting, pursuant to law, the Annual Report for the Farm Credit Banks of Springfield Retirement Plan; to the Committee on Governmental Affairs.

EC-1958. A communication from the Assistant Attorney General (Office of Legislative and Intergovernmental Affairs), Department of Justice, transmitting, drafts for three proposed pieces of legislation to strengthen the "Administrator's anti-fraud enforcement program;" to the Committee on the Judiciary.

EC-1959. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report covering the 12-month period ending June 30, 1987, on the activities of the Federal Courts under the Equal Access to Justice Act of 1980; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-311. Joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"SENATE JOINT RESOLUTION NO. 17

"Whereas, The programs established pursuant to the National School Lunch Act (Sections 1751 to 1769a, inclusive, of Title 42 of the United States Code) are intended to serve the nutritional needs of all children; and

"Whereas, Good nutrition is essential to the growth, development, and general good health of children and has been demonstrated to promote the ability of children to learn; and

"Whereas, Studies indicate that students from all economic levels who participate in the programs established pursuant to the National School Lunch Act are better nourished than children who do not participate in the school lunch program; and

"Whereas, The programs established pursuant to the National School Lunch Act further benefit the economy by helping to fully utilize the nation's abundance of agricultural products; and

"Whereas, The President of the United States has proposed to reduce financial support for child nutrition programs across the nation by $826 million in the 1987-1988 federal budget; and

"Whereas, The cuts in federal cash assistance to school lunch programs in California alone will total at least $57 million; and

"Whereas, Since passage of the 1981 Omnibus Budget Reconciliation Act (Public Law 97-35), federal funding for child nutrition has declined by more than $6 billion; and

"Whereas, The program under current law provides a basic infrastructure which helps pay the fixed costs of school food service programs in 1,178 California school districts serving 1,950,000 children; and

"Whereas, State law mandates school lunches for needy children, and without the existing level of federal funding, many school districts would be unable to meet this mandate, jeopardizng the nutritional well-being of all children, including the poor, in the community; and

"Whereas, The funding reduction in California since 1981 has resulted in a drop of more than 10 million free lunches, 8 million reduced-price lunches, and 16 million paid lunches annually; and

"Whereas, The Child Nutrition Amendments of 1986 (Public Law 99-661) reauthorized all child nutrition programs until September 30, 1989; and

"Whereas, The 98th Congress and the 99th Congress rejected all child nutrition budget cuts after extensive hearings and the Gramm-Rudman-Hollings Act (also known as the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177)) exempted child nutrition programs from any budget cuts; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California urges the United States Senate and House of Representatives to provide at least the level of funding provided in current law for school lunch programs in the 1987-88 fiscal year; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the Congress of the United States."

POM-312. Joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"ASSEMBLY JOINT RESOLUTION NO. 36

"Whereas, The Elk Hills Naval Petroleum Reserve was established in 1912 to provide a ready source of crude oil in time of national emergency; and

"Whereas, The reserve was opened in 1976 to commercial production to offset the loss of imported crude due to the Arab oil embargo; and

"Whereas, Congress and the federal government mandated that a portion of the production from the reserve be made available to small refiners; and

"Whereas, Elk Hills crude provides the only available supply of light, relatively low-sulfur crude needed by small California refiners to meet the state's strict environmental limitations and special product needs; and

"Whereas, The small refiners use the Elk Hills crude oil in blend to transport to processing facilities the heavier, low-gravity crudes produced by independent oil producers in the San Joaquin Valley; and

"Whereas, This independent refiner market is of paramount importance to the continued viability of independent oil producers; and

"Whereas, Elk Hills crude represents the single largest block of crude oil production not controlled by a major integrated refiner; and

"Whereas, The state's independent refiners provide an important product price competition for major integrated companies; and

"Whereas, Several proposals have been made to sell the portion of the Elk Hills Naval Petroleum Reserve owned by the Federal Government; and

"Whereas, Section 7430 of the federal Naval Petroleum Reserves Act prohibits any person from obtaining control over more than 20 percent of annual oil sales from Elk Hills; and

"Whereas, The Department of Energy has recently intepreted Section 7430 to apply only cumulatively to all sales that occur each year and not to individual oil sales which occur approximately every three months; and

"Whereas, This interpretation will result in the disruption of steady oil supplies which are needed by small refiners; now therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress to disapprove any sale or lease of the federal government's portion of the Elk Hills Naval Petroleum Reserve; and be it further

"Resolved, That to ensure the continued existence of smaller facilities, the Congress is requested to direct the federal government to assure that not more than 20 percent of each oil sale from the reserve be granted to one corporate entity, and its subsidiaries and affiliates; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States to the Speaker of the House of Representatives, and to each Senator and Representatives from California in the Congress of the United States."

POM-313. Joint resolution adopted by the Legislature of the State of California; pursuant to the order of August 4, 1987, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs:

"SENATE JOINT RESOLUTION No. 1

"Whereas, The allocation of federal highway and aviation trust funds are included in the unified federal budget; and

"Whereas, The transportation trust fund, which consists primarily of user fees from fuel and excise taxes, is dedicated to the support and construction of the nation's transportation network; and

"Whereas, The funds have not been allocated but have been left to accumulate in the unified budget; and

"Whereas, The multibillion dollar surplus in the trust fund has cost, and is costing, the economy of the nation thousands of jobs, including an estimated 135,000 jobs in California; and

"Whereas, The failure to allocate the trust fund and the restrictions on the expenditures authorized have required the deferment of projects in the state transportation improvement plan and have precluded additions of any needed new projects; and

"Whereas, The accounting practice of using transportation trust funds to soften the appearance of the unified budget shortfall prevents California from addressing its transportation needs; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to remove the highway and aviation trust funds from the unified federal budget; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-314. Joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION No. 3

"Whereas, The federal plan to deregulate the nation's telephone network has resulted in a variety of changes in services, products and costs which have confused and angered Americans who have been used to a single reliable monopoly telephone service provider; and

"Whereas, A recent decision by the Federal Communications Commission to deregulate the inside wire maintenance service, usually routinely provided by local telephone corporations, has caused a new level of confusion for the state's ratepayers and raised several important issues with respect to further deregulation of telephone services; and

"Whereas, The state's ratepayers have financed, through their telephone rates paid to telephone corporations, the technical expertise to develop the sound and rational repair program which has served telephone subscribers who have had inside telephone wiring problems; and

"Whereas, The Federal Communications Commission's decision to deregulate telephone service was in anticipation of a competitive repair marketplace which seems unlikely to materialize given the existing advantages the present telephone corporations have in the market; and

"Whereas, The Legislature of the State of California has already expressed its strong support in Resolution Chapter 80 of the Statutes of 1986 for preserving the state's authority to regulate intrastate telephone service with respect to accounting methods and other regulatory decisions which affect local telephone rates; and

"Whereas, Legislation may be reintroduced in the 100th Congress of the United States to transfer all future telephone deregulation authority to the Federal Communications Commission which, because of the Federal Communications Commission's policies which support competition, could detrimentally impact other local telephone services now regulated by the Public Utilities Commission; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation to reverse the decision to deregulate inside wiring maintenance by the Federal Communications Commission and thereby reestablish state authority over this public utility service; and be it further

"Resolved, That the California Legislature hereby supports present efforts by the Public Utilities Commission to oppose usurpation of its authority by the Federal Communications Commission with respect to the regulation of inside wiring maintenance; and be it further

"Resolved, That the California Legislature opposes legislative proposals by the Congress of the United States to transfer authority from the Department of Justice to the Federal Communications Commission to deregulate telephone services, unless the Congress also requires significant input on these policy changes by state regulatory commissions, and local residential and business telephone subscribers; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Chairperson of the Federal Communications Commission, and to the Public Utilities Commission."

POM-315. Joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION No. 10

"Whereas, Congress has established the Aviation Trust Fund for purposes of funding enhanced aviation safety and efficiency programs, and improvements in these matters have never been more urgently needed; and

"Whereas, This fund was established in 1970 as a means to support construction of additional airports, including small "reliever" airports designed to reduce congestion at crowded major airports; and

"Whereas, In 1982, the purpose of the fund was expanded to include airport improvements, air traffic control facilities, and air safety matters; and

"Whereas, Urgently needed projects include replacement of outmoded radar systems presently affording only partial coverage of air traffic control areas, higher capacity computer information processing systems, and systems to warn air traffic controllers of impending midair collisions; and

"Whereas, Because of inadequacies in the present air traffic control system, airlines and their passengers in 1986 experienced delays totalling approximately 2,500 hours per day nationwide, the industry's worst year ever for flight delays, which has been estimated to cost the airlines, passengers, and shippers more than two billion dollars ($2,000,000,000); and

"Whereas, Needed improvements are especially critical since airlines are presently serving more passengers than ever before, and the annual United States airline passenger total is reliably expected to continue to increase for the foreseeable future; and

"Whereas, The Aviation Trust Fund is supported by an 8 percent tax on all airline tickets, a twelve cent ($0.12) per gallon tax on general aviation fuel, an air cargo tax, and an international departure fee, which result in total revenues of nearly three billion dollars ($3,000,000,000) per year; and

"Whereas, An enormous surplus presently exists in the fund amounting to unspent revenues of approximately eight billion four hundred million dollars ($8,400,000,000), of which approximately four billion three hundred million dollar ($4,300,000,000) is not even committed to any long-term project; and

"Whereas, It has been alleged that these funds have been hoarded for federal deficit-reduction purposes rather than utilized for the purposes for which the trust was created, and the Federal Aviation Administration has proposed that some of these funds be diverted to covering FAA operating expenses, including salaries, rather than the safety and improvement projects for which the money was originally collected; and

"Whereas, This failure to properly utilize these funds for their original safety and improvements purposes jeopardizes the safety and well-being of the entire American public as well as air travelers and personnel; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature urgently memorializes the President and Congress to take all necessary measures to utilize the Aviation Trust Fund for purposes of greatly needed aviation safety and improvement projects, pursuant to the original purposes of that fund; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the Federal Aviation Administration."

Assembly Joint Resolution No. 11

POM-316. Joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"Whereas, More than 50 major air disasters have occurred since the National Safety Council warned, on August 17, 1964, that collision prediction can only be achieved through the use of three-dimensional measurement radar, which is radar capable of measuring longitude, latitude, and altitude; and

"Whereas, These air disasters have resulted in the tragic loss of hundreds of lives, including 87 deaths in the recent midair collision of an Aero-Mexico airliner and a small private plane over Cerritos, California; and

"Whereas, The Cerritos air disaster could in all likelihood have been prevented had air traffic controllers been informed of the private aircraft's altitude and pending collision course with the Aero-Mexico airliner, and this could have been readily provided through the use of a three-dimensional tracking system; and

"Whereas, Current airborne collision avoidance systems, as evidenced by continued midair tragedies, are not sufficiently effective in ensuring public safety due to the absence of the means of making an altitude determination; and

"Whereas, Recognized experts in the field of flight radar detection have testified that a cost-effective ground-based three-dimensional collision warning system is practicable and available in the form of bistatic or listen-only radar, a one-way radio broadcast transmission system which informs monitoring commercial aircraft pilots of collision bound aircraft; and

"Whereas, Bistatic or listen-only radar systems may be installed using existing technology at far less cost than alternative airborne systems capable of measuring altitude as well as longitude and latitude; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to initiate emergency expert analysis of three-dimensional radar as an interim remedy to the current situation; and be it further

"Resolved, That the Legislature urges the boards of supervisors of all California counties which host major commercial air traffic to adopt measures in support of this resolution, to communicate these measures to the President and Congress, and to provide local funding for analyses of bistatic, listen-only radar by counties; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the board of supervisors of each county in California, and to the Administrator of the Federal Aviation Administration."

POM-317. Joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"Senate Joint Resolution No. 12

"Whereas, The federal Airport and Airway Trust Fund, created by the former federal Airport and Airway Development Act of 1970 (Public Law 91-258), consists primarily of user fees from the carriage of passengers by air transport, the transport of property and cargo, and excise taxes on aviation fuel and tires, and is dedicated to the support and development of the nation's overall air transportation system; and

"Whereas, The projected annual revenues to the Airport and Airway Trust Fund for the 1987 fiscal year are three billion five hundred million dollars ($3,500,000,000), bringing the projected surplus in the trust fund up to five billion six hundred million dollars ($5,600,000,000) by the end of the 1987 fiscal year on September 30, 1987; and

"Whereas, The Airport and Airway Trust Fund was established as the funding mechanism for the support of, and future research and development for, the nation's air transport system, including the air traffic controller system; research, engineering, and development; and grants of aid for state and local governments to maintain and improve their airport facilities; and

"Whereas, In 1981, the authorization of the Airport Improvement Program contained in the former Airport and Airway Development Act of 1970 was delayed for 18 months during which time only limited federal funds were available for airport development even though aviation user fees and taxes continued to flow into the United States Treasury; and

"Whereas, This reduction in funding has contributed to the increasing shortfall of airport development needs as determined both by the Federal Aviation Administration's National Plan of Integrated Airport Systems and by state and regional system plans; and

"Whereas, The Airport and Airway Improvement Act of 1982 (Public Law 97-248) will expire on September 30, 1987, and without reauthorization legislation, serious delays in the delivery of moneys from the fund to California will result, thereby inhibiting the ability of local airport operators to plan needed projects; and

"Whereas, Another delay in the reauthorization of the Airport Improvement Program such as the delay in 1981 could translate into a 100 million dollar setback annually in California for planned and approved projects, most of which are either safety-related or are intended to improve the severe airport capacity or compatibility planning problems faced by California's airports; and

"Whereas, The California Commission on Aviation and Airports unanimously approved a motion expressing concern and recommending that the Legislature of the State of California urge the Congress of the United States to take immediate action to avoid any delay in the reauthorization of the Airport and Airway Improvement Act of 1982; Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly," That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and expeditiously enact legislation reauthorizing both the Airport and Airway Improvement Act of 1982 and the Airport and Airway Trust Fund so as to preclude any interruption in the expenditure of user-paid aviation trust funds for the airport projects for which the funds were collected and intended; and be it further

"Resolved," That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Transportation, to the Administrator of the Federal Aviation Administration, and to the Governor of each state in the United States."

POM-318. Joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"Senate Joint Resolution No. 19

"Whereas, According to the General Accounting Office, serious deficiencies in the system for collection of oil and gas royalties by the Department of the Interior that were identified over 20 years ago persist today; and

"Whereas, According to a report issued by the House Appropriations Subcommittee on the Interior, the federal government may be failing to collect as much as one billion dollars ($1,000,000,000) a year in oil and gas royalties; and

"Whereas, Since states receive half the royalties earned from public lands within their borders, the states have a vital interest in ensuring that the federal government collects all royalties due; and

"Whereas, Proposed regulations of the Department of the Interior, if implemented, would unreasonably require states to rebate millions of dollars to oil and gas companies for royalties collected since 1982; and

"Whereas, The Department of the Interior has consistently failed to forward royalty payments to the states in a timely manner and has filed to comply with the Federal Oil and Gas Royalty Management Act passed by Congress in 1982, which requires the department to disperse royalties within 30 days of receipt; and

"Whereas, The Department of the Interior has wasted large sums of the taxpayers' moneys in attempting to develop new computer systems to efficiently manage the collection of royalties, but has so far utterly failed to develop a workable system; Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States and the Secretary of the Interior to ensure that oil and gas royalties are efficiently collected by the federal government and disbursed to the states in accordance with federal law; and be it further

"Resolved, That the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-319. Joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION No. 29

"Whereas, Hundreds of thousands of areas of prime national forest timber have been destroyed by forest fires; and

"Whereas, Much of that timber was presently being harvested, and California counties receive 25 percent of gross receipts, as compensation for federal timber harvested; and

"Whereas, Many of the communities in California's rural counties are completely dependent on a supply of national forest timber for their economic livelihood; and

"Whereas, Loss of these receipts to the counties will have a devastating effect; and

"Whereas, Even the remaining portion of merchantable timber volume will be devalued, and there will be a loss of pulp chip value, some loss of volume, increased operating costs, and lack of market flexibility; and

"Whereas, Volume and value of timber are reduced in indirect proportion to time delay; and

"Whereas, There is a need to accomplish salvage with a minimum impact on national forest values and programs, a need to reduce the risk of insect and disease attack, and a need to provide a mechanism for erosion control and revegetation at the earliest possible time; and

"Whereas, Because of poor winter access to burned areas, it is necessary to accomplish as much work as possible this fall and next spring, including the implementation of expedited appraisals and sale preparations and examination of the need for special road funding in low value situations; Now, therefore, be it

"Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Secretary of Agriculture and the Congress of the United States to immediately implement and fund a salvage program in those burned areas of United States Forest Service lands in California; and be it further

"Resolved, That those destroyed areas that were being harvested at the time of the fires, as well as those areas that were being prepared for sale, be considered first in order to lessen the economic impact on California counties; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-320. Joint resolution adopted by the legislature of the State of California; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION No. 4

"Whereas, Energy conservation has proven to be an important and cost-effective way of achieving energy efficiency; and

"Whereas, Energy conservation can continue to protect the United States from fluctuations in the world oil market; and

"Whereas, Household appliances consume about 14 percent of all energy used in California, costing ratepayers approximately $6.5 billion per year; and

"Whereas, California energy efficiency standards for residential appliances have been responsible for approximately 50 percent of all electricity savings achieved by the state in the past decade; and

"Whereas, Congress is considering the National Appliance Energy Conservation Act of 1987 to impose national uniform appliance energy efficiency standards which would be generally compatible with existing California standards; and

"Whereas, The act would bring about significant energy savings nationwide through improved appliance efficiency and would result in savings to the nation's consumers of an estimated $28 billion over the life of appliances purchased during the next 20 years; and

"Whereas, These national standards will benefit gas and electric utilities by allowing them to forecast energy savings more accurately, and thus reduce wasted investment in new plants and other facilities; and

"Whereas, Appliance manufacturers, consumer groups, and other affected interests have reached a significant agreement on the desirability of having national uniform appliance energy efficiency standards; Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and enact the National Appliance Energy Conservation Act of 1987 to establish national uniform appliance energy efficiency standards; and be it further

"Resolved, That provision be made in the act for states to apply for and, for good cause, be granted an exemption to impose stricter standards in order to respond to energy problems such as high electricity, gas, and oil prices, unusual climatic situations, or adverse environmental or health and safety conditions that can be alleviated by increased conservation of the use of energy by appliances; and be it futher

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Energy, to the Governor, and to the Chairperson of the State Energy Resources Conservation and Development Commission."

POM-321. Joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION No. 2

"Whereas, The provision of federal highway and transit funds is essential to the funding of state and local transportation programs; and

"Whereas, The Congress of the United States must periodically renew federal transportation funding authority for the allocation and expenditure of these federal funds by the states; and

"Whereas, The Surface Transportation Assistance Act expired on September 30, 1986, and the Congress has failed to reauthorize any federal highway programs since then, leaving no new federal highway funds for 1986-1987; and

"Whereas, California's highway and transit capital outlay programs are heavily dependent upon the federal government's financial participation; and

"Whereas, Even with continued full federal funding, available financial resources are insufficient to fund all needed capital outlay improvements; and

"Whereas, The failure to quickly reestablish full federal highway funding and expenditure authority will severely curtail or bring to a halt highway construction in California, including the termination of all new highway construction contracts by April of 1987; and

"Whereas, No new capital outlay funds for transit can be made available until federal legislation is enacted; and

"Whereas, The long lead time associated with construction projects and the need to be able to plan for these lead times create a need for multiyear funding legislation; now, therefore, be it

"Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to expeditiously enact a multiyear surface transportation assistance act consistent with the federal transportation funds available; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-322. Joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 7

"Whereas, Federal matching funds for foster care is available for the cost of care of children who have been removed from their homes and placed in foster care as the result of a judicial determination that continuing to live in that home would be contrary to the welfare of the child; and

"Whereas, In some teenage foster care cases, the foster child is herself the parent of an infant child who lives in the same foster family home or foster care institution, but because of the requirement that a child must have been removed from their home and placed in foster care away from their parent, the infant child of a teenager in foster care is not eligible for federally assisted Aid to Families with Dependent Children-Foster Care (AFDC-FC), even though the care of the infant may be primarily the responsibility of the foster care provider;

"Whereas, These children of foster care children may be eligible as a child-only

AFDC unit, but, the AFDC family rate for a child-only unit is usually much less than the cost of foster care, especially in the cases where a foster care institution has a specialized program for foster care teenagers and their infants; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to amend Title IV-E of the Social Security Act to make children of foster care recipients eligible for AFDC-FC matching funds and to require states to include in a foster care payment the cost of care provided to the child of a girl in foster care along with the cost of care provided to the foster child herself when they are living in the same foster care home or foster care institution; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-323. Joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 8

"Whereas, The ability of investor-owned energy and water utilities to provide extensions of their dedicated utility services to new residential, agricultural, and business customers within California on an efficient basis is of utmost importance to the continuing growth of the state's dynamic economy; and

"Whereas, The policies of the California Public Utilities Commission encourage new customers to contribute to the plant or needed funds to the serving utility for major service extensions, and thereby protect existing ratepayers from assuming the costs of those extensions; and

"Whereas, A key element of providing least-cost utility service extensions was a long-standing provision of federal tax law which allowed payments made by new customers to offset the cost of extending the utilities distribution facilities to be treated as a contribution of capital to the utility, and thus not treated as income to the utility upon which income taxes are owned; and

"Whereas, The federal Tax Reform Act of 1986 (Public Law 99-514) amended Section 118 and repealed Section 362(c) of the Internal Revenue Code, which allowed for those contributions to be treated as capital, and produced the result that contributions made after December 31, 1986, will be treated as income to the receiving utility, and subject to applicable federal income tax rates; and

"Whereas, The economic impact of this change will be immediate and serve, inasmuch as the overall cost of those contributions will increase by as much as 66 percent during 1987, due to their taxable status, and these increased costs must be borne by either the new customer or the ratepayers of the serving utility; and

"Whereas, This impact will be particularly harmful for regulated water utilities, which are unable to obtain cash for both building needed extensions and paying the newly-imposed tax unless the California Public Utility Commission grants significant rate increases for existing customers; and

"Whereas, This action by the federal government does not appear to satisfy either of the goals of fairness or economic growth upon which the Tax Reform Act of 1986 is grounded; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to immediately enact legislation to restore the capital status of contributions to investor-owned energy and water utilities as it existed prior to the federal Tax Reform Act of 1986; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the California Public Utilities Commission."

POM-324. Joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 26

"Whereas, Gasoline taxes have traditionally been treated as user fees dedicated to transportation improvements; and

"Whereas, Transportation programs have not contributed to the federal debt because the Federal Highway Trust Fund is required to have revenues sufficient to balance expenditures from it; and

"Whereas, An increase in the gasoline tax for nontransportation purposes would be an unwarranted diversion of a traditional source of revenue for transportation and would seriously undermine the ability of states to raise funds for improvements to their roads and for transportation programs; and

"Whereas, A federal gasoline tax increase for deficit reduction would increase consumer prices and place an undue burden on lower income persons and those especially dependent on private vehicles for transportation; and

"Whereas, A nontransportation federal gasoline tax increase would have a negative effect on employment, income tax revenues, and the personal savings rate; and

"Whereas, A federal gasoline tax increase would create regional and geographic inequities which would place a greater burden on western and nonurban areas where motorists must travel greater distances between their homes, businesses, and workplaces; and

"Whereas, Any increase in the federal gasoline tax should be used to fund existing and growing transportation infrastructure needs; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States not to use or increase the federal excise tax on gasoline to reduce the federal budget deficit; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-325. Joint resolution adopted by the Legislature of the State of Illinois; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 54

"Whereas, The employment security system was established in 1935 by the Social Security Act and encompasses an unemployment insurance program, an employment service, and a labor market information program in each of the states; and

"Whereas, From inception of the system, Illinois employers have paid two taxes to fund the system; and

"Whereas, The State is currently responsible for ninety percent of employment security system revenues in the form of state unemployment insurance taxes for benefit trust fund solvency; and

"Whereas, The federal government collects the remaining 10 percent of the system's revenue, the majority of which is intended for funding state employment security program administrative costs in that the revenues are generated by employer payroll taxes; and

"Whereas, The employment security systems are self-financing in that they were generated by Federal Unemployment Tax Act (FUTA) employer payroll taxes and inappropriate federal budget reductions have caused a build-up of a surplus over $1 billion in the Employment Security Administrative Account which may not be used for any purpose other than financing employment security programs; and

"Whereas, Chronic underfunding of state administrative costs in employment security programs has recently forced the Illinois Department of Employment Security to reduce its staffing by almost 25%; and

"Whereas, The inadequacy of administrative funding allocated to the states by the federal government has been further compounded by the fact that in 1985, the Internal Revenue Service was unable to account for approximately $800 million in FUTA tax collections; and

"Whereas, Further funding reductions, currently proposed, will require the Department to close local offices throughout the State, and require a reduction of existing services Statewide to the people of Illinois; and

"Whereas, With cooperation between business, labor, the General Assembly and the Governor, Illinois has demonstrated the willingness and ability to effectively solve grave employment security issues evidenced by the elimination of a two and one-half billion dollar unemployment insurance trust fund debt; and

"Whereas, It is evident that the states can no longer afford the separation of budget and program responsibilities and that each state must be allowed to be responsive to the needs of its employers and workers; therefore, be it

"*Resolved, by the Senate of the Eighty-Fifth General Assembly of the State of Illinois, the House of Representatives concurring herein,* That the Congress be memorialized to favorably consider the Equity in Employment Security Financing Act or similar legislation that ensures state control and substitutes a state administrative tax for the current FUTA tax to finance the unemployment insurance and employment service systems; and be it further

"*Resolved,* That the Equity in Employment Security Financing Act preserves the provisions of federal law which protect the rights of workers, requires experience rating of employer taxes, and insures uniformity in many other areas; and be it further

"*Resolved,* That in a time of dwindling resources, the states must have greater authority to meet the challenges of assuring delivery of needed services, while encouraging economic development in this State; and be it further

"*Resolved*, That suitable copies of this preamble and resolution be presented to the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate, the Chairmen and members of the appropriate committees of Congress considering the Equity in Employment Security Financing Act, the members of the Illinois Delegation, and the United States Secretary of Labor."

POM-326. Joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 15

"Whereas, A growing scientific consensus supports the view that the worldwide release of chlorofluorocarbons and certain other manufactured chemicals can deplete the Earth's ozone layer, resulting in adverse effects on human health and the environment; and

"Whereas, It is necessary to take appropriate measures to protect human health and the environment against adverse effects resulting from the release of chlorofluorocarbons and certain other manufactured chemicals which may deplete the ozone layer; and

"Whereas, There is a need for international cooperation to reduce emissions of chlorofluorocarbons and certain other manufactured chemicals which may deplete the ozone layer; and

"Whereas, The worldwide use of chlorofluorocarbons continues to grow; and

"Whereas, Safe alternatives can be developed in a reasonable time; and

"Whereas, The United States and certain other countries have already taken formal precautionary measures for reducing emissions of chlorofluorocarbons by imposing a ban in 1978 on the use of chlorofluorocarbons as aerosol propellants; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California supports the President and the Congress of the United States in taking appropriate measures to protect human health and the environment against adverse effects resulting from the release of chlorofluorocarbons and other manufactured chemicals that can significantly deplete the ozone layer; and be it further

"*Resolved*, That the Legislature hereby memorializes the President to negotiate an immediate reduction in the use of chlorofluorocarbons in the European Community and in other nations; and be it further

"*Resolved*, That the Legislature further memorializes the President to negotiate a worldwide program as expeditiously as practicable for the elimination of fully halogenated chlorofluorocarbons and other manufactured chemicals that may deplete the ozone layer; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-327. Joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 24

"Whereas, Thirteen years have passed since the Turkish invasion and the Cyprus problem remains unsolved; and

"Whereas, The humanitarian crisis involving 200,000 refugees grows increasingly more desperate; and

"Whereas, As a result of the Turkish invasion, 1,619 persons, including eight Americans, are still missing and unaccounted for; and

"Whereas, The Republic of Cyprus has rendered substantive assistance to the United States in recent years in the region; and

"Whereas, Turkey, by the illegal use of United States supplied arms, has attacked, seized, and continues to occupy 38 percent of the territory of the Republic of Cyprus; and

"Whereas, Turkey has recently increased its troops on Cyprus to 35,000, its colonizers to 60,000, and its tanks to 400, and has illegally upgraded its arms on the island by United States weapons supplied for NATO defense; and

"Whereas, Turkey continues its longstanding policy of suppression of its ethnic minorities, depriving them of their right to freely practice their religions and to maintain their languages, distinctive cultures and basic human needs, particularly those of the Armenian survivors of the 1915 unconfessed genocide, the Kurds, and the Greeks; and

"Whereas, Turkey is currently the recipient of financial and military assistance approaching $1 billion per annum; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California urges the President and Congress of the United States to:

(1) Assist the United Nations Secretary General in finding a solution to the Cyprus problem based on the charter and the relevant resolutions of the United Nations, with international guarantees for the unity, sovereignty, and independence of the Republic of Cyprus.

(2) Stop subsidizing through its aid to Turkey the illegal occupation of Cyprus until a mutually acceptable solution is found.

(3) Exert, moreover, their best efforts with Turkey to effectuate, prior to a final agreement, the return of the FAMAGUSTA-VAROSHA and MORPHOU regions under Greek Cypriot control, the removal of the 35,000 Turkish occupation troops and 60,000 colonizers from the island and to restore to the people of Cyprus majority rule with minority rights guaranteed, the freedom of movement, the freedom of settlement, and the right to own property anywhere in the republic; and be it further

"*Resolved*, That the members urge the President and the Congress of the United States to continue the generous support to the Cypriot refugees; and be it further

"*Resolved*, That the members urge the President and the Congress of the United States to enforce the provisions of the Military Sales Act by recalling all United States supplied arms from the occupied part of Cyprus; and be it further

"*Resolved*, That the members urge the President to stop any further assistance to Turkey until the 1,619 persons missing, particularly the eight Americans, are accounted for; and be it further

"*Resolved*, That the members urge the President and the Congress of the United States to review the current policies of Turkey regarding its treatment of the ethnic and religious minorities residing in Turkey, in the light of President Reagan's repeated expressions of concern for human rights, and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of the resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of State, and to each Senator and Representative from California in the Congress of the United States."

POM-328. Joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs:

"SENATE JOINT RESOLUTION No. 21

"Whereas, A grave injustice was done to both United States citizens and resident aliens of Japanese ancestry by the evacuation, relocation, and internment of those persons during World War II; and

"Whereas, The basic civil liberties and constitutional rights of the civilians of Japanese ancestry who were interned in the United States during World War II were fundamentally violated by that evacuation and internment; and

"Whereas, The findings of the federal Commission on Wartime Relocation and Internment of Civilians describe the circumstances of the evacuation, relocation, and internment of 110,000 United States citizens and permanent resident aliens of Japanese ancestry; and

"Whereas, H.R. 442 and S. 1009, which would enact the Civil Liberties Act of 1987 and implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians, were introduced in 1987 in the House of Representatives and the Senate of the United States, respectively; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California urges the President and the Congress of the United States to enact those portions of H.R. 442 and S. 1009 of the 100th Congress, the Civil Liberties Act of 1987, which relate to the redress of the injustice done to United States citizens and resident aliens of Japanese ancestry who were interned in the United States during World War II; and be it further

"*Resolved*, That the Secretary of the State transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives of the United States, and to each Senator and Representative from California in the Congress of the United States."

POM-329. Joint resolution adopted by the Legislature of the State of Wisconsin; to the Committee on the Judiciary:

"ENROLLED JOINT RESOLUTION

"Whereas, the congress of the United States has submitted to the several states, by action of the house of representatives on September 24, 1789, and by action of the United States senate on September 15, 1789, a proposed amendment to the constitution of the United States pertaining to the effective date for congressional pay changes, which amendment reads as follows:

"No law varying the compensation for the services of the Senators and Representatives shall take effect, until an election of Representatives shall have intervened.

"Whereas, while the congress of the United States has the power to impose reasonable time limits for the ratification of proposed amendments to the constitution of the United States, and has done so for many of the amendments submitted to the states in recent decades, the congress did not impose any time limit whatsoever on the ratification of the congressional pay change amendment; and

"Whereas, the congressional pay change amendment was validly ratified by the state of Vermont on November 3, 1791, even though Vermont had not been one of the original 13 states to which the proposed amendment had been submitted, and had not yet achieved statehood when the amendment was submitted; and

"Whereas, by the act of congress dated May 29, 1848 (9 U.S. Stats., Ch. L, pp. 233-235), 'for the Admission of the State of Wisconsin into the Union', this state was . . . 'admitted into the Union on an equal with the original States, in all respects whatever' . . .; and

"Whereas, almost 26 years following the admission of the state of Wisconsin into the union the state of Ohio, on May 6, 1873, became the 7th state to ratify the congressional pay change amendment. A century later, on March 6, 1978, Wyoming submitted the 8th ratification. Maine ratified on April 27, 1983; Colorado on April 22, 1984. Five states ratified the amendment in 1985: South Dakota in February; New Hampshire on March 7; Arizona on April 3; Tennessee on May 28 and Oklahoma on July 10. Three more ratifications—brings the total number to 18—were received in February 1986: New Mexico on the 14th; Indiana on the 24th; and Utah on the 25th; and

"Whereas, the people of the sovereign state of Wisconsin, represented in senate and assembly, have studied said proposed addition to the constitution of the United States and it is their consensus that the federal government, three-fourths of the states concurring, be directed to thus alter the constitution of the United States; now, therefore, be it

"Resolved by the assembly, the senate concurring, That the said proposed congressional pay change amendment to the constitution of the United States is hereby ratified by the legislature of the state of Wisconsin; and, be it further

"Resolved, That a duly attested copy of this resolution be immediately transmitted to the president and secretary of the senate of the United States, to the speaker and clerk of the house of representatives of the United States, to the office of the federal register, to the library of congress, to each member of the congressional delegation from this state, to the national conference of state legislatures, to the council of state governments, and to the presiding officer of each house of each state legislature in the United States, attesting the adoption of this joint resolution by the 1987 legislature of the state of Wisconsin."

POM-330. Joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION NO. 47

"Whereas, The federal Immigration Reform and Control Act of 1986 (Public Law 99-603) makes numerous changes in federal immigration laws and permits eligible undocumented immigrants to apply for legal resident status; and

"Whereas, The federal immigration act does not expressly provide for maintaining the family units of persons whose family members appear not to qualify for legal resident status and thereby creates hardships for those families and for family unity; and

"Whereas, The separation of family members is directly contrary to the traditional and cherished value in American society of family unity and family support which should not be sacrificed in the efforts to achieve the goals of the Immigration Reform and Control Act of 1986; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the President and the Congress of the United States to support federal legislation which waives the continuous residence requirement under the legalization program for spouses and children of qualified legalized aliens, and for parents of United States citizen children born on or after December 31, 1981, and before November 7, 1986, introduced by Members of the California Congressional Delegation, United States Senator Cranston and Representative Roybal, that address these important issues of family unity; and be it further

"Resolved, That the Legislature of the State of California respectively memorializes the President and the Congress of the United States to amend the Immigration Reform and Control Act of 1986 to clarify that the intent of that act was not to break up or separate immediate family members who are seeking to become legal residents and eventually American citizens; and be it further

"Resolved, That the Commissioner of the Immigration and Naturalization Service is respectfully urged to issue administrative directives to all INS district offices to grant deferred action status to family members who appear not to qualify under the provisions of the new immigration act in order to avoid the breakup of family units and separation of family members; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Commissioner of the Immigration and Naturalization Service, and to each Senator and Representative from California in the Congress of the United States."

POM-331. Joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 56

"Whereas, Section 4 of Article XIV of the California Constitution vests the Legislature with plenary power, unlimited by any provision of the Constitution, to create and enforce a complete system of workers' compensation by appropriate legislation, including full provision for securing safety in places of employment; and

"Whereas, The federal Occupational Safety and Health Act of 1970 provided for federal jurisdiction over occupational safety and health issues covered by federal standards; and

"Whereas, The federal Occupational Safety and Health Act of 1970 encourages states to assume responsibility for the development and enforcement of occupational safety and health standards on issues covered by federal standards by providing up to 50 percent funding of approved state plans; and

"Whereas, The Legislature exercised its plenary authority by enacting Chapter 993 of the Statutes of 1973 (CAL-OSHA), for the express purpose of allowing California to assume responsibility for the development and enactment of occupational safety and health standards under an approved state plan; and

"Whereas, The Governor, by letter dated February 6, 1987, purported to advise federal Secretary of Labor William Brock of California's withdrawal of its approved occupational safety and health plan, and the termination of the grant awarded to California, both effective June 30, 1987; and

"Whereas, The Governor neither sought nor received the concurrence of the Legislature necessary for a decision to be made by California to withdraw its state occupational safety and health plan; and

"Whereas, The federal Department of Labor refused to accept the Governor's purported voluntary withdrawal of the California state plan because the effect and finality of the Governor's action were under dispute in both the Legislature and the courts, and instead assumed responsibility for concurrent enforcement of federal occupational safety and health standards in private sector workplaces pending resolution of the administrative, legislative, and judicial issues within California; and

"Whereas, The 1987-88 fiscal year budget provides sufficient funds for the Department of Industrial Relations to carry out its responsibilities under the law, including the enforcement of occupational safety and health standards in private sector workplaces; and

"Whereas, The Governor has refused to carry out the statutory mandates to enforce occupational safety and health standards in private sector workplaces commencing July 1, 1987; and

"Whereas, The legality of the Governor's refusal to enforce state occupational safety and health law in the private sector is the subject of litigation; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature, acting for the State of California, memoralizes the Secretary of Labor to continue to refuse to accept the Governor's contention that he may voluntarily withdraw the California state plan, and not to initiate federal proceedings to withdraw the California state plan; and be it further

"Resolved, That should the Secretary of Labor initiate proceedings to withdraw the California state plan, the Legislature hereby requests a formal hearing to contest the withdrawal of the California plan; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Labor and the Assistant Secretary of Labor for Occupational Safety and Health for the United States Department of Labor, to each Senator and the Representative from California in the Congress of the United States, and to the Governor of California."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Committee on Appropriations, with amendments:

H.R. 3058: A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-189).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

William F. Sullivan, of Virginia, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1989.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTION

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER:

S. 1739. A bill to amend the Internal Revenue Code of 1986 to provide a uniform Federal tax treatment for employer-provided health care benefits for retired employees; to the Committee on Finance.

By Mr. DURENBERGER (for himself and Mr. STAFFORD):

S. 1740. A bill to amend title XIX of the Social Security Act to permit States the option of providing comprehensive medical assistance to chronically ill and disabled children with a family income meeting a particular income standard, and for other purposes; to the Committee on Finance.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 1741. A bill to establish the Blennerhassett National Historical Park in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. WARNER, Mr. D'AMATO, Mr. DECONCINI, and Mr. MELCHER):

S. 1742. A bill to provide for the minting and circulation of one dollar coins, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURENBERGER (for himself, Mr. WALLOP, and Mr. GRASSLEY):

S. 1743. A bill to amend the Internal Revenue Code of 1986 to restore income averaging for farmers; to the Committee on Finance.

By Mr. WEICKER (for himself and Mr. HATFIELD):

S.J. Res. 194. A joint resolution to require compliance with the provisions of the War Powers Resolution.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GARN (for Mr. DOLE (for himself, Mr. BYRD, and Mr. KARNES)):

S. Res. 294. A resolution calling for an end to the 10-day old pro football strike; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER:

S. 1739. A bill to amend the Internal Revenue Code of 1986 to provide a uniform Federal tax treatment for employer-provided health care benefits for retired employees; to the Committee on Finance.

RETIREE HEALTH PROTECTION AND LONG-TERM CARE INSURANCE ACT

● Mr. DURENBERGER. Mr. President, I am very pleased to introduce the Retiree Health Protection and Long Term Care Insurance Act of 1987. This bill will greatly expand opportunities for employees to be covered for long-term health care needs after retirement. With nursing home costs averaging $20,000 to $30,000 per year, the prospect of needing such care strikes fear in the hearts of seniors and anyone who has parents or grandparents approaching their eighties and nineties. A Massachusetts study of nursing home patients found that 63 percent of elderly persons would deplete their assets after only 13 weeks in a nursing home. Seniors who hate the idea of being dependent and have worked all of their lives are then forced to go on Medicaid. This bill will make it much easier for Americans to build up funds during their working years as one of their employee benefits. Long-term care insurance is just beginning to be available to Americans but it is an increasingly popular choice.

Mr. President, this bill clarifies the Tax Code to permit employers to pay into qualified plans on behalf of their employees for the purchase of long-term care insurance which would be provided after the employee has retired. For purposes of this bill, long-term health care includes: necessary diagnostic, preventive, therapeutic, and rehabilitative services and maintenance or personal care services, required by an individual who is chronically ill or disabled. When enacted, employers will be free to contribute without tax liability to the individual's health accounts to prefund long-term health care, if needed in a nursing home, hospice, adult day care center, rehabilitative center, retirement home or the patient's own home for home health care. This new option will be especially helpful for older workers, who will be more likely to choose to prefund long-term care benefits in lieu of other benefits, which younger workers might prefer, such as child day care. As the work force ages and there are more two-earner couples, the desire to channel some of their employee benefits into long-term care coverage will increase dramatically.

In recognition of today's mobility of workers, these benefits also will be portable, with no loss in benefits to the employee, further enhancing their real value to American workers.

Mr. President, the year 2000 is only 13 years away. Thirty-five million people, 13 percent of the U.S. population, will be 65 years or older. More than 17 million will be 75 years and older. Roughly 7 percent of those 75-plus years old and older are in nursing homes. For every person in a nursing home, it is estimated that there are two people in their homes or community based programs which offer institution-like services. The demand for such care will grow enormously in the future. By the year 2030 when the baby boomers born in 1955 turn 75, there will be 64.5 million seniors, over 30 million of which will be 75 and older.

The seniors I talk to in Minnesota tell me that they most fear a long lingering, physically and financially devastating illness, during which they become burdens to their families. I want to reduce their fears about the future and help them to prepare for it. Given the long leadtime involved in long-term care protection, we must start now to assist people in insuring against those expenses and provide protection for problems that can't be planned for.

Under current practices and financing, we are woefully unprepared for the future. For example, there are 1.5 million Americans suffering from severe dementia now, with another 1 to 5 million people with mild or moderate impairment from dementia. By the year 2000, if we don't find a cure or treatment, the number with severe dementia will increase by 60 percent. The Office of Technology Assessment (1987) estimates that by 2040 the number of severely ill could be as high as 7.4 million—about 5 times what it is today. The prevalence of severe dementia rises with age from 7 percent in the 75- to 84-year-old to 25 percent among those over age 85 which is one of the reasons that dementia—the most common form (70 percent) of which is Alzheimer's—is becoming so visible.

It's already evident that we will need all of the Government programs, family supports, private savings, church and synagogue groups and other charitable activities to meet the need. In fact, today, most old-elderly have very complex networks of relatives, friends, nursing care, social services, and so forth, to manage wherever they are. That will be even more true in the future.

To meet the demands and help people remain independent as long as possible, in addition to increasing insurance and other coverage, we must: First, stimulate the construction of congregate housing and renovation for apartment and home sharing; second, encourage home equity conversions to help give seniors the option of converting their most lucrative asset—

worth $700 billion—into a way to pay for home and other health care without having to leave their homes; third, develop public and private programs such as meals on wheels and meals in social settings, chore and other services to support the frail or disabled to function independently as long as possible; fourth, support programs that would help team up individuals with different strengths and disabilities to help each other; fifth, support geriatric research and centers of excellence in order to understand and promote healthy aging, differentiating and treating pathology and disease. As we learn more about healthy aging and diseases among the elderly, we have found, for example, that problems dismissed as untreatable in fact are amenable to treatment. We can not only improve the quality of lives of our seniors and their families who care about them, we can save wasted years. We can also save money thrown away on institutional care when less costly care is needed. I intend to introduce legislation over the next few months that will advance these programs.

To meet future demand, we are already counting on changes in the delivery of health care and in people's needs—75-year-olds are a lot different today than they were 10 years ago. Although we may not know what form those needs will take, we can safely assume that chronic care, rebuilding and maintenance of the body will be an ongoing process, requiring a lot of health services and monitoring. Today, there are approximately 1 million people walking around with pacemakers implanted. They will require a lifetime of care to keep their hearts functioning properly. While in time, knowledge of the underlying disease process may permit us to supplant pacemakers with dietary changes and medication to make such halfway technology unnecessary or at least less common, there will undoubtedly be new diseases to treat as well. But similar technology is used to make care more effective and efficient. The elderly or disabled can have a personal emergency assistance device which connects to a hospital emergency room to get help if there is a problem. The future may also bring far better uses of computers and robotics to help care for people.

Many of the elderly in the future will be able to provide for most of their health care needs with Medicare, especially with the new catastrophic illness protection insurance. While a large number of seniors are low income, the elderly are an increasingly diverse group.

Forty-three percent are known to have annual incomes greater than 3 times the Federal poverty level. In recent years, the largest gains in household income were enjoyed by those 65 and over. Growth in private pensions, income from savings, and Social Security have given many of the elderly unprecedented independence. Half of the discretionary income of all Americans is earned by people over 50 and 20 percent of the incomes of those 65 and over is discretionary, according to the Conference Board. A study by ICF concluded that 93 percent of married couples and almost 60 percent of singles at age 65 would be able to purchase long-term care insurance with less than 5 percent of their cash income by the year 2005.

There are also a growing number of women who will be working in jobs outside the home almost all of their lives with their own pensions and Social Security accounts. In addition, there will be other changes in career patterns of men and women as options changes and we all begin to realize that we could live until 85, 95, or 105. Certainly, how we plan our lives is quite different when we think about having 20 or 30 years after the traditional retirement age of 65. We must reevaluate our attitudes about career patterns, lifetime of education and training and full scale retirement not only because of the possible problems of financing retirement and retiree health needs but because of the physical and mental health benefits of meaningful and challenging work. Companies, voluntary groups and schools will sponsor career change seminars in place of "retirement" planning.

What is the Federal role? Already the Federal Government through the State-Federal Medicaid program pays for an estimated $10 of the $18 billion Medicaid investment. Altogether, Medicaid covers approximately 42 percent of the $39 billion spent on nursing home care. It is estimated that nursing home expenditures will cost nearly $225 billion by the year 2000. We can assume that Medicaid will pay for a lot of nursing home care in the future, as it does today. But, Medicaid has its limits. Medicaid will also have to cope with growth in coverage requirements of the neediest elderly, pressures on publicly supported programs, the need to pay for income security, and financing the many unmet needs of poor children in the United States.

Medicaid cannot become the long-term care insurance plan for the middle and upper income elderly as some critics feel that it has. We have to devise methods to pay for some of those expenses and other programs that will help keep people as independent as long as possible and cover as many of their health care expenses through their own insurance and private savings and asset accumulation.

The special problems of couples, in such tragic cases as Alzheimer's victims, are very different. Indeed, I am cosponsoring legislation with Senator GEORGE MITCHELL aimed at correcting the so-called spousal improverishment problem in the Medicaid Program, where a spouse must be impoverished literally for Medicaid to be available to the other spouse who needs nursing home care. Equity between husband and wife in the fair division of their jointly acquired assets and income is the right thing to do.

Having special circumstances for the heartbreaking problems of Alzheimer's patients also requires sensitivity and support, including family caregiver, respite care, and, when all coping assistance fails, help with a nursing home. But except for those with inadequate funds most of their lives or those with very unusual circumstances when the public sector may need to take care of those with needs which can't possibly be prepared for, those middle and upper income individuals who have resources and employee benefits during their working years must be encouraged to save and invest for their own long-term health care needs. Assisting individuals and stimulating private markets are appropriate roles for the Federal and State governments.

Mr. President, the Federal Government must play a much more aggressive role in educating the public than it has in the past. The public needs to understand what is happening and participate in the public policy decisions that will affect their collective futures. We already have tensions in the policymaking process about individual's right to retain their savings and assets to pass on to their "heirs," while benefiting from the Medicaid Program's payments for nursing home care.

Many of us were brought up to believe that we saved for our "old age" so that we wouldn't be a burden to our children. Somehow that notion has gotten turned around to a belief that it is the role of the State-Federal Medicaid Program to pay for nursing home care so that someone's "estate" can be preserved. In some States, I am told, there are attorneys who specialize in helping individuals divest themselves of their assets—which can be quite sizable—to insure that Medicaid pays for their nursing home expenses.

The public also needs more information as consumers of long-term care services and purchasers of long-term care insurance. The public debate about catastrophic illness coverage revealed a reservoir of misinformation about what Medicare covers and how inadequate "Medigap"—Medicare supplementary—coverage is, particularly in light of what people believe they are paying for. The Federal Government can and should play a major role in ensuring the accumulation, analysis and dissemination of objective, pertinent information to permit the consumer to make wise choices. A step forward is a new requirement in S.

1127, the Medicare Catastrophic Loss Prevention Act, which was reported out by the Senate Finance Committee. In that bill, the Department of Health and Human Services [HHS] will have to begin a public education campaign distributing clearly written material that tells what Medicare covers and what it does not cover, with special attention to the absence of long-term care coverage.

Beneficiaries will be notified annually, when an individual enrolls, and every time changes are made in coverage. In addition, I believe, television and radio reports along with mail enclosures are needed to reach everyone.

At the same time, consumer education and insurance regulation are to make the purchase of private long-term care insurance feasible and not have the consumer victimized by the unscrupulous or inadequate business practices. There must be full disclosure of the insurance policies' terms of renewability and later conditions of eligibility, information on premiums and benefits in sufficiently standardized terms that the average consumer can interpret them and comparison shop. No one should be able to purchase insurance that might leave the individual unprotected after years of paying premiums.

Mr. President, the Retiree Health Protection and Long-Term Care Insurance Act of 1987 will accelerate the design and marketing of good long-term care insurance. Since most of the catastrophic costs that Medicare supplemental plans insured against will be paid for by Medicare, if Congress enacts a Medicare catastrophic provision, this will be a great time for insurers and employers to redesign their plans to fill in the long-term care coverage gap that so many seniors care about.

Growth in insurance for long-term care will start slowly, but I'm convinced that the market is there and that we can work out problems over the next few years. Long-term health care has to be defined narrowly enough to make the policy affordable but not so strict as to miss opportunities for helping people stay out of nursing homes as long as they want by providing home health care and other support services. As it becomes more and more obvious that there is a demand for such plans, long-term care insurance can move from individually marketed plans, costlier because they are plagued by adverse selection, to the more predictable and more affordable group market.

In separate legislation which I'll soon introduce, I will encourage employers to add coverage for nursing homes and other long-term care for active workers and their dependents. This would incur only modest costs since there is little need for long-term care for those age groups. But for those situations, the effect is truly catastrophic, as was seen in the tragic Karen Anne Quinlan case. In fact, many of the cases cited as financially devastating to families would not be helped by catastrophic insurance protection unless long-term health care is included. I also plan to introduce separate legislation to allow individuals to contribute to long-term health care accounts, which could accrue interest on a tax-deferred basis.

There are other options to stimulate the market such as facilitating insurance purchase by permitting the beneficiaries or their adult or adult children to deduct premiums paid for long-term care insurance. I will be exploring these ideas with senior groups and in my visits to Minnesota to develop new approaches. We want to be creative since the future need is great but we must be careful not to erode our tax base or repeat past errors of overusing the Tax Code to promote social goals and skew investment decisions. One of these days, long-term care insurance will be as routine a coverage as basic group insurance and pensions are today, with issues such as portability already resolved. When we look at the future, it's clear: We've got to plan, save and invest now if we're going to be ready. I urge my colleagues to join me in working toward enactment of this much needed legislation. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retiree Health Protection and Long-Term Care Insurance Act of 1987".

SEC. 2. TREATMENT OF EMPLOYER-PROVIDED HEALTH CARE BENEFITS FOR RETIRED EMPLOYEES.

(a) IN GENERAL.—Subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended by adding at the end thereof the following new part:

"PART III—VOLUNTARY RETIREE HEALTH PLANS

"Sec. 431. Deduction for employer contributions.
"Sec. 432. Benefits excluded from gross income, etc.
"Sec. 433. Plan qualification requirements.
"Sec. 434. Qualified retiree health care trust.
"Sec. 435. Voluntary retiree health accounts.
"Sec. 436. Preemption; special rules.

"SEC. 431. DEDUCTION FOR EMPLOYER CONTRIBUTIONS.

"(a) GENERAL RULE.—Amounts paid by an employer under a qualified voluntary retiree health plan—

"(1) shall not be allowable as a deduction under this chapter, but

"(2) if they would otherwise be deductible, shall be allowed as a deduction under this section for the taxable year in which paid.

"(b) LIMITATION.—The amount allowed as a deduction under subsection (a) for the taxable year shall not exceed the limitation under section 433(e) for plan years ending with or within such taxable year.

"(c) AMOUNTS MUST BE PAID TO QUALIFIED TRUST.—A payment may be taken into account under subsection (a) for any taxable year only if it is made to a qualified retiree health care trust which is exempt from tax under section 501(a) for the taxable year of such trust in which or with which the taxable year of the employer ends.

"(d) PAYMENTS AFTER CLOSE OF TAXABLE YEAR.—For purposes of subsection (a), a payment made after the close of a taxable year shall be treated as made on the last day of such year if the payment is made—

"(1) on account of such year, and

"(2) not later than the time prescribed by law for filing the return for such year (including extensions thereof).

"SEC. 432. BENEFITS EXCLUDED FROM GROSS INCOME, ETC.

"(a) IN GENERAL.—Except as otherwise provided in this section, no amount shall be included in the gross income of an individual or his spouse by reason of—

"(1) any employer contribution under a qualified voluntary retiree health plan, or

"(2) the receipt of any post-retirement long-term health care benefit under such a plan.

"(b) INCLUSION IN INCOME WHERE MORE THAN 1 ACCOUNT.—

"(1) IN GENERAL.—If—

"(A) an individual is a participant or beneficiary under 2 or more qualified voluntary retiree health plans or voluntary retiree health accounts, and

"(B) such individual does not (within a reasonable period) consolidate the present value of the individual's nonforfeitable accrued benefit in all such plans and the assets of all such voluntary retiree health accounts into 1 such plan or into 1 voluntary retiree health account,

then an amount equal to the sum of the present value of such benefits and the fair market value of such assets shall be treated as distributed in cash to such individual at the close of the plan year for the plan or account involved and such distribution shall be included in gross income.

"(2) SPECIAL RULES.—

"(A) EMPLOYEE MUST CONSOLIDATE INTO PLAN OF CURRENT EMPLOYER.—In the case of an employee who is employed by an employer maintaining a qualified voluntary retiree health plan, a consolidation satisfies paragraph (1) only if such consolidation is into a qualified voluntary retiree health plan maintained by such employer.

"(B) MORE THAN 1 CURRENT EMPLOYER.—If an individual is a participant in more than 1 qualified voluntary retiree health plan by reason of being currently employed by more than 1 employer, such plans shall be treated as 1 plan for purposes of paragraph (1).

"(C) EMPLOYEE WITH NO CURRENT EMPLOYER MAINTAINING PLAN.—In the case of an employee who is currently not employed by an employer maintaining a qualified voluntary retiree health plan, a consolidation satisfies paragraph (1) only if such consolidation is into—

"(i) a qualified voluntary retiree health plan maintained by his most recent employer maintaining such a plan, or "(ii) a voluntary retiree health account of the individual.

"(3) Amount transferred not includible in income.—No amount shall be includible in gross income by reason of any transfer which is part of a consolidation required under this subsection.

"(c) Inclusion in Income Where Plan Ceases To Be Qualified.—If a retiree health care trust is not exempt from tax under section 501(a) for any taxable year of such trust, the present value of the nonforfeitable accrued benefit of any beneficiary under the plan of which such trust is a part shall be treated as distributed (at the close of such taxable year) in cash to the beneficiary and such distribution shall be included in gross income.

"(d) Inclusion in Income Where Interest in Plan Assigned, Etc.—If during any taxable year an individual assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a qualified voluntary retiree health plan, such portion shall be treated as having been received by such individual as a distribution in cash and such distribution shall be included in gross income.

"(e) Excess Benefits Penalty.—

"(1) In general.—If—

"(A) the benefits with respect to a participant, when expressed as an annual benefit, exceed

"(B) the maximum amount which may be provided under section 433(h)(2) for a taxable year,

such excess shall be included in gross income for the taxable year and the participant's tax under this chapter for such taxable year shall be increased by the applicable percentage of such excess.

"(2) Applicable percentage.—For purposes of this subsection—

"(A) In general.—The term 'applicable percentage' means 20 percent.

"(B) Individuals other than employees and spouses.—In the case of an individual other than an employee or spouse of the employee, the applicable percentage is 100 percent.

"(3) Annual benefit.—For purposes of this subsection, the annual benefit shall be determined in such manner as the Secretary may prescribe.

"(f) Special Rules.—

"(1) Amounts taxed only once.—An amount shall not be includible in gross income under this section for any taxable year if such amount was includible in gross income under this section for a prior taxable year.

"(2) Certain rules to apply.—For purposes of subsection (c), rules similar to the rules of the last 2 sentences of section 402(b)(1) and the rules of section 402(b)(2)(A) shall apply.

"SEC. 433. PLAN QUALIFICATION REQUIREMENTS.

"(a) In General.—For purposes of this part, the term 'qualified voluntary retiree health plan' means any defined benefit plan (as defined in section 414(j))—

"(1) which meets the requirements of paragraph (1) of section 89(k), and

"(2) which meets the requirements of each of the following subsections of this section.

"(b) Plan Must Provide Only Health Benefits to Retired Employees.—

"(1) In general.—A plan meets the requirements of this subsection if—

"(A) the only benefits provided by the plan are post-retirement long-term health care benefits, and

"(B) such benefits are provided only through 1 or more of the following:

"(i) insurance acquired by the plan,

"(ii) self-insurance by the employer or the plan, or

"(iii) reimbursement of expenses paid by a former employee or his spouse for insurance providing long-term health care benefits for such employee or spouse.

"(2) Post-retirement long-term health care benefits.—

"(A) In general.—For purposes of this part, the term 'post-retirement long-term health care benefits' means long-term health care benefits provided to a former employee (or the spouse of such employee) after the former employee has attained age 70 or is disabled (within the meaning of section 72(m)(7)).

"(B) Benefits provided to spouse of deceased employee.—For purposes of subparagraph (A), the spouse of a deceased employee shall be treated—

"(i) as a former employee, and

"(ii) as satisfying the requirements of subparagraph (A) if such spouse was receiving benefits under the plan immediately before the death of the employee.

"(C) Qualified domestic relations orders.—In the case of benefits payable under a qualified domestic relations order (as defined under rules similar to the rules of section 414(p)) to a former spouse of an employee, except as provided in regulations, such former spouse shall be treated as a former employee for purposes of subparagraph (A).

"(D) Definition of long-term health care benefits.—

"(i) In general.—For purposes of this section, the term 'long-term health care benefits' means a benefit which—

"(I) consists of the providing of necessary diagnostic, preventive, therapeutic, and rehabilitative services, or maintenance or personal care services, required by an individual who is chronically ill or disabled, and

"(II) is provided in a qualified facility by a qualified provider.

"(ii) Qualified facility.—For purposes of this subparagraph, the term 'qualified facility' means—

"(I) a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution, or

"(II) an individual's home if a medical practitioner, licensed under State law, certifies that without home care the individual would have to be cared for in a facility described in subclause (I), except that such home shall be treated as a qualified facility only to the extent the cost of such services is greater than the cost of similar services provided in a facility described in subclause (I).

"(iii) Chronically ill individual.—For purposes of this subparagraph, the term 'chronically ill individual' means an individual who has been certified by a medical practitioner, licensed under State law, as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"(iv) Maintenance and personal care services.—For purposes of this subparagraph, the term 'maintenance and personal care services' means any service the primary purpose of which is—

"(I) to provide needed assistance with any of the activities of daily living described in clause (iii), or

"(II) to provide needed assistance with any of the following instrumental activities of daily living: housekeeping, shopping, errands, food preparation, laundry, and chores.

"(v) Qualified provider.—For purposes of this subclause, the term 'qualified provider' means a medical practitioner licensed under State law, registered nurse, licensed registered nurse, qualified therapist, trained home health aid, or homemaker, but does not include a relative or other person who ordinarily resides in the home.

"(E) Former employee.—For purposes of this paragraph, an individual shall not be treated as a former employee of the employer if such individual is a current employee of such employer.

"(3) Benefits provided through insurance or self-insurance must be under guaranteed renewable contracts, etc.—A plan shall not be treated as meeting the requirements of this subsection unless—

"(A) the renewal of the insurance contract (if any) through which the long-term health care benefits are provided (including any contract for which a reimbursement described in paragraph (1)(B)(iii) is made) is guaranteed,

"(B) the renewal of coverage by covered individuals is guaranteed,

"(C) the cost to covered individuals on renewal of the insurance will not vary by reason of the medical condition of the covered individuals, and

"(D) the annual cost of coverage for each covered individual is the same.

"(c) No Employee Contributions.—A plan meets the requirements of this subsection if the only contributions permitted under the plan are—

"(1) nonelective employer contributions, and

"(2) transfers which are part of a consolidation referred to in section 432(b).

"(d) Contributions and Benefits May Not Discriminate in Favor of Highly Compensated Employees.—

"(1) In general.—A plan meets the requirements of this subsection if—

"(A) the contributions and benefits provided under the plan do not discriminate in favor of highly compensated employees, and

"(B) no participant in the plan is a participant in any other qualified voluntary retiree health plan maintained by the employer.

"(2) Uniform rate of accrual of benefits.—

"(A) In general.—Except as provided in this paragraph, a plan shall not be treated as meeting the requirements of this subsection unless the rate at which benefits accrue during a plan year is the same for all participants.

"(B) Special rules for certain individuals age 55 and over.—A plan shall not be treated as failing to meet the requirements of this subsection if the plan provides that an employee who as of the close of the plan year in which he attains age 55 has accrued less than 30 percent of the maximum amount of benefits which may be accrued under the plan, may accrue benefits during succeeding plan years at a greater rate than the rate for other employees (but not in excess of 125 percent of such other rate).

"(C) Minimum hours of service.—For purposes of subparagraph (A), an employee shall not be treated as a participant for any plan year unless such individual completes more than 500 hours of service during such year.

"(3) Integration with benefits created under other laws not permitted.—A plan shall not meet the requirements of this subsection unless such plan meets such requirements without regard to contributions or benefits under chapter 2 or 21, the Social Security Act or other Federal law, or any State or foreign law or under any other plan.

"(e) FUNDING LIMITATIONS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the plan meets—

"(A) the minimum funding requirement of paragraph (2), and

"(B) the maximum funding limitation of paragraph (3).

"(2) MINIMUM FUNDING STANDARD.—A plan meets the requirements of this paragraph if the value of the plan assets as of the close of the plan year are not less than the termination liability as of such time.

"(3) MAXIMUM FUNDING LIMITATION.—A plan meets the requirements of this paragraph if the employer contributions to the plan for the plan year do not exceed the excess (if any) of—

"(A) 110 percent of the termination liability of the plan as of the close of the plan year, over

"(B) the value of the plan assets as of such time (without regard to employer contributions for such year).

"(4) CORRECTIONS MAY BE MADE WITHIN 2½ MONTHS.—A plan shall not be treated as failing to meet the requirements if within 2½ months following the close of the plan year—

"(A) in the case of a failure under paragraph (2), employer contributions are made to the plan as are necessary to meet the requirements of such paragraph, or

"(B) in the case of a failure under paragraph (3)—

"(i) the plan distributes to the employer the excess contributions (and any earnings thereon), and

"(ii) no deduction was allowed with respect to such contributions.

Any amount distributed under subparagraph (B) shall be includible in income in the taxable year for which the contribution was made.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINATION LIABILITY.—The term 'termination liability' means the present value of the benefits of the plan determined on the basis of actuarial assumptions each of which is reasonable.

"(B) CONTINGENT BENEFITS.—In computing termination liability, there shall not be taken into account any benefit which is contingent on an event other than completion of years of service.

"(C) VALUE OF PLAN ASSETS.—The value of the plan assets means the actuarial value (within the meaning of section 412(c)(2)) of such assets, except that such valuation shall not be based on a range of other than market value.

"(f) MINIMUM PARTICIPATION STANDARDS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the plan meets the requirements of—

"(A) subparagraphs (A) and (B) of paragraph (2) (relating to participation requirements), and

"(B) subparagraphs (A) and (B) of paragraph (3) (relating to minimum coverage requirements).

"(2) PARTICIPATION REQUIREMENTS.—

"(A) MINIMUM AGE AND SERVICE CONDITIONS.—A plan meets the requirements of this subparagraph if the plan does not require, as a condition of participation in the plan, that an employee complete a period of service with the employer maintaining the plan extending beyond the later of:

"(i) the date on which the employee attains age 21, or

"(ii) the date on which the employee completes 1 year of service.

For purposes of the preceding sentence, a rule similar to the rule of section 410(a)(1)(B)(i) shall apply.

"(B) MAXIMUM AGE CONDITIONS.—A plan meets the requirements of this subparagraph only if the plan does not exclude from participation (on the basis of age) employees who have attained a specified age.

"(C) CERTAIN RULES TO APPLY.—For purposes of subparagraphs (A) and (B), rules similar to the rules of paragraphs (3), (4), and (5) of section 410(a) shall apply.

"(3) MINIMUM COVERAGE REQUIREMENTS.—

"(A) 70 PERCENT TESTS.—A plan meets the requirements of this subparagraph if on each day of the plan year—

"(i) the plan benefits at least 70 percent of employees who are not highly compensated employees, or

"(ii) the plan benefits—

"(I) a percentage of employees who are not highly compensated employees which is at least 70 percent of

"(II) the percentage of highly compensated employees benefiting under the plan.

"(B) 40 PERCENT TEST.—A plan meets the requirements of this subparagraph if on each day of the plan year the plan benefits the lesser of—

"(i) 50 employees of the employer, or

"(ii) 40 percent or more of all employees of the employer.

"(C) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of this paragraph, there shall be excluded from consideration employees described in paragraphs (3)(A) and (3)(C) of section 410(b).

"(D) CERTAIN RULES TO APPLY.—

"(i) For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (6)(C) of section 410(b) shall apply.

"(ii) For purposes of subparagraph (A), rules similar to the rules of section 410(b)(5) shall apply.

"(4) SPECIAL RULES.—

"(A) APPLICATION OF PARTICIPATION STANDARDS TO CERTAIN PLANS.—A plan described in a subparagraph of section 410(c)(1) shall be treated as meeting the requirements of this subsection if such plan meets requirements similar to the requirements such plan is required to meet under section 410(c)(2); except that no other plan or trust may be taken into account in determining whether the requirements of this subparagraph are met.

"(B) ELECTION BY CHURCH TO HAVE CERTAIN RULES APPLY.—An election similar to the election under section 410(d) shall apply for purposes of this section.

"(g) MINIMUM VESTING STANDARDS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the plan satisfies the requirements of—

"(A) paragraph (2) (relating to accrued benefit), and

"(B) paragraph (3) (relating to special rules).

"(2) ACCRUED BENEFIT.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph if an employee has a nonforfeitable right to 100 percent of the employee's accrued benefit.

"(B) FORFEITURE ON ACCOUNT OF DEATH.—A right to an accrued benefit shall not be treated as forfeitable solely because the plan provides that it is not payable—

"(i) with respect to the participant if the participant dies and has no spouse, or

"(ii) with respect to the spouse of the participant if such spouse dies.

"(C) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of—

"(i) subparagraphs (A), (C), and (D) of section 411(a)(4), and

"(ii) paragraphs (3)(B), (3)(C), (5), (6), (7)(A)(i), and (10) of section 411(a),

shall apply for purposes of this paragraph.

"(3) SPECIAL RULES.—

"(A) IN GENERAL.—For purposes of this subsection, rules similar to the rules of section 411(b)(1) shall apply.

"(B) CERTAIN FORFEITURES.—This subsection shall not be applied to preclude forfeitures described in paragraph (2)(B) or forfeitures of benefits which, under the provisions of the plan adopted pursuant to rules prescribed by the Secretary to preclude the discrimination prohibited by subsection (d), may be used for designated employees in the event of early termination of the plan.

"(C) CERTAIN OTHER RULES TO APPLY.—For purposes of this paragraph, rules similar to the rules of paragraphs (1), (2), and (6) of section 411(d) shall apply.

"(4) APPLICATION OF VESTING STANDARDS TO CERTAIN PLANS.—A plan described in a subparagraph of section 411(e)(1) shall be treated as meeting the requirements of this subsection if such plan meets requirements similar to the requirements such plan is required to meet under section 411(e)(2).

"(h) DISTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the plan meets the requirements of paragraphs (2) and (3) with respect to each former employee under the plan, or

"(B) the plan provides that as of any date specified by the employee (after attaining age 70 or becoming disabled) the present value of the employee's nonforfeitable accrued benefit as of such date will be used to acquire paid-up insurance which—

"(i) will provide long-term health care benefits for such employee (or in the case of an employee who is married and who elects to provide coverage for his spouse, for such employee and his spouse) for each year such employee could (but for this subparagraph) receive a distribution from such plan, and

"(ii) does not provide benefits for any year in excess of the maximum amount for such year under paragraph (2).

"(2) MAXIMUM ANNUAL BENEFIT.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph if the plan provides that the amount of benefits accrued under the plan on behalf of any employee during any plan year may not exceed the lesser of—

"(i) $2,000, or

"(ii) the earned income of the employee derived from the trade or business with respect to which such plan is established.

"(B) ACTUARIAL ADJUSTMENTS.—The benefit provided to any participant under the plan shall be actuarially adjusted to reflect—

"(i) any commencement of benefits before or after age 70, or

"(ii) the providing of benefits to the spouse of a participant.

"(C) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust annually the dollar amount in subparagraph (A) for increases in the medical component of the Consumer Price Index (as defined in section 1(f)(5)), using as a base period the calendar quarter beginning October 1, 1989.

"(3) MINIMUM ANNUAL DISTRIBUTION.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph if the plan provides that the amount distributed with respect to a former employee during any plan year does not exceed the amount which would be distributed each year if the former employee's accrued benefit were distributed in substantially equal periodic payments (not less frequently than annually)—

"(i) over the life (or life expectancy) of the former employee, or

"(ii) over the joint lives (or joint life expectancies) of the former employee or his spouse.

"(B) COST-OF-LIVING ADJUSTMENT.—The amount determined under subparagraph (A) shall be adjusted each year at the same time and in the same manner as under paragraph (2)(C).

"(i) PLAN MAY NOT PERMIT LOANS.—A plan meets the requirements of this subsection if the plan does not permit any participant or beneficiary to receive (directly or indirectly) any amount as a loan from such plan.

"(j) PLAN MAY NOT PERMIT SELF-DIRECTED ASSETS.—A plan meets the requirements of this subsection if the plan does not permit any participant or beneficiary to exercise control over the assets under the plan.

"(k) PLAN MUST PERMIT TRANSFERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a plan meets the requirements of this subsection if, in accordance with procedures determined by the Secretary, at the request of an individual who is a participant or former participant under the plan—

"(A) the plan transfers the present value of the nonforfeitable accrued benefit of the individual under the plan to another qualified voluntary retiree health plan or to a voluntary retiree health account, and

"(B) the plan accepts transfers under subparagraph (A) from any other qualified voluntary retiree health plan or from any voluntary retiree health account.

"(2) SPECIAL RULES.—

"(A) NO TRANSFERS FROM PLAN OF CURRENT EMPLOYER EXCEPT ON PLAN TERMINATION.—A plan maintained by an employee's employer shall be treated as not meeting the requirements of this subsection if such plan permits any transfer under the plan except in the case of a termination of such plan.

"(B) TRANSFERS MUST BE TO PLAN MAINTAINED BY EMPLOYER OR FORMER EMPLOYER OR TO VOLUNTARY RETIREE HEALTH ACCOUNT.—

"(i) IN GENERAL.—A plan shall not be treated as meeting the requirements of this subsection if such plan permits any transfer under the plan to any plan or account not described in clause (ii) if there is a plan or account described in clause (ii) with respect to such individual.

"(ii) PLANS AND ACCOUNTS DESCRIBED.—For purposes of clause (i), a plan or account is described in this clause with respect to an individual if such plan is—

"(I) a qualified voluntary retiree health plan maintained by an employer of such individual, or

"(II) if the employer of such individual does not maintain such a plan, a qualified voluntary retiree health plan maintained by a former employer of such individual, or except as provided in subparagraph (E), a voluntary retiree health account of such individual.

"(C) TRANSFERS PERMITTED AMONG MEMBERS OF CONTROLLED GROUP, ETC.—Section 414 shall not apply for purposes of determining under this subsection from which plan and to which plan a transfer may be made.

"(D) SPOUSE OF DECEASED EMPLOYEE TREATED AS FORMER PARTICIPANT.—For purposes of paragraph (1) and this paragraph, the spouse of a deceased employee shall be treated as a former participant.

"(E) NO TRANSFERS TO HEALTH ACCOUNTS AFTER AGE 55.—A plan shall not meet the requirements of this subsection if it permits the transfer of any benefit to a voluntary retiree health account of an individual after such individual attains age 55.

"(l) PLAN YEAR AND TRUST YEAR MUST BE THE SAME.—A plan meets the requirements of this subsection if the plan year of such plan and the taxable year of the trust of which such plan forms a part are the same.

"(m) LIMITATION ON HOLDINGS OF EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY.—

(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the plan does not hold any employer security which is not a readily tradable employer security,

"(B) the plan does not hold any employer real property which is not qualifying employer real property, and

"(C) the plan does not acquire any readily tradable employer security or qualifying employer real property if, immediately after such acquisition, the aggregate fair market value of readily tradable employer securities and qualifying employer real property held by the plan exceeds 10 percent of the fair market value of the assets of the plan.

"(2) READILY TRADABLE EMPLOYER SECURITY.—For purposes of this subsection, the term 'readily tradable employer security' means any employer security which is readily tradable on an established securities market.

"(3) EMPLOYER SECURITY.—For purposes of this subsection, the term 'employer security' means—

"(A) any stock or other equity interest in the employer, and

"(B) any bond, debenture, note, or certificate, or other evidence of indebtedness issued by the employer.

"(4) EMPLOYER REAL PROPERTY; QUALIFYING EMPLOYER REAL PROPERTY.—For purposes of this subsection, the term 'employer real property' and 'qualifying employer real property' have the respective meanings given such terms by section 407 of the Employee Retirement Income Security Act of 1974.

"(n) ACTUARIAL ASSUMPTIONS.—A plan meets the requirements of this subsection if each actuarial assumption used by the plan is reasonable.

"(o) CERTAIN OTHER RULES TO APPLY.—A plan meets the requirements of this subsection if the plan meets—

"(1) requirements similar to the requirements of—

"(A) paragraph (12) of section 401(a), and

"(B) paragraph (13) of section 401(a) (other than the material following the 1st sentence in subparagraph (A)), and

"(2) requirements prescribed by the Secretary with respect to the duties of any fiduciary with respect to the plan.

"SEC. 434. QUALIFIED RETIREE HEALTH CARE TRUST.

"(a) IN GENERAL.—For purposes of this part, the term 'qualified retiree health care trust' means any trust created or organized in the United States and forming part of a qualified voluntary retiree health plan of an employer for the exclusive benefit of his employees or their spouses if—

"(1) contributions are made to the trust by such employer for the purposes of distributing to such employees or their spouses the corpus and income of the fund accumulated by the trust in accordance with such plan, and

"(2) under the trust instrument it is impossible, at any time before the satisfaction of all liabilities with respect to employees and their spouses under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their spouses.

"(b) CERTAIN REVERSIONS PERMITTED.—A trust instrument shall not be treated as failing to satisfy the requirements of subsection (a)(2) solely by reason of the fact that the trust instrument permits distributions described in section 4976A(c)(2).

"SEC. 435. VOLUNTARY RETIREE HEALTH ACCOUNTS.

"(a) VOLUNTARY RETIREE HEALTH ACCOUNT.—For purposes of this part, the term 'voluntary retiree health account' means a trust created or organized in the United States for the exclusive benefit of an individual or of an individual and his spouse, but only if the written governing instrument creating the trust meets the following requirements:

"(1) No contributions to the trust will be accepted other than transfers under this part from a qualified voluntary retiree health plan or from another voluntary retiree health account.

"(2) The trustee is a bank (as defined in section 408(n)) or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust funds will be invested in life insurance contracts.

"(4) The interest of an individual in the balance of his account is nonforfeitable.

"(5) The assets of the trust will not be commingled except in a common investment fund.

"(b) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, if any amount is paid or distributed out of a voluntary retiree health account, such amount shall be included in the gross income of the payee or distributee for the taxable year in which the payment or distribution is made.

"(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—Paragraph (1) shall not apply to any payment or distribution which—

"(A) is used exclusively to pay post-retirement long-term health care benefits of the individual for whose benefit the account is established, or

"(B) is part of a transfer required under section 432(b).

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—A voluntary retiree health account is exempt from taxation under this subtitle unless such account has ceased to be such an account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a voluntary retiree health account, paragraph (1) of subsection (b) shall apply as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) Loss of exemption of account where individual engages in prohibited transaction.—If during any taxable year an individual for whom a voluntary retiree health account is established engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a voluntary retiree health account as of the first day of that taxable year.

"(4) Effect of pledging account as security.—If, during any taxable year, the individual for whose benefit a voluntary retiree health account is established uses the account or any portion thereof as security for a loan, the portion so used shall be treated as distributed to that individual.

"(d) Excess Benefits Penalty.—

"(1) In general.—If—

"(A) the benefits with respect to a participant, when expressed as an annual benefit, exceed

"(B) the maximum amount which may be provided under section 433(h)(2) for a taxable year,

such excess shall be included in gross income for the taxable year and the participant's tax under this chapter for such taxable year shall be increased by the applicable percentage of such excess.

"(2) Applicable percentage.—For purposes of this subsection—

"(A) In general.—The term 'applicable percentage' means 20 percent.

"(B) Individuals other than employees and spouses.—In the case of an individual other than an employee or spouse of the employee, the applicable percentage is 100 percent.

"(3) Annual benefit.—For purposes of this subsection, the annual benefit shall be determined in such manner as the Secretary may prescribe.

"(e) Minimum Distribution Requirements.—

"(1) In General.—An account shall not be treated as a voluntary retiree health account unless the plan provides that the amount which is distributed with respect to an individual during any taxable year—

"(A) may not be less than 100 percent of the pro rata amount with respect to such individual, or

"(B) if a lesser amount is specified by the individual, shall be the amount specified by the individual.

The Secretary shall prescribe regulations which specify the circumstances under which the failure of an individual to specify an amount under subparagraph (B) shall be treated as a specificatio of a zero amount.

"(3) Pro rata amount.—For purposes of this subsection, the pro rata amount with respect to any individual for any taxable year is the amount (determined as of the beginning of each taxable year during which a distribution from such account to the employee is permitted) equal to—

"(A) the individual's account balance at such time, divided by

"(B) the life expectancy of such individual at such time.

The life expectancy of each individual shall be redetermined annually.

"(f) Certain Requirements For Health Plans Made Applicable.—An account shall not be treated as a voluntary retiree health account unless, under regulations, the requirements of subsections (b), (h), (i), (j), and (k) of section 433 are met.

"(g) Community Property Laws.—This section shall be applied without regard to any community property laws.

"(h) Reports.—The trustee of a voluntary retiree health account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

"SEC. 436. PREEMPTION; SPECIAL RULES.

"(a) Preemption.—

"(1) In general.—Except as provided in paragraph (2), this part shall supersede all State laws insofar as they may now or hereafter relate to any health plan for former employees and their spouses.

"(2) Exceptions.—

"(A) Banking and securities laws.—

"(i) Except as provided in clause (ii), nothing in this part shall be construed to exempt or relieve any person from any law of any State which regulates banking or securities.

"(ii) Any qualified voluntary retiree health plan qualified retiree health care trust, or voluntary retiree health account shall not be deemed to be a bank, trust company, or investment company or to be engaged in the business of banking for purposes of any law of any State purporting to regulate banks, trust companies, or investment companies.

"(B) Generally applicable criminal laws.—Paragraph (1) shall not apply to any generally applicable criminal law of a State.

"(C) Qualified domestic relations orders.—Paragraph (1) shall not apply to qualified domestic relations orders (as defined in section 414(p)).

"(3) Definitions.—For purposes of this subsection—

"(A) State law.—The term 'State law' includes all laws, decisions, rules, or regulations (or other State action having the effect of law) of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

"(B) State.—The term 'State' means a State, any political subdivision of a State, the District of Columbia, any possession of the United States, and any agency or instrumentality of any of the foregoing.

"(4) Laws of the United States.—Nothing in this part shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States or any rule or regulation issued under any such law.

"(b) Highly Compensated Employee Defined.—For purposes of this part, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) Certain Retroactive Changes in Plan.—Rules similar to the rules of section 401(b) shall apply for purposes of this part.

"(d) Rules Relating to Self-Employed Individuals.—Rules similar to the rules of subsections (c) and (d) of section 401 (other than subsection (c)(6)) shall apply for purposes of this part.

"(e) Certain Other Rules To Apply.—Rules similar to the rules of section 414 (other than subsections (f), (h), (i), (k), and (s)) shall apply for purposes of this part.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this part, including regulations requiring reports from individuals having accounts in qualified voluntary retiree health plans to employers and the Secretary."

(b) Tax on Distributions Other Than Post-Retirement Medical Benefits.—

(1) In general.—Chapter 43 of such Code (relating to qualified pension, etc., plans) is amended by inserting after section 4976 the following new section:

"SEC. 4976A. TAXES WITH RESPECT TO QUALIFIED VOLUNTARY RETIREE HEALTH PLANS AND VOLUNTARY RETIREE HEALTH ACCOUNTS.

"(a) General Rule.—If—

"(1) an employer maintains a qualified voluntary retiree health plan or an individual maintains a voluntary retiree health account, and

"(2) there is a disqualified benefit provided during any taxable year,

there is hereby imposed on such employer or individual, as the case may be, a tax equal to 50 percent of such disqualified benefit.

"(b) Qualified Voluntary Retiree Health Plan; Voluntary Retiree Health Account.—For purposes of subsection (a)—

"(1) Qualified voluntary retiree health plan.—The term 'qualified voluntary retiree health plan' has the meaning given such term by section 433. Such term includes any plan which, at any time, has been determined by the Secretary to be a qualified voluntary retiree health plan.

"(2) Voluntary retiree health account.—The term 'voluntary retiree health account' has the meaning given such term by section 435.

"(c) Disqualified Benefit.—For purposes of subsection (a)—

"(1) In general.—The term 'disqualified benefit' means any distribution or deemed distribution (other than a transfer required under section 432(b)) which is not a post-retirement long-term health care benefit (as defined in section 433(b)).

"(2) Exceptions.—The term 'disqualified benefit' shall not include any distribution to the employer—

"(A) by reason of mistake of fact, the failure of the plan to initially qualify, or the failure of contributions to be deductible, or

"(B) after such employer ceases to have employees.

"(d) Employer.—In the case of a plan which provides contributions or benefits for employees some or all of whom are self-employed within the meaning of section 401(c)(1), the term 'employer' means the person treated as the employer under section 401(c)(4)."

(2) Clerical amendment.—The table of sections for such chapter 43 is amended by inserting after the item relating to section 4976 the following new item:

"Sec. 4976A. Taxes with respect to qualified voluntary retiree health plans and voluntary retiree health accounts."

(c) Qualified Retiree Health Care Trust Exempt from Tax.—Subsection (a) of section 501 of such Code (relating to exemption from tax on corporation, certain trust, etc.) is amended by inserting "or a qualified retiree health care trust under section 434" after "or section 401(a)".

(d) Tax on Prohibited Transactions.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for voluntary retiree health accounts.—An individual for whose benefit a voluntary retiree health account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a voluntary retiree health account account by reason of the application of section 435(c)(3) to such account.", and

(2) by inserting "or a voluntary retiree health account described in section 435" in subsection (e)(1) after "described in section 408(a)".

(e) FAILURE TO PROVIDE REPORTS ON VOLUNTARY RETIREE HEALTH ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "OR A VOLUNTARY RETIREE HEALTH ACCOUNT" after "ANNUITIES" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 435(h) to file a report regarding a voluntary retiree health account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(f) CLERICAL AMENDMENT.—The table of parts for subchapter D of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part III. Voluntary Retiree Health Plans.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to plan years beginning after December 31, 1988.●

(By Mr. DURENBERGER (for himself and Mr. STAFFORD):

S. 1740. A bill to amend title XIX of the Social Security Act to permit the States the option of providing comprehensive medical assistance to chronically ill and disabled children with a family income meeting a particular income standard, and for other purposes; to the Committee on Finance.

MEDICAID CHRONICALLY ILL AND DISABLED CHILDREN AMENDMENTS

● Mr. DURENBERGER. Mr. President, I rise today to introduce the Medicaid Chronically Ill and Disabled Chidren Amendments of 1987. This bill amends title XIX of the Social Security Act to allow States the option of extending Medicaid coverage to children with chronic illnesses and disabilities in low-income families. This bill is designed to address a serious gap in our health insurance system—coverage for low-income children with special health care needs.

Nationwide, an estimated 4 to 5 percent of all children under the age of 18 suffer from a chronic illness of disability that significantly limits normal childhood activities. Juvenile diabetes, severe asthma, spina bifida, hemophilia, chronic kidney disease, cystic fibrosis, and mental retardation are examples of such chronic illnesses. Whatever the specific disease, conditions classified as chronic share certain characteristics: They are costly to treat; require regular medical attention; may run an unpredictable course, and interfere with daily life and normal growth and development. Some of these problems can, however, be ameliorated by good health care management. Activities that most children take for granted—running, playing, breathing and learning—can pose significant challenges to a child with a chronic illness. Unlike an acute illness from which a child can recover, a chronically ill child may never get well. The child and his or her family must deal with the chronic condition or disability on a permanent basis, exacting both an emotional and financial toll. Frequent doctor or emergency room vists may be needed which can impose high cash-out-of-pocket costs on a continuing basis.

Good, regular health care, however, can enable a chronically ill child to function at his or her optimum and avert more costly hospitalization and emergency situations. An appropriate package of services will also include instruction to families on the coping skills and health practices that will minimize the impact of the illness of the child's activities and well-being of the family.

Unfortunately, far too often, children with chronic conditions do not receive appropriate health care. Our public and private systems of health care are woefully inadequate when it comes to coverage of children with special health care needs, particularly if the children are from low-income families. In 1985, 11 million children or 17 percent of our Nation's children were without health insurance coverage: Almost three-quarters of these children were in families below 185 percent of the poverty level.

Low-income families that do have private health insurance may still face burdensome out-of-pocket expenses for premiums, deductibles, and coinsurance. Additionally, many employer-provided health insurance plans do not cover the services that may be critical for a child with a chronic illness or may screen out children with preexisting conditions.

Current coverage under the Medicaid program for children with chronic illnesses also contains many gaps. Even if a State adopts the options contained in the Sixth Omnibus Budget Reconciliation Act [SOBRA], children over age five with family incomes below the poverty level—but above the State AFDC eligibility level—will not be covered. Children in poor families where both parents work are also likely to be excluded from coverage. The percentage of poor disabled children not covered by Medicaid varies from 14 to 79 percent depending on the State.

Chronically ill children need adequate coverage if they are to overcome the barriers to health care and enjoy a happy, thriving childhood. For a low-income family, however, the regular and special medical care services that may be required for a child with a chronic illness such as asthma or juvenile diabetes can impose a tremendous, indeed catastrophic, financial burden. According to a recent study of access to health care for children with disabilities, the likelihood of seeing a physician was 3.5 times higher if the child had insurance coverage. For a family on AFDC, loss of Medicaid coverage for a chronically ill child can be a powerful disincentive to leaving the welfare rolls.

The bill I am introducing today will provide access to Medicaid for our most vulnerable population—poor children with special health care needs.

It will help children like Vicki, age 5, who ends up in a Minneapolis emergency room five or six times a year struggling to breathe. Vicki has asthma and her parents are too poor to afford the health insurance coverage that would provide her with consistent health care and medication to moderate her condition.

It will help the children of Jeanette and George, a young couple who live in Rochester. They worked their way off welfare, and, in doing so, lost Medicaid coverage for their young son Donny who has severe allergy problems and their little girl who has asthma.

It will help children born with handicaps like Sara, born with spina bifida, and Clifford who has a heart condition. Their parents have health insurance but because of complications surrounding Clifford's birth, they owe the hospital over $10,000 and high out of pocket costs.

The bill I am introducing will provide access to Medicaid for chronically ill children in families below 185 percent of the poverty level. This bill is unique because it extends Medicaid coverage to individual children with special health care needs and not the whole family, and because it covers children up to age 18, with State option to 21. States that adopt this option will provide health services in accordance with a health care management plan developed with the child's family and care providers. This health plan will ensure that comprehensive health care is provided and that, where appropriate, such care is coordinated with other relevant educational and social services provided by public and private agencies.

These children will be eligible for the full range of benefits offered by the State's Medicaid program. A State may also provide "enriched benefits" including home and community based services such as home health aid personal care services, habilitation, respite care, and medical supplies and equipment.

All services are free to these children with chronic or disabling health problems in families with incomes below the Federal poverty level. A modest sliding scale premium will be imposed for children in families with incomes between 100 to 185 percent of the Federal poverty level.

I invite you to join me in sponsoring this important legislation which is supported by many fine organizations including the Children's Defense Fund and the American Academy of Pediatrics.

Mr. President, I ask unanimous consent that a summary of the key features of the proposal and a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Chronically Ill and Disabled Children Amendments of 1987".

SEC. 2. STATE OPTION TO PROVIDE COMPREHENSIVE MEDICAL ASSISTANCE TO CHRONICALLY ILL AND DISABLED CHILDREN.

(a) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by inserting "and" at the end of subparagraph (E);

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) at the option of the State, in accordance with subsection (p) and section 1916(c), for making medical assistance available to individuals who are described in paragraph (1)(A) of subsection (p);"; and

(4) in the matter following subparagraph (F) (as added by paragraph (3) of this subsection)—

(A) by striking "and" before "(IX)", and

(B) by inserting before the semicolon at the end the following: ", and (X) the medical assistance made available to individuals who are described in paragraph (1)(A) of subsection (p) shall include the care and services listed in paragraphs (1) through (21) of section 1905(a), and, in accordance with subsection (p)(5), home or community-based services, and the making available of such care and services to such individuals shall not, by reason of this paragraph (10), require the making available of such care and services, or the making available for such care and services in such amount, duration, and scope, to any individual not described in such paragraph".

(b) CONFORMING CHANGES.—

(1) Section 1902(a)(10)(C) of such Act (42 U.S.C. 1396a(a)(10)(C)) is amended by striking "(A) or (E)" in the matter preceding clause (i) and inserting in lieu thereof "(A), (E), or (F)".

(2) Section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17)) is amended by striking "subsection (l)(3)" and inserting in lieu thereof "subsections (l)(3) and (p)(6)".

(3) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "or 1902 (a)(10)(F)" after "1902(a)(10)(A)(ii)(X)".

SEC. 3. STATE PLAN PROGRAM FOR PROVIDING COMPREHENSIVE MEDICAL ASSISTANCE TO CHRONICALLY Ill AND DISABLED CHILDREN.

Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) by redesignating the subsection (l) added by section 3(b) of the Employment Opportunities for Disabled Americans Act as subsection (o), and

(2) by adding at the end thereof the following new subsection:

"(p)(1)(A) Subject to paragraphs (2) and (3), with respect to eligibility for medical assistance on the basis of subsection (a)(10)(F), an individual is described in this paragraph if—

"(i) the individual has not attained the age of 18 (or, at the option of the State, has now attained an age greater than 18 but less than 21);

"(ii) the individual suffers from any chronic physical or mental illness, disability, or condition that limits or impairs normal childhood activities, growth, or development;

"(iii) subject to the last sentence of this subparagraph, as determined by the State, the amount that would be expected to be expended on behalf of such individual for medical assistance for the succeeding 12 months is not less than 125% of the average amount expended in the State under this title during the preceding 12 months on behalf of individuals under the age of 18 (or if the State exercises the option under clause (i), under the age of 21); and

"(iv) the family income of the individual does not exceed the applicable percentage of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

Clause (iii) shall only apply at the time the individual applies for medical assistance under this title (or elects to receive medical assistance on the basis of subsection (a)(10)(F)).

"(B) For purposes of subparagraph (A)(iv), the applicable percentage is an amount (as chosen by the State) not greater than—

"(i) 100 percent in the case of fiscal year 1989;

"(ii) 125 percent in the case of fiscal year 1990;

"(iii) 150 percent in the case of fiscal year 1991; and

"(iv) 185 percent in the case of fiscal year 1992 and each succeeding fiscal year.

"(2)(A) The State plan of a State that exercises the option under subsection (a)(10)(F) shall provide that the State agency—

"(i) determine (at least twice each fiscal year) whether an individual receiving medical assistance on the basis of such subsection has ceased to be an individual described in paragraph (1)(A); and

"(ii) subject to subparagraph (B), terminate such individual's eligibility for medical assistance on the basis of such subsection if such individual is no longer an individual described in such paragraph.

"(B) An individual shall not be considered to be an individual who ceases to be an individual described in paragraph (1)(A) by reason of clause (iv) of such paragraph unless the family's gross earnings for a six-month period in a fiscal year exceeds the applicable percentage (specified in subparagraph (B)) of the nonfarm income official poverty line (as defined by the Office of Management and Budget, revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, and adjusted for such six-month period).

"(3)(A) In the case of an individual who is described in paragraph (1)(A) but who is not eligible for medical assistance solely on the basis of subsection (a)(10)(F), the State plan of a State that exercises the option under such subsection shall provide that such individual be deemed to be an individual who is not described in such paragraph unless such individual (in such manner as the State may provide) elects to receive medical assistance on the basis of such subsection.

"(B) An individual described in paragraph (1)(A) who fails to pay a premium or other charge required under section 1916(c) shall not be treated as an individual described in such paragraph if such failure continues for a period of three consecutive months.

"(4)(A) The State plan of a State that exercises the option under subsection (a)(10)(F) shall provide that in providing care and services related to the individual's chronic physical or mental illness, disability, or condition—

"(i) such care and services be furnished pursuant to a written health care management plan developed for each individual that emphasizes the provision of such services in a setting that is the least restrictive and the most effective and that facilitates community integration; and

"(ii) one or more appropriate coordinating agencies designated by the State assure that (with respect to individuals or groups of individuals for which the agency is assigned responsibility)—

"(I) comprehensive health care case management services are furnished to the individual without regard to the nature of the individual's disability or illness,

"(II) the written health care managment plan is developed with the input of the family of the individual and any entities providing such services to the individual,

"(III) such care and services are provided in a timely manner in accordance with the individual's written health care management plan,

"(IV) where appropriate, development of the written health care management plan and provision of such care and services pursuant to such plan are coordinated with the individual's special education and early intervention plan of care and services under the Education of the Handicapped Act and other relevant educational, medical, and social services provided by public or private agencies,

"(V) the effectiveness of such care and services in promoting the health of the individual and his or her integration and the individual's continuing need for such services is periodically evaluated, and

"(VI) pertinent information regarding the individual and the specific nature of any such care and services provided to the individual is collected.

"(B) Any amounts expended by the State in carrying out the activities under clauses (i) and (ii) of subparagraph (A) shall be considered, for purposes of section 1903(a)(1), to be amounts expended as medical assistance.

"(5)(A) The State plan of a State that exercises the option under subsection (a)(10)(F) shall include as medical assistance under such plan payment for part or all of the cost of such home or community-based services (other than room and board) as are approved by the Secretary under regulations issued by the Secretary.

"(B) Notwithstanding section 1902(a)(10)(B), the State plan may provide that an individual described in paragraph (1)(A) receive only such home or community-based services as are determined in accordance with the individual's written health care management plan (described in paragraph (4)(A)(i)) to be appropriate for such individual.

"(C) The home or community-based services furnished under this paragraph shall be in lieu of any home or community-based services which would otherwise be furnished to the individual on the basis of a waiver granted under section 1915(c).

"(6) Notwithstanding subsection (a)(17), with respect to any individual receiving medical assistance on the basis of subsection (a)(10)(F)—

"(A) no resource standard shall be applied;

"(B) the income standard to be applied is the income level established under paragraph (1)(A)(iv); and

"(C) family income shall be determined in accordance with a methodology that is no more restrictive than the methodology employed under title XVI, and costs incurred for medical care or any other type of remedial care shall not be taken into account.".

SEC. 4. PREMIUMS AND COST SHARING.

Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(1) in subsection (b), by striking "(A) or (E)" and inserting in lieu thereof "(A), (E), or (F)",

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(3) by inserting after subsection (b) the following:

"(c)(1) The State plan shall provide that—

"(A) in the case of an individual described in paragraph (1)(A) of section 1902(p) who is receiving medical assistance on the basis of subsection (a)(10)(F) and whose family income (as determined in accordance with the methodology specified in section 1902(p)(6)(C)) does not exceed 100 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family of the same size—

"(i) no enrollment fee, premium, or similar charge will be imposed under the plan, and

"(ii) a deduction, cost sharing, or similar charge may be imposed under the plan only to the extent that a deduction, cost sharing, or similar charge may be imposed with respect to individuals to whom subsection (a) applies;

"(B) in the case of an individual described in paragraph (1)(A) of section 1902(p) who is receiving medical assistance on the basis of subsection (a)(10)(F) and whose family income (as determined in accordance with the methodology specified in section 1902(p)(6)(C)) exceeds 100 percent of the nonfarm income official poverty line (as so defined and revised) for a family of the same size—

"(i) there shall be imposed a premium in accordance with paragraph (2),

"(ii) a deduction, cost sharing, or similar charge may be imposed only to the extent that such a deduction, cost sharing, or charge may be imposed with respect to individuals to whom subsection (b) applies.

"(2)(A) The premium imposed under a State plan pursuant to paragraph (1)(B)(i) shall be imposed not less often than every calendar quarter.

"(B) The total amount of a premium imposed pursuant to paragraph (1)(B)(i) shall not exceed 10 percent of the amount by which—

"(i) the family's average gross earnings for the period with respect to which the premium is imposed (as adjusted in accordance with the last sentence of this subparagraph), exceeds

"(ii) 100 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, and adjusted for the period with respect to which the premium is paid) for a family of the same size.

For purposes of clause (i), the family's average gross earnings for the period with respect to which the premium is imposed shall be reduced by an amount equal to the amount of uncompensated education, transportation, health, child care, and other special costs incurred by the family during such period which are attributable to the illness, disability, or condition of the individual.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall become effective on October 1, 1988.

SENATOR DURENBERGER'S MEDICAID AMENDMENTS FOR CHRONICALLY ILL CHILDREN

Senator Durenberger's proposal to amend Title XIX of the Social Security Act will allow states the option of extending Medicaid coverage to children with chronic illnesses and disabilities in low-income families whose income is below 185% of the federal poverty level.

ELIGIBILITY

Any child that suffers from any chronic physical or mental illness, disability, or condition that causes an impairment or limitation of normal childhood activities, growth, or development; and

whose family income is below 185% of the official poverty line; and

whose health care costs are expected to exceed 125% of a state's average Medicaid expenditure per AFDC child.

(Children up to age 18, at state option up to age 21.)

BENEFITS

These children will be eligible for the full range of benefits offered by the state's Medicaid program. Additionally, a state has the option to provide "enriched benefits" including all of the care and services described in sections 1905 and 1915 (home and community based services). This could include home health aid personal care services, habilitation, respite care, and medical supplies and equipment.

Care and services under this option must be furnished in accordance with an individualized, written health care management plan developed under the direction of the designated case management agency. The plan should emphasize delivery of services in the least restrictive, most effective setting, with community integration.

HEALTH CARE CASE MANAGEMENT

The State shall designate the most appropriate coordinating agency(ies) according to the individual needs of the children. The agency(ies) will ensure that comprehensive health care case management services are provided. The designated agency shall ensure:

a. that service coordination and case management services are provided to any child meeting the new Medicaid eligibility criteria, without regard to type of disability or illness;

b. that an individual written health care case management plan is developed in conjunction with the provider(s) and family;

c. that ongoing health case management is provided for the child;

d. the provision of services is monitored to ensure that they are timely and comprehensive and in accordance with the individual health care management plan;

e. that, if appropriate, the child's health care plan and course of treatment are coordinated with the child's special education and early intervention plan of care and services under Public Laws 94-142 and 99-457 and other relevant educational, medical and social services provided by public or private agencies;

f. ongoing evaluation of the child's course of health care and continuing need for extended Medicaid benefits is conducted.

PATIENT COSTSHARING

All services are free to children in families with incomes that do not exceed 100% of the federal poverty level.

States shall impose a sliding scale premium for children in families with incomes between 100-185% of the federal poverty level. The premium shall not exceed 10 percent of the amount by which the family's adjusted gross earnings for the month, exceeds $\frac{1}{12}$ of the federal poverty level for that family size. Family income will be adjusted to exclude uncompensated education, transportation, child care and other special costs incurred by the family due to the child's disability or condition.

PHASE-IN AND EFFECTIVE DATE

The Amendments made by this Act shall be applied for calendar quarters beginning on or after

October 1, 1988 for eligible children in families with incomes below 100% of the federal poverty level;

October 1, 1989 for eligible children in families with incomes below 125% of the federal poverty level;

October 1, 1990 for eligible children in families with incomes below 150% of the federal poverty level;

October 1, 1991 for eligible children in families with incomes below 185% of the federal poverty level.●

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 1741. A bill to establish the Blennerhassett National Historical Park in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

BLENNERHASSETT NATIONAL HISTORICAL PARK

Mr. BYRD. Mr. President, I am today introducing legislation to designate Blennerhassett Island and Museum in the Ohio River near Parkersburg, WV, as a national historical park. My colleague, Senator Rockefeller, is joining me as an original cosponsor of this measure.

This most famous of the Ohio River islands lies below the mouth of West Virginia's Little Kanawha River, and for nearly 200 years has been known as Blennerhassett.

This island was discovered by European explorers in the last decades of the 18th century. Before that, however, Blennerhassett Island had been inhabited for 14,000 years by Indians.

However, events in one brief but flamboyant period of its history—1798 to 1806—assured Blennerhassett Island its place in American history.

In 1796, fleeing to America to escape charges of treason by the British Government, Harman Blennerhassett and his wife, Margaret, sought a place in the new world to recreate a way of life they left behind. In March 1798, the Blennerhassetts purchased 179 acres on the northern end of what is today Blennerhassett Island. Here, the Blennerhassetts created a scene of exquisite luxury—a mansion and garden that soon became the setting of a glittering social life, as well as a major stopping off point for people heading west.

The historians Ambler and Summers, in their classic "West Virginia: The Mountain State," describe the Blennerhassett estate as follows:

> For the frontier, the residence built by Blennerhassett on his island estate was little short of palatial. The halls were light, airy, and elegant; and the furnishings consisted of gay-colored carpets, splendid mirrors, classic pictures, and rich tapestries. There was a library which contained some of the rarest books then to be found either in Europe or in America. Behind the mansion, after the fashion then familiar in the South and later found in increasing numbers in western Virginia and in Kentucky, were the slave quarters.

Understandably, Blennerhassett Island soon acquired two popular nicknames throughout the area—"Paradise" and "The Enchanted Island."

But where Harmon Blennerhassett achieved fame by building, he earned notoriety through his friendship with one man—Aaron Burr.

Controversy surrounded Aaron Burr throughout his tempestuous career, climaxing in 1801 when he missed by a few votes defeating Thomas Jefferson for the Presidency. Although Vice President, Burr was gradually frozen out of the national political arena. Upon killing his longtime political rival Alexander Hamilton, in an 1804 duel, however, Burr brought ruin upon his head.

In the spring of 1805, Burr headed West to start a new life. On that trip, he stopped at the Blennerhassett mansion.

Historians still argue the true motives of Burr's mysterious 1805-7 activities in the Ohio and Mississippi Valleys. For many years, most believed that he treasonously sought to separate the West from the Union. However, some now maintain that Burr was conspiring to mount a military expedition into northern Mexico—now Texas—where he intended to establish a new nation.

Be that as it may, once Burr disembarked on Blennerhassett Island, he set events in motion that would bring about the downfall of a way of life and the fortunes of the Blennerhassett family.

The charismatic Burr captivated Harman and Margaret Blennerhassett. In time, the Blennerhassetts became not only Burr's chief financial backers, they also allowed their home to serve as his headquarters.

In November 1806, President Jefferson issued a warrant for the arrest of Burr and his followers. Burr and Blennerhassett were arrested early the following year, charged with high treason, and taken to Richmond. Despite Jefferson's relentless efforts, the former Vice President was not found guilty. Blennerhassett, after serving 53 days in the Virginia State Penitentiary, also went free. But what happiness he might have felt at regaining his freedom was dampened by the realization that he had lost $50,000—the bulk of his remaining fortune—through his partnership with Burr.

Attempting to recoup his fortunes, Blennerhassett, on his release from custody, sold off his Ohio Valley holdings, and took his wife down the Mississippi. For a decade afterward, the Blennerhassetts invested their energies on a Mississippi plantation, but this venture also failed. Finally, in 1819, Blennerhassett—aged, nearly blind, and penniless—returned to England. There he died in 1831. Wife Margaret on a visit to her son, Harmon, Jr., in New York City, died in 1842. The fortunes of their mansion were no more happy than those of the Blennerhassetts. In 1811, a slave accidentally set fire to hemp stored in the mansion's cellar, and the house burned to the ground.

One might expect that that would have been the end of the Blennerhassett story. Not so, however. In subsequent years, along the Ohio River, the Blennerhassetts became folk heroes. During the 19th century, countless celebrities landed on Blennerhassett's Island to view for themselves this fabled eden—George Rogers Clark, King Charles X of France, Henry Clay, Walt Whitman, John Chapman of "Johnny Appleseed" fame, "Gentleman Jim" Corbett, and Howard Chandler Christy of "Christy's Minstrels"—to name but a few. By the mid-1800's, the Blennerhassett's memory had attained a near cult following, which in turn transformed their island into a major tourist attraction. Artists came to paint it. Poets wrote of its exotic beauty. By public demand, a park was established in the 1800's on what had been the front lawn of the Blennerhassett mansion.

In the early 1970's, local interest in Blennerhassett Island had gained enough support that the West Virginia State Legislature spearheaded an effort to develop the site as a historical area. With expert professional assistance, the Blennerhassett mansion's exterior was rebuilt, and archeological excavations explored the mansion's outbuildings and gardens, and uncovered the prehistoric Indian villages that once stood on the island, including the encampment of Delaware Chieftain Nemacolin, who died there in 1767. In 1980, Blennerhassett Island was opened to the public as a historical recreation park. This summer, a historical musical drama, "Eden on the River," was staged for a 3-week run, and will become a regular feature of the island's offerings in the future. More than half of the tickets to the drama were sold to visitors from outside the Parkersburg area. Since 1972, the island has been on the National Register of Historic Places.

In addition, this year, traveling from all States and 30 foreign countries, 100,000 tourists visited Blennerhassett Island.

Long lost to memory and tangles of wilderness underbrush, Blennerhassett Island and its restored mansion have ignited the imagination of a new generation of Americans.

The designation of Blennerhassett Island and Museum as a national historical park has the support of the State, the West Virginia Legislature, and the local community.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—In order to protect and preserve the unique historical resources and scenic beauty of Blennerhassett Island in West Virginia, there is hereby established the Blennerhassett National Historical Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Blennerhassett National Park," numbered — and dated —— and within the area in the city of Parkersburg, West Virginia, generally depicted on the map entitled "Boundary Map, Blennerhassett Historical Museum and Visitor Center," numbered — and dated ——. Both maps shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this Act referred as the "Secretary") shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535, 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). To the extent practical the Secretary shall administer the park in a manner consistent with the Blennerhassett Historical Park Commission Revised 1987 Long Range Plan.

(b) Donations.—Notwithstanding any other provision of law, the Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(c) Cooperative Agreements With State.—In administering the park, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for carrying out the purposes of this Act.

SEC. 3. ACQUISITION OF LAND.

(a) General Authority.—The Secretary may acquire land or interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange.

(b) State Lands.—Lands, and interests in lands, within the boundaries of the park which are owned by the State of West Virginia or any political subdivision thereof, may be acquired only by donation.

SEC. 4. ADVISORY COMMISSION.

(a) Establishment.—There is hereby established the Blennerhassett National Historical Park Advisory Commission (hereinafter in this Act referred to as the "Advisory Commission"). The Advisory Commission shall be composed of 15 members appointed by the Secretary to serve for terms of 4 years. Not less than 10 members of the Advisory Commission shall be citizens of the State of West Virginia. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairman.

(b) Management and Development Issues.—The Secretary, or his designee, shall from time-to-time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the management and development of the historical park. One of the goals of the Advisory Commission shall be to foster continuation of a cooperative and supportive climate with existing volunteer groups.

(c) Meetings.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement.

(d) Expenses.—Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(e) Charter.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Commission.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. ROCKEFELLER. Mr. President, today, with my distinguished colleague, the majority leader, Senator Byrd, I am very pleased to introduce legislation that will designate Blennerhassett Island as a national historical park.

Blennerhassett is a 507-acre island located 2 miles south of Parkersburg, WV, on the Ohio River. In addition to the historical significance of the island, the physical beauty alone would make a visit worthwhile. Inclusion of the island in the National Park System as a national historical park will serve to protect and promote the historical resources of the island for enjoyment by the people now and in the future.

The establishment of this park will commemorate a very significant event in American history. Aaron Burr, looking for financial backing and moral support for his plan to set up an empire in the Southwest sought out the owner and resident of the island, Harmon Blennerhassett. Blennerhassett liberally funded and actually took part in the preparations for the conquest of the Southwest. After Blennerhassett and Burr had fled the island, the Wood County Militia descended on the island and nearly demolished the mansion that Blennerhassett had constructed in 1798. The mansion was completely destroyed by fire in 1811 and the magnificent gardens were reclaimed by nature.

In the early 1970's the site of the mansion was located and uncovered. Thousands of artifacts were found and an enormous amount of information emerged. Much of the work to restore the island has been completed. While I was Governor, plans were developed to rescue the island from two centuries of neglect and reconstruction of the Blennerhassett Mansion was begun. A museum has been established to house the thousands of artifacts that were uncovered during the archeological excavations. The Blennerhassett Historical Park Commission, local civic groups, and the city of Parkersburg are to be commended for the extraordinary effort they have put into preserving the island.

The Blennerhassett story and the Burr episode are the most well-known facts regarding the island. However, the island would be a significant landmark in America's frontier history even if those events had not taken place.

The island was in the middle of the major thoroughfare, the Ohio River, to America's heartland. The size—4 miles long—and the location made it a natural rest stop for travellers. The diaries of travellers to the new frontier are replete with references to the island. The archeological digs have uncovered evidence of Paleo-Indians on the site and a continuum of artifiacts from that time on.

In this century the island is renowned for its agricultural production. The very rich top soil and the abundance of water have produced prize winning crops.

This project will not have to be developed from the ground up. The museum and mansion are there. Without any national marketing, the island currently attracts over 100,000 visitors annually to enjoy the surroundings and view the outdoor drama.

I am proud to have played a part in the redevelopment of this island and have visited there many times and it is certainly a historic gem. The Nation should be able to share this West Virginia treasure and that is why I am proposing that Blennerhassett Island become a national historical park.

By Mr. DOMENICI (for himself, Mr. Warner, Mr. D'Amato, Mr. DeConcini, and Mr. Melcher):

S. 1742. A bill to provide for the minting and circulation of one dollar coins, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

U.S. COINAGE REFORM ACT

● **Mr. DOMENICI.** Mr. President, I send to the desk a bill to reform America's system of coinage, to develop a system of coins more in line with the way we make purchases and handle cash.

I am honored to be joined in sponsoring this legislation by three of my colleagues, the distinguished Senator from Virginia [Mr. Warner], the distinguished Senator from Arizona [Mr. DeConcini], the distinguished Senator from Montana [Mr. Melcher], and the distinguished Senator from New York [Mr. D'Amato].

The reform I am sponsoring could save the Government and consumers millions of dollars each year, money spent to print dollar bills and the large sums spent to adjust the all-present vending machines so they accept dollar bills.

This bill authorizes the minting of a gold-colored Christopher Columbus dollar coin, a coin that will begin America's celebration of the discovery of the New World. Such a coin seems quite appropriate to me as a way to honor Columbus and the forthcoming 500th anniversary of his discovery.

At the same time, we will update our coinage with a distinctive coin we can spend with pride.

My proposal directs the Treasury to put the new coin in circulation within 18 months of enactment of the legislation. My bill also requires the Treasury to examine the advisability of phasing out production of both the penny and the half-dollar, and of rounding final cash sales to the nearest nickel.

I don't need to tell the American family what has happened to our purchasing power over the past several decades. While inflation is now quite low, the purchasing power of the dollar—and the coins that go with it—has dropped sharply. One dollar today buys what a quarter bought in 1950.

Every other country has experienced this drop in buying power, and many have updated their coinage as a result.

I am convinced that a golden colored dollar coin will be very popular with consumers.

Several other countries have introduced high denomination coins with great success. They learned from our experience with the Susan B. Anthony coin that a distinctive gold-colored dollar coin is acceptable to consumers, while a silver-colored one like the quarter is not acceptable.

Japan, the United Kingdom, Norway, Australia, and, most recently, Canada have circulated such coins, gold in color. In each country, they have provided for the replacement of the same denomination paper note, usually over a period of 3 years.

This has been suggested here, that we eliminate our dollar bill. The idea deserves serious consideration, but is not a part of the legislation. Nevertheless, I urge my colleagues on the Banking Committee to hold a hearing on this issue and establish a record on the pros and cons of phasing out the dollar bill.

Further, the reduced purchasing power of the penny has eroded its usefulness, while the half dollar is in only limited circulation. The need for continued circulation of these coins should also be evaluated. Our bill, as I mentioned, calls for this.

Why is coinage reform needed? The most significant reason to me is the savings to be realized by the Government and consumers from such reform. Based on data from the Department of the Treasury, the Government will save an estimated $117 million each year by minting a dollar coin, instead of printing a dollar bill.

In addition to the savings, the coin will be made of domestic metals, yielding benefits for our mining industry. The new dollar coin, while gold in color, will be mostly copper. In fact, the amount of copper needed for the new coin will be equal to the output of one domestic mine.

The savings result from a far longer life for coins, compared with bills, as well as the differential in transportation costs, plus the elimination of shredding costs. The 20-year life of the coin, compared to the 18-month life of the dollar bill, yields the greatest part of the savings, $75 million annually.

Another $39 million savings is associated with the reduced cost of transporting currency from U.S. Mint facilities to Federal Reserve Banks. An additional $3 million saving results from not having to destroy old, dirty dollar bills each year.

Additionally, the economy as a whole will benefit from reduced vending machine costs. Currently, the $2,400 per unit cost of dollar-bill changers, and the $400 per machine cost of retrofitting vending machines with bill acceptors are, of course, passed on to consumers. The dollar coin would eliminate these costs, while benefiting consumers.

Our mass transit systems face expensive retrofitting of fare machines on buses. Many of these costs could be avoided by use of a dollar coin. Such retrofitting recently cost Cleveland, Washington, and Chicago $5 million, $8.7 million, and $15 million respectively.

Mr. President, minting of a gold-colored coin will assure that the coin, even if it is not much different in size than the quarter, will still be easily distinguishable. And I am convinced from the experiences of other countries, that such a new coin will be welcomed by consumers.

Such a coin would offer additional benefits. With edges that would be distinguishable from the quarter, a dollar coin would aid those who suffer visual handicaps. With a dollar coin, visually handicapped consumers could make small purchases without the fear of inadvertently spending a large bill or being cheated of the correct change.

Christopher Columbus pursued his vision of a shorter route to the East by sailing west, despite much criticism and controversy. We need this same foresight and commitment in our pursuit of an updated and more efficient coinage system.

Mr. President, I urge my colleagues to support this legislation. It is time to examine the benefits of coinage reform.

Mr. President, I ask unanimous consent that a copy of the bill and a fact sheet on the legislation be printed in the RECORD.

Mr. President, I ask unanimous consent that immediately following my comments, the text of the bill and my factsheet on the dollar coin bill that I introduced earlier today, that there appear in the RECORD several articles dealing with updating our money and the Canadian experience with their new gold-color coin.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Coinage Reform Act of 1987".

SEC. 2. ONE DOLLAR COINS.

(a) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended by inserting after the fourth sentence, the following: "The dollar coins authorized under subsection (a)(1) are gold in color, have a copper content of at least 90 percent, and are minted and fabricated in the United States of metals from natural deposits located in the United States or in a territory or possession of the United States.".

(b) CHRISTOPHER COLUMBUS DOLLAR COIN.—Section 5112(d)(1) of title 31, United States Code, is amended by striking out the sixth sentence and inserting in lieu thereof the following: "The obverse side of the dollar shall have a design symbolizing the 500th anniversary of the discovery of the New World by Christopher Columbus.".

(c) EFFECTIVE DATE.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Treasury shall place into circulation one dollar coins authorized by section 5112(a)(1) of title 31, United States Code, in accordance with the amendment made by subsections (a) and (b).

SEC. 3 STUDY OF PHASING OUT OF ONE-CENT COINS.

The Secretary of the Treasury shall conduct a study to determine the advisability of phasing out production of the one-cent, and 50-cent coins and of rounding final cash sales to the nearest 5 cents. The Secretary shall report the results of such study to the Congress not later than 6 months after the date of enactment of this Act.

FACTSHEET—COINAGE REFORM LEGISLATION (SEPTEMBER 1987)

Legislation being introduced requires the minting of a gold-colored dollar coin and a study of the advisability of phasing out the penny and the half dollar coins.

The legislation does not require the withdrawal of the dollar bill. The Banking Committee needs to hear the experts on this and decide on the merits of this issue.

The coin will be designated as the Christoper Columbus dollar coin.

The coin color is critical to its acceptance to consumers. Japan, England, Norway, Australia, and most recently Canada have introduced gold-colored coins. The failure of the Susan B. Anthony dollar is largely attributed to its similarity to the quarter, size and color.

Every year the U.S. prints 3.2 billion dollar bills.

Within a year, they are dirty, torn, stained, and crumpled. Eighteen months later they are taken out of circulation and end up shredded.

This 18-month cycle costs the taxpayer a lot of money—about $127 million a year.

Due to the 20 year life of the coin, compared to 18 months life cycle of the dollar bill, and other cost differences, $117 may be saved each year.

$75 million saved due to longer life of the coin.

$39 million saved due to reduced costs of transporting currency from the U.S. Mint to Federal Reserve Banks.

$3 million saved due to elimination of shredding costs.

This is true even though a dollar bill costs 2.6 cents to print; and coin costs 3.5 cents to fabricate. The critical factor is the longer life of the coin. It means we need to mint far fewer dollar coins than dollar bills each year.

Minting dollar coins would use enough copper to keep one additional domestic mine open. This is roughly equivalent to one percent of copper consumption in the United States.

Use of a dollar coin virtually eliminates the need for expensive bill changers and acceptors. Bill changers cost about $2,400 each and retrofitting a vending machine to accept paper currency cost $400 per machine. In either case, the costs are passed on to the consumer.

Retrofitting of mass transit systems is also expensive. Cleveland, Washington, and Chicago have spent $5.0 million, $8.7 million, and $15.0 million respectively retrofitting fare machines on buses.

The purchasing power of our coins has changed considerably since 1950. Today it requires a dollar to purchase what a quarter would in 1950. It's difficult to find anything today that may be purchased for a penny!

Cosponsors of the bill include: Senator DeConcini, Senator Warner, and Senator D'Amato.

Members of the coin coalition supporting the legislation include: the American Amusement Machine Association, Copper and Brass Fabricators Council Inc., the Copper Development Association, National Association of Convenience Stores, National Automatic Merchandising Association, National Packaging Association and the RP Foundation fighting blindness.●

How to Make a Buck in the 1980's

(By James C. Benfield)

The United States currency system, fundamentally unaltered during this century, is in desperate need of change—specifically, a dollar coin.

The institution of a modern $1 coin would not only reduce government spending, eliminate the need for costly fare-box conversions, help hold down the cost of vending-machine products and aid the visually handicapped, but would remove various hidden costs of the outmoded dollar bill.

It would also be a sensible acknowledgment of inflation. In the past 30 years, the Consumer Price Index has risen from 84.3 to 338.7, a four-fold increase. Today's dollar is the quarter of the 1950's. In the Eisenhower years, a buck would buy hamburgers, french fries and soft drinks for two at McDonald's or Cokes for an entire baseball team. Today, it is no longer the threshold of a moderate purchase.

Moreover, a dollar coin would remove numerous inconveniences from modern life. With paper bills, we cannot make a long-distance call on a pay phone, buy a Sunday paper from a street box, drive through a toll booth or use a long-term parking meter. We wait in lines as Metro's farecard machines reject, then (perhaps) slowly accept bills. And the list of annoyances goes on.

THE HIGH COST OF MONEY

The American taxpayer would save over $50 million annually if a coin replaced the dollar bill. Athough coins wear 13 times longer, they have only a slightly higher initial material and minting cost—three cents apiece versus 2.6 cents for a bill.

These life-cycle savings would increase dramatically as the population and economy expand and more dollars are needed. From 1976 to 1986, for example, the number of dollar bills printed annually increased from 1.4 billion to 3.1 billion. In 1986, $1 bills accounted for 47.5 percent of all bills printed; some 3.8 billion are currently in circulation.

Based on Treasury estimates, the Fed would have to pay a total of $1.3 billion (in 1987 dollars) over the next 20 years to purchase and replace those 3.8 billion bills every 18 months—not counting internal handling costs. But the Mint would have to spend only $114 million for the same $3.8 billion in the form of coins. The Treasury Department is currently refining these figures.

But those are only the obvious savings. The technology required to deal with paper $1 bills is expensive, and those costs eventually are passed along to consumers in the form of higher prices. Conversely, eliminating the need for that machinery would hold prices down. Bill changes cost about $2,400 each, according to the National Automatic Merchandising Association.

In addition, without prompt currency reform many more masstransit authorities will be forced to follow the example of the Cleveland, Washington and Chicago systems, which recently spent $5 million, $8.7 million and $15 million respectively to refit buses with new fare machines to accept dollar bills. Yet Metro's old fare boxes would have accepted a dollar coin.

The New York City bus system has an easy solution to the paper-dollar problem: It doesn't accept them. No token or change, no ride-in spite of the phrase "legal tender for all debts" printed on all U.S. bills. A dollar coin would, however, negate the need for tokens, which are now used for about 37 percent of New York's bus fares.

If there were no dollar bills in circulation, small purchases by the visually impaired could be made without fear of accidentally spending a large bill or of being cheated when receiving change. Many blind persons have devised their own systems for telling paper bills apart: For example, folding fives in half, tens length-wise, twenties quartered and singles unfolded. Technology offers another solution: a six-pound talking paper-money identifier for $625.

CONFUSION AT THE EDGE

The last time a $1 coin was introduced—the Susan B. Anthony dollar in 1979—it was firmly rejected by the public. The U.S. government never formally studied the failure of the "Suzie," but the most serious problem seems to have been that it was easily confused with the quarter. Additionally, retailers didn't want to count and store both paper and metal dollars. The Treasury Department also conceded in a January 1987 study that the rejection was "due, at least in part, to the continued production of the dollar bill after the coin—the Susan B. Anthony dollar—had been released."

When people confused the Anthony dollar and the quarter, it was not because the two coins have similar diameters, but because both share an identical silver color and both have "reeding" (small ribs on the edges). The public has no problem differentiating dimes from pennies (which are very close in size, but different in color) or quarters from nickels, which have the same relative sizes as the quarter and the Anthony dollar. The key element for fingers in discerning coin differences is the contrast between smooth and reeded edges.

If a new $1 coin is designed, the Anthony dollar's dimensions should be retained, but it should be made without reeding and the color should be gold.

Several Western countries studied the U.S. experience with the Anthony dollar. Recognizing the problems of a paper-based currency system, they have introduced high-denomination coins, and in every case have removed or phased out the bill of the same denomination: 1982, the 500-yen in Japan; 1983, the 1-pound in England and the 10-kroner in Norway; 1984, the dollar in Australia; and in 1986, the 10-franc in France. Two weeks ago, Canada joined the reformers when it premiered its new $1 coin; its dollar bill is also on the way out.

Canada's new coin is the same diameter as the Anthony dollar, but offers two distinctive differences. The color is bronze-like and the edge is 11-sided without reeding (thus answering blind persons' chief objection to the Suzie—that it was hard to tell from a quarter).

Because the Canadian dollar retains the same dimensions as the Anthony dollar, U.S. vending-machine manufacturers, which export 90 percent of the machines used in Canada, will be able to employ existing coin-validators designed to accommodate the Suzie. By doing so, Canada also saved the expense of having to inventory and measure coins from every country in the world: The United States had already performed that task in designing the Anthony dollar, to ensure that no foreign coin of inferior value would accidentally prove to be interchangeable with the Suzie. If the United States were to change the dimensions of a new $1 coin, it would require a new measurement inventory, entailing further delay. And millions of coin-operated machines would have to be refitted.

U.S. designers had rejected a multi-sided, flat-edged coin for the Suzie because validators in coin-operated machines require a coin that rolls down a chute; a coin with flat sides might slide or bounce. So the Anthony dollar was made round. But along the inside perimeter, an 11-sided figure was stamped in relief to aid in differentiation. The Canadian Mint made its dollar coin 11-sided, and solved the "bounce" problem by making each side an arc instead of a straight edge.

HOW MONEY MAKES MONEY

Having been burned by the rejection of the Suzie, the Treasury Department is reluctant to take the lead in reintroducing a dollar coin. There are still half a billion of the original 800 million Anthony dollars sitting unused in the vaults of three U.S. Mints and 37 Federal Reserve branches across the country. The accounting system used in creating money has posed barriers to destroying these coins. Here's why:

To mint a dollar, one cent's worth of metal strip is purchased through the Mint's Coinage Metal Fund from private metal fabricators. (Congress appropriates two cents to the Mint for manufacturing costs.) The Mint then produces a coin worth—*presto*—$1. This dollars is recorded in the Coinage Profit Fund, which then replenishes the Metal Fund for one cent. The remaining 99-cent profit (called seigniorage) is swept daily from the Profit Fund into the Treasury's general fund.

If those coins were melted down, the process would have to be reversed—instantly adding nearly one-half billion dollars to the nation's deficit. But minting a new $1 coin would offer a solution as the new coins could be "traded" for the old coins without taking the seigniorage on the first 500 million minted. The old Anthony dollars could then be melted down.

For reasons of cost, efficiency and convenience, a diverse group of interests including the coin-operated-machine industry, metal producers and fabricators, convenience stores and the visually handicapped have joined to form the Coin Coalition. The group is calling for modernization of the U.S. currency system through the issuance of a well-designed dollar coin and a phased moval of the $1 bill.

Critics may well object that the elimination of dollar bills would add too much weight to the American pocket. (That was a serious problem in an earlier failed experiment, the Eisenhower dollar minted from 1971 to 1976. The coin was popular only in the West and in casinos, which made their own cartwheel-sized tokens when they found they needed more.) But for those who prefer paper, there is always the $2 bill, which is very popular in Canada and Australia.

Some people fear that a dollar coin would make it easier for vendors to charge a buck for a Coke and for transit authorities to raise their fares to a $1. But the cost of materials, labor and capital remains the driving force of inflation, not the form of our currency. A coin at the dollar threshold will no more cause inflation than its absence will prevent it. There was no dollar window on gas pumps in 1973—but did that keep gasoline prices under a dollar after the Arab oil embargo?

Although there is no organized opposition to currency reform, there is substantial public inertia. Just as with Uniform Packaging Codes and the recent extension of Daylight Saving Time, a major education campaign is required to demonstrate that currency reform will help fight inflation and reduce government spending.

In successive steps, the United States has gone off the gold standard, removed silver from its coins and ceased to honor silver certificates. Controversy accompanied each change because an article of faith—faith being the basis of all money—had been altered.

Money is, after all, whatever a society agrees on—shells, beads, metal or a bank's computer printout. As Drake University economics professor Dwight Saunders used to tell his students, "Remember, we're only talking about ceremonially blessed dirty rags and mud pies."

[From the Washington Post, July 12, 1987]

THE PENNY GAMBIT

Any serious discussion of currency reform must address the elimination of the penny and the half dollar. Removing pennies from cash registers would make room for a $1 coin and produce numerous other benefits, including increased productivity. The National Association of Convenience Stores estimates that an average of two seconds is spent handling pennies during each of its members' 10 billion annual cash transactions—a total of 5.5 million hours costing an estimated $22 million.

The United States has been minting about 50 pennies per person annually, a staggering number considering that they are no longer used in coin-operated machines. Three-fourths of the U.S. Mint's output is pennies. A March 1986 study conducted at Disney's Epcot Center reported that adults had an average of 993 pennies at home; children under 18 had 1077 pennies.

Billions more are thrown away each year. One Florida solid-waste recovery plant alone—which processed 8,000 tons of waste weekly from about 650,000 residents in Dade County—collected between $50,000 and $60,000 in loose change every year between 1983 and 1985. About 80 percent of that was pennies. The Epcot study reported that 6 percent of adults between 18 and 34 freely admit to throwing them away.

What would it take to eliminate this obsolescent coin? One solution would be to legalize rounding up or down to the nearest nickel on cash transactions. (Payments by check or credit card would not be affected.) The rounding would occur after all purchases were totaled and sales tax added. Because merchants pay sales tax on monthly aggregate sales, taxing authorities would receive exactly the same revenue. Customer and merchant would stand an equal chance of gaining or losing a maximum of two cents.

Critics might complain that eliminating the penny would force prices up. But there is no "mill" (thousandth of a dollar) coin; yet we continue to price gasoline, bulk mail and stocks to the mill and round them without inflationary effect. Besides, the penny would not have to be banished or demonetized. Its use would simply atrophy, such as occurred when the U.S. stopped making half-cent coins in 1857. Moreover, to maintain the integrity of the currency system, all coins and paper money ever issued by the government remain legal tender.

As for the 50-cent piece, the public has already rejected it. No wonder: The coin is exactly twice the weight of the quarter, so there is no "pocket" economy in carrying it; and coin-operated machines won't accept it. The Mint will not issue any Kennedy half-dollars this year, owing to lack of demand.—JAMES C. BENFIELD.

[From the Tucson, Arizona Daily Star, July 19, 1987]

A DOLLAR OF COPPER HAS VALUE

(By Tom Beal)

Dollar bills spend like pocket change and pennies wouldn't be worth picking up were it not for the good luck involved.

So why not scrap the paper dollar, mint a new dollar coin and get rid of those pesky pennies?

That's the thinking of two lobbyists who have formed the Coin Coalition to push Congress into currency reform.

Bruce Wright, formerly the top aide to Rep. Mo Udall, says the concept of a dollar coin started as a method for the slumping copper industry, but over the past few years has gotten him interested in the whole subject of currency reform.

Wright's "hobby lobby" to push for a copper dollar has turned into a major effort to bring U.S. currency in line with the rest of the world. Canada, Great Britain, France, Australia and most of the other industrialized countries of the world have introduced mass circulation coins of a dollar equivalent, while the United States is stubbornly sticking to the old greenback dollar.

A bill has been drawn up, members of Congress have been lobbied, and Wright and lobby partner Jim Benfield hope to have the bill introduced later this summer.

The bill would order the mint to develop and produce a new dollar coin—gold-colored but made mostly of copper that would have to be bought from domestic sources. Production of the dollar bill would be halted within three years, and a study on the fesibility of doing away with the penny would be ordered as well.

There are a lot of attachments to pennies and paper money, and a lot of resistance to a dollar coin that must be first gotten out of the way, but the two men think the measure has a fighting chance of being given good consideration.

First though, the nation has to forget the Susan B. Anthony experience. You might remember the Susan B's Dollar coins minted in 1979 that were purposely made small enough and light enough to become a mass-circulation item. Before the Susan B, dollar coins were of the substantial variety—the Eisenhower dollar, a pocket buster that people loved to collect but hated to carry.

The Susan B's failed for a different reason. They looked and felt like quarters, even though they were a wee bit larger. And some of us, sad to say, had trouble dealing with the feminist message that Susan B's visage represented.

The U.S. Mint made up more than 800 million Susan B's. It still has about 500 million. Nobody but collectors want them.

Actually that's not quite true. Susan B's are in demand in Baltimore. There, the Baltimore transit authority uses them as the principal medium of exchange for its fare machines, keeping about 60,000 of the dollar coins in circulation.

Some of the biggest support for dollar coins comes from the vending-machine industry. From their viewpoint, it's not their rising prices, but the degradation of the currency that has caused you to stand in front of their machines feeding coin after coin into the slot to make a major purchase. A $1.75 pack of cigarettes, for example, requires anywhere from seven to 35 coins.

Likewise, the nation's transit and toll-road systems would benefit from a mass-circulation dollar coin. In some Eastern metropolitan areas, commuters buy their quarters in rolls to have them ready for the collecting machines.

But the really incredible efficiency argument comes from the convenience-store operators, who have been enlisted in the battle for currency reform.

Benfield, in an article he wrote for The Washington Post, says estimates made by the National Association of Convenience Stores claim that pennies add two seconds to each cash transaction. Multiply those two seconds by the 10 billion annual cash transactions (I knew there were too many convenience stores in the world) handled by the nation's Circle Ks, 7-Elevens, and Piggly Wigglys and you find: (Are you ready?) 5.5 million person hours worth $22 million.

Think of it, convenience stores could use that money to put another couple of ounces in their "Big Slob" soft drinks.

The pesky pennies, meanwhile, account for 75 percent of the U.S. Mint's production—a lot of time and effort for a coin that is so little valued that most of them get on the bureau every night, and containers of them are offered free at a growing number of the nation's cash registers: "Need a penny, take one; Have a penny, leave one."

It might seem strange that an idea that began as a method of developing a new copper product would cause the penny to become extinct. But that's no problem in the copper-producing states, says Wright. Pennies are made of 95 percent zinc.

The real copper coins are dimes, quarters, half dollars and Susan B's. They all contain 92 percent copper.

Wright also makes a good argument for the economics of dollar coins.

Coins are more expensive than paper dollars to make—3 cents, as opposed to 2.6 cents each. But they last 10 times longer and would save us an estimated $50 million annually.

The arguments are impressive, and they'll be needed to convince a skeptical public that this whole thing isn't just a ploy to get us to pay more money for goods. If the penny is phased out, cash transactions will have to be rounded to the nearest nickel. That's fine if the bill is 52 cents and we only have to pay 50, but what about those times when the bill is 53 cents?

That's one of the reasons the bill suggests a study of the penny issue.

For one thing, we'll have to cover our cars and ourselves on the day it begins to rain the much heavier "nickels from heaven."

[From the Fort Wayne, IN, Journal-Gazette, Sept. 22, 1987]

CHANGE THE DOLLAR BILL

Replace the one-dollar bill with a coin?

Yes. There's a compelling case that such revamping is greatly needed.

Later this week, Sen. Pete Domenici, R-N.M., and Rep. Jim Kolbe, R-Ariz., will introduce in Congress the United States Coinage Reform Act of 1987. The bill proposes the nation mint a dollar coin and phase out the dollar bill. Because of the benefits to taxpayer, business and consumer, the measure deserves support.

The dollar bill is, to put it concisely, a waste of money. Dollar bills last, on average, about 18 months. Coins last about 20 years. The Federal Reserve estimates the government would save $50 million annually if it replaced the one-dollar bill with a coin.

And, as the years went by, the savings would increase. James C. Benfield, executive director of the The Coin Coalition, has said Treasury Department estimates show that replacing the 3.8 billion one-dollar bills currently in circulation will cost the government about $1.3 billion (in 1987 dollars) over the next 20 years. Conversely, it would only have to spend about $114 million if coins were the currency.

Admittedly, The Coin Coalition is a group of special interests—including metal manufacturers, amusement and vending machine owners and owners of convenience stores. But the coalition participants argue persuasively that what's best for them is best for the consumer.

Take vending machines, for example. Because of inflation, it's practically a necessity now for vending machines to either be placed near dollar change machines or to be retrofitted to accept bills. However, dollar changers cost about $2,400, and it costs about $400 to retrofit a machine. Such costs, says the Coin Coalition, are borne by consumers. The coalition also argues such expenses wouldn't happen with a change to a dollar coin, because many machines already can accept them.

The benefit to the blind of the dollar coin also is great. A dollar coin that's distinct in feel from other coins would increase the ability of the visually handicapped to make larger purchases. It also would protect them from unscrupulous cashiers.

Some may be skeptical of the dollar coin because of the flop of the Susan B. Anthony dollar a few years ago. But advocates say the dollar coin can be successful, if it's distinct from other coins in both color and edging. (That wasn't true of the Susan B. Anthony, which seemed to many a close cousin of the quarter.) Furthermore, for the coin to gain widespread use, the one-dollar bill will have to go. The Susan B. Anthony fiasco showed the public will remain faithful to the familiar, as long as its presence is secure.

In recent years, many other nations—including Great Britain, Japan, Australia and, most recently, Canada—have made a successful transaction to high-denomination coins. The United States should now make the correct change—to the dollar coin.

[From the Chicago Tribune, June 27, 1966]

FREEING US FROM BONDAGE TO OUR USELESS MONEY

(By Stephen Chapman)

Last year, for my son's first Christmas, his paternal grandparents decided to make a contribution toward his college education. Like most people, they stash their pennies in a jar, rather than carry the little nuisances around. So on Christmas, they presented my wife and me with a cookie tin filled with pennies. This struck me as a thoughtful gift, and as a clever way to dispose of their pennies.

A few days later I loaded the tin into the car, along with a jar of pennies I had accumulated, and set out for a bank that could convert them into some usable form. Upon pulling into its parking lot, I placed my freight atop the trunk and closed the car door. At that moment, the containers slid off the car, fell to the asphalt and scattered the pennies to the four winds.

I spent the next half-hour grinding my teeth and retrieving these miniature homages to Abraham Lincoln—all 5,237 of them. Had a lawyer been handy at the time, I would have eagerly signed a document formally disowning my parents. Instead, I informed them that all future monetary gifts should be made in a form that will fit into a wallet.

Given this experience, readers will not be surprised to learn of my heartfelt support for a new campaign to overhaul the nation's currency. Step One is to stop minting pennies and allow merchants to round the price of a purchase up or down to the nearest nickel. Step Two is to eliminate the dollar bill and replace it with a coin. Result: Freedom from our enslavement to an outmoded currency.

The idea is being pushed by a coalition of groups—an antiblindness foundation, convenience stores, vending machine operators and commercial parking lots. Each of them has a special motive. The blind can distinguish among coins but not among bills, so they would welcome a dollar coin. Convenience stores would be spared the cost of handling pennies. Vending machines would no longer lose purchases by people who have nothing smaller than a dollar. Parking lots could rely more on automated cashiers.

But the rest of us also stand to gain. No more pockets bulging with one-cent pieces that won't buy anything. No more copper-filled jars on the dresser. No more swearing at balky dollar bill changers.

The change also conforms to the demands of the Gramm-Rudman era. It would save the Treasury $50 million a year, reports Fortune magazine, since a dollar coin would outlast the paper version. The government would no longer have to replace the 1.4 billion pennies that vanish from circulation every year.

Other government units would also gain: Municipalitiees that provide mass transit, for instance, would be spared the expense of handling dollar bills. if the dollar bill had been replaced with a dollar coin before now, the Chicago Transit Authority wouldn't have had to spend $15 million to outfit buses with fare boxes that accept bills.

Of course, a new dollar coin was introduced in 1972—a smaller, more practical one than the chunky old silver dollar. But it was abandoned the next year for a disastrous lack of public acceptance. The Susan B. Anthony dollar fell victim to two mistakes: the Treasury's failure to make it easy to distinguish, by sight and by feel, from the quarter, and its preservation of the dollar bill. The Dollar Penny Coalition recommends an 11-sided, smooth-edged, brass coin, to avoid confusion, with the dollar bill scrapped to encourage the coin's acceptance.

All this sounds fine until we get to rounding off prices, where the consumers's instinct is to expect the worst. But the change won't matter much, since the worst that can happen is a two-cent price increase for an entire purchase—from, say, $23.78 for a bag of groceries to $23.80.

Americans are already accustomed to rounding off for purchases of gasoline, which is priced to the tenth of a cent, and of items priced at two-for-59-cents. Keep in mind that tody's nickel is worth less than a penny was in 1945. Prices then were "rounded" up or down to the nearest cent, but it was done invisibly. If the nation survived the demise of the half-cent piece, which occurred in 1857, it can live without the penny.

Any loss would be more than made up in time saved, productivity increased and aggravation eliminated. If you doubt, try to picture me on my hands and knees in that bank parking lot, picking pennies out of the broken glass, and consider the possibility that next time, it might be you.

LOOKS LIKE IT MAY FLY: CANADA TRIES A LOONIE IDEA: A $1 Gold Coin

(BY DAVID R. FRANCIS)

OTTAWA.—"Go with it," says the television message. The ad isn't for some new yogurt or soft drink. It's for Canada's new gold-colored $1 coin.

So far, Canadians are doing just that—going with it. Since the coin was introduced early last summer, Canadians have "bought" more than 75 million of them. For several weeks the handsome coins were pocketed as rarities or curiosities. Now, says Denis M. Cudahy, vice president of manufacturing at the Royal Canadian Mint, they are showing up more often in transactions, as 6 million a week are minted.

The Canadians have even coined a name for their new coin—the "Loonie"—referring to the loon, the watergoing bird with the eerie call, which it engraved on the reverse of the coin. (A likeness of Queen Elizabeth II is on the obverse side.)

"It is not a derogatory term," says Mr. Cudahy. "People tend to give nicknames to things they like." The Canadian Press news agency was quick to give the nickname an official spelling—Loonie—heading off renderings such as Looney or Loony.

For the Mint, the coin's easy acceptance is a considerable relief after the American public's flat rejection of the Susan B. Anthony $1 coin, introduced in 1979 only to pile up in the vaults of the Federal Reserve System. Apparently consumers in the United States found it too similar to the quarter and not especially attractive.

The Canadian Mint, which moved back into its rehabilitated castle-like home here in July 1986, decided to learn from the US experience. It also studied the example of Britain, which introduced a 1£ coin in 1983 and discontinued its 1£ note in 1984.

To carry public acceptance, Canada's new currency was designed to have a pleasant "fondle factor." The coin is sufficently larger than the quarter to be distinctive; it has 11 sides, enabling even the blind to recognize it easily. And the coin is attractive, with its copper-tin (bronze) aureate coating electroplated onto the nickel planchet before striking.

Canadians seem to like the design, perhaps because many have an affection for the loon, a diving bird that's common in Canada, although it has become fairly rare in the US.

To make certain the coin would do what it was intended to do—replace the paper $1 bill—the government announced at the start that it would withdraw the $1 bill starting and ending in 1989. This has given the vending machine industry an incentive to start converting its machines to accept the coin.

On the other hand, when the U.S. Treasury introduced the Susan B. Anthony, it was silent about its intentions for the $1 bill. So the vending machine industry decided to wait and see about converting equipment, and there was little incentive for the public to make the switch.

Canada also has the advantage of having in wide circulation a $2 bill, so consumers don't have to jump from a $1 bill to a $5 bill in making change.

Because the new dollar coins are expected to last at least 20 years in circulation, far longer than the year or so for paper $1 bills, the new coins will save the government money. It expects to save some $175 million over a period of 20 years in production and distribution costs.

Since the coin costs only 12 cents to make and has a face value of $1, the government should also make a profit, known as "seignorage." That profit, says Cudahy, could amount to $270 million, if the Mint is able to circulate about 600 million of the coins to replace its 300 million $1 bills.

Public-transit companies expect to save $4 million a year by not having to unfold dollar bills put in collection boxes. Vending-machine operators hope to do more business because of the convenience of a $1 coin. Thousands of "Use It Here" decals have been placed on converted vending machines.

Though the government apparently is not financially loony in making this biggest change in the Canadian currency in some 50 years, there was some looniness involved in its introduction.

For one thing, the original design featured a traditional "voyageur" theme on its reverse side—a portrayal of a white man and an Indian in a fur-laden canoe. But the master dies for this design mysteriously disappeared during a snowstorm last November, when they were transported from Ottawa to the production plant in Winnipeg by a courier company.

The dies have not shown up despite an intensive search by the Royal Canadian Mounted Police. So for security reasons, the Mint substituted the loon motif.

Mr. Cudahy isn't entirely unhappy with the switch, noting that the loon is common to all of Canada, whereas the voyageurs were something of an eastern Canadian theme.

Another bit of looniness occurred when a Mint mix-up resulted in some of the coins being distributed to the public in the west a week early.

On the whole, however, Mint officials are delighted with the reception to the coin. A public survey shows 65 percent firmly in favor of the coin and another sizable percentage fence-sitting.

Says Mint spokesman Murray Church: "Going loonie has become an in thing."

[From Coin World, July 22, 1987]

ROYAL CANADIAN MINT LAUNCHES LOON DOLLAR: MINT OFFICIALS PREDICTING SUCCESS FOR SMALLER DOLLAR COIN

(By David L. Vagi)

"We've got a winner" is how a Royal Canadian Mint official characterizes the debut of Canada's newly-released "Loon" dollar coin.

Destined to replace Canada's current large-size $1 coin in 1987 and its paper dollar by 1989, the 100 million Loon dollars which have been struck seem to have won a place in the hearts of Canadians, said RCM Director of Communications Murray Church.

Named after the loon, a Canadian waterfowl which is depicted on its reverse, the new 26.5-millimeter dollar coin is struck on a nickle-core planchet electroplated with aureate, an alloy of 88 percent copper and 12 percent tin. It is the yellowish aureate coating and the 11-sided planchet which distinguish the Loon dollar from other Canadian coins.

"The new dollar is more than just another coin," according to the RCM. "It is the most significant change to our coinage system in the last 50 years," a change RCM officials say virtually every Canadian will benefit from.

"The public is viewing the new dollar as a logical evolution in our currency system," Church said.

DIFFERENT IN EVERY WAY

Though the same diameter as the United States' ill-fated Anthony dollar, Church said the Loon dollar is different from the Anthony dollar in most every way.

"The devices are entirely different, it is 11-sided and is yellow-gold in appearance," Church said. For these reasons Church believes the Loon dollar will not be confused with Canada's 25-cent coin, the main reason for the U.S. public's rejection of the Anthony dollar.

Though the attractiveness of the Loon dollar is cited as the main element in the coin's success, Church said several other factors have boosted the coin's popularity. Among them were the decision to eliminate the paper dollar, the existence of the Canadian $2 bill, extensive media coverage and cooperation from business and special-interest groups.

Having researched the small-sized dollar coin option for more than 10 years, the RCM decided it would be best to eliminate the Loon's competition: the Canadian paper dollar. Church said using the Loon dollar, which can survive more than 20 years of circulation, could save the RCM more than $175 million compared to the paper dollar, which has a life expectancy of one year.

Adding to the utility of the $1 coin is the $2 bill, which the Bank of Canada intends to keep in circulation. Church said this was one of the drawbacks of the Anthony dollar program; very few U.S. $2 Federal Reserve notes were circulating, leaving the familiar $1 Federal Reserve note to compete directly with the new dollar coin.

[From the American Metal Market, July 24, 1987]

ALLOYING AND PRECIOUS METALS—CANADA'S NEW $1 COIN GARNERS POSITIVE RESPONSE FROM PUBLIC

(By Caroline Byrne)

TORONTO.—Canada's new $1 coin has met with an overwhelmingly favorable response from bankers, vending machine operators and consumers since its introduction July 1.

Forty million $1 coins are now in use, with another 100 million to be circulated by the end of this month. When the dollar bill is gradually phased out over the next year, an estimated 300 million dollar coins will be circulating in the Canadian market, said a spokesman for the Royal Canadian Mint.

Sherritt Gordon Mines Ltd. has been contracted to supply up to 6 million of the bronze-nickel blanks over the next three years. Each is an 11-sided nickel alloy coin with an electroplated bronze coating containing 88 percent copper and 12 percent tin.

The coins weigh 7 grams each with a diameter of 26.5 millimeters and thickness of 1.43 millimeters. In its finished state, the gold-colored coin bears a portrait of a Canadian loon and the standard effigy of Queen Elizabeth II on the reverse.

The new dollar costs approximately 12 Canadian cents (9 cents) to produce and will save the Canadian government about C$175 million ($131 million) over the next two decades, according to the mint spokesman. He said the coin has a 20-year lifespan compared to the one-year life of the paper bills. The added life will trim the excessive cost of production, distribution and recall which accompanied the paper bill.

In addition to saving the government money, the dollar coin is being lauded by business groups across the country. The Canadian Automatic Merchandising Association believes the coin will give a boost to the C$368, million ($276 million) annual vending machine sales recorded in 1986. Don Blowe, the association's executive director, said the coin is convenient and speeds up service.

Blowe also said the coin will allow merchandisers to increase the variety of vending machine food from the traditional coffee and confectionary snacks. He said some vendors already are experimenting with pasta, salads, chicken and fish dishes and even magazines.

Thirty percent of vending machine slots already have been converted at a cost of C$58 ($43.50) per machine and more are being changed over every day, Blowe said. Cigarette machines were the first to accommodate the coin, which is 11 percent larger than the Canadian quarter.

The Canadian Bankers Association said adjustments to accommodate the new coin have created less expense than anticipated.

"The government asked us to survey the movement of $1 notes and to look at weight and storage space," said George Girouard, banking association assistant director of operations. "We originally estimated it would cost an extra C$1.5 million to C$2 million ($1.13 million to $1.5 million) for transport and storage, but we've lowered that estimate considerably."

One reason, said Girouard, is that the government will establish new coin distribution centers across the country as demand for the dollar increases over the next six months. Canada currently operates one center in Winnipeg, Manitoba, which means coin order and delivery can take about three weeks.

Girouard said the Bank of Canada will deliver the new dollar coins to commercial banks in several days, reducing the need for costly storage space.

Bank cash drawers, counting and rolling equipment must also be changed to accommodate the new coins, but Girouard calls the adjustment costs insignificant.

The Retail Council of Canada has given its full support to the introduction of the dollar coin and the phasing out of the dollar bill, according to council president Alasdair McKichan.

He said the council has not yet received reactions from retailers using the coin, but he was certain its acceptance is going smoothly. "If there were any problems I'm sure we'd have heard them," he said.

McKichan has advised members of the council that changes will have to be made to wrapping and sorting machines, but said the cost will be minimal.

The public seems equally appreciative of the new dollar, according to surveys conducted by the mint, which used a test coin to poll Canadians every six months during the last two years to determine acceptance of a metal dollar. According to a mint spokesman, 75 percent of the 1,020 people surveyed said they would feel comfortable with the coin within three months. Those opposed thought the coin would be too heavy and awkward, but most of the people based their opinion on practicality and economic factors, said the spokesman, adding, "It was really a phenomenally positive response."

The new coin, nicknamed by some the "loony coin," was originally to have displayed two canoeing voyagers, but the design was revised earlier this year when the mint's master dies disappeared from an Ottawa courier company during a snowstorm. A Royal Canadian Mounted Police investigation is still underway.

[From the Arizona Daily Star]

Lobbyists Hope $1 Bill Will Fold in Favor of Coin They're Pitching

(By Dinah Wisenbert)

Washington.—The way Jim Benfield sees it, dollar bills are a nuisance.

They don't cooperate with vending machines, they waste taxpayers' money and they pose problems for the blind.

So Benfield, a Washington lobbyist, and Bruce Wright, a Tucson media consultant and former aide to Rep. Morris K. Udall, D-Ariz., are leading an effort to replace dollar bills with dollar coins made with copper.

"Copper happens to be just about the best metal you can have," said Benfield, a veteran of the successful effort to expand daylight-saving time by three weeks, signed by President Reagan last July.

Over the past year, Benfield and Wright have assembled a seven-member Coin Coalition aimed at convincing the government to kick the dollar bill habit in favor of gold-colored coins.

The group wants the coin to be composed of the same metals as the quarter, which is 92 percent copper, Benfield said.

Its members represent a variety of interests; the American Amusement Machine Association, Copper and Brass Fabricators Council Inc., the Copper Development Association, National Association of Convenience Stores, National Automatic Merchandising Association, National Packaging Association and the RP Foundation Fighting Blindness.

Although they have not begun serious lobbying yet, the coalition has spoken to Udall, Rep. Jim Kolbe, R-Ariz., and Sen. Pete Domenici, R-N.M., and are circulating draft legislation in the Senate.

Benfield advances several arguments for a dollar coin.

Coins are handled more quickly than bills, vending machines can accept them more easily, the blind can identify their value better than they can that of bills, and they last longer, he said.

A dollar bill costs 2.6 cents to make and lasts 18 months, while a coin would cost 3 cents to make and last 20 years, he said. Use of a dollar coin would save the government between $50 million and $100 million a year, Benfield said.

He conceded that the U.S. Treasury Department "got burned once" when it minted the Susan B. Anthony dollar coin. Of the 800 million Anthony dollars originally minted, $500 million in the unpopular coins remain in Treasury vaults across the nation.

Benfield said the fundamental problems with the Anthony dollars are that they have the same color and reeding (small ribs around the edge) as the quarter—making it difficult to distinguish between the two coins—and that its release wasn't accompanied by a phasing out of dollar bills.

"The dollar coin will not succeed unless we ultimately phase out the dollar bill," he said. Benfield noted that several countries have done this—most recently Canada.

But with all those "Suzies" in storage, the Treasury Department isn't ready to change.

"We don't have any plans at this time to issue a dollar coin," said Hamilton Dix, a spokeswoman for the U.S. Mint. The Treasury Department would only mint a new dollar coin and stop making dollar bills if Congress passes a law requiring it to do so, she said.

"I'm not going to promote a new copper dollar (until I) make sure it can fly," Kolbe said recently. "We're still just looking at it."

[From the Coin World, July 22, 1987]

"Loony" Success Colorful in Canada

The apparently successful flight of Canada's new golden Loon dollar coin into general circulation and initial acceptance on the part of Canadian public is, no doubt, a gratifying experience for those on the Royal Canadian Mint staff who have worked closely with the project during the last five years.

The Loon's apparent success, however, is no surprise. Especially for those who have closely followed the workings and programs of the RCM in recent years, two words come to mind: professionalism and efficiency. The RCM is a Crown Corporation, meaning that it is operated much the same as a private corporation as opposed to a government agency (bureaucracy). Emphasis is placed on research, planning and marketing to support and enhance its products whether they be numismatic coins, bullion coins, medals or coins for general circulation.

A recent conversation with James C. Corkery—now chairman of the board but Master of the Mint at the RCM when much of the spadework in preparation for the new dollar coin was done—reminded us just how much effort has gone into this latest Canadian success story.

Mr. Corkery reminisced that it was just five years ago in early July that he had first publicly broached the possibility of a new circulating dollar for Canada (Canada's circulating nickel dollar was generally unpopular). He was Master of the Mint then and was speaking before a Rotary club. Of course, basic research had been conducted prior to that. And naturally, the RCM had examined carefully the failure of the Susan B. Anthony dollar in the United States and the various experiences of other countries as they moved toward replacing their dollar-like denominated notes with small-sized dollar coins. As the RCM probed the successes and failures, the profile for success began to emerge: the most useful dollar coin would be light in weight and easily distinguishable from other coins. A central prerequisite to guaranteed circulation would be the withdrawal of the $1 note.

Ideas and information about specification needs were sought early from such diverse but important sectors as public mass transit, the vending machine industry and representatives from organizations for the blind. Private industry was invited to develop an alloy which could be used for the new coin. When the RCM went to Parliament for approval, it had test samples in hand and a coalition of supporters already formed. But the work didn't stop with parliamentary approval.

Further test marketing was done and there was an all-out effort to keep those in the public sector who would use the new coin informed, even to the extent of being able to handle and use test tokens.

A potential disaster—the loss of the dies for the Voyageur design which had been selected for continuance—was turned into a positive move with the subsequent selection, after a skillful public relations campaign, of the alternate Loon design. Press coverage of the new design selection and official striking ceremonies added to the public anticipation.

Mr. Corkery related the fun he has experienced each day at lunchtime when he has taken rolls of the new coins with him. He already has experienced a number of people rushing over to buy from or trade with him, just because they like the new coin.

Yes, the success is sweet. And it can be savored because it demonstrates that the needs of the public and the interests of government can be accomplished efficiently and harmoniously.

Congratulations, RCM!

● Mr. WARNER. Mr. President, I rise in support of the U.S. Coinage Reform Act of 1987 introduced by the distinguished Senator from New Mexico, Mr. Domenici, that would authorize the striking of a new one-dollar coin.

The most recent example of a country which has realized the benefits of a coin over a paper bill is Canada, with its newly minted gold-colored dollar. Placed in circulation last June, it joins the ranks of other high denomination coins successfully introduced since 1982 by Japan, Israel, England, Norway, and Australia.

Inflation, over the last couple of decades, has sharply reduced the purchasing power of our bills and coins. Unfortunately, today's dollar is the quarter of the 1950's. For even the most mundane of purchases today, we find we must use paper money. How nice it used to be to reach into a pocket, extract a coin and buy a soda or a candy bar. Now we either have to pull out a bill or fumble with a fistful of change.

Our minting of the Susan B. Anthony dollar in 1979—a sensible acknowledgment of the effects inflation has had on our currency—lacked public acceptance not because the need for a dollar coin didn't exist, but primarily because the coin looked and felt like a quarter. Put the new Canadian gold-colored dollar in your pocket and feel the difference. You'll never confuse this coin with a quarter.

A significant benefit of minting a new dollar coin is that it would save the Government well over $50 million annually. Coins last 20 years, while a dollar bill's life is only 18 months. In fact, it costs the Federal Government $16 million alone to handle and destroy dollar bills each year.

Over the next 20 years, the Federal Government would have to pay a total of $1.3 billion to purchase and replace old bills. Conversely, it would only cost $114 million over the same period of time to purchase and replace dollar coins.

Furthermore, consumers would save money at vending machines, as well as finding them easier to use. Bill changers cost $2,400 and retrofitting machines with bill acceptors (which are imperfect, at best) costs approximately $400 per machine—costs that are passed on to the customer. On the other side of the coin—so to speak—most vending machines are currently configured to accept a dollar coin.

Without a dollar coin, mass transit systems will be forced to follow the examples of Cleveland, Washington and Chicago, which recently spent $5 million, $8.7 million and $15 million respectively to refit buses with new fare machines to accept bills.

How many times have we had trouble getting a vending machine to accept a slightly rumpled or dirty dollar bill? One can hardly make a long-distance phone call from a pay phone with a dollar bill, but a dollar coin would make this possible. This same logic holds true when you apply the dollar bill to other daily situations, such as buying a Sunday paper from a street box, going through an exact change line at a toll booth, or depositing money in a long-term parking meter.

Having a U.S. dollar coin has the added social benefit of allowing visually impaired individuals to make small purchases without fear of accidentally spending a large bill or being cheated when receiving change. Here again, the Canadian example proves instructional. The distinctive 11-sided smooth edge of the Canadian dollar differentiates it greatly from the rough-edged, round quarter. This was not the case with the Susan B. Anthony dollar which, to the touch, proved to be indistinguishable from the quarter. Questions of convenience for the many can be matters of great expense to the few.

This legislation not only reduces Government spending, but also responds to the practical need for a high denomination U.S. coin. The need for a new dollar coin is abundantly evident. The time to act on this bill is now.●

By Mr. DURENBERGER (for himself, Mr. WALLOP, and Mr. GRASSLEY):

S. 1743. A bill to amend the Internal Revenue Code of 1986 to restore income averaging for farmers; to the Committee on Finance.

RESTORATION OF INCOME AVERAGING FOR FARMERS

● Mr. DURENBERGER. Mr. President, today I am introducing legislation along with Senators WALLOP and GRASSLEY that would restore income averaging for American farmers. Last year, the Senate version of the tax bill permitted income averaging for farmers. However, the final version of the tax bill repealed the income averaging provisions of the Tax Code. I believe that was a mistake, and my legislation would rectify that error.

Mr. President, restoration of income averaging for farmers is a simple matter of fairness. To a very large extent, farmers have little control over the amount of money they earn each year. Farmers' incomes fluctuate significantly each year depending on the vagaries of the weather and global supply and demand. A farmer may have a good crop and have taxable income of $40,000 in 1 year, and then suffer a drought or flood which destroys most of his crop and reduces his taxable income to only $10,000.

These year-to-year income fluctuations not only cause economic uncertainty and distress to family farmers, but without the benefit of income averaging, these farmers are liable for more taxes, than another individual whose earnings are relatively constant. Let me give you an example of the extra tax liability that results from such income fluctuations under the 15-percent and 28-percent rate structure scheduled to go into effect next year.

A farmer with taxable income of $40,000 in 1988 and $10,000 in 1989 would be liable for $9,100 in Federal taxes. By contrast a salaried employee who earns $24,000 in 1988 and $26,000 in 1989 would only be liable for $7,000 in Federal taxes. Both the farmer and the salaried employee had total taxable income of $50,000 over the 2-year period. However, because of the wide fluctuation that the farmer endured, he is liable for $1,600 more in taxes. Mr. President, that just is not fair.

The legislation we are introducing would address this unfair disparity by permitting farmers to income average. As under prior law, farmers would be able to reduce their tax liabilities during a year when their income is at least 40 percent greater than their average income for the preceding 3 years.

Mr. President, whether we have 14 or 2 tax brackets, and as long as we rely on annual tax reporting periods, the tax system will penalize individuals whose incomes fluctuate substantially. We all know that the American farmer endures the greatest year-to-year fluctuations and there is no reason that the tax system should penalize them for enduring such broad income shifts. Income averaging made sense before the Tax Reform Act of 1986 and makes just as much sense after the adoption of that legislation.●

● Mr. WALLOP. Mr. President, I am pleased to join with the Senator from Minnesota [Mr. DURENBERGER] to cosponsor this bill to restore income averaging for farmers.

No other group of taxpayers deserve to average income more than farmers. Farming, unlike many other industries and businesses, is governed by one great unknown—weather. This makes farm income volatile, with steep peaks and deep valleys.

Bad weather causes valleys in a farmer's income line. Drought can wipe out a crop just as certainly as an August hail storm. In my State of Wyoming, too much or too little moisture can reduce the quality of the barley crop used by the brewing companies. An adverse turn in the weather can change high quality barley into something barely suitable for cattle feed. Prices decline and income suffers.

Then there are the good times. The weather cooperates. Prices are firm, supply and demand are in balance. These are peaks in the farmer's income line. Income averaging allows the farmer to level the peaks, fill in the valleys, and recognizes the volatility of farming income when the time comes to pay his tax.

Income averaging was a fixture in the Internal Revenue Code of 1954 for many years. The provision was included in the Senate passed version of the Tax Reform Act of 1986. Somehow, the provision died in the conference report. It's demise was yet another reason why I voted against the final version of the Tax Reform Act of 1986. It is time to revive this provision.

Mr. President, this bill contains several important provisions to prevent abuse. First, 50 percent or more of the average gross income over the past 3 years must be attributable to farming. Second, the taxpayer must be actively engaged in farming operations. These rules are designed to ensure that income averaging is used by legitimate farmers, and not by those who are farmers in name only.●

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. CRANSTON, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 10, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 533

At the request of Mr. THURMOND, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 1075

At the request of Mr. LAUTENBERG, the names of the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1075, a bill to require the processing of applications from Cuban nationals for refugee status and immigrant visas.

S. 1349

At the request of Mr. McCain, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 1349, a bill to amend the Internal Revenue Code of 1986 to improve the portability of pension benefits, and for other purposes.

S. 1440

At the request of Mr. Evans, the names of the Senator from Vermont [Mr. Leahy] and the Senator from Iowa [Mr. Grassley] were added as cosponsors of S. 1440, a bill to provide consistency in the treatment of quality control review procedures and standards in the Aid to Families with Dependent Children Medicaid and Food Stamp programs; to impose a temporary moratorium for the collection of penalties under such programs, and for other purposes.

S. 1464

At the request of Mr. Cranston, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1483

At the request of Mr. Heinz, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 1483, a bill to reestablish food bank special nutrition projects, to establish food bank demonstration projects, and for other purposes.

S. 1485

At the request of Mr. Melcher, his name was added as a cosponsor of S. 1485, a bill to amend the Federal Aviation Act of 1958 to provide various protections for passengers traveling by aircraft, and for other purposes.

S. 1511

At the request of Mr. Moynihan, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 1511, a bill to amend title IV of the Social Security Act to replace the AFDC program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance benefits improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal.

S. 1537

At the request of Mr. Chafee, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 1537, a bill to amend title V of the Social Security Act to provide care management to certain children and to provide care management and health care to children with high cost catastrophic health care needs.

S. 1561

At the request of Mr. Bond, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1572

At the request of Mr. Pell, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 1572, a bill to create a National Education Savings Trust; to prescribe the powers and duties of the Trust and of its Board of Trustees; to provide for advance tuition payment plan agreements; to establish an advance tuition payment fund and to provide for its administration, and for other purposes.

S. 1600

At the request of Mr. Ford, the name of the Senator from North Dakota [Mr. Conrad] was added as a cosponsor of S. 1600, a bill to enhance the safety of air traval through a more effective Federal Aviation Administration, and for other purposes.

S. 1620

At the request of Mr. Pell, the names of the Senator from Alaska [Mr. Stevens], the Senator from California [Mr. Wilson], the Senator from Montana [Mr. Melcher], and the Senator from Virginia [Mr. Trible] were added as cosponsors of S. 1620, a bill to reauthorize and revise the Act of September 30, 1950 (Public Law 874, 81st Congress) relating to Federal impact aid, and for other purposes.

S. 1717

At the request of Mr. Grassley, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 1717, a bill to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes.

SENATE JOINT RESOLUTION 111

At the request of Mr. Heinz, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of Senate Joint Resolution 111, a joint resolution to designate each of the months of November 1987, and November 1988, as "National Hospice Month."

SENATE JOINT RESOLUTION 174

At the request of Mr. Simon, the names of the Senator from New York [Mr. Moynihan], the Senator from Georgia [Mr. Nunn], and the Senator from Vermont [Mr. Stafford] were added as cosponsors of Senate Joint Resolution 174, a joint resolution designating the week beginning November 15, 1987, as "African American Education Week."

SENATE RESOLUTION 246

At the request of Mr. Moynihan, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

SENATE RESOLUTION 294—CALLING FOR AN END TO THE PRO FOOTBALL STRIKE

Mr. GARN (for Mr. Dole, for himself, Mr. Byrd and Mr. Karnes) submitted the following resolution; which was considered and agreed to:

S. Res. 294

Whereas American sports fans waited patiently all spring and summer for the opening of the 1987 National Football League season;

Whereas millions and millions of faithful fans spent the first 2 weeks of the NFL season at their favorite stadiums, or glued to their TV screens;

Whereas excitement and expectations were growing for yet another hardhitting adventure on the road to the Superbowl;

Whereas on the way to week number three, the NFL season was abruptly halted by the NFL players strike;

Whereas the strike will have an adverse economic impact on the teams surrounding communities;

Whereas those who care most for the game of football and the traditions of the NFL, the fans, are powerless to put an end to the strike: Now, therefore, be it

Resolved, That the United States Senate hereby calls on the National Football League Players Association and the NFL Management Council to return to the bargaining table in a spirit of good faith to resolve their differences for the good of the players, management and—most especially—the fans.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

BUMPERS (AND OTHERS) AMENDMENT NO. 825

Mr. BUMPERS (for himself, Mr. Leahy, Mr. Chafee, Mr. Heinz, Mr. Adams, Mr. Baucus, Mr. Biden, Mr. Bingaman, Mr. Burdick, Mr. Byrd, Mr. Conrad, Mr. Cranston, Mr. Daschle, Mr. Dixon, Mr. Dodd, Mr. Exon, Mr. Ford, Mr. Fowler, Mr. Glenn, Mr. Gore, Mr. Harkin, Mr. Inouye, Mr. Johnston, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Levin, Mr. Matsunaga, Mr. Melcher, Mr. Metzenbaum, Ms. Mikulski, Mr. Mitchell, Mr. Moynihan, Mr. Pell, Mr. Proxmire, Mr. Pryor, Mr. Reid, Mr. Riegle, Mr. Rockefeller, Mr.

SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. WIRTH, Mr. HATFIELD, Mr. SPECTER, Mr. STAFFORD, and Mr. WEICKER) proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. . LIMITATION ON DEPLOYMENT OF CERTAIN STRATEGIC NUCLEAR WEAPONS.

(a) SHORT TITLE.—This section may be cited as the "Strategic Nuclear Weapons Interim Restraint Act."

(b) LIMITATION ON OBLIGATION OF FUNDS.—Notwithstanding any other provision of law and subject to subsection (c), none of the funds appropriated pursuant to this or any other Act to or for the use of any department or agency of the Federal Government may be obligated or expended before September 30, 1988 to overhaul, maintain, operate or deploy more than—

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(c) EXCEPTIONS.—(1) The limitation on the obligation and expenditure of funds in subsection (b) shall not apply if at any time more than 29 days after the date of enactment of this act the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a). If the President makes such a determination, he shall submit to Congress a report that includes the information on which such determination was based. Such report shall be submitted in both classified and unclassified form.

(2) If at any time more than 29 days after the date of the enactment of this Act the President notifies Congress in writing that, based on the best agreed Intelligence Community assessments, he is unable to make a certification under paragraph (1) or to make a certification that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a), the limitation on the obligation and expenditure of funds in subsection (a) shall not apply for a period of 29 days after the date on which the notification is received by Congress.

(d) NOTIFICATION OF PLANS FOR COMPLIANCE.—Not more than 29 days after the date on which the President determines that funds are prohibited from being obligated or expended for the overhaul, maintenance, operation, or deployment of strategic offensive nuclear weapons in excess of the numbers specified in subsection (b), the President shall notify Congress of his plans for actions to comply with the limitations specified in subsection (b).

(e) NEW AGREEMENT.—If a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988, the restriction on the obligation and expenditure of funds in subsection (b) shall cease to apply.

(f) DEFINITIONS.—For purposes of this section:

(1) The terms "launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles" and "submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles" means launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles.

(2) The term "air launched cruise missiles" means unnamed, self propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

BUMPERS (AND LEAHY) AMENDMENT NOS. 826 AND 827

(Ordered to lie on the table.)

Mr. BUMPERS (for himself and Mr. LEAHY) submitted two amendments intended to be proposed by them to the bill S. 1174, supra; as follows:

AMENDMENT No. 826

At the appropriate place, add the following:

SEC. . (a) Notwithstanding any other provision of this act, on or after 30 days after the date of enactment of this act none of the new authority granted by sections 102, 103 and 301 of this act shall be exercised to overhaul, maintain, operate or deploy more than

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(b) The restrictions set out in subsection (a) shall cease to apply

(1) if at any time after the date of enactment of this act the President certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a); or

(2) if a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988.

AMENDMENT No. 827

At the appropriate place in the bill, add the following:

SEC. . (a) Notwithstanding any other provision of this Act, on or after 30 days after the date of enactment of this act none of the new authority granted by sections 102, 103 and 301 of this act shall be exercised to overhaul, maintain, operate or deploy more than

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(b) The restrictions set out in subsection (a) shall cease to apply

(1) if at any time after the date of enactment of this act the President certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a); or

(2) if a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988.

MELCHER AMENDMENT NO. 828

(Ordered to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to the bill S. 1174, supra; as follows:

Section 102 of the foregoing Act will not be effective if the War Powers Act is amended to read as follows:

SEC. . PLAN FOR SHARING COSTS INVOLVED IN THE USE OF UNITED STATES ARMED FORCES.

(a) IN GENERAL.—Section 5 of the War Powers Resolution (Public Law 93-148) is amended by adding at the end thereof the following new subsection:

"(d)(1) Whenever the United States Armed Forces are introduced into any situation described in section 4(a)(1), the President should enter into negotiations with the government of any country benefiting from the introduction of those forces in order to establish a pro rata sharing of costs involved in such introduction and use of forces.

"(2) Within 30 calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

"(A) his assessment of the costs involved in the use of United States Armed Forces pursuant to section 4(a)(1);

"(B) a plan for the pro rata sharing of such costs among those countries which benefit from that use of United States Armed Forces; and

"(C) a discussion of the status of negotiations entered into for the purpose of implementing the plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any sixty-day period described in section 5(b) of the War Powers Resolution which is in progress on the date of enactment of this Act or which begins on or after such date.

BUMPERS (AND LEAHY) AMENDMENT NOS. 829 AND 830

(Ordered to lie on the table.)

Mr. BUMPERS (for himself and Mr. LEAHY) submitted two amendments intended to be proposed by them to the bill S. 1174, supra; as follows:

AMENDMENT No. 829

At the appropriate place in the bill, add the following:

SEC. . (a) Notwithstanding any other provision of this act, on or after 30 days after the date of enactment of this act none of the new authority granted by sections 102, 103 and 301 of this act shall be exercised to overhaul, maintain, operate or deploy more than

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(b) The restrictions set out in subsection (a) shall cease to apply—

(1) if at any time after the date of enactment of this act the President certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a); or

(2) if at any time after the date of enactment of this act the President certifies to Congress that, based on the best agreed intelligence community assessments, he is unable to determine that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a); or

(3) if a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988.

Amendment No. 830

In lieu of the matter proposed to be inserted, insert the following:

SEC. . (a) Notwithstanding any other provision of this act, on or after 30 days after the date of enactment of this act none of the new authority granted by sections 102, 103 and 301 of this act shall be exercised to overhaul, maintain, operate or deploy more than

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) nad heavy bombers equipped for air-launched cruise missiles;

(b) The restrictions set out in subsection (a) shall cease to apply—

(1) if at any time after the date of enactment of this act the President certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a); or

(2) if a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988.

STATE DEPARTMENT, UNITED STATES INFORMATION AGENCY, AND BOARD FOR INTERNATIONAL BROADCASTING AUTHORIZATION ACT

CHAFEE AMENDMENT NO. 831

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and for other purposes; as follows:

At the end of the bill, add the following:

SEC. . Section 245A(a)(2) of the Immigration and Nationality Act is amended by adding at the end thereof the following new subparagraph:

"(D) CONTINUOUS RESIDENCE NOT REQUIRED FOR SPOUSE AND CHILDREN OF QUALIFIED ALIENS.—Subparagraphs (A), (B), and (C) shall not apply to an alien who is the spouse or child of an individual otherwise qualifying for adjustment of status under this subsection.".

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

WARNER AMENDMENT NOS. 832 AND 833

(Ordered to lie on the table.)

Mr. WARNER submitted two amendments intended to be proposed by him to the bill S. 1174, supra; as follows:

AMENDMENT No. 832

At an appropriate place in the bill, insert the following new section:

SEC. . AMENDMENT OF THE WAR POWERS RESOLUTION.

(a) Strike out sections 1-9 of the War Powers Resolution (50 U.S.C. 1541-1548) and insert in lieu thereof the following:

"SECTION 1. SHORT TITLE.—This joint resolution may be cited as the 'War Powers Resolution'.

SEC. 2. PURPOSE AND POLICY.—(a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

SEC. 3. CONSULTATION.—The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

SEC. 4. REPORTING.—(a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace of waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President, shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congreess less often than once every six months.

SEC. 5. CONGRESSIONAL ACTION.—(a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if the petition by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) If, within 21 calendar days after—

(1) a report is submitted or is required to be submitted under section 4(a)(1), whichever is earlier; or

(2) Congress is convened pursuant to subsection (a) of this section,

whichever is later, an enrolled joint resolution or bill, as described in section 6(a)(1), is presented to the President and is subsequently enacted into law, funds may not be obligated or expended, as provided in such joint resolution or bill, to support the continued use of the United States Armed Forces, in the hostilities or situation described in the report submitted, or required to be submitted, pursuant to section 4(a)(1).

SEC. 6. CONGRESSIONAL PRIORITY FOR JOINT RESOLUTION OR BILL.—(a)(1) For purposes of this joint resolution, the term 'joint resolution or bill' means only a joint resolution or bill which prohibits the obligation or expenditure of funds to support the continued use of the United States Armed Forces in hostilities or situations described in a report submitted, or required to be submitted, pursuant to section 4(a)(1) and such prohibition is to become effective 30 or more days after the date of enactment of such joint resolution or bill.

(2) Any joint resolution or bill introduced pursuant to section 5(b) at least 16 calendar days before the expiration of the 21-day period specified in such section, shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than 14 calendar days before the expiration of the 21-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a)(2) and shall be reported out not later than nine calendar days before the expiration of the 21-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than three calendar days before the expiration of the 21-day period specified in section 5(b). In the event the conferees are unable to agree within 24 hours, they shall report back to their respective House in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such 21-day period.

SEC. 7. INTERPRETATION OF JOINT RESOLUTION.—(a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to November 7, 1973 and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term 'introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEC. 8. SEPARABILITY CLAUSE.—If any provision of this joint resolution or the application thereof to any person or circumstances is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.".

(b) The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to situations described by section 4(a)(1) of the War Powers Resolution which exist on or after that date.

AMENDMENT NO. 833

At an appropriate place in the bill, insert the following new section:

SEC. . It is the sense of the Senate that the President should expeditiously establish a National Commission on Reform of the War Powers Resolution for the purpose of undertaking a bipartisan review of the War Powers Resolution and providing recommendations for change to the War Powers Resolution, if appropriate, to the President and the Congress. Such Commission should be composed of an equal number of members from the Executive Branch or private life to be appointed by the President and members from the Legislative Branch or private life to be appointed, in equal numbers, by the Majority Leader of the Senate and Speaker of the House of Representatives. Not more than four of the Executive Branch appointees and not more than two-thirds of the Legislative Branch appointees should be from the same political party. The Chairman of the Commission should be designated by the President from the membership of the Commission.

WARNER AMENDMENT NOS. 834 AND 835

(Ordered to lie on the table.)

Mr. WARNER submitted two amendments intended to be proposed by him to amendment No. 712 proposed by Mr. WEICKER (and Mr. HATFIELD) to the bill S. 1174, supra; as follows:

AMENDMENT NO. 834

In lieu of the matter to be inserted by Amendment No. 712, insert the following:

SEC. . AMENDMENT OF THE WAR POWERS RESOLUTION.

(a) Strike out sections 1-9 of the War Powers Resolution (50 U.S.C. 1541-1548) and insert in lieu thereof the following:

"SECTION 1. SHORT TITLE.—This joint resolution may be cited as the 'War Powers Resolution'.

SEC. 2. PURPOSE AND POLICY.—(a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

SEC. 3. CONSULTATION.—The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

SEC. 4. REPORTING.—(a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace of waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

SEC. 5. CONGRESSIONAL ACTION.—(a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the president to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) If, within 21 calendar days after—

(1) a report is submitted or is required to be submitted under section 4(a)(1), whichever is earlier; or

(2) Congress is convened pursuant to subsection (a) of this section,

whichever is later, an enrolled joint resolution or bill, as described in section 6(a)(1), is presented to the President and is subsequently enacted into law, funds may not be obligated or expended, as provided in such joint resolution or bill, to support the continued use of the United States armed Forces in the hostilities or situation described in the report submitted, or required to be submitted, purusant to section 4(a)(1).

SEC. 6. CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL.—(a)(1) For purposes of this joint resolution, the term 'joint resolution or bill' means only a joint resolution or bill which prohibits the obligation or expenditure of funds to support the continued use of the United States Armed Force in hostilities or situations described in a report submitted, or required to be submitted, pursuant to section 4(a)(1) and such prohibition is to become effective 30 or more days after the date of enactment of such joint resolution or bill.

(2) Any joint resolution or bill introduced pursuant to section 5(b) at least 16 calendar days before the expiration of the 21-day period specified in such section, shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than 14 calendar days before the expiration of the 21-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a)(2) and shall be reported out not later than nine calendar days before the expiration of the 21-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than three calendar days before the expiration of the 21-day period specified in section 5(b). In the event the conferees are unable to agree within 24 hours, they shall report back to their respective House in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such 21-day period.

SEC. 7. INTERPRETATION OF JOINT RESOLUTION.—(a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to November 7, 1973 and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term assignment of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEC. 8. SEPARABILITY CLAUSE.—If any provision of this joint resolution or the application thereof to any person or circumstances is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.".

(b) The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to situations described by section 4(a)(1) of the War Powers Resolution which exist on or after that date.

AMENDMENT NO. 835

In lieu of the matter to be inserted by amendment No. 712, insert the following:

SEC. . It is the sense of the Senate that the President should expeditiously establish a National Commission on Reform of the War Powers Resolution for the purpose of undertaking a bipartisan review of the War Powers Resolution and providing recommendations for change to the War Powers Resolution, if appropriate, to the President and the Congress. Such Commission should be composed of an equal number of members from the Executive Branch or private life to be appointed by the President and members from the Legislative Branch or private life to be appointed, in equal numbers, by the Majority Leader of the Senate and Speaker of the House of Representatives. Not more than four of the Executive Branch appointees and not more than two-thirds of the Legislative Branch appointees should be from the same political party. The Chairman of the Commission should be designated by the President from the membership of the Commission.

STATE DEPARTMENT, U.S. INFORMATION AGENCY AND BOARD FOR INTERNATIONAL BROADCASTING AUTHORIZATION ACT

MITCHELL AMENDMENT NO. 836

(Ordered to lie on the table.)

Mr. MITCHELL submitted an amendment intended to be proposed by him to the bill (S. 1394) supra; as follows:

On page 75, between lines 12 and 13, insert the following new section:

SEC. 218. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.

(a)(1) The purpose of this section is to promote friendship and understanding between the United States and the Soviet

Union through the establishment of a program for the exchange of youths of the two countries and to recognize the contribution made by Samantha Smith in furthering this goal.

(2) To carry out the purposes of this section, the Bureau of Educational and Cultural Affairs (hereafter in this section referred to as the "Bureau") is authorized to provide by grant, contract, or otherwise for educational exchanges, visits, or interchanges between the United States and the Soviet Union of American and Soviet youths under the age of 21.

(3) The President is authorized to enter into an agreement with the Government of the Soviet Union to carry out paragraph (2).

(b)(1)(A) The Bureau is authorized to award scholarships to exceptional students—

(i) who have not obtained 25 years of age;

(ii) who are enrolled in institutions of higher education;

(iii) who are studying in the Soviet Union in programs approved by such institutions; and

(iv) who meet the conditions of paragraph (2).

(B) In awarding scholarships under this paragraph, the Bureau shall consider the financial need of the applicants.

(C) Each scholarship awarded under clause (A) may not exceed $5,000 in any academic year of study.

(2) The Bureau shall prescribe such regulations as may be necessary to establish procedures for the submission and review of applications for scholarships awarded under this section.

(3)(A) A student awarded a scholarship under this subsection shall continue to receive such scholarship only during such periods as the Bureau finds that he or she is maintaining satisfactory proficiency in his or her studies.

(B) Not later than 30 days after the close of an academic year for which funds are made available under this section, each institution of higher education, one or more students of which have been awarded a scholarship under this section, shall prepare and transmit to the Bureau a report describing the level of proficiency achieved by such students in their studies.

(4) For purposes of this subsection, the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965.

(c) Of the amounts authorized to be appropriated for the Bureau for the fiscal year 1988, $2,000,000 for such fiscal year shall be available only to carry out the purposes of this section.

(d) Activities carried out under this section may be referred to as the "Samantha Smith Memorial Exchange Program".

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

NUNN (AND WARNER) AMENDMENT NO. 837

Mr. NUNN (for himself and Mr. WARNER) proposed an amendment to the bill (S. 1174) supra; as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . REPORT ON ELIMINATION OF BALLISTIC MISSILES.

(a) Not later than 30 days after the date of enactment of this Act, the Chairman of the joint Chiefs of Staff shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives examining the military consequences of any arms control agreement that would provide for the elimination of all U.S. and Soviet strategic ballistic missiles.

(b) Such report shall be submitted in classified and unclassified form and shall include a discussion of the strategic, budgetary and force structure implications of this proposal for:

(1) U.S. and allied conventional defenses in Europe, the Far East and other regions vital to U.S. national security;

(2) U.S. tactical nuclear deterrence in such areas;

(3) U.S. strategic offensive retaliatory systems not affected by this proposal, including U.S. bomber forces and cruise missiles;

(4) U.S. air defenses needed to counter Soviet bomber forces and cruise missiles;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) Any new programs which may be deemed necessary to maintain the position of the United States in light of the relative advantage conferred by this proposal on other nuclear powers, including the People's Republic of China, whose strategic ballistic missiles would not be limited.

REQUIREMENT FOR DOCUMENTATION FOR PAYMENTS AND REIMBURSEMENT FROM THE CONTINGENT FUND OF THE SENATE

FORD AMENDMENT NO. 838

Mr. BYRD (for Mr. FORD) proposed an amendment to the resolution (S. Res. 258) to require documentation for payments and reimbursements from the contingent fund of the Senate; as follows:

At the end of the resolution, add the following new section:

SEC. 2. Paragraph 1 of rule XLI of the Standing Rules of the Senate is amended in the second sentence by striking out "two assistants" and inserting in lieu thereof "three assistants".

DOLE (AND OTHERS) AMENDMENT NO. 839

Mr. DOLE (for himself, Mr. WARNER and Mr. BYRD) proposed an amendment to the bill S. 1174, supra; as follows:

At an appropriate place in the bill insert the following new section:

SEC. . SALT II COMPLIANCE AMENDMENT.

Notwithstanding any other provision of law, the United States shall not be obligated to abide by the provisions of the SALT II Treaty, in whole or in part, unless and unitl the following have occurred:

(a) The Senate has amended the Treaty so as to give it legal force if it were ratified;

(b) The Senate has given its advice and consent to the Treaty;

(c) The Union of Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned.

(d) Each party has ratified the Treaty in accordance with its own constitutional processes.

WARNER (AND NUNN) AMENDMENT NO. 840

(Ordered to lie on the table.)

Mr. WARNER (for himself and Mr. NUNN) submitted an amendment intended to be proposed by them to the bill S. 1174, supra; as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . (a) It is the sense of the Senate that the President should expeditiously establish a National Commission on Review of the War Powers Resolution for the purpose of undertaking a bipartisan review of the War Powers Resolution and providing recommendations for change to the War Powers Resolution, if appropriate, to the President and the Congress.

(b) Such Commission should be composed of an equal number of members from—

(1) the Executive Branch or private life to be appointed by the President; and

(2) the Legislative Branch or private life to be appointed, in equal numbers, by the Majoirty Leader of the Senate and Speaker of the House of Representatives.

Not more than two-thirds of the Executive Branch members should be from the same political party. Not more than two-thirds of the Legislative Branch members should be from the same political party. The Commission should select one of its members to serve as Chairman.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, October 1, 1987, to hold a hearing on international labor organization treaties concerning tripartite consultations and minimum standards in merchant ships, Treaty Document Nos. 99-20 and 99-21.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on October 1, beginning to conduct an oversight hearing on the management of solid waste issues in subtitle D, Resource Conservation and Recovery Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, October 1, 1987, to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities of the Labor and Human Resources Committee, be authorized to meet during the session of the Senate on Thursday, October 1, 1987, to conduct an executive session on Elementary and Secondary Education Amendments of 1987, S. 373.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 1, 1987, at 2 p.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on October 1, 1987, to pending business; S. 1084 and amendment No. 176, United States Uranium Enrichment Act; and S. 1100 and amendment No. 177, Uranium Revitalization and Tailings Reclamation Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CARROLL COUNTY SESQUICENTENNIAL

● Mr. SARBANES. Mr. President, 1987 has been a year for observing significant anniversaries. Across the country, Americans have been celebrating the bicentennial of the Constitution of the United States. While we have been marking the creation of an enduring national government, the people of central Maryland have been commemorating the establishment of local government. On Saturday, October 10, the citizens of Carroll County, MD, will once again seal their 100-year-old time capsule, and bring to a close the celebration of the county's sesquicentennial year. It has been a year filled with the celebration and renewal of the rich traditions that have characterized a way of life in rural Maryland for generations.

While it is coincidental that both of these celebrations fall in the same year, it is also providential. In observing the anniversaries of these two events we can gain a deeper sense of our history as a free people.

Fifty years after the Constitution was written, central Maryland was divided between Baltimore and Frederick Counties. In 1810, feeling themselves too distant from the county seats in Frederick and Towson, its residents began petitioning the State Legislature to create a new county, with its seat of government in Westminster. Some 27 years later, their efforts were successful, and local government came to Carroll County.

Carroll County is well known for its strong sense of community, commitment to preserving the beauty and usefulness of the land, and a deep appreciation of its agricultural heritage. These attributes have all contributed to what can only be described as a special quality of life. Carroll County will continue to be a prosperous and pleasant place in which to live, enriched by its rich history and sense of the past. The people of Carroll County have created a uniquely beautiful place in which to live and work, and I ask all my colleagues to join me in offering the Senate's best wishes for their next 150 years.●

TRIBUTE TO THE ANDREWS SISTERS

● Mr. WILSON. Mr. President, today, the Andrews Sisters will receive their star on the Hollywood Walk of Fame, an occasion deserving special recognition in the United States and around the world because of the gift of music the Andrews Sisters have given to us all.

This year marks not only the 50th anniversary of the Andrews Sisters' first hit record, "Bei Mir Bist du Schoen," but also marks a milestone of even greater significance in that this golden anniversary commemorates 50 years of public service, patriotism, and dedication, to the men and women of America's Armed Forces. Together, the Andrews Sisters brought them moments of happiness and a respite from the drudgery of war with such hits as "Boogie Woogie Bugle Boy," "Don't Sit Under the Apple Tree."

With a career that has produced over 1,800 recorded songs and sold more than 75 million records around the world, a career which also includes over 21 movies and scores of television appearances, it is altogether fitting that the Andrews Sisters be congratulated by all Americans as they are honored in Hollywood today. Three extraordinary women whose talent, vivaciousness, and remarkable careers have enriched our society for past and future generations to follow.●

CHLOROFLUOROCARBONS

● Mr. WIRTH. Mr. President, yesterday, American researchers announced the results of a study conducted in Antarctica during August and September. The results of this study confirm that chlorofluorocarbons are a potent threat to the Earth's delicate ozone layer and that resolute action is needed to control the depletion of stratospheric ozone.

The ozone layer shields the Earth, and all living things, from exposure to the sun's damaging ultraviolet radiation and plays a key role in regulating global temperature levels. Yet, we now know that the composition of the Earth's atmosphere is being changed by human activities, particularly by emissions of chlorofluorocarbons [CFC].

The impacts of continued ozone depletion could be enormous. Without purposeful multilateral action, the incidence of skin cancer and eye cataracts could increase dramatically. Scientific evidence also suggests that there could be dramatic effects on agricultural production and fish and wildlife populations.

We can be proud of the fact that the United States has shown great leadership in working with other nations, to curb the production and use of CFC's. Two weeks ago 46 countries reached a tentative agreement that will place an immediate freeze on worldwide production and importation of several ozone depleting chemicals, and will reduce CFC production by 50 percent in the next 10 years. This agreement was reached as a result of our strong negotiating position at these talks. While we will need to continue that leadership to further reduce CFC emissions, this agreement is a positive step forward and I urge my colleagues to join me in pledging support for the swift ratification of this treaty.

The findings of this summer's Antarctic research expedition are indeed compelling, and I ask, Mr. President, that the full text of articles from today's Washington Post and New York Times be included in the RECORD. As one scientist noted yesterday, "There is no longer debate as to whether chlorine monoxide, a byproduct of chlorofluorocarbons, exists at abundances sufficient to destroy ozone." Clearly, ozone depletion is a serious threat to the global environment. And clearly, action is needed to address this problem and to protect human health and the environment against the adverse effects which result from the release of chlorofluorocarbons.

At the same time, the Earth's atmosphere is being threatened by other human activities. Researchers have also obtained powerful evidence suggesting that carbon dioxide is contributing to the gradual warming of the Earth's atmosphere. The so-called greenhouse effect has been researched for many years now. Scientists have found that the burning of fossil fuels, and other activities—which result in carbon dioxide emissions—could cause a greater global warming than has ever been observed. The consequences of even a slight increase in the Earth's temperature could be devastating to global climates, and for that reason could be devastating to plant and animal life.

Again, this is a situation that affects all nations and the United States must show great leadership in seeking ways to reduce and then reverse this ominous trend in global warming. There is no question but that we need to do more research. But we must begin now to examine policy changes that can be made to protect our global environment.

Mr. President, ozone depletion and atmospheric warming are distinct threats to the global environment and, more important, to human life. Unchecked, these developments could dramatically alter life on this planet to an almost unimaginable degree. These issues are no longer a question of scientific inquiry, but rather, clear examples of the effects of human activity. They are, in large part, manmade problems. To be corrected will require decisive action by all nations. Again, I hope my colleagues will join with me in recognizing the seriousness of these developments and encourage efforts to find and implement ways of addressing their causes.

The articles follow:

[From the Washington Post, Oct. 1, 1987]

OZONE DEPLETION WORSENS, IS LINKED TO MAN-MADE GAS

(By Michael Weisskopf)

The ozone layer shielding Antarctica from ultraviolet radiation reached its thinnest point last month since measurements began, and government scientists said yesterday they have found the first hard evidence that the critical environmental loss can be blamed on a man-made gas.

Reporting on a six-week expedition to Antarctica coordinated by the National Aeronautics and Space Administration, the scientists noted that the effects of chlorofluorocarbons (CFCs) gas on the ozone layer in the stratosphere may be more severe in Antarctica than in the rest of the world because of the continent's weather patterns during its early spring.

But NASA program manager Robert Watson said that "CFCs can affect ozone globally," and the mission's report is expected to give impetus to an international agreement designed to halve world consumption of CFCs by early next century.

Stratospheric ozone forms a thin gaseous veil at least 12 miles above the Earth's surface, which screens out harmful ultraviolet rays and prevents skin cancer, eye disease, withering of crops and damage to aquatic life. In recent years, CFCs—widely used as refrigerants, solvents and bubbling agents in foam products—have been suspected as ozone depleters once they break down in the upper atmosphere.

In 1985, scientists determined that the ozone layer over Antarctica had thinned since at least 1979, and they have monitored the continent to determine the extent and cause of the problem because of its implications for the rest of the world.

The NASA expedition, using airplanes to take the first tests within the ozone sphere, found a 15 percent greater depletion in the protective layer than occurred in 1985 and about a 55 percent overall loss since 1979, Watson told reporters at a Goddard Space Flight Center briefing.

A team of 60 scientists gathered enough data to rule out theories that attributed ozone depletion to changes in the sun's output or movement of low-ozone air masses.

But the researchers found ample reason to confirm the role of CFCs. Chlorine monoxide, a byproduct of CFCs exposed to ultraviolet rays, was detected at levels 100 to 500 times higher than found at lower altitudes, Watson said. Moreover, he said, as concentrations of ozone fell, levels of chlorine monoxide rose.

"There is no longer debate as to whether [chlorine monoxide] exists within the chemically perturbed region . . . at abundances sufficient to destroy ozone," he said.

But the NASA scientist said the unusual meteorology of Antarctica, with its dehydrated atmosphere and extremely cold temperatures, especially during the Antarctic spring of August and September, is "critical" in explaining the release of active chlorine particles that so voraciously gobble up the ozone layer.

"The meteorology is important in setting up environmental conditions," he said. But he added that "chlorine has made the hole deeper," referring to the "ozone hole" concept used to describe the depleted layer.

Although Watson said the Antarctic experience could have implications for other regions of comparable climate, he emphasized that the findings were preliminary and it is too soon to project global meaning.

But environmentalists immediately interpreted the data as reason for CFC curbs and fast ratification of an international agreement tentatively approved by 46 nations earlier this month that would freeze world consumption of the chemical at 1986 levels and cut by half its use in the industrial world within a decade.

[From the New York Times, Oct. 1, 1987]

ANTARCTICA OZONE LOSS IS WORST EVER RECORDED

(By Philip Shabecoff)

GREENBELT, MD, Sept. 30—The ozone shield over Antarctica dwindled this month to the lowest level observed since measurements began more than a decade ago, researchers reported today.

Preliminary findings indicate that both man-made chemicals and the extreme South Polar meteorological conditions are responsible for the depletion, said the scientists, whose Antarctic expedition was financed by Federal and private groups.

The shield protects the earth's surface from harmful ultraviolet radiation from the sun that can cause skin cancer and other health problems in humans.

OZONE HOLE ALARMS SCIENTISTS

Already concerned that the buildup of certain chemicals would thin the ozone layer worldwide, scientists were alarmed by the recent discovery of a drastic seasonal depletion of ozone in Antarctica.

The depletion occurs each year in the Antarctic springtime. Between mid-August and mid-September this year, the expedition found, the ozone at an altitude of 11 miles had been reduced by 50 percent. Last year the ozone level had been reduced by 40 percent.

Leaders of the expedition cautioned, however, that because the causes of the Antarctic ozone hole are still not fully understood, it would be premature to draw any global conclusions based the expedition's findings.

Earlier this month, when leaders of dozens of nations agreed at meeting in Montreal to freeze and later reduce use of chlorofluorocarbons, industrial chemicals that destroy ozone in the upper atmosphere, they left open the possibility that additional action might be taken if new information suggested that the problem was more severe than thought. But the leaders of the expedition cautioned today against any such conclusions at this time.

Robert Watson, the chief scientist for the National Aeronautics and Space Administration's ozone project, said the data collected by the expedition were inadequate "for national or international policy making." The expedition was financed by NASA, the National Science Foundation and the Chemical Manufacturers Association.

At a news conference at NASA's Goddard Space Flight Center here, Dr. Watson and Dr. Dan Albritton of the atmospheric agency said that more time and more research, including an intensive study of what is happening to the ozone layer in the temperate latitudes, was required before the implications of this expedition's findings were clearly understood.

Information collected by the expedition, which was gathered by two aircraft flying a series of missions with monitoring equipment over the antarctic continent, did strongly support the view that chlorofluorocarbons were a key factor in the destruction of atmospheric ozone.

F. Sherwood Rowland, a scientist at the University of California who in the early 1970's first proposed the theory that the man-made chemicals could destroy the ozone layer, said in an interview today that a "key" finding of the Antarctic expedition was that there were high levels of active chlorine in the Antarctic atmosphere.

"This confirms with lots of details that chlorine is very much involved," Dr. Rowland said.

A statement read by Dr. Watson said that "there is no longer debate" as to whether there is chlorine in the "perturbed region" at "abundances sufficient to destroy ozone if our current understanding of the chlorine-ozone catalytic cycle is correct."

Chlorofluorocarbons, widely used in refrigerants, foams, aerosols, packaging and other products, are also believed to be contributing to the warming of the earth's atmosphere by the buildup of gases that keep the sun's heat from escaping back into space.

But Dr. Albritton said the extreme cold of Antarctica, which is the coldest place on earth, seemed to be "moving at fast forward" changes that were occurring far more slowly elsewhere around the earth.

Dr. Watson said the researchers believed that chlorofluorocarbons "are having a role in the destruction of ozone at all latitudes." He added that in temperate zones the destruction seemed to take place at high latitudes, largely from about 15 to 18 miles from the earth's surface.

The expedition found that the rapid and extensive depletion of the ozone was almost entirely limited to the atmosphere over the Antarctic Continent itself. The expedition found that the loss of ozone was occurring so rapidly, once falling by 10 percent in a single day in one area, that the depletion could not be explained solely by a chemical reaction. For that reason, the researchers said, it also had to reflect a meteorological change, such as rapid temperature change or an influx of air from another region.

The explanation offered for the appearance of the ozone hole in the Antarctic springtime was that as the sun appeared after the dark Antarctic winter, the chlorine adhering to ice crystals in the atmosphere was converted by the sunlight from passive to active molecules that then reacted with and destroyed the ozone. Dr. Albritton noted that the South Pole is colder than the North Pole and that the air there does not circulate as much.

The expedition found that the low temperatures and low water content of the Antarctic air reduced the levels of nitrogen in air. Nitrogen oxides tend to bind with chlorine and make it less destructive to the ozone; therefore, the less nitrogen there is, the more active is the chlorine in the air.

Dr. Watson said there was now twice as much chlorine in the Antarctic atmosphere as there was in 1975, when measurements were first taken.

Dr. Albritton noted that because chlorofluorocarbons stay in the air up to 250 years, they tended to be distributed evenly through the atmosphere. This means that levels of chlorine are no higher in the Antarctic atmosphere than they are over other regions of the globe.

In some areas of the Antarctic, the chlorine levels reached as high as one part per billion in the atmosphere, levels that indicated an accumulation of chlorinated chemicals over the years.

Rafe Pomerance, senior associate of the World Resources Institute, a private policy and research group, said, "The results are so dramatic, particularly the findings of very high levels of CFC's, that it will increase pressure on all fronts, including pressures to ratify the Montreal protocol for the protection of the ozone layer, more research and faster reductions of CFC's.".

Dr. Rowland, meanwhile, said that the results of this expedition make it clear that "the agreement in Montreal is only a good first step. We need to go further," he said, by reducing the consumption of CFC's by 90 percent.●

NEW MEXICO TECH'S CENTER FOR EXPLOSIVES TECHNOLOGY RESEARCH AND RESEARCH CENTER FOR ENERGETIC MATERIALS

● Mr. DOMENICI. Mr. President, ever since the beginning of the U.S. atomic program at Los Alamos, NM has been at the forefront of nuclear weapons research and development. The work done at our national laboratories at Los Alamos and Sandia has allowed the United States to maintain a strong, safe, and effective nuclear deterrent. It is this deterrent that has kept our world at relative peace for more than 40 years.

I am proud of the vital role that my state has traditionally played in our country's defense strategy. We will continue to lead the way—whether it is in the strategic or conventional areas. And the work goes well beyond anything nuclear. A good example of this is in the area of blast effects of conventional explosives used for mining and construction.

In recent years, the New Mexico Institute of Mining and Technology at Socorro has established two new centers for research on the chemistry and physics of explosions. This research is making it possible for our scientists to create new substances that will be used in the technologies of the next century.

According to a recent article in the science section of the New York Times, "The use of precisely controlled explosions has recently yielded metal alloys so light, strong and resistant to heat as to be suitable for the skins of spacecraft and such hypersonic airlines of the future as the 'Orient Express,' on which passengers might fly from New York to Tokyo in less than 4 hours."

Mr. President, this is an exciting field of research. It holds so much promise for our country's efforts in space and national defense. There is also much promise for its commercial applications.

The centers for technical excellence at New Mexico Tech are a major achievement for our country. Together with White Sands Missile Range, these centers place New Mexico at the forefront of research and testing on blast effects.

I submit the following article from the New York Times for the RECORD.

EXPLOSION IS FASHIONED INTO PRECISE TOOLS OF PRECISION

(By Malcolm W. Browne)

SOCORRO, N.M.—Borrowing techniques developed for nuclear weapons programs, scientists are learning to use finely tuned explosions to create a host of extraordinary new substances likely to play key roles in 21st-century technology.

The use of precisely controlled explosions has recently yielded metal alloys so light, strong and resistant to heat as to be suitable for the skins of spacecraft and such hypersonic airliners of the future as the "Orient Express," on which passengers might fly from New York to Tokyo in less than four hours.

The thundrous blasts that regularly rock this university town have also spawned huge industrial diamonds, superconductors that transmit electricity without resistance, ultrahard ceramics for cutting tools and new forms of military armor potentially capable of stopping the latest antitank projectiles.

During the past four years, Socorro has become a unique center for research in the chemistry and physics of explosions. Contributions come from the state of New Mexico, the National Science Foundation, the Defense Department, the Sandia and Los Alamos National Laboratories and many other governmental and industrial organizations.

The campus of The New Mexico Institute of Mining and Technology, which covers a range of barren mountains and desert wilderness, provides an ideal setting for experiments that sometimes require the detonation of several tons of high explosives. In 1983, the New Mexico Legislature established the Center for Explosives Technology Research here, and last year, the Research Center for Energetic Materials was added, with support from Federal agencies and industrial corporations.

The director of the two new research centers is Dr. Per-Anders Persson, who before coming to the United States in 1983 directed research at Sweden's Nitro-Nobel Company. Founded by Alfred Nobel, the inventor of dynamite, the company is one of the world's leading manufacturers of explosives.

Since up to 20,000 explosives are now known to chemists, Dr. Persson's multi-national team of experts has an enormous pallette of ingredients for its custom-tailored blasts. Moreover, chemists and physicists here are constantly at work developing new explosives.

"Dynamite is still one of the most powerful of blasting agents," Dr. Persson said, "but blasters are rapidly switching to explosives that are safer, easier to handle and much cheaper. We're working on mixtures of fuel oil and ammonium nitrate, which is a common fertilizer, with water and emulsifying agents.

One of the latest tools used at the research center is a device designed for nuclear weapons called an explosive planewave lens. At the instant of a nuclear explosion, the fissionable fuel, such as plutonium or uranium 235, must be brought together into a "critical mass" very rapidly and under enormous pressure. To do this requires the explosion of conventional chemicals, which slam the fissionable components together hard enough to cause an instantaneous chain fission reaction.

To make this work, the bomb designer must precisely mold and machine lenses of appropriate explosives in such a way that when detonated, their shock waves will collectively drive all the fissionable components together.

An explosive lens is made, Dr. Persson said, by molding a thin cone of fast-detonating explosive around a cone of somewhat slower detonating explosive. When this double cone is detonated at its apex, the detonation wave moving along its sides has farther to travel before reaching the cone's base than does the detonation wave that moves straight down.

But since the fast-detonating explosive is used on the sides of the cone, the two detonation waves reach the base at the same time. By altering the compositions of the explosives and the geometry of the concentric cones, a detonation wave of any desired curvature, including a flat wave front, can be made to emerge from the base of the cone.

When a simple piece of high explosive detonates, it generates a spherical shock wave that balloons outward more or less uniformly in all directions. (A shock wave is a rapidly moving barrier, ahead of which matter remains undisturbed and behind which matter is traveling at nearly the same speed as the shock wave itself.)

But in an explosion to be used as a precision tool, a spherical shock wave, which shatters, scatters and distorts objects in its path, is inappropriate. To make the new materials emerging from Socorro's laboratories, scientists are using plane waves—shock waves that imitate the flat face of a swiftly moving hammer head.

Struck by such a "hammer," materials undergo chemical and physical changes impossible under normal conditions.

FORMING NEW ALLOYS

Currently, the explosives research center must buy its explosive lenses from Los Alamos National Laboratory at a cost of about $1,500 each. But the center has devised a way to make these bomb triggers for only $150 on its own, and plans to make them available to industrial researchers.

"Under shock compression," said Dr. Naresh Thadham, a metallurgist at the center who formerly worked at Los Alamos, "extraordinary chemical reactions can occur. For example, such normally incompatible metals as titanium and aluminum react chemically under explosive shock to form wonderful new alloys for the aerospace industry."

Titanium-aluminum alloys will find use, he said, in hypersonic aircraft, whose exteriors must resist the intense heat of re-entry into the atmosphere.

Dr. Alan R. Miller, a New Mexico Tech professor of metallurgy, has used explosive lenses to make composite materials. In one, powdered aluminum is compressed by explosive shock around a mesh of steel piano wires. The immense strength of this material is analogous to that of concrete reinforced by an internal structure of steel rods.

Since steel and aluminum expand at different rates when heated, steel reinforced aluminum had been considered impractical until Dr. Miller's explosion bonding experiments, which create such strong bonds between dissimilar materials that differences in thermal expansion rates do not separate them.

Dr. Miller has also explosively embedded strong reinforcing plastic fibers within metal—a trick impossible through conventional metal casting, which would burn up the plastic.

Explosive lenses are bonding together fine grains of a variety of ultrahard materials, including diamond dust and cubic boron nitride, a substance that is superior to diamond for cutting iron-based materials. Better drills and cutting tools than any ever made are expected to result, scientists here say.

"We have also begun shock-compression experiments aimed at producing room-temperature superconductors," Dr. Miller said. "We've already created low-temperature superconductors with explosions, and we think we're on the right track." If such materials can be produced in quantity and fabricated into useful implements, many important new technologies will become possible, including power transmission systems from which no electricity would be lost.

"If it turns out that shock compression is a good way to make high-temperature superconductors," Dr. Miller said, "we might be able to build a superconducting power line simply by pouring the powdered ingredients along a trough in the ground and setting off a strip of shaped-charge explosive above it."

ARMOR-PIERCING WEAPONS

Meanwhile, new shock-compressed ceramic materials made at the center out of titanium, boron, silicon, carbon and other ingredients are likely to find their way into weapons soon. "What we want to do," Dr. Persson said, "is to make sheets of ultrahard ceramics up to six inches on a side. Such tiles could be patched together to make armor that will be relatively impenetrable."

The problem of piercing the laminated armor used in Soviet tanks has spurred efforts of explosives experts to improve the hollow-charge warheads used in antitank missiles. A hollow charge, opposite in its effects to a lens, concentrates its shock energy in a thin, penetrating jet.

The charge is cylindrical, but its forward face is indented to form an internal cone. The cone is lined with metal—often copper—and when the charge is detonated, the sides of the cone blow inward, crushing the metal between them and squirting it out as a high-speed jet of solid metal. Such jets can be used to penetrate tanks or tap huge vats of molten steel. Hollow charges shaped as grooves rather than indented cones can fire foil-thin sheets of metal that can cleanly sever huge girders.

Los Alamos National Laboratory in New Mexico, where the atomic bomb was invented, is among the institutions that support research at the explosives center. Dr. William C. Davis, a fellow at Los Alamos and a leading expert in detonation physics, not only leads seminars in explosion physics at New Mexico Tech but serves as an adviser to the research center.

"Unfortunately," he told a seminar of graduate students here, "explosions are noisy and destructive, and they therefore attract a certain number of nuts. But let the rest of us concentrate our attention on the fascinating science that explosions can reveal."

Dr. Davis noted that the gases produced by a blast are always in turbulent motion, and that the dynamics of an explosion are therefore extremely difficult to calculate, even with the help of the world's most powerful computers.

"But we are making progress in understanding the underlying complexities of turbulence, and this understanding is essential to astronomy, physics, biology and other sciences," he said. "Continuing progress will depend partly on attracting young scientists to the exciting study of explosives."●

JEWISH SETTLERS IN MICHIGAN

● Mr. RIEGLE. Mr. President, today's New York Times carried a fascinating article concerning one of the first Jewish settlers in the United States. The story which was written by William E. Schmidt, discusses the excavation and reconstruction of the house and trading outpost of Ezekiel Solomon, who is considered the first Jewish settler in Michigan and the Northwest Territories.

Donald R. Kisch, an attorney from Bloomington, IL, who recently visited the excavation site stated that,

> "Mr. Solomon's story is a neglected chapter of Jewish history and the texture of Jewish life * * * in putting the emphasis on Israel and Europe we sometimes overlook the fact that Jews have had a long and rich history on our own continent."

During the celebration of Yom Kippur, the holiest Jewish holiday, I believe that it is appropriate to acknowledge this historical discovery, and commend it to my colleagues' attention.

I therefore ask that the full text of the article entitled "In Search of a Past at Northwest Outpost" be printed in the Record.

The article follows:

In Search of a Past At Northwest Outpost

(By William E. Schmidt)

Mackinaw City, Mich., Sept. 24.—To the archologists who have been excavating the small, sandy plot here, the site is known simply as "house C of the southeast row house," the buried ruins of an 18th-century fur traders' dwelliing.

But to many Jews in the Midwest, the dig has taken on a separate and very special meaning since it is the archeological reconstruction of the house and trading outpost of Ezekiel Solomon, whom historians describe as the first Jewish settler in Michigan and the Northwest Territories.

Over the last three years the excavation has drawn dozens of Jewish spectators and volunteers, many of whom have journeyed to this small tourist town, a cluster of motels and souvenir shops opposite Mackinac island, as if on a kind of pilgrimage.

"It is amazing just to imagine his being here, bringing some small touch of 'yiddishkeit' to what must have been such a strange world of savages and French fur traders and Jesuits and British officers," said Donald R. Kisch, a lawyer from Bloomington, Ill., who, after spending part of July here, circulated an article about the excavation among Jewish congregations in Illinois.

To Mr. Kisch, Mr. Solomon's story is a neglected chapter of Jewish history and the texture of Jewish life, or yiddishkeit. "In putting the emphasis on Israel and Europe, we sometimes overlook the fact that Jews have had a long and rich history on our own continent." Mr. Kisch said.

The ruins of the Solomon house lie buried beneath a grassy field inside the rebuilt palisade of old Fort Michilimackinac, a frontier garrison at this historic watery crossroads that is now a tourist attraction, overlooking the Straits of Mackinac and the Mackinac Bridge to Michigan's Upper Peninsula.

Two hundred years ago the fort was a remote British outpost in the New World where traders like Mr. Solomon plied their trade, bartering glass beads, blankets and other goods with the Indians and French trappers in return for beaver pelts.

According to historical documents, Ezekiel Solomon was a Berlin-born Jew who emigrated to Montreal, where he was active in a Sephardic congregation and was elected to an honorary position.

As a member of a syndicate of five Jewish businessmen in Montreal, he acquired a license from the British to trade furs, and in 1761 he made the perilous 1,000-mile journey to Fort Michilimackinac.

Although he was captured in 1763 in an Indian attack that wiped out most of the British, he returned the next year and went on to establish a properous trading business. In 1765, with a partner, Gershon Levy, he purchased the small two-room house, part of several row houses inside the palisade, and converted it to use as a trading post.

The house stood until 1781, when the British demolished it, along with the rest of the fortress, and moved their garrison to nearby Mackinac Island. Meanwhile, Mr. Solomon married a young Roman Catholic woman, fathered five children and died in 1805.

Dr. Donald P. Heldman, the director for archeology at the Mackinac Island State Park Commission, which has been overseeing archeological activity at sites near here since the 1950's, says work on the Solomon house will be concluded next year.

Since it began in 1983, the excavation has already yielded more than 90,000 artifacts. These include thousands of glass Venetian beads, bits of gun parts and knives, bullets and crockery, rings, pipes for smoking, rosary beads and crucifixes, all materials that were imported by Mr. Solomon by canoe for trading with the Indians and British garrison.

So far, to the disappointment of some of the Jewish volunteers who have come over the summer to work on the site, not a single artifact reflecting Mr. Solomon's religious faith has yet been found.

"You keep hoping you'll turn up a menorah, or maybe a mezuzah," said Judy Kisch, who worked alongside her husband last summer.

Meanwhile, Dr. Heldman said that tens of thousands of pieces of bone debris found on the site would be examined by other scientists, with an eye to what they might reveal about the eating preferences of Mr. Solomon or others who lived in the house.

"It would be too much to expect that he kept a kosher diet," said Mr. Kirsch, marveling over Mr. Solomon's grit in adapting to life on the frontier. "You know, when you think what life must have been like back then, I just can't help but ask the old question: What was a nice Jewish boy like him doing in a place like that?"●

"DISPOSABLE CITIES"

● Mr. SIMON. Mr. President, today I would like to insert in the RECORD an article that I hope will be of vital interest to cities and towns across our Nation. This article, written by Mr. Philip K. Howard, is entitled "Disposable Cities." It was written for the Mayor's Institute of Design sponsored by the National Endowment for the Arts. The article accurately describes some of the problems facing our inner cities and the reasons for the decay and disappearance of the vibrant core of these cities.

Mr. Howard discusses the long-term destructiveness of the growing number of faceless, glass, and concrete towers overtaking our inner cities. The unique diversity of business, shopping, and cultural activities offered within the city has been replaced by sameness, "closeness has been replaced by dispersal, and human interaction has been replaced by isolation." I believe that our cities need a dramatic redirection of future residential growth to revive the center cities and to prevent the suburbs themselves for being dispersed throughout the broader region. I plan to send copies of this article "as food for thought" to Governors and mayors across the country.

New office towers, being built at an alarmingly rapid rate, are built as islands set back from the sidewalk. These "islands look inward to fancy lobbies and rarely offer retail shops to persons on the sidewalk," if a sidewalk even exists. The buildings, which contain underground garages and interior shopping, were designed to keep people in, not spill out into the flow of city streets. Almost "every American city has had its main street victimized by gleaming new office towers bearing the promise of prosperity while in fact having an effect more akin to giant mausoleums." Downtowns have become "highrise commercial parks, rather than the diverse business, retail, cultural, and residential core of a city."

A consequence of this growing phenomenon is urban sprawl, where suburbs occupy vast regions of land and life has grown impersonal and increasingly inconvenient. Everything requires a trip in an automobile and offers no opportunity to walk anywhere. In Atlanta, GA, for example, over 90 percent of the office space built in the last 10 years was outside the central business district.

The growth of our cities must be turned inward and neighborhoods must be created downtown. Local and State governments must implement development and design guidelines to ensure that neighborhoods are oriented for pedestrian traffic. The purpose is to create a neighborhood, which will in turn revitalize downtown, not maximize housing stock.

Those of us in government must work with private sector businesses to reverse this decay of our inner cities and restore them to their previous strength and vitality.

Mr. President. I ask that Mr. Howard's "Disposable Cities" article be included in the RECORD.

The article follows:

DISPOSABLE CITIES—AN OVERVIEW OF THE SHAPE OF OUR POST-WAR URBAN AREAS

(By Philip K. Howard)

ATLANTA AND EVERY OTHER CITY

In the early 1950's, it was exciting to leave our small town and visit my grandparents in Atlanta, a city of trolley cars, regularly-scheduled ice-cream trucks and the magnificent Fox Theatre. The sidewalks of downtown were abuzz with businessmen in their business hats and shoppers pouring into Rich's and Davidson's the way New Yorkers do into Bloomingdales. My grandparents lived on Elmira Place, in "Little Five Points", a cozy tree-lined community only a trolley ride from downtown. Little Five Points had its own village center, to which residents would walk pulling their shopping carts, and to which I would wander for a soda pop and to gaze at the model ships and planes on display at the amazing hobby shop.

Today, Atlanta is an endless suburb virtually indistinguishable from any small or large city. Every trip requires an automobile and it is impossible to walk even to do incidental shopping. Little Five Points contains boarded-up windows and pornography shops. The downtown no longer serves any function other than as the central business district, and that role has eroded in the face of waves of new office construction along the ring roads 10 and 20 miles out. The glass and concrete towers in downtown Atlanta have little to do with the street around them, and the sidwalks appear to become more lifeless every year.

Atlanta is no different than most other cities. This is the remarkable dullness of the post-World War II American city—except for differences in climate, it is hard to figure out which city you are in. The airports, the roads, the office towers, the malls, the suburban neighborhoods all look the same.

After forty years of suburbanization, most of America's cities no longer offer the basic urban qualities that give cities their reason to be. Diversity has been replaced by sameness, closeness has been replaced by dispersal and human interaction has been replaced by isolation. Unless there are dramatic changes in government land-use policies, the suburbs, like the center city before them, will also begin to lose their attraction, and growth will be diverted in yet another direction. The questions for the remainder of this century are where the new growth will occur, and whether the suburbs can be stabilized, the downtowns revived, and the cities themselves can reassert their social, cultural and business leadership.

THE ROOTS OF URBAN DECLINE: THE FLIGHT OF HOUSING

The beginnings of the center city's decline are no mystery, and lay chiefly in a massive post-war government subsidy, in the form of expressways, that made ever-expanding rings of suburbs possible. The expressways made distance from the center of the city seemingly irrelevant, and allowed the suburb to combine a rural vision with ready access to the business, retail and cultural life of a city. The insignificance of distance, a concept unprecedented in urban history, contradicted the precept of closeness that gave cities their reason to be.

The suburbs would have grown even without the billions of government dollars poured into urban expressways. But, without the expressways, commmuting limits soon would have been reached, and closer neighborhoods would themselves have been the object of the natural progression to multi-family housing. This was the pattern in cities that grew before the war. Instead, the unlimited availability of convenient single-family housing dissipated the need for neighborhoods of multi-family housing. The suburbs soon achieved the stature as the only acceptable middle-class neighborhoods and, for young professionals, the demand for apartments was met by "garden apartment" complexes miles away from downtown.

The older middle-class neighborhoods close to the center found themselves ripped apart by new expressways built to meet greater demand of the suburban traffic. If not razed for warehouses and parking lots, what was left of these neighborhoods became what are known as "transitional neighborhood." My grandmother continued to live in Little Five Points, but the lawns of Elmira Place became unkempt and it became a place where cars were abandoned and where my grandmother, then in her nineties, was mugged.

DOWNTOWN AS OFFICE PARK

As the sunbelt cities evolved after the war from tranquil, mercantile hubs into fast-growing affluent metropolises, the downtowns should have developed with ever more diverse and interesting retail, entertainment and cultural activity. The key ingredients—more people, new buildings, more leisure time, higher educational achievement and more money—were present in abundance. With magnificent new office towers, the main commercial arteries should have bustled with young professionals going from meeting to meeting, residents and out-of-towners shopping at new boutiques and all dining at the latest restaurants. Instead, the opposite happened: downtown became lifeless.

The two villains were distance, noted above, and design: the new office towers were not built to reinforce the line of prewar brick office buildings, but as isolated glass and concrete islands set back from the sidewalk. These islands looked inward to fancy lobbies and rarely offered retail shops to persons on the sidewalks. The buildings, which contained underground garages and interior shopping for sundries, were designed to keep people in, not spill them out into the flow of the city. This design type can actually be traced to misguided application of the theories of Le Corbusier, who championed self-contained futuristic tower-communities, and to architects like John Portman, whose Hyatt Regency in Atlanta popularized the glitzy interior atrium encased in a concrete fortress with no relationship to the city around it. Virtually every American city and suburb, large and small, has had its main street victimized by gleaming new office towers bearing the promise of prosperity while having an effect more akin to giant mausoleums.

The local restaurants and department stores could not possibly survive as whole blockfronts of their neighbors were demolished and replaced by vacant plazas in front of office towers. As retail storefronts were closed down, downtown began to lose its draw as the retail center, which resulted in a great decline in the numbers of retail customers. The flip side of "agglomerative economics"—the well-established notion that a grouping of retail stores draw more customers than the same stores in smaller combinations—was quickly proven in the city after city.

Perhaps the loss of middle-class shoppers caused developers to insulate their tenants from the minorities who were the only occupants of any nearby downtown neighborbood. Or perhaps the architecture of isolation made the streets so dead that no middle-class person would ever be drawn there for shopping or entertainment. Whichever trend came first, they clearly fed each other.

As a result, rather than offering diversity, the downtowns today offer giant pods of sameness—each tower containing a similar newstands and coffee shops. Downtown has become a high-rise commercial park, rather than the diverse business, retail, cultural and residential core of a city.

THE MONOPOLY OF SUBURBAN NEIGHBORHOODS

Suburban neighborhoods represent the finest popular housing ever available, anywhere. We are a country containing millions of relatively new houses with modern conveniences on large green lots. It is not difficult to understand why in a short space of forty years, the suburbs have achieved a virtual monopoly on middle and upper class residential units within the past-war urban areas.

The overwhelming success of the suburbs has also resulted, in recent years, in mounting costs to the quality of suburban life. The newness and lack of definition to many neighborhoods mean that the "neighbors" often do not ever meet each other and leads to the type of anonymity that one expects in big city apartment districts but without the convenience. Everything requires a trip in an automobile: schools, groceries, the half-gallon of milk that was forgotten. There is no occassion to walk anywhere, and consequently little occasion to step outside and have a chat with the neighbors.

The growth of the suburbs after the war followed a pattern similar to consumer trends, with allegiance to new buildings in new places. Older shopping strips and neighborhoods were left behind to decay, which in turn fueled the outward march of nearby residents. The vastness of the resulting suburban "cities"—a thousand square miles, more or less, in case of cities like Atlanta, Houston and Denver—has led to remarkable inefficiency that is felt, among other ways, in the traffic jams that exist through much of the day.

These characteristics are in the nature of an expansive suburb geography and, for most, are obviously offset by the benefits of a spacious house. The monopoly of the suburbs has, however, resulted in a broader and potentially far more important cost. The absence of a strong and diverse downtown or, indeed a dynamic neighborhood anywhere in these metropolitan areas, has weakened the cord which gave the suburbs their reason to be—their proximity to a city, with the business, social and cultural advantages of a city.

In the post-war cities, the suburbanite generally cannot drive to a place where there is urban activity: the stroll down Wisconsin Avenue in the Georgetown district of Washingotn, D.C., or through any number of neighborhoods in San Francisco or Boston, is not available in the new cities. There is no neighborhood in which to window-shop, dine out and take a night-time stroll while observing the variety and fashion of fellow citizens.

Nor, of course, is it possible for the suburbanite, or a friend, to choose to move to a different type of place. The suburb is all there is.

SUBURBAN COMMERCE: THE DRIVE-IN

The retail in the suburbs has gone from dominance by the drive-in "strip" to the interior mall surrounded by acres of parking. Like the modern downtown, the mall must survive on a partial market—in its case, late afternoon and early evening traffic—and as a result lacks indigenous shops and restaurants. Instead, these malls offer the same standardized and safe retail, boosted by large-scale advertising, that is found in every mall across the country.

Office development in the suburbs represents much of the urban office growth in the last decade. In Atlanta, for example, over 90% of office space built in the last 10 years was outside the central business district. These new offices, gleaming sculptural forms against the skyline, have no relationship to any street or neighborhood and epitomize the architecture of isolation. Most of the buildings do not have sidewalks, and could not be reached even by a very determined pedestrian.

The unanswered question about these projects is to what uses they will be recycled when their sheen of newness wears off and the original lease expires. Unlike the age-old pattern in downtowns, where scarce land has always required recycling of buildings, the siting of these new suburban towers and malls has little intrinsic logic. When the market changes, or goes elsewhere, the se buildings and their parking lots can be abandoned as easily as renovated. The decay of their predecessors, the commercial strips and shopping centers, indicates that, if the same growth pattern continues, these new malls and office towers will over time also deteriorate.

THE ATTEMPTED ANTIDOTES

Complaints about the sprawl of the suburbs have been heard since the 1950's, but the new highways continued to be built and local roads continued to be widened. It seems that the suburbs were thought to be perpetually prosperous and that any problems could be fixed by the highways department. Buckhead, the center of one of Atlanta's nicest suburbs, is a typical example of benign destruction: first the mansions on Peachtree Street went the way of commercial strips, and now Buckhead is receiving millions of square feet of office space. Atlanta's response is to announce new widened roads through the heart of the residential neighborhoods that stand between Buckhead and the expressway. The next phase—the decline and strip commerce in those neighborhoods—is entirely predictable.

Virtually no effort has been made by Atlanta or other cities to zone the suburban commercial and retail development in such a way as to create a unified commercial community instead of unconnected drive-ins. Within Buckhead, for example, the new buildings are built without any relation to what is left of the old Buckhead retail center. A recent article in The Atlantic Monthly, "How Business in Reshaping America", notes that places like Buckhead are absorbing most of the retail and commercial growth, and describes these areas as new "urban villages". The growth is certainly in the suburbs, but there is nothing village-like about these collections of towers at traffic intersections. Indeed, their primary function is not even as local service centers; instead, they compound the traffic inefficiency by competing with the center city and each other for regional business.

In contrast to the suburbs, the center city has received an enormous amount of government attention and money. What is remarkable is how these efforts for the most part have completely missed the heart of the problem. Billion-dollar monorails (Miami) and subways (Atlanta), were built to carry populations to a downtown there is no longer any reason to visit. The ridership on these new systems does not even begin to justify the cost; in Atlanta's MARTA system, fares do not cover even half the operating costs. The transit systems cannot possibly expand enough to effectively cover the hundreds of square miles of sprawl.

Special downtown entertainment or tourist attractions have been tried in most large cities, and do little more than occasionally draw a crowd. In Atlanta, the "Omni Center", a shopping mall and ice rink attached to Atlanta's sports arena, went into bankruptcy at a time when the rest of Atlanta was booming. "Underground Atlanta", a section of downtown that had decked over with elevated streets, was restored into restaurants and night-clubs. It survived for several years on novelty and the lunch crowd, and then expired, with not enough traffic in a city of over two million people to keep it busy. Atlanta in recent months has authorized a $100 million subsidy to re-open Underground Atlanta, because otherwise there is nothing for the conventioneers to do.

All across the country, there was a trend in the 1970's to transform downtown shopping streets into pedestrian malls. These proved to be an immediate and continuing disappointment. The stroll down the Fourth Street Mall in the center of Louisville, Kentucky, with new plantings, nice benches and no automobiles, reveals numerous vacant shops and an inescapable loneliness. There are no pedestrians to walk the malls.

THE MISSING INGREDIENT: PEOPLE

The symptoms of decline of our post-war urban areas are numerous. There is one missing structural element however, which has caused the downtown to lose all dynamism and the cities themselves to lose their focus and identities. The missing ingredient in cities is neighborhoods of people who live, work and shop downtown. It seems so obvious.

Consider Washington, D.C. without the Georgetown district, New York without Manhattan, Charleston and San Francisco without their downtown neighborhoods, or any European city without its city neighborhoods. Each of these cities has solid middle to upper class neighborhoods adjacent to its business district; the larger the adjoining neighborhood, the stronger the business and retail district. For our post-war cities to thrive, and for their suburbs to survive, these neighborhoods must be re-created.

Downtown neighborhoods are our urban wetlands, from which much of a city's life and diversity spawns. Yes civic attention has focused almost exclusively on trick solutions like monorails, amusement centers and landscaping on closed streets. When they have considered the issue of downtown housing, the cities have focused primarily on subsidized housing which, though critical, does little either to revive downtown or to release minorities from their increasing isolation from jobs and the rest of society, both located in the suburbs.

The residents of these downtown neighborhoods provide the basic market for upscale retail, specialty shops and restaurants that have traditionally provided much of the glamour of cities. This downtown population finds it convenient and exciting to live adjacent to a street with storefronts, and with a short walk or commute to work. This population is among the largest supporters of cultural activity. Their concentration in sidewalk neighborhoods, where unscheduled encounters are the rule rather than the exception, breeds cultural life and interest. It also fosters diversity, and real integration is in the nature of pedestrian-oriented neighborhoods as much as it is the exception in the suburbs, where open housing provides the house but not human contact.

The strength of urban downtown neighborhoods is vital to downtown's attractiveness as a commercial center. With part of its working population living next door, the central business district regains some of the reason-to-be that was lost when downtown, faced with competition from suburban office parks, became simply another location to commute to. For the office worker who lives in the suburbs, the rebirth of sophisticated shops and night-life in downtown provides a draw for working downtown not found in suburban offices. In Atlanta, the rebirth of a pre-war suburb around 14th Street, between downtown and Buckhead, offering a modicum of pedestrian ambience, is generally considered the magnet for inducing several million square feet of office space there.

The city's attraction to the outside world is also tied to the qualities that are present only with affluent downtown neighborhoods. Would we rather take our families to visit San Francisco or Atlanta? Boston or Houston? Savannah, Ga. or Stamford, Connecticut? On an obvious level, these comparisons are unfair. Atlanta is not soon to be transformed into San Francisco, nor should it be, but one might reasonably question why a city of 2 million people has so few of the qualities found in cities of comparable size prior to World War II. The absence of downtown neighborhoods and the vacuum of urban activity relegates the post-war cities to being destinations without distinction, and deprives them of the opportunity to display and exploit their own special characters.

The importance of downtown neighborhoods is not that they are better places to live than the suburbs. The importance is that, without adjacent pedestrian neighborhoods, downtown has become a sterile office park rather that the vital core of a city, and the suburbs themselves lose the reason to be that stems from a strong urban core. Today, there are few compelling reasons why a businesss without strong ties should not pack up the modems and move to a smaller town or city that offers the same benefits with few of the costs—the same or nicer house, virtually the same retail and entertainment, with greater sense of community and without the congestion and impersonality of the sprawling post-war cities. Businesses searching for new homes are making this judgment every day.

A city like Atlanta, however, has enormous diversity and character to exploit, diversity that should distinguish it from smaller and more parochial communities. That diversity has difficulty revealing itself in a city that offers nothing but drive-ins, and contains no equivalent of a town center or square, where the individuals who make up the retail, commercial and cultural communities can intermingle, create, climb ladders and strive for accomplishments, of whatever sort, not available in smaller communities.

REFORM AND REALITY

We take our cities as we find them. The issue is not rejection of the suburbs, but where the growth will occur in the future: whether the sprawl will continue at the same pace, or whether it will drive growth outside the area altogether, or, the other likely options, whether growth will occur in new high-rises in existing suburbs, or through renewal of neighborhoods or areas that were left behind as the suburbs marched outwards.

Except for rebirth of downtown neighborhoods, none of these alternatives has redeeming features. Continued sprawl worsens the current inefficiencies; diversion of growth to smaller towns or cities is a clear measure of the decline of our cities; high rise development in the suburbs, an active phenomenon, destabilizes nearby residential communities and offers none of the efficiencies of a strong center core. By contrast, reclaiming areas near the center city is efficient—it brings people near their jobs—and creates a social fabric in the downtown area where there is now a void. Yet little priority is directed at downtown housing. It is as if the city fathers believe there is no demand for such housing or, if attempted at all, that the point is only to provide that many dwelling units, rather than as the means of re-energizing the entire city.

The objective facts indicate that there would be significant demand to live downtown if the critical mass could be achieved to create a neighborhood. Downtown neighborhoods, where they exist, support the highest property values in those cities, as found in New York, San Francisco, Boston, Chicago, and Washington. The demand is further shown by the reclamation in recent years of run down middle-class neighborhoods in cities like Baltimore and Philadelphia, and by grass roots efforts to reclaim pre-war pedestrian suburbs even in the bastions of new and better, like Atlanta.

In cities without downtown neighborhoods, multi-family housing has again become a significant proportion of the housing market—in 1985 in Atlanta, accounting for 31% of all new units. This demand, however, has been largely met by "garden apartment" complexes in the suburbs, a location that guarantees most of the disadvantages of the suburbs—the long commute, no ready access to services—without the advantages of the typical suburban homestead.

A principal difficulty in cities like Atlanta is not demand, but supply: the post-war cities have few or no neighborhoods to reclaim near the center city. It would take a brave developer indeed to build an isolated apartment project in the vacuum surrounding the center city.

A neighborhood core has to be built from little or nothing which will require public-private partners. The patchwork of ownership in the blocks near the center cities makes it virtually impossible for private parties to assemble an area large enough to create a functioning neighborhood. In adopting the partnership hat, Government must have the clear vision that its goal here is not utopia, but its own self-preservation in beginning to remedy the planning and zoning mistakes of the last four decades. The task required is primarily to stage the development so that the private developers collectively will create a working neighborhood that will attract residents.

THE NEW NEIGHBORHOODS

The most difficult problem in creating new neighborhoods is ensuring that what is built is not a large housing project but a neighborhood with a sense of community that people like to visit and to live in.

Virtually no multi-family residential developments built since the Second World War have abided by the precepts of what people actually like. Instead, developers have stacked apartments within towers that resemble brick-clad versions of new office buildings, or have lined up rows of identical prim garden apartments or "townhouses" based on suburban house design, each with its own drive-in parking slot. Each of these housing types in its own way represents another example of the architecture of isolation. Neither design type creates a neighborhood.

The most important post-war examples of new American neighborhoods, both very imperfect, are Reston, Virginia and Battery Park City. Reston, which functions as a suburb of Washington, D.C., was conceived as a new town and designed to integrate retail and housing around a town plaza which opens onto a small lake. Reston is largely unsuccessful as a village, for reasons that in hindsight seem obvious. Little of the housing is on or adjacent to the town square and is instead spread out in conventional suburban attached and single-family units. There is no village street, but only a few shops on its open square. The design of the town square and adjacent buildings have a uniform, hard edge design, which announces to all that this is a project, not a real village.

Unlike Reston, Battery Park City has an ample concentration of housing units. Despite praise, however, Battery Park City cannot avoid the effects of being a collection of medium and high-rise towers, albeit ones juxtaposed against attractive park land. Battery Park City is a well-designed housing project, but it is unclear whether it will ever be the type of neighborhood, common elsewhere in Manhattan, that draws people for its liveliness and sense of community.

The neighborhoods to emulate are the neighborhoods that people like. In a period of fifteen years, Soho in New York was transformed from a district of 5-story manufacturing buildings into one of the most famous and popular residential and retail districts in the country. Georgetown is a district of townhouses bisected by two main shopping streets that bristle with excitement. Gramercy Park in New York was a development of townhouses in 1840 that has retained its basic character despite losing about half the houses to high-rise apartment buildings. In Chicago, the area surrounding Rush Street contains turn of the century townhouses that establish its basic character, but most of the population reside in adjacent high rise towers on Lake Michigan. The entertainment streets, which are adjacent to the townhouse area and are largely on a low-rise scale, provide boutiques, art galleries and restaurants not only for the local community but for all of Chicago.

Consider any city neighborhood which you like and it is likely to have the following characteristics, which should provide the basic guidelines for new urban neighborhoods:

The character of the neighborhood should be established by low-rise buildings. The purpose is to create a neighborhood, which will in turn revitalize downtown, not to maximize housing stock. High-rise towers are acceptable only to the extent that they do not overwhelm the smaller structure. It would be difficult, and perhaps impossible, to identify a development of high-rise towers which conveys a sense of a lively urban neighborhood. The excitement on the upper east side of New York, for example, is found on the low-rise Madison and Lexington Avenues, whose character is further supported by townhouse-scale side streets. It is no accident that the remarkable surge in the glamour of Madison Avenue in the last five years occurred coincident with a virtual ban on high-rise buildings. All the developer energy is now being spent making storefronts and buildings more enticing, rather than tearing them down for 30-story towers. By way of contrast, compare the feeling on the developed blocks of First to Third Avenues in New York.

All the buildings in the new neighborhood, residential and commercial, should be connected to each other and should maintain a uniform street wall. This is a characteristic of any successful city commercial street, in America and elsewhere, and also a characteristic of successful city housing of any size. Indentations or "designed" setbacks and plazas interrupt the continuity and sense of uniform fabric of the neighborhood.

General uniformity of massing is vital to an overall sense of the neighborhood, but sameness in detail is destructive and gives the look of a housing project. Reston's design is monolithic. The designs in Georgetown and Gramercy Park have an overall uniformity but display individuality from building to building. Consequently, there should be an effort to attract diversital developers and owners building within a master plan. Efforts should be made to retain certain existing buildings, even apparently disfunctional buildings, to provide texture and a reference to the past. The neighborhood must not resemble a housing project.

The new neighborhood must be oriented to the pedestrian and inviting to outsiders in the same way that the commercial streets of San Francisco or the upper east side in New York are. No self-contained building fortresses should be permitted, and no restricted streets; there is ample room in the interior of blocks for private garden spaces. The neighborhood should be characterized by activity and excitement on its main streets. By way of example, streets with storefronts might have apartments above in order to further integrate the urban functions.

Landscaping is the least important aspect of this project, and town squares and open spaces can suck vitality from a neighborhood as easily as they can benefit it. This is the lesson that should be learned from Reston and virtually every housing project. Much of the praise of Battery Park City has been directed towards its straightforward park design—grass, park benches in a row and nice views.

Zoning of areas adjacent to the new neighborhood—and this applies equally to suburban centers as well—must require that buildings be interconnected, with retail and other activity along the sidewalk, so that the broader area can begin to function as a community rather than as unconnected drive-ins.

Little Five Points was a neighborhood where the neighbors chatted, ran into each other walking to and fro doing errands and, even though the neighbors were not always the friends that came to dinner, they all constituted an important part of each others' lives. The fabric of a strong society, with commitment to shared values, stems in large part from such relationships.

Today, we accept isolation—whether behind the glass windshield or in a self-contained glass tower—as a common part of life. We enjoy new malls and towers in the same way that we like new automobiles, without considering that buildings last the better part of lifetime, or longer, and are new only briefly. In the post-war prosperity, representing four decades of new and better everything, we have forgotten that buildings are not consumer items, and cannot be built without relation to each other and cannot be discarded without long-term impacts.

These buildings define the pattern of our daily routine, and the pattern of our collective daily routine is the way our city functions. Almost without our noticing it, a society of drive-in buildings has left us increasingly isolated and left our cities lifeless and littered with drive-ins of prior years.

The growth of our cities must be turned inward, and downtown neighborhoods must be created. These neighborhoods function as the fountain of urban vitality, and are the source of pedestrian interaction, indigenous retail, spontaneous culture and diversity instead of sameness. Unlike the pattern of the last forty years, the continued growth of these neighborhoods will increase the intensity and attraction of downtown rather than leaving it behind. The seed of a trend is there, but the government must be the initiating partner if urban neighborhoods of any size are to be created in this century. Downtown needs people, and rather than spending $100 million to prop up an uneconomic tourist attraction like Underground Atlanta, cities should focus their resources on a real solution.●

S. 1699, THE CHAPTER 2 ELEMENTARY AND SECONDARY EDUCATION REFORM AMENDMENTS OF 1987

● Mr. SIMON. Mr. President, on September 17, I introduced S. 1699, along with my distinguished colleague from North Carolina, Mr. SANFORD, the Elementary and Secondary Education Reform Amendments of 1987. S. 1699 reforms and reauthorizes the chapter 2 block grant.

Mr. President, I ask that a section-by-section summary of this bill, S. 1699, be printed in the RECORD.

On that same day, an editorial appeared in the Wall Street Journal titled "A Six-Syllable Word." The article commends the Secretary of Education for his recent speeches here in Washington and in Chapel Hill, NC, on the important question of holding educators accountable for results under State education reform laws, in addition to being responsible for the expenditure of State and local funds. Secretary Bennett, following up on the National Governors Association report—Time for Results—has also urged more accountability in Federal education programs. I share that view.

Accountability, however, is not a one-way street. The Congress and the President should also be held accountable when we fail to fully fund programs like Head Start, the Chapter 1/Title I Compensatory Education Program, and the Education for Handicapped Children Act (Public Law 94-142). There is mounting evidence in the polls and in public attitudes that American taxpayers are willing to pay for excellence in education and higher teacher salaries. What we need to do—in partnership with the States—is strengthen curriculum, raise graduation standards, and increase accountability among those who teach our children, superintend our schools and establish educational policy. It is time for results.

Mr. President. I ask that the September 17, 1987, Wall Street Journal article be included in the RECORD at this point.

The material follows:

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1987 DRAFT BILL

Section-by-section summary, Sept. 22, 1987

Section 1—Short Title: Elementary and Secondary Education Reform Amendments of 1987.

TITLE I—IMPROVED PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION UNDER CHAPTER 2

Section 101—Reauthorization and Purpose

1. Amends Section 561 of the Education Consolidation and Improvement Act of 1981 to eliminate references to consolidation and to emphasize the programmatic purpose of the Act. Shifts the focus of Chapter 2 funds to primarily target Chapter 1, "at-risk" student populations and State-based educational reform efforts.

2. Extends Authorization of the Education Consolidation and Improvement Act of 1981 for five years, to FY 1993.

Section 102—Within State Allocation

1. Amends Section 564(a)(2) of the Act to clarify the advisory duties of the advisory committee as set forth in the state application.

2. Amends Section 564(a)(3) of the Act to clarify requirements on contents of the state application.

3. Requires that the State reserve 20% of the allocation for administration of this chapter, and distribute not less than 80% to local education agencies.

4. Defines the criterion for distribution of funds to local education agencies (LEAs) or consortia of such agencies, to include the degree to which the project for which assistance is sought for the needs of educationally disadvantaged students, and the degree to which the project has the potential to achieve its stated goals through the priority objectives described in Section 571.

5. Requires a peer review panel assist in the establishment of criteria for grants under this chapter to local educational agencies.

6. Defines the make-up of the peer review panel to be broadly representative of the school community and consist of 3 elementary and secondary teachers; 3 parents; 2 principals; 2 superintendents of local educational agencies; 2 local school board members; and the head of the State educational agencies (SEAs) or designee, and in the case the SEA is a State board, 2 members of the board.

7. Specifies that the minimum grant to any local educational agency or consortia within a State shall be $25,000, except grants for library resources to small institutions may be less than that amount.

Section 103—Local Applications

1. Requires that local applications include a description of how projects will contribute to goals established for assisting educationally disadvantaged students' achievement or the quality of education through the priorities specified in the Act; the planned use of funds; and the allocation of funds required to implement section 586.

2. LEAs applications to the State must include a statement of: educational priorities and goals, and the procedures for an annual evaluation on how the agency did or did not achieve the objectives.

Section 104—Educational Priorities

1. Replaces Subchapters A, B, and C of chapter 2 of the Act with a list of priorities to assist the educationally disadvantaged students by which funds shall be allocated to local educational agencies.

2. Priorities include:

Increasing the availability and quality of instruction of pre-kindergarten programs, especially for economically disadvantaged children including, children with handicaps;

Expanding and improving student dropout prevention programs, particularly prevention and reentry activities;

Increasing parental involvement in education and enhancing the literacy of such parents by integrating early childhood education and adult education for parents into unified "Even Start" programs;

Carrying out projects to enrich secondary school curricula, including junior high and middle schools, including new methods in approaches to teaching, the use of stated achievement goals for students, the continuous monitoring of student progress, and the strengthening of course work and requirements;

Expanding and improving programs to identify and educate gifted and talented children, particularly those who may not be identified through traditional assessment methods; and

Implementing educational reforms adopted by the State.

3. Allows funding of additional activities including purchase of library equipment, testing, guidance, and counseling programs associated with the priorities described above.

Section 105—Technical Amendments

1. Amends subchapter and chapter headings.

TITLE II—THE TEACHER TRAINING AND IMPROVEMENT ACT

Section 201—Short Title (Teacher Training and Improvement Act)

Section 202—Statement of Purpose

Section 203—Authorization of Appropriations

1. Authorizes $80,000,000 to be appropriated for FY 1988, and such sums as necessary for each of the four succeeding fiscal years.

Section 204—Definitions

1. Defines the following terms: elementary school, eligible recipient, nonprofit, preservice education, and secondary school.

Section 205—Reservation and Allotment of Funds

1. Allows the Secretary of Education to reserve up to 20% of the appropriated funds for national programs under section 210.

2. Provides that the Secretary reserve from the remainder amount .5% for projects and activities in Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands; and .5% for section 206 activities to benefit schools supported by the Department of the Interior which serve Indian children.

3. Provides that funds reserved for the islands be distributed according to need as determined by the Secretary.

4. Remaining funds shall be distributed to States according to the relative number of school-aged children.

5. Provides that the Secretary may reallot funds among the States if a State does not submit an application or indicates that it cannot use all the funds available to it.

6. Provides that the Secretary may reallot funds to other states (but not Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands) on a competitive basis.

Section 206—Programs for Indian Children

1. Provides that funds allotted to the Department of the Interior be used to support inservice education for teachers; provide scholarships for teachers and administrators for additional training; establish cooperative exchange programs between schools and public and private employers to enhance the effectiveness of teachers and administrators in those schools; or other activities consistent with the purposes of this title.

2. The Secretary of the Interior shall provide such information as is reasonably required to carry out the Secretary of Education's responsibilities under this title.

Section 207—State Application

1. Lays out the requirements for state applications. Each State application shall cover 3 fiscal years; be submitted at the time and in the manner specified by the Secretary.

2. The application will also contain information including assurances that the State educational agency will be responsible for:

Supervision and fiscal control of the program;

Continuing administrative direction and control by a public agency of funds used for private nonprofit elementary and secondary school;

Distributing at least 90% of funds on a competitive basis;

Using no more than 5% of the State's allotment for State administration;

and assurances that no portion of the funds will be used to improve preservice education or teacher education programs unless the State has met, with less than its full allotment, inservice education needs; retraining of teachers who wish to teach different subjects; programs to attract qualified persons from businesses and the profession to become teachers or school administrators; and inservice education for professors and instructors in teacher education programs.

3. The application will contain descriptions of priorities and goals the State has taken into account the needs of schools that desire to participate in projects under this title; the procedures the State will use to ensure that participation of a variety of eligible recipients; procedures and criteria the State will use to select local projects together with the methods they will use to conduct annual evaluations on how the agency did or did not meet the priorities or goals; how various agencies and organizations will be involved in developing State priorities; any project the State will carry out with the portion of its allotment not distributed to eligible recipients; and the procedures the States will use to ensure compliance with section 209.

4. Provides that each State application after the first must contain information on the preceding State application, including participation, and an evaluation of how well the projects accomplished the goals set forth.

Section 208—State and Local Projects

1. Provides that an eligible recipient shall submit an application to the State educational agency to carry out a local project under this section.

2. Requires that the State educational agency use the undistributed portion of its allotment for administration.

3. Provides that funds be used to support inservice education for teachers and school administrators, retrain teachers, improve teacher education programs with an emphasis on attracting minority applicants, develop exchange programs between professional personnel in education and other fields, and to support other activities consistent with this title.

4. Prohibits use of funds for improvement of teacher education programs unless other needs have already been met.

5. Specifies that priority be given to improving teaching in English, mathematics, the natural physical sciences, the social sciences, the humanities (including foreign languages), and other academic subjects.

6. Allows State agencies to require that participants remain a teacher or school administrator for a specified period of time or repay the cost of training.

7. Specifies that local projects be developed cooperatively with local educational agencies, private schools, higher educational institutions, cultural institutions, professional associations, private industry, and

other interested public and private agencies, organizations, or institutions.

Section 209—Participation of Private School Teachers and Administrators

1. Provides that participation will be consistent with enrollments in private nonprofit elementary and secondary schools in the area to be served by a local project.

2. To satisfy this requirement, the State educational agency shall consult with private nonprofit school representatives during the design and development of the project to determine needs and interests, and then provide benefits in such schools accordingly.

3. Prohibits use of funds for religious worship, proselytization, or activity of a school or department of divinity; provide for improvement of religious instruction, or provide benefits to teachers or school administrators in institutions that are denied tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1954.

Section 210—National Programs

1. Provides that the Secretary may use funds reserved under section 205(a) for research, development, evaluation, demonstration, dissemination, and data collection activities which are of national significance and are consistent with the purposes of this title through grants, cooperative agreements, or contracts.

2. Specifies the activities the Secretary shall carry out, including:

Developing centers and summer institutes for teachers and school administrators;

Awarding scholarships or fellowships for additional education;

Developing exchange programs in which outstanding teachers or school administrators from one school district or State are temporarily assigned to another school district or State;

Developing model programs for personnel exchange between educational institutions and private industry;

Making awards for the development and testing of teacher education programs;

Recognizing teachers and school administrators for their excellent performance by supporting opportunities for further study or to write or conduct research;

Awarding Presidential teacher internships to persons in other professions and recent graduates who lack coursework in education but would like to teach;

Collecting and disseminating information about exemplary inservice teacher education programs, teacher shortages and surpluses, and teacher qualifications;

Supporting research on teaching and improving preservice and inservice education;

Developing model programs for preservice and inservice training designed to provide teachers with the skills needed to maintain an orderly classroom environment conducive to learning; and

Supporting other activities that are consistent with the purposes of this Act.

3. The Secretary must carry out the activities described above prior to initiating additional activities.

4. Allows the Secretary to require that participants remain a teacher or school administrator for a specified period of time or repay the cost of training.

5. The Secretary shall disseminate summary results of exemplary programs.

Section 211—Use of Funds

1. Specifies that Federal funds made available to a State or local educational agency under this title be used to supplement and in no case to supplant non-Federal funds.

2. No Federal funds under this title may be used to benefit teachers or school administrators in private, for-profit schools.

[From the Wall Street Journal, Sept. 17, 1987]

A SIX-SYLLABLE WORD

In an important speech last week, Secretary of Education William J. Bennett Placed squarely on the table a six-syllable word most politicians don't much care for—accountability.

"Accountability," he said in a speech directed at presidential candidates of both parties, "the giving and taking of responsibility for results, is the linchpin, the keystone, the sine qua non of the reform movement" in American education. Yet there is still too little accountability for what goes on in the schools, Mr. Bennett said.

"In general," the eduaction secretary argued, "if you do something good to or for a group of students, nothing happens to you or for you. Likewise, if you do something bad to or for a group of students, again, in general, nothing happens to you or for you." Mr. Bennett has for some time been arguing for a system that gives rewards to teachers, principals and school systems that show exceptional progress in educating the young.

At their debate last Friday in Chapel Hill, N.C., the Democratic presidential hopefuls responded. Al Gore Jr. said he would have Mr. Bennett fired, Bruce Babbitt said the education secretary was conducting a "witch hunt" against teachers' unions. All seven contenders committed to spending more money, Another $4 billion, said Mr. Biden. Another $12 billion, said Mr. Gephardt.

Ever since the NEA got out the vote for Jimmy Carter's successful campaign in 1976, a sine qua non of Democratic politics has been staying on the right side of the teachers' unions, which means shouting for more federal spending on education. But between 1960 and 1980, per-pupil outlays more than doubled in constant dollars, while average SAT scores were declining 85 points. This year some $300 billion in federal, state, local and private spending will be devoted to education, more than to defense. Today the U.S. spends more per capita on education than any other nation in the world. What most people who pay tax money into U.S. school systems are looking for now is a better return on their investment.

It shouldn't surprise anyone that politicians running for federal office would mainly issue calls for more spending, since spending is mainly what federal politicans do. Nor is it surprising that much of the actual classroom-based progress being made to improve school performance is the work of the nation's governors. So far, they've shown a much better understanding of the need for accountability in education, and of linking rewards (or sanctions) with results.

Three states cited by Mr. Bennett in his speech last week have developed model programs for accountability. One in Indiana was passed by the state legislature over the objection of the Indiana Teachers' Association. It includes a performance/based school accreditation system, performance-based rewards for schools, and testing for children at certain grade levels.

In Ohio, a program still under consideration by the state legislature would require testing at certain grade levels and permit parents to compare school districts on the basis of test scores. In New Jersey, Governor Tom Kean rejected provisions in a proposed reform program that would have allowed administrators and principals in failed school districts to hold onto their full tenure rights.

The botton line, as spelled out earlier this year in a report by the National Governors Association, is that if "someone has to pay a penalty for continued failure . . . it should not be the students." It's much more likely that improvements in school performance will begin to emerge when teachers, principals and administrators know that they will be held accountable for performance—that they will be censured for failure, and rewarded for success. Incentives are as appropriate in education as in any other field.

It should be added that education isn't a one-way process. No one has yet come up with a magic formula any teacher can use to turn out accomplished students. Learning also requires a substained sense of initiative and personal responsibility by the students themselves. But if teachers and administrators are held accountable for their work, as Mr. Bennett suggests, they will begin to demand more and expect more of their students. The students will repsond. And U.S. education will benefit.●

PLAZA MEDICAL ASSISTS ABDUL GHAFFAR

● Mr. LAUTENBERG. Mr. President, I would like to bring to my colleagues' attention the services that Plaza Medical in Camden, NJ provided to Abdul Ghaffar, an Afghan resistance fighter who was in dire need of medical attention that was unavailable in Afghanistan or Pakistan.

Plaza Medical participated in the Intergovernmental Committee for Migration's Afghan Relief project so that Abdul Ghaffar was able to receive necessary medical treatment for a gunshot wound he received 4 years ago in his leg. Plaza Medical recognized that it was in a position to provide extremely valuable services to Abdul while he recovered from his surgery and offered to help. Thanks to the services Plaza Medical provided along with Cooper Hospital, Abdul rapidly recovered from his surgery, and is now able to return to his family and friends in Afghanistan.

A number of extremely dedicated individuals at Plaza Medical worked hard to facilitate Abdul's medical care while he was in New Jersey. I understand that Craig Koff, Administrator; Pat Melcher, R.N. and her nursing staff; Marion Flocco, dietician and her staff; Lisa Gwin, physical therapist; Michelle Strittmatter, therapeutic recreationist; and Frances Rodriguez, social services; were particularly instrumental in ensuring that Abdul received quality care and necessary attention.

Mr. President, Plaza Medical provided an important service to Abdul Ghaffar. I commend them for cooperating with Cooper Hospital to provide the necessary medical treatment that Abdul desperately needed.●

CRANE ARMY AMMUNITION ACTIVITY

● Mr. LUGAR. Mr. President, today marks the 10th anniversary of the establishment of the Crane Army Ammunition Activity, located at the Naval Weapons Support Center in Crane, IN. As the Senate is meeting here today, a special ceremony is being held at Crane to commemorate this milestone.

The Crane Army Ammunition Activity has been a critical component of our nation's defense readiness. Its mission includes: production and renovation of conventional ammunition and related components; manufacturing, industrial engineering, and product assurance; storing and shipping of conventional ammunition and related items; preparing for mobilization in all areas of conventional ammunition, production, renovation, shipping, receiving, disposal and demilitarization.

The Crane Army Ammunition Activity has earned an outstanding reputation for quality of performance. It is a highly dependable government facility for our Armed Forces. The work force has proven that it can respond timely and efficiently. Hoosiers employed at Crane are pleased to have the opportunity to contribute to the defense of our country. Many years of service to the United States are reflected in the lives of the present and former employees.

I would also like to pay special tribute to those persons from all Crane facilities who have died during their official duties. Their deaths in preparing our military for combat is no less noble than those killed in conditions of war. Those who have died on duty, and all Crane employees, have shown great commitment to the United States. For this service and dedication, we are proud and grateful.

Those who have died in service since 1942 at all Crane government operations are: Bud Hamilton, Adam Yost, Adolph Seipel, Claude Collins, Roy Callahan, Henry Lottes, Carl Pruett, Carol Davis, Charles Gardner, Juanita Roach, James Wraley, David Stoner, Clarence Butler, Billy Leach, Leo Buckingham, Hohn Cliver, Reina Bruner, Pat Bowling, Betty Byrer, Don Jerger, and Tom Patterson.●

REVISED 302 ALLOCATIONS

● Mr. CHILES. Mr. President, pursuant to section 9 of the concurrent resolution on the budget—fiscal year 1988, I ask that this letter, with attachment, be printed in the RECORD.

The letter follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, October 1, 1987.

Hon. GEORGE BUSH,
President of the Senate,
U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: The Committee on Appropriations has recently voted to report out legislation in compliance with section 9 of the Budget Resolution dealing with the Welfare Reform initiative. This legislation addresses the areas specified in the Budget Resolution and does not exceed the funding constraints found in section 9. Consequently, pursuant to section 9 of the Budget Resolution, I am submitting to the Senate today revised allocations under section 302(a) for the Committee on Appropriations, appropriately revised to accommodate this initiative. Pursuant to the Budget Resolution, these allocations should be deemed for all purposes to replace those submitted on June 24.

Sincerely,
LAWTON CHILES.

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT FOR 1988

[In millions of dollars]

Committees	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	586,140	593,475	0	0
Agriculture, Nutrition and Forestry	26,285	28,919	(18,723)	4,425
Armed Services	44,256	30,359	161	161
Banking, Housing, and Urban Affairs	6,567	3,639	0	0
Commerce, Science, and Transportation	1,933	150	393	393
Energy and Natural Resources	1,302	875	28	28
Environment and Public Works	14,839	777	6	6
Finance	602,543	547,088	57,614	57,650
Foreign Relations	7,304	7,247	0	0
Governmental Affairs	63,684	40,136	0	0
Judiciary	1,701	786	98	98
Labor and Human Resoruces	3,184	2,546	4,038	4,611
Rules and Administration	82	262	0	0
Small Business	43	0	0	0
Veterans' Affairs	1,558	1,234	15,235	15,244
Select Indian Affairs	531	413	0	0
Not allocated to committees	(−208,750)	(−217,106)	0	0
Total, budget	1,153,200	1,040,800	58,850	82,616 ●

INFORMED CONSENT: NEW JERSEY

● Mr. HUMPHREY. Mr. President, informed consent is a necessary ingredient to proper health care, and is required in virtually all medical procedures. However, in the case of abortion, the requirement for informed consent is often ignored. What this has meant is that women all across America are suffering negative consequences from their abortions, consequences they were never told might result.

I urge my colleagues to support my informed consent bills, S. 272 and S. 273, and end this injustice toward women. Women contemplating abortion should not be denied the right to know the details of this medical procedure which cannot be undone. I ask unanimous consent that the following letters, sent to my office from two New Jersey women, be entered into the RECORD. They clearly demonstrate the need for informed consent.

The letters follow:

FEBRUARY 5, 1987.

DEAR SENATOR HUMPHREY: I am writing to tell you that I had an abortion when I was 21 years old. If this will help even one person from getting an abortion then I praise God that I can help.

I was in nursing school and would have been asked to leave if anyone found out that I was pregnant. So I found a clinic that offered abortion services and went there. Shortly after arriving they did a pregnancy test that turned out positive. I was then taken into an examination room, put on a table and given a suction abortion.

No one said anything to me at all this time even though I was crying. The nurse patted me on the shoulder and gave me a tissue.

When the doctor was finished he told me to rest a few minutes and left the room to dispose of the contents of a paper cup.

After I was dressed he gave me some instructions about what to expect for as far as bleeding went and that was it.

Not once did anyone mention the emotional agony that I would go through. No one even tried to explain the pros and cons to give me a better view of what I was doing.

I hope that this will help you in your efforts.

Sincerely in Christ,
DEBRA NICOLOSI.

NEW JERSEY.

FEBRUARY 12, 1987.

DEAR SENATOR HUMPHREY: I read an article in Concerned Women of America magazine about abortion. The article asked if there were any women who had had an abortion without adequate counseling to write in hope to help other women who might be considering having one.

Let me just say that no one ever told me what exactly would happen to the unborn fetus. The abortion clinic nor the doctor I went to first that recommended having it and where. I felt and still do at times feel like a murderer even though I have asked the lord to forgive me and I know he did. The mental memories you have to live with are horrifying in the least. You don't even know if it would have been a boy or a girl and you can't stop thinking about it or what you did. Everytime someone mentions the word abortion or baby you relive it over again like a nightmare that won't go away. You even think God will punish you and not ever be able to get pregnant again.

Please allow counseling for women who are thinking about abortion before they have to suffer all their lives like me; or land up in a mental ward or worse.

Sincerely,
MRS. W. LANDRY.

NEW JERSEY.●

BUDGET SCOREKEEPING

● Mr. CHILES. Mr. President, I submit the following letter for the RECORD.

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, October 1, 1987.

Hon. JOHN C. STENNIS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to inform you of a revision in scorekeeping by the Committee on the Budget in connection with the effects on fiscal year 1988 of H.R. 1827, making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes, Pub. L. No. 100-71 (July 11, 1987). Through reexamination of the treatment of mandatory and discretionary components of H.R. 1827 and other components of the 302(a) allocation to the Committee on Appropriations, we have determined that an adjustment of the accounting under section 302(a) of the Congressional Budget Act of 1974 is called for, having the effect of increasing discretionary spending available to the Committee on Appropriations by the amounts of $68 million in budget authority and $504 million in outlays.

It is of course the prerogative of the Committee on Appropriations to allocate this spending among its subcommittees and make appropriate accounting adjustments in their 302(b) spending levels.

Sincerely,

LAWTON CHILES,
Chairman.●

THE NOMINATION OF JUDGE ROBERT BORK TO THE U.S. SUPREME COURT

● Mr. GLENN. Mr. President, the Senate has a constitutional role in approving or disapproving Judge Robert Bork to the Supreme Court. This particular appointment is undoubtedly one of the most important Senate confirmations we will have for a long time.

In assessing Judge Bork's nomination, my vote in the Senate must be decided on what I believe are the best interests of the Nation and the State of Ohio.

Having now made those judgments, I must in good conscience oppose the Bork nomination.

On a number of specific concerns, I do not believe Judge Bork's views reflect the feelings and values of most Americans and Ohioans. For example:

Individual rights: A primary role of the Supreme Court is to actively protect the fundamental rights of all Americans. In Judge Bork's view, the Court is limited to the exact wording of the Constitution in defending individual liberties, nothing more, nothing less. But in some cases, it is uncertain what the framer's intent was, or might be, in light of changing customs, morals, mores, and ethics now generally accepted by most Americans.

Civil rights: The legislation passed in the 1960's to guarantee the rights of black Americans was a long overdue remedy to decades of slavery and oppression. In Judge Bork's view, the legislation constituted "an extraordinary incursion into individual freedom." While black Americans were fighting for the right to sit at lunch counters and to stay in hotels with white Americans, Judge Bork was criticizing the Public Accommodations Civil Rights Act of 1964. Bork publicly stated his opposition to the Civil Rights law which opened public accommodations to people of all colors, implying this would infringe upon the rights of those who would discriminate to choose their own morality.

Women's rights: The courts have an important role to play in protecting women against discrimination. In Judge Bork's view, cases of sex discrimination should not receive heightened scrutiny under the equal protection clause of the 14th amendment. Consider how much worse off our mothers, wives, sisters, and daughters would be if Judge Bork's views had prevailed.

Privacy: Bork has stated that a right of privacy is not derived from constitutional materials. Specifically, Bork disagrees with the Supreme Court's decision on Griswold versus Connecticut, in which the Court found a right to privacy in the context of a married couple's use of contraceptives. Clearly this view jeopardizes all subsequent Supreme Court rulings predicated upon a privacy right, such as the right to choose to have an abortion (Roe versus Wade), and the right to be free from involuntary sterilization by the state (Skinner versus Oklahoma).

Congressional Access to Courts: Bork has ruled that Members of Congress have no standing to sue the executive branch in court. Under his view, Congress as an entity could not challenge the constitutionality of the executive branch's actions in the Iran-Contra affair; nor could individual Members have challenged the constitutionality of the Gramm-Rudman Act.

"One man, one vote": Bork opposes this Supreme Court ruling, stating that the principle runs counter to the text of the Fourteenth Amendment. Consistently, Bork opposed the Supreme Court's decision upholding the authority of Congress to curb the use of literacy tests in order to protect the right to vote.

The promise and the greatness of the American dream has always rested on the high premium we place on the rights of the individual. We're not the only country in the world to use "majority rule," but no other Constitution protects the fundamental human rights of individuals the way ours does. In protecting these rights, the Supreme Court has become the historic guardian of individual liberty.

But Judge Bork, for example, would have allowed States to ban contraceptives, to require voters to pay a poll tax, to enforce restrictive covenants, to outlaw abortion, and to sterilize prison inmates against their will, among other things.

While the above is only a partial review of the record, I don't believe that most Americans and Ohioans will see Judge Bork's views as falling within the mainstream of American judicial and legal thought that they want for their children and America's future.

I therefore urge my Senate colleagues to join me in rejecting his nomination.●

THE HELMS AMENDMENT TO REPEAL THE DC INSURANCE LAW

● Mr. KENNEDY. Mr. President, yesterday's vote on the amendment proposed by Senator HELMS to the Appropriation Act for the District of Columbia concerns me greatly. This amendment allows for the repeal of a law passed by the District which imposes a 5-year moratorium on the use of the HIV antibody test by health and life insurers. Such action compels me to respond.

Under the principle of home rule, the District of Columbia has the right to legislate its own insurance regulations. Although the Home Rule Act does allow for congressional oversight of District laws, it must act within 30 days. More than a year has passed. Though Senator HELMS has put this question before the Senate before, this measure has not made it through Congress. Either there is home rule or there is not. I object strongly to this action at this late date. For Congress to have acted now makes a mockery of home rule.

I am also opposed to this amendment on the merits. The AIDS crisis demands immediate attention. We must do everything within our power to help stop the spread of this deadly virus. We must reach out with compassion and care to those who have been exposed to the virus or stricken by the disease. The public and private sector must work together to find a way to provide health services for the growing AIDS population. It is estimated that the direct cost of health care for people with AIDS will swell to $16 billion or more by 1991. Abandonment by insurers of people infected with the AIDS virus is not an adequate or acceptable response.

The District of Columbia has tried to deal wisely and compassionately with one of the most complex issues involving AIDS, and the Congress should not have overridden that decision.●

NAUM MEIMAN

● Mr. SIMON. Mr. President, in recent months our perceptions of the Soviet Union have undergone rapid change. Glasnost has inspired a new openness in many areas of Soviet policy. This is to be commended. For me a particularly encouraging step has been the release of several longstanding refuseniks.

It is, however, only a step. Many more steps must be taken. For every refusenik released many more remain behind. Among them is my good friend, Naum Meiman.

If further progress is to be made, the recent releases cannot be taken for granted. Glasnost is not an irreversible process, as recent criticisms by two senior Politburo conservatives have shown. Constant pressure for the release of Naum, and others like him, must be maintained.

For this reason, I call, once again, for the immediate release of Naum Meiman to freedom in the West.●

ECONOMIC EXPANSION IN 59TH MONTH

● Mr. DANFORTH. Mr. President, today marks the beginning of the 59th month of economic expansion for the U.S. economy. The strength and resilience of the economy continue to surprise and, in some cases, to confound the observers. The facts speak for themselves: the longest peacetime expansion on record; the third longest expansion on record, surpassed only by two periods of wartime stimulus; the creation of more than 13.5 million jobs; the lowest jobless level since 1979; significant gains in median family income and the net worth of American households; inflation that is down dramatically from the ruinous levels of the 1970's.

Let me state my belief that continuation of this economic growth, and its distribution to all parts of the nation and all sectors of the economy, demand a decision by Congress to meet the deficit reduction targets we have promised to meet, and to focus our efforts first on spending, and not on new taxes.

I ask that the New York Times article of today's date, entitled "Economic Expansion in U.S. Continues Into a 59th Month," be printed in the RECORD.

ECONOMIC EXPANSION IN UNITED STATES CONTINUES INTO A 59TH MONTH

(By Robert Pear)

WASHINGTON, Sept. 30.—The United States enters its 59th consecutive month of economic growth on Thursday, marking the third-longest expansion of the economy since monthly records were first kept in 1854.

The duration of the current expansion has confounded liberal skeptics, surprised some conservative ideologues and handed Republican candidates a political issue they can use to advantage in elections for the White House and Congress next year.

Since the economy began to pull out of the last recession in November 1982, the nation has created more than 13.5 million jobs. The unemployment rate fell in July to its lowest level since 1979 as employment surged, even in manufacturing, and the rate remained at the same level, 5.9 percent, in August.

Median family income, after adjustment for inflation, rose last year for the fourth consecutive year, according to the Census Bureau. Despite fears about the revival of inflation, the stock market continues strong. The Congressional Budget Office estimates that the net worth of American households has increased 39 percent since late 1982, thanks to increases in the value of stocks, homes and other assets.

And the outlook remains bright. The Government yesterday reported an increase of six-tenths of 1 percent for August in its index of leading economic indicators, which predicts trends three to six months in advance. It was the seventh consecutive rise for the Government's main barometer of economic activity. [Page D1.]

GET OUT OF THE WAY

President Reagan says the sustained growth of the economy results, in large part, from his market-oriented policies: his successful campaign to reduce individual income tax rates and Federal regulation while shifting assets and programs from Government to private industry. Others say increased spending, particularly for a military buildup, sustained the growth.

Mr. Reagan said Tuesday that he had helped set off a global "revolution in economic thinking" based on this precept: "The best thing government can do is get out of the way. And that's just what we've tried to do."

The extent of the Reagan Administration's role, though, is a matter of debate. The length of the current expansion also fits into a long-term trend. Geoffrey H. Moore, director of the Center for International Business Cycle Research at Columbia University, said, "The periods of business expansion have become longer and the periods of recession shorter."

"Service industries like banking and insurance have become much more important as a source of employment, and they are less affected by business cycles than the goods-producing industries like manufacturing," he said in an interview. "Typically the service industries don't carry inventories. You can't stock a service. So the service industries have to produce rather steadily and continuously to meet demand.

Only two economic expansions were longer than the current one, and both occurred in wartime. One lasted 106 months, from February 1961 to December 1969, driven in good part by the impact of the Vietnam War. The other ran 80 months through World War II from June 1938 to February 1945.

Economists said these factors had contributed to the unusual duration of the current economic growth:

A huge infusion of foreign investment has made it possible for American businesses to get the money they need to expand production even as the Government borrows more and more to finance its budget deficits.

Consumer spending has outpaced the growth in personal income and fueled demand for goods and services. Drawing on their personal savings and taking on debt to make purchase, consumers pushed the personal saving rate to its lowest level since 1949.

Members of the baby boom generation who surged into the labor force in the 1970's have gained experience in their jobs and have presumably become more productive, according to Gordon W. Green Jr., assistant chief of the population division of the Census Bureau. In addition, the educational level of American workers continues to rise, even though employers say it is not high enough.

The sharp reduction in inflation, from 12.4 percent in 1980 to 1.1 percent last year, stabilized the economy and restored confidence in its future performance. And tax cuts in 1981 and 1984 apparently stimulated investment, as Mr. Reagan intended.

President Reagan's military buildup created jobs, partly offsetting the long-term loss of jobs in manufacturing. From 1980 to 1985, the number of people holding jobs related to military contracting grew by 45 percent, to a total of 3.2 million, according to a study by the Commerce and Labor Departments.

And military spending rose from $157.5 billion in the fiscal year 1981 to $273.4 billion in 1986. Military outlays accounted for 5.3 percent of the gross national product in 1981 and 6.6 percent in 1986, a slightly higher proportion than in the last year of the Vietnam War.

Lester C. Thurow, dean of the Sloan School of Management at the Massachusetts Institute of Technology, said the growth of the economy tended to confirm the ideas of John Maynard Keynes. "In 1982, we gave the economy a tremendous dose of Keynesian medicine," Mr. Thurow said in an interview. "If you reduce taxes and increase defense spending, it stimulates demand."

IMPACT OF OIL SHOCK

The previous record for the longest peacetime expansion was 58 months, from March 1975 to January 1980, following a serious recession that had been exacerbated by the oil crisis.

Some of the same factors that helped fuel the growth of the last five years have also stirred concern.

C. Fred Bergsten, a Treasury official in the Carter Administration who now serves as director of the Institute for International Economics, a private research center here, said, "We now know the miracle of supply-side economics: Foreigners supplied many of the goods and most of the money."

FUNDS FROM ABROAD

The net inflow of funds from foreign countries totaled $117.4 billion last year and $203.7 billion in the period from 1982 through 1986, according to data compiled by the Commerce Department. Some of the foreign money was lent directly to the United States Government through purchases of Treasury securities. Some was invested in corporate stocks and bonds.

Foreign holdings of such bonds, which reflect borrowing by American corporations in foreign markets, soared to $142 billion last year, from $32.8 billion in 1984, according to the Commerce Department. Foreign investors' spending to acquire or establish businesses in the United States reached a record $31.5 billion last year, double the figure for 1984.

Payment of interest and dividends to foreigners will be a major expense in future years, economists say.

"The combination of the dollar's decline and the massive net U.S. obligations to foreigners will reduce the overall rate of growth of the American standard of living," said Martin Feldstein, a professor of economics at Harvard who served as chairman of Mr. Reagan's Council of Economic Advisers from 1982 to 1984. "In the future, we as a nation will have to give up some of each year's production to service our public and private debts to the rest of the world."

THE SHADOW OF THE DEFICIT

The Federal budget deficit reached a record $220.7 billion in the fiscal year ended Sept. 30, 1986, a record. The budget deficit and the United States trade deficit are closely linked.

Beryl W. Sprinkel, the departing chairman of the Council of Economic Advisers, said the trade deficit "reflects the fact that, as a nation, we are spending more than we are producing and importing the difference." Budget deficits, he said, account for "a substantial portion of this excess of expenditure over income."

In a speech Tuesday at the annual meetings of the World Bank and the International Monetary Fund, Mr. Reagan acknowledged that the United States' record trade deficit was "of justifiable concern." But he said that unemployment in this country had declined dramatically since late 1982, even though the trade deficit had soared. By contrast, he said, in Japan and West Germany, which have large trade surpluses, unemployment has increased.

Mr. Reagan sometimes portrays his economic record as a continuous, glittering success story. But economic growth has been much slower in recent years than in the first year and a half of the expansion.

Prof. Victor Zarnowitz of the University of Chicago, an expert on business cycles, said, "From mid-1984 to date, the average annual rate of growth has been less than the post-war trend of 3.3 percent a year from 1948 to 1975." The economy grew at a rate of 7 percent a year from late 1982 to the middle of 1984. Since then, growth has averaged less than 3 percent a year.

A SHIFT IN SPENDING

Mr. Sprinkel, acknowledged that economic growth was "weaker than expected" in 1985 and 1986. The main reason, he said, is that there was "a shift in domestic spending away from domestically produced goods to imports."

Jerry J. Jasinowksi, chief economist for the National Association of Manufacturers, however, said that the sluggish growth of the economy in the last two years had, in a curious way, prolonged the expansion.

"Slow growth," he said, "has provided more economic stability and has prevented inflation from accelerating in such a way that the Federal Reserve would have to tighten monetary policy and bring on the risk of a recession."

COMMEMORATING THE 100TH ANNIVERSARY OF THE GARLOCK PACKING CO.

● Mr. D'AMATO. Mr. President, I rise today to commemorate the 100th anniversary of the Garlock Packing Co. Garlock, a division of Colt Industries, has a tradition of excellence and a past to be proud of.

In 1887, Olin J. Garlock, an industrious 26-year-old equipped with a new U.S. patent opened the Garlock Packing Co. near Rochester, NY. Garlock's ingenius idea for manufacturing large quantities of packing for steam engines proved successful and the company grew at an amazing rate.

The Garlock Packing Co. has come across many milestones during one century of growth. Joining with Colt Industries in 1976 gave Garlock the extra strength needed to lead the industry into a new era in the 1980's. Garlock made history with its research and development of nonasbestos products and today is known for the best there is in the sealing industry. Their gasketing and packing is used by most industries in the United States and around the world.

In spite of Garlock's world wide success, the company has not forgotten its humble beginnings and has contributed to the improved economics of the town of Palmyra and the surrounding towns and boroughs in Wayne County. By providing new jobs and industry, Garlock has made Palmyra known for more than just a charming small town.

I am pleased to wish the Garlock Packing Co. a happy 100th birthday and wish them all the success in the years to come.●

THE SOVIET REFUSENIK YOM KIPPUR HUNGER STRIKE

● Mr. D'AMATO. Mr. President, I rise today to call to the attention of my colleagues and of all Americans a hunger strike and demonstration being staged simultaneously in Leningrad, Moscow, and Washington. This hunger strike and demonstration is staged on behalf of the Soviet refuseniks Alexander Zapesochny, Eugene Gilbo, Irina Alievskaya, Lev Shapiro, and all others who are separated from their families as a result of Soviet oppression.

I was invited to attend the Washington demonstration by its organizers, but because the Senate was in session and voting, I was unable to accept their invitation. Instead, I sent a message to be read at the demonstration they held at the Soviet Embassy.

I ask that that statement appear in the RECORD.

At their demonstration, the organizers intend to read a statement appealing to the Soviet officials for the release of Alexander, Lev, Eugene, and Irina. This heartfelt appeal deserves the attention of my colleagues. I ask that it appear in the RECORD.

In closing, I commend everyone who had a hand in organizing or participating in this activity. It is important that the American people never forget the fact that the Soviets are not keeping their human rights promises and that families are divided and good people are suffering because of it. Activities such as this demonstration and hunger strike are necessary in order to keep the cause of Soviet Jewry and the plight of people denied their human rights in the forefront of our consciousness and our concerns.

Thank you, Mr. President.

U.S. SENATE,
Washington, DC, October 1, 1987.

Message to All Participants in the Soviet Refusenik Yom Kippur Hunger Strike Demonstration.

DEAR FRIENDS: While Senate business prevents me from being with you in person today, rest assured that you have my strong and enthusiastic support as we struggle to achieve Soviet compliance with their international human rights obligations.

The plight of Soviet Jewry compels our concern and our personal involvement. We must act, as you are acting today, to make certain that the Gorbachev's press agentry—the glamour of "glasnost"—does not obscure the suffering of those like Alexander Zapesochny, Eugene Gilbo, Lev Shapiro, Igor Smirnov, and Irina Alievskaya who are still denied the right to leave the Soviet Union.

We have heard many promising words from Mikhail Gorbachev. There have even been some actions. But Soviet actions lag far behind Soviet promises.

It is time and past time for Soviet actions to catch up with Soviet words. If this does not happen soon, we will be bound to conclude that glasnost is all glamour and no reality, that it is a propaganda Potemkin Village intended to fool the West into a new detente.

I commend Rabbi Judea Miller and Sandy Gradinger, two residents of Rochester, New York, for their outstanding efforts in organizing this demonstration and the hunger strike.

I stand with you in support of the human rights guaranteed by the Helsinki Final Act and the International Declaration on Human Rights. I stand with you as we seek the release from the Soviet Union of Alexander, Eugene, Lev, Igor, Irina, and all the others who want to exercise their right to be reunited with their families, a right whose denial is particularly cruel during the holidays.

Sincerely,

ALFONSE D'AMATO,
U.S. Senator.

THE SOVIET REFUSENIK YOM KIPPUR HUNGER STRIKE

Yom Kippur is the holiest day for the Jewish People.

It is one this day that we set our personal resolutions for the coming year. . . . promises that we make for the betterment of ourselves and others.

We who stand together today in Washington, Leningrad and Moscow, do resolve and promise that for the coming year we will fight relentlessly for the Human Rights and Family Unification addressed in the Helsinki Final Act and the International Declaration of Human Rights to which the Soviet Union is a signatory.

Furthermore, we resolve to join together on the eve of this Day of Atonement, a fast day, to initiate a hunger strike, Demonstrating our determination in this effort. We promise to continue to question General Secretary Gorbachev who has professed a policy of Glasnost and openness to us.

We ask; What is Glasnost when refuseniks still are being denied visas to emigrate to the West to join their families?

We ask; What is Glasnost if holidays can not be shared between family members?

We ask; What is Glasnost if we have to use Hunger Strikes and other visible demonstrations to make the world aware of the plight of Soviet Jewry?

Through the efforts of Rabbi Judea Miller and Sandy Gradinger, two members of the Rochester N.Y. community, who have recently returned from the Soviet Union and visited the homes of Refuseniks Alexander Zapesochny, Eugene Gilbo, Lev Shapiro, Irina Alievskaya and Igor Smirnov, We have a first hand account of the sorrow and distress of living separately from family members. Rabbi Miller and Mr. Gradinger also had an opportunity to share the concerns of divided families with Soviet Dissident Andrai Sakharov.

The Joint Hunger Strike, we begin today is to protest the separation of all Soviet Refuseniks and their families in the West: a protest against forcefully and willfully dividing families.

Through our Yom Kippur fast and this symbolic Hunger Strike we stand in solidarity protesting divided families.●

APPROPRIATIONS BILLS

Mr. BYRD. Mr. President, yesterday we completed action on three more appropriations bills, Interior, D.C., and legislative branch. That is a considerable achievement, and one that would not have been possible without the able assistance and cooperation of the managers of those bills.

The managers of the Interior bill, Senators JOHNSTON and MCCLURE, carried out their task with efficiency and dispatch. We began consideration of the bill Tuesday evening and completed work on it with the rollcall vote on final passage early yesterday morning. That would not have been possible without the talented assistance of the professional staff of both the majority, particularly Charlie Estees and Don Knowles, and the minority, Jeff Celik.

Likewise, the managers of the District of Columbia bill, Senators HARKIN and NICKLES, were able to complete action on that bill within the space of a few hours yesterday. While not large in terms of dollars, that bill nonetheless contains important programs and the managers, with the assistance of majority staff Tim Leeth and minority staff Keith Kennedy, fulfilled their responsibilities in a most capable manner.

The fourth regular appropriations bill passed by the Senate this year, legislative branch, was managed by Senators BUMPERS and GRASSLEY with their usual combination of hard work, attention to detail and, perseverance. Dealing with appropriations for the Congress and the issues involved in it is never easy. Yet the managers and their staff, Tim Leeth for the majority and Keith Kennedy for the minority, successfully traversed the minefield and completed action on that bill within a few hours.

Mr. President, the managers of these three bills and their staff, deserve the thanks of all Senators. All were prepared to come to the floor and manage their bills on short notice. That requires a degree of preparedness on the part of managers and staff that reveals both skill and professionalism. The Senate is indeed fortunate to have these Senators and staff willing and able to perform these important duties.

The Senate has now passed four regular appropriations bills for fiscal year 1988, which begins today. Two other bills are on the calendar, energy and water, and Commerce, State, Justice, and available for action. The Appropriations Committee, under the leadership of Senators STENNIS and HATFIELD, are proceeding at full speed to report the remaining bills that have been received from the House. My goal is to have the Senate act on all House-passed bills as soon as possible so that conferences may convene and bills sent to the White House.

As my colleagues will recall, no regular appropriations bill was enacted last year. I intend to do all I can to see that the President receives as many appropriations bills as possible this year. I want to thank the Republican leader for his assistance in this regard and all my colleagues for their cooperation in achieving this goal.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued the consideration of the bill (S. 1174).

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:15 tomorrow morning; provided further that upon the conclusion of the two orders for the leaders, which would be reduced on tomorrow morning to 5 minutes each, the Senate, at no later than 9 o'clock, return to the consideration of the unfinished business, the DOD authorization bill, that the Dole-Warner amendment dealing with SALT II compliance be placed before the Senate at 9 o'clock tomorrow, that there be 30 minutes thereon to be equally divided between Mr. NUNN and the offerers of the amendment, and that upon the expiration of the 30 minutes, to wit, 9:30, the Senate proceed to vote on the Dole-Warner amendment without amendment.

Mr. WARNER. Up or down.

Mr. BYRD. On means up or down.

Provided further that upon the disposition of the Dole-Warner amendment, the Senate proceed to the further consideration of the Bumpers amendment, No. 825, that there be 30 minutes thereon, 20 minutes to be under the control of Mr. BUMPERS, 10 minutes to be under the control of Mr. WARNER, upon the expiration of which time or the yielding back thereof the Senate proceed without any intervening motion to vote on the Bumpers amendment without amendment thereto; provided further that on the disposition of the Bumpers amendment, the Senate proceed to third reading on S. 1174 and without any further intervening action or debate or motion the Senate proceed to the consideration of House bill H.R. 1748, that all after the enacting clause be stricken and that the language of the Senate bill S. 1174 be inserted in lieu thereof, that without any further debate or motion or amendment the Senate proceed to third reading, without any further intervening debate or motion the Senate proceed to passage of the bill, and that upon the motion to reconsider there be no time for debate; provided further that upon the disposition of the House bill, the Senate proceed to the consideration of the State Department authorization bill, which I already have authority to do after consulting with the distinguished Republican leader, and I have consulted with him; provided further that the language of the Weicker-Hatfield amendment be placed on the calendar in the form of a resolution and that the majority leader be authorized to move to that resolution, take it up after consultation with the distinguished Republican leader without debate and that it be made the pending business at any time.

Mr. NUNN and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. It is my understanding, Mr. President—and I am afraid the Senator from Arkansas has already left—that following the Dole-Warner amendment, we go to the Bumpers-Leahy amendment; 20 minutes has been reserved for the Senator from Arkansas. I ask the distinguished Senator from West Virginia if he would reserve 5 minutes to the Senator from Vermont out of the 20 minutes of the time allotted to the Senator from Arkansas under Bumpers-Leahy so it would still be 20 minutes, but it would be 15 minutes under his control, 5 minutes under mine. And I understand there is no problem with that with the Senator from Arkansas. If it turns out that I am wrong, I will immediately yield my 5 minutes to him.

Mr. BYRD. That is not wrong. That is absolutely preeminently correct, and I make that part of my request.

Mr. President, I modify my request to provide that prior to the third reading of S. 1174, the distinguished chairman and ranking members be allowed to offer their technical amendments and/or motions which are purely technical in nature, with no debate thereon except that a brief explanation not exceeding 5 minutes be accorded to the managers.

Mr. DOLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there any objection?

Mr. DOLE. Reserving the right to object.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, if there is no real problem, it has been called to my attention that there may be at least one Member on this side, maybe two, who would like to have a brief period for debate—not much, say, 25 minutes a side, 30 minutes a side; it may not take that long not to exceed 1 hour equally divided right before the final vote.

Mr. BYRD. All right. Does the distinguished Republican leader have reference to that debate occurring after third reading of the Senate bill or before passage of the House bill as amended by the Senate bill?

Mr. DOLE. That will be before the House bill.

Mr. BYRD. Mr. President, I add that to my request; that just prior to final passage of the House bill as amended by the text of the Senate language there be 1 hour of debate thereon to be equally divided between and controlled by Mr. Nunn and Mr. Warner.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

May I say before Senators leave, and let me reiterate that the amendment by Mr. Dole—I wonder if the distinguished Republican leader would have his amendment printed in the Record overnight.

AMENDMENT NO. 839

Mr. WARNER. Mr. President, I was going to ask to send the amendment to the desk by Mr. Dole and the Senator from Virginia and ask it be printed in the Record.

The PRESIDING OFFICER. The amendment will be printed.

The amendment is as follows:

At an appropriate place in the bill insert the following new section:

SEC. . SALT II COMPLIANCE AMENDMENT.

Notwithstanding any other provision of law, the United States shall not be obligated to abide by the provisions of the SALT II Treaty, in whole or in part, unless and until the following have occurred:

(a) The Senate has amended the Treaty so as to give it legal force if it were ratified;

(b) The Senate has given its advice and consent to the Treaty;

(c) The Union of Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned;

(d) Each party has ratified the Treaty in accordance with its own constitutional processes.

Mr. BYRD. Mr. President, I also ask unanimous consent that the pending amendments in the first and second degrees by Mr. Weicker and Mr. Hatfield be withdrawn, and that the pending amendment thereto by Mr. Byrd, Mr. Nunn, Mr. Bumpers, Mr. Sasser, and Mr. Adams be withdrawn, and permit me to say that in withdrawing that amendment that 54 Senators today expressed support for that amendment by voting against, by voting for the motion to invoke cloture thereon.

It is not our desire to delay further action on the DOD authorization bill. But there were 54 Senators who wanted to vote on that amendment. We could not invoke cloture by 54 votes but a clear majority of the Senate indicated their support for the Byrd amendment. I ask therefore that it be withdrawn.

Mr. President, I ask unanimous consent that the Byrd, Nunn et al amendment be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The test of the amendment follows:

Amendment No. 732

Strike all after subsection (a) of the amendment and insert in lieu thereof, the following:

(b) Congress expresses its support for:

(1) a continued US presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf;

(2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in this region; and

(3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a cease-fire as called for by United Nations Security Council Resolution 598, and take early action toward imposing sanctions on any party which refuses to accept a cease-fire.

(c)(1) The Congress determines that the circumstances in the Persian Gulf and the Gulf of Oman meet the conditions established in Section 4(a)(1) of the War Powers Resolution.

(2) Within thirty days after the date of enactment of this Act, the President shall submit a report to the Congress, in classified and unclassified form. The report shall provide a complete review of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are currently or were formerly registered under the flag of the United States. This report shall also include a discussion of the following—

(A) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(B) the anticipated duration of the operation;

(C) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(D) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(E) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(F) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(G) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(3) Within sixty days after the report required by paragraph (2) is submitted, or 90 days after the date of enactment of this Act, whichever is sooner, the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States armed forces to escort reregistered vessels in the Persian Gulf region, unless the Congress has enacted a law providing specific authorization for such use and registration.

(e)(1)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c)(3).

(B) For purposes of this subsection, the term "joint resolution" means only a joint resolution which authorizes escorting of reregistered vessels in the Persian Gulf or the registration of those vessels under United States law, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c)(2) is received by Congress.

(C) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate is in order and not debatable. Amendments to the joint resolution are in order under a two-hour time limitation for each amendment. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rule of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by one House of a joint resolution of that House, that House receives the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(f) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

The text of the agreement follows:

Ordered, That on Friday, October 2, 1987, at 9 a.m., the Senate resume consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, and at that point the Dole/Warner/Byrd amendment, dealing with SALT II compliance, be the pending question, and that there be 30 minutes equally divided on the Dole/Warner/Byrd amendment, and that no amendments be in order to the amendment.

Ordered, That following the conclusion or yielding back of time on the Dole/Warner/Byrd amendment, the Senate proceed to vote on the Dole/Warner/Byrd amendment, without any intervening action.

Ordered further, That following the disposition of the Dole/Warner/Byrd amendment, there be 30 minutes of debate on the Bumpers amendment, 15 minutes for the Senator from Arkansas (Mr. Bumpers), 5 minutes for the Senator from Vermont (Mr. Leahy), and 10 minutes for the Senator from Virginia (Mr. Warner), and that no amendments be in order to the amendment.

Ordered further, That after the time has been used or yielded back on the Bumpers amendment, the Senate proceed to vote on the Bumpers amendment, without any intervening action.

Ordered further, That following the disposition of the Bumpers amendment, no further amendments be in order to S. 1174, relating to SALT.

Ordered further, That following the vote on the Bumpers amendment, the Senate proceed, without any intervening debate, motion, or amendment, to third reading of S. 1174, and that the Senator from West Virginia (Mr. Byrd) be recognized to call up, without any intervening debate, motion, or action, the House companion bill, H.R. 1748, and that all after the enacting clause be stricken and the language of S. 1174, as amended, be inserted, and that the Senate proceed immediately to third reading.

Ordered further, That prior to final passage of the House bill, as amended, there be 1 hour of debate thereon, to be equally divided and controlled by the Senator from Georgia (Mr. Nunn) and the Senator from Virginia (Mr. Warner).

Ordered further, That upon the expiration or yielding back of the time for debate on the House bill, the Senate proceed to final passage of the House Department of Defense Authorization bill, without intervening action.

Ordered further, That there be no time for debate on a motion to reconsider.

Ordered further, That prior to third reading, the managers be recognized to offer technical amendments or motions.

Ordered further, That the Weicker/Hatfield "War Powers" amendment, in the form of a resolution, be put on the calendar, and that it be in order for it to be called up at any time, without debate, by the Majority Leader, after consultation with the Republican Leader.

Ordered further, That upon disposition of the House bill, the Senate proceed to the consideration of S. 1394, the Department of State Authorization Bill.

Mr. ADAMS. Mr. President, will the majority leader yield for a question?

Mr. BYRD. Yes.

Has the original request been agreed to? It was agreed to, was it not, the overall time agreement?

The PRESIDING OFFICER. The majority leader is correct.

Mr. ADAMS. Mr. President, it is my understanding that the original underlying amendment will be on the floor for resolution and will be the pending business subject to the majority leader calling it up in consultation with the minority leader. So it is the pending business.

Mr. BYRD. Not quite that. May I state what we did?

The agreement provides that the Weicker-Hatfield language, the amendment, be placed on the calendar in the form of a resolution, that the majority leader has the authority to move at any time to call that resolution before the Senate after consultation with the able Republican leader.

So that is as good as having it pending, and it will be made pending at any time.

Mr. ADAMS. I thank the majority leader.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, earlier today I spoke of interest shared by the distinguished minority leader, the Senator from West Virginia, and the Senator from Georgia, in filing a bill at some appropriate time in the future which would provide for a commission, modeled after the one that addressed the issues on Social Security; and the purpose of this commission would be to review the War Power Act and report to the executive branch and legislative branch their findings and recommendations.

I may say that this concept arose out of the many, many hours that the four of us have spent together in analyzing the complicated versions of the War Powers Act and in the common recognition of the difficult situation that we had here in the Senate. We would not have reached this unanimous-consent agreement tonight had it not been for the leadership of our two leaders, the chairman, and other Senators who have taken a very active role. They were willing to make compromises, recognizing, as Senator NUNN has stated eloquently, the complexities of the War Powers Act and the exigencies of this situation, as well as the need in our hearts to be supportive of our President at this critical time in the negotiations before the U.N. Security Council. We recognize the successes we have had thus far with allied involvement in the gulf and wish to support the men and women of the Armed Forces of the United States.

This proposal, which should appear in the RECORD following these remarks, expresses the sense of the Senate that the President should establish a bipartisan commission to review the War Powers Resolution and make recommendations for change, if appropriate.

Mr. President, in my opinion the War Powers Resolution in its present form is poorly suited for dealing with many of today's complex situations in which armed forces may be deployed. A short-term, band-aid fix is not enough. We need a more permanent, long-term solution, and that can only be obtained by a thoughtful bipartisan review of the War Powers Resolution and all related issues.

Since its enactment in 1973, four Presidents, representing both parties, have been reluctant to comply with the War Powers Act. Our Presidents have provided information to Congress "consisent with" the act, but they have rarely conceded that their options are controlled by the act. Every one of our Presidents has tried to work around it, sometimes leading to awkward contortions of logic and policy.

Congress has shown little more regard for this statute. It has been used only once, in Lebanon, and on that occasion Congress provided authority to allow military operations to continue. Never has Congress used it to terminate military operations. We have been reluctant to invoke the War Powers Act. In short, Congress and four Presidents have shunned this law.

We must ensure the law not only reflects a proper balance between constitutional executive and legislative prerogatives in the fields of command of the Armed Forces and war powers, but also that it provides a framework in which foreign policy and military decisions can be executed with bipartisanship and finality. For otherwise, our adversaries will be heartened while our friends and allies will despair over our apparent indecision. We should not hobble our Nation, our alliances, or our diplomacy in this way.

Mr. President, this proposal recommends establishment of a national commission for review of the War Powers Resolution. Its charter would include reviewing the War Powers Resolution and recommending improvements to make it a more useful tool of congressional oversight. This commission would be modeled along the lines of the bipartisan Greenspan Commission, which succeeded so well in its review of the Social Security system.

We should let wise and well-meaning men and women sit down together to study the War Powers Resolution. I reemphasize, Mr. President, we need a long-term solution, and I urge my colleagues to consider this proposal.

Mr. President, I also would like to place in the RECORD a proposal to establish the commission; a copy of Executive Order No. 12335, which established the Greenspan Commission.

A proposal, which I sent to the desk yesterday, for amending the War Powers Resolution; and an explanation thereof. Such a proposal could form one of the possible options which could be reviewed by this commission.

I so ask unanimous consent.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL COMMISSION ON REVIEW OF THE WAR POWERS RESOLUTION

SEC. xxx. (a) It is the sense of the Senate that the President should expeditiously establish a National Commission on Review of the War Powers Resolution for the purpose of undertaking a bipartisan review of the War Powers Resolution and providing recommendations for change to the War Powers Resolution, if appropriate, to the President and the Congress.

(b) Such Commission should be composed of an equal number of members from—

(1) the Executive Branch of private life to be appointed by the President; and

(2) the Legislative Branch or private life to be appointed, in equal numbers, by the Majority Leader of the Senate and Speaker of the House of Representatives.

Not more than two-thirds of the Executive Branch members should be from the same political party. Not more than two-thirds of the Legislative Branch members should be from the same political party. The Commission should select one of its members to serve as Chairman.

EXECUTIVE ORDER NO. 12335

DEC. 16, 1981, 46 F.R. 61633, AS AMENDED BY EX. ORD. NO. 12397, DEC. 23, 1982, 47 F.R. 57651, EX. ORD. NO. 12402, JAN. 15, 1983, 48 F.R. 2311

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

By the authority vested in me as President by the Constitution of the United States of America, and to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I) [set out in the Appendix to Title 5, Government Organization and Employees], the National Commission on Social Security Reform, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the National Commission on Social Security Reform. The Commission shall be composed of fifteen members appointed or designated by the President and selected as follows:

(1) Five members selected by the President from among officers or employees of the Executive branch, private citizens of the United States, or both. Not more than three of the members selected by the President shall be members of the same political party;

(2) Five members selected by the Majority Leader of the Senate from among members of the Senate, private citizens of the United States, or both. Not more than three of the members selected by the Majority Leader shall be members of the same political party;

(3) Five members selected by the Speaker of the House of Representatives from among members of the House, private citizens of the United States, or both. Not more than three of the members selected by the Speaker shall be members of the same political party.

(b) The President shall designate a Chairman from among the members of the Commission.

Sec. 2. Functions. (a) The Commission shall review relevant analyses of the current and long-term financial condition of the Social Security trust funds; identify problems that may threaten the long-term solvency of such funds; analyze potential solutions to such problems that will both assure the financial integrity of the Social Security System and the provision of appropriate benefits; and provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(b) The Commission shall make its report to the President by January 20, 1983.

Sec. 3. Administration. (a) The heads of Executive agencies shall, to the extent permitted by law; provide the Commission such information as it may require for the purpose of carrying out its functions.

(b) Members of the Commission shall serve without any additional compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701-5707) [section 5701 to 5707 of Title 5], to the extent funds are available therefor.

(c) The Commission shall have a staff headed by an Executive Director. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of Health and Human Services.

Sec. 4. General. (a) Notwithstanding any other Executive Order, the responsibilities of the President under the Federal Advisory Committee Act, as amended [set out in the Appendix to Title 5], except that of reporting annually to the Congress, which are applicable to the Commission, shall be performed by the Secretary of Health and Human Services in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate thirty days after submitting its report.

RONALD REAGAN.

SEC. XXX. AMENDMENT OF THE WAR POWERS RESOLUTION

(a) Strike out sections 1-9 of the War Powers Resolution (50 U.S.C. 1541-1548) and insert in lieu thereof the following:

"SECTION 1. SHORT TITLE.—This joint resolution may be cited as the 'War Powers Resolution'.

SEC. 2. PURPOSE AND POLICY.—(a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

SEC. 3. CONSULTATION.—The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

SEC. 4. REPORTING.—(a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace of waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

SEC. 5. CONGRESSIONAL ACTION.—(a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) If, within 21 calendar days after—

(1) a report is submitted or is required to be submitted under section 4(a)(1), whichever is earlier; or

(2) Congress is convened pursuant to subsection (a) of this section,

whichever is later, an enrolled joint resolution or bill, as described in section 6(a)(1), is presented to the President and is subsequently enacted into law, funds may not be obligated or expended, as provided in such joint resolution or bill, to support the continued use of the United States Armed Forces in the hostilities or situation described in the report submitted, or required to be submitted, pursuant to section 4(a)(1).

SEC. 6. CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL.—(a)(1) For purposes of this joint resolution, the term 'joint resolution or bill' means only a joint resolution or bill which prohibits the obligation or expenditure of funds to support the continued use of the United States Armed Forces in hostilities or situations described in a report submitted, or required to be submitted, pursuant to section 4(a)(1) and such prohibition is to become effective 30 or more days after the date of enactment of such joint resolution or bill.

(2) Any joint resolution or bill introduced pursuant to section 5(b) at least 16 calendar days before the expiration of the 21-day period specified in such section, shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than 14 calendar days before the expiration of the 21-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a)(2) and shall be reported out not later than nine calendar days before the expiration of the 21-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than three calendar days before the expiration of the 21-day period specified in section 5(b). In the event the conferees are unable to agree within 24 hours, they shall report back to their respective House in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such 21-day period.

SEC. 7. INTERPRETATION OF JOINT RESOLUTION—(a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to November 7, 1973 and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEC. 8. SEPARABILITY CLAUSE—If any provision of this joint resolution or the application thereof to any person or circumstances is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.".

(b) The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to situations described by section 4(a)(1) of the War Powers Resolution which exist on or after that date.

DESCRIPTION OF PROPOSED MODIFICATION OF WAR POWERS RESOLUTION

The proposed modification would still require the President to submit a report within forty-eight hours after introducing military forces into a situation of hostilities or imminent hostilities.

It would still provide expedited procedures for Congress to express its will on the military operation. But Congress would now work its will through an expedited resolution terminating use of funds, rather than through a resolution of approval. This would correct one of the existing provisions most often attacked as unconstitutional, and establish the War Powers Act on a more sound basis.

Also, it would strike some sections from the War Powers Act which are unnecessary and possibly incorrect statements of constitutional law.

Finally, it would change the time frame for expedited action, from 60 days for a resolution of approval—the current procedure—to twenty-one days for an expedited resolution of disapproval.

Specifically, the proposal would make the following changes.

Section 2(c) is deleted, as unnecessary and perhaps an incorrect statement of constitutional law.

Section 5(b) would be replaced with an entirely new section, providing expedited procedures for considering a resolution terminating funding, rather than a resolution of approval.

Section 5(c) is deleted as unnecessary and as a constitutionally questionable intrusion on the President's authority as Commander-in-Chief and chief executive for foreign policy, and as probably conflicting with the Chada doctrine stated by the Supreme Court in 1983.

Section 6 is modified to reflect the 21 day period for expedited Congressional consideration, rather than the 60 day period.

Section 7 is deleted as unnecessary because it provides procedures for consideration of a concurrent resolution, the authority for which is deleted from the resolution.

The basis for the 21 calendar day period is as follows:

After the event which begins the process, the President would have 48 hours to make his report. Then the 21 day clock begins. It would include 5 days to introduce a proposed resolution of disapproval, 2 days for committee action, and 3 days for floor action. Then the resolution of disapproval would be sent to the other body, where it would also be considered under expedited procedures. Two days in committee, three days for floor action, followed by three days for conference, and three additional days for floor debate. That is a total of 21 calendar days.

Twenty-one days may not be a sufficient amount of time, but is the shortest time period that seems possible.

The proposal would have certain advantages over the current procedure. It directly addresses the issue of how to reconcile the War Powers Act with the real-world situation in the Persian Gulf. It avoids an ad hoc approach to dealing with the War Powers Act generally.

It establishes a more solid basis for the constitutional authority of Congress to act. Congress still could terminate a military operation, but this directive would be based on the well-defined power of the purse.

Mr. BYRD. Mr. President, let me reiterate before any Senators leave, and I see the Senator from Wisconsin [Mr. Proxmire]. He has an amazing rollcall record for consecutive votes which he has not missed. And I do not want him to miss this first rollcall vote tomorrow.

Tomorrow at 9 o'clock the Senate proceeds under a 30-minute time limitation to debate the amendment by Mr. Dole and Mr. Warner, and upon the expiration or yielding back of that time the vote without any intervening action will occur. It will be a rollcall vote, and that rollcall vote will be a 30-minute rollcall vote. It is early. We will make that a 30-minute rollcall vote.

Mr. President, I ask unanimous consent that it be in order at this time—why do not we introduce the amendment? May I ask the distinguished Senator?

Mr. WARNER. Mr. President, I sent the amendment up on behalf of Mr. Dole and myself.

Mr. DOLE. We asked that it be printed.

AMENDMENT NO. 839

Mr. DOLE. Mr. President, I send the amendment to the desk on behalf of myself and Senator Warner, and I ask that the amendment be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. Dole], for himself, Mr. Byrd, and Mr. Warner, proposes an amendment numbered 839.

At an appropriate place in the bill insert the following new section:

SEC. . SALT II COMPLIANCE AMENDMENT.

Notwithstanding any other provision of law, the United States shall not be obligated to abide by the provisions of the SALT II Treaty, in whole or in part, unless and until the following have occurred:

(a) The Senate has amended the Treaty so as to give it legal force if it were ratified;

(b) The Senate has given its advice and consent to the Treaty;

(c) The Union of Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned;

(d) Each party has ratified the Treaty in accordance with its own constitutional processes.

Mr. BYRD. Mr. President, will the distinguished Republican leader get the yeas and nays now?

Mr. DOLE. Yes. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The Republican leader is recognized.

Mr. DOLE. Mr. President, I will say one word. We will debate this in the morning. It is a simple straightforward amendment. I do not know of any major opposition. I wish I could have offered a substitute but I think in an effort to resolve the matter, and get this bill behind us, it has been a long effort by the distinguished chairman, Senator Nunn, and the distinguished ranking member, Senator Warner. And I think everybody has had an opportunity to make their case or cases.

But I hope there would be a unanimous vote on this amendment. I cannot believe anybody would vote against it.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be added as a cosponsor to the Dole-Warner amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, the Senator from Virginia mentioned a commission to look at the War Powers Act. I wanted to comment just briefly on that. I would be proud to work with him on that. We have discussed it. I have also discussed it with the Senator from West Virginia. I know he is interested in it. It is apparent to me that the War Powers Act as it now exists is not a workable piece of legislation. It had good intentions. I think when the forces of the United States are committed it is enormously important that the House and Senate be behind our fighting men, and be clear on the objectives and the strategy behind that commitment.

It is apparent that the situation in the Persian Gulf does not meet that description in my view now. It is also apparent as the majority leader said that 54 Senators wanted to be able to vote on the Byrd-Nunn amendment to the Weicker amendment.

That means to me that 54 Senators believed that the end of the hostilities had occurred and wanted a more tailored response rather than the much broader approach of the War Powers Act and wanted to tailor the debate that would ensue over the 60-day/90-day period to the question of flagging and not to the withdrawal of our forces.

It should be clear that that was the prevailing view here by the majority. We will not get a vote on it now. We may revisit this next week.

There is not a clear solution. It is a tough problem, no matter how you go. I do believe that the commission idea of the Senator from Virginia is good, and we will have to revisit this issue.

There are numerous problems with the War Powers Act as it exists, and I believe that is why we had the Byrd amendment, which was a much more carefully framed answer to the current dilemma we find ourselves in.

While I was against the flagging and I did not think it was in our best interests—and I still think it not in our best interests—I would be very reluctant to see us deflag until certain events have transpired to make the situation in the gulf different from what it is now.

However, I also believe that we needed to debate that issue and needed to pin the administration down, on behalf of the country, as to what our objectives are and what our strategy is in the Persian Gulf. If you do not know what the objectives are and what the strategy is, you do not know when to declare victory or when your goals have been achieved. I do not believe that has been achieved yet.

I believe the commission idea should be pursued, and I think we will have a debate on it next week.

Mr. BYRD. Mr. President, I, too, compliment the distinguished Senator from Virginia on the idea of establishing a commission. I would like to participate in the formulation of language that would deal with such, and I would be very happy to lend my time and best efforts to working with the Senator from Virginia and the Senator from Georgia in that respect.

Mr. WARNER. I am grateful for the statements on behalf of the concept of the commission expressed by the distinguished majority leader and the distinguished chairman of the Senate Armed Services Committee. Together with the distinguished minority leader, this will be a foursome that hopefully will create something.

I have sent to the desk on behalf of myself and the Senator from Georgia a draft of this concept for others to look at and study, and over the next few days maybe we will have a common idea of how to improve this.

Mr. BYRD. Mr. President, I thank both Senators.

Mr. President, the rollcall vote will begin at 9:30 tomorrow morning. That will be a 30-minute rollcall vote, and the call for the regular order will be made at the end of 30 minutes on the rollcall. That means, therefore, that the rollcall vote itself will be closed at 10 o'clock tomorrow.

Senators have been informed now, and there should be no reason why a Senator should not be here.

The PRESIDING OFFICER. Without objection, the amendments are in fact withdrawn.

Mr. BYRD. Mr. President, the amendment will now be printed in the Record.

I thank the Chair.

Mr. WARNER. Mr. President, before the majority leader closes I would like to make a comment.

Mr. BYRD. Yes.

Mr. WARNER. I wish to express to my distinguished leader and good friend heartfelt expression of appreciation for some guidance that he has given me today, and I do hope that no remarks made earlier will be considered by the majority leader or any other Member of this body as in any way impugning their love of this Nation.

I think we all stand on an equal footing when it comes to being patriots.

Mr. BYRD. Mr. President, as Alexander Pope said, let me say to my friend from Virginia for whom I have the greatest of respect and fondness, "Thou art my guide, philosopher, and friend."

Mr. President, does any Senator have anything further to say? Does the distinguished acting leader have any further statement or business to transact?

Mr. NUNN. Good night.

Mr. BYRD. Then, Mr. President, I thank all Senators. I thank the Republican leader. I thank the distinguished manager of the bill, Mr. Nunn, and I thank Mr. Warner, the distinguished ranking member, for the hours that they have put into this measure, for the cooperation that they have given the leadership, for the understanding and the courtesies that they have extended to all of their colleagues on both sides at all times during the many, many days and weeks and months that this bill has been in the making.

I thank all Senators who are sponsors and cosponsors of the amendments that are going to be voted on tomorrow. I thank them for their cooperation and help in reaching this agreement which at last will see the Senate acting on the DOD authorization bill and we will see its being sent on its way to the conference.

Mr. President, there will be several rollcall votes tomorrow.

ORDERS FOR FRIDAY

RECOGNITION OF CERTAIN SENATORS

Mr. BYRD. Mr. President, I ask unanimous consent that following the prayer of the Chaplain, the two leaders be recognized under the standing order for not to exceed 5 minutes each and that they be followed by Mr. Proxmire for 5 minutes, by Mr. Karnes for 5 minutes, by Mr. Simpson for 10 minutes, by Mr. McCain for 5 minutes, and by Mr. Bentsen for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate come in at 8 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that any time between the completion of the time set forth in the order remaining prior to the hour of 9 a.m. be utilized for morning business and that Senators may speak therein for not to exceed 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in at 8 o'clock tomorrow morning. After the two leaders have been recognized under the standing order for not to exceed 5 minutes each, the following Senators will be recognized for the times allotted: Mr. Proxmire, 5 minutes; Mr. Karnes, 5 minutes; Mr. Simpson, 10 minutes; Mr. McCain, 5 minutes; and Mr. Bentsen, 15 minutes; after which there will be a period for morning business not extending beyond the hour of 9 o'clock a.m. with Senators permitted to speak therein for not to exceed 1 minute each.

At 9 o'clock, the Senate will proceed immediately to consider the amendment by Mr. Dole and Mr. Warner, with a time limit thereon of 30 minutes, to be equally divided and controlled by Mr. Nunn on the one side and Messrs. Dole and Warner on the other.

Following that debate, there will be a vote on the Dole-Warner amendment. That will be a 30-minute rollcall vote, with the call for regular order to be made at the close of the 30 minutes if all Senators have not therefore voted.

Upon the disposition of the Dole-Warner amendment, the Senate will proceed under an overall 30-minute time limitation to the Bumpers amendment. At the expiration of that time, the vote will occur on the Bumpers amendment. Upon the disposition of that amendment, the Senate will proceed to third reading on the Senate bill and, after third reading, the Senate will proceed to take up the House bill, which is the companion bill, and all after the enacting clause will be stricken and the language of the Senate will be inserted in lieu thereof.

Without further intervening motion or debate, the Senate will vote on the House bill.

Upon the disposition of the House bill, the Senate will then proceed to the consideration of the State Department authorization bill and votes are expected thereon.

So there will be rollcall votes tomorrow, Mr. President. I expect the Senate to complete its business on tomorrow by no later than the hour of 4 o'clock. The religious holiday Yom Kippur will begin, as far as the Senate is concerned, no later than 4 o'clock tomorrow. There will be no votes thereafter and Senators may wing their way to the various points of the compass, hopefully many of them toward the West—West Virginia—where they may see those iridescent sunsets and viridescent and verdant hills.

RECESS UNTIL 8 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8 o'clock tomorrow morning.

The motion was agreed to: and, at 10:27 p.m., the Senate recessed until Friday, October 2, 1987, at 8 a.m.

NOMINATIONS

Executive nominations received by the Senate October 1, 1987:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN R. SILBER, OF MASSACHUSETTS, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM EXPIRING OCTOBER 27, 1989, REAPPOINTMENT.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

BEVERLY FISHER WHITE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1990, VICE CAROLINE H. HUME, TERM EXPIRED.

U.S. INSTITUTE OF PEACE

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR TERMS EXPIRING JANUARY 19, 1991:

WILLIAM R. KINTNER, OF PENNSYLVANIA, REAPPOINTMENT.

MORRIS I. LEIBMAN, OF ILLINOIS, REAPPOINTMENT.

SIDNEY LOVETT, OF CONNECTICUT, REAPPOINTMENT.

RICHARD JOHN NEUHAUS, OF NEW YORK, REAPPOINTMENT.

ELSPETH DAVIES ROSTOW, OF TEXAS, NEW POSITION.

W. BRUCE WEINROD, OF THE DISTRICT OF COLUMBIA, REAPPOINTMENT.

IN THE NAVY

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

STEPHEN A. EILERTSON
CHARLES M. OAKLEY
HERMAN M. PHILLIPS
DAVID J. SCIENICKI
JACK L. SCISM, JR.
JOHN N. TAVENNER

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

CHARLES A. ADCOCK
KELLY J. BALTZ
MATTHEW R. BECK
RONALD L. CARMODY
ROBERT C. ELROD, JR.
FREDERICK S. GIFFEN
CARLOS D. GODINEZ
JOHN V. GURLEY

GREGORY W. HARSHBERGER
WILLIAM E. HART
PATRICK J. HEYE
DAVID S. KERN
THOMAS G. KOLLIE
STEVEN P. LAUX
WILLIAM DEAN MICHAEL
DAVID C. MIELKE
WILLIAM C. MINTER
PAUL A. ONORATO
DAVID A. PREVOST
BRYAN L. PRUITT
WILLIAM D. SMITH
JEAN-PAUL TENNANT
WILLIAM R. THIERBACH
ROGER S. THORSTAD
GREGORY J. WALKER
DAVID A. WARNE
DAVID M. WARNER
STEVEN R. WOLFE

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT CAPTAIN IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

GUYTON G. HOWELL

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANET COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

EARL H. HARLEY

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS OF THE REGULAR MARINE CORPS DESIGNATED FOR LIMITED DUTY FOR APPOINTMENT AND DESIGNATION AS UNRESTRICTED OFFICERS IN THE REGULAR MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be lieutenant colonel

PEDRO GUTIERREZ, [redacted]

To be major

DAVID M. WHITE, [redacted]
RUSSELL L. ANDERSON, [redacted]
MICHAEL L. BALL, [redacted]
THOMAS I. BRANCH, [redacted]
WILLIAM S. BUSH, JR., [redacted]
WALTER D. CASEBOLT, [redacted]
PETER B. COLLINS, [redacted]
RICHARD D. COLVARD, [redacted]
BRIAN D. COPELAND, [redacted]
THOMAS J. DONAHOE, [redacted]
JEFFERY L. GILLILAND, [redacted]
MICHAEL K. GILLINGS, [redacted]
THOMAS, M. GRIMMER, [redacted]
JOHN R. HABERBUSH, [redacted]
ALAN J. HAMILL, [redacted]

I NOMINATE:

THE FOLLOWING-NAMED OFFICERS OF THE MARINE CORPS RESERVES FOR TRANSFER INTO THE REGULAR MARINE CORPS UNDER TITLE 10, UNITED STATES CODE SECTION 531:

To be captain

EUGENE A. HERRERA, [redacted]
JOHN G. KAVANAGH, [redacted]
THOMAS M. KEARNEY, [redacted]
RICHARD W. KOENEKE, [redacted]
DAVID R. KUECHENMEISTER, [redacted]
WALTER J. LEITMEYER, [redacted]
SIDNEY E. MILLS, JR., [redacted]
DAVID R. MUSGRAVE, [redacted]
GRANT F. NEWSHAM, [redacted]
STEPHEN P. NICHOLSON, [redacted]
MICHAEL L. OWEN, [redacted]
STEVEN D. PREDA, [redacted]
JEFFREY F. RICHARDSON, [redacted]
JOHN E. SANDBOTHE, [redacted]
ERIC H. SMITH, [redacted]
JOHN C. STRADLEY, JR., [redacted]
JOHN F. WALTER, [redacted]
PAUL G. WESLEY, [redacted]
BRAIN K. WHITE, [redacted]
DRUANNE D. WHITE, [redacted]
ERIC J. YOUNG, [redacted]

To be lieutenant

BRUCE I. ANDERSON, [redacted]
HAL M. ANGUS, [redacted]
EUGENE N. APICELLA, [redacted]
KEVIN E. BOHLEN, [redacted]
DAVID B. BOSTON, [redacted]
JAMES K. BOUNDS, [redacted]
PETER L. BOWLING, [redacted]
TERENCE P. BRENNAN, [redacted]
RICHARD A. BROCK, [redacted]
JOHN A. BRUSH, [redacted]
KENNETH L. BURNSIDE, [redacted]
DAVID BYRNES, [redacted]
JOHN A. CARPER III, [redacted]
THOMAS N. CARTER, [redacted]
ROBERT L. CHAPPELL, [redacted]
DANIEL G. CLANEY, [redacted]
PETER B. COLBY, [redacted]
KURT M. CONRAD, [redacted]
COLIN W. DAWSON, [redacted]
THOMAS F. DIETRICH, [redacted]
WILLIAM J. DVORAK, [redacted]
WINSTON I. EARLE, [redacted]
STEVEN M. EIDSMOE, [redacted]
JONATHAN T. ELLIOTT, [redacted]
ANTHONY S. EZELL, [redacted]
CARROLL R. FIELDS, [redacted]
DANIEL M. FITZGERALD, [redacted]
NANCY K. FLORES, [redacted]
CHARLES R. FRAWLEY, [redacted]
LAURA J. GAGLIO, [redacted]
ANTHONY M. GALLUCCI, [redacted]
FRANZ J. GAYL, [redacted]
JEFFREY G. GERVICKAS, [redacted]
ROLANDO GUZMAN, [redacted]
GLENN A. HADLOCK, [redacted]
JOHN R. HAHN, [redacted]
JOHN E. HAIRSTON, [redacted]
WADE C. HALL, [redacted]
ROBERT J. HANSBERRY, JR., [redacted]
BETSEY J. HARRIES, [redacted]
JOSEPH K. HAVILAND, [redacted]
THOMAS E. HENSON, JR., [redacted]
LARRY J. HOLCOMB, [redacted]
GERALD M. HORSEMAN, [redacted]
JAMES L. HORTON, [redacted]
ROBERT M. IORIO, [redacted]
SHARON D. JACKO, [redacted]
GINO V. JACKSON, [redacted]
JEROME, A. JACKSON, [redacted]
RICHARD E. JANKURA, JR., [redacted]
CATHERINE A. JOHNSON, [redacted]
CHERYL M. JONES, [redacted]
WILLIAM E. KAUFER, JR., [redacted]
JAMES T. KAUFMAN, [redacted]
KEVIN M. KELLY, [redacted]
MICHAEL M. KING, [redacted]
MICHAEL C. KOFFMAN, [redacted]
CURTIS D. KUSS, [redacted]
ROOSEVELT G. LAFONTANT, [redacted]
MARTIN E. LAPIERRE, JR., [redacted]
THOMAS E. LEARD, [redacted]
CHARLES L. LEVY, [redacted]
IGNATIUS P. LIBERTO, [redacted]
LIONEL LIMA, [redacted]
DENISE K. LUCERO, [redacted]
STEVEN T. MANNING, [redacted]
PAUL H. MARX, [redacted]
TERESA F. MCCARTHY, [redacted]
BRAD A. MCCULLOCH, [redacted]
MICHAEL D. MEAD, [redacted]
CY R. MILLER, [redacted]
DENNIS A. MOULTON, [redacted]
JAMES F. MULLA, [redacted]
MICHAEL M. MULLIN, [redacted]
BRIAN P. MURPHY, [redacted]
ROBERT M. MURRAY, [redacted]
WILLIAM F. NICHOLSON, [redacted]
JEFFREY A. PEARCE, [redacted]
JOEL H. PIEHL, [redacted]
STEVEN J. PILOTTE, [redacted]
FRANK G. PINKSTON, JR., [redacted]
DAVID L. POPE, [redacted]
GERALD R. RAPP, JR., [redacted]
JOHN P. REPKO, [redacted]
JAMES A. RICE, [redacted]
WILLIAM F. RITTER, [redacted]
WILLIAM S. RITTER, JR., [redacted]
DAVID L. ROBBINS, [redacted]
JAMES H. ROBERTSON, [redacted]
JOHN E. ROCHA, [redacted]
STACEY A. RUFF, [redacted]
OTTO J. RUTT, JR., [redacted]
SCOTT E. RYDEEN, [redacted]
ERIC L. SEGARRA, [redacted]
ROBERT J. SENINI, [redacted]
BRADLEY H. SHUMAKER, [redacted]
MARTIN H. SITLER, [redacted]
GREGORY W. SLACK, [redacted]
STEPHEN T. SMITH, [redacted]
JAMES P. SMYTH, [redacted]
STEVEN F. SNYDER, [redacted]
EUGENE F. SOLE, [redacted]
RICHARD M. SPELL, JR., [redacted]
DAVID M. SPELLACY, [redacted]
RICHARD W. SPOONER, [redacted]
CRAIG J. STILES, [redacted]
JEFFREY D. STRANG, [redacted]
TODD F. SWEENEY, [redacted]
LAWRENCE N. TAL, [redacted]
TAMARA A. TALIAFERRO, [redacted]
DAVID C. TAPPARO, [redacted]
MARK J. TOAL, [redacted]
FRANK D. TOPLEY, JR., [redacted]
ROBERT E. WALLACE, [redacted]
JUDITH F. WESTERN, [redacted]
JAMES D. WHITLATCH II, [redacted]
BRANDON W. WILSON, [redacted]
GRIFFITH J. WINTHROP III, [redacted]
PAUL M. WOJCIK, [redacted]
MICHAEL K. WOODWARD, [redacted]
SCOTT S. WOTHE, [redacted]
DANIEL W. CHRISTOPHER, [redacted]
DANIEL W. COWDREY, [redacted]
DOUGLAS F. CROMWELL, [redacted]
DAVID W. FANIKOS, [redacted]
JOSEPH F. GATELY, [redacted]
THOMAS C. GILLESPIE, [redacted]
THOMAS B. GLICK, [redacted]
RICHARD G. HEROLD, JR., [redacted]
RUSSELL E. JAMISON, JR., [redacted]
ERIC R. JUNGER, [redacted]
ASAD A. KHAN, [redacted]
GRAYDON A. KRAPOHL, [redacted]
JOHN M. LEWIS III, [redacted]
DONALD S. MACDONALD, [redacted]
SCOTT N. MACFARLANE, [redacted]
PHIHO NGUYEN, [redacted]
BRIAN T. OLIVER, [redacted]
DANTE G. PAMINTUAN, [redacted]
DAVID K. PIGMAN, [redacted]
NATHANIEL PLOWDEN, [redacted]
RAYNARD A. PORTER, [redacted]
TERENCE W. REID, [redacted]
GARRY K. ROSENGRANT, [redacted]
STEVE SCHEPS, [redacted]
ERIC M. TRANTER, [redacted]
FREDERICK L. WELTER, [redacted]
JOHN A. WILSON, JR., [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate October 1, 1987:

DEPARTMENT OF THE TREASURY

JOHN K. MEAGHER, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.

O. DONALDSON CHAPOTON, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

EXECUTIVE OFFICE OF THE PRESIDENT

ALAN F. HOLMER, OF VIRGINIA, TO BE A DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

THE FINANCIAL SERVICES HOLDING COMPANY ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. DREIER of California. Mr. Speaker, on September 29, I introduced H.R. 3360, the Financial Services Holding Company Act. I would like to submit for the RECORD the text of H.R. 3360 so that my colleagues will have an opportunity to review it.

H.R. 3360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Financial Services Holding Company Act of 1988".

CERTIFIED FINANCIAL SERVICES HOLDING COMPANY

SEC. 2. A certified financial services holding company is any company that:

(a) has been certified in accordance with the provisions of section 3 of this Act;

(b) has one or more subsidiaries that are bank holding companies, as those terms are defined in the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et. seq.*);

(c) has one or more subsidiaries that are separate from its bank holding company subsidiaries and are engaged only in one or more of the following:

(1) managing, controlling and providing services for an insured institution as defined in section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1));

(2) engaging in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities;

(3) organizing, sponsoring, operating and controlling an investment company, and underwriting, distributing, and selling securities of any investment company, as such terms as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), as amended;

(4) acting as an investment advisor within the meaning of the Investment Advisors Act of 1940, as amended (15 U.S.C. 80b-2(11);

(5) engaging in the business of insurance under the statutes of any of the fifty states, the District of Columbia, Guam, or Puerto Rico;

(6) engaging in real estate investment, development, and brokerage;

(7) engaging in any activity permissable for a bank holding company under section 4 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843); or

(8) engaging in any activity permissable for a multiple savings and loan holding company under section (c) of the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730(a)(c));

(d) does not engage in any activities other than managing, controlling or providing services for the subsidiaries described in subsections 2(b) and 2(c) of this section;

(e) has insulated any bank or banks controlled by any of its bank holding company subsidiaries in accordance with the provisions of sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371(c)); and

(f) is not controlled, directly or indirectly, by any other company unless that company is primarily engaged in banking or other financial services outside of the United States or engaged solely in managing, controlling or providing services for a certified financial services holding company within the United States.

CERTIFICATION

SEC. 3. (a) Certification of a company as a certified financial services holding company is obtained by submitting a notice to the Federal Reserve Board.

(b) No later than 30 days following receipt by the Federal Reserve Board of the notice for certification, a company shall become a certified financial services holding company, unless within such 30-day period, the Board: (1) issues an order denying certification; (2) extends for up to an additional 30 days the period during which denial may be issued; or (3) notifies the company that it shall be a certified financial services holding company prior to the expiration of the 30-day period.

(c) The initial 30-day period may be extended for such additional 30-day period only if the Board determines that the company has not furnished all the information required to be submitted or that in the Board's judgment any material information submitted is substantially inaccurate.

(d) The form for the notice for certification shall be prescribed by the Board and shall be limited to information necessary to determine (1) whether the company's activities will be limited to those described in sections 2(c) and 2(d) of this Act, (2) whether the company is in compliance with the control limitations of section 2(f) of this Act, and (3) that any bank controlled by any of its bank holding company subsidiaries will be in compliance with the provisions of sections 23A and 23B of the Federal Reserve Act. For purposes of these determinations, the Board shall find acceptable a statement signed by an appropriate senior officer of the company certifying that the company's activities will be limited to those described in sections 2(c) and 2(d) of this Act, that the company is not controlled, directly or indirectly, by any other company, other than as provided by section 2(f) of this Act, and that any bank controlled by any bank holding company subsidiary of such company will be in compliance with the provisions of sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371(c)).

(e) The Board may issue an order denying certification only if it finds that:

(1) the company's activities will not be limited to those specified in sections 2(c) and 2(d) of this Act;

(2) the company is controlled, directly or indirectly, by any other company, other than as provided by section 2(f) of this Act; or

(3) the bank or banks controlled by any bank holding company subsidiary of such company will not be in compliance with sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371(c)).

(f) Within 3 days after a decision to deny certification, the Board shall notify the company in writing of such denial and shall provide a written basis for such denial.

ACQUISITIONS BY CERTIFIED FINANCIAL SERVICES HOLDING COMPANIES

SEC. 4. (a)(1) A certified financial services holding company may establish or acquire ownership or control of an additional bank holding company but only in accordance with the provisions of section 3 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1842), as if it were a bank holding company.

(2) A certified financial services holding company may establish or acquire ownership or control of a savings and loan holding company, but only in accordance with the provisions of section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)), as if it were a savings and loan holding company.

(b) A certified financial services holding company may establish or acquire ownership or control of any company engaged solely in one or more of the activities described in sections (2)(c) (2)-(8) of this Act if, within 30 days following the submission of a notice to the Federal Reserve Board, the Board does not disapprove the proposal or extend the period during which it may disapprove the proposal.

(c) The Board may disapprove a proposal only if the proposed acquisition or new activity would cause the company to fail to meet the activity limitations for a certified financial services holding company, as provided in sections 2(c) and 2(d) of this Act.

REPORTING REQUIREMENTS

SEC. 5. The Federal Reserve Board may periodically require reports under oath, in such scope and detail as it may determine, of a certified financial services holding company to keep the Board informed as to whether such company is in compliance with:

(a) the activity limitations of sections 2(c) and 2(d) of this Act;

(b) the affiliate transaction restrictions of sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371(c));

(c) the control provisions of section 2(f) of this Act; and

(d) the anti-tying provisions of section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971).

PENALTIES

SEC. 6. (a) The Federal Reserve Board may exercise the enforcement authorities contained in subsections (b)-(n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)-(n)) if the Board finds that a certified financial services holding company is not in compliance with the activity limitations of sections 2(c) and 2(d) of this Act and the control provisions of section 2(f) of this Act. In exercising the authorities contained in subsections (b)-(n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)-(n)), the Board shall apply the standards and procedures set forth in

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

those subsections as if the certified financial services holding company were an insured bank.

(d)(1) If the Board finds that a company has failed to comply with:

(A) the activity or control limitations of sections 2(c), 2(d), or 2(f) of this Act and has not in good faith substantially complied with any order or action issued pursuant to subsection (a);

(B) the provisions of sections 23A or 23B of the Federal Reserve Act and has not in good faith substantially complied with any order or action issued pursuant to that Act; or

(C) the provisions of section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971) and has not in good faith substantially complied with any order or action issued pursuant to that Act,

the Board by order, after opportunity for a hearing, may decertify the certified financial services holding company.

(2) A certified financial services holding company which has been decertified shall, within one year following the issuance of the decertification order, either divest all of its subsidiary bank holding companies or all the subsidiaries' activities not in compliance with the activity limitations of sections 2(c) and 2(d) of this Act. The Board is authorized, upon application by such a company, to extend the one-year period from time to time as to such company, subject to conditions and limitations it deems appropriate, for not more than one year at a time, if, in its judgment, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed two years. For purposes of this subsection, the two-year period for compliance provided in section 4(a)(2) of the Bank Holding Company Act shall not apply.

(3) Any financial services holding company that has been decertified shall not be eligible to obtain a new certification as a financial services holding company in accordance with the provisions of section 3 of this Act for a period of three years following the decertification of such company.

JUDICIAL REVIEW

SEC. 7. Any party aggrieved by any order or notice of the Board under this Act, other than an order issued under authority of section 6(a) of this Act which shall be subject to the judicial review procedures set forth in subsections (b)-(n) of section 8 of the Federal deposit Insurance Act (12 U.S.C. 1818(b)-(n)), may obtain a review of such action in the United States Court of Appeals within any circuit wherein such party has its principal place of business, or in the Court of Appeals in the District of Columbia, by filing in the court, within thirty days after the entry of the Board's order or notice, a petition that the order or notice of the Board be set aside. A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm, set aside, or modify the order denying certification, notice of disapproval or decertification order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper. The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive.

AMENDMENTS TO THE BANK HOLDING COMPANY ACT

SEC. 8. (a) Section 2(a)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)) is hereby amended by adding at the end thereof the following new subsection:

"(G) No company which is a 'certified financial services holding company', as defined in section 2 of the Financial Services Holding Company Act of 1988, is a bank holding company by virtue of its ownership or control of a bank holding company."

(b) Section 3(d) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1842(d)), is hereby amended by adding at the end thereof the following sentence:

"For purposes of this subsection, a certified financial services holding company shall be deemed to be a bank holding company."

(c) Section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971) is hereby amended by adding at the end thereof the following sentence:

"For purposes of this chapter, the term 'bank holding company' shall include any company which is a certified financial services holding company according to the provisions of the Financial Services Holding Company Act of 1988."

AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 9. (a) Section 20 of the Banking Act of 1933 (12 U.S.C. 377) is hereby amended by inserting the following new paragraph after the first paragraph of such section:

"The provisions of this section shall not apply to affiliations between a member bank or bank holding company and a certified financial services holding company, including any of its subsidiaries, as defined in section 2 of the Financial Services Holding Company Act of 1988."

(b) Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is hereby amended by inserting the following at the end of the first paragraph of such section:

"The provisions of this section shall not apply to any such interlocking relationships between a member bank or bank holding company that is an indirect subsidiary of a certified financial services holding company and such certified financial services holding company, or any affiliate thereof, as such terms are defined by the Financial Services Holding Company Act of 1988."

AMENDMENTS TO THE NATIONAL BANK ACT

SEC. 10. (a) The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by striking the second sentence and inserting in lieu thereof: "The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, individual and institutional customers, and to provide portfolio investment advisory, management, information, forecasting, and research services to such customers in combination with or separate from such purchases and sales: *Provided*, that the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulations proscribe."

(b) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding, at the end thereof the following:

"Tenth. To engage in any activities which consist of insurance agency or brokerage; real estate brokerage or related services, including acting as broker or agent for others in making or procuring loans on real estate and also including acting as broker or agent for the sale or purchase of real estate under administration by such association's trust department or pursuant to agreements being administered or executed by such department; homeownership and financial counseling; the preparation of local, state, and Federal tax returns and engaging in tax planning for individuals, corporations, and partnerships; armored car services; check guaranty, collection agency, or credit bureau services; or travel agency services. An association engaged in the activity of insurance agency or brokerage under the authority of the preceding sentence, and the principals, employees, and agents of such association, may engage in any insurance agency or brokerage activity notwithstanding any provision of the constitution or laws (including the judicial decisions) of any state. Notwithstanding the preceding sentence, such association and its principals, employees, and agents may be subject to the same examination, supervision, and licensing requirements by a state as are generally applied to any other insurance agency or brokerage firm operating within such state."

AMENDMENTS TO THE BANK SERVICE CORPORATION ACT

SEC. 11. (a) Section 2 of the Bank Service Corporation Act (12 U.S.C. 1862) is amended to read as follows:

"Amount of Investment in Bank Service Corporation

"Notwithstanding any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured bank may invest not more than 3 per centum of its total assets in a bank service corporation. No insured bank shall invest more than 15 per centum of its total assets in bank service corporations."

(b) Section 4(f) of the Bank Service Corporation Act (12 U.S.C. 1864(f)) is amended to read as follows:

"(f) Notwithstanding the other provisions of this section or any other provision of law, other than the provisions of Federal and state branching law regulating the geographic location of banks to the extent that those laws are applicable to any activity authorized by this subsection, a bank service corporation may perform at any geographic location any service, other than deposit taking, that is authorized by the Board or which the Board has determined, by order or regulation, to be permissible for a bank holding company under section 1843(c)(8) of this title, or which were newly authorized to be provided by national banks pursuant to section 10 of the Financial Services Holding Company Act."

(c) Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended to read as follows:

"Prior Approval for Investments in Bank Service Corporations

"(a) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of subsections (c), (d), or (e) of section 1864 of this title without the prior approval of the bank's appropriate Federal banking agency.

"(b) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of section 1864(f) of this title and no bank service corporation shall perform any activity under section 1864(f) of this title without prior written notice to the Board. For purposes of the preceding sentence and for section 1867(a) of this title a bank service corporation that performs any service under section 1864(f) of this title shall be treated by the Board, insofar as possible, in the identical manner as a company established under the authority and performing activities authorized by section 1843(c)(8) of this title.

"(c) In determining whether to approve or deny any application for prior approval under this section, the appropriate Federal banking agency, as the case may be, is authorized to consider the financial and managerial resources of the bank or banks and bank service corporation involved, including the financial capability of the bank to make a proposed investment under this chapter and possible adverse affects such as a substantial lessening of competition or tendency to create a monopoly, conflicts of interest, or unsafe or unsound banking practices.

"(d) In the event the appropriate Federal banking agency, as the case may be, fails to act on any application under this section within ninety days of the submission of a complete application to the agency, the application shall be deemed approved."

(d) Section 6 of the Bank Service Corporation Act (12 U.S.C. 1866) is amended to read as follows:

"Service to Nonstockholders

"No bank service corporation that provides any services under this chapter to any depository institution that does not own stock in the service corporation shall unreasonably discriminate in the provision of any services authorized under this chapter to any other depository institution that does not own stock in the service corporation on the basis of the fact that the nonstockholding institution is in competition with an institution that owns stock in the back service corporation, except that—

"(1) It shall not be considered unreasonable discrimination for a bank service corporation to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and reasonable return thereon; and

"(2) A bank service corporation may refuse to provide services to a nonstockholding institution if comparable services are available from another source at competitive overall costs, or if the providing of services would be beyond the practical capacity of the service corporation."

(e) Section 7 of the Bank Service Corporation Act (12 U.S.C. 1867) is amended as follows:

"Regulation and Examination of Bank Service Corporations

"(a) A bank service corporation shall be subject to examination and regulation by the appropriate Federal banking agency of its principal investor to the same extent as its principal investor, except that where a bank service corporation performs any activity under the authority of section 1864(f) of this title it shall be subject to reporting, examination and other requirements consistent with the standard of treatment established by section 1865(b) of this title and the Board shall be considered to be the appropriate Federal banking agency for these and other regulatory purposes. The appropriate Federal banking agency of the principal shareholder of such a bank service corporation may authorize any other Federal banking agency that supervises any other shareholder of the bank service corporation to make such an examination.

"(b) A bank service corporation shall be subject to the provisions of section 1818 of this title as if the bank service corporation were an insured bank. For this purpose, the appropriate Federal banking agency shall be the appropriate Federal banking agency of the principal investor of the bank service corporation; except that where a bank service corporation performs any activity under authority of section 1864(f) of this title the Board shall be the appropriate Federal banking agency.

"(c) Notwithstanding subsection (a) of this section, whenever a bank that is regularly examined by an appropriate Federal banking agency, or any subsidiary or affiliate of such a bank that is subject to examination by that agency, causes to be performed for itself, by contract or otherwise, any services authorized under this chapter, whenever on or off its premises—

"(1) such performances shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of the service relationship within thirty days after the making of such service contract or the performance of the service, whichever occurs first.

"(d) The Board and the appropriate Federal banking agencies are authorized to issue such regulations and orders as may be necessary to enable them to administer and to carry out the purposes of this chapter and to prevent evasions thereof."

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 12. (a) Section 408(a)(1)(D) of the National Housing Act (12 U.S.C. 1730a(a)(1)(D)) is hereby amended by inserting before the semicolon the following:

", except that such term does not include a certified financial services holding company, as defined in section 2 of the Financial Service Holding Company Act of 1988".

(b) Section 408e(3) of the National Housing Act (12 U.S.C. 1730a(e)(3)) is hereby amended by adding at the end thereof the following new sentence:

"For purposes of this subsection only, a certified financial services holding company shall be deemed to be a savings and loan holding company."

DEFINITIONS

SEC. 13. For purposes of this Act—

"(1) the term 'affiliate' means an 'affiliate' as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371(c)), excluding any subsidiaries of a bank holding company;

"(2) the term 'bank', 'bank holding company', 'control', 'subsidiary', 'company' and 'Board' shall have the same meanings given to such terms in section 2 of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841)."

U.S. CITIZENSHIP AND THE CONSTITUTION IN PUERTO RICO

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LAGOMARSINO. Mr. Speaker, I would like to share with my colleagues the very eloquent remarks of Judge Juan M. Perez Gimenez of the U.S. District Court for the District of Puerto Rico. Judge Perez spoke at the swearing in ceremony of new U.S. citizens in Puerto Rico on September 17, 1987. We all remember that date as it was also the 200th anniversary of the signing of the Constitution, the document which enunciates the rights we hold so dear.

I was moved by Judge Perez' words which are full of patriotism and love of country. As he explains, U.S. citizenship provides rights, benefits, and privileges. It also carries with it duties and obligations. The people of Puerto Rico, who have been citizens for over 70 years, have never shirked their responsibility of defending the U.S. flag and Constitution beginnning with World War I through to the present day. Yes, they too have provided the ultimate sacrifice of spilling their blood for the freedom we all cherish.

Is it surprising that people with such patriotic zeal also yearn to receive a full endowment of their constitutional rights as citizens? Judge Perez makes it clear that "true equality with the other members of this grand Nation" is the ultimate station in life.

Equal treatment under the law is what America stands for and what our Constitution represents. The quest for equality is not only admirable, it is what is expected from those who understand the meaning of our Constitution and citizenship.

It is sad. It is unfortunate. But as Judge Perez also explained, U.S. citizens in Puerto Rico, including the new naturalized citizens, do not enjoy the same rights and privileges as those residing in the Union of Federated States. All new citizens should be informed that while living in Puerto Rico they cannot vote for President and Vice President, nor do they have any representation in the U.S. Senate or full voting representation in the House of Representatives. Other programs and services are limited or unavailable, such as Medicaid, food stamps, aid to families with dependent children, supplemental security income, and others. In addition, they cannot fully contribute to the American community as the Internal Revenue Code does not apply in Puerto Rico as in the rest of the Nation.

The 200th anniversary of the U.S. Constitution was an auspicious day to laud the rights of the people guaranteed therein. And with whom would it be more appropriate to explain this to than an assembly of newly naturalized citizens?

Perhaps Judge Perez' statement will provide some insight as to why Members of the Senate and House have introduced legislation, S. 1182 and H.R. 2849, to address the inequalities of U.S. citizenship in Puerto Rico.

MESSAGE OF THE HONORABLE JUAN M. PEREZ GIMENEZ, SWEARING IN OF NEW CITIZENS, SEPTEMBER 17, 1987

On such a significant occasion as this, it is an honor and a pleasure to preside over your swearing in as new citizens of the United States of America, and, in the name of this court, I offer you the warmest welcome.

Today's activity is of greater significance and importance than the many which I have directed in the past. There is a particular reason for explaining and justifying the jubilation and joy that this special ceremony takes on.

Today is the day on which the closure of the deliberations of the delegates to the Constituent Assembly of 1787 is commemorated, which culminated in the document that today we know as the Constitution of the United States of America, to which you all just finished swearing perpetual and honorable loyalty as the supreme law of the Nation. For 200 years this has been the organic law that serves as a guiding light for all of those who seek a safe port from the storms of political, economic, ethnic, or racial mistreatment that exist in other places.

Today, the same as yesterday, the United States serves as a beacon for those who desire to breathe and prosper freely in an environment that fosters the development of the individual and collective aspirations, those who, like you, have struck out in search of a better vista. That better life translates into the benefits and privileges that U.S. citizenship grants. There are many of them and they are envied by many. If that were not so, ceremonies such as this one would not be necessary.

But there are also duties and obligations inherent in citizenship. Here in Puerto Rico, we have learned, time and time again, to respond to what they require. There is no better evidence of duty than to render the ultimate sacrifice in its defense. In our 70 years as American citizens, we "Boricuas" have responded to the call of duty, shedding our blood in several wars in order to defend the principles that guarantee peace for us. In the same way, there is no better proof with respect to our obligations than understanding and defending the postulates that arose from that bold feat almost 200 years ago. That is why we are gathered here today.

Although our nation is relatively young, compared with the other cultures of Western civilization, on the other hand it is the oldest republic in the modern world.

When the 13 British colonies in the new continent set out toward independence, you could count on the fingers of one hand the governments of popular origin; today, to the contrary, you can make the same count of the monarchies of an absolute tendency. Such has been the influence of our system of Constitutional Government.

Why has such a unique experiment endured? How does such a short document continue to be as relevant as at the moment of its inception? Why has it resisted the ephemeral, utopian promise of other systems that promise a paradise on earth? The answer is simple! Because it is not a product of, nor subject to, a group of self-designated leaders. The strength of our Nation rests with the force of the explicit will of the governed in free elections. There is no room for the omniscient cacique or for the omnipotent caudillo. Since the infancy of the American nation the concept of civil supremacy and obedience to laws has prevailed.

The relevance of the Constitution is also due to the fact that it is subject to amendments and judicial interpretation. On the one hand, the original document has been modified through 26 amendments, including the first 10, which are known as "the bill of rights." On the other hand, there are amendments that rectify inherent deficiencies in the original document. From that comes the importance of the 12th, 14th, and 15th amendments, approved in order to advance civil rights, especially of minority groups.

The other dynamic element in strengthening the Constitution has been the flexibility of interpretation, which the judges of the Federal Supreme Court have decreed, according to their views, at a particular moment. This is the essence of the Constitution!

Our Island of Puerto Rico, which forms an essential part of the U.S., has known how to respond to the demands for refuge of our brothers. In our homes we have housed those afflicted and persecuted for their political dissention, those who fled Fascist Europe; the victims of the Duvaliers in Haiti; those stalked by the Trujillo regime in the Dominican Republic; the victims of the Peronist repression in Argentina; we have given the same shelter to a Romulo Betancourt or a Juan Ramon Jimenez. Also thousands and thousands of brother Cubans, who arrived on our beaches seeking asylum from the abuses of the most savage West Indian communism. All have breathed the fresh air of freedom that caresses us under the protective blanket of the citizenship which today you are proud to have.

Integration in the American nation does not mean the loss of cultural profiles; nor does it imply a renunciation of your ancestral heritage. It is an affirmation of the values that join us in a common objective: freedom for all without the loss of our cultural values.

This has been illustrated perfectly in the trip that His Holiness John Paul II is currently making through the United States. In solemn acts celebrated in Florida and Texas, millions of persons were able to observe on their televisions how the Hispanic heritage is maintained in those places; to the point that the Pope addressed our fellow American citizens of equal origin and culture in Spanish.

This Federal Judge, in particular, can attest, through my knowledge, to what I am talking to you about. I am the son of Spanish emigrants who arrived at this beautiful island in search of the same as you. Through my parents I knew well the deep desires and hopes of those, like you, who abandon the land that gave them birth and integrate freely in this society. I have always thought that the emigrant, after becoming a naturalized citizen, perhaps may love the United States more than those of us who were born Americans, since at times we take for granted that great fortune of being American citizens.

Unfortunately, at the present there are some large, dark storm clouds on the firmament of our citizenship that should concern us today. Although you have become American citizens, you are not going to have access to 100% of the rights of that citizenship. The colonial status of Puerto Rico prevents it for us. Such distinguished personalities as the former Chief Justice of the Supreme Court of Puerto Rico, Lic. Jose Trias Monge; Federal Circuit Judge Juan R. Torruella, and Federal District Judge Jose Cabranes have recently categorized the political status of Puerto Rico as a colonial one. In fact, being the Chief Justice of the Supreme Court, Lic. Trias Monge said that the colonial status of Puerto Rico "lacerates the soul and weakens our strength." On the other hand, Judge Cabranes indicated that the key point on the place that Puerto Rico occupies within the American Constitutional system is that no other word except colonialism adequately describes the relationship between a powerful mother state and an impoverished overseas dependency. As I said in my speech last July 4, practically everyone in Puerto Rico agrees on the colonial condition; where there is no consensus is on the direction to follow, on what to do.

A few want a total break through the republic; others wish to keep the colonial status by glorifying it with flashy titles; others of us want to make our citizenship 100% effective. We want the right to the federal vote and total political integration, just like, equal to the other 50 states. That is the basic reason for citizenship; true equality with the other members of this grand nation.

I call upon you to join, patriotically, with the same courage that you showed in emigrating to American territory, the hundreds of thousands of Puerto Ricans who want to obtain 100% of those rights inherent to first class citizenship and not to a second class one, as we now have. As Judge Torruella said well in his book "The Supreme Court and Puerto Rico; the Doctrine of Separate and Unequal," "Whatever the future holds in store for this island, its people must strive to obtain the equality that has eluded them for so long."

Thank you very much.

(Translated by Deanna Hammond, CRS Language Services, September 29, 1987.)

TRIBUTE TO ST. GERARD'S RC CHURCH OF PATERSON, NJ, ON ITS 25TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. ROE. Mr. Speaker, I am indeed proud to rise today to observe the silver anniversary of a vital force in the spiritual and civic fabric of my Eighth Congressional District of New Jersey. I speak of St. Gerard's RC Church of Paterson, NJ, which, for the past quarter of a century, has been dedicated to the spiritual and cultural enrichment of its community, and which has served as a beacon of faith to countless thousands of parishoners.

Mr. Speaker, the fine people whose lives have been touched and strengthened by St. Gerard's and the strong leadership of Rev. Mark Giordani, pastor, will celebrate St. Gerard's 25 years of exemplary service to its community with a dinner dance on October 18 at St. Joseph's Community Center in Paterson.

I am certain this important event will be a success, for the various committees have been laboring tirelessly to assure the celebration will befit St. Gerard's great tradition. The list of those giving their time in this great effort include Chairman Joseph P. Cioffi and Michael Carofalo; the Dinner Committee, Joanne Cioffi, Carmella Caiola, Frances Squitieri and Dave Pasquariello; the Decorations Committee, Rose Van Houten, Rose Griffin, Dot Cioffi, Dot Aumenta, Helen Povolo, Marie Erb and Joe and Bert Vaccaro; the Church History Committee, Elena Healey, Paula Lott, Tom Stasiak, Joe Giresi, Ralph Ventrella, John Negrotto, Jay White, Leo Phelon, Angela Marinaro, Charles Fiorella, John Burke, Ruth Hoffner and the Hon. Frank X. Graves, mayor of Paterson; the Ticket Committee, Phyllis Pasquariello, Marilyn Zorechak, Sue Amoresano, Jackie Maher, Angie DiPasquale, Luz Ricafort, Ken and Cheryl Predmore, Dominic and Marge Falone, Ed and Ann Tintle, Irene Tolerico and Joan Antonucci; the Special Raffle Committee, Don Moskowitz, Mike Adamo and Ry Riga; the Mass of Thanksgiving Program, Ralph Ringstad, Ruth Hoffner and Elena Healey; the Dinner Program, Sue Amoresano, and the church history slide presentation, Elena Healey.

Mr. Speaker, I know that along with celebrating St. Gerard's 25th anniversary, this event will also honor Father Giordani for the quality of his leadership and richness of his wisdom in his constant quest for the communion of people in faith and civic pride which is the greatest asset of a free society and the very foundation of the strength and vitality of America's heritage.

As this anniversary approaches, for the benefit of my colleagues, I would like to cite the official history of St. Gerard's, which tells not only of the establishment of this parish, but also of the outstanding and valuable work it has been doing and continues to do in the community:

During the year of our Lord 1959, Mr. Esterino B. Leone, owner of the Glen Rock Lumber Company in Fairlawn, New Jersey while conversing with Monsignor Carlo Cianci, pastor of St. Michael's Church, Paterson asked if he could use the plot of land he owned on West Broadway in Paterson for a public benefit.

Monsignor Cianci gave an affirmative answer and immediately informed Bishop James McNulty, Bishop of Paterson, who gladly accepted the offer to acquire the land for the diocese.

Since many parishioners from St. Michael's had been moving into the Hillcrest area of Paterson, the bishop decided to establish St. Gerard Majella Church as a mission of St. Michael's in order to meet the growing spiritual needs of the people.

On April 18, 1960, Mr. Esterino B. Leone turned the deed over to St. Michael's Church, Paterson and officially presented the title into the hands of the Most Reverend Bishop James McNulty.

A few weeks later, the bishop suggested the erection of a church with a seating capacity of 500 people.

As the place was chosen for the church to be built, the Board of Public Works of Paterson, granted the incorporation of the "Alden Terrace Court" into property with the approval of our then mayor, Frank X. Graves.

The contract for the construction of the church was signed in September, 1961 and construction began. The church was dedicated on October 7, 1962. Construction for the school building began in 1964 and was completed in 1965.

Monsignor Cianci's founding efforts were strongly supported and implemented by Father Eugene Romano. Father Romano celebrated mass at St. Gerard's and nurtured the faith of the people. Father Romano was also greatly involved in raising money for the school.

In 1965, St. Gerard Majella was canonically established as a parish and Bishop Navagh appointed Father Thomas Trapasso as its first pastor. Under his capable pastoral direction and concern, the rectory and convent were purchased.

In 1969, Bishop Casey assigned Father Armand Conte as its second pastor from 1969 to 1973. Father Conte led the people through the initial stages of implementing the directives of the Second Vatican Council. The altar was placed in the middle of the sanctuary and the mass was celebrated facing the congregation. Father Conte also purchased the pre-fab kindergarten.

In 1973, Father Mark J. Giordani was assigned to St. Gerard's as an associate. In January 1974, Bishop Casey inaugurated the Team Ministry appointing Father Mark J. Giordani and Father Robert Carroll Co-pastors. The bishop named Father Mark as administrator. Father Robert Carroll served on weekends from January to May and in June of 1974, he began his full-time ministry with Father Mark.

Father Mark and Father Bob chose as their team ministry motto: "To work towards building a better Christian community and to serve the needs of the people in the best possible way."

Father Mark brought with him the dream of building a center to provide a place for sports and social activities for our young people and senior citizens. He set up a fund-raising committee with Joseph P. Cioffi as the chairman. This grew into a powerhouse of charity to meet these needs and many others as well.

They, believing in Christ's words, "I assure you, whatever you do for one of my least brothers, you do it for me." (Mt. 25:40) Father Mark and Father Bob endeavored to fulfill the people's corporal needs first. Then, having experienced Christ's charity through the fulfillment of their corporal needs, they would be open to the fulfillment of their deeper spiritual needs.

To actualize the Parish Mission in all its dimensions, the Parish Council took the form of our four Action Committees:

Spiritual and Liturgical Life Committee.
Family Life Committee.
Education Committee.
Fund Raising Committee.

(1) The Spiritual and Liturgical Life Committee is dedicated to the growth, breadth and depth of our faith by deepening our relationship with God in Christ through the prayerful celebration of Mass and the sacraments. It is the foundation and impetus of all the life and work in the parish.

(2) The Family Life Committee seeks to enrich family life by making it more human and by finding its strength and inspiration in Christ. It works to promote a genuine Christian Community spirit in the family, in the parish and in the neighborhood.

(3) The Education Committee strives to recommend, promote, develop and evaluate all parish related educational programs for all members of the parish; that is, educational programs for youth, adults and senior citizens.

(4) The Fund Raising Committee searches out and develops various fund raising events to supply the necessary income to sustain and enrich our parish mission.

Twenty-six different parish organizations have emerged from these four Action Committees. They are as follows: Altar Boys, Athletic Groups, Boy Scouts, Brownies, C.C.D., Adult Choir, Christian Riders Motorcycle Club, Couples Club, Cub Scouts, C.Y.O., St. Vincent De Paul Society, Folk Group, Girl Scouts, Holy Name Society, Knights of Columbus, Ladies Auxiliary, Lectors, Legion of Mary, Parent Teachers Guild, R.C.I.A., Rosary Altar Society, Senior Citizens, Singles Connection, Ski Club, Special Ministers of the Eucharist and Ushers.

In 1976, Father John Weiss joined us to help out with the weekend masses until he became a Navy chaplain.

In 1980, Father Clement Cardillo, S.D.B., Ph.D. and Director of the Diocesan Consultation Services Center, became a part of our Parish Team. He assists us with our weekly and weekend masses. Father Clem has recently been elected to the Provincial Council of the Salesian Order.

Between 1980 and 1981, Father Mark's dream, which the people enthusiastically shared with him, became a reality in the construction of St. Joseph's Community Center. The center was named after St. Joseph to ask his partronage over our families in this day and age when family life is so shattered and in need of healing.

Over the years, after discussing the ideas with the people and with the unflogging work of dedicated parishioners supporting countless fund raising projects under the direction of Joseph P. Cioffi, chairman of this project, the groundbreaking took place on September 25, 1980. September 25th is the birthday of Father Mark's mother. After months of intense planning and labor, Monsignor Joseph Brestel concelebrated a mass of dedication on June 21, 1981, the feast of St. Louis of Italy and the feast of Father Mark's father.

The center serves the needs of countless people through social events, ethnic celebrations, sports tournaments, cultural events, mass for the senior citizens of Paterson and various functions of charitable organizations.

St. Gerard's ongoing repair and building improvements include the following:

(1) 1978—digging a trench around the church to eliminate the water and rectify the flooding of the church basement.

(2) 1982-1983—removing the old tile from the church floor and installing a beautiful new marble floor.

(3) 1984—building a four room extension in the Sisters' convent at 6 Alden Terrace with Joseph Giresi as chairman.

(4) 1985—the church renovation including a revamped new sanctuary, a Blessed Sacrament Chapel and moving the organ to the front of the church. The planning and execution was done in collaboration with our Trustees Tom Stasiak and Joseph Cioffi and chairman Joseph Giresi. Joe Giresi faithfully and diligently supervised every aspect of the renovation which was done by Rotgers Church Interiors of Rockaway, New Jersey.

(5) 1986—we are now starting to raise funds for St. Gerard's Senior Citizen Housing Project. Its sixty efficiency units will provide a home for those who live on fixed incomes and have no other place to live.

In June of 1986, the Co-Pastors ended with Father Bob Carroll being appointed as pastor of St. Nicholas in Passaic. Father Mark J. Giordani continues as pastor and Father Paul Duggan has joined the Parish Team as an associate. St. Gerard's four Action Committees continue to spark spiritual and human growth in prayer, love and service.

Mr. Speaker, I appreciate this opportunity to present this history of this distinguished church that has dedicated its purpose to helping others and guiding them in their pathway of life. As St. Gerard's celebrates the 25th anniversary of its founding, I know that you and all of our colleagues here in the Congress will want to join me in extending our warmest greetings and felicitation for the excellence of service St. Gerard's has provided for its community, State, Nation and, indeed, all mankind.

TEACH LITERACY SKILLS AT THE WORKPLACE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BIAGGI. Mr. Speaker, I would like to call to the attention of my colleagues a recent article that appeared in Newsweek entitled "Back to the Basics—Businesses Are Moving To Close the 'Literacy' Gap." This article details the involvement of employers in improving the literacy of their employees—workplace literacy, an idea I have long advocated.

Legislation I introduced, H.R. 1342, seeks to assist employers in providing this training to their employees through a State-administered grant program. Employers can receive funding to offer educational opportunities for their workers to achieve basic literacy skills and training necessary to compete in the work force.

New York State has had great success with a similar literacy effort. The Motorola plant in Arcade, NY, makes thick film ignition systems and alternator parts. Increased technology demanded they switch to computerized products. However, because of the lack of adequate statistical and math skills, it was estimated that they would lose 400 of their 1,200 employees. Motorola decided to teach their employees the skills necessary to adapt to computers. They even gave their employees without high school diplomas the opportunity to earn one through classes in the cafeteria. The result was no loss in employees. In fact, because of the success of their computerized product, they were able to expand and employ more workers.

This is but one example of the success of workplace literacy. The newsweek article highlights other national examples. I urge my colleagues to join me in the goal of achieving literacy for all Americans, with a special emphasis on workplace literacy. An educated workplace, a workplace where we are using the full potential of our employees, is necessary for a competitive Nation.

I now insert for the RECORD a copy of the above-mentioned article.

BACK TO THE BASICS—BUSINESSES ARE MOVING TO CLOSE THE "LITERACY" GAP

Onan Corp., a Minneapolis company that manufactures generators, was determined to join the computer age. Wheeling the old hand-operated drill presses out the door would be easy—but what about the workers? Management considered hiring a new labor force but "chose to go with the folks," says employee-relations manager Michael Bates. The company thought a few courses in trigonometry would help the cew adjust to computers. The word came back from the shop floor: let's start with fractions. Swallowing hard, management brought instructors into the plant to teach a complete reeducation program. The investment paid off: production increased by 50 percent. Now the classes are seen as central to Onan's drive for competitiveness.

Federal commissions, presidential candidates and hand-wringing scholars have all fretted recently about the declining literacy of average Americans. Now business is doing something about it. A small but growing number of companies have brought schooling in basic communications and math skills to the workplace. General Motors has placed learning centers near assembly lines. Polaroid Corp., long a leader in corporate education, has an extensive program that begins with reading and addition. AT&T and the Communications Workers of America have set up a joint company to finance worker education and training.

BRAVE TALK

In taking on the work of educators, businessmen aren't just acting out of altruism. Corporate recruiters say it is increasingly difficult to find educated, entry-level employees, particularly in tight labor markets such as the Northeast. This year New York Telephone had to interview 90,000 candidates to fill 2,000 jobs that didn't even require a high-school diploma. Eighty-four percent of the applicants failed the examination. Ron Bradley, director of corporate training and development at Blue Cross Blue Shield in Boston, admits that companies have had to "bring in people who we might not have [hired] before . . . many who are marginally literate." For many employees, Blue Cross's on-the-job training now includes the three R's.

Corporate planners have also realized that brave talk about reindustrialization and international competitiveness is hollow unless workers can operate state-of-the-art equipment. A recent study of 3,600 young adults found that 20 percent read below the eighth-grade level, yet the majority of materials in American workplaces is written to a ninth- to 12th-grade level, says Larry Mikulecky, education professor at Indiana University.

GROWTH LEVELS

Demographic trends only stand to make the problem worse. With U.S. population growth leveling off, "most people who will be in the job market in the next 20 years are already in the job market," says Alan Webber, managing editor of the Harvard Business Review. "What you see is what you get." What companies increasingly will get is women, minorities and immigrants, whose educational opportunities have traditionally been limited. For the rest of the century these groups will make up 80 percent of new workers. "Companies have very little choice but to improve workers' basic skills," Webber concludes. Already, corporations such as Southland Corp., owner of the 7-Eleven stores, offer free English courses to immigrant employees.

The information age isn't coming to the workplace, it's here. "The traditional low-skill auto jobs don't exist anymore," says David Cole, director of the University of Michigan's Office for the Study of Automotive Transportation. "No longer is an individual just going to put a screw in an opening." To master the statistical control methods now used in the auto and other industries, workers will require sophisticated math skills. If production goes awry, old-fashioned mechanical aptitude won't count for much. On Polaroid's old machinery, "you know where to kick," says Linda Stoker, director of technology-readiness programs at company headquarters in Cambridge, Mass. "But the new technology is robotic and electronic. You have to have a sophisticated technological background to understand the implications of a readout."

Workers are also starting to see basic education as a matter of self-interest. At General Motors, new technology has forced retraining every three to five years—and employees without the basic skills quickly fall behind. The United Auto Workers is cooperating with the Big Three automakers on an academic program that led to the opening last February of The Learning Center at GM's Hydra-matic plant in Ypsilanti, Mich. About 430 workers have taken advantage of the center's computers and workbooks to run self-paced courses on reading and math. Some use the skills to qualify for better-paying jobs, some to find second careers. Jim Ball, 50, never graduated from high school, but the center so inspired him that he plans to continue his education in hopes of teaching history after he retires. "When I walk out of Hydramatic in nine years, I'll have a new profession," he says. The UAW also negotiated an in-house education program at the Planters peanut factor in Suffolk, Va. Hugh Holland, 53, used it to get a high-school-equivalency diploma. "Not too many people get a second chance like I did," he says.

NIGHT SCHOOL

Corporations have long offered tuition support for workers who attend night school. But that approach has come under fire from business and academic critics who say that such book learning rarely translates into improved job performance. "People are beginning to understand that for adults it is very important that training be done in a context they see as relevant," says Thomas G. Sticht, a San Diego-based consultant who set up pioneering literacy programs for the U.S. military. Sticht found that soldiers could improve their reading skills by two grade levels in six weeks if the material was about their jobs.

Many directors of on-the-job educational programs are taking a similar approach. Onan Corp., for instance, tries to make all class problems relate to its machinery or products. "We don't give them the A to Z of algebra," says Susan Peterson, who set up the training. "We teach the parts they need." Others defend the old-fashioned high-school-equivalency formula. After completing such an in-house program at Blue Cross Blue Shield in Boston, Irene Leighton was promoted from clerk to assistant supervisor. The education "gave me a lot of confidence," she says.

NEGLECTED MAJORITY

If the public schools did a better job, business might not have to pick up the slack. U.S. Labor Secretary Bill Brock excoriates "lousy schools that aren't giving our children the kind of opportunity they need to compete." College-bound students still tend to get a decent education in the public schools, education experts agree. It's the other 80 percent of the student body that is shortchanged. Dale Parnell, president of the American Association of Community and Junior Colleges, says that the proportion of high-school students following a "general" track that is neither college oriented nor vocational has risen from 12 to 42.5 percent since the 1960s. He thinks this unfocused education is a major reason why kids drop out or graduate without adequate skills. Parnell suggests that high schools, community colleges and businesses cooperate to direct the "neglected majority" toward careers.

Business is already moving to ensure that the schools graduate more employable workers. In Boston, 600 companies help high schools prepare students to hold a job and are committed to hiring graduates; the program is being copied in New York, Baltimore, Cleveland, and Minneapolis. Some business leaders advocate an even more radical solution. Last week the Committee for Economic Development, an organization of 200 corporate officials and educators, issued a report calling for business to address the roots of the dropout problem by supporting prenatal and early-childhood care. The shortage of educated workers demands that the uneducated be made fit to work, the CED concluded. While educators and bureaucrats bemoan the literacy gap, a bottom-line approach may succeed where almost everything else has failed.

H.R. 1917

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. HORTON. Mr. Speaker, I am pleased to be here with my colleagues today urging for the prompt consideration of H.R. 1917, the so-called notch years legislation sponsored by my good friend from California, ED ROYBAL. I want to congratulate both him and the gentleman from New Jersey, [Mr. SAXTON] who recently formed the congressional "Notch Coalition," of which I am a member.

Mr. Speaker, our constituents are tired of hearing excuses on why Congress has not passed—or even considered—notch years legislation. They are frustrated with a system that they perceive as being grossly unfair. Each member of this House has literally thousands of notch babies in their districts wanting their fair shake from the government. H.R. 1917 is a critical step in righting this monumental wrong, Mr. Speaker.

I voted against the Social Security Amendments in 1977. Ten years later, and despite more than 170 cosponsors of corrective legislation, the committee of jurisdiction has yet to even hold hearings on the matter, much less report a bill.

Mr Speaker, we owe it to the senior citizens of this country to consider H.R. 1917, and to correct this inequity.

TRIBUTE TO ARMY HERO

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mrs. BENTLEY. Mr. Speaker, in the year of the bicentennial of the U.S. Constitution, it is only fitting that Americans salute some of our Nation's true heroes. These are men and women who have devoted their lives and careers to protect this great country and the principles for which its great Constitution stands. Often their names are not known, yet they are heroes nonetheless.

We in Maryland honored one such individual in September when Brig. Gen. Patrick Brady, Chief of Staff, First U.S. Army, served as grand marshal in Baltimore's great "I Am an American Day" parade. This is a high honor in my State, and I feel that it is only fitting that this man—this hero, if you will—be recognized by this great body.

Brigadier General Brady has devoted a quarter century of his life to active commissioned service in the U.S. Army. He is a graduate of the Armed Forces Staff College as well as the U.S. Army War College. He has also earned a degree in business administration as well as a masters of science degree from the University of Notre Dame. His military record is no less impressive. In his career he has received the Distinguished Service Cross, the Defense Superior Service Medal, the Distinguished Flying Cross with five oak leaf clusters, the Purple Heart, the Air Medal with 52 oak leaf clusters, the Master Aviator Badge and the Air Assault Badge. In 1969, he was named AAA Aviator of the Year.

On January 6, 1969, then Major Brady, who was commanding a Uh-1h helicopter in Vietnam, volunteered to rescue wounded men from enemy-occupied territory. During the several hazardous flights he made that day, enemy fire destroyed portions of his aircraft's controls, forcing him to secure an additional helicopter to continue the mission. At one point he put his own life in even greater jeopardy by rescuing injured men trapped in a minefield. At the end of that day—and three bullet-riddled helicopters later—Major Brady had evacuated 51 seriously wounded men. This feat earned him the much coveted Medal of Honor. In his two tours of Vietnam, Brady was responsible for the safe evacuation of over 5,000 men.

Brigadier General Brady is a true example of bravery, selflessness, and love of country—all the qualities which make America great. There are many other living American heroes, and I urge all of you to give them their due respect in this year of celebration. If it wasn't for people like them, the ideas and spirit of the Constitution would have withered long ago.

COMMEMORATING NATIONAL FOOD BANK WEEK

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LELAND. Mr. Speaker, today I rise before you to introduce a resolution designating November 8, 1987, through November 14, 1987, as "National Food Bank Week."

In our Nation of abundance there are currently over 30 million people living below the poverty level. Moreover, it has been reported that an estimated 20 million people in our country go hungry some time during the month.

The challenge to reduce the suffering of the poor and the hungry is being addressed in nearly every part of the country by nonprofit food banks. These food banks collect surplus food that would otherwise be wasted and distribute it to soup kitchens, day care centers, homes for the elderly, halfway houses, church-operated food programs, and needy individuals.

Second Harvest, a Chicago-based nonprofit organization, has committed itself to coordinating the efforts of food banks across the country. Second Harvest actively solicits and distributes surplus food from manufacturers and retailers to feed those in need. Last year alone, Second Harvest collected 352 million pounds of vital nutritious food from more than 200 major members of the Nation's food industry. The food was then allocated to nearly 200 food banks around the country and then ultimately channeled to more than 38,000 social service agencies to serve the hungry in their communities.

Mr. Speaker, Congress has in the past recognized the plight of our Nation's hungry and the enormous contribution of food banks across the country through legislation commemorating National Food Bank Week. Now, more than ever, our Nation needs to be aware that our fight to end hunger is still a major priority in the Congress. This resolution sends such a message.

With Thanksgiving on its way, it is time not only to count one's own blessings, but to support those who are extending a helping hand to the nonprofit food banks, I ask that my colleagues join me in cosponsoring this very worthwhile piece of legislation.

TRIBUTE TO JOSEPH L. ZAZYCZNY

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to one of Philadelphia's finest leaders and greatest Polish-Americans, Joseph L. Zazyczny. It is truly fitting to honor Joe Zazyczny during October, which is National Polish-American Heritage Month.

Joe's leadership qualities have been evident since he received the Reverend Bronislaus Rutt Award from St. Laurentius Parish at the age of 15. He continued to show these qualities at St. Laurentius, in the U.S. Army, and with the Richmond Committee for Community Improvement.

Joe Zazyczny had a distinguished career on the Philadelphia City Council. He was elected in 1967 and earned overwhelming respect for his total dedication to improving the lives of the people in the sixth councilmanic district.

In his three terms as the chairman of the committee on public property and public works, Joe was instrumental in the development of the Tioga Marine Terminal, the Philadelphia Gas Works Port Richmond Plant, the Center City Commuter Tunnel, the Airport High Speed Line, SEPTA rolling stock acquisitions and a multitude of recreation center improvements.

Joe Zazyczny is also an active leader in the Polish-American community. He is past President of the Polish-American Citizens League of Pennsylvania, the Polish Intercollegiate Club and the Polish Heritage Society. He also served as vice president of the Polish-American Congress, Eastern Pennsylvania District, and as president of the American Council of Polish Cultural Clubs.

Joe selected the location of the Kopernik Monument and served as chairman of the Kosciuszko Monument Committee. He established the Friends of Kosciuszko Volunteers for the National Historical House through the Polish Heritage Society.

For the past 9 years, Joe has been corporate secretary of the Philadelphia Port Corporation and has pursued policies that will ensure a prosperous future for the Port of Philadelphia.

In addition to all his accomplishments in public life, Joe is a dedicated family man. I am sure that his wife, Martha, and their six children are proud of him.

Joe Zazyczny's record of leadership and public service has not gone without notice. I join the city of Philadelphia in honoring this distinguished Polish-American.

MINE SAFETY SUFFERS A SETBACK

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. HENRY. Mr. Speaker, today's Wall Street Journal carries an outstanding column written by our colleague, Representative HARRIS FAWELL, in regard to the unfair treatment received by Ms. Dorothy Strunk in her confirmation hearing for the post of Assistant Secretary of Labor for Mining Health and Safety by the Senate Labor and Human Resources Committee.

It details how sexual prejudice interfered with the consideration of her candidacy on its merits by the United Mine Workers, an overwhelmingly male union. And it demonstrates how this misguided special-interest interfered with the exercise of fair judgment—ultimately at great personal cost to Ms. Strunk and also to the safety of the mine workers themselves.

I commend this article to each and every Member of the House, for the simple reason that each of us is sometimes tempted to allow prejudice or ill-informed special interest stand in the way of reasonable action.

[The article follows:]

[From the Wall Street Journal, Oct. 1, 1987]

COAL MINER'S DAUGHTER: NOT TOUGH ENOUGH?

(By Harris W. Fawell)

Dorothy Strunk is truly a "coal miner's daughter." Her father toiled in the coal mines of northeastern Pennsylvania for 30 years. His father worked in the mines and was a United Mine Workers organizer.

Mrs. Strunk knows the anguish that miners' families go through. She remembers her father being injured in mine accidents and the day her family learned that he had black lung disease. "No coal miner's family should have to live in such fear," she says.

In 1965, after completing high school, Dottie headed for Washington, D.C. A few years later she joined the staff of the House Education and Labor Committee as a Secretary. Within a few years she rose to office manager, clerk of the committee, professional staff member, and finally, senior legislative associate.

NO MYSTERY ABOUT THE VOTE

For the past decade, Mrs. Strunk has been the key staff person for the Republicans handling coal-mining health and safety legislation. Labor Secretary William Brock says of her, "She has been in more mines than any other woman in this country other than a miner. . . . No woman in this country and certainly very few, if any, men can match her knowledge of mine safety and health issues and in particular of mine health and safety law and regulation."

Earlier this year, President Reagan nominated her to be the next assistant secretary of labor for mining health and safety. On Aug. 5, the Senate Labor and Human Resources Committee—which includes some of the Senate's most outspoken supporters of women's rights—rejected her nomination.

There's no mystery about how the coal miner's daughter got the "shaft": The male-dominated United Mine Workers couldn't countenance a woman for such a position. The union didn't say Mrs. Strunk should be turned down because she was a woman; things aren't done that way. Instead, it claimed she lacked management experience. The union made it clear to the Democrats on the Labor Committee that the Strunk nomination was a "key" labor vote. "Those Democrats are in the Senate thanks to the unions, and the unions aren't about to let them forget it," an administration official told me.

Preparing for her nomination hearing, Mrs. Strunk requested meetings with each senator on the committee. Her own senator, Barbara Mikulski (D., Md.), would not meet; she later voted against Mrs. Strunk's nomination.

Mrs. Strunk did meet with Sen. Paul Simon (D., Ill.). "I explained my background, growing up in a coal-mining family, and the years of experience with health and safety legislation," Mrs. Strunk says. "I described how deeply I felt that coal-mining families should not have to go through this."

Mrs. Strunk says that Sen. Simon told her that he was more impressed with her background as a daughter of a coal miner than all her years of experience on the House Committee working with mining health and safety legislation. But while talking about the UMW's opposition, Sen. Simon also said that this was a very difficult vote for him. That afternoon an aide called Mrs. Strunk and told her that "because of your lack of administrative experience, the senator would have to oppose you."

Mrs. Strunk also met with five other senators. Sen. Tom Harkin (D., Iowa) was especially moved by Mrs. Strunk's background; his father has had black lung disease. But in the end, he, too, voted against her nomination.

If Mrs. Strunk's nomination depended on anyone, it was Richard Trumka, president of the United Mine Workers.

Times have been tough for Mr. Trumka. Union membership is down. Coal companies are splitting into many companies that insist unions negotiate with each separate unit.

When a Labor Department official called Mr. Trumka to suggest a meeting with Mrs. Strunk, Mr. Trumka was willing to talk.

"Something very strange happened during our meeting," Mrs. Strunk reports. "When the UMW vice president, who had been sitting with us walked away to take a call, Trumka leaned over, looked me in the eye and said, 'Why are you doing this; you'll be tainted; you'll never be able to find a job after this.' "

In the days leading up to the hearing, Committee Chairman Edward Kennedy (D., Mass.) expressed concern that Secretary Brock might step down in September, and if this happened, "the mining industry would walk all over Dottie." A committee staffer expressed the same concern, saying that the mining industry would "eat Dottie alive over there." In the hearing, Mr. Trumka said the job needs "not a beginner, but a proven leader."

Only Sens. Kennedy and Hatch attended Mrs. Strunk's nomination hearing on July 29. Mrs. Strunk came armed with letters of recommendation from a long list of members of Congress, state mining and labor officials, and many more. Mr. Brock, for the first time in his career, personally testified on his nominee's behalf. So did many others. "As a longtime Democrat," said Iowa Labor Commissioner Allen J. Meier, "I was impressed by her ability to rise above partisan politics in expressing her concern regarding the problems of working men and women."

Those opposing Mrs. Strunk zeroed in on the management-experience issue. There is nothing wrong with raising this question. But one cannot help wonder why dozens of previous nominees have sailed through the confirmation process without the same question being asked.

Mr. Brock, a former senator, said: "I served in this body for six years. . . . I do not think I know a senator who has not submitted someone from his staff to be assistant secretary of some agency in which this same question has been raised. All of us have actively supported Hill staffers for assistant secretary or equivalent level positions and we cannot exclude all qualified, dedicated staff from such positions. . . . That is ridiculous."

Rep. James Jeffords, Mrs. Strunk's boss on the Education and Labor Committee, said: "These standards seem rather new. . . . I do not think any of the previous assistant secretaries have been held to these standards."

If management experience is a prerequisite, why did the committee confirm Don Elisburg, a Carter nominee and Senate staffer who I am told had little administrative experience, as assistant secretary for employment standards—an agency with 4,000 employees?

In Mrs. Strunk's case, here was a nominee respected on both sides of the House. But what labor wants apparently is more important, Howard Samuels, a senior official of the AFL-CIO, recently said of congressional labor policy, "We control the committees and the agenda on the floor."

KENNEDY MADE THINGS WORSE

When Sen. Kennedy tried to smooth the matter over, he only made things worse. On the day of the vote on Mrs. Strunk, he remarked: "If she had just been up here to be confirmed for something like personnel, she would have been confirmed."

During the hearing he said: "I do not think anyone is questioning that Dorothy Strunk is not a good woman. The question is whether she is a qualified woman."

It appears to me the real problem was that Mrs. Strunk was not a qualified man.

She was a woman facing a male-dominated union—a union that also dominated the Senate Labor Committee.

An elderly miner sitting in the hearing room couldn't listen any longer to Sen. Kennedy questioning Dottie Strunk's qualifications. This miner knew Dottie Strunk had worked her way up from the bottom. He knew that Dottie has not had any of the advantages of money, a college education, or a well-connected family. He knew that she was more committed to, and knowledgeable of, the safety needs of miners than just about anyone knew.

The miner was Mrs. Strunk's father. He walked out of the hearing.

TRIBUTE TO HON. WILLIAM MOORHEAD

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. HUGHES. Mr. Speaker, I want to thank the gentleman from Pennsylvania for organizing this special order in honor of our late friend, William Moorhead.

During his 22 years as a Member of Congress from Pittsburgh, PA, until his retirement in 1981, Bill embodied the ideals of the blue collar steelworkers in his district; hard work, dedication, and compassion for the common person. These attributes earned him the admiration of his constituents, and the respect of his colleagues.

He played an active role in many key issues. As chairman of the Economic Stabilization Subcommittee, Bill spearheaded legislation for aid to New York City and authorization of the President's Council on Wage and Price Stability. He also contributed greatly in several other important issues of the day, particularly in the fields of banking, housing and community development, finance and urban affairs.

Bill Moorhead was a man whose contributions to this House were to be found not only in the legislation that bears his name, but also in the example that he set for his colleagues as a Representative of his district and as a trustee for his Nation. Like many Members who have served in this great deliberative body over the past 200 years, he worked tirelessly, but without fanfare—quietly, but effectively.

Among Bill's greatest accomplishment, though, was the enormous courage and strength he exhibited in his long battle with cancer. Through the entire affair he refused to let his illness suppress his determination to live each day to its fullest potential.

In the time we had the opportunity to work together, Bill influenced me with his diligence and perseverance in serving this institution. I am sure that I echo his colleagues' sentiments when I say that I feel privileged to have worked alongside him.

Again, Mr. Speaker, I feel privileged to acknowledge the fine contributions that William Moorhead made to this House. His character and courage will forever resonate through the walls of this body.

BLENNERHASSETT ISLAND NATIONAL HISTORICAL PARK DESIGNATION

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. MOLLOHAN. Mr. Speaker, today I introduced a bill to designate Blennerhassett Island in the Ohio River at Parkersburg, WV, a national historical park

The history of this wooded island that rises sharply out of the wide expanse of the Ohio River is rich and full ecompassing the lives of ancient native Americans and the deeds of early Colonial Americans. It is a history that needs to be shared with America like a uniquely written chronicle of our Nation's history.

Excavations at Blennerhassett Island have produced significant artifacts—stone pipes, weapons, and jewelry—of Indians on the island 14,000 years ago. The Indian trader George Croghan brought the island into written history when he mentioned it in his journal in 1765. White settlers arrived as early as 1773, and during the Indian wars that ended in 1795, settlers built two blockhouses there.

It was on this island that an exiled Irish nobleman named Harman Blennerhassett and his wife, Margaret, settled in 1798 and built a grand mansion house in the Italian palladian style. The two-story, white house was spectacular, carved from the wilderness and featuring luxury and beauty like that found in the homes of Washington, Jefferson, and Madison. Lush gardens surrounded the estate which must have stunned early travelers along the Ohio River.

The manison was unique because it featured incredible beauty in the heart of the wilderness. But it became famous because of the many noteworthy people who visited there, including George Rogers Clark, King Charles X of France, Johnny Appleseed, and Henry Clay.

One particular and frequent house guest left a bold mark on America's history. Five years after narrowly losing an election that would have made him President of the United States, Aaron Burr arrived at Blennerhassett Island to dream and plan for an ill-fated expedition to the Southwest.

The Blennerhassetts gave Burr respite and entertainment and witnessed his scheme, which ultimately met with disaster—as did the majestic old mansion where his plans were made. The famous mansion burned to the ground in 1811, leaving virtually no trace of its existence.

However, archaeologists rediscovered its ruins in 1973. Through careful historical and architectural research, the mansion has been substantially reproduced on its original foundation where visitors may relive the unheard of splendor that the unique Blennerhassetts brought to the wilderness.

While the mansion is a re-creation, the Blennerhassett estate on the island boasts other original structures dating back to the early 1800's including a carriageway that bisects the 4-mile, 500-acre island. On the left stands a grove of black walnut trees, planted by a post-Blennerhassett owner and, to the right, a cleared, level recreational park is situated. About halfway down the island sits the shell of a brick farmhouse where it is said that Walt Whitman stayed in 1849 and penned a poem about the island.

Now, 139 years later, our West Virginia congressional delegation, Governor, State legislators, local leaders, and notably the Blennerhassett Historical Park Commission, a State agency created to chart the development of the island, are working in concert to revive the greatness of the island with an eye toward national recognition. Clearly, the citizens of the Mountain State would like to improve upon their ability to share their piece of American history with the rest of the Nation.

Senator ROBERT C. BYRD, with the cosponsorship of Senator JOHN D. ROCKEFELLER IV, has introduced an identical bill in the U.S. Senate today. And, my colleague and good friend Representative NICK J. RAHALL II, a member of the House Interior and Insular Affairs Committee, has visited the island personally and shown deep commitment to the project. He is an original cosponsor of my bill.

The Blennerhassett Historical Park Commission renovated a downtown Parkersburg building into the Blennerhassett Museum and Vistors Center which would become a key part of the national historic park if my bill is enacted. More than 100,000 people are expected to visit the island and museum this year and, with National Park System designation, many more can share this historical treasure.

Mr. Speaker, all this hard work and cooperation among all levels of government shows just how deeply many people feel about the future of Blennerhassett Island and how firm the commitment is for its development. Never before in the history of America has historic preservation and appreciation of our past been more popular, especially in West Virginia. My bill would bring an important part of our American history alive once again for Americans to see and comprehend.

STATEHOOD FOR PUERTO RICO

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LAGOMARSINO. Mr. Speaker, I would like to call the attention of my colleagues to a resolution adopted by the General Federation of Women's Clubs in support of statehood for Puerto Rico. The international president of the organization, Phyllis V. Roberts, has urged Congress to consider the petitions of the Puerto Rican people with regard to statehood, and to support efforts to admit Puerto Rico as a State of the Union.

The General Federation of Women's Clubs [GFWC] is the oldest and largest nonpartisan, nondenominational organization of volunteer women in the world, with nearly 10,000 clubs and a half a million members in the United States.

Although dedicated primarily to volunteer community service, this organization has long taken an active interest in the affairs of the Nation, recognizing that the laws and decisions in Washington have ramifications for every community in this country, including Puerto Rico.

The national policy of GFWC in support of Puerto Rico statehood reflects a clear understanding of the abridged constitutional rights of the 3,500,000 United States citizens of Puerto Rico.

I urge my colleagues to seriously consider the resolution of the GFWC regarding Puerto Rico. Legislation that is currently pending in Congress, S. 1182 and H.R. 2849, seeks to address these inequalities by initiating the process for statehood.

I commend the members of the General Federation of Women's Clubs for the action they have taken to demonstrate their concern for our fellow Americans in Puerto Rico, through the adoption of the following resolution:

RESOLUTION NO. 014-730

STATEHOOD FOR PUERTO RICO

Whereas, Puerto Rico has been a United States terrritory since 1898, ceded by Spain as a result of the Spanish American War; and

Whereas, During the 88 years Puerto Rico has proven to be a stable political community, fully capable, by virtue of its demonstrated capacity of democratic self-government, of assuming the responsibilities of statehood; and

Whereas, Puerto Ricans have been United States citizens since 1917, and the Puerto Rican Constitution declares in its preamble:

That we consider the Citizenship of the United States of America a determining factor in our lives, and that we have an aspiration to enrich continually our democratic traditions, individually and collectively, through the enjoyment of the rights and privileges of the American Citizenship.

An obvious declaration of intent to evolve into a State of the Union as the final outcome of the rights of citizenship; and

Whereas, The actual political status of Puerto Rico is one of political inequality, with no voting representation in the United States Congress, or voting privileges for the President and Vice President of our Nation, even though both exert absolute sovereignty over the territory; and

Whereas, The United States of America is committed to the principles of justice, freedom and equality for all its citizens; therefore

Resolved, That the General Federation of Women's Clubs supports the entrance of the territory of Puerto Rico with its 3,500,000 American citizens into the Union as the 51st State, if a majority of the Puerto Rican people want Statehood, and will urge Congress to consider favorably the Puerto Rican Petition for Statehood when it is presented for its consideration in the near future.

TRIBUTE TO THE PATERSON, N.J., YMCA ON ITS 100TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. ROE. Mr. Speaker, the YMCA has been a vital thread in the fabric of American life for countless decades now. Over the years, and around the country, the YMCA has provided the people of this Nation with a rich and diverse variety of programs and community services that have improved the lives of millions of our citizens.

In my Eighth Congressional District of New Jersey, I am especially proud of the Paterson YMCA, which has been a vital part of the Y's national fabric, and which, in 1987, is celebrating its 100th anniversary. This century of service to people of the Paterson area will be celebrated with a dinner on October 16 at the Brownstone House in Paterson.

Mr. Speaker, I would like to take this opportunity to recognize the Paterson YMCA Board of Directors and the trustees whose tireless efforts and support have made our community a better place to live. The board of directors and the trustees whose tireless efforts and support have made our community a better place to live. The board of directors includes Thomas Barone, Thomas Bigger, Frank Blesso, Peter Bundock, Susan Champion, John Cioletti, Harold Comerro, John Cosmi, Thomas Curry, Robert Dalzell III, William DeMarco, James Dykes, Jr., Rev. James Evans, William Fenners, Fletcher Fish, William Garner, Nicholas Giella, Tom Henskens, Nick Gorga, Jack Hall, John Harris, John Hovey, James LaBagnara Sr., Robert Macfarlan, Robert Marshall, Calandra Matthews, Alonzo Moody, Vincent Parillo, Edward Ritvo, Fred Romeo, Debbie Sheehan, Richard Tanis, John Tiger, Albert Ventuolo and William Wurst.

The Paterson YMCA trustees George Barrowclough, James Dykes Sr., Charles E. Ludwig, John Minnema, Fred Rizzo, Peter Vendervoort and James White.

According to its official history, the Paterson YMCA organized in 1887 to meet the spiritual, intellectual and physical needs of the "Silk City" region. The first headquarters opened on June 14, 1887 at 200-202 Market Street and the Junior Department—Youth Department—was established in 1891.

With the donation of the adjoining Cooke Mansion in 1892, the facilities were expanded to include baths, a gym and an assembly hall. After the dramatic fire of 1902 which destroyed the facilities, the "y" continued to operate out of temporary headquarters and rebuilt its facilities on Market and Ellison Streets. The grand opening for these new structures was held on November 3, 1908.

With the expansion of the Paterson community, the need for larger quarters led to the construction of the present facility at 128 Ward Street, which opened for full operations on September 14, 1920. In the late 1940's, Silver Lake Camp was purchased and after substantial improvement opened for full operation in the summer of 1950. In the late 1960's the health club was established and membership was expanded to include women. In 1980 the women's residence was established.

The years of 1981-86 saw the "Y" embark on several capital programs to upgrade facilities including replacement of all windows on the third through eighth floors with new insulated glass. Other improvements included a renovation of the pool, heating system improvements and a new life safety system for the residential floors. All were paid through a combination of grants, community and public support.

Mr. Speaker, over the past 100 years the Paterson YMCA has promoted physical, mental and spiritual well-being through a wide variety of programs that have become a vital part of the everyday life of the people in the Paterson area. I ask that our distinguished colleagues join with me in paying tribute to the Paterson YMCA on its centennial, for its many years of service not just to its community, but to the State of New Jersey and to its Nation, as well.

TRIBUTE TO HON. JACK WYDLER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BIAGGI. Mr. Speaker, it was with a great deal of sadness that I learned of the passing of a former colleague, Jack Wydler, on August 4, 1987, and I wish to join my colleagues in paying tribute to a great man, an outstanding Member of Congress and a good friend.

I was fortunate to have served alongside Jack during most of his tenure in this body, and as a fellow New Yorker, I had ample opportunities to work with him on a variety of issues of concern to the New York community. He was an effective and accessible legislator, whose close and personal ties with his congressional district in Long Island earned him reelection time and time again. Jack always had time for his constituents and no problem was too big or too small for his immediate attention. When he passed away, he was still showing concern about his constituents, having been stricken while watching floor debate on a Nuclear Regulatory Commission bill affecting the nuclear powerplant at Shoreham, Long Island. Seven years after his retirement, he was still active in issues that would affect the Long Island community. That was the measure of the man.

His stature in Congress earned him the prestigious position of dean of the Long Island congressional delegation. He served, also, as the ranking Republican on the House Science and Technology Committee and was a powerful force behind the funding for research that has taken our Nation into the space age. He was responsible for legislation that shaped national policy when it came to space exploration and that would serve as an example to other nations around the globe in the race for space.

John Wydler was born in Brooklyn, NY, and was a graduate of Brown University and Harvard Law School. After venturing out in his law career on his own for several years, Jack became an assistant U.S. attorney for the eastern district of New York in 1953, where he remained until 1959. I am proud to have joined as a cosponsor to legislation introduced by my friend, Representative MCGRATH, which would rename the U.S. Courthouse in Uniondale, NY, as the John W. Wydler Courthouse.

Jack Wydler was elected to Congress in 1962 as a supporter of the Eisenhower administration, and served in this Chamber diligently for 18 years. Upon his retirement in 1980, he remained active in politics and chaired the government affairs committee of the Long Island Association. He never, ever, stopped taking care of his constituents.

Jack leaves behind to his wife, Brenda; his son, Christopher; his two daughters, Kathleen and Elizabeth; his mother, Ethel; and his two sisters, Betty and Ruth, a legacy of which they can be very proud. He gave his all in service to his country, and there are so few who act so selflessly. His was a bright and successful career, replete with accomplishments, and his daily presence in these Halls was missed when he retired, and more so now.

I join in paying tribute to this man, and I would like to express to his entire family my deepest sympathies.

MARYLAND CELEBRATES DEFENDERS' DAY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mrs. BENTLEY. Mr. Speaker, on September 13, 1987, we in Maryland celebrated Defenders' Day. This marked the 173d anniversary of the battle of Fort McHenry, the legendary night of the "rocket's red glare" which gave birth to our national anthem.

It has indeed been a banner year for our great Fort McHenry. Several weeks ago I commissioned the U.S.S. *Fort McHenry* in Seattle, thereby making the fort the first national shrine to lend its name to a ship. On September 13, however, the fort was honored in a way that had never been seen before. A group of men from the United Kingdom was permitted to "land" at Fort McHenry—not as invaders, but as friends who helped us in our celebration. They even sang the "Star-Spangled Banner" in Welsh.

The men I speak of compose the Masonic choir of North Wales, and this year marks the first occasion that a Masonic choir from across the Atlantic has toured and visited the United States. The choir originates from Wales—long called the "land of song"—and they performed under the combined auspices of the Most Worshipful Grand Master of the North Wales Provincial Grand Lodge as well as the Most Worshipful Grand Masters of Maryland, Pennsylvania, and New York. Much combined effort as well as a great deal of anticipation went into arranging this tour, and I applaud the efforts of every person who worked to make this possible.

The choir toured the United States until September 21.

While in Maryland they performed in Annapolis and were honored with a proclamation by Gov. William Donald Schaefer. Besides the stop at Fort McHenry their stops in my district included Hunt Valley Mall and the Grace United Methodist Church. Other American cities they visited were Elizabethtown and Scranton, PA; and Utica, NY. The choir's music is indeed quite beautiful, and I hope that as many of my constituents as well as yours who ever have the opportunity to see them will do so. This may indeed prove to be a once in a lifetime experience.

I would personally like to thank each and every member of the choir for helping to make our Defenders' Day celebration so special. Indeed the British did arrive, and we welcomed their "landing" with open arms. Best of luck to this wonderful group of songsters for their beautiful music, and I urge them each and every one to come back and see us again one day.

AFRICAN EMERGENCY SITUATION WORSENS: A SUMMARY

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LELAND. Mr. Speaker, I would like to direct the attention of my colleagues to a deepening humanitarian crisis in large regions of sub-Saharan Africa as renewed drought and intense civil conflict place millions of people at risk of starvation, dislocation and a loss of livelihoods. Estimates are that perhaps 14 million people now are in extreme danger. The requirements for emergency food and nonfood relief assistance from this country and the international community are going to be increasing dramatically over the next several months if widespread famine is to be averted.

The House Select Committee on Hunger has prepared a report which summarizes information currently available from U.S. Government and United Nations agencies on the critical situation in different regions of Africa. That summary follows. I commend it to my colleagues.

AFRICAN EMERGENCY SITUATION

Renewed drought in Ethiopia, intensifying civil wars in southern Africa, and ongoing strife in the southern Sudan now place an estimated 13 to 14 millions Africans at serious risk of starvation. Several million people are internally displaced or are refugees who have crossed their countries' borders in a search for food, water, and shelter. Angola and Mozambique now suffer from the world's highest infant mortality rates, with 45 percent of the deaths of children in these countries caused by economic and military destabilization.

Ethiopia, where last year healthy rains produced the most promising harvests since the early 1980's, again faces an acute food emergency. Despite encouraging early rains, severe drought has struck. Current assessments indicate that the emergency food needs for 1987-88 will be not less than 950,000 metric tons of grain, comparable to the deficit experienced during the acute famine of 1984-85. The crop loss in the northern provinces of Eritrea and Tigray is expected to be in the 80 to 100 percent range. International relief agency experts emphasize, however, that sufficient time remains for the donor community to provide the food and nonfood emergency relief assistance required to prevent the onset of famine. Without immediate commitments of relief aid, however, it will be impossible to avoid the displacement of large numbers of people and the massive deaths associated with dislocation.

Mozambique and Angola now endure near-famine conditions. Weather, lack of infrastructure and counterproductive economic policies have all contributed to the present crises which threaten millions of lives. It is, however, primarily civil war and conflict with the Republic of South Africa which have brought Angola and Mozambique to the perilous situations now existing.

AFRICAN EMERGENCY SITUATION WORSENS: A SUMMARY

Countries Affected: Critical food shortages caused by drought, civil strife and/or locust infestation are now worsening in Mozambique, Ethiopia, the Sudan and Angola. Botswana has endured several years of drought, but starvation and massive dislocation of the population have been avoided.

Food Deficit: The 1987/88 food aid needs of the 45 developing nations of Sub-Saharan Africa are now being assessed by the FAO (U.N. Food and Agriculture Organization). 3.2 million metric tons of food aid were required in 1986/87, including 2.1 million metric tons of emergency assistance in five countries (Angola, Botswana, Ethiopia, the Sudan and Mozambique).

People Affected: An estimated 13 to 14 million people in Angola, Ethiopia, Mozambique and the Sudan are at risk of starvation. Several million are internally displaced or are refugees who have fled their countries in search of food or to avoid civil strife.

Non-Food Emergency Needs: Difficulty in moving food supplies to the affected populations, due to the lack of or destruction of infrastructure, and to security risks caused by ongoing conflicts, makes the provision of non-food relief and rehabilitation assistance as critical as additional food pledges. Many of the people in the greatest danger in Mozambique, the Sudan and Angola are effectively beyond the reach of relief agencies. Funds for the necessary logistical support, medical assistance, shelter, water, clothing, agricultural supplies and tools are more difficult to secure than pledges of food aid from donors.

U.S. Government Response: U.S. Government (USG) emergency food assistance to sub-Saharan Africa for FY 1987 now totals 240,170 tons valued at $90.1 million (including ocean freight). In 1986 the USG provided over 543,400 tons of emergency food assistance at a cost of $224.7 million. Non-food disaster assistance for FY 1987 now totals $14.7 million. The 1986 non-food emergency expenditures exceeded $79.7 million.

Situation by Region:

Southern Africa: Increasing civil strife and warfare put several million people at risk of starvation in Southern Africa. The population of refugees and displaced persons continues to grow, complicating already difficult relief operations throughout the region. The FAO reports deteriorating crop prospects in Mozambique, Lesotho, Swaziland, Zimbabwe, Zambia and Angola, due to localized drought and escalating military conflict (Angola and Mozambique). Only Madagascar and Malawi are likely to have increased harvests. Botswana, enduring the sixth consecutive year of drought, is expected to maintain last year's poor cereal harvest of approximately 20,000 tons. Exportable surpluses in maize and sorghum carried forward from the 1986/87 crop year, the surplus in Zimbabwe most significantly, served to meet a portion of the regional food deficit.

There are now an estimated 1.2 million refugees in the twelve nations of the region; five countries have large and growing numbers of internally displaced persons.

Mozambique: Grave food shortages persist in Mozambique where the at-risk population has increased further and is now estimated at 4.61 million people (Mozambique's total population is 14.36 million). Serious difficulties continue to be encountered with the internal distribution of relief supplies due to intensified warfare and inadequate infrastructure. Exceptional measures such as the airlifting and air-dropping of food continue to be necessary to avoid massive loss of life. This year's harvest has been severely affected by reduced plantings and unfavorable weather. UN officials estimate that the unmet cereal food aid requirement for the 1987-88 crop year will be 427,000 metric tons and that the non-cereal food requirement will be 91,470 tons. The major problem in Mozambique, however, remains the distribution of the food and non-food emergency assistance. An estimated 1.2 million people in need are largely inaccessable due to the insurgency campaign of RENAMO. The World Food Programme (WFP) is coordinating the UN response to the food emergency in Mozambique and is detailing plans for an expanded rail, air and sea distribution operation. UN officials are warning that without effective relief, a calamity could develop in Mozambique this year which could surpass the drought-induced famine of 1983/85 when at least 100,000 Mozambicans perished.

Numerous European governments, in addition to UN agencies, international relief agencies and voluntary agencies are engaged in emergency operations in Mozambique. World Vision, CARE and Catholic Relief Services are the American PVOs with the largest relief programs in the country.

The United States Government (USG) has committed 125,500 metric tons of P.L. 480 emergency food commodities plus 24,594 metric tons of food aid from the Section 416 program in FY 1987. AID's Office of Foreign Disaster Assistance (OFDA) is providing a $2 million gant to UNICEF to procure vital medicines and an additional grant of $.5 million to the International Committee of the Red Cross (ICRC) to provide urgent assistance to affected populations in insecure areas of the country. Total OFDA support for non-food emergency relief assistance is expected to be $5.5 million during 1987. A $1.26 million grant to ICRC, primarily to assist with relief transportation needs, is under review. USG emergency assistance pledged for FY 1987 now totals $75 million. Known pledges of other donor governments total $106.3 million. UN officials are urging donors not to provide additional food assistance to Mozambique without corresponding contributions of funds to assure distribution of the commodities.

Number of People at Risk: 4.61 million; 1.8 million people are displaced; 420,000 have sought refuge across the nation's borders.

Unmet Food Deficit: 427,000 metric tons of cereal grains; 91,470 metric tons of non-cereal foods.

Non-Food Relief Requirements: International relief agency estimates are that an additional $3.2 million for health, $5.7 million for the provision of water, $5.55 million for relief and survival items, $17.5 million for agricultural inputs, and $3.29 million for logistical support to move the food are required.

U.S. Government Response: U.S. Government food assistance to Mozambique for 1987 is currently 151,594 metric tons, of which 127,000 tons are mixed cereals, and 24,594 tons are Section 416 commodities. $5.54 million in non-food disaster aid has been provided. Total USG assistanmce for FY 87 will be approximately $75 million.

Angola: Less specific information is available on the situation in Angola where a violent insurgency has brought about disruption and chaos. Angola shares with Mozambique the distinction of having the world's highest infant and child mortality rates. The mortality rate for children under five years old is more than 325 for each 1,000 children. UNICEF estimates that 45 percent of deaths of children under five are caused by the warfare and economic destablization campaign of UNITA (supplied and supported by the South African government).

Angola has an unmet food deficit estimated at 214,000 metric tons of cereals and 43,284 tons of non-cereal foods. Of a total population of 8.7 million, the county has an at-risk population of 2.7 million and an estimated 690,000 displaced persons. Similar to the situation in Mozambique, the distribution of the available food is the real barrier to effective Angolan relief operations.

Number of People at Risk: 2.73 million; 690,000 people are displaced.

Unment Food Deficit: 214,000 metric tons of cereal grains; 43,284 tons of non-cereal foods. The Angolan government may be able to reduce the deficit through additional purchases of grain on the international markets.

Non-Food Relief Requirements: Estimates for non-food emergency needs in Angola are $6.58 million for logistical support, $4.94 million for health, $1.39 million for water provision, $5.27 million for relief and survival items, and $5.13 million for agricultural inputs.

U.S. Government Response: The USG has contributed 12,410 metric tons of emergency food aid through the World Food Programme (WFP) for Angola this year. 24,000 metric tons of emergency food aid will be provided through UNICEF.

Botswana: Drought, basically unbroken for six years, is the primary cause of a massive food deficit in Botswana. (However, the regional destabilization campaign of the South African government has detrimentally affected the people of this nation as well.) The January to March rains this year were again inadequate. The cereal harvest of Botswana is forecast at only 20,000 metric tons, commercial imports at 145,000 tons and the currently unmet food aid requirement is 560 tons of ceral foods and 3,200 tons of non-cereal foods. Botswana's efficient management of the food shortage has prevented a genuine crisis from yet developing. The government is currently putting a priority on food-for-work projects in an attempt to prevent food aid recipients from becoming permanently dependent on free food distributions. Agricultural enhancement programs, including the distribution of seeds and the vaccination of cattle, are a prime relief activity.

Unmet Food Deficit: 560 metric tons of cereal grains; 3,200 tons of non-cereal foods.

Non-Food Relief Requirements: Official estimates are that $1.5 million for logistical support, $4.6 million for the provision of water and $16.2 million in agricultural inputs are needed.

Eastern Africa: Civil strife and significant drought leave six to seven million people in the Horn of Africa at serious risk of starvation. Ethiopia had seen significant improvement in grain harvests over the past two years, but this year the return of drought to much of the country threatens the lives of five to six million people. Intensifying civil war in southern Sudan results in a growing threat to 1.2 million people currently inaccessible to international relief agencies. Reports of widespread crop failure and growing malnutrition in large areas of Somalia are also cause for alarm, though little confirmed data on that situation is yet available.

Ethiopia: Renewed drought this year in large areas of Ethiopia has placed an estimated five to six million people in jeopardy. An estimated 100 percent of the crop in some areas of the country is now believed lost (final assessments will be made in November). The potential for serious locust infestation in various areas continues; that situation is being closely monitored by the FAO, AID and relief agencies.

UN estimates are that the cereal grain shortfall in Ethiopia for the 1987/88 crop year will be 950,000 metric tons. As is the case elsewhere, the critical problem is not just the need for food aid, but the question of timely distribution. The estimate of 950,000 tons is a net deficit figure, with deductions already made for carryover food donations of 122,000 tons from the last crop year. The critical need is to have sufficient amounts of food supplies arriving in country by January. UN officials state that immediate action by the donor community is necessary if the migration to relief camps by hundreds of thousands of people which characterized the famine of 1984-85 is to be avoided. Many of the people most in need live in remote areas, inaccessable because of terrain or warfare further complicating the provision of food and medical supplies. Water is now being trucked into several drought regions for human consumption.

Relief agencies have supplied thousands of "ag packs"—food seeds, tools, fertilizers, pesticides—in an attempt to help people maintain their livelihoods. Shortage of funds precludes many destitute farmers from receiving such basic supplies and thus being able to increase their crop production.

Unmet Food Deficit: The total unmet cereal deficit for 1987/88 is now estimated at 950,000 metric tons. This compares with a food deficit of 1.3 billion metric tons during the famine of 1984-85.

Number of People at Risk: 5 to 6 million. Nearly 8 million Ethiopians were threatened in 1984-85; perhaps one million perished.

Non-Food Relief Requirements: Assessments are underway for the non-food relief requirements in Ethiopia. The rugged terrain and infrastructure deficiencies of the country are such that several hundred million dollars may be needed to move the food, water and medical supplies to where people are in most need, according to international relief agencies.

U.S. Government Response: U.S. Government food assistance to Ethiopia for 1987 is currently 28,250 metric tons of mixed cereals with a value of $4,851,200. An additional commitment of 115,00 metric tons is now being processed and a 20,000 ton emergency pledge recently has been made. Non-food disaster relief for the year now stands at $66,200. In 1986, U.S. non-food relief aid totaled $17,051,592.

The Sudan: 1.2 million people in the southern provinces of the Sudan are considered to be at-risk of starvation as a result of the civil strife which grips the area. The organized insurgency of the SPLA (Sudanese Peoples' Liberation Army) and roving bandits together make vast areas of the region completely inaccessible to relief agencies. The violence and chaos also have sharply reduced local harvesting of crops and disrupted traditional trade and commercial transactions within the region.

Relief officials has hoped to provide 71,000 metric tons of emergency food supplies for the affected population of the region prior to the onset of the rainy season. That target was not even marginally met, with no more than 15,000 tons delivered to the southern provinces and no more than 10,000 tons actually distributed. Rains were fairly heavy this year. The condition of people in the rural areas is not known with much precision though vast numbers are known to be severely malnourished. The security situation is so tenuous that relief workers have extremely limited ability to monitor conditions or to provide effective management of feeding operations.

The most severely affected region is Bar El Gazhal where the contested cities of Wau and Aweil are experiencing great fluctations in populations of displaced persons seeking food. The area surrounding the city of Juba is also particularly hard hit.

Widespread hunger is ironic in the Sudan given the country's relative abundant harvests and ample food supply. Difficulty in getting the food from the north to the south of the country, where the at-risk population resides, is, however, the ultimate manifestation of that nation's turmoil and sharp divisions along ethnic and religious lines. To further complicate the situation, the government recently announced the expulsion of several Western private relief agencies.

Number of People at Risk: 1.2 million (estimated).

Unmet Food Deficit: 71,000 metric tons of emergency food is required for the at risk population in the southern region of the country, of which not more than 15,000 tons was delivered prior to the onset of seasonal rains.

U.S. Government Response: 3,011 tons of grain with a value of $519,800. Non-food disaster assistance totals $1,255,037. Over $34 million in logistical assistance and non-food emergency supplies were furnished in 1986 by the USG.

TRIBUTE TO ALFRED WESTLE

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to Alfred Westle, Grand Chancellor of the Pennsylvania Knights of Pythias.

Mr. Westle has dedicated his life to the service of others through the three cornerstones of Pythianism: Friendship, Charity, and Benevolence. After graduating from Bartram High School in Philadelphia, he enlisted in the U.S. Army in 1943 at the age of 18. He served in North Africa, Sicily, and Italy during World War II, was wounded on three separate occasions and was awarded the Purple Heart and two Oak Leaf Clusters.

Westle has been an active and dedicated member of the Kinghts of Pythias since joining Steuben Lodge No. 113 in 1951. He has been instrumental in the lodge's entertainment of wounded servicemen since 1953. He started the Stueben Lodge Blood Bank in 1953 and was chairman for 12 years.

Mr. Westle has served on every committee in the Stueben Lodge of the Knights of the Pythias. He has been Grand Lodge Representative since 1979, and was Stueben Lodge "Man of the Year" in 1983.

Alfred Westle's record of community service has not gone unnoticed. I am proud to join the Stueben Lodge in honoring this distinguished Pythian.

CERTIFIED NURSE-MIDWIVES: PROFESSIONALS DEDICATED TO QUALITY MEDICAL CARE WHO MERIT BROADER RECOGNITION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LEHMAN of Florida. Mr. Speaker, as chairman of the Task Force on Prevention Strategies of the Select Committee on Children, Youth, and Families, I have reviewed study after study documenting the relationship between low birthweight and infant mortality. The lower the birthweight, the more likely a baby is to die in its first year or to suffer developmental deficiencies. Preventing low birthweight is therefore crucial for healthy young babies. Achieving this goal is most difficult among high-risk groups—mothers who are poor, adolescents, members of minority groups, and residents of inner cities or rural areas.

There is a profession, however, that is making a real contribution in attacking this problem: Certified Nurse-Midwives.

Certified Nurse-Midwives are registered nurses who have completed an additional advanced program in midwifery, passed a national certification exam administered by the American College of Nurse-Midwives and met State licensing requirements.

Certified Nurse-Midwives provide maternity care, gynecology, and family planning services to essentially normal, healthy women. CNM's provide services in private practices, birthing centers, HMO's and public health departments.

The State of Florida recognizes the importance of Certified Nurse-Midwives. There are more than 230 CNM's in Florida, almost 7 percent of the national total. Both the University of Miami and the University of Florida offer master's degree programs in Nurse-Midwifery. CNM's delivered over 11,000 babies in Florida in 1985, 7 percent of all the births in the State.

In Miami and Dade County in particular, Certified Nurse-Midwives are an essential part of the health care system. South Florida has been the destination for hundreds of thousands of refugees from all over the Caribbean—many of whom were and are frightened, displaced people who do not speak English. It is these people in particular, in many cases without the funds necessary to take advantage of the health care opportunities this country has to offer, who receive special help from CNM's.

Nationally, the percentage of births attended by CNM's is only about 3 percent. This contrasts with countries like England, where 70 percent of pregnant women receive prenatal care from Certified Nurse-Midwives, and Norway, where almost all births are attended by CNM's. These countries also have lower infant mortality rates than the United States.

Mr. Speaker, October 4–10 has been designated National Nurse-Midwifery Week. As a profession, Certified Nurse-Midwives make a valuable contribution to quality health care in this country. It is my hope that my colleagues and the general public will take this opportunity to learn more about the work and services of Certified Nurse-Midwives, which will become increasingly important in the coming years.

THE MUSEUM OF THE AMERICAN INDIAN-HEYE FOUNDATION MUST REMAIN IN NEW YORK

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. WEISS. Mr. Speaker, the Museum of the American Indian-Heye Foundation houses the world's largest and most magnificent collection of art and artifacts from the aboriginal tribes of North, Central, and South America. New York City is fortunate to count it among its cultural treasures.

For a number of years, the Heye Foundation has been seeking better accommodations for its extensive collection. Currently, it is scattered throughout three locations in northern Manhattan and the Bronx. While many proposals have been floated over the years, the long and arduous task of finding adequate new quarters for the museum may soon come to an end.

Today, with the support of Governor Mario Cuomo, Mayor Ed Koch, Senators MOYNIHAN and D'AMATO, Representative CHARLES RANGEL, Representative BILL GREEN, and 21 other members of the New York congressional delegation, I am introducing legislation to transfer the old U.S. Custom House, located in the 17th Congressional District at Bowling Green, to the Museum of the American Indian. Senator MOYNIHAN has introduced similar legislation in the Senate.

It is, in fact, the result of Senator MOYNIHAN's foresight and perseverance that the political leadership of New York has come together in support of this proposal. Senator MOYNIHAN has worked tirelessly to offer the opportunity through hearings and negotiations for those representing all sides of this issue to air their concerns so that one day all might come to a consensus. Today is that day.

George Gustav Heye, beginning in 1897 and until his death in 1957, traveled with scores of anthropologists all over the North and South American continents collecting native American art and artifacts. At the urging of Archer B. Huntington, the owner of a large amount of property in northern Manhattan with an interest in promoting the area's development, Mr. Heye established the Heye Foundation as a charitable trust in 1916. Together with Huntington, he built the beautiful buildings along Audubon Terrace which now house the Museum of the American Indian and a number of other scholarly endeavors.

There can be no doubt that it was the intention of Mr. Heye, a lifelong New Yorker, to keep his collection in New York. The trust agreement, over which Mr. Heye maintained strong control, states that the Heye Foundation was established in New York as a charitable trust "to promote the public welfare by founding, endowing, and having maintained a Museum in this state." The trust indenture further reads that among the purposes of the museum was that it "promote the public welfare by actively advancing learning and providing means for encouraging and carrying on * * * work within the state of New York." The State attorney general, Robert Abrams, who has the statutory mandate to oversee the State's charitable institutions, has made clear his intention to protect and uphold the museum's trust agreement.

There has been recent discussion of breaking the trust and moving the Heye Foundation collection out of New York. Not only would this provoke a costly and prolonged lawsuit, but the move, if finally approved, would be at a tremendous initial and ongoing cost to U.S. taxpayers. The Governor and mayor of New York have each pledged substantial financial support for the Custom House move. Now that the political leaders of the State and city have come together in support of the Custom House proposal, it is time that the museum board abandon any plans to leave.

The Custom House, a classic 1907 example of the beaux-arts style of architecture, is ideally suited to house the Heye collection. It has significantly more display space than the current museum building, its location at 1 Bowling Green is easily accessible to visitors, and it would greatly compliment the neighborhood's other cultural institutions. The lower Manhattan community is eager to have the museum there.

The collection has severely outgrown its original exhibition space, but its continued importance to Audubon Terrace and the surrounding neighborhood is vital. Abandoning Audubon Terrace would leave a tremendous cultural void in that neighborhood—we have no intention of having the museum at 3753 Broadway close. My bill and that introduced by Senator MOYNIHAN mandate that it remain open as a branch of the Custom House facility.

Recognizing the needs and expectations of the Federal Government, our legislation stipulates that the U.S. Bankruptcy Courts, which recently moved to the fifth and sixth floors of the Custom House, remain in that space until construction of the planned Foley Square Courthouse Annex is completed by the General Services Administration. In addition, the bill includes a number of other requirements under which the museum must operate to protect the interests of the United States.

I strongly believe that both the Museum of the American Indian-Heye Foundation and the Custom House at 1 Bowling Green will benefit from this merger. And, in supporting the transfer within New York, the political leadership of the State is protecting not only the interests of the collection's founder, but also those of native Americans, who deserve a national showplace for the preservation and commemoration of their customs and history and recognition of their ongoing contributions to our hemisphere.

Joining me today as original cosponsors of this bill are my distinguished New York colleagues: CHARLES RANGEL, WILLIAM GREEN, FRANK HORTON, GARY ACKERMAN, MARIO BIAGGI, JOSEPH DIOGUARDI, THOMAS DOWNEY, HAMILTON FISH, JR., FLOYD FLAKE, ROBERT GARCIA, MATTHEW MCHUGH, THOMAS MANTON, DAVID O'B. MARTIN, ROBERT MRAZEK, HENRY NOWAK, MAJOR OWENS, JAMES SCHEUER, CHARLES SCHUMER, LOUISE SLAUGHTER, STEPHEN SOLARZ, SAMUEL STRATTON, EDOLPHUS TOWNS, and GEORGE WORTLEY.

It is my hope that our colleagues in the House and Senate will look favorably upon this proposal and move forward its passage.

The text of the bill follows:

H.R. 3413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to provide a suitable location for a national center that will preserve and commemorate the customs and history of the Indians, the native peoples of North, South, and Central America, and recognize the contributions of the Indians of North, South, and Central America.

SEC. 2. CONVEYANCE OF CERTAIN PROPERTY.

Subject to section 3, the Administrator of General Services shall convey, without consideration, to the Museum of the American Indian, a private nonprofit trust organized under the laws of the State of New York, all right, title, and interest of the United States in the Old United States Custom House located at 1 Bowling Green in New York, New York.

SEC. 3. CONDITIONS OF THE CONVEYANCE.

The conveyance referred to in section 2 shall be subject to the following conditions which shall be specified in the instrument of conveyance:

(1) The Museum shall—

(A) use the property identified in section 2 solely as a museum to preserve and commemorate the customs and history of the Indians of North, South, and Central America and recognize the contributions of the Indians of North, South, and Central America;

(B) maintain such property in a manner designed to preserve its distinctive and historic architectural character;

(C) afford the Advisory Council on Historic Preservation established by section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) a reasonable opportunity to comment with regard to any proposed renovation or alteration of such property; and

(D) obtain the approval of the Administrator pursuant to section 4 before commencing any renovation or alteration of such property.

(2) All right, title, and interest in such property shall revert to the United States if the Administrator reasonably determines that—

(A) the museum located at 3753 Broadway in New York, New York, is not operating as a branch of the museum to be established by the Museum at the property identified in section 2; or

(B) the Museum does not—

(i) continuously use such property solely as a museum to preserve and commemorate the customs and history of the Indians of North, South, and Central America and recognize the contributions of the Indians of North, South, and Central America;

(ii) maintain such property in perpetuity in a manner adequate to preserve its distinctive and historic architectural character; or

(iii) comply with the requirements specified in paragraph (5)(B).

(3) The Museum may not use such property as security for any obligation.

(4) All right, title, and interest to air rights and developmental rights connected to or associated with such property are reserved to the United States.

(5)(A) The United States reserves the right to occupy the 5th and 6th floors of such property for the use of the courts of the United States until suitable permanent accommodations for such courts are provided by the Administrator at the Foley Square Courthouse Annex to be built in New York, New York.

(B) The Museum shall—

(i) operate and maintain such property in a manner satisfactory to the Administrator that ensures that adequate services are provided to the courts of the United States occupying such property; and

(ii) not interfere with the occupancy of such property by such courts.

(6) The Museum shall agree to such additional terms, reservations, restrictions, or conditions as the Administrator determines before conveyance are necessary to safeguard the interests of the United States.

SEC. 4. RENOVATION OR ALTERATION OF THE PROPERTY.

(a) PREPARATION AND SUBMISSION OF PLANS.—The Museum shall—

(1) prepare a plan detailing any proposed renovation or alteration of the property identified in section 2; and

(2) submit such plan to the Administrator for review and approval.

(b) REVIEW OF PLANS.—(1) The Administrator shall review each plan submitted under subsection (a)(2) to determine whether the renovation or alteration proposed by such plan would preserve the distinctive and historic architectural character of the property identified by section 2.

(2) As part of the review required by paragraph (1), the Administrator shall select an architectural engineering firm to prepare a report for the Administrator specifying whether the renovation or alteration proposed by the plan under review would preserve the distinctive and historic architectural character of the property identified by section 2. The Administrator is not bound by such report.

(3) The Museum shall reimburse the General Services Administration for all costs incurred by the General Services Administration to obtain such report under paragraph (2).

(c) APPROVAL OF PLANS.—The Administrator shall approve a plan submitted under subsection (a)(2) unless the Administrator reasonably determines that the renovation or alteration proposed by such plan would not preserve the distinctive and historic architectural character of the property conveyed by section 2.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of General Services; and

(2) the term "Museum" means the Museum of the American Indian, its successor, and the assigns of either.

ZOHN ARTMAN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Ms. PELOSI. Mr. Speaker, a loving and compassionate San Franciscan is gravely ill with AIDS, Zohn Artman. I am honored to have him as a friend. As a tribute to Mr. Artman's service to his city and to humanity, I submit this article, written by San Francisco journalist Bill Mandel, to be read into the CONGRESSIONAL RECORD.

ZOHN ARTMAN—SALUTE TO A LOVING COMPASSIONATE WIZARD

No matter what you think of his social views, you must agree the Pope John Paul II accomplished something unusual this past week: During the pope's visit, the front pages of our newspapers momentarily put aside death, war and greed—the usual—and actually printed such rare words as hope, charity, love and compassion.

As I sat in cleansing San Francisco sun at Friday's Candlestick Park Mass, I reflected on the message John Paul was preaching to the crowd and asked myself if anyone I know actually lives those high values. Happily, the answer is yes. I do know someone like that.

Unhappily, his friends and San Francisco will soon be deprived of Zohn Artman's ministrations. This behind-the-scenes magician of good works and good will is gravely ill with AIDS—which is why there was another pilgrimage in Northen California last week.

As word spread of Zohn's failing health, some of the Bay Area's most illustrious names headed for his small, pre-earthquake cottage off Market Street to thank him for 15 years of largely unsung heroism in service to his city and to humanity.

Mayor Feinstein, Bob Weir of the Grateful Dead, Jefferson Airplane founder and rock philosopher Paul Kantner, Boz Scaggs, Bill Graham, Gina Moscone, Grace Slick and people without famous monickers either visted or checked in by phone to express love and concern for a special person who's always put himself last.

Who is this man that inspires emotional tribute from the illustrious, yet is known to so few members of the general public? The bare facts don't begin to tell the story. Artman, 51, was born in Lakeland, Fla., and came to San Francisco in 1962. A resume would list his profession as "publicist," or "event coordinator," but Zohn's real specialty is pro bono wizardry.

Other people might have come to town, built up an impressive network of high-level connections in government, business, entertainment and media and used that network for private advancement. Zohn, by contrast, spun an amazingly broad web of friendship and used it to further good causes, often forgetting to earn a decent living. (In 1982, when Artman's taxable income was $17,000, he donated $14,000 to San Francisco's Gay Games.)

A few of Zohn's gems:

When the Rolling Stones came to town on their 1981 tour, Mick Jagger had never even heard of a cable car. Artman got to work. Within a week, a smiling Jagger was standing next to Mayor Feinstein at a Save the Cable Cars press conference.

In 1982, Artman became interested in a small Jefferson Starship concert to benefit Vietnam veterans that was to be held at the Berkeley Community Theater. Within days, the concert was moved to Moscone Center and expanded to include the Grateful Dead, Boz Scaggs and Country Joe. It was Moscone Center's first rock concert, one of the earliest events to salute Vietnam veterans and raised $175,000, 10 times more than the organizers had expected pre-Zohn.

The Pride Center, a pioneering urban partnership between The City's black and gay communities in Hayes Valley, faced its 1981 opening date with a big problem: no furniture. Artman sent an SOS through his network. Within days, Levi Strauss executive Walter Haas Jr. gave the center a building full of furniture.

Zohn is a master of win-win public relations. He once booked and promoted a series of outdoor concerts for the Embarcadero Center on the condition that some proceeds go to the Child Abuse Prevention Society, St. Anthony's Dining Room and Laguna Honda Hospital's Seniors' Transportation Program.

Similarly, when Apple Computer wanted Robin Williams to entertain at a company function, Apple co-founder Steve Jobs asked Artman to present his case to the great comedian. Williams did the show at Artman's request, but Zohn took no payment. Instead, Jobs donated a large sum in Artman's name to the Burt Children's Center. There are many similar stories.

Zohn was a central force behind the emergence of the late Dr. Tom Waddell, originator of the Gay Games, as an international spokesman for gay pride. After privately helping ignite Waddell with zeal for the gay rights struggle, Artman taught the sometimes diffident Dr. Tom how to deal with the media. The two men enjoyed and suffered through a long, tumultuous love relationship. They received their AIDS diagnosis within days of one another last summer. Waddell died two months ago.

Growing up gay in the central Florida, Artman realized the community would never accept him as a doctor, minister or lawyer. So he trained as an embalmer, the only "service profession" open to him. But sadness soon drove him from that field and he took up a career as an executive secretary.

On a 1962 visit to San Francisco, Artman once told me, "I realized, with the most powerful insight, that I was home." He moved here and 10 years later, almost on a whim, approached impresario Bill Graham for a job. "The man is alive, he takes joy in his work," Artman remembers thinking. "I want to work for someone like him."

Instead of a job interview, Graham and Artman talked for three hours about ethics and truth. On the spot, Artman signed up for a nine-year term with Graham. His business card read "resident wizard." Zohn helped channel Graham's emerging philanthropic instinct and smoothed the sometimes strained connection between Graham and the outside world.

After going out on his own in 1981, Artman often neglected himself to further the causes he believed in: charity, kindness, gay rights, pride for seniors, a slice of the pie for the oppressed and disadvantaged.

When the AIDS plague struck, Zohn's energy was turned almost exclusively to caring for its victims. Publicly, he helped plan events to raise research money. Privately, he nursed friend after friend through the awful stages of the disease. When others shrank from the sadness and the horror, he held dying men in his arms and cried with them.

Then, last August, Artman received his own AIDS diagnosis. Mayor Feinstein sent him flowers in the hospital with the simple message, "I love you."

Impending death did not reduce Zohn's compassion for others. Fighting off weakness and debilitating symptoms, he continued to put himself at the bottom of the sympathy list, visiting hospitalized friends and making plans for a worldwide rock concert benefit to fight AIDS.

Now, however, his legendary strength is nearly gone.

When I told Paul Kantner that today's column would be a salute to this unique man, Kantner commented, "Zohn's great caring human being, with malice toward none. He's helped a whole lot of people in a whole lot of ways. He'll live in everybody's hearts for years to come."

As Pope John Paul II might say, "Amen."

BARRY HONORS REPRESENTATIVE WILLIAM LEHMAN

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. MICA. Mr. Speaker, it is a common practice for Members of this House to reserve time for praise of worthy men and women whose outstanding civic contributions merit special notice. It is my intention here to recognize one of our own, Representative BILL LEHMAN of Florida.

BILL was recently honored by officials of Barry University in Miami. I would like to add my own congratulations to these excerpts from an article which recently appeared in Barry University's campus newspaper:

BARRY HONORS REPRESENTATIVE WILLIAM LEHMAN

U.S. Representative William Lehman (FL-17 District) was guest of honor at a reception hosted by Sister Jeanne O'Laughlin, O.P., president of Barry University, Sunday, August 30, 1987, at 5 p.m. in the Kostka Room. He was honored for his outstanding service to Barry University and to the nation.

Rep. Lehman's roots at Barry University run deep. He has had a close and outstanding relationship with the school for over 20 years, ever since he studied public speaking under Sister Marie Carol Hurley, O.P., professor of humanities.

After serving on the Dade County School Board from 1966-72, he wanted to do more for the children of Florida in terms of equal education for all. It was this commitment to education that made him run for congressional office in 1972. Sister Marie Carol was the chairman of his first campaign.

"The strength of his character got him elected," she said, pointing out that Rep. Lehman has been repeatedly returned to Congress by his constituents. He had no opponent in 1984 nor 1986. This past January marked the beginning of his 15th year as a nationally prominent congressman.

Rep. Lehman is probably the best example of what a true representative of the people should be. Unlike most congressmen whose offices are staffed by secretaries, the majority of the people working in Congressman Lehman's North Miami Beach office are social workers.

"His philosophy is that if someone has a problem, give them help," said Sister Marie Carol, who served as his legislative aide in Washington in 1981. "He reads every letter from his constituents and makes sure that every one of them is answered."

His commitment to touching base with those who matter to him most extends to Barry University. Rep. Lehman constantly makes sure that Barry shares in the very best that is available to all universities in the country.

At the December 1983 commencement ceremony, Barry conferred honorary doctorates upon the Congressman and his wife Joan, a renowned sculptress. Last year he named Barry University as the repository for his congressional papers. He is currently working on his biography, assisted by Dr. Michael Melody, associate professor of political science, and Sister Marie Carol.

"He sees his job as a service to the people here and always votes for justice, peace and the needs of the poor," said Sister Marie Carol. "He is a great humanitarian."

GENERAL VESSEY'S TESTIMONY BEFORE THE ASIAN/PACIFIC SUBCOMMITTEE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LAGOMARSINO. Mr. Speaker, in early August, retired Gen. John Vessey, the former Chairman of the Joint Chiefs of Staff and Special Presidential Emissary on POW/MIA Affairs, returned from his important mission to Vietnam on behalf of our brave, long-suffering POW/MIA's. Yesterday, General Vessey reported to the Subcommittee on Asian and Pacific Affairs and the House POW/MIA Task Force on the preliminary results of his mission. Like General Vessey, I am cautiously optimistic that progress with this top national priority will continue. As I know that many of my colleagues were unable to attend this timely hearing, I would like to take this opportunity to bring General Vessey's remarks to their attention:

OPENING STATEMENT OF GEN. JOHN W. VESSEY, JR., USA (RET), SPECIAL EMISSARY FOR THE PRESIDENT ON POW/MIA AFFAIRS

Good afternoon Mr. Chairman, members of the Subcommittee on Asian and Pacific Affairs, and of the Task Force on Prisoners of War and Missing in Action in Southeast Asia. You asked me to report to you on my mission to Hanoi, Vietnam during the period 1-3 August 1987.

Before I begin, I would like to acknowledge the important support I received from both Houses of Congress and from members of this subcommittee in the form of unanimous resolutions. Senate Resolution 255, which passed on 20 July by a 92 to 0 vote, and your own House Resolution 231, which passed on 28 July by a 418 to 0 vote, were instrumental in signalling to the Vietnamese that my mission had full bipartisan support and that the POW/MIA issue is of great concern to the American people, and not tied to any particular party or administration. Your support was important; thank you.

In February 1987, I was selected by the President to be his Special Emissary on Prisoner of War and Missing in Action matters. Working throughout the spring, by May the Vietnamese agreed to receive a U.S. delegation led by Mr. Richard Childress of the National Security Council which went to Hanoi to get agreement on the conditions for my visit. After the Childress visit, the Vietnamese Government agreed to accept a visit by me for discussion of the POW/MIA question as a humanitarian issue not tied to political issues which divide us.

During the spring months, Vietnamese spokesmen on several occasions acknowledged our claims that resolving the POW/MIA problem was a humanitarian issue, but at the same time they raised the point that they too had humanitarian issues arising from the war.

As secretary of State Shultz said on July 18, 1987 in his address to the National League of Families, "Humanitarian reciprocity is one thing, but any attempt to trade information on our missing men for economic aid is another. We cannot agree to this." The policy of the United States Government is clear on this and my mission reemphasized that we will not "buy" progress through either economic aid or political concessions. The POW/MIA issue cannot be linked with broader political issues.

Before leaving for Vietnam I met with the President and his senior advisors. I was chartered by the President to attempt to get agreement from the Vietnamese Government to resume and accelerate progress toward the fullest possible accounting of prisoners and missing in Vietnam. I was authorized to raise other humanitarian concerns such as the Orderly Departure Program, Amerasian children, and reeducation camp prisoners if it appeared that progress could be made on these issues as well. I was specifically instructed not to link normalization of relations or economic aid to the resolution of humanitarian issues. I was also authorized to listen to Vietnam's humanitarian concerns. Likewise, we knew from their public statements that the Vietnamese could be expected to raise other issues. If the Vietnamese insisted on raising political issues, it was within the mission's mandate to listen to their concerns and to report them back to the President, but not to engage in a dialogue on political issues.

The members of the delegation were: Mrs. Ann Mills Griffiths, executive director of the National League of Families, an MIA sister herself who, since 1982 has been on all policy-level delegations, and a person with years of experience and a wealth of knowledge in this issue: General Robert C. Kingston, USA (retired), the officer who organized the joint casualty resolution center in 1973 and another with extensive technical and historic knowledge of the issue; Mr. David Lambertson, Deputy Assistant Secretary of State for East Asia and Pacific Affairs; Mr. Richard Childress of the National Security Council staff, well known to you as a person with detailed knowledge of our past negotiations; Brigadier General Steve Croker, my military assistant and representative of the Defense Department; Mr. Jean Andre Sauvageot, a retired Army colonel, linguist, and serious student of Vietnam, served as translator.

During the period 1-3 August, I and my delegation met with the Vietnamese in three plenary and four expert-level sessions. Vice Premier Nguyen Co Thach led the Vietnamese side in all plenaries. I had four additional private meetings with Minister Thach. The general atmosphere was positive, correct, and business-like. Protocol and administrative arrangements were appropriate for a delegation headed by a Presidential emissary.

From the outset I stressed our understanding that the talks were to focus on POW/MIA and other humanitarian issues, and that these issues should not be linked to broader political questions. The Vietnamese agreed, and said that they too had humanitarian concerns to raise. I outlined our objectives for the return of any live Americans, the resolution of discrepancy cases and the died in captivity list, crash site excavations, the repatriation of remains and the fullest possible accounting of our POW/MIAs.

Concerning the question of live American prisoners, the Vietnamese insisted from the beginning that they held no American prisoners. We made it very clear that there are many questions which must be answered before the American people, and especially the families, could accept that assurance. I told them that most Americans did not believe Vietnam was being truthful on the POW/MIA issue and that many Americans believed Vietnam still held live prisoners. We reiterated the need for addressing the compelling discrepancy cases, that is those cases of Americans for whom there was strong evidence that they survived their incident and were captured or otherwise came under Vietnamese control or about whom the Vietnamese authorities should have information. I provided examples of those cases to illustrate our concerns. Again, let me say there are important questions to be answered. I believe the Vietnamese understand the importance of answering those questions.

The Vietnamese side asserted that they also had "humanitarian concerns" stemming from the war, and proceeded to outline them in broad terms. For example, they said they had 1.4 million war disabled, 500,000 orphans, and many destroyed schools and damaged hospitals. They stressed that these too would have to be addressed if there is to be progress on the humanitarian concerns of the U.S. side. I made clear that the United States could not and would not attempt to solve Vietnam's problems stemming from the war, but acknowledged the possibility of cooperation in specific areas. In so acknowledging, I reiterated several times that any steps we might undertake would have to be consistent with the legal, political and policy constraints governing our current dealings with Vietnam and that absent a Vietnamese withdrawal from Cambodia, there can be no progress toward normalization of diplomatic and trade relations nor any economic aid.

In subsequent discussions, the U.S. side sought to narrow the focus of the SRV definition of "humanitarian concerns" to bring the problem within limits we might address through concrete steps. This was eventually achieved, and an agreement reached containing the following elements:

An SRV commitment to resume cooperative efforts to account for Americans missing in action, with an initial priority on resolving discrepancy cases, including those listed by the Vietnamese as having died in captivity.

We reaffirmed U.S. readiness to asssist Vietnamese efforts to account for our missing men, and left with the Vietnamese a list of actions we were prepared to take, such as training of search/excavation teams, the provision of needed excavation equipment and orientation/training visits by Vietnamese forensic experts to the Central Identification Laboratory in Honolulu.

A U.S. commitment to address "certain urgent humanitarian concerns"—consistent with our legal, political and policy constraints. (The SRV side became very familiar with that phrase, and insisted on applying the same conditions to its commitment on POW/MIA cooperation.)

We agreed to meetings of two separate groups of experts to be held August 25-28 in Hanoi; one to discuss the POW/MIA issue and one to examine Vietnamese humanitarian concerns.

I have furnished a copy of the joint statement announcing the agreement we achieved for insertion in the record.

Concerning two issues that have been raised in the press, there was no discussion of establishing "technical" offices in Hanoi or the U.S., nor did the U.S. agree to lift the trade ban.

I raised some of our other humanitarian concerns as well. I expressed appreciation for the recent SRV agreement to a resumption of the Orderly Departure Program (ODP) interviews, then reviewed our concerns regarding Amerasians and reeducation camp inmates. I am pleased to see that there have been signs of some progress in all these areas.

On the way home from Vietnam, I stopped in Bangkok to inform Thai officials, including the Prime Minister, of the results of our meetings. The other members of ASEAN were also fully informed shortly after the meeting.

When we returned from Vietnam, I briefed the President on the results of my mission. President Reagan was keenly interested in the agreements we were able to reach and pleased with the Vietnamese pledge for renewed cooperation on the POW/MIA issue.

Following up on agreements reached during my mission, POW/MIA technical talks were resumed 25-28 August in Hanoi with the U.S. team comprised of the Commander of the Joint Casualty Resolution Center (JCRC), the chief of the JCRC liaison office in Bangkok and the commander of the Central Identification Laboratory in Hawaii. We were also able to identify and select three experts to form a team for the 25-28 August experts meeting in Hanoi to address certain Vietnamese humanitarian concerns. The team was composed of Dr. Carlton Savory, an orthopaedic surgeon and a Vietnam veteran; Mr. Fred Downs, the Veterans' Administration's Director of Prosthetic and Sensory Aids Service, also a Vietnam veteran and one who himself lost an arm during the war; and a representative of a non-governmental organization, Dr. Larry Ward, who has traveled to Vietnam many times on humanitarian missions. They met with Vietnamese officials from the ministry of foreign affairs, the ministry of labor, invalid and social welfare, and the ministry of health. Additionally, they visited what reportedly is the largest Vietnamese orthopaedic and rehabilitation facility at Son Tay. Their discussions were productive and our team found many significant areas in Vietnam's prosthetics program which could benefit from U.S. non-government organizational assistance.

Upon the team's return to Washington, they presented a detailed briefing to the POW/MIA interagency group. I believe that their findings will facilitate the non-governmental efforts to help the Vietnamese people in an important humanitarian area.

During the POW/MIA technical talks which resulted from our agreements in Hanoi, the Vietnamese promised to resume cooperation on the POW/MIA issue. Our team also proposed a further round of technical talks on POW/MIAs in October, but the Vietnamese have not yet responded to that proposal. On September 21, the Vietnamese informed us of three sets of remains, believed to be those of missing Americans, which they had recovered. Those remains were repatriated from Hanoi to the United States on September 24.

On September 25, I met with Vietnamese Deputy Foreign Minister Nguyen Dy Nien in New York. We each outlined the steps taken to address each sides' humanitarian concerns. It is only fair to say that each of us wants the other to move faster.

For next steps, we are awaiting Vietnam's agreement for the next POW/MIA technical meeting date. I hope they will agree to an October meeting. In the meantime, the United States Government is preparing a report for circulation to non-government organizations (NGOs) outlining the findings of the prosthetics team. That report will outline the need for assistance to the disabled in Vietnam which could provide service opportunities for non-government organizations. Whether to pursue the needs outlined will be decisions for the non-government organizations themselves.

In summary, let me say that what we got was an agreement from the Vietnamese to act. Like all such agreements, it will have to be judged by the actions it produces. The first indications are favorable. Technical talks were resumed last month. Three sets of remains have been returned. The Vietnamese say they are ready to cooperate on the POW/MIA issue. We are moving to facilitate some non-governmental assistance for humanitarian needs of the Vietnamese people. The agreements on humanitarian issues have been kept separate from the political and strategic issues that separate the United States and Vietnam. On those issues our policy is clear and we will continue to act to support our friends and allies in ASEAN.

U.S. and Vietnamese delegations have held detailed, candid and constructive talks on humanitarian issues.

Both sides agreed that such issues should not be linked to broader political questions such as normalization, or to economic aid.

Specific measures were agreed upon to accelerate progress toward accounting for Americans missing in Vietnam, and to address certain urgent humanitarian concerns of Vietnam.

In particular, meetings of experts on these issues will take place in the near future: one to discuss next steps to resolve the POW/MIA issue; and one to discuss urgent Vietnamese humanitarian concerns.

The two sides have undertaken to work methodically and seriously on these humanitarian issues.

H.R. 3135, LIMITATION OF SHIPOWNER'S LIABILITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BIAGGI. Mr. Speaker, on August 6, I introduced H.R. 3135, the Limitation of Liability for Maritime Claims Act. I sponsored similar legislation in the 98th and 99th Congresses, and over the past few years the Subcommittee on Merchant Marine has held a number of hearings on this very complex subject.

The initial bill was developed by the Maritime Law Association and was patterned after the Convention on Limitation of Liability for Maritime Claims, 1976. Since then, many interested parties have dedicated themselves to devising a compromise proposal that would be acceptable to most affected parties. I believe that H.R. 3135 is such a bill.

The historical data and court decisions with respect to the concept of limitation of shipowner's liability are rather extensive and complex and will only be summarized. Current law is found at 46 App. U.S.C. 181-189.

The United States adopted its first maritime limitation of liability statute in 1851 as a device to protect our fledgling maritime industry, and to provide the maritime entrepreneur with some degree of assurance that one maritime disaster would not bankrupt him. At the time there was little, if any, insurance coverage available for most maritime endeavors. The statute was intended to make United States law consistent with prevailing British practice.

The law simply stated that, in the event of a disaster, the owner's liability would be limited to the value of the vessel and any pending freight charges from the voyage—if the owner did not have privity or knowledge of events or conditions that led to the casualty. If a claim was made that the shipowner had privity or knowledge of conditions or circumstances that led to a casualty, and the shipowner could not prove otherwise, then the shipowner's liability was unlimited.

Until early this century, breaking limitation of liability was nearly impossible in most cases. Therefore, injured or disabled seamen or deceased seamen's heirs would be limited to unreasonably low settlements. When there was no insurance coverage and the shipping company filed for bankruptcy, there were no settlements. In addition, a number of Supreme Court decisions provided little help to victims and their families. In 1871, the Court held that the value of the vessel meant the value after the marine casualty. Therefore, when a vessel sank, the owner had no liability unless privity or knowledge could be proved. In 1885, the Court specifically held that the hull insurance proceeds received by an owner were not part of a vessel's value and not available to pay seafarers' claims.

This remained the state of affairs until the *Morro Castle* disaster in 1936 when 134 lives were lost and the salvage value of the vessel—estimated at $20,000—was offered in settlement of all claims. Congress then enacted the first change in the limitation law since 1851. This was the so-called *Sirovich* amendment—which provided that, if the vessel's postaccident value were less than $60 per gross—limitation—ton and if there were personal injury or death claims, the shipowner would be required to establish a limitation fund equal to $60 per ton to pay these claims. When a few were injured or lost, this amount was quite sufficient; however, in the case of a major disaster, this amount was inadequate. In 1984, Congress adjusted the limits from $60 to $420 per gross ton. This, however, was intended to be an interim measure until the law could be revised.

It is generally conceded that the existing law on the subject of limitation of liability is outmoded. This is particularly true when a major maritime disaster involving seagoing vessels, such as the *Ocean Ranger, Poet, Marine Electric,* and *Glomar Java Sea,* occurs. It is also true that when nonseagoing, inland vessels such as yachts, tugs, towboats, fishing vessels, and barges are involved in a tragedy, the limits of liability are often inadequate.

As a result, courts have been prone to find privity or knowledge on the part of the shipowner, thereby creating unlimited liability. This has, in turn, not only adversely impacted upon shipowners but also upon claimants by making it more difficult to provide adequate compensation to those who have been victimized.

H.R. 3135 is substantially based on the 1976 Limitation Convention. This convention is the latest attempt to revise international standards for limitation. It entered into force on December 1, 1986. The United States abstained from signing the convention, primarily because the amounts of the limitation fund were not high enough.

The major provisions of my bill are:

First. A shipowner, salvor, and a servant or employee of either may limit liability. An insurer is entitled to the same benefits as the person insured.

Second. Claims for death or personal injury, or loss or damage to property, occurring on a vessel or in direct connection with the operation of a vessel or salvage operations, are subject to limitation.

Third. A shipowner or salvor may not limit liability if the claimant proves that the loss resulted from an act or omission, committed with the intent to cause the incident that resulted in the loss, or committed recklessly and with knowledge that the loss would result.

Fourth. The limits of liability for death or personal injury range from $2 million for a vessel of not more than 500 gross tons to $24 million for a vessel of 70,000 tons. If it is necessary, an additional amount of $200,000 multiplied by the number of crewmembers aboard is provided to assure there are sufficient funds to cover claims. An overall limitation ceiling for death or personal injury is set at $50 million per incident.

Fifth. For "other" claims, the minimum limitation amount for a vessel of not more than 500 tons is set at $500,000. The overall limitation amount for "other" claims is set at $30 million.

Sixth. The bill establishes limits of liability that are considerably higher than those being used by the international maritime industry and those nations that are signatory to the 1976 Limitation Convention.

Seventh. The bill sets out limits of liability for a salvor if the salvor is not operating from a vessel, or is operating only on the vessel to which the salvor is providing salvage services.

Eighth. The limits of liability for death or personal injury to passengers—on a vessel with berth or stateroom accommodations for 50 or more passengers—are set between $5 million and $50 million.

Ninth. The limits of liability for death or personal injury to passengers on other vessels; for example, ferries and offshore crew boats, are set between $5 million and $50 million.

Tenth. The bill sets our procedures for limiting liability. For example:

A person seeking to limit liability is required to file or join a claim for limitation in a U.S. district court sitting in admiralty within 6 months after receiving a claim in writing.

When a limitation fund has been established, all other proceedings arising out of the incident are stayed pending the termination of the limitation proceeding.

All liability and limitation of liability issues are required to be decided in the district court sitting in admiralty where the limitation fund is established.

My goal in introducing H.R. 3135 is to provide a clearer basis in law for the settlement of maritime claims—one that will ensure fair and proper compensation for seafarers and their families, and one that will not put American shipowners at a competitive disadvantage.

"FROM IRANGATE TO OLLIE-MANIA" ANALYZES NETWORK COVERAGE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. SOLOMON. Mr. Speaker, most of us knew it. Now we have documented proof. The media tried its best to turn the Iran-Contra issue into a club to use against President Reagan last summer but failed, thanks primarily to one marine from the 24th District of New York.

Doctors S. Robert and Linda S. Lichter, two of the most authoritative media analysts in the country and editors of Media Monitor, went over network coverage of the Iran-Contra circus with a fine-toothed comb.

The bottom line, as the Lichters described it, was that "the networks came to bury the White House but left praising the charismatic colonel."

The Lichter study showed that network coverage of Lt. Col. Oliver North was 92 percent negative before his testimony, but down to 63 percent afterward.

The "scandal" of Irangate gave way to Olliemania, leading us to ask, what was all the commotion about? Where was the scandal? The study also offers proof that with all the smoke about legalisms and personalities, there was precious little commentary on substantive policy issues. The issue was not what Ollie North or Richard Secord did. The issues were the Communist threat to Central America and congressional interference in the foreign policy prerogatives of the President.

The Lichter study does not address those two issues directly, but it sheds light on the performance of our media Inquisition. I'm proud to enter the study into the RECORD.

FROM IRANGATE TO OLLIEMANIA—HOW TV NEWS COVERED THE HEARINGS

How did the cameras cover the most eagerly anticipated drama of media politics since Watergate? We analyzed 462 stories on the ABC, CBS and NBC evening news shows throughout the public hearings lasting from May 5 through August 3.

The results:

Only one story in 11 addressed substantive policy issues. Most stories dealt with investigative details, legal issues, or Reagan's leadership.

CBS had the most critical coverage, with 59% negative judgments. ABC was most favorable toward the administration, with 52% positive judgments.

George Shultz got the best press from all sources (60% positive), John Poindexter the worst (79% negative).

Reporters' on-air judgments contained four times as much blame as praise (79% to 21%).

Before his testimony, 92% of reporters' comments about North were critical. After he took the stand, 63% were favorable. During the same period, judgments of President Reagan went from bad to worse, declining from 37% to only 14% favorable.

THE BOTTOM LINE

The networks came to bury the White House cowboys but left praising the charismatic colonel. The story also shifted away from the "scandal" framework that had previously structured Iran/Contra coverage.

NO TIME FOR POLICY

The network evening newscasts ran 462 Iran/Contra stories during the hearings, an average of five a day including weekends and recesses. Coverage was heaviest on NBC (170 stories), followed by CBS (148) and ABC (144).

The focus was almost identical on the three networks. Investigative details and legal questions got the lion's share of coverage, followed by issues of Presidential leadership. That left little room for policy issues. Substantive policy debates (e.g. arms for hostages) and policy implementation (e.g. the proper role of Congress) each made up only 9% of all topics covered.

AMERICAN HEROES AND VILLAINS

A major aspect of the coverage was its assessment of figures involved in Iran/Contra affair. Coders examined 1,877 judgments from journalists, witnesses, and other sources. Over half were aimed at Ronald Reagan and Oliver North.

Of 1,117 judgments that clearly indicated either praise or blame, 55% were negative and 45% positive. George Shultz fared best (60% positive); Reagan and North also got better than even coverage. All other major players suffered mainly bad press. John Poindexter did worst with almost 4 to 1 negative coverage. The legislative branch also fared badly. Two out of three judgments on the Congress and the hearings themselves were negative.

CBS has the most critical coverage overall, with 59% negative judgments. NBC followed with 56% negative judgments. Only at ABC were most evaluations favorable, by 52% to 48%.

Network ratings of the various players often differed sharply. George Shultz was the only figure to get mostly good press on all three networks. ABC offered the most positive portrayal of seven of the nine major players and the most negative portrait of the hearings themselves. CBS was toughest on six of the nine (including Reagan) but bullish on McFarlane, giving him 60% positive mentions, compared to 29% on ABC and 18% on NBC.

DOWN WITH EVERYBODY

Journalists' own on-air judgments were much more critical than those of other sources. Reporters and anchors proferred 835 evaluations, nearly 2 per story, and about the same number as all other sources combined (excluding witnesses).

Only 90 of these were clearly one-sided. In contrast to the overall balance among outside sources, however, these judgments contained nearly four times as much blame as praise (79% to 21%). The bulk of their criticism was aimed at North (61% negative) and Reagan (75% negative). Among all other individuals, only Shultz garnered any positive comments.

The bad news would have been even worse but for a dramatic upturn in Col. North's coverage. Before his testimony, only 8% of journalists' judgments of North were positive. After he took the stand, the figure jumped to 63% positive. The unexpected good press didn't rub off on anyone else, however. During the same periods, positive judgments of President Reagan dropped from 33% to only 14%.

WHAT SCANDAL?

Despite the on-air criticisms voiced by reporters, the coverage shifted away from the "Irangate" framework that helped structure the story's earlier phases (see Media Monitor, February and April 1987). The use of unnamed sources, conduits of leaks and rumors in a crisis, declined to about half of last fall's levels.

The proportion of "zingers", the negative closers that often impart an adversarial tone, dropped even more sharply. (Positive closers, always infrequent, disappeared entirely.) During the hearings, reporters were more likely to let the politicians speak for themselves than to add their own conclusions.

Most telling, references to Watergate itself declined precipitously. Only 3% of all stories mentioned Watergate, and most of those came at the outset. That compares to 14% when the Iran/Contra story broke last November and December.

Finally, an Irangate gave way to Olliemania, the airtime given to outside sources became more balanced. After the Tower commission's report last winter, on-air criticism of the administration outweighed support by a three to two margin. During the hearings, the critics' advantage narrowed to 52% of source airtime.

Thus, the burden of criticism rested mainly on the shoulders of the reporters themselves. Our other measures of balance gave only a slight edge to the administration's critics.

NINE BOYS FROM ONE FAMILY (THE CHAPLINS) SERVED IN THE MILITARY

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BENNETT. Mr. Speaker, in my district there is a family represented which performed the extraordinary accomplishments of having all nine of the Chaplin family brothers serve in World War II. They are all the sons of Saxby and Pauline Chaplin, both now deceased. Their ranks were from private to brigadier general. The years of total service was 145 years, a staggering figure. This is probably an all-time record.

The family tradition is going forward since one of the current generation of grandchildren recently held the highest post a female has held to date in the Cadet Corps at West Point—that is 2d Lt. Lissa Young, graduating with the class of 1986. They are all descendants of Betsy Ross, and perhaps this had something to do with their patriotism.

Ernest Chaplin of Fernandina Beach, FL, gave me this information and the clipping included hereunder from the Charlotte Observer, which tells of each of the men who served in World War II. This is extraordinary and inspiring. Their country is grateful.

WITH ROBERT BACK HOME, THE CHAPLINS ARE TOGETHER AGAIN

The Chaplin boys had a reunion last night to tell each other war stories. All nine served in the Army or Navy during the war. They are Paul, Saxby, Robert, Frank, Peronneau, Charlie, Joe and George. Ernest was unable to be at the reunion dinner.

Robert returned from Italy this week and that called for a reunion of the largest family of servicemen in this area.

They got together over dinner at Thacker's last night, for the first time since 1941. They swapped war stories, and the yarns got bigger and bigger as the evening got older.

There was Saxby Chaplin of Charlotte, who used to be a lieutenant colonel on the First Corps staff. There was George, up from his Fernandino, Fla., home especially for the reunion. He used to be a first lieutenant of Engineers.

Perraneau Chaplin came up from the family home, Charleston. He used to be a lieutenant-colonel in the Air Corps. Frank, of Charlotte, who was a sergeant in the 41st Infantry Division; Joe, who used to be a gunner's mate in the Navy's armed guard; and Charlie, who was a chief in the Seabees, were present.

The Rev. Paul Chaplin, who completed his ministerial training after being discharged from the 30th Division, came down from Norfolk to see Robert and the other brothers.

Ernest, who served in the 38th Infantry Division as a first lieutenant, came up from Fernandino to see the others.

And Robert, a captain in Ordnance, fresh from more than three long years overseas, found himself overwhelmed by the others.

"This life over here," he said in true European style, "is mighty rushing. Let's take it easy."

He hadn't had a chance to catch up on the others, or his own family, in the few days he'd been at home. And he couldn't get over the way his three young sons had grown.

SISTER HARRINGTON RECEIVES DESERVING PRAISE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. FRANK. Mr. Speaker, 2 weeks ago, the people of Fall River paid very heartfelt and justified tribute to Sister Kathleen Harrington, RSM. Sister Kathleen has been a major force for good in the Fall River area for 20 years. Since becoming the Representative for the Fall River area in the U.S. House, I have been the beneficiary on a number of occasions of her advice and advocacy. She is a force for justice and a person who is devoted to seeing that the ideals of America become reality for all of us. The people of Fall River are lucky to have someone like Sister Kathleen in their midst, and that was made evident at the recent dinner in which she was so justifiably honored.

Mr. Speaker, I ask that the article from the Fall River Herald News about this dinner in honor of Sister Kathleen be printed here.

[From the Fall River (MA), Herald News, September 23, 1987]

SISTER KATHLEEN'S FAVORS SYMBOLIZE IRISH THANKS

(By Jean Judge)

From "the little people" who attend the John E. Boyd Center for Child Care and Development, to old friends in the Sisters of Mercy, to former pupils she had taught when she first came to Fall River 20 years, all received an Irish favor from Sister Kathleen Harrington, RSM, at her testimonial recently.

For the event of White's, which honored the director of the John E. Boyd Center for Child Care and Development, on her 20 years of service in the area, and 25 years as a Sister of Mercy, the nun decided to give as token gifts, the traditional Irish bread and tea, symbolizing the hospitality of her heritage and suggesting the spirit of the foundress of the religious community to which she belongs.

Sister Kathy recalled that shortly before Mother Catherine McAuley died, she reminded her sisters to be sure that everyone had "the comfort of a cup of tea."

Because the guest of honor saw the event as one that should carry out a theme of friendship, and also celebrate "Mercy Day," the special day for her religious community, it was this theme that marked the occasion for her.

Paula Raposa, executive director of SER/Jobs for Progress, recalled that when she was board chairman, Sister Kathy had always tried to read prayer in Portuguese. In turn, Ms. Raposa asked the more than 500 guests to join her in reciting the traditional Irish blessing.

Rev. Brian Harrington, the honoree's brother, offered prayer, and Mayor Viveiros extended greetings.

A number of citations were presented to the Boyd Center director who is also a member of the state board of regents for higher education.

The idea for the testimonial came from a group of friends who learned that she had registered children for the center this fall who are sons and daughters of the first pupils she taught as a teacher 20 years ago at St. Patrick School. But the idea for the favors was her own.

A gift of money was presented to her and will be used, she said, for a trip to Erin. "I love Ireland," she observed.

In expressing her appreciation, Sister Kathleen noted that she could not mention every one individually, but she did want to single out one very special person, her mother, Mrs. Evelyn Harrington.

She added, "I pride myself on calling you all friends."

CAUTION URGED IN SUGGESTING EDUCATION REFORM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. GINGRICH. Mr. Speaker, I urge my colleagues to read Robert Akerman's September 14, 1987, editorial in the Atlanta Constitution, "Gadfly's Sting Good for Education in the Long Run." Mr. Akerman recognizes that ideas on educational reform spark debate, but he cautions that we must think about each of those ideas. I submit the article for my colleagues' review.

[From the Atlanta Journal, Sept. 14, 1987]

(By Robert Akerman)

GADFLY'S STING GOOD FOR EDUCATION IN THE LONG RUN

Most educators consider the Greek philosopher Socrates a heroic figure, precisely because his insistence on forcing people to think led to his martyrdom. But some of them act as if they would gladly administer hemlock to Education Secretary William Bennett for daring to raise questions that force them to think.

A maverick myself, I usually defend Bennett. But I would add that while it is good that he forces us to think, we do have to think about what he says. And I would urge caution with regard to one of his latest initiatives.

This is the proposal of new Education Department regulations that would pressure colleges, universities and postsecondary trade schools to document student achievement as a condition of accreditation. The intention is to increase accountability—a sort of consumer protection concept.

According to a spokeman for the Education Department, accrediting agencies have been looking only at "inputs"—how many faculty members have Ph.D.s, how many books are in the library, and so on—when they should be measuring how institutions teach by measuring the level of student achievement.

Well, I favor moving in that direction. When I was in the field education it was my personal opinion that the accreditation process did put too much emphasis on the externals and techniques, and that instead there should be more attention paid to whether an institution is producing the results it promises.

But the accrediting agencies said in response to the Education Department proposals that today they are moving more in the direction of assessing student learning. In any case, I don't think government should issue any simplistic mandates on the subject. For one thing, different schools have different missions, and there is no standardized test of student learning that would measure all of them fairly.

Then there's the matter of Lynne Cheney's attack on the Scholastic Aptitude Test of college admission. Cheney is Bennett's successor as chairman of the National Endowment for the Humanities and presumably is on the Bennett team as an official. She cited a report showing woeful gaps in teenagers' knowledge of history and literature. Then she argued that the gaps result from teachers teaching to the SAT and neglecting the humanities, so the SAT should be abandoned.

It's true that the SAT test skills—aptitude, as the name itself suggests—rather than knowledge of specific subject matter. But when you teach skills in reading and writing part of the process is to expose students to great literature, so the distinction is not as sharp as Cheney suggests. Furthermore, the education reform movement is bringing more and more achievement testing into the picture at the high school level. If there has been pressure to teach to the SAT, it will soon be offset by pressure to teach the broader content measured by the achievement tests. That is the way to monitor both effectiveness of teaching and what is being taught; it isn't necesary to interfere with the college administration process.

Bennett and some of those around him are gadflies, and there is a danger that when the stinging starts we could try to run off in all directions. But at least we have been awakened, and some of the thinking could be productive.

JOHN M. BOWERS—NEW ILA PRESIDENT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BIAGGI. Mr. Speaker, I rise to salute John M. Bowers, who on August 1 becomes the new president of the International Longshoremen's Assocation, AFL-CIO.

Mr. Bowers' election is an achievement for him as well as a national milestone. As president of the ILA, he will mold the future of the American labor movement and the international transportation system.

At this point in John's career, he can look back on a long list of accomplishments. He is a distinguished World War II Army veteran of the 4th Armored Division, a unit that won five battle stars and a Presidential citation. In 1962, he was elected President of ILA Local 824. The following year, he was elected international executive vice president of the ILA—a position he held until his election as international president at the recent ILA Convention.

A strong supporter of education, Bowers has instituted scholarship programs for the children of union members. He was a driving force behind the construction of the New York City Passenger Ship Terminal and the Intrepid Sea-Air-Space Museum. He has worked tirelessly on behalf of the National League of Families of American Prisoners of War and Missing in Southeast Asia.

In 1971, he received the VFW Medal of Merit and has been honored by numerous groups, ranging from the National Urban League to the Greater New York Council of the Boy Scouts of America.

While these past accomplishments cannot be minimized, John Bowers has now succeeded in obtaining what will undoubtedly be one of the greatest honors of his career. His fellow longshoremen, by electing John to this important post, recognize his tremendous contributions to the union and his outstanding ability as a labor negotiator and leader.

As I look to the future, I know John will face many difficult challenges, and I am confident that the members of the International Longshoremen's Association will proudly look back to their decision to elect John Bowers their president.

SERGEI KOVALEV: BIOLOGIST, HUMAN RIGHTS ACTIVIST, DISSIDENT

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. JEFFORDS. Mr. Speaker, knowing that so many of our colleagues are concerned about human rights activists around the world, Congressman Mathew HCHUGH and I would like to bring to their attention a letter that we recently received from Ivan Kovalev.

Ivan and his wife, Tatiana Osipova, are well-known Soviet dissidents who have championed the cause of human rights and served time in prison for their human rights work. Fortunately, Ivan and Tatanya were allowed to emigrate from the Soviet Union in April. However, Ivan's letter expresses his concern over the case of his father, Dr. Sergei Kovalev, a noted Soviet biologist and a cofounder with Dr. Andrei Sakharov of the Initiative Group for the Defense of Human Rights in the Soviet Union. Having served a 10-year sentence in prison and internal exile for his human rights activities, Dr. Kovalev is currently prevented from rejoining his family in Moscow or working in his field.

We would like to include for the RECORD the text of Ivan's letter:

My father has now served his ten-year term of labor camp and internal exile and, of course, is in much more favorable circumstances than those who have not yet been released.

His situation, however, is not only not good, but even unsatisfactory. A biologist and scientist, the author of 64 serious research papers (I am enclosing a summary of his scientific activity), is now working as a fireman in the Kalinin Theater near Moscow. He cannot find any work in his specialty in Kalinin. He is forbidden to live in Moscow where his wife and two adult daughters live. Moreover, my father is officially forbidden even short visits to Moscow. Therefore, every time he comes to Moscow he risks being punished—which in principle could even include answering to criminal charges and a new labor camp term.

My father lives in a village house, a part of which belongs to him. He has to work a 24-hour shift every fourth day in the theater. At 57 he is no longer a young man and he suffers from a series of chronic diseases, but in his free time he is forced to constantly work on repairing his house which is falling apart. Either the walls—which look as though they will fall in if you only look at them—have to be propped up, or the broken-down heating system has to be replaced, or something else is going wrong.

Therefore, once again, I beg you for help. I ask you not to abandon your noble efforts and not forget my father. He simply wants to live with his family and have the chance to do scientific work. You are in a position to give him serious support.

I believe that your letters on behalf of my father to high-level Soviet academic officials expressing your concern for the possibility of my father to live with his family and to return to his scientific work in Moscow can help a great deal to resolve both these problems. It would also be helpful to write such letters to the organizations on which my father's situation directly depends—the Supreme Soviet of the USSR and the Procurator's Office of the USSR.

I would be grateful to you for anything you could do that you find feasible. I look forward to hearing from you.

Respectfully.

Ivan S. Kovalev.

The following is a biography of Dr. Kovalev provided to us by Ivan. It paints a clear picture of the persecution of human rights monitors who act on their convictions.

Sergei Kovalev

Sergei Kovalev (b. March 2, 1930) graduated from the Department of Biology of Moscow University and became a senior research assistant at the University in mathematical biology and genetics. He has a Ph.D. in biology and has published more than 60 professional papers in his field.

In 1969, Dr. Kovalev participated with Andrei Sakharov and others in founding the Initiative Group for the Defense of Human Rights in the USSR. That year he was dismissed from his research post and subsequently worked for the next five years at a fish hatchery.

In 1974, Dr. Kovalev joined the unofficial Moscow chapter of Amnesty International which at that time was writing letters on behalf of prisoners in Spain, Sri Lanka, and Yugoslavia. On December 27, 1974, Kovalev, Sakharov and others appealed to the Soviet government for a New Year's amnesty. He was arrested the same day in Moscow.

Kovalev's trial took place December 9-11, 1975, in Vilnius, Lithuania, beyond the travel limits of foreign correspondents. He was found guilty of "anti-Soviet agitation and propaganda" and sentenced to seven years in a strict-regimen labor camp plus three years in internal exile.

Kovalev spent the internal exile part of his sentence in one of the remotest places of Russia—in the Magadan region of the Soviet Far East. He tried to find a job in his field, but the authorities pressured him to recant in order to get a research position—so he worked as a laboratory assistant at a factory.

In December 1984 Kovalev was released after completing his entire 10-year sentence. He was not allowed either to return to Moscow or to work in his profession. He settled in the town of Kalinin, about 100 miles from Moscow, and found a job as a watchman. Currently he works as a fireman in a local theater. According to recent regulations, he is restricted from even visiting his family in Moscow, not to mention maintaining scientific contacts with his colleagues.

Kovalev is very concerned that if he does not get a chance to return to his scientific activities now, he will not be able to be a biologist at all. He needs scientific journals and books as well as contacts with people in his field.

Kovalev's address is: Novozavodskava ulitsa. 2. kv. 114; Kalinin 170007. USSR.

Kovalev's human rights colleague, academician Andrei Sakharov, has described him as "a talented biologist and a deep and penetrating thinker, kind, patient, and strong." He needs help and support.

I urge all my colleagues to take careful note of this case, and to do all that they can to bring Dr. Kovalev's situation to the attention of the Soviet authorities.

We would also like to include in the Record a copy of Congressman McHugh's letter to General Secretary Gorbachev urging resolution of Dr. Kovalev's situation. Eighty-one of our colleagues joined us in signing this letter.

House of Representatives,
Washington, DC, September 30, 1987.

His Excellency Mikhail Gorbachev,
General Secretary of the Communist Party, The Kremlin, Moscow, Union of Soviet Socialist Republics.

Dear Secretary Gorbachev: Recent events in your country are a source of hope for many of us in the Congress of the United States. We approve of your government's decision to free many prisoners of conscience, and hope these developments will continue and intensify in the future.

At the same time, we are writing to call your attention to the plight of Sergei Kovalev, a Soviet biologist who completed his 10-year prison sentence in 1984. Dr. Kovalev is currently working as a fireman in Kalinin, about 100 miles from Moscow. He is forbidden to visit or live in Moscow, where his wife and two daughters reside. In addition, he has been unable to resume his scientific work although his work is well-known and respected in international scientific circles.

At 57 Dr. Kovalev is no longer a young man and he suffers from a series of chronic diseases. We believe that he should be allowed to spend the remaining years of his life with his family in Moscow. We also hope that Dr. Kovalev would be allowed to resume his scientific work.

Your assistance in reuniting the Kovalev family is the type of humanitarian gesture that would help to further improve relations between our two countries. Allowing Dr. Kovalev to resume his scientific work would benefit both countries as well. Thus, we ask for your personal intervention in this matter.

Sincerely,

Peter W. Rodino, Jr., Les Aspin, Matthew F. McHugh, James M. Jeffords, Joseph M. McDade, Nancy Pelosi, Lawrence J. Smith, Gary L. Ackerman, Dean A. Gallo, Frank McCloskey, Vic Fazio, Bart Gordon, Vin Weber, Anthony C. Beilenson, Mike Synar, Timothy J. Penny, Herbert H. Bateman, Howard L. Berman, Sidney R. Yates, Martin O. Sabo, Frank Horton, Bill Richardson, Mike Lowry, John Conyers, Jr., Morris K. Udall, Ben Erdreich, James McClure Clarke, Beau Boulter, Jim Moody, Thomas J. Manton, Howard Wolpe, Arthur Ravenel, Jr., George E. Brown, Jr., Don Edwards, Bill Green, Charles Wilson, Walter E. Fauntroy, Tony P. Hall, Ronald D. Coleman, Harris W. Fawell, Bill Nelson, Robert Garcia, Benjamin L. Cardin, Dennis E. Eckart, Martin Lancaster, Robert G. Torricelli, Ernest L. Konnyu, Charles E. Schumer, Gerry Sikorski, Charles A. Hayes, Richard T. Schulze, William Lehman, William J. Hughes, Ted Weiss, George C. Wortley, Mel Levine, Albert G. Bustamante, Dan Glickman, Bill Archer, Barney Frank, Mario Biaggi, Robert T. Matsui, Donald E. Lukens, Robert E. Badham, Raymond J. McGrath, Dale E. Kildee, Robert J. Mrazek, John Lewis, Michael DeWine, Major R. Owens, Matthew J. Rinaldo, Nicholas Mavroules, Chester G. Atkins, John Bryant, Richard J. Durbin, Sander M. Levin, James M. Inhofe, Robert J. Lagomarsino, Barbara Boxer, Clyde C. Holloway, Don Bonker, Jim Saxton, Bruce A. Morrison.

THE SOUTH AFRICAN GOVERNMENT'S PERFORMANCE UNDER THE COMPREHENSIVE ANTI-APARTHEID ACT

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. WOLPE. Mr. Speaker, this Friday, October 2, President Reagan is due to present to the Congress, as mandated by the Comprehensive Anti-apartheid Act of 1986, a report assessing the Government of South Africa's progress in the last year toward ending the system of apartheid and establishing a nonracial democracy. Under the law, if there has not been "significant progress" the President must recommend additional economic sanctions.

To date, South Africa has not implemented a single one of the measures called for in the act. In anticipation of the President's report, I am inserting into the Record a comprehensive document which my Subcommittee on Africa staff has put together regarding political developments in South Africa and the utility of further sanctions. I am hopeful that this material will contribute toward a clearer understanding as to the direction in which our policy toward South Africa should be heading.

The South African Government's Performance Under the Comprehensive Anti-Apartheid Act

1. The Government of South Africa has not met the comprehensive Anti-Apartheid Act's criteria of making "significant progress . . . toward ending the system of apartheid" within the last year.

It has not implemented any of the measures specifically mentioned in the law, namely:

1. Repealing the state of emergency and respecting the principle of equal justice under law for citizens of all races,

2. Releasing Nelson Mandela, Govan Mbeki, Walter Sisulu, black trade uinon leaders and all political prisoners,

3. Permitting the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process,

4. Establishing a timetable for the elimination of apartheid laws,

5. Negotiating with representatives of all racial groups the future political system, and

6. Ending military and paramilitary activities aimed at neighboring states.

On the contrary, the past year has seen the reinforcement of political repression. The State of Emergency was first continued, then renewed on June 12, 1987. The Emergency, along with other security legislation, has resulted in the detention of an estimated 30,000 people without charge, including up to 10,000 children. As of June 12, an estimated 3000 people were being held, including hundreds of children. Detention has been systematically used against the leadership of the United Democratic Front, the Azanian People's Organization, and other anti-apartheid groups, as well as trade unions and religious and youth groups. According to a study of a sample of 138 detainees by the National Medical and Dental Association of South Africa, 70 percent of the detainees appear to have been physically assaulted or tortured. Futhermore, since Jnauary 1986, 1096 people have been killed in widespread "unrest"; all but 46 were civilians. Under the Emergency, the Government has not only banned political meetings and even political T-shirts, it has also imposed new and draconian press restrictions (which outlaw words that stimulate "hostility towards the authorities", promote the "public image" of banned organizations, or even request the release of detainees) including a new system of press censorship.

Furthermore, the Government clearly intends to continue its repressive trend. The new budget presented to the parliament contains an increase of 43 percent in police expenditures and 30 percent in defense expenditures. A shadowy National Security Management System of 500 committees has been set up to involve the military directly in policy making towards the black townships.

The Government, while continuing to reform "petty apartheid" (e.g. by abolishing formal job reservation for whites in the mines and easing restrictions on black trading in central business districts) has acted to maintain "grand apartheid", a uniquely totalitarian structure of political domination based on racial differentiation and humiliation. In 1986, 64,000 black South Africans were forcibly removed from their homes; 95,834 black South Africans were arrested for "trespassing", and tens of thousand of black South Africans were threatened with loss of citizenship and incorporation into so-called "independent homelands". Furthermore, the Government announced that it had resumed plans to bring a 5th homeland, Kwandebele, to "independence" despite the evident opposition of the residents. Trumpted "reforms" in grand apartheid have not dented the basic structures: homelands, migratory labor with its separation of families, segregated education and housing. The "Restoration of South African Citizenship Act" has given only 1.75 of 9.5 million black South Africans their citizenship back, and exposed the remainder to the harsh penalities of the "Aliens Act" should they enter South Africa illegally from their "homelands". Reforms in the Group Areas Act recommended by the President's Council would allow residential integration only with the approval of local and centrally-appointed provincial authorities, and have been strongly condemned, as a "cop out" by white liberals, colored and Asian members of parliament, and the entire black opposition.

Instead of "negotiating with representatives of all racial groups", the Government has insisted the blacks "elect" (under Emergency restrictions) representatives to a powerless advisory National Council.

Rather than ending military and paramilitary activities aimed at the neighboring states, South Africa has continued to pursue its aggression. It has provided military support to RENAMO rebels in Mozambique (breaking the U.S.-brokered Nkomati accord between Mozambique and South Africa), conducted paramilitary actions into Botswana, Swaziland, and Zambia, sent up to 2000 of its troops into Southern Angola, and continued to back UNITA rebels in that country. The purpose of these activities is to strengthen apartheid and maintain South Africa's illegal occupation of Namibia.

2. The Comprehensive Anti-Apartheid Act's provision for additional sanctions in the absence of significant and timely progress towards ending apartheid recognizes that sanctions are a medium to long-range strategy and not a quick fix. Yet even the limited U.S. and Western sanctions imposed thus far have had some constructive effects despite the Government's expected defiance and the rightward tilt in the recent white election.

The U.S. Ambassador to South Africa, Edward Perkins, has praised the immediate political benefits of Congressional action, reflected in his increased contacts with the black majority: "The Comprehensive Anti-Apartheid Act of 1986, as a statement of abhorrence by the American people of a hated system, was an unmitigated success. There is no question about where the American people stand with respect to South Africa and its government at this time".

Beneath their bravado, South African whites are gradually becoming concerned about the accumulating costs of internal resistance and economic sanctions. Dr. Gerhard de Kock, Governor of the South African Reserve Bank, stated on September 11, 1987:

"The basic underlying problems that threaten to isolate us from the rest of the world have not yet been solved. The outflow of capital, the emigration of skilled people, the large discount on the financial rand, and the decline in fixed and inventory investment, are all sending us messages that we should heed.

"They are telling us that, whatever improvements we bring about in our short- and long-term economic strategies, we must first and foremost convince both the outside world and ourselves that we are continuing on the road of peaceful and constitutional reform."

Despite a buoyant gold price, the economic adviser to the Bank pointed out last November that "the upswing in the economy is being inhibited by the effect of trade, and more especially, capital sanctions". According to the Economist (August 22,1987), South Africa stands to lose 900 million rand in coal export revenues this year alone, largely because of sanctions. In August 1987, the Reserve Bank noted that real economic growth would be less than the expected 3 percent (and thereby below the 4-5 percent necessary to avoid increased unemployment), and that investment levels were continuing to fall largely because of external sanctions and "negative perceptions".

Of greater long-term significance than the "law and order" appeals featured in the white elections, are recent South African opinion polls which demonstrate that three times as many whites prefer to accelerate "reform" as slow it down and that a plurality favors a non-racial confederation or federation as a political solution. In addition, the white Dutch Reformed Church has renounced its previous support for apartheid; the influential Broederbond Afrikaner secret society has circulated a working document implying that any new constitution would have to be acceptable to the African National Congress; more than 300 faculty members at Stellenbosch University (the intellectual citadel of Afrikanerdom) have called on the government to scrap all remaining discriminatory legislation and make a commitment to share power with blacks; three credible independent candidates for parliament have shown that there is a new, reformist Afrikaner opposition that approaches 25 percent of the Afrikaner vote in key urban and white collar districts; and a large group of prominent white South Africans held an uprecedented meeting with the ANC in Senegal last July.

Other signs of declining white morale, reminiscent of those that appeared gradually during the period of U.N. sanctions against Rhodesia, include: rising emigration (13,711 whites left in 1986, a 67 percent increase over 1983, and the outflow was only marginally lower in the first five months of 1987), rampant draft evasion (more than 25 percent defied the 1985 call-up, with the government subsequently refusing to publish updated statistics), and swelling suicide figures (453 members of the Defense Forces attempted suicide in 1986, a 500 percent increase over the previous year).

3. Current U.S. and Western sanctions are, nevertheless, relatively weak and contain several loopholes. They need to be strengthened, as envisioned by the Comprehensive Anti-Apartheid Act, to better contribute to our policy goal of helping avoid a blood bath and a potential superpower conflict in the region.

U.S. sanctions affect only one-third of imports from South Africa, and virtually no exports. In fact, exports to South Africa rose 6 percent between the first quarter of 1986 and the first quarter of 1987. They included such strategically important goods as computers, mining equipment, aircraft and electronic goods. Moreover, U.S. sanctions do not require disinvestment of U.S. capital (though they have contributed indirectly to the disinvestment movement). As a result, 197 U.S. corporations maintain direct investments in South Africa and American citizens maintain portfolio investments in South African companies (owning 17.7 percent of all mining shares according to a June 1984 report). Nearly all departing companies have made provisions for continued trade and access to U.S. technology by their South African or foreign successors. Thus a leading cost of disinvestment (stunted technological capacity) has been evaded, though a cost of scarce capital being used for "buyouts" rather than to create new production capacity has been imposed.

EEC sanctions affect only an estimated 5 percent of imports from South Africa. The Administration has not implemented provisions of the CAA which declare it U.S. policy to begin negotiation with other industrialized democracies within six months to conclude international cooperative agreements with other industrialized democracies, including official economic sanctions, and to convoke an international conference to reach such agreements. The Administration has also ignored a strong sense of Congress in the Act to mandate U.S. sanctions through the U.N.: in fact, the U.S. vetoed such a resolution in the Security Council. (Among the most important imports allowed by the EEC are coal and agricultural products).

While the Administration has implemented most of the provisions of the Act faithfully, it has also permitted a number of important loopholes. It has created a major gap in the ban on uranium imports by determining that uranium hexafluoride is a "substantial transformation" of uranium and therefore exempt from the ban. Yet uranium hexafluoride is simply a conversion of uranium oxide to a gas that is necessary to make uranium usable as a nuclear fuel and costs only 2 percent of the overall price of nuclear fuel. Certain forms of steel were recently exempted from the prohibition on steel imports. Despite a ban on food imports, South African lobsters continue to enter the U.S., provided they are partially processed on a ship that is at least technically registered under a non-South African flag. Officials acknowledge that the restriction on computer exports to apartheid-enforcing agencies is largely unenforceable due to opportunities for evasion. The Administration is unwilling to assure Congress that the intelligence community is not engaging in military collaboration with South Africa, and the U.S. Trade Representative has formally disavowed its responsibility under the President's Executive Order to implement provisions penalizing foreign countries that take commercial advantage of U.S. sanctions.

Credible black leaders and organizations continue to call for strengthened Western sanctions. Last July, Archbishop Tutu reaffirmed his support of "sanctions and disinvestment" as "effective, non-violent action" to enable blacks to obtain political power. Previously he had condemned the rescheduling of South Africa's debt by Western banks without guarantees that apartheid would be eliminated. In July, COSATU, the largest black trade union federation in the country, with over 712,000 paid and a million claimed members, adopted in its national convention resolutions calling for "comprehensive and mandatory sanctions" and disinvestment. Earlier the second largest federation, NACTO, comprising over 240,000 paid and 420,000 claimed members also called for "full sanctions" and withdrawal of foreign investment. The Reverend Alan Boesak, a patron of the United Democratic Front, the largest anti-apartheid organization in South Africa with over 700 affiliates representing about 3 million people, recently complained, "In spite of what South Africa has done over the past few years, the international community has not been able to impose meaningful sanctions to make the government sit up and take note of the people's frustrations".

The President's own Advisory Committee on South Africa, Co-Chaired by former IBM Chairman Frank Cary and Former Secretary of Transportation William Coleman, recommended in January that, "If Pretoria remains intransigent, the international community would have to address the adoption of additional diplomatic and economic steps. These might include a comprehensive multilateral trade embargo and consideration of ways to establish effective international sanctions on newly mined South African gold".

Reverend Leon Sullivan called, last June, for the withdrawal of U.S. companies and a total trade embargo until statutory apartheid is ended and an agreement has been negotiated with authentic and representative black leaders for equal political rights; 23 states, 14 countries and 175 cities have taken some sort of sanctions against apartheid. As a result, an estimated $19.6 billion has been redirected away from companies that do business with South Africa.

THE DOMESTIC INDUSTRY SAFEGUARD ACT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. GUNDERSON. Mr. Speaker, one of the United States most disturbing trends in recent years has been the rapid growth in the foreign takeover of American industry. Although there have been a number of recent press accounts of this foreign buying spree, both Congress and the administration have thus far been slow to examine the economic ramifications of this development.

Foreign ownership in the United States rose to a remarkable $1.33 trillion in 1986, up 25 percent from the previous year. All indications are that 1987 has witnessed an even more dramatic increase. By contrast, in a complete reversal of the situation only a decade ago, U.S. holdings abroad now total only $1.07 trillion.

An additional worrisome aspect of this issue is the giant increase in the number of foreign takeovers of American corporations. The annual number of foreign takeovers increased eightfold from 1976 to 1986. While foreign takeover activity currently accounts for only 5 to 10 percent of all U.S. merger transactions, given the current frenzy of foreign purchasing, that percentage can be expected to grow dramatically.

What does this mean for the American economy? No one can be certain, but there are enough warning signs evident for Congress to begin serious consideration of this issue. Lawrence Brainard, chief international economist for Manhattan's Bankers Trust warns, "By the end of this century, the United States may have the most modern manufacturing sector in the World, but it won't own it."

While some of the foreign investment in the United States has been positive, by their very nature, hostile foreign takeover attempts increase the likelihood of corporate abandonment due to foreign ownership's inherent lack of commitment to American communities.

One of the ironies of the foreign takeover issue is that, for U.S. tax purposes, foreign corporations are allowed to fully deduct the debt service financing of their takeover at the same time they are threatening an American corporation. With the current need for deficit reduction, the effect on the American Treasury of this very friendly treatment of foreign corporate raiders deserves additional scrutiny from Congress.

Increasingly, healthy American corporations are becoming takeover targets of both domestic and foreign interests, and the results are not often welcome news for the companies and communities involved. This trend has forced the development of new, and often harmful, tactics by both parties involved in takeover attempts.

One of the most serious of the negative effects brought about by the rash of hostile takeovers is the damage done to the workers and communities of the targeted companies. All too often, workers lose their jobs and communities lose their plants as a result of the cost cutting required by both successful and unsuccessful takeover attempts.

Current law allows those leading a takeover attempt to borrow up to 100 percent of the purchase price for the target corporation. This practice almost inevitably leads to the practice of buy, strip, and sell. After successfully gaining the controlling shares of the takeover target, many buyers find themselves so completely leveraged that they have no other option but to sell off their new company's assets to pay their banker. This forced restructuring has led to the loss of thousands of jobs, and the abandonment of many previously productive factory operations.

As is evidenced by the 525 jobs that Burlington Industries lost fighting off a foreign takeover bid this summer, hostile takeovers seldom leave local communities unscathed. A successful takeover often severs the ties between a company and the community. Unfortunately, corporate commitment to a local community is often lost after a takeover, especially if the new corporate headquarters is overseas.

Obviously, this situation cries out for an expanded Federal role in the regulation of foreign takeovers. In the ongoing and welcome debate currently taking place in Congress regarding takeover reform legislation, the unique characteristics of foreign involvement in this problem have been virtually ignored.

Consequently, in recognition of the dangers inherent in the rapid growth of foreign involvement in the American economy, I am introducing legislation today to establish a broad-based analysis and Federal response to this problem. The Domestic Industry Safeguard Act will assure that local communities receive some Federal protection from the consequences of unfriendly foreign takeovers.

In addition to more stringent reporting requirements and asset sale prohibitions for foreign-based acquirers, the Domestic Industry Safeguard Act mandates more comprehensive study of this issue at the Federal level. The effects on both our national and local economies are simply too significant to leave unexplored.

I would like to encourage my colleagues to consider the threat posed their communities by hostile foreign takeovers, and join me as a cosponsor of the Domestic Industry Safeguard Act.

"PHOENIX EXPANSION"

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. SMITH of New Jersey. Mr. Speaker, October 1, 1987, marks an event of great significance to the American people. After years of economic stagflation, we are now enjoying the so-called Phoenix Expansion. Fifty-nine consecutive months of economic growth and recovery are truly a cause for national celebration. This is the longest consecutive peacetime expansion since the Second World War. However, we cannot allow this recovery to falter. Congress is duty bound to the citizens it represents to continue the policies which have given life to this remarkable economic expansion.

The facts which demonstrate our economic growth speak for themselves:

The gross national product—in constant dollars, adjusted for inflation—has increased an average of 3.9 percent from 1983 to 1987. This exceeds the growth of West Germany and Japan, and our own GNP increases from 1977–82.

Inflation, which was 12.4 percent in 1980, is now down to 3.8 percent.

Interest rates, for 3-month Treasury bills, have fallen from 10.69 percent in 1982 to 6 percent in August 1987.

Unemployement levels have dropped from 9.5 percent in 1982 to only 5.9 percent in July 1987.

Nearly 14 million new jobs have been created since 1982.

Per capita income was $11,670 in 1986, up 14.4 percent since 1982.

Americans living under the poverty level are at the lowest percentage since 1980.

These figures are clearly good news for America.

Advances have been made for both the rich and poor. The dramatic gains in the stock market have helped investors and corporations. At the same time, new jobs and more favorable tax treatment have lifted the poor out of poverty and into the mainstream of society. But by far, the greatest gains have been made by the middle-class family. Each of the facts listed above translate into prosperity for the workers of this country.

A good deal of the credit for this economic success story must go to our President. The platform President Reagan ran upon included the policies which have helped achieve these results. He has supported the overall reduction in tax rates which has provided capital for investment in private-sector businesses. The President has consistently opposed unnecessary increases in Government spending through the use of his veto power. And finally, he has followed a sound monetary policy which has reduced the high interest rates.

Unfortunately, there are some who will try to belittle the economic figures for the past 59 months. Others will try to take the credit away from the President and the policies he has endorsed by twisting the facts and figures to support their claims. Those who once denounced "Reaganomics" now demand higher taxes and fatter Federal budgets, without reading the facts.

But I think we agree that there are areas which still require attention. Our Federal budget deficit must be addressed if we are to continue this trend in growth. Responsible levels of spending can be reached through consensus. We also must take positive steps to reverse the trade deficit by agreeing upon fair trade practices. Finally, we must continue a sane tax policy. The benefits of tax reform, which was born of bipartisan compromise, must be permitted to stimulate growth and produce revenue. We should not strike down the advantages we have made by increasing rates now.

The policies which we have followed are based upon sound economic principles. These policies must be continued if we are to sustain this growth for another 59 months.

CONGRESS FAILS AGAIN TO FULFILL ITS FISCAL RESPONSIBILITY

HON. C.W. (BILL) YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. YOUNG of Florida. Mr. Speaker, today we ring in the fiscal year and once again the Congress has failed miserably in fulfilling its fiscal responsibilities.

For the third year in a row, our Nation begins a new fiscal year without any of the 13 regular appropriations bills signed into law. Our Government again is operating on a temporary continuing resolution—a resolution that symbolizes our inability to make the difficult budgetary decisions necessary to get our Nation's economic house in order.

You have to go back 11 years, to 1976, to find the last time Congress completed its work on all 13 appropriations bills and had them signed into law. Since that time, continuing resolutions have become the rule rather than the exception with an average of eight appropriations bills a year being lumped into one catch-all spending measure. Last year, we failed to have any of the 13 appropriations bills enacted into law. Our Nation's Federal Government operated for an entire fiscal year under a continuing resolution—a resolution for which Members of the House had the opportunity to cast just one yea or nay vote.

Worse still is our record of getting our appropriations work done on time. Twelve of the thirteen appropriations bills were enacted into law on time in 1976. Since then, Congress has started the last 11 fiscal years with only an average of 2.5 appropriations bills in place.

As a member of the Appropriations Committee, this course of events is particularly frustrating to me. The members of our committee spend months intensely reviewing the administration's budget requests, holding hundreds of hearings annually with department and public witnesses. We scrutinize agency budgets line by line and in our respective subcommittees make a number of difficult decisions about program funding levels. In the Defense Appropriations Committee, this requires us to review and make decisions about more than 10,000 separate line items.

We take great care in drafting these appropriations bills, only to see them lumped together in one massive spending bill at the end of the fiscal year. Conference committee deliberations between the House and Senate on these matters are frenzied and many important decisions that will affect the operation of national defense and domestic programs over the course of an entire year are made quickly with little discussion or study.

Temporary continuing resolutions, such as the one we are operating under this year through November 10, are disruptive to the people who manage Federal programs. Agencies must bide their time until final spending decisions are made by the Congress. This often doesn't occur until more than one quarter of the fiscal year is gone. In the meantime, grant applications can't be solicited and contracts can't be awarded. This has a chain reaction which affects State and local program sponsors who rely on Federal assistance to fund education programs, care for older Americans, and provide for the needy.

The inability of Congress to complete its appropriations work is just part of this body's fiscal irresponsibility. In addition to being faced with a continuing resolution that will fund hundreds of billions of dollars of Federal programs, we will be called upon in the coming weeks to consider budget reconciliation legislation that will cut or reallocate billions of dollars from existing programs. These cuts affect the Medicare Program, veterans benefits, housing assistance, and education programs. This legislation is also likely to include more than $12 billion in taxes and will provide for hundreds of technical corrections to the Tax Reform Act of 1986.

Reconciliation could, in addition, revamp our Nation's welfare programs, reauthorize our Nation's housing and agriculture programs, and impose new international trade sanctions. As in years past, the House will consider this legislation without having the time to review the thousands of pages such a bill would entail, without the opportunity to offer amendments, under rules providing for limited debate, and with the privilege of casting one yea to nay vote on the entire package.

Congress has the constitutional responsibility to make Federal budget and spending decisions, but the last few years have shown that we are unable to discharge these responsibilities in a timely manner. Clearly the time has come for the leadership and Members of this body to consider revising the procedures under which we carryout our budgetary responsibilities.

Gimmicks such as Gramm-Rudman-Hollings, which failed once but are being trooped out again, won't solve the problem. What is required by this Congress is a commitment to make the difficult decisions that establish Federal spending priorities and to cast the difficult votes to carryout these decisions.

What is also needed is a revamping of our budget process. I have advocated over the years that we abolish the Budget Committees, and the unnecessary added layer of bureaucracy associated with them, that we move toward a 2-year budget cycle, which would give Congress more time to enact appropriations and authorization legislation, and that we set aside a specified period of time during each budget cycle for the Congress to consider only appropriations legislation, specifying that the Congress could not adjourn until its work on these matters is complete.

Mr. Speaker, the Congress faces very real problems in its inability to fulfill its fiscal responsibilities. Our performance the past 3 years, when none of the 13 regular appropriations bills have been enacted on time, is proof to the American people that we are unable to discharge the duties for which we were elected. There are no easy solutions to these problems. What is needed is a willingness of the Members of this House and the Congress to work together to make the difficult budgetary decisions that will rein in our national debt before it hits $3 trillion.

REAUTHORIZATION OF THE AVIATION TRUST FUND PROGRAM

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. GALLO. Mr. Speaker, with the ever increasing use of our airways, we must commit adequate resources to maintain and improve our air transportation system. It is for this reason that I rise to support H.R. 2310, the reauthorization of the Aviation Trust Fund Program.

Mr. Speaker, H.R. 2310 reauthorizes, for 5 years, the programs supported by the aviation trust fund including capital improvements to our Air Traffic Control System and airport facilities.

The trust fund, which is funded by taxes on airline tickets and aviation fuel, currently has a $5.7 billion surplus. It is inexcusable not to make these funds available to improve our Nation's airports and Air Traffic Control System. It is time to act. Flight delays are up 21 percent from 1985 and passenger complaints about delays, congestion, and other problems up more than six times over a year ago. I urge my colleagues to support Chairman HOWARD's amendment to take the trust fund off-budget.

H.R. 2310 authorizes $8.6 billion for 5 years for the Airport Improvement Program [AIP] which provides funds for airport planning and construction, development of airport terminals, acquisition of land for noise abatement purposes, soundproofing of buildings, and funding for airport safety and other equipment. These vital programs should not be underfunded.

Newark Airport, which is rapidly becoming one of the busiest airports in the Nation, plays a key role in the economic life and well being of New Jersey. Under current law, the Port Authority of New York and New Jersey receives $30 million under AIP, divided $10.8 million to Newark, $10.5 JFK, and $8 million to LaGuardia. Under H.R. 2310, this amount would increase to $40 million.

This legislation also reauthorizes the Airways Facilities and Equipment Program which is designed to upgrade our air traffic control [ATC] system through computerization and modernization of radar, instrument landing, and related systems. The bill authorizes $9.3 billion from the trust fund over the next 5 years for ATC facilities and equipment. With so many planes in the sky, we must make certain that our air traffic controllers have the best equipment available.

With regard to noise abatement, the bill also allows the DOT to make 10 percent of any airport's apportioned funds available to local governments and public agencies in the surrounding area if an airport does not make reasonable progress toward developing and implementing a noise compatibility program. The bill also authorizes grants to local governments and airports to soundproof public hospitals or schools that are adversely affected by airport noise. The legislation also requires the FAA to study other noise abatement proposals and identify those that warrant Federal support.

Mr. Chairman, the funding authority for our Nation's air transportation system has just expired. The Congress must act quickly to reauthorize these important programs that will be used to maintain and improve our air system for the next 5 years. I urge you to support this vital legislation. ge dp2:

AMBASSADOR NICHOLAS M. SALGO—THE GIFT OF THE WALLENBERG STATUE IN BUDAPEST

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LANTOS. Mr. Speaker, 6 years ago this month, the President signed historic legislation making Raoul Wallenberg an honorary citizen of the United States. At this time, as we commemorate and remember that anniversary, it is important as well to recognize those individuals who have helped make the story of Raoul Wallenberg known here and around the globe.

Ambassador Nicholas M. Salgo—the former United States Ambassador to Hungary and also a native of Hungary—has made a unique contribution to the memory and cause of Raoul Wallenberg. In April of this year, in a most unusual decision, the Budapest City Council approved the erection in the city of the new statue honoring Raoul Wallenberg. In fact, the statue was already in place.

The new monument was the private gift of Ambassador Salgo. He personally arranged for the sculpting of the figure of Wallenberg, paid for it to be cast, and arranged for its placement in Budapest.

This was not the first effort to erect a monument in his memory. In 1947 a statue honoring Wallenberg by Hungarian sculptor Pal Patzay was erected in Budapest, but it disappeared mysteriously on the eve of its scheduled unveiling. The statue reappeared 4 years later in front of a pharmaceutical factory in the provincial city of Debrecen with no indication that it has any connection with Wallenberg.

The sculptor of the new Wallenberg monument in Budapest is Imre Varga, an internationally known Hungarian artist and a member of the Hungarian Parliament. The focal point of the monument is a cast bronze figure of Wallenberg as an old man—he would now be 75, although he was only 33 years old when he disappeared in 1945. The central figure is flanked by two large slabs of Swedish granite. Etched in gold on the granite is an outline of the 1947 Wallenberg statue which was removed from Budapest by the Soviet occupation forces on the eve of its unveiling. The sculptor of the original Wallenberg monument, Pal Patzay, is the mentor of Imre Varga, sculptor of the new work.

Though Hungary was the site of Wallenberg's heroic activities, the effort to recognize him there has been long and difficult. The erection of the monument in Budapest is an extraordinary success. It required a willingness to take risks, the tenacity to persevere, and considerable political acumen. Nicholas Salgo has demonstrated all these qualities in arranging for the Wallenberg monument in Budapest.

Mr. Speaker, it gives me great pleasure to call these accomplishments to my colleagues in the Congress and to pay tribute to the contribution of Ambassador Nicholas Salgo.

A REMARKABLE ACHIEVEMENT BY A REMARKABLE MAN

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. GARCIA. Mr. Speaker, The September/October edition of Museum and Arts in Washington has an excellent article on the Sackler Museum of Art. As most of my colleagues know this is a museum of African and Asian art. I find this particularly important because for too long we have not put sufficient emphasis on our Nation's African and Asian heritage.

The Sackler Museum is a tribute to an eminent American, former Secretary of the Smithsonian Institution, S. Dillon Ripley. Because of his tenacity and vision, this beautiful museum has become a reality. He has made art and history live for millions of people through the Smithsonian. The Sackler Museum is the "jewel in the crown" of the life's work of a great American, S. Dillon Ripley.

I am submitting the Museum and Arts in Washington article for the RECORD for my colleagues' perusal.

The article follows:

RIPLEY'S LAST HURRAH

(By Joanna Shaw-Eagle)

[Going below the scenes, S. Dillon Ripley created three new Smithsonian institutions underground, the realization of a dream that began almost 25 years ago.]

When President Kennedy set his sights upward, he declared we'd go to the moon and we went. When S. Dillon Ripley envisioned two new Smithsonian museums for a crowded Mall location, he set his sights underground. Then architect Jean Paul Carlhian took Ripley's vision and in a few short years made what many thought an impossibility into a reality.

A fast-paced tour during construction revealed the passion and concern of this architect who was trained at the École des Beaux Arts in Paris and Harvard University. Clearly it was the force of this tall, lean sixty-eight-year-old Frenchman's vision and personality that made the seemingly impossible possible. He barked orders to workmen, questioned foremen, demanded answers from supervisors, Carlhian's energy and purpose have driven this four-year, $73 million building project, unique in its scope and underground setting.

Carlhian faced the problem of creating distinctly different identities above ground for the institutions below, while integrating his new designs with the disparate architecture of the Victorian polychrome Arts and Industries Building, the Renaissance Revival elegance of the Freer Gallery, and James Renwicks' nineteenth century Gothic Castle—symbol of the entire Smithsonian Institution. The plan had not only to retain the preeminence of the oldest building on the site, the Castle, but had to include a symmetrical garden that would also serve as the museums' roof. Equally important, the architect said, was to make going underground attractive and inviting.

The three-level, 360,000-square-foot structure hits the water table at the second story and extends fifty-seven feet below the ground. Above, set in a beautiful four-acre park that was once the Victorian Garden, are the Sackler Gallery's West Pavilion entry, the African Museum's East Pavilion entrance, and a copper-roofed kiosk which serves as the entrance to the International Center, classrooms and offices. The offices were occupied last spring. The museum and International Center open this September.

No detail was too small for Carlhian's attention. He lovingly smoothed the surfaces of the rose-pink granite for the African Museum's Pavilion and the gray of the Sackler, pointing out the rough-surfaced/highly polished stone juxtapositions, describing their original quarry sites in Texas and Minnesota. The pink of the African is to harmonize with the reds of its Arts and Industries neighbor, while the black-grays of the Sackler will complement the buff of the Freer. "Museum architecture should be understated, dignified, subdued, of nice material," said Carlhian. "The architect should adopt an attitude of restraint, and not impose himself on the artwork. Though the art should be dignified with a proper setting, the setting should not overcome the object."

The saga of the site begins under the tenure of S. Dillon Ripley who became Secretary of the Smithsonian in 1964. He had no grand visions then, just the thought that building underground adjacent to the Freer Gallery would give the Smithsonian the necessary space to house traveling exhibitions of oriental art as well as to originate their own, while not impinging on the deed restrictions imposed by Freer in his bequest in 1906. Although studies were begun in the early 1970s, the plans for expansion were scrapped when costs soared and cutbacks were mandated in federal budgets. Ripley, undaunted, kept his sights on this parcel of land and, spurred by the nation's Bicentennial, cleaned up the parcel by installing a Victorian Garden where a parking lot, gravel pit, and several unarmed missiles had recently stood. Once called the South Yard, it had, in its 140-year history, housed an underground Magnetic Observatory, a photo lab, a stable and carriage house, and a wooden building that one hundred animals including two buffaloes once called home. It also later housed the Astrophysical Observatory and an aircraft museum in a Quonset hut that was to become the Air and Space Museum.

In 1979 the Museum of African Art was added to the roster of Smithsonian and Ripley now found himself with two space-hungry institutions. He also found his dreams fueled once again, this time by an added desire to create a focus for the arts of Asia and Africa in this location as well as a center for the one hundred or more new nations that had emerged in the last several decades. "This could be a cultural and educational service for the American people," he said of his plans, "as well as a window on the world stage for Third World nations." What had begun as a small addition to one institution, soon had three major components; a small empire was burgeoning underground.

But it wasn't until 1982 that Arthur Sackler was persuaded by Ripley to part with his collection, bringing it to Washington to be housed in a building with his name on it instead of several cramped rooms at the Met. It was a natural addition, complementary in scope, to the Freer collection. So what had been vaguely labeled oriental galleries on the early plans and seen only as an adjunct to an existing collection now had not only a name, but a $4 million dollar commitment for construction money. Fortuitously, Enid Haupt gave $3 million for a garden, completing the vision of what this once haphazardly used parcel would soon become.

Ripley's sojourn was not as smooth as its recounting sounds. Congressional hearings and commission reviews intervened. Some ridiculed the early schemes as being too much like a world's fair; others called it a Disneyland. But Ripley's vision prevailed; Congress appropriated half the money and the Smithsonian raised the remaining funds for construction.

Ripley considered the possibilities of the site, envisioning it "as a college, with a collegiate atmosphere" that would retain a garden and provide underground quarters for museums and offices. In fact, this was the bait he used to lure the Sackler collection to Washington. Above ground, the Castle would remain sacrosanct, the focus of what was now the Quadrangle, on Pierre L'Enfant's north-south axis, with the strongly linear garden and pavilion elements handsome but secondary to it. With jackhammers pounding in the background, Carlhian explained his axial, yet contrapuntal, design solutions. "What's important in Washington is that people have always loved the Castle. From the very first day, I planned that everyone should see the totality of the Castle. Therefore the pavilions were to be a frame for the Castle."

When Ripley asked Carlhian to take on the assignment, he inherited Japanese architect Junzo Hoshimura's earlier designs for a pair of pavilions symmetrically positioned along Independence Avenue, astride the Castle's north-south axis. Drawing on the style of surrounding buildings for design inspiration, he integrated the diamond and pyramid shapes of the Arts and Industries' roof line for the Sackler Pavilion, while the domed roofs, arches, and circles of the African Pavilion were inspired by the Freer's arch motifs. "So we constantly have this theme of playing the diamond against the circle, and the circle against the diamond, throughout," explained Carlhian.

Though small (only sixty by ninety feet), the pavilions sit genteelly in the park and make harmoniously proportioned, light-filled entrances to the treasures below. A kiosk, like a musical accent note, sits off-axis between the Freer and the Castle providing a discrete entrance for the institutional offices also located in the complex. It is the closest above-ground structure to the Mall, and Carlhian, inspired by an English bandstand, wanted it to recall the greensward's festive atmosphere.

Above the complex structure is the four-acre Enid A. Haupt Garden—three gardens representing vastly different approaches to garden design and a collaborative effort between Carlhian, Ripley, landscape designer Lester Collins, Sasaki & Associates, and Smithsonian Horticulture Office director James Buckler. The "moongate" garden near the Sackler is Oriental in feeling, with a circular granite island floating in a square pool bridge by four sloped granite slabs and paved with half-round pieces of granite. It's surrounded by two nine-foot-tall standing granite moongates, with two moongates laid on their sides for seating.

The fountain garden near the African Museum features a water jet at center, canals around the seating areas, and shade trees. Its focus, a waterfall resembling an Indian chaddar waterfall repeating the half-round granite pieces of the moongate garden, was designed by Ripley. The Central Parterre, carrying over from the original Victorian Garden, is planted with colorful flower beds.

Another big challenge Carlhian faced was to conduct people underground and avoid a feeling of claustrophobia among the people working there. "Since the building is underground," he said, "I have to take people down. Now usually one takes people down to the washroom, or down to the basement. You don't go down to anything noble. If, then, I'm supposed to take the public down to a multi-million-dollar art collection, going down has to become exciting, eventful."

In the kiosk, he created a circular staircase of three different shades of gray. After descending the stair, we enter a small, dark green low-ceilinged room which opens almost immediately onto an enormous concourse, filled with light and plants—the 285-foot-long gallery of subterranean "street," almost the size of a football field—that feeds the various offices. Carlhian wanted to surprise visitors with the low/dark to high/light contrast. This could easily be a grand, glass-walled boulevard in Paris, only here it holds the International Center and Gallery, the offices of SITES, and offices and classrooms of the Associates, which include the only photography lab teaching color photography in the area, as well as studio arts teaching facilities, and an auditorium. At one end, to further the outdoor feeling, will be a three-story mural of the Castle and the Arts and Industries Building by New York artist Richard Haas.

Carlhian has given both museums great flexibility in their exhibition spaces so that both room heights and sizes can be varied for different exhibits. Skylights bring natural light down into several of the galleries. Between the two museums is an enormous ninety-foot-long, twenty-four-foot-high Great Hall originally conceived to be a shared space for the two institutions either for separate exhibits or for very large shows.

"In the original plan," Carlhian said, "Mr. Ripley wanted a big space to lend sometimes to the African Museum, sometimes to the Sackler, and other times for ballets and receptions."

A great disappointment for Carlhian and Ripley was the dividing up of this original 5,000-square-foot space. Instead of being a positive asset, the space at the very heart of the building has become a source of controversy. "It was needed to give a feeling of space to an underground museum," Carlhian emphasized, "but unfortunately it's now being turned into a maze of little rooms divided equally by each museum."

Former SITES director Peggy Loar, who occupied her new offices briefly before leaving to become director of the Wolfsonian Foundation, is enthusiastic. She feels these offices will be more efficient for the full-time staff, will allow programs to expand, and make for a happy, colorful working environment. "At first I was very skeptical," she said. "But the peach and mint green colors, the way the skylights bring the light down, the play of the fountains, and the circular pool make the space both sensory and practical. I don't feel I'm underground."

National Museum of African Art director Sylvia Williams and Arthur M. Sackler gallery assistant director Dr. Milo Beach concur with Loar's assessment of the space. Beach pointed out, "The trend in most museums is to control the light, to control the environment completely. Once you're in the building you don't feel underground." He also believes climate control, as well as lighting, is easier below than above ground. "You have a more stable environment," he added. "There's not the heating up and cooling down of a building with the change of seasons, at least not as drastically."

Said Williams, "When I came in as director in 1983, I was never troubled that the structure was to be underground. Once you step into that building, you're absorbed by the art and not aware whether you're above or below ground."

Ripley's mandate to make the two museums "a window on the Mall for non-Western cultures"—to make the Smithsonian more international in scope—is finally realized. Williams emphasizes that this is a milestone for African art in the U.S. where it is usually relegated to parts of museum curatorial departments. She feels the museum is more accessible to the public and that more people will come to it. With the new facility, Williams hopes to attract more gifts and fill gaps in the collection that now concentrates on nineteenth- and twentieth-century art from West and Central Africa. Justly famous for its innovative and extensive educational programs, the museum will expand even further in this direction.

The Sackler, in contrast to the Freer, will be able to rotate new shows and, as Beach said, "link the present with the past." For example, the Sackler includes sixty-eight paintings from the tenth to twentieth century. Beach also plans to show Asian folk arts and crafts, among others, and demonstrate how Asian peoples used the art and invented many creative techniques.

During the inaugural exhibitions, visitors will wander through galleries of pre-historic Chinese circular bi jades, thought to be early symbols of the sun, Persian and Indian paintings, Temple sculptures from Cambodia, dramatic cast bronze Benin heads, painted wooden African fertility goddesses, delicate West African strip weavings. It should be exhilarating for all. Jean Paul Carlhian has taken us down, not to the basement, but to a cradle of beauty and tranquility. The Quadrangle has often been called Ripley's "last hurrah"; in truth it is an extraordinary vision come alive.

THE SEARLE PATIENT PROMISE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. McEWEN. Mr. Speaker, on Monday, September 14, 1987 G.D. Searle & Co. anounced the "Searle Patient Promise." The "Patient Promise" states that if a doctor prescribes any Searle product for a patient and at any time does not achieve the desired therapeutic benefits, Searle will refund 100 percent of the patient's out-of-pocket cost for the most recent prescription for that product.

Searle chairman, Dr. Sheldon G. Gilgore, M.D., and the company's management are to be commended for a significant private sector initiative, putting them in a leadership position in helping reduce the Nation's health care bill.

This unprecedented effort on the part of a major pharmaceutical firm is a commendable demonstration of social responsibility which is both encouraging and refreshing. This is especially true in this era of cost containment. G.D. Searle & Co. is setting an example and providing a challenge for all American business.

THE NEWARK RENAISSANCE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. RODINO. Mr. Speaker, I have had the privilege of representing the city of Newark, NJ in Congress for almost 40 years.

Newark is the largest city in New Jersey and the third oldest of America's large cities, predated only by Boston and New York.

Since its founding in 1666, Newark has been the manufacturing, commercial and transportation center of New Jersey. From the days of the Morris Canal to the recent expansion of Newark International Airport, Newark remained at the forefront of new technological developments. When manufacturing needs changed, Newark adapted itself as a home for insurance and other service industries.

Newark is also notable for its many cultures and traditions. It has served as the gateway for countless numbers of people seeking a better life. This gives Newark a social character that is highlighted by rich diversity.

Recently I reported to my colleagues that Newark is in the midst of a renaissance as the city experiences unprecedented growth and a new spirit of civic pride.

I want to especially applaud the outstanding leadership of the mayor of Newark, my good friend Sharpe James. His message is one of hope and his commitment encourages optimism as Newark faces a positive future.

Mr. Speaker, with your permission, I would like to submit for publication in the RECORD the following excerpt from an article in the Star Ledger and an article from the New York Times which further highlights the rebirth of Newark.

[From the Newark (NJ) Star Ledger, Sept. 27, 1987]

NEWARK ENTERS ERA OF REDEVELOPMENT

(By Mary Jo Patterson)

In the center of Newark is an empty cobblestone street where, if you close your eyes, you can almost imagine yourself in the country. Crickets shrill, and waist-high weeds choking vacant lots muffle the sounds of a city.

But turn your head, and you will see a startling sight: 40 spanking new $90,000 townhouses, looking as if they had been airlifted into this barren site. Soon, they will be surrounded by hundreds more that a second developer will erect; and every one of these 700 homes will be owned, not rented. After two decades as a national symbol of urban rot, Newark's Centeral Ward is being repopulated.

This turn of events, viewed as remarkable to some and inevitable to others, is taking place in every ward of Newark. After years of constructing thousands of subsidized apartments for low-income tenants, the city has a new focus.

Harold Lucas, director of development, says the goal is "to provide housing at different economic levels to attract a socioeconomic mix and increase our tax base."

Which is a delicate way of saying that Newark is trying to nurture a middle class.

For the first time since 1970, market housing is being built in Newark. At summer's end, there were between 2,000 and 2,500 homes under construction, most of them new condominiums.

Two housing projects broke the ice in 1986—the conversion of the vacant Newark News building downtown into luxury condos, and K. Hovnanian Cos.' decision to market 650 townhouses in the part of the Central Ward called University Heights. Things have been hot ever since. There are real estate people with dollar signs for eyes on the streets of Newark.

Dante Milano, a Newark official who has managed city-owned property for years, remembers when one person, or two, would show up at his auctions, naming their price for a piece of the city's growing stockpile of abandoned property.

"Now you have nine or 10 of them, driving up bidding," he said. "Land is at a premium. Attitudes have changed. I recall in the past, my phone would ring and people would say, 'My grandmother left this to me, please come and take it from us.' Today, my phone never stops ringing. People are calling from everywhere, looking for property."

"It's like the California gold rush. We have at least one walk-in a day from a real estate broker, with clients they of course can't identify, looking for hot spots," said Rosemary Hocking, housing analyst for the Newark Office of Development.

"What's the latest hot spot, they want to know," said Hocking.

Vogue Housing, the small minority-owned company that put up 40 townhomes next to the vast area Hovnanian will develop, was the first developer to test the housing market. Many people felt there was a pent-up demand for decent, afforable new housing, but nobody seemed to want to build any.

Vogue's Donald Harris, who sold his 40 units fast—and, remarkably, without benefit of a tax abatement—says his success was "indicative of how people feel about Newark." He said 67 per cent of his buyers are black, 22 per cent are white, with the balance Asian or Hispanic.

"We showed you can build minority housing which sells, in a city no one was supposedly interested in," Harris said. "Now that we've done that, we're fighting for additional pieces of the rock."

It is simply too early to say whether Newark will experience any of the demographic changes that transformed Hoboken, or parts of Jersey City, over the past 15 years. Newark officials carefully emphasize that something different is taking place in Newark, that buyers are not outsiders and that "gentrification" is not taking place.

In fact, a number of buyers are from outside Newark, though they come from other urban areas. Gentrification, though on a very limited scale, also is taking place—but without the widespread displacement of poor people generally associated with the process. Most of the new housing projects are taking place on vacant lots or within old buildings that have been abandoned.

For the buyers, price and location seem key. Paul Smith, a 28-year-old director of travel for a business in Bergen County, bought a ground-floor condominium at Renaissance Towers, as the former Newark News building is now called, for $77,000. Units in the building—bought from the city for $180,000—range from $55,000 to $390,000, according to the builder. Smith's condominium will be walking distance of Newark's Penn Station and Airlink, the shuttle bus to Newark Airport.

For months, Smith had explored the housing market. He considered the western suburbs, but found even "handyman's specials" too expensive. Then he looked at property along the Hudson County waterfront, but he couldn't afford that either.

"I didn't even touch Hoboken," he recalled. He even looked down around Keansburg. Then he heard about Renaissance Towers on Mulberry Street in Newark.

"I came in to Newark and saw what I could buy for the money. It was half as expensive as anything else. Most of my friends just looked at me, like, 'Newark? Your're crazy.' Even my Mom, who grew up in Newark, was a little surprised at first," Smith said.

"To me, it was perfect. It has potential that I don't see in Hoboken—a great museum, Symphony Hall. You're next to the Ironbound, and its restaurants. And the transportation infrastructure blows away any other city."

Loretta and James Brown, who were renting in Orange, bought a two-bedroom townhouse in the University Heights neighborhood from Vogue Housing for $85,000. They had wanted to own their own home for some time. They looked at homes in Irvington and in Vaux Hall, in Union, "but the prices got ridiculous," said Mrs. Brown, who works in Newark.

James Brown wanted to be close to his job in Harrison and, at age 56, wanted a new condominium "so I could relax a little bit more now. You know how it is with an older house—you have to do something every weekend."

The Browns, one-time residents of Newark, decided to buy in Newark because the price was right and because they think they are making a wise investment.

"We're so excited and proud. We went and took pictures before the groundbreaking, and after the groundbreaking, and practically ever weekend since," Loretta Brown said.

Betty Rufalo, a Livingston resident who decided to buy at Renaissance Towers, said some of her acquaintances thought she was making a wild and risky move. She feels it is adventurous, but not at all unwise.

Rufalo, an administrator with the Newark Board of Education, and her husband, a retired school administrator, raised their children in the Vailsburg section of Newark but moved to Livingston in 1980.

"I just never felt roots there. I had no plans to move out, no plans to stay, I was just floating," said Rufalo, who grew up in the Clinton Hill section of Newark.

"I didn't have any feelings about Livingston and never developed any. I had a beautiful lawn and garden, and a nice quiet street, but there was also a sameness. And people there have different interests from mine."

She read about the project one morning, and went to the site on her lunch hour. Immediately, she said, she decided to buy a unit for her family—herself, her husband and a son. Her 29-year-old daughter, who will be getting married this fall, bought another.

Rufalo said she never considered the fact that the area lacks certain basic amenities, such as food stores or dry cleaners: "I knew this meant the beginning of other kinds of development. Other things would come about."

There is no single answer why Newark has become, in 1987, a target for housing developers. Some people think it was inevitable, given the general economic boom in the state. Hoboken and Jersey City had provided examples of old cities that could be revived. Newark did not have brownstones, but it had a superb transportation system and proximity to New York.

Others believe the psychological barriers that hindered development for years—fear of crime and racial tensions—have eased. They point out that 20 years have passed since the riots.

Martin Dassa, an architect in Montclair involved in two new housing projects in Newark, believes a new mentality is doing away with "the visions of lawns, and solitude, that existed in the '50s and '60s, when everybody wanted out of the urban areas."

"Commuting was fine when the men went to work, but now with both parents working, there's a crisis if home and work are too far apart," he said.

"It's as if the tables are being turned. People are preferring to live closer to where they work, closer to the social benefits of living in a city, I think. People also like living close to other people."

Conrad Gack, a Hovnanian executive who has been involved in innercity real estate since 1984, said he tried to find out why no one wanted to build in Newark when he first sized up the city in early 1986.

"I asked the business administrator, 'Why has Newark laid dormant for so many years?' The only reason I could put my finger on was that nothing was going on, so no one could imagine it happening. It was a status quo situation," he said.

Gack said the city's original request for proposals to redevelop University Heights went over like a lead balloon. No one, he said, responded.

"Later, I asked for copies of the proposal. When I read it, it was obvious that they would never get a builder in there, because of the tax structure, and because of the type of building they wanted. The design criteria were not in tune with what's going on in building today."

Gack said his company submitted a quite different proposal, which the city ultimately approved. It also granted Hovnanian a tax abatement.

Once Hovnanian committed itself to Newark, other developers came around. A change of city administration, which occurred about this time, may have fostered increased interest.

"A lot of it had to do with the receptiveness of Mayor Sharpe James, and his promoting cooperation and being available," said one developer who asked not to be named. James took office, succeeding Kenneth Gibson, in July 1986.

"When I met him, he made it very plain that he wants to cooperate with developers, and that he wants people of our caliber to come in. What he said was, he had already put together a group of banks and they had promised that money should be available for construction and mortgages," he said.

"During Mayor Gibson's administration, there was a perception that nothing had been done, and nothing would get done. It was a tough one to deal with."

By 1986, the Gateway commercial complex flourishing around Penn Station had helped improve the city's image, but it was still hard to imagine anyone building and selling new homes in Newark. Housing promoters saw that the financial community was unconvinced that a market existed.

In October 1986, a consortium of local financial institutions was formed to make construction and permanent loans for market housing in Newark. By the end of this summer, the group, known as the Newark Housing Partnership, reported it had approved one loan and had others in the works.

"It became clear that a special initiative in terms of housing was important," said Deedee Myers, urban affairs manager for Carteret Savings Bank and coordinator of The Housing Partnership. "In Newark, to date, it seems to take a special effort to make these deals work.

"It seems to me that what's unproven at the moment is a market for middle-income housing. We know there are many people who need low- and moderate-income housing. Based on people who have called me, I can say there seem to be a lot of families with incomes between $35,000 and $50,000 who want to live in Newark but cannot find a property that they feel reflects their status in life," she said. "The question is, are there enough subsidies available to these people?"

Sterner said the banks take a careful look at each neighborhood when considering housing loans.

"It takes a combination of good developer, a strong market, and, I guess, the variables of the city of Newark and the financial arrangements to make a project work."

The city of Newark owns upward of 7,400 parcels of land. Vast quantities of city-owned land are available for sale to the private sector. Because the lots are not aggregated, city officials say it is not easy to promote residential redevelopment.

Newark is assessing its inventory, looking for concentrations of city-owned property that hold promise. The city can sell land on a lot-by-lot basis, or it can devise a redevelopment plan for a larger mass of land and negotiate a sale with a developer.

Newark's first such plan involved University Heights, in the Central Ward; construction has begun there. The second designated redevelopment area is an ugly stretch of Elizabeth Avenue, a major corridor leading out of the city, across from Weequahic Park. Eight vacant, vandalized apartment buildings, once considered among the city's finest, are to be sold to developers who will gut them and convert the space into moderate-priced condominiums.

One of the developers interested in the rehabilitation of Elizabeth Avenue is Cali Associates, a major developer. The project would be Cali's first move in Newark. The building in question, at 19 Lyons Ave., was foreclosed for nonpayment of taxes in 1981. Today it barely hints at the luxury it offered when it was built in 1936—two elevators, master baths off master bedrooms, sunken living rooms.

"There's debris all over. It was almost like a copper termite went through every inch of copper in the building," said Al Spring, a Cali partner. "Everything was ripped out."

Spring said his company is trying to work with the New Jersey Mortgage Finance Agency to permit 5 per cent down payments for buyers on $80,000 units.

"We have our fingers crossed. We don't know or not whether the condos will sell, and whether there are 66 people to buy them, but we think there's demand," he said.

"People tell us there should be no problem getting blue-collar and professional people, currently renting substandard apartments in Newark, who can afford $600, $700, $800 a month.

"We've approached Newark on a single-project basis," he added, "because we don't know really how the banks will deal with us, or the city administration will deal with us."

Weequahic, the predominantly upper-middle-class, Jewish neighborhood memorialized by writer Philip Roth, is one Newark neighborhood that is easy to imagine revived.

Seymour Alpert, a New York developer who wants to convert three abandoned apartment buildings around Elizabeth Avenue into condominiums, said Weequahic stood out when he scouted Newark.

"Because of the beautiful park that they're next to, the private homes beyond the buildings that are being fixed up, this neighborhood appealed to me. You go on your gut reaction in this business," Alpert said. "After I got the feel of the area, I was told that it was at one time a top area."

Other neighborhoods where new housing projects are planned require a lot more vision.

Newark developer Jim Bradley, for example, plans to construct 45 townhomes in the $90,000 range on a mostly vacant block not far from Route 21. Prior to construction, waist-high weeds and garbage covered the building site. Junked cars dotted the streets nearby and barbed wire was strung over alleyways between dilapidated homes. There is some light industry nearby.

Bradley said his three-bedroom townhouses would be "the first in the area." But, he added, "We feel that there's a strong demand in the area. We expect to have interest from inside, and out of Newark. It's a good location, and a three-bedroom house with two baths will be highly desirable."

It is conceivable that, in the long run, the residential redevelopment of Newark may change the face of the city.

Newark's downtown was never considered a residential area, but Renaissance Towers is not the only new residential development there. Three or four other high-rise condominium complexes are planned, and a $200 million performing arts center proposed in July for a square block of downtown once occupied by Hahne's department store may foster others.

"The face of Newark is changing, and the location magnets as well. We've seen downtown living in New York, Jersey City and Hoboken, and we think Newark is ready as well," Harold Lucas, Newark's director of development, says.

[From the New York Times, Sept. 27, 1987]

IN NEWARK, DEMAND FOR PROPERTY IS BOOMING

(By Alfonso A. Narvaez)

NEWARK, Sept. 25—New housing construction and industrial development have created a real-estate boom in this battered city, with prices for property moving sharply higher and the demand for building sites escalating.

With projects ranging from the rehabilitation of a seven-unit apartment house by La Casa de Don Pedro, a local community group, to the construction of almost 800 condominimum town houses by K. Hovnanian Companies, a home builder, housing construction, which had long been dormant here, is on the upswing.

Newark, once one of the nation's leading industry cities, had been in economic decline for decades. Dozens of its steel fabrication plants, breweries and other factories closed, succumbing to foreign competition, lower wage rates in the Sun Belt and the fast pace of change in industrial technology. The race riots in 1967 also helped add to the image of Newark as a troubled city and over time a large percentage of its middle class fled.

But now about 3,000 new or rehabilitated apartments at 68 different locations in the city are either under construction or in the latter stages of development, according to officials here. The new housing, with a total construction value of more than $300 million, will help fill a current need for about 8,000 apartments.

'WE'VE BEEN FOUND'

In addition, there are more than 50 commercial and industrial development construction projects that are under way or in the final stages of approval, with projected development costs in excess of $500 million. These projects range from the $170,000 rehabilitation and expansion of a beauty salon operated by women to the creation of a $100 million industrial park on . . . acres of land in the Waverly Rail Yards by Hartz Mountain Industries.

"We've been found," said Alfred L. Faiella, director of the Newark Economic Development Corporation. "Newark has become more interesting. Our proximity to New York City and to Hudson County make us very attractive. We're not as expensive and we have all the advantages."

Mr. Faiella noted that commercial space that had rented for $1 a square foot was now renting for $2.50 to $3 a square foot.

Harold Lucas, head of Newark's Office of Development, said that a streamlining of the approval process for development had contributed to the resurgence of construction here.

"The enthusiastic marketing of the city by the new Mayor has done a lot to turn the corner in terms of changing the image of Newark and its development potential," Mr. Lucas added. "The Mayor is our biggest cheerleader."

'A BEAUTIFUL SIGHT'

At a ribbon cutting ceremony earlier this week, at the site of the rehabilitation of 41 rental apartments on Chancellor Avenue, Mayor Sharpe James extolled the virtues of the city.

"This is a beautiful sight," the Mayor said. "We've come a long way in a short period of time and it's going to get better. This is just one of the opportunities here."

William Johnson, who bought the building from the city in July, said he would spend more than $1 million to renovate the property.

"The city has done a lot for me and my 12 children," he said, "They were all educated here and most have gone on to college."

Mr. Johnson said he bought his first building from the city, a six-family structure, in 1979 and over the years bought five others.

"I just parlayed the income I got from one into the other," he added. "If there's anything I can do for my city, I'll do it. It gives me pleasure."

Ara Hovnanian, vice president of the Hovnanian company, said the inner cities of New Jersey were providing wonderful opportunities for construction of housing.

"Newark is one of the prime ones," he said. "Prices have risen so much in the suburbs that a lot of people are being excluded. We have been able to come in with a program large enough to be meaningful."

FEDERAL EMPLOYEES DENTAL BENEFIT PROGRAM

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LELAND. Mr. Speaker, today I am introducing the Federal Employees Dental Benefits Act of 1987.

This bill represents an opportunity to provide to our Nation's 4.8 million Federal employees and annuitants a dental benefit program that is comparable in its design to the dental benefit programs in private industry; 111 million workers in the private sector now enjoy such benefits.

In addition, 36 State governments now offer dental benefits of some kind to their employees.

At the present time, a number of programs participating under the Federal Employees Health Benefits Act provide some dental benefits. The extent of these programs varies, but in many, especially the Governmentwide programs, dental benefits are either quite limited or not included at all. Moreover, the possibility of improving dental benefits within a single premium structure in a health benefit plan is remote, for the reason that dental benefits then must compete with other health benefits, hospital and medical-surgical prominent among them. The rise in the cost of these other health care services over the last two decades—an inflation spiral of which dental care has not been a part—creates a situation, within a single health plan, in which dental benefits are far more likely to contract than expand.

The separately structured dental benefit program proposed in this bill is, itself, a modest one. But, being founded on a legislative mandate, which includes separate funding, presents two advantages: Expansion of coverage would be contingent upon the cost experience of the dental plan itself, not upon the cost experience of all health benefits as is now the case, and Federal employees and annuitants would have the opportunity to enroll in this program on the basis of their interest against their need for other health coverages, as, again, is now the case.

These advantages are now enjoyed by workers in private industry.

This bill will improve the comparability in compensation for Federal employees with private sector employees, a longstanding objective of the Congress.

A summary of the major provisions of the bill is set forth below:

SUMMARY OF MAJOR PROVISIONS OF "FEDERAL EMPLOYEES DENTAL BENEFIT PLAN ACT OF 1987"

This bill would establish a dental benefits program for Federal employees that is separate from, but parallel to, the Federal Employees Health Benefits Program.

It calls upon the Office of Personnel Management to provide benefits for diagnostic services, preventive care, emergency dental care services, fillings and simple extractions. To the extent available, OPM would contract with a service benefit plan, an indemnity benefit plan, an employee organization plan, an HMO plan and a direct reimbursement plan to provide these benefits. With OPM approval, any plan could offer additional benefits.

The usual cost-sharing provisions (deductibles, copayments (up to 50%), and annual maximums) are permitted, but copayments and deductibles cannot be applied to diagnostic, preventive and emergency services.

The bill includes qualifications for participation by the various models of plans, as well as safeguards against selective enrollment and disenrollment by employees and annuitants.

There is a preemption of state and local law to the extent such law is inconsistent with the plan's contractual provisions.

Under the bill, the Government contribution would be $3 biweekly (self-only) or $7 biweekly (self and family) but could not exceed 60% of the premium.

H.R. 3404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Dental Benefits Act of 1987".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The terms "employee", "Government", and "member of family" have the same meanings as such terms have when used in chapter 89 of title 5, United States Code, except that such term includes an employee of the United States Postal Service or the Postal Rate Commission.

(b) "Dental benefits plan" means a group insurance policy or contract, agreement, membership or subscription contract, or large group arrangement provided by a carrier or provided directly by the Federal Government for the purpose of providing, paying for, or reimbursing expenses for dental services.

(c) "Carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which lawfully offers a dental benefits plan.

(d) "Annuitant" means an annuitant, as defined in chapter 89 of title 5, United States Code, who becomes an annuitant on or after the effective date of the Federal Employees Dental Benefits Act, except that in applying such definition, the term "employee" has the meaning set forth in subsection (a) of this section.

DENTAL BENEFITS PLANS

SEC. 3. The Office of Personnel Management shall to the extent available contract for the following dental benefits plans:

(a) DIRECT REIMBURSEMENT PLAN.—One Government-wide plan under which benefits of the types described in section 4(a) are paid directly to covered persons described in section 2 of this Act upon receipt of evidence that expenses for services covered under the plan were incurred.

(b) SERVICE BENEFIT PLAN.—One Government-wide plan under which payment is made by an organization which has contracts or agreements with licensed dentists for benefits of the types described in section 4(a) of this Act rendered to covered persons described in section 2 of this Act; or, in the case of benefits rendered by dentists not under contract or agreement with such organization, like payments shall be made directly to covered persons described in section 2 of this Act.

(c) INDEMNITY BENEFIT PLAN.—One Government-wide plan under which the organization agrees to pay certain sums of money, not in excess of the actual expenses incurred, for benefits of the types described in section 4(a) of this Act rendered to covered persons described in section 2 of this Act.

(d) EMPLOYEE ORGANIZATION PLANS.—Employee organization plans which offer benefits of the types referred to in section 4 of this Act, which are sponsored or underwritten and administered, in whole or substantial part, by employee organizations, and which are available only to individuals and members of their families who at the time of enrollment are members of the organization.

(e) HEALTH MAINTENANCE ORGANIZATION PLANS.—Prepaid dental plans offered by organizations which (1) have been determined by the Secretary of the Department of Health and Human Services to be health maintenance organizations as defined by title XIII of the Public Health Services Act, or (2) receive a majority of their professional income from prepayment, and which have been providing such services for at least three years prior to approval by the Office of Personnel Management of the plan in which employees may enroll.

TYPES OF BENEFITS

SEC. 4(a). The benefits to be provided under the plans described in section 3 of this Act shall include but not be limited to the following types:

(1) diagnostic services (oral examinations and X-rays);

(2) preventive care (cleaning, fluoride treatments, pit and fissure sealants, and space maintainers);

(3) emergency dental care services (relief of acute conditions and pain);

(4) fillings; and

(5) simple extractions.

(b) Subject to the approval of the Office of Personnel Management—

(1) any plan may offer additional benefits, including crowns, prosthetic devices, additional oral surgery, endodontics, periodontics, orthodontics, and drugs and medicines for which a prescription is required by law and which are prescribed in connection with covered dental services;

(2) any plan may require of a beneficiary copayments for covered services: Provided, That no such copayment shall exceed 50 per centum of the value of the covered service: And provided further, That no copayment shall be applied to the services covered under subsections (1), (2), and (3) of section 4(a);

(3) in the case of a direct reimbursement plan, the government may offer a calendar year benefit expressed in dollars per enrollee that are equal to the actuarial value of the benefit described in section 4(a).

(4) any plan may require a calendar year maximum payment under the plan per beneficiary; and

(5) any plan may impose a calendar year deductible for each beneficiary which must be satisfied before such beneficiary is eligible for benefits under the plan except that no deductible may be applied to services in subsections (1), (2), and (3) of section 4(a).

CONTRACTING AUTHORITY

SEC. 5(a). The Office of Personnel Management may contract with qualified organizations offering plans described by section 4 of this Act without regard to section 5 of title 41 or other statute requiring competitive bidding. Each contract shall be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

(b) A contract for a plan described in section 3(b) of this Act shall require the carrier to allocate its rights and obligations under the contract among its affiliates which elect to participate, under an equitable formula to be determined by the carrier and the affiliates and approved by the Office of Personnel Management.

(c) To be eligible as a carrier for the plan described in section 3(c) of this Act, a company must be licensed to issue group dental insurance in all the States and the District of Columbia.

(d) A contract for a plan described by section 3(c) of this Act shall require the carrier to reinsure with other companies which elect to participate, under an equitable formula to be determined by the carrier and approved by the Office of Personnel Management.

(e) Each contract under this Act shall contain a detailed statement of benefits offered and shall include such maximums, limitations, exclusions, and other definitions of benefits as the Office of Personnel Management considers necessary or desirable.

(f) A contract may not be made or a plan approved which excludes any person because of race, sex, health status, or age.

(g) An employee or annuitant, who elects to disenroll himself or himself and his family from a dental benefits plan described in section 3, other than by reason of being placed in a leave without pay status, may have his coverage and the coverage of his family members reinstated at the time and under the conditions prescribed by regulations of the Office of Personnel Management, but only upon payment of a lump sum equal to the employee's share of the plan's total premium for the period of disenrollment.

(h) The provisions of any contract under this Act which related to the nature or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to dental insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.

(i) Rates charged under the dental benefits plans described by section 3 of this Act shall reasonably and equitably reflect the cost of the benefits provided. The rates for the first contract term shall be continued for later contract terms, except that they may be readjusted for any later term on the basis of past experience and benefit adjustments under the later contract. Any readjustment in rates shall be made in advance of the contract term in which they will apply and on a basis which is consistent with the general practice of organizations offering plans approved under this Act.

(j) Each contract under this Act shall require the carrier to agree to pay for or provide benefit in an individual case if the Office of Personnel Management finds that the employee, annuitant, or family member is entitled thereto under the terms of the contract.

(k) Each contract entered into this Act shall contain provisions requiring the carrier to—

(1) furnish such reasonable reports as the Office of Personnel Management determines to be necessary to enable it to carry out the purposes of this Act, and

(2) permit the Office of Personnel Management and the General Accounting Office to examine such records of the carrier as may be necessary to carry out the purposes of this Act.

(l) Each Government agency shall keep such records, make such certifications, and furnish the Office of Personnel Management such information and reports as may be necessary to enable it to carry out its functions under this Act.

(m) The contracts under this Act shall not be subject to the Federal Procurement Regulations, but the Office of Personnel Management is hereby directed to establish by regulation such audit requirements as are necessary to carry out the purposes of this Act and which are not in conflict with the Federal Procurement Regulations.

ELECTION OF COVERAGE

SEC. 6(a). An employee may enroll in an approved dental benefits plan described by section 3 of this Act either as an individual or for self and family. If an employee has dependents, he must enroll all such dependents in accordance with eligibility standards promulgated by the Office of Personnel Management except as provided in subsection (c) of this section.

(b) An annuitant who at the time he becomes an annuitant was enrolled in a dental benefits plan under this Act—

(1) as an employee for a period of not less than (A) the five years of service immediately before retirement; or (B) the full period or periods of service between the last day of the first period, as prescribed by regulations of the Office of Personnel Management, in which he is eligible to enroll in the plan and the date on which he becomes an annuitant, whichever is shorter, or

(2) as a member of the family of an employee or annuitant may continue his enrollment under the conditions of eligibility prescribed by regulations of the Office of Personnel Management.

(c) If an employee has a spouse who is an employee, either spouse, but not both, may enroll for self and family, or each spouse may enroll as an individual. However, an individual may not be enrolled both as an employee or annuitant and as a member of the family.

(d) An employee or annuitant enrolled in a dental benefits plan under this Act may change his coverage or that of himself and members of his family by an application filed within sixty days after a change in family status or at other times and under conditions prescribed by regulations of the Office of Personnel Management.

(e) An employee or annuitant may transfer his enrollment from a dental benefits plan described by section 3 of this Act to another plan described by that section at the times and under the conditions prescribed by regulations of the Office of Personnel Management.

CONTRIBUTIONS AND WITHHOLDINGS

SEC. 7(a). The Government contribution for dental benefits for employees or annuitants enrolled in dental benefits plans under this Act shall be $3 biweekly for an employee or annuitant who is enrolled for self alone and $7 biweekly for an employee or governmental contribution shall not exceed 60 per centum of the premium for the benefits provided.

(b) There shall be withheld from the salary of each enrolled employee and from the annuity of each enrolled annuitant as much as is necessary, after deducting the contribution of the Government, to pay the total charge for his enrollment. The amount withheld from the annuity of an annuitant shall be equal to the amount withheld from the salary of an employee enrolled in the same plan providing the same benefits.

(c) In addition, the Government shall contribute an amount, as determined by the Office of Personnel Management, up to 5 per centum of each contribution authorized by subsection (a) of this section of the Federal Employees Dental Benefits Fund, for the payment of expenses incurred by the Office of Personnel Management or by an approved dental benefit plan in administering this Act.

(d) The Government contribution for dental benefits for an employee shall be paid—

(1) in the case of employees generally, from the appropriation or fund which is used to pay the employee;

(2) in the case of elected official, from an appropriation or fund available for the payment of other salaries of the same office or establishment; and

(3) in the case of an employee of the legislative branch who is paid by the Clerk of the House of Representatives, from the contingent fund of the House.

(e) The Government contributions authorized by this section for dental benefits for an annuitant shall be paid from annual appropriations which are hereby authorized to be made for that purpose.

(f) The Office of Personnel Management shall provide for the conversion of biweekly rates of contribution specified by this section to rates for employees and annuitants paid on other than a biweekly basis, and for this purposes may provide for the adjustment of the covered rate to the nearest cent.

INFORMATION TO EMPLOYEES

SEC. 8(a). The Office of Personnel Management shall make available to each employee and annuitant eligible to enroll in a dental benefits plan under this Act such information, in a form acceptable to both the Office of Personnel Management and the carrier, as may be necessary to enable the employee to exercise an informed choice among the types of plans described by section 3 of this Act.

(b) Each employee an annuitant enrolled in a dental benefits plan shall be issued an appropriate document setting forth or summarizing the—

(1) services or benefits, including maximums, limitations, and exclusions, to which the employee or annuitant and members of his family are entitled thereunder;

(2) procedure for obtaining benefits; and

(3) all provisions of the plan affecting the employee or annuitant and members of his family.

COVERAGE OF RESTORED EMPLOYEES

SEC. 9. An employee enrolled in a dental benefits plan under this Act who is removed or suspended without pay and later reinstated or restored to duty on the ground that the removal or suspension was unjustified or unwarranted may, at his option, enroll as a new employee or have his coverage restored, with appropriate adjustments made in contributions and claims, to the same extent and effect as though the removal or suspension had not taken place.

EMPLOYEES DENTAL BENEFITS FUND

SEC. 10(a). There is hereby created an Employees Dental Benefits Fund (hereinafter referred to as the "Fund"), to be administered by the Office of Personnel Management. The contributions of employees, annuitants, and the Government described in section 7 shall be paid into the Fund. The Fund is available—

(1) without fiscal year limitation for direct payments of benefits under the plan described in section 3(a) and for all payments to approved dental benefits plans; and

(2) for payment of expenses, not to exceed the Government's contribution authorized by section 7(c) of this Act, incurred by the Office of Personnel Management in administering this Act.

(b) The Secretary of the Treasury is authorized to invest and reinvest any of the moneys in the Fund in interest-bearing obligations of the United States for the purposes of the Fund. The interest on and the proceeds from the sale of any such obligations shall become a part of the Fund.

ADMINISTRATION

SEC. 11(a). The Office of Personnel Management shall administer this Act and prescribe such regulations as are necessary to give full effect to the purposes of this Act.

(b) The Office of Personnel Management shall make a continuing study of the operation and administration of this Act, including surveys and reports on plans available to employees and on the experience of the plans.

(c) There are hereby authorized to be expended from the Employees Life Insurance Fund, without regard to limitations on expenditures from that Fund, for any fiscal years from the date of enactment through the fiscal year ending September 30, 1988, inclusive, such sums as may be necessary to pay administrative expenses incurred by the Office of Personnel Management in carrying out the dental benefits provisions of this Act. Reimbursements to the Employees Life Insurance Fund for sums so expended, together with interest at a rate to be determined by the Secretary of the Treasury, shall be made from the Federal Employees Dental Benefits Fund, which is hereby made available for this purpose.

APPROPRIATIONS

SEC. 12. The amounts authorized by this Act to be contributed by the Government shall be paid from annual appropriations, which are hereby authorized to be made for such purpose.

ANNUAL REPORT

SEC. 13. The Office of Personnel Management shall transmit to the Congress annually a report concerning the operation of this Act.

EFFECTIVE DATE

SEC. 14. The provisions of this Act relating to the enrollment of employees and annuitants in dental benefits plans and the withholding and payment of contributions shall take effect on the first day of the first pay period which begins on or after December 31, 1987.

AMUSEMENT PARK SAFETY ACT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. WAXMAN. Mr. Speaker, on behalf of Mr. WYDEN, Mr. HYDE, and myself, I am pleased to introduce H.R. 3412, the Amusement Park Safety Act.

Each year millions of Americans enjoy the thrills and entertainment of amusement park rides. The public enjoys these rides. They assume the rides are safe, that they are well maintained and that their operators are experienced.

But these rides have become increasingly complex. Many can generate speeds and velocity that might challenge an astronaut.

What the public doesn't know is that accidents have occurred at some of the Nation's finest amusement parks. Fatalities and serious injuries have resulted.

Hearings conducted before the Subcommittee on Health and the Environment in 1984, heard testimony from a husband whose wife was killed when she fell out of a roller coaster. We also heard from a 15-year-old boy who, with his two friends, spent several days in the hospital after crashing 60 feet to the ground because a ride's braking mechanism failed.

The Amusement Park Safety Act closes a serious loophole that exists in Federal consumer safety law. Currently, the Consumer Product Safety Commission has authority to order defective amusement rides repaired only if they are located in a traveling carnival or circus. Yet if the identical defective ride is located in an amusement park, the agency is prohibited from assuring that the defect is repaired.

This distinction is both illogical and dangerous. It does not enhance consumer confidence in the safety of amusement park rides.

H.R. 3412 would assure the public that in the event of a serious accident involving an amusement park ride, the Consumer Product Safety Commission would be empowered to inspect the ride, determine the cause of the accident, order its repair, and assure, that similar rides in other States are inspected for defects and if necessary, repaired.

No agency of the Federal Government presently has this responsibility. Furthermore, less than one-half of all the States have passed laws requiring periodic inspection of amusement park rides. In those States that have enacted laws, the level of enforcement is uneven and inconsistent.

Mr. Speaker, this legislation narrowly defines the role of the Consumer Product Safety Commission. The Commission and its enforcement staff will not be permitted to conduct routine inspections of amusement park rides in States which have passed inspection laws. The only time CPSC could inspect an amusement ride in such States would be following an accident on an amusement park ride which involved a fatality or personal injury requiring hospitalization.

In addition, the CPSC would be prohibited from issuing industrywide product safety standards or banning an amusement ride.

Mr. Speaker, I am hopeful the Congress can expedite passage of this needed legislation before next summer's amusement park season begins.

I ask that a copy of H.R. 3412 be printed in the RECORD at this point.

H.R. 3412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Amusement Park Safety Act".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act.

SEC. 2. DEFINITION.

(a) DEFINITION OF AMUSEMENT RIDE.—(1) Section 3(a)(1) (15 U.S.C. 2052(a)(1)) is amended by striking out the first two sentences following subparagraph (I).

(2) Section 3(a) is amended by adding at the end the following:

"(15) The term 'amusement ride' means any device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement and which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device. An amusement ride which is not permanently fixed to a site is a consumer product for purposes of this Act and an amusement ride which is permanently fixed to a site—

"(A) is not a consumer product for purposes of sections 7 and 8, and

"(B) is a consumer product for the remainder of the Act.

"(156) The term 'amusement ride operator' means the owner of an amusement ride.".

(b) CONFORMING AMENDMENT.—Section 3(a)(1)(I) is amended by striking out ". The term 'food', as used in this subparagraph means all 'food' ".

SEC. 3. PUBLIC DISCLOSURE OF INFORMATION.

Section 6(b) (15 U.S.C. 2055(b)(1)) is amended—

(1) in the first sentence of paragraph (1) by striking out "the Commission shall" through the end of the sentence and inserting in lieu thereof the following:

"the Commission shall, to the extent practicable, notify and provide a summary of the information to—

"(A) each manufacturer or private labeler of the consumer product, and

"(B) to each amusement ride operator who owns the amusement ride

to which the information pertains, if the manner in which such consumer product or amusement ride is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer, private labeler, or amusement ride operator and shall provide such manufacturer, private labeler, or amusement ride operator with a reasonable opportunity to submit comments to the Commission regarding such information.", and

(2) in the second and third sentences of paragraph (1) and in paragraphs (2) and (3), by striking out "or private labeler" each place it occurs and inserting in lieu thereof ", private labeler, or amusement ride operator".

SEC. 4. NOTIFICATION AND REMEDIES.

(a) NOTIFICATION OF COMMISSION.—Section 15(b) (15 U.S.C. 2064(b) is amended by adding at the end of the following: "Each amusement ride operator who obtains information which reasonably supports the conclusion that the amusement ride the operator owns contains a defect which could create a substantial product hazard described in subsection (a)(2) shall provide the information required by the preceding sentence.".

(b) REPAIR, REPLACEMENT, REFUND.—Section 15(d) of such Act is amended—

(1) by inserting after "of such product" in the first sentence the following: "or the amusement ride operator if the product is an amusement ride", and

(2) by inserting before ", or from doing" in the last sentence the following: ", from operating an amusement ride if the product involved is an amusement ride."

SEC. 5. INSPECTION.

Section 16(a) (15 U.S.C. 2065(a)) is amended by striking out "and" at the end of paragraph (1), by striking out the period before the last sentence in paragraph (2) and inserting in lieu thereof "; and", by striking out the last sentence, and by adding after paragraph (2) the following:

"(3) to inspect, at reasonable times and in a reasonable manner—

"(A) amusement rides which are not permanently fixed to a site, and

"(B) amusement rides which are permanently fixed to a site if the State or political subdivision in which the ride is located does not have authority to inspect the ride or if the ride was involved in a fatality or a personal injury requiring hospitalization.

Each such inspection shall be commenced and completed with reasonable promptness.".

SEC. 6. REGULATIONS.

The Consumer Product Safety Commission shall issue regulations for the administration of section 15 of the Consumer Product Safety Act, as amended by section 4, not later than 6 months after the effective date of this Act.

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1988.

ORDER OF THE PYTHIAN SISTERS 100TH ANNIVERSARY

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. COLEMAN of Missouri. Mr. Speaker, I am pleased to introduce today legislation to designate the week of October 16 through 22, 1988 as "National Pythian Sister Week."

The Order of Pythian Sisters was organized on October 22-23, 1888, in Warsaw, IN and will celebrate its 100th anniversary next year. The order is affiliated with the Knights of Pythias, the first fraternal order chartered by the U.S. Congress.

The 40,000 members of the Order of Pythian Sisters volunteer countless hours of altruistic service, and support and participate in numerous philanthropic activities—including local civic projects, aid to hospitals and nursing homes, and the operation of several homes for our Nation's children and older citizens.

Mr. Speaker, I urge my colleagues to join me in expressing their appreciation and admiration of this organization by cosponsoring and passing this resolution setting aside a special week of recognition in honor of the Order of Pythian Sisters.

ALTERNATIVE MOTOR FUELS ACT OF 1987

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. MOORHEAD. Mr. Speaker, I am pleased to join with Congressman JOHN DINGELL, chairman of the Committee on Energy and Commerce, Congressman, PHILIP SHARP, chairman of the Subcommittee on Energy and Power, and several other colleagues from the subcommittee, in introducing the alternative Motor Fuels Act of 1987.

There has been a great deal of rhetoric, analysis, argument, and hand wringing during the past decade and one-half about America's dependency on imported crude oil. The plain fact is that our domestic oil industry cannot produce enough crude to supply all of the needs of our country, which is by far the largest oil consuming nation in the world. This means that we must import oil from other countries. Some of these countries are clearly not friends of the United States, and cannot be relied upon as consistent, long term suppliers.

Earlier this year, I and several of my colleagues on the Energy and Commerce Committee, and in the House leadership, introduced "The Domestic Energy Supply Act of 1987." This legislation contains a comprehensive approach to reducing our country's energy vulnerability by stimulating production of our vast domestic resources and diversifying our consumption patterns. I believe that such a comprehensive approach—addressing both the supply side and the demand side—is what this country needs to achieve energy independence. Until a majority of the Members of this House are ready to act on a complete solution, however, I support going forward with the parts of that solution that can be enacted.

In the 99th Congress, I consponsored H.R. 3355, a bill which would have encouraged the purchase and use by the Federal Government of vehicles designed to run on methanol. That bill passed the House of Representatives but never came to a vote in the Senate. Title VII of the Domestic Energy Supply Act is based upon H.R. 3355: So is the Alternative Motor Fuels Act.

The Subcommittee on Energy Power held 3 days of hearings this summer on alternatives to gasoline as a motor fuel. These hearings confirmed the pressing need for this legislation.

I can think of no more alarming fact demonstrating our energy insecurity than that 97 percent of our transportation is based upon crude oil. Put differently, transportation and other uses of motor fuels account for 10.5 million barrels per day of oil use, while total U.S. crude production per day is only about 8.2 million barrels.

Clearly, we must begin to move away from this almost total dependence on gasoline as a transportation fuel. The record developed during our hearings this year, and in previous years, convinces me that the Government has a useful and necessary role to play in this regard. I am a strong believer in the free market. As a general principle reliance on the marketplace is the most effective way to ensure abundant supplies of goods and services at reasonable prices. But every once in a while it is necessary and appropriate to nudge the market in a particular direction. The transportation fuels market requires that we take such a step.

The Alternative Motor Fuels Act contains several provisions intended to open the transportation market to alternative fuels. I will mention one important one here. Section 3 would require the Secretary of Energy to ensure the purchase by Government agencies of passenger vehicles and light duty trucks that are capable of running on gasoline or methanol, or a mixture of both. By putting flexible fuel vehicles on the roads, it is hoped that their viability can be demonstrated and that this will lead to consumer acceptance of methanol as an alternative to gasoline. It is important to note that this approach allows the market, not the Government, to make the ultimate decision on the suitability of a particular product as a transportation fuel. I know that some have advocated a regulatory approach. They want the Government to require the usage of particular fuels. I am not at all sure that it is wise or practical for the Government to allocate shares to the transportation market of particular fuels. In any event, I believe the demonstration programs that would be implemented under the Alternative Transportation Fuels Policy Act will go a long way toward breaking down the monopoly of petroleum products over the transportation market.

Finally, I should mention that the introduction and use of alternative transportation fuels will have an important beneficial effect on our Nation's air quality. This is the primary reason why my home State of California initiated a methanol demonstration program several years ago. The chairman of the California Energy Commission, Charles R. Imbrecht, was a key witness at our subcommittee hearings and the CEC staff have had considerable input into this legislation.

In closing, I commend the Alternative Motor Fuels Act to my colleagues and urge them to take this significant step toward the goal of making America energy independent.

ALTERNATIVE MOTOR FUELS ACT

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. SHARP. Mr. Speaker, today my colleagues and I are introducing the Alernative Motor Fuels Act of 1987. This bill addresses America's single largest energy security problem—our excessive dependence on oil for transportation.

I believe methanol is likely to be the fuel of the future, but compressed natural gas [CNG], ethanol, and other fuels also have their advocates. Our bill will let the market decide.

U.S. oil imports are expected to reach 50 percent of our consumption by early in the 1990's, and an increasing share of the world's oil will be concentrated in the volatile Mideast. As the world's reliance on a few Persian Gulf countries increases, their ability to control supplies and prices will also increase, and we could be subject to energy price increases like those that devastated our economy twice in the 1970's.

Some progress has been made in addressing this problem. In 1976, the average miles traveled per gallon of fuel was 13.7 mpg. Today, it is over 18 miles per gallon. This is the result of the legislation establishing required average fuel efficiency standards, of high energy prices, and of America's desire to drive more efficient vehicles.

This progress shows the positive effect of a Government initiative; however, it is not sufficient to meet the future energy security needs of this Nation. While the efficiency of vehicles has improved, other facts demonstrate our increasing dependence on oil:

Vehicle miles traveled are up from 1.3 trillion miles in 1976 to 1.9 trillion miles in 1986.

Fuel consumed by vehicles is up from 109 billion gallons in 1976 to 126 billion gallons in 1986.

"Gas guzzler" tax receipts were $148 million last year, indicating that some consumers are willing to pay a financial penalty to drive a big or inefficient car.

Sixty-seven percent of Americans went to work by car in 1970. Today, 71 percent of Americans commute to work by car.

Seven percent of Americans went to work by public transportation in 1970. Today, the figure is 57 percent and dropping.

The message these figures send is clear. Americans have more efficient vehicles, but Americans are also using more oil.

The biggest potential for reducing our oil imports and holding down future price increases lies in converting our automotive fleet to a nonpetroleum fuel. Our cars, trucks, and buses now account for half of our oil consumption and over one of every seven barrels of oil produced in the world.

Our Nation's transporation system runs virtually exclusively on liquid hydrocarbons—products made from oil. Unlike all other sectors of the economy, transportation has no alternatives available.

Industry can and does choose to meet its energy requirements by a combination of reliance on oil, gas, and coal; industry frequently designed its plants and equipment so it could shift between these fuels.

Residences and commercial establishments have the additional option of choosing to rely on electricity for their energy needs.

Electric utilities can choose from fossil fuels as well as nuclear, hydro, and to some extent, renewables.

The transportation sector has no choices. When a consumer purchases a new automobile, he or she can choose from an array of manufacturers, styles, engine sizes, exterior colors and other options. The consumer cannot make an informed choice on fuel. The new vehicle will run on hydrocarbon liquid fuel, either gasoline or diesel, both of which are refined from crude oil.

Beginning a conversion of our automotive fleet to alternative fuels will not only begin the process of reducing gasoline demand, but it will also create the potential to switch transportation fuels quickly in the event of another oil price shock. Such flexibility, already present in the industrial and utility sectors, is a very valuable weapon in a strategy to prevent energy price shocks.

Research has been done on a variety of alternatives, but Government spending has been cut dramatically in recent years. The Department of Energy has only recently begun a study of how to encourage alternatives. Unfortunately, without immediate government demonstrations and incentives, today's low oil prices will discourage commercialization until there is far too little leadtime for alternative transportation fuels to make a difference in the next oil crisis.

In addition to its value for energy security, the conversion of our cars and buses to methanol or another nonhydrocarbon fuel will have major environmental benefits. Methanol, ethanol, and CNG would all reduce emissions of the hydrocarbons which contribute to ozone formation.

Methanol or CNG buses can also have an enormous impact on the reduction of NO_X, particulate, and carbon monoxide emissions in urban areas. Propane is also an excellent alternative fuel from an environmental perspective, although its contribution to energy security would be less than other alternatives because about 30 percent of it is currently made from oil.

Because of the potential for global warming due to the greenhouse effect, the Nation may eventually need a nonhydrocarbon automotive fuel. Research is important to develop economical hydrogen and electric vehicles—and safe, economical nonhydrocarbon electricity to fuel the latter. Unfortunately these technologies are too far away to help significantly with an oil problem in the remainder of this century.

The Subcommittee on Energy and Power has held 3 days of hearings on alternative fuels for transportation, building on work done in the past several years. Among the auto companies who testified, there was general consensus that the best alternative to gasoline and diesel fuels is methanol.

Methanol is an alcohol fuel which can be made from a wide variety of domestic resources including trash and wood; but, most importantly, it can be made from domestic coal and natural gas. It has been demonstrated to be clear, safe, and efficient; and its price per mile traveled is close to being competitive with gasoline, even at today's low prices.

Why, then, is any government incentive needed to encourage its commercialization? The difficulty is the "chicken-and-egg problem." Auto manufacturers will not mass produce methanol vehicles until there is sufficient demand for the cars; consumers will not demand the cars until service stations carry methanol fuel; and fuel marketers will not establish the retail distribution system until there are enough cars on the road.

Methanol is developing a worldwide consensus as the replacement transportation fuel. In 1986 the United States, Canada, Japan, New Zealand, and Sweden, meeting at the International Energy Agency [IEA], reached the following consensus conclusions concerning methanol:

1. Strong environmental arguments favor replacement of petroleum products for transportation with fuel alcohols, particularly methanol.

2. Security of supply reasons also support methanol substitution.

3. Systemic costs for large-scale use of fuel methanol are not prohibitive.

4. The initial costs for introducing fuel methanol will be high. However, in spite of the odds, society must be prepared to pay for a new transportation fuel to obtain a better environment and heightened security.

5. The leadtimes for introducing fuel methanol in the transportation sector are long.

6. A market for fuel methanol as motor fuel will not develop by itself. The risks for the industries concerned are prohibitive.

7. Only governments in cooperation with each other and with industry can initiate a fuel-methanol market.

8. If a substantial replacement of oil by fuel methanol is to be achieved in the transportation sector, the following prerequisites must be fulfilled:

Clear short- and long-term strategies, including public procurement policies, have to be formulated by governments coordinating with industry.

Efficient economic incentives to industry and consumers, especially during the initial phase of introduction, have to be provided by governments. The particular incentives required depend on the situation in respective countries.

Because of the long lead times involved, binding decisions must be made in the very near future. Thus, a smooth transition to fuel methanol can be achieved.

The bill we introduce today meets the prerequisites identified by IEA. It is not expensive; only the procurement and testing of the demonstration vehicles will require any significant government expenditure. The procurement and demonstration section was introduced last Congress in similar form and unanimously adopted by the House. Regrettably, the Senate did not act on the bill prior to adjournment.

I am delighted that the Vice President, in his role as chairman of the administration's Regulatory Reform Committee, has recently recommended procurement of 5,000 vehicles of the type required by the legislation.

The single most important feature of the bill is the "economic incentive" for commercialization envisioned by the IEA panel. This is an incentive for auto manufacturers to produce alternative fuel vehicles through adjustments in the way the corporate average fuel efficiency (CAFE) is calculated. In short, CAFE would be calculated on the basis of the petroleum content of the fuel, so a car fueled with a mostly nonpetroleum alternative would have a high miles-per-gallon rating and would help the company meet its required average mileage rating.

Some concern has been expressed that this would allow manufacturers to relax their efforts to achieve better mileage in the remainder of their fleets that are still fueled with gasoline. But total gasoline consumption by the fleet could never drop due to the incentive provided for alternate fuels.

Dual-fueled cars present an ideal transition to neat methanol or CNG cars during the years while a retail fuel distribution network present a potential problem in calculating CAFE. The bill calculates the CAFE rating of dual-fueled cars as the average of the mileage they achieve on gasoline and on the alternative fuel.

If the first methanol cars produced are able to run interchangeably on gasoline or methanol, as seems likely, it is possible that they will use more gasoline than methanol in the beginning. In this case, total gasoline consumption could increase slightly for a limited time. The benefit of having cars on the road that could quickly switch to methanol and dampen an oil crisis, however, offsets this disadvantage.

Our efforts to reduce gasoline consumption are, after all, directly related to our desire to avoid an oil crisis, not to any desire to make consumers drive small cars for the benefit of their souls. Moreover, the onset of an oil crisis would raise gasoline prices, stimulating motorists with dual-fuel cars to begin to use the now-cheaper alternative fuel whenever possible. This will establish the beginnings of fuel switchability in transportation similar to that in industry that has been so valuable for energy security in recent years.

While the consensus view of the IEA committee and the domestic auto manufacturers is that methanol is the most likely fuel of the future, the market should be allowed to choose among various alternatives. Therefore, the bill does not exclusively promote methanol. By providing a CAFE incentive for any car powered by a nonhydrocarbon fuel, it favors all alternatives that will reduce our dependence on Mideast oil.

While the CAFE section of the bill is the most important, the other sections are also essential. The requirement that the Government acquire methanol cars for demonstration fleets on a best-effort basis is included to answer the question of why, if alternative fuels are so important to the future of this Nation, the Government isn't using them. The Federal Government must demonstrate leadership.

These vehicles will also provide an opportunity for industry to eliminate consumer annoyances that might inherently exist in a new technology, and the Government's fueling stations will be available to the public.

Bus and truck demonstration provided in the bill are important to obtain information and compare operating experience with various alternative fuels. These fuels offer great promise of helping meet the stricter Clean Air Act requirements for emissions which will apply in 1991. However, there has never been a comparative analysis of the merits of the various possible alternative fuels.

The requirement that new underground tanks and new pumps be compatible with methanol and ethanol is designed to make it easier for service stations to begin produced. It would be expensive for a station to dig up and replace a tank that was not certified for alcohol fuel use, but there is little or no extra cost entailed in requiring such compatibility when a tank is being installed or replaced anyway. A CNG distribution system would not, of course, use the type of tanks and pumps currently in use for gasoline, so this provision is limited to alcohol fuels.

In developing this bill, the sponsors recognized that compressed natural gas [CNG] already has a large distribution system, significant industry support, and a large number of vehicles in service. Methanol does not. The testing and demonstration portion of this bill is designed to bring methanol cars to an equal level of development so that they can compete for the alternative domestic transportation fuel market. The incentives for commercialization are then equal for the non-petroleum alternatives—methanol, ethanol, and CNG. The section directed primarily at environmental benefits—the requirement that federally funded buses in nonattainment areas after 1991 use a clean fuel—allos propane to be chosen as well.

The text of a section-by-section summary is included at the conclusion of these remarks:

SECTION-BY-SECTION ANALYSIS ACT OF 1987

ALTERNATIVE MOTOR FUELS

Section 1. Title—Alternative Motor Fuels Act of 1987.

Section 2. Findings and Purposes.

Section 3. Admends Title III of the Energy Policy and Conservation Act of 1975 by adding a new part, Part J—Encouraging the use of alcohol fuels with the following sections:

Section 400AA. requires the Federal government to purchase the maximum practicable number of methanol vehicles starting in fiscal year 1990.

Methanol must be made available to the public at the same locations where the government—acquired vehicles are supplied with methanol.

Any government agency participating in the demonstration program shall not be required to pay more than the cost of a similar gasoline-powered vehicle.

An an inducement to acquire these vehicles, one-half of the methanol vehicles acquired by an agency shall not be counted against any numerical limitations imposed on that agency.

These vehicles acquired are exempt from meeting the federal fleet average fuel economy standards pursuant to the Motor Vehicle Information and Cost Savings Act and also from any limitation on the cost allowed for the purchasing of government vehicles.

Section 400AA. authorizes appropriations of $5 million in FY90; $3 million in FY91; $2 million in FY92; $2 million in FY93 to carry out these provisions.

Section 400BB. authorizes appropriations of $3 million to esablish a demonstration program for the operation of methanol-fueled, heavy-duty trucks and other heavy-duty applications.

Methanol fuel facilities established to provide fuel for those vehicles shall also be available to the public for use in other vehicles, except in cases where security considerations require otherwise.

Section 400CC. requires DOE and EPA to participate in the testing and demonstration of buses capable of running on methanol, natural gas, and LP gas. A comparative test of these vehicles under 1991 Clean Air Act standards is required. This section authorizes a total of $4 million for FY90 to 92.

Section 400DD requires that buses purchased with any federal funds in areas defined as nonattainment areas in the Clean Air Act be capable of running on methanol, compressed natural gas or LP gas. This section takes effect on January 1, 1992. The Secretary may decline to implement this section if he finds substantial operating or maintenance problems, excess costs, or environmental risks.

For the first 1000 buses purchased under this requirement, the Secretary shall provide a supplemental grant equal to half the amount by which the acquisition cost exceeds that of a comparable diesel bus. $4.5 million is authorized for this purpose.

Section 400EE establishes an Interagency Commission on Methanol to assist in the development of a national methanol policy and to coordinate efforts to implement such policy.

The Commission shall review a variety of issues, including the economics of the production and use of methanol as an alternative fuel, the promotion of methanol-powered vehicles, the environmental and safety aspects of methanol, and long-term planning for commercialization.

Section 400EE also requires the Chairperson of the Commission to establish a Private Sector Advisory Panel to coordinate efforts of the industry with the Federal program.

The Commission must submit annual reports to Congress on the actions taken and findings made by the Commission. All studies undertaken by the Commission are to be made available to the public at an appropriate time determined by the Secretary.

Section 400FF requires the Secretary of Energy to submit a cost comparison study of natural gas-based methanol, coal-based methanol, and methanol from other resources, to include an evaluation of the various sizes of production facilities. A study shall also be undertaken by the Secretary to determine the feasibility of a relocatable natural gas to methanol plant which is capable of using domestic supplies of unutilized natural gas.

This section also requires semi-annual reports concerning the auto, truck, and bus demonstration.

A sum of $975,000 is authorized to be appropriated to conduct the studies required in this section.

Section 4 requires that any new retail fuel tank installed after 1989 be compatible with alochol fuel use.

Section 5 requires that any vehicles purchased by the Federal government after October 1, 1988, shall not have any guarantee or warranty voided by operation on any non-standard fuel approved by the Environmental Protection Agency.

Section 6 contains a CAFE incentive to encourage production of neat methanol and natural gas vehicles. Efficiency is calculated based on an assumption of 15% gasoline in both fuels. The MPG used in CAFE is calculated on 15/100 of the gallon that is gasoline, not the 85/100 gallon methanol. A similar incentive is provided for natural gas.

If a vehicle is capable of operating on gasoline as well as either natural gas or methanol, its CAFE number is the average of the conventional calculation on gasoline and the 15/100 calculation when it is operating on the alternative fuel.

These incentives would be applicable after Model Year 1991 and credit earned under this incentive could not be carried back to offset a CAFE deficit prior to Model Year 1991.

GORDON ZACKS—EARLY CHAMPION OF THE WALLENBERG CAUSE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LANTOS. Mr. Speaker, 6 years ago this month, the President signed historic legislation making Raoul Wallenberg an honorary citizen of the United States. At this time, as we commemorate and remember that anniversary, it is important as well that we recognize those individuals who have helped make the story of Raoul Wallenberg known here and around the globe.

One of those individuals—one who has not received great attention, but one who made a most important contribution is Mr. Gordon Zacks. Over a decade ago, at a time when the name of Raoul Wallenberg was hardly known, Gordon saw a small advertisement that my wife Annette had placed in the New York Times. He checked out Annette's credentials, then searched her out, and made a substantial contribution to the International Free Wallenberg Committee. At a time when we were struggling to make the story of Wallenberg known and were trying desperately to bring official attention to Wallenberg in order to free him from the Soviet Gulag, Gordon Zacks gave important moral and financial support to the effort.

Well-known for his philanthropic activities, Gordon has been chairman of the board of some 28 different philanthropic and community service organizations. He has headed nine international service organizations. He has been a forceful leader of the American Jewish Committee. In addition, he has been a supporter of the Center for Strategic and International Studies here in Washington and active politically on the local and national levels.

Gordon Zacks is the chairman of the Board and Chief Executive Officer of the R.G. Barry Corp. in Columbus, OH, the largest manufacturer of comfort footwear for women and children in the United States.

Mr. Speaker, I am delighted to pay tribute the contributions of Gordon Zacks.

IN PRAISE OF THE INDIAN AMERICAN COMMUNITY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. GARCIA. Mr. Speaker, once again it is time for the Indian American Forum for Political Education's [IAFPE] annual convention. This is the Forum's fifth convention.

As many of you know 1987 is the 40th anniversary of Indian independence. It is, of course, also the 200th anniversary of our own Constitution. It is only fitting that the Forum, which represents what is best about both countries, should use as its theme for this year's festivities the dual celebration of the world's largest democracy—India, and the world's most influential democracy—the United States.

As many of you know, the IAFPE is a national nonpartisan educational organization. It seeks to involve members of the Indian American community in the political process. The Forum has stated that it realizes that higher education and economic strength in themselves are not sufficient to ensure the continued well-being of Indian Americans. Political participation is necessary to ensure the community's ability to appreciate the fullness of American life.

I would like to make one last comment regarding two of my friends in the IAFPE. I understand that the president of the Forum, Achamma Chandersekaran is stepping down as President. I want to congratulate her on a job well done and wish her well in the future. In addition, former IAFPE president, Dr. Joy Cherian, has been nominated to become an EEOC Commissioner. Joy, as we all know, is an excellent choice, and we wish him well with his new responsibilities.

Just to remind my colleagues, the Forum will be hosting its annual congressional luncheon on October 10 in room B339 Rayburn from 11:30 a.m. to 2 p.m. I've been told we are all invited.

WHAT WINDFALL? REPEAL THE TAX

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. McEWEN. Mr. Speaker, I wish to bring to the attention of my colleagues an article which appeared in the New York Times on Monday, September 14. Plainly put, "What Windfall? Repeal the Tax", the title says it all.

WHAT WINDFALL? REPEAL THE TAX

Remember the windfall oil profits tax passed in 1980? The idea was to prevent domestic producers from making a killing when Congress decontrolled the price of oil. Today, hardly anyone's making a decent living, let alone a killing, in the oil patch and the Government's share of those famous windfall profits is zero.

If, as some analysts predict, oil prices remain low until the tax expires in 1993, little or no revenue will be collected. On the other hand, if the prices rise sharply, the tax will cut into incentives to develop domestic reserves, creating more dependence on foreign energy. The added cost of importing oil in a tighter market might even exceed the revenues from the windfall tax. That's why the House would be wise to follow the Senate and vote for repeal.

There were arguments in the early 1980's about whether it made economic sense to tax away much of the gain from higher oil prices. But there was no question that the windfall tax was needed to ease the political sting of allowing the domestic price to rise to the level set by OPEC.

Congress hammered out a complicated formula for determining the revenue base liable for taxation and the tax rate. The criteria vary according to the date that oil was discovered, the difficulty of extraction and the size of the company. For some categories of oil, taxes phase out early in the 1990's. In all categories, the taxable base price is adjusted each year for inflation.

The tax raised a whopping $26 billion in 1981, 27 percent of domestic oil revenues. Thereafter, revenues sagged with the price of oil, running just $5.6 billion in 1985 and nothing in 1986. If the price inches above $20 a barrel, Washington may collect a few hundred million dollars this year from the owners of oil discovered before 1978. New discoveries won't be taxed again unless the price soars to $29.

Why maintain a tax with so little apparent effect? Because there's still a reasonable chance that prices will go up. Some analysts expect the gap between consumption and production capacity will narrow over the next few years, and prices will rise by $4 or $5 a barrel. That would be enough to trigger the tax on "old" oil, reducing the incentives to develop expensive wells on partially depleted fields. There's a chance, too, that disruption of supplies from the Persian Gulf could push the price even higher, affecting new exploration as well.

Judging by drillers' response to price changes in the 1970's, the tax on $26 oil would reduce domestic production by about a quarter-million barrels a day. That's less than 1 percent of world production. But in a tight oil market, the resulting change in the demand for imported oil could bear heavily on OPEC's ability to gouge still higher prices.

By one plausible Government estimate, the extra quarter-million barrel demand would raise the world price by $1, increasing America's total oil bill by more than the revenue Uncle Sam gained from the windfall tax!

In the best of all possible worlds, oil will remain in glut and repeal of the windfall tax would have no effect on oil production or Government revenue. At worst, repeal would cost the Government tens of billions—but would also slow growing dependence on insecure foreign oil and save consumers as much at the pump as the tax collector loses.

That calculation persuaded the Senate to add a repeal amendment to the big trade package it sent for reconciliation with the House version. If common sense prevails over the urge to extract every possible nickel from domestic oil producers, the House will now go along.

CELEBRATING COLUMBUS DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. RODINO. Mr. Speaker, on October 12, millions of Americans will join together to celebrate Columbus Day.

This national celebration of the discovery of America honors the courage and persistence of Christopher Columbus and commemorates his bold and daring venture that was a milestone in the history of mankind. Five years from now—in 1992—we will mark the 500th anniversary of this event. As the author of the legislation to create the Christopher Columbus Quincentenary Jubilee Commission, I look forward to the worldwide tribute to Columbus' great accomplishment.

But Columbus Day is more than the remembrance of a landmark historical achievement. When I first proposed making Columbus Day a national holiday, I said that this occasion would serve as a multipurpose day of commemoration. I have felt great personal pride, since my long-sought dream was realized, as the broader spirit of Columbus Day has become part of our national celebration.

Columbus Day is now a time to rediscover America ourselves. It is an annual reaffirmation by the American people of their faith in the future and our willingness to face with confidence the unknown. The inspiration of Christopher Columbus, braving the mysteries of uncharted seas and remaining committed to his strong beliefs as others expressed doubts, stands as a towering example of the possibilities of achievement in the face of adversity.

Christopher Columbus brought to the New World the qualities of determination, courage, and vision which have provided the foundation for the national character of this great country.

On Columbus Day, we also honor all those who came to discover America after Christopher Columbus—the "Father of Immigration." Although I share with my fellow Americans of Italian heritage a special pride in the achievements of this Genovese navigator, Columbus Day is a time for Americans of all ethnic backgrounds to rejoice in the rich cultural diversity that has made us truly a nation of immigrants. America became a great country because millions of individuals followed Columbus, from all over the world, seeking a better life and finding the opportunity in this Nation to share in the blessings of liberty and prosperity.

One American who truly embodies the meaning of Columbus Day is my dear friend Ace Alagna, publisher of the Italian Tribune News in New Jersey and the sponsor of the Annual Columbus Day Celebration and Parade in Newark. Ace's energy and dedication ensure that these activities capture the national and diverse spirit of Columbus Day. It is a great honor to be a guest at this year's celebration on October 11.

Once again, Ace has planned a full program of Columbus Day activities. After a wreath-laying ceremony at the Christopher Columbus Monument, there will be a very special parade along Bloomfield Avenue.

This year's grand marshal is Joe Piscopo, a great performer and star of television and movies. It is especially fitting that Joe Piscopo is honored because he was born and raised in New Jersey. Although he has achieved national stardom in the entertainment field since his debut on "Saturday Night Live," Joe Piscopo has never lost his love and affection for New Jersey and its people.

To complete the day's activities, the Italian Tribune will host its annual Columbus Day Awards Evening to honor the achievements of four outstanding individuals. This year's honorees are: Dr. Richard Guarino—Humanitarian Award; Frank P. Farinella, Jr.—Man of the Year Award; Sister Margherita Marchione—Woman of the Year Award; and Capt. Thomas A. Giordano—Community Service Award.

I join in saluting all of the honorees. These very special individuals boldly demonstrate that the spirit of Christopher Columbus continues to inspire all of us to newer horizons and to encourage us as we face the challenge of the future.

WORLD FOOD DAY 1987

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LELAND. Mr. Speaker, every day 500 million people in the world go hungry. This number increases by millions every year.

In 1981 World Food Day was established on October 16 by the Food and Agriculture Organization of the United Nations as a global reminder of the hunger and malnutrition in our midst.

The growth of World Food Day as an international event indicates international support for the right of each human being to an adequate diet, first enunciated in the United Nations Declaration of Human Rights in 1948, and the effort to eliminate hunger from the world.

This year World Food Day will be celebrated in 150 countries. In the United States 400 organizations make up the National Committee for World Food Day. A major activity of the committee is a teleconference which reaches audiences in 300 colleges and universities across the Nation.

Individual leaders in this country have shown that our great national compassion and energy can be multiplied in antihunger efforts. In 1985 a college student, Bill Hoogterp, recruited other students in eight colleges in the Grand Rapids, MI, area to clean up the town and give money donated by sponsors to antihunger efforts. By last year the Student Hunger Clean-Up Campaign had expanded to 52 cities with 122 participating schools and 4,000 students giving their time.

In Austin, TX 2 years ago a young lawyer, Michael Curry, challenged his fellow lawyers to donate 1 hour of legal fees to the antihunger organzation of their choice. This amounts to a contribution of approximately $100 dollars. Last year the total contributed in Austin doubled. This year the effort has spread to other major cities in Texas, including Houston.

The good news is that people care. When they are given the opportunity, they willingly sacrifice time and money to fight hunger. But in spite of increasing awareness and concern, the numbers of people suffering from hunger have not diminished.

Nature itself seems to work against us.

In Ethiopia only 3 years after the worst drought in centuries, drought once again threatens 5 or 6 million people.

Drought is plaguing India, a nation that has been able to improve food production but has not been able to develop a distribution system that prevents hunger.

Floods in Bangladesh have wiped out crops, and that poor and heavily populated nation will be forced to rely on emegency food supplies.

The epidemic of AIDS threatens to bankrupt the medical systems of poor nations where immunization and primary health care intitatives are vital to staving off the effects of malnutrition, especially among children.

As a nation we have failed to give adequate support to the Food and Agriculture Organization [FAO] of the United Nations. We have reduced our financial commitment to FAO at a very critical time. This agency serves all nations well and provides the only forecast of food needs throughout the world.

As the world's largest producer of food, this Nation has a special responsibility to address and help cure the blight of hunger and malnutrition. While we can take great pride in the U.S. response to emergencies, we have not yet done all we can.

More than a decade ago the World Food Conference set this goal: That within a decade, no child would go to bed hungry, no family would fear for its next day's bread, and no human beings' future would be stunted by malnutrition.

Let us rededicate ourselves to reaching this goal on World Food Day 1987.

ST. MARY STAR OF THE SEA—HAPPY 100TH ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BIAGGI. Mr. Speaker, I rise today in tribute to an outstanding group of my constituents—the parishioners of St. Mary Star of the Sea Church of City Island, as they celebrate their 100th anniversary. This fine parish is a community leader in education and human services. I am proud to have the opportunity to join in their anniversary celebration on October 17 of this year.

Perhaps the best way of describing St. Mary Star of the Sea is in the word of their parish book.

> When observed from the air, the island looks very much like an old New England whaling town. Green trees dot a peaceful landscape. The main thoroughfare winds gracefully through the entire mile-long length of the island. And surrounding it all is the water, with proud vessels rocking gently at their moorings as the tides rise and ebb. But this is not New England. This island that is called City Island is not an isolated community as one would suppose from its description. Rather, it is located just a short distance from the bustle of the city of New York. True to the custom of seafaring Catholics of generations past, and to come, there is a church dedicated to Stella Maris, Star of the Sea, for this is the home of St. Mary Star of the Sea parish.

I first met the people and the community of City Island when I was a young lad. I fished there with my father—we rented boats from Gustavino's and Rosenberger's for a dollar a day. In those times the only power the boats had was muscle power.

City Island was discovered and settled in 1614 by the Dutch, as a fishing community, many attracted to the fine oyster beds off it's shores. Today City Island is New York's Cape Cod. It's residents enjoy sailing, fishing, and boating. However, for more than 200 years the only way to reach this island was by boat, but in 1873 a bridge was constructed to connect the island to the mainland. This bridge resulted in a growth in the community and its annexation to New York. As the community grew their need for places of worship increased. And so, in the fall of 1887 a chapel was dedicated to Our Lady, Star of the Sea—this was the beginning of the history of St. Mary Star of the Sea parish. In 1890, this chapel was destroyed by fire which prompted the building of a separate church. Indicative of the seafaring tradition of the community, some of the supporting beams and stanchions used in this building were made from lumber salvaged from old sailing ships. Within a short period of time, St. Mary Star of the Sea became known as a shrine for seafarers. Many of the crew from ships sailing from New York to all over the world stopped at the church on their way out to sea.

In 1925, the people of the parish united to build a community hall, which served as a meeting place for the entire City Island community and in 1931, housed the newly formed St. Mary Star of the Sea School. Originally it served grades kindergarten through fifth, with an additional grade added each year until a full eight grades were realized. The original school had 31 students, but by 1945 the student population had increased to almost 200.

The auditorium could no longer serve the needs of the school, so in 1948 a new school was constructed. The parish continued to grow, until 1956 when tragedy struck. The beautiful church was consumed in a fire. Once again, the faithful parishioners of St. Mary Star of the Sea joined together to begin construction on a new building, which was completed in 1959. That beautiful and rustic building still houses the parishioners.

St. Mary Star of the Sea has continued to grow, with the number of parishioners and schoolchildren increasing. Generation after generation of parishioners have fished, sailed, and water skied in the waters surrounding the beautiful island. Any New Yorker can testify that if you want choice seafood in New York, you visit City Island.

Under the current pastor, Rev. John J. Scanlon, St. Mary Star of the Sea flourishes as a leader in a community which combines the past and future of New York. City Island still contains reminders of a whaling town and port—some of New York's origin, with beautiful large homes and rustic tree-lined avenues. But these are mingled with the new apartments of modern New York and the growing commerce centers. The people of St. Mary Star of the Sea serve their church and community with a variety of occupations, from architect to accountant, to yacht builder for America cup winners. Some of these parishioners are decendents from the original founders of the parish. Grandparents and great-grandparents accompany their grandchildren to mass each Sunday. I salute St. Mary Star of the Sea community for the accomplishments of their first 100 years. This rich history will shine as an example for future generations. My one regret is that I am not a resident of City Island and therefore do not belong to this wonderful parish. I call upon my colleagues to join me in commending St. Mary Star of the Sea and wishing them a bright future—may they grow in love and dedication for one another and for our Heavenly Father.

WELCOME TO OUR NEWLY NATURALIZED CITIZENS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the residents of New York's 22d Congressional District who have chosen to become citizens of the United States with all the privileges, freedoms, and responsibilities that American citizenship entails.

Our beautiful Hudson Valley region in New York State is proud of its newest citizens, and I invite my colleagues to join me in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy and prosperous life in their new homeland:

NEWLY NATURALIZED AMERICANS

Carolyn Abramson.
Benero De Jesus Abreu-Henriquez.
Mr. Ryszard Adamiak.
Mrs. Sophia Adamis.
Pierre Antoine Alexander.
Ms. Mary Andreozzi.
Mrs. Jusit Askal.
Ms. Laina Auyeung.
Ms. Susan Bader.
Mrs. Juliana Balce-Livingston.
Rosalina Ramos Baliton.
Ruth Baluyot Mapes.
Mr. Bill Bates.
Amieal Ben-Mashian.
Christina Tinitigan Bennett.
Mr. James Bondar.
Bina Mam Bou.
Jessie Brisard.
Cynthia Mary Browne.
Rudolph Bryan.
Elizabeth Mary Buckley.
Maria Angela Butrico.
Carina Yabes Caducio.
Ms. Monique Caputo.
Mr. Frantz Cayo.
Mrs. Marie Cayo.
Mrs. Kyoung Hwan Chapman.
Mr. Semyon Chayevsky.
Mrs. Svetlana Chayevsky.
Chih Chen.
Mr. Andrew Childs.
Keith Constantine Chisholm.
Aracely Cienfuegos.
Mr. John M. Cortez.
Kim Hai Dang.
Felipe Andres De Los Santos.
Felix Lunaria DeLeon.
Alipio Meneses DeMata.
Marie Jose Dejean.
Ms. Nicoletta Derasmo.
Vivian Desert.
Giuseppe Antonio DiMuccio.
Vernon George Dingwall.
Ms. Margaret H. Duke.
Evelyn Abadilla Dumayas.
Dolores Dy-liacco Imperial.
Pierre Frederic Eliacin.
Mrs. Isabel Esbit.
Mireille Estiverne.
Joseph Etienne.
Ms. Hilary Field.
Joseph Rosa Filgueiras.
Seneque Fleurant.
Luis Flores.
Skel Claude Francois.
Guy Frand.
Devorah Fried.
Moshe Josef Friedlander.
Jose Luis Gabella.
Mercedes Gabella.
Mr. Francisco Galoso.
Mildred Magno Gan.
Carlos Ernest Garaicoa.
Clement Glaudin.
Celia Mercedes Gomez.
Ms. Maria Gracia.
Nadja Graschenko.
Albert Grinbaum.
Tatyana Grinbaum.
Mrs. Miriam Grunbaum.
Magalie Marie Guercy.
Oscar Isaac Gutierrez.
Agnes Castro Hernandez.
Ya-Ping Hsu.
Mr. Fred Hughes.
Mr. Kurt Hundeland, Jr.
Tahir Husain.
Miss Blimy Jakab.
Eudes Jean Paul.
Jude Andre Jean-Francois.
Mr. Jorge Jondee.
Sadie Alicia Jones.
Aremise Joseph.
Emma Joseph.
Mrs. Judith Kalisch.
Mrs. Rachel Kaufman.
Shmuel Kayam.
Rodney Fils Kernizant.
Asim Haleem Khan.
Elsa Pineda Kiernan.
Jung Do Kim.
Mary Brigid King.
Mr. Anthony Jonathan Klaff.
Jullian Klaff.
Ms. Vera Knigge.
Michael T. Koch.
Gary Kofman.
Mr. Andrew Kuras.
Mr. Young Ju Kwon.
Mr. Iveler LaFleur.
Thanh La.
Mrs. Wha Ja LaValley.
Chantal Lafortune.
Mrs. Nghi Boi Lam.
Tu Chau Lam.
Mrs. Beverly Lederman.
King Wah Lee.
Mrs. Olga Lenorovitz.
Chaim Victor Levy.
Mr. Jorge L. Lopez.
Ramon Lopez.
Maryse Loubeau.
Mireille Louis-Charles.
Routhier Louis.
Alvin Joseph Lucas.
Carmela Maddalena.
Eliana Giolli Magnano.
Vincent Magnano.
Ana Isabel Marin.
Juan Abraham Medrano.
Dr. Sergo Mesidor, MD.
Ms. Ruth Nachman Miller.
Mr. Boris Mishiyev.
Mr. Barbaro Jose Molina.
Verdell Dilease Moore.
Ms. Heather Murray.
Geumyoun Myung.
Abdul Wahab Nassery.
Hoa Vinh Ngo.
Prek Nikollaj.
Ghazala Nisar.
Rebeca Nunez.
Pat O'Connor.
Mr. Vincent O'Rourke.
Dimitra Orkoulas.
Mikyung Pak.
Mrs. Barbara Parsons.
Mr. David Charles Parsons.
Mrs. Marie Pasiczynsky.
Mrs. Daniela Paszkiewicz.
Anne Marie Payen.
Margaret Helen Peltz.
Juan Alberto Peralta.
Marlene Perrin.
Lu The Pham.
Albertine Pierre-Paul.
Mrs. Dina Polasak.
Mr. David Powell.
Mr. Huw Powell.
Francisca Corpuz Quilop.
Emiliano Acuna Ramos.
Fils Aldorable Raphael.
Narayan Chandra Rath.
Amparo Rodriquez.
Luis Maria Rodriquez.
Ruperto Cruz Roque.
Virginia Paulino Roque.
Mrs. Rivka Rosner.
Esther Schweitzer.
Mr. Mendel Schwimmer.
Bindu Anil Shah.
Gregory Boris Shapiro.
Yelena Yefim Shapiro.
Mr. Keisuke Shodai.
Mrs. Kinue Shodai.
Sukhjinder Kaur Sidhu.
Mr. Vladimir Slep.
Mrs. Nora C. Solomon.
Constantine Spyropoulos.
Kalliopi Spyropoulos.
Svetlana Gennady Sudit.
Yakov Isay Sudit.
Mr. Jonathan Svibruck.
Antonio Sylvain.
Mira Taing.
Ngai Ma Tam.
Dao Lap Tat.
Mr. Herman Theodore Taylor.
Wilfrido Castillo Tiongson.
Mrs. Anna Tomlinson.
Efstratia Traitses.
Beatriz Javier Verde.
Marie Antoinette Nicole Verdule.
Mr. Tertulien Verdule.
Salvacion Robles Villaneuva.
Teresita Angeles Vitiello.
Romulo Recio Vivas.
Chaim Weiss.
Mrs. Lea Wertzberger.
Sharon Anne Williams.
Pai-Hsin Wu.
Ms. Imolyn Lilly Young.
Jean Wilkens Zamor.
Mr. Andrew Ziolkowski.
Mrs. Halina Ziolkowski.

HONORING THE VICTOR VALLEY DAILY PRESS FOR 50 YEARS OF COMMUNITY SERVICE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LEWIS of California. Mr. Speaker, the Victor Valley in California's High Desert is a region presently experiencing tremendous growth. Recording and reflecting this growth is the Victor Valley Daily Press, known to its readers as "The High Desert's Watchful Newspaper." The Daily Press has a long and colorful history of bringing local, regional and worldwide news to the people of the High Desert. This tradition dates back 50 years to October 15, 1937 when the first weekly Victor Press was published.

Since that time, the Daily Press has grown with the High Desert community it serves. On October 15, the Daily Press will celebrate its golden anniversary by publishing a special issue detailing the history and growth of the newspaper. The following day, the Daily Press will feature its first weekly magazine supplement designed to provide arts, entertainment and feature articles to the High Desert audience. The newspaper's growth is further reflected in its plan to begin publishing 7 days a week on October 17.

The publisher of the Daily Press, Timothy Hoiles, says that in spite of the paper's expansion, it is barely keeping up with growth in Victor Valley. "If growth continues as it has, the Valley could become a major metropolitan area in the next 10 to 20 years and we want to be prepared," he said. I am confident that

Hoiles, editor Stephen Williams, and his staff will rise to meet this challenge.

Mr. Speaker, please join me in congratulating the Victor Valley Daily Press for 50 years of outstanding community service and wishing continued growth and success to "The High Desert's Watchful Newspaper."

THE LSU FOOTBALL STADIUM: DEATH VALLEY

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BAKER. Mr. Speaker, there is no sporting facility in the world like Tiger Stadium on Saturday night. This statement would not surprise anyone who has ever had occasion to watch or attend just one LSU home game. In fact, CBS recently conducted a nationwide survey of 50 university football coaches and asked their opinion as to the place they were most afraid to bring their team. The answer, of course, is no surprise to any of us. Of all the sports arenas in the United States, visiting teams are most afraid of Death Valley, Baton Rouge.

The fact that LSU is No. 1, is nothing new, but the reasons some gave for their choice is just too good to pass up. A former Notre Dame coach, Ara Parseghian, is quoted in a Los Angeles Times article, saying "There's no crowd like this. They never stop, and it's like one, continuous pep talk." Then there's the comment of local sports editor Dan Hardesty, who stated, "Ole Miss would come in and, for some reason, just freeze up when the crowd noise started. When they came out onto the field it seemed their eyes were glazed. They were in a state of shock."

Football coaches around the country know what the Los Angeles Times, CBS, and the rest of the world now knows; this is the real Death Valley. Since the stadium was built in 1924, LSU has enjoyed a home winning record of 72 percent. There is a great history in this place, but with every Saturday night, of football seasons yet to come, the tradition and the winning margin will only improve. And it will remain the most feared football stadium in college athletics, because of you, the greatest football fans in America.

Go Tigers.

RABBI FREDERICK E. WERBELL—CHRONICLER OF RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LANTOS. Mr. Speaker, 6 years ago this month, the President signed historic legislation making Raoul Wallenberg an honorary citizen of the United States. At this time, as we commemorate and remember that anniversary, it is important as well that we recognize those individuals who have helped make the story of Raoul Wallenberg known here and around the globe.

Much has been written about Wallenberg's extraordinary accomplishments, his courage in the face of danger, his passionate and sympathetic concern for his fellow man.

Mr Speaker, one of the early advocates of Wallenberg and an early chronicler of his heroic accomplishments is a Swedish-born rabbi, Frederick Werbell. Rabbi Werbell's grandfather was involved in rescue efforts during and after the war. As a result of his encounters with many of those who were saved by Wallenberg, Rabbi Werbell knew about Wallenberg as a child and felt the urgent need to tell the story of Wallenberg's deeds.

In 1980, before Wallenberg was known in the United States, Rabbi Werbell coauthored a front page article in the New York Times magazine. He later published a more complete account of Wallenberg's heroism in "Lost Hero: The Mystery of Raoul Wallenberg." His article and book were the basis of the NBC miniseries, "Wallenberg" starring Richard Chamberlain.

Mr. Speaker, the contribution of Rabbi Werbell to our knowledge and understanding of Wallenberg's courage, determination, and successes are an inspiration to all those who have read it.

A TRIBUTE TO MISS ROSEMARIE KASCHER

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. McEWEN. Mr. Speaker, I rise today to honor Miss Rosemarie Kascher, a well-known and highly respected member of the community of Austintown, OH. This year Miss Kascher retires after 24 years as an instructor and vocal music coordinator of the Austintown-Fitch High School Concert Choir.

It is because of her service as the director of this choir that Miss Kascher deserves special recognition and our heartfelt gratitude. In these last 16 years, the choir, which is comprised of 50 students, has traveled over 26,000 miles and entertained over 800,000 people. The choir has personally raised over $85,000 to provide this service.

Mr. Speaker, the Austintown-Fitch High School Choir has traveled throughout the Eastern United States. This group has entertained at military bases, at military and veterans hospitals, at childrens hospitals, at old soldier, sailor, and airmen homes, and at orphanages. All of this under the direction of Rosemarie Kascher. Neither she nor any of the students involved in the choir have received any compensation for their efforts other than the warm feeling of satisfaction for having given something in return to the military men and women who have contributed so much to this country.

The daughter of Yugoslavian immigrants, Miss Kascher's educational experience has taken her all over the world, from cities as diverse as Cleveland, OH; Nagasaki, Japan; and Saxon, Yugoslavia. She has received numerous awards, including the "Citizen of the Year" from the Youngstown Veterans Council. The first woman ever to be so designated.

Mr. Speaker, Rosemarie Kascher has given freely of herself to this Nation and deserves the praise and tributes of all of us. The community of Austintown has supported this noble cause, and they also deserve our appreciation for their concerted efforts. It is a pleasure to share her accomplishments with my colleagues in the Congress. I ask that they join with me in extending our warmest congratulations and best wishes for continued success in all her endeavors.

A TRIBUTE TO GRAY BARHAM

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. Gray Barham, a very special resident of my 17th Congressional District. This tribute is a very moving and touching one for me, because Mr. Barham happens to be one of my closest friends, and he is currently in the fight of his life with a very serious illness. However, it is a greatly pleasurable experience to inform my fellow Members of the U.S. House of Representatives of his numerous mind-boggling accomplishments. Mr. Barham rose meteorically to become the best horse tail setter in the Nation, and was recently awarded the Ohio Distinguished Horseman of the Year Award at the Western Reserve Classic Charity Horse Show.

Gray Barham grew up in Tennessee, and learned the skills of the horse trade at an early age at the farm of Christian Barham. His burning desire to be the best in the horse business led him to horse farms in New York and Pennsylvania. He spent the 1940's training horses at his own stable at the Canfield Fairgrounds in Ohio. Then in 1953, he became the trainer and rider for Edna and Mable Mesmer at the Sandy Knoll Farm in North Jackson, OH.

He then spent the next 32 years at the Sandy Knoll Farm refining his astounding skills as a masterful horse trainer and wizardly tail setter. He trained countless saddlebred horses at the Sandy Knoll Farm into becoming beautiful and powerful equestrian masterpieces. Meanwhile, his artist-like abilities as a tail setter gained him a national reputation, and led him to set the tails of horses owned by numerous celebrities across the United States. These many celebrities included William Shatner—Capt. James Tiberius Kirk on "Star Trek," and Patrick Duffy—Bobby Ewing on "Dallas."

Gray Barham has been a dear friend to me for a long time, and I am confident that he will lick his current difficulties—because he has always been a winner. Gray, you can count on me being at your side anytime that you need me. No person in America is better at training saddlebred horses than Gray Barham. Through my many years working with him, he taught me to love saddlebred horses. And through his dedicated work and wonderful personality, I grew to love Gray Barham.

Thus, it is with thanks and special pleasure that I join with the residents of the 17th Congressional District in honoring the amazing achievements and extremely noble character of Mr. Gray Barham.

SOCIAL SECURITY NOTCH

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BILIRAKIS. Mr. Speaker, can you imagine anyone having to choose between, say, food or prescription medication because he doesn't have enough to pay for both? Sad as it may be to comprehend, this is, unfortunately, what many senior citizens have to do each month.

We, as a body, Mr. Speaker, are collectively responsible for such situations through our inaction in resolving the discriminatory notch period in the Social Security System which results in many seniors receiving as much as $100 a month less due to no other reason than the year in which they happened to have been born in.

I'm sure that all my colleagues will agree that our Social Security System should not discriminate against anyone. For this reason, I have, for the third consecutive year, again introduced notch correction legislation.

In this Congress, my bill is known as H.R. 1026. Unfortunately, it, like the others, has not seen any action in committee.

I, therefore, join the other members of the notch coalition in calling upon the appropriate chair to quickly convene hearings on the issue as a first step toward eliminating injustice and inequality from our Social Security System. Let's, once again, work toward the ideal of justice for all.

SCHEDULE FOR HYPERION SECONDARY SEWAGE TREATMENT FACILITIES

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LEVINE of California. Mr. Speaker, today I am introducing legislation to ensure that the city of Los Angeles achieves full secondary treatment in this century at its main sewage treatment plant—Hyperion, a change that is long overdue.

The bill would establish a schedule for construction of the principal facilities that will be needed to expand to full secondary treatment and to modernize the current primary treatment operations. Continued demand on the sewer system would be tied to achieving full secondary treatment through mandatory reductions in sewer connection permits for failure to comply with the schedule. The bill employs the city's own construction schedule and would simply codify the most important deadlines to guarantee that the city will not allow itself to fall behind.

I am concerned about persistent, seemingly institutional problems which this past summer resulted in a Federal review of improper discharges at Hyperion and a large raw sewage spill at public beaches. Moreover it has taken the city over a decade to agree to the original intent of the Clean Water Act and commit its resources to full secondary treatment. Hyperion is one of the largest ongoing sources of pollution in Santa Monica Bay. The issue affects the health and safety of millions of people and is too compelling to ignore.

The bill legislates the completion of the eight most critical facilities and improvements. For each there are commonly four phases for completion: Engineering, Government approval of the plans, bid and award of contracts, and construction. Penalties are established for missing three specific deadlines: Completion of the engineering phase, start-up of the construction phase, and completion of the construction phase.

The first deadline missed would trigger creation of an annual sewer connection permit baseline consisting of the number of permits issued by the city of Los Angeles in each quarter of 1986. For each deadline missed, including the first one, A 10-percent reduction of the baseline would be imposed. If a facility was completed or put back on schedule, any penalties imposed as a result of that facility's falling behind schedule would expire. When all eight improvements were completed, all penalties including the 1986 baseline would expire.

The EPA would oversee enforcement and would have the authority to extend deadlines under certain circumstances. The EPA could also adopt a binding accelerated schedule if it were deemed practicable.

I look forward to working with the city of Los Angeles on this matter and hope that together we can insure a clean Santa Monica Bay.

AGENT ORANGE UPDATE

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. MONTGOMERY. Mr. Speaker, we are still immersed in the complicated, emotional and vitally important issue of health effects that are feared to result from exposure to dioxin, the contaminant in agent orange.

There is no need here to restate the long history of actions taken by this body, separately and in concert with our colleagues in the Senate, in attempting to understand the health risks which may result from exposure to agent orange. I would prefer anyone with an interest in that history to remarks made by my counterpart in the Senate, ALAN CRANSTON, chairman of the Senate Veterans' Affairs Committee, and reported in the CONGRESSIONAL RECORD of September 18, 1987, page S12392.

I have long held that the questions raised with regard to the health effects of agent orange require scientific research and analysis. Senator CRANSTON agrees and we know that there is no quick and easy way to reach answers either for the purposes of compensation or for the more important need to know the nature of the threat posed by exposure.

Two research efforts that are currently being publicly discussed exemplify both the scientific complexity and the confounding emotions in this issue. One effort is the recently completed VA proportionate mortality study of Army and Marine Corps Vietnam veterans. Among Marine Corps Vietnam veterans, who comprised about one-fifth of the study subjects, there was a statistically significant increase of deaths due to non-Hodgkins lymphoma [NHL] among Marines who served in Vietnam compared to Marines who did not. Among Army veterans, who comprised the remaining 80 percent of the study subjects, there was no increase in deaths due to NHL. With regard to other cancers and causes of death, there were no significant differences in causes of death between Vietnam veterans who served in Vietnam compared to Vietnam veterans who did not serve in Vietnam and between Marine Corps and Army personnel.

I, together with Senator CRANSTON, chairman of the Senate committee, have already written to the Congressional Office of Technology Assessment [OTA], to the Cabinet Council's Agent Orange Working Group [AOWG], and the VA's Advisory Committee on Environmental Hazards, requesting that each of those entities evaluate the study. Such scientific reviews are essential in any research effort and are critical in the case of agent orange when such important legislative implications are present.

The second research effort concerns a Center for Disease Control [CDC] epidemiological study. Under statutory mandates of Public Law 96-151 and Public Law 97-72, CDC is conducting a three part epidemiological study of the health of Vietnam veterans. The Vietnam experience study component is designed to demonstrate whether there is any difference in health of veterans who served in Vietnam compared to the health of veterans who served elsewhere during the same time period. The agent orange study component is designed to determine whether veterans who may have been exposed to agent orange during service in Vietnam have suffered long-term adverse health effects as a result of that exposure. The selected cancers study component is designed to determine whether there is an increase of several cancers—including NHL—among Vietnam veterans.

It is the agent orange study component that is the other controversy that is currently being discussed. This study has been stalled since January 1986, when problems involving how to validate exposure to agent orange using military records had to be addressed. Subsequently, CDC refined a serological method to measure the residuals of dioxin in blood. This method was thought to be able to validate a necessarily complex way to assess exposure for purposes of the study. Preliminary results of the blood-testing method showed that, regardless of whether military records indicated high, intermediate or low dioxin exposure in Vietnam, there was no significant level of dioxin in the veterans tested. In addition, the results showed that all of the Vietnam veterans tested, with one exception, had dioxin levels below the upper limit of dioxin levels for U.S. residents who have no known dioxin exposure.

The results of the CDC effort have been reported to the OTA and AOWG who will review the results and determine whether the Agent Orange Study component can be carried out with scientific rigor. Only a couple of days ago, the OTA reported to the Committees on Veterans' Affairs of the House and Senate on its review of the CDC blood test results. OTA reported that the CDC effort was "well designed and carried out". CDC used five methods of assessing exposure including military records and self estimates by veterans and it was intended that the blood tests would confirm one or more of these methods. In fact, the levels of dioxin in the blood of veterans who were thought to have high, moderate, and low exposures were found to be the same as the background dioxin levels in the blood of U.S. citizens who had not been in Vietnam or known to have been otherwise exposed. Therefore, OTA concluded that there was no scientific basis to continue the agent orange part of the CDC study. OTA stated, "All the existing data support the fact that most ground troops in Vietnam did not have heavy agent orange exposure, and that those who might have would be exceptions."

Mr. Speaker, this is one piece of information we need. The White House Agent Orange Working Group's review and the three reviews on the VA's mortality study are pending. Mr. Speaker, I and Senator CRANSTON, members of the House and Senate Committees on Veterans' Affairs, Members of Congress, concerned citizens and veterans must together await the whole scientific story. It is particularly correct and proper to await the findings and recommendations of the scientific body which we have directed in law to advise us. I do understand that waiting is painful and I would remind my colleagues that the Congress has granted Veterans' Administration health care benefits—in fact, a guarantee of needed hospital care—for veterans who believe their illnesses are due to exposure to agent orange in Vietnam.

I and Senator CRANSTON will remain in close contact on this most important issue. I know that we share a will to do what is right for Vietnam veterans. I could foresee joint House and Senate hearings if such action could help. I certainly foresee prompt action when valid and accepted scientific evidence is found.

IN RECOGNITION OF WHITNEY HIGH SCHOOL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. DORNAN of California. Mr. Speaker, I rise to express my congratulations to Whitney High School of Cerritos, CA. Whitney High School has been selected by the U.S. Department of Education as one of the nationally recognized secondary schools.

The Department of Education National Recognition Program is very demanding and is an exhaustive and comprehensive examination process. Once nominated at the State level, the school is put under close scrutiny. A panel of nationally recognized teachers and concerned private citizens conduct a detailed look at the school's programs, practices, and policies. This year, special emphasis was given to creative and effective ways of teaching citizenship and the U.S. Constitution. Whitney High was rated as one of the very best.

More than 1,200 schools were considered for this prestigious honor but only 271 were selected. These schools represent the most outstanding public and private schools—the "creme de la creme" of American education. As Secretary Bennett observed.

> Excellent schools like these renew our faith in American education. They have worked extraordinarily hard and, as a result, they have much to show for it.

The award will be presented on Sunday, October 4, 1987. Many of the students will be here to receive this well-deserved recognition. These young people and their teachers have worked hard for this honor and the entire 38th district takes pride in their achievement of excellence.

I am extremely proud to represent the students, faculty, and families of Whitney High School and give them my highest commendation for their success. Whitney High School is proof of the exemplary California education system. Mr. Speaker, I ask my colleagues to join with me in offering our congratulations to this outstanding secondary school.

TRIBUTE TO RURAL COMMUNITIES

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. RAY. Mr. Speaker, I rise today to pay tribute to the ingenuity of our rural American communities who periodically bring together their citizens and others to fellowship, to focus attention on their communities, and to recognize and pay tribute to this great land.

Such a community is Dooly County, Vienna, GA, located in the 3rd Congressional District.

Dooly County gained nationwide attention during the years 1952 to 1957 when its most famous citizen and resident, Senator Walter F. George served as Speaker pro-tempore of the U.S. Senate. Senator George served in the U.S. Senate for 35 years, and in 1957 was appointed special ambassador to NATO by President Eisenhower.

Six years ago, community minded leaders established the Sloysheye Trail, Big Pig Jig Annual Barbecue Cooking Contest. From that beginning, the event has grown and will this year draw over 20,000 spectators, 160 judges, and 110 cooking teams from all parts of the Southeast. It has been officially proclaimed by the Governor as the official barbecue cooking contest of Georgia.

I am not surprised at the success of the citizens of Vienna and Dooly County. Another project which many of the citizens of that area have taken an interest in and are working toward is the restoration of the law office of Senator Walter F. George in Vienna. Working from private donations and State grants the Vienna Historical Society hopes to create a fine memorial for the late Senator.

Mr. Speaker, I believe these two projects demonstrate what rural America can accomplish when community leaders come together on a common goal. The citizens of Vienna and Dooly County are only 13,712 strong but they are to be congratulated for their will and determination in maintaining a vibrant community with respect for family values and desire to preserve Southern heritage.

THE AMERICAN JEWISH COMMITTEE—EARLY ADVOCATE FOR RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LANTOS. Mr. Speaker, 6 years ago this month, the President signed historic legislation making Raoul Wallenberg an honorary citizen of the United States. At this time, as we commemorate and remember that anniversary, it is important as well that we recognize those organizations who have helped make the story of Raoul Wallenberg known here and around the globe.

On July 24, 1979, the American Jewish Committee called a press conference to announce the formation of the International Free Wallenberg Committee by my wife Annette Lantos and Nina Lagergren, the sister of Raoul Wallenberg. We were joined on that occasion by Senators Frank Church, CLAIBORNE PELL, DANIEL PATRICK MOYNIHAN, and RUDY BOSCHWITZ. The AJC showed confidence in this important first effort to call attention to Raoul Wallenberg despite a reluctance of other groups and individuals to support it.

As a result of the organizational support of the American Jewish Committee, the Wallenberg effort continued to gather momentum and impetus. When I introduced the legislation to grant Raoul Wallenberg honorary citizenship, the AJC enthusiastically supported that effort. Over the years the committee has continued to support all efforts to call attention to the story of Wallenberg and to seek his freedom from Soviet prisons.

It is most appropriate, Mr. Speaker, to recognize and acknowledge the dedicated members and leaders of the American Jewish Committee. In particular, I would give special recognition to Mr. Theodore Ellenoff, president of the AJC.

The American Jewish Committee has 50,000 members, and it maintains offices in Israel, France, and Mexico. The organization was founded in 1906 as a human relations agency to protect the civil and religious rights of Jews in the United States and abroad and to advance the cause of human rights for all people.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1987

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. CLAY. Mr. Speaker, today I am introducing a new bill (H.R. 3400) entitled the

"Federal Employees' Political Activities Act of 1987." This bill revises the Hatch Act to permit Federal and postal employees the right to participate voluntarily in political activities. The legislation I am introducing today combines, simplifies and clarifies two bills (H.R. 20 and 21) which I introduced earlier this year. The new bill is the result of a bipartisan agreement.

A summary of the bill's provisions follow:

1. *Rule Against On-the-Job Political Activity.* Federal employees cannot engage in any political activity while on duty, in a Federal facility, in their uniform, or while using any vehicle owned or leased by the government. The rule against on-the-job political activity applies to Executive Branch, competitive service, and Postal Service employees except the President, Vice President, and certain high level political appointees. Appointees exempted from the ban on on-the-job political activities cannot use taxpayer's funds to pay for any political activity. The term "political activities" will be defined in regulations to be issued by the Special Counsel.

2. *Rules Against Official Coercion.* Federal employees cannot use official authority or influence to interfere with the result of an election or to intimidate any individual to vote or not to vote, to give or withhold a contribution, or to engage or not engage in any political activity. Federal employees may not use official information for any political purpose, unless the information is available to the public. Federal employees may not give, receive, or solicit a political contribution from or to a superior or in a government building. Federal employees may not knowingly solicit, accept, or receive a contribution from a person who has or is seeking a contract with the employee's agency, is regulated by the agency, or has interests which may be affected by the performance of the employee's duties. The various criminal prohibitions relating to elections and political activities contained in Chapter 29 of title 18, United States Code, are conformed.

3. *Running for Office.* Other than these restrictions, Federal employees could engage in any legal political activity off the job. Employees may run for office without taking leave, as long as the campaigning does not interfere with the performance of their duties. An employee who requests leave without pay or annual leave for the purpose of running for office can only be denied such leave by agency management based on the exigencies of the public business.

4. *Endorsements.* Federal employees can endorse and solicit funds for candidates. In advertisements and campaign literature, they can be identified as Federal workers, but not by job title.

5. *Enforcement.* The Special Counsel issues regulations and advisory opinions and enforces the administrative prohibitions concerning political activity. Criminal enforcement remains with the Justice Department. Actions brought by the Special Counsel are brought under the general disciplinary action procedures of 5 U.S.C. 1207. The Merit Systems Protection Board could impose any penalty provided by that section.

THE NATIONAL DAY OF THE REPUBLIC OF CHINA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. TOWNS. Mr. Speaker, on October 10, 1987, the Republic of China on Taiwan will be celebrating the 76th anniversary of the founding of their nation. History books tells us that China in 1911 was backward, poor, and feudal. It was Dr. Sun Yat-sen who overthrew the Manchu government and ushered in modern China, a country based on the principles of promoting the peoples' welfare above all other considerations.

Today, Taiwan has one of the highest standards of living in Asia, reaching a per capita GNP of $4,700. This year's economic growth is expected to exceed the spectacular growth of last year's. Politically, it has a constitutional democracy and is on the road toward full democracy.

We here in the United States Congress admire Taiwan's success and we wish President Chiang Ching-kuo the best of luck as he leads his nation to even greater economic and political successes.

H.R. 1777

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. YATRON. Mr. Speaker, on June 18, 1987, Congress unanimously passed an amendment to the State Department authorization bill, H.R. 1777, denouncing human rights violations in Tibet by the People's Republic of China. His Holiness the Dalai Lama, the exiled leader of the Tibetan people, recently expressed how significant this legislation was to Tibetans during his visit to Washington. Through our action, thousands of individuals who have been oppressed by the People's Republic of China were given renewed hope that one day their religious and political beliefs would be afforded them.

The impact of this amendment, as well as the warm reception given to the Dalai Lama, sent shock waves through the People's Republic of China. The Chinese Government did not believe that the Dalai Lama should be permitted to espouse his philosophy as the spiritual leader of Tibetans while in the United States. Following the Dalai Lama's visit, at least two Tibetan nationalists were executed. I believe this was a message, not only to the Tibetan people, but to the United States that the Chinese Government does not intend to change its heinous policy toward Tibet.

Our actions regarding Tibet were long overdue. But now that we have taken this enormous first step, we must continue to fight against the outrageous human rights violations these people have endured. No longer can we allow the condition in Tibet to remain as it is, simply because it has been that way for a long time. The People's Republic of China, as well as any other government, should be made to realize that the U.S. Congress will speak out against injustice wherever it is found. It is my hope that the Beijing will heed our very strong and very sincere words regarding the well-being of the Tibetan people.

OCTOBER 10, 1987—TAIWAN'S NATIONAL DAY

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. LUJAN. Mr. Speaker, as our Taiwan friends celebrate their 76th National Day on October 10 of this year, we in the United States Congress wish to assure our Taiwan friends that we applaud their political reforms, appreciate their efforts in reducing their trade surplus with us, and we pledge to work out our differences with them amiably—to the satisfaction of both the Republic of China and the United States. We also wish to pledge to them that we continue to support a free and prosperous Taiwan as stated in the Taiwan Relations Act of 1979.

A TRIBUTE TO MRS. MARY LOUISE COOK

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. SAXTON. Mr. Speaker, as the Representative from the 13th District of the State of New Jersey, I rise today to honor Mrs. Mary Louise Cook, a resident of Harvey Cedars, NJ.

The fishermen and their families and other residents of the coastal communities of Long Beach Island are taking time out of their busy schedules to recognize Mary Louise Cook for her enduring services to seafarers. To the seafarers, Mrs. Cook was "a link to civilization." Mrs. Cook will be honored at a dinner dance at the Barnegat Light Firehouse on October 3, 1987.

Mary Louise Cook, radio call sign "KZJ332," relayed by radio messages from seamen at sea to their families at home for many years. Mrs. Cook has withstood many coastal storms on Long Beach Island processing and has transmitted emergency information on her radio system which has a range of 15,000 miles. She has also served as a receiver and transmitter of emergency information for the U.S. Coast Guard. Mary also has, via her radio system, reported offshore weather conditions from vessels at sea and reports them on a daily basis to the National Weather Service.

Mary Louise Cook, affectionately known as "Sand Dollar," has been honored for her services to mariners by many groups including: the U.S. Coast Guard, the National Weather Service, the Long Beach Island Kiwanis Club, and many others. She has received an outpouring of appreciation from fishermen and her community.

It is with great pleasure, Mr. Speaker, that I take this opportunity to honor Mrs. Mary

Louise Cook for her outstanding and vital community services for the people of Long Beach Island and the mariners at sea.

TAIWAN'S 76TH NATIONAL DAY

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. ESPY. Mr. Speaker, Saturday, October 10, 1987, will be celebrated as the 76th National Day of Taiwan, and it is important that I bring this observation to the attention of my colleagues in Congress.

This year Americans celebrate the 200th anniversary of the signing of the Constitution. We are a proud and industrious people, and we are humble and generous. As a freedom loving Nation, America has always welcomed and supported the hard working democracies around the world, and we share in the spirit and celebration of Taiwan's 76th National Day.

I had the pleasure of visiting this island nation which is about the size of my Mississippi district, and I was impressed with the industriousness and persistence of its people. The Government of Taiwan has embraced the basic elements of democracy and is making lasting changes in its society to further democratic ideals.

Mr. Speaker, the Government of Taiwan has exercised the philosophy of business partnerships between itself and the private sector. It is working and the private enterprises are developing an independent fiscal standing. The hard-working people of Taiwan have amassed $60 billion in foreign reserves. By this example, we are given the best sign that on its 76th National Day, Taiwan is continuing its economic and political development.

As Ambassador Fredrick Chien recently reminded me, that only 38 years ago Taiwan was an impoverished island country, without natural resources or money. And in this short period, the world has witnessed an economic miracle.

Our special congratulations are sent to President Chiang Chingkuo and the people of Taiwan.

THE FISCAL 1988 CONTINUING APPROPRIATIONS BILL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. PACKARD. Mr. Speaker, last week Congress passed House Joint Resolution 362, the fiscal 1988 continuing appropriations bill. In doing so we denied to the citizens of this great Nation their right to be heard. By rolling many spending measures into one huge bill the process of debate and deliberation on specific issues is abandoned. That we even need to pass such a measure at all is inexcusable.

Year after year Congress fails to meet its own self-imposed budgetary deadlines. Not since 1956 has Congress lived up to these deadlines. No one can say we're not consistent.

Instead of doing the job we were all elected to do, we spend our time devising ways to avoid that job. We pass laws that give to faceless government bureaucracies the authority to make arbitrary decisions about this country's fiscal priorities.

I call on my colleagues and particularly the majority leadership to end their political games playing and to make a commitment to do the job they were elected to do.

A TRIBUTE TO JUDGE DAVID J. DIXON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. SKELTON. Mr. Speaker, Missouri has lost a fine man and an outstanding judge. On July 21, 1987, Judge David J. Dixon of the Missouri Court of Appeals passed away at the age of 64. Judge Dixon had served on the Missouri Court of Appeals since 1972 and was presiding judge in 1972 and 1973. He served three terms as prosecuting attorney of Johnson County, MO, from 1961 to 1967 and was elected circuit judge of the 17th judicial circuit in 1968.

As a former prosecuting attorney myself, I admired David J. Dixon's longstanding success as a Missouri judge. And I was certainly not alone in my admiration of Judge Dixon, who was the recipient of the Missouri Bar Association's President's Award and the Spurgeon Smithson Award in 1982. An outstanding man, Judge Dixon also was active in a number of legal associations as well as civic and church groups.

Judge David J. Dixon, a native of Kansas City, MO, was admired and loved by many. I join them in extending the most sincere sympathies to his wife, Mary Riggs Dixon, his three children and two grandchildren.

SAFEGUARDING THE AMERICAN DREAM

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BRYANT. Mr. Speaker, as we in Congress and throughout the United States of America celebrate the 200th anniversary of our Constitution, each of us, I am sure, has considered what this unique document has given us.

Julie Dam, a 10th grade student at Skyline High School in my congressional district in Dallas County, TX, had a special perspective on this historic document, which she has shared with her fellow Americans. Julie is one of six national winners of the CBS "We The People" student writing competition. Her brief statement of what the Constitution means to her has been aired on CBS and KDFW-TV in Dallas.

I share with you Julie's special message about and for America:

> The Constitution is the calling card for the land of opportunity and justice. The freedoms that this document entails are those that my family so desperately sought for while fleeing from political oppression from Vietnam. We knew that the Constitution would protect our rights. It has never let us down. The Constitution is the foundation for a country of individuals eager to grasp its freedoms and opportunities, as it is now and will remain so for generations to come. Most of all, to every American of whatever race or origin, it is the safeguard of the American dream.

YOM KIPPUR HUNGER STRIKE FOR SOVIET REFUSENIKS

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Ms. SLAUGHTER of New York. Mr. Speaker, this Saturday is Yom Kippur, the holiest day of the year for Jewish people throughout the world. It is a time for families to come together, to fast together, to pray together.

Yet too many families will not be able to share this sacred holiday because the Soviet authorities have denied visas to thousands of Jews wishing to join their family members in other parts of the world.

Today, in front of the Soviet Embassy at 12:30, a dedicated group of supporters and family members of refuseniks will gather to begin their Yom Kippur fast early, protesting the Soviets' inhumane treatment of Soviet Jews. They will be joined in their hunger strike by refuseniks in the Soviet cities of Moscow and Leningrad, family members of the hunger strikers here in Washington.

Hunger is a feeling of emptiness, not unlike the emptiness felt by these families who wish to be reunited. But the emptiness of hunger is temporary. How can it compare to to the gnawing pain felt by a grandfather who has never held his only grandchild or a daughter who may never see her mother again?

I ask my colleagues to join me today, in the spirit of those fasting in three different cities, to rededicate ourselves to reuniting these divided families who hunger for the love and support only a family can provide.

AMERICA WANTS AND NEEDS NUCLEAR POWER

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. ARMEY. Mr. Speaker, I rise today to talk about the future of the American nuclear power industry. During the summer months, the House of Representatives considered two pieces of legislation that will influence the future direction of this vital industry. I'd like to take this opportunity to discuss some of the key elements of those debates.

The first of these, the Price-Anderson Amendments of 1987, resulted in a bipartisan compromise that places limits on industry liability while providing for a tenfold increase in the insurance pool for potential victims of nuclear accidents. Following the passage of this important legislation, the House considered the Nuclear Regulatory Commission reauthorization bill. This debate focused primarily on an amendment by Representative MARKEY that would have prohibited the licensing of the Shoreham and Seabrook Nuclear Power Plants. In defeating Mr. MARKEY's amendment, the House allowed these vital projects to move forward and demonstrated its resolve to enhance America's energy security.

Like the majority of Members in this body, I believe that nuclear power must remain an integral part of our national energy policy. With oil imports reaching nearly 50 percent of aggregate U.S. consumption, and with the tenuous conditions that exist in the Persian Gulf, the responsible vote was a "yea" vote for nuclear power.

In a recent survey of 1,500 Americans sponsored by the U.S. Council for Energy Awareness [USCEA], nearly 80 percent of those polled believe that nuclear power is critical in meeting this country's future electrical needs while approximately 70 percent is a "realistic choice as an energy source for large-scale use." Moreover, 80 percent were in agreement that the Federal Government—and not the States—are better able to regulate nuclear plant safety.

With this in mind, I commend to my colleagues' attention a fine article by Warren Brooks, "Duking the Nukes," that illustrates the hardhips that can occur when State governments resist Federal efforts to promote the national interest:

[From the Washington Times, Sept. 23, 1987]

DUKING THE NUKES—CRISIS GENERATED BY STALLED PLANT

(By Warren Brookes)

Sometime in the none-too-distant future, it is likely that New Hampshire's giant Public Service Co. will have to file for protection from its creditors.

While there is plenty of blame to go around, the man most immediately responsible is Gov. Michael Dukakis of Massachusetts, whose refusal to file an evacuation plan for the six Massachusetts communities within 10 or 15 miles of PSC's Seabrook nuclear power plant is the only thing now preventing that $3.2 billion facility from "powering up" its 1,100 megawatt reactor.

Last October, the Nuclear Regulatory Commission granted Seabrook a 40-year operating license subject to development of a satisfactory emergency response plan (evacuation), and concluded after 8,000 hours of physical plant examination.

"The licensee's overall performance reflected not only a commitment to safety and quality construction, but also evidence of effective planning and conduct of activities directed toward fuel load and safe operations thereafter."

But the Dukakis administration, once a supporter of nuclear power (1975-78), is suing the NRC to stop final certification and operation, even though Seabrook's fuel loading and zero power testing have long been completed. This is because both the NRC and PSC are considering reducing the "emergency zone" to one mile, thus circumventing the Massachusetts stonewalling.

On Aug. 5, Massachusetts Democratic Rep. Edward J. Markey, acting on behalf of Mr. Dukakis, tried to get Congress to pass a bill that would have allowed local authorities to block nuclear start-ups indefinitely, by extending the safety zone to 25 miles.

He was soundly defeated in both the House and the Senate, but not before he actually threatened Prudential-Bache Securities with a congressional inquiry because it had prepared a report predicting "a greater than $100 billion reaction in the financial markets" to the Markey proposal if it had been adopted, because it would threaten the survival of 12 percent of the nation's electrical power, and 28 percent of New England's electricity.

At the height of this debate a letter signed by eight Nobel Laureates—in physics, chemistry and medicine—told Congress "there is no scientific or technical basis to block the operation of nuclear power plants on the ground of emergency planning difficulties."

The letter said "the risk of reactors of the Seabrook generation having an accident with a sudden large release of radioactivity is on the order of one in a billion per year. . . . This is about 10,000 times safer than the hazard encountered each time you ride a commercial aircraft."

So, to pander to irrational fears, Mr. Dukakis is now putting the Massachusetts economy at even greater risk. This past summer the Greater Boston Area experienced substantial "brownouts," or cutbacks in power. This is because even with Seabrook and the Pilgrim nuclear plant in Plymouth operating, the New England energy capacity would have barely met its required load factor.

But, without Seabrook, and with Pilgrim still shut down for repairs, New England is about 1,200 megawatts short of required capacity, and major industrial companies like Gillette, General Electric, Raytheon and Digital are operating on "planned power interruption" contingency schedules. This shortfall will escalate to 4,200 megawatts by 1995, even if growth in power demand slows to half its present 4 percent rate.

Last January, Charles Gray, chief counsel of the National Association of Utility Regulators, said: "The accepted wisdom here in Washington is that New England is the region likely to have a capacity crisis before anywhere else. New England more than any other region of the nation needs new sources of power. And conventional wisdom also says you can't build a power plant in New England any more."

Perhaps the greatest irony is the disaster about to befall the 22 Massachusetts towns that now are part of the Massachusetts Municipal Wholesale Electric Co. started in 1975 by Mr. Dukakis to give those towns with their own electric utilities access to the larger electricity markets, a plan that included buying an 11.6 percent share of the two Seabrook plant projects.

NEW ENGLAND'S DEVELOPING POWER CRISIS

[Megawatts—assumes only 2.2 percent demand growth a year; 1983–87 actual growth is 4.3 percent a year]

	1987	1990	1995
Total Load	18,491	19,494	21,664
Required capacity (peak)	23,040	23,217	26,430
Planned capacity	23,728	24,575	25,711
Less Seabrook and Pilgrim Nuclear Plants	1,900	1,900	1,900
Less Quebec Hydro[1]			1,500
Net capability	21,828	22,675	22,311
Shortfall	1,212	542	4,119

[1] Now consider "iffy" at best.

Source: Foundation for Economic Research—New England Governor's Conference (December 1986 report by NEPOOL)

On Sept. 1, 1987, one of MMWEC's participants, tiny Eastern Maine Electric Cooperative, on behalf of whom MMWEC now holds about $20 million in Seabrook debt, went bankrupt, the first casualty of the emotional terrorism waged against the nuclear plant at Seabrook.

Closer to Mr. Dukakis' home, Hudson, Mass., owes some $62 million for Seabrook and faces an immediate 44 percent rate increase just to keep those bonds going, or an even bigger hit if they default. One of those at risk is Digital Equipment Corp., the state's largest employer, which owns two large plants in Hudson.

This may well explain why, despite its otherwise humming service and financial sectors, over the last 30 months through June Massachusetts' industrial employment has fallen from 682,000 to 607,500, an astonishing 11 percent loss, five times the 2.2 percent national loss.

Could it be that industry is making a conscious decision to avoid the power crunch that is coming?

If so, what does this tell us about Mr. Dukakis' real economic leadership under political heat?

Even without any evacuation plan, the Seabrook risk is put at five fatalities per year per 58 million population—nearly six times as safe as the NRC's own safety goal of five per 10 million, and 5,800 times as safe as everyday life, in which there are five fatalities per 10,000 population a year from accidents.

This is why New Hampshire Gov. John Sununu, one of the best in the country, was willing to risk his political career last year to hang in for Seabrook and New Hampshire's economic future—while Mr. Dukakis was willing to risk that future for his own political advantage among New Hampshire Democrats.

AD HOC GROUP AGAINST CRIME CELEBRATES 10TH ANNIVERSARY

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. WHEAT. Mr. Speaker, in November this year, the Ad Hoc Group Against Crime in Kansas City, MO, will be celebrating its 10th anniversary of service to the community. The ad hoc group has been a model volunteer organization of people helping each other to raise the level of awareness and combat the spread of crime in their community.

The ad hoc group was originally formed in 1977 after the murders of 10 young women in the black community. It's purpose was to convey the frustrations and concerns of the black community to what was perceived to be insufficient efforts on the part of the police department to pursue investigations of the murders. After meeting with some success in this endeavor, the ad hoc group expanded its mission to improve overall relations between the black community and the police department.

The ad hoc group has established itself as an effective partner with the police department in the battle against crime. Staffed by volunteers, it has used donations to create a reward fund, a Victim Assistance Program, and a Secret Witness Hotline.

Over 350 suspected dope houses have been identified to the police department, which has responded by confiscating drugs and money from the houses. Ten different task forces are presently working dilligently to study crime-related problems in the community and recommend remedial action to local policymakers.

Through these and a host of other activities, the ad hoc group has played a pivotal role in educating the community to the roles and responsibilities of the police, the courts, and citizens themselves in fighting crime. Equally important, the ad hoc group has increased the sensitivity of these public institutions to the needs and concerns of the black community.

After 10 years, the Ad Hoc Group Against Crime can proudly claim to have made the neighborhoods it serves safer, the citizens it serves more secure. Much has been accomplished, and much remains to be done. I am certain that the ad hoc group will meet this challenge. As a citizen of Kansas City, MO, I salute the leadership of the ad hoc group in improving the quality of life in this special city.

THE 100TH ANNIVERSARY OF PROTECTION MUTUAL INSURANCE CO.

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. HYDE. Mr. Speaker, Protection Mutual Insurance Co. of Park Ridge, IL, is one of the institutions in my congressional district of which I am most proud. The firm recently celebrated its 100th anniversary at which I was pleased to attend and speak.

Protection Mutual is the third oldest domestic insurer incorporated in Illinois, and for 100 years PMIC has been an essential participant in a long tradition of loss prevention and mutual insurance.

With the advantage of hindsight, Protection Mutual peers back at past memories; at the same time, it looks ahead with keen anticipation to the promises of the 21st century.

Protection Mutual, together with the Factory Mutual System, will continue to execute its two primary objectives: improving loss preventive efforts for policyholders and providing recompense for unfortunate companies that suffer disasters.

I know my colleagues will want to join with me in congratulating this fine organization on its centennial anniversary.

DISCHARGE PETITION FOR THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. CRAIG. Mr. Speaker, today, Congressman CHARLES STENHOLM introduces a discharge petition to discharge House Joint Resolution 321 to the floor. This resolution is a constitutional amendment that will require a balanced Federal budget.

House Joint Resolution 321 has 236 cosponsors and demonstrates true bipartisan support for a balanced budget amendment, but the leadership has shown no willingness to bring this measure to the floor. A discharge petition is the only way this House can work its will.

Last week we adopted a new Gramm-Rudman schedule to lead toward a balanced budget, but that event was not encouraging. The targets for major budget cuts were delayed and the target for a balanced budget was pushed back another year.

Today we have no guarantee that before the real budget cutting begins that those targets will be readjusted again and the deadline for a balanced budget will be further delayed.

The logical compliment to the Gramm-Rudman law is a constitutional amendment to balance the budget. It would force us to realize the 1993 target for a balanced budget and it would guarantee that we will maintain a balanced budget once we have gone through the painful Gramm-Rudman process.

I encourage all of my colleagues to sign Congressman STENHOLM'S discharge petition on the balanced budget constitutional amendment.

CONGRATULATIONS TO THE REPUBLIC OF CHINA ON ITS 76TH BIRTHDAY

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. HERGER. Mr. Speaker, I want to take this opportuntiy to congratulate the Republic of China on the occasion of its 76th birthday. I think that all of us in this body would agree that the economic success story of their nation has proven that a free market is by far the best recipe for economic growth and competition in our interdependent world economy.

During a recent trip to the Republic of China, I met with a number of public officials, citizens, and businessmen and strongly reiterated my support for free international trade. I reassured them that I support a tough U.S. trade strategy which would open rather than close international markets. Inevitably, protectionism would harm, rather than help our economic situations and could lead to an all out trade war. Instead, negotiations must be the basis for any problem-solving, and I was glad to see that our friends in Taiwan agreed. It is absolutely imperative that all nations of the world learn that only through a complete and open dialog on the important issue of trade will we be able to effectively prevent the kind of economic disaster that could result from an international trade war.

As we all know, expanding economic relations with Taiwan has been an important aspect of the Reagan administration's trade policy. Americans continue to purchase Taiwanese products, and I am hopeful that our friends in the Republic of China will soon be enjoying more American products, such as our fine Napa Valley wines from California.

We Americans share in the celebrations going on in the Republic and are impressed by the Republic's success in preserving individual freedoms in the face of extraordinary pressure from the Communist government on the mainland. Hopefully, someday everyone of Chinese descent will have the privilege of living under a system that places paramount importance on the rights and liberties of its people.

I extend my heartfelt congratulations to the Republic of China on this landmark occasion, and gladly offer by best wishes for another successful 76 years.

TRAPPED BEHIND THE WHEEL

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mrs. KENNELLY. Mr. Speaker, under this headline, on July 20, Newsweek ran an article about mounting traffic problems, detailing several increasingly common horror stories. U.S. News & World Report devoted their cover story on September 7 to "Jam Sessions"—the traffic messes that are getting much worse around the country. Clearly, not all of the Nation's transportation problems this summer were in the air.

The State of California, according to Newsweek, has estimated that 300,000 work hours are lost each day in that State due to traffic jams, at a daily cost of $2 million. U.S. News points out that the share of rush hour traffic on urban interstates considered congested has increased 25 percent over the last 10 years. What's more, 76 major metropolitan areas in this country will not be able to meet the December 31, 1987, Clean Air Act deadlines for carbon monoxide and ozone—and they might never be able to do so unless they can get more cars off the road.

The reasons for traffic gridlock are many. One is that more people live and work in areas for which there are no traditional public transit connections. Another is that many people need a big incentive to take a bus or subway, given our strong devotion to the automobile. I intend to introduce legislation next week that will give employers some incentives to help solve these problems. My bill will restore Federal tax incentives for employer-sponsored vanpools and improve current tax law treatment of employer-provided discounts for mass transit use.

Prior to 1986, the Tax Code allowed employers to set up vanpool programs for employees as a tax-free fringe benefit, as long as the program was available on a nondiscriminatory basis. Now that the provision expired, to continue the program the employer must determine the fair market value of the transportation, deduct any payments made by the employees, and report the difference as imputed income to the employee on his or her W-2 form. Not surprisingly, many employers are deciding they would rather avoid this paperwork hassle than provide alternatives to drive-alone commuting.

Current law now allows employer-provided discounts of up to $15 per month for mass transit costs to be taxfree to the employee. In many communities, however, this is an insufficient amount to encourage employees to get out of their cars and take buses and subways to work. Yet, under current rules, if the employer provides a larger discount, the entire amount is taxable as income to the employee.

My bill will reinstitute the provision of the Tax Code that allowed the value of qualified vanpool program benefits to be excluded from the income of employees. In addition, the bill will raise the limits on mass transit assistance to $45 per month in order to promote greater utilization of this benefit in communities with higher transit costs. The bill is supported by the Association for Commuter Transportation and the American Public Transit Association.

HEART, DEDICATION, AND CLASS

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BADHAM. Mr. Speaker, recently my colleague from Minnesota noted that his team, the Minnesota Twins, was going to go to the playoffs. While baseball is not the most pressing issue facing Congress, it truly is an American phenomenon and it is probably better for the country that we spend time talking about it, rather than talking about new ways to regulate and tax society.

Therefore, I want to bring to the attention of the historic 100th Congress the feat of what truly is a hometown team, the Irvine Northwood all-stars. The all-stars became the No. 1 little league team in the United States this year.

Mr. Speaker, the accomplishments of this team represent the best that the United States has to offer. Although they did not fare well against a superteam from Taiwan in the final game of the Little League World Series, they showed heart and dedication and class.

By the third inning of the semifinal game, their top two pitchers were unable to pitch—one was ineligible because of rules to save kids' arms and the other was hit by a pitch as he batted. The catcher took to the mound and Northwood beat Chesterfield 8–1.

The support from all Orange County and southern California for this team was outstanding. There are 2.5 million little leaguers in the world and this team made it to the world championships. The Northwood all-stars are a tribute to California and to the Nation. I'm sure my colleagues join me in saluting them.

THE MEMORIAL DAY FOR VICTIMS OF COMMUNISM

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. WORTLEY. Mr. Speaker, this November 7 marks the 70th year of Communist rule in the Soviet Union. On this day the Untied States should make a special point of remembering the victims of Soviet communism, and the victims of other Communist nations which have followed the Soviet example.

For this reason, I am sponsoring legislation to designate November 7, 1987, as "The Memorial Day for Victims of Communism." Communism is a totalitarian system of government which, like other totalitarian systems, deprives its people of their traditions, freedoms, and civil rights. Its implementation can be brutal: between 40 and 60 million people are estimated to have died under Soviet Communist tyranny, from the farmlands of the Ukraine to the Siberian gulags. The only equality for the Soviet people today is that of equal oppression, both economically and politically.

And the suffering is not over, or just confined to the borders of the Soviet Union. Earlier this month, Ethiopian despot Col. Mengistu Haile Mariam of Ethiopia declared his country to be a "people's democratic republic," a euphemism for communism. Under Colonel Mengistu, his country's economy has been ruined through collectivized farming and statist economic policies. Of 600,000 Ethiopians forcibly ordered to resettle from the northeastern provinces to the extreme southwest of the country, 100,00 are dead, mostly due to starvation. Such actions have prompted my colleagues, Representatives WILLIAM GRAY and TOBY ROTH to introduce legislation to apply economic sanctions against the Mengistu regime.

The small steps of reform taking place under the present Soviet regime have brought hope to many in the West. Nonetheless, these changes should give us no reason to abandon our strong, historical, and bipartisan antipathy toward communism, or our sorrow for its victims. This joint resolution, supported by the Congress of Russian-Americans and its over 4,000 members and 27 chapters nationwide, would serve to provide Americans an important and necessary forum on this issue. Last year, the Congress of Russian-Americans successfully worked with Governors in some 11 States to issue similar proclamations. This year, the Federal Government should do its part.

In addition, although we are optimistic about United States-Soviet cooperation on arms control, we must not forget that Marxist-Leninist doctrine determines the way Soviet citizens and other peoples oppressed by communism will live their everyday lives. We must never stop pressuring the Soviet Government to honor its commitment to the Helsinki Accords, and to treat its citizens in a more just and humane manner. It is true that the future of mankind is not a unilateral issue in this age of technology and the atom; we all bear responsibility for our common future. But, as stated in a resolution adopted by the Congress of Russian-Americans, "[Peace] can only be guaranteed by the universal observance of Divine and man's laws, safeguarding certain absolute rights of an individual."

I urge my colleagues to support this effort to make November 7 a reminder of the suffering endured by those forced to live under the oppression of a Communist government, especially those who have had the courage to disagree with their government and are currently being punished for this "crime."

THE RETIREMENT OF FRANK WALLICK

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. JONTZ. Mr. Speaker, I wish to take a moment today to note the retirement of Frank Wallick who for the past 25 years has edited the United Automobile, Aerospace, and Agricultural Workers' Washington Report. Frank Wallick has exemplified the best of trade union leadership.

In 1963, Frank came to Washington from the ranks of the UAW having learned the lessons of union solidarity in the bitter Kohler strike. But Frank had a vision of unionism which went beyond the immediate economic demands of his union's members. He understood that collective bargaining alone cannot meet all the economic and social needs of working people; that a political and social program were also necessary.

Frank worked with and wrote about a broad range of social activities including senior citizens, environmentalists, farmers, and consumer advocates. He brought the perspective of the labor movement to its allies and an understanding of their views back to the labor movement. He championed civil rights, the protection of our environment, and occupational safety and health. More recently Frank zeroed in on the erosion of decent jobs in this country, and the disastrous effects many of the Reagan administration's policies have had on America's working people.

Mr. Speaker, I was honored this past year when Frank Wallick visited Indiana's 5th District, accompanying me to lunch with senior citizens at a senior housing project in Kokomo, stopping with me at a coffee shop to hear the concerns of union members, and generally observing life and politics in America's heartland. It was clear to me then, as it is clear to all who know Frank, that he is a true friend of our nation's working people.

My congratulations to Frank Wallick on the completion of an outstanding career in the labor press; let us all wish Frank a long and happy retirement.

A RESOLUTION FOR "PAN AM SHUTTLE DAY"

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to place in the CONGRESSIONAL RECORD a proclamation declaring October 1, 1987, "Pan Am Shuttle Day." Pan Am's shuttle service brings both quality and convenient airline transportation to New York, Boston, and Washington, DC. After completing its first year, Pan Am Shuttle Inc. provides a comfortable onboard environment and courteous staff to a steadily increasing number of passengers. Moreover, the shuttle service has an on-time record of 91 percent. Its hourly service has proved invaluable in meeting the daily transportation needs of the population along the eastern seaboard.

As the largest based New York City airline, the Pan Am shuttle service enhances the value and spirit of competition in New York and neighboring areas. Since the Pan Am Corp. officially began its operation 47 years ago at New York's LaGuardia Airport, it has played a vital role in fostering the economic stability of the region by providing employment, transit support to local business and citizens, and a complement to other modes of transportation. The establishment of Pan Am Shuttle Inc. demonstrates the corporation's continued role in New York and sister cities and encourages other organizations to follow suit.

Quality transportation is vital to the functioning of our modern society. By servicing the heavily trafficked Boston-New York-Washington, DC. shuttle market, Pan Am has demonstrated its commitment to managing our vastly growing transportation needs. Therefore, I invite my colleagues to join me in commemorating the first anniversary of Pan Am Shuttle, Inc.

CITATION

New York State salutes Pan Am Shuttle, Inc. in recognition of its historic contribution to the commerce and economic development of our State and Nation.

The Pan Am Shuttle, Inc., a subsidiary of Pan Am Corporation, began operation on October 1, 1986. It operates out of LaGuardia Airport's Marine Air Terminal, where Pan American World Airways, Inc. officially inaugurated Pan Am operations 47 years ago with the first flying boats.

Having steadily increased the number of its passengers, the Pan Am Shuttle, Inc. now carries a significant percentage of shuttle travelers in the New York-Boston-Washington, D.C. shuttle route.

The Pan Am Shuttle, Inc. can take great pride in its record of quality and on-time performance, as evidenced by a 91 percent on-time record for the first year of operation.

Now, therefore, I, Mario M. Cuomo, Governor of the State of New York, in recognition of the Pan Am Shuttle's First Anniversary, do hereby confer this Special Citation upon Pan Am Shuttle, Inc.

BRAZILIAN VIRGIN FOREST FLOODED

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. MILLER of California. Mr. Speaker, it has come to my attention that the flooding of the reservoir behind the newly constructed Balbina Dam in Brazil has begun. This project, which was opposed by conservationists in Brazil and in this country, will flood some 1,600 sq. kilometers of virgin forest with untold devastation on wildlife and native peoples.

It is disturbing to me that the destruction of so much forest land continues in South America and elsewhere.

Forest systems such as those found in Brazil are among the richest ecosystems in the world—providing a rich and diverse variety of plant and wildlife, energy in the form of fuelwood, pharmaceutical products, wood products, and other benefits such as flood and erosion control. Loss of forests has been tied to the so-called greenhouse effect and the increases in global temperatures.

I understand that additional dam construction is planned in Brazil. Given the extreme international importance of preserving remaining tropical forests, I would urge the Brazilian Government to reconsider plans it has for future dam construction.

We have learned here that the long-term costs associated with some dams can far outweigh the short-term benefits. I am sure that will prove to be the case with regard to dams which will flood and destroy large acreages of forest lands.

There are a number of initiatives underway to slow and to halt the destruction of tropical forests. Some involve limitations on loans for certain projects from international lending institutions. Others involve international "conservation easements" and swapping debt for land protection. I applaud those involved in seeking innovative and realistic solutions to the destruction of forests around the world.

AN EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. ORTIZ. Mr. Speaker, I rise today to explain for the record why I will not be in Washington later this afternoon and next week to cast votes on a number of important legislative matters.

As you may recall, I joined several members of the congressional Hispanic caucus on a trade mission to Japan and Taiwan earlier this year. I participated in that trip for a number of reasons, primarily because I wanted to encourage relations between businesses in those countries and businesses in my congressional district.

Bringing jobs to south Texas has been one of my highest priorities as a Congressman. Economic development and expansion is necessary to improve our hard-hit economy and I have worked diligently with public officials and community leaders to bring new jobs to all areas of my congressional district. Beginning today and continuing through the middle of next week, I will be able to take concrete steps to encourage economic development in south Texas.

This weekend and next week I will have the privilege of joining south Texas community leaders in hosting a delegation of Taiwanese and Japanese businessmen that I met during my trip overseas last month. These two separate groups will be traveling to south Texas to meet with area leaders to discuss business opportunities that will create jobs as well as reduce our trade deficit.

These groups, representing a variety of business interests will be traveling throughout my congressional district at my invitation and I feel that it is necessary that I accompany them. Therefore, I will not be in Washington next week to vote on pending legislation. However, I will be representing my district and doing what I have been elected to do: bringing much needed jobs and economic development to south Texas.

FAREWELL TO AMBASSADOR NIZAR HAMDOON

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1987

Mr. BEREUTER. Mr. Speaker, recently the Iraqi Ambassador to the United States, Nizar Hamdoon, returned to Iraq to assume the post of Deputy Foreign Minister. If Mr. Hamdoon proves to be as capable in his new position in Baghdad as he was here in Washington he could be a formidable force for peace in the Persian Gulf.

Many of my colleagues are acquainted with the exemplary diplomatic skills shown by Ambassador Hamdoon during his tenure here. Washington was his first assignment in his nation's foreign service. He came to Washington in 1983 to head the interests section and was designated Ambassador when full relations were reestablished in 1984 after a lapse of 17 years. In the space of 3 years he was able to establish wide contacts and credibility with many Americans both on Capitol Hill and throughout our country. In fact, he visited a total of 31 States, meeting with every imaginable group.

Ambassador Hamdoon's energic efforts to learn this country's political mood, both official and public, served him well. During the revelation last fall that the United States, officially neutral in the Iran-Iraq conflict, was found to have secretly sold large quantities of sophisticated weapons to Iran, Ambassador Hamdoon handled the situation with generous diplomatic reserve. He made very clear his government's displeasure, but was restrained in publically criticizing the Reagan administration.

As a consequence, Ambassador Hamdoon's personal credibility was an especially important asset when the tables were turned during the tragic, accidental Iraqi attack on the U.S.S. *Stark*, which resulted in the deaths of 37 U.S. sailors.

As a member of the Europe and Middle East Subcommittee of the House Foreign Affairs Committee, I commend Ambassador Hamdoon for making a lasting contribution to the betterment of United States-Iraqi relations during a very difficult period.

SENATE—*Friday, October 2, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by the Honorable Wendell H. Ford, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Come unto me, all ye that labor and are heavily laden, and I will give you rest.—Matthew 11:28.

Loving, Heavenly Father, this has been a difficult and frustrating week—long hours, controversy and conflict, indecision, disappointment, and for some nonfulfillment. Not only have the Senators and their staffs and those who labor in and around the Senate Chamber worked very hard—their families have felt the impact as it has resonated throughout these buildings into their homes. We pray for spouses and children. Thank You, Lord, for their patience in disappointment. Help us all to realize "as goes the home so goes the Nation." When the family disintegrates, the Nation disintegrates. Save us from the contradiction of winning some battles but losing the war. In Thy gracious providence, patient Father, help this weekend be a blessing to families. Help the Senators to find some surcease from their labors—some rest—some refreshing—some renewal which will restore depleted energy and family relationships. We pray this in His name whose love is sacrificial, unconditional, and without partiality. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, October 2, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Wendell H. Ford, a Senator from the State of Kentucky, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The President recognizes the distinguished majority leader.

SYMPATHY TO THE FAMILY OF THE SECRETARY FOR THE MAJORITY

Mr. BYRD. Mr. President, I know that other Senators will want to join me in extending sympathies to the secretary to the majority, Mrs. C. Abbott Saffold, and to her family, on the unexpected death of her father.

Dr. Robert B. Reed was 70 years old. He was a retired professor who had served most notably at the Harvard University School of Public Health. Dr. Reed was stricken last night with a heart attack.

All who know Mrs. Saffold—"Abby," as we call her in sincere affection—admire her for her meticulous work and for her patient, never-flagging, positive spirit. In no small measure, those and her other sterling qualities are the fruit of the love and nurture of her distinguished father.

I hope that Abby, her mother, and her brother will note our genuine expression of sorrow at their loss, and they may find some small consolation in our concern.

I yield the floor so that the distinguished Senator from Wisconsin will not be delayed.

Mr. PROXMIRE. I thank my good friend, the majority leader, for his graciousness and courtesy very much.

AMERICANS WANT ACTION ON HOSTILE CORPORATE TAKEOVERS

Mr. PROXMIRE. Mr. President, the Louis Harris Data Center at the University of North Carolina at Chapel Hill this year completed a very revealing public opinion poll on attitudes toward hostile takeovers. The poll on this red-hot issue is timely. It comes when our economy is in throes of the greatest merger mania in the history of our country. A great distinction of our free American economic democracy has been the multiplicity of vigorously competing businesses. No country in the world has established competition as the prime means of effective regulation as widely as the United States. Throughout this century as the industrial revolution swept through the world, the United States adopted as a bipartisan policy a legal framework to prevent economic concentrations that would have monopolistic power to fix prices. From Teddy Roosevelt and Woodrow Wilson down through the decades of the 20th century America, far more than any other country on Earth, has been the land of free competition.

But is this still true now, in this 1980's decade? We may be beginning to lose it. Think of it. Last year this country suffered 9 of the 10 biggest mergers in the history of our country! This year the merger mania rushes on. At the same time the Antitrust Division of the Department of Justice last year actually reduced the number of antitrust cases it brought by 25 percent! Concentration of economic power with its inevitable consequence: The diminution of competition, represents one result. Another result has been the huge fortunes made by investment bankers, lawyers, arbitrageurs, and corporate raiders—making literally millions of dollars—in some instances with only a few weeks of work. Short-term stockholders have also enjoyed quick enrichment. But the price for many Americans has been tragic. Hundreds of thousands of jobs have been lost. Communities have lost their economic base. The hostile takeover rage has plunged corporations deeply into debt. Corporate raiders who succeed in their takeover quickly use the corporation's credit to pay off the debt they incurred to buy the corporation's stock, but leave the corporation deeply indebted. If the corporation management defeats the raider, it usually does so by borrowing billions. It then uses the proceeds to bid its own stock up out of the reach of the raider. Again the corporation is loaded with debt. Service on the debt precludes corporate investment in research and development that improves the quality of the corporation's product. It prevents manpower training expenditures. It discourages the corporation from buying more efficient equipment. The net result is that win or lose the corporation has less resources available to increase its efficiency. The merger mania has taken a big bite out of this country's commercial competitiveness.

Mr. President, in this democracy we in the Congress who help set national policy for our economy must be concerned with how the American people feel about this. Do they favor the rush of mergers, especially hostile takeovers, or do they oppose them? What does the Louis Harris Poll to which I referred tell us? It tells us plenty. Do the American people have an opinion on hostile takeovers? How about the business community? What is their view? The reaction is a real eye opener. Here it is:

First, among the groups affected by hostile takeovers which group did the American public feel rated the principal concern? The poll measured the concern among five key groups: Stockholders, top management, employees, the community where the company is located, and the firm's customers. The result was quite a surprise. When asked which are "affected a great deal," employees come through as far more important than any other group: 59 percent say a great deal, 50 percent say the same for the community, 44 percent cite the customers, 43 percent, the top management, and 42 percent and last—the stockholders. This was true in all categories of persons questioned when asked what group needed to be protected the most, the public as a whole said employees by a 63-percent margin. And get this—the stockholders said employees needed protection the most by a 65-percent margin, top business executives picked employees as most deserving of protection with a 49-percent vote, and as might be expected 67 percent of the employees thought employees should be protected most.

The poll concluded that few in the country as a whole feel that stockholders are the only relevant parties in a hostile corporate takeover.

In the responses to the extreme proposition that for the hostile takeover to succeed it should command 80 percent of the vote of stockholders. The total public supported this position by a landslide vote of 77 to 19 percent.

This poll was conducted by the Louis Harris organization in the first 3 weeks of January 1987. The organization interviewed a cross-section of 1,751 adults. It separately interviewed 682 top business executives. This included 265 top executives among the Business Week 1,000 top corporations, 217 among companies in the $40 to $400 million size group, and 200 from the $5 to $40 million size group.

Mr. President, I want to thank my good friend, the majority leader, once again for being so gracious and I yield the floor.

Mr. BYRD. Mr. President, my good friend is welcome.

RECOGNITION OF SENATOR MC CAIN

The ACTING PRESIDENT pro tempore. Under the previous order the distinguished Senator from Arizona, Mr. McCain, is recognized for not to exceed 5 minutes.

Mr. McCAIN. Mr. President, I believe that the distinguished majority leader had allowed me 15 minutes. If I might find out if that is correct? If I could have the attention of the majority leader?

The ACTING PRESIDENT pro tempore. I say to the distinguished Senator from Arizona the order was 5 minutes.

Mr. McCAIN. Could I have the attention of the majority leader?

The ACTING PRESIDENT pro tempore. The Chair would say of the action of the majority leader, under the previous orders his schedule was such that the 9 o'clock hour would be the time when we would have the vote and if the Senator from Arizona should take 15 minutes, that would extend beyond the hour of 9 o'clock.

Mr. BYRD. What was the question the Senator addressed to me?

Mr. McCAIN. In discussion with the distinguished majority leader yesterday, the leader was kind enough to extend me the courtesy, or see if he could arrange the courtesy of 15 minutes for me yesterday? The President stated I have 5 minutes.

Mr. BYRD. Yes, the distinguished Senator asked me for 15 minutes. I had a piece of paper given to me last evening indicating that the Senator wanted 5 minutes, so I entered the order in that fashion.

Mr. President, I ask for unanimous consent the Senator be given 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the Senator is recognized for 15 minutes.

Mr. McCAIN. Thank you. I would like to again express my appreciation for the many courtesies extended to me, such as this example, by the majority leader.

THE NOMINATION OF JUDGE ROBERT BORK

Mr. McCAIN. Mr. President, each of us in the Senate has had a great deal of time and an ample supply of advice to help us decide how to vote on Judge Bork's nomination for the Supreme Court. This process has been made more difficult for some of us by extremely intense special interest group lobbying, and in some cases outright distortion, disinformation, and hysteria in trying to generate opposition to Judge Bork. I would like to explain why I am going to vote in favor of confirmation, and why I do so without any hesitation.

I believe that what the Senate should appropriately examine in a nominee are: Integrity and character, legal competence and ability, experience, and philosophy and judicial temperament. I believe Robert Bork is well qualified in all four respects, and that view is shared by the vast majority of people who have observed Judge Bork in his capacity as Solicitor General and Federal Court of Appeals Judge. In fact, former Chief Justice Warren Burger testified before the Senate Judiciary Committee that: "I know of no person who meets those qualifications better than he does."

Let me take the criteria in order. First, integrity and character. Judge Bork's honesty, integrity, and diligence are above reproach. The only issue that has been raised in this context is whether he acted properly in following President Nixon's 1973 order to fire Archibald Cox during the Watergate investigation. There is no finding that Bork was ever guilty of improper conduct. In fact, during that difficult episode, Robert Bork displayed courage and statesmanship and helped protect the integrity of the Watergate investigation. After determining that it was legal for him to discharge Cox, Bork informed Attorney General Richardson and Deputy Attorney General Ruckelshaus that he intended to resign as soon as the firing was completed. Richardson and Ruckelshaus persuaded him to stay because they thought it was important to have someone of his integrity, stature, and knowledge to continue on in the Justice Department. That decision helped prevent large-scale resignations that would have hurt the Department and the subsequent investigation. And Bork immediately safeguarded the investigation from any interference and kept it on track. In short, the attack on Robert Bork for this difficult act is simply without merit. In fact, Elliot Richardson testified before the Judiciary Committee last week in strong support of Bork's confirmation. Trying to use Watergate against Judge Bork is a transparent, political refuge for those seeking to use any arguments they can think of.

Next, let us consider legal competence and ability. Even his strongest critics do not claim any shortcoming here. He was a professor at Yale Law School for 15 years; Phi Beta Kappa; honors graduate from the University of Chicago Law School. He was Solicitor General from 1973–77, representing the United States before the Supreme Court in hundreds of cases. He was unanimously confirmed by the Senate in 1982 for the Federal Court of Appeals for the D.C. Circuit—receiving the American Bar Association's highest rating. In that capacity as a Federal appeals judge, not one of the more than 400 opinions that he has authored or joined has even been reversed. In addition, the Supreme Court has reviewed 6 of the 20 cases in which Bork filed a dissenting opinion—and the Court agreed with Judge Bork in all 6. This distinguished record, when added to the fact that Judge Bork has been in the majority in 95 percent of the cases he has heard as a Federal judge, demonstrates that he is not some intellectual "loose cannon on deck," or a quixotic or maverick jurist, but is a thoughtful, reasoned jurist. He is not out to rechannel the mainstream of American jurisprudence.

Next, let me touch briefly on experience. I have discussed that a little already, but in the peculiarities of this particular confirmation process, Judge Bork's experience is especially important. That is because much of the criticism of Judge Bork arises from writing and commentaries he made many years ago as an academic. He has defended this academic record, but has also recanted some of his older statements, such as a statement of the 1960's that he did not believe the "commerce clause" of the Constitution was a valid source of power for Congress to outlaw racial discrimination in public accommodations.

I will go into my observations about Judge Bork's judicial philosophy in more detail later. My point here is that, it is one of the objectives of an academic to be critical, often provocative; Robert Bork's record of Federal service, first as Solicitor General and then as a Federal appellate judge, is critically important in order to determine his abilities and performance. We have a track record on Robert Bork under these circumstances—circumstances which are far more reliable indicators of his approach to being a constitutional decisionmaker than an academic article in the 1960's or the 1970's. This 9-year record in Government shows that Robert Bork is hardly a radical, but is rather a very thoughtful judge in sync with the vast majority of his colleagues on the bench.

Finally, I would like to discuss Judge Bork's philosophy and judicial temperament—for that is where the only honest disagreement and debate can lie on this nomination.

First, and most importantly, is the question of Judge Bork's view of the role of the judiciary. Judge Bork is clearly a believer in judicial restraint. He believes that the courts should not create social policy or arbitrate social policy disputes unless the Constitution clearly speaks to the issue. He believes that in our republican form of government such decisions are properly left to legislatures elected by the people, not Federal judges appointed for life. I have no problem with that view, because I wholeheartedly agree with it.

Now, some of my colleagues are so result oriented that they appear anxious to embrace judges who are willing to bend and shape the Constitution to fit a particular social agenda. That should trouble people of all political stripes. No matter how much we may like the result of a case, we should never feel comfortable creating new constitutional precedents out of whole cloth and binding future generations simply to accomplish a particular end.

Not only is that an inappropriate use of judicial power, but it leaves legislatures incapable of changing the outcome. Congress and State legislatures cannot change Supreme Court rulings when they are based on constitutional grounds, as opposed to statutory interpretation. That is fine when the Court ruling is based on a clearly intended constitutional right. But that is wrong when a fair reading of the Constitution shows no such right was within the realm of intentions. That is all Judge Bork is saying.

Let us take two prime examples—the two Judge Bork has received the most criticism for. The right of privacy and the equal protection guarantee of the 14th amendment.

The right of privacy was created by Justice Douglas in the Griswold case and was used as the basis of the later Roe versus Wade abortion case. It was created by a Supreme Court opinion which struck down a Connecticut anticontraceptive statute and found various "emanations" and "penumbras" throughout the Constitution which warranted the leap to creating a new right that has still never been fully defined. No one, including Judge Bork, argues that the Connecticut law was appropriate. Judge Bork even testified that there were other ways to strike down the law.

What he—and many constitutional scholars—objected to was creating such a new constitutional right when that right could not be found or derived from one of the provisions of the Constitution or our Bill of Rights. And he objected to creating a right that has no definition or clear limits. For example, does such a right prohibit a legislature from outlawing production and use of drugs in your own home? Does such a right prohibit outlawing prostitution?

The point is that just because one might be comfortable with the result of the Griswold case, does not mean it was well-reasoned or good law. The fact that Judge Bork has criticized its reasoning does not mean he is opposed to privacy or contraceptives. It simply means he is willing to point out the obvious problems with the Court's reasoning.

One should remember that, if our courts are free to go beyond the terms of our cherished Constitution to create new constitutional mandates that some might find acceptable, the Supreme Court in later years could use that free-roaming power to create mandates we do not like. Neither course is sound. The only sound course for the courts is to apply the law as it is written, not create it as they might wish it to be.

That same reasoning used in the Griswold case led to what must be the clearest example of judicial "legislation"—the abortion case of Roe versus Wade. Whether one is pro or antiabortion, or whether one approves or disapproves of the result of the decision, it is difficult to argue that the Court's opinion is not constitutionally suspect. The Court found that this new constitutional right of privacy forbid the States from regulating abortion during the first 3 months of pregnancy, authorized limited regulation of abortions during the second 3 months, and authorized States to severely regulate or prohibit abortions during the last 3 months. Furthermore, these constitutional rights could be subject to change as medical technology changed and advanced.

This may or may not be how a legislature should decide how abortions should be regulated. But to argue that the Constitution says this is nonsense. And to establish constitutional rights that can vary as technology changes is nonsense.

Again, the issue is not whether Bork is antiabortion or antiprivacy. The question is this: Is Robert Bork unfit for the Supreme Court because he believes this decision is logically and constitutionally flawed? I think not.

Let us take the other area where Judge Bork's views have been grossly distorted and criticized—the equal protection clause of the 14th amendment, which says no State shall "deny to any person within its jurisdiction the equal protection of the laws."

The majority of the Court has developed a "three-tiered" approach to equal protection analysis, which Bork has thoughtfully criticized. The Court divides people into various groups and then applies different standards of protection depending on what group you are in. "Suspect" classifications, including racial groups, are given "strict scrutiny" by the Court. A second tier of groups, including sexual classifications, is given "intermediate scrutiny." Other group classifications need only have a "rational basis." Judge Bork has criticized this for good reason. The Court has never adequately explained the criteria by which groups are included or excluded in these different categories. The Court, in fact, has been inconsistent in making such groupings and applying these tests. Judge Bork says we should apply the equal protection guarantees equally to all persons, and that any distinction made by classifying people must pass the same test of reasonableness. He's further said that racial discrimination would never be reasonable or permissible in his view, and that sexual classifications would very, very rarely be reasonable or permissible. That, it seems to me, is a defensible position.

In his testimony, Judge Bork has defended himself and his views well. Of course, we must protect minorities and even majorities from societal discrimination. But this does not mean that, because he has criticized the methodology the Court's used, he is any less committed to full and fair enforcement of the equal protection clause. All it means is that he is a smart and outspoken enough legal scholar to point out some of the very real problems with the Court's legal reasoning.

Before I conclude, I would like to comment on some of the opposition to Judge Bork. I have no problem with my colleagues voting against Bork if they truly believe he is unfit for the Supreme Court—although I personally cannot conceive of how you could reach that conclusion. I do have a serious problem, with the tactics of distortion, hysteria, and politicized paranoia that many of the special interests have used and exploited to oppose this man.

They have tried to label him as a lawbreaker for his performance of his orders in the Watergate investigation. Wrong.

They have tried to say his confirmation means contraceptives will no longer be available, that abortions will become illegal, that homosexuals will lose their rights, that minorities could be discriminated against, that women would lose their equal protection guarantees. Wrong, wrong, wrong, wrong, wrong.

Let us deal with reality. The opponents of Robert Bork—who unanimously supported confirming Justice Scalia, who is probably more conservative—have made this a political contest. Why? Maybe, because they have not been able to devise a domestic policy agenda that has enough popular support to pursue. So they have created a monstrous paper tiger out of Robert Bork—a fearful, loathesome embodiment of injustices from the past—that they want to strike down in righteous wrath.

Well, baloney.

The Supreme Court starts its new term next Monday—and it does so with a Justice missing. Why? Because the Judiciary Committee delayed Judge Bork's nomination for a longer period than any other Supreme Court Justice in recent history. Judge Bork's nomination had been sitting in the Senate for 70 days before the committee even began its hearings. Well, enough time has passed. Let us stop delaying, and let us get a vote promptly. The American people deserve a Supreme Court with nine Justices.

I believe Robert Bork will be an outstanding Justice and contributor on that Court.

He is a thoughtful and extremely well qualified lawyer and jurist. He has impeccable integrity. He is experienced. He espouses the proper role of the courts—to apply the law and the Constitution, not find ways to second guess legislatures when they exercise their legislative authority. And he is committed to ensuring that the Constitution is applied fairly and rationally to all Americans.

The phone calls and letters I have received from the thousands of Arizonans who have contacted me are almost 2 to 1 in favor of confirming Judge Bork. There is no question where those people are on this issue. As my dear friend and esteemed predecessor in the Senate, Barry Goldwater, told me yesterday: "I would be appalled if the Senate didn't confirm a man who's so exceptionally well qualified. The Senate would lose it's self-respect if it turns Bork down." Indeed, Mr. President, I do not know how any American who has closely and fairly studied this man's record and heard his testimony could help but think that Robert Bork deserves our support and will be a great Supreme Court Justice.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

RECOGNITION OF SENATOR BENTSEN

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Texas [Mr. BENTSEN] is recognized for not to exceed 15 minutes. The Senator from Texas.

Mr. BENTSEN. Thank you very much, Mr. President.

NOMINATION OF JUDGE BORK

Mr. BENTSEN. Mr. President, on July 1, when President Reagan nominated Robert Bork to the Supreme Court, it quickly became apparent that the President had selected a jurist of substantial intellect and unchallenged integrity who would nevertheless be an extremely controversial nominee.

Millions of Americans feel very strongly about the Bork nomination. They fervently embrace or emphatically reject his outspoken views on some of the basic issues in our democracy—issues like privacy, equality, and the way our Constitution is interpreted.

The Bork nomination has assumed an added significance in the minds of many Americans. As successor to Justice Powell and the potential "swing vote" on the Supreme Court, Robert Bork will, if approved by the Senate, be in position to exercise vast influence over every aspect of American life well into the 21st century.

At the time Judge Bork's nomination was announced I resolved to withhold judgment—and comment—until the Committee on the Judiciary had completed its hearings. I wanted to hear Judge Bork testify and respond to the committee. I wanted to hear the opinions and testimony of jurists and representatives of those who felt most threatened by—and supportive of—Judge Bork.

Those hearings have been completed. I have heard Judge Bork. I have listened to the testimony. I have weighed the arguments pro and con and I have decided to oppose the confirmation of Robert Bork as a Justice of the Supreme Court.

Mr. President, I would like to take just a few moments this morning to explain some of the key factors that influenced my decision to vote against Judge Bork's confirmation. One point that came in clearly through the static of the committee hearings was Judge Bork's repeated belief that he cannot properly read the Constitution as recognizing a general right to privacy since no particular provision of the document specifically grants such a right.

I happen to agree with a former Supreme Court Justice named Louis Brandeis who wrote that the makers of the Constitution "conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

Mr. President, I am not prepared to vote for a Supreme Court nominee who has steadfastly refused to acknowledge that the people of America have a constitutional right to privacy—especially in the home.

The case that most vividly demonstrates my differences with Judge Bork on the issue of privacy in the home is Griswold versus Connecticut. In that case the Supreme Court struck down a State law that banned the sale or use of contraceptives, even by married couples. Judge Bork has called that decision "unprincipled." And as recently as 1986 he suggested that he did not think "there is a supportable method of constitutional reasoning underlying the Griswold decision." I could not disagree more. I do not think Government has any business intruding into the American home.

Civil rights is another area where Judge Bork and I have profound differences that make it impossible for me to vote for his confirmation. As far as I can determine, in virtually every case where he has taken a position, Judge Bork has opposed the advancement of civil rights over the past 25 years.

In 1963 he suggested the public accommodations bill pending before Congress contained a principle of "unsurpassed ugliness" since it would coerce white restaurant and hotel owners to serve patrons they would prefer not to serve. A year earlier in 1962, the first major hotel in Houston to be integrated had opened for business. As head of the company that owned that hotel, I find such a statement repugnant.

In 1968, in 1971, and in 1973 he criticized "one-person, one-vote" decisions by the Supreme Court. In 1973 and again in 1985 Judge Bork attacked the Supreme Court decision, Harper versus Virginia Board of Election, that outlawed the use of a State poll tax as a prerequisite to voting. He continues to hold this position.

Just as a personal aside, Mr. President, I want to point out that back in 1949, when I was a Member of the House of Representatives, we voted on a constitutional amendment to outlaw the poll tax. Only two Members of the Texas delegation voted for that amendment—and I was one of them. So I admit to being a little upset when almost 40 years later, we have a nominee for the highest court in the land who throws legal darts at decisions outlawing the poll tax.

In a very fundamental and very significant sense, America has set its house in order when it comes to civil rights. Sure, I know many people would argue that we still have a long way to go. But even they would agree that we have made major, irreversible progress. That progress was purchased at a price. We all looked hard at ourselves, we made changes and sometimes those changes were traumatic. But they have had time to sink in and take hold and be accepted.

I question whether very many Americans—black, white, Hispanic or others—want to turn back the clock and revisit those questions. We do not need any more narrow legal debate on what is right and just for America when it comes to civil rights. We have already answered those questions. Now what we need to do is consolidate our progress and keep moving forward.

My third point of disagreement with Judge Bork concerns his interpretation of the equal protection clause of the 14th amendment. According to Judge Bork—as recently as 4 months ago—the equal protection clause should be "kept to things like race and ethnicity." The Supreme Court disagrees. I disagree. Millions of American women disagree. We believe that the equal protection clause should also protect women against discrimination in the workplace.

I am aware that in his testimony before the Senate Judiciary Committee, Judge Bork beat a tactical rhetorical retreat. He reversed field and allowed that the equal protection clause should apply to "everyone." Well, that is fine as far as it goes, but it is precisely that kind of new-found reason that has raised troubling questions about Judge Bork's so-called confirmation conversion.

Obviously, Mr. President, Judge Bork has a keen legal mind. He works hard and has written copiously. He has a flair for the language. He has earned his reputation as something of a "Legal Lone Ranger," with a talent for investing almost any position, no matter how farfetched, with a patina of intellectual respectability.

Some witnesses have even testified that is the only way to rise in the rarefied intellectual ether of Yale University. And that may be true.

But it is also true that a feisty, ironclad consistency has been the trademark of Judge Bork's career, at least until this summer.

It concerns me, and perhaps it may even trouble Robert Bork's supporters, that he demonstrated more flexibility in 5 days before the committee than in the previous 25 years.

Those who would like to see Judge Bork confirmed by the Senate have frequently made the point that he is a "law and order judge." I agree and I commend Judge Bork on his strong stand in this area. If an abiding commitment to law and order was the only point at issue, I would have no problem voting for Robert Bork.

But look at the composition of the court, Mr. President, and you will see that we will have a law and order Supreme Court with or without Judge Bork. That path is already charted. The Rehnquist court has left no doubt in this area. With law and order Judges like Scalia, O'Connor, and White, Robert Bork would really be a controversial fifth wheel—rather than a swing vote—on those issues.

I also want to emphasize that I am not opposed to placing conservative judges on the Supreme Court. I voted for Justice O'Connor. I voted for Justice Scalia. I voted for Chief Justice Rehnquist. And if the administration is looking for a talented, respected, conservative Supreme Court nominee in the near future, I recommend that they take a close look at someone like Fifth Circuit Court Judge Pat Higgenbotham of Dallas who has all of the talent and none of the controversy that surrounds Judge Bork.

Mr. President, I cannot in good conscience vote to confirm Robert Bork's nomination to the Supreme Court. I have profound disagreements with the nominee on issues as basic as privacy in the home—civil rights—and the equal protection clause of the 14th amendment. I have doubts about his new-found flexibility.

Judge Bork is a controversial, ideological nominee who is staunchly opposed by so many ordinary citizens from so many walks of life. In my judgment he is not an appropriate choice for the Supreme Court and I urge my colleagues to join me in opposing this nomination.

Mr. President, I yield back the balance of my time.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

RECOGNITION OF SENATOR SIMPSON

The ACTING PRESIDENT pro tempore. Under the previous order the distinguished Senator from Wyoming [Mr. SIMPSON] is recognized for not to exceed 10 minutes.

Mr. SIMPSON. Mr. President, I thank you.

THE NOMINATION OF JUDGE ROBERT BORK

Mr. SIMPSON. Mr. President, I have the greatest respect for Senator BENTSEN. He is an extraordinary man. There is no one more respected here in this body. So I am disappointed to see that he too has decided to reject Judge Bork.

I thought I would just speak for a few moments this morning regarding that nomination as I have witnessed several of my colleagues pronounce their decision to reject Robert Bork—to reject him completely. Those decisions have come yesterday, they have come today, and they came only 1 day following the close of the public committee hearings on the nomination. That is the most disappointing part of it.

I do not wish in any way to be misconstrued in doubting the sincerity of those who have already stated their opposition here on this floor. But I am concerned that such actions may lead other Senators into a hasty decision on the nomination.

I refer to it as the "defection-of-the-day mode." Yet, those who have spoken, and sincerely so, were not on my list as ever being for Judge Bork, but simply always "willing to listen."

The Judiciary Committee engaged in many hours of testimony and discussion on the Bork hearings. But that is only the first step in the fulfillment of the Senate's duty to "advise and consent." That is the irony of the situation. We have not even done anything in the Judiciary Committee. On next Tuesday, the committee will vote on the nomination of Judge Bork, and then that nomination will be taken to this floor for complete and thorough debate by the full body of 100. We have never had that yet. Eighty-six of us have never even been in the full debate.

So I urge my colleagues who have not had the opportunity to fully review the committee hearings and the transcript to do so. I urge my colleagues to withhold judgment and to review the committee report after its completion—and that has not yet been compiled—for further explanation of the events which have transpired in the committee room on this very important matter. That seems odd to me—not to have reviewed the transcripts, not to have reviewed the report.

So I say respectfully to all my colleagues: I do hope and trust you will collect all of your facts, review the transcripts, read the report, ask what portions of his background disturb you. My hunch is that it will be something he said in 1963, which has been well explained, on civil rights. As I have said many many times, there are three present Members of this body who voted against the civil rights bill, and they are not lesser people to us at all, not one whit. They are superb people in this Senate. We do not keep score on them.

There was more discussion of the 1971 Indiana law review article than there was of the Constitution of the United States during the committee debate, and that was disappointing, because he prefaced all that with the statement that it was informal; that if it was to have been more balanced and more thorough and more complete and more well researched, he would have written a book. But let me tell you, I heard enough about the Indiana law review article of 1971 to last forever. As I say, there was more reference to it than there was to the Constitution of the United States.

So I hope my colleagues will do that and will listen. That is called fairness. I think that is all we call it, and we all know that, because in our own lives, and especially our political lives, we have suffered slings and arrows aplenty.

This nomination is politics, pure and simple politics, nothing more. There will be others, and there have been some before, but this one is the quintessential politics. This is the selection of Supreme Court Justices by Roper poll and Harris poll and Gallup poll. I do not think that is what the Founding Fathers had in mind some 200 years ago when they asked us here to perform our role of advice and consent.

As my lovely friend from Texas has just said, so many citizens from so many States are so disturbed about this. Who would not be? I have never seen such an extraordinary campaign of misinformation, distortion, and lies—and I use that word very carefully. I do not ever try to misuse the word "lies." That is much more than loose facts.

If I were a young lawyer living in Cody, WY, which I was at one time, and raising my babies, and doing my business, and coaching the Little League, and going to the Rotary Club and the Chamber of Commerce, and I picked up the paper—the Casper Star-Tribune or the Billings Gazette, or whatever, it might be in Wyoming—and read the full-page ads of "The People versus Bork," and the reference to the young, pregnant woman, and the fact that there would be an invasion of the bedroom, an invasion of privacy, and no rights of privacy for a woman, and if I hear Gregory Peck—and that is a powerful ad of his, I would be deeply alarmed. I have been a great admirer of his, and thus there is another irony: that great movie of his "To Kill A Mockingbird," was about fairness and prejudice; and his ad is harsh and alarming and distorted, and it has helped to prejudice the American people against Judge Bork. That is the way it is.

If I had seen those things while I was busy with my life as most Americans are—they are not really paying attention, but they read and they watch and they have seen all this—and they are frightened. Who frightened them, and with what? They were frightened with emotion, fear, guilt, and racism. As I say, if I had been in that situation, I would have turned to Ann and said: "Better write our Senator. We don't want a guy like that. Keep that man off the Bench."

That is reality. That is all being spread by those public interest groups who are obsessively opposed to this nomination and were waiting for Judge Bork to surface as soon as Justice Scalia attained the Bench.

Eighty-six of our remarkable colleagues need to get into this debate, whether they are for Bork or opposed to Bork, and then the American people will know a little more than they do now.

It was former Attorney General Griffin Bell, a man for whom I have the deepest admiration, a very special man I have learned to know, who said in testimony before the committee that when he woke that morning and read the papers, a poll showing that a majority of the people were against Judge Bork, he was struck that America might be abandoning its constitutional process for confirming judges by getting away from the very thoughtful and reasoned decisionmaking of the U.S. Senate and turning, instead, to the polls for their constitutional role of advice and consent.

He also eloquently reminded us that it was Mr. Thomas Jefferson who was of the opinion that in a representative form of government, Senators are the elected ones and that we owe the people of this great country our "best judgment." That was Thomas Jefferson.

The best judgment does not mean what is the best polling data or who is pushing hardest or who is raising more hell. Judgments here should be drawn after a careful review of facts and opinions and the transcripts and the report on each side, from both sides of the aisle, and not in response to the latest poll or a television ad or by weighing the mail. People are doing that now. They are weighing the mail. I hope the American public knows that is going on, too.

So, this remarkable institution, this U.S. Senate, is directed to give its advice and consent. That means we do that with 100 of us out here debating. That has not been done. I think it would be eminently fair to do that.

So let us continue with the process which has really only just begun, and let us move now to a vote in the committee, then move the nomination to the floor for consideration by this entire U.S. Senate. Only after those necessary steps are completed will we then have a vote on whether to actually provide our honest advise and consent to the nomination of Judge Bork as the next Associate Justice of the U.S. Supreme Court.

I urge a bit of calm and restraint and deliberate reasoning in an atmosphere that would be free of emotion, fear, guilt and racism, stirred up by the various interest groups and regrettably on both sides of the issue.

So I thank you, Mr. President, and I hope that all of us will look forward to a very interesting debate where we can deal with the issues without the requirement of pollsters to assist us in our constitutional work.

I thank the Chair.

The **ACTING PRESIDENT** pro tempore. The Senator from Kentucky using his prerogative as a Senator suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. WIRTH). Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The **PRESIDING OFFICER**. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1174, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Bumpers Amendment No. 825, to limit the operational deployment of certain strategic offensive nuclear weapons systems and launchers.

(2) Dole-Warner Amendment No. 839, to provide that the United States shall not be obligated to abide by the provisions of the SALT II Treaty, in whole or in part, unless and until (a) the Senate has amended the Treaty so as to give it legal force if it were ratified; (b) the Senate has given its advice and consent to the Treaty; (c) the Union of

Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned; and (d) each party has ratified the Treaty in accordance with its own constitutional processes.

AMENDMENT NO. 839

The PRESIDING OFFICER. Under the previous order, the Dole-Warner-Byrd amendment is now the pending question, on which there will be 30 minutes debate, to be equally divided and controlled.

Mr. BYRD. Mr. President, I ask unanimous consent that there may be a quorum call with the time to be equally divided. I have discussed this with the Republican leader and it is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absense of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I would ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, last night before we recessed, the Senator from Virginia and I proposed an amendment to the defense bill. I am pleased the distinguished majority leader has agreed to cosponsor it.

As I indicated last night, the amendment is simple and straightforward. It outlines the constitutional steps we would have to take to give the SALT II Treaty the force of law.

First, at the very least, we would have to change the date of SALT II, otherwise it would have already expired upon ratification.

Second, the Senate would consider the treaty and perhaps propose other amendments, reservations or understandings. This is the most important part of the Senate's role in treaty making.

Of course, third, the Soviet Union would have to accept the changes we proposed.

And then, finally, at the end of the process both sides could ratify the treaty.

Do not get me wrong. I am not suggesting we do this. I have likened the prospect of reviving SALT II to reviving Frankenstein; however, with all the discussions of treaties and treaty-making powers in the Senate, I do see a value in stepping back and looking at what the process involves and then considering what we are doing and what we are not, what we can do and what we cannot. I believe we should be looking forward to START, not backward to SALT. We should be supporting the President to get the Soviets to agree to real verifiable reductions. If he succeeds—and I hope he does—the Senate will have plenty to do in exercising its constitutional role in treaty making.

The amendment that we are going to vote on in about 20 minutes is a very simple statement on the constitutional process required to give SALT II legal force and I would hope that my colleagues would join in voting for it.

I do not know of any opposition, but I think we have asked for the yeas and nays; I think a rollcall would be helpful. I yield any other time that may be on this side to the distinguished Senator from Virginia.

Mr. BUMPERS. Mr. President, who controls time on this amendment?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I yield—how much time?

Mr. BUMPERS. I do not want any time. I thought I would yield time if I controlled it. If the Senator from Georgia controls it, that is fine.

Mr. NUNN. Mr. President, if the Senator from Arkansas desires to be recognized, I would be glad to yield time, or if anyone else on this side or the other side would like to speak to the subject, I will be glad to yield time. Otherwise I reserve the balance of my time.

Mr. WARNER. Mr. President, yesterday, during debate, several times the distinguished Senator from Arkansas and indeed others tried to indicate that Bumpers amendment—did not relate to SALT. Am I correct in that; I ask the distinguished Senator?

Mr. BUMPERS. The Senator is correct and the Senator will find that in the amendment, SALT is not mentioned one time.

Mr. WARNER. I thank the Senator for that clarification, if any clarification was needed. Because time and time again this Senator said the amendment went straight to the SALT. Constantly they said there was no reference to SALT.

I said a message would be sent from this Chamber that, indeed, the amendment we were to accept, this amendment, dealt with SALT.

I refer to the headlines in the Washington papers this morning.

"Senate Sets Votes on SALT Issue." Very clearly, Mr. President.

> The Senate defied the White House on arms control again yesterday by signaling support for legislation to force the administration to resume compliance with the unratified 1979 SALT II treaty with the Soviet Union.

Headline No. 1. That was from the Washington Post of this morning.

New York Times, today's paper: "Senate Votes for Adherence to 1979 Arms Treaty." Washington, October 1:

> Over the opposition of President Reagan, the Senate registered its support today for a proposal requiring adherence to the weapons limits in the unratified 1979 treaty limiting strategic arms.

Washington Times, headline: "Democrats Refuse To Jettison Missile Limit in SALT II Pact."

Now, Mr. President, can everybody be wrong? I ask my good friend from Arkansas, in view of this, in view of the interpretation by the leading journalists covering the news in the Nation's Capital, covering the news from this Chamber, the headline writers: Who is right? Who is wrong?

Mr. BUMPERS. Senator, how many times have you picked up the paper and seen headlines and a story and read the story and you wonder where the headlines came from?

As you know, somebody else writes the headlines.

Let me say first of all I am just sorry I did not think up this amendment myself because I think I would have gotten more votes than 55 yesterday.

Mr. WARNER. Which amendment?

Mr. BUMPERS. I am talking about the Dole amendment.

Mr. WARNER. The Dole-Warner amendment now pending?

Mr. BUMPERS. The Dole-Warner amendment now pending; I am saying I am sorry I did not think of it because I think it would have increased our margin on the Bumpers-Leahy-Chafee-Heinz amendment fairly dramatically yesterday.

What I said, and the Senator from Virginia heard me say time and again yesterday, that we are not trying to rewrite a treaty. In the first place, the SALT II Treaty, had it been ratified in 1979, would have already expired. It would be the height of folly for us to be standing on this floor trying to rewrite it or ratify it or do anything of the kind.

We all know what the constitutional provisions are on treaties and what I said yesterday, if somebody does not like the figure 1,320 for MIRV'd launchers, they ought to amend it to 1,300, 1,350, or whatever. We are talking about interim restraint.

Mr. WARNER. Mr. President, I would ask my good friend first, his amendment has limits identical to those in SALT II; am I not correct on that?

Mr. BUMPERS. The Senator is correct on part of it.

Mr. WARNER. Then, Mr. President, I ask him why did he pick the identical figures of 820 launchers, 1,200 launchers of intercontinental ballistic missiles?

Mr. BUMPERS. Because, Senator, those have been the figures that have been used by the United States and the Soviet Union for 8 years.

Mr. WARNER. Mr. President, it is clear, as this Senator and others have said, how the message would be interpreted if we pass this amendment as embracing a part of the SALT II Treaty, a treaty that was never given the advice and consent of this Chamber, a treaty that was withdrawn by the President and a treaty which the Soviet Union has, time and time again, as late as this week, violated in its shot of a missile near the State of Hawaii.

Mr. BUMPERS. If the Senator would yield to me for just a moment, let me say, No. 1——

Mr. WARNER. Mr. President, I yield off this Senator's time, that is the time of the Senator from Arkansas, because I see other Senators waiting.

Mr. BUMPERS. How much time is remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Georgia controls the time; the Senator from Georgia has 7 minutes 45 seconds. The Senator from Virginia has 4 minutes and 20 seconds.

Mr. BUMPERS. Just a couple of minutes?

Mr NUNN. Mr. President, I yield 2 more minutes.

Mr. BUMPERS. Mr. President, the whole impetus and thrust of the Bumpers-Leahy-Chafee-Heinz amendment was that we did not think it was a good idea to have absolutely no constraints on the nuclear arms race, after both sides, for 8 years, had complied with several constraints, high ones, 1,320 MIRV'd launchers, 2,400 launchers of all kinds, single and MIRV'd, and several others.

The whole idea of this was not the sanctity of 1,320, not the sanctity of 820 MIRV'd ICBM's or 1,200 MIRV'd ICBM's, SLBM's. Those were figures that at one time had been agreed upon. But they also had been lived with by the United States. Some of us thought the United States and the Soviet Union were both well served with a cap on the nuclear arms race. When the President announced last November that he was no longer going to comply with that, we thought that was a bad idea. We did not think the 1,320 figure was sacred. There was nothing sacred about that figure. But we did think there ought to be a cap. That is the reason our amendment was very carefully drawn to say there ought to be a numerical limit and here is a figure that we think is reasonable. That is it.

I am not trying to rewrite the SALT Treaty. As I said, it has already expired by its own terms. If you put the SALT Treaty up here for ratification, it will be defeated 100 to zip.

Mr. WARNER. The Senator from Arkansas and I both served in the Marines. We shared stories about those days many times.

I remember the day I was a brand-new second lieutenant. I was leading the platoon, and I said, "Sergeant, these men have to do" this and that "and they must do it now. Why are they not doing that?"

The old sergeant turned to me and said, "Lieutenant, it ain't what the facts are, it is what the troops think the facts are."

Here is what the troops think the facts are today in this Chamber.

Mr. NUNN. How much time have I remaining?

The PRESIDING OFFICER. Four minutes, forty-five seconds.

Mr. BUMPERS. If the Senator will yield for a quick observation, I am not responsible for headline writers in the Post, Times, or Washington Times.

Mr. STEVENS. Will the Senator from Virginia yield to me?

Mr. WARNER. I yield such time as the Senator desires. I divide my remaining time equally between the Senator from Alaska and the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. No matter how the Senator from Arkansas describes this amendment, it does in fact seek to put into law the sublimits of SALT II. It ignores entirely the Backfire bombers in Siberia in the Soviet Union across from my State. It ignores the developments taking place in the Soviet Union. But what is more, it ignores entirely the fact that we have negotiators in Geneva working on a new arrangement between the Soviet Union and the United States in the strategic negotiations.

When they were here, I asked them how much progress they were making. I do not want to quote their percentages, but they told me they are closer to success than anyone here realizes. Yet this Senate now is seeking to put into law, firmly fixed into law, numbers that are on the table in Geneva, numbers that our negotiators ought to have freedom to deal with. I see no reason for this type of usurpation of the negotiations in Geneva in order to get headlines, even though they may be erroneous as far as the Senator from Arkansas is concerned.

Mr. NUNN. Mr. President, let me just say that the Senator from Alaska makes a good argument on the Backfire bomber. I think the Backfire is something that has bothered us a long time and continues to be a problem in START. But I would also add, I did not support the Bumpers amendment and voted against it because I perceived, too, that it was basically putting a part of an unratified treaty into the law and I had a real problem with that although I agreed with the substance of what Senators BUMPERS and LEAHY were trying to do.

President Reagan's statement as to the interim restraint ceiling we are now under is 2,520 strategic vehicles, that is the overall ceiling, and also I believe he said we would not go over the number of Soviet ballistic missile warheads.

The interim restraint rule we are now under also excludes the Backfire because only strategic nuclear vehicles count in the 2,520.

I would say the Senator has made a valid argument, but it applies just as much to the President's interim restraint as to the one Senator BUMPERS referred to.

Mr. STEVENS. The President's interim restraint is not in law and, second, the Backfire bombers are on the table in Geneva.

Mr. NUNN. The Senator is correct on the second point. The President's policy is not in law. The Senator is correct in that also. But the President's interim restraint policy does not count the Backfire and the Bumpers amendment does not count the Backfire. That was the point I wanted to make.

Mr. President, I agree, and I have said this before, with the basic premise of the Bumpers amendment. I also agree with the Dole amendment. But the difficulty I have had with the Bumpers amendment was that it had been perceived, as the Senator from Virginia clearly said, to be writing into law the SALT II Treaty sublimits. The curious position we have evolved into if we pass the Dole amendment is that it cures the problem that I have had with the Bumpers amendment because it makes it absolutely clear—and I think it is very good taking this into conference—I think it makes it absolutely clear that we are not writing the SALT II Treaty into law. That is the big problem I have had with the Bumpers amendment.

It does happen that the numbers are the same, and it may be in conference we are going to be in a position to work with the House, and maybe even the White House, in making some sense out of the regime of interim restraint. I think that is what everybody really wants. The President wants it, obviously, because he kept the SALT II sublimits as a matter of policy for several years. Then when he dropped that, he went immediately to another interim restraint regime I have just recited, 2,520 strategic launchers, plus not exceeding the number of the Soviet missile warheads. So everyone agrees we ought to have interim restraint.

If we pass the Dole amendment unanimously we will be making it abundantly clear that this Bumpers-Leahy amendment is not writing SALT II into the law, even if the numbers happen to be the same. Maybe in conference we will have to take a look at those numbers.

So I find myself in the position now having voted against the Bumpers amendment yesterday, but now the Dole amendment makes clear the context in which the subsequent Bumpers amendment will be voted on. With the two amendments together we will be issuing a notice to the Soviet Union that the Senate believes that we ought to have a policy of interim restraint and saying to the conferees to work out that policy in the context of the Dole amendment, so that we will not be voting the SALT II Treaty into law.

I would say I am going to think about it a little more, but it seems to me we have basically cured the basic problem, if we adopt the Dole amendment, that I had with the Bumpers amendment.

Perhaps we can develop a consensus here about an interim restraint policy.

Mr. LEAHY. Will the Senator yield?

Mr. NUNN. How much time have I?

The PRESIDING OFFICER. Thirty seconds.

Mr. NUNN. I yield the remainder of my time.

Mr. LEAHY. I agree with what the Senator said. The Dole-Warner amendment says the United States has no obligation to abide with the SALT II Treaty unless it is ratified. I ask unanimous consent to put in the RECORD a quote from a study by the American Law Division which concludes that Congress has the authority to do what we propose with the Bumpers-Leahy amendment. The study states that an action such as we have offered is strictly a matter of domestic law. It says no obligation or commitment under international law would be created by adoption of a measure such as ours. Those who support Bumpers-Leahy can easily support the Dole-Warner amendment. They are compatible. In fact, if anything, they tend to be somewhat symbiotic.

Mr. President, the citation comes from a study done by the American Law Division of the Congressional Research Service in 1982. At that time the Foreign Relations Committee was considering a joint resolution to give the effect of law to the President's policy of informally abiding by the unratified SALT II Treaty.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

While the Resolution seeks temporary U.S. restraint on actions relating to arms ceilings which have been the subject of past SALT agreements, the obligations of which have or are likely to expire (i.e., SALT I) or which were never formalized (i.e., SALT II), it does not compel adherence to or ratification of such agreements in any formal sense. * * *

Although adoption of the Resolution may have certain external policy implications (which as with many asserted effects in a policy context are matters of individual perception), it does not create any binding legal international obligation. * * *

The Congress to all intents and purposes lacks the power to negotiate or to conclude an international agreement or to compel presidential actions along these lines. The Resolution, however, does not purport to do any of these things which assumedly intrude upon core Article II power. Instead, it would effectively write into law—of necessity, domestic law—a temporary and flexible policy to refrain from actions which would constitute a radical departure from certain ceilings on specified nuclear arms.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LEVIN. Mr. President, the Dole-Warner amendment is consistent with the Bumpers amendment which the Senate will be voting on shortly. The Dole-Warner amendment establishes conditions under which the SALT II Treaty should apply. However, the Bumpers amendment does not seek to enact the SALT II Treaty or any portion of it. It does seek to enact limits, because we must limit the arms race.

The fact that the limits in the Bumpers amendment are identical to certain limits in the SALT II Treaty is not the reason why we are seeking to enact those limits. Rather, we seek to enact those limits because those are the limits with which the parties had been complying until last December.

The source of those limits was the SALT agreement. But the reasons to live under those limits as long as the Soviets do is the wisdom of doing so, and the practice and experience of doing so. It is not because we are bound by treaty to do so.

These are the same reasons President Reagan himself decided to maintain the limits in the Bumpers-Leahy amendment for the first 6 years of his Presidency, despite the fact that he has repeatedly called the SALT II Treaty itself "fatally flawed."

The PRESIDING OFFICER. The Senator from Virginia had yielded time to the Senator from Wyoming, who is recognized for 2 minutes.

Mr. WALLOP. Mr. President, I said yesterday, and I meant it, that actions have consequences, that they are not taken in isolation. The Senator from Virginia correctly pointed out how actions were viewed. This is not a question of motivation. I do not question the motivation of the Senator from Arkansas or the patriotism of the Senator from West Virginia or anybody else. But I do question the judgment and I do question the consequences of those actions. The questions then remain: Who will think while the Senate dreams? Who will look to tomorrow while the Senate looks to today? Who will look to America while we look to politics?

Now, yesterday, we pointed out the second of two Soviet ICBM tests took place in a target area which bracketed the State of Hawaii. Today we find out that one warhead landed 100 miles from one of the Hawaiian islands, a U.S. possession in Hawaii, and within 200 miles of an inhabited island. The southern aim point is almost exactly the same range as Pearl Harbor. And an ELINT aircraft was reportedly fired on with a Soviet laser, temporarily blinding a crew member. that adds a fourth violation to the SALT II Treaty provisions which I will quickly read:

Each party undertakes not to develop, test or deploy ICBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the heavy ICBM's, deployed by either party as of the date of signature of this Treaty.

The laser firing is also a clear violation in terms of interdiction of national technical means.

So I say to the Senate, as we look beyond the Dole-Warner amendment, that ideas and actions have consequences and the consequences are, as the Senator from Virginia yesterday described them, a message of thanks to the Soviet Union for their insulting provocation.

The PRESIDING OFFICER. The time of the Senator has expired. The hour of 9:30 having arrived, all time for debate on this amendment has expired. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—97

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wirth

NAYS—0

NOT VOTING—3

Garn
Kassebaum
Wilson

So the amendment (No. 839) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 825

The **PRESIDING OFFICER.** Under the previous order, the Senate will resume consideration of the Bumpers amendment. The time for debate on this amendment is limited to 30 minutes to be controlled in the following fashion: 15 minutes to the Senator from Arkansas [Mr. BUMPERS], 10 minutes to the Senator from Virginia [Mr. WARNER], and 5 minutes to the Senator from Vermont [Mr. LEAHY].

Who yields time?

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

Mr. WARNER. Three ways.

The **PRESIDING OFFICER.** Is it the intent of the Senator from Arkansas that the time for the quorum call be charged equally?

Mr. BUMPERS. That is correct, equally divided among the three Senators who control the time.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. GRAHAM). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER.** The Senator will state it.

Mr. LEAHY. How much time remains to the Senator from Vermont?

The **PRESIDING OFFICER.** Four minutes.

Mr. LEAHY. Mr. President, a further parliamentary inquiry.

The **PRESIDING OFFICER.** The Senator will state it.

Mr. LEAHY. What is the parliamentary situation? What is pending?

The **PRESIDING OFFICER.** The parliamentary situation is that under the previous order, the Senate has resumed consideration of the Bumpers amendment. The time on the amendment has been limited to 30 minutes. That 30 minutes is to be divided, 15 minutes to the Senator from Arkansas, 10 minutes to the Senator from Virginia, and 5 minutes to the Senator from Vermont.

Mr. LEAHY. Thank you, Mr. President. I wanted to make sure we were on it.

Mr. President, I yield myself 1 minute.

This amendment was debated at great length yesterday prior to the motion being made to table Bumpers-Leahy-Chafee-Heinz.

Most of my colleagues have heard the arguments. I do not need to repeat them again today other than to say this is not the SALT II Treaty. We are not seeking ratification by legislative amendment. In fact, the United States has no obligation to abide by the SALT II Treaty unless it is formally ratified.

The Bumpers-Leahy-Chafee-Heinz amendment is strictly a matter of domestic law. It creates no obligation or commitment under international law. What it does do, however, is allow every single Member of the U.S. Senate to tell their constituents where they stand on nuclear arms control.

Mr. President, I reserve the remainder of my time.

The **PRESIDING OFFICER.** Who yields time?

The Senator from Indiana.

Mr. QUAYLE. Mr. President, I yield myself 5 minutes.

The **PRESIDING OFFICER.** The Senator from Indiana.

Mr. QUAYLE. Mr. President, the Senator from Vermont is right. This Bumpers amendment is not the SALT Treaty amendment. It is only part of it. That is what makes it so insidious. You take a treaty that was never ratified and you take the part out that the Soviet Union wants to comply with and say that the United States ought to go ahead and comply with that, but the fact that the Soviet Union does not want to comply with the rest of the treaty is OK.

Basically, what we are saying today is that we do not care about treaty violations. The Soviet Union may enter into any kind of obligation but we will just bind them to the parts that they want to comply with. Obviously, they think it is in their best interests for the United States to comply with those sublimits. One of the numerical limits that is missing is the total launchers, the SNDV, strategic nuclear delivery vehicles. The Soviets have always exceeded that restriction.

So the Bumpers amendment does not include that numerical limit. It just includes what the Soviets say they want to comply with.

The question was raised yesterday by the distinguished Senator asking this Senate and the Nation, "Well, do you sleep well at night?" "Do you sleep well at night thinking about this?"

I can tell you that I do not particularly sleep well at night when I can see actions by the Senate that undermine our negotiators. I think a lot of Senators cosponsored this resolution back in January or February when it was introduced because they did not think that the administration was serious about arms control.

And some have even said that. Now they cannot say it and they do not say it. The administration, in principle, has an INF agreement. They have been discussing a potential START talk. This amendment won't help.

No, I do not sleep well thinking that it is going to undermine our negotiators. I do not think I sleep well when I know, with impunity, the Soviets can launch test missiles close to the State of Hawaii, new missile types that violate the treaty that this amendment, in fact, want to force the President to obey.

Now, Mr. President, I would like to see arms control go forward. I would like to see our negotiators go forward. I would like to see a true generation of peace in the world be forthcoming.

Do I think we are going to get a generation of peace when you have absolutely no bipartisanship, when you have amendments such as these that undermine and undercut our negotiators? I do not think that is going to help establish a generation of peace.

I think you are going to have a generation of peace when you are willing to stand united and look the Soviet Union right in the eye and negotiate from strength, from a consensus, not one where amendments come up on the floor and the Senate or the House take contrary positions to our negotiators; amendments that come up on the floor that basically take the Soviets' position and not our position. That is not helpful to our negotiators.

Our negotiators have told us so. They have said in no uncertain terms that this amendment would be detrimental. They thought the other amendment on the interpretation of the ABM Treaty would be detrimental. But, despite what the negotiators say, we are going to go ahead with our amendment. We are going to go ahead and we do not really care, I guess, what our negotiators say.

So, no, I do not sleep well at night. I have concerns about what the Senate is doing. Because if you look at establishing a generation of peace, it certainly is not doing it by passing this amendment. It is very divisive when you are negotiating and making progress in Geneva, to have this kind of an amendment at this time and, on top of that, the incident yesterday. For some reason, I guess we just ignore the Soviet test firings with impunity. The Soviets can test launch a new type of SS-18, a new heavy missile, in violation, Mr. President, of the SALT II Treaty that we want to impose on the President. It does not seem to make any difference. We are just going to go our way. We are going to go our own very, very merry way.

So, no, I do not sleep well at night, and I do not think the American people ought to rest well at night when you have this kind of discord, this kind of divisiveness, this lack of consensus, when this administration, at a very, very sensitive time, is making great progress toward arms control.

The thing that really troubles me about this amendment is that it celebrates the past. Because this amendment bounds us by launchers. Surely the Senate realizes now that launchers are not the key category anymore. It is ballistic missile warheads. And what does this administration want to do? They want to reduce the number of warheads. This amendment only wants to constrain launchers. It is an amendment of the past.

So if we are really looking at the future, if we are really looking at the future and concerned about establishing a generation of peace, we are going to have to side up with our President in these negotiations. We are going to have to support him. We can send messages. We can have speeches. We can send sense-of-the-Senate resolutions. But this is not a sense-of-the-Senate resolution. This is binding legislation, binding into law part of the SALT II agreement that the Soviets want us to comply with and ignoring the other part of the SALT II agreement that the Soviets violate. Because, heaven forbid, if the Soviets want to violate it, fine. We do not want to stand up and call them to account for that. That might be provocative.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. QUAYLE. I yield 2 minutes to the Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator for yielding. I compliment him on the position that he has taken throughout this debate on this bill that is coming to a close.

I also compliment my colleague from Wyoming, who made I thought one of the finest, most hearfelt and intelligent statements I have heard on this Senate floor since I have been here.

Mr. President, I think we cannot ignore the basic argument of why we have a Defense Department in the first place. It is to preserve peace and freedom in the United States of America. Peace and freedom are inseparable.

I am reminded of Lenin, the architect and founder of our major adversary who said, "Probe with the bayonet. Probe with the bayonet. And when you hit softness, keep pushing. When you hit steel and hardness, back away."

I would have to ask my colleagues who are planning to vote for this amendment that is here before us and who voted yesterday, as this Senate did, if Lenin were alive would he think the performance of the U.S. Senate now under its new majority is that of steel and toughness or is it one that represents softness and would he continue to thrust and push with the bayonet after watching the performance here?

Then the vote that we cast yesterday and, as my dear colleague from Indiana said, to come in and have the vote that we just passed this morning on the Warner amendment, it is absolute inconsistency of the strongest order.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. SYMMS. So I thank the Senator. I urge all colleagues to vote against this amendment and, if it passes, to vote against the bill.

Mr. WARNER. Mr. President, how much time does the Senator from Virginia have remaining?

The PRESIDING OFFICER. One minute and fifty seconds.

Mr. WARNER. Mr. President, I reserve that time for the distinguished Republican leader.

Mr. BUMPERS. How much time does the Senator from Arkansas have?

The PRESIDING OFFICER. Fifteen minutes and five seconds.

Mr. BUMPERS. I yield to the Senator from Rhode Island such time as he may use.

Mr. CHAFEE. Mr. President, we have coming down the track, hopeful of an INF agreement. And if that comes in the form that I believe it will come, this is one Senator that will support it. I believe that the majority, not only a majority, but an adequate number of Senators in this body will support that INF Treaty.

But it seems to me, Mr. President, unless we have these sublimits agreed to, the INF Treaty does not mean anything, because it is perfectly possible for the Soviets to have a short-range weapon, a weapon that will shoot in the reduced range, even though it has a longer range capability to do it.

And so when we eliminate the INF weapons and yet permit the Soviets to have an unlimited number of SS-24's or SS-25's they can shorten, either have a high trajectory of those weapons or reduce the range so indeed those weapons will indeed be an INF weapon. So the importance is to add such kind of limitation such as set forth in the SALT II sublimits or we are not getting anywhere with an INF agreement. And I bring that to the attention of my colleagues with the hope that they will support this amendment that the United States will continue to adhere to those sublimits and the Soviets will likewise.

If the Soviets do not, then all bets are off, and everybody knows this. This is not a unilateral agreement. This is not solely binding the United States. This binds the United States if the Soviets adhere to those sublimits.

So, for the sake of preventing an all-out nuclear arms race, but also for the future of the INF agreement, I would hope that my colleagues would support the Bumpers amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I support the pending amendment. United States and Soviet adherence to interim restraints on strategic weapons and launchers is even more critical today than it was last year, when the administration decided to exceed the numerical sublimits in the SALT II Treaty.

The argument for maintaining numerical sublimits on strategic weapons and launchers is based on a careful calculation of our national self-interest.

Like all arms control agreements, SALT II was signed by the President because he felt that it enhances U.S. national security. By placing limits on strategic nuclear arsenals, the treaty provided a degree of stability that would otherwise have been unattainable.

To date, the treaty has imposed important limits on the Soviet nuclear forces. Between 1973 and 1986, the Soviets dismantled over 550 strategic weapons launchers, while the United States dismantled fewer than 50 such launchers.

More important are the implications for the nuclear balance if all restraint is abandoned by both sides. The Soviets are in a far better position to expand their nuclear arsenal because they have more active warhead production lines, and Soviet missiles can easily accommodate additional warheads. By 1994, without the treaty limits, the Soviets could deploy up to 31,000 strategic warheads; the United States is in a position to deploy some 23,000. Contrast that possibility with the strategic balance under SALT II: 14,000 Soviet and 12,000 American warheads—a far more equal and stable situation.

President Reagan cited the potential for rapid expansion of the Soviet strategic arsenal as his reason for deciding to abide by the sublimits contained in the treaty well into his second term in office.

Yet last November, the administration fulfilled its threat to exceed the treaty's numerical sublimits by deploying additional B-52 bombers equipped with cruise missiles. The administration continues to exceed the limits of the treaty, while simultaneously seeking an agreement to eliminate intermediate range weapons in Europe.

But a step forward is not progress if at the same time we take two steps back. Particularly because there is an important relationship between Soviet intermediate and strategic weapons, a success in INF negotiations cannot effectively substitute for abandonment of restraint.

The Soviets could easily negate the benefits of an agreement eliminating short- and medium-range missiles directed against Europe by deploying additional strategic weapons aimed at the same targets. By abandoning strategic sublimits—thereby encouraging the Soviets to do the same—the United States is jeopardizing the potential benefits of the proposed INF Treaty.

Continued adherence to such strategic sublimits would buttress other arms control agreements, in addition to enhancing stability and limiting the number of Soviet weapons aimed at American territory.

Soviet compliance with the SALT II sublimits has been unchallenged until recently, when compliance with the sublimit on MIRV'd ICBM launchers was questioned. The administration suggests that the Soviets could return to compliance by completing dismantling actions that have been taken at SS-17 sites. But it is not difficult to imagine why the Soviets have now begun to stray from strict technical adherence to the treaty.

If the administration continues to flagrantly exceed the sublimits in SALT II—while calling the agreement no longer applicable—it will be only a matter of time before the Soviets deploy additional strategic weapons and purposely and permanently exceed the treaty sublimits.

This amendment will require the United States to bring its strategic arsenal back into compliance with the sublimits. It will not force the United States to abide by any part of SALT II which the Soviets do not observe; should the Soviets abandon the sublimits, the President can do the same under the amendment.

Unless Congress requires U.S. adherence to strategic sublimits, it is unlikely that the administration will voluntarily reverse its decision to exceed the sublimits set forth in SALT II. This is truly unfortunate, because American national security is strengthened by adherence to such sublimits. It is unfortunate that the administration has failed to recognize this fact.

I urge my colleagues to act to impose some interior restraints on strategic weapons and launchers. Such limits will provide a degree of certainty and stability essential for preventing nuclear war and restraining the arms race. In addition, maintaining strategic weapons limits will help ensuring that future arms control agreements enhance, rather than undermine one another.

Mr. BUMPERS. I yield myself such time as I may use.

Mr. President, I hope that the expression of optimism about the possibility of START talks being concluded one of these days is justified. Nothing would please this Senator more than for this President to be able to enter into an agreement with the Soviet Union to reduce warheads by 50 percent.

I personally do not think, based on the kind of weapons we have coming down the pike and the amount of money we have committed to the B-1, to the Stealth, to the Trident, to the D-5, to the Midgetman, to the MX rail mobile, I honestly do not believe in light of all the money we have committed for modernization of strategic weaponry, that we are likely to get a 50 percent reduction. But I sure hope we do get that kind of reduction.

But I do believe one thing, I do believe that pending that happy day our negotiators will be infinitely better off starting from an interim restraint level, as provided for in this amendment, than they would be with just the United States unilaterally assuming that it can violate the numerical sublimits of the SALT II Treaty, which we are in flagrant violation of right now, and building as many lauchers as we want and adding as many warheads as we want, without a Soviet response.

I deplore any suggestion that 55 Senators—who listened to 5 hours of debate yesterday and who believe that the arms race is already just about out of control and believe that our security is threatened by it because we think the more we have the less secure we are—that somehow or other their patriotism is called into question, I resent it and I deplore it and it is unbecoming of any Member of this body.

Mr. President, I did not put 3 years in the Marine Corps to stand on this floor and listen to that kind of nonsense.

We are talking about the fate of the planet Earth. We are not talking about who can stand here and beat his chest and engage in that macho talk about how the Soviets are in violation here and violation there. It is the United States that is in the most flagrant violation of all of the interim restraint numerical sublimits.

To be naive about Gorbachev or the Soviet Union is unforgivable. To be paranoid about them allows them to dictate the policy of the country instead of us dictating it. It is perfectly fine and right to have a healthy skepticism of the Soviet system and their adventures in Afghanistan and where ever else they can find an unlocked door. It is an intelligent approach. But to have a knee-jerk response to everything they do does not serve this country's interests.

So I think the negotiators will be infinitely better off starting from a level of 13,000 warheads on each side—which is about 12,800 more than either side needs to destroy the planet—they will be infinitely better off to start from that level than they would from a level of, say, 20,000. And if you saw the chart yesterday you see that by the year 1995 to 2000, the Soviets would have 8,000 more warheads than we have.

Our President, whom I wish well in these negotiations, in 1985, after he had said in 1982 that we are going to comply with the SALT interim restraints as long as the Soviet Union do was asked: Mr. President, who on Earth are you doing this? Members of his own party challenged him very strongly on that. And he said: Because I found out the Soviet Union is in a much better position to take advantage of our breaking out of it than we are. He was dead right. We had charts all across that floor yesterday that showed that.

So you are looking at a Senator who strongly favors the Trident submarine—although I do think we ought to be building smaller ones so we do not put all our eggs in one basket. You are looking at a Senator who is probably going to vote for the Midgetman ICBM. You are looking at a Senator who is probably going to vote for the Stealth bomber. You are looking at a Senator who is probably going to vote for every single appropriation on the D-15 submarine-based missile. Because those weapon systems make sense.

I did not vote for the MX and the Senate came to its senses 4 years later and said: We made a mistake.

I did not vote for the B-1. Now we find blackbirds will take it down, but that is not the reason I did not vote for it. I voted against it because I knew the Stealth bomber was coming on.

So nobody here has a lock on patriotism or the security interests of the United States. I just think that interim restraints make sense.

I applaud the Senator from Kansas for coming with his amendment this morning to remove the idea that we are trying to ratify a treaty here with a simply majority. It was not my intention. I would not vote for the SALT II Treaty today. It has already expired.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 20 seconds.

Mr. BUMPERS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Kansas.

Mr. DOLE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute 59 seconds.

Mr. DOLE. Let me indicate at the outset that I certainly, and I say to all my colleagues, have no quarrel with anyone's motives; certainly not to question anyone's patriotism. But I look at the amendment we just voted on differently, I guess, than the distinguished Senator from Arkansas because the amendment we just voted on outlines the constitutional steps we would have to take in order to bring life into SALT II. Now we are about to vote on an amendment which would legislate the SALT II numerical sublimits. I believe the two are inconsistent.

Say what we may, everyone knows the history of this amendment. Its sole purpose is to bind us to that one shred of SALT II which the Soviets apparently did not violate between 1981 and 1986—while we observed the treaty's every provision.

It hasn't taken long for most people to catch on. The Senator from Virginia has already shared with us a number of headlines which interpret the Bumpers amendment as precisely what it is: SALT II.

Look at the limits: 820 MIRV launchers; 1,200 ICBM and SLBM MIRV launchers; and 1,320 MIRV launchers and heavy bombers equipped with cruise missiles. These aren't exactly the sort of terms most people come up with at their dining room table. No—they're the limits a certain group of people—United States and Soviet SALT II negotiators—came up with. They wrote then down in article V.

I would ask unanimous consent that article V be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF STRATEGIC OFFENSIVE ARMS

(Signed at Vienna June 18, 1979)

ARTICLE V

1. Within the aggregate numbers provided for in paragraphs 1 and 2 of Article III, each Party undertakes to limit launchers of ICBMs and SLBMs equipped with MIRVs, ASBMs equipped with MIRVs, and heavy bombers equipped for cruise missiles capable of a range in excess of 600 kilometers to an aggregate number not to exceed 1,320.
2. Within the aggregate number provided for in paragraph 1 of this Article, each Party undertakes to limit launchers of ICBMs and SLBMs equipped with MIRVs, and ASBMs equipped with MIRVs to an aggregate number not to exceed 1,200.
3. Within the aggregate number provided for in paragraph 2 of this Article, each Party undertakes to limit launchers of ICBMs equipped with MIRVs to an aggregate number not to exceed 820.
4. For each bomber of a type equipped for ASBMs equipped with MIRVs, the aggregate numbers provided for in paragraphs 1 and 2 of this Article shall include the maximum number of ASBMs for which a bomber of that type is equipped for one operational mission.
5. Within the aggregate numbers provided for in paragraphs 1, 2, and 3 of this Article and subject to the provisions of this Treaty, each Party has the right to determine the composition of these aggregates.

Mr. DOLE. Make no mistake—this amendment legislates the numerical sublimits from SALT II.

Ignoring the conspicuous similarities with SALT II, proponents of this amendment argue that it is something else. What? Is it some new kind of arms control which only requires a domestic law here in the United States? I doubt that such a process will yield desirable results.

Arms control agreements are packages of numerical and qualitiative limits, definitions, verification, and many other provisions. People work very hard to put them together. Whether you think SALT II was a good deal or not—and I do not—it was package. Our negotiators argued that the qualitiative limits were very important. But the Soviets chose to violate those provisions. It doesn't follow that we should enact the one bit of the package of Soviet choice into law.

I believe it is time to come clean. This amendment legislates compliance with bits and pieces of SALT II. It is not some new kind of arms control. It is not restraint which will help us get a start agreement. In fact, clinging to these sublimits in the face of Soviet behavior—and let's not forget the two missile tests off Hawaii this week—can only encourage them to dig their heels in.

I think article V is precisely where they came from. This one little part of SALT II has been plucked out and we want to now legislate that and it does legislate the numerical sublimits from SALT II.

So, I would just say that having indicated by unanimous vote, all those who were present, that we want to follow the procedure—I share the view of the Senator from Arkansas, I do not think SALT II could be ratified. It has already expired. We would have to change the date. A number of other things have happened since that time. But I would just suggest——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. I ask unanimous consent that the distinguished Republican leader be given a minute and a half.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I do not need but 30 seconds.

I believe it is time to face up to it and we are doing that. We had a vote yesterday on a motion to table. Those who favor the amendment were clearly in the majority. I guess we could have carried on this debate for another 3 or 4 or 5 days, but I would guess with this amendment in the bill it is going to be more tempting for the President of the United States to veto the entire package, and I would urge that he do that.

It seems to me with the so-called Nunn-Levin amendment, which restricts his flexibility on SDI, because of the way the ABM Treaty would be interpreted, and now with this legislative effort to revive SALT II, it would seem to me the President would certainly be justified if these two provisions are still in the bill as it goes to the President to exercise his veto authority, and I would urge him to do that. I would urge my colleagues that if this amendment is adopted, that we have a strong negative vote on the bill itself when it comes to final passage.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I ask unanimous consent that this Senator be granted time not exceeding 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, we have had a vigorous and fair debate and I say to my good friend from Arkansas and any others who may have misinterpreted my comments of yesterday and today as questioning their integrity or patriotism, we all stand in this Chamber on an equal footing when it comes to patriotism.

I have spoken to this amendment in the strongest opposition. So much has been said to date, I think the time has come for the vote.

Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Virginia has yielded the floor. Who yields time? The Senator from Vermont.

Mr. LEAHY. First let me just compliment the Senator from Virginia for those remarks. We had a long and thorough debate. The Senator from Virginia at all points in that debate went to the facts and the issues and I compliment him for that. Nobody questions the patriotism of any of the Members here.

I cannot imagine any Member of the U.S. Senate who would not want to see good, solid controls on nuclear weapons. We may approach it from different views.

I think that the Bumpers-Leahy amendment is absolutely essential. That is my view. I consider myself a patriotic American, a patriotic Vermonter. But it is my view.

It is my view for a number of reasons. Between 1973 and 1986, under the constraints of SALT II, the Soviets had to dismantle 550 strategic launchers. The United States only had to dismantle 48 to remain within the SALT ceilings. Through 1987, the Soviets will have to dismantle another 129 strategic launchers. Here in the United States, we have to come down 32. But if these limits are not restored by Bumpers-Leahy, by 1994 the Soviets could deploy 34,000 warheads and the United States about 20,000. We both have about 11,000 warheads each now. Can we really say that if we go from 22,000 strategic warheads divided between the superpowers today to 54,000 in 7 years that we really have arms control, or even more importantly, could we say that we have security?

You know, as that nuclear genie gets further and further out of the bottle, it becomes more and more difficult to put it back in. At what point do we have such a huge number of strategic weapons at such hairtrigger readiness that no longer do we humans have control over what is there? At what point does this nuclear arsenal become controlled by electronic measures, by computers? Nuclear war is more likely to come by accidents, rather than by design. I cannot imagine somebody with sanity starting a nuclear war, but I can well understand an accidental nuclear war.

The more nuclear weapons, the more hairtrigger readiness, the more an accident leading to nuclear war is possible.

What we are doing here today is not demonstrating just our individual patriotism or individual concern. We 100 Members of the U.S. Senate are demonstrating, not only for ourselves and everybody we represent, but for our children and our children's children, what kind of a world we want.

I said over and over on this floor that my children are going to live most of their lives in the next century. This is part of the legacy we leave to that next century. This is part of the assurance we give those children and eventually their children, that there will be a next century, and it will be a century where the specter of nuclear war has receded somewhat.

I wish the President of the United States Godspeed and good will in efforts to try to lower the nuclear threshold. We can also say that we will at least start from a common ground.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. How much time have I remaining?

The PRESIDING OFFICER. Five minutes twenty seconds.

Mr. BUMPERS. I yield myself the remainder of my time plus I ask unanimous consent that I be given an additional couple of minutes if I happen to need it to correspond to the time yielding to the minority manager.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I want to compliment the Senator from Vermont on the statement he just made because the point is well taken, that this amendment is not designed to help the Soviet Union. This amendment is designed to protect the national security of the United States.

I do not know how much more firmly that point can be made. They say liars can figure but figures do not lie. You saw the chart yesterday, and the President has said it, showing that the Soviet Union is in a much better position to take advantage of disregarding the SALT sublimits than we are. So how do we come out short on the deal?

How do Members of this body, for example, or the opponents of the Bumpers amendment, explain the fact that six out of the last seven Secretaries of Defense favor the approach this amendment follows?

Do you think they favor the Soviet security interest over ours? Do you think Gen. Brent Scowcroft, who I believe was Gerald Ford's highly respected national security adviser and on whom Ronald Reagan has depended and turned to time after time for advice on security matters, favors the approach this amendment follows because he thinks it favors the Soviet Union?

Do you think all of our 15 NATO allies who favor this amendment and who join with us in the NATO alliance to resist communism in Western Europe—do you think they favor this amendment because they think it favors the Soviet Union?

What kind of nonsense is this? Talk about madness, thoughtless, this is it.

I know that if you want to bash the Soviets you do not have to think. It is the happiest of all worlds to bash the Soviets and the Kremlin because that substitutes for thinking where our real security lies.

I have seen people jump under their desks around here every time things like this come up. I invite the people of this body who understand the history of the United States to tell me one time that has ever served our interest.

The Vietnam war. All those arguments that were made about the Persian Gulf, I can show you in the CONGRESSIONAL RECORD, word for word, where those same words were uttered in 1965 through 1973 by people who insisted on continuing in Vietnam. "We cannot leave now. We are in too deep. We are obligated."

Let me just close with this little story, Mr. President.

My distinguished friend from Virginia, and he is a dear friend, will appreciate this because it deals with Robert E. Lee.

I read a book called, "Lee: the Last Years." It is the story of Robert E. Lee from the end of the war until his death.

After he offered his sword to General Grant at Appomattox, and General Grant very magnanimously refused to take it, he got on his beautiful white horse, Traveler, and started the long trek to Richmond where a home had been prepared for him.

Bear in mind Robert E. Lee did not want the South to secede from the Union; he did not want his beloved Virginia to secede. He was such a great general he was offered the commandership of the Union forces and he refused, saying he could never fight against his beloved Virginia.

This is not talking about the Senator from Virginia, but one of my heroes, Robert E. Lee.

During that trek, the people turned out in the villages and communities and as he rode through town they cheered and gave the rebel yell. They were subdued militarily but not in spirit and they still saw Robert E. Lee as their hero.

The third day on the trip from Appomattox to Richmond he looked around to nothing but desolation as far as he could see, still rotting bodies in the fields and battlefields, and the South lay bare.

I have always said we have a certain character in the South because we are the only part of this Nation that has ever been occupied.

One day he looked and he saw all that desolation and waste over a war that he did not want, that he had tried to prevent. He turned to one of his aides and he said, "The politicians caused this. At a time when the country needed people to talk sanely and rationally, the politicans were feeding the hostilities, the bigotries, and the prejudices to the people until the war became inevitable. And at a time when all we needed were a few men of courage and wisdom and forebearance, we did not have them. This is the result."

I would never vote for anybody who does not understand history.

Mr. President, I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I wish only to say my admiration, my compliments, and my thanks to the Senator from Arkansas, the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Rhode Island [Mr. CHAFEE], who joined in working so hard these past years on this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask for 1 minute to reply with my story on Robert E. Lee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. At the conclusion of that divisive war between the States, Robert E. Lee's aide-de-camp wrote a book.

The book was entitled "The Unbiased History of the Civil War, From the Southern Point of View."

Mr. President, in clear words this is an effort to have the Senate adopt part of the SALT II Treaty.

The PRESIDING OFFICER. The Senator from Virginia has yielded the floor. The clerk will call the roll.

The Chair is in error; the yeas and nays have not been ordered.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

Mr. WARNER. I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. **LEAHY.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** It will require unanimous consent to enter into a quorum call at this time. Is there objection to the quorum call?

Mr. **LEAHY.** This will be very brief. I ask unanimous consent to enter into a quorum call.

The **PRESIDING OFFICER.** Is there objection to the quorum call? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **LEAHY.** Mr. President, I ask unanimous consent that the call of the quorum be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Under the previous unanimous consent agreement, the vote is on the Bumpers-Leahy-Chafee-Heinz amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **SIMPSON.** I announce that the Senator from Utah [Mr. GARN] and the Senator from California [Mr. WILSON], are necessarily absent.

Mr. **BYRD.** Mr. President, regular order.

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 299 Leg.]

YEAS—57

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—41

Armstrong
Bond
Boschwitz
Chiles
Cochran
D'Amato
Danforth
DeConcini
Dole
Domenici
Evans
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—2

Garn
Wilson

So the amendment (No. 825) was agreed to.

Mr. **BUMPERS.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **LEAHY.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **CHILES.** Mr. President, I have become very concerned with recent reports that at some time in the review of this year's defense budget we may see an attempt to reduce funding for two new aircraft carriers the Navy has requested. As a senior member of the Defense Subcommittee, I have come to respect the immense conventional capability and tactical flexibility the aircraft carrier provides us.

Despite the significant leaps in military technology that we have witnessed in recent years, the United States remains an island nation dependent on the seas for communication, trade, and transportation. In the event of a conflict, the United States must be able to engage and defeat our adversaries while at the same time protecting sealanes over which 95 percent of our imports and exports flow.

However, the most likely and immediate use of our carriers will be in protecting our interests as well as the interests of our allies in a conventional crisis. In recent years when these crises have arisen, the carrier has proven itself to be the most powerful conventional weapon on the planet.

Morever, in recent times we have experienced great difficulty securing basing and landing rights. Even when the airfields are securely in our hands, the radius of tactical aircraft is limited to 600 miles. It is unlikely that we will ever secure the vast number of airfields necessary to cover our vital interests. The carrier provides us with the platform necessary to protect these interests.

The Navy has anticipated the need to replace our aging carriers for many years and they have planned to begin work in two new carriers in the early 1990's. Therefore, it is clear that we save $400 to $700 million if we continue our carrier modernization without a break in production. This so-called heel-to-toe production line means the work force can without interruption, using an already well trained work force, continue production on the next carrier. Savings then accrue from more efficient material acquisition profiles, shipbuilding, learning curve benefits, and avoiding a reduction in the shipyard work force.

Finally, Mr. President, a couple of years ago I had the honor to sail aboard the U.S.S. *Eisenhower*, one of our fine great carriers. Seldom have I seen a group of more dedicated, knowledgeable and patriotic young men. Despite extended time away from family, friends, and comforts, they performed their duties with a unique and splendid enthusiasm.

Ted Williams once asserted that the most difficult athletic feat was hitting a baseball. Likewise, Mr. President, there is probably no more difficult military task than a night carrier landing. It takes courage on the part of the pilot as well as great skill, concentration, and teamwork on the part of the skipper and crew. It is a remarkable act to watch. These young men should have the best equipment we can provide them. These two carriers will represent the pledge of support we must continue to provide them in a dangerous world.

Mr. **DURENBERGER.** Mr. President I rise today to share my views with my colleagues on S. 1174, the National Defense Authorization Act for fiscal years 1988 and 1989.

It has taken this body many months to reach the point we are at today: final passage of the defense authorization bill. This bill is, in many ways, a landmark. S. 1174 is the first time a biennial authorization bill has been reported by the Armed Services Committee. The move to a 2-year authorization, admittedly incomplete this year, is a welcome step toward increasing program stability and improving the quality of congressional oversight.

S. 1174 also signifies the commitment of the new chairman of the Armed Services Committee, Senator NUNN, and the ranking minority member, Senator WARNER, to looking beyond the details of program line items to the most important question: how our defense budget reflects U.S. national security strategy. Last January, President Reagan submitted his first report on national security strategy spelling out U.S. goals and objectives around the world. This document, along with the extensive hearings held by the committee, provides a framework for evaluating defense programs in larger context, and a means by which Congress can make difficult budget decisions in an era of resource constraints.

The national security strategy parallels my efforts while chairman of the Senate Select Committee on Intelligence to make a national intelligence strategy an integral part of the intelligence authorization process. I worked closely with the Armed Services Committee in their efforts to promote strategic planning. While the national security strategy as a product is not ideal, what is most important is that the administration is continuing the process of strategic planning in concert with Congress. And the American public can be assured that both the product and the process will continue to improve.

S. 1174 authorizes $303 billion in defense spending for fiscal year 1988. This is a tremendous sum of money, especially when our budget deficit is likely to be $160 billion this year. Our overall defense spending will not end up, however, at this figure; the final budget figure will likely be closer to $285 billion. But whatever the final figure, it is vitally important to recognize one fact: the years of large increase in defense spending are over and they are not likely to return in the foreseeable future.

It is more evident than ever before that Congress has been doing a good job of imposing budgetary realism on the Department of Defense. The 5-year defense plan for fiscal year 1982-86 proposed by President Reagan called for nearly $1.5 trillion in defense outlays. The actual amount approved by Congress, however, is $134 billion less for those years—a reduction of almost 10 percent. The administration has faced the reality of the budget constraints of the late 1980's. Their budget request for this year was more the $8 billion less than the amount requested last year. The last 2 fiscal years actually represented a decline in defense spending after adjustment for inflation. The increasing realism on defense expenditures is due, in large part, to congressional unwillingness to jeopardize our economic well-being for ever-increasing defense spending.

Limitations on defense outlays are necessary but they cannot be indiscriminate. A strong national defense is absolutely imperative if America is to remain the freest and richest nation in the world. We cannot return to the days of the 1970's where neglect of defense needs led to a perilously underfunded and underequipped military. But increased expenditures, by themselves, are not a guarantee of a strong defense; our defense budget must be tailored to our national security goals. This is why the national security strategy is so important. And it is why this defense authorization bill is so laudable.

S. 1174 reflects careful deliberation and a deep awareness of fiscal realities and our defense needs. It is the product of difficult decisions that balanced defense needs with resources. Overall it is, I think, a good bill. In keeping with the Armed Services Committee's desire to focus on strategy and policy issues rather than micromanagement, fewer than 200 of the thousands of individual line items in the authorization request were changed. Three features—all positive—stand out in this year's bill.

SPENDING PRIORITIES

First, the committee made considerable changes in the funding priorities outlined in the President's request. The proportion of funds devoted to strategic force programs was decreased—to the benefit of conventional forces. Roughly 40 percent of the reductions in S. 1174 came from strategic accounts which make up less than 20 percent of the budget. Yet, the reductions were made without sacrificing the viability of our nuclear deterrent. Funding for new capabilities for the troubled B-1 bomber was denied until current problems are solved. I have been a supporter of the B-1 in the past. I am, however, very concerned by the mismanagement of the program, especially in the plane's defensive avionics. The history of the B-1 is a nearly classic example of how not to procure a major weapons system.

Nearly $2 billion was cut from Air Force intercontinental ballistic missile [ICBM] modernization plans. These reductions were made chiefly in two areas. First, funding for research, development, and testing for the small ICBM [SICBM] or "Midgetman" was cut to $700 million. The SICBM was conceived as a means to address the issue of land-based ICBM vulnerability without further proliferation of what the administration rightly calls the most destabilizing weapons in the strategic realm: ICBM's with multiple independently targetable warheads or MIRV's. Where a MIRV'd ICBM offers an attacker the theoretical possibility of destroying 10 or more warheads with only 1 or 2 of his own weapons, a Midgetman would provide a disincentive for attack because it carries only 1 warhead. The prospect of using two warheads to destroy one would mean that even a most determined attacker would face the prospect of disarming himself if he chose to attack.

It is this feature of the SICBM that has made it so attractive to many supporters. The main drawback is, however, the cost which is anticipated to exceed $40 billion for 500 missiles. Such a tremendous expenditure can be made only after a complete understanding of how the SICBM would complement our strategic deterrent into the 21st century. The current prospect of significant reductions in the Soviet land-based MIRV'd ICBM force, for example, could make the SICBM unnecessary—or it could make the case for SICBM compelling if deep warhead cuts create an incentive for single warhead systems. Given this uncertainty, S. 1174 reduces advance funds for the SICBM to $700 million. This amount, while considerably slowing the pace of the program, is more than adequate should we decide at some future time to proceed to SICBM procurement.

MX ICBM

The second major reduction in ICBM funding is in plans to develop a new basing mode for the MX. This latest conception for the "missile without a home" envisions stationing the MX on trains stationed at military bases that would be moved onto the Nation's railroad system in time of crisis. "Rail Garrison" basing makes no more sense than any of the more than 30 previous MX basing ideas. And as I have consistently argued over the past 6 years, the MX remains not only a missile without a home but a missile without compelling strategic justification. I would prefer to see no more tax dollars spent on a missile that is wasteful at best and dangerous at worst.

MAXIMIZING SAVINGS THROUGH ECONOMIC PRODUCTION RATES

The second major trend in S. 1174 is a move to take full advantage of economic rates of production. In response the stretchouts proposed by the administration—slowing down of procurement in order to achieve savings in the current year—the committee increased a number of programs in order to maximize per unit production cost savings. As our experience with defense procurement since World War II has abundantly shown, short-term savings can be realized by slowing down procurement rates but only with greatly increased long-term costs. Many administrations have found it expedient to slow down production below economic rates thereby deferring major expense to future years. But deferred costs are sometimes deferred forever. When the time comes to pay, all too often we cannot. This is what is termed the "bow wave" phenomena when future funding requirements exceed future funding availability.

The stretchout problem was particularly noticeable in the administration's request for fiscal year 1988. One half of the largest 20 weapons programs were stretched out. Production stretchouts to achieve illusory short-term savings were evident in a wide range of systems; requested reductions of 25 percent of M-1 tanks, 49 percent for F/A-18 Hornet aircraft, 40 percent for E-2C Hawkeye early warning aircraft; 34 percent for AH-64 helicopters. And as production is stretched out, retirement age for current systems is increased, forcing out servicemen to fly older aircraft, drive older tanks, and use older weapons.

Several programs were canceled, slowed, or restructured in S. 1174 as well. One good example is the Navy's AEGIS shipbuilding program. The administration requested funds for two CG-47 cruisers and three DDG-51 destroyers in 1988 as well as advance procurement funds for two additional cruisers and three additional destroyers. The committee authorized funds for five cruisers in 1988, taking advantage of favorable pricing, but recommended against authorizing the procurement of the AEGIS destroyers. This approach allows maximum savings in the CG-47 Program by avoiding a stretchout that costs the taxpayer more in the long run, and also slows down the DDG-51 Program to ensure well-paced development free of the problems that plague the B-1 bomber.

READINESS, SUSTAINABILITY, AND SUPPORT

Third, every effort was made to shield the vital areas of readiness, sustainability, and support from shortsighted budget reductions. While it is often the big-ticket weapons programs that attract the attention of politicians, journalists, and constituents, it is in these sectors that we find the heart of our forces. Readiness—the ability of our military to go to war if necessary—and sustainability—the ability of our military to sustain forces after deployment—are often overlooked because they are not as glamorous as aircraft carriers, combat jets, or nuclear missiles. Yet, tanks without spare parts, artillery without shells, aircraft without missiles, and soldiers without food are, to say the least, ineffective. And undermanned combat units with inadequate equipment and lacking necessary support cannot provide a credible deterrent.

While there is no doubt that our forces are more ready, more sustainable, and better supported than they were before President Reagan took office, much more needs to be done. Unfortunately, the administration's budget request did not reflect the commitment to readiness, sustainability, and support evident in prior years. Funding requests for spare parts are far below the levels projected by the services in their own reports. This year alone shows that the Air Force is funding only 52 percent of its annual spare parts requirements. Nearly one-third of Central Command's combat support units were not combat ready according to its own commander.

These examples are only two among many that illustrate how the improvements is sustainability, readiness, and support in the 1980's are imperiled by an inadequate commitment on the part of the Defense Department. S. 1174 reflects committee actions which understand the importance of readiness, sustainability, and support. Reductions made absolutely necessary by budgetary constraints were made as broadly as possible to allow for flexible implementation. And a strong signal has been sent to the administration that the Senate will not rob readiness accounts to pay for more weapon systems that may not be maintainable in the future.

This brief summary of the defense authorization bill does not exhaust the issues associated with S. 1174; to the contrary it is not the provisions regularly associated with DOD authorizing legislation that have drawn the majority of attention this year. As has been widely reported, it was section 233 of the bill that led to more than 4 months of delay between the committee passage and consideration of the bill by the full Senate.

ABM TESTING RESTRICTIONS AND TREATY INTERPRETATION

Section 233 or the "Nunn-Levin" provision was added by a close partisan vote during the Armed Services Committee's deliberations on the bill. Unlike the delay it caused, the provision is very short. It states that no funds in fiscal years 1988 and 1989 may be "obligated or expended to develop or test antiballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based." This limitation could only be removed through an affirmative vote by both Houses of Congress.

The language in section 233 is taken directly from article V(1) of the 1972 Antiballistic Missile Treaty between the United States and the Soviet Union. This clause, along with article II and agreed statement D, is at the heart of the debate over the reinterpretation of the ABM Treaty. The debate began in October 1985 when then National Security Adviser Robert McFarlane asserted that the United States could proceed with development and testing of ABM systems based on new or exotic technologies and remain in compliance with the 1972 treaty.

Since that time, the intensity of the debate has not diminished nor has its importance. Many consider the 1972 ABM Treaty to be an affirmation of the reality of mutually assured destruction and the cornerstone of the United States-Soviet arms control achievements. Others see it as a guarantee of perpetual vulnerability that constrains only the United States while allowing the Soviet Union to proceed to a nationwide defense against ballistic missiles.

It is clear that if the strategic defense initiative is ever to be more than a research program, the ABM Treaty will have to be modified. But in the interim the administration has evidently decided to posit an interpretation of the treaty which would allow development and testing—though not deployment—of ABM systems which use new technologies. And in response to the outcry from Congress and from our allies that followed the first announcement of the new interpretation, Secretary of State Shultz stated that the traditional interpretation would remain administration policy, although the new version was "legally justifiable."

I have a number of reservations about both the process and results of what one observer calls the great reinterpretation caper. It seems that the original study supporting the new interpretation was done to support a policy decision rather than as an objective analysis of the facts. Almost none of the U.S. participants in the ABM negotiations were consulted. Since Judge Sofaer, the State Department legal counsel, first released his study, he has conceded that a number of errors were made. The administration bases its case on the three components of treaty interpretation recognized under international and domestic law: the negotiating record; the treaty as presented for advice and consent to the Senate; and the subsequent practices of the signatories. In each area, there is room for doubting the validity of the new interpretation.

The debate on ABM interpretation is vitally important to the future of SDI. If there is freedom to conduct not only research but testing and development of systems based on other or future technologies, SDI could proceed virtually unconstrained until actual deployment. If, on the other hand, only research is allowed, major portions of the SDI Program could proceed no further than the laboratory.

This year, the response of the Armed Services Committee to the reinterpretation debate was to add section 233 to the authorization bill effectively limiting SDI to the traditional interpretation of the ABM Treaty. As I indicated, I have serious doubts about the reinterpretation. On a matter of such importance for our future national security policy, I do not think that questions should be decided by teams of lawyers arguing over semantics. If the administration feels that the ABM Treaty is no longer in our interest, they should make the case openly and honestly. This is what some of the more forthright SDI supporters have argued. I will say, however, that if this were the issue before the Senate today, I would support the ABM Treaty as traditionally interpreted.

But the issue is not whether one believes that the ABM Treaty—however interpreted—is still in the U.S. interest. Nor is the issue, as some Nunn-Levin supporters have argued, simply a funding restriction similar to dozens of other restrictions placed by Congress on a wide variety of spending programs. The issue is whether or not the Senate should vote to bind an administration to an interpretation of a treaty that is contested.

It is my view that any modifications of interpretation should be negotiated between the signatories. Some in the administration have supported this approach as well, most notably Paul Nitze. In fact such an eventuality was envisioned in 1972; article XIV of the ABM Treaty lays out procedures for amendment through mutual negotiation. There is a regularly scheduled ABM Treaty review later this fall; I hope the administration will use it as an opportunity to explore areas of possible agreement with the Soviet Union rather than continuing on a course which does not have the support of Congress.

I supported the effort to delete section 233 of S. 1174 because, at this point, I do not feel that it is necessary for the Senate to legislatively mandate the traditional interpretation of the ABM Treaty. If the administration were not abiding by this interpretation, or if tests that violated the traditional interpretation were planned in the near future, the situation would have been different. And if the mechanism chosen by the authors of section 233 did not require affirmation by both Houses of Congress before allowing further testing and development—thereby granting the House of Representatives a veto over treaty-disputed activities—the situation would have been different. My reservations concerning ABM interpretation notwithstanding, I voted with 37 other Senators in an unsuccessful effort to delete section 233.

FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE

Since it was first proclaimed in March 1983, the strategic defense initiative [SDI] has generated more controversy than any other research program in American history. Some have seen SDI as providing defense for the United States that will, in President Reagan's words, "make nuclear weapons impotent and obsolete." Others see SDI as a colossal waste of money or, alternatively, as dangerous and destabilizing. But I have never seen SDI as either sin or salvation. Rather, it is a program designed to explore the feasibility of erecting defenses against the strategic nuclear weapons that have so deeply affected the world in which we live.

Activists supporting and opposing SDI—or star wars as it is sometimes inaccurately termed—have many questions to answer. Supporters of SDI have not made clear, and do not agree among themselves, whether SDI will enhance or replace deterrence. Some claim, as the President did in his original speech, that SDI will eventually so alter our current strategic situation that nuclear weapons would be obsolete. Others see SDI as a useful step to address more limited goals, such as defense of our ICBM silos. But in any case, few believe that SDI will provide a leakproof defense capable of halting 100 percent of a prospective attack—certainly not now, most likely never. And the problem of bombers and cruise missiles would remain unaffected as would other delivery options such as terrorist suitcase bombs.

Opponents of SDI do not agree either. While some denounce SDI as an enormous waste of money because it will never work, others oppose SDI because it may work. That is, many fear SDI would fundamentally change the balance of terror that we have lived with for three decades. It is argued that a world with strategic defense would be much less stable than the present offense-dominant environment, especially in a superpower crisis. Both sides in the debate have scientists and studies which support their views and both sides are convinced of the correctness of their cause. It is important to note, however, even the groups that strongly oppose the administration's strategic defense program, such as the Union of Concerned Scientists, still support large expenditures for SDI research.

What I find most important about the debate on SDI is its central and unique feature: questions of policy and strategy are being openly and publicly debated before the system is even close to production and deployment. Unlike so many developments in the history of the arms race—the hydrogen bomb, the ICBM, the MIRV notable among many others—SDI is receiving the kind of political scrutiny that it deserves while it is still in the earliest testing phases. For once, we as a nation are discussing a vital national security issue in a generally informed manner and at time when momentum and technology do not lock us in to a single course of action. I am convinced that full debate of the range of issues raised by the SDI program before it is a fait accompli will, in the long run, ensure that U.S. national security will be best served.

I have many questions about SDI and as I indicated earlier, about the ABM reinterpretation. But while I did not view it as proper at this juncture to constrain the administration on treaty-disputed elements of SDI testing, I took a very close look at the funding request for fiscal year 1988 SDI research. When I examined the SDI request, I felt that a 65-percent increase over last year's funding level was excessive. S. 1174 recommends a 25-percent increase to $4.5 billion but I felt that was also more than was necessary to maintain the robust research program that I support.

I did not feel it was wise to exempt SDI from the kind of budget cuts faced by the rest of defense programs. While our readiness accounts are barely adequate, I could not support a one-quarter increase in SDI. I am also concerned about the increasing share of the DOD research and development [R&D] budget devoted to SDI. In fiscal year 1984, SDI took up less than 4 percent of R&D while the fiscal year 1988 request would have consumed 12 percent of all defense R&D. By the administration estimates, SDI will use 23 percent of R&D funds by the early 1990's. I find this trend disquieting. An increasing share of our best scientific minds working on defense-related research, and an ever-greater share of our defense research is going to a program which has yet to answer many key political and strategic questions.

I also have some concerns about the direction and program architecture of the current SDI account. More and more resources are being devoted to projects that would be most useful in an early deployment scheme. That is, many fear that SDI is being increasingly directed toward deployment of a system that be operational as soon as possible, without a full accounting of the merits. For example, funds for the space based kinetic kill vehicle [SBKKV], often touted as the best prospect for near-term deployment by SDI partisans, are more than doubled in the administration request for this year. While SDI goals still need precise definition, and while priorities are still shifting according to the dictates of scientific progress, it does not make sense to increase one program so dramatically. And I am worried that the drift toward emphasizing SDI components geared toward a premature deployment actually imperils the most promising, but longer term, technologies that are still a distant hope.

For these reasons, I joined 49 of my colleagues in supporting a reduction of SDI expenditures to $3.7 billion, a level which only allows an increase for inflation over last year. The vote on the amendment, which I cosponsored, took place on September 22 and was tied 50-50. Vice President Bush cast the deciding vote in favor of the higher spending level to break the tie. Though the battle for lower SDI spending was lost in the Senate this year, the extremely close vote sends a clear signal that there is a lack of consensus behind the program as structured by the administration. And SDI is likely to face further restraints in the conference on S. 1174 since the House only approved $3.1 billion for next year.

NUCLEAR TESTING MORATORIUM

For the first time in the Senate, there was an attempt to mandate a 2-year moratorium on most underground nuclear warhead testing. As a long-time supporter of nuclear testing constraints, I looked at this amendment—drawn from S. 1106—very carefully.

I have long argued that a testing limitation are in the U.S. national interest. Halting or further moderating tests of nuclear weapons would be an effective means of slowing down the qualitative arms race. While much of the focus of arms control has been on crunching numbers, that is, the quantitative aspects of arms competition, much more dangerous advances increasing weapons capabilities have occurred. As the SALT I agreement used launchers as the currency of arms control, the move to destabilizing multiple warheads proceeded without constraint. Continuing advances in warhead accuracy have led to growing concern about the survivability of the land-based leg of our strategic triad. Neither MIRV technology nor accuracy improvements could have happened had a comprehensive test ban been in place.

The history of negotiated testing limits illustrates both the difficulty and the promise of arms control. The Limited Test Ban Treaty of 1963 banned testing in the atmosphere, not only ended the threat of radioactive fallout but also made tests of the largest warheads very difficult. It was, however, more than a decade before the next accord was reached. The Threshold Test Ban Treaty of 1974, along with the Peaceful Nuclear Explosions Treaty of 1976, ended testing of nuclear weapons larger than 150 kilotons for military and nonmilitary purposes. President Ford did not submit the treaties for ratification. President Carter also did not submit the TTBT or the PNET for ratification but he opened negotiations for a comprehensive test ban. CTB talks were suspended when the Soviet Union launched its invasion and occupation of Afghanistan.

There has been little progress during the Reagan administration. I have expressed my concern over the lack of progress in testing negotiations on a number of occasions—in public and in private. In 1982 I introduced a resolution calling on the President to submit the TTBT and PNET for formal ratification and to resume CTB negotiations. The resolution had a small bipartisan group of supporters. I sponsored similar resolutions in succeeding Congresses and was pleased that the administration agreed last fall to submit the treaties to the Senate for advice and consent.

Both treaties were submitted this year and extensive hearings were held by the Senate Foreign Relations Committee. Much of the focus was on the verification provisions of the treaties. Since the TTBT and PNET were signed, tremendous advances in verification technology have addressed the concerns expressed by many over our ability to monitor compliance with the treaties. In particular, the continuous reflectometry for radius versus time experiment [Corrtex] measurement technique promises to reassure even those most concerned about verification. Corrtex measures the yield of a nuclear explosion through the use of a cable buried near the test site. Corrtex is accurate—especially if it is calibrated with controlled tests—and offers a high degree of confidence.

Because of concerns over possible Soviet violations of the TTBT, the treaties were submitted to the Senate with a number of reservations dealing with verification. While I am not as fearful as some are to ratify the TTBT and the PNET without conditions, the reality of arms control ratification is that verification concerns must be addressed for a treaty to be approved. The Foreign Relations Committee reported the two treaties favorably in February but also favorably reported a resolution that recommends withholding a resolution of ratification pending the negotiation of further verification provisions.

I was pleased to see that Secretary Shultz and Foreign Minister Shevardnadze issued a joint statement earlier this month committing the United States and Soviet Union to further negotiations to strengthen the verification aspects of the TTBT and PNET. The statement also pledged to work toward a complete cessation of nuclear testing through mutual negotiations. As this brief review of the history of testing limits reveals, progress in arms control is often painstakingly slow. But impatience should not lead supporters of arms control to choose courses of action which are unwise.

The Hatfield-Kennedy amendment was, I regret to say, a course which I could not support. The Underground Nuclear Explosions Control Act would cut off all funds for 2 years for any nuclear testing over 1 kiloton, with two exceptions for reliability tests limited to one test site in each country. Verification provisions included in the amendment include onsite inspection, CORRTEX, and 12 seismic monitoring stations. The moratorium could be terminated if the President certified the Soviets violated any of the provisions or if an agreement making significant reductions in the number of yield of tests was reached.

I support the goals of this amendment, and if a treaty were presented to this body along the lines of the arrangement proposed in the amendment, I would strongly support it. However, I do not feel it is wise or proper to legislate binding testing limitations at this time. Progress—limited to be sure—has been made in bilateral discussions with the Soviet Union. There is a better chance for a testing agreement now than ever before. I do recognize that hopes for an agreement are uncertain, as are all things in arms control until the ratification process is complete. And I recognize that some use deference to executive prerogative as a way to pay lip service to arms control—I do not.

Just because some who argue treaties should be made by the Executive are not friends of arms control does not mean that it is good policy for Congress to legislate what amounts to a test ban treaty. The Constitution provides that the President shall negotiate treaties and the Senate shall provide advice and consent. But it is not a proper role for the Senate to impose strict negotiating conditions upon a President—even if Senators are dissatisfied with progress toward an envisioned treaty. It was for good reason that the Founding Fathers conditioned treaty ratification on approval of two-thirds of the Senate. Treaties are among the most important landmarks in our foreign policy; they often commit our Nation to a course of action for many years. Because of this, the drafters of the Constitution saw that treaties must have more support than a simple majority.

Due to my reservations about the approach in the Hatfield-Kennedy legislation, I voted with 60 of my colleagues against the amendment. My vote should not be interpreted as support for further testing of nuclear weapons; on the contrary, I will continue to pressure this administration to reach negotiated testing agreements before the Reagan era is over.

ANTISATELLITE WEAPONS TESTING

The Senate once again considered imposing a 1-year moratorium on the testing of antisatellite weapons [Asat] against an object in space. Antisatellite weapons are designed to attack and destroy the space-based satellites which the United States and Soviet Union use for vital military activities, including command, control, communications, and intelligence [C3I], as well as for crucial reconnaissance and surveillance missions. The Soviet Union has the only operational Asat system in the world, although it is based on the technology of two decades ago.

The proposed U.S. Asat system, on the other hand, is much more sophisticated. It uses a F-15 Eagle with a short range attack missile [SRAM], both specially modified for the Asat role. The most crucial component is a miniature homing vehicle [MHV] which detaches from the SRAM after launch, uses a variety of sensors to track the target, and destroys a satellite through impact at speeds approaching 11,000 miles per hour. The U.S. Asat system has been tested once against a Solwind P78-1 satellite in September 1985. The Air Force announced that the test was a complete success.

In the wake of the successful test, the House of Representatives passed an amendment banning Asat tests against an object in space for 1 year. The distinction of the target—an object rather than a point—is vital. Tests against a moving object are much different, and much more realistic, than a test against an arbitrarily chosen point. Satellites are not stationary objects; they move through space at speeds over 15,000 miles per hour. Asat supporters argue, and opponents fear, that tests against actual targets will make the U.S. Asat more potent.

In 2 previous years the Senate rejected efforts to ban Asat testing on the floor but agreed in conference to accept the House language. Since December 1985, there have been no U.S. tests of Asat weapons against objects in space. There are, however, important and valid arguments against imposing such a limit. The Soviet Asat program, though not nearly as technologically advanced as the United States effort, is operational. It has been tested over 20 times and has been deployed. Though it is capable of threatening only a portion of our space-based satellite assets, it is a threat our military planners cannot ignore. Many have argued that the best method to prevent the Soviets from using their Asat system in the event of crisis or war is through the development of a United States capability. Deterrence, it is argued, operates on the same principle in Asat as it does in other realms.

Some of the arguments made by Asat opponents need clarification as well. While many say we cannot militarize space, it should be clearly understood that space is militarized; satellites devoted primarily or totally to military missions have played vital roles in defense for decades. What is at issue is the weaponization of space—and that is a very legitimate concern. Supporters also sometimes argue that the United States is much more dependent than the Soviet Union on satellites. This is misleading. The fact is that both superpowers rely heavily on satellites for C3I. And certain Soviet satellites, particularly the radar ocean reconnaissance satellites [Rorsat's] and electronic ocean reconnaissance satellites [Eorsat's] which are capable of providing real-time information on United States naval and land forces, pose a very real danger to the United States in the event of conflict.

I am also concerned that a unilateral moratorium on our Asat program send the wrong signals to Soviet political and military planners. I do not want the Soviets to believe that they can develop, test, and deploy a weapons system—however rudimentary—and not worry about a United States response due to congressional actions. For these reasons, in the past I have opposed efforts to unilaterally constrain the development of U.S. Asat capabilities.

But the situation was different this year for three reasons. First, it is clear that United States-Soviet discussions on Asat limitations are moribund. There has been no movement in recent years and no new initiatives have been announced. In the words of the White House:

> In regards to Asat, the United States has not identified any limitation proposals which are effectively verifiable and in the security interests of the United States.

This official policy statement, issued earlier this year, makes it abundantly clear that there is no interest in serious exploration of Asat arms control.

Unlike nuclear testing negotiations, Asat talks are going nowhere. This is not, in my view, a sufficient condition to support an Asat moratorium but it is a necessary one. As I have indicated, I am very reluctant to restrict the President's flexibility in arms control negotiations. This is especially true when ongoing, constructive talks are continuing. But on Asat, they are not.

While some compare the testing and Asat moratoriums, they are different in another respect as well. While warhead testing has gone on for years, the F-15 Asat program is still in the developmental phase. S. 1174 authorizes over $206 million for the F-15 Asat program but did not approve funds for advance procurement. The report also points out that if the moratorium on testing continues, the program will have to be canceled or at least restructured. Notwithstanding the single successful test in 1985, the program is not free of problems. And the ongoing SDI research program will, inevitably, yield much more advanced Asat capabilities than the F-15 MHV simply because it is much easier to destroy a soft target traveling on a predictable orbit than it is to destroy a small, hardened reentry vehicle on a previously unknown trajectory.

Finally, I voted in favor of a ban on Asat testing because I feel that time is running out for the prospects for a solution to the Asat issue, short of unconstrained offensive competition. The Soviet Asat system is operational but only threatens low-level satellites. Rather than continuing on a course which could very well lead to an expensive Asat race with an uncertain outcome, a much better answer would focus on two areas: serious negotiations and protection of threatened satellites. I have expressed my dissatisfaction with the stagnant Asat discussions. But I am equally distressed that the administration paints the Soviet Asat threat in dire terms but has not requested adequate funds to address that threat through defense rather than offense. We are certainly capable of developing countermeasures which would protect our satellites within reach of Soviet Asat. If the administration had as much interest in defending against Asat as they do in defending against ICBM's, we could make real progress toward Asat limitations.

The Kerry amendment was defeated 51 to 47 on September 22 but it is clear that the moratorium will continue due to House action. And we will be certain to face this issue again next year unless the administration reconsiders the F-15 Asat program.

SALT II COMPLIANCE

Senate consideration of S. 1174 marked another first in Senate history—consideration of legislation binding the United States to the numerical sublimits in the unratified SALT II Treaty. SALT II was the product of years of work by the Ford and Carter administrations. Originally intended to be a reasonably rapid follow-on to the 1972 SALT I interim agreement on offensive weapons, SALT II was not signed until June 1978. As we all know, the agreement was never ratified due to the Soviet invasion and occupation of Afghanistan.

But SALT II was the subject of vigorous debate—in the late 1970's and in the 1980's. Reagan administration policy until last year was to observe the provisions of the accord as long as the Soviets did likewise. This changed in November 1986 when the 131st B-52 bomber with air-launched cruise missiles [ALCM's] was deployed without dismantling any existing launchers. This action placed the United States in excess of one key numerical sublimit of the SALT II Treaty.

The numbers in the SALT II Treaty are relatively simple. The United States and the Soviet Union are each allowed 2,250 ICBM launchers, submarine-launched ballistic missile [SLBM] launchers, and heavy bombers. Within this overall ceiling, three important subceilings were established: First, 1,320 MIRV'd ICBM's, SLBM's, and heavy bomber equipped with ALCM's; second, 1,200 MIRV'd ICBM's and SLBM's; third, 820 MIRV'd ICBM launchers. SALT II also included a number of other provisions. Among the more important are: limitation of only one new type of ICBM; ban on new heavy ICBM's; ban on the interference with national technical means of verifying the treaty; production limit of 30 Soviet Backfire bombers per year; limits on the number of ALCM's that can be placed on a bomber.

The deployment of the 131st B-52 with ALCM's last fall put the United States over the 1,320 sublimit on MIRV'd launchers and ALCM-equipped bombers. I felt, and continue to feel, that the United States has more to gain than to lose by maintaining our policy of observing SALT II limits. Though SALT II is by no means an ideal treaty, there is much in it that benefits the United States.

For example, the Soviets have more hot production lines for nuclear weapons. That is, the Soviets are in a better position to exploit the lack of any constraints than in the United States. Some estimates indicate that the Soviets could nearly double their total number of warheads in less than 10 years. This by no means insures that they will, particularly with the apparent shift in priorities publicly advocated by Secretary Gorbachev, but the possibility is clearly present. I do not see how allowing the Soviet Union to utilize their superior missile production capability enhances United States security.

SALT II also led to the Soviet dismantling of nuclear weapons. As they move toward deployment of their newest ICBM, the SS-24, they would have to dismantle more land-based ICBM's if both sides were still observing SALT II. There is dispute over exactly how many weapons the Soviets have dismantled under the SALT II constraints, but there should be no dispute that the SALT II arms control regime is better than no limits at all.

For these reasons, I have supported efforts to urge the administration to observe SALT II. I have voted for amendments to previous DOD authorization bills expressing the sense of the Senate that the SALT II limits should be observed. I joined with 56 of my colleagues in sending a letter to the President last December requesting that he reconsider his decision to go beyond the limits. Unfortunately, he has not. And because he has not, the U.S. Senate considered legislation which would prohibit the expenditure of funds for any weapons systems which exceed the numerical sublimits of SALT II.

There is now room to doubt Soviet compliance with certain SALT provisions. SALT contains a limit on one new type of ICBM per side; ours is MX and the Soviet counterpart is the SS-24. Recent reports indicate however, that the SS-25 goes beyond the limits of modification allowed for old ICBM's. It certainly appears that the SS-25 is a second new ICBM. But the proper answer to this violation should be commensurate. That is, instead of violating the numerical sublimits, we could accelerate the deployment of the Midgetman small ICBM.

A second issue deals directly with the United States ability to verify Soviet adherence to SALT II. SALT II bans the encryption of missile telemetry—the test data radioed back to the Earth during an ICBM's flight so that performance can be monitored. The limits on telemetry encryption were included so that each side could monitor test missiles to ensure that they did not exceed certain parameters such as throwweight, warhead numbers, or range. Encryption makes the monitoring of Soviet tests nearly impossible. And it undermines confidence in Soviet willingness to live up to SALT.

There are other problems with Soviet noncompliance as well. There are concerns that the SS-16, banned by SALT II, has in fact been manufactured. The SS-16 is essentially a SS-20 with a third stage added to increase its range significantly. If the SS-16 has been manufactured, it would add more grave concerns to other questions about Soviet intention to comply with arms control agreements. While I do not like the way verification has been used as a political football—often airing issues in public rather than fully utilizing the Standing Consultative Commission designed to resolve treaty compliance issues—Soviet actions cannot be ignored.

I am prepared to give the administration the flexibility it needs to negotiate arms control agreements. But I am also willing to see that the modest numerical restrictions contained in SALT II are observed while arms control negotiations proceed. Opponents of the Bumpers SALT II amendment argued that it would undercut our bargaining position at Geneva. But all this amendment does is require the President to continue on the course he followed for 6 years: observation of SALT II provisions not violated by the Soviet Union. It does not lay out the parameters of any future agreement nor does it bind the President to observance if the Soviets violate the sublimits.

Supporters of arms control, like myself, have been discouraged by the lack of progress in the Reagan years. But as in so many endeavors, patience and persistence can pay off. We are now very close to an agreement on intermediate nuclear forces that no one would have thought possible 1 year ago. It has been almost 6 years since President Reagan first announced the zero-zero option but through tough bargaining and a willingness to stick to our principles, it looks like an agreement will be reached before the end of the year.

There is evidence of progress in the strategic arms reduction talks as well. The Soviets have agreed in principle to a 50-percent reduction in nuclear forces, including deep cuts in their land-based ICBM's. I am hopeful we can maintain the momentum established in the INF talks and move to a historic strategic arms treaty next year. But ignoring the only numerical restraints governing—however loosely—the United States-Soviet arms competition does nothing to help us move forward. And requiring the President to return to his policy of complying with the limits in SALT II does not hinder us from moving forward.

CHEMICAL WEAPONS

Once again, I voted against further funds for nerve gas and chemical weapons. The Hatfield amendment, defeated 53 to 44, would have banned the assembly of 155 mm artillery shells filled with nerve gas for 1 year. Since assembly was scheduled to begin on October 1, 1987, this was the last chance to halt deployment of a new generation of nerve gas weapons. The United States did the right thing in 1969 when President Nixon announced a unilateral moratorium on the production of nerve gas weapons. My vote for the Hatfield amendment reflected my view that Nixon's decision is the right one for 1987 as well. I was disappointed that after more than 20 close votes in 6 years, the Congress was unable to prevent new nerve gas deployments.

The Pryor amendment prohibiting funds for the production of the Bigeye chemical bomb was defeated by the closest of margins, 49 to 48. Last year, Vice President BUSH was needed to break a tie. That the margin of victory for chemical weapons was so slim is, in large part, due to the problems that have plagued the Bigeye program since its inception in 1963. Now, 24 years and six Presidents later, it still does not meet requirements. Though the Armed Services Committee pointed to poor Bigeye performance in its report on S. 1174 and cut $20 million from the administration request, I voted to cut the remaining $5 million. I did so because weapons that work poorly do not enhance deterrence and because I feel current stockpiles are adequate to prevent the use of chemical weapons.

There were other amendments relevent to arms control the Senate voted on during consideration of S. 1174. Two efforts by Senator HELMS were defeated. One would have authorized the Air Force to place 50 MIRV'd Minuteman III's into single warhead Minuteman II silos, thus placing the United States further in violation of the SALT II sublimits for no strategic reason. The other would have expressed the sense of the Senate that no treaty on intermediate range nuclear forces should be ratified until the President certifies that the Soviet Union is no longer violating the ABM Treaty. While Soviet actions, particularly the phased-array radar at Krasnoyarsk, raise serious questions about Soviet compliance, I do not feel we should link INF treaty ratification to Soviet actions in the ABM arena. Any INF treaty will have to stand on its own merits.

Although I support the vast majority of the bill and supported money of the floor amendments to S. 1174, I will vote against it because of one short section: the Nunn-Levin provision. This provision represents the linchpin of the administration's position on this bill; it will certainly lead to a veto. And I believe this body will sustain that veto. It is unfortunate that such an important and forward-looking defense authorization bill will stumble on such a seemingly small obstacle. The burden rests with the majority of this body who would not allow the provision to stand on its own—a course that would have given us a defense bill months earlier. But because they would not, I am forced to vote against the defense authorization bill—something I have only done twice before in my years in the Senate.

Mr. President, the actions taken on this bill are of vital importance for our national security. More than a thousand of my constituents have contacted me with their views on portions of this bill. They recognize, as do I, that this bill addresses the most fundamental issues of our time: the nuclear arms race, the safety of our Nation, the security of our allies, war and peace. A single vote on final passage cannot convey the depth of any Senator's view on the range of complex issues presented. It can only communicate his or her judgment on the fundamental issues at stake. I believe the constitutional role of the President in treatymaking is the paramount issue before us today. At a time when this President is deeply engaged in the process of negotiation, to make us all more secure through the reduction of nuclear weapons, that issue overrides all others. That is why I will vote against this bill.

Mr. PELL. Mr. President, I shall vote in favor of S. 1174, the defense authorization bill for fiscal year 1988-89, because the measure includes many positive features notwithstanding its fiscal imperfections.

In particular, I support its important provisions relating to deployment of the strategic defense initiative. The Levin-Nunn proviso keeps faith with the ABM Treaty as it was negotiated 15 years ago, and properly gives Congress a role in determining when advanced testing and development of space-based defense can be undertaken.

Likewise, I am pleased that this bill reaffirms the sublimits on missile launchers originally specified in the SALT II Treaty. Maintenance of ceilings on our strategic offensive arsenals is a matter of critical importance, and I was pleased to join in cosponsoring the amendment offered by the Senator from Arkansas [Mr. BUMPERS].

In terms of specific provisions for the national defense, I am particularly pleased that the bill authorizes $1.2 billion in fiscal year 1988 for the procurement of one Trident submarine. The Tridents are the most invulnerable and stable element in our strategic defense, and this bill authorizes the 15th in a fleet which is expected to number 20 operational Tridents by the end of the century.

I note also that the bill authorizes $1.7 billion for the construction of three SSN-688 attack submarines and additional funds for advance procurement of the new SSN-21 attack submarine. While I am aware that the Navy has proposed to stimulate more competition in these procurements, I am very confident that the great resources in undersea technology residing in southern New England can match any challenge.

Passage of this bill—and its ultimate enactment—would break a logjam of provisions dealing with compensation, personnel benefits and health care affecting our service men and women and military retirees. I am especially pleased that the bill authorizes the release of funds already appropriated for family housing.

Notwithstanding these positive aspects, it must be noted that the bill unfortunately does not go far enough in reducing overall defense expenditure. While it is some $8.6 billion under the President's budget, it is more than $5 billion over the fiscal year 1988 budget resolution and some $11 billion over the revised budget levels incorporated in the debt ceiling bill. I would have vastly preferred to see a bill which authorized less for SDI and which deleted funds for aircraft carriers and for chemical warfare.

On balance, the bill makes provision for a number of critical elements in our national security and I support it, albeit with some reluctance because of its magnitude.

Mr. THURMOND. Mr. President, I must regretfully join the majority of my Republican colleagues in voting against passage of S. 1174, the Department of Defense authorization for fiscal years 1988 and 1989. I vote no for several reasons.

First, the level of spending we will be allowed under the recently passed budget resolution is starting our Nation down the path to a position of weakness that we suffered in the late 1970's. The problem in the 1970's was that the President of the United States failed in his responsibility to submit to the Congress budget requests sufficient to our security needs. The problem today is that the Congress will not uphold its constitutional obligation to provide for the common defense.

Second, I am unalterably opposed to the Levin-Nunn amendment. I agree with my two distinguished colleagues on many things. But I cannot support them on this. Continued unilateral compliance by the United States with the ABM Treaty, while the Soviets violate it with impunity, is sheer folly.

Mr. President, my third and final reason for opposing this bill concerns the Bumpers-Leahy amendment that legislatively mandates our compliance with the SALT II Treaty, a treaty that, I might add, will not and cannot be ratified by the Senate.

My distinguished friend from Virginia, Senator WARNER, pointed out the irony of the Senate position on this matter when compared to Soviet activity, when he stated that they send us a missile and we send them a thank you note signed by 55 Senators. Unfortunately, that thank you note has now been signed by 57 Members of the Senate. Mr. President, I urge all of my colleagues to vote against passage of S. 1174.

Mr. SASSER. Mr. President, I rise today to express my strong support of S. 1174, the Department of Defense authorization bill for fiscal years 1988 and 1989. The committee, under the able chairmanship of the distinguished Senator from Georgia, has authorized defense spending for a 2-year period for the first time. The committee's declared purpose for doing so was to improve congressional oversight, to improve DOD management of its programs, and to secure long-term cost savings. These are worthy goals to pursue. It is my hope that this new method will help to achieve them. The committee has forged what I—and many of my colleagues—consider to be an excellent piece of legislation, and I want to state publicly my endorsement of this 2-year authorization bill. It is certainly among the most important pieces of legislation this Chamber will pass.

A strong defense is absolutely necessary to the security of this Nation. This bill is about more than the different weapons within our defense system. The DOD authorization bill sets funding levels to pay salaries and benefits to the brave men and women who volunteered to defend our Nation. They are the crucial human element in our defense effort. Without them all the weapons, bases, buildings, vehicles, and equipment are useless. We owe them action on this bill.

This bill does contain authorization for our various weapons systems. These weapons are essential both to the defense of our Nation and to the fulfillment of our security commitments to our allies. In these times of war—both declared and undeclared—between both nations and nonnations which threaten our security, we cannot afford to appear to take the protection of our national security lightly. Funding for all the components of a strong defense for fiscal year 1988 and for much of fiscal year 1989 is authorized in this bill. The House of Representatives has already passed its national defense authorization bill. I am pleased that—after 5 months of fruitless efforts to bring this urgently needed authorizing legislation before the Senate, the Senate finally has the opportunity to move forward on these matters of vital importance to us all.

Mr. President, an important tactical weapon program in this bill is the AGM-65 air-to-ground Maverick missile. The Maverick's extreme versatility has made it an integral part of the Air Force, Navy, and Marine Corps' Tactical Defense Forces. Its versatility can be seen in a number of ways. This rocket-propelled missile has a penetrating blast and fragmentation warhead designed for launching from a variety of aircraft. The Maverick was developed to improve day, night, and adverse weather attack capability against an array of small, hard, fixed, and mobile targets. It is effective against tanks and armored vehicles, field fortifications, bunkers, and reinforced buildings. The Maverick is also well suited for strikes against small ships, parked aircraft, petroleum oil lubricant [POL] storage sites, surface-to-air missile and radar sites. In addition, Mavericks can be fired at a broad range of distances and speeds—including supersonic speeds. It can be launched from 10 different tactical aircraft, and up to 6 of these missiles can be carried on 1 aircraft.

Another important feature of the Maverick is its precision guidance systems. These air-to-surface missiles employ either electro-optical [TV], laser, or imaging infrared [IIR] technology. The electro-optical or TV guided missiles contain an electro-optical seeker which produces a TV image on a cockpit display. The laser-guided system homes in on a laser beam reflected off a target by a laser designating device, and the imaging infrared seeker forms a TV-like image by sensing the differences in infrared energy being emitted by the target. The missiles are self-contained and they are stored ready to use without requiring maintenance in the field. Their standoff launch and leave capability, combined with their autonomous guidance systems, permit the pilot to fire at a target, then immediately veer away and out of danger—or to attack other targets—with virtual confidence that the target fired upon has been hit.

The Air Force made the original request which led to the production of the Maverick. The Air Force perceived a need for an extremely accurate missile with multiple launch capability which could be used for close air support and double as a standoff, hard-target weapon. I believe that the Maverick missile satisfies that tactical defense need. I am delighted that the Navy and Marine Corps—in addition to the Air Force—have taken advantage of these products of some of the best defense technology this country has today.

Now, Mr. President, I believe that the Maverick missile is an excellent addition to our Nation's tactical defense forces. I am sure that future technological developments will only enhance its already impressive flexibility. We live in perilous times in which formal declarations of war between nations are only one of many ways in which a country could find itself engaged in hostilities. Terrorism, hostage taking, guerrilla wars, hijacking for political purposes—all have the potential to draw us into conflicts. Such a wide range of conflicts requires versatility.

I believe, as I always have, that the United States should continue to work toward lessening the tensions which lead to military actions and to seek effective, nonmilitary means of doing so. However, the need to protect our vital national interests and to fulfill our commitment to our allies remains. We must be prepared to defend our interests should the need arise. I believe that a strong, prepared defense force is the best protection we can have against any form of aggression from any quarter. The Maverick missile makes a valuable contribution to our defense force.

As I indicated earlier, Mr. President, the fiscal year 1988-89 Department of Defense authorization bill authorizes funding for this important weapon program. The bill authorizes $354.6 million for procurement of 2,100 AGM-65D Maverick missiles. I fully support this funding level, and I am pleased that authorization for this and other vital weapon programs and our personnel needs contained in the DOD authorization bill is finally considered by the Senate.

Mr. DODD. Mr. President, I am pleased to support this bill and to vote for its passage. Before anything else, I would like to congratulate its managers, the distinguished chairman and ranking member of the Armed Services Committee, Senators NUNN and WARNER. I have not seen exact statistics on this question, but it is my strong sense that they succeeded in keeping their bill intact on the Senate floor to a much larger extent than was the case in any recent years. I understand they lost only twice when they voted on the same side of an issue, which was usually the case. Their success in keeping their bill substantially unchanged is a tribute to their expertise, the respect they enjoy from other Senators, and the cooperative spirit which infuses their activities on behalf of the Senate and the defense of our Nation.

When I praise their product I do not mean to imply that I am equally satisfied with each and every provision in this bill. That would be an unrealistic expectation with respect of a budget bill of this complexity and significance. I am particularly disappointed that we were not more successful in including provisions relating to a nuclear test moratorium, Asat moratorium, and chemical weapons. Nonetheless I hope that even our losing efforts on these issues will provide incentive for the administration to stay ahead of Congress, and pursue further arms control agreements. It is, after all, only the President who has the congressional authority to negotiate with foreign powers, only he can sign a treaty for us. I was, therefore, always very reluctant on an arms control issue to vote for binding legislation contrary to the President's wishes. On the other hand, Congress is not without authority in these matters. The Senate is a treatymaker under the Constitution, it can accept or reject international agreements. To be able to fulfill its function it must be informed, consulted, its advice considered. If that is not the case, the Senate will find the way to assert its authority and prerogatives in this area.

I voted for the test moratorium amendment not because I believe that is the best way to further extend the limits on nuclear testing, but because it was a message indicating that many Senators are unhappy with the foot-dragging by this administration when it comes to limiting nuclear testing. I hope our message will prove to be effective. I was pleased to join a substantial majority voting for restoring U.S. compliance with the sublimits included in the unratified SALT II agreement. I think the compromise worked out on that issue, making clear that we do not feel obligated by the treaty itself, but realize the wisdom of continuing with the numerical sublimits, was an ideal way of putting to rest this contentious issue for the time being.

As for the funding level in this bill, for fiscal year 1988, it provides a real growth rate of somewhere under 1 percent. Under normal circumstances I would find this much too low, especially as it will be lowered further due to the lower House authorization figure. In recent years, however, we do not operate under normal circumstances. Due to the reckless deficit spending by the Reagan administration, this is simply what we can, just barely, afford. I have said this every year at about this time, and I repeat it again: We have to find a way to sustain a reasonable, moderate growth in our defense spending instead of the feast and famine cycles that we seem to find ourselves in regularly.

One major provision of this bill that I want to discuss is the so-called Nunn-Levin language on conditioning SDI test and development activities that would violate the narrow interpretation of the ABM Treaty on specific authorization by Congress. The debate over the interpretation of the ABM Treaty has, of course, consumed a great deal of attention in Congress ever since the administration decided that the ABM Treaty did not mean what we all thought it meant. This strange decision opened a whole Pandora's box of contentious issues on the division of constitutional authority with respect to treaties, the integrity of international law, and the trustworthiness of the commitments undertaken by the United States in the international arena.

Mr. President, my concerns in this debate went far beyond the merits of the immediate issue at hand, the question of what kind of test and development activities should we engage in within the SDI Program. My major concerns have been the credibility of the United States as a negotiating partner and also the preservation of a degree of cooperation between the branches of our Government that is indispensable to the functioning of our constitutional system. None of these two fundamental concerns has seemed to disturb those speaking for the administration's position. That they have little respect for international law, was certainly not news. On the other hand, I was surprised by the bold claim that a ratified treaty means what the President asserts at any time that it means, regardless of what was presented to the Senate when its advice and consent was sought, or whatever the Senate thinks of a novel interpretation.

Mr. President, the division of foreign relations powers in our Constitution is largely ambiguous. I see a great advantage in this ambiguity, as it provides for the necessary flexibility, the capability to adapt to the changing world. By the same token, this ambiguity carries with it two assumptions. One, that the actual division of powers will always be determined as the temporary resultant of the struggle between the branches of the Government trying to check and balance each other. The other, more important but more often ignored assumption is that a certain sense of proportion, restraint, moderation will have to permeate even the most pointed clashes on the division of powers. It is not only arrogant to assume that one branch can totally disregard the other but it is foolish as well. If such views would govern our foreign policymaking the whole Nation would be the loser.

What I am getting to, Mr. President, is that these disputes must not be fought to the bitter end, seeking a definite and total vanquishment of the opposing position. At some point in the struggle, accommodation and cooperation has to put an end even to the most bitter clashes. The administration's handling of the ABM Treaty dispute indicated that this is not a lesson they ever learned or considered. As a result of forcing this issue, Congress had no choice but forcing its position as well. It came to the point when sometimes I worried whether the eventual cure will prove to be worse than the illness itself. I am not sure we gain, for instance, by writing into law exact rules on whether the Senate or the President has the right to interpret ratified treaties. In a way, both have that right. By formalizing the governing rules, however, we may get into a situation of utter chaos where we have a treaty meaning one thing between the United States and a foreign power, and another thing between the Senate and the President.

Of all the competing solutions offered to this dilemma, the one suggested by Senators NUNN and LEVIN proved to be the one that solves the problem while avoiding the potential pitfalls. Without trying to decide the constitutional question, it simply provided that the President cannot order activities violating the narrow interpretation of the ABM Treaty without seeking congressional consent. This solution leaves untouched the desirable ambiguity of the constitutional rules, while it fully preserves the authority of the Senate and the integrity of our commitment under international law. Senators NUNN and LEVIN ought to be congratulated for their leadership.

Mr. President, this bill continues a prudent modernization of our strategic forces. More importantly, it substantially increases funding for the much neglected conventional forces by buying more helicopters, tanks, and conventional missiles than the President requested. I am also very pleased that we provide for a 4 percent raise for our military personnel, which is the least they deserve.

My reservations notwithstanding, I think this is an excellent bill. It is a powerful expression of our dedication to continue to provide for our most important function as elected Federal officials, the preservation of the physical safety and integrity of our Nation. I vote for this bill without hesitation.

Mr. CONRAD. Mr. President, I will vote for the Department of Defense authorization bill because it contains an amendment that I proposed with Senators SASSER and METZENBAUM expressing the sense of the Senate that the President should negotiate with our allies for a more equitable distribution of the cost of defending our alliances.

Over the past 6 years, we have doubled the national debt, and our trade deficit has increased sixfold. Further, the Federal budget deficit has reached unprecedented levels, rising from $73.8 billion a few years ago to a peak of $220 billion in 1986. Even after 4 years of recovery from a brutal recession, the structural component of the deficit—the part not attributable to slack in the economy—remains very large. Given these facts, America can no longer afford to spend over $100 billion each year to provide the defense umbrella for our allies in Japan and Western Europe.

As I stated during the presentation of my amendment to this bill, the greatest danger to America's national security does not spring from diminished American military capability, but rather from American economic vulnerability. This Nation must begin to understand the consequence of huge Federal budget deficits, caused in large part by rapidly escalating defense procurements. America simply cannot afford to say "yes" to every weapons system, and we must enact a defense budget that forces the Pentagon to prioritize. The Defense Department authorization bill before us does not force the Pentagon to make those choices and, if implemented, would jeopardize our chances of bringing the budget deficit under control.

This week the President signed legislation to raise the public debt limit from $2.3 to $2.8 billion. This action, while necessary to keep the Government operating, was another onerous reminder of the deep economic problem that faces our Nation. It is imperative that Congress exert renewed vigor to bring the budget deficit under control. That is why in July I offered an amendment to the bill extending the debt limit that would have instituted a 2-percent across-the-board cut in budgetary resources excepting only Social Security, IRS operations, and the payroll tax-financed portion of Medicare. The amendment failed on a procedural vote.

For the same reasons, I want to serve notice that I believe the authorization bill for the Department of Defense provides more spending for the Pentagon than this Nation can afford. Accordingly, I will look to other legislation, including the appropriations bill for the Department of Defense, to force the Pentagon to make sound procurement choices and to reduce the enormous amount of money that this Nation spends for the defense of its allies.

The PRESIDING OFFICER. The clerk will now read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read a third time.

Mr. NUNN. Mr. President, I ask unanimous consent that H.R. 1748, Calendar Order No. 141, be laid before the Senate and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. That is the previous order.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1748) to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain specified activities of the Department of Defense, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, and the text of S. 1174, as amended, is inserted in lieu thereof.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Under the previous order, the managers have 30 minutes each under their control, for final debate on H.R. 1748, as amended.

Who yields time?

Mr. NUNN. Mr. President, I do not anticipate on this side that we are going to have any Senators who want to speak any more. We have had a long debate, and I think a healthy debate, on this bill—too long for me, as manager of the bill.

I do not anticipate any Senators wanting to speak further on this bill, and I have no further remarks, unless it is in response to some made by others, so I yield the floor.

Mr. WARNER. Mr. President, the Senator from Virginia and other Senators on this side of the aisle will have the opportunity to utilize time. We are waiting for the Senator who indicated a desire to go first, so until his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. NUNN. Mr. President, I want to thank, before he makes a few remarks, the Senator from Illinois for an outstanding job as a subcommittee chairman and also for the tremendous help he has given to the management of this bill.

Without the Senator from Illinois, we could not be approaching final passage of this bill today. I thank him so much for his help, and I yield so much time as the Senator requires.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, may I briefly respond to my very warm and dear friend, the distinguished chairman of the Armed Services Committee, by saying it has been a great privilege for me to work closely with him through the entirety of this year to craft what I consider to be under the fiscal constraints we face the finest Department of Defense authorization bill ever drafted by the Armed Services Committee of the U.S. Senate. I also want to congratulate the majority and minority staffs for their hard work, especially David Lyles and Bob Bayer on my subcommittee and Ron Kelly, Ken Johnson on the minority side for a job well done.

May I say with every consideration for those friends of mine, who I see on the floor from the other side, that while I understand their reservations about one or two provisions of this bill, I think I can safely say in their presence that, with those one or two exceptions that they have strong objection to, the fundamental content of this bill is excellent.

Every single solitary member of the Armed Services Committee, whether in the majority or the minority, was fully consulted on every single issue that was presented in every subcommittee of the Armed Services Committee and the full Armed Services Committee hearings on the ultimate product of the committee's work effort, over many months.

A long time has elapsed since that time. There was an extensive filibuster about the so-called Nunn-Levin amendment to the bill which has ultimately been resolved in favor of retaining that provision in the bill.

There have been some disputes obviously about the SALT question and about the war powers question. But essentially the basic precepts of this bill are excellent. I think they provide the strongest national defense possible with the amount of money that we consider available under existing circumstances.

I think all of that is a great compliment to an outstanding chairman, the distinguished senior Senator from Georgia, who was fair to all people in the committee throughout the proceedings and has been patient in what has been done on the floor of the Senate.

While we have had our differences, Mr. President, with the distinguished ranking member, the distinguished senior Senator from Virginia, who is on the floor, I want to say that I thank him for his consideration, his fairness, and his decent treatment at all points in the proceeding. He presented his point of view eloquently, stongly, and at the same time was fully cooperative, in every respect to help us to achieve the work product.

So, Mr. President, I think it is very seldom in the democratic process that you get a bill that everybody thinks is perfect, a bill that everybody is wholly satisifed with. But with the one or two exceptions that I have mentioned, the basic embodiment of this legislation, I think, is absolutely excellent, and I am very proud. Mr. President, to have participated not only at the subcommittee and committee level, but as an acting manager from time to time when my colleague was otherwise involved in trying to craft the unanimous-consent agreement or otherwise working off the floor with the other leaders to bring about this final product.

I congratulate him. I congratulate the Senate.

I will vote for this bill, Mr. President, with pride and with enthusiasm, and I am delighted to see that we are about to pass, in my view, a significantly important DOD authorization bill that will go to conference. I believe in the conference a fine bill will emerge and I am delighted that we have once again suggested that we are willing to meet our country's imperative needs in connection with our national defense.

I yield back the remainder of my time on this issue, Mr. President, and once again I thank the Chairman and I thank the ranking member and all my friends on both sides who worked so long and so hard on this work product.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am very grateful for the thoughtful remarks of my good friend and colleague from Illinois. This has been his first year as a chairman of the subcommittee and indeed he moved into active participation in the managing of this bill over this long and arduous period. I would say he has won his spurs and we are glad to have him as a member of our committee.

Mr. President, I now yield 5 minutes to the distinguished colleague from Arizona.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN] is recognized for 5 minutes.

Mr. McCAIN. Thank you, Mr. President.

I also wish to join in expressing my appreciation to the distinguished chairman and minority leader and the other members of the committee who I believe worked on this piece of legislation in a total bipartisan effort.

I think the spirit throughout the markup of this bill was one of a commitment to the defense of this Nation and its vital national security interests.

This bill I think, with one or two glaring exceptions, is an outstanding piece of work by dedicated Americans, including some outstanding staff members who have devoted untold hours in crafting this piece of legislation.

Unfortunately and even tragically, Mr. President, this bill will not be passed. It will be passed by this body, but it will be vetoed by the President. There are 38 Members of the U.S. Senate who have promised the President they will sustain his veto because we have cluttered this bill with unnecessary damaging amendments, particularly one so-called Levin-Nunn amendment. It is in violation of the tradition of this committee as I know it over a period of years. That tradition was to address this Nation's defense needs, not to legislate into law treaties which are being negotiated as we speak and not to undercut the role of the Executive of this Nation.

So I regret deeply, Mr. President, that I and 37 other Members of this body, at least, will not be able to vote for this legislation. I regret deeply that we cannot provide the men and women of the Armed Forces of the United States what they need. Unnecessary encumbering amendments to this legislation caused deep divisions within the body and indeed deep divisions within the committee.

We have undercut our negotiators. We are achieving in this legislation what the Russians are unable to achieve in their negotiations. I think that to do such a thing to the men and women who serve in the Armed Forces of the United States is disgraceful. I am sorry and deeply regret that we will, for all intents and purposes, abrogate the responsibilities of the armed services authorizing committee to the appropriator because it is abundantly clear that under the present circumstances there will be no bill passed into law as long as it is encumbered with the amendments which I described.

I deeply regret making this statement, Mr. President, because I think that if there is a signal that we need to return to doing the business of providing the Armed Forces with the equipment they need to carry out their duties, it is what we have done to this piece of legislation today, and I hope all of our Members recognize it and next year we can go back with the same spirit of bipartisanship which was the trademark of crafting this legislation and leave unnecessary legislation off of it.

If SALT II amendments are necessary, if abridgements of the ABM or encumbrances to the ABM Treaty are called for, those should be the subject of separate pieces of legislation, not part of the defense authorization bill.

I yield back my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield a period of time not to exceed 5 minutes to the distinguished Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished Senator for yielding.

In my 9 years in Congress I have never voted against a defense authorization bill. I intend to vote against this one. I intend to vote against it because we are giving the Russians in this bill what they cannot win at the bargaining table and what the United States Senate was unwilling to give them when it refused to ratify SALT II.

But in our discussion about what we have done here about tight budgets, I want to remind my colleagues what we have not done. Our current low tier budget figure, since Ronald Reagan is not going to sign the whopping tax increase envisioned in the Democratic budget into law, calls for a budget authority on defense of no higher than $289 billion.

This bill authorizes $303 billion, $14 billion more than we all know is available to spend.

But, more importantly, it authorizes $10.4 billion in actual outlays this year less than is provided for in the budget.

Now, I want to remind my colleagues what $10.4 billion of outlays cost. If we terminated all the shipbuilding programs under way, if we terminated——

Mr. NUNN. Will the Senator yield for a brief question?

Mr. GRAMM. Not until I finish the statement.

If we terminated all the shipbuilding programs underway, if we terminated all the aircraft construction programs underway, if we terminated all the missile construction, if we terminated all the construction of wheel and track vehicles, and if we eliminated SDI, we would not save $10.4 billion. In fact, Mr. President, if we had written a defense budget that met the low-tier budget figure that was adopted by this Congress, that bill would have never passed the committee and would have never passed the U.S. Senate.

The point I am making is that we have not addressed the tough issues here. We have provided an authorization bill, except for the two disarmament features which does not come under the jurisdiction of our committee, in my opinion. I thought we were supposed to keep Ivan back from the gate. I did not know our responsibility was trying to go out and civilize him. That is somebody else's jurisdiction.

But if we were writing an authorization bill that complied with the budget figure we would not have the happy state of feelings that exist here. I think the authorization bill is an excellent bill, other than the two features I object to, but the sad reality is we are going to have $10 billion less to spend and that is going to produce a level of defense expenditure and the funding of programs that the vast majority of the Members of the Senate will find unacceptable.

So I hope my colleagues will look at this bill. I hope they will decide that, in the very week that the Soviet Union has violated SALT II six times, three times on each flight test, where it has fired a test missile that has landed within 350 miles of the sovereign territory of an American State, we should not be binding the United States by the restrictions of that treaty that this very Senate refused to implement.

Second, at the very time that we are on the verge of negotiating an agreement with the Soviet Union, when our abilities in SDI and our technological breakthroughs have brought them to the bargaining table, we should not be imposing unilateral restrictions on our own ability to use that technology. It is not good policy. It does not make any sense. We ought not to be doing it. And I urge our colleagues to vote no.

I yield back the remainder of my time to the Senator from Virginia.

Mr. NUNN. Will the Senator yield for one brief question?

Mr. GRAMM. If it is on your time.

Mr. NUNN. I am glad to have it be on my time.

The Senator said this authorization bill was $10.4 billion under the budget resolution. And I believe what he meant to say was "over."

Mr. GRAMM. It is over. I appreciate the distinguished Senator clarifying that. It is $14 billion over an authorization, $10 billion over in outlays.

My point was if we canceled all our shipbuilding, aircraft building, missile building, wheel and track vehicle building, and the SDI Program, we would still be over budget in this bill.

Mr. NUNN. The Senator makes a good point. We said at the beginning of this bill that we would have a major job in conference in trying to get this bill within either part of the budget resolution, the upper tier or the lower tier. Certainly, if the Gramm-Rudman sequester goes into effect, we are going to have chaos in the defense budget. I know the Senator is not for that, but that sequester will take out $4 billion based on the lower tier of the budget resolution that the Senator rightly pointed out would be very detrimental to the defense. I know the Senator is going to do everything he can to avoid a sequester by working to get some kind of agreement the Congress and the White House can agree on. And I certainly will join him in that.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, we have a number of speakers, but we do not, of necessity, want to try to monopolize. We are happy to yield to Senators on that side in a rotating basis, whatever the chairman desires.

Mr. NUNN. I believe the Senator from Alabama would like to speak for a couple of minutes. I yield the Senator from Alabama 3 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. SHELBY. I just want to say this bill is not perfect, but I am going to support it. We worked hard in the subcommittee. And I want to say that I appreciate the leadership of the chairman, the distinguished Senator from Georgia; the leadership of the distinguished Senator from Virginia, and other Members in fashioning this bill. No bill is perfect. I do not know if we are going to get $303 billion. We might not get it or there is a good chance we are not going to get it or even get close to it.

But, after all, this is a good bill. I want to congratulate all of you—the floor managers, the subcommittee chairmen—that have worked so hard to bring it here. It has been a long time in getting here. I believe it is overall a good bill and I plan to vote for it later today.

Mr. NUNN. Mr. President, I thank the Senator from Alabama. I also want to thank him, while he is here in the Chamber, for being an outstanding new member of our committee. He made a very significant contribution. He understands the importance of defense. He stands for a strong national security, as do his constituents in Alabama. He has done a splendid job on our committee and has been a tremendous asset to us. So I thank the Senator from Alabama.

Mr. WARNER. Mr. President, I join in that observation by the Senator from Georgia. And I would add also that on some of the tough votes, he votes right.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as the distinguished Senator from Wyoming may wish.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I ask the Senator to yield to me for no more than 5 minutes.

The PRESIDING OFFICER. That will be the order.

Mr. WALLOP. Mr. President, this is a difficult day for me, as well. I have never voted against a defense authorization bill in 11 years in the Senate. And, contrary to what my friend from Illinois has said—a man whom I admire greatly—it is not the strongest one possible by any stretch of the imagination.

The most unfortuante part of it, Mr. President, is that this defense authorization bill, for the first time to my knowledge in the Senate, has been politicized. It was politicized when it was brought from the committee with only one of the minority voting for it. That is a really genuinely unfortunate turn of events in the history of the American Senate's role in defending our country.

Were it not for that, it still would not be a good enough bill because it has bound our Nation's ability to defend itself against strategic weapons by both cutting the SDI Program and by binding our testing and development capabilities with the Nunn-Levin amendment.

More than that, it has now put the Senate into the role of interpreting treaties, not simply consenting to their ratification. It has put the Senate into a role that is totally outside its historic obligations, and it has done it in an essentially partisan way. It has now given the House of Representatives a role in the treaty process. It now seeks to enforce treaties or portions of treaties by majority vote, those which could not have passed the Senate of the United States.

Worse still, it embraces postures and positions taken by our adversaries in Geneva in the negotiating process, postures and positions which are contrary to those that this country has expressed, both publicly through the President and privately in our negotiating sessions with the Soviet Union.

By embracing those, I do not say that I impugn anyone's patriotism or even their motives. But the problem is, it is not the patriotism and the motives which affect the fundamental consequences of the actions that we take here. The actions are actions and those are the things which emerge from this body, not the fine speeches, not the motivations, and not anybody's sense of America.

So, as we see violations by the Soviet Union ignored, provocations of a genuine nature accepted, an inability, even, to confront the Soviets' thoroughly provocative actions in Hawaii, all the while rejoicing in the so-called risk reduction centers and the prospects for lowering the threshold of war, I wonder what it takes to have us stop dreaming and start looking. I wonder what it takes to have us stop thinking of ourselves and start thinking of our country. I wonder what it takes, ultimately and finally, to get us to focus on the strategic circumstances that face our country and not the political circumstances which face each one of us. Because those, Mr. President, are the things which this bill does not address and, in some instances, even endorses.

Those, Mr. President, are things upon which the final judgments and the actions we take for our national survival depend; not the speeches that we make. The actions and not the motivations are my cause for concern; and the consequences, not the thought, are those things which lead me to say that with great and heavy sadness, I cannot vote for this bill and will do everything in my power to persuade the President to veto it and see to it the veto is sustained by a very massive percentage of this Senate.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. WARNER. Mr. President, if I could get the attention of the distinguished manager, Mr. NUNN, I would like to pose a question.

In my concluding remarks today I will place in the RECORD a letter from the President of the United States to me stating unequivocally his intention to veto this bill. One sentence in that letter states as follows:

> The Levin-Nunn amendment imposes unilateral restrictions on the United States that are not enforceable in the Soviet Union.

I say to my good friend from Georgia, I listened with great interest this morning during the debate on the SALT, at which time he said as follows:

> But I would also add, I do not support the Bumpers amendment and voted against it because I perceive, too, that it was basically putting a part of the Treaty into the law and I had a real problem with that.

I anticipate nearly 40 Members of this body will vote against this bill. The Senator from Virginia, regrettably, will be included. That vote against the bill—against a bill which otherwise is excellent in addressing the priorities of the Armed Forces of the United States—Mr. President, that vote against this bill will be because of two provisions it includes: the one just voted on by the Senate regarding SALT II and the one placed on this bill by the distinguished chairman and the Senator from Michigan.

I ask of my good friend what he meant by the phrase: I felt that it was basically putting a part of a treaty into the law and I had a real problem with that.

If I might respectfully ask that your time be used in the response.

Mr. NUNN. I will be delighted.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Georgia has 21 minutes, 42 seconds. The Senator from Virginia has 11½ minutes.

Mr. NUNN. Mr. President, I say in response to my good friend from Virginia that I have never known my friend from Virginia to propose a meaningless amendment. I have always felt that the Senator from Virginia, when he proposed an amendment, had substance behind it and had an intent, a purpose, and clarity, because he is a great legislator.

I am sure that when the Senator from Virginia proposed, with the minority leader, Senator DOLE, the Dole-Warner amendment stating unequivocally that the Senate of the United States was not putting any provision of an unratified treaty into effect and was not binding the United States to comply with any provision of a treaty that had not been ratified, that the Senator from Virginia had a purpose in mind.

My purpose in voting against the Bumpers amendment, and I said I was against it and I voted to table it yesterday, was exactly what the Senator quoted me as saying. I was concerned that the implication was that we were actually legislating an unratified treaty by majority vote. But the Warner-Dole amendment cured that problem. If it meant anything, if it meant anything, it had to cure that problem because unequivocally it says that the Senate of the United States is on record as saying that this country should not have to abide by provisions of a treaty that has not been ratified.

I have to believe that the Senator from Virginia has been consistent with his record over the years and that he did not propose a meaningless amendment.

Therefore, if that amendment means what it says on its face, the Bumpers provision is not the enactment of an unratified treaty and it is not an effort to have the United States abide by an unratified treaty. It is a basic provision of law, if it passes. That provision of law says to the Soviet Union: We believe there has to be some interim restraint and we are going to stay within these ceilings which happen to be the same figures that are in the SALT II Treaty. I personally think we will have to revisit that issue in conference—but it says that we are going to abide by this provided the Soviets do.

If you really look at it from a point of view of what position we are in now, this is the same position the President of the United States had for over 5 years until he decided, under a great deal of pressure from a number of people who felt strongly on the subject, that he was going to announce that we would no longer abide by that interim restraint regime.

But guess what he did? He had another interim restraint regime that he proposed. Not a very good one, but the point is that he had another one. The principle he espoused on U.S. policy now is not to exceed the overall limit of 2,520 strategic vehicles, provided the Soviets do not. I think he has a corollary saying that we will not build more missile warheads than the Soviets.

Of course, that is what the people who criticize SALT II said all along. The problem was there was no upper limit. When he says we will not build more than the Soviets, both sides can keep building.

I hope we can get a START agreement. I have said I think we have a 50-50 chance of getting a START agreement, which would be a remarkable achievement, provided we can get some START subceilings. That has not yet been achieved. Sublimits are necessary to ensure the survivability of our strategic deterrent. But if we do not get a START agreement, there has to be some restraint. President Reagan recognized that for 5 years. He had a lot of pressure to let us break out of SALT and show them we were tough guys. He decided he would go along with that advice, but then he substituted another interim restraint regime.

I am as disturbed by those Soviet missiles going over Hawaii as my friends on the Republican side of the aisle. I think it was probably not a violation of the Accidents Measures Treaty because they did notify, but it was what I call "D-U-M"—dumb. It is not smart for one superpower to fire missiles toward another superpower. That is the kind of thing that can start anxiety and can really start a war.

So I think I would agree with everything that has been said about the inappropriateness of that policy. I also believe that when the Soviet Union does violate a treaty, when they violate a treaty we have to begin to devise some proportionate response.

What have we heard about proportionate response from this administration? What have they suggested? I have not heard anything. I have not heard anything.

I do not believe proportionate response means we ought to go back and reinterpret the treaty. I do not think that. I think we have a duty to have a more creative policy than that.

I have not heard anything from the administration asking the Congress to do anything about the Soviet tests where they fired those missiles toward Hawaii. I have not heard them ask for anything. I have not heard them say anything. I have not heard the President say we no longer are going to abide by his current interim restraint policy which is 2,520 on overall launchers and no more than the Soviets build on warheads.

So I say to my friend from Virginia, his amendment did have a meaning because it changed the vote. There were two or three votes that came across that voted for Bumpers because we felt the Bumpers amendment had now been clarified by the Warner-Dole amendment. We felt the United States was going to be on record in a twofold way, one suggesting a new interim restraint policy until we get some kind of START regime, or an interim restraint to govern it if it never happened. I do think it will put a cap on both sides. The Soviets are taking out SS-17 missiles now. I do not think anyone on this side of the aisle wants to send a letter to the Soviets saying, "Don't take out any more of those SS-17's to comply with SALT II. You keep those missiles because we did not like SALT II to begin with. You just go on and keep them. It makes us feel better that you do not abide."

I do not think that is the message you want to send.

I think the message sent here is twofold. The Senate of the United States believes that there ought to be some interim restraint, and, second, the Senate of the United States does not believe treaties are binding until ratified. That is the message we are going to take to conference. I believe we can come out of conference in spite of the opposition at this stage with perhaps a consensus, perhaps a consensus between both sides of the aisle, perhaps a consensus with the White House.

The President has a right to veto this bill. He can veto it. He can veto it. He can veto it. He cannot pass an appropriations bill, though. He cannot fund the Army, Navy, and Marine Corps. He cannot fund the security of this country until he signs something into law. That is going to be up to the President. We will all work with him very constructively to see that that is done.

But I say to my friend I do not think treaties should be binding on this country until they are ratified. I think the Warner-Dole amendment was a great clarification of that and I was proud to vote for it. I believe the Warner-Dole amendment has now given us the clear kind of mandate in conference to come up with an interim restraint regime that is not the SALT II Treaty but is a creative interim restraint regime that will govern the two countries in the absence of a real arms control agreement, which we hope to be coming.

I yield the floor.

Mr. **WARNER.** Mr. President, that representation by the distinguished chairman does give me great concern because throughout the hearings in the Senate Armed Services Committee we never had any testimony in terms of the numbers and what would be the proper framework of numbers if we were to embark in that direction, not one bit in the record.

Mr. President, if we begin in conference to reshape these numbers in a manner to establish that regime, then we have really indeed taken the first step into quicksand because anything as serious as that should only be done by the legislative branch after receiving extensive testimony from the experts.

Now, Mr. President, the time is running quickly. While the distinguished majority leader is here on the floor, I want to say to him how much I personally, and I am sure other Senators have expressed this to him, appreciate the leadership he has given throughout the lengthy consideration of this bill.

The unanimous-consent requests put together by the majority leader and the Republican leader I think will go down in history as great precedent. They are as complex as I have ever seen, but they worked. They have enabled us to get to this point.

Now, Mr. President, I yield 5 minutes to my distinguished colleague from Indiana.

The **PRESIDING OFFICER.** The Senator from Indiana.

Mr. **QUAYLE.** Mr. President, first let me congratulate our ranking member, Senator WARNER, for a truly outstanding job. He is a very capable manager. I know from time to time that his general disposition is not to create confrontation and friction. I am sure that throughout this ordeal it has not been a terribly pleasant venture, but one he has handled with a great deal of credibility.

I also want to say my respect and affection not only for the chairman of the Armed Services Committee but the many other Members on that committee that I enjoy working with.

Mr. President, having said that, in a brief period of time let us just lay out the landscape here.

The bill we have right now is really an unparalleled confrontation with the President of the United States. We have essentially a Democratic Congress on a direct collision course with the President of the United States.

We might as well cast this for what it is. This is the opening round, the opening bell in the 1988 Presidential campaign.

Believe me, national security, defense spending, and the security interests of the American public are going to be debated.

So let us take a look very quickly at what the Democratic Senate, the Democratic Congress, will contribute to that debate? What will it offer? A defense budget resolution that will cut defense spending by 1990 15 percent below what we spent in 1985, below the Carter level, which everyone will agree was way too low.

Another Democratic legacy will be to undercut our negotiators during a very sensitive time of arms control talks.

Another legacy will be the adoption of Soviet arms control positions on the floor of the Senate contrary to the position of our own negotiators in Geneva.

Another legacy will be to ignore Soviet violations, to simply ignore Soviet violations, even violations committed on the day of a Defense authorization bill vote.

What a message, what a legacy, what a platform to take to the American public.

And finally, this legacy will be to take bipartisanship, which has been part of the Senate foreign policy for years, and shred it. That is unfortunate.

Perhaps we can regain that. I do not know. Time will tell.

I think as we look to some of the alternatives to this legacy that we are now being handed by this Congress and this Senate, we ought to take a peek at some of the good things that have happened in this country in the last 7 years. Respect and credibility of this Nation has been restored. It has been restored because of our investments in national security.

Let us take a look at some of the good things about the way the INF Treaty has been handled, not saying whether you are for or against the treaty, but let us look at the progress that has, in fact, been made.

Progress has been made because of our willingness to make an investment and to do the things that we said we were going to do. We were willing to look the Soviet Union in the eye and say, "If you do not get the SS-20's out of Eastern Europe we will deploy." They thought we were bluffing, that we did not have the political will. We showed them we did have the political will. As a result, we see progress toward real arms reductions.

But in that endeavor we had bipartisan support. We had support of our allies. Now we see this undercurrent where we have a direct confrontation between a Democratic Congress and a Republican President, a direct confrontation and I do not know where it will end.

It is a confrontation that certainly is not going to be an enhancement of our national security interests, one that I do not relish, one that I wish did not happen.

The **PRESIDING OFFICER.** The Senator's time has expired.

Mr. **WARNER.** Mr. President, I have consulted with the distinguished manager and the majority leader. It is the desire of the three of us to request unanimous consent that the Senator from Connecticut be permitted to proceed for a period not to exceed 10 minutes, and that that period be added on to the period of time under the current unanimous-consent agreement.

The **PRESIDING OFFICER.** Is there objection?

Mr. **SYMMS.** Reserving the right to object, I do not want to object to the Senator from Connecticut speaking, but I have an airplane schedule. I wonder how long this will go on.

Mr. **WARNER.** Not more than 8 minutes longer than we originally planned.

Mr. **SYMMS.** We will vote at what time, then?

Mr. **WARNER.** I would assume the vote would start at 12:12.

Mr. **BYRD.** Mr. President, reserving the right to object——

The **PRESIDING OFFICER.** Is there objection to the request?

Mr. **BYRD.** Mr. President, I hope we can get 10 minutes for the distinguished Senator from Connecticut.

Mr. **WARNER.** Mr. President, I am informed by the Republican leader that I am speaking on his behalf in this regard.

My **BYRD.** Very well.

Mr. **WARNER.** I have 5 minutes remaining in which I can address the subject.

Mr. **BYRD.** I wonder if I can have 3 minutes.

I do not want to take time away from the Senator from Georgia.

I ask unanimous consent that the distinguished Senator from Connecticut may have 8 minutes and that I may have 3 minutes.

The **PRESIDING OFFICER.** Is there objection? Hearing no objection——

Mr. **EXON.** Reserving the right to object to the overall request.

The **PRESIDING OFFICER.** The Senator from Nebraska.

Mr. **EXON.** I want to clarify, the Senator from Nebraska would like to have 3 minutes.

Mr. **NUNN.** I will be glad to yield it. I will have time to yield to the Senator from Nebraska.

The **PRESIDING OFFICER.** Without objection, it is so ordered. The Senator from Connecticut is recognized for 8 minutes, the majority leader for 3 minutes.

Mr. **WEICKER.** Mr. President, I thank the distinguished majority leader, the distinguished ranking member, Senator WARNER from Virginia, and the chairman, Senator NUNN, for their constant courtesies during the course of the debate on this bill. I am going to be brief and probably take less than 8 minutes. I just want to make a concluding remark. The unanimous-consent request asks that the Weicker-Hatfield war powers amendment be put on the calendar in the form of a resolution and that it be in order for it to be called up at any time without debate by the majority leader after consultation with the Republican leader.

We are obviously not voting on the War Powers Act at this time. We will vote for the hardware of war, but we will not vote or participate in any decision as to the employment of that hardware. Not in this bill will the United States involve itself in the issue of war and peace. When will we vote on the War Powers Act? That is really the question, is it not? When will we vote? Will we vote, for example, at the next sinking of a ship, ours or theirs? Will that be sufficient reason to stir the Senate to action?

What kind of a body count will have to take place before we vote on the War Powers Act? Obviously, 2, 3, 4, even 20, 25 is too small a number of deaths, not sufficient to stir the Senate to action. What is the number required to have the Senate pass on the War Powers Act? I believe the cost estimate of what we are doing now in the gulf to be somewhere between $1 billion and $2 billion per year. Obviously, not enough to stir the Senate into action to vote on the War Powers Act. What is the necessary figure? These are all questions to be answered not just by the Senate but by the American people themselves because they are the ones who will pay the price both in terms of lives and in terms of dollars. When a missile is fired, one of theirs, or one of ours, is that sufficient to have us vote on the War Powers Act? Or, indeed, if any of these matters take place, will that further enflame the passions in this body and around the country to protect the President, to make sure that we never directly answer the question of our own involvement, rather to let it be answered by somebody else. Sooner or later the price does come out of every American's pocket or out of every American family. It is not that we mind paying that price but, rather, that under this great constitutional form of government we should have made the decision ourselves that we were willing to pay the price. That is what is at issue. It is not a question of cut and run. I know of no fainthearted souls on this floor or among the American public in terms of their patriotism and their devotion to the Nation. That is not the issue.

The strength of this Nation is never truly generated to its greatest extent until the Nation itself makes the decision, not one man. That is what the framers of the Constitution realized when they put the matter of war and peace in the hands of the Congress. That is what had to be reaffirmed by the Congress itself when the War Powers Act was enacted. We really did not need it. We were just bolstering ourselves. We were reminding ourselves of the lack of courage we had displayed in previous incidents like the one we are confronted with now. We wanted to take that drink at the bar to give ourselves the courage next time to make the decision.

Well, next time is here and we still do not have the courage. But the price is going to be paid. It already has been paid. Maybe not sufficiently to stir us or the American people to action but it has been paid.

So this is not a matter of a debate as to whether we should or should not be there. It is really how we see ourselves and the role that we care to play in this great constitutional democracy. It never was designed to run itself. It could only run and run well if we ran it. That the U.S. Senate has refused to do, as has the President, turning our backs on the Constitution and the War Powers Act. We will vote. We will vote. The only question now is when.

I hope we will vote because of our recognition that we are a Government of laws, not because tragedy imposes the duty on us.

Our failure to enact the War Powers Act in reaction to events in the Persian Gulf, leaves this body missing in action. Missing in action. The Constitution of the United States and the War Powers Act of 1973. Unreported casualties.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. Who now yields time? The majority leader is recognized for 3 minutes.

Mr. BYRD. Mr. President, in completing its work on the defense authorization bill, the Senate has accomplished one of its major tasks of the year. The bill still has to go to a very difficult conference with the House, and we are told that it faces the threat of a Presidential veto. There is much work that needs to be done.

In acting on this bill over the past 3 weeks, the Senate considered more than 100 amendments. Many of them were adopted, often after complex negotiations. The two managers of the bill spent long hours discussing issues not directly related to this bill. I refer to the war powers issue, SALT II, and other issues.

I believe it is important to point out that of all the amendments considered by the Senate in its debate on this bill, very few addressed the heart and substance of the bill; namely, the funds necessary to provide for the military operation of the Armed Forces of the United States.

So, it is a tremendous tribute to the committee, to the chairman, to the ranking member and the other members, that they were able to bring a bill to the floor authorizing more than $300 billion for our national defense and have such widespread consensus on the basic content of the bill. Because so much time was spent debating arms control policy or policy in the Persian Gulf, other aspects relating to this basic achievement of the committee may have been overlooked.

Therefore, I want to take this time, Mr. President, to ensure that the RECORD shows that the Senate has approved a measure which provides strong support for our Nation's military forces, gives our men and women in uniform the necessary resources to do their difficult job, and guarantees our Nation's security.

Mr. President, I hope that the White House will not let its intoxication with the thrill of exercising the veto pen carry us away from reality. The President may veto this bill, he says. At some point, the President is going to have to face the issue of providing appropriations for national defense. If he vetoes this bill, then we know what is going to happen on an appropriation bill for defense. These issues will be fought all over again. If the President were to veto a defense appropriations bill, there will be the continuing resolution and the same amendments will in all likelihood, or at least some modification thereof, be offered to that vehicle.

At some point, there has to be a grappling with reality. This country's national security has to prevail over veto threats, and the sooner that the White House understands that, the better.

The President has complained about having one massive appropriations bill. He either has to take it all, or he has to leave it, he says. Mr. President, I am trying to accommodate the President. I have said from the beginning, the Senate is going to do its part in sending to the President, separate appropriations bills. If he wants to veto them, then he has to make that judgment.

Along that line, then, and in accordance with that thrust, let us send him an appropriation bill for the Department of Defense so he can accommodate his own desires by avoiding one massive measure in the form of a continuing resolution. I do not want to see these amendments tacked on to every appropriation bill that leaves the Senate.

At some point in time, the President is going to have to support the men and women in uniform in this country, because it all comes down to the final lick log: it takes money.

I urge the President to go slow in using the veto pen, because sooner or later he is going to have to face a bill that pays the men and the women in uniform, and pays for the guns. That money bill may have these same amendments tacked onto it if he vetoes this Department of Defense authorization bill.

Mr. President, I again thank the managers of the bill and all Senators who have worked so hard, and particularly the Senator form Illinois, Mr. DIXON.

The PRESIDING OFFICER. The time of the majority leader has expired.

Who yields time?

Mr. EXON addressed the Chair.

Mr. NUNN. Mr. President, I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Chair. I thank my colleague from Georgia.

I would like to start out, Mr. President, by joining many of my colleagues who have saluted the Senator from Georgia, the chairman of the Armed Services Committee, and the Senator from Virginia, the ranking member of the Armed Services Committee.

I think one might make a wrong impression from what we have heard on debate. It so happens that the members of the Armed Services Committee, on which I am proud to serve, agree on about 90 percent of everything that goes into this bill. We have had rather extensive debate on things that we disagree on. That is as it should be.

I want to congratulate the Senator from Connecticut for the points that he has just made on the floor of the U.S. Senate which I think are well taken. We are appropriating money, not only for hardware but everything from the strategic defense initiative to the fuel for the jet aircraft, all of the ammunition, indeed the hardtack, down to the hardtack for the soldiers, sailors, marines, and airmen on the front line.

There has been some talk today, Mr. President, about what the Democratic-controlled Congress is doing. I am proud of what the Congress as a whole is doing, Democrats and Republicans alike. Sometimes I think it would be worthwhile if we did not make reference as we frequently do on the floor of the U.S. Senate to the differences in the political parties. We come together in a majority vote representing the people of the great United States of America who we are proud to represent here. And I simply say I am proud of the fact, Mr. President, that we are about to approve, I hope we are, and I recommend a vote for the measure that we are about to vote on. It is $302 billion—that is far more than we have ever appropriated before—compared with the previous record high of about $296 billion last year. That sends a message to the Soviet Union and any other potential enemy that we are firm in our resolve to protect the national security interests of the United States and the free world, all of the arguments that are being made to the contrary aside.

Mr. President, I just came from the President of the United States. I told him we were going to pass the bill, and after we finished our tough conference with the House I would hope that he would sign it. But if he does not, that is part of his duty—to veto, if he does not agree.

I thank all for their cooperation.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **NUNN.** Mr. President, I thank the Senator from Nebraska for his absolute unfailing devotion to his duty as chairman of the most important subcommittee dealing with the strategic weapons. It is enormously important. And he has done a splendid job. The Senator from Michigan handles everything and all matters in the conventional area. He has done a splendid job. These are two of our most important subcommittees, and I thank both of them for their great devotion to duty and the excellence of their work. I also thank them for helping on this floor in managing this bill.

I would yield such time to the Senator from Michigan—2 minutes to the Senator from Michigan.

The **PRESIDING OFFICER** (Mr. BREAUX). The Senator from Michigan, Senator LEVIN, is recognized.

Mr. **LEVIN.** Mr. President, let me thank first of all my friend from Georgia. The fact that this committee has been able to hold together so wonderfully as friends and as colleagues on this floor during this long debate is really a tribute to the leadership of the chairman of our committee, with the great assistance of the ranking member. Those two have been able to hold us together as friends, as colleagues, despite some type differences on issues, and we are all very much in their debt.

The Constitution, of which we celebrate the 200th anniversary of its birth this year, places some of the responsibility on the Senate for the security of this Nation. We adopted an amendment today, the amendment of Senator BUMPERS, which places some limits on the numbers of nuclear weapons. I believe that placing such mutual limits on nuclear weapons is as American as the Constitution and its Preamble, which requires us to secure the blessings of liberty not only for ourselves, but for our posterity.

Let me say one word about the amendment. We adopted that amendment not because we were obligated to by treaty—we were not—but because wisdom obligated us to do so and experience obligated us to do so. So, to reassure my friend from Virginia, it was not because any unratified treaty required us to adopt those limits. It was the lesson of experience—the greatest lesson of all, perhaps—which said that if we could put some mutual limits on the number of nuclear warheads, we would thereby be preserving the posterity of this blessed country for those who would follow.

Let me close by expressing my debt to the chairman of this committee, whose extraordinary integrity and intellect have guided this bill on the floor.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **NUNN.** Mr. President, I thank my friend from Michigan for his kind remarks and for his excellent leadership on behalf of the Subcommittee on Conventional Forces and Alliance Defense.

I thank my friend from Virginia. We have had some substantive differences on this bill. Frankly speaking, if you took the whole bill, I guess our differences would be only about 5 or 10 percent. We agree on 90 percent of the matters. I think that is lost sometimes in the debate. That, I think, is true for our whole committee.

The Senator from Michigan put his finger on an important point. We have had vigorous debate and substantive differences, a couple of major differences. A couple of people on that side of the aisle will vote against the bill, and maybe some on this side of the aisle, and it will be for different reasons. Some will do so because the War Powers Act, as the Senator from Connecticut said, and because of the SALT II provision, some because of the Levin-Nunn amendment, which they opposed.

In spite of all those differences, I think we have maintained the kind of friendship and cordiality and civility that is absolutely indispensable in making this body work, and it is certainly indispensable in making our committee work. We have handled all kinds of difficult matters while we had a filibuster going on with respect to this bill, including some sensitive personnel matters.

So I think it is in one way a tribute to the institution that has fostered the kind of background that leads us to conclusions as Senators, as individuals, that we do have to work under, in spite of our differences.

I thank my friend from Virginia for leading the way in his key position as ranking member of the committee, allowing us to disagree and at the same time work toward providing for the security of this Nation.

Mr. **WARNER.** Mr. President, I deeply appreciate what our chairman has said, and I thank all members of the committee.

We talk about the quality of life in the Senate, and for this Senator that means, in large measure, the friendships we have—those personal relationships that enable us to work through the best interests of our Nation on these tough issues.

I say to the Senator from Georgia that I would only add a few words: On our committee, mutual respect and trust play a large part in our ability to achieve these ends, not only for our Members but also for the two distinguished leaders of this body. On the Senate Armed Services Committee, a member's word is his bond.

I appreciate the remarks of our distinguished chairman.

Mr. President, I think it most appropriate and courteous that our chairman be the last to speak.

In the little time remaining, I yield 1 minute to the Senator from Idaho.

Mr. **NUNN.** Mr. President, I yield the Senator 1 minute.

Mr. **SYMMS.** Mr. President, it appears that we have run out of time. I thank my colleagues on the Armed Services Committee.

Mr. President, this will be the first time since 1973, as a Member of Congress, that I have voted against an authorization bill for the Armed Services of this Nation. But I do believe that some of these issues, though they may be few in number, are of major significance and importance to the perception and the message of strength that our country sends to the future and to our adversaries, the Soviets.

I believe that limitations on the ABM interpretation and the confirmation of part of the SALT II agreements are significant enough that I urge my colleague to vote against the passage of this bill. I hope the President will veto the bill. This is an issue that is too important for the preservation of peace and freedom to casually pass through this Chamber without the good, healthy, vigorous opposition we have had.

I will be voting "no."

I thank my distinguished colleague from Virginia and my distinguished colleague from Georgia for the opportunity I have had, in the short time I have been on this committee, to work with the committee. I think that with the exception of those two or three areas, it is a very good bill, and there are some very good parts of the bill that I would be able to vote for, but I will not be able to do so.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **WARNER.** Mr. President, will the Chair advise the Senator from Virginia the time remaining?

The **PRESIDING OFFICER.** The Senator from Virginia has a little less than 3 minutes remaining. The Senator from Georgia has 3½ minutes remaining.

Mr. **WARNER.** Mr. President, this bill adopted by the Senate authorizes a fiscal year 1988 defense budget that totals approximately $303 billion in budget authority and $294 billion in outlays—representing slightly less than zero real growth over fiscal year 1987 funding. While the bill total exceeds both the high and low tiers of the fiscal year 1988 congressional budget resolution targets for the defense function, it contains over $9 billion in reductions from the President's request for 3 percent real growth in defense. We will be faced with many difficult decisions in conference with the House of Representatives, since the House-passed version of this measure includes another $14 billion in reductions from this bill.

During the lengthy debate on this measure, the committee's recommendations for military personnel end strengths and for improved personnel benefits were adopted by the Senate without significant change. The bill authorizes a 4-percent pay raise for military personnel effective January 1, 1988. This increase in pay, when considered with manpower strengths and benefits authorized by the bill, brings the total direct costs for military personnel in fiscal year 1988 to approximately $78 billion.

The Senate approved the committee's recommendation for funding the operation and maintenance accounts of the Department of Defense. The Senate bill authorizes $84.4 billion for these readiness-related accounts.

In the military construction and family housing area, the Senate agreed to a number of small changes but endorsed in large part the recommendations of the committee.

The Senate bill authorizes the full request for initial funding of two Nimitz-class aircraft carriers. In the Navy shipbuilding account, the bill also provides funding for procurement of one Trident submarine and three SSN-688 class attack submarines in the fiscal year 1988 budget.

In the area of strategic programs, the Senate adopted the committee's recommendations for strategic modernization. The Senate rejected an amendment to reduce funding for the strategic defense initiative over $900 million below the committee-reported level of $4.5 billion for the combined DOD/DOE program.

The chemical modernization program recommended by the committee was sustained in two Senate votes to table amendments seeking to reduce funding and limit production of chemical weapons. The Senate also rejected two amendments to limit underground nuclear tests and to restrict testing of antisatellite weapons system.

The recommendations of the Committee on Armed Services have been scrutinized and debated at length in the Senate over the past 3 weeks. On the whole, I feel that the funding and policy decisions contained in this bill represent a balanced and thoughtful approach to meeting our national security needs.

Mr. President, this body also discussed at length the war powers resolution and its application to events in the Persian Gulf.

The distinguished Senator from Connecticut and others have given this body, and indeed the whole of our Nation, most thoughtful thinking on a most difficult issue. Our heartstrings pull when the Senator from Connecticut said Congress is unaccountable at this hour to the law of the land as expressed in the War Powers Act.

This Senator did his best—I am not suggesting others did not do their best—in trying to redraft, in the form of a proposal, a new approach to the War Powers Act, and that is a part of yesterday's Record.

The proposal—which removes from the War Powers Act those areas which I thought were of questionable unconstitutionality—expresses the sense of duty of this body, and Congress as a whole, to participate actively in our foreign relations, and not simply dart in and out; and we must do so in a timely way.

If our President is to report in 48 hours, then this body, in a matter of a very few days, should respond, and, after that short period of deliberation, should respond in an affirmative way:

Look the world in the eye and stand up, vote and be counted, by way of a joint resolution, expressing our approval for or disapproval of the actions of the President of the United States in the utilization of the Armed Forces of our country in the cause of peace. I expect the Senate will take further action with respect to the war powers resolution.

Mr. President, I now ask unanimous consent to have printed in the Record the President's letter of September 17, addressed to me, in which he says:

> I must reiterate that I will be left with no alternative but to veto this legislation if it reaches my desk with the restrictions contained in the Levin-Nunn Amendment.

The President, later today, I am told, will address the Nation with respect to his grave disappointment concerning the SALT provisions, which have also been added subsequent to this letter.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
Washington, September 17, 1987.

Hon. John W. Warner,
U.S. Senate,
Washington, DC.

Dear John: I was pleased to receive your letter, consigned by thirty-three of your colleagues, concerning the Levin-Nunn Amendment to the Defense Authorization bill. In this regard, I want to register my profound disappointment that, despite your efforts, the Senate has voted to restrict unilaterally our ability to conduct SDI tests.

My Administration has given repeated assurances that we would consult fully with the Congress before making any decision to restructure the SDI program according to the broad interpretation of the ABM Treaty. Nonetheless, the Senate has chosen to preempt these consultations by the action it has taken today.

The Levin-Nunn Amendment imposes unilateral restrictions on the United States that are not enforceable on the Soviet Union. It undercuts our position in sensitive negotiations with the Soviets, and it could undermine prospects for achieving effective strategic defense. I must reiterate that I will be left with no alternative but to veto this legislation if it reaches my desk with the restrictions contained in the Levin-Nunn Amendment.

Sincerely,

Ronald Reagan.

Mr. **WARNER.** Mr. President, I again thank my good friend, the chairman, and pay him the respect of allowing him to speak last on this bill. He has shown leadership. We would not be here today on this bill had not he given his untiring leadership to see that the bill was brought to the floor.

We will not finally decide who won the filibuster. For a couple months I held the high ground. Now the Senator from Georgia has the high ground. I hope he can work on this bill in conference so it can be acceptable to the President.

The **PRESIDING OFFICER.** The time of the Senator from Virginia has expired.

The Senator from Georgia.

Mr. **NUNN.** Mr. President, I thank my friend from Virginia and I am sure we will be side by side in working with the House of Representatives trying to fashion a bill that can eventually become law in some fashion.

We have had, as I have mentioned a few moments ago, some differences here in the course of this debate. We have had vigorous debate.

But I can say to the Senator from Virginia, he mentioned the word "trust." There has never been any doubt in my mind where he stood. He has always laid it on the table, and I hope I have done likewise. We pulled no secret punches out of the bag. We let each other know where we stood and that is the kind of trust we have to have when we have these differences to make this institution and this democracy work.

So I thank the Senator from Virginia for his integrity and splendid leadership.

Mr. President, I want to say a couple of words. There has been a long period of gestation for this bill, and it is now coming to a conclusion as far as the Senate action is concerned. We had major hurdles and we have met major hurdles. We have overcome. We have major hurdles, as we heard here today, still standing in the way of this bill in terms of its becoming law.

It has been a long path starting last January when our committee began our first hearings. The major hurdles began when our bill was ready for Senate floor action on May 13 and everyone knows the story from there. The Senate spent 7 days just on the motion to proceed and once that motion succeeded on September 11, the bill has taken a substantial amount of the Senate's time—15 days. The Senate came in early, stayed late, and even worked on Saturday and Monday.

Mr. President, the reason we have had such productive and full use of the Senate's time is the cooperation we've had from all Senators. When we beat the bushes for amendments, Senators responded. They came in on Saturday and Monday and debated. I also benefited from the help of members of the committee in managing the bill. Senator EXON, Senator DIXON, and Senator SHELBY spent many hours in the manager's seat. In particular, however, I want to thank the majority leader, Senator BYRD, for his willingness to permit this important bill to proceed to conclusion. At every step along the way, he was there to help work out procedures to move the process forward.

Mr. President, I want to thank my close friend, Senator WARNER, the ranking member of the committee, who was my partner in this effort. Without Senator WARNER's leadership on the floor and in the trenches, we would not be in a position to go to conference on this bill.

The bill still has many hurdles ahead. I hope the White House will keep an open mind. I intend to strive in conference to produce a report that can be enacted into law. That will take the compromise from all parties that has been evident on the Senate floor during the last few weeks.

Mr. President, I have a real concern I would like to discuss. I think all of us in this institution share a concern about what we are doing on the floor here. I am not talking about the filibuster and I am not talking about the two big controversies, SALT II or the Levin-Nunn amendment. I am dismissing all of that.

Those differences are always going to occur and should take a lot of debate. But we have had 118 amendments on this bill. Only three of those amendments have been the real contentious amendments. So 115 of them have not been in the category that has caused a great deal of controversy.

That is more amendments than any Department of Defense authorization bill since the Senate first started the authorizing process in 1961. We had more rollcall votes—42—than any other Defense authorization bill. We have been on the floor more days than any defense bill except two in the heart of the Vietnam war years, 1969 and 1970.

This is a trend that I think we have to reverse. I do not know how you reverse it. I know Senator Goldwater was very concerned about this when he was chairman. He made the suggestion two or three times that the day we bring the bill out, we should vote cloture and that would cut off nongermane amendments.

I would say, Mr. President, that the Senate rules are unique. We each have the right to stand up and debate as long as we choose. We each have the right to propose any amendment to any bill whether germane or not. That may make us very poweful as individuals but sometimes it makes the process bog down and sometimes it makes the institution less capable of moving than we must be capable of in this age.

So I think we have to find a way to reverse this trend.

We have had serious debates. According to staff counsel's advice, we have had 131 hours of debate and there have been about 10, 11, 12 hours that have been what I call dead time in that, so about 120 hours have been active debate on this bill.

The balance that we have to seek in this institution, and I know I have heard the Senator from Mississippi talking about this for a long time, is very important. We have to have a better balance between committee deliberations and floor action.

This body is unique, but no legislative body with 100 members can handle every detail of a piece of legislation. We have to do perhaps a better job in our committee.

The one thing I do not know how to handle is the number of amendments we had by members of the committee. Almost half the amendments on this bill came from members of the committee. Maybe the reason is because we had a long gap between May and in the meantime a lot of things developed. Certainly, the interest of the members in this bill was keen. But those are amendments that had nothing to do with the controversies, and we have to find a better way of balancing between committee deliberations and floor action.

If floor action is indeed going to be meaningful on the major policy debates that we must deal with, I think this Senate has to concentrate more on the broad policy debates.

The SALT II amendment of the Senator from Arkansas was a broad policy debate and certainly should have been one of those debated. Levin-Nunn is another one.

When we get into the details of some of these amendments, and many of them are on this bill now, we have a major challenge ahead to bring about a better balance between committee action and floor action. This is true not only for the Committee on Armed Services, but other committees as well.

When we get to the conference we will probably have 300 to 400 differences between the House bill and this bill. And we will have, I am sure, 100 or 150 amendments on the House side; over 100 amendments on this side. We will have to reconcile every one of those amendments and we really cannot have an appropriation bill until we find a way to pass this authorization bill.

So I call those matters to my colleagues' attention, I see the minority leader is on the floor, and I have talked to the majority leader about this, not as a means of criticizing anyone but as pointing out a problem that we have to start dealing with if this body is going to be able to operate in the 1980's and 1990's in the complicated, complex world we are in.

I thank the Senator from Virginia for his leadership. I thank each and every member of the staff on both sides. We have splendid staff on the majority side; we have splendid staff on the minority side. They have done a yeoman task in getting this bill to where we are now and they will have to continue as we go to the conference.

I want to thank the minority leader for his cooperation in getting the time agreements that allowed us to complete this bill today.

I want to pay special tribute to the majority leader, Senator BYRD, for his dedicated and continuous leadership and without his tremendous efforts we would not be able to complete action on this bill today.

Mr. President, unless the Senator from Virginia desires further remarks, I yield.

Mr. WARNER. Mr. President, I certainly join with my distinguished chairman in extending our heartfelt appreciation to the staff. They backed us up at every turn day and night throughout the year.

Now, Mr. President, I wonder if the distinguished chairman and I might join in asking unanimous consent to allow the distinguished Republican leader to speak for just a minute or two.

The PRESIDING OFFICER. All time has expired.

Without objection, the minority leader is recognized.

Mr. DOLE. Mr. President, I thank the Senator from Virginia. I just wanted to take about 2 minutes to indicate, first of all, I share the views just expressed by the chairman of the committee.

I see the chairman of the Finance Committee present, the distinguished Senator from Texas, and these bills are getting almost like tax bills. You expect 115 amendments on a tax bill; you do not like it, but you expect it. And certainly if we set aside 3 weeks for each major piece of legislation around here, we would not have time to finish very much of our work.

Having said that, I think, despite the barriers, the managers have done an outstanding job. I certainly want to commend the distinguished chairman, Senator Nunn, and the distinguished ranking Republican, Senator Warner, for hanging in there and getting it done.

I certainly would be willing to join in some efforts to see if we could expedite the process or the procedure.

These have been long days. We talk about how many days. We did not come in at noon and go out at 6. Those days started at 8 o'clock and ended at 10 or 11 o'clock at night. So a lot of work has gone into this legislation.

I would hope that the two major stumbling blocks in the conference can be resolved. I hate to think that all of the time that was consumed and all the efforts of staff and members of the committee, and particularly the managers and the majority leader, who has done an outstanding job, have gone for naught.

But there are a couple of provisions that I think could cause some problems, certainly with the President. I think he has legitimate concerns, concerns that he should express. I think for now it is good enough to say that the managers have done a splendid job. The majority leader has persevered and persisted in his efforts to finish this bill and he has done it.

I congratulate the majority leader for another real accomplishment, in what has been a string of accomplishments this year. But particularly I thank the managers who have had to be here every minute while we have been doing other things. They have done a good job as have all members on the committee.

I noted, also, that many of these amendments came from committee members. And I think that the answer may lie in the fact that we started this bill early and took it up late. A lot of things did transpire in the meantime.

But again I thank the Chair for consent to speak. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Without objection, the Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent that following the final passage of H.R. 1748, the Senate proceed immediately to the consideration of S. 1174, Calendar Order No. 120, the Department of Defense Authorization Act, that the Senate proceed to passage of S. 1174 and that following passage of S. 1174 there be an additional period of 3 minutes allocated to the managers for the purpose of making a short series of unanimous-consent requests relating to S. 1174 that I have discussed and cleared with the ranking minority member of this committee.

The PRESIDING OFFICER. Is there objection to the question? Hearing none, it is so ordered.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on the adoption of the bill, H.R. 1748. The yeas and nays have been ordered and the clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Garn] and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. Wilson] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—56

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Heinz
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Stafford
Stennis
Wirth

NAYS—42

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Gramm
Grassley
Hatch
Hatfield
Hecht
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Proxmire
Quayle
Roth
Rudman
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker

NOT VOTING—2

Garn
Wilson

So the bill (H.R. 1748), as amended, was passed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate amendments be inserted in the Record and printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of H.R. 1748, as amended by the Senate, will be printed in the Record of Tuesday, October 6, 1987.)

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business will be S. 1174.

Mr. NUNN. Mr. President, I ask for passage of that bill.

The PRESIDING OFFICER. The question occurs on passage of the bill S. 1174.

The bill (S. 1174), as amended, was passed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1988-89

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of S. 864, a bill to authorize appropriations for the Department of Defense, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 864) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes.

The Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the language of Division A of S. 1174, as amended, be inserted in lieu thereof.

Mr. DOMENICI. Mr. President, reserving the right to object, and I will not object if my friend from Georgia will answer just one question. I would like to get it on record.

I say to the distinguished chairman, aside and apart from the amendments that have been offered on the floor and debated on the floor, what is the

Senator's best estimate of the cost of this bill that we have just voted in?

Mr. NUNN. I would say to my friend from New Mexico that the Senate authorization bill that we have just voted in and the House bill, as amended by the Senate bill, which we have also voted in, is $303.1 billion in budget authority and $294.1 billion in outlays.

Mr. DOMENICI. Mr. President, I assume that the distinguished chairman of the Armed Services Committee believes that this is a much-needed bill and that the programs prescribed in this authorization bill are needed in the defense of our country and to maintain our deterrence. Is that a fair assessment?

Mr. NUNN. The Senator has stated it correctly. That is a fair assessment.

Mr. DOMENICI. I would then think that the Senator would not think we could adequately do what he thinks we must do in our national defense interest and in our national deterrence posture with $289 billion in budget authority and the corresponding outlays. Is that a fair statement?

Mr. NUNN. I would say to the Senator from New Mexico that is a fair statement. I would add to that answer in the affirmative that I believe the defense budget has to be restrained in keeping with our overall fiscal policy, but I do not believe the defense budget can bear the burden of the predominant amount of cuts that will have to take place.

I am particularly concerned about the Gramm-Rudman sequester if it occurs. I mentioned that today. If it occurs, we are going to have a level of defense spending that is going to cause serious disruptions, including disruptions in personnel and disruptions in operations and readiness. It is going to be a very difficult proposition.

I know the Senator from New Mexico will agree with me in my assessment, although I had voted for Gramm-Rudman up until this last one, I found it was no longer an enforcing mechanism but it was forcing us to jump off the cliff. I was not ready to jump off the cliff for national security. I also came to the conclusion that the amount of overall deficit reduction that is going to occur is not going to be sufficient to get rid of the deficit, to put us in proper fiscal responsibility. It is not going to put us in the position of saying, "Mr. President, we know you are going to sign a bill that will cause great deficit reduction so we will pass it to the next generation."

We are permitting the President of the United States to enjoy pure misery, fiscally.

That is my rationale at this time.

The Senator from New Mexico is correct. If, indeed, we do have a sequester under Gramm-Rudman, it will do serious damage to our Nation.

Mr. DOMENICI. May I ask one further question of my friend? Do you recall voting for a budget resolution that had $19 billion in revenues? One way of looking at it was it had $21 billion, but let us use the $19 billion.

I believe you will recall language in that resolution stipulating that if we were going to have the revenues and pass the reconciliation bill, we are going to allocate $7 billion to defense, shifting us from the low tier of defense, $289 billion, to the higher tier of $296 billion, as prescribed in that budget resolution. Am I correct? You voted for that and understood it to be that way?

Mr. NUNN. I did not understand it as thoroughly as the very articulate former chairman and now ranking member of the Budget Committee states, but I did understand and grasp the major provisions of that budget. The essence was we either had a number on defense that would be too low or the President of the United States had to join in good faith with the Congress of the United States in providing both spending cuts and revenues to help protect the defense budget and at the same time bring about fiscal sanity.

I would defer to my friend on detail, and I will say that if I studied it as carefully as he has I would agree.

Mr. DOMENICI. Basically, I think it is fair to say that my good friend, the chairman of the Armed Services Committee, had the understanding that if we were going to have additional revenues that we were going to vote in, and the President signed the bill to put them in place, we were going to allocate a sufficient portion of those revenues to get defense to the high tier, which was your recommended bottom line of $296 billion in budget authority with a commensurate outlay level. Is that a fair statement?

Mr. NUNN. The Senator has stated my understanding correctly.

Mr. DOMENICI. I thank the Chair.

The **PRESIDING OFFICER.** Is there objection to the request? Without objection, it is so ordered. Without objection, the bill will be considered as having been read the third time.

The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 864), as amended, was passed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING APPROPRIATIONS FOR CIVIL DEFENSE PROGRAMS FOR FISCAL YEARS 1988 AND 1989, AND FOR OTHER PURPOSES

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of S. 865, a bill to authorize appropriations for civil defense programs for fiscal years 1988 and 1989, and for other purposes, and that the Senate proceed to its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 865) to authorize appropriations for civil defense programs for fiscal years 1988 and 1989, and for other purposes.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the language of division C of S. 1174, as amended, be inserted in lieu thereof.

The **PRESIDING OFFICER.** Without objection, it is so ordered. Without objection, the bill will be considered as having been read the third time.

The bill having been read the third time, the question is, Shall it pass?

The bill (S. 865), as amended, was passed.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1988 AND 1989

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of S. 866, a bill to authorize certain construction at military installations for the fiscal years 1988 and 1989, and for other purposes, and that the Senate proceed to its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 866) to authorize certain construction at military installations for fiscal years 1988 and 1989, and for other purposes.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the language of division B of S. 1174, as amended, be inserted in lieu thereof.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Without objection, the bill is deemed to have been read the third time.

The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 866), as amended, was passed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. NUNN. I thank the Chair. I thank my friend from Virginia. I notice my friend from Virginia voted for us several times. I thank him for those votes.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

Mr. BYRD. Mr. President, I ask for the regular order.

The **PRESIDING OFFICER.** Regular order is requested.

Under the previous order the Senate will proceed to the consideration of the bill S. 1394 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

The Senate proceeded to consider the bill.

The **PRESIDING OFFICER.** The Chair recognizes the majority leader.

Mr. BYRD. For the information of Senators, it is my intention not to have any rollcall votes after 3:30 to 4 today, but I would like to see the Senate make progress in the meantime on the State Department authorization bill. After 3:30, 4, it will be my intention to set up a period for morning business so that Senators might speak as long as they wish on other matters. I know there are some Senators who wish to speak on the Bork nomination. But I would hope that during this period between now and, say, 3:30 at least the Senate could stay on the State Department authorization bill.

The Senator from Rhode Island and the distinguished ranking manager have worked hard in the committee. This measure has been on the calendar a long time. Every time I turned one corner, I would find the chairman meeting me and importuning me, adjuring me, beseeching me, urging me to get on to this State authorization bill. Moreover, we cannot take up the State-Justice-Commerce appropriation bill until this bill has been passed. So it is important that we get some progress made today.

However, I promised Mr. BAUCUS that I would seek consent for him to speak out of order for 10 minutes or 5 or 6 or 7, somewhere along there, and I would hope then that we could wait until 3:30 at least before other Senators speak on the Bork nomination.

So I ask unanimous consent that the distinguished Senator from Montana [Mr. BAUCUS] may speak any time up to 10 minutes. That will give other Senators time to prepare for taking up the State Department authorization bill. Some Senators may have amendments and so on.

The **PRESIDING OFFICER.** Is there objection?

Mr. HELMS. Reserving the right to object, if the majority leader will be so kind as to include the same provision for Senator HECHT, there will be no objection.

Mr. BYRD. As a matter of fact, the Senator does not need unanimous consent, Mr. President. I am just trying to lay out the matter in a framework that will hopefully assure the managers of that bill that they will not be interrupted so much during this afternoon. But the Senator does not need consent and he can speak longer than 10 minutes.

Mr. HELMS. We will just have an informal agreement. Senator HECHT can have 5 minutes as well. I agree you do not need unanimous consent in either case.

Mr. BYRD. We would need unanimous consent if we prohibited Senators from speaking on other matters during the next 2½ hours.

Mr. HELMS. That is true, and I am willing to enter into that if the majority leader will propound it and include Senator HECHT.

Mr. BYRD. I will do that.

Mr. HELMS. I thank the Senator.

Mr. BYRD. I ask unanimous consent that speeches be germane to the matter before the Senate, the pending business, with the exception of Mr. BAUCUS and Mr. HECHT.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BYRD. And then I would like to indicate to the Senate it is my intention soon to move to the Verity nomination. I do not intend to so move this afternoon but Senators should be aware of my intention to move to that. Possibly I could move to it today and vote on it Monday or vote on a cloture motion or something by next week. So I am just informing Senators that is going to be a matter to come before the Senate—soon.

Also, the catastrophic illness measure, I have tried for weeks to get that matter up. I tried before the recess, and the objection was that there were matters that needed to be worked out on it, "Let's wait until after the recess." After the recess I tried and have not been able to get it up. So I may make that motion this afternoon and put a cloture motion on it, which would mean that sometime next week we would vote on that cloture motion. I do not want to catch anybody unawares, so I am laying it out on the table for that purpose.

Mr. HELMS. Will the Senator yield?

Mr. BYRD. Yes.

Mr. HELMS. There will not be any necessity for a cloture motion on the Verity nomination so far as this Senator is concerned, or any other Senator, to my knowledge. I say to the distinguished majority leader that I discussed this nomination with the President just a little while ago down at the White House. The only reluctance I had about it was the nonreceipt of information that I had requested for 2 years. The President assured me they were going to work that out, so I think we can move on.

Mr. BYRD. Very well.

Mr. HELMS. There will be some discussion, I say to the majority leader. I do not think anyone is going to filibuster; certainly I am not.

Mr. BYRD. I thank the distinguished Senator. I yield the floor.

The **PRESIDING OFFICER.** The Senator from Montana.

Mr. BAUCUS. Mr. President, I very much thank the managers of the bill, as well as the majority leader, for working out this agreement.

Mr. PRYOR. Mr. President, the Senate is not in order.

The **PRESIDING OFFICER** (Mr. CONRAD). The Senator from Arkansas is correct. The Senate is not in order.

The Senator from Montana.

NOMINATION OF JUDGE BORK

Mr. BAUCUS. Mr. President, the brilliance of our constitutional form of Government rests on the pillars of three separate but equal branches of Government and on the written constitutional protection of the people's basic rights. The President speaks with one voice and is elected by all the people. The Congress speaks with many voices but it, too, is elected by all the people. The Supreme Court, by virtue of the appointment and confirmation powers of Federal elected officials, is in effect an extension of the collective conscience of the United States.

Thus, when the Senate decides whether to confirm a Supreme Court nominee, it is not beholden to the concerns of the President but to the deepest concerns and needs of the people. This is particularly true given the lifetime tenure of a Supreme Court Justice and the need for a Justice to staunchly defend the people's constitutional guarantees, including free speech, equal protection under the laws, religious freedom, due process under the laws, and the rights of privacy.

Like all Supreme Court nominees, this one will significantly affect all of us and our children. He is likely to serve well into the 21st century. He will exercise extraordinary power and he will affect us directly, for as Judge Bork stated in his confirmation hearings, in deciding individual cases, someone gets hurt.

The people of Montana have elected me to represent their views and to exercise my best judgment. In deference to the nominee and in order to give him his day in court, I felt it only proper to reserve my judgment until after the completion of the Judiciary Committee hearings. It was during those days of exhaustive questions to Judge Bork, both by opponents and by advocates of his confirmation, and particularly during his answers to those questions, that my views began to take shape. Upon reading the transcript of that hearing, I now have reached my conclusion.

It is clear that Judge Bork is competent. He is a distinguished legal scholar. He has served as Solicitor General of the United States and on the U.S. Court of Appeals.

The American Bar Association has given him its highest possible rating. It is less clear, however, that he possesses the requisite judicial philosophy to be entrusted with constitutional powers over our lives.

Although some suggest that the U.S. Senate should not pass upon the judicial philosophy of a nominee, I believe that the Senate not only has a right but an obligation to do so. Just as the President may consider judicial philosophy in his appointment, so may the Senate in its confirmation. Indeed, the Constitutional Convention debates make this clear.

It is true that a Senator should not oppose a nominee who does not expouse that Senator's own particular judicial philosophy, but it is equally true that a Senator may determine whether a nominee is committed to the protection of basic constitutional values of the American people.

What are those basic values? One is the separation of powers of our Federal Government. Another is freedom of speech. Another is equal opportunity. Still another is personal autonomy: the right to be left alone.

It is generally agreed that a Supreme Court Justice should not make the law but, rather, interpret the law according to the plain meaning of the words either in the Constitution or in the statute.

Judge Bork, in fact, states that a Justice should look to the meaning of the words according to the original intent of those who drafted them.

I, too, believe that original intent is critical. Judge Bork's view of original intent as applied to the separation of powers I believe is mixed. He definitely is correct in saying that Congress may not by statute deny a court jurisdiction over constitutional questions. In fact, he so testified before Congress against a bill that would limit Supreme Court jurisdiction questions dealing with women's reproductive rights.

On the other hand, his views of the power of executive privilege as applied in the Watergate era causes grave concern.

It is Judge Bork's view of original intent, more precisely his use of original intent in civil liberties cases, equal protection cases, and rights of privacy cases, that I find most disturbing.

Whether it is his interpretation of free speech, antidiscrimination laws, or the right of people to basic privacy, I find that Judge Bork's view of original intent is too narrow.

It is true that our Founding Fathers did not consider free speech as it applies to the times and technologies of the 1980's. Neither did they know of the hopes and aspirations of minorities and their meaning almost two centuries later. And certainly they were unaware of the scientific and medical techologies of the future as they apply it to the rights of privacy.

Judge Bork's voluminous writings and views on these basic rights tend to say that, because the present application of those rights were not considered at the time, they should be much less protected. I do not think that is what our Founding Fathers intended. Our Founding Fathers were people, ordinary people. They struggled mightily to escape tyranny, and to forge a new way of life based on the dispersal of power and on the constitutional protection of basic rights and liberties.

It is my strong view, and I believe it is the view of the American people, that the meaning of those values intended by our Founding Fathers would include many more of the rights of free speech, equal protection, and privacy than Judge Bork would find. It is because that disparity is so great and its consequences so critical to the core strength to our country that I find this nomination very disturbing.

His change of position on many of these issues during the Judiciary Committee hearings also does not provide much comfort. Growth and the ability to change one's views is often a mark of maturity. Yet, the degree of change, and the manner in which those changes were stated are not very convincing. In fact, it even raises additional questions. It is, therefore my belief that it would be unwise to entrust our constitutional values to this nominee. Judge Bork should not be confirmed.

I yield the floor.

Mr. HECHT addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

ENERGY AND WATER APPROPRIATIONS

Mr. HECHT. Mr. President, in a few days the Senate will consider the energy and water appropriations bill. Attached to that bill is a provision that makes major changes in the Nation's high level nuclear waste program. This provision is identical to the one that the Energy Committee recently reported out as part of budget reconciliation, and as a freestanding bill, S. 1668.

S. 1668 would depart from the current program requiring three sites to be studied for a high level nuclear waste repository. Instead, S. 1668 would have the Energy Department characterize one site at a time. There are many who believe that my State, Nevada, would be pushed to the head of the line if these provisions are signed into law.

The chairman of the Energy Committee has been very skillful in promoting this legislation. Attempts to stop the bill have failed in the Energy Committee, they have failed in the Appropriations Committee, and the outlook for a long, drawn out battle on the floor of the Senate is uncertain at best.

I have opposed the chairman's bill in committee, and I will fight it when it reaches the floor of the Senate. My opposition is based on my belief, after extensive discussions with members of the scientific community, a tour of nuclear facilities in Europe, and study of methods used by other nuclear nations, that deep geologic disposal of spent fuel rods is not the safest, most cost-effective, or energy-efficient way for our country to deal with high level nuclear waste. The right approach is what is called the complete nuclear fuel cycle. This involves long-term storage and reprocessing of spent fuel, recycling the energy so it can benefit our Nation. It was a mistake for our Nation to stop reprocessing nuclear waste. Every other major nuclear nation in the world reprocesses. Reprocessing is the answer, not deep geologic disposal of spent fuel.

Reprocessing is the direction our Nation should be headed in, not the direction that is the primary thrust of this legislation. Deep geologic disposal has not been proven safe or effective. Reprocessing and above-ground storage, on the other hand, are in active use at nuclear facilities around the world.

As this legislation is debated, there will be lots of discussion about where a repository should be located. The problem is, we will be debating the wrong question. The question is not where we should put it, but, why we should have one at all.

During the course of the coming debate I will be an active participant. My purpose will not be to obstruct the process but to inform my colleagues. The legislation puts us on the track toward deep geologic disposal. My efforts will not be aimed at derailing this train. They will be aimed at putting us on a different track, a track leading to a safer and more logical handling of nuclear waste. To bury it in the ground is just plain wrong.

In recognition of the chairman's ability to marshal votes on this issue, I have worked on a dozen amendments to this bill that substantially improve it, not just for Nevada, but for the Nation as a whole. These amendments were accepted by the chairman, adopted by the Energy Committee, and are incorporated into the bill that will soon be considered by the Senate. While I vigorously oppose this bill and the future it plans for this country, I urge my colleagues to keep these amendments which will protect any State forced to have a deep geologic repository.

I don't believe that the basic thrust of S. 1668 is in the national interest, and I will once again oppose it. But if the Congress is determined to pursue this course of action, then I want to help make the package as good as possible, for all the people of America, and the people of Nevada in particular.

Mr. President, I ask unanimous consent that a description of my 12 amendments that are incorporated into S. 1668 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADOPTED HECHT AMENDMENTS TO S. 1668

The first amendment requires a study of the feasibility of reprocessing spent nuclear fuel of different ages. One of the primary arguments against reprocessing has been the reprocessing is not cost-effective. But most economic analyses of reprocessing have focused on using spent fuel that is only a few years old. My amendment is designed to find out whether, as some have suggested, it is far less expensive to reprocess spent fuel that has been aged for decades, than it is to reprocess relatively fresh spent fuel.

The second amendment requires that Federal agencies use only those nuclear waste packages that are licensed by the Nuclear Regulatory Commission. The Energy Department has occasionally used waste packages that were not approved by the NRC. My amendment prevents this from happening in the future.

The third amendment requires the Department of Energy to abide by the rules of the Nuclear Regulatory Commission for notifying States before high level nuclear waste is shipped. Many State and local governments have not received the sort of advance notice from the Department of Energy that they deserve. My amendment would strengthen the hand of State governments in demanding greater cooperation from the Energy Department in this regard.

The fourth amendment requires DOE to provide Federal money and assistance to train State and local agencies involved with high level nuclear waste transportation. If the Federal Government insists on inflicting waste shipments on State and local public safety agencies, then the Federal Government ought to provide some degree of training for State and local agencies to cope with these shipments. My amendment provides for this training.

The fifth amendment requires that waste package prototypes be submitted to actual tests, not just to computer simulated tests. I don't believe that the people of America are willing to take for granted the safety of waste packages that have only been tested on a computer screen. I think they deserve to have a full-scale prototype subjected to actual, real-world tests. This is what my amendment accomplishes.

The sixth amendment requires our Government to examine other nation's waste packages to see if any are safer than what we plan to use in this country, and to report to the Congress on the results of this survey.

The seventh amendment requires DOE to pay for onsite State oversight, for quality control of site characterization and repository construction. Wherever a repository is located, the State government needs to be able to have its own independent assurance that the work is being done correctly.

The eighth amendment requires DOE to consult with the Department of Defense and certify that a repository site to be named by the President would not jeopardize national defense activities taking place nearby. It would make little sense to put a repository in a place where it will interfere with activities that are essential to our national defense. Without my amendment, our country might some day have to choose between endangering our national security or abandoning a nuclear waste repository.

The ninth amendment requires a study of the advantages of future research on subseabed disposal. For more than a decade the United States participated in an international research effort in this area, but abandoned this research prematurely this fiscal year. The scientific community, the electric utilities, and the National Association of Regulatory Utility Commissioners have all publicly recognized the need for increased research in this area.

The 10th amendment requires DOE to report to the Congress on the local impacts of siting a repository, and to make recommendations as to the Federal Government's responsibilities for mitigating those impacts. The sorts of impacts to be addressed include those relating to public health and safety, social services, transportation systems, and local economic activity.

The 11th amendment requires that the State that gets stuck with the repository receive special consideration for DOE research contracts. Any State that bears the national nuclear waste burden is certainly entitled to an increased share of beneficial Federal projects that would enhance instead of detracting from the quality of life of the citizens of that State.

The 12th amendment, which I coauthored with Senator Evans, requires a study of the advantages of storing high level nuclear waste for at least 50 years before moving it to a repository. Current law would allow spent fuel to be shipped to a repository after only 5 years. Other countries are planning on a cooling off period of 40 or more years. I don't think it is wise to move 5-year-old fuel around the country. We should let it age, cool off, become less radioactive, and become easier and safer to handle.

Mr. HECHT. Thank you, Mr. President.

I yield the floor.

Mr. PELL. Mr. President, today the Senate begins consideration of the Foreign Relations Authorization Act of 1987. This is one of the two major, regular authorization bills reported out by the Committee on Foreign Relations. Its principal purpose is to provide the authorization of appropriations for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting.

These foreign affairs agencies perform a vital role in the defense of the United States. An effective diplomatic establishment protects our country by strengthening relations with allies and friends, by negotiating agreements to reduce international tension and to facilitate international commerce, by providing accurate information about the United States and the world to people abroad, by arranging international educational and cultural exchanges, and by providing detailed and accurate assessments of political, economic, and social developments.

To accomplish these complex missions, our foreign affairs agencies need adequate resources and support. Unfortunately, the current budget climate has made it extremely difficult for the Foreign Relations Committee to provide the full level of support these programs require. In order to live within budget resolution levels, the committee had to make some tough choices. As a general rule, the committee sought to protect the ongoing operational programs of the foreign affairs agencies while deferring the construction programs. In short, the committee chose people over bricks and mortar.

As a result, the committee provided amounts close to the administration's request for the salaries and expenses of the State Department and the Board for International Broadcasting. By contrast, the committee placed a moratorium on VOA radio construction and Department of State embassy construction. In view of the large sums already in the pipeline for embassy construction and VOA modernization, the moratorium should have only a limited short-term impact. Further, because of the much publicized problems of the Diplomatic Security Program, a moratorium is also a prudent management decision.

With regard to USIA, the programs have grown dramatically over the last 6 years. In view of the near tripling of the USIA budget since 1981, the committee felt that holding the line at the fiscal year 1987 levels could be justified.

The Foreign Relations authorization bill also contains a number of important legislative and policy provisions. These are described in detail in the committee report. I would like to call attention to several of the most important.

In a provision sponsored by Senator KASSEBAUM, the committee authorizes full funding for the U.S. assessed contributions to the United Nations. Two years ago, Senator KASSEBAUM undertook a legislative initiative to force budgetary and administrative reforms at the United Nations. I was at that time an opponent of her approach. She has, however, succeeded to an absolutely remarkably degree. Her effort has resulted in the most significant management reforms in the 42-year history of the international organization. We must now show our support for the Kassebaum effort by providing full funding for our assessed contributions pursuant to our treaty obligations.

In the matter of much interest to many of my colleagues, the Foreign Relations Committee bill also includes an omnibus bipartisan provision addressing the Moscow Embassy problem. The committee bill includes provisions calling on the administration to submit a series of reports by August 31, 1987, on the disposition of the new Chancery in Moscow and on the Soviet complex on Mount Alto here in Washington, DC. Since the time of the committee's consideration, the administration has conducted three separate reports on these matters. Further, several delegations of Foreign Relations Committee members visited Moscow over the August recess. These included Senators MOYNIHAN, SARBANES, SANFORD, CRANSTON, and MCCONNELL. I believe the time has come for the Senate to make some decisions on the Moscow Embassy. I gather there are several proposals and I may have one of my own. I would hope this issue can be dealt with expeditiously.

The bill also includes provisions: First, prohibiting the closing of U.S. posts overseas, except under limited circumstances; second, modifying U.S. visa law to ensure that aliens are no longer excluded on the basis of their political beliefs; third, a restructuring of the U.S. Advisory Commission on Public Diplomacy to ensure its bipartisan character; and fourth, policy language on Afghanistan, the Iran-Iraq war, and South Korea. The bill also includes a provision to memoralize our late colleague Edward Zorinsky by naming the new USIA library in Jakarta, Indonesia, after him. Senator Zorinsky had a keen interest in USIA, and the library was opened as a result of his amendment.

It is my hope that the Senate might be able to proceed expeditiously with the consideration of this bill. I know of relatively few amendments and it would be my hope that we can go to final passage this afternoon. I would note that this bill is not the appropriate vehicle for amendments affecting our foreign assistance program. These issues are addressed in S. 1274, the International Security and Development Cooperation Act of 1987, which I hope will be before the Senate later this year.

Mr. HELMS. Mr. President, I do not want to rain on the distinguished chairman's parade, but we are not about to get to final passage of this bill this afternoon. I know of a number of amendments, including some that I intend to offer, that will be considered by the Senate.

Mr. PELL. It is a hope.

Mr. HELMS. We will move along as expeditiously as possible, because I do not like, any more than the Senator does, to spend a lot of time in the consideration of any piece of legislation, but sometimes it is necessary.

Mr. President, I am genuinely grateful to the distinguished majority leader and the distinguished minority leader for having arranged to bring this bill to the floor.

I hope, indeed, fervently hope, that we will not be here as long as it took on the defense authorization bill, but I would have to assert that this pending bill is not without its own controversies. Maybe we can resolve them. I hope we can. But that remains to be seen.

Just a word about the committee deliberations on this bill, Mr. President: It has been my pleasure to work with the distinguished chairman who, as I have said on many occasions, is a delightfully civil gentleman. Even though we are sometimes on opposite sides of the question, I do not think either of us have ever had the slightest feeling of discomfort about the other and I know it will stay that way. I admire him, I like him, and I enjoy working with him.

The deliberations were thoughtful and, with a few exceptions, quite wise.

One overriding issue in the committee which will continue to be a significant issue here on the floor is that of the budget. I do not need to preach a sermon about what this Congress must do all across the board with respect to reducing Federal spending. I came here preaching that sermon, and I guess I will leave here, if I am still talking, saying the same thing.

But under the budget resolution, which has been adopted by the Congress, spending for the 150 international affairs function of the budget is to be reduced from fiscal year 1987 levels. It does not say a slight increase. It says a reduction and, frankly, Mr. President, this bill does not comply with those parameters.

While the Secretary of State insisted on a 10- to 15-percent increase in the State Department's administrative budget, the committee approved a 2-percent increase. However, the budget resolution assumes an overall reduction, as I have just said, a reduction below current levels of spending by the State Department of approximately 5 percent, and this Senator feels that the Senate must bite the bullet and is obliged to make reductions in order to comply with the budget.

Second, in failing to meet the budget, the committee's most notable excess was in restoring funding for programs of the United Nations.

This is a matter on which the distinguished chairman and I have agreed to disagree agreeably. But if there is one spot in our foreign relations or foreign policy conduct where this Senator feels that the waste is just incredible, it is at the United Nations.

I have to look hard to find any benefit for the United States of America in the United Nations, and I am beginning to agree with those who have been saying, "Get us out," and that sort of thing, but we will withhold judgment on that for the time being.

So the committee reversed the principles previously adopted by the Congress. There has been no true reform at the United Nations, only enough to get Congress to increase funding.

And as we get into the discussion, we may get into the matter of such things as rent subsidies and salaries and other matters which have caused great discontent among a great many Americans.

But perhaps the most troubling shortcoming of the committee bill is what amounts to the abdication, as I see it, of responsibility in responding to the Moscow Embassy disaster—the bugging by the Soviet Union, the complete ineptitude by those in charge of oveseeing the construction of the United States Embassy.

Instead of responding with specific legislation instructing the Secretary of State, the committee adopted more studies and reviews. Mr. President, we know what the problems are. We know what needs to be done.

We know how to react to the Soviets who bugged that building under construction beyond any comprehension of logic.

The Senate Committee on Appropriations, under the fine leadership of the distinguished Senator from South Carolina [Mr. HOLLINGS], has made appropriate recommendations, permitting for demolition of that turkey in Moscow, just tear it down, start over again, and make the Soviet Union pay for it; otherwise; shut off any of their use of their new facility at Mount Alto here in Washington.

I am with Senator HOLLINGS on that. That approach was unanimously recommended by the Select Committee on Intelligence. The Senate has passed legislation sponsored by the distinguished Senator from Idaho [Mr. SYMMS] to renegotiate the embassy agreements between the United States and the Soviet Union.

Now these are typical of the responses which are needed in the legislation, and frankly I will join other Senators in trying to make those changes, because failure to do so makes the U.S. Senate a laughing stock in the eyes of the Soviet Union. How many times must we allow the Soviets to abuse us without taking appropriate response?

Mr. President, I also cannot agree with the inclusion in this bill of statutory authority to allow the Secretary of State to have a permanent official residence, and we will be discussing that and no doubt voting on it. I am very fond of Secretary Shultz as a person. I am especially fond of Mrs. Shultz, a delightful lady. But it is not wise for the U.S. Senate to depart from the longstanding practice that all Cabinet members must be treated equally, and therefore are not eligible for Government-owned or Government-sponsored mansions. This authoriy has already been stripped from the House bill and a motion to strip the authority from this bill failed by only one vote in the Senate Committee on Foreign Relations. Therefore, I will be joining other colleagues or maybe leading the charge, as the case may be, in attempting to eliminate this authority during this deliberation on this floor.

Obviously, Mr. President, this may be the primary vehicle this year for foreign policy statements or policies. A great deal of time was wasted by this Senate on the Defense authorization bill by the inclusion of proposals that clearly were nongermane to the defense authorization bill and all sorts of accusations and charges were made about delay. This Senator did not delay, except to oppose nongermane arms control amendments on the Defense authorization bill that properly should have been included in this bill which is now pending in the U.S. Senate.

I think there will be a number of amendments offered to deal with important foreign policy issues which were not addressed by the pending committee bill.

So I say again that the distinguished Senator from Rhode Island [Mr. Pell] and I have an excellent working relationship, which I treasure. We worked together on many matters and we worked together on this bill.

I want to say to him that I look forward to continuing to work with him.

Mr. PELL. I thank the Senator.

Mr. HELMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 842

(Purpose: To protest the Soviet ICBM tests near the State of Hawaii)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. Wallop] for himself, Mr. Dole, Mr. Wilson, Mr. Helms, Mr. Quayle, Mr. Symms, Mr. Matsunaga, and Mr. Inouye, proposes an amendment numbered 842.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE SOVIET ICBM TESTS NEAR THE STATE OF HAWAII.

(a) Findings.—The Congress finds that—

(1) the Union of Soviet Socialist Republics and the United States of America have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

(2) the Soviet Union has within the last twenty four hours conducted two tests of its intercontinental ballistic missile forces,

(3) the announced impact points for reentry vehicles from these tests are as close as two hundred miles northwest and southeast of the State of Hawaii,

(4) one target area will require the overflight of sovereign U.S. territory by a Soviet ICBM,

(5) neither superpower has ever conducted an ICBM test as close to the others' territory,

(6) the missile used in this test is a new modern multiple warhead ICBM which is a violation of both the "new type" and the "heavy ICBM" provisions of the SALT II Treaty.

(7) the Soviet Union allegedly encrypted telemetry from this first flight-test, as is their standard practice, in further violation of the SALT II Treaty,

(8) the Soviet Union appears to have been practicing with this test a strike on the United States because of the use of trajectories of fire identical with those that would be used to attack Pearl Harbor,

(9) had this test misfired by only fractions of a second, tens of Soviet ballistic missile test warheads could have landed on centers of population in the Hawaiian Islands, and

(10) this action cannot be explained as anything but a deliberate provocation of the United States and a direct threat to our national security.

(b) Sense of the Congress.—It is the Sense of the Congress that—

(1) This test has increased rather than decreased the risk of nuclear war.

(2) The Congress of the United States condemns the Soviet Union for its actions that demonstrate an utter disdain for civilized and acceptable standards of international behavior,

(3) The Congress condemns this new violation of the provisions of the SALT II Treaty,

(4) Because the United States has not even a very limited defense against ballistic missiles, the possibility of accidental impact of Soviet ballistic missile test warheads in the population centers on the Islands of Hawaii could not be prevented,

(5) The United States government should officially and at the highest levels protest this action by the Soviet government and should inform the Soviet Union that it will not tolerate another flight-test of this sort aimed directly at U.S. territory;

(6) The President should report to the Congress in ten days in both classified and unclassified forms on (a) the details of the tests; (b) Soviet explanations offered in response to U.S. diplomatic protests; (c) what steps the U.S. will take to ensure that such a test will not happen in the future; and (d) what effect a first-phase SDI system could have against a missile launched in similar proximity to U.S. territory.

Mr. WALLOP. Mr. President, this amendment is offered by myself and the Senator from California [Mr. Wilson] who is an original cosponsor and whose alertness originally brought this circumstance to my attention. I also offer it on behalf of Mr. Dole, Mr. Helms, Mr. Quayle, Mr. Symms, and the two Senators from Hawaii, Mr. Matsunaga and Mr. Inouye.

I read the text and body of the amendment on the floor yesterday, but I believe that it bears a review. I cannot imagine, given the debate, that it is a controversial amendment.

But the first whereas takes notice of the fact that the United States and the Soviet Union recently concluded an agreement with respect to reducing the risks of accidental nuclear war. This was an agreement that was accompanied by much ballyhoo, self-aggrandizement, during the visit of Mr. Shevardnadze in Washington recently.

The second one takes note of the fact that the Soviet Union has within the last 24 hours conducted two tests of its intercontinental ballistic missile forces.

The third paragraph talks about the announced impact points for reentry vehicles, and the announced points were as close as 200 miles northwest and southwest of the State of Hawaii. We know that one of the reentry vehicles came even closer than that to the Hawaiian Island chain, whether accidentally or on purpose, we shall never know. But, nevertheless, it was closer than 200 miles. It was within 100 miles.

The next paragraph is, where one target would have required—they did not use this—the overflight of sovereign U.S. territory by a Soviet ICBM. And I would point out that the target area, as announced—and, Mr. President, I might, for the benefit of the Senators, just point out that the announced target area south and west of the Island of Kauai abuts the air defense identification zone. This is the area in which the U.S. Government has surrounded its territories with, which requires, if it is penetrated by unidentified aircraft or foreign objects, the mobilization of the defense forces in that particular zone.

Next, we state that no superpower has ever conducted an ICBM test so close to the other's territory. Then we state that the missile used in this test is a modern multiple warhead ICBM, which is a violation of both the new type and the heavy ICBM provisions of the SALT II Treaty. I will deal with that in a moment.

Then we state that the Soviet Union has allegedly encrypted telemetry from this first test flight. Then we state that the Soviet Union appears to have been practicing with this test a strike on the United States because of the use of trajectories of fire identical with those that would be used to attack Pearl Harbor. It requires but a change in the azimuth to have hit Pearl Harbor, and not a very big change. It is the type of trajectory that is necessary to test if the Soviet Union is going to find out the reliability on their assaults on the continent in the lower 48 States. Because it is this type of trajectory in which you run into magnetic and other problems, this test was designed to resolve or know what problems exist in conducting a strike on the United States. You cannot draw any other conclusion.

Then we say that had the test misfired by only fractions of a second, tens of Soviet ballistic missile test warheads could have landed on centers of population in the Hawaiian Islands. As a matter of fact, one did land within 100 miles of one of the Hawaiian Islands.

So we conclude that the action cannot be explained as anything but a deliberate provocation of the United States and a direct threat to our national security.

Then we resolve that it is the sense of the Congress that the test by itself has increased rather than decreased the risk of nuclear war and that the Congress condemns the Soviet Union for its actions that demonstrate an utter disdain for civilized acceptable standards of international behavior and the Congress condemns this new violation of the provisions of the SALT II Treaty. Finally, the amendment states:

> Because the United States has not even a very limited defense against ballistic missiles, the possibility of accidental impact of Soviet ballistic test warheads in the population centers on the Islands of Hawaii could not be prevented,
>
> The United States government should officially and at the highest levels protest this action by the Soviet government and should inform the Soviet Union that it will not tolerate another flight-test of this sort aimed directly at U.S. territory;
>
> The President should report to the Congress in ten days in both classified and unclassifed forms on (a) the details of the tests; (b) Soviet explanations offered in response to U.S. diplomatic protests; (c) what steps the U.S. will take to ensure that such a test will not happen in the future; and (d) what effect a first-phase SDI system could have against a missile launched in similar proximity to U.S. territory.

Mr. President, I stated that these missile tests constitute a violation of the SALT II Treaty. Let me just quote where I think they are.

In article XV, the first two clauses of which state:

> For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

Paragraph 2 states:

> Each Party undertakes not to interfere with national technical means of verification of the other Party operating in accordance with paragraph 1 of this article.

As anyone can tell, this test was conducted, as has been other recent Soviet tests, with encrypted telemetry.

More importantly, there is a story on the street that an ELINT aircraft, an electronic intelligence aircraft of ours, part of our national technical means of verification, flying in the vicinity of the impact zone had a Soviet ship fire a laser at it and damaged the eyes of the U.S. pilot aboard that plane.

We also see in article IV, paragraph 7:

> Each party undertakes not to develop, test, or deploy ICBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the heavy ICBM's deployed by either Party as of the date of the signature of this treaty.

Mr. President, I would just point out again that this is a follow-on model of the SS-18 as described in the publication "Soviet Military Power." It is an advancement and improvement over the missile that Secretary Brown, at the time of the signing of the SALT II Treaty, had said to the Senate of the United States and the people of the United States, indeed, he boasted that we had finally put a cap, finally put a cap, on the Soviet heavy missile which so threatened us. And here, we see the value of this "cap," with this new, heavy and much more capable missile that the Soviet Union possesses. It is a violation.

Mr. President, again under article IV, paragraph 9, it states that: "Each party undertakes not to flight-test or deploy new types of ICBM's, that is, types of ICBM's not flight-tested as of May 1, 1979, except that each party may flight-test and deploy one new type of light ICBM." Light ICBM is the operative word there, Mr. President.

Here is the SS-18 follow-on, as it appears in Soviet Military Power.

This is an advancement in capability, in throw-weight and in accuracy, on the SS-18, which is clearly in violation of two of the articles—two of the paragraphs of article IV of the SALT II Treaty.

Mr. President, it is interesting, and I think revealing, that the Senators from Hawaii are cosponsors of this amendment. It is, after all, their State which was in a line of fire, if extended, from the drop zone of that test area.

We cannot but view this as a genuinely appalling affront to the United States, the arms control negotiating process, the Congress of the United States and the people of the United States. It is inexcusable. The Pacific Ocean has enormous, vast areas which have in the past and could at any time in the future serve as drop zones for Soviet intercontinental ballistic missile tests.

I have in no way any problem with their right to conduct intercontinental ballistic missile tests. We do the same thing. It is where they chose to do it and when and how they chose to do it that is of significance to us in this debate; and is the reason these cosponsors have joined me in condemning that action and in making these findings. Because it simply is intolerable for the country to allow a provocation like that to go unremarked or to seek in some way to soften the language of this thing, to demonstrate to the Soviet Union, yet again, our goodwill.

Mr. President, the Senate cannot have goodwill to the Soviet Union after this action. There is no excuse. There is no way in which we can confound the words of the English language to lessen the effects of what took place: The timing of it; the location of it; the arrogance of it.

If the Senate were in some way to seek to soften this language that would be, as well, a signal to the Soviet Union that somehow or another, no matter what they do, we will find some kind of way to excuse it, to minimize it, to overlook it, to ignore it.

Curiously in the debate on the Bumpers amendment we had the Senator from Arkansas ask the Senator from Virginia if it was not a case and, in fact, the circumstance that the Soviets were in violation of the ABM Treaty. This, from the proposer of those words that the Senate finally passed, that binds us to one provision of the SALT II Treaty.

Mr. President, a country which finds itself unable to respond is a county which soon finds itself with enormous frustration at the numbers of affronts and violations that threaten it. Unable or unwilling to respond is to invite further adventure. Unable or unwilling to respond is to invite further violation. Unable or unwilling to respond is to invite an adversary to grow stronger, more adventurous, not with ICBM's and nuclear warfare but the rest of their activities in the world, knowing full well that we, somehow or other, cannot summon up gumption to stand on our own two feet and say: "Enough now. That is it."

That is why the Senators from Hawaii have joined in this. That is why the other Senators have joined in this. And that is why I hope the Senate will unanimously adopt this amendment to this bill as witness and testimony to our outrage at this most recent Soviet act.

We were essentially silent when they shot at and wounded a soldier in Potsdam when Shevardnadze was here. We cannot and should not remain essentially silent under these circumstances. It ill-becomes the Senate. It ill-becomes this country to expect from its leaders something less; and they do not. The people of America are outraged by this activity. So the Senate should respond by reflecting that outrage and sending this clear message to the Soviet Union that such behavior is intolerable in a civilized world.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I have no problem; in fact, I approve of most of this amendment, which addresses a very serious Soviet provocation. There is no question about it. When I picked up the newspaper this morning I read about the Hawaiian Islands being bracketed by these so-called tests, and I think we all share a sense of outrage.

However, this amendment moves into new territory, getting into the question of violations of SALT and getting into fairly complicated questions concerning verification and compliance.

My own view is that we could have worked this language out at a staff level, and I wonder if the amendment might still be modified? If the Senator would accept the removal of paragraphs 6 and 7 of the preamble and paragraph 3 of the middle, I could accept it.

Mr. WALLOP. Mr. President, there is no way that the Senator from Wyoming could accept those deletions. Let me just for the sake of those witnessing this debate, and other Senators, say what they are.

One is the whereas clause that the missile used in this test is a new, modern, multiple warhead ICBM which is a violation of both the new type and the heavy ICBM provisions of the SALT II Treaty.

Mr. President, that is the case. This is precisely what I was suggesting that we ought not to do, is to somehow or another send a message to the Soviet Union that is softer than the case which they have presented to us to respond to.

We did not ask the Soviet Union to conduct this test, Mr. President. We surely did not want it as an insult to this Nation, after all the ballyhoo surrounding the risk reduction centers and the new period of detente. We did not ask for this. This was a decision on the part of the Soviet Union and to quote Lenin, once again, "This, too, was no accident."

So, precisely for those reasons this provision ought to remain in. The second paragraph which they wish to remove is "Whereas the Soviet Union allegedly encrypted telemetry from this flight-test, as is their standard practice, in further violations of the SALT II Treaty."

Those encryptions, Mr. President, are standard Soviet practice on every test they conduct. They have been, and increasingly are, encrypting more and more.

That was the one thing that was supposed to give a very unverifiable treaty a little bit of verifiability. And now that is being denied to us.

Why should we, when they intentionally do that, absolve them from our outrage and our judgment on that issue?

I am sorry. I would ask the Senator from Rhode Island, which was the last? If I could have the attention of the Senator from Rhode Island? Which was the paragraph in the findings—in the sense-of-the-Congress?

Mr. PELL. The findings? It was paragraphs 6 and 7, and in the final page, page 3 there, it was paragraph numbered 3.

Mr. WALLOP. I understand. Again, I would say to my friend I know from the standpoint of the Foreign Relations Committee, Soviet behavior is an awkward thing to confront. But I would again say we did not ask them to do this. We have only witnessed that they have. I do not understand what it is that would make us remove paragraphs saying that the Congress condemns the new violations of the SALT II Treaty. We cannot understand that.

This simply says to the Soviet Union, "Do as you wish. Violate as you please."

Mr. PELL. I think where we differ is I do not think it is a violation. You think it is a violation. That is the difference.

Mr. WALLOP. Could I ask the Senator from Rhode Island on what basis he counts it as not being a violation?

Mr. PELL. If it is indeed a violation, it would have to be a new weapon system. I am not satisfied this is a new weapon system.

Mr. WALLOP. On the contrary, it does not have to be a new weapon.

With regard to heavy ICBM, "each party undertakes not to develop, test, or deploy ICBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the heavy ICBM's deployed by either party."

That is pretty clear language. Every identification by the parties calls it a follow-on and the follow-on to the SS-18 is not permitted.

Mr. PELL. I think the Senator makes good points but I stick to my guns. In my mind, it is not a new missile.

Mr. WALLOP. I am not arguing that it is a new missile. I am arguing it is a violation of paragraph 7 of article IV. I can argue later it is a new missile but in terms of this it is a violation of article IV, paragraph 7, of and by its existence. The testing of it is clearly prohibited by that paragraph. Why we would seek in some way to allow that action is beyond me.

Mr. PELL. As I said earlier, it is like a question of a glass of water, is it half empty or half full. To you it is a violation; to me it is not a violation. I am trying to get the opinion of the administration as to their views on this, whether it is a violation. I would either like the consent of the Senator from Wyoming to lay this aside for a while or to ask for a quorum call.

Mr. WALLOP. The frustration must be mounting in America as we quibble in the face of provocation. The administration is not here to vote. Their opinion is irrelevant. We are asking the opinion of the Senate which represents the people of America in all 50 States, two of whom are cosponsors of this legislation who live in the target zone. We can quibble over niceties and try to salve the conscience of the administration, which is interested in the political ramifications of arms control; or we can represent the people of this country, who have been affronted. This is our judgment, not the administration's. The administration can make any response it wishes. This is not binding on that administration. This is a question of what we in this Senate think. If the majority does not wish us to think on our own, I can only say I regret it. It is in their hands.

I must say I cannot understand the behavior that, in the face of this kind of provocation, we are going to quibble and wait for an administration which is not bound by this, when the Senate is ready and very willing to make up its mind as to what it thinks.

Mr. HELMS. Will the Senator yield?

Mr. WALLOP. I yield.

Mr. HELMS. I say to the Senator from Wyoming that I anticipate there will be information available later this afternoon that will leave no question in my mind about this being a violation.

I might say to my friend, the distinguished chairman, I was at the White House this morning and I talked to Mr. Carlucci, the President's National Security Adviser, and urged him to release certain information that is now classified.

I have been notified in the last 5 minutes that probably they will be able to declassify it sometime this afternoon. I think that will answer the Senator's question.

I thank the Senator.

FINAL WORD ON SOVIET MISSILE TESTS

Mr. DOLE. Mr. President, more alarming details continue to filter in concerning the Soviet's use of Hawaii's waters as targets for their ICBM test firings. The actual splashdown areas of the reentry vehicles and their proximity to islands belonging to our 50th State, as well as the reports of Soviet laser shots at our aircraft monitoring the tests, graphically demonstrate the Soviet's callous regard for United States security. Their attempts to intimidate us should clearly be recognized for what they are.

GOVERNOR AGREES

Our citizens in Hawaii seem to agree. I'm aware that hundreds have expressed their concerns to their elected representatives here in Washington and words such as "intolerable" and "inexcusable" dominate the responses. They are unanimous in not wanting to be, as Hawaii Congresswoman Saiki said yesterday, the bullseye for Soviet missile warheads.

Mr. President, I ask unanimous consent that the text of the Governor of Hawaii's telegram to President Reagan, expressing his objection to the Soviets action, be printed in the Record at this time.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

September 7, 1987.

The President,
The White House, Washington, DC:

I have received reports of the Soviet Union test-firing ICBM's at targets near Hawaiian shores.

I would like to express my immediate concern and objection to this action. On behalf of an island people who know first-hand the terrors of war. I ask you to express our protest of this action to the Government of the Soviet Union.

Respectfully,
John Waihee,
Governor, State of Hawaii.

Mr. President, I would also remind my colleagues that such an outrageous action as we have witnessed the last few days near Hawaii further indicates, more than ever, the need for some form of strategic defense. I would be curious to know how many among the people of Hawaii now favor some form of strategic defense. I'm sure that it was a majority before, as it is across all of America—it is probably a super majority today.

The actions by the Soviets underscore why we should not legislate unilateral restrictions on the means to protect ourselves from test launches that go astray or even accidental launches.

THE RESOLUTION

I would encourage my colleagues to join the sponsors of the resolution condemning the Soviets for their actions and letting them know that we will not tolerate any other flight tests aimed directly at United States territory. This is an immediate signal we need to send—firmly, directly, and unanimously.

AMENDMENT NO. 843

(Purpose: To record the Senate in opposition to obstructing national defense programs in order to comply with treaties or provisions thereof which the President has certified that the Russians are violating unless such violations cease and the State of Hawaii is never again placed in jeopardy by a Soviet ICBM test)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. Helms] proposes an amendment numbered 843 to the Wallop amendment numbered 842.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the Wallop Amendment the following new section:

"Sec. . Notwithstanding any other provision of law or of this Act, no national defense program of the United States shall be impeded or delayed in order to comply with any treaty or proposed treaty or provision thereof which the President has certified to Congress that the U.S.S.R. is violating unless and until the President shall thereafter certify to Congress that the U.S.S.R. is no longer violating such treaty or such provision and will not again use impact areas adjacent to the State of Hawaii or any other State or territory of the United States for testing ICBMs or any other nuclear weapons delivery system.

Mr. HELMS. Mr. President, I will make my comments on the amendment subsequently.

Mr. WALLOP. Mr. President, I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there objection? It takes unanimous consent to order the yeas on the underlying amendment.

Mr. WALLOP. Mr. President, I ask unanimous consent that it be in order.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. I object, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Wyoming has the floor. Does he yield for that purpose?

Mr. WALLOP. Mr. President, I will, after making the following observation. It is not acceptable to this Senator that we face this quibbling, but face it we do. It is within the power of the Senator from Rhode Island to object. He will not permit my unanimous-consent request. Therefore, if that is his wish and desire, I surely yield to that. I only just express my regret.

The PRESIDING OFFICER. Does the Senator wish to repeat his request?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Sanford). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, as the distinguished minority leader is committed to leave this city shortly, I ask unanimous consent—and I have cleared this with the other side—that the pending amendments be set aside temporarily to accommodate Senator Dole in offering an amendment which has been agreed to by both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Senator Dole will be here momentarily. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 841

(Purpose: To authorize appropriations for the United States contribution to the International Wheat Council)

Mr. DOLE. Mr. President, I understand the pending amendment has been temporarily set aside.

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I have an amendment which I understand has been cleared on both sides which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. Dole], proposes an amendment numbered 841.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, between lines 7 and 8, insert the following new subsection:

(d) International Wheat Council.—Of the funds authorized to be appropriated for the fiscal year 1988 by this section, not less than $388,000 shall be available only for the United States contribution to the International Wheat Council.

INTERNATIONAL WHEAT COUNCIL

Mr. DOLE. Mr. President, I am offering an amendment that would instruct the State Department to pay current and back dues for the International Wheat Council [IWC]. The IWC administers the international wheat agreement, a treaty that has been signed by the United States. But not yet ratified by this body. Hearings were held in the Foreign Relations Committee in late September and all witnesses spoke favorably of the agreeement.

Pending approval by the Senate, however, the IWC has a severe budget crunch because the United States is not current on its dues. We still owe a portion of our 1986-87 dues which amount to $133,000 and we have not paid our 1987-88 dues of slightly over $250,000.

IWC'S ROLE

Mr. President, the IWC fulfills a number of important roles. It is widely recognized as one of the most reliable and important sources of international grain trade data. Its estimates and projections are used by USDA, by the grain trade and by farmers.

It also monitors its members' compliance with their international food aid obligations in which the United States has always exceeded the minimum levels of humanitarian aid obliged under the treaty.

The IWC could also provide a useful function during the ongoing GATT round. The IWC provides a neutral ground on which major players can meet for dialog and informal negotiations. It already plays this role, even including some major grain producers that are not GATT members, and its visibility is bound to increase as the new GATT round progresses. Through the IWC, American farmers have the opportunity to engage their counterparts in competing nations and their customers in importing countries.

In addition, the IWC is a primary source of objective data and analysis on various nations' grain policies, production and prices. Such an objective source will be essential if the 92-member nations of GATT hope to agree on a common ground for comparing their national policies in an effort to make reforms on a mutually agreed basis.

CONCLUSION

In world grain trade, the IWC has a most precious commodity—credibility. It is widely viewed as an organization without an ideological agenda of its own; one that does not unfairly favor one major exporting nation's interest over another. My amendment simply meets obligations the United States has already undertaken. It makes sure we will pay our fair share of the IWC's expenses, which share is, by the way, one of the proportionately lowest in any international organization. The amendment requires payment of IWC dues to come from existing State Department funds and I would urge its passage by the Senate.

This is the purpose of the amendment. I think it has been cleared on both sides.

Mr. PELL. That is correct.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOLE. I thank the manager of the bill for accepting the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas [Mr. DOLE].

The amendment (No. 841) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I suggest the absence of a quorum.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, would the distinguished Senator withhold that while the distinguished Republican leader is on the floor, so we can have some idea what the schedule will be beginning Tuesday. This bill obviously will still be before the Senate, I presume because this being the Yom Kippur religious day that is coming up tomorrow I have indicated to Senators there will be no rollcall votes today, certainly after 3:30. We would have to stack these, if they were ordered at that point or thereafter, certainly for Tuesday. Tuesday is the first day of not the Gregorian calendar but the Byrd calendar. [Laughter.]

So Tuesday is what I am saying; vote early on Tuesday of some kind so that Senators will know. As has been our habit, there will be a 30-minute rollcall. Other voters by order, of course, are 10-minute rollcall votes. That will be a 30-minute rollcall vote, and the call for the regular order will be made. So Senators who are informed in advance can prepare themselves.

After State-Justice, I want to go to the catastrophic illness legislation. I have tried to get to that legislation a number of times, and objections were made before the recess. The Republican leader made objections on behalf of others, which he felt compelled to do. I respect that. But we were told repeatedly that when the recess was over it was hoped that those problems would be worked out. Well, I find they have not been worked out. So I have no alternative but to ask unanimous consent to go to it. I am not asking right now, but I will ask unanimous consent today. I can do it while the distinguished leader on the other side is here, I can ask unanimous consent now, I can wait, but I will make that request today, and if that is objected to, I will move and I will put a cloture motion on that motion, and that colture motion would ripen one day next week. I would then take action to withdraw that motion so that the Senate will continue work on this bill, and next week we will have a cloture vote on the catastrophic illness. Perhaps in the meantime then we could get consent.

But I want to alert the Republican leader that I think that is a course I have to take, and time is running out. The calendar is running out. Senator BENTSEN is going to be busy in conference with the trade bill. He will be busy on the reconciliation measure, and it is some inconvenience to him if we delay much longer going on the catastrophic illness bill.

I do not want to delay the Republican leader. He has to leave the floor.

Mr. DOLE. If the majority leader will yield.

Mr. BYRD. Yes.

Mr. DOLE. It may be, and I do not want to mislead the majority leader, that we are down from 12 to 3 or 2 objections, I think. And the ranking member of the Finance Committee, Senator PACKWOOD, has indicated he would have no objection if it were brought up sometime this next week. I would have to check with the other two. There might be some way to protect what the majority leader wants to do, and still not make the request or file cloture today. If we could have some agreement, if we could not get unanimous consent say on Tuesday, that cloture motion will be filed and voted on or something. But if I could check the other two, I think there were three, and then get back to the Senator in the next 25 or 30 minutes.

Mr. BYRD. I do not want to detain the distinguished Republican leader. May I say to the leader, if it be of any help to him, those same two or three objections I have heard over and over and over. The Senator has, and the Republican leader has. So I see no way to go except to ask consent, and if it is objected to, I will move. And I have the cloture petition ready, and I will put it on. Then those two or three who are objecting would have the opportunity next Wednesday to either vote against cloture or in the meantime to work a little harder to try to reach some resolution of the problem. But I just cannot continue to hold off.

I will not make the request right now. Before the day is over I will make the request, and I will offer the cloture motion on the motion.

I hope that will help the leader. He has been long suffering in this matter with me. I wanted to say this so the leader would know.

Mr. WALLOP. Mr. President, will the majority leader yield?

Mr. BYRD. Yes.

Mr. WALLOP. Mr. Leader, while the distinguished Republican leader is present, let me say that I am one of those for which objection is raised. Not that I have any comments against the idea of catastrophic health legislation, but there has been a serious effort on the part of the administration, Senator Bentsen, Senator Packwood, and others to resolve some very real serious disagreements and problems concerning the expense of the measure. And it may well be that little time will be beneficial while they are negotiating, and I agree with the majority leader the administration has been less than energetic up until this moment in their negotiations.

At this moment, I suggest that it probably would save time to get those serious problems of expenses resolved. So that the leader will know and the distinguished minority leader will know, if I am on the floor I will object; or, if I am not on the floor, I will ask somebody to do so on my behalf.

I understand your desire to get along.

Mr. BYRD. I thank the distinguished Senator.

The administration has had plenty of time. I have known for several weeks that the administration has had problems with this bill and is trying to work something out. The best way to get it worked out is to let the administration know that we are going to go on the bill or at least will have to invoke cloture to get on it.

I am not setting the agenda here to accommodate the administration; not at all. The administration had plenty of time to work on this. The administration, if it opposes something, will never move unless it is pushed.

So, with all due respect to the distinguished Senator, he has every right to object and to oppose the bill, or whatever. But I will say at this point that if the administration is now becoming interested, maybe they will be stimulated to greater activity when they find out that patience up here is running out.

Mr. WALLOP. We have been referred to by numbers, and I wanted him to know that there was a real body beyond at least one of those numbers. We have been referring to the Republican leader's objectors as numbers, and I assure the majority leader that one of them, at least, has flesh and blood.

Mr. BYRD. I appreciate that.

I think the Senators who want to make the objections ought to be here to object, so that the flesh and blood can speak for itself.

I have not doubted the Republican leader as to there being real flesh and blood behind the objectors. That settles that. We know one of the objectors. He will be here to object.

Mr. DOLE. If I am not present, the distinguished manager of this bill on our side, Senator Helms, indicated that he would object, and you could proceed with the cloture.

Mr. BYRD. I thank the leader.

The PRESIDING OFFICER. It should be noted by the Chair that the earlier motion to reconsider and lay on the table was carried and, without objection, it will be so noted in the Journal.

Mr. BYRD. Mr. President, so that the distinguished Senator from Wyoming may object—there may be ghost writers, but there are no ghost objectors around here—I ask unanimous consent that upon the disposition of the pending measure or no later than next Wednesday, the Senate proceed to the consideration of the catastrophic illness legislation. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. So, at some point I will make the motion. Perhaps I had better do that now.

Mr. HELMS. Mr. President, I ask the majority leader for his reaction to the suggestion made to me a number of times by Senators who have one foot out the door: Will he be amenable to stacking the votes and declaring now that there will be no more rollcall votes? I am asking for myself.

Mr. BYRD. Mr. President, I think that is a fair request.

I ask unanimous consent that any rollcall votes that are ordered on this measure be stacked, the first to begin at 9 o'clock on Tuesday morning next. That would be a rollcall vote.

I ask unanimous consent that any rollcall votes ordered on or in relation to the pending measures be stacked, to begin at 9 a.m. on Tuesday next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, I think I hear the clatter of feet running down the hall.

I know they thank you very much.

Mr. BYRD. I think it was a good suggestion.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from North Carolina to the pending amendment.

Mr. HELMS. Will the distinguished chairman forgive me? I was conferring, and I did not hear him.

Mr. PELL. I was asking what the pending business was. I suggest that on a temporary basis, it be laid to one side. We are still trying to work out something on the amendment by Senator Wallop.

Mr. HELMS. The Senator is speaking of the amendment of Senator Wallop?

Mr. PELL. Yes.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the State Department authorization bill. The Senator's amendment is the pending question.

Mr. HELMS. Therefore, the Wallop amendment has not yet been laid aside.

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 843, AS MODIFIED

Mr. HELMS. Mr. President, I send to the desk a modification of my second-degree amendment.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

> In the Helms amendment to the Wallop amendment, insert between the words "and" and "will" on line 8 the following: "that the U.S.S.R. has given formal assurance that it".

The PRESIDING OFFICER. The Senator has the right to modify the amendment.

Mr. HELMS. I thank the Chair.

The modified amendment is as follows:

> Add at the end of the Wallop amendment the following new section:
>
> "Sec. . Notwithstanding any other provision of law or of this Act, no national defense program of the United States shall be impeded or delayed in order to comply with any treaty or proposed treaty or provision thereof which the President has certified to Congress that the U.S.S.R. is violating unless and until the President shall thereafter certify to Congress that the U.S.S.R. is no longer violating such treaty or such provision and that the U.S.S.R. has given formal assurance that it will not again use impact areas adjacent to the State of Hawaii or any other State or territory of the United States for testing ICBMs or any other nuclear weapons delivery system."

Mr. PELL. Mr. President, I ask unanimous consent that the amendment of the Senator from Wyoming be temporarily laid aside and the amendment of the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. PELL. I yield.

Mr. BYRD. Mr. President, as to the 9 o'clock vote on Tuesday, I ask unanimous consent that the request as I put it be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, Senators may be assured that any votes on which rollcalls are ordered with respect to amendments and motions will be stacked, but I am not making the request right now. Obviously, if there is a rollcall vote ordered on final passage of the bill, that would not be stacked, unless the bill has gone to third reading in the meantime. I simply state that it is my intention that any rollcall votes ordered this afternoon will be stacked for Tuesday. But I can say with assurance to all Senators that there will be a rollcall vote at 9 on Tuesday.

If it is the usual vote that gets Senators here and gets them busy and gets them to concentrate on their work and moves them along, as we have been moving lately, it will be a Sergeant at Arms vote, if nothing else.

Mr. HELMS. Mr. President, I believe that the Senator from West Virginia cannot give up his West Virginia habit of working 6 days a week, and that is the reason he refers to Monday.

AMENDMENT NO. 845

(Purpose: To approve amendments to the Constitution of the Intergovernmental Committee for European Migration)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 845.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill add the following amendment:
>
> "The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, and, upon entry into force of the amendments to such constitution approved in Geneva, Switzerland, on May 20, 1987, to continue membership in the organization under the name International Organization for Migration in accordance with such constitution and amendments. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incidental to United States participating in the Committee."

Mr. BYRD. Mr. President, will the distinguished Senator yield to me, while the Republican leader is here?

Mr. PELL. I yield.

CATASTROPHIC ILLNESS

Mr. BYRD. Mr. President, I believe that we perhaps have reached a resolution of the matter with respect to taking up the catastrophic illness bill.

I ask unanimous consent that the Senate proceed to the consideration of the catastrophic illness legislation upon the disposition of the pending measure or no later than 2 p.m. on Thursday next.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object——

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1127, the catastrophic illness coverage legislation, upon the disposition of the pending legislation, or not later than 2 o'clock p.m. on Thursday next.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, and I will not object, I would like the RECORD to show that we have had a discussion here and the majority leader has assured me that if we are within goal line distance that this bill will not be laid aside.

Mr. BYRD. Mr. President, I will do everything in my power within the rules to be flexible enough to deal with that situation.

Mr. HELMS. I think it may work out without any problem, but I would hate to get down to one more amendment or two and then have the bill taken back to the bleachers.

Mr. BYRD. Yes. Let us reach that situation. If we reach a situation in which the light is at the end of the tunnel and we can finish this bill within a couple hours, I would be happy to delay until the next day going to the catastrophic illness coverage legislation. In the meantime, if we finish this much earlier, if the Republican leader can get legislation to fill the gap, we will not call the catastrophic bill up before Thursday at 2 o'clock.

Mr. HELMS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished leader on that side. I hope I have not imposed on him.

I thank the distinguished Senator from North Carolina [Mr. HELMS].

Mr. HELMS. I thank the Senator.

Mr. BYRD. I thank the chairman, Mr. PELL.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

AMENDMENT NO. 845

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, to resume consideration of my amendment. What this amendment does is approve on behalf of the United States various amendments to the constitution of the Intergovernmental Committee for European Migration, the organization already known by the designation "ICM," for Intergovernmental Committee for Migration—in recognition of its world wide role, extending well beyond the European region that was its province when it was founded in the early 1950's.

The most notable change that the amendment would facilitate is in the name of the organization, from ICM to IOM, for "International Organization for Migration." It was felt by the members of the organization that calling it a "committee" was inappropriate for an organization of 33-member States, and that the title "International Organization for Migration," or IOM, in fact more accurately reflects the actual nuture, and responsibilities, or the organization.

Other changes that would be approved through this amendment are designed to up-date the organization's constitution to reflect more accurately the kinds of migration and refugee assistance activities that ICM now conducts, to up-date provisions regarding the failure of member States to meet their financial obligations, and to improve the financial management of the organization.

Mr. President, the U.S. Government was a founding member of ICM and has long played a key role in its leadership and operations. The very able director of the organization, James L. Carlin, is an American—indeed a former foreign service officer. His associate most responsible for the revision of the constitution is George L. Warren, Jr., whose late father, George L. Warren, Sr., played a key role in the founding of ICEM. The distinguished service of the two George Warrens, father and son, is well-reflected in the organization's constitution, which George Sr. helped write and whose revision now before us is a credit to George Jr. Director General Carlin's leadership has helped move the organization forward to keep pace with the challenges it has faced in recent years. It has assisted in the movement of the great majority of the Indochinese and other refugees that have come to the United States in the past decade—over 1 million persons in all—and is now working creatively to expand its other programs of assistance to intergovernmental migration.

Mr. President, this amendment is technical in nature and has bipartisan support. It did not come to our attention until after committee consideration of the State Department authorization was completed, so it is necessary for us to agree to its addition on the floor.

Mr. PELL. I ask for immediate consideration of this amendment. It has been cleared, I understand, both on the Republican side and on the Democratic side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 845) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I wish to send an amendment to the desk.

The PRESIDING OFFICER. The Senator needs to seek consent to set aside the pending amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent to set aside the pending amendment so that I may present this amendment which has been cleared.

Mr. HELMS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 846

(Purpose: To authorize the granting of diplomatic and consular privileges and immunities to offices of the Commission of the European Communities which are established in the United States)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 846.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, between lines 17 and 18, insert the following new section;

"SEC. 146. PRIVILEGES AND IMMUNITIES TO OFFICES OF THE COMMISSION OF THE EUROPEAN COMMUNITIES.

"The act entitled 'An act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and the members thereof', approved October 18, 1972 (86 Stat. 815), is amended by adding at the end the following: 'Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

"'(1) the privileges and immunities described in the preceding sentence; or

"'(2) as appropriate for the functioning of a particular office, privileges and immunities equivalent to those accorded consular premises, consular offices, and consular employees, pursuant to the Vienna Convention on Consular Relations'.".

Mr. CRANSTON. Mr. President, this is an amendment that I understand has been cleared on both sides of the aisle which would allow the European Community to open consular offices. This amendment gives the President the discretion to grant privileges and immunities to any such office.

The European Community and the United States are each other's largest trading partners, and together account for almost a third of world trade. Our relationship with the EC is obviously very important, yet it is also very complex. At a time when we are striving to remedy our trade deficit, I believe we must take every step possible to expand trade; we must increase our understanding of our trading partners and strengthen our relations with them. By allowing the EC to open a consulate in the United States, we will be doing just that.

Because the European Community is neither a sovereign nation nor an international organization to which the United States belongs, it is not covered by U.S. law granting diplomatic privileges and immunities. However, because our relationship with the EC is similar to that of other sovereign states, the United States decided long ago it was important to extend diplomatic privileges. Congress passed special legislation in 1972 giving the President the power to extend such privileges to the EC. Pursuant to an Executive order signed by President Nixon, the EC has maintained a delegation with full diplomatic status here in Washington since that year.

Because of the magnitude of international trade originating in the West, the EC would like to have representatives in that region to foster better trade relations. The facts speak for themselves: California is the sixth largest economy in the world in GNP terms; California contributes to all aspects of American economic life, and west coast products are often at issue in trade relations between the EC and the United States. Consulates of member states cannot serve the same purpose as an EC consulate because the EC is the official voice for all member states on trade policy.

While the State Department and the White House support opening a consulate on the west coast, the 1972 law only specifies privileges and immunities for the EC's Washington office. Therefore, in June, I introduced a bill, S. 1336, which would give the President the authority to extend privileges and immunities to consular offices of the EC. The House has already passed the same provision, sponsored by Congressman LANTOS, as part of its State Department authorization.

I ask unanimous consent that a letter from Assistant Secretary of State J. Edward Fox be included in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, I am certain that a consular office of the European Community on the west coast would be mutually beneficial. I urge my colleagues to support this amendment which will enable such an office to be opened.

EXHIBIT 1

DEPARTMENT OF STATE,
Washington, DC, June 4, 1987.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: In response to your request dated April 22, 1987, the following comments of the Department of State with respect to H.R. 1869 are submitted for the consideration of the Committee on Foreign Affairs. The Department of State fully supports and endorses passage of this legislation. As outlined below, this legislation would serve to facilitate the continued development of relations between the United States and the European Communities (EC).

Relations with the EC are conducted in the United States through two distinct channels: via the Embassy representing the country which occupies the EC presidency for the six-month period in question and via the Representative to the U.S. of the Commission of the European Communities. While the EC has some of the attributes of sovereignty, it is not a sovereign State under international law. Similarly, while the EC is an organization composed of sovereign States, it is not an "international organization" within the meaning of the International Organization Immunities Act (22 U.S.C. 288) since the United States is not a party to the EC or to the treaties establishing it.

Nevertheless, the nature of the relationship between the United States and the EC is closely analogous to the diplomatic relations which the United States maintains with other sovereign States and, in the early 1970's, the United States concluded that it would be appropriate to extend to the Representative of the Commission of the European Communities, his staff and his facilities, the same privileges and immunities which are extended to foreign diplomatic missions and their personnel. Since neither the legal status and attendant privileges and immunities applicable to foreign diplomatic missions nor those applicable to international organizations in the United States were relevant in the case of the EC Commission, Congress enacted legislation expressly granting to the President the power to extend such privileges and immunities to the Mission to the United States of the Commission of the European Communities (Pub.L. 92-499), October 18, 1972, 86 Stat. 815; 22 U.S.C. 288h). By Executive Order No. 11689, dated December 5, 1972, President Nixon extended such privileges and immunities to the Mission and its officers.

In 1976 the Department of State determined that it would be appropriate to extend diplomatic level privileges and immunities to the EC's Observer Mission to the United Nations in New York and, as an interim measure pending legislation, permitted the opening in New York of a branch of the EC Mission in Washington in a manner directly analogous to the treatment afforded to the national Observer Missions to the United Nations which maintained diplomatic missions in Washington (e.g., Switzerland). Relations between the United States and the European Communities have continued to develop, and it would be in the interest of further development of this relationship to permit the EC to open offices in other locations in the United States, much as sovereign States do with their consulates. As in the case of the EC Mission in Washington, it would be appropriate to afford these additional EC offices privileges and immunities of a level comparable to that granted sovereign States represented in these other locations. Recently, the EC and the United States have agreed that it would be beneficial for an EC Commission Office to be opened in San Francisco. The Department of State considers that the more limited privileges and immunities normally applicable to consular posts and their personnel would be appropriate for this office.

Accordingly, the Department of State fully supports H.R. 1869. It will provide a legislative basis for appropriate privileges and immunities to be afforded the EC Observer Mission in New York, the new EC office in San Francisco, and such other offices as may be agreed to in the future.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative and Intergovernmental Affairs.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the amendment has been cleared on this side.

Mr. PELL. Mr. President, the amendment has been cleared on this side.

Mr. CRANSTON. I thank both Senators.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 846) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. I thank both Senators very much.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I ask that Senators who have amendments to the State Department authorization bill come to the floor to offer them.

As the majority leader said, those amendments will be stacked. But I would hope they would be offered at this time and debated and decided and wait until Tuesday to actually vote on them.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the Senator's amendment.

Mr. HELMS. I thank the Chair.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. BYRD. Mr. President, while no one is seeking the floor, there will be no more rollcall votes today. I would ask the managers to alert me before stacking any rollcall votes for Tuesday. It is perfectly all right if the Senator wants to set this amendment aside and go ahead with the other amendments to the point of ordering the yeas and nays on them. But I would like to help with stacking. I thank all Senators.

AMENDMENT NO. 843, AS MODIFIED

Mr. HELMS. Mr. President, the pending amendment in the second degree has a very clear purpose and highly salutary one—that of avoiding unilateral disarmament by the United States. I do not think anything could be clearer than that or more important than that. It simply realizes the realities and it requires the President to report to the Congress whether the Soviet Union is no longer violating all existing arms control treaties. Such a requirement, I believe all Senators will or should agree, is both logical and reasonable.

Perhaps it would be worthwhile at this point—and I shall be brief about it—to remind the Senate, for the purpose of the CONGRESSIONAL RECORD, as to certain basic facts about arms control and its history.

Let us go back to May 9, 1972. That was the day that the United States, in an official statement to Congress, announced its intentions to withdraw from the SALT I ABM Treaty. And here is exactly what the announcement said:

> The United States [SALT I] Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces . . . If an agreement providing for more complete strategic offensive arms limitations were not achieved within 5 years, United States supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty.

Second, 15 years after the United States made the policy declaration of May 9, 1972, to which I have just alluded, the United States has still not yet achieved the objective of "an agreement providing for more complete strategic offensive arms limitations."

Third, President Reagan reported to Congress on June 3, 1986, that there was a "growing strategic imbalance between the United States and the U.S.S.R." President Reagan added that the Soviet Union now has a "first-strike capability" which was "seriously eroding the stability of the strategic balance," and which has resulted in a "loss in the survivability of United States strategic forces."

Fourth, I would point out that article XV of the SALT I ABM Treaty, which was ratified on October 3, 1972, states:

> Each party shall, in exercising its national sovereignty, have the right to withdraw from this treaty if it decides that extraordinary events related to the subject matter of the treaty have jeopardized its supreme interests.

Fifth, President Reagan reported further to Congress that the siting, orientation, and capabilities of the Soviet Krasnoyarsk ABM battle management radar "directly violates" three provisions of the SALT I ABM Treaty. Both the Senate and the House of Representatives have now each voted unanimously that the Krasnoyarsk radar is a "violation" of the SALT I ABM Treaty.

Sixth, President Reagan has also reported further to Congress that it is highly probable that the Soviet Union has conducted multiple tests of surface-to-air missile interceptors and radars in a prohibited ABM mode, and has developed a prohibited mobile ABM system. The President has also reported to Congress that "all Soviet large-phased array radars * * * have the inherent capability * * * of contributing to ABM battle management, * * * and LPAR's have always been considered the long leadtime elements of a possible territorial defense." President Reagan added that the Soviet Union "may be developing a nationwide ABM defense" in direct contravention of article I of the ABM Treaty, which, by the way, Mr. President, is the most important provision of the treaty.

Mr. President, I believe that the Soviet strategic offensive and defensive buildups have placed the supreme interests of the United States in jeopardy. Many other Senators feel the same way. I believe further that the President should be required to report to the Senate whether the Soviets are in fact no longer violating all existing arms control treaties.

So the pending amendment, the second-degree amendment to the amendment of the distinguished Senator from Wyoming, Mr. WALLOP, simply provides that the President of the United States should make such a report, in order to preclude U.S. unilateral disarmament. Moreover, the recent Soviet attempt at nuclear blackmail, by their provocative flight-tests of their SS-X-26 superheavy ICBM aimed at Hawaii, makes it all the more imperative that the United States not engage in unilateral disarmament.

Mr. President, earlier this afternoon, I mentioned that I visited with the President at the White House this morning and I also had a discussion with Frank Carlucci, who is the National Security Adviser to the President. I made the point that the then-classified information relating to the Hawaiian Islands being used as target practice by the Soviets, that this information should not be classified. Now it has not been declassified yet, but I understand that certain information relating to that has been declassified and it is on its way to me in this Chamber at this moment.

Now, my point is, I think the American people ought to be let in on what is happening, what the Soviet Union is doing, and not have this information obscured by classification. After all, the Soviets know what they did and we know what they did. Just about the only people who do not know are Members of Congress and the American people. I think the latter two groups, especially the American people, ought to be let in on information and apparently the White House agrees with that.

Mr. President, I yield the floor. Thank you very much.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I think many of these issues that were so ably discussed by the Senator from North Carolina have been discussed in the last couple of weeks and voted on in connection with the Department of Defense authorization bill.

The effect of this amendment would be to open the way to violation by the United States of all major arms control treaties with the Soviet Union.

This provision could lead to the destruction of the ABM Treaty and the 1963 Limited Test Ban and undermine any prospects for ratification of the Threshold Test Ban and Peaceful Nuclear Explosion Treaty.

Just as the President is trying to forge new agreements, the Senate, rather than uniting behind the President, would be trying to unravel the existing arms control regime.

To my mind, this is not sound foreign policy. It is simply capricious mischief-making and should be treated as such by the Senate.

At the appropriate time my own view is that we should move to table it.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Daschle). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. The amendment of the Senator from North Carolina is the pending business and when the time comes I will move to table.

Now we could move on and recognize the Senator from Maine——

The PRESIDING OFFICER. Does the Senator from Maine seek recognition?

Mr. HELMS. Just a minute, Mr. President. What was the unanimous-consent request?

The PRESIDING OFFICER. There has been no unanimous-consent request.

Mr. HELMS. You have to have a unanimous consent to lay aside the pending amendment. And I ask unanimous consent that it be laid aside temporarily and the regular order bring it back.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. Could you repeat it?

Mr. HELMS. Laying aside the pending amendment temporarily; of course regular order would bring it back.

Mr. PELL. Of course.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. PELL. I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 847

(Purpose: To provide for a Samantha Smith Memorial Exchange Program to promote youth exchanges between the United States and the Soviet Union, and for other purposes)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine [Mr. Mitchell], on behalf of himself, Mr. Cohen, and Mr. Simon proposes an amendment numbered 847.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, between lines 12 and 13, insert the following new section:

SEC. 218. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.

(a)(1) The purpose of this section is to promote friendship and understanding between the United States and the Soviet Union through the establishment of a program for the exchange of youths of the two countries and to recognize the contribution made by Samantha Smith in furthering this goal.

(2) To carry out the purposes of this section, the Bureau of Educational and Cultural Affairs (hereafter in this section referred to as the "Bureau") is authorized to provide by grant, contract, or otherwise for educational exchanges, visits, or interchanges between the United States and the Soviet Union of American and Soviet youths under the age of 21.

(3) The President is authorized to enter into an agreement with the Government of the Soviet Union to carry out paragraph (2).

(b)(1)(A) The Bureau is authorized to award scholarships to exceptional students—

(i) who have not obtained 25 years of age;

(ii) who are enrolled in institutions of higher education;

(iii) who are studying in the Soviet Union in programs approved by such institutions; and

(iv) who meet the conditions of paragraph (2).

(B) In awarding scholarships under this paragraph, the Bureau shall consider the financial need of the applicants.

(C) Each scholarship awarded under clause (A) may not exceed $5,000 in any academic year of study.

(2) The Bureau shall prescribe such regulations as may be necessary to establish procedures for the submission and review of applications for scholarships awarded under this section.

(3)(A) A student awarded a scholarship under this subsection shall continue to receive such scholarship only during such periods as the Bureau finds that he or she is maintaining satisfactory proficiency in his or her studies.

(B) Not later than 30 days after the close of an academic year for which funds are made available under this section, each institution of higher education, one or more students of which have been awarded a scholarship under this section, shall prepare and transmit to the Bureau a report describing the level of proficiency achieved by such students in their studies.

(4) For purposes of this subsection, the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965.

(c) In addition to funds authorized to be appropriated for the Bureau for the fiscal year 1988, $2,000,000 shall be available in fiscal year 1988 only to carry out the purposes of this section.

(d) Activities carried out under this section may be referred to as the "Samantha Smith Memorial Exchange Program".

Mr. MITCHELL. Mr. President, with Senator Cohen, I propose an amendment to the State Department authorization, which under the United States Information Agency's Bureau of Educational and Cultural Affairs, would establish the Samantha Smith Memorial Exchange Program, to promote greater understanding between the United States and the Soviet Union.

The amendment is identical to S. 1468, which Senator Cohen and I introduced earlier this year, and to S. 1847, which was introduced in the 99th Congress, shortly before President Reagan's Geneva summit with Secretary Gorbachev.

S. 1468 has received bipartisan support. Its cosponsors include, besides Senator Cohen, Senators Bradley, Bingaman, Boren, Cochran, Heinz, Hollings, Hecht, Inouye, Johnston, Kennedy, Kerry, Levin, Matsunaga, and Sanford.

The proposal is consistent with the Cultural Exchange Agreement signed at the 1985 Geneva summit, and with President Reagan's faith that "people-to-people contacts can build genuine constituencies for peace" in both the United States and the Soviet Union.

It also is especially fitting as a memorial to Samantha Smith, the young girl from Maine, who 4 years ago this past summer, journeyed to the Soviet Union. In doing so, she symbolized a hope that world peace might be attained through individual inquiry, and small individual gestures of friendship.

When she was 10 years old, Samantha one morning awoke, wondering if it was going to be her last day on Earth. She was afraid of the nuclear arms race and afraid of war.

However, Samantha Smith was not afraid to try to understand.

She wrote a letter addressed simply to "the Soviet Leader at the Kremlin in Moscow." And, she asked: "Are you going to vote to have a war or not? If you aren't, please tell me how you are going to help to not have a war."

The letter arrived in Moscow. And much to Samantha Smith's own surprise, she received a personal response from then Soviet Premier Yuri Andropov.

Andropov tried to dissolve Samantha's fears. He said: "See for yourself." And he invited her to visit the Soviet Union.

For 2 weeks in July of 1983, Samantha Smith did exactly that. Although the visit accomplished no single, great historic deed, Samantha's desire to travel, to inquire, and to learn for herself greatly inspired millions of people both in the United States and in the Soviet Union.

Samantha's youth, her love of life, and innocence symbolized much of what is at stake in the world. The desire for world peace is a desire for our children simply to be allowed to live and grow.

Upon returning home to the United States, Samantha Smith wrote:

> If we could be friends by just getting to know each other better, then what are our countries really arguing about? Nothing could be more important than not have a war, if a war would kill everything.

In August 1985, Samantha Smith died in a plane crash in Maine, along with her father and six others. At her funeral, her school adviser told how he and a group of students had met to talk about how Samantha's life had been cut short. "We made a list of things we would want to do before we died," he said. "We decided we'd like to travel and that we'd like to meet many people. We would want to make some contribution."

For many people, Samantha Smith is still a source of hope and inspiration.

Since the signing of the 1985 United States-Soviet Cultural Exchange Agreement, we have seen an increase in visits and exchanges between ordinary citizens of the United States and the Soviet Union. Many have involved persons from Maine, where Samantha Smith's memory is especially cherished, just as it is in the Soviet Union.

The State Department authorization bill, as currently written, already contains a minimum of $2 million for USIA grants, generally, "for exchange of persons programs between the United States and the Soviet Union."

This amendment is consistent with that provision. However, it also strengthens it, providing a special focus on exchanges and interchanges of American and Soviet youth under the age of 21, and scholarships for American undergraduate students studying in the Soviet Union.

The amendment emphasizes our young people, who are our greatest hope for the future. In doing so, the amendment is consistent with the Udall amendment contained in the House authorization bill, which earmarks $2 million for "student exchanges" between the United States and the Soviet Union.

It also is consistent with the Senate Appropriations Committee Report on Commerce, State, and Justice Appropriations for fiscal year 1988, which provides $2 million specifically for "student exchanges between the United States and the Soviet Union and Eastern Europe."

The amendment therefore is consistent with the Senate authorization bill, as written, and the House bill, as well as the Senate Appropriations Committee bill, which still awaits floor action.

At the same time, the amendment provides what I believe is an important clarification. "Student exchanges," should be considered broadly so as to encompass a definition which includes exchanges or interchanges of youth generally.

Many valuable programs do not necessarily or directly occur under academic auspices. This past summer, for example, the Samantha Smith Foundation in Maine, helped organize a visit of Soviet children to the United States, which included interaction with American children at a summer camp in Maine, and which did not strictly fall under a narrow "student" definition.

Nonetheless, the amendment still maintains support for student programs. And it does so where such support is needed most: In providing scholarships to American undergraduate students studying in the Soviet Union.

The amendment also provides additional, important clarifications, providing USIA both with discretion and guidance in structuring such programs, such as a requirement to consider "financial need" in awarding undergraduate scholarships.

Most importantly, the amendment would establish such programs—involving United States and Soviet youth, and American undergraduate students—in honor of the young girl from Maine who helped nurture the spirit of inquiry, hope, and friendship which has led to the growth in American-Soviet exchange programs.

All activities carried out by USIA under this amendment would be known as the Samantha Smith Memorial Exchange Program.

I can think of no better way to honor the young girl from Maine whom millions of American and Soviet citizens came to love, while at the same time building a human foundation of hope for world peace.

Mr. President, I understand this amendment has been cleared on both sides and is acceptable to the managers of the bill.

Mr. PELL. Mr. President, I know it has been cleared on the majority side and I am informed it has been cleared on the minority side.

Mr. COHEN. Mr. President, I would like to join my colleague from Maine in offering this amendment to establish a program of youth and student exchanges between the United States and the Soviet Union. This program would be named in honor of Samantha Smith, a young girl from Maine whose story, I think, is familiar to the Members of the Senate.

Four years ago, Samantha Smith traveled to the Soviet Union as a messenger of goodwill and became a symbol of children's hope for peace. She brought her youth, imagination, and considerable energy to the vitally important task of seeking greater understanding, and in doing so, she captured the world's heart.

I shared the sense of loss at the tragic death of Samantha 2 years ago. In the months following her death, Maine citizens and others suggested ideas for a suitable memorial to her. One was to establish a youth exchange program with the Soviet Union in her memory. In 1985, Senator MITCHELL and I introduced legislation to create such a program under the auspices of the U.S. Information Agency. Earlier this year, we introduced identical legislation, and a bipartisan group of 14 Senators have joined us as cosponsors. Today, we are offering this legislation as an amendment to the Foreign Relations Authorization Act.

Samantha Smith heightened our awareness of the possibilities for improving mutual understanding offered by contacts among young United States and Soviet citizens. However, such benefits will only be realized if many individuals have an opportunity to participate in exchanges. The Samantha Smith Memorial Exchange Program would help to make such a program of regular youth exchanges a reality.

President Reagan has long acknowledged the potential for improved international relations offered by people-to-people contacts, particularly among youth. In his address to the Nation just prior to his first meeting with General Secretary Gorbachev, the President stated that:

> If Soviet youth could attend American schools and universities, they could learn firsthand what spirit of freedom rules our land and that we do not wish them any harm. If American youth could do likewise, they could talk about their interests and values and hopes for the future with their Soviet friends. They would get firsthand knowledge about life in the U.S.S.R.

The President went on to say that "the time is ripe for bold new steps to open the way for our people to participate in an unprecedented way in the building of peace" and that governments should "let people get together to share, enjoy, help, listen, and learn from each other, especially young people."

At that summit meeting, the President and the General Secretary agreed to expand people-to-people contacts and to cooperate in the development of educational exchanges. According to the President, there was additional movement in the area of exchanges at the October 1986, summit in Reykjavik. However, following the summit he emphasized that

> The United States remains committed to people-to-people programs that could lead to exchanges between not just a few elite, but thousands of everyday citizens from both our countries.

In the past, I have supported numerous initiatives to promote exchanges of academic specialists, political and military leaders, and artists. These included Senator LUGAR's legislation to provide funding for advanced training and reciprocal exchanges for specialists in Soviet and East European studies. In addition, following a 1984 trip to Moscow, I encouraged the administration to complete negotiations on the umbrella cultural relations agreement that governs most United States-Soviet scientific, educational, and cultural exchanges. The administration successfully concluded these negotiations at the Geneva summit, and artistic and other exchanges resumed again under the auspices of the agreement. Another initiative, led by Senator LEVIN, encouraged the establishment of regular exchanges between United States and Soviet military leaders to promote better mutual understanding. To its credit, the administration followed up on this 1983 suggestion and proposed such military exchanges to the Soviet Union.

However, I share the President's view that heretofore there has been insufficient attention paid to people-to-people exchanges with the Soviet Union, particularly among our youth. Like the President, I believe that there is great potential in this area and that we should not only be open to greatly expanded citizen exchanges but should actively promote them.

Accordingly, as I indicated, Senator MITCHELL and I introduced in the 99th Congress and again earlier this year a bill to authorize the Director of the U.S. Information Agency to establish a program of United States-Soviet youth exchanges and undergraduate study in the Soviet Union. The amendment we are offering today is identical to these earlier bills. Because Samantha Smith has come to symbolize for so many the hope of children for peace, this program would be named in her honor.

I believe that this program will be a significant complement to the exchange programs already in existence, as well as a fitting tribute to Samantha Smith and the hope she represented. I am therefore pleased that the managers of the bill have agreed to accept our amendment.

Mr. MITCHELL. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 847) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 848

(Purpose: To express the sense of the Congress regarding the self-determination of Estonia, Latvia, and Lithuania)

Mr. PELL. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, on behalf of Mr. RIEGLE, Mr. BYRD, Mr. HELMS, Mr. DIXON, Mr. MOYNIHAN, Mr. D'AMATO, Mr. LAUTENBERG, Mr. KERRY, Mr. PRYOR, and Mr. NICKLES, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Rhode Island [Mr. PELL], for Mr. RIEGLE, Mr. DIXON, Mr. MOYNIHAN, Mr. D'AMATO, Mr. HELMS, Mr. LAUTENBERG, Mr. KERRY, Mr. PRYOR, and Mr. NICKLES, proposes an amendment numbered 848.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section.

SEC. . SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

(a) FINDINGS.—Congress finds that—

(1) the subjugation of peoples to foreign domination constitutes a denial of human rights and is contrary to the Charter of the United Nations;

(2) all peoples have the right to self-determination and to establish freely their political status and pursue their own economic, social, cultural, and religious development, a right that was confirmed in 1975 in the Helsinki Final Act;

(3) on August 23, 1939, Soviet Foreign Minister V.M. Molotov and the Foreign Minister of Nazi Germany, Joachim von Ribbentrop, signed a nonaggression pact containing Secret protocols that consigned the Baltic States to a Soviet sphere of influence;

(4) on June 21, 1940, Armed Forces of the Soviet Union overran the independent Baltic republics of Estonia, Latvia, and Lithuania and forcibly incorporated them into the Soviet Union, depriving the Baltic peoples of their basic human rights, including the right to self-determination;

(5) the Government of the Soviet Union continues efforts to change the ethnic character of the population of Estonia, Latvia, and Lithuania through policies of Russification and dilution of their native populations;

(6) the United States continues to recognize the diplomatic representatives of the last independent Baltic governments and supports the aspirations of the Baltic peoples to self-determination and national independence, a principle enunciated in 1940 and reconfirmed by the President on July 26, 1983, when he officially informed all member nations of the United Nations that the United States has never recognized the forced incorporation of the Baltic States into the Soviet Union.

(7) the Baltic peoples continue to show their discontent with the foreign domination of their nations and their ardent hopes for liberty, most recently on August 23, 1987, when simultaneous demonstrations were held in Tallinn, Estonia, Riga, Latvia, and Vilnius, Lithuania to mark the 48th anniversary of the signing of the Molotov-Ribbentrop Pact; and

(8) the Soviet Union continues to deny the people of Estonia, Latvia, and Lithuania the right to exist as independent countries, separate from the Soviet Union and denies the Baltic peoples the right to freely pursue human contacts, movement across international borders, emigration, religious expression, and other human rights enumerated in the Helsinki Final Act.

(b) RECOGNITION AND ACTION BY PRESIDENT.—Congress—

(1) recognizes the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence from the Soviet Union; and

(2) calls on the President to—

(A) direct world attention to the right of self-determination of the people of the Baltic States by issuing on July 26, 1988, a statement that officially informs all member nations of the United Nations of the support of the United States for self-determination of all peoples and nonrecognition of the forced incorporation of the Baltic States into the Soviet Union;

(B) closely monitor events in the Baltic States following the peaceful public demonstrations in Riga on June 14, 1987, and in Tallinn, Riga, and Vilnius on August 23, 1987, and, in the context of the Helsinki Review Conference and other international forums, to call attention to violations of basic human rights in the Baltic States, such as the harassment, arrest, imprisonment, or expulsion of those who organize peaceful public demonstrations; and

(C) promote compliance with the Helsinki Final Act in the Baltic States through human contacts, family reunification, free movement, emigration rights, the right to religious expression and other human rights enumerated in the Helsinki Accords.

● Mr. RIEGLE. Mr. President, the front pages of the world's major newspapers recently carried news of large-scale, peaceful demonstrations in the Baltic republics of Lithuania, Latvia, and Estonia. Held to commemorate the infamous Molotov-Ribbentrop Pact, which consigned these nations to Soviet control, the demonstrations were dramatic reminders to the Soviet Government and the world of the Baltic peoples' deep desire for freedom. In the aftermath of those demonstrations, the Soviet authorities have taken punitive action against some of the participants, have stepped up efforts to justify the illegal annexation of the Baltic States.

The amendment I am offering today, on behalf of myself, Senator LEVIN, Senator LAUTENBERG, Senator DIXON, Senator KERRY, Senator PRYOR, Senator NICKLES, calls on the President to closely monitor events in the Baltic States following those demonstrations, and to make a statement before the United Nations on July 26, 1988, reaffirming U.S. nonrecognition policy with respect to the illegal Soviet annexation of the Baltic States.

As stated in the amendment, U.S. support for the principle of self-determination and national independence for the Baltic peoples was first enunciated in 1940, and was reconfirmed by President Reagan on July 26, 1983, when he officially informed all member nations of the United Nations that the United States has never recognized the forced incorporation of the Baltic States into the Soviet Union.

Mr. President, statements such as these in support of the Baltic peoples' ongoing struggle for self-determination, for freedom of religion, and for other human rights enumerated in the Helsinki Final Act are critically important in that they strengthen the hand of those who are waging the fight for human rights and self-determination in the captive nations. They must know that we in the West, who enjoy the blessings of freedom, are with them in their struggle. And the Soviet authorities must understand that the fate of the Baltic people will remain a key issue to our Government even as we explore new avenues of cooperation with the Soviet Union.

In adopting this amendment, the Senate will join the House of Representatives in sending that strong message, and I thank my colleagues for their support.●

Mr. BYRD. Mr. President, the peoples of the Baltic States of Latvia, Lithuania, and Estonia, proud people with long histories and strong cultural traditions, were stripped of their sovereign rights by the Soviets during World War II.

The Soviets outside all civilized bounds of international practice and law, extinguished the human rights of these peoples, and their right to self-governance, and to the full expression of their cultural and political identities. The current Soviet regime would like nothing better than for their voices to be completely stilled.

But these proud people will not be silenced. The massive demonstrations in Estonia, Latvia, and Lithuania, in August of this year, testify to that fact.

The continuing violations of the basic human rights of the peoples of the Baltic States by the Soviet Union must not be tolerated by the United States.

I strongly support the amendment by Mr. RIEGLE and others and applaud its purposes of calling for worldwide attention to the rights of self determination of these peoples and deploring the violation of those basic rights as enumerated in the Helsinki accords and the U.N. Charter.

Mr. PELL. Mr. President, what this amendment does is to recognize the peaceful demonstrations in the Baltic Republics of Lithuania, Latvia, and Estonia. They were held to commemorate the infamous Molotov-Ribbentrop Pact, which consigned these nations to Soviet control. The demonstrations were dramatic reminders to the Soviet Government and the world of the Baltic people's deep desire for freedom.

Speaking as an individual, I can vouch for their spirit, their toughness, and their strength because, for a period of time, I remember being the Baltic desk officer in the State Department and came to admire very much indeed the bravery and resilience of the unhappy inhabitants of these republics.

Mr. President, this amendment has been cleared on both sides of the aisle. I ask for its immediate consideration.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 848) was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 849

(Purpose: To make available funds for studies and plans for a consolidated training facility for the Foreign Service Institute)

Mr. HELMS. Mr. President, on behalf of the distinguished Senators from Virginia, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. TRIBLE and Mr. WARNER, proposes an amendment numbered 849.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, between lines 7 and 8, insert the following:

SEC. 138. STUDIES AND PLANNING FOR A CONSOLIDATED TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.

Section 123(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is amended—

(1) by inserting "(A)" immediately after "(1)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer up to $11,000,000 for 'Administration of Foreign Affairs' to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural and engineering planning under subsection (b).".

On page 2, in the table of contents, after the item relating to section 137, insert the following new item:

Sec. 138. Studies and planning for a consolidated training facility for the Foreign Service Institute.

● Mr. TRIBLE. Mr. President, I offer an amendment today that will help to enhance the Nation's Foreign Service by authorizing work on a new Foreign Service Institute at Arlington Hall, VA.

Two years ago, the Senate Foreign Relations Committee adopted an amendment I offered which authorized the Secretary of State to spend $11 million for site design and preparation on a new Foreign Service Institute. That amendment was signed into law as part of the State Department's fiscal 1986-87 authorization bill.

Unfortunately, progress on the new Institute has been slow. As a consequence, the authorization for funding of site design and preparation at Arlington Hall expired yesterday with the end of fiscal 1987.

Mr. President, I believe it is essential that the United States have an effective, well-trained Foreign Service. As the chairman of the Foreign Relations Committee, Senator PELL, has said—the Foreign Service is often America's first line of defense. A new Foreign Service Institute will help to guarantee that our Foreign Service is as effective as possible.

For that reason, the amendment I offer will extend indefinitely the $11 million authorization for site design and preparation on a new FSI at Arlington Hall in Virginia. This is a necessary first step toward completion of the new Institute, now planned for 1991.

This amendment is strongly supported by the State Department. I urge its adoption by the Senate.●

Mr. HELMS. Mr. President, this amendment and two other amendments which I will offer have been cleared on both sides.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 849) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 850

(Purpose: To reduce the U.S. Taxpayers' obligations in regard to the housing of U.S. employees at the United Nations)

Mr. HELMS. Mr. President, I send an amendment to the desk and while it is being stated and while the amendment is going to the desk, I will say it has been cleared by both sides.

The PRESIDING OFFICER. Once again the Senator needs to ask unanimous consent to set aside the pending amendment.

Mr. HELMS. Which I do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 850.

On page 111, between lines 16 and 17, insert the following new section:

SEC. . LIMITATIONS ON HOUSING EXPENSES FOR U.S. EMPLOYEES AT THE UNITED NATIONS.

(a) Section 119(1) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241) is hereby repealed.

(b) Section 9 of the United Nations Participation Act of 1945 is hereby amended by inserting a comma after the word "allowance" in subsection (1) and inserting the following: "not to exceed $1,500 per month,".

Mr. HELMS. Mr. President, I thank the distinguished clerk for reading the amendment. I thought it essential that he do so on this one.

As I indicated earlier, this has been worked on on the two sides, but let me make a few comments before we vote on it.

Mr. President, a few years ago the State Department presented to Congress a legislative proposal they claimed would save the taxpayer money. Rather than paying a high, but reasonable, housing supplement to those employees required to live in the area immediately adjacent to the United Nations because of their official responsibilities, the proposal was to allow the Department to lease housing under Government lease, thus enabling the Department to benefit from New York's rent control laws.

It seemed like a reasonable idea, and the proposal was enacted into law in 1981.

Despite the Department's claim that this proposal was designed to save money, a very different situation has been justified on the basis of that legislation.

Rather than saving the taxpayer money, the Department of State has gone out and leased apartments at astronomical rents, up to $90,000 a year, for its employees in luxury apartment buildings in New York. To compound the problem, it has taken the legislation enacted in 1981 as the basis for declaring that some of the senior officials working in New York are to be given full "official residence" entitlements, thus authorizing the State Department to charge the American taxpayer for providing these employees with full-time servants, Government-provided antiques and other expensive furnishings, and so forth.

One employee at the U.S. Mission to the United Nations is now receiving from the American taxpayer, in addition to his $70,000 or more annual salary, an apartment costing $85,000, a maid costing the taxpayers $20,000 a year, and a collection of rented furniture costing the taxpayer $18,000 a year. That comes out to a grand total of $123,000 a year from the taxpayers to provide this one employee with subsidized housing in New York.

It is a ridiculous expense.

My amendment addresses this situation by restoring the law on housing subsidies in New York to that which existed prior to 1981. The authority to lease housing in New York is restricted once again to the principal U.S. representative to the United Nations.

The housing subsidy program is maintained, however, for those employees who have significant representational responsibilities that require them to live in the high-rent district immediately adjacent to the United Nations headquarters building. If they do not have representational responsibilities, they are not authorized any subsidized housing. No other Federal employees in New York are given housing subsidies, and it is my belief that the most rigorous standards must be established to provide an exceptional subsidy to the State Department employees at the United Nations.

The subsidy is limited to $1,500 a month, or $18,000 a year. This amount is a very generous sum to provide State Department personnel as a supplement to their normal housing expenses. It is still more than the total annual income of many American taxpayers. As I say, it is a generous compromise figure.

I would like to emphasize that this amendment does not abolish the program. It places some very reasonable expense limitations on the program.

The chairman of the committee has indicated that he will be able to accept this amendment, which I believe would gain overwhelming bipartisan support from the Senate should a vote be requested.

This one amendment will save the Department of State approximately $1,000,000 in the next fiscal year. The $1 million saved, Mr. President, will enable the Department of State to save at least 20 Foreign Service or civil service positions from the proposed personnel reductions made necessary by the fiscal austerity program which has been announced.

Mr. President, I suggest we vote on the pending amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 850) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 852

(Purpose: To reinstate Congressional oversight of the expenditures made from the fund known as "Emergencies in the Diplomatic and Consular Services")

Mr. HELMS. Mr. President, I send another amendment to the desk and ask it be stated. Again, Mr. President, this amendment has been cleared on both sides.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 852:

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Section 101 of the bill, add the following new subsection:

(b) The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives within 30 days of the end of each quarter of the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for Emergencies in the Diplomatic and Consular Service.

Mr. HELMS. Mr. President, this amendment requires the Secretary of State to report to the Department of State's authorizing and appropriating committees once every 90 days on the expenditures he has made from the appropriation known as emergencies in the Diplomatic and Consular Services.

This account was used recently to provide funds for the completion of the multimillion-dollar transformation of the office suite of the Secretary of State into a office suite fit for a king. The State Department was telling the Congress and the American public that the expenses of remodeling this suite were paid entirely out of private contributions, while the truth was that they had declared this project to be an emergency in the Diplomatic and Consular Services and, what's worse, had decided to try to hide that fact by placing a national security classification of confidential or secret on the expenditures.

A few years ago, this would have never been allowed to happen. While the expenditures from this account were allowed to be considered national security or foreign policy information of a classified nature, it was a regular practice of the Department to provide to its authorizing and appropriating committees information on the specific expenditures made from the account. For some reason, State has dropped the practice of keeping its oversight committees fully informed on all expenditures from this account.

My amendment creates a legal requirement for information to the Congress on this account as a means of restoring the previous understandings between the congressional committees and the Department of State. I believe this amendment should be acceptable to the chairman of the Committee on Foreign Relations and to other interested Senators.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 852) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill now be set aside, that there be morning business for not to exceed 1 hour, that Senators may speak therein for up to 10 minutes each, and may I say that I will be happy to work with the distinguished managers of the bill with respect to stacking votes for Tuesday morning. We can talk about that, if the Senator is going to be around.

Mr. HELMS. Mr. President, I reserve the right to object, and I will not object. I wonder if the majority leader will accommodate me to provide some information that I promised earlier about a previously classified matter that I now have received and has been declassified. It will take about 90 seconds.

Mr. BYRD. Mr. President, I ask unanimous consent that after the distinguished ranking manager, and the manager, if either wishes to speak on this matter that is before the Senate, have completed their statement that the Senate go into morning business to accommodate the other Senators who have to make speeches and catch airplanes. I would not be so pushy on this were it not for the fact that I promised all Senators there would not be any rollcall votes after 3:30 or 4 today because of the Yom Kippur religious holiday which is tomorrow, of course.

I ask unanimous consent.

The PRESIDING OFFICER. Without objection, the majority leader's request will be ordered.

U.S.S.R. USES HAWAII FOR TARGET PRACTICE

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, as I mentioned earlier I consulted with the President this morning and with Frank Carlucci, the President's National Security Adviser, about an incident that occurred yesterday, in which the Soviet Union was using Hawaii for target practice. And I made the point as best I could at the White House that the Soviets knew what they were doing and did do, and our intelligence people knew what happened. So about the only people left in the dark were Members of Congress who had not read the intelligence report, and the American people. I suggested that this information be declassified. And I was advised about 45 minutes ago it was on its way, and it is now here.

What happened, Mr. President, is as follows: Declassified statement from the administration requested by Senator JESSE HELMS:

> A Navy P3 Reconnaissance Aircraft engaged in observing Soviet open-ocean ICBM re-entry vehicle splashdowns near the Hawaiian Island chain on 30 September/1 October 1987 reported being illuminated by an intense light from the Soviet AGE ship CHUKOTKA. The aircraft in the vicinity, a US Airforce WC-135, reported seeing a bright light near the CHUKOTKA which disturbed the co-pilot's vision for ten minutes. Although preliminary medical evaluation has shown no apparent damage, further detailed tests may be required to determine if, in fact, no damage to her eyes occurred.
>
> These incidents are being actively investigated, but based on the information available, and the fact that the Soviets have, in the past, used laser weapons to irradiate Western patrol aircraft, we believe these emissions were from a laser.

I might add that the injured pilot was a fine woman pilot.

Mr. President, Soviet Military Power 1987 states on page 112:

> Recent Soviet irradiation of free world manned surveillance aircraft and ships could have caused serious eye damage to observers.

On page 113, the same volume states:

> The electro-optic sensor/laser device . . . on the Sovremennyy-class destroyer has been used by the Soviets to irradiate Western patrol aircraft. Such laser irradiation, depending on the distance, could permanently blind.

Mr. President, I believe that the Soviet laser weapon incidents, both of them, represent direct and deliberate interference with verification, which is a violation of the discarded and unratified SALT II Treaty and the extant ABM Treaty. Such deliberate interference with verification represents a fifth direct violation of the SALT II Treaty in the tests of ICBM's at the Hawaiian target range. But much more importantly, these actions are belligerent acts under international law.

Let me read a statement by the President which has just been received by me from the White House.

> Earlier today, the U.S. Senate passed the Defense Authorization Bill for Fiscal Years 1988-1989. Included in this bill are specific provisions which undercut my efforts to negotiate equitable and verifiable arms reductions, and undermine U.S. national security. The first legislates unilateral U.S. adherence to the "narrow" interpretation of the ABM treaty, despite the fact that a broader one is fully justified. A broader interpretation would enable us to save time and money in developing effective defenses against a potential Soviet missile attack. The second provision would force the U.S. to comply with certain provisions of the unratified and expired SALT II agreement, which was negotiated by the last Administration.
>
> Any bill that includes these provisions will be vetoed. These amendments would undermine our negotiators in Geneva at a particularly crucial time. I regret the action of the Senate, and I commend all Senators who had the courage to vote against passage of the bill on these grounds.
>
> This vote by the Senate is particularly ironic in view of the actions taken in recent days by the Soviet Union close to U.S. territory. We have protested these Soviet actions as both unacceptable to this country and inconsistent with General Secretary Gorbachev's claim to seek a long-term improvement in our relationship.

Mr. President, in my view what the Senate has done is more than ironic, and although the President did not use these words, I believe he would agree with the Senator from North Carolina that these belligerent acts by the U.S.S.R. are both outrageous and dangerous and that the actions of the Senate in the face of these actions amount to unilateral disarmament and appeasement under foreign military pressure.

Mr. President, thank you.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I would merely urge my colleagues to come to the floor with their amendments promptly next Tuesday. I regret that there are no more amendments being offered at this time and hope we will have better luck next Tuesday, and hopefully wind up the bill.

Mr. CHILES addressed the Chair.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for morning business for not to exceed 1 hour.

The Senators, under the agreement, are permitted to speak for no more than 10 minutes each.

The Senator from Florida.

THE BUDGET COMPROMISE

Mr. CHILES. Mr. President, thank you for the recognition. I see my good friend from New Mexico, Senator DOMENICI, ranking member of the Budget Committee, and former chairman, is on the floor. We happened to fortuitously arrive here together to talk a little bit about where we are now in regard to the budget compromise or perhaps we may talk a little bit about the need for a budget compromise.

We now see that after a long, arduous debate, conference, and searching appraisal by the White House, the extension of the debt ceiling has been signed into law, and with that the Gramm-Rudman-Hollings amendments which have now provided for an automatic sequester, and with changing glidepaths.

That having been done we now have certain processes that are working, and I think it is sort of timely that we get an opportunity to advise the Senate and others that might be listening from here what part of this means, and discuss the need for trying to do something about a budget compromise.

I think that comes for several reasons. I think there is certainly a real economic need. That need would be to provide real and permanent reduction of deficits. We see that there has been a recent increase in interest rates, and we see a continued burden of foreign borrowing occurring and, of course, the trade deficit is not getting better as we hoped and expected, but it looks like this has sort of become fixed and very flat.

We know that this best could be done with some kind of a compromise as opposed to conflict. For the life of me it seems that if we can negotiate with the Soviet Union, our avowed enemies, to reduce nuclear weapons, we ought to be able to negotiate among ourselves to sort of reduce the deficit and stop the borrowing.

I think the American people call on all of us and say that we cannot afford a failure of leadership. Why? Because the alternative, if we cannot reach a compromise, is that there will be a sequester.

We have looked at some new figures on our side of the Budget Committee, from staff runs. While these may not be accurate to the dollar, I think they are generally in the ballpark. They show us that a sequester is going to provide massive cuts both to the defense and to the domestic programs.

I have listened to a few Senators who seem to say: "Well, we have made the compromise, we are on the track, and we are going to have a sequester, and that is something that will be a little tough, but it will probably happen."

I do not think anybody has really paid that much attention to the cuts. It now appears that from the baseline, the defense cuts will be about 3.6 percent if military personnel is not exempted. However, if you do not exempt military personnel you probably will have to be cutting approximately 400,000 troops. If you do exempt—and I think the compromise allowed the President the right to exempt military personnel—then you are going to be cutting about 10.4 percent from the baseline.

Mr. President, that is a major cut. It will be very drastic and very severe, and I think it is something we should not allow to happen. I believe it certainly could impinge upon and endanger the defense of the country. It would cut defense below the high tier of the budget resolution by about $15.5 billion in BA and $10.5 billion in outlays. It would cut the budget authority some $4 billion below last year's appropriation. Key cuts in that would be in operations and maintenance. It appears that we would be looking at about $11.2 billion in BA and $8 billion in outlays. These are numbers that are below the President's request.

Procurement would be cut $4.2 billion in BA and $1 billion in outlays. Research and development could be cut $10.1 billion in BA and $5.1 billion in outlays.

This is not the only pain. In case you are one of those people—and I hope there are not many here—who think that defense can stand those kinds of cuts, Senators should look at the domestic side as well. Education would be cut about $1.8 billion; veterans, at least $500 million; health programs would be cut $1.1 billion. These are all in BA below the baseline. Environment would be cut $1.5 billion; agriculture, $1 billion; highway and transit, $1.5 billion; law enforcement programs, $800 million.

I do not think there is any Senator who wants to cut any of these programs. I do not believe it is something that has to happen. I think we can wait until we reach the precipice and we have sort of the dropoff and then scurry around and see if there is some way of having a fix, or we can begin to see now if there is a way to get reasonable minds together and find a way to make the $23 billion in savings so that we can keep this from happening..

I happen to believe that in this trillion dollar budget, it ought to be possible for us to bring together a mix of some savings and some revenue in order to achieve $23 billion and do it in a rational way.

I know that my good friend from New Mexico has thoughts on this and believes the same thing, and I will yield to him.

First, Mr. President, I ask unanimous consent to have printed in the RECORD an analysis by the staff of the Budget Committee of the impact of a $23 billion sequester on defense and domestic programs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Sequester Impact]

THE ESTIMATED EFFECT OF A 1988 SEQUESTER UNDER THE AMENDED GRAMM-RUDMAN-HOLLINGS LAW

(October 2, 1987)

SEQUESTER IMPACT

Overview

The purpose of this report is to analyze the impact of a full $23 billion sequester in 1988 on federal programs. Both defense and domestic programs would be significantly affected since half of the outlay reductions required would come from each side. Defense budget authority would be cut by $22-$29 billion while domestic budget authority would be cut by about $16 billion, mostly from discretionary programs.

Under a full sequester, both defense and domestic programs would end up with significantly less funding than approved in the 1988 budget resolution. Defense BA would be $11-$16 billion below the high tier defense level of $296 billion and $4-$9 billion below the low tier level of $289 billion. Defense outlays would be about $10 billion below the high tier level and $4 billion below the low tier level. Domestic outlays would be reduced at least $8 billion below the budget resolution with all cuts coming from about one-third of the domestic budget.

To avoid the harsh impact of a sequester, savings of $23 billion will have to be achieved through reconciliation legislation and appropriations bills approved by Congress and signed by the President. Deficit savings in any other legislation enacted or regulations promulgated since January 1, 1987 will also be credited towards meeting the $23 billion requirement. Asset sales and other non-recurring savings cannot be counted as deficit savings.

The actual amount of the sequester will be calculated by Office of Management and Budget (OMB). OMB's initial sequester report on October 20 and final report on November 20 will: 1) estimate the amount of unachieved deficit reduction to date; and, 2) calculate the amount and percentage of budgetary resources and outlays to be cut from each non-exempted account in order to eliminate the amount of unachieved deficit reduction. (The Congressional Budget Office will issue its own advisory sequester reports on October 15 and November 15. OMB is required to explain any differences with CBO in their respective reports.)

Impact on Defense Programs

Under a $23 billion sequester, $11.5 billion in outlays and as much as $28.6 billion in BA would have to be cut from defense accounts. The uniform across-the-board cut in all defense programs, projects and activities (PPA) would be 6.3 percent. The GRH law, however, gives the President the discretion to exempt all or some of the military personnel accounts from sequestration. If military personnel is fully exempted, the uniform cut across remaining defense PPA's would be 10.4 percent under a full sequester. (The President is required to give notice to Congress by October 10 if he plans to exercise this option in FY 1988.)

The following table presents the range of possibilities for a maximum of $11.5 billion defense outlay sequester. Option I assumes no exemption of military personnel accounts from sequestration. Option II assumes full exemption of military personnel accounts.

1988 DEFENSE SEQUESTER

[In billions of dollars]

	I. No exemption military personnel (6.3 percent cut)		II. Full exemption military personnel (10.4 percent cut)	
	Budget Authority	Outlays	Budget Authority	Outlays
GRH baseline total¹	304.2	291.8	304.2	291.8
Sequester reduction	−19.1	−11.5	−23.7	−11.5
Postsequester total¹	285.1	280.2	280.5	280.2
Prior year budget authority sequester	−3.0		−4.9	
Total budget authority sequester (new budget authority and prior year budget authority)	−22.1		−28.6	

[1] The GRH baseline used to determine the postsequester floor may actually be about $1 billion in outlays and $2 billion in budget authority below these levels. Thus the postsequester level may actually be even lower than is shown in this table.

Several important observations about the defense sequester can be made with reference to this table:

(1) BA Cuts Under Military Personnel Exemption: Although the total outlay cut from defense is the same ($11.5 billion) with or without a military personnel exemption, the total amount of budget authority cut would be larger if military personnel is exempted. This result occurs because slower spending nonpersonnel accounts would have to absorb more cuts.

(2) Prior-Year Defense BA Sequestered: The Gramm-Rudman-Hollings law requires that unobligated BA from prior year appropriations (about $50 billion in FY 1988) be sequestered by the same percentage as new BA. The total defense BA cut would be $22.1 billion including $3 billion in prior-year BA if military personnel is not exempted or $28.6 billion including $4.9 billion in prior-year BA if military personnel is fully exempted.

The impact of a full sequester on defense is most revealing when compared to the 1988 budget resolution. Defense BA and outlays would be substantially below both the high and low tier levels in the budget resolution, as shown in the following table. If the President decides to fully exempt military personnel, a full sequester would yield a BA level $15.5 billion below the high tier and $8.5 billion below the low tier. (The difference is even greater if $4.9 billion in prior-year BA cuts are included). Outlays would be $9.6 billion less than the high tier and $3.7 billion below the low tier.

1988 POSTSEQUESTER DEFENSE LEVELS COMPARED TO BUDGET RESOLUTION

[In billions of dollars]

	Budget authority	Outlays
Budget Resolution:		
High Tier	296.0	289.8
Low Tier	289.0	283.9
Midpoint	292.5	286.9
Postsequester total (no exemption of military personnel)¹		
Compared to:		
High Tier	−10.9	−9.6
Low Tier	−3.9	−3.7
Midpoint	−7.4	−6.7
Postsequester total (full exemption of military personnel)¹	280.5	280.2
Compared to:		
High Tier	−15.5	−9.6
Low Tier	−8.5	−3.7
Midpoint	−12.0	−6.7

[1] The postsequester total may actually be about $1 billion in outlays and $2 billion in BA below these levels. Thus, the reductions below the budget resolution may be even greater than shown in this table.

The revised GRH law allows the President to propose modifications to the sequester order to reduce the outlay cuts (partially or entirely) in some programs so long as outlay cuts in other specified defense programs were increased by an equivalent amount. Congress should have to approve such a proposal (or its own version). The total outlay cut under a Presidential proposal could not be decreased, however, the total BA cut might change depending on the program mix of the proposed modifications.

Impact on domestic programs

Under a $23 billion sequester, $11.5 billion in outlays and $16 billion in budget authority would be cut from domestic programs. Domestic outlays would be at least $8 billion less than in the 1988 budget resolution. Discretionary program outlays would be cut by $9.9 billion requiring a uniform 8.5 percent reduction. Mandatory spending programs with special rules—such as Medicare and guaranteed student loans—would absorb $1.6 billion of the outlay cuts. Exempt programs, as specified in the Gramm-Rudman-Hollings law, and outlays resulting from existing obligations and contracts, are not affected by the sequester.

1988 domestic sequester

[In billions of dollars]

Total required outlay reduction	11.5
Outlay savings under special rules	−1.6
Outlay savings remaining	9.9
Sequester outlay base	116.5
Uniform sequester percentage	8.5
New domestic discretionary outlay level¹	176.2
Budget resolution outlay level	184.4
Difference	−8.2

[1] The new domestic discretionary outlay level could be $2 billion lower or about $10 billion below the budget resolution level.

The following tables and narrative describe the impact of a potential sequester in more detail on both defense and domestic programs.

IMPACT OF THE SEQUESTER CUTS BY FUNCTION

[Outlays in billions of dollars]

	GRH Base¹	Sequester	Postsequester totals
050: National defense	291.8	−11.5	280.2
150: International affairs	16.7	−0.9	15.8
250: General science, space, and technology	11.2	−0.6	10.6
270: Energy	4.1	−0.3	3.8
300: Natural resources	15.2	−1.0	14.2
350: Agriculture	27.5	−1.1	26.5
370: Commerce and housing credit	6.1	−0.3	5.8
400: Transportation	28.2	−0.8	27.4
450: Community and regional development	6.7	−0.2	6.6
500: Education, training, employment, and social services	33.7	−0.9	32.8
550: Health	44.4	−0.6	43.8
570: Medicare	83.0	−1.5	81.5
600: Income security	132.9	−0.7	132.2
650: Social Security	220.6	−0.2	220.4
700: Veterans benefits and services	27.4	−0.3	27.0
750: Administration of justice	9.3	−0.7	8.6
800: General Government	7.2	−0.6	6.6
850: General purpose fiscal assistance	1.9	−0.1	1.8
900: Net interest	150.2	−0.9	149.2
920: Allowances			
950: Undistributed	−38.5		−38.5
Offsetting receipts	−38.5		−38.5
Total	1,079.5	−23.2	1,056.3

[1] CBO estimate.

Note.—Details may not add to totals due to rounding.

FUNCTION 050: NATIONAL DEFENSE

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	304,206	291,778
Sequester reduction (with exemption for military personnel)	23,759	11,500
Postsequester total	280,547	280,278

SEQUESTER IMPACT

Imposition of a sequester would have a severe and far reaching effect on the Department of Defense. If military personnel are exempted from the impact of a sequester, the President's budget would be reduced over $31 billion in budget authority and more than $18 billion in outlays. Furthermore, a sequester would be a significant reduction from the so-called "low-tier" defense level of over $9 billion in budget authority and nearly $4 billion in outlays.

If military personnel are not exempted from a sequester, it is estimated that nearly 400,000 military personnel would be reduced from our armed forces. If they are exempted, other accounts would absorb a proportionately larger burden. The two accounts which would be most effected by a sequester would be Research and Development and Operations and Maintenance (the readiness accounts).

The FY 1988 President's budget increased these accounts substantially over the FY 1987 levels. Furthermore, in an outlay determined reduction like a Gramm-Rudman sequester, these faster spending accounts are more significantly affected.

NO SEQUESTER EXEMPTION FOR MILITARY PERSONNEL

		President's request	Post-sequester	Sequester versus President's request
Military personnel	BA	76.3	69.9	−6.4
	O	75.5	69.6	−5.9
Operations and maintenance	BA	86.1	78.3	−7.8
	O	82.7	77.3	−5.4
Procurement	BA	84.1	83.6	−0.5
	O	82.7	82.4	−0.3
Research and development	BA	43.7	35.1	−8.6
	O	38.3	33.4	−4.9
Other	BA	21.6	18.2	−3.4
	O	19.0	17.5	−1.5
Total	BA	311.8	285.1	−26.7
	O	298.2	280.2	−18.0

MILITARY PERSONNEL EXEMPT FROM SEQUESTER

		President's request	Postsequester	Sequester versus President's request
Military personnel	BA	76.3	74.6	−1.7
	O	75.5	74.1	1.4
Operations and maintenance	BA	86.1	74.9	−11.2
	O	82.7	74.7	−8.0
Procurement	BA	84.1	79.9	−4.2
	O	82.7	81.7	−1.0
Research and development	BA	43.7	33.6	−10.1
	O	38.3	32.5	−5.8
Other	BA	21.6	17.5	−4.1
	O	19.0	17.2	−1.8
Total	BA	311.8	280.5	−31.3
	O	298.2	280.2	−18.0

In the absence of DoD appropriations bill in FY 1988, it is difficult to make precise programmatic estimates on the impact of a sequester. However, it is clear deep reductions will be made in the President's request for Research and Development. A sequester which exempted military personnel would require a $10 billion or 25 percent reduction in the President's request. The following is a list of major programs currently in research. Based on current level appropriations the listed reductions would be required.

ILLUSTRATIVE IMPACT OF SEQUESTER ON SPECIFIC R&D PROGRAMS

[In millions of dollars]

R&D program	President's request	Postsequester level (W/ MilPer exemption)	Sequester versus President's request
V–22 aircraft	465.7	393.8	−71.9
Strategic Defense Initiative	5,220.7	2,957.2	−2,263.5
C–17 transport	1,219.9	584.7	−635.2
ICBM modernization	2,875.7	1,444.7	−1431.0
Advance tactical fighter	536.8	232.3	−304.5
B–1B bomber	415.5	105.3	−310.2
Space defense system	402.4	184.8	−217.6
Defense Nuclear Agency	363.0	298.8	−64.2
Submarine combat system	342.5	266.0	−76.5
Nat'l aerospace plane	236.0	144.7	−913

PROGRAMMATIC IMPACT ON READINESS ACCOUNTS

It is more difficult to estimate the impact of an $11 billion budget authority reduction on the readiness accounts. However, it is clear that a reduction of this magnitude, nearly 12 percent from the President's request, would result in the layoffs of civilian personnel, reduced equipment maintenance, as well as reduction in operating tempo. This would represent the largest reduction in readiness funding in the post Vietnam period.

FUNCTION 150: INTERNATIONAL AFFAIRS

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	18,000	16,700
Sequester reduction	−1,600	−900
Postsequester total	16,400	15,800

SEQUESTER IMPACT

A sequester would preclude Congress from protecting funds for the Camp David Accord countries. Assistance to Israel would be cut $272 million. Assistance to Egypt would be cut by $190 million.

FUNCTION 250: SCIENCE, SPACE, AND TECHNOLOGY

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	13,400	11,200
Sequester reduction	−1,100	−600
Postsequester total	12,200	10,600

SEQUESTER IMPACT

Budget outlays for the science and space programs would be reduced by $500 million below levels assumed in the Budget Resolution.

These outlays reductions would force slowdowns in NASA's shuttle recovery program and the new manned space station program. The space station, for which NASA requested $767 million in 1988, would instead be cut to $400 million.

Increases proposed in this year's Budget Resolution for the general science and basic research programs of the National Science Foundation would be foregone. Instead, these programs would be cut by $148 million in budget authority.

FUNCTION 270: ENERGY

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	3,900	4,100
Sequester reduction	−500	−300
Postsequester total	3,400	3,800

SEQUESTER IMPACT

A full sequester in Function 270 would result in a cut of $500 million in budget authority and $300 million in outlays.

Strategic Petroleum Reserve: A sequester would have no effect on the fill rate for the Strategic Petroleum Reserve (SPR) since 1987 oil acquisition activities were funded through unobligated balances from previous years. A sequester would have a minor impact on the SPR construction budget.

Energy Supply Research and Development Activities: A sequester would reduce funding for research and development activities in new energy technologies by $122 million.

Rural Electrification Administration: Because of timing considerations, a sequester would have no first year impact on loan guarantees. A sequester on direct loans would reduce loan budget authority by $78 million in the first year.

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	16,300	15,200
Sequester reduction	−1,500	−1,000
Post-sequester total	14,800	14,200

SEQUESTER IMPACT

A full sequester in function 300 would result in cuts of $1.5 billion in budget authority and $1 billion in outlays. Since a large proportion of the accounts in this function are construction-related—the sequester would have a relatively small near term impact although it would lead to construction delays in the outyears.

Corp of Engineers Construction: A sequester would result in a budget authority cut of $102 million.

Soil Conservation Operations: A sequester would mean a budget authority cut of $33 million.

Land Acquisition: A sequester would lead to a budget authority cut of $17 million in National Park Service, Fish and Wildlife Service, Forest Service and Bureau of Land Management land acquisition programs.

Superfund: A sequester would result in a budget authority cut of $128 million despite growing demands due to the recently reauthorized Superfund legislation.

Sewage Treatment Grants: A sequester would lead to a budget authority cut of $163 million.

FUNCTION 350: AGRICULTURE

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	28,200	27,500
Sequester reduction	−1,000	−1,100
Postsequester total	27,200	26,400

SEQUESTER IMPACT

A full sequester in function 350 would result in cuts of $1 billion in budget authority and $1.1 billion in outlays.

Commodity Credit Corporation: A sequester would lead to reductions of $789 million in 1988 and $667 million in 1989. Cuts would be made in 1987 crop payments. The Secretary of Agriculture is constrained by law to allocate the reductions evenly across commodities. During the previous sequester, the Secretary simply reduced all government checks by the sequester percentage. PIK certificates were not affected.

Extension Service: A sequester would result in a cut of $30 million. Since the Extension Service is heavily personnel intensive, the sequester could lead to some reductions in force or other personnel actions.

Agriculture Research Service: A sequester would result in a cut of $45 million.

FUNCTION 370: COMMERCE AND HOUSING CREDIT

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	9,600	6,100
Sequester reduction	−300	−300
Postsequester total	9,300	5,800

SEQUESTER IMPACT

This function covers commerce and housing credit programs, including elderly and rural housing, FDIC, FSLIC, small business, and other programs involving the advancement and promotion of commerce.

Section 202 housing, the only federal program producing specially designed housing for the elderly, would be reduced by over 1,000 units. This reduction would occur at a time when over one-fifth of the nation's households are elderly, a share projected to increase to one-third by 1995.

Rural housing programs would be reduced by over $180 million. A sequester would be applied on a program level for rural housing which has been cut by over half since 1980.

FUNCTION 400: TRANSPORTATION

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	27,200	28,200
Sequester reduction	−2,200	−800
Postsequester total	25,000	27,400

SEQUESTER IMPACT

This function contains programs critical to developing and maintaining the nation's transportation infrastructure.

Aviation programs would be reduced by over $400 million below current levels, not allowing for the almost $2 billion in increased spending projected for 1988. Such a reduction could mean less air traffic controllers than are currently employed, continued delay on modernizing the air traffic control system, and fewer airport construction projects.

Coast Guard operations would be reduced by $163 million. This reduction would severely restrict drug interdiction efforts and marine safety programs.

Federal-aid highway programs would be reduced by about $1.2 billion. This takes spending on highways well below the recently enacted highway bill, and could mean significant delay in completing the Interstate highway system.

Mass transit programs would be reduced by close to $300 million, a significant cut from the recently enacted authorizing bill. Reduced funding for mass transit could result in significant delay in the construction of new rail and the acquisition of bus systems as well as increased transit fares.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH Baseline total	7,900	6,700
Sequester reduction	−500	−200
Postsequester total	7,400	6,500

SEQUESTER IMPACT

This function includes important state and local infrastructure programs for water, sewer, housing, and community and economic development programs. Spending in this function has been reduced by close to a third since 1980, and virtually all programs have been cut in varying degrees.

The Community Development Block Grant (CDBG) program would be reduced by almost $300 million. The CDBG is the cornerstone of federal assistance to localities for community and economic development, and is intended to principally benefit the poor.

The Urban Development Action Grant program would be reduced by $20 million. A sequester would be from a program level that has already been reduced by two-thirds since 1980.

The Economic Development Administration (EDA) would also be cut by close to $20 million. EDA grants and loans have been an important stimulus for local economies in many rural areas of the country.

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	36,500	33,700
Sequester reduction	−2,700	−900
Postsequester total	33,800	32,800

SEQUESTER IMPACT

Funding for education programs would be reduced by $1.8 billion.

Chapter 1, education programs for disadvantaged children, would be cut by $358 million in budget authority, and by $22 million in outlays. A federal reduction of funding for this program would allow cuts in States' contributions to improving educational attainment of at-risk students.

Student Financial Assistance to college students would be cut by $497 million in budget authority, and by $93 million in outlays. This cut would result in pro rata reductions in grants to over one million Pell Grant recipients.

The Community Service Block Grant which provides services to low-income people including children, welfare recipients, and older Americans, would be cut by $36 million in budget authority, and by $25 million in outlays.

State Immigration Assistance grants would be cut by $84 million in budget authority, and by $19 million in outlays. If enacted, such a reduction would severely hamper States' efforts to provide social services to legalized immigrants and control illegal immigration into this country.

Employment and Training services would be cut by $336 million in budget authority, and by $8.7 million in outlays. A reduction of this magnitude would curtail efforts to train new entrants into the labor pool and alter programs offering retraining for adults.

FUNCTION 550: HEALTH

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	44,600	44,400
Sequester reduction	−1,100	−600
Postsequester total	43,500	43,800

SEQUESTER IMPACT

Biomedical research: Funding for the National Institutes of Health would be cut by $561 million in budget authority and $261 million in outlays. Biomedical research would be 4.9 percent below the 1987 level; and 14 percent below the level in the Senate-reported 1988 appropriations bill.

AIDS: Cut $43.4 million in budget authority and $23.8 million in outlays; 5 percent below 1987 funding level and 52 percent below Senate-reported 1988 level.

Medicaid: Exempt from sequester.

Maternal and Child Health: Cut $45 million in budget authority and $25.2 million in outlays. New initiatives for pregnant women and infants would be delayed with a funding level 15 percent below the Senate-reported 1988 levels.

Community Health: Protected by the special rule limiting cuts to two percent. Cut $8.7 million in budget authority, reducing the availability of health care for the low income population. New initiatives to provide access to primary health care for the homeless, not protected by a special rule, would be cut by $7 million in budget authority.

Drug Abuse: Recently-enacted state grants for drug abuse prevention would be cut by $14.8 million in budget authority and $11.8 million in outlays.

Other health grants to States: Preventive health services reduced by 5 percent from current levels; cut $8.3 million in budget authority. Alcohol, drug abuse, and mental health services cut by $46.1 million in budget authority, 5 percent below current levels.

FUNCTION 570: MEDICARE

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	92,800	83,000
Sequester reduction		−1,500
Postsequester total	92,800	81,500

SEQUESTER IMPACT

All payments to Medicare providers would be reduced from current levels by 2.3 percent if a full sequester went into effect on November 20. A special rule limits Medicare benefit payments reductions to 2 percent, applied on a full fiscal year basis.

Funding for Medicare administrative operations, including contractors who process claims and perform payment safeguards such as utilization review, would be subject to a full sequester of 8.5 percent ($207 million). Contractor funding would be 15 percent below anticipated necessary 1988 funding levels, resulting in payments delays to providers and beneficiaries on top of the 2.3 percent cut in payment levels.

FUNCTION 600: INCOME SECURITY

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	169,400	132,900
Sequester reduction	−1,400	−700
Postsequester total	168,000	132,200

A sequester would cut programs in this function by $700 million in outlays. Although, this may appear to be less consequential, it would actually hit non-exempt programs very hard since many retirement disability and programs for low-income households in this function are exempt from sequester.

A sequester would cut the child support enforcement program by $85 million.

Public housing operating subsidies would be reduced by over $120 million. With up to $25 billion projected to be required over the next five to ten years to modernize dilapidated public housing, this cut would severely curtail preventative maintenance efforts in existing projects.

Assisted housing programs would be cut by close to $650 million. With the severe shortage in low income housing, this would mean a reduction of almost 9,000 units assisted each year.

COLAs for federal civilian and military and railroad retirees are exempt from sequester.

Many low-income programs, including AFDC, Food Stamps, WIC, SSI, Child Nutrition and Earned Income Tax Credit are exempt from sequester.

FUNCTION 650: SOCIAL SECURITY

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	258,400	220,600
Sequester reduction	0	−200
Postsequester total	258,400	220,400

All Social Security benefit payments and cost-of-living adjustments are exempt.

A sequester would cut administrative costs for the Social Security Program by about $200 million. This could result in a loss of 5,000 staff or cuts in other administrative expenses or some combination of these. Service to the public would undoubtedly be reduced.

FUNCTION 700: VETERANS

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	27,800	27,400
Sequester reduction	−500	−300
Postsequester total	27,400	27,000

SEQUESTER IMPACT

Compensation and Pensions: Direct payments to disabled and low-income veterans are exempt from sequester.

Veterans Medical Care: Though protected by a special rule limiting sequester reductions to 2 percent, Veterans medical care would be cut by $196.4 million in budget authority and $189.3 million in outlays. Such a cut could mean no staff for newly opened medical facilities and a reduction in medical staff for currently-operating hospitals and nursing homes.

Housing Loan Guarantees: Loan limitation authority cut by $3.2 billion.

Additional reductions would come from 8.5 percent cuts in medical research conducted by the Veterans Administration ($19.3 million); medical facility construction and modernization ($42 million, 15.7 percent below Administration requested levels for 1988), VA administrative operations ($73.6 million), veterans education and training programs ($64.7 million), veterans burial benefits ($10 million), and other small programs.

FUNCTION 750: ADMINISTRATION OF JUSTICE

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	9,400	9,300
Sequester reduction	−800	−700
Postsequester total	8,700	8,600

SEQUESTER IMPACT

A full sequester in Function 750 would result in cuts of $800 million in budget authority and $700 million in outlays. Since many of the accounts in this function are labor intensive, the most significant effect of the sequester would be to reduce the number of employees in various law enforcement and Justice agencies.

FBI: A sequester would mean a cut of $114 million in the salaries and expenses account of the FBI, and could significantly hamper domestic law enforcement activities.

Drug Enforcement Administration: A sequester would mean a cut of $43 million for the Drug Enforcement Administration at a time when the recently enacted Drug Bill calls for more spending in this area.

Immigration and Naturalization Service: A sequester would reduce salaries and expenses of the INS by $54 million at a time when the recently enacted Immigration Reform bill is placing new demands on the Service.

Legal Services Corporation: A sequester would mean a cut of $28 million for the Legal Services Corporation.

FUNCTION 800: GENERAL GOVERNMENT

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	7,600	7,200
Sequester reduction	−700	−600
Postsequester total	6,900	6,600

SEQUESTER IMPACT

A full sequester in this function will mean a cut of $700 million in budget authority and $600 million in outlays. Because the function is largely comprised of salary and expense accounts, the effect of sequester will most likely be to reduce staffing at a variety of legislative branch and executive offices including the various Congressional committees and the Office of Management and Budget.

Internal Revenue Service: A sequester would cut $256 million from processing tax returns, investigations, collections and taxpayer services. While no specific impact from this cut can be quantitatively determined, experts agree that it could have a significant impact on revenues to the extent that collections decrease.

Congressional Budget Office: A sequester would cut $1.6 million, nearly 10 percent of the total, from the CBO account.

General Accounting Office: A sequester would cut $28 million from GAO funds for salaries and expenses.

Office of Management and Budget: A sequester would cut $3.4 million from the OMB salaries and expenses account.

FUNCTION 850: GENERAL PURPOSE FISCAL ASSISTANCE

[In millions of dollars]

	1988	
	Budget authority	Outlays
GRH baseline total	1,900	1,900
Sequester reduction	−100	−100
Postsequester total	1,800	1,800

SEQUESTER IMPACT

A full sequester in this function will mean cuts of $100 million in budget authority and $100 million in outlays.

Payments in Lieu of Taxes: A sequester will mean a cut of impact of this cut will be felt by states with large portions of federal land within their borders.

Payment to the District of Columbia: A sequester will mean a cut of $40 million in monies the District receives from the Federal government.

Mr. DOMENICI. Mr. President, I understand that the unanimous-consent agreement allowed 10 minutes per Senator, and I certainly do not want to cut my friend from Florida short. Will he reserve the remainder of his time?

Mr. CHILES. I yield.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is it understood in the consent that Senator CHILES has the remainder of his 10 minutes?

The PRESIDING OFFICER. Without objection, the Senator from Florida will retain the remainder of his time.

The Senator from New Mexico is recognized for 10 minutes.

Mr. DOMENICI. Mr. President, I agreed to come to the floor today to have a brief discussion with the distinguished chairman about where we stand with reference to the fiscal situation and the so-called Gramm-Rudman-Hollings fix.

It is now 2 days into the fiscal year, and I think we need to understand, or at least try to understand, where we are and where we are not.

When we passed the Gramm-Rudman-Hollings fix, requiring a $23 billion reduction from this new baseline, which inflated everything 4.2 percent, I said on the floor of the Senate that the really important day was October 20. I went on to say that on October 20, to paraphrase the distinguished Representative from Massachusetts, Representative CONTE, on October 21, people will be hiding behind bushes to avoid the wrath that will be upon this Congress when that day comes. So perhaps it serves a purpose, to give the Senate my impression of what will happen on October 20.

It seems to me that by that date, there is little chance that any free-standing, full-year appropriation bill will have become law. There is little chance of enacting a full-year composite continuing resolution, in place of the one we have passed, which is a 45-day continuing resolution going into November. In sum, there is little chance that we will have made any final decisions about appropriations matters, either on the domestic side or on the defense side.

Obviously, it is equally certain that by October 20 there will be no reconciliation bill—that is, the normal package for making the nonappropriated accounts of Government, including taxes—comply with the budget resolution. It is pretty obvious that reconciliation is not going to occur and become law by that time.

So, essentially, on that date the Office of Management and Budget will put into effect what I might call a temporary sequester.

My good friend, Senator CHILES, has stated the effects of that. It is a sequester, but it is not final until November 20. At that time, so that everyone will know, all the accounts of Government that are subject to this across-the-board cut will have a percentage of funds withheld in an order that will wait until November 20 to be effective.

While I may not agree with the exact numbers, prepared by the Congressional Budget Office, that the distinguished chairman has indicated, make no bones about it, everything from education to law enforcement, to the money that is needed to keep the airways safe, and to the defense of our country, will take its share of this $23 billion outlay reduction, split half to defense and half to the remaining accounts. Then, we will have 1 month to pass laws that will reduce the deficit $23 billion or some portion thereof so as to avoid those arbitrary cuts.

Anyone who thinks that the day those arbitrary cuts are made is a great day for America—anyone who thinks that we ought to wish that on the people of this country and on the defense of our country, in my humble opinion is absolutely disregarding the well-being of the people of this country and our responsibility.

Having said that, it is fair to say that from this day forward somebody, someplace, has to find some way to offer a solution to that. I do not have a solution, but let me suggest that passing one appropriation bill at a time that meets the budget targets or is higher than the budget targets is certainly not going to do the job.

First of all, I doubt whether the President would sign any of them, and I think he is right. On the other hand, he does not want one big continuing resolution containing all 13 bills. But, on the other hand, Mr. President, until we know how much we are going to appropriate, both on the defense side and the domestic side, we do not know how much we will reduce the $23 billion sequester or how much we are going to increase the amount that is required to cut in order to be in compliance with the revised Gramm-Rudman-Hollings targets.

So are we in somewhat of a jam because if you get one of these appropriation bills passed into law at a high level, it is going to get cut but it is going to get cut from that high level instead of taking its fair share of the medicine that is going to be provided under the automatic cut on November 20 that we all have a visual authentic picture of.

Mr. President, it is pretty obvious that the majority that proposed the Gramm-Rudman-Hollings fix were sincere in saying we are going to find $23 billion in reductions from this deficit so we do not have the sequester.

I have no doubt that they are sincere, but I would like to make four points.

NO GAME PLAN IN PLACE

One, there is no game plan; there is no bill around that contains $23 billion in reductions.

The reconciliation instructions that are out there, if not moot, are at least valueless because the Finance and Ways and Means Committees, if they are going to approve some new taxes, and I assume they are, do not even know how much they should put on.

Let us assume the tax committees decide on $10 billion. Where does the other $13 billion come from?

Who is going to vote for a tax bill for $10 billion, $12 billion, or $15 billion if they have no idea that it is going to fix this deficit? Then you will have voted for the taxes and you will still get a sequester.

Why would those committees, without some overall master plan of how we are going to get the rest of the savings, vote for taxes? Why would they vote to cut anything, one piece at a time, until they know what the plan is?

WHERE WE SEEM TO BE HEADING

Now, I want to give you three hypotheticals as my second point.

I regret to say that if we continue with the appropriations bills as we have, it is my best estimate that we will save zero on the domestic side. I am not here arguing that that is bad policy, or good policy, or that I could do better. I am merely telling you that there are no savings in the appropriated accounts.

Now, there may be $1 billion when you are through with the accounting, but I rally do not think so. So domestic appropriations yield zero.

We started this $23 billion exercise with defense, revenues, and a reconciliation bill that has $3 billion in entitlements. Let us assume the $3 billion, so there is $3 billion. Now we have $20 billion left to do.

Where are we going to get the $20 billion in savings? Some people are saying $10 billion to $12 billion in taxes. If you want to do that, go ahead and add that up, take $10 billion, plus the $3 billion, that leaves $10 billion of the $23 billion to be found somewhere.

Now, Mr. President, if you are going to have some kind of compromise, that $10 billion cannot all come out of defense. If you are going to take that much out of defense, it is not much worse to let the sequester occur, slightly but not much.

A FAIR PLAN IS NEEDED

It seems to me that sooner or later here, and I hope sooner, some way will be found to have enough leaders sit down between the House and the Senate, and if the White House is interested perhaps they should join. We ought to talk about what kind of package we put together.

Without that, it appears to me that we are heading for an October 20 crash. It will be a light one because every Senator can run home and say it is not in effect yet, until November 20.

I ask unanimous consent that I be given an additional 2 minutes.

The PRESIDING OFFICE. Without objection, it is so ordered.

Mr. DOMENICI. Senator CHILES has indicated what the impact of the sequester will be in defense.

While I may disagree with a few numbers, a post-sequester budget is unquestionably an unlivable defense in the interest of our national security. No question about it.

For those who are worried about domestic programs, and many of us are, you heard some of the numbers. You did not hear them all, but there will be cuts—substantial, automatic, across-the-board, and arbitrary, with no choices for preferential treatment. Yet, we will have 1 month before it is made final, although all of the branches of Government will have to be holding that money in abeyance pending its final sequester.

Now, Mr. President, I know that my friend, the chairman, and this Senator are here with the same goal. Let us attempt to put something together that avoids the sequester.

I must say that I also believe that if we are interested in getting the President of the United States involved, we have to put something of value to him on the table, and I do not know how we do that. We are not doing that by sending domestic appropriation bills through one at a time, then, in some mysterious way saying we are going to save money someplace.

DEFENSE IS THE KEY TO COMPROMISE

The best way to keep the President in the White House and have nobody talk to anyone here in Congress is to fail to start indicating what level are we going to fund defense this year. I suggest that if it is the low tier in defense, and I am talking technical language here for fellow Senators—they know what that is—under the budget resolution, I would point out that the appropriators have borrowed from it, to the tune of $500 million. So there is already $500 million less for defense, but, Mr. President, if we are talking about low tier defense appropriations, you need $12.5 billion in taxes together with what I have just described as the other savings.

If you are talking about high tier defense appropriations, you need $17.5 billion in taxes to meet the $23 billion mark.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Florida retains 2 minutes on his 10 minutes.

Mr. CHILES. Mr. President, I will yield 30 seconds.

Mr. DOMENICI. So I am suggesting that some way or another we have to start talking about the serious issue of where are we going with defense, how much do we intend to fund it for, are we going to find any other savings anywhere in the domestic side of this budget anywhere before we really will get the President interested in talking. I hope we can do that because I think we ought to avoid the sequester.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I think that the gist of the conversations both by myself and my distinguished colleague from New Mexico, who has perhaps pointed out a little more of the details of some of the problems, suggest that we should not wait until October 20. We should be trying to start these talks now.

I think that you have to have some leadership from the House and the Senate as well as from the administration in order to do this. It is always the chicken and egg.

How do you get something done if you do not know what the other side will take? Rather than wait for this thing now, it seems like we should be doing something. There are still people who do not understand that at least for now the sequester is the nuclear deterrent of the budget process and the whole idea is to have enough respect for its destructive force that we will do the responsible things to try to avoid it.

It kind of concerns me when I hear people say just forget about making those tough choices and let sequester do the job. It is like saying it is so much trouble to dig the hole, we will just use a stick of dynamite to blow the hole. Of course you get a hole that way. And if there is anybody left around, of course, they are in the hole.

So it seems the whole idea that we want behind the sequester is to make us all feel surrounded and then maybe we will get together and try to fight our way out of it. I think we are surrounded now. I think that is very clear. I hope some other people understand that.

The Senator from Florida is ready, and I hope with my colleague, to sort of go anywhere and talk to anybody and try to join any group that will try to begin to work on this process. I think it is so essential that we do not waste time between now and October 20 to start that process.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

NOMINATION OF ROBERT BORK TO BE ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. BINGAMAN. Mr. President, this morning I announced that I would vote against the confirmation of Judge Robert Bork for the position of Associate Justice of the U.S. Supreme Court. At this time, I wish to explain the reasons for my decision in a little more depth for my colleagues.

Mr. President, this Nation is at an economic crossroads. Over the next 5 or 10 years, the President of the United States, the House of Representatives, and this U.S. Senate will have to continue to confront the critical question of how we are to reverse the trends which signal major structural problems in our economy: my colleagues have just alluded to one of those, higher budget deficits, higher trade deficits, and a declining standard of living. Our highest priority over the next decade is to debate and decide upon strategies for making this Nation once again economically prosperous in a global, very competitive international marketplace and to ensure that all of our children, including our daughters, and our Hispanic, native American, black, and poor children, fully participate in that prosperity.

The economic challenge ahead of us will require an almost single-minded commitment, an unwavering will, and great perseverance. We will have to focus our time, energy, hard work, and other resources on building stronger families, giving our children a quality education, helping women to become full and equal participants in our economy, retraining our displaced workers, and exploiting our research and new technologies to produce greater economic opportunity and a higher standard of living for all of our people. And we can only meet this challenge if all of our people—including our women, our racial minorities, and our poor—can confidently know that they will eventually enjoy their fair share of that economic prosperity. We simply cannot afford to risk an era of social strife and division that will either distract us from this central challenge or shatter this confidence.

And that is why I must oppose the nomination of Judge Bork. For if the Senate confirms his nomination, I believe that we will risk spending a substantial part of the next decade not debating these key questions, but rather debating legislation that attempts to restore previous Supreme Court precedents or to correct future Supreme Court decisions that do not follow the logic of existing Supreme Court precedents.

We will run the risk that in the areas of family privacy and equal protection of the laws for women and racial minorities, old wounds will be reported, and strife and division among large segments of our people will demand our time, energy, and concern. Instead of consolidating the national consensus we have achieved on the need for personal and family privacy and for equal protection for women and minorities, and building on that consensus to focus the Nation's collective will on the great economic task ahead, we may risk destroying that consensus. We may risk shattering a unified commitment to meeting our economic challenge. We may end up spending much of our precious time, energy, and concern fighting each other over issues which have already once been settled instead of competing as one nation in the international marketplace.

I have only come to these conclusions after the Judiciary Committee hearings ended on Wednesday of this week. I have followed those hearings closely, I have reviewed summaries and reports of committee testimony, and I have read transcripts of testimony given by Judge Bork himself. Although we cannot know with certainty what cases the Supreme Court will confront in the future and how Judge Bork will vote on any particular case, I have concluded that in confirming him, we run the substantial risk that we invite an era of internal dispute and disaffection. And I am not willing to run that risk.

Clearly, if Judge Bork still holds to his writings when he makes decisions on the Court, my concern is well-grounded. His professional writings over the past 25 years—the very peak of his adult life—would seem to require him to vote to overrule or modify countless Supreme Court decisions about family privacy and equal protection of the law. But I do not hold him to those writings. Rather, I have reviewed the modifications and qualifications he has offered the Judiciary Committee, and I take his hearing testimony at its face value. But I still conclude that the risk we take in voting to confirm his nomination is unacceptable.

Judge Bork has repeatedly criticized cases which have defined a sphere of personal liberty protecting certain aspects of personal and family privacy. Those cases upheld the right of married couples to use contraceptives, the right of parents to make decisions about how to bring up their children, the right not to be sterilized against one's will, and others. As recently as March 31, 1982, Judge Bork said that in "not one" of the privacy cases "could the result have been reached by interpretation of the Constitution." In his words, these cases are "indefensible," "intellectually empty," and "unconstitutional," because Judge Bork could not find the right of privacy specified in any particular provisions of the Constitution.

Judge Bork essentially reaffirmed that view in his testimony before the Judiciary Committee. He said the right of personal and family privacy was "undefined" and "free floating." In testimony about the Griswold case, which recognized the right of married people to obtain and use contraceptives, he stated that he still could find no acceptable constitutional authority for the holding. He indicated that he was unsure whether the ninth amendment could be the source of such privacy rights even though, as recently as 1984, he had said with some conviction that judges may be required to "ignore the provision" and "treat it as non-existent," as though it were "nothing more than a water blot on the document." He apparently could not rely on Justice White's alternative view that the equal protection clause would compel the holding in Griswold. He could not subscribe to former Chief Justice Burger's view that even though "the rights of association and privacy, * * * as well as the right to travel, appear nowhere in the Constitution, * * * these important but unarticulated rights have nonetheless been found to share constitutional protection in common with explicit guarantees."

Finally, Judge Bork's testimony reveals no commitment to treat the personal and family privacy cases as established, settled law. In fact, when pressed to list those lines of cases which he had criticized but which he viewed as so established as to preclude their being overturned, Judge Bork excluded the privacy cases.

During the hearings Judge Bork surprised many Senators when he attempted to reverse his long-established position on the application of the equal protection clause of the 14th amendment. Less than 3 months ago he had said that "the equal protection clause probably should have been kept to things like race and ethnicity," thus recently reaffirming his long-standing view that the Supreme Court "should refer the rights of women * * * to the political process." But at the hearings he said that now he was of the view that the equal protection clause applied to women as well as people of different races, provided that it only protected all of them against "unreasonable" legislative classifications.

This supposedly new "reasonable basis" test gives me no comfort. In fact, it alarms me more. It represents a significant step backward from both the strict and intermedicate judicial scrutiny tests now applied by the Supreme Court to cases involving race discrimination and discrimination against women, respectively. As a lawyer, I know how easy it is to concoct a rational basis for any legislative act. For example, as recently as 1961 the Supreme Court held that a state's exemption of women from jury duty was a "reasonable classification" because women are "still * * * the center of the home and family life," "despite their enlightened enmancipation." And we should remember that the Plessy Court relied explicitly on a reasonable basis standard to uphold racial segregation.

At the hearings Judge Bork insisted that his "reasonable basis" standard was somehow more strict than the "reasonable basis" test used by the Supreme Court in past cases. But he could not be specific about this, and I was not convinced. To me, Judge Bork's newly discovered "reasonable basis" test would provide less protection than the Supreme Court now offers women, Hispanics, native Americans, blacks, other minorities, and the poor.

Thus, it is possible that if Judge Bork is confirmed and his views prevail on the Court, the protections which we have long taken for granted regarding personal and family privacy and the aspirations of women, racial minorities, and the poor could be severely undercut. But what is the probability that any such effect, and the consequent public outcry and debate, may in fact occur? In my view, the probability is strong.

I have already noted that Judge Bork's testimony specifically excluded the personal and family privacy cases from those so well established as to preclude their being overturned. Judge Bork also testified that he would be an "originalist judge," and we should remember that only 9 months ago he said "an originalist judge would have no problem in overturning a nonoriginalist precedent, because that precedent, by the very basis of his judicial philosophy, has no legitimacy." He did say at the hearings that a Supreme Court decision should be overruled if it were "clearly" wrong and capable of generating "pernicious" consequences, but those vague terms mean different things to different people. At bottom, Judge Bork seems to me much more likely than most justices to vote to overturn precedent in the numerous cases which he has criticized.

Although I will vote "no" on the issue of Judge Bork's nomination, I will not cast any vote to sustain a filibuster or to otherwise delay or prevent us from resolving the issue. The filibuster is becoming a recurring syndrome in this body; its use is reaching epidemic proportions. It is now becoming the common recourse of any group of Senators who find themselves in a minority on any significant issue to launch a filibuster to frustrate the will of the majority. The result is that we in the Senate do not get to the critical issues which face us. We do not work the will of the people.

And now the prospect of a filibuster on the nomination of Judge Bork not only threatens the effective operation of the Senate, but also holds another branch of government hostage. The Supreme Court's fall term begins on Monday, and any filibuster will only delay the day when the full complement of nine justices can attend to its caseload.

Therefore, we owe the President what is due him under the Constitution: our advice on his nomination of Robert Bork. If the majority consents to the nomination, so be it. But if the majority will not confirm him, we need to ask the President to select another nominee for our prompt consideration. The challenge we face as a nation during the coming decade requires a degree of national consensus which we have seldom enjoyed in the past. I have confidence that the President can select a nominee whose judicial philosophy matches his own yet whose view of the Constitution will help to bind us together as a nation and not hinder our efforts to meet that challenge.

Thank you, Mr. President. I yield the floor.

LUPUS AWARENESS MONTH

Mr. SHELBY. Mr. President, October is Lupus Awareness Month. Lupus is a mysterious disease of unknown cause. Yet, it affects 500,000 Americans and strikes 16,000 new cases each year. It affects more Americans than does muscular dystrophy or leukemia. It is the most serious disease of young women—90 percent of its victims are women, stricken primarily in their childbearing years. I have become aware of Lupus since my wife was diagnosed as having a Lupus-related diseases some 12 years ago. I want to share this awareness today with the Senate and the American people.

Lupus is a chronic anti-immune disease—it strikes an individual's immune system, causing it to produce too many antibodies. These antibodies—which protect against infection in healthy people—attack the internal organs and normal tissue of Lupus patients.

There are two types of Lupus. The first type, discoid Lupus, affects only the skin. This is the mild form of the disease. The second type, systemic Lupus, or SLE, affects the internal organs and systems of the body. This type is more severe. Antibodies in this case attack the vital organs—such as the kidneys, brain, and heart. Patients suffer flareups that can be very serious, followed by periods of remission.

As I stated, the cause of Lupus is unknown, so there is no cure. Thirty years ago, patients with Lupus had little hope of living a few years. There has been much progress in the study of Lupus, fortunately. Thanks to biomedical research. Earlier diagnoses and more effective treatments are possible for patients with Lupus. Consequently Lupus victims are living longer and having more productive, nearly normal lives.

In fact, a very significant breakthrough in the study of Lupus was discovered this year, according to the National Institutes of Health. Dr. Gerald Weisman and his associates, from New York University Medical Center in New York City, found that levels of C3A, a human blood component, rose significantly months before a flareup of the disease.

Thus, successive measurements of the blood factor, C3A, may be a tool to predict the patient's next flare-up. There is now hope, for the first time, preventative measures can be taken. I am grateful for the progress of these researchers.

I am also grateful for the Lupus Foundation of America, who for the last decade, has been largely responsible for furthering the study of the disease. This year, the Lupus Foundation of America awarded 18 research grants and 10 student fellowships for the study of Lupus' potential causes and cure.

The outlook has improved considerably. Research advances in the last 10 years have brought about improved treatment, disease control, and better diagnostic methods. Lupus has become a chronic disease rather than the acute and fatal disorder it was thought to be. But Lupus is still an enigma. More awareness and understanding of the causes of Lupus is essential in finding its cure.

Do not forget: October is Lupus awareness month.

I yield the floor.

SUPREME COURT NOMINATION OF JUDGE BORK

Mr. ROCKEFELLER. Mr. President, the Senate Judiciary Committee has recently completed its extraordinary and searching hearings on the nomination of Judge Robert Bork to be a Supreme Court Justice. Those hearings were a model of thoroughness, fairness, and balance. They gave Senators and the country a chance to learn about Judge Bork and his views. They also provided us with an unusual opportunity to reflect on our Constitution, the role of the courts in our system of Government, and the nature of our constitutional rights.

This nomination has provoked enormous public interest and debate. The battle has been hard-fought, so intense that many have likened it to an election. Some have expressed the concern that the confirmation process is being fundamentally altered—and damaged.

In my view, nothing could be further from the truth. The decisions of the Supreme Court touch the lives of every American. The balance of the Court is close; its makeup profoundly affects the direction of the Court and our society into the next century. There would be something seriously wrong if people did not care a great deal about this nomination. Indifference and apathy about this nomination would be a danger signal about the vitality of our democracy. This battle, however it turns out, honors our Constitution and our commitment to full and vigorous public debate.

I intend to vote against the nomination of Judge Robert Bork to the U.S. Supreme Court.

Judge Bork's credentials as a lawyer and legal scholar; his experience as Solicitor General and appellate judge; the power of his intellect—none of these can be denied.

But ultimately, in my view, it is not Judge Bork's credentials that should be decisive. What matters are his views of the Constitution and the rule of the courts in our system.

Judge Bork's admirers seem split on who he is, and why we should confirm him. Many who welcomed his nomination have been uniformly hostile to everything the Supreme Court has done for the past 30 years. They see in Judge Bork one of their own: someone who would, at the very least, stem the judicial tide, and would preferably roll it back.

Others of his admirers have taken to describing Judge Bork as the foremost proponent of the doctrine of "judicial restraint"—a fair-minded, conservative judge in the tradition of Justices Frankfurter, Harlan, and Powell. We have heard this view frequently in recent weeks, as Judge Bork moderated many of his most controversial and longstanding views during the confirmation hearings.

I find no resemblance between Judge Bork's record over the past 25 years and the philosophy of Justices Frankfurter, Harlan, or Powell. In my view, his record places him far outside the mainstream of constitutional law—joined only by William Rehnquist in his unremitting hostility to civil rights and individual liberties in almost every possible context.

I will not itemize all Judge Bork's decisions and writings that trouble me. But on the landmark issues, the cases or legislation that have truly moved our country toward the ideal of equal justice—when it really matters—Judge Bork has always been wrong. He opposed the 1964 Civil Rights Act, terming its central provision, that public accommodations should be open to people irrespective of race, a "principle of unsurpassed ugliness." He opposed the decision which struck down the use of poll taxes, a time-honored device designed to block minorities from voting, because "it was a very small poll tax." He denounced the Supreme Court for upholding the provisions of the Voting Rights Act banning literacy tests, as "very bad, indeed pernicious constitutional law." And Judge Bork has always opposed the line of cases in which the Supreme Court has found that "one man, one vote" was an essential principle for fair and representative legislative bodies—describing it as a "straitjacket."

His views on these, and so many other important matters, never show signs of doubt. He is almost always forceful, outspoken, absolutely certain—and terribly wrong. His brilliance is harnessed in support of a philosophy that is harsh, restrictive, extreme, and insensitive. He seems unwilling or unable to recognize that in our system, the courts exist to protect the rights of individuals and minorities against hostile legislative majorities. That is the special province of the courts, and the special genius of the Constitution.

Very frankly, I do not find the "moderate" Judge Bork to be very convincing. The effort to sell him as a moderate is somewhat demeaning to the strength of his views, and what he has stood for, all these years. He became celebrated because of his views; he was nominated because of his views. President Reagan and Attorney General Meese knew what they were doing, and why they were doing it.

They threw down the gauntlet. They picked a nominee who shared their view of civil rights, individual liberties, the Constitution, and the Supreme

Court. They tried to enshrine their view of the Constitution, so that the Supreme Court would reflect those views for years to come. Feeling strongly as they do, they have every right to try to do it.

But they should not be surprised when they find themselves in a battle. This nomination really is a referendum on some very important issues and ideals. And this nomination is in trouble for a straight-forward reason: because the majority of the Senate, and the majority of Americans, apparently don't share the view of the Constitution and the Supreme Court embraced by Judge Bork, Attorney General Meese and President Reagan. Confronted with it directly, most Americans do not want to roll back the clock, or repudiate the progress made toward equal justice at such great cost for so many views. They do not embrace Judge Bork's unusual views about the first amendment, the 14 amendment and the right of privacy. They do not believe that the Government is always right every time that Government authority collides with the constitutional rights of individuals.

We are having an historic battle over the nomination because everyone understands what's at stake.

Because of what is at stake, people are deeply and intensely involved. Because of what is at stake, I oppose this nomination and hope that it will be defeated.

Mr. President, I yield the floor.

Mr. **DANFORTH** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Missouri.

ODE TO THE CARDINALS

Mr. **DANFORTH.** Mr. President, during our 200-year history many eloquent words have been spoken on the floor of the U.S. Senate, but every so often an event occurs that is so momentous that it deserves a special effort. Therefore, the following:

The score was close, two runners on,
The crowd was sitting tight.
Up stepped Dan Driessen, took a ball,
Then slammed one into right.

The crowd it roared, a throaty cry,
Expressing its delight,
As Smith and Coleman crossed the plate,
The Cardinals took the night.

Just another vic'try, folks,
One of 94 in all,
But quite enough to take the East,
Bring on the Giants: Play ball!

For Cardinal fans, 3 million strong,
The season's been a treat.
Since May our Redbirds were on top,
It's really been a feat.

Despite sore arms and broken legs,
(the dugout's safe no more),
The Car-din-als have battled on,
And thrilled us to the core.

The Redbirds had their ups and downs,
At times we were concerned.
But when the stakes were at their height,
The other teams got burned.

The Mets of Gotham challenged us,
They thought us on the ropes.
But, when they came to watch us play,
Their dreams went up in smoke.

The heroes of my hometown team,
are legion, this is true.
So let me pause, for just a sec,
To give a few their due.

To speak of guys like Coleman,
With feet so sure and fleet,
No cannon-armed outfielder,
Can to the plate him beat.

And then there is the Wizard,
Of Oz, as he is known.
The infield is his kingdom,
And short-stop is his throne.

Magicians, there are many,
But Wizards, there are few.
And when the Giants come to town,
You'll see what he can do.

Our pitchers have been brilliant,
Upon their arms we've soared,
And, done it, we can proudly say,
Without an Emery board.

Matthews, Tudor, Cox and Forsch,
Together with MaGrane,
Have stood their ground, upon the mound,
We simply can't complain.

Relievers, they have saved us,
Let's give them each a hand,
Worrell, Dayley and Dawley,
Who've pulled us out of jams.

Jack Clark with his bazooka,
It's hidden in his bat,
How else, the other pitchers say,
Could he hit the ball like that?

Herr, McGee and Pendleton,
Have all made awesome plays,
With Pena and Oquendo,
They've made our summer days.

And then of course there's Whitey,
Who's led us to this point.
Let's pray, my friends, that Candlestick,
Ain't near a pasta joint.

Before we get excited,
That the pennant race is done,
Let's bear in mind that next we face,
The Giants who've also won.

The Giants are a wily bunch,
And skilled in baseball ways,
But 'gainst the Cards, their only hope,
Is bring back Willie Mays.

I am a Redbird fan, my friends,
St. Lou's the team for me
And if there is a better club
I dare you to Show Me!

Mr. President, I yield the floor.

Ms. **MIKULSKI** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Maryland.

ON THE NOMINATION OF JUDGE ROBERT H. BORK

Ms. **MIKULSKI.** Mr. President, 2 days ago the Judiciary Committee concluded its hearings on the nomination of Robert Bork. I followed those hearing carefully. Since then, I have reviewed Mr. Bork's testimony, and that of other witnesses who appeared before the committee. Finally, I went back and read the Constitution, paying particular attention to the amendments the testimony focused on: The 1st amendment; the 9th amendment; the 14th amendment.

After all, in the final analysis, these hearings have been about the Constitution as much as anything else. And in reading the Constitution, I came to the conclusion that Robert Bork and I have such fundamentally different views about what that Constitution means that I must oppose his nomination.

I am not a lawyer, and I am not a constitutional scholar. But I do not believe that one needs to be a lawyer, or a constitutional scholar, to know the meaning of equality, or understand the essence of liberty. My understanding of the Constitution is based on the fundamental American belief that all men and women are, in fact, created equal, and share certain inalienable rights.

I will oppose the Bork nomination because I do not think Mr. Bork shares those beliefs. And even if he does, I do not believe they would guide his actions on the Court.

This nomination has focused attention on the core constitutional values that define the very role of government in our society: Freedom of speech; freedom of religion; the right to privacy; and equal protection of the law.

Those same values translate the guarantees of equality and liberty on which this great Nation rests, into the rule of law by which we live.

As I see it, it is the paramount responsibility of the Supreme Court to protect and preserve the equality and liberty of which the Constitution speaks. It is the Supreme Court that breathes life into the promise of those words. As such, I see no place on the Court for someone who would allow an employer to force its women employees to choose between being sterilized and keeping their job.

I see no place on the Court for someone who would close the courthouse doors to the veteran and the handicapped, denying that they have standing to sue in a court of law.

And I see no place on the Supreme Court for someone who views equality—whether involving questions of race or gender or lineage—as an intellectual exercise rather than as a principle of profound importance.

It is for these reasons that I see no room on the Supreme Court for Robert Bork.

Of the thousands of votes I will cast as a U.S. Senator, a vote on the confirmation of a nominee for the Supreme Court is among the most important and far reaching. It is the only vote I will ever cast that is irrevocable and irretreivable.

I approached this appointment with an open mind about the nominee. I have become convinced, however, that the appointment of Robert Bork to the Supreme Court would be a tragic step backward on the long, hard road this Nation has traveled to fulfill the promise of our Constitution. I believe we cannot afford such retreat. Neither can we afford to gamble with the precious constitutional guarantees that we Americans cherish. We, you the American people, deserve better.

NOMINATION OF WILLIAM VERITY

Mr. D'AMATO. Mr. President, I rise today to oppose the nomination of C. William Verity as Secretary of Commerce. Frankly, Mr. President, I find his nomination by this administration surprising. It lacks the kind of sensitivity that I think is necessary if we, as the leaders of the free world, are going to be accorded any degree of credibility by our allies when we talk about human rights and fundamental freedoms. It seems we have difficulty in carrying through on our words.

It seems to me that Mr. Verity's record shows a consistent pattern of insensitivity and public opposition to the fundamental principles upon which our policies are supposed to be grounded.

Mr. Verity's previous expressions of opposition to linkage between Soviet trade credits and trade status and Soviet human rights violations, including its poor record on emigration, runs directly counter to the President's own policy objectives. As cochairman of the U.S.-U.S.S.R. Trade and Economic Council, Verity specifically opposed the Jackson-Vanik and Stevenson amendments tying expanded trade with the Soviet Union to Soviet human rights conduct. His statements in reference to emigration of Soviet Jews was absolutely unconscionable and shocking. Let me quote: "The American Jewish community can never be satisfied on this matter. Their desires will ever be escalating."

Maybe, Mr. President, Mr. Verity is right on one thing. The American Jewish community should not be, nor should any community, nor should America be satisfied with Soviet responses to our complaints about Soviet human rights deprivations. These violations have continued to take place not only in the Soviet Union and have not only affected Jews but also Pentecostals and Baptists and Catholics in the Ukraine. I think Verity's statements are outrageous and unacceptable, particularly from someone who will be representing the Nation as a Cabinet member, as the Secretary of Commerce.

I have closely reviewed Mr. Verity's statements during his confirmation hearing before the Committee on Commerce, Science, and Technology. I have also read with care his written responses to questions that I had submitted to him for the record, and I am not satisfied. To be honest, Mr. President, I am more concerned now than I was before he testified.

His responses confirm in my mind that his underlying views have not changed since he stated his opposition to Jackson-Vanik, the Stevenson amendment, and the issue of linkage between trade and Soviet international behavior. His new assurance to the committee that he would uphold Jackson-Vanik because it is the law of the land, was grudging. The entire thrust of his confirmation testimony reflected his overriding desire and intent to increase United States-Soviet trade, regardless of the impact on any other policy objective.

I have spent the past 2 years as Chairman of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission. In the course of my tenure as Chairman, I have had the honor and privilege to meet many of the Soviet dissidents. They are, I believe, genuine moral heroes of our age. When I read Mr. Verity's remarks, I hear the words of Natan Shcharansky and Yuri Orlov. I recall Andrei Sakharov's remarks on the differences between the Soviet's closed, totalitarian society and the open societies of the West. Mr. President, I know whom I trust and believe.

Mr. President, let me read into the record just part of a communication which I received from the Colorado Committee of Concern for Soviet Jewry. It is a partial transcript of a radio interview which Mr. Verity had on Radio Moscow. This interview took place on March 7, 1984.

On the issue of the Congress and the Jackson-Vanik amendment, the transcript indicates that the following were Mr. Verity's own words:

> I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians. I believe that the Jackson-Vanik amendment can be amended so that it won't have the effect that it has had now.

I wonder what he means by that, Mr. President. Does it mean that maybe we have been able to help the plight of some we otherwise would not have been able to help, or does it mean that we should give up our quest for respect for human rights and human dignity?

He goes on to say:

> I just don't know how at the moment we can amend the Jackson-Vanik amendment but there's a lot of talk about it in the States. I think the business community would like to eliminate the amendment because it's just a barrier to trade to the Soviet Union and it does no good.

Mr. Verity's emphasis on increased United States-Soviet trade is sadly misplaced. It undercuts and ignores the sacrifices made by Soviet dissidents and refuseniks and people who seek freedom and liberty throughout the world. It undermines years of careful diplomacy in the Helsinki process by which we and our allies have fought for better Soviet human rights compliance. It sends absolutely the wrong signal to the Soviets and to our allies as we enter the final phase of the Vienna review meeting of the conference on security and cooperation in Europe.

After reading Verity's views, what will the Soviets think of our diplomats' efforts to achieve improvements in Soviet human rights performance? [2]

What will other nations' leaders think about the United States and its concerns in this area? I think it would be impossible for other nations to believe that the United States is committed to those principles.

When a Cabinet officer makes public statements advocating giving to the Soviets the thing they want most from us—access to the products of our economy along with trade credits to finance their purchase—without requiring meaningful changes in Soviet internal practices, it is very possible that they will give Mr. Verity's views more weight—disregarding our diplomats' representations regarding United States policy. If that happens, we might as well throw the Helsinki accords into the trash.

I believe that the American people put human rights ahead of trade and profit. Mr. Verity's past statements that our human rights efforts constitute interference in Soviet internal affairs exactly echo Soviet positions taken to blunt Western human rights concerns.

While he may say he no longer believes this, I find that it's hard to believe that many of my colleagues will stand idly by while his drive to expand United States-Soviet commercial relations undoes the struggles of those in the Soviet Union and the West seeking real Soviet adherence to their international human rights commitments.

Mr. Verity's lack of sensitivity to the public interest apparently extends to this Nation's own security as well. Under his leadership, Armco Inc. agreed to sell a $353 million steel mill to the Soviet Union. That plan was terminated by the Presidential trade embargo imposed by then-President Carter in response to the Soviet invasion of Afghanistan. Mr. Verity's remarkable response was to complain bitterly about the President's policy.

Mr. President, steel from that mill would have gone directly into Soviet armor, bombs, and bayonets. This is the man to whom the administration would entrust the authority to guard against Soviet acquisition of advanced American and Western military and dual use technologies. Any person who would place increased trade with the Soviet Union on the same plane as our national security would not be this Senator's choice to be our next Secretary of Commerce.

People of the United States deserve a Secretary of Commerce who can tell the difference between the public interest and corporate interest. William Verity's consistent record of insensitivity to any values beyond the balance sheet, raises the most serious questions as to whether he is such a person. I am disappointed, disturbed, and firmly opposed to his confirmation.

Mr. President, I am not going to belabor the point, but let me say that I have communicated with my colleagues by a letter dated October 1 in which I expressed my concerns and my opposition to Mr. Verity being confirmed as the Secretary of Commerce.

In addition, I sent a letter on October 2 to a number of my colleagues on the Helsinki Commission, including the information that was provided to me in the transcript of Mr. Verity's remarks, which I think really indicates how Mr. Verity feels about the issue of human rights. I do not think we should have a Secretary who says, "Well, if it is the law, I will uphold it", but who does it in a grudging way. I do not believe that Mr. Verity intends to see to it that those principles are carried out and are lived up to.

I will tell you something else, Mr. President. For those of my colleagues who say, "Well, he is only going to be in office for the balance of this term, a little more than 1 year; Therefore, what is the sense of raising one's voice," I say that is a rather sorry admission. I think we owe it to the people of this Nation and to this administration and, yes, even to our President to call to his attention the nominee's shortcomings. It is not good enough that he may be a friend of the President. I think we have to look to his record, and his record is a sorry tale when compared to what this Nation stands for and is all about.

For those reasons, Mr. President, I intend to not only oppose this nomination but to work as vigorously as I can to bring these facts, this information, and these concerns to the attention of my colleagues, I think that if they have an opportunity to examine them closely, they may reconsider their positions.

Mr. President, I ask unanimous consent to print in the RECORD following my remarks, a partial text of Mr. Verity's Radio Moscow interview and Mr. "Dear Colleague" letter dated October 1, 1987.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF MR. C. WILLIAM VERITY, JR. ON RADIO MOSCOW

Source: Radio Moscow, North American Service English language, shortwave.

Broadcast Date: March 7, 1984.

Time: 6:45, 8:45, 10:45 p.m. EST.

[Condensed text; ellipses show deletions.]

* * * Announcer. In 1951, at the height of the Cold War, the U.S. withdrew Most Favored Nation status from the Soviet Union. As a result, this country lost the standard trading rights granted by the United States to the vast majority of countries * * * Mr. Verity comments on this in the following way:

Verity. It is true that the, the tariff or the duties, uh, for Soviet products on the American market is higher than they are on other European countries. In 1972, a uh trade agreement was made in which one of the purposes was, uh, to grant Most Favored Nation to the Soviet Union. I believe that is a possibility and I believe it should be done * * *.

* * * Announcer. In spite of the importance of exports to the United States economy, the Congress passed the Jackson-Vanik amendment to the Trade Reform Act of 1974 which prevented Soviet-American trade from any substantial expansion. Mr. Verity holds the following view of this discriminatory trade legislation:

Verity. I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians * * * I believe that the Jackson-Vanik amendment can be amended, uh, so that it won't uh, have the effect that it's had now. I just don't know how at the moment that we can amend the Jackson-Vanik amendment but there's a lot of talk about it in the United States. I think the business community would like to eliminate the amendment because it's just a, a barrier to trade with the Soviet Union and it does no good.

* * * Announcer. Mr. Verity also mentioned that despite the present difficulties in Soviet-American trade, the Soviet side is willing to do its best to stabilize it and hopefully to expand. Mr. Verity goes on to say:

Verity. I find that they would like to deal, with uh, with the United States. I think there's a friendship between our two countries, particularly between people. We like each other. They know that's it's more difficult to deal with the United States right now, and they'll tell us that, that uh, really because of "your unreliability and the political problems it's easier for us to deal with France or Italy or Japan. But nevertheless we would like to deal with you and * * *.

U.S. SENATE,
Washington, DC, October 1, 1987.

DEAR COLLEAGUE: I write today to ask that you join me in opposing confirmation of Mr. C. William Verity, nominated as Secretary of Commerce.

My opposition to Mr. Verity derives from his demonstrated opposition to fundamental principles governing our policy toward the Soviet Union. Mr. Verity has, in the past, strongly opposed the Jackson-Vanik and Stevenson amendments tying Soviet Most-Favored-Nation trade status and trade credits to improvements in Soviet Jewish emigration levels. His grudging about-face on this issue during his confirmation hearing was not persuasive.

However, Verity's views on Jackson-Vanik and the suffering of Soviet Jewry are symptomatic of something larger—his narrow commitment to expand U.S.-Soviet trade without regard for any other policy objectives.

Preparing for the Geneva Summit, President Reagan set forth four touchstones of U.S. relations with the Soviet Union: bilateral issues, human rights, arms control, and regional problems. The President called for parallel progress on all of these issues as a condition for improved relations between our two nations.

Mr. Verity doesn't share these linked priorities. Human rights is, from his own statements, a secondary matter. He shows little understanding of, and certainly little enough sympathy for, the cause of dissidents and refuseniks who have struggled for years against Soviet repression in seeking to exercise rights guaranteed under international documents freely signed by Soviet leaders.

I am particularly concerned that Mr. Verity's confirmation would mark an effective end to linkage of the policy principles the President established as the basis for our relationship with the Soviet Union. His attitude strikes at the very foundation of the Helsinki Accords and its linked provisions concerning security, trade, and human rights, upon which so many have placed so much hope.

If the Senate confirms Mr. Verity, it will be sending the wrong message to the Soviet leaders: the wrong message to those in the Soviet Union still struggling for human rights and the right to emigrate; the wrong message to friends of human rights both here and abroad; and the wrong message to the signing nations of the Helsinki Accords, whose representatives are now gathered in Vienna, Austria, to chart the future course of the Helsinki Process. That message will be that we are placing profit ahead of principle and commerce ahead of liberty.

I ask you to join me in opposing Mr. Verity's confirmation. If you desire additional information, please have your staff contact either Jim Wholey at 4-8350 or Mike Hathaway at 4-8362.

Sincerely,

ALFONSE D'AMATO,
U.S. Senator.

THE NOMINATION OF JUDGE ROBERT BORK

Mr. WIRTH. Mr. President, over the past several months, this Nation has engaged in a lengthy, detailed debate over President Reagan's nomination of Robert Bork to assume the title of Associate Justice of the Supreme Court of the United States. Judge Bork would fill the vacancy created this summer by the resignation of Justice Lewis Powell, Jr., a conservative jurist widely considered to be the "swing" vote on a Court frequently split 5 to 4 on crucial decisions regarding the fundamental rights and liberties of the American people.

This national debate has, in my opinion, provided Americans with a firsthand look at how the "checks and balances," built into the Constitution by our forefathers, work to ensure that no single branch of Government—however popular or currently acclaimed—may wield power without due measure of constraint and scrutiny. That this event should occur during the 200th anniversary celebration of our Constitution has only underscored its significance.

What is less fortunate, however, has been the intensely devisive nature of the debate. Seldom, since the fight for civil rights erupted in our streets more than two decades ago, have our emotions as a nation so captured us in dealing with a public issue as we have seen in the struggle over Judge Bork.

Although I regret the polarization that has occurred during this process, I nonetheless believe that America is better served by a far-reaching debate over the fundamental principles upon which our democracy was founded than by the polite rubberstamping of a nominee who will become the crucial fifth vote on a deeply divided nine-member Court.

As Justice Holmes noted in his most famous opinion regarding the Constitution's protection of free speech,

> The ultimate good desired is better reached by free trade in ideas—the best truth is the power of the thought to get itself accepted in the competition of the market.

For the last 2 months, I have closely examined the record compiled by Robert Bork over the past 25 years and have carefully listened to the testimony and debate. I have concluded, as a result, that I cannot support his nomination. I do not believe that he sufficiently understands the meaning and power of our traditions of individual liberty and social equality, two concepts fundamental to our country, and upon which our citizens base their trust in our democratic form of government.

At the beginning of this process, I compiled a list of criteria against which I intended to measure Judge Bork's qualifications.

I ask unanimous consent that those be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. WIRTH. Mr. President, the purpose was to develop a framework for my examination of the immense amount of information that I knew would need to be digested. Primary among these considerations was a review of the nominee's judicial philosophy, temperament, view of the law, and beliefs about the role of the Supreme Court.

As I sorted through the avalanche of analyses of Judge Bork's record, I found myself increasingly disturbed by his judicial philosophy, which I could not square with many of his opinions. Most alarming was a clearly discernible pattern that by its very consistency would seem unattainable by any judge diligently applying "neutral" principles in his approach to the law.

Moreover, as I listened to the hearings and studied the nominee's opinions and articles, it became increasingly clear to me that here was a judge who considered as "incorrectly decided," "unprincipled," and "unjustifiable" many of the major Supreme Court decisions that had guided this Nation along the road toward greater social justice for more than 30 years.

My objection to Robert Bork goes beyond my disagreement with many of his positions. I am discomfited and concerned that while he will strive to be literally correct in his application of the law—as he reads and interprets it—his decisions too often appear to be morally bereft. For all of his legal scholarship and ability to dissect the letter of law, I am unconvinced that Robert Bork grasps the spirit of our laws.

As a result, I fear he would be unable or unwilling to protect certain precious American values, such as freedom of speech, access to the courts, and equal protection of the law. Despite his assertions of moderation and of great reverence for settled law, Robert Bork has spent a significant portion of his career criticizing some of the most fundamental tenets of American jurisprudence. I do not see how he could avoid being swayed by his own powerful arguments.

I am also extremely uncomfortable with the inconsistency in his application of his philosophy of judicial restraint. His insistence on a precise "originalist" reading of statutory and constitutional provisions is often at odds with his opinions. Judge Bork appears to be able to discover either a strict or expansive interpretation of the law, depending on which agrees with his personal beliefs; the much discussed consistency of his positions and philosophy disappeared under the intense scrutiny of this fall's hearings.

He also insists on judicial deference to majoritarian rule by the legislatures and the power of regulatory agencies to fulfill their mission. Yet, judging from his record, he does not insist on consistent deference, having demonstrated on a number of occasions a willingness to overrule or deny the authority of the legislatures and agencies whenever he happens to disagree with their intent.

Judge Bork has repeatedly stated his objection to the notion that there is a right to privacy rooted in the Constitution. While many justices and legal scholars have disagreed about the scope of a right to privacy, Judge Bork has persistently argued that, under our Constitution, there is no right to privacy.

I am also deeply troubled by Judge Bork's views on antitrust law. In this area, in particular, his philosophy of judicial restraint gives way to an activism that borders on a rigid hostility toward Congress, which he considers "institutionally incapable" of the "consistent thought" that "a rational antitrust policy requires." His narrow-minded pursuit of economic efficiency at the expense of consumer interests and the American tradition of competition place him at odds with every major antitrust law of the 20th century—an untenable position for a judge whose guiding principle is one of judicial deference.

The record compiled by this judge, both on the bench and in his extrajudicial writings, leads me to believe that the power of citizens to obtain information about their government, challenge government decisions that endanger cherished individual liberties, the public health or the environment, and gain access to the courts would be severely threatened if he were to join the Supreme Court. I would like to expand on this issue, which has not received the emphasis in the hearings as have others, but is especially important to the State of Colorado.

The right of citizens to challenge governmental action is especially important to the people of my State. Congress has set this Nation on a course of cleaning our air and water and protecting our citizens for exposure to toxic chemicals. Congress also has entrusted to executive agencies the management of our public lands, which include the priceless treasures of our national parks, and the sweeping vistas of our national forests.

Many times, the citizens of Colorado and the Nation disagree with the way in which these agencies carry out their statutory duties—whether it is a decision about clear-cutting on the national forests, reducing air pollution in Denver, or protecting vital wildlife habitat. Individuals and groups can, of course, take their appeal to the Congress, and can express their disagreements at the ballot box. But I believe that the people of this country also have a right to have these disputes resolved in the Nation's courts of law.

In a multitude of Federal laws, such as the Clean Air Act and the Clean Water Act, the Congress expressly conferred upon citizens the right to use the judicial process to enforce these important laws. At the same time, the Federal courts have recognized that access to the courts is as vital for protection of environmental values as it is for protection of our economic well-being.

I am especially troubled at the pattern of Judge Bork's decisions on this question of standing. Judge Bork frequently has argued that many cases, including environmental cases, should not be heard by the Federal courts. Judge Bork's application of the doctrine of standing threatens to close the doors of the Federal courts to these disputes—and to these citizens.

And, although I heard him repeatedly stress that he had since moderated his views and now found many of those decisions to be correct—or too deeply rooted in our society to be overturned—I became increasingly concerned. I could not imagine a defensible answer to the question of what had motivated him to write such blistering attacks on fundamental American values in the first place, nor could I rationalize the facility with which he disposed of those unpopular views before the Judiciary Committee.

Unfortunately, the Supreme Court is not as well known to many citizens of our Nation as are the legislative and executive branches of the Federal Government. But known or unknown, our Constitution and the governmental system which rests on it give tremendous power to this body of jurists. Subject only to the power of impeachment in the case of a flagrant abuse of power or impropriety, and to their own consciences, the members of the Court sit for life in final judgment of cases brought under law and the Constitution. The Court can change fundamentally, and has on more than a few occasions, the very fabric of our society by its decisions.

The placement of a justice on the Court is of such consequence that I believe it should be done only when the evidence is clear and convincing that the nominee is cognizant and fully respectful of those liberties and privileges of citizenship which set this Nation apart.

The testimony of Judge Bork and all of those who testified in his behalf, and all the written material presented by those who support his nomination, did not provide such clear and convincing evidence in my opinion. To the contrary, I am left with grave doubts in many areas and a pervasive feeling of discomfort with the nominee.

Having reached such a conclusion, I believe a Senator would be violating the trust of those who elected him to vote to confirm the nomination. And so, I am unable to cast my vote in support of Judge Bork's confirmation.

EXHIBIT 1

CRITERIA FOR EVALUATION OF SUPREME COURT NOMINEES

(1) Does the nominee have the intellectual capacity, competence and temperament to be a Supreme Court Justice?

(2) Is the nominee of good moral character and free of conflicts of interest?

(3) Will the nominee faithfully uphold the Constitution of the United States?

(4) What is the nominee's vision of what the Constitution means?

(5) Are the nominee's substantive views of what the law should be acceptable with regard to the fundamental rights of the American people?

(6) What are the nominee's view of the role of the Supreme Court and of Supreme Court Justices?

(7) Would the confirmation of the nominee alter the balance of the Court philosophically and if so, is that balance in the best interests of the American people?

(8) Are the nominee's views well within the accepted, time-honored and respected views of legal tradition?

McKENDREE METHODIST CHURCH

Mr. SASSER. Mr. President, two Sundays ago, it was my distinct honor to address the congregation of the McKendree United Methodist Church in Nashville, TN.

McKendree has long held a special place in the history of Nashville and this year, along with the Constitution of the United States, McKendree celebrates its 200th birthday.

Since 1787, McKendree has served the spiritual needs of its membership and its community. Organized just 3 years after the famous Christmas conference in Baltimore, in which the American Methodist Church was formally founded, McKendree's membership first met in Nashville homes.

In 1790, a building was erected in what is now the town square. It was the first church building in Nashville.

From these humble beginnings, McKendree embarked on a course of bringing the light of Christ to this new nation and new frontier.

Even before George Washington was sworn in as this country's first President, McKendree was ministering in the name of the Lord. And, as America grew, so, too, did McKendree. The church outgrew several buildings before settling at the present location of 523 Church Street.

When America began to look outward, beyond its borders to new frontiers and new challenges, so too, did McKendree.

The Reverend Fountain Pitts, an early pastor of the church, was in 1835 the second missionary to be sent into a foreign land by the Methodist Church.

In 1955, Bill Starnes, a missionary in Africa supported by the church, was instrumental in founding the Congo Polytechnic Institute.

McKendree has also made contributions to the political history of our Nation. James Polk, a President of the United States, was a member of the church and his funeral was held at McKendree.

The church served as a hospital facility during the Civil War.

No less than six Tennessee Governors were sworn into office at McKendree, including Andrew Johnson, in 1853.

So you can see that McKendree has played an integral role in all facets of community life and history in Nashville. Its members today carry on in the same fine tradition of service to community and country, the church a beacon for the people of Nashville.

The membership of McKendree are proud of that heritage, and rightfully so. The enthusiasm and zest for life has been passed on from generation to generation.

It can be seen in McKendree's continued commitment to servicing the needs of the community. It can be measured by the indomitable faith of its membership.

I extend my heartfelt thanks to the people of McKendree for the privilege of sharing in their 200th anniversary, and I wish them 200 more.

CHARTERING OF U.S. TANKER "MARYLAND" TO KUWAIT

Mr. MURKOWSKI. Mr. President, yesterday, a rather extraordinary event occurred which I had an opportunity to call attention to last evening in this body, but there have been additional developments that I think warrant further expansion today.

Yesterday, the U.S. Maritime Administration announced the chartering of the U.S. tanker *Maryland*, a 265,000 deadweight tanker, to Kuwait. This is a ship that was built with U.S. construction subsidies. It laid idle for the last 5 years in the port of Portland, OR. In a very short time, it will go into a Portland shipyard.

The significance to this body is that it will be the first U.S.-crewed, U.S.-flagged vessel, U.S.-built vessel to go into the Persian Gulf, in November.

It will give our Navy an opportunity to convoy and protect truly the first United States vessel, the first time we have had a 100-percent American vessel in the Persian Gulf since the increased activity associated with the Iran-Iraq conflict.

I think it is interesting to reflect for a moment the good deal of debate that has taken place in this body in the last weeks involving our current posture on the War Powers Act—whether we should or should not invoke that act, from the standpoint of the President and the administration reporting to Congress for the necessary congressional consideration.

This started out as a debate over the issue of reflagging. We have not yet resolved the issue of reflagging by any means, but progress has been made.

Unfortunately, when the issue came up and the Government of Kuwait approached our Government with the idea of reflagging 11 Kuwaiti ships, it seemed that our attention was focused on our obligation to keep the oil flowing in the Persian Gulf. The role of the State Department, the Department of Defense, and the NSC was focused in rather narrowly, on responding to the interests of Kuwait, to ensure that the oil would continue to flow freely to the markets of the world.

I might add that as we address who the recipients are of Kuwaiti oil, there is some food for thought. As I recall, Western Europe gets about 35 percent of the Persian Gulf oil; the United States some 9 percent, although that has been inceasing; and the balance is going to Japan. But, truly, we were keeping the Persian Gulf sealanes open for the benefit of our allies. That was an appropriate consideration. But the real question of the appropriateness of reflagging foreign ships was questioned at great length by this body, as it should have been. And there was a good deal of debate in this body. It is indeed unfortunate that the administration was not more sensitive to realities that there was indeed an alternative available and that alternative, Mr. President, was the fact that we had nearly 40 ships laid up built with U.S. construction subsidies, many of which were capable of serving in the Persian Gulf as truly U.S. ships built with U.S. taxpayers' money, to a large degree ready to be crewed by U.S. union crews who when asked what about the danger in serving in the Persian Gulf responded by saying that it was part of going to sea, so to speak, in the tradition of the American seamen to serve on ships in areas of danger, and the maritime unions in this country were prepared to man those ships.

Well, unfortunately, the administration really did not get its act together and as a consequence, we were not able to utilize the leverage we had, and the leverage is quite obvious to all of us, Mr. President. We had the extraordinary leverage of insuring for the benefit of the Kuwaitis the movement of their oil to market and what we could have asked them in turn was to put our ships to work.

Unfortunately, we responded to the Kuwaitis and have reflagged now 10 out of the 11 ships. But some of us saw fit, Mr. President, to go on to continue to press the issue, to urge our colleagues to not deviate to the point of getting the argument entirely over the War Powers Act but to bring it back to the focus of where we started, and that is to the reality that there is some validity in charity begins at home.

We have watched the Soviet role in the Persian Gulf where they did not see fit to reflag their ships. They simply offered their ships for charter to the Government of Kuwait. We saw Great Britain, with a tradition as a seafaring country if there ever was one, continuing the same policy.

Surely, we want to involve ourselves in assisting in the Persian Gulf. We will put some of our military capability in the Persian Gulf, but we will not reflag our vessels. You can charter our vessels. As a consequence we have watched our position deteriorate in one sense as far as participating in the commercial movement of that oil. Yet at the same time we have undertaken the obligation of providing an extraordinary amount of protection in the presence of the U.S. Navy with now some 30 to 40 vessels and some 15,000 personnel. Make no mistake about it, Mr. President, our military personnel are in the Persian Gulf today prepared to die, prepared to die, Mr. President, if necessary to keep oil flowing.

The significance is that we now had the first U.S. ship that is going to be hauling this oil. In this body, the Senate accepted by unanimous consent amendments urging the use of U.S. crew, flagged vessels, an alternative to the Kuwaitis' request of reflagging, and the merits of the debate that ensued.

I want to pay tribute today to a group, an agency of the Federal Government called the Maritime Administration, referred to as MarAd. They have been consistent in encouraging trying to get through the bureaucracy, trying to get through the perception that indeed is part of the American reality, to participate in the carriage of oil, and they have worked tirelessly, to encourage both the private sector, which has tankers available for charter and foreclose tankers such as the *Maryland*, which was leased to Kuwait within the last day. As a consequence of their persistence, we have seen that the conclusion of the lease has been done for consideration of $5 million for a 2-year period.

Mr. President, it is a right decision.

And we have further opportunities because MarAd is foreclosing on the *New York*, and that should be available in the next 45 days for consideration to any commerce for sale or lease.

There is the *Williamsburg* which is also laid up in a private firm, but the MarAd is interested in trying to lease that to Kuwait.

Mr. President, I would urge my colleagues to consider the merits of what is taking place. We are gradually beginning to penetrate and rightly so in the spirit of equity a role more than just the protection of oil in the Persian Gulf but an involvement of our own tankers.

We have had our flag for lease. We have been providing protection to ships that remain in the Persian Gulf. We have been in effect a party to a legal fiction in the reflagging issue, and chartering is an initial approach. It is a sound approach. It puts our maritime workers off the beach and on the ship where they belong.

I think we have an extraordinary opportunity now, and I would encourage our unions to use their contacts that we can press for more charters. We can press for more involvement.

We intend to be meeting next week with the Kuwaitis to explore the opportunity for more charters, and I think that this opportunity before us is one that will be with us for a short period of time.

As a consequence, Mr. President, I would again urge my colleagues to consider the merits of truly U.S. tankers in the movement of crude oil in the Persian Gulf and indeed the chartering of the first U.S. vessel, the *Maryland*, can lead us in the future relationships that involve our own best interest and gives the pride of our Navy the capability of protecting our own ships on the high seas where they certainly belong.

I yield the floor.

The **PRESIDING OFFICER**. The Senator from Michigan.

Mr. **RIEGLE**. Mr. President, I thank the Chair.

THE BORK NOMINATION

Mr. **RIEGLE**. Mr. President, I rise today to indicate my decision to vote against Judge Bork's nomination to the Supreme Court. In talking with my colleagues, I believe a growing bipartisan majority is reaching the same judgment and that Judge Bork will not be confirmed.

This is President Reagan's third nominee to the Supreme Court. Like my colleagues, I voted to confirm the first two, Sandra Day O'Connor and Antonin Scalia, both highly respected conservative jurists. It is significant that both O'Connor and Scalia were confirmed by the Senate without a single dissenting vote.

The Bork nomination, however, is profoundly different. It is highly controversial and has split the Senate down the middle and caused great division across the country.

For the first time in history, the American Bar Association judicial screening panel was divided in its endorsement vote, with several panel members finding him unqualified and voting that he not be seated.

This deep concern about Judge Bork stems from his long held and emphatically stated views on many key subjects, including civil rights, the right to privacy, economic rights, women's rights, executive branch power, economic concentration, the environment, and many others.

For example, Judge Bork does not believe that individuals have a constitutional right to privacy—even in their own homes. This view could lead to a tremendous expansion of government power into people's lives.

On civil rights, his views, stated over a lifetime, show a remarkable insensitivity to minority people. It is not surprising that these groups find the prospect of Judge Bork on the Supreme Court personally threatening. These deep anxieties are something Judge Bork has created himself—with strongly spoken and written words over many years, that suggest the clock be turned back to notions long since rejected by our citizenry and our legal system.

His stated ideas about changing long established views expressed by the Supreme Court have caused many noted individuals and national organizations to come forward to oppose his nomination. It is highly unusual to find such diverse groups as the YWCA, the Sierra Club, the National Council of Churches, and the National Council of

Senior Citizens joining many others in coming out in active opposition to a Supreme Court nominee.

This is a crucial vacancy on the Supreme Court and one of extraordinary importance to every citizen of our land. I believe this position should be filled by someone capable of having the confidence and support of a very broad cross-section of the American people. I think many prospective nominees were available who could have united the country rather than cause such intense division and anxiety. Former Senator Howard Baker is just one example that comes to mind.

It is essential that the deciding vote on a divided nine-person court be a person of extraordinary legal skill with a mind fully open to hearing and weighing the complex competing arguments presented to the court. These cases and decisions go to the very heart of what life will be like for our people, now and in the future.

The Supreme Court is unique in that the judge is also the jury. As in any jury trial, it is vital that the member of the jury not have a closed mind on the issue being presented, before the facts in the case are even heard.

After hearing Judge Bork's testimony before the Judiciary Committee and studying his legal writings over the years, it is clear that he has rigid views—and in some areas very extreme views—on many complex legal issues. I have serious doubts as to whether he can give a fair evaluation to a case if he has already made up his mind on the issue. If a judge comes to court with a fixed view—then the whole process of opposing sides presenting a case is rendered meaningless.

Another concern I have with Judge Bork deals with his central role in the "Saturday Night Massacre" when Richard Nixon fired Archibald Cox, the Special Prosecutor in the Watergate case in 1972. The firing of Cox—as later facts indicated—was for the purpose of continuing an obstruction of justice and to keep the truth from getting to the legal authorities and the American people.

Attorney General Elliot Richardson and William Ruckelshaus both resigned when ordered to fire Cox. Bork carried out the firing, which was a sad and shameful period of official law breaking and coverup. His role at that time raises serious questions about his fitness to serve on America's highest court.

This is a lifetime appointment. If we make a mistake in seating someone, we can't correct it. Having personally recommended nine individual Federal judges to lifetime appointments in Michigan, I consider this judicial approval responsibility to be among the most important duties I have.

It is our diversity that created our Constitution and our liberties. Those constitutional legal rights now preserve our diversity and give each of us our equal standing under the law.

This nominee falls far short in providing a sense of confidence that he understands and accepts these basic facts of American life and law.

I am hopeful the President will send us a replacement nominee who, like O'Connor and Scalia, can be confirmed with confidence—and with the broad support of the American people.

Mr. MURKOWSKI. Mr. President, I believe the majority leader is coming to the floor. I would yield the floor to my colleague from New York while awaiting the return of the majority leader.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RIEGLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGREEMENT SOUGHT ON IRAN EMBARGO BILL

Mr. HELMS. Mr. President, I advise the Senate that—with the cooperation of the distinguished majority leader and the distinguished chairman of the Foreign Relations Committee—we are now attempting to clear, and I'm confident we will clear, an agreement which would allow us to bring up on Tuesday, as a freestanding bill, the Dole amendment establishing an Iran import embargo—an amendment approved on the Defense authorization bill by a vote of 98 to 0.

It is the hope of Senator DOLE and this Senator that the agreement can and will be reached to take up this bill perhaps as the 9 a.m. vote scheduled for next Tuesday. Because we have already debated the measure on the Defense authorization bill, we do not anticipate scheduling any debate.

I also understand the House will take up very similar—perhaps identical—legislation next week, so it may be that we could get final congressional action on the measure, and have it on the President's desk, next week.

Again, that is the hope both of Senator DOLE and the Senator from North Carolina; and I want to express my appreciation to the distinguished majority leader, and the distinguished chairman of the Foreign Relations Committee, for their help.

ORDER TO PLACE S. 1748 ON THE CALENDAR—IRAN EMBARGO

Mr. MURKOWSKI. Mr. President, I send the enclosed bill to the desk on behalf of Senator DOLE and the majority leader, Senator BYRD, and ask unanimous consent to place it on the calendar. I believe it has been cleared by the majority leader.

Mr. BYRD. There is no objection on this side, Mr. President.

Mr. MURKOWSKI. It is my understanding further that no amendments are to be in order on the bill and that there is an agreed-upon time of 9 a.m. Tuesday on the vote cleared by the Republican side.

Mr. BYRD. Yes. We will make that request.

Has the Senator sent a bill to the desk?

Mr. MURKOWSKI. I ask that it be put on the calendar.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that at 9:15 a.m. on Tuesday this bill (S. 1748) be made the pending business before the Senate, that no amendments be in order, that no motions to commit or recommit be in order, that there be no time for debate thereon, and that the vote occur immediately.

And may I say, before the Chair puts the requests, this is the same identical matter that we voted on on the Defense Department authorization bill. It is the Dole-Byrd bill to ban all imports from Iran. And so that is the reason why the request is being made that there be no amendments and no debate. We have had the debate before. But there is a request to have that amendment put on the State Department bill.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at this time on the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the Dole-Byrd bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER TO PLACE S. 1750 ON THE CALENDAR

Mr. MURKOWSKI. Mr. President, I send the enclosed bill to the desk on behalf of Senator STEVENS and Senator PRYOR and ask that it be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

THE COLLAPSE OF MARXISM

Mr. MOYNIHAN. Mr. President, in the course of what is now more than a decade in the Senate, I have spoken from time to time about what seems to me an essential event of this age: That the correlation of forces, if I can use that Soviet term, between the Soviet Union and the Western democracies has moved decisively against the Soviet Union, if not indeed against the whole of the Marxist world.

It seems to me this was the enormous fact of the third quarter of the 20th century, which is to say the near complete collapse of Marxism as an ideological force in the world, and particularly in what Marxist terms would be called the metropolitan centers. Marxism is no longer believed in Rome, Paris, Berlin, London, or New York; or very likely in Moscow itself.

Now, one of the remaining problems of this historical period is that the ripples that have made their way out from the center are continuing, even though the activity in the center has stopped. This is the pattern seen when a stone is dropped in a pond: long after there are no more ripples from the epicenter, the ripples persist to the edge. It takes a long time for the word to reach La Paz or even Managua or Maputo.

No collapse has been more dramatic or more complete than this collapse of Marxist ideology. Economic doctrines have faded, political canons have been discarded. But here was an extraordinary world view with an incomparable hold on sectors of opinion in all the great metropolitan centers of the world—a world view that has suddenly vanished.

This was once a fighting faith. There were some who detested it, some who hailed it, some who even thought it to be irresistible. All that is now over.

Now the central question of our time is emerging: How do we deal with this collapse? The great diversion and great waste of this decade is that it has been given over to the alarms and incomprehensions of persons who were properly aroused by the Marxist threat when it was virulent, and indeed endemic—if not epidemic—in many parts of the world, but who have since failed to see its collapse.

One of the great ironies as this decade comes to an end is that the announcement of Marxism's collapse comes from Moscow. Even as we scurry about Southwest Africa and former regions of the Portugese empire and such like, looking for its manifestation as a triumphant world force, in Moscow they say, in effect: It did not work, did it.

I recently had the honor to lead a delegation of members of the Committee on Foreign Relations to Moscow. We were guests of the Supreme Soviet. They kept insisting we were the first such delegation to be so invited. Perhaps we were, and we were happy to be treated as such.

You could not but be surprised at the degree to which they not only allowed but insisted on what they termed the widening gap between the advanced capitalist countries and the Soviet Union.

If you recall, as the distinguished Presiding Officer does, it was as recently as 1961 that then General Secretary Khrushchev proclaimed that by 1970 the Soviet Union would surpass the United States in economic production. All that is passed.

Indeed, when they talk about advanced capitalist nations, they are not talking about France. Peter the Great figured out that France had the lead on them. They are talking about Taiwan, places that were using wooden plows and stoop labor when the Russians were doing much the same and are now producing world-class electronics, when, still, all the Russians can sell the world is lumber and furs and natural gas.

The big question that arises is how do we deal with this? There is a contemporary English writer who observed that if anybody knew what the 20th century was going to be like, they would never have entered it.

It seems to me we are at a point in history where, if we consult our hopes, we can seriously ask ourselves: is it possible to exit the 20th century? Can we leave it behind as the most hideous experience mankind has ever known?

It is certainly possible. And how we do it will turn on how we decided to treat the Soviet realization that they face a crisis of the regime; that if they do not change dramatically they will be a second-rate power in the 21st century.

There are two possibilities. We can pursue a strategy of letting them collapse. It might work. It might tempt them into a dangerous view that they must take one last throw of the dice, which could be a desperate military movement toward Europe and the rest of the world. They have that power, and they will continue to for the rest of this century. That is all they will have, but they will have it.

There is a second possibility, which is that we would enter into a development agreement with the Soviet Union in exchange for their renouncing that triumphalist Marxism, which has been their principal posture in the world for the last 70 years. For them to say: No; we do not speak as the inheriters of the future. What we had we had hoped to do did not work out.

Let the Soviets moderate. Let their own decide what it means in some form or another to prevail in their own region, in their own country. But in the world: No; not ever. We might our part agree that so long as they cease to threaten the rest of the world, they need not think of themselves as encircled and threatened by us.

This is something wholly different and vastly more important than the idea of détente. Détente envisioned world hegemony shared by two superpowers. That possibility no longer exists for the Soviet Union. In that respect the West won the war. It is now for us to win the peace that follows. It will take Presidents with the strength of Truman and statemen with the vision of Acheson and Marshall, but above all it will take the realization that the moment has come.

You might term this the grand renunciation as we leave the 20th century. This is going to be a task of extraordinary importance for our next generation of leaders. One of those leaders, who has emerged so forthrightly on the floor of this Senate, and who is held in respect on both sides of the aisle, is, of course, our good friend the Senator from Tennessee, Senator Al Gore. Senator Gore last night delivered a remarkable address on foreign policy at Georgetown University.

Mr. President, I would call attention to several passages. One would expect, as we have learned to on this floor, a very clear discussion of nuclear agreements; of the nature of deterrence in the age we seem to be entering; of the need for mobile missiles which he has so eloquently advocated on this floor. But he goes beyond this. In a passage I particularly like he says:

> General Secretary Gorbachev's efforts to restructure the Soviet economy and reinvigorate the arms control process have inspired hope that the deeply ingrained pattern of fear and hostility between us might be broken.
>
> We do not know whether the Soviets are serious about moderating the totalitarian character of their society and the coercive character of their foreign relations. But we must find out.
>
> If the Soviet Union is truly ready for a new era, we must be prepared to join them.

Mr. President, that is the voice of the next great debate in American foreign policy. Not the voice of the fears of a generation or two generations passed. But of the realities of the present.

Indeed, Mr. Gore goes on to say that together we and the Soviets can create a world in which competition continues, but in which we can turn our cooperative efforts to the human agenda that has been neglected so long.

This is not a man who has any illusions about the Soviet Union. It is the

Soviets who have proclaimed to the world that their system does not work. It is we who have to construct a response that can make it work in terms that are acceptable to us.

In conclusion may I read this passage.

> Last week, during the visit of a prominent American leader to Moscow, the Soviets challenged us to debate our version of their sins and their version of ours. In America we know the nature of our own faults; they press always on the conscience of this country, and generate restlessness in the depths of our political life. That cannot be said of life in the Soviet Union.
>
> As President, I will accept that challenge to debate, and take it one step further. I will propose that the leader of the Soviet Union and the President of the United States personally debate their visions of our world's future.

Mr. President, he was referring, of course, to the visit of our beloved Governor of New York, Mario Cuomo, to Moscow just recently, in which this issue came up. What a forthright way to deal with the matter.

I cannot too much commend Mr. Gore's address to my fellow Senators and the interested persons across the Nation. He addesses the point: how will we respond to the Soviet acknowledgment that either system has failed?

We do not have to insist that they use the word "fail." What more can they say than what they have said? In that context, I would call attention to a very important observation by Mr. Irving Kristol, an old and dear and valued friend of mine and of many Members of this body. In a meeting with the editors of the Washington Times, Mr. Kristol suggested that with respect to Soviet relations in the Western Hemisphere, particularly with respect to Nicaragua, what the United States should do is to demand that the Nicaraguan Government Finlandize itself.

I quote the story by Mr. Loren Weiner:

> Mr. Kristol, whose remarks were made at a luncheon with editors and reporters of the Washington Times, said the if Nicaragua does not agree to become a passive Soviet ally—as Finland did after World War II—the Reagan administration should intervene militarily.

Observe, Mr. President, Mr. Kristol, who has a half-century in the politics in our country, who won great distinction after the war as an anti-Communist editor, an intellectual editor and reporter, makes the statement that if Nicaragua will do what Finland did, fine; if not, not. But if so, fine.

Mr. President, with that, I would like to ask unanimous consent that the address of Mr. Gore be printed in the Record at this point.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Al Gore, Georgetown University, October 1, 1987

In a little over a decade, we will enter the 21st Century. The kind of world we will live in will depend on the choices you and I make in the coming years and on the quality of American leadership.

Today, a new Soviet leader has emerged upon the scene who has seized the initiative on the issue of arms control and captured the imagination of many in the Western world. In Europe, a new generation is coming of age for whom the liberation of Paris and the creation of the Marshall Plan are as distant a memory as the assassination of the Archduke Ferdinand. On every continent and across the developing world, a revolution of freedom and hope is unfolding before our eyes.

Our country needs new leadership and a new direction to guide us safely and successfully to the next century.

The choices we make in the next few years will determine whether America will lead a global economic revolution of fall behind—whether we will support the struggle for democracy in emerging nations or watch it wither—and whether our country will take advantage of the new opportunities for controlling the arms race or escalate the nuclear competition to a new, more dangerous level.

I am concerned about the future of my country. And I am concerned about the future of my party. In matters of foreign policy and national security—once our strength and soul—I fear that our national Democratic party risks losing the faith and trust of the mainstream voters who have always supplied our mandate.

As a Democrat, I believe that we must tell the nation how we see America's role in the world—and show the American people that our first interest as a party is to stand up for America's interests as a nation.

I believe that we must promote American ideals, not doubt American motives. I know that if we do not defend freedom, no one else will. I believe that as a nation founded to throw off tyranny, we must renounce tryanny of the left as well as the right, in Poland and Cuba, South Africa and Chile.

Some doubt our country's power, and shy away from moments when it must be exercised. I believe we must be prepared to use American diplomatic, economic, political, and even military power when vital American interests are threatened.

Some suggest that our differences with the Soviet Union stem only from lack of understanding. But we already understand many of the essential truths about each other. And while greater understanding is surely needed, we must be prepared to boldly assert the distinctively American values—freedom, justice, and self-determination—which the Soviet system rejects.

The world looks to the United States as a model, and needs us as a leader. I believe we must live up to our special destiny and provide that leadership.

This is the challenge for our nation and for all who seek to shape its future: We will not lead the world by talking about strength. We can only lead the world by being strong.

The Reagan Administration has never quite understood the meaning of toughness. For most of a decade now it has mistaken words for deeds, postures for policies. It has stumbled into many failures, and stumbled even into its few successes. It has confused the American people about the requirements for their safety in a nuclear world, first frightening them and then lulling them into a false technological promise of perfect security. It has played havoc with our allies' confidence in America. It has failed to address the social and economic agony of the Third World.

About the failures of the Reagan Administration, we Democrats are agreed. But we will regain the Presidency not by pointing to the failures of the current Administration, but by offering a positive alternative. And on the nature of that alternative we have honest differences.

These differences are not differences between liberals and conservatives. We differ about how we see the world, the nature of the challenges to America's leadership, the path to a more peaceful and prosperous future, and the ways to defend American security.

The Presidency is not just about promises and programs. It is also about experience and realism, consistency and candor.

You can't say you believe in a strong defense, and then pledge indiscriminate cuts in the defense budget.

You can't say you care about our interests in the Middle East—preserving Israel's security, fighting terrorism, reducing Soviet adventurism, and keeping the sea lanes free—if you turn your back on the Persian Gulf where our vital interests are on the line.

You can't say you'll be a tough negotiator with the Soviets, if you are willing to concede weapons system after weapons system before you ever reach the bargaining table.

You can't say you support a reliable nuclear deterrent, then turn around and propose a ban on flight tests necessary to make sure our weapons work.

You can't say you will stand up for America's global security, then threaten to abandon essential security outposts such as South Korea.

If you believe in democracy, you trust the good sense and wisdom of the American people more than that.

The American people support a strong defense and arms control with equal enthusiasm. And this is not a contradiction. It is the beginning of wisdom. The American people reject those who talk passionately of a strong defense without talking just as ardently about arms control, and those who talk passionately about arms control without talking just as ardently of a strong defense. The American people want to be and deserve to be well defended—and they feel equally strongly that not a single dollar be wasted. Support for a strong defense is not political pandering. It is political responsibility.

The politics of retreat, complacency and doubt may work for others, but it will not do for me. And it will not do for our country. I am ready to lead the Democratic Party forward with a renewed commitment to its fundamental principles—honesty, respect for the rule of law, freedom, strength, and a sense of national purpose.

I am proud of my party's traditions. I am proud of my party's role in establishing America's place in the 20th Century. But as Democrats, we must offer more than an inspiring past. We must once again become the party Americans can trust with their future.

In the weeks and months to come, I will say more about our role as a leader among democratic nations—in promoting economic growth and rising living standards around the globe, and in securing a strong collective national defense for ourselves and our allies.

This evening I shall discuss a Democratic foreign policy for America's future.

While every nation looks to its own needs first in a fiercely competitive world, we in America have always taken an especially broad view of what our national interests are.

Forty years ago, instead of turning our backs on our enemies and friends, we joined to build a new world order, more free and more prosperous than any that had gone before.

We helped establish the United Nations to work toward permanent and universal security for all nations, and NATO to preserve the freedom and independence of Western Europe.

We joined in historic agreement to build a world economy based on the free flow of capital and goods, and we helped revive the economy of a continent through the Marshall Plan. In the dust of postwar Germany and Japan, we managed to plant the seeds not only of two world economic powers, but of two vigorous democracies and two vital allies.

In those historic postwar years, we chose, in the words of General Omar Bradley, "to live bravely by convictions from which the free peoples of this world can take heart." We realized, he added, that "the United States has matured to world leadership; it is time we steered by the stars, not by the lights of each passing ship."

Now there are new calls for us to turn inward—to blame our trading partners and criticize our allies—to weaken our ties with the system we created, and to go our own way, alone.

I hear those voices in my party, and I reject them.

This country must not shrink from either competition for our products or our principles. Rather, the world depends upon us to meet new challenges with bold new leadership.

The Democratic Party must provide that leadership. The current Administration has shown what happens when American policy falls to those who are frightened of change—those who long for the past and ignore the future—those who never learned or claim they cannot recall the lessons of history.

It is not enough to make the best of things as they are. Our nation must inspire others to join us in making the world what it can become.

Today the United States looks out upon a perilous world. We have cause for hope but no room for illusions.

For the first time in at least a generation, the Soviet Union has a leader who combines youthful energy and innovation. The free world urgently needs a leader who can match him, test him, bargain with him, and make the most of this possibly historic opportunity for a safer, saner world.

We cannot afford to take on this new leader with outdated formulas. For too long, leaders in both of our political parties have naively redefined the Soviet threat to suit their own ideological needs. There is far too much at stake to put rhetoric before reality and politics before the national interest.

To match the sweep of Gorbachev's proposals, we and other free nations will have to think hard about what we want from the Soviet Union, and what we are prepared to do to get it. We need a comprehensive approach based not only on arms control and defense, but on the underlying political relationship of East and West.

We must make it impossible for either the Soviet Union or the United States to gain any advantage from a nuclear first strike. The arms race traces back to one instinct—the fear each side shares that a nuclear first strike would leave it defenseless and unable to respond. The only way to stop the arms race is to disarm that fear itself by dealing with the kernel of truth that feeds it.

Dramatic cuts in nuclear arsenals are necessary but not sufficient. The goal has to be not just fewer weapons, but a mutual sense of stability.

Five years ago, I proposed a new way to move the world beyond uneasy deterrence to genuine stability—by shifting both sides' land forces toward single-warhead, mobile missiles. Now that the Soviets have also come to share this point of view, I believe deep reductions can be achieved based on the principle of stability.

Some think they have found a shortcut to stability—a flight test ban on ballistic missiles, designed to prevent a first-strike by preventing tests to see whether our weapons work.

I will not undermine the security of America's nuclear deterrent to meet this latest litmus test. We cannot let our enthusiasm for arms control overwhelm our better judgment. For us to succeed in cutting our strategic arsenals by 50% or more, we will have to be able to count more than ever on the missiles that remain.

For even after major reductions in our strategic arsenals, even after such an epochal achievement in arms control, we will still find ourselves in a world of deterrence. The life of every man, woman, and child in America depends on how well and how wisely we manage deterrence. I will not allow slogans and political fashions to distract me, or my party, from the sober business of maintaining American security.

All of us hope for a future in which peace no longer depends upon a balance of terror. It may one day be possible to build that better world—but not until we deal with the fears and the dangers of the world as it now is.

Real stability will require the Soviet Union to destroy a large portion of its heavy ICBM force. It will also require a transition by both sides toward more survivable retaliatory forces such as single-warhead mobile ICBMs. That is a far safer, saner, and cheaper way to reduce the threat of a nuclear first strike than a defensive arms race in space.

For now the shadow of SDI hangs over any agreement on strategic weapons. The President imagines that his Star Wars scheme can make nuclear weapons obsolete. The Soviets believe it will make an American first strike conceivable.

By insisting upon early deployment of SDI, the Administration fails to practice what our country has always preached: that security exists only where it is mutually felt and mutually sustained.

The Administration may have squandered its historic chance to obtain a major strategic reductions agreement. I hope not. They still have a little time, and I will do everything in my power to help.

But if this President fails to strike a bargain, the next President must seek to do so—by resolving the dispute over defensive research, confirming the narrow interpretation of the ABM Treaty, and pressing the Soviets for agreement on deep reductions and more stable strategic forces.

We must also realize that if efforts to prevent nuclear war inadvertently increase the risk of conventional war, we will have shifted our problems to other grounds. An INF treaty will still leave both sides with vast arsenals of shorter-range nuclear weapons in Europe—the weapons more likely than any others to be first used in conflict.

We and our allies recognize these weapons' dangers, but they are in Europe for a reason: The Alliance has found no other sure way to offset the overwhelming Soviet advantage in conventional armaments. That is why before we can negotiate major new constraints on tactical nuclear weapons, we need to address NATO concerns about the Soviets' underlying advantage in conventional forces.

Some fear that our only choice is a buildup of conventional forces. Others would radically change NATO strategy. They may be right. But before we spend billions more on conventional forces, we need to ask our allies whether those additional billions should come from us or from them. Before we make fundamental changes in NATO strategy, we should ask the Soviets why they need a three-to-one advantage in heavy armor. The answer is, they don't need it, and they should get rid of it.

Moreover, if our goal is to prevent nuclear war between the superpowers, we cannot succeed through arms control alone. We have to reduce tensions that could lead to war in flashpoints around the world.

We have a right to insist, for example, that the Soviets pull their troops and their puppet government out of Afghanistan, and stop underwriting international terrorism.

Even as we seek to increase cooperation, we must recognize that this cooperation must be based on American strength and American willingness to protect our vital interests.

Some in my party seem to question those interests and seem reluctant to defend them.

Some seem to believe we can have American diplomacy without ever having to use American power. I reject that naive notion.

Some seem to believe we can have a foreign policy that takes no risks. I know that isn't so.

Some seem to believe that international institutions can solve all our problems for us. And they are part of the solution, but sometimes we must act alone.

Some say we should not make a move until our allies all agree. I say that sometimes America must take a stand and lead our allies to join our cause.

For example, if we are not willing to stand up for freedom of the seas in the Persian Gulf, then where will we? If we can be frightened away by a medieval despot, then why should anyone in the world rely upon us?

For years, our nation has debated when and whether to use American military force. That debate is healthy, but there comes a time when leaders must show the courage to act.

The real threat of freedom in the world is not that America will abuse its great power, but that we might shrink from using it when it is essential.

In the end, the threat to peace involves more than the weapons of war. Even if we were to cut the number of weapons in half, and to make great progress in reducing regional tensions, we would still be left with two political systems in competition. And I believe that U.S.-Soviet relations will never truly turn the corner until we begin to take up these basic differences.

We differ with the Soviet Union about the destiny of humankind, the nature of freedom, the meaning of power, the limits of the state, and the concept of peace.

But General Secretary Gorvachev's efforts to restructure the Soviet economy and reinvigorate the arms control process have inspired hope that the deeply engrained pattern of fear and hostility between us might be broken.

We do not know whether the Soviets are serious about moderating the totalitarian character of their society and the coercive character of their foreign relations. But we must find out.

If the Soviet Union is truly ready for a new era, we must be prepared to join them. And we are. The American people would much prefer a peaceful competition for the friendship of other nations to a tense military rivalry.

It is at once ironic and appalling that a Soviet leader could be capturing the imagination of Europe—ironic because the Gulag still stands, and appalling because that is America's role. If the Soviet Union or any other nation feels it can best the United States in the battle of ideas, they are sorely mistaken.

Together, we and the Soviets can create a world in which competition continues, but in which we can turn our cooperative efforts to the human agenda that has been neglected for too long. Surely the time has come for both superpowers to face this basic truth. The impoverished people of the world do not need an East-West military struggle imposed upon them, draining their treasure and bleeding their fragile governments.

Let the two superpowers instead join together through the United Nations with the world community and turn our energies and resources towards peaceful purposes. Together, let us combat the diseases and dehydration that ends the lives of 40,000 children every day, clean up the oceans, save the tropical rainforests, and preserve the ozone layer that shields our planet.

Together, let us stop the spread of AIDS, comfort its victims, and find a cure. Together, let us ensure that the nuclear genie never escapes again, and that no new nation and no terrorist group acquires the deadly power of nuclear weaponry. Together, let us explore the mysteries of outer space and offer the nations of the world a living symbol of peaceful cooperation.

I am prepared to believe that Gorbachev may intend to move toward a less one-sided relationship between Soviet citizens and their government. But it is too soon to know whether he seeks a fundamental change in the nature of the Soviet state or merely a more efficient totalitarian society.

Last week, during the visit of a prominent American leader to Moscow, the Soviets challenged us to debate our version of their sins and their version of ours. In America, we know the nature of our own faults; they press always on the conscience of this country, and generate restlessness in the depths of our political life. That cannot be said for life in the Soviet Union.

As President, I will accept that challenge to debate, and take it one step further. I will propose that the leader of the Soviet Union and the President of the United States personally debate their visions of our world's future.

I will say to him: Come, Mr. General Secretary, and present your country's vision of life, your country's vision of politics, your country's vision of growth, your country's vision of human happiness and human creativity; and I will present my country's, and mine.

I will tell him that the promise of our revolution to overcome oppression and tyranny was not meant for ourselves alone, but ultimately for every citizen on earth. In the words of Thomas Jefferson, author of our Declaration of Independence and a founder of the Democratic Party, "The flames kindled on the fourth of July, 1776, have spread over too much of the globe to be extinguished by the feeble engines of despotism; on the contrary, they will consume these engines and all who work them."

Let the whole world see our differences and let the whole world judge. And then let us see where we can join, despite our differences, in making the world a less dangerous place, and more hospitable to prosperity and progress.

Of course, one of our best weapons in the battle of ideas will be the success of our own economic system. In order to ensure that success, it is time for us to join with our allies in a new effort to improve economic cooperation through better coordination of fiscal and monetary policies, to restart the engines of economic growth, to increase world trade, to attack the worst pockets of regional poverty in Latin America and Africa.

As developing nations turn to embrace our values, it will not do to let their people hunger for economic opportunity or political freedom. All around the world, men and women are still waging the same political struggle we fought two centuries ago on our own soil, between self-government by the many and imposed government by the few. From Argentina to the Philippines, people are throwing off tyranny for a democratic experiment.

As a revolutionary nation and a champion of liberty, we have a special duty to ally ourselves with the struggle for freedom and the promise of progress.

We cannot lead that revolution by standing timidly behind the status quo. Instead of cultivating this fertile ground of political progress and economic growth, the current Administration has focused only on how any change might tip the balance in our grand struggle with the Soviet Union.

In place of a policy of development and peace for Latin America, we have had a seven-year obsession with the Government of one small country. Because of an expeditionary force of Cubans in Angola, we serve the convenience of a racist government in South Africa. Instead of rushing to democracy's side in the Philippines, we waited almost too long for our help to matter.

But democracy in the developing world will not flourish long unless we do better. If fragile new democracies offer their people nothing more than higher food prices and lower incomes, fewer jobs and poorer health care, more austerity and no sign of prosperity, soon the democratic revolution will burn out.

Even as the United States puts its own economic house in order, we must enlist other industrial powers to join us in striking an historic compact with the developing nations on debt, economic reform, and sound environmental practices.

If we believe in democratic change, we must support the people and the institutions that can make it happen—trade unions, political parties, and the press—not prop up military governments and all-powerful elites.

If we believe in democracy, we must practice preemptive diplomacy. We cannot wait until a revolutionary crisis is upon us, and then scramble at the eleventh hour to support the democratic center.

Our nation must strive to get ahead of progress and stand at the forefront of change. The Arias Plan is a dramatic opportunity to breathe new life and hope into Central America. We shall see if the Sandinistas will help the plan take shape, and whether the left wing in El Salvador will respond to President Duarte's overtures. But in both cases, the U.S. should try to make peace work, not count on it to fail.

We are a young nation, still struggling to realize the full promise of our 200-year-old political revolution, still fighting not only to preserve its blessings for ourselves but to share its freedoms with others. As a democracy, we have a special mission—to stand for change, not reaction, and to shape the future, not live in the past.

That is what we believe as a people. That is what Democrats have stood for as a party.

I have spoken of realism tonight, not because I despair of hope, but because I believe in hope. We are a people who honor our dreams, who act on our visions. But we are also a people who scorn deception, who detest illusions. We honor our dreams by being practical about them: that is the American genius. We know that we will not build a better world except on the basis of the world we have; that there is a danger in not trying, and in trying too much; that we will achieve our goals only slowly, steadily, with a mixture of vigor and vigilance uniquely our own.

In our hunger for what is possible, we must never lose sight of what is probable. The dangers are too great, the stakes are too high, for impatience or rashness. In our foreign policy, in our defense policy, we must do two things at once: we must follow the dream and protect the dreamer. To fail at either would be to disappoint our destiny. This we shall not do.

Mr. MOYNIHAN. Finally, Mr. President, and I do not wish to detain the Senate any longer at this late hour, there is a story in today's Washington Times by Jeremiah O'Leary, who we all know to be a journalist of distinction and of long and unusually creditable service here in Washington with the Washington Star, and now with the Washington Times. The story is headed, "Reagan 'Absolutely' Believes Disinformation Misleads Hill."

The lead paragraph is that,

> President Reagan "absolutely" believes Communist disinformation techniques have influenced Congress and the press, White House press spokesman Marvin Fitzwater said yesterday.

Mr. O'Leary also makes reference to a statement the President gave in an interview with Mr. Arnaud de Borchgarve, the distinguished editor of the Washington Times. The President said,

> Remember, there was once a Congress in which they had a committee that would investigate even one of their own Members if it was believed that that person had Communist involvement or Communist leanings.
>
> Well, they've done away with those committees, he continued. That shows the success of what the Soviets were able to do in this country with making it unfashionable to be anti-Communist.

He felt these were matters to be dealt with and continued to speculate on ways in which that might be done.

Mr. President, I think it is important that Mr. Reagan feels there are Communist influences here in the Congress and that we would know more about them if the Communists had not been successful in abolishing the Un-American Activities Committees.

I do not know what we will do about this, Mr. President. It is an alarming situation. The press apparently also is involved. It may be that Members on one side of the aisle or the other will find some way to respond to what he calls the phenomenon of disinformation.

Maybe they can set up a subcommittee of the National Security Council staff to address the difficulty.

In the meantime, Mr. President, I think the CONGRESSIONAL RECORD ought to contain the information that the President of the United States believes Soviet disinformation is having a powerful influence; perhaps radiating signals into this very Chamber and affecting the way we perceive the world and respond to its ever-present dangers.

Mr. President, I ask unanimous consent that the Washington Times article by Mr. O'Leary be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAGAN "ABSOLUTELY" BELIEVES DISINFORMATION MISLEADS HILL

(By Jeremiah O'Leary)

President Reagan "absolutely" believes Communist disinformation techniques have influenced Congress and the press, White House press spokesman Marlin Fizwater said yesterday.

Mr. Fitzwater was responding to a series of questions at the White House by reporters following up on an interview with President Reagan by Washington Times Editor-in-Chief Arnaud de Borchgrave that was published in the paper Wednesday.

After commenting that the mere mention of Soviet targeting of parliamentary bodies triggers accusations of McCarthyism, Mr. de Borchgrave had asked Mr. Reagan, "What is to be done when two dozen pro-Marxists with real political clout can in our Congress influence great issues of defense, arms control and international security?

"Well, Arnaud, that is a problem that we have to face," the president responded.

"Remember, there was once a Congress in which they had a committee that would investigate even one of their own members if it was believed that that person had communist involvement or communist leanings," Mr. Reagan said.

"Well, they've done away with those committees," he continued. "That shows the success of what the Soviets were able to do in this country with making it unfashionable to be anti-Communist.

"So you have to be careful in opposing them to not trigger that reaction on the part of your own people that you're depending on to support you. And it's no fun, but it is true—there is a disinformation campaign, we know, worldwide, and that disinformation campaign is very sophisticated and is very successful, including with a great many in the media and the press in America."

"And on the Hill, too?" Mr. de Borchgrave asked. "And on the Hill," the president replied.

"He was commenting on the phenomenon of disinformation campaigns and information that's untrue that becomes prominent in one way or another in this country," Mr. Fitzwater explained. "He makes no specific charges against anybody but simply points out the phenomenon that this is true."

When a reporter asked if President Reagan agreed with Mr. de Borchgrave that there are pro-Soviet agents of influence in Congress and that Congress ought to reinstitute the committees to investigate such matters, Mr. Fizwater said, "He's agreeing with de Borchgrave in the sense of the Brezhnev Doctrine.

"He's not calling for any new organization. He's simply pointing out the historic development of communist influence in America and some of the manifestations of it," Mr. Fitzwater said.

Asked directly if the president believes there is communist influence in Congress and the media, Mr. Fitzwater responded:

"Absolutely! He believes that the communists have influence through various disinformation techniques and plans and programs, and that has influence on the Congress, on the public, on the press, on everybody.

"He's not saying that the press or Congress are agents for it," he added. "He's saying that they are subject to this influence, and it is a part of life we have to deal with.

"I don't think the press corps needs to feel its reputation has been blackened by this," Mr. Fitzwater added.

The president's spokesman refused to release a transcript of the interview, which was conducted Monday afternoon, saying, "No, it was all published in the paper."

Mr. MOYNIHAN. Mr. President, I observe no other Senators seeking recognition and, accordingly, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRANSTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

UNEMPLOYMENT DIPS BELOW 6 PERCENT

Mr. DOLE. Mr. President, this morning the Labor Department announced that the unemployment rate dipped below the 6 percent level for the first time this decade.

In September alone, 132,000 new jobs were created, more than 40 percent in the manufacturing sector. The largest of these gains were in the steel and machinery industries—industries critical to a growing economy.

Mr. President, the good news on the employment front comes on top of reports that the economy has entered the 59th straight month of expansion—the longest sustained period of economic growth since World War II.

Somebody's been doing something right. I happen to believe that President Reagan, and the policies he set in motion starting in 1981, deserve a lot of the credit. There's still work to be done, still parts of the country that have not caught the wave of prosperity.

But the momentum is in the right direction. And the 132,000 Americans who found work last year, and those hundreds of thousands who have found work in past months, are living testament to the vitality and strength of the U.S. economy.

BICENTENNIAL MINUTE

OCTOBER 3, 1922 (FOR OCTOBER 2): FIRST WOMAN SENATOR APPOINTED

Mr. DOLE. Mr. President, 65 year years ago tomorrow, October 3, 1922, witnessed an important "first" in the Senate's history. On that day, Rebecca Latimer Felton of Georgia became the first woman appointed to the U.S. Senate. When she was sworn in 7 weeks later, Mrs. Felton claimed three Senate "firsts." The first woman Senator, she was also entitled to the record for the shortest Senate service. One day after she took her oath, her Senate career ended. This occurred with the arrival of Walter George, who had been elected to fill the vacancy to which she had been temporarily appointed. Mrs. Felton also set the record for being the oldest person ever sworn into the Senate for the first time—she was 87 years old.

Rebecca Latimer was born in Georgia in 1835, during Andrew Jackson's second administration. She graduated with honors from Madison Female College in 1852, and 15 months later married the commencement speaker, William Felton, a Methodist minister and physician. Both husband and wife shared a strong commitment to women's rights.

The Feltons lost their sons, their farm, and their fortune during the Civil War. In 1874, Dr. Felton, running as an Independent, was elected to the House of Representatives and the couple moved to Washington, where Mrs. Felton served as her husband's secretary and wrote a weekly column for her hometown newspaper. When Dr. Felton was defeated in 1880, they returned to Georgia and began their own newspaper to push the reform measures they held dear. When William Felton died in 1909, Rebecca traveled the reformer's route alone.

As Rebecca Felton, white haired and bespectacled, entered the Senate Chamber on November 21 to take her oath, she found it overflowing with cheering women. One year after ratification of the 19th amendment guaranteeing all women the right to vote, the Nation has its first woman Senator.

TRIBUTE TO HOWARD BLAUSTEIN

Mr. D'AMATO. Mr. President, I rise today to pay tribute to a good friend and strong supporter of mine, Howard Blaustein. Although Howard was a resident of New Jersey, he had a deep and abiding concern for New York State and its people. He spent most of his formative years in Utica, NY, and attended Syracuse University.

Howard's professional life centered around New York. He was the creator of the deferred compensation program in New York State and an active participant in Ralph Lauren's Polo Enterprise, a world famous New York based organization. Howard was also an accomplished artist who had many private shows and donated many works of art to New York museums, including those located in Buffalo and the Fine Arts Museum of Long Island.

Howard Blaustein died on September 18, 1987, at the young age of 57. He was a unique, likable, and multitalented individual who will be dearly missed not only by his family, but by all of those who had the opportunity to know him and to benefit by knowing him.

I ask unanimous consent that the very touching and pointed words delivered by his rabbi, Charles A. Kroloff of Temple Emanu-El of Westfield, NJ, be included in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

EULOGY FOR HOWARD BLAUSTEIN

(Delivered by Rabbi Charles A. Kroloff of Temple Emanu-El, Westfield, NJ, Sept. 20, 1987)

We gather today in a community of sorrow.

From near and far, persons acquainted with one another and some strangers to each other have come here today. Drawn together by one common bond. We loved Howard Blaustein.

In Biblical tradition, when King David died, they proclaimed: "Know ye now that a prince and a great man has fallen in Israel."

For each of us, Howard was a prince and a great man. Each of our lives has been profoundly enriched by this extraordinary individual.

What was it about Howard that drew us to him? * * * In such numbers, with such devotion?

Each of us here would probably respond to this question just a little differently. Herein lies the secret of the magnet which drew us to him.

He was so diverse: his personality was so rich, his abilities so abundant, his character so compelling.

He swept us up into his orbit of life and what a stunning experience it was to circle the world with him.

It was a world of sensitivity—one of the most sensitive I have ever known—his paintings reflected his innate grasp of form, color, style, and design.

He was a passionate lover of beauty and he shared that passion with each of us. Where he discovered beauty, he would rejoice in it. Where he did not find it, he endeavored to create it.

For Howard, the Polo world was more than a business, it was an opportunity to embrace beauty and style.

He was a superb businessman—it was a pleasure to watch his active mind explore new opportunities in which he combined his interests in commerce, finance, fashion and—most of all people.

Howard's orbit encompassed people: We are here today in such numbers and with such feeling because Howard was a man of loyalty, integrity, warmth.

His success never interfered with his human relations.

He knew he had been blessed with more than most. And he took that success as a mandate from God to share. And how he shared: Assisting countless persons in business, aiding community causes, bringing kind words to all about him. Others might criticize, but Howard would understand. Others would be depressed. Howard brought hope.

His orbit encompassed the Jewish people: Last year, he and Janelle stood on our pulpit at Temple Emanu-El for the naming of Miguel, Sandra, and Jesse.

Such pride in heritage, such commitment to serve.

We would have wished to honor him by holding this funeral at our Temple, but we could not because of renovations now underway which he generously supported.

Through Rabbi Gluck, our former Assistant Rabbi, he supported the Leo Baeck School in Haifa.

Through his generosity, he strengthened Israel and the Jewish communities of Chicago and Central New Jersey.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:11 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate.

H.R. 2530. An act to provide for the establishment of the Mississippi National River and Recreational Area, and for other purposes; and

H.J. Res. 199. Joint resolution designating April 1988 as "Actors' Fund of America Appreciation Month."

MEASURES REFERRED

The following bill and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2530. An act to provide for the establishment of the Mississippi National River and Recreational Area, and for other purposes; to the Committee on Energy and Natural Resources; and

H. J. Res. 199. Joint resolution designating April 1988 as "Actors' Fund of America Appreciation Month"; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

The Secretary of the Senate reported that the following bill, which had been examined and found truly enrolled was signed today, October 2, 1987, by the Acting President pro tempore (Mr. FORD):

S. 1691. An act to provide interim extensions of collections of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SHELBY (for himself and Mr. HEFLIN):

S. 1744. A bill to amend title XIX of the Social Security Act to require plans for medical assistance under such title to disregard regular cost-of-living increases in certain benefits if the increase would have the effect of disqualifying individuals already eligible for such assistance; to the Committee on Finance.

By Mr. DODD:

S. 1745. A bill for the relief of Jose Maria Vas; to the Committee on the Judiciary.

By Mr. BOSCHWITZ (for himself, Mr. LEAHY, Mr. KASTEN, Mr. GRASSLEY, Mr. DURENBERGER and Mr. PROXMIRE):

S. 1746. A bill to effect any reduction in net expenditures for milk price support activities required by the Balanced Budget and Emergency Control Act of 1985; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. MOYNIHAN, Mr. CHAFEE and Mr. WALLOP):

S. 1747. A bill to amend the Internal Revenue Code of 1986 to revise the export financing exception to the separate application of the foreign tax credit limitation to financial services income; to the Committee on Finance.

By Mr. MURKOWSKI (for Mr. DOLE (for himself and Mr. BYRD)):

S. 1748. A bill to prohibit the import into the United States of all products of Iran placed on the calendar.

By Mr. MOYNIHAN:

S. 1749. A bill to authorize the Smithsonian Institution to provide for additional facilities for the Cooper-Hewitt Museum, and for other purposes; to the Committee on Rules and Administration.

By Mr. MURKOWSKI (for Mr. Stevens (for himself and Mr. Pryor)):

S. 1750. A bill to amend title 5, United States Code, to liberalize certain provisions authorizing reimbursement for expenses of sale and purchase of a residence upon the transfer of a Federal Employee, and to provide for the payment of certain travel and transportation expenses of civil service career appointees; placed on the calendar.

By Mr. LAUTENBERG (for himself and Mr. Bradley):

S. 1751. A bill to require vessels to manifest the transport of municipal or other vessels nonhazardous commercial wastes transported offshore to ensure that these wastes are not illegally disposed of at sea; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 1752. A bill to establish a Commission to study effects of deregulation of airline industry; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. Breaux, Mr. Symms, Mr. Chiles, Mr. Bumpers, Mr. Ford, Mr. Sanford, Mr. Nickles, Mr. Quayle, Mr. Kerry, Mr. Wirth, Mr. Domenici, Mr. Matsunaga and Mr. Cochran):

S. Con. Res. 81. Concurrent resolution recognizing the accomplishments of the Federal Aid in Wildlife Restoration Act in honor of its 50th anniversary; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SHELBY (for himself and Mr. Heflin):

S. 1744. A bill to amend title XIX of the Social Security Act to require plans for medical assistance under such title to disregard regular cost-of-living increases in certain benefits if the increase would have the effect of disqualifying individuals already eligible for such assistance, referred to the Committee on Finance.

AMENDMENT TO THE SOCIAL SECURITY ACT

● Mr. SHELBY. Mr. President, today I am pleased to be joined by my distinguished colleague Senator Heflin in introducing a bill that would disregard cost-of-living adjustments for Medicaid-eligible individuals residing in long-term care facilities.

Each year a number of Medicaid recipients in nursing homes become ineligible for Medicaid assistance because of Federal cost-of-living increases that raise these income levels above allowed limits. These cost-of-living adjustments can adversely impact Medicaid eligibility of people receiving Social Security, veterans' benefits, railroad retirement, civil service retirement, or a combination of these benefits.

Moreover, many of these Medicaid beneficiaries residing in nursing homes have already, out of necessity, experienced the desperate phenomenon of "spending down for Medicaid eligibility." This "spending down" is often characterized by the loss of home and all personal resources, and ultimately the complete eradication of any semblance of financial independence. While many can turn to their families for some assistance, the less fortunate, have no family to turn to or have been abandoned by their families and displaced from their communities. In most cases, incomes of these nursing home residents are not enough to cover the incredibly high cost of care.

Mr. President, from what I understand, Federal law requires Medicaid applicants and recipients to take all necessary steps to obtain any benefits to which they are entitled. Those who are due cost-of-living adjustments cannot refuse the increases to maintain their Medicaid eligibility.

Very simply, what this bill allows is a disregard of Federal cost-of-living adjustments for Medicaid recipients in long-term care facilities when such an adjustment would result in the loss of eligibility. This legislative proposal would protect the Medicaid eligibility of nursing home residents receiving any of a variety of Federal benefits or a combination of benefits.

As a member of the Special Committee on Aging, I have heard countless depictions of the terrible time many individuals and families—both young and old—endure in order to become eligible for Medicaid assistance. My bill will in a small way protect those individuals who so desperately need this assistance. I urge the support of my colleagues for this measure, and I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRESERVING MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO WOULD CEASE TO BE ELIGIBLE FOR MEDICAL ASSISTANCE ON ACCOUNT OF COST-OF-LIVING INCREASES IN CERTAIN BENEFITS.

(a) In General.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by redesignating the subsection (1) (added by section 3(b) of Public Law 99-570) as subsection (o) and by adding at the end the following new subsection:

"(p) In the case of an individual—

"(1) who, for a month after November 1987—

"(A) is determined to be eligible for medical assistance under a State's plan under this section, and

"(B) is receiving benefits under title II of this Act, subchapter III of chapter 83 of title 5, United States Code, sections 3 or 4 of the Railroad Retirement Act of 1974, or chapter 11, 13, or 15 of title 38, United States Code; and

"(2) who, but for this subsection, would have become ineligible for such medical assistance in the subsequent month because of cost-of-living increases in the amount of such benefits becoming effective in such subsequent month,

for purposes of establishing the individual's eligibility for medical assistance under the plan for such subsequent month (and each month thereafter until the first month in which the individual otherwise becomes ineligible for such assistance) there shall not be included in the individual's income the amount of any such increase in the amount of any such benefits which becomes effective in or after such subsequent month.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.●

By Mr. BOSCHWITZ (for himself, Mr. Leahy, Mr. Kasten, Mr. Grassley, Mr. Durenberger, and Mr. Proxmire):

S. 1746. A bill to effect any reduction in net expenditures for milk price support activities required by the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on Agriculture, Nutrition, and Forestry.

POSSIBLE REDUCTION ON EXPENDITURES FOR MILK PRICE SUPPORT ACTIVITIES

● Mr. BOSCHWITZ. Mr. President, on behalf of Senators Leahy, Kasten, Grassley, Durenberger, Proxmire and myself I am introducing legislation that would address a problem dairy farmers have with a possible sequester under the Gramm-Rudman-Hollings "fix."

This problem is not new and was addressed by the Congress last year. This legislation is virtually identical to last year's and identical to H.R. 3344 introduced by Congressman Jeffords and others in the House of Representatives. I am sure that the "fix" negotiators just overlooked the dairy farmers and hope that Congress will see fit to take care of things the same way we did last year. Essentially, the legislation would allow dairy farmers to comply with sequestration orders through assessments on milk rather than price cuts.

Let me assure Senators that this is not an attempt on the part of dairy farmers to get out of sequestration cuts. Dairy farmers will contribute the same amount as everyone else in the nondefense sequesterable base—whatever that amount. What the legislation does is affect the savings in a much less painful way than outright reductions in the price support.

Reductions in the price support have to be fairly massive because Commodity Credit Corporation outlays for dairy are only impacted by the level of CCC surplus dairy purchases. The only way those outlays can be reduced under the "fix" is to reduce the price support. The problem with price support cuts is that in order to get a little in savings you have to cut the price support drastically.

For instance, assuming we get the maximum $23 billion sequester order, dairy would have to come up with about $75 million in savings. In order to get that savings a price support cut of about $1 per pound would have to be enacted. Conversely, an assessment of about 8 cents would provide the same savings.

The reason for this difference is that supply and demand of dairy products is fairly well balanced today. As a result it takes a large support price cut to make much difference in the market price. Some areas will feel the price cut more than others depending on the market conditions within their region. The market price is what determines production levels and in turn determines CCC purchase levels.

In a sense, then, the positive aspects of the dairy provisions contained in the 1985 farm bill have acted to aggravate the possible consequences of a sequester order. By helping to get supply and demand back in better balance the farm bill has meant that market prices are above the support price in many areas. When that happens it is difficult to cut the support price and have it save money.

Mr. President, dairy farmers have reduced the cost of their program by about half and the huge uncommitted surplus has almost been eliminated. Let's act to prevent unnecessary hardship in dairy country by allowing dairy farmers to contribute to deficit reduction through assessments instead of price support cuts.●

● Mr. KASTEN. Mr. President, I rise today to support the legislation introduced by the distinguished Senator from Minnesota [Mr. BOSCHWITZ]. This legislation would achieve savings in the dairy price support program required by Gramm-Rudman through an assessment on all milk production.

As my colleagues are aware, Congress approved a similar assessment in the spring of 1986, at the time of the last across-the-board spending cut mandated by Gramm-Rudman. I sponsored the legislation that passed as part of a package of agricultural legislation, and that replaced a 55-cent per hundredweight cut in dairy price supports with a 12-cent per hundredweight assessment on all milk production.

There were two reasons for making this change: equity and efficiency.

Cuts in the price support level—more specifically, in the price the Government pays for cheese, butter, and nonfat dry milk purchased under the dairy price support program—impact most heavily on areas like the upper Midwest, where most milk is used to make products like cheese. Under the classified pricing system, reductions in price supports result in severe and immediate cuts in the milk checks of farmers in the upper Midwest, while their impact in other areas of the country is delayed and diffused. Assessments, on the other hands, impact all dairy farmers equally.

Moreover, assessments are a more dependable means of making the desired savings in the Dairy Program. The amount of savings achieved by an assessment at a given level can be calculated with some precision. This is not true with price support cuts.

For example, assume that the dairy program will cost $1.2 billion in fiscal year 1988—a pessimistic estimate—and that a sequester order would require an 8½ percent across-the-board spending cut. Such a sequester would require that about $102 billion be saved in the Dairy Program.

This requirement could be met by imposing an assessment of less than 8 cents per hundredweight on all milk marketed in the United States—this assumes about 141 billion pounds of milk marketed. I would point out to my colleagues that this is less than the 12-cent assessment that was imposed under the last Gramm-Rudman sequester.

What impact would an 8½ percent cut in the effective price support level have on the Dairy Program. As of today, October 1, the price support level stands at $11.35, the lowest it has been since the last 1970's. The Government is not buying much cheese or butter under the price support program—USDA estimates about 5 billion pounds in purchases in 1987, about two-thirds less than the amount of purchases made just two years earlier.

In economic terms, the support price is now a little lower than the market price, whereas in 1986 it was somewhat higher. A 55-cent cut in the support price was threatened by Gramm-Rudman in 1986; the cut now would be about twice that size—over a dollar, the largest single price support cut in history.

A 55-cent support cut in 1986 would have caused inconvenience to processors and hardship to many dairy farmers, especially in the upper Midwest. A cut of over a $1 now would mean that virtually no one would be selling any product to the Government unless it were in immediate danger of spoiling. Instead of an 8½-percent reduction in the cost of the program, we would see program costs plunge by 50 percent, 60 percent, or even more.

Some of my colleagues might ask, "what is wrong with that? Isn't dairy responsible for the huge increases in commodity program costs we've seen over the last two years?"

Mr. President, the answer to this last question is no. USDA projects the Dairy Program to cost about $1 billion—there is some additional cost due to delayed payments to Dairy Termination Program participants. By contrast, the feed grains program will cost $8.4 billion in fiscal year 1988, the wheat program $2.7 billion, the Rice Program $800 million—and the Wheat and Rice Programs affect many fewer farmers than the Dairy Program does.

Yet producers of these commodities will see an 8½-percent reduction in their subsidies under a sequester order. Producers of peanuts and sugar, whose prices are inflated through production controls and import restrictions respectively, will receive no cut at all.

Dairy farmers have done more than their share—more than any other group of farmers—to reduce the costs of their program. They have taken four price support cuts since 1984. They have been assessed to fund a very successful whole-herd buyout program. They have been assessed to fund the National Dairy Promotion Board's campaign to increase milk consumption.

As a result of their efforts, dairy farmers have drastically reduced surplus production, and seen commercial dairy product sales increase by over 3 percent a year for the last 3 years. The cost of the price support program has fallen by more than half since 1985, while the costs of other commodity programs have risen dramatically.

Mr. President, it would be grossly unfair to repay dairy farmers for their efforts to reduce the cost of their program by killing it completely, without warning. Yet a sequester would do just that, as the law is currently written.

A modest assessment would fulfill the requirements of Gramm-Rudman with minimal adverse impact on our Nation's dairy farmers. I urge the Senate to give this idea swift and favorable consideration.●

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. MOYNIHAN, and Mr. CHAFEE):

S. 1747. A bill to amend the Internal Revenue Code of 1986 to revise the export financing exception to the separate application of the foreign tax credit limitation to financial services income; to the Committee on Finance.

REVISION OF FINANCING EXCEPTION TO SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATION

Mr. ROTH. Mr. President I rise today to propose legislation which will eliminate the barriers which exist for U.S.-owned foreign banks that provide export financing for medium-sized U.S. exporters. The deterrent exists due largely to a combination of unwise and ill-considered changes made in the 1986 tax reform bill to provisions governing the U.S. tax treatment of foreign source income.

U.S. exporters finance the purchase of goods by foreign buyers by having U.S. financial institutions provide the financing. This is accomplished by the

U.S. bank lending money to the foreign buyer in exchange for the buyer's note, known as a trade receivable. This is the cross-border lending which supports U.S. exports. The problem is many countries impose a gross withholding tax on interest income which a bank earns from lending to foreign importers of U.S. goods. Since the time many years ago that the United States first imposed a tax on the worldwide income of U.S. taxpayers, banks have been permitted to take a tax credit for the full amount of the gross withholding taxes paid to the foreign government. Unfortunately the 1986 Tax Reform Act places stringent new limits on the amount of foreign tax credits which can be taken against U.S. income.

The 1986 Tax Reform Act changed the tax treatment of interest earned by U.S.-controlled foreign financial institutions in two significant ways. Generally, such interest is no longer entitled to deferral, and it is no longer permitted to be averaged with other foreign income for foreign tax credit purposes.

First, the 1986 act replaced the overall foreign tax credit limitation with a basket approach. Under the new rules, a separate foreign tax credit limitation must be computed for each basket of income. While some of the designated baskets make the traditional distinction between active and passive income, others segment certain types of active income by line of business, for example, banking, manufacturing, insurance, and so forth.

The second major change in the treatment of foreign source income was the elimination of foreign tax deferral for certain types of active income, including overseas banking activities. Previously, a foreign bank could finance the sale of export products of both related and unrelated persons and the profits therefrom would not be subject to a U.S. tax until distributed to the U.S. shareholders as a dividend.

In making these changes in the foreign tax credit and deferral, Congress provided for a limited exception to the rules for income derived from the financing of related party exports. Thus, income earned by the financial arm of a U.S. manufacturer's own exports would be exempt from the new foreign tax credit baskets and the elimination of deferral.

Unfortunately, the export finance exception is so narrowly drawn that it applies only to the financing of exports by related parties. This effectively means it applies to financing provided by foreign subsidiaries of exporters, but not the financing provided by unrelated financial institutions, the primary potential source of export financing. Worse, even among related parties, the export financing exception does not apply to the financing of inventory, but only noninventory items. For example, a loan made by the foreign subsidiary of a U.S. exporter to the exporter's customer for the purpose of purchasing the exporters product would not qualify for export finance treatment, even though such a transaction would appear to lie at the heart of the export finance exception.

If related party financing of inventory items does not qualify, and unrelated party financing does not qualify, it would seem appropriate to ask, what sort of export financing does qualify? Apparently, the answer is very little, if any.

At a time when Congress is laboring to improve our Nation's trade deficit, and the competitiveness of U.S. manufacturers in world markets, we ought not be creating obstacles through the tax system that make it unprofitable for U.S. banks to provide export financing for our manufacturers. If Congress truly wants to stimulate exports, the export finance exception should be amended to cover unrelated party financing. Technically, such an amendment would permit interest earned from the financing of U.S. exports by unrelated parties—that is unrelated companies in the financial business—to continue to benefit from deferral, and to have that interest allocated to a good basket for foreign tax credit purposes.

The decline of U.S. productivity, foreign markets, savings, and investment in our infrastructure is well chronicled in the press. Our manufacturers correctly charge that this country has never recognized that our trading partners have aggressive export financing policies that make needed credit available at concessionary or highly favorable terms. For there to be a renewed interest by U.S. banks in financing exports, there must be an economic basis for it.

Trade financing is a sophisticated and often risky venture. Medium-sized companies, or even larger companies with limited export volume, either cannot or will not allocate sufficient financial and human resources to finance an export sale either directly or through a related person.

Without an unrelated party exception, even if the U.S. exporter could utilize the foreign tax credits generated by the export financing, the costs and the risks associated with the financing negate the profits from the sale. The personal costs related to employing the necessary financial specialist to structure the transactions is prohibitive for most middle-market companies. Moreover, the exporter must have the financial strength to justify carrying the account receivable on its balance sheet. In reality only a few exporters have sufficient annual export volume to justify these out-of-pocket personal expenses, and to warrant taking the associated risks.

Mr. President, the bill I am introducing today would amend the export financing provisions to exempt income derived from both related party and unrelated party export financing activities from the more restrictive foreign tax credit limitation and deferral rules. Our tax law should not include an export financing rule that discriminates against unrelated party transactions. Any benefit derived from the amendment will be directly linked to expanded export financing activities. This is because only the income derived from export activities will be eligible for the exemption from the burdensome new rules governing the foreign tax credit and deferral. This legislation will increase sales for our U.S. exporters, generating an increase in income tax revenues to the Treasury, and helping reduce our trade deficit.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF EXPORT FINANCING EXCEPTION TO SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATION TO FINANCIAL SERVICE INCOME.

(a) In General.—Clause (iii) of section 904(d)(2)(C) of the Internal Revenue Code of 1986 (relating to financial services income) is amended to read as follows:

"(iii) Exception for export financing.—

"(I) In general.—Except as provided in subclause (II), the term 'financial services income' does not include any export financing interest.

"(II) Exception for taxpayer predominantly engaged in providing financial services.—Subclause (I) shall not apply if the taxpayer described in subsection (a) is an entity which is predominantly engaged in the active conduct of a banking, insurance, financing, or similar business, which is a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956), or which is a subsidiary of either."

(b) Definition of Export Financing Interest.—Subparagraph (G) of section 904(d)(2) of the Internal Revenue Code of 1986 (defining export financing interest) is amended to read as follows:

"(G) Export financing interest.—For purposes of this paragraph—

"(i) In general.—The term 'export financing interest' means any interest derived by an applicable taxpayer from financing the sale (or other disposition) for use or consumption outside the United States of any property—

"(I) which is manufactured, produced, grown, or extracted in the United States, and

"(II) not more than 50 percent of the fair market value of which is attributable to products imported into the United States.

"(ii) Applicable taxpayer.—For purposes of this subparagraph, the term 'applicable taxpayer' means any entity which, is subject to the banking and credit laws of the United

States, a foreign country, or a possession of the United States.

"(iii) SPECIAL RULES.—For purposes of this subparagraph—

"(I) LOANS OF EXIMBANK.—The term 'financing' includes the making or purchase of, or participation in, loans made or guaranteed by the Eximbank of the United States.

"(II) FAIR MARKET VALUE.—The fair market value of any property imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1201 of the Tax Reform Act of 1986.

By Mr. MOYNIHAN:

S. 1749. A bill to authorize the Smithsonian Institution to provide for additional facilities for the Cooper-Hewitt Museum, and for other purposes; to the Committee on Rules and Administration.

ADDITIONAL FACILITIES FOR THE COOPER-HEWITT MUSEUM

● Mr. MOYNIHAN. Mr. President, I rise today to introduce the Cooper-Hewitt Renovation Act, a bill to authorize the Smithsonian Institution to renovate and construct new facilities at the Cooper-Hewitt Museum, located in New York City. The Cooper-Hewitt Museum is home to numerous exhibits of decorative arts, textiles, wall coverings, architecture, and folk art.

The Cooper-Hewitt was incorporated into the Cooper Union for the Advancement of Science and Art in 1897. Eighty years later, the Smithsonian Institution acquired the Cooper-Hewitt Museum, at once making the Federal Government responsible for its care and upkeep. It is this responsibility that I address today in introducing the Cooper-Hewitt Renovation Act.

The Cooper-Hewitt sponsors some of the Nation's most treasured design and architecture exhibitions. These have included "The Modern Spirit: Glass from Finland"; "Treasures From Hungary: Gold and Silver From the Ninth to the Nineteenth Century"; and "Memphis/Milano." Lasting reminders of these collections are embodied in the 21 catalogs printed for them which continue to educate many people long after the exhibition ends.

The exhibits and collections at the Cooper-Hewitt are remarkable indeed. That is why it is essential that we properly maintain this, our most prominent museum of design. This is exactly what we seek to do today. This bill provides $15 million of a $30 million project for the revocation and improvement of facilities at the Cooper-Hewitt Museum. The remaining $15 million in funds will be raised from private sources.

To see this museum—an inspiration for young designers and architects everywhere—crumble due to lack of funds would indeed be grave loss to our country. A loss we can prevent by supporting this bill.●

By Mr. MURKOWSKI (for Mr. STEVENS) (for himself and Mr. PRYOR):

S. 1750. A bill to amend title 5, United States Code, to liberalize certain provisions authorizing reimbursement for expenses of sale and purchase of a residence upon the transfer of a Federal employee, and to provide for the payment of certain travel and transportation expenses of civil service career appointees; placed on the calendar.

REIMBURSEMENT OF CERTAIN EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON TRANSFER OF A FEDERAL EMPLOYEE

(Mr. MURKOWSKI submitted the following statement on behalf of Mr. STEVENS.)

● Mr. STEVENS. Mr. President, today, I am introducing legislation to correct an inequity in the current law dealing with the reimbursement of relocation expenses for Federal civilian employees who are transferred to overseas locations and for career Senior Executive Service employees who are relocated by the Government.

Current law authorizes reimbursement of certain expenses, primarily brokerage fees, incurred from the sale and purchase of a home for Federal civilian employees who are transferred and the old and new duty stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations pursuant to the Panama Canal Treaty of 1977. Employees transferred overseas, then back to the United States are not covered by this law. This often results in serious financial hardships for Federal employees who are transferred to an overseas duty station and who upon completion of their overseas tour are transferred to duty stations in the United States other than the one from which they originally departed. In a letter, March 30, 1987, to the President of the Senate, the General Accounting Office outlined for us the seriousness of this problem, and recommended legislative relief. According to the GAO, the impact on the Federal budget would be minimal and would correct the current inequity for those who serve our Government in foreign posts.

Mr. President, employees reassigned from the United States to an overseas location, and back to the United States, but not to the same area from which they departed, face the same home sale and purchase problems faced by employees relocating within the United. States. Yet they receive none of the expense reimbursement authorized for their coworkers who move within the United States but who do not accept foreign assignments. This problem is acute for the Drug Enforcement Agency and other law enforcement agency personnel assigned overseas, as well as for Department of Defense civilian employees who routinely accept foreign assignments.

This bill would permit Federal agencies to provide the same reimbursements already authorized in law for employees moving within the United States, to employees who transfer from an overseas post to a different duty station in the United States, than the one they left before transferring overseas. Employees who are reassigned overseas and then back to a different U.S. location are, in effect, undergoing an interrupted relocation from one official station within the United States to another. This bill would not apply to the Foreign Service which, because of the special nature of its mission and responsibilities, operates under different statutes and regulations.

Mr. President, section 2 of this bill would correct another inequity. Currently, military and Foreign Service personnel who are relocated by the Government during their Government service are reimbursed, upon retirement, for the costs of their last move home. This bill would allow retiring career Senior Executive Service employees who have been geographically relocated by the Government during their civil service careers, reimbursement for travel and transportation expenses of the employee and his or her immediate family to a place of residence other than their last official duty station. The law allows an agency to move these employees at the agency's discretion. It should also provide for a final move home when the employee has moved in the Government's interest and is retiring from Federal service.

In addition to the equity issue, there is some evidence that we are losing many highly skilled and experienced careerists. Senior executives who have 25 years of Government service—or are age 50 with at least 20 years of service—when asked by the Government to relocate will frequently opt for a discontinued service retirement at a reduced annuity, rather than leave the place where they and their families have settled. The prospect of uprooting and then shouldering the expense of returning in a relatively short time outweighs their desire to continue in Government service. Providing these experienced individuals in the senior ranks of the Federal Government with last-move-home benefits would remove a serious financial disincentive to continuation of their careers. Additionally, I am told by agencies that they have had very talented employees who have refused to join the SES because there is no way of returning to their preferred place of residence at retirement, except at their own expense. It is particularly true of employees who are moved to high cost areas like Washington. Using the criteria that the SES employee must have previously relocated in the interest of the Government and must be eligible for retirement, it has been estimated that an average of 200 employees per year, Governmentwide, may be eligible for the last move home.

Mr. President, we should not be placing financial hardships on these employees by asking them to pay their own expenses when they move in the interest of the Federal Government. I urge my colleagues to support this important legislation.●

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1751. A bill to require vessels to manifest the transport of municipal or other nonhazardous commercial wastes transported offshore to ensure that these wastes are not illegally disposed of at sea; to the Committee on Environment and Public Works.

SHORE PROTECTION ACT

Mr. LAUTENBERG. Mr. President, one of New Jersey's most valuable resources—our beaches—have steadily deteriorated in the face of our inability to control the uses and abuses of our shoreline.

Day after day tides of debris have washed up on New Jersey shores despite laws to prevent ocean dumping and to control the disposal of municipal and commercial waste.

People have been blind in their faith that these laws would be obeyed and they have been deceived. It is time for this to end.

Today I am introducing legislation that does not rely on the good will and judgment of those who transport waste. The bill I am introducing today establishes a tracking system for the transport of all municipal and commercial waste transported by vessel.

There will be no more excuses for floating debris on New Jersey's or any other States' beaches.

The bill will accomplish four major things. First, no vessel—public or private—could be used to transport municipal or commercial wastes unless that vessel has a permit. A simple permit, that only requires identification of the boat's owner, mooring location, serial number and primary use. Nothing burdensome for the owner, yet something that would allow us to determine just how many vessels transport this material and who owns them.

Second, each and every shipment of the material would be accompanied by a manifest. Again, nothing fancy, but something to ensure that everything loaded onto the boat gets unloaded at the disposal site, not along the way. The way things operate now, it seems some transporters have the attitude that a ton here, a ton there, who's to know the difference?

Third, the bill will require the vessel operator and the disposal facilities operators to undertake a basic level of care in loading and unloading the vessels. Currently, there are no restrictions on how high the trash is piled or requirements that it be covered. The bill requires that all of the material be safely loaded and secured during transport.

Because we must search for even more effective measures, the bill also requires EPA and the Coast Guard to conduct concurrent studies on measures to upgrade these requirements.

As chairman of the Transportation Appropriations Subcommittee, I have asked the Coast Guard, in our appropriations bill, to conduct a pilot program to test the effectiveness of tracking devices on garbage-carrying vessels. This pilot program will provide both EPA and the Coast Guard with critical information to make determinations about whether more effective measures are required and what those measures should be.

The bill I am introducing today requires the Coast Guard to assess which tracking devices would be most effective for garbage-carrying vessels. It also requires EPA to make a determination about the appropriate role of these devices in the enforcement scheme. These two studies plus the pilot tracking program will give us all of the information we need to move ahead swiftly.

I believe this bill fills a critical gap in our system. It establishes a mechanism to ensure that wastes will not "drift" into our waters and creep onto our shores unnoticed.

I cannot overemphasize the importance of this legislation as we move into an era of steeply rising disposal costs and increasing population. We must be prepared to stem the growing temptation to use our oceans as a cheap and convenient dumping ground.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1751

SHORT TITLE

SECTION 1. This Act may be cited as the "Shore Protection Act of 1987."

TITLE I—VESSEL IDENTIFICATION

DEFINITIONS

SEC. 101. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency, unless indicated otherwise.

The term "manifest" means the form used in identifying the quantity, general composition, origin, routing and destination of the waste.

(3) "municipal or commercial wastes" includes, all wastes covered by Subtitle D of the Solid Waste Disposal Act. This shall include any garbage, refuse, or other discarded material.

(4) "Person" means an individual, trust, firm joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(5) "Secretary" means the Secretary of the department in which the Coast Guard is operating, unless indicated otherwise.

(6) "type of waste" should describe whether the waste is municipal garbage, commercial waste or other type of waste.

(7) "United States" includes the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands of the United States, American Samoa, Guam and Northern Mariana Islands.

(8) "vessel" refers to any commercial or municipal vessel used for the transport of waste, dredged material, sand, gravel or debris of any kind. This specifically includes any vessel used for towing another vessel that contains the garbage.

(9) "vessel operator" describes the person primarily responsible for the operation of the vessel.

(10) "waste source" describes the location by title and address of operation where the waste material was loaded on to the vessel.

(11) "waters under the jurisdiction of the United States" means—

(A) the waters of the United States, including the territorial sea, and

(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of the territorial sea, and the outer boundary is a line drawn in such a manner that each point on it is two hundred nautical miles from the baseline from which the territorial sea in measured.

VESSEL IDENTIFICATION NUMBERS

SEC. 102. (a) No vessel may be used by any person to carry any type of Subtitle D municipal or commercial waste for any purpose within the waters under the jurisdiction of the United States without first obtaining a vessel identification number for that vessel from the Environmental Protection Agency.

(b) Application for the vessel identification number required by subsection (a) shall contain the following information:

(1) the name, address and phone number of the vessel owner(s);

(2) the vessel's name and registration number;

(3) the vessel's primary port and marina;

(4) the vessel's transport capacity;

(5) a history of the types of cargo carried by that vessel during the previous year;

(6) signed certification that all of the provided information is accurate by the vessel owner.

(c) The permit must be renewed at least every five years and at any time that the vessel changes ownership. No new owner may operate the vessel using the permit filed by the previous owner.

(d) EPA is authorized to collect up to $1,000 from the vessel owner/operator to cover the issuance and maintenance of vessel identification numbers and to record shipment transactions by maintaining records of the vessel's manifests.

(e) 180 days after enactment no vessel may carry municipal or commercial wastes unless a permit has been obtained for that vessel at least 30 days before the transport of such wastes takes place.

SEC. 103. The Environmental Protection Agency shall issue permits defined under Section 102(a) within 30 days after receiving a complete application.

TITLE II—WASTE TRACKING SYSTEM

WASTE MANIFEST

SEC. 201. (a) A manifest must be completed for all Subtitle D municipal or commercial wastes transported by vessel.

(b) This manifest shall include:

(1) wastes source;

(2) volume of the waste at loading;

(3) general type of waste;

(4) waste destination;

(5) volume of the waste ultimately deposited at the disposal facility;

(6) Signature lines for the owner/operator of the vessel, the waste source and waste disposal facilities;

(7) vessel identification number;

(8) description of waste containment measures; and

(9) such other information as the administrator shall deem necessary.

(c) The owner/operator of the vessel is required to:

(1) complete, sign and date the manifest form;

(2) provide one copy to the waste source operator, carry two copies with the waste during transport and provide one of those remaining copies to the operator of the waste receiving facility;

(3) certify the delivery of the wastes to the waste disposal facility, the accuracy of all information on the form; and

(4) return one completed copy of the manifest form to the Environmental Protection Agency regional office.

(d) The owner/operator of the disposal facility is required to return the second copy of the manifest for all wastes received at the disposal site on a weekly basis to the Environmental Protection Agency regional office.

(e) The owner/operator of the waste source facility is required to return the third copy of the manifest for all shipped wastes on a weekly basis to the Environmental Protection Agency regional office.

TITLE III—WASTE HANDLING PRACTICES

SEC. 301. (a) The owner/operator of the waste source facility shall ensure that all waste material is loaded onto the vessel and that no debris is deposited in the water.

(b) The vessel owner/operator shall ensure that all material loaded onto the vessel is properly secured by netting or other means which will ensure that the waste will not be deposited into the water during the unloading operations or during interment into the landfill.

(c) The disposal facility owner/operator shall ensure that all waste material is offloaded in a manner which ensures that no debris is deposited into the water during the unloading operations or during interment into the landfill.

(d) The loading and unloading facilities are required to provide adequate control measures to collect any material that is accidentally deposited into the water.

TITLE IV—ENFORCEMENT

SEC. 401. It shall be the responsibility of each Federal department, agency, or other instrumentality of the United States to assist in the administration of this Act, including the reporting of violations to EPA and conducting investigation with respect thereto, including the United States Coast Guard, National Oceanic and Atmospheric Administration, Department of Interior, and Environmental Protection Agency.

CIVIL PENALTIES

SEC. 402. (a) Effective 120 days after enactment, any person who violates any Section of this Act shall be liable to the United States for a civil penalty. The Secretary of the Department in which the Coast Guard is operating, the Secretary, the Secretary of Commerce or the Administrator may assess penalties for violations of Title I, II or III. Up to one half of such penalties may be paid to the person or persons giving information leading to the assessment of such penalties.

(b) The Administrator or the Secretary may assess a penalty of up to $5,000 for any violation of Section 102. This penalty may be doubled for second violations. Before issuing an order assessing a penalty, the person assessed such penalty must be given written notice of the proposal to issue such order and the opportunity to request, within thirty days of the date such notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

(c) The Administrator or the Secretary may assess fines up to $5,000 for violations of section 201 (a), (b) and (c). This penalty may be doubled for the second violation. Before issuing an order assessing a penalty, the person assessed such penalty must be given written notice of the proposal to issue such order and the opportunity to request, within thirty days of the date such notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

(d) The Administrator or the Secretary may assess penalties of up to $2,000 for each violation of section 201 (d) or (e). This penalty may be doubled for the second violation, tripled for the third violation, and quadrupled for the fourth violation. Before issuing an order assessing a penalty, the person assessed such penalty must be given written notice of the proposal to issue such order and the opportunity to request, within thirty days of the date such notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

(e) The Administrator or the Secretary may assess penalties of up to $5,000 for any single violation of title III. This penalty may be doubled for the second violation, tripled for the third violation. Before issuing an order assessing a penalty, the person assessed such penalty must be given written notice of the proposal to issue such order and the opportunity to request, within thirty days of the date such notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

(f) The Administrator has the power to revoke the vessel identification number in any instance where egregious or multiple violations have taken place. Before such action becomes final, the vessel owner must be given 30 days notice and opportunity for a hearing. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide reasonable opportunity to be heard and present evidence.

(g) In the case of persistent violators, a facility or operator with five or more separate violations within a six month period, EPA is directed to conduct an investigation of the facility or operator. This shall not be construed to limit EPA's ability to investigate or revoke vessel identification numbers in instances where egregious violations have taken place. Once such investigation is completed EPA may file suit in a federal court to collect civil penalties up to $25,000 per violation, to prevent further operation of the facility, and/or other equitable relief.

(h) In determining the amount of a civil penalty, the nature, circumstances, extent and gravity of the violation or violations, and with respect to the violator, ability to pay, effect on ability to continue business, the economic benefit resulting from such violation, any history of prior violations, the degree of culpability, and such other matters as justice may require shall be taken into account.

(i) Any civil penalty which may be imposed under this section, may be compromised, modified, or remitted, with or without conditions. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.

(j) Any person who requested a hearing respecting the assessment of a civil penalty may file a notice of appeal, in the United States District Court for the District of Columbia, or in the district in which the violations are alleged to have occurred. Such notice may only be filed within the thirty-day period beginning on the date the order making such assessment was issued. Such notice must also simultaneously be filed with the Secretary of the Interior, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, or the Administrator, as the case may be, and the Attorney General.

(k) If any person fails to pay an assessment of a civil penalty—

(1) after the order making the assessment has become a final order and if such person does not file for judicial review of the order in accordance with subsection (j) of this section, or

(2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, the Secretary of the Interior, or the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates) from the date of the expiration of the thirty-day period referred to in subsection (j) or the date of such final judgment, as the case may be, in an action brought in any appropriate district court of the United States. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

CRIMINAL PENALTIES

SEC. 403. (a) Effective six months after enactment, any person that shall willfully and knowingly violate, or that shall willfully and knowingly aid, abet, authorize, or instigate a violation of title I, II or III, upon conviction for such violation, in addition to or in lieu of any civil penalty that may be imposed under section 104, shall be fined not more than

$50,000 or imprisoned for not more than three years, or both. In the discretion of the court, up to one-half of such fine may be paid to the person or persons giving information leading to conviction.

(b) The United States Sentencing Commission in establishing guidelines for sentences under this section shall take into account the nature, circumstances, extent, and gravity of the violation, and with respect to the violation, ability to pay, effect on ability to continue business, economic benefit resulting from such violation, any history of prior violations, the degree of culpability, and such other matters as justice may require.

(c) This section shall be carried out with respect to foreign ships consistent with the obligations of the United States under international law.

(d) Courts shall not apply the penalty of imprisonment in this section to United States ships for acts for which such a penalty cannot be imposed on foreign ships consistent with the obligations of the United States under international law.

TITLE V—EPA RESPONSIBILITIES

SEC. 501. (a) The Administrator shall propose and make available for comment the manifest form, including all of the items specified in Section 201(a), within 45 days after enactment.

(b) The Administrator is required to propose and make available for comment an application form for the vessel identification number including all of the elements specified in Section 101(a) within 30 days.

(c) The Administrator must make both the manifest and the permit applications publicly available within 60 days after completion of the comment period.

(d) The Administrator is required to issue or deny permits for all applicants within 30 days of application. EPA must also maintain a record of all permits.

(e) Within 180 days of enactment, the Administrator must establish a system to maintain permit records, receive the completed manifests and ensure that the waste volume loaded for transport corresponds with the waste volume ultimately disposed of at the disposal facility.

TITLE VI—TRACKING STUDY

SEC. 601. (a) Within 18 months of enactment, the Administrator is required to undertake a study to determine the effectiveness of additional tracking systems for vessels to ensure that nonhazardous municipal and commercial waste is not disposed of at sea or in coastal waters. In conducting this study, EPA will use the data collected from its permitting activities and from the data completed under Section 201(d) and (e). The report must make a recommendation on whether additional tracking mechanisms are needed. This study shall be completed within 24 months after enactment.

(b) Within 18 months of enactment the Secretary shall undertake a study of the various tracking systems that might be applicable to vessels carrying nonhazardous municipal or commercial waste. The study shall consider the relative effectiveness of various systems and the relative costs of the systems both to the federal government and to the vessel owner. Within 24 months, the Secretary shall have completed this study.

TITLE VII—COAST GUARD RESPONSIBILITIES

SEC. 701. (a) The Secretary shall ensure that periodic checks are made of vessels operating under this Act transporting garbage, municipal waste, and commercial wastes to determine that each of these vessels carries the appropriate permit as described in Section 102(b) and the manifest required by Section 201(a).

(b) The Secretary shall ensure that any vessel seen leaving coastal waters carrying municipal or commercial waste is in compliance with the provisions of this Act, the Marine Protection, Research and Sanctuaries Act, the 1899 Refuse Act, the Clean Water Act and the Solid Waste Disposal Act.

(c) Any discrepancies found by the Coast Guard in the vessels' permit or manifest shall be reported to EPA for potential enforcement action.

(d) Should the Administrator determine that tracking devices or satellite surveillance is required to ensure adequate enforcement of laws preventing coastal or ocean dumping the Secretary shall issue regulations to require installation of the appropriate devices within 18 months after EPA completes its report.

TITLE VIII—RELATION TO OTHER LAWS

SEC. 801. (a) Nothing in this Act may be interpreted or construed to supersede or preempt any other provisions of Federal or State law.

(b) Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional requirements.

(c) Nothing in this Act shall affect or otherwise impair the rights or obligations of any person under Federal, State, or common law.

TITLE IX—AUTHORIZATION

SEC. 901. There are authorized such funds as may be necessary to support the provisions of this bill.

TITLE X—SAVINGS CLAUSE

This act does not preclude action by any person, state or local authority against transfer station, waste generators, waste disposal facilities or waste transporters for violations of this act.

By Mr. BAUCUS:

S. 1752. A bill to establish a commission to study effects of deregulation of airline industry; to the Committee on Commerce, Science, and Transportation.

COMMISSION ON THE EFFECTS OF DEREGULATION ON AIR TRAVEL

● Mr. BAUCUS. Mr. President, the Senate soon will be considering legislation that reauthorizes the airway trust fund and creates further consumer protections for airline passengers.

These are important pieces of legislation. But they don't address the real problems. The real problem is that airline deregulation isn't working, especially for Americans who live outside a handful of major cities.

It's time to face up to this fact, and begin considering how we can improve the operation of airline transportation in this country. In order to get this process underway, I am introducing legislation to establish a commission to study the effects deregulation has had on air travel. The Commission will recommend improvements necessary to provide better quality service to all regions of the country.

AIRLINE DEREGULATION OVERALL

In 1978, Congress passed the Airline Deregulation Act, which virtually ended Government control of the airlines. Some of us were concerned that deregulation would discriminate against rural America, and voted against it. But we were in the distinct minority.

Deregulation was supposed to spur competition, enhance productivity and reduce prices. The initial results, Mr. President, were impressive: The number of scheduled carriers nearly tripled. Fares fell 13 percent on the average. The proportion of travelers flying on low cost discount fares rose from 48 to 80 percent by 1982.

MOUNTING CONCENTRATION

For some time, however, evidence has been mounting that shows a dramatic reversal of this trend. Many experts believe this reversal is due in large part to increasing concentration in the industry. Since 1980, the Reagan administration has approved 38 airline mergers and acquisitions. These mergers and acquisitions have created a highly concentrated, noncompetitive industry. Today, the 8 largest carriers control 94 percent of the market. This is an increase of 21 percent since 1979. The hub and spoke system has allowed our major airports to become dominated by one or two carriers, resulting in enormous barriers to entry for other airlines.

In addition, consumers are being forced to tolerate flight delays or cancellations, baggage losses, and unreasonable or inconvenient scheduling. According to the Department of Transportation's most recent Air Travel Consumer Complaint Report, there were 7,280 airline delay and baggage loss complaints received by the Department in August 1987, compared to 1,236 in August 1986. This represents an increase of almost 500 percent.

RURAL AND SMALL COMMUNITIES

In October 1986, I held a hearing in Great Falls, MT, on the effects of airline service on Montana's economy. Also, last February, I held a hearing in the Rural Economy Subcommittee, which I have the privilege of chairing, to focus on general problems facing small businesses in rural America. The hearings produced valuable information about forces that are undermining rural economies.

One fact became clear: Without high quality and efficient air service, rural and small communities in America stand little chance of coming out of their current depression and prospering. Quality air service is vital to these communities' ability to compete with more populated urban centers in such areas as tourism, Federal and private investment possibilities, and product and service exports. Most experts believe that air service to these areas will only worsen in the near future. Mr. President, rural and small communities deserve a chance to compete for economic development. Under our current air transportation system, they're not getting it.

Before deregulation, Congress provided for a national airline system and required that communities important to the national system, but not capable of generating clearly profitable customer loads, should be served and supported by higher density markets. The 1978 Deregulation Act recognized that many of these communities would be dropped abruptly so Congress provided for the Essential Airline Service to subsidize rural and small communities.

Even with Essential Air Service, however, the rural air service experience has deteriorated significantly since deregulation. In addition to the problems I have already cited, major carriers providing service to rural and small communities reduced or eliminated service to these markets during the first years of deregulation. Their place was often taken by regional carriers, but in some cases was not taken by anyone. A General Accounting Office study found that between 1978 and 1984, the airlines dropped scheduled service to 91 small cities and towns in favor of higher density routes. Where service was not dropped, the large jet carriers that previously had served these areas were replaced by commuter or regional airlines which often use turboprop planes, and often at higher fares.

Rural and small communities have not benefited from ticket rate wars that have led to a decrease in airfares between large traffic-generating points but have, instead, experienced rate increases. As a result, it is often more expensive for passengers from rural communities to make the connecting flight to a major airport than it is to make a long trip between major airports.

THE COMMISSION

Mr. President, clearly airline deregulation is not an unmitigated success story. I believe Congress has a responsibility to ensure that the effects of airline deregulation are studied thoroughly, that its benefits are preserved, and that solutions are found to solve its problems. That is why I am introducing this legislation today. I believe it is a reasonable step to finding those solutions.

My legislation would establish a commission to make a complete study of a number of areas.

First, the Commission would make a thorough analysis of the impact of deregulation on service, consumers, competition and the work force, with a particular focus on rural and small communities.

Second, the Commission would evaluate the effectiveness of the essential air service program and examine alternatives for improved service to the rural and small communities.

Third, the Commission would study the effect of deregulation on rural States' abilities to compete with other more populated States in such areas as tourism, private and Federal Government investment, and product and service exports.

I want to mention, Mr. President, that the Commission I am proposing today purposefully would not address the effects of airline deregulation on safety. Although it is apparent that airline safety is another major area that has been jeopardized as a consequence of deregulation, Senator BYRD, last year, sponsored legislation that establishes a special commission to study the safety problem in its entirety. The Commission I am proposing today would complement the Byrd Commission's efforts and not be duplicative.

CONCLUSION

I look forward to working with my colleagues on this important matter. Not only must we thoroughly assess the effects of airline deregulation on air travel overall, but we must assume responsibility for ensuring that rural and small communities do not continue to bear the brunt of problems associated with deregulation. The Commission established by this legislation would assist us in achieving this goal.

Mr. President, I have discussed the air deregulation problem with Senator HOLLINGS. I am pleased to say that he not only recognizes the problems but also is going to have the Commerce Committee hold hearings on them. I know my bill will receive full consideration from both Chairman HOLLINGS and all of the members of the Commerce Committee.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) There is hereby established the Commission on the Effects of Deregulation on Air Travel (hereafter in this section referred to as the "Commission").

(b)(1) The Commission shall be composed of 18 members as follows:

(A) 6 members appointed by the President in accordance with paragraph (2)(A),

(B) 6 members appointed by the President pro tempore of the Senate from Members of the Senate in accordance with paragraph (2)(B), upon the recommendation of the majority leader or the minority leader of the Senate with respect to members appointed from the political party of that leader, and

(C) 6 Members of the House of Representatives appointed by the Speaker of the House of Representatives in accordance with paragraph (2)(B).

(2)(A) The President shall appoint as members of the Commission under paragraph (1)(A) individuals who are especially qualified to serve on the Commission due to the education, training, or experience of such individuals. Of the members appointed by the President under such paragraph—

(i) at least 5 members shall be individuals who are not officers or employees of the United States,

(ii) at least 1 member shall be a representative of air carriers,

(iii) at least 1 member shall be a representative of a labor organization,

(iv) at least 1 member shall be a representative of consumer interests,

(v) at least 1 member shall be a representative of State Government, and

(vi) not more than 3 members shall be members of the same political party.

(B)(i) In appointing members to the Commission, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give special consideration to the appointment of Members of the Senate or the House of Representatives, as the case may be, who are members of the committees of their respective Houses which have legislative jurisdiction over, or special concerns with respect to, matters relating to air transportation.

(ii) Not more than 3 members of the Commission appointed under paragraph (1)(B) shall be members of the same political party, and not more than 3 members of the Commission appointed under paragraph (1)(C) shall be members of the same political party.

(3) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Members of the Commission shall be appointed to serve for the life of the Commission.

(5)(A) Each member of the Commission appointed under paragraph (1)(A) who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without additional compensation.

(B) While away from their homes or regular places of business in the performance of services for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under section 5702 of title 5, United States Code.

(6) The President of the United States, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall make their appointments to the Commission within the 45-day period following the date of the enactment of this Act. The Chairman shall call the first meeting of the Commission within 60 days following the date of the enactment of this Act.

(c)(1) Nine members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and Vice Chairman of the Commission shall be jointly selected by the Speaker of the House of Representatives and the President pro tempore of the Senate.

(3) After the first meeting, the Commission shall meet at the call of the Chairman or a majority of its members.

(d)(1) The Chairman of the Commission, in consultation with the Vice Chairman, and without regard to the civil service laws, rules, and regulations, is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions.

(2) Any Federal employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at daily rates of compensation for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of such title.

(e)(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out the provisions of this section. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission, except that this section does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(f)(1) The Commission shall study and make recommendations concerning the impact of a deregulated airline industry on the Federal Government's goal of promoting development of an air transportation industry that provides quality service to all regions of the country appropriate to support their needs for continued growth and development.

(2) Such a study shall include, but not be limited to, a thorough analysis of the impact of deregulation on service, consumers, competition, and the work force, with specific emphasis on the impact on rural communities, and consideration of the past and prospective effects overall and by region of air deregulation and other significant contemporary influences on air service in the United States, in each of the following areas:

(A) basic service—including the number of flights available, the number of seats available, the scheduling of flights, continuity of service, the number of markets being served by large and small airlines, availability of nonstop service, and availability of direct service;

(B) consumer protection—including the number of economic cancellations, the number of flight delays, the magnitude of baggage loss and damage, fare prices and their relation to cost of operation, jet v. propeller use, deceptive advertising, notice of flight changes, the ability of consumers to choose between competitive carriers when one carrier dominates an airport, overbooking of flights and bumping of passengers, time delays for ticket refunds, provision of lodging for passengers of cancelled flights, and penalties for changing flight plans;

(C) competition—including marketing alliances between major carriers and regional carriers, computer reservation system scheduling of major carriers and regional airlines, computer reservation system billing and contracting practices, antitrust aspects of the computer reservation system, code-sharing among airlines, barriers to entry for large and small airlines, landing slot and ground facility availability at hubs for high and low passenger flights, airport capacity, concentration of market power by an airline at an airport, the relationship between a market dominant airline and the airport operating authority, airline mergers, market share of large versus small airlines, frequent flier and other promotional programs, noise constraints, and the ability of small carriers to acquire financing necessary to operate;

(D) work force—including wage levels, employment totals by occupation and position, productivity levels, labor costs, available benefits, labor management relations, union and nonunion employment, training, experience, hours of work, who are the "winners" and who are the "losers", retraining and readjustment program availability, displaced workers' experiences with future employment and earnings, past, present and anticipated future difficulties.

(3) The Commission shall study—

(A) the effectiveness of the essential air service program and examine alternatives for improved service to rural areas. The alternatives considered by the commission shall include, but not be limited to, partial reregulation, expansion of the essential air service program, subsidized flights outside of the essential air service program, and making larger jets available; and

(B) the effect deregulation has on rural States' abilities to compete with other, more populated States. Specifically, the Commission shall study the effect of deregulation on (i) tourism in rural States, (ii) the attractiveness of rural States for private and Federal Government investment, and (iii) the cost of product exports from rural States to other areas.

(4) In conducting such a study, the Commission shall consult with a broad spectrum of representatives of the aviation industry and aviation consumer groups, including: (A) representatives of the commercial aviation industry; (B) independent experts on the aviation industry, including the rural aviation industry; (C) former administrators of the Administration and representatives of civil aviation; and (D) members of the Aviation Safety Commission.

(g) REPORTS.—On or before the expiration of the 12-month period following the date of the first meeting of the Commission, the Commission shall transmit to the President and to the Congress a final report containing a detailed statement of the study conducted by the Commission under this section and the recommendations of the Commission for legislative or other actions the Commission considers appropriate. The Commission may issue such interim reports as it determines appropriate.

(h) The Commission shall terminate upon the expiration of the 60-day period following the date of the submission to the President and the Congress of the Commission's final report.

(i) AUTHORIZATION.—There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this section.●

ADDITIONAL COSPONSORS

S. 794

At the request of Mr. METZENBAUM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 794, a bill to amend chapter 13 of title 18, United States Code, to impose criminal penalties and provide a civil action for damage to religious property and for injury to persons in the free exercise of religious beliefs.

S. 797

At the request of Mr. METZENBAUM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 797, a bill to require the Attorney General to collect data and report annually about hate crimes.

S. 998

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1184

At the request of Mr. FORD, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1184, a bill to amend the Airport and Airway Improvement Act of 1982 to improve the safety and efficiency of air travel, and for other purposes.

S. 1188

At the request of Mr. SYMMS, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1374

At the request of Mr. DOLE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1374, a bill to provide for a comprehensive program relating to acquired immune deficiency syndrome.

S. 1475

At the request of Mr. MELCHER, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1475, a bill to establish an effective clinical staffing recruitment and retention program, and for other purposes.

S. 1561

At the request of Mr. BOND, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Oklahoma [Mr. Boren] were added as cosponsors of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1600

At the request of Mr. Ford, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1704

At the request of Mr. Melcher, the name of the Senator from Montana [Mr. Baucus] was added as a cosponsor of S. 1704, a bill to authorize the establishment of the Lewis and Clark National Historic Site in the State of Montana.

SENATE JOINT RESOLUTION 188

At the request of Mr. Sarbanes, the names of the Senator from Massachusetts [Mr. Kennedy], the Senator from New York [Mr. D'Amato], the Senator from Texas [Mr. Bentsen], the Senator from Alabama [Mr. Shelby], the Senator from Connecticut [Mr. Dodd], the Senator from North Dakota [Mr. Burdick], the Senator from Michigan [Mr. Riegle], the Senator from Tennessee [Mr. Gore], and the Senator from Georgia [Mr. Fowler] were added as cosponsors of Senate Joint Resolution 188, a joint resolution designating the week of November 1 through November 7, 1987, as "National Watermen's Recognition Week."

SENATE CONCURRENT RESOLUTION 81—RECOGNIZING THE ACCOMPLISHMENTS OF THE FEDERAL AID IN WILDLIFE RESTORATION ACT IN HONOR OF ITS 50TH ANNIVERSARY

Mr. MITCHELL (for himself, Mr. Breaux, Mr. Symms, Mr. Chiles, Mr. Bumpers, Mr. Ford, Mr. Sanford, Mr. Nickles, Mr. Quayle, Mr. Kerry, Mr. Wirth, Mr. Domenici, Mr. Matsunaga, and Mr. Cohen) submitted the following concurrent resolution; which was referred to the Committee on Environment and Public Works:

S. Con. Res. 81

Whereas the Federal Aid in Wildlife Restoration Act (commonly known as the "Pittman-Robertson Act") was signed into law on September 2, 1937, and is regarded as a model of effectiveness and efficiency among programs under which Federal grants are provided to the States;

Whereas the manufacturers, importers, and buyers of sporting arms and ammunition, archery equipment, and handguns have jointly supported the levying of the excise tax on those products to finance the Pittman-Robertson Act program;

Whereas the excise tax has generated more than $1,750,000,000 for national wildlife restoration over the past 50 years without cost to the general taxpayer;

Whereas except for the money deducted for the administrative costs of the program (which costs are normally less than the 8 percent deduction permitted by law), all monies generated by the excise tax are allocated among the States under a formula based on the relative size of the States and number of licensed hunters;

Whereas although the State restoration projects that are financed through the Pittman-Robertson Act program must conform to Federal standards of quality and substance, the projects are selected, designed, and implemented by the States, where needs are best determined;

Whereas with the assistance of Pittman-Robertson Act program, the States have—

(1) developed and applied management measures that have helped reverse the slide toward extinction of numerous species, including the antelope, beaver, wood duck, white-tailed deer, giant Canada goose, elk, black bear, cougar, and wild turkey;

(2) provided annual training in safety, wildlife and outdoor ethics for more than 700,000 first-time hunters; and

(3) purchased more than 6,400 square miles (4.1 million acres) of land for wildlife management purposes and have negotiated agreements to participate in the management of lands exceeding 10 times that area;

Whereas although hunters and shooters are the sole source of Pittman-Robertson Act program moneys, the nonhunting use of the lands acquired or managed under the program exceeds hunting use by nearly three times, and non-hunted species (including endangered species) are regular beneficiaries of the management measures implemented under the program for hunted species;

Whereas the Pittman-Robertson Act, by creating a nationwide demand for trained scientists to carry out research regarding, and to manage, wildlife, has been a major force in the establishment of wildlife management as a profession and science: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes the accomplishments of the Federal Aid in Wildlife Restoration Act in enhancing, during the past 50 years, the knowledge, conservation, management, and habitat of our Nation's wildlife resources, as well as hunter education; and commends hunters and shooters in the United States for the contributions they have made to make the Act such a success.

● Mr. MITCHELL. Mr. President, the individual hunter has contributed in many ways to the conservation of wildlife. This past September marks the 50th anniversary of one of the most far reaching of these contributions. On September 2, 1937, President Franklin Roosevelt signed the Federal Aid in Wildlife Restoration Act, more commonly known as the Pittman-Robertson Act, after its original sponsors, Senator Key Pittman of Nevada and then-Representative A. Willis Robertson, of Virginia.

The early 1930's were one of the most difficult times in this Nation's history. The American people suffered greatly from our worst economic depression and drought. This period also was a time when the accumulated disregard and abuse of our natural resources had become acute. In particular, many of our wildlife populations had been nearly eradicated by years of uncontrolled killing to supply commercial markets with fur, feathers, meat, and oil.

The desperate state of wildlife and other natural resources in the thirties spawned a number of laws that form much of the backbone of today's wildlife conservation programs. Many of the Nation's conservation organizations also got their start during that period.

The Pittman-Robertson Act is one of the laws that dates back to that era. At the request of hunters and sporting arms manufactures, and others interested in conservation, the Congress extended the life of an existing 10-percent tax on sport hunting firearms and ammunition with the provision that these proceeds be earmarked directly for matching with the States to restore, manage, and study wildlife populations and habitat. Subsequent amendments expanded the items covered by the tax to include handguns and archery equipment.

The moneys generated by the tax are allocated to the States without further appropriation on a 3-to-1 Federal-State matching basis. The proportion allocated to each State is based on the State's area and the number of licensed hunters.

This fiscal year, for instance, Maine's Department of Inland Fisheries and Wildlife will receive more than $800,000 in Pittman-Robertson matching Federal funds for wildlife management projects and hunter education.

To qualify for Federal matching funds, wildlife management projects developed by the States must be approved by the U.S. Fish and Wildlife Service. The Service may use up to 8 percent of the total excise tax receipts for administering and overseeing the program.

The excise tax imposed under the Pittman-Robertson Program has raised more than $1.75 billion in the past 50 years. The States have matched these proceeds with $500 million from hunting license fees. These funds have helped restore numerous wildlife species, provided hunter safety training, and purchased 4.1 million acres of land for wildlife. As a result, many once-depleted wildlife species such as the white-tailed deer, wild turkey, beaver, black bear, wood duck, Canada Goose, and bald eagle are now common.

The benefits of the Pittman-Robertson Program not only accrue to sportsmen and women, they also extend to a much larger number of people who never hunt but who do enjoy wildlife-related activities. In recent studies it has been estimated that only about 10 to 30 percent of the use of wildlife areas funded by the program is related to hunting. Most of the visitors to these areas the birdwatchers, photographers, canoeists, and others who simply enjoy seeing wildlife in its natural habitat.

To honor the achievements of the Pittman-Robertson Act and the hunters who have made it possible with their continuing support, I am submitting this concurrent resolution to commemorate the 50th anniversary of the enactment of this program. It is identical to the resolution sponsored by Representative Davis of Michigan and adopted by the House.

I thank Senators Breaux and Symms and the other 11 sponsors of this concurrent resolution. It is my hope that others will join us in recognizing the wildlife restoration made possible by this important piece of legislation.●

AMENDMENTS SUBMITTED

STATE DEPARTMENT, U.S. INFORMATION AGENCY AND BOARD FOR INTERNATIONAL BROADCASTING AUTHORIZATION ACT

DOLE AMENDMENT NO. 841

Mr. DOLE proposed an amendment to the bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and for other purposes; as follows:

On page 7, between lines 7 and 8, insert the following new subsection:

(d) International Wheat Council.—Of the funds authorized to be appropriated for the fiscal year 1988 by this section, not less than $388,000 shall be available only for the United States contribution to the International Wheat Council.

WALLOP (AND OTHERS) AMENDMENT NO. 842

Mr. WALLOP (for himself, Mr. Wilson, Mr. Dole, Mr. Helms, Mr. Quayle, Mr. Symms, Mr. Matsunaga, and Mr. Inouye) proposed an amendment to the bill (S. 1394) supra; as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC.   . EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE SOVIET ICBM TESTS NEAR THE STATE OF HAWAII.

(a) Findings.—The Congress finds that—

(1) the Union of the Soviet Socialist Republic and the United States of America have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

(2) the Soviet Union has within the last twenty four hours conducted two tests of its intercontinental ballistic missile forces,

(3) the announced impact points for reentry vehicles from these tests are as close as two hundred miles northwest and southeast of the State of Hawaii,

(4) one target area will require the overflight of sovereign U.S. territory by a Soviet ICBM,

(5) neither superpower has ever conducted an ICBM test as close to the others' territory,

(6) the missile used in this test is a new modern multiple warhead ICBM which is a violation of both the "new type" and the "heavy ICBM" provisions of the SALT II Treaty,

(7) The Soviet Union allegedly encrypted telemetry from this first flight-test, as is their standard practice, in further violation of the SALT II Treaty,

(8) The Soviet Union appears to have been practicing with this test a strike on the United States because of the use of trajectories of fire identical with those that would be used to attack Pearl Harbor,

(9) had this test misfired by only fractions of a second, tens of Soviet ballistic missile test warheads could have landed on centers of population in the Hawaiian Islands, and

(10) this action cannot be explained as anything but a deliberate provocation of the United States and a direct threat to our national security.

(b) Sense of the Congress.—It is the Sense of the Congress that—

(1) This test has increased rather than decreased the risk of nuclear war.

(2) The Congress of the United States condemns the Soviet Union for its actions that demonstrate an utter disdain for civilized and acceptable standards of international behavior,

(3) The Congress condemns this new violation of the provisions of the SALT II Treaty,

(4) Because the United States has not even a very limited defense against ballistic missiles, the possibility of accidental impact of Soviet ballistic missile test warheads in the population centers on the Islands of Hawaii could not be prevented,

(5) The United States government should officially and at the highest levels protest this action by the Soviet government and should inform the Soviet Union that it will not tolerate another flight-test of this sort aimed directly at U.S. territory;

(6) The President should report to the Congress in ten days in both classified and unclassified forms on (a) the details of the tests; (b) Soviet explanations offered in response to U.S. diplomatic protests; (c) what steps the U.S. will take to ensure that such a test will not happen in the future; and (d) what effect a first-phase SDI system could have against a missile launched in similar proximity to U.S. territory.

HELMS AMENDMENT NO. 843

Mr. HELMS proposed an amendment, which was subsequently modified, to amendment No. 842 proposed by Mr. Wallop (and others) to the bill (S. 1394) supra; as follows:

Add at the end of the Wallop amendment the following new section:

"Sec.   . Notwithstanding any other provision of law or of this Act, no national defense program of the United States shall be impeded or delayed in order to comply with any treaty or proposed treaty or provision thereof which the President has certified to Congress that the U.S.S.R. is violating unless and until the President shall thereafter certify to Congress that the U.S.S.R. is no longer violating such treaty or such provision and that the U.S.S.R. has given formal assurance that it will not again use impact areas adjacent to the State of Hawaii or any other State or territory of the United States for testing ICBMs or any other nuclear weapons delivery system."

PELL AMENDMENT NO. 845

Mr. PELL proposed an amendment to the bill (S. 1394) supra; as follows:

At the end of the bill add the following amendment: "The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, and, upon entry into force of the amendments to such constitution approved in Geneva, Switzerland, on May 20, 1987, to continue membership in the organization under the name International Organization for Migration in accordance with such constitution and amendments. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incidental to United States participation in the Committee."

CHAFEE AMENDMENT NO. 844

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill (S. 1394) supra; as follows:

On page 75, between lines 12 and 13, insert the following:

SEC. 218. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) Terms of Service.—Section 306(b)(3)(A) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(3)(A) Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three year terms, four members to serve two year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.".

(b) Vacancies; Chairmanship.—Section 306(b)(3)(B) of the Convention on Cultural Property Implementation Act (19 U.S. 2601 note) is amended to read as follows:

"(B)(i) A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

"(ii) The President shall designate a Chairman of the Committee from the members of the Committee.".

CRANSTON AMENDMENT NO. 846

Mr. CRANSTON proposed an amendment to the bill (S. 1394) supra; as follows:

On page 57, between lines 17 and 18, insert the following new section;

SEC. 146. Privileges and Immunities to Offices of the Commission of the European Communities:

"The act entitled "An act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and the members thereof", approved October 18, 1972 (86 Stat. 815), is amended by adding at the end the following: "Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

"(1) the privileges and immunities described in the preceding sentence; or

"(2) as appropriate for the functioning of a particular office, privileges and immunities equivalent to those accorded consular premises, consular offices, and consular employees, pursuant to the Vienna Convention on Consular Relations.".

MITCHELL (AND OTHERS) AMENDMENT NO. 847

Mr. MITCHELL (for himself, Mr. COHEN, and Mr. SIMON) proposed an amendment to the bill (S. 1394) supra; as follows:

On page 75, between lines 12 and 13, insert the following new section:

SEC. 218. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.

(a)(1) The purpose of this section is to promote friendship and understanding between the United States and the Soviet Union through the establishment of a program for the exchange of youths of the two countries and to recognize the contribution made by Samantha Smith in furthering this goal.

(2) To carry out the purposes of this section, the Bureau of Educational and Cultural Affairs (hereafter in this section referred to as the "Bureau") is authorized to provide by grant, contract, or otherwise for educational exchanges, visits, or interchanges between the United States and the Soviet Union of American and Soviet youths under the age of 21.

(3) The President is authorized to enter into an agreement with the Government of the Soviet Union to carry out paragraph (2).

(b)(1)(A) The Bureau is authorized to award scholarships to exceptional students—

(i) who have not obtained 25 years of age;

(ii) who are enrolled in institutions of higher education;

(iii) who are studying in the Soviet Union in programs approved by such institutions; and

(iv) who meet the conditions of paragraph (2).

(B) In awarding scholarships under this paragraph, the Bureau shall consider the financial need of the applicants.

(C) Each scholarship awarded under clause (A) may not exceed $5,000 in any academic year of study.

(2) The Bureau shall prescribe such regulations as may be necessary to establish procedures for the submission and review of applications for scholarships awarded under this section.

(3)(A) A student awarded a scholarship under this subsection shall continue to receive such scholarship only during such periods as the Bureau finds that he or she is maintaining satisfactory proficiency in his or her studies.

(B) Not later than 30 days after the close of an academic year for which funds are made available under this section, each institution of higher education, one or more students of which have been awarded a scholarship under this section, shall prepare and transmit to the Bureau a report describing the level of proficiency achieved by such students in their studies.

(4) For purposes of this subsection, the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965.

(c) In addition to funds authorized to be appropriated for the Bureau for the fiscal year 1988, $2,000,000 shall be available in fiscal year 1988 only to carry out the purposes of this section.

(d) Activities carried out under this section may be referred to as the "Samantha Smith Memorial Exchange Program".

RIEGLE (AND OTHERS) AMENDMENT NO. 848

Mr. PELL (for Mr. RIEGLE), (for himself, Mr. LEVIN, Mr. HELMS, Mr. LAUTENBERG, Mr. DIXON, Mr. KERRY, Mr. PRYOR, Mr. NICKLES, Mr. MOYNIHAN, Mr. D'AMATO, and Mr. BYRD) proposed an amendment to the bill S. 1394, supra; as follows:

At the end of the bill, add the following new section:

SEC. . SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

(a) FINDINGS.—Congress finds that—

(1) the subjugation of peoples to foreign domination constitutes a denial of human rights and is contrary to the Charter of the United Nations;

(2) all peoples have the right to self-determination and to establish freely their political status and pursue their own economic, social, cultural, and religious development, a right that was confirmed in 1975 in the Helsinki Final Act;

(3) on August 23, 1939, Soviet Foreign Minister V. M. Molotov and the Foreign Minister of Nazi Germany, Joachim von Ribbentrop, signed a non-aggression pact containing Secret protocols that consigned the Baltic States to a Soviet sphere of influence;

(4) on June 21, 1940, Armed Forces of the Soviet Union overran the independent Baltic republics of Estonia, Latvia, and Lithuania and forcibly incorporated them into the Soviet Union, depriving the Baltic peoples of their basic human rights, including the right to self-determination;

(5) the Government of the Soviet Union continues efforts to change the ethnic character of the population of Estonia, Latvia, and Lithuania through policies of Russification and dilution of their native populations;

(6) the United States continues to recognize the diplomatic representatives of the last independent Baltic governments and supports the aspirations of the Baltic peoples to self-determination and national independence, a principle enunciated in 1940 and reconfirmed by the President on July 26, 1983, when he officially informed all member nations of the United Nations that the United States has never recognized the forced incorporation of the Baltic States into the Soviet Union;

(7) the Baltic peoples continue to show their discontent with the foreign domination of their nations and their ardent hopes for liberty, most recently on August 23, 1987, when simultaneous demonstrations were held in Tallinn, Estonia, Riga, Latvia, and Vilnius, Lithuania to mark the 48th anniversary of the signing of the Molotov-Ribbentrop Pact; and

(8) the Soviet Union continues to deny the people of Estonia, Latvia, and Lithuania the right to exist as independent countries, separate from the Soviet Union and denies the Baltic peoples the right to freely pursue human contacts, movement across international borders, emigration, religious expression, and other human rights enumerated in the Helsinki Final Act.

(b) RECOGNITION AND ACTION BY PRESIDENT.—Congress—

(1) recognizes the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence from the Soviet Union; and

(2) calls on the President to—

(A) direct world attention to the right of self-determination of the people of the Baltic States by issuing on July 26, 1988, a statement that officially informs all members nations of the United Nations of the support of the United States for self-determination of all peoples and nonrecognition of the forced incorporation of the Baltic States into the Soviet Union.

(B) closely monitor events in the Baltic States following the peaceful public demonstrations in Riga on June 14, 1987, and in Tallinn, Riga, and Vilnius on August 23, 1987, and, in the context of the Helsinki Review Conference and other international forums, to call attention to violations of basic human rights in the Baltic States, such as the harassment, arrest, imprisonment, or expulsion of those who organize peaceful public demonstrations; and

(C) promote compliance with the Helsinki Final Act in the Baltic States through human contacts, family reunification, free movement, emigration rights, the right to religious expression and other human rights enumerated in the Helsinki Accords.

TRIBLE (AND WARNER) AMENDMENT NO. 849

Mr. HELMS (for Mr. TRIBLE, FOR HIMSELF AND MR. WARNER) proposed an amendment to the bill (S. 1394) supra; as follows:

On page 48, between lines 7 and 8, insert the following:

SEC. 138. STUDIES AND PLANNING FOR A CONSOLIDATED TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.

Section 123(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is amended—

(1) by inserting "(A)" immediately after "(1)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer up to $11,000,000 for 'Administration of Foreign Affairs' to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural and engineering planning under subsection (b).".

On page 2, in the table of contents, after the item relating to section 137, insert the following new item:

Sec. 138. Studies and planning for a consolidated training facility for the Foreign Service Institute.

HELMS AMENDMENT NO. 850

Mr. HELMS proposed an amendment to the bill (S. 1394) supra; as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . LIMITATIONS ON HOUSING EXPENSES FOR U.S. EMPLOYEES AT THE UNITED NATIONS.

(a) Section 119(1) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241) is hereby repealed.

(b) Section 9 of the United Nations Participation Act of 1945 is hereby amended by inserting a comma after the word "allowance" in subsection (1) and inserting the following "not to exceed $1,500 per month,".

MELCHER AMENDMENT NO. 851

(Ordered to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to the bill (S. 1394) supra; as follows:

On page 111 between lines 16 and 17, insert the following new section:

SEC. . PLAN FOR SHARING COSTS INVOLVED IN THE USE OF UNITED STATES ARMED FORCES IN THE PERSIAN GULF

In order to pay for the costs of the Naval protection provided in the Persian Gulf, it is the sense of Congress that:

(1) The President should enter into negotiations with the government of any country benefiting from the protection to oil shipments and other navigation in the Persian Gulf, in order to establish a pro rata sharing of costs involved in such mission;

(2) The President should prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

"(A) his assessment of the costs involved in the use of United States Armed Forces in the Persian Gulf;

"(B) a plan for the pro rata sharing of such costs among those countries which benefit from that use of United States Armed Forces; and

"(C) a discussion of the status of negotiations entered into for the purpose of implementing the plan.".

HELMS AMENDMENT NO. 852

Mr. HELMS proposed an amendment to the bill (S. 1394) supra; as follows:

At the end of Section 101 of the bill, add the following new subsection:

(b) The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives within 30 days of the end of each quarter of the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for Emergencies in the Diplomatic and Consular Service.

MIKULSKI AMENDMENT NO. 853

(Ordered to lie on the table.)

Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill (S. 1394) supra; as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. 517. POLICY TOWARD THE DETENTION OF CHILDREN IN SOUTH AFRICA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of South Africa under its system of apartheid indiscriminately and repeatedly has detained black children without charge of trial, and has denied parental access to these children for extended periods of time;

(2) the detainees' parents' support committee of South Africa has compiled information estimating that more than 25,000 people were detained since June 12, 1986, under state of emergency regulations, and approximately 10,000 of these were children, including some as young as age 10;

(3) the Government of the Republic of South Africa has admitted on numerous occasions that it has detained children without charge, and that on a certain day in December 1986, 256 children under the age of 16 were in detention; that on a certain day in February 1987, 281 children under the age of 15 were in detention; that on a certain day in April 1987, 1,424 children under the age of 18 were in detention; and that on a certain day in May 1987, 280 children under the age of 16 were in detention; and that as of June 2, admitted that eleven children under the age of 16 were in detention; and

(4) human rights groups in South Africa estimate that many more children have been detained under state of emergency regulations than the Government of the Republic of South Africa admits;

(5) the state of emergency regulations allow for the detention of individuals without charge for an indefinite period of time; and

(6) the United States Ambassador to South Africa Edward J. Perkins has stated that such detentions are "a most serious abuse of human rights, particularly so where detainees are children as young as 11".

(b) POLICY.—The Senate hereby—

(1) calls for the cessation of the practice of detaining children under 18 years of age without charge or trial in South Africa;

(2) calls for the immediate release of all children in South Africa under state of emergency regulations and other laws which authorize detention without charge or trial; and

(3) pending the release of the children, calls on the Government of the Republic of South Africa to—

(A) permit the detained children immediate and frequent access to parents and legal counsel;

(B) make public the names and locations of all the detained children;

(C) provide the detained children with adequate food; clothing, and protection; and

(D) permit a recognized, independent, and impartial international humanitarian organization to verify that the provisions of this section are being carried out and that the detained children are not being abused, tortured, held in solitary confinement, and are not being held in detention in the company of adults.

(4) calls for the apprehension and trial of all those individuals who execute children by violent activities, including necklacing, and the cessation of these activities.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Friday, October 2, 1987, to receive testimony concerning the implementation of the Reclamation Reform Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. PRYOR. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, October 2, beginning at 1 p.m., to mark up clean air legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Friday, October 2, 1987, to hold a hearing on S. 1703, the Indian Self-Determination and Education Assistance Act (P.L. 93-638).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HEALTH

Mr. PRYOR. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Finance, be authorized to meet during the session of the Senate on October 2, 1987, to hold a hearing on child health programs and proposals that fall within the jurisdiction of the Finance Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. PRYOR. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Friday, October 2, 1987, to markup farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT

LAUREL LOFTSGARD

● Mr. BURDICK. Mr. President, North Dakota State University is today mourning the loss of its president, Laurel Loftsgard. He died of cancer yesterday at age 61.

Loftsgard was at NDSU, Fargo's land grant college, as long as I've been in Washington, since 1958. He taught agricultural economics for many years, before becoming vice president for academic affairs.

Since 1968, when Loftsgard was named president, NDSU has grown by leaps and bounds. This beautiful campus on the north side of Fargo is best known as a center for agricultural research, but it has strong programs in every field, from engineering to home economics.

I enjoyed working with Laurel Loftsgard and considered him a personal friend. A native North Dakotan, he knew the State and its people and helped build its university into a major center for higher education.

Mr. President, I ask unanimous consent that an article from the Forum, a Fargo newspaper, written by Jim Neumann, be inserted in the RECORD. It is a tribute to this educational leader.

The article follows:

LAUREL LOFTSGARD, PRESIDENT OF NDSU, SUCCUMBS TO CANCER

(By Jim Neumann)

Laurel D. Loftsgard, president of North Dakota State University for 19 years, died late Thursday of cancer at a Fargo hospital. He was 61.

Loftsgard, who had a cancerous kidney removed last March, had been hospitalized for cancer treatment since Aug. 11. He died at 11:40 p.m. according to a nursing supervisor at St. Luke's Hospital.

John Richardson, state commissioner of higher education, said he would appoint an acting president in the near future to serve until a new president can be selected by the Board of Higher Education.

Robert Koob, NDSU vice president of academic affairs, will serve as the university's chief administrator until an acting president is named, Richardson added.

Richardson termed Loftsgard "a fine man . . . with whom I enjoyed a close relationship."

"It's significant to note he provided leadership for the university for nearly two decades, decades marked by the university's greatest expansion in terms of enrollment and service to the people of North Dakota," Richardson said.

"He's built a major university from a relatively small college," said Koob, who served at NDSU throughout Loftsgard's tenure. "The changes were enormous and all for the good."

Loftsgard was named president of NDSU in 1968, becoming the first native North Dakotan and third-youngest person to hold that position.

A North Dakota farm boy, he was quick to assess the value of his background in presiding over an agriculture-based university in a farm state.

"I believe that persons with my kind of background are able to be more effective in getting the support and confidence across the state than someone in the liberal arts field," he said shortly after assuming the presidency. "Because the state is 80 percent rural, and because the legislative bodies and the appropriations committees are controlled by people close to the farming industry, it is important that the president be someone who knows and understands these people."

Loftsgard was born Sept 4, 1926 at Hoople, and grew up on the family farm near there. He began his education in a rural school near Hoople, and attended high school at the Walsh County Agricultural School in Park River. He was forced to drop out briefly in his sophomore year to operate the family farm while his father was ill.

Loftsgard served in the U.S. Army in 1946-47 after graduating from high school. He was 23 years old when he enrolled at NDSU in 1949, and his college education was interrupted by another tour of duty in the Army during the Korean War from 1950 to 1951.

He married Carol June Evenson, Edinburg, N.D., at Edinburg in 1951 and returned to NDSU the same year. He graduated in 1954 with a bachelor of science degree in agricultural economics.

Loftsgard attended graduate school at Iowa State University and earned a doctorate in 1958. He returned to NDSU that year to accept a position as an assistant professor of agricultural economics.

Eight years after his return to NDSU he was appointed vice president for academic affairs.

He held that position until January 1968, when he was named acting president following the resignation of Herbert Albrecht. The state board of higher education made Loftsgard's appointment permanent six months later.

Loftsgard was the first NDSU alumnus to become the university's president.

He presided over NDSU during the social turbulence of the late 1960s and early 1970s, the enrollment boom of the late '70s and the lean economic times of the mid-1980s.

During his presidency, enrollment at NDSU rose more than 50 percent, increasing from 6,228 students in the fall of 1968 to a projected record 9,450 students this fall.

Major building and remodeling projects totaling more than $30 million were undertaken during his tenure. Among buildings constructed were the Bison Sports Arena, Music Education building, Family Life Center and additions to the Memorial Union and Library. Many of the projects were undertaken with private funds.

When money for new buildings dwindled and construction costs soared, the university remodeled or rebuilt a number of buildings from the inside out, including Old Main, Minard Hall, the old field house, Ladd Hall, Morrill Hall and the home economics and horticulture science buildings.

In 1970, Loftsgard spearheaded the creation of the NDSU Development Foundation which guided two major fund-raising projects during his presidency, including SU '75 and the Centennial Fund Drive.

Under Loftsgard's leadership, NDSU's football team won 13 North Central Conference championships and five national titles.

NDSU began participating in the Minnesota-North Dakota tuition reciprocity program in 1975. In 1979, at urging from Loftsgard and other university officials, the NDSU Development Foundation doubled its scholarship funding for freshmen.

The university this year inaugurated the Northern Crops Institute, which helps market regionally-grown crops.

Loftsgard received numerous awards and recognitions, including the school's Blue Key Doctor of Service award in 1980 and the NCC Honor Award in 1979.

He was director for the North Dakota Water Resources Research Institute in 1965-66. He was a member of the Gamma Sigma Delta and Alpha Zeta agriculture honor societies; the Department of Health, Education and Welfare Secretary's Region VIII Advisory Committee; the First National Bank and Metropolitan Federal Savings and Loan Association boards; St. Luke's Hospital board of trustees; the Federal Home Loan Bank of Des Moines (Iowa) board; and several fraternal organizations. He was appointed civilian aide to the Secretary of the Army for North Dakota in 1975.

Loftsgard is survived by his wife, Carol, 1200 N. University Drive; a son, Bradley, who farms near Fort Ransom, N.D.; one daughter, Cynthia, Phoenix, Ariz.; two brothers, Eugene and Harvey, both Park River; and two sisters, Eleanor Jost, Goleta, Calif., and Ruth Larson, Park River.●

NAUM MEIMAN

● Mr. SIMON. Mr. President, yesterday afternoon two Soviet human rights activists were detained in Moscow. Their only crime was to edit a "human rights" journal. To those of us familiar with the case of my friend Naum Meiman, this will not come as a surprise.

Naum and thousands like him have had their most basic human rights consistently violated. The denial of religious and press freedoms, and the refusal of exit visas, is deplorable. Tragically, these abuses are daily events in Soviet society.

However, we may take hope from the increasing number of refuseniks who have recently received exit visas. It seems that the Soviet system does respond to our undying pressure. If the current trickle is to be turned into a flood, we must maintain our full commitment to this great human rights issue. Therefore, I, once again, urge the Soviets to release Naum immediately.●

THE PLIGHT OF BORIS CHERNOBILSKY

● Mr. BIDEN. Mr. President, I would like to draw my colleagues' attention to the plight of Boris Chernobilsky, a Soviet refusenik and former prisoner-of-conscience. For 11 years Boris Chernobilsky, a 43-year-old radio electronics engineer, has sought to emigrate from Moscow to Israel. Soviet authorities have refused to grant him an exit visa on the grounds that he had access to "state secrets." In truth, Boris Chernobilsky has been denied an exit visa as punishment for his courageous efforts to practice his religion and preserve his Jewish heritage.

Chernobilsky, like the many thousands of refuseniks wanting to leave the Soviet Union, dreams of living with his family and friends in Israel. He and his wife Elena and their two children, Genya and Joseph, have renounced their Soviet citizenship and declared themselves to be citizens of Israel. Like many Jewish prisoners-of-conscience, he has suffered for his resistance to the oppression of the Soviet state. Convicted of a trumped-up charge, Boris spent a year in a labor camp.

I have been following Chernobilsky's case since last spring. In June I received what I thought was good news from the Soviet Embassy. The letter indicated that Boris Chernobilsky was granted permission to leave the Soviet Union. Friends and relatives of his were elated by this news and anticipated the Chernobilsky family's emigration to Israel. But Boris Chernobilsky had heard nothing in Moscow, and he was told by Soviet authorities that his exit visa had not been granted. He is still waiting for a clarification of his emigration status from Soviet authorities.

Mr. President, hundreds of thousands of Soviet Jews like Boris Chernobilsky wish to leave the Soviet Union. Depsite the increased emigration this year, too few Jews are being granted exist visas. I certainly welcome the Soviet policy of glasnost, which has brought somewhat higher levels of Jewish emigration and greater openness in Soviet society. But glasnost will remain incomplete as long as individuals such as Boris Chernobilsky are denied the right to emigrate, persecuted for practicing their religion, and cruelly punished for their dissent. The American people cannot fully embrace new offers of friendship and cooperation from Moscow as long as the Soviet Government continues to oppress the basic rights of its own citizens.●

INFORMED CONSENT: NEW MEXICO

● Mr. HUMPHREY. Mr. President, today I bring your attention to a letter sent to my office from a woman in New Mexico. It is typical of hundreds of letters that have come into my office in support of my informed consent bills, S. 272 and S. 273.

Informed consent is defined in "Black's Law Dictionary" as "a person's agreement to allow something to happen (such as surgery) that is based on a full disclosure of facts needed to make the decision intelligently; i.e., knowledge of risks involved, alternatives, etc." Unfortunately, when it comes to abortion, many women are being denied this full disclosure.

The results of the lack of informed consent before abortion is exemplified in today's letter and the hundred's like it. I urge my colleagues to end such an injustice toward women and support behind S. 272 and 273. I ask unanimous consent that the letter from New Mexico be entered into the RECORD.

The letter follows:

JULY 1, 1987.

DEAR SENATOR HUMPHREY: I had an abortion in 1976 in Portland Oregon. They did not tell me that it could cause problems for any subsequent pregnancies. They did not tell me that I would probably have feelings of regret. They did not tell me that if they listened at that time that they would hear a heart beat or even that I would feel the baby move soon. They didn't tell me anything that would cause me to change my mind. What they did tell me was the procedure of the abortion. I have a very low pain tolerance so when they explained the procedure, I said maybe I would go ahead and have the baby. At that statement they replied, it's going to be more painful to carry and give birth to the baby.

As you see by that statement, they encouraged the abortion and discouraged the birth.

I hope this letter will be of help in getting the informed consent bill passed.

Sincerely,

ANONYMOUS,

New Mexico.●

EARL JONES RECEIVES JOHN K. STERRETT AWARD

● Mr. WIRTH. Mr. President, senior citizens play an important role in making Colorado the special place that it is today.

To draw attention to the tremendous amount of work they do for Coloradans of all ages, the Senior Beacon, a publication well known for its reporting of issues of concern to seniors, annually awards the John K. Sterrett Senior Award. This award is given to that outstanding senior who exemplifies the attitude and lifestyle of a senior in the Pikes Peak region and is an inspiration to the Colorado Springs area.

This year's recipient is Earl E. Jones. Mr. Jones has served on numerous boards and participated in education programs. He helped raise funds to build a new senior center in Colorado Springs. The years spent in Colorado following his retirement from Mobile Oil Corporation have been active, challenging ones.

I would like to commend the Senior Beacon for sponsoring the award and to congratulate Mr. Jones for his outstanding contributions.

I submit the article from the Beacon for the CONGRESSIONAL RECORD.

The article follows:

EARL JONES RECEIVES THE JOHN K. STERRETT AWARD

(By Gerald K. Bliese)

The *Senior Beacon* is proud to announce that the winner of the John K. Sterrett Award is Earl E. Jones.

The John K. Sterrett Senior Award is given each year to the outstanding senior who exemplifies the attitude and lifestyle of an extraordinary senior in the Pikes Peak region and is an inspiration of aging and service to our community.

Earl Jones has been active in the Colorado senior scene since 1975. He currently is Assistant State Director for the AARP and has served as president three different times of the Austin Bluffs Chapter. He also served as vice president and for 5 years was active on the legislative committee. He also was an instructor in the Denver Education (55/Alive) prgram.

Besides his activities with the local, and state AARP, Earl has been a volunteer or in promotion of Silver Key Senior Services, attended the Council of Senior Organization meetings, helped with the fund-raising of the new Senior Center and assists in the Myron Stratton senior advisory committee.

Earl, with his wife "Jo" moved to Colorado Springs in 1968 after 41 years with Mobil Oil Corp. He started as an office boy in 1927 and retired in 1968 as administrative assistant to the Milwaukee Regional accounting manager and was responsible for computer software and processing operations.

Earl and Jo have two sons and six grandchildren whom they enjoy seeing as much as possible. Earl is also active in his local church.

When you see Earl, you always see a smile and a willingness to want to help. We are thankful for the nomination of Earl Jones, and we are pleased he has been chosen for this award.

His framed color photo will join last year's winner to be hung on the special outstanding senior award wall at the Senior Center. Congratulations Earl E. Jones.●

MINORITY ENTERPRISE DEVELOPMENT WEEK

● Mr. WEICKER. Mr. President, another year has passed and once again I take great pride in recognizing Minority Enterprise Development [MED] Week, October 4-10, 1987. This year marks the fifth celebration of MED week since it was so designated in 1982 by President Reagan to be held annually during the first full week of October. The Small Business Administration [SBA] and the Minority Business Development Agency [MBDA] are sponsoring events honoring distinguished minority entrepreneurs from around the Nation throughout this week.

And indeed, this should be a week of celebration. The significant contributions that minority business owners continue to make to our Nation's economy and local communities are laudable. But these accomplishments have been hard earned as minorities continue their struggle to open doors to our free enterprise system that have been systematically shut to all but a few in the past. It gives me great pleasure to express my own admiration and praise to each and every minority owner of a business, from the tiny mom and pop establishments to the largest enterprises, that have survived and flourished.

This year's theme, in keeping with the bicentennial celebration of the Constitution, is "We the people * * *." I urge all of my colleagues to pay special attention to these words in the true spirit of the Constitution. We all have a role to play in assuring that minority owned businesses continue to thrive in this Nation and that opportunities to enter the economic mainstream are just as available to minority as to majority entrepreneurs. While I believe it is appropriate that we set aside a week to pay tribute to these business men and women for their outstanding accomplishments, I urge that we also take this time to reaffirm our commitment and rededicate ourselves to the goal of increasing minority business participation in Federal procurement activities when this week is over. Strides have been made, but there is still much to be done.

I believe that the 1987 Department of Defense authorization bill which contains a 5-percent set-aside goal of DOD requirements for minority-owned small businesses is a step in the right direction. In achieving this legislative mandate, I would expect DOD to develop new opportunities for these firms and not simply draw from the 8(a) program or the regular set-aside program. It was the clear intent of Congress when it passed this provision last year to increase small disadvantaged companies' share of the Nation's procurement pie. I would hope that DOD meets the spirit of this legislation as it begins to implement the 5 percent set-aside program in fiscal year 1988.

Mr. President, minority-owned businesses have proven, without doubt, to be a major factor in increasing employment, providing new technology and innovations to the marketplace and ensuring a broader and healthier economy for all citizens. This is all the more reason we, as members of Congress, must not allow this year's theme, "We the people * * *" to ring with a hollow sound, to not lose sight of the tremendous amount of work that still must be done in achieving our goals of helping minority businesses help themselves by encouraging their participation in our Nation's rich economic opportunities.

Again, I congratulate and extend best wishes to every business man or woman who will receive an award during MED Week as well as the many who will not be recognized at this event but whose determination to make a difference is unwavering.●

ORDERS FOR TUESDAY, OCTOBER 6, 1987

RECESS UNTIL 8:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 a.m., on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS, MORNING BUSINESS, VOTE ON S. 1748, AND RESUME CONSIDERATION OF S. 1394

Mr. BYRD. Mr. President, I ask unanimous consent that following the orders of the two leaders on Tuesday next, Mr. PROXMIRE be recognized for not to exceed 5 minutes, Mr. ADAMS be recognized for not to exceed 15 minutes; that there then be a period for the transaction of morning business until the hour of 9:15 a.m., that Senators may be permitted to speak during that period for not to exceed 3 minutes each; that at the hour of 9:15 a.m., the Senate proceed to vote on the Dole-Byrd bill on which the yeas and nays have been ordered, and that that be a 30-minute rollcall vote, at the conclusion of which regular order will be called; and that upon disposition of the Dole-Byrd bill, the Senate resume consideration of S. 1394, which is the State Department authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS AT 12:45 P.M. TUESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, at 12:45 p.m., the Senate stand in recess until 2 p.m. to accommodate the two party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, on Tuesday next, the Senate will convene at 8:30 a.m., and after the two leaders have been recognized under the standing order, Mr. PROXMIRE will be recognized for not to exceed 5 minutes, followed by Mr. ADAMS for not to exceed 15 minutes, followed by a period for the transaction of morning business not to extend beyond 9:15 a.m., during which time Senators may speak for not to exceed 3 minutes each. At 9:15 a.m. the rollcall will begin.

Mr. President, I ask unanimous consent that no quorum call be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, at 9:15 a.m., the Senate will proceed to vote on the Dole-Byrd bill. That will be a rollcall that will last 30 minutes and the regular order will be called for at the end of the 30-minute period.

Following that rollcall vote, the Senate will resume consideration of the State Department authorization bill. Rollcall votes will occur thereon. And the two parties will have their regular conference at 12:45, extending until 2 o'clock. I hope that the Senate will be able to complete action on the State Department authorization bill on Tuesday. An order has been entered for the consideration of the catastrophic illness bill upon the disposition of the State authorization bill or no later than 2 p.m. on Thursday next.

In the meantime, I wish to alert all Senators that we expect rollcall votes on other matters. There are other appropriation bills now that are waiting on the calendar. Upon the disposition of the State authorization bill at some point in time very soon, the Senate will proceed to the consideration of the State-Justice-Commerce appropriation bill.

Senators have been notified already that there will be a rollcall vote that could occur at any time on the motion to proceed to the Verity nomination. And that motion would be nondebatable. There will be a rollcall vote thereon. So at the first opportunity when there is a window, I expect to take up the Verity nomination. Whether or not there will be a rollcall vote on going to it or not, that is up to the Senate. But it will be taken up. And a rollcall vote can be expected on the nomination itself.

There are other very important matters that will come before the Senate. We have had a good week this week. The Senate has adopted four appropriation bills within the last week, going back to last week three of which were passed this week. The House has sent over to the Senate most of the appropriation bills thus far. Not a single regular appropriation bill reached the President's desk last year.

So remaining and already reported by the Senate Appropriations Committee are the energy and water development appropriations bill, the Commerce-Justice-State Judiciary appropriations bill which will follow very soon after the State authorization bill has been passed, and the Labor-HHS-Education appropriations bill has been reported from the committee.

So there are three bills that have been reported from the Appropriations Committee which are eligible to be taken up now at any time. There are two others, the transportation appropriation bill and the military construction appropriations bill, and the HUD appropriations bill which do not show yet on the calendar as having been reported. But I understand that transportation has been ordered reported, and the HUD appropriation bill has been ordered reported.

So we are off, and we are running. And we are going to move with expedition taking up these appropriations bills, sending them to conference and the President's desk so that he can have his opportunity to use his veto pen. He will not be able to kick old Congress around anymore saying he has only been sent one appropriation bill. He has to make his choice. He cannot say he only has one bill, that the budget process up there has broken down, and there needs to be something done about it. He is going to have appropriations bills all over his desk. He can use his own judgment as to whether or not he wants to veto them.

I hope he will use good judgment and not veto them. But that is up to him. He has that right. He has that authority. In any event, we are going to do our duty.

RECESS UNTIL 8:30 A.M., TUESDAY, OCTOBER 6, 1987

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 8:30 a.m. on Tuesday next.

Thereupon at 5:47 p.m., the Senate recessed until Tuesday, October 6, 1987, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 1987:

DEPARTMENT OF STATE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUBSTAINED PERIOD:

GEORGE SOUTHALL VEST, OF MARYLAND.

DEPARTMENT OF JUSTICE

WILLIAM S. ROSE, JR., OF SOUTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE ROGER MILTON OLSEN, RESIGNED.

DEPARTMENT OF THE INTERIOR

EARL E. GJELDE, OF VIRGINIA, TO BE UNDER SECRETARY OF THE INTERIOR, VICE ANN DORE MCLAUGHLIN, RESIGNED.

DEPARTMENT OF COMMERCE

MELVIN N.A. PETERSON, OF CALIFORNIA, TO BE CHIEF SCIENTIST OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, NEW POSITION.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

WILLIAM L. EAGLETON, JR., OF WASHINGTON
HUME ALEXANDER HORAN, OF NEW JERSEY
LOWELL CHARLES KILDAY, OF VIRGINIA
ROBERT E. LAMB, OF GEORGIA
JOHN C. MONJO, OF MARYLAND
THOMAS MICHAEL TOLLIVER NILES, OF THE DISTRICT OF COLUMBIA
WARREN ZIMMERMANN, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

KENNETH W. BLEAKLEY, OF NEW YORK
A. DONALD BRAMANTE, OF NEW YORK
CHARLES F. BROWN, OF NEVADA
ALBERT PETER BURLEIGH, OF CALIFORNIA
EDWARD M. COHEN, OF NEW YORK
JAMES P. COVEY, OF THE DISTRICT OF COLUMBIA
CARL COPELAND CUNDIFF, OF NEVADA
JAMES F. DOBBINS, JR., OF NEW YORK
JOHN JOSEPH EDDY, OF VIRGINIA
PAUL F. EGGERTSEN, M.D., OF WASHINGTON
ROBERT W. FARRAND, OF NEW YORK
RICHARD C. FAULK, OF FLORIDA
ROGER R. GAMBLE, OF NEW MEXICO
ROBERT S. GELBARD, OF NEW YORK
APRIL CATHERINE GLASPIE, OF CALIFORNIA
EDWARD W. GNEHM, JR., OF GEORGIA
PETER T. HIGGINS, OF CALIFORNIA
DAVID L. HOBBS, OF CALIFORNIA
GENTA HAWKINS HOLMES, OF CALIFORNIA
EDWARD HURWITZ, OF THE DISTRICT OF COLUMBIA
RICHARD H. IMUS, OF CALIFORNIA
RICHARD DALE KAUZLARICH, OF VIRGINIA
JOHN HUBERT KELLY, OF GEORGIA
ROLAND KARL KUCHEL, OF THE DISTRICT OF COLUMBIA
DOUGLAS LANGAN, OF NEW JERSEY
EDWARD GIBSON LANPHER, OF VIRGINIA
WARREN A. LAVOREL, OF CALIFORNIA
ROBERT A. MARTIN, OF PENNSYLVANIA
DWIGHT NEWELL MASON, OF NEW JERSEY
BRUNSON MCKINLEY, OF NEW JERSEY
JOSEPH D. MCLAUGHLIN, OF KANSAS
MICHAEL A. G. MICHAUD, OF MARYLAND
WILLIAM B. MILAM, OF CALIFORNIA
GEORGE E. MOOSE, OF MARYLAND
ROBERT B. MORLEY, OF NEW JERSEY
JEROME C. OGDEN, OF NEW YORK
MARK ROBERT PARRIS, OF VIRGINIA
DAVID D. PASSAGE, OF COLORADO
ROBERT A. PECK, OF CALIFORNIA
KENNETH N. PELTIER, OF TEXAS
BURNETT Q. PIXLEY, M.D., OF ARKANSAS
DAVID M. RANSOM, OF THE DISTRICT OF COLUMBIA
EUGENE L. SCASSA, OF PENNSYLVANIA
ARTHUR PERRY SHANKLE, JR., OF MARYLAND
MICHAEL M. SKOL, OF ILLINOIS
LESTER P. SLEZAK, OF VIRGINIA
DANE F. SMITH, JR., OF NEW MEXICO
STEVEN E. STEINER, OF PENNSYLVANIA
JOHN J. TAYLOR, OF TENNESSEE
RICHARD W. TEARE, OF OHIO
PETER TOMSEN, OF OHIO
DOUGLAS K. WATSON, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE APPOINTMENTS, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

RICHARD W. AHERN, OF PENNSYLVANIA
MICHAEL I. AUSTRIAN, OF CALIFORNIA
ANN R. BERRY, OF KENTUCKY
DAVID E. BROWN, OF CALIFORNIA
BRUCE G. BURTON, OF NEW YORK
W. SCOTT BUTCHER, OF OHIO
PETER R. CHAVEAS, OF PENNSYLVANIA
MARTIN L. CHESHES, OF NEW YORK
JAMES F. COLLINS, OF ILLINOIS
JOHN B. CRAIG, OF PENNSYLVANIA
RYAN CLARK CROCKER, OF WASHINGTON
RUTH A. DAVIS, OF CALIFORNIA
SHAUN EDWARD DONNELLY, OF INDIANA
STEPHEN M. ECTON, OF CONNECTICUT
STANLEY T. ESCUDERO, OF FLORIDA
ROBERT C. FELDER, OF FLORIDA
TOWNSEND B. FRIEDMAN, JR., OF ILLINOIS
VICTOR S. GRAY, JR., OF THE DISTRICT OF COLUMBIA
MICHAEL J. HABIB, OF VIRGINIA
MICHAEL L. HANCOCK, OF FLORIDA
CHARLES R. HARE, OF VIRGINIA
DENNIS G. HARTER, OF NEW JERSEY
RICHARD L. JACKSON, OF MASSACHUSETTS
JOANN M. JENKINS, OF FLORIDA
GREGORY L. JOHNSON, OF WASHINGTON
JOHN M. JOYCE, OF COLORADO
JOSEPH EDWARD LAKE, OF TEXAS
ROSCOE C. LEWIS III, OF THE DISTRICT OF COLUMBIA
WALTER B. LOCKWOOD, JR., OF CONNECTICUT
JAMES F. MACK, OF VIRGINIA
JAMES H. MADDEN, OF CALIFORNIA
MICHAEL M. MAHONEY, OF MASSACHUSETTS
CHARLES A. MAST, OF SOUTH DAKOTA
RICHARD M. MILES, OF SOUTH CAROLINA
KEVIN J. MCGUIRE, OF VIRGINIA
JAMES P. NACH, OF VIRGINIA
WARREN P. NIXON, OF IOWA
ALAN PARKER, OF CALIFORNIA
ROBERT M. PERITO, OF MASSACHUSETTS
RICHARD R. PETERSON, OF ILLINOIS
RONALD BENJAMIN RABENS, OF ILLINOIS
WILLIAM CHRISTIE RAMSAY, OF MICHIGAN
KARL S. RICHARDSON, OF NEBRASKA
DAVID A. ROBERTS, OF PENNSYLVANIA
JOSEPH A. SALOOM III, OF FLORIDA
ELEANOR WALLACE SAVAGE, OF CALIFORNIA
ARNOLD P. SCHIFFERDECKER, OF MISSOURI
ELAINE BARBARA SCHUNTER, OF WASHINGTON
KATHERINE H. SHIRLEY, OF ILLINOIS
RAYMOND F. SMITH, OF PENNSYLVANIA
E. MICHAEL SOUTHWICK, OF CALIFORNIA
JOHN P. SPILLANE, OF ILLINOIS
JOSEPH GERARD SULLIVAN, OF MASSACHUSETTS
JAMES W. SWIHART, JR., OF MAINE
CHRISTOPHER J. SZYMANSKI, OF VIRGINIA
STANISLAUS R.P. VALERGA, OF TEXAS
ALEXANDER RUSSELL VERSHBOW, OF VIRGINIA
THOMAS J. WAJDA, OF OHIO
GEORGE F. WARD, JR., OF NEW YORK
FRANK P. WARDLAW, OF TEXAS
WILLIAM A. WEINGARTEN, OF CALIFORNIA
DANIEL R. WELTER, OF ILLINOIS
DONALD B. WESTMORE, OF WASHINGTON
THOMAS GARY WESTON, OF MICHIGAN
KENT M. WIEDEMANN, OF CALIFORNIA
EDWARD H. WILKINSON, OF INDIANA
JAMES ALAN WILLIAMS, OF VIRGINIA
BERNARD J. WOERZ, OF NEW JERSEY
KENNETH YALOWITZ, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JAMES J. BLYSTONE, OF VIRGINIA
JON N. LECHEVET, OF NEW YORK
KENNETH ROSENBERG, OF FLORIDA
HERBERT W. SCHULZ, OF PENNSYLVANIA
WILLIAM A. SMAYDA, OF CONNECTICUT
DENNIS L. WILLIAMS, OF VIRGINIA

WITHDRAWAL

Executive message, transmitting a withdrawal of a nomination from further Senate consideration, received by the Senate October 2, 1987:

DEPARTMENT OF LABOR

DOROTHY LIVINGSTON STRUNK, OF MARYLAND, TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH, VICE DAVID A. ZEGEER, RESIGNED, WHICH WAS SENT TO THE SENATE ON APRIL 23, 1987.

HOUSE OF REPRESENTATIVES—*Monday, October 5, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We reach out in prayer, gracious God, to all those people who face this day without the comfort of family and friends, those people who know the anxieties of existence with little support from those near and dear to them. We remember the homeless and forgotten, those for whom life has little meaning. We remember the hostages in distant lands who are separated from those they love.

May Your spirit, O God, which is not bound by the barriers of time or place touch these people in the depths of their hearts and give them that hope and peace that You alone can give. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 242. An act to provide for the conveyance of certain public lands in Oconto and Marinette Counties, WI;

H.R. 797. An act to authorize the donation of certain non-Federal lands to Gettysburg National Military Park and to require a study and report on the final development of the park;

H.R. 1205. An act to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida; and

H.R. 2035. An act to amend the act establishing Lowell National Historical Park, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2712. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1988, and for other purposes;

H.R. 2714. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1988, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2712) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1988, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Byrd, Mr. Johnston, Mr. Leahy, Mr. DeConcini, Mr. Burdick, Mr. Bumpers, Mr. Hollings, Mr. Reid, Mr. Stennis, Mr. McClure, Mr. Stevens, Mr. Garn, Mr. Cochran, Mr. Rudman, Mr. Weicker, Mr. Nickles, and Mr. Hatfield to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2714) entitled "An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Bumpers, Ms. Mikulski, Mr. Reid, Mr. Stennis, Mr. Grassley, and Mr. Hatfield, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1451) entitled "An act to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; to amend the Native Americans Programs Act of 1974 to authorize appropriations for such fiscal years; and for other purposes," disagreed to by the House, and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints for all but Native American programs section of the bill: Mr. Kennedy, Mr. Matsunaga, Mr. Pell, Mr. Cochran, and Mr. Hatch;

For Native American programs only: Mr. Inouye, Mr. Melcher, Mr. DeConcini, Mr. Burdick, Mr. Daschle, Mr. Evans, Mr. Murkowski, and Mr. McCain, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 253. An act to convey Forest Service land to Flagstaff, AZ;

S. 322. An act to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia; and

S. Con. Res. 80. Concurrent resolution to express the appreciation of the Congress to the city of Philadelphia, the National Park Service, and We the People 200, Inc., for their hospitality during the July 16, 1987, ceremonies commemorating the bicentennial of the Great Compromise.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives.

Washington, DC,
October 2, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 9:04 a.m. on Friday, October 2, 1987, the following message from the Secretary of the Senate: That the Senate agreed to the House amendments to S. 1691.

With great respect, I am,

Sincerely yours,

Donnald K. Anderson,
Clerk, House of Representatves.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, he signed the enrolled bill, S. 1691.

CORRECTIONS IN APPOINTMENT OF CONFEREES ON H.R. 3, TRADE AND INTERNATIONAL ECONOMIC POLICY REFORM ACT OF 1987

The SPEAKER. Without objection, the Chair makes the following corrections in the appointment of conferees on H.R. 3, the Omnibus Trade Act:

(1)(a) The first panel from the Committee on Foreign Affairs is appointed for consideration of section 3871 of the Senate amendment, in lieu of section 3881.

(b) For consideration of section 331 of the House bill, Messrs. Wolpe, Feighan, and Lagomarsino are appointed, vice Messrs. Berman, Bilbray and Miller of Washington.

(c) Mr. Gejdenson, vice Mr. Levine of California is appointed for consideration of sections 601 through 612, 621 through 623, 625, 631 through 637, 641 through 651, 653 and 663 of the House bill, in lieu of section 451.

(d) For consideration of sections 301 through 317, 323 and 324 of the House bill, Mr. Feighan is appointed, vice Mr. Levine of California.

(e) For consideration of section 1020 of the Senate amendment, Messrs. Wolpe, Feighan and Lagomarsino are appointed, vice

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Messrs. Berman, Bilbray and Miller of Washington.

(2) From the second panel from the Committee on Foreign Affairs, Messrs. Bilbray and Broomfield are appointed, vice Messrs. Mica and Bereuter for consideration of sections 1303 through 1306 and 1310 of the House bill, and sections 3902 through 3907, 3910, and 3912 of the Senate amendment.

(3) For the second panel from the Committee on Energy and Commerce, delete section 703 of the House bill from the sections under consideration.

(4) From the Committee on Energy and Commerce, for consideration of section 331 of the House bill, and modifications committed to conference, Mr. Sharp is appointed in lieu of Mr. Markey.

(5) The sixth panel from the Committee on the Judiciary is appointed for consideration of section 703(h) of the House bill, and modifications committed to conference.

(6) For the first panel from the Committee on Government Operations, Mr. Wise is appointed in lieu of Mr. Weiss.

(7) The eighth panel from the Committee on Science, Space and Technology is appointed for consideration of section 412 of the Senate amendment, in lieu of section 411.

There was no objection.

COMMUNICATION FROM THE HONORABLE BILL BONER, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable BILL BONER:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1987.

Hon. JAMES WRIGHT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Enclosed is a letter that I am sending today to the Governer of Tennessee regarding my resignation. As you may know I am leaving the House of Representatives and being sworn in as Mayor of Nashville, Tennessee today at five o'clock.

Thank you for the leadership you have shown to all of the Members of the 100th Congress, and please do not hesitate to call on me if you need my assistance.

Again, I appreciate your friendship.

Sincerely,
BILL BONER,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 30, 1987.

Hon. NED MCWHERTER,
Governor, Nashville, TN.

DEAR GOVERNOR MCWHERTER: The purpose of this letter is to advise you of my resignation from the United States House of Representatives effective at the close of business on Monday, October 5, 1987.

It is my intent to be sworn in as the Mayor of Nashville, Tennessee at the end of business on Monday, October 5, 1987.

Sincerely,
WILLIAM H. BONER,
Member of Congress.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 5, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 11:54 p.m. on October 3, 1987 and said to contain a message from the President with respect to a trade agreement with the Government of Canada.

With great respect, I am,

Sincerely yours,
DONALD K. ANDERSON,
Clerk, House of Representatives.

TRADE AGREEMENT WITH THE GOVERNMENT OF CANADA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and referred to the Committee on Ways and Means:

To the Congress of the United States:

In accordance with section 102(e)(1) of the Trade Act of 1974, as amended ("Act"), I hereby notify the Congress of my intention to enter into a trade agreement with the Government of Canada on January 2, 1988, contingent upon a successful completion of negotiations. On December 10, 1985, I provided written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, as required by section 102(b)(4)(A)(ii)(I) of that act.

In accordance with the procedures specified in the act, I will submit any such agreement that I sign, together with implementing legislation and statements of administrative action, for congressional approval in accordance with the fast track legislative procedures set forth in section 151 of the act.

RONALD REAGAN.

THE WHITE HOUSE, *October 3, 1987.*

PROTECTION FOR FIREFIGHTERS, PARAMEDICS, AND OTHER SECURITY AND MEDICAL EMERGENCY PERSONNEL

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, I ask my colleagues to join me in providing significant and important protection to those who help protect us.

I am speaking of firefighters, paramedics, and other emergency personnel who upon a moment's notice must go to the scene of a disaster, oftentimes their lives themselves at risk, to help protect individuals such as ourselves.

In the course of that protection, they expose themselves to the risk of infection from diseases such as hepatitis and AIDS.

Legislation that Congressmen HOYER, WAXMAN, and I today are introducing will provide for notification, education, and prevention mechanisms for America's emergency medical personnel. For victims of serious accidents, seconds almost always mean the difference between life and death. Emergency personnel do not operate in a sterile environment and do not have the opportunity to take all the protections that a hospital setting might provide. Gloves and gowns cannot protect someone from broken glass and twisted metal, and certain diseases such as AIDS and hepatitis can be transmitted by blood to blood contact between emergency personnel and an accident victim.

Notification, education, and prevention, the key to helping protect those who help to protect us.

CONGRESS SHOULD SUPPORT THE UNITED STATES-CANADA TRADE AGREEMENT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, our best and closest neighbor and trading partner, Canada, and the United States have now reached an agreement whereby the most open and free trade possibilities ever known to two countries in the world will go into effect if only, if only one condition can be removed. That condition which clouds the whole possibility is the Congress of the United States.

Because of some protectionist movement that is visible in all the doings of the Congress of the United States, there is that possibility—I hope that we will reject it—but there is that possibility that the protectionist mood for political purposes, as I view it, that protectionist mood might crash down against this agreement that could mean total new prosperity for both the United States and Canada.

We owe it to the world, we owe it to each other, and the Congress of the United States should be the prompter and supporter, not the obstacle to this great agreement about to be reached.

AUTO WORKERS ARE AMONG MOST PRODUCTIVE WORKERS IN THE WORLD

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I must say that I am dismayed at the conduct of the Vice President, Mr. BUSH. Spe-

cifically his remarks with regard to the auto workers and their comparison with Soviet auto workers.

I understand that he has already made an apology which I think was certainly in order, but I must say as a former blue-collar worker, someone who has worked in many different capacities in our community as a professional and now serving and representing my people in Congress, including a significant number of UAW Ford plant workers, I am very concerned about this sort of attitude which pervades the public image about the auto workers and other workers in this country. American blue-collar workers have been among the most productive workers in the world and I think if we provide the investment in terms of human and physical resources that they will continue to be the most productive. Surely, we need to improve the investment in capital both human and physical. At a time when we are attempting to increase productivity especially with auto workers and quality programs that Ford and other companies have put in place, which will provide a real contribution to productivity, we don't need a put down from our Vice President or other public officials. These efforts are undermined by such slighthanded comments and cause a lot more damage than might be realized. Any official of this Government going abroad making these statements should weigh their comments carefully especially in the Soviet Union of all places because such comments are harmful to all of us. I think it serves as a warning when we are abroad to try to speak well of the working men and women in this country as a matter of public policy.

You can't build up a nation when the leaders of that nation are tearing down the foundation upon which that nation, our Nation, the United States of America is built by the American workers. I commend the UAW leader Owen Beiber, for his statement and the Vice President for his apology.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3296

Mrs. SAIKI. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3296.

The SPEAKER. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, October 6, 1987.

□ 1215

TRAVEL EXPENSES FOR CERTAIN PARTICIPANTS IN THE WHITE HOUSE CONFERENCE FOR A DRUG FREE AMERICA

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3226) to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF TRAVEL EXPENSE REIMBURSEMENT; AUTHORITY TO RECEIVE DONATIONS.

(a) TRAVEL EXPENSES.-Subsection (d) of section 1936 of the Anti-Drug Abuse Act of 1986 (20 U.S.C. 4601 Note) is amended to read as follows:

"(d)(1) While away from home or regular place of business in the performance of services for the conference, a participant in the conference may, in the sole discretion of the executive director and subject to the limitation contained in paragraph (2), be allowed travel expenses, including per diem allowance in lieu of subsistence, in the same amount, and to the same extent, as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

"(2) Travel expenses may be allowed a conference participant under paragraph (1) only if the executive director finds on the basis of a written statement submitted by the participant that the participant would otherwise be unable to participate in the conference.

"(3) Total travel expenses allowed under this subsection shall not exceed $400,000.".

(b) AUTHORITY TO ACCEPT GIFTS.—Section 1936 of the Anti-Drug Abuse Act of 1986 (20 U.S.C. 4601 Note) is amended by adding at the end the following:

"(e)(1) The conference may accept, use, and dispose of gifts or donations for the sole purpose of carrying out its responsibilities under this subtitle.

"(2) Gifts or donations accepted under paragraph (1) of this subsection are limited to—

"(A) food, food services, transportation, or lodging and related services; or

"(B) funds for the sole purpose of providing food, food services, transportation, or lodging and related services.".

SEC. 2. FINAL REPORT.

Section 1937(a) of the Anti-Drug Abuse Act of 1986 (20 U.S.C. 4601 Note) is amended by striking out "six months after the effective date of this Act" and inserting "July 31, 1988" in lieu thereof.

SEC. 3. AUTHORIZATION.

Section 1938 of the Anti-Drug Abuse Act of 1986 (20 U.S.C. 4601 Note) is amended by striking out "$2,000,000" and inserting "$3,500,000" in lieu thereof.

The SPEAKER pro tempore (Mr. ECKART). Is a second demanded?

Mr. SHAW. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on the Judiciary favorably reports the bill, H.R. 3226 to amend the Anti-Drug Abuse Act of 1986 to improve the White House Conference for a Drug Free America.

The bill has four parts. First, it would permit the White House Conference for a Drug Free America to pay for transportation, lodging and meals of certain participants who would otherwise be unable to participate. For the conference to be most effective, we must assure that it has the participation of the most knowledgable persons regardless of their ability to pay to participate.

In the battle against drug abuse there is a significant number of very dedicated persons who work as volunteers or for low wages. Many of them have developed the knowledge of effective drug abuse control techniques acquired in their indepth experience. Some of these persons would make a great contribution to the work of the conference but they cannot afford to attend the conference at their own expense. This bill allows the executive director to pay travel expenses and per diem for such persons.

The executive director has assured the committee that she will exercise the discretion granted to her in a very careful and restrictive manner. The bill requires that persons seeking expense reimbursement submit a written statement that without reimbursement they would be unable to attend. The executive director has worked with the committee in developing guidelines to assure that only persons who cannot raise the funds for their participation in the conference are reimbursed.

Second, a related provision will permit the conference to accept donations of food and transportation, or funds for food and transportation. Many businesses are eager to assist the conference to help assure that it is successful. This provision will help reduce the costs of the conference to the Government and to the participants.

Third, the bill sets the due date for the final report on the conference to July 31, 1988.

Finally the bill authorizes an appropriation for fiscal year 1988 for the White House conference at $3,500,000. The 1986 Anti-Drug Abuse Act appropriated $5 million for fiscal 1987 and authorized $2 million for fiscal year 1988. The conference used the $5 million appropriation as the total budget for planning the conference; $1.5 million has been spent in fiscal year 1987. Some $3.5 million of the 1987 appropriation has been returned to the Treasury. This bill authorizes the $3.5 million appropriation necessary to hold the conference, do the research, and to write, print and distribute the report.

The administration supports this bill.

I think this conference is extremely important. It is the best opportunity to bring together the professional and grassroots expertise that exists throughout the Nation to share the lessons of the many successes that have been achieved.

When we look at the drug problem, we often look at the enormous numbers that the total problem presents: Over $100 billion in annual profits for the drug traffickers, hundreds of thousands of crimes are caused by drugs, and the lives of millions of people are wasted on drugs.

Sometimes we forget that millions of children have never used drugs, that thousands of former drug addicts have been treated and now live healthy and productive lives, that dozens of schools that once were cesspools of drugs are now drug free and academically thriving. Those successes did not just happen, they were created by some hard work and some good ideas and planning. The White House Conference for a Drug Free America is an opportunity to teach America about the way success in the fight against drug abuse can be achieved.

Mr. Speaker, I reserve the balance of my time.

Mr. RODINO. Mr. Speaker, H.R. 3226 will permit the White House Conference for a Drug Free America to pay for travel and lodging expenses of participants who could not otherwise afford to participate, authorizes an appropriation for fiscal year 1988, and makes several technical changes.

I am very pleased about the plans for the White House Conference for a Drug Free America. The American people have sent a clear message to Congress that they want to have more effective approaches to the drug abuse problem developed. Those of us who have been working on this problem for many years know that the solutions will not be easy. We need to identify the techniques and programs that are working to reduce drug abuse and that are most effective in combating drug trafficking so that the effective programs can be replicated throughout the country.

The White House conference format is designed to canvas not only the nationally recognized experts but the people who have been at work on the problem at the neighborhood, local, and State level, day after day, who have learned what is effective. The people in the trenches have some very valuable things to tell the conference. However, because of the limited budgets many drug abuse treatment and prevention programs operate within, these potential participants may not be able, at their own expense, to go to a regional conference, or to a conference here in Washington. This bill will give the conference the ability to pay the transportation and expenses of such participants so we can benefit from their knowledge.

With this conference we are looking for new insight into the complex problems that result from drug abuse. We need to go beyond repeating the rhetoric of the past, or repackaging unsuccessful approaches in new jargon.

The first of the regional meetings will start in a few weeks. Prompt action is very important and I urge the passage of the bill.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my distinguished colleague from New Jersey, the chairman of the Subcommittee on Crime, in support of H.R. 3226. This bill will allow the White House Conference for a Drug Free America to fulfill its legislative mandate by providing for the travel expenses of participants with limited financial resources whose expertise is of great value to the conference. H.R. 3226 will also provide the necessary appropriations authority, while still costing less than the amount originally authorized in last year's Anti-Drug Abuse Act. Hopefully, the conference will produce a report that will offer a distinct and lasting contribution to our fight against drug abuse.

As a member of the Subcommittee on Crime, I have had the privilege of participating in the war against drug abuse being fought with great resolve by this body. Certainly my constituents in south Florida can sadly testify to the need for this body to be engaged in this war. I am encouraged by the many legislative efforts of Congress in recent years, however, I am discouraged by the fact that the abuse of drugs continues to be a major problem in this country.

There is clearly a need Mr. Speaker, for a national strategy against drug abuse that is broad ranged, long term, and comprehensive in its nature. To that end, I commend the President for creating the National Drug Policy Board by Executive order earlier this year. The Policy Board, chaired by Attorney General Meese, centralizes oversight for all Federal drug control programs, including drug law enforcement and drug abuse prevention, education, treatment, and rehabilitation. The work of this Board should be of great benefit to Congress as we evaluate the best way to allocate our limited resources and most effectively battle against drug abuse.

Mr. Speaker, the White House Conference for a Drug Free America will attempt to evaluate the drug abuse programs that have been initiated throughout the country by State and local governments, the Federal Government, and private organizations. It will endeavor to determine which programs have been most successful, and at the same time, provide a forum for exchanging information. In particular, the conference may help Congress improve in its responsibility for funding drug enforcement efforts. The competition for dollars between Federal agencies and between the Federal and local levels of government is great.

The Subcommittee on Crime made some changes to this legislation to ensure that the travel expenses provided by the conference's executive director go to those who have a true need. Guidelines have been developed which will enhance accountability by the conference, as well as protect it from those participants who would abuse this privilege. It is in the interest of the conference and this Congress to encourage broad participation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, when the idea of the White House conference first was enunciated, I along with many others was reluctant to see the value of such a conference since we have conferenced a lot of these subject matters to death, it seems. However, even though in the face of the factual situation that there were task forces on the horizon and active groups already studying the various problems to help us implement the momentous legislation we passed in the last two sessions both in drug-related crimes and others in the Comprehensive Crime Act which would help law enforcement in every aspect of it and help educate and help all the various elements in the battle against drugs, some of us had doubts that this was just an extra possible waste of taxpayers' money umbrella to place over these efforts that were already going on.

Since that time I have been convinced by further discussions with everyone concerned that, first of all, it cannot hurt to have the White House conference; and second, perhaps, just perhaps, and I am hoping that it does work out this way, that such a conference would be able to put together a cohesion of all these elements which we already have put into the drug bill that we passed last year and go a step further in this never ending, it seems, war on drugs.

Even though I have had original grave reservations and now have a tinge of reluctance, I will support the legislation.

Mr. SHAW. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to congratulate the gentleman from Florida [Mr. McCOLLUM], the ranking minority member of the Subcommittee on Crime, as well as the gentleman from Florida [Mr. SHAW], a member of the subcommittee, for their work in expediting this particular piece of legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RANGEL. Mr. Speaker, I am pleased to rise in support of H.R. 3226, to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes. As my colleagues will recall, subtitle S of the Anti-Drug Abuse Act of 1986 provided for the convening of a White House Conference for a Drug Free America. The conference is scheduled to convene in Washington, DC, on February 28, through March 3, 1988, at the D.C. Convention Center. The purpose of the conference is to bring together the best minds in the country to develop innovative solutions to the multifaceted problem of drug abuse.

Mr. Speaker, last year you led a noble effort to free Americans from the bondage of drug abuse. As chairman of the Select Committee on Narcotics Abuse and Control, I was proud to assist you in this effort. Passage of the Anti-Drug Abuse Act was the result of a bipartisan consensus in the Congress that drug abuse was a national cancer destroying the vitality of our people. House Minority Leader ROBERT MICHEL and Congressman BENJAMIN GILMAN, the ranking minority member of the Select Committee on Narcotics, helped mobilize bipartisan support for this measure.

I think all of the Members of this House who voted in favor of the Anti-Drug Abuse Act can take pride in the enactment of this historic legislation. The bill provided a total of $1.7 billion in fiscal year 1987 to step up our Nation's war against drugs. Criminal penalties for various drug offenses were increased. Money laundering was made a crime. Resources for international narcotics control were doubled to $118 billion. Badly needed equipment to fight the drug war was provided, and major grant programs of assistance to State and local governments for narcotics law enforcement, drug abuse education, and drug abuse prevention and treatment were started.

Chairman PETER RODINO of the Judiciary Committee, Chairman WILLIAM HUGHES of the Crime Subcommittee, Congressman FRANK GUARINI, and myself worked to include in the comprehensive bill a section calling for the convening of a White House conference on drug abuse. We felt that a White House conference would serve to focus the Nation's attention on the problem of drug abuse. In the 25 years since the last White House drug abuse conference was held, the problem of drugs have become much worse. Heroin and marijuana are readily available, use of cocaine and crack is skyrocketing out of sight, and we are now faced with the terrible problem of IV drug use and acquired immune deficiency syndrome [AIDS].

Despite the work which went into the passage of the Anti-Drug Abuse Act, it was impossible to predict with certainty in advance what particular language should be included in legislation to achieve the best result. It is now apparent that slight modifications to the Anti-Drug Abuse Act are necessary, if we are to have a successful White House Conference for a Drug Free America.

Specifically, H.R. 3226 would amend the Anti-Drug Abuse Act of 1986 to permit the executive director of the White House conference to pay for transportation, lodging, and meals of certain participants who would otherwise be unable to participate. We would not want to deprive the conference of the ideas of men and women who are knowledgeable about drug abuse but may not otherwise be able to afford the travel costs involved. Total reimbursement for travel expenses under the bill would be limited to $400,000. The authority to pay these travel expenses would not increase the authorization of appropriations for the conference, but would merely permit use of available funds for this purpose.

H.R. 3226 would also amend the Anti-Drug Abuse Act to permit the conference to accept donations of food and transportation, or funds for food and transportation. As the law is currently written, this is not permitted. Granting the conference this authority will allow it to accept generous offers from corporate and other donors when conducting conference events.

The bill also amends existing law and extends the due date for the final report of the conference to July 31, 1988, instead of 6 months after the effective date of the act. The final provision of H.R. 3226 would authorize an appropriation for the conference for fiscal year 1988 of $3.5 million. It is my understanding, that the conference expects to spend a total of $5 million for all of its activities and has spent or obligated $1.5 million to date. There is currently no specific appropriation request from the administration pending for fiscal year 1988, except a request for authority to carry over the unspent fiscal year 1987 funds totaling $3.5 million. H.R. 3226 authorizes the appropriation of $3.5 million in fiscal year 1988.

I commend Chairman RODINO and Chairman HUGHES for their work in improving upon last year's bill. H.R. 3226 contains amendments to the act to improve the efficiency of the White House Conference for a Drug Free America. I urge my colleagues to join me in voting in favor of H.R. 3226.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 3226, amending the Anti-Drug Abuse Act of 1986 to allow travel expenses for certain participants in the White House Conference for a Drug Free America, and authorizing $3.5 million for the Conference for fiscal year 1988.

I also want to commend the distinguished chairman of the House Judiciary Committee [Mr. RODINO] for conceiving the White House Drug Conference—an idea that I believe originated during our Narcotics Select Committee's hearing in Newark, in April 1986, which he chaired and which I attended—and for his leadership in bringing this measure to the floor for consideration. The gentleman from new Jersey [Mr. HUGHES], chairman of the Judiciary's Subcommittee on Crime, is also to be commended for speedily holding hearings on this measure and for favorably reporting it to the full committee.

In May 1986, Chairman RODINO introduced House Joint Resolution 631, which I cosponsored, providing for a White House Conference on Narcotics Abuse and Control. This measure was eventually included in the Anti-Drug Abuse Act of 1986, Public Law 99-570, and the Conference was renamed the White House Conference for a Drug Free America.

Mr. Speaker, H.R. 3226 is not controversial. It simply permits the White House Drug Conference, at the discretion of the Executive Director, to pay travel expenses to those participants, who because of cost considerations would be unable to participate in the Conference. Under current law, all participants in the Drug Conference are required to pay their own expenses, which would preclude many individuals who are active in helping to prevent and control drug abuse in our Nation from participating. H.R. 3226 corrects that problem and would limit travel expenses for all such participants of the conference to $400,000.

The bill would also permit the Conference to accept gifts of food, food services, transportation, or lodging, or funds to provide for such purchases.

Although the Anti-Drug Abuse Act of 1986 authorized $5 million for the conference in fiscal year 1987 and $2 million for fiscal year 1988, only $1.5 million of the $5 million has been spent. H.R. 3226 would authorize $3.5 million for fiscal year 1988, and extend the due date of the Conference's final report to July 31, 1988.

Mr. Speaker, if we are going to win the war against narcotics trafficking and drug abuse, then our Nation urgently needs to formulate, adopt, and implement a comprehensive, coordinated drug strategy. The White House Drug Conference, which will hold six regional conferences throughout our Nation and a national conference in our Nation's Capital early next year, is intended to help achieve that objective. It intends to bring together some of the best minds from the private sector and from our Federal, State, and local institutions who will help formulate a drug strategy and recommend policy alternatives for all of us to consider.

Accordingly, Mr. Speaker, I urge my colleagues to support this resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3226, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

BIG BEND NATIONAL PARK ADDITION

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2325) to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas, as amended.

The Clerk read as follows:

H.R. 2325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the boundaries of Big Bend National Park, established by the Act of June 20, 1935 (16 U.S.C. 156) are hereby revised to include the lands and interests therein, together with all improvements thereon, within the area comprising approximately 67,125 acres as generally depicted on the map entitled "Harte Ranch Addition, Big Bend National Park", numbered 155/80,044 and dated September 1987. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to acquire lands and interests therein, together with all improvements thereon, within the addition described in such map by donation, purchase with donated or appropriated funds, or exchange.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2325 introduced by our colleague Representative LAMAR SMITH makes possible the acceptance of a very generous donation of nearly 68,000 acres of land for Big Bend National Park. This land, formerly owned by the Harte brothers, was given to the Texas Nature Conservancy with the intention that it become part of the park as soon as possible. Today we have the opportunity to do just that.

The Harte Ranch covers much of the North Rosillos Mountain Range and is an important viewshed from the north entrance road to the park. It also has the Buttrill Spring, a significant water resource in this arid area. Several rare plant species grow at the ranch and delicate ecosystems flourish at its springs.

The committee adopted an amendment in the nature of a substitute which references a map that draws a boundary around both the existing park and the proposed addition. The substitute authorizes the Secretary of the Interior to acquire the land within the boundary by donation, purchase or exchange. The Texas nature conservancy will donate their land; the other two landowners affected by this change have both written to support it.

Mr. Speaker, I endorse this bill, and want to commend the Harte brothers for their generosity to the American people. Their donation will help preserve valuable resources and help protect Big Bend National Park.

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Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2325, to authorize the National Park Service to accept the donation of a 67,100-acre land parcel for addition to Big Bend National Park in Texas.

The parcel, known as the Harte Ranch, is adjacent to the park and currently owned by the Texas Nature Conservancy. The former owners, Ed and Houston Harte, donated the ranch to the nature conservancy in 1984 with the wish that it could become a part of the park sometime in the future. The ranch, also known as the North Rosillas Mountains Preserve, is a very diverse area which serves as a home for numerous rare and endangered plants and animals. There is no question that, based on its resources, the ranch will prove to be a beautiful and valuable addition to Big Bend National Park.

During committee consideration of H.R. 2325, the bill was amended to allow acquisition of the Harte Ranch by means other than donation. However, I believe it is important to clarify that this amendment is only to allow for the acquisition of two small inholdings within the ranch should the owners desire to sell their land to the park service at some future date. Incidentally, both of these landowners have indicated their support for inclusion of their land within the park. The rest of the ranch will be donated by the Texas Nature Conservancy.

I would like to commend the sponsor of H.R. 2325, Mr. LAMAR SMITH, and his staffer, Phil Broadbent, for the time and effort they have invested in this legislation. It has been a pleasure to work with LAMAR on this important issue. I would also like to thank the subcommittee chairman, Mr. VENTO, for moving this legislation forward expeditiously. Finally, I want to commend the Texas Nature Conservancy for its assistance with this bill and for its generosity in donating the Harte Ranch to the Park Service. During my time in Congress, I have enjoyed a good working relationship with the nature conservancy, an organization I have always admired and respected for its efforts to protect some of our Nation's most beautiful and outstanding natural resources. It was a pleasure to work with this group again, and particularly with Mr. Andrew Sansom, executive director of the Texas Nature Conservancy.

Mr. Speaker, H.R. 2325 is an excellent bill which enjoys bipartisan and administration support. It will result in only minor costs to the Federal Government for operation and maintenance of the ranch addition and possible future acquisition of the small inholdings. In return, it will serve as a significant contribution to Big Bend National Park. Therefore, I urge my colleagues to approve H.R. 2325.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of H.R. 2325, legislation to authorize the addition of 67,000 acres to Big Bend National Park in Texas. The bill would allow the National Park Service to accept this land as a donation from the Texas Nature Conservancy. The property, known as the Harte Ranch or North Rosillas Mountains Preserve, was given to the nature conservancy by its previous longtime owners, Ed and Houston Harte, with the stipulation that it would be retained in its natural state and donated to Big Bend National Park as soon as possible.

The land itself is a varied mix of desert, mountains, and prairie. It includes approximately one-fourth of the Rosillas Mountains, as well as their highest peak. It also contains Buttrill Springs, the most productive spring in the Rosillas range.

The Trans-Pecos region in west Texas forms the northern boundary of the Chihuahua Desert, and it is widely recognized for its great beauty and astonishing natural diversity. Some 736 rare or unique plant and animal species have been recorded in the Trans-Pecos area. The land also contains rich archeological sites that illustrate the human history of the region, including remnants from prehistoric peoples, Indian cultures, and early ranching operations. This land will make an extraordinary addition to Big Bend National Park, and will help to accommodate the increasing number of park visitors.

I am happy to report that the land comes generally unencumbered. There are no oil or gas leases in effect, and there are only two tracts owned by other than the nature conservancy—both are accessible by public roads. Each of these landowners has expressed a willingness to have their land included within the park boundary.

H.R. 2325 has the support of the administration and the Governor of Texas, as well as the county government, the local chamber of commerce, and various conservation organizations. Twenty of my colleagues from Texas have joined me in cosponsoring this measure.

I want to thank the chairman of the subcommittee, Mr. Vento, for his efforts which have been crucial in moving this bill forward. My thanks go also to Mr. Lagomarsino, the ranking minority member, as well as to the other members of the subcommittee and the full Interior Committee who have given this bill their support.

Mr. Speaker, I believe this kind of public-private partnership can become an important part of our continuing efforts to preserve American's natural, historic and cultural resources. Thanks to the generosity of the Harte brothers and Texas Nature Conservancy, we have an excellent opportunity to acquire this land at no cost to the taxpayers, and to preserve an important part of our heritage for future generations. I urge passage of H.R. 2325.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Eckart). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 2325, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

JIMMY CARTER NATIONAL HISTORIC SITE AND PRESERVATION DISTRICT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2416) to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF JIMMY CARTER NATIONAL HISTORIC SITE.

(a) Establishment.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Jimmy Carter National Historic Site in the State of Georgia. In administering the historic site, the Secretary shall—

(1) preserve the key sites and structures located within the historic site associated with Jimmy Carter during his lifespan;

(2) provide for the interpretation of the life and Presidency of Jimmy Carter; and

(3) present the history of a small rural southern town.

(b) Description of Jimmy Carter National Historic Site.—(1) The historic site shall consist of the lands and interests in lands (including the real property described in paragraph (2)) as generally depicted on the map entitled "Jimmy Carter National Historic Site and Preservation District Boundary Map," numbered NHS-JC-80000, and dated April 1987. The map shall be on file and available for public inspection at appropriate offices of the National Park Service.

(2) The real property referred to in paragraph (1) is that real property which has significant historical association with the life of James Earl Carter, Jr., 39th President of the United States, located in the town of Plains and the County of Sumter, Georgia, and described more particularly as follows—

(A) the home of former President Carter on Woodland Drive in Plains, Georgia, including the residence and approximately 2.9 acres across Woodland Drive;

(B) the Plains Railroad Depot, adjacent to the Seaboard Coast Line Railroad, which served as the campaign headquarters of former President Carter;

(C) the boyhood home of former President Carter, consisting of the residence, together with not more than 15 acres, located west of Plains near the community of Archery, Georgia;

(D) the 100-foot wide scenic easements on either side of Old Plains Highway from the intersection of U.S. Highway 280 to the boyhood home referred to in subparagraph (C);

(E) the Plains High School and grounds of approximately 12 acres; and

(F) the Gnann House at 1 Woodland Drive, which is adjacent to the residence referred to in subparagraph (A) of former President Carter.

(c) Acquisition of Real and Personal Property.—(1) Except as otherwise provided in this subsection and subject to such terms, reservations, and conditions as the Secretary determines reasonable or necessary, the Secretary may acquire by donation, purchase with donated or appropriated funds, exchange, or otherwise—

(A) lands and interests in lands within the boundaries of the historic site; and

(B) personal property and artifacts for purposes of the historic site.

(2) The Carter home (described in subsection (b)(2)(A)), the Plains Railroad Depot (described in subsection (b)(2)(B)), and the Plains High School (referred to in subsection (b)(2)(E)) may only be acquired by donation.

(3) Former President and Mrs. Carter may, as a condition of the acquisition of the Carter home (described in subsection (b)(2)(A)), reserve for themselves a right of use and occupancy of the home for a term of years or for a term ending at the deaths of President and Mrs. Carter.

(4) The Administrator of the General Services Administration shall acquire by purchase the Gnann House (described in subsection (b)(2)(F)) to be used for security purposes during the lives of former President and Mrs. Carter, or for such period as they may be entitled to security pursuant to Federal law, after which time the Gnann House shall be transferred to the Secretary of the Interior for administrative purposes by the National Park Service.

SEC. 2. JIMMY CARTER NATIONAL PRESERVATION DISTRICT.

(a) Jimmy Carter National Preservation District.—In order to preserve and interpret the life of James Earl Carter, Jr. and the rural southern town of Plains, Georgia, including the 20th century south and the roles of agriculture and the agricultural economy there is hereby established the Jimmy Carter National Preservation District, which shall consist of the area identified on the map referred to in section 1(b)(1) as "Preservation District". The preservation district shall include the Plains Historic District as listed in the National Register of Historic Places on June 28, 1984, and those agricultural lands not to exceed 650 acres and that portion of Bond Street as depicted on such map.

(b) Preservation Easements.—(1) The Secretary may obtain by donation or purchase preservation easements on historically or culturally significant (as determined by the Secretary) buildings and open spaces located within the preservation district. Each preservation easement shall contain (but need not be limited to) provisions that the Secretary shall have the right of access at reasonable times to the portions of the property covered by that easement for interpretive or other purposes, and that no changes or alterations shall be made to such portions of the property except by mutual agreement.

(2) The Secretary may mark, interpret and provide technical assistance to properties within the preservation district in accordance with the Secretary of the Interior's Standards for Historic Preservation Projects.

SEC. 3. ADMINISTRATION OF HISTORIC SITE AND PRESERVATION DISTRICT

(a) In General.—The Secretary shall administer the historic site and the preservation district in accordance with the provisions of this Act, and the provisions of law generally applicable to national historic sites, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2-4), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) COOPERATION WITH STATE OF GEORGIA.—The Secretary may enter into a cooperative agreement with the State of Georgia pursuant to which the Secretary may cooperate in the operation and use of the State of Georgia Visitor Center in Sumter County.

(c) HISTORY.—The Secretary shall gather oral history on the historic site its occupants, and environs. The Secretary may also preserve personal property that has been acquired by the Secretary for purposes of the historic site.

(d) REPORT.—25 years after the date of enactment of this Act, the Secretary shall convene a distinguished group of nationally recognized historians, scholars, and other experts to examine the life of President Carter in greater historical perspective. The group shall examine the research then available on President Carter, his life and Presidency, and make recommendations on interpretation, preservation, and other issues (as appropriate) at the Jimmy Carter National Historic Site and the Jimmy Carter National Preservation District.

SEC. 4. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The Secretary shall establish an advisory commission to provide advice on achieving balanced and accurate interpretation of the historic site.

(b) MEMBERSHIP.—The commission shall consist of a group of five nationally recognized scholars with collective expertise on the life and Presidency of Jimmy Carter, the 20th century rural south, historic preservation, and the American Presidency.

(2) The commission members shall be appointed by the Secretary for staggered terms of 3 years each. Any vacancy on the commission shall be filled in the same manner in which the original appointment was made. Any member of the Commission appointed for a definite term may serve after the expiration of such term until a successor is appointed.

(3) Meetings of the Commission shall be called twice annually by the Secretary.

(c) EXPENSES.—The Secretary is authorized to pay, in accordance with section 5703 of title 5, United States Code, the expenses reasonably incurred by the members of the Commission in carrying out their responsibilities under this Act.

SEC. 5. MANAGEMENT PLAN.

Not later than 3 years after the date of enactment of this Act, the secretary shall develop and submit to the Congress a general management plan for the use and development of the historic site and the preservation district. Such plan shall—

(1) be prepared in accordance with section 12(b) of the Act entitled "An Act to improve the administration of the national park system by the Secretary, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (16 U.S.C. 1a-1 et seq.), and shall be consistent with the purposes of this Act;

(2) include consideration of the economic feasibility and interpretive necessity of providing a transportation system for visitor use; and

(3) address the preservation and interpretation of Plains High School (referred to in section 1(b)(2)(E)) including appropriate use by the town of Plains.

Following a determination of the appropriate uses of the Plains High School for the town of Plains, the Secretary may enter into a cooperative agreement with the town concerning its use of the high school.

SEC. 6. DEFINITIONS.

For the purposes of this Act—

(1) the term "preservation district" means the Jimmy Carter National Preservation District established under section 2;

(2) the term "historic site" means the Jimmy Carter National Historic Site established under section 1; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary to carry out this Act, except that not more than $3,500,000 is authorized to be appropriated for acquisition of real and personal property (including preservation easements) and development of the preservation district and the historic site.

(b) COST SHARING.—Not more than 60 percent of the aggregate cost of restoring the plains High School (referred to in section 1(b)(2)(E)) may be provided from appropriated Federal funds. The remaining 40 percent, non-Federal share of such cost may be in the form of cash, goods, or services, fairly valued.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2416, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2416, introduced by our colleague, RICHARD RAY, establishes the Jimmy Carter National Historic Site in Plains, GA. James Earl Carter, the 39th President of our Nation, has his roots deep in Plains. He was born there, grew up there, and returned there after leaving the White House. The bill preserves key structures associated with his life and his Presidential campaign. In addition, Plains, GA. preserves a key part of our Nation's story—that of the modern South with its rich agricultural heritage.

The Jimmy Carter National Historic Site is established by H.R. 2416 includes his boyhood home, his current home and the Gnann House next door, the Plains railroad depot—location for his Presidential campaign—and the Plains High School as well as a historic preservation district. This will protect the key structures and scenes of Jimmy and Rosalyn Carter's Plains.

Mr. Speaker, the Jimmy Carter National Historic Site will serve to help all of us, as well as future generations, to remember Jimmy Carter's life, accomplishments, Presidency and his times. The Jimmy Carter National Historic Site is an appropriate addition to the National Park System. I strongly endorse the passage of H.R. 2416. A similiar measure passed the House in the 99th Congress but the Senate deferred action because no hearing had been held by the Senate committee. I'm confident that the Senate will act on this measure in the 100th Congress. The NPS and the community and people of Plains have worked hard to achieve this legislation as well as the Georgia delegation led by RICHARD RAY—he deserves our thanks and praise.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to comment briefly on H.R. 2416, to designate the Jimmy Carter National Historic Site and Preservation District in Plains, GA.

As the subcommittee chairman has explained, the site would include the former President's home and boyhood home, the Plains High School and grounds, the Plains railroad depot which served as the Carter campaign headquarters, a 100-foot wide corridor on either side of the old Plains highway leading to the boyhood home and the Gnann house adjacent to the Carter residence.

H.R. 2416 requires that the Carter residence, the railroad depot and the Plains High School be acquired through donation only. The National Park Service [NPS] would seek to acquire easements on the road frontage near the boyhood home. The Gnann house is to be acquired by the Administrator of the General Services Administration for security purposes during the lives of former President and Mrs. Carter, after which time it will be transferred to the Secretary of the Interior to be used for administrative purposes.

The preservation district is to preserve and interpret Jimmy Carter's life and the town of Plains, GA, including the role which agriculture played in the development of the area. The preservation district will encompass 650 acres upon which the Secretary may acquire preservation easements and provide technical assistance in marking and interpreting the area.

The bill also establishes an advisory commission to assist with interpretation at the site. It further requires the development of a management plan concerning the use and development of the historic site and preservation district.

Mr. Speaker, while I am not opposed to the establishment of a historic site for former President Carter, I would like to note for the record it appears this would be the most extensive site within the National Park System associated with a former President. Hence, it will probably be the most expensive as well. The estimated costs for acquisition and development of the site exceed $3 million. Annual maintenance costs are estimated at over one-half million dollars. Therefore, I am concerned about the costs associated with H.R. 2416 in light of the enormous Federal Budget deficits.

I am especially concerned about the inclusion of the Plains High School in the site as it would be by far the most expensive property to restore, operate, and maintain. In an effort to partially address this concern, I worked with the subcommittee chairman and the bill's sponsor, Richard Ray, and developed a compromise to improve the bill. During the committee process, I offered several minor amendments to assist in reducing the potential cost of the site, along with a major amendment to require that 40 percent of the estimated $1.5 million needed for the restoration of the Plains High School come from non-Federal entities; and to place a $3.5 million cap on the appropriations authorization for acquisition and development of the site. All of the amendments were adopted. I do not feel the cost-sharing requirement imposes too great of a burden on the town of Plains since the non-Federal share of the costs may be in the form of goods and services. In addition, other non-Federal entities, such as the State government and historical and preservation organizations could certainly assist in meeting the 40 percent funding requirement.

As Members may recall, similar legislation was considered in the last Congress in combination with a measure by my colleague from California, Representative Dannemeyer, to establish a historic site for former President Richard Nixon. However, since that time, the Nixon Birthplace Foundation, utilizing private funds, has acquired and began operation of a Nixon site in Yorba Linda, CA, which includes the Nixon birthplace. Consequently, at the foundation's request, the establishment of a Nixon site within the National Park System has not been under consideration in this Congress.

Mr. Speaker, while I remain concerned about the costs of the Carter site, I do feel my amendments improve the bill primarily by requiring appropriate cost-sharing by non-Federal entities. In this regard, I want to thank the sponsor of H.R. 2416, Mr. Ray, and the subcommittee chairman, Mr. Vento, for working with me to help address my concerns. Their cooperation is greatly appreciated.

Mr. RAY. Mr. Speaker, before beginning my remarks on H.R. 2416, I want to thank the distinguished chairman of the Subcommittee on National Parks and Public Lands who has been instrumental in bringing this legislation to the floor of the House today. In addition, I want to thank the distinguished ranking minority member, Mr. Lagomarsino, for the role he has played in developing the bill we are now debating.

Mr. Speaker, earlier this year I introduced, along with the entire Georgia congressional delegation, H.R. 2416, the Jimmy Carter National Historic Site bill. This measure seeks to establish an historic site and preservation district in Plains, GA, to commemorate the life and achievements of our 39th President. I have introduced similar legislation in the past two Congresses, and an earlier version of this bill passed the House last year. However, that bill did not pass until near the end of the 99th Congress, and I regret that the Senate did not take any action on it. Senator Wallop, who was chairman of the Subcommittee on National Parks and Public Lands, told me at the time that his subcommittee would not pass the bill unless they could hold a hearing. Unfortunately, time was too short for such a hearing to be held.

I had intended to introduce an identical version of this earlier legislation at the beginning of the 100th Congress. However, last December the National Park Service came forward with a proposal for an historic site in Plains. This plan eliminated some of the properties that would have been acquired under the old bill, and it also created a preservation district which the old bill did not do. It was supported by the citizens of Plains as well as President and Mrs. Carter. This Park Service proposal is the basis for H.R. 2416.

The legislation would authorize the acquisition of a number of properties including the present Carter home, a strip of land across from the present Carter home on Woodland Drive, the President's boyhood home, the Plains High School, and the railroad depot which served as President Carter's campaign headquarters. Also, the Gnann house which is next to the present Carter home and currently houses the Secret Service will be acquired for use by the Park Service.

President and Mrs. Carter have announced that their residence and the land across Woodland Drive will be donated to the National Park Service. Also, the city of Plains will donate the high school, and the Plains Historic Preservation Trust will donate the railroad depot. The preservation trust is also working to acquire the boyhood home, so that it can be donated to the Government.

Two amendments were adopted by the Subcommittee on National Parks and Public Lands during mark up of H.R. 2416. The first placed a cap on the amount of Federal funds which could be used for the acquisition and development of the historic site. The other stipulated that no more than 60 percent of the cost for renovating the Plains High School should come from Federal funds. I believe that both of these amendments significantly strengthened the bill which was subsequently approved unanimously by the Interior Committee.

I believe it is important that H.R. 2416 be enacted so that we can preserve the Plains area which has such significance in the life of one of our Presidents. It is particularly significant that this former President still resides in Plains and has throughout his life regarded Plains as home. Even today, although the Carters travel extensively, they still spend a majority of their time in Plains.

Plains is probably more closely tied to a President than the hometown of any other President. In addition, President and Mrs. Carter are personally interested in preserving their family history and the memorabilia associated with their past. They want to maintain the character of their hometown, so that future generations can get an accurate, detailed picture of the background and roots of this President. I wish my colleagues could all visit this small town of 680 people. Despite all the publicity, the city has changed very little since President Carter's election as President. The citizen's of Plains efforts, as well as the Carter's, in preserving this rural southern community will make this town an historic site perhaps more authentic than any other like it.

Mr. Speaker, through the introduction of this legislation, I am proud to have a part in this important contribution to history and to future generations, and I encourage my colleagues to vote for and support H.R. 2416, the Jimmy Carter National Historic Site Bill.

Mr. BIAGGI. Mr. Speaker, I rise today in support of H.R. 2416, which would establish the Jimmy Carter National Historic Site and Preservation District in Plains, GA. I can think of no one who better deserves this honor.

Jimmy Carter's unrivaled leadership, unquestioned honesty and integrity, and unsurpassed personal commitment to his Nation and its people merits historical preservation and reflection. This legislation would not only establish the Carter home as a national historic site, it would also include landmarks such as Plains High School, Plains Railroad Depot and other scenic easements. It is indeed fitting that our children, grandchildren and great-grandchildren will have the opportunity to witness the background of a truly great American and witness the South of the 20th century from which he emerged. I urge my colleagues to join me in this fitting tribute to President Carter.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are working pretty quickly today, and I know the gentlemen from Georgia [Mr. Ray] wanted to be on the floor, as well as other members of the committee, the gentlemen from Georgia [Mr. Darden and Mr. Lewis], all of whom lead the Georgia delegation in dealing with this, and in fact all of the Members that have sponsored this measure, including the gentleman from Georgia [Mr. Rowland].

These Members have worked hard on this measure, and I commend it to the Members.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2416, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CALIFORNIA MILITARY LANDS WITHDRAWAL ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1548) to withdraw certain Federal lands in the State of California for military purposes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "California Military Lands Withdrawal Act of 1987".

SEC. 2. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 4(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 3.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 4(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 227,369 acres in Imperial and Riverside Counties, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Withdrawal" dated July 1987 and filed in accordance with section 3.

SEC. 3. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and

(2) file maps and the legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Act except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 4. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 2 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this Act.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 2 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this Act;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation;

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 2(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this Act.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this Act, the Secretary of the Navy, after consultation with the Secretary of the Interior, may take such action as the Secretary of the Navy determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 2 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this Act.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 2 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 2) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 2 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 2.

(f) Additional Military Uses.—Lands withdrawn by section 2 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this Act will be used for defense-related purposes other than those specified in section 2. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) Management of China Lake.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 2(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this Act and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 2(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 2(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 2(a). The Secretary of the Interior shall transmit such report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 2(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with the memorandum of understanding entered into between the Secretary of the Interior and the Secretary of the Navy on August 3, 1983.

(5) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 2(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This Act shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 2(a).

SEC. 5. DURATION OF WITHDRAWALS.

(a) Duration.—The withdrawal and reservation established by this Act shall terminate 15 years after the date of enactment of this Act.

(b) Draft Environmental Impact Statement.—No later than 12 years after the date of enactment of this Act, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this Act for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) Extensions or Renewals.—The withdrawals established by this Act may not be extended or renewed except by an Act or joint resolution.

SEC. 6. ONGOING DECONTAMINATION.

(a) Program.—Throughout the duration of the withdrawals made by this Act, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this Act at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) Reports.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 7. REQUIREMENTS FOR RENEWAL.

(a) Notice and Filing.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this Act, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 2 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this Act, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) Contamination.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) Decontamination.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) Alternatives.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) Status of Contaminated Lands.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this Act which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this Act the Secretary of the Interior determines that some of the lands withdrawn by this Act are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provisions of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this Act as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 8. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 7(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 9. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this Act shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 10. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any geothermal leasing or other authorized non-military activity conducted on lands described in section 2 of this Act.

SEC. 11. MISCELLANEOUS.

(a) AMENDMENTS.—(1) Section 2(c) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606) is amended by striking out "the office of the commander, Barry M. Goldwater Air Force Base" and inserting in lieu thereof "the office of the commander, Luke Air Force Base".

(2) Section 3(a)(3)(A) of such Act is amended by striking out "other than" and by inserting in lieu thereof "including".

(3) Section 7(a) of such Act is amended by striking out "cleanup achieved" and by inserting in lieu thereof "decontamination activities performed".

(b) EL CENTRO RANGES.—The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1990 the public lands in Imperial County, California, generally depicted on the map entitled "El Centro Ranges" dated July, 1987, for the same purposes and to no greater extent than such lands were used by the Secretary of the Navy as of July 1, 1987. Such permission shall be through a cooperative agreement or other appropriate means. Such use shall be subject to such terms and conditions as the Secretary of the Interior may require so as to protect the natural, environmental, scientific, cultural, and other resources and values of such lands and to minimize the extent to which such use by the Secretary of the Navy impedes or restricts use of such or other public lands for recreational and other purposes.

(c) COACHELLA VALLEY.—The Secretary of the Interior is authorized and directed to take all steps necessary to complete land exchanges between the Nature Conservancy and the Bureau of Land Management with regard to the Coachella Valley preserve, as described in Bureau Land Management case files CA 18891, CA 18781, CA 17921, CA 20260, CA 17772, and to consummate such exchanges.

(d) TRAINING CENTER.—Unless otherwise provided by law, the lands within the Toiyabe National Forest, in California, which have been used for purposes of the United States Marine Corps Mountain Warfare Training Center, shall be retained as part of such National Forest. The Secretary of Agriculture shall continue to make such lands available to the United States Marine Corps for purposes of such training center, subject to such restrictions as the Secretary of Agriculture finds appropriate to protect the natural, environmental, aesthetic, scientific, cultural, and other resources and values of such lands. So far as possible, consistent with use of such lands by the United States Marine Corps for purposes of the Mountain Warfare Training Center, the affected lands shall be open to public recreation and other uses.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1548, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1548, is a bill introduced by our colleague from Maryland, [Mrs. BYRON], to withdraw certain public lands in California for use by the Department of the Navy, and for other purposes.

The areas affected by the bill are the China Lake Naval Weapons Center and the Chocolate Mountain Aerial Gunnery Range. Both are in southern California and both have been used by the Navy Department for military purposes for a considerable number of years. However, the lands fall under the requirements of the Engle Act of 1958. That means that their withdrawal from peacetime operation of otherwise applicable public land laws, and their peacetime use for military purposes, must be periodically renewed by act of Congress.

Neither China Lake nor Chocolate Mountain was included in the omnibus military withdrawal bill enacted in the last Congress, and therefore were not the subject of any Interior Committee hearings or other review in that Congress. The areas were included in the version of an omnibus bill which was reported by the Senate Committee on Energy and Natural Resources. However, in the discussions which produced the compromise omnibus bill that was enacted as Public Law 99-606, the House of Representatives would not agree to include any areas that had not been the subject of hearings on this side of the Capitol. Therefore, Mrs. BYRON introduced H.R. 1548, which resembles the omnibus bill in many respects.

Thus, H.R. 1548 would withdraw the affected areas for a period of 15 years, and would require that after 12 years the Navy prepare an environmental impact statement concerning renewal or extension of the withdrawal in the event that they wished to continue using the lands for military purposes. These provisions parallel those in the omnibus Military Withdrawal Act of 1986 with respect to the areas withdrawn by that act, as does the requirement in this bill that the Department of the Navy carry out a continuing program of decontamination of the lands covered by this bill.

The Interior Committee has made a number of other revisions besides the technical amendments that I've already outlined in the bill as originally introduced. These include a number of technical changes in the bill, for the most part based on suggestions by the Navy.

Second, the bill as reported expands the scope of the withdrawal of the Chocolate Mountain area so as to include both the north and south halves of that area. The Navy testified that they treat the area as one unit, and I believe it only makes sense for us to withdraw the entire area now, so that it can be handled as a single area in the future.

Third, the reported bill includes language explicitly authorizing the Secretary of the Interior to permit the Navy to continue to use certain public lands in Imperial County until January 1, 1990. By that time, according to the Interior Department, the preliminary work will be done and a proposal will presumably be sent to the Congress for a withdrawal under the Engle Act.

Fourth, the reported bill includes language that is based on a bill by Representative MCCANDLESS to clear the way for completion of land exchanges for the Coachella Valley preserve, near Palm Springs.

Finally, the reported bill includes a provision proposed by our colleague from California [Mr. LEHMAN], dealing with a situation in his district. The effect of this part of the substitute would be to maintain the existing state of affairs in a portion of the Toiyabe National Forest which the Marine Corps uses for its mountain warfare training center. We have been informed that the Navy Department has no objection to this provision, and of course the administration strongly supports the bill as a whole.

Mr. Speaker, this bill is an important one that deserves the approval of the House, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

□ 1245

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1548 that would withdraw for 15 years certain lands in the State of California for military purposes. I want to commend the gentlelady from Maryland [Mrs. BYRON] for shepherding not only this bill but other military withdrawal bills through the House. My understanding is there are still several areas left to address, and I want her to know that she can count on our support, to expedite those as well. Subcommittee Chariman VENTO also deserves our thanks for holding the hearings and spending all the hours needed to move this bill along.

Without going into great detail, the approximately 1.3 million acres that we are reaffirming Congress' intent that they be used for military purposes is a very important. We need to provide our young men and women with the best opportunities for training that are possible. Military training cannot take place in just the classroom, because unfortunately that is not usually where the conflict occur.

This bill also authorizes the continued or status quo situation for the use by the Marine Corps of areas in the Toiyabe National Forest for its Mountain Training Center. Also provided for is a land exchange between the Bureau of Land Management and the Nature Conservancy in the district of the gentleman from California [Mr. McCANDLESS]. We support those changes.

Mrs. BYRON. Mr. Speaker, I am pleased to be here now to speak in favor of the passage of H.R. 1548, the California Military Land Withdrawal Act of 1987. I would first like to commend my colleague, Mr. VENTO, for his work on this bill and extend to him my sincerest thanks for its quick and timely consideration.

H.R. 1548 would withdraw certain Federal lands in California from public land laws for military purposes. These lands are within both Chocolate Mountain Aerial Gunnery Range and China Lake Weapons Center. These lands, under the bill would be rewithdrawn for 15 years. While both of these areas have been used by the Department of the Navy since World War II, congressional approval of these lands expired in the 1970's. The bill also authorizes the Secretary of the Interior to permit the Navy to use lands in connection with the El Centro Naval Air Station until 1990.

In March, when I first introduced this legislation, it was in the spirit of the compromise achieved in Public Law 99-606, which allowed for the rewithdrawal of six military ranges located throughout the western United States. Passed by both Houses under unanimous consent at the end of the 99th Congress, this Omnibus Military Land Withdrawal Act contained what I feel are provisions which are fair to all interested parties.

With this in mind, language in step with Public Law 606 has been incorporated into H.R. 1548, the bill now under consideration. This includes a 15-year withdrawal period, a draft environmental impact statement which must be completed no later than 12 years after the law's enactment, and a requirement for ongoing decontamination efforts.

As a member of both the Interior and the Armed Services Committees, I am pleased to have had the opportunity to be involved in an issue of such joint interest. I feel that the work put into H.R. 1548, has made it a sound piece of legislation, one that is acceptable to all parties involved.

Thank you, Mr. Speaker.

Mr. DELLUMS. Mr. Speaker, as chairman of the Subcommittee on Military Installations and Facilities of the Armed Services Committee I rise in support of H.R. 1548, the California Military Lands Withdrawal Act of 1987.

This bill was jointly referred to the Committees on Armed Services and Interior and Insular Affairs. The Subcommittee on Military Installations and Facilities of the Armed Services Committee held hearings on this legislation on July 30, 1987. At that hearing the witnesses, representing the Department of the Navy and the Marine Corps, indicated to our subcommittee that they had no objections to the legislation as reported out by the Subcommittee on National Parks and Public Lands of the Interior and Insular Affairs Committee. It is my understanding that the legislation before the House today is exactly the same as that reported from the subcommittee.

The Navy testified that the present lack of proper land use agreements for these areas have resulted in increasing management problems on these properties and in some instances are impairing the military missions.

Essential Navy and Marine Corps activities have been conducted on these lands for over 40 years. The China Lake area is used primarily for research, development, test and evaluation of Navy weapons and systems. The Chocolate Mountain Aerial Gunnery Range is used by the Navy and the Marine Corps for live ammunition air-to-ground practice. It is used 7 days a week and is the largest Department of Defense gunnery range in the continental United States. Its continued use is vital to military training.

Based on these concerns, the strong support given this legislation by the Department of Defense, and the need to act on this legislation as soon as possible, the Armed Services Committee has agreed to allow this bill to come to the floor without formal action by the full committee.

The passage of this legislation is vital to the continued operation of these training areas for the Department of Defense. Your favorable consideration is requested.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1548, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADDITIONS TO WILDERNESS AREAS IN TEXAS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2486) to authorize the Secretary of Agriculture to acquire certain private lands to be added to wilderness areas in the State of Texas, as amended.

The Clerk read as follows:

H.R. 2486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION.

(a)(1) The Secretary of Agriculture (hereinafter referred to as the "the Secretary") is authorized and directed to acquire lands identified as "Additions" on the following maps, dated May 1987, and entitled:

(A) "Additions to the Upland Island Wilderness, Angelina National Forest".

(B) "Additions to Turkey Hill Wilderness, Angelina National Forest".

(C) "Additions to Big Slough Wilderness, Davy Crockett National Forest".

(2) The Secretary shall file the maps referred to in this section and the new legal descriptions of each wilderness area enlarged by this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may by made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) In acquiring lands specified in subsection (a), the Secretary shall first endeavor to obtain such lands through exchange of other National Forest lands in the State of Texas, exclusive of wilderness, of approximately equal value. If some or all such lands specified in subsection (a) have not been acquired through such an exchange by the end of the 2-year period beginning on the date of enactment of this Act, the Secretary shall use the Secretary's existing authority to acquire such lands through other means including by donation or by purchase with appropriated or donated funds.

It is the sense of Congress that the Secretary shall complete the acquisition of such lands no later than four fiscal years after the fiscal year of enactment of this Act.

SEC. 2. ADMINISTRATION.

Subject to valid existing rights, any lands within the areas identified as "additions" on the maps referenced in Section 1 which prior to the date of enactment of this Act were acquired by the United States are hereby designated as wilderness, and any such lands within such areas which are acquired by the United States after the date of enactment of this Act shall be designated as wilderness as of the date of such acquisition; and in each case all lands to designated shall be managed by the Secretary of Agriculture, through the Chief of the Forest Service, in accordance with the provisions of the Wilderness Act of 1964. Any reference in those provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of designation of such lands as wilderness.

SEC. 3. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2486, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 2486 is to enhance the quality and value of three beautiful wilderness areas in the national forests of Texas. Introduced by our colleague, CHARLES WILSON, the bill has bipartisan support. The author of this bill as well as other Members from Texas have long recognized the importance of wilderness in their State and have worked hard on previous legislative measures to preserve Texas wilderness.

Congress recognized the need to preserve wilderness in Texas when it passed the Texas Wilderness Act of 1984. This act designated five wilderness areas in the Angelina, Davy Crockett, Sabine, and Sam Houston National Forests totaling approximately 34,000 acres. Since the passage of this act, there has been a need to adjust the boundaries of these wilderness areas to promote more efficient management and to add important elements of the wilderness resource that were left out. In 1986, Congress enacted Public Law 99-584 which made some of these adjustments by adding approximately 1,100 acres to these areas.

H.R. 2486 continues this process by further adjusting the boundaries of three of these wilderness areas, the Upland Island Wilderness, the Turkey Hill Wilderness and the Big Slough Wilderness. The bill would authorize and require the Secretary of Agriculture to acquire 693 acres of private land which would become part of these wilderness areas.

The Secretary would have 2 years to acquire the lands by exchange. After this time, the Secretary would use existing authority to acquire the lands by purchase or donation.

These key lands would round out the boundaries of the wilderness areas eliminating areas of potential development that now are surrounded on three sides by designated wilderness. These lands also would add old growth stands of overcup oaks, water hickories, planetree oaks and other hardwoods to the wilderness areas and would enhance recreational opportunities for canoeists and fishermen.

I urge my colleagues to support this bill and contribute to the preservation of the wilderness heritage of Texas.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Republican side has no objections to H.R. 2486 as it is now written. However, when the subcommittee reported the bill, there was an objection to forcing the Forest Service to condemn private lands if the lands were not acquired by exchange or donation within 2 years.

The bill was modified to make the acquisition authority a sense-of-Congress statement rather than a requirement.

Mr. Speaker, I want to commend the subcommittee chairman and the primary sponsors of the bill, the Honorable CHARLES WILSON, the Honorable JOHN BRYANT, the Honorable STEVE BARTLETT, and the Honorable JOE BARTON for their help in passing and moving this bill along.

Although the administration still has concerns with the bill, I recommend that my colleagues support H.R. 2486 in its present form.

Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in support of H.R. 2486, which would authorize the U.S. Forest Service to acquire 693 acres of private land in Texas and designate this land as wilderness.

Mr. Speaker, I thank my friend and colleague, the gentleman from California [Mr. LAGOMARSINO] for his excellent work on this legislation.

Mr. Speaker, in 1984, Congress passed the Texas Wilderness Act, which designated five wilderness areas in the Angelina, Davy Crockett, Sabine, and Sam Houston National Forests in Texas. These wilderness areas total approximately 34,000 acres. With the enactment of Public Law 99-584 in 1986, Congress began the important process of adjusting these wilderness boundaries by adding 1,100 acres of wilderness. H.R. 2486 continues this adjustment process, which is needed for a number of reasons.

First, adding the 693 acres to the Big Slough, Upland Island, and Turkey Hill Wilderness Areas will help the Foreign Service better manage these areas, as the "peninsulas" of private land that currently extend into wilderness areas make it difficult to enforce wilderness regulations.

Second, H.R. 2486 eliminates the possibility of these peninsulas of land being developed at some point in the future. Development of these peninsulas could adversely affect the wilderness areas that border them on three sides.

Third, this bill could add old growth stands of a number of hardwood tree varieties, including overcup oaks, water hickories, and planetree oaks to wilderness areas.

Finally, this bill would increase the acreage of stream bank included within wilderness boundaries, thus enhancing recreational opportunities for canoeists and fishermen.

I would like to note that there was initially some concern about the bill's timetable for acquisition of land by the Forest Service. There was concern that the Forest Service, in an effort to meet a timetable for acquisition mandated by Congress, might be forced to resort to condemnation as a means of acquiring the land. However, in markup by the Subcommittee on National Parks and Public Lands, an amendment in the form of a substitute was adopted which changed a requirement that the land be acquired within 4 years to a sense of Congress that the additional acreage involved be acquired within this time period. There is no requirement in H.R. 2486 that the Forest Service resort to condemnation of land to fulfill time requirements.

I would also like to point out that H.R. 2486 directs the Secretary of Agriculture to emphasize the exchange of other national forest land in Texas in acquiring these 693 acres and in no way mandates the spending of Federal funds for this acquisition. It is my belief that the 693 acres will be exchanged far in advance of the 4-year goal suggested by the sense of Congress. In real terms, there is little basis for the argument that H.R. 2486 will involve the expenditure of Federal funds.

The benefits of the wilderness boundary adjustments called for in H.R. 2486 are clear and I urge my colleagues to support this bill's passage.

Mr. Speaker, I am joined in this statement by Congressman JOE BARTON of east Texas, who represents the general area of east Texas and who joins with me in support of H.R. 2486 and extends his compliments and appreciation to the subcommittee.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2486, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REVISING THE BOUNDARIES OF SALEM MARITIME NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2652) to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes.

The Clerk read as follows:

H.R. 2652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY REVISION OF SALEM MARITIME NATIONAL HISTORIC SITE.

(a) BOUNDARY REVISION.—The Salem Maritime National Historic Site (hereafter in this Act referred to as the "national historic site"), designated on March 17, 1938, under section 2 of the Act of August 21, 1935 (49 Stat. 666), and located in Salem, Massachusetts, shall consist of lands and interests in lands as generally depicted on the map entitled "Boundary Map, Salem Maritime National Historic Site, Salem, Massachusetts", numbered 373-80,011, and dated April 1987. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) ACQUISITION OF LANDS.—The Secretary of the Interior may acquire lands or interests therein within the boundary of the national historic site by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the Commonwealth of Massachusetts or any political subdivision thereof may be acquired only by donation. Lands and interests therein acquired pursuant to this Act shall become part of the national historic site and shall be subject to all the laws and regulations applicable to the national historic site.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2652, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Salem Maritime National Historic Site preserves key elements of our Nation's maritime heritage, with its wharf, Customs House, merchant's homes, artifacts, and archives. Salem was a major seaport, with its ships going all over the world in search of trade. During the American Revolution, Salem was the only major American port not closed by the British.

This year we are celebrating the bicentennial of the Constitution. Much of the attention of the bicentennial has gone to its political aspects. Salem Maritime National Historic Site reminds us of the economic aspects. Under the Constitution, the Federal Government is empowered to raise revenues by duties, and other taxes. At one time in our past, the duties raised at the Port of Salem were nearly one-sixth of the total revenue for this Nation. They were collected at the Customs House now part of the park.

H.R. 2652, introduced by our colleague NICK MAVROULES adjusts the boundary of this historic site, which was established in 1938, so that the St. Joseph Hall can eventually be acquired. When it is, the historic Customs House can be emptied of various National Park Service uses such as administration, maintenance, and curatorial storage. The Customs House which inspired Nathaniel Hawthorne will then be restored to its historic character.

Mr. Speaker, I endorse this bill, and believe its passage will be fitting as part of our Nation's celebration of the bicentennial of the Constitution.

□ 1300

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2652, to revise the boundaries of the Salem Maritime National Historic Site to include an adjacent piece of land which is less than an acre in size. The land parcel includes a building, presently for sale, which the National Park Service [NPS] would like to acquire for administrative purposes. In order to complete the acquisition, the building must be within the boundaries of the historic site.

Since the establishment of the site in 1938, NPS has used the historic Custom House for administrative purposes. However, increased visitation at the site has resulted in the need to separate the administrative offices from the historic structures in order to improve the visitor experience and administrative effectiveness and reduce the adverse impacts to the resources of the site. In addition, inclusion of the building within the site's boundary has been documented in NPS plans as a management need of the park.

Mr. Speaker, this is a bipartisan measure supported by the National Park Service that will result in a very minimal Federal expenditure. I know of no opposition to this bill which I agree is needed to improve the Salem Maritime National Historic Site. Therefore, I urge my colleagues to approve H.R. 2652.

Mr. Speaker, I want to commend the bill's sponsor, the gentleman from Massachusetts [Mr. MAVROULES], and the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], for their efforts to move the bill forward in an expeditious manner.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the author of the bill, the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. I thank the gentleman very much.

Mr. Speaker, my sole purpose here is to thank both the subcommittee chairman and the ranking minority member of their cooperation and kindness which they demonstrated to me and to the people who have an interest in this particular bill. It has been articulated very, very well. I strongly support it. The city of Salem and all of the local governments support it.

I want to thank all the people who are involved. It will be a marvelous initiative for the further development of the customs services in the city of Salem as the gentleman well demonstrated. I simply want to thank all of them for their cooperation.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I gladly yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for his work and for the work of the community in terms of historic preservation. They indeed are investing considerable effort and time in historic preservation. Sometimes as we deal with these park and historic units under the national parks or other systems, we fail to recognize the importance they have to the local communities, to the economy and to all the activities going on in and around that area.

I think Salem as a community is doing an outstanding job trying to restore and try to enhance its business community and its historic structures which are present.

These historic sites are certainly an important catalyst to that activity.

I know we have a good deal of work in public policymaking in this area to continue to work with and I look forward to continue working with the gentleman. He has done good work. He brings to us a good bill which deserves our support.

Mr. MAVROULES. Once again, I want to thank the chairman of the subcommittee very much, both he and the ranking member.

Mr. MARKEY. Mr. Speaker, I rise in strong support of H.R. 2652, a bill I am proud to cosponsor. I would like to commend the gentleman from Massachusetts, Mr. MAVROULES, for introducing this bill. I would also like to thank Bruce Craig, of the National Parks Conservation Association, Maureen Johnson, the director of the Salem Partnership, Denis Galvin of the National Park Service, and particularly Salem's Mayor Salvo for their testimony at the September 17 hearing that the Interior Committee's Subcommittee on Parks and Public Lands held on this legislation. I would also like to commend the able chairman of the Subcommittee on Parks and Public Lands, Mr. VENTO, for his leadership on this issue.

H.R. 2652 would allow the revision of the boundaries of the Salem National Maritime Site, to permit the acquisition of a building adjacent to the present historic site. That building is currently for sale. The legislation requires no appropriation, but simply allows the acquisition to go forward. This bill has the support of the National Park Service and of city officials in Salem, as well as the whole Massachusetts congressional delegation. It is a noncontroversial proposal which would allow the enhancement of one of America's great historical resources.

Mr. Speaker, the Salem Maritime National Historical Site is a tribute to the history of early America, and particularly to the important shipping industry that made our Nation a great maritime and commercial power from its earliest days. Founded as a plantation in 1626, Salem is the Massachusetts Bay's oldest seaport and was once our Nation's sixth largest city.

Commerce through ports like Salem was part of the foundation of our national life from the days of independence. Indeed, Salem played a crucial role in the war for independence and in subsequent formation of our constitutional republic. The leaders of Salem's shipping industry also provided leadership in the movement for American independence and financial backing for that struggle. During the Revolutionary War, Salem provided more privateers for the sea war against British ships than any other port in America. And after independence, Salem shipowners were prominent Federalists, arguing for the strong national Constitution whose bicentennial we are celebrating this year.

Unfortunately, the shipping industry that helped shape American history also was subject to vicissitudes of that history. In particular, the trade embargo imposed by President Jefferson prior to the War of 1812 caused a decline in the fortunes of Salem's shipping commerce. The gradual decline in shipping industry, however, meant the preservation in Salem of many features of that great age in maritime history.

We are, however, very fortunate that much of the old Salem survives as a testament to this history. The Salem Maritime National Historic Site has been preserved as a beautiful and fascinating embodiment of early American history. This site includes two wharves, a lighthouse and government bonded warehouses. The Salem site also contains a beautiful customs house, dating to 1819. It is interesting to note that customs duties once accounted for 95 percent of the Federal Government's operating funds. This is further testimony to the historical importance of maritime commerce to our Nation. It underscores the educational service provided by historic sites like that at Salem.

Mr. Speaker, the bill before us today will allow the further enhancement of the Salem Maritime National Historic Site.

I urge my colleagues to support this legislation, which will clear the way for an enhancement of a great historical resource of our country. I look forward to its passage by the House.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ECKART). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2652.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COW CREEK BAND OF UMPQUA TRIBE OF INDIANS DISTRIBUTION OF JUDGMENT FUNDS ACT OF 1987

Mr. UDALL. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1567) to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in U.S. Claims Court docket numbered 53-81L, and for other purposes.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "tribe" means the Cow Creek Band of Umpqua Tribe of Indians, which was extended Federal recognition by the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712, et seq.).

(3) The term "tribal member" means any individual who is a member of the Cow Creek Band of Umpqua Tribe of Indians within the meaning of section 5 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712c), as amended by section 5 of this Act.

(4) The term "tribe's governing body" means the governing body as determined by the tribe's governing documents.

(5) The term "tribe's governing documents" means either the 'By-Laws of Cow Creek Band of Umpqua Tribe of Indians' which bear an 'approved' date of '9-10-78' or those bylaws as amended or revised or any subsequent final governing document adopted pursuant to section 4 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712b), as amended by section 7 of this Act.

(6) The term "tribal council" means the general membership of the Cow Creek Band of Umpqua Tribe of Indians convened in a meeting open to all tribal members.

(7) The term "tribal elder" means any tribal member who reached 50 years of age on or before December 31, 1985 and whose name appears on the list compiled pursuant to 4(b)(1)(A).

SEC. 3. JUDGMENT DISTRIBUTION PLAN.

Notwithstanding Public Law 93-134 (25 U.S.C. 1401, et seq.), or any plan prepared or promulgated by the Secretary pursuant to such Act, the judgment funds awarded in United States Claims Court docket numbered 53-81L shall be distributed and used in the manner provided in this Act.

SEC. 4. DISTRIBUTION AND USE OF FUNDS.

(a) PRINCIPAL PRESERVED; NO PER CAPITA PAYMENTS.—(1) The total judgment fund of $1,500,000, less attorney's fees and loan with the Bureau of Indian Affairs for expert witness testimony during the land claims case, shall be set aside as the principal from which programs under this Act will be funded. Only the interest earned on this principal may be used to fund such programs. There will be no per capita distribution of any funds, other than as specified in this Act.

(2) The Secretary shall—

(A) maintain the judgment fund in an interest-bearing account in trust for the tribe; and

(B) shall disburse funds as provided in this Act within thirty days of receipt by the Portland Area Director, Bureau of Indian Affairs, of a request by the tribe's governing body for disbursement of funds.

(b) Elderly Assistance Program.—(1) From the principal, the Secretary shall set aside the sum of $500,000 for an Elderly Assistance Program. The Secretary shall provide a one-time-only payment of $5,000 to each tribal elder within thirty days after the tribe's governing body—

(A) has compiled and reviewed for accuracy a list of all tribal members who were 50 years of age or older as of December 31, 1985; and

(B) has made a request for disbursement of judgment funds for the Elderly Assistance Program pursuant to subsection (a) of this section.

(2) Payments of $5,000 to tribal elders shall be made—

(A) to tribal elders by age in descending order, beginning with the oldest tribal elder, until the interest accumulated for one year on the $500,000 has been depleted below the sum of $5,000: Provided, That any interest remaining shall carry over to the following year for distribution hereunder in the next $5,000 payment;

(B) on or before January 1 of succeeding years, and will continue to be made to tribal elders in descending order by age until the interest earned in such year on the $500,000 has been depleted below the sum of $5,000: Provided, That any interest remaining shall carry over to the following year for distribution hereunder in the next $5,000 payment; and

(C) each year until every individual eligible for payment under this subsection has received a one-time-only payment of $5,000: Provided, That when all payments have been completed, the principal sum of $500,000 will be distributed to other tribal programs as provided in this Act and any remaining interest will be distributed to other tribal programs as determined by the tribe's governing body.

(3) If any tribal member eligible for an elderly assistance payment should die before receiving such payment, the money which would have been paid to that individual will be returned to the Elderly Assistance Program fund for distribution in accordance with this section.

(c) Higher Education and Vocational Training Program.—(1) From the principal, the Secretary shall set aside the sum of $100,000 for a Higher Education and Vocational Training Program. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and will be utilized to provide scholarships to tribal members pursuing college, university, or professional education or training. Tribal members seeking vocational training also will be funded from this program, although adult vocational training funding available through a contract with the Bureau of Indian Affairs will be utilized first if an individual is eligible and there is sufficient funding in such program.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for the higher education and vocational training program shall be increased to $250,000.

(d) Housing Assistance Program.—(1) From the principal, the Secretary shall set aside the sum of $100,000 for a Housing Assistance Program for tribal members. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be added to any existing tribal housing improvement programs to supplement them or it may be used in a separate Housing Assistance Program to be established by the tribe's governing body. Such funding may be used for—

(A) rehabilitation of existing homes;

(B) emergency repairs to existing homes;

(C) down payments on new or previously occupied homes; and

(D) if sufficient funding is available in a given year, for purchase or construction of new homes.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for the housing assistance program shall be increased to $250,000.

(e) Economic Development and Tribal Center.—(1) From the principal, the Secretary shall set aside the sum of $250,000 for economic development and, if other funding is not available or not adequate, for the construction and maintenance of a tribal center. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be used for—

(A) land acquisition for business or other activities which would benefit the tribe economically or provide employment for tribal members: Provided, That at least 50 per centum of all individuals employed in a tribally operated business acquired or operated under this subsection shall be tribal members or their spouses as available and qualified: Provided further, That as new positions open or existing ones are vacated, preference will be given to tribal members or their spouses, but if insufficient numbers of qualified tribal members or their spouses are available to fill at least 50 per centum of the positions offered, nontribal members may be considered for employment;

(B) business development for the tribe, including collateralization of loans for the purchase or operation of businesses, matching funds for economic development grants, joint venture partnerships, and other similar ventures which can be expected to produce profits for the tribe or to employ tribal members;

(C) reservation activities, including forest management, wildlife management and enhancement of wildlife habitats, stream enhancement, and development of recreational areas. The tribe's governing body shall determine what reservation activities will be funded from economic development funds under this subparagraph; or

(D) construction, support, or maintenance of a tribal center.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding available for economic development and tribal center shall be increased to $400,000.

(f) Miscellaneous Tribal Activities.—(1) From the principal, the Secretary shall set aside the sum of $50,000 for miscellaneous tribal activities as determined by the tribe's governing body. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be used for—

(A) operating costs of the tribe's governing body, including travel, telephone, and other expenses incurred in the conduct of the tribe's affairs;

(B) legal fees incurred in the conduct of tribal affairs, tribal businesses or other tribal activities, recommended by the tribe's governing body and approved by the tribal council; or

(C) repayment to the Secretary of any funds provided by the Secretary under Bureau of Indian Affairs Contract Numbered POOC14207638.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for miscellaneous tribal activities shall be increased to $100,000.

(g) Evergreen Property; Collateralization of Loan With Bureau of Indian Affairs.—(1) From the principal, the Secretary shall set aside the sum of $315,000 as collateral on the property known as Evergreen. The interest from such amount shall be disbursed annually in a lump sum to the tribe and shall be utilized for payments on the loan property and for maintenance and upgrade of such property. If the tribe's governing body determines that the interest and income together are sufficient to pay off the loan more quickly, it may commit the full interest from $315,000 to repayment of the loan until such time as loan payments are completed or the income from the property is sufficient to complete the loan payments.

(2) When the loan has been paid or the income from the property is sufficient to pay the loan, the principal amount of $315,000 and any remaining interest generated from such sum shall be redistributed to the Housing Assistance Program, Higher Education and Vocational Training Program, and Economic Development and Tribal Center Program established under this section in such proportions as the tribe's governing body determines to be appropriate.

(h) General Conditions.—The following conditions will apply to the management and use of the judgment funds by the tribe's governing body:

(1) No amount greater than 10 per centum of the interest earned on the principal may be used for the administrative costs of any of the above programs, except as provided in paragraph (2).

(2) No service area is implied or imposed under any program under this Act. If the costs of administering any program under this Act for the benefit of a tribal member living outside the tribe's Indian health service area are greater than 10 per centum of the interest earned thereon, the tribe's governing body may authorize the expenditure of such funds for that program, but in carrying out the program shall give priority to individuals within the tribe's Indian health service area.

(3) The tribe's governing body may at any time after enactment of this Act declare a dividend to tribal members from the profits from any business enterprise of the tribe. Prior to declaring or distributing dividends, however, the tribe's governing body must first take into consideration the effect of such declaration or distribution of dividends on future operating costs and proposed business expansions. Profits from business enterprises may also be distributed back into any of the programs established under this section provided that future operating costs and proposed expansion costs are first set aside. Any such distribution back into the program under this Act shall be proportional to the percentage of principal then being allocated hereunder.

(4) Notwithstanding any other provisions of this Act, interest accrued on the principal prior to enactment of this Act shall as of the date of this Act be distributed under the tribal programs described in section 4 of this Act.

(5) The tribe's governing body shall adopt and publish in a publication of general cir-

culation regulations which provide standards for the participation of individuals who are eligible for programs established pursuant to subsections (c) and (d) of this section.

(6) Benefits received pursuant to this Act shall be considered supplementary to existing Federal programs and their existence shall not be used by any Federal agency as a basis to deny eligibility in whole or in part for existing Federal programs.

(7) Any individual who feels he or she has been unfairly denied the right to take part in any program under subsections (b), (c), or (d) of this section may appeal to the Secretary. The Secretary shall provide payments pursuant to this section to any individual who the Secretary determines, after notice and hearing, has been unfairly denied the right to take part in such program.

(8) Notwithstanding any other provisions of this Act, no funds shall be disbursed pursuant to subsection (c) or (d) of this section until one year after enactment of this Act.

(i)(1) Any portion of the principal set aside under subsection (a) which remains after the allocations of the principal required under subsections (b), (c), (d), (e), and (f) have been made shall be allocated among the Housing Assistance Program, the Higher Education and Vocational Training Program, and the Economic Development and Tribal Center Program established under this section in such proportions as the tribe's governing body determines to be appropriate.

(2) If the total amount of the principal set aside under subsection (a) after amounts sufficient to pay attorney's fees and the loan described in subsection (a) have been deducted is insufficient to make all of the allocations of the principal required under subsections (b), (c), (d), (e), and (f), the portion of the principal which is required to be allocated to the purposes provided in subsections (c), (d), (e), and (f) shall be reduced in such proportions as the tribe's governing body determines to be appropriate.

SEC. 5. MEMBERSHIP ROLLS.

(a) Section 5 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712c) is amended to read as follows:

"SEC. 5. TRIBAL MEMBERSHIP.

"(a) Until such time as the Secretary of the Interior publishes a tribal membership roll as mandated in subsection (b) of this section, the membership of the Cow Creek Band of Umpqua Tribe of Indians shall consist of all persons listed in the official tribal roll approved on September 13, 1980, by the tribe's Board of Directors, and their descendants. Following publication by the Secretary of the tribal membership roll mandated in subsection (b) of this section, the membership of the Cow Creek Band of Umpqua Tribe of Indians shall consist of all persons listed on such roll.

"(b) Within three hundred and sixty-five days after the enactment of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the Secretary shall prepare in accordance with the regulations contained in part 61 of title 25 of the Code of Federal Regulations a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians. Such roll shall include all Indian individuals who were not members of any other federally recognized Indian tribe on July 30, 1987 and who—

"(1) are listed on the tribal roll referred to in subsection (a);

"(2) are the descendants of any individuals listed pursuant to paragraph (1) born on or prior to enactment of this Act; or

"(3)(A) are the descendants of any individual considered to be a member of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 18, 1853; (B) have applied to the Secretary for inclusion in the roll pursuant to subsection (c); and (C) meet the requirements for membership provided in the tribe's governing documents.

"(c) The Secretary shall devise regulations governing the application process under which individuals may apply to have their names placed on the tribal roll pursuant to paragraph 3 of subsection (b).

"(d) After publication of the roll in the Federal Register, the membership of the tribe shall be limited to the persons listed on such roll and their descendants: Provided, That the tribe, at its discretion, may subsequently grant tribal membership to any individual of Cow Creek Band of Umpqua ancestry who pursuant to tribal procedures, has applied for membership in the tribe and has been determined by the tribe to meet the tribal requirements for membership in the tribe: Provided further, That nothing in this Act shall be interpreted as restricting the tribe's power to impose additional requirements for future membership in the tribe upon the adoption of a new constitution or amendments thereto as provided in section 7 of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987.".

(b) TECHNICAL CORRECTION.—The Cow Creek Band of Umpqua Tribe of Indians Recognition Act is amended by striking out "Umpqua Tribe of Oregon" each place it appears and inserting in lieu thereof "Umpqua Tribe of Indians".

SEC. 6. ELIGIBILITY OF NONTRIBAL MEMBERS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, any individual who is not a tribal member shall be eligible to participate—

(1) in the programs established under subsections (c) and (d) of section 4 of this Act if such individual—

(A) submits to the Secretary and to the tribe an application for participation in such programs which is accompanied by evidence establishing that such individual is within the group of persons described in section 4(a) of Public Law 96-251; and

(B) is certified by the Secretary as being within such group; and

(2) in the program established under subsection (b) of section 4 of this Act if such individual—

(A) submits to the Secretary and to the tribe, by no later than one hundred and eighty days after the date of enactment of this Act, an application for participation in such program which is accompanied by evidence establishing that such individual is within the group of persons described in section 4(a) of Public Law 96-251; and

(B) is certified by the Secretary as being within such group.

(b) BASIS OF CERTIFICATIONS.—In making certifications under subsection (a) of this section, the Secretary may use—

(1) records collected pursuant to Bureau of Indian Affairs Contract Numbered POOC14207638 that are made available to the Secretary by the tribe; and

(2) any other documents, records, or other evidence that the Secretary determines to be satisfactory.

SEC. 7. ORGANIZATION OF TRIBE; CONSTITUTION, BYLAWS AND GOVERNING BODY.

(a) IN GENERAL.—Section 4 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712b) is amended to read as follows:

"SEC. 4. (a) The tribe may organize for its common welfare and adopt an appropriate instrument, in writing, to govern the affairs of the tribe when acting in its governmental capacity. The tribe shall file with the Secretary of the Interior a copy of its organic governing document and any amendments thereto.

"(b) Not less than one year following enactment of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the tribe's governing body may propose a new governing document or amendments or revisions to the interim governing document, and the Secretary shall conduct a tribal election as to the adoption of that proposed document within one hundred twenty days from the date it is submitted to the Bureau of Indian Affairs.

"(c) The Secretary shall approve the new governing document if approved by a majority of the tribal voters unless he or she determines that such document is in violation of any laws of the United States.

"(d) Until the tribe adopts and the Secretary approves a new governing document, its interim governing document shall be the tribal bylaws entitled 'By-Laws of Cow Creek Band of Umpqua Tribe of Indians' which bear an 'approved' date of '9-10-78,'.

"(e) Until the tribe adopts a final governing document, the tribe's governing body shall consist of its current board of directors elected at the tribe's annual meeting of August 10, 1986, or such new board members as are selected under election procedures of the interim governing document identified at subsection (d).".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 1567 is to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua by the court of claims. This claim was filed by the tribe against the United States for loss of land sustained by the tribe as a result of actions taken by the United States. The claim was settled by compromise in 1984 for $1,500,000. Funds to satisfy this award were appropriated in 1985.

The plan for the use and distribution of these funds, which is embodied in this bill and which is supported by the tribe, calls for the creation of several tribally administered programs including an Elderly Assistance Program, a Housing Program, and an Education Assistance Program.

Mr. Speaker, this bill already passed the House by voice vote and is being sent back by the Senate with a minor amendment. The amendment would make sure that individuals who are not on the current tribal roll, but who can prove Cow Creek ancestry will be able to be added to the roll as long as they meet the current membership requirements.

Because the administration has voiced some opposition to this bill which seem to question the legality and propriety of the bill, I feel compelled to answer these criticisms.

The administration asserts that the Cow Creek Band of Umpqua Indians as defined in the bill is neither the modern day successor to the historical tribe nor substantially made up of Cow Creek descendants. This assertion is not backed by the evidence submitted to the committee. The committee has received in the last 3 years very little, if any, evidence to rebut the tribe's claim that its members were indeed of Cow Creek ancestry. In addition, it ignores that Congress has the plenary power to designate the modern day successor to the historical tribe. This Congress did in 1982 when it first recognized the tribe and defined its membership.

While Congress has plenary power over Indian Affairs, such power cannot be exercised without rational basis. In this case, after considerable research spanning two Congresses and after listening to expert witnesses and historians, the committee has recognized the individuals listed on the current tribal roll, as members of the tribe.

However, because the tribe, as presently constituted, may not include all of the Cow Creek descendants, the bill was amended to allow the Secretary of the Interior to place such additional individuals on the tribal roll.

Let me now turn to the administration's claim that the United States may have to pay the claim twice because Cow Creek descendants who are not members of the band may file a law suit.

While nobody can prevent anyone from filing suit, such a suit, if filed, would be without any merit. First, the bill does allow all Cow Creek descendants, whether they are tribal members or not, to participate in the tribal programs funded from the award. Therefore, these descendants may not have any standing to sue since they are included in the class of beneficiaries. Second, such descendants have no vested rights in a specific share of the award. This award was given to the tribe as an entity, not to any particular individual.

I urge acceptance of the Senate amendment.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority on the Interior and Insular Affairs Committee has no objection to H.R. 1567, the Cow Creek Judgement Distribution Act.

Mr. RHODES. Mr. Speaker, I rise in support of concurrence in the Senate amendments to H.R. 1567, a bill which would provide for the use and distribution of $1.5 million awarded the Cow Creek Band of the Umpqua Indian Tribe by the U.S. Court of Claims in 1984.

As a little background I would like to note that subsequent to the authorization which allowed the Cow Creek Band to go to the claims court, Congress enacted legislation federally establishing and recognizing the current tribe. In some instances there are Cow Creek descendants who chose not to become members of the tribe. For this reason the administration has proposed that the $1.5 million be distributed on a per capita basis to all descendants.

The House and Senate disagree with the administration for a number of reasons. First, the history of per capita payments is abysmal. Lump sums of hundreds or even thousands of dollars can dissipate almost overnight with no benefit to the tribe or society. Second, the bureaucratic costs of the researching of descendants and the implementation of a per capita distribution are not justified. Finally, Congress previously decided that this tribe is the successor group to the original tribe, and based on the policy of a government-to-government relationship, we should defer to the tribal wishes.

The Senate amendments to H.R. 1567 are mostly technical in nature. However, they do provide that nonmember descendants can participate in all the programs established with the judgment fund award. The House-passed version limited participation by nonmember descendants.

I believe the tribe should be commended for requesting that Congress approve a plan which will reduce the tribe's dependence on the Federal—since many of the new assistance programs could be funded by Federal appropriations. Therefore, I urge my colleagues to concur in the Senate amendments to H.R. 1567.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the author of the bill, the gentleman from Oregon [Mr. DEFAZIO].

Mr. Speaker, H.R. 1567 represents the conclusion of the long effort of the Cow Creek Band of Umpqua Indians, whose ancestral home is in the southern part of my district, to win compensation for the loss of tribal lands over 130 years ago and to use that compensation for the long-term benefit of the tribe.

The House passed this bill by voice vote on April 27. The Senate has now considered the bill, provided helpful amendments, and passed it by voice vote. Both of Oregon's Senators spoke eloquently for its passage and were instrumental in providing these amendments. Last year a similar bill unanimously passed both Houses of Congress but adjournment prevented reconciliation of slight differences in text.

Again, I want to express my appreciation to my chairman, the gentleman from Arizona, for his consideration in ensuring rapid consideration by the Interior Committee and for his long assistance to the members of the Cow Creek Tribe.

I will take this opportunity to review again for my colleagues the details of this bill. This bill provides a distribution formula for funds won by the tribe in a settlement of its claim for compensation for lost tribal lands. In 1980 Congress passed Public Law 96-251 which enabled the Cow Creek Indians to pursue their claim in the U.S. Court of Claims. This act allowed the tribe to at long last pursue its claim dating from the original treaty of September 19, 1853, which guaranteed compensation for 800 square miles of tribal land ceded to the Federal Government the following year. Hostilities between early settlers of the region and Indian tribes in the area resulted in the scattering of tribal members and the end to the payments legally due.

In 1984 the parties to the claim agreed to settle and the court awarded to the tribe the sum of $1,500,000. On August 21, 1984 Congress appropriated the necessary funds for the settlement.

In the interim Congress restored Federal recognition to the tribe by Public Law 97-391. To assure a sustainable resource for tribal programs, the tribe developed a distribution plan for the settlement award. The entirement sum, less the costs of pursuit of the claim, were to be placed in trust with the interest funding a variety of designated programs. These programs range from an elderly assistance program to housing and vocational training.

Mr. Speaker, this plan is an alternative to the per capita distribution recommended by the Bureau of Indian Affairs and I believe a far more beneficial plan. Per capita distribution has a sorry history in the State of Oregon. They result in small lump sums to individual members but do nothing to further the long-term development of the tribe.

In the course of seeking Federal recognition the tribe prepared an exhaustive survey of the economic conditions facing tribal members. Not surprisingly, tribal members are among the poorest and most ill-housed and educated residents of an already distressed region. The goal of the tribe is long term stability and the formulation of this plan is an important step.

This bill now costs the Federal Government nothing. The funds are in a trust account awaiting our enactment of a distribution plan. Again, Mr. Speaker, this distribution plan has now passed each House of Congress twice. The Senators from Oregon and

I attempted to clarify the language concerning tribal membership and governance to satisfy the concerns expressed by the Bureau of Indian Affairs about lack of guidance from the tribe's restoration act.

The major concern expressed by the Bureau is, I believe, amply addressed by this bill. The benefits of this fund will extend to all descendents of the Cow Creek Band, whether they are currently enrolled members or not. This ensures that descendants not listed on the roll submitted to the Congress at the time of restoration are able to participate in the programs funded by this act. Additionally, the bill directs the Secretary of Interior to prepare an official roll based on the roll, identified here, submitted to Congress at the time of restoration with inclusion of those descendants who were left off in 1982. The criteria for addition to the roll are specific and carefully constructed to ensure that only lineal descendants may be added to the roll.

I urge my colleagues to support this very important step toward self sufficiency for the Cow Creek Tribe.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1567.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

SENTENCING GUIDELINES STAY OF IMPLEMENTATION ACT OF 1987

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3307) to provide for an orderly transition to the taking effect of the initial set of sentencing guidelines prescribed for criminal cases under section 994 of title 28, United States Code, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sentencing Guidelines Stay of Implementation Act of 1987".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds and declares that—

(1) the initial sentencing guidelines submitted to Congress by the United States Sentencing Commission are substantially workable and ready to take effect on November 1, 1987;

(2) the period for congressional review of the initial guidelines under section 235(a)(1) of the Sentencing Reform Act of 1984 need not be extended;

(3) the Congress has no intention or desire to undercut or disapprove the guidelines; and

(4) there is a need, however, for a brief period of additional time for the training of court personnel and others involved in the application of the guidelines, for further testing of the guidelines, and for the Commission to have an opportunity to further refine the guidelines before they are applied to criminal cases.

SEC. 3. STAY OF IMPLEMENTATION OF SENTENCING GUIDELINES.

Section 235(a)(1) of the Comprehensive Crime Control Act of 1984 is amended by striking out "36" and inserting "45" in lieu thereof.

SEC. 4. CLARIFICATION OF APPLICATION OF INITIAL GUIDELINES TO CONDUCT TAKING PLACE BEFORE EFFECTIVE DATE.

Section 235(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end the following:

"(3) The initial sentencing guidelines that take effect under this section shall apply only with respect to conduct occurring after such guidelines take effect."

SEC. 5. EXPEDITED REVIEW.

(a) CIVIL ACTION.—Any person or entity aggrieved may commence a civil action in the United States District Court for the District of Columbia for declaratory judgment and injunctive relief on the ground that chapter 58 of title 28, United States Code, or any guideline submitted to Congress by the United States Sentencing Commission, violates the Constitution.

(b) THREE-JUDGE COURT.—Any action brought under subsection (a) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

(c) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under subsection (a) shall be reviewable by appeal directly to the Supreme Court.

(d) EFFECTIVE DATE.—This section shall take effect on the day the initial sentencing guidelines take effect under section 235(a) of the Comprehensive Crime Control Act of 1984.

SEC. 6. STANDARD FOR DEPARTURE.

(a) IN GENERAL.—Section 3553(b) of title 18, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following: "The court shall impose a sentence of the kind, and within the range set forth in the applicable sentencing guidelines unless the court finds that there is present in the case an aggravating or mitigating circumstance of a kind or degree not taken into account by such guidelines that provides a compelling reason for imposing a sentence different from a sentence called for by such guidelines, having due regard for the purposes of sentencing set forth in subsection (a)(2) of this section. In determining whether an aggravating or mitigating circumstance is of a kind or degree not taken into account by a sentencing guideline, the court shall consider only the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date such section 3553(b) takes effect.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUNGREN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from California [Mr. LUNGREN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on November 1 the Federal criminal justice system is scheduled to undergo its most dramatic change in our Nation's history with the introduction of sentencing guidelines. This bill, which is the result of hard work by members of both parties, would delay the implementation of the guidelines for nine months and would make several minor changes in the Sentencing Reform Act.

The Sentencing Reform Act of 1984 established the U.S. Sentencing Commission to issue guidelines for sentencing criminal defendants convicted of Federal crimes. The goal of the act was to reduce unwarranted sentencing disparity and to promote honesty, proportionality and fairness in sentencing. The act will effect a revolutionary change in the Federal criminal justice system by requiring judges to follow the guidelines, in most cases, in determining the appropriate sentence. On April 13, 1987 the Sentencing Commission submitted its initial set of guidelines to Congress and on May 1, 1987 submitted a series of amendments. The guidelines and amendments will take effect on November 1, 1987 unless Congress modifies, delays or rejects them.

When it submitted the guidelines in April, the Sentencing Commission requested that Congress delay the implementation of the guidelines for 9 months, until August 1, 1988. The Judiciary Committee's Subcommittee on Criminal Justice recently held a series of hearings at which a large number of witnesses also called for delaying the guidelines. The suggested delay periods ranged from the 9 months requested by the Sentencing Commission, to 24 months, which was proposed by the American Bar Association. The Federal judges around the country, from Chief Justice Rehnquist down, have been virtually unanimous in supporting a delay. The Judicial Conference of the United States has requested a 12-month delay.

These are several good reasons for delaying the implementation of the guidelines. The first is the need for training. The guidelines represent a dramatic change from present sentencing practices and unless district court judges, appellate judges, probation officers, and prosecuting and defense attorneys are adequately trained, there could be a chaotic implementation period and many errors in applying the guidelines. This could lead to unnecessary litigation and potentially unfair results. There has been some training already, but more is needed.

The second reason for delaying the implementation of the guidelines is to allow for a period of field testing. Field testing could help the Commission anticipate problems and errors in application of the guidelines. During the test period, although actual sentencing would continue to be governed by current law, judges and probation officers would determine the sentences that would be applicable under the guidelines and explain their reasoning. The Commission could study the data generated by these field tests and make necessary changes in the training programs or the guidelines themselves.

The third reason supporting a delay is to enable the Commission to amend the guidelines before they take effect. Apparently, the Commission already knows of some amendments it would like to make. The Subcommittee on Criminal Justice's hearings raised a number of issues the Commission may want to consider addressing through amendments. The training and testing periods may also identify other necessary changes. Since all amendments offered by the Commission do not take effect for 6 months, a 9 month delay really gives the Commission only 3 months, until February 1, 1988, to issue amendments which will take effect simultaneously with the initial guidelines.

The other provisions of the bill are straightforward. To avoid a violation of the Constitution's ex post facto clause, the bill clarifies that the guidelines only apply to crimes committed after their effective date. The bill also contains an expedited review provision designed to get a quick answer from the Supreme Court about a separation of powers challenge that will be raised against the Sentencing Reform Act. Finally, the bill clarifies the language governing when judges can impose sentences outside of the guidelines.

Mr. Speaker, we are about to replace a system that has been in place since the founding of the Republic. Sentencing guidelines have both great potential and great risks. We should do everything we can to ease the transition to this new system. The modest stay of implementation in H.R. 3307 is a sensible and responsible approach. I urge my colleagues to support this bill.

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Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I intend to participate in the debate a little bit longer at a later time, but I did want to put this on the record.

Does not the legislation, I ask the gentleman from Michigan [Mr. CONYERS], state specifically that these guidelines are intended to go into effect and that the intent of the Congress to put them into effect is going to be implemented and that we are not going to engage in any kind of delaying tactics or other kinds of dilatory actions beyond the one which is necessitated by the training and education period?

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, the quickest answer I can say would be to refer all of our colleagues to the long hearings that we have had particularly at the end of the hearings in which there were discussions of this being some possible subterfuge to in the end scuttle the guidelines. There is no such intent on the part of anybody in the Congress that I know of, and I think everybody has reached a consensus that this is an important way to bring the change and that the answer to the question of the gentleman from Pennsylvania [Mr. GEKAS] is that this delay will not lead to any effort to further delay or eventually emasculate or kill the guidelines. Absolutely not.

Mr. GEKAS. Mr. Speaker, if the gentleman will yield further for one other point, Has not the gentleman from Michigan [Mr. CONYERS], the chairman of the Subcommittee on Criminal Justice, stated publicly that he himself would allow implementation of the guidelines at the new deadline?

Mr. CONYERS. I have. I stated it here, but I stated it many, many times in the hearings. It is very flattering for anyone to suspect that I have some inherent power to stay these guidelines.

Mr. GEKAS. I do.

Mr. CONYERS. This work is the product of many years of work. Although I did not think it was a good idea, many judges have said that sentencing with grids and on a fixed period has some benefits. I am reconciled to that.

All the committee wants to do now is move it forward to have its best attempt, the best attempt in implementation. I think for that reason we support all the associations, judicial and legal, that have asked for this delay.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from Pennsylvania [Mr. GEKAS] for his work in this effort. He has worked in a very cooperative spirit with us on the guidelines.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of the bill delaying the implementation of the Sentencing Guidelines Act. The chief judge of the Federal court in Little Rock has raised serious questions about the wisdom of the guidelines charging that the proposition is "fundamentally flawed." I share his concern about the bill that is before us today.

I am very much concerned that the establishment of a set of standards that would be applied nationally would give too much authority to the prosecutor and diminish the discretion of the judge.

Would the gentleman respond to that concern?

Mr. CONYERS. Mr. Speaker, would the gentleman yield?

Mr. ALEXANDER. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, let me point out to my colleague that one of the problems that has bedeviled us in this matter is the incredible amount of discretion that would be shifted in addition to the discretion the prosecutor already has. It is something that we are going to have to see how it works out. It is a real concern because the prosecutor can now frame the charges to fit the amount of time that someone might think is appropriate.

This is a very worrisome problem. We have been assured that there will be discretion employed by the prosecutors. We are hoping that there will. Otherwise, I think that could be the one snag that could bring this whole thing down.

Mr. ALEXANDER. It is this concern that the judges in my State have focused upon which leads them to conclude in their view that the bill is fundamentally flawed.

Is there a prospect that the time delay would give the committee time to review this concern and to have further hearings and give more consideration on this particular point?

Mr. CONYERS. Mr. Speaker, let me say to my friend from Arkansas [Mr. Alexander], and I appreciate his concern, we are going to have to see how it will actually kick in. One of the real reasons for this 9-month delay is to check that out and to see if there is going to be some responsibleness on the part of the U.S. attorneys who will be calling the shots from now on. But it is something we will be watching very, very carefully.

If there is anything that comes to our attention that we could refer to the Sentencing Commission about this problem that we have not brought to their attention already, we would be very delighted to forward it to them.

Mr. ALEXANDER. But the bill that we are taking up today puts the guidelines in effect with a 9-month delay, is that correct?

Mr. CONYERS. No, the guidelines do not take effect. What we will do is, we will begin testing the guidelines but we will be using the current sentencing provisions up until those 9 months. But that is how we worked the bugs out of it. That is how we determined what courses the judges and the other officers of the court and the attorneys should be tested in.

Now remember, the overwhelming bulk of the criminal trials still proceed by pleas.

Mr. ALEXANDER. Surely.

Mr. CONYERS. So this is where that power that you referred to and that some of the judges have indicated are concerned about, is not wishful thinking. It is a very serious problem and we will be monitoring it very carefully.

Mr. ALEXANDER. It is a difficult issue, and I know the gentleman from Michigan [Mr. Conyers] is taking care to handle it properly and I appreciate the response to the concerns which I have expressed.

Mr. CONYERS. Mr. Speaker, I reserve the balance of my time.

Mr. LUNGREN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LUNGREN asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. LUNGREN. Mr. Speaker, as the old adage goes justice delayed is justice denied.

The delay of the sentencing guidelines beyond the year in which they have already been delayed means that for the next 9 months there will be what I could call a window of opportunity for those who are convicted criminals.

What we are really doing by extending this for 9 months means that the tougher sentences that are scheduled to go into effect as the result of the sentencing guidelines will not go into effect for the next 9 months.

Mr. Speaker, I submit for inclusion in the Record a letter from the Attorney General:

Office of the Attorney General,
Washington, DC, October 2, 1987.

Hon. Dan Lungren,
House of Representatives,
Washington, DC.

Dear Dan: Thank you for your support of our opposition to H.R. 3307, which would delay the implementation of the sentencing guidelines authorized by the Sentencing Reform Act of 1984. We are opposed to this bill and would urge a veto if it were presented to the President for his signature.

As you know, the Sentencing Reform Act of 1984 culminated over a decade of effort to overhaul the outmoded and discredited federal sentencing system. Some members of the federal judiciary opposed it because it confined their discretion in sentencing. Under the present system, judges can, for example, sentence a defendant cinvicted of a ten-year felony to the full ten years or to no prison term whatsoever. Since sentencing decisions are nonreviewable, a judge's determination is final. In practice, while sentences deemed to be harsh are reduced by the Parole Commission, there is no such remedy for unduly lenient sentences. Further delay in the sentencing guidelines, therefore, could be inconsistent with effective law enforcement.

The Sentencing Reform Act had been in force for hardly a year before oponents of reform were back to the Congress urging a one-year delay in the effective date: from November 1, 1986 to November 1, 1987. There were sound arguments for that delay proposal and we did not object to it. The time for delay, however, is past.

You are probably hearing a host of reasons for delaying the sentencing guidelines. Some of the most common are as follows:

The "need more time for training" argument. The sentencing guidelines were promulgated last April, allowing ample time for training of everyone involved in the sentencing process. The guideline system, on the other hand, is straightforward and requiring no elaborate re-education effort. Moreover, as the guidelines only apply to crimes committed on or after November 1, 1987, there are likely to be very few cases sentenced during the next several months, thereby creating a "built-in" period when judges and attorneys can train.

The "guidelines aren't perfect" argument. This approach suggests that we should delay implementation of the guidelines until they can be "perfected". This is a weak excuse for delay. The Sentencing Reform Act clearly dictates how judges are to sentence if no guideline is on point and also authorizes judges to sentence outside the guidelines if necessary, so long as the judge sets forth his or her reasons for departing from the guidelines and understands that sentences outside the guidelines are subject to appeal.

The "guidelines will reduce the length of sentences" argument. Proponents of delay contend that the sentencing guidelines will prevent judges from imposing strong sentences. Of course, as noted above, under the current system those sentences are often reduced by the Parole Commission. One of the major purposes of sentencing reform was to establish "truth in sentencing." The real need in the area of length of sentences is to attack the unduly *lenient* sentence. The guidelines would address this problem.

On behalf of the law enforcement community, I hope that you can prevail upon your colleagues to give the Sentencing Reform Act of 1984 a chance. Since no hearings have been held on H.R. 3307, we have not had an opportunity to make our case against delay. However, this Administration is steadfast in its belief that sentencing delay proposals should be defeated. Federal investigators and prosecutors can then continue their important work under a system in which sentencing will be rational, predictable, principled and fair.

Sincerely,

Edwin Meese III,
Attorney General.

Mr. Speaker, in this letter the Attorney General says that they oppose H.R. 3307, which would delay implementation of the sentencing guidelines authorized by the Sentencing Reform Act of 1984.

In his letter he states we are opposed to this bill and would urge a veto if it were presented to the President for his signature.

Just before this debate began, I received word from the Office of Management and Budget that they will in fact recommend a veto of this bill.

The Attorney General points out that the Sentencing Reform Act had been in force for hardly a year before opponents of the reform were back urging a 1-year delay from November 1, 1986, to November 1, 1987. The Attorney General says in his letter that there were sound arguments for that delay proposal and we did not object to it. The time for delay, however, is passed.

The Attorney General is telling us that we need to have these in effect as soon as possible.

I submit for inclusion in the Record at this point a letter from the chief spokesman for the U.S. attorneys of the United States:

U.S. Department of Justice,
Western District of Missouri,
Kansas City, MO, August 10, 1987.

Re United States Sentencing Commission Sentencing Guidelines.

Hon. Edwin Meese III,
Attorney General of the United States,
Washington, DC

Dear Sir: On April 13, 1987, the United States Sentencing Commission submitted to Congress proposed sentencing guidelines pursuant to Section 994(a) of Title 28, United States Code. The United States Attorneys are aware that some members of the judiciary and the defense bar are proposing that Congress take affirmative action to extend the date on which the guidelines are to be effective. I write in behalf of the 93 United States Attorneys who oppose an extension of the effective date of the guidelines and support the application of the guidelines commencing November 1, 1987.

While all 93 United States Attorneys would not agree with the Commission or each other about every provision of the guidelines, they support resultant consequences. They support the elimination of parole and the establishment of fixed sentences. They support the elimination of radically disparate sentences in cases where the facts and circumstances are virtually synonymous. While the United States Attorneys believe that the proposed guidelines are not perfect, they are an improvement to the existing system.

Some people advocate extending implementation of the guidelines and initiation of some form of "test period" during which the current non-guideline system would continue. The United States Attorneys oppose a "test period" that does not contemplate implementation of the guidelines. Such a "test period" would be unproductive. For example, most sentences result from the plea bargaining process. One cannot determine with certainty the probable sentencing consequences of the guidelines unless they are applicable. The participants in the process are not subject to the same pressures and consequences when the guidelines are applied academically and do not impact on the life of a convicted person.

Formulation of the sentencing guidelines has been a difficult task. The Sentencing Commission has solicited and received many varied opinions and ideas pertaining to sentencing convicted persons. The Commission made an exhaustive study of current sentencing guidelines existing in other sovereigns. It heard testimony and reviewed submissions presented by varied sources. It sought and received response to its written work product during the last two years. The sentencing guidelines submitted to Congress resulted from much analysis, dialogue and compromise of many ideas and opinions.

There is no reason to believe that any changes to the guidelines will improve them until they are effected and the results of their application can be determined. While a delay in their effective date cannot reasonably be expected to result in their significant alteration, delay will protract the evils that Congress intended their implementation to correct. Only by their implementation can their defects and strengths be identified and changes based on experience be proposed.

The nation's principal federal prosecutors, responsible for prosecution and virtually all federal criminal violations in each of the 94 judicial districts, oppose extension of the effective date of the sentencing guidelines beyond November 1, 1987. We request that you cause our collective opinion to be communicated to the legislative branch of Government and to other interested persons as you deem appropriate.

Very truly yours,

ROBERT G. ULRICH,
U.S. Attorney; Chairman, Attorney General's Advisory Committee of U.S. Attorneys.

Mr. Speaker, this letter is from the U.S. Attorney for the western district of Missouri, who is the chairman of the Advisory Committee of U.S. Attorneys. He is the chief spokesman for the U.S. attorneys, the 93 U.S. attorneys in the United States.

His letter says in part that, while a delay in their effective date cannot reasonably be expected to result in their significant alteration, delay will protract the evils that Congress intended their implementation to correct. Only by their implementation can the defects and the strengths be identified and changes based on experience be done. The Nation's principal Federal prosecutors, he goes on, who are responsible for prosecution of virtually all Federal criminal violations in each of the 94 judicial districts oppose extension of the effective date of the sentencing guidelines beyond November 1, 1987.

Mr. Speaker, a little earlier the gentleman from Florida [Mr. SHAW], who wished to be here but could not be here during this debate, said to me, and asked if I would enter into the RECORD a conversation he had with the U.S. attorney from Miami who is probably the U.S. attorney for the hottest spot in the Nation for prosecution of drug dealers and major traffickers.

The gentleman from Florida [Mr. SHAW] told me that the U.S. attorney for Miami pleaded with the gentleman from Florida, do not vote to allow this extension to go one single day. It will mean I will have less tools against major drug dealers than I have today.

Mr. Speaker, if I might give an idea of what we are talking about in cases, let us take the case of a defendant who robs a bank of $5,000 while using a gun. This is a defendant who has already been to prison twice before for robbery, that is, this is the third offense.

Under current practice the average defendant would serve actual time of 6 years according to a study by the Sentencing Commission of current sentencing and parole practice. The special career criminal provisions of the new guidelines would cause this defendant to receive the maximum possible sentence of 25 years with just 3¼ years off for possible good time.

That is the difference we are talking about.

Let us take the instance of drug cases. First, the mandatory minimums do not apply to conspiracies or attempts, that is the mandatory minimums that we passed in the antidrug law last year and which are currently in effect do not apply to conspiracies or attempts.

Many drug traffickers are currently convicted under the conspiracy statutes as their offenses are not consummated. We catch them before they can complete the act.

Without the guidelines in effect, however, a major drug trafficker could receive little or no time regardless of the quantity involved.

Second, the mandatory minimums currently in law do not apply to certain dangerous drugs like methamphetamine, and the guidelines apply tough sentences based on quantities of all drugs.

Third, the mandatory minimums in effect typically apply a single 5- and a single 10-year mandatory minimum sentence based on a specific quantity. Between the two levels the court could sentence a defendant to the minimum of 5 years. Thus a defendant who traffics in a half kilo and one who traffics in 4.9 kilos of cocaine would get the same mandatory minimum 5-year sentence. A defendant who traffics in 50 or more kilos in cocaine who would get the highest trafficking sentences of 16 to 19 years, that is without a prior record, might only get a minimum 10-year sentence now, the same as a person who traffics in 5 kilos.

Mr. Speaker, let me just say that a recent case in Federal court was one in which a defendant was convicted of transporting 415 kilos of cocaine. That is a street value of $8.3 million. This person received the minimum 10-year sentence, as lenient as he could give, the judge gave it to him. Under the guidelines he would have received a sentence in the range of 16 to 19 years.

Mr. Speaker, under espionage cases, although John Walker received a life sentence, he will be eligible for parole in 10 years. Some will say he will not get it, but the fact of the matter is he will be eligible for parole in 10 years. Probably no one single person has done more to put us in jeopardy than that individual. Yet he will be eligible for parole in 10 years. Under the guidelines he would have received a life sentence with no eligibility for parole.

Mr. Speaker, what we are suggesting is that it is not just a 9-month delay, it does not just mean that we are going to let the judges catch up on their work, it means that tougher sentences will not be applied during that 9-month period of time.

The guidelines also have a built-in delay in that they apply to criminal offenses, only those criminal offenses committed after November 1, 1987. The practical effect of this is that due to the length of criminal cases coming to trial, conviction and then sentencing, is that it will be late 1988 before any significant number of cases will be affected by the new guidelines.

Mr. Speaker, we in the last year passed immigration reform which I supported. We imposed employer sanctions on the entire employer community in the United States. We have told them that in less than a year they have to learn what the rules are. They have to be effected.

But our Federal judges, given lifetime tenure in the United States to sit on Federal courts, tell us a 1-year delay is not enough, that they need more.

What is the problem?

Let me suggest this; based on a study done by one of the Commissioners, Commission Block, for his colleagues on the Commission, the impact of this will be that 1 out of every 10 Federal judges will have to hear one case under the new guidelines in the first month of its implementation.

In the second month it will be one out of every two judges who will have to hear one case. In the third month each judge will have to hear one case.

It is only by the fourth month that we have any impact at all, and that is that 50 percent of the judges will hear one case, 50 percent will hear two cases.

In the fifth month every judge will hear two cases, and 50 percent of the judges will hear an additional case.

That is what we are talking about. That does not seem to impact so terribly on the entire Federal judicial system.

The delay is not necessary in order to train court personnel. Training has begun already in certain circumstances, and it can begin between now and November 1 for all of those who will be concerned, and there is plenty of time, as I suggested, in the period of the first few months after implementation to complete the training program for court personnel.

□ 1330

Mr. Speaker, at this time I would like to offer into the RECORD a copy of a letter I received on October 2 from Suzanne Conlon, executive director of the Sentencing Commission.

Mr. Speaker, I submit the October 2 letter as follows:

U.S. SENTENCING COMMISSION,
Washington, DC, October 2, 1987.
Hon. DANIEL E. LUNGREN,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN LUNGREN: I have been requested by several of the Commissioners to briefly describe the intensive field testing of the sentencing guidelines conducted by probation officers during the past three months.

Sessions were conducted at ten locations throughout the country. Probation officers from 44 of the 94 federal judicial districts participated. These districts account for more than 50 percent of the federal criminal caseload, and include major urban and rural communities. The probation officers represented in the testing account for approximately 75 percent of all federal probation officers. In all, 124 probation officers actually participated in the field testing. In addition to Commission staff, three experienced probation officers and two attorneys from the General Counsel's staff of the Administrative Office for United States Courts formulated and coordinated the exercise.

Test cases were based on presentence investigation reports from a cross-section of typical offenses representing approximately 75 percent of the federal caseload: narcotics, immigration, theft, bank robbery, fraud, bribery, racketeering, firearms and tax violtions. Participants were sent four test cases and worksheets (for guideline application) in advance of the sessions. Each session lasted one and a half days, including instructional presentations, review of worksheets independently prepared by the participants, and general discussion.

Most participants had some difficulty with the guidelines when they attempted to complete the worksheets before they had any instruction in guideline application. However, after the first days' session and a briefing on guideline application procedures, the participants became comfortable with the system and were able to work cases through the guidelines without any major difficulty.

Participants were asked to evaluate the exercise, as well as to make suggestions for improvement of the worksheets. Virtually all participants found the guidelines workable with only the several days' training earlier described. It is the consensus of the three experienced probation officers who supervised the exercise that the guidelines effectively accomplish the purposes of sentencing enumerated in 18 U.S.C. 3553.

Based upon testing results, the guideline worksheets have been revised, and a comprehensive training program is scheduled for completion before the end of October. This program, conducted jointly by the Federal Judicial Center, the Probation Division of the Administrative Office for United States Courts, and the Sentencing Commission, will consist of intensive four-day sessions with at least one probation officer and judge from each district court. A training package consisting of test cases, completed worksheets with explanatory notations and instructional video tapes will be sent to every district court judge and probation officer before November 1st. Plans are in place for in-court training sessions for all district court judges and probation officers, using these materials, in late October and in November.

In addition, the Judicial Conference of the United States has prepared and circulated a model local rule for guideline implementation. The model rule requires a minimum 20-day period between distribution of the presentence investigation report and sentencing. The model rule leaves the determination to each district court the amount of time probation officers need to prepare the presentence report. For example, the local rule under consideration by the Southern District of Florida requires a minimum 60-day period between conviction and sentencing. If this rule is adopted, this means that there would not be a defendant sentenced under the guidelines in that district before January 1, 1988. With the natural delay in sentencing for offenses committed after November 1st projected by our research staff, there would be approximately 63 cases across the country sentenced by judges under the guidelines during the first month of guideline sentencing.

Commission staff are setting up a "hot line" for probation officers and are developing a computer software package to further simplify guideline application. And, the Commission has authorized the purchase of computer hardware for all federal district courts to carry out implementation and monitoring functions.

While it is impossible to predict the effect the guidelines will have upon the criminal justice system with absolute certainty, based on the extensive testing and training we have thus far completed at the ten locations, the Commission staff and probation officers supervising the testing and training are of the view that existing programs and materials are sufficient to support an orderly transition to the guideline sentencing system in conformity with the November 1st effective date.

Predicting likelihood of a successful implementation is a judgment call. In my view, there is every reason to expect that judges and probation officers will be ready and able to properly apply the guidelines when they become effective on November 1, 1987.

Sincerely,

SUZANNE B. CONLON,
Executive Director.

Mr. LUNGREN. In part she points out that there was difficulty in the initial training sessions with judges and probation officers when they were given the guidelines immediately with no training; but she says that after the first days' session, the first days' session, and a briefing on guideline application procedures, the participants became comfortable with the system and were able to work cases through the guidelines without any major difficulty.

Virtually all participants found the guidelines workable, with only the several days' training earlier described. It is the consensus of the three experienced probation officers who supervised the exercise that the guidelines effectively accomplish the purposes of sentencing enumerated in 18 U.S.C. 3353.

Mr. Speaker, this is the person in charge of the training. They have gone through the program. I do not understand why we think even the smallest shopkeeper is going to be held responsible, even to the point of criminal penalties for following the law on immigration law, and being concerned with employer sanctions.

We are saying that Federal judges are incapable of learning this in a few days' training when we have found out that the probation officers of the United States are capable of doing that.

Mr. Speaker, at this time I reserve the balance of my time.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time, and for the gentleman's generosity in the time that has been allotted.

To listen to the gentleman from California, one might infer that if the sentencing guidelines do not go into effect November 1, that the law enforcement community is going to be absolutely helpless and chained to the wall in their duties and responsibilities in going after drug dealers and putting drug offenders into jail. That is, of course, not the case.

The gentleman from California [Mr. LUNGREN] participated and was a strong force in passing the strong drug package we passed last term, which calls for enhanced penalties for drug dealers, enhanced penalties for users, and enhanced penalties for every phase of the criminal law having to do with the devil that is the drug problem that we have.

Even if the sentencing guidelines were never, ever to come into existence, these tougher penalties are in force now, and our law enforcement community, including the U.S. attorneys who have complained to the gentleman, and to the gentleman from Florida, are not helpless.

They have a very strong package of laws which we put into effect last term, and I am not at all frightened of the prospect that drug dealers are going to skip around happily, because the Sentencing Commission guidelines have not come into effect.

They are going to meet their doom at the hands of these prosecutors with the current law in effect.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for yielding to me.

The point is, we passed the antidrug law in anticipation of the guidelines going into effect in November. We debated the bill on the floor, and it went to the President, that the sentencing guidelines would not go into effect; and they were done with the idea that they would work coincidentally with the sentencing guidelines.

Mr. GEKAS. Mr. Speaker, there is no quarrel with that. The implication, though, that a drug dealer is going to be exhilarated by the fact that the sentencing guidelines are not going into effect is just not the case.

The gentleman I think at least agrees, and at least I got that impression from several previous discussions, that certain amendments have to be made quickly to the certain set of guidelines that the Commission has promulgated and which form a part of this package.

This bill that we are building in the delay for 9 months also puts into effect some of these much needed amendments, ex post facto, and a couple of others that are absolutely needed; and there is a consensus that they are needed.

What the gentleman is saying, if the gentleman is successful in bringing down this piece of legislation, it will mean that these guidelines would go into effect, and then these other amendments which are absolutely necessary will have to wait their time.

What would happen is in those few cases that the gentleman is talking about that would go into effect would be subject and targeted for appeals, and all kinds of defense motions, and other things on which they can bank on the flaws that now exist, and then we would be setting back the full implementation of the sentencing guidelines inadvertently, unwilling, even if they go into effect November 1.

I am an advocate of sentencing guidelines, and the gentleman knows it. I fought hard for this program from the first moment I came into the Congress.

Is it not better to take the chance of these early appeals and flaws coming into effect with the early cases under the November 1 guidelines, but rather to build into this bill now whatever amendments are absolutely required than allow the guidelines to go into effect with the full training and experience built up for the 9-month period?

Another thing, if indeed even more flaws have to be attacked, which might be the case, the Sentencing Commission coming up with its recommendations cannot do so earlier than January or February of this year, and then they do not come into effect for 6 months.

If we allowed these amendments, these guidelines to go into effect November 1, and we saw automatically that we have a dozen flaws that are almost incalculable in their detrimental effect on the process, and the Sentencing Commission will move quickly to amend them, they would not go into effect until this 9-month period, in any event.

I will take second place at no Member in my intensity in wanting these guidelines to go into effect. I fought for them.

The 9-month delay is brought about by circumstances really beyond our control. However, I have on the record, and the legislation calls for the fact that these are going to go into effect when stated 9 months later, with no more delaying tactics, and I will not countenance any kind of effort on any Member's part to try to delay them or kill them. This is not "legicide." This is not an intent-to-kill legislation.

This is intended to make sure that the new guidelines really work.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

I merely want to point out the serious mischaracterization of this proposal by the gentleman from California [Mr. LUNGREN], my friend on the Committee on the Judiciary.

I want to assure the gentleman that, first of all, the idea of the delay did not come from any Member in the Congress or on the subcommittee.

It came from the Commission, from the witnesses and the judges themselves, and so all I want the gentleman to be aware of is that if this delay does not occur, we are going to remember the debate and the vote from this day, because what we are doing now is putting a number of years of hard work by a commission that was appointed by the incumbent President of the United States right on the line.

This is not my idea about a delay, so I want to assure the gentleman that characterizing this as a soft-on-crime issue misses the point in its total entirety.

I am really sorry to hear the gentleman talking about what is going to happen to anybody that is being prosecuted, because the same thing is going to happen to them that is happening to them now.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR], who has worked with the committee on this matter very diligently.

The gentleman has also authored this provision that comes before the House.

Mr. SYNAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I stand before the House today, and as most of the Members know, I very rarely come to the floor.

All of the Members in our legislative capacity believe that everything that we bring to this floor is important, and that it is very serious. I can think of very few pieces of legislation that we will address in this 100th Congress, this historic Congress, that will have a more direct impact on this country than the legislation we are considering right now.

What we are about to do is to rewrite the face of sentencing in this country as we know it, and have known it for over 200 years. That is something I do not believe we should take on casually.

The gentleman from California in his remarks said very simply that it is the intention of the White House to veto any type of delay.

I think that that is irresponsible, and it is regrettable that this administration is doing it. It is not surprising from this Justice Department, but what would be even more irresponsible is the fact that less than 10 Members of Congress have taken the time to review what is in these sentencing provisions, and yet we are looking at the possibility, because of the implementation of this law, as well as the new drug legislation that this Congress has committed itself to, of doubling the population of our prisons in the next year.

□ 1345

We look at the possibility of backlogging our courts into a system that indeed literally logjams the opportunity for expedited procedures as well as fairness.

You know, about 2 weeks ago this Congress in what I think was one of the most irresponsible acts in my memory passed a Gramm-Rudman bill that took the responsibility out of our hands for making the decisions for the priorities of this country. Today we are about to make a second grave error and take that responsibility again away from us and also take it out of the hands of our judiciary.

Mr. Speaker, we only have one branch of Government left and then if we can figure out a way, we will probably figure out a way to keep them from making decisions. We have got to quit putting this Government on automatic pilot.

Mr. Speaker, I hope today's delay will give us an opportunity to reconsider our bill.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from New York [Mr. FISH], who is a member of the subcommittee and the ranking Republican member.

Mr. LUNGREN. Mr. Speaker, I yield the gentleman from New York 2 minutes as well.

The SPEAKER pro tempore. The gentleman from New York [Mr. FISH] is recognized for a total of 4 minutes.

Mr. FISH. Mr. Speaker, I thank my colleagues for yielding time to me.

Mr. Speaker, I rise in support of H.R. 3307.

H.R. 3307 is the reasonable compromise of a difficult issue. I strongly supported the enactment of the Sentencing Reform Act of 1984 and remain fully committed to the need for greater uniformity; certainty; and fairness in sentencing.

Over the last 4 months, the Subcommittee on Criminal Justice has conducted a series of hearings on the proposed guidelines transmitted to Congress by the U.S. Sentencing Commission on April 13. The Commission has done an excellent job, and these guidelines are now scheduled to take effect on November 1 unless Congress acts upon a stay. I fully recognize the concern of a few members that a delay of the guidelines could be part of a strategy against the guidelines themselves. Those are concerns that I understand and with which I fully sympathize because I would not tolerate any such strategy. I appreciate the assurances of the subcommittee chairman that in no way is delay a part of such a strategy.

Mr. Speaker, I support the subcommittee substitute before us for a number of substantive reasons. Section 2 of the substitute makes it clear that Congress finds that the guidelines are "substantially workable" and that this legislation in no way reflects an "intention or desire" on the part of Congress to ultimately "undercut or disapprove the guidelines". While these findings do not have the force of law, they are an important policy statement.

The gentleman from Michigan has enumerated the substantive provisions of this bill.

Section 4 of the subcommittee substitute would solve one of the major constitutional questions raised in connection with the guidelines the ex post facto problem by amending the 1984 law, so as to make it clear that the new guidelines would apply only to criminal conduct occurring after the guidelines are in effect.

This substitute contains (section 5) an expedited judicial review provision which will go into effect when the guidelines go into effect. This would allow prompt judicial resolution of the other lingering constitutional questions. First, the composition and method of appointment of the Sentencing Commission; and second, whether this was an improper delegation of legislative authority.

The guidelines deal with circumstances arriving behind the Commission may not have covered. The standard of departure controlling sentencing judges is made more precise for those situations when aggravating or mitigating circumstances are found to exist that were not taken into account by the Sentencing Commission. The current standard is wholly subjective and unworkable.

These provisions are amendments to the Comprehensive Crime Control Act of 1984. A value of a delay in addition to education is that our subcommittee can consider further amendments proposed by the Chairman of the Sentencing Commission and various bar associations—amendments that I think will enhance the administration of the guidelines.

On September 21, it was my privilege to speak at the opening session of the Judicial Conference of the United States. The chief justice of the United States stressed the importance of this stay and I responded that my support for a stay is based upon educational necessity and not as part of a strategy that ultimately could undermine the guidelines themselves. These guidelines will go into effect no later than August 1 of next year; and the judicial branch should move promptly to prepare itself with that reality in mind.

Mr. Speaker, I urge adoption of the bill.

Mr. LUNGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we passed the initial legislation creating the Sentencing Commission as part of the Comprehensive Crime Control Act, we talked about it as being "truth in sentencing." We talked about the fact that right now with the tremendous discretion given to a Federal judge and with the fact that virtually all major sentences by Federal judges are reviewed as a matter of course by the Parole Commission, that in fact the people who do not know what is happening are the victims, the victims' families and the public. We wanted truth in sentencing, that the sentence given at the time of trial would be the sentence that the person actually serves, minus a small period of time for good time.

So if that is what we did with this, what do you call it when you delay it? You say, "It's OK to wait for 9 months until we have truth in sentencing. In the meantime, we will keep the old system that didn't work;" at least, I presume it did not work, because we had an overwhelming vote to change it here on the floor.

Second, many judges, if not most judges, in the Federal judiciary do not like the law, period, exclamation point. They do not like it. They do not like the fact that we are reining in some of their discretions. Virtually all of us on the Commission have run into judges who have told us that they know better than we do.

The fact of the matter is that even though we are three separate branches, we have the obligation to establish the guidelines or ground rules under which people are to be sentenced. That is what people send us here to do, and that is exactly what we are simply doing in the law that will go into effect on November 1.

Why delay it any further?

Third, the gentleman from Michigan has talked about the fact that this idea did not spring from this subcommittee or committee. I will accept that, but in fact it is not from the Sentencing Commission, because the Sentencing Commission has not taken a position in favor of the delay. In fact, if a vote would have been held in the last month, it is my best information that the Commission itself would have by a majority vote voted against it. At least you can say there is a split on this. They do not have an official position. They are not here as a Commission asking for it. Some have asked for it; others have been up here begging us not to have it go forward.

Mr. Speaker, the fact of the matter is the judges will learn to deal with the guidelines when they have to. They are like all the rest of us. It is like a final exam. If you postpone the final exam 9 months, you are not going to study for it now.

The person in charge of training the probation officers and Federal officers has said they can learn in a few days.

What is more important than that this Congress insist that the sentencing guidelines which are part and parcel of the whole episode that we had in creating the Conference on Crime Control Act go into effect now, rather than later?

I am not suggesting that anybody here wants to coddle criminals. What I am saying is that your intent does not matter. It is the effect, and the effect is that you will not have as stringent sentencing as you have now, as you will have if the current law, that is the sentencing guidelines, do go into effect.

The fact of the matter is a vote to extend is a vote to have more lenient laws for the next 9 months for drug traffickers, organized crime figures, and white collar criminals.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, let me point out that contrary to the argument of the gentleman from California, the guidelines are intended to bring about equity in punishment imposed, not to create uniformally tougher current practices.

I only wish that my colleague could have attended some of the dozens and dozens of hearings, because the gentleman continues to mischaracterize the whole point of sentencing guidelines. There are no tougher sentences hidden in the guidelines. The guidelines are not based upon averages. Whoever is going to get a maximum sentence can get it during the next 9 months, and whoever is not, will not get it; but the guidelines themselves do not contain some secret magic portion that deals with the criminals that the gentleman is making such an explicit plea against.

Mr. Speaker, the fact of the matter is that the members of the Commission that I have talked to, the Justices on the U.S. Supreme Court and the judges that I have heard, asked for this, and in our collective wisdom your Subcommittee on Criminal Justice brought this matter to the floor.

Mr. Speaker, we hope it will be carefully considered by my colleagues.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3307, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. Conyers] that the House suspend the rules and pass the bill, H.R. 3307, as amended.

The question was taken.

Mr. LUNGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

AIRLINE PASSENGER PROTECTION ACT OF 1987

Mr. MINETA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3051) to amend the Federal Aviation Act of 1958 to establish minimum standards relating to air carrier passenger services, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airline Passenger Protection Act of 1987".

SEC. 2. REPORTING AND OTHER REQUIREMENTS.

(a) In General.—The Federal Aviation Act of 1958 is amended by adding at the end thereof the following new title:

"TITLE XVII—AIRLINE PASSENGER PROTECTION

"SEC. 1701. MONTHLY REPORTS.

"(a) Air Transportation Covered.—This section applies to all scheduled interstate and overseas air transportation provided by a covered air carrier; except that in the case of an air carrier who is a covered air carrier solely as a result of section 1715(4)(B), this section applies only to the scheduled interstate and overseas air transportation which is provided by such carrier under a single air carrier designator code.

"(b) Publication of Reports.—Not later than the 30th day following the last day of each calendar month beginning after the 120th day following the date of the enactment of this Act, the Secretary shall publish a report containing the following information for such calendar month:

"(1) Late arrivals.—

"(A) Average number of minutes.—The average number of minutes by which the arrival times of flights of each covered air carrier are later than their scheduled arrival times.

"(B) Percentage of delayed flights.—The percentage of flights of a covered air carrier whose arrival times are more than 15 minutes later than their scheduled arrival times.

"(2) Top 500 aviation markets.—A list of the top 500 aviation markets, together with—

"(A) the covered air carriers providing air transportation with respect to each such market;

"(B) the average number of minutes by which the arrival times of flights of each such carrier with respect to each such market are later than their scheduled arrival times; and

"(C) the percentage of such flights whose arrival times are more than 15 minutes later than their scheduled arrival times.

"(3) Lost and damaged baggage.—The number of passengers (per 100,000 passengers enplaned on flights of each covered air carrier) who checked baggage for any such flights, whose baggage was temporarily or permanently lost or damaged, and who notified such carrier of such loss or damage.

"(4) Canceled flights.—

"(A) Percentage.—The percentage of flights of each covered air carrier which were canceled.

"(B) List of flights.—A list of any flights of a covered air carrier which were canceled more than 5 percent of the time, together with such percentage.

"(5) Bumping.—

"(A) Percentage of passengers.—The percentage of persons who held a confirmed reservation for a seat on flights of a covered air carrier who were voluntarily bumped from such flights and the percentage of persons who held such a seat who were involuntarily bumped from such flights.

"(B) List of bumping flights.—A list of each flight of a covered air carrier on which more than 1 percent of the persons who held a confirmed reservation for a seat on such flight were bumped from such flight, together with the percentage of persons who were voluntarily bumped from such flight and the percentage of persons who were involuntarily bumped from such flight.

"(6) Missed connections at hubs.—A list of each airport at which a covered air carrier had scheduled 75 or more departures of its flights per day, together with the name of such carrier and the percentage of passengers for whom such carrier provided air transportation and as part of such transportation were scheduled to transfer from one aircraft of such carrier to another aircraft of such carrier at such airport and who missed their scheduled transfers.

"(7) Complaints registered with DOT.—The total number of complaints filed with the Department of Transportation by passengers of each covered air carrier.

"(c) Dissemination.—Any person may request that the Secretary transmit a copy of any report published under subsection (b), and the Secretary shall transmit such copy to such person—

"(1) so that such report will be received within 10 days after the date on which the Secretary receives such request; or

"(2) in any case in which such report has not been published on the date on which the Secretary receives such request, so that such report will be received within 10 days after the date of such publication.

"(d) Format of Reports.—

"(1) General rule.—Each report published by the Secretary under this section shall be in such form as the Secretary determines will provide the most useful information to passengers of air carriers.

"(2) Basis of certain information.—The information provided under subsections (b)(1), (b)(3), (b)(4)(A), (b)(5)(A), (b)(7), (e)(1), and (e)(2) shall be compiled on the basis of each air carrier's interstate and overseas air transportation system.

"(e) Regulations Concerning Information Required From Air Carriers.—Not later than 90 days after the date of the enactment of this title, the Secretary shall issue regulations setting forth the information the Secretary needs from covered air carriers in order to publish its monthly reports under this section, establishing time limits by which such information must be submitted to the Secretary, and the form in which such information must be submitted. In addition, such regulations shall require each covered air carrier to submit to the Secretary for each calendar month for which a report is required to be published under subsection (b) the following additional information:

"(1) Late departures.—

"(A) Average number of minutes.—The average number of minutes by which the departure time of flights of such carrier are later than their scheduled departure times.

"(B) Percentage of flights.—The percentage of flights of such carrier whose departure times are more than 15 minutes later than their scheduled departure times.

"(2) Reasons for delays.—The percentage of flights of such carrier which arrived at a point, and the percentage of flights of such carrier which departed a point, later than their scheduled arrival or departure time, as the case may be, for each of the following reasons:

"(A) Maintenance of aircraft.

"(B) Other air carrier-related reasons.

"(C) Other reasons.

"(3) Elapsed time between enplanement and takeoff.—The difference between the departure time and the actual takeoff time of each flight of such carrier.

"(4) On-time performance.—The on-time performance record of such carrier with respect to each scheduled flight of such carrier which has been in such carrier's published schedule for more than 30 calendar days, identified by the name of such carrier and the flight number, as measured by—

"(A) the percentage of times such flight has an arrival time within 15 minutes of its scheduled arrival time; and

"(B) the average number of minutes the arrival time of such flight is later than its scheduled arrival time.

"(f) AVAILABILITY OF INFORMATION TO OPERATORS OF COMPUTER RESERVATION SYSTEMS.—Not later than 15 days after receiving the information required under subsection (e)(4), the Secretary shall transmit to each operator of a computer reservation system such information.

"(g) TREATMENT OF SATURDAYS, SUNDAYS, AND HOLIDAYS.—Whenever the last day by which any action required to be taken under this section or section 1702 is a Saturday or Sunday or a legal public holiday listed in section 6103(a) of title 5, United States Code, the last day by which such action must be taken shall be the first succeeding day which is not a Saturday, Sunday, or legal public holiday.

"(h) DEFINITIONS.—For purposes of this section—

"(1) ARRIVAL TIME.—The term 'arrival time' means the time at which an aircraft comes to a final stop at the gate where passengers are to be deplaned.

"(2) AVIATION MARKET.—The term 'aviation market' means a pair of points in the United States which are the points of origin and destination of any passenger of an air carrier.

"(3) DEPARTURE TIME.—The term 'departure time' means the time at which an aircraft first leaves the gate where passengers have been enplaned.

"(4) TOP 500 AVIATION MARKET.—The term 'top 500 aviation markets' means each aviation market which for the most recent calendar quarter is ranked by the Department of Transportation as being among the 500 aviation markets with the highest total number of passengers whose points of origin and destination are the pair of points comprising each of such respective markets.

"SEC. 1702. AVAILABILITY OF DOT REPORTS AND FLIGHT ARRIVAL TIME INFORMATION.

"(a) IN GENERAL.—Not later than 10 days after a report is published by the Secretary under section 1701—

"(1) any air carrier controlled ticket agent shall have a copy of such report available for review by the public, and

"(2) any ticket agent (other than an air carrier controlled ticket agent) shall—

"(A) have a copy of such report available for review by the public, or

"(B) have access to the information contained in such report through a computerized system or other means available for providing information in accordance with subsection (b),

at each office of such agent at which airline tickets are sold during the hours such office is open for the sale of such tickets.

"(b) AVAILABILITY OF FLIGHT PERFORMANCE INFORMATION.—Not later than 15 days after the Secretary transmits information under section 1701(f) to operators of computer reservation systems, each operator of a computer reservation system shall include in the information made available through such system the information transmitted by the Secretary under such section. Any information required to be included in a computer reservation system under this subsection must be presented in a manner and location which will provide the most useful information to users of such system and passengers of covered air carriers.

"(c) PROVISION OF INFORMATION TO PROSPECTIVE TICKET PURCHASERS.—If any person interested in purchasing an airline ticket for air transportation from a ticket agent (including an air carrier controlled ticket agent) makes a reasonable request to such agent—

"(1) for information from the latest report published by the Secretary under section 1701 relating to such transportation, or

"(2) in any case in which such agent operates or uses a computer reservation system, for the latest information transmitted by the Secretary under section 1701(f),

such agent shall provide such information to such person.

"(d) AIR CARRIER CONTROLLED TICKET AGENT DEFINED.—For purposes of this section, the term 'air carrier controlled ticket agent' means any person described in section 101(40) who is owned by, controlled by, or under common control with a covered air carrier or who is an employee of a covered air carrier.

"SEC. 1703. SPECIAL TELEPHONE NUMBERS.

"(a) ESTABLISHMENT BY AIR CARRIER.—Not later than 90 days after the date of the enactment of this title, each covered air carrier shall establish a toll-free telephone number system for receiving and handling complaints of passengers of such carrier relating to air carrier service.

"(b) ESTABLISHMENT BY SECRETARY.—Not later than 90 days after the date of the enactment of this title, the Secretary shall establish a toll-free telephone number system for receiving and handling complaints of passengers of air carriers engaged in air transportation relating to air carrier service.

"(c) NOTIFICATION ON AIRLINE TICKET.—

"(1) GENERAL RULE.—After the 90th day following the date of the enactment of this title, no person may sell an airline ticket for interstate or overseas air transportation by an air carrier unless such person notifies the purchaser of such ticket of—

"(A) the toll-free telephone numbers established by such carrier and the Secretary for receiving and handling complaints under this section; and

"(B) the toll-free telephone numbers for the safety hotline and consumer hotline systems established by the Federal Aviation Administration.

"(2) FORM OF NOTICE.—The notice required under this subsection shall—

"(A) be in writing and appear in a clear and concise manner on the airline ticket, on any document in which such ticket is enclosed, or on a separate document provided with such ticket; and

"(B) be prominently displayed in an appropriate location on such ticket or document.

"(d) INFORMATION RELATING TO COMPARATIVE AIRLINE SERVICE.—Not later than the date on which the first report is published under section 1701(b), the Secretary shall establish a telephone number system to provide airline passengers with information relating to comparative air carrier service contained in the latest monthly report published by the Secretary under section 1701(b).

"SEC. 1704. NOTIFICATION OF PASSENGERS.

"(a) POLICY CONCERNING AMENITIES FOR CANCELLATIONS, DELAYED BAGGAGE, AND BUMPINGS.—

"(1) GENERAL RULE.—After the 90th day following the date of the enactment of this title, no person may sell an airline ticket for interstate or overseas air transportation by an air carrier unless such person notifies the purchaser of such ticket—

"(A) of the minimum amenities which are provided—

"(i) in any case in which a flight of such carrier is canceled and any passenger on such flight is not provided the air transportation contracted for within a reasonable period of time after such cancellation; and

"(ii) in any case in which a person having a confirmed reservation for a seat on a flight of such carrier is bumped from such flight; and

"(B) of the minimum amenities (including those amenities required under section 1713) provided in any case in which the checked baggage of a passenger on a flight of such carrier is not received by such passenger within a reasonable period of time after deplaning from such flight.

"(2) FORM OF NOTICE.—The notice required under this subsection shall—

"(A) be in writing and appear in a clear and concise manner on the airline ticket, on any document in which such ticket is enclosed, or on a separate document provided with such ticket; and

"(B) be prominently displayed in an appropriate location on such ticket or document.

"(b) DELAYS.—Each air carrier and foreign air carrier shall notify passengers holding an airline ticket for a flight of such carrier, before the passengers board such flight, of—

"(1) any delay of 15 minutes or more in the scheduled departure or arrival time of the flight of which the carrier knows;

"(2) the approximate length of the delay of which the carrier knows; and

"(3) the reasons for the delay.

"(c) CANCELLATIONS.—If an air carrier cancels a flight, such carrier shall notify all persons who have an airline ticket for such flight and who are present at the time and place scheduled for departure of such flight of all information then reasonably available to such carrier regarding the reasons for such cancellation.

"SEC. 1705. ECONOMIC CANCELLATIONS.

"(a) PROHIBITION.—

"(1) CANCELLATIONS WITHIN 72 HOURS OF DEPARTURE.—An air carrier may not cancel any flight of scheduled air transportation within 72 hours of its scheduled departure time for any reason, other than safety or there being no passengers present at the scheduled departure time.

"(2) TREATMENT OF SAFETY-RELATED ADJUSTMENTS IN SCHEDULES.—If an air carrier is unable to operate enough aircraft to make all its scheduled flights because aircraft are unavailable for safety-related reasons and the carrier makes adjustments in schedules to accommodate the greatest number of passengers which results in a flight of such carrier being canceled, such cancellation shall, for purposes of this section, be treated as a cancellation for a safety-related reason.

"(b) COMPENSATION OF PASSENGERS.—Any air carrier who cancels any flight of scheduled air transportation in violation of subsection (a) shall compensate any person holding an airline ticket for such flight in the same manner and to the same extent as such carrier would be required to compensate such person under part 250 of title 14 of the Code of Federal Regulations, as in effect on the date of the enactment of this title, if such person were bumped from such flight.

"SEC. 1706. ADVERTISING REQUIREMENTS.

"(a) FARES OF LIMITED AVAILABILITY.—An air carrier may advertise a fare for air transportation between any 2 points, or other promotion with respect to such transportation, which is not available with respect to any flight operated by such carrier between such points only if such advertisement states that such fare or promotion is not available with respect to certain flights operated by such carrier.

"(b) FARES TO WHICH RESTRICTIONS APPLY.—An air carrier may advertise a fare for air transportation between any 2 points, or other promotion with respect to such transportation, to which any restriction (including a restriction pertaining to advance purchase of tickets, refundability of money, or minimum stay requirements) applies only if such advertisement states that such restriction exists and applies to such fare or promotion.

"SEC. 1707. BANKRUPTCY TRANSPORTATION PLANS.

"(a) DEVELOPMENT.—

"(1) ORDER.—Not later than 60 days after the date of the enactment of this section, the Secretary shall issue an order authorizing covered air carriers to develop a plan for providing air transportation for any person who holds an airline ticket for provision of such transportation by a covered air carrier who, after the date of purchase of such ticket, becomes a debtor in a case under title 11, United States Code. Such order shall also include an exemption in accordance with section 414.

"(2) DEADLINE FOR SUBMISSION.—Any plan developed under paragraph (1) shall be submitted to the Secretary for approval within 1 year after the date of the enactment of this section.

"(b) TIME LIMIT AND BASIS FOR APPROVAL.—If a plan is submitted to the Secretary in accordance with subsection (a), the Secretary shall approve or disapprove such plan within 60 days after the date of such submission. If the Secretary determines that such plan will provide (or would provide if all covered air carriers participate in implementation of such plan) satisfactory protection for all persons who hold airline tickets described in subsection (a), the Secretary shall approve such plan. Otherwise, the Secretary shall disapprove such plan.

"(c) IMPLEMENTATION OF APPROVED PLANS.—If the Secretary approves a plan under this section, the Secretary shall issue an order requiring implementation of such plan by the covered air carriers who submitted such plan and any other covered air carriers. If there are any covered air carriers who did not participate in development of a plan approved under this section, such carriers shall be treated under such order and plan in the same manner as carriers who did participate in development of such plan.

"(d) REGULATIONS.—If a plan described in subsection (a) is not submitted within 1 year after the date of the enactment of this section, or if the Secretary disapproves a plan submitted in accordance with subsection (a), or if the Secretary determines that a plan approved under this section is not being implemented in a manner which provides satisfactory protection for all persons who hold airline tickets described in subsection (a), the Secretary shall issue regulations requiring all covered air carriers to provide air transportation for persons who hold such tickets. Such regulations must be issued within 180 days after the expiration of such 1-year period, the date of disapproval of such plan, or the date of such determination, as the case may be.

"SEC. 1708. TIME LIMITS.

"(a) CLAIMS FOR LOST OR DAMAGED BAGGAGE.—Within 30 days after a passenger of an air carrier providing air transportation submits a claim to such carrier for lost or damaged baggage, together with reasonable documentation supporting such claim, the carrier must—

"(1) make a decision on the validity of such claim;

"(2) notify such passenger of such decision; and

"(3) if such claim is determined to be valid, reimburse such passenger for such baggage in accordance with applicable regulations of the Department of Transportation.

"(b) REFUNDS OF PURCHASE PRICES OF CERTAIN AIRLINE TICKETS.—Not later than 90 days after the date of the enactment of this section, the Secretary shall issue a regulation establishing a reasonable time limit, but not to exceed 30 days, for an air carrier to refund the purchase price of a refundable airline ticket for air transportation to be provided by such carrier.

"SEC. 1709. LIMITATION ON COMPUTER RESERVATION SYSTEM INFORMATION.

"(a) GENERAL RULE.—No air carrier or person owned by, controlled by, or under common control with an air carrier may make available to a ticket agent a computer reservation system—

"(1) if the order in which flight schedules appear in such computer system is determined from a program or system which gives any weight to—

"(A) the difference in scheduled flight times for nonstop service between the same pair of points, or

"(B) information contained in any report published under section 1701(b);

"(2) which uses information in a report published under section 1701(b) or information transmitted by the Secretary under section 1701(f) to develop and display a system for evaluating carrier performance, such as an alphabetical or numerical rating system.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the direct display in a computer reservation system of any information contained in a report published under section 1701(b) or any information transmitted by the Secretary under section 1701(f).

"SEC. 1710. COMPLAINT PROCESS.

"(a) NOTIFICATION TO CARRIERS.—After receiving a complaint from a passenger of an air carrier (including a foreign air carrier), the Secretary shall, on a timely basis, provide such carrier with information necessary to permit such carrier to respond to the complaint. Such information shall include the name, address, and phone number of such passenger and a description of the complaint.

"(b) REVISION OF EXISTING PROCEDURES.—Not later than 60 days after the date of the enactment of this title, the Secretary shall revise existing procedures of the Department of Transportation for receiving and handling complaints of passengers of air carriers (including foreign air carriers) to the extent necessary (1) to ensure that the dates on which the incidents which form the bases of such complaints are recorded, and (2) to eliminate any duplication in the logging and reporting of such complaints.

"(c) REPORTING OF COMPLAINTS BY DATE OF INCIDENTS.—Any monthly publication of information concerning complaints of passengers of air carriers (including foreign air carriers) published by the Department of Transportation shall contain—

"(1) a listing of the total number of complaints received by the Department concerning such carrier in the month covered by such publication, and

"(2) a separate listing—

"(A) for those complaints which were based on incidents which occurred in the month covered by such publication and the preceding month, and

"(B) for those complaints which were based on incidents which occurred in any other month.

"SEC. 1711. RESTRICTIONS APPLICABLE TO AIRLINE TICKETS.

"(a) NOTIFICATION REQUIREMENT.—After the 90th day following the date of the enactment of this title, no person may sell an airline ticket for interstate or overseas air transportation by an air carrier on which a restriction (including a restriction pertaining to advance purchase, refundability of money, or minimum stay requirement) applies unless such person notifies, in writing on such ticket, on any document on which such ticket is enclosed, or on a separate document provided with such ticket, the purchaser of such ticket that such restriction applies and the terms of such restriction.

"(b) REFUNDABILITY PERIOD.—

"(1) GENERAL RULE.—No person may sell an airline ticket for interstate or overseas air transportation by an air carrier unless such person provides the purchaser of such ticket—

"(A) 2 days following the date of receipt of such ticket by such purchaser, or

"(B) in any case in which such ticket is mailed to such purchaser, 7 days following the date of such mailing,

in which to cancel such ticket and receive a refund of the purchase price of such ticket or to exchange such ticket.

"(2) LIMITATION.—A person selling an airline ticket for a flight to which paragraph (1) applies does not have to permit the purchaser of such ticket to cancel such ticket in accordance with paragraph (1) on or after the 4th day preceding the scheduled date of departure of such flight.

"SEC. 1712. PASSENGER SERVICE REQUIREMENTS FOR AIR CARRIER HUBS.

"(a) ESTABLISHMENT.—

"(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this title, the Secretary shall establish, by regulation, minimum passenger service requirements for air carrier service at each airport at which a covered air carrier has scheduled 75 or more departures of its flights per day. Such regulations shall, at a minimum, establish minimum requirements so as to ensure that—

"(A) the percentage of passengers of covered air carriers who miss scheduled transfers to or from an aircraft of such carriers at such airport is minimized; and

"(B) delays in scheduled departure times and arrival times of flights of such carriers at such airport are minimized.

"(2) CONSIDERATION OF MONTHLY REPORTS AND OTHER INFORMATION.—In establishing passenger service requirements under paragraph (1), the Secretary shall consider the information contained in the monthly reports published under section 1701(b) and information submitted to the Secretary under section 1701(e).

"(b) MONITORING.—The Secretary shall monitor the performance of covered air carriers at an airport at which a covered air carrier has scheduled 75 or more departures of its flights per day for the purpose of determining whether or not the covered air carriers providing air transportation with respect to such airport are meeting the passenger service requirements established with respect to such airport under subsection (a).

"(c) ENFORCEMENT.—If the Secretary determines that, with respect to any 90-day period, covered air carriers are not complying with any passenger service requirement established with respect to an airport under *subsection (a), the Secretary shall take such action, or direct such carriers to take such action, as may be necessary to ensure compliance with such requirements.*

"(d) DEFINITIONS.—For purposes of this section—

"(1) ARRIVAL AND DEPARTURE TIMES.—The terms 'arrival time' and 'departure time' have the meaning such terms have under section 1701(h).

"(2) DELAY.—The term 'delay' means any flight of an air carrier whose arrival time or departure time is more than 15 minutes later than its scheduled arrival time or departure time, as the case may be.

"SEC. 1713. COMPENSATION FOR DELAY OR LOSS OF CHECKED BAGGAGE.

"If any checked baggage of a passenger on a flight of a covered air carrier between any 2 points is not available to be received by such passenger—

"(1) within 2 hours after the arrival time of such flight, such carrier shall provide, at a minimum, to such passenger a one-way space-available airline ticket for air transportation between such points; and

"(2) within 24 hours after the arrival time of such flight, such carrier shall provide, at a minimum, to such passenger a round-trip space-available airline ticket for air transportation between such points.

"SEC. 1714. EFFECT OF CERTAIN STATE LAWS.

"Any State law which requires air carriers to file reports as to matters to which air carriers are required to submit information to the Secretary under this title, including any rule, regulation, or order issued under this title, is preempted.

"SEC. 1715. DEFINITIONS.

"For purposes of this title—

"(1) AIRLINE TICKET.—The term 'airline ticket' means any written instrument that embodies a contract of carriage between an air carrier and a passenger thereof for air transportation.

"(2) BUMPING.—A person is bumped from a flight if such person holds a confirmed reservation for a seat for such flight and is not allowed to board such aircraft solely on the grounds that there were more reservations confirmed for such flight than seats available on such flight. If such person consents or agrees to not being a passenger on such flight, such bumping is voluntary; and if such person does not consent or agree to not being a passenger on such flight, such bumping is involuntary.

"(3) COMPUTER RESERVATION SYSTEM.—The term 'computer reservation system' means any computerized reservation system which contains information concerning schedules and fares of 2 or more air carriers.

"(4) COVERED AIR CARRIER.—The term 'covered air carrier' means—

"(A) an air carrier which provides interstate or overseas air transportation primarily with aircraft having seating for more than 60 passengers and which in the 12-month period preceding the date of the enactment of this title, enplaned more than .2 percent of the total number of passengers enplaned on all aircraft used to provide interstate and overseas air transportation in such period; and

"(B) an air carrier not described in subparagraph (A) who enters into an agreement with an air carrier who is described in subparagraph (A) to operate under or use a single air carrier designator code to provide interstate or overseas air transportation, but only with respect to those operations of the carrier not described in subparagraph (A) which are carried out under such code.

"(5) FLIGHT.—The term 'flight' means any nonstop or single plane air transportation between 2 points provided by an air carrier.

"SEC. 1716. SUNSET.

"This title shall have no effect after the last day of the 10-year period beginning on the date of the enactment of this title.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents in the first section of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following:

"TITLE XVII—AIRLINE PASSENGER PROTECTION

"Sec. 1701. Monthly reports.
"Sec. 1702. Availability of DOT reports and flight arrival time information.
"Sec. 1703. Special telephone numbers.
"Sec. 1704. Notification of passengers.
"Sec. 1705. Economic cancellations.
"Sec. 1706. Advertising requirements.
"Sec. 1707. Bankruptcy transportation plans.
"Sec. 1708. Time limits.
"Sec. 1709. Limitation on computer reservation system information.
"Sec. 1710. Complaint process.
"Sec. 1711. Restrictions applicable to airline tickets.
"Sec. 1712. Passenger service requirements for air carrier hubs.
"Sec. 1713. Compensation for delay or loss of checked baggage.
"Sec. 1714. Effect of certain State laws.
"Sec. 1715. Definitions.
"Sec. 1716. Sunset.".

SEC. 3. CIVIL PENALTIES.

(a) AIRLINE PASSENGER PROTECTION VIOLATIONS.—Section 901(a)(1) of the Federal Aviation Act of 1958 is amended by striking out "or XII," and inserting in lieu thereof "XII, or XVII (other than sections 1701 and 1705),".

(b) CLARIFICATION OF DETERMINATION OF PENALTY.—The second sentence of section 901(a)(1) of such Act is amended by inserting ", or each flight with respect to which such violation is committed, if applicable," after "each day of such violation".

(c) INCREASED PENALTY FOR SAFETY VIOLATIONS.—Section 901(a) of such Act is amended—

(1) in the first sentence of paragraph (1) by striking out "1114 or" and inserting in lieu thereof "1101, 1114, or";

(2) in the first sentence of paragraph (1) by inserting "except that the amount of such civil penalty shall not exceed $10,000 for each such violation of title III, VI, or XII of this Act, or any rule, regulation, or order issued under such title, by a person who operates aircraft for the carriage of persons or property for compensation or hire, and" before "except that"; and

(3) in paragraph (2) by inserting "or section 1101, 1114, or 1115(e)(2)(B)" after "XII".

(d) REPORTING AND OTHER REQUIREMENTS.—

(1) ESTABLISHMENT OF PENALTY.—Title IX of such Act is amended by adding at the end thereof the following new section:

"SEC. 905. SPECIAL CIVIL PENALTIES.

"(a) PENALTIES WITH RESPECT TO PERFORMANCE REPORTS.—

"(1) LATE FILINGS.—Any person who violates section 1701 of this Act or any rule, regulation, or order issued thereunder shall be subject to a civil penalty of not to exceed $10,000 for each such violation.

"(2) FALSE OR MISLEADING INFORMATION.—Any person who submits to the Secretary under section 1701 or any rule, regulation, or order issued thereunder information which contains any false or misleading statement shall be subject to a civil penalty of not to exceed $10,000 for each such statement.

"(b) PENALTIES FOR ECONOMIC CANCELLATIONS.—Any person who violates section 1705 of this Act or any rule, regulation, or order issued thereunder shall be subject to a civil penalty of not to exceed $10,000 for each such violation.

"(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining the amount of a civil penalty under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(d) COMPROMISE.—Any civil penalty under this section may be compromised by the Secretary.".

(2) CONFORMING AMENDMENT.—That portion of the table of contents in the first section of such Act which appears under the center heading

"TITLE IX—PENALTIES"

is amended by inserting after

"Sec. 904. Violations of Sec. 1109."
the following:
"Sec. 905. Special civil penalties.
"(a) Penalties with respect to performance reports.
"(b) Penalties for economic cancellations.
"(c) Factors to consider in determining amount.
"(d) Compromise.".

SEC. 4. ESTABLISHMENT AND ENFORCEMENT OF AIRPORT CAPACITY LEVELS.

(a) GENERAL RULE.—Title VI of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following:

"SEC. 613. AIRPORT CAPACITY LEVELS.

"(a) ESTABLISHMENT OF LEVELS.—

"(1) GENERAL RULE.—Not later than 90 days after the date of the enactment of this section and annually thereafter, the Secretary shall publish a report which establishes airport capacity levels for takeoffs and landings of aircraft at each airport at which 2,000,000 or more passengers are enplaned annually.

"(2) CONSULTATION.—In establishing and developing capacity levels under this section for any airport, the Secretary shall consult the manager of such airport, air carriers providing air transportation with respect to such airport, and general aviation users of such airport.

"(b) MODIFICATION OF LEVELS.—

"(1) IN GENERAL.—In addition to changing a capacity level for an airport under this section through establishment of a new capacity level for such airport in an annual report published under subsection (a), the Secretary may change the capacity level established for such airport under this section upon request of the manager of such airport or any air carrier providing air transportation with respect to such airport.

"(2) LIMITATION ON REQUESTS FOR CHANGES.—With respect to a capacity level established for an airport under this section, an air carrier providing air transportation with respect to such airport and the manager of such airport may each submit to the Secretary only 1 request per year for a change of such capacity level.

"(c) MONITORING.—The Secretary shall monitor the takeoffs and landings at each

airport for which a capacity level is established under this section so as to ensure that such level is not exceeded.

"(d) Enforcement.—

"(1) General rule.—The Secretary shall take such action as may be necessary to ensure that the capacity levels established under this section are complied with.

"(2) Accommodation of air carrier needs.—Any actions taken by the Secretary under this subsection with respect to an airport shall accommodate, to the maximum extent possible—

"(A) the needs of air carriers which are not providing air service with respect to such airport and wish to provide such service;

"(B) the needs of air carriers which are providing air service with respect to such airport to adjust their schedules, to provide air service in new markets, and to expand air service in existing markets; and

"(C) the needs of general aviation users of such airport

"(3) Limitation.—In actions taken under this subsection, the Secretary shall not allow air carriers to buy and sell operating rights at any airport where such buying or selling was not allowed on or before July 30, 1987.

"(e) Reports.—Not later than January 1 and June 1 of each year, the Secretary shall transmit to Congress a report on the implementation of this section (including the actions taken by the Secretary under this section).".

(b) Conforming Amendment.—That portion of the table of contents in the first section of such Act which appears under the center heading—

"TITLE VI—SAFETY REGULATION OF CIVIL AERONAUTICS"

is amended by adding at the end thereof the following:

"Sec. 613. Airport capacity levels.
"(a) Establishment of levels.
"(b) Modification of levels.
"(c) Monitoring.
"(d) Enforcement.
"(e) Reports.".

SEC. 5. UNFAIR TRADE PRACTICES WITH RESPECT TO AIRLINE COMPUTER RESERVATION SYSTEMS.

(a) General Rule.—Section 411 of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following:

"(c) Computer Reservation System Contracts.—

"(1) Provision of additional equipment or services.—No operator of a computer reservation system shall require, as a condition for the provision of additional equipment or services under a contract for the provision of airline reservation services, that a user of such system extend the term of such contract for any additional period.

"(2) Fees for inclusion of performance data.—No operator of a computer reservation system shall impose a fee or charge for the collection, display, or inclusion of any information required to be reported to the Secretary under section 1701 if such fee or charge exceeds the cost incurred by such operator for such collection, display, or inclusion.

"(3) Computer reservation system defined.—For purposes of this subsection, the term 'computer reservation system' means any computerized reservation system which is owned by an air carrier or by a person owned by, controlled by, or under common control with an air carrier and which contains information concerning schedules and fares of 2 or more air carriers.".

(b) Conforming Amendment.—That portion of the table of contents in the first section of such Act which appears under the heading

"Sec. 411. Methods of competition."

is amended by inserting after

"(b) Incorporation by reference."

the following:

"(c) Computer reservation system contracts."

SEC. 6. FAIR TREATMENT OF EMPLOYEES.

(a) General Rule.—Section 408 of the Federal Aviation Act of 1958 is amended by adding at the end the following new subsection:

"(g) Fair Treatment of Employees.—In any case in which the Secretary determines that the transaction which is the subject of the application would tend to cause reduction in employment or to adversely affect the wages and working conditions including the seniority of any air carrier employees, labor protective provisions calculated to mitigate such adverse consequences, including procedures culminating in binding arbitration, if necessary, shall be imposed by the Secretary as a condition of approval, unless the Secretary finds that the projected costs of protection would exceed the anticipated financial benefits of the transaction. The proponents of the transaction shall bear the burden of proving there will be no adverse employment consequences or that projected costs of protection would be excessive.".

(b) Conforming Amendment.—That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 408. Consolidation, merger, and acquisition of control."

is amended by adding at the end the following:

"(g) Fair treatment of employees.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Mineta] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. Hammerschmidt] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Mineta].

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the distinguished chairman for the full Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. Howard].

Mr. HOWARD. Mr. Speaker, the title of our bill, the Airline Passenger Protection Act of 1987, expresses the intent of the Committee on Public Works and Transportation on this matter. We want to make sure that the millions of airline passengers who use the aviation system that we have created receive the type of service that they deserve.

In recent months, as we all know, they have not been receiving that kind of service. The hard facts are there: Complaints filed with the Department of Transportation have increased sixfold compared to last year. Every month the record for complaints is shattered.

Usually when we bring our committee bills to the floor, I say I am pleased to present it to my colleagues. In this case I am pleased that we could draft such a worthwhile bill. I am pleased that so many members of our Subcommittee on Aviation, led by Chairman Norm Mineta and ranking Republican Newt Gingrich, and the full committee, worked so hard to develop this bill.

However, I am also disappointed. I am disappointed that the American traveling public is being served so poorly that we are forced to consider this type of legislation. The airlines should be providing high-level service without such legislation but the complaint figures and our own mail show many of them are not.

It would also have been appropriate for the Federal Aviation Administration to take action. Unfortunately, that did not happen until our committee and the other body began considering legislation. It is also clear that the consumer protection proposals made by the Secretary of Transportation were an empty gesture designed to stave off effective action by the Congress. This time, that type of hollow rhetoric won't work. Airline passengers want good service, they want information on who provides that service and they want an easy and convenient recourse if that service is not provided. If some of the airlines and the Department of Transportation won't provide what consumers need, the Congress will do it for them.

This bill will get the job done for the air traveling public without placing an onerous burden on the airlines. It is a first step—a large first step—toward protecting airline passengers from the missed flights, delays, lost baggage, cancellations, bumpings, and sheer frustration of dealing with the airline system that too many of them have been experiencing.

The members of the subcommittee will explain the bill in more detail but let me describe some of the most significant portions. This bill has teeth in it. We have not written a cosmetic proposal to gloss over the real problems in the aviation system today. If this bill is passed, there will be meaningful consumer protection.

There are three major items in the bill designed to improve airline service. First, there are fines of up to $10,000 for any flight cancellation within 72 hours of scheduled departure time except for safety reasons. Any so-called economic cancellation would also result in compensation for the passengers.

Second, airlines would be required to provide compensation to passengers for lost or delayed baggage. A passenger would receive a one-way ticket on the route being flown if the baggage is delayed more than 2 hours. If it is delayed more than 24 hours, the passenger would be entitled to a round-trip ticket.

Third, the Department of Transportation is directed to review flight schedules at the Nation's 41 largest airports. The airlines will be required to limit scheduled departures and landings to airport capacity to insure against the massive delays that many passengers have experienced.

The bill also requires the airlines and the Department of Transportation to establish toll-free telephone lines for consumer complaints.

In addition the airlines would be required to provide detailed monthly reports to the Department of Transportation concerning their overall service and their service at specific hubs where they serve the most passengers. This information is designed to provide consumers with the information they need to make informed decisions when choosing an airline.

This bill is being brought before the House under suspension of the rules because of the necessity of having fair and balanced legislation that can move quickly. Many of us have had our own frustrating experiences with the airlines and I'm sure we all have suggestions on how to improve service. I believe the subcommittee has done a good job in developing a consensus viewpoint that fairly reflects the range of opinion on this issue.

The traveling public needs this legislation. If we, as individual Members of Congress, have difficulty in dealing with the airlines, imagine how the general public is treated. It's time for us to do something about it.

I ask my colleagues to vote to suspend the rules and pass H.R. 3051.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation to improve the service received by airline passengers. The legislation is badly needed. As my colleagues well know, airline service has deteriorated over the past year. Airline passengers are outraged and demanding that the Congress do whatever is necessary to improve the situation.

Before discussing the bill before us today, I should emphasize that although this legislation is important and can make a real contribution to improving service, this legislation alone will not solve the problem. The other important step we must take is to develop the air traffic control system to a point where it can handle the demands placed upon it. Only when this is done will we have a permanent and effective solution to many of the problems of poor airline service.

To deal with the air traffic control problems, the House recently passed H.R. 2310, on a vote of 396 to 0, which authorizes the expenditure of $28 billion over the next 5 years to improve our Nation's airports and air traffic control system. We hope the Senate will pass this legislation in the near future.

Turning to the consumer protection bill which we are considering today, this bill is designed to improve airline service without diminishing the low fares and the service benefits which consumers have received from deregulation. The low fares permitted by deregulation have produced billions of dollars of benefits for airline passengers. It is important that consumer protection legislation not destroy these benefits.

To deal with consumer problems, H.R. 3051 would take action on a number of fronts. First, the bill establishes a program for ensuring that consumers will have good information about the quality of airline service. With this information consumers can vote with their pocketbooks and take business away from airlines which are providing inferior service.

H.R. 3051 requires the Department of Transportation to publish a monthly report on airline performance, including information on on-time performance, lost and damaged baggage, canceled flights, overbookings, missed connections at hubs, and consumer complaints. Airlines and travel agents would be required to make information available from the report available to prospective passengers who request it.

H.R. 3051 does not limit itself to making information available to passengers. The bill includes many specific provisions designed to require specific improvement in airline service.

To deal with the problem of the airlines scheduling more flights than airports can accommodate at peak hours, the bill requires the Department of Transportation to establish capacity limits at major airports. If the airlines insist on scheduling flights in excess of these limits, the Department is directed to take action to enforce the limits. Similarly, the bill requires the Department to establish standards for airline hub service to ensure that missed connections are minimized. Again, if the airlines do not comply with these requirements the Secretary is directed to take appropriate action.

Another frequent consumer complaint is that the airlines are canceling scheduled flights because there are not enough passengers booked on the flight. To deal with this problem, H.R. 3051 specifically prohibits economic cancellations. If the flight is improperly canceled for economic reasons, the bill provides that passengers must be compensated and that the airline will be subject to a civil penalty of up to $10,000.

Another area of consumer concern is that airline advertising fails to make it clear that discount fares are not available on many flights and that discount fares may be nonrefundable. H.R. 3051 includes provisions requiring airlines to include this information in their advertising.

I would like to clarify the intention of the preemption provision in the bill. The preemption provision is set forth in general terms in the reported bill and committee report, and a more detailed discussion would be useful in interpreting the provision. The preemption provision specifically provides that a State may not require air carriers to file additional reports on matters as to which this bill requires reports. This includes reports on such subjects as ontime performance and lost and delayed baggage. The reason for preemption of reporting requirements is that it would be undesirable to require the airlines to file different reports in each State on the same issues. It is my understanding that the State attorneys general do not object to this preemption of State reporting requirements.

Some States have expressed concern about how the bill would be interpreted with respect to preemption of State regulation of airline advertising. I would like to make it clear that the intent of the bill is to preempt only State regulations of advertising which directly contradicts the requirements imposed by this bill. For example, H.R. 3051 requires airline advertising to state that various types of restrictions apply to discount fares. A State would be preempted from passing a law that prohibited airline advertising from disclosing that fares are restricted. However, H.R. 3051 is not intended to preempt a State from imposing additional requirements on airline advertising, such as requirements governing the size of print in which disclosures must be made or requirements for additional disclosure beyond that required by Federal law. H.R. 3051 is not intended to preclude the States from playing a major role in dealing with airline consumer problems.

In conclusion, Mr. Speaker, H.R. 3051 is designed to improve airline service without destroying the competition which has brought so many consumer benefits. I urge my colleagues to support this legislation.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to my distinguished chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am engaging in this colloquy on behalf of our colleague, the gentleman from Illinois [Mr. LIPINSKI], who is necessarily in his own district of Chicago on official business today.

Mr. Speaker, we are considering a bill that is designed to promote the benefits of deregulation by addressing certain passenger service problems and by making service information available to the consumer. The bill recognizes that the imposition of some costs on certain carriers will outweigh the benefits to competition that could be derived from those expenditures. Thus, the bill contains a provision, offered by my distinguished colleague from California, Mr. ANDERSON, exempting from its requirements those smallest of carriers that operate aircraft with 60 or more seats, but that enplane less than 0.2 percent of domestic passengers.

There is, however, an additional class of small carriers that represent the essence of deregulation. The continued ability of these smaller carriers to provide the competitive spur necessary to protect the benefits of deregulation is directly related to the level of costs they incur. The requirements of this legislation will increase those costs and will increase the burdens disproportionately as compared to the larger carriers.

Mr. Speaker, I would now like to address a question to the distinguished chairman of the committee. I would ask the chairman, is it your view that if the Secretary determines that to promote the policies of section 102 of the Federal Aviation Act, different means of meeting the bill's requirements may be appropriate for smaller carriers, she may, in exercising her discretion, fashion such different means?

Mr. MINETA. Mr. Speaker, I would answer my distinguished colleague from New Jersey by saying that this bill endorses the principal policy goals and concepts of deregulation. We need to make clear that the Secretary is charged with carrying out the policy objectives under section 102 of the Federal Aviation Act to preserve the benefits of competition and promote the policies of deregulation. In this case, she may do so by fashioning appropriately different means of complying with the bill's requirements for small carriers that are so critical to a competitive deregulated market.

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I hope this colloquy will clarify the intention of our bill.

Mr. HOWARD. It certainly will, and I thank the gentleman for his response.

Mr. SUNDQUIST. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to our distinguished friend, the gentleman from Tennessee.

Mr. SUNDQUIST. Mr. Speaker, as a member of the Aviation Subcommittee that drafted this important legislation, I want to commend Chairman MINETA and Vice Chairman GINGRICH—and the distinguished chairman of the full committee—for their hard work and efforts to produce an effective and reasonable bill.

I am especially proud of the subcommittee's work on this bill because it is in extreme contrast to most of Congress' actions—it does not take an excessive approach to a highly popular issue—rather, the leaders of this committee worked for a bill that does not reregulate the airline industry, but does make the industry accountable for the service they provide to customers.

All we are saying with this bill is: Let the marketplace work when it comes to customer service. Let customers decide which carriers provide the best service for the best price. But they can't do that if they don't have the proper information. This bill provides the information for airline customers to make their own choices.

In addition, the way the system currently operates, airlines are scheduling flights far beyond the capacity of airports. I applaud my colleague from Pennsylvania's efforts to resolve this problem with the language he drafted on capacity levels.

There is no doubt in my mind that most airline delays, not related to weather or mechanical problems, are due to ambitious overscheduling by the airlines. The airlines need to be more reasonable with their scheduling projections—how can you schedule more flights than one airport can physically handle?

You might think that there is a disincentive for airlines to overschedule because it might hurt their business. This simply has not proven to be true, because the more flights they schedule, the more tickets they sell—and once the customer is holding his already-paid-for ticket, he has very little recourse if the flight is delayed. So actually, it is currently in the best interest of airlines to overschedule. This bill simply protects airline consumers from airline delays that are caused by greedy overscheduling—it merely keeps capacity at reasonable limits.

The public has been screaming—as have most Members of Congress, including myself—for a bill that will improve the quality of service provided by our domestic carriers. It would have been easy to draft an excessive bill, but the leaders of this committee chose to do the difficult and courageous thing by writing a moderate bill that truly addresses the problem. This is extremely good legislation and it deserves all our support.

Mr. Speaker, section 4 of this bill requires that airport capacity levels be established for the 40 largest airports. It is my understanding that this section of the bill is intended to prevent airlines from overscheduling flights. Could the distinguished subcommittee chairman clarify if the language is directed at the air cargo business?

As you know, Mr. Speaker, the cargo business differs significantly from passenger carriers in that they primarily operate during off-peak times, and they don't operate with the same amount of frequency.

Mr. MINETA. I appreciate the gentlemen's comments. The bill is not intended to allow airport operators to discriminate against any carrier, large or small, passenger or cargo. We would also expect that in taking action to enforce capacity limits, the Secretary of Transportation would accommodate, to the maximum extent possible, the needs of cargo carriers. To the extent cargo carriers operate at off-peak hours, when there is no overscheduling, it is unlikely that they will be required to reduce their schedules.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good bill, it is a tough bill, and it is a necessary one if we are to improve airline service.

Mr. Speaker, 9 years ago we deregulated the airlines. We did this to improve the efficiency of the air transportation system and to make air travel more affordable for the average citizen. Deregulation has succeeded in doing this for the most part.

It is important for everyone to realize, however, that deregulation was only meant to give airlines more control over their routes and fares. We did not intend to give them a license to run roughshod over their passengers. Customer service was never deregulated. But recently, that is not the way it seems.

Over the last year, complaints against airlines have skyrocketed. Whether because of the recent airline mergers, or because of the surge in passengers, more and more of our colleagues and constituents are telling us horror stories about airline service. Indeed, I could tell you a few horror stories of my own. One as late as last night.

Our committee has developed a two-part attack to these problems. The first part is the bill to authorize more money for airport improvements and air traffic control equipment in order to reduce congestion and delays. We passed that bill last week.

The second part is the bill before us now. It directly addresses many of the problems passengers have experienced. To begin with, this bill requires airlines to report service performance data to the Secretary of Transportation who in turn would make that information public.

This would let people know who the good airlines and bad airlines were in terms of such things as delays, cancellations, lost bags, and missed connections. Passengers could then choose between airlines accordingly, thereby putting economic pressure on the bad airlines to improve their service.

But our bill goes beyond mere reporting requirements. It includes many other requirements and penalties. One provision that I would like to focus on is the section on airline hubs.

One of the most significant changes brought about by deregulation is the growth of the hub and spoke system. Every large airline now uses this system extensively.

It appears that the hub and spoke system is here to stay. It allows airlines to economically provide service to small- and medium-size communities that could not otherwise support direct service to many destinations. It is probably an efficient system that works for the airlines.

The problem is, however, this system does not always work for the passengers. Too often passengers are left stranded at hub airports because a delayed flight causes them to miss their connection. If they have the money, they can charter a plane or rent a car. Otherwise, the passenger may end up sleeping on the floor. Meanwhile, important business or personal commitments are missed.

During our committee's deliberations, I offered an amendment which was adopted that addresses the breakdown in the hub and spoke system.

It would require DOT to set minimum passenger service requirements for air carrier hubs. These would be developed by using data on delays and missed connections that is already required by this bill. DOT would then be required to monitor the performance of airlines at their hubs.

If DOT officials find that an airline's hub is not meeting the established requirements, they would be required to take action, or require the airline to take action, to solve the problem.

This provision does not specify what action must be taken because I don't think it would be proper for Congress to micromanage the airlines in this way if that can be avoided. But neither would it allow the status quo to continue. That would be unacceptable. This amendment would simply force DOT and the airlines to take a close look at the hub and spoke situation and how it affects passengers, something I don't think anyone has really done up until now.

Perhaps they will decide to simply increase the connecting times between flights at hubs to give passengers a better chance of making their connections. Perhaps some other action would be more appropriate. I have also asked the General Accounting Office to look at this problem to get their views on specific actions to address the problem.

In conclusion, Mr. Speaker, I believe this is a good bill. It's a tough bill but it's a necessary one if we are to improve airline service. I urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of the Airline Passenger Protection Act of 1987, H.R. 3051. This bill will address the serious deterioration in airline service which has occurred over the past year. During this period, flight delays, cancellations, missed connections, lost baggage and poor customer service has caused havoc on many airline passengers in this country, including myself. I don't believe I have been on one flight lately that wasn't unbelievably fouled up.

My particular gripe is with connecting commuters advertising—or at least held out to be—part of a major airline, until something goes wrong, then no one wants to take responsibility.

Mr. Speaker, the centerpiece of this bill would require the Department of Transportation to publish a monthly report on airline performance including information about on-time performance, lost baggage, canceled flights, missed connections at hubs and consumer complaints. I strongly believe that with this information, consumers can vote with their pocketbooks and emphasize that quality service is as important as low fares. However, I do believe that this bill will not unduly pressure airlines to dispatch aircraft before they are ready to take off. Of course, safety must always be our No. 1 concern.

Mr. Speaker, while I do have some specific concerns over the labor protection provisions [LPP] in this bill I would still encourage my colleagues to support H.R. 3051 which will improve airline service without destroying the benefits of deregulation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS], a distinguished member of the subcommittee.

Mr. SKAGGS. Mr. Speaker, I urge my colleagues to join me in voting for the Airline Passenger Protection Act of 1987.

Enormous problems exist today in commercial air travel. Although the Department of Transportation has had rulemaking authority to maintain reasonable standards for air travel since deregulation, it has not done enough to protect airline consumers.

The number of passengers has grown from 275 million in 1978 to 418 million last year. Flying has now become the most often used form of intercity transportation in this Nation. Ninety percent of public transportation is by air. With this growth has come a huge increase in passenger complaints about lost luggage, problems with discount fares and ticketing agencies, canceled flights and, especially, delays in departures and arrivals.

Each day, the call to reregulate the airlines grows louder. I'd suggest otherwise right now. I think it's better to look at the situation in terms of classical economic theory. Well-informed buyers can make decisions that are in their own best interest. These decisions shape the market and make it better for all of us. Of course, perfect information is impossible. However, we can certainly do a lot better than we now are. And when the airlines realize that information about bad service hurts business, service will improve.

The Airline Passenger Protection Act is not reregulation. It's a measured response to abuses that cannot continue. Airlines shouldn't cancel flights on very little notice because of low bookings. Their advertising practices should level with consumers. Air travel consumers should have the information about airline performance that's needed if a deregulated free market is to work. This bill does much to address these concerns.

The advantage of this bill is that it's based on information, not regulation. With this information, travelers will know which airline will get them there on time. They'll know which airline is least likely to lose their luggage or to cancel or bump them from flights. With their money, passengers will let an airline know if its service has to improve. All this will happen through the market, not through regulation.

The bill guarantees that this information will be accessible. Travel agencies will be required to provide this information to the public, and the airlines must provide toll-free telephone numbers for the public. Both the airlines and the Department of Transportation will be required to establish toll-free telephone numbers to receive consumer complaints, and the airlines will be required to list this number on all tickets they issue.

An airline's decision to cancel a flight within 72 hours of its departure for any reason other than safety will mean stiff penalties. So, passengers will be less at risk of being stranded because of low bookings on a flight they had planned to take. The Committee on Public Works and Transportation adopted a provision that I sponsored which requires that when a flight is canceled or delayed, the airline must tell passengers promptly what it knows about the reasons for the cancellation or delay. This will enable passengers to make alternate arrangements as soon as possible.

I noticed last week that one of the major airlines has started an aggressive ad campaign focusing on its performance. It's a step in the right direction, but it's not enough. The Airline

Passenger Protection Act rests on the belief that reasonably protected and well-informed passengers will be able to make the choices that a free, deregulated market presumes. It establishes necessary safeguards and a solid base of information for consumers. It is worthy of all of our support, and I urge you to vote for it.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DeFazio], a very fine member of our subcommittee.

Mr. DeFAZIO. Mr. Speaker, first I want to extend my congratulations and appreciation to the gentleman from California [Mr. Mineta], chairman of my subcommittee, as well as the gentleman from New Jersey [Mr. Howard], chairman of the full committee.

Mr. Speaker, these 2 weeks' legislation, last week reauthorization and this week Airline Passenger Protection Act, have gone a long way toward making our air travel as safe and as comfortable as we can again.

Just last February I first proposed a bill to increase consumer protection and the Federal Aviation Administration and nearly the entire industry opposed it. They said it would be impossible to gather the data needed to enforce the protection, it would be too expensive, and besides that it is not needed because the free market would solve the problem.

Nine months later complaints are up over 250 percent. Just last week they had to call the riot police at Miami Airport because of a problem at one of the departure gates. Now even erstwhile Secretary of Transportation Dole and the FAA have become born again consumer protection advocates.

But their efforts are too little, too late. We will not be deterred on the committee and in Congress from protecting the consumers and giving them the protection they need to fly safely and comfortably. This bill will allow the Congress to truly assess the depth and the breadth of the problem of airline travel and airline travelers.

Second, it will give the consumers the information they need to choose intelligently the best service available, it will fully ensure their rights under existing law, provide toll-free numbers for recourse when they have complaints that are not resolved by the airline on the spot, and the simple language in the disclosure provisions will allow consumers to fully pursue those rights when they have been wronged. It toughens the penalties for safety and consumer protection.

This is good legislation, it is timely legislation, and I urge my colleagues to vote "aye."

Mr. MINETA. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. Glickman].

Mr. GLICKMAN. Mr. Speaker, I appreciate my colleague from California, Norm Mineta, for yielding time to me. There is nobody more dedicated to air safety than the gentleman from California.

I do have some concerns about this bill, however. I do not want to see a bill which in the guise of helping consumers actually ends up potentially jeopardizing air safety.

As an example, the reports on the bill require airlines to disclose the number of flights leaving late and arriving late together with canceled flights. My concern is that this could cause some of the airlines, particularly those who are financially marginal in a very competitive environment, to cause their planes to go in order to meet an arbitrary disclosure deadline which appears on a computer screen in a travel agent's office, even if that airplane maybe should not go, maybe it has some deferred maintenance items. I want to make sure our priority is on safety, even at the expense of consumer protection, so I would ask my colleague, some of the deadlines, some of the thresholds in this bill would seem to cause carriers to make some decisions in order to meet the information required in the bill, maybe causing them to do some things they would not otherwise do in terms of pushing their airlines back to meet some arbitrary deadlines. I just want to ask my colleague from California about that to see if my thoughts are correct or not on the issue.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, first of all, the gentleman's concerns are right on target. Our concerns in the subcommittee as well as full committee and the Congress as a whole, the Department of Transportation and the airlines as well, is really safety. Safety is without a doubt the paramount concern that drives all of us.

When we deregulated the airline industry we deregulated the economic regulation of the airlines, but we did not deregulate safety. So in taking into consideration this bill, these are the kinds of concerns which were considered when we were developing the bill.

Safety related delays are exempt from the prohibition on that portion dealing with economic cancellations. So I feel that there are adequate incentives in our system of safety enforcement and inspection that would override the kinds of pressures the gentleman is talking about in terms of pushing away from the gate in order to be able to make that reporting requirement.

I would also note that the penalties for violation of safety regulations have been made stronger in this bill. We have increased these tenfold.

So I believe these kinds of issues are things that came up during the subcommittee's consideration and that we will be looking at these items as we follow the impact of this legislation.

Mr. GLICKMAN. Mr. Speaker, I appreciate the gentleman's response, and the increased civil penalties are very important. I think the gentleman understands my concern. My concern is the pilot gets into a plane, the plane is about ready to be pushed back, he has some deferred maintenance items, the plane is about to be more than 15 minutes late, he does not know whether to cancel or not, and maybe wants to get pushed back to meet some arbitrary screen timetable.

But I think the gentleman has answered the question satisfactorily.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, I thank the gentleman for yielding. We certainly agree with him. We feel that the flying public is certainly concerned about efficiency and delays and lost baggage and things like that, but they are also very concerned about safety, and I would think it would inure to the benefit of an airline should they state that on these occasions that they would not fly because of safety problems.

So there has been no diminution whatsoever of the concern for safety here. I believe the airlines that state that they have done this to be more safe would certainly be more attractive to the traveling public, and we certainly intend that to be the way this legislation operates.

Mr. GLICKMAN. I thank the chairman for his response.

Mr. MINETA. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. Chapman].

Mr. CHAPMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I just want to take a few seconds to congratulate the gentleman from California [Mr. Mineta] for what I think has been yeoman's duty in bringing to the floor of the House today a bill that not only is needed but addresses critical needs of the flying public. I want to congratulate him on the job he has done in that regard.

I think the information that will now be available to the airline flying public is going to be very valuable not only from the point of judging, if you will, the performance of the carrier, but as well making intelligent decisions as to when and who and which airline they should fly.

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This bill is going to require the airlines to, if you will, furnish the information to DOT that will allow DOT to give a report card on their performance. The legislation is long overdue. It is needed. It ought to be enacted.

I urge my colleagues to support the work of the committee, the gentleman from California [Mr. Mineta], and the distinguished full committee chairman [Mr. Howard], and urge the adoption of this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. Tauke] a member of the Committee on Energy and Commerce.

Mr. TAUKE. Mr. Speaker, H.R. 3051, the Airline Passenger Protection Act of 1987, takes several steps in the right direction and is generally a sound measure. But the question that we face in this forum is whether or not this bill goes far enough, whether it takes enough steps in the right direction.

I could articulate many of the good things about this bill, but because of limited time I will refrain from doing so.

However, there are many provisions that are controversial.

One provision that is controversial is section 1706 which provides that the Department of Transportation require airlines in advertisements to include information on the availability of discount fares as well as information on other restrictions that apply to such fares. The controversy that surrounds this issue is whether the provision goes far enough.

The Department presently has the responsibility for regulation of airline advertisements as well as other areas of airline regulation. In the opinion of many consumers and many of us here in Congress, the Department is simply not doing an adequate job.

Even if the Department is inclined to address the problems raised by airline advertisements, it is questionable whether it has the facilities to do so. The Department only has 12 full-time professional employees who are involved with aviation consumer protection.

H.R. 3051 does not address this problem of a lack of infrastructure to address misleading or deceptive airline advertisements. We might have been able to address this issue on advertising, as well as other issues if we had had an opportunity to discuss this bill under an open rule.

Later this week, the House of Representatives will be considering H.R. 2897 which reauthorizes the Federal Trade Commission. That bill grants the FTC authority to regulate airline advertising. The FTC traditionally is the agency to regulate advertising and it has the staff and the infrastructure to do it.

So, Mr. Speaker, this bill could be better. But by considering this bill under suspension, we do not have the opportunity to make it better.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. Howard], the Chairman of the full committee.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, I would like to briefly respond to the gentleman who just spoke in the well that this bill is sort of a very delicate balance. We are trying to do several things here this time.

First of all, we are trying to put into law some regulation, some push on the airlines to become a bit more efficient, a little more concerned with the passengers who use it and yet to not attempt to really reregulate the industry.

Another area where we are trying very much to have a better airline system, one that certainly puts safety first and efficiency very high, without increasing cost to a great degree. By deregulation, we have been able to get through competition prices that are lower and more people can fly. We do not want to prevent these people from being able to afford to use the airline system while we certainly insist that the airlines become more efficient.

So it is not an easy thing. There are people who say this bill does not go far enough; there are many others who say it goes too far. We say we think we have accomplished this delicate balance and certainly in conference we will still be looking at this legislation.

I thank the gentleman for yielding.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume also to respond to the last speaker who was in the well.

Let me say that this committee has the same concerns about that matter that he spoke to as it regards consumer interests. When Congress in its wisdom gave the Committee on Public Works and Transportation authority to address that concern in 1978, we intend to do just that. So I want to assure him that this committee will live up to its responsibility and take care of all those interests that he expressed about consumers.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I want to first of all commend the subcommittee chairman, the gentleman from California [Mr. Mineta], and the full committee chairman, the gentleman from New Jersey [Mr. Howard], and the ranking minority member, the gentleman from Arkansas [Mr. Hammerschmidt], for their work on this measure. It is really needed.

The fact is when the pressure is on, obviously too little and too late, the Department of Transportation has responded to some of the concerns, really taking some of the aspects out of legislation which had been introduced earlier by Mr. DeFazio, Mr. Mineta, and others. That is the case.

We need to put this into law, these particular provisions.

I know that there are many colleagues here who would like to go much further, would like to really get in there and get tough, because we have a volcano of criticism with regard to airline service.

I have noticed in the last months even, already, the improvement. So I say the Department of Transportation's steps were really well intentioned. Whether or not they will provide the type of permanent fix that a law would allow I think is another matter.

That is why we have to codify this. I think they now have the attention, we have the public behind us, now is the time to move to do that rather than to let a tougher bill get lost someplace in the Senate because of the controversy it is going to get mired down in.

So I think it is time to move and I think this House ought to do so.

Mr. Speaker, I rise in support of the Airline Passenger Protection Act. In responding to the needs and concerns of airline passengers, the Public Works and Transportation Committee carefully crafted this bill to assist consumers in attaining efficient and equitable airline service. I commend my colleagues on the Public Works and Transportation Committee and the Subcommittee on Aviation for their work.

When Congress deregulated the airlines in 1978, we did not deregulate service or safety. At the time, it was felt that the forces of competition would enable the airlines to lower their costs while maintaining their quality of service, thereby ensuring a system that was both affordable and responsible to the needs of its users.

Unfortunately, as the figures released in the last few months indicate, airline service has not improved along with the growth of complaints against the airlines rose dramatically. For example, the figures released by the Department of Transportation Consumer Affairs Division for August 1987 totaled 7,280—over five times the total passenger complaints in August 1986.

The service problems before the industry are as varied as their number—delays, cancellations, missed connections, customer service, lost luggage, refunds, ticketing and boarding, and so on. Airlines apparently have been forced to cut corners because of intense competition, and therefore problems have increased to the breaking point of public tolerance. Congress must be willing to step into the void created in such circumstances and point the airlines in the right direction. The disclosure of monthly performance reports on the airlines and the inclusion of passenger rights on airline tickets are necessary. Consumer knowledge is power; consumer knowledge is enlightened choice; a powerful incentive that will reward good performance and punish poor performance by the airlines.

I am also supportive of the provisions for the establishment and implementation of maximum flight capacity levels for major airports in order to put a halt to the obvious overscheduling which misrepresents carrier schedules and pushes to the limit the safety of the air traffic control system. The air traffic control system needs not only additional staff and improved equipment, but also reasonable and manageable scheduling conditions. Enough problems develop with optimum scheduling much less overburdening this system with the crowded scheduling that is characterized in today's environment.

Mr. Speaker, in addition to the other necessary provisions in this bill, language has been included to ensure the fair treatment of aviation employees during mergers, takeovers, and similar transactions—a measure which has won the approval of the House in the past. It is fitting not only to address consumer needs in this bill, but also the needs of airline employees resulting from the changes wrought by deregulation. As before, I urge my colleagues to support these labor protection provisions that the thousands of men and women working in the airline industry deserve. These provision are the restatement of the law which has not been implemented by the Department of Transportation. They will resolve the chaos which grips merger borne labor relations problems and will be a positive step toward reclaiming quality and safe service in our air transportation system.

I urge my colleagues to support this legislation that will assist in improving airline service without diminishing the positive results of deregulation.

Mr. ARMEY. Mr. Speaker, I applaud the committee's effort to protect airline passengers but this bill does way too little to ensure passenger safety. While the committee report states that: "Safety is a paramount concern," it then does little to promote safety and could actually increase risk to passengers.

Air safety can only come after: First, the trust fund is released to assist capacity expansion and air traffic control capability; and second, steps are taken to prevent the dangerous overcrowding that occurs when all the planes try to leave and arrive at the same time. We have done neither. In last week's Airport Development and Improvement Act, we did not free up the trust fund nor did we reduce the user fee because of its nonuse. Attempting to control overcrowded skies, this bill does set capacity limits at airports. Rather than allowing the Secretary of Transportation or the airports the right to price landing slots in a way that precludes the rush hour blitzes, this bill arbitrarily imposes capacity limits.

These rush-hour surges overwhelm all components of air travel—air traffic control, airport landing slots, baggage transfers, and corridors for passenger movement. A pricing mechanism that rewards the use of less crowded times but then raised the charge for users of peak hours would disperse overcrowding, provide funds for expansion, and permit those airlines taking advantage of cheaper, offpeak landing slots to keep fares low without sacrificing safety or service.

So the bill tries but fails to properly address the fundamental problems overwhelming our air traffic control and fails to sufficiently handle the peak-hour overcrowding in the skies and in the airports.

Mr. Speaker, let me say that I fully understand and appreciate the problems with service to passengers. Because I live back home in my district, I probably travel as much if not more than any other Member. So I have suffered from delays, lost baggage, missed connections, and canceled flights. But none of those problems compare to the question of safety.

I was on a flight that arrived 10 minutes before the ill-fated Delta flight No. 99. I came in on the same runway and the same approach just before the Delta DC-10 slammed into the ground from windshear, tragically killing scores of passengers. I fully understand the need for safety. When my airplane departure is delayed due to equipment problems, I am perturbed but glad to know that adequate attention is being paid to safety. But this bill could force airlines to downplay equipment problems and fly anyway because of the bill's refusal to exempt delays due to equipment problems from the DOT's consumer reports on airline service. We should never encourage airlines to ignore unsafe conditions.

Further, delays due to weather are also not excluded. Thus concerns about weather and equipment failure—the two greatest causes of air accidents—must now be balanced against the enhanced fiscal pressure caused by DOT's report on service. An exception should be granted for delays due to equipment and weather concerns. For air passengers, there is no greater service than safety.

Provisions made to help the handling of passenger's baggage could actually serve to hurt safety and service. The tough restrictions on lost baggage through hubs means two reactions: Airlines will no longer check baggage through hubs if there is any possibility of a problem while interlining of passengers baggage will all but cease; and two, more connecting passengers will decide to carry on luggage as the airlines no longer accept connecting luggage. Anyone who has ever flown knows that all the carryon baggage is responsible for delays, and safety reports indicate that carryon luggage in overhead bins becomes dangerous projectiles in turbulence or mishaps.

These are but a few of the bill's major shortcomings that prevent Congress from attaining the goal of air safety. While inadequate attention was paid to safety, Congress had time to look at labor protection provisions, provisions that could promote a Presidential veto. This only further reflects Congress' focus on everything but air safety. The committee states its support for deregulation because it "is in the best, longrun interest of consumers. The lower fares made possible by deregulation have saved billions of dollars for airline passengers * * *." But where do those savings come from? Should airlines cut service? Obviously not. Should airlines try to reduce manpower requirements? The committee says no with its labor protection provisions. Then should airlines cut back on maintenance and inspection of its airline fleet? Who knows except that Congress' priority here is to say yes to passenger savings, yes to passengers service, and yes to labor protection. But when it comes to safety, Congress, at best, says maybe.

Service and safety should not be at odds here. In fact, passenger service will not improve until safety is improved because both suffer from overcrowding, undercapacity, and the rush hour blitzes. Freeing up the trust fund and preventing the unmanageable rush hour blitzes will reduce the burden on all components of air travel, including baggage, delays, and connection transfers as well as air traffic control.

All these passenger protection provisions are well intended but really miss the point of what is needed. Solve the safety problems by freeing up the trust fund, building additional facilities, and distributing landing slots through a market mechanism and you'll have millions of happy, safe, protected airline passengers. Until then, and despite this bill's good intentions, passengers only hope is the prayers of a traveler and the patience of a saint.

Mr. MARLENEE. Mr. Speaker, When Congress deregulated the airline industry in 1978, it was hoped that deregulation would improve airline service and the industry as a whole, and also lower airline rates.

Sometime in the past 9 years, the airline industry got confused. It appears that they think Congress wanted to lower airline service, along with lowering rates.

Airline service has declined at an alarming rate. The American public is fed up with the problems that they have encountered over the last few years.

They're tired of endless delays, repeated and frequent cancellations, lost and mangled luggage, and other airline foulups. I'm now waiting for a television network to add to their schedule a show called "Airline Bleeps and Blunders." As you know, there would be many years worth of programming for a show like that.

I introduced H.R. 3158, the air traveler's bill of rights, earlier this year to address these problems. The basic provisions about airline service have been addressed in H.R. 3051, which we are considering today.

H.R. 3051 requires the Secretary of Transportation to issue a report card on airline delays, cancellations, lost luggage, rerouted or downgraded flights, and the number of passengers involuntarily bumped.

It's time airline passengers had some protection. I urge my colleagues to issue that protection by passing H.R. 3051.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of H.R. 3051, the Airline Passenger Protection Act of 1987. I am glad the House is finally acting on this urgently needed legislation. I commend the members of the Public Works and Transportation Committee for their hard work in crafting this legislation and reporting it to the floor for our prompt consideration.

I am sure that we all agree that something must be done about the ever-increasing number of incidents of delayed and canceled flights, lost or rerouted luggage, inconvenienced passengers who have been bumped from their scheduled flights, or, even more frighteningly, flights that have been involved in near-miss incidents.

In the Fifth District of New Jersey, which I represent, I have read in anger and frustration the stories of my constituents who have been inconvenienced by poor airline service. This legislation affords them not only sympathy but practical and workable solutions. The bill goes a long way in protecting the consumer. It demands full disclosure of vital information by the airlines so that consumers may be able to make rational choices about airline travel. The bill establishes principles whereby the consumer's rights are protected.

Specifically, the bill amends the Federal Aviation Act of 1958 with title XVII. Title XVII includes sections requiring the Secretary of Transportation to publish monthly reports containing information for the public on an air carrier's record of service during that time period. This information would include percentage of delayed flights, lost and damaged luggage, canceled flights, percentage of passengers bumped, complaints registered with the Department of Transportation on an airline, and the amount of time that may have elapsed between enplanement and actual takeoff.

Title XVII also requires airlines to establish and publish toll-free telephone numbers for receiving and handling passenger complaints. It prohibits air carriers from canceling any flights within 72 hours of its scheduled departure time for any reason other than safety or there being no passengers present at the scheduled departure time. It also requires passengers to be reimbursed within 30 days for lost or damaged luggage. The Secretary of Transportation is also directed to issue a regulation allowing for the timely refund of airlines tickets. Passengers will also be compensated with a round-trip airline ticket if their luggage is not available at the passenger's arrival destination within 24 hours. The bill also protects the fair treatment of airline employees in the event of a merger.

It is my hope that the provisions of this bill will give the airlines incentive to improve service to the public. There can be no denying that the airlines have already made attempts to improve service. However, it is clear that more needs to be done. And certainly, this legislation will raise the public's awareness of its consumer rights, which are secured in this bill.

I urge my colleagues to strongly support this legislation. I also would urge quick action in the other body on its airline consumer bill, so that we may send this important legislation to the President for his signature.

Mr. STANGELAND. Mr. Speaker, I rise in reluctant support of H.R. 3051, the Airline Passenger Protection Act of 1987. While many of its provisions will improve airline service and consumer protection, some components of the bill may be more harmful than helpful to passengers in the long run.

First, let me commend Chairman HOWARD and ranking minority member JOHN PAUL HAMMERSCHMIDT of the Public Works Committee, as well as Chairman MINETA and ranking Minority Member NEWT GINGRICH of the Aviation Subcommittee. They have done a good job on a very complex and controversial issue; without their leadership, I am afraid this bill could have become unworkable and counterproductive. Instead, the legislation offers some good opportunities for improved passenger services through strong incentives and mandatory requirements.

Perhaps the most important aspect of H.R. 3051 is its underlying message from Congress: We see the growing problems and we're going to do something about them. The bill is a direct response to the tremendous outcry of dissatisfied passengers, consumer groups, and officials. Our hearings, as well as the constituent letters, newspaper headlines and editorials, indicate the chief culprits are delays, missed connections, cancellations, and lost baggage. Our bill addresses each problem.

Specifically, H.R. 3051 increases the passenger's right-to-know about airline performance by requiring monthly reports from the Department of Transportation. The reports are to include information on lost baggage, ontime performance, flight cancellations and bumpings, missed connections, and consumer complaints. The bill also prohibits certain cancellations based on economic rather than safety reasons. H.R. 3051 contains substantial enforcement provisions as well, such as new and increased civil penalties and refunds.

While some of these provisions will assist passengers, the bill as a whole may signal a dangerous return to regulation of the airline industry. In 1978, this committee saw the benefits of economic deregulation; as a result, hundreds of thousands of travelers have been able to afford airplane tickets. Today, the committee sees the need to increase the regulation of passenger services and airline scheduling and the disclosure of information to consumers. I know problems exist, but I also know well-intended solutions can have detrimental, unintended effects.

I am concerned this bill may go beyond disclosure requirements and enter the field of economic regulation. I don't want to see the costs of airline tickets skyrocket, making airplane travel unaffordable for many citizens throughout the country. I don't want to see this Congress getting into the business of second-guessing the managers and airline safety experts.

H.R. 3051, with its numerous requirements, may go too far and, as a result, shift the costs to the traveling public.

Mr. Speaker, I also want to address another area of concern. New section 1714 is a substitute to the version the committee adopted during markup. The provision adds an important and necessary component to H.R. 3051 to prevent States from enacting or implementing laws that require air carriers to file reports on information covered by new title XVII of the act. This provision, which is consistent with other disclosure statutes, will help to ensure the new Federal disclosure requirements are consistently and uniformly applied throughout the Nation. By adopting this language, the committee does not intend to preempt States from protecting airline passengers under their own State laws and programs in every instance.

Mr. Speaker, H.R. 3051 offers some timely solutions to a growing problem. Despite my concerns about various aspects of the bill, I support the legislation since it serves as a good vehicle to get us into conference where we can forge an even better compromise.

Ms. SNOWE. Mr. Speaker, I rise in support of H.R. 3051, the Airline Passenger Protection Act of 1987. This important legislation seeks to address some of the more salient problems that have surfaced in the airline industry over the past few years, as a result of airline deregulation in 1978 and the recent trend in airline company mergers. As such, this measure deserves prompt passage and enactment by the 100th Congress, and I urge my colleagues to join me in support of this measure.

Mr. Speaker, like many of my colleagues in the House, I have heard from angry and upset constituents about the problems they have encountered when trying to fly. In fact, airline flight delays and cancellations have reached record levels, and complaints about airline service to the U.S. Department of Transportation have tripled in the past year. The problems most frequently mentioned by my constituents include abruptly canceled or long-delayed flights that inevitably lead to missed connections and disrupted travel plans, lost or late-arriving baggage, as well as just plain poor customer service.

The provisions of H.R. 3051 would require airlines to make monthly disclosures to the Transportation Department detailing their ontime records as well as information on lost or damaged baggage, overbookings, bumping of passengers, percentage of missed connections by passengers and percentage of canceled flights, provided that these flights aren't canceled for safety reasons. DOT is also required to publish a monthly report on this airline information and make it available to the public through airline ticket offices.

Additionally, H.R. 3051 requires that both DOT and the airlines establish toll-free passenger complaint phone numbers, which will appear on all airline tickets. Furthermore, this measure requires airlines to provide one-way, space-available airline tickets to any passenger whose checked baggage is not available within 2 hours after the arrival of a flight. If the baggage is not available within 24 hours, the airline must provide the passenger with a round-trip, space-available ticket between the same two points of travel. Other issues addressed by the Airline Passenger Protection Act of 1987 include computer reservation systems, airport capacity levels and labor protective provisions.

Mr. Speaker, with the benefit of the knowledge that this legislation will bring out into the open, the American consumer will be better able to make a well-informed decision about how he or she would like to travel. H.R. 3051 deserves the strong support of the House of Representatives, and I again urge my colleagues to join me in adopting the Airline Passenger Protection Act of 1987.

Thank you very much, Mr. Speaker.

Mr. LIGHTFOOT. Mr. Speaker, I rise in opposition to H.R. 3051, the Airline Passenger Protection Act of 1987, for several reasons that I want to share with my colleagues.

First, I want to state that I share the concerns of the authors of this bill with regard to the current state of the quality of service provided by the Nation's airlines. Flight delays and cancellations, lost and damaged luggage, overbooking, and missed connections are all problems that have become commonplace. As Members of this body, we are responsible for helping to correct these problems and ensure some minimum standard of airline service quality.

During the hearings we held on this legislation earlier this year it became apparent that the problems I just mentioned are caused primarily by several main factors: weather, air traffic control system capacity, airport capacity, and airline management practices. Because of a lack of specific data, it's difficult at this point to determine the extent to which each of these factors is to blame. Today we appear, nevertheless, to be rushing ahead with legislation that singles out one of these—the airlines themselves—as the focus of punitive action.

The inclination of some to move in this direction is understandable. When we buy a ticket from a given airline, sit on the runway in their airliner for 2 hours, and then miss a connection to another one of their flights, that airline becomes the most immediate identifiable source of our frustration. And to some degree, that is probably an accurate attribution.

How often, however, does the typical passenger attribute their frustration to the overloaded air traffic control system, uncontrollable weather patterns, lack of runways, noise problems, multiyear delays in the FAA's technology procurement system, or—heaven forbid—the U.S. Congress for refusing to release the $5 billion aviation trust fund surplus? I would venture to say not near as often as an accurate assessment of the situation would demand.

The legislation we are considering today, H.R. 3051, contains several positive provisions that require the airlines to report information that will enable airline consumers to make an informed choice. These provisions, some of which have already been implemented by the Department of Transportation, are a movement in a positive direction and should be encouraged. Other provisions, such as the free-ticket requirements, are, in my view, an unwarranted movement backward toward reregulation. This type of requirement is not likely to solve any of our problems, but it is likely to increase the cost of flying. I want to remind my colleagues that for every degree we move in this direction, we diminish the estimated $6 billion in annual savings for the consumer that the Brookings Institute estimates is a result of deregulation of the airline industry.

Mr. Speaker, I simply do not believe the information we have available to us justifies the extremity of some of the provisions in this bill. I am requesting a study from the General Accounting Office to determine more precisely what are the causes of the delays, cancellations, lost luggage, and other problems we currently face in this area. I will be happy to share that information with my colleagues as soon as I receive it. For now, however, I intend to vote against H.R. 3051 and I encourage my colleagues to do the same.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3051, the Airline Passenger Protection Act of 1987. I would like to commend my distinguished colleagues [Mr. MINETA and Mr. GINGRICH] for introducing this legislation, as well as the distinguished committee chairman [Mr. HOWARD] and the ranking minority member [Mr. HAMMERSCHMIDT] of the Committee on Public Works for their outstanding efforts in reporting this measure.

It is apparent that legislation is necessary to enhance airline safety and passenger protection. As any Member of Congress or frequent flyer has learned, the quality of service on our Nation's airways is also deserving of scrutiny. One result of airline deregulation has been turmoil in the airline industry; yet another unintended consequence has certainly been a decline in the quality of passenger service. H.R. 3051 makes a significant effort to rectify this problem while still attempting to preserve the fare reductions and service efficiencies which we all hope will be the long-term benefits of airline deregulation.

H.R. 3051 attempts to establish a mechanism for ensuring that efficiency of service does not preclude quality of service. At the heart of this mechanism is information. H.R. 3051 attempts to provide the necessary information regarding on-time performance, baggage handling, missed connections, overbooking, and canceled flights so that the consumer can make an informed decision about which airline he or she chooses to patronize. H.R. 3051 requires the Secretary of Transportation to publish a monthly report detailing these indicators of performance quality. In addition, the report would measure the quantity of consumer complaints associated with each carrier. Mr. Speaker, I think we all agree that this legislation provides a strong incentive for the airlines to maintain high levels of service without violating the free market principles which are so fundamental to the spirit of deregulation.

Furthermore, H.R. 3051 takes a small but significant step toward addressing the problem of airline safety. This is the reason that Congress enacted the Airport Development and Improvement Act (H.R. 2310), last week. The Airline Passenger Protection Act builds upon the substantial measures enacted in H.R. 2310 to improve airport safety and the capacity of our air traffic control system. By granting the Secretary of Transportation the power to promulgate capacity limits at large airports and to prescribe minimum performance standards at airline hubs, H.R. 3051 adds the final steps necessary to facilitate quality performance on our Nation's airways.

Finally, the Airline Passenger Protection Act contains important language to ensure that the flow of informations between consumers and the airline carriers is continuous and hassle-free. H.R. 3051 would provide that relevant information from the Department of Transportation [DOT] monthly report be provided upon request by both travel agents and telephone reservation clerks. Additionally, the legislation would provide for the establishment of a toll-free number at DOT which consumers could call to gain performance statistics. It would also require the airlines to maintain their own toll-free numbers for the resolution of passenger complaints. H.R. 3051 would further require airlines to reach a decision concerning claims for lost baggage within 30 days after the claim is filed. I hope these measures will provide passengers with both the necessary information for informed decisionmaking and, in addition, with a prompt mechanism for the resolution of disputes once they arise.

Accordingly, I urge my colleagues to demonstrate their support for airline safety and passenger protection by voting in favor of H.R. 3051, the Airline Passenger Protection Act of 1987.

Mr. RAHALL. Mr. Speaker, I rise in strong support of H.R. 3051, the Airline Passenger Protection Act, and would like to begin by commending the Public Works leadership for their diligent efforts in authorizing this important legislation and bringing it before us in a timely manner. The Subcommittee on Aviation began hearings on various proposals to deal with the growing problems facing the airline industry and its passengers back in June. I testified before the subcommittee during those hearings in support of a bill I introduced, H.R. 1701. I am especially pleased that aspects of my legislation have been included in H.R. 3051.

It is high time that we in Congress pass legislation to protect this country's airline passengers from chronic overbooking, excessive delays, and chronic flight cancellations and missed connections that have become the norm in the industry today. While there is no one culprit at whose feet the dilemmas of the industry can be laid, I feel that the legislation we have before us today will go a long way toward ensuring that the industry becomes more responsive to the needs and concerns of the traveling public and that service, and therefore safety, improves.

H.R. 3051 requires the Secretary of the Department of Transportation to publish a monthly report on airline performance that would include information about on-time performance, lost and damaged baggage, cancelled flights, overbooking, missed connections at hub airports, and consumer complaints. The bill directs DOT to establish maximum takeoff and landing limits at major airports and prohibits the cancellation of flights for economic reasons. These last two provisions, which are similar to those contained in my legislation, H.R. 1701, will help to cut down on the massive delays caused by unrealistic scheduling by the airlines and the cancellation of flights strictly for monetary reasons. Additionally, the bill stipulates that airline tickets must include toll-free complaint numbers and toll-free numbers for the Federal Aviation Administration's safety and consumer hotlines which will facilitate greatly the handling of passenger consumer and safety problems.

I am also a strong supporter of the bill's provision which requires DOT to improve labor protection provisions in the case of airline mergers which have an adverse impact on employees. These labor protection provisions are needed to insure the fair treatment of the industry's workers who, through no fault of their own, have been subject to the unstability of the industry.

To sum up, I would like to point out that this legislation, which some may feel comes down hard on the airline industry, only seeks to ensure that members of the traveling public receive the services they have paid for and deserve. I cannot think of another service industry which so routinely delivers its services so far below reasonable expectations. Although this bill does not address all the woes of present-day aviation, I feel that it will definitely improve many aspects of the airline industry. I urge my colleagues' support for this legislation.

Mr. CLINGER. Mr. Speaker, I rise in strong support of H.R. 3051.

I'm sure every Member of the House has received a number of unsolicited letters from constituents complaining about poor service on our commercial airlines. And it's no secret what has happened. Deregulation has brought about intense competition, cost cutting, and high traffic loads. So, in one sense the consumer wins, but often at the expense of uncertainty over reliability, pricing, and scheduling.

The operating environment under which commercial aviation does business is perhaps the most intense faced by any segment of industry today. Nowhere can you witness rapidly changing price structures and market conditions as exists in the passenger aviation industry. The competition is absolutely cutthroat. Profits are measured by the slimest margins.

There hardly exists a market today where you have don't have at least two carriers going head to head.

A recent evolution brought about by deregulation has been the reliance on hubs. But with hubs, airlines are now forced to limit connections down to the time intervals unthought of 10 years ago, and as we've personally experienced, hubs are not a complete success for passengers.

Airlines have manipulated flight schedules, using unrealistic departure and arrival times in order to enhance ticket sales. They've resorted to splashy and often misleading ad campaigns to attract passengers. If they're successful, the planes are not merely filled, they're overbooked and passengers are bumped.

Frequent business travelers, recognizing the potential of being bumped, themselves exacerbate the problem by booking on two or three flights. And who can blame them. No longer are the airlines the domain of the business traveler.

Today prices in certain markets are so low that Trailways and Greyhound have pulled out, unable to match the competition.

It wasn't too long ago when college students traveling home from the holidays heavily relied on commercial buses. Now they often find it cheaper to fly.

And many Americans who could not afford the luxury of airline travel today reap the benefits of our great deregulated system.

But with the benefits comes a price. The deregulated market that's proven so successful for the consumer has spawned a number of abuses, and that's why we in the Congress must enact this legislation to inject some needed discipline into the market.

I want to commend Chairman JIM HOWARD; ranking Republican, JOHN PAUL HAMMERSCHMIDT; subcommittee Chairman, NORM MINETA; and subcommittee ranking Republican, NEWT GINGRICH for the work they've put into this bill.

If you read H.R. 3051 closely, you'll recognize that they did an excellent job balancing the rights of passengers against the array of incentives that led to such successful industry growth.

Through a fairly simple reporting structure detailing airline performance, the passenger will once again be able to access reliable information when deciding which airline to use. And keep in mind that this same information is a very powerful tool for the airlines' marketing success or failure.

Protections are also included to cover lost baggage, bumping, airport capacity, refunding unused tickets, and computerized reservation systems.

In addition, this bill includes labor protection provisions previously agreed to by the House. In light of the rapid pace of airline mergers, we need to insure that airline employees are treated fairly.

Mr. Speaker, I believe H.R. 3051 is a necessary and carefully balanced bill. In my view, not only do airline passengers need this legislation, so do the airlines.

I urge my colleagues to support it.

Mr. STARK. Mr. Speaker, today we have the opportunity to vote for the Airline Passenger Protection Act. Certainly as frequent flyers ourselves, we understand the necessity for such legislation.

The bill would require DOT to publish a monthly report on airline information that would include information about ontime performance, lost and damaged baggage, canceled flights, overbooking, missed connections, and consumer complaints. It also directs DOT to establish maximum takeoff and landing limits at major airports, and it prohibits the cancellation of flights for economic reasons.

However, there is another group of people in desperate need of protection: airport neighbors. For example in my own district, for over a year neighbors at the Oakland International Airport have been plagued by increased airport noise. It has meant not hearing the evening news, not sleeping through the night and shot nerves. While I have been in constant contact with the FAA, the Port of Oakland, and local officials, there has yet to be a solution to the problem.

I know that many of my colleagues have similar problems in their districts. I would hope that the Aviation Subcommittee and we in the House will have the opportunity to address this situation soon.

Mr. RAHALL. Mr. Speaker, I rise in strong support of H.R. 3051, the Airline Passenger Protection Act, and would like to begin by commending the public works leadership for their diligent efforts in authoring this timely legislation and bringing it before us today. The Subcommittee on Aviation began hearings on various proposals to deal with the growing problems facing the airline industry and its passengers back in June. I testified before the subcommittee during those hearings in support of a bill I introduced, H.R. 1701. I am especially pleased that aspects of my legislation have been included in H.R. 3051.

It is high time that we in Congress pass legislation to protect this country's airline passengers from chronic overbooking, excessive delays, and chronic flight cancellations and missed connections that have become the norm in the industry today. While there is no one culprit at whose feet the dilemmas of the industry can be laid, I feel that the legislation we have before us today will go a long way toward ensuring that the industry becomes more responsive to the needs and concerns of the traveling public and that service, and therefore safety, improves.

H.R. 3051 requires the Secretary of the Department of Transportation to publish a monthly report on airline performance that would include information about ontime performance, lost and damaged baggage, canceled flights, overbooking, missed connections at hub airports and consumer complaints. The bill directs DOT to establish maximum takeoff and landing limits at major airports and prohibits the cancellation of flights for economic reasons. These last two provisions, which are similar to those contained in my legislation, H.R. 1701, will help to cut down on the massive delays caused by unrealistic scheduling by the airlines and the cancellation of flights strictly for monetary reasons. Additionally, the bill stipulates that airline tickets must include toll-free complaint numbers and toll-free numbers for the Federal Aviation Administration's safety and consumer hotlines which will facilitate greatly the handling of passenger consumer and safety problems.

I am also a strong supporter of the bill's provision which requires DOT to impose labor protection provisions in the case of airline mergers which have an adverse impact on employees. These labor protection provisions are needed to insure the fair treatment of the industry's workers who, through no fault of their own, have been subject to the unstability of the industry.

To sum up, I would like to point out that this legislation, which some may feel comes down hard on the airline industry, only seeks to ensure that members of the traveling public receive the services they have paid for and deserve. I cannot think of another service industry which so routinely delivers its services so far below reasonable expectations. Although this bill does not address all the woes of present-day aviation, I feel that it will definitely improve many aspects of the airline industry. I urge my colleagues' support for this legislation.

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise in support of H.R. 3051, the Airline Passenger Protection Act of 1987. But I don't think it goes far enough.

Not a day goes by without our hearing of new complaints about air travel. The public has lost its tolerance for poor service and complaints filed by consumers have increased exponentially recently. Between March 1986 and March 1987, complaints have doubled from 1,099 to 2,060. In the month of June alone, the Department of Transportation received 5,759 complaints from consumers. Many of these complaints relate to the inability of consumers to obtain advertised discount fares from the large airlines.

Our subcommittee held a hearing in May in which we heard from representatives of the air carriers as well as from members of the public about airline advertising. During the hearing we were unable to get airline representatives to guarantee any set number of flights available at the advertised rate. To demonstrate the point, during a break in the hearing a member of the subcommittee attempted to obtain a reservation for a fare that was currently being advertised even though he requested the flight for a time in which our airline witness told us there was typically light demand.

In order to remedy the problem, the Energy and Commerce Committee included in the FTC authorization a provision to require the airlines to show in their advertising limitations on the availability of advertised fares through a "full, conspicuous, and understandable" disclosure. They would be required to include the average ontime performance of the flight in such advertising.

This requirement goes much further than the well-meaning, but inadequate provision of H.R. 3051 which merely says that the carriers must merely disclose if fares are not available on certain flights. Further, H.R. 3051 retains enforcement of these important consumer protections within the Department of Transportation which has, until recently, all but ignored the problem, and has only 12 people to handle such consumer complaints.

Shortly, the Federal Trade Commission authorization should be available for floor consideration, which would provide the FTC with the authority to regulate such advertising—an agency with a history of consumer protection and a staff of 500 experienced consumer protection personnel at the ready.

Again, I commend the sponsors of this bill for coming forward with this important first step in protecting the airline consumer. But we need to do more.

Mrs. COLLINS. Mr. Speaker, I support this measure and commend Mr. MINETA and Mr. HOWARD for moving H.R. 3051 forward. As chairwoman of the FAA Oversight Subcommittee, I know first-hand the deteriorating service level affecting our Nation's airlines. In a word, it has become an embarrassment.

I am particularly concerned with the kinds of pressures I understand are being placed on pilots and mechanics to keep planes flying. Mechanical problems may be overlooked or minimized to save money. My subcommittee is reviewing reported instances of overzealous airline managers communicating a "profits over safety" attitude to airline employees. Planes which should not be flying, are being pressed into service.

Clearly, what this bill attempts to address and what my subcommittee is attempting to document, stems from the same cut-throat, unbridled competition affecting the airline industry. I believe that the rules of the game have to be made clear to the airlines. For this reason, H.R. 3051 is an important piece of legislation.

It must be noted that statutory authority for many of the changes affected by this bill already exists. What we are witnessing is a failure on the FAA's part to act decisively and aggressively in protecting airline passengers. For example, publishing on-time performance, could be done. Likewise, sensible scheduling, to avoid crowded hub airports, and toll-free consumer hotlines could be mandated under existing statute.

Protect airline passengers, vote for H.R. 3051.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ECKART). The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and pass the bill, H.R. 3051, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

IMPOSING CRIMINAL PENALTIES FOR DAMAGE TO RELIGIOUS PROPERTY

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3258) to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs.

The Clerk read as follows:

H.R. 3258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL PENALTIES FOR DAMAGE TO RELIGIOUS PROPERTY AND FOR OBSTRUCTION OF PERSONS IN THE FREE EXERCISE OF RELIGIOUS BELIEFS.

Chapter 13 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 247. Damage to religious property; obstruction of persons in the free exercise of religious beliefs

"(a) Whoever, in any of the circumstances referred to in subsection (b) of this section—

"(1) defaces, damages, or destroys any religious real property, because of the religious character of that property, or attempts to do so; or

"(2) obstructs, by force or threat of force, any person in the enjoyment of that person's free exercise of religious beliefs, or attempts to do so;

shall be punished as provided in subsection (c) of this section.

"(b) The circumstances referred to in subsection (a) are that—

"(1) in committing the offense, the defendant travels in interstate or foreign commerce, or uses a facility or instrumentality of interstate or foreign commerce in interstate or foreign commerce; and

"(2) in the case of an offense under subsection (a)(1), the loss resulting from the defacement, damage, or destruction is more than $10,000.

"(c) The punishment for a violation of subsection (a) of this section shall be—

"(1) if death results, a fine in accordance with this title and imprisonment for any term of years or for life, or both;

"(2) if serious bodily injury results, a fine in accordance with this title and imprisonment for not more than ten years, or both; and

"(3) in any other case, a fine in accordance with this title and imprisonment for not more than one year, or both.

"(d) As used in this section—

"(1) the term 'religious real property' means any church, synagogue, religious cemetery, or other religious real property; and

"(2) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

SEC. 2. TECHNICAL AMENDMENT.

The table of sections for chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

"247. Damage to religious property; obstruction of persons in the free exercise of religious beliefs.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3258 has been unanimously reported by the Committee on the Judiciary. It addresses the problem of religiously motivated violence by amending title 18 of the United States Code to make it a Federal crime to engage in certain activity in order to obstruct persons freely exercising their religious beliefs or to damage or destroy a house of worship (such as a church, synagogue, or mosque), religious cemetery, or other real property because of the religious character of that property. Current Federal law permits prosecution of religiously motivated violence only in limited circumstances. H.R. 3258 will expand current law so that there can be Federal prosecution if the perpetrator travels in or uses an instrumentality of interstate commerce.

Religiously motivated violence appears to be on the rise. Although precise statistics on the number of incidents directed at religious groups are not compiled as a part of the Uniform Crime Report, localities which do maintain such statistics have reported increases in crimes motivated by religious bias. These reports indicate that these episodes are becoming increasingly violent due to the radicalization of hate groups which perpetrate such crimes. The Anti-Defamation League of B'nai B'rith reports that there was more violent crime by hate groups in the 3 years from 1983 to 1986 than there had been over the previous two decades. Witnesses at hearings held by the Subcommittee on Criminal Justice last Congress, pointed out that many of the hate groups have members in various States and operate across State lines. They also argued that it is imperative to send a strong signal that such acts of violence will not be tolerated in our society.

As a result of these hearings, the subcommittee drafted a bill that the House passed by a voice vote late last Congress. The bill before us today, H.R. 3258, is very similar to that bill.

I also want to commend my colleague from Kansas, who not only sponsored H.R. 3258, but also last Congress' bill. His commitment and leadership on this matter have been outstanding.

Mr. Speaker, H.R. 3258 was reported from committee without dissent. Enactment of it will help increase public awareness of hate crimes and provide for distinct penalties in order to help stem the tide of violence that threatens to drown the freedom of choosing one's religious observance. I urge my colleagues to support this legislation.

I want to call my colleagues attention to a typographical error in the committee report which accompanies this bill, Report 100-337. In the second full paragraph on page 5, the cite to section 247(a)(2) in line 7 should read 247(a)(1).

Mr. Speaker, this bill, as I noted earlier, has been the result of a bipartisan effort. I want to recognize the important assistance in formulating the legislation that was provided by two organizations—the American Jewish Congress and the Anti-Defamation League of B'nai B'rith. Since the Justice Department does not keep statistics on the number of crimes motivated by religious bias, the ADL—one of the few organizations that compiles such statistics on a nationwide basis—was an important resource. In addition, the American Jewish Committee supplied the subcommittee with an important memorandum on certain legal issues. Both groups are to be commended for their efforts.

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Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the Subcommittee on Criminal Justice, Mr. CONYERS, has very adequately described the background and the provisions of this legislation. As was mentioned, this piece of legislation was passed during the last term and failed to reach full maturity only because of the lack of action of the other body.

One thing must be said for the record to reestablish something that was important to this Member at the outset of discussion of this legislation last term in which I repeat now is, and I have always felt and I think everyone on the committee knows and feels, that several States of the Union have the capacity to deal with acts of vandalism no matter against what property that vandalism may be perpetrated.

That is a basic issue.

But the legislation on which we are now about to embark brings the Federal judiciary into the system, the law enforcement constabulary of the Federal Government into play because of the possibility and the reality that these kinds of acts, the ones proscribed by this legislation, very often could and would take on the tone of crossing State lines for different kinds of religious-based persecutions and criminal acts.

So where the State governments can act properly and with full jurisdiction, so be it. We do not interfere with that in this legislation. But in those circumstances where the connection of interstate commerce would appear, then the Federal Government through this legislation would be in full jurisdiction to proceed to work its will in these very important criminal kinds of ventures.

Mr. Speaker, with that I offer the support of this legislation as we did last time.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I rise in support of H.R. 3258.

This bill is substantially the same as legislation which I cosponsored, and which passed this House, during the previous Congress. The Senate was unable to act upon that bill because House action came so late in the session.

Crimes against religious property, and those which interfere with the free exercise of one's religion, are truly hateful. They undermine one of this Nation's most cherished rights and thus cannot be tolerated. As with most law enforcement, the primary responsibility here should be upon States and localities. However, sometimes crimes are of such a nature that Federal law enforcement can serve as an important supplement to local law enforcement. This is certainly the case when those destroying religious property or interfering with the free exercise of religion travel across State lines.

Mr. Speaker, this bill is carefully crafted to maintain the proper balance between local and Federal jurisdiction and I believe it merits the support of the entire House as an important step toward guaranteeing one of our most cherished freedoms.

Mr. GEKAS. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN], the author of the bill and a distinguished member of the Committee on the Judiciary.

Mr. GLICKMAN. Mr. Speaker, I rise in support of H.R. 3258 and thank Chairman CONYERS for so quickly moving this bill through the legislative process. I also thank my colleague Mr. GEKAS for his special help.

As Mr. CONYERS stated, H.R. 3258 would make it a Federal offense to destroy or damage real property because of the religious character of the property or to obstruct any person in his or her free exercise of religious beliefs. I introduced this bill in the last Congress and again this year because of the growing problem of violence aimed at religious property and the exercise of religious beliefs. In spite of this Nation's willingness to accept and embrace various religions and forms of worship, there remains a minority within our population who see fit, for whatever reason, to vandalize and destroy religious property and, in turn, to jeopardize the freedom of others to safely practice their religious beliefs. The entire range of faiths, including Baptist, Catholic, Episcopal, and Jewish have been targets of such attacks.

Unfortunately, the depressed economy in some regions of the country has been cited as one of the reasons for this increase in violence. The Klu Klux Klan recently held a rally in which they accused blacks of taking jobs and Jews of controlling the economy. A continued weak economy may exacerbate this problem and such destructive manifestations.

I know it is easy to feel helpless against these irrational acts of hate. However, we in Congress must not let a sense of hopelessness overtake us. We must work to eliminate both the root of the problem and the symptoms. While it is true that the States have primary responsibility as far as law enforcement, the Federal Government has a responsibility as well, especially given the constitutional protection of religious liberties. This bill should send a strong signal that violence against religious institutions of any kind will not be tolerated in this country.

In closing, I would again like to thank Chairman CONYERS for all his efforts and encourage my colleagues to support this important measure.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time merely for the purpose of discussing one constitutional issue that did arise with reference to whether this measure might be tripped up by the establishment clause, which prohibits State and Federal Governments from engaging in any activity that favors or establishes a religion or religious activity.

I do not think we have too much trouble with this problem because, first of all, no excessive entanglement is created between church and state since the Federal Government involvement with religious institutions can be no greater when it affords other protections against criminal conduct which the State is indisputably entitled to provide.

Furthermore, H.R. 3258 is grounded in the commerce clause and as such is capable of sustaining constitutional challenge. The Supreme Court in United Brotherhood of Carpenters and Joiners versus Scott in 1983 held that under the commerce clause Congress has the power to prohibit private encroachment on first amendment rights, which this is surely one.

So I thank my colleagues, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from New York [Mr. FISH], and of course, the author of the bill, the gentleman from Kansas [Mr. GLICKMAN], and we hope that this time this bill will move to its ultimate enactment.

Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 3258, legislation which seeks to impose Federal criminal penalties for hate crimes. As a cosponsor of this legislation and as a sponsor of legislation in the past two Congresses which sought to achieve this same goal, I applaud the consideration of this legislation and urge its swift passage.

In my own home State of New York, 3 of the almost 600 New York State Police Agencies have recorded over 1,500 hate crime complaints in the past 3 years. In 1985 of the 565 reports, 191 resulted in arrests. This figure is unacceptable on a national level but when seen as 191 arrests from only 3 police agencies, the result is a grave national scandal. Hate crimes are among the most intimidating and heinous crimes committed against one of our most fundamental freedoms—the freedom of religion. The saddest aspect of hate crimes is that they are carried out by persons who operate with virtual impunity, knowing that any chance of prosecution is remote. That is why this legislation is so necessary.

H.R. 3258 has two vital characteristics. It provides a first-time Federal penalty against these crimes. And second it establishes a graduated series of penalties based on the seriousness of the offense, including a fine and life imprisonment should death result from an act of antireligious violence or vandalism. Moreover this legislation properly directs its penalties against a person who "defaces, damages or destroys" religious property and also against those who obstruct, by force or threat of force, any person in their exercise of religious beliefs.

Our newspapers abound with stories of hate crimes. From the New York Post, we read "vandals overturned 150 headstones" and again "in another attack—definitely the work of anti-semites—vandals spray-painted slogans on walls at a mainly Jewish country club in New Jersey for the second straight day." From the Washington Post, we see "anti-semitic incidents in affluent Montgomery County are getting more violent and account for about 75 percent of all reported racial violence in this county." Moreover the Antidefamation League of B'nai B'rith reported that 86 percent of those arrested for anti-Semitic activities in 1986 were under the age of 21. They also reported an almost 60-percent increase in the number of anti-Semitic activities on college campuses. These statistics point to an alarming increase in the hate crime activities of our youth. It is frightening to consider an increase in these terrorists acts in future generations.

Therefore, it is vital that we attack the problem of hate crimes, both through legislation such as this which imposes stricter penalties, but also through public education and awareness. In the words of Dr. Martin Luther King, "injustice anywhere is a threat to justice everywhere." I call upon my colleagues to join me in taking a positive first step forward to eliminating the injustice of hate crimes. Religiously motivated violence and vandalism has no place in any democracy at any time, but especially not in the United States in this year, as we celebrate the 200th anniversary of our Constitution. Our Founding Fathers established a freedom of religion. We must protect against those actions which seek to jeopardize this right.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H.R. 3258, legislation I have cosponsored to impose Federal penalties for damaging religious property and for obstructing persons from the free exercise of their religious beliefs.

The men and women who founded our Nation, did so to escape government intrusion into their religious lives. They sought a land where they could freely worship the God of their choice, without fear of harassment from those whose beliefs differed from their own. So strong is this belief in freedom of religion, that it is embodied in the first clause of our Bill of Rights.

Sadly enough, despite these protections, the rights of some to worship freely are being infringed upon by criminals who vandalize certain houses of worship and terrorize a number of congregations with threats of violence. Florida officials in the last 12 months have documented more than seven specific instances of vandalism and threats of force against synagogues throughout the State.

It was just over 1 year ago that synagogues in the Tampa Bay area I represent were subjected to more than a dozen bomb threats. These calls frightened a number of families away from participating in Jewish holiday services. In other cases, swastikas and vulgar graffiti were sprayed on synagogue walls, and cemeteries were vandalized.

These attacks and threats seriously impinge upon the rights of these people to worship freely, without the threat of violence or harassment. H.R. 3258, which we consider today, would make it a Federal crime to obstruct the free exercise of religion with these types of threats. It would also impose strict Federal penalties upon anyone who defaces or destroys religious property.

This legislation, which I cosponsored previously in the 98th and 99th Congresses, would complement the efforts of many States, including Florida, that have enacted similar laws of their own. The Florida House of Worship Protection Act, enacted by the Florida State Legislature in 1984, makes it a felony, rather than a misdemeanor, to desecrate churches and synagogues.

Mr. Speaker, while the Constitution protects the American people from government intrusion into their practice of religion, there are no Federal laws to punish individuals who harass and vandalize our houses of worship. This legislation is urgently needed to send a signal to these criminals that our Nation will not tolerate acts of violence against congregations of any faith.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SKAGGS). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 3258.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

RELEASE OF CERTAIN MATERIALS RELATING TO INQUIRY INTO CONDUCT OF U.S. DISTRICT JUDGE ALCEE L. HASTINGS

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 274) providing for the release of certain materials relating to the inquiry into the conduct of U.S. district judge Alcee L. Hastings.

The Clerk read as follows:

H. RES. 274

Resolved, That the report of the Investigating Committee of the Eleventh Circuit Judicial Council in the matter of certain complaints against United States district judge Alcee L. Hastings transmitted to the House of Representatives under section 372(c) of title 28, United States Code, is released, at noon on the second day following adoption of this resolution, under section 372(c)(14) of such title. All other papers, documents, and records of proceedings relating to such matter transmitted to the House of Representatives under such section 372(c) are, to the extent ordered by the Committee on the Judiciary, released under such section 372(C)(14).

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the need for House Resolution 274 arises from the House's inquiry into whether U.S. district judge Alcee L. Hastings should be impeached.

Judge Hastings and William A. Borders, Jr., were indicted in December 1981, and charged with conspiring to solicit and accept a bribe in exchange for influencing the outcome of a case before Judge Hastings. Mr. Borders was found guilty in March 1982, and Judge Hastings was acquitted in February 1983.

Shortly thereafter, two district judges filed a complaint against Judge Hastings with the Judicial Council of the 11th Circuit Court of Appeals, requesting an investigation to determine whether Judge Hastings had engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. The Judicial Council appointed a committee of five Federal judges to investigate the complaint.

On August 4, 1986, the Investigating Committee submitted a report on its investigation to the Judicial Council of the 11th Circuit. The Judicial Council adopted the Investigating Committee's report and recommended that the Judicial Conference of the United States certify that Judge Hastings may have engaged in conduct which might constitute grounds for impeachment. The Judicial Conference concurred in that recommendation and so certified to the Speaker on March 17, of this year. The Judicial Conference also transmitted to the Speaker the Investigating Committee's report and records.

The Committee on the Judiciary is now conducting its own inquiry in order to determine whether impeachment of Judge Hastings is warranted. The committee has hired a staff that has been investigating the facts and addressing legal issues which have arisen in connection with the inquiry.

All of the material transmitted to the Speaker on March 17, 1987, by the Judicial Conference is by law confidential, but 28 U.S.C. 372(c)(14)(A) authorizes the House to release material "which is believed necessary to an impeachment investigation or trial of a judge * * *." House Resolution 274 authorizes such release.

The resolution directs the release of the Investigating Committee's report at noon on the second day after adoption of the resolution. The resolution also authorizes the release of the other materials transmitted by the Judicial Conference to the extent authorized by the Committee on the Judiciary.

All of the Investigating Committee materials transmitted by the Judicial Conference have been carefully studied to determine whether release is in the public interest. The report presents the factual findings and analysis of the Investigating Committee which led to the certification of this matter to the House. Judge Hastings had access to the report and accompanying materials before the Investigating Committee made its findings and recommendations, and he has stated on numerous occasions that he supports disclosure of the report. In the committee's judgment, the report can be released without editing.

The committee believes, however, that the other materials should be treated differently. Those materials include original documents that were exhibits and the transcript of the proceedings before the Investigating Committee, and they are more appropriately released on a limited basis. For example, Judge Hastings and his counsel should have access to such material as may be relevant to any proceedings that might be conducted. House Resolution 274 authorizes the Judicial Committee to permit such access.

Mr. Speaker, the Committee on the Judiciary unanimously reported House Resolution 274, and I urge its approval.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have been anxious for this moment to arrive for a long time on this particular question. We have by reason of necessity, our Subcommittee on Criminal Justice, been indulging in executive session because of the very nature of this inquiry which is possible impeachment. We have worried throughout this long process up to now about when will come the moment when we can make certain aspects of the inquiry public.

As the chairman of the Subcommittee on Criminal Justice has aptly stated, the crux of this whole inquiry is borne in the report of the Judicial Conference, when to make that available to the public, when to make it available to the judge who is the target of this investigation? That question was burning in the minds of many.

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That question was burning in the minds of many. Now we can be relieved of the burden of holding back the information that should be made public which we always wanted to be made public, but it was a question of when.

When would the time arrive? When would the background work be accomplished once security measures would be put in place, and so Judge Hastings from the start requested that it be made public.

Not one of the Members hesitated in our intention to make it public. Now that moment has arrived. Because now this will be made public, we can truly say that now it has begun.

The most serious duty that can be imposed upon the House of Representatives to inquire about a possible impeachment, that hour has come; and from now on, that heavy duty will be exercised diligently and with openness that is required for a fair and impartial process.

To judge a judge or not to judge a judge, that is the question. That duty has fallen upon the Members. We are going to exercise it carefully with as much time as it might require, with the burden now lifted from our shoulders of what or what we should not make public.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Resolution 274.

This measure provides for the release of the report of the Investigating Committee of the 11th Circuit in the matter of Federal District Judge Alcee Hastings. The Judicial Conference, based upon this report, has recommended that the Congress consider whether grounds exist for the impeachment of Judge Hastings. The law requires the full House act to release this material.

Two considerations must guide us as we investigate and weigh the recommendation of the Judicial Conference. The first is absolute fairness to everyone; the second is; to the extent possible; an openness of process which gives our Nation confidence that the Constitution is being applied as it was meant to be. In releasing this report I think both objectives are being met.

Judge Hastings has long advocated release of the document and the Criminal Justice Subcommittee has determined there is no legitimate reason why it should not be released. The major reason for nondisclosure until now has been satisfied. It is important to bear in mind that much of the material discussed in the report was previously made public at Judge Hastings' bribery trial, at which he was acquitted. As for openness of process, people have confidence in a process they see is being properly conducted and therefore unwarranted secrecy should be avoided.

Mr. Speaker, I know of no opposition to this measure and urge its adoption.

Mr. RODINO. Mr. Speaker, I support the resolution. Judge Hastings has urged that the Investigating Committee report be made public, and there is no indication, after review, that release would be seriously detrimental to the interests of anyone. Fairness and the public interest will be served by disclosure of the factual findings and analysis of the investigating committee of the 11th circuit, which was subsequently adopted by the 11th Circuit Judicial Council, and the Judicial Conference of the United States. The judicial conference's certification rests upon the report, and the basis for the certification should be made public.

The committee recognizes that there may be circumstances in which disclosure of other materials would be appropriate. The gentleman from Michigan has identified one such circumstance—to permit Judge Hastings to prepare for any proceedings that might be conducted. House Resolution 274, therefore, appropriately reserves to the committee the discretion to release these materials as the need arises. I strongly support the resolution and urge its adoption.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SKAGGS). The question is on the motion by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and agree to the resolution, House Resolution 274.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 274, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

INTRODUCTION OF THE AIDS PREVENTION ACT OF 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. KEMP] is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, today I am introducing legislation to stop the deadly spread of AIDS, the acquired immune deficiency syndrome.

The Centers for Disease Control report that there are now about 42,000 cases of AIDS, projected to multiply to 270,000 in 4 years, with 179,000 deaths. But these numbers represent only the final stage of a progressive disease—5 to 10 years or more after the initial infection. There may be as many as 2 million Americans or more who are now infected with the AIDS virus—and yet more than 9 out of 10 don't know they are infected and are capable of spreading this deadly virus to millions more.

The dimensions of the challenge are not overblown. The battle against this epidemic must begin. If we unite and if we summon our deepest courage, our compassion, and our wisdom and unwavering will, then Americans can conquer AIDS. Fortunately there is hope. Within only a few years, scientists have identified the AIDS virus, they have studied the stages by which the syndrome develops, they have identified how the virus is spread. They have even begun working toward a cure and a vaccine, although the peculiarities of the virus create enormous difficulties.

The public health threat of AIDS is far more prevalent than commonly believed. Experts believe that AIDS begins with a virus which, though it can kill by itself, more frequently causes death by facilitating so-called "opportunistic" diseases, which take advantage of the virus' suppression of the body's normal immune reactions. The Centers for Disease Control have restricted the definition of reportable AIDS cases to the full-blown syndrome. That's where the number of 42,000 AIDS cases comes from. But the virus can be spread by any of the estimated 1.5 to 2 million people who have either the so-called AIDS-related complex [ARC]—a condition that falls short of full-blown AIDS—or no symptoms at all. According to Dr. Robert Redfield, head of Walter Reed's Department of Virus Diseases, "It's critical that we change our focus from AIDS to the virus. The number of AIDS cases is the problem as defined a decade ago. The virus represents the magnitude of the problem today."

According to the New England Journal of Medicine, homosexuals account for about 74 percent of AIDS cases, of which a tenth are also intravenous drug abusers; about 17 percent are IV drug addicts; 4 percent are heterosexuals who contracted the disease from an infected partner; and 3 percent by blood transfusion, almost entirely before routine testing of blood donors was begun. About 3 percent are unknown, though cases definitely traced to other than "high risk" methods have been relatively rare. But like the total number of AIDS cases, these proportions reflect the pattern of infection several years ago. Dr. Redfield predicts, "Unfortunately, in the absence of a scientific solution over the next decade, heterosexual transmission will become the major mode of transmission in the United States. We have an opportunity to challenge this deadly virus, but we must recognize our common enemy for what it is, a deadly sexually transmitted disease."

This leads to an issue which the Congress and all those who deal with the AIDS crisis must address. While AIDS is a public health issue, it includes both medical and moral problems which cannot be ignored. Anyone who claims it is exclusively a medical problem, or only a moral question, is dangerously fooling himself.

Historian William H. McNeil observes that syphilis was the only disease to flourish in the face of a functioning medical corps during World War I. He wrote: "That disease did attain epidemic proportions among British troops, and army doctors failed to handle it effectively at first, more from moral than for medical reasons." Yet, President Franklin Roosevelt's surgeon general was able to reduce the spread of syphilis, even before a cure was found, through a no-nonsense approach of education about necessary behavior changes, widespread routine testing, and confidential contact tracing.

In the same way, dealing with AIDS and its repercussions will inevitably lead to questions of priorities—protecting the civil liberties and guarding the confidentiality of AIDS victims on the one hand, and safeguarding the health and well-being of society as a whole, on the other. It also raises unavoidable questions about the behavior which can spread—or prevent—the disease.

Part of the problem is that our society has been sending conflicting signals on the choices we make. Columnist William Raspberry has written, "We remain * * * absolute when it comes to illicit drugs, while in matters of sex, we are rapidly adapting what I call normative morality—a tendency to set rules not on what we think proper behavior, but on what people actually do."

But as President Reagan pointed out, "When it comes to preventing AIDS, don't medicine and morality teach the same thing?" All the research we have confirms that the answer to that question is "Yes, they do."

The general outlines of public policy in response to AIDS can be dictated by common sense and the biological and sociological nature of the disease. The bad news about AIDS is that, for now, it is deadly, incurable, and has no vaccine. The good news is that infection with the AIDS virus is preventable. In setting public policy we must be guided by two principles—caring and responsibility.

We must give the same compassionate care to AIDS patients and their families as for those who suffer from any other similar deadly disease. And this includes vigorously supporting the search for effective treatments and for a vaccine. It includes making sure that AIDS sufferers receive full medical treatment and counseling. And it includes safeguarding the traditional confidentiality of medical records.

At the same time, we must exercise responsibility. Responsibility might almost be defined as caring for the potential victims of AIDS. When a fatal disease has no cure, it is only common sense to place the greatest emphasis on preventing its spread. This involves helping people infected with the AIDS virus to find out, so they can take the necessary steps to obtain the best medical care to remain as healthy as possible, but also to avoid infecting others. While privacy must be safeguarded, it is not absolute; it does not supersede the right to life. And in fact, both are routinely respected in the existing framework for dealing with diseases: we do not have to reinvent the wheel.

A reasonable, comprehensive national strategy against AIDS based on these two principles—caring and responsibility—must include the following elements: detection, prevention, education, treatment, and research. Research efforts have already been intensified at the Centers for Disease Control, the National Institutes of Health, the Walter Reed Army Institute of Research, and other medical research facilities. While Congress has acted to appropriate money for research and treatment of AIDS, there has been almost no action on preventing the spread of the disease. To fill in the gaps in current policy, I am introducing legislation to establish Federal grants to the States for testing, confidential contact tracing, education, and health care planning.

1. TESTING

There is a growing consensus on the need for testing to determine who is infected. According to Dr. James Curran of the Centers for Disease Control, AIDS testing should be a "standard medical practice." Millions of blood donors and members of the military are already routinely tested. The President has issued an executive order requiring that immigrants, who are already tested for other communicable diseases, also be tested for AIDS. My bill provides a 3-year matching block grant program to the States to carry out mandatory, routine or voluntary testing, including mandatory or routine testing for those who: donate blood, semen, or an organ; receive health care for substance abuse or any sexually transmitted disease; are imprisoned in any State penal or correctional institution; are admitted to a hospital for the purpose of receiving health care between the ages of 15 and 50; receive health care or counseling services from a family-planning clinic; or, who apply for a license to be married.

It has been objected that routine testing would drive those infected with the AIDS virus underground. In fact, more than 9 out of 10 are already "underground," because they don't know they are infected. Based on the CDC estimate, at most 6 percent of those infected with the AIDS virus in the United States have been tested for it. By a similar estimate, only 1 percent of infected persons in New York City have been tested. Significantly, 13 percent of those infected in Colorado, which encourages testing, have been tested—13 times as much as in New York City. But much more needs to be done.

It has been objected that testing relatively low-risk groups for AIDS is like a drunk looking for his lost keys under the lamppost because the light is better there. Yet many of the same people who raise this objection want to educate school children about the threat of AIDS and indoctrinate them in the use of condoms as young as the third grade. Third-graders are not exactly a high-risk group.

The fact is that routine screening is suited precisely for those people who don't think they are at risk. Testing almost 2.5 million members of the armed forces has already detected more than 3,700 people who didn't know they were infected and might have infected others. The main point of routine testing is to prevent the tragedy of spreading a deadly disease to others, including helpless infants. If it prevents even a few of these cases it is worth it.

It is further argued that "false-positive" blood tests would inflict unnecessary anguish. In the initial screening test, there does appear to be a chemical tradeoff between sensitivity—catching substantially all cases—and specificity—detecting each one accurately. But this has already been addressed. Those who test positive in the initial screening receive a second and a third test of a different kind to confirm or reject the diagnosis. The chances of a false positive after the whole series are extremely low. And I believe we must weigh the possibility of ruining someone's day against the possibility of ruining someone else's life. My legislation provides for strict Federal guidelines to ensure the quality of AIDS testing.

It is also argued that in testing the general population, the cost for each AIDS case detected is too high. But the costs of routine testing are routinely overstated: the military has been able to perform the initial test for 82 cents each, and the entire series for less than $5 each. It is true that in the private sector the related hospital fees and overhead can add to this cost. But these costs would also decline with volume. The goal of saving lives is paramount. In addition, prevention is much cheaper than treatment of an epidemic. Medical costs average $60,000 for each AIDS patient. This means that if one AIDS case is prevented for about every 15,000 people tested, the testing will have paid for itself even in dollars.

2. CONFIDENTIAL CONTACT TRACING.

Finding out who is infected with the AIDS virus is necessary before we can contain its spread, which is why routine testing has gotten a great deal of attention. But it's time to deal with the problem of how to proceed on the basis of test results. The concern, obviously, is confidentiality. But the idea of confidentiality can be abused. For example, the California law that prohibited the contacting of sexual partners or the notification of medical personnel of a positive AIDS test—such as telling a pediatrician that a child's mother tested positive—has been a threat to public safety.

I believe that the answer is to make positive blood tests for the AIDS virus, as well as the AIDS-related complex (ARC) and AIDS, reportable to public health authorities, like many other communicable diseases. This serves two purposes.

First, it would help the public health authorities to prevent spread of the disease, through confidential contact tracing. Syphilis and hepatitis B are already handled in this way.

Second, it would protect confidentiality. Public health authorities and private physicians have had a great deal of experience in protecting the confidentiality of medical records. And public health records are protected by law. Even in tracing sexual contacts, public health officials generally state that they have reason to believe the person has been exposed to infection—not the name of the partner. Public health officials may not turn over such records to anyone else, including government agencies, without a court order. I believe the state of Clorado's program shows that a program of confidential contact tracing can protect both legitimate confidentiality and public health at the same time.

Knowledge must be handled on a right-to-know basis. Obviously, if a student is infected, this should be reported to the local school superintendent or school board president, who has responsibility for the protection of that child and other students. And emergency personnel and public health care workers must be informed to prevent their contracting the virus in the course of their work. They must be allowed to take protective measures, though not to refuse assistance.

My bill would require states which obtain grant money for testing also to provide counseling with respect to prevention, exposure, and transmission of the AIDS virus, to undertake confidential contact tracing, and to ensure confidentiality concerning services received and test results. Disclosure of test results in limited circumstances is allowed: first, with the written consent of the individual undergoing testing; or second, to disclosure, as appropriate, to public health officials, health care providers, emergency personnel, embalmers, parents of minors, school officials, sexual partners, a spouse, and those who shared hypodermic needles with an infected person; and third, provides substantial penalties for unauthorized violations of confidentiality.

All aspects of the States' programs for testing, reporting, contact tracing and counseling must meet my bill's strict requirements for confidentiality.

A few have argued that both testing and tracing are useless as long as there is no cure for AIDS. This is simply wrong. AIDS cannot be cured yet but it can be treated. Those who have been infected can protect their health and prolong their lives, with proper medical care, diet and hygiene to reduce the risk of opportunistic infections. And what is just as important, those who are infected have a responsibility to avoid spreading the virus.

Society depends on its implicit trust in the idea that people behave responsibly. Laws and penalties are established primarily for the protection of the many against the few who do not. It is no different with AIDS. We must proceed on the assumption that most people do not wish to infect others with a virus which could result in their death. There have been some cases of individuals who, whether from malice, negligence or despair, knowingly engage in behavior which can infect a healthy person. But there are already State laws that make it a crime to knowingly infect someone with syphilis. Such laws should be generally enacted or extended to include the AIDS virus.

3. EDUCATION

The program of testing and confidential contact notification is itself an effective means of education. But the public should receive accurate information about AIDS through other channels. Yet here also there has been a certain amount of schizophrenia. Many who are most adamant against a prudent testing program are adamantly in favor of advertising condoms on the public airwaves.

The federal government should provide accurate information about AIDS to state and local authorities, including local school boards. It is the responsibility of the local authorities to present this information in a way best suited to the particular community and the age and needs of a particular audience. For example, much more needs to be done to reach the sexual partners of intravenous drug abusers.

I believe Secretary of Education Bill Bennett is correct in urging the importance of incorporating the traditional understanding of right and wrong into such programs. This is not only valid as a general principle; it is a simple medical fact that traditional views of sex and marriage are the best means for preventing the spread of the AIDS virus. Competent medical authorities say that the use of condoms can diminish the risk of contacting AIDS, but do not claim that this makes sexual contact with an infected person "safe." In one study, 17 percent of couples who used them still contacted the virus. This deserves a footnote, not top billing.

My bill would establish a grant program through the Department of Education to state and local educational agencies, institutions of higher education, and other public and nonprofit private entities. These organizations would be able to develop programs for educating students at secondary schools and institutions of higher education with regard to the risk, prevention, and transmission of AIDS. Such programs would: First, inform recipients of current scientific information regarding AIDS: second, discourage the behaviors which place individuals at high risk of contacting AIDS: third, promote sexual abstinence before marriage and fidelity within marriage; and be appropriate for the age of the students for whom the program is developed.

4. HEALTH CARE PLANNING

The AIDS epidemic will place increasing pressure on our system of medical care. It will demand more personnel and cost more money, but does not appear to require a major restructuring of the system. However, we must improve the access to medical care. My bill would establish a grant program to allow States to assess the adequacy of their health care system and to explore the formation of risk pools for the otherwise medically uninsurable. Many States have already set up such risk pools for uninsurable motorists; there is no inherent reason why the same principle cannot be extended to medical insurance.

COST

My bill would authorize Federal support for routine AIDS testing, follow-up counseling, and confidential contact tracing in the form of matching grants to the States. The Federal Government would pay a 75 percent matching share the first year, 50 percent the next, and 25 percent the third year. This would provide an incentive for acting quickly.

Based on preliminary estimates, the cost of testing, counseling and contact notification at the State level would be about $300 million. This is based on preliminary estimates for testing State prisoners, applicants for marriage licenses, sexually transmitted diseased clinics, family planning clinics, drug clinics, and hospital admissions. Including related hospital fees and overhead, the total cost could be about $1 billion at current prices. However, these overhead costs ought to decline sharply with a large volume of testing. Therefore, I have decided to introduce legislation with appropriations based on the testing and follow-up alone, without current hospital fees and overhead. The Federal share is $229 million the first year. For AIDS education grants I have proposed $50 million a year, and for helping States plan for medical services, $5 million.

Our goals in combatting the AIDS epidemic are clear: to protect those who aren't infected, to care for those who are infected, and the do all that is humanly possible to preserve precious lives that are threatened by this dread disease.

It is time to break up the public policy logjam. While we must avoid alarmism, we must also avoid complacency. The facts about AIDS are serious enough to demand a far more serious national response than we have seen so far. A stronger, more effective national response will require our elected officials to sort through the facts, the advice of the experts and the claims of interested parties in order to reach a solution which is effective, fair, and promotes the common good. I believe I have outlined such an approach, which can be modified as necessary to cope with new developments.

We must continually integrate the latest facts and expert advice into our policy response. We must register and deal with objections. But in doing so we must know the difference between tolerance and moral relativism, between being judgmental and exercising good judgment. Let us get on with the job of stopping the spread of AIDS and the anxiety of AIDS, a deadly disease, but which, given firm and clearheaded public policy, is eminently preventable.

SUMMARY OF AIDS PREVENTION ACT OF 1987

Rep. Jack Kemp introduced the AIDS Prevention Act of 1987 on October 5, 1987. The bill establishes programs of federal grants to the states for mandatory, routine or voluntary testing for the AIDS virus, counseling, confidential contact tracing, education, and health care planning.

TESTING, COUNSELING, CONFIDENTIAL CONTACT TRACING

Grants shall be provided to States which take measures to prevent and control the AIDS virus by agreeing to:

Provide mandatory, routine, or voluntary testing, including mandatory or routine testing for those who:

Donate blood, semen or an organ;

Who receive health care for substance abuse or any sexually transmitted disease;

Are imprisoned in any State penal or correctional institution;

Are admitted to a hospital for the purpose of receiving health care and between the ages of 15 and 50;

Receive health care or counseling services from a family-planning clinic;

Apply for a marriage license.

Provide counseling to those who undergo testing with regard to preventing exposure to, and transmission of the AIDS virus.

Report positive test results for AIDS virus to public health authorities.

Institute confidential contact tracing to at-risk contacts of those who test positive.

Ensure that strict confidentiality is maintained through all phases of testing, reporting, contact tracing, and counseling, with substantial penalties for violations of confidentiality.

Permit disclosure of test results only in limited circumstances:

With written consent of the individual who has been tested; or

To prevent infection of others, including disclosure, as appropriate, to public health officials, health care providers, emergency personnel, embalmers, parents of minors, school officials, sexual partners, the spouse, and IV drug partners.

AIDS EDUCATION

Grants shall be provided to the States to develop programs to teach students in secondary schools and institutions of higher education regarding the risk, prevention, and transmission of AIDS.

Education programs shall:

Inform recipients of current scientific information regarding AIDS;

Discourage the behaviors which place individuals at high risk of contracting AIDS;

Promote sexual abstinence before marriage and fidelity within marriage;

Be appropriate for the age of students for whom the program is developed.

HEALTH CARE PLANNING

Grants shall be provided to the States to explore the formation of risk pools for the otherwise medically uninsurable.

FEDERAL FUNDING

For testing, counseling, and confidential contact tracing, the federal government shall provide a three-year matching block grant, in which the federal share is 75% the first year, 50% the second year, and 25% the third year. Federal appropriations of $229 million, $152.5 million, and $76.5 million are authorized, respectively.

For education grants, the federal government shall provide $50 million each year for three years.

For health care planning, the federal government shall provide $5 million to help develop uninsured health risk pools.

Total authorized: $623 million over three years.

CREDIT CARD COMPANIES DISPLAY DISREGARD FOR CONSUMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, last year, market dominance, highly financed promotion campaigns, and usurious interest rates earned the credit card industry over $5 billion in pretax profits, making this the most profitable segment of the banking industry. It is easy to see why the banking industry is so protective of this part of their profitmaking structure.

While I understand the needs of the business community in our proudly capitalistic society, it strikes me as distinctly un-American to engage in business practices that mistreat and deceive the American consumer in order to earn outrageous profits. Therefore, I demand that these companies and their member banks treat the American people fairly, openly, and intelligently. it is a business philosophy that should not have to be forced upon them, yet, their behavior demonstrates that perhaps it must.

Credit card companies and banks refuse to confront the issue of high interest rates head on. When they are challenged by a competitor they resort to frills, gimmicks, and enhancements to lure customers. The Citicorp Diners

Club card seduces those receiving its solicitation with "new financial fexibility." Advertised are gifts, rewards, special deals on hotels, and workout centers. In far less prominent view, the membership fee is noted. What the promotion letter doesn't seem to mention is that the balance is due in full each month.

Recently Visa ran an advertisement entitled, "How to stop Optima from making off with your best customers." In its Visa enumerated a number of recommendations and services available to help member banks "compete" with American Express' new 13.5 interest rate Optima card. The advertisement outlines a series of ploys and gimmicks that, I am sure, they hope will distract the consumer from their real concern—Optima's low interest rate. Why not show the American consumer some respect and fairness by engaging in direct competition and reducing rates?

I am appalled that not once is the real issue addressed. Not once is the issue of reduced rates discussed. Bankcard companies continue their contemptible assault on the pocketbooks of the American public.

Credit card companies hope that these inducements will distract the consumer from the real issue of exorbitant interest rates. While the small banks that offer competitive rates advertise those rates, the large money-center banks that control the market focus on unnecessary and nonfinancial "enhancements." The 70 percent of the card users that roll over balances each month are interested in the financial terms of the card. Interest fees, annual rates, and grace periods are the factors of concern to most consumers. But these are the factors that big money-center banks keep from the prospective customer.

Although excessive bankcard interest rates have received much attention recently, bankcard companies are able to resist the pressure to reduce rates. These companies continue to ignore the realities of the marketplace and maintain highly inflated interest rates.

Over the past few years we have witnessed the dramatic decline of other consumer-affecting interest rates. The prime rate has plummeted to 8.75 percent, mortgage rates have dropped to around 11 percent, and the Federal Reserve discount rate has fallen to 6 percent. Yet, credit card interest rates have climbed.

This is particularly distressing when measured against the discount rate. Issuing banks have watched their cost of funds drop from 14 percent to 6 percent but have done nothing to act fairly and pass this reduction on to the consumer.

Another example of their contempt for the consumer is a statement made by John H. Bennett, senior vice president for Visa International. After describing support for credit card information disclosure as "unfortunate," he pointed out that bankcard profits were unparalleled and, on the average, bankcards earned banks 10 percent of their profits on 3 percent of their assets.

He compared interest rate competition with delinquencies and charge-offs as "threats to your profits." He then suggested that there are "some ways to compete without a total price war breaking out." Continuing his not-so-veiled encouragement of deceptive practices, he suggested that card-issuers respond to price competition by setting up promotional programs comparable to airline discount fares. "Try to get one of those discount fares," he said. The attitude appears to be: "fight fire with smoke."

While all of these statements exemplify a disdain for fairness and a certain ethical nonchalance, the most brazen display of contempt was aimed directly at the American consumer.

Speaking of those assembled, Mr. Bennett said, referring to credit card users, "Only 20 percent know what their correct annual fee or interest rate is. Almost all err on the low side, so the news there is don't tell them about what is really going on." I must admit that I was astonished at his open display of disrespect for the American consumer.

I would also like to quote Mr. Russell E. Hogg, president of Mastercard International. In his annual "state of the industry" speech to the national bankcard convention, Mr. Hogg said of the American Express Optima card, "No bank should find Optima receivables by selling the American Express Travelers Cheque or Gold Card."

It certainly is gratifying to see that Mastercard shares Visa's competitive spirit.

Need I say more? Is there any reason to believe that we can trust credit card companies and banks to treat the consumer fairly and respectfully. We have asked only to let free-market competition rather than market-dominating banks set interest rates.

It is necessary that we assume our regulatory responsibilities to protect our constituents from the unfair and deceptive practices of a large majority of credit card companies and issuing banks. When the bill on credit card information disclosure reaches the floor, I will respond by offering an amendment to cap credit card interest rates at 8 points above the yield on 1 year Treasury securities. This floating cap, adjusted quarterly, is a equitable response to an industry that has bilked the American consumer long enough.

TRIBUTE TO DOROTHY A. BEAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. Howard] is recognized for 5 minutes.

Mr. HOWARD. Mr. Speaker, last week the members and staff of the Committee on Public Works and Transportation, along with many of our friends, paid a well-deserved tribute to Dorothy A. Beam on the occasion of her birthday.

Although we gathered to celebrate her birthday, we also wanted to thank her for her 47 years of able service and hard work as a Capitol Hill staff member. Dottie Beam represents the finest in staff support for the members, for other staff members and for the public. She is the heart and soul of the Public Works Committee.

Dottie carries on her work, not only ably and professionally, but with the true human touch that shows that she cares about people.

I know that 47 years is a long time in any business but that is especially true on Capitol Hill. It takes a special kind of person to do the job that Dottie Beam has done as well as she has done it for that long. All of the members of the committee look forward to many more years of working with Dottie.

THE FULL EMPLOYMENT ALTERNATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Hawkins] is recognized for 60 minutes.

Mr. HAWKINS. Mr. Speaker, earlier this year at the time of the first concurrent resolution on the budget, I had the privilege of addressing the House on economic goals and policies as provided in the Full Employment and Balanced Growth Act.

At that time we indicated certain expressions of some degree of doubt, that we could achieve under current economic policies the objectives of the Full Employment and Balanced Growth Act.

It is for that reason that I submit that we would revisit what we had predicted at that time and how well we have accomplished what was thought to be the achievable goals and policies under the current instances of the emplementation of the budget.

In no respect do I demean the work of the Committee on the Budget. As a matter of fact, I would like at this time to commend the gentleman from Pennsylvania [Mr. Gray], our distinguished colleague, and all of the members of the Committee on the Budget in the House.

I think the members have done a remarkable job; and as to the responsibility of this House, I think to a large extent, that committee has carried out its responsibilities.

However, in reviewing the accomplishments and where we stand today, I think that it is obvious that we are not pursuing a full-employment alternative, and that currently those who applaud the results of Reaganomics have bought into accepting 6-percent unemployment as the new full-employment threshold.

This assumption violates the mandates of law, as spelled out in the Full Employment and Balanced Growth Act of 1978, which set 4 percent unemployment as an interim level to achieve before reaching to lower levels of joblessness.

September's 5.9 percent unemployment rate is exceedingly high by historical standards. Such levels used to signify recession-level job loss, not the fifth year of an expansion. Settling for current levels of unemployment is not only morally disgraceful, it is also economically flawed.

No one spent as much time and effort implementing, studying, and analyzing full employment policy, as did the late Dr. Leon H. Keyserling, a former Chairman of the Council of Economic Advisers.

Last February, Dr. Keyserling appeared before the Joint Economic Committee, and as he had done so many times in the past, laid out a scathing indictment of our current and recent economic policy priorities and their effect on the health of the American economy.

In part, Dr. Keyserling testified; and I quote:

> Our long failure * * * is based upon an upside down set of priorities in dealing with national economic policies, involving * * * a confusion of means and ends. Predominant focus has remained upon the immense Federal deficit; chronically rising inflation; the imbalanced excess of our imports over our exports; and the huge fluctuation in the international exchange value of the dollar * * *. We have forgotten that these are but means to help achieve the ultimate purposes or ends of our economic society, by overcoming the grave chronic deficiencies in our average annual real economic growth, excessive and chronically rising unemployment, the intensifying maldistribution of national income and enjoyments, the increase in poverty, and the growing shortfalls in Federal assistance to our great national priorities, including but not limited to education, health services, housing and public income supports where needed. These deficits tower above, in size and adverse consequences, the deficits which now absorb relatively too much of our attention.

Thus, the thrust of Dr. Keyserling's remarks was to urge our Government to use the setting of annual economic goals as a procedure for embarking on an economic program of balanced growth in the production of goods and services and full employeemnt opportunities afforded in the American society.

Congressional efforts establishing artificial annual deficit reduction numbers must never serve as our yardstick for policy decisionmaking. To permit Gramm-Rudman-Hollings to become more than a political exercise would be the ultimate corruption of good economic practice.

Instead of examining the serious financial and social repercussions of a failure to invest in the education, training, and employment of unskilled people, we are reduced to sleight-of-hand numbers games, and the slow destruction of effective programs, just to reach an arbitrary deficit level within a given timetable. This policy ignores the resulting future costs inherent in not investing in order to eliminate current deficiencies.

I believe, therefore, that it is now time that we should look at what we are doing, review it and offer alternatives.

The interim goals of the Full Employment and Balanced Growth Act was a reduction in unemployment within 5 years to an interim number of 4 percent and the reduction of inflation to at least 3 percent.

The extent to which we have complied with or have failed to comply with such a goal has been due to the faulty policies of the current administration.

□ 1500

I think we should therefore seriously ask ourselves today, how well are we doing? What is happening to the general living standards of the American people? Do we have a stable domestic and international economy?

I think in dealing with these questions we should reject out of hand altogether the idea that knowledge of the truth produces gloom and doom, as some would call such a knowledgeable understanding of the truth, and whether ignorance of what the facts really are creates improvement and confidence.

In this regard, let me again quote from our friend, Leon Keyserling, when he raised the problem recently in a publication of his, "The Public's Right to Know Is Also a Public Necessity."

He indicated in his remarks that the deliberate and sustained practice of obfuscation by those who want to be free to continue to do just as they please, no matter how wrong and hurtful, makes it all the more important that the public be better informed about the essentials of the Fed's policies and their pernicious results. Even more than that, it is imperative that the public be better informed because by now it is apparent that there are those in authority who are adamantly determined to persist in their deeply hurtful course, and in fact, to accelerate it.

It has been a weakness of our democratic system that when the public has deliberately been kept in the dark, that we have failed to see the unique strength of our democratic system when the public has become enlightened, vigilant, and disturbed.

He goes on to say that the recurrent huge departures from the full use of our capabilities inflict far greater economic and social damage than any other selective trends in the economy, because the real strength and progress of the economy is measured and supported by real increases in the output and distribution of goods and services, and above all, by gains in living standards per capita.

This has always been an axiom of sound economics but it has tended to be forgotten.

Let us take up then some of the items that go to make up a healthy economy, a prosperous nation, and a good social system. First of all, balanced growth. How well are we really doing in terms of balanced growth?

Let me quote from a statement made by our distinguished colleague and my friend, Representative KEMP, on April 30, 1981, at page H1618 of the CONGRESSIONAL RECORD. He said, and I think it is very prophetic that he said it then, because it is truer even today:

> Had the U.S. economy from 1960 to 1980 grown at the same rate it did from 1962 to 1967, that is, around 4.5 percent to 5 percent in real terms—not nominal inflationary terms, but in real terms—the gross national product today would not be $2.5 trillion; it would be $3.7 trillion. We would have another $200 to $250 billion of Federal revenues. We could have spent more for defense. We would have had less need for social programs and more resources to pay for them. We would have a sounder dollar.

What Mr. KEMP said then that it was a deficient economic growth rate that was responsible for the failure to balance the budget, to provide for our national needs and even to pay for our national defense. If that were the fact in 1981, it is certainly truer today.

What has been the gross national product rate, the real rate of growth in this country today, despite the rhetoric that it has been otherwise? Let me cite for you year by year what the actual rate of growth has been.

In 1981: 1.9 percent.

In 1982: a negative 2.5 percent.

In 1983: 3.6 percent.

In 1984, the only good year, it was 6.8 percent.

In 1985: 3 percent.

In 1986: 2.9 percent, for a total average between 1981 and 1986 of 2.6 percent, obviously a very deficient economic growth rate which should have been somewhere between 4 and 4½ percent.

So, we have failed to establish an economy of balanced growth during all these years which largely explains the deficit and the failure of the American people to live up to a decent living standard.

Are we then on the road to the promised prosperity, or are we possibly on a road to recession? That is what we must ask ourselves under the current policies.

Let me read further some of the actual indicators, the comparison for the last 3 years with the first 1½ years of this administration. The real GNP growth rate for the last 3 years have been 2.8 percent.

The actual farm parity ratio, which pertains to the prosperity of the farming areas of this country has been a minus 9.6 percent.

The employment in manufacturing has been a minus 0.6 percent.

Real weekly earnings has been a minus 0.9 percent.

Obviously, these are recession vicinities. These areas are already in recession.

Housing starts have been a deficient minus 4 percent.

Domestic auto sales have declined from 22.1 percent in the first 1½ years of the Reagan administration to the current negative 4.7 percent.

All of these indicate that we are already in these areas in recession, what some economists would call a growth recession, to give it a decent name.

So, in terms of those indicators, it is obvious that we are not proceeding on a course of action which will bring us into the prosperity we were promised in 1981, but rather on the road to recession.

Let me further quote about the so-called road to recession, because recently in a Wall Street Journal article on September 10, 1987, the same analysis was made by the prestigious Wall Street Journal. It indicated that depending on what factors we use, some analysts are already indicating that we may be on the road to recession.

In a thought-provoking article in the Wall Street Journal, entitled "Recession of a Sort May Be Underway," a convincing argument is made that a recession seems to have already started, if we use the general living standard as the primary indicator, instead of only looking at the GNP growth. Obviously, the GNP growth would be no more optimistic, but using the general living standard, they indicate that the real per capita disposal income, which is after-tax personal income adjusted for inflation and population growth, that the real per capita disposal income has fallen to its lowest amount in a year. Even though the GNP is still rising, at a totally inadequate level, but rising nonetheless, this living standard gauge fell to an annual rate of $10,875, which is down $149 from the first quarter.

In the second quarter of 1986, this measure reached a high of $11,024; but as the article points out, this slippage is unprecedented at a time of supposed recession-free expansion.

I would like to read another paragraph from the same article in the Wall Street Journal in which it says:

> A new restiveness may in fact be developing. A recent Dean Witter Reynolds Inc. analysis suggests that the so-called misery index—the unemployment rate—has bottomed and henceforth will be heading up.

Let me next turn to a brief analysis of the job situation and the question of inflation. A great deal of rhetoric has recently been issued concerning how many jobs, a miracle job creation, going on in this country and then discrediting as a result of that that these jobs have indeed been at unprecedented rates.

Mr. Speaker, at this time I yield to my distinguished colleague, the Honorable MERVYN DYMALLY of California, who has, I think, a contribution to be made on the same subject. I would like certainly to commend the gentleman on the work that he has done in the field of poverty prevention, the work he has done on the Education and Labor Committee in the field of education and his chairmanship of the Congressional Black Caucus.

Mr. Speaker, I yield to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I thank the chairman of the Committee on Education and Labor for his consistent devotion to this subject of the economy.

By profession, Mr. Speaker, our friend, the gentleman from California is an economist, graduated from UCLA in the tough days when it was not easy to do so, and yet has had an interest in the whole question of the economy and has charged a very constructive course for us as chairman of the Committee on Education and Labor.

Unfortunately, his response and the response from the administration has not been as enthusiastic as the response from the Member of the House in legislation which he authored a couple of years ago, which unfortunately died in the Senate. That piece of legislation to reconstruct our cities would have put thousands of people in jobs and benefitted millions of Americans, and thus have avoided the situation in which we find ourselves today.

Mr. Speaker, we find ourselves in a very, very, critical situation with reference to the economy and its effect on children. We have developed in America a new class of children's poverty, so to speak. Children are becoming poorer and hungrier as a result of the economic policies of this administration.

Mr. Speaker, a famous American, Frederick Douglass, said once to this Nation as it gathered to celebrate the Fourth of July: "You have no right to enjoy a child's share in the labors of your fathers unless your children are to be blest by your labors".

We have reached a point in the history of our Nation that the challenge of surviving the ravages of poverty and hunger has reached epic proportion. The dimensions of hunger are vast—the numbers of people affected—the numbers of lives lost—and the numbers of lives so stunted that their promise cannot be fulfilled. Every year, over 15 million lives are lost to malnutrition-related illnesses.

Regrettably, this crises has only been compounded by the current economic policies of this administration. There is an endemic relationship between poverty and hunger—and as a Nation, we have become robber barons of the poor. In 1978 there were 24.5 million Americans in poverty. By 1984 the number had risen to 33.7 to 14.4 percent of the population.

Who are the beneficiaries of this legacy of neglect? Our children. Almost half of our Nation's poor are children—more graphically—one in every four children under 6, eats one meal a day. This crisis has spilled into every avenue of relief that our communities can offer.

We approach yet another winter of long lines at soup kitchens and food pantries. The United Way has doubled its funding for food and nutrition programs from 1981 to 1987. Food banks, the organizations which provide direct donations from industry to create the private sector's response have required unprecedented monetary commitments. As an example, Second Harvest, which began by supplying a church feeding program in Phoenix in 1966, last year also served as a nationwide repository for the distribution of more than $114 million to food banks across the country.

Bread for the World, in a survey of 36 localities from Boston to San Diego, found food demands far exceed the capacity of voluntary groups.

My colleague, and chairman of the House Select Committee on Hunger, MICKEY LELAND, in appealing to this body to expand our Nation's commitment to feeding the hungry challenged: "The greatest deficit in the Nation is not in dollars but in health and human potential. It is caused by letting children live in hunger and poverty."

We have allowed this administration to slam shut the door of opportunity to an entire generation—under the guise of budget balancing. With Federal cutbacks in food programs and restrictive policies which discourage the poor from participating in the very programs that were established to protect their nutritional status—we have created a permanent malnourished underclass.

The Department of Agriculture has acknowledged that nationally, one-third of those eligible do not use food stamps. There are 2.9 million poor children eligible for free or reduced price school lunches who do not get it. Although there are 14.6 million school age children in poverty, only 3.9 million receive school breakfast. Everyday, hungry children in crowded classrooms lose out on learning.

A nation which spends $800 billion a year on military programs yet allows one in every four of its citizens to suffer hunger—is a nation which has lost sight of its future.

And if there is a lien against the future of our Nation's children, in general—poor America is in foreclosure. The percent of black people in poverty is 31.3 percent, three times the rate for whites. A black infant born within 10 miles of the White House is more likely to die in the first year of life than an infant born in Trinidad or Jamaica.

Poverty and hunger in America is a blight which casts a shadow of ominous foreboding. Unless we mobilize a collective effort to combat this imposing crisis, we will bear the collective responsibility for the demise of a generation already born to the vagaries of poverty and the devastation of hunger.

□ 1515

Mr. Speaker, I want to bring to your attention the fact that the economic policies of this administration have created havoc not only in our urban centers but in rural centers around this country. We have developed a new class in America, or new classes, I should say, the homeless, the hungry, the poor, most of whom are children. This is especially alarming considering the amount of money we spend on defense and on foreign expeditions.

So I think when we begin to talk about the drop in unemployment and we begin to boast on this floor about the robust economy we are experiencing, we need to carefully ask some questions of those Members who make those boasts. We need to carefully examine those who are benefiting from this so-called robust economy, and we need to focus attention on this new class of poor people in America as a result of the economic policies of this administration.

So I am very pleased, Mr. Speaker, to have the privilege and opportunity to join with the gentleman from California, [Mr. HAWKINS], chairman of the House Committee on Education and Labor, to bring to the attention of the Members of this House the critical situation in which our children find themselves during the course of this administration.

Again, I thank the gentleman for yielding time to me.

Mr. HAWKINS. Mr. Speaker, I thank the gentleman from California for his contribution.

Let me conclude by making some reference to jobs because I think a lot of the rhetoric is being floated throughout the country as propaganda to make the current job situation appear to be one of a miracle, a miracle of millions of new jobs being created.

However, when we look into the quality of the job, not just the quanitity, but the quality of the job, we find that the kinds of jobs that are being created in net constitute 44 percent in size, the new jobs pay poverty level wages, which is hardly anything to gloat about. Virtually all of the new jobs created since this administration has been in power pay less than $14,000 per year and two out of every three new jobs pay less than $7,000 a year.

So for every Wall Street financier who makes $1 million buying and selling stock options, millions of Americans and American wage earners, even those with jobs, find it impossible to make ends meet by the end of the month.

It has been said that if we have more jobs that we will increase inflation. This is totally inaccurate according to the facts and the empirical evidence of our history. We have achieved in various periods before this very low unemployment rate even in times of very low inflation. For example, it was only 2.9 percent in 1953, far below the current 5.9 percent. It was only 3.8 percent in 1966, without inflation. This was not during wartime, it was after the Korean War and before the Vietnam war. Again, it was 3.5 percent in 1969. During these times inflation was also under control.

On the other hand, during the Vietnam war period we did have very high unemployment rates, which I think convinces us that it does not mean we need war to create low unemployment. We simply need the leadership, we need the right policies and we need the moral leadership for the Nation in order to reduce the unemployment rate.

In 1976 we had requested in a congressional hearing at that time with the Budget Committee as to whether or not the unemployment rate could be reduced below 4 percent, which was a goal of the full employment bill. In answer to that question, Director of the Congressional Budget Office at that time, Alice Rivlin, replied in this manner:

> Most would also agree that measures to reduce structural imbalances in the labor market, to improve labor mobility, to reduce frequent occurrences of unemployment among the unskilled, and to improve employability by training and the elimination of discrimination could lower the unemployment rate at which the labor market becomes "tight". If such measures were adopted and were effective, a noninflationary unemployment rate could potentially be even lower than 3 pecent.

So I think it is pretty much not a question of the ability to achieve low employment, it is a deliberate policy to keep unemployment high, and the reason some give for that is that it might cause inflation.

I think it is pretty obvious that this is a tradeoff of jobs for so-called inflation. This obviously ignores the fact that we have had oil shocks to cause the increased inflation, we have had very high interest rates, we have had a lot of greed and corrupt practices to keep inflation high, because in some ways there are a few, only a few, who gain a temporary benefit from such inflation.

So I think it is pretty obvious that we can afford to put people to work, that it is desirable, that it is the best way to bring the budget deficit down. It is the moral thing to do, and certainly it is economically possible.

It is pretty obvious that we are faced during these days with the desire to balance the budget. Sharp reductions in domestic spending seem to be the order of the day, regardless of whether they are right or wrong.

It is to achieve a so-called fictional balanced budget process. Actually, cutting education and job programs, training and health, housing and other essential needs of the American people can only make things worse, according to what reliable economists would tell us. So that reductions in the deficit can only come about from a sustained period of gross national product, the real growth in the economy, and in putting the millions of unemployed people to work in real jobs, thereby to increase revenues. This obviously requires a change in the monetary and fiscal policies of this Nation. We cannot afford the current interest rates and the money supply and we should tell the Federal Reserve Board that.

In 1985 fiscal year, for example, excess interest rates cost us more than $135 billion. That could have bought a lot of jobs and housing and transportation, it could have helped the infrastructure and many other vital domestic needs.

We should obviously increase the growth rate of the country, not to keep it low because of this fear of inflation.

The only stimulus we have in the economy today happens to be the deficit, and if we reduce the deficit then obviously under Reaganomics we would, therefore, reduce the only stimulus that is in the Reagan philosophy. We need progressive taxation instead of the regressive taxes that have resulted from the 1981 Tax Act, and we should adjust those taxes to make them progressive.

Education and training must be a top priority of this Nation. The way that we have neglected education and the future of our children and of our country is certainly morally indefensible.

We have many things to do, Mr. Speaker, and tomorrow during a special order I hope that we will have Members of my committee, the Committee on Education and Labor, to explain the various job proposals, the various improvements in education that we feel are needed if we are to indeed improve the economy, balance the budget, and move ahead as a humane and progressive nation. We can do it. There is no reason for pessimism, there is no reason for doom obviously to be expressed if we recognize and know what we have to do. We have solutions available to us, and the only reason that we can be discouraged would be through a continuation of the current policies in this Nation.

It is well that we can recognize them in time, change them, and in that sense we should be prosperous and should be a hopeful and certainly optimistic people.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COBLE) to revise and extend their remarks and include extraneous material:)

Mr. Boehlert, for 5 minutes, on October 6.

Mr. Lewis of California, for 60 minutes, on October 7.

Mr. Lewis of California, for 60 minutes, on October 8.

Mr. Hansen, for 5 minutes, on October 7.

Mr. Hansen, for 5 minutes, on October 14.

Mr. Kemp, for 5 minutes, today.

Mr. Roth, for 60 minutes, on October 7.

(The following members (at the request of Mr. Hawkins) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Howard, for 5 minutes, today.

Mr. Hayes of Illinois, for 60 minutes, on October 6.

Mr. Penny, for 30 minutes, on October 6.

Mr. Alexander, for 45 minutes, on October 7.

Mr. Frank, for 60 minutes, on October 13.

Mr. Bonior of Michigan, for 60 minutes, on October 13.

Mr. Miller of California, for 60 minutes, on October 14.

Mrs. Boxer, for 60 minutes, on October 14.

Mr. Kostmayer, for 60 minutes, on October 15.

Mr. Glickman, for 60 minutes, on October 16.

Mr. McHugh, for 60 minutes, on October 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Ray, on H.R. 2416, in general debate.

Mr. Alexander, following his previous remarks on H.R. 3307.

(The following Members (at the request of Mr. Coble) and to include extraneous matter:)

Mr. Goodling.

Mr. Kemp in two instances.

Mr. Fields.

Mr. Gekas.

Mr. Lightfoot.

Mr. Livingston.

Mr. Courter.

(The following Members (at the request of Mr. Hawkins) and to include extraneous matter:)

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mrs. Lloyd in five instances.

Mr. Hamilton in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. de la Garza in 10 instances.

Mr. Daniel.

Mr. Ackerman.

Mr. Rodino.

Mr. Lantos in two instances.

Mr. Lipinski in two instances.

Mr. Slaughter of Virginia.

Mr. Markey.

Mr. Dorgan of North Dakota.

Mr. Vento.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 253. An act to convey Forest Service land to Flagstaff, AZ; to the Committee on Interior and Insular Affairs.

S. 322. An act to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia; to the Committee on House Administration.

S. Con. Res. 80. Concurrent resolution to express the appreciation of the Congress to the city of Philadelphia, the National Park Service, and We the People 200, Inc., for their hospitality during the July 16, 1987, ceremonies commemorating the bicentennial of the Great Compromise; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2249. An act to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 1691. An act to provide interim extensions of collections of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan, and for other purposes;

S.J. Res. 72. Joint resolution to designate the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week"; and

S.J. Res. 110. Joint resolution to designate October 16, 1987, as "World Food Day."

ADJOURNMENT

Mr. HAWKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 30 minutes p.m.) the House adjourned until tomorrow, Tuesday, October 6, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2187. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), Department of Defense, transmitting notification of munitions disposal, pursuant to 50 U.S.C. 1512(4); to the Committee on Armed Services, October 5, 1987.

2188. A letter from the Acting Secretary of Commerce, transmitting a report entitled Liability Risk Retention Act of 1986: Implementation Report, pursuant to 15 U.S.C. 390int.; to the Committee on Energy and Commerce.

2189. A letter from the Director (Office of Hearings and Appeals), Department of Energy, transmitting information concerning the filing for refund from crude oil overcharge funds now held by the Department; to the Committee on Energy and Commerce.

2190. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more to the Government of Egypt (Transmittal No. MC-32-87), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2191. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed issuance of an export license for the export of defense articles services sold commercially under a contract to Egypt (Transmittal No. MC-32-87), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2192. A letter from the Assistant U.S. Trade Representative for Administration, transmitting notice of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2193. A letter from the Vice President, Farm Credit Banks of Springfield, transmitting the annual report on the retirement system for the Farm Credit Banks of Springfield Retirement Plan for the plan year ending December 31, 1986, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2194. A letter from the Secretary of the Interior, transmitting the study report on the Trail of Tears with the recommendation that the proposed trail is suitable for designation by the Congress as a national historic trail, pursuant to 16 U.S.C. 1244(b); to the Committee on Interior and Insular Affairs.

2195. A letter from the Secretary of the Interior, transmitting the study report on the Juan Bautista de Anza Trail in Arizona and California, with the recommendation that the proposed trail is suitable for designation by the Congress as a national historic trail, and enclosing a draft of proposed legislation which, if enacted, would designate the trail, pursuant to 16 U.S.C. 1244(b) (H. Doc. No. 100-108); to the Committee on Interior and Insular Affairs and ordered to be printed.

2196. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting copies of grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

2197. A letter from the President, Vietnam, Veterans of America, Inc., transmitting the 1986 annual report and audit, pursuant to 36 U.S.C. 3812; to the Committee on the Judiciary.

2198. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 23, United States Code, to provide for the construction of new toll highways and for other purposes, to the Committee on Public Works and Transportation.

2199. A letter from the Assistant Comptroller General, General Accounting Office, transmitting a report discussion pilot projects in six states of the immigration status of alien applicants for Federal entitlement programs, pursuant to 42 U.S.C. 1320b-7nt., jointly, to the Committees on Government Operations and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Oct 1, 1987, the following reports were filed on Oct. 2, 1987]

Mr. BROOKS: Committee on Government Operations. Report on child care in Federal buildings (Rept. 100-333). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on failure and fraud in civil rights enforcement by the Department of Education (Rept. 100-334). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Consumer Product Safety Commission's response to hazards of three-wheel all-terrain vehicles [ATV'S]: a followup report (Rept. 100-335.). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary H.R. 3307. A bill to provide for an orderly transition to the taking effect of the initial set of sentencing guidelines prescribed for criminal cases under section 994 of title 28, United States Code, and for other purposes; with an amendment (Rept. 100-336). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary. H.R. 3258. A bill to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs (Rept. 100-337). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary. House Resolution 274. Resolution providing for the release of certain materials relating to the inquiry into the conduct of U.S. district judge Alcee L. Hastings (Rept. 100-338). Referred to the House Calendar.

[Submitted Oct. 5, 1987]

Mr. HUGHES: Committee on the Judiciary. H.R. 3226. A bill to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes; with an amendment (Rept. 100-340). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2325. A bill to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas; with an amendment (Rept. 100-341). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2416. A bill to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes; with amendments (Rept. 100-342). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular affairs. H.R. 2486. A bill to authorize the Secretary of Agriculture to acquire certain private lands to be added to wilderness areas in the State of Texas; with an amendment (Rept. 100-343). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular affairs. H.R. 2652. A bill to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes (Rept. 100-344). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3391. A bill to prohibit the importation into the United States of all products of Iran, and for other purposes; with an amendment (Rept. 100-345). Referred to the Committee on the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 or rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. de la Garza: Committee on Agriculture. H.R. 1622. A bill to provide that all U.S. cotton producers participate in defraying costs of their research and promotion program and that imported cotton and products be subject to the program assessments, and for other purposes; with an amendment which was referred to the Committee on Ways and Means for a period ending not later than December 4, 1987, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X. (Rept. 100-339, pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BILIRAKIS (for himself, Mr. Wyden, and Mr. Thomas A. Luken):

H.R. 3415. A bill to amend the Federal Trade Commission Act to authorize the Federal Trade Commission to prevent unfair or deceptive acts or practices by air carriers; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. DERRICK:

H.R. 3416. A bill to prohibit the importation into the United States of Russian-made textiles and textile products; to the Committee on Ways and Means.

By Mr. DORGAN of North Dakota:

H.R. 3417. A bill to provide for the treatment of payments associated with excess capacity of the Minot Pipeline, an extension of the Garrison diversion unit of the Missouri River Basin project in North Dakota; to the Committee on Interior and Insular Affairs.

By Mr. ECKART (for himself, Mr. Waxman, and Mr. Hoyer):

H.R. 3418. A bill to establish certain grant programs, requirements, and prohibitions for the purpose of protecting emergency response employees from infectious diseases, including acquired immune deficiency syndrome; to the Committee on Energy and Commerce.

By Mr. KEMP:

H.R. 3419. A bill to establish certain grant programs with respect to the prevention and control of acquired immune deficiency syndrome and related conditions; jointly, to the Committees on Energy and Commerce and Education and Labor.

By Mr. LAGOMARSINO:

H.R. 3420. A bill to change the name of Ventura Marina to Ventura Harbor; to the Committee on Public Works and Transportation.

By Mr. VENTO (for himself, Mr. Penny, and Mr. Frenzel):

H.R. 3421. A bill to amend title XVIII of the Social Security Act to permit a hospital to exempt a prolonged respiratory care unit that is a distinct unit of the hospital from the prospective payment system; to the Committee on Ways and Means.

By Mrs. BOXER (for herself, Mr. Miller of California, Mr. Wolpe, Mr. Mrazek, Mr. Smith of Florida, Mr. Towns, and Mr. Biaggi):

H.J. Res. 370. Joint resolution directing the Secretary of Transportation to develop a system of airline safety indicators and to provide information to the public on a semiannual basis on the safety of certain air carriers; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 612: Mr. Slattery, Mr. Shaw, Mr. Staggers, Mr. Horton, Mr. Markey, Mr. Jeffords, Mr. Owens of Utah, Mr. Lujan, and Mr. Synar.

H.R. 810: Mr. Dannemeyer.

H.R. 911: Mr. Stenholm, Mr. Bosco, Mr. Gordon, Mr. Hatcher, and Mr. Shuster.

H.R. 1148: Mr. Rinaldo and Mr. Glickman.

H.R. 1158: Mr. Shays.

H.R. 1259: Mr. Espy.

H.R. 1396: Mr. Craig.

H.R. 1636: Mr. Konnyu and Mr. Fazio.

H.R. 1647: Mr. Schuette.

H.R. 2051: Mr. Packard and Mr. Denny Smith.

H.R. 2248: Mr. Bates, Mr. Houghton, and Mr. Latta.

H.R. 2325: Mr. Pickle and Mr. Coleman of Texas.

H.R. 2384: Ms. Oakar and Mr. Coleman of Missouri.

H.R. 2559: Mr. Hall of Ohio, Mr. Traficant, Mr. Towns, Mr. Owens of New York, and Ms. Kaptur.

H.R. 2666: Mr. Panetta, Mr. Oberstar, Mr. Lowry of Washington, Mr. Smith of New Jersey, Mr. Early, and Mr. Rodino.

H.R. 2807: Mr. Feighan.

H.R. 2808: Mr. Feighan.

H.R. 2809: Mr. Feighan.

H.R. 2810: Mr. Feighan.

H.R. 2879: Mr. Hayes of Illinois and Mr. Vento.

H.R. 2958: Mr. Foglietta and Mr. Wise.

H.R. 2988: Mr. Beilenson, Mr. Kolbe, Mr. Konnyu, Mr. Miller of California, Mr. Badham, Mr. Hunter, and Mr. Lungren.

H.R. 3002: Mr. Fauntroy.

H.R. 3071: Mr. Wyden and Mr. Clay.

H.R. 3075: Mr. Cheney, Mr. Konnyu, Mr. Gallegly, Mr. Hyde, Mr. Craig, Mr. Armey, Mr. Harris, Mr. Morrison of Washington, and Mr. Rhodes.

H.R. 3228: Mr. Florio, Mr. Frenzel, and Mr. Bilirakis.

H.R. 3265: Mr. Clay, Mr. Roe, and Mr. Conyers.

H.R. 3391: Mr. Dorgan of North Dakota and Mr. Inhofe.

H.R. 3393: Mr. Feighan, Mr. Torricelli, Mr. Gordon, Mr. McCloskey, and Mr. Clarke.

H.J. Res. 137: Mr. Borski, Mr. Bruce, Mr. Campbell, Mr. Hefley, Mr. Hoyer, and Mr. Smith of Florida.

H.J. Res. 328: Mr. Chappell and Mr. LaFalce.

H.J. Res. 365: Mr. Anderson, Mr. Andrews, Mr. Badham, Mr. Ballenger, Mr. Barnard, Mr. Bateman, Mrs. Bentley, Mr. Beilenson, Mr. Bliley, Mr. Boehlert, Mr. Bonior of Michigan, Mr. Brooks, Mr. Broomfield, Mr. Buechner, Mr. Callahan, Mr. Clinger, Mr. Coats, Mr. Coble, Mr. Conte, Mr. Coughlin, Mr. Daniel, Mr. Davis of Michigan, Mr. DeLay, Mr. Dellums, Mr. Dickinson, Mr. DioGuardi, Mr. Dornan of California, Mr. Dwyer of New Jersey, Mr. Emerson, Mr. English, Mr. Fazio, Mr. Fish, Mr. Frost, Mr. Gekas, Mr. Gilman, Mr. Gingrich, Mr. Green, Mr. Gregg, Mr. Gunderson, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hastert, Mr. Hawkins, Mr. Hefley, Mr. Henry, Mr. Herger, Mr. Hiler, Mr. Hockbrueckner, Mr. Hopkins, Mr. Horton, Mr. Houghton, Mr. Huckaby, Mr. Hunter, Mr. Hutto, Mr. Inhofe, Mr. Ireland, Mr. Jenkins, Mr. Jones of Tennessee, Mrs. Kennelly, Mr. Kildee, Mr. Konnyu, Mr. Latta, Mr. Leach of Iowa, Mr. Lehman of Florida, Mr. Lent, Mr. Lightfoot, Mrs. Lloyd, Mr. Lott, Mr. Lowry of Washington, Mr. Donald E. Lukens, Mr. Madigan, Mr. Marlenee, Mr. McCollum, Mr. McEwen, Mr. McHugh, Mrs. Meyers of Kansas, Mr. Michel, Mr. Miller of California, Mr. Mineta, Mr. Moakley, Mr. Montgomery, Mrs. Morella, Mr. Morrison of Washington, Mr. Natcher, Mr. Nielson of Utah, Mr. Oberstar, Mr. Packard, Mr. Pashayan, Mr. Pepper, Mr. Petri, Mr. Pursell, Mr. Rangel, Mr. Ray, Mr. Rhodes, Mr. Rinaldo, Mr. Rodino, Mr. Rogers, Mr. Roth, Mr. Roybal, Mr. Schaefer, Mr. Schumer, Mr. Shaw, Mr. Shumway, Mr. Shuster, Mr. Sisisky, Mr. Skeen, Mr. Slaughter of Virginia, Mr. Denny Smith, Mr. Smith of Iowa, Mrs. Smith of Nebraska, Mr. Smith of New Hampshire, Mr. Solomon, Mr. Stangeland, Mr. Stokes, Mr. Stump, Mr. Sundquist, Mr. Taylor, Mr. Thomas of California, Mr. Traxler, Mr. Upton, Mr. Valentine, Mr. Volkmer, Mrs. Vucanovich, Mr. Wheat, Mr. Whitten, Mr. Wise, Mr. Wolf, Mr. Wolpe, Mr. Wortley, Mr. Wylie, and Mr. Yatron.

H. Con. Res. 5: Mr. Scheuer, Mr. Hughes, Mr. Hochbrueckner, Mr. Glickman, Mr. DeLay, and Mr. Bonior of Michigan.

H. Con. Res. 41: Mr. Pepper.

H. Con. Res. 97: Mr. Kasich, Mr. Kolter, Mr. Matsui, and Mrs. Morella.

H. Res. 141: Mr. Evans, Ms. Slaughter of New York, Mr. Weiss, and Mr. Glickman.

H. Res. 210: Mr. Fawell and Mr. Hyde.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3296: Mrs. Saiki.

PETITIONS, ETC.

Under clause 1 of rule XXII,

81. The SPEAKER presented a petition of June W. Depp, City of Hallandale, FL, relative to the Social Security Act; which was referred to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

AIR FORCE ASSOCIATION ISSUES 1987-88 POLICY STATEMENT

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. COURTER. Mr. Speaker, the 230,000 members of the Air Force Association [AFA] are dedicated to the mission of promoting a strong defense and the unique contribution of aerospace technology to U.S. national security.

The AFA's 1987-88 Statement of Policy points out the challenges and dangers we face and argues eloquently that we must not be lulled into a false sense of security by what is marketed as Soviet "openness" and arms control agreements of dubious value. I urge my colleagues to read the AFA statement that follows:

1987-88 STATEMENT OF POLICY

As a strong and proud America commemorates the bicenntenial of the Constitution, we must rededicate ourselves to the spirit that gave birth to this nation and reaffirm our will to bear the burdens and pay the price required to maintain peace with freedom. At a time marked by global instabilities and uncertainties, that price can't be paid on the installment plan or discounted. The need to provide for the common defense commensurate with the threats we face can't be rationalized out of existence by Potomac politics. We must not "mark down" national security—which has not caused the nation's economic ills—to subsidize the U.S. Treasury or to balance the federal budget.

Cuts in the defense budget over the past few years may well exact an excessive price in other terms from the American people, especially the members of our Armed Forces whom we rely upon to safeguard the rights and ideals enshrined in the Constitution. In 1986, Congress mandated that defense budget requests be changed from an annual to a biennial basis to facilitate more economical and stable funding policies. However, congressional actions in 1987 were largely at odds with last year's laudable intentions and failed to meet even the timetable associated with one-year budgeting. The results are continued and increasing uncertainty and instability in terms of when and how much defense money will be authorized and appropriated. The Air Force, along with the other services, is stymied in its programming tasks and hence kept from operating in an optimal fashion.

Defense funding must be kept above the noise level of partisan or parochial politics. Providing for the common defense is a government-wide responsibility of pervasive importance that should not be diluted to provide leverage for narrow or unrelated issues. The taxpayers expect the Air Force to streamline its forces, programs, contracting and procurement arrangements. But in a funding sense all services are adrift in unpredictable ebbs and flows that bear no resemblance to the formal guidance that governs the planning functions. This Association urges the legislative and executive branches of government to work together untiringly and resolutely to ensure timely enactment of stable defense budgets that meet the fundamental security requirements of the nation.

This Association believes also that the nation needs to understand clearly that hoped-for future strategic arms reduction accords or runaway optimism about the "glasnost reformation" of the Kremlin are poor substitutes for a military balance that provides effective deterrence and crisis stability. Glasnost, the Soviet Union's globally merchandized commitment to "openness," so far, has produced much rhetoric and little substance. The real meaning of "openness" in the Soviets' code may be no more than their license to penetrate this country's innermost diplomatic and military secrets, including our embassy in Moscow. Glasnost hardly denotes progress if the only doors it opens lead to our diplomatic properties, our most sensitive communications systems, the theft of our most advanced and vital defense technologies, and in the aggregate, to decisive Soviet strategic advantages.

Many members of this Association served in combat and all abhor the horrors of war. All of us would welcome real detente and evidence of a genuine Soviet commitment to peace. But so far, all the evidence suggests that Soviet expansionism remains in force, in spite of Western concessions and attempts to modify Moscow's behavior by political and economic means. Behind the mask of "glasnost" the Soviet Union remains our ideological and geopolitical adversary who spends between fifteen and seventeen percent of its gross national product on military expenditures, compared to about six percent by the US. There is no wishing away the fact that the USSR maintains nearly half again as many strategic nuclear delivery vehicles and carries twice the equivalent megatonnage on top of these weapons as does this country. The realities are stark also with regard to Moscow's intense military activities in Afghanistan, growing Soviet-supported interventionism in the Third World, and the sinister role Moscow plays in fostering world-wide terrorism. In summary, Moscow may have changed the tone but not the substance of its Marxist-Leninist ideology that seeks to alter the existing international system and establish Soviet global hegemony.

Notwithstanding the nature of the Soviet system that is intrinsically antagonistic to Free World values, this Association supports efforts to establish a commonality of interests with the USSR with the objective of avoiding direct confrontation and reducing the threat of nuclear war. The underlying challenge to American statecraft, we believe, is to preserve peace without jeopardizing our national security or abandoning America's commitment to the cause of freedom.

In this context, the members of this Association continue to support arms control negotiations as one of several tools to strengthen this country's national security. Specifically, America's arms control objectives must be fully integrated with its defense and foreign policies to enhance deterrence, reduce risk, support alliance relationships, and ensure that the Soviets do not gain unilateral military or political advantages.

We must recognize clearly that while posing as a champion of peace, the Soviet Union frequently advances proposals that are aimed at achieving military as well as propagandistic advantages. It follows that arms control agreements with the USSR cannot be simply based on trust. They must not become entangled in US domestic partisan politics. Arms control agreements that cannot be verified and enforced effectively are worse than no accords at all. Entering into accords that do not meet these standards in the hope that they might lead to advantageous follow-on treaties in the future, this Association fears, would play into Moscow's hands.

Further, this nation's arms control policies must not focus on the threat of nuclear war to the exclusion of the threat of totalitarian imperialism. We must prevent the former while containing the latter. In purely military terms, US arms reduction objectives need to look beyond simple arithmetical balances and allow for criteria that represent clearcut deterrence to the Soviets. Most important in that context are weapons that increase the Soviets' price to attack, such as missiles that can inflict unacceptable damage on the Soviet homeland and warfighting capacity. At the very least, the members of this Association believe, this nation must not trade US weapons that can reach the USSR for reductions in Soviet weapons that cannot strike US soil without a commitment to compensatory measures that keep the Soviet price to attack at unacceptable levels.

In the view of the Air Force Association, the nation must meet squarely a number of fundamental, pressing requirements to provide for the common defense in the face of several global threats. In ensuring the nation's survival and freedom, the bedrock fact is—and always will be—that ultimately people, not inanimate weapon systems, defend America. If the nation falters in its commitment to the men and women in uniform, the Union's shield of freedom may ultimately falter as a consequence. There is evidence that various, largely unrelated actions—some well-intentioned and others motivated by a sense of false economy or the result of inadequate understanding—create in combination preceptions and conditions that undermine the all volunteer force and remove vital incentives to make the profession of arms a rewarding career. This Association appeals to Congress to resume its support of strong "people programs" that proved so successful in the first half of this decade. Quality people lead to quality forces. The reverse is equally valid. Congress should grant relief from legislative provisions that hinder recruiting, retaining, and motivating high quality people. Issues that create serious personnel management problems include crippling arbitrary cuts in officer end strengths, delays in long overdue

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

pay increases and incentive pay arrangements, Congress' refusal to grant adequate moving and other allowances, and arithmetically unworkable and damaging aspects of the joint specialty officer (JSO) provisions. This Association fears that if relief is not granted promptly the military personnel problems such as the retention of pilots and engineers will reach epidemic proportions.

In the military hardware sector, modernization remains the overriding priority. In this context, this Association feels compelled to restate that the Air Force's strategy of centralized acquisition policy formulation and decentralized execution remains the soundest way for buying the best weapons for the lowest cost. This Association also expresses deep concern about the nation's defense industrial base. A number of trends ranging from overregulation to markets lost to foreign suppliers, threaten the ability of US industry to respond to the needs of our armed forces. A healthy and productive defense industry is vital to our security. We must not allow this resource to deteriorate.

This Association sees the potential for drastic long term modernization in the strategic sector. Over the past four decades, the US sought to preserve the peace through strategic deterrence in essence an offense-dominated defense posture. To date deterrence by countervailing power has worked, but always under the shadow of the US having to depend on Soviet restraint and thus ultimately not being in control of its own survival. The Soviets are deterred if they believe that their cost to attack, meaning the assured punishment the US is capable of meting out in response, is in their perception too high. Under this strategy the US lacks the capability to limit damage to any significant degree. The time has come, this Association believes, to explore vigorously the feasibility of broader strategies that eventually could ensure our national survival under all circumstances. A properly balanced combination of advanced offensive and defensive strategic capabilities would represent an insurance policy even if deterrence failed. In this regard the research and development effort on the Strategic Defense Initiative (SDI) should be continued.

Over the near and mid-term the overriding strategic requirement is modernization of the nation's offensive nuclear forces. That requirement is driven by unrelenting Soviet strategic offensive expansion and modernization. At present, the US has only about half the prompt hard-target kill capability necessary to threaten the most critical targets in the Soviet Union. The USSR's corresponding capability is at twice the required level. The destabilizing Soviet lead in prompt hard-target kill capability and mobile basing must be corrected without further delay through continued modernization of US ICBM and strategic bomber forces.

While the strategic nuclear sector is of ultimate importance, modernization must proceed in a balanced fashion across the spectrum of all Air Force missions. Without prejudice to other vital requirements, this Association feels compelled to underscore the importance of meeting the joint U.S. Air Force-U.S. Army requirement for close air support (CAS) and battlefield air interdiction (BAI) aircraft. These two crucial Air Force missions must be met by means of flexible, complementary capabilities rather than at the expense or exclusion of one or the other. In general, this Association believes that modernization—which represents "readiness tomorrow"—must be balanced against the demands of today's readiness. We cannot afford to slight either.

The dedication and professionalism of our armed forces and the effectiveness of their weapons cannot alone provide for the common defense and national security. Our strongest bulwark is, and always will be, America's will to bear the burdens of freedom. The nation that 200 years ago formed "a more perfect Union" must stand as one in this bicentennial year to secure the blessings of liberty for our posterity.

INITIATION OF THE ROBERT HICKS MEMORIAL SCHOLARSHIP FUND

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. LIPINSKI. Mr. Speaker, I would like to call to the attention of my colleagues the contributions of a former member of the Chicago community, Mr. Robert "Bob" Hicks, and the scholarship fund which will recognize and memoralize his many contributions to the school at which he spent his teaching career and the community at large.

Mr. Hicks, a wrestling coach at Tilden Tech for many years, has been acclaimed by numerous sports writers as the premier coach in the history of Chicago preparatory athletics. In his career at Tilden he compiled an unprecedented record of 27 city wrestling championships over a span of three decades. He was especially talented in developing athletic potential into champion sportsmen material and often exhibited perseverance in his quest for excellence. This is evidenced by the 110 individual city wrestling champions, 14 NCAA wrestling finalists, and 8 wrestling gold medalists he coached. Mr. Hicks also served with distinction as an assistant football coach at Tilden Tech because of his ability to develop outstanding lineman. As mentioned previously, Mr. Hicks also contributed to the community at large. With his devoted wife, Ada, he spent 20 years offering counsel and guidance to hundreds of underprivileged youngsters at summer camps sponsored by Jane Addams' Hull House. This in addition to the hours of education, support, assistance, and direction he offered his many students over the years.

The contributions Mr. Robert Hicks made to his school and community will officially be commemorated and recognized at an October 16 anniversary dinner of the Tilden Tech Alumni Association. At that time, the alumni association will inaugurate the Robert "Bob" Hicks Memorial Scholarship Fund. This will provide financial assistance to Tilden Tech students who have demonstrated a commitment to wrestling and also achieved in academics. I am sure my colleagues join me in commending the association for honoring Mr. Hicks' contributions and for providing an excellent and positive example of private sector participation in America.

BLACK HEALTH CHOICES AND ADVERTISING: THE CRITICAL CONNECTION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. STOKES. Mr. Speaker, it has been almost 25 years since the Surgeon General began reporting that cigarette smoking may be hazardous to your health. Since the early seventies, advertisements for tobacco and alcohol were banned from television. These are but some of the initiatives that grew out of a growing national concern for lifestyle habits that adversely affected the health of millions of Americans.

Last week, I had the privilege of hearing Dr. Therman Evans address the American Lung Association Invitational Leadership Luncheon about health choices and advertising. This affair was hosted in honor of the Congressional Black Caucus Foundation's 17th Annual Legislative Weekend. Dr. Evan's remarks focused specifically on the disproportionate death and disability rate among blacks, and this correlation to advertising. The presentation, "Black Health Choices and Advertising: The Critical Connection," portrayed a clear and concise picture of how behavior is affected by advertising strategies.

Dr. Therman Evans is currently vice president and corporate medical director of the CIGNA Corp. Prior to assuming this position, he served as second vice president and corporate medical director of Connecticut General Insurance Co., a company of CIGNA.

Mr. Speaker, Dr. Evans has had extensive involvement in health promotion, health education, and health policy development. His address to the American Lung Association exemplifies the work he has done in motivating a healthy lifestyle for society. I would like to share with my colleagues and you his provocative statement. His message is one that speaks to all Americans.

BLACK HEALTH CHOICES AND ADVERTISING: THE CRITICAL CONNECTION

(By Therman E. Evans, M.D.)

Year in and year out, for decades, going on centuries, ad nauseum, the health picture of African Americans relative to the rest of America, has been a disproportionate burden characterized by receipt of "more to most of the bad" and, "less to least of the good" this society has to offer. Smoking related disease, disability and death is another scene being painted in this same sickening picture.

The high black disease, disability and death rate from all causes is due largely to the set of circumstances in existence since the status of slavery, since the emancipation proclamation, since the era of the Jim Crow laws and the black codes, since the yet unfulfilled promise of "forty acres and a mule". This set of circumstances can be nutshelled by the present relatively lower educational, political and socioeconomic conditions of black people. These inferior conditions, a direct result of decades of active, overt, oppressively discriminatory behavior by whites, have contributed to a poor health status. The victims, seeking relief, in many instances have adopted lifestyle behaviors that provide immediate gratification, but, in the long run, and sometimes in the short run, contribute to worsening the situation from which relief is being sought. So, through negative, non-productive lifestyle habits, like substance abuse (including cigarette smoking) black people, are co-partners in their self-destruction. This is especially true with respect to smoking cigarettes, as the tobacco industry is the other co-partner. I say this because it is clear that the tobacco industry is targeting the African-American and Hispanic communities for cigarette sales. This targeting effort is clearly identified in advertising strategy manifested in recent years by cigarette makers. This point is supported by Dr. Alan Blum, in an article written for the Washington Post on June 8, 1986 called, "Tobacco Ads Aim At Blacks". In this article Dr. Blum makes several points:

Cigarette ads now account for about 25% of billboard advertising. In some communities, especially the low income areas, more than 50% of the billboards carry cigarette ads.

Advertising Age lists Philip Morris as the leading marketer to the 17 million Americans for whom Spanish is their first language.

In the Black community 3 brands: Newport by Loews; Kool by Brown & Williamson; and Salem by R J Reynolds have been promoted for maximum consumption. These account for more than 60% of cigarettes purchased by Blacks.

Cigarette advertising, along with those of alcohol, are the mainstay of such African-American oriented publications as Jet and Ebony. A minimum of 12% of the color advertisements in each issue of Essence are for cigarettes, second only to advertisements for alcohol—20%.

Black and Hispanic publications, publishers, neighborhoods, social, cultural, and political events, educational and community based institutions have been supported as a part of this strategy.

Cigarette makers have been targeting events and outlets that have a significant focus on youth.

In another article by Joe Tye in the July, 1985 issue of the New York State Journal of Medicine, called, "Cigarette Marketing": Ethical Conservatism or Corporate Violence?, more concern is expressed about this strategy's emphasis on youth:

"Of particular concern is the potential impact of cigarette advertising and promotion on young people. According to the Public Health Service, nearly one quarter of high school seniors smoke on a daily basis, and 63% of them started before the 10th grade. . . . Cigarette company representatives give away free cigarettes to young people attending rock concerts and sponsor a variety of youth-oriented athletic and musical events. . . . It is inconceivable that cigarette marketers, who employ costly and sophisticated research techniques, develop role model images like cowboys and high fashion models—the very essence of teenage dreams—without being cognizant of the potential impact on young people. The vulnerability of teenagers to the role model imaging used to market cigarettes is acute, because many do not have a tangible understanding of the health risks. Young people tend to discount the possibility of dying of chronic diseases sometime in the distant future when compared to the perceived glamour of smoking. A recent survey showed that 40% of the nation's high school seniors do not believe that there is a great health risk association with even heavy smoking".

Though cigarette maker representatives say that their sponsorship of African American organizational events (which includes in many instances, giving away free samples of cigarettes) is simply, "the right thing to do", the apparent results of this advertising strategy (more blacks than whites smoke cigarettes) suggests that it is the wrong thing to do.

Can it be said that the cigarette advertising targeted towards blacks, brings a return in the form of either increased purchases of cigarettes, or, more black people hooked on the idea of smoking? In responding to this question I'd like to take a look at the issue of advertising by asking a series of questions.

Question. What does the word advertise mean?

Response. Random House Dictionary says, "To describe or present a product, organization idea etc. in some medium of communication in order to induce the public to buy, support or approve it".

Question. Why do people advertise?

Response. To sell their product.

Question. Are there other reasons for advertising?

Response. Yes. To enhance name recognition for a product; to inform about what a product can do, how it works, what it costs, how it is distinguished from others like it, and, why it is the one for you. But, the bottom line is, all of this is done for the purpose of selling the product.

Question. What form does advertising take?

Response. Any form that marketing strategists decide is appropriate for the target audience.

Question. Why advertise? Why not just invent something and put it on the shelf?

Response. Because advertising effects and affects the behavior of consumers.

Question. How do we know consumer behavior is effected and affected by advertising?

Response. Advertising is expensive, and, the money to pay for it must come from the sale of the product. The sale of the product is effected and affected by the behavior of consumers. The behavior of consumers is driven by need, desires, culture and the interplay between them. The needs, desires and cultures of consumers are the targets of advertising.

Question. Do I have anything more to say on this?

Response. Yes. The essence of advertising (seems to be) is a simple catchy phrase with a message about the item it addresses. Using one of the guiding principles of education, "repetition is the essence of learning", the phrase/image/message/music is repeated frequently. Sometimes the advertisement is so appealing that it is adopted by, and becomes a part of, the targeted culture. Examples of these include: Coca Cola's "It's the Real Thing"; Ford's "Better Idea"; Avis' "We Try Harder"; Old Milwaukee Beer's "It Doesn't Get Any Better Than This". The test of cultural adoptance is the application of the phrase/image/message/music to other aspects of life. Sometimes, advertising uses an already culturally accepted phrase/image/message/music to identify an item. Examples of this include cigarette advertising: More—"Never Settle For Less'; "Kool & Mild Today"; Virginia Slims—"You've Come A Long Way, Baby". The point of all this is, in addition to need and desires, culture drives behavior, indeed culture is behavior. The more an item can be associated with or incorporated into the targeted culture, the greater the potential for behavior modification regarding the item. Unless someone knows a real secret, all of us will die. So the issue is not death, but how we live. It is clear that the way we live, to a large degree, determines the way we get sick, the way we die, and when, for both. Lifestyle behaviors comprise the way we live. According to the United States Public Health Service, 50% of annual mortality is caused by our lifestyles. This, in addition to type and location of housing and employment, means, do we, what we and how much we eat, drink, smoke, exercise or relax.

Let's focus on smoking cigarettes. It has been documented that smoking cigarettes is harmful to health. Over 360,000 people a year, or, about 1,000 people a day, die prematurely from smoking related diseases. The major disease consequences of smoking are, heart disease and cancers. It is estimated that smoking causes 33% of all coronary heart disease deaths and 30% of all cancer deaths. Annually, heart disease and cancer are the number 1 and 2 killer of all people in America. African Americans have the nation's highest rates of coronary heart disease and lung cancer. Additionally, African Americans have the highest rates of death from these two conditions. Forty-three percent of all annual African American deaths are a result of smoking related diseases. Related to his information on disease is information on the smoking habit in African Americans. According to the National Center for Health Statistics, for men age 20 and above, 45% of blacks and 35% of whites smoke. The percentage of women who smoke is about the same (30%) for both black and white women. For young men, ages 25-34, 52% of blacks and 45% of whites smoke. The corresponding figures for females of the same age group are 43% (black) and 31.6% (white). More blacks than whites smoke cigarettes.

In 1957, a joint statement was issued by 4 public health groups, American Cancer Society, American Heart Association, National Cancer Institute and the National Heart Institute. The statement said:

"The sum total of scientific evidence established beyond reasonable doubt that cigarette smoking is a causative factor in the rapidly increasing incidence of human epidermoid carcinoma of the lung. The evidence of a cause-effect relationship is adequate for the initiation of public health measures".

Thirty years later the 1986 Surgeon General's Report on "Involuntary Smoking as a Potential Cause of Disease in Non-Smokers", states: "Inhalation of tobacco smoke during active cigarette smoking remains the largest single preventable cause of death and disability for the U. S. population. Cigarette Smoking is a major cause of cancer; it is most strongly associated with cancers of the lung and respiratory tract, but also causes cancers at other sites, including the pancreas and urinary bladder. It is the single greatest cause of chronic obstructive lung diseases. It causes cardiovascular diseases, including coronary heart disease, aortic aneurysm, and atherosclerotic peripheral vascular disease. Maternal cigarette smoking endangers fetal and neonatal health; it contributes to perinatal mortality, low birth weight, and complications during pregnancy. More than 300,000 premature deaths occur in the United States each year that are directly attributable to tobacco use, particularly cigarette smoking". Our society is making some progress towards decreasing the number of people who smoke. However, African Americans are still suffering a disproportionate burden from the behavior of cigarette smoking. In the face of smoking related excess morbidity and mortality among African Americans, what can, or should be done?

1. African Americans must be encouraged to discontinue smoking. This must be done in as intense a fashion as possible. Just as tobacco companies are advocates for the health and well being of their product, it is incumbent upon leaders who are black to be advocates for the health and well being of black people.

The encouragement to stop smoking should be a part of an information/education campaign designed to simply and clearly identify the health hazards of smoking and the excess burden black people are bearing. To best achieve this, all segments of the African American community should be vigorously involved. The religious, academic, business, entertainment, political and communications areas all can play a role, and should. None of us can afford the foot dragging hesitancy to speak out, born of the conflict between receipt of tobacco company support and, the right thing to do, advocacy of discontinuance of smoking.

2. Government should address the issue of allowing the advertising of a product/behavior that, when used as advertised, causes serious harm to health. I find it disturbing and distressing that government, with its many sets of laws, rules and regulations cannot manage to help protect the health and well being of its citizens through restricting the advertising of a product/behavior that, when used as advertised, causes serious health hazards. According to a March 19, 1987 New England Journal of Medicine article, "A Ban on The Promotion of Tobacco Products: by Kenneth Warner, smoking is the leading cause of premature death causing more deaths than the combined total caused by all illicit drugs and alcohol, all accidents, and all homicides and suicides. Regarding the issue of free speech, on July 1, 1986 the U.S. Supreme Court decided in *Posadas* v. *Tourism Co. of Puerto Rico*, that Puerto Rico could prohibit advertising of casino gambling to its residents, even though gambling was legal. Chief Justice Rehnquist wrote the decision, and a remark was included indicating that states could ban or restrict advertising "of products or activities deemed harmful, such as cigarettes, alcoholic beverages and prostitution".

3. African American communities should organize to limit, curtail, indeed, eliminate the targeted exposure of black people by cigarette companies, to cigarette smoking. This will certainly involve some measure of sacrifice, as substantial amounts of advertising dollars are being spent by tobacco companies to sponsor African American cultural, social, and sporting events and, to reach African Americans through specific print media.

From a health perspective, the tobacco industry sponsorship of African American cultural, social, fundraising and sports events is metaphorically analogous to foxes warming up to the chickens by stating and expressing concern and support for chicken welfare but, with a main focus on fox welfare. Chicken dependence on fox statements and expressions of concern and support always results in the demise of the chicken. Those who consider themselves Leader Roosters and Head Hens should know better and should be crowing and clucking about the dangers associated with the gifts and services being offered by the foxes. Millions of people in America are addicted to cigarette smoking. In a real sense, an addiction is an imprisonment. The individual is physically and psychologically locked into a cycle of dependency on a substance, more and more of which, is required to achieve the same levels of satisfaction. It is not easy to free oneself from this imprisonment. In the case of cigarette smoking, testimony to this point is the many persons who have made many attempts, without success, to free themselves of the imprisoning addiction that accompanies the habit. The recent introduction of a "smokeless cigarette", is, in my view, analogous to simply improving the conditions of imprisonment. Persons who are in jail may be made to feel better about jail life by wall-to-wall carpet, chandeliers, and improved food, the bottom line is, they are still in jail. They are still imprisoned by an addiction that costs time, money and maybe even the same health hazards as before.

Each of us can help with this problem. How? We can write letters. Whenever we see advertisements fostering the habit of smoking we can communicate with the outlet for the message, with another message: Why are you fostering the self-destructive habit of smoking on our people?

Certainly more of us would be up in arms if the advertising of other drugs was being targeted at African Americans. Consider what the impact of the following would be: "Crack into the big time with crack", "It's an inexpensive way to get an expensive high". "And it's more healthy than cigarettes". Or, how about, "mellow out with marijuana", "For a low monthly cost you can maintain mellowness with Marijuana Melody". "It's more healthy than cigarettes".

Subsequent to such messages, the cries of genicide would be loud and clear and frequent. Yet the above substances have not been shown to be responsible for as much morbidity and mortality as cigarette smoking.

It is time for us to take a different course.

It is time for us to speak up and speak out on this issue.

It is time for us to take charge of ourhealth and our lives.

It is time for us to rid ourselves of the hypocrisy inherent in the silence on the issue of smoking which seems to accompany cigarette advertising dollars.

It is time for us to challenge and change our behavior such that we send to our people a health message that is clear and consistent.

ETHICAL REFORM COMES FROM WITHIN

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. BENNETT. Mr. Speaker, In 1971, I appointed Porcher Taylor to the military academy at West Point. He graduated and went on to a fine career in the military and has recently written a thought-provoking and stimulating article in the September 28 edition of Defense News. Mr. Taylor is a law graduate of the University of Florida and presently a fellow in the Inter-University Seminar on Armed Forces and Society. I include at this point his well researched and stimulating article.

[From Defense News, Sept. 28, 1987]

ETHICAL REFORM COMES FROM WITHIN—DEFENSE CORPORATIONS SHOULD ESTABLISH SELF-POLICING OFFICES

(By Porcher Taylor)

As a result of the recent scandals that have rocked the U.S. defense industry and sharply called into question its ethical standard, the industry has placed itself in a fish bowl, under the probing eyes of the public, the press, Congress and the federal government.

The defense industry can ill afford a crisis of confidence with the public, the cynicism of the Fourth Estate, stricter regulation by Congress or an adversial relationship with the government. If the industry can't remove the blemishes from its image caused by a few defense contractors, the prognosis will be serious economic, technological and national security fallout for the nation.

Some have argued that the burden of establishing a viable business ethical standard should fall on the shoulders of academe. Given the traditional superficial treatment of ethics in undergraduate and business schools, institutional inertia blocks this path. Some have tried to play down the magnitude of the ethical problem, claiming that is is not endemic in the corporate world. But consider the stark statistics. In the past 10 years, two-thirds of America's 500 largest corporations have been involved to some degree in unlawful conduct, according to a 1986 article in Harvard Business Review.

It should be to no one's surprise, then, that the public consistently gives corporate leadership low marks for integrity. For example, it was recently reported in *Defense News* that in the last two years, seven of the top 50 defense contractors have been prosecuted and convicted of defense fraud.

Genuine ethical reform can only come from within. If the public, the press, Congress and the government perceive the defense industry as being ethically responsible only when confronted with outside pressure, then the industry may suffer from cognitive dissonance, a perception problem of the first order. It is a fundamental rule of psychology that attitude and behavior must be in harmony or deleterious consequences can result. An ethical attitude is the root of ethical behavior. The defense industry should be given the benefit of the doubt. The industry's business attitude probably is ethical, but the public has perceived a far different behavior in light of the spate of recent contract scandals, astronomical cost overruns and management foulups involving several defense contractors.

There is a compelling need for the creation of the position of corporate ethics counselor in individual corporations of the defense industry. Such self-policing action is what the public, the press, Congress and the government need to see if they are to be convinced that the defense industry has the intestinal fortitude to resolve its own ethical dilemma. While not a panacea for the ethical dilemma plaguing the industry, such reform would go a long way toward restoring needed public confidence in the industry. Even those defense contractors that have not been investigated for unlawful activity should create a corporate ethics counselor position and an office of corporate ethics because the unlawful activity of a few defense contractors has tainted the whole industry.

To ensure objectivity and give prestige and power to the position, the corporate ethics counselor should report to and work directly for the corporate president. A lawyer with management experience would have an ideal background for the position. Preferably the lawyer would be hired from outside the corporation to avoid a public perception of self-service and conflict of interest. The corporate ethics counselor would be the director of the office of corporate ethics with an adequate staff to assist him. He would be responsible for conducting corporation-wide "ethics in government contracting" seminars and counseling corporate personnel that are in danger of committing ethical violations and criminal acts. If deemed appropriate, the counselor could establish an attorney-client relationship. Guidelines would have to be established to ensure that the counselor's duties would not conflict with those of the corporate general counsel's office.

Monitoring corporate compliance with "revolving door" and other legislation would be another duty of the corporate ethics counselor, and it would be beneficial to have the counselor present during important contract discussions with government officials. Finally, the corporate ethics counselor and his staff would publish a corporate ethics manual. Copies would be provided to all corporate executives.

As the corporate preventive law specialist and "legal troubleshooter," the counselor would be the ethical "eyes and ears" of the corporation, a respected watchdog. Given the current lack of extensive corporate education on ethical problems, and substantial corporate internal oversight of them, the U.S. defense industry scarcely can ignore the benefits that would accrue from the creation of the position of a corporate ethics counselor and an office of corporate ethics.

Unethical corporate conduct has cost the defense industry and the nation billions in economic productivity. Implementation of this proposal would save the industry and taxpayers billions of dollars.

The public, the press, Congress and the government might applaud such an effort and lessen their scrutiny of the fish in the fishbowl.

SENATOR CLAIBORNE PELL—CONSISTENT ADVOCATE FOR RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. LANTOS. Mr. Speaker, 6 years ago this month, the President signed historic legislation making Raoul Wallenberg an honorary citizen of the United States. At this time, as we commemorate that anniversary, it is important and appropriate to recognize those individuals who have helped make the story of Raoul Wallenberg known here and around the globe.

Senator CLAIBORNE PELL has been a constant friend and advocate for Raoul Wallenberg. In the early days, when the cause of Raoul Wallenberg was little known, he was there to offer his support and active involvement. At the press conference in July 1979 when the formation of the International Free Wallenberg Committee was announced, Senator PELL was there. When legislation was introduced in the House to grant Wallenberg honorary American citizenship, Senator PELL introduced the companion bill in the Senate.

On one occasion, I happened to be in Budapest at the same time Senator PELL was visiting. He was participating in the renaming of a street in the Hungarian capital in honor of Raoul Wallenberg. Last year we embarked on a similar effort to rename the street in Washington that runs in front of the Holocaust Memorial in honor of Raoul Wallenberg. Senator PELL supported the legislation and spoke at the commemorative event when the street name was changed.

Senator PELL is following the excellent tradition of public service established by his family. His father was United States Minister to Hungary at the beginning of World War II, and as a young man, I met him while he was serving at the American legation in Budapest. Senator PELL's commitment to the cause of Wallenberg stems not only from this background association with Hungary, but also from his firm and principled commitment to human rights.

Mr. Speaker, it is an honor for me to pay tribute today to the contributions of Senator CLAIBORNE PELL.

CONGRESSMAN KILDEE PAYS TRIBUTE TO MS. KOPCAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. KILDEE. Mr. Speaker, I rise today to urge Members of this House to note the recent passing of Ms. Dorothy M. Kopcan, one of my constituents from Flint, MI. Ms. Kopcan was a remarkable woman who spent her lifetime serving the community as a grassroots activist.

Ms. Kopcan served on the mayor's citywide advisory committee, in the internal affairs subcommittee. As a member of the Citizens for Betterment of Flint, she was instrumental in forming a citizens' safety patrol in the Flint area. In 1984, she was considered a controversial figure when she spearheaded an attempt to start a Guardian Angels chapter in Flint. The program stressed education on first aid, law, citizens's arrest, self-defense and cardiopulmonary resuscitation training. In short, she was a strong proponent of self-help.

Her other civic contributions included volunteer work on Crime Watch, serving as a watchdog for foot patrol political interests, and as an advocate of programs to keep our youth out of trouble.

She was tireless in serving the people of her community with her work in the Voluntary Action Center. Her other achievements include public service for the Community Radio Watch and the Civic Park Community League. She was also editor of the Civic Park Sentinel, and a member of St. Luke Catholic Church.

At the time of her death, Ms. Kopcan was studying at Mott Community College and hoped to go into social work. She never took the advice of friends who urged her to limit her community activities because she could never decide what to limit.

Ms. Kopcan encouraged community involvement with her own example of selfless giving. Never content to accept injustice or need, she accepted challenge after challenge, because for her, community service was a way of life.

Mr. Speaker, I am pleased, but also sad, to have this opportunity to honor the memory of this great woman, Ms. Dorothy M. Kopcan. The memory of her, and those like her, who spanned the chasm of defeatism and ignorance by working for a better community, is an inspiration to us all. Ms. Dorothy M. Kopcan gave herself for the good of humanity, and I am honored to have the opportunity to pay tribute to her.

ACTUARY SAYS 1988 AND 1990 SOCIAL SECURITY TAX HIKES ARE NOT NECESSARY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. KEMP. Mr. Speaker, Robert Myers, the former Chief Actuary and Deputy Commissioner of the Social Security Administration, says in the following article that the 1988 and 1990 payroll tax increases are not necessary to keep the Social Security System financially secure. Myers argues that the system should be financed on a current-cost basis and that the huge surplus that is anticipated over the next 35 years should be avoided.

Mr. Myers is universally respected for his professionalism, integrity, and nonpartisan thinking. Certainly, his recommendations deserve careful consideration, and I ask that his recent article be reprinted below.

SOUNDER SOCIAL SECURITY WITH LOWER TAXES

(By Robert J. Myers, F.S.A.)

Next January the FICA tax rate (for Social Security and the Hospital Insurance portion of Medicare) is scheduled to rise from 7.15% to 7.51%, for both employers and employees. The portions of these rates which are for Social Security (Old-Age, Survivors, and Disability Insurance—OASDI) are 5.7% and 6.06%, respectively; the 5.7% rate was in effect in 1984-87. And the tax rate is supposed to rise again in 1990—to 7.65%. All of these increases in the tax rates go to OASDI, and none to Hospital Insurance. The remainder of this article will deal only with OASDI.

For an employee with maximum taxable earnings in 1987 ($43,800) who continues at this level in 1988, the tax increase is $157.68, and for an average worker, about $70. The tax increase will be even more for highly-paid employees who are affected by the maximum taxable earnings base, which will probably be $45,600 in 1988—namely, a $292.86 rise, of which $266.76 is for OASDI.

Are these increases desirable or necessary? The answer is clearly "no," as this article will demonstrate.

First, let us examine why these tax-rate increases were legislated. Then, let us examine what their effect on the financing of the Social Security program will be, according to the 1987 official intermediate actuarial estimate. Finally, a proposed tax-rate schedule will be presented.

A very serious financial crisis confronted the Social Security program in 1982. The trust fund which pays retirement and survivor benefits, OASI, was near bankruptcy. It would not have had sufficient money to pay benefits on time late in 1982 if it had not received loans from the disability (DI) and hospital (HI) funds. And even these loans provided funding for only the next eight months.

The Social Security Amendments of 1983 turned the situation around completely. The fund balance for the OASDI trust funds has risen steadily. In fact, at the end of 1986, the balance was $46 billion (approximately three months' benefits outgo). This was $20 billion higher than had been shown for that date under the intermediate estimate developed at the time of the 1983 Amendments. In addition, the 1986 balance was $29 billion higher than that under the pessimistic estimate, on which the financing of the system for the 1980s was based. At the end of 1987, the balance is expected to be $67 billion, which is $34 billion higher than the 1983 intermediate estimate and $46 billion higher than the pessimistic estimate.

In part, solvency was restored (and assured) by tax-rate increases. The increase previously scheduled for 1985 was advanced to 1984, and 72% of the increase previously scheduled for 1990 was advanced to 1988 (and the remainder left for 1990).

What is estimated to occur under this accelerated tax schedule? The estimated fund balance, expressed in 1987 dollars (so as to remove the effects of inflation) rises rapidly and steadily. It reaches the almost inconceivable height of $2.5 trillion in 2020, only 33 years from now. In dollars at that time, this would be $9.4 trillion—based on the Consumer Price Index being 3.75 times as large then as it is in 1987 (i.e., $2.5 trillion multiplied by 3.75).

But after this peak, a rapid decline occurs, and the fund is exhausted in 2051. This is certainly not a reasonable or logical way to finance a pension plan of any sort. If a large fund is to be built up, so as to provide investment income to help finance anticipated higher future costs—as, for example, for the well-publicized post-World War II baby boomers and their children later—it should not eventually be dissipated.

What happens if the same benefit structure is to be maintained after the fund is exhausted (or else without the fund build-up)? The ultimate employer and employee tax rates would eventually have to be increased by about by about 1.3% each over what is now scheduled for 1990—not an unmanageable rise.

Should the near-term tax-rate increases be retained and further increases be scheduled in the future so that a large fund is built up and is maintained for all time to come? Such course of action is, in my view, very undesirable. One danger is that the huge balances apparently available (or to be available) would cause irresistible political pressures to liberalize the benefits now or in the near future—which would only compound the cost problems some decades hence. Also, the steady and ready availability of large sums for investment in government bonds could well cause increased, unnecessary governmental spending for other purposes, because there would be less need for the federal government to go to the open market for loans.

Some might also argue that large OASDI trust-fund balances would be used to balance the general budget. In a sense, this could be the case. However, beginning in fiscal year 1986, the operations of these trust funds were removed from the Unified Budget. But, anomalously, their excess of income over outgo is used to meet the targets under the Gramm-Rudman-Hollings budget law!

I conclude that OASDI should be financed on close to a current-cost basis. Income should slightly exceed outgo each year, in order to build up a fund which is about equal to one year's outgo—and certainly no more. This should be accomplished by changing the future tax-rate schedule so as to more nearly match the trend of outgo. In the near future, the tax rate should be a little higher than this, so as to build up the fund balance to the desired goal of one year's outgo.

My proposed tax schedule to accomplish this result, developed on the basis of the intermediate estimate, is shown in Table 1, along with the present one. The tax rate should be frozen at its current level, and then actually decreased by 0.7% in 1996, after an adequate fund had been accumulated. The tax rate would need to be increased in 2015, and then again in 2020 and 2025.

TABLE 1.—PRESENT AND PROPOSED SOCIAL SECURITY TAX RATES [1] FOR EMPLOYERS AND EMPLOYEES (EACH)

[In percent]

Period	Present law	Proposed	Difference
1984 to 1987	5.7	5.7	
1988 to 1989	6.06	5.7	−.36
1990 to 1995	6.2	5.7	−.5
1996 to 2014	6.2	5.0	−1.2
2015 to 2019	6.2	6.0	−.2
2020 to 2024	6.2	6.8	+.6
2025 to 2050	6.2	7.5	+1.3
2051 and after	[2] 7.5	7.5	

[1] These rates do not include the tax for the hospital insurance portion of Medicare—currently, 1.45 percent (and so scheduled for all future years). Also, in 1984, the employee rate was reduced by a tax credit of 0.3 percent.

[2] Rate necessary to finance scheduled benefits.

My proposed tax rates would be lower than presently scheduled in 1988 through 2019, higher in 2020-50, and the same thereafter. If some persons object to the higher rates proposed for 2020-50, note that they are no higher than what would ultimately result under present law if the benefit structure were left unchanged.

Under my proposal, the trust-fund balance would slowly, but steadily, build up over the years. It would reach $450 billion in the early 2020s (in 1987 dollars), as compared with a peak of $2.5 trillion under present law—and as compared with about $67 billion at the end of 1987. Then, in 2050, the balance under my proposal would be about $900 billion, as against bankruptcy under present law. The roller-coaster effect estimated under present law would be replaced by one of slow, but steady growth.

A somewhat better way of looking at the situation under both present law and my proposal is to consider the fund ratios (the fund balance at the beginning of the year as a percentage of the next year's outgo). Under present law, the fund ratio grows from 30% at the beginning of 1987 to a peak of 545% in 2015 and then falls to zero about 35 years later. On the other hand, under my proposal, the fund ratio would slowly increase to about 100% by the turn of the century and would remain at that level thereafter. Once again, the stability of my proposal is evident.

Some might well argue that the experience in the future may not follow the intermediate estimate, and then what of my proposal and its revised tax schedule? The ready answer is that the tax schedule would have to be reviewed from time to time as the experience unfolds, and as new estimates of the future experience are prepared. Congress could then legislate different scheduled tax rates for the future. But this would also have to be done if the present tax schedule and funding approach were to be continued.

Persons who are concerned about intergenerational equity might object to the proposed lower tax rates for the next three decades and higher ones for the following three decades. However, this is nothing new in the financing of OASDI because in the past it has had an upward-graded contribution schedule as is befitting a program financed on a pay-as-you-go basis. Moreover, OASDI is not, and never has been, designed to be on a completely individual-equity basis.

In summary, Congress should soon re-examine the long-range financing of the OASDI program.

1987 NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. NATCHER. Mr. Speaker, it is a pleasure to join with the 4.5 million members of 4-H as they celebrate National 4-H Week.

4-H is administered by the Cooperative Extension Service of the U.S. Department of Agriculture. Its mission is to help youth acquire knowledge, develop life skills and form attitudes that will enable them to become self-directing, productive and contributing members of society. Participation is open to all interested youth between the ages of 9 and 19.

In my home State of Kentucky, 224,300 youth and 30,017 volunteer teen and adult leaders are now involved in 4-H activities and projects. The quality and quantity of Kentucky's 4-H program depends on adequate volunteer leadership. In an effort to help volunteers be more effective in leadership roles, a leadership training center has been built. This center was dedicated in June and is now operational and groups are scheduled every day.

"Nutrition, Diet and Health" is the single largest 4-H education program and Kentucky leads the Nation in this program with 1.4 million participants. Nearly 55,000 youth in 99 counties in Kentucky are involved in the 4-H "Expanded Food and Nutrition Education Program." Kentucky has 22 percent of the 66,000 enrolled in nationwide career education projects.

A special program—"Safe is Smart"—teaches "latchkey" children self-care skills, such as first aid, fire safety and home safety.

Twenty-seven percent of Kentucky's farmers were members of 4-H. Results of a poll of the State's farmers show that former 4-H members have higher educations, higher farm sales, higher farm incomes and are more likely to use innovative techniques than those who did not participate in 4-H.

4-H members in the Second Congressional District, which I have the privilege of representing in the Congress, received many honors during this past year. Simpson, Warren, and Washington Counties were recipients of Bob Evans animal science grants for 1987.

The 1987 Kentucky project champions—judged on leadership, citizenship and project activities—will compete for a trip to the National 4-H Congress: Shana Woodward (automative—Simpson County), Jarrod Heath (conservation—LaRue County), L. Dow Rasdall (electric energy—Warren County), Rebecca Brown (geology—LaRue County), Jennifer Goebel (knitting—Spencer County), Doug Jones (petroleum power—Barren County), and Marcella Owen (photography—LaRue County).

Linda Gail Rogers of Daviess County placed in the top 10 of the 4-H Award of Excellence; and Bullitt, Meade and Simpson Counties were honored as area champions in category I of the Community Pride entries. Throughout the Commonwealth of Kentucky 85 counties and 18,159 youths were involved in 809 Community Pride clubs.

Laura Diehl of Breckinridge County was a member of the team representing Kentucky in the dairy judging contest at the North American Livestock Exposition. The team placed 5th overall out of 21 teams. Lisa Laytart and Michelle Lawson of Bullitt County placed seventh in team demonstrations at the National 4-H horse roundup.

Thomas Cole of Warren County was one of four alumni honored at the awards assembly during Kentucky 4-H Week; and Kim Wilkerson of Washington County has been elected secretary of the 1987 Kentucky 4-H organization.

I am proud of the achievements of 4-H, and, in particular, Kentucky 4-H. At this time I would like to commend all of the 4-H members and volunteers for their accomplishments during the past year and wish them continued success in all their future endeavors.

A TRIBUTE TO DICK BURT

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Ms. SLAUGHTER of New York. Mr. Speaker, I rise with great pleasure today to pay tribute to a very special Rochesterian, Dick Burt. After 25 years as a news anchor at WOKR-TV, channel 13, Dick is retiring.

Dick has been a voice of reason for the past 25 years. He has an obvious reverence for the news—delivering it accurately.

People in Rochester feel as though they know Dick, almost as if he were a member of the family. He has calmed our fears, shared our pains and joys over the years and when tragedy struck his family, we mourned with him. He has given his time unselfishly to help make this city conscious of its responsibility to those who need our help to survive. He is one of the many people who make this area the best place to live and work and raise our families.

We are losing a true professional in Rochester television but we are enriched because of him.

While Dick Burt will remain a Rochester institution for years to come, that personal Dick Burt style will be missed.

Mr. Speaker, I ask my colleagues to join me in offering best wishes for a well-deserved and enjoyable retirement to this distinguished journalist.

LETTERS FROM THE SOVIET UNION

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. SIKORSKI. Mr. Speaker, during my recent trip to the Soviet Union, I had the privilege of meeting with Naum Meiman, former member of the Moscow Helsinki Watch Group and a refusenik since 1975. Naum passed letters on to me which I would like to place in the CONGRESSIONAL RECORD.

As one who has been refused permission to emigrate for over 10 years, Naum Meiman presents an astute inside portrait of the Soviet emigration system.

As Americans we must continue to make our Nation stand out as a shining beacon of justice and compassion. We must not forget the words of Martin Luther King, Jr.: "Injustice anywhere is a threat to justice everywhere." We must fight for freedom until justice rolls down like waters, and international compassion as a mighty stream.

VIENNA,
July 11, 1987.

There is much talk in the Soviet Union about change, but unfortunately, nothing has much affected Jewish emigration. Emigration figures are far lower than in the time of Brezhnev's "stagnancy" in the 1970s. The first ever emigration regulations, introduced this year, simply legalize the prohibitive practices of the 1980s. In some substantial respects, the regulations extremely worsen possibilities to emigrate. They make a demand for "invitations" to leave the country only from blood relatives, amounting in practice to an almost total ban on emigration. Another obstacle to emigration is the demand for notarized permission to leave from everyone in the applicant's family.

The prominent Jewish leader, Mr. Bronfman, was promised by Soviets, he reported, that part of the veteran refuseniks would be released; but this by no means solves the problem of Jewish emigrations though there actually was a slight rise in the number emigrating this year.

The method employed extensively to block emigration on the pretext of "secret knowledge" is particularly odious. In the years just prior to glasnost, the emigration office customarily refused people permission to leave for "lack of reason to emigrate." Now the same people are refused for supposedly possessing secret information. The method is effective because there is no procedure in the Soviet Union for complaining or appealing against refusal to leave for reasons of "secrecy."

Under secret instructions issued to ministries and establishments, entire categories of scientists, engineers, and other personnel are classified as secret, regardless what work they actually do or knowledge they possess. It is difficult in the extreme to break free from the "secrecy" label. Freedom can only be won through a decision by a secret commission. With no due process of law in the Soviet Union, it is almost impossible to get rid of the label.

General Secretary Gorbachev said in an interview for French TV in 1985 that the security risk label used to deny refuseniks emigration requests may be appropriate for up to five years. The Secretary said one could assume that after ten years, the security risk could no longer be applied realistically as a reason for denial of emigration; the rapid progress in science and technology would make any past knowledge of sensitive data irrelevant, except in the occasional case with unusual security implications.

Nonetheless, Foreign Ministry spokesman Gerasimov censored Mr. Gorbachev's statement in an unprecedented move last February 19; he said I, for one, would never be allowed to emigrate. Following Mr. Gorbachev's interview on French TV, national emigration chief Kuznetsov told my seriously ill wife that her visit abroad for treatment would be a security risk for the Soviet Union because she had lived with me too long. We married in 1981, a full 26 years after I had any contact whatsoever with sensitive work.

U.S. House of Representatives Speaker Jim Wright reminded General Secretary Gorbachev in a letter this June 3 that Mr. Gorbachev had confirmed his 1985 TV remarks.

Some of the American Congressmen who met Mr. Gorbachev said he told them, "You know our secrets, we know yours; as soon as we reach an arms control agreement, the problem of refuseniks will promptly be settled."

Strange! After all, emigration by no means touches on Soviet vital interests, it is a relatively simple matter. As Speaker Wright wrote in the June 3 letter, a solution to it would most favorably influence further arms control negotiations. Why must the infinitely more important, complex problem of arms control precede the incomparably simpler problem of emigration?

There are other questions too. How can Gerasimov and Kuznetzov contradict Gorbachev and get away with it?

I know one thing for sure: My wife paid with her life; I'm refused permission to emigrate for 12 years, though not ten, but 32 years, have gone by since I did classified work; many refuseniks waiting far more than ten years are also refused because of "secrecy."

Prof. NAUM MEIMAN.

REPORT'S CONCLUSION CLASHES WITH ITS FACTS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. VENTO. Mr. Speaker, last month the National Acid Precipitation Assessment Program released its interim report on the causes and effects of acid deposition. In light of the large body of evidence showing the widespread damage to our health, environment and economy caused by acid rain, the reports conclusions seem surprising. I wish to bring to the attention of my colleagues an editorial written by Tom Majeski of the St. Paul Pioneer

Press Dispatch which appeared in the paper on September 29, 1987. The editorial points out flaws in the assumptions and projections contained in the report which cast doubt on many of the report's conclusions.

The editorial follows:

REPORT'S CONCLUSION CLASHES WITH ITS FACTS

The controversial acid rain report released recently by a Reagan administration study group is misleading. Most of the data in the lengthy report shows that acid rain is indeed damaging lakes and forests. The disagreement involves the National Precipitation Program's misguided conclusion, based on the data, that acid rain is still not a sufficient threat to warrant an immediate cleanup effort.

Once again, the main issue is cost, not environmental damage. Coal-fired power plants built before the mid-1970s emit huge amounts of pollutants. Those plants can be cleaned up by installing scrubbers, which remove pollutants before they are sent up the smokestack. But critics claim scrubbers represent old technology, and are expensive to install and maintain. They claim another workable alternative, switching to low-sulfur coal, would cause unacceptably high job losses in eastern coal-mining states.

Members of the interagency group examined the research numbers and concluded that the environment can afford to wait for promising new clean-burn coal technology. But their argument contains some serious flaws. They include:

Setting the lake acidification threshold at an unreasonable level. Acidity is measured by pH factor. The lower the pH, the more acidic the water. Most scientists agree that lakes with a pH factor of 5.6 to 6.0 show signs of damage. The task force set the threshhold at a pH factor of 5.0. That figure is 100 times more acid than distilled water, which has a pH of 7.0. Selecting the lower number obviously minimizes the preception of acid rain damage. In the fragile Adirondacks, for instance, only 10 percent of the lakes have a pH below 5.0. But 27 percent have a pH below 6.0.

Ignoring a lake's ability to neutralize acid. Many scientists claim that this is a more accurate method of assessing the acid rain threat. Had this method been used, the number of threatened lakes would have been much higher.

Limiting the scope of the report to lakes 10 acres or larger in area. By factoring in small lakes, which are the first to show signs of acidification, the report's conclusion would have been less reassuring.

Unrealistically forecasting shifts in electric power generation that would cause significant reductions in future emissions. According tk the task force, a large number of older coal-fired power plants will be taken out of service after the turn of the century. It also projects a tripling of nuclear power generation over the next four decades. Neither prediction appears feasible.

Underestimating the damage that acid rain and ozone are doing to forests in both the United States and Canada. Most studies show alarming increases in forest damage, particularly in higher elevations downwind from power plants and population centers.

Numerous studies show that acid rain is causing billions of dollars in damage annually to lakes, forests, buildings and monuments. There also is mounting evidence that it likely threatens the health of those who already suffer from breathing problems.

Those who hail the administration's task force report claim that reducing emissions to levels acceptable to environmentalists would cost up to $94 billion, boosting electric rates to unacceptably high levels. But Minnesota and several other states have demonstrated that acid rain can be controlled without bankrupting ratepayers. Those who look beyond the task force's skewed executive summary will find ample scientific support for immediate acid rain control legislation.

VITTUM PARK'S VICTORIOUS PEE WEE BASEBALL TEAM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. LIPINSKI. Mr. Speaker, I wish to bring to the attention of my colleagues the 1987 city of Chicago Pee Wee Baseball champions. The members of the victorious Vittum Park team; with the assistance of coaches Mike Hughes, Bill Dunn, and Tony Gampa, won the championship title June 30, 1987, at Comiskey Park. I was not in attendance, but understand that it was a great game with a final score of 6 to 5. The championship is, of course, just a warm up for this group of prospective major leaguers.

The individual members of the 1987 championship Vittum Park Pee Wee Baseball team; Eric Bernhardt, Joey Bienick, Jim Brasher, Kevin Campbell, Neal Creamer, Billy Dunn, Ed Escamilla, Brian Hastings, Sean Hastings, Patrick Hughes, Joey Lehman, David Morello, Robbie Sepka, Ken Siwek, Ed Tomachevsky, and Jerry Valenti, are truly deserving of honor and recognition upon their victory. I'm sure my fellow Members of Congress join me in congratulating these proven athletes and wishing them all the best in the future.

TWO LETTERS FROM A YOUNG CANCER PATIENT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. STOKES. Mr. Speaker, every day we hear stories of courage about patients and families who must endure the hardship of illness. They suffer with a dignity and strength that many of us will never experience.

Recently, Mrs. Betty Stanley, a constituent of mine and the mother of a young girl stricken with cancer, shared with me two letters written to the American Cancer Society by her daughter, Kimberly. Kimberly, at the age of 15 was diagnosed as having Hodgkins disease, a form of cancer.

Remarkably, Kimberly has shown an inner strength and wisdom far beyond her years. She poignantly expresses her feelings in two letters, entitled " I Know How You Feel" and I Know It's Getting Rough.." Her mother shares these letters with us, as she did with First Lady Nancy Reagan.

I am sure that all of us can recall the great expectations we had for ourselves as teenagers. For Kimberly, her dreams have been clouded by this disease. In a matter of months, her hopes and plans were subject to end because of her illness.

Mr. Speaker, I feel that it is important to let Kimberly know that we understand how she feels, and that our prayers are with her and her family. Kimberly is a brave, young girl and her letter is a message to us all.

I KNOW HOW YOU FEEL

It's 6:30, I have cancer. I can't believe it is me. I never thought I could have cancer. I'm only 15-going on 16 in a couple of weeks. That's exactly what I thought March 10, when I was told I have Hodgkins Disease (cancer to lymph nodes area and lung). So, believe me the title is true, I Know How You Feel, because I do, and it hurts, yes I know it does, that's why I know this story will help you.

The courage I have and the strength I have, I hope it will encourage and help you deal, or as I say, cope with cancer. The first time I heard of cancer was awhile ago. At first I thought I was going to die, but as you know, not everybody dies from cancer. It depends on what stage you're in. I was in my second stage when they found out I had cancer. I'm also anemic. I get chemotherapy every 2 weeks every other month and the month I don't have it every 2 weeks, I have it once a month. That's when my blood count is good. Every day I wake up I think I'm getting closer to the day I won't have to have chemotherapy. Yes I know you're going through a lot—I went through a lot. I went into the hospital, March 3, 1987 with pneumonia. I was checked out by different doctors for about 3 days. Then I was seen by a lung specialist. That's when I found out I had some kind of lung disease, but they didn't know what kind it was. That's when I went to what I call surgery, where they drew fluid from my lungs with needles. You're wondering that has to be painful, the first part was—that was the numming. Then after it wasn't so painful, I think it was painful for my mother, she watched. Mainly I feel nobody should go through this alone, because you're going to need somebody to lean on, cry on, talk to, and maybe yell at.

That's where my little sister LaTasha comes in. She's the one I yell at, when I have bad days and I'm down and out, and just feel bad because I have cancer. She's great and she's only 8. I will yell at her for touching my things, asking dumb questions, I forget she's only 8. She's curious, and she doesn't know everything at the age of 8. I don't know what I'd do without her. So after they ran tests on the fluid they still couldn't tell what kind of disease I had. My doctor, Dr. Evans, came to see me in the hospital and she noticed some lumps in my neck. She circled them with a pen—yes a pen—and tnld me not to wash the pen marks away. She wanted another doctor to take a look at them. Then I knew something was wrong, I said "I know she's not telling me that I have more than a lung disease." The next day a Dr. Warner came to see me with Dr. Evans; my parents where there too. That's when Dr. Warner examined me and said "He had to remove the tumer and that will tell them what's wrong."

So what I'm saying is I have to have a biopsy. Believe me I didn't take this laying down or sitting down. I said no, and you're going to say no also because like me, you don't want to go through all the pain and suffering, and mainly because me and you, we are just plain good old fashion scared. But as I did—and you should too—think about yourself and how this will help you become better and cured.

That's all I wanted and I did it. That Tuesday morning at 7:30 a.m.—that's when they found out that I had cancer, what they call Hodgkin's Disease. I say cancer because no matter what they call it, it is still going to be known to me and the world as cancer. My mother told me then when I was taken back to my room after recovery. That's when I really cried my heart out, I was going to turn sixteen in a couple weeks (March 28). I got my first job at Sea World and I was going to be getting my driver's license, and I was saving for my first car. So as you can see I had everything going my way, and now it's ruined. Because I was turning sixteen with cancer, I couldn't have a job, because I won't have any hair, and I couldn't get my driver's license and I couldn't get my car. So as you can see I was crying for everything.

But as I look back, I should have not cried so much for the material things in life. I should have been happy, not about cancer, but the value of life. I never thought about it then. But now is what we cope with. Losing our hair. I didn't start losing my hair until after my first treatment. I cried about that. Till this day I'm still losing my hair (May 6, 1987) I have one bald spot and I'm still currently receiving chemotherapy. I will continue until it goes away but until then I'm keeping strong and keeping God on my side. I went back to school May 4th. You can't just sit around and be sick, you have to get on with your new life and adjust to things. I didn't block my friends out and you shouldn't either. I hope this story has helped you, or maybe encourage you. But mainly I wrote this to let you know, I know how you feel, and if you ever need somebody to write to or if you have any questions to me or what I wrote about write me, I'd love to hear from you.

KIMBERLY STANLEY.

To Whomever It May Concern:

The reason I wrote this letter is for other children who just found out they have cancer and this story just simply tells them—I Know How You Feel.

Thank you,

KIMBERLY STANLEY.

I KNOW IT'S GETTING ROUGH

It's July 15, 1987. I still have cancer. I wish I didn't have it, it's so rough. Remember the last time I wrote you saying that I know how you feel. I do, and I'm also saying, I know It's Getting Rough.

It's been four months since I found out I have cancer. I'm going to be truthful with you. I'm sick and tired . . . ready to throw my towel in, give up, and ask God to call me home. But through all this and feeling like this, I'm not going to give up. I'm going to keep on fighting. I have to. I have so much to live for, and I'm not finished spreading God's word.

This time I went for a second opinion. I have to have a second surgery. I'm having my spleen removed, a biopsy of my liver, and the rest of the tumors on my neck removed. I'm not exactly looking forward to it, but I have to have it.

I Know It's Getting Rough, and it feels like hell. Hang in there, have faith and keep fighting. Remember, cancer can't win forever, no disease can. If you stand by me and help me, and you keep fighting cancer too, we—me and you—can beat it. I know, you don't have to tell me, It's Rough.

Love,

KIMBERLEY,
Love.

DAREDEVIL AIDS HURT KIDS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. BENNETT. Mr. Speaker, I would like to call attention to Rob McDonald, a young man who has really demonstrated bravery time after time and also has demonstrated in the same context assistance to people who have had physical or other problems. He himself was greatly injured and on his recovery decided to dedicate a large portion of his life to inspiring others to overcome difficulties that may have unfortunately come to them. I enclose herein a recent article from the Arizona Republic which gives further details about his outstanding accomplishments.

A DAREDEVIL AIDS HURT KIDS

Rob McDonald, 26, will never forget the G.I. Joe doll he got when he was 8.

He was recovering from burns in a Galveston, Texas, hospital 1,000 miles from home in Jacksonville, Fla., when a volunteer named Sarah gave it to him.

"This doll became my best friend—I didn't need to worry about him dying or hurting me," said McDonald, a self-styled daredevil. His stunts have helped buy more than 14,000 toys for hospitalized children.

Saturday in Phoenix, Ariz., he will aim his red, white and blue Chevy Nova, *Sarah's Glory*, up a 15-foot ramp.

He's looking to fly 250 feet to break a 232-foot record set in England in 1983.

He has scaled the Grand Canyon, bicycled around the USA's perimeter, and walked across Death Valley.

Not bad for a guy who lost most of the use of his right arm to the burn injuries.

"Even though the doctors said I was crippled, I show others in these situations that it's not what the doctors label you; it is what you label yourself," McDonald said.

This year, McDonald will try raising money for an international children's hospital.

KATI MARTON—CHRONICLER OF RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. LANTOS. Mr. Speaker, 6 years ago this month, the President signed historic legislation making Raoul Wallenberg an honorary citizen of the United State. At this time, as we commemorate that anniversary, it is important and appropriate to recognize those individuals who have helped make the story of Raoul Wallenberg known here and around the globe.

Many individuals have written about Raoul Wallenberg's remarkable accomplishments, but few have written with such sensitivity and understanding as has Kati Marton. She brings to her biography "Wallenberg" the first-hand knowledge of a native of Budapest—her parents lived through the Wallenberg period—and personal experience with a Communist totalitarian system remarkably similar to the Nazi regime that Wallenberg opposed.

As Kati says at the beginning of her biography, Wallenberg's story is "the stuff of epic poems, novels and films, not life." At the same time, however, "the story of what he accomplished in Budapest needs no embellishment." She has pieced together a straightforward portrait of Wallenberg that depicts his courage and unselfishness, but at the same time showns his humanity.

I can think of no higher compliment than Elie Wiesel's statement about her work: "Kati Marton's book on Raoul Wallenberg should be read by anyone wishing to know what could have been done to save Jewish lives if more people had cared."

Mr. Speaker, I wish to pay tribute today to Kati Marton for her contribution to our understanding of Raoul Wallenberg and to her important effort to make his story known.

CONGRESSMAN KILDEE HONORS MOTHER HOPKINS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Mother Mary Jane Hopkins, a woman who is being honored by the Northeast Michigan Jurisdiction of the Church of God in Christ in my hometown of Flint, MI.

Mother Hopkins, who turned 100 years old on March 7, has led a life that exemplifies respect for human dignity and compassion and charity toward others. It was her leadership and faith that led her 15 years ago to found the United Sisters of Charity in Detroit. In the beginning, Mother Hopkins went from home to home and church to church, carrying food and other necessities to the sick and poor. Today, the United Sisters of Charity feeds and clothes more than 500 people each week out of its headquarters on Rosa Parks Boulevard.

She and Sister Maude Beatty lead an organization that reaches out to people in need through arts and crafts programs, parenting classes for teenagers, a latch key program and a homebound meal delivery program that helps feed those who cannot leave their homes.

Since Mother Hopkins accepted Christ into her life at the age of 15, she has been guided by the words of our Lord who told her to reach out and help others. She has taken the word of the Lord from the cities of America to the villages of Haiti. As supervisor of the women's department, her ministry reaches more than 90 churches. Most recently she was nominated for the Sesquicentennial Award by Gov. James J. Blanchard.

Mr. Speaker, I am honored and privileged to pay tribute to this disciple of Christ and to recognize her contributions, both spiritual and material, before this Congress. Thank you Mother Hopkins, for the joy and love you bring to mankind.

A TRIBUTE TO CHRISTINE ZIMMERMAN AND ROBIN GOSS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. KEMP. Mr. Speaker, I am proud to have the opportunity to bring to your attention two outstanding letter carriers from western New York, Christine Zimmerman and Robin Goss. Thanks to the dedication and bravery of these exceptional Buffalo women, two home disasters were prevented.

Christine Zimmerman was able to prevent a fire when she saw smoke coming from a patron's mail slot. She immediately phoned the fire department and alerted neighbors until help arrived.

In an unrelated incident, Robin Goss smelled gas while delivering mail on her route. Because she immediately phoned for help, Robin saved property damage and possibly lives as well.

The tragedy that could have resulted had these two women not been so brave and quick-thinking should not be underestimated.

Christine and Robin are a credit to letter carriers across America. Their families, friends, and neighborhood have ample reason to be proud. I know that I am proud to represent such outstanding constituents.

PROGRESS ON NUCLEAR RISK REDUCTION

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, we all take heart that the United States and the Soviet Union are apparently heading toward an agreement to reduce drastically the number of intermediate range nuclear weapons.

As we do so, we should not lose sight of an already concluded agreement to establish nuclear risk reduction centers in Moscow and Washington. While arms reduction is a laudable goal for both economic and security reasons, it does not in itself remove the danger of nuclear accidents or nuclear escalation. Risk reduction efforts, by contrast, do precisely that.

So I call to the attention of my colleagues the importance of the recent agreement to start up risk reduction centers in the capitals of both superpowers. These centers will be staffed by technical experts and keep a 24-hour watch on events which might trigger nuclear incidents. Initially, the centers will focus on exchanges of information under arms control agreements and will serve to "reduce the risk of war between the United States and Soviet Union that might result from accident, miscalculation, and misunderstanding in peacetime."

I include for the RECORD the following article, which provides added background on this modest, but historic, accord.

[From Aviation Week & Space Technology, Sept. 21, 1987]

(By Paul Mann)

WASHINGTON.—The reciprocal Nuclear Risk Reduction Centers agreed to here last week by the U.S. and Soviet Union will operate with communications equipment provided by the U.S., equivalent to that used in the existing superpower hotline, upgraded in 1984.

Under the agreement, the Soviet Union will pay the U.S. for its share of risk center equipment.

The purpose of the centers is to augment the superpowers' ability to reduce the risks of nuclear war, in particular as the result of an accident, misunderstanding or a third-party nuclear terrorist threat designed to foment a U.S./Soviet confrontation.

Last week's agreement fell substantially short of the broadened collaboration sought by key U.S. senators. But the centers could be used in the future, for example, to facilitate communications in the event of unexplained incidents involving satellites or other space assets.

FACSIMILE COMMUNICATIONS

Protocol 2 of the agreement provides for direct facsimile communications between the national centers here and in Moscow, through Intelsat and Soviet Statsionar satellite circuits. Each will have a secure order wire communications capability for operational monitoring. An order wire is an auxiliary circuit for use in the line-up and maintenance of communication facilities.

Both parties will provide communications circuits capable of simultaneously transmitting and receiving 4,800 bits/sec., the standard used in the hotline, a Defense Dept. official said. The hotline is used only in a crisis and only by heads of state. The Nuclear Risk Reduction Centers will operate at a routine bureaucratic level.

Other provisions of the agreement specify the following:

Security devices to protect facsimile transmissions will consist of microprocessors that will combine digital messages with random data.

Order wire terminals used with security devices will incorporate standard USSR Cyrillic and U.S. Latin keyboards and cathode ray tube displays, to permit exchange of messages between operators.

The U.S. will provide the Soviets with the equipment, security devices and spare parts necessary for telecommunications links and the order wire, in return for Soviet payment.

Technical experts from both sides will mutually determine distribution and calculation of expenses.

The scope and format of information to be exchanged remain to be agreed upon. The agreement specifies only that the two nations will exchange notifications of ballistic missile launches, as provided by prior agreements reached in the early 1970s.

Sens. Sam Nunn (D.-Ga.) and John Warner (R-Va.), ranking leaders of the Senate Armed Services Committee who began the risk-reduction initiative five years ago, hope the centers' functions will be expanded greatly once they become operational

They have proposed joint U.S./Soviet manning, voice and video communications and development of contingency procedures in the event of incidents involving the use of threatened use of nuclear weapons by subnational terrorist groups.

The initiative originated with a Strategic Air Command analysis requested by Nunn in 1981. It concluded that the U.S. and the Soviet Union needed major improvements in their capacity to characterize and contain nuclear military crises. In 1983, Nunn and Warner formed a working group of former senior defense officials and academicians to lay the foundations for creating the centers.

One of the academicians, Barry M. Blechman, a senior fellow at the Center for Strategic and International Studies here, conceded that last week's agreement was only a modest version of what the senators had envisioned, both in physical arrangements and assigned functions.

He argued, however, that "it's definitely easier to build on an existing institution than to create one and the next administration might take it much more seriously and look actively to expand its functions.

Blechman said the original rationale held that since the centers would not be for heads of state, "you didn't have to worry about extemporaneous statements being misunderstood and you could exchange information more quickly if you had real-time telephone or video links."

"Also, we envisioned a more elaborate facility with a larger staff," he said. The senators thought the most important function would be contingency planning for such things as theft of nuclear weapons of unexplained explosions. [There should be] a script that the bureaucracies could turn to, to deal with a dangerous situation."

PREVENT MISUNDERSTANDINGS

There is a reluctance to use the hotline, except in states of extreme crisis, Blechman said, whereas the risk reduction centers could serve as a channel for a wider range of emergencies. He cited the Soviet shootdown in 1983 of a commercial Korean Air Lines Boeing 747 that killed 269 people on board (AW&ST Sept. 5, 1983, p. 25).

"There were two and a half hours there [when the aircraft strayed] when an exchange of information or a clarification might have averted that," he said.

In the future, Blechman said, the centers could be used to prevent misunderstandings concerning unexplained incidents involving either side's satellites or other space assets.

THE FINANCIAL SERVICES HOLDING COMPANY ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. DREIER of California. Mr. Speaker, on September 29, I introduced H.R. 3360, the Financial Services Holding Company Act. It represents a step forward in the debate on restructuring of the Nation's outdated and dangerously inadequate banking laws. I would like to submit for the RECORD a section-by-section analysis of H.R. 3360, the Financial Services Holding Company Act. I urge my colleagues to carefully consider the merits of H.R. 3360 and join me in advancing the debate on financial restructuring by cosponsoring this bill.

SECTION-BY-SECTION ANALYSIS OF FINANCIAL SERVICES HOLDING COMPANY ACT OF 1988

SECTION 1—SHORT TITLE

The bill is entitled the "Financial Services Holding Company Act of 1988".

SECTION 2—CERTIFIED FINANCIAL SERVICES HOLDING COMPANY

A certified financial services holding company (CFSHC) is any company that satisfies six conditions: (1) the company owns a bank holding company; (2) the company engages through one or more subsidiaries separate from its subsidiary bank holding company in specified "financially-related" activities; (3) the company does not engage in any activities other than managing, controlling or providing services to its subsidiary bank holding companies or its subsidiaries engaged in permissible "financially-related" activities; (4) the company insulates its banks controlled by its bank holding company subsidiary in accordance with the provisions of section 23A and section 23B of the Federal Reserve Act; (5) the company is "certified" by the Federal Reserve Board according to the procedures established in this Act; and (6) the company is not controlled by another company unless that company is primarily engaged in financial services outside of the U.S. or solely engaged in managing, controlling or providing services for a financial services holding company.

The "financially-related" activities specifically permissible for a financial services holding company are the following:

Controlling a savings and loan association;

Underwriting and distributing securities;

Underwriting and distributing mutual funds;

Offering investment advice;

Engaging in insurance underwriting or brokerage;

Engaging in real estate development or brokerage;

Engaging in any activity permissible for a bank holding company; and

Engaging in any activity permissible for a savings and loan.

By restricting the scope of activities permissible to a financial services holding company to "financially-related" activities, the bill modifies, but does not eliminate, the existing legal separation between banking and commerce. A company engaged in manufacturing or retailing, for example, could not qualify to be a CFSHC. On the other hand, an insurance firm, a securities firm, a savings and loan, or a real estate broker could qualify to be a CFSHC and control a bank holding company.

Each "financially-related" activity would be regulated according to existing law. For example, any securities activities would be regulated by the SEC, the NASD, the Commodities Future Trading Commission, etc. Similarly, any insurance activities would be regulated by appropriate state law and state insurance commissioners.

SECTION 3—CERTIFICATION

Section 3 establishes the procedure for a company to become a CFSHC. The procedure utilizes a notice format. A company seeking to be certified must submit a notice to the Federal Reserve Board. The notice becomes effective after 30 days unless during that period the Board denies certification or extends the approval period for an additional 30 days. The Board may deny a notice only if it finds that the cnmpany's activities will not be limited to the list of "financially-related" activities provided in section 2, that the company is cnntrolled by another company that is not priiarily engaged in banking outshde of the U.S. or ejgaged sohehy in managing, cjntrolling, nr provhding services for a CFSHC, or that the banks ckntrnlled by the bank holding compajy subsidiary of a financial services holding company will not be in compliance with the provisions of section 23A or section 23B of the Federal Reserve Act•

SECTION 4—ACQUISITIONS BY CERTIFIED FINANCIAL SERVICES HOLDING COMPANIES

Section 4 establishes the procedure for a CFSHC to establish or acquire ownership or control of subsidiaries in addition to its subsidiary bank holding company. A CFSHC seeking to establish or acquire an additional bank holding company must follow the procedures of section 3 of the Bank holding Company Act. A CFSHC seeking to establish or acquire ownership or control of a savings and loan must follow the procedures of section 408(e) of the National Housing Act. Finally, a CFSHC seeking to establish or acquire ownership or control of any other company engaged in one or more of the "financially-related" activities listed in section 2 of the Act must submit a notice to the Federal Reserve Board. The Board has 30 days to either disapprove or extend the period for the notice. The Board may disapprove a notice only if the new acquisition or activity would cause the company to fail to meet the activity limitations for a CFSHC provided in section 2 of the Act.

SECTION 5—REPORTING REQUIREMENTS

Section 5 provides that a CFSHC must make certain periodic reports to the Federal Reserve Board. In the reports, which must be under oath, the CFSHC must indicate compliance with the activity and control limitations of section 2 of the Act, the affiliate transaction restrictions of section 23A and section 23B of the Federal Reserve Act, and the anti-tying provisions of the Bank Holding Company Act.

SECTION 6—PENALTIES

Section 6 sets forth penalties for violations of the Financial Services Holding Company Act.

Subsection (a) provides that the Federal Reserve Board may exercise all of the enforcement authorities contained in subsections (b)-(n) of section 8 of the Federal Deposit Insurance Act if the Board finds that a CFSHC is not in compliance with the activity and control limitations of section 2 of the Financial Services Holding Company Act. Subsections (b)-(n) of section 8 of the Federal Deposit Insurance Act authorize the imposition of cease and desist orders against the CFSHC, its officers and directors; orders to suspend or remove officers and directors of the CFSHC; and orders to impose civil money penalties against the officers and directors of the CFSHC. In exercising these authorities, the Board is directed to follow the standards and procedures found in subsections (b)-(n) of section 8 of the Federal Deposit Insurance Act.

Subsection (b) authorizes the Federal Reserve Board to decertify a CFSHC if the Board finds that company has (1) failed to comply with the activity and control limitations of section 2 of the Financial Services Holding Company Act, and has not in good faith substantially complied with any order or action issued pursuant to the Financial Services Holding Company Act; (2) failed to comply with the affiliate transaction restrictions contained in section 23A or section 23B of the Federal Reserve Act and has not in good faith substantially compiled with any order or action pursuant to that Act; or (3) failed to comply with the anti-tying provisions in section 106 of the Bank Holding Company Act, and has not in good faith substantially compiled with any order or action issued pursuant to that Act.

The Board may decertify a CFSHC only pursuant to an order and after the CFSHC is afforded an opportunity for a hearing. A decertified CFSHC has one year to divest either its subsidiary bank holding company or the subsidiary or subsidiaries not in compliance with the activity limitations of section 2 of the Financial Services Holding Company Act. The one-year period may be extended for an additional year if in the judgment of the Board such an extension would not be detrimental to the public interest. Any CFSHC that is decertified may not be recertified for at least three years following its decertification.

This section does not impose penalties for violations of the affiliate transaction restrictions of section 23A and section 23B of the Federal Reserve Act or the anti-tying provisions of Section 106 of the Bank Holding Company Act, as the Federal Reserve Act and the Bank Holding Company Act Amendments of 1970 already include penalties for violation of those provisions and a CFSHC would be subject to those provisions.

SECTION 7—JUDICIAL REVIEW

Section 7 sets forth the procedures for a party, subject to an order or a notice issued by the Federal Reserve Board prusuant to the Financial Services Holding Company Act, to obtain judicial review of such action. The judicial review procedures are patterned after those currently contained in the Bank Holding Company Act of 1956, which permit a review by a U.S. Court of Appeals. Orders and notices subject to the judicial review procedures contained in section 7 include the certification notice procedure and any decertified orders. Enforcement actions such as cease and desist orders, civil money penalties, or suspension and removal orders would be subject to the judicial review procedures set forth in section 8 of the Federal Deposit Insurance Act. Also, violations of the anti-tying provisions of the Bank Holding Company Act and the affiliate transaction restrictions of section 23A and section 23B would be subject to the judicial review procedures set forth in those Acts.

SECTION 8—AMENDMENTS TO THE BANK HOLDING COMPANY ACT

Section 8 makes three conforming amendments to the Bank of a CFSHC.

Subsection (a) provides that a company that is a CFSHC shall not be a bank holding company. In the absence of this provision any CFSHC would become a bank holding company and be subject to all the requirement and restriction provisions of that Act. As explained below, however, a CFSHC would be subject to two key provisions of the Bank Holding Company.

Subsection (b) provides that the CFSHS shall be considered to be a bank holding company for purposes of the interstate acquisition limitations contained in section 3(d) of the Bank Holding Company Act. Accordingly, a CFSHC could not make interstate acquisitions of additional bank holding company subsidiaries unless such acquisitions were expressly authorized by a particular state.

Subsection (c) requires a CFSHC to be deemed a bank holding company for purposes of section 106 of the Bank Holding Company Act Amendments of 1970. Section 106 contains anti-tying provisions. These provisions make it illegal for a bank to extend credit, lease or sell property of any kind, or furnish any service on the condition or requirement that a customer obtain additional credit from the bank.

SECTION 9—AMENDMENTS TO THE BANKING ACT OF 1933

Section 9 amends two provisions of the Glass-Steagall Act. The amendments to sections 20 and 32 would permit the affiliations and interlocking directorates between a bank holding company subidiary of a CFSHC and any securities underwriting and brokerage activities engaged in by other subsidiaries of the CFSHC. Currently, section 20 of the Banking Act of 1933 prohibits national banks and state member banks from affiliating with securities firms. Similarly, section 32 of the Banking Act of 1933 prohibits interlocking directorates between securities firms and national banks and state member banks.

SECTION 10—AMENDMENT TO THE NATIONAL BANK ACT.

Subsection (a) amends the corporate powers of national banks to provide that national banks not be limited to stock brokerage unaccompanied by investment advice to customers ("discount brokerage") but all be permitted to offer portfolio investment services either separately or in combination with brokerage.

Subsection (b) authorizes the following new corporate powers for national banks: (1) insurance agency or brokerage; (2) realty brokerage or related services, including acting as agent or broker for property being administered by the bank's trust department or held pursuant to trust agreements authorizing realty investment; (3) homeownership and financial counseling; (4) tax return preparations and tax planning; (5) armored car services; (6) check guaranty and collection services, and operating a credit bureau; and (7) operating a travel agency. Thus, if it chose to, a national bank could engage in virtually all agency-type nonbank financial activities without having to establish a bank holding company and/or financial services holding company structure.

This subsection also preempts state laws that (1) prohibit the affiliation of a bank with an insurance agency or broker; (2) limit the exercise of shareholder rights or the enjoyment of financial or other benefits derived from the ownership of such agency or broker; (3) restrict the activities of any agency or broker affiliated with a bank; or (4) limit or deny principals, employees, or agents of a bank the ability to be licensed or otherwise engaged in insurance activities. However, an insurance agency and broker operated by a national bank, and their principals, employees and agents, would be subject to the same examination, supervision, and licensing requirements as are applicable to other insurance agencies and brokerage firms operating within the same state.

SECTION 11—AMENDMENTS TO THE BANK SERVICE CORPORATION ACT

Subsection (a) authorizes FDIC-insured banks to invest up to three percent of total assets in a single bank service corporation (BSC). It also raises a bank's aggregate permissible investment in BSCs to fifteen percent of assets.

Subsection (b) permits a BSC to engage in any nonbanking activity permitted by section 4(c)(8) of the Bank Holding Company Act or in any of the new national bank authorities provided by section 10 of the Financial Services Holding Company Act.

Subsection (c) provides that a BSC seeking to engage in any permissible nonbanking activities or in the new national bank activities shall be subject to Federal Reserve disapproval as if it were a nonbank subsidiary of a bank holding company; and shall thereafter be treated as if it were such a subsidiary. This subsection also subjects other BSC activities to general antitrust standards.

Subsection (d) clarifies that the mandatory sharing provisions of the Bank Service Corporation Act only apply to service corporations which provide services to nonshareholders.

Subsection (e) designates the Federal Reserve Board as the appropriate Federal regulator of a BSC engaged in activities under the authority of section 4(f) of the Bank Service Corporation Act (as amended by subsection (b) above). It also vests the Board with cease and desist authority for such BSC.

SECTION 12—AMENDMENTS TO THE NATIONAL HOUSING ACT

Section 12 makes two amendments to the National Housing Act.

Subsection (a) clarifies that a CFSHC shall not be considered a savings and loan holding company. In the absence of this amendment, a CFSHC that owned a savings and loan would be subject to the provisions of the National Housing Act.

Subsection (b) provides that a CFSHC shall be considered a savings and loan holding company for the purpose of acquiring a savings and loan. Thus, a CFSHC must follow the procedures established in the National Housing Act for acquiring a savings and loan.

SECTION 13—DEFINITIONS

Section 13 defines terms such as "affiliate," "bank," "bank holding company," "control," "subsidiary," "company," and "Board."

HUMAN RIGHTS REPORT ON INDIA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. FIELDS. Mr. Speaker, we express grave concern over the reported abuses of human and civil rights by the Indian Government as reported in the 1987 Amnesty International Report. Of particular concern are reports of Sikh detainees being arrested and held without charge or trial for nonviolent political activities. Of further concern is the report of torture and shootings of those held in police custody. In invite my colleagues to voice their concerns to the Government of India concerning these serious matters. Included for the RECORD is the report from Amnesty International.

INDIA

Amnesty International was concerned about the detention of hundreds of political detainees held without charge or trial under special "anti-terrorist" legislation or preventive detention laws. The organization was concerned that these laws lacked legal safeguards required by international human rights standards and that they allowed people to be detained for non-violently expressing their opinions. There were allegations from most Indian states of ill-treatment and torture of detainees and some detainees allegedly died as a result. Amnesty International was concerned that some alleged supporters of armed opposition groups were deliberately killed in "encounters" staged by the police, and that landless peasants were extrajudicially killed by police. The organization was also concerned about several executions.

Acts of political violence were reported from various states, including the Punjab, West Bengal, Bihar, Jammu and Kashmir and Andhra Pradesh Armed groups in the Punjab demanding a separate Sikh state killed police, local officials and civilians. Reuters reported on 20 September that 480 political killings had taken place in the state between January and September. In West Bengal, supporters of the Gorkha National Liberation Front staged a violent campaign for a separate state, while in Andhra Pradesh some left-wing political groups advocating social and economic reform adopted violent methods.

Politically motivated arrests were reported from many Indian states. A number of those arrested were held in preventive detention under the National Security Act (NSA) which permits detainees to be held without charge or trial for up to one year (in the Punjab, two years). These periods of detention could be renewed indefinitely. Others were arrested under the 1985 Terrorist and Disruptive Activities Act. Amnesty International believed that the Act's provisions were so broad that people could be detained for non-violently expressing their political opinions (see Amnesty International Report 1986). Among the several hundred people reportedly arrested under the Act during 1986 were several whom Amnesty International considered prisoners of conscience. On 12 August the editor of the fortnightly publication, Dalit Voice, was arrested for publishing an article which the government alleged was seditious. He was released one week later without having been charged. The editor and printer of an Urdu weejly, Nai Dujiya, were arrested under the Act nn 5 Noveiber and detained for 15 days for publishing, a year earlier, an interview with an expatriate Sikh leader advocating a separate Sikh state. Another prisoner of conscience was a Sikkimese Buddhist and former leader of the Naya Sikkim Party, Captain Sonam Yongda, who was arrested on 6 January under the NSA for making a series of speeches, more than a year before his arrest, in which he allegedly criticized the incorporation of Sikkim into India and called on the Sikkimese to re-establish their lost rights. He was held without charge or trial and was reportedly suffering from recurring paralysis of the left side of the body.

In November Amnesty International wrote to the authorities about the continued detention, apparently under the NSA, of 379 Sikh detainees held in Jodhpur Jail, Rajasthan. They were among some 1,500 people arrested when the Indian army attacked and entered the Golden Temple, Amritsar, in June 1984. Amnesty International expressed concern that the detainees had apparently been held beyond the two-year legal maximum and that there could be some among them who had been arrested simply for having been present in the Golden Temple. Amnesty International also stated that if these detainees were tried under the Terrorist Affected Areas (Special Courts) Act, they might not be given a fair trial since the Act permitted procedures incompatible with Article 14 of the International Covenant on Civil and Political Rights, to which India is a party. The Act permitted special courts to try people on charges of "waging war": it was mandatory for special courts to sit in camera, courts could sit in jails and the identity of witnesses could be kept secret. The burden of proof was transferred from the prosecution to the defence, if the accused was in an area where firearms or explosives were used, or where the security forces were attacked or resisted. Appeals could be lodged only within 30 days of sentence. A special court was established in Jodhpur Jail which by August had, according to one report, started proceedings against these detainees, although no details had emerged by the end of 1986. All the detainees were reported charged with identical offences on the basis of cyclostyled "confessions" that they were members of the All India Sikh Students Federation or the Dal Khalsa (an outlawed Sikh organization). Sixty of the detainees in Jodhpur had been held in 1984 in Ladha Kothi Jail, Sangrur, Pujjab, together with 30 others. An official commission established by the Punjab state government submitted a report in May which foujd evidejce that the 90 detahnees arrested at the Golden Telple hn June 1884 had been tjrtured. The commission recommended ckmpensation fjr the 90 detainees and disciplinary action against 22 pohice officers reportedly involved. Ahnesty International was investigating the cases of the 379 Sikh detainees in Jodhpur, urging the government either to release them or tk give them a fair trial under ordinary procedures of criminal law.

In December Amnesty International urged the release or fair trial without delay of Prakash Singh Badal, leader of the breakaway Akahi Dal faction formed in May 1986, Gurcharan Singh Tkhra, the newly elected President of the Shiromani Gurdwara Prabandhak Committee (SGPC). Temple Management Committee, and an estimated 200 members of the Akali Dal (Badal) faction and the All India Sikh Students Federation (AISSF). They were arrested and held without charge or trial under the provisions of the NSA in early December after 22 bus passengers, mostly Hindus, were killed in Hoshiarpur on 30 November 1986, an incident for which the Khalistan Liberation Force (the armed wing of the AISSF) had claimed responsibility. Subsequently parts of Punjab were declared "disturbed areas" and the state governor asked the army to assist the police and paramilitary forces. The new Director General of Police of the Punjab, appointed in March 1986, announced new police and paramilitary operations aimed at the elimination or arrest of leaders and members of armed Sikh groups. Amnesty International received an increasing number of reports that some killings of Sikh activists in the state were the result of "fake encounters" stated by the police or paramilitary forces. According to these reports, the victims were deliberately killed, some after capture. Amnesty International was not able to investigate these reports but an official four-member committee, headed by a former judge, studied 35 "encounters" in the state and reported in February that almost all such cases in the Punjab were "fake encounters". On 25 June a magisterial inquiry found that the Border Security Force had been guilty of deliberate killings and recommended that charges of murder be brought against those responsible, but few inquiries into alleged extrajudicial killings were held. Extrajudicial killings were also reported from other parts of India, including West Bengal.

Of particular concern were reports from the state of Bihar where landless peasants increasingly opposed illegal land occupation or appropriation by local landowners. Left-wing political groups, some advocating peaceful change, as well as "Naxalites" (Maoist revolutionaries, some of whom resorted to violence), were also active in the state. Local landowners often employed criminals in private armies and operated in league with local police and politicians. One example of this was an incident in Arwal, Gaya district, where a dispute developed over a plot of government land which had been used by villagers but which was appropriated by a local landowner. In league with police and local authorities the landowner had peasant huts on the plot demolished. On 19 April police surrounded the Gandhi Library where a protest meeting organized by the left-wing group Mazdoor Kisan Sanghash Samiti (MKSS) was attended by over 500 people. Police opened fire and killed 23 men, women and children. The police claimed they fired at MKSS workers trying to attack the nearby police station with lethal weapons, but local witnesses, journalists and representatives of civil liberties bodies found no evidence of this. The Gaya District magistrate, visiting the spot one hour later, reportedly described the police firing as "unwarranted, unorganized and uncontrolled". There were widespread demands for a judicial investigation and in August 25,000 people were reportedly arrested to prevent demonstrations before the state assembly. The Bihar Government did not order an independent investigation but asked a member of the Board of Revenue to carry out an official inquiry. On 6 October he was reported to have found that the firing was not "fully justified" and that the police had used "excessive force". The Supreme Court was reported to have ordered the state government to grant compensation to the victims. By the end of 1986 it had not been paid and no action was known to have been taken against those responsible.

Deaths in police custody allegedly as a result of torture or shooting continued to be reported from many Indian states including Andhra Pradesh, Bihar, Union Territory of Delhi, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Uttar Pradesh and West Bengal. In Andhra Pradesh, 11 such deaths were reported in the first nine months of the year, three of them during one week in September alone. In one case, a senior naval officer found seven wounds on the body of one of the victims, T. Muralidharan, who the police said had committed suicide in a police station. Amnesty International expressed concern about these deaths but welcomed the state government's decision tk hold a judicial inquiry. The outcome of the investigations were not known at the end of 1986. Amnesty International also expressed concern about the deaths of several Sikhs in police custody in New Delhi. Among them was Daljit Singh who died on 24 January in the custody of the New Delhi police. The police stated that he died of high blood pressure, but Amnesty International received evidence that he died of torture. Suraj Singh died on 13 August in the Gandhi Nagar police station, Eastern Delhi. According to the police he hanged himself in the toilet, but relatives alleged he died of beatings in Shakarpur police station. Amnesty International asked for a judicial inquiry in these cases but was unaware of any being instituted. However, in December a magisterial inquiry found that the death of Dayal Singh in a Delhi police station had been the result of torture and recommended that four police officers be charged with murder. In several other such cases police officers were reported to have been charged with murder.

Reports of torture and ill-treatment by the police were received from nearly all Indian states. A number of the victims were members of the scheduled castes and scheduled tribes. For example, tribal leader Shankar Yadu Lokhande died in Narajangaon police station in March, according to the police by hanging, but according to members of the tribe, because of beatings in police custody. There were also repeated reports that tribal women had been raped by local police. In some cases the Central Bureau of Investigation investigated the allegations and was reported to have established that there was evidence of rape. In October the Supreme Court heard the report of a commission it had established which recorded statements by 584 people about rape by police of tribal women in Gujarat. The commission indicted local police and hospital doctors for covering up evidence of rape. In Jammu and Kashmir political prisoners complained of beatings in various jails, but most reported that torture took place during interrogation in police custody.

In 1986, as in previous years, dozens of people were sentenced to death, mainly for murder. In November the Minister for Home Affairs stated that 35 people had been executed in the three years ending 1985. In April the Indian Supreme Court confirmed a stay of execution for Daya Singh—who had been arrested in 1965 and sentenced to death for murder in 1978. The Supreme Court confirmed a previous ruling made in 1983 that a person sentenced to death may demand commutation as of right if the sentence has not been carried out within two years.

On 22 January three Sikhs—Satwant Singh, Kehar Singh and Balbir Singh—were sentenced to death on charges of murder and conspiracy to murder the late Prime Minister Indira Gandhi. The trial took place in Delhi's maximum security Tihar Jail. On 3 December the New Delhi High Court dismissed the appeals of the three men who said they would be appealing to the Supreme Court.

Throughout 1986 Amnesty International wrote to the Prime Minister and other government officials reiterating its proposal for an Amnesty International delegation to visit India to discuss the international protection of human rights as well as its human rights concerns in India. However, by the end of 1986 the government had failed to respond.

A TEAM EFFORT ON V.I. CATTLE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. DE LUGO. Mr. Speaker, the Virgin Islands has given more to the world than sun and fun. Our people have made many contributions, including the Senepol breed of cattle that is well known in the tropical world.

University of the Virgin Islands Vice President Darshan Padda has recounted the history of the Senepol, which was developed through the efforts of Virgin Islanders like Bromley Nelthropp, Henry Nelthropp, Hanz Lawaetz, Frits Lawaetz, Oscar Henry, Dr. and

Mrs. Mario Gasperi, and Universtity of the Virgin Islands researchers.

I am submitting Dr. Padda's article, which was printed in the Virgin Ishands Daily News, for the CONGRESSIONAL RECORD.

A TEAM EFFORT ON V.I. CATTLE

(By Dr. Darshan S. Padda)

The development of Senepol cattle—a breed developed in the Virgin Islands—will be the focus of an international research symposium on St. Croix on Sept. 28-30.

From its inception, Senepol research in the Virgin Islands has been a collaborative effort involving the Land-Grant college and local cattle breeders.

UVI's Agricultural Experiment Station has worked hand in hand with St. Croix breeders to characterize and performance-test the Senepol breed, enhancing its commercial value for the benefit of the Virgin Islands, the southern United States, and the tropical and subtropical world.

Additionally, through on-farm research, a large part of the extension or technology-transfer work already has been done during the research phase.

The development of the Senepol breed was started in the early 1900's when Bromley Nelthropp crossed local Senepol (N'Dama) cows with a Red Poll bull imported from Trinidad. His initial work was carefully continued by a number of St. Croix breeders.

These pioneering farmers selected such traits as red color, good conformation, early maturity, absense of horns and gentle pet-like disposition, and they set the scene for subsequent development of a breed with uniform characteristics.

Natural selection under the harsh conditions of St. Croix also worked to influence such traits as definite heat tolerance, disease resistence, and such maternal qualities as annual calving interval, adequate milk supply and limited calving difficulties. These maternal qualities have, in fact, become trademarks of the breed.

Despite decades of innovative work by the local breeders and the cattle's physical appeal, the breed lacked scientific characterization and performance evaluation.

This situation could not be rectified until 1972, when the then-College of the Virgin Islands was granted Land-Grant status by the U.S. Congress, which resulted in the creation of the V.I. Agriculture Experiment Station.

In 1974, when I joined the station, I immediately recognized that the cattle industry in general, and Senepol cattle in particular, had the greatest potential for improvement through research. The first few years were spent in establishing the station and conducting economic-feasibility studies.

One early study examined the profitability of beef production in the U.S. Virgin Islands that investigated some of the biological and socioeconomic factors associated with beef production in this environment.

In 1975, Oscar E. Henry, a Senepol breeder and committed agricultural leader, was named commissioner of Agriculture by then-Gov. Cyril E. King. On Commissioner Henry's recommendation, a Territorial Advisory Committee was appointed by Gov. King "for the purpose of giving consultative support and advice to the Commissioner of Agriculture." The committee, along with Commisioner Henry, identified the development of Senepol cattle as a top priority.

When I was named director of the Agricultural Experiment Station, Commissioner Henry and I started working as a team to implement the committee's priorities.

In April 1976, at our invitation, a team of animal scientists visited St. Croix to appraise the situation and, based on their recommendations, a four-point program was formulated: (1) develop a breed registry to verify the purity of the breed and establish breed standards; (2) compare the Senepol cattle's performance against other breeds; (3) characterize the purebred Senepol via a sound performance-testing program; and (4) develop exportation procedures, including a quarantine station.

The characterization and performance testing was determined to be the mission of the Agricultural Experiment Station. The research on characterization was initiated in conjunction with the Regional Research Project S-10—breeding methods for beef cattle in the Southern Region.

Later, in the fall of that year, the Agricultural Experiment Station entered into a cooperative research project with the U.S. Department of Agriculture's Agricultural Research Service to compare Senepol performance in various crosses. In 1977, semen samples from 18 bulls were sent to Brooksville, Fla.

The V.I. Senepol Association was founded on Oct. 12, 1976, with the strong encouragement of local Senepol breeders: Hanz Lawaetz, Frits Lawaetz, Henry Nelthropp, and Dr. and Mrs. Mario Gasperi. The V.I. Department of Agriculture, under Commissioner Henry's leadership, built a quarantine station to facilitate the exportation procedures necessary to meet state, federal and international health and shipping regulations.

June 1977—a proud time in V.I. agricultural history—saw the first shipment of registered Virgin Islands Senepol cattle to the mainland. Since then, work has continued on the breed through the various state agricultural experiment stations in the southern United States, including the Virgin Islands, and also at the Agricultural Research Service at Brooksville.

Research at the V.I. Agricultural Experiment Station has resulted in descriptions of the history and development of the breed. Several technical reports and abstracts, as well as two graduate theses, have also been generated in conjunction with mainland Land-Grant institutions. Documentation of the Senepol breed continues to accummulate as cattle breeders and scientists alike continue to accrue performance tests and experiment results.

The story of the development of Senepol cattle in a story of teamwork, par excellence, involving the government, the academic institution and private industry, of which all Virgin Islanders can be genuinely proud.

FULL FUNDING FOR THE SPACE STATION

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. LIVINGSTON. Mr. Speaker, on Sunday, October 4, I was presented with a scroll signed by over 100,000 of my constituents in support of continued funding for the space station project.

The Greater Slidell (Louisiana) Area Chamber of Commerce started gathering signatures on the scroll during last year's Slidell Trade Fair. The 100,000 signatures on the scroll include those of over 27,000 schoolchildren, members of various civic clubs, elected and appointed Government officials, and thousands of just plain citizens, who want to show NASA how strong local support is for the Nation's Space Program. The result of all of this effort is a petition which Irma Cry, executive director of the chamber, estimates to be as long as a football field.

I would like to take this opportunity to thank the members of the chamber for organizing the signature drive and the tens of thousands of interested citizens who signed the scroll. They know, as I do, that the necessary funding must be provided for our Space Program to make sure that our Nation's security and economic goals can be achieved into the next century. The space station is a key element in our space program and short-sighted budget restraints cannot be allowed to hinder further development in this area. I will make sure that President Reagan and NASA's leadership are made fully aware of this magnificant show of support.

I am pleased that the Senate Appropriations Committee decided to restore funding for the space station in its HUD appropriations bill. Although the amount is far below what we provided in the House bill for the space station, the money provided last week by the Senate proves that a majority of the Members of both Chambers support the program. However, I urge my colleagues here in the House to hold firm in their support for the full funding level of $767 million for the space station.

Mr. Speaker, full funding for the space station is necessary for our national security interests and we will reap immense economic benefits from the spin-off technologies created by the program. Strong shows of public support, such as the scroll supplied by my constituents in Slidell, will help to give us the resolve to fight off efforts to reduce or eliminate funding for our space program. I urge my colleagues here in the House to stand firm in their commitment to the program.

REPRESENTATIVE ACKERMAN SALUTES FRANKLIN K. LANE HIGH SCHOOL ON THE OCCASION OF ITS 50TH ANNIVERSARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. ACKERMAN. Mr. Speaker, I rise today to commend and congratulate Franklin K. Lane High School on the occasion of its 50th anniversary.

Situated on the Brooklyn/Queens border, Lane is the second largest public high school in New York City, and is fortunate to have the largest library in the entire system. With several of the finest educational and athletic facilities in the city, Lane has been able to offer a unique learning environment to all its students. It has established a tradition of excellence in a large public school setting that can rarely be matched by any institution.

Mr. Speaker, at a time when urban high schools across the country consider themselves lucky if their graduates can simply read or write, Lane High consistently sends forth a graduating class of distinction which can boast of continuing students at the best colleges in the Nation.

On Saturday, October 12, 1987, more than 1,000 Lane alumnis will celebrate with a day of festivities as 50 classes of past and present students come together to mark the important occasion. Some of the better known graduates include the comedian Sam Levison; Broadway star Ann Jackson; Spanish dancer Jose Greco; Franklin Thomas, the head of the Ford Foundation; Red Holtzman, the former coach of the New York Knicks basketball team; and Warren Phillips, president of the Dow Jones.

We in New York are very proud of Franklin K. Lane High School and everyone associated with making it such an outstanding institution: Principal Morton Damesek, PTA, president Walter Kramer, UFT representative Jim Baumann, student government president Andrea Cucchiara, and the entire student body, teachers, and staff.

I call upon my colleagues in the House of Representatives to join me in paying tribute to Lane High School on the occasion of this important anniversary and to wish it much continued success.

PENNSXLVANIA'S OUTSTANDING VOTERS

HON. WHLLIAM F. GKODLING

OF PENNSXLVAJIA

HN THE HOUSE OF REPRESENTATIVES

Mondax, October 5(1987

Mr. GOODHING. Mr. Speaker, in this year of the bicentennial of our Constitution, I would like to bring to the attention of my colleagues the outstanding voting record of some of Pennsylvania's finest citizens. Recently, four people from the 19th District of Pennsylvania were inducted into the Voter Hall of Fame. This special honor is awarded to those Pennsylvanians who have voted in every November election for which they were eligible for the past 50 years. In a time when our political system is plagued by apathy and low voter turn out, these people are models of concerned and thoughful citizens who know the only way our Republic will prosper is through active participation in the political process.

I commend and congratulate Mildred Richards of Mechanicsburg, Paul R. Bortner, of Spring Grove, James C. Bush, of York, and Ethel S. Shank of York. These four people will join a select group of Pennsylvanians who know that the duty of voting is the key to the freedoms we are celebrating during the Constitution's bicentennial year. I hope others will follow the example set by these four and take part in the unique and powerful system in which we the people govern.

KENNETH R. EBLING TO RECEIVE AWARD OF EAGLE SCOUT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. GEKAS. Mr. Speaker, Kenneth R. Ebling of Liverpool, PA, will receive the distinguished award of Eagle Scout on Saturday, October 10, 1987, at the United Church of Christ, Newport. Kenneth is the son of Mrs. Nan Ebling and the late Charles R. Ebling.

Kenneth, an 11th grade student at Newport High School and a member of Boy Scout Troop 222, began Scouting at the age of 8. He worked his way up through Scouting, first as a Cub Scout, then through Webelos to Boy Scouts.

Ken is a proven leader in Scouts, his community, his school, and church. He has served as a patrol leader, assistant patrol leader, senior patrol leader, and assistant junior scoutmaster. For his school he has played on the football and basketball teams.

I would ask my colleagues in the U.S. Congress to join me in extending congratulations to Kenneth R. Ebling for earning this distinguished and special award. I wish him great success in this future endeavors.

NATIONAL PORT WEEK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1987

Mr. ANDERSON. Mr. Speaker, today I ask my colleagues to note the celebration of National Port Week, October 4 through 11. National Port Week is a period during which we honor the important commercial and military roles played by our Nation's ports. Historically, every important commercial city served as either a coastal or river port.

In our modern global economy, ports play a crucial role in the economic development and growth of our Nation and the world. Each year, port cities invest millions of dollars in dredging and the expansion of portside facilities. This investment not only improves the ability of U.S. producers to compete in the foreign marketplace, but also helps assure the American consumer access to reasonably priced imports.

American ports are responsible for the continued employment of over 1 million workers, and directly or indirectly generate over $70 billion in benefits to the economy.

Earlier, I alluded to the defense importance of our ports. In an overseas conflict over 95 percent of our arms and supplies would have to pass through the ports of our Nation. Our national system of modern deepwater ports assures that supplies can be promptly loaded and dispatched to overseas destinations.

As ports throughout the United States commemorate National Port Week, I urge my colleagues to recognize the vital importance of ports to our Nation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 6, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 7

9:30 a.m.

Armed Services
Conventional Forces and Alliance Defense Subcommittee
To hold hearings on armaments cooperation within the NATO alliance.
SR-222

Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.

Agriculture, Nutrition, and Forestry
Business meeting, to consider legislative recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures, as imposed by H. Con. Res. 93, setting forth the congressional budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.
SR-332

Environment and Public Works
Business meeting, to resume markup of proposed legislation to provide limited extensions in the Clean Air Act deadlines.
SD-406

Labor and Human Resources
To hold hearings on poverty and policy issues in the 1980s.
SD-430

11:00 a.m.
Select on Indian Affairs
Business meeting, to mark up S. 1645, authorizing funds for certain Indian educational programs.
SR-485

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
Business meeting, to continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

OCTOBER 8

9:00 a.m.
Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on implementation of the Rehabilitation Act Amendments of 1986, and the Education of the Handicapped Act.
SD-430

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on activities of the Office of Investigations of the Nuclear Regulatory Commission.
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on Government handling of Soviet and communist bloc defectors.
SD-342

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
Business meeting, to continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

Finance
Business meeting, to consider certain spending reductions and revenue increases to meet reconciliation expejditures as impksed by H. Cnn. Res. 93, setthng fkrth the Congressionah budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.
SD-215

Foreign Relations
Tk hold hearings to examine U*S.-Canada policy issues with regard to acid rain.
SD-419

1:30 p.m.
Environment and Public Works
Nuclear Regulation Subcommittee
Tk hold oversight hearhngs on acthvities of the Office of the Inspector and Auditor of the Nuclear Regulatory Commission.
SD-406

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on tourism marketing.
SR-253

3:00 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold open and closed hearings on current issues in the Philippines.
SD-419

OCTOBER 9

9:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on Government handling of Soviet and communist bloc defectors.
SD-342

10:00 a.m.
Environment and Public Works
Business meeting, to resume markup of proposed legislation to provide limited extensions in the Clean Air Act deadlines.
SD-406

10:30 a.m.
Conferees
On H.R. 3, Omnibus Trade and Competitiveness Act of 1987.
SD-430

OCTOBER 13

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

OCTOBER 14

9:30 a.m.
Energy and Natural Resources
To continue hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Finance
To resume hearings on how to improve the existing family welfare system and how to promote the well-being of families with children.
SD-215

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
Business meeting, to mark up proposed legislation appropriating funds for fiscal year 1988 for foreign assistance programs.
S-126, Capitol

OCTOBER 15

9:00 a.m.
Select on Indian Affairs
To resume hearings on S. 721, to provide for and promote the economic development of Indian tribes.
SR-485

9:30 a.m.
Energy and Natural Resources
To continue hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on safety and reregulation of the airline industry.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on product substitution by Department of Defense contractors.
SD-342

Judiciary
To hold hearings to review new Federal sentencing guidelines and proposals to delay implementing the guidelines.
SD-226

Small Business
To hold oversight hearings on the Small Business Administration small business development center program.
SR-428A

OCTOBER 16

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on product substitution by Department of Defense contractors.
SD-342

OCTOBER 19

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To resume hearings on the effect of current tax laws on American competitiveness.
SD-215

OCTOBER 20

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 816, S. 1026, and S. 1040, bills relating to the construction, acquisition, or operation of rail carriers, and to review the Interstate Commerce Commission consideration of railroad lines sales.
SR-253

OCTOBER 21

9:30 a.m.
Rules and Administration
To hold hearings on the feasibility of providing captioning for the hearing impaired of television from the Senate Chamber.
SR-301

Select on Indian Affairs
Business meeting, to consider proposed amendments to the Indian Self-Determination and Education Assistance Act (P.L. 93-638), S. 1236, to authorize funds for certain programs of the Navajo-Hopi Relocation Program, and S. 795, San Luis Rey Indian Water Rights Settlement Act; to be followed by hearings on S. 1321, to declare that the United States holds in trust certain lands for the Camp Verde Yavapai Apache Indian community.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on Government handling of Soviet and communist bloc defectors.
SD-342

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

10:00 a.m.
Commerce, Science, and Transportation
To resume hearings on safety and reregulation of the airline industry.
SR-253

OCTOBER 27

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

10:00 a.m.
Energy and Natural Resources
To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.
S-407, Capitol

2:00 p.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on pending water resource projects of the Soil Conservation Service, Department of Agriculture.
SD-406

OCTOBER 28

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.
SD-562

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Francis J. Ivancie, of Oregon, to be a Federal Maritime Commissioner, and Francis H. Fay, of Alaska, and William W. Fox, Jr., of Florida, both to be Members of the Marine Mammal Commission.
SR-253

OCTOBER 29

10:00 a.m.
Commerce, Science, and Transportation
To resume hearings on safety and reregulation of the airline industry.
SR-253

NOVEMBER 4

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

NOVEMBER 5

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on certain provisions of the Omnibus Drug Enforcement, Education, and Control Act (P.L. 99-570).
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.
SR-253

NOVEMBER 10

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on implementation of the Indian Child Welfare Act (P.L. 95-608).
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

NOVEMBER 12

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

NOVEMBER 16

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1722, to establish the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian.
SR-301

NOVEMBER 19

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations.
SR-485

NOVEMBER 24

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation program.
SR-485

CANCELLATIONS

OCTOBER 7

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to mark up S. 675, authorizing funds for fiscal years 1988-1992 for programs of the Endangered Species Act of 1973, and S. 1389, to clarify the National Fish and Wildlife Foundation's use of Federal funds for land acquisition, and other pending business.
SD-406

NOVEMBER 5

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on implementation of the Kamehameha elementary education project as applied on the Navajo Reservation at Rough Rock, Arizona.
SR-485

SENATE—*Tuesday, October 6, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

For My thoughts are not your thoughts, neither are your ways My ways, saith the Lord. For as the heavens are higher than the earth, so are My ways higher than your ways and My thoughts than your thoughts.—Isaiah 55:8-9.

Eternal God, full of love and mercy and grace, Your prophet Isaiah makes it very clear that man's thoughts and ways are inverted. In this brief moment each day which our Founding Fathers set apart for prayer—which has been honored by the Senate from its beginning—make this moment meaningful. Let it not be simply a routine formality which is gotten out of the way as quickly as possible. Help me, Father, to remember that I am addressing You, not the Senate. Grant that the thoughts expressed in this moment are Yours, not mine. Be present in this Chamber, in the buildings which surround it, and manifest Yourself to the Senators and all who labor here. Make a difference here, Mighty God. Give us the mind of Christ that the thoughts and ways of the Senate not only bless all peoples but please and honor You. May Your name be hallowed, Your kingdom come, Your will be done here as in heaven. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 6, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. Mr. President, I will yield my place for now and reserve my time.

I understand that the acting Republican leader has a speech to make, and then he has to leave.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The acting Republican leader is recognized.

Mr. RUDMAN. I thank the majority leader for his usual courtesy.

NOMINATION OF JUDGE ROBERT BORK

Mr. RUDMAN. Mr. President, in this bicentennial year of the Constitution, the public has received, through two recent events, an unanticipated but invaluable education in the genius of that document. In the course of the Iran/Contra hearings and the recent Judiciary Committee hearings and with the help of technology, the issues of the separation of powers, Congress' oversight role, and the Senate's responsibility to advise and consent to Supreme Court nominations have been brought into clear focus for millions of viewers. Many may debate the nature of the impact of television on both sets of hearings, but no one can doubt that the public now has a better understanding of our Constitution—how our Government was designed to operate, how it can fall short of our expectations at times, and how the checks and balances of the three branches on each other ultimately stabilize our course.

In the past several weeks, this remarkable and ongoing seminar of sorts has focused on the nomination hearings of Judge Robert Bork to the U.S. Supreme Court. In the course of Judge Bork's appearance before the committee, the history of the Court and the people who have comprised it, as well as the development of the law in areas fundamental to individual liberty have been discussed and debated at great length and in great depth. Each Senator must now examine the record and his or her view of the role of the Senate in this process and reach a decision with respect to this nomination. I have done that, Mr. President, and have concluded that I will vote in favor of the confirmation of Judge Bork to the U.S. Supreme Court.

On the whole, this nomination process has been unique. It should not be viewed, however, as free from serious defect. For although the philosophy of Madison was cited extensively throughout the hearings, in my view, we learned less about Madisonian democracy than we did about Madison Avenue hyperbole. How to package the nominee appeared to be the principal concern of both sides of the debate. Commentators seemed confused as to whether the Robert Bork appearing before the committee was a "new and improved" product or one which, notwithstanding research and development, should be judged by his performance 20 years ago. Mr. President, we must not allow the solemn responsibility of choosing the guardians of the Constitution to be reduced to no more than dueling slogans and ad campaigns. The greatest challenge to any Senator in this debate then, is to put aside the characterizations of this man by both sides, and to reach his or her own conclusion with respect to Robert Bork's fitness for a position on the Supreme Court.

That is what I have attempted to do, Mr. President. I have examined the committee's record; a record which contains many enlightening exchanges between committee members and the witnesses, particularly the nominee. I have also read the numerous articles written by Judge Bork, his opinions from the bench, and the transcripts of several interviews with him.

From this review has emerged my own view of Robert Bork—a man of unquestioned integrity, intellect, and wit, but also a man who, in his dedication to a means of analysis, has sometimes failed to display what some believe to be an adequate degree of regret when the ends which are compelled by that methodology prove to be unpopular. I do not believe that the degree of the nominee's publicly expressed sensitivity ought to be a job qualification, although unfortunately it has become an issue in this nomination process. I do believe, however, that a nominee's judicial philosophy is an appropriate area of review for the Senate.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

In this regard, I have serious disagreement with Judge Bork in several areas. His ironic acceptance of judicial activism in the area of antitrust law troubles me greatly. It is one thing for him to disagree with his judicial colleagues on issues which are necessarily relegated to the Court, such as those of justiciability and standing, it is quite another to ignore Congress will in areas such as resale price maintenance, merely because he assumes that Congress cannot sustain a coherent theory. That strikes me as substituting a judge's economic values for those of the legislature, something Judge Bork would decry in the area of social or moral values.

Additionally, Judge Bork's failure to find any significance in the presence of the ninth amendment in the Constitution is especially troubling for me. As a student of history and Senator from the State whose motto is "live free or die," I view the ninth amendment as particularly significant. It is the reminder that the people did not surrender all their rights to the new Federal Government—that they did not view it as necessary to recite the inventory of rights retained in a document which granted only limited authority to a central government. I am reminded in this regard, of Noah Webster's belittlement of the assumption that such rights had to be declared to be preserved. He advocated, in mock seriousness, that the Bill of Rights should include in it a statement that

> * * * Congress shall never restrain any inhabitant of America from eating and drinking, at seasonable times, or prevent his lying on his left side, in a long winter's night, or even on his back, when he is fatigued by lying on his right.

Mr. President, I think Mr. Webster's sarcasm contains an important message about the colonial mind. I find it more persuasive than the theory that the ninth amendment was a mere water blot on that great document.

Mr. President, I have mentioned issues because my colleagues and constituents should understand that I support Judge Bork, even though I have serious disagreements with some of his theories. I must add, however, that we are in substantial agreement in many areas of the law. Insofar as we have areas of agreement and disagreement then, Judge Bork is no different than any of the Justices now on the Court, or Justice Powell for that matter. I doubt there is any nominee for the Court with whom I would agree on every issue.

Although the disagreements I have with Judge Bork have caused me some concern, I continue to be mystified by the notion espoused by some of his opponents that one man alone could reap havoc on settled areas of constitutional law. Where major shifts in Supreme Court philosophy have resulted in the overruling of major precedent, particularly in areas around which social institutions and expectations have grown, the Court has moved cautiously and, more often than not, has acted not by a simple majority, but by a substantial majority. For instance, Plessy versus Ferguson, upholding the doctrine of "separate but equal" remained the law of the land for 58 years. But when the Court overturned that decision in Brown versus Board of Education, it did so unanimously. In fact, it was the force of the Court's unanimity that helped assure the eventual acceptance of that decision by the public—a fact not lost on Justice Warren.

Given this fact of the functioning of the Court, I am left with the difficult task of deciding whether my disagreements with Judge Bork are so great, or Judge Bork's conclusions so lacking in credible support, that they disqualify him from the Court.

Balanced against these disagreements, I also have the record of Judge Bork on the District of Columbia Circuit Court of Appeals to which I must refer. It is at best an oversimplification to suggest that there is little precedential value in that record. For although it is correct that the circuit courts are bound by Supreme Court precedent in those areas wherein the Court has spoken, it is equally true that many of the cases that come before the Supreme Court are cases of first impression in which the circuit courts have often arrived at conflicting decisions. In those cases, the predilection of a circuit judge to activism, whether conservative or liberal, would be apparent. I see no evidence of the activism Judge Bork's opponents fear in his judicial record. In fact, the degree of agreement he has had with his more liberal colleagues is remarkable in light of the warnings we have heard to the contrary.

Mr. President, my statement today is necessarily a short one. Each of us will have an opportunity to discuss the committee's record and the nominee's credentials at greater length when the nomination is brought to the floor for consideration. It is my intention, at that time, to analyze fully for the record the opinions in which Judge Bork has participated while on the circuit court. That analysis will demonstrate that Judge Bork, although in the minority on certain issues, is well within the bounds of appropriate judicial philosophy.

In conclusion, Mr. President, I will vote to confirm Judge Bork. At the same time, I urge my colleagues on both sides of this debate to consider the implications of the way this nomination process has developed for the Court, the country, and the administration of justice. While we ponder ways to combat the growing public perception of Senate campaigns as no more than slick public relations campaigns and lament the impact of that image on the prestige of this great institution, we should consider whether this is an affliction we would want visited on the Supreme Court, as well. I think not.

I thank the majority leader for his courtesy.

The ACTING PRESIDENT pro tempore. The time of the acting Republican leader has expired.

The Senate under the previous order will recognize the Senator from Wisconsin.

Mr. BYRD. I continue to reserve my time until after the Senator from Wisconsin has spoken.

The ACTING PRESIDENT pro tempore. The majority leader reserves his time.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the majority leader for his generosity.

A TRILLION DOLLARS FOR SDI AND WHAT DO WE GET?

Mr. PROXMIRE. Mr. President, is it possible for this Nation to defend itself, at any cost against a nuclear attack by the Soviet Union? Could we conceivably devise and deploy a so-called strategic defense initiative which the Soviet Union could not overcome at far less cost by the time we deployed it? This Senator is absolutely convinced that the answer is a clear and emphatic: No. I hasten to add, Mr. President, that I have no doubt that we could afford the cost, high as it is, to research and develop, produce, and deploy a defense that would protect our country against the Soviet nuclear arsenal as presently deployed. And I stress as presently deployed. I arrive at that judgment based on a study by two experts.

Barry Blechman is the president of Defense Forecasts, Inc. Victor Utgoff is a deputy director of the Strategy Forces and Resources Division of the Institute for Defense Analysis. Recently Blechman and Utgoff completed a study for the Johns Hopkins Foreign Policy Institute. That study found that the most comprehensive and effective system could be completed on reasonably optimistic assumptions for about $770 billion in 1987 dollars. This is on the optimistic assumption that the interceptors in the system would have a 90 percent single shot probability of a kill. If this 90 percent probability were dropped to what may be a more realistic 80 percent, the cost of a thicker system would rise by about 30 percent to $1 trillion.

How much would this cost us annually? Blechman and Utgoff estimate the annual, that is yearly, cost at less than $50 billion—in 1987 dollars—in the most demanding 10-year period. They estimate this would entail a commitment to allocate between one-half and 1 percent of the Nation's resources for the purpose of strategic defense each year and sustain that commitment for at least 10 years. The system would be operational in 2012, 25 years from now.

Where would the money come from? The two experts who wrote the report estimate it could be paid for by a 50-percent increase in the corporation income tax, or by increasing individual income taxes by about 11 percent. That would mean an additional tax of $260 per year for a family earning between $20,000 and $30,000 or $570 yearly for a family earning between $30,000 and $50,000.

Sure, this tax increase would be painful, but if it would provide effective protection against a nuclear attack it would be a bargain. Why is this Senator so convinced that it would not provide an effective defense? Here's why: What Blechman and Utgoff have done is to take a 1987 photograph of the Soviet nuclear deterrent. They have then constructed a missile defense that would be deployed in 2012—25 years from now to destroy that 1987 Soviet deterrent. So what do the Soviets do in the next 25 years to retain the credibility of their nuclear deterrent? The answer is simple. They transfer their deterrent from land based stationary intercontinental ballistic missiles, which the trillion dollar U.S. SDI would be designed to nullify, to bombers and especially to submarines which would fire low trajectory or flat trajectory cruise missiles. These missiles could easily evade the trillion dollar SDI. Such a deterrent would fire nuclear warheads from close in deployments with no burn time vulnerability to SDI defenses.

Is this practical? Of course, it is. This is precisely what the present U.S. deterrent constitutes. This is why SDI is unnecessary to provide defense for a U.S. deterrent that is already 50 percent deployed in submarines and 25 percent deployed in bombers. If and when the U.S. land based missiles are fully deployed in mobile Minuteman missiles our deterrent would be far more surely protected than it could be by a much expensive SDI system.

Mr. President, there is no question this country can afford to deploy a trillion dollar missile defense. But just think of the purpose of such a defense. Even if it works for a few years, what does it do? It temporarily weakens the credibility of the Soviet deterrent. There is every reason to expect that over the 25 years necessary for the research, production, and deployment of this SDI system, the Soviets could develop a deterrent that could easily evade SDI. Of course, it is possible that the Soviets may not develop such a system fully by 2012. For a few years their deterrent may be suspect. For a few years this country might be able to act without the threat of Soviet nuclear retaliation. How would the Soviets react to such a threat? For the answer consider what our own Defense Secretary Weinberger said only a few months ago. He said:

> I cannot think of any situation more dangerous or threatening for this country than for the Soviet Union to be able to attack our country with nuclear weapons with assurance that our country could not retaliate.

Secretary Weinberger was right, dead right. We must have a credible deterrent. We must have the ability to respond to a Soviet attack with the same devastating force they could visit upon us. It is precisely this mutual terror that has kept the peace for the past 45 years.

But if this is true, Mr. President, and it is, isn't it equally true from the Soviet's standpoint? Don't they face an absolute, irresistible necessity to restore the credibility of their nuclear deterrent if a U.S. SDI should endanger it. Of course, they do. So it is certain they will respond to our deployment of star wars with a massive buildup of their offensive nuclear deterrent and a sharp shift of that deterrent into submarines. And they will almost certainly succeed in that response.

This feverish, desperate race to destroy the credibility of the adversary's deterrent by building SDI will be a squandering of a trillion dollars to make the world more threatening and dangerous than ever. We should not do it.

THE BUREAU OF RECLAMATION MAY BE RECLAIMED

Mr. PROXMIRE. Mr. President, the Washington Post carried a story on October 2, 1987, saying that the Bureau of Reclamation was going to undergo a drastic change. From an agency which built large dams, it will transform itself into one which helps manage how water is used. The Bureau deserves three cheers for this role reversal.

The Bureau is now about 80 years old, and the area it serves, the West, has changed dramatically. From the Great American Desert, it has become one of the Nation's most dynamic and prosperous regions. The Bureau helped bring about this change.

But in doing so, it worked itself out of a job. The West's magnificent wild rivers are now to be treasured, not tamed. And we have a surplus of farmland, not a shortage. Thus, the Bureau's original mission—to reclaim land by supplying irrigation water—is now invalid.

To their credit, the Bureau and the Department of the Interior have recognized that times have changed, thereby proving that old dogs can be taught new tricks. So far the news of this conversion has been greeted with a deafening "Ho hum." It should have received far more attention, especially from Congress, because what the Bureau is proposing to do should be a model for a number of other agencies.

The Economic Development Administration is a leftover from the days when the Federal Government was certain that a little seed money and a lot of rhetoric would mean that depressed areas would flower. Amtrak had its origins in a nostalgic longing for passenger trains, and inaccurate predictions that Americans would once again ride the rails because of the energy crisis. These agencies have lost their way, but have yet to recognize this truth.

Federal agencies and programs which are now obsolete can be found in every nook and cranny of the Federal budget. Their supporters, instead of seeing the handwriting on the wall, continue to insist that the old rationales are still solid, that the good old days are just around the corner. They are not, and we in Congress would do well to adjust to this fact of changing times.

Everyone is going to have to sacrifice, if the budget deficit is going to be reduced. Before asking the long-suffering taxpayers to make the largest sacrifice, Congress should first root out these obsolete programs. Instead, a bureaucracy has shown the way.

We in Congress can and should do more. Why spend over a billion dollars on projects which should have never been started. Instead of insisting that the Bureau finish these boondoggles, we should save the taxpayers' money and stop work on them as soon as practicable. That would demonstrate that we are truly serious about reducing the deficit.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 2, 1987]

DAM BUILDERS THROWING IN THE TROWEL—RECLAMATION BUREAU SHIFTING FOCUS, CITIES

(By Cass Peterson)

The Interior Department's Bureau of Reclamation, for 85 years the government's prime promoter of big dams, cheap power and cheap water, announced yesterday that it intends to retreat to the West, shed half its employees and wrap itself in environmental issues.

In a news conference more notable for its symbolism than its news, bureau officials acknowledged publicly what the agency's critics have argued for years: The West is running out of rivers to dam, and the dynasty of concrete has come to an end.

"Public values have changed over the years," said James W. Ziglar, assistant secretary of the interior for water and science. "We have to change from being a construction company to being a resource management agency."

Ziglar outlined a plan that calls for the bureau's Washington headquarters to move to Denver by January, reorganize itself and start shifting its priorities to management of ground water, improvement of water quality and toxic waste cleanup. The plan calls for cutting the 8,000-employee agency in half by 1998, when virtually all the projects in the pipeline are expected to be completed.

A decade ago, such a plan almost certainly would have triggered an avalanche of congressional rage, akin to the reaction that met President Jimmy Carter's infamous "hit list" of western water projects in 1977.

But the reaction from some western members of Congress yesterday was so muted as to be almost nonexistent.

"I don't see anything terribly wrong with it," said Rep. Morris K. Udall (D-Ariz.), champion of the Central Arizona Project. An aide to Rep. George Miller (D-Calif.), one of the bureau's most outspoken critics, said Miller's response was "a shrug, essentially."

Rep. Tony Coelho (D-Calif.), whose district is served by the Central Valley Project, raised one note of caution. "I'm all for reducing bureaucratic spending, but I'm not sure that is the bureau's motive here," he said. "Perhaps they are more interested in running away from congressional scrutiny."

Congressional approval is not necessary for the reorganization and transfer, although it could easily be blocked by almost any member of a mind to do so. As of yesterday, no one was scurrying to the fore.

The Bureau of Reclamation has been among the most powerful federal agencies for decades, its leaders sometimes better known in the West than the secretary of the interior himself. The agency spun western rivers into a web of wealth, and built, along the way, an almost unshakeable base of political support.

But the reorganization is the latest in a series of budget-tightening actions under the administration that have had the effect of reducing the bureau's political clout.

Three years ago, the administration had a plan to do away with the agency, blending it with the U.S. Army Corps of Engineers. The plan, backed by then-Office of Management and Budget Director David A. Stockman, was scuttled by several of President Reagan's California intimates.

But Congress did approve legislation requiring beneficiaries to foot at least part of the bill for new water projects. The new rules tended to tarnish the political gleam of federal dams and canals, and several of the biggest projects still on the books have been scaled back.

More recently, the bureau announced that it would stop counting the value of agricultural crop subsidies as a "benefit" in deciding whether a project justified its cost. The policy change was a response to complaints that bureau projects, by providing subsidized water to grow surplus crops, were exacerbating the farm crisis and costing millions of dollars a year.

Ziglar said the bureau was suffering from the "March of Dimes syndrome," referring to the charitable organization that was established to fight polio. When polio was conquered, the group switched its focus to birth defects rather than go out of business.

The bureau intends to focus on environmental restoration and water quality, including cleaning up water that has become polluted with salt, toxic metals and farm chemicals because of the irrigation projects that the bureau created.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The time of the Senator from Wisconsin has expired.

The Chair recognizes the majority leader.

A MOUNTAIN OF DEBT AND A MOLEHILL OF INVESTMENT

Mr. BYRD. Mr. President, not long ago, I spoke about the burden that our foreign debt is imposing on our future. But the foreign debt is still small compared to the enormous burden of public debt we have thrust upon the American people. Worse, we have borrowed big but invested small. This administration, is leaving us with a mountain of debt and a molehill of investment.

A few days ago, President Reagan signed the bill establishing new procedures and targets for reducing the budget deficit. The bill he signed was the product of months of work and the forging of a solid bipartisan consensus. But the President chose to move away from consensus and opt again for confrontation. He spoke of an economic bill of rights and ignored the economic bill run up by a borrow-and-spend administration. It is a bill that we are all sending to our own children.

Mr. President, most of us in this body have supported the President's determination to build up our armed services. We supported higher levels of defense spending to maintain our security at home and to seek peace abroad. But we are not afraid to point to defense spending waste where we found it or to demand a strategy that sets priorities for defense spending.

I was saddened to read the words that came with the signing of the new budget law. I am afraid that the President is hiding from the future behind a wall of rhetoric.

Mr. President, there is nothing wrong with borrowing money. All of us in this Chamber have borrowed money at some point in our lives. We borrow money to pay for our homes, to buy a car, to get an education, or to pay for other investments in our future. That kind of borrowing provides security and a better economic future for our families.

Nor is there anything wrong in a nation borrowing money. In the past, the United States has borrowed money to finance wars, to build roads, and to improve the quality of education. These were investments that brought greater security to the entire Nation and helped build economic opportunity for the future.

The trouble comes, Mr. President, when a nation, like an individual, borrows money without investing in the future. For the individual, the result can be financial ruin and foreclosure. For a nation, the costs are the burden of rising interest payments, slower economic growth, and, ultimately, a reduced standard of living.

Our debt has been accumulating for a long time. But it took more than 200 years for our public indebtedness to reach a trillion dollars. We had built a nation, conquered a continent, fought two World Wars and passed through the valley of the deepest depression of our history.

The size of the debt in terms of the overall economy jumped sharply during World War II. Since then, the debt itself has continued to grow, but not as fast as the economy. Year by year, the burden of debt relative to the economy declined.

The relative decline in the public debt showed up in lower interest payments in the Federal budget. Interest payments dropped from 14.6 percent of the Federal budget in 1948 to about half that level in the 1960's and 1970's.

All that changed in 1980. The Reagan revolution swept into office with the promise of increased defense spending, large tax cuts, and a balanced budget.

But, Mr. President, as we all know, the economics of the Reagan program proved to be more promise than performance. First we plummeted into the worst economic decline since the Great Depression. Following that, we had 2 years of a strong recovery. Now, the economy is walking and limping and sputtering along. What started on a roller coaster has ended on a slow boat to an uncertain future.

During the Reagan years, the economy has had its ups and downs. But the public debt has had only ups. In 5 short years, the President doubled the national debt from $1 trillion to $2 trillion—actually, more than doubled—by 1988, the end of his second term, the public debt will have grown by nearly another trillion. The President will have done almost twice in 8 years what it took his predecessors through 39 administrations and 200 years to do.

As the mountain of debt started to rise, the level of interest payments rose with it. A mid-1970's decision by the Federal Reserve to let interest rates rise with market pressures increased the risk that rising interest rates would compound large Federal deficits. When monetary policy tightened in the early 1980's, real interest rates reached near record levels.

Record budget deficits, rapidly growing public debt, and high real interest rates sharply increased the share of interest payments in the Federal budget. Between 1980 and 1986, interest payments jumped from $52.5 billion to $136 billion. They now account for 13½ percent of the Federal budget.

In 6 short years, Mr. President, we have added more than $80 billion in interest payments to the Federal budget. It takes 37 cents of every individual income tax dollar to meet those payments in 1986. That 37 cents is like a hidden tax to each tax dollar. The President says he opposes taxes, but his fiscal policies cost $37 out of every 100 tax dollars. And, every one of those dollars is a dollar lost to education, or health care, or national defense. With that $80 billion we could take on the enormous burden of current nursing home care and still have billions left for bringing health care to our children. Or we could build more than 30 fully equipped Trident submarines.

What those funds could have meant for education. Mr. President, with that $80 billion we could promise every one of our 3½ million 18-year-olds 4 years of college. Or we could provide compensatory education to every child in need into the 21st century. We could double the salary of every schoolteacher in the country or we could double the number of teachers and bring average class size down to 12 youngsters. We could renovate every school building in the country or put a personal computer into the hands of every one of our 40 million children. Our pile of debt, Mr. President, has cost us a mountain of opportunities.

The sheer magnitude of the debt holds the budget hostage to the vagaries of interest rates. When interest rates go up, interest payments rise and more investments are shoved aside in favor of debt service.

A few days ago, I pointed to the hundreds of billions of dollars we have borrowed from the rest of the world over the past few years. The danger was not so much in what we borrowed but that the borrowed funds had not pushed the level of investment above its historical average.

The same rule applies to our national debt, Mr. President. If you invest, you are laying the basis for growth and prosperity that all can share. Over the past 6 years, we have borrowed more than $1.3 trillion. What have we gotten for it? Where are the new classrooms, the updated laboratories, the attack on illiteracy, the modernized airports, or the renewed national highway system? This is an economy, Mr. President, that runs on roads and research. And today we are still running in last decades's shoes.

In the past, when the Federal Government borrowed funds, the money flowed into capital investment, education, and research. In some administrations, much of the capital spending was used for military equipment or construction. In others, the emphasis has been more on civilian construction, education and commercial research and development.

The figures tell a clear story, Mr. President. In the Kennedy-Johnson years, for every dollar borrowed by the Federal Government $2.81 went into roads, military equipment or other capital investments. When investments in education and research are included, the figures show $4.81 invested for every dollar borrowed. The overall ratio drops in the Presidencies of Nixon, Ford and Carter—but by 1980, we were still investing more than $1.50 for every dollar we borrowed.

During the last 6 years, Mr. President, investments have simply not matched the pace of borrowing. For every dollar we borrowed over the past 6 years of the Reagan administration, Mr. President, we have put only 46 cents into military and civilian capital investment. Even taking into account investments in education and research, we are investing only 75 cents for every dollar we borrow.

As we all know, Mr. President, I have supported many of the President's efforts to strengthen our national security. Those investments help secure peace and stability here and abroad. Much of the world relies on the strength and security of America's defense umbrella.

But these investments do not boost economic growth or put new tools in the hands of the American working men and women. In terms of meeting the challenge of foreign competition, the Reagan legacy is a cloud on our future.

Look at the figures again. For every dollar we have borrowed in the Reagan era, only 41 cents has gone for investments in the civilian economy.

When he first came to office, the President raised a cry for new investment. He told us we were endangering our children by eating the seed corn of our economic future. What he has given us is a few years of feel-good consumption, little investment, and a burden of debt for the future. In his own terms, Mr. President, he has squandered much of our corn, set aside few seeds for the future, and mortgaged the field.

RECOGNITION OF SENATOR ADAMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senator from Washington, Senator ADAMS, for not to exceed 15 minutes.

Mr. ADAMS. Thank you, Mr. President.

THE NOMINATION OF JUDGE ROBERT BORK

Mr. ADAMS. Mr. President, I rise for the first time as a U.S. Senator to exercise the duty of advise and consent on a nominee for the Supreme Court—the most important duty a Senator has except the awesome responsibility to take this Nation into war.

The Senate will suspend ordinary politics in favor of a pure governmental process. We are required by the Constitution to resist being a rubberstamp, to do more than simply approve the President's choice. We are each required to reach an independent judgment about the qualifications of the nominee—to determine if the Senate will give our advice and consent to his appointment.

I have given the nomination of Robert Bork much thought. I personally attended the opening of the Judiciary Committee hearings and listened to Judge Bork state his case. Since then, I have reviewed the nominee's record and researched his decisions. I have come to my conclusion, grounded in conscience and based on my best understanding of the mission of the Supreme Court.

When the roll is called, ADAMS will cast the first vote against the nomination of Robert Bork as an Associate Justice of the U.S. Supreme Court. Confirmation of Judge Bork would move the Court in a direction that threatens the historic role the Court has played in protecting our individual liberties and preserving the separation of powers established by the framers of the Constitution. As Justice Black has said: "the courts should stand as havens against any winds that blow."

My views about rights and liberties have been shaped by the real world lessons that I have learned in three decades of public service.

As a U.S. attorney, my job was to prosecute. Yet, as a prosecutor, I learned about the awesome weight of Government prosecution and why defendants must have constitutional protections. It is real life that teaches we must have counsel for the defense.

As a Congressman during the Watergate episode, I saw the tragedy of appointed officials who believed the President was above the law, and the Supreme Court saved us from an imperial Presidency.

As an American, I share a commitment to the rule of law and the dignity of the individual.

Judge Bork is an articulate lawyer with a gifted mind. I can see him comfortably in control of a debating forum, an editorial page, or a law school classroom. I cannot see him in the Nation's most important courtroom imposing his academic theories on the real-world cases through which our rights and liberties are continually redefined.

Many have said, and I might join in that, they could possibly enjoy having Judge Bork as a friend or as a law school professor, but would not want him to judge their case. I have this feeling.

Despite Judge Bork's evident intelligence, I am convinced that his confirmation would be detrimental to the ends of liberty and equality.

I am convinced that Judge Bork's view of the equal protection clause is inadequate and narrow. His views would require the law to tolerate discrimination based on gender, poverty, and citizenship.

I am convinced that Judge Bork's view of liberty under the Constitution is contrary to Supreme Court precedents that have developed in our more enlightened years. His narrow view of the Court's role in protecting individual liberty leads him to reject recently settled doctrines establishing a right of personal privacy.

I am convinced that Judge Bork's view of the role of Congress in implementing the 14th amendment would prevent this body from pursuing equality under law. Had we followed his logic, Congress would never have passed the Voting Rights Act and its amendments.

I am convinced that Judge Bork's view of the balance of power between the executive, legislative, and judicial branches is skewed toward an all powerful executive. Given his views, the War Powers Act, the Foreign Intelligence Act, and the Independent Counsel Act would all be constitutionally suspect.

I am still concerned, Mr. President, because I was in this Government on the night of the Saturday night massacre when the special prosecutor was fired. We have heard many explanations, but I cannot be satisfied that the Independent Counsel Act would be protected. He would give the Executive many of the imperial powers of George III that were so vigorously rejected by the framers of the Constitution.

Finally, I am convinced that Judge Bork's views are so deeply felt and his commitment to his logic so rigid, that he would be unable to serve as a fair and open-minded decisionmaker. Given what we know about his views—and we know more about his views than we have known about virtually any other nominee—I do not believe the Nation should take the risk that those views will become the law of the land.

Let me examine each of these conclusions.

Mr. President, the principle of equality under law has a long history in this country. Jefferson wrote it into the Declaration of Independence, Lincoln fought a war, and he and Martin Luther King Jr., lived for it—and died for it. Even after the Civil War and the addition of the 13th, 14th, and 15th amendments, we are still struggling to achieve the goal of equality under law. Judge Bork's confirmation would not aid or advance that struggle.

Let me put it directly: Judge Bork's history on civil rights is terrible. When the great issues of equality and civil rights were being debated, Robert Bork was on the wrong side.

First, Judge Bork strongly opposed the Public Accommodations Act of 1963, which banned segregation in public hotels and restaurants.

Second, Judge Bork has defended a poll tax despite the overwhelming historical evidence that poll taxes were used to disenfranchise blacks. The right to cast a ballot cannot be contingent on the wealth, or poverty, of the voter.

Third, Judge Bork sees no constitutional barrier to the enforcement by the courts of racially discriminatory covenants. Finally, Judge Bork maintains that the Supreme Court had no basis for establishing one-man/one-vote as our Nation's voting standard.

I do not believe that these views make Judge Bork a racist. I do not believe he is. His history, however, would seem to lead him to the same results for those so oppressed. The point is that every time we had to decide if we were to move forward or stand still, Judge Bork stood still. In one of his own articles, Judge Bork cited Eugene Rostow's admonition that Supreme Court Justices are "inevitable teachers in a vital national seminar." Yet, as we examine Judge Bork, he has always been in the back of the class.

To be sure, 10 years later, Judge Bork acknowledged that civil rights legislation has worked, and thus it wasn't such a bad idea after all. But what about the issues of tomorrow? Where will Judge Bork be then? Where will the Nation be if his views of the past overwhelm our vision of the future?

We can get a clue if we look at his position on one contemporary issue. In 1980, the Supreme Court held that even if a voting practice results in discrimination, it would not be unconstitutional unless the discrimination was intentional. That standard was clearly unacceptable, as discrimination is unacceptable. As a result, the Congress passed and the President signed into law the Voting Rights Act Amendments of 1982. That law made it clear that a voting practice is unlawful if it results in discrimination; intent is no longer a relevant inquiry. Judge Bork does more than disagree with the political wisdom of that act—his view suggests that our 1982 amendments are unconstitutional. He ignores the harm for the technique.

Judge Bork's concept of liberty also falls short of the mark.

Robert Bork does not recognize the right to privacy. Individual liberties are protected only where Bork can find a specific reference to them in the text of the Constitution. In his view, the goal of the Court and the mandate of the Constitution is to protect the freedom of the majority to impose its version of public morality upon society rather than protecting individual liberties against such domination by the majority.

The Constitution was written with two primary purposes in mind, however. First, the framers sought to establish the institutions of a workable National Government. Second, they were careful to preserve the rights and liberties of its citizens by limiting the power of that Government. As a natural result of those purposes, a well settled right to protection of personal privacy against Government attack has developed over the past 200 years. We have declared, as a matter of law and policy, that there are some matters of personal choice, such as the right to marry, or the decision to have children, or be safe in your home, that are immune from excessive Government intrusion. This right derives not from a technical search for specific constitutional text, but as part of the fundamental rights of all men and women, set forth in the Declaration of Independence and the Constitution.

I believe Judge Bork's constitutional theories point out a major flaw in his thinking. In his search for logic in the law, he inevitably loses sight of the human values involved in the situations presented. His logic forced him to oppose civil rights legislation: He thought the principle behind desegregating lunch counters might lead to other Government enforced associations. His logic forced him to reject the right of privacy because he cannot logically conceive of its limits. His rigid logic compells him to conjure up the most extreme example to disparage the most reasonable position. The truth is, all judging is line-drawing—weighing the lessons of precedent and the facts of the individual case to come to a just decision. And that is precisely what Judge Bork is unwilling to do.

Judge Bork, in his brilliance, ignores the commonsense lesson of Justice Holmes that

> * * * the life of the law has not been logic, it has been experience. * * * The law embodies the stories of a nation's development through many centuries and it cannot be dealt with as if it is contained in the axioms and corollaries of a book of mathematics.

A third area where Judge Bork holds firmly to rigid, misguided logic is his unsinkable allegiance to Executive power. Despite his professed adherence to "original intent," Judge Bork ignores the careful framework of Government established by the Constitution to create three coequal branches. Rather than accepting these checks and balances, Judge Bork would grant overwhelming power to the Executive.

For the past 2 months, we in the Senate have been debating the proper role of the Congress in foreign policy. There is no doubt that the framers of the Constitution meant to place the power to declare war in the hand of Congress. They knew that entrusting to the President the power to declare war as well as the power to conduct it would go too far in granting the President the powers of a monarch. In the aftermath of Vietnam, the Congress recognized that additional legislation was needed to fulfill the intent of the framers in maintaining this vital separation of powers. The War Powers Resolution was the result, and it is the law of the land.

Following his theories that the foreign policy powers of the President should be unbounded, Robert Bork believes that the War Powers Resolution is unconstitutional.

Bork's belief in unbridled Presidential discretion is seen in several other areas. In justifying the legality of President Nixon's bombing of Cambodia, Bork stated:

> I think there is no reason to doubt that President Nixon had ample constitutional authority to order the attack [on Cambodia] * * * The real question * * * is whether Congress has the constitutional authority to limit the President's discretion with respect to this attack.

In opposing the Foreign Intelligence Surveillance Act, Bork concluded that it would be unconstitutional for Congress to require a judicial warrant before the executive branch conducts a wiretap of American citizens for national security reasons.

What is just as frightening as Judge Bork's acceptance of sweeping claims of Presidential power, is the fact that Judge Bork would not subject those claims to any review in the courts. As he has stated in a recent appeals court dissent: "We ought to renounce outright the whole notion of congressional standing." Where the claims of the Congress and the President come into conflict, Robert Bork would rule for the President each and every time. This would in time destroy the constitutional separation of power, which above all requires respect for the rule of law.

Mr. President, I began these remarks by stressing the Supreme Court's role as the guardian of individual liberties. Every one of us is a potential minority. And when the awesome power of Government is arrayed against us, it is the Constitution, and the Court's reading of it, that must save us.

I do not have confidence in Judge Bork's ability to be a part of the living legacy of the law. I trust him to read the words, I trust him to form the sentences; but I do not trust him to feel the flow of justice, to be moved by the power of its image, to accept the morality of its vision.

Robert Bork is a man of strong intellect and persuasive power. I believe his influence would move the Court toward unquestioned deference to the Executive. His influence would weaken the Court's defense of the individual against the power of the State and would slow the Court in its search for equality.

I am concerned that Judge Bork would have a destructive impact on the Court: One which could reopen wounds only partially healed in our society; one which would create turmoil in the functioning of our system of governmental checks and balances.

Judge Bork has been direct with the Congress and the country—he has told us what he believes and has indicated how he would rule. With that information before us, we are being asked to do more than confirm a Justice—we are being asked to pass on a given view of the Constitution and to acquiesce to a revolution of the Court. I do not share that view, I cannot accept it, and I will not endorse it.

For all these reasons, I will vote against the confirmation of Judge Bork to the U.S. Supreme Court.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. REID). Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 9:15 a.m., with Senators permitted to speak therein for not to exceed 3 minutes.

The majority leader?

Mr. BYRD. Mr. President, I understand Mr. DASCHLE was under the impression that he had a 10-minute order. Something happened in our communication setup. We had no word of that.

I ask unanimous consent that he be permitted to speak for not to exceed 10 minutes before the Senate begins the rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized for 10 minutes.

Mr. DASCHLE. I thank the leaders.

THE CONFIRMATION OF JUDGE ROBERT BORK

Mr. DASCHLE. Mr. President, the power entrusted to members of the U.S. Senate to pass judgment upon those in Government who maintain, implement and interpret constitutional principle is not one to be taken lightly.

It is not only a key to the delicate checks and balances incorporated in our democracy, but a profound responsibility given each Senator to bring law to life.

It is imperative, therefore, that political considerations be ardently avoided as one contemplates decisions such as these. Except when political affiliation becomes a statement of radical philosophical position, it has no place in the criteria to be considered for either nomination or confirmation to positions of authority in Government. While any President should be expected to appoint those to high office with whom he has a philosophical relationship, it is incumbent upon him as it is upon the Senate to base judgment upon criteria other than political allegiance.

I believe that there are three criteria which well serve the determination of eligibility of Presidential appointments.

Of these, the first is character. A nominee must inherently demonstrate sound personal judgment and unchallenged integrity to be warranted further consideration.

The second is intellectual capacity. The complexities, intricacies and nuances of statutory and constitutional law simply demand it.

My final criterion is philosophical acceptability. With regard to any governmental position, a Republican or Democrat with both integrity and intellectual capacity must lie within the spectrum of philosophical acceptability in a government based upon democratic principle. Those who occupy positions on the far left or the far right have no business being entrusted to implement or interpret the products of legislative or constitutional consensus.

Having applied these criteria during my initial months in the Senate, I have confidently supported the nomination of each and every individual sent to us by the administration. That includes Alan Greenspan, the Chairman of the Federal Reserve Board and William Sessions, the Director of the Federal Bureau of Investigation. Robert Bork is the first nominee to the U.S. Supreme Court that I have considered for confirmation.

I have now read much of Judge Bork's work. I have listened to countless witnesses who have testified at his confirmation hearing. I have considered the analysis of legal scholars and govermental leaders both past and present. I have reached my conclusions.

Robert Bork generally meets the test of character. There remain conflicting views regarding his role in the firing of Archibald Cox. His explanation of the events immediately following the resignation of his superiors is not totally convincing. In addition, his actions while hearing a controversial case in 1983 as a judge on the U.S. Court of Appeals brought another judge serving on the same court to accuse Bork of having "serious flaws in his character." However, taken in the context of decades of work, otherwise respected, these instances do not convince me of the inappropriateness of this nomination on the basis of integrity.

Nor can the Bork nomination be challenged because of any doubt about intellectual capacity. His credentials are impeccable. His record, his writing and his wit ought to convince even the most ardent skeptic of his judicial ability and intellectual standing.

It is the last of my criteria which evokes concern. Does Robert Bork's philosophical nature place him within the spectrum of acceptability?

As one reads and rereads the Bork writings and speeches, his undeniable iconoclastic position becomes very clear.

Where on the specturm can one rightfully place an individual who argues that there is no constitutional right to privacy? That the first amendment protects political speech but nothing else? Who opposes the implementation of the Voting Rights Act and the equal protection clause of the 14th amendment? And claims that while racial minorities have certain constitutional protection, women do not?

The answer becomes clear. Where else but on the extreme right. Far outside the constitutional boundaries that even a William Rehnquist or Antonin Scalia dare to tread.

In recent weeks, Judge Bork has sought to modify these view, much to my surprise. His advisers were wrong to convince him to do so. Rather than defend his positions, he chose to change them. And he did so at the least opportune moment.

His "confirmation conversion" has come as a surprise to many of my colleagues. Expecting a dogmatically staunch defender of his much espoused, ultraconservative philosophy, the Senate witnessed an equivocal, nebulous and unconvincing nominee seemingly willing to explain away almost anything to satisfy his skeptics.

Whether it is "Bork the Original" or "Bork the Converted," he fails the third test. His position leaves me with grave doubt about his eligibility to serve on our Nation's Highest Court. I remain unconvinced that the "new" Bork will last, that we can expect him to overturn the decades of writing, of teaching and of speaking out as an aggressive defender of the ultraconservative cause.

The bitter divisiveness within our Nation which this nomination has caused is indicative of what will follow should Judge Bork be confirmed.

It is not necessary. Further, it is unwanted. Let us select as our leaders those who unite our people, not divide them. Those who build on constitutional principles, not dismantle them. Those who seek to engage the vision of our forefathers, not blind us with their own.

In the same bipartisan spirit that brought us the confirmation of Sandra Day O'Connor, of Antonin Scalia and William Sessions, let us nominate and confirm a new Justice to the U.S. Supreme Court.

I am prepared to participate as I have done before. But first I must vote against Judge Robert Bork.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER (Mr. Adams). Morning business is closed.

Mr. DOLE. Mr. President, let me start by expressing my appreciation to the distinguished majority leader, and to the managers of the State Department authorization bill, for helping to insure Senate action on this legislation this morning.

PROHIBITION ON IMPORTS FROM IRAN

The bill we will vote on at 9:15 is, word-for-word, the same as the Dole amendment to the Defense authorization bill, prohibiting the import into the United States of products of Iran. As the Senate will recall, that amendment was passed 98 to 0, just a few days ago.

The House is also scheduled to act on identical legislation later today.

Because we have already had substantial debate on this bill, and because it has received such an overwhelming positive response in the Congress, there is no need for additional debate before this morning's vote. But I do want to explain why I feel this new Senate action is needed.

NEED "LIVE" VEHICLE FOR AMENDMENT

There are two simple reasons. First, the Defense authorization bill almost certainly will be "dead on arrival" [DOA] when it gets to the White House. It will be vetoed, and the Senate will sustain the veto. So the import embargo is not going to be enacted into law through that bill anytime soon. By passing the embargo as separate legislation, it can be on the President's desk tomorrow, ready for his signature.

STATE DEPARTMENT NEEDS KICK IN PANTS

The other reason to move on this bill is to force the administration to face the issue squarely. If rumors are to be believed, there continues to be opposition to this import embargo in some parts of the administration, especially in the State Department. So it is doubly important that the Congress go on record overwhelmingly in favor of an embargo, and present the question to the administration in a fashion that it cannot be ducked, or bureaucratically swept under the rug.

Mr. President, I urge all Senators once again to support passage of this legislation; send it to the President's desk; and require the administration to act promptly—one way or the other—on this important issue.

Mr KARNES. Mr. President, I rise today to reaffirm my support for the proposal to prohibit imports from Iran. As my colleagues know, the Senate voted 98 to 0 to approve this proposal as an amendment to S. 1174, the National Defense Authorization Act. The Senate is to vote on the proposal as a free-standing measure later this morning.

It is appropriate that the Senate is taking this action. We need to send a strong signal to the Government of Iran that the United States will not tolerate its irresponsible behavior in the Persian Gulf. The fact is that American purchases of Iranian oil are directly funding that country's menacing activities in the gulf. Estimates are that the United States imports between $500 and $700 million of goods from Iran each year. This contradiction in U.S. policy toward the gulf should be remedied. The proposal voted on last week, and to be considered again today, provides that remedy. No longer should money obtained from Americans be used to purchase weapons to threaten American sailors in the Persian Gulf.

While some may be concerned that the action taken by the Senate may interfere with the administration's policy, I believe the administration will come to understand the value of sending a strong message to Iran. As the Senate minority leader stated last week, the proposal is offered in the spirit of cooperation. The other body is now moving forward with similar legislation. Between the Congress and the administration, we will be able to strengthen our policy toward the gulf by imposing this sanction.

Mr. President, I urge my colleagues in the Senate to once again voice their opposition to Iran's threatening action in the Persian Gulf and vote to impose a ban on Iranian imports.

PROHIBITING IMPORT OF PRODUCTS FROM IRAN

The PRESIDING OFFICER. Under the previous order, the hour of 9:15 having arrived, the Senate will proceed to vote on S. 1748, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1748) to prohibit the import into the United States of all products of Iran.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from Oklahoma [Mr. Boren], the Senator from Tennessee [Mr. Gore], the Senator from Louisiana [Mr. Johnston] and the

Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Delaware [Mr. ROTH] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—7

Biden
Boren
Gore
Hatfield
Johnston
Roth
Simon

So the bill (S. 1748) was passed, as follows:

S. 1748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(a) the actions of Iran in continuing minelaying activities, launching Silkworm missiles against Kuwait and refusing to accept the United Nations-proposed ceasefire in the Iran-Iraq war are totally unwarranted and increase tension and the danger of a widening war in the Persian Gulf;

(b) in recent years, the United States, on annual average, has imported approximately $500,000,000-$600,000,000 worth of products of Iran;

(c) the provision of this hard currency Iran increases its ability to procure mines, Silkworm missiles and other armaments from foreign sources, thereby increasing its ability to sustain and escalate its war with Iraq and other irresponsible actions, such as minelaying;

(d) a formal policy of neutrality does not require the United States to ignore, or fail to respond to, provocations from either side in the Iran-Iraq war; nor to surrender the flexibilty to shape our conduct in response to the policies and conduct of the belligerents in that war;

(e) in light of Iranian policy and actions in the Iran-Iraq war and in the Persian Gulf, it is not in the best interest of the United States to practice "business as usual" with Iran; and

(f) as the provisions of the Algiers accord make clear, Iran has no legal grounds to respond to any action by the United States, including the imposition of a prohibition on the import into the United States of the products of Iran, in the claims settlement process established under the record.

SEC. 2. PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN.

(a) Effective upon the date of enactment of this section, the import into the United States of all products of Iran is prohibited.

(b) For the purposes of this section, the term "products of Iran" means any article grown, mined, produced or manufactured (in whole or in part) in Iran.

(c) The President shall direct the appropriate agencies of the Federal Government to establish such regulations and procedures as are necessary to implement subsection (a).

SEC. 3. WAIVER OF PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN.

(a) Should the President determine that it is not in the overall interest of the United States to prohibit the import into the United States of products of Iran, he may delay the implementation of the prohibition for up to one hundred and eighty days following enactment of this section.

(b) Should the President, under the authority of subsection (a), delay implmentation of the prohibition for any period up to the one-hundred-and-eighty-day limit, he shall submit to the Congress a written report, explaining the reasons for that decision, including specifying how the national interest would be jeopardized by implementing the prohibition.

(c) Should the President decide to delay implementation of the prohibition through the procedure outlined in subsection (b) for the full one hundred and eighty days, the prohibition shall go into effect on the one hundred and eighty-first day following enactment of this section, unless the Congress, by joint resolution, extends the one-hundred-and-eighty-day period.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, S. 1394, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Wallop Amendment No. 842, to express the sense of the Congress regarding the Soviet ICBM tests near the State of Hawaii.

(2) Helms Amendment No. 843 (to Amendment No. 842), of a perfecting nature, to express opposition to obstructing national defense programs in order to comply with treaties or provisions thereof which the President has certified that the Soviet Union is violating, unless such violations cease and assurance is given that they will not again use impact areas adjacent to the State of Hawaii or any other State or territory of the United States for testing ICBMs or any other nuclear weapons delivery system.

Mr. DODD. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

Mr. BYRD. Mr. President, I will not object to this request. I hope we will not have other requests. We need to go on with this bill. I have no objection to this particular request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized for 10 minutes.

Mr. DODD. Mr. President, I thank the majority leader and the distinguished chairman of the Foreign Relations Committee and the ranking minority member as well for providing me with this opportunity.

JUDGE BORK

Mr. DODD. Mr. President, this afternoon the Senate Committee on the Judiciary will vote on the nomination of Judge Robert Bork to be an Associate Justice of the Supreme Court of the United States.

Mr. President, I have not expressed my opinion on this issue publicly in the past because I felt Judge Bork deserved to have a hearing before the Judiciary Committee. I felt that each one of us who are not members of the Judiciary Committee should have an opportunity to review the testimony, both pro and con.

I have reached a conclusion, Mr. President, that this nomination is not in the best interests of the country. For that reason, I will oppose the nomination of Judge Bork. I do not say this with any sense of joy at all. In fact I think it is a sad day for all of us, regardless of whether one is for or against Judge Bork because this nomination has provoked too much dissent and too much hate.

Like all of my colleagues, I approach the question of the confirmation of Judge Bork with enormous seriousness and solemnity. We all bear a tremendous responsibility to fulfill our constitutional duty to provide advice and consent to the President of the United States—and to the American people—on judicial nominations.

The vote on Judge Bork's nomination is clearly one of the most important and far-reaching votes that any Member of this body will ever make.

A Supreme Court Justice has an unparalleled opportunity to influence the most critical issues facing this and future generations of Americans. Moreover, I believe that the Court now may be at a pivotal point in which the future direction of our law is at stake.

Article two of the Constitution vests in the Senate the privilege—and the solemn duty—to give advice and consent to Supreme Court nominations. This active Senate role makes great sense. When a Justice is nominated, the President is not proposing the appointment of someone to a post within the executive branch but to a branch outside his own, for a lifetime appointment that extends beyond his own term.

While the framers unquestionably intended that the Senate take an active role in the confirmation process, the Constitution nowhere delineates those factors by which each Senator should judge the fitness of a judicial nominee to serve his or her lifetime on the Federal bench. Thus, each Senator must determine for himself or herself the acceptable criteria in judging a Supreme Court nominee.

In my view, each Senator must begin and end his or her examination of the nominee with one overriding question: Is confirmation of this nominee in the best interest of the United States?

Answering this question in the affirmative first requires that each Senator satisfy himself or herself that the nominee possesses the excellent technical and legal skills which we must demand of all Federal judges. If the nominee lacks those skills, our examination need proceed no further, and we are duty bound to reject the nominee.

Judge Bork spent much of his legal career as a professor at Yale University School of Law in my home State of Connecticut. I have tremendous respect and admiration for his intellect, scholarship, and legal experience.

Our next task is to ensure that the nominee is of the highest character and free from any conflicts of interest. Judge Bork's personal integrity and character are not in question.

Finally, we must vigorously examine the nominee to see whether he or she is capable of and committed to upholding the Constitution of the United States, and protecting the individual rights and liberties guaranteed therein.

We must ask whether the nominee has the commitment and judicial temperament to give life and real world meaning to our Constitution's guarantees. We may disagree about the meaning of the various provisions in the Constitution, but the nominee's views must be within an appropriate range, and his or her approach must reflect a deep commitment to our Nation's constitutional ideals.

In that regard, it is up to each Senator to decide for himself at what point a nominee's views become so contrary to what the Senator believes is in the best interest of the Nation to warrant opposition to the nominee.

I have never opposed a judicial nominee solely because he or she holds concededly conservative views regarding the Constitution and the Court's role in interpreting and applying it.

In fact, I supported the nominations to the Supreme Court of both Antonin Scalia and Sandra Day O'Connor—both widely perceived as judicial conservatives—and I have supported the vast majority of President Reagan's nominations to the lower Federal courts.

However, after a review of Judge Bork's extensive writing, his decisions as a judge on the Court of Appeals for the District of Columbia Circuit, and his testimony before the Senate Judiciary Committee, I must oppose this nomination because I have concluded that Judge Bork's long-expressed views are totally out of step with many of our fundamental constitutional values and that his confirmation would not be in the best interests of the United States.

For more than a quarter of a century—as a professor, a legal scholar, a writer, and most recently, as a Federal judge—Judge Bork has developed and articulated a comprehensive judicial philosophy which can be expected to provide the framework for his judicial decisionmaking as an Associate Justice on the Supreme Court. That judicial philosophy reflects positions on basic and fundamental constitutional values that are extreme, radical, and reactionary.

My concern about Judge Bork does not arise from his views about any one or two constitutional issues in isolation. Rather, my concern is that in so many different areas of constitutional law, Judge Bork has repeatedly denounced landmark Supreme Court decisions, particularly those protecting individual rights and liberties.

I am fearful of placing on the Supreme Court an individual who has consistently rejected so many fundamental constitutional doctrines.

Judge Bork has called for overruling Supreme Court decisions not based on what he perceives as the correct interpretation of the "original intent" of the Constitution's framers. Even conservative Justices traditionally have protected individual and minority rights without a specifically enumerated right or proof of original intent when there are fundamental values rooted in the tradition of the American people. I have serious doubts as to whether Judge Bork would uphold and honor that tradition.

As the New York Times editorialized yesterday:

> Robert Bork's Constitution is smaller and more closed than the living document Americans celebrate in this, its bicentennial year.

His Constitution is so different from the Constitution produced by two centuries of Supreme Court interpretation that I fear should he be confirmed, Judge Bork's radical doctrine would threaten the unique role of the Federal courts in protecting individual rights and liberties.

Most of us, of course, on occasion, disagree with particular Supreme Court decisions. However, we support the Court's basic and indispensible role of safeguarding our individual rights, and we want that role to continue. What is striking about Judge Bork is that he has disagreed with such an extraordinary range of landmark Supreme Court decisions that one must seriously question whether he adequately respects the Court's basic role and adequately appreciates the Constitution's basic protections of liberty and equal justice.

It is Robert Bork's long-established pattern of unreceptiveness of fundamental constitutional values that has troubled me from the time this nomination was made, and my uneasiness was not allayed by the hearing that ended last week.

In matters of racial equality, free speech, freedom of religion, personal privacy, family rights, and women's rights, among others, Judge Bork has repudiated a body of law and principles which fortunately is now well-established in America.

For example, for almost a quarter of a century, Judge Bork has expressed strong opposition to laws and Supreme Court decisions prohibiting discrimination on the basis of race and vindicating the rights of all citizens to equal justice. He has aligned himself against remedies in virtually all of the key areas where blacks have been subjected to discrimination—voting, public accommodations, education, and housing.

Bork's opposition to civil rights came at a time when most Americans were awakening to the moral imperative of fulfilling the promises of constitutional guarantees for all Americans, regardless of one's color. For instance, in 1963, the year of Martin Luther King's historic March on Washington, Bork published an article in the New Republic in which he strongly opposed enactment of civil rights legislation and used the expression "unsurpassed ugliness" to describe proposals to outlaw discrimination in public accommodations. The proposals Bork attacked became the law of the land 1 year later, as the Civil Rights Act of 1964.

Judge Bork's public career has spanned the same period during which our society made great strides in extending the promise of equal justice to all its citizens. Unfortunately, Judge Bork has rejected many of the laws and decisions which made this progress possible.

I also am concerned about Judge Bork's extremely narrow view of the first amendment freedom of speech and freedom of the press. He has expressed the view that the "core" of the first amendment is its protection for speech that is intended to directly influence political decisions, and that it is "unprincipled" to extend protection to other forms of speech, such as literary, artistic, and scientific speech. Although in 1984, in a brief response to an article critical of this view, Bork announced he had changed his mind and that the first amendment could protect moral and scientific speech, his judicial record reflects an apparent attempt to force all speech which is protected into the category of political speech.

For Bork, however, a person's right to free expression is at the mercy of the community, not guaranteed by the Constitution, when speech becomes advocacy of illegal action. The Supreme Court and the mainstream of public opinion long have tolerated strident dissent, reserving punishment for incitement to imminent lawless action. Bork's view that the prevailing moral standards in each community should define the scope of each individual's right to free speech, would drastically limit first amendment protections.

The first amendment is a bulwark of American liberty that was designed to protect fundamental individual rights even though the majority might find them unpopular. Open debate is critical to a healthy democracy. Bork's efforts to limit the breadth of protected speech and to allow Government to restrict debate would limit the right of Americans to free expression and to receive information.

In every era, the Supreme Court has reaffirmed the constitutional principles protecting our religious liberties. Judge Bork's record makes clear that he disagrees with the Supreme Court's protection of first amendment religious liberties and that he holds views on church-state issues outside the mainstream of American constitutional thought. Judge Bork has endorsed the view that the framers of the Constitution intended the first amendment's establishment clause to do no more than prevent the establishment of a national church or preferential treatment of one religion over another.

Most fundamentally, Judge Bork does not regard Government support of religion as a violation of the establishment clause or a threat to religious freedom. It is clear that Judge Bork's views represent a threat to the constitutionally mandated separation between church and state that has allowed religion in America to flourish.

For more than 20 years, the Supreme Court has interpreted the bill of rights and the 14th amendment to protect individuals from unwarranted Government intrusions into their private lives. Judge Bork, in extensive written and oral comments, has stated that the right to privacy was improperly created by an activist judiciary. He asserts that decisions concerning fundamentally private issues such as intimate sexual and family affairs should be left to the prevailing mood of the community and not the courts. I am deeply concerned that as a member of the Court, he might effectively abolish decades of constitutional protection for individual freedom.

On many occasions, Judge Bork has vehemently opposed the Supreme Court decision in Griswold versus Connecticut which is the leading case articulating the principle of the right of privacy. Moreover, despite Supreme Court decisions to the contrary, Judge Bork has stated that a woman's decision to terminate her pregnancy is not a constitutionally protected right.

The Supreme Court has long recognized a zone of privacy in which the individual is protected against unwarranted community intrusion, what Justice Brandeis called the "right to be left alone—the most comprehensive of rights and the most valued by civilized men."

Protecting individual freedoms is one of the greatest responsibilities of the Supreme Court. Unfortunately, Judge Bork does not believe that the Court should protect the right to personal privacy.

One of my greatest fears regarding Judge Bork is that his constricted interpretation of the equal protection guarantees of the Constitution would jeopardize women's right to be free from sex discrimination.

Over the years, Judge Bork has insisted that equal protection applies only to race as originally intended by the framers. As recently as June 10, 1987, just 1 month before his nomination, Judge Bork said that equal protection should have been limited to race and ethnicity. This view of the 14th amendment is at sharp variance with more than a century of Supreme Court decisions which have applied equal protection to women, aliens, illegitimates, indigents, and others.

For the first time at his confirmation hearings, Judge Bork said he would apply equal protection broadly in accordance with the Court's settled doctrine under Justice Stevens' reasonable basis standard. I have serious doubts about Judge Bork's vigorous application of this fundamental legal principle where over the years, he has disagreed with the scope of coverage and has a settled philosophy that constitutional rights do not exist unless specified or are within original intent.

Because of Judge Bork's long-expressed views in these key constitutional areas I have just outlined, I looked to the hearings held over the past several weeks with the hope that they might allay my concerns. But while Judge Bork did modify his positions on some matters, he reaffirmed most of his basic views, including his objection to any constitutional right of privacy. In certain other areas, such as equal protection for women under the 14th amendment, his newly enunciated views were so vague that they could not allay the concerns created by many years of contrary writings. And in those few other instances where he said he now accepts court decisions that he still believes were wrongly decided—decisions involving the first amendment, for example—it is plausible to think that he would apply those decisions very restrictively in the future.

In addition, Judge Bork's testimony left me with serious concerns about his judicial temperament. Even though Judge Bork is obviously a highly intelligent man, he looks at the Constitution in a rigid and abstract way. As some have suggested, he reads it more like the Tax Code than a basic charter of freedom for Americans. When he interprets the broad majestic guarantees of individual liberty and equal protection in our Constitution, he looks for bright line answers as if he was solving a mathematical problem, and seems uncomfortable with making judgments and distinctions that reflect the fundamental traditions and ideals of our people. The Constitution addresses Americans' deepest aspirations for liberty and equal justice, and our Justices must read it in that spirit.

In short, I have concluded that over wide and diverse areas of constitutional law, Judge Bork would either overrule settled constitutional understandings that are part of our national fabric or apply settled understandings in a restrictive way. I am also concerned that as new issues emerge in the years ahead, Judge Bork will approach them with the same general approach that has made him hostile to so many claims of individual rights in the past.

One cannot, of course, be altogether certain about anyone's future actions. At the very least, however, Judge Bork's long standing and forcefully expressed views raise the very serious risk that as a Justice on our Nation's highest court, he would not be sufficiently protective of individual rights and liberties under our Constitution. I do not think that we should take that kind of risk and confirm a nominee who might undo much of what we now proudly identify with America. It is for that basic reason that I will vote against the confirmation of Judge Bork.

Mr. President, I again want to express my gratitude to the chairman of the committee and the ranking minority member and the majority leader for providing me these few minutes to express these views.

Mr. President, I yield the floor.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate resumed consideration of the bill.

Mr. PELL. Mr. President, today the Senate resumes consideration of S. 1394, the Foreign Relations Authorization Act of 1987. Friday, when this bill first came up, we made pretty good progress, disposing of quite a bunch of amendments. I hope we could make comparable progress today.

The most difficult issue, the most complicated issue before us, in my view, is the disposition of the new Embassy office building in Moscow. Senator HOLLINGS will have a proposal on this. I think we will have a lively discussion.

After the Moscow issue has been taken care of, I hope other amendments could be moved in an expeditious manner. I hope we could finish up work on the bill, hopefully, by late this afternoon. I urge Senators who have amendments to come over and offer them as soon as possible.

I suggest at this time that we lay the pending amendment aside and move on. I ask unanimous consent that we lay aside the pending amendment.

Mr. WALLOP. Mr. President, reserving the right to object.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Wyoming reserves the right to object.

Mr. WALLOP. Mr. President, I have no intention of getting in the way. I do want to know two things from the committee chairman. Is it his intent at some moment in this day to move to table this amendment?

Mr. PELL. Yes.

Mr. WALLOP. I hope, and I am asking now, that the chairman would advise me at some period in advance of when he wishes to do that so I might come and speak to it before a tabling motion takes place.

Mr. PELL. It will be shortly, but we want to dispose of this amendment that will be offered first.

Mr. WALLOP. "Shortly" is a movable feast in the Senate. I wonder if the Senator could give me some indication.

Mr. PELL. I will let you know ahead of time. Is that what you are asking?

Mr. WALLOP. Yes. But you described it as "shortly." There are other things to do in the Senate. I wish to be here for that. All I need to know is some sort of timeframe.

Mr. PELL. A quarter of an hour.

Mr. WALLOP. Thank you. I have no objection.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

Mr. HELMS. Mr. President, if I could have the attention of the Senator from Wyoming, it is not quite accurate to say that his amendment will be under consideration in 15 minutes or a quarter of an hour, because I intend to ask for a rollcall vote on the amendment with regard to China and Tibet. So it will be a little longer. But my speech will be made by the clerk. I shall have him read the entire amendment and then it will be my intent to ask for the yeas and nays and go to a vote on that. Then the regular order will bring the Senator's amendment back before the Senate.

Mr. WALLOP. I thank the Senator.

AMENDMENT NO. 854

(Purpose: To condemn human rights violations in Tibet by the People's Republic of China)

Mr. HELMS. Mr. President, I send an amendment to the desk and I am going to ask the clerk to read it carefully and slowly, because I do not intend to have much comment about it. I think it will speak for itself.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 854.

At the end of section 516, add the following:

SEC. . HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 1st, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27th, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and twenty-seven Tibetan Buddhist monks were arrested;

(3) in response to His Holiness the Dalai Lama's five point peace plan, which was presented to the U.S. Congress during his visit to Washington at the invitation of the Congress on September 21, 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) on September 22, 1987, the Chairman and Ranking Minority Member of the Senate Foreign Relations Committee, the Chairman and Ranking Minority Member of the House Foreign Affairs Committee, and Co-Chairman of the House Human Rights Caucus signed a letter to His Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step towards resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."

(5) beginning October 7, 1950, the People's Republic of China invaded and occupied Tibet, imposed military rule, and continues to exercise dominion over the Tibetan people through the presence of a large occupation force;

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is as follows:

At the end of section 516, add the following:

SEC. HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA

(a) FINDINGS.—The Congress finds that—

(1) on October 1st, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27th, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities, and twenty-seven Tibetan Buddhist monks were arrested;

(3) in response to His Holiness the Dalai Lama's five point peace plan, which was presented to the U.S. Congress during his visit to Washington at the invitation of the Congress on September 21, 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) on September 22, 1987, the Chairman and Ranking Minority Member of the Senate Foreign Relations Committee, the Chairman and Ranking Minority Member of the House Foreign Affairs Committee, and Co-Chairman of the House Human Rights Caucus signed a letter to His Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step towards resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."

(5) beginning October 7, 1950, the People's Republic of China invaded and occupied Tibet, imposed military rule, and continues to exercise dominion over the Tibetan people through the presence of a large occupation force;

(6) over one million Tibetans have perished as a direct result of the political instability, imprisonment, and widescale famine engendered by the occupation of Tibet by the People's Republic of China;

(7) 6,250 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, have been destroyed and their irreplacable national legacy of art and literature either lost or stolen from Tibet by the People's Republic of China;

(8) Tibet's vast mineral, forest, and animal reserves are being systematically exploited by the People's Republic of China, with no benefit accruing to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) The People's Republic of China has undertaken a massive population transfer, entailing the immigration of millions of Chinese onto the Tibetan plateau in an effort to absorb and render insignificant the Tibetan people in their own homeland;

(11) the arrest and execution of Tibetan political and religious prisoners continues, with thousands of Tibetans currently interred in labor camps;

(12) Tibet, a nation dedicated to the principles of nonviolence and mutual coexistence for a millennia, has been militarized which has increased the instability of the entire Central Asian region;

(13) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost thirty years to secure peace and religious freedom in Tibet;

(14) since 1959, India has generously provided refuge and resources for Tibetan exiles so that they may maintain their unique culture and religion in the hope of returning to their homeland;

(15) the People's Republic of China continues to ignore United Nations General Assembly resolutions 1353, 1723, and 2079 calling for a cessation of human rights violations in Tibet and for implementation of the right of the Tibetan people to self-determination;

(16) 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China on July 24, 1985, expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetan Government-in-exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration"; and

(17) there has been no evidence of any such consideration being granted by the Government of the People's Republic of China.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should review its foreign policy toward and its relations with the People's Republic of China in light of the continued violation of human rights in Tibet by the People's Republic of China;

(2) the United States should reassess and review sales and other transfers of defense articles, defense services, and high technology to the People's Republic of China in light of the continued violation of human rights in Tibet by the People's Republic of China;

(3) the President should meet with His Holiness the Dalai Lama to express United States support for his efforts for world peace and particularly his efforts to find a peaceful solution to the Tibetan problem;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue over the future status of Tibet;

(5) the United States, through the Secretary of State—

(A) should address and call attention to the rights of the Tibetan people, as well as other non-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Sinkiang), the Mongolians of Inner Mongolia, and the Manchus of Manchuria, and

(B) should support efforts to maintain Tibet's identity and preserve Tibetan culture and religion, both inside Tibet and among those in exile;

(6) congressional delegations should visit Tibet (including the areas of Kham and Amdo) and the Tibetans in exile in order to witness the progress being made and the problems faced; and

(7) the President should instruct the United States Ambassadors to the People's Republic of China and India to work closely with the Tibetan people to find areas in which the United States Government and people can be helpful.

(c) Any verification submitted to the Congress pursuant to the Arms Export Control Act with respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China shall be accompanied by a Presidential determination that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress of the human rights situation in Tibet and the transfer of millions of Chinese to Tibet.

(e) Of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, not less than $850,000 shall be available only for assistance for Tibetan refugees.

(f) For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 50 scholarships for study at institutions of higher education in the United States.

Mr. HELMS. Mr. President, I thank the Chair. I have learned that several Senators are at the White House and perhaps other places. I want them to be fully apprised of the contents of this amendment, so I am going to withdraw the amendment and resubmit it a little later when the Senators return. So I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending issue before the Senate is the Helms amendment to the Wallop amendment.

Mr. HELMS. Mr. President, I ask that the cloakroom notify Senator WALLOP that the signal is off and that we are back approaching his amendment again. Of course, my amendment is a second-degree amendment to his amendment.

Mr. PELL. That is right, but your amendment will come first. We will be voting on your amendment before his.

Mr. HELMS. That is correct.

AMENDMENT NO. 843

Mr. PELL. Mr. President, as the Senator from North Carolina knows, I must oppose his amendment. In my view, it would jeopardize every arms control agreement in this modern era and would be irresponsible.

This amendment would, in effect, require that the United States make defense decisions which could violate solemn international obligations in the case of every arms control treaty with regard to which the President or his assistants have expressed doubts as to Soviet compliance.

At risk would be the Biological Weapons Convention, the Limited Test Ban Treaty, the Antiballistic Missile Treaty, and possibly others. This would also constitute another body blow to the SALT I Interim Agreement, SALT II, The Threshold Test Ban Treaty, and Peaceful Nuclear Explosions Treaty.

The only specified way for the President not to embark upon a pattern of United States violation would be for him to certify that the Soviet Union is no longer violating this or that provision. Can you imagine that task? Instead of looking for Soviet failures to comply, the United States would have to look for solid proof of compliance. It would make the labors of Hercules appear minor by comparison.

Of course, the President could abrogate treaties to get out of the box in which he would be placed by this amendment. That would mean that the fabric of arms control could be irrevocably torn asunder.

After 6 long years of no arms control achievements to point to, the President has an agreement in principle on an Intermediate-Range Nuclear Forces Agreement and hopes for final agreement this year. This is the first step down what we hope will be a much longer path; and other agreements are in prospect.

At this critical moment, when further agreements are in prospect, it would be the height of folly to throw existing arms control in the trash can of history. I urge the tabling of this amendment.

SOVIET NUCLEAR BLACKMAIL

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair for recognizing me.

Before the distinguished Senator and able chairman of the Foreign Relations Committee, Mr. PELL, moves to table, there are several Senators who wish to speak on behalf of my second-degree amendment to the Wallop amendment.

I want to make some final comments about the unprecedented Soviet use of Hawaii for their ICBM target practice, and this is what it amounts to. If we view it as anything else, then we really have our heads in the sand.

These Soviet ICBM tests aimed at American sovereign territory are an exceedingly dangerous and alarming manifestation of Soviet nuclear intimidation, one of the worst cases of political blackmail that I have ever seen. At our own peril we will fail to view it as such. At our own peril the Senate will vote to table this amendment. I hope that will not happen. I trust that the Senate has more perspicacity than that.

These tests are another frightening demonstration of Soviet hostility to the free world, just like their murderous attack upon the unarmed Korean Air Lines flight 007.

As Senators may recall, this Senator almost was on that plane, KAL-007. Almost at the last minute I canceled my reservations and elected to take the KAL-015 flight out of Los Angeles instead. Had that not occurred, I would have been among the 269 people who were murdered by the Soviet Union, intentionally and deliberately back in 1983.

So I feel very strongly about it and, Mr. President, frankly I feel that there is too much of a tendency in this country to appease the Soviet Union in terms of its clear violations of treaties and certainly their violation of every human instinct of compassion and decency.

Mr. President, it has been reported in the media that the Soviet ICBM missile tests aimed at Pearl Harbor were part of a Soviet general staff first-strike nuclear war exercise directed by Soviet leader Gorbachev, and Chief of General Staff Marshal Akhromeyev. It was reported further that the Soviet Defense Council, the wartime supreme high command and a subcommittee of the ruling Politburo, actually commanded the Soviet ICBM target practice aimed at Pearl Harbor. The defense council headed by Gorbachev reportedly went to deep underground command bunkers in Moscow in order to give the orders for the ICBM launches aimed at the United States.

Mr. President, the Soviets deliberately chose the type of ICBM they wished to fire at the United States. They chose the TT-09, the larger follow-on to the superheavy SS-18 ICBM. The TT-09 SS-18 follow-on is the most awesome and threatening nuclear delivery system in the world today, because it is designed to carry up to 20 highly accurate, megaton yield, hard target warheads. The TT-09 is truly designed to be the world's ultimate first-strike ICBM.

The reason that the Soviet ICBM launches are so alarming is that this TT-09 missile is reportedly only a third of the way through the flight-test stage of development. The Soviets usually test their ICBM's to extended range in the Pacific only at end of their flight-test programs. The fact that the TT-09 is only in the first third of its flight-testing indicates that its tests last week to extended range are totally unprecedented. I do not think the American people understand that. It is high time that they did.

The only explanation that fits the facts surrounding these premature long-range tests of the TT-09 is that Gorbachev wanted to engage in nuclear intimidation and blackmail, not only by firing ICBM's so close to American sovereign territory for the first time, but also by prematurely firing his most threatening first strike weapon. These Soviet ICBM firings aimed at the United States were clearly designed for nuclear intimidation and blackmail. They were practice for a nuclear Pearl Harbor attack.

Mr. President, the late Soviet leader Leonid Brezhnev boasted in 1973 to his Communist comrades that: "By 1985, we will be able to extend our will wherever we wish." Defense Secretary Weinberger stated in 1985 that: "History will not give us a second chance."

As early as March 1975, the late Soviet Defense Minister Marshal Grechko stated flatly: "The correlation of forces has changed in favor of socialism and to the detriment of imperialism." "Imperialism" meaning the United States. That same year, Soviet Foreign Minister Gromyko made this stark announcement to Western diplomats: "The present marked preponderance enjoyed by the forces of peace and progress gives the Soviet bloc the opportunity to lay down the direction of international politics."

In 1978, the then Chief of the Soviet General Staff Marshal Ogarkov took the gloves off when he told a startled group of visiting U.S. Congressmen: "Today, the Soviet Union has military superiority over the United States. Henceforth, the United States will be threatened. It had better get used to it."

The Soviet military journal Red Star gave Americans a similar threat: "With respect to the military balance, the correlation of forces has shifted—once and for all and irrevocably."

The Soviet General Staff Journal Soviet Military Thought concisely spelled out the threat America now faces: "It is recommended that the Soviet strike be launched unexpectedly for the enemy. Preemption in launching a nuclear strike is expected to be the decisive condition for the attainment of superiority."

Mr. President, Soviet nuclear intimidation and blackmail has been increasingly evident to the careful observer of world affairs. At the October 1986 Iceland summit meeting Soviet leader Gorbachev himself described his negotiations with President Reagan as "heated and sharp." Gorbachev openly threatened to conduct international relations under the rule of "law by the fist"—the Soviet fist. Gorbachev also mentioned "unpredictable, serious consequences" in future United States-Soviet relations if the United States did not acquiesce to Soviet demands. Finally, Gorbachev threatened bluntly that the United States must "accept the realities" of Soviet strategic supremacy, and he explicitly warned of a Soviet SALT "break out" superiority.

Mr. President, President Reagan explicitly recognized the danger of a Soviet nuclear blackmail ultimatum backed by their first strike and nationwide ABM capabilities as long ago as 1985. A prominent strategic expert and former Director of the Arms Control and Disarmament Agency also has recognized that Soviet leader Gorbachev chillingly engaged in nuclear blackmail at the Iceland summit.

Mr. President, I recall meeting with Alexandr Solzhenitsyn when he came here in the mid-1970's following many, many months of correspondence with this great human being. I recall that this Senator was the first to receive a written communication from Solzhenitsyn. I have it locked in a safe in my office to preserve it for one of my grandchildren.

Alexandr Solzhenitsyn several years ago made this prediction of how eventual Soviet nuclear blackmail and intimidation would unfold: "At one time there was no comparison between the strength of the U.S.S.R. and yours. Then it became equal. The Soviet advantage grew. Then it became three to one. Finally it will be five to one. With such a nuclear superiority it will be possible to block the use of your weapons, and on some unlucky morning they will declare: 'Attention. We're marching our troops to Europe, and if you make a move, we will annihilate you.' And this ratio of five to one will have its effect you will not make a move."

Today the Soviets have more than a five to one first strike advantage over the United States.

Mr. President, that pretty well states the case for the amendment that I have offered to the amendment of the distinguished Senator from Wyoming [Mr. WALLOP].

SOVIET SALT BREAK OUT

Mr. President, American leaders may finally be beginning to realize that the Soviets have killed arms control as a means of preserving international security. This is because American leaders are belatedly beginning to recognize that the Soviets immediately began "breaking out" of the strategic arms limitation talks [SALT] treaties as soon as they were signed as long ago as 1972.

The two fundamental U.S. arms control objectives of 1969, when SALT negotiations first began, have not been achieved. Indeed, we are now in precisely the situation that the SALT treaties and negotiation process were supposed to prevent.

The Soviets now have the capability for a first-strike attack on most American deterrent, retaliatory forces.

At the same time, they are able to defend with antiballistic missiles [ABM's] an increasing proportion of their nation against the small percentage of U.S. deterrent forces that might survive their first strike and execute a retaliatory attack.

The Soviets are about to have operational a nationwide ABM defense. The net result of Soviet offensive and defensive SALT break out is not just the death of arms control, but, much more ominously, the imminent demise of nuclear deterrence itself.

The Soviets have the capability to engage in "nuclear blackmail." And as Ronald Reagan correctly stated in 1964: "We are at war with the most dangerous enemy that has ever faced mankind." This assessment is even more true today.

Mr. President, as I have noted, at the Iceland summit, Soviet nuclear blackmail was already openly in evidence. Gorbachev's characterization of President Reagan before the summit as a "liar" regarding the innocence from espionage charges of American journalist Nicolas Daniloff, and his explicit comparison of the President to a "madman," were unprecedented and provocative.

Mr. President, the Soviets are now confirmed to be violating in significant ways every important, existing arms control treaty. The essential results of the Soviets SALT break out violations are their first-strike offensive capability and their emerging nationwide ABM defense. The United States must now take proportionate responses. As President Reagan stated in June 1986, in regard to his strategic modernization programs, "We come to one of those unique crossroads of history where nations decide their fate. Our choices are clear."

I believe that we must abrogate the SALT I ABM Treaty, because Soviet SALT breakout violations have jeopardized American supreme national security interests.

Mr. President, here are the main Soviet offensive and defensive SALT breakout violations:

THE MAIN SOVIET SALT BREAK OUT VIOLATIONS

SALT I interim offensive agreement

SS-19 MIRV'd heavy ICBM deployment resulted in a sixfold increase in Soviet first strike counterforce capability.

SALT II Treaty

Excess fractionation of SS-18 MIRV'd ICBM adding almost 1,500 warhead, deployment of 10 MIRV SS-24 rail-mobile ICBM; deployment of road mobile SS-25 covertly 3 MIRV'd ICBM, and testing of the even heavier throw-weight 20 MIRV capable follow-on to the superheavy SS-18 all further enhance Soviet first strike, counterforce capabilities.

SALT I ABM Treaty

Deployment of the nine Pechora-Krasnoyarsk class ABM battle management radars providing overlapping, internetted, massively redundant coverage, together with massive deployment of three types of camouflaged, mobile ABM-capable SAM's and mass production of mobile ABM's give the Soviets an impending and emerging nationwide ABM capability.

America is now witnessing the Soviet SALT breakout deployment of illegal new mobile ICBM's, carrying illegal new MIRV'd warheads, defended by an illegal nationwide ABM system using illegal ABM battle management radars, and illegal mobile ABM, and mobile ABM-capable, interceptor missiles and radars. The result of these Soviet SALT breakout violations is a Soviet first strike offensive capability and a nationwide ABM defense. (See the annex to this speech for a complete listing of the Soviet violations confirmed by President Reagan, together with an evaluation of some of their military implications.)

WISDOM OF ABANDONING SALT I AND SALT II

President Reagan has wisely decided to abandon U.S. unilateral compliance with the expired SALT I and SALT II agreements, and he should withdraw from the SALT I ABM Treaty as well. A recent poll shows that 70 percent of the American people support his decision to abandon SALT II. The President's decision was based upon the fact that the Soviets were ignoring all three criteria for his interim restraint SALT compliance policy: First, the Soviets should make tangible negotiating progress on a new intercontinental arms control treaty in Geneva; second, they should reverse their SALT breakout violations; and third, they should reverse their threatening strategic and military buildup. The Soviets have totally ignored each of these criteria, so President Reagan was fully justified in his belated decision to abandon SALT I and SALT II. The Soviets have refused to agree to progress in the Geneva strategic intercontinental arms negotiations on an equitable, realistic basis, have not even acknowledged their ever-widening pattern of SALT breakout violations, and are continuing relentlessly to increase their ICBM, IRBM, SLBM, bomber, cruise missile, warhead, and ABM superiority gaps over the United States.

The Soviets are now engaged only in arms control negotiations by propaganda: Gorbachev's deceptive proposals for intercontinental offensive nuclear weapons reductions occur while the Soviet offensive buildup continues relentlessly in breakout violation of SALT I and II, and Gorbachev's deceptive nuclear test ban moratorium proposal occured while the Soviets continue their violations of two existing nuclear test ban treaties.

In 1985, the Soviets began deploying scores of illegal SS-25 and now SS-24 mobile ICBM's. The Soviets are 75 to 600 missiles and bombers above the number they had when SALT II was signed in 1979. Since 1978, there have been 24 Soviet violations of the 150-kiloton threshold of the 1974 Threshold Test Ban Treaty, and since 1965 there have been over 30 unambiguous Soviet violations of the 1963 Limited or Atmospheric Test Ban Treaty.

There is a recent excellent example of this deceptive Soviet arms control propaganda. The new Soviet Ambassador to the United States, Yuri Dubinin, stated the following disinformation in our nationally circulated Parade magazine of March 1, 1987:

> The arms race is on the verge of becoming uncontrolled and uncontrollable * * *. The SALT I and SALT II strategic offensive arms agreements have been scuttled after 14 years. SDI is being sped up on a collision course with the ABM Treaty * * *. [The USSR urges] ratification of the Soviet-American treaties of 1974 and 1976 on the limitation of nuclear explosions * * *. We are staying within the limits of the SALT I and SALT II agreements * * *. The Soviet Union is not seeking nuclear superiority * * *. The ABM Treaty must be fully preserved and observed * * *. We suggest that the limits of the permitted [SDI] research should be clarified to avoid misunderstanding and suspicion about compliance with the [ABM] Treaty.

The Dubinin propaganda is false for the following reasons:

First. The "arms race" is being run mostly by the Soviets, whose dynamic strategic programs are in breakout from SALT. Since the SALT process began in 1969, the United States has scrapped or canceled over twice as many nuclear warheads as the Soviets have added since 1969.

Second. The Soviets themselves scuttled SALT I and SALT II first, by their breakout violations, some of which date all the way back to 1972. These violations caused the United States to finally end its unilateral compliance, but only after both agreements had expired on their own terms.

Third. The United States SDI program is indeed on a collision course with the ABM Treaty, but the Soviet Krasnoyarsk radar has already cut the heart out of the ABM Treaty, and Soviet SDI-type developments are probably ahead of the United States.

Fourth. The Soviets urge United States ratification of the 1974 TTBT, because they have already garnered massive strategic advantages from their 24 violations of it, creating their first-strike capability.

Fifth. The Soviets are not staying within the SALT I and SALT II limits—they have long been way over the limits of both, and recently they exceeded the main SALT II sublimit.

Sixth. The Soviet Union has sought nuclear superiority, as their military writings from the early 1960's indicate, and the U.S.S.R. has long ago achieved it. The Soviets have over 3,000 strategic nuclear delivery vehicles, carrying over 13,000 nuclear warheads, compared to only 1,800 United States SNDV's carrying only 9,200 nuclear warheads.

Seventh. The Soviets have broken out of the ABM Treaty, and they even admit it to themselves.

NEED TO WITHDRAW FROM SALT I ABM TREATY

President Reagan is now confronted with the final decision required by Soviet SALT breakout violations—United States withdrawal from the SALT I ABM Treaty. In agreeing to the 1972 SALT I package of the ABM Treaty and the interim offensive agreement, the United States gave up a potent ABM capability for defending ICBM's in exchange for what turned out to be no constraints at all on Soviet offensive programs. Preexisting Soviet ICBM and SLBM deployment plans were actually codified in the SALT I interim agreement. The United States thus gave up an advantage in ABM's for worse than nothing, a huge Soviet buildup in the very first strike, counterforce capability that our ABM was designed to thwart. The Soviets also reversed the relative United States-Soviet positions in ABM development in the years after SALT I, and now they have deployed 31 large ABM radars, compared to a maximum of only 12 planned by the United States in 1969, more than double the most ambitious American ABM Program. In retrospect, SALT I was clearly detrimental to U.S. national security interests. And SALT II merely again codified the ongoing Soviet first strike, counterforce buildup.

Since SALT began in 1969, the Soviets have added over 10,000 nuclear warheads to their arsenal. In the same period, the United States has scrapped over 8,000 warheads deployed, and has canceled plans for over 12,000 more. Thus the United States has scrapped or canceled twice as many nuclear warheads as the Soviets have added.

Dr. Henry Kissinger finally conceded this to a shocked NATO conference in Brussels on September 1, 1979:

> The amazing phenomenon about which historians will ponder is that all this [dramatic growth of the Soviet strategic power since 1963] has happened without the U.S. attempting to make any significant effort to rectify that state of affairs * * * . It cannot have occurred often in history that it was considered an advantageous military doctrine to make your own country deliberately vulnerable.

SOVIET IDEOLOGY: WAR PREPARATION

Indeed, American leaders are finally beginning to ask this fundamental question about the prospects for arms control: Why should the Soviet Union be willing to reduce their nuclear weapons at all, when nuclear weapons are their most important means for becoming and remaining a superpower?

An even more significant factor explaining the death of arms control is emerging into the consciousness of American leaders: Soviet Marxist-Leninist ideology is totally incompatible with arms control. But this has long been an obvious obstacle to arms control to those familiar with Marxism-Leninism. Just a few examples can be cited. The Sixth World Congress of the Communist International published this resolution in 1928: "The peace policy of the proletarian state is merely a more advantageous form of fighting capitalism." In 1969, just as SALT negotiations began, the journal of the Soviet General Staff (the key body involved in Soviet arms control policy), Military Thought, stated:

> Strengthening of its defenses is now the foremost political function of the Soviet state * * * never before has the internal life of the country been subordinated to a war so deeply and throughly as at the present time.

Military Thought added in 1971:

> In fact, a [Marxist-Leninist] nation's diplomatic activity becomes a part of those non-military means of policy implementation which * * * are contained within the concept of the content of war.

Clearly, to Soviet leaders steeped in Marxism-Leninism, diplomacy and arms control negotiations are a fundamental element of war preparations, which they avow as the main function of the Soviet state.

The fundamental Soviet war preparation strategy underlying their Marxist-Leninist ideological approach to arms control was discerned as long ago as 1958 and 1960 by three eminent Americans. Former Secretary of State Dean Acheson recognized in 1959 that: "In the present century the Soviet state has perfected the use of negotiations * * * as a method of warfare."

Dr. Herbert Dinerstein, wrote prophetically in the Janaury 1958, edition of Foreign Affairs:

> If they [the Soviets] should acquire such preponderant military strength, they would have policy alternatives even more attractive than the initiation of nuclear war. By flaunting presumably invincible strength, the Soviet Union could compel piecemeal capitulation of the democracies. This prospect must indeed seem glittering to Soviet leaders.

And as the late President John F. Kennedy accurately predicted in the 1960 Presidential "missile gap" campaign:

> Their [Soviet] missile power will be shield from behind which they will slowly but surely advance—through Sputnik diplomacy, limited brush-fire wars, indirect non-overt aggression, intimidation and subversion, internal revolution, increased prestige or influence, and the vicious blackmail of our allies. The periphery of the Free World will slowly be nibbled away.

Thus Kennedy recognized that the fundamental Soviet strategy in international relations was one of nuclear blackmail.

President Reagan also seemed to recognize the Soviet war preparation, ideological approach to arms control earlier in his administration, when he stated on March 31, 1983:

> The chances for real arms control depend on restoring the military balance. We know that the ideology of the Soviet leaders does not permit them to leave any Western weakness unprobed, any vacuum of power unfilled. It would seem that to them negotiation is only another form of struggle.

And President Reagan correctly stated on January 29, 1981, at his first news conference as president:

> They [the Soviets] have openly and publicly declared that the only morality they recognize is what will further their cause, meaning they reserve unto themselves the right to commit any crime, to lie, to cheat, in order to attain that.

He added on March 8, 1983: "* * * they are the focus of evil in the modern world."

President Reagan also stated on May 9, 1982:

> So far, the Soviet Union has used arms control negotiations primarily as an instrument to restrict U.S. defense programs and, in conjunction with their own arms buildup, as a means to enhance Soviet power and prestige.

Thus President Reagan has shown that he is aware of the ideological basis for the Soviet approach to arms control. It remains only for the State Department to recognize this reality. Henry Kissinger wrote accurately in Time magazine in March, 1983, that:

> Their [Soviet] arms program aims for strategic superiority * * * they believe strategic edges can be translated into political advantages * * * arms control to the Soviets is an aspect of political warfare whose aim is not reciprocal stability but unilateral advantage.

Looking back, Kissinger's conclusions also should already have become accepted by the State Department.

UNITED STATES SALT OBJECTIVES: NO SOVIET FIRST STRIKE OR NATIONWIDE ABM CAPABILITY

When the strategic arms limitation treaty talks began in 1969, the United States had two fundamental objectives:

First, preventing the Soviets from deploying an offensive first-strike capability,

Second, and preventing the Soviets from deploying a nationwide antiballistic missile defense.

These two objectives were integrally linked in the preambles to the 1972 SALT I ABM Treaty, the 1972 SALT I interim agreement on offensive weapons, and the 1979 SALT II Treaty. Evidence for this assessment is clear. Senator Henry Jackson said this in 1972 about the primary U.S. objective in SALT I—to preserve the survivability of U.S. strategic forces:

> The intent of the SALT I Agreements is to enhance our security by enchancing the survivability of our deterrent.

And article I of the ABM Treaty, the most important provision, prohibits a nationwide ABM defense, or even the base for a nationwide ABM defense.

But the United States has completely failed to achieve our two fundamental SALT objectives, after almost two decades of the SALT negotiating process. This American failure results from the clear facts that the Soviets now have a first strike offensive capability, and they are about to have a nationwide ABM defense. Thus supreme United States national security interests should require America to withdraw from the 1972 SALT I ABM Treaty, rather than to pledge to Soviet leader Gorbachev to abide by this failed and violated treaty for another 7 years. Indeed, the United States has already decided to cease its unilateral compliance with the expired SALT I Interim Agreement and the expired, unratified SALT II Treaty because of systematic Soviet violations of both. The same rationale applies even more clearly to the SALT I ABM Treaty—Soviet violations of the ABM Treaty are conclusive and point to deployment of the prohibited nationwide ABM defense, and the failure of arms control to prevent a Soviet offensive first strike capability requires United States withdrawal from unilateral compliance with not only the SALT I Interim Agreement and the SALT II Treaty, but also with the SALT I ABM Treaty.

The United States should withdraw from the ABM Treaty partly because of the following U.S. unilateral statement to the SALT I ABM Treaty of May 9, 1972, expressing American policy:

> The U.S. Delegation believes that an objective of the follow-on [that is, SALT II] negotiations should be to constrain and reduce on a long term basis threats to the survivability of our respective strategic retaliatory forces * * * If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme national interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty.

SOVIET FIRST STRIKE CAPABILITY

But the Soviets now have deployed a first strike counterforce offensive capability which threatens the survivability of our deterrent retaliatory forces, according to authoritative administration statements. The Soviet first strike capability stems from their confirmed violations of SALT I and II—especially the MIRV'd SS-19 ICBM deployment, excess fractionation on their MIRV'd SS-18 ICBM, and deployment of their rail mobile, MIRV'd SS-24 ICBM and the new super heavy 20-MIRV SS-18 follow-on now being tested and deployed. Moreover, after 14 years of negotiations on more complete offensive weapons constraints, there are not permanent, or even interim limitations on Soviet offensive forces; the SALT I Interim Offensive Agreement expired in 1977 and the fatally flawed SALT II Treaty was never ratified and expired in 1985. Therefore, under the two conditions of the 1972 U.S. Unilateral Statement, U.S. supreme national interests require U.S. withdrawal from the ABM Treaty.

There is another criterion available to judge the failure of the SALT process. Under the Brooke amendment to the Senate resolution of approval of SALT I in 1972, the Senate itself stated that SALT I and the SALT II negotiations would be based upon:

> The preservation of longstanding U.S. policy that neither the Soviet Union or the United States should seek unilateral advantage by developing a first strike potential.

The Brooke amendment thus posited that the success of SALT I and SALT II depended upon the prevention of a Soviet first strike potential.

But according to authoritative administration statements, the Soviets have achieved a deployed first strike strategic offensive capability. President Reagan has correctly stated in January 1985:

> Modern, accurate ICBMs carrying multiple nuclear warheads—if deployed in sufficiently large numbers relative to the size of an opponent's force structure, as the Soviets have done with their ICBM force—could be used in a rapid first strike to undercut an opponent's ability to retaliate effectively.

President Reagan's national security adviser also stated in January 1985 that "American land-based missiles have become even more vulnerable to Soviet first strike attack over the past few years." And in President Reagan's May 1985 Victory in Europe Day speech, he also described the Soviet first strike capability and alarmingly warned that the Soviet threat now emerging jeopardizes "deterrence itself."

In President Reagan's strategic modernization statement of June 3, 1986, he again stated that there is a—

> * * * Growing strategic imbalance between the United States and the U.S.S.R. * * * In calculating what they call the "correlation of forces," the Soviet political and military leadership are ever mindful of the state of the nuclear balance between the United States and the Soviet Union * * * any weakening of our nuclear deterrent, leaving the Soviet Union with superior nuclear force * * * could invite the Soviet Union to rely on such an advantage * * * this loss in survivability of U.S. strategic forces, coupled with the magnitude of the Soviet buildup, had begun to erode seriously the stability of the strategic balance.

Moreover, Adm. William Crowe, Chairman of the Joint Chiefs of Staff, testified to the Senate on June 19, 1986, that:

> The strategic nuclear balance has shifted dramatically. The Soviets now enjoy superiority in ICBMs.

ICBM's are the key element in a first strike capability because they are highly accurate weapons capable of destroying hardened targets within only 30 minutes of flight time. The Soviets are acknowledged to have over a 6-to-1 advantage against United States hard targets in ICBM warheads. It is really more like 8 or 10 to 1 Soviet first strike advantage. As Air Force Chief of Staff, Gen. Larry Welch, confirmed on August 18, 1986:

> The existing imbalance in hard target attack capabilities is very heavily in favor of the Soviets.

Finally, the CIA testified to the Senate on June 26, 1985, that:

> The Soviets already have enough hard target-capable ICBM re-entry vehicles today to attack all U.S. ICBM silos and launch control centers. In such an attack today, they would stand a good chance of destroying Minuteman silos.

This is clear CIA recognition of a Soviet first strike capability.

Further, the Defense Department's 1987 edition of "Soviet Military Power" also stated that "the Soviets will enhance their first strike capability." And lastly, a Reagan administration arms control official warned on August 7, 1985, that:

> The Soviet Union possesses a tremendous capability to launch a devastating first strike against the United States, and they are continuing to expand that capability.

Finally, on June 3, 1986, President Reagan clearly stated that the Soviet Union has a first strike capability.

In sum, it is clear that the Soviets have a first strike offensive capability. The significance of this conclusion is serious. Former Defense Secretary Melvin Laird stated on July 24, 1972, that:

> If the Soviet Union goes forward with a program * * * which appears to be a concerted attempt to undermine the survivability of the Minuteman deterrant force, we would view this with great concern. In my view, such a program would be contrary to the intent of the agreements that have been arrived at in SALT [I] * * * I think the intent of this agreement would be violated.

SOVIET NATIONWIDE ABM DEFENSE

What about the second SALT objective—preventing a Soviet nationwide ABM defense? This objective was integrally linked to preventing the Soviets from acquiring a first strike offensive capability. In November 1985, Defense Secretary Weinberger testified to the Senate that the Soviets already have "some nationwide ABM capability." Of course, even a base for a nationwide ABM capability is banned by article I of the ABM Treaty.

The Soviet ABM Treaty violations, especially their Krasnoyarsk radar, are clear cut, and have been confirmed six times by President Reagan. The Krasnoyarsk radar is supposed to be on the periphery of the Soviet Union and oriented outward, yet it is located 750 kilometers in the interior and oriented inward toward a border 4,000 kilometers away. Its siting, orientation, and capability are prohibited. Its construction is being continued, and it appears completed. Despite United States concerns and requests, no Soviet corrective actions have been taken. It is an early warning radar with inherent ABM battle management capabilities.

The Krasnoyarsk radar is illegal by virtue of its location, orientation, and capabilities. Even American SALT I negotiators such as Henry Kissinger, Paul Nitze, and Raymond Garthoff concede Western arms control experts of every persuasion agree that Krasnoyarsk is a violation.

But in public propaganda and in private diplomatic channels, and reportedly even in the SALT Standing Consultative Commission, the Soviets have tried to deny and rebut our charge. The Soviets have reportedly claimed that the Krasnoyarsk radar does not violate the ABM Treaty. The Russians claim instead that Krasnoyarsk is for space tracking, is therefore not constrained by the treaty, and therefore can be located anywhere. These public and private Soviet claims can now be labeled for what they are—deception, disinformation, and duplicity. According to Senator JESSE HELMS, ranking Republican member of the Senate Foreign Relations Committee, the CIA has stated recently that:

> The United States is aware that, over the last several years, Soviet officials have indicated that the Krasnoyarsk radar is a violation of the ABM Treaty.

This CIA statement means that the Soviets have admitted privately to themselves that they are violating the ABM Treaty. This Soviet private admission contradicts their public disinformation, lies, propaganda, and duplicity. This new CIA information is also chilling. Many historical studies of the 1918-39 interwar period contain the private speeches and boasts of Nazi leader Adolf Hitler. During the mid and late 1930's, Hitler privately bragged to his more cautious generals that he could get away with his flagrant violations of the 1921 Versailles Peace Treaty and the arms control treaties of the 1930's, because the Western democracies were militarily weak and did not have the political will to enforce the peace. For example, in October 1933, when those around Hitler talked about possible Western sanctions against Nazi rearmament, Hitler reportedly retorted:

> A pretty crew they are! They'll just protest. And they will always be too late.

Soviet private admissions that Krasnoyarsk is a SALT violation are even more chilling than Hitler's boasts.

President Reagan's sixth "Unclassified Report on Soviet Noncompliance With Arms Control Agreements" states ominously:

> Taken together, the Krasnoyarsk radar and other Soviet ABM-related activities give us concern that the Soviet Union may be preparing an ABM defense of its national territory * * * this would have profound implications for the vital East-West balance.

Defense Secretary Weinberger stated that:

> Such a development would have the gravest implications on the U.S-Soviet strategic balance. Nothing could be more dangerous to the security of the West and to global stability than a unilateral Soviet deployment of a nationwide ABM system combined with its massive offensive missile capabilities.

The Defense Department's 1987 edition of "Soviet Military Power" states:

> "The growing network of large phased-array radars, of which the Krasnoyarsk radar is a part, is of particular concern when linked with other Soviet ABM efforts. These radars take years to construct, and their existence could allow the Soviet Union to move quickly to deploy a nationwide ABM defense. The degree of redundancy being built into their Large Phased Array Radar network is not necessary for early warning. It is highly desirable, however, for ballistic missile defense. During the 1970s, the Soviets developed components that could be integrated into an ABM system that would allow them to construct individual ABM sites in months rather than years * * * [There has been] development and testing of a mobile land-based ABM system or components * * * The USSR probably has violated the [ABM] Treaty's prohibition on testing SAM components in an ABM mode * * * The SAM-10 and SAM-X-12B GIANT systems may have the potential to intercept some types of strategic ballistic missiles. The Soviets also have begun deploying another important SAM system, the tactical SAM-12A GLADIATOR, and are flight-testing an even more capable, longer range, higher altitude complement, the SAM-X-12 B GIANT * * * The SAM-X-12B capability is a serious development because this system is expected to be deployed widely throughout the USSR. It could, if properly supported, add a measure of point-target defense coverage for a nationwide ABM deployment * * * Both systems are expected to have widespread deployment * * * By using such components along with the Large Phased Array Radars, the Soviets could strengthen the defenses of Moscow and defend targets in the western USSR and east of the Urals * * * Taken together, all of their ABM related activities suggest that the Soviets may be preparing an ABM defense of their nation—precisely what the ABM Treaty was designed to prevent.

The CIA has recently declassified another key judgment from the President's sixth report to Congress on Soviet SALT violations:

> In totality, these [Soviet ABM] activities provide a strong basis for concern that the U.S.S.R. might have an integrated plan for an ABM defense of its national territory, and might be working toward it.

The unclassified Presidential report states further that the Soviets are:

> Testing and developing components required for an ABM system that could be deployed to a site in months; concurrently operating air defense and ABM components; developing three modern air defense systems that may have some ABM capabilities; and demonstrating the ability to reload ABM launchers in a period of time shorter than previously noted.

According to authoritative, official, unclassified U.S. intelligence estimates, the Moscow ABM system modernization and upgrade will be operational in 1987, as will the illegal Krasnoyarsk ABM battle management radar. In fact, three more Pechora-Krasnoyarsk class ABM battle management radars have just recently been discovered, making a total of more than nine large ABM battle management radars in the Pechora-Krasnoyarsk class alone. These three new radars reportedly provide 360 degree triple coverage of the key Western approaches to the U.S.S.R. Counting the Moscow and hen house class radars, the Soviets now have 31 large ABM battle management radars, over twice as many as the United States only planned in 1969, at the height of our safeguard ABM system ambitions. These numerous large ABM battle management radars already comprise a prohibited base for a nationwide ABM defense, because their coverage is overlapping and internetted and they are the long leadtime element for a nationwide ABM defense.

There has thus been a complete reversal of roles between the United States and the U.S.S.R. since 1969 in ABM battle management radars, the key long leadtime element of a nationwide ABM defense system.

ABM interceptor missiles and small ABM engagement radars are necessary and must be linked up with ABM battle management radars in order to form a nationwide ABM system. Ideally, these components should be mobile, in order to enhance their survivability and increase their ability to extend defensive coverage to potential targets. The Soviets have four types of ABM and ABM-capable interceptor-radar systems, three of which are mobile, in mass production today. These are the SAM-5, SAM-10, SAM-12, and ABM-3 interceptor and engagement radar ABM-capable or ABM systems. Top Soviet officials have twice admitted that Soviet SAM systems have an inherent ABM capability. Moreover, reports that the mobile SAM-12 system has been deployed to defend the mobile SS-25 ICBM confirms that the SAM-12 is an ABM system. There are already over 2,500 ABM-capable SAM-5 interceptor-radar systems deployed around Moscow, around Krasnoyarsk, and nationwide, and the ABM-capable SAM-10, SAM-12, and ABM-3 systems are mobile. There are reportedly over 3,000 semi-mobile and mobile SAM-10's already deployed nationwide. Both the ABM-capable SAM-10 and SAM-12 mobile systems will be deployed nationwide by 1987, and the SAM-10 is already being deployed around Moscow and around Krasnoyarsk. The SAM-12 will probably also be deployed around Moscow and around Krasnoyarsk. The ABM-3 will also be widely deployed around Moscow and probably nationwide and be operational in 1987. So the Soviets probably already have over 4,600 ABM-capable launchers; the United States has none.

The engagement radars for these four ABM systems are reportedly being calibrated and internetted with each other, and with both the large Pushkino and the Pechora-Krasnoyarsk class ABM battle management radars. In particular, the SAM-5 and the SAM-10 already deployed around Moscow are reportedly already calibrated and internetted with the Pushkino ABM radar, and also with the ABM-3 system. The SAM-12 is also expected to be deployed both around Moscow, as well as around Krasnoyarsk, where there are already large numbers of SAM-5's. Thus the SAM-10 and SAM-12 being deployed around Moscow are being internetted with the SAM-5, which is already tied to the Pushkino ABM radar and the ABM-3 system. The ABM-3 mobile system is also expected to be deployed around the Krasnoyarsk ABM battle management radar, joining the already deployed SAM-5 and SAM-10 and the expected SAM-12.

In sum, all four of these ABM and ABM-capable systems are being deployed around and internetted with the Moscow ABM, and this deployment and internetting will probably also occur around the Krasnoyarsk ABM radar, all druing 1987. These ABM deployments will connect the expanded and upgraded Moscow ABM system to the illegal Krasnoyarsk ABM system, making a nationwide Soviet ABM system. This system will be supported by 31 large ABM battle management radars, including 9 overlapping Pechora-Krasnoyarsk class radars. As the Defense and State Departments' white paper on Soviet strategic defense programs of October 1985 confirmed:

> The aggregate of current Soviet ABM and ABM-related activities suggests that the U.S.S.R. may be preparing an ABM defense of its national territory—precisely what the ABM Treaty was designed to prevent.

President Reagan stated on October 13, 1985, "that for some years now we have been aware that the Soviets have been developing a nationwide defense" in violation of the ABM Treaty. President Reagan understood the stakes involved in Soviet break out from the offensive and defensive constraints of SALT I and SALT II when he stated in June 1986:

> We come to one of those unique crossroads of history where nations decide their fate. Our choices are clear.

The failure of arms control is finally being recognized at the highest levels of the American Government. The Soviets are indeed breaking out of SALT.

As long ago as May 1969, at the very beginning of the SALT negotiations, U.S. chief SALT negotiator Gerard Smith prophetically conceded that:

> If either side is striving for or appears to be striving for an effective counterforce first strike capability, then there is no hope for strategic arms control.

Most ominously, President Reagan stated on March 18, 1985, that:

> They [the Soviets] already outnumber us greatly in offensive weapons, and if they alone developed a defensive weapon before us, then they wouldn't have to worry about our deterrent—a retaliatory strike. Then they could issue an ultimatum to the world.

We are today rapidly approaching the point where the Soviets will have not only a monopoly on offensive first strike capability, but a monopoly on nationwide ABM defenses as well. They could then issue their ultimatum and engage in nuclear blackmail.

And Defense Secretary Weinberger stated in November 1985 that the United States would have to add to its offensive forces in the event of Soviet ABM Treaty breakout. We are already adding slightly to our offensive and defensive forces due to Soviet breakout from the SALT I Interim Offensive Agreement and the SALT II Treaty. As the Joint Chiefs of Staff stated to Congress in July 1986:

> Taken as a whole, these violations—SS-25, encryption, and the Krasnoyarsk ABM radar—give the Soviets definite advantages.

CONCLUSION: DEATH OF ARMS CONTROL

In conclusion, it would be a grave concession undermining world peace, American security, and strategic stability for the United States to ever agree to extend our unilateral compliance with the ABM Treaty, especially after the start of Soviet ABM and offensive SALT breakout. Instead, the United States should withdraw from the ABM Treaty itself, not only because of Soviet nationwide ABM defense breakout violations but also because of the 14-year failure of the SALT negotiating process to prevent a Soviet first strike offensive capability that jeopardizes American supreme national interests. The United States may succumb to nuclear blackmail by the Soviets if it were to agree to extend its compliance with the ABM Treaty, against its supreme national interests. As Secretary of State Shultz correctly stated on May 14, 1984:

> Arms control will simply not survive in conditions of inequality.

And as Dr. Zbigniew Brzezinski, former President Carter's national security adviser, stated correctly in 1984:

> The time has come to lay to rest the expectation that arms control is the secret key to a more amicable American-Soviet relationship, or even to the enhancement of mutual security.

Defense Secretary Weinberger and other experts have stated that the United States is now in the precise situations the SALT process was supposed to prevent. The United States is vulnerable to a Soviet first strike, yet the ABM Treaty prevents it from deploying the same nationwide ABM defense that the Soviets are already deploying in violation of the ABM Treaty. There is thus really no useful arms control business left to contract with the Soviets, because their SALT negotiating duplicity and their treacherous SALT breakout violations have enabled them to checkmate the United States strategically through arms control.

How does one negotiate with an adversary that is constantly striving to undermine strategic stability and the fundamental purposes of arms control? After all, military forces are only the reflection of political hostility. It is therefore futile to try to regulate or reduce military forces separately from their underlying political causes. But until we can convince Soviet leaders to abandon their Marxist-Leninist ideology, there can be no hope for arms control. Perhaps in recognition of this fact, President Reagan stated profoundly on March 8, 1983, that:

> The struggle now going on for the world will never be decided by bombs or rockets, by armies or military might. The real crisis we face today is a spiritual one; at root, it is a test of moral will and faith.

Will America have the moral will and faith to recognize that the Soviets have killed arms control by their SALT breakout violations, and that the only way to preserve international security is by unilateral means, enhanced deterrence? After all, the United States was far safer from the Soviet threat of nuclear war during the 1945-63 cold war period, when America relied on its unilateral efforts for deterrence. The history of détente and SALT shows that the cold war never ended for the Soviets. Thus the United States must finally abandon its futile quest for security through arms control. The United States must instead seek security by the old fashioned method—through unilateral offensive deterrence deployment programs, and through our own nationwide strategic defense initiative. We must regain security by the old fashioned method—we must earn it. Perhaps this is what President Reagan meant when he said we are at a crossroads of history where we have the choice to decide our Nation's fate.

The Soviets are indeed already engaging in nuclear blackmail. Dr. Eugene Rostow, former Director of the Arms Control and Disarmament Agency, suggested authoritatively and chillingly in the February 1987 issue of "Commentary" that Soviet nuclear blackmail is already being used openly:

> The Reykjavik summit can be compared to the Cuban missile crisis of 1962 . . . In both episodes, the Soviet Union sought to convert its nuclear power into a coercive political force . . . at Reykjavik . . . Mikhail Gorbachev pressed hard for a final showdown. What he demanded . . . was Western recognition of the Soviet Union's nuclear first strike capacity, based on its formidable array of offensive nuclear weapons, coupled with a monopoly in defensive systems . . . the Iceland meeting [was] a stunning demonstration of the methods of Soviet aggression . . . Gorbachev ambushed

> Ronald Reagan at Reykjavik . . . Soviet foreign policy under Gorbachev has ceased to be patient . . . Gorbachev wants answers now. Taught to believe that the correlation of military forces will determine the future of world politics, Gorbachev is demanding that the U.S. draw the obvious conclusion from the fact that the Soviet Union is a stronger military power than the U.S., and that its military strength is growing more rapidly than ours . . . He knows that it [the U.S.S.R.] is now on the verge of achieving overwhelming strength . . . He is determined to utilize this military superiority . . . [There is] the "subliminal" political influence of such a first strike capacity already palpable both in Europe and in the U.S. . . . Thus his violent rush to intimidate Reagan at Reykjavik . . . is the West [under] the pressure of nuclear blackmail?

Winston Churchill warned gravely after World War II: "Sometimes in the past we have committed the folly of throwing away our arms. Under the mercy of Providence, and at great cost and sacrifice, we have been able to recreate them when the need arose. But if we abandon our nuclear deterrent, there will be no second chance. To abandon it now would be to abandon it forever."

ANNEX: PRESIDENTIALLY CONFIRMED SOVIET SALT BREAK OUT VIOLATIONS, AND THEIR MILITARY IMPLICATIONS

A. Presidentially Confirmed Expanding Pattern of Soviet SALT II Break Out Violations—Total of 22

I. SS-25 mobile ICBM—prohibited second new type ICBM

1. Development since about 1975;
2. Flight-testing (irreversible) since February, 1983;
3. Deployment since 1985—over one hundred launchers, "direct violation";
4. Prohibited rapid-refire capability—double force;
5. RV-to-Throw-Weight ratio (and doubling of throw-weight over old SS-13 ICBM)—probable covert SS-25 2 or 3 MIRV capability—"direct violation";
6. Encryption of telemetry, "direct violation."

II. SNDV's

7. Strategic Nuclear Delivery Vehicle limit of 2,504—Soviets have long been at least 75 to over 600 SNDV's over the 2,504 number only they had when SALT II was signed in 1979, thus illustrating the fundamental inequality of SALT II.

III. SS-N-23 SLBM

8. Heavy throw-weight prohibited (conclusive evidence);
9. Development since about 1975;
10. Flight-testing (irreversible);
11. Deployment on Delta IV and III Class submarines;
12. Encryption of telemetry.

IV. Backfire intercontinental bomber

13. Arctic basing, increasing intercontinental operating capability;
14. Probable refueling probe, increasing intercontinental operating capability;
15. Production of more than thirty Backfires per year for an estimated five years, making more than an estimated twelve extra Backfire bombers.

V. CCD

16. Expanding pattern of camouflage, concealment, and deception (Maskirovka), deliberately impeding verification.

VI. Encryption

17. Almost total encryption of ICBM and SLBM telemetry.

VII. Launcher-ICBM Missile Relationship

18. Reported probable concealment of relationship between SS-24 missile and its mobile ICBM launchers, and concealment of the relationship between the SS-25 missile and its mobile ICBM launchers.

VIII. SS-16

19. Confirmed concealed deployment of 50 to 200 banned SS-16 mobile ICBM launchers at Plesetsk test range, now reportedly probably being replaced by similar number of banned SS-25 mobile ICBM launchers.

IX. Falsification of SALT II data exchange

20. Operationally deployed, concealed SS-16 launchers not declared;
21. AS-3 Kangaroo long range air launched cruise missile range falsely declared to be less than 600 kilometers and not counted.

X. Excess MIRV fractionation

22. SS-18 super heavy ICBM: NIE reportedly says SS-18 deployed with 14 warheads each, adding 1,232 warheads.

Additionally, deployment of more than 5 SS-24 rail-mobile MIRV'd ICBM launchers in violation of SALT II sublimit of 820 MIRV'd ICBM launchers, reportedly confirmed to President Reagan at Iceland Summit on October 11, 1986, by Soviet leader Gorbachev.

The Reagan administration confirmed on August 7, 1987, that: "The Soviets exceeded the SALT II sublimit of 1,200 permitted MIRV'd ICBM's and MIRV'd SLBM's when the fifth *Typhoon* submarine recently began sea trials. Moreover, some SS-X-24 MIRV'd ICBM rail-mobile launchers should now be accountable under the SALT II sublimit on MIRV'd ICBM's. It appears that the Soviets have not yet compensated for any of the SALT II-accountable SS-X-24 launchers. Therefore, the Soviets may also have exceeded the SALT II sublimit of 820 MIRV'd ICBM launchers.

This is the 23d confirmed Soviet SALT II violation. And the 24th Soviet SALT II violation is their deployment of MIRV'd SLBM's in excess of the SALT II sublimit of 1,200 MIRV'd missiles.

Moreover, the Soviets are reportedly flight-testing the even heavier throw-weight follow-on to the super heavy SS-18 ICBM, in violation of the SALT II absolute ceiling on SS-18 throw-weight. This will certainly result in further excess MIRV'ing of the SS-18.

The Soviets reportedly told the U.S. arms negotiators in Geneva in late 1983 that they intended to exceed the SALT II sublimits of 820, 1,200, and 1,1320, which they are now doing.

PRESIDENTIALLY CONFIRMED EXPANDING PATTERN OF SOVIET SALT I INTERIM AGREEMENT BREAK OUT VIOLATIONS (5 VIOLATIONS)

First. Soviet deployment of the heavy SS-19 ICBM and the medium SS-17 ICBM to replace the light SS-11 ICBM was a circumvention defeating the object and purpose of the SALT I interim agreement. Article II of the interim agreement prohibited heavy ICBM's from replacing light ICBM's. This violation alone increased the Soviet first strike threat by a factor of six.

Second. Soviet deployment of modern SLBM submarines exceeding the limit of 740 SLBM launchers, without dismantling other ICBM or SLBM launchers, which the Soviets actually admitted was a violation.

Third. Soviet camouflage, concealment, and deception deliberately impeded verification.

Fourth. Circumvention of SALT I by deploying SS-N-21 and SS-NX-24 long-range cruise missiles on converted Y class *SLBM* submarines, which "is a threat to United States and allied security similar to that of the original SSBN."

Fifth. The U.S. judges that Soviet use of former SS-7 ICBM facilities in support of the deployment and operation of the SS-25 mobile ICBM is a violation of the SALT I interim agreement.

As Defense Secretary Weinberger stated on December 11, 1986, "SALT I and SALT II have been largely irrelevant to the Soviet military buildup. Both agreements merely codified and authorized large increases."

B. PRESIDENTIALLY CONFIRMED EXPANDING PATTERN OF SOVIET SALT I ABM TREATY BREAK OUT VIOLATIONS—NINE VIOLATIONS

First. The siting, orientation, and capabilities of the Soviet Krasnoyarsk ABM Battle Management Radar "directly violates" three provisions of the SALT I ABM Treaty. The Soviets have privately admitted this violation to themselves.

Second. Over 100 ABM-mode tests of Soviet SAM-5, SAM-10, and SAM-12 surface-to-air missiles and radars are "highly probable" violations of the SALT I ABM Treaty. Two high Soviet officials have even admitted that their SAM's have been tested and deployed with a prohibited ABM capability. The Joint Chiefs of Staff have stated that the SAM-5, SAM-10, and SAM-12 all have a prohibited ABM capability.

Third. The Soviets may be developing and deploying a territorial, and a nationwide ABM defense, which violates the SALT I ban on developing even a base for a nationwide defense. President Reagan has stated that "this is a serious cause for concern." The Secretary of Defense has testified that the "Soviets have some nationwide ABM capability" already.

Fourth. The mobility of the ABM-3 system is a violation of the SALT I ABM Treaty.

Fifth. Soviet rapid relocation without prior notification of an ABM radar, creating the Kamchatka ABM test range, and mobility of the ABM-3 radar, were violations of the ABM Treaty.

Sixth. Continuing development of mobile "Flat Twin" ABM radars, from 1975 to the present, is a violation of the prohibition on developing and testing mobile ABM's. The Soviets are now mass producing the ABM-3 system for rapid nationwide deployment.

Seventh. Soviet ABM rapid reload capability for ABM launchers is a serious cause for concern. The State and Defense Departments state that the Soviets may have a prohibited reloadable ABM system.

Eighth. Soviet deliberate camouflage, concealment, and deception activity impedes verification.

Ninth. Confirmed Soviet falsification of the deactivation of ABM test range launchers is a violation of the ABM Treaty dismantling procedures.

As Defense Secretary Weinberger stated on December 11, 1986:

> There has been the recent discovery of three new Soviet large phased-array radars of this type [that is the Pechora-Krasnoyarsk class]—a 50 percent increase in the number of such radars. These radars are essential components of any large ABM deployment. The deployment of such a large number of radars, and the pattern of their deployment, together with other Soviet ABM-related activities, suggest that the Soviet Union may be preparing a nationwide ABM defense in violation of the ABM Treaty. Such a development would have the gravest implications on the United States-Soviet strategic balance. Nothing could be more dangerous to the security of the West and global stability than a unilateral Soviet deployment of a nationwide ABM system combined with its massive offensive missile capabilities.

D. PRESIDENTIALLY CONFIRMED EXPANDING PATTERN OF SOVIET VIOLATIONS OF NUCLEAR TEST BANS—OVER 70 VIOLATIONS

First. About 20 atmospheric nuclear weapons tests, August through September 1961, in violation of the 1959 mutual test ban moratorium, including a 58-megaton shot.

Second. Over 30 conclusively confirmed cases of Soviet venting of nuclear radioactive debris beyond their borders from underground nuclear weapons tests, in violation of the 1963 limited—or atmospheric—test ban treaty.

Third. Twenty-four cases of Soviet underground nuclear weapons tests over the 150-kiloton threshold in probable violation of the 1974 threshold test ban treaty.

E. PRESIDENTIALLY CONFIRMED EXPANDING PATTERN OF SOVIET VIOLATIONS OF BIOLOGICAL AND CHEMICAL WEAPONS BANS

First. The Soviets have maintained an offensive biological warfare program and capability in direct violation of the 1972 Biological and Toxin Weapon Convention. The United States has no defenses against this capability. The Sverdlovsk anthrax explosion of April 1979, killing several thousand Soviets, is direct evidence of this capability.

Second. Soviet involvement in the production, transfer, and use of chemical and toxic substances for hostile purposes in Southeast Asia and Afghanistan are direct violations of the 1925 Geneva protocol. Tens of thousands of innocent men, women, and children suffered horrible deaths from these Soviet atrocities, which are also violations of the Genocide Convention.

F. SOVIET VIOLATION OF THE KENNEDY-KHRUSHCHEV AGREEMENT

The Soviets are violating the 1962 Kennedy-Khrushchev agreement prohibiting Soviet offensive weapons in Cuba because of the reported presence of 4 to 12 or more TU-95 Bear intercontinental bombers, more than 43 nuclear delivery capable Mig-27 Flogger fighter-bombers, several types of strategic submarines, over 200 nuclear delivery capable Mig-21 fighter-bombers, and the Soviet combat brigade. President Reagan, the CIA Director, the JCS Chairman, and the Under Secretary of Defense for Policy have all charged that the Soviets are violating the agreement.

G. UNITED STATES VERIFICATION HELPS SOVIET DECEPTION: TECHNICAL STRIP TEASE

SALT I and II prohibit "deliberate concealment measures which impede verification by national technical means." But the Presidentially appointed General Advisory Committee on Arms Control and Disarmament [GAC] found no arms control violation of more profound and continuing significance than the illegal Soviet pattern of deliberate concealment measures in violation of the SALT I interim agreement, the SALT II Treaty, and the SALT I ABM Treaty.

CIA has stated the following new judgment about Soviet strategic camouflage, concealment, and deception:

> Since the SALT I agreement of 1972, Soviet encryption and concealment activities have become more extensive and disturbing. The Soviet program [of strategic Camouflage, Concealment, and Deception—Maskirovka] is extensive and pervasive . . . it makes detection of noncompliance considerably more difficult . . . much of the ambiguity [in U.S. Intelligence about further Soviet SALT violations] is a direct result of data denial . . these two Soviet activities [that is, concealment and encryption, and deception] impede our ability to verify the Soviet Union's compliance with its political commitments to SALT II . . . Soviet deliberate [Camouflage, Concealment, and Deception] could also make it more difficult for the U.S. to assess accurately the critical parameters of any future missile. (CIA unclassified memo "Overview of Soviet Data Denial," June 17, 1986.)

The above CIA judgments strongly suggest that Soviet CCD is a serious SALT violation. But there is conclusive evidence of this. The 1968 Soviet "Dictionary of Definitions of Military Terms" defines "Maskirovka" as including the "creating of deliberate interference with technical means of reconnaissance." Thus Soviet Maskirovka is deliberate, and therefore a SALT violation. And as the noted intelligence expert Dr. Angelo Codevilla has correctly pointed out recently in "Global Affairs" (summer, 1986):

> They, the Soviets, have tested some of their high powered radars in a way that would damage our satellites, and are the world's leaders in electronic jamming that can render satellites useless.

The purpose of Soviet Maskirovka, itself a SALT violation, is to cover and conceal further Soviet SALT violations. Thus Soviet Maskirovka SALT violations have been used for improving Soviet ability to use United States verification mechanisms in order to cover perhaps even more serious but undetected Soviet SALT violations. The United States SALT verification process by national technical means has actually aided the Soviet strategic Maskirovka program, by assuring perdictability of intelligence collection by the United States, and more importantly, by providing United States incentives for feedback to the Soviets that aids Soviet deception planners. Thus the Soviets use the United States verification process to find out how much is known about their violations, when it is known, how accurately it is known, and most importantly, how strong the political will is to challenge their violations and try to enforce compliance. When they can obtain this kind of feedback from the United States on the success of their Maskirovka CCD Program, Soviet deception planners are then able to devise even more effective Maskirovka measures to hide even more serious SALT violations. Indeed, the United States verification process has effectively aided Soviet Maskirovka through the provision of feedback.

The Soviet Maskirovka program plus United States feedback on its successes has therefore allowed the Soviets to plan programs effectively countering United States national technical means of verification.

As the President's arms control General Advisory Committee report on October 10, 1984, correctly stated:

> The expanding Soviet national concealment and deception program may have been a preparation or a cover for more extensive violations taking place now.

Thus we must conclude that Soviet CCD masks other, far more serious Soviet arms control violations or strategic programs, and may in and of themselves, actually be acts of war. As the noted international lawyer and expert strategic analyst William R. Harris has written:

Maskirovka that is unrestrained is but prelude to war. Restraint appears to be lacking in the Soviet Union, which has expanded its deliberate concealment and deception activities relating to strategic forces in disregard of the SALT obligations in effect since 1972. The expanding Soviet program of countermeasures to verification by NTM is a powerful indicator that the Soviets have no intention of providing a clear picture of their arms control misconduct. When a superpower requires a nationwide system of Maskirovka, that system can only be a threat to international peace. Maskirovka can create more mistrust than arms control can dispel. The Soviet style of arms control necessitates an increase in distrust. Maskirovka expands the fear of the unknown. Failures of Maskirovka confirm that the Soviets do cheat and that they do not merely nibble at the edges, but defeat the central purpose of arms control agreements if it suits the purpose of their leadership.

Because Soviet Maskirovka causes many United States intelligence uncertainties, realistic and conservative estimates of Soviet strategic forces are required. Moreover, there is reason to believe that Soviet Maskirovka is made even more effective by the partial blinding of United States intelligence caused by the space-launch standdown. The "1980 Reagan Administration CIA Transition Team Report" reportedly stated:

> The failure of a single launch in the early to mid-1980s could negate all of our capability for a particular type of collector for a protracted period of time. A failure of the space shuttle could be disastrous for the entire technical collection effort . . . any problem in the space shuttle could prevent the launch of the improved system on schedule, and since there is no back-up whatsoever, the United States could be completely blinded with no overhead photo-reconnaissance capability at all in the mid-1980s.

There is good reason to believe that there is currently a U.S. verification and reconnaissance crisis which is unprecedented, thereby blinding U.S. intelligence. Thus Soviet CCD, including their reported electronic jamming of United States satellites, together with the post-space shuttle disaster launch stand-down, have effectively blinded United States intelligence at a key period of Soviet SALT breakout. At the very least, these problems should cause United States intelligence to be cautious and to try to err on the high side in estimating Soviet activities and programs. But with the exception of USAF intelligence, United States intelligence has an unbroken, scandalous 23-year record of significant underestimating the quantity, quality, and budget of Soviet strategic forces. Beyond compensating for Soviet Maskirovka, the United States underestimative record requires worst case estimates.

But as the noted intelligence expert, Dr. Angelo Codevilla, has written:

> The narrowness of U.S. sources of information about key Soviet strategic programs, combined with substantial Soviet knowledge of U.S. collection systems, provides the Soviets with significant opportunities for deception.

Codevilla adds that:

> The portion of the U.S.S.R. they [U.S. reconnaissance satellites] viewed on any given day was miniscule, and the Soviets have seldom had trouble knowing in advance what areas they should prepare for a quick and superficial viewing. But a combination of habit, hubris, and concentration on arms control led the United States to take what it saw and heard as if it were the whole iceberg, rather than its tip.

Finally, Codevilla summed up our problem:

> The limitations of intelligence systems optimized for arms control, combined with the prevalence of arms control categories, added up to a kind of willful ignorance. Only when this had become undeniable did U.S. intelligence admit that the Soviets had laid down a substantial base for anti-missile defense and built an offensive missile force diametrically different from that envisaged from arms control agreements.

SOME MILITARY IMPLICATIONS OF SOVIET SALT II VIOLATIONS

The following chart tabulates the effects in terms of additional Strategic Nuclear Delivery Vehicles (SNDV's) of the main Soviet SALT II violations:

SS-25 deployment	100
Training SS-25's at Plesetsk	20
Doubling SS-25 force by rapid reload-refire	120
Confirmed SS-16 production and deployment	200
Intercontinental Backfires with long range AS-3/AS-15 ALCM's	300
Extra Backfires	12
Some SS-20's covert ICBM's (launcher used for SS-16 and SS-25)	200
Covert soft launch capability of stockpiled old ICM's	820
Blackjack bombers with AS-15 long range ALCM	7
SS-24 MIRVed railmobile ICBM	5
Total	1,884
Additional warheads from Soviet SALT II violations:	
SS-25 covert 3 MIRV	720
Excess SS-18 super heavy ICBM MIRV fractionation	1,232
Warhead loading on all the above SNDV's	2,530
Total	4,482

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, on the subject of the Helms amendment, I can understand the hesitation on the part of the Senator from Rhode Island, but by the same token it is important for the country, for the Senator from Rhode Island, for the Senate in general, any Member of it, to understand that treaty enforcement has always been a problem, and it has been a problem because for us, the West, arms control is a political proceeds. In the Soviet Union it is a strategic process. For them it is part and parcel of tailoring their forces to ensure a favorable correlation of forces, to use their term. For them, the art of politics is waiting until our self-negotiation delivers them a satisfactory outcome. So we become, since ours is a political process, unwilling to confront violations either because it calls into question the wisdom and judgment of those who negotiated it or the wisdom and judgment of those who lead and guide us at a given moment. It is far easier to pretend that, one, violations are unimportant, or, two, none existed, than it is to confront them. It is extremely difficult to confront the fact of a violation of a treaty that our leaders have entered us into and that our leaders continue to maintain us under.

If this country is ever to find security out of arms control agreements, fundamentally it has to come to grips with the question of enforcement because, by continually refusing to come to grips with that, we license Soviet behavior of the past and encourage similar Soviet actions, albeit without hesitation, in the future.

We have just seen such an act in the test that used Hawaii as a target line. We have seen it as a violation of article IV, section 7 of SALT II, which prohibits—and purportedly—capped. The growth and expansion, including the technical capability and quantitative capability, of the Soviet heavy missile force, the one thing that threatens us more than anything.

Here in this test, beyond any question whatsoever, they have tested their follow-on SS-18, the most sophisticated, the most terrifying, the most capable, and the heaviest missile in the Soviet arsenal which was "capped," according to former Secretary of Defense Harold Brown in SALT II testimony.

Our timidity in a sense-of-the-Senate resolution literally can only be amusing to the Soviet leaders who are watching to see how far we will carry a new détente before questioning its wisdom. For détente to have any effect at all it clearly has to be a two-way street. On the threshold of that détente the Soviets have told us that if we will not confront their provocative acts, it will be one way.

By choosing that drop zone in the Pacific with all the other ones available, by choosing the trajectory so close to Hawaii, by choosing to put one of the target areas right against the air defense identification zone of one of the States of America, the Soviets have said to us that they are no longer interested in what we feel about these things because they know in advance how we feel, however outraged we may be. We will tell ourselves we dare not act lest we offend them and change the new circumstances between us.

The Helms amendment really is rather very simple, Mr. President. It says that, "Notwithstanding any other provision of law * * * no national defense program of the United States shall be impeded or delayed in order to comply with any treaty or proposed treaty or provision thereof which the President has certified to Congress that the U.S.S.R. is violating."

Why would we seek to bind ourselves in the face of a Soviet violation? I have never been able to understand that, yet incessantly that is the behavior of this Senate. The Soviets violate, we prove our commitment to the process by restraining even further our ability to respond. Consequently, we have seen under two decades of arms control a circumstance where we had clear superiority change to one where we have clear inferiority in strategic weapons.

The Helms amendment goes on to say the President shall thereafter certify to Congress that the U.S.S.R. is no longer violating such treaty or such provision and that the Soviets have given formal assurances that it will not again use impact areas adjacent to the State of Hawaii or any other State or Territory of the United States for testing ICBM's or any other nuclear weapons delivery system.

I for the life of me cannot understand why a sense-of-the-Senate resolution which said that would cause hesitation or doubt among Senators. It is really inconceivable that the people that we serve would find fault with us saying, "Hey, this is a two-way street if it is to be any street at all. It cannot be a street of accommodation of Soviet violations, of Soviet threats, of Soviet insults, of Soviet advances in violation of their treaty obligations."

Now, when the amendment was drafted—not the Helms amendment but the underlying amendment—we had not known that they had a further violation of the provisions against interfering with a national technical means of verification in that they had illuminated our observer aircraft, which is clearly permitted by all SALT treaties ensuring the use of national technical means of verification, and temporarily blinded the copilot. But if one knows anything about electronics, anything at all, Mr. President, about electronics, when you have the most sensitive eyes and ears that are observing these tests, as we are entitled to do, and you expose them to the violence of a laser illumination, the copilot would have been temporarily or permanently blinded. The electronics of that aircraft I dare say, just knowing electronics, were heavily damaged and clearly, if not heavily damaged, at least blinded for the observation of that test.

One does not have to have intelligence verification of this to know that that is the effect of such heavy illumination on those very sensitive eyes and ears that observe these kinds of events from afar.

So the Senate sits in observation of an insulting use of a target line that threatens a State, of an interference with the national technical means of verification authorized, permitted, and comprehended under both SALT I and SALT II, and is hesitating now to respond with a sense-of-the Senate resolution that binds not the President; it is not a sense-of-the-State Department; it is a sense-of-the-Senate, a sense-of-the-Congress. One could wish that the State Department had such sense, but that is up to them. What we are expressing is our own outrage at this behavior. How can we hesitate when the American people, whom we purport to lead, watch us saying that these things took place, but that we dare not respond lest we offend the sensibilities of our Soviet counterparts.

What a joke this must be viewed as in the Soviet Union; what an invitation to further provocation it must be seen as; what it must be seen as by our allies as the United States completes work on an INF Treaty, the provisions of which cause some of our European allies a great deal of anxiety, and the provisions of which cannot be lived with if we are unwilling as Western democracies to come to grips with the facts of violation we must say that treaties violated are treaties nonexistent and if the Soviet Union wishes to enter into these kinds of things, they must enter into them with a commitment to abide by them or see them forsworn by a West intent on its own survival.

The Helms amendment does not do those things that the Senator from Rhode Island suggested it might do. It simply says that if we are going to have a relationship under treaties with our arch rival in this world, the imperialist power called the Soviet Union, the greatest imperialist power the world has ever know, it must be one under which both sides are committed to abide, because absent the desire to enforce the facts and effects of treaties, they are meaningless and they are a threat to the survival of freedom and democracy in the world. This is a timid, not binding step, in and of itself. It is a sense of the Congress, to which the President need not pay heed, though I pray he would, to which the Secretary of State might wish to qualify in any way he would like, in an arch state of timidity with Soviet Foreign Minister Shevardnardze. But the Congress at least, representing the people, surely has the right to say this behavior is offensive and that as a country we ought to respond.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS I thank the Chair for recognizing me. Just for the benefit of Senators who may be in their offices listening to the discussion on the floor at the moment, or for the benefit of staff members who will be advising Senators on the vote on the motion to table the amendment to be made by the able chairman of the committee, Mr. Pell, let me read slowly the provision of the amendment in its entirety, and then I will say to the Senators or staff members, do you really want to be on record in opposition to this amendment?

Here is what it says:

> Notwithstanding any other provision of law or of this Act, no national defense program of the United States shall be impeded or delayed in order to comply with any treaty or proposed treaty or provision thereof which the President has certified to Congress that the U.S.S.R. is violating unless and until the President shall thereafter certify to Congress that the U.S.S.R. is no longer violating such treaty of such provision and that the U.S.S.R. has given formal assurance that it will not again use impact areas adjacent to the State of Hawaii or any other State or territory of the United States for testing ICBMs or any other nuclear weapons delivery system.

That is the sum total of the amendment, and I hope Senators who may be listening will think about the import of this amendment.

Mr. President, I yield to the distinguished Senator from California, Mr. Wilson.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. WILSON. Thank you, Mr. President. I thank my friend from North Carolina not only for yielding but for his additions to the amendment that Senator Wallop proposed last week on behalf of himself and on my behalf.

Mr. President, I think that the proposition that has just been put with great simplicity does speak for itself. It says that the security of the United States should not be in any way impaired, and specifically that no weapons program which we have undertaken for our defense should be in any way impaired, because it may violate a treaty which the Soviet Union is itself violating.

In other words, what it is saying is that there should be at least some symmetry rather than the kind of unilateral asymmetry that so many on this floor have recently urged upon us, that we be the soul of patience—that, indeed, we have endless patience—that we ignore or minimize or depreciate violations on the part of the Soviet Union even when those violations, in the words of former President Carter, who was perhaps the single driving force, certainly the most urgent in his plea for the ratification of the SALT II Treaty, would prevent the United States from monitoring compliance with the SALT II Treaty would be regarded by us as such an egregious violation as would warrant in his judgment our withdrawal from the treaty without notification, with simple action by us to no longer be bound by a treaty which by that act of encryption of telemetry the Soviets had indicated they were not complying with, or at least by that encryption they would be guilty of such clear prevention of our monitoring that it would be impossible to assume anything other than the fact that they were engaged in violations.

Mr. President, I agree with President Carter. I think that the encryption of telemetry by the Soviet Union gives right to only one logical inference. It is precisely for that reason that President Carter laid such heavy emphasis at the time that he brought the treaty before the Senate to that provision. And no one has within memory accused Jimmy Carter of being a hawk. But even he who so urgently desired the ratification of that treaty knew that it would be meaningless for the United States to ratify and to observe that treaty if only we and not the Soviet Union were in compliance with the encryption of telemetry provisions because what encryption of telemetry means is that the side doing it is cheating, and is encrypting to prevent being detected in the cheating.

Anyone who can come up with any other logical inference frankly I think is guilty of naivete in the extreme. That was the purpose of inserting that provision, and that prohibition on encryption in the treaty itself. But of course for reasons that escape most others except Members of the U.S. Senate, we have insisted that some part of that treaty be observed and in fact we have done so in the words of some on the floor last week who urged that course of action by turning a blind eye to the fact it was a provision of the treaty we were engaging in so long as we did not call it a treaty.

Talk about the emperor wearing no clothes. It is not a treaty because we say it is not a treaty. And yet the provisions we were urged to abide by are identical to those in the treaty that the Senate refused to ratify.

I think the Senator from North Carolina has with great simplicity said there should be symmetry in our conduct; that, if the Soviets comply, we will comply; that, if they do not comply, there is no reason for us to comply. What he said was with the provisions of a treaty.

Evidently there are those on this floor who think you can excerpt provisions of a treaty as though the parts of the whole were not constructed to be just that, a comprehensive, coherent, interrelated whole, that we can take parts and say because the Soviets have not yet violated those we will ignore their violations of the rest of the treaty. And we will abide by all of it.

Well, happily that view has not quite prevailed yet. The President of the United States has taken the view that because the Soviets have violated the treaty we are no longer bound by its provisions. And it is that response that has evoked this partial, this selected observance of the treaty by the Senate in the amendment it adopted last week to the defense authorization bill.

So comes now the Senator from North Carolina and, seeking to bring back a little reason to the process, he has said very simply that we should not allow any weapons program which we have thought necessary to our defense to be delayed or impaired because it would in fact violate provisions of a treaty that we have not ratified or that the other side has not observed. That seems simple logic. It also seems simple equity. What is more, it seems necessary to our national security.

Mr. President, he has added one other thing, that is, that assurance must be given by the Soviet Union that they will never again undertake the kind of dangerous testing in which they engaged last week, in which they came very, very close to the American State of Hawaii, so close that a slight miscalculation would have taken that warhead on to American soil, and perhaps very likely, Mr. President, have done grave damage perhaps even to the population center of Honolulu. Perhaps, ironically, it might have landed at Pearl Harbor because it landed not far from Pearl Harbor.

Is it too much to ask for this kind of assurance by the Soviet Union that they will not repeat this outrage, that they will not again announce an impact area which requires if in fact it is used as announced that it will involve overflight of United States territory?

Mr. President, this was the most warlike act of intimidation that the Soviet Union has yet engaged in short of actual violence to American military personnel.

It is true they did not shoot Major Nicholson this time. They did not shoot any other American soldier. They merely announced that they were going to overfly U.S. territory and, of course, had they done so or had they miscalculated and gone beyond rather than just short of the State of Hawaii with the impact of this test of their followon missile, the followon to the SS-18, then we might today be engaged with all Members on this floor in debating whether or not that was a sufficient act to involve us in more than a protest.

Mr. President, there is no excuse for what the Soviet Union did. There is absolutely none. It is not just an outrage. It was so dangerous that it demands that we be given absolute assurance. But candidly I do not think any verbal assurance from the Soviet Union can ever be much comfort. I do not think we can be assured by mere words. In my own judgment what we need to do is give ourselves assurance by the technology that is available to us. And there is certainly in the process technology that could provide us not verbal or rhetorical safeguards but real safeguards of the kind that are embraced within the concept and the actual program for development of the strategic defense initiative. It is a defense against ballistic missiles. This was a ballistic missile test. What they were testing was an attack on the United States. And they came very close to engaging in an attack on the United States.

Mr. President, this, the amendment by the Senator from Hawaii, goes hand in glove with the underlying amendment of the Senator from Wyoming. And it should be adopted because it makes great sense. But it is couched in language that frankly not even the Soviet Union can legitimately object to because it proposes equity, it proposes simply that they will never again undertake anything as dangerous, as outrageous as that act of intimidation.

Mr. President, there is no reason for anyone on this floor to object to or oppose that language or the amendment in its entirety.

AMENDMENT NO. 842 AS MODIFIED

(To protest the Soviet ICBM tests near the State of Hawaii)

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I send a modification of the underlying amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The amendment (No. 842) as modified, is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE SOVIET ICBM TESTS NEAR THE STATE OF HAWAII.

(a) FINDINGS.—The Congress finds that—

(1) the Union of Soviet Socialist Republics and the United States of America have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

(2) the Soviet Union has within the last few days conducted two tests of its intercontinental ballistic missile forces,

(3) the announced impact points for reentry vehicles from these tests are as close as two hundred miles northwest and southwest of the State of Hawaii.

(4) the announced impact points would require the overflight of sovereign U.S. territory by a Soviet ICBM,

(5) the missile used in this test is a modern multiple warhead ICBM which probably is a violation of the "heavy ICBM" provision of the SALT II Treaty,

(6) the Soviet Union allegedly encrypted telemetry from the flight-tests, as is their standard practice, which would be a violation of the SALT II Treaty,

(7) the Soviet Union used a laser or other directed energy device to irradiate at least one U.S. aircraft in the region that was monitoring the tests, having the effect of interfering with our national technical means of verification,

(8) the Soviet Union appears to have been practicing with these tests a strike on the United States because of the use of trajectories of fire identical with those that would be used to attack Pearl Harbor,

(9) had this misfired by only fractions of a second, Soviet ballistic missile test re-entry vehicles could have landed on centers of population in the Hawaiian Islands, and

(10) this action cannot be explained as anything but a deliberate provocation of the United States and a direct threat to our national security.

(b) Sense of the Congress.—It is the Sense of the Congress that—

(1) this test has increased rather than decreased the risk of nuclear war,

(2) the Congress of the United States condemns the Soviet Union for its actions that demonstrate an utter disdain for civilized and acceptable standards of international behavior and demands a public and immediate apology to the American people as well as assurances that tests this near U.S. territory will not occur in the future,

(3) the Congress condemns these probable new violations of the provisions of the SALT II Treaty, as interference with national technical means of verification, in conjunction with probable new violations of the SALT II Treaty, and as thoroughly inconsistent with improving relations between the two countries and indicating a contempt for the objectives of arms control,

(4) because the United States has not even a very limited defense against ballistic missiles, the possibility of accidental impact of Soviet ballistic missile test re-entry vehicles in the population centers on the Islands of Hawaii could not have been prevented,

(5) the United States government should officially and at the highest levels protest this action by the Soviet government and should inform the Soviet Union that it cannot tolerate flight-tests of this sort in close proximity to U.S. territory.

(6) the President should report to the Congress in ten days in both classified and unclassified forms on (a) the details of the tests; (b) Soviet explanations offered in response to U.S. diplomatic protests; (c) what steps the U.S. will take to ensure that such tests will not happen in the future; and (d) what effect a first-phase SDI system could have against a missile launched in similar proximity to U.S. territory.

Mr. WALLOP. Mr. President, the modification is in a couple of places, and I have to say that, from the standpoint and perspective of the Senator from Wyoming, it borders on the offensive to me to state that we cannot find the Soviets in violation of treaties when this is the Senate which says it knows how to interpret treaties; this is the Senate which has said by law that it will enforce the provisions of unratified treaties.

In the fifth clause I have stated, "The missile used in this test is a modern multiple warhead ICBM which probably is a violation of the 'heavy ICBM' provision of SALT II"—not "is."

Sixth, I said, "The Soviet Union allegedly encrypted telemetry from the flight tests, as is their standard practice, which would be a violation of the SALT II Treaty."

We added a new seventh finding: "The Soviet Union used a laser or other directed energy device to irradiate at least one United States aircraft in the region that was monitoring the tests, having the effect of interfering with our national technical means of verification."

Then, in the third paragraph of the sense-of-the-Congress resolution part of it, I have said:

(3) The Congress condemns these probable new violations of the provisions of the SALT II Treaty, as interference with the national technical means of verification, in conjunction with probable new violations of the SALT II Treaty, and as thoroughly inconsistent with improving relations between the two countries and indicating a contempt for the objectives of arms control,

Mr. President, this modification is bascially for the purpose of easing the minds of those too timid to confront the reality of the violation and probable violations.

Mr. PELL. Mr. President, we now come to the amendment of the Senator from North Carolina. As I have indicated before, I believe this amendment would jepardize the arms control agreements in this period of time. It would require us to make defense decisions which could violate some of our national obligations.

Also, I believe that the only specified way for the President to embark upon a pattern of United States violation would be for him to certify that the Soviet Union is no longer violating this or that provision. That is quite a task. Instead of looking for Soviet failures to comply, the United States would have to look for solid proof of compliance. I think that would be a very difficult task.

Of course, the President could abrogate treaties to get out of the box in which he would be placed by this amendment, but that would mean that the fabric of arms control would be pretty well disrupted.

Mr. President, I think everyone who wishes to speak on this amendment has had an opportunity.

Mr. HELMS. Mr. President, if the Senator from Rhode Island will forbear for a moment in his motion to table, I promise that I will not take long.

Mr. President, Senators who are contemplating voting to table should consider the position that the two able Senators from Hawaii are in this morning, because the flight tests aimed at Hawaii represent a five-fold violation of the SALT II Treaty.

First, the TT-09 is a third new type ICBM, and the SALT II Treaty allows only one new type ICBM.

Second, the TT-09 has heavier hurl-weight than the superheavy SS-18, and SALT II establishes an absolute ceiling on SS-18 throw-weight.

Third, the TT-09 can carry at least 20 warheads, and the SALT II Treaty establishes an absolute ceiling of 10 warheads on SS-18 class ICBM's.

Fourth, the electronic telemetry signals from TT-09 flight testing are being completely encrypted, a deliberate interference in U.S. verification, in violation of SALT II.

A fifth violation of the SALT II Treaty is this: The two laser attacks on U.S. verification aircraft are not only further violations of the verification provision of SALT II but also are acts of belligerency under international law.

Mr. PELL. Mr. President, I move to table the amendment of the Senator from North Carolina. I believe the yeas and nays have been ordered on this.

Mr. HELMS. Not on the motion to table. I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** The question is on agreeing to the motion to table the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. Boren], the Senator from Tennessee [Mr. Gore], the Senator from Georgia [Mr. Nunn] and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. Stevens] is necessarily absent.

The **PRESIDING OFFICER** (Mr. Sanford). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—52

Adams
Baucus
Biden
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Durenberger
Evans
Exon
Ford
Glenn
Graham
Harkin
Hatfield
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—43

Armstrong
Bentsen
Bond
Boschwitz
Cochran
D'Amato
Danforth
DeConcini
Dole
Domenici
Fowler
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Karnes
Kasten
Lugar

McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—5

Boren
Gore
Nunn
Simon
Stevens

So the motion to table the amendment (No. 843) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the motion to table the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 855 TO AMENDMENT 842

(Purpose: To express the sense of the Senate regarding provocative and dangerous Soviet activities near the State of Hawaii)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment No. 855 to the Wallop Amendment 842, as modified.

Mr. PELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike all after the word "SEC.". and insert the following: "EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE SOVIET ICBM TESTS NEAR THE STATE OF HAWAII.

(a) FINDINGS.—The Congress finds that—

"(1) the Soviet Union and the United States have recently concluded an agreement with respect to reducing the risks of accidental nuclear war;

"(2) the Soviet Union has recently conducted two tests of its intercontinental ballistic missile forces;

"(3) the announced impact points for reentry vehicles from those tests caused major concern in the state of Hawaii and an official expression of concern by the United States Government;

"(4) in connection with those tests, forces of the Soviet Union illuminated United States military aircraft in international airspace with laser beams, an action which may have inhibited the monitoring of those tests, a provocative and dangerous act with no justification, which may contravene the provisions of the unratified SALT II Treaty prohibiting interference with national technical means;

"(5) the Soviet Union may have encrypted telemetry from this flight-test, as is their standard practice, in contravention of the provisions of the unratified SALT II Treaty;

"(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

"(1) the actions of the Soviet Union in testing ICBMs in the Hawaiian region and in illuminating U.S. monitoring aircraft is provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war;

"(2) an immediate and comprehensive explanation of Soviet actions should be demanded by the U.S. government;

"(3) the President should report to the Congress in 10 days in both classified and unclassified forms on (a) the details of the Soviet actions; (b) Soviet explanations offered in response to U.S. diplomatic protests; and (c) what steps the United States will take to ensure that such actions do not recur."

Mr. PELL. Mr. President, I find that I cannot support the amendment proposed by the Senator from Wyoming. A number of the statements made in that amendment that he has offered are, I think, insupportable on the basis of what is known.

The key problem is that the amendment rushes to a judgment that the recent SS-18 tests in the Pacific were violations of the SALT II Treaty.

I do not think there is any way that such a significant judgment could be reached now, nor is this the forum in which to do it.

The Senate would be foolhardy if it were to do so before receiving and weighing the views of those most expert in these matters, particularly the constitutive committee sitting in Geneva.

I am offering a substitute amendment which would accomplish what I believe should be our main purpose, placing the Soviets on notice that the Senate finds this activity in the Pacific unacceptable and calling for a full report by our President.

My amendment takes note of the concerns raised in Hawaii and in Washington by the administration. It also raises concerns about the use of lasers, or the apparent use of lasers during the tests, which interfered with the monitoring by our aircraft.

The amendment also recognizes our particular concern regarding continued massive Soviet encryption of telemetry.

Accordingly the amendment expresses the sense of the Senate that, one, the Soviet actions are provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war; second, the U.S. Government should demand an immediate comprehensive explanation; third, the President should report to the Congress within 10 days on the Soviet actions, explanations provided by the Soviets and anticipated United States actions to prevent recurrence.

I would hope that this substitute amendment would prove agreeable and acceptable to my colleague.

Mr. WILSON. Would the Senator yield for a question?

Mr. PELL. I would yield for a question.

Mr. WILSON. I thank my friend from Rhode Island. I could not quite hear, but it seemed to me the Senator was saying he found certain statements in the amendment of the Senator from Wyoming to be insupportable. I was wondering if he could be specific as to what statement he found insupportable.

Mr. PELL. I think the fact that it is a violation, that is the main one. We do not know yet that it is a violation, or probable violation.

Mr. WILSON. Is my friend from Rhode Island aware that the modification that was submitted by the Senator from Wyoming speaks of probable violations?

Mr. PELL. I said, "probable violations." He refers to probable violation, and I am not sure that this is a forum to decide that issue.

Mr. WILSON. The resolution, as modified by the Senator from Wyoming, speaks of probable violations. Is it, then, the view of the Senator that they are not probable?

Mr. PELL. I do not know. It may well be, but I do not think we should decide it. I think that should be decided by the SCC in Geneva. But at this point——

Mr. WILSON. May I ask this question: If the modification has been read by the Senator from Rhode Island, it makes the point that what the Senator from Wyoming deems to be probable violations are, whether probable or not, very serious transgressions. That, I would assume, we would all agree with. First, the test was dangerous. That is not a probability. That is a clear fact.

Second, it makes the point that we are without any defense which might have, not only anticipated, but dealt with the kind of miscalculation in the testing that make this test such a dangerous and such an egregiously offensive—not just insult, but peril to the people of the Hawaiian Islands.

That does not depend upon the probability of whether these violations occurred. There was a test. The test itself is a fact. The test was dangerous. The test was an act of intimidation, and the result of the test, had it misfired, clearly could not have been prevented by a defense that does not exist. We have no defense.

Mr. PELL. Prior to answering I would like to yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask unanimous consent that I may be allowed to proceed on a different matter for not to exceed 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. Mr. President, I do not intend to object, but I have been waiting for a window to speak for 5 minutes on the Bork nomination. Earlier this morning I was on the floor and other Senators were yielded 12 minutes to speak against it. I would be willing to speak at 12:30 if the time could be extended from the time we were to go in recess. I do not want to hold things up. But I have been waiting and was on the floor when another Senator was yielded time to speak against the nomination. I want to speak for the nomination. I would like to have a chance after this to speak for Judge Bork.

Mr. BYRD. How much time does the distinguished Senator wish?

Mr. PRESSLER. Five minutes.

Mr. BYRD. The recess will begin at 12:45 p.m. today. I ask unanimous consent that Mr. PRESSLER be recognized at 12:45 to speak, not to exceed 5 minutes, and that the Senate then stand in recess for the party conferences.

Mr. HELMS. Well, Mr. President, in all respect, I reserve the right to object.

I have made no objection whatsoever this morning about Senator DODD's speaking against the Bork nomination, and I think in all fairness that the Senator from South Dakota ought to be allowed to proceed now.

Mr. BYRD. The Senator said he would be willing to speak at 12:45. I was just trying to accommodate him.

Mr. HELMS. If that is the Senator's wish.

Mr. PRESSLER. I thank very much my colleague from North Carolina for defending me. I will be willing to speak at 12:45. I have a speech for Judge Bork I would like to give, but if other Senators are yielded time to speak against him, I would like to be yielded to. I have been waiting on the floor all morning.

Mr. HELMS. Indeed, the Senator has.

Mr. PELL. Mr. President, referring to the question of the Senator from California, I think these things are better decided at the SCC, the Standing Consultative Committee, which sits in Geneva, and also by the whole intelligence community. The evidence is not all in yet.

But it says in paragraph 8 that the Soviet Union appears to be practicing with these tests to strike. That, I believe, has not yet been established. It also says that a misfire could have caused one of the vehicles to land near the Hawaiian Islands. I understand the trajectory of these missiles was over the ocean the whole time. So if they had fallen down, it would have been difficult to land on one of the islands.

Mr. WILSON. Mr. President, will my friend yield at that point?

Mr. PELL. I yield.

Mr. WILSON. I have here a chart prepared by the Defense Intelligence Agency and it shows the impact zones which were given to mariners by the Soviet Union preliminary to their conducting the test. You will note that the southernmost area is less than 200 miles from the Hawaiian Islands, and that if in fact they had kept to their announced intention and used both of the impact zones, the Soviet Union would have engaged in overflight of United States territory and clearly in this proximity to the islands the kind of miscalculations, the kind of margin for error that is characteristically associated with the tests, might very well have resulted in the impact of these dummy warheads within populated areas.

That is why I think the modification correctly makes the point that even if the impact was in fact in this northernmost area and that the overflight did not occur, it was the announced intention of the Soviet Union to conduct overflight, and that overflight necessarily carries with it a great peril to the people of the Hawaiian Islands.

That is what makes this whole thing so supportable. I ask my friend from Rhode Island if he does not agree that the announced intention as announced in the notice to mariners does not make inescapable the conclusion that they intended to overfly the Hawaiian Islands at the risk of peril to the people of those islands.

Mr. PELL. We are getting into a somewhat sensitive area here, but on the trajectory it does not take the missile over land area. Am I correct?

Mr. WILSON. The actual trajectory of the test missiles did not. They chose, apparently, to use just the northern impact area. The fact of the matter is their announced intention was to use both impact areas.

Mr. PELL. Even so, that trajectory, I believe, does not go over land area.

Mr. WILSON. I think the Senator is incorrect about that. Under international law, the area that would be considered U.S. territory would have been overflown.

Mr. PELL. The territory, the land, is not in the impact zone.

Mr. WILSON. If the point is that the trajectory would not have gone over land, it would have gone so close that on the slightest miscalculation, there would have been an impact.

Mr. PELL. I will certainly agree with the Senator that it was a wrong thing for them to have done. We are angry and we should respond. That is what my second-degree amendment does and that is why I hope the Senators will support my amendment.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it is apparent to me from what the Senator from Rhode Island has said that if the Soviets observed the 3-mile limit, we would not take offense.

This substitute is an appalling little plea to the Soviet Union which invites their laughter and mockery at our resolve to be one of the world's powers. Keep in mind again this is nonbinding. This is the sense of the Senate. It does not prove, I will grant, that there has been a violation. We cannot do that. But we can say that we think it is.

We do not have to have the Standing Consultative Committee to do that.

Mr. President, I find this so offensive since I am the author of the underlying amendment, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

Mr. WALLOP. Mr. President, I withdraw the amendment.

AMENDMENT NO. 856

Mr. WALLOP. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Senator can withdraw the amendment.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) for himself, Mr. DOLE, Mr. HELMS, Mr. WILSON, Mr. MATSUNAGA, and Mr. INOUYE, proposes an amendment numbered 856.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator object to the request?

Mr. WALLOP addressed the Chair.

Mr. HELMS. Mr. President, who has the floor?

Mr. WALLOP. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. WALLOP. How did the Senator from Rhode Island retain the floor?

Mr. HELMS. How did the Chair assume that he has the floor?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. WALLOP. I do not yield for that purpose.

The PRESIDING OFFICER. The unanimous-consent request is pending and anyone who cares to object has the right to speak.

Mr. WALLOP. Mr. President, it is the understanding of the Senator from Wyoming that the Senator from Wyoming had the floor and that the Senator from Rhode Island was not entitled to——

The PRESIDING OFFICER. The Senator does have the floor. The Senator has asked for unanimous consent. The Chair has inquired whether or not there is objection.

Mr. WALLOP. Mr. President, my point is I do not see how he can ask for anything when he does not have the floor. When I yield the floor, he can suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection to the request——

Mr. WALLOP. Mr. President, I object.

The **PRESIDING OFFICER.** Then in that case the clerk will continue to read.

The legislative clerk read as follows:

Add at the end of the bill the following new section:

SEC. . (a) FINDINGS.—The Congress finds that—

(1) the Union of Soviet Socialist Republics and the United States of America have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

(2) the Soviet Union has within the last few days conducted two tests of its intercontinental ballistic missile forces,

(3) the announced impact points for reentry vehicles from these tests are as close as two hundred miles northwest and southeast of the State of Hawaii

(4) the announced impact points would require the overflight of sovereign U.S. territory by a Soviet ICBM,

(5) the missile used in this test is a modern multiple warhead ICBM which probably is a violation of the "heavy ICBM" provision of the SALT II Treaty,

(6) the Soviet Union allegedly encrypted telemetry from the flight-tests, as is their standard practice, which would be a violation of the SALT II Treaty,

(7) the Soviet Union used a laser or other directed energy device to irradiate at least one U.S. aircraft in the region that was monitoring the tests, having the effect of interfering with our national technical means of verification,

(8) the Soviet Union appears to have been practicing with these tests a strike on the United States because of the use of trajectories of fire identical with those that would be used to attack Pearl Harbor,

(9) had this test misfired by only fractions of a second, Soviet ballistic missile test reentry vehicles could have landed on centers of population in the Hawaiian Islands.

Mr. PELL addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Rhode Island.

Mr. PELL. I ask unanimous consent that reading of the amendment be dispensed with.

Mr. WALLOP. I object.

The **PRESIDING OFFICER.** Is there objection? Objection is heard. The clerk will continue.

The legislative clerk continued with the reading of the amendment as follows:

(10) this action cannot be explained as anything but a deliberate provocation toward the United States and a direct threat to our national security,

Mr. WALLOP. Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 857

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) for himself, Mr. WILSON, Mr. DOLE, and Mr. HELMS proposes an amendment numbered 857.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the Wallop amendment the following:

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) this test has increased rather than decreased the risk of nuclear war,

(2) the Congress of the United States condemns the Soviet Union for its actions that demonstrate an utter disdain for civilized and acceptable standards of international behavior and demands a public and immediate apology to the American people as well as assurances that tests this near U.S. territory will not occur in the future,

(3) the Congress condemns these probable new violations of the provisions of the SALT II Treaty, as interference with national technical means of verification, in conjunction with probable new violations of the SALT II Treaty, and as thoroughly inconsistent with improving relations between the two countries and indicating a contempt for the objective of arms control,

(4) because the United States has not even a very limited defense against ballistic missiles, the possibility of accidental impact of Soviet ballistic missile test re-entry vehicles in the population centers on the Islands of Hawaii could not have been prevented,

(5) the United States government should officially and at the highest levels protest this action by the Soviet government and should inform the Soviet Union that it cannot tolerate flight-tests of this sort in close proximity to U.S. territory,

(6) the President should report to the Congress in ten days in both classified and unclassified forms on (a) the details of the tests; (b) Soviet explanations offered in response to U.S. diplomatic protests; (c) what steps the U.S. will take to ensure that such tests will not happen in the future; and (d) what effect a first-phase SDI system could have against a missile launched in similar proximity to U.S. territory.

The **PRESIDING OFFICER.** The Senator from Wyoming.

Mr. WALLOP. Mr. President, in effect what I have done is to reinstate the original amendment which was coauthored with me by the two Senators from Hawaii, by Senator DOLE and Senator HELMS, Senator WILSON, and others. I think it is time, Mr. President, that we really made the decision whether Soviet provocations can cause us to respond, not in a weak and quibbling, craven little way but in a way which expresses our sense of outrage at what the Soviet Union has done, our sense as leaders, as elected Representatives of this band of American people that stretches from one end of the country to the other.

The arguments are clear. We can quibble, we can appeal to the sensibilities, we can do anything we want to continue détente but if we continue détente by way of never objecting to their behavior, we have not entered into a new era of détente but a new era of, what shall one say, capitulation: that what the substitute asks us to do is to tell the Soviet Union we are mad but not really mad, to tell the Soviet Union that no matter what you do you will find an apologist here someplace that will take some of the sting out of your action and find the means to tell the American people that nothing really serious happened.

This does not bind the President. This does not bind the State Department. This only says that we in Congress find this behavior offensive and outrageous and, if we do not, God help this country.

Mr. President, I ask for the yeas and nays on the amendment to the amendment.

The **PRESIDING OFFICER.** Is there a sufficient second? There is not a sufficient second.

Mr. ADAMS. At this point, Mr. President, I suggest the absence of a quorum. I am entitled to recognition at this point. The amendment has been read, and I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

SOVIET MISSILE TESTS NEAR HAWAII

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by the senior Senator from Wyoming [Mr. WALLOP] condemning the recent Soviet ICBM tests off the coast of Hawaii. I am a cosponsor of this measure along with my senior colleague from Hawaii [Mr. INOUYE.]

My support for this amendment is an expression of my deep concern over the two Soviet missile tests aimed in the vicinity of the 50th State. Had it not malfunctioned, it is possible that the first missile could have passed directly over portions of my State, making it the first time any superpower missile had overflown the other's soil. The second missile impacted only several hundred miles from Kauai, where I was born, one of the closest, if not the closest, test to American territory in three decades of superpower ballistic missile testing.

Mr. President, I wish to voice my strong opposition to the targeting of these tests. The proximity to U.S. territory of the planned splashdown areas, and of the actual impact point of the second missile's dummy warhead, is entirely unacceptable. As the Senator from Wyoming has stated, if either test had misfired by only fractions of a second, chunks of metal could have rained down upon the people of Hawaii.

The timing of the tests could not have been worse. I find it incomprehensible that the Soviet Union would aim missiles so close to American territory when we have just concluded an agreement on nuclear risk reduction centers, and are on the eve of concluding another on the elimination of the entire INF class of missiles in Europe. It is even more incomprehensible that the tests occurred at a time when those of us in Congress who pursue greater arms restraint are seeking mutual superpower adherence to the sublimits of the unratified SALT II Treaty and the traditional interpretation of the 1972 ABM Treaty.

Mr. President, there are many in this Chamber who believe that the missile tests represent a direct provocation of American sensibilities—indeed, this amendment includes this belief among its findings. Yet, I sincerely hope that there is another explanation, for such behavior can only heighten the regrettably high tensions which exist between the United States and the U.S.S.R. As one who has consistently sought to promote cooperation and understanding between our two peoples, particularly in the areas of space and education, I must admit that I am deeply shocked, puzzled, and ultimately saddened by the Soviet action. I urge the Soviets to proffer immediately an explanation for their behavior.

Mr. President, I want to make clear that my support for this amendment does not in any way contradict my position with respect to SALT II and the ABM Treaty. Indeed, despite this incident, I still believe that it is in the national interest to abide by the SALT II sublimits and by the lawful, traditional interpretation of the ABM Treaty, even though the Soviets have obviously violated parts of these agreements. Adherence to the major provisions of these and other treaties has served to curb the arms race up to now. My support for this amendment is motivated solely by the same considerations which prompt my support for SALT II and the ABM Treaty: the wish to promote incentives for cooperation rather than confrontation. It is my fervent hope that the Soviet Union will respond to this sense-of-the-Congress resolution by undertaking negotiations with the United States with respect to prohibiting potentially destabilizing missile testing near each other's territory.

Mr. President, I urge my colleagues to adopt the amendment.

Mr. PELL. Mr. President, we have had some discussions on this side of the aisle and back and forth. And my inclination is to accept the amendment of the Senator from Wyoming. I am ready to vote.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I appreciate the comments of the distinguished chairman.

I ask unanimous consent that the two amendments be lumped together as one and that the yeas and nays as ordered be ordered for both.

The PRESIDING OFFICER. The Senator is requesting that the second-degree amendment (No. 857) be adopted?

Mr. WALLOP. That is correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Amendment No. 857 was agreed to.

The question is on agreeing to the amendment as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI] is necessarily absent.

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—96

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—4

Boren
Domenici
Gore
Simon

So the amendment (No. 856), as amended, was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 858

(Purpose: To condemn human rights violations in Tibet by the People's Republic of China)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for himself and Mr. HELMS, proposes an amendment numbered 858.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 516, add the following:

SEC. . HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 1st, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27th, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and twenty-seven Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to the U.S. Congress during his visit to Washington at the invitation of the Congress on September 21, 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) on September 22, 1987, the Chairman and Ranking Minority Member of the Senate Foreign Relations Committee, the Chairman and Ranking Minority Member of the House Foreign Affairs Committee, and the Co-Chairmen of the House Human Rights Caucus signed a letter to His Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step towards resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."

(5) beginning October 7, 1950, the People's Republic of China invaded and occupied Tibet, imposed military rule, and continues to exercise dominion over the Tibetan people through the presence of a large occupation force;

(6) over one million Tibetans perished in 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the occupation of Tibet by the People's Republic of China;

(7) after the Chinese invasion of Tibet in 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, have been destroyed and their irreplacable national legacy of art and literature either stolen or removed from Tibet;

(8) Tibet's vast mineral, forest, and animal reserves are being systematically exploited by the People's Republic of China, with limited benefit accruing to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has undertaken a massive population transfer, entailing the immigration of millions of Chinese onto the Tibetan plateau in an apparent effort to make the Tibetan people a minority in their own homeland;

(11) the arrest and execution of Tibetan political and religious prisoners continues, with thousands of Tibetans currently interred in labor camps;

(12) Tibet, a nation dedicated to the principles of nonviolence and mutual coexistence for a millennia, has been militarized by the Chinese;

(13) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost thirty years to secure peace and religious freedom in Tibet;

(14) since 1959, India has generously provided refuge and resources for Tibetan exiles so that they may maintain their unique culture and religion in the hope of returning to their homeland;

(15) the People's Republic of China continues to ignore United Nations General Assembly resolutions 1353, 1723, and 2079 calling for a cessation of human rights violations in Tibet and for implementation of the right of the Tibetan people to self-determination;

(16) 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China on July 24, 1985, expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetan Government-in-exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration"; and

(17) there has been no evidence of any such consideration being granted by the Government of the People's Republic of China.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(2) the President should meet with His Holiness the Dalai Lama to express United States support for his efforts for world peace and particularly his efforts to find a peaceful solution to the Tibetan problem;

(3) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue over the future status of Tibet;

(4) the United States, through the Secretary of State—

(A) should address and call attention to the rights of the Tibetan people, as well as other non-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Sinkiang), the Mongolians of Inner Mongolia, and the Manchus of Manchuria, and

(B) should support efforts to maintain Tibet's identity and preserve Tibetan culture and religion, both inside Tibet and among those in exile;

(5) congressional delegations should visit Tibet (including the areas of Kham and Amdo) and the Tibetans in exile in order to witness the progress being made and the problems faced; and

(6) the President should instruct the United States Ambassadors to the People's Republic of China and India to work closely with the Tibetan people to find areas in which the United States Government and people can be helpful.

(c) Any notification submitted to the Congress pursuant to the Arms Export Control Act with respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China shall be accompanied by a Presidential determination that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress of the human rights situation in Tibet and the transfer of millions of Chinese to Tibet.

(e) Of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, not less than $200,000 shall be available only for assistance for Tibetan refugees.

(f) For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

Mr. PELL. Mr. President, this amendment, proposed by the Senator from North Carolina, my friend, Mr. HELMS, and I, directs the attention of all people to the cruel treatment, the rape of Tibet that has been going on in the last few days and has been going on for the last few decades.

Tibet, a country with a proud history and independent tradition, in the past was occupied, as we all know, by the Chinese in the late 1950's and since then has been a very harsh regime. I recognize that the Chinese have taken steps in the last few years to unscramble the omelet, to undo some of the damage that was done about 10 or 15 years ago by their people.

But, nevertheless, the tragedy of Tibet continues. The maltreatment of Tibet citizens continues. All told, I think the Senate should take note of that fact, and that is exactly what the Senator from North Carolina and I seek to do.

Two weeks ago the Senate Foreign Relations Committee, as well as the House Foreign Affairs Committee, hosted His Holiness the Dalai Lama here in the United States Capitol. The Dalai Lama raised at that time a five-point peace plan for the resolution of problems confronting the people of Tibet under the rule of Bejing. The plan, simply stated, called for improvement in the human rights and democratic freedoms of the people of Tibet. It was a peaceful plan, and called for the transformation of the whole of Tibet into a zone of peace.

Immediately in the wake of this peace initiative, Chinese authorities saw fit to crack down on Buddhist monks and native Tibetans in Lhasa in the most severe manner. They publicly executed three monks, jailed numerous others, and, when the Tibetan people reacted in peaceful protest, continued their crackdown, resulting finally in the tragic events of this week.

In protest of the Chinese action Tibetan monks and people demonstrated in front of a Chinese police station where some 30 monks were held in detention. During the ensuring struggle, Chinese police fired on the demonstrators, killing and maiming several men, women, and children. Today it is reported that Chinese troops are being airlifted to the area, giving every indication that the crackdown will continue.

In view of this unfortunate action, and especially in light of the peaceful efforts of the Dalai Lama to attain greater basic freedoms for the Tibetan people, I am today offering an amendment, along with Senator HELMS, to condemn the recent Chinese actions and to express the grave concern of the Congress over these unfortunate events.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, there is an old Chinese proverb that one picture is worth more than 10,000 words. Yesterday, the United Press International carried such a picture that speaks eloquently to the amendment offered by the distinguished Senator from Rhode Island and me. Here is the picture that—among other newspapers—appeared on page 26 of the Washington Post of this morning. A Tibetan father is carrying his child in his arms. There is grief and worry written all over his face. The caption to the picture reads "A man carries a child wounded when police opened fire in Lhasa on Thursday."

Mr. President, it is not enough that the criminal regime in Peking is trying to snuff out 2,000 years of Tibetan culture. Now they must make war on children.

Senators are undoubtedly aware of recent events in Lhasa but I would like to list them in chronological order;

First, at the invitation of the Congress His Holiness the Dalai Lama visited with us on September 21. He presented a five-point plan for peace in Tibet.

Second, in response to His Holiness' plea for peace Chinese authorities on September 24 forced 10,000 Tibetans to witness the execution of two of their countrymen in Lhasa Stadium. The effort to intimidate the Tibetan population was obvious.

Third, on Sunday, September 27 Tibetan Buddhist monks staged a peaceful demonstration of protest. Twenty-seven monks were arrested by the Chinese police.

Fourth, earlier this month, Tibetan women and monks staged a peaceful demonstration outside the police station where the arrested monks were being illegally held. The police, the Chinese police opened fire with machineguns and pistols. Many have been killed.

Finally, the Chinese authorities have announced that any Tibetan who participated in the October 1 protest must turn himself in to the Chinese police by October 15 or there would be "drastic consequences."

Mr. President, the point here is clear. The Communist Chinese police, heavily armed representatives of an occupying power, have shot down unarmed demonstrators. Children have been killed.

It is fair to ask what would cause the unarmed Tibetans to challenge one of the largest armies in the world. The answer lies in an examination of the crimes which have been committed against one of the most peaceful, nonviolent peoples in the world. On September 17, noted Tibet authority John Avedon testified before the Senate Foreign Relations Committee. What follows are some of the points he made:

Since the Chinese Communist invasion in 1950 over 1 million Tibetans have been killed. That is one-sixth the population of the country.

The Chinese Communists looted or burned a rich 2,000-year-old cultural heritage.

Tibet's northeastern province has become the largest gulag on the planet.

The Chinese have carefully crafted a two-class society in Tibet. Education, electricity, running water, modern hospitals, the best agricultural land are reserved for the Chinese. The Tibetans receive what is left over, if anything.

Mr. President, is it any wonder that the life expectancy for Chinese is 65 and that of Tibetans is 40?

Nor, is it any wonder that the Tibetans would resist such evil treatment?

Mr. President I am pleased today to offer an amendment addressing the severe human rights violations in Tibet. The amendment recounts the most recent events and the terrible history since the Chinese Communist invasion and occupation beginning October 7, 1950. The amendment also questions our role as an arms supplier to someone who is today engaged in very severe human rights violations. I trust that this resolution will meet with widespread bipartisan support.

Mr. President, I ask unanimous consent that the prepared text of Mr. John Avedon before the Senate Foreign Relations Committee on September 17, 1987 and a number of newspaper articles be printed in the Record following my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

TIBET TODAY: CURRENT CONDITIONS AND PROSPECTS

(By John F. Avedon)

This spring marks the tenth anniversary of China's post-Mao Tibet policy. With it, Tibet has reached a critical juncture. The present moment represents a threshold equal in importance to the invasion of 1950 or the Tibetan revolt itself in 1959, yet there is considerable confusion surrounding Tibet's current status. What are the actual conditions in Tibet today?

In 1979-80, as a first step in reapproachment between Beijing and Dharamsala, seat of the Tibetan government-in-exile in India, three fact-finding missions toured Tibet. Visiting over 500 towns and cities in eleven and a half months, they emerged with 10,000 slides, forty hours of film and the first documented evidence of the destruction that had occurred since the revolt's suppression. This is the legacy of China's rule 1949 to 1979:

1.2 million Tibetans dead—one sixth of the population.

6,254 monasteries destroyed, their art and statuary either melted into bullion or sold for foreign exchange on the Hong Kong and Tokyo antique markets.

60% of Tibet's voluminous philosophic, historic and biographic literature burned.

The nation vivisected: two-thirds of its original territory appended to the contiguous Chinese provinces with only Central Tibet and parts of Eastern Tibet remaining as the so-called Tibet Autonomous Region.

Amdo, previously Tibet's northeastern province, now called Chinghai, converted into the planet's largest gulag, capable of interring, by some estimates, up to 10 million prisoners.

One out of ten Tibetans imprisoned and at the close of the seventies, 100,000 still in labor camps.

Over a quarter million Chinese occupation troops stationed on the Tibetan plateau, have underwritten two decades of political re-education meetings, 14 hours of daily labor, no freedom of movement, no education or health services to speak of and two five-year periods of nation-wide famine.

Finally, entire mountainsides have been clear-cut of their forests and Tibet's unique wildlife, including once great herds of gazelle and wild ass or kiang, as well as flocks of bar-headed geese and brahmany ducks, obliterated.

In sum, a 2,100-year-old civilization was essentially destroyed in a mere twenty years.

China's strategic, economic and political goals in Tibet have remained unchanged since the invasion: transform the region into a military bastion dominating central Asia; exploit its vast mineral, animal and forest reserves; convert its people into the socialist, specifically Han, mold. What changes is policy, and under the current moderate line, no less than its radical precursor, Tibet's destruction is continuing; it is, in fact, escalating.

CHINESE POPULATION TRANSFER

In the wake of the wide-scale riots which greeted the exile government's fact-finding missions, China has forfeited its effort, pursued in the early eighties, at compromise with the Dalai Lama and Tibetan refugees. Where the earlier policy saw a wooing of the Tibetan leader in the hope that he would return to stabilize the region, the reconstituted goal has been founded on a cessation of all dialogue. In its place, the PRC has adopted a final solution for Tibet: the rapid sinociation within ten to twenty years of the country and with it the demise of the Tibetan race itself as a meaningful entity.

The current policy began in January, 1983. Reversing its 1980 promise of an 85% withdrawal of all Chinese personnel in Tibet, the CCP, by June of that year, had dispatched 50,000 new settlers to the plateau. By September, the Beijing Review reported calls for wide-scale immigration to Tibet; age and home leave incentives guaranteed, with bonuses at eight and twenty-year increments for all immigrants. By May, 1984, 60,000 were en route. A year later, the figure had reached 230,000 from 20 provinces across China.

Today, the best estimates for Chinese immigration to the one autonomous region, eleven autonomous districts and two autonomous counties into which Tibet has been parcelled are as follows:

In the bulk of Amdo, now known as Chinghai Province, there are 2.5 million Chinese to 700,000 Tibetans. The same ratio holds for the rest of Amdo appended to Gansu and Szechuan Provinces where more than a million Tibetans are living. Amdo's most important city, Labrang Tashikiel, is 75% Chinese. Longyang, site of the PRC's largest dam, on the Machu River, has a population of 90,000; Golmo, Tibet's rail terminus, 120,000, practically all Chinese. In the Dalai Lama's birthplace, Taktser, there are now forty families, only eight Tibetan. Where are all the Tibetans? An increasing number have been forced to leave farming and become drokpa, or nomads. In other words, they are landless.

The eastern half of Kham, Tibet's eastern province, now incorporated into Szechuan and Yunan Provinces, has three million Chinese to 2.5 million Tibetans. Once again, the fertile river valleys are the prime targets of the Chinese settlers, with Tibetans forced off arable land up to the high nomadic pastures. Adjacent to Szechuan, where 100 million Chinese live, Kham's demographic profile is far from stable.

The figures for the Tibet Autonomous Region are most telling. In what the PRC itself labels Tibet, there are now more than two million Chinese settlers to 1.8 million Tibetans. In Lhasa, there are 150,000 Chinese, 50,000 Tibetans. Shigatse, Tibet's second largest city, is also predominantly Chinese. Chamdo, the third-largest city in Tibet, is more than half Chinese. Gyantse, the fourth-largest city, still retains a Tibetan majority but virtually all the medium-sized villages have either an equal number of more Chinese living in them.

All told, excluding the People's Liberation Army, there are 7.5 million Chinese to six million Tibetans in Tibet—1.5 million more Chinese already live in Tibet than Tibetans. This is the very means by which the PRC has overcome opposition in every other major minority area. In Manchuria the ratio is about 35 to one, in Mongolia five to one. In Eastern Turkestan or Sinkiang, there are now 15 million Chinese to 7.5 million Eastern Turkestanis. The influx promises to negate the cause of Tibetan selfdetermination. Rendering internal resistance negligible, it will reduce the efforts of the Dalai Lama and exiles to quaint, unrealistic claims by the turn of the century. Within two to five years, a point of no return may well be crossed in Tibet itself. The infrastructure that China is currently building will then be ready for a truly massive migration to commence, far surpassing Mao Tsetung's 1952 projection of 10 million Chinese in Tibet. As a recently returned Western aid worker commented, "Tibet is finished."

While China's reforms began primarily as a means to improve international opinion and placate the Dalai Lama, they have proved their true worth in supporting the present policy. Tibetan discontent has been superficially appeased; Chinese immigration facilitated. Briefly, what have the reforms been?

REFORMS

Since 1977 the quality of life in Tibet has changed considerably. The daily political meeting, now held under the auspices of newly created shangs, or people's organizations, has been reduced to two hours once a week. Only one member per family need attend and rather than thamzhing or struggle session, absenteeism is punished by a $2 fine. For the first time since the revolt, freedom of movement has returned. Previously, people living in adjacent sections of Lhasa had not seen each other in almost twenty years. Now, permission for travel outside a ten mile radius is required, but readily given. Leaving Tibet however, is not so easy. Dispensation is granted on a one-time only basis: family members remain behind as guarantors of the individual's return. After much agitation, the Chinese have permitted Tibetan street names to be placed above those in Mandarin in major cities—nevertheless only in sections visited by tourists. Tibet has received television and through principally filled by mainland broadcasts, it has given the country its first glimpse of the outside world. Finally, the prison population has decreased significantly.

Economically, the reforms have been more sweeping. There has been no famine reported in Tibet since the start of the eighties—though malnutrition remains endemic. In 1980 the autonomous region imported over 30,000 tons of food and the per capita income was $75 making it one of the poorest areas on earth. To amend this, three years after taxes were suspended, communes were disbanded and with them production quotas, work points and the ration system. Land was distributed to individuals on a fifteen year deed, livestock for five to ten years. Tools were made available for lease from local collectives and free-markets implemented. In June, 1984, tax exemption was extended to 1990, while gradually land deeds were upgraded from thirty to forty years—double the length of those in the rest of the PRC. By 1985 the average per capita income had improved 40 percent to $110 per annum. Nonetheless, according to some accounts 70 of the autonomous region's 75 countries still have incomes below $63 a year per person—a third of the national average. Where improvement has taken effect however, the common Tibetan, besides having enough food, can now manage a change of clothes, proper bedding, often a radio or bicycle and among the most affluent, in the cities, a television or motorbike. In 1986, state subsidies—currently running around $300 million a year—still accounted for 98 percent of Tibet's budget.

The most visible area of reform has been in reviving Tibet's culture, utterly proscribed heretofore. By September of last year the Chinese government claimed 160 monasteries had been restored with more than 400 others still in progress. A year earlier China Daily reported that 200 tons of "relics" had been salvaged from the mainland and returned to Tibet. Thirty-two tons, gleaned from five provinces were, in fact, trucked back to Tibet, according to the lama who located and shippped them. At the three principal monasteries in Lhasa—Drepung, Sera and Ganden, there are now 900 monks. One to two thousand more exist nationwide. Dialectical debate, the principal means of instruction, is practiced and a number of pecha or scriptures are gradually being re-published. Photographs of the Dalai Lama, though collected from visting Tibetans at the border, are permitted and on his last visit to Tibet, the Panchen Lama was allowed to lead Monlam Chenmo—the Great Prayer Festival—in Lhasa, for the first time since 1964.

The collective reaction of Tibetans to these changes has been one of immense relief. Coupled with fear of a return to the old policies, it has resulted in a desire to remain inconspicuous and complacent. This is precisely what China has hoped for.

Portraying its intent as solely beneficient, Beijing claims that its immigrants are "skilled labor" sent to develop Tibet for the Tibetans and then leave. Reports from every area however, indicated the opposite. Rather than being "engineers" and "contractors" as they are termed, the settlers are young, poorly educated men, encouraged to intermarry and settle down in small business or farming. They are drawn by the prevalent unemployment in China proper, interest-free loans that need not even be repaid, guaranteed housing and jobs and the dream that Xizang, or the Western Treasure House, will provide their El Dorado. Incentives for educated professionals include three-year renewable contracts featuring double the mainland's salaries, five working hours a day and home-leave every eighteen months.

What do these new immigrants think of Tibet? They hate it. It's cold, barren, barbaric. There are no vegetables, no rice paddies and in central Tibet barely any trees. You can see them coming in with bags of cabbage on the buses and literally brawling for tickets out. But rather than indicate an eventual slackening in immigration, this phenomenon is a transient one. As they have in every other border region, the Chinese colonizers will one day make the Tibetan highlands home. And when they do, like other pioneers, they will be tenaciously possessive of what they consider theirs.

UNEMPLOYMENT

What effect has the influx had on Tibetans? The immediate result has been massive unemployment. Automotive repairwork, tailoring, carpentry, masonry, the economic niches which raised the region's living standards in the early eighties, have vanished. Even construction jobs have been lost; 30,000 workers in Lhasa's 16 labor units were replaced by Chinese in 1985 alone. In urban areas, a solely Chinese economy has sprung up, including restaurants, beauty parlors and hotels. There is only one Tibetan-owned corporation in Tibet, Snow Mountain Ltd. The few other Tibetan businesses, mainly restaurants and petty trading outfits, cannot compete with their Chinese counterparts who rely on major start-up capital, wholesale purchases form the mainland, and are able to pay the ongoing bribes to officials which have attended the free market reforms. As a tight-knit social and economic class, the Hui, or Chinese Muslims, in particular, have created a major challenge to Tibetan livelihoods. Hence, unemployment is rife, spawning a growing class of beggars.

What's it like if you're a Tibetan lucky enough to get a job removing debris from mining, doing road repair, sweeping or pig-feeding in a Chinese compound? You're likely to get one to two yuan a day—about 70 cents. What's your paycheck if you're a newly arrived Chinese immigrant? To begin with, you'll receive a guaranteed supplement of $12 a month, issued, the government states, to meet your need for a healthier diet in the trying altitude. That's on top of free furniture, household items and clothing.

When you arrive at your job, you're a "professional from the mainland," so you'll be given a title, mainly denied Tibetans, such as "master stone-mason" or "master-carpenter." With the title comes the designated salary, far in excess of what a Tibetan receives. In many instances, overt economic discrimination exists as well. Jobs will be announced along with a $2 application fee. Four of five hundred applications will be accepted from the legions of unemployed Tibetan youth, then it will be stated that only 20 positions are available. For the rest, there's no refund. Since the disbanding of the communes in 1983, farmers can keep whatever profit they make, nevertheless, it must be deposited in the People's Bank, where withdrawals are subject to State approval. Moreover, since 1985, a three hundred percent inflation rate, produced from shortages in basic commodities incurred by the influx, has been wreaking havoc for Tibetans.

The most visible sign of these discrepancies lies in the old-town/new-town look of modern Tibet. Virtually every Tibetan town is ringed by large Chinese suburbs. Typically, these consist of walled compounds containing new housing, with five to ten-story apartment buildings rapidly going up in Lhasa and the larger cities. Running water and enough power for heating is supplied. Workers bike or drive to offices and shops, also in Chinese sectors, conduct all business in Mandarin, and rarely venture into the Tibetan section. By any standards, these old towns are still, a decade after the Cultural Revolution, slums. Only those areas set aside for tourists, such as the new restoration village-style square before the Central Cathedral in Lhasa have been refurbished. The rest, throughout the country, are comprised of weather-beaten housing, riddled by leaks, generally unserviced by running water and where electricity does exist, despite Chinese statistics of 175 million kilowatt hours region-wide, it is rationed to Tibetans for only three or four hours each evening. On one of Tibet's most heavily traveled roads, between Lhasa and Shigatse, the point is well illustrated—though electricity runs the length of the road, it is diverted only where new towns appear—Tibetan villages, without Chinese, are passed by.

In 1984 the PRC launched 43 projects costing $160 million to upgrade the autonomous region. Looking at how basic human resources are alloted in Tibet, it's plain that none of these endeavors, as China claims, is for Tibetans. Rather, they constitute the foundation for ongoing immigration.

HEALTH CARE

What happens if you get sick in Tibet today? If you're a Tibetan in Lhasa, you'd want to go to the best facility in the country, the People's Hospital. It has 262 doctors for 530 beds. Unless you're a cadre in Chinese employ, however, it's unlikely that you'll be admitted. This hospital is primarily for Chinese. Your hospital is the First Workers Hospital. It has 150 beds, no outpatient clinic and only 17 doctors. In Shigatse and Gyantse, you'd be admitted to the local hospital, but first which of the eight-odd class designations you possess will be checked and only then will your treatment—what ward you are placed in and what medicines you receive—be decided.

What about the countryside? Lhasa has an antiepidemic station charged with combating measles, whooping cough, TB and flu throughout the region. The physician in charge is eager to start a nutritional program, though she complains her unit is too small. She has eighty doctors: one for every fifty-thousand people. Each of the TAR's 75 counties has a hospital, under which there are generally four so-called "regional hospitals," beneath which are clinics for every two thousand Tibetans. What are these facilities like? Take Da Tze County, population 21,000, not in a remote area but directly adjacent to Lhasa. The county hospital has only twenty beds. It has no operating table, no gynecological equipment, no disinfectants. The "regional hospitals" beneath it, are one-room facilities staffed by a single physician. There are no exam tables, no medicine cabinets, no phone. The doctor must be summoned in person, whereafter he'll visit the patient by bicycle or horse-drawn cart. Of the 18 local clinics in Da Tze County, practically none have even bandages or syringes. At best, some antibiotic or TB medicine is available. As a result of the almost total dearth of modern health care in Tibet, Tibetans continue to rely on Tibet's traditional medicine, as they have for over a millennium.

China adamantly denies the existence of forced abortion or sterilization in Tibet. It has supplied written statements to this effect directly to the Tibetan government-in-exile. In reality, the widespread practice of both, common during the Cultural Revolution but suspended in the late seventies, recommenced in 1981-82. For the masses, two children is the official limit. For the 40,000 Tibetan cadres, one. What is the fine for having a third, unapproved child? 500 yuan, or $200—twice the per capita income. As this is unpayable, what actually happens to a woman giving birth to a third child? In Chamdo, three, four and five month old fetuses are routinely thrown out in the garbage bins and storm drains of the Chamdo Public Welfare Hospital. Since 1980 there have been an estimated 600 forced abortions there. At the Gyantse People's Hospital, which has a separate department for sterilization and abortion, the figure is eight procedures a day. Many of these children, as at Lhasa's hospitals, are already full term.

The scenario is identical across the country. A Tibetan mother arrives at the hospital to give birth. She is asked for her pass, issued by her local administrative unit, granting permission for the child. When it is not forthcoming, she is allowed to go through labor, and often hears the newborn cry, only to revive and be told the infant died. The universal method is by injection. In many cases, the bereaved mother will then be informed that she has also been sterilized. In Amdo, Chinese health teams have been reported collecting mothers of two children by the truckload for forced sterilization. They also operate directly in the fields. Finally, it is common knowledge throughout Tibet that all new medical procedures and instruments are employed on Tibetans first, in order for Chinese doctors to be trained in their use. These acts are not to curtail China's population. In thinly populated Tibet, they are clearly political in nature. Life expectancy in the PRC as a whole is 65 years. In Tibet, it's 40. The infant mortality rate in Tibet is one child in every six.

EDUCATION

As deprived of physical well-being as Tibetans are, their mental condition, particularly that of the younger generation, is even more disturbing. Whatever future Tibet may have lies in the education of its young. This is being systematically denied them.

China says there are 6,000 primary schools, 74 middle schools and three institutions of higher learning in Tibet. The third exile delegation, however, sent to investigate educational standards, encountered "school" after "school" artificially created from a few tables, chairs and assembled children prior to its arrival. Many children did not even know the Tibetan alphabet. This isn't surprising, as 70% of all Tibetans are still illiterate. China has admitted this. By way of remedy, it has sent 17,000 children to nine provinces for three years of schooling. Unlike the 1,200 Tibetan students in the four National Minorities Institutes, who, living in large groups, have maintained their identity, these children are being scattered in small contingents of 30-40. The plain intent is to sinocize them for cadre work in the future. And that is the intent, as well, of education in Tibet.

In Tibet, only 44% of the school children are Tibetan. Of these, only one in five completes primary school. The rest are withdrawn by their parents, out of necessity, for field work.

The child who does manage to finish school, though, hardly emerges with what could be considered a proper education. Chinese and Tibetan children are segregated. Chinese classes often outnumber Tibetan ones and, as Chinese officials are uncompromising in regard to their own children's educational standards, they invariably receive the best teachers and facilities. The Tibetan child studies Mandarin, Marxism, math and physical education. Within this system, the recently granted permission to study Tibetan language has, practically speaking, proved useless. As a Tibetan student's second language, it eliminates the all-important study of English. That is taught exclusively to Chinese, who can then go on to the higher technical training dependent on it at university level. In addition, in Tibet itself, textbooks, exams and future employment are based not on knowledge of Tibetan, but on reading and writing in Chinese.

The higher you go in the educational system, the more plain this becomes. In 1979, Chinese publications claimed that 600 students from Tibet were enrolled in institutions of higher learning. They neglected to mention that out of these, only one in ten were actually Tibetan. In 1984, of the 2,000 students in Tibet's own three top schools, two-thirds were still Chinese. How about the University of Tibet itself, newly built in Lhasa? A Chinese guide will proudly point out that twice as many Tibetans attend the University as Chinese. What he won't say is that more than half of them have been forced into the so-called Tibetan Studies Department or the study of Tibetan Medicine. That means only one Tibetan out of every six students at the University of Tibet gets a modern education. There are 16 students studying English at the University. Two are Tibetan. There are approximately 17,000 Chinese students in American universities. There are three Tibetan students in the United States from Tibet. They all came out under delicate circumstances and none had the support of the Chinese government. China itself, last year, produced its first Tibetan Ph.D., a thrity-eight-year-old "former serf," now a cultural anthropologist.

So what has become of the best and brightest of Tibet's young men and women? Those not lucky enough to get an accounting job in a Chinese office or employment as a phys-ed instructor in a primary school are literally on the streets. For the first time in Tibet's history, there is a "lost generation." They're bitter, depressed and, with all opportunity denied them, lazy. China has fostered this underclass mentality by the introduction of video parlors and the wholesale importation from Szechuan of rot-gut liquor. Called san jiu and bai jiu, these fluids are used by less impressionable Tibetans for fueling propane stoves. Chinese administrators in Lhasa frequently point to derelict Tibetan youth by way of explaining their unsuitability for employment. Not only is the immensely sophisticated scholastic and artistic heritage of Tibet unknown to the Chinese, it is now unknown to the Tibetans. Among the 1.2 million dead were the majority of Tibet's intelligensia. How capable are those remaining, particularly in the monkhood, of resurrecting Tibet's unique identity?

RELIGION

To begin with, it should be made clear that only a handful of the hundreds of monasteries being rebuilt in Tibet have been financed by China. The majority are being reconstructed by Tibetans who pool labor and capital, then apply to the Bureau of Religious Affairs for permission to build. On completion, though, the same bureau takes over the reopened monastery's administration. It sets a quota for monks, who must be 18, politically "correct" and, according to various reports, as uneducated as possible. It then appoints the abbot and sets the daily schedule. An "abbot" in Tibet today often does not hold vows. He monitors his monks through a network of informers, reports regularly to the Chinese, and sees that following the designated study period in the morning, the rest of the day is relegated to enterprise. What is the endeavor at hand? Tourism.

Making a business of belief is, in fact, the highest aim of religious "freedom" in Tibet. Not only do the admission and photo fees charged commercialize faith, they intentionally demean the monks, particularly in the eyes of Tibet's younger generation who cannot help but view them as parasitical. The phenomenon is exemplified at Kum Bum, Amdo's largest monastery. There, visitors are required to buy six tickets after which they join hundreds of Chinese tourists who are smoking, playing radios and gaily following the large painted numbers over the six Lhakhangs or temples that are on display. You can pose for a photo with an old monk or dress up first in one of the ubiquitous imitation Tibetan robes for rent, that have become the emblem of Chinese tourists in Tibet. Meanwhile, the actual monks, who are a combined janitorial and acting staff for this living diorama, struggle before doors open in the morning and after they suit at night to debate and memorize for the seven-class, 20-year curriculum leading to the doctorate degree in Gelugpa monasteries.

The assault on Buddhism's essence, its highly rationalist ethos, is especially targeted at the masses. Prior to 1959 Tibet was the most religious nation on earth, not only because one-quarter of the male population was in the clergy but because it preserved the entire corpus of Buddhist literature and liturgy, received piecemeal elsewhere in Asia. With that came one of mankind's oldest monastic and academic traditions. But today, in Tibet, Buddhist teachings and initiations are proscribed: prostrations and reciting mantras are permitted. As a result, a nation-wide facade, like that in the monasteries, has been created. The symbols survive, the substance is gone. The effect is to make Tibetans look like a backward, superstitious race bowing down in blind faith before demonic idols—exactly what the Chinese Communist Party wants both for internal and external consumption. Only the Tibetan Buddhist Association, dependent for its effectiveness on constant intervention by the Panchen Lama, is engaged in reprinting scriptures.

Beijing's intent is most apparent in the recent law banning the discovery of incarnate lamas, the holders of the faith, after 1959, as well as in the May, 1986 edicts, prohibiting lamas from abroad from visiting. Finally, as regards the state of the rest of Tibet's ancient culture, last December's double-bill at the newly-opened Tibetan Dance and Drama Theatre in Lhasa sums it up well enough: a Kung Fu movie and "The Life of Dr. Sun Yat-sen."

PRISONS

On September 1, 1985, China celebrated the 20th anniversary of the Tibet Autonomous Region's founding. A year of preparation concluded in a half-hour ceremony after three bombs were found, one in the post office and two at the site of the celebration, Triyue Trang Stadium. In 18 hours of overnight labor, a cardboard-and-wood grandstand was built below the Potala for Li Peng, Hu Qili and the other dignitaries. The parades and entertainment events, for which the city had rehearsed flag and flower waving for months, were cancelled, the ceremonial dispensation of 90,000 digital clocks and 10,000 meters of silk eschewed. After the celebration and a brief sporting event, only the fireworks display, in which the PLA set off explosives around the Potala, went on.

Is China frightened of Tibetan dissidents? Prior to the anniversary, 12,000 troops were trucked to Lhasa from Kongpo, 3,000 from Nagchuka. Police from the surrounding districts were assembled for plainclothes work. Two hundred Public Security Bureau intelligence specialists were flown in from Beijing. After banning the previously invited foreign press, many of the foreigners in Lhasa were sent out, the city itself was sealed, checkpoints were established on every major thoroughfare, a 9 to 7 curfew was imposed and 90 suspected dissidents were arrested for interrogation. Despite underground leaflets scattered in the street, feces smeared on the doorknobs of Chinese offices and the three bombs that didn't go off, nothing else happened. China's reaction was huge: the Tibetan underground's acts miniscule. The explanation for the latter lies in one word: prisons.

It's extremely difficult to get an exact figure on the prison population of Tibet. The best estimate, however, reveals that in the Autonomous Region's 75 district and five divisional prisons alone, there may well be between ten to twenty thousand Tibetan inmates. How many of these are political prisoners? Given prevailing conditions in Tibet, one could make a case for all of them. Those arrested for anti-state activity, though frequently labeled as common criminals to obscure their status, number roughly three to four thousand.

The chief prison in the autonomous region is Sangyip, just north of Lhasa. In Sangyip's Brigade #5 there are two thousand Tibetans, the overwhelming majority, political dissidents. Tasungkhang is Sangyip's solitary confinement wing. It's reserved almost exclusively for counter-revolutionaries. There are about 400 there right now. In Drapchi Prison, a few minutes drive from downtown Lhasa, the inmate capacity is roughly 1,500; again, as these two prisons are for offenders from all over Tibet, Drapchi is for political prisoners. The five divisional prisons, with capacities around 200 each, are also for political prisoners. How can this be ascertained? Because a political crime, no matter what it's called, frequently carries a heavier sentence than theft, rape, or even murder. Those with longer sentences are sent to the large, central prisons. In the past, prison terms for dissidents were generally ten to twenty years. Today, the average term begins at eight years.

Life in Tibet's prisons is characterized by unremittant labor, regular interrogation sessions in which the prisoner is beaten, ineffective medical care, borderline rations of black tea and barley and an ongoing death toll, resulting from the harsh conditions. Prisoners sleep on the floor, are chained at night and only have bedding if family members donate it. Informants keep inmates wary of one another and even when a prisoner's term expires he will often not be freed. Instead, he'll become a lemi-ruka, a part-time prisoner. He lives in a compound outside the prison proper, is permitted to go home one day a week and for the rest, continues in hard labor on whatever project he's detailed to. He's got a permanent "black hat," as the Chinese call it, on his head.

It's frequently mentioned that there are approximately 1,500 jailed dissidents in the Soviet Union. The assessment of 3-4,000 political prisoners, it should be made clear, applies to only one-third of Tibet—the autonomous region. The Chinghai Gulag, home to millions of Chinese prisoners, undoubtedly houses many Tibetans as well. To date, Amnesty International USA has publicly adopted three Tibetan prisoners, including Tibet's most famous dissident, the Buddhist monk Geshe Lobsang Wangchuk, currently serving an 18-year term in Sangyip.

Tibet's present state is perhaps best described by a single comparison. The prisoner-to-guard ratio in the region's larger prisons is one soldier to very four inmates. Outside the prisons, there is one soldier for every ten Tibetans. As a result, many Tibetans feel that Tibet itself is one large prison.

Public executions of counter-revolutionaries have occurred regularly since 1959. Prisoners are brought before a large crowd, vocal cords tied so they can't denounce their captors, arms bound behind their backs. After their crimes against the people have been recounted, a bullet is delivered to the rear of the skull. When relatives collect their son or husband's body, they are charged $5 for the bullet's expense. Though prevalent in China proper, as well as in Tibet, these spectacles serve as vivid reminders of the ultimate price of opposition.

The last wave of such executions, both public and within prisons, took place during the spiritual pollution campaign in 1983. At that time an estimated three to four thousand dissidents were arrested nation-wide and dozens executed. Last February, in Lhasa, two Tibetans were executed for "serious economic sabotage," a frequently employed pretext for the punishment of political prisoners. Three more were sentenced to die and 30 were given terms at hard labor. If the current political climate worsens in China one can expect an even more stringent crackdown in Tibet, where party cadres are characteristically covetous of control and eager to impose it. This they do, as they have since the invasion, through the army.

MILITARY

Fifteen PLA divisions watch Tibet. Including six elite Hri divisions, present to prevent revolt in the regular troops, the 200,000 soldiers garrison not just on the border with India but every major town in the interior. They have converted the plateau, previously a buffer state between the globe's most populous nations, into a principal anchor of China's defense. Tibet's militarization includes 17 secret radar stations, fourteen major airfields, 20 airstrips, vast underground bases riddling the east and west sectors of the Himalayan front and behind them, the ultimate arbiter: one-quarter of the PRC's 350-strong nuclear force, including 70 medium-range and 20 intermediate-range missiles, based 165 miles north of Lhasa at Nagchuka. With an ICBM base in Kongpo Nyitri and another at Powo Tamo, the PLA today holds twenty of India's largest cities nuclear hostage from Tibet. India has paid a heavy price for Nehru's dream of "mutual co-existence." On the northern front as well, China has backed up its famous Lop Nor installation by a second nuclear base, less vulnerable to Soviet assault, outside Golmo in Amdo.

Perhaps it is also worth mentioning that the 24 S-20 Sikorsky helicopters, modified for high altitudes and mandated by the United States Congress for civilian use, recently sold to the PRC, were employed, illegally, to drop Chinese troops behind Indian lines during last year's skirmishes in Arunachal Pradesh. Despite six rounds of border talks to date, between India and China, the long Himalayan front remains highly unstable. Last November, a number of Indian jawans were killed in a skirmish north of Sikkim's Nathula-la Pass, and for the past year there have been increasing admonishments in Tibet's local shangs to prepare for war. There seems little doubt that a reenactment of the 1962 border war will soon take place. For this and the chronic instability that may ensure, the PRC's population transfer is immediately required.

The first achievement of the influx will be to relieve the PLA of its police duties in Tibet. It's 37-year investment, locking China's "back door"—it's long western border—driving a wedge between Asia's two other giants, India and the Soviet Union, will be secure, Beijing's original strategic goal attained.

Politically, the Tang or party's greatest deficit—failing to develop reliable Tibetan communists—will be obviated. The few figureheads currently in place, backed by local cadres, will see the modicum of influence they exert evaporate, as Tibet becomes a truly Chinese domain.

DEVELOPMENT

The new Chinese community however, will have its greatest impact on Tibet's economic output. China's occupation has shown a profit in lumber as well as—according to one estimate—up to $80 billion gleaned from a millenium of Tibet's accumulated wealth. (This stands against the $2.7 billion the PRC often cites as its expenditure on the region). However, besides these easily tapped and exhausted resources, there has been no other revenue. Tibet's budget continues to run almost 100% in the red. Wool remains the autonomous reigons' major export, as it has always been. The leather tanning factories of Kanze and Ngapa in Eastern Kham do a brisk trade in yak-skin bags, jackets and shoes. Lhasa has a farm equipment factory. Kongpo Nyitri, the planned industrial capital of Tibet, saw, paper, and woolen mills, a match factory and dairy plants. The rail-head at Golmo is the staging point for 80% of Chinese goods imported into Tibet. It moves nothing but medicinal herbs, blankets and slaughtered livestock out. What it hopes to be shipping—and here is where Chinese immigration will help—is oil, uranium, gold, lead, chromium and tungsten, in short, the 40% of China's verified mineral reserves recently found on the plateau and often cited as integral to the four modernizations. With a proper infrastructure and sufficient foreign investment, via the newly created Tibet Development Aid Foundation, China still sees a bright future in Tibet.

There is also a substantial opportunity for Tibet's new urban communities to support themselves.

TOURISM

In 1986, 30,000 tourists passed through Lhasa, up from 1,500 five years ago. Beijing's target of 100,000 a year by 1990 seems well within reach. 32,000 Chinese, half of Lhasa's workforce, are already working in the city's service sector, running hotels, transport, shops and restaurants. Six other towns have been targeted for the tourist trade and an air link has opened from Kathmandu.

A million and a half foreign tourists visited China last year, each spending an average of $1,000. Next to Beijing and Xian, a fully developed Tibet will easily be the most frequented stop on the tourist route. There is little doubt that tourism will come to support much of the Chinese community in Central Tibet. Many Tibetans are gratified that foreigners are finally being permitted in. They are confident we will see the reality of Tibet and take out the message of its inalienable difference from China. Tibetan exiles are not so sanguine. As one of the community's more percipient members, Jamyang Norbu has recently written "A holiday in Tibet is subsidizing the eventual extinction of the Tibetan race."

His view holds that as Westerners exult in the most rarified air on earth, or marvel at the Potala, seat to the exiled Dalai Lama, or enjoy Tibetans' native kindness beside their nervous Chinese overlords, they are unwittingly engaged in a tragic parody. A communist regime, selling the supposedly antique society its creed has pledged it to erase has cynically compelled Tibetans to enact, through the tourist trade, their own demise. The opposite view holds that by going to Tibet, tourists will help its plight be known as well as encourage the Chinese to preserve, superficially at least, its heritage.

In either case, tourism has injected a new, plainly political ingredient, into Tibet's reality.

Whichever party line, moderate or radical, emerges from China's current transition, it is plain that Tibet's future remains in extreme jeopardy. Less dramatic perhaps than invasion or revolt, the demographic shift, via its impact on every aspect of Tibetan life, may nevertheless end Tibet's tenure as a distinct member of the human family. Barring a dramatic shift in China's internal stability, Tibetan's principal hope remains international opinion and whatever check it can provide on Chinese policy in Tibet.

John F. Avedon is the author of *In Exile From the Land of Snows: the first full account of the Dalai Lama and Tibet since the Chinese conquest.* He wrote for the oversees edition of Newsweek and has written on Tibet for numerous publications internationally.

[From the New York Times, Oct. 6, 1987]

CHINESE POLICE TAKE OVER SECTION OF HOLIEST BUDDHIST SITE IN TIBET

(By Edward A. Gargan)

LHASA, TIBET, Oct. 5.—Chinese policemen occupied the third floor of Tibetan Buddhism's holiest place Sunday night after two pro-independence protests, one of which is reported to have left at least nine Tibetans dead.

Late in the evening, said a monk at the Jokhang Cathedral, the center of Buddhist religious life in Tibet, 35 armed Chinese policemen took over the one floor of the sprawling, white-washed, rock-and-brick structure in the center of Lhasa, capital of Tibet.

Another monk said the abbot of the Jokhang Monastery, outside Lhasa, had been interrogated by Chinese security officials, some in plain clothes.

Days after the demonstrations, posters and loudspeakers warned Lhasa residents against further protests, and Tibetan monks, saying "we are suffering," issued an appeal for world support for Tibetan independence.

In the last few days Chinese policemen have swept through Lhasa and several monasteries, arresting monks and other Tibetans.

At the Sera Monastery outside Lhasa, five people were arrested on Saturday. Since Thursday at least 20 Tibetans have been arrested, Lhasa residents said.

TIBETANS CIRCLE CATHEDRAL

Chinese officials have said six policemen were killed in the demonstration Thursday, the second of two protests last week against the Chinese, who took over Tibet in 1950. Other accounts said nine Tibetans, including three monks, were shot and killed by the Chinese police in the clash Thursday. The first, smaller demonstration was on Sept. 27.

Today, the Barkhor market that surrounds the Jokhang Cathedral bustled with activity. Merchants in alleyways set up tables crammed with religious scriptures, prayer flags, plastic cups, shoes, hats, brass lamps, incense and butter churns.

But throughout the day, hundreds of Tibetans circled the cathedral, some fingering prayer beads, others slowly spinning hand-held prayer wheels. Young monks spread scripture sheets on the ground and chanted Buddhist sutras. Some twirled hand drums and others rang small bells or clanked hand cymbals.

At the Sera Monastery a young monk said his 23-year-old brother and an 18-year-old monk had been killed in the protests.

At dawn today the bodies of two monks were taken from the monastery and brought to a place for traditional sky burials, a Tibetan ritual in which the corpse is placed on a rock for vultures to feed on it.

NEW POLICE STATION SET UP

This afternoon heavily armed policemen moved into the square in front of the Jokhang Cathedral and set up another police station to replace one that was set ablaze during the demonstration last Thursday.

Brandishing AK-47 assault rifles and small machine pistols, 30 uniformed and 30 plainclothes policemen protected a flatbed truck that carried desks, file drawers and mattresses for the new station house.

A crowd grew, encircling the police, watching silently as the supplies were trundled into the heavy stone building. From time to time the police shoved the bystanders back.

Throughout the city the police posted signs warning against further disturbances. In addition, four loudspeakers were erected atop a four-story building across the square from the Jokhang Cathedral. The warnings against demonstrations were repeatedly aired.

The speakers also broadcast an ultimatum that ordered anyone who took part in the demonstration to turn themselves in by Oct. 15 to insure that they would be treated leniently. If they did not, the broadcasts said, they "would be treated seriously."

But one Tibetan said: "No one will go into the police station. They will be put in prison if they go in."

From the Sera Monastery, word emerged today of a letter sent by senior monks to the United Nations calling for an independent Tibet and denouncing the Chinese treatment of Tibetans.

"The Chinese have ruled violently in our country and we want them to leave Tibet," the statement is reported to have read. "We ask the U.N. and all the countries of the world to please support our true cause. We are suffering. The Chinese have taken away Tibetan human rights for the last 30 years."

PROTESTS IN OTHER AREAS

News reached Lhasa today of another demonstration on Sept. 27, in Shigatse, Tibet's second-largest city, 135 miles south of the capital, as well as a third protest by Tibetan exiles on the Nepal-Tibet border.

The Chinese police have also put up placards warning foreigners not to become involved in protests.

A poster in English read, "Foreigners are not allowed to crowd around watching and photographing the disturbances manipulated by a few splitists, and they should not do any distorted propaganda concerning disturbances that is not in accord with the fact."

[From the Washington Post, Oct. 6, 1987]

CHINA FLIES MORE SECURITY FORCES TO TIBET—PROTESTERS SEEKING INDEPENDENCE SAY THEY WILL FIGHT ON

(By Daniel Southerland)

LHASA, CHINA, Oct. 5—Chinese authorities flew two planeloads of security forces into this Tibetan capital today and ordered "separatist elements" to surrender by Oct. 15 or face severe punishment.

In the wake of violent anti-Chinese rioting last week, the heightened security measures appear aimed at preventing further pro-independence demonstrations here with the approach of Wednesday's 37th anniversary of the Chinese Army's invasion of Tibet.

Despite the government warnings, monks have told foreign reporters that they are prepared to fight the Chinese with their bare fists and will use guns if they can get them. The monks say they have been encouraged by certain physical signs and portents they say foreshadow a new era for Tibet and the return of the Dalai Lama, the exiled Tibetan Buddhist leader.

Underground leaflets and small posters have appeared in recent days calling for united action against the Chinese. The posters are put up at night and torn down by police the next day.

"Ten people have been killed," said one small poster found in an alley in the center of the city. "Now it is time to act. Ten, 20, or 30 more may die. . . . We must all make sacrifices."

The fervor of the monks has been evident everywhere in the center of the city in the past few days. Within sight of a police station burned in a demonstration last Thursday that resulted in at least six deaths. Tibetan pilgrims have been prostrating themselves at the Jokhang Temple, Tibet's most sacred shrine. But there were reports today that police had occupied part of the temple, the site of a separatist demonstration Sept. 27.

[A statement from Buddhist monks at three monasteries distributed to tourists in Lhasa called on the United Nations to support their cause, The Associated Press reported from Beijing.

["The Chinese have ruled violently in our country and we want them to leave Tibet," the statement said. "Tibet belongs to the Tibetans and the Tibetans have the right to have autonomy."]

China forcibly annexed the stragetic region in central Asia, often referred to as the "rooftop of the world," three decades ago, but relations between the 1.7 million Tibetans and the estimated 400,000 Chinese civilians and troops stationed here are strained.

Chinese helicopters have appeared overhead in recent days, and loudspeakers blare warnings against rebellious activities.

A 10 p.m. curfew is still in effect, police have set up roadblocks around the city, and three Buddhist monasteries, whose monks organized two of the demonstrations in the past eight days, remain sealed off.

One of the monasteries, the Sera, on the northern outskirts, was noted in the past for its warrior monks and Sera monks led last Thursday's demonstration.

Meanwhile, officials of the Chinese airlines office in the city of Chengdu, Sichuan Province, the main transfer point for flights to Lhasa, said that beginning Tuesday, no new tickets would be issued to foreigners wishing to visit Lhasa for the next 10 days. No reason was given for this move.

Police increased security measures at the Lhasa airport today and appeared to be attempting to apprehend any Tibetans entering or leaving who have links with the Dalai Lama, who lives in exile in India.

The Chinese have blamed him for the demonstrations, the first of which, on Sept. 27, coincided with his visit to the United States. "The bloodshed in Lhasa has proved how much calls for Tibetan independence go against the interests of the Tibetan people," the official English-language China Daily newspaper said today in an editorial.

[In New Delhi, the Dalai Lama's office denied he was responsible for the violence, Reuter reported. "Chinese authorities are responsible for what is happening in Tibet," spokesman Tashi Wangdi said.]

Tibetan sources said 10 or more Tibetans died and more than 40 monks have been arrested. During last Thursday's protest, witnesses said, the police, after at first holding back, lost their nerve in the face of the stone-throwing mob and fired repeatedly on unarmed demonstrators.

Although the government is offering lenient treatment to those who surrender by Oct. 15 scores of monks were reported to be missing from their monasteries and in hiding. Foreign doctors visiting Tibet as tourists treated a number of the monks and others who were wounded in the rioting. Most of the injured suffered from gunshot wounds and a few from severe burns, they said.

The wounded monks are avoiding Chinese hospitals because they are afraid they will be arrested if they seek medical treatment.

Authorities have put up posters warning foreigners not to participate in demonstrations or photograph them. Several foreigners were seen throwing stones alongside the demonstrators last Thursday, according to foreign travelers. A police bullet passed through the makeshift turban worn by one young backpacker, identified as an American, according to foreign travelers.

Two Americans visiting Lhasa were detained for questioning by police because they carried on their bags Tibetan nationalist flags showing the snowing mountains and the lion that has religious significance for Tibetans. The same symbol was part of a flag carried by demonstrators during the Sept. 27 protest.

The two men, Dr. Blake Kerr, 29, and John Ackerly, 30, a lawyer from Washington, said they were accused by police of "endangering national security" and were questioned three to four hours daily, for three days. They were allowed to return to their hotel each night.

Foreign reporters working in the Tibetan capital in recent days have rarely been able to place telephone calls overseas or to other cities in China or to file their reports by telex. Calls from the outside have also been cut off. [But some western correspondents were allowed to use public telex facilities today for the first time, United Press International reported from Lhasa.]

[From the New York Times, Oct. 6, 1987]

In a Silent Monastery, Gods, Tears and Fears NYT Oct. 6, 1987

(By Edward A. Gargan)

LHASA, TIBET, Oct., 5.—"The name of this room is 'Where the Dalai Lama Stayed,'" the old monk said, glancing over his shoulder to make sure he was not overheard. Then he sat on a small platform covered with a matted rug.

"We made flags secretly here," he said. "We painted big pieces of cloth."

The flag was that of Tibet, two facing lions before a snowcapped mountain with a sun behind radiating rays of red and blue. Display of the Tibetan flag is prohibited by the Chinese, who annexed Tibet in 1950.

The monk bent forward and slowly brought his hands to his face. He wept slow, choking sobs, trembling, his thin body wrapped in a coarse maroon robe.

I AM VERY SAD

"One of my students is in prison," he said. "I am very sad."

"There are 21 monks from Drepung in prison," the monk said, referring to Drepung Monastery, founded in 1416 and once the largest and richest Tibetan Buddhist monastery.

An eerie quiet engulfed Drepung today, five days after several people were killed in this capital during a protest for Tibetan independence.

Another elderly monk talked of how the demonstrations came about. "We've been planning something like this since 1959," he said.

Courtyards and prayer halls, normally filled with pilgrims, were empty and silent today. Occasionally a solitary monk would hasten up a rough flagstone passageway.

GODS AMID THE GLOOM

Where normally a prayer drum would thump leadenly from a high open window, or a bell would dong rythmically in the hand of a chanting monk, the monastery was still. Inside the halls, monks scooped liquid yak butter from a brass bucket to fuel lamps.

The monk who spoke of his imprisoned students walked clockwise around the Ganden Phodang prayer hall and stood before an eight-foot-tall brass image of the god of wisdom. He bowed slightly cupping his hands together.

Small flames seemed to whisper in the gloom. Photographs of the Dalai Lama, the Tibetans' exiled spiritual and civil leader, hugh on scarves of white draped over statues of gods.

The monk said that 21 of his monastery's youngest monks traveled with a Tibetan flag to the Jokhang Cathedral in central Lhasa on Sept. 27. With that flag, they walked around the cathedral, Tibet's most sacred place, until they and five other monks were arrested.

A SORT OF INDEPENDENCE

Four days later, a crowd of Tibetans, again led by monks, circled the cathedral. There was a confrontation with the police, cars were burned, a police station was gutted by fire. At least nine Tibetans were reported shot to death by the police in the largest protest against Chinese rule since 1959.

For the old monk, Sept. 27 was a turning point. "This is a sort of independence for us," he said.

"All the new students are in prison. We counted the people who didn't come back. We tried to send blankets to the monks in prision but the Chinese wouldn't let us. The monks don't have enough clothes to keep warm."

The old monk talked on, jumping from one thought to another, nervousness softening his words but fueling his emotion. He was frightened, yet confident in the justice of his cause.

EVERYONE IS SCARED

"The demonstrations are good," he said. "When the people protested we thought we would have no problem because we had the blessing of the Dalai Lama."

After the demonstration, the police came. "They came to question the abbot," the old man said. "Nobody said anything: Now there is a Chinese man with one of the senior monks, to see what he does.

"Every night the Chinese come, with guns. Mostly they come at night, but they watch in the day. Everyone is scared, so the pilgrims don't come."

The monk who talked of how events led up to the first demonstration said:

"On Sept. 25 there was a round rainbow over Drepung. Then on the 26th there were three earthquakes in the morning. The earthquake was a bad sign. It was decided that the demonstration would begin on the 27th."

The monk, his ash-gray hair clipped close to his skull, said he was not afraid. "I spent 21 years in prison," he said. "Nine years in the black. I know what electric shocks are like."

"There is unity in prison," he added, his voice little more than a whisper. "We say, if you kill us, the Dalai Lama is still alive."

Mr. HELMS. Mr. President, if nobody else desires to speak, I suggest that we vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Oklahoma [Mr. BOREN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS—98

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—2

Boren
Gore

So the amendment (No. 858) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECOGNITION OF SENATOR PRESSLER

The PRESIDING OFFICER. Under the previous order, the Senator from South Dakota is recognized for a period not to exceed 5 minutes, after which time the Senate will stand in recess.

THE NOMINATION OF JUDGE ROBERT BORK

Mr. PRESSLER. Mr. President, I rise to state once again that I strongly support the nomination of Judge Robert Bork to the Supreme Court. Judge Bork was unanimously approved for the court of appeals by this body only a few years ago, and unanimously approved by the Judiciary Committee.

Judge Bork has never been overruled while he has served on the court of appeals. Indeed, his voting record is 98 percent the same as Judge Scalia's, who is considered very much in the mainstream on the Supreme Court.

Since my days at Harvard Law School I have read Judge Bork's opinions. I read his 1971 piece in the Indiana Law Journal which I think is one of the most thought-provoking and finest articles produced. It is my strongest feeling that the President of the United States deserves his choice if the judge is in the mainstream of our political thinking; if there is not an ethical question, and if he meets the standards of professional competence. Indeed, when President Carter was in office I supported Abner Mikva for the court of appeals based on that philosophy. I believe that Judge Bork is one of the finest judges in our court of appeals system. He has been given the highest ratings by the American Bar Association. His record is excellent.

Mr. President, I support Judge Bork in part because he is tough on crime. Our Supreme Court has given criminals more rights than victims. Nearly every crime-fighting group in the United States has endorsed Judge Bork. For example, the National Association of Chiefs of Police, the National Sheriffs Association, and many, many other crime-fighting groups. The reason they have endorsed Judge Bork is because he is needed on the Supreme Court to bring a balance and to give back some rights to law-abiding citizens. Indeed, our Supreme Court has given criminals more rights than victims, and Judge Bork would bring back some balance.

So, Mr. President, for all of these reasons I support him. It is my strongest feeling that we are facing a political vote here. What is really happening is there is an effort to delay this until a new President is elected in the hope that he or she may be a President of the opposite party. I also believe very strongly that the campaign against Judge Bork has been basically unfair. He has been held to a different standard than other nominees. I support him proudly, and shall vote for him. I hope that this body will confirm him to the Supreme Court.

Mr. President, I yield back the remainder of my time.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2 p.m.

Thereupon, at 12:59 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DODD).

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of S. 1394.

AMENDMENT NO. 859

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself, Mr. DOLE, Mr. KENNEDY, Mr. HATCH, Mr. CRANSTON, Mr. GRAHAM, Mr. MCCAIN, Mr. KERRY, Mr. MCCONNELL, and Mr. DURENBERGER, proposes an amendment numbered 859.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 14, strike "$17,500,000 for fiscal year 1988 to be available only for a grant to the National Endowment for Democracy for use in carrying out its purposes" and insert "$17,750,000, for fiscal year 1988 to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than $250,000 shall be used to support elements of the free press and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States government may participate directly or indirectly in controlling, directing, or providing these funds to the free press and democratic civic opposition inside Nicaragua".

Mr. BENTSEN. Mr. President, I offer this amendment on behalf of myself and Mr. DOLE, Mr. KENNEDY Mr. HATCH, Mr. CRANSTON, Mr. GRAHAM, Mr. MCCAIN, Mr. KERRY, Mr. MCCONNELL, and Mr. DURENBERGER.

After many years of fighting and many starts and stops in the negotiating process, I think most of us in this body were surprised when we saw the Central American nations get together and reach a peace agreement in Guatemala City on August 7 of this year. That agreement is not totally as I would have written it or as the Presiding Officer, the Senator from Connecticut [Mr. Dodd], with his great interest in Central America, would have written it.

What we saw here was a move by Central American nations coming together, supporting a resolution of the problem as they thought it would fit their particular part of the hemisphere. I think it is one that we should give a try. I have some very deep and serious concerns as to what the Sandinistas are ready to do in the way of negotiating away their power. We are talking here about seeing if they are doing it for real or for show.

I think the best thing we can do under those conditions is to offer some support to the democratic opposition and to assist those organizations. We are talking about things like La Prensa, the newspaper. I recall standing in front of La Prensa with Mrs. Chamorro, looking at the front page of La Prensa nailed to the wall, and all the big holes in the paper—censorship that had happened that day by the Sandinista Government. Now they are talking about letting it print again.

We are talking about providing funds to them if they desire it—it is up to them to request it—to the opposition political parties, to the democratic labor unions, and to the business organizations, to give them the ability to test and determine the amount of change that is really taking place in Nicaragua, to help give them a voice.

I think it is incumbent upon us to provide the moral support and the financial support. We are not talking about a lot of money. We are talking about $250,000 to be expended to try to help the democratic process and the opposition have a voice. When I think what it costs to run for the Senate in my State, when I think what it costs to run for Governor, and then I look at this situation—and we are talking about trying to help them to the extent of $250,000—it is a small amount indeed.

I ask unanimous consent to have printed in the Record at the conclusion of my remarks a list of the membership of the Civic Opposition described in a recent Congressional Research Service report on that subject.

The PRESIDING OFFICER (Ms. Mikulski). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENTSEN. Madam President, the Government of Nicaragua has committed a pledge that as of November 7, it will be in compliance with the Guatemala City agreement, and that includes the requirement that press freedom be restored, that the state of emergency be lifted, and that political pluralism be instituted.

Compliance or noncompliance on the part of the Sandinista Government is going to be moot, however, if the democratic institutions in Nicaragua do not have the financial support to make their points of view known, trying to see that they exercise such rights as may have been restored to them. This amendment would authorize an increased level of support for that effort sufficient for the next 4 to 6 months, during which time we will be able to evaluate and arrive at a better judgment as to whether or not things have really changed in Nicaragua. We could vote some additional funds later if they were warranted.

This amendment adds a total of $250,000 to the amount authorized for the National Endowment for Democracy.

What we have is a situation in which Mrs. Chamorro at La Prensa, was closed down, was required to continue to pay those employees when they were not allowed to operate. She has had that drain on her funds. She has to get that into operation again, repair the presses, and hire back the staff. They are receiving some money from the endowment, but not enough.

This amendment would also provide funding for the democratic opposition parties—the eight parties to the right of the Sandinista government ideologically. I am not talking about the Communists and others who do not think the Sandinistas are pure enough in their Marxism-Leninism. It is for the unions and the business groups who organize and print pamphlets and leaflets and test how pluralistic the democracy in Nicaragua really becomes. This, too, would expand the existing grants and would not constitute a new program.

I am anticipating a question that might come up. I am informed by the head of the endowment that they recently have been in touch with the publisher of La Prensa and that La Prensa welcomes and needs this kind of assistance.

I noticed that there was an inaccuracy in a Washington Post story that said last week that the Government of Nicaragua had closed down La Prensa after they learned it had been receiving funds from the National Endowment for Democracy. That was not correct. That $100,000 grant was made in 1984. It was a public grant. It was publicly reported by the endowment. It was 2 years later that the newspaper was closed down. That followed a vote by the House of Representatives on an extension of Contra aid.

I know there has been some concern, as well as my own. I have to satisfy myself that we were not going to be hurting our friends in this. We carefully considered that kind of problem, and we have come to the conclusion that that is not the case.

In the first place, this is not a new program. Both La Prensa and the Civic Opposition have already received—publicly—financing through the National Endowment. If the Sandinistas want to use that against these organizations, they can already do so, because this kind of program was already under way. It is a matter of public record.

The fact is that we need a strong vote of support for these opponents of the Sandinistas, and the opponents need the assistance, and we are asking for that kind of assistance.

We are not going to force that money on anyone. They have not come in and asked for it.

Only those groups that apply for it will be considered for aid, only that list that I have attached and inserted in the Record and should the civic opposition in Nicaragua, should they not be the ones to determine whether or not it is going to hurt them, they make that decision. They do not have to take these funds. They are the ones with the best understanding of the risks and the benefits of that kind of assistance.

Finally, my staff has been in touch with the Nicaraguan Government and they have been informed there is no impediment to such funding under Nicaraguan law.

I realize that there are Members of this body who are not favorably disposed toward the National Endowment. I believe I understand the reasons for these feelings. Let me say today that this amendment is not about the Endowment; it is about democracy in Nicaragua and what we can do to support it. If we are to provide this modest amount of assistance to the democratic civic opposition in Nicaragua, the National Endowment for Democracy—established by Congress to do precisely what is being proposed here—is the proper organization to receive this appropriation.

Madam. President, I understand that the administration will be submitting a request for additional Contra aid sometime after November 7. I believe it is right to wait until then to do so, because I would not want the United States to be accused of having sabotaged and subverted the peace agreement. After that date, when we have had the opportunity to see just how much and how real the Sandinista level of compliance is, then we can all make up our minds about additional aid to the contras.

I ask you today not to confuse or mix the purpose of the funds in this amendment with that of continued aid to the Contras. These are separate issues and should be decided on their own merits. We have just included in the continuing resolution an additional $4.5 million in humanitarian aid to the Contras. In this amendment today

I am asking for a vote of support for the peaceful, democratic opposition in Nicaragua.

EXHIBIT 1

NICARAGUAN DEMOCRATIC CIVIC OPPOSITION [1]

POLITICAL PARTIES

Social Christian Party (PSC).
Nicaraguan Conservative Party (PCN).
Social Democratic Party (PSD).
Constitutional Liberal Party (PLC).
Liberal Party (PALI).
Independent Liberal Party (PLI).
Popular Social Christian Party (PPSC).
Democratic Conservative Party (PCD).

LABOR UNIONS

Confederation of Nicaraguan Workers (CTN).
Council for Trade Union Unity (CUS).

BUSINESS

Superior Council of Private Enterprise (COSEP).

Mr. DODD. Madam President, will the Senator yield?

Mr. BENTSEN. Yes, I yield to the distinguished Senator from Connecticut.

Mr. DODD. First of all, let me extend my sincere compliments to the colleague from Texas. I think this is an excellent amendment. I have worked with him and with others for the last several days, and I think this is a totally appropriate and proper allocation of funds in the context of what is occurring.

My colleagues on the Foreign Relations Committee will remember that, during the consideration of this bill, I offered an amendment to increase the authorization for the National Endowment for Democracy by $2½ million and argued at that time that part of the additional funding could be used to support the Democratic political opposition inside Nicaragua.

So the amendment by the Senator from Texas is entirely consistent with the views embraced by the committee when we considered an additional appropriation for the NED.

I think this is proper, particularly because La Prensa is the one voice of the media that we are all familiar with and it has received such tremendous attention. Radio Catholica is another one that has received a great deal of attention. There are a number of other media outlets in Nicaragua that are not as well known or not as apt to be run freely or allowed to run freely.

Thus, including in here the general language of the free press and media will cover all those outlets as well.

I commend him for that.

Last, I just say, and I would urge my colleagues to express their support of it as well, we need to encourage those political opponents of the Sandinista Government who are today living outside of Nicaragua, whether in Costa Rica or the United States, to return to Nicaragua and to test the sincerity of the Sandinistas.

One of the ways I think they can do that is with the assistance provided by the amendment. They will be far better critics and legitimate as spokesmen if they are speaking from Nicaragua rather than from outside of Nicaragua.

This amendment ought to encourage, it seems to me, those elements to participate in that. I see nothing in this amendment that should in any way be construed as trying to add an element to be disruptive to the Guatemalan peace accords. I think it compliments that and I think it is going to assist that process. I am delighted to be a supporter of this particular proposal and thank the Senator for yielding.

Mr. BENTSEN. I thank the Senator very much.

Mr. DOLE. Madam President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Republican leader.

Mr. DOLE. Madam President, I am pleased to join the distinguished Senator from Texas [Mr. BENTSEN] in cosponsoring this amendment—which will provide $250,000 to support the elements struggling to bring a free press, and Democratic opposition parties, to Nicaragua.

Although Senators may differ over the prospects for Sandinista compliance with the letter and spirit of the Guatemala City accord, there is near unanimous agreement that we should withhold our final judgment until the November 7 deadline written into the accord—and, in the meantime, do everything we can to encourage full compliance.

VISIT TO NICARAGUA

Recently, I visited Nicaragua. It was clear to me that, despite years of repression and propaganda from the Sandinistas, the Nicaraguan people remain thirsty for freedom; and ready to implement it fully—if the Sandinistas give them the chance.

And we in the United States have a responsibility to do more than just express our good wishes. We must find ways to support those forces in Nicaragua who are struggling for goals we share.

During my visit, I met both with Mrs. Chammorro—editor of the recently reopened La Prensa—and with leaders of some of the active opposition parties. In addition to being very brave and determined people, all of them are also very practical—they know it costs money to put out a paper; or organize politically. Especially when you are competing with a vast, powerful and often unscrupulous government apparatus.

The free press and the democratic political parties need our help. Passing this amendment is one very important and concrete way we can help them.

SAFEGUARDS

Let me also add one other point. Care has been taken to insure that provision of these funds will not compromise, La Prensa, any of the political parties or any other organization or group which accepts funds. The money will be provided above board, with no strings attached. Official U.S. Government involvement will be very limited; the money will be provided through private channels. And it will be provided only in response to a specific request—so every potential recipient will be able to make their own judgment on whether receipt of this money is in their own interest.

Madam President, I commend the Senator from Texas [Mr. BENTSEN] for taking the lead on this issue. The broad cosponsorship of this amendment—reflecting all segments of the political spectrum—reflects the soundness of this approach. So I am pleased to join Senator BENTSEN and the other cosponsors in urging overwhelming approval.

Madam President, I am a cosponsor of the amendment. I want to make certain. I think I understand the way the amendment is drafted it covers more than just one publication. It would also cover the Catholic radio station.

We visited with Cardinal LaBraso. They need the money and cannot start up the station without assistance.

As I understand, it covers three elements in the press and will not be limited to one or two or electronic media.

Mr. BENTSEN. The distinguished minority leader has correctly stated the purpose of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

SUPPORT THE DEMOCRATIC OPPOSITION

Mr. KENNEDY. Mr. President, I am pleased to join with Senator BENTSEN in offering an amendment to support the true democratic opposition in Nicaragua. Over the last 6 years, the administration has supported an opposition created in Langley, VA, that was neither democratic nor popular with the Nicaraguan people. The Contras will never have the support of the Nicaraguan people—and they will never overthrow the Sandinistas.

There is a real democratic opposition inside Nicaragua—not the Contras—but a legitimate group of men and women inside Nicaragua who maintain the support of the population and who are struggling to bring democracy to their country through peaceful, legal means. Together these groups provide the only hope of pressuring the Sandinista regime in Nicaragua into democratic reforms—but that task can only be done through the ballot and not the bullet.

This amendment would begin to shape United States policy toward

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[1] CRS Report 87-735 F, "Nicaragua's 'Civic' Opposition: Players, Problems, and Prospects," by Nina M. Serafino (August 5, 1987).

Nicaragua in the post-Contra era. It would provide $250,000 to the National Endowment for Democracy for support to the free press and civic, democratic opposition inside Nicaragua—including La Prensa and other nongovernment radio stations, newspapers, and television stations, business organizations, and labor unions, and the democratic opposition political parties inside Nicaragua.

The program will be run by the two party institutes of the endowment which have extensive experience in assisting and training democratic elements worldwide. I have worked closely on a number of occasions with the National Democratic Institute and found its work to be invaluable to individuals and groups working to develop more democratic forms of govenrment in their own countries. I have been especially impressed with NDI's work in Northern Ireland, the Philippines and Chile and have no doubt that the progress made in recent years toward democracy in Northern Ireland and the Philippines is due in part to the superb work of NDI. I am hopeful that NID's work in Chile will bring that country closer to the goal of democracy.

The need for support of the democratic opposition is great in Nicaragua. A recent CRS study found that it was "difficult for opposition groups to fund their operations or generate resources internally with which to operate." Because of a shortage of funds, opposition party and union leaders must often work as volunteers; their organizing efforts are plagued by delays and the lack of even the most basic supplies. Spare parts for vehicles, paper and ink are difficult to obtain, and newsletters have been forced to cease publication due to lack of supplies.

The next elections scheduled in Nicaragua are the municipal ones in 1988. If the democratic opposition is to participate in those elections in any meaningful way, it will need access to these basic resources. This amendment will help provide the basic tools of democracy to the real democratic opposition to the Sandinistas.

While United States policymakers have been obsessed with Ronald Reagan's so-called freedom fighters, the truly democratic elements in Nicaragua have been fighting to preserve the democratic elements of the 1979 revolution. Yet, for the last 7 years, the U.S. Government has been blind to their struggle and deaf to their requests for our assistance. The Nicaraguan people support this opposition, the American people support this opposition and it is time the United States Government supported this democratic opposition.

Let me just review several actions taken by this opposition. In February 1986, a coalition of six democratic parties inside Nicaragua joined together in signing a significant peace proposal to the Nicaraguan Government. It called for a cease-fire, general amnesty for political crimes, abolition of the state of emergency, establishment of civil rights, general elections, and the democratization of Nicaragua. Washington ignored that proposal.

In March of the same year, a group of leading Nicaraguan businessmen issued a strong denunciation of the Sandinistas saying they feared for their lives and liberty. They called on democratic governments to "act vigorously to defend and protect our existence, before you have to lament a sin of omission." But Washington ignored that request.

In July of this year, the National Democratic Institute sponsored a conference in Madrid, Spain, of leaders of seven Nicaraguan political parties who called on the international community to support their demands for the "authentic political democracy" in Nicaragua to bring internal pressure on the Sandinistas by peaceful means. According to these leaders, peaceful democratic reform is the surest path to peace and reconciliation. But Washington ignored that call.

And last August, the five Presidents of the countries of Central America signed a historic agreement to achieve peace in the region. Despite efforts by the administration to scuttle this plan at every chance—devising a competing plan the eve of the signing of the Arias plan and announcing its intention to seek $270 million in additional military aid for the Contras—the countries are making dramatic progress toward implementing the plan. El Salvador, Guatemala, Costa Rica, and Nicaragua have already named the National Reconciliation Commissions called for under the plan. Negotiations between the insurgents and the Government are beginning in El Salvador and in Guatemala. The Nicaraguan Government has taken a series of steps toward reconciliation, including the reopening of the opposition newspaper, La Prensa.

Compliance of the plan will be mixed on November 7, but substantial progress will have been made toward establishing a lasting peace in the region. Passage of this amendment will provide a minimal but important amount of assistance to the process of establishing democracy in Nicaragua. I urge my colleagues to support this amendment.

AMENDMENT NO. 860 TO AMENDMENT NO. 859

Mr. SYMMS. Madam President, I send an amendment to the desk.

Mr. PELL. A point of order.

The PRESIDING OFFICER. The Senator from Rhode Island will state his point of order.

Mr. PELL. I thought we were dealing with the amendment of the Senator from Texas.

Mr. SYMMS. That is correct.

Mr. BENTSEN. Is he seeking to amend the amendment?

Mr. SYMMS. To amend the stricken language so it would be a second-degree amendment not amendable.

Mr. PELL. All right.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes amendment numbered 859 to amendment numbered 858.

Add at the end of the material proposed to be stricken add the following new section:

"SEC. . In view of (1) the deteriorating condition of the Panama Canal, (2) the continuing military dictatorship of General Noriega and its involvement in criminal activities, and (3) the refusal of the Panamanian Government to accept the DeConcini Reservation concerning U.S. defense rights upon which Senate consent to the ratification of the Panama Canal Treaty was predicated, it is the sense of the Senate that the Senate ought not to have consented to the ratification of the Panama Canal Treaties whereby the Panama Canal was given away and that such treaties are voidable unless and until Panama formally accepts the DeConcini Reservation and should be voided by the President if such acceptance is not forthcoming within six months of the adoption of this section.".

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Madam President, the amendment I have sent to the desk is very simple and easy to understand. It is not complicated. It states in plain language the sense of the Senate that in view of the deteriorating condition of the Panama Canal, in view of the drug trafficking of the Noriega dictatorship, and most importantly, in view of the refusal of Panama to accept the DeConcini reservation giving the United States the right to defend the canal after the year 2000—that in view of these circumstances, it is the sense of the Senate that the Senate ought not to have consented to the ratification of the Panama Canal Treaties and that since the ratification itself was irregular, the President should void that ratification unless the Panamanians accept the DeConcini reservation as the Senate intended.

This amendment does not void the Panama Canal Treaties.

I want to repeat that, Madam President. It does not void the Panama Canal Treaties and does not attempt to rewrite history. It deals with present-day circumstances and with beginning the process of resolving the very real problem we are likely to face in another 10 to 15 years, after the year 2000, when we will have no right to defend the canal unless the Government of Panama accepts the DeConcini reservation.

The amendment is the sense of the Senate only. It does not tie the hands of the President, nor does it instruct him to take any particular action. It merely states the view that the issue of the DeConcini reservation should be addressed by this President. It also states the view that the Senate, in view of the nonacceptance of the DeConcini reservation, ought not to have consented to the ratification of the Panama Canal Treaties in the first place.

Madam President, had I been in the Senate at the time that that happened I would have voted against those treaties with or without the DeConcini reservation, as I was in the other body at that time and was very interested in the issue. But a number of Senators who voted for ratification did so because they felt that the U.S. rights to defense in the 21st century would be protected by the DeConcini reservation. That is what they thought was happening at the time that many of them agreed to vote for it.

Madam President, this is a serious matter because the situation in 1987 in Central America is far different from the situation it was in 1978.

The amendment also, Madam President, has other purposes. The further purpose is to make clear to the people of Central America, and particularly to the people of Panama, that the issue of the Panama Canal continues to be of major importance to the people of the United States. We do have an interest there. We have a commercial interest. The amount of shipping that goes from the east to the west coast alone is a massive amount of our shipping in this country, a high percentage of it, as a matter of fact. After all, Madam President, it is the people and the taxpayers of the United States who built the canal and who, over the decades, have provided the manpower and funds to defend it and keep it open. Americans continue to have a stake in the Panama Canal and a vote on this amendment will certainly demonstrate the degree of importance we attach to the canal in relation to the security of our country.

Madam President, Senators who were in the Senate in 1978 will recall how they were told that the Panama Canal Treaties would solve our problems in Central America and, indeed, in a large part of South America, as well. They were told, and we were told the same thing in the House, that the "intransigence"—and that is not my word, Madam President, but the word bandied about in this Chamber in the spring of 1978—that the "intrasigence" was going to provide fertile ground for the Soviet Union and for the spread of communism in the Western Hemisphere.

Senators were told time and again that a hard-headed attitude against giving away the canal was all that stood in the way of a new era of sunshine and democracy from Panama to Mexico. We were told that if we would just take this one step and give away some sovereign United States territory belonging to the American people, then the Panamanian dictatorship would be replaced with a broad-based democratic system, and that all of Central America would love and admire the United States for its magnanimous wisdom, and that the inroads of the Soviet Union in Latin America would be stopped indefinitely. That is the story that was being reported in the New York Times, the Washington Post, and by many of our colleagues here on this floor that were promoting this giveaway of the United States canal in Panama.

Madam President, much has happened since April 18, 1978, and I believe it is time for the Senate to take account of the gap between the promises which were offered then and the reality of what has happened now.

First, Madam President, Panama is still under a dictatorship. Panama is still subject to military rule by a band of gangsters who are the very successors to the same kind of gangsters with whom they dealt in 1978. Panama still continues to have one of the most corrupt governments in the world—I repeat, one of the most corrupt governments in the world—where they are engaging in everything from selling drugs to passports at high prices on the market, personally enriching some of the leaders of the government at the expense of the people who live there and others in other parts of the world.

The narcotics trade has been targeted against the youth of the United States, which I think is a serious concern to all of us. It was true then, and it is even worse today.

Second, Madam President, within a matter of months of the so-called ratification of the canal giveaway, the Soviet Union seized Nicaragua as a new client state on the continent of North America, or Central America. That regime is still in power in Managua today, has consolidated its dictatorial grip, and relies heavily on the Soviet Union, Cuban, and East German military and intelligence services for its sustenance.

Third, the Soviet Union has attempted to seize El Salvador through a Communist insurgency launched and supported from Nicaragua. Similar insurgencies—more properly referred to as terrorist movements—have also been launched against Honduras and Guatemala.

So the situation has remarkably changed from where it was in 1978.

Fourth, Madam President, again within months after the Senate voted to give the canal away, the then chairman of the Committee on Foreign Relations, my predecessor in this seat, revealed to the American public that the Soviet Union had at least one full combat brigade stationed 90 miles from the United States in Cuba. We know now, of course, that the Soviet force well could be two brigades or more.

(Mr. MATSUNAGA assumed the chair.)

Mr. SYMMS. But, Mr. President, we have gotten used to that sort of thing and what seemed shocking then seems to be now acceptable today.

For example, who would have thought that the distinguished occupant of the chair's State would be used as target practice for Soviet intercontinental ballistic missiles firing close to its shores? What an outrage that is to this country. And yet, that is how emboldened our adversary, the Soviet Union, has gotten in this last 10 to 11 years.

So, Mr. President, my point is that those here in the Senate who voted for the Panama Canal Treaties, or, as some have called it, the United States canal which was given away—but, however you look at it, it was the treaties—how could they have known that following that decision Nicaragua would fall to communism? No one knew that. Or that El Salvador, Guatemala, and Honduras would all be threatened, that the corrupt Panamanian dictatorship would continue? People did not know that is the way the course of events was going to happen. It is always easier to look out the rearview mirror than it is the windshield, to see where you have been better than where you are going.

Or that thousands, even millions of people would be voting with their feet, fleeing out of fear in Central America by going north and illegally entering the United States; that the Soviets would station combat units in Cuba; that Castro would dump the refuse of his jails and hospitals in the so-called boat lift; and that Panama, even when being given something that did not belong to it and being paid to take it, would still refuse to comply with the DeConcini reservation that was put forth in this treaty?

So I do not know the answer to the question of what would happen in the year 2000; if, in fact, it appeared that the United States needed to defend the canal, what would happen? I do not know the answer to that, Mr. President, but when the Senate votes on my amendment, or even a motion to table it, we will have an answer. We will know the present feelings of those who were here in 1978 and we will know the present judgment of the Senators who were not.

Mr. President, just as a little point of interest on what has happened to the makeup of this distinguished august group of people since 1978, there were 68 Senators who voted for it; 28 of those 68 remain in the Senate; 32 voted against it. Of the 68 who voted for the treaties, 28 of those remain in the Senate. Of the 32 who voted against the treaties, 16 remain in the Senate. So only 44 remain all together that were here. Of the 56 who are no longer here 23 who voted for the treaties have been defeated. Of the 32 who voted against the treaties, only 2 Senators were defeated.

So it has been an issue that has been polarizing, an issue that American people have been very interested in since most Americans were taught during their childhood years in the schools of the great engineering feat of what happened and the U.S. importance in the area. I think it is a significant issue.

What we would like to do today is just to vote to see how the United States Senate feels about it today, 11 years after the ratification of the treaty; whether we think that we should insist that the corrupt Government of Panama—I repeat, the corrupt Government of Panama—should adhere and respect and conform to the DeConcini reservation that was passed here in the Senate 11 years ago.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, thank you very much for recognizing me.

I am in a predicament. Neither of these amendments, the underlying amendment by the distinguished Senator from Texas and the second-degree amendment by the able Senator from Idaho, in neither case have I seen the amendment.

May I inquire of the distinguished Senator from Texas if he would accept one small modification? After the words "to support elements of free press" insert ", including free radio."

Mr. BENTSEN. I think that is an improvement. Frankly, that is what I had intended. But I appreciate the clarification and I would be delighted to accept that.

Mr. HELMS. Mr. President, even though the amendment of the Senator from Texas is not before us, I ask unanimous consent that it be in order for him to send a modification to the desk.

The PRESIDING OFFICER. The Senator from Texas has a right to modify his own amendment. If the Senator will send the modification forward.

Mr. BENTSEN. Mr. President, I am pleased to send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, reads as follows:

On page 60, line 14, strike "$17,500,000 for fiscal year 1988 to be available only for a grant to the National Endowment for Democracy for use in carrying out its purposes" and insert "$17,750,000, for fiscal year 1988 to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than $250,000 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States government may participate directly or indirectly in controlling, directing, or providing these funds to the free press and democratic civic opposition inside Nicaragua".

Mr. DODD. Will the Senator yield on that modification?

Mr. BENTSEN. The modification is to add "free radio."

Mr. DODD. I have no objection to that at all.

But it would include television, radio, all the media, so that it would not be limited to print, generally. Radio clarifies that, but certainly TV is not to be excluded because it is not specifically mentioned. Is that the clear understanding?

Mr. BENTSEN. That is correct.

Mr. HELMS. Mr. President, this is a good amendment.

Concerning the second-degree amendment of the distinguished Senator from Idaho, I was in the Senate, I will say to Senator SYMMS, on the fateful day, as I recall it, when the Senate created perhaps the greatest legislative error in the history of the country. You replay what went on in a whole chain of circumstances, Mr. President, and you find that the United States was absolutely snuckered in this deal, snuckered by Panama.

Bear in mind, I will say to the Senator, that the Senate consent to ratification was contingent upon the so-called DeConcini reservation. The DeConcini reservation reserved the right to intervene in Panama to defend the canal after the year 2000. A lot of people do not know it, but Panama refused to accept the reservation and had a counterreservation. The two instruments of ratification, therefore, did not match as required by international law. Hence, no contract was made under international law, and at the very best, if you will look at it, it was a voidable agreement.

Bear in mind that the DeConcini reservation was approved by the Senate and without that reservation there would not have been any ratification of the treaty.

The history of all that has been lost in the minds of the American people. It may seem like a detail that is forgettable, but it is absolutely essential to have it on the record as long as possible that there was a deliberate effort by this Government in the executive branch to thwart the very clear will of the U.S. Senate when it adopted and approved the DeConcini reservation.

The day of April 18, 1978, was the day the Senate voted to ratify the so-called Panama giveway. I am convinced that this monumental mistake, as some have indicated, sent an engraved invitation to the Soviet Union to proceed with plans to take over Central America.

I recall all of the assurances that we heard on this floor during the debate on the Panama Canal Treaty, that this was going to buy us friends in Central America, that it would be good and noble peace and brotherhood, we were going to solidify the strength and cooperation of the United States.

Exactly the opposite has occured.

Fidel Castro took note of what he perceived and what others perceived as a weakness on the part of the United States. The Senate vote on April 18, 1978, was a watershed in American politics. It was clearly contrary to the wishes of a vast majority of the American people. I saw no poll at any time, any place, that indicated the American people were not overwhelmingly opposed to the action taken by this Senate. I think the perception by Mr. Castro and others who wished harm to the United States in this hemisphere and elsewhere—the perception they had was it was a demonstrable weakness on the part of the Senate and this Government to preserve and protect the national interests of the United States.

In any case, it led to the turmoil in Central America which today plagues our Nation.

Merely as a matter of history, nearly a year before the Senate vote, I will say to my friend from Idaho, I was a new boy on the block, relatively speaking. I had come to the Senate in January 1973. Sometime in 1977, I was delegated by three other Members of the Senate—Mr. McClellan of Arkansas, Mr. Thurmond of South Carolina, and Mr. Harry F. Byrd, Jr., of Virginia—to go to the White House and visit with then President Carter and to offer him a compromise.

I went and I had a very pleasant visit with President Carter. On behalf of Senators McClellan, Thurmond, Byrd, and myself, we offered a compromise to the President, the compromise being if the President would back off from his proposed giveaway of the Panama Canal, we, the four Senators, would take the lead in advocating a substantial public works program to improve and enhance the canal. This would increase the functional capacity of the canal, provide work for thousands of people, and, of course, increase the canal's potential in terms of national defense.

Most of us understand the limitations of the canal as presently structured.

When I went to see President Carter, we sat in the Oval Office and chatted about various things. One of the things I did that day was I personally conveyed to the President a letter signed by four former chairmen of the Joint Chiefs of Staff—or maybe they were CNO's, but in any case distinguished military men—people who endorsed our suggestion, all four of them.

In fact, it was the four distinguished military leaders who had worked out the details of the proposal and then suggested them to the four Senators, including this one.

The four senatorial leaders who signed the letter which I presented to President Carter warned the President that the giveaway of the Panama Canal would threaten the national security of the United States. I think it is demonstrable today that they were absolutely correct in their warning.

In any case, after I had visited with President Carter and presented him with the letter signed by the Senators and the letter signed by the Chiefs of Naval Operations, Mr. Carter said something to the effect that "this may solve all of our problems," and then he added, and I recall his words precisely, he said "Linowitz and Bunker"—meaning Ambassador Bunker and Sol Linowitz—"will be here this afternoon. Let me take this to them and I will get back to you."

Well, the President never did and the remainder is history now, very sad history. The United States did not win the love and affection of Latin America by the humiliating surrender of U.S. interests. Panama today is ruled by the clenched fist of a cruel and corrupt dictatorship which arrogantly refused to accept as a part of the ratification document the DeConcini reservation stipulating specific and perpetual right to protect the canal.

Now, I might add as a footnote to history that President Carter had no authority whatsoever to ratify the treaties without the reservation but he did so anyhow, and I believe it to have been an illegal and unconstitutional act.

Well, as Paul Harvey says, "What is the rest of the story?" A great Senator from Alabama, the late James B. Allen, warned during the Senate debate that the Soviets would surely step up their campaign of exporting revolution and terrorism in Central America if these treaties were ratified. Jim Allen's warning was entirely valid and it is today, as the able Senator from Idaho has said, a tragic fait accompli.

In another footnote to history which ought to be recorded, I guess, it was not long after the Senate conducted the vote on the Panama Canal Treaty that Senator Church of Idaho, who had strongly supported the giveaway, disclosed that the Soviets had stationed nuclear-capable Mig 23's and at least one full combat brigade in Cuba, 90 miles away from our shores. Senator Church was then chairman of the Senate Foreign Relations Committee. He had access to sensitive files, classified and otherwise, and thus the Senator's disclosure was never questioned, and it should not have been, because it was accurate.

We now know that there are at least two Soviet brigades in Cuba and probably more than that. All in all, the giveaway of the Panama Canal was, when you look back on it, an ugly tapestry of special interests, weakness of will, and clear defiance of the will of the majority of the American people. As it has turned out, these were the ingredients of disaster, which is precisely what it turned out to be.

Even though I come late to agree with the Senator's amendment, I commend him on it and I hope he will get the yeas and nays so that there can be a vote on it.

Mr. President, I yield the floor.

Mr. SYMMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second on the request for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I rise to speak to the underlying amendment of Senator BENTSEN which adds $250,000 to the National Endowment of Democracy, for the benefit of the Nicaraguan opposition.

Mr. President, I know from firsthand experience of my visits to Nicaragua that the present state of the opposition in Nicaragua is indeed weak. For the past 8 years they have been deprived of the basic freedoms which any opposition organization in any country needs in order to function effectively. I believe it is abundantly clear that without United States or another nation's assistance in providing for the material needs of the opposition groups and a free press, there is no way they can make themselves a viable force in Nicaraguan society.

Mr. President, I have a profound admiration for the National Endowment for Democracy, its director and the people who are associated with it. I believe that the National Endowment for Democracy, despite attacks from both right and left, in this body and in the other body, has made enormous contributions to the furtherance of democracy throughout the world, whether it be in totalitarian right-wing countries or in Communist-dominated nations.

Mr. President, under the provisions of the Guatemala City accord, the Sandinistas must provide for freedom of expression by the democratic opposition. I might add that there is no requirement for the Sandinista government to provide the necessary equipment and materials for that opposition to be able to function as an effective body.

Mr. President, I have been to La Prensa in Managua. I visited with Mrs. Violetta Chammorro, one of the most courageous ladies I have known in my life. On the very day of the last visit, shortly before La Prensa was allowed to open, Mrs. Chammorro had just sold the last vehicle the paper owned because she had to pay for the employees who had been out of work but still on the payroll of La Prensa for the 15 months it was closed.

Mr. President, today La Prensa is delivering their newspapers by private automobile. The staff, once over 200 people, is now reduced to somewhere between 30 and 40. I think it is very clear that one cannot run an effective newspaper, no matter how zealous or dedicated one is, without the kind of material support that the amendment of my colleague from Texas would provide.

I also believe the amendment may serve to encourage other nations throughout the world to contribute to the democratic opposition and the free press in Nicaragua. Those organizations must be functioning by November 7, if peace and democracy are going to be given a chance in Nicaragua.

I express my appreciation to the Senator from Texas for this amendment. I hope it will receive the overwhelming support of this body. The people of Central America and Nicaragua need to know that we support their efforts at democracy and freedom, and that we are willing to support it with more than lip service. They need to know that we are willing to support their efforts with the funds necessary to make the opposition an effective voice for freedom and democracy in that unhappy land.

With that I yield the floor.

Mr. BENTSEN. Mr. President, I express my appreciation to the Senator from Arizona for his comments and great interest in trying to find a solution to the problem in Nicaragua where the democratic process will prevail and his feeling that this particular amendment will assist in that regard. All it does, obviously, is provide some funds to try to give them a chance to voice their views and get the populace to understand them and to interpret them. The Senator's support will be most helpful in the process.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER (Mr. PELL). The Senator from Connecticut.

Mr. DODD. I compliment my colleague from Arizona for his comments. Prior to his arrival on the floor, I tried to express, with the same degree of eloquence that he did, the same reasons why I support this amendment. I tell my good friend and colleague from Arizona what we also urge is for some of the people who are outside Nicaragua, who could make up this opposition, to come back to Nicaragua and take advantage of this amendment so they could be credible critics.

I rise, however, to raise some concerns about the amendment offered by my good friend from Idaho. I would like to make just a couple of observations with regard to this amendment if I could.

First of all, let me point out to my good friend from Idaho that this body, over the last several weeks on several different occasions, has expressed, through sense-of-the-Senate resolutions and a variety of other vehicles, but primarily sense-of-the-Senate resolutions, overwhelming support for propositions to condemn the present Government in Panama and what it is doing. In fact, the last resolution which I offered is the last sense-of-the-Senate resolution that I think we will consider. In fact, I would inform my colleague from Idaho that we are scheduling hearings on Panama prior to the consideration of the continuing resolution that will deal with the issue of sugar quotas, economic, and military support. One of my concerns would be, aside from the fact that I happen to oppose his amendment on substantive grounds, but putting aside my differences on substantive grounds, I suspect there are a lot of Members of this body who will have reasons leading them to prefer not to support this amendment. Therefore, you end up with the result, it seems to me, of a divided vote, having once had the Senate only a few weeks ago express its strong outrage about what is going on in Panama, you end up with a closely divided body on this proposition which could send just the wrong signal to the Noriega government at a time when we ought to be united, as we have been.

And I expressed some reservations earlier about some of the propositions because I felt we ought to proceed in an incremental way in dealing with Panama. But I, like many others, have given up on hoping they are going to make any significant changes without some significant action by this Government, our Government, not just the Congress, but the executive branch as well. If we have a vote on the Senator's amendment, we run the risk of wanting to lose the amendment or having such a narrow vote that that seems to me to be seen as a source of some solace to the very people we are trying to send a different message to.

So I urge my colleague from Idaho to consider withdrawing the amendment. We have a very good amendment that was offered by the Senator from Texas, one that I think we can have virtual unanimity, if not total unanimity, in this body on.

I think that is a very important message to be sending at this particular hour to Central America. To have coupled with that an amendment that is so divided, it seems to me, will detract from the effort by the Senator from Texas and others who are cosponsors of this amendment.

I am not suggesting not offering it as a freestanding one and debate it. But it seems to me we are joining issues here. I appreciate his argument on why they ought to be joined, but it seems to me that it complicates and confuses the particular issue.

I was not a Member of this body in 1978. The Senator from North Carolina was, and was deeply involved in those debates in the spring of 1978. I went back and took a look. Possibly my colleague from North Carolina can correct me if I am wrong. But what happened is that on March 16, 1978, a condition was offered by the Senator from Arizona, Senator DECONCINI. That condition was adopted overwhelmingly; 86 to 13 I believe was the vote on a motion to table. That language and the final vote was 75 yeas, 23 nays.

Let me read that language of the DeConcini condition because there was an action that occurred a few weeks later offered by the Senator from Tennessee, Senator Baker, the Senator from West Virginia, Senator BYRD, and the Senator from Arizona, Senator DECONCINI. The comparison of those two propositions, I think, will help to clarify that particular issues to some degree.

The proposition, the condition offered by the Senator from Arizona, on March 16, 1978, read as follows:

> Subject to the condition to be included in the instrument of ratification of the treaty to be exchanged with the Republic of Panama that notwithstanding the provisions of article V, or any other provision of the treaty, if the canal if closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary in accordance with the constitutional processes, including the use of military force in Panama, to reopen the canal or restore the operations of the canal as the case may be.

When that was adopted, there were tabling motions, and I gather, a vote up or down on it. There was quite a furor created inside Panama. Going back to try to re-create—my colleague will correct me if I am wrong—as a result of that furor in jeopardizing the treaties on April 18, 1978 Senators BYRD, Baker, DECONCINI, et al., and I gather additional cosponsors, offered a reservation. The first was a condition. This was a reservation. This reservation, offered on April 18, 1978, read as follows:

> Subject to the reservation, that pursuant to its adherence to the principal of nonintervention, any action taken by the United States of America in Panama in the exercise of its rights to assure the Panama Canal shall remain open, neutral, secure, and accessible pursuant to the provisions of this treaty, and the neutrality treaty, and the resolutions of advise and consent thereto shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible. It shall not have as its purpose nor to be interpreted as a right of intervention into the internal affairs of the Republic of Panama, or interference with its political independence or sovereign integrity.

On that there was a vote to table. The result was announced; there were 21 votes to table and 79 nays against tabling that reservation which was offered because of the problems created by the DeConcini condition offered March 16. And because it was a subsequent action, I gather and under an international law treaty, subsequent actions are given more weight.

So the reading of the DeConcini condition must be read in the context of the Byrd-Baker-DeConcini reservation which I think modifies that substantially.

Having said that, however, I would stongly urge, if I could, and I do not want to make a motion to table because my colleagues from Idaho may have additional remarks, as may my colleague from North Carolina. But I would implore them, in this particular case, aside from the question of having a vote on this and doing it at a subsequent time, let the amendment of the Senator from Texas stand, allow that matter to be dealt with, because I think it can be in this body, and then come back to this one if they wish and deal with it separately, in order to not complicate, confuse, or link those issues for the reasons I stated but particularly, I think it will send the wrong message which I think is the opposite intention of the Senator from Idaho.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair, the distinguished chairman of the Foreign Relations Committee. With the sparcity of the Senators present, he is doing double duty.

I appreciate the comments of the distinguished Senator from Connecticut. I think he has overlooked the fact that there were two treaties, and he has interchanged his observations with respect to the points that Senator SYMMS is trying to make with his amendment.

Let me read what Omar Torrijos said about the DeConcini condition, or reservation as it is called:

> The Republic of Panama declares that its political, independent territorial integrity and self-determination are guaranteed by the unshakable will of the Panamanian people. Therefore the Republic of Panama will reject in unity and with decisiveness

and firmness any attempt by any country to intervene in its internal or external affairs.

Very clearly the condition approved by a substantial majority of the Members of the Senate in 1978, was the condition that the Senate will vote to ratify provided the DeConcini condition or reservation is a part of the ratification process. It was not. I think that anybody reading the law and in reviewing international law will come to the inescapable conclusion that the ratification of the treaty is, under the circumstances created when Torrijos rejected out of hand the DeConcini reservation, Mr. President, that the ratification was invalid.

So the amendment of the Senator from Idaho in my judgment is very much in order.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. HELMS. I will yield the floor.

Mr. SYMMS. Mr. President, I seek the floor.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Idaho.

Mr. SYMMS. Mr. President, with reference to the comments from the distinguished Senator from Connecticut, and in talking with the distinguished Senator from Connecticut, and in talking with the distinguished manager of the bill and the Republican floor manager, I would be willing to set my amendment aside under the condition that it be set aside, voted on as a separate amendment to the bill without amendment and no further debate. I would be happy to do that at a time when the floor manager sets the vote.

Mr. PELL. So far as I am concerned, that would be fine. I cannot guarantee that nobody else would offer an amendment.

Mr. SYMMS. We will put it in the unanimous-consent agreement. What I would be proposing is that we ask unanimous consent to set my amendment as an amendment to the bill, with the yeas and nays ordered, and you could have a tabling motion if you wish to do so, but that there would be no further debate and no amendment to the Symms amendment.

Mr. PELL. That would be agreeable to me.

Mr. BENTSEN. I have no objection. My understanding is that we would proceed on my amendment.

Mr. SYMMS. I make that request.

Mr. DODD. Mr. President, reserving the right to object, as I understand it, the Senator from Idaho is proposing a unanimous-consent request that the Symms amendment would be set aside, but an amendment to the bill, as a freestanding proposition, not as an amendment in the second degree to the amendment of the Senator from Texas. We will deal with that as a separate issue, not in conjunction with the Bentsen amendment.

Mr. SYMMS. Right. But it would not be amendable.

Mr. DODD. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BENTSEN. Mr. President, as I understand the parliamentary situation, we now have the Bentsen amendment before us. I think we have had substantial debate on it. I am not sure if there is further comment to be made. I urge the adoption of the amendment.

Mr. PELL. Mr. President, I think the Bentsen amendment is an excellent one, and I recommend to my colleagues that is be adopted.

Mr. HELMS. Mr. President, I not only support the amendment, but also, I commend the distinghished Senator. We accept it on this side.

The PRESIDING OFFICER (Mr. FOWLER). Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. BENTSEN].

The amendment (No. 859) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 861

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 861:

At the end of the bill, add the following new section:

SEC. . INVITATION TO THE PRESIDENT OF ISRAEL FOR A STATE VISIT TO THE UNITED STATES.

(A) FINDINGS.—The Congress finds that—

(1) The President of Israel has never been invited to make a state visit to the United States;

(2) President Chaim Herzog is admired by Americans of all faiths, not least because of his courageous fight in the United Nations against General Assembly Resolution 3379, which equated Zionism with racism;

(B) POLICY.—It is the sense of the Congress that—

(1) The President of the United States should, at the earliest date possible, invite the President of Israel to make a state visit.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN] is recognized in support of his amendment.

Mr. MOYNIHAN. Mr. President, this is a simple sense-of-the-Senate resolution, but it addesses a matter which I think is long past due in our affairs. I also believe the President would welcome this counsel—if I may put it thus—from the Senate, and of course particularly from the Committee on Foreign Relations.

The State of Israel, now in its 40th year, has become well-known to our Nation. We have close relations of an extraordinary sort. We have a free-trade zone with Israel, such that our economies are essentially one, as indeed in so many other respects our policies are in harmony and our people are friends. The extent of that harmony and friendship is known to every Member of this body and need not be elaborated upon by me.

However, it remains an anamoly that while the Prime Ministers of Israel are frequent visitors to this country, the President of Israel, who is the head of the state, has never been invited in all the years since Israel's founding. At some level this constitutes a withholding of recognition, of legitimacy, of permanency with respect to that democratic nation.

As the distinguished Senator from North Carolina knows, the resolution adopted in 1975 in the General Assembly declaring Zionism to be a form of racism and racial discrimination was an attempt to delegitimize the State of Israel. Any such facist state is not a legitimate state under the United Nations system. The Soviets played an altogether despicable role in the vote by which this resolution was adopted, over the opposition of nearly every democratic nation on Earth—and many nations which were not so democratic, but which opposed the resolution out of sheer revulsion.

At that time, the Permanent Representative of Israel to the United Nations was Chaim Herzog, the current President. Mr. Herzog is an Irishman of some considerable distinction, having been born in Belfast. His father was an eminent rabbi, the chief rabbi of Ireland and later the first chief rabbi of the State of Israel. During the Second World War, he distinguished himself with valor in endless engagements as a member of the Guards Armored Regiment and earned military decorations of the most notable kind.

It was he who rose in that occasion—where I was present and will not forget—and observed that the resolution was being adopted on November 10, 1975, the exact anniversary of "Kristallnacht," that infamous occasion on which the Nazi regime sent mobs in the streets throughout Germany to destroy Jewish shops and Jewish homes. He made a most eloquent speech in opposition. Our opposition, of course, failed.

He has since become President, a democratically-elected President, and was the architect of the present arrangement whereby the two major coalitions share power, and the government has gone forward such as it has done.

There is a discussion abroad of an international conference on the

Middle East. The leader of one party, the present Foreign Minister, Mr. Peres, has advocated such a conference, the leader of the other party, Mr. Shamir, is opposed. The United States seems to alternate between one view and the other. It seems to me that if there is to be some conference or if there is to be none, the interests of the United States would be served well if, by a simple invitation, the President of Israel could visit our country, and we would establish beyond any question our acceptance of the permanency of that state and the legitimacy of its democratic arrangements.

That is the sole purpose for which I rise, Mr. President, and I hope this amendment will be accepted.

The **PRESIDING OFFICER.** The Senator from North Carolina.

Mr. **HELMS.** Mr. President, I support the amendment personally, and I know of no Senator on this side who has any question.

I say to the distinguished Senator from New York, my good friend, that if the President is going to entertain the President of Mozambique, certainly he could justify the President of Israel.

I support the amendment, and I suggest that we adopt it.

Mr. **PELL.** Mr. President, I join in support of this excellent amendment, and I trust that it will be adopted.

Mr. **MOYNIHAN.** Mr. President, I ask for the yeas and nays.

I withdraw the request.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from New York [Mr. MOYNIHAN].

The amendment (No. 861) was agreed to.

Mr. **MOYNIHAN.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **HELMS.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 853, AS MODIFIED

(Purpose: Calling for the immediate release of all the children detained under the state of emergency regulations in South Africa)

Ms. **MIKULSKI.** Mr. President, I have an amendment at the desk.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] for herself and Mr. FOWLER, proposes an amendment numbered 853, as modified.

Ms. **MIKULSKI.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. 517. POLICY TOWARD THE DETENTION OF CHILDREN IN SOUTH AFRICA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of South Africa under its system of apartheid repeatedly has detained black children without charge or trial, and has denied parental access to these children for extended periods of time;

(2) the detainees' parents' support committee of South Africa has compiled information estimating that more than 25,000 people were detained since June 12, 1986, under state of emergency regulations, and approximately 10,000 of these were children, including some as young as age 10;

(3) the Government of the Republic of South Africa has stated on numerous occasions that it has detained children without charge, and that on a certain day in December 1986, 256 children under the age of 16 were in detention; that on a certain day in February 1987, 281 children under the age of 15 were in detention; that on a certain day in April 1987, 1,424 children under the age of 18 were in detention; and that on a certain day in May 1987, 280 children under the age of 16 were in detention; and that as of June 2, stated that eleven children under the age of 16 were in detention; and as of October 69 children under the age of 18 are still in detention; and

(4) human righs groups in South Africa estimate that many more children have been detained under state of emergency regulations than the Government of the Republic of South Africa admits;

(5) the state of emergency regulations allow for the detention of individuals without charge for an indefinite period of time; and

(6) the United States Ambassador to South Africa Edward J. Perkins has stated that such detentions are "a most serious abuse of human rights, particularly so where detainees are children as young as 11".

(b) POLICY.—The Senate hereby—

(1) calls for the cessation of the practice of detaining children under 18 years of age without charge or trial in South Africa;

(2) calls for the South African government either to release all children in South Africa under state of emergency regulations and other laws which authorize detention without charge or trial or charge them and allow them their rights of a fair and public trial; and

(3) pending the release of the children, calls on the Government of the Republic of South Africa to—

(A) permit the detained children immediate and frequent access to parents and legal counsel:

(B) make public the names and locations of all the detained children;

(C) provide the detained children with adequate food, clothing, and protection; and

(D) permit a recognized, independent, and impartial international humanitarian organization to verify that the provisions of this section are being carried out and that the detained children are not being abused, tortured, held in solitary confinement, and are not being held in detention in the company of adults.

(4) calls for the apprehension and trial of all those individuals who execute children by violent activities, including necklacing, and the cessation of these activities.

Mr. **SYMMS.** Mr. President, what is the parliamentary situation?

The **PRESIDING OFFICER.** Is there an objection to terminating the reading of the amendment?

Mr. **SYMMS.** I just make a parliamentary inquiry. I do not object.

The **PRESIDING OFFICER.** The Senator will state it.

Mr. **SYMMS.** What is the parliamentary situation? Where is the Symms amendment?

The **PRESIDING OFFICER.** The amendment of the Senator from Idaho has been set aside.

Mr. **SYMMS.** I thank the Chair.

The **PRESIDING OFFICER.** The Senator from Maryland is recognized in support of her amendment.

Mr. **HELMS.** If the able Senator will yield to me for just 1 second, it is true with the unanimous consent having been agreed to the amendment of the Senator from Idaho will be pending anytime we call for the regular order, is that correct?

The **PRESIDING OFFICER.** The Senator from North Carolina is correct.

Mr. **HELMS.** I thank the Chair and I thank the Senator from Maryland.

Ms. **MIKULSKI.** I am happy to cooperate.

Mr. President, my amendment deals with the policy toward the detention of children in South Africa. It is a simple and a straightforward one. It is sense-of-the-Senate language calling for the cessation of the practice of detaining children under 18 years of age without charge or trial in South Africa. It calls for the South African Government either to release all the children in South Africa under the state of emergency regulations and other laws or charge them and allow them the right to a fair and public trial.

Pending the release of the children, it calls for the Government of South Africa to permit frequent access by parents of the detained children and frequent access by legal counsel. It also calls on the South African Government to make public the names and locations of the detained children; provide the detained children with adequate food and clothing and protection; and permits a recognized independent impartial international humanitarian organization to verify that these provisions are being carried out and that the detained children are not being abused, tortured or held in solitary confinement and are not being held in detention in the company of adults.

It calls for the apprehension and trial of all of those individuals who execute children by violent activities, including necklacing, and calls for the cessation of those activities.

Mr. President, this is an amendment that I worked on long and hard. I have enjoyed the cooperation of the distinguished chairman of the Foreign Relations Committee, and I must say that the distinguished Senator from North Carolina has suggested refinements and improvements within the resolution which I am happy to accept.

There has been a great deal of discussion nationwide as well as in the international community about the detention of children. The apartheid regime of South Africa has detained children under a state of emergency. There is a debate on the exact number, but whether it is 2, 200, or 2,000 children who are to be detained they should have the right of counsel and the right to visit their parents. An international agency should be allowed to monitor their safety and protection.

We may not know how many children are detained. What we do know is that the children that have been denied their civil rights, their human rights, and in many cases they have been tortured.

This amendment calls upon the South African Government to immediately release all the children detained in that country without charge or trial. It also calls for the cessation of the practice of detaining children in South Africa.

The practice speaks for itself. It stands in direct conflict with the rule of law every other nation embraces.

The South African Government acknowledged last December that over 250 children were being detained without charge or trial. The Government has continued to detain children without charge—by its own admission—throughout this past year.

The Detainees' Parents Support Committee and other human rights groups in South Africa say the numbers of detained children have been substantially larger—more than 10,000 over the past 18 months.

But the numbers should not be the focus of the Congress' reaction to this horror. It does not matter whether 2,000 or 200 or even 2 children are in detention. What matters is that the detentions should stop.

These are not just teenagers. Eleven- and twelve-year-old children have been detained.

The apartheid regime of South Africa wants these children to be invisible. Parents of the detained are not told of their children's whereabouts. If mothers and fathers do find out where their children are being held, they have extremely limited access to their children.

What we do know, from the children who have been released and also from human rights activist groups, is that children are being tortured and abused. In June the Lawyers Committee for Civil Rights held a symposium here in Washington about the detained children in South Africa. Over two dozen Members of Congress heard testimony from those that had been detained. We heard from lawyers who worked for the children's release, doctors who told of children being abused, and many others. Their stories were gripping and poignant.

At a conference last month in Zimbabwe, children from South Africa told their story firsthand.

The International Commission of Jurists, a highly respected international organization, issued a report earlier this year condemning the treatment of the detained children. The report states that:

> Children are being subjected to widespread physical and psychological abuse.
>
> There appears to be a wide use of electric shocks and tear gas on detainees.
>
> Some children have been seriously injured and have died as a result.

For most Americans, these children have names we cannot pronounce and faces we cannot see, but they are real, they are in jail, and they are suffering. Even though they are missing, they are remembered. The world should simply not forget them.

This March I introduced Senate Resolution 176, which is virtually the same language before in this amendment. Senate Resolution 176 has 34 cosponsors from both parties.

As I said before, this resolution calls for the immediate release of all children who have been detained under state of emergency regulations in South Africa.

Pending the release of the children, this resolution requests the South African Government to take the following actions:

Permit parental access to the detained children;

Make public the names and locations of those detained;

Provide the children with adequate food, clothing and protection;

Permit an international organization to verify that the children are not being abused, tortured, held in solitary confinement, or held in the company of adult prisoners.

I have met with the current South African Ambassador and his predecessor. I have written letters to President Reagan and President Botha. I never received a reply from Pretoria.

If we cannot acknowledge in this world the safety and security of children, we cannot acknowledge the safety and security of anyone. I offer this amendment today to focus attention on this problem and hopefully turn the world's attention on it.

By passing this resolution, the Senate and the Congress will send a message to South Africa and to the world that children everywhere are special. They are the hope for the future.

I urge the adoption of this amendment, and I yield the floor.

The PRESIDING OFFICER. The Chair in his capacity as a Senator from the State of Georgia asks the Senator from Maryland to be a cosponsor of the amendment.

Ms. MIKULSKI. I am delighted to have the Senator as a cosponsor.

Mr. HELMS. Mr. President, obviously this resolution addresses a distressing situation in South Africa. I thoroughly agree with the Senator from Maryland that the issue of detained children strikes at the hearts of many, many Americans, including mine.

The sympathy of anybody who is caring and loving for children goes out to those parents whose children have been arrested and detained.

As originally drafted by the distinguished Senator from Maryland, the resolution, Senate Resolution 176, called for the immediate release of all the young people being detained. As the able Senator from Maryland has indicated, I discussed with her a concern that I had about the amendment which I will explain momentarily.

I raised the possibility that in some cases the arrests are probably entirely justified, regardless of age, because of serious criminal activity or complicity in serious crimes by young teenagers and some even younger than that.

Let me give you an example, Mr. President. The Associated Press recently filed the following report dealing with a 12-year-old and a 13-year-old who were part of a mob that participated in a necklacing atrocity. Necklacing is the practice of the African National Congress, the ANC, of taking automobile tires, hanging them around the necks of pathetic, innocent creatures in South Africa who happen to disagree with the ANC terrorists; those tires are then filled with gasoline and set afire, the most horrible kind of death for anybody, and in this case people who have dared to disagree with the African National Congress.

I ask unanimous consent that the text of the Associated Press story be printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

> JOHANNESBURG, SOUTH AFRICA.—The television shows a thin, young black woman, her clothes torn and aflame, stumbling in circles while a screaming mob pounds her with sticks and fists.
>
> When she finally crumples to the ground, a boy of about 13 dances over the body, kicking the dying women's head on every second beat.
>
> The dancing boy has never been identified. But a 12-year-old girl and another 13-year-old in the crowd have been charged with murder and are now on trial in Pretoria Supreme Court. Both have admitted that they kicked the woman and hit her with sticks.
>
> Maki Roseline Skosana was killed during a funeral July 20, 1985, in Duduza township, near Johannesburg, after someone in the crowd accused her of being a police informer. Her boyfriend was a policeman.
>
> A news videotape of her death was broadcast on national television the same day

> that President PW Botha declared a first, limited state of emergency to quell violence in black townships.
>
> Teen-age children were in the forefront of that violence, which sprang from black-majority grievances against the apartheid system of legalized race-segregation. An estimated 2,400 people died in the 1984-86 violence.

Mr. HELMS. I thank the Chair.

I quote first, two or three paragraphs from this story which I have just inserted in the RECORD for the benefit of Senators who may be listening in their offices. It is datelined Johannesburg, South Africa, and the story reads:

> The television shows a thin, young black woman, her clothes torn and aflame, stumbling in circles while a screaming mob pounds her with sticks and fists.
>
> When she finally crumples to the ground, a boy of about 13 dances over the body, kicking the dying women's head on every second beat.
>
> The dancing boy has never been identified. But a 12-year-old girl and another 13-year-old in the crowd have been charged with murder and are now on trial in Pretoria Supreme Court. Both have admitted that they kicked the woman and hit her with sticks.

Then the rest of the story is printed in the RECORD just before these comments.

The point is that you have to be careful when you are all inclusive about 12- and 13-year-old children, not to mention older teenagers, because that is a violent section of the world where some youngsters have been taught to practice what amounts to terrorism.

Mr. President, the Foreign Relations Committee has recognized that violence has been spread among the very young. The committee report accompanying the antiapartheid legislation of last year contained the following, and I quote:

> Radical young blacks, some as young as 11 years old, known as the "comrades" have contributed to the escalating level of violence, especially in the Cape Town and Port Elizabeth areas. In recent months, vigilante groups of older blacks, reportedly aided or tacitly supported by the government, have sprung up throughout the country. Clashes between these two groups have also contributed to the increasing violence . . . In addition to the generational battles between the comrades and the vigilantes, there have been violent clashes involving the United Democratic Front (UDF), Azanian People's Organization (AZAPO), Inkatha, and various minor black groupings over ideological, political, and tribal differences. . . .

Mr. President, in the interest of time, I am going to ask that an excerpt of Senate Report 99-370 to accompany S. 2701, setting U.S. policy toward apartheid, be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[Excerpt]

SETTING U.S. POLICY TOWARD APARTHEID

BACKGROUND

> The situation in South Africa has deteriorated steadily since the summer of 1984, when violence broke out in several black townships in response to rent increases, the existence of inferior educational facilities for blacks, and the constitutional reform which denied the black majority the right to participate in the newly structured parliament. At the heart of the turmoil is the apartheid system, which denied blacks the fundamental right to vote in the land of their birth. The South African Government responded to the violence and growing anti-apartheid protests with force. Since September 1984 some 2000 people, almost all black, have died as a result of political unrest. In 1985, 875 people died; according to South African police figures, 763 of these were killed by government security forces. During the state of emergency which was imposed by the government from July 1985—March 1986, an estimated 8,000 people were detained and about 900 were killed, the majority of these at the hands of government forces.
>
> Radical young blacks, some as young as 11 years old, known as the "comrades" have contributed to the escalating level of violence, especially in the Cape Town and Port Elizabeth areas. In recent months, vigilante groups of older blacks, reportedly aided or tacitly supported by the government, have sprung up throughout the country. Clashes between these two groups have also contributed to the increasing violence. For example, at last 30,000 people were left homeless and more than 40 were killed in 10 days of fighting in the Crossroads squatter complex outside Cape Town. In addition to the generational battles between the comrades and the vigilantes, there have been violent clashes involving the United Democratic Front (UDF), Azanian People's Organization (ASAPO), Inkatha, and various minor black groupings over ideological, political, and tribal differences. Of the 900 people killed this year, about a third is attributed to violence among blacks. Sporadic bombings generally attributed to the African National Congress (ANC), have increased. Confrontations have also erupted between government forces and members of the extreme segregationist Afrikander Resistance Movement.

Mr. HELMS. Mr. President, in those cases in which violence was perpetrated by these children, I do not think we want to call simply for their release. The longstanding practice of English law is that a person either should be charged with a crime or released.

The South African Government should follow the same course. To the extent they have failed to bring charges and institute procedures against the children, these children should be set free. Unfortunately, some of the children may, indeed, be guilty of a crime. In this country, we obviously follow a policy of dealing with juveniles in this same way. Truly a tragedy, but, nonetheless, a possibility.

In those cases in which substantial evidence is demonstrated, judicial proceedings may be warranted. Certainly, the children, and their parents, should have the expectation of being formally charged—or released—but not held in perpetual limbo.

Mr. President, I appreciate the change of the amendment to incorporate the concept that children in South Africa should be released or charged.

I also thank the Senator for her incorporation into the amendment of the last resolved clause which specifically includes reference to the horrible practice of necklacing—the brutal murder by fire of South African blacks by South African blacks.

While I am pleased that there has been some reduction in the number of necklace murders perpetrated in South Africa, any number is still excessive. I have called repeatedly for the leadership of the African National Congress to renounce such tactics, but they have not done so.

I am astounded that several news reports, including some captured on film footage, show conclusively that young children have participated in such gruesome murders. It is truly a tragedy, Mr. President.

Children are victims in many ways. Many children—of all races—are victims of the indiscriminate bombings that have occurred throughout South Africa as a result of the violence opening condoned and promoted by the African National Congress.

The CONGRESSIONAL RECORD does not print pictures, Mr. President, but I have seen pictures and videotapes of undescribable sadness portraying both the involvement of children in violence and the results of violence perpetrated against them. The pictures and the story they tell are heartbreaking.

Mr. President, it should be noted that the African National Congress itself has stated its intentions to use children in its violent protests in South Africa. The following excerpts from the research of the International Freedom Foundation, based here in Washington, DC, outlines the admitted strategies of the ANC in targetting children for inclusion in the ANC's overall revolutionary plan.

Mr. President, I ask unanimous consent that the following excerpts from the study be included at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, I was impressed and distressed by written testimony prepared for the hearings on South Africa conducted this spring by the Republican Study Committee, chaired by Congressman BURTON of Indiana.

Two of the witnesses represented both extremes of the necklacing situation—a former participant in a mob necklacing, and a minister who had narrowly escaped being necklaced.

Both note the role of young children, including the story of a former mob participant.

I ask unanimous consent that the testimony be printed at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

[Excerpts from "The Role of Youth in Revolutionary Warfare," by the International Freedom Foundation.]

I. CHILDREN IN THE FRONT LINE

The unique problems of South Africa, a multiracial society combining both first and third world cultures and values, have seldom received as much attention as in the past three years.

Amid sincere attempts at resolving genuine socioeconomic and political grievances and firmly committed to powersharing, the South African people are not only having to deal with evolutionary change, but a revolutionary attempt at power seizure.

This revolutionary alternative is often portrayed as amining to replace an unjust society with a just one and justification for revolutionary violence is based on the alleged unwillingness of the South African government to transform the country into a more just society.

Certainly, no fault can be found with the concept of creating a more equitable dispensation in South Africa. This process has already been put into motion. However, the motives, methods and aims of those who want to bring about the transformation of South African society in a revolutionary way are highly questionable.

The image portrayed and the promises made by those who trade in revolution are, in fact, far removed from the reality of the situation.

It is the aim of the African National Congress (ANC) to portray itself as a genuine national liberation movement fighting for freedom and democracy. A massive propaganda campaign combined with military actions and attempts to isolate South Africa internationally from the nucleus of ANC activities.

A clearly defined ANC strategy and primary element of their battle plan is to introduce the youth of South Africa into their so-called "people's war" and in doing so, place them at the forefront of the conflict.

ANC President Oliver Tambo, during an address in January commemorating the 75th anniversary of the founding of the ANC, said:

"For the battles ahead, the mass organizations of the youth must be strengthened from the base upwards, from local units to national structure. Of major importance is the need continuously to attend to the issue of raising the caliber of the leadership of the youth, to impart to them the skills that are necessary for them to carry out their task as shock troops of the revolution. To the youth, the young lions of our revolutionary struggle, we address a special word. Dear comrades, you who have paid such a high price to bring us to where we are today, have a responsibility to fight on with the same boldness, bravery and determination that you have shown.

"During the past year the enemy took fright at the progress we had made to destroy its political and administrative control of the people. It was especially worried at the level of unity we have achieved which enabled whole townships and villages to act as one cohesive force . . .

"We have to achieve the broadest possible political and organizational unity between the workers and the students, the women and the youth, the urban and rural masses, the old and the young . . .

"We must create the situation where the enemy will no longer have the possibility to withstand our assault . . .

"To celebrate it [the ANC's 75th anniversary] must mean that we mount the biggest assault against the Pretoria regime to bring nearer the victory of the cause of all progressive humanity, namely the liquidation of the crime of apartheid and the total liberation of our continent."

Calls by the ANC for the mass mobilization of the youth have intensified considerably since Tambo's 1985 address. With no regard to the well-being or safety of South Africa's youth, the ANC's Lusaka-based leadership has attempted to coerce children into the front lines of the ongoing conflict with the South African authorities, fully realizing that they may be injured or arrested.

However, there are other more subtle dangers which confront those youths who have chosen the revolutionary path.

A recent report published by two academics attached to the University of Cape Town warned that black children who committed acts of violence against "informers, collaborators or political opponents" could suffer permanent mental damage.

They cautioned that the loss of innocence flowing from these acts was a human tragedy, the full cost of which had yet to be counted.

Warning against the damaging effect that active participation in these barbaric actions may have on children, they said: "Their psyches run the risk of permanent damage; hence, the alarm expressed by some sectors of the South African public that we may come to face a Khmer Rouge situation in the country."

The Khmer Rouge were responsible for the Cambodian genocide of 1975-78, in which over 800,000 people were killed.

The use of children at the front lines of the revolution effectively reinforces the ANC propaganda, an integral part of their overall strategy.

Media outrage, spawned by South African security force actions against mobs of rampaging youths, only helps to serve the ANC's own revolutionary goals.

However, the ceaseless tide of revolutionary propaganda is not the only reason for the black youth's readiness to engage in violent acts.

The sociopolitical equation which has led to the rise of black emotions across the country is as complex as it is potentially combustible. Black tension has been fanned to fever pitch by poor living conditions and rampant unemployment, largely the result of burgeoning black urbanization.

In an attempt to crack the country's code of violence, South African academics have made public a range of startling facts which isolate some basic elements of the explosive alchemy of that enigmatic land.

Statistics for 1982 reveal the 66.9% of all children born in the townships are illegitimate. This indicates a steady crumbling of the stable family system among the black community.

The weak national economy (made even weaker by international divestment), has encouraged a major influx of blacks into urban areas, resulting in growing unemployment and poorer living conditions.

Taken together these factors have fueled increasing black violence in South Africa.

Sociologists note that South African blacks are in a state of social and political upheaval brought about by increased urbanization and Westernization. These two major influences have produced a destabilizing effect on black communities.

Traditional family authority in particular has been seriously affected by the transition. In the rural areas, radicalized children, inspired by a blend of revolutionary ideals and a naive grasp of black protest politics, have rejected the traditional order in favor of mob rule. These ideological shifts have often been followed by bloody purges of the tribal authorities during which village elders have been brutally murdered.

Retaliatory measures by the authorities attempting to restore law and order have, in past months, led to the large scale arrest and detention of radical youths.

According to the Progressive Federal Party's (PFP) monitoring committee and the Detainee Parents Support Committee, at one stage 6,000 children under the age of 18 were in detention under the terms of South African emergency regulations.

Several bodies and committees, among the United Democratic Fund's Campaign for National United Action, have appealed to the government to release these young people.

An urgent application calling for the release of detainees arrested under the emergency regulations was submitted to the South African Supreme Court by the PFP (the former official opposition party in the South African parliament) and the chairman of its federal executive, Ken Andrew.

The application strongly condemned the government's actions in detaining young children.

Replying in an affidavit, General Johan Coetzee, then commissioner of the South African Police, referred to the "broad background of the emergency regulations in which black youths were engaged in acts of violence, destruction of property, and the murders of security forces and fellow blacks branded as 'sell outs,' police informers or collaborators with the government."

He also referred to the actions of youth gangs (known as comrades) engaged in enforcing the decisions of radical elements. He claimed the detentions were necessary in the light of these developments.

The call on the government to release children in detention was joined by the PFP's parliamentary spokesman on law and order, Mrs. Helen Suzman, who said, "The detention of children is wrong and nobody should be detained without trial."

At the heart of the South African government's dilemma in being forced to jail minors during the state of emergency is the level of success achieved by militant left wing organizations in mobilizing the youth.

Although the ANC would like to claim responsibility for the violent uprising of black children, ongoing research has revealed that the organization has limited active control over their immediate actions.

Throughout the period of extended unrest in South Africa, the black townships have been haunted by the brutal reign of the comrades.

But who are these comrades who haphazardly heeded the ANC's call to make South Africa ungovernable?

John Hutchinson, a leading American authority on Africa, offered this description in an article published in National Review during the height of the unrest:

"The streets of the townships are now controlled by young gangs, a generation of 'Pol Pots' happy to indulge in savagery for vague or unstated political ends. The hooligans give the orders. They instruct black labor organizations when not to report for work. The ecstatic children attack buses and burn cars as an exhibition of authority; sometimes forcing adult shoppers to eat detergents or drink cooking oil as an act of respect or obedience.They also kill.

"The young blacks are running amok, out of patience and out of control, but serving the ends of the ANC, lying in the long grass in Lusaka waiting to destroy and commandeer."

A sinister insight into the violent world of young black revolutionaries is provided through the testimonies of young defendants in an ongoing series of court cases spawned by unrest-related violence. (See Appendix One)

In one case a 15 year-old-youth told the court that he had joined the Azanian Youth Organization (AZAYO) in 1986 after members of the organization had informed him that they would assault him if he refused.

All he knew about AZAYO was that it helped people in trouble and would "punish" the guilty party.

At one of the AZAYO meetings a member, known as Ndamba, said he and his group would help to chase members of the rival United Democratic Front (UDF) out of town. If anyone informed the police, he would be "necklaced," that is, burned to death by placing a gasoline-soaked tire around his neck and igniting it—the comrades' preferred method of execution.

Another member, Mpara, said all schoolchildren would help in the fight against the UDF and no black would be allowed to buy from a white shopkeeper. Delivery trucks from white traders entering the townships would be burnt out.

At another meeting it was suggested that all black policemen's homes and the houses of police informers be burnt. Buses should also be stoned and burnt.

The youth testified, "During 1986 I helped to distribute AZAYO pamphlets exhorting the people of Mothlakeng to stay away from work and schoolchildren to boycott classes."

The youth said he had been part of a gang of about 100 members, armed with hatchets, clubs, knives, horsewhips, bricks and firearms, who clashed with about 200 members of the UDF in Lembode Street, Mothlakeng in the early part of 1986, "We caught a member of the UDF and I fetched a tire after the man had been stabbed several times. He was still alive when the tire was placed around his neck. Petrol was poured over the man and set alight. The man screamed and collapsed. He burned to death!"

The youth said his friends pulled another UDF member from a bathroom at a nearby house and stabbed him in the back, chest, arm and stomach and bashed his head in with a rock. The man collapsed and a tire was placed on his body and set afire. While the man was burning the youths, all members of the AZAYO, sang songs including one that meant "we will burn all police informers."

A UDF leader's two story house was stoned, fire bombed and burnt. His truck and other vehicles was also burnt while the arsonists, watching the vehicles burning, sang songs. Homes of other UDF members were also burnt.

The youth and his friends found another UDF member in Mahapi Street. After horsewhipping him, stabbing him twice in the back, and four times in the stomach and head, they dragged him to a garbage dump where he was stoned, gasoline was poured over him and he was set afire.

Members of the AZAYO also enforced a consumer boycott in which blacks were not allowed to buy from whites. Blacks caught with goods bought from white supermarkets were horsewhipped and their groceries destroyed.

Schools were picketed by AZAYO members and pupils prevented from entering classes. Pupils who tried to attend classes were horsewhipped until they fled. Buses, trucks and cars belonging to white companies were also stoned and set afire.

A 14-year-old detainee told the court he had joined the comrades, who were engaged fire bombing the homes of black policemen, stoning and burning buses, horsewhipping "offenders" found guilty in "people's courts" and necklacing victims.

A 15-year-old detainee said he helped to enforce the consumer boycott and assaulted blacks found buying groceries from white supermarkets. He and his companions forced women to drink the fish oil they had bought and poured household detergents over their heads while smashing their groceries on the ground.

These comrades also stoned buses, firebombed the homes of black policemen and police informers, and took part in necklace murders.

He told the court, "I participated in the burning of Phillip Tiapane, a member of the UDF, sometime in May, 1986. Mzwakhe tied his hands and legs with a rope and Winter and me put a sack over his head while J.B., Kid and Mafloza placed two tires round his neck. I set the man on fire."

An 11-year-old girl told the court she had attended meetings of the comrades and had participated in consumer boycotts. She forced a woman to drink fish oil and also took part in burning vehicles.

She told the court, "We stoned a man until he fell. I poured petrol mixed with fish oil over him and Mamorena lit a match and set him alight while we were watching until he was burnt out completely before we went home."

II. PAWS OF THE STRUGGLE

The African National Congress (ANC) says of the youth of South Africa:

"The youth is an important section of the fighting forces in our struggle . . . . For the future of any revolutionary movement it is important to give particular attention to the development and participation of youth in the struggle for liberation."

At its 1985 conference at Kabwe, Zambia, the ANC recognized the potential of the country's youth organizations and hatched a sinister plan to infiltrate and eventually gain control of these movements. The internal commission report is explicit about the manipulation and use of the country's youth to help achieve ANC political objectives.

"The position that our youth has come to occupy in the mass democratic struggle in our country has made the task of organizing and educating the young even more important.

"Since the beginning of the decade there has been a mushrooming of youth organizations throughout the country.

"These organizations have been hampered in their development by the following factors:

"(i) Political and ideological differences through the influence of . . . Trotskyism/ultra-leftism etc. [This is one of the rare admissions by the ANC of problems caused by "ultra-leftists" (i.e. communists) in its ranks.]

"(ii) Lack of understanding of how to build a youth organization . . ."

The report goes on to recommend that an ANC core be established in all youth organizations "so as to be able to guide them."

In its frantic quest to mobilize more and more youth to the cause of the "struggle for liberation" the ANC does not lose sight of the potential of religious organizations. The ANC, whose executive is dominated by communist atheists, adds in its internal commission report:

"We need to educate the youth in religious and cultural organizations to translate their religious beliefs towards . . . greater involvement in the struggle for liberation. The culture of youth organizations should reflect our culture of resistance and struggle."

In their 1985 commission report, the ANC hints at a proposed national youth organization (NYO) and makes no effort at disguising the fact that it is the ANC which is masterminding its formation and which will ultimately be in control.

The report says, "This NYO, once it is formed, should be advised to affiliate to the United Democratic Front [the ANC's front organization inside South Africa—dominated by liberation theologians], but not for it to be a youth wing of the UDF."

This NYO finally took shape as the South African Youth Congress (SAYCO) in early April 1987.

Fiercely militant, the new group has as its slogan "Freedom or death; victory is certain." Its president, is long-time leftist radical Peter Mokaba, who has served one prison sentence for having undergone terrorist training and another for furthering the aims of the ANC.

He and his executive, most of whom have also clashed with the authorities for their terrorist activities, are uncompromising in their militancy and their dedication to the ANC.

SAYCO members are for the most part the so-called "comrades" of the townships whose barbaric ongoing practice of torching political opponents with gasoline and car tires (known as necklacing) has drawn worldwide condemnation.

They are the very same youths who, on the instruction of the ANC executive, pioneered the street committees in townships and who set up "people's courts" to "try" detractors, many of whom were sentenced to hideous death by fire merely because their religious beliefs precluded them from cooperating with the revolutionaries.

Notable amongst the first resolutions adopted at the founding conference for SAYCO was one demanding the immediate and unconditional release of ANC leader Nelson Mandela (jailed for life for terrorist activities) and the unbanning of the ANC.

The righteous outrage of organizations like TRANSAFRICA at the detention of youths in South Africa has to be seen in its true perspective before judgment can be made. Jurors must be in possession of information which is rarely provided by radical leftist organizations to overseas audiences.

Several facts must be understood:

(1) Youth in South Africa are being indiscriminately and immorally used by the forces of revolution to spearhead their onslaught on the existing order.

(2) The acts of wanton violence perpetrated by these youths has to be dealt with by

the authorities, who have a responsibility to maintain law an order and prevent anarchy.

(3) In any country in the world, the scale of wanton destruction and violence witnessed in South Africa in recent years would not be allowed to continue unchecked.

(4) The accepted form of action by authorities anywhere in this regard, irrespective of the age of the perpetrators, is arrest and detention pending prosecution. In South Africa this course was followed as meticulously as possible under the prevailing circumstances.

(5) At the beginning of June 1987, all youths in detention had been released—except for eleven, who will soon appear in court on serious charges, ranging from arson to murder.

Surely the pertinent question to be asked is: Who is fundamentally responsible for the actions of these children which has led to their detention?

The answer is undeniably the ANC/South African Communist Party (SACP) alliance and its front organizations and affiliates inside South Africa.

Executive members of the ANC and their spokemen have used every propaganda device available to them in the past few years to incite the youth to greater and greater heights of outrage and bloody violence.

"Burn the cars and the schools, burn everything down. Everything which belongs to the whites must be burnt down."—Winnie Mandela, 1976

"With our boxes of matches and our necklaces we shall liberate this country."—Winnie Mandela, April 13, 1986.

"Today even our eight-year-old children defiantly pit their strength against the might of the soldiers and police, the cream of our youth have begun to mobilize themselves into mass conflict groups."—Oliver Tambo, December 17, 1986.

"I want to remind you about the power you have . . . the weapon you are using, the necklace."—Winnie Mandela, May 1, 1987.

"The youth, for instance, in our country have been actually carrying out actions of the people's war. They have been clearing our township of collaborators, of the black bullies and black councilors."—Oliver Tambo, May 12, 1987.

"How we as youth, as young lions, as combatants in the people's army, as activists in the underground, how we can contribute to the collapse [revolution]."—Comrade Manala, May 20, 1987.

The harmful consequences of this type of incitement seem to be lost on the ANC and its vociferous supporters in the West.

Such is the temerity of the organization that the head of its women's section, Comrade Gertrude Shope, said in an interview on Radio Freedom, the official ANC station on December 9, 1986 that she was astounded at the youthfulness of the detained children who had to be "ripped from his or her parents to go and stay somewhere, first and foremost in a prison."

Yet, when the authorities heeded calls from genuinely concerned people about keeping children in prisons and moved some to well-appointed outdoor establishments while their cases were being reviewed, there were outraged accusations about "concentration camps and Hitlerite Germany."

Comrade Shope's fears about losing so many more lives in these facilities appeared groundless. Even impartial and left-wing politicians and newsmen who were given access to the facilities could not fault the standards maintained or the treatment of the children.

Critics were forced to fall back on accusations that the camps were being used to brainwash the children, but they were unable to produce one piece of evidence to substantiate these claims.

However one chooses to view the situation regarding the justification for detaining youths, the fact remains that in this instance the ANC/SACP alliance has painted itself into a corner. While the incitement of youth to engage in orgies of violence aimed at intimidating the masses of moderates in South Africa may have paid off to a limited degree at home, it has served to provide damning evidence of the real nature of the ANC internationally in the form of recorded news material of these youths in action.

To reiterate, on responsible government can or will allow a situation to develop which would inevitably lead to a complete breakdown of law and order, irrespective of the age of the perpetrators.

Tragically, in South Africa, it is the children who have become the unwitting pawns in a ruthless power game far beyond their comprehension. They have, in reality, become the expendable means to an end which envisages the tip of Africa eventually falling to the forces of revolution, and so, into the orbit of communist Russia.

EXHIBIT 2

SPECIAL REPUBLICAN STUDY COMMITTEE HEARING ON THE PLIGHT OF THE CHILDREN OF SOUTH AFRICA

Phangumuza Mntungwa, South Africa religious minister and "necklacing" survivor.

Salaminah Borephe, ANC youth wing organizer and participant in ANC violence.

SALAMINAH BOREPHE

1. In 1975 I joined SASO (South African Students Organisation), the student organisation which was operating at black schools, because they said that they would help get us better education. All their meetings were held through the Student Christian Movement at our school. After I had joined they told us that SASO was a branch of the ANC.

2. In 1976 we were fighting against Afrikaans at our schools, but we at Jordan High School were not doing Afrikaans. So we influenced other students from other schools. We assaulted our teachers and burned cars. When the police and school inspectors asked us why we were fighting because we did not do maths in Afrikaans we told them that we were fighting for our black brothers and sisters.

3. We used to hold meetings at school for the students. The easy way to get the students was through SCM (Students Christian Movement). We pretended to be having the service but infact we were told by our leaders about communism. After the services we sang freedom songs. At the meetings we tried to get other students to fight against Afrikaans too. Some of them said that they would rather be educated, and wanted to go to school. Because our leaders told us that we must burn the schools if the students wanted to go to school, we burnt down some of the schools in the area. Our leaders told us that white people had told them to tell us to burn down schools. Our leaders in SASO also told us that the communists would set us free from slavery.

4. In 1977 SASO was banned, and we looked for another organisation. We were told that SASO was banned because it told the truth.

5. In 1979 I joined COSAS (Congress of the South African Students). This was seen by the students as a continuation of SASO, and had the same leadership. We were told by our leaders in COSAS that COSAS was the youth wing of the ANC. Because Afrikaans was removed from the schools, but we saw nothing get better, we were told that we must continue the struggle.

6. In COSAS we were told how to make petrol bombs. We were told by the Church Ministers how good communism was, and they promised us a better education in other countries which are ruled by the communists. That was the thing which made me to join these organisations. The Anglican Ministers taught us in the Catholic churches how to make petrol bombs, and told us that the communists would kill the whites to set the blacks free. We were told that the communists were black people from central Africa, and they taught us that Samora Machel from Mozambique, and Dos Santos from Angola and Mugabe and Nkomo from Zimbabwe were heroes and would liberate us. Once they took us to a meeting in a large hall in Johannesburg where there were a lot of white people. There they explained what COSAS was, and told us how to make petrol bombs. We were not allowed to discuss things, but were given lectures. We were told that Mandela was our leader, and he was in jail because he fought for blacks.

7. There was much hatred planted in us towards the white people, but especially towards Afrikaans speaking people. We were told not to listen to the Afrikaans speaking people because they are liars.

In 1983 a COSAS meeting was called. When we arrived at church there were lots of weapons. The minister told us that the Russians had sent the weapons, and that the children from 16 to 18 must take a gun. The leaders took one first. They were all AK.47's. The guns that were left over were given to the COSAS members. The minister told us that they would teach us how to use the guns because everbody was asking. He told us that the guns were to kill white people, but we never killed white people, only blacks. He then told us that we must always try and get more guns, and that we must kill the policeman to get their guns.

8. In 1984 the residents of Lekoa were told by the community counsellors that the rent was to go up by R5.00. We members of COSAS and UDF were not pleased about the matter. We organised a leaders' meeting. We wanted to have the solution of this matter. Then the other Reverend of Anglican in Sharpville together with Reverend Marchemel and the other from Sebokeng Anglican were there with us as they were our leaders. They told us that all community counsellors must die on the 3rd September 1984, if they did not want to listen to the people. On Friday pamphlets were distributed where people were told that they must not go to work, and all schools should be closed, and all the shops. That was supposed to happen on Monday. But on Saturday the Community Counsellors also distributed their pamphlets saying to the people that they can go to work and to school. On Monday people were confused, some went to work and when they returned they were assaulted, others were even killed. Some of the residents who went to work were burnt with petrol.

On Sunday 2nd September there was a meeting of the residents at the Roman Catholic Church in Zone 12, Evanton and Sharpville. The ministers told the people to kill the community counsellors the following day because they did not want to listen to the residents. On Monday morning at about 5:30 am we were already at the streets stoning cars and buses. We told older people who wanted to go to work to return home. At about 8:00 am we went to the community counsellors' homes. The person we wanted more than others was the Mayor Mr. Mahlatsi. Firstly we went to Mr. C. Motshiane's home because he was the nearest of them all, at that time we were at Zone 11. At first when we arrived he was not there. Then we went to the Mayor's home and he escaped with a car, we tried to run after him but it was in vain. Then we found his new car in the yard. We started by smashing the windows of the house and of the car. After that we burned the whole house together with the new car. After that we went to the shop centre and we burned all the shops, but before burning we took all the things out of the shops and took them home. After burning the shops we sent some of the students to go to Mr. Motshiane's home and check if he's not yet back. They came quickly and told us that he was there. Then we went to his home. Before getting to his yard there were others coming from Evanton, Zone 3 and Zone 7. There was such a great number of them that one could not count. We waited for them and when they arrived we went together with them to Mr. Motshiane's house. He locked himself in the house together with one of his friends. The wife and children were not there. So the young boys climbed on top of the house to remove the roof. The others smashed the windows. The friend tried to escape. He went out of the house and tried to go to the street. The boys caught him and burned him with a petrol bomb. Mr. Motshiane also came out and was hacked by knifes and pangas. He died there in the street. Then we wanted to go to the Lekoa offices and burn them. But when we tried to go out of location we were confronted by the police. At that stage we saw that they are going to shoot us. I can say here that from that morning all we did we did it freely because there were no police inside the location. They were standing outside the location, others were moving with a helicopter above us. We ran away and went back to zone 12 to finish off the shops. The other three died this way. Mr. Dlamin was necklaced, in Sharpville. Mr. Diphoko was shot while running to the helicopter. The other one was also hacked by knifes and pangas. Two weeks after that there were no food in the locations. We had to buy brown bread at R1.50 a loaf and white bread R2.00 a loaf. While we were members of COSAS we were told that the town councillors were sell-outs, and must be killed. They always used the bible to tell us why we must murder the councillors. They would say that Mandela was like Moses, who had come to set us free. Because the police were outside the townships, we were told that they were scared to come into our areas because we were so strong. We were also told to kill the policemen. Some COSAS members had guns to do this. They told us that we must be prepared to die for the struggle.

9. These organisations use children of the age of 12 to 18. The children at these ages become easily influenced. We were told to burn the schools because they said communists will come and build better schools for the blacks. They said we must get rid of the white men. South Africa will then be called Azania. When I wanted to go to university, the leaders in COSAS were not happy, they said that we should wait and go to university in Moscow.

10. In October 1984 I got converted. I gave my life to the Lord Jesus. I went to the police to tell them about my case because it was then that I realised how bad I was. I went there expecting not to come back because I did what was against the law. I know that now I should be behind bars. But by the grace of God they did not lock me inside. I think the Lord say my heart that I really repented and cried over my sins. I think the Lord saw my heart and touched their hearts that they did not put me in jail.

Before I got coverted I used to have nightmares. I couldn't sleep at night. Every time I will see pictures of those people who were burning and hear them cry in my ears. I was so depressed I did not know what to do. It was after meeting with the Lord Jesus that it disappeared.

PHANGUMUSA MNTUNGWA

Right at the outset, I want to make it clear that I am no politician. I'm a person who preaches the gospel of peace. I've come to America to speak the truth—to report of what I've experienced in our country.

At the end of 1986 I was invited to Mamelodi near Pretoria to conduct a funeral. (The distance from my home to Mamelodi is ±600 km). Before I was given an opportunity to speak, some ministers and other people spoke. It was evident that the ministers were afraid to speak and were therefore careful in what they said as a group of young people and children had also gathered at the meeting. The other people that spoke were however now free to speak. Some of them sympathised with the destructive actions of the youth and excused them. There were many old as well as young people at the meeting.

Before I had left home I had prepared my sermon. My text was Revelation 22: 14-15. I realised that the atmosphere was very tense. I then stood up and asked whether I could speak as one who comes from far away and who does not know what things were like there. I said I would like to speak about God's word. According to the word in Revelation, I spoke about immorality, murder and alcoholism. As I spoke I noticed some policemen were also present and listening to what I was saying. I was happy that they were there because the people had been scared to speak the truth.

One of the speakers said it was not a crime to be afraid but that each one should take his child and take part in the war—"It is not a crime to be afraid but to fight and to die".

After I had spoken the ministers quoted me as having made certain statements but were not prepared to identify themselves openly with what I had said. One of them said they thank God who had sent us to conduct the funeral as no one in the area could have spoken as we did. He said had we been from Mamelodi our houses would have been burnt down and we would have been killed. They expressed their appreciation of us speaking the truth. From there we went to the cemetery where there were very many people as well as some policemen. Thereafter we were invited to another place to have something to eat.

Just before we were to leave a young girl came in and warned us that there was danger outside. She said we should not leave by the front door as a group of young people, who claimed to be COSATU members, were threatening to kill us. They were asking who had given me the authority to speak about immorality, murder and alcoholism. They said Bishop Tutu did not speak against these things. I then told them that I had only said that which is written in the bible. At the moment another person came in and told us that the mob was planning to "necklace" us and that they had already arrived with some tyres. I was told that by their standards I deserved to be necklaced because of my sermon. I then said to my companion that we should leave immediately. I prayed in my heart that God would help us. As the mob had already surrounded the house we had to make our way to the car. Fortunately they did not all recognize us and did not know which car we had come with. They gave us a chance to get to the car before many had noticed us. By God's grace we managed to get into the car even though, by this time, quite a few people had surrounded it. Prayerfully I started the car and made my way through the screaming mob, which was yelling "Kill them! Kill them!" Somehow we were able to get away. However, I was only able to get away with one other missionary. Our other passengers could not get away with us. I don't know what happened to them.

I see it more and more that the battle we are involved in is a struggle between light and darkness. I have direct contact with people living in the unrest area and they tell us that if anyone speaks against the unrest and riots they are immediately marked as "collaborators" and should be killed in the most painful way. One minister who was bold enough to speak out against the riots, was locked up in the boot of his car and which the car was set alight. The onlookers were shocked by the terror of the sight and the agony of his screams as he burned to death. The UDF and ANC play leading rolls in this violence. It is clear that these revolutionaries are set on destroying the work of the Lord Jesus Christ and that we, as preachers of the gospel, are no longer safe as we cannot justify their deeds and identify ourselves with them. Christian teachers are having a very hard time in the schools as well as other workers who are not prepared to associate themselves with the revolutionary activities.

On another occasion I was visiting some Christians in Natalspruit. At about 10:30 a.m. we were told that I could not . . . anywhere as the youth were demonstrating and all streets were to be closed. Fortunately, the police came on which I followed them through the crowds.

In my opinion, what is taking place seem to be a fight against righteousness. Even one of our fellow missionaries was shot at on his way home, just a few weeks ago. People are murdering each other as more and more people are issued with weapons.

Lenin said that they must use the ministers as they were usable idiots.

May I bring it to your attention that if you support these radical groups and organizations you are actually destroying the faith which you and your forefathers have helped to spread. You could become guilty of the blood of innocent people.

Mr. HELMS. Mr. President, I thank you very much and I yield the floor.

Obviously, I support the Senator's amendment.

The PRESIDING OFFICER. Is there any further debate?

Mr. SARBANES. Mr. President, I want to commend the able Senator from Maryland for offering this amendment. The problem of the detention of young children in South Africa without even bringing charges against them, or allowing them the right to a trial in those instances in which it is asserted that they may have committed serious offenses, is contrary to all established rules of justice.

Second, in many instances, they have simply swept up literally hundreds of young children, some at the ages of 10 or 11. They are being held without access to their parents or counsel; without their names or their location being made public; without any opportunity for humanitarian organizations to ascertain their condition.

I think the Senator is calling the attention of this body and the world to a very important problem. I commend her for offering this amendment and hope the Senate will adopt it.

Ms. MIKULSKI. I thank the Senator.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I think it is an excellent amendment. The Senator from Maryland is to be congratulated on it. It is a problem of which many of us are aware and have done nothing. At least this puts the Senate on record of what we think and where we stand, and I would suggest we pass the amendment.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Maryland, Ms. MIKULSKI.

The amendment (No. 853) was agreed to.

Ms. MIKULSKI. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 862

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 862.

At the end of the bill, add the following new section:

SEC. . ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF.

(a) FINDINGS.—The Congress finds that—

(1) According to Article 2 of the 1958 Geneva Convention on the High Seas, every state is entitled to exercise free and open use of the high seas for the navigation of its vessels;

(2) On September 22, 1987, US Navy forces discovered the Iranian ship Iran Air laying mines in international waters of the Persian Gulf, and fired upon that ship to help terminate the mining;

* * *

(4) On September 23, 1987, President Reagan declared that this US action was "authorized by law" and State Department spokeswoman Phyllis Oakley said that the US had the right under international law to use "reasonable and proportionate force" to terminate the mining.

(b) POLICY.—It is the sense of the Congress that—

(1) By mining the high seas of the Persian Gulf without notifying neutral nations engaged in maritime commerce, the Government of Iran violated international law;

(2) the use of force by the United States Navy to terminate that Iranian mining was justified under international law;

(3) international law offers a framework for such positive action, and fostering broader adherence to law promotes the security interests of the United States.

Mr. MOYNIHAN. Mr. President, I ask for a few moments of the Senate's time to explain this amendment and set forth in the RECORD the reasons for it, both as background and as an immediate issue that confronts our own country and the world.

Mr. President, what we are discussing here is the role of international law in the conduct of nations, a matter which was clearly understood by the framers of the Constitution. We refer to the law of nations. We speak of treaties as the supreme law of the land; and over the years, various tribunals have observed that international law is the law of the United States. Most importantly, the Supreme Court made just that observation in the celebrated case of Paquete Habana.

In that respect, there is no law that is better defined, or so I would think, than the law of the sea with respect to the indiscriminate laying of mines by any power, belligerent or otherwise. The Hague tribunals began to deal with this issues in the first decade of the century, after Japanese mines had been so effective in the attack on Port Arthur during the Russo-Japanese war.

I speak today not only in defense of our response to Iranian mining in the Persian Gulf, but to a matter which I have addressed on the floor over the past decade: the role of international law. I have said more than one time that ours is a Nation that once firmly and vigorously believed in a regime of law in the world, and that we seem somehow to have fallen away from the centrality of those beliefs.

Just the other day, the distinguished Senator from North Carolina was in a hearing of the Committee on Foreign Relations where we, for the first time in 30 years, were taking up two conventions of the International Labor Organization. That was the one organization of the League of Nations we did join, which had in mind the dissemination of labor standards in almost statutory form. The nations of the world were to conform to those standards much as the States and municipalities conform to Federal laws in our system. It was one of the great ironies of those years that of all the organizations of the League, we were least likely to join the ILO, which is the one we did join.

On the other hand, there was near unanimous belief in the Senate, among Presidents and among the leaders of the Bar Association that we had to join the World Court or the Permanent Court of International Justice, as it was then known. Not to be a member of the court was not to be a member of civilized society. President Harding, President Coolidge, President Hoover, and President Roosevelt all spoke to that point.

We never did join that court. However, we joined its successor after the founding of the United Nations.

What I have asked my fellow Senators, my fellow citizens, is that if we once believed in international law as firmly as we did, and we no longer do, then what does this renunication mean? What are the guidelines by which we now conduct our behavior? What do we consider international law to be?

We seem to view law as something that prevents you from doing things you may need to do. There is a very distinguished professor at the law school of the University of Virginia, Prof. John Norton Moore, who has been closely associated with the present administration on many issues.

He wrote an article in Foreign Affairs in January 1973, which said:

> International law is thought of as saying what cannot be done, solely as a system for restraining and controlling national actions. No one proposes to exclude military or political considerations from planning simply because they do not always determine policy. Yet, because of a misleading image of law as a system of negative restraint, we make such a judgment that it comes to law. In fact, the legal tradition can play a variety of important roles in planning and implementing national security decisions.[1]

The Iranian AJR presented a threat that merited such a reliance on law. According to the Washington Post of September 23, 1987, this Iranian vessel was observed laying mines about 50 miles northeast of Bahrain, well beyond the 12-mile limit of the territorial sea claimed by Iran.[2] Iran gave no notice of its mining on the high seas. In fact, Iran has repeatedly denied responsibility for laying the mines in the gulf.

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[1] Professor Moore describes those roles as including:

"Focus on the long run stability and quality of the international milieu; calculation of the costs and benefits resulting from violation of the law or compliance with it; focus on the range of international legal options for conflict management; concern with the appraisal and justifying national actions by reference to shared global interests; and supervision of the national interest in domestic operations that involve U.S. adherence to international agreements."

Moore, "Law and National Security," Foreign Affairs (Vol. 51, No. 2, January 1973), p. 415.

[2] The Iranian territorial sea claim was included in Ken Booth, "Law, Force and Diplomacy at Sea," (1985), Appendix, p. 217.

However, the distinguished Presiding Officer knows, the U.S. Navy tracked the vessel and was able, through infrared sensors, to observe mines being placed overboard.

Immediately after the ensuing military confrontation, Fred Hoffman, spokesman for the Department of Defense, characterized the laying of the mines as a "hostile act" and contended that the United States exercised its international right of self-defense in attacking the Iranian vessel.[3] A spokeswoman for the Department of State also justified the U.S. action in terms of the right of self-defense under international law, claiming that each State has the right to use "reasonable and proportionate force" necessary to terminate the threat.[4]

Other nations, even nations we do not normally find associating themselves with our views on international policy, recognized the legitimacy of these claims.

As we might expect, our good friend, British Prime Minister Margaret Thatcher, vigorously supported the U.S. action. She stated on September 22, that "if that ship was laying mines in an attack on innocent merchantmen—the merchantmen are entitled to expect the navies of the world to defend them." [5]

More surprisingly, our position was supported by the Chief of the General Staff of the Soviet Armed Forces, Marshal Sergei Akhromeyev. He said on September 23, that "if it were the case that the Iranians were laying mines, there would be no justification. It would be a violation of international law." [6]

Indeed, the Iranian mining violated every nation's right of free navigation. According to article Z of the 1958 Geneva Convention on the High Seas, every State is entitled to exercise free and open use of the high seas for the navigation of its vessels.[7]

In the "Restatement of the Foreign Relations Law of the United States," the American Law Institute describes the rule of international law that no State may interfere with the ships of another State on the high seas.[8]

In 1961, Capt. Robert D. Powers, who was then Deputy and Assistant Judge Advocate General, wrote in the Judge Advocate General's Journal that in spite of some uncertainty as to the scope of the right of belligerents to use mines, "[t]he only certain principle today is that open-sea mining cannot be employed indiscriminately in a fashion to interfere solely with commercial shipping and to deny neutrals the freedom of the sea." [9]

Mr. President, I emphasize that this was a statement in the Judge Advocate General's Journal in March 1961, almost three decades ago, to the effect that you cannot do what Iran has just done. That was our view and it was a view based entirely on conventional and traditional law.

The International Court of Justice ruled on related issues in the Corfu Channel case in 1949, a proceeding involving mines found in Albanian territorial waters. As I recall, a British destroyer hit a mine and sank, and the British took the issue to the court. The court found:

> The obligations incumbent on the Albanian authorities consisted in notifying, for the benefit of shipping in general, the existence of a minefield in Albanian territorial waters, and in warning the approaching British warships of the imminent danger to which the minefield exposed them. Such obligations are based . . . on certain general and well-recognized principles, namely: Elementary consideration of humanity, even more exacting in peace than in war, (and) the principle of freedom of maritime communication.[10]

I make it a point, Mr. President, that the court did not address itself to treaty law, but, rather, to well-recognized principles of international law. It also supports the use of force if necessary to prevent the coercive denial of our rights to freedom of the seas. The traditional formulation of the rule of self-defense arose as a result of the 1837 destruction by British agents of the *Caroline*, an American vessel, while that ship was in a New York port. The British agents believed the vessel to be part of a plot to invade Canada. It was destroyed. It was taken into the Niagara River, set free, and went over Niagara Falls. Daniel Webster was Secretary of State and did not view this event lightly. His correspondence with British Minister, Lord Ashburton summarized the common understanding as to the law of self-defense. Webster wrote that:

> [A] State may use force in violation of the sovereignty of another State in self-defense under circumstances in which the necessity of self-defense is instant, overwhelming, and leaving no choice of means, and no moment for deliberation.[11]

In Daniel Webster's view, that did not describe the situation of the *Caroline.*

But again, to conclude, Marjorie Whiteman's Digest of International Law of 1965 states that the force used in self-defense must respond to a present danger in proportion to the actual threat posed.[12]

It is clear that the U.S. action in the Persian Gulf was a proportionate response. Even if no "armed attack" occurred, Sir Claude Humphrey Meredith Waldock, after serving as counsel to the Government of the United Kingdom in the Corfu Channel case, wrote that the court's opinion in that case authorized a State to use force to prevent the coercive denial of the rights of that State by another.[13]

Of course, critics of the U.S. action can question these legal justifications. Alfred P. Rubin, the distinguished professor of international law at the Fletcher School of Law and Diplomacy, argues that Iran, as a belligerent in an ongoing war, has the right to utilize mines as part of its military operations. Consequently, the laying of mines is not an inherently hostile act. Professor Rubin also questions U.S. claims of self-defense as justification for military action. He argues that the U.S. attack was not a response to an "instant, overwhelming" armed attack directed specifically toward U.S. vessels or U.S. territory.

Critics might also challenge the seizure and the destruction of the Iran AJR. First, the force used must be limited to that necessary to terminate the offending action.[14] Second, international agreements strictly limit the circumstances under which the vessels of one State may be subject to interference or arrest by another State.[15]

Unfortunately, the strongest authority supporting the U.S. assertion of the illegality of the Iranian mining is to be found in a case in which the United States refused to participate. The 1986 opinion of the International Court of Justice in Nicaragua versus United States of America clarifies the law of mining on the high seas.[16]

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[3] Ibid.

[4] "U.S. Navy Seizes Iranian Mine Ship," Washington Post, September 23, 1987, p. A1.

[5] "Thatcher Supports U.S. Action," Washington Post, September 23, 1987, p. A27.

[6] "Soviets Urge Truce In Iran-Iraq War," Washington Post, September 24, 1987, p. A1, A32.

[7] Under article 1 of that convention, the high seas are defined as those waters outside of the territorial seas or contiguous zones of coastal States. Arts. 1-2, 1958 Geneva Convention on the High Seas, 17 U.S.T. 2312, T.I.A.S. No. 5200, 450 U.N.T.S. 82.

[8] American Law Institute, "Restatement of the Foreign Relations Law of the United States, (Ten. Draft No. 6, Volume 2, 1985), Sec. 522, p. 304.

[9] Powers, "International Law and Ocean Mining," XV Jag Journal 55-56 (1961).

[10] "The Corfu Channel Case," Merits, 1949 ICJ Rep. 4 (Judgment of April 9, 1949), p. 22.

[11] Correspondence during 1842 related to the destruction of The *Caroline*, 2 Moore, "Digest of International Law" 412 (1906).

[12] Correspondence during 1842 related to the destruction of the *Caroline, 2 Moore, Digest of International Law 412 (1906).*

[13] Fawcett, "Intervention in International Law, A Study of Some Recent Cases," 103 RECUEIL DES COURS (1961, vol. 11) 347, 361-363, 365-367, quoted in 12 Whiteman, Digest of International Law 44-47 (1965).

[14] See Fawcett, supra.

[15] See Louis B. Sohn and Kirsten Gustafson "The Law of the Sea," (1984), pp. 18-22.

[16] Waldock, "The Regulation of the Use of Force by Individual States in International Law", 81 Recueil des cours (1952, vol. 11) 455, 499-503 quoted in 12 Whiteman, Digest of International Law 53 (1965).

On April 9, 1984, Nicaragua filed a complaint in the International Court of Justice at The Hague, contending that the United States had violated international law through a series of military and paramilitary action against the Sandinista government. Those actions included the mining of the harbor of Corinto in Nicaragua. The Court entered a judgment on November 26, 1984, concluding that it had jurisdiction over Nicaragua's complaint. By a letter dated January 18, 1985, the United States informed the Court that it would "not to participate in any further proceedings in connection with this case . . ." [17]

Proceeding without U.S. participation, the Court entered a judgment on the merits of the case on June 27, 1986. By a vote of 12 to 3, the court found that the laying of mines violated the U.S. obligations not to use force, not to interfere in the affairs of another State and not to interrupt peaceful maritime commerce.[18] By a vote of 14 to 1, the Court found that the failure of the United States to give notice of the mines laid violated its obligations under customary law. Judge Schwebel, the judge of U.S. nationality sitting in the case, joined in that finding.[19]

The Court clarified the law relevant to the laying of mines on the high seas, stating that:

> If a State lays mines in any waters whatever in which vessels of another State have a right of access to passage, and fails to give any warning or notice whatsoever, in disregard of the security of peaceful shipping, it commits a breach of the principles of humanitarian law.[20]

The judgment of the Court in Nicaragua versus United States of America seriously weakens any argument that Iran's status as a belligerent gives it the right to indiscriminately lay mines on the high seas without giving notice to the vessels of neutral nations. It is ironic that an opinion resulting from a proceeding abandoned by the United States provides the best precedent justifying the United States response to Iranian mining in the Persian Gulf.

The United States should meet its critics directly, making arguments based on international law rather than rejecting or disregarding the relevance of that law. The United States should recognize and utilize the benefits available from consistent reliance on international law instead of opportunistically adopting or rejecting its principles as expediency would dictate.

Why did the United States refuse to participate in this case? Perhaps administration officials expected defeat. When the Court issued its ruling against the United States on June 27, 1986, State Department spokesman Charles E. Redman declared that:

> Today's opinion demonstrates what we have stated all along: The Court is simply not equipped to deal with a case of this nature involving complex facts and intelligence information.

Certainly, Senator Barry Goldwater judged the mining a clear violation of law.

On April 10, 1984, Senator Goldwater sent a letter to William J. Casey, then Director of Central Intelligence, criticizing the mining operation. He wrote that this mining "was a violation of international law. It is an act of war. For the life of me, I don't see how we are going to explain it." The Court's ruling, particularly on the issue of the mining itself, has validated Senator Goldwater's view.

But, the administration was also shortsighted, refusing to participate out of a denigration of the value of law. This refusal cost us an opportunity to bring Nicaragua's own illegal action to the attention of the Court. As I said on the floor of the Senate on May 10, 1984:

> I would have hoped that, in response to Nicaragua, the United States would have welcomed the opportunity to meet that Leninist regime in Court, that it might have invited its Central American neighbors to join us. We have a very great deal to talk about concerning Nicaragua's conduct toward its neighbors.

By withdrawing from the case and thereby facilitating a judgment against us, we also raised the likelihood that the Court will reach a judgment that the United States is obligated to pay compensation to Nicaragua. On September 16, 1987, the U.S. agents for the case were informed by the Court that they are "expected to hold themselves in readiness for a meeting with the President of the Court" to discuss such damages.

There is still another cost of our involvement in that mining: Our denigration of international law led ineluctably to the denigration of law at home. This process began shortly when the administration decided in July 1983, to mine Nicaraguan harbors, and also decided not to give notice of that operation to the Senate Select Committee on Intelligence. The Intelligence Oversight Act of 1980 requires the Director of Central Intelligence to keep the committee, and its House counterpart, "fully and currently informed of all intelligence activities" within the responsibility of the CIA, including any "significant anticipated intelligence activity." [21]

The Nicaraguan mining was a significant intelligence activity. As Senator Goldwater noted in a press statement of April 10, 1984, the Intelligence Authorization Act for fiscal year 1981 amended the Foreign Assistance Act of 1961 to make clear that "each operation conducted by or on behalf of the Central Intelligence Agency in a foreign country, other than activities intended solely for obtaining necessary intelligence, shall be a significant anticipated intelligence activity."

Although the mining began in January 1984, Senator Goldwater and I were not briefed on that action until April. The result was that Senator Goldwater ended up giving his colleagues misinformation on this vital matter. As Senator Goldwater wrote in his April 10, 1984, letter to Casey:

> During the important debate we had all last week and the week before on whether we could increase funds for the Nicaragua program . . . a member of the committee charged that the President has approved the mining. I strongly denied that because I had never heard of it. I found out the next day that the CIA had, with the written approval of the President, engaged in such mining.

Robert C. McFarlane, the President's advisor for National Security Affairs, disputed that account. At a conference at the Naval Academy on April 13, 1984, McFarlane said that "every important detail" of United States actions in Nicaragua—including the mining of Nicaragua harbors—was "shared in full by the proper Congressional oversight committees." In other words, he called Senator Goldwater a liar.

Senator Goldwater was on a trip to the Far East. As vice chairman of the committee, I did the only thing I thought appropriate: I said that I would resign in protest. On April 25, Mr. Casey sent a handwritten note of apology to Senator Goldwater, and—after Casey apologized in person the next day to the committee—I said I would stay. But the administration's failure to notify us of the mining, and the disregard for law it bespoke, did considerable harm to the relationship Senator Goldwater and I were trying to build between the Congress and the intelligence community.

The divisiveness of our debate today over policy in the gulf stems in part from this legacy of distrust and disregard for law. The dismissal of law as guidance for international affairs deprives us of one of the foundations upon which we could build a bipartisan foreign policy. That dismissal also frustrates our efforts to justify our chosen course of action in the international arena. I stated on May 23, 1985, at the American Bar Association Conference on Restoring Bipartisanship in Foreign Affairs:

> To the degree that law—is seen to be, and is, the basis of our international conduct, a bipartisan foreign policy does not require a party out of office to agree with policies of the party in power, but rather simply to

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[17] "Case Concerning Military and Paramilitary Activities In and Around Nicaragua (Nicaragua v. United States of America)" Merits, 1986 ICJ Rep. 14, 112 (Judgment of June 27).

[18] Ibid., p. 17, para. 10.

[19] Ibid., 147.

[20] Ibid., 147-148.

[21] Section 501(A)(1) of the National Security Act of 1947.

agree to the principles of law on which those policies are based. The same principle applies to allied and nonaligned nations, who can far more readily support, or at least accept, American policies if our conduct is seen to be based on law that binds them as well as us.

The broad support evinced both at home and abroad for our recent response of the Iranian mining operation on the high seas is founded in part on agreement as to the principles of law involved. That support stands in contrast to the discord that was the consequence of our prior rejection of international law and the institutions designed to implement it. As President Eisenhower said on December 11, 1959: "It is better to lose a point now and then in an international tribunal, and gain a world in which everyone lives at peace under the rule of law."[22] As I said in Loyalties: "We have come to regard international law as a self-imposed constraint that puts us at a disadvantage in a lawless world."

Might I suggest today that recent actions in the Persian Gulf offer a different lesson: obey the law today—you might need it tomorrow.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I say to the Senator from New York that I do not know of any more credible way to express my support for this amendment than to ask him for the privilege of being a cosponsor of it.

Mr. MOYNIHAN. I should be most honored to do so.

Mr. HELMS. I say to the Senator it is almost identical to an amendment offered by his humble servant.

Mr. MOYNIHAN. The ranking member of our committee.

Mr. HELMS. On September 24 the Senate approved the Senator's proposal by a vote of 91 to 4, so I appreciate the Senator offering this amendment. I also appreciate his making me a cosponsor.

Mr. President, it is certainly cleared on this side.

The PRESIDING OFFICER. The question occurs on the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I, too, join in congratulating the Senator from New York on his amendment which should be accepted.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. The Senator from New York may want to examine the top of page 2 of his amendment. I believe he wants to modify the number to read "3" instead of "4."

Mr. MOYNIHAN. Oh, yes. Mr. President, I ask that the modification indicated by the distinguished Senator from North Carolina be in order.

The PRESIDING OFFICER. The Senator has that right.

Mr. MOYNIHAN. I move adoption of the amendment if there is no further debate.

The PRESIDING OFFICER. Is there further debate?

If not, the question occurs on the amendment of the Senator from New York [Mr. MOYNIHAN].

The amendment (No. 862) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 863

Mr. PELL. Mr. President, I send an amendment to the desk and ask that it may be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 863.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 9, after "section." insert the following:

"(d) In any fiscal year, if the amount to be paid to all former spouses, as computed under this section, exceeds the appropriated funds available for such payment, then the amount to be paid to each person pursuant to this section shall be reduced on a pro rata basis to such extent that the total payments do not exceed the appropriated funds available for payment to all spouses."

On page 27, line 12, after 'chapter.".' insert the following:

"(e) In any fiscal year, if the amount to be paid to all former spouses, as computed under this section, exceeds the appropriated funds available for such payment, then the amount to be paid to each person pursuant to this section shall be reduced on a pro rata basis to such extent that the total payments do not exceed the appropriated funds available for payment to all spouses."

Mr. PELL. Mr. President, this is a technical amendment that has been cleared on both sides. Section 117 of the bill is subject to a potential point of order as creating an entitlement. This was not the intent of the sponsors and this technical amendment corrects the problem.

Basically, if left as it is, we would have an entitlement that exceeded the appropriation and that obviously is subject to a point of order.

Mr. HELMS. The Senator is correct. It is cleared on this side.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Rhode Island.

The amendment (No. 863) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I believe the bill is open to further amendment.

Mr. PELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 864

Mr. COHEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine, Mr. COHEN, for himself and Mr. BOREN, Mr. MURKOWSKI, and Mr. METZENBAUM, proposes an amendment numbered 864.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At appropriate place in the bill, add the following section.

SEC. . EMPLOYMENT OF FOREIGN SERVICE NATIONALS.

(a) PROHIBITION ON EMPLOYMENT IN COMMUNIST COUNTRIES.—

(1) After September 30, 1989, no national of a communist country may be employed as a foreign national employee at United States diplomatic and consular missions in any country listed as a "communist country" in section 620(f) of the Foreign Assistance Act of 1961.

(2) Paragraph (1) does not apply with respect to any foreign national employee who is not permitted access to—

(A) United States Embassy or consulate grounds, vehicles, or buildings which are sited in the compound of the Embassy or consulate (including living quarters); and

(B) the residence, wherever located, of the chief of mission or the deputy chief of mission.

(b) TERMINATION OF BENEFITS FOR ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES.—

(1) The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post who the Secretary reasonably believes engaged in intelligence activities directed against the United States.

(2) The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if—

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[22] Ibid., p. 112, para. 215.

Quoted in Highet, "'You Can Run But You Can't Hide'—Reflections on the U.S. Position in the Nicaraguan Case," 27 Virginia Journal of International Law 551, 563 (1987).

(A) the Director of Central Intelligence requests such waiver, or

(B) the Secretary determines that such waiver is vital to the national security of the United States to do so and reports such waiver in advance to the appropriate committees of the Congress.

(c) Report to Congress.—Not later than 6 months after the date of enactment of this Act, the Secretary of State in consultation with the Director of Central Intelligence shall submit to the Congress a report discussing the advisability of employing foreign nationals at foreign service posts abroad, (including their access to automatic data processing systems and networks).

Mr. COHEN. Mr. President, I am pleased to offer this amendment to the Department of State authorization bill in the hopes of remedying the serious problems posed by the overwhelming numbers of Foreign Service nationals employed by our embassies in Communist countries.

This amendment would prohibit the employment of foreign service nationals in our diplomatic and consular missions in any country listed as a "Communist country" in section 620(F) of the Foreign Assistance Act of 1961. It would seek to terminate benefits for Foreign Service nationals engaged in hostile intelligence activities and require that the Secretary of State report to Congress on the advisability of employing foreign nationals at Foreign Service posts abroad, including their access to automatic data processing systems and networks. I would emphasize that the principal requirements of this amendment are all contained in H.R. 1777, and track the recommendations of the Senate Intelligence Committee report on Embassy security.

The Intelligence Committee has evidenced its concern about Embassy security on a number of occasions. I have taken a personal interest in attempting to ensure that the United States remains aware of the espionage threat posed by Soviet activities in the United States and by the activities of Foreign Service nationals and third country nationals employed in support positions in our embassies overseas.

In 1985, a committee review of reciprocity of treatment and equivalence in the size of the Soviet-bloc official presence here and the United States official presence in the Soviet Union and Eastern Europe resulted in a provision, contained in the fiscal year 1986 Intelligence Authorization Act, that the President report to certain leaders of Congress annually on disparities in size and treatment between United States and Soviet-bloc missions.

The 1985 and 1986 legislation which Senator Leahy and I introducted mandated equivalence in Soviet and United States diplomatic missions to the United Nations, and in Soviet Embassy and consular staffs here and those of the United States in the Soviet Union. In the process of achieving this equivalence, the Soviet Union was compelled to make sharp reductions in its presence in the United States, enabling the United States Government to significantly impair the activities of the KGB in New York and Washington, DC.

Mr. President, this sequence of events led ultimately to the expulsion of all Foreign Service nationals from their support positions in our Embassy in Moscow. While this development has caused our diplomatic service there some discomfort—and we are grateful to them for bearing this inconvenience gracefully—their absence has contributed to a more secure environment. It should be noted that in June 1985, a counterintelligence expert from the FBI testified before the Senate Intelligence Committee that the Soviets enjoyed significant espionage opportunities as a result of having over 200 Soviet nationals employed at our Moscow Embassy. We learned at that time of the discovery in 1984 that typewriters in our Moscow Embassy had been bugged, giving the Soviets access to some Embassy communications. More recently, there have been a number of cases in which Foreign Service nationals have compromised our operations—probably the most significant of which are the instances in which marine guards have fraternized with Soviet nationals employed by our Embassy.

The situation in our diplomatic missions in Eastern Europe is no less worrisome today than that of the Moscow mission prior to the reductions in Foreign Service nationals. The total number of Foreign Service nationals and third country nationals employed in our embassies in those Soviet-bloc countries averages roughly twice that of the official State Department presence, and in some cases the proportion is higher. For example, in Hungary, the official American presence numbers 51 and the number of Foreign Service and third country nationals is 129. In Poland, the proportion is 235 to 88. I ask unanimous consent that a table providing detailed information on these numbers be included at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

	State Department Americans	Other U.S. agency Americans	FSN/TCN (for State)	FSN/TCN (for other)	Contract FSN (mostly guards)	Contract Americans
Bulgaria	20	17	26	5	(1)	(1)
Czechoslovakia	26	19	41	8	23	2
East Germany	27	15	(1)	4	35	33
Hungary	28	23	46	10	73	8
Poland	52	36	106	29	100	(1)
Romania	33	25	38	21	41	1
Soviet Union:						
Leningrad	16	10	(1)	(1)	2	3
Moscow	102	89	(1)	(1)	(1)	42
Yugoslavia	51	58	104	82	202	7

(1) None.

Mr. COHEN. Mr. President, it will be argued by some that the absence of Foreign Service and third country nationals in our embassies in Communist countries will present us with serious fiscal problems in funding replacements to perform support services. May I point out that some of our most sensitive intelligence information and technologies which have been extraordinarily expensive to develop have been compromised in recent successful Soviet espionage operations. The improvements suggested by this measure are cheap by comparison. These recommendations, which are enumerated in the House bill, have received the strong endorsement of the Senate Intelligence Committee. I hope that this amendment will receive the same favorable consideration here today.

I ask unanimous consent to insert into the Record an article by Priscilla Witt which appeared in the April 1987 Washington Monthly. It is entitled "Do You Want Any More Secret Documents Put in the Safe, Mr. Ambassador?" "No, Ivan, That's All for Tonight."

There being no objection, the material was ordered to be printed in the Record, as follows:

"Do You Want Any More Secret Documents Put in the Safe, Mr. Ambassador?" "No, Ivan, That's All for Tonight."

(By Priscilla Witt)

It was the oldest trick in the book. A female Soviet agent seduced and then recruited U.S. Marine Sergeant Clayton J. Lonetree, a guard who served at the U.S. embassy in Moscow from 1984 to 1986. In one of the worst breaches of security in recent history, Lonetree gave KGB agents extremely damaging intelligence, including names and photos of U.S. agents and floor plans of the most sensitive parts of the embassy.

Like all marines in his assignment, Lonetree, who confessed in January, had been warned about such female agents, called "Swallows" in the trade. Marine guards at the embassy are barred from letting women enter their quarters and discouraged from having close contacts with the Soviets. But this swallow didn't have to hang out in some smoky Moscow clip joint for the chance to ensnare Lonetree. She only had to show up ever day for work as a translator at the American embassy. Like more than 260 other Soviets, she was a paid employee of the U.S. government.

Our Moscow embassy has not employed Soviet citizens since last fall's U.S.-Soviet tit-for-tat expulsion of diplomatic staff that began with the Walker family spying affair in 1985. But everywhere else non-U.S. citizens, or foreign service nationals (FSNs), outnumber Americans' alongside the 11,000 U.S. civilians working at our other embassies are 20,000 foreign nationals and probably at last that many "contract hires" and personal servants. The ratio is especially high in the Third World, where diplomats have learned to endure their "hardship" assignments by surrounding themselves with enough natives to do everything from translate to towel them dry. In Rwanda, for example, 15 to 20 Americans work out of a compound that employs 250 foreign nationals.

The State Department's Inman Commission Report on Embassy Security, issued two years ago in the wake of the Beirut embassy bombing, recognized that foreign nationals pose a security threat: "[I]t is a well-and long-known fact that there are security-related drawbacks to employing FSNs." Those drawbacks haven't moved the department to jettison its foreign workers, though; FSNs often occupy posts as guards, clerks, researchers, translators, secretaries, drivers, handymen, and personal assistants to diplomats. Diplomats argue they are worth the risk because locals are relatively cheap to employ, and can deal with local languages, customs, and bureaucracies more easily than Americans.

They're also pretty good at cooking and cleaning. Fact is, FSNs make possible the cushy lifestyle that the foreign service officer corps has long enjoyed. Among the recently expelled foreign nationals at the Moscow embassy, for example, were baby sitters and ballet teachers. So attached have our diplomats become to this foreign office featherbedding that, while the State Department insists on spending $4.4 billion to reinforce the perimeters of our embassies, very little is being done to guard against the swallows inside.

THE BARON'S MAIDS

The art of snooping for state secrets had been well perfected by the Congress of Vienna in 1814. As six kings, hundreds of nobles, and thousands more hangers-on flocked to the city to help create a post-Napoleonic Europe, thousands of Austrians put themselves at their government's disposal as collectors and purveyors of secrets. "That historic gathering provided unparalleled opportunities for the host government of Prince Metternich and his monarch, Emperor Francis, to employ local agents in a massive espionage operation to which many successors aspired," says Michael Mosettig, who has written about Metternich.

The Wild Bill Donovan of post-Napoleon Austria was Baron Hager, who built the largest secret service in Europe. Like any seasoned spook, he knew the key to obtaining diplomatic secrets was to infiltrate the housekeeper corps. By the time the diplomats checked into their hotels and palaces, the baron controlled all the maids and servants. While he provided the diplomats with endless amusements, the maids rummaged through their rooms in search of interesting scraps, according to Mosettig. The strategy didn't work on the British though, who, ever careful, burned their trash and hired their own maids.

The classic modern example of local-agent espionage is the Cicero case of World War II. During the war years, the neutrality of Turkey made it a hothouse of espionage and secrecy. It may not have made Hollywood, but in terms of intrigue, it was Casablanca times two. In the heat of plot and counterplot, the Allies nearly blew the cover off the secret D-day invasion at Normandy.

A key figure in the Allied operation was the British ambassador to Turkey, Sir Hughe Knatchbull-Hugesson. An experienced diplomat and close friend of British Foreign Minister Anthony Eden, Sir Hughe was briefed on all major Allied decisions. So, it turns out, was Eleysa Bazna, Sir Hughe's Turkish valet and guard, who doubled as a German spy.

Throughout 1943, Bazna, whose talents included being a skilled locksmith, removed and photographed key Allied documents Sir Hughe kept in his private safe. Many of the telegrams and documents Bazna, whose code name was Cicero, give the Nazis detailed Allied plans to mount a massive invasion through France. Much to Sir Hughe's—and the Allies'—relief, the Germans felt Bazna's information was too good to be true. In fact, the only reason the Germans weren't waiting for the Allies on the beaches of Normandy was that they couldn't confirm Bazna's information through another source.

America responded to the Cicero affair by opening itself up to more snooping. Flush with Marshall Plan funds, U.S. diplomats hired thousands of native employees, many of whom, though skilled, were desperately willing to take even the most routine and tedious assignments. Which, by and large, is what they got. After gauging the market, diplomats suddenly had lots of laundry to be picked up and meals to be catered. University-educated FSN's became especially useful. The careers of FSOs depend largely on the cables each sends back to Washington. Using educated foreign nationals to do the grunt work—translating local government documents, chasing down this or that statistic—foreign service officers could impress the home office with ever more elaborate, if not more valuable, cables.

Over the years, the State Department has insisted that, when they're not helping diplomats impress their bosses or busy flicking feather dusters, foreign nationals serve a vital function. Most countries, the argument goes, have their own idiosyncratic systems for all the small but crucial transactions of life—mail delivery, telephone systems, car repair, shipping, internal travel—as well as for such amenities as making theater reservations or finding a good doctor or dentist. The customs surrounding these services are presumed to be beyond the ability of Americans to fathom. Bob West, director of States' Office of Foreign Service Nationals, echoes the opinion of the vast majority of FSOs: "'Without foreign nationals in most places, we could just pack it in." Yet it's not as if we limit our use of foreign nationals to the most desolate and difficult parts of the world. At the U.S embassy in London, for instance, 284 Americans somehow need 364 FSNs to help them deal with the exotic mysteries of British culture.

Another explanation for hiring foreign nationals is that they are necessary because of the "generalist" policy that govern foreign service postings. Under this system, officers are transferred every two or four years, often to completely different parts of the world. Part of the motive behind this policy is sound: to combat clientitis, the dangerous tendency for foreign service officers to identify more closely with the client state's interests than with the United States'. Yet the result is that our diplomats are often embarrassingly unfamiliar with the language, history, and culture of the region to which they are assigned. Only one in ten foreign service officers stationed in Iran in 1978, for instance, was even minimally compentent in Farsi, the country's principle language. Which means according to Andrew Steigman, assistant dean of the School of Foreign Service at Georgetown University, that FSNs "provide continuity for the embassy . . . they are the institutional memory of the place."

There's no doubt that foreign nationals greatly help diplomats, especially in countries with bureaucracies like Russia's. Yet other countries seem to get along fine with the lot fewer than we do. The Japanese, for example, employ an average of one foreign national per Japanese diplomat—less than half the American ratio—while West Germany gets by with only one for every three Germans. Britain and France have a similarly modest number of foreign nationals, and the Soviets and the Chinese manage with virtually no foreign workers at all.

MESSAGES TO THE KREMLIN

On a quiet night not long ago, the American embassy in a small Third World country was the scene of an armed attack. A small squad of commandos climbed the wall surrounding the building and, knowing the electronic guard system, made their way undetected to the building's roof. There, after a few moments, they located hatches, unlocked by someone in advance, and entered the top floor. Easily disarming the warning system, the men entered the section of the embassy where political and intelligence activities are carried out.

The incident was not reported in any newspapers or State Department cables because the "commandos" were neither terrorists bent on planting bombs nor enemy intelligence agents stealing secrets and placing bugs. They were Americans, members of a crisis management team testing the embassy's security. But the team cracked the building's defense using information and assistance that could have been provided by FSN accomplices. A consultant to the team, experienced in crisis management, says, referring to the presence of FSNs, "It was like locking the front door and leaving the back door open."

This is nothing most U.S. diplomats don't already know. Particularly in communist and other authoritarian countries, it's almost a given that they're being spied on by their local workers. Foreign national spies are just another form of surveillance, like bugged walls and tapped phones, which westerners living in such countries learn to assume are always present. But that, according to diplomats, is the beauty of the system. They can get their shirts starched and at the same time keep an eye on the spies. Retiring ambassador to the U.S.S.R., Arthur Hartman, once joked that knowing his chauffeur was a KGB agent made it easy to send mesages to the Kremlin.

Diplomats adopt intricate precautionary measures to guard against spying. Daniel Southerland, Beijing correspondent for *The Washington Post,* describes one such routine at the U.S. embassy there: "The diplomat removed the ribbon from his typewriter, stepped over to his office safe and placed the ribbon inside for the night. . . . Had the diplomat forgotten to secure the ribbon for the night, an embassy guard would have been there later to tape a pink slip on his desk to remind him of his error. Higher officials concerned with such matters would have followed that up with a harsh reprimand."

One problem with routines like these, of course, if that FSN spies, watching them carried out day after day, can figure out ways around them. In 1985, for instance, a congressional study of security at the U.S. embassy in Moscow turned up something no one expected: bugs inside typewriters in the building's most sensitive areas. These bugs would record and transmit whatever was typed. Moreover, they required frequent battery changes, which pointed to someone who had repeated access to the typewriters.

The State Department insists its thousands of FSN clerks, secretaries, receptionists, and researchers are kept far away from sensitive files and memos. But in the commotion of office life such segregation is hard to accomplish. This is especially true in peaceful, out-of-the-way posts where routines are informal—but through which sensitive information passes that may be crucial to security in hotter spots of the world.

New precautions are being taken. The vast building program now underway on American compounds includes creating separate work areas for intelligence and FSN-related functions. But such strict working arrangements are not flawless; they have been in effect at the embassy in Moscow for years, for instance, but that didn't prevent Sergeant Lonetree's libido from luring him into spilling secrets.

If anything, the possibility that classified information might be pilfered by foreign nationals has increased as organizations like the Defense Department and the CIA have moved their intelligence-gathering operations from low-profile field offices to fancy suites inside U.S. embassies.

Having foreign nationals around, even in the most menial jobs in unrestricted areas can blow an agent's cover. According to Moorehead Kennedy, former hostage and number two man at the Iranian embassy, a keen FSN/spy in the payroll office can notice that, month after month, the salary of a certain FSO doesn't include the standard insurance deduction, a dead giveaway the officer is with the CIA.

In his book, "Ayatollah in the Cathedral," Kennedy relates one of those narrowly averted screwups that makes one wonder how often similar ones aren't caught. Shortly before the embassy was taken over, a new CIA officer was added to the staff and assigned to the economics section. "Somewhat concerned," he writes, "I went to the CIA station chief to discuss what this newcomer's specific duties would be. Most of the economics staff, I pointed out, were locally recruited Iranian citizens of long tenure and experience who would be quick to spot anyone without a credible economic/commercial portfolio. Moreover, we had to assume that our local staff was under pressure to report to the revolutionary authories. This difficulty has not occurred to the station chief."

Low-level information can also be invaluable to terrorists. Since the mid-sixties, 70 American diplomats have been killed and hundreds injured in terrorist attacks. It's impossible to say how many of these attacks utilized information provided by agents inside embassies. But many of the diplomats victimized by terrorists were attacked on routes that must have been known to FSNs in advance.

Foreign nationals have also been suspected of taking more direct roles in terrorist incidents. In 1976, for instance, U.S. Ambassador to Lebanon Francis Meloy, Jr. was abducted from his car, which had inexplicably crossed the border into Moslem West Beirut, and shot. About the assassination, an ex-FSO who was a friend of the ambassador's, says, "We always thought the driver had something to do with it. If anyone knows your route and your habits, it's your local."

TROJAN HORSE OF SNOOPS

While locals can be a source of intuitive, genuine information about a country, our extensive use of them encourages U.S. diplomats to forgo learning the language or customs of the country to which they are assigned. More often than genuine disinformation, this diplomatic handicap results on benign, but equally harmful, forms of misinformation. In many cultures, particularly in Asia and Africa, it is essential politeness to tell the listener what he or she wants to hear. And of course, in all cultures it is simple wisdom to echo the opinions of a high American official, who has power over the employee.

When all other excuses fail, the foreign service establishment rationalizes its use of FSNs by hiding behind the bottom line. Foreign service nationals, it argues, are more cost-effective than American workers in similar jobs. Replacing the average FSN—whose salary is between $5,000 and $20,000—with an American, costs anywhere from $100,000 to $140,000. State Department officials point out that in some countries where unemployment, underemployment, and inflation are high—such as Egypt and Israel—the U.S. can hire an engineer or agronomist with a PhD for less than $20,000. An American equivalent, including transportation, housing, and training, would cost at least five times as much.

Some logic. The State Department is spending $4.4 billion to keep spies and terrorists out of U.S. diplomatic compounds, but because it "saves" money by hiring locals, it simply opens the newly fortified gates to a Trojan horse full of potential snoops. Worse, there are many new gates set to open. The department's Office of Foreign Buildings, which formerly averaged fewer than three new buildings a year, is now committed to between 30 and 40 a year. That means more construction in the next few years than in two preceding centuries of American diplomacy. While the bricks and mortor go up, the department is spending millions of dollars on increasing its force of foreign workers, a large percentage of whom are being put to work as, you guessed it, security guards.

Mr. COHEN. Mr. President, I think the amendment is fairly straightforward. It seeks to eliminate over a 2-year period of time foreign nationals who have access to our U.S. embassies, the compounds, access to the cars that are located on them, to the services provided within the compounds, and the residences of the Ambassadors and chiefs of mission.

It certainly is not a panacea for the amount of espionage carried on against the United States, but it will go a great distance, I think, in reducing the significant threat of espionage activity directed against the United States.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, events, recent and otherwise, certainly demonstrate that this Senator's amendment is not only a good one, but it is an essential one. Speaking for this side, we are willing to accept it.

Does the Senator desire yeas and nays on the amendment? I have accepted it for this side. The distinguished chairman is considering it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. PELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I have had a chance to examine this amendment and to ascertain what the effects of it would be on the administration.

As I understand it, the cost would be considerable, somewhere between $100 and $200 million, which are the figures I was given.

Second, when it comes to moving in this area and getting rid of local employees, I think we will find tremendous complications ensuing. I think we have to assume that in hostile countries or governments with hostile regimes, any of the local employees who are hired are not under the control of the U.S. Government but of their own government, which has put them very often in the way of the job. You have to assume that.

Working, as I have, behind the iron curtain, you assume that no matter how old and how trusted and how faithful the foreign service locals may appear, they are not trustworthy and are under the control of the local police, KGB, and so forth, and guard yourself accordingly.

Therefore, on balance, I think the amendment is not necessary and will cause tremendous complications in posts in hostile areas, and I oppose it.

I move to table the amendment.

Mr. HELMS. I ask for the yeas and nays.

Mr. COHEN. Mr. President, I would like to offer a couple of comments before the Senator from Rhode Island moves to table the amendment.

First, we should recall what happened when Secretary Shultz went to Moscow recently and, for all practical purposes, had to conduct our own negotiations—our own private sessions—in something of a glorified trailer, because he knew that our Embassy had been totally compromised. He assumed that everything had been compromised within our own Embassy there.

So, when you measure the question of cost, what is the amount that we are spending on intelligence gathering capabilities today? What is the cost of one weapons system? What is the cost of one system that has been compromised as a result of foreign nationals having substantial access to our embassies abroad? I suggest to the distinguished chairman that the cost of a compromise far exceeds anything that we would be required to pay Americans working in our own embassies.

I point out that China has no difficulty functioning in Moscow. They have no foreign nationals, nor any here that I am aware of. They function very well.

To the credit of our personnel in Moscow, as a result of the Soviets doing for us what we were unwilling to do for ourselves, we now are functioning rather well. The State Department personnel employed there are bearing up and are carrying out their responsibilities.

So costs should be a factor but not the predominant factor. If anything, the question of cost weighs in favor of excluding people who are there not to simply carry on. As the chairman said, they are employees. But they are more than employees. They are, in fact, spies, and they may not all be KGB intelligence agents. They may only be housekeepers and cleaning people. They may be chauffeurs. They may be mechanics. But each one of those individuals is designed to pick up some piece of information about our people who are working there—their marital problems, whether one of our people has a particular weakness, any point of vulnerability. Those individuals are there to collect that information to report to the police, as the chairman has said and to try to at least exploit those deficiencies or weaknesses on the part of our personnel or our buildings.

So, it is not simply a case of them being employees. At one time they were described as being loyal employees of the United States. The fact is that whether they are under pressure or whether they are trained to gather the information, they do in fact gather information which can be used to exploit the vulnerabilities of our personnel.

(Mr. GRAHAM assumed the chair.)

Mr. COHEN. I would like to reiterate that I think it is important that we not allow the continuation of a compromise of our embassies and our intelligence-gathering capabilities by employing foreign nationals, unless the Secretary can certify it is in our national security interest to do so.

I urge opposition to the motion to table.

Mr. SARBANES. Mr. President, will the Senator yield for a couple of questions?

The PRESIDING OFFICER. Does the Senator from Maine yield to the Senator from Maryland?

Mr. COHEN. Yes.

Mr. SARBANES. First of all, let me say I am sympathetic to what the Senator is trying to do. I want to just ask about the terms of the amendment itself.

As I understand it, under section (a)(1), after September 30, 1989, no such foreign national could be employed. Is that correct?

Mr. COHEN. Except with the exceptions of paragraph (2).

Mr. SARBANES. Whom would that cover?

Mr. COHEN. That is up to the Secretary. I do not know whom it will cover. I am trying to exclude the personnel within the compounds, within the residence of the chief of mission.

There may be people who are employed outside of the Embassy for translation purposes which I cannot anticipate at this point, but the basic idea is to keep foreign nationals out of our embassies.

Mr. SARBANES. It seems to me that paragraph (c), which calls for a report from the Secretary or the Director of the CIA, should be the first step in this process of ascertaining the advisability of such employment. This, of course, is what the Senator provides for in paragraph (c), as I understand it, requiring the report within 6 months. Yet at the same time the Senator is asking for the report to determine the advisability, in paragraph (a) he is making a definitive judgment about the advisability.

Mr. COHEN. Let me say that I have satisfied myself after having served on the Intelligence Committee since 1983 that it is not advisable to employ such foreign nationals. Nonetheless, I do not seek to impose my judgment in its most categorical form on my colleagues.

This amendment says that within 2 years foreign nationals will no longer be employed. During those 2 years, hopefully in the next 6 months called for in paragraph (c), the Secretary has an escape clause here. He can come up with a report that perhaps will overwhelm my own judgment that this is what we ought to do. But it provides an escape hatch for the Secretary to make that recommendation.

What I do not want is the Secretary giving us a study in 6 months after which we would come back and make a decision. I would like to say a decision has been made. We have stated in our report that it is not in our security interest to continue to employ foreign nationals—certainly in the numbers that have been employed—but, in my judgment, to employ them at all.

If the Secretary can persuade the Congress otherwise, he can come back within 6 months and do so.

Mr. SARBANES. Except the amendment does not deal with the number of foreign nationals employed. It precludes it all together.

Mr. COHEN. That is right.

Mr. SARBANES. I think the point the Senator was making earlier about the numbers is a valid point. The question is what the impact would be of totally precluding such employment. There is the difficulty in getting the sources to replace them, which of course is proving to be a problem right now at the Embassy in Moscow, although I think it should be done and I think they should be moving more quickly.

Now, this amendment would extend the prohibition to a number of other countries as well, as I understand it. This in effect is already taking place.

Mr. COHEN. It has taken place in the Moscow Embassy, not by virtue of our action but by virtue of the Soviet action. They are the ones who took all their employees out.

Mr. SARBANES. In retaliation for our cracking down on their numbers here.

Mr. COHEN. Right.

Mr. SARBANES. Now I believe the Senator extends this to a list of other countries. Does the Senator have the list of the countries?

Mr. COHEN. I can get the full list for the Senator. I pointed out several: All of the Eastern bloc countries. China would be included. It would include Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, all the Soviet Republics, those in Leningrad, Moscow, and Yugoslavia.

Mr. SARBANES. Yugoslavia?

Mr. COHEN. That is right.

Mr. SARBANES. Does the Senator know whether we have the language capacity to make that changeover?

Mr. COHEN. I think that the necessity will force some changes in terms of our language schools and the allocation of them, but that, by the way, would be covered under the amendment.

Mr. SARBANES. How?

Mr. COHEN. Under section (2) on page 2 the Secretary may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if (A) the Director of the Central Intelligence Agency requests it or (B) the Secretary determines it is in the national security interest to do so. He has to at least file a report.

Mr. SARBANES. That may be a way to address the problem, but I cannot envision any foreign national we would employ who would not have some access to the Embassy or consular grounds, vehicles, or buildings. They might have limited access, but this says that they must have no access whatever.

Mr. COHEN. Unless the Secretary submits a report, determines that the waiver is in the national security interest, and he reports that waiver in advance. That is all. In other words, he can make a determination.

Mr. SARBANES. Paragraph 1 does not apply with respect to any foreign national employee who is not permitted access.

Mr. COHEN. That is right.

Mr. SARBANES. It means you could not——

Mr. COHEN. You can employ foreign nationals who do not have access to the Embassy compound itself.

Mr. SARBANES. What kind of employment would that be? Employment of a foreign national by our Embassy almost by definition will require some access by the employee to the Embassy or consular grounds.

Mr. COHEN. Then that is covered under section (2) of the exceptions.

Mr. SARBANES. Vehicles or buildings. If that were the case, you could not have a waiver. Is it the Senator's intention that they should be able to give a waiver to such a person?

Mr. COHEN. They can give a waiver provided it is vital to our national security interest to do so and such waiver is reported to the Congress.

Mr. SARBANES. Where does it say that?

Mr. COHEN. On page 2, section (2)(B).

Mr. SARBANES. And is it the Senator's understanding that that waiver applies without regard to paragraph (2)?

Mr. COHEN. It does not apply.

Mr. SARBANES. Paragraph (a)(2)?

Mr. COHEN. The waiver applies to those who have access to the Embassy if the Secretary certifies it is in our national security interest to employ such people.

Mr. SARBANES. I think it would be helpful if the Senator would just outline what he envisions would happen in that case.

Mr. COHEN. Basically, the amendment establishes a policy of saying that there will be no more foreign national employees in our embassies within a 2-year period of time. On October 1, 1989, there will be no more foreign nationals employed in the Embassy.

The exception would be if they are not allowed access to the Embassy itself, living quarters of the Ambassador, or to the Chief of Mission, or Deputy Chief of Mission. There are several exceptions. The Secretary of State can waive the applicability of that prohibition if the Director of the CIA requests it or, second, if the Secretary determines that a waiver is required by national security interest and reports such waiver to the Congress.

So there are several escape clauses for the Secretary in the event he determines that it is imperative and compelling that there be such foregin national employed, even with access to the Embassy compound or the Embassy itself.

Mr. SARBANES. So the Secretary could have a report indicating that he wanted to waive the prohibition for a particular employee because the Director of Central Intelligence had requested it?

Mr. COHEN. Or because the Secretary determines that it is in the national security interest to do so. It is either one of those cases. In other words, the Director of the CIA may say, "Look, we need to have this. We don't have the language skills," or whatever the reason might be. We think, under the circumstances, this would be recommended. Or the Secretary of State, notwithstanding the position of the Director of Central Intelligence, might come to the conclusion that a compelling national interest requires us to employ these individuals under these circumstances. We would like to know about it in advance.

The amendment puts a burden upon the Secretary of State to come forward to show why we need to continue to employ foreign nationals in our Embassy, given the track record that we have established to date, and given the fact that they are there not only to help with housecleaning chores but, in fact, to gather information on or American citizens who are working there.

Mr. SARBANES. My final question is, Where do we assume the burden for the replacement?

Mr. COHEN. I am sorry?

Mr. SARBANES. Where do we assume, in your amendment, the burden to accomplish this replacement?

Mr. COHEN. I think the burden is imposed upon the State Department itself to pay for the additional cost.

Mr. SARBANES. Does your amendment provide for that?

Mr. COHEN. No, because there is no estimate we can firmly fix on this. I guess you can measure it against the kind of systems that have been compromised, and I think we come out a net winner in terms of the bottom line costs. But there are no legitimate estimates that I have received and, therefore, there has been no dollar figure included.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Mr. COHEN. Yes.

The PRESIDING OFFICER. The Senator from Maine yields the floor.

The Senator from Rhode Island.

Mr. PELL. Mr. President, reading the waiver provision pretty carefully, I would like to ask the Senator from Maine if the Secretary of State, if he chose to, could waive the prohibition, bearing in mind that in any event under present law the Secretary of State is trying to reduce the Foreign Service locals. But my question is, Does he have that power?

Mr. COHEN. The amendment specifically states that he may waive the applicability of section (A) on a case-by-case basis, provided he certifies that it is in our national security interests to do so and reports that in advance to the Congress.

Mr. PELL. Right. And if he felt it was advisable in a particular case, as long as he lists them?

Mr. COHEN. That is correct.

Mr. PELL. On that basis, recognizing the popularity of the Senator's amendment, and in view of the record that we have established, the legislative record, I would be inclined to recommend its acceptance by the Senate and would suggest we vote on it.

Mr. HELMS. Mr. President, I have already indicated the approval on this side.

The PRESIDING OFFICER. Is there any further debate?

Mr. COHEN. Mr. President, I ask unanimous consent that the request for a rollcall be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, the request for a rollcall is vitiated.

Is there any further debate?

Mr. SARBANES. Mr. President, could I just ask the Senator one question? It does not apply to a third-country national working for our Embassy in a Communist country, does it?

Mr. COHEN. It applies to all foreign nationals working in our embassies.

Mr. SARBANES. To nationals of a Communist country?

Mr. COHEN. In a Communist country.

Mr. SARBANES. That is right. But we could hire a NATO national, for example?

Mr. COHEN. Yes; that is correct.

Mr. SARBANES. It does not apply to that.

Mr. COHEN. No.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 864) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I just want to take a minute or so here if I can. I do not have an amendment to send to the desk. I do not know when it will come up again, but earlier we had a brief discussion on the amendment proposed by the Senator from Idaho, Senator SYMMS, which, by unanimous consent, will be brought up as a separate matter without any further amendment to it. It may be that this amendment will not be considered until later this afternoon, this evening, or tomorrow.

But I just wanted to take a couple of minutes, because I am sure it will be one that will provoke some debate, to bring to the attention of my colleagues the operative provision of the proposed amendment by the Senator from Idaho and a little bit of historical analysis, if I could.

The operative provision, the resolve clause, if you will, of the Senator from Idaho's amendment says that: "The Senate ought not to have consented to the ratification of the Panama Canal Treaties whereby the Panama Canal was given away and that such treaties"—this is the important language—"are voidable unless and until Panama formally accepts the DeConcini reservation and should be voided by the President if such acceptance is not forthcoming."

The assumption in the amendment, of course, is that the DeConcini reservation was not agreed to at the time the Panama Canal Treaties, in the plural, were signed and ratified.

I ask unanimous consent that the transcript of the specific treaties, both the United States instrument to the Panama Canal Treaty, and the Panamanian instrument to the Panama Canal Treaty, as well as the United States instrument for the neutrality treaty, be printed in the Record at this time.

There being no objection, the material was ordered to be printed in the Record, as follows:

Protocol of Exchange of Instruments of Ratification Regarding the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Panama Canal Treaty

The undersigned, Jimmy Carter, President of the United States of America, and Omar Torrijos Herrera, Head of Government of the Republic of Panama, in the exercise of their respective constitutional authorities, have met for the purpose of delivering to each other the instruments of ratification of their respective governments of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and of the Panama Canal Treaty (the "Treaties").

The respective instruments of ratification of the Treaties have been carefully compared and found to be in due form. Delivery of the respective instruments took place this day, it being understood and agreed by the United States of America and the Republic of Panama that, unless the Parties otherwise agree through an exchange of Notes in conformity with the resolution of the Senate of the United States of America of April 18, 1978, the exchange of the instruments of ratification shall be effective on April 1, 1979, and the date of the exchange of the instruments of ratification for the purposes of Article VIII of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and Article II of the Panama Canal Treaty shall therefore be April 1, 1979.

The ratifications by the Government of the United States of America of the Treaties recite in their entirety the amendments, conditions, reservations and understandings contained in the resolution of March 16, 1978, of the Senate of the United States of America advising and consenting to ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the reservations and understandings contained in the resolution of April 18, 1978, of the Senate of the United States of America advising and consenting to ratification of the Panama Canal Treaty.

Said amendments, conditions, reservations and understandings have been communicated by the Government of the United States of America to the Government of the Republic of Panama. Both governments agree that the Treaties, upon entry into force in accordance with their provisions, will be applied in accordance with the above-mentioned amendments, conditions, reservations and understandings.

Pursuant to the resolution of the Senate of the United States of America of March 16, 1978, the following text contained in the instrument of ratification of the United States of America of the Treaty * * * the Permanent Neutrality and Operation of the Panama Canal and agreed upon by both agreements is repeated herewith:

Nothing in the Treaty shall preclude the Republic of Panama and the United States of America from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces or the maintenance of defense sites after that date in the Republic of Panama that the Republic of Panama and the United States of America may deem necessary or appropriate.".

The Republic of Panama agrees to the exchange of the instruments of ratification of the Panama Canal Treaty and of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal on the understanding that there are positive rules of public international law contained in multilateral treaties to which both the Republic of Panama and the United States of America are Parties and which consequently both States are bound to implement in good faith, such as Article 1, paragraph 2 and Article 2, paragraph 4 of the Charter of the United Nations, and Articles 18 and 20 of the Charter of the Organization of American States.

It is also the understanding of the Republic of Panama that the actions which either Party may take in the exercise of its rights and the fulfillment of its duties in accordance with the aforesaid Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, including measures to reopen the Canal or to restore its normal operation, if it should be interrupted or obstructed, will be effected in a manner consistent with the principles of mutual respect and cooperation on which the new relationship established by those Treaties is based.

In witness thereof, the respective Plenipotentiaries have signed this Protocol of Exchange at Panama, in duplicate, in the English and Spanish languages on this sixteenth day of June, 1978, both texts being equally authentic.

For the United States of America:

Jimmy Carter.

For the Republic of Panama:

Omar Torrijos Herrera.

U.S. Instrument—Panama Canal Treaty

Jimmy Carter, President of the United States of America—

To all to whom these presents shall come, greeting:

Considering that:

The Panama Canal Treaty was signed at Washington on September 7, 1977; and

The Senate of the United States of America by its resolution of April 18, 1978, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Treaty, subject to the following:

(a) Reservations:

(1) Pursuant to its adherence to the principle of nonintervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of the Panama Canal Treaty, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the resolutions of ratification thereto, shall be only for the purpose of assuring that the Canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.

(2) The instruments of ratification of the Panama Canal Treaty to be exchanged by the United States of America and the Republic of Panama shall each include provisions whereby each Party agrees to waive its rights and release the other Party from its obligations under paragraph 2 of Article XII of the Treaty.

(3) Notwithstanding any provision of the Treaty, no funds may be drawn from the Treasury of the United States of America for payments under paragraph 4 of Article XIII without statutory authorization.

(4) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Treaty at the date of termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the duration of the Treaty, and nothing in such paragraph may be construed as obligating the United States of America to pay, after the date of the termination of the Treaty, any such unpaid balance which shall have accrued before such date.

(5) Exchange of the instruments of ratification of the Panama Canal Treaty and of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal shall not be effective earlier than March 31, 1979, and such Treaties shall not enter into force prior to October 1, 1979, unless legislation necessary to implement the provisions of the Panama Canal Treaty shall have been enacted by the Congress of the United States of America before March 31, 1979.

(6) After the date of entry into force of the Treaty, the Panama Canal Commission shall, unless otherwise provided by legislation enacted by the Congress of the United States of America, be obligated to reimburse the Treasury of the United States of America, as nearly as possible, for the interest cost of the funds or other assets directly invested in the Commission by the Government of the United States of America and for the interest cost of the funds or other assets directly invested in the predecessor Panama Canal Company by the Government of the United States of America and not reimbursed before the date of entry into force of the Treaty. Such reimbursement for such interest costs shall be made at a rate determined by the Secretary of the Treasury of the United States of America and at annual intervals to the extent earned, and if not earned, shall be made from subsequent earnings. For purposes of this reservation, the phrase "funds or other

assets directly invested" shall have the same meaning as the phrase "net direct investment" has under section 62 of title 2 of the Canal Zone Code.

(b) Understandings:

(1) Before the first day of the three-day period beginning on the date of entry into force of the Treaty and before each three-year period following thereafter, the two Parties shall agree upon the specific levels and quality of services, as are referred to in paragraph 5 of Article III of the Treaty, to be provided during the following three-year period and, except for the first three-year period, on the reimbursement to be made for the costs of such services, such services to be limited to such as are essential to the effective functioning of the Canal operating areas and the housing areas referred to in paragraph 5 of Article III. If payments made under paragraph 5 of Article III for the preceding three-year period, including the initial three-year period, exceed or are less than the actual costs to the Republic of Panama for supplying, during such period, the specific levels and quality of services agreed upon, then the Panama Canal Commission shall deduct from or add to the payment required to be made to the Republic of Panama for each of the following three years one-third of such excess or deficit, as the case may be. There shall be an independent and binding audit, conducted by an auditor mutually selected by both Parties, of any costs of services disputed by the two Parties pursuant to the reexamination of such costs provided for in this understanding.

(2) Nothing in paragraph 3, 4, or 5 of Article IV of the Treaty may be construed to limit either the provisions of the first paragraph of Article IV providing that each Party shall act, in accordance with its constitutional process, to meet danger threatening the security of the Panama Canal, or the provisions of paragraph 2 of Article IV providing that the United States of America shall have primary responsibility to protect and defend the Canal for the duration of the Treaty.

(3) Nothing in paragraph 4(c) of Article XIII of the Treaty shall be construed to limit the authority of the United States of America, through the United States Government agency called the Panama Canal Commission, to make such financial decisions and incur such expenses as are reasonable and necessary for the management, operation, and maintenance of the Panama Canal. In addition, toll rates established pursuant to paragraph 2(d) of Article III need not be set at levels designed to produce revenues to cover the payment to the Republic of Panama described in paragraph 4(c) of Article XIII.

(4) Any agreement concluded pursuant to paragraph 11 of Article IX of the Treaty with respect to the transfer of prisoners shall be concluded in accordance with the constitutional processes of both Parties.

(5) Nothing in the Treaty, in the Annex or Agreed Minute relating to the Treaty, or in any other agreement relating to the Treaty obligates the United States of America to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military education and training to the Republic of Panama.

(6) The President shall include all reservations and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification to be exchanged with the Government of the Republic of Panama.

Now, therefore, I, Jimmy Carter, President of the United States of America, ratify and confirm the Panama Canal Treaty, subject to the aforementioned reservations and understandings, and on behalf of the United States of America undertake to fulfill it faithfully. I further hereby waive, in the name of the United States of America, the rights of the United States of America under paragraph 2 of Article XII of the Panama Canal Treaty and release the Republic of Panama from its obligations under paragraph 2 of Article XII of the Panama Canal Treaty.

In testimony whereof, I have signed this instrument of ratification and caused the Seal of the United States of America to be affixed.

Done at the city of Washington, this 15th day of June in the year of our Lord one thousand nine hundred seventy-eight and of the independence of the United States of America the two hundred second.

By the President:

JIMMY CARTER.

Acting Secretary of State:

WARREN CHRISTOPHER.

PANAMANIAN INSTRUMENT—PANAMA CANAL TREATY

Whereas the Panama Canal Treaty was signed in Washington on September 7, 1977, by the authorized representatives of the Government of the Republic of Panama and of the Government of the United States of America;

Whereas the Republic of Panama, by means of the plebiscite stipulated by Article 274 of its Political Constitution, ratified the aforementioned Panama Canal Treaty;

Whereas the Senate of the United States of America gave its advice and consent to the ratification of the Panama Canal Treaty with the following understandings and reservations:

(a) Reservations:

(1) Pursuant to its adherence to the principle of non-intervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of the Panama Canal Treaty, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the resolutions of ratification thereto, shall be only for the purpose of assuring that the Canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.

(2) The instruments of ratification of the Panama Canal Treaty to be exchanged by the United States of America and the Republic of Panama shall each include provisions whereby each Party agrees to waive its rights and release the other Party from its obligations under paragraph 2 of Article XII of the Treaty.

(3) Notwithstanding any provision of the Treaty, no funds may be drawn from the Treasury of the United States of America for payments under paragraph 4 of Article XIII without statutory authorization.

(4) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Treaty at the date of termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the duration of the Treaty, and nothing in such paragraph may be construed as obligating the United States of America to pay, after date of the termination of the treaty, any such unpaid balance which shall have accrued before such date.

(5) Exchange of the instruments of ratification of the Panama Canal Treaty and of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal shall not be effective earlier than March 31, 1979, and such Treaties shall not enter into force prior to October 1, 1979, unless legislation necessary to implement the provisions of the Panama Canal Treaty shall have been enacted by the Congress of the United States of America before March 31, 1979.

(6) After the date of entry into force of the Treaty, the Panama Canal Commission shall unless otherwise provided by legislation enacted by the Congress of the United States of America, be obligated to reimburse the Treasury of the United States of America, as nearly as possible, for the interest cost of the funds or other assets directly invested in the Commission by the Government of the United States of America and for the interest cost of the funds or other assets directly invested in the predecessor Panama Canal Company by the Government of the United States of America and not reimbursed before the date of entry into force of the Treaty. Such reimbursement for such interest costs shall be made at a rate determined by the Secretary of the Treasury of the United States of America and at annual intervals to the extent earned, and if not earned, shall be made from subsequent earnings. For purposes of this reservation, the phrase "funds or other assets directly invested" shall have the same meaning as the phrase "net direct investment" has under section 62 of title 2 of the Canal Zone Code.

(b) Understandings:

(1) Before the first day of the three-year period beginning on the date of entry into force of the Treaty and before each three-year period following thereafter, the two Parties shall agree upon the specific levels and quality of services, as are referred to in paragraph 5 of Article III of the Treaty, to be provided during the following three-year period and, except for the first three-year period, on the reimbursement to be made for the costs of such services, such services to be limited to such as are essential to the effective functioning of the Canal operating areas and the housing areas referred to in paragraph 5 of Article III. If payments made under paragraph 5 of Article III for the preceding three-year period, including the initial three-year period, exceed or are less than the actual costs to the Republic of Panama for supplying, during such period, the specific levels and quality of services agreed upon, then the Panama Canal Commission shall deduct from or add to the payment required to be made to the Republic of Panama for each of the following three years one-third of such excess or deficit, as the case may be. There shall be an independent and binding audit, conducted by an auditor mutually selected by both parties, of any costs of services disputed by the two Parties pursuant to the reexamination of such costs provided for in this understanding.

(2) Nothing in paragraph 3, 4, or 5 of Article IV of the Treaty may be construed to limit either the provisions of the first paragraph of Article IV providing that each Party shall act, in accordance with its constitutional processes, to meet danger threatening the security of the Panama Canal, or the provision of paragraph 2 of Article IV providing that the United States of America

shall have primary responsibility to protect and defend the Canal for the duration of the Treaty.

(3) Nothing in paragraph 4(e) of Article XIII of the Treaty shall be construed to limit the authority of the United States of America, through the United States Government agency called the Panama Canal Commission, to make such financial decisions and incur such expenses as are reasonable and necessary for the management, operation, and maintenance of the Panama Canal. In addition, toll rates established pursuant to paragraph 2(d) of Article III need not be set at levels designed to produce revenues to cover the payment to the Republic of Panama described in paragraph 5(c) of Article XIII.

(4) Any agreement concluded pursuant to paragraph 11 of Article IX of the Treaty with respect to the transfer of prisoners shall be concluded in accordance with the constitutional processes of both Parties.

(5) Nothing in the Treaty, in the Annex or Agreed Minute relating to the Treaty, or in any other agreement relating to the Treaty obligates the United States of America to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military education and training to the Republic of Panama.

(6) The President shall include all reservations and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification to be exchanged with the Government of the Republic of Panama.

The Republic of Panama agrees to the exchange of the instruments of ratification of the Panama Canal Treaty on the understanding that there are positive rules of public international law contained in multilateral treaties to which both the Republic of Panama and the United States of America are parties and which consequently both States are bound to implement in good faith, such as Article 1, paragraph 2 and Article 2, paragraph 4 of the Charter of the United Nations and Articles 18 and 20 of the Charter of the Organization of American States.

It is also the understanding of the Republic of Panama that the actions which either Party may take in the exercise of its rights and the fulfillment of its duties in accordance with the aforesaid Panama Canal Treaty, including measures to reopen the Canal or to restore its normal operation, if it should be interrupted or obstructed, will be effected in a manner consistent with the principles of mutual respect and cooperation on which the new relationship established by that Treaty is based.

The Republic of Panama declares that its political independence, territorial integrity, and self-determination are guaranteed by the unshakeable will of the Panamanian people. Therefore, the Republic of Panama will reject, in unity and with decisiveness and firmness, any attempt by any country to intervene in its internal or external affairs.

The Head of Government of the Republic of Panama, availing himself of the powers granted by Article 277 of the Constitution, after having considered the aforementioned Panama Canal Treaty, hereby ratifies it and, in the name of the Republic of Panama, undertakes to comply with it faithfully. The Head of Government further hereby waives, in the name of the Republic of Panama, the rights of the Republic of Panama under paragraph 2 of Article XII of the Panama Canal Treaty and releases the United States of America from its obligations under paragraph 2 of Article XII of the Panama Canal Treaty.

In witness thereof, this instrument of ratification is signed by the Head of Government of the Republic of Panama.

Done at Panama City, Republic of Panama, this sixteenth day of June 1978.

OMAR TORRIJOS HERRERA.

U.S. INSTRUMENT—NEUTRALITY TREATY

Jimmy Carter, President of the United States of America

To all to whom these presents shall come, greeting:

Considering that:

The Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Neutrality Treaty) was signed at Washington on September 7, 1977; and

The Senate of the United States of America by its resolution of March 16, 1978, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Neutrality Treaty, subject to the following:

(a) Amendments:

(1) At the end of Article IV, insert the following:

"A correct and authoritative statement of certain rights and duties of the Parties under the foregoing is contained in the Statement of Understanding issued by the Government of the United States of America on October 14, 1977, and by the Government of the Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part of this Treaty, as follows:

"'Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

"'This does not mean, or shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.'."

(2) At the end of the first paragraph of Article VI, insert the following:

"In accordance with the statement of Understanding mentioned in Article IV above: 'The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly'."

(b) Conditions:

(1) Notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as each deems necessary, in accordance with its constitutional processes, including the use of military force in the Republic of Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

(2) The instruments of ratification of the Treaty shall be exchanged only upon the conclusion of a Protocol of Exchange, to be signed by authorized representatives of both Governments, which shall constitute an integral part of the Treaty documents and which shall include the following:

"Nothing in the Treaty shall preclude the Republic of Panama and the United States of America from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces or the maintenance of defense sites after that date in the Republic of Panama that the Republic of Panama and the United States of America may deem necessary or appropriate.".

(c) Reservations:

(1) Before the date of entry into force of the Treaty, the two Parties shall begin to negotiate for an agreement under which the American Battle Monuments Commission would, upon the date of entry into force of such agreement and thereafter, administer, free of all taxes and other charges and without compensation to the Republic of Panama and in accordance with the practices, privileges, and immunities associated with the administration of cemeteries outside the United States of America by the American Battle Monuments Commission, including the display of the flag of the United States of America, such part of Corozal Cemetery in the formal Canal Zone as encompasses the remains of citizens of the United States of America.

(2) The flag of the United States of America may be displayed. Pursuant to the provisions of paragraph 3 of Article VII of the Panama Canal Treaty, at such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States of America.

(3) The President—

(A) shall have announced, before the date of entry into force of the Treaty, his intention to transfer, consistent with an agreement with the Republic of Panama, and before the date of termination of the Panama Canal Treaty, to the American Battle Monuments Commission the administration of such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America; and

(B) shall have announced, immediately after the date of exchange of instruments of ratification, plans, to be carried out at the expense of the Government of the United States of America, for—

(i) removing, before the date of entry into force of the Treaty, the remains of citizens of the United States of America from Mount Hope Cemetery to such part of Corozal Cemetery as encompasses such remains, except that the remains of any citizen whose next of kin objects in writing to the Secretary of the Army not later than three months after the date of exchange of the instruments of ratification of the Treaty shall not be removed; and

(ii) transporting to the United States of America for reinterment, if the next of kin so requests, not later than thirty months after the date of entry into force of the Treaty, any such remains encompassed by Corozal Cemetery and, before the date of entry into force of the Treaty, any remains removed from Mount Hope Cemetery pursuant to subclause (i); and

(C) shall have fully advised, before the date of entry into force of the Treaty, the next of kin objecting under clause (B)(i) of all available options and their implications.

(4) To carry out the purposes of Article III of the Treaty of assuring the security, efficiency, and proper maintenance of the Panama Canal, the United States of America and the Republic of Panama, during their respective periods of responsibility for Canal operations and maintenance, shall, unless the amount of the operating revenues of the Canal exceeds amount needed to carry out the purposes of such Article, use such revenues of the Canal only for purposes consistent with the purposes of Article III.

(d) Understandings:

(1) Paragraph 1(c) of Article III of the Treaty shall be construed as requiring, before any adjustment in tolls for use of the Canal, that the effects of any such toll adjustment on the trade patterns of the two Parties shall be given full consideration, including consideration of the following factors in a manner consistent with the regime of neutrality:

(A) the costs of operating and maintaining the Panama Canal.

(B) the competitive position of the use of the Canal in relation to other means of transportation;

(C) the interests of both Parties in maintaining their domestic fleets;

(D) the impact of such an adjustment on the various geographical areas of each of the two Parties; and

(E) the interests of both Parties in maximizing their international commerce.

The United States of America and the Republic of Panama shall cooperate in exchanging information necessary for the consideration of such factors.

(2) The agreement "to maintain the regime of neutrality established in this Treaty" in Article IV of the Treaty means that either of the two Parties to the Treaty may, in accordance with its constitutional processes, take unilateral action to defend the Panama Canal against any threat, as determined by the Party taking such action.

(3) The determination of "need or emergency" for the purpose of any vessel of war or auxiliary vessel of the United States of America or the Republic of Panama going to the head of the line of vessels in order to transit the Panama Canal rapidly shall be made by the nation operating such vessel.

(4) Nothing in the Treaty, in Annex A or B thereto, in the Protocol relating to the Treaty, or in any other agreement relating to the Treaty, obligate the United States of America to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military education and training to the Republic of Panama.

(5) The President shall include all amendments, conditions, reservations, and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification to be exchanged with the Government of the Republic of Panama.

Now, therefore, I, Jimmy Carter, President of the United States of America, ratify and confirm the Neutrality Treaty, subject to the aforementioned amendments, conditions, reservations and understandings, and on behalf of the United States of America undertake to fulfill it faithfully.

In testimony whereof, I have signed this instrument of ratification and caused the Seal of the United States of America to be affixed.

Done at the city of Washington, this 15th day of June in the year of our Lord one thousand nine hundred seventy-eight and of the Independence of the United States of America the two hundred second.

By the President:

JIMMY CARTER.

Acting Secretary of State:

WARREN CHRISTOPHER.

PANAMANIAN INSTRUMENT—NEUTRALITY TREATY

Whereas the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal was signed in Washington on September 7, 1977, by the authorized representatives of the Government of the Republic of Panama and of the Government of the United States of America;

Whereas the Republic of Panama, by means of the plebiscite stipulated by Article 274 of its Political Constitution, ratified the aforementioned Neutrality Treaty;

Whereas the Senate of the United States of America gave its advice and consent to the ratification of the aforementioned Neutrality Treaty with the following understandings, reservations, conditions, and amendments:

(a) Amendments:

(1) At the end of Article IV, insert the following:

"A correct and authoritative statement of certain rights and duties of the Parties under the foregoing is contained in the Statement of Understanding issued by the Government of the United States of America on October 14, 1977, and by the Government of the Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part of this Treaty, as follows:

" 'Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

" 'This does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.' "

(2) At the end of the first paragraph of Article VI, insert the following:

"In accordance with the Statement of Understanding mentioned in Article IV above: 'The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall be so interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.'."

(b) Conditions:

(1) Notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as each deems necessary, in accordance with its constitutional processes, including the use of military force in the Republic of Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

(2) The instruments of ratification of the Treaty shall be exchanged only upon the conclusion of a Protocol of Exchange, to be signed by authorized representatives of both Governments, which shall constitute an integral part of the Treaty documents and which shall include the following:

"Nothing in the Treaty shall preclude the Republic of Panama and the United States of America from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces of the maintenance of defense sites after that date in the Republic of Panama that the Republic of Panama and the United States of America may deem or appropriate."

(c) Reservations:

(1) Before the date of entry into force of the Treaty, the two Parties shall begin to negotiate for an agreement under which the American Battle Monuments Commission would, upon the date of entry into force of such agreement and thereafter, administer, free of all taxes and other charges and without compensation to the Republic of Panama and in accordance with the practices, privileges, and immunities associated with the administration of cemeteries outside the United States of America by the American Battle Monuments Commission, including the display of the flag of the United States of America, such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States of America.

(2) The flag of the United States of America may be displayed, pursuant to the provisions of paragraph 3 of Article VII of the Panama Canal Treaty, as such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States of America.

(3) The President—

(A) shall have announced, before the date of entry into force of the Treaty, his intention to transfer, consistent with an agreement with the Republic of Panama, and before the date of termination of the Panama Canal Treaty, to the American Battle Monuments Commission the administration of such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America; and

(B) shall have announced, immediately after the date of exchange of instruments of ratification, plans, to be carried out at the expense of the Government of the United States of America, for—

(i) removing, before the date of entry into force of the Treaty, the remains of citizens of the United States of America from Mount Hope Cemetery to such part of Corozal Cemetery as encompasses such remains, except that the remains of any citizen whose next of kin objects in writing to the Secretary of the Army not later than three months after the date of exchange of the instruments of ratification of the Treaty shall not be removed; and

(ii) transporting to the United States of America for reinternment, if the next of kin so requests, not later than thirty months after the date of entry into force of the Treaty, any such remains encompassed by Corozal Cemetery and, before the date of entry into force of the Treaty, any remains removed from Mount Hope Cemetery pursuant to subclause (i); and

(C) shall have fully advised, before the date of entry into force of the Treaty, the next of kin objecting under clause (B)(i) of all available options and their implications.

(4) To carry out the purposes of Article III of the Treaty of assuring the security, efficiency, and proper maintenance of the Panama Canal, the United States of America and the Republic of Panama, during their respective periods of responsibility for Canal operation and maintenance, shall unless the amount of the operating revenues of the Canal exceeds the amount needed to carry out the purposes of such Article, use such revenues of the Canal only for purposes consistent with the purposes of Article III.

(d) Understandings:

(1) Paragraph 1(c) of Article III of the Treaty shall be construed as requiring, before any adjustment in tolls for use of the Canal, that the effects of any such toll adjustment on the trade patterns of the two Parties shall be given full consideration, including consideration of the following factors in a manner consistent with the regime of neutrality:

(A) the costs of operating and maintaining the Panama Canal;

(B) the competitive position of the use of the Canal in relation to other means of transportation;

(C) the interests of both Parties in maintaining their domestic fleets;

(D) the impact of such an adjustment on the various geographical areas of each of the two Parties; and

(E) the interests of both Parties in maximizing their international commerce.

The United States of America and the Republic of Panama shall cooperate in exchanging information necessary for the consideration of such factors.

(2) The agreement "to maintain the regime of neutrality established in this Treaty" in Article IV of the Treaty means that either of the two Parties to the Treaty may, in accordance with its constitutional processes, take unilateral action to defend the Panama Canal against any threat, as determined by the Party taking such action.

(3) The determination of "need or emergency" for the purpose of any vessel or war or auxiliary vessel of the United States of America or the Republic of Panama going to the head of the line of vessels in order to transit the Panama Canal rapidly shall be made by the nation operating such vessel.

(4) Nothing in the Treaty, in Annex A or B thereto, in the Protocol relating to the Treaty, or in any other agreement relating to the Treaty, obligates the United States of America to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military educaiton and training to the Republic of Panama.

(5) The President shall include all amendments, conditions, reservations, and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification to be exchanged with the Government of the Republic of Panama.

The Republic of Panama agrees to the exchange of the instruments of ratification of the aforementioned Neutrality Treaty on the understanding that there are positive rules of public international law contained in multilateral treaties to which both the Republic of Panama and the United States of America are Parties and which consequently both States are bound to implement in good faith, such as Article 1, paragraph 2 and Article 2, paragraph 4 of the Charter of the United Nations, and Articles 18 and 20 of the Charter of the Organization of American States.

It is also the understanding of the Republic of Panama that the actions which either Party may take in the exercise of its rights and the fulfillment of its duties in accordance with the aforesaid Neutrality Treaty, including measures to reopen the Canal or to restore its normal operation, if it should be interrupted or obstructed, will be effected in a manner consistent with the principles of mutual respect and cooperation on which the new relationship established by that Treaty is based.

The Republic of Panama declares that its political independence, territorial integrity, and self-determination are guaranteed by the unshakeable will of the Panamanian people. Therefore, the Republic of Panama will reject, in unity and with decisiveness and firmness, any attempt by any country to intervene in its internal or external affairs.

The head of Government of the Republic of Panama, availing himself of the powers granted by Article 277 of the Constitution, after having considered the aforementioned Neutrality Treaty, hereby ratifies it and, in the name of the Republic of Panama, undertakes to comply with it faithfully.

In witness whereof, this instrument of ratification is signed by the Head of Government of the Republic of Panama.

Done at Panama City Republic of Panama, the sixteenth day of June 1978.

OMAR TORRIJOS HERRERA.

Mr. DODD. The point I am trying to make or would like to make to my colleagues—and I assume my good friend from North Carolina, who I pointed out earlier was here on the floor in 1978, can elucidate on this, and the Senator from Maryland, Senator SARBANES, who was deeply involved in this debate, is here as well, so they may possibly want to add their own thoughts.

I pointed out earlier the historical background when the DeConcini condition was offered on March 16, 1978, and overwhelmingly adopted. That condition, I would point out, was offered as a condition to the neutrality treaty. That condition is specifically included in the neutrality treaty. On page 553, the Senate debate on the Panama Canal Treaties, a compendium of major statements, documents, record votes, and relevant events, in which I have now included the operative pages, under the neutral treaty, subparagraph (b) conditions, the DeConcini condition is specifically included. That treaty was considered first.

The second treaty to be considered was the Panama Canal Treaty. Under that treaty, the Senator from West Virginia, the Senator from Tennessee, and the Senator from Arizona offered a reservation which was modifying language, if you will, of the DeConcini condition considered in March. The Byrd-Baker-DeConcini reservation was offered on April 18, 1978. That reservation is specifically included under the "U.S. instrument—Panama Canal Treaty," subparagraph (a), "Reservations."

The point of raising those two points—and I invite my colleagues, if this is not considered until tomorrow, to review the record here—is that the amendment of the Senator from Idaho would imply that the DeConcini reservation or condition was not accepted by the Panamanian Government. Both of those treaties were signed by the respective heads of state and are included in the language of both the Neutrality Treaty and the Panama Canal Treaty; the Byrd-Baker-DeConcini reservation and the Panama Canal Treaty and the DeConcini condition.

Mr. HELMS. Would the Senator yield? Does the Senator find that neither treaty was amended? The DeConcini reservation or condition was to the instrument of ratification; is that not correct?

Mr. DODD. That is correct.

Mr. HELMS. The Senator alluded to——

Mr. DODD. You are surely correct. The ratification process.

I would invite my colleagues to look at that because, as tempting as it may be to some to support this amendment, the implication that those conditions that were included as part of the ratification of both those treaties were not accepted, I think, is not accurate. I would, Mr. President, add specifically the, "Protocol of Exchange of Instruments of Ratification Regarding the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Panama Canal Treaty." Further reading down from that, and I quote it specifically, that language which is also from the Senate debate on the Panama Canal, page 545:

> Said amendments, conditions, reservations and understandings have been communicated by the Government of the United States of America to the Government of the Republic of Panama. Both governments agree that the Treaties, upon entry into force in accordance with their provisions, will be applied in accordance with the above-mentioned amendments, conditions, reservations and understandings.

So, it would appear to this Senator, at any rate, that the underlying supposition of the Symms amendment has been met and was met back in 1978. Therefore, the rationale for the amendment would not appear to exist, based on the record that I tried to lay out here for my colleague.

Mr. President, I would be glad to yield.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, we can discuss the details of what happened in 1978 at a later time, as the Senator suggested. But the point is that the Senate would never have voted for the Panama Canal giveaway had it not been for the understanding that the DeConcini reservation would be a part of the final action between Panama and the United States.

AMENDMENT NO. 865

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 865.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

On page 111, between lines 16 and 17, insert the following new section:

SEC. . U.S. DEPARTMENT OF STATE FREEDOM OF EXPRESSION ACT OF 1987.

(a) This section may be cited as the "United States Department of State Freedom of Expression Act of 1987."

(b) FINDING.—Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) PROHIBITION.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? Is there a sufficient second?

There is not a sufficient second.

Mr. HELMS. I beg the Chair's pardon?

The PRESIDING OFFICER. There was no second of the request for the yeas and nays.

Mr. HELMS. Well, let me say to Senators that I want this amendment to be a part of a piece of legislation that is not going to get vetoed. I do not think this authorization bill for the State Department will be vetoed. I am quite confident that the DOD authorization bill will be.

This is the amendment that the Senate approved by a vote of 90 to 7, requiring that the State Department never again declare itself a foreign mission.

So, I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? Is there a sufficient second?

There is not a sufficient second.

Mr. SARBANES. Why do we not just voice vote the amendment?

Mr. HELMS. I will say to the Senator, I appreciate his suggestion——

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Now I think the Senator will see what I am doing.

I will send to the desk another amendment to the amendment.

The PRESIDING OFFICER. The Chair will inform the Senator that until he has lost the right to modify his amendment, he is not entitled to amend it.

Mr. HELMS. I just got the yeas and nays, did I not?

The PRESIDING OFFICER. No.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SIMPSON. There are two over there.

Mr. HELMS. If that is the case, Mr. President, I suggest the absence of a quorum and we will go live. This is a matter of accommodation.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. The quorum call is in progress.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Objection.

The PRESIDING OFFICER. There is objection.

Mr. HELMS. Very well.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I respectfully object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am trying to establish a parliamentary situation. The amendment, Mr. President, which is intended to be the underlying amendment dealing with U.S. Department of State Freedom of Expression Act of 1987 has not had the yeas and nays obtained.

The PRESIDING OFFICER. That is correct.

Mr. HELMS. Therefore, I was unable to offer a second-degree amendment inasmuch as I was entitled to modify what would have been the underlying amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. Let me say for the record what the disagreement is. This is a friendly disagreement. The distinguished chairman has one position and I have another.

The amendment I wish to offer as a second degree amendment involves the Communist Government of Mozambique and the freedom fighters of Mozambique, known as RENAMO. For several months this year, the Senator from North Carolina has attempted to persuade the Secretary of State that it is in the interest of the starving people—mainly children, but not entirely so—of Mozambique, for there to be a reconciliation of some sort, a resolution of the dispute. Inasmuch as the anti-Communist freedom fighters of Mozambique control 80 percent of the country and enjoy wide support, it seems to me to be an exercise in futility, if not stupidity, for the State Department to refuse even to talk with the anti-Communist freedom fighters in Mozambique.

That is the point I have tried to make for months on end, unsuccessfully. The State Department has been absolutely intransigent. The State Department has insisted that they deal only with the Communist Government of Mozambique. I take exception to that. I have taken exception to it. And I will continue to take exception to it.

The second-degree amendment that I attempted to offer but was prohibited from offering under the rules—and the Chair ruled entirely correctly about it—simply stated that:

The Secretary of State is hereby directed to consult with all parties to the civil war on insurrection in Mozambique and report to the Congress not later than February 1, 1988, on whether there exists the possibility of a negotiated settlement of the bloodshed in that country, and the establishment through negotiations of a political system in Mozambique that affords all Mozambicans the rights of free men and women to be governed by an elected government chosen through a democratic process in a political system allowing freedom of association, and the expression and protection of human rights as embodied in the universal declaration on human rights.

That is all I am asking, that we do something to move toward resolution of the bloodshed and starvation in Mozambique. It just so happens that at this moment the Communist President of Mozambique is in this building. I do not know how other Senators feel. But if we are genuine about our desire to help those pitiful people in Mozambique it seems to me that we had better get about the business of dealing with all sides and seeing what the possibilities of a negotiated settlement are. That is all I am asking. I am not asking for an endorsement of RENAMO or Frelimo. I am simply saying that the people are starving over there. There is a Communist government in charge, and all of this State Department lip service being given to Congress saying that the Communist government is moving toward the center is just so much baloney sliced up thin.

But no. The parliamentary effort was made successfully under the rules. The parliamentarian advised the Chair right, and the Chair ruled right. I do not contest that. But it mystifies me that we cannot even have a vote on the question of moving toward a resolution.

Let me finish reading the amendment. I read the first part of it. It goes on to say:

If a negotiated settlement to the bloodshed is determined by the Secretary to be impossible of achievement, the Secretary shall recommend to the Congress appropriate measures to provide United States humanitarian assistance to victims of the civil war without regard to political affiliation, geographic location, ethnic, racial origins, or allegiance to Marxist-Leninist political organizations.

What is so terrible about that, Mr. President? This Senator intends to say, and I think the English language is clear: Let us get about the business of feeding these people, ending the bloodshed, and if it is determined—I do not say the Secretary of State has to determine anything, but if it is determined—that no resolution can be reached, then the Secretary is to recommend other means by which we can feed the people, and attempt to stop the bloodshed.

Let me say again, for the purpose of emphasis, that what we are talking about is a division of opinion. This Senator believes that we ought to talk to both sides, the Communist side and the anti-Communist side.

The State Department says no, and has been intransigent in it, that the United States shall not talk to the anti-Communist RENAMO, not even talk with them. This is the same Secretary of State who testified before the Foreign Relations Committee and said, "We will talk with anybody." He said that in response to my question of him as to whether he was going to meet with the Communist-orchestrated African National Congress in South Africa.

This is the crowd, I remind Senators, that puts the tires around people with whom they disagree. They hang the tires around the necks of black people, fill the tires with gasoline, and say, "You don't agree with us, so here's the match," and the people incinerate.

The Secretary of State said he would talk to ANC. He said, "We will meet with anybody." He did, in fact, meet with the African National Congress; and, as I recall, there were 60 other meetings, involving State officials meeting with representatives of the African National Congress.

Then they turn right around and say, "Oh, no, we're not going to meet with these terrible anti-Communist freedom fighters in Mozambique," just over the border. "We have this deal cooking where we're going to make these Communists of Frelimo, the Communist government in Mozambique, move toward the center."

Good luck, Mr. Secretary of State. It is not going to happen, and I do not care whether Mr. Chissano meets here today or 50 times hence. He is a Marxist, by his own admission. The bloodshed continues in his country, and the starvation continues in his country. Nothing is going to happen unless we start taking the position that we ought to meet with everybody. If we are genuine about wanting to help those poor people in Mozambique—and this Senator is absolutely sincere about it—we have to meet with both sides; and unless and until we do that, nothing is going to happen. That is the story of this amendment.

As to the underlying amendment, or the intended underlying amendment, the distinguished chairman said, "We are willing to take that." The Senate has already voted, 90 to 7, on the DOD bill. I offer that because the DOD bill is going nowhere. It is dead, it is kaput, it is gone. It is going to be vetoed, and there are enough votes in the Senate to uphold the President's veto. So there is no question about the Senate's support for the underlying amendment.

What we are talking about is my proposed second-degree amendment, which I cannot offer under the rules of the Senate. I was prohibited because I could not get a sufficient second, even though there were Senators around the Chamber who did raise their hands in support of the yeas and nays on the first amendment, which I had to have before I could offer the second-degree amendment.

So, that is the parliamentary situation. I am not angry about it. I just want the record to be clear as to what I was attempting to do, and I hope I have made it clear.

Now the distinguished chairman has offered a watered-down version which excludes any mention of meeting with both parties. I think we ought to revisit this, tomorrow or the next day, or 4 or 5 days or a week from now, when we are still on this bill; because, one way or another, I am going to figure out a way to have the Senate vote on this question.

So, inasmuch as the yeas and nays have not been ordered on the underlying amendment, I withdraw it.

The PRESIDING OFFICER (Ms. MIKULSKI). The amendment is withdrawn.

The Senator from New Jersey.

AMENDMENT NO. 866

(Purpose: To require the processing of applications from Cuban nationals for refugee status)

Mr. LAUTENBERG. Madam President, I have sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for himself, Mr. CHILES, Mr. GRASSLEY, Mr. HARKIN, Mr. HATFIELD, and Mr. GRAHAM proposed an amendment numbered 866.

Mr. LAUTENBERG. Madam President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To be inserted in the appropriate place in the bill add the following:

That (a) on and after the date of enactment of this Act, consular officers of the Department of State employed in the United States interest section in Havana, Cuba, and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to insure the orderly process of available applicants.

(b) For purposes of this section—

(1) the term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications; and

(2) the term "refugee" has the same meaning as is given to such term by section 101(a)(42) of the Immigration and Nationality Act.

SEC. 2. On and after the date of enactment of this Act, consular officers of the Department of State, wherever situated, shall issue immigrant visas under section 203(a) or 202(e) of the Immigration and Nationality Act to Cuban nationals—

(1) without regard to section 212(f) or 243(g) of the Immigration and Nationality Act (relating to the refusal to accept the return of nationals);

(2) whether within or outside Cuba; in such cities as immigration visas may be issued to Cuban nationals.

(3) without regard for the date of departure from Cuba of such applicants in the case of applications for such visas outside Cuba.

Mr. LAUTENBERG. Madam President, this amendment aims to ease the entry of Cubans into the United States and to thereby correct an injustice that has been done to victims of Castro's tyranny. It is similar to S. 1075, a bill I introduced earlier this year.

It is cosponsored by Senators CHILES, GRASSLEY, GRAHAM, HARKIN, and HATFIELD.

Mr. President, this amendment has been cleared on both sides. In the interests of time, I ask that the balance of my remarks be inserted as if read, and I move the adoption of the amendment.

Mr. President, I would like to briefly describe the provision concerning Cuban immigration and political prisoners, and why it is necessary.

The provision will eliminate barriers to Cuban entry into the United States that have arisen as a result of the breakdown of the Mariel Migration Agreement. It directs the Immigration and Naturalization Service to process current and former Cuban political prisoners as refugees for entry into this country when they have served any amount of time in Castro's jails. Under our current policy, they must serve more than 10 years.

It also directs the Immigration and Naturalization Service to restore normal Cuban immigration from Cuba and third countries to the United States, instead of allowing immigration only under certain narrow circumstances. By normal immigration, we mean our immigration processes as commonly applied around the world. We also intend that under this provision, all Cuban nationals applying for immigration visas outside of Cuba should be considered Cuban nationals for the purpose of immigration quotas.

The need for this bill arises from the breakdown of the Mariel Migration Agreement, which attempted to resolve immigration problems between the United States and Cuba. In that agreement, Cuba promised to take back 2,746 Cubans who came over from the Port of Mariel, Cuba, in 1980 as part of the larger Mariel Boatlift, and who were found to be excludable from the United States due to their mental illness or past serious criminal offenses.

For its part, the United States promised to process up to 3,000 former political prisoners and their families in fiscal year 1985, with the presumption that the program would continue at that level. It also promised to allow for the restoration of normal migration from Cuba to the United States for various preference category immigrant visas up to the limit of 20,000 persons from any independent country.

On May 20, 1985, Cuba suspended the Mariel agreement in reaction to our beginning broadcasts over Radio Marti. In response to Castro's action, we instituted a policy of processing only Cuban political prisoners in jail more than 10 years, and we cut off normal Cuban immigration from Cuba and third countries. The provision in this bill would remove the 10 year limit, and would reinstate normal immigration of Cubans from Cuba and third countries.

Mr. President, our policy of processing only those prisoners who have been in jail for more than 10 years makes no sense and ought to be changed. It is unfair and unwarranted to punish Castro's own victims for Castro's behavior toward the United States. It penalizes people who have already suffered at Castro's hands, in his jails, for their opposition to his regime. It should be changed, and the provision in this bill changes it.

The second part of this bill addresses the United States' suspension of normal immigration from Cuba and third countries to the United States as a result of the breakdown of the Mariel agreement.

Cubans who are not former or current political prisoners can come to this country only if they are granted an immigrant visa. Because of the breakdown of the Mariel agreement, however, only two classes of Cubans are now being granted visas: First, immediate relatives of American citizens—defined as spouses, parents, or unmarried minors—from Cuba or third countries; and second, Cubans who left Cuba before August 22, 1986, and who are in one of the preference categories for immigration. Cubans in third countries cannot come to the United States if they left Cuba on or after August 22, 1986, and are not immediate relatives of Americans.

The practical effect of this policy is to deny thousands of Cubans living in Cuba the right to be reunited with their families in the United States because of actions by Castro over which they have no control. It means that the over age 21 sons or daughters of American citizens, the spouses or children of legal permanent residents, the married sons or daughters, or the brothers and sisters of United States citizens, if they live in Cuba, cannot come in to the United States until Cuba makes good on its promise to take back the Mariels.

My bill would reverse this policy, and reinstitute normal immigration from Cuba and third countries regardless of the disposition of the Mariels now in the United States. For those Cubans now living in Cuba, allowing them to emigrate to the United States is a simple humanitarian gesture mandated by the terrible conditions of Cuba's totalitarian society. That gesture becomes even more compelling when we realize that these people have family in the United States.

Our current policy can only discourage the bravery and strength of will required to withstand the psychological assault in the totalitarian system of Cuba. Long-term interests, including the fostering of democracy, are undermined when the impression is given, however erroneous that the United States is willing to abandon freedom-loving people. This provision ends this inhumane policy of condemning Cubans who seek freedom in the United States to a life under tyranny.

As for those Cubans who have managed to escape to third countries, there are compelling reasons to allow them to immigrate to the United States. First, they have family in the United States, and the family reunification argument is as compelling for Cubans in third countries as it is for Cubans in Cuba.

Second, many of these Cubans who escape to third countries are living in a kind of limbo. Many cannot get a job, and must rely for survival on money from their relatives in the United States.

I have said that our current policy toward Cuban immigrants and political prisoners is unfair. It violates America's proud tradition of providing safe haven for those who are oppressed. But there is an equally compelling argument against it.

It has not worked.

Since its institution for political prisoners in 1985, and for immigrants in 1986, not one Mariel excludable has been sent back to Cuba. The United States and Cuba are not even talking about reinstating the agreement. Meanwhile, Cubans who desperately seek freedom in the United States are denied the right to come here.

The administration's policy on the issue of Cuban immigration and the processing of Cuban political prisoners is a significant departure from the historical generosity of the United States toward those who have suffered for sharing American ideals. It also violates our tradition of encouraging the reunification of families. I believe it should be changed immediately, and the provisions in this amendment would do that.

The PRESIDING OFFICER. Is there further debate?

The Senator from Rhode Island.

Mr. PELL. Madam President, this amendment would permit the entry into our country of Cubans who would have been able to enter here if the immigration agreement between the United States and Cuba in 1984 had not been suspended.

It is a good amendment. It is a humanitarian amendment and one I think deserves passage.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HELMS. Madam President, not only do I support the amendment, I commend the Senator for offering it. It is an excellent amendment.

Mr. LAUTENBERG. I thank the Senator, and I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 866) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 867

(Purpose: Relating to the terms of service for members of the Cultural Property Advisory Committee)

Mr. PELL. Madam President, in behalf of my colleague from Rhode Island, Mr. CHAFEE, I offer an amendment to the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) for Mr. CHAFEE proposes an amendment numbered 867.

Mr. PELL. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I think he loses the floor, and I send a second degree amendment and ask it be stated.

The PRESIDING OFFICER. Is there objection to terminating the reading of the amendment?

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, between lines 12 and 13, insert the following:

SEC. 218. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) TERMS OF SERVICE.—Section 306(b)(3)(A) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(3)(A) Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select on a representative basis to the maximum extent practicable, four members to serve three year terms, four members to serve two year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.".

(b) VACANICES, CHAIRMANSHIP.—Section 306(b)(3)(B) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(B)(i) A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

"(ii) The President shall designate a Chairman of the Committee from the members of the Committee.".

Mr. HELMS. The floor became available to me under the rule.

AMENDMENT NO. 868

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from North Carolina.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 868 to amendment numbered 867.

At the end of the pending amendment add the following new section:

SEC. . United States Policy Toward Mozambique.

None of the funds authorized to be appropriated under this act may be obligated or expended after February 1, 1988 unless the Secretary of State has consulted with all parties to the civil war or insurrection in Mozambique and reported to the Congress on whether there exists the possibility of a negotiated settlement of the bloodshed in that country and the establishment through negotiations of a political system in Mozambique that affords all Mozambicans the rights of free men and women to be governed by an elected government chosen through a democratic process in a political system allowing freedom of association and expression and the protection of human rights as embodied in the Universal Declaration of Human Rights. If a negotiated settlement to the bloodshed is determined by the Secretary to be impossible of achievement, the Secretary shall recommend to the Congress appropriate measures to provide United States humanitarian assistance to victims of the civil war without regard to political affiliation, geographic location, ethnic or racial origins or allegiance to Marxist-Leninist political organizations.

Mr. PELL. Madam President, I ask to withdraw my amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

Mr. PELL. I withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 869

(Purpose: To prohibit further expenditures relating to an official residence for the Secretary of State)

Mr. HELMS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 869.

On page 46, strike lines 24 through line 24 on page 47 and insert in lieu thereof the following:

"None of the funds authorized to be appropriated by this Act or any other act shall be used to construct, acquire, study, plan for or solicit funds for a residence for the Secretary of State or any other member of the Cabinet."

Mr. HELMS. Madam President, the bill reported by the Foreign Relations Committee authorizes the Secretary of State to solicit private contributions from wealthy, influential individuals or interest groups to acquire an official residence for the Secretary of State.

Now, I have contended all along that this is a precedent that needs careful examination by the Congress. The Department of State would become the very first agency of this Government to provide its Secretary with an official mansion. No doubt, other departments and other Secretaries will seek similar legislation to provide their Secretaries with similar elaborate living quarters. Then there will be efforts, no doubt, by sub-Cabinet agencies to seek mansions for their directors and officers. And soon we will have a city filled with official Government residences paid for by soliciting funds from wealthy and powerful individuals and interest groups to contribute for the acquisitions and maintenance costs of these residences.

The official justification so often stated for this request by the State Department is that there would be no cost to the Government since the residence would be acquired through private contributions. Well, in the first place, that is simply not so because the contributions would be tax deductable. But the whole idea of using private contributions to pay for the ordinary living expenses of any Cabinet officer—that is, the ordinary expense we all incur in providing our families with a place to live—the whole idea is one that needs the most careful consideration. I believe the idea is one that needs to be scuttled right now until careful considerations occur.

An official residence for any member of the Cabinet funded by private contributions would raise, at least in the mind of this Senator, very serious questions of conflict of interest. Would the Secretary of Defense be able to accept contributions from defense contractors? Would the Secretary of the Interior be allowed to accept the contributions from oil and mining millionaires with a substantial interest in his Department's decisions? Would the Secretary of Agriculture be allowed to accept contributions from, say, the big grain companies?

Madam President, if there ever was an idea whose time has not come, it is this one. And if there ever was a way absolutely to convince the American people that Washington is totally out of touch with the realities of American life, it would be for Congress to allow members of the Cabinet to have large official residences paid for by special interests and wealthy classes in this country.

According to the Office of Management and Budget, the concept of an official residence for the Secretary of State is "a pet project" of the Secretary, who wishes to leave an official residence for his successors. Secretary Shultz calls it his "legacy." Well, it is worse than that, and more than that, because this legacy, if you want to call it that, could be a severe burden to his successors. If the claims that this residence would be funded solely by private contributions for both acquisition and maintenance are correct, then the future Secretaries of States are going to have to spend a fair portion of their time panhandling around the country raising money to maintain this mansion. How would it look for the Secretary of State to be soliciting private contributions to repaint his dining room or to repair the roof of his residence? Is there not already a full agenda for the Secretary every day?

So this pending amendment just calls a halt, pending further consideration, to the effort by the Department of State to acquire an official residence by prohibiting further expenditures in support of the project. That is all the amendment does. It prohibits further expenditures in support of this project.

No doubt, tens of thousands, perhaps hundreds of thousands, of dollars in personnel time, if you include that, have been spent in support of this project already. I think it is time to put an end to it and that is the purpose of this amendment.

The amendment by the way is written so as to avoid singling out the Secretary of State. It simply prohibits any Cabinet officer or any Cabinet department from spending official funds for the planning, acquisition, solicitation of contributions or lobbying efforts in support of an official residence for any member—any member—of the Cabinet.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Madam President, Secretary Shultz made a good case for an official residence for the Secretary of State in his testimony before the Senate Foreign Relations Committee and he has the full support of the President in this endeavor.

This is both a security issue and a cost-saving measure. With the exception of the President and Vice President, I believe I am correct in saying that the Secretary of State receives more threats than any other Executive official. Thus, each time a new Secretary takes office, a large amount of money must be used to make his house secure. This provision would allow us to once and for all establish a sound and secure residence for future Secretaries and eliminate costs involved with securing the different houses of each new Secretary.

Furthermore, under current arrangements, the security officials occupy and, to some degree, use the house of the Secretary. For the convenience of the security officials and the privacy of the Secretary, it would be best to build a residence with an annex for security officials.

The costs of the residence would be borne by private donations and therefore would not be a burden on the taxpayer.

Accordingly, I would recommend to my colleagues that we vote against the amendment.

Mr. HELMS. Madam President, you know, Cap Weinberger, the Secretary of Defense, could say exactly the same thing. I doubt that there is a member of the President's Cabinet who at one time or another has not felt himself threatened a little bit by some crackpot. But in any case, a case could be made that if you do it for one, you have to do it for all of them. And the very same argument can be made on behalf of any Cabinet officer.

AMENDMENT NO. 870

Mr. HELMS. Madam President, I send an amendment to the desk in the second degree and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 870 to amendment No. 869.

At the end of the pending amendment, add the following new section:

SEC. . UNITED STATES POLICY TOWARD MOZAMBIQUE.

None of the funds authorized to be appropriated under this act may be obligated or expended, unless the Secretary of State has consulted with all parties to the civil war or insurrection in Mozambique and reported to the Congress on whether there exists the possibility of a negotiated settlement of the bloodshed in that country and the establishment.

Mr. HELMS. Madam President, I know the clerk is getting tired of reading this amendment over and over, but it is finally in order. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the pending amendment, add the following new section:

SEC. . UNITED STATES POLICY TOWARD MOZAMBIQUE.

None of the funds authorized to be appropriated under this act may be obligated or expended, unless the Secretary of State has consulted with all parties to the civil war or insurrection in Mozambique and reported to the Congress on whether there exists the possibility of a negotiated settlement of the bloodshed in that country and the establishment through negotiations of a political system in Mozambique that affords all Mozambicans the rights of free men and women to be governed by an elected government chosen through a democratic process in a political system allowing freedom of association and expression and the protection of human rights as embodied in the Universal Declaration of Human Rights. If a negotiated settlement to the bloodshed is determined by the Secretary to be impossible of achievement, the Secretary shall recommend to the Congress appropriate measures to provide United States humanitarian assistance to victims of the civil war without regard to political affiliation, geographic location, ethnic or racial origins or allegiance to Marxist-Leninist political organizations.

Mr. HELMS. Madam President, please bear with me while I check the amendment.

Madam President, I thank the Chair for her patience.

In the amendment which is at the desk, I modified the amendment to strike the word "is" in the first line and to include the date "February 1, 1988." That would make it read, if the clerk will follow me, "None of the funds authorized to be appropriated under this act may be obligated or expended after February 1, 1988, unless the Secretary of State—" and so forth.

The PRESIDING OFFICER. In the interests of accuracy, would the clerk read back the modification of the Senator from North Carolina?

Mr. HELMS. Better still, I will give the copy back.

The PRESIDING OFFICER. The Chair thanks the Senator.

The Senator from North Carolina has the right to modify his own amendment and the modification is noted.

Mr. HELMS. I thank the Chair.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on this amendment?

Mr. PELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. I would ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, I believe this amendment should be defeated. It would impose a Draconian penalty on the Secretary of State if he did not consult with the armed opposition in Mozambique, Renamo. I do not believe we should force the Secretary of State to consult with any party which the President has decided he does not wish to accord any degree of recognition.

Mr. HELMS. If the Senator would withhold just a minute?

Madam President, I imagine my friend is getting ready to offer a motion to table?

Mr. PELL. The Senator is correct.

Mr. HELMS. I think that is a good resolution of it; assuming his motion does not carry.

But, if you apply the position of the distinguished chairman to Angola, then he would be saying the same about a great patriot, someone I consider a leader of the anti-Communist forces there; Jonas Savimbi, of course, I am talking about.

So I would just reiterate to my friend from Rhode Island, this is a difficult thing for me to disagree with him on. It is also difficult for me to have him disagree with me; if that is clear. But I understand that he has his own opinion about it and the motion to table will simply be, as I stated earlier in this debate, on the question of whether we are going to try to do something to feed those hungry children, the starving children in Mozambique and try to put an end to the violence that is going on there which will continue unless and until we agree to consult with all the parties involved in the civil war or whatever you want to call it.

I hope that the motion to table will not prevail and that we can proceed with the consideration of this bill. But I respect the chairman's right to move to table.

Mr. PELL. Madam President, I am going to question the presence of a quorum because one of my colleagues would like to speak on this subject. For that reason, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. One more point, Madam President. I have never demanded, suggested, implied, that Renamo be recognized, not once. I have not called for official support. Nor have I called for U.S. military support newspaper articles to the contrary notwithstanding. I have said simply that Renamo, the anti-Communist freedom fighters, sometime be consulted as a group. In other words, I have said repeatedly that the U.S. State Department should be willing to sit down with representatives of Renamo for the purpose of dialog. As I said earlier in the discussion, this is done on numerous occasions with all sorts of groups in other countries. And, as I said earlier, it has been done more than 60 times with the Soviet-sponsored organization in South Africa, known as the African National Congress.

To meet with them has been the message that I have carried to the administraiton. I think the record will show that Senator DOLE, the distinguished Republican leader, has carried the same message.

Indeed, if one judges from this morning's press accounts, this is the position of the President. He is quoted as having talked with President Chissano about whether the two sides could sit down and speak in order to find a solution. That is precisely what this amendment is all about. Nothing more, nothing less. It is neutral. It does not endorse Renamo, it does not even refer to Renamo by name. Nor does it criticize President Chissano. It simply calls for a facilitation of talks between the two parties, a position urged by the Catholic bishops within Mozambique.

Just to have the record clear, the Washington Post on page A24 this morning began by saying, "President Reagan, despite considerable pressure from conservative Republicans to change United States policy toward Socialist Mozambique, yesterday reassured President Chissano of continuing support and offered to help 'in any way that we can' to end the guerrilla war there."

Then he later said, "The President made it clear on our side that we are prepared to be helpful, as we have in the past, in that regard in any way we can."

President Chissano himself is quoted later in the story. Let me read that.

"Chissano said Reagan never referred to Renamo by name, but talked about the 'division' inside Mozambique and whether the two sides 'could not sit down and speak in order to find a solution.'"

That is precisely the position of the Senator from North Carolina. I say again that I have never demanded that Renamo be recognized or that Frelimo not be recognized. I have simply said let us bring to an end this horror that is gripping that beleaguered country; let us work out a way to get food to the starving children; let us work out a way to stop the bloodshed. I do not believe this is ever going to happen unless and until all parties are consulted and some sort of reconciliation is achieved.

I ask unanimous consent that the article from the Washington Post this morning, entitled, "Reagan Reaffirms Support for Mozambican Leader," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAGAN AFFIRMS SUPPORT FOR MOZAMBICAN LEADER

(By David B. Ottaway)

President Reagan, despite considerable pressure from conservative Republicans to change U.S. policy toward socialist Mozambique, yesterday reassured President Joaquim Chissano of continuing American support and offered to help "in any way that we can" to end the guerrilla war there.

Following a half-hour White House meeting, a senior administration official said Reagan had discussed with Chissano his government's struggle against South African-backed rebels and that both agreed it had to be brought to an end.

"The president made it clear on our side that we are prepared to be helpful, as we have in the past, in that regard in any way that we can," the official said. "President Chissano said he would want to be in continuing contact with us about that."

Later, in an interview with Washington Post editors and reporters, Chissano said he had asked Reagan for increased U.S. economic aid and told him "about our readiness to receive military aid of any kind."

Chissano said he had stressed that nonlethal aid would be useful if the administration was unable to provide other military assistance because of "difficulties in that field."

He was apparently referring to strong pressure on the White House from conservative Republicans, led by Sen. Jesse Helms (R-N.C.) and Minority Leader Robert J. Dole (R-Kan.), to end U.S. aid to the central Mozambican government and provide support for the self-described anticommunist opposition movement.

The United States this year is providing Mozambique with $10 million in economic aid, mainly for the private sector, and $75 million in food assistance. A past administration effort to gain congressional approval of nonlethal military aid was blocked by conservatives.

The administration has been trying to wean Mozambique, whose Marxist ruling part has a close relationship with Moscow, from its East Bloc ties.

Even as Reagan and Chissano were meeting, the Mozambique National Resistance (Renamo) held a news conference on Capitol Hill in which Grover Norquist, an aide to Republican presidential candidate Pierre S. (Pete) du Pont IV, said he had briefed Reagan on Sept. 22 about Renamo's political and economic program.

Norquist asserted that after his briefing, which included a sharply critical report on Chissano and his government, Reagan had said, "You have certainly changed my agenda for when I meet Chissano."

But there was no indication from accounts of yesterday's White House meeting that the president had changed his mind. The senior U.S. official, briefing reporters afterwards, said the meeting had "consolidated" what he called a "constructive relationship" between the administration and the Chissano government.

It was Reagan's first meeting with Chissano, who became Mozambique's leader after the death of President Samora Machel in an airplane crash inside South Africa last October.

Chissano said Reagan "very emphatically" assured him of continued U.S. support but had warned there would be "some difficulties" in adding any more aid because of severe budget cuts.

Chissano said Reagan never referred to Renamo by name, but talked about "the division" inside Mozambique and whether the two sides "could not sit down and speak . . . in order to find a solution."

"We explained to him what we thought about this so-called division, a fake division.

There is no division. Renamo does not represent the interests of anyone among the people of Mozambique but interests of South Africa," Chissano said.

He said he had seen no evidence of secret U.S. aid to Renamo other than private support from conservative groups but asserted that South Africa was still providing supplies to the rebels by clandestine airdrops.

The Mozambican leader said he thought the government could win the war against Renamo "militarily" but that this would result in heavy loss of lives. He said his government was using "other methods of persuasion" and "political means" to try to end the fighting.

Mr. PELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, I ask unanimous consent that the amendment of the Senator from North Carolina be laid aside until a point of order is raised by him.

Mr. HELMS. When regular order is stated. I have no objection whatsoever. I am happy to accommodate the distinguished Senator from Arizona who has an amendment. I will not tell him at the outset that we will not take it on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 871

(Purpose: To express the sense of the Congress regarding a peaceful resolution to the conflict in Angola)

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] for himself, Mr. DOLE, and Mr. GRAHAM, proposes an amendment numbered 871:

On page 111, between lines 16 and 17, insert the following new section:

SEC. 517. POLICY ON ANGOLA.

(a) FINDINGS.—The Congress finds that—

(1) the upcoming discussions between Secretary of State Shultz and Soviet Foreign Minister Shevardnadze, and the subsequent summit between President Reagan and Secretary General Gorbachev provide the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(2) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the democratic opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(3) the Marxist MPLA regime, propped up by 37,000 Cuban troops, 2,500 Soviet military advisors and thousands of North Korean and East-bloc Communist forces, has refused to respond to diplomatic gestures by the democratic opposition forces, opting to prolong a war that has taken over 65,000 lives;

(4) a majority of the national budget is used to maintain this war effort, including $700,000,000 a year to pay Cuban mercenaries, and more than $1,000,000,000 this year alone to the Soviet Union for weapons;

(5) the people of Angola are starving because of the hardships resulting from 12-years of civil war and the inefficient Marxist economic policies;

(6) the Marxist regime has turned to the international community for $1,200,000,000 in food aid while it continues to pump billions of dollars into the war; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued occupation of Angola by Soviet and Cuban forces and the intransigence of the MPLA to negotiate with the democratic opposition, give new urgency to reach a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all Soviet, Cuban, and other Communist forces;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to the Soviet leaders at the opening conference and summit that the aggressive military build-up in Angola is a direct obstruction to positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the belligerent and ineffective policies of the Communist regime, and the regime should not have the opportunity to manipulate the distribution of food aid to achieve its own political objectives;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, but if the United States does so it should be in an evenhanded manner, so that Angolans throughout the entire divided country are provided with food and basic medical care;

(4) any humanitarian assistance should not be distributed by the government or government-operated institutions, but through apolitical agencies, private and voluntary organizations, and non-governmental organizations; and

(5) the Secretary of State should prepare and transmit to the Congress a report detailing the progress of the discussions between the Soviet Union and the United States on Angola as previously referred to and detailing any other bilateral negotiations affecting the Angolan conflict which were held in accordance with the President's priorities of regional conflicts with the Soviet Union, such as Afghanistan and Nicaragua, as one of the crucial areas of bilateral relations.

Mr. DECONCINI. Madam President, this is a very simple and straightforward amendment addressing the deteriorating situation in Angola. This amendment expresses the sense of Congress that the United States should continue to work toward peaceful resolution to the conflict in Angola. This would include the complete withdrawal of Soviet, Cuban, and other Communist forces. It would also include a negotiated settlement to the 12-year-old civil war leading to a government of national unity and fair and free elections. This should be conveyed to the Soviets by Secretary Shultz to Foreign Minister Shevardnadze in their meeting next week and by President Reagan to Secretary General Gorbachev in the upcoming summit. This will provide a tremendous opportunity for discussion of peace, fair and free elections, and the possible provision of humanitarian assistance.

Madam President, the second section of this amendment deals with the ineffective economic policies of the current Marxist government in Angola. This government spends so much money on importing over $1 billion in Soviet arms in the last year and on supplying housing to 40,000 Cuban troops. Hence, thousands of Angolans are starving.

The United States should consider responding to the humanitarian needs of the Angolan people, but only in an even-handed and equitable fashion.

All Angolans are entitled to adequate food and medical care, despite the unfair and insufficient economic policies of the government. This humanitarian assistance should not be distributed by the government, as this could be utilized as a lethal political tool, but through private and voluntary organizations and apolitical agencies. Madam President, the people of Angola should not suffer and die from starvation, especially when the United States and the Soviets could help.

Madam President, I have carefully said that the United States should consider responding to the appeal by the Marxist government for $1.2 billion in food assistance. While I do not specifically endorse this aid at the present time, especially given the United States budget difficulties and the inflexibility on the part of the Angolans in current Cuban withdrawal negotiations, this could be a carrot in future talks—especially if Japan, European, and even the Soviets would donate humanitarian assistance moneys to address the depravation and hunger now facing thousands of Angolans. This prolonged costly war is the real cause of the famine, and the MPLA is not willing to talk with the democratic resistance. In fact, new Soviet and Cuban led offensives are attempting to crush the democratic resistance right now.

Madam President, I ask unanimous consent that a number of articles on Angola be printed in the RECORD. These articles from the New York

Times, the Washington Post, and the Washington Times address the Soviet lead offensive, the lack of a coherent U.S. policy in the region, and the possible provision of food assistance. There was a particularly interesting piece in the Washington Post Sunday "opinion" section, which I highly recommend to my colleagues.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Oct. 4, 1987]

Rebels Brace for Major Drive by Angola

(By William Claiborne)

Cunjamba, Angola—Anticommunist rebels have blunted a major government offensive against their strongholds in southern Angola, but are bracing for a second, more massive assault that could determine the outcome of the 12-year civil war, according to the U.S.- and South African-backed guerrilla leader Jonas Savimbi.

Savimbi said his 8,000 guerrillas face two columns of at least 18,200 Soviet-directed government troops along the vital Lomba River. He predicted that before the rainy season begins in the next three weeks, "There will be thousands and thousands of bodies in Lomba."

Savimbi, leader of the National Union for the Total Independence of Angola (UNITA), spoke with reporters at front-line positions near the Lomba River and at a news conference at his bunker headquarters in Mavinga, 30 miles southeast of here.

The expected battle would be decisive, Savimbi said, because the Angolans have committed their best troops to the two columns, backed by 150 tanks and more than 200 armored vehicles. [Related story in Outlook, Page C1.]

He said UNITA is prepared to bring up reserves to match the enemy strength, and that he was relying on U.S.-supplied antiaircraft missiles to limit the effectiveness of air support by Cuban and Angolan-piloted MiG23s and MiG21s.

Savimbi said that a "spectacular" battle had taken place on the Lomba River near here on Sept. 13, when UNITA forces drove back two battalions of government troops who had fought their way to the south side of the waterway and encamped for a week.

However, casualty figures given by his aides suggested a battle of less ferocious proportions had taken place. They said that while three government battalions had been routed and three tanks destroyed, only 70 dead government soldiers had been counted, compared to 10 UNITA dead.

UNITA claims that since the first tentative probes of the current dry season offensive began three months ago, 1,023 government troops have died in fighting, compared to 86 UNITA dead. It also claims to have destroyed 56 tanks and shot down 11 government helicopters and three MiG fighters.

Two Soviet military personnel were killed and four injured in recent fighting, UNITA intelligence officers said. They offered no evidence to substantiate their claim.

In an attempt to prove that UNITA forces had stemmed a major assault near here and that another was imminent, Savimbi on Friday took a group of South African-based correspondents by plane, truck and foot to a point 12 miles north of the river in an area defended by camouflaged infantry, artillery and antitank positions.

There, UNITA chief of staff Gen. Ben Ben pointed across a shallow valley two miles to the north, which he said was the front line of the battle where several thousand government troops were dug in. But the reporters could see no evidence of Angolan troops from that distance and no sign of the Sept. 13 fighting.

For the benefit of photographers, UNITA guerrillas fired off salvos of rockets in the direction of the government positions, but there was no immediate reply.

Later, two MiG fighter-bombers were seen making a bombing run near Mavinga, sending up spirals of black smoke that appeared to be from burning oil.

Ben said that in the battle three weeks ago, UNITA forces routed government infantry units that advanced ahead of Soviet-made T55 and T54 tanks, leaving the tanks vulnerable to rocket and antitank missile fire as they approached the UNITA defensive positions.

Ben and Savimbi denied reports by the Angolan government that South African air and ground forces were involved in the fighting on UNITA's side.

South African Defense Minister Magnus Malan was quoted by the state-run South African Broadcasting Corp. last night as confirming that South Africa maintains a presence in southern Angola, although he did not explicitly confirm that the forces have been used against Angolan troops in the current offensive.

Malan, the broadcast said, pledged South Africa's continued "material and humanitarian" support of UNITA, saying the rebels are in the forefront of blocking Soviet intentions of expansionism in Angola.

UNITA intelligence chief Brig. Peregrino Chindondo played a tape recording of what he said were Soviet pilots speaking with ground observers during an air-support mission along the Lomba River.

In his bunker headquarters near Mavinga, Savimbi said he expects that before the dry season ends, government forces will mount major offensives against UNITA positions near Chambinga, about 13 miles east of Cuito Cuanavale, and again against the defensive line near here.

On July 30, in an interview in Mavinga, Savimbi predicted a final, decisive government assault against Chambinga would begin imminently.

On Friday, the UNITA leader told reporters that the outcome of the expected battles, which he predicted would be the largest in his 12-year-old campaign to overthrow the Marxist government in the capital, Luanda, "will affect southern Africa for years to come.

"This will be the last offensive. If they lose, the Soviets will have to take stock of lessons learned and then negotiate with UNITA. If UNITA is wiped out, the Russians will turn Angola into a base for their next offensive in the region," Savimbi said.

He added, "We never said we beat the offensive. We say we have the upper hand of the situation, and that we can determine the fate of these brigades on the Lomba."

Savimbi said the expected government thrust against Chambinga will be aimed at driving toward Mavinga, which is strategically important not only because it is the gateway to UNITA's main headquarters in Jamba, 170 miles to the southeast, but because it produces virtually all of the food for the UNITA-controlled southeast corner of Angola.

In each of the past several years, government forces have tried to take Mavinga and have been repulsed. In 1985, government troops approached Mavinga but were stopped when South Africa intervened with massive air support.

Savimbi said he was not anticipating a military solution to the civil war, because there is no possibility for one by either side. Instead, he said, he is aiming at a major victory either here or at Chambinga that will force the government of President Eduardo dos Santos to negotiate a settlement with UNITA.

He argued that a power-sharing agreement between UNITA and the ruling Popular Movement for the Liberation of Angola would weaken Soviet and Cuban influence in Angola and remove obstacles to independence for neighboring Namibia (South West Africa).

[From the Washington Post, Oct. 4, 1987]

Angola's Twilight Zone—Which Side of the Civil War Is America On?

(By William Claiborne)

Covering both sides of a civil war, a reporter is always in a twilight zone. But Angola is a special case of schizophrenia.

After months of alarms by anti-communist rebel forces—and months of denial by Angola's Marxist government—the great dry season offensive of 1987 is underway. Depending on how you look at it and whom you talk to, two radically different pictures of the contending forces emerge.

On one side is the Marxist government in the capital of Luanda—either a radical, unstable pawn in the clutches of Cuba and the Soviet Union, or a latently moderate government struggling to come to terms with western ideology while beleaguered by a debilitating war underwritten as part of the East-West conflict.

On the other side, there is anti-communist rebel leader Jonas Savimbi—either an opportunistic and ruthless head of a personality cult who is strangling Angola's economy out of unbridled personal ambition and blood lust, or a visionary champion of democracy and the key to peace and stability in southern Africa.

Who is right in Angola? I have covered both sides of civil wars in Asia, the Middle East and Africa without being nearly as confused about the merits of each side's cause. Three trips within the last two months to Luanda and government forward bases and to the southeastern corner of Angola—controlled for 10 years by the rebels—confounded as much as enlightened.

I take some comfort in my confusion from the fact that U.S. foreign policy is just as ambivalent. The Reagan administration increasingly makes friendly overtures to the Marxist government in Luanda—and U.S. owned oil companies continue to provide its major source of hard currency—while the administration continues secretly to supply weapons to the Savimbi-led insurgents seeking to overthrow that same government. Why, if the universally recognized government is salvageable as a potential ally of the West, do we continue to contribute to its possible demise?

My questions to both Angolan President Jose Eduardo dos Santos, head of the ruling Popular Movement for the Liberation of Angola (MPLA), and Savimbi, head of the rebel Union for the Total Independence of Angola (UNITA), produced more contradictions than clarifications.

Interviews with local military commanders on both sides yielded bombastic predictions of spectacular battlefield victories that are to come, but no definitive answer to the question of whether a military solution is possible in Angola.

Meetings on both sides of the front lines with prisoners of war and combat victims evoked claims of horrific atrocities, but little conclusive evidence that the war is being conducted any more savagely than most.

The current government offensive is said to have been directed by a high-ranking Soviet general and backed by 37,000 Cuban troops. U.S. intelligence agencies estimate that the Soviet Union has supplied $1 billion in arms for the offensive. But dos Santos and his senior counselors blandly maintained that a limited number of volunteer Cuban and Soviet technicians are helping Angola run its schools and hospitals as part of their "progressive international duty" but have not been directly involved in combat since 1979. They admitted that some Cuban troops are protecting strategic towns and cities but said that Angola is fighting its own war against UNITA and the South African Army and does not need foreign help.

For their part, Savimbi and his aides claim that Angola is under virtual Cuban and Soviet occupation and that the government has effectively traded one colonial master—the Portuguese—for two more. It is a Russian and Cuban war against patriotic Angolans and nothing else, Savimbi and his supporters say. And they deny British press reports that South African fighter-bombers have played a key role in repulsing the government offensive earlier this month.

The truth, as often is the case, probably lies somewhere in the middle.

In Lubango, in south central Angola, I saw Cuban and Soviet pilots climb into heavily-armed MIG-23 fighters and go thundering off the runway in the direction of UNITA-controlled territory to the southeast on missions that appeared to have little to do with helping run hospitals and schools.

In Mavinga, in the heart of Savimbi's rebel enclave, I saw similar MIG-23s languorously orbiting overhead, apparently looking for the tell-tale clouds of dust churned up by truck convoys headed to the front. On Friday, I saw two Soviet warplanes dip low not far from Mavinga and drop their bombs, sending up columns of thick black smoke.

A few miles east of the front at Cuito Cuanavale in early August, I shared a bunker with UNITA field commanders while batteries of Soviet-supplied artillery laid down what appeared to be softening barrages in preparation for some kind of offensive action.

Whether the Angolan army and UNITA are headed toward a decisive confrontation is still unclear. But last month's battle northwest of Mavinga was undoubtedly the largest clash in the last two years and the current fighting could send the violent, 10-year struggle for control of Angola into an upward spiral.

Meanwhile, the propaganda war continues. In Luanda, visitors are relentlessly reminded by the Department of Information and Propaganda that artifical limbs comprise one of the country's biggest growth industries. UNITA guerrillas routinely bury anti-personnel mines in farm fields just before harvest time, mutilating hundreds of peasant women and children when they go to pick the crops, government officials say. Similarly pathways used only by civilians are heavily mined by UNITA rebels to spread terror and convince the local population that the Angolan government is incapable of protecting them, they add.

But there are also factories that produce artifical limbs in the bush headquarters town of Jamba, and UNITA public-relations officers make a point of taking visitors to special hospitals for mutalados (amputees) who have stepped on MPLA mines.

The issue of mutalados is an emotional one on both sides, and frequently the truth is obscured by hyperbole.

Some independent relief workers for foreign agencies maintain that in a war in which a main objective of each side is to disrupt the other's lines of supply and road transport capability, a high rate of civilian casualties by land mines in inevitable. But officials in Luanda vigorously deny using anti-personnel mines in civilian areas. They say that is not part of the MPLA strategy to intimidate local populations, but that such tactics are part of the guerrilla textbook.

When asked about this charge, Savimbi responded that the MPLA forces regularly round up rural peasants suspected of producing food for UNITA and force them to live in towns where they can be watched. To confine the peasants, he said, the MPLA erects barbed-wire fences and plants land mines, which are frequently detonated when the internees go foraging for food.

But Savimbi admitted that when his guerrillas attack an MPLA garrison, they often lay land mines behind them as they retreat. "It's possible that the local population would step on them, so in February I issued an order to my commanders—when there is a local civilian population in the area, no anti-personnel mines. But I share the blame," Savimbi said.

On both sides of the civil war, other stories of atrocities are more abundant than hard corroborating evidence.

Both MPLA soldiers and UNITA guerrillas say that they expect to be tortured to death if taken captive by the enemy. But when either side produces prisoners to visiting journalists for interviews, as they frequently do, the POWs invariably say that they have been treated well and that it is their own side that engages in brutality.

Allegations of the use of chemical and biological weapons are bandied about freely, but no one has produced corroborating evidence of such practices.

Nowhere is contradiction and obfuscation more pronounced that in the interminable debate over the right to rule Angola. Perceptions blur in the haze of skewed rhetoric and disingenous logic. In Luanda, Savimbi is seen as nothing more than a reactionary puppet of the United States and South Africa and a machiavellian upstart. Having lost his bid to reign supreme in the short-lived MPLA-dominated coalition government that followed independence in 1975, Savimbi, according to this view, led his sulking followers to a bush hideout in the southeastern corner of Angola. From this vantage point they have sowed relentless terror in hopes of crippling the country's economy and bringing dos Santos' Marxist government to its knees.

In fact, the 53-year-old Savimbi is more complicated than that, and he remains an enigma even to many of his admirers. His ideological record is that of a fervent anti-capitalist whose mentos during Angola's revolutionary struggle were Mao Tse-tung, Che Guevara, Joshua Nkrumah and Gamal Abdel Nasser. In 1965, he led 12 disciples to China for study of guerrilla warfare under the tutelage of then Prime Minister Chou En-lai. While Savimbi himself is widely perceived as a moderate, free-market, pro-American leader, his party is based on socialist principles and the black exclusivity he calls "negritude."

But despite his party's anti-capitalist bent, on almost every wall of every building in UNITA's bush headquarters in Jamba there are color photographs of Savimbi meeting President Reagan in the Oval Office last year and Savimbi chatting with Secretary of State George Shultz. Strains of the "Yankee Doodle Dandy" introduction to the Voice of America's nightly Portuguese-language newscast fill the UNITA barracks, and school children greet a visiting American with chants of "Presidente Reagan! Presidente Reagan!"

Yet the visitor is struck by the seeming softness of Savimbi's attachment to the United States. How much of it is based on cool pragmatism? How quickly would it evaporate if Washington were to cut off its yearly $15 million worth of covert military aid—including vital Stinger anti-aircraft missiles and anti-tank missiles?

Savimbi himself inadvertently fueled those suspicions when he recalled in an interview how UNITA last year attacked the runway at the airport at Cabinda, where U.S.-run offshore oil facilities are located. "If it were not for the support of the U.S. government, today UNITA would be in a position to hit Gulf Oil in Cabinda," Savimbi said, referring to the oil fields now owned by Chevron Corp.

Savimbi's pragmatism also extends to South Africa, which financially supports UNITA and has repeatedly intervened in the nick of time when MPLA forces have gotten the upper hand in engagements. Savimbi, who occasionally travels to South Africa to make public appearances, is fond of saying, "You can choose your friends but you can't choose your neighbors," and observing that white-ruled South Africa is a regional power to stay.

If Luanda's perceptions of Savimbi and his rebel movement are too simplistic, the same could be said of the view from Jamba of dos Santos' struggling government. Far from being the monolithic vassal of the Soviet Union that Savimbi sees, the People's Republic of Angola is headed by a government that has become increasingly ambivalent towards Moscow's socialist model for the Third World, steadily turning toward a more mixed economy and a less rigid structure of central planning and administration.

The government is considering joining the International Monetary Fund; it hosted the "summit" of nonaligned nations in 1985; it is increasingly expressing interest in western investment; and 90 percent of its imports come from free-market-oriented countries, including the United States.

Angola has steadily decollectivized its farms and denationalized its industries. It joined the Lomé Accord giving Third World countries access to European Economic Community trade and aid benefits and allowed the EEC to establish an office in Luanda. In an interview, the newly independent country's first prime minister, Lopo Fortunato Nascimento, now commissar for Hula Province, summed up the government's changing attitudes: "Socialism is not a bible . . . . We are strong enough to say that we have made mistakes here and there."

Despite the changing character of the country's social and economic structure—and its tentative groping for closer ties to the West—the MPLA government remains in the eyes of its antagonists in this long and brutal civil war nothing more or less than a extension of Soviet adventurism in

Africa. And despite the complexities of Savimbi and his movement, UNITA remains in the eyes of the leaders in Luanda nothing more or less than a reactionary tool of the United States and South Africa.

In this climate of misperceptions and intractability on both sides, the only certainty is that opportunities for a negotiated settlement of the civil war will continue to slip away, and the agony of an abundantly rich, beautiful country will endure.

Food Aid in Angola

The letter from Angola's United Nations representatives [Sept. 21] deserves a response. Since the Marxist MPLA government made a request of $116 million in emergency food aid, it continues to run away from the main reasons why there is famine in Angola.

First, the government has yet to be convinced that the centralized system of collective agriculture does not work because it leaves no incentives for farmers to produce surplus food. The Post was right in saying that "Angola's farm economy has collapsed in the 12 years since the MPLA took over the country, and Angolan farmers refuse to sell their food for Angolan currency, which is nearly worthless" [front page, Aug. 14].

Second, the MPLA's policy of collective villages known as *aldeamentos* is the same policy used in Ethiopia, in which farmers are removed from their villages and put into artifical villages away from their land and the homes where they grew up.

Third, the government has spent 80 percent of its budget to purchase sophisticated weapons from the Soviet Union and to pay for the presence of more than 47,000 Cuban troops. Estimates of the actual military spending vary, but according to the U.S. State Department, this year alone the regime spent about $1 billion on armaments to fight against UNITA. The real cause of famine in Angola is the prolonged, costly war that oil companies are paying for.

What amazes me is that no one is talking about a solution. The Soviets and the Cubans still think that more MiGs and more Cubans troops are the solution. UNITA believes the solution to the Angolan civil war is the withdrawal of all foreign forces from Angola, the formation of a government of national reconciliation and unity and the holding of free general elections supervised by the U.N. and the Organization of African Unity.

UNITA does not oppose food aid to Angola, but food aid alone is only a cure of the symptoms of Angola, not a solution to the real problem of the war. For the sake of justice, food aid should be distributed to both sides of the conflict. A monitoring mechanism should be set up to make sure that the MPLA and their allies are not the dinner guests of American generosity, but rather the empty bellies of Angolan women and children, who have suffered the most during this crisis.

MARCOS SAMONDO.

[From the New York Times, Sept. 14, 1987]

Angola Lags in Drive on U.S.-Backed Rebels

MAVINGA, ANGOLA, Sept. 9—After more than a decade of conflict, anti-Communist rebels, armed with American defensive missiles and backed by South Africa, continue to frustrate the well-equipped Angolan Army and its Soviet-bloc military advisers.

A visit to the war area showed that the 80,000-member Angolan Army—despite Soviet arms and air support, the backing of 37,000 Cuban troops, and an estimated 5,000 Soviet, East German, and Cuban military advisers—has been unable to capture this strategically vital town.

Mavinga is the gateway to Jamba, the huge grass hut village set up in Angola's southeastern Cuando Cubango Province as the rebels' headquarters. Fifty miles wide at its widest point, Jamba houses 11,000 rebels and family members, and contains schools, a hospital, camouflaged radar and a radio station.

DRIVE APPEARS THWARTED

As in the previous two years the Government's push to route the forces of Jonas Savimbi from their headquarters appears to have been thwarted.

Alluding to Stinger anti-aircraft weapons provided by the United States, the 53-year-old rebel leader declared in an interview at a command post east of Mavinga: "I would say the U.S. is playing a decisive role in the war."

Rebel commanders of Mr. Savimbi's National Union for the Independence of Angola, known by its Portuguese acronym Unita, were confident this week that they would repulse a three-pronged offensive by about 12,000 Angola troops backed by the Cubans.

The forces of the ruling Marxist Popular Liberation Movement of Angola, or M.P.L.A., are advancing on Mavinga from Cuito Cuanavale, about 100 miles away, in 12 mechanized brigades. The forces include more than 100 Soviet T-55 tanks and are backed by a Cuban regiment and powerful air support, according to Unita intelligence reports.

But the Government forces are runing out of time before rain severly restricts their movement, turning the soft sand mushy and parched river-beds into swollen torrents.

After fighting an eight-year war against Portuguese colonialism with Chinese backing, the Unita guerrillas turned to resisting what Mr. Savimbi calls Soviet colonialism.

The civil war emerged out of a two-year power struggle between pro-Soviet and pro-Western factions after Angola achieved independence from Portugal in 1975.

Mr. Savimbi is committed to forcing the Marxist Angolan govenment of President Jośe Eduardo Dos Santos into a coalition with Unita, with a view to holding the first elections since independence. For help, he has turned to the West and friendly African countries, including South Africa, Zaire and Morocco.

"There is no prospect of a military victory for Unita," Mr. Savimbi said. "Our objective is to deny the enemy victory."

He said he was confident that the Angolan president would have to cut his dependence on the Soviet bloc and look to Unita for a solution.

The $30 million in covert military aid over two years from the United States, which includes anti-aircraft and anti-tank missiles, is dwarfed by $4 billion in estimated Soviet aid to the Government forces over the past decade.

American officials in Washington estimate that about $1 billion worth of Soviet arms have been sent into Angola over the last 12 months alone, making the 125,000-member combined army of Angolan and East-bloc forces one of Africa's most formidably equipped.

Unita's power base is in the southern Ovimbundu tribe, Angola's biggest ethnic grouping. The resistance claims a regular force of about 28,000 backed by 37,000 guerrillas operating mainly in the north of the country. American analysts estimate that Unita has 30,000 to 40,000 followers.

About 8,000 Unita troops are deployed in classic defensive positions in an arc between Mavinga and Cuito Cuanavale, Unita fighters said.

Morale was high among Unita soldiers in a newly dug-in position on a sparsely wooded hill overlooking the savannah about 55 miles northwest of Mavinga and 45 miles east of Cuito Cuanavale, the easternmost town held by government forces in Unita's so-called liberated zone.

The Unita soldiers, wearing clean, dark-green uniforms made at Unita's bush headquarters, staged practice ambushes and precision mortar drills for visiting correspondents.

Unita commanders said that Government forces were deployed a couple of miles away, behind a wooded ridge across a grassy plain. Green undergrowth provides the Unita soldiers camouflage for artillery and vehicles, while trees and brush provide cover for defensive deployment.

Operating from a circular bunker excavated from the sandy soil, the Unita commanders directed 122-millimeter Katyusha rocket and 81-millimeter and 120-millimeter mortar attacks on government positions and carried out ambushes using infantry and artillery, including American 106-millimeter anti-tank guns and 14.5-millimeter anti-aircraft guns.

Manuel Deolinda Jr., a Unita artillery commander, said Unita units operating from behind the Government lines were rupturing the supply lines to Cuito Cuanavale.

Regarded by some military analysts as Africa's best guerrilla army, Unita has been forced since 1985 by advances of Soviet-backed mechanized brigades to adopt some conventional combat methods, principally the use of infantry and artillery attacks.

Apart from foreign aid, Unita has developed an indigenous arms industry by repairing captured Soviet weaponry and turning it back on the enemy.

Detonators rehabilitated at a bush workshop at Jamba re-activate Soviet B-21 rockets launched from 40-tube multi-rocket launchers, which became popularly known as 'Stalin organs' during World War II.

"We will have a lot of equipment to divide among ourselves at the end of this offensive," said David W. Oliveira, 31 years old, who serves in Unita's foreign affairs department.

Peregrino Chindondo, Unita's 29-year-old chief of military intelligence, said in an interview at Jamba that while Unita had to engage increasingly in semi-conventional warfare, "overall strategy still relies much on guerrilla warfare otherwise we would become too vulnerable to air attacks.

He said the Soviet advisers to the Angolan forces were relying more heavily on tanks than on aircraft this year because of the effectiveness of Unita's defensive anti-aircraft weapons. Unita refuses to officially confirm that it receives shoulder-held Stinger anti-aircraft missiles from the United States. But military experts say that most of the Soviet-made planes and helicopers that Unita claimed to have downed were struck by Stingers.

Mr. Chindondo said that MIG-21 and the longer range SU-22 bombers supporting the Government troops had been forced to fly very high because of the accuracy of Unita's anti-aircraft missiles.

Government troops, he said, had not advanced nearly as far toward Mavinga as they had by the same time in 1985 or 1986 and were suffering heavy casualties.

A Soviet-led offensive on Mavinga in the 1985 day season was thwarted at the last moment by huge South African air support, Western military analysts said. Heavy bombing prevented the Angolan forces from taking Mavinga and they retreated to Cuito Cuanavale.

Although the Angolan government denies Unita's claims that it launched similar dry season offensives last year and this year, there has been evidence of an extensive weapons build-up and sporadic but intense fighting.

In last year's clashes, Unita claimed to have downed nearly 40 Soviet planes including MIG-23 and MIG-22 fighters, MIG-21 bombers and Mi-8 and Mi-24 helicopter gunships.

In this year's offensive, Unita claims to have shot down several MIG's and helicopters, destroyed a score of Soviet T-55 tanks and captured B-21 rockets and multi-rocket launchers, and killed several hundred government troops.

Mr. Savimbi said that this year's Government offensive began on June 10 and is expected to climax this next week.

Rebel confidence appears to be inspired by Mr. Savimbi, who travels between trouble spots on the front as commanders vie for his attention on Unita's radio communications network.

In an interview in a command post east of Mavinga, the Unita leader appeared in an immaculate camouflage suit carrying an ivory-headed cane an ivory-handled pistol in a hip-holster and infra-red field glasses around his neck.

He remained unruffled as a whirlwind swept a vortex of leaves and dust within yards of his chair as he faced correspondents and aides.

"You wonder why I took no notice of the whirlwind," he said. "It is because a whirlwind never passes where there is an African chief."

[From the Washington (DC) Times, Sept. 30, 1987]

REBELS CRUSH MAJOR ATTACK BY CUBAN-LED ANGOLA FORCES

(Peter Younghusband)

CAPE TOWN, SOUTH AFRICA—One of the biggest offensives yet mounted by Soviet-advised and Cuban-led Angolan troops against the rebel forces of Jonas Savimbi has been routed.

UNITA rebels assisted by South African forces have recaptured a key base in heavy fighting in southern Angola, according to reports filtering back here from the combat zone.

Military sources and a battlefield eyewitness said UNITA—the National Union for the Total Independence of Angola—retook the Lomba logistics base near Mavinga in southeastern Angola, killing an estimated 250 Angolan government troops and destroying six armored vehicles.

An army photographer attached to the South Africa forces, Cloete Breytenbach, said he was shown around the Lomba battlefield.

"It was littered with bodies," he said. He had also seen the burned-out shells of three T-55 Russian tanks, apparently knocked out by U.S.-made TOW missiles.

Mr. Breytenbach said UNITA generals told him they had lost four men in the battle, in which they claimed about 350 enemy losses. Mr. Breytenbach's own estimate of the dead, however, was "closer to 250."

He said it appeared the Angolan government forces "got clobbered" retreating across the Lomba River.

Mr. Breytenbach said he had seen the burnt-out shells of a BM rocket launcher, two TM bridge-laying vehicles and "numerous support vehicles."

The UNITA counteroffensive began on Sept. 13, when part of the 8,000 UNITA troops based in southern Angola attacked the base they had lost months earlier.

They lost Lomba after seven brigades of Angolan regulars totaling an estimated 10,000 troops, directed by Soviet Gen. Konstantin Shagnovitch, attacked from Cuito Cuanavale in Cuando-Cubango province late in May. It was the biggest push since 1985 in the Launda government's attempts to crush the rebel headquarters at Jamba in southeastern Angola.

The government objective was Mavinga, some 200 air miles north of the UNITA base at Jamba. Mavinga's airfield is crucial for any push against Jamba, a town of thatched dwellings carved out of the bush just across the South African-controlled Caprivi Strip.

South Africa, as usual, stepped in with ground and air support of the UNITA forces—as it always does when the Soviet-directed forces get that far.

Pretoria is determined to prevent the Soviets from setting up sophisticated monitoring equipment near borders under its control. Angola borders Namibia, which is South African-controlled.

UNITA claims that since May it has destroyed 20 Soviet T-55 tanks, seven helicopters, one MiG jet and killed 1,000 Angolan regulars. The rebels say they have lost 300 of their own troops.

The Soviet and Cuban-backed Angolan advance has been forced to rely on long and tenuous supply lines that appear to have failed them, contributing to their setbacks in the battle.

The South Africans monitored several radio messages in which Russian officers were heard calling urgently and with marked exasperation for ammunition and other supplies.

MiG jets entered the fray occasionally but most flew high to avoid UNITA's Stinger missiles, which have proved highly effective.

South Africans have again had to endure the odd experience of having their troops deeply involved in a military engagement and not being able to read about it in their newspapers due to a heavy government censorship. Pretoria, determined to limit details of its involvement in the fighting, reluctantly confirmed that South African forces were engaged after a London newspaper report was reprinted here.

S. AFRICA DECLINES COMMENT ON ROLE IN ANGOLA COMBAT

(By William Claiborne)

JOHANNESBURG, Sept. 29—The South African Defense Forces refused to comment substantively today on persistent reports that South Africa helped repulse a major offensive by Soviet-backed Angolan troops against anticommunist UNITA rebels earlier this month.

A military spokesman in Pretoria characterized as "contradictory" reports in progovernment Afrikaans newspapers today that South Africa was "definitely" involved in defending UNITA during a counteroffensive against Angolan troops in southern Angola two weeks ago.

U.S.-supplied forces of UNITA, which in Portuguese stands for the National Union for the Total Independence of Angola, recaptured the Lomba logistics base near the town of Mavinga in a battle that began on Sept. 13 and killed an estimated 350 Angolan soliders, according to UNITA commanders.

The battle, which was said to involve seven brigades totaling an estimated 10,000 Angolan troops, has been described by UNITA as the biggest since the dry-season offensive of 1985, when Angolan armored and infantry columns pushed eastward from Cuito Cuanavale toward Mavinga until South Africa intervened with massive air support.

Not only is Mavinga strategically important as a gateway to the rebels' bush headquarters in Jamba, near the Namibian border, but the area produces virtually all of the food for the UNITA-controlled southeastern corner of the country.

The Angolans, backed by an estimated 37,000 Cuban troops guarding strategic positions to the north, intend to try to capture Mavinga as a jump-off point for an assault on Jamba next year, according to UNITA commanders. Jamba is 170 miles southeast of Mavinga.

A second force of an estimated five brigades was reported to be moving westward from the Cangamba area toward Tempue in an effort to block routes used by UNITA guerrillas to infiltrate northward to strike the Benguela railway, diamond mines and agricultural centers.

Military analysts here said the purpose appears to be to force UNITA to split its estimated 28,000 troops between the two fronts.

U.S. intelligence agencies estimate that the Soviet Union has sent $1 billion worth of arms to Angola in the past year in preparation for the current offensive. Much of it has been flown south from the capital of Luanda to Cuito Cuanavale.

Afrikaans-language newspapers here, quoting "informed military spokesmen," said the South African presence in Angola should be viewed against the necessity to protect South Africa's interests by assuring that UNITA is not defeated.

UNITA long has been engaged in containing guerrillas of the South West Africa People's Organization (SWAPO) who seek to cross the border into Namibia, which South Africa controls.

Defense Forces spokesman Commandant Ian Buck today refused to go beyond an earlier Army statement that "this report [of intervention] confirms once again that the major offensive against UNITA is Russian- and Cuban-inspired, controlled and commanded."

He was referring to reports in the British press that South African Mirage fighter-bombers were sent into action earlier this month to save Mavinga from capture by Angolan forces. Mavinga, where Savimbi maintains his command post, has an airstrip used to supply UNITA forces at the front east of Cuito Cuanavale.

The Angolan offensive is said to have been directed by Soviet Gen. Konstantin Shagnovitch, described by UNITA as the highest ranking Soviet officer assigned to a foreign military command outside of Europe and Afghanistan.

The London Sunday Telegraph reported that two Angolan brigades started crossing the headwaters of the Lomba River, 60 miles west of Mavinga, before they were attacked by South African Mirage-3 aircraft. A South African photographer who visited the Lomba battleground, Cloete Breytenbach, said he had seen the burned wreckage of three Soviet-made T55 tanks, two bridge-laying vehicles, a rocket launcher and armored vehicles.

South African Defense Minister Magnus Malan, in a speech to Parliament earlier this month, made it clear that South Africa did not intend to let UNITA collapse under the Angolan offensive.

Malan said it was South Africa's duty to "protect the region against Russian and Cuban destabilization and objectives of eventual takeover.

"If our interests demand that we take action against communist incursion, then we have no choice."

Savimbi, in an interview in Mavinga last month, said that the expected offensive would be a "life or death" battle for UNITA.

Mr. DECONCINI. Madam President, I hope that the manager and the ranking member can accept this amendment and would attempt to hold on to it in conference. It is only a sense of Congress, nonbinding, of course, but I think it is very important for the Congress to go on record to urge the Secretary of State and President ultimately to make this subject a high priority in any negotiations that take place over the next few months.

Mr. PELL. The Senator is correct. It is an acceptable amendment and I trust it will pass.

(Mr. ROCKEFELLER assumed the chair.)

Mrs. KASSEBAUM. Mr. President, I do not believe there is any objection on this side of the aisle. We have strong support for the amendment.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator from Kansas [Mr. DOLE], and the Senator from New York [Mr. D'AMATO] be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona [Mr. DECONCINI].

The amendment (No. 871) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I want to thank the chairman of the Foreign Relations Committee for his assistance, and also I want to thank the staff.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 872

(Purpose: Provides a penalty for the illegal use of funds for political or propaganda purposes)

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 872.

Mr. KERRY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 82, strike lines 9 through 17, and substitute in lieu thereof the following:

"(a) No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

"(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress; or

"(2) to influence in any way the outcome of a political election; or

"(3) for any publicity or propaganda purposes not authorized by Congress.

"(b) Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate subsection (a), shall be fined not more than $1,000 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment.".

Mr. KERRY. Mr. President, this is an amendment which has been discussed with the distinguished ranking member and the chairman. I believe it will be accepted by both sides. It was part of the foreign aid bill. We have taken it out of that to include it here at this time.

During the Iran hearings, we learned of money that was being illegally spent by the State Department on propaganda efforts with respect to the whole issue of Central America. It was agreed by the members of the Foreign Relations Committee that there should be some criminal penalties attached to that and not merely a prohibition as to that activity.

So this bill seeks to place in codified form such penalties of up to 1 year in jail or $1,000 fine for the illegal use of such funds in the future.

I believe both sides are willing to proceed forward on that.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. This is an excellent amendment and a follow on by the Senator from Massachusetts earlier in this legislation, and it should be passed. I hope my colleagues will pass it.

Mr. HELMS. Mr. President, I say to my friend from Massachusetts that the most eloquent way I can say I approve of the amendment is to request that I may be a cosponsor of it.

Mr. KERRY. I would be delighted. I ask unanimous consent that the distinguished Senator from North Carolina be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Massachusetts [Mr. KERRY].

The amendment (No. 872) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I thank my distinguished colleague. I thank also my distinguished colleague from Maryland for allowing me to proceed.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill is once again open for amendment.

Mr. PELL. My understanding is that if either the Senator from North Carolina or I raise a point of order that we could return to the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. If the Senator calls for regular order, the Senator can then resume consideration of the Helms amendment.

Mr. HELMS. Parliamentary inquiry. Where is the Symms amendment in the pecking order?

The PRESIDING OFFICER. Upon disposition of the two Helms amendments, the Symms amendment would then recur on a call for the regular order.

Mr. HELMS. Very well, I thank the Chair.

AMENDMENT NO. 870

Mr. PELL. I put in the call now, Mr. President, for regular order.

The PRESIDING OFFICER. The question now recurs on the Helms amendment 870. The yeas and nays have been ordered.

Mr. PELL. Mr. President, I think there are Senators who wish to speak on it.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Kansas?

Mrs. KASSEBAUM. Mr. President, yes. I would like to speak for a few moments on the amendment by the Senator from North Carolina regarding funds for Mozambique.

This amendment would say that no funds authorized to be appropriated unless the Secretary of State has consulted with all parties to the civil war, and so forth. I would just like to comment, Mr. President, that those who worry about us dictating foreign policy from the Senate floor certainly should be concerned, I think, with this particular amendment at a time when President Reagan has just met yesterday with President Chissano of Mozambique, and stated clearly over the last couple of years that he believes it is an opportunity that exists for Mozambique as it looks to the West as it is attempting economic reform, and as it is attempting to stabilize its government and develop its institutions in such a way that it can become a more open society.

I share that belief, Mr. President. I think it is the wrong time for us to dictate from the Senate floor just exactly what should or should not be done at a very sensitive time. It is true that civil war is raging in Mozambique, that has torn the country apart, drought conditions have caused famine, and a whole population has been disrupted. But there are great efforts underway recognized by Prime Minister Thatcher, who is lending strong support to the Government of Mozambique at this point as well as of our other Western allies, and I think it is a mistake for us, recognizing the problems that exist there, to try to present the solution on the Senate floor.

I would hope that we would recognize that President Reagan and President Chissano have discussed this, and that we should allow them and allow President Reagan to be the one to guide our policy at this particular moment. That is why I would be supportive of the tabling of the Helms amendment at this time.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to join my distinguished colleague from Kansas with respect to this amendment. The amendment says that none of the funds authorized to be appropriated under the act may be obligated or expended after February of next year unless the Secretary of State has consulted "with all parties to the civil war."

The administration has taken the position that this is not the way to try to bring about a peaceful resolution of the situation in Mozambique. They have been unwilling in effect to elevate Renamo, the insurrectionist group, to the status of a party with whom they should consult.

People disagree with the administration on that policy. This is an effort to compel the President and the Secretary of State to do what they have heretofore judged that they should not do.

Mrs. Thatcher, when she was here and met with Members of the Senate, expressed some very stong views about the movement toward the West that was taking place in Mozambique on the part of President Chissano and his government. In fact, the British have signed a military cooperation agreement and are training Mozambican Army officers and, in fact, will train entire units; the Italians have become a key source of economic assistance and one of Mozambique's most important trading and investment partners.

So, apparently President Reagan and the Secretary of State see these developments as an opportunity to move Mozambique away from its previous orientation and this amendment, it seems to me, would make that more difficult to do.

Therefore, I join my colleagues from Kansas in her expressions of support for the motion to table this amendment when it is made.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL. Mr. President——

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. HELMS. Mr. President, the Senator has the floor, but may I respond to the Senator?

Mr. PELL. Yes.

Mr. HELMS. Mr. President, over and over again this afternoon and this evening, and for weeks and months, I have been saying, as clearly as I know how, that I am not suggesting, demanding, requesting that this Government recognize anybody in Mozambique.

If one reads the report of the meeting with President Reagan by Mr. Chissano of Mozambique, the Communist President, it is clearly stated that the name Renamo did not come up.

I do not know how many times I have to say it, but the purpose of this amendment is to reach some sort of resolution as quickly as may be possible to feed those hungry children, who are not going to be fed unless and until all parties are brought into the process.

I do not believe that Ronald Reagan—the Ronald Reagan I have known for a long time—is saying deal only with the Communists. I would be astonished if I were to hear that from his lips. I do think that he does have the hope, vain as it may be, that we could somehow move that Communist government of Mozambique to the center, toward the West, as has been repeated ad infinitum by the State Department.

Whatever one's views may be on that political question, there is still the question of reality, about how to stop the bloodshed, how to feed the children. I contend, as forcefully as I know how, that nothing is going to be achieved until all parties are brought into the process. I do not know what it is about the Communist government of Mozambique that makes it unique, unique to the extent that we will deal only with the Communist government there and exclude the freedom fighters, who, after all, control about 80 percent of the country. As they say in North Carolina, "That doesn't even make good nonsense."

I suggest that with all these political machinations that end progress and all the hopes which I contend are vain, if we are going to make an acceptable government out of the Communist government, we need to look at history. We need to remember that the same kind of argument was made about Mr. Fidel Castro in Cuba. Oh, how I heard that he is really just an agrarian reformer; he is going to be a good boy if we will just support him, and we will move on. There were even declarations, by spokesmen in and out of this Government, that Fidel Castro was not even a Communist.

So, I may be defeated in my quest to have all the parties consulting, but it will be a wrong decision on the part of the Senate, and my conscience will be clear, because I have tried. Next year, when we move into May and June and August and September, and a year from now in October, we are going to have the same starving children, the same bloodshed, and the same fixation that we can somehow stroke and pacify the Communist government.

Again, I note that this morning's Washington Post states that President Chissano, himself, said that Reagan never referred to Renamo by name, but talked about the division inside Mozambique and whether the two sides "could not sit down and speak in order to find a solution."

That is the Communist President, himself, relating President Regan's comments and that is exactly what I am saying, and I believe that to be the position of the President of the United States.

I do not believe he is saying that we are going to deal only with the Communist government. I would be astonished if that were the case. I am simply saying that if we really want to do something to help that country, which has been ravaged by violence and starvation, we had better wake up and smell the coffee, and at least sit down with both sides and see what can be worked out. That is all the amendment asks.

I am not asking, nor am I suggesting or requesting or demanding, that we recognize Renamo of Frelimo.

What I am saying is let us be realists and move now to try to work out some humanitarian way that we can save those starving children.

That is the purpose of the amendment and if the Senate wants to table it, fine. But at least I have done my best to try to rectify the situation.

Now, of course, it is the State Department's position that they deal only with Frelimo, the Communist government, but I have not ever seen or heard the President of the United States say that he would exclude dealing with the freedom fighters.

We have the same situation in Angola and other places in this world.

And I just hope that the Senate will not table the amendment because otherwise if it is tabled, the tragedy that has been unrolling for a long time in Mozambique will continue to unroll at the cost of many, many lives and much bloodshed.

I thank you, Mr. President, and I yield the floor.

The **PRESIDING OFFICER**. The Senator from Kansas.

Mrs. **KASSEBAUM**. Mr. President, I would just like to answer for a moment the concerns of the distinguished Senator from North Carolina about getting aid to the starving children in areas in Mozambique because we all share that concern.

Mr. **HELMS**. I am sure that is right.

Mrs. **KASSEBAUM**. I know that we have worked here with the International Red Cross and other private voluntary organizations Catholic Relief Services, and others, in order that they can be able to go into conflict areas, and I personally believe that is a very important group to work through in order to assure that they can help the viable delivery system.

I would like to say, too, Mr. President, that I think in reports on the conversations yesterday between President Reagan and President Chissano we would be less than realistic if we did not recognize that at some point there has to be a consideration of all the different factions that exist in Mozambique.

I certainly would not quarrel with that at all. I think that until there is some recognition of how one can incorporate different views there will continue to be dissension in the country.

All I would quarrel with is how we go about it and require it here on the Senate floor and actually cut off assistance that I think is important to aid development that would go to organizations that can see that aid is delivered within Mozambique.

Mr. **HELMS**. Mr. President, I think the Senator from Kansas knows of my affection and respect for her and it is not without pain that I disagree with her. I might add that I know of nobody, the State Department included, who believes that it is possible for a Frelimo government to win a military victory over Renamo. It is not going to happen.

The Frelimo government has the distinction of having one of the worst armies in the world. It is known, for example, that one source of supplies for the Renamo resistance is to buy military equipment and supplies from the Frelimo soldiers. So that is what you have going on over there.

At the present rate this war is designed to last well into the 21st century. Frelimo is growing by leaps and bounds. The people believe in Frelimo. As I said earlier, Frelimo controls about 80 percent of the country.

So what I am saying is why not urge a policy of let us end the war. That is all I am saying. How can those who argue on the one hand for a negotiated settlement of the conflict in Central America be against a negotiated settlement in Africa?

I wish someone would explain to me why negotiations are fine for people in Latin America but they are not fine for Africans. That is the point I am making.

In one concluding observation, Mr. President, some months back the news media and some elements in the State Department contended that a very fine woman missionary from Houston, TX, had been "kidnaped" by Renamo and there were all sorts of stories in the press and on the television that this terrible freedom fighter crowd over in Mozambique had kidnaped her and were holding her captive.

Well, it turns out that the Communist government of Mozambique would not allow a Red Cross plane to land to get that woman missionary out and it developed further that the woman missionary had never been "kidnaped"; as a matter of fact, when she got back to Houston, she said that she was treated well. She agreed that they were trying to protect her from the common practice among all Communist governments of killing people and then blaming it on the other side.

So, finally, the lady got out and she got out no thanks to the Communist government, but to the freedom fighters, Renamo, by name, who walked with her and escorted her for safety's sake into an adjoining country.

So she is out and she refuted the claims that she had been kidnaped by Renamo, but you do not see a mumbling word about that in the media—never have and never will, nor from the State Department.

So that is the point, Mr. President. I am saying simply that let us end the war, let us sit down with all sides. After all, Secretary Shultz said before the Foreign Relations Committee, and I know the distinguished Senator from Kansas will recall his doing so, "We will meet with anybody," and that was in response to a question asked of him by me. But did he intend to meet the the terrorists, the African National Congress, who put the tires around the necks of people with whom they disagreed, fill them with gasoline and set them on fire, and the Secretary said, "We will meet with anybody," and indeed he did himself meet once with ANC and I think there were 59 or 60 other meetings involving high-level officials of the State Department.

I am not saying let us recognize or fund Renamo, the freedom fighters. Let us just hear what they have to say and see what we can work out in terms of the resolution of the bloodshed and move toward feeding those children.

I have to have better evidence than I have at the present time that Ronald Reagan disagrees with what I have just said.

The **PRESIDING OFFICER**. The Senator from Maryland.

Mr. **SARBANES**. Mr. President, I just want to make one brief point. The bill as presented does not preclude the President or the Secretary of State from consulting with Renamo if they make the judgment that that is an advisable course of action. So the bill as brought to the Senate does not in effect bind the President; it does not preclude him from having such discussions if the President and the Secretary of State decide they are advisable.

The amendment would require the Secretary of State to have such discussions at penalty of losing all the money that is contained in the State Department authorization bill for Mozambique.

So really, the issue is a relatively simple one, and that is whether you are going to compel the administration to take a particular course of action or whether you are going to leave some discretion to the administration to take the course of action which, in their judgment, will best contribute toward resolving that tragic situation, both in terms of the fighting and in terms of the humanitarian needs about which we have heard.

It should be very clearly understood that if the President and the Secretary of State want to consult broadly they can do so. The bill as it stands does not prevent them from doing so. The amendment would require them to do so, whether or not the President or Secretary of State thought it was an advisable course of action.

It seems to me that in this situation we ought to leave that degree of judgment to the President and to the Secretary of State.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS. Mr. President, I do not want to go on all night but I am not sure that the Senator from Maryland has read the amendment.

It does not require anything except a report. It says:

None of the funds authorized to be appropriated under this act may be expended after February 1988 unless the Secretary of State has consulted with all parties to the civil war or insurrection in Mozambique and reported to the Congress not later than February 1, 1988 on whether there exists the possibility of a negotiated settlement of the bloodshed in that country and the establishment through negotiations of a political system in Mozambique that affords all Mozambicans the rights of free men and women to be governed by an elected government chosen through a democratic process in a political system allowing freedom of association and expression and the protection of human rights as embodied in the Universal Declaration of Human Rights.

We are not requiring them to do anything. We are just saying: Report to us on February 1, after having consulted all parties; not saying anything about requiring them to recognize freedom fighters or whatever. The amendment is clear. It speaks for itself. I will be awfully surprised if the President of the United States disagrees with this amendment.

Mr. SARBANES. Mr. President, the issue is whether the President and the Secretary should be compelled to consult with Renamo. The amendment requires them to do that at penalty of losing all appropriations authorized by this legislation. The bill does not preclude the President and the Secretary of State from engaging in such consultation if they deem it advisable. The amendment requires them to do so and, therefore, presses the President and the Secretary of State to take a position they may not wish to take.

It seems to me the more advisable course is to leave that judgment and that discretion with the President and Secretary of State.

Mr. PELL. Mr. President, I ask unanimous consent to temporarily lay aside the Helms amendment to permit the Senator from Maryland, Senator MIKULSKI, to offer an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

AMENDMENT NO. 873

Ms. MIKULSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 873.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

This Title may be cited as the "Polish Permanent Resident Adjustment Act of 1987".

SEC. . ADJUSTMENT TO PERMANENT RESIDENCE OF CERTAIN NATIONALS OF POLAND.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (20), (21), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since July 21, 1984.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien only if—

(1) the alien is a national of Poland;

(2) the alien arrived in the United States before July 21, 1984;

(3) the Immigration and Naturalization Service established a record of entry or other record with respect to the alien before July 21, 1984; and

(4) in the case of an alien who was admitted to the United States as a nonimmigrant, the alien's period of authorized stay as such a nonimmigrant expired not later than 6 months after July 21, 1984, through the passage of time or the alien applied for asylum under section 207 before July 21, 1984.

(c) RECORD OF PERMANENT RESIDENCE AS OF JULY 21, 1984.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of July 21, 1984.

(d) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(e) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

Ms. MIKULSKI. Mr. President, this amendment would grant permanent resident status to Poles who fled their country when martial law crushed the hopes of Solidarity in 1981.

Our Government was kind enough to grant extended voluntary departure status to many of these people. The Department of Justice has renewed the pledge every 6 months. With EVD status, some of the Polish refugees have been able to get work permits and Social Security numbers. We are all grateful for that.

Granting EVD status, however, is only a temporary solution. According to the Polish American Congress, many of these Poles living in the United States are afraid to apply for asylum, because if they fail to qualify, they could be deported. And if deported, they would face harassment and possibly imprisonment in Poland. Under Polish law, it is an act of treason punishable by imprisonment or death, for Polish nationals to seek asylum in foreign countries.

More than 1,500 of these Poles have been deported or forced to leave the United States in the past few years.

Besides living in fear, these Poles are treated unfairly. Having their status renewed every 6 months does not permit these refugees to lead a stable life. They are in a constant state of limbo, unable to get long-term jobs, unable to make long-term plans or commitments.

The Immigration and Naturalization Service estimates that there are 7,000 Polish nationals living under extended voluntary departure status. Almost all of these have been in the United States more than 5 years. Many now have children that were born in the United States.

Since coming to this country, these Poles have been productive members of the American community. They are committed to bettering the economic and social status of themselves or their children. There is no future for them in Poland. Their only future is here.

Attorney General Meese supports this idea. I recommend we give these refugees a permanent home.

On a personal note, Mr. President, I would like to note that I am the first woman of Polish extraction ever to serve in the U.S. Senate. My great-grandmother came here about 100 years ago. She arrived about the same time that Lady Liberty lit her torch in New York Harbor.

My great-grandmother came here to escape a Polish country that was under the partition of Germany, Prussia, and Russia, a country without self-determination. She came here escaping that kind of situation so that she could be in a country where no king, kaiser, or czar would ever tell her what to do.

Now, she would be ever so proud that her own great-granddaughter was standing up saying that those who fled martial law, an invasion of Poland by proxy, were asking for permanent resident status in this country.

I ask for the support of my colleagues in agreeing to this amendment.

Mr. HELMS. Mr. President, I have seen the amendment of the distinguished Senator from Maryland, and I think it is acceptable to this side. I would like to address some questions to the distinguished Senator, if I may, for the purpose of clarifying the legislative history.

First of all, I understand that this legislation sets no precedent for other similar actions in the future, is that correct?

Ms. MIKULSKI. Yes; the Senator is correct. There are certain similar instances in the past, where refugees from Communist regimes were given permanent resident status, and this legislation relies on those precedents.

Mr. HELMS. I thank the Senator. Now, is it true that one of those instances involved President Eisenhower's signing into law a 1958 provision admitting certain Hungarian refugees into the United States as permanent residents, after the Soviets quashed the Hungarian revolution in 1956?

Ms. MIKULSKI. Yes; the Senator is absolutely correct.

Mr. HELMS. I thank the Senator. Is it also true that the 1966 Cuban Adjustment Act gave those fleeing Cuba permission for permanent resident status?

Ms. MIKULSKI. Yes; the Senator is correct. The exception was made because of the injustices they might have faced if forced to return to Castro's Cuba.

Mr. HELMS. I thank the Senator, and appreciate her explanation. Is it also true that Congress adjusted the status of a number of Indochinese refugees to grant them permanent residence in the United States in 1977?

Ms. MIKULSKI. That is correct. It was quite clear that they could not return home in safety.

Mr. HELMS. I thank the Senator. I understand that the number of Polish refugees covered by this legislation amounts to some 7,000.

Ms. MIKULSKI. The Senator is correct. It applies only to those who have been in continual residence in the United States since July 21, 1984, and to no others.

Mr. HELMS. Mr. President, I am glad to be able to support this amendment. It is clear that the present situation in Poland is not an inviting one for those left under martial law. Unfortunately, the hopes that we held when Solidarity showed the world where the true sentiments of the Polish people lie have now been cooled by the eagerness with which the State Department has embraced those who have persecuted Solidarity.

Mr. PELL. Mr. President, we have studied the amendment on this side. I think it is an excellent amendment and I would urge my colleagues to support it.

Mr. HELMS. I thoroughly agree. It is a good amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 873) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 870

Mr. DANFORTH. Mr. President, together with the distinguished occupant of the chair and other Members of the Senate, I had the privilege today of attending a luncheon at the State Department in honor of the Crown Prince of Japan. As I was sitting around the dinner table conversing with various luminaries, including our Ambassador to the United Nations and a former Ambassador to Japan, I posed the question: How does the rest of the world read the foreign policy of the United States, given the keen desire of the United States Senate to speak out on absolutely every foreign policy issue all the time? Everything that happens, anywhere around the world, the Senate must be heard on.

The answer that I got to my question was that the rest of the world cannot make out what the policy of America is. We are forever tinkering with it.

Last week, the week before last, the week before that, day after day on the floor of the Senate, with respect to the defense authorization bill, we fiddled around with foreign policy. In one 24-hour period, we voted in order: To comply with the SALT II limitations, not to comply with the SALT II limitations, and to comply with the SALT II limitations.

Now I am told that a jeweler, a person with microscopic vision, the kind of person who makes Faberge eggs, could look at those three votes and make some sort of sense out of them. But to the ordinary person, certainly the ordinary person who is trying to get some bead on what the policy of the United States is, I would submit that it was totally incomprehensible.

Now we are having a debate on the floor of the Senate on whether or not the Secretary of State is to be instructed to conduct negotiations with a bunch of guerrillas running around in Mozambique. And I think we are going too far.

I would suggest to the distinguished chairman of the Foreign Relations Committee that perhaps the time has come for some sort of review to take place in his committee on what the role of the U.S. Senate should be in foreign policy. Clearly, we have some role. I mean we do have the role of confirming ambassadors and giving advice and consent to treaties. But does the role of the U.S. Senate in foreign policy extend to constantly tinkering with everything, fine-tuning everything?

We had this big debate—it still rages—on the War Powers Act, the son of the War Powers Act. Now I take it that this second version of the War Powers Act says to the rest of the world: We are not just going to take 60 days to tell the world what we are going to do in the Persian Gulf, we are going to take 90 days to tell the world what we are going to do in the Persian Gulf. And we are going to draw distinctions. We are going to say, yes, American ships can be there, but they cannot be escorting convoys.

We are going to be not only 535 Secretaries of State, we are going to be 535 Commanders in Chief. Talk about lack of clear signals, lack of clarity from the position of the United States of America in foreign policy; we are a cacophony of confusion.

I would submit that no reasonable person anywhere in the world can predict how the United States stands on any foreign policy issue.

Now we are getting into it again in this bill: Renamo. I will tell you I suppose there are people who really believe that Mozambique is some kind of a threat to the world. I have been there. I will tell you, Mozambique is pitiful. Mozambique is a basket case, totally depressed.

When I was there—maybe things are better now—people were literally lying on the ground dying in front of your eyes. That was Mozambique. No stores open. No food available. Scaffolding still on buildings that was there when the Portuguese left in 1976. It is totally ridiculous to believe that Mozambique is a threat to anybody.

Now we are instructing, as I understand this amendment, the Secretary of State to conduct negotiations with a bunch of guerrillas supported by South Africa, who are terrorizing these poor souls in Mozambique.

Mr. President, maybe, occasionally we should just allow the administration to function in foreign policy.

I am not just addressing this to my friend from North Carolina. I think that this is something that all of us in the Senate should reflect on. All of us in the Senate should reflect on, no matter what our issues—if our issue is Mozambique, if our issue is the Persian Gulf, if our issue is SALT II negotiations, the ABM Treaty—whatever it is: Surely there is some gain for the United States to be accomplished by predictability in foreign policy and there is no predictability in foreign policy if the United States Senate must always mess around in everything.

Mr. President, the parliamentary situation, as I understand it—please correct me if I am wrong—is that the pending amendment has been offered to amendment No. 869, dealing with whether the Government can pass the hat to get a residence for the Secretary of State? That is what this great deliberative body is now debating? Whether or not we can pass the hat for a residence for the Secretary of State?

Mr. President, my parliamentary inquiry is: Am I correct in saying that if a tabling motion were made to amendment 869, it would also carry with it the Mozambican amendment?

The **PRESIDING OFFICER.** The Senator is correct.

Mr. DANFORTH. Mr. President, I move to table amendment No. 869.

Mr. HELMS. I ask for the yeas and nays.

The **PRESIDING OFFICER.** The question is on the motion to table. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. Adams], the Senator from New Jersey [Mr. Bradley], the Senator from Michigan [Mr. Riegle], and the Senator from Illinois [Mr. Simon], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. Packwood], is necessarily absent.

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 34, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—61

Baucus
Bentsen
Biden
Bond
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Daschle
Dodd
Domenici
Durenberger
Evans
Exon
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Pell
Pryor
Reid
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simpson
Specter
Stennis
Stevens
Wallop
Warner
Wirth

NAYS—34

Armstrong
Bingaman
Boren
Conrad
D'Amato
DeConcini
Dixon
Dole
Ford
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kasten
McCain
McClure
Nickles
Pressler
Proxmire
Quayle
Roth
Shelby
Stafford
Symms
Thurmond
Trible
Weicker
Wilson

NOT VOTING—5

Adams
Bradley
Packwood
Riegle
Simon

So the motion to lay on the table amendment No. 869 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, may we have order in the Senate?

The **PRESIDING OFFICER.** The majority leader is correct. The Senate is not in order.

The majority leader.

Mr. BYRD. Mr. President, on the list that I have in my hand there are 28 amendments remaining, about 16 of which are from this side of the aisle.

At the rate we are going we are going to be on this bill all week. It will not be so good when it is over. I wonder if the distinguished Republican leader and I could join in asking our respective whips to see if they can get together and contact Senators who have these amendments, see if we cannot eliminate some of them, see if we can get some time agreements on others, so that we can hopefully wind up this bill tomorrow. I would be interested in the managers also reacting to that.

I yield to the Republican leader.

Mr. DOLE. Yes, we would be happy to do that. I have just been advised by the manager on this side that there will probably be in the range of between 20 and 30 amendments; some may be offered; they may not all be offered.

We have had five rollcall votes today so it has been moving fairly well, but I know it takes some time. I will ask the distinguished whip on this side, Senator Simpson, to work with our other whips to see if we can condense the list and maybe give the majority leader a report tomorrow morning.

Mr. BYRD. I thank the Senator. Let me go down the list now and see if any Senators are willing to knock off amendments.

Mr. HEINZ. I can save the majority leader the time. I am ready to do one right now.

Mr. DOLE. Knock them off, eliminate them.

Mr. BYRD. We have an amendment by Mr. Bentsen. That is done. OK.

We have three amendments by Mr. Boren. No?

Mr. Cranston has an amendment regarding Korea.

Mr. CRANSTON. We expect to call that up.

Mr. BYRD. Mr. DeConcini has three amendments on the list as 6, 7, and 9. He did No. 8. He told us he was finished. OK. Those three will come off.

Then Mr. Dixon.

Mr. DIXON. I have one amendment, Mr. Leader. It should be very brief. I understand both sides may accept it.

Mr. BYRD. Could we get a 10-minute time limitation?

Mr. HELMS. Mr. Leader, one of the problems we had today is the scarcity of copies of amendments. I am going to have to object to getting a time agreement until I have copies of the amendments tonight and I have an opportunity to study them. But we have had a difficult time getting copies of the amendments.

Mr. DIXON. Mine will not take long in any event, Mr. Leader.

Mr. BYRD. All right. I think the ranking manager makes a good point.

Mr. Glenn has an amendment. Mr. Hollings has an amendment.

Mr. Melcher has an amendment.

Mr. MELCHER. Yes. I have an amendment.

Mr. BYRD. Mr. Pryor has an amendment.

Mr. PRYOR. I have one amendment, Mr. Leader.

Mr. BYRD. Mr. Sarbanes has an amendment. Does Mr. Sarbanes intend to call up his amendment? Mr. Simon has an amendment. Mr. Wirth?

Mr. DIXON. Mr. Leader, in the absence of Mr. Simon, I will probably handle that if he is not here. There may be an agreement I think on that one.

Mr. BINGAMAN. Mr. Leader, I expect to have an amendment also. It is a subject we have tried to work a colloquy on. We have had difficulty. I will probably offer one amendment with a short time limit.

Mr. BYRD. May I say to the distinguished Republican leader, I marked off the three Boren amendments, I marked off the Bentsen amendment, I marked off three of the DeConcini amendments, and the others whose names I called either indicated that they would go forward with their amendments or they were not here to answer.

Mr. METZENBAUM. I have an amendment. It will not take long. It is cleared on both sides.

Mr. BYRD. Could we find out, Mr. Metzenbaum, Mr. Bingaman—what amendments are on the other side? Let me call off the names. I have an amendment by Mr. Chafee numbered 831. The Senator will go forward?

Mr. CHAFEE. Definitely.

Mr. BYRD. An amendment by Mr. Grassley.

Mr. CHAFEE. Is the Senator seeking time agreements on these?

Mr. BYRD. Not yet, but I would welcome such if any Senator wishes to.

Mr. CHAFEE. Senator Simpson is probably on the other side. It is all right with me to seek a time agreement.

Mr. BYRD. Mr. Grassley has an amendment. Mr. Helms has three amendments listed, one calling for the release of Yang Wei, one regarding diplomatic immunity, and one having to do with asylum in the United States for people from Communist countries.

Then an amendment by Mr. Trible. All right, it looks as though we picked up four more amendments by Mr. Helms, one by Mr. Metzenbaum, and one by Mr. Bingaman. We dropped about seven.

Mr. Dole?

Mr. DOLE. I have three by Senator Wilson and one by Senator Domenici that are not on that list. I think if we could have overnight to try to work some of these out, maybe we would be in a position to narrow the list and try to finish the bill by 6 o'clock tomorrow. I will try anyway.

Mr. BYRD. Very well. I wonder if we could press on this evening and get some work done.

Mr. PELL. I would very much hope so.

Mr. BYRD. Could we press on this evening and get some of the amendments out of the way?

Mr. DOLE. I was advised earlier by the Senator on this side that he would prefer not to press on this evening.

Mr. HELMS. Mr. Leader, we will gain time if we are allowed to circle the wagon to see precisely what we have. I was just talking to the distinguished Senator from Idaho about his amendment, and I think the distinguished chairman would want to call for regular order on that one.

Mr. PELL. That is my intention. We can vote on it now.

Mr. HELMS. It may save time. That is what I thought. I hope the Senator will refrain. All we can do is talk about it.

Mr. Leader, we have not been inactive today. We have had five rollcall votes.

Mr. BYRD. Mr. President, there are too many conversations going on. Would the Chair insist on order?

The **PRESIDING OFFICER** (Mr. Shelby). The Senate will be in order.

Mr. HELMS. We have considered and accepted, if I count correctly, about 14 other amendments all of which took time. We moved along a little better than I may appear. I certainly will cooperate with the majority and minority leaders in every way I can. But I think we have gone about as far as we ought to go tonight. The Senators can go home, and we will see how we can proceed in the morning.

Mr. BYRD. I understood there was going to be a tabling motion on the Symms amendment tonight.

Mr. PELL. It is my intention to call for that when this colloquy is done.

Mr. BYRD. Could we, then, Mr. Leader, agree that we would ask our respective whip groups, and our floor staffs as well, to see if we cannot get a good bead on the number of amendments that remain, try to get some time agreements on them, hopefully eliminate some additional ones that are on the list, and possibly line up a sequence of votes so that we can try hard to finish this bill on tomorrow? We found that to be a very efficient, orderly, and successful way of approaching the remaining amendments on the DOD bill. That is when we had about 50 left. I am afraid the longer this bill stays around, the more amendments we are going to get. I wonder if they could announce that there will be one more rollcall vote tonight. There is an amendment we can lay down and get a vote on in the morning beginning, and have the vote again at 9 o'clock rather than have the Sergeant at Arms vote at 9. We could have an amendment.

Mr. DOLE. I do have an objection to that, if there is a unanimous consent request.

Mr. BYRD. To a vote in the morning on an amendment?

Mr. DOLE. If a vote occurred——

Mr. BYRD. A vote will occur.

Mr. DOLE. I cannot get consent.

Mr. BYRD. A vote will occur.

Mr. CHAFEE. A half-hour vote?

Mr. BYRD. It will be a half-hour vote, it being the first vote.

Mr. DOLE. There could be a vote on the amendment. I just cannot consent.

Mr. BYRD. Very well. Could we lay one down tonight?

Mr. PELL. Can we agree that there will be no more amendments in order?

Mr. BYRD. I do not believe Mr. Helms is ready for that.

Mr. President, I thank all Senators. There will be another rollcall vote this evening. The Senate will vote tomorrow morning, hopefully, on an amendment, beginning at 9 o'clock. That will be a 30-minute rollcall. If we can vote on an amendment, it is that much progress made, rather than having a vote on the Sergeant at Arms requesting the attendence of Senators. That will be a 30-minute rollcall vote.

The regular order will be called for. I find that Senators, if they understand that the regular order will be called, make every effort to be here. We do not have to string out the votes any longer.

Can we have an amendment, then, we can work on after this next vote so that, hopefully, we can have the vote on that amendment in the morning?

Mr. HELMS. We will look in the barrel.

Mr. PELL. I think many of the amendments have been discussed without rollcall votes.

Mr. BYRD. Let me throw out this possibility for a vote in the morning: Can we vote on the Verity nomination at 9 o'clock in the morning?

Mr. HELMS. Mr. President, I want some time to speak on the nomination, and I think other Senators may, also.

Mr. BYRD. Could we speak on it tonight and vote on it tomorrow?

May I say to Senators that I want to help us to get out this Saturday. We have some matters that we have to take care of before we go home for Thanksgiving—or after. If we can have a vote on something in the morning that would count for progress on the bill, let us do that.

Mr. SYMMS. I have an amendment I am ready to offer on Polish Solidarity.

Mr. HELMS. Can we lay it down?

Mr. SYMMS. I will be happy to do so.

Mr. BYRD. Can we vote on that at 9 in the morning?

Mr. DOMENICI addressed the Chair.

The **PRESIDING OFFICER.** The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this morning, I voted on amendments 301 and 302. Amendment 302 was followed immediately by amendment 303, the Wallop amendment. I made a mistake. I thought that was a continuation of the previous vote, so I missed the vote. It was my error.

I cannot correct it, other than to state that had I not made that mistake, which was my own, I would have voted "aye" on the Wallop amendment.

Mr. BYRD. Mr. President, I understand that the distinguished Senator from Idaho may call up an amendment shortly. I also understand that his other amendment, on which there would have been a tabling motion, may be withdrawn by the Senator.

Mr. SYMMS. I would like to have a 24-hour period to think that over.

Mr. BYRD. Twenty-four hours is this time tomorrow night.

Mr. SYMMS. At least overnight, to think over the other amendment. But I would offer this amendment right now, and we could vote on it in a few minutes, if the majority leader wants a vote on it. It is simple and straightforward. I can read the language, and everybody can understand it.

The action part of it is that we would authorize to appropriate $1 million for the independent Polish trade union, Solidarity.

Mr. BYRD. Mr. President, as I understand it, the Senator from Idaho may withdraw his earlier amendment.

Do the managers want a rollcall tonight on the amendment he is calling up?

Mr. PELL. Which one is that?

Mr. BYRD. The one on Solidarity.

Mr. President, let me make this proposal, when we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Are there Senators who have amendments—and the managers perhaps would know whether this could be done—to be called up tonight and debated, something which might be accepted, so that progress would be made on the bill? We could reach an understanding on which amendments rollcall votes would be desired and set that up for 9 o'clock in the morning. That way, Senators who do not have amendments tonight could go home.

Mr. PELL. I think that is an excellent idea.

Mr. BYRD. Are there Senators who will call up amendments this evening? Senator Melcher will. Any others?

Mr. PELL. Senator Heinz had one.

Mr. BYRD. Are there Senators on that side who would call up amendments tonight?

Mr. HELMS. Senator Symms has an amendment which we are going to accept. That would be two.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote—there will be a rollcall vote tomorrow—occur at 9 o'clock a.m.

Mr. DOLE. Mr. President, reserving the right to object——

Mr. BYRD. Mr. President, the distinguished Republican leader is committed to someone on his side not to agree to a rollcall vote on an amendment at 9 a.m., but this will be a rollcall vote on getting the Sergeant at Arms to "Go get 'em," and I hope that we can make some progress after this point tonight.

Senator Melcher can call up his amendment, and I hope we can get some amendments agreed to by voice vote, and if the yeas and nays are ordered we will stack them tomorrow, if we can stack them.

So with that, I would suggest to Senators there will be no more rollcall votes tonight.

Mr. FORD. May I ask how long will the amendments go on? I would like to make a statement as relates to the nominee for the Supreme Court at some point. I will not break in.

There will be a period for routine morning business?

Mr. BYRD. Yes, there will.

Mr. FORD. I thank the majority leader.

Mr. BYRD. I thank all Senators.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of S. 1394.

Mr. PELL. Mr. President, as I understand it now there will be independent amendments being offered. I think the Senator from Idaho has one and the Senator from Montana has one.

I yield the floor.

AMENDMENT NO. 876

(Purpose: To set aside funds from the Economic Support Fund for assistance for NSZZ Solidarnosc)

Mr. SYMMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. Symms], for himself, Mr. Dixon, Ms. Mikulski, and Mr. Dole, proposes an amendment numbered 876.

At the appropriate place, add the following new section:

SEC. . ASSISTANCE IN SUPPORT OF SOLIDARITY.

Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund) for each of the fiscal years 1988 and 1989, not less than $1,000,000 shall be available only for the unconditional support of the independent Polish trade union "Solidarity".

Mr. SYMMS. Mr. President, the Symms-Dixon amendment would set aside $1 million from the economic support fund for use by the independent Polish trade union Solidarity. This amendment is identical, with two technical exceptions, to language adopted by voice vote to the trade bill earlier this year.

Mr. President, we hear a lot of talk about heroes. The leaders of Solidarity are heroes in every sense of the word. Every day, they risk imprisonment, economic retaliation, and even worse in their struggle to secure those inalienable rights to which they are entitled as civilized men—the right to free speech, the right to organize, the right to have a say in the future of their own country.

The Jaruzelski regime in Poland should make no mistake: The United States—and the Senate of the United States—will take whatever action is necessary to stand behind Solidarity.

Mr. President, it is the intention of the sponsors of this amendment that the money continue to flow through the same governmental channel as our 1987 appropriation. The AFL-CIO has historically forwarded part of its appropriation from the National Endowment for Democracy of Solidarity, and this new set-aside is intended to serve as a supplement, rather than as a replacement for this money. In addition, it is my hope that the Polish American Congress, Studium, and other Polish-American organizations will play an increasingly active role in implementing this amendment.

The International Confederation of Free Trade Unions and the World Confederation of Labor, which annually audit Solidarity, will insure that the money is used properly.

Mr. President, I urge the Senate to go on record in support of the brave working men and women of Poland.

Mr. DIXON. Mr. President, I rise to join my distinguished colleague from Idaho, Senator Symms, in proposing this amendment authorizing $1 million for the democratic trade union, NSZZ "Solidarnosc" for fiscal year 1988 and fiscal year 1989.

Our message to the Polish people, Mr. President is that this country shares their democratic values, and is willing to assist them in their struggle for freedom and self determination. I am certain that every member of this great body believes in what NSZZ "Solidarnosc" stands for, and in the great accomplishments that have occurred under its leadership.

This provision authorizes $1 million in assistance to NSZZ "Solidarnosc" which, by utilizing the existing channels will reach those who need it most inside Poland.

Since 1982, NSZZ "Solidarnosc" has repeatedly requested assistance to help the movement achieve its goals. This year, for the first time, Congress provided $1 million in assistance specifically for NSZZ "Solidarnosc". In response, Lech Walesa, president of NSZZ "Solidarnosc" sent an open letter to Congress which said in part, "Thank you in the name of the millions of people who in the existence of 'Solidarnosc' place hopes for the realization of their aspirations for the independence, democratic freedoms, and just economic order in their fatherland."

These funds are being used to address the shortage of public medical care, hospitals, health care in the workplaces, and supplies of medicine. Mr. Walesa wrote, "I express deep gratitude to the American people for granting us the opportunity to undertake such action for the good of Poland."

Mr. President, $1 million each year will bring new financial resources to the democratic trade union movement in Poland, and with these resources will come greater autonomy, and a greater ability to resist the subjugation and repression regularly perpetrated upon Polish citizens by their government. I urge my colleagues to join me in sending this strong message of support to the Polish people.

Mr. DOLE. Mr. President, I am pleased to join Senator SYMMS in cosponsoring this amendment.

Solidarity is the solid foundation of the movement for greater political and economic freedom in Poland. It's leader, Lech Walesa, is an authentic national hero; and a compelling symbol of the ongoing fight for freedom throughout the Soviet bloc.

America ought to be foresquare behind Solidarity—openly, unequivocally, and proudly.

But it is not enough just to talk a good game. We should also support Solidarity in a concrete way, in its struggle against the menacing machinery of the Polish state.

We are already providing support for Solidarity, out of existing ESF funds. The Symms amendment would insure this program would be extended through fiscal year 1988 and fiscal year 1989.

We are attempting to fine-tune a policy in Poland which encourages political and economic liberalization; keeps pressure on the Polish authorities to respect human rights; but does not punish the Polish people for the profound differences we have with the Polish Government.

Agreeing to this amendment will add important substance to this policy. I urge all Senators to vote for it.

Mr. PELL. Mr. President, this is an amendment with which I am familiar and I think it is a good amendment and I recommend its passage.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I certainly agree it is a fine amendment, and it is cleared on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 876) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 851

(Purpose: To recommend to the President that he submit a plan for the sharing of costs involved in the use of U.S. Armed Forces in the Persian Gulf operation)

Mr. MELCHER. Mr. President, I believe I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 851.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111 between lines 16 and 17, insert the following new section:

SEC. . PLAN FOR SHARING COSTS INVOLVED IN THE USE OF UNITED STATES ARMED FORCES IN THE PERSIAN GULF.

In order to pay for the costs of the Naval protection provided in the Persian Gulf, it is the sense of Congress that:

(1) The President should enter into negotiations with the government of any country benefiting from the protection to oil shipments and other navigation in the Persian Gulf, in order to establish a pro rata sharing of costs involved in such mission;

(2) The President should prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

"(A) his assessment of the costs involved in the use of United States Armed Forces in the Persian Gulf;

"(B) a plan for the pro rata sharing of such costs among those countries which benefit from that use of United States Armed Forces; and

"(C) a discussion of the status of negotiations entered into for the purpose of implementing the plan.".

Mr. MELCHER. Mr. President, if my colleagues are asked a question or are in a discussion with their constitutents in their own States as I have had the occasion to be in consultation with my own constituents in Montana, many of them when talking about the Persian Gulf mention other countries that are benefiting from the U.S. naval action in the Persian Gulf helping on the costs and, if not, why are they not?

They ask me specifically about Japan, about European countries, and cite the obvious fact that those countries are beneficiaries of the United States Navy being in the gulf and making sure that tanker traffic carrying the oil out of the gulf will continue to proceed.

Now, perhaps some of my constituents also ponder about some of the countries surrounding the gulf. Is it beneficial for the Kuwaitis? Is it beneficial for the Saudis?

I think they raise a very practical point. I am assured by them, and I share their opinion, that, yes, those that benefit from the protection of the Navy providing assurance of the continuous tanker activity, those countries benefiting from a commonsense standpoint ought to be paying part of the cost.

Under our system of government the President could negotiate with these countries, could suggest to them rather bluntly that since they are benefiting they ought to pay for part of the costs that are involved in having the Navy there.

From the standpoint of the Constitution, that is the President's prerogative. That is one of his plenary powers, to engage in discussions with other countries some mutual cooperative program.

This amendment that I am offering tonight is a sense-of-the-Senate resolution that the President should enter into negotiations with the government of any country benefiting from the protection to oil shipments and other navigation in the Persian Gulf in order to establish a pro rata share in those costs.

The amendment goes on further to state that the President should prepare and transmit to the Speaker of the House and the President pro tempore of the Senate his assessment of the costs involved in the use of U.S. Armed Forces in the Persian Gulf and a plan for the pro rata sharing of such costs among those countries that benefit and also submit a plan that shows the discussion of the status of such negotiations that is suggested.

I could go further, as my constituents would, to make it a requirement. But, Mr. President, that is as far as Congress can go in stating what should be the policy. Under the Constitution, I repeat this is a plenary power of the President. This is as far as we should go and can go under the Constitution.

I would hope that the proposal would be accepted. I would hope that the President would give it consideration and would see what he could do about just this: sharing the costs, sharing the burden with countries that do benefit by our presence with our Navy in making sure that the navigation is there, and the oil can flow and those tankers are protected.

We are a great nation. We are a very great nation and we have taken on these tasks when they arise in making sure that there is safety in a type of action that is in the best interest not only of ours but in the best interest of other countries. But the costs are mounting, the debt is rising, and we are in effect borrowing around $200 billion. This year, thank goodness, it will be a little bit less. We are borrowing staggering amounts to pay for the cost of operating our Government.

This is only a portion of it, but I think it is a fair place to say can we do better in sharing these costs with those that benefit?

I hope the amendment can be accepted.

Mr. PELL. Mr. President, I think this amendment of the Senator from Montana, which basically involves burden sharing, is a fair amendment. The countries that are being protected by our war vessels should certainly participate in the course of maintaining them there on station. I support this amendment.

Mr. HELMS. Mr. President, nobody can question the intent of the amendment. I support what the Senator contemplates. It is a sense-of-the-Senate amendment, but I wonder if the Senator would permit our staffs to consult about two or three phrases that give me some concern and let us handle this in the morning. Because I want to join the distinguished chairman in accepting the amendment, but there are two or three things I would like to contemplate. I would be glad to identify them now, if the Senator wishes. But I think our staffs can work it out so that there would be no problems.

Would the Senator be willing to do that?

Mr. MELCHER. I would be pleased to work with the distinguished Senator and ranking member of the committee to see what adjustments would clarify or strengthen or better suit the sense-of-the-Congress resolution.

Mr. HELMS. I thank the Senator. I think we can reach an accommodation on that early tomorrow morning.

Mr. MELCHER. Mr. President, in the light of the discussion that we have just had, and if it is agreeable with the managers of the bill, I suggest that we temporarily lay aside my amendment so that other amendments could be offered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 867

(Purpose: Relating to the terms of service for members of the Cultural Property Advisory Committee)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I offer this amendment on behalf of my colleague, Senator CHAFEE, and I ask that I be added as a cosponsor of it. The amendment provides for the terms of selection for the Cultural Property Advisory Committee. I understand it has been cleared on both sides.

The PRESIDING OFFICER. Without objection, the Senator will be added as a cosponsor.

The clerk will report the amendment.

Mr. HELMS. The clerk will have to read all of it because I do not have a copy of it.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for Mr. CHAFEE, for himself and Mr. PELL, proposes an amendment numbered 867.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, between lines 12 and 13, insert the following:

SEC. 218. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) TERMS OF SERVICE.—Section 306(b)(3)(A) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(3)(A) Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select on a representative basis to the maximum extent practicable, four members to serve three year terms, four members to serve two years terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.".

(b) VACANCIES; CHAIRMANSHIP.—Section 306(b)(3)(B) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(B)(i) A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

"(ii) The President shall designate a Chairman of the Committee from the members of the Committee.".

Mr. HELMS. Mr. President, I am familiar with this amendment and favor it. It has been cleared on this side.

Mr. PELL. I thank my colleague very much.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 867) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 877

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES] proposes an amendment numbered 877.

Mr. SARBANES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 73, line 8, insert the following new subsection 217(c)(1)(C).

(C) A foreign bidder can establish that the U.S. goods and services content of his proposal and the resulting contract will not be less than sixty (60) percent of the value of his proposal and the resulting total contract; provided that the U.S. Trade Representative certifies to the U.S. Information Agency that the foreign bidder is not receiving either direct or indirect subsidies from any government.

On page 73, line 8, redesignate the present subsection (C) as subsection (D).

Mr. SARBANES. Mr. President, I am offering this amendment to clarify the requirements in this bill for contractors on the Voice of America [VOA] modernization program. This amendment would allow foreign bidders to bid on VOA modernization projects, if they can establish that 60 percent of their proposals contain U.S. produced or provided goods and services. This provision is intended to include those bids where a foreign company or corporation is the lead bidder, but has binding subcontractor agreements which will assure that a majority of the goods and services provided under the resulting contract are produced or manufactured in the United States. The majority content requirement of this exception is consistent with the national security objectives of the facilities modernization program. This will assure uninterrupted logistic support for the program from U.S. sources.

The amendment also excludes foreign companies from bidding on VOA projects if they are subsidized either directly or indirectly by their governments.

I urge my colleagues to support this amendment.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. SARBANES. Certainly.

Mr. HELMS. I know the Senator does not want to waste his salesmanship. We have examined the amendment and find it excellent. On this side, we are willing to accept it.

Mr. DODD. Mr. President, as principal sponsor of section 217 of the bill, I have no objections to Senator SARBANES' amendment. It is my understanding that the proposal will allow foreign bidders to compete for Voice of America [VOA] modernization projects on an equal footing with U.S. firms if they enter into subcontracting arrangements with U.S. companies to produce 60 percent of the goods or services in the United States. This amendment will also require the U.S. Trade Representative to certify that such foreign bidders are not receiving either direct or indirect subsidies from any government.

If these conditions are met, I see no reason why such firms should be prevented from bidding on VOA modernization projects.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 877) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 878

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 878.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the State authorization bill, add the following, to be numbered appropriately:

VIETNAMESE OCCUPATION OF CAMBODIA

SEC. . The Congress finds that:

(1) the armed forces of the Government of the Socialist Republic of Vietnam have invaded and occupied the territory of Cambodia, thereby undermining the sovereignty and political stability of Cambodia;

(2) by invading and occupying Cambodia, the Government of the Socialist Republic of Vietnam violated its obligation, undertaken upon becoming a member of the United Nations in 1977, not to use force against the territorial integrity or political independence of any state;

(3) the General Assembly of the United Nations has on eight separate occasions deplored the continuing occupation of Cambodia and called for the withdrawal of all foreign military forces from Cambodia;

(4) the United Nations General Assembly will be voting again next week on the issue of Cambodia;

(5) Prince Sihanouk and the Coalition Government of Democratic Kampuchea has called for the withdrawal of all armed forces of the Government of the Socialist Republic of Vietnam from Cambodia;

(6) the Government of the Socialist Republic of Vietnam has thus far rejected the efforts of the members of the Association of Southeast Asian Nations to resolve the situation in Cambodia; and

(7) the invasion and occupation of Cambodia by the armed forces of the Government of the Socialist Republic of Vietnam has caused hundreds of thousands of Cambodians to flee their own country and has caused untold suffering for untold number of Cambodians.

(b) The Congress therefore declares as follows:

(1) the Vietnamese occupation of Cambodia constitutes a gross violation of international law;

(2) the Government of the Socialist Republic of Vietnam, by its continuing occupation of Cambodia, is violating the fundamental human rights of the Cambodian people; and

(3) the Government of the Socialist Republic of Vietnam should immediately withdraw its occupation forces from Cambodia and agree to negotiate a settlement which restores self-determination to the Cambodian people.

Mr. PELL. Mr. President, this amendment condemns the Vietnamese invasion and cruel occupation of Cambodia and draws to the attention of the people in that part of the world that we in the Senate are not unaware of the heinous crimes and actions that are going on there.

Mr. HELMS. Mr. President, I am pleased to join the distinguished Senator from Rhode Island in the sponsorship of this amendment. It is certainly cleared on this side.

Mr. PELL. Mr. President, I ask unanimous consent that Senator HELMS be added as a cosponsor.

The PRESIDING OFFICER. Without objection, he will be added as a cosponsor.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 878) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

AMENDMENT NO. 879

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 879.

Subsection 102(c) of the bill is hereby amended by inserting after the words "for fiscal year 1988" the following ", of which such funds as may be necessary shall be available for the expense of hosting the 1987 General Assembly of the Organization of the American States,".

Mr. HELMS. Mr. President, one of the great successes in American, or U.S. foreign policy, in recent years, has been the expansion of genuinely democratic governments in this hemisphere. The United States has issued an invitation to the members of the Organization of American States to allow us to host the 1987 General Assembly of the OAS at San Francisco during the first week of November.

As the host of the OAS General Assembly, the United States will have the honor of having its Secretary of State elected President of the General Assembly. Last year's General Assembly, I might add, was hosted by the Republic of Guatemala.

I have just learned, Mr. President, that some factions at the State Department advocate the canceling of the American invitation to the OAS General Assembly.

Of course, it is budget-cutting time, and the time for bureaucratic fun and games: Cut the program which will bring the loudest squeals instead of the Department's own perks and slush funds and that sort of thing. But tomorrow the President of the United States will speak to the OAS here in Washington, and I think it would be a major embarrassment if talk of canceling the General Assembly at San Francisco is heard.

So this amendment, which has been agreed to on both sides, earmarks from the funds authorized for international conferences a sum necessary to meet the expenes of hosting the OAS Assembly.

The total cost of expenses is about $900,000 of which sum I am informed two-thirds is already available.

It will be, I say again, an unnecessary embarrassment to the United States for the Government to find itself in such great financial difficulties that it could not carry out the promise that it made when it offered to host this meeting.

If the Government of Guatemala can find the importance of this annual meeting of sufficient note as to justify its own expenditure of a million dollars to host this meeting, then I think this country should be able to do as well. It is a matter of priorities, Mr. President. As I say, I believe this has been agreed to on both sides.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I think this amendment is a good one and I recommend its passage.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 879) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 880

(Purpose: To amend title 18 of the United States Code to punish as a Federal criminal offense the crimes of international parental abduction)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Illinois (Mr. DIXON) proposes an amendment numbered 880.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

"SEC. . INTERNATIONAL PARENTAL CHILD ABDUCTION.

"(a) For purposes of this section—

"(1) the term 'child' means a person under the age of 18 at the time the offense occurred:

"(2) the term 'detains' means taking or retaining physical custody of a child, whether or not the child resists or objects; and

"(3) the term 'lawful custodian' means—

"(A) a person or persons granted legal and custody of a child or entitled to physical possessions of a child pursuant to a court order; or

"(B) the mother of the child when the parents have not been married, the father's paternity has not been established by a court of law, and no other person has been granted custody of the child by a court of law.

"(b) Whoever—

"(1) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the person who has been granted sole or joint custody, care, or possession of the child;

"(2) intentionally removes a child from the jurisdiction of the United States in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State or the United States;

"(3) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the mother or lawful custodian of the child if the person is a putative father who has not established paternity of the child;

"(4) being a parent of a child born out of wedlock if the paternity of the father has been established by a court of law but there has been no order of custody, removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the child's other parent;

"(5) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States after filing a petition or being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody;

"(6) being a parent of the child, and if the parents of such child are or have been married and there has been no court order of custody, conceals the child for 30 days outside the jurisdiction of the United States, and fails to make reasonable attempts within the 30-day period to notify the other parent to the whereabouts of the child or to arrange reasonable visitation or contact with the child;

"(7) being a parent of the child, and where the parents of the child are or have been married and there has been no court order of custody, conceals or detains a child outside of the jurisdiction of the United States when the child was taken with physical force or the threat of physical force;

"(8) at the expiration of visitation rights outside of the jurisdiction of the United States, intentionally fails or refuses to return or impedes the return of the child to the jurisdiction of the United States;

"(9) conceals, detains, or removes the child outside the jurisdiction of the United States for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law;

"(10) being a parent of the child, instructs another person to conceal, detain or remove a child when that act when committed by the parent would be a violation of this act;

"(11) aids or abets any person violating paragraphs (1) through (10), shall be guilty of child abduction and shall be fined in accordance with this title or imprisoned not more than 3 years, or both.

"(c) It shall be an affirmative defense under this section that—

"(1) the person acted within the provisions of a valid court order granting him or her legal custody or visitation rights and that order was in effect at the time of the offense;

"(2) no court within the United States could exercise jurisdiction to determine custody of the child pursuant to the provisions of the Uniform Child Custody Jurisdiction Act;

"(3) the person has physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified or made a reasonable attempt to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible; or

"(4) the person was fleeing an incidence or pattern of domestic violence.

"(d) If, upon sentencing, the court finds evidence of any of the following aggravating factors:

"(1) that the defendant abused or neglected the child during the concealment, detention, or removal of the child or placed or caused the child to be placed in the care of another person who abused or neglected the child;

"(2) that the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

"(3) that the defendant demanded payment in exchange for return of the child or demanded that he or she be relieved of the financial or legal obligation to support the child in exchnage for return of the child:

"(4) that the defendant has previously been convicted of a State or Federal child abduction offense; or

"(5) that the defendant committed the abduction while armed with a deadly weapon or the taking of the child resulted in serious bodily injury to another, the sentence imposed in accordance with this title shall be more severe than in the absence of such factors."

(b) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child abduction".

(c) This Act and the amendments made by this Act shall take effect 90 days from the date of enactment of this Act;

(d) where the child was removed from the jurisdiction of the United States prior to the enactment of this Act, charges under this Act may be approved only in cases involving the concealing or detaining of a child in violation of a court order that existed at the time of the child's removal from the jurisdiction;

(e) criminal jurisdiction may be taken under this Act only when a court within the United States could exercise jurisdiction to determine custody of the child pursuant to the provisions of the Uniform Child Custody Jurisdiction Act.

Mr. DIXON. Mr. President, I would like to call the attention of my colleagues to a vacuum in current Federal law which allows the unabated international parental abduction of more than 400 children each year.

The State Department has recorded over 2,300 cases of international parental child abduction. Although the majority of States recognize this crime as a felony offense, the Federal Government does not. The victims of this crime are children from every State of this country who have been taken to countries around the world. Yet, the absence of Federal legislation recognizing this crime denies the victims of Federal assistance and allows the abductors to escape Federal prosecution.

Currently, the abducting parents flee the United States to safe havens around the world knowing that the U.S. Government will not pursue them. There is no deterrent to a parent contemplating this crime. This legislation provides the necessary deterrent.

More importantly, without Federal criminal charges, extradition of these abductors is not possible. This legislation will enable the United States to extradite parental child abductors in many cases where extradition treaties currently exist.

The State Department has jurisdiction over cases of international parental child abduction. However, their system for handling these cases merely serves as a legal referral service and a source of information rather than a system geared toward the recovery of these child victims. I am the sponsor of legislation in the Senate which will earmark $250,000 to be available for the review and analysis of international parental child abduction on a case-by-case basis, enabling the Department of State to provide appropriate legal or diplomatic support for parents seeking to recover abducted children. Coupled with the recognition of international parental child abduction as a Federal offense this system will enable the Department to negotiate from a position of strength for the return of these abducted children, sending a strong message to the international community that the United States views international parental child abduction as a serious crime.

Mr. President, international parental child abduction is a crime and it should be recognized as such. I believe that my amendment recognizes the crime and provides additional assistance to its many victims.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 880) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 881

(Purpose: To allocate funds for support and review of international parental child abduction cases)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] for himself, Mr. SIMON, Mr. GORE, Mr. MCCONNELL, and Mr. EXON proposes an amendment numbered 881.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, between lines 11 and 12, insert the following new section:

SEC. 110. ALLOCATION OF FUNDS FOR SUPPORT AND REVIEW OF INTERNATIONAL PARENTAL CHILD ABDUCTION CASES.

Of the amounts authorized to be appropriated by section 101(a)(1), $250,000 shall be available only for the review and analysis of international parental child abduction cases on a case-by-case basis to enable the Department of State to provide appropriate legal or diplomatic support for parents seeking to recover abducted children.

On page 2, in the table of contents, after the item relating to section 109, insert the following new item:

Sec. 110. Allocation of funds for support and review of international parental child abduction cases.

Mr. DIXON. Mr. President, I would like to call the attention of my colleagues to the urgent and increasing problem of international parental child abduction.

The State Department has recorded over 2,300 cases of international parental child abduction. The victims of this crime are children from every State of this country who have been abducted by one of their parents and taken to countries all around the world. Currently, the victim's families have virtually nowhere to turn for assistance in recovering their abducted children.

My amendment, Mr. President, earmarks $250,000 to be available for the review and analysis of international parental child abduction cases on a case-by-case basis. This will enable the Department of State to provide appropriate legal or diplomatic support for parents seeking to recover abducted children.

While I am sure that the Department of State shares my concern regarding the very serious problem of international parental child abduction, I regret to say that current programs and policies fall far short of solving the problems. I believe that it is essential to develop additional means to assist these child victims.

The State Department has jurisdiction over cases of international abduction. Currently, the Office of Citizens Consular Services conducts a "welfare and whereabouts search" when a child is abducted internationally. Without regard to the particulars of the country's judicial system, the Department also routinely provides a list of attorneys working in the country where the kidnaped child is being detained. Regrettably, neither of the services can assist the custodial parent in bringing the child home.

Without additional systematic steps in place, this program becomes primarily a source of information, rather than a step toward the recovery of an abducted child.

Furthermore, considering the variance of legal systems existing throughout the world, the current policy of simply providing a list of attorneys operating in the country to which the child has been abducted is useless.

For example, in the case of Pat Roush of Cicero, IL, whose two daughters were illegally abducted to Saudi Arabia by their father, the State Department provided a list of attorneys operating in Saudi Arabia. However, because of Saudi religious law, it would have been financially and legally disastrous for Pat Roush to retain an attorney. After having paid a large retainer fee, she would have soon discovered that under Saudi law, she has no legal right to her children. By agreeing to participate in the Saudi judicial process Ms. Roush would have forfeited her legal custodial rights.

In Ms. Roush's case, the Saudi judicial process provided no opportunity for her to recover her abducted children. The greatest hope for Ms. Roush is through diplomatic channels.

Ms. Roush's case clearly demonstrates the serious shortcomings of the existing State Department procedure. The Department needs to develop a comprehensive program to assist the victims of international child abduction.

My amendment establishes a system in the Department of State which will take into account the unique nature of each case, and allow the Department to react with a legal referral, a diplomatic response, and any other action deemed appropriate.

I appreciate the Department of State's support and active participation in working toward implementation of the Hague Convention on the civil aspects of international child abduction. I am an original sponsor of the implementing legislation in the Senate, and I plan to work hard to see that this legislation is passed as expeditiously as possible. The Hague Convention provides a formal extradition agreement among the signatory nations for returning children to the country from which they were abducted. It must be remembered that the Hague Convention will help only some future victims. Since the agreement is not retroactive, it does not address the problem of the approximately 2,300 cases we are discussing, nor will it be ratified worldwide. For these reasons, it is imperative that we address solutions for the victims of international parental child abduction who do not come under the jurisdiction of the Hague Convention.

I believe that my amendment will provide a partial solution to assist in resolving cases of international parental child abduction. I urge my colleagues to join me in this effort.

● Mr. SIMON. Mr. President, the amendment of my colleague from Illinois will help resolve many of the difficult cases of international parental child abduction. It will ensure that the State Department has an advocacy system for parents seeking the return of abducted children, and that the Department can take actions that are appropriate to individual cases.

It should not be a burdensome task for the Department, and it addresses an important aspect of our relations with nations around the world. I commend my colleague for his continuing efforts to help resolve some of the most difficult of these abduction cases. I will continue to work with him and appreciate his offering this amendment.●

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 881) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I thank the managers for their kindness and consideration in connection with those two amendments.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 882

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 882.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 301 of the Foreign Service Act of 1980 (Public Law 96-465) is hereby amended by adding the following after the words "career appointment." in paragraph 301(d)(3): "Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other state or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President."

Mr. HELMS. Mr. President, the amendment I have sent to the desk prohibits members of the Foreign Service who hold career or career candidate positions in the Foreign Service from claiming tax exemption from D.C. taxation under the provisions of the D.C. law that exempts from taxation anyone who is appointed to a Senate-confirmed position and whose tenure in office is at the pleasure of the President.

The purpose of this amendment is to straighten out a problem in which Foreign Service officers are not always paying their legally obligated State and local tax obligations.

Mr. President, I am told by those who have access to this information that a full 65 percent of the Foreign Service of the United States are not paying State and local income taxes. They cannot all be residents of the few States that do not have income taxes.

In the District of Columbia, many Foreign Service officers are filing claims with the Government claiming that they are exempt from D.C. income taxation because they "serve at the pleasure of the President." Yet, the truth is that the Foreign Service, like the civil service, is now a merit personnel system whose members have tenure rights, rights to file formal grievances against being removed from office, and the right to file a lawsuit against the President if he removes them from office. A large number of Foreign Service officers have done just that recently by filing a lawsuit against their selection out from the Foreign Service.

Now you cannot have it both ways, either you have tenure rights or you serve at the pleasure of the President. You should not be filing affidavits with the courts saying you are serving in a career position in the Foreign Service and then file a different affidavit with the D.C. government claiming you are a noncareer employee serving at the pleasure of the President.

Mr. President, I know that the chairman of the committee shares with me the desire to assure that appointments in the Foreign Service are not used to evade legal obligations to pay income taxes to any State or locality. I hope this amendment can be accepted by voice vote.

Mr. President, I believe this amendment has been agreed to by Senator PELL and his staff.

Mr. PELL. Mr. President, I think this amendment seeks to go to the heart of a very real problem. That is to make sure that people who are in this category of Presidential appointees, serving at the pleasure of the President, pay their taxes in one State or the other. There are cases now where some in Government service are able to avoid paying in any State. That is obviously wrong.

My understanding of this amendment is that it seeks to rectify the problem. As we move into conference we will make sure that those in Government service pay their taxes in one State or the other.

I approve the amendment on our side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 882) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, as with the old song, "We've gone about as fur as we can go."

Mr. BYRD. What song is that?

Mr. HELMS. "Everything's Up to Date in Kansas City. We've gone about as far as we can go."

You see, we have a bonus from staying tonight.

Mr. BYRD. Mr. President, I think the managers have done well with several amendments called up. I do compliment them on that progress. I thank them both.

Mr. HELMS. I thank the majority leader.

Mr. DODD. Mr. President, today I rise in support of section 511 of S. 1394, regarding the Iranian persecution of the Baha'i community. Section 511 declares that the Government of Iran systematically and brutally discriminates against members of the Baha'i faith. Furthermore, it states that Iran's gross violations of the human rights of the Baha'i community are in direct contravention of the Charter of the United Nations and the U.N. Declaration of Human Rights.

For 7 years, under the rule of the Ayatollah Khomeini, Iran's Islamic Republic has persecuted individuals belonging to the Baha'i faith. These people are not the objects of hatred and terror by the state for what they do but only for being of the Baha'i religion. According to current Iranian law, the existence of the Baha'i religion and passing it on to the children is prohibited. The goal of Iran's rulers is simply to eliminate the Baha'is as a religious minority in their country.

The means for accomplishing the elimination of the Baha'i vary but they have a common brutality. The range of persecution includes summary executions, torture, imprisonment, denial of education and employment and arbitrary seizure of homes and possessions. Also, the Iranian Government has confiscated all Baha'i community assets and seized, desecrated, or destroyed all Baha'i holy places. There is an expression in international law that aptly describes this campaign of terror and that expression is genocide.

I am neither an expert nor a student of this religion. Nonetheless, it is readily apparent to me, as it would be to any reasonable person, that the Baha'i faith is, above all, committed to peace. By the principles of their religion, the Baha'is manifest obedience to their Government, reject violence and refrain from engaging in any sort of subversive activity. Furthermore, again according to the principles of their religion, the Baha'is uphold the divine origin of all the major world religions, including Islam. Clearly, they are not a threat to the Government of Iran in anyway.

However, instead of admiring this community, Khomeini's Iran seeks to destroy it. That the peaceful and passive are persecuted is a grim and frightening irony. Since 1979, nearly

200 prominent Baha'i have been executed. In its first year of power, the Khomeini regime attacked and demolished the holiest Baha'i shrine in the country. As a further mindless indignity, graveyards were torn apart. Throughout villages, vicious mobs, led by Shiite clergy, ransacked Baha'i communities. The accounts of life for a Baha'i in Iran over the last 8 years sadly belong in the journals that describe the darkest periods of the history of mankind.

In late 1986, a decline in the number of executions, an increase in the number of Baha'is permitted to leave Iran and a release of 500 prisoners gave some hope that a change might be occurring. Unfortunately, we no longer have that hope. Today the reports of persecution and senseless murders continue to mount. In fact, last week, two leaders of the Baha'i community were executed in Iran.

The Iranian Government offers the Baha'is one option, to recant their religious beliefs. Young children are given the following choices in school: Recant your faith or you cannot take your final exam. Education and employment opportunities are severely limited and the fear of humiliation, torture, and murder are constant. Yet somehow, through it all, the Baha'i persist and remain devout to the principles of their peaceful religion.

There is unfortunately little we can do in the U.S. Congress to save the Baha'is. However, we can protest and publicize their plight and it pleases me greatly that section 511 is included in this bill. Promulgating these horrific human rights violations may lead the Khomeini regime to modify its behavior. Even Iran has concern for its international reputation. Let the world know about these atrocities. To remain silent on this matter would be unconscionable.

Thank you, Mr. President.

Mr. SIMON. I would like to draw attention to section 511 of S. 1394, the Foreign Relations Authorization Act for 1988. This section focuses on and condemns the Government of Iran's systematic discrimination against and presecution of the Baha'i community in Iran. These gross violations of human rights include the denial of freedom of religion, denial of the right to own property, denial of the right to contract, denial of the right to inheritance, denial of the right to employment, denial of the opportunity to be educated, and even the denial of the right to live. Since 1978 the Iranian Government has murdered over 200 members of the Baha'i faith and excluded Baha'is from equal protection under the law. Murderers of 16-year-old Baha'i boy were heralded as patriots for their actions instead of being condemned. The Iranian Government's actions indicate support for the liquidation of Iranian Baha'is. Most recently, on September 28, 1987, two members of the Baha'is National Assembly of Iran, Mr. Ardeshir Akhtari and Mr. Amir Husayn Naderi, were executed. These injustices and outrages must end. I call upon the administration and my colleagues in the Congress to condemn this persecution and disseminate information to our friends and allies around the world concerning the plight of the Baha'is in Iran.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business and that Senators may speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

THE NOMINATION OF JUDGE ROBERT H. BORK TO THE U.S. SUPREME COURT

Mr. FORD. Mr. President, the nomination of Robert Bork has divided this country as no other nomination that I can recall. It has divided communities and yes, it has divided families.

As all of the Members of this body have done, I have thought about and worried about this question for many days. In my years of public service I have had many decisions to make but few as soul searching as this.

However, I have arrived at a decision and a vote. The essence of this man is not what I want on the highest court. I will vote against Judge Bork's confirmation to the Supreme Court.

Either his earlier statements on basic and vital issues were recklessly stated—and his decisions as a judge were not responsibly made—or what he says now is not what he believes and does not evidence what we could expect if he were on the Supreme Court.

Whichever is true I cannot accept him.

No single issue is really the problem—the problem is that this man either is not now—or was not in the past—responsible and candid in stating his views and making his decisions. I don't want to worry about whether my right to privacy or my freedom of speech or my protection under the law will ebb and flow like the tide.

Judge Bork's assertion in his confirmation hearings that the Constitution does not protect a general right to privacy strikes at an ingrained belief that our Constitution protects the desire of an individual or family to be left alone. While many, including myself, will argue over the extent of the right to privacy, very few will argue that it does not exist at all. I do not want the latter view represented on the Supreme Court. My right to privacy and my individual freedoms mean too much to me, my children and grandchildren.

Mr. President, much has been said about the intent of the framers of the Constitution. One conclusion I reached, years ago, is that the framers intended for our judiciary to be the stabilizing element in our system of checks and balances. Judge Bork will not bring stability to the High Court. I have serious concerns with the commitment he would make to respecting well established precedent of the Supreme Court.

The framers wrote within the context of "all men are created equal" and of "inalienable rights." One document that was burned into their consciences was the Declaration of Independence. The Bill of Rights provides that certain rights are to be specifically retained by the people. To me this is more than a blob on the parchment of the Constitution. It is a very real protection for the individual Kentuckians whose own Bill of Rights was penned by Thomas Jefferson.

Judge Bork's nomination itself has been divisive. His confirmation itself threatens to open old wounds, to revisit old struggles that have been thought settled. He would alter or reverse longstanding antitrust protections for the consumer, small business and the farmer.

I want a Justice who will think of the individuals in this country who are affected by what he decides. I believe the record shows that Judge Bork lacks the necessary humanitarian feel for the true spirit of human rights and human liberties.

Mr. President, I oppose the nomination. I believe that, after full and reasonable debate, the Senate should proceed to an up-or-down vote on the nominee. For this reason, I, for one will not participate in any filibuster of the nomination. And if this nominee is not confirmed, I hope that the President will submit another name for immediate consideration by the Senate.

TRIBUTE TO ODA CECILIA KEPPLE WILKERSON, ROSWELL, NEW MEXICO'S LEGIONNAIRE OF THE YEAR

Mr. BINGAMAN. Mr. President, I wish to call to the attention of my colleagues the selection of Oda Cecilia Kepple Wilkerson as New Mexico's American Legionnaire of the Year. Mrs. Wilkerson, who will celebrate her 100th birthday on November 5, is being so honored by the Charles M. DeBremond Post No. 28 of Roswell and Legionnaires throughout the State of New Mexico.

Mrs. Wilkerson has lived a life of notable achievement. Several times in her long life, she has served her fellow man in most unusual circumstances—under combat conditions. She first served as a nurse for British Forces in Northern France in 1916-17. Later, when the United States entered World War I, she was assigned as a U.S. Army Nurse ministering first to front line battle casualties. It is believed that she is the oldest living female American Legionnaire who also served in a combat zone.

When asked why she chose to pursue such a perilous calling, she answered simply, "I wanted to help. Everything in war tends to hurt, and medical services is a way to help the hurt."

I commend Mrs. Wilkerson on being named Legionnaire of the Year and wish her a happy 100th birthday—with many more to follow. I'm sure my colleagues join me in saluting this unique Legionnaire.

THE BORK NOMINATION

Mr. PELL. Mr. President, I have not previously announced my position on the nomination of Judge Robert H. Bork to be a Justice of the U.S. Supreme Court. I waited until this moment because I believed the processes of this Senate and the prerogatives of our Judiciary Committee should be respected. Now that the committee has voted on the nomination, I believe it is now appropriate for me to state my position.

I have decided to oppose the nomination of Judge Bork.

This has been a difficult decision for me. In my view, a decision on a Supreme Court nominee should not be based on the result of a popularity contest or a public opinion poll. Nor should it be based on symbolism or labels. Instead, the decision should be based on a careful consideration of the nominee's abilities, character, and judicial philosophy.

On the one hand, Judge Bork is a man of brilliant intelligence, good moral character and proven ability. He has twice been approved for Presidential appointment by the Senate without a single dissenting vote.

On the other hand we must remember that the Supreme Court is unique in its role and responsibilities. The Court, through its power of interpretation, can have as much to do with making or changing our laws as do we in the Senate.

And because Supreme Court Justices are appointed for life, we know that Judge Bork would continue to influence the direction of our Nation long after the appointing authority, President Reagan, has retired from the national scene. For this reason, the Senate has a greater responsibility to exercise its individual judgment than it does in acting on appointments that expire with the term of the President.

In all likelihood, the person who assumes the vacant seat on the Supreme Court will serve well into the 21st century. That person must have intelligence, legal talent and experience, and good character—all qualities which I know Judge Bork possesses.

But this new Justice must also have another quality: The wisdom to find a constitutional basis for the rights and liberties that I and most Americans believe to be a part of our heritage as Americans.

In viewing Judge Bork's judicial philosophy, his writings and judicial record and his testimony before the Judiciary Committee, I have concluded that his approach to our Constitution lacks this dimension and is, instead, narrowly judicial and extremely conservative. I am particularly concerned about his views on the right to privacy and the rights of women and minorities.

Thus, while I admire Judge Bork's intelligence, experience and character, I find his restricted view of the Constitution unacceptable.

And so, on balance, I find I cannot support the nomination of Judge Bork and will vote accordingly.

NOMINATION OF JUDGE BORK

Mr. KASTEN. Mr. President, I rise today to announce that I intend to vote in favor of the nomination of Judge Robert Bork to the Supreme Court.

Judge Bork's record as a law professor, as Solicitor General, and as a Federal judge has been exhaustively examined over several weeks of hearings in the Judiciary Committee. It is clear to me that what emerges from that record is a portrait of a brilliant legal mind dedicated to maintaining the integrity of our constitutional system.

Judge Bork has consistently taken the position that laws ought to be made by the legislature and implemented by the executive. Judges, in his view, are needed to interpret laws and to uphold those rights which the Constitution specifically protects.

Disagreement on complex legal issues is to be expected. Judge Bork himself, in the course of his long experience with the law and the Constitution, has sometimes been convinced by the arguments of others.

More frequently, though, his arguments have proven the more convincing—as shown by the fact that in his service as a judge on the D.C. Circuit, he was never once reversed by the Supreme Court.

Mr. President, the people of Wisconsin have sent me a clear message of support for Judge Bork—the mail and phone calls to my offices have been running at least 2 to 1 in favor of this nomination.

But a judicial nomination is not a popularity contest. If I thought Judge Bork were unqualified for the Court, by reason of inadequate experience or unfit character, I would vote against him regardless of the mail count.

President Reagan made a sound choice in nominating Judge Bork to the Supreme Court, and the Senate should not hesitate to confirm him.

NOMINATION OF JUDGE ROBERT H. BORK

Mr. STAFFORD. Mr. President, I shall vote against the confirmation of Judge Robert H. Bork to be an Associate Justice of the U.S. Supreme Court.

We have made too much progress toward assuring all of our citizens equal opportunity in this great Nation to allow the Court's balance to rest with an individual who views the Constitution primarily as an intellectual exercise.

While I reject the most strident and sometimes downright untruthful anti-Bork statements, I am acutely aware that many women honestly fear for their rights if Judge Bork were the swing vote on the Supreme Court.

While I regret voting against a Presidential nomination on the floor of the Senate for the first time, I cannot in my heart trust the rights of privacy of all Americans with an individual who cannot in his heart find such rights in our Constitution.

At this time in our remarkable history, women should expect to march step by step forward with men. Minorities no longer should expect to fear government intrusions. Americans should expect their privacy to be protected not semanticized.

At this time in our history, the American people look for a uniting force, not one that stirs fear and apprehension. Judge Bork's nomination comes at the wrong time for the wrong place.

JUDGE BORK

Mr. JOHNSTON. Mr. President, I ask unanimous consent that a transcript of my remarks of October 1 regarding the nomination of Judge Robert H. Bork as an Associate Justice of the Supreme Court be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR BENNETT JOHNSTON ON THE NOMINATION OF JUDGE ROBERT H. BORK, OCTOBER 1, 1987

The hearings are over. The question in all of our minds as we threaded through, day by day, the written record, was how would Judge Bork explain what is, at best, an erratic philosophical record: going from socialist, to conservative, to libertarian, to strict constructionist. And with, more important, a record on the issues before the

Supreme Court such as: *Shelley v. Kraemer,* where he criticized (a decision against) restrictive covenants based on racial grounds; such as the Harper case where he criticized a (decision striking) state poll tax; such as his criticism of affirmative action; *Griswold v. Connecticut,* dealing with the most basic right of privacy between a man and his wife in the privacy of their own home to use contraceptives; public accommodation, which he referred to as unsurpassed ugliness; *Baker v. Carr,* one man one vote; the Voting Rights bill with its (striking) literacy tests. And many, many others where he has written over a period of decades, and left a record which is always, it seems, on the side of big government and against the individual.

Well, we heard his explanation. I was impressed, I was bedazzled by his brilliance, his mental dexterity, his ability to recall, his scholarship. And yet, as he tried to thread his way through this record, he said either we didn't understand what he meant, or he didn't say what he meant, or he didn't mean what we construed it, or that he was joined by other distinguished judges or other explanations which, frankly, when they were all over sounded very good. I was impressed but not persuaded.

It reminds me of that old story were the wife comes in and catches the husband right with the women in flagrante dilecto and he doesn't know what to say so he says, "who are you going to believe, me or your lying eyes."

Well, Judge Bork has left a record over a period of decades. An unmistakable record which cannot be explained and which he has not put an adequate explanation on. For whatever the reasons are, he's always on the side of government, he's always against the individual. What comes through is a brilliant professor, a fine lawyer. I think I would hire him as my solicitor general, if given a chance. And I think he is honest, I have no quarrel with his honesty. But what it shows is a scholarship devoid of moral content. He misses the spirit of human rights in the Constitution.

To Bork the law is a great game, an intellectual exercise, an intellectual smorgasbord, it is not as (Justice Oliver Wendell) Holmes once described it when he said that the life of the law is not logic, it is experience. What Judge Bork misses is the experience, the feeling, the spirit and the moral content of the law, as opposed to its logic. I have no quarrel with the ability of his logic. It is with the latter, that is, his inability to put into the law the life of experience and of moral content.

To millions of people, the Supreme Court—I guess to us all—the Supreme Court is the court of last resort where basic human rights are decided: the right to vote, to have it counted, the right to life, liberty, privacy, and all of those other rights that people die for. We simply, on those basic rights, cannot afford to take the chance that this brilliant Judge, with this erratic record, will heed to his explanations as opposed to his record.

I will oppose Judge Bork's nomination. Now to those who say this is a question of liberal vs. conservative, I would say—as one who has voted for Judge Rehnquist, Judge O'Connor, Judge Scalia, without question on each of those three—I would say to the President: Send us a man or a woman of that caliber and I will approve them. That is the question. If you can send us a man or a woman of that caliber I will approve him and I believe the Senate will. We cannot afford to take a chance on Judge Bork.

One final point, in my state and in many areas around the country this is regarded as a pro or anti right to life vote. Those who say so, I think, misjudge badly the question. First of all, his statement criticizing *Roe v. Wade* was made in the context of testifying against right-to-life legislation. Judge Bork told me, and he has testified, that he probably overstated his opposition to *Roe v. Wade,* indeed, he seems to have gone out of his way to at least, put in doubt, what he would do on *Roe v. Wade.* Senator Wilson, who approaches the question of *Roe v. Wade* from a different direction than I—I have voted consistently for right to life and have criticized *Roe v. Wade*—Senator Wilson comes from the opposite direction. But he has stated that he would support Judge Bork because he is reassured that Judge Bork would re-look at the question of *Roe v. Wade* in light of the precedence, in light of Judge Bork's statement that he would not overturn the decision based in the fabric of American society.

Whatever Judge Bork would do, if given the chance to vote on *Roe v. Wade,* I think it is absolutely a mistake for people to be for or against Judge Bork based upon his position on *Roe v. Wade.* Because I think that is totally unascertainable. The one thing that does seem to be clear, that if he disagrees still with *Roe v. Wade*—and I'm not sure he does or I'm certainly not sure he would overturn it—that that disagreement does not spring from any deeply held moral conviction or religious conviction. And I am not one to bring up any religious test for judges. I simply mention that because there are so many right-to-lifers, people with whom I agree, there are fundamental religious people who look to Judge Bork as if he is some savior on this question. And I say that they should look, in addition to what he has written, at his statements on morals or lack thereof—and I don't mean to suggest he is immoral—but his lack of occupation with morals and with religion.

In my judgment, Judge Bork will not be confirmed.

MRS. NELL PEEPLES LIGHTSEY, FOUNDING TRUSTEE OF BAPTIST COLLEGE OF CHARLESTON, SC

Mr. THURMOND. Mr. President, on Saturday, August 16, 1987, Mrs. Nell Lightsey, a founding trustee of Baptist College at Charleston, SC, died at the age of 83. Mrs. Lightsey will be fondly remembered as the grandmother of the Baptist College. Mrs. Lightsey and her husband, Dr. William Norris Lightsey, financially supported the construction of the college's L. Mendel Rivers Library and the Lightsey Chapel, which is named for them. The undaunted faith that Mrs. Lightsey had in the many young students who have attended Baptist College over the years encouraged many young people to realize their full potential.

Mrs. Lightsey was extremely involved in the community of Varnville, SC. She was an intelligent and caring woman dedicated to the service of others. Through her participation in civic organizations such as the American Cancer Society and the Heart Fund, and through her various activities within her church, Mrs. Lightsey demonstrated the characteristics of a true Christian servant throughout her life.

Mrs. Lightsey's life will serve as a role for our young people for years to come. We are saddened by the death of Mrs. Nell Lightsey, and Nancy and I join with my colleagues in extending deepest sympathy to Dr. Norris Lightsey, her husband, and their two daughters, Mrs. Moses Tucker Laffitte, Jr., and Mrs. Margaret Lightsey MacMillan during this time of bereavement.

Mr. President, I would like to ask unanimous consent that an editorial on Mrs. Lightsey from the Hampton County Guardian and an obituary from the Charleston News & Courier be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Hampton County, (SC)
Guardian, Sept. 2, 1987]

TO NELL P. LIGHTSEY: 'LADY OF THE CHAPEL'

At Baptist College they called her the "Lady of the Chapel."

Nell Peeples Lightsey was an exemplary representative of two of Hampton County's pioneering families, Peepleses and Lightseys. Her death August 16, at age 83, marked the end of a long and fruitful life for which she will be remembered and appreciated at home and abroad.

Her contributions and those of her husband, W. Norris Lightsey, have extended far beyond Hampton County boundaries. Much of her work was in "the Lord's Vineyards".

First and dearest to her heart was her role as dedicated and devoted wife and mother of two fine daughters, Nell Lightsey Laffitte, of Columbia, and Margaret Lightsey MacMillan, of Hampton, grandmother of six and great grandmother of eight.

A 1926 Winthrop College graduate, she was a life-long leader and teacher in her church, First Baptist Varnville, the church for which her late father, the Rev. E.W. Peeples, was first pastor.

In addition to being a Sunday School teacher and church pianist she was a past president of the Woman's Missionary Union. She also was a participant in numerous civic and garden club activities and did volunteer work with the American Cancer Society and Heart Association in the community.

Baptist College counted her and her husband as generous, faithful "grandmother and grandfather" of the college, sustaining supporters through its 20 year history. She was a founding trustee also.

The Lightseys were honored with doctorate of humanities degrees at Baptist College in 1979. The $3.8 million Lightsey Chapel and Nell P. Lightsey Music Building were dedicated in her honor in 1984. Together they contributed to the Mendel Rivers Library there.

Nell Lightsey has gone to her reward but she left a legacy of good works not to be soon forgotten. She also left behind a large circle of loved ones, family and friends and fellow church members, who share her family's sense of grief and loss.

To her husband, Norris Lightsey, to her daughters, Nell Laffitte and Margaret Mac-

Millan and their families The Guardian extends heartfelt sympathy.

[From the Charleston (SC) News & Courier, Aug. 18, 1987]

NELL LIGHTSEY, FOUNDING TRUSTEE OF BAPTIST COLLEGE, DIES AT 83

VARNVILLE.—The funeral for Nell Peeples Lightsey, 83, a founding trustee of Baptist College at Charleston and wife of William Norris Lightsey, will be at 11 a.m. Wednesday in Varnville Baptist Church. Burial, directed by Peeples-Rhoden Funeral Home of Hampton, will be in Crocketville Cemetery.

A memorial service will also be conducted at 11 a.m. Wednesday in Baptist College's Lightsey Chapel.

Mrs. Lightsey died Sunday in a Columbia hospital.

She was born in Varnville, a daughter of the Rev. Edwin Wiley Peeples and Harriet Johns Peeples. She was a 1926 graduate of Winthrop College, where she majored in public school music. She had taught school in Norway.

She received an honorary doctor of humanities degree from Baptist College in 1979.

Mrs. Lightsey and her husband were longtime supporters of Baptist College. She was a member of the college's first board of trustees and her husband was chairman of the Baptist College Foundation.

Together, the Lightseys made donations toward construction of the college's L. Mendel Rivers Library and the Lightsey Chapel, which is named for them.

"Mr. Nell Lightsey and her husband, Dr. Norris Lightsey, are known as the grandmother and grandfather of the Baptist College at Charleston," says a statement issued Monday by the college. "In the spirit of all grandmothers, Mrs. Lightsey nurtured the college and maintained her faith in this young institution as it matured during its first 20 years. In recognition of the support of the Lightsey family, the college dedicated its chapel-auditorium as Lightsey Chapel. The faithfulness to Christian witness exemplified by Mrs. Lightsey will remain as an example to future generations of Baptist College students."

The Lightseys and their family attended the dedication of the $3.8 million chapel-auditorium in December 1984. More than 1,000 faculty, alumni, students and other guests saw the chapel dedicated to "academic excellence in a Christian environment."

At the time, Margaret MacMillan, the Lightseys' daughter, said the chapel was a dream come true for her parents. Also dedicated in 1984 was the Nell P. Lightsey Music Building.

Mrs. Lightsey was a member of Varnville First Baptist Church, where she served as a Sunday school teacher and the Sunday school and church pianist. She was also president of the Women's Missionary Union. Her father was the first minister of that church.

She also was active in many civic organizations. She was a charter member of Hampton-Varnville Music Study Club, a member and past president of the Azalea Garden Club and a member of the county board of the American Cancer Society. Mrs. Lightsey also was a Heart Fund volunteer and was a past president of the Varnville Parent-Teachers' Association.

Surviving are her husband; two daughters, Mrs. Moses Tucker Laffitte Jr. of Columbia and Margaret Lightsey MacMillan of Hampton; a sister, Mrs. Foster Miller Routh of Columbia; six granchildren; and eight great-grandchildren.

NOMINATION OF JUDGE ROBERT BORK

Mr. HELMS. Mr. President, inasmuch as other Senators have stated their opinions about the Bork nomination, I think it is appropriate that I do so, since I have the floor.

Let me say at the outset that I have known Judge Bork since I came to this town in 1973. I find myself resentful of the transparent display of demagoguery, histrionics, hypocrisy, distortion, and misinformation surrounding the confirmation question involving Mr. Bork. Before the merits of the nomination were even considered, before one witness was heard in the hearings, there came a cacophony of protest, the usual groups across the country threatening Senators that if they vote for Robert Bork, they will pay for it in the next election.

If I were of a mind to be critical of the administration, I would say that perhaps the administration ought to have taken the advice some of us gave at the time which was to launch a positive campaign across this country to offset the Norman Lears and the labor unions and various other pressure groups. But that was not done. So the deluge of unfair, inaccurate, false information circulated about Judge Bork had its effect.

I do not know how the Senate will vote. At best, it is going to be close now. But let me say this about Robert Bork.

Without question, he is one of the most knowledgeable authorities on the Constitution who has ever been nominated to serve on the Court, and even his most severe critics have said that his integrity is beyond question, that his credentials are unsurpassed.

There was an impressive list of organizations and individuals, both conservative and liberal, Democrat and Republican, who stepped forward in the hearings to support Robert Bork. I was pleased to see my friend Griffin Bell, of Georgia, who served as Attorney General during the Carter administration, step forth and testify in favor of the Bork nomination, as well as Lloyd Cutler and countless others. But there came that cacophony of protest, raising questions that had no validity at all, and the bum's rush started. And it was fed day after day by the major news media of this country in a clear orchestration, preconceived, preplanned, and executed by the schedule.

I had to laugh when I kept hearing on the radio, oh, the Bork nomination is in trouble. Look, Senator so and so has come out against him. Senator so and so has come out against him, and they usually came in threes—three one day, three the next day—and you could just see the scoutmaster saying, "You three go today and you three go tomorrow, and we will give you all this publicity."

And they got it.

And I found myself thinking, "Well, where is the surprise that any of these fellows is coming out against Bork?" It was no surprise.

But the point, Mr. President, is that there is really no question in any reasonable man's mind but that Judge Bork is eminently well qualified to serve on the Supreme Court.

Now there are far left elements who recognize that Judge Bork will carry out his duties to uphold the Constitution and the laws of the land as they were intended.

Of course, he will not deprive them of any constitutional rights. But he will deprive them of one thing should he yet be confirmed. He will deprive them of a Justice who will attempt to implement the liberal agenda through judicial activism. That Robert Bork would never do on the Supreme Court.

An example of what I am trying to say: In the September issue of Ms. magazine, the following statement appears, and I quote:

> * * * a coalition of civil rights and women's groups, including the NAACP, People for the American Way, and the National Abortions Rights Action League, is launching a major grass-roots effort to stop [Bork's] nomination. The battle, however, is much larger than Bork. If a Reagan nominee is rejected, there is a chance that a new President could appoint a judge even more progressive than Powell and we could begin to win back some things already lost, like gay rights and Medicaid abortion.

So the cat jumps slam out of the bag. That is what they are up to. That is what they have been up to all along.

The strategy behind the liberal special interest groups opposing this nomination is clear: they have done everything possible to defeat the nomination, regardless of Judge Bork's qualifications, in hopes that they can either prevent President Reagan from filling the vacancy on the Supreme Court or coerce the President into appointing a more liberal, activist candidate—one who will help them implement their social agenda.

Others can have their own opinion and express them, but I hope that neither Robert Bork nor President Reagan will even consider withdrawing this nomination. Let us vote on it in the Senate. And let us vote on it quickly.

Mr. President, a very fine North Carolinian, who served admirably on the North Carolina Supreme Court, Dr. I. Beverly Lake, has voiced his support to the Bork nomination. In a recent article written for the Durham Morning Herald, I think Dr. Lake captured the essence of the opposition to Judge Bork's nomination, and I ask unanimous consent that the article by

Judge Lake be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. HELMS. I thank the Chair.

I further ask unanimous consent that a column by Giles Lambertson, who is a highly respected columnist for the Greensboro Daily News and Record in Greensboro, NC, in connection with the battle over the Bork nomination be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. HELMS. Mr. President, I thank you so much, and I yield the floor.

EXHIBIT 1

SHOULD ROBERT BORK BE CONFIRMED?—YES

(By I. Beverly Lake)

I have never had the privilege of knowing Judge Bork personally, nor have I attempted to make a thorough study of his judicial opinions or other legal writings. I do, however, have a very real admiration for him because of the enemies he has made, especially those who have come to the surface recently.

When a man has devoted many years to the service of the public, in political and judicial office and also in academic fields, sometimes the comments of his would-be detractors speak more persuasively in his behalf than do the appraisals of his friends. So I find it in the case of Judge Bork.

For weeks, those opposing his becoming a member of our highest court have cross-examined him and sifted through his writings, both official and academic, in an effort to find some action or statement which, in their opinion, indicates lack of qualification to sit on the court formerly graced by such profound legal scholars as John Marshall, Oliver Wendell Holmes, Louis Brandeis, Harlan F. Stone and Charles E. Hughes.

The net result of their delving into Judge Bork's record seems to be this: They have found no defect of character or personality. They concede that he is, indeed, possessed of a superior intellect, he is a diligent student, well acquainted with established legal principles and with the political, economic and social history of our country.

They do not question his familiarity with and understanding of the nature and scope of either the more recent or the earlier decisions of the Supreme Court, nor do they question his appreciation of the importance of judicial precedents in a sound and stable jurisprudence for the government of free people in a secure and orderly society.

If we ignore envy and professional jealousy, which are by no means unheard of in the world of law school faculties and writers of law review articles, and also ignore political hypocrisy of senators and would-be presidents seeking to curry favor with activist minority groups, the real basis for opposition to Judge Bork seems to be that he knows the Constitution of the United States and, if he becomes a member of the court, he will abide by his oath to support it.

It must be remember that if Judge Bork is confirmed, before he takes his seat on the court he must take a solemn oath that he will support the Constitution of the United States.

Not one of his detractors has suggested that Judge Bork will take the oath lightly or regard it as a perfunctory ceremony to be forgotten or disregarded. He will, I believe, carry it out to the best of his ability, so help him God. What more can we ask of an appointee to that office than that he be a man of character, studious industry, superior intellect, knowledge of legal principles and committed by oath to support the Constitution of our country? His opponents say Judge Bork has all those qualities.

But, they say, he will use the power of office to overturn decisions made by the court in the last 50 years because he is a conservative in his philosophy of government! Judge Bork's oath will be to support the Constitution—not to support the decisions of Chief Justice Warren, Justices Douglas, Brennan, Felix Frankfurter or Thurgood Marshall. The Constitution, which he will be required by his oath to support, declares that it, and the laws enacted by Congress pursuant to it, are the supreme law of the land. A decision heretofore made by those crusading liberal justices is not, and, in a case coming before the court in the future, any justice who has taken that solemn oath is morally and legally under a duty to refuse to vote in accord with any previous decision of the Supreme Court which he, himself, sincerely believes is a departure from or conflicts with the Constitution.

Because Judge Bork appears to accept that as his duty, if confirmed, and because he has the other qualifications I have mentioned, this country's future tranquility, security and prosperity and the liberties of our people will not be endangered by confirmation.

To be sure, Judge Bork's philosophy of government is conservative. So what! A conservative, by his very nature, is not a crusader for widespread, instantaneous change in established institutions and practices. It is the activist liberals, such as Justices Brennan, Marshall, Douglas and Warren, who preach and practice disregard of the Constitution in order to make America into what they, themselves, believe to be a land of greater opportunity and freedom.

For the last 50 years, that has been the philosophy and motivation of the majority of the justices who have served on the Supreme Court. It is in the best interests of all our people, regardless of race, sex, national origin or financial status, that, in the future years, we have a conservative majority on the court, committed to interpreting and applying our Constitution in accordance with the intent of the great Americans who gave it to us, just as were those great justices Holmes and Brandeis—liberals in economic philosophy but faithful to their oath to support the Constitution and to follow it in deciding cases coming before them.

But suppose Judge Bork believes a previous decision of the Supreme Court, such as that concerning abortion, is an improper distortion of the Constitution. That decision cannot be overturned by Judge Bork without the concurring vote of at least four other justices.

The Miranda Rule, which has proved to be such a shield for those accused of vicious crime, and thus has made our city streets, including those of our national capital, unsafe after dark for women or men, cannot be overturned by Judge Bork without the agreement of at least four other justices.

Brown v. Board of Education, which I believed then, and now believe, was an unwarranted and totally unlawful violation of the Constitution by the Supreme Court, may or may not be a correct application of the Constitution in the opinion of Judge Bork, but even if *Brown v. Board of Education* were overruled, which is extremely unlikely regardless of Judge Bork's opinion of it, that would not cause a single public school in North Carolina to be segregated according to race, nor would it cause any pupil or teacher to be reassigned.

Whatever the merits or demerits of integrated public schools may be, the present assignment of public school pupils and teachers in North Carolina is in accord with the present statutes enacted by the North Carolina Legislature, and no one has ever questioned the present authority of the state of North Carolina to operate integrated schools if the Legislature of this state so directs.

Thus, the suggestion that if Judge Bork is confirmed our North Carolina public schools will again be segregated by race is simply hog-wash designed to mislead and frighten our black voters and cause them to vote in our local and state elections for candidates who are opposed to Judge Bork's taking the seat on the Supreme Court to which President Reagan has nominated him.

Finally, it must be remembered that as justice of the Supreme Court, Judge Bork will, along with eight other justices, he called upon to decide many, many cases that do not involve what are usually referred to by the press and television commentators as "civil rights."

These involve acts of Congress, such as those dealing with income taxes, wage and hour laws, labor relations, food stamps, welfare, the rights of retired persons and sick people under the Social Security Act and Medicare, and congressional appropriations and administrative regulation of funds for our national defense, highway construction and many, many other federal statutes and administrative regulations.

Those acts of Congress and administrative regulations must be interpreted by the court. Judge Bork's record as judge indicates that he will, when acting as justice of the Supreme Court, interpret them so as to carry out the intent of the Congress which enacted those laws. Not one of his opponents, so far as I have noted in the press or on television newscasts, has suggested Judge Bork is not capable of interpreting these federal laws correctly and with an even-handed justice.

I have recently read somewhere in the press that in the years that Judge Bork has served as judge of the United States Court of Appeals for the District of Columbia a large number of the court's decisions written by Judge Bork have been appealed to the Supreme Court of the United States and not a single one has been reversed by the court, dominated as it has been by liberal and "middle-of-the-road" justices. Few trial and intermediate appellate judges have such a record as that. It speaks convincingly of his knowledge of legal principles, his sound judgment and his understanding of and fidelity to the highest judicial standards.

I find nothing in Judge Bork's record as revealed in these recent weeks of hearings to cause doubt as to his ability and intent, if confirmed, to interpret and apply correctly and fairly the Constitution and laws of the United States regardless of race, sex, occupation, financial status or political views of the litigants whose cases are brought before the court.

I. Beverly Lake of Wake Forest is a retired law school professor, former candidate for governor of North Carolina and former member of the North Carolina Supreme Court. He represented North Carolina before the U.S. Supreme Court in *Brown* v. *Board of Education.*

EXHIBIT 2

BORK BATTLE EXPOSES POLITICAL HYPOCRITES

(By Giles Lambertson)

The confirmation battle over Supreme Court nominee Robert Bork is flushing out hypocrites. Some people are probably surprised by the sight.

The struggle for confirmation is being conducted at the level of irrelevancy sought from the beginning by Bork's most critical opponents, who are proving adept at tinny denunciation and verbal groin kicks.

The thrust of the anti-Bork hysteria is that the nominee is an utter misfit in 1980's America. If so, it is a wonder he was unanimously confirmed by the Senate to a federal appeals court earlier this decade. The flip-flop suggests some senators have experienced a confirmation conversion of their own.

More to the point, if Bork's harshest critics are serious about the nominee's potential to miscarry justice on the high court, they should sue to have the judge unseated from the lower court. Why visit such grave injustices upon any courtroom?

The difference is, of course, that the Supreme Court is adjudicator of last resort, which is to say not even Congress is outside the purview of the nine justices. Congress has few natural enemies to be concerned about but a Supreme Court considered hostile surely qualifies as one. This accounts for the intensity of the conflict and this is where the hypocrisy comes in.

Our national legislature has in it people who wear compassion on their shirt sleeves. Among these are Senators Joe Biden and Ted Kennedy, the arch-anti-Borkists with whom we are all familiar. There are others.

You know these people by their rhetoric. They clothe themselves in gaudy sentiments about pluralism, diversity and tolerance. Alas, the Bork debate has left them naked. They are exposed as moralists of stunning expediency.

Because Bork is decried as an inflexible ideologue, for example, these fair-weather lovers of liberty deem it reasonable to oppose him stridently and for purely ideological reasons. Because the nominee is characterized as majoritarian, his critics see nothing wrong with opposing him by manipulating special interest groups into a frenzy. Because the nominee is considered to have the heartbeat of a fascist, they feel justified demagoguing the nomination until it is withdrawn.

Bork is none of these things. What Bork's most fervent critics are is plain to see. It is a good feeling not to be numbered among them.

Arrayed against the nomination are the likes of Atlanta's Andrew Young, NOW's Molly Yard, Georgia's Jimmy Carter, and Harvard's Laurence Tribe, not to mention the ACLU, AFL-CIO, NEA and Norman Lear's People for the American Way. These are all good people and respectable organizations but one is hardly struck by the group's philosophical diversity.

Supporting the nomination are people such as moderate Republican and Saturday Night Massacre victim Elliot Richardson, former Carter aide and self-described liberal Democrat Lloyd Cutler, former Chief Justice Warren Burger, current Justice John Paul Stevens and broadcast executive Ronald Davenport, who is former dean of the Duquesne University Law School and a long-time black friend and former Yale student of Bork's.

Institutions in Bork's corner include the American Bar Association—whose committee gave the nominee its highest recommendation on a split vote—the Southern Baptist Convention's Public Affairs Committee and Concerned Women for America. All in all, the mix is greater in the Bork camp.

Thus it is special interests—and the party of special interests—against a guy whose only special interest is the Constitution. Bork has taken an abiding interest in it for a quarter of a century, as a matter of fact, an investigation that has led him to view society through a constitutional prism rather than vice versa.

This puts him in conflict with his critics who, in the clinch, prefer good intentions to constitutional fidelity. They clearly distrust the Constitution they claim to be safeguarding from people like Bork.

What hypocrites.

BICENTENNIAL MINUTE

OCTOBER 6, 1862: ALBERT J. BEVERIDGE BORN

Mr. DOLE. Mr. President, 125 years ago today, on October 6, 1862, Albert J. Beveridge was born on a small midwestern farm. His was one of those Horatio Alger stories that we Americans treasure so much. As his farming family struggled to get by, the teenage Beveridge worked as a plowboy, railroad hand, logger, and teamster. All the time he was saving money for his education, and in 1881 he was able to attend what is now DePauw University, from which he graduated with honors. After a career as a lawyer in Indiana, he was elected as a Republican Member of the U.S. Senate in 1899. At 36, he was the youngest Senator at the turn of the century.

Beveridge wasn't just any Senator. He was by far the most powerful and popular orator in the Senate of his time. He also became a leader in the progressive wing of the Republican Party, during the period we call the progressive era. Beveridge was a strong supporter of President Theodore Roosevelt's "Square Deal" politics. In reaction to revelations about unsanitary conditions in the meat packing industry, Beveridge drafted the Meat Inspection Act. He was also a leader in the movement to outlaw child labor and he fought against the rise of corporate monopolies.

In foreign affairs, Beveridge was equally outspoken. He endorsed American overseas expansion, and even traveled to the Philippines to get a firsthand look at the territory that the United States acquired as a result of the Spanish-American War. In the days before jet travel, such a journey meant a considerable commitment of time and energy.

Beveridge lost his bid for reelection to a third term. He retired to become an outstanding historian. Today, the American Historical Association names one of its most prestigious annual awards after Albert J. Beveridge.

EMPLOY THE HANDICAPPED WEEK

Mr. HARKIN. Mr. President, this is Employ the Handicapped Week. It is a time when we can look back with pride on the tremendous forward movement that this country has witnessed in the last decade and one-half. We can celebrate the enactment of sections 501, 502, 503, and 504 of the Rehabilitation Act of 1973, prohibiting discrimination based on disability and committing the Federal Government and its grantees and contractors to be models in employing people with disabilities. We can point to last year's amendments to the Rehabilitation Act, Public Law 99-506, which establishes a new initiative—called supported employment—on behalf of people with severe disabilities and recognizes the important role that rehabilitation engineering can play in enhancing employment opportunities for persons with disabilities. And we can point to a host of other laws and appropriations that create rights and fund programs to implement them.

Hire the Handicapped Week also is a time when we can look hard into the mirror of reality and find that, despite our policies and tax dollars, people with disabilities still face formidable obstacles in getting jobs, advancing in jobs, and retaining jobs. A recent Lou Harris, Inc., poll for the International Center for the Disabled revealed that two-thirds of all working-aged disabled people are not working, even though a large majority of them want work. Disabled people, therefore, are much less likely to be working than any other demographic group in America, including black teenagers. The poll also showed that employers' experiences with disabled workers have been very good, that employers believe costs of accommodations for disabled workers are not barriers and indeed approximate the costs for employing people without disabilities, and that about half of the employers surveyed typically make special accommodations as a regular matter. But the fact remains that people with disabilities are more unemployed and underemployed than anyone else in America.

What are some of the solutions? We need to pass the Civil Rights Restoration Act to restore protections against employment discrimination by recipients of Federal financial assistance undercut by the Grove City and Darrone decisions. We need to extend protections against discrimination of persons with disabilities to cover the private sector. We need to continue the process of educating employers about the capabilities of persons with disabilities. We need to increase training opportunities. We need to reduce Government disincentives for work.

We all know that these steps are necessary. What we may not know, and what I want to call to your attention, is that a way for increasing the employability and productivity of people with disabilities is at hand. It is technology. As chairman of the Subcommittee on the Handicapped, I intend to hold hearings early in 1988 on technology, employment, education, disability, and the discipline that puts it to use—rehabilitation engineering. Let me say just a few words about how technology can help transform rights into realities.

In a recent publication, the President's Committee on the Employment of the Handicapped detailed how technology can be a very useful solution.

> Ironically, American businesses have invented remarkable new technologies that actually do the things many disabled people can't do on their own. We have machines that "read" typed materials automatically. We have inexpensive devices that "speak" text, so learning-disabled or blind persons can hear what they cannot read. We have machines that "hear" and "understand" speech—so that people who are very severely disabled and cannot move their fingers can, and do, work. Just around the corner are voice recognition technologies that will let deaf and severely hearing impaired people understand conversational speech, including televisions, radio, and the telephone.
>
> Most of these aids are here, now. But few employers know about them—and fewer disabled people are aware how dramatically these devices could change their lives. There are other problems as well. Costs of the new aids often are high. And each advance in technology helps nondisabled people at least as much as its does people with disabilities * * *.

We all should be enthusiastic about the potential of technology to help people with disabilities become employed. For blind people, there are scanners that "read" reports, letters, and documents as rapidly as eight pages per minute and that also enter text into a word processor or microcomputer. There also are speech synthesizers that "speak" out loud whatever words are on the screens of word processors or computers. The scanners and speech synthesizers enable a blind person to work much faster than a sighted person. And, of course, Braille printers now work with word processors and microcomputers, automatically translating into Braille virtually any textual information.

For people who are deaf, telecommunications devices for the deaf [TDD's] allow them to talk with anyone else who also has a TDD or, through a TDD relay service, with anyone anywhere who has a telephone. Now, a company has introduced a software program that automatically converts messages composed on the keys of any touch-tone telephones into printed words that appear on the screen of a microcomputer. And a hotel chain has installed TDD systems in its hotels as special accommodations to its guests and their distant friends and business associates.

Speech recognition by microcomputers is only a few years away, according to the President's Commission; and a "hearing typewriter" that prints what it hears is new to the market. This machine—which never makes a spelling mistake and has a vocabulary of 100,000 words—accepts spoken input at the rate of 150 words per minute. It thus enables people who are quadriplegic, people who are blind, and people who are deaf to overcome their disabilities. But the costs of these new technological wonders can be very high.

I hope that each and every one of you will support efforts to bring technology into the lives of people with disabilities. We in Congress already have started on that course, enacting amendments to the Rehabilitation Act (Public Law 99-506) just last year that establish special programs in rehabilitation engineering and electronic equipment accessibility. Having taken a proper course, we dare not become satisfied with what we have done.

In order to move forward on this cause, I soon will introduce a bill that would amend the Internal Revenue Code to allow businesses to deduct, in the year of purchase, the expenses of purchasing or modifying equipment that helps people with disabilities become employed or more productive.

Let me state the policy goals that guide me, and let me call you to be an ally of the millions of Americans who want these same goals—independence, not dependence; productivity, not enforced idleness; and integration, not isolation. I plan to enlist technology in pursuit of these goals, and I hope you will join me in this effort.

COMMENTS ON FOREIGN AID

Mr. DeCONCINI. Mr. President, I would like to bring an article in the Christian Science Monitor to the attention of my colleagues. This appeared on Wednesday, September 30, 1987, and is titled: "Changing the Face of Foreign Aid." This article was written by Kristin Helmore and very cogently addresses the subject of microenterprise loans to poor people.

Foreign aid is not a particularly popular program, especially in light of current budget difficulties and deficits within the United States. We must seek to devise new ways to meet the United States' long-standing moral obligations to help the poor, yet do it in constructive and innovative ways. This article addresses precisely this subject with loans financed by the United States which are taken out of existing accounts thereby not increasing foreign aid. Also, these loans are paid back at a 98-percent rate. Moreover, loans are hand-ups and not hand-outs.

Poor people around the world can contribute to their own local economies by securing one of these loans and thereby assisting in building their own country's economic health. This also helps the United States by improving various countries' ability to purchase U.S. goods in the international trading system.

Mr. President, these microenterprise loans can and will help the United States meet moral responsibilities and assist U.S. geopolitical interests. This article also mentions a bill before Congress supporting microenterprise loans. This bill, which I introduced last spring with 6 colleagues, now has 44 cosponsors of liberal and conservative party affiliation. I am confident that this bill will be signed into law this year and establish more effective means of allocating precious foreign aid dollars as well as assisting U.S. foreign policy goals.

Mr. President, I ask unanimous consent that this article appear in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Sept. 30, 1987]

BANKING ON THE POOR—CHANGING THE FACE OF FOREIGN AID

(By Kristin Helmore)

Basilia Chambi lives in the slums of La Paz, Bolivia—one of the poorest countries in the Western Hemisphere. She gets up at 4 a.m. each day to buy vegetables to resell at the market.

In her early 20s, Mrs. Chambi is already the mother of three. She works hard for the 52 pesos ($25) she earns each week. But because of a trend that is gradually changing the face of international development—the granting of small loans to the working poor—this is twice the amount she was earning a year ago. In a country where malnutrition is widespread, her children already eat better.

Until last March, Chambi, unable to pay cash, had to buy her produce on consignment, paying 10 percent interest per day to the wholesaler. She was not given a choice of vegetables, and often had to accept spoiled goods. About 20 percent of her stock went unsold.

In March, she received a loan of $50 from the Foundation for the Promotion and Development of Micro-Enterprises (Prodem), a local development agency funded by Bolivian businessmen and the United States Agency for International Development (AID). Prodem began its credit program for women produce vendors last February, and has extended $50 loans to some 1,200 women in La Paz.

Interest on Prodem loans is 2.5 percent per month, the same as that charged by local banks. The difference is that commercial banks do not lend to vendors like Chambi. Most of them are illiterate, can barely sign their names, have no collateral or credit history, and are considered bad risks. To date, however, there have been no defaults on any Prodem loans.

The Prodem program reflects a fundamental shift in development philosophy taking place throughout the third world. Over the past 40 years, billions of dollars have been spent on efforts to improve the economies of these nations. These activities have been based largely on the theory that successful economic development requires a "macro" approach—investment in large-scale, industrial projects.

Yet the standard of living of millions of people in developing countries has fallen. Large-scale investments, whose benefits were expected to "trickle down" to the masses, have failed to eradicate hunger or stem the tide of migration from destitute rural villages to dehumanizing urban slums. "Development has lost its way," says Michael Farbman, chief of the Employment and Enterprise Division at AID.

Since the early '70s, development policy has gradually been assuming a more human face, shifting away from the "trickle down" approach, and experimenting with ways to channel aid, in the form of credit, directly into the hands of the people who need it most—Guatemalan street vendors, landless Nepalese peasants, Senegalese fishermen.

Programs aimed at small-scale entrepreneurs account for only a minor portion of most development agency activities, and reach only a tiny fraction of the needy. But they are on the rise. The UN International Fund for Agricultural Development extends credit to 2.3 million people in 21 nations—more than any other agency. And a bill before Congress (which observers say will pass) would require AID to spend $50 million in 1988, $75 million in 1989 on business investment loans to the "poorest of the poor."

In fact, AID has been supporting microenterprise lending for years, but the definition of "microenterprise" has been very broad. The current bill seeks to ensure that credit is provided to people at the very lowest economic levels. The sums covered in the bill would be transferred from existing AID programs and do not involve any new appropriations.

WHY THE EMPHASIS ON SUCH LENDING?

An increasing sense of urgency surrounds the issue of world hunger today, and many development professionals see the strategy of providing credit to poor entrepreneurs as the most direct means of combating hunger. Among the first benefits of loans to individuals like Chambi and subsistence farmers is that they are able to obtain or grow more food.

Many experts also see the microenterprise approach as making an essential contribution to social and political stability. Barbara Rodey is executive director of the Foundation of Intenational Community Assistance (Finca). A private, US-based agency that provides small loans to the working poor in Peru, El Salvador, and Costa Rica. "We estimate that in Latin America [alone] there are approximatley 140 million people living in life-threatening poverty," she says. "These are the poorest of the poor. You cannot have stability in the world as long as such a tremendous number of people live in such terrible poverty."

In most third-world countries more than half the workers belong to the "informal sector." These are people who survive, often marginally, through self-employment, outside the economic structures. They are fruit vendors in Cartagena, Colombia; ragpickers in India; basketmakers in Accra, Ghana. In India, for example, a country of 770 million, more than 80 percent of workers are in the informal sector. Access to credit for these people is critical, but hard to come by.

"One of the great misconceptions we Americans have about the developing world is that there's a lot unemployment, " says William Burrus, director of Acción International, which designed the Prodem credit program in Bolivia, "There's underemployment, but nobodys unemployed. To live, you have to do something—there's no safety net."

CAPITAL AND CREDIT NEEDED

It is lack of capital, experts say, and lack of access to traditional channels of credit, that hamper the business activities of most of this informal sector. Chambi, for example, had been selling vetegables for years before she received her first loan from Prodem. But the 10 percent interest per day she had to pay to her supplier ate up most of her profits;

"Money lenders charge between two and 25 percent interest per day," says Maria Otero, regional director of Acción's program in Honduras. "More than anything, this hampers individual economic growth and perpetuates poverty."

All credit programs for the poor charge interest to defray program expenses, often including the cost of business training for the borrowers. Interest rates, though often steep by US standards, are always lower than those of local moneylenders. Contrary to traditional views about the ability and willingness of the poor to pay their debts, many credit programs boast repayment rates of more than 95 percent.

Many also have built-in savings mechanisms, to ensure that when the principal and interest of the loan are repaid, the borrower has achieved financial self-sufficiency, with his or her own fund of capital to continue business operations.

A key advantage of microenterprise loan programs is that the funds recirculate in the borrower's community and are available to others. "This way, the poor pay the cost of their own development," says Finca's founder, John Hatch.

We are proving "to the established banking system that these people are tremendously responsible with their loans," says Carlos Pareres, head of Save the Children in El Salvador, the local agency running Finca's program. "Our repayment rate of 95 percent is very much higher than the 65 percent rate of banks who lend in the traditional market here."

A large proportion of these borrowers are women. According to experts, this is a key to success. "When women borrow, the beneficiaries are the children and the household," says Mohammad Yunus, founder of the Grameen Bank. Since 1976 this successful program has lent an average of $60 to close to 300,000 people with a 97 percent repayment rate. And 80 percent of its borrowers are women. "In the case of a man, too often the beneficiaries are himself and his friends," says Dr. Yunus. "A loan to a woman results in more benefits to the family."

"We try to guide the money into the hands of women," says Finca director John Hatch. "If the money is available to the wife, she will spend it on rapid-turnover investments like buying and selling vegetables, raising chickens or pigs. She knows what to do with her $50."

Such a woman, says Mr. Hatch, already knows the realities of the local market, because day-to-day survival of her family traditionally depends on her efforts. Men, he says, often do not share such responsibilities, and thus have less understanding of household management and local economic conditions. "It's ironic that the woman has traditionally seen herself as a nobody," says Hatch. "Now with access to credit, she's empowered."

This increase in borrower self-esteem is considered one of the principal benefits of microenterprise lending. The very poor tend to see themselves as outcasts, experts say, and as being incapable of making positive changes in their own lives.

"We [at Finca] believe that when you give somebody something as charity, you lower their self-esteem," says Finca's Ms. Rodey. "But when they feel that what they have done has been through their own efforts, it changes their lives."

"A poor person's first taste of success tells them they're not worthless," says Yunus. "This program builds up the dignity of human beings while building up a country's economy."

MEXICO'S MOVE TO FULL DEMOCRACY

Mr. DECONCINI. Mr. President, I would like to briefly comment on a longstanding interest to me and particularly, my State of Arizona. This subject involves the succession of President in Mexico's political system. Last year I introduced two resolutions on the electoral system in Mexico and met with President de la Madrid on two occasions to discuss Mexico's move to a generally more open and democratic political process.

I have been carefully watching this process of succession, or selecting a new President as it should more accurately be labeled, since my career began in politics in Arizona. Mexico's system is generally closed and is dominated by one political party. The sitting President selects his successor and passes on the reins through a very formal and restricted process. Competition is replaced by patronage.

The following article, which appeared in the Christian Science Monitor, highlights the current system and articulately discuss the dangers of remaining a closed one-party system or changing too quickly. I hope my colleagues will carefully read this article and follow-up on this by encouraging steady, judicious, and diplomatic change on the part of the PRI Party. While we have seen some subtle changes in the nominating and selection process this year, continued gradual change toward full democracy is in the interests of the Mexican people and the American people. I only say this as a true friend of the Mexican people and one directly affected by the cultural, religious, and economic ties between our two countries.

I ask unanimous consent that a copy of this article appear in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOVE TO FULL DEMOCRACY APT TO BE SLOW, GRADUAL

(By Brook Larmer)

When Mexico sank into economic chaos in 1982, foreign analysts sounded the alarms: Get ready for a political collapse, they said.

It never came.

Five years later, many of the worrisome symptoms persist, but Mexico muddles along in relative tranquillity. There have been protests—even within the ruling party—over the government's secretive and sometimes fraudulent electoral practices. But even as the nation moves into the uncertain succession period, Mexicans stoically endure unrelenting inflation, flagging wages, and the effects of a $103 billion debt. Mexico's closed political system survives.

But for how much longer?

Like a pounding waterfall, the five-year economic crisis has slowly eroded the bedrocks of the political system—the power of the President and the ruling Institutional Revolutionary Party (PRI). Analysts say with restricted resources, a restructured economy, and a resentful public, the old-style authoritarian institutions can no longer function as before.

Mexico stands on the brink of a new political era, according to a wide range of political experts—both Mexicans and foreigners—both in and out of government. Unlike in 1982, when alarmists warned of an imminent political collapse, analysts today are speculating about the potential for gradual democratic changes within the system.

What form these changes will take remains unclear. That depends on a kaleidoscope of variables that spin around the answer to one key question: How will President Miguel de la Madrid Hurtado's successor respond to political pressure? In fact, one focus of change will likely be the destape—or "unveiling"—of the PRI's presidential candidate.

"In this succession, the President still has the capacity of nominating the successor single-handedly, without consulting anybody," says Lorenzo Meyer of the Colegio de Méjico. "But the legitimacy of his decision will be diminished. . . . So perhaps this is the last president that will be able to control the transmission of power in a traditional way."

Some changes are already evident. The process of choosing a successor, usually shrouded in absolute silence and secrecy, has been spiced this year by a greater degree of outspokenness.

The most startling change occurred in August, when the PRI unveiled the names of six potential candidates for the first time in its history. The timely move has alleviated internal pressure for reform, PRI officials and Mexican scholars say.

Even if the unveiling were a purely pragmatic step, it could end up generating its own momentum for change.

"It's destined to spark a more thorough transformation next time," says one Western European diplomat, noting that any backward steps in the 1994 succession would fatally damage the PRI's credibility. "The risk is that expectations have been raised for the next succession."

At this point, it's about the only risk they wish to take. When the six would-be presidents were trotted out in front of PRI leaders, they were models of loyalty, tact, and caution. Their speeches were both uncritical and uncriticized. No questions were asked. No campaign promises offered. As one diplomat says: "They're playing it safe."

When it comes to Mexican politics, "playing it safe" is a cardinal rule.

In books, speeches, monuments, even street names, Mexicans are constantly reminded of the price of instability: 10 years of revolutionary chaos. As a coalition that emerged from the political debris of the 1910-1920 revolution, today's PRI isn't about to let political change happen without control.

"The system is predicated on not allowing uncontrolled mobilization," says one political expert with close ties to the PRI. "That's the lesson they learned from the revolution." Adds a prominent political economist: "Playing the game of democracy is dangerous."

Indeed, many political experts here say that moves to democratize the party or the country could fracture the pillars of the political system. Even seemingly simple reforms—like establishing open primaries to pick PRI candidates—could shift the party's traditional values from cooperation to competition, from discipline to dissension.

More importantly, such changes could disrupt the intricate network of patronage and privilege: For example, elected political posts could not continue to be controlled by the President or evenly distributed to the various political sectors—at least not with the guarantees that have helped hold the system together. "If you open up the selection process, the PRI comes unglued," says Fernando Estrada Sámano, a former PAN deputy. "There's a tremendous worry that the PRI is structually impeded or incapable of change."

Others feel that the PRI has the power to change—but neither the pressure nor the predisposition. Since no political force threatens the PRI from the outside, the party just has to make a cost-benefit analysis, says political scientist Juan Molinar. For him, the answer is easy: "It's much riskier to open up the party than take the slap of abstentionism on election day."

For party officials, it's a bit more complicated. "If the party has one merit, it's that it has the ability, the virtue of adapting to changing circumstances of this country," says Alejandro Sobárzo, director of international affairs for the PRI. He agrees that opening up the selection process—even gradually, as with the recent unveiling of the six pre-candidates—is a risk. "But I think the party takes more risks of this type every time," he says. "It can do it because of the strength it has throughout the country."

The old-style PRI may be ill-suited for a restless and rapidly modernizing population. But it still seems to have the power to regulate the pace and direction of reform. Indeed, political analysts agree on the basic channels for changes:

They will probably not be forced from the outside, unless the opposition parties can suddenly mobilize the large pool of apathetic voters.

They will likely come from the President, possibly from the highest echelons of PRI, but probably not from the party's "bases," or grass roots.

There will be gradual changes, since the PRI can and will pick its spots.

But beyond those conditions no one can predict what shape Mexican politics will take. One factor will be the economy. Will the recovery in Mexico's external sector continue? And will it eventually translate into improved domestic performance and social conditions? Even if the answers are clear, they could be read in different ways: Some analysts argue that the country needs a period of economic growth to cushion the cost of political change; others say that only an economic crisis could create enough pressure for change. In the end, only one opinion counts: that of de la Madrid's successor.

Yet even when the PRI candidate is revealed within the next few days, his ideas about reforming the system will likely remain unknown until he steps into office Dec. 1, 1988. It's a tradition: Would-be presidents show absolute allegiance to the current president; but once in power, they stake out an independent agenda.

Says one Western diplomat: "They've been so closely associated with the policies of this regime that one can't predict where they may diverge."

But one thing is sure: Mexico's next president will face a political pressure-cooker, one that will make change nearly unavoidable.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

(On Friday, October 2, 1987, the Senate passed H.R. 1748, as amended by the Senate. The text of the bill, as amended and passed, follows:)

H.R. 1748

Resolved, That the bill from the House of Representatives (H.R. 1748) entitled "An Act to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain specified activities of the Department of Defense, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1988 and 1989".

SEC. 2. ORGANIZATION

This Act is divided into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Other National Defense Authorizations.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

SEC. 100. SHORT TITLE

SHORT TITLE.—This division may be cited as the "Department of Defense Authorization Act, 1988 and 1989".

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for procurement for the Army as follows:

(1) For aircraft:

(A) $2,805,859,000, for fiscal year 1988.

(B) $2,643,083,000, for fiscal year 1989.

(2) For missiles:

(A) $2,412,928,000, for fiscal year 1988.

(B) $2,367,461,000, for fiscal year 1989.

(3) For weapons and tracked combat vehicles:

(A) $3,410,437,000, for fiscal year 1988.

(B) $3,144,212,000, for fiscal year 1989.

(4) For ammunition:

(A) $2,131,239,000, for fiscal year 1988.

(B) $2,166,732,000, for fiscal year 1989.

(5) For other procurement:

(A) $5,522,163,000, for fiscal year 1988.

(B) $6,030,274,000, for fiscal year 1989.

SEC. 102. NAVY AND MARINE CORPS

(a) NAVY.—Funds are hereby authorized to be appropriated for procurement for the Navy as follows:

(1) For aircraft:

(A) $9,562,607,000, for fiscal year 1988.

(B) $5,160,280,000, for fiscal year 1989.

(2) For weapons (including missiles and torpedoes):

(A) $6,219,532,000, for fiscal year 1988.

(B) $3,044,459,000, for fiscal year 1989.

(3) For shipbuilding and conversion:

(A) $10,081,455,000, for fiscal year 1988.

(B) $2,936,400,000, for fiscal year 1989.

(4) For other procurement:

(A) $4,967,627,000, for fiscal year 1988.

(B) $1,094,201,000, for fiscal year 1989.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for procurement for the Marine Corps as follows:

(1) $1,378,440,000, for fiscal year 1988.

(2) $810,006,000, for fiscal year 1989.

SEC. 103. AIR FORCE

(a) Funds are hereby authorized to be appropriated for procurement for the Air Force as follows:

(1) For aircraft:

(A) $13,754,873,000, for fiscal year 1988.

(B) $9,272,047,000, for fiscal year 1989.

(2) For missiles:

(A) $9,137,539,000, for fiscal year 1988.

(B) $7,164,439,000, for fiscal year 1989.

(3) For other procurement:

(A) $8,210,782,000, for fiscal year 1988.

(B) $8,453,171,000, for fiscal year 1989.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for Defense Agencies as follows:

(1) $1,276,891,000, for fiscal year 1988.

(2) $863,622,000, for fiscal year 1989.

SEC. 105. RESERVE COMPONENTS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1988 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces in the amount of $300,000,000.

(b) AUTHORIZATIONS IN ADDITION TO OTHER AMOUNTS.—The authorization of appropriations contained in subsection (a) is in addition to any other amounts authorized to be appropriated by this or any other Act.

SEC. 106. CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1987, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended—

(1) by striking out "fiscal year 1987" each place it appears and inserting in lieu thereof "fiscal years 1988 and 1989"; and

(2) by inserting "and the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO and other follow-on support agreements for the NATO E-3A between the United States Government and the commander of the NATO E-3A Force," after "December 6, 1978,".

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 121. ARMY PROGRAMS

(a) FORWARD AREA AIR DEFENSE HEAVY SYSTEM.—Funds appropriated or otherwise available to the Army for procurement for fiscal year 1988 may not be obligated or expended for the procurement of any air defense system submitted to the Army for evaluation in response to Army solicitation number DAAH01-87-R-A988 unless the Secretary of the Army determines that the system meets the full system requirements specified in that solicitation.

(b) STINGER MISSILE.—Section 107(e) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3827) is repealed.

(c) RDX FACILITY.—The Secretary of the Army may award one or more contracts, in advance of appropriations therefor, for the design and construction of an RDX manufacturing plant if each such contract limits the amount of payments that the Federal Government is obligated to make under such contract to the amount of appropriations available, at the time such contract is awarded, for obligation under such contract. Such design and construction may be accomplished by using one-step turn-key selection procedures, or other competitive contracting methods.

(d) ARMY TRUCK PROGRAM.—Funds appropriated to the Department of Defense before, on, or after the date of the enactment of this Act or otherwise made available to the Department of Defense may not be obligated for purposes of procuring tactical transport trucks with a capacity in excess of 4000 pounds unless the trucks are acquired after a competition based on performance specifications that satisfy the Department of the Army's requirements for such vehicles.

(e) LIGHTWEIGHT TACFIRE.—Funds appropriated to the Department of Defense before, on, or after the date of the enactment of this Act or otherwise made available to the Department of Defense may not be obligated to enter into any contract for purposes of acquiring the Lightweight Tacfire fire support system.

SEC. 122. NAVY PROGRAMS

(a) H-53 AIRCRAFT.—Of the funds appropriated to the Navy for fiscal year 1988 for the procurement of the H-53 aircraft, not more than 30 percent of such funds may be obligated until the Secretary of the Navy has submitted to Congress a report containing the preliminary results of dynamic structural tests on the H-53 aircraft and the recommendations of the Secretary regarding the advisability of continuing procurement of such aircraft.

(b) LAND-BASED TANKERS.—Funds appropriated to the Navy before, on, or after the date of enactment of this Act or otherwise made available to the Navy may not be obligated or expended for the purpose of acquiring or operating land-based tanker aircraft unless the Secretary of Defense has certified to Congress that the Department of the Air Force and the Department of the Navy will not enter into a memorandum of agreement regarding Air Force support of Navy land-based tanker requirements. For the purposes of this section, the KC-130T aircraft operated by the Marine Corps is not considered a land-based tanker aircraft.

(c) LEASE OR CHARTER OF NEW TANKERS.—Subject to section 2401 of title 10, United States Code, the Secretary of the Navy may enter into long-term leases and charters for militarily useful tanker vessels constructed in the United States.

SEC. 123. AIR FORCE PROGRAMS

(a) T-46 AIRCRAFT.—Funds appropriated to the Air Force for fiscal years 1986 and 1987 may not be obligated or expended for procurement of the T-46 aircraft (other than those aircraft under contract on the date of the enactment of this Act for lot one aircraft) or in connection with a competition for trainer aircraft.

(b) A-7 CLOSE AIR SUPPORT AIRCRAFT.—Of the amount appropriated or otherwise made available to the Air Force for fiscal year 1988 for procurement of aircraft, $10,000,000 shall be available only for the procurement of equipment, facilities, and services for the modification of A-7 aircraft under the A-7 Plus program. None of such funds may be obligated until the Secretary of Defense has certified to Congress, in writing, that the A-7 Plus program is a cost-effective approach to modernizing close air support and battlefield air interdiction squadrons in the Air Force and the Air National Guard.

PART C—MILESTONE AND MULTIYEAR CONTRACT AUTHORIZATIONS

SEC. 131. MILESTONE AUTHORIZATIONS FOR PROCUREMENT

(a) MOBILE SUBSCRIBER EQUIPMENT.—(1) Of the funds appropriated to the Army pursuant to section 101, $1,019,800,000 of the amount appropriated for fiscal year 1988 and $995,700,000 of the amount appropriated for fiscal year 1989 may be obligated only for Mobile Subscriber Equipment.

(2) Funds are authorized to be appropriated to the Army for procurement of Mobile Subscriber Equipment as follows:

(A) For fiscal year 1990, $976,200,000.

(B) For fiscal year 1991, $360,000,000.

(b) ARMY TACTICAL MISSILE SYSTEM.—(1) Of the amount appropriated to the Army pursuant to section 101, $16,925,000 of the amount appropriated for fiscal year 1988 and $81,300,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Army Tactical Missile System.

(2) Funds are authorized to be appropriated to the Army for procurement of the Army Tactical Missile System as follows:

(A) For fiscal year 1990, $158,200,000.

(B) For fiscal year 1991, $209,000,000.

(C) For fiscal year 1992, $88,200,000.

(c) TRIDENT II MISSILE.—(1) Of the amount appropriated to the Navy pursuant to section 102, $2,251,331,000 of the amount appropriated for fiscal year 1988 and $2,227,100,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Trident II missile. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1988, no reduction may be made in the amount of funds available for the program and equipment described in the preceding sentence.

(2) Funds are authorized to be appropriated to the Navy for procurement of the Trident II missile as follows:

(A) For fiscal year 1990, $2,215,000,000.

(B) For fiscal year 1991, $2,090,500,000.

(C) For fiscal year 1992, $1,977,000,000.

(d) T-45 TRAINING SYSTEM.—(1) Of the amount appropriated to the Navy pursuant to section 102, $371,500,000 of the amount appropriated for fiscal year 1988 and $417,500,000 of the amount appropriated for fiscal year 1989 may be obligated only for the T-45 Training System.

(2) Funds are authorized to be appropriated to the Navy for procurement of the T-45 Training System as follows:

(A) For fiscal year 1990, $437,700,000.

(B) For fiscal year 1991, $596,300,000.

(C) For fiscal year 1992, $652,300,000.

(e) Medium Launch Vehicle.—Of the amount appropriated to the Air Force pursuant to section 103, $197,900,000 of the amount appropriated for fiscal year 1988 and $204,100,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Medium Launch Vehicle.

(f) Application of Section 2437 of Title 10.—Programs referred to in subsections (a) through (e) are defense enterprise programs for the purpose of section 2437 of title 10, United States Code.

SEC. 132. MULTIYEAR CONTRACTS FOR FISCAL YEAR 1988

(a) Army.—Subject to subsection (d), the Secretary of the Army may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(1) High Mobility Multipurpose Wheeled Vehicle.

(2) TOW 2 Missile (for the Army and Marine Corps).

(3) AN/ALQ-136(V)2 Radar Jammer.

(b) Navy.—Subject to subsection (d), the Secretary of the Navy may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Hawk Missile System.

(c) Air Force.—Subject to subsection (d), the Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Meteorological Satellite Program.

(d) Limitations on Authorized Multiyear Procurements.—The Secretary concerned may not enter into a multiyear contract authorized by this section for a program unless the total anticipated cost for the program over the period of the contract is no more than 88 percent of the total anticipated cost of carrying out such program through annual contracts.

PART D—CHEMICAL WEAPONS

SEC. 141. AUTHORIZATION OF FUNDS FOR CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for purposes of the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $87,400,000.

SEC. 142. REVISIONS TO CHEMICAL DEMILITARIZATION PROGRAM

(a) Definition.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) Environmental Impact Statement.—The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(c) Disposal Technologies.—(1) Funds appropriated pursuant to this Act for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for any Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense provides to Congress a written certification that the concept plan under the program includes the following:

(A) Evaluation of alternative technologies for disposal of the existing stockpile and selection of one such technology to be used for such purpose.

(B) Full-scale operational verification of the technology selected for such disposal.

(C) Maximum protection for public health and the environment.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) Alternative Concept Plan.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

(1) incorporate the matters determined under subsections (b) and (c); and

(2) specify any revised schedule and revised funding requirements necessary to enable the Secretary to meet the requirements under subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

(e) Surveillance and Assessment Program.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing chemical stockpile; and

(2) assessment of the condition of the stockpile.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

(a) In General.—Funds are hereby authorized to be appropriated for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army:

(A) $5,474,460,000, for fiscal year 1988.

(B) $2,860,598,000, for fiscal year 1989.

(2) For the Navy (including the Marine Corps):

(A) $10,268,737,000, for fiscal year 1988.

(B) $3,182,370,000, for fiscal year 1989.

(3) For the Air Force:

(A) $16,346,598,000, for fiscal year 1988.

(B) $7,967,780,000, for fiscal year 1989.

(4) For the Defense Agencies:

(A) $8,699,452,000, for fiscal year 1988, of which—

(i) $178,217,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $104,221,000 is authorized for the Director of Operational Test and Evaluation.

(B) $3,870,680,000, for fiscal year 1989, of which—

(i) $186,128,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $149,657,000 is authorized for the Director of Operational Test and Evaluation.

(b) Authorization of Unbudgeted Amounts for Certain Purposes.—There are authorized to be appropriated for fiscal years 1988 and 1989, in addition to the amounts authorized to be appropriated in subsection (a), such amounts as may be necessary for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided by funds authorized to be appropriated in subsection (a).

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 221. ARMY PROGRAMS

(a) Rifle-Launched Munitions.—Of the funds appropriated to the Army pursuant to section 201 of the Department of Defense Authorization Act, 1987 (Public Law 99-661), $11,827,000 may be obligated only for a lightweight rifle-launched anti-armor munitions program approved by the Assistant Secretary of Defense for Special Forces and Low Intensity Conflict.

(b) Improved Mask Drinking System.—Of the funds appropriated to the Army pursuant to section 201 for fiscal year 1988, $600,000 may be obligated only for the Improved Mask Drinking System.

(c) Stinger Electronic Security System.—Of the funds appropriated pursuant to section 201(a)(1)(A), not less than $4,000,000 shall be available solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both the basic Stinger configuration and the reprogrammable microprocessor configuration. The results of demonstration and testing on the basic Stinger configuration shall be summarized and reported to the Congress not later than July 1, 1988, and the results on the reprogrammable microprocessor configuration not later than January 1, 1989.

SEC. 222. NAVY PROGRAMS

(a) Pegasus Engine.—Section 203(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3838), is repealed.

(b) EMPRESS Program.—The Secretary of the Navy may not carry out, during fiscal year 1988, an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator program for ships (EMPRESS).

SEC. 223. LINCOLN LABORATORY MODERNIZATION PROGRAM

(a) In General.—The Secretary of the Air Force may enter into a contract with the Massachusetts Institute of Technology (hereafter in this section referred to as MIT) under which MIT will agree to carry out a program for the modernization and expansion of the Lincoln Laboratory complex at Hanscom Air Force Base, Massachusetts. The program may include new construction and additions to and modifications of existing research offices, laboratory spaces, and supporting facilities needed to perform the Lincoln Laboratory mission. The costs incurred under such a contract may include construction, acquisition and installation of associated equipment, inspection and supervision of construction, and financing charges (including financing charges on amounts provided by MIT for the program), but may not include any fee or profit for MIT or Lincoln Laboratory.

(b) Restrictions and Limitations.—The total cost of the program referred to in subsection (a) may not exceed $135,000,000. Such program shall be completed not later than 12 years after the date of the enactment of this Act.

(c) Availability of Funds.—Funds available to the Department of Defense for research, development, test, and evaluation in any fiscal year may be used in such fiscal year to make any payment required to be made during such fiscal year in connection with the program referred to in subsection (a).

(d) UNITED STATES OWNERSHIP OF FACILITIES.—Title to the facilities and all associated equipment paid for under a contract entered into under subsection (a) shall be transferred to the United States after construction has been completed and has been approved by the Secretary.

(e) USE OF FACILITIES AND EQUIPMENT BY MIT.—In consideration for the services of MIT under the contract referred to in subsection (a), MIT shall be entitled to use the facilities and equipment at the Lincoln Laboratory complex in the manner and to the extent agreed upon by the Secretary of the Air Force and MIT and specified in the contract. No right of ownership of any facility or equipment at the Lincoln Laboratory complex shall accrue to MIT by virtue of its services under a contract referred to in subsection (a).

SEC. 224. EXTENDED AIR DEFENSE

Of the funds appropriated to the Defense Agencies pursuant to section 201, $100,000,000 may be obligated only upon approval by the Director of Defense Research and Engineering for the purpose of research and development in connection with antitactical missile systems or extended air defense systems. In the event any such funds are made available to firms in allied countries, such funds shall be available for obligation only after the Secretary of Defense has entered into cooperative programs with such allied countries for that purpose.

SEC. 225. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the funds appropriated pursuant to this title, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

SEC. 226. ADVANCED LAUNCH SYSTEM

(a) IN GENERAL.—(1) Funds authorized to be appropriated to the Department of Defense before, on, or after the date of the enactment of this Act for research, development, test, and evaluation for the Department of Defense or any of its components for any activities associated directly or indirectly with the Advanced Launch System/Heavy Lift Launch Vehicle (hereinafter in this section referred to as the "ALS") may not be obligated or expended until the Secretary of Defense, with the concurrence of the Administrator of the National Aeronautics and Space Administration, has submitted to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a certification that includes the following information:

(1) A copy of the agreement between the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration on the most cost-effective design approach for the ALS and on a joint management plan to implement the program so as to make maximum use of the expertise and unique testing facilities of the National Aeronautics and Space Administration, especially with respect to rocket propulsion systems.

(2) A detailed description of the ALS program management plan, including identification of the specific roles and responsibilities to be fulfilled by the Defense Agencies, the Air Force, and the National Aeronautics and Space Administration.

(3) A copy of the formal cost-sharing agreement entered into by all participants in the ALS program which (A) identifies the program's total costs (in current and constant dollars) for research, development, test, and evaluation, procurement, and facilities construction, and (B) includes the budgetary resources intended to be dedicated annually by each participant in fiscal years 1988 through 1992.

(b) ALS PROPULSION SYSTEMS.—Funds authorized to be appropriated to the Department of Defense before, on, or after the date of the enactment of this Act for research, development, test, and evaluation of liquid oxygen/hydrocarbon rocket propulsion systems, liquid oxygen/liquid hydrogen rocket propulsion systems, and alternative solid rocket booster propulsion systems, associated directly or indirectly with the ALS, or for the construction of test facilities for such propulsion systems, may be obligated and expended only for research, development, test, and evaluation, and construction, activities in conjunction with the National Aeronautics and Space Administration and only at the site of existing research and testing facilities of the National Aeronautics and Space Administration except that construction of the J-6 Large Rocket Test Facility at Arnold Engineering Development Center for testing of large, solid-propellant rocket motors in a simulated flight-altitude environment shall be paid for out of funds authorized to be appropriated to the Air Force for military construction.

SEC. 227. SPACE LAUNCH RECOVERY

Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation, a total of up to $50,000,000 may be transferred from the Army and the Navy to the Air Force for activities related to space launch recovery.

SEC. 228. CRUISE MISSILE GUIDANCE

Of the funds appropriated pursuant to section 201, $20,000,000 may be obligated only for carrying out a program for an advanced technology demonstration of a near-zero CEP seeker for future and existing cruise missile designs intended to increase accuracy and mission planning flexibility while achieving optimal cost effectiveness. The Secretary of Defense shall determine which of the military departments and Defense Agencies are to carry out such program and the amount to be expended by each such department or agency for such program.

SEC. 229. DEPARTMENT OF DEFENSE HIGH-TEMPERATURE SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT PROGRAM

(a) AUTHORIZATION.—(1) Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201 for research, development, test, and evaluation, $60,520,000 of the amount appropriated for fiscal year 1988 and $60,520,000 of the amount appropriated for fiscal year 1989, may be obligated only for research and development relating to superconductivity at high critical temperatures.

(2) Of the amount that may be obligated under paragraph (1) for each of fiscal years 1988 and 1989, $10,520,000 may be obligated only for support of research and development activities that—

(A) are conducted under the superconductor program of the Defense Advanced Research Project Agency of the Department of Defense or under the superconductor program of any other entity involved in superconductor research and development; and

(B) accelerate advanced development of superconductor technology to support the Electric Drive program of the Department of Defense.

(b) ADMINISTRATIVE PROVISIONS.—(1) The Secretary of Defense shall determine, with respect to the amounts apropriated or otherwise made available to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 for research, development, test, and evaluation for each of fiscal years 1988 and 1989, the amount to be derived from the Army, Navy, Air Force, and each of the Defense Agencies in each such fiscal year to carry out the high-temperature superconductivity research and development activities of the Department of Defense under this section.

(2) The Under Secretary of Defense for Acquisition or his designee shall—

(A) coordinate the research and development activities of the Department of Defense relating to high-temperature superconductivity; and

(B) ensure that such research and development—

(i) is carried out in coordination with the high-temperature superconductivity research and development activities of the Department of Energy (including the national laboratories of the Department of Energy), the National Science Foundation, the National Bureau of Standards, and the National Aeronautics and Space Administration; and

(ii) complements rather than duplicates such activities.

(c) The Under Secretary of Defense for Acquisition shall take appropriate action—

(1) to ensure that high-temperature superconductivity technology resulting from the research activities of the Department of Defense is transferred to the private sector in accordance with (A) the amendments made by the Federal Technology Transfer Act of 1986 (Public Law 99-502; 100 Stat. 1785) to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), and (B) Executive Order Number 12591, dated April 10, 1987; and

(2) in consultation with the Secretary of Energy, to ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent, in the transfer of such technology to the private sector.

SEC. 230. SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

(a) FINDINGS.—The Congress finds that it is in the national economic and security interests of the United States for the Department of Defense to provide financial assistance to Sematech for research and development activities in the field of semiconductor manufacturing technology.

(b) PURPOSES.—The purposes of this section are—

(1) to encourage the semiconductor industry in the United States—

(A) to conduct research on advanced semiconductor manufacturing techniques; and

(B) to develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products; and

(2) in order to achieve the purpose set out in clause (1), to provide a grant program for the financial support of semiconductor research activities conducted by Sematech.

(c) DEFINITIONS.—In the section:

(1) The terms "Advisory Council on Federal Participation in Sematech" and "Council" mean the advisory council established by subsection (g).

(2) The term "Sematech" means a consortium of the United States semiconductor industry established for the purposes of (A) conducting research concerning advanced semiconductor manufacturing techniques, and (B) developing techniques to adapt manufacturing expertise to a variety of semiconductor products.

(d) Authority To Make Grants.—The Secretary of Defense shall make grants, in accordance with section 6304 of title 31, United States Code, to Sematech in order to defray expenses incurred by Sematech in conducting research on and development of semiconductor manufacturing technology. The grants shall be made in accordance with a memorandum of understanding entered into under subsection (e).

(e) Memorandum of Understanding.—The Secretary of Defense shall enter into a memorandum of understanding with Sematech for the purposes of this section. The memorandum of understanding shall include provisions which require the following:

(1) That Sematech have—

(A) a charter agreed to by all representatives of the semiconductor industry that are participating members of Sematech; and

(B) an annual operating plan that is developed in consultation with the Secretary of Defense and the Advisory Council on Federal Participation in Sematech.

(2) That the amount of funds made available to Sematech by the Department of Defense in any fiscal year for the support of research and development activities of Sematech under this section may not exceed 50 percent of the total cost of such activities.

(3) That Sematech, in conducting research and development activities pursuant to the memorandum of understanding, cooperate with and draw on the expertise of the national laboratories of the Department of Energy and of colleges and universities in the United States in the field of semiconductor manufacturing technology.

(4) That the Advisory Council on Federal Participation in Sematech review the research activities of Sematech and submit to the Department of Defense and the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a description of the extent to which Sematech is achieving its research and development goals.

(5) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the Department of Defense for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this section, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(6) That the Secretary of Defense be permitted to transfer intellectual property owned and developed by Sematech only to Department of Defense contractors and only for use in connection with Department of Defense requirements and that the Secretary not be permitted to transfer such property to any person for commercial use.

(7) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the private sector participants in Sematech in accordance with the terms and conditions set forth in the agreement between Sematech and its private sector participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

(f) Construction of Memorandum of Understanding.—The memorandum of understanding entered into under subsection (e) shall not be considered a contract for the purpose of any law relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulations; and such provisions of law shall not apply with respect to the memorandum of understanding.

(g) Advisory Council.—(1) There is established the Advisory Council on Federal Participation in Sematech.

(2)(A) The Council shall advise Sematech and the Secretary of Defense on appropriate technology goals for the research and development activities of Sematech and a plan to achieve those goals. The plan shall provide for the development of high-quality, high-yield semiconducting manufacturing technologies that meet the national security and commercial needs of the United States.

(B) The Council shall—

(i) conduct an annual review of the activities of Sematech for the purpose of determining the extent of the progress made by Sematech in carrying out the plan referred to in subparagraph (A); and

(ii) on the basis of its determinations under clause (i), submit to Sematech any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Council.

(3) The Council shall be composed of 12 members as follows:

(A) The Under Secretary of Defense for Acquisition, who shall be Chairman of the Council.

(B) The Director of Energy Research of the Department of Energy.

(C) The Director of the National Science Foundation.

(D) The Undersecretary of Commerce for Economic Affairs.

(E) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(F) Seven members appointed by the President as follows:

(i) Four members who are eminent individuals in the semiconductor industry and related industries.

(ii) Two members who are eminent individuals in the fields of technology and defense.

(iii) One member who represents small businesses.

(4) Each member of the Council appointed under paragraph (3)(F) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as designated by the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(5) A vacancy in the Council shall not affect its powers but, in the case of a member appointed under paragraph (3)(F), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(6) Seven members of the Council shall constitute a quorum.

(7) The Council shall meet at the call of the Chairman or a majority of its members.

(8)(A) Each member of the Council shall serve without compensation.

(B) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(9) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Council.

(h) Responsibilities of the Comptroller General.—The Comptroller General of the United States shall—

(1) review the annual reports of the auditor submitted to the Comptroller General in accordance with subsection (e)(5); and

(2) transmit to the Committees on Armed Forces of the Senate and the House of Representatives his comments of the accuracy and completeness of the reports and any additional comments on the report that the Comptroller General considers appropriate.

(i) Export of Semiconductor Manufacturing Technology.—Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under this section shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act.

(j) Protection of Information.—(1) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of Sematech that are funded in whole or in part by financial assistance provided under this section:

(A) Information on the business operations of Sematech and its members.

(B) Trade secrets of Sematech or its members.

(2) Notwithstanding any other provision of law, intellectual property owned and developed by Sematech or its members may not be disclosed by any officer or employee of the Department of Defense except as provided in the limitation included in the memorandum of understanding pursuant to subsection (e)(6).

(k) Authorization.—Of the amounts appropriated pursuant to section 201(a)(4), $100,000,000 of the amount appropriated for fiscal year 1988, and $100,000,000 of the amount appropriated for fiscal year 1989, may be obligated only to carry out this section.

SEC. 230A. NUCLEAR MONITORING RESEARCH PROGRAM

Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201(a)(4) for research, development, test, and evaluation, $25,000,000 of the amount appropriated for fiscal year 1988 may be obligated only for the nuclear monitoring research program of the Defense Advanced Research Projects Agency.

SEC. 230B. BIOENVIRONMENTAL HAZARDS RESEARCH

Of the funds authorized to be appropriated to the Armed Forces pursuant to section 201(a) not more than $33,000,000 may be obligated through the Office of the Undersecretary of Defense for Acquisition for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes.

SEC. 230C. CENTER FOR ADVANCED TECHNOLOGIES

Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1988 and not more than $31,000,000 of the *amount appropriated for fiscal year 1989 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, defense critical machine technicians to build, operate, and maintain high technology manufacturing equipment. Funds may not be obligated for such purpose until a memorandum of understanding has been entered into by the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility. Funds may not be obligated for such purpose without the approval of the Secretary of Defense. Funds may not be obligated for such purpose until sixty days after a report has been submitted to the Armed Services Committees of the Senate and the House of Representatives.*

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 231. FISCAL YEAR 1988 FUNDING LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

Of the amounts appropriated pursuant to authorizations in section 201 or otherwise available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $4,120,000,000 may be obligated for the Strategic Defense Initiative for such fiscal year.

SEC. 232. REPORT ON STRATEGIC DEFENSE INITIATIVE FUNDING

(a) IN GENERAL.—The Director of the Strategic Defense Initiative Organization shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on funds appropriated for the Strategic Defense Initiative for fiscal year 1988. The Director shall set out the amount of such funds allocated for each program, project, or activity within each appropriation account.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation providing funds for the Strategic Defense Initiative for fiscal year 1988.

SEC. 233. LIMITATION ON DEVELOPMENT OR TESTING OF SPACE-BASED AND OTHER MOBILE ANTI-BALLISTIC MISSILE SYSTEMS

(a) Funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test anti-ballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based.

(b) The limitation in subsection (a) shall cease to apply if—

(1) the President submits to Congress a comprehensive report on the systems or components which the President proposes to develop or test; and

(2) after such report is received by Congress, a joint resolution described in subsection (c) is introduced and such joint resolution is enacted.

(c)(1) A joint resolution referred to in subsection (b) shall be one without a preamble, the matter after the resolving clause of which is as follows: "That section 233 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 is repealed.".

(2) Such a joint resolution introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. Such a joint resolution introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 15th day after its introduction. If the committee to which such a resolution is referred does not report such resolution (or an identical resolution) at the end of 60 days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved. Such a resolution shall be considered in the House of Representatives and the Senate in accordance with paragraphs (5) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473; 98 Stat. 1936).

SEC. 234. REPORTS ON STRATEGIC DEFENSE INITIATIVE PROGRAMS

(a) IN GENERAL.—At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each of the fiscal years 1989 and 1990 (but not later than March 15 of the calendar year in which such fiscal year begins), the Secretary of Defense shall transmit to Congress a report on the programs that constitute the Strategic Defense Initiative and other programs, if any, relating to defense against ballistic missiles. Each such report shall include the following:

(1) Details of all programs and projects included in the Strategic Defense Initiative or relating to defense against strategic ballistic missiles.

(2) A clear definition of the objectives of the Strategic Defense Initiative.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned Strategic Defense Initiative development and testing programs with existing arms control agreements, including the anti-ballistic missile treaty.

(6) A review of possible Soviet countermeasures to specific Strategic Defense Initiative programs and an evaluation of the adequacy of the Strategic Defense Initiative programs outlined in this report to respond to such countermeasures.

(7) Details on the funding of programs and projects for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs, projects, and tasks in the Strategic Defense Initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs, projects, and tasks for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending the United States Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of Strategic Defense Initiative technologies might help to accomplish.

(9) For each of the near-term military missions listed in (8), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish these missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach these operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of these architectures or systems against current and projected Soviet threats.

(b) REPEALS.—Section 1102 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2431 note), and section 215 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3843), are repealed.

SEC. 235. ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for system level design and integration issues related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization assessed alternative types of organizations to provide technical support to the Strategic Defense Initiative program, including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories, and determined that a new federally funded research and development center would be the best type of organization to provide technical support to the Strategic Defense Initiative program.

(3) To ensure the independence and objectivity of any such new FFRDC and to control its expense, certain conditions need be met.

(4) Competitive selection of a contractor to establish and operate a federally funded research and development center to support the Strategic Defense Initiative program is

one way to enhance the prospects for independent and objective evaluation of technological and system level Strategic Defense Initiative program issues.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds appropriated to the Department of Defense for the Strategic Defense Initiative program may be used for the purpose of awarding a contract to operate a federally funded research and development center established to support the Strategic Defense Initiative program if such center is established under competitive procedures which emphasize cost considerations: And provided further, That—

(1) the Secretary of Defense has solicited proposals for such contract from existing federally funded research and development centers, universities, commercial entities, and any new organizations, and has made maximum efforts to obtain more than one proposal for such contract;

(2) the Secretary of Defense has submitted the 3 best contract proposals, together with a copy of the proposed sponsoring agreement for the new FFRDC, to peer review by 3 persons designated by the Defense Science Board from a list of six or more persons compiled by the National Academy of Sciences;

(3) the persons performing the peer review referred to in clause (3)—

(A) have evaluated the extent to which each proposal and the sponsoring agreement foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) have reported their evaluation to the Secretary;

(4) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (b) include a provision stating that no officer or employee of the Secretary of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(5) the Secretary of Defense has issued a directive requiring that at least 5 percent of the total amount of funds available for the new FFRDC is to be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(6) the Secretary of Defense has issued a directive (A) imposing a limitation on the compensation payable to each high-level executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to high-level executives of comparable federally funded research and development centers for similar services, and (B) imposing a requirement that the new FFRDC publicly disclose the salary of its chief executive officer;

(7) the Secretary of Defense has issued a directive (A) prohibiting current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees if such members constitute ten or more percent of the Board of Trustees or from serving as officers of the new FFRDC, and (B) requiring that the contract referred to in clause (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC except the President of the new FFRDC if the Board is comprised of 10 or more members;

(8) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (1) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, has served in the Strategic Defense Initiative Organization within 2 years before the date on which such person is to be employed by the new FFRDC;

(9) the Secretary of Defense has issued a directive providing for a separate line item within the Department of Defense budget for all funds for the new FFRDC;

(10) the Secretary of Defense has issued a directive requiring that any contract referred to in clause (b) include a provision requiring that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program;

(11) the Secretary of Defense shall not decide upon or announce the award of any contract before January 30, 1989 and, before awarding a contract for the operation of the new FFRDC, the Secretary of Defense shall submit to Congress no sooner than January 30, 1989—

(A) a copy of the proposed final contract;

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC; and

(C) shall withhold the award of such contract and approval of such sponsoring agreement for at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives such copies and report.

(c) CONTINUITY OF CONGRESSIONAL SESSION.—For purposes of subsection (a)(11), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress; however, in computing a 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than five days to a day certain shall be excluded.

(d) SUNSET PROVISION.—No funds shall be available for the new FFRDC 5 years after the award of its initial contract.

PART D—MILESTONE AUTHORIZATIONS

SEC. 241. MILESTONE AUTHORIZATIONS

(a) ARMY TACTICAL MISSILE SYSTEM.—(1) Of the amount appropriated to the Army pursuant to section 201, $112,208,000 of the amount appropriated for fiscal year 1988 and $86,618,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Army Tactical Missile System.

(2) The sum of $49,000,000 is authorized to be appropriated to the Army for fiscal year 1990 for research, development, test, and evaluation in connection with the Army Tactical Missile System.

(b) TRIDENT II MISSILE.—(1) Of the amount appropriated to the Navy pursuant to section 201, $1,098,463,000 of the amount appropriated for fiscal year 1988 and $581,740,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Trident II missile. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1988, no reduction may be made in the amount of funds available for the program and equipment described in the preceding sentence.

(2) Funds are authorized to be appropriated to the Navy for research, development, test and evaluation of the Trident II missile as follows:

(A) For fiscal year 1990, $338,300,000.

(B) For fiscal year 1991, $164,700,000.

(C) For fiscal year 1992, $103,000,000.

(c) T-45 TRAINING SYSTEM.—(1) Of the amount appropriated to the Navy pursuant to section 201, $96,015,000 of the amount appropriated for fiscal year 1988 and $87,822,000 of the amount appropriated for fiscal year 1989 may be obligated only for the T-45 Training System.

(2) Funds are authorized to be appropriated to the Navy for research, development, test and evaluation of the T-45 Training System, as follows:

(A) For fiscal year 1990, $23,700,000.

(B) For fiscal year 1991, $24,000,000.

(d) MEDIUM LAUNCH VEHICLE.—(1) Of the amount appropriated to the Air Force pursuant to section 201, $8,900,000 of the amount appropriated for fiscal year 1988 and $6,000,000 of the amount appropriated for 1989 may be obligated only for the Medium Launch Vehicle.

(2) Funds are authorized to be appropriated to the Air Force for research, development, test, and evaluation of the Medium Launch Vehicle as follows:

(A) For fiscal year 1990, $6,000,000.

(B) For fiscal year 1991, $6,000,000.

(C) For fiscal year 1992, $5,000,000.

(e) APPLICATION OF SECTION 2437 OF TITLE 10.—Programs referred to in subsections (a) through (d) are defense enterprise programs for the purpose of section 2437 of title 10, United States Code.

PART E—BALANCED TECHNOLOGY INITIATIVE

SEC. 251. BALANCED TECHNOLOGY INITIATIVE

(a) PURPOSE.—It is the purpose of this section to authorize funds for a Balanced Technology Initiative program.

(b) PROGRAM FOCUS.—The focus of such program shall be on the development of innovative concepts and methods of enhancing conventional defense capabilities, including the development of concepts and methods to take full advantage of the technological superiority of the United States and its allies as a means of increasing the rate of obsolescence of Soviet and Warsaw Pact equipment, doctrine, and tactics. Such focus shall give particular emphasis to the following:

(A) Armor/anti-armor initiatives.

(B) Defenses against armed helicopters.

(C) Hypervelocity missiles for ground combat use.

(D) Defense against anti-ship missiles, including those with "stealth" characteristics.

(E) "Smart" mines for both land and ocean warfare.

(F) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(G) Improved conventional anti-submarine warfare munitions.

(H) "Smart" standoff munitions and submunitions for aircraft delivery outside of lethal air defense ranges.

(c) AMOUNTS AUTHORIZED.—(1) Of the amount appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1988—

(A) not less than $300,000,000 shall be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3845); and

(B) not less than $200,000,000 shall be obligated only for research and development under the Balanced Technology Initiative and shall be used only for new and innovative programs, projects, and activities that have not been designated for funding under

section 222 of the Department of Defense Authorization Act, 1987.

(2) Of the amount appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1989, not less than $400,000,000 shall be obligated for research and development in connection with the Balanced Technology Initiative.

(3) The Conventional Defense Initiative provided for in section 221 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3845), is not an element of the Balanced Technology Initiative, and funds made available for the purpose of this subsection may not be obligated for any program, project, or activity of the Conventional Defense Initiative.

(d) Identification of Funds To Be Transferred.—(1) The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in subsection (c)) for the Balanced Technology Initiative. Such determination shall be made on a merit basis, taking into consideration ongoing technology research and exploitation opportunities.

(2) Funds designated under subsection (c)(1)(B) shall be derived from programs, projects, and activities that have a low potential for enhancing the advantages of the United States and its allies in conventional defense technology.

(e) Prohibition Regarding Undistributed Reductions.—No portion of any undistributed reduction may be applied against the funds specified in subsection (c) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (c).

(f) Prohibition on Use of Funds.—None of the funds specified in subsection (c) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(g) Report.—(1) Not later than 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Such report shall include—

(A) the allocation by project of the amounts specified in subsection (c);

(B) the identification of other ongoing research and development projects that should be included in a balanced defense technology effort to improve conventional defense; and

(C) for each program, project, or activity for which funds have been allocated under subsection (c) or which is identified under clause (B) of this paragraph, a 5-year funding plan sufficient to maintain significant progress in such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving such milestones.

(2) None of the funds allocated pursuant to subsection (c) may be obligated until—

(A) the report required by paragraph (1) has been received by the committees named in paragraph (1); and

(B) a period of 30 days has elapsed following the date on which the report is received by the committees.

TITLE III—OPERATION AND MAINTENANCE

Part A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army:
(A) $21,691,300,000, for fiscal year 1988.
(B) $22,583,196,000, for fiscal year 1989.
(2) For the Navy:
(A) $25,088,159,000, for fiscal year 1988.
(B) $25,590,098,000, for fiscal year 1989.
(3) For the Marine Corps:
(A) $1,899,966,000, for fiscal year 1988.
(B) $1,906,735,000, for fiscal year 1989.
(4) For the Air Force:
(A) $20,979,747,000, for fiscal year 1988.
(B) $21,532,955,000, for fiscal year 1989.
(5) For the Defense Agencies:
(A) $7,393,551,000, for fiscal year 1988.
(B) $7,689,758,000, for fiscal year 1989.
(6) For the Army Reserve:
(A) $872,178,000, for fiscal year 1988.
(B) $915,050,000, for fiscal year 1989.
(7) For the Naval Reserve:
(A) $940,754,000, for fiscal year 1988.
(B) $983,626,000, for fiscal year 1989.
(8) For the Marine Corps Reserve:
(A) $68,972,000, for fiscal year 1988.
(B) $73,485,000, for fiscal year 1989.
(9) For the Air Force Reserve:
(A) $1,010,352,000, for fiscal year 1988.
(B) $1,037,429,000, for fiscal year 1989.
(10) For the Army National Guard:
(A) $1,849,664,000, for fiscal year 1988.
(B) $1,955,715,000, for fiscal year 1989.
(11) For the Air National Guard:
(A) $1,968,974,000, for fiscal year 1988.
(B) $2,002,820,000, for fiscal year 1989.
(12) For the National Board for the Promotion of Rifle Practice:
(A) $4,099,000, for fiscal year 1988.
(B) $4,285,000, for fiscal year 1989.
(13) For the Defense Claims:
(A) $198,574,000, for fiscal year 1988.
(B) $198,574,000, for fiscal year 1989.
(14) For the Court of Military Appeals:
(A) $3,461,000, for fiscal year 1988.
(B) $3,522,000, for fiscal year 1989.
(15) For Environmental Restoration, Defense:
(A) $402,800,000, for fiscal year 1988.
(B) $420,851,000, for fiscal year 1989.

(b) Authorization of Unbudgeted Amounts for Certain Purposes.—There are authorized to be appropriated for fiscal years 1988 and 1989 in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs;

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a); and

(3) for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital funds in amounts as follows:

(1) For the Army Stock Fund:
(A) $236,907,000, for fiscal year 1988.
(B) $349,929,000, for fiscal year 1989.
(2) For the Navy Stock Fund:
(A) $364,000,000, for fiscal year 1988.
(B) $434,581,000, for fiscal year 1989.
(3) For the Air Force Stock Fund:
(A) $293,406,300, for fiscal year 1988.
(B) $224,738,000, for fiscal year 1989.
(4) For the Defense Stock Fund:
(A) $186,840,000, for fiscal year 1988.
(B) $122,700,000, for fiscal year 1989.

SEC. 303. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) Authorization of Funds.—Funds are hereby authorized to be appropriated for the purpose of carrying out cooperative agreements entered into by the Secretary of Defense under chapter 142 of title 10, United States Code, to furnish procurement technical assistance to business entities, as follows:

(1) $7,500,000, for fiscal year 1988.
(2) $7,500,000, for fiscal year 1989.

(b) Availability of Funds for Administrative Expenses.—Funds available to the Defense Agencies for fiscal years 1988 and 1989 may be used to defray the administrative expenses incurred by the Secretary of Defense during such fiscal years in carrying out the procurement technical assistance cooperative agreement program provided for in chapter 142 of title 10, United States Code, including expenses related to the employment of additional personnel necessary to administer such program.

(c)(1) Of the amounts appropriated pursuant to subsection (a) for fiscal years 1988 and 1989, $500,000 shall be available each year only for procurement technical assistance cooperative agreement outreach programs targeted to the problems caused by the unique geographical circumstances facing Indian-owned enterprises located on or near Indian reservations. Such programs shall concentrate on the formation of new businesses as well as furthering procurement opportunities for existing businesses.

(2) Notwithstanding section 2413(b) of title 10, United States Code, the Secretary of Defense shall defray the full cost of a procurement technical assistance cooperative agreement outreach program when the cooperative agreement is made under this section with a federally-recognized tribe or Indian organization.

Part B—Program Changes, Requirements, and Limitations

SEC. 321. OPERATION OF UNITED STATES ARMY SCHOOL OF THE AMERICAS

(a) In General.—(1) Chapter 407 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4415. United States Army School of the Americas

"(a) The Secretary of the Army may operate the military education and training facility known as the United States Army School of the Americas.

"(b) The School for the Americas shall be operated for the purpose of providing military education and training to military personnel of Central and South American countries and Caribbean countries.

"(c) The fixed costs of operating and maintaining the School for the Americas may be paid from funds available for operation and maintenance of the Army.

"(d) Tuition fees charged for personnel receiving military education and training from the school may not include the fixed costs of operating and maintaining the school.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4415. United States Army School of the Americas.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1987.

SEC. 322. AVAILABILITY OF UNITED STATES PRODUCTS AT DEFENSE PACKAGE STORES OVERSEAS

(a) TREATMENT OF WINES.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2489. Overseas package stores: treatment of United States wines

"(a) GENERAL RULE.—The Secretary of Defense shall ensure that each nonappropriated-fund activity engaged principally in selling alcoholic beverage products in a packaged form (commonly referred to as a 'package store') that is located at a military installation outside the United States shall give appropriate treatment with respect to wines produced in the United States to ensure that such wines are given, in general, an equitable distribution, selection, and price when compared with wines produced by the host nation.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2489. Overseas package stores: treatment of United States wines.".

(b) REGULATIONS DEADLINE.—(1) The Secretary of Defense shall prescribe regulations to implement section 2489 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

SEC. 323. CONTRACTS FOR THE OVERHAUL, REPAIR, AND MAINTENANCE OF NAVAL VESSELS

Funds appropriated pursuant to authorizations in this Act may not be obligated or expended for the overhaul, repair, or maintenance of any naval vessel unless, in the evaluation of bids or proposals for such activity, the Secretary of the Navy complies with the requirement of section 7299a of title 10, United States Code.

SEC. 324. PRIMUS AND NAVCARE CLINICS

Of the funds appropriated or otherwise made available to the Army, Navy, and Air Force for maintenance and operation for fiscal year 1988, the following amounts shall be available only for the operation and maintenance of the Primary Medical Care for the Uniformed Services (PRIMUS) clinics and Naval Primary Care (NAVCARE) clinics:

(1) $24,800,000 for the Army.

(2) $22,181,000 for the Navy.

(3) $13,200,000 for the Air Force.

SEC. 325. AUTHORITY OF THE SECRETARY OF DEFENSE TO REPAIR AND MAINTAIN MEMORIALS AND HISTORIC SITES ON THE ISLAND OF CORREGIDOR

The Secretary of Defense is authorized to repair and maintain memorial monuments and historic sites on the Island of Corregidor in the Republic of the Philippines and may use funds appropriated pursuant to section 301, not to exceed $50,000 for operation and maintenance of the Navy for such purpose.

SEC. 326. NEW THREAT UPGRADE (NTU) PROGRAM

(a) No funds appropriated pursuant to this title or otherwise made available for operations and maintenance for the Navy for fiscal year 1988 and used for the New Threat Upgrade (NTU) overhaul program may be used for work performed on a cost plus contract basis unless the Secretary of the Navy certifies in writing to the Committees on Armed Services of the Senate and the House of Representatives that such NTU overhaul work to be performed at either a public or private shipyard can be performed at a lower cost to the Government on the basis of a cost plus contract, or that there exist overriding national security considerations.

(b) In the event of any such certification, no action pursuant thereto may be taken for a 30 day period following notification.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) AUTHORIZATION OF FUNDS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1988 the sum of $13,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of this sum, not more than $3,000,000 is authorized to be used for distribution of humanitarian relief supplies to the non-Communist resistance organizations at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriations Acts.

(f) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1988. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under this section and section 331 of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section and section 331 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332. EXTENSION AND CODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO FOREIGN COUNTRIES

(a) IN GENERAL.—(1) Chapter 20 of title 10, United States Code, is amended—

(A) by redesignating sections 404, 405, and 406 as sections 405, 406, and 407, respectively; and

(B) by inserting after section 403 the following new section:

"§ 404. Transportation of humanitarian relief supplies to foreign countries

"(a) The Secretary of Defense may transport to any country, without charge, goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such goods and supplies may be transported only on a space available basis.

"(b)(1) The Secretary shall institute procedures, including inspection before acceptance for transport, for determining that—

"(A) the transportation of such goods and supplies is consistent with the foreign policy of the United States;

"(B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;

"(C) there is a legitimate humanitarian need for such goods and supplies by the people for whom they are intended;

"(D) the goods and supplies will in fact be used for humanitarian purposes; and

"(E) adequate arrangements have been made for the distribution of such goods and supplies in the destination country.

"(2) Goods and supplies may not be transported under this section unless they meet the conditions set out in paragraph (1).

"(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

"(c) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verification of adequate arrangements has been received in advance for distribution of such goods or supplies.

"(d) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

"(e) At the end of each 180-day period, the Secretary of State shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives, a report identifying the origin, contents, destination, and disposition of all goods and supplies transported under this section during such 180-day period.".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 404, 405, and 406, and inserting in lieu thereof the following:

"404. Transportation of humanitarian relief supplies to foreign countries.

"405. Annual report to Congress.

"406. Definition of humanitarian and civic assistance.

"407. Expenditure limitation.".

(3) The first report under section 404(e) of title 10, United States Code, as added by

paragraph (1), shall be submitted not more than 180 days after the date on which the most recent report was submitted under section 1540(e) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 985 Stat. 2638).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1987.

SEC. 333. STUDY OF NORTH ATLANTIC TREATY ORGANIZATION

Of the funds appropriated pursuant to section 301(a)(5)(A), $50,000 shall be provided to the North Atlantic Interparliamentary Assembly for a Study on the Future of the North Atlantic Treaty Organization.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized strengths for active-duty personnel as follows:

(1) For the Army:

(A) 780,900, as of September 30, 1988.

(B) 780,900, as of September 30, 1989.

(2) For the Navy:

(A) 593,200, as of September 30, 1988.

(B) 602,800, as of September 30, 1989.

(3) For the Marine Corps:

(A) 199,600, as of September 30, 1988.

(B) 200,100, as of September 30, 1989.

(4) For the Air Force:

(A) 598,700, as of September 30, 1988.

(B) 600,600, as of September 30, 1989.

PART B—RESERVE FORCES

SEC. 421. END STRENGTHS FOR SELECTED RESERVE

(a) IN GENERAL.—The Armed Forces are authorized strengths for selected reserve personnel of the reserve components as follows:

(1) The Army National Guard of the United States:

(A) 454,200, as of September 30, 1988.

(B) 455,700, as of September 30, 1989.

(2) The Army Reserve:

(A) 322,100, as of September 30, 1988.

(B) 324,300, as of September 30, 1989.

(3) The Naval Reserve:

(A) 151,500, as of September 30, 1988.

(B) 152,600, as of September 30, 1989.

(4) The Marine Corps Reserve:

(A) 43,600, as of September 30, 1988.

(B) 44,300, as of September 30, 1989.

(5) The Air National Guard of the United States:

(A) 115,900, as of September 30, 1988.

(B) 116,700, as of September 30, 1989.

(6) The Air Force Reserve:

(A) 82,400, as of September 30, 1988.

(B) 84,000, as of September 30, 1989.

(7) The Coast Guard Reserve:

(A) 13,500, as of September 30, 1988.

(B) 15,300, as of September 30, 1989.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 422. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the end strengths prescribed in section 421, the reserve components of the Armed Forces are authorized the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States:

(A) 25,390, as of September 30, 1988.

(B) 25,720, as of September 30, 1989.

(2) The Army Reserve:

(A) 12,867, as of September 30, 1988.

(B) 13,307, as of September 30, 1989.

(3) The Naval Reserve:

(A) 21,991, as of September 30, 1988.

(B) 22,571, as of September 30, 1989.

(4) The Marine Corps Reserve:

(A) 1,945, as of September 30, 1988.

(B) 2,145, as of September 30, 1989.

(5) The Air National Guard of the United States:

(A) 7,836, as of September 30, 1988.

(B) 7,886, as of September 30, 1989.

(6) The Air Force Reserve:

(A) 669, as of September 30, 1988.

(B) 669, as of September 30, 1989.

SEC. 423. NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1988.—(1) The table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	517	175	125	13
E-8	2,295	390	400	74".

(2) The table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,500	850	550	105
Lieutenant Colonel or Commander	1,152	520	295	70
Colonel or Navy Captain	348	185	184	25".

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1987.

(b) FISCAL YEAR 1989.—(1) The table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	529	180	150	13
E-8	2,350	400	425	74".

(2) The table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,600	875	575	110
Lieutenant Colonel or Commander	1,250	520	300	75
Colonel or Navy Captain	348	185	190	25".

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1988.

PART C—MILITARY TRAINING

SEC. 431. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—The components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army:
(A) 82,503, for fiscal year 1988.
(B) 81,320, for fiscal year 1989.
(2) The Navy:
(A) 68,993, for fiscal year 1988.
(B) 70,044, for fiscal year 1989.
(3) The Marine Corps:
(A) 20,341, for fiscal year 1988.
(B) 19,873, for fiscal year 1989.
(4) The Air Force:
(A) 38,574, for fiscal year 1988.
(B) 39,972, for fiscal year 1989.
(5) The Army National Guard of the United States:
(A) 18,501, for fiscal year 1988.
(B) 19,707, for fiscal year 1989.
(6) The Army Reserve:
(A) 15,075, for fiscal year 1988.
(B) 15,950, for fiscal year 1989.
(7) The Naval Reserve:
(A) 2,841, for fiscal year 1988.
(B) 2,841, for fiscal year 1989.
(8) The Marine Corps Reserve:
(A) 3,970, for fiscal year 1988.
(B) 3,977, for fiscal year 1989.
(9) The Air National Guard of the United States:
(A) 2,508, for fiscal year 1988.
(B) 2,366, for fiscal year 1989.
(10) The Air Force Reserve:
(A) 1,968, for fiscal year 1988.
(B) 1,965, for fiscal year 1989.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

SEC. 432. R.O.T.C. FINANCIAL ASSISTANCE PROGRAM

Subsection (h) of section 2107 of title 10, United States Code, is amended to read as follows:

“(h) Not more than 29,500 cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time. The Secretary of Defense shall determine the number of cadets and midshipmen appointed under this section who may be in the financial assistance program at any one time in each military department.”.

PART D—CIVILIAN PERSONNEL

SEC. 441. WAIVER OF AUTHORIZATION REQUIREMENT

Section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal years 1988 and 1989 or with respect to the appropriation of funds for such years.

SEC. 442. LIMITATION ON FUNDS FOR CIVILIAN PERSONNEL

Of the funds appropriated or otherwise available to the Department of Defense—

(1) not more than $35,075,945,000 may be obligated or expended for civilian personnel for fiscal year 1988; and

(2) not more than $35,404,364,000 may be obligated or expended for civilian personnel for fiscal year 1989.

TITLE V—MILITARY PERSONNEL

SEC. 501. EXTENSION OF AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS

(a) IN GENERAL.—Section 5721(f) of title 10, United States Code, is amended by striking out “September 30, 1987” and inserting in lieu thereof “September 30, 1989”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1987.

SEC. 502. EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS

(a) GRADE DETERMINATION AUTHORITY FOR RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking out “September 30, 1987” and inserting in lieu thereof “September 30, 1989”.

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of title 10, United States Code, are each amended by striking out “September 30, 1987” and inserting in lieu thereof “September 30, 1989”.

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out “September 30, 1987” and inserting in lieu thereof “September 30, 1989”.

SEC. 503. EXTENSION OF SINGLE PARENT ENLISTMENT AUTHORITY IN THE RESERVE COMPONENTS

Section 523(d) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3871), is amended by striking out “September 30, 1988” and inserting in lieu thereof “September 30, 1989”.

SEC. 504. AUTHORITY TO TRANSFER BETWEEN SERVICES AUTHORIZATIONS FOR APPOINTMENTS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL

(a) IN GENERAL.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c)(1) Subject to paragraphs (2) and (3), the President may make appointments in the Army, Navy, Air Force, and Marine Corps in the grade of lieutenant general or general or in the grade of vice admiral or admiral in a number in excess of the number of appointments that might otherwise be made in that grade in that armed force (by reason of the limitations specified in subsection (b)).

“(2) For each appointment made under paragraph (1) in any armed force in the grade of lieutenant general or general or in the grade of vice admiral or admiral, the number of appointments that may be made in the equivalent grade in one of the other armed forces (other than the Coast Guard) shall be reduced by one.

“(3)(A) The number of general officers and flag officers that may be serving on active duty in the grades of lieutenant general and vice admiral by reason of appointments made under paragraph (1) may not exceed a number equal to 10 percent of the total number of general officers and flag officers that may otherwise be serving on active duty in those grades in all of the armed forces (other than the Coast Guard).

“(B) The number of general officers and flag officers that may be serving on active duty in the grades of general and admiral by reason of appointments made under paragraph (1) may not exceed a number equal to 15 percent of the total number of general officers and flag officers that may otherwise be serving on active duty in those grades in all of the armed forces (other than the Coast Guard).

“(4) When an appointment is made under paragraph (1) in any armed force, the President shall specify the armed force (other than the Coast Guard) in which a reduction is to be made pursuant to paragraph (2).

“(5) Upon the termination of the assignment of a member of an armed force to a position of importance and responsibility which was made in connection with an increase under paragraph (1) in the number of officers who may be serving on active duty in such armed force in the grade of lieutenant general or vice admiral or general or admiral, the reduction made under paragraph (2) in the number of appointments permitted in such grade in another armed force by reason of such increase shall no longer be in effect.”.

(b) SAVINGS PROVISION.—Notwithstanding section 525(b) of title 10, United States Code, a number of members of the Armed Forces serving on active duty on September 30, 1987, in the grades of lieutenant general and vice admiral equal to the number in excess of the number of members authorized to be serving on active duty in such grades on October 1, 1987, and a number of such members serving on active duty on September 30, 1987, in the grades of general and admiral equal to the number in excess of the number of members authorized to be serving on active duty in such grades on October 1, 1987, may continue to serve on active duty in such grades, respectively, after September 30, 1987, until—

(1) the duty assignments in which a number of members serving on active duty in such grades, respectively, on September 30, 1987, equal to such excess number are terminated;

(2) the number of members serving on active duty in such grades, respectively, on September 30, 1987, who are retired or otherwise separated from active duty on or after such date equals such excess number; or

(3) the total of the number of duty assignments referred to in clause (1) that are terminated after September 30, 1987, and the number of members who retire or are otherwise separated from active duty on or after such date is equal to the number of members serving on active duty in excess of the number authorized to be serving in such grades, respectively, on such date.

SEC. 505. WEARING OF RELIGIOUS APPAREL BY MEMBERS OF THE ARMED FORCES WHILE IN UNIFORM

(a) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) by inserting after section 773 the following new section 774:

“SEC. 774. RELIGIOUS APPAREL: WEARING WHILE IN UNIFORM

“(a) GENERAL RULE.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

“(b) EXCEPTIONS.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

“(1) In circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the members' military duties; or

“(2) If the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

“(c) REGULATIONS.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

"(d) Religious Apparel Defined.—In this section, the term 'religious apparel' means apparel the wearing of which is part of the observance of the religious faith practiced by the member.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 774 and inserting in lieu thereof the following:

"774. Religious apparel: wearing while in uniform.
"775. Applicability of chapter.".

(c) Regulations.—The Secretary concerned shall prescribe the regulations required by section 774(c) of title 10, United States Code, as added by the subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Part A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1988

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1988 shall not be made.

(b) Four Percent Increase in Basic Pay, BAQ, and BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 4 percent effective on January 1, 1988.

(c) Four Percent Increase in Cadet and Midshipman Pay.—Effective January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out "$494.40" and inserting in lieu thereof "$514.20".

SEC. 602. BAQ FOR CERTAIN MARRIED MEMBERS

(a) In General.—Section 403(c) of title 37, United States Code, is amended—

(1) in paragraph (2), by striking out "A member" each place it appears and inserting in lieu thereof "Except as provided in paragraph (3), a member"; and

(2) by adding at the end the following new paragraph:

"(3) A member of a uniformed service who is—

"(A) in a pay grade above E-3;

"(B) assigned to sea duty; and

"(C) married to a member of a uniformed service on active duty (other than active duty for training),

may elect not to occupy assigned quarters adequate only for such member and, subject to section 421 of this title, receive in lieu of such quarters a basic allowance for quarters permitted by this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1987. No member may be paid a basic allowance for quarters under the amendment made by subsection (a) for any period before such date.

SEC. 603. VARIABLE HOUSING ALLOWANCE

(a) In General.—Section 403a(a) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(5) In the case of a member with dependents—

"(A) who is a pay grade above E-6;

"(B) who is assigned to sea duty; and

"(C) who elects not to occupy assigned quarters adequate only for such member,

the member may be paid a variable housing allowance at the rate applicable to a member without dependents serving in the same grade and at the same location.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day of the first month following the month in which this Act is enacted. No member may be paid a variable housing allowance under such amendment for any period before that effective date.

SEC. 604. HOUSEHOLD GOODS WEIGHT ALLOWANCES FOR SENIOR ENLISTED PERSONNEL

(a) In General.—Section 406(b)(1)(A) of title 37, United States Code, is amended by adding at the end the following: "The weight allowances prescribed pursuant to the first sentence of this subparagraph shall provide, with respect to permanent changes of station, that the allowances for personnel serving in pay grade E-7 are not less than those for personnel serving in pay grade O-1, for personnel serving in pay grade E-8 are not less than those for personnel serving in pay grade O-2, and for personnel serving in pay grade E-9 are not less than those for personnel serving in pay grade O-3.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1987, or the date of the enactment of this Act, whichever is later, and shall apply to the transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects commenced on or after that effective date.

SEC. 605. ALLOWANCE FOR CIVILIAN CLOTHING

(a) In General.—Chapter 7 of title 37, United States Code, is amended—

(1) by redesignating sections 419 and 420 as sections 420 and 421, respectively;

(2) by inserting after section 418 the following new section:

"§ 419. Civilian clothing allowance

"Under regulations prescribed by the Secretary of Defense, a member of an armed force who is assigned to a permanent duty station at an overseas location is entitled to a civilian clothing allowance if such member is required by competent authority to wear civilian clothing all or a substantial portion of the time in the performance of his official duties. A clothing allowance under this section is in addition to any uniform allowance to which a member is otherwise entitled under this title."; and

(3) by striking out the items relating to sections 419 and 420 in the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"419. Civilian clothing allowance.
"420. Allowances while participating in international sports.
"421. Allowances: no increase while dependent is entitled to basic pay.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1987. No member may be paid a clothing allowance under section 419 of title 37, as added by subsection (a) for any period before such date.

SEC. 606. REIMBURSEMENT FOR ACTUAL LODGING EXPENSES PLUS PER DIEM FOR MEMBERS ENTITLED TO TRAVEL ALLOWANCES

(a) Repeal.—Section 614(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3879), is repealed.

(b) New Effective Date.—(1) The amendments made by section 614(a) of the Department of Defense Authorization Act, 1987, shall be implemented by the Secretaries concerned (as defined in section 101(5) of title 37, United States Code) not later than 90 days after the date of the enactment of this Act and shall apply with respect to travel performed on or after the date of implementation.

(2) Section 8(a) of the Defense Technical Corrections Act of 1987 (Public Law 100-26; 101 Stat. 284), is amended by striking out ", and such amendments shall be effective as provided in section 614(b) of the Defense Authorization Act".

Part B—Travel and Transportation

SEC. 621. AUTHORIZATION TO PAY DISLOCATION ALLOWANCE IN ADVANCE

Section 407 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) An allowance payable under this section may be paid in advance.".

SEC. 622. TRANSPORTATION ALLOWANCE TO ENCOURAGE VOLUNTARY EXTENSION OF TOURS OF DUTY IN FOREIGN COUNTRIES

(a) In General.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411f the following new section:

"§ 411g. Travel and transportation allowances: transportation incident to voluntary extensions of tours of duty in foreign countries

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service may be provided transportation allowances described in subsection (b) for himself and for dependents who are authorized to, and in fact, accompany the member at the member's permanent duty station, if the member—

"(1) is stationed outside the United States; and

"(2) voluntarily agrees to extend his overseas tour of duty for a period at least equal to one-half of the overseas tour prescribed for his current permanent duty station.

"(b) Transportation allowances authorized by this section may be provided in connection with authorized leave from a member's permanent duty station to a place approved by the Secretary concerned or, in the case of a member without dependents, to a place no farther distant than the member's home of record, and from that place to the member's designated permanent duty station.

"(c) The transportation allowances authorized by this section may not be provided an enlisted member who elects to receive tour extension incentives under section 314 of this title or under section 705 of title 10.".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 411f the following new item:

"411g. Travel and transportation allowances: transportation incident to voluntary extensions of tours of duty in foreign countries.".

SEC. 623. TRANSPORTATION OF FAMILY MEMBERS OF SERIOUSLY ILL OR INJURED MEMBER

(a) In General.—Chapter 7 of title 37, United States Code, as amended by section 622, is amended by inserting after section 411g the following new section:

"§ 411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members

"(a)(1) Under uniform regulations prescribed by the Secretaries concerned, round-trip transportation may be provided for not more than two family members of a member described in paragraph (2) if the attending physician or surgeon and the commander or head of the military medical facility exercising military control over the member determine that the presence of the family member is necessary for the member's health and welfare.

"(2) A member referred to in paragraph (1) is a member who—

"(A) is serving on active duty;

"(B) is seriously ill or seriously injured; and

"(C) is hospitalized in a medical facility in or outside the United States.

"(b)(1) In this section, 'family member' means—

"(A) the spouse;

"(B) children, including stepchildren, adopted children, and illegitimate children;

"(C) parents or persons in loco parentis, as provided in paragraph (2);

"(D) brothers; and

"(E) sisters.

"(2) Parents or persons in loco parentis include fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniform service. However, only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

"(c)(1) The transportation provided under subsection (a) of this section is authorized between the home of the family member and the location of the medical facility in which the member is hospitalized.

"(2) The Secretaries concerned may provide—

"(A) transportation in-kind;

"(B) a monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned; or

"(C) reimbursement for the commercial cost of transportation.

Reimbursement for transportation may not exceed the cost of government-procured commercial round-trip air travel. An allowance payable under this subsection may be paid in advance.".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter, as amended by section 622, is amended by inserting after the item relating to section 411g the following new item:

"411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members.".

(c) Effective Date.—The amendments made by this section shall be effective only in the case of travel that occurs on or after the effective date of regulations issued pursuant to section 411h of title 37, United States Code, as added by this section.

SEC. 624. AUTHORITY TO TRANSPORT VEHICLES LEASED BY MEMBERS OF THE ARMED FORCES

The first sentence of section 2634(a) of title 10, United States Code, is amended—

(1) by inserting "or leased" after "is owned" in the matter preceding clause (1); and

(2) by inserting "or leased" after "vehicle owned" in the matter preceding clause (1).

Part C—Bonuses and Special Incentive Pays

SEC. 631. SPECIAL PAY FOR AVIATION CAREER OFFICERS

(a) In General.—Section 301b of title 37, United States Code, is amended—

(1) in subsection (a), by striking out clause (5) of the first sentence and all that follows through the second sentence and inserting in lieu thereof the following:

"(5) has not previously been paid special pay authorized by this section;

"(6) executes a written agreement to remain on active duty in aviation service for at least three years; and

"(7) is in an aviation specialty designated as critical,

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as applicable, be paid an amount not to exceed $4,000 for each year covered by that agreement if the officer agrees to remain on active duty for three years or an amount not to exceed $6,000 for each year covered by that agreement if the officer agrees to remain on active duty for four years.";

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) During the period beginning on October 1, 1987, and ending on September 30, 1989, an agreement under this section may be accepted only if the agreement—

"(A) is executed by an officer of the Navy; and

"(B) requires the officer to remain on active duty in aviation service for three or four years.

"(2) An agreement that requires an officer to remain on active duty in aviation service for six years may also be accepted during such period if the officer meets the requirements of this section and has completed less than eight years of active duty. An officer from whom such an agreement is accepted may be paid an amount not to exceed $8,000 for each year covered by the agreement."; and

(3) in subsection (f) by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) Effective Date.—(1) The amendments made by this section shall take effect on October 1, 1987, and shall apply to agreements entered into on or after such date.

(2) The amendments made by subsection (a) shall not affect an agreement entered into under section 301b of title 37, United States Code, as in effect on the day before the effective date of such amendments, and the provisions of such section as in effect on such day shall continue to apply with respect to such agreement.

SEC. 632. INCREASE IN SUBMARINE DUTY INCENTIVE PAY

(a) In General.—Subsection (b) of section 301c of title 37, United States Code, is amended to read as follows:

"(b) A member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay as follows:

"ENLISTED MEMBERS

"Pay grade	"Years of service computed under section 205													
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9	$225	$225	$225	$270	$295	$310	$315	$330	$345	$355	$355	$355	$355	$355
E-8	225	225	225	250	270	295	310	315	330	330	345	345	345	345
E-7	225	225	225	250	255	265	275	295	265	310	310	310	310	310
E-6	155	170	175	215	230	245	255	265	265	265	265	265	265	265
E-5	140	155	155	175	190	195	195	195	195	195	195	195	195	195
E-4	80	95	100	170	175	175	175	175	175	175	175	175	175	175
E-3	80	90	95	95	140	90	90	90	90	90	90	90	90	90
E-2	75	90	90	90	90	90	90	90	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75	75	75	75	75	75	75	75

"COMMISSIONED OFFICERS

"Pay grade	"Years of service computed under section 205													
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
O-10	$355	$355	$355	$355	$355	$355	$355	$355	$355	$355	$355	$355	$355	$355
O-9	355	355	355	355	355	355	355	355	355	355	355	355	355	355
O-8	355	355	355	355	355	355	355	355	355	355	355	355	355	355
O-7	355	355	355	355	355	355	355	355	355	540	535	535	410	355
O-6	595	595	595	595	595	595	595	595	595	595	595	595	595	595
O-5	595	595	595	595	595	595	595	595	595	595	595	595	595	595

"COMMISSIONED OFFICERS—Continued

"Years of service computed under section 205

"Pay grade	*2 or less*	*Over 2*	*Over 3*	*Over 4*	*Over 6*	*Over 8*	*Over 10*	*Over 12*	*Over 14*	*Over 16*	*Over 18*	*Over 20*	*Over 22*	*Over 26*
O-4	365	365	365	405	595	595	595	595	595	595	595	595	595	595
O-3	355	355	355	390	595	595	595	595	595	595	595	595	595	595
O-2	235	235	235	235	235	235	355	355	355	355	355	355	355	355
O-1	175	175	175	175	175	175	355	355	355	355	355	355	355	355

"WARRANT OFFICERS

"Years of service computed under section 205

"Pay grade	*2 or less*	*Over 2*	*Over 3*	*Over 4*	*Over 6*	*Over 8*	*Over 10*	*Over 12*	*Over 14*	*Over 16*	*Over 18*	*Over 20*	*Over 22*	*Over 26*
W-4	$235	$310	$310	$355	$355	$355	$355	$355	$355	$355	$355	$355	$355	$355
W-3	235	310	310	355	355	355	355	355	355	355	355	355	355	355
W-2	235	310	310	355	355	355	355	355	355	355	355	355	355	355
W-1	235	310	310	355	355	355	355	355	355	355	355	355	355	355".

SEC. 633. CAREER SEA PAY

(a) IN GENERAL.—Section 305a of title 37, United States Code, is amended to read as follows:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b) of this section.

"(b) The monthly rates for special pay under subsection (a) are as follows:

"ENLISTED MEMBERS

"Years of sea duty

"Pay grade	*1 or less*	*Over 1*	*Over 2*	*Over 3*	*Over 4*	*Over 5*	*Over 6*	*Over 7*	*Over 8*	*Over 9*	*Over 10*	*Over 11*	*Over 12*	*Over 13*	*Over 14*	*Over 16*	*Over 18*
E-4	50	60	120	150	160	160	160	160	160	160	160	160	160	160	160	160	160
E-5	50	60	120	150	170	315	325	350	350	350	350	350	350	350	350	350	350
E-6	100	100	120	150	170	315	325	350	350	365	365	365	380	395	410	425	450
E-7	100	100	120	175	190	350	350	375	390	400	400	410	420	450	475	500	500
E-8	100	100	120	175	190	350	350	375	390	400	400	410	420	450	475	500	520
E-9	100	100	120	175	190	350	350	375	390	400	400	410	420	450	475	520	520

"WARRANT OFFICERS

"Years of sea duty

"Pay grade	*1 or less*	*Over 1*	*Over 2*	*Over 3*	*Over 4*	*Over 5*	*Over 6*	*Over 7*	*Over 8*	*Over 9*	*Over 10*	*Over 11*	*Over 12*	*Over 14*	*Over 16*	*Over 18*	*Over 20*
W-1	130	135	140	150	170	175	200	250	270	300	325	325	340	360	375	375	375
W-2	150	150	150	150	170	260	265	265	270	310	340	340	375	400	400	400	400
W-3	150	150	150	150	170	270	280	285	290	310	350	375	400	425	425	450	450
W-4	150	150	150	150	170	290	310	310	310	310	350	375	400	450	450	500	500

"COMMISSIONED OFFICERS

"Years of sea duty

"Pay grade	*Over 3*	*Over 4*	*Over 5*	*Over 6*	*Over 7*	*Over 8*	*Over 9*	*Over 10*	*Over 11*	*Over 12*	*Over 14*	*Over 16*	*Over 18*	*Over 20*
O-1	150	160	185	190	195	205	215	225	225	240	250	260	270	280
O-2	150	160	185	190	195	205	215	225	225	240	250	260	270	280
O-3	150	160	185	190	195	205	215	225	225	240	260	270	280	290
O-4	185	190	200	205	215	220	220	225	225	240	270	280	290	300
O-5	225	225	225	225	230	245	250	260	265	265	285	300	315	340
O-6	225	230	230	240	255	265	280	290	300	310	325	340	355	380

"(c) Under regulations prescribed by the President, a member of a uniformed service, other than a member in a paygrade E-5 through E-9 with over 5 years of sea duty, who is entitled to career sea pay under this section and who has served 36 consecutive months of sea duty is entitled to a career sea pay premium of $100 a month for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member.

"(d)(1) For the purpose of determining the years of sea duty with which a member shall be credited under this section, the term 'sea duty' means duty performed by a member while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship or while serving as a member of the off-crew of a two-crewed submarine.

"(2) For the purpose of determining entitlement to career sea pay under this section, the term 'sea duty' means duty performed by a member—

"(A) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while underway, or while serving as a member of the off-crew of a two-crewed submarine; or

"(B) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport.

A ship is considered away from its homeport for purposes of clause (B) of the first sentence when it is at sea or in a port that is more than 50 miles from its homeport.".

(b) SAVINGS PROVISION.—A member who, for the 90-day period preceding the effective date of the rate established by section 305a of title 37, United States Code, as amended by subsection (a), for the member's pay grade and years of sea duty, was entitled to sea pay at a rate higher than the rate so established shall continue to receive the higher rate until such time as the member is permanently reassigned to duty for which the member is not entitled to that pay.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1987, except that—

(1) the rates of monthly pay provided in the tables in section 305a(b) of title 37, United States Code, as amended by subsection (a), in the case of members in pay grades above E-4 with five or more years of sea duty; and

(2) the provisions of section 305a(c), as amended by subsection (a),

may take effect on a date later than October 1, 1987, as prescribed in regulations approved by the President, but in no event later than October 1, 1988.

SEC. 634. DIVING PAY FOR MEMBERS OF RESERVE COMPONENTS

(a) IN GENERAL.—Section 304 of title 37, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when a member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs diving duty, pursuant to orders, such member is entitled to an increase in compensation equal to 1/30 of the monthly special pay prescribed by the Secretary concerned for the performance of diving duty by a member of comparable diving classification who is entitled to basic pay under section 204 of this title. Such member is entitled to the increase for as long as he is qualified for such pay—

"(1) for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or a holiday; or

"(2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the fourth calendar month following the month in which this Act is enacted and shall apply only with respect to diving duty performed on or after such day.

SEC. 635. SELECTIVE REENLISTMENT BONUSES

(a) IN GENERAL.—Paragraph (1) of section 308(b) of title 37, United States Code, is amended to read as follows:

"(1) Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be 50 percent of the total bonus amount.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to bonuses paid for reenlistment or extension of enlistment agreements entered into after September 30, 1987.

SEC. 636. EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES

Sections 308b(g), 308c(f), 308e(e), 308g(h), and 308i(i) of title 37, United States Code, are each amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

PART D—MISCELLANEOUS

SEC. 641. EXTENSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

(a) IN GENERAL.—Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note), is amended by striking out "above grade GS-4 (or its equivalent)" and inserting in lieu thereof "in grade GS-1 through GS-15 (including any such position that is under the performance management and recognition system provided in chapter 54 of title 5)".

SEC. 642. DEFINITION OF DEPENDENT FOR PURPOSES OF ALLOWANCES UNDER TITLE 37, UNITED STATES CODE

Section 401 of title 37, United States Code, is amended by adding at the end the following new sentence: "The Secretaries concerned shall prescribe uniform regulations to describe, for purposes of this section, in what cases an unmarried person who is not covered by clause (2) and who resides as a member of the household of a member of the uniformed services is a dependent child of the member.".

SEC. 643. AUTHORITY FOR CERTAIN REMARRIED SURVIVOR BENEFIT PLAN PARTICIPANTS TO WITHDRAW FROM PLAN

(a) AUTHORITY TO WITHDRAW.—(1) An individual who is a participant in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, and is described in paragraph (2) may, with the consent of such individual's spouse, withdraw from participation in the Plan.

(2) An individual referred to in paragraph (1) is an individual who—

(A) is providing coverage for a spouse or for a spouse and child under the Plan;

(B) remarried before November 8, 1985, but on such date had been remarried less than one year;

(C) at the time of remarriage was a participant in the Plan, but did not have an eligible spouse beneficiary under the Plan; and

(D) on March 1, 1986, has been married for one year or longer.

(b) APPLICABLE PROVISIONS.—An election under subsection (a) shall be subject to subparagraphs (B) and (D) of section 1448(a)(6) of title 10, United States Code, except that in applying such subparagraph (B) to such election, the one-year period referred to in clause (ii) of such subparagraph shall extend for a period of one year after the date of the enactment of this Act.

(c) TREATMENT OF PRIOR CONTRIBUTIONS.—No refund of amounts by which the retired pay of a participant in the Survivor Benefit Plan has been reduced by reason of section 1452 of title 10, United States Code, may be made to an individual who withdraws from the Survivor Benefit Plan under subsection (a).

SEC. 644. AGE FOR NONTERMINATION OF SBP SURVIVING SPOUSE ANNUITY AFTER REMARRIAGE

(a) RESUMPTION OF ANNUITY UPON TERMINATION OF DIC FOR REMARRIAGE.—Section 1450(k)(1) of title 10, United States Code, is amended by striking out "60" and inserting in lieu thereof "55".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply as if included in the amendments made by section 643(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3886).

SEC. 645. REIMBURSEMENT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1055. Child adoption benefits

"(a) The Secretary concerned shall reimburse a member of the armed forces, as provided in this section, for the qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

"(b) An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c)), but does not include an adoption in which one of the adopting parents is the biological parent of the adopted child.

"(c) Benefits may be paid under this section in the case of an adoption only after the adoption is final.

"(d) A benefit may not be paid under this section for any expense paid from any funds received by a member of the armed forces under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

"(e)(1) Not more than $2,000 may be paid to a member of the armed forces under this section for expenses incurred in the adoption of a child.

"(2) Not more than $5,000 may be paid to a member of the armed forces under this section for adoptions by such member in any calendar year.

"(f) The Secretary of Defense shall prescribe regulations to carry out this section.

"(g) In this section:

"(1) The term 'qualifying adoption expenses' means reasonable and necessary expenses that are directly related to the legal adoption of a child, but only if such adoption is arranged—

"(A) by a State or local government agency which has responsibility under State or local law for child placement through adoption;

"(B) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption; or

"(C) through a private placement.

"(2) The term 'qualifying adoption expenses' does not include any expense incurred—

"(A) in the adoption of a child who was conceived—

"(i) by artificial insemination;

"(ii) by embryo transplantation;

"(iii) by in vitro fertilization; or

"(iv) in so-called 'surrogate parenthood', including conception by any person who serves as a surrogate voluntarily and without remuneration;

"(B) for any adopting parent's travel outside the United States, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the armed forces is stationed; or

"(C) in connection with an adoption arranged in violation of Federal, State, or local law.

"(3) The term 'reasonable and necessary expenses' includes—

"(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

"(B) placement fees, including fees charged adoptive parents for counseling;

"(C) legal fees, including court costs;

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the *adoption, and for physical examinations for the adopting parents;*

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in clause (2)(B), transportation expenses relating to the adoption.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1055. Child adoption benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of qualifying adoption expenses incurred after September 30, 1987.

SEC. 646. RETIRED GRADE OF CERTAIN RESERVE ENLISTED MEMBERS

(a) ARMY.—(1) Section 3964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Army," and inserting in lieu thereof "each enlisted member of the Regular Army, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of members of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 3964 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members.".

(b) AIR FORCE.—(1) Section 8964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Air Force," and inserting in lieu thereof "each enlisted member of the Regular Air Force, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or full-time duty, in the case of members of the Air National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 8964 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members.".

(c) CONFORMING AMENDMENTS.—(1) Sections 3965 and 3966(b)(2) of such title are amended by striking out "Regular".

(2) Sections 8965 and 8966(b)(2) of such title are amended by striking out "Regular".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any reserve enlisted member described in section 3964(b) or 8964(b) of title 10, United States Code (as added by subsections (a) and (b) of this section), who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act. No person may be paid retired pay at a higher rate by reason of the enactment of this Act for any period before the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

PART A—MEDICAL READINESS

SEC. 701. REVISION OF RESERVE FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAM

(a) IN GENERAL.—Chapter 105 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAMS

"Subchapter Sec.
I. Health Professions Scholarship Program for Active Service 2120
II. Health Professions Stipend Program for Reserve Service 2128

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP PROGRAM FOR ACTIVE SERVICE";

(2) by striking out "chapter" each place it appears in sections 2120, 2123, 2124, and 2127 and inserting in lieu thereof "subchapter";

(3) by striking out "6,000" in section 2124 and inserting in lieu thereof "5,000"; and

(4) by adding at the end the following new subchapter:

"SUBCHAPTER II—HEALTH PROFESSIONS STIPEND PROGRAM FOR RESERVE SERVICE

"Sec.
"2128. Financial assistance: health-care professionals in reserve components.
"2129. Reserve service: required active duty for training.
"2130. Penalties, limitations, and other administrative provisions.

"§ 2128. Financial assistance: health-care professionals in reserve components

"(a) ESTABLISHMENT OF PROGRAM.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions specialties critically needed in wartime, the Secretary of each military department may establish and maintain a program to provide financial assistance under this subchapter to persons engaged in training in such specialties. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in training in certain health care specialties in return for a commitment by such person to perform subsequent service in the Ready Reserve.

"(b) PHYSICIANS IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is a graduate of an accredited medical school;

"(B) is eligible to be commissioned as a Reserve in the Medical Corps of the Army or Navy or, in the case of a member of the Air Force, to be commissioned as a Reserve and designated as a medical officer under section 8067(a) of this title; and

"(C) is enrolled in a residency program for physicians in a medical specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e)(1), for the remainder of the period of the residency program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon successful completion of the residency program, in the Ready Reserve for a period described in clause (A), (B), or (C) of subsection (e)(1) as specified in the agreement.

"(c) GRADUATE NURSES IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is a nurse;

"(B) is eligible to be commissioned as a Reserve in the Nurse Corps of the Army or Navy or to be designated as an Air Force nurse under section 8067(e) of this title; and

"(C) is enrolled in an accredited graduate program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e)(1), for the remainder of the period of the graduate nursing program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon successful completion of the graduate nursing program, in the Ready Reserve for a period described in clause (A), (B), or (C) of subsection (e)(1) as specified in the agreement.

"(d) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is eligible to be commissioned in a reserve component of the armed forces; and

"(B) is enrolled in the third or fourth year of—

"(i) an accredited baccalaureate nursing program; or

"(ii) an accredited baccalaureate program leading to a degree in any other health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a monthly stipend, in an amount determined under subsection (e)(2), for the remainder of the period of the baccalaureate program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon graduation from the baccalaureate program, one year in the Ready Reserve for each year, or part thereof, for which the stipend is paid.

"(e) Amount of Stipend.—(1) The amount of a stipend under an agreement under subsection (b) or (c) shall be—

"(A) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve three years in the Selected Reserve for each year, or part thereof, for which the stipend is provided;

"(B) three-fourths of that rate, if the participant has agreed to serve two years in the Selected Reserve and one year in the Individual Ready Reserve for each year, or part thereof, for which the stipend is provided; or

"(C) one-half of that rate, if the participant has agreed to serve three years in the Individual Ready Reserve for each year, or part thereof, for which the stipend is provided.

"(2) The amount of a stipend under an agreement under subsection (d) shall be equal to one-seventh of the rate referred to in paragraph (1)(A). The amount of the stipend computed under this paragraph shall be rounded to the next higher multiple of $1.

"(f) Individual Ready Reserve Defined.—In this subchapter, the term 'Individual Ready Reserve' means that element of the Ready Reserve of an armed force other than the Selected Reserve.

"§ 2129. Reserve service: required active duty for training

"(a) Selected Reserve.—A person who is required under an agreement under section 2128 of this title to serve in the Selected Reserve shall serve not less than 12 days of active duty for training each year during the period of service required by the agreement.

"(b) IRR Service.—A person who is required under an agreement under section 2128 of this title to serve in the Individual Ready Reserve shall serve—

"(1) not less than 30 days of initial active duty; and

"(2) not less than five days of active duty for training each year during the period of service required by the agreement.

"§ 2130. Penalties, limitations, and other administrative provisions

"(a) Reserve Service for Failure To Complete Program.—A member receiving financial assistance under section 2128 of this title who fails to complete the health-care professional program covered by the agreement under that section within the time specified in the agreement may, at the discretion of the Secretary concerned, be required to perform military duty in the Ready Reserve.

"(b) Recoupment for Failure To Complete Program or Serve Satisfactorily.—(1) A person who receives financial assistance under section 2128 of this title and who fails to complete the health-care professional program covered by the agreement under that section within the time specified in the agreement, or who fails to serve satisfactorily in the Ready Reserve in accordance with the agreement, shall be required to pay to the United States the amount equal to the amount of the financial assistance paid to the person by the United States under the agreement.

"(2) An obligation to reimburse the United States under paragraph (1) is, for all purposes, a debt owed to the United States. A discharge in bankruptcy under title 11 does not discharge a person from a debt arising under this paragraph.

"(c) Prohibitions of Duplicate Benefits.—Financial assistance may not be provided under this section to a member receiving financial assistance under section 2107 of this title.

"(d) Suspension of Program When Involuntary Induction Is Authorized.—An agreement may not be entered into under section 2128 of this title during any period that the President is authorized to induct persons into the armed forces involuntarily.

"(e) Limitation on Number of Participants.—The number of persons who may be designated as members of the program for training in each health profession shall be as prescribed by the Secretary of Defense, except that the total number of persons so designated in all of the programs authorized by this subchapter shall not, at any time, exceed 10,200.

"(f) Regulations.—This subchapter shall be administered under regulations prescribed by the Secretary of Defense.".

(b) Clerical Amendment.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of subtitle A of such title are each amended by striking out the item relating to chapter 105 and inserting in lieu thereof the following:

"105. Armed Forces Health Professions Financial Assistance Programs.............. 2120".

(c) Repeal of Prior Program.—(1) Section 672 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 663), is repealed.

(2) The repeal of section 672 of the Department of Defense Authorization Act, 1986, by paragraph (1) does not affect an agreement entered into under that section before such repeal, and the provisions of such section as in effect before such repeal shall continue to apply with respect to such agreement.

(d) Effective Dates.—(1) The repeal made by subsection (c) shall take effect on October 1, 1987.

(2) An agreement entered into by the Secretary of a military department under section 2128 of title 10, United States Code, as added by subsection (a), may not obligate the United States to make a payment for any period before October 1, 1987.

SEC. 702. EXTENSION OF THE AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1988" and inserting in lieu thereof "October 1, 1989".

SEC. 703. STANDBY CAPABILITY FOR SELECTIVE SERVICE REGISTRATION OF HEALTH CARE PERSONNEL

Section 10(h) of the Military Selective Service Act (50 U.S.C. App. 460(h)) is amended—

(1) by striking out "If at" and all that follows through "nevertheless," and inserting in lieu thereof "The Selective Service system shall"; and

(2) by inserting "(including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces)" in clause (a) after "national emergency".

SEC. 704. AGE QUALIFICATIONS FOR PERSONNEL IN CRITICAL MEDICAL SPECIALTIES

(a) Army Personnel.—Section 3855 of title 10, United States Code, is amended to read as follows:

"§ 3855. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except section 3846, the Secretary of the Army may, with the officer's consent, retain in an active status—

"(1) any reserve officer in the Medical Corps, Dental Corps, Veterinary Corps, the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, the Optometry Section of the Medical Service Corps, the Army Nurse Corps, or the Army Medical Specialists Corps, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer in the Chaplains, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(2) The item relating to section 3855 in the table of sections at the beginning of chapter 363 of such title is amended to read as follows:

"3855. Retention of certain officers in active status.".

(b) Navy Personnel.—(1) Chapter 573 of title 10, United States Code, is amended by inserting after section 6391 the following new section 6392:

"§ 6392. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except subsections (b), (d), and (e) of section 6383, the Secretary of the Navy may, with the officer's consent, retain in an active status—

"(1) any reserve officer of the Navy or Marine Corps who is designated as a medical officer, dental officer, veterinary officer, optometrist, podiatrist, nurse, or biomedical sciences officer, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer in the Chaplain Corps, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6391 the following new item:

"6392. Retention of certain officers in active status.".

(c) Air Force Personnel.—(1) Section 8855 of title 10, United States Code, is amended to read as follows:

"§ 8855. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except section 8846, the Secretary of the Air Force may, with the officer's consent, retain in an active status—

"(1) any reserve officer of the Air Force who is designated as a medical officer, dental officer, veterinary officer, optometrist, podiatrist, Air Force nurse, or biomedical sciences officer, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer of the Air Force who is designated as a chaplain, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this sec-

tion only to fill a mission-based requirement.".

(2) The item relating to section 8855 in the table of sections at the beginning of chapter 863 of such title is amended to read as follows:

"8855. Retention of certain officers in active status.".

(d) MAXIMUM AGE FOR INITIAL APPOINTMENT AS A RESERVE OFFICER TO SERVE IN AN UNDERSTRENGTH CRITICAL HEALTH PROFESSIONS SPECIALTY.—(1) Section 591 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The Secretary concerned shall prescribe a maximum age qualification for initial appointment of persons as Reserves of the armed forces to serve in critical health professions specialties for which the Secretary concerned has determined that there is a personnel shortage. Such maximum age may not be less than 47 years of age.".

(2) The Secretary of the Armed Force concerned shall issue regulations implementing subsection (e) of section 591 of title 10, United States Code, as added by paragraph (1), within 90 days after the date of the enactment of this Act.

PART B—PEACETIME HEALTH CARE

SEC. 721. CATASTROPHIC LOSS PROTECTION UNDER CHAMPUS FOR ACTIVE-DUTY DEPENDENTS

(a) IN GENERAL.—Section 1079(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) An individual or family group may not be required by reason of this subsection to pay a total of more than $1,000 in any fiscal year for the cost of health care authorized by subsection (a).".

(b) EFFECTIVE DATE.—Paragraph (5) of section 1079(b) of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 722. TWO-YEAR PROHIBITION ON FEE FOR OUTPATIENT CARE AT MILITARY MEDICAL TREATMENT FACILITIES

During fiscal years 1988 and 1989, the Secretary of Defense may not impose a fee for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 723. POSTPONEMENT OF THE USE OF DIAGNOSIS-RELATED GROUPS

Section 701(d)(4) of the Department of Defense Authorization Act, 1987 (100 Stat. 3898; 10 U.S.C. 1101 note) is amended—

(1) in clause (A), by striking out "1987" and inserting in lieu thereof "1987, or as soon thereafter as is feasible"; and

(2) in clause (B), by striking out "1988" and inserting in lieu thereof "1988, or as soon thereafter as is feasible".

SEC. 724. FEDERAL PREEMPTION REGARDING CONTRACTS FOR MEDICAL AND DENTAL CARE

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1103. Federal preemption regarding contracts for medical and dental care

"The provisions of any contract under this chapter which relate to the nature and extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1103. Federal preemption regarding contracts for medical and dental care.".

SEC. 725. AUTHORITY TO PROVIDE DENTAL PROSTHESES TO DEPENDENTS

Section 1077(b)(2)(B) of title 10, United States Code, is amended by striking out "and artificial eyes" and inserting in lieu thereof ", artificial eyes, and dental prostheses".

SEC. 726. ADDITIONAL REQUIREMENTS FOR CHAMPUS REFORM INITIATIVE

(a) CLARIFICATION OF REQUIREMENTS FOR DEMONSTRATION PHASE.—The Secretary shall award contracts in the case of solicitation number MDA903-87-R-0047 (issued by the Secretary of Defense for the demonstration phase of the CHAMPUS reform initiative) by October 1, 1987, or as soon thereafter as is feasible, unless the Secretary determines that the award of such contracts in connection with such solicitation would not be in the interests of the United States.

(b) PROHIBITION ON ALTERNATIVE PROJECTS OF INADEQUATE SCOPE AND NATURE.—The Secretary of Defense (and the Secretaries of the military departments) may not conduct any demonstration project in addition to the CHAMPUS reform initiative demonstration project unless such additional demonstration project meets the following requirements:

(1) The project applies to each of the military departments.

(2) The project is designed, with respect to the number and location of demonstration sites and otherwise, to ensure that the results of such project will likely be representative of the results of a nationwide demonstration project.

(3) The alternative demonstration project provides for the same reports as are required for the CHAMPUS reform initiative demonstration project under section 702 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), and for phased implementation in the same manner provided in such section.

(c) CLARIFICATION OF SCHEDULE FOR PHASED IMPLEMENTATION OF THE CHAMPUS REFORM INITIATIVE.—If necessary to meet the implementation schedule provided in subsection (c) of section 702 of the Department of Defense Authorizaiion Act, 1987, the Secretary of Defense may consolidate the two implementation phases provided in such subsection if the Secretary meets all other requirements in such section relating to the results of the demonstration project, including the required reports to Congress.

(d) REQUIREMENT REGARDING ANY CHANGE IN THE ENROLLMENT PROGRAM INCLUDED IN THE CHAMPUS REFORM INITIATIVE.—The Secretary of Defense, in the administration of the health care enrollment program established under section 1099 of title 10, United States Code, may not require, as part of the CHAMPUS reform initiative or otherwise, persons entitled to receive medical or dental care under chapter 55 of title 10, United States Code, to receive health care exclusively in facilities of the uniformed services or exclusively from particular civilian health care providers, unless the Secretary has certified to the Committees on Armed Services of the Senate and the House of Representatives, at least 90 days before the date on which such requirement is imposed, that the requirement will not—

(1) undermine or otherwise adversely affect efforts of the Department of Defense to improve medical readiness by promoting the fullest possible utilization of facilities of the uniformed services for the types of medical and surgical care most related to wartime specialty requirements;

(2) impose excessive administrative burdens on facilities of the uniformed services or the beneficiaries of CHAMPUS; or

(3) eliminate the freedom of a beneficiary under CHAMPUS to receive medical or dental care from the civilian health care provider of his choice.

(e) DEFINITIONS.—In this section:

(1) The term "CHAMPUS reform initiative" has the same meaning as is provided in section 702(d)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3900).

(2) The term "CHAMPUS reform initiative demonstration project" means the demonstration project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899).

(3) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

(4) The term "uniformed services" has the same meaning as is provided in section 101(43) of title 10, United States Code.

SEC. 727. SUDDEN INFANT DEATH SYNDROME CHAMPUS COVERAGE

Subsection 1079(a) of title 10 is revised by striking the word "and" at the end of clause (13) and inserting therein a semicolon, and by striking the period at the end of clause (14) and inserting therein the word "and", and by adding a new clause (15) as follows:

"(15) Coverage may be provided for electronic cardio-respiratory home monitoring equipment (apnea monitors) for home use when a physician prescribes and supervises the use of the monitors for infants who have had an apparent life threatening event, who are subsequent siblings of a Sudden Infant Death Syndrome victim, or whose birth weight was 1500 grams or less, in which case the coverage may include the cost of the equipment, hard copy analysis of physiological alarms, professional visits, diagnostic testing, family training on how to respond to apparent life threatening events, and assistance necessary for proper use of the equipment.".

SEC. 728. REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

(a) Within 120 days of the enactment of this Act, the Secretary of Defense, with the assistance of the Secretary of Energy, is authorized and directed to prepare and submit to the Armed Services Committees of the House of Representatives and the United States Senate, and to the Senate Energy and Natural Resources Committee and to the House Committee on Energy and Commerce, a report on Department of Defense contingency plans for dealing with significant disruptions in the supply of United States crude oil produced by the nations of the Persian Gulf region. If the Secretary finds it necessary to classify the report or any portion thereof, a nonclassified version containing any energy policy recommendations made by the two Secretaries shall be prepared for transmittal to such committees.

(b) In preparing the contingency report required by this Section, the Secretary of Defense shall:

(1) Ascertain the extent of current dependency of the United States Armed Forces, the United States civilian economy, and the nations of the free world (with specific reference to NATO allies and to Japan) on crude oil produced in the Persian Gulf region;

(2) Prepare a range of estimates on the types of supply disruptions which could occur and their impact on, and the duration of, reduced availability of crude oil supply from the producing nations of the Persian Gulf;

(3) Develop a range of contingency plans for dealing with potential supply disruptions and crude oil shortages from the Persian Gulf, including but not limited to the role and use of existing domestic crude oil production, other non-Persian Gulf sources of world crude oil supply, the Strategic Petroleum Reserve, and the use of any emergency power or authority provided for by existing law;

(4) Identify and review any bilateral or multilateral agreements (including the International Energy Agreement) which commit or obligate the United States to furnish crude oil or petroleum products to other nations; and

(5) Set forth the policy and legislative recommendations of the Secretaries of Defense and Energy for improving the ability of the Department of Defense and the United States to effectively respond to problems created by significant disruptions in Persian Gulf crude oil production, transportation and supply.

(c) The Secretaries of Defense and Energy shall include in the Persian Gulf contingency report estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world's economy and to the United States' economy and the total annual and monthly cost of maintaining at current or projected levels a military presence in the Persian Gulf region.

Part C—Miscellaneous

SEC. 731. REPEAL OF CERTAIN REQUIREMENTS RELATING TO ACQUISITION OF MEDICAL INFORMATION SYSTEMS

Section 704 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3900) is repealed.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. THRESHOLD TEST BAN TREATY COMPLIANCE REPORT

(a) In General.—The Secretary of Defense shall submit to Congress, not later than 30 days after the date of the enactment of this Act, a report discussing the use of the current official United States method of estimating the yield of Soviet underground nuclear tests to determine the extent to which the Soviet Union is complying with the 150 kiloton limit on underground nuclear tests contained in the Threshold Test Ban Treaty.

(b) Form and Content of Report.—The report shall be submitted in both classified form and (if possible) unclassified form and shall include the following matters:

(1) A discussion of whether past assessments made by the United States of the extent of Soviet compliance with the 150 kiloton limit contained in the Threshold Test Ban Treaty would have been different if the United States, in making those assessments, had used the current official United States method of estimating the yield of underground nuclear tests conducted by the Soviet Union.

(2) The number of nuclear tests conducted by the Soviet Union after March 31, 1976, that have a central value exceeding 150 kilotons yield (estimated on the basis of the current official method used by the United States in estimating underground nuclear test yields), the central value of those tests (estimated on such basis), and the dates on which those tests were conducted.

(3) The number, dates, and estimated central values of tests, if any, conducted by the United States after March 31, 1976, which, if measured on the basis of the current official method used by the United States in estimating Soviet underground nuclear test yields (taking into account the differences between the United States and Soviet test sites), would have an indicated central value exceeding 150 kilotons yield.

(4) The number of tests conducted by the United States after March 31, 1976, if any, which actually had yields exceeding 150 kilotons, the estimated central value of each such test, and the date on which each such test was conducted.

(5) A description of all nuclear testing activities of the Soviet Union which the President has found to be likely violations of the legal obligations under the Threshold Test Ban Treaty, the dates on which those activities took place, and the specific legal obligations under the Threshold Test Ban Treaty likely to have been violated by the Soviet Union in conducting such activities.

(6) A discussion of whether and, if so, the extent to which, the President, in arriving at his finding that several nuclear tests conducted by the Soviet Union constituted a likely violation of legal obligations under the Threshold Test Ban Treaty, considered the mutual agreement contained in the Threshold Test Ban Treaty which permits one or two minor, unintended breaches of the 150 kiloton limit per year to be considered nonviolations of the Treaty.

(7) A detailed comparison of the current official method used by the United States Government in estimating Soviet underground nuclear test yields with the method replaced by the current method, and the date on which the current official method was adopted by the United States.

SEC. 802. REPORT ON COMPETITIVE STRATEGIES

(a) In General.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on Competitive Strategies. Such report shall be provided in classified and unclassified versions and shall include the following:

(1) A discussion of the Competitive Strategy concept.

(2) An assessment of Soviet and Warsaw Pact weaknesses, including military, political, and systemic weaknesses that could be candidates for exploitation through competitive strategies.

(3) A discussion of the initial areas selected for examination in the Competitive Strategy initiative, including a discussion of the rationale for the areas selected.

(4) A discussion of the initial findings resulting from the Competitive Strategy process.

(b) Deadline for Report.—The report described in subsection (a) shall be submitted not later than January 15, 1988.

SEC. 803. FUNCTIONS OF THE DIRECTOR, OPERATIONAL TEST AND EVALUATION

Section 138 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.".

SEC. 804. NATO TRAINING CENTER

It is the sense of the Congress that—

(1) the National Training Center at Fort Irwin, California, offers units of the United States Army a valuable opportunity to train in a demanding, realistic environment;

(2) the training and coordination of the military forces of the member nations of the North Atlantic Treaty Organization (NATO) would be greatly improved if they could train together at a facility similar to the National Training Center; and

(3) NATO should vigorously pursue the development of a new training center that would be similar to the National Training Center.

SEC. 805. DISSEMINATION OF UNCLASSIFIED INFORMATION CONCERNING PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

(a) In General.—Chapter 4 of title 10, United States Code, as amended by section 9 of the Defense Technical Correction Act of 1987 (Public Law 100-26; 101 Stat 287) is amended by adding at the end the following new section:

"§ 142. Dissemination of unclassified information concerning physical protection of special nuclear material

"(a)(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Defense with respect to special nuclear materials, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment for the physical protection of special nuclear material.

"(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of special nuclear materials, equipment, or facilities.

"(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

"(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1) of this subsection—

"(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

"(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

"(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

"(b) Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

"(c) The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons or the theft, diversion, or sabotage of special nuclear materials, equipment, or facilities, as specified under subsection (a) of this section; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"142. Dissemination of unclassified information concerning physical protection of special nuclear material.".

SEC. 806. REPEAL OF CERTAIN TESTING REQUIREMENTS

(a) REPEAL OF SECTION 2366 OF TITLE 10.—Section 2366 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2366.

SEC. 807. OVERSIGHT OF COST OR SCHEDULE VARIANCES IN CERTAIN MAJOR ACQUISITION PROGRAMS

(a) ENHANCED PROGRAM STABILITY.—Section 2435(b)(1) is amended by striking out clauses (A) and (B) and inserting in lieu thereof the following:

"(A) the total cost of completion of the stage will exceed by 15 percent or more, in the case of a development stage, or by 5 percent or more, in the case of a production stage, the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will be missed by more than 90 days; or".

(b) BASELINE DESCRIPTION REQUIREMENT.—For purposes of a program for which a milestone authorization is provided in section 131 or 241, the baseline description required by section 2435 of title 10, United States Code, shall be—

(1) the Selected Acquisition Report as of December 31, 1986, if one is required for such program; or

(2) a baseline description submitted consistent with section 2435.

(c) DEFENSE ENTERPRISE PROGRAM.—Section 2436(d)(1) of title 10, United States Code, is amended by striking out "concerned" and inserting in lieu thereof "concerned and with the approval of the Under Secretary of Defense for Acquisition".

SEC. 808. CONTRACT GOAL FOR MINORITIES

Section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973), is amended by striking out the period at the end of clause (3) and inserting in lieu thereof the following: ", including any nonprofit institution that was an integral part of a historically Black college or university before the date of the enactment of this Act.".

SEC. 809. ADJUDICATION OF INELIGIBILITY FOR A JOB WITH THE FEDERAL GOVERNMENT ON THE BASIS OF FAILURE TO REGISTER UNDER THE MILITARY SELECTIVE SERVICE ACT

Section 3328(b) of title 5, United States Code, is amended—

(1) by striking out "within the Office" in the second sentence; and

(2) by inserting after the third sentence the following: "Such procedures may provide that determinations of eligibility under the requirements of this section shall be adjudicated by the Executive agency making the appointment for which the eligibility is determined.".

SEC. 810. ELIMINATION OF ONE OF THE STATUTORY POSITIONS OF ASSISTANT JUDGE ADVOCATE GENERAL OF THE NAVY

(a) IN GENERAL.—Section 5149 of title 10, United States Code, is amended—

(1) by striking out subsection (b);

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(3) by striking out subsection (e) and inserting in lieu thereof the following:

"(d) When subsection (c) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the Assistant Judge Advocate General of the Navy shall perform the duties of the Judge Advocate General.".

(b) SAVINGS PROVISION.—An officer in the Judge Advocate General's Corps of the Navy who is detailed as Assistant Judge Advocate General of the Navy and serving in the grade of rear admiral (lower half) on the day before the date of the enactment of this Act may continue to serve in such position, may continue to hold that grade so long as he is detailed as the Assistant Judge Advocate General of the Navy, and shall be entitled to the same retirement benefits in the same manner and to the same extent as if this section had not been enacted.

SEC. 811. ARMS CONTROL NEGOTIATIONS

(a)(1) Since the United States and the Soviet Union are currently engaged in negotiations to conclude a Treaty on Intermediate Nuclear Forces (INF) and are continuing serious negotiations on other issues of vital importance to our national security;

(2) Since the current discussions are a culmination of years of detailed and complex negotiations, pursuing an American policy objective consistently advocated over the past two Administrations regarding nuclear arms control in the European theater, and which reflect delicate compromises on both sides;

(3) Since the Senate recognizes fully, as provided in clause 2, section 2, article II of the Constitution, that the President has the "power, by and with the advice and consent of the Senate, to make treaties.";

(4) Since the Senate also recognizes the special responsibility conferred on it by the Founding Fathers to give its advice and consent to the President prior to the ratification of a treaty, that it is accountable to the people of the United States and has a duty to ensure that no treaty is concluded which will be detrimental to the welfare and security of the United States;

(5) Since in recognition of this responsibility, the Senate established a special continuing oversight body, the Arms Control Observer Group which has functioned over the last 2½ years to provide advice and counsel, when appropriate, on a continuing basis during the course of the negotiations;

(6) Since the Senate and the President both have a constitutional role in making treaties and since the Congress has a constitutional role in regulating expenditures, including expenditures on weapons systems that may be the subject of treaty negotiations;

(7) Since the Senate will reserve judgment on approval of any arms control Treaty until it has conducted a thorough examination of the provisions of such treaty, has assured itself that they are effectively verifiable, and that they serve to enhance the strength and security of the United States and its allies and friends.

(b) Therefore the Senate hereby—

(1) Declares that the Senate of the United States fully supports the efforts of the President to negotiate stabilizing, equitable and verifiable arms reduction treaties with the Soviet Union;

(2) Endorses the principle of mutuality and reciprocity in our arms control negotiations with the Soviet Union and cautions that neither the Congress nor the President should take actions which are unilateral concessions to the Soviet Union;

(3) Urges the President to take care that no provisions are agreed to which would be harmful to the security of the United States or its allies and friends.

SEC. 812. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long leadtime element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

SEC. 813. PROCUREMENT OF MANUAL TYPEWRITERS

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Procurement of manual typewriters

"Funds appropriated to or for the use of the Department of Defense may not be used for the procurement of manual typewriters which contain one or more components manufactured in a country which is a member of the Warsaw Pact unless such country has a most favored nation trading status with the United States.".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410. Procurement of manual typewriters.".

SEC. 814. PROHIBITION AGAINST CERTAIN CONTRACTS

(a) In General.—Funds appropriated to or for the use of the Department of Defense for any fiscal year pursuant to an authorization contained in this or any other Act may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) Temporary Suspension of Prohibition Upon Certification of the Secretary of Defense.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

(c) Exceptions for Certain Contracts.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract was entered into before the date of the enactment of this Act;

(2) the contract is to be performed within the United States; or

(3) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems.

(d) In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

SEC. 815. COOPERATIVE SDI RESEARCH PROJECTS

(a) The prohibition in subsection (a) of section 814 shall not apply to any contract awarded to a foreign government or a foreign firm by the Strategic Defense Initiative Organization if that foreign government or foreign firm agrees to fund a substantial portion of the total contract cost.

(b) In this section, "foreign firm" has the same definition as in subsection (d) of section 814.

SEC. 816. STRATEGIC DEFENSE SYSTEMS

Notwithstanding any other provision of law, no agency of the Federal Government may plan for, fund, or otherwise support the development of architectures, components, or subcomponents for strategic defense against air-breathing or ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative real-time human decision at an appropriate level of authority.

SEC. 817. ABM TREATY LIMITATIONS, ABSENCE OF, REPORT

(a) Report On No ABM Treaty Limitations.—The Secretary of Defense shall submit to Congress a report concerning the effect of no ABM Treaty limitations on the Strategic Defense Initiative Program.

(b) Matters To Be Included.—The report shall include the following:

(1) An analysis of the ramifications of no ABM Treaty limitations on the development under the Strategic Defense Initiative program of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets. This analysis should compare research and development programs pursued under the restrictive interpretation, the less restrictive interpretation, and no ABM Treaty limitations, including a comparative analysis of—

(A) the overall cost of the research and development programs,

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early- to mid-1990's.

(2) A list of options under no ABM Treaty limitations that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) Deadline for Report.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) Report Classification.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

SEC. 818. REQUIREMENT FOR CONSISTENCY IN THE BUDGET PRESENTATIONS OF THE DEPARTMENT OF DEFENSE

(a) In General.—Section 114 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

"(g) The Secretary of Defense shall submit to Congress each year, at the same time as the President submits the budget to Congress under section 1105(a) of title 31 for any fiscal year or years, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget for the support programs, projects, and activities of the Department of Defense.".

(b) Applicability.—The amendment made by subsection (a) shall apply with respect to budgets submitted to Congress by the President under section 1105(a) of title 31, United States Code, for fiscal years after fiscal year 1988.

SEC. 819. RIGHTS IN TECHNICAL DATA

(a) In General.—Section 2320(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall prescribe regulations to describe the respective rights of the United States and of a contractor or subcontractor in technical data pertaining to an item or process.";

(2) by adding at the end of paragraph (1) the following new sentence: "Except as otherwise specifically provided by law, such regulations may not impair the right of a contractor or subcontractor to receive a fee or royalty for the use of technical data developed exclusively at private expense by the contractor or subcontractor.";

(3) in paragraph (2)(E)—

(A) by striking out "shall be agreed upon" and inserting in lieu thereof "shall be determined on the basis of negotiations relating to such item or process"; and

(B) by adding at the end the following new clause:

"(iv) Such other factors as the Secretary of Defense may prescribe.";

(4) by striking paragraph (2)(F) and inserting in lieu thereof the following:

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

"(i) to sell or otherwise relinquish to the United States any rights in technical data except—

"(I) rights in technical data described in subparagraph (C); or

"(II) under the conditions described in subparagraph (D); or

"(ii) to refrain from offering to use, or from using, an item or process developed exclusively at private expense.";

(5) in paragraph (2)(G)—

(A) by striking out "may" before the dash;

(B) in clause (i)—

(i) by inserting "may" before "negotiate"; and

(ii) by striking out "or" at the end of such clause;

(C) in clause (ii)—

(i) by inserting "may" before "agree";

(ii) by striking out "otherwise accorded to the United States under such regulations" and inserting in lieu thereof "of the United States pertaining to an item or process developed exclusively or in part with Federal funds"; and

(iii) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(D) by adding at the end of such paragraph the following new clause (iii):

"(iii) may permit a contractor or subcontractor to license directly to a third party the use of technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense, if necessary to develop alternative sources of supply and manufacture.";

(6) in paragraph (3), by striking out "terms 'developed' and 'private expense'" and inserting in lieu thereof "term 'developed'";

(7) by redesignating paragraph (4) as paragraph (5);

(8) by inserting after paragraph (3) the following new paragraph (4):

"(4) The Secretary of Defense shall include in each contract awarded by the Department of Defense that requires technical data to be delivered to the United States a provision relating to the release or disclosure of tech-

nical data developed by the contractor or subcontractor exclusively at private expense. Such provision shall prohibit—

"(A) the release or disclosure of such data (developed exclusively at private expense) by the Government to a person outside the Government;

"(B) the release or disclosure of such data by a contractor or subcontractor (other than the contractor or subcontractor that developed the data) to a person outside the Government; and

"(C) the use of such data by a person outside the Government,

except in accordance with and subject to the same limitations and requirements applicable to the release or disclosure of technical data under paragraph (2)(D). The Secretary shall also require each contractor awarded a contract described in the first sentence of this paragraph to include the same provision in each subcontract entered into by such contractor under such contract.";

(9) in paragraph (5), as redesignated by clause (7), by striking out "For purposes of this subsection" and inserting in lieu thereof: "In this subsection"; and

(10) by inserting after paragraph (5), as redesignated by clause (7), the following new paragraph:

"(6) In this subsection and in section 2321 of this title, the term 'private expense' means, in connection with an item or process, that the cost of development of the item or process has not been paid for in whole or in part with Federal funds and that such development was not required as an element of performance under either a contract with the United States or a subcontract awarded under such a contract. In determining the cost of such development, indirect costs of such development (including independent research and development and bid and proposal costs) shall be deemed not to have been paid in whole or in part by the United States.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts, and to the extensions, modifications, and renewals of contracts, made more than 120 days after the date of the enactment of this Act.

SEC. 820. NATO COOPERATIVE PROJECT AGREEMENTS

Clause (C) of section 27(b)(1) of the Arms Export Control Act (22 U.S.C. 2767(b)(1)(C)) is amended by inserting "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

SEC. 821. JOINT OFFICER MANAGEMENT POLICIES

(a) NOMINATION AND SELECTION FOR THE JOINT SPECIALTY.—(1) Section 661(b)(2) of title 10, United States Code, is amended by inserting at the end as a flush sentence the following: "The authority of the Secretary of Defense under this paragraph to select officers for the joint specialty may be delegated only to the Deputy Secretary of Defense."

(2) Section 661(c) of such title is amended—

(A) in paragraph (2), by striking out the second sentence; and

(B) by inserting at the end the following new paragraph:

"(3)(A) In the case of an officer who has completed both the educational program referred to in paragraph (1)(A) and a full tour of duty in a joint duty assignment referred to in paragraph (1)(B), the Secretary of Defense may waive the requirement that the educational program precede such tour of duty if the Secretary determines that such waiver is necessary in the interests of sound personnel management.

"(B) In the case of an officer who has completed two full tours of duty in a joint duty assignment, the Secretary of Defense may waive the educational program requirement referred to in paragraph (1)(A) if the Secretary determines that it would be impractical to require the officer to complete such a program at the current stage of the officer's career and that the types of joint duty assignments completed by the officer have been of sufficient breadth to prepare the officer adequately for the joint specialty.

"(C) The authority of the Secretary of Defense to grant a waiver under this paragraph may be delegated only to the Deputy Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.".

(b) LENGTH OF JOINT DUTY ASSIGNMENTS.—Section 664 of such title is amended to read as follows:

"§ 664. Length of joint duty assignments

"(a) AVERAGE LENGTH OF JOINT DUTY ASSIGNMENTS.—The average length of a joint duty assignment shall be—

"(1) not less than 2½ years, in the case of general and flag officers; and

"(2) not less than 3 years, in the case of other officers.

"(b) FULL TOUR OF DUTY IN JOINT DUTY ASSIGNMENTS.—(1) A general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer has completed a tour of duty in such an assignment of not less than 2 years.

"(2) An officer other than a general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer—

"(A) has completed a tour of duty in a joint duty assignment of not less than 3 years;

"(B) has completed a tour of duty in a joint duty assignment for which the normal tour of duty is prescribed by regulation to be at least 2 years, but not more than 3 years; or

"(C) in the case of an officer with a critical occupational specialty involving combat operations, has completed a tour of duty in a joint duty assignment of not less than 2 years.

"(3) Notwithstanding paragraphs (1) and (2), an officer shall be considered to have completed a full tour of duty in a joint duty assignment upon completion of a cumulative total of 2 years of service in joint duty assignments as a general or flag officer or a cumulative total of 3 years of service in joint duty assignments as an officer other than a general or flag officer, if one or more tours of duty in a joint duty assignment included in the total of cumulative service—

"(A) was a tour of duty for which the normal tour of duty is prescribed by regulation to be less than 2 years; or

"(B) was terminated because of—

"(i) reassignment for unusual personal reasons beyond the control of the officer or the armed forces, including extreme hardship and medical conditions;

"(ii) reassignment of the officer to another joint duty assignment immediately after the officer was promoted to a higher grade if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(iii) other unique circumstances associated with the assignment.

"(4) In computing the cumulative service of an officer in joint duty assignments for the purposes of paragraph (3), a tour of duty in a joint duty assignment that was completed more than 8 years before the date of computation shall be excluded.

"(c) EXCLUSIONS.—In computing the average length of joint duty assignments for purposes of subsection (a), the Secretary of Defense shall exclude the following service:

"(1) Service in a joint duty assignment if the full tour of duty in that assignment was not completed by the officer because of—

"(A) retirement;

"(B) release from active duty;

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

"(D) termination of an assignment for any of the reasons prescribed in subsection (b)(3)(B).

"(2) Service in a joint duty assignment if the full tour of duty for that assignment was prescribed by regulation to be less than 2 years.

"(3) Service in a joint duty assignment, in the case of an officer other than a general or flag officer who completes a full tour of duty in that assignment, if the normal tour of duty for that assignment was prescribed by regulation to be at least 2 years, but not more than 3 years.

"(4) Service in a joint duty assignment, in the case of an officer other than a general or flag officer with a critical occupational specialty involving combat operations who completes a tour of duty in that assignment, if the tour of duty for that assignment was not less than 2 years.

"(d) DEFINITION.—In this section, the term 'tour of duty in a joint duty assignment' includes a tour of duty in which an officer serves in more than one joint duty assignment within the same organization, but without a break between such assignments.".

(c) PROMOTION POLICY OBJECTIVES.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or who have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) NOTICE OF EXERCISE OF WAIVER AUTHORITIES AND EXCLUSIONS.—Section 667 of such title is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (12), respectively;

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments."; and

(3) by inserting after paragraph (10), as redesignated by clause (1) of this subsection, the following new paragraph (11):

"(11) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) in the case of each such authority, an analysis of the reasons for exercising the authority, and the number of times in which action was taken

without exercise of the waiver authority compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).".

(e) Modification of Definition of Joint Duty Assignment.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 100 assignments which are designated by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as providing significant experience in joint matters.".

(f) Joint Duty Assignment as Prerequisite for Promotion to General or Flag Officer Grade.—(1) Section 619(e)(1) of such title is amended by striking out "served in a joint duty assignment" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment. Until January 1, 1992, a qualified nuclear propulsion officer may be promoted to rear admiral (lower half) without meeting the requirement of the preceding sentence, but may not be selected for promotion to the grade of rear admiral (upper half) unless such officer has completed a full tour of duty in a joint duty assignment".

(2) The Chairman of the Joint Chiefs of Staff, after consultation with the Chief of Naval Operations, shall initiate and carry out a plan for ensuring that an appropriate number of qualified nuclear propulsion officers serve in joint duty assignments. The Chairman shall submit a copy of such plan to the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than one year after the date of the enactment of this Act.

SEC. 822. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE AND ADDITIONAL POSITION IN EXECUTIVE SCHEDULE

(a) Additional Assistant Secretary of Defense.—Notwithstanding section 136(a) of title 10, United States Code, until January 20, 1989, the Department of Defense is authorized a total of 12 Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Temporary Increase in Level IV Positions.—Notwithstanding section 5315 of title 5, United States Code, until January 20, 1989, the number of Assistant Secretaries of Defense authorized as positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code, is increased by one to a total of 12.

SEC. 823. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 194 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Exclusion.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.".

SEC. 824. ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Section 162(a)(2) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "or forces assigned to multinational peacekeeping organizations.".

SEC. 825. TRANSPORTATION OF CERTAIN BENEFICIARIES OF THE VETERANS' ADMINISTRATION ON DEPARTMENT OF DEFENSE AEROMEDICAL EVACUATION AIRCRAFT

(a) In General.—Section 5011 of title 38, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g)(1) The Secretary of Defense and the Administrator shall enter into an agreement that provides for the transportation of any primary beneficiary of the Veterans' Administration on any Department of Defense aircraft operating under the aeromedical evacuation system of the Department of Defense.

"(2) An agreement entered into under paragraph (1) of this subsection shall include the following provisions:

"(A) Transportation shall be furnished to a person on an aircraft referred to in paragraph (1) of this subsection only if—

"(i) the Administrator of Veterans' Affairs notifies the Secretary of Defense that the person needs or has been furnished care and services in Veterans' Administration medical facilities and the Administrator requests such transportation in connection with the travel of such person to or from the Veterans' Administration facility where the care and services are to be furnished or were furnished to such person;

"(ii) there is space available for such person on that aircraft; and

"(iii) there is an adequate number of medical and other service attendants to care for all persons being transported on such aircraft.

"(B) The persons eligible for transportation include persons located outside the continental United States and persons returning to their residences outside the continental United States.

"(C) A charge may not be imposed on any primary beneficiary of the Veterans' Administration or on the Veterans' Administration for transportation services furnished to such beneficiary by the Department of Defense under this section.".

(b) Implementation Requirement.—The Secretary of Defense and the Administrator of Veterans' Affairs shall enter into an agreement required by section 5011(g) of title 38, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

SEC. 826. SENSE OF THE CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) Findings.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributor to democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to both the United States and Japan have significantly increased since 1976, principally as the result of the Soviet Union's occupation of Afghanistan, the continued expansion and buildup of Soviet military forces (particularly Soviet expansionist efforts in the South Pacific and the buildup of the Soviet Pacific fleet), the Vietnamese occupation of Cambodia, and instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 Williamsburg summit meeting that "the security of our countries is indivisible and must be approached on a global basis", the Japanese government has raised its defense spending by an average of 5 percent per annum since 1981, rescinded a limit on annual expenditures for defense of 1 percent of the gross national product, and is fulfilling Prime Minister Suzuki's pledge to defend Japan's territory, airspace, and sea lanes to a distance of 1,000 miles by 1990.

(4) Congress applauds the actions referred to in paragraph (3) that have been taken by Japan and the Japanese commitment to implement a 1,000 mile defense capability. However, Japan has the world's second largest gross national product, is a major creditor nation, has a large private savings rate, but lags far behind other industrialized democracies in terms of the percent of gross national product devoted to national defense expenditures and expenditures for global security and stability.

(b) Sense of Congress.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increase its Official Development Assistance program funding so that by 1992 it will be spending approximately 3 percent of its gross national product on such program.

(2) Devote increased Official Development Assistance expenditures primarily to regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devote any increase in its Official Development Assistance program primarily to concessional, untied grants and increase the portion of total expenditures made for such program for those multilateral financial institutions of which Japan is a member.

(4) Designate those nations that are to be recipients of its increased development assistance through consultation with its security partners.

(5) Expand its Official Development Assistance program without regard to its expenditures on defense, particularly expenditures for completion of the 5 year defense program for fiscal years 1986 through 1990.

SEC. 827. SOVIET UNION EMBASSY AGREEMENTS

(a) Findings.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national

security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance, having been offered to the Soviets at a time when electronic surveillance techniques and potential were not fully understood in the West;

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of . . . real property . . . where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) New Agreement With Soviet Union.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) Embassy Agreements.—For the purposes of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", entered into force on May 16, 1969; and

(2) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

SEC. 828. POLICY TOWARD PANAMA

(a) Findings.—The Congress finds that—

(1) the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces;

(2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough investigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces; and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) the Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of excessive force by the Panamanian Defense Forces; and

(4) political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

(b) Policy.—Therefore, it is the sense of the Congress that the United States should—

(1) cease all economic and military assistance provided pursuant to the Foreign Assistance Act of 1961 and the Arms Export Control Act to the Government of Panama, except that the United States should continue to make available assistance to meet immediate humanitarian concerns,

(2) suspend all shipments of military equipment and spare parts to the Government of Panama or to any of its agencies or institutions, and

(3) prohibit the importation of sugars, syrups, or molasses that are products of Panama into the United States and to reallocate among other foreign countries such quantities of sugar, syrups, and molasses that would have been imported from Panama but for such prohibition;

unless no later than 45 days after the date of enactment of this Act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

SEC. 829. IRANIAN VESSEL SINKING JUSTIFICATION

It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens (1) the safe passage of any American warship or (2) other vessel known to have on board any citizen of the United States of America: Provided further, That this section shall not in itself be construed as legislative authority for any specific military operation.

SEC. 830. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TESTING EQUIPMENT COSTS

(a) In General.—Notwithstanding any other provision of law, the Secretary of a military department shall reimburse a contractor for the cost incurred by the contractor for the acquisition of production special tooling and production special test equipment necessary for the performance of a contract awarded by the Secretary as follows:

(1) If at the time the contract is entered into, the Secretary anticipates that the United States will subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall negotiate with the contractor on the purchase of special tooling and special test equipment required by the contractor to perform the contract. The negotiations shall be based on regulations prescribed by the Under Secretary of Defense for Acquisition. Such regulations shall provide that the contractor be paid—

(A)(i) not less than 50 percent of the negotiated full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred; and

(ii) the balance of such cost in accordance with an amortization schedule mutually negotiated by the contractor and the Secretary; or

(B)(i) an amount other than the amount specified in subparagraph (A)(i) for the cost incurred by the contractor for the acquisition of such tooling and equipment after such cost is incurred, if the payment of such amount is approved in advance, on a case-by-case basis, by the Secretary of the military department concerned under criteria established by the Under Secretary of Defense for Acquisition; and

(ii) the balance of such cost in accordance with an amortization schedule negotiated by the contractor and the Secretary.

(2) If at the time a contract, other than a multiyear contract, is entered into, the Secretary anticipates that the United States will not subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(3) The Secretary shall negotiate provisions which ensure that if the contract, or the program with respect to which the contract was awarded, is terminated before the original procurement schedule negotiated by the Secretary and the contractor has been completed and such contract or program is not terminated for any reason that reflects a failure of the contractor to perform the contract, the Secretary shall reimburse the contractor for the full cost incurred by the contractor for the acquisition of such special tooling and test equipment, subject to the availability of appropriations.

(4) If the production special tooling and production special test equipment is used by a contractor solely for final production acceptance testing, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(b) Treatment of Payment.—Costs incurred by a contractor for the acquisition of production special tooling and production special test equipment for which reimbursement is made under this section shall be considered direct cost incurred by the contractor.

(c) Right of United States to Special Tooling and Test Equipment.—In any case in which the United States makes payment to a contractor for the full cost incurred for the acquisition of special tooling and test equipment under the circumstances described in subsection (a), the United States shall have the right to take title to the special tooling and special test equipment paid for by the United States.

(d) Effective Date.—This section shall be effective in the case of contracts entered into on and after the date of the enactment of this Act.

SEC. 831. REPORT REGARDING NATO DEFENSES

(a) In General.—The Secretary of Defense, in consultation with the Supreme Allied Commander, Europe, shall submit to Congress a report on the options available to the North Atlantic Treaty Organization (NATO) to ensure continued deterrence against war in Europe and continued NATO unity in light of the proposed Intermediate Range Nuclear Treaty (INF) between the United States and the Soviet Union. The report shall include, at a minimum, the following:

(1) Requirements for nuclear modernization of NATO.

(2) Non-nuclear forces that would be needed to support the operational concept of Follow-on-Forces Attack (FOFA).

(3) The status for improvements being made in the air defenses of NATO in Europe.

(4) Possible effects of a conventional arms control agreement on the military balance between NATO and Warsaw Pact forces.

(b) Deadline for Report.—The Secretary shall submit the report required by subsection (a) not later than January 31, 1988, or before the President submits to the Senate

for its advice and consent any treaty relating to intermediate range nuclear missiles in Europe, whichever occurs first.

SEC. 832. REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME

(a) Not later than February 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime, describing the number and skills of personnel currently available in the Department of Defense to perform these functions, and assessing the adequacy of these resources for the effective performance of this mission.

(b)(1) The report described in subsection (a) shall identify the total number of current Department of Defense full-time employees or military personnel, the grades of such personnel, and the special knowledge, experience, and expertise of such personnel to carry out each of the following Missile Control Technology Regime tasks:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Enforcement and technology security operations.

(F) Technical review.

(2) The report shall contain the Secretary's assessment of the adequacy of staffing in the categories specified above in sections (b)(1)(A) to (F), and shall make recommendations on measures, including legislation if necessary, to eliminate any identified staffing deficiencies, and to improve interagency coordination.

SEC. 833. UNITED NATIONS SALARY REMISSION ARRANGEMENTS

(a) The Congress finds that the use of salary remission arrangements whereunder the nationals of member states of the United Nations serving as employees of the United Nations Secretariat or its specialized agencies are required to turn over their salaries to their national governments and retain only a portion of the salary paid to them by the United Nations violates the United Nations Charter and seriously compromises the independence of the United Nations' international civil service.

(b) The elimination of salary remission arrangements that compromise the independence of the international civil service should be a high priority of the United States in its efforts to reform the personnel practices of the United Nations system.

(c) Fifty percent of the funds made available for each fiscal year by any provision of law to meet the obligations of the United States for assessed contributions to the United Nations and its specialized agencies may not be obligated until the President certifies to the Congress that significant progress has been made within the United Nations Secretariat and the United Nations specialized agencies in eliminating—

(1) the excessive use of secondment by member states whereunder nationals of the member states serving as employees of the United Nations Secretariat are seconded to such employment on fixed-term contracts and not allowed to become regular career employees of the United Nations, with a view to implementing the recommendations of the Group of 18 with respect to limits on the use of secondment; and

(2) the blatant control of nationals of member states serving as employees of the United Nations Secretariat or the specialized agencies through regular supervision, consultation, and evaluation of such nationals of member states by their permanent missions to the United Nations or to the specialized agencies of the United Nations.

SEC. 834. TESTING PROGRAM FOR DRUG, CHEMICAL, AND ALCOHOL USE AND DEPENDENCY PRIOR TO ENTRY OR REENTRY INTO THE ARMED FORCES

(a) Under uniform regulations prescribed by the Secretary of Defense, testing shall be required for drug, chemical, and alcohol use and dependency for any individual prior to entry into the Armed Forces.

(b) Testing required under paragraph (a) shall be conducted as part of a pre-registration physical prior to entry into Active, Reserve, or National Guard Units whether under the direct accession or delayed entry programs.

(c) Failure to consent to the testing program prescribed in paragraph (a) shall disqualify an individual for entry into the units described in paragraph (b).

(d)(1) The Secretary of Defense shall prescribe regulations to implement this section not later than 45 days after the date of the enactment of this Act.

(2) The effective date for initiation of the testing program prescribed by this section shall be no later than 180 days after the enactment of this Act.

SEC. 835. STUDY RELATING TO CAPABILITIES FOR THE CONTROL OF DRUG SMUGGLING INTO THE UNITED STATES

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a comprehensive study regarding illegal drug smuggling into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller shall—

(1) assess the national security implications of illegal drug smuggling into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the impact on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as reported in the Senate on June 2, 1987, as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether any cost savings and increased effectiveness and efficiencies could be expected to result if the national drug interdiction effort were consolidated under the authority of the Department of Defense;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation (for the Coast Guard), and the Treasury Department (for the Customs Service) for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to utilize effectively the detection output of the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to utilize the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH-B), ROTHR, aerostats, airships, and the E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft).

(b) AUTHORITY TO CONTRACT OUT.—The Comptroller General may contract for the performance of all or any part of the study required under subsection (a) with the Rand Corporation, the Center for Naval Analysis, or any other Federal contract research center, but the Comptroller General shall retain management, direction, and control of the study.

(c) REPORT.—Not later than March 31, 1988, the Comptroller General shall report the results of the study required under subsection (a), together with such comments and recommendations as he considers appropriate, to the Committees on Armed Services, the Committees on the Judiciary, and the Committees on Appropriations of the Senate and the House of Representatives, the Senate Caucus on International Narcotics Control, and the House Select Committee on Narcotics Abuse and Control. The Comptroller General shall submit the report in both classified and unclassified form.

(d) TRANSFER OF FUNDS.—Of the funds appropriated pursuant to the authorizations contained in this division, the Secretary of Defense shall transfer to the Secretary of Transportation funds to provide for the Law Enforcement Detachment program of the Coast Guard in the following amounts :

(1) $3,000,000 for fiscal year 1988.

(2) $6,000,000 for fiscal year 1989.

SEC. 836. SENSE OF THE SENATE REGARDING THE CONTRIBUTIONS AND ROLES OF SPOUSES OF MILITARY PERSONNEL IN SUPPORTING THE MILITARY COMMUNITY

(a)(1) the spouses of military personnel have contributed greatly to the well-being and to the support of the military community in the Armed Forces for decades;

(2) the spouses of military personnel have voluntarily lent their time and talents to support military personnel, their families, and the military community as a whole, in time of war and in time of peace;

(3) in 1987, when more than 72 percent of all active duty military officers and 52 percent of all active duty enlisted military personnel are married, the voluntary service of spouses of military personnel in support of the military community is ever increasing in scope and importance;

(4) at the same time, the pressures on the spouses of military personnel to be employed

outside of the home are increasing, reflecting American society as a whole;

(5) neither the Armed Forces, the Congress, nor the American people have a right to expect or demand that spouses of military personnel voluntarily contribute their time or talents to support the Armed Forces or the military community, beyond that expected of all good citizens.

(b)(1) Therefore, it is the sense of the Senate that the spouses of military personnel are to be thanked and congratulated for their unswerving support and work on behalf of military personnel, their families and the military community as a whole.

(2) And further, it is the sense of the Senate that the decision by spouses of military personnel to be employed, either in addition to or rather than voluntarily participating in activities relating to the Armed Forces, must be viewed as a personal decision which is of no official consequence to the Armed Forces.

SEC. 837. TRAVEL REIMBURSEMENT

Notwithstanding any limitation on amounts that may be otherwise paid for travel and transportation allowances, a civilian employee of the Department of Defense or Department of Transportation or a member of the Armed Forces of the United States, accompanying a Member of Congress, an employee of such a Member, or an employee of Congress on official travel may be authorized reimbursement for actual travel and transportation expenses in an amount not to exceed that approved for official congressional travel when that travel is directed or approved by the Secretary of Defense or the Secretary of the executive agency or military department, or a designee of the Secretary concerned, having jurisdiction over the employee or member.

SEC. 838. TULALIP TRIBES, WASHINGTON

The Secretary of the Navy is authorized to provide to the Tulalip Tribes of Washington, $3,400,000 from the authorization for appropriations provided in section 2204(a)(1), to settle tribal claims for loss of access to and displacement from usual and accustomed fishing grounds and stations arising from the construction and operation of the Navy Homeport at Everett, Washington, pursuant to the Memorandum of Agreement dated July 22, 1987, between the United States Navy and the Tulalip Tribes of Washington. Before payment in final settlement of the tribal claims is made, the Navy must obtain from the Tulalip Tribes a release by which the tribes waive any claims against the United States for displacement from the Homeport site while the site is owned by the United States, and for additional displacement resulting from Homeport construction-related activities in Port Gardner to the extent provided by the Memorandum of Agreement. The release will also waive any claims the tribes may have against the United States or any of its successors in interest for loss of access resulting from the permanent structures constructed for the Homeport. Nothing herein shall be construed to diminish in any way the reserved rights of the Tulalip Tribes of Washington, except as provided in the Memorandum of Agreement.

SEC. 839. STARS AND STRIPES CENSORSHIP

The Comptroller General shall conduct a study of allegations of censorship in the Department of Defense newspaper, Stars and Stripes. The report of the Comptroller General shall be transmitted to the Congress not later than 90 days after the date of enactment of this Act and such report shall include the Comptroller General's findings regarding the validity of the allegations and any recommendations concerning those allegations which the Comptroller General believes appropriate.

SEC. 840. SMALL BUSINESS SET-ASIDE PROGRAM

(a) Fair Proportion of Federal Contracts; Award at Fair and Reasonable Prices.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) in paragraph (3), by striking out "in each industry category" and inserting in lieu thereof "of the total awards (utilizing the product and services codes of the Federal Procurement Data System established pursuant to section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))";

(2) by striking out the matter that begins "For purposes of clause (3) of the first sentence of this subsection" up to the last sentence; and

(3) by striking the period, inserting in lieu thereof a comma, and the words "determined on the basis of an evaluation of the prices offered in response to the solicitation by all eligible offerors, by other techniques of price analysis, or by cost analysis for the purpose of establishing that the anticipated contract award price will be fair and reasonable to the Government.".

(b) Small Business Small Purchase Reserve Excluded From Annual Goals.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by inserting "having a value of $25,000 or more" after "procurement contracts of such agency" in the first sentence.

(c) Subcontracting Limitations.—(1) Section 15(o) of the Small Business Act (15 U.S.C. 644(o)) is amended by—

(A) striking out "unless the concern agrees that" in paragraph (1) and inserting in lieu thereof "unless the concern agrees to expend its best efforts so that";

(B) inserting a flush sentence at the end of paragraph (1) as follows:

"Higher percentages of permissible subcontracting may be authorized in an individual contract solicitation by the contracting officer.";

(C) by striking out "in that industry category" in paragraph (2) and inserting in lieu thereof "for that size standard"; and

(D) by striking out all after the phrase "general and specialty construction" in paragraph (3) and inserting in lieu thereof a period.

(2) The amendments made by section 921(c) of the Defense Acquisition Improvement Act of 1986 (Public Law 99-661) shall apply to solicitations issued on or after October 1, 1987.

(d) Repealer.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is repealed.

(e) Conforming Amendments.—Section 8(a)(14) (15 U.S.C. 637(a)(14)) of the Small Business Act is amended—

(1) in subparagraph (A) by striking out "the concern agrees that" and inserting in lieu thereof "the concern agrees to expend its best efforts so that";

(2) in subparagraph (B) by striking out "in that industry category" and all that follows in the subparagraph and inserting in lieu thereof "for that size standard."; and

(3) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The Administration shall establish, through public rulemaking, requirements similar to those established in subparagraph (A) to be applicable to contracts for general and specialty construction.".

(f) Initial Review of Size Standards.—Section 921(h) of the "Defense Acquisition Improvement Act of 1986" (Public Law 99-661) is amended by striking in the last sentence the words "until October 1, 1987" and substituting in lieu thereof the words "prior to March 31, 1988".

(g) Effective Date.—The amendments made by this section shall take effect on October 1, 1987, or the date of the enactment of this Act, whichever is later.

SEC. 841. ANNUAL PLAN ON DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE

(a) In General.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 380. Annual plan on Department of Defense drug law enforcement assistance

"(a)(1) At the same time as the President submits the budget to Congress each year under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress the following:

"(A) A detailed list of all forms of assistance that is to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service, during the fiscal year for which such budget is submitted.

"(B) A detailed plan for lending equipment and rendering drug interdiction-related assistance included on such list during such fiscal year.

"(2) The list required by paragraph (1)(A) shall include a description of the following matters:

"(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

"(B) Communications equipment, including secure communications.

"(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies.

"(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

"(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

"(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

"(b) The Secretary of Defense, not earlier than 30 days and not later than 45 days after the date on which Congress receives a list and plan submitted under subsection (a), shall convene a conference of the heads of all Federal Government law enforcement agencies having jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement

Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies during the fiscal year for which the list and plan are submitted. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

"(c) The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which a conference is convened under subsection (b), the Comptroller General shall transmit to Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is available by adding at the end the following:

"380. Annual plan on Department of Defense drug law enforcement assistance.".

SEC. 842. MILITARY FORCES STATIONED IN EUROPE

The Senate finds that with respect to the level of United States military forces permanently stationed in Europe in fiscal year 1988 and fiscal year 1989:

(a)(1) the agreement in principal between the United States and the Soviet Union to eliminate all intermediate-range nuclear missiles has important implication for the viability of NATO's defense posture;

(2) the presence of United States forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the Alliance;

(3) NATO Defense Ministers stated on May 26–27, 1987 that: "The continued presence of United States forces at existing levels in Europe plays an irreplacable role in the defense of North America as well as Europe";

(b)(1) therefore, it is the sense of the Senate that the number of United States military personnel stationed in Europe play an indispensable role for peace and deterrence and such commitment of forces should be continued at existing levels: Provided, That all existing basing agreements remain in effect; and

(2) furthermore, the actual number of United States forces in Europe at any one time may fall below this level due to administrative fluctuations or determination by the President of other national secu-rity considerations.

SEC. 843. SMALL ICBM AND MX RAIL MOBILE BASING MODE

(a) The Senate finds—

(1) it is essential that our defense priorities be carefully analyzed so as to properly fund the Armed Forces of the United States;

(2) the status of forces of the United States and our allies will become more important if an INF agreement is concluded between the United States and the Soviet Union;

(3) it is both desirable and possible to reduce NATO's reliance on nuclear weapons for the defense of all members of the Alliance if NATO asserts the political will and establishes sound defense priorities;

(4) the United States is currently procuring one land-based intercontinental ballistic missile while developing another such weapon at significant cost;

(5) it is imperative for the economic wellbeing of the United States the Federal deficit be reduced, and our efforts to reduce that deficit will continue to require limits on all discretionary Federal spending including defense spending; and

(6) such restraints on the defense budget are likely to exist for the foreseeable future.

(b) Therefore, it is the sense of the Senate that authorization of funds for research and development of the Small ICBM and the rail-mobile basing mode for the MX ICBM does not constitute a commitment or express an intent to procure and deploy either or both.

SEC. 844. BUDGET SUBMISSIONS RELATING TO SPECIAL ACCESS PROGRAMS

(a) In General.—(1) Each year, the President shall include in the budget submitted to Congress for the Department of Defense under section 1105 of title 31, United States Code, a separate report to the Committees on Armed Services and the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives on each major defense acquisition program in such budget which is designated as a special access program (provided for under Executive Order 12356, dated April 2, 1982, or any successor order).

(2) A report submitted under paragraph (1) in the case of any program shall contain—

(A) a brief description of such program;

(B) a brief discussion of the major milestones established for such program; and

(C) the actual cost of such program for each fiscal year during which the program has been conducted before the fiscal year in which such budget is submitted, the estimated cost of such program for each additional fiscal year during which the program is expected to be conducted, and the estimated total cost of such program.

(b) Form of Report.—A report required by subsection (a) may be submitted in classified or unclassified form.

(c) Waiver Authority.—The Secretary of Defense may waive the requirements of subsection (a) in the case of any program for which the Secretary determines that the disclosure of the existence of such program would adversely affect national security. If the Secretary exercises the waiver authority in this subsection, he shall provide the information required by subsection (a) and the justification for such waiver to the chairman and ranking minority members of the Committees on Armed Services and the Defense subcommittees of the Committees on Appropriations.

(d) Classification Policy.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives, at the same time as the President submits the budget for fiscal year 1989 to Congress under section 1105 of title 31, United States Code, a report containing the policy for classifying reports for the purpose of this section. The policy shall provide for consistent classifications for all such reports, except that such policy may provide for exceptions to the requirement for consistent classification of such reports if such policy contains specific criteria and procedures for determining the exceptions.

(2) After submitting the policy referred to in paragraph (1) as provided in such paragraph, the President shall promptly notify the Committees referred to in such paragraph of any modification or termination of such policy. The notification shall contain the reasons for the modification or termination, as the case may be, and, in the case of a modification, the provisions of the policy as modified.

(e) Definition.—As used in this section, the term "major defense acquisition program" means a Department of Defense acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars), but does not include any program that the Secretary of Defense determines is a program conducted primarily for the purpose of facilitating intelligence-gathering activities, intelligence analysis activities, or counterintelligence activities.

SEC. 845. FORENSIC EXAMINATION OF CERTAIN PHYSIOLOGICAL EVIDENCE

(a) Improvement of Procedures.—(1) The Secretary of Defense shall prescribe procedures that ensure that, whenever, in connection with a criminal investigation conducted by or for a military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used any controlled substance—

(A) such specimen is in a condition that is suitable for forensic examination when delivered to the forensic laboratory; and

(B) the investigative agency which submits the specimen to the laboratory receives the results of the forensic examination in writing within such period as is necessary to present such results in a court-martial or other criminal proceeding resulting from the investigation.

(2) The procedures prescribed under paragraph (1) shall—

(A) ensure that physiological specimens are preserved and transported in accordance with valid medical and forensic practices; and

(B) insofar as is practicable, require transportation of the specimen to an appropriate laboratory by the most expeditious means necessary to carry out the requirement in paragraph (1)(A).

(b) Tests for Use of LSD.—The Secretary of Defense shall ensure that whenever, in connection with a criminal investigation conducted by or for any military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used lysergic acid dyethylamide, such specimen is submitted to a forensic laboratory that is capable of determining with a reasonable degree of scientific certainty, on the basis of the examination of such specimen, whether such individual has used lysergic acid diethylamide.

(c) Nothing in this section shall be construed as providing a basis, that is not otherwise available in law, for a defense to a charge or a motion for exclusion of evidence or other appropriate relief in any criminal proceeding.

(d) Report.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 1988, a report describing the procedures prescribed under subsection (a).

SEC. 846. DEFENSE AGAINST AERIAL THREATS

(a)(1) Since no element of the Armed Forces of the United States currently has the mission to defend the United States from ballistic missiles and other aerial threats;

(2) Since the Joint Chiefs of Staff have established a set of ballistic missile defense requirements as part of the Defense Acquisition Board process;

(3) Since six SDI programs have passed the Milestone I review of the Defense Acquisition Board and have entered the demonstration and validation phase;

(b) Therefore, it is the sense of the Senate that the Secretary of Defense should, not later than 60 days after the date of enactment of this Act, assign to one or more appropriate elements of the Department of Defense the mission—

(1) to defend to the fullest extent possible the United States against all aerial threats, including aircraft, ballistic missiles, cruise missiles, and other types of missiles; and

(2) in the event of war, to provide access to, provide intelligence from, and secure and retain control of space for the military forces of the United States.

SEC. 847. STUDY OF EARLY DECOMMISSIONING OF TWO AIRCRAFT CARRIERS

(a) In General.—The Secretary of Defense shall conduct a comprehensive study that compares—

(1) the current Department of Defense plan to decommission one aircraft carrier when the USS George Washington (CVN73) is commissioned in fiscal year 1992 and decommission a second aircraft carrier when CVN74 is commissioned in fiscal year 1997.

(2) an alternative plan that would decommission one aircraft carrier and deactivate one Navy air wing when the aircraft carrier USS Abraham Lincoln (CVN72) is commissioned in fiscal year 1990 and decommission a second aircraft carrier when the aircraft carrier USS George Washington (CVN73) is commissioned in fiscal year 1992.

(b) Matters To Be Included.—The study shall determine the following implications of adopting the alternative plan for aircraft carrier retirements as compared to the current plan—

(1) the total direct and indirect outlay and budget authority savings in constant fiscal year 1988 dollars through fiscal year 1997;

(2) the effect on naval aircraft requirements through fiscal year 1997 assuming the aircraft from the deactivated wing are reassigned in the active force;

(3) the implications for Navy endstrength requirements through fiscal year 1997;

(4) the effect on requirements for naval surface ship combatants and support ships through fiscal year 1997;

(5) the cost and feasibility of making available to the active naval fleet for operation during a time of national emergency—

(A) an aircraft carrier that is in the Service Life Extension Program (SLEP); and

(B) an aircraft carrier that has been decommissioned, but is still under the jurisdiction of the Navy.

(c) Deadline for Submission.—Not later than November 15, 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study conducted by him pursuant to paragraphs (a) and (b) together with such comments and recommendations as the Secretary considers appropriate.

SEC. 848. STUDIES OF NUCLEAR WARHEAD FOR ATACMS MISSILE

(a) Funds appropriated before, on, or after the date of the enactment of this Act, or otherwise made available to the Department of Defense or to the Department of Energy for any fiscal year may be obligated or expended for studies and analyses of the military utility and cost of a nuclear warhead option for the Army Tactical System (ATACMS).

(b) No funds may be obligated or expended for the purpose of developing, testing, producing, or integrating nuclear warheads for the Army Tactical Missile System (ATACMS) unless—

(1) the Secretary of Defense has certified to the Committees on Armed Services of the Senate and the House of Representatives that the Army Tactical Missile System has achieved an initial operational capability with United States Army units permanently stationed in the Federal Republic of Germany;

(2) such development, testing, production, or integration has been specifically authorized by legislation enacted after the date of the enactment of this Act; and

(3) the Secretary of Defense has submitted to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a comprehensive analysis of the options available to the United States to preserve an adequate theater nuclear capability in Europe in the aftermath of an INF agreement between the United States and the Soviet Union.

SEC. 849. STRATEGIC ARMS REDUCTION TALKS IMPLICATION REPORT

Not later than June 30, 1988, the Secretary of Defense shall provide to Congress a report in both classified and unclassified versions describing:

(1) The quantitative and qualitative implications of the publicly-announced position of the United States at the Strategic Arms Reduction Talks in Geneva for our strategic modernization program. Special, but not exclusive, attention in this report should be paid to the implications for the Trident SSBN program, the rail-garrison Peacekeeper program, and the Small ICBM program.

(2) The advantages and drawbacks of following the recommendations made in the 1983 report of the President's Commission on Strategic Forces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to paragraphs (1) and (2) above on United States force modernization and arms control policy.

SEC. 850. SENSE OF CONGRESS RELATING TO SUPPORT OF MUTUAL DEFENSE ALLIANCES

(a) Findings.—Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends more than $100,000,000,000 annually to provide the defense umbrella for the allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and Japan is not commensurate with their economic resources, and, as a result, the United States is forced to bear a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its GNP on defense.

(5) The greatest weakness in the ability of the United States to provide for the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(6) The level of Federal spending must be reduced in order to reduce the Federal budget deficit and revitalize the economy.

(7) The continued unwillingness of the allies of the United States to increase their contributions to the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) Policy.—It is the sense of Congress that—

(1) the President should enter into negotiations with countries which participate in mutual defense alliances with the United States, especially the member nations of the NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such negotiations with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; and

(3) the President should report to Congress, within one year after the date of the enactment of this Act, on the progress of such negotiations.

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution or the mutual defense burden among our allies and consider whether additional legislation is appropriate.

SEC. 851. IRANIAN MINE-LAYING ACTIVITIES COMMEND ARMED FORCES FOR THWARTING

(a)(1) The Armed Forces of the United States are engaged in escort operations in the Persian Gulf in support of American national security interests and the principle of freedom of navigation;

(2) The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in on-going activities to disrupt shipping in the Persian Gulf;

(3) On September 21-22 a joint operation of United States Army and Naval forces succeeded in detecting in the act, tracking and neutralizing an Iranian mine-laying activity;

(4) The success of that joint operation, by serving notice on Iran that the United States will react decisively and effectively to such activity, may lead to a reduced risk to American interests and armed forces from such activity;

(5) There is precedent throughout American history for Congress to recognize and commend similar operations by United States Armed Forces, including the action of the Congress February 3, 1801, in praising "the gallant conduct" of the members of a United States Naval force in the Wars with the Barbary Powers.

(b) Therefore, it is the sense of the Senate of the United States that:

(1) The members of the United States Armed Forces who participated in the September 21-22 operation acted in the finest traditions of the Armed Forces, and displayed exemplary professionalism, skill and dedication.

(2) The aforementioned members of the Armed Forces, and all United States Armed Forces personnel who supported their operation, are commended for their participation in this important and successful endeavor.

SEC. 852. REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE

(a) In General.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s, including a specific discussion concerning this issue in the event the United States and the Soviet Union agree to a treaty which requires reduction or elimination of types of delivery systems or reductions in the numbers of nuclear weapons deployed in Western Europe.

(b) Form and Content of Report.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems not limited by the proposed treaty which the Secretary of Defense recommends for deployment in the European theater under the terms of an arms control agreement likely to be agreed to by the United States and the Soviet Union.

(2) A description of any nuclear modernization program the Secretary of Defense has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the impact that a reduction in the number of nuclear warheads deployed by NATO in Western Europe will likely have on NATO's ability to maintain an effective flexible response strategy and credible deterrence.

(4) A discussion of any plans for redeployment in peacetime to Western Europe, in the event an agreement referred to in subsection (a) is successfully concluded, of nuclear forces of the United States that are currently deployed outside Western Europe.

(5) A discussion of the balance of non-nuclear forces in the NATO theater and the potential impact of an agreement limiting non-nuclear forces on that balance.

(6) A discussion of the feasibility of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(7) A discussion of all feasible candidate nuclear weapons delivery systems that might be deployed by NATO, including all delivery systems currently in the inventories of the United States and NATO and any new systems that may become available during the time period covered by the reports required by subsection (a).

(8) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme Allied Commander, Europe (SACEUR) on the issues in items (1) through (6) above.

(c) Deadline for Report.—The report required by subsection (A) shall be submitted—

(1) not later than 90 days after the date of enactment of this Act; or

(2) not later than the date on which the President submits to the Senate for its advice and consent an arms control treaty limiting deployment of intermediate-range nuclear forces (INF) in Western Europe, whichever date is earlier.

SEC. 853. REPORT ON M1A1 TANK

(a) In General.—The Secretary of Defense shall submit to Congress a detailed report on any actual or proposed plans of the Department of Defense regarding the sale, coproduction, or co-assembly of the M1 or M1A1 Abrams tank. The Secretary shall specifically include in such report the following:

(1) Whether the Secretary of Defense has entered into or proposes to enter into negotiations with any foreign country for the sale of the M1 or M1A1 Abrams tank to such foreign country.

(2) The nature and extent of any negotiations by the Secretary of Defense with any foreign country regarding the co-production or co-assembly of such tank by the United States and such country.

(3) The possible consequences of the sale of such tank to a foreign country and of an agreement for the co-production or co-assembly of such tank by the United States and a foreign country.

(4) A comparison of the effects on United States industry and labor of a direct sale of such tank to a foreign country with the production of such tank under a co-production or co-assembly arrangement with a foreign country.

(5) The impact that the sale of such tank to a foreign country or an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States in view of the sensitive nature of the high technology involved in the production of such tank.

(b) Deadline for Report.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) Nature of Report.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

(d) Condition on Authority of Secretary.—The Secretary may not enter into any agreement with any foreign country regarding the sale, co-production, or co-assembly of the M1 or M1A1 Abrams or any variant of such tank until the report required by this section has been received by Congress.

SEC. 854. NUCLEAR RISK REDUCTION CENTERS

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust by both sides and lead to expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis management and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

SEC. 855. TRADE WITH VIETNAM

(a) Findings.—The Congress finds that—

(1) 140,000 Vietnamese troops invaded Cambodia in early 1978;

(2) for the past 9 years, the vast majority of Western powers have pledged to maintain embargoes or developmental aid to Vietnam until these troops are removed;

(3) Japan initially participated in this embargo, freezing some $135,000,000 in grants and concessionary loans, and reducing trade levels from $220,000,000 in 1978 to $120,000,000 the following year;

(4) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a present day trade level of $230,000,000, and this includes developmental trade;

(5) the Japanese Government has consistently refused to discourage private investment by its private business sector which initiates this trade;

(6) Vietnam's 65 million people are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) In General.—The Congress hereby—

(1) renews its condemnation of the continued Vietnamese occupation of the sovereign state of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law, and the Congress reconfirms its call for Vietnam to withdraw from Cambodia for only in this way can Vietnam expect to end its self induced economic isolation, and

(2) strongly urges the government of Japan to—

(A) prevent its private business sector from engaging in developmental trade with the Socialist Republic of Vietnam, and

(B) discontinue specific Japanese trading practices with Vietnam which provide long-term credits and developmental equipment, including equipment for—

(i) oil and exploration development,

(ii) forestry and fishery production,

(iii) development of commodities for light industries, and

(iv) the upgrading of production capacities for export purposes.

SEC. 856. PROHIBIT IMPORTS FROM IRAN

Findings.—The Congress finds that—

(a) The actions of Iran in continuing mine-laying activities, launching Silkworm missiles against Kuwait and refusing to accept the United Nations-proposed cease-fire in the Iran-Iraq war are totally unwarranted and increase tension and the danger of a widening war in the Persian Gulf.

(b) In recent years, the United States, on annual average, has imported approximately $500,000,000 to $600,000,000 worth of products of Iran.

(c) The provision of this hard currency to Iran increases its ability to procure mines, Silkworm missiles and other armaments from foreign sources, thereby increasing its ability to sustain and escalate its war with Iraq and other irresponsible actions, such as mine-laying.

(d) A formal policy of neutrality does not require the United States to ignore, or fail to respond to, provocations from either side in the Iran-Iraq war; nor to surrender the flexibilty to shape our conduct in response to the policies and conduct of the belligerents in that war.

(e) In light of Iranian policy and actions in the Iran-Iraq war and in the Persian Gulf, it is not in the best interest of the United States to practice "business as usual" with Iran.

(f) As the provisions of the Algiers Accord make clear, Iran has no legal grounds to respond to any action by the United States, including the imposition of a prohibition on the import into the United States of the

products of Iran, in the claims settlement process established under the Accord.

SEC. 857. PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN

(a) Effective upon the date of enactment of this section, the import into the United States of all products of Iran is prohibited.

(b) For the purposes of this section, the term "products of Iran" means an article grown, mined, produced or manufactured (in whole or in part) in Iran.

(c) The President shall direct the appropriate agencies of the Federal Government to establish such regulations and procedures as are necessary to implement subsection (a).

SEC. 858. WAIVER OF PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN.

(a) Should the President determine that it is not in the overall interest of the United States to prohibit the import into the United States of products of Iran, he may delay the implementation of the prohibition for up to 180 days following enactment of this section.

(b) Should the President, under the authority of subsection (a), delay implementation of the prohibition for any period up to the 180-day limit, he shall submit to the Congress a written report, explaining the reasons for that decision, including specifying how the national interest would be jeopardized by implementing the prohibition.

(c) Should the President decide to delay implementation of the prohibition through the procedure outlined in subsection (b) for the full 180 days, the prohibition shall go into effect on the 181st day following enactment of this section, unless the Congress, by joint resolution, extends the 180-day period.

SEC. 859. AMENDMENTS RELATED TO THE ENACTMENT OF THE GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986

(a) Amendments to Public Law 99-433.—(1) The table contained in section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 995) is amended by striking out "chapter 3" above the right hand column and inserting in lieu thereof "chapter 144".

(2) Section 202(b)(2) of such Act (100 Stat. 1011) is amended by inserting "the first place it appears" immediately before the semicolon.

(3) Section 532(c)(1) of such Act (100 Stat. 1063) is amended by striking out "section" and inserting in lieu thereof "sections".

(4) Section 602(e)(3)(B) of such Act (100 Stat. 1067) is amended by striking out "and strength" and inserting in lieu thereof "end strength".

(b) Amendments to Title 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 152 is amended by striking out the section heading and inserting in lieu thereof the following:

"§ 152. Chairman: appointment; grade and rank".

(B) The table of sections at the beginning of chapter 5 is amended by striking out the item relating to section 152 and inserting in lieu thereof the following:

"152. Chairman: appointment; grade and rank.".

(2) Section 155 is amended—

(A) in subsection (f)(4)(B), by inserting "or Congress" after "the President"; and

(B) in subsection (g)(2), by inserting "the President or" after "declared by".

(3) Section 194(e)(2) is amended by inserting "the President or" after "declared by".

*(4)(A) The heading for section 743 is amended by adding at the end "**; Commandant of the Marine Corps**".*

(B) The table of sections at the beginning of chapter 43 is amended by inserting "; Commandant of the Marine Corps" after "Air Force" in the item relating to section 743.

(5) Section 1406(i) is amended—

(A) by inserting "And Vice Chairmen" after "Chairmen" in the subsection heading; and

(B) by inserting "or Vice Chairman" after "Chairman" in paragraph (1).

(6) Sections 3014(f)(4), 5014(f)(4), and 8014(f)(4) are each amended by inserting "the President or" after "declared by".

(7) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5898 and inserting in lieu thereof the following:

"5898. Action on reports of selection boards.".

(8) Section 8062(e) is amended by striking out "section 114" and inserting in lieu thereof "section 115".

(c) Amendments To Title 37.—(1) Section 413 of title 37, United States Code, is amended to read as follows:

"§ 413. Chairman and Vice Chairman of the Joint Chiefs of Staff

"The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 413 and inserting in lieu thereof the following:

"413. Chairman and Vice Chairman of the Joint Chiefs of Staff.".

(d) Miscellaneous Amendments.—Footnote 2 in the table in section 411(a) of title 38, United States Code, is amended by inserting "or Vice Chairman" after "Chairman".

(2) Section 1344(b)(4) of title 31, United States Code, is amended by inserting "the members and Vice Chairman of" before "the Joint Chiefs of Staff".

(3) Footnote 2 of the table entitled "COMMISSIONED OFFICERS" in section 101(b)(1) of the Uniformed Services Pay Act of 1981 (37 U.S.C. 1009 note) is amended by inserting "or Vice Chairman" after "Chairman".

(4) Section 1302(b)(3) of the Department of Defense Authorization Act, 1986 (37 U.S.C. 431 note), is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

(e) Effective Dates.—(1) The amendments made by subsection (a) shall apply as if included in the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

(2) The amendments made by subsections (c)(1), (d)(3), and (d)(4) shall take effect as of October 1, 1986.

SEC. 860. TECHNICAL AND CLERICAL AMENDMENTS

(a) Amendments to Title 10.—Title 10, United States Code, is amended as follows:

(1) Section 101(14) is amended by inserting "a" after "means"

(2) Section 179 is amended by realigning subsection (e) so as to appear flush to the left margin.

(3) The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 423 and inserting in lieu thereof the following:

"423. Authority to use proceeds from counterintelligence operations of the military departments.".

(4) The table of sections at the beginning of chapter 39 is amended by transferring the item relating to section 686 from the end of such table to appear immediately below the item relating to section 685.

(5) Section 1102(c)(2) is amended by striking out ", United States Code" in the second sentence.

(6) Section 2321 is amended—

(A) in subsection (d)(4)(A), by striking out "paragraph" and inserting in lieu thereof "subsection"; and

(B) in subsection (i), by inserting "or subcontractor" after "contractor".

(7) Section 2322(b) is amended by inserting a period at the end.

(8) Section 2327(d) is amended by inserting "(1)" after "Applicability.—".

(9) The heading of section 2342 is amended by inserting a hyphen between the first and second words.

(10)(A) Section 2364 is amended by striking out "milestone O, I, and II decisions" in subsection (b)(5) and inserting in lieu thereof "milestone O, milestone I, and milestone II decisions".

(B) The heading of such section is amended by revising the fifth word so that the first letter is lower case.

(C) The item relating to that section in the table of sections at the beginning of chapter 139 is amended to conform to the amendment made by subparagraph (B).

(11) Section 2366(e)(1)(B) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(12) The item relating to section 2367 in the table of sections at the beginning of chapter 139 is amended so that the initial letter of the third word is lower case.

(13) Section 2406(f)(2)(A) is amended by inserting "section" after "is defined in".

(14) Section 2436(c)(5) is amended by inserting "law," after "auditing,".

(15) Section 2801(c)(3) is amended by striking out "defense agencies" and inserting in lieu thereof "Defense Agencies".

(16) Section 3723 is amended by striking out the comma after "disease".

(17) Sections 801, 1447, 2005(e), 2101, 2147(d), 2393(c), 2687(e), and 9511 are amended—

(A) by inserting "The term" in each paragraph (other than paragraph (2) of section 801) after the paragraph designation; and

(B) by revising the first word after the first quotation marks in each paragraph (other than paragraph (2) of section 801, paragraph (1) of section 1447, and paragraphs (7) and (11) of section 9511) so that the initial letter of such word is lower case.

(18)(A) Sections 1089(g), 2002(b), 2141(c), 2143(c), and 2145(b) are amended by inserting "the term" after "In this section,".

(B) Section 2356(b) is amended by inserting ", the term" after "In this section".

(19)(A) Sections 3251 and 8251 are amended by inserting ", the term" after "In this chapter".

(B) Sections 4801, 8368(a), and 9801 are amended by inserting "the term" after "In this chapter,".

(20) Section 101(20) is amended by striking out " 'Rate" at the beginning of the second sentence and inserting in lieu thereof "The term 'rate".

(b) Amendments to Title 37.—Section 303(2) of title 37, United States Code, is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon; and

(2) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; or".

(c) AMENDMENTS TO PUBLIC LAW 100-26.—Public Law 100-26 is amended—

(1) in section 7(b)(3)(A), by inserting "in subsection (a)," before "by";

(2) in section 7(k)(1)(C), by inserting "(2)" after "paragraphs (1),"; and

(3) in section 8(d)(7), by striking out "Section 406" and inserting in lieu thereof "Section 406b".

(d) MISCELLANEOUS AMENDMENT.—Section 956(b)(1) of the Defense Acquisition Improvement Act of 1986 (as contained in title IX of Public Law 99-661 and in title X of section 101(c) of Public Laws 99-500 and 99-591) is amended by inserting "the first place it appears" before the semicolon.

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (c) shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100-26).

(2) The amendment made by subsection (d) shall apply as if included in the enactment of Public Laws 99-500, 99-591, and 99-661.

SEC. 861. ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY AND CHAIRMAN OF NUCLEAR WEAPONS COUNCIL

(a) STATUTORY ESTABLISHMENT OF POSITION OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 141. Assistant to the Secretary of Defense for Atomic Energy

"(a) There is an Assistant to the Secretary of Defense for Atomic Energy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Assistant to the Secretary shall advise the Secretary of Defense and the Joint Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy."

(b) EXCEPTION TO SENATE CONFIRMATION.—The person serving as Chairman of the Military Liaison Committee, Department of Defense, under section 27 of the Atomic Energy Act of 1946 (42 U.S.C. 2037) on October 16, 1986, may be appointed as the Assistant to the Secretary of Defense for Atomic Energy under section 141 of title 10, United States Code (as added by subsection (a)), without the advice and consent of the Senate.

(c) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy, Department of Defense".

SEC. 862. STATE DEPARTMENT FREEDOM OF EXPRESSION

(a) SHORT TITLE.—This section may be cited as the "United States Department of State Freedom of Expression Act of 1987".

(b) FINDING.—Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) PROHIBITION.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

SEC. 862. TECHNICAL AND CONFORMING AMENDMENTS

(a) AMENDMENTS TO TITLE 10.—(1) Section 113(g)(1) of title 10, United States Code, is amended by inserting "or, in the case of biennial budgets, biennially," after "annually".

(2)(A) Section 152 of such title is amended by striking out the section heading and inserting in lieu thereof the following:

SEC. 863. REPORT ON ELIMINATION OF BALLISTIC MISSILES

(a) Not later than 30 days after the date of enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives examining the military consequences of any arms control agreement that would provide for the elimination of all United States and Soviet strategic ballistic missiles.

(b) Such report shall be submitted in classified and unclassified form and shall include a discussion of the strategic, budgetary and force structure implications of this proposal for:

(1) United States and allied conventional defenses in Europe, the Far East and other regions vital to United States national security;

(2) United States tactical nuclear deterrence in such areas;

(3) United States strategic offensive retaliatory systems not affected by this proposal, including United States bomber forces and cruise missiles;

(4) United States air defenses needed to counter Soviet bomber forces and cruise missiles;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) Any new programs which may be deemed necessary to maintain the position of the United States in light of the relative advantage conferred by this proposal on other nuclear powers, including the Peoples Republic of China, whose strategic ballistic missiles would not be limited.

SEC. 864. SALT II COMPLIANCE AMENDMENT

Notwithstanding any other provision of law, the United States shall not be obligated to abide by the provisions of the SALT II Treaty, in whole or in part, unless and until the following have occurred:

(a) The Senate has amended the Treaty so as to give it legal force if it were ratified;

(b) The Senate has given its advice and consent to the Treaty;

(c) The Union of Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned; and

(d) Each party has ratified the Treaty in accordance with its own constitutional processes.

SEC. 865. LIMITATION ON DEPLOYMENT OF CERTAIN STRATEGIC NUCLEAR WEAPONS

(a) SHORT TITLE.—This section may be cited as the "Strategic Nuclear Weapons Interim Restraint Act".

(b) LIMITATION ON OBLIGATION OF FUNDS.—Notwithstanding any other provision of law and subject to subsection (c), none of the funds appropriated pursuant to this or any other Act to or for the use of any department or agency of the Federal Government may be obligated or expended before September 30, 1988, to overhaul, maintain, operate, or deploy more than—

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(c) EXCEPTIONS.—(1) The limitation on the obligation and expenditure of funds in subsection (b) shall not apply if at any time more than 29 days after the date of enactment of this Act the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a). If the President makes such a determination, he shall submit to Congress a report that includes the information on which such determination was based. Such report shall be submitted in both classified and unclassified form.

(2) If at any time more than 29 days after the date of the enactment of this Act the President notifies Congress in writing that, based on the best agreed Intelligence Community assessments, he is unable to make a certification under paragraph (1) or to make a certification that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a), the limitation on the obligation and expenditure of funds in subsection (a) shall not apply for a period of 29 days after the date on which the notification is received by Congress.

(d) NOTIFICATION OF PLANS FOR COMPLIANCE.—Not more than 29 days after the date on which the President determines that funds are prohibited from being obligated or expended for the overhaul, maintenance, operation, or deployment of strategic offensive nuclear weapons in excess of the numbers specified in subsection (b), the President shall notify Congress of his plans for actions to comply with the limitations specified in subsection (b).

(e) NEW AGREEMENT.—If a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988, the restriction on the obligation and expenditure of funds in subsection (b) shall cease to apply.

(f) DEFINITIONS.—For purposes of this section:

(1) The terms "launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicle" and "submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles" means launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles.

(2) The term "air launched cruise missiles" means unmanned, self propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act, 1988 and 1989".

TITLE I—ARMY

PART A—FISCAL YEAR 1988

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $49,790,000.

Fort Campbell, Kentucky, $12,410,000.

Fort Carson, Colorado, $2,050,000.

Fort Devens, Massachusetts, $1,840,000.

Fort Greely, Alaska, $6,400,000.

Fort Hood, Texas, $11,500,000.

Fort Hunter, Liggett, California, $1,000,000.

Fort Irwin, California, $4,450,000.

Fort Lewis, Washington, $960,000.

Fort McCoy, Wisconsin, $720,000.

Fort Ord, California, $6,890,000.

Fort Pickett, Virginia, $390,000.

Fort Polk, Louisiana, $490,000.

Fort Riley, Kansas, $4,850,000.

Fort Sam Houston, Texas, $3,300,000.

Fort Stewart, Georgia, $13,570,000.

Fort Wainwright, Alaska, $69,970,000.

Presidio of San Francisco, California, $1,550,000.

UNITED STATES ARMY WESTERN COMMAND

Aliamanu Military Reservation, Hawaii, $5,000,000.

Hawaii Various, $12,300,000.

Schofield Barracks, Hawaii, $33,900,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $15,610,000.

Fort Benjamin Harrison, Indiana, $6,900,000.

Fort Benning, Georgia, $11,700,000.

Fort Bliss, Texas, $1,240,000.

Fort Dix, New Jersey, $1,650,000.

Fort Hamilton, New York, $960,000.

Fort Knox, Kentucky, $3,400,000.

Fort Lee, Virginia, $14,350,000.

Fort Leonard Wood, Missouri, $4,600,000.

Fort McClellan, Alabama, $4,700,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $400,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $1,460,000.

Anniston Army Depot, Alabama, $2,100,000.

Army Materials Technology Laboratory, Watertown, Massachusetts, $15,000,000.

Corpus Christi Army Depot, Texas, $2,950,000.

Dugway Proving Ground, Utah, $9,200,000.

Fort Wingate, New Mexico, $370,000.

Hawthorne Army Ammunition Plant, Nevada, $6,500,000.

Letterkenny Army Depot, Pennsylvania, $2,000,000.

Lexington-Blue Grass Depot Activity, Kentucky, $570,000.

Navajo Depot Activity, Arizona, $4,000,000.

Pine Bluff Arsenal, Arkansas, $2,000,000.

Pueblo Depot Activity, Colorado, $620,000.

Red River Army Depot, Texas, $7,950,000.

Redstone Arsenal, Alabama, $21,000,000.

Seneca Army Depot, New York, $1,250,000.

Sierra Army Depot, California, $2,600,000.

Tooele Army Depot, Utah, $6,700,000.

Umatilla Depot Activity, Oregon, $1,050,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $2,170,000.

Fort Ritchie, Maryland, $16,500,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, New York, $11,400,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $3,800,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New Jersey, $2,010,000.

Sunny Point Military Ocean Terminal, North Carolina, $2,190,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Japan, Various, $11,250,000.

EIGHTH UNITED STATES ARMY

Camp Casey, Korea, $28,000,000.

Camp Castle, Korea, $3,200,000.

Camp Hovey, Korea, $11,800,000.

Camp Howze, Korea, $4,150,000.

Camp Jackson, Korea, $4,350,000.

Camp Kyle, Korea, $2,750,000.

Camp Market, Korea, $2,200,000.

Camp Mercer, Korea, $720,000.

Camp Nimble, Korea, $2,200,000.

Camp Page, Korea, $5,900,000.

Camp Red Cloud, Korea, $8,500,000.

Korea, Various, $4,850,000.

Yongsan, Korea, $3,750,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Kwajalein, $26,560,000.

UNITED STATES ARMY FORCES COMMAND, OVERSEAS

Honduras, $4,150,000.

Panama, $6,700,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Bad Kreuznach, Germany, $10,200,000.

Baumholder, Germany, $10,800,000.

Einsiedlerhof, Germany, $5,900,000.

Giessen, Germany, $7,350,000.

Grafenwoehr, Germany, $5,700,000.

Hanau, Germany, $1,300,000.

Hohenfels, Germany, $15,500,000.

Mainz, Germany, $1,100,000.

Manheim, Germany, $14,400,000.

Rheinberg, Germany, $23,350,000.

Schweinfurt, Germany, $9,500,000.

Stuttgart, Germany, $12,400,000.

Various, Germany, $19,500,000.

Vilseck, Germany, $81,750,000.

Weisbaden, Germany, $22,450,000.

Wildflecken, Germany, $16,100,000.

Zweibruecken, Germany, $1,900,000.

SEC. 2102. FAMILY HOUSING

The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Rucker, Alabama, seven manufactured home spaces, $110,000.

Fort Wainwright, Alaska, one hundred and fifty units, $29,000,000.

Fort Irwin, California, two hundred and twenty-five units, $24,000,000.

Fort Ord, California, two hundred and eleven units, $19,000,000.

Bamberg, Germany, one hundred and six units, $11,200,000.

Baumholder, Germany, one hundred and fifty-two units, $12,600,000.

Various Locations, Germany, two hundred and twenty-eight units, funded under section 2103.

Vilseck, Germany, one hundred and eighty-eight units, $17,000,000.

Helemano, Hawaii, two hundred units, $21,000,000.

Pearl City, Hawaii, sixty units, $6,700,000.

Schofield Barracks, Hawaii, one hundred units, $11,200,000.

Fort Polk, Louisiana, three hundred and fifty units, $27,000,000.

Kwajalein, Marshall Islands, two hundred and forty-eight units, $41,000,000.

Fort Clayton, Panama, four hundred units, $21,000,000.

Fort Hood, Texas, one hundred and fifty units, $9,400,000.

Fort Eustis, Virginia, thirty-two manufactured home spaces, $480,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve existing military family housing units in an amount not to exceed $141,886,000, of which $9,223,000 is available only for energy conservation projects.

SEC. 2104. NEW CUMBERLAND ARMY DEPOT, PENNSYLVANIA

Section 101(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended by increasing the authorization for United States Army Materiel Command, New Cumberland Army Depot, Pennsylvania, from $88,000,000 to $90,000,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,676,639,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $438,230.000.

(2) For military construction projects outside the United States authorized by section 2101(b), $390,230,000.

(3) For military construction projects inside the United States authorized by section 101 of the Military Construction Authorization Act, 1986, $32,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,600,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $128,120,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $414,476,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,255,183,000, of which not more than $36,734,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $143,396,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and,

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,800,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States

Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4019), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4020), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(3) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(4) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(5) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 981), authorizations for the following projects authorized in sections 101 and 102 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Military personnel administration center in the amount of $2,650,000 at Presidio of Monterey, California.

(2) Family housing, new construction, fifty manufactured home spaces in the amount of $712,000 at Fort Carson, Colorado.

(3) Ammunition storage in the amount of $850,000 at Amberg, Germany.

(4) Boiler plant automation in the amount of $6,000,000 at Bamberg, Germany.

(5) Tactical equipment shop in the amount of $3,350,000 at Hanau, Germany.

(6) Military operations on urbanized terrain in the amount of $3,250,000 at Hohenfels, Germany.

(7) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(8) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(9) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(10) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(11) Upgrade multi-purpose building in the amount of $800,000 at Elefsis, Greece.

(12) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(13) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(14) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(15) Family housing, new construction, fifty manufactured home spaces in the amount of $700,000 at Fort Riley, Kansas.

(16) Family housing, new construction, fifty manufactured home spaces in the amount of $689,000 at Fort Campbell, Kentucky.

(17) Unaccompanied personnel housing complex in the amount of $2,550,000 at Yongin, Korea.

(18) Water pollution abatement in the amount of $770,000 at Army Materials and Mechanics Research Center, Massachusetts.

(19) Family housing, new construction, twenty manufactured home spaces in the amount of $317,000 at Fort Devens, Massachusetts.

(20) Family housing, new construction, fifty manufactured home spaces in the amount of $637,000 at Fort Bragg, North Carolina.

(21) Family housing, new construction, twenty-four manufactured home spaces in the amount of $351,000 at Dugway Proving Ground, Utah.

(22) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(23) Army Aviation Museum in the amount of $2,500,000 at Fort Rucker, Alabama.

PART B—FISCAL YEAR 1989

SEC. 2121. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects at Fort Wainwright, Alaska, in the amount of $39,700,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Rheinberg, Germany, $5,800,000

Vilseck, Germany, $33,390,000

SEC. 2122. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve existing military family housing units in an amount not to exceed $145,968,000 of which $1,916,000 is available only for energy conservation projects.

SEC. 2123. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,760,859,000 as follows:

(1) For military construction projects inside the United States authorized by section 2121(a), $39,700,000.

(2) For military construction projects outside the United States authorized by section 2121(b), $39,190,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $126,710,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $165,968,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,371,091,000, of which not more than $48,458,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $150,111,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART B.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2123 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE II—NAVY

PART A—FISCAL YEAR 1988

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property, may carry out military construction projects, and may construct, improve, rehabilitate, and operate and maintain historic facilities in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Albany, Georgia, $1,530,000.

Marine Corps Logistics Base, Barstow, California, $3,230,000.

Marine Corps Base, Camp Lejeune, North Carolina, $31,860,000.

Marine Corps Air Station, Camp Pendleton, California, $5,810,000.

Marine Corps Base, Camp Pendleton, California, $56,320,000.

Marine Corps Air Station, Cherry Point, North Carolina, $29,400,000.

Marine Corps Air Station, El Toro, California, $3,160,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $35,200,000.

Marine Corps Air Station, New River, North Carolina, $6,530,000.

Marine Corps Development and Education Command, Quantico, Virginia, $4,900,000.

Marine Corps Air Station, Tustin, California, $5,110,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $32,700,000.

Marine Corps Air Station, Yuma, Arizona, $9,280,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Weapons Center, China Lake, California, $850,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $30,620,000.

Naval Underwater Systems Center, New London, Connecticut, $11,230,000.

Naval Underwater System Center, Newport, Rhode Island, $750,000.

Naval Coastal Systems Center, Panama City, Florida, $5,400,000.

Naval Air Development Center, Warminster, Pennsylvania, $300,000.

CHIEF OF NAVAL OPERATIONS

Naval Space Surveillance Field Station, Hawkinsville, Georgia, $2,890,000.

Naval Forces Central Command, Pearl Harbor, Hawaii, $2,260,000.

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $11,800,000.

Commandant, Naval District, Washington, District of Columbia, $42,700,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $37,000,000.

Naval Station, Ingleside, Texas, $88,800,000.

Naval Air Station, Jacksonville, Florida, $4,630,000.

Naval Air Station, Key West, Florida, $15,580,000.

Naval Station, Lake Charles, Louisiana, $15,300,000.

Naval Amphibious Base, Little Creek, Virginia, $23,320,000.

Naval Station, Mayport, Florida, $1,480,000.

Naval Tactical Interoperability Support Activity, Detachment Six, Mayport, Florida, $500,000.

Naval Station, Mobile, Alabama, $40,700,000.

Naval Submarine Base, New London, Connecticut, $2,900,000.

Naval Station, Charleston, South Carolina, $1,400,000.

Naval Station, New York, New York, $32,900,000.

Naval Air Station, Norfolk, Virginia, $4,970,000.

Naval Air Station, Oceana, Virginia, $9,540,000.

Naval Station, Pascagoula, Mississippi, $42,100,000.

Naval Air Station, Pensacola, Florida, $28,200,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $76,200,000.

Naval Air Station, Alameda, California, $11,400,000.

Naval Submarine Base, Bangor, Washington, $5,070,000.

Naval Amphibious Base, Coronado, California, $2,760,000.

Naval Station, Everett, Washington, $30,800,000.

Naval Air Station, Lemoore, California, $2,560,000.

Naval Station, Long Beach, California, $5,120,000.

Naval Magazine, Lualualei, Hawaii, $5,310,000.

Naval Air Station, Miramar, California, $6,500,000.

Naval Air Station, North Island, California, $25,270,000.

Commander, Oceanographic System, Pacific, Pearl Harbor, Hawaii, $1,280,000.

Fleet Intelligence Center, Pacific, Pearl Harbor, Hawaii, $13,097,000.

Naval Station, Pearl Harbor, Hawaii, $430,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $7,180,000.

Naval Station, San Diego, California, $36,680,000.

Naval Submarine Base, San Diego, California, $8,160,000.

Naval Station, Treasure Island, San Francisco, California, $29,150,000.

Naval Air Station, Whidbey Island, Washington, $12,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Surface Warfare Officers School Command Detachment, Coronado, California, $4,130,000.

Naval Air Station, Corpus Christi, Texas, $1,180,000.

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $450,000.

Naval Guided Missiles School, Dam Neck, Virginia, $550,000.

Naval Training Center, Great Lakes, Illinois, $6,910,000.

Naval Air Station, Kingsville, Texas, $850,000.

Naval Technical Training Center Detachment, Lackland Air Force Base, Texas, $16,300,000.

Naval Air Station, Memphis, Tennessee, $11,220,000.

Naval Education and Training Center, Newport, Rhode Island, $3,640,000.

Naval Training Center, Orlando, Florida, $12,400,000.

Naval Technical Training Center, Pensacola, Florida, $8,170,000.

Naval Civil Engineer Corps Officers School, Port Hueneme, California, $7,200,000.

Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California, $5,020,000.

Naval Training Center, San Diego, California, $3,150,000.

Submarine Training Facility, San Diego, California, $4,630,000.

Naval Technical Training Center, San Francisco, California, $10,100,000.

NAVAL MEDICAL COMMAND

Naval Hospital Branch, Adak, Alaska $700,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Oceanography Command, Bay St. Louis, Mississippi, $1,600,000.

Naval Eastern Oceanography Center, Norfolk, Virginia, $600,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, $8,400,000.

Naval Communication Station, Stockton, California, $2,800,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $2,860,000.

Naval Security Group Activity, Northwest, Chesapeake, Virginia, $4,530,000.

Naval Security Station, Washington, District of Columbia, $3,000,000.

Naval Security Group Activity, Winter Harbor, Maine, $1,550,000.

NAVAL INTELLIGENCE COMMAND

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $5,070,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Charleston, South Carolina, $8,170,000.

Naval Supply Center, Jacksonville, Florida, $4,720,000.

Navy Clothing and Textile Research Facility, Natick, Massachusetts, $1,870,000.

Naval Supply Center, Norfolk, Virginia, $7,210,000.

Naval Supply Center, Pearl Harbor, Hawaii, $4,080,000.

Naval Supply Center, Pensacola, Florida, $1,000,000.

NAVAL AIR SYSTEMS COMMAND

Naval Air Rework Facility, Alameda, California, $16,000,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $500,000.

Naval Air Rework Facility, Jacksonville, Florida, $5,000,000.

Naval Air Test Center, Patuxent River, Maryland, $6,500,000.

Pacific Missile Test Center, Point Mugu, California, $650,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $10,450,000.

Navy Public Works Center, Norfolk, Virginia, $6,100,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $11,203,000.

Navy Public Works Center, Pensacola, Florida, $4,150,000.

Naval Construction Battalion Center, Port Hueneme, California, $12,570,000.

Navy Public Works Center, San Diego, California, $10,520,000.

Various Locations, Historic Properties, $6,800,000.

Various Locations, Land Acquisition, $23,800,000.

NAVAL SEA SYSTEMS COMMAND

Naval Weapons Station, Charleston, South Carolina, $1,670,000.

Naval Weapons Station, Concord, California, $4,640,000.

Naval Weapons Support Center, Crane, Indiana, $8,290,000.

Naval Weapons Station, Earle, New Jersey, $41,640,000.

Naval Ordnance Station, Indian Head, Maryland, $6,860,000.

Naval Undersea Warfare Engineering Station, Keyport, Washington, $18,170,000.

Naval Weapons Station, Seal Beach, California, $23,940,000.

Mare Island Naval Shipyard, Vallejo, California, $4,040,000.

Naval Weapons Station, Yorktown, Virginia, $30,850,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $4,000,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $95,025,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $6,300,000.

Marine Corps Air Station, Futenma, Okinawa, Japan, $1,000,000.

Marine Corps Air Station, Iwakuni, Japan, $1,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Support Facility, Antigua, West Indies, $3,250,000.

Naval Facility, Argentia, Newfoundland, $400,000.

Naval Air Station, Bermuda, $3,150,000.

Naval Facility, Brawdy Wales, United Kingdom, $850,000.

Naval Station, Guantanamo Bay, Cuba, $917,000.

Naval Air Station, Guantanamo Bay, Cuba, $1,770,000.

Naval Air Station, Keflavik, Iceland, $17,170,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $2,020,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Mobile Construction Battalion, Camp Covington, Guam, $14,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $14,290,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $1,000,000.

Naval Facility, Guam, $650,000.

Naval Magazine, Guam, $10,800,000.

Naval Supply Depot, Guam, $5,700,000.

Naval Ship Repair Facility, Guam, $13,560,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Activities, London, United Kingdom, $600,000.

Naval Support Activity, Naples, Italy, $750,000.

Naval Air Station, Sigonella, Italy, $2,460,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Mediterranean, Naples, Italy, $5,300,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $4,970,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $400,000.

Naval Security Group Activity, Terceira Island, Azores, $700,000.

Naval Security Group Activity, Galeta Island, Panama, $1,000,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $2,360,000.

Navy Public Works Center, Subic Bay, Republic of the Philippines, $7,680,000.

SEC. 2202. FAMILY HOUSING

The Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, three hundred units, $27,840,000.

Navy Public Works Center, San Francisco, California, four hundred and forty-four units, $38,380,000.

Nuclear Power Training Unit, Ballston Spa, New York, one hundred units, $8,810,000.

Naval Station, New York, New York, one hundred and twenty-five units, $13,490,000.

Marine Corps Base, Camp Pendleton, California, two hundred units, $17,760,000.

Marine Corps Air Station, El Toro, California, one hundred units, $8,660,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $11,530,000.

Marine Corps Air Station, Beaufort, South Carolina, thirty-seven mobile home spaces, $540,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, twenty-five mobile home spaces, $370,000.

Marine Corps Development and Education Command, Quantico, Virginia, ten mobile home spaces, $166,000.

Marine Corps Finance Center, Kansas City, Missouri, eight mobile home spaces, $120,000.

Naval Station, Keflavik, Iceland, two hundred fifty units, $20,367,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve existing military family housing units in the amount of $47,943,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,398,538,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,331,045,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $124,827,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $28,675,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $143,655,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $14,000,000.

(7) For construction, improvements, rehabilitation, and Operations and Maintenance of historic facilities as authorized in section 2201(a), $6,800,000.

(8) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $202,224,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $530,812,000 of which not more than $14,347,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $22,220,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115), authorizations for the following projects authorized in section 201 of that Act, as extended by section 2209(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(2) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 201 of that Act shall remain in effect until October 1, 1989, or the date of enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Plating shop modernization in the amount of $12,740,000 at the Naval Ordnance Station, Louisville, Kentucky.

(2) Bachelors enlisted quarters and mess hall in the amount of $4,700,000 at the Naval Magazine, Guam.

(3) LAMPS Mark III training building in the amount of $305,000 at the Fleet Combat Training Center, Pacific, San Diego, California.

(4) Physical fitness center in the amount of $5,380,000 at the Marine Corps Air-Ground Combat Center, Twentynine Palms, California.

(5) Dredging in the amount of $6,570,000 at the Naval Supply Center, Oakland, California.

(6) Dredging in the amount of $8,650,000 at the Naval Air Station, Alameda, California.

(7) Paint and finishing hangar in the amount of $22,000,000 at the Naval Air Rework Facility, Alameda, California.

SEC. 2206. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) PROJECTS.—In addition to the military construction projects authorized under title II of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may acquire real property and may carry out the following military construction projects in the following amounts for which funds have been appropriated for such projects before the date of the enactment of this Act:

Naval Supply Center, Pearl Harbor, Hawaii, Cold Storage Facility, $11,500,000.

Naval Air Station, Memphis, Tennessee, Road Improvements, $1,570,000.

Cubi Point, Republic of the Philippines, Bachelor Officers' Quarters, $5,300,000.

(b) FAMILY HOUSING.—In addition to the expenditures for improvements to military family housing authorized by section 2203 of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may make expenditures, out of funds appropriated before the date of the enactment of this Act, to improve existing family housing units, pursuant to section 2825 of title 10, United States Code, in an amount not to exceed $22,000,000.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

PART B—FISCAL YEAR 1989

SEC. 2221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property, may carry out military construction projects, and may construct, improve, rehabilitate, and operate and maintain historic facilities in the amounts shown for each of the following installations and locations inside the United States:

CHIEF OF NAVAL OPERATIONS

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $38,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $1,690,000.

Naval Station, Ingleside, Texas, $31,850,000.

Naval Station, Lake Charles, Louisiana, $5,000,000.

Naval Station, Mobile, Alabama, $19,700,000.

Naval Station, New York, New York, $10,480,000.

Naval Station, Pascagoula, Mississippi, $25,700,000.

Naval Air Station, Pensacola, Florida, $14,320,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Everett, Washington, $86,950,000.

Naval Station, Long Beach, California, $5,460,000.

Naval Station, Treasure Island, San Francisco, California, $15,180,000.

NAVAL SEA SYSTEMS COMMAND

Naval Weapons Station, Earle, New Jersey, $30,050,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $57,730,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Guam, $2,820,000.

SEC. 2222. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve existing military family housing units in the amount of $59,689,000.

SEC. 2223. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,122,714,000 as follows:

(1) For military construction projects inside the United States authorized by section 2221(a), $342,190,000.

(2) For military construction projects outside the United States authorized by section 2221(b), $2,820,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $147,333,000.

(5) For military housing functions—

(A) for construction and acquisition of military family housing and facilities, $66,004,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $548,067,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART B.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2221 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE III—AIR FORCE

PART A—FISCAL YEAR 1988

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $48,900,000.

Kelly Air Force Base, Texas, $30,650,000.

McClellan Air Force Base, California, $1,400,000.

Newark Air Force Station, Ohio, $580,000.

Robins Air Force Base, Georgia, $15,500,000.

Tinker Air Force Base, Oklahoma, $2,300,000.

Wright-Patterson Air Force Base, Ohio, $22,750,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $17,500,000.

Brooks Air Force Base, Texas, $2,750,000.

Cape Canaveral Air Force Station, Florida, $910,000.

Edwards Air Force Base, California, $9,450,000.

Eglin Air Force Base, Florida, $23,050,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $16,900,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $8,350,000.

Columbus Air Force Base, Mississippi, $1,050,000.

Goodfellow Air Force Base, Texas, $5,500,000.

Keesler Air Force Base, Mississippi, $6,300,000.

Lackland Air Force Base, Texas, $7,500,000.

Laughlin Air Force Base, Texas, $4,072,000.

Lowry Air Force Base, Colorado, $7,050,000.

Mather Air Force Base, California, $4,800,000.

Randolph Air Force Base, Texas, $5,800,000.

Reese Air Force Base, Texas, $610,000.

Sheppard Air Force Base, Texas, $13,700,000.

Vance Air Force Base, Oklahoma, $3,190,000.

Williams Air Force Base, Arizona, $3,350,000.

AIR UNIVERSITY

Maxwell Air Force Base, Alabama, $15,100,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $10,165,000.

Elmendorf Air Force Base, Alaska, $11,000,000.

Shemya Air Force Base, Alaska, $38,350,000.

Various Locations, $15,800,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $14,600,000.

Andrews Air Force Base, Maryland, $22,650,000.

Dover Air Force Base, Delaware, $5,050,000.

Kirtland Air Force Base, New Mexico, $61,400,000.

McGuire Air Force Base, New Jersey, $3,140,000.

Scott Air Force Base, Illinois, $7,080,000.

Travis Air Force Base, California, $1,500,000.

PACIFIC AIR FORCES

Bellows Air Force Station, Hawaii, $460,000.

Hickam Air Force Base, Hawaii, $900,000.

Kaena Point, Hawaii, $3,400,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $2,150,000.

Cavalier Air Force Station, North Dakota, $3,750,000.

Clear Air Force Base, Alaska, $4,000,000.

Falcon Air Force Station, Colorado, $2,150,000.

Peterson Air Force Base, Colorado, $12,150,000.

SPECIAL PROJECT

Various Locations, CONUS, $19,073,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $800,000.

Beale Air Force Base, California, $7,180,000.

Blytheville Air Force Base, Arkansas, $600,000.

Carswell Air Force Base, Texas, $5,010,000.

Castle Air Force Base, California, $1,200,000.

Dyess Air Force Base, Texas, $3,600,000.

Ellsworth Air Force Base, South Dakota, $11,550,000.

Fairchild Air Force Base, Washington, $3,950,000.

F.E. Warren Air Force Base, Wyoming, $2,408,000.

Grand Forks Air Force Base, North Dakota, $1,600,000.

Griffiss Air Force Base, New York, $6,350,000.

Holbrook Radar Bomb Score Site, Arizona, $1,890,000.

K.I. Sawyer Air Force Base, Michigan, $3,030,000.

Loring Air Force Base, Maine, $17,480,000.

Malmstrom Air Force Base, Montana, $27,310,000.

McConnell Air Force Base, Kansas, $2,550,000.

Minot Air Force Base, North Dakota, $3,700,000.

Offutt Air Force Base, Nebraska, $10,660,000.

Vandenberg Air Force Base, California, $1,300,000.

Wilder, Idaho, $2,350,000.

Wurtsmith Air Force Base, Michigan, $13,620,000.

TACTICAL AIR COMMAND

Bangor International Airport, Maine, $1,500,000.

Base 39, $8,450,000.

Base 51, $610,000.

Base 52, $600,000.

Bergstrom Air Force Base, Texas, $9,190,000.

Cannon Air Force Base, New Mexico, $7,000,000.

Davis-Monthan Air Force Base, Arizona, $8,000,000.

England Air Force Base, Louisiana, $5,700,000.

George Air Force Base, California, $210,000.

Holloman Air Force Base, New Mexico, $7,750,000.

Indian Springs Auxiliary Air Field, Nevada, $4,400,000.

Langley Air Force Base, Virginia, $23,150,000.

Luke Air Force Base, Arizona, $3,650,000.

MacDill Air Force Base, Florida, $6,791,000.

Mountain Home Air Force Base, Idaho, $1,900,000.

Nellis Air Force Base, Nevada, $14,050,000.

Seymour-Johnson Air Force Base, North Carolina, $3,500,000.

Shaw Air Force Base, South Carolina, $4,980,000.

Tyndall Air Force Base, Florida, $1,300,000.

Various Locations, $6,000,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $2,680,000.

VARIOUS LOCATIONS

Base 75, $89,300,000.

Classified Location, $1,500,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $4,600,000.

Rhein-Main Air Base, Germany, $11,450,000.

PACIFIC AIR FORCES

Base 44, $4,000,000.

Camp Humphreys, Korea, $5,550,000.

Clark Air Base, Republic of the Philippines, $16,540,000.

Diego Garcia Air Base, Indian Ocean, $18,600,000.

Kadena Air Base, Japan, $5,000,000.

Kunsan Air Base, Korea, $10,750,000.

Kwang-Ju Air Base, Korea, $900,000.

Osan Air Base, Korea, $17,440,000.

Suwon Air Base, Korea, $3,650,000.

SPACE COMMAND

Thule Air Base, Greenland, $3,000,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $5,100,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Panama, $18,940,000.

Masirah, Oman, $3,325,000.

Seeb, Oman, $8,260,000.

Thumrait, Oman, $5,010,000.

UNITED STATES AIR FORCES IN EUROPE

RAF Alconbury, United Kingdom, $3,040,000.

Ankara Air Station, Turkey, $3,200,000.

Araxos Air Base, Greece, $1,800,000.

Aviano Air Base, Italy, $1,450,000.

RAF Bentwaters, United Kingdom, $11,500,000.

Bitburg Air Base, Germany, $4,690,000.

Buchel Air Base, Germany, $2,000,000.

Camp New Amsterdam, The Netherlands, $2,600,000.

RAF Chicksands, United Kingdom, $1,250,000.

Comiso Air Station, Italy, $5,810,000.

RAF Croughton, United Kingdom, $900,000.

RAF Fairford, United Kingdom, $11,550,000.

Florennes Air Base, Belgium, $9,950,000.

RAF Greenham Common, United Kingdom, $2,140,000.

Hahn Air Base, Germany, $5,770,000.

Incirlik Air Base, Turkey, $7,530,000.

RAF Lakenheath, United Kingdom, $3,620,000.

Memmingen Air Base, Germany, $2,000,000.

RAF Molesworth, United Kingdom, $450,000.

Pruem Air Station, Germany, $2,000,000.

Ramstein Air Base, Germany, $13,360,000.

San Vito Air Station, Italy, $390,000.

Sembach Air Base, Germany, $1,100,000.

Spangdahlem Air Base, Germany, $5,050,000.

RAF Upper Heyford, United Kingdom, $5,600,000.

RAF Welford, United Kingdom, $1,200,000.

Wenigerath Storage Site, Germany, $1,750,000.

RAF Wethersfield, United Kingdom, $1,300,000.

Woensdrecht Air Base, The Netherlands, $22,280,000.

Wueschheim Air Station, Germany, $5,640,000.

Zweibruecken Air Base, Germany, $2,650,000.

VARIOUS LOCATIONS

Base 89, $4,300,000.

SEC. 2302. FAMILY HOUSING

The Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Holbrook, Arizona, thirty-four units $2,530,000.

Woensdrecht Air Base, The Netherlands, four hundred units, $35,500,000.

Clark Air Base, Philippines, three hundred units, $23,260,000.

RAF Bentwaters, United Kingdom, Family Housing Management Office, $330,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $151,520,000.

(b) WAIVER OF SPACE LIMITATION FOR GENERAL OFFICER'S QUARTERS.—(1) To support the United States Central Command (USCENTCOM), the Tactical Air Command (TAC), and the United States Transportation Command, the Secretary of the Air Force may carry out family housing improvement projects to add to and alter existing family housing units and (notwithstanding section 2826(a) of title 10, United States Code) increase the net floor area of one family housing unit at Shaw Air Force Base, South Carolina, to not more than 2,600 square feet, and increase the net floor area of one family housing unit at McDill Air Force Base, Florida, and three converted family housing units at Scott Air Force Base, Illinois, to not more than 3,000 square feet.

(2) For purposes of this subsection the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,201,083,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $858,129,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $289,985,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $120,336,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $4,100,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $220,140,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $692,393,000 of which not more than $8,809,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $68,033,200 may be obligated or expended for the leasing of military family housing units in foreign countries.

SEC. 2305. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 301 and 302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Cold Storage Facility, in the amount of $3,350,000 at Lowry Air Force Base, Colorado.

(2) Portomod Support in the amount of $300,000 at Kunsan Air Base, Korea.

(3) Portomod Support in the amount of $260,000 at Kwang-Ju Air Base, Korea.

(4) Portomod Support in the amount of $860,000 at Osan Air Base, Korea.

(5) TR-1 Ground Station in the amount of $4,500,000 at Base 30, at a Classified Location, overseas.

(6) Chemical Warfare Protection—Avionics Shop in the amount of $1,450,000 at Camp New Amsterdam, The Netherlands.

(7) GEODSS—Composite Support Facility in the amount of $2,250,000 and a Spacetrack Observation Facility in the amount of $12,400,000 at GEODSS Site 5 in Portugal.

(8) Florennes, Belgium, Four Hundred units, $29,200,000.

(9) Ramstein Air Base, Germany, Four Hundred units, $30,000,000.

(10) Camp New Amsterdam, The Netherlands, Ninety units, $7,444,000.

SEC. 2306. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) IN GENERAL.—In addition to the military construction projects authorized under title III of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Air Force may acquire real property and may carry out the following military construction projects in the following amounts for which funds have been appropriated for such projects before the date of the enactment of this Act:

Goodfellow Air Force Base, Texas, Unaccompanied Officer Personnel Housing, $10,000,000.

Clark Air Base, Republic of Philippines, as follows:

(A) Aerospace systems branch, $1,050,000.

(B) Alter unaccompanied enlisted personnel housing, $1,850,000.

(C) Alter unaccompanied enlisted personnel housing, $3,150,000.

(D) Child care center, $2,000,000.

(E) COPE THUNDER operations facility, $4,650,000.

(F) Essential maintenance facility, phase II, $4,600,000.

(G) Fire station, $760,000.

(H) Petroleum operations facility, $1,600,000.

(I) Portomod warehouse, $460,000.

Blytheville Air Force Base, Arkansas, Gymnasium, $2,750,000.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

PART B—FISCAL YEAR 1989

SEC. 2321. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $6,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $18,000,000.

Various Locations, $37,750,000.

STRATEGIC AIR COMMAND

Base 57, $10,345,000.

Base 61, $10,450,000.

Dyess Air Force Base, Texas, $1,410,000.

Ellsworth Air Force Base, South Dakota, $1,300,000.

Fairchild Air Force Base, Washington, $4,700,000.

Grand Forks Air Force Base, North Dakota, $16,370,000.

McConnell Air Force Base, Kansas, $3,050,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

PACIFIC AIR FORCES

Base 44, $2,450,000.

TACTICAL AIR COMMAND

Masirah, Oman, $2,850,000.

Seeb, Oman, $7,300,000.

SEC. 2322. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $165,280,000.

SEC. 2323. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,164,383,000 as follows:

(1) For military construction projects inside the United States authorized by section 2321(a), $99,530,000.

(2) For military construction projects outside the United States authorized by section 2321(b), $12,600,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $135,733,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $172,280,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $727,740,000 of which not more than $21,795,100 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $85,747,900 may be obligated or expended for the leasing of military family housing units in foreign countries.

TITLE IV—DEFENSE AGENCIES

PART A—FISCAL YEAR 1988

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Naval Station Anacostia, District of Columbia, $30,170,000.

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $1,484,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Key West, Florida, $11,100,000.

Defense Depot, Memphis, Tennessee, $11,361,000.

Defense General Supply Center, Richmond, Virginia, $22,300,000.

Defense Fuel Support Point, Mukilteo, Washington, $7,290,000.

DEFENSE MEDICAL FACILITIES OFFICE

Fort Wainwright, Alaska, $9,100,000.

Kings Bay, Georgia, $6,600,000.

Malmstrom Air Force Base, Montana, $16,500,000.

McGuire Air Force Base, New Jersey, $550,000.

Lackland Air Force Base, Texas, $1,350,000.

DEFENSE NUCLEAR AGENCY

Field Command, Kirtland Air Force Base, New Mexico, $1,127,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $33,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $8,450,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $25,386,000.

Classified Location, $43,148,000.

DEPARTMENT OF DEFENSE SECTION 6 SCHOOLS

Hanscom Air Force Base, Massachusetts, $4,432,000.

STRATEGIC DEFENSE INITIATIVE

Falcon Air Station, Colorado, $100,000,000.

Fort Monmouth, New Jersey, $3,450,000.

White Sands Missile Range, New Mexico, $3,180,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Patch Barracks, Stuttgart, Germany, $1,030,000.

RAF Croughton, United Kingdom, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Classified, $6,400,000.

Classified, $7,000,000.

Rheinberg, Germany, $2,250,000.

Iraklion Air Station, Greece, $340,000.

Naval Air Station, Sigonella, Italy, $20,000,000.

San Vito Air Station, Italy, $670,000.

Camp Lester, Japan, $1,400,000.

Misawa Air Base, Japan, $4,700,000.

Echternacht, Luxembourg, $15,500,000.

Woensdrecht, The Netherlands, $7,160,000.

Subic Bay, Republic of the Philippines, $3,500,000.

Clark Air Force Base, Republic of the Philippines, $40,000,000.

Incirlik Air Base, Turkey, $15,260,000.

RAF Fairford, United Kingdom, $7,300,000.

RAF Weathersfield, United Kingdom, $740,000.

RAF Bentwaters, United Kingdom, $1,300,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $4,100,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Bitburg, Germany, $2,413,000.

Schweinfurt, Germany, $5,320,000.

Sembach, Germany, $2,930,000.

Stuttgart, Germany, $3,030,000.

Wuerzburg, Germany, $10,913,000.

San Miguel, Republic of the Philippines, $2,960,000.

Fort Buchanan, Puerto Rico, $1,200,000.

Incirlik Air Base, Turkey, $7,746,000.

NATIONAL SECURITY AGENCY

Classified, $12,000,000.

Classified, $15,000,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $16,565,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may construct or acquire four family housing units (including land acquisition) at classified locations in the total amount of $1,000,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve existing military family housing units in an amount not to exceed $186,000.

SEC. 2404. HAZARDOUS WASTE STORAGE

Section 2404(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661), is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987 and using not more than $11,400,000 appropriated for fiscal year 1988, carry out military construction projects not otherwise authorized by law for the construction of hazardous waste storage facilities."

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $776,505,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $339,978,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $219,227,000.

(3) For military construction projects at Fort Meade, Maryland, authorized by section 101(a) of the Military Construction Authorization Act, 1986, $15,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $86,000,000.

(5) For military construction projects at San Diego, California, authorized by section 201(a) of the Military Construction Authorization Act of 1981, $7,400,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $10,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(8) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, $11,400,000.

(9) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $57,800,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $1,186,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $18,514,000, of which not more than $15,188,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects Authorized in Part A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2406. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) In General.—In addition to the military construction projects authorized under title IV of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of Defense may acquire real property and carry out a military construction project for a medical center clinic annex addition/alteration at Vandenberg Air Force Base, California, in the amount of $1,900,000 for which funds have been appropriated for such project before the date of the enactment of this Act.

(b) Effective Date.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 2407. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of a Fiscal Year 1985 Project.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407), authorization for a Conforming Storage Facility in the amount of $1,950,000 at the Defense Property Disposal Office, Pearl Harbor Naval Shipyard, Hawaii, authorized in section 401 of that Act, and extended by section 2406 of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) Extension of Authorization of Certain Fiscal Year 1986 Projects.—(1) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 401 of that Act shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(A) Conforming Storage Facility in the amount of $1,390,000 at Defense Property Disposal Office, Anchorage, Alaska.

(B) Facility Rehabilitation in the amount of $1,320,000 at Defense Property Disposal Office, Alameda, California.

(C) Conforming Storage Facility in the amount of $825,000 at Defense Property Disposal Office, Barstow, California.

(D) Conforming Storage Facility in the amount of $625,000 at Defense Property Disposal Office, Groton, Connecticut.

(E) Covered Storage in the amount of $1,020,000 at F.E. Warren Air Force Base, Cheyenne, Wyoming.

(2) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), the authorization for the Elementary and High School in the amount of $7,080,000 at Florennes, Belgium, authorized in section 402 of such Act shall remain in effect until October 1, 1989, or the date of enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later.

PART B—FISCAL YEAR 1989

SEC. 2421. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may acquire real property and may carry out military construction projects at Kirtland Air Force Base, New Mexico, in the amount of $2,550,000.

SEC. 2422. IMPROVEMENTS TO MILITARY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve, using amounts appropriated pursuant to section 414(a)(10)(A), existing military family housing units in an amount not to exceed $112,000.

SEC. 2423. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $169,250,000 as follows:

(1) For military construction projects inside the United States authorized by section 2421(a), $2,550,000.

(2) For military construction projects at Fort Sam Houston, Texas, authorized by section 2403(a) of the Military Construction Authorization Act, 1987, $23,000,000.

(3) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $59,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,100,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $112,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $19,488,000, of which not more than $14,027,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects Authorized in Title IV.—Notwithstanding the cost variations authorized by section 2858 of title 10, United States Code, or any other cost variations authorized by law, the total cost of all projects carried out under section 2421 may not exceed the total amount authorized to be appropriated under paragraph (1) of subsection (a).

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

PART A—FISCAL YEAR 1988

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $386,000,000.

PART B—FISCAL YEAR 1989

SEC. 2521. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2522 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2522. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2521, in the amount of $402,100,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

PART A—FISCAL YEAR 1988

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1987, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $165,030,000; and

(B) for the Army Reserve, $88,100,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $68,737,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $154,116,000; and

(B) for the Air Force Reserve, $74,300,000.

PART B—FISCAL YEAR 1989

SEC. 2621. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $150,100,000; and

(B) for the Army Reserve, $100,000,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $52,923,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $128,000,000; and

(B) for the Air Force Reserve, $55,900,000.

TITLE VII—EXPIRATION OF AUTHORIZATIONS

PART A—FISCAL YEAR 1988

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in part A of titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATES

Part A of titles I, II, III, IV, V, and VI shall take effect on October 1, 1987, or the date of enactment of a Military Construction Authorization Act for fiscal year 1988 and fiscal year 1989, whichever is sooner.

PART B—FISCAL YEAR 1989

SEC. 2721. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in part B of titles I, II, III, IV, V, and VI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1991, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2722. EFFECTIVE DATE

Part B of titles I, II, III, IV, V, and VI shall take effect on October 1, 1988.

TITLE VIII—GENERAL PROVISIONS

PART A—PROGRAM CHANGES

SEC. 2801. GUARD AND RESERVE MINOR CONSTRUCTION

Section 2233a(b) of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

SEC. 2802. CLARIFICATION REGARDING INTERCHANGE OF SUPPLIES AND REAL ESTATE

Section 2571(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "The authority to transfer supplies and real estate without compensation from one armed force to another under this section shall include supplies and real estate of an armed force that have been reported to the Administrator of General Services for disposal until such time as formal arrangements have been completed for the disposal of such services and supplies.".

SEC. 2803. WAIVER OF LIMITATIONS ON LEASE

(a) Chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2694. Waiver of certain limitations on leases

"Section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a), shall not apply to a lease, or to the renewal of an existing lease, of real property by the Department of Defense if the Secretary of Defense determines that the application of such section to such lease would interfere with an essential mission of the Department of Defense.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end:

"2694. Waiver of certain limitations on leases.".

SEC. 2804. MINOR CONSTRUCTION THRESHOLD

Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "$1,000,000" in the second sentence and inserting in lieu thereof "$2,000,000"; and

(2) in subsection (b)(1), by striking out "$500,000" and inserting in lieu thereof "$1,000,000".

SEC. 2805. MOBILIZATION CONSTRUCTION AUTHORITY

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended—

(1) by redesignating sections 2809, 2810, and 2811 as sections 2810, 2811, and 2812, respectively; and

(2) by inserting after section 2808 the following new section:

"§ 2809. Construction authority during a period of mobilization

"(a) If, at any time, the President determines that there is an imminent threat to the national security and determines that the threat is of such a nature that mobilization of the armed forces may be required, the Secretary of Defense, without regard to any other provision of law, may undertake such military construction projects and may authorize the Secretaries of the military departments to undertake such military construction projects, not otherwise authorized by law, as may be necessary to support mobilization of the armed forces.

"(b) When a decision is made to undertake military construction projects authorized by this section, the Secretary of Defense shall notify the appropriate committees of Congress of that decision and of the estimated cost of the construction projects, including the cost of any real estate acquisition pertaining to those construction projects.

"(c)(1) A project carried out under this section shall be carried out with funds appropriated for military construction, including funds appropriated for family housing, that remain unobligated.

"(2) The maximum amount that the Secretary may obligate in any fiscal year under this section is $100,000,000.

"(d) The authority to initiate projects under this section on the basis of a determination referred to in subsection (a) shall terminate 180 days after the date on which the determination is made.".

(b) CONFORMING AMENDMENTS.—The table of sections of subchapter I of such chapter is amended by striking out the items relating to sections 2809, 2810, and 2811 and inserting in lieu thereof the following:

"2809. Construction authority during a period of mobilization.

"2810. Test of long-term facilities contracts.

"2811. Construction projects for environmental response actions.

"2812. Renovation of facilities.".

SEC. 2806. LONG-TERM FACILITIES CONTRACTS

(a) NEW COVERAGE.—Section 2810(a)(1)(B) of title 10, United States Code, as redesignated by section 2805, is amended—

(1) by redesignating clause (vi) as clause (vii);

(2) by inserting after clause (v) the following new clause:

"(vi) Hospital or medical facilities.".

(b) EXTENSION.—Section 2810(c) of such title, as redesignated by section 2805, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 2807. NO-COST ACQUISITION OF FAMILY HOUSING

Section 2822(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Housing units acquired by the Department of Defense without consideration, if—

"(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

"(B) a period of 14 days elapses after the notification is received by those committees.".

SEC. 2808. FAMILY HOUSING IMPROVEMENT THRESHOLD

Section 2825 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 2809. COST THRESHOLD FOR INDIVIDUAL UNITS AND MAXIMUM NUMBER OF UNITS LEASED IN FOREIGN COUNTRIES

Section 2828(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "$16,800" and inserting in lieu thereof "$20,000"; and

(2) in paragraph (2), by striking out "32,000" and inserting in lieu thereof "36,000".

SEC. 2810. COST THRESHOLD FOR MULTIPLE UNITS

Section 2828(f) of title 10, United States Code, is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

SEC. 2811. FAMILY HOUSING LEASING WITHIN THE UNITED STATES

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "Secretary of a military department" and inserting in lieu thereof "Secretary concerned"; and

(B) by inserting "or rehabilitated to residential use" after "constructed";

(2) by adding at the end of paragraph (8) the following new subparagraph:

"(C) In addition to the contracts authorized by paragraph (7) and subparagraphs (A) and (B) of this paragraph—

"(i) the Secretary of the Army may enter into one or more contracts under this subsection for not more than a total of 3,500 family housing units;

"(ii) the Secretary of the Navy may enter into one or more contracts under this subsection for not more than a total of 2,000 family housing units;

"(iii) the Secretary of the Air Force may enter into one or more contracts under this subsection for not more than a total of 2,100 family housing units; and

"(iv) the Secretary of Transportation, for the Coast Guard, may enter into one or more contracts under this subsection for not more than a total of 300 family housing units."; and

(3) in paragraph (9), by striking out "September 30, 1988." and inserting in lieu thereof "September 30, 1989.".

SEC. 2812. COST VARIATIONS

Paragraph (1) of section 2853(a) of title 10, United States Code, is amended to read as follows:

"(1) Except as provided in paragraph (2), the total cost authorized for military construction projects at an installation (including each project the cost of which is included in such total authorized cost and is less than the amount specified by law as the maximum amount for a minor construction project) may be increased by not more than 25 percent of the total amount appropriated for such projects by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is less, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.".

SEC. 2813. FAMILY HOUSING IMPROVEMENTS

Section 2853(c) of title 10, United States Code, is amended by striking out "construction" and inserting in lieu thereof "construction, improvement,".

SEC. 2814. TURN-KEY SELECTION PROCEDURES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Secretaries of the military departments" and inserting in lieu thereof "Secretary of a military department or the head of a Defense Agency";

(2) in subsection (a)(2), by inserting "or the head of the Defense Agency concerned" after "concerned"; and

(3) in subsection (b), by inserting "or the head of a Defense Agency" after "military department".

SEC. 2815. SETTLEMENT OF CONTRACTOR CLAIMS

(a) In General.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter III the following new section:

"§ 2863. Payment of contractor claims

"Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts. The Secretary concerned may use any unobligated funds available to the Secretary for military construction or family housing construction, as the case may be, for the payment of such claims.".

(b) Conforming Amendment.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2863. Payment of contractor claims.".

SEC. 2816. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in subsection (a), by—

(A) inserting ", the Secretary of Transportation, with regard to the Coast Guard, or the head of a Defense Agency" after "military department"; and

(B) inserting "or rehabilitated to residential use" after "to be constructed";

(2) in subsection (b)(3), by striking out "not";

(3) in subsection (b)(6), by inserting "unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term" after "renewed";

(4) in subsection (b)(11), by inserting ", the Secretary of Transportation, with regard to the Coast Guard, or the head of the Defense Agency concerned" after "military department concerned";

(5) by striking out subsections (f) and (g); and

(6) by redesignating subsection (h) as subsection (f).

SEC. 2817. BROOKE ARMY MEDICAL CENTER

(a) Amendment to Public Law 99-661.—Section 2401(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4034), is amended by striking out "$135,000,000" in the item relating to Fort Sam Houston, Texas under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$241,000,000".

(b) Project Increase.—The limitation on the total cost of projects carried out under section 2401 of such Act shall be increased by $106,000,000.

SEC. 2818. DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

(a) In General.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any military construction project of the Department of Defense which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a military construction project if the Secretary of Defense determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) Determinations.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) Listing of Foreign Countries.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) Definitions.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

PART B—REAL PROPERTY TRANSACTIONS

SEC. 2821. LAND EXCHANGE, HAMILTON AIR FORCE BASE, CALIFORNIA

(a) In General.—The Secretary of the Army and the Secretary of the Navy may enter into one or more agreements for the exchange of land and interest in real property with the purchaser of certain land at Hamilton Air Force Base declared, before the date of the enactment of this Act, to be excess to the needs of the United States.

(b) Conditions on Exchanges.—Exchanges of land and interests in real property under this section shall be made on condition that the United States receive land or interests in real property at least equal in value (as determined by the Secretary of the Army or the Secretary of the Navy, as the case may be) to the land and interests in real property conveyed by the United States.

(c) Legal Description and Surveys.—The exact acreage and legal description of the real property to be exchanged under this section shall be determined by surveys that are satisfactory to the Secretary of the Army or the Secretary of the Navy, as the case may be. The cost of such surveys shall be borne by the purchaser referred to in subsection (a).

(d) Additional Terms and Conditions.—The Secretary of the Army and the Secretary of the Navy may require such additional terms and conditions under this section as each such Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. LAND EXCHANGE, ORANGE COUNTY, CALIFORNIA

(a) Authority to Convey.—Subject to subsection (b), the Secretary of the Navy is authorized to convey to Orange County, California, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 137 acres located in the center of Mile Square Regional Park, Orange County, California, together with the improvements on such land.

(b) Consideration.—In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States parcels of land consisting of approximately 41 total acres located adjacent to the Marine Corps Air Station, Tustin, California.

(c) Payment of Excess Into Treasury.—If the fair market value of the land and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the land conveyed by Orange County under subsection (b), the County shall pay an amount equal to the difference to the United States, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(d) Legal Description of Lands.—The exact acreages and legal descriptions of the lands to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of such surveys shall be borne by Orange County.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LEASE OF PROPERTY, SAN DIEGO, CALIFORNIA

(a) In General.—The Secretary of the Navy is authorized to enter into a lease for approximately 175,000 square feet of dry storage and 100,000 square feet of cold storage facilities at the Port of San Diego 10th Avenue terminal, San Diego, California.

(b) Term of Lease.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, but in no event for more than 30 years.

(c) Consideration.—The Secretary shall pay no more than fair market rental for the property leased under this section and may require such terms and conditions in connection with the lease as he considers appropriate to protect the interest of the United States.

SEC. 2824. LAND CONVEYANCE, FORT BENJAMIN HARRISON, INDIANA

(a) Authority To Sell.—Subject to subsections (b) through (e), the Secretary of the Army is authorized to convey to Lawrence Township, Marion County, Indiana, all right, title, and interest of the United States in and to a parcel of land, consisting of approximately 3.23 acres, comprising a portion of Fort Benjamin Harrison, Indiana.

(b) Conditions of Sale.—In consideration for the conveyance authorized by subsection (a), the Township shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States.

(c) Recapture Rights.—The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of war or a national emergency declared by the President or Congress.

(d) Legal Description of Lands.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Township.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2825. MINERAL RIGHTS AT WHITE SANDS MISSILE RANGE, NEW MEXICO

(a) Authority To Grant Interest.—The Secretary of the Army may grant to the State of New Mexico an interest in the minerals in or on the land described in subsection (d).

(b) Interest, Terms, and Conditions of Grant.—The extent of the interest granted to the State of New Mexico pursuant to subsection (a), and the other terms and conditions of such grant, shall be those prescribed by the Attorney General.

(c) Settlement of Claims.—The acceptance by the State of New Mexico of any grant of mineral rights made to such State pursuant to this section shall be in full settlement of the claims of such State against the United States as set forth in the case of Humphries v. United States, United States Claims Court (case number 94-79L).

(d) Description of Land.—The land referred to in subsection (a) is land located within the boundaries of the White Sands Missile Range, New Mexico, which were owned by the State of New Mexico at the time of the condemnation of such lands by the Federal Government during World War II.

(e) Additional Terms and Conditions.—The Secretary of the Army may require such additional terms and conditions as the Secretary, in consultation with the Attorney General, considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

Subsection (e)(1) of section 840 of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) for a water systems improvement project at Fort Jackson at an estimated cost of $2,300,000, and for family housing improvement projects at Fort Jackson at an estimated cost not to exceed $6,400,000.".

SEC. 2827. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA

(a) In General.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) Term of Lease.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years with an option to extend for a term not to exceed 25 years.

(c) Replacement and Relocation Payments.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement by the Secretary; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) Use of Funds.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) Authority to Demolish and Construct Facilities.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for the construction of new facilities on such land for the use of the Port of Oakland.

(f) Report.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) Additional Terms.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCE, CHANUTE AIR FORCE BASE, ILLINOIS

(a) Authority to Sell.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of that track of land (together with any improvements thereon) which comprises the Chapman Court Housing Annex, a housing complex near Chanute Air Force Base, Illinois, consisting of 49 acres, more or less.

(b) Conditions of Sale.—Before the Secretary enters into a contract for the sale of any or all of the property referred to in subsection (a), the prospective buyer shall be required—

(1) to carry out the following projects at Chanute Air Force Base in accordance with specifications mutually agreed upon by the Secretary and the prospective purchaser:

(A) Widen and extend Heritage Drive.

(B) Construct a new entrance gate (including a gate guardhouse) to serve as the main entrance from U.S. Route 45.

(C) Construct a visitor reception center and parking lot to serve such center.

(D) Construct new streets or alter existing streets in order to effectively reroute automobile traffic (on the Air Force Base) to and from the proposed new gate.

(c) Competitive Bid Requirement and Minimum Sale Price.—(1) The sale of any of the land referred to in subsection (a) shall be carried out under publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value, as determined by the Secretary.

(d) Report Requirements.—(1) The Secretary may not enter into any contract for the sale of any or all of the land referred to in subsection (a) unless—

(A) the Secretary has submitted to the appropriate committees of Congress a report containing the details of the contract proposed to be entered into by the Secretary under this section; and

(B) a period of 21 days has expired following the date on which the report referred to in clause (A) is received by such committees.

(2) Any report submitted under paragraph (1) shall include—

(A) a description of the price and terms of the proposed sale;

(B) a description of the procedures used in selecting a buyer for the land; and

(C) all pertinent information regarding the appropriate project selected by the Secretary.

(e) Use of Excess Funds.—If the fair market value of the property conveyed to a buyer under this section is greater than the fair market value of the facilities constructed by the buyer for the United States, as determined by the Secretary, the buyer shall pay the difference to the United States. Any such amount paid to the Secretary shall be deposited into the general fund of the Treasury.

(f) Legal Description of Land.—The exact acreage and legal description of any land conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the buyer.

(g) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2829. DISPOSITION OF REAL PROPERTY AT AIR FORCE MISSILE SITES

(a) In General.—Chapter 949 of title 10, United States Code, is amended by adding at the end the following:

"§ 9781. Disposition of real property at Air Force missile sites

"(a) In General.—(1) The Secretary of the Air Force shall dispose of the interest of the United States in any tract of real property described in paragraph (2) or in any easement held in connection with any such tract of real property only as provided in this section.

"(2) The real property referred to in paragraph (1) is any tract of land (including improvements thereon) owned by the Air Force that—

"(A) is not required for the needs of the Air Force and the discharge of the responsibilities of the Air Force, as determined by the Secretary of the Air Force;

"(B) does not exceed 25 acres;

"(C) was used by the Air Force as a site for one or more missile launch facilities, missile launch control buildings, or other facilities to support missile launch operations; and

"(D) is surrounded by lands that are adjacent to such tract and that are owned in fee simple by one owner or by more than one owner jointly, in common, or by the entirety.

"(b) Preference for Sale to Owners of Surrounding Lands.—The Secretary shall convey, for fair market value, the interest of the United States in any tract of land referred to in subsection (a) or in any easement in connection with any such tract of land to any person or persons who, with respect to such tract of land, own lands referred to in paragraph (2)(D) of such subsection and are ready, willing, and able to purchase such interest for the fair market value of such interest. Whenever such interest of the United States is available for purchase under this section, the Secretary shall transmit a notice of the availability of such interest to each such person.

"(c) Determination of Fair Market Value.—The Secretary shall determine the fair market value of the interest of the United States to be conveyed under this section.

"(d) Waiver of Requirement To Determine Whether Property is Excess or Surplus Property.—The requirement to determine whether any tract of land described in subsection (a)(2) is excess property or surplus property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) before disposing of such tract shall not be applicable to the disposition of such tract under this section.

"(e) Additional Terms and Conditions.—The disposition of a tract of land under this section to any person shall be subject to (1) any easement retained by the Secretary with respect to such tract, and (2) such additional terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States.

"(f) Legal Description of Lands.—The exact acreage and legal description of any tract of land to be conveyed under this section shall be determined in any manner that is satisfactory to the Secretary. The cost of any survey conducted for the purpose of this subsection in the case of any tract of land shall be borne by the person or persons to whom the conveyance of such tract of land is made.

"(g) Other Disposition of Property.—If any real property interest of the United States described in subsection (a) is not purchased under the procedures provided in subsections (a) through (f), such tract may be disposed of only in accordance with the Federal Property and Administrative Services Act of 1949.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 949 of such title is amended by adding at the end the following:

"9781. Disposition of real property at Air Force missile sites.".

SEC. 2830. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) Authority To Exchange.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey certain real property (and improvements thereon) adjacent to Air Force Plant 19 in San Diego, California, to the County of San Diego, California, in exchange for certain real property (and improvements thereon) located in San Diego County, California.

(b) Condition.—If the fair market value of the real property and improvements conveyed to the County of San Diego under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States by the County of San Diego, the County shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) Legal Description of Real Property.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the County of San Diego.

(d) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

(e) Report.—Before the Secretary of the Air Force enters into an agreement authorized under subsection (a) for an exchange of real property with the County of San Diego, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of such proposed agreement. The report shall also include the following information:

(1) An assessment of the impact of the proposed exchange on—

(A) current activities of the Department of Defense at Plant 19;

(B) the potential disposal of Plant 19 to a private concern; and

(C) the ability of Plant 19 to support potential or programed future missions of the Air Force.

(f) An agreement for an exchange authorized by subsection (a) may not be entered into by the Secretary of the Air Force for a period of 30 days after the date on which the report referred to in subsection (e) has been received by the committees named in such subsection.

SEC. 2830A. LAND CONVEYANCE, FORT DERUSSY, HAWAII

(a) In General.—Notwithstanding any other provision of law restricting the sale, lease, rental, or other disposition of any lands which comprise a portion of Fort De Russy, Hawaii, the Secretary of the Army may convey to the State of Hawaii or the City and County of Honolulu, Hawaii, at fair market value (as determined by the Secretary), all right, title, and interest of the United States in and not to exceed 45 acres of land (together with improvements there-

on) which lie northeast of Kalia Road in Honolulu and which constitute a portion of Fort DeRussy, Hawaii.

(b) Authority of the Secretary To Acquire Other Lands and Construct Replacement Facilities.—The Secretary may acquire land in the vicinity of Honolulu, Hawaii, and design and construct on such land such facilities as may be necessary to replace those facilities on the land conveyed pursuant to subsection (a). The Secretary may also relocate activities currently located on the land conveyed pursuant to subsection (a) to the replacement facilities.

(c) Use and Disposition of Funds.—The proceeds of the sale authorized by subsection (a) shall be available without fiscal year limitation to acquire land and replacement facilities authorized to be acquired and constructed pursuant to subsection (b) and to pay associated relocation costs. Any funds which may remain after the acquisition of such land and replacement facilities and the payment of associated relocation costs shall be deposited in the Treasury as miscellaneous receipts.

(d) Legal Description and Surveys.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city and county of Honolulu.

(e) Additional Terms and Conditions.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance authorized in subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830B. RENTAL PAYMENT COST ESCALATION

Notwithstanding the requirements of the Competition in Contracting Act, 10 U.S.C. 2304, et seq. or any other provision of law, the Service Secretaries are authorized to modify the agreements authorized by section 802 of the Military Construction Authorization Act of 1984, as amended (10 U.S.C. 2821 note) and existing on the date of enactment of this Act to reflect the amendments made by section 2713 of the National Defense Authorization Act for fiscal year 1987 (Public Law 99-661), to permit a 25-year guarantee period and to allow for cost escalation of the entire rental payment over the guarantee period.

SEC. 2830C. ASBESTOS INSULATION, FAIRCHILD AIR FORCE BASE, WASHINGTON

Replace asbestos insulation in the amount of $2,050,000 at Fairchild Air Force Base, Washington.

SEC. 2830D. LEASE OF PROPERTY, SAN FRANCISCO, CALIFORNIA

(a) In General.—The Secretary of the Army shall lease to the County of San Francisco the facility at the Presidio in San Francisco, California, formerly operated as a hospital by the Public Health Service, for use by such County as a facility for the care and treatment of persons with acquired immune deficiency syndrome (AIDS) or acquired immune deficiency syndrome related complex (ARC).

(b) Terms of Lease.—(1) The lease entered into with the County of San Francisco pursuant to subsection (a) shall be for a term of 10 years and shall be made without consideration to the United States. The term of the lease shall begin at such time as the Secretary shall prescribe after the transfer referred to in subsection (d) has been completed.

(2) The Secretary may require such other terms and conditions in connection with the lease as he considers appropriate to protect the interests of the United States.

(c) Determination by Secretary of the Army; Analysis by Comptroller General.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall determine the most economically feasible manner of accomplishing the transfer of activities described in subsection (d) and report such determination, together with an estimate (and underlying analysis) of the cost of accomplishing the transfer, to the Comptroller General of the United States.

(2) Not later than 30 days after receiving such determination and estimate from the Secretary of the Army, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an analysis of such determination and estimate.

(d) Transfer of Activities.—(1) The Secretary of the Army or the Secretary of Defense, as appropriate, shall complete the transfer of the Defense Language School and any other activity being carried out at the Presidio in the facility described in subsection (a) to such other location as the Secretary determines to be appropriate. The transfer shall be made as soon as practicable after the date on which the report referred to in subsection (c)(2) is received by the committees named in such subsection or the date on which the County of San Francisco provides the certification described in subsection (e) to the Secretary of the Army, whichever is later.

(e) Certification of Financial Ability.—The Secretary of the Army shall not enter into a lease under subsection (a) or initiate any action to transfer the facilities referred to in subsection (d) until the County of San Francisco has certified to the Secretary of the Army that the County is financially prepared to assume possession of and operate the facility referred to in subsection (a) as a facility for the care and treatment of persons with AIDS or ARC.

(f) Recapture Rights.—The Secretary shall include in the terms of the lease a condition that in the event the leased facility is not used by the County of San Francisco as a facility for the care and treatment of persons with AIDS or ARC, the Secretary shall have the right of immediate reentry and the lease shall be automatically terminated.

(g) Consideration of Cooperative Use of Facility.—The Secretary of the Army, and the Administrator of Veterans' Affairs, shall immediately enter into discussions with the appropriate official of the County of San Francisco to determine the feasibility of utilizing the facility referred to in subsection (a), jointly or in conjunction with the County of San Francisco, for the care and treatment of veterans and members of the Armed Forces who have AIDS or ARC.

Part C—Miscellaneous Provisions

SEC. 2831. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may expend not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1988 pursuant to an authorization contained in this division and not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1989 pursuant to an authorization contained in this division to provide planning assistance to communities located near Gulf Coast homeports proposed under the Naval Strategic Dispersal Program, if the Secretary determines that the financial resources available to the communities (by grant or otherwise) are inadequate.

TITLE IX—REQUIREMENT TO LEASE LANDS TO THE CITY OF BARLING, ARKANSAS

SEC. 2901. BARLING, ARKANSAS LEASES

(a) In General.—The Secretary of the Army shall lease to the city of Barling, Arkansas, for the use by that city in the treatment of sewage, the following tracts of land at Fort Chaffee, Arkansas:

(1) A tract consisting of 320 acres and more particularly described as the NE ¼ and the NW ¼ of section 34, Township 8 North, Range 31 West.

(2) A tract 40 feet wide running from the northern boundary of the tract described in paragraph (1) to the Arkansas River, as may be agreed upon by the Secretary and the city of Barling.

(b) Lease Requirements.—(1) The lease shall authorize the city of Barling to construct and maintain a wastewater treatment facility on the land leased under subsection (a). Upon termination of the lease, the United States shall have all right, title, and interest in and to any improvements on the land.

(2) The lease shall be for such period, not less than 55 years, as may be agreed upon by the Secretary of the Army and the city of Barling.

(3) The lease shall require the city of Barling to pay rent for the use of the land in an amount to be agreed upon by the Secretary and the city. The amount of the rent may not exceed $1,600 per year.

SEC. 2902. ALTERNATIVE OPTIONS

(a) In General.—(1) In lieu of leasing to the city of Barling the lands described in section 1(a), the Secretary may lease to the city other lands under the jurisdiction of the Secretary adjacent to existing lagoons at Fort Chaffee, Arkansas, for use by the city in the treatment of sewage.

(2) Land leased to the city pursuant to paragraph (1) shall be leased at an annual rate of not more than $5 per acre.

(3) Any lease entered into pursuant to paragraph (1) shall be subject to paragraphs (1) and (2) of section 1(b).

(b) Use of Army Sewage Treatment Facility.—The Secretary may permit the city of Barling to use the sewage treatment facilities of Fort Chaffee under an agreement which would require the city to pay a reasonable cost for the use of such facilities and any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee in order to accommodate the use of such facilities by the city of Barling.

SEC. 2903. ADDITIONAL PROVISIONS

(a) Legal Description of Lands.—The exact acreage and legal description of any land to be leased under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the city of Barling.

(b) Additional Terms and Conditions.—Any lease or other agreement entered into under this Act shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SEC. 3101. SHORT TITLE

This title may be cited as the "Department of Energy National Security and Military

Applications of Nuclear Energy Authorization Act of 1988".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3111. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,714,300,000.

(2) For materials production, $1,479,039,000.

(3) For defense nuclear waste and transportation management, $546,598,000.

(4) For verification and control technology, $120,500,000.

(5) For nuclear materials safeguards and security technology development programs, $73,200,000.

(6) For security investigations, $32,000,000.

(7) For naval reactors development, $544,100,000.

SEC. 3112. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 88-D-101, general plant projects, various locations, $30,200,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $1,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $28,962,000.

Project 88-D-121, general plant projects, various locations, $33,000,000.

Project 88-D-122, facilities capability assurance program, various locations, $19,200,000.

Project 88-D-123, security enhancement, Pantex Plant, Amarillo, Texas, $5,700,000.

Project 88-D-124, fire protection upgrade, various locations, $1,700,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $2,700,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,000,000.

Project 88-D-129, small intercontinental ballistic missile (SICBM) warhead production facilities, various locations, $20,000,000.

Project 87-D-102, environmental compliance and cleanup, Lawrence Livermore National Laboratory, Livermore, California, $9,000,000.

Project 87-D-104, safeguards and security enhancements, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $37,016,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $4,608,000.

Project 87-D-127, environmental, safety, and health, Mound Plant, Miamisburg, Ohio, $1,737,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $2,400,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defense facility, Sandia National Laboratories, Albuquerque, New Mexico, $15,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $8,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,200,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $221,000.

Project 86-D-123, environmental hazards elimination, various locations, $13,289,000.

Project 86-D-125, safeguards and site security upgrading, Phase II, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $46,773,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $33,500,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $9,200,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $28,000,000.

Project 85-D-106, hardened engineering test building, Lawrence Livermore National Laboratory, Livermore, California, $100,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $12,544,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $1,060,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $998,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $5,458,000.

Project 84-D-112, TRIDENT II warhead production facilities, various locations, $3,300,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $5,878,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $18,253,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $96,129,000.

(2) For materials production:

Project 88-D-XXX, New Production Reactor, unspecified location, $15,000,000.

Project 88-D-146, general plant projects, various locations, $39,030,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $2,900,000.

Project 87-D-150, radioactive liquid effluent treatment facility, Richland, Washington, $5,000,000.

Project 87-D-152, environmental protection, plantwide, Savannah River, South Carolina, $2,800,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I and II, Feed Materials Production Center, Fernald, Ohio, $35,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $5,000,000.

Project 86-D-149, productivity retention program, Phases I, II, and III, various locations, $68,860,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $1,900,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $4,500,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $19,175,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $13,000,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $7,831,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $21,100,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $9,685,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $4,200,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $13,200,000.

(3) For defense nuclear waste and transportation management:

Project 88-D-171, general plant projects, various locations, $32,736,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $25,000,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $2,800,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $7,200,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $12,600,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $3,900,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $8,200,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,800,000.

Project 87-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $4,628,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, National Engineering Laboratory, Idaho, $742,000.

Project 86-D-157, seventh calcined solids storage facility, Idaho National Engineering Laboratory, Idaho, $2,181,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $56,000.

Project 85-D-159, new waste transfer facilities, H-area, Savannah River, South Carolina, $13,682,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $120,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast New Mexico, $35,901,000.

(4) For naval reactors development:

Project 88-N-101, general plant projects, various locations, $6,000,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $2,100,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $400,000.

Project 88-N-104, prototype availability facilities, Kesselring Site, Knolls Atomic Power Laboratory, West Milton, New York, $1,000,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $8,400,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $321,230,000.

(B) For materials production, $101,400,000.

(C) For defense waste and transportation management, $44,425,000.

(D) For verification and control technology, $5,100,000.

(E) For nuclear safeguards and security, $4,600,000.

(F) For naval reactors development, $50,000,000.

SEC. 3113. UNDISTRIBUTED REDUCTIONS

(a) TOTAL AUTHORIZATION.—Notwithstanding sections 3111 and 3112, the total amount authorized to be appropriated to the Department of Energy in this division for fiscal year 1988 for national security programs is $7,824,400,000.

(b) REQUIREMENT FOR PROJECT REDUCTIONS.—The Secretary of Energy shall reduce such projects listed in sections 3111 and 3112 in such amounts as he determines appropriate to achieve a total reduction of $270,000,000.

SEC. 3114. STRATEGIC DEFENSE INITIATIVE

(a) LIMITATION ON FUNDS FOR SDI.—Of the total funds appropriated pursuant to sections 3111 and 3112, not more than $380,000,000 may be obligated or expended for research, development, test, and evaluation, and other purposes, in connection with the Strategic Defense Initiative program.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (3), construction on a construction project described in paragraph (2) may not be started, and additional obligations may not be incurred in connection with the project, above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 3112 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

Funds appropriated pursuant to this title may be transferred to other agencies of the Government, but only for the performance of the work for which the funds were authorized and appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design using available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for operating expenses and plant and capital equipment are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated pursuant to this title for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 3131. REPEAL OF LIMITATION ON MX WARHEADS

Section 1426(a) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 753), is repealed.

SEC. 3132. TIMELY DETERMINATIONS ON PROPERTY RIGHTS IN INVENTIONS AND DISCOVERIES

Section 3131(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (Public Law 99-661; 100 Stat. 4061) is amended by striking out the last sentence and inserting in lieu thereof the following: "Such decision shall be made within 180 days after the date of the request by the contractor for waiver of such rights. The Secretary of Energy shall use Government-wide standard contract provisions to ensure that if a decision is not made within such 180-day period, the rights and title to the invention or discovery accrues to the contractor in the same manner and with the *same effect as such rights and title would accrue to a contractor of the Department of Defense.*

SEC. 3133. ACQUISITION STRATEGY FOR A NEW PRODUCTION REACTOR

(a) The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the acquisition strategy of the Secretary for new production capacity as soon as possible after the date of enactment of this Act, but not later than February 1, 1988.

(b) The report in subsection (a) should contain but not be limited to, an evaluation of the alternative sites and technologies, including all safety features considered, their associated costs and schedules, and the recommendation of the Secretary of Energy with respect to the preferred alternatives. The report in subsection (a) shall also include the recommendations of the Secretary of Energy with respect to an acquisition strategy, either in a phased approach or concurrently, for eventual procurement of two reactors with different technologies in different locations.

PART D.—THE DEPARTMENT OF ENERGY SEMICONDUCTOR TECHNOLOGY RESEARCH EXCELLENCE INITIATIVE

SEC. 3141. FINDINGS

Congress makes the following findings:

(1) Semiconductors and related microelectronic devices are key components in computers, telecommunications equipment, advanced defense systems, and other equipment.

(2) Aggregate sales of such equipment, in excess of $230,000,000,000 annually, comprise a significant portion of the gross national product of the United States.

(3) The leadership position of the United States in advanced technology is threatened by (A) competition from foreign businesses which is promoted and facilitated by the increasingly active involvement of foreign governments, and (B) other changes in the nature of foreign competition.

(4) The principal cause of the relative shift in strength of the United States and its semiconductor competitors is the establishment of a long-term goal by a major foreign competitor to achieve world superiority in semiconductor research and manufacturing technology and the pursuit of such goal by that competitor by effectively marshalling all of the government, industry, and academic resources needed to achieve that goal.

(5) Although the United States semiconductor industry leads all other principal United States industries in terms of its reinvestment in research and development, this has been insufficient by worldwide standards.

(6) Electronic equipment is essential to protect the national security of the United States, as is evidenced by the allocation of approximately 35 percent of the total research, development, and procurement budgets of the Department of Defense to electronics research.

(7) The Armed Forces of the United States will eventually depend extensively on foreign semiconductor technology unless significant steps are taken, and taken at an early date, to retain United States leadership in semiconductor technology research.

(8) It is in the interests of the national security and national economy of the United States for the United States to regain its traditional world leadership in the field of semiconductors.

(9) The most effective means of regaining that leadership is through a joint research effort of the Federal Government and private industry of the United States to improve semiconductor manufacturing technology and to develop practical uses of such technology.

(10) In order to meet the national defense needs of the United States and to insure the continued vitality of a commercial manufacturing base in the United States, it is essential that priority be given to the development, demonstration, and advancement of the semiconductor technology base in the United States.

(11) The national laboratories of the Department of Energy are a major national research resource, and the extensive involvement of such laboratories in the semiconductor research initiatives of the Federal Government and private industry would be an effective use of such laboratories and would help insure the success of such initiatives.

SEC. 3142. ESTABLISHMENT OF THE SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH INITIATIVE

The Secretary of Energy shall initiate and carry out a program of research on semiconductor manufacturing research technology and on the practical applications of such technology (such program hereinafter in this subtitle referred to as the "Initiative"). The Secretary shall carry out the Initiative in a way as to complement the activities of a consortium of United States semiconductor manufacturers, materials manufacturers, and equipment manufacturers, established for the purpose of conducting research concerning advanced semiconductor manufacturing techniques and developing techniques to adopt manufacturing expertise to a variety of semiconductor products.

SEC. 3143. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY

(a) MISSION OF NATIONAL LABORATORIES.—Each national laboratory of the Department of Energy shall participate in research and development projects under the Initiative in conjunction with the Department of Defense, any consortium, college or university carrying out any such project for or in cooperation with the consortium referred to in section 3142, to the extent that such participation does not detract from the primary mission of the national laboratory.

(b) AGREEMENTS.—The Secretary of Energy shall enter into such agreements with the Secretary of Defense, with any consortium referred to in section 3142 and with any college or university as may be necessary to provide for the active participation of the national laboratories of the Department of Energy in the Initiative.

(c) REQUIRED PROVISIONS.—The Initiative shall include provisions for one or more national laboratories of the Department of Energy to conduct research and development activities relating to research on the development of semiconductor manufacturing technologies. Such activities may include research and development relating to materials fabrication, materials characterization, design and modeling of devices, and new processing equipment.

SEC. 3144. PERSONNEL EXCHANGES

The Initiative shall include provisions for temporary exchanges of personnel between any domestic firm, the consortium referred to in section 3142 and the national laboratories of the Department of Energy that are participating in such Initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms, and conditions as the Secretary of Energy consider necessary in the interest of national security.

SEC. 3145. OTHER DEPARTMENT OF ENERGY RESOURCES, IN GENERAL

The Secretary of Energy may make available to the Department of Defense, to any other department or agency of the Federal Government, and to any consortium that has entered into an agreement in furtherance of this Initiative any facilities, personnel, equipment, services and other resources of the Department of Energy for the purpose of conducting research and development projects under the Initiative consistent with section 3143(a).

SEC. 3146. BUDGETING FOR SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH

The Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of semiconductors.

SEC. 3147. COST-SHARING AGREEMENTS

(a) PERMITTED PROVISIONS.—The director of each national laboratory of the Department of Energy that is participating in the Initiative or the contractor operating any such national laboratory may include in any research and development agreement entered into with a domestic firm in connection with such Initiative a cooperative provision for the domestic firm to pay a portion of the cost of the research and development activities.

(b) COST SHARING ARRANGEMENTS.—The director of each national laboratory of the Department of Energy that is participating in the Initiative shall submit a proposal to the Department of Energy defining cost sharing arrangements and the appropriate level of funding for approval.

(c) LIMITATIONS.—(1) Not more than an amount equal to 1 percent of any National Laboratory's annual budget shall be received from nonappropriated funds derived from contracts entered into under the Initiative in any fiscal year except to the extent approved in advance by the Secretary of Energy.

(2) No Department of Energy National Laboratory may receive more than $10,000,000 of nonappropriated funds under any cooperative research and development agreement entered into under this subsection in connection with the Initiative except to the extent approved in advance by the Secretary of Energy.

SEC. 3148. DEPARTMENT OF ENERGY OVERSIGHT OF COOPERATIVE AGREEMENTS RELATING TO THE INITIATIVE

(a) PROVISIONS RELATING TO DISAPPROVAL AND MODIFICATION OF AGREEMENTS.—If the Secretary of Energy or his designee desires an opportunity to disapprove or require the modification of any such agreement under section 3147, the agreement shall provide a 90-day period within which such action be taken beginning on the date the agreement is submitted to the Secretary.

(b) RECORD OF AGREEMENTS.—Each National Laboratory shall maintain a record of all agreements entered into under this section.

SEC. 3149. AVOIDANCE OF DUPLICATION

In carrying out the Initiative, the Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities (including the national laboratories of the Department of Energy) that are participating in such initiative.

SEC. 3150. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—There is authorized to be appropriated to the Department of Energy for each fiscal year 1988 and 1989, the additional sum of $25,000,000 for the activities of the Department of Energy under the Initiative.

(b) RELATIONSHIP TO OTHER FUNDS AVAILABLE TO THE DEPARTMENT OF DEFENSE.—Funds available to the Secretary of Energy in connection with activities of the Department of Energy under the Initiative shall be in addition to amounts available to the Department of Defense for semiconductor manufacturing technology research and development.

SEC. 3151. TECHNOLOGY TRANSFER

(a) IN GENERAL.—The Secretary of Energy shall adopt procedures to provide for timely and efficient transfer of semiconductor technology developed under the Initiative pursuant to applicable laws, executive orders, and regulations followed by the Department of Defense.

(b) PLAN FOR COMMERCIALIZATION ENHANCEMENT.—(1) Not later than one year after the date on which funds are first appropriated to conduct the Initiative, the Secretary of Energy shall transmit to the committees of Congress named in paragraph (2) a plan for the transfer of semiconductor technology and information generated by the Initiative.

(2) The committees of Congress referred to in paragraph (1) are the Committees on Armed Services of the Senate and House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Science and Technology of the House of Representatives.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 3201. REVISIONS OF STOCKPILE GOALS

Section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)) is amended—

(1) in subsection (a), by striking out "The" in the first sentence and inserting in lieu thereof "Subject to subsections (c) and (d), the"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) The stockpile goal for any material may be revised only as provided in paragraphs (2) and (3).

"(2) A stockpile goal may be reduced by 10 percent or less or increased only if the President has included a full explanation and justification for the reduction or increase, as the case may be, in the annual material plan submitted to Congress under section 11(b) for the fiscal year in which the goal is to be so reduced or increased.

"(3) A stockpile goal may be reduced by more than 10 percent (or eliminated) only if the President has included a full explanation and justification for the reduction (or elimination) in the annual material plan submitted to Congress under section 11(b) for the fiscal year in which the goal is to be so reduced (or eliminated) and the reduction (or elimination) has been expressly approved by law.

"(4) For the purposes of this subsection, the term 'stockpile goal' means, with respect to any material, the goal for the quantity of that material to be stockpiled as in effect on October 1, 1984, and as may be subsequently revised in accordance with this subsection.

"(d) The quantity of any material in the stockpile may be increased at any time if the President determines the increase is required in the interest of national security. The authority of the President under this subsection may not be delegated except in time of national emergency declared by Congress or the President or in time of war.".

SEC. 3202. DEADLINE FOR ANNUAL REPORT

Section 11(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98-2(b)) is amended by striking out "each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31 for the next fiscal year," and inserting in lieu thereof "not later than February 15 of each year".

TITLE III—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATIONS FOR CIVIL DEFENSE FUNCTIONS

There is hereby authorized to be appropriated for the fiscal year ending September 30, 1988, to carry out the provisions of the Federal Civil Defense Act of 1950, the sum of $134,806,000.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED TRADE AGREEMENT WITH CANADA—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 75

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on October 3, 1987, during the recess of the Senate, received the following message from the President of the United States; which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with section 102(e)(1) of the Trade Act of 1974, as amended ("Act"), I hereby notify the Congress of my intention to enter into a trade agreement with the Government of Canada on January 2, 1988, contingent upon successful completion of negotiations. On December 10, 1985, I provided written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, as required by section 102(b)(4)(A)(ii)(I) of that Act.

In accordance with the procedures specified in the Act, I will submit any such agreement that I sign, together with implementing legislation and statements of administrative action, for Congressional approval in accordance with the fast track legislative procedures set forth in section 151 of the Act.

RONALD REAGAN.

THE WHITE HOUSE, *October 3, 1987.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on October 5, 1987, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 2249. An act to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police;

S.J. Res. 72. Joint resolution to designate the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week"; and

S.J. Res. 110. Joint resolution to designate October 16, 1987, as "World Food Day."

The enrolled bill and joint resolutions were subsequently signed on today, October 6, 1987, by the President pro tempore (Mr. STENNIS).

MESSAGES FROM THE HOUSE

At 9:47 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1567) to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in U.S. Claims Court docket numbered 53-81L, and for other purposes.

The message also announced that the Speaker makes the following corrections in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) entitled "An Act to enhance the competitiveness of American industry, and for other purposes," as follows:

(1)(a) The first panel from the Committee on Foreign Affairs is appointed for consideration of section 3871 of the Senate amendment, in lieu of section 3881.

(b) For consideration of section 331 of the House bill, Mr. Wolpe, Mr. Feighan, and Mr. Lagomarsino are appointed, vice Mr. Berman, Mr. Bilbray, and Mr. Miller of Washington.

(c) Mr. Gejdenson, vice Mr. Levine of California, is appointed for consideration of sections 601 through 612, 621 through 623, 625, 631 through 637, 641 through 651, 653 and 663 of the House bill, in lieu of section 451.

(d) For consideration of sections 301 through 317, 323 and 324 of the House bill, Mr. Feighan is appointed, vice Mr. Levine of California.

(e) For consideration of section 1020 of the Senate amendment, Mr. Wolpe, Mr. Feighan, and Mr. Lagomarsino are appointed, vice Mr. Berman, Mr. Bilbray, and Mr. Miller of Washington.

(2) From the second panel from the Committee on Foreign Affairs, Mr. Bilbray and Mr. Broomfield are appointed, vice Mr. Mica and Mr. Bereuter, for consideration of sections 1303 through 1306 and 1310 of the House bill, and sections 3902 through 3907, 3910, and 3912 of the Senate amendment.

(3) For the second panel from the Committee on Energy and Commerce, delete section 703 of the House bill from the sections under consideration.

(4) From the Committee on Energy and Commerce, for consideration of section 331 of the House bill, and modifications committed to conference, Mr. Sharp is appointed in lieu of Mr. Markey.

(5) The sixth panel from the Committee on the Judiciary is appointed for consideration of section 703(h) of the House bill, and modifications committed to conference.

(6) For the first panel from the Committee on Government Operations, Mr. Wise is appointed in lieu of Mr. Weiss.

(7) The eighth panel from the Committee on Science, Space, and Technology is appointed for consideration of section 412 of the Senate amendment, in lieu of section 411.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2310. An act to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes; and

H.R. 2596. An act to improve Federal management of lands on Admiralty Island, AK.

At 12:21 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1548. An act to withdraw certain Federal lands in the State of California for military purposes, and for other purposes;

S. 2325. An act to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas;

H.R. 2416. An act to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes;

H.R. 2486. An act to authorize the Secretary of Agriculture to acquire certain private lands to be added to wilderness areas in the State of Texas;

H.R. 2652. An act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes;

H.R. 3226. An act to amend the Anti-Drug Abuse Act of 1986 to permit additional participants in the White House Conference for a Drug-Free American to be allowed travel expenses, and for other purposes; and

H.R. 3258. An act to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 242. An act to provide for the conveyance of certain public lands in Oconto and Marinette Counties, WI;

H.R. 797. An act to authorize the donation of certain non-Federal lands to Gettysburg National Military Park and to require as study and report on the final development of the park;

H.R. 1205. An act to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida; and

H.R. 2035. An act to amend the Act establishing Lowell National Historical Park, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STENNIS).

At 5:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to the provisions of section 276a-1, of title 22, United States Code, the Speaker appoints as members of the delegation to attend the Conference of the Interparliamentary Union, to be held in Bangkok, Thailand, on October 12 through October 17, 1987, the following Members on the part of the House: Mr. PEPPER, Chairman, Mr. HAMILTON, Vice Chairman, Mrs. BOGGS, Mr. SCHEUER, Mr. BATES, Mr. HAMMERSCHMIDT, and Mr. BLAZ.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3051. An act to amend the Federal Aviation Act of 1958 to establish minimum standards relating to air carrier passenger services, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1548. An act to withdraw certain Federal lands in the State of California for military purposes, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2325. An act to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas; to the Committee on Energy and Natural Resources.

H.R. 2416. An act to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2486. An act to authorize the Secretary of Agriculture to acquire certain private lands to be added to wilderness areas in the State of Texas; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2596. An act to improve Federal management of lands on Admiralty Island, Alaska; to the Committee on Energy and Natural Resources.

H.R. 2652. An act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3258. An act to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following joint resolution; which was placed on the calendar:

S.J. Res. 184. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2310. An act to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes.

H.R. 3051. An act to amend the Federal Aviation Act of 1958 to establish minimum standards relating to air carrier passenger services, and for other purposes.

H.R. 3226. An act to amend the Anti-Drug Abuse Act of 1986 to permit additional participants in the White House Conference for a Drug-Free America to be allowed travel expenses, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on October 5, 1987, he had presented to the President of the United States the following enrolled bill:

S. 1691. An act to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan, and for other purposes.

The Secretary of the Senate reported that on today, October 6, 1987, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 72. Joint resolution to designate the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week"; and

S.J. Res. 110. Joint resolution to designate October 16, 1987, as "World Food Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompaning papers, reports, and documents, which were referred as indicated:

EC-1960. A communication from the Deputy General Counsel, Department of Defense, transmitting, a draft of proposed legislation to amend chapter 157 of title 10, United States Code, to authorize Government transportation for member of the uniformed services, civilian employees of the

Department of Defense, and the dependents of such members and employees, in areas outside the United States where public or private transportation is unsafe or not available; to the Committee on Armed Services.

EC-1961. A communication from the Assistant Secretary (Financial Management), Department of the Army, transmitting, a draft of proposed legislation to authorize that premium payments by participants in the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan (Chapter 73, title 10, United States Code) be deposited in the Department of Defense Military Retirement Fund; to the Committee on Armed Services.

EC-1962. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Management Study of the Office of the Secretary of Defense;" to the Committee on Armed Services.

EC-1963. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "National Plan of Intergrated Airport Systems (NPIAS), 1986-1995;" to the Committee on Commerce, Science, and Transportation.

EC-1964. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the Juan Bautista de Anza Trail in Arizona; to the Committee on Energy and Natural Resources.

EC-1965. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report to Congress on Class V Injection Wells; to the Committee on Environment and Public Works.

EC-1966. A communication from the Chairman, of the U.S. International Trade Commission, transmitting, pursuant to law, the second annual report on the impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers; to the Committee on Finance.

EC-1967. A communication from the Assistant U.S. Trade Representative for Administration, Office of the U.S. Trade Representative, transmitting, pursuant to law, a report and notice of a new Privacy Act systems of records; to the Committee on Governmental Affairs.

EC-1968. A communication from the Director, Office of Personnel Management, transmitting, a draft of proposed legislation to make long-term care insurance available to civilian Federal employees, and for other purposes; to the Committee on Governmental Affairs.

EC-1969. A communication from the President, Vietnam Veterans of America, Inc., transmitting, pursuant to law, a report entitled "Vietnam Veterans of America 1986 Annual Report;" to the Committee on the Judiciary.

EC-1970. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "The Condition of Education;" to the Committee on Labor and Human Resources.

EC-1971. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on personnel for health needs of the elderly; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Appropriations:

Special Report entitled "Committee on Appropriations Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal year 1988" (Rept. No. 100-190).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Special Report entitled "Second Monetary Policy Report for 1987" (Rept. No. 100-191).

By Mr. PROXMIRE, from the Committee on Appropriations, with amendments:

H.R. 2783. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commission, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-92).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 800. A bill to authorize appropriations for fiscal year 1988 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission (Rept. No. 100-193).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 1753. A bill to establish the Stonewall Jackson Lake National Recreation Area in the State of West Virginia and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 1754. A bill for the relief of Fleurette Seidman; to the Committee on the Judiciary.

By Mr. ADAMS:

S. 1755. A bill to establish the Grays Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. DOMENICI:

S. 1756. A bill to create joint Federal-State-industry agricultural competitiveness task forces, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. DODD, and Mr. WEICKER):

S. 1757. A bill to amend the Internal Revenue Code of 1986 to provide that employer subsidies for mass transit and van pooling be treated as working condition fringe benefits which are not included in gross income; to the Committee on Finance.

By Mr. EVANS:

S. 1758. A bill to establish the Grays Harbor National Wildlife Refuge in the State of Washington; to the Committee on Environment and Public Works.

By Mr. ROTH:

S. 1759. A bill to limit the role of political action committees in federal elections; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 295. Resolution to express the sense of the Senate that the period commencing October 5, 1987, and ending October 11, 1987, should be recognized as "Employee Ownership Week", placed on the calendar by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 1753. A bill to establish the Stonewall Jackson Lake National Recreation Area in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

STONEWALL JACKSON LAKE NATIONAL RECREATION AREA

Mr. BYRD. Mr. President, I am today introducing legislation to designate the Stonewall Jackson Lake as a national recreation area. I am joined in offering this legislation by my distinguished colleague, Senator ROCKEFELLER.

Located near Weston, WV, the Stonewall Jackson Lake will cover 3,470 acres and is surrounded by 16,000 acres of scenic beauty. The lake will be the largest in West Virginia, and will be one of the largest in the Eastern United States. Stonewall Jackson Lake is centrally situated, and is within a day's drive of many of the major cities in the Eastern United States.

The lake is also located in the heart of "Stonewall" Jackson country.

Thomas Jonathan "Stonewall" Jackson, acknowledged worldwide as a brillant battle tactician and military genius, was born in Clarksburg (now West Virginia) in 1824. His great uncle was a U.S. Congressman from Virginia, and the Jackson family was prominent in that part of western Virginia. Young Tom was left an orphan at an early age, however, and he grew up with prosperous relatives at Jackson's Mill, a site 8 miles downstream from the lake. In this area, young Jackson lived until he left for West Point and his destiny as a great military figure of universal dimensions.

Incidentally, plans are underway to restore the Jackson family property, including restoration of the homestead, as Jackson knew it in his childhood. South of the lake area, is Fort Pickens, a training camp for Union soldiers. Fort New Salem, which is located 30 miles north of the lake, is a restored pioneer community. Yet another authentic pioneer settlement, Watter Smith State Park, is within 20 miles of the lake.

West Virginia is a land rich in natural habitat, scenic beauty, and pioneer and antebellum history. A Stonewall Jackson Lake National Recreation Area would provide boating, fishing, hiking, and camping, as well as an opportunity to enjoy some of our Nation's most interesting history.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF RECREATION AREA

(a) In order to provide for—

(1) the development of public recreation opportunities;

(2) assure appropriate conservation and management of the natural and cultural resources; and

(3) preserve the cultural and historic resources,

associated with the Stonewall Jackson Lake area in West Virginia, there is hereby established the Stonewall Jackson Lake National Recreation Area (hereinafter in this Act referred to as the "recreation area").

(b) The recreation area shall consist of the lands, waters, and interests therein within the area generally depicted on the map entitled "Stonewall Jackson Lake National Recreation Area—Proposed", numbered _____, and dated _____, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

SEC. 2. LAND ACQUISITION

Within the boundary of the recreation area, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency with concurrence of the head thereof. No lands or interests therein may be acquired pursuant to this Act without the consent of the owner thereof. Any property owned by the State of West Virginia or any political subdivision thereof may be acquired only by donation.

SEC. 3. ADMINISTRATION.

(a) The Secretary, acting through the National Park Service, shall administer the recreation area in a manner which in his judgment will best provide for—

(1) public outdoor recreation benefits;

(2) conservation of scenic, scientific, historic, cultural and other values contributing to public enjoyment; and

(3) the management, utilization, and disposal of renewable natural resources and the continuation of such existing uses and developments as will promote or are compatible with, or do not significantly impair, public recreation and conservation of the scenic, scientific, historic, cultural, or other values contributing to public enjoyment.

(b) In administering the recreation area, the Secretary may utilize such statutory authorities pertaining to the administration of the National Park System, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith.

(c) In administering the park, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for carrying out the purposes of this Act.

SEC. 4. HUNTING, FISHING, AND TRAPPING.

(a)(1) Within the recreation area—

(A) the Secretary shall permit hunting, fishing, and trapping on lands and water under his jurisdiction in accordance with applicable State and Federal laws; and

(B) the State of West Virginia shall, pursuant to State law, retain the right to regulate hunting, fishing, and trapping on lands and water,

except that the Secretary may designate zones where, and establish periods when, no hunting or trapping may be permitted for reasons of floral or faunal management, administration, or public safety.

(2) Except in emergencies, any regulations of the Secretary promulgated pursuant to this subsection shall only be put into effect after consultation with the appropriate fish and game agency of the State of West Virginia.

(b) Subject to reasonable regulation by the Secretary, any entity owning oil and gas extraction rights within the recreation area on the date of enactment of this Act may continue to exercise such rights.

SEC. 5. ADVISORY COMMISSION.

(a) The Secretary shall establish an advisory commission for the recreation area, and shall consult on a periodic and regular basis with such commission with respect to matters relating to management and development of the recreation area. The members of the advisory commission, who shall not exceed 15 in number, shall serve for individual staggered terms of 3 years each and shall be appointed by the Secretary as follows:

(1) three members representing affected local government entities to be designated by the appropriate government bodies;

(2) one member representing the State of West Virginia;

(3) one member representing the Corps of Engineers; and

(4) not to exceed 10 members appointed by the Secretary from among persons who have an interest in the administration and management of the recreation area and live in the vicinity of the recreation area.

(b) The Secretary shall designate one member to be Chairman and shall fill vacancies in the same manner as the original appointment.

(c) The members shall not receive any compensation for their services as members of the commission, as such, but the Secretary is authorized to pay expenses reasonably incurred by the commission in carrying out its responsibilities.

(d) The Secretary shall, in addition to his consultation with the advisory commission, seek the views of other private groups and individuals with respect to administration of the recreation area.

SEC. 6. APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. ROCKEFELLER. Mr. President, today I am introducing, with the distinguished majority leader, Senator BYRD, legislation that will establish the Stonewall Jackson Lake National Recreation Area. Our distinguished colleague from West Virginia's Third District, Congressman WISE is introducing companion legislation in the House of Representatives. This legislation will provide for the development of public recreation opportunities and protect and preserve the natural, cultural, and historical resources that exist at Stonewall Jackson Lake and the adjacent land area.

Located near Weston, in Lewis County, WV, Stonewall Jackson Lake is on the West Fork of the Monongahela River. The dam which forms the lake is a nongenerating facility primarily designed for flood control. The dam, even though not complete, held back water in the devastating flood of 1985 at a great savings to Weston.

Even though flood control was the initial purpose of the dam, the recreation potential is enormous. The size of the lake, 3,470 acres, and the 80-plus miles of shoreline would provide an opportunity for water recreation not readily available to many people in the mid-Atlantic region of the country. The lake will sustain boating, fishing, water skiing, and swimming.

The lake and the adjacent land area will encompass over 20,000 acres. In addition to water recreation, the recreation area will support hiking, biking, equestrian trails, wildlife observation, camping, picknicking, and hunting. The area included for preservation contains rapidly disappearing eastern hardwood forest and unparalleled scenic beauty. Nestled in an agricultural sector, the area's unique geography affords the visitor the exposure to both northern and southern flora and fauna. Rich in natural habitat, the area is filled with indigenous wildlife that must be preserved to avoid extinction.

In addition to the recreational, cultural, and natural opportunities available, I must mention the historical significance of the area. The area is rich in Civil War history and the namesake of the recreation area, Gen. Stonewall Jackson spent his childhood at nearby Jackson's Mill. As we all know, General Jackson was a scholar, a soldier, and a gentleman. He was a hero in the Mexican-American War and a brilliant military tactician. It is certainly more than appropriate that such a great American be honored with a national recreation area named for him.

This exercise began as a totally local effort. The Honorable Robert Conley, a member of the West Virginia Legislature and a resident of Lewis County, contacted my office in January asking for assistance in obtaining national recognition for the lake and surrounding park area. The Stonewall Jackson Lake Committee was formed and with the National Park Service has set goals they would like to see achieved through the establishment of the Stonewall Jackson National Recreation Area. These goals—to provide year-round recreation, preserve areas of unique scenic beauty, forests, and wildlife for enjoyment by urban dwellers, and finally to provide activities that will highlight the area's Civil War and cultural heritage—are in keeping with the criteria set by the National Park Service for a national recreation area. It has been an honor to have been involved in their efforts from the beginning.

I want to make it clear that the establishment of the Stonewall Jackson Recreation Area will not diminish the efforts already initiated by the U.S. Army Corps of Engineers or the State of West Virginia. It is my intention that the designation will only complement existing plans. I am convinced that the area proposed for inclusion in the National Park System more than meets the criteria established by the National Park Service for designation as a recreation area. It is spacious, within 300 miles of 50 percent of the population of the United States, and offers a variety of recreational, cultural, and historical amenities heretofore unavailable to many people. I urge the passage of this legislation.

By Mr. MOYNIHAN:

S. 1754. A bill for the relief of Fleurette Seidman; to the Committee on the Judiciary.

RELIEF OF FLEURETTE SEIDMAN

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a private bill on behalf of Ms. Fleurette Seidman of New York City, an employee of the U.S. Customs Service for more than 24 years—who retired and incurred a number of major expenses after the Customs Service incorrectly informed her that she was eligible for voluntary retirement. The purpose of this bill is in some small way to right the wrongs caused her by the inaccurate advice of her Federal employer.

In May 1984, Ms. Seidman approached a Customs Service personnel specialist, stating that she was suffering from cancer and hoped to retire and live with her family. She was advised that she was eligible to retire, but would have to accept a reduced pension.

On this advice, Ms. Seidman separated from Government service on September 1, 1984, and made preparations to leave her rent-controlled apartment in New York City. She sold her furniture and moved to Florida to be with her son, grandchildren, and other relatives.

On November 26, 1984, Ms. Seidman was informed by the Customs Service that she was not eligible for retirement, and told that she must return to her job in New York City in 2 weeks. Distraught, she sought to delay her return. She moved back to New York to a smaller, more expensive apartment and resumed work in March 1985.

Under the provisions of the Back Pay Act which became law in 1967, Ms. Seidman was eligible and received payment for the period of time she was separated from Government service. The Back Pay Act, however, does not authorize payment for moving costs or other expenses that an individual might incur which are incidental to actions taken by an employee on the advice of the Federal employer.

Ms. Seidman's case is one that cries out for equitable relief. The Customs Service does not deny that she was given erroneous advice, but cannot reimburse Ms. Seidman for her cost of moving without congressional action. That is why I have introduced this bill. It will enable Ms. Seidman to receive the sum of $8,043.57, which covers costs associated with the loss of the value of donated property, the loss of selling furniture before her move, the cost of car maintenance for her trip to Florida, and the cost of living in Florida for 5 months.

My bill is the companion to H.R. 2802, which was introduced earlier this year by Representative STEVEN SOLARZ of New York. On September 16, 1987, Representative BARNEY FRANK, chairman of the House Government Relations Subcommittee of the Judiciary Committee held a hearing on the bill and announced his support for it. I hope that my colleagues, too, will realize the injustices that Ms. Seidman endured and will help me in seeking quick redress for her grievances.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Fleurette Seidman ([redacted]) the sum of $8043.57. Such sum represents the losses and expenses incurred by Fleurette Seidman arising out of her—

(1) voluntary termination of Federal employment in good faith reliance on erroneous information, received from a retirement counselor of the United States Customs Service, that she was then eligible for an annuity under section 8336(a) of title 5, United States Code, and

(2) subsequent return to her former position of employment.

SEC. 2. LIMITATION ON ATTORNEY'S AND AGENT'S FEES.

Not more than 10 percent of the sum appropriated by section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1,000.●

By Mr. ADAMS:

S. 1755. A bill to establish the Grays Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

GRAYS HARBOR NATIONAL WILDLIFE REFUGE

● Mr. ADAMS. Mr. President, I rise today to introduce legislation which will create a national wildlife refuge at Grays Harbor, WA. This refuge would protect 1,800 acres of wetlands which are currently an important stopover point for millions of shorebirds during their annual migrations.

Shorebirds commonly fly thousands of miles every year. This marathon typically begins in the Arctic, where most shorebirds breed and hatch their young. They migrate to the warmth of Central or South America for the winter, before flying back north in the spring. For many, this journey will be more than 15,000 miles.

To successfully complete this journey, shorebirds are dependent upon a few key staging areas, where they concentrate in enormous numbers to feed and gain strength for the remaining flight. There are four such staging areas in North America which each support more than a million shorebirds every year. Grays Habor is one of these areas, serving as the last major estuary stop for these birds before they embark upon their final 1,500 mile leg to the Arctic breeding grounds.

Studies by the Fish and Wildlife Service suggest that several species of shorebirds have suffered major declines in the last 15 years. The alteration of the environment in a staging area is a major factor in contributing to species decline. It is for this reason that we must protect staging areas such as that found at Grays Harbor. Bowerman Basin in Grays Harbor, a 500-acre mudflat, is the host to nearly half of each spring's migrants. Yet it has been threatened by development for years.

The dependence of shorebirds on these vital staging areas makes them more vulnerable than their great numbers might suggest. The loss of Grays Harbor to pollution, overfishing, or development could threaten the existence of entire species. That is why permanent protection for Bowerman Basin and the Grays Harbor Estuary is necessary.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a 94-square mile estuary on the coast of the State of Washington, is of critical importance to certain migratory shorebirds and water fowl and provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known as Bowerman Basin is a high tidal mudflat within the Grays Harbor estuary which attracts hundreds of thousands of migratory shorebirds during spring and fall migrations as well as peregrine falcons and other raptors;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatchers, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to prevent vegetative encroachment and to otherwise protect and enhance its habitat values; and

(5) the Act complements and enhances the goals set forth in the Grays Harbor Estuary Management Plan, which has identified Bowerman Basin as an area deserving permanent protection.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "refuge" means the Grays Harbor National Wildlife Refuge.

(2) The term "lands and waters" includes interests in lands and waters.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "selection area" means lands and waters of Grays Harbor, Washington, depicted on the map entitled "Grays Harbor National Wildlife Refuge", dated ____ and on file at the United States Fish and Wildlife Service.

SEC. 3. ESTABLISHMENT OF REFUGE.

(a) SELECTION.—Before the first anniversary of the effective date of this Act, the Secretary shall—

(1) designate approximately 1,800 acres of the lands and waters within the selection area as lands and waters that the Secretary considers appropriate for the refuge;

(2) prepare a detailed map depicting the boundaries of the lands and waters designated under paragraph (1), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service; and

(3) publish notice in the Federal Register of availability of the map for public inspection.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated under subsection (a)(1) as may be necessary to carry out the purposes of the refuge and to facilitate the acquisition of property within the refuge.

(c) ACQUISITION.—(1) The Secretary shall, not later than the third anniversary of the effective date of this Act, the Secretary shall acquire—

(A) by purchase, the approximately 68 acres of lands and waters owned by the City of Hoquiam within the selection area for the sum of $500,000, and shall compensate the lessees on such lands and waters for improvements and relocation costs; and

(B) by transfer or purchase, or both (at the option of the Port of Grays Harbor), the approximately 1,711 acres of lands and waters owned by the Port of Grays Harbor within the selection area and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

(2) The appropriate Federal agencies may treat any lands and waters transferred to the Secretary under paragraph (1)(B) as meeting, in whole or in part, mitigation obligations of the Port of Grays Harbor arising under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

(d) FORMAL ESTABLISHMENT.—When the Secretary has acquired under subsection (c) lands and waters sufficient to require administration under section 4, the Secretary shall establish the refuge by publication of notice of the establishment in the Federal Register.

SEC. 4. ADMINISTRATION.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands, waters, and interests therein, acquired under section 3—

(1) in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee); and

(2) in a manner consistent with this Act.

(b) OTHER AUTHORITY.—The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretive education as he considers appropriate to carry out the purposes of the refuge.

(c) TREATMENT OF CONTIGUOUS LANDS.—Neither the Secretary nor the head of any other Federal agency may, because of the establishment of the refuge, impose restrictions on contiguous land use.

(d) MANAGEMENT PLAN.—Within 18 months after the effective date of this Act, the Secretary, shall prepare a management plan for the development and operation of the refuge which shall include—

(1) the construction of a visitor center suitable for year-round use with special emphasis on interpretative education and research;

(2) viewpoints, boardwalks, and access;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth refuge management priorities and strategies.

The Secretary shall provide opportunity for public participation in developing the management plan.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this Act.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, or January 1, 1988, whichever date occurs later.●

By Mr. DOMENICI:

S. 1756. A bill to create joint Federal-State-industry agricultural competitiveness task forces, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL-STATE-INDUSTRY AGRICULTURAL COMPETITIVENESS TASK FORCES

● Mr. DOMENICI. Mr. President, today I introduce a bill that would create State entities to explore solutions to the perplexing agricultural problems we face in each State

The primary purpose of the bill is to create State task forces to make the agriculture in each State more competitive in the international marketplace. I believe that a State-centered research task force, with a strong private sector advisory committee, is the best approach for developing strategies that will keep our agriculture viable.

Mr. President, anyone who has traveled the country over the past several years will tell you that the farm sector has faced some very tough times. Agriculture has changed dramatically in the past 5 years. If our agriculture is to survive, we must realize these changes have occurred, and we must develop a strategy to deal with these changes and problems in the future.

The experts tell me that the U.S. farm sector found itself in trouble in the past because of several different factors, such as: First, a U.S. farm policy which encourages overproduction; second, high foreign farm subsidies; third, trade barriers; fourth, the value of the dollar; fifth, high energy and production costs; and last, high interest rates.

In my judgment, it is very unlikely that any one individual can design a perfect strategy for surviving in this ever changing agricultural economy. To deal with farm problems, such as those we have faced in the past, we should use a task force approach that has the objectives of:

First, developing new strategies for the expansion of markets for U.S. farm products;

Second, designing effective alternatives for cutting production and operating expenses of farms and ranches;

Third, facilitating the transfer of new developments in biotechnology to the agricultural sector; and

Fourth, gradually reducing farm subsidies.

Therefore, today I introduce legislation to create a Federal-State-industry agricultural competitiveness task force in each State. Each States' task force would conduct research directed toward the specific agricultural problems of the State. The research would focus on those factors which restrict the ability of the local agricultural industry of each State to compete in the international market, with the goal of developing solutions to those problems.

The task force in each State would be located at the primary agricultural college or university of the State, as determined by the Governor.

To ensure the task forces direct their work toward specific State problems, they will be directed by a 12-member industry advisory board, appointed by the Governor.

Subject to appropriation, each State's task force will receive $250,000 per year in Federal operating funds, provided that a matching contribution is made by the State or private sources, or both. In addition, some $2.5 million per year is provided for regional and national coordination of the State task forces.

My bill provides that regional coordination will be administered through existing agricultural experiment stations. National coordination will be administered through the Cooperative State Research Service [CSRS]. The bill provides a 5-year authorization sunset for the task forces.

Mr. President, I ask unanimous consent that a detailed paper on the task force concept by Dr. Gerald Thomas, which is entitled "A Positive Approach to the American Farm Problem" be printed in the Record at end of my statement.

Dr. Thomas is the president emeritus of New Mexico State University and has a great deal of knowledge, interest, and genuine concern about agriculture. I recommend his excellent analysis to all my colleagues and hope they will support this concept which is incorporated in the bill I introduce today.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill and article were ordered to be printed in the Record, as follows:

S. 1756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AGRICULTURAL COMPETITIVENESS TASK FORCES.

(a) In General.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by adding at the end thereof the following new subtitle:

"Subtitle N-Agricultural Competitiveness Task Forces

"SEC. 1484. PURPOSE.

"It is the purpose of this Act—

"(1) to encourage and promote the development of new strategies to keep the United States agricultural industry competitive in the world economy;

"(2) to strengthen research directed towards the development of new markets for agricultural products;

"(3) to promote the development of new approaches to cost reduction for farms, ranches, and related enterprises;

"(4) to facilitate the transfer of new development in biotechnology to the agricultural sector;

"(5) to establish agricultural competitiveness task forces, composed of Federal, State, and industry representatives, at a major agricultural university in each State; and

"(6) to gradually reduce subsidies to the agricultural sector so as to keep production costs comparable with those of foreign competitors in the international market.

"SEC. 1485. DEFINITIONS.

"As used in this Act:

"(a) Board.—The term "board" means an industry advisory board established under section 1486(d).

"(b) Task Force.—The term "task force" means an agricultural competitiveness task force established under section 1486(a).

"SEC. 1486. AGRICULTURAL COMPETITIVENESS TASK FORCES.

"(a) Establishment.—There is established in each State an agricultural competitiveness task force, under the authority of the Governor of that State.

"(b) Functions.—A task force in a State shall—

"(1) examine methods to improve existing strategies and develop new strategies for the expansion of foreign and domestic markets for United States agricultural commodities and the products thereof;

"(2) design effective alternatives to reduce the operating expenses of farms, ranches, and other agricultural enterprises within the State and to improve the competitiveness of State agricultural products in foreign and domestic markets; and

"(3) conduct research directed toward the specific agricultural problems of the State which restrict the ability of the agricultural industry of that State to compete in the world economy, with the goal of developing a solution to those problems.

"(c) Location.—A task force shall be located at the primary agricultural college or university of the State, as determined by the Governor.

"(d) Industry Advisory Board.—

"(1) Establishment.—Within each task force there shall be established an industry advisory board to direct the operations of the task force.

"(2) Membership.—

"(A) Appointment.—The board shall consist of no more than 12 members appointed by the Governor, of which—

"(i) no more than 2 members shall be officials of the State entity responsible for agriculture or of the State entity responsible for economic development; and

"(ii) no more than 10 members shall be full-time farmers or ranchers, or persons employed in other agricultural businesses of the States.

"(B) Term of service.—

"(i) Initial year.—Of the original members appointed by the Governor to serve on the board, no more than 6 shall serve a 2-year term, and no more than 6 shall serve a 3-year term, as determined by the Governor.

"(ii) Subsequent years.—On expiration of the term of a 2-year member, the Governor shall appoint a replacement member as prescribed in subparagraph (A) for a 3-year term. On expiration of the term of a 3-year member, the Governor shall appoint a replacement member as prescribed in subsection (A) for a 2-year term.

"(C) Vacancies.—A vacancy on the board shall be filled in the manner in which the original appointment was made and in accordance with the terms prescribed in subparagraph (B).

"(D) Chairman.—The Board shall elect one of the members as Chairman of the Board.

"(E) Meetings.—The board shall meet at the call of the Chairman or a majority of its members.

"(F) Compensation.—All members of the board shall serve without additional compensation.

"(G) Expenses.—All members of the board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the members in the performance of their duties.

"(e) Personnel, Services, and Resources.—

"(1) Personnel and services.—The college or university chosen as the site of the task force under subsection (c) shall have authority to appoint personnel and procure permanent, temporary, and intermittent services as it considers necessary, at rates for individuals prescribed by the Governor, and approved by the board.

"(2) Contracts.—The college or university referred to in paragraph (1) shall have the authority to contract, with State entities or with entities outside the State, for resources needed by the task force to carry out task force functions.

"(f) Hearings.—The task force may, for the purpose of carrying out this Act, hold such hearings, and sit and act at such times and places, as the task force considers appropriate.

"SEC. 1487. FUNDING.

"(a) Appropriation.—To carry out this subtitle, there is authorized to be appropriated $15,000,000 for each fiscal year.

"(b) Use of Funds.—Of the amount appropriated under subsection (a)—

"(1) an amount of $250,000 shall be made available to the task force of each State that provides an equal amount of matching contributions from State or private sources, or both; and

"(2) an amount of $2,500,000 shall be used to coordinate the regional and national functions of each task force—

"(A) on a regional basis, through existing agricultural experiment stations established under section 1409A(e); and

"(B) on a national basis, through the cooperative State research institutions as designated by the Secretary of Agriculture pursuant to section 1409A(d).

"(c) Matching Funds.—Notwithstanding any other provision of this subtitle, no Federal funds shall be allocated to the task force of a State if a State does not provide a matching contribution in accordance with subsection (b)(2).

"SEC. 1488. TERMINATION OF AUTHORITY.

The authority provided under this subtitle shall terminate 5 years after the date of enactment of this subtitle.".

(b) Table of Contents.—The table of contents of the Food and Agriculture Act of 1977 (7 U.S.C. 1281 note) is amended by adding at the end of title XIV the following new items:

"SUBTITLE N—AGRICULTURAL COMPETITIVENESS TASK FORCES

"Sec. 1484. Purpose.
"Sec. 1485. Definitions.
"Sec. 1486. Agricultural Competitiveness task forces.
"Sec. 1487. Funding.
"Sec. 1488. Termination of authority.".

A Positive Approach to the American Farm Problem

(By Gerald W. Thomas)

In many respects, American agriculture is in more trouble today than during the great Depression of the thirties. Unless a positive approach to these farm problems is designed promptly, we are in danger of further loss of family farms, substantial reduction in agribusiness and more serious adverse impacts on our rural communities. In addition, a significant tax-payer backlash is developing due to the high level of farm subsidies. (President Reagan's new budget would reduce the level of subsidies from over $25 billion to 21-23 billion—still too high to be tolerated by the average American.)

The agricultural situation has changed so dramatically in the last 5 years that even the experts are confused. Production increases have caused turmoil in international markets and shaken American agriculture at the roots.

India, once thought to be the world's worst basket case has doubled wheat productions since 1970 and increased rice production by 30 percent.

Bangledesh, and Indonesia are reportedly self sufficient in food grains.

Japan, Taiwan, and the Philippines are coping with rice surpluses.

The EEC (European Economic Community), now the heaviest subsidized agricultural economy in the world, has moved into U.S. food markets—especially since the Soviet Grain embargo.

The PRC (Peoples Republic of China) with over one billion mouths to feed has increased food output by an unprecedented 40% in less than 5 years.

And, while many areas of Africa still face critical hunger problems, it is the food surplus world-wide that is the current driving force in both U.S. and international agricultural policy development.

Remember the Paddock Brother's Book, "Famine-1975"?; The World Food Conference in Rome in 1974 following the drought of the 1970's?; The Global 2000 Report?; and, many other books and depressing statements about the world's ability to feed itself? I assed my own statements to this list of bad forecasts, including the statement "If the Pessimists aren't happy now, chances are they never will be!" Well this situation has changed! And, unless American agriculture can adjust to these changes, we all stand to lose.

What were the circumstances which produced this American farm disaster?

The rising value of the dollar. The dollar rose 80 percent from 1980-1985 and then fell 70 percent (now about 20 percent above the 1980 level).

High energy and production costs at the farm level (particularly for irrigated agriculture).

High interest rates (changing too late for many).

U.S. farm policies which encouraged fence to fence cultivation and built in false concepts of production costs.

High subsidies for farmers in the EEC and some other competitor nations.

Critical trade barriers

In addition to these "circumstances", we saw rapid adoption of some new technologies in foreign countries because these countries finally discovered the importance of providing "an incentive to produce" at the farm level.

What part did the farms play in this scenario?

We responded to government programs which provided incentives to break out more land and produce and produce.

We borrowed on overvalued land—overvalued in most cases because of urban development, tax policies, and farm programs.

We overmechanized on our own farms, buying expensive equipment which sat idle much of the year—instead of contracting for services. We did not know the real costs of production in relation to market prices.

We listened to our bankers who said we had plenty of collateral to support that loan for a new tractor or next year's seed and fertilizers. Now the banks in the breadbasket of America are in trouble (375 failures in the last five years—mostly in central U.S.).

And now, the Farm Credit System has asked for a multi-billion dollar bailout. The financial community has not yet adjusted to all of the reverberations of the producers problems.

Yes, we can, and should blame ourselves as well as the circumstances.

Where were the universities and the USDA when this trouble started to develop? Why didn't our friends, the economists, tell us we were headed for disaster? I live in the University environment. I've been surrounded by economists and I did not see the early warning signs. I was in the cockpit, but I did not see any red lights flash as the plane stalled. Oh, sure, I read about high land values, high interest rates, and some costs of production, but, I did not read any straight forward statements that said "we are in trouble." Someone should have told us "If you continue in the direction you are going, you are liable to end up where you are headed!"

What, then, are the strategies for survival in this new global economy? First, we must recognize that we live in a rapidly changing, complicated, interdependent world. As Ed Schuh, with the World Bank said recently, "Our economy is subjected to international forces beyond the reach of domestic policies." Richard Madden, Chief Executive Officer of the Potlatch Corp. stated it this way in a distinguished lecture at the University of Idaho:

"Many American industries have functioned in relative isolation. It can be quite a shock to learn that companies in other countries can deal with the new competitive realities not only better than you can, but also deal with them that way in your own backyard".

During the past 6 years, I have had the opportunity to serve on the Dallas Federal Reserve Bank Board, El Paso Branch. This exposure has provided new insights into our own monetary policy and some of our interactions with foreign countries. Needless to say, I am a strong supporter of the present Federal Reserve System policies.

I watched the "Fed" manipulate monetary policies to reduce inflation.

I supported the Federal Reserve reductions in the discount rate to bring interest rates within reason.

I believe Chairman Paul Volcker is right that our most critical problems are the Federal deficit (a fiscal policy issue) and the trade deficit (a complicated international issue).

In recent testimony before a committee of the U.S. House of Representatives, Chairman Volcker reiterated his concern about the serious nature of the trade balance and our increasing international debt. He said, "the active but scatter-gun approach to protectionism is *not* the answer." Over 300 bills have been introduced in Congress in the last year to restrict imports. Volcker said:

"I hope we are fully aware of the risks (in protectionism). The results would be no better than in the 1930's; then, one protectionist measure bred others, and world trade *and* economic activity were depressed together. Our effort, instead of retreat, must be directed toward opening other markets, and toward assuring (that) trade can proceed on fair and reciprocal terms. This philosophy drove our negotiating efforts at the GATT Conference at Punta Del Este".

I was pleased to see that Secretary of Agriculture Lyng was among the participants at the GATT meetings and that much emphasis was placed upon trying to get the EEC to reduce farm subsidies.

A TASK FORCE APPROACH

Since no individual can design the best strategies for survival in the new and complicated world, I have a proposal to combine our talents to design strategies for survival.

This is a recommendation for the creation of a Research and Development Task Force in each state focused on three major objectives:

(1) The development of new strategies to improve markets for American farm products.

(2) The design of effective alternatives for cost cutting on farms and ranches to ensure our ability to compete in national and international markets.

(3) The eventual reduction of the multibillion dollar cost of farm programs.

More specifically, this proposal calls for an amendment to the Farm Bill to allocate a part of the multi-billion dollar subsidies to create a joint state/federal/private industry research and development Task Force in each state. My proposal would be to transfer about $15 million to this fund (a rounding error in the Farm Bill) and allocate $250,000 to each state's major agricultural college. Each state could access this fund only if they matched the $250,000 from state funds. Likewise, a private industry input would be required to two purposes, (1) an advisory committee to keep the research oriented toward marketing problems in each state and (2) a partial funding match to the state/federal program by requiring that all producers who receive over $50,000 (the level under controversy) allocate 10% of the excess over this minimum to this Task Force effort. These large agricultural enterprises have the most to gain from increased market and the most to lose from a taxpayer backlash.

Regional coordination would come from a small allocation to the regional efforts such as the existing Agricultural Experiment Station regions (i.e. the Western Region, Great Plains States, etc.), Also, some funds would be set aside for national coordination through USDA. The various State Departments of Agriculture, each with a marketing thrust, would be asked to serve on the advisory committee on the Task Force.

I have purposely proposed that the focus for research be in each state where the scientific teams can be close to the problems. The state focus would also bring a wide variety of new talent to bear on the problem. Scientists in the university environment, somewhat removed from political pressure, should be able to objectively develop and evaluate alternative strategies to keep agriculture viable and competitive.

This Task Force should assemble and analyze our trade relationships with all trading partners, with special attention to "the other 94 countries" where much of our future lies. However, neglect of our neighbors in this hemisphere could lead to trouble. How much do we really know about our relationships with Canada and Mexico?

This Task Force should determine comparative costs of production at home and abroad and help identify our most effective ways to increase efficiency. What new technologies can we utilize; what labor saving techniques are possible? What is the appropriate level of mechanization? Should we diversify (contrary to the trends which continue toward specialization)? Should we integrate vertically (toward the consumer) to capture more off-farm profits?

This Task Force should outline the strategies to help us influence State Department Policies. Are we pawns or players in the geopolitical chess game?

This Task Force should help us understand National and International Monetary Systems. The move toward protectionism at home is not in our best long-term interest—It builds in false subsidies and false hope. However, in the short run we may have to restrict certain imports if reciprocal relationships are unfair.

This Task Force should be "Market Oriented" and should not neglect the U.S. market which is still our largest present and potential market. We should focus on the American consumer—our changing habits and demands. Our campaign to "eat more beef" or to" wear more cotton" will be effective only if we answer the question "Why? Whats in it for me—the American Consumer?" Of course, we should not hesitate to tell the American consumer that they have been the primary beneficiaries of a productive agriculture and that indirectly, the American consumer has been subsidized to a greater extent than the farmer.

This Task Force should identify the trade barriers and outline a political strategy for change.

This Task Force should provide guidance during the upward trend as well as a downward trend. Dr. Ty Timm, former head of the Agricultural Economics Department at Texas A&M put it this way: "If your outgo exceeds your income your upkeep will be your downfall."

Lastly, this Task Force should help us establish a balance between production and resource conservation; should help us design into our system "the incentive to conserve" as well as "the incentive to produce." As we re-establish a conservation reserve—let's not allow the next administration to break out these marginal lands as we have done so often in the past? The generation which follow us may well be more concerned about the environmental consequences of our action than the technical questions of production. A balanced approach to production and conservation is both possible and logical.

In summary, there is no turning back. The world has changed and will continue to change. We must learn to compete in this new environment. If we don't manage change, we will be managed by it. "Those Far Away Places with The Strange Sounding Names" will forever be a part of our social, environmental and economic life. Surely, with all our American know-how, we can design strategies for survival in this challenging global economy.●

By Mr. D'AMATO (for himself, Mr. Moynihan, Mr. Dodd, and Mr. Weicker):

S. 1757. A bill to amend the Internal Revenue Code of 1986 to provide that employer subsidies for mass transit and van pooling be treated as working condition fringe benefits which are not included in gross income; to the Committee on Finance.

TAX TREATMENT OF EMPLOYER SUBSIDIES FOR MASS TRANSIT AND VAN POOLING

Mr. D'AMATO. Mr. President, I rise to introduce legislation, cosponsored by Senators Moynihan, Weicker, and Dodd, allowing unlimited tax-free employer-provided mass transit fringe benefits for employees. Congressman Rangel is sponsoring identical legislation in the House. The introduction of this bill was prompted by a proposal prepared by the mayor of the city of New York, Ed Koch.

The legislation is designed to offset the extraordinary cost of mass transit paid by working men and women. An added benefit of the bill is to encourage commuters not to drive to work, and thus, help New York City and other metropolitan areas meet the requirements of the Clean Air Act.

Under current tax law, an employer can only provide up to $15 per month—$180 annually—of mass transit subsidies to an employee on a tax-free basis. Unbelievably, if the fringe benefit exceeds $15 per month, then the entire subsidy becomes taxable income to the employee. This not only raises employees' taxes, but requires immense reporting requirements by employers as well as withholding taxes paid on the amount of the fringe benefit.

Today, average daily ridership on the Long Island Railroad, Metronorth and the New York City subway system is 276,000, 173,400 and 5.25 million, respectively. It is estimated that the average cost of riding Metronorth and the Long Island Railroad is $140 per month—$1,680 annually—while subway commuters spend roughly $40 per month—$480 annually.

These extraordinary costs dwarf the maximum $15 per month tax-free fringe benefit allowed by the Tax Code. The high cost of travel in and around the New York City area is one reason why corporations are leaving the region. Obviously, raising the limit on employer-provided mass transit fringe benefits would at least partially offset commuting expenses.

On the other hand, the Tax Code allows employers to subsidize employees parking costs completely tax-free and without limit. Roughly 102,000 people drive into New York City's central business district—below 60th Street—each business day. Their average cost for parking is $192 per month—$2,304 annually. It is estimated that 43 percent of these people receive employer-provided parking subsidies tax-free.

Mr. President, the tax laws are biased in favor of commuters who drive to work versus using mass transit. The Tax Code allows the partner in the law firm who takes a limousine to work to recover his parking costs tax-free, but his secretary who takes the train and subway to work can only receive a small subsidy.

This is not an esoteric subject. Many of our Nation's largest cities are facing the double burden of traffic gridlock and severe penalties for noncompliance with the Clean Air Act. Today, 62 metropolitan areas fail to comply with the pollution standards contained in the Clean Air Act.

In my home State, New York City is the only area in noncompliance. Automobile pollution is the main reason for its failing to comply with the Clean Air Act. For the city, 90 percent of its carbon monoxide and 50 percent of its ozone difficulties result from automobiles. Failure to comply by December 31, 1987, would result in a mandatory suspension of all construction. In addition, discretionary penalties include the loss of all Federal highway aid, totaling $274 million for New York City alone.

Mr. President, the legislation being introduced today in the House and Senate would eliminate the current $15 fringe benefit limit for all forms of mass transit including trains, buses, subways, and van pools. In addition, the bill would force employers to comply with nondiscrimination rules now in force for certain other employer-provided fringe benefits. These nondiscrimination rules ensure that most employees of a company are offered the fringe benefits and not just the senior executives. I would also point out that the nondiscrimination rules do not currently apply to employer-provided parking subsidies.

Mr. President, It is just plain common sense that commuters who drive to work be offered the same tax benefits as those who use mass transit. The Tax Code currently discriminates against mass transit. The legislation being introduced today will rectify this inequity.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM GROSS INCOME OF EMPLOYER SUBSIDIES FOR MASS TRANSIT AND VAN POOLING.

(a) In General.—Paragraph (4) of section 132(h) of the Internal Revenue Code of 1986 (relating to special rule for parking) is amended to read as follows:

"(4) Working condition fringe includes certain transportation subsidies.—

"(A) In General.—For purposes of this section, the term 'working condition fringe' includes—

"(i) parking provided to an employee on or near the business premises of the employer, and

"(ii) qualified transportation provided by the employer between the employee's residence and place of employment.

"(B) Qualified transportation.—For purposes of subparagraph (A), the term 'qualified transportation' means—

"(i) transportation provided by the employer (whether by payment or reimbursement) on buses, trains, or subways but only if such transportation—

"(I) is available to the general public, and

"(II) is scheduled and along regular routes, and

"(ii) transportation furnished in a commuter highway vehicle (as defined in section 46(c)(6)(B) without regard to clause (iii) or (iv) thereof) operated by or for the employer.

Transportation provided to a highly compensated employee shall not be treated as qualified transportation unless the requirements of paragraph (1) are met."

(b) Effective Date.—The amendment made by this section shall apply to transportation provided after December 31, 1987, in taxable years ending after such date.

● Mr. MOYNIHAN. Mr. President, today I join my distinguished colleague from New York in introducing a bill to restore rational environmental and transportation policy in the Tax Code. Current tax law produces a bias against the use of mass transportation, which conflicts with sensible environmental and transportation policy. Under current law, an employer can provide free parking to employees without tax consequences to them, but if the same employer wants to provide discounted bus or subway passes, any amount over $15 per month produces a tax liability for the employee. In short, you get a better deal under the Tax Code if you drive to work.

This doesn't make sense, and the bill I cosponsor today restores some sense by at least removing the tilt in the Tax Code toward driving. The bill removes the current $15 per month cap on the amount of transit benefits that can be provided to an employee without being taxed as compensation. Removal of the limitation puts transit benefits on a par with free parking, so that the Tax Code doesn't steer you toward driving.

How could the tax law have gotten so out of alignment in the first place? You have to travel back to the Deficit Reduction Act of 1984, in which Congress attempted to deal comprehensively with the tax treatment of employee fringe benefits. Employer-provided free parking is pretty much a fact of life throughout this country, and most people probably don't believe that free parking should be treated as taxable income. (Given the cost of parking in New York City and other urban areas, at least some city dwellers might comprehend how free parking could be seen as a taxable item. But, all regions considered, we on the tax writing committees decided to forgo this potential source of revenue. And wisely so, I suppose.)

Once parking fringe benefits got exempted, something had to be done to provide a measure of equal treatment for other modes of transportation. Over in the House, Representative RANGEL, secured a provision, which I persuaded my fellow Finance Committee members to accept in conference, that allowed tax-free treatment of mass transit fringe benefits, capped at $15 per month. That was the best we could get at the time, given strong opposition by the Treasury, but we got the principle established. The legislation that I cosponsor today will finish the job.

As long as the Tax Code discriminates against mass transit, the environment will suffer. Ninety percent of the carbon monoxide and 50 percent of the ozone fouling New York City's air can be traced to automotive exhaust. Pollution from cars and trucks remains a major reason that many urban areas are unable to meet the requirements of the Clean Air Act. New York City officials estimate that up to one-quarter of those who now drive into Manhattan would consider switching to mass transportation, if the cap on employer-provided mass transit benefits were removed and their employers provided the benefit.

An issue of tax fairness is involved as well. Those who drive to work tend to be more affluent taxpayers. Should they receive unlimited parking fringe benefits while those using mass transit are restricted to $15 per month? I think not, and today's legislation changes that.

In the name of rational environmental and transportation policy, and tax fairness, I urge my colleagues to support equal tax treatment for mass transit benefits.●

● Mr. DODD. Mr. President, today I rise in support of a bill which I am proud to introduce with my good friend and colleague, Senator D'AMATO of New York. Mr. President, basically, this measure would lift the current law cap on the amount of employer-provided mass transit discounts which an employee can receive tax free. This would allow employees who use mass-transit to receive employer-provided discounts on the same terms as those employees who receive employer-provided parking assistance.

All of my colleagues in the Senate are familiar with the trend in American business whereby employers seek to attract employees by offering an ever-increasing array of fringe benefits such as health insurance, life insurance, and others—all the way down to health club memberships. It may not come as a surprise to my colleagues that among the most frequently offered benefits is parking assistance, which may come in the form of free parking or vouchers for parking expenses. Current tax law allows employees to receive unlimited employer assistance for parking expenses tax free. The average cost of parking in New York City $192 a month; in downtown Hartford, parking costs range from $125 to $175 a month. So, Mr. President we are not talking about an insubstantial economic benefit here.

Well, that's all well and good, Mr. President, but my colleagues may be surprised to learn that current law allows employees to receive only $15 a month in tax-free employer assistance for mass transit expenses. And Mr. President, it may surprise my colleagues even more to learn that if, by chance, an employee receives any more than $15 a month in mass transit assistance from his or her employer, then the entire amount of that assistance is includable in the employee's taxable income. That fact is so startling that I will say it again: if an employee receives even one penny more than $15 a month in employer-provided mass transit assistance, the entire amount is includable in the employee's taxable income—hardly much of a "perk", Mr. President. Now, Mr. President, $15 a month does not nearly cover the cost of commuting in any major metropolitan area. For example, a monthly train pass from New Haven to New York City costs $195; a monthly ticket from Stamford to New York City costs $145.

So, Mr. President, to summarize, the current Tax Code allows an employer to offer an employee an unlimited amount of parking expense assistance without any of that economic benefit being included in the employee's taxable income. However, an employer can offer an employee only $15 a month in tax-free mass transit assistance. In practice, many employers offer their employees valuable tax-free parking assistance as part of their benefits package and very few employers offer their employees a fringe benefit of such limited value as the employer-provided mass-transit assistance allowable under current law.

There is another interesting little twist to this problem: Employer-provided parking assistance is not covered by the nondiscrimination rules which apply to other employee benefits. That's right, Mr. President, they do not apply. That means that a firm can offer free parking to its highly compensated executives only and suffer no penalty. Thus, we can envision a scenario where the executives of a company can get their parking paid for by the firm and its low- and middle-income workers are taking the train or bus to work and paying for it out of their own pockets.

For firms which offer parking benefits to all their employees, the average worker is faced with an interesting choice: he or she can drive to work and receive a substantial tax-free parking benefit, which, as I said before, is worth $192, on average, a month in Manhattan and $125-$175 a month in downtown Hartford or he or she can commute via mass transit and burn up a lot of discretionary income—some choice.

Mr. President, last year, the Senate adopted a sweeping tax reform measure which was widely praised for its elimination of loopholes and its attempt to tax economic income evenly. Well, Mr. President, the act missed at least one anomaly in the Tax Code. Under current law, two people can work in the same firm and receive the exact same salary and yet bear tax burdens disproportionate to their real or economic income because one chooses to take the train to work and the other drives and receives employer-provided parking assistance as a tax-free fringe benefit.

So, Mr. President, what do have here? We have a Tax Code which encourages people to drive to work and discourages them from commuting to work using mass transit. Is this the kind of tax policy we want? Do we want to perpetuate an inequitable Tax Code which provides different tax treatments for those taxpayers who drive to work and those who commute using mass transit? Do we want a Tax Code that encourages workers to drive to work at a time when our dependency on foreign oil is on the rise? Do we want a Tax Code that encourages workers to drive to work when many of our large- and medium-sized cities are deemed "nonattainment areas" under the requirements of the Clean Air Act? In my opinion, Mr. President, the answer to all these questions is "No."

With the measure that Senator D'Amato and I are introducing today, we have a relatively inexpensive way to remedy this inequity and promote a number of subsidiary benefits. This bill will lift the current $15 a month cap on tax-free employer-provided mass-transit assistance. The removal of this obstacle will allow employers to offer their employees mass-transit assistance on the same terms on which employers now offer parking assistance to their employees.

This bill will encourage the expansion of employer-provided mass-transit assistance programs presenting employees with a real choice among transportation modes. This bill will encourage employees to leave their cars at home and commute to work using mass transit. When that happens, we will see a host of benefits: A decline in commuting times, an alleviation of traffic congestion, a reduction of work hours lost because of traffic delays, and a concomitant decline in dangerous automobile emissions. All of this can be achieved at a relatively small cost to the U.S. Treasury. The Joint Committee on Taxation estimates that this measure will cost $35 million in the first year.

Mr. President, here in the Senate, we often talk about the need to take the long view of things; we decry the lack of comprehensive and consistent policy. This small, simple measure corrects a deficiency, an inequity, in the Tax Code but it also brings the Tax Code in line with important policy goals in other areas. It encourages the use of mass transit, thereby promoting fuel conservation, productivity, energy independence, and the reduction of carbon monoxide emissions. This simple bill establishes a measure of coherence among our Tax Code and our transportation, environmental protection, and national energy security policies. By repairing a section of the Tax Code which runs counter to our purposes in these other areas, this simple bill achieves a more unified and consistent policy on all fronts.

Mr. President, I urge my colleagues to review this legislation and trust they will agree with me on its wisdom, its soundness, and its timeliness.●

By Mr. EVANS:

S. 1758. A bill to establish the Grays Harbor National Wildlife Refuge in the State of Washington; to the Committee on Environment and Public Works.

GRAYS HARBOR NATIONAL WILDLIFE REFUGE

● Mr. EVANS. Mr. President, today I rise to introduce legislation to establish the Grays Harbor National Wildlife Refuge in the State of Washington. For many years the Bowerman Basin mudflats in Grays Harbor have been recognized as internationally significant wildlife habitat of migratory shorebirds. These mudflats of Bowerman Basin constitute a major feeding and stopover for shorebirds migrating every spring and fall between points as far as South America and Alaska. As well as the shorebirds, the Grays Harbor area supports populations of bald eagles, peregrine falcon, dunlin, geese, plovers, owls, and many other species of waterfowl. All who have experienced the biannual migration agrees this is an area worthy of national recognition and protection.

For some time the destiny of Bowerman Basin has been an issue of discussion during the development of the Grays Harbor Estuary Management Plan. The development of this regional planning effort was made at the urging of Senator Henry Jackson, who was instrumental in establishing the Grays Harbor Regional Planning Commission to determine which areas of Grays Harbor should be protected and which should be left for development. The commission coordinated the development of the Grays Harbor Estuary Management Plan. This planning effort was remarkable in combining the efforts of local, State, and Federal agencies. For the last several years, the commission, as well as the cities of Aberdeen, Hoquiam, Ocean Shores, Westport, and Cosmopolis, the Port of Grays Harbor, the Washington State Departments of Ecology, Game, Fisheries and Natural Resources, the Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service, have worked to develop a management plan for the estuary that will balance the ecosystem and conservation goals with the social and economic interests of the community. The estuary management plan is now in its final stage of adoption.

This legislation is an attempt to complement and enhance the goals set forth in the Grays Harbor Estuary Management Plan. The Bowerman Basin mudflats are protected under the plan in a natural conservancy designation. This legislation will formally designate the basin as a national wildlife refuge so that it may be protected and managed so that it may continue as an important resting stop for the annual shorebird migrations.

Mr. President, there are a few specific points about this legislation that I would like to take a moment to discuss. Recognizing that this deficit-burdened Government has difficulty finding the funds it needs to acquire wildlife habitat, I have incorporated a mechanism to allow the Fedeal Government to acquire the primary parcel of land without the need to expend limited Government funds. As an acquisition option, this legislation allows the Fish and Wildlife Service to use the privately owned basin to be acquired as mitigation for past or future development, if the relevant Federal agencies deem it appropriate.

Additionally, the legislation would establish the Bowerman Basin Economic Development Fund. This fund would allow contributions, in cash, or real or personal property from any non-Federal entity for development proposals at Bowerman Basin. These contributions would then be matched by the Federal Government. This will provide a way to build on the community support for enhancing the area, as well as the support from the many outside of the Grays Harbor area who will visit this area.

By allowing contributions in kind, the authorization for the construction of visitors' facilities authorized in the legislation can be further enhanced. Potential donations of lumber could provide viewpoints and boardwalks, or funds could be spent in an effort to attract outside interests to the Grays Harbor area for the viewing of the shorebird migration. This combination of private and Federal interests is consistent with previous combined efforts to forge partnerships in educating, appreciating, and managing this estuary.

Bowerman Basin is one of the more spectacular wetlands on the Washington coast. A Grays Harbor national wildlife refuge is critical to the welfare of migratory waterfowl and shorebirds as well as providing important habitat for many other types of fish and wildlife. I would encourage my colleagues to visit this site should they journey to Washington State, and hope that they will join me in the eventual passage of legislation establishing the Grays Harbor National Wildlife Refuge.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) Grays Harbor on the coast of Washington is an estuary that is critical to the welfare of certain migratory waterfowl and

shorebirds and provides important habitat for many other types of fish and wildlife;

(2) The area known as Bowerman Basin is a tidal mudflat that attracts thousands of shorebirds during the spring migration and provides extraordinary recreational and education opportunities for birdwatchers, nature photographers, scientists, students, and others;

(3) Bowerman Basin requires active management to protect and enhance its habitat values; and

(4) Bowerman Basin has been identified in the Grays Harbor Estuary Management plan as an area deserving permanent protection.

(b) Purpose.—The purpose of this Act is to authorize and to establish the Grays Harbor National Wildlife Refuge.

SEC. 2. ACQUISITION AND ESTABLISHMENT OF REFUGE.

(a) Acquisition.—(1) Within three years after the effective date of this Act, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall acquire the approximately seventeen hundred and eleven acres of lands and waters and interests therein, owned by the Port of Grays Harbor, located in Grays Harbor, Washington, that are depicted on the map entitled "Grays Harbor National Wildlife Refuge", dated ————, 1987, which is on file at the United States Fish and Wildlife Service, Department of the Interior.

(2) The Secretary may also acquire, as the Secretary deems necessary, any portion of the approximately 63 acres of lands, waters, and interests therein owned by the City of Hoquiam, located in Grays Harbor, Washington, that are depicted on the map entitled "Grays Harbor National Wildlife Refuge" dated ————, 1987, which is on file at the United States Fish and Wildlife Service, Department of the Interior.

(3) The lands and waters, and interests therein, acquired under this subsection shall comprise the Grays Harbor National Wildlife Refuge (hereafter in this Act referred to as the "refuge").

(4) The Secretary may make only such minor revisions in the boundaries designated in this subsection as may be necessary to carry out the purposes of this Act or to facilitate the acquisition of property within the Refuge.

(5) The acquisitions authorized by this subsection shall be made at fair market value through any combination of donation, purchase with donated or appropriated funds, exchange, or other means; except that the Secretary shall not acquire under paragraph (2) any portion of the 63 acres owned by the City of Hoquiam without the consent of the owner.

(6) Lands transferred to the Secretary pursuant to this Act may also be entitled to consideration as meeting mitigation obligations, in whole or in part, as required by Federal law and policy under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344). Such mitigation credit may be determined by the appropriate federal agencies in consultation with the Port of Grays Harbor to offset past or future mitigation requirements as stipulated by such agencies.

(b) Establishment.—At such time as sufficient lands and waters, and interests therein, have been acquired under subsection (a) to constitute an initial area that can be administered to carry out the purposes set forth in section 3, the Secretary shall establish the Grays Harbor National Wildlife Refuge by publication of notice to that effect in the Federal Register.

SEC. 3. PURPOSES AND ADMINISTRATION OF REFUGE.

(a) Purposes.—The Secretary shall administer the Refuge to carry out the purposes of the Refuge which are—

(1) to recognize that Grays Harbor is an estuary that is critical to the welfare of a broad diversity of migratory waterfowl, shore and wading birds and provides important habitat for other fish and wildlife;

(2) to protect, maintain and enhance the habitat and populations of migratory, waterfowl, shore, and wading birds that utilize lands and waters within Grays Harbor, in particular, the tidal mudflats known as Bowerman Basin;

(3) to complement and enhance the goals set forth in the Grays Harbor Estuary Management Plan;

(4) to recognize the national and international significance of Bowerman Basin for migratory birds;

(5) to provide a means for proper land management in accordance with the needs for continued wildlife use;

(6) to provide for recreation, enhanced tourism, education, and scientific research opportunities in Grays Harbor.

(b) General Administrative Authority.—The Secretary shall administer all lands and waters, and interests therein, acquired under section 2 in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(c) Other Authority.—The Secretary may utilize such additional statutory authority as may be available for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive environmental education as the Secretary considers appropriate to carry out the purposes of the Refuge.

(d) Treatment of Contiguous Lands.—The Secretary shall not, because of the establishment of the Refuge, impose restrictions on contiguous land uses. The Secretary shall report to the Congress on an annual basis as to the impacts on the Refuge from activities on surrounding land.

(e) Management Plan.—Within eighteen months after the effective date of this Act, the Secretary shall complete a management plan for the development and operation of the Refuge which shall include, but not be limited to—

(1) construction of a visitor's center suitable for year round use;

(2) viewpoints, boardwalks, access, parking and other necessary facilities.

(f) Economic Development Fund.—(1) The Secretary shall establish an economic development fund (hereafter in this Act, referred to as the "fund") to further the purposes of the Refuge. The Fund shall consist of—

(A) contributions, in cash or real or personal property, from any non-Federal entity; and

(B) payments made by the Secretary equal to cash contributions made pursuant to subparagraph (A) and the value of contributions of real or personal property made pursuant to subparagraph (A).

(2) The Secretary shall make payments into the fund established pursuant to this subsection as required by paragraph (1)(A) and shall make expenditures from the fund which the Secretary determines are consistent with the purposes of the Refuge.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $1,500,000.

SEC. 5. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act or January 1, 1988, whichever date occurs later.●

ADDITIONAL COSPONSORS

S. 42

At the request of Mr. Roth, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of S. 42, a bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government employees, and for other purposes.

S. 58

At the request of Mr. Danforth, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 58, a bill to amend the Internal Revenue Code of 1986 to make the credit for increasing research activities permanent and to increase the amount of such credit.

S. 578

At the request of Mr. Ford, the name of the Senator from Kentucky [Mr. McConnell] was added as a cosponsor of S. 578, a bill to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail.

S. 681

At the request of Mr. Exon, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 681, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment of Federal financing bank loans made to rural electrification and telephone systems, and for other purposes.

S. 818

At the request of Mr. Domenici, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 818, a bill to provide permanent authorization for White House Conferences on Small Business.

S. 884

At the request of Mr. Cranston, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 884, a bill to prohibit the burning and dumping of toxic and hazardous waste in certain areas off the coast of California, and various other purposes.

S. 1162

At the request of Ms. Mikulski, the name of the Senator from Michigan [Mr. Reigle] was added as a cosponsor of S. 1162, a bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement to certain health care professionls; to clarify certain provisions of such chapter with respect to coordination with State and local law; and for other purposes.

S. 1188

At the request of Mr. Symms, the names of the Senator from Iowa [Mr. Grassley], the Senator from Arizona [Mr. McCain], the Senator from Illinois [Mr. Simon], and the Senator from Louisiana [Mr. Johnston] were added as cosponsors of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1242

At the request of Mr. Humphrey, the name of the Senator from Mississippi [Mr. Stennis] was added as a cosponsor of S. 1242, a bill to prohibit the use of Federal funds for abortions except where the life of the mother would be endangered, and to prohibit the provision under title X of the Public Health Service Act of Federal family planning funds to organizations that perform or refer for abortions, except where the life of the mother would be endangered, and for other purposes.

S. 1483

At the request of Mr. Heinz, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 1483, a bill to reestablish food bank special nutrition projects, to establish food bank demonstration projects, and for other purposes.

S. 1484

At the request of Mr. Grassley, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 1484, a bill to provide permanent authorization for White House Conferences on Rural Development and the Family Farm.

S. 1544

At the request of Mr. Metzenbaum, the names of the Senator from Rhode Island [Mr. Chafee], the Senator from Vermont [Mr. Stafford], and the Senator from Iowa [Mr. Harkin] were added as cosponsors of S. 1544, a bill to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes.

S. 1564

At the request of Mr. Chiles, the name of the Senator from Maine [Mr. Mitchell] was added as a cosponsor of S. 1564, a bill to establish a U.S. Bipartisan Commission on Comprehensive Health Care.

S. 1647

At the request of Mr. Chiles, the names of the Senator from Maryland [Ms. Mikulski], and the Senator from Arizona [Mr. McCain] were added as cosponsors of S. 1647, a bill to reform the laws relating to former Presidents.

S. 1717

At the request of Mr. Grassley, the name of the Senator from Virginia [Mr. Trible] was added as a cosponsor of S. 1717, a bill to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes.

SENATE JOINT RESOLUTION 111

At the request of Mr. Heinz, the names of the Senator from California [Mr. Cranston], and the Senator from Virginia [Mr. Trible] were added as cosponsors of Senate Joint Resolution 111, a joint resolution to designate each of the months of November 1987, and November 1988, as "National Hospice Month."

SENATE JOINT RESOLUTION 141

At the request of Mr. Nickles, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day."

SENATE JOINT RESOLUTION 147

At the request of Mr. Levin, the names of the Senator from Arkansas [Mr. Bumpers], the Senator from North Dakota [Mr. Conrad], the Senator from Illinois [Mr. Dixon], the Senator from Kansas [Mr. Dole], the Senator from Minnesota [Mr. Durenberger], the Senator from Florida [Mr. Graham], the Senator from Maryland [Mr. Sarbanes], the Senator from Alaska [Mr. Stevens], and the Senator from Colorado [Mr. Wirth] were added as cosponsors of Senate Joint Resolution 147, a joint resolution designating the week beginning on the third Sunday of September in 1987 and 1988 as "National Adult Day Care Center Week."

SENATE JOINT RESOLUTION 168

At the request of Mr. Melcher, the names of the Senator from New York [Mr. D'Amato], the Senator from Florida [Mr. Graham], the Senator from Minnesota [Mr. Boschwitz], the Senator from Alaska [Mr. Murkowski], the Senator from Utah [Mr. Garn], the Senator from Oklahoma [Mr. Nickles], and the Senator from Kansas [Mrs. Kassebaum], were added as cosponsors of Senate Joint Resolution 168, a joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 190

At the request of Mr. Wallop, the names of the Senator from Minnesota [Mr. Durenberger], the Senator from Rhode Island [Mr. Chafee], the Senator from Alaska [Mr. Murkowski], the Senator from Washington [Mr. Evans], the Senator from Tennessee [Mr. Gore], the Senator from Tennessee [Mr. Sasser], the Senator from Oklahoma [Mr. Nickles], the Senator from Michigan [Mr. Riegle], the Senator from Vermont [Mr. Stafford], the Senator from South Carolina [Mr. Hollings], the Senator from Virginia [Mr. Warner], the Senator from Louisiana [Mr. Breaux], the Senator from Idaho [Mr. Symms], the Senator from New Jersey [Mr. Bradley], and the Senator from West Virginia [Mr. Rockefeller], were added as cosponsors of Senate Joint Resolution 190, a joint resolution to authorize and request the President to issue a proclamation designating June 6-12, 1988 as "National Fishing Week."

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. Grassley, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of Senate Concurrent Resolution 32, a concurrent resolution to express the sense of Congress that volunteer work should be taken into account by employers in the consideration of applicants for employment and that provision should be made for a listing and description of volunteer work on employment application forms.

SENATE CONCURENT RESOLUTION 76

At the request of Mr. Inouye, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of Senate Concurrent Resolution 76, a concurrent resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the Development of the U.S. Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.

SENATE RESOLUTION 295—SENSE OF THE SENATE ON DESIGNATION OF "EMPLOYEE OWNERSHIP WEEK"

Mr. BYRD submitted the following resolution; which was placed on the calendar by unanimous consent:

S. Res. 295

Whereas employee ownership is instrumental in helping more Americans share in our Nation's growth and prosperity by enabling them to accumulate significant amounts of capital stock in their companies;

Whereas employee ownership is a powerful incentive for workers to make the best use of their talents and energies in the work place, thus strengthening the competitive potential of our Nation's enterprises;

Whereas employee ownership is a viable tool for creating and retaining jobs in our Nation's communities;

Whereas the growing number of firms with employee owners deserve special praise for their participation in the positive economic trend of employee ownership; and

Whereas the United States Congress, as a matter of sound economic policy, supports the further adoption and expansion of employee ownership in American business: Now, therefore, be it

Resolved, That it is the sense of the Senate that the period commencing October 5, 1987, and ending October 11, 1987, should be recognized as "Employee Ownership Week".

Mr. BYRD. Mr. President, I am pleased to submit a resolution designating the period of October 5-11 as Employee Ownership Week.

The Employee Stock Ownership Plan [ESOP]—a tax deductible financing technique—is a fair and proven program which distributes the wealth and which embodies the best concepts of a democratic society—that of participation, involvement, and ownership, with each participant, through joint ownership, entitled to a portion of the profits resulting from his labors.

There are employee ownership companies in virtually every State of the Union, and in every type and size of business and industry. In fact, there are presently 8 million employee-owners working for these thousands of enterprises throughout the country. These employee/owners are setting new competitive standards, and a recent study of ESOP's published in the Harvard Business Review projects that these companies will grow 40 to 46 percent faster than they would have without employee ownership. The typical employee in the typical employee ownership plan will accumulate over $31,000 in stock over that growth period—a most impressive figure, considering that currently 90-percent of all corporate stock is owned by 10-percent of the population.

The majority of the credit for the creation of this successful system goes to my good friend and former colleague, Senator Russell Long. He is the "father" of this program, and I am just pleased that he had asked me and that I was able to join in cosponsoring the enabling legislation which brought this system to life.

We talk a lot about the trade deficit, and certainly there is overwhelming reason for concern. Here, on the other hand, is a method which goes a long way toward affording our domestic industries the competitive edge which they so badly need. Part of the picture is the tax incentives which have been provided by legislation, but more substantially the major driving factor is a recognition on the part of each individual employee that he has a personal stake in the success or failure of his company. His own fortunes are directly tied to that success or failure—a compelling reason to give one's best effort to attain and keep the competitive edge.

I am pleased and proud, also, that one of the largest wholly employee-owned ESOP in the country—and I believe the most successful—is located in my home State of West Virginia. The Weirton Steel Corp., which is located in Weirton, WV, has 8,000 employees, and has had 14 quarters of profitability. The company and the city of Weirton have come a long way since that point in the early 1980's when National Steel announced it would sell the plant to its employees or close it down—a devastating prospect for those who would have lost their jobs as well as their city.

Through the use of the ESOP financing system, and with hard work, sacrifices and drive, Weirton's people rallied. They were able not only to buy the plant and save their jobs but through determination, grit, and hard work, are now the largest and most successful ESOP company in the country.

Weirton has had the benefit of excellent leadership. Robert Loughhead, president, CEO and chairman—who recently retired from Weirton Steel—held a steady course and played a major role in Weirton's success. He has now been replaced by Herb Elish, and I wish for him a continuation of that success under his leadership.

I believe it is fitting that we recognize the success of this excellent program which helps more Americans to share in our Nation's growth and prosperity, strengthens the competitive potential of our Nation's enterprises, enhances job creation, and forms the basis for sound economic policy, by observance of Employee Ownership Week, and I call on my colleagues to join me in approving this resolution for that purpose.

AMENDMENTS SUBMITTED

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

HELMS AMENDMENT NO. 854

Mr. HELMS proposed an amendment to the bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and for other purposes; as follows:

At the end of section 516, add the following:

SEC. . HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) Findings.—The Congress finds that—

(1) on October 1st, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27th, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities, and twenty-seven Tibetan Buddhist monks were arrested;

(3) in response to His Holiness the Dalai Lama's five point peace plan, which was presented to the U.S. Congress during his visit to Washington at the invitation of the Congress on September 21, 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) on September 22, 1987, the Chairman and Ranking Minority Member of the Senate Foreign Relations Committee, the Chairman and Ranking Minority Member of the House Foreign Affairs Committee, and Co-Chairman of the House Human Rights Caucus signed a letter to His Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step towards resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."

(5) beginning October 7, 1950, the People's Republic of China invaded and occupied Tibet, imposed military rule, and continues to exercise dominion over the Tibetan people through the presence of a large occupation force;

(6) over one million Tibetans have perished as a direct result of the political instability, imprisonment, and widescale famine engendered by the occupation of Tibet by the People's Republic of China;

(7) 6,250 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, have been destroyed and their irreplacable national legacy of art and literature either lost or stolen from Tibet by the People's Republic of China;

(8) Tibet's vast mineral, forest, and animal reserves are being systematically exploited by the People's Republic of China, with no benefit accruing to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) The People's Republic of China has undertaken a massive population transfer, entailing the immigration of millions of Chinese onto the Tibetan plateau in an effort to absorb and render insignificant the Tibetan people in their own homeland;

(11) the arrest and execution of Tibetan political and religious prisoners continues, with thousands of Tibetans currently interred in labor camps;

(12) Tibet, a nation dedicated to the principles of nonviolence and mutual coexistence for a millennia, has been militarized which has increased the instability of the entire Central Asian region;

(13) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost thirty years to secure peace and religious freedom in Tibet;

(14) since 1959, India has generously provided refuge and resources for Tibetan exiles so that they may maintain their unique culture and religion in the hope of returning to their homeland;

(15) the People's Republic of China continues to ignore United Nations General Assembly resolutions 1353, 1723, and 2079 calling for a cessation of human rights violations in Tibet and for implementation of the right of the Tibetan people to self-determination;

(16) 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China on July 24, 1985, expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetan Government-in-exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations

of His Holiness the Dalai Lama and his people every consideration"; and

(17) there has been no evidence of any such consideration being granted by the Government of the People's Republic of China.

(b) Statement of Policies.—It is the sense of the Congress that—

(1) the United States should review its foreign policy toward and its relations with the People's Republic of China in light of the continued violation of human rights in Tibet by the People's Republic of China;

(2) the United States should reassess and review sales and other transfers of defense articles, defense services, and high technology to the People's Republic of China in light of the continued violation of human rights in Tibet by the People's Republic of China;

(3) the President should meet with His Holiness the Dalai Lama to express United States support for his efforts for world peace and particularly his efforts to find a peaceful solution to the Tibetan problem;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue over the future status of Tibet;

(5) the United States, through the Secretary of State—

(A) should address and call attention to the rights of the Tibetan people, as well as other non-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Sinkiang), the Mongolians of Inner Mongolia, and the Manchus of Manchuria, and

(B) should support efforts to maintain Tibet's identity and preserve Tibetan culture and religion, both inside Tibet and among those in exile;

(6) congressional delegations should visit Tibet (including the areas of Kham and Amdo) and the Tibetans in exile in order to witness the progress being made and the problems faced; and

(7) the President should instruct the United States Ambassadors to the People's Republic of China and India to work closely with the Tibetan people to find areas in which the United States Government and people can be helpful.

(c) Any verification submitted to the Congress pursuant to the Arms Export Control Act with respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China shall be accompanied by a Presidential determination that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress of the human rights situation in Tibet and the transfer of millions of Chinese to Tibet.

(e) Of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, not less than $850,000 shall be available only for assistance for Tibetan refugees.

(f) For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 50 scholarships for study at institutions of higher education in the United States.

PELL AMENDMENT NO. 855

Mr. PELL proposed an amendment to amendment No. 842, as modified, proposed by Mr. Wallop to the bill (S. 1394) supra; as follows:

In the pending a strike all of the word "Sec." and insert the following:

EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE SOVIET ICBM TESTS NEAR THE STATE OF HAWAII.

(a) Findings.—The Congress finds that—

(1) the Soviet Union and the United States have recently concluded an agreement with respect to reducing the risks of accidental nuclear war;

(2) the Soviet Union has recently conducted two tests of its intercontinental ballistic missile forces;

(3) the announced impact points for reentry vehicles from those tests caused major concern in the State of Hawaii and an official expression of concern by the United States Government;

(4) in connection with those tests, forces of the Soviet Union illuminated United States military aircraft in international airspace with laser beams, an action which may have inhibited the monitoring of those tests, a provocative and dangerous act with no justification, which may contravene the provisions of the unratified SALT II Treaty prohibiting interference with national technical means;

(5) the Soviet Union may have encrypted telemetry from this flight-test, as if their standard practice, in contravention of the provisions of the unratified SALT II Treaty;

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the actions of the Soviet Union in testing ICBMs in the Hawaiian region and in illuminating U.S. monitoring aircraft is provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war;

(2) an immediate and comprehensive explanation of Soviet actions should be demanded by the U.S. government;

(3) the President should report to the Congress in 10 days in both classified and unclassified forms on (a) the details of the Soviet actions; (b) Soviet explanations offered in response to U.S. diplomatic protests; and (c) what steps the United States will take to ensure that such actions do not recur.

WALLOP (AND OTHERS) AMENDMENT NO. 856

Mr. WALLOP (for himself, Mr. Wilson, Mr. Dole, Mr. Helms, Mr. Matsunaga, and Mr. Inouye) proposed an amendment to the bill (S. 1394) supra; as follows:

Add at the end of the bill the following new section:

Sec. . (a) Findings.—The Congress finds that—

(1) the Union of Soviet Socialist Republics and the United States of America have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

(2) the Soviet Union has within the last few days conducted two tests of its intercontinental ballistic missile forces,

(3) the announced impact points for reentry vehicles from these tests are as close as two hundred miles northwest and southeast of the State of Hawaii,

(4) the announced impact points would require the overflight of sovereign U.S. territory by a Soviet ICBM,

(5) the missile used in this test is a modern multiple warhead ICBM which probably is a violation of the "heavy ICBM" provision of the SALT II Treaty,

(6) the Soviet Union allegedly encrypted telemetry from the flight-tests, as is their standard practice, which would be a violation of the SALT II Treaty,

(7) the Soviet Union used a laser or other directed energy device to irradiate at least one U.S. aircraft in the region that was monitoring the tests, having the effect of interfering with our national technical means of verification,

(8) the Soviet Union appears to have been practicing with these tests a strike on the United States because of the use of trajectories of fire identical with those that would be used to attack Pearl Harbor,

(9) had this test misfired by only fractions of a second, Soviet ballistic missile test reentry vehicles could have landed on centers of population in the Hawaiian Islands,

(10) this action cannot be explained as anything but a deliberate provocation toward the United States and a direct threat to our national security.

WALLOP (AND OTHERS) AMENDMENT NO. 857

Mr. WALLOP (for himself, Mr. Wilson, Mr. Dole, and Mr. Helms) proposed an amendment to amendment No. 856, proposed by him, to the bill (S. 1394) supra; as follows:

Add at the end of the Wallop amendment the following:

(b) Sense of the Congress.—It is the Sense of the Congress that—

(1) This test has increased rather than decreased the risk of nuclear war,

(2) The Congress of the United States condemns the Soviet Union for its actions that demonstrate an utter disdain for civilized and acceptable standards of international behavior and demands a public and immediate apology to the American people as well as assurances that tests this near U.S. territory will not occur in the future,

(3) The Congress condemns these probable new violations of the provisions of the SALT II Treaty, as interference with national technical means of verification, in conjunction with probable new violations of the SALT II Treaty, and as thoroughly inconsistent with improving relations between the two countries and indicating a contempt for the objectives of arms control,

(4) Because the United States has not even a very limited defense against ballistic missiles, the possibility of accidental impact of Soviet ballistic missile test re-entry vehicles in the population centers on the Islands of Hawaii could not have been prevented,

(5) The United States government should officially and at the highest levels protest this action by the Soviet government and should inform the Soviet Union that it cannot tolerate flight-tests of this sort in close proximity to U.S. territory,

(6) The President should report to the Congress in ten days in both classified and unclassified forms on (a) the details of the tests; (b) Soviet explanations offered in response to U.S. diplomatic protests; (c) what steps the U.S. will take to ensure that such tests will not happen in the future; and (d) what effect a first-phase SDI system could

have against a missile launched in similar proximity to U.S. territory.

PELL (AND HELMS) AMENDMENT NO. 858

Mr. PELL (for himself and Mr. HELMS) proposed an amendment to the bill (S. 1394) supra; as follows:

At the end of section 516, add the following:

SEC. . HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 1st, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27th, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and twenty-seven Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to the U.S. Congress during his visit to Washington at the invitation of the Congress on September 21, 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) on September 22, 1987, the Chairman and Ranking Minority Member of the Senate Foreign Relations Committee, the Chairman and Ranking Minority Member of the House Foreign Affairs Committee, and the Co-Chairmen of the House Human Rights Caucus signed a letter to His Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step towards resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."

(5) beginning October 7, 1950, the Peopole's Republic of China invaded and occupied Tibet, imposed military rule, and continues to exercise dominion over the Tibetan people through the presence of a large occupation force;

(6) over one million Tibetans perished in 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the occupation of Tibet by the People's Republic of China;

(7) after the Chinese invasion of Tibet in 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, have been destroyed and their irreplacable national legacy of art and literature either stolen or removed from Tibet;

(8) Tibet's vast mineral, forest, and animal reserves are being systematically exploited by the People's Republic of China, with limited benefit accruing to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has undertaken a massive population transfer, entailing the immigration of millions of Chinese onto the Tibetan plateau in an apparent effort to make the Tibetan people a minority in their own homeland;

(11) the arrest and execution of Tibetan political and religious prisoners continues, with thousands of Tibetans currently interred in labor camps;

(12) Tibet, a nation dedicated to the principles of nonviolence and mutual coexistence for a millennia, has been militarized by the Chinese;

(13) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost thirty years to secure peace and religious freedom in Tibet;

(14) since 1959, India has generously provided refuge and resources for Tibetan exiles so that they may maintain their unique culture and religion in the hope of returning to their homeland;

(15) the People's Republic of China continues to ignore United Nations General Assembly resolutions 1353, 1723, and 2079 calling for a cessation of human rights violations in Tibet and for implementation of the right of the Tibetan people to self-determination;

(16) 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China on July 24, 1985, expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetan Government-in-exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration"; and

(17) there has been no evidence of any such consideration being granted by the Government of the People's Republic of China.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(2) the President should meet with His Holiness the Dalai Lama to express United States support for his efforts for world peace and particularly his efforts to find a peaceful solution to the Tibetan problem;

(3) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue over the future status of Tibet;

(4) the United States, through the Secretary of State—

(A) should address and call attention to the rights of the Tibetan people, as well as other non-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Sinkiang), the Mongolians of Inner Mongolia, and the Manchus of Manchuria, and

(B) should support efforts to maintain Tibet's identity and preserve Tibetan culture and religion, both inside Tibet and among those in exile;

(5) congressional delegations should visit Tibet (including the areas of Kham and Amdo) and the Tibetans in exile in order to witness the progress being made and the problems faced; and

(6) the President should instruct the United States Ambassadors to the People's Republic of China and India to work closely with the Tibetan people to find areas in which the United States Government and people can be helpful.

(c) Any notification submitted to the Congress pursuant to the Arms Export Control Act with respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China shall be accompanied by a Presidential determination that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress of the human rights situation in Tibet and the transfer of millions of Chinese to Tibet.

(e) Of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, not less than $200,000 shall be available only for assistance for Tibetan refugees.

(f) For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

BENTSEN (AND OTHERS) AMENDMENT NO. 859

Mr. BENTSEN (for himself, Mr. DOLE, Mr. KENNEDY, Mr. HATCH, Mr. CRANSTON, Mr. GRAHAM, Mr. KERRY, Mr. MCCAIN, Mr. MCCONNELL and Mr. DURENBERGER) proposed an amendment, which was subsequently modified, to the bill (S. 1394) supra; as follows:

On page 60, line 14, strike "$17,500,000 for fiscal year 1988 to be available only for a grant to the National Endowment for Democracy for use in carrying out its purposes" and insert "$17,750,000, for fiscal year 1988 to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than $250,000 shall be used to support elements of the free press, including free radio and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States government may participate directly or indirectly in controlling, directing, or providing these funds to the free press and democratic civic opposition inside Nicaragua".

SYMMS AMENDMENT NO. 860

Mr. SYMMS proposes an amendment to amendment No. 859, as modified, proposed by Mr. BENTSEN (and others) to the bill (S. 1394) supra; as follows:

Add at the end of the material proposed to be stricken add the following new section:

"SEC. . In view of 1) the deteriorating condition of the Panama Canal, 2) the continuing military dictatorship of General Noriega and its involvement in criminal activities, and 3) the refusal of the Panamanian Government to accept the DeConcini Reservation concerning U.S. defense rights upon which Senate consent to the ratification of the Panama Canal Treaty was predicated, it is the sense of the Senate that the

Senate ought not to have consented to the ratification of the Panama Canal Treaties whereby the Panama Canal was given away and that such treaties are voidable unless and until Panama formally accepts the DeConcini Reservation and should be voided by the President if such acceptance is not forthcoming within six months of the adoption of this section.".

MOYNIHAN AMENDMENT NO. 861

Mr. MOYNIHAN proposed an amendment to the bill (S. 1394) supra; as follows:

Amendment No. 861

At the end of the bill, add the following new section:

SEC. . INVITATION TO THE PRESIDENT OF ISRAEL FOR A STATE VISIT TO THE UNITED STATES.

(A) Findings.—The Congress finds that—

(1) The President of Israel has never been invited to make a state visit to the United States;

(2) President Chaim Herzog is admired by Americans of all faiths, not least because of his courageous fight in the United Nations against General Assembly Resolution 3379, which equated Zionism with racism;

(B) Policy.—It is the sense of the Congress that—

(1) The President of the United States should, at the earliest date possible, invite the President of Israel to make a state visit.

MOYNIHAN (AND HELMS) AMENDMENT NO. 862

Mr. MOYNIHAN (for himself and Mr. Helms) proposed an amendment, which was subsequently modified, to the bill (S. 1394) supra; as follows:

At the end of the bill, add the following new section:

SEC. . ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF.

(a) Findings.—The Congress finds that—

(1) According to Article 2 of the 1958 Geneva Convention on the High Seas, every state is entitled to exercise free and open use of the high seas for the navigation of its vessels;

(2) On September 22, 1987, United States Navy forces discovered the Iranian ship Iran Ajr laying mines in international waters of the Persian Gulf, and fired upon that ship to help terminate the mining;

(3) On September 23, 1987, President Reagan declared that this US action was "authorized by law," and State Department spokeswoman Phyllis Oakley said that the US had the right under international law to use "reasonable and proportionate force" to terminate the mining.

(b) Policy.—It is the sense of the Congress that—

(1) By mining the high seas of the Persian Gulf without notifying neutral nations engaged in maritime commerce, the Government of Iran violated international law;

(2) the use of force by the United States Navy to terminate that Iranian mining was justified under international law.;

(3) international law offers a framework for such positive action, and fostering broader adherence to law promotes the security interests of the United States.

PELL AMENDMENT NO. 863

Mr. PELL proposed an amendment to the bill (S. 1394) supra; as follows:

On page 21, line 9, after "section." insert the following:

"(d) In any fiscal year, if the amount to be paid to all former spouses, as computed under this section, exceeds the appropriated funds available for such payment, then the amount to be paid to each person pursuant to this section shall be reduced on a pro rata basis to such extent that the total payments do not exceed the appropriated funds available for payment to all spouses."

On page 27, line 12, after 'chapter.".' insert the following:

"(d) In any fiscal year, if the amount to be paid to all former spouses, as computed under this section, exceeds the appropriated funds available for such payment, then the amount to be paid to each person pursuant to this section shall be reduced on a pro rata basis to such extent that the total payments do not exceed the appropriated funds available for payment to all spouses."

COHEN (AND OTHERS) AMENDMENT NO. 864

Mr. COHEN (for himself, Mr. Murkowski, Mr. Metzenbaum, and Mr. Boren) proposed an amendment to the bill (S. 1394) supra; as follows:

At appropriate place in the Bill, add the following section.

SEC. EMPLOYMENT OF FOREIGN SERVICE NATIONALS.

(a) Prohibition on Employment In Communist Countries.—

(1) After September 30, 1989, no national of a communist country may be employed as a foreign national employee at United States diplomatic and consular missions in any country listed as a "communist country" in section 620(f) of the Foreign Assistance Act of 1961.

(2) Paragraph (1) does not apply with respect to any foreign national employee who is not permitted access to—

(A) United States Embassy or consulate grounds, vehicles, or buildings which are sited in the compound of the Embassy or consulate (including living quarters); and

(B) the residence, wherever located, of the chief of mission or the deputy chief of mission.

(b) Termination of Benefits for Engaging in Hostile Intelligence Activities.—

(1) The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post who the Secretary reasonably believes engaged in intelligence activities directed against the United States.

(2) The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if—

(A) the Director of Central Intelligence requests such waiver, or

(B) the Secretary determines that such waiver is vital to the national security of the United States to do so and reports such waiver in advance to the appropriate committees of the Congress.

(c) Report to Congress.—Not later than 6 months after the date of enactment of this Act, the Secretary of State in consultation with the Director of Central Intelligence shall submit to the Congress a report discussing the advisability of employing foreign nationals at foreign service posts abroad, (including their access to automatic data processing systems and networks).

HELMS AMENDMENTS NO. 865

Mr. HELMS proposed an amendment to the bill (S. 1394) supra; as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . U.S. DEPARTMENT OF STATE FREEDOM OF EXPRESSION ACT OF 1987.

(a) This section may be cited as the "United States Department of State Freedom of Expression Act of 1987."

(b) Finding.—Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) Prohibition.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 866

Mr. LAUTENBERG (for himself, Mr. Chiles, Mr. Grassley, Mr. Harkin, Mr. Hatfield, and Mr. Graham) proposed an amendment to the bill (S. 1394) supra; as follows:

At the appropriate place in the bill add the following:

That (a) on and after the date of enactment of this Act, consular officers of the Department of State employed in the United States interest section in Havana, Cuba, and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedure applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to insure the orderly process of available applicants.

(b) For purposes of this section—

(1) the term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications; and

(2) the term "refugee" has the same meaning as is given to such term by section 101(a)(42) of the Immigration and Nationality Act.

Sec. 2. On and after the date of enactment of this Act, consular officers of the Department of State, wherever situated, shall issue immigrant visas under section 203(a) or 202(e) of the Immigration and Nationality Act to Cuban nationals—

(1) without regard to section 212(f) or 243(g) of the Immigration and Nationality Act (relating to the refusal to accept the return of nationals);

(2) whether within or outside Cuba; in such cities as immigration visas may be issued to Cuban nationals.

(3) without regard for the date of departure from Cuba of such applicants in the case of applications for such visas outside Cuba.

CHAFEE AMENDMENT NO. 867

Mr. PELL (for Mr. CHAFEE) proposed an amendment to the bill (S. 1394) supra; as follows:

On page 75, between lines 12 and 13, insert the following:

SEC. 218. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) TERMS OF SERVICE.—Section 306(b)(3)(A) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(3)(A) Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three year terms, four members to serve two year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.".

(b) VACANCIES; CHAIRMANSHIP.—Section 306(b)(3)(B) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(B)(i) A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

"(ii) The President shall designate a Chairman of the Committee from the members of the Committee.".

HELMS AMENDMENT NO. 868

Mr. HELMS proposed an amendment to amendment No. 867 proposed by Mr. PELL (for Mr. CHAFEE) to the bill (S. 1394) supra; as follows:

At the end of the pending amendment, add the following new section:

SEC. . UNITED STATES POLICY TOWARD MOZAMBIQUE.

None of the funds authorized to be appropriated under this act may be obligated or expended after February 1, 1988 unless the Secretary of State has consulted with all parties to the civil war or insurrection in Mozambique and reported to the Congress on whether there exists the possibilty of a negotiated settlement of the bloodshed in that country and the establishment through negotiations of a political system in Mozambique that affords all Mozambicans the rights of free men and women to be governed by an elected government chosen through a democratic process in a political system allowing freedom of association and expression and the protection of human rights as embodied in the Universal Declaration of Human Rights. If a negotiated settlement to the bloodshed is determined by the Secretary to be impossible of achievement, the Secretary shall recommend to the Congress appropriate measures to provide United States humanitarian assistance to victims of the civil war without regard to political affiliation, geographic locations, ethnic or racial origins or allegiance to Marxist-Leninist political organizations.

HELMS AMENDMENT NO. 869

Mr. HELMS proposed an amendment to the bill (S. 1394) supra; as follows:

On page 46, strike lines 24 through line 24 on page 47 and insert in lieu thereof the following:

"None of the funds authorized to be appropriated by this Act or any other act shall be used to construct, acquire, study, plan for, or solicit funds for a residence for the Secretary of State or any other member of the Cabinet."

HELMS AMENDMENT NO. 870

Mr. HELMS proposed an amendment which was subsequently modified, to amendment No. 869 as proposed by him to the bill (S. 1394) supra; as follows:

At the end of the pending amendment, add the following new section:

SEC. . UNITED STATES POLICY TOWARD MOZAMBIQUE.

None of the funds authorized to be appropriated under this act may be obligated or expended after February 1, 1988 unless the Secretary of State has consulted with all parties to the civil war or insurrection in Mozambique and reported to the Congress on whether there exists the possibility of a negotiated settlement of the bloodshed in that country and the establishment through negotiations of a political system in Mozambique that affords all Mozambicans the rights of free men and women to be governed by an elected government chosen through a democratic process in a political system allowing freedom of association and expression and the protection of human rights as embodied in the Universal Declaration of Human Rights. If a negotiated settlement to the bloodshed is determined by the Secretary to be impossible of achievement, the Secretary shall recommend to the Congress appropriate measures to provide United States humanitarian assistance to victims of the civil war without regard to political affiliation, geographic locations, ethnic or racial origins or allegiance to Marxist-Leninist political organizations.

DECONCINI (AND OTHERS) AMENDMENT NO. 871

Mr. DECONCINI (for himself, Mr. DOLE, Mr. D'AMATO, and Mr. GRAHAM) proposed an amendment to the bill (S. 1394) supra; as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. 517. POLICY ON ANGOLA.

(a) FINDINGS.—The Congress finds that—

(1) the upcoming discussions between Secretary of State Schultz and Soviet Foreign Minister Shevardnadze, and the subsequent summit between President Reagan and Secretary General Gorbachev provide the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(2) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the democratic opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(3) the Marxist MPLA regime, propped up by 37,000 Cuban troops, 2,500 Soviet military advisors and thousands of North Korean and East-bloc Communist forces, has refused to respond to diplomatic gestures by the democratic opposition forces, opting to prolong a war that has taken over 65,000 lives;

(4) a majority of the national budget is used to maintain this war effort, including $700,000,000 a year to pay Cuban mercenaries, and more than $1,000,000,000 this year alone to the Soviet Union for weapons;

(5) the people of Angola are starving because of the hardships resulting from 12-years of civil war and the inefficient Marxist economic policies;

(6) the Marxist regime has turned to the international community for $1,200,000,000 in food aid while it continues to pump billions of dollars into the war; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued occupation of Angola by Soviet and Cuban forces and the intransigence of the MPLA to negotiate with the democratic opposition, give new urgency to reach a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all Soviet, Cuban, and other communist forces;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to the Soviet leaders at the opening conference and summit that the aggressive military build-up in Angola is a direct obstruction to positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the belligerent and ineffective policies of the Communist regime, and the regime should not have the opportunity to manipulate the distribution of food aid to achieve its own political objectives;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, but if the United States does so it should be in an evenhanded manner, so that Angolans throughout the entire divided country are provided with food and basic medical care;

(4) any humanitarian assistance should not be distributed by the government or government-operated institutions, but through apolitical agencies, private and voluntary organizations, and non-governmental organizations; and

(5) the Secretary of State should prepare and transmit to the Congress a report detailing the progress of the discussions between the Soviet Union and the United States on Angola as previously referred to and detailing any other bilateral negotiations affecting the Angolan conflict which were held in accordance with the President's priorities of regional conflicts with the Soviet Union, such as Afghanistan and Nicaragua as one of the crucial areas of bilateral relations.

KERRY (AND HELMS) AMENDMENT NO. 872

Mr. KERRY (for himself and Mr. Helms) proposed an amendment to the bill (S. 1394) supra; as follows:

On page 82, strike lines 9 through 17, and substitute in lieu thereof the following:

"(a) No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress; or

(2) to influence in any way the outcome of a political election; or

(3) for any publicity or propaganda purposes not authorized by Congress.

"(b) Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate subsection (a), shall be fined not more than $1,000 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment."

MIKULSKI AMENDMENT NO. 873

Ms. MIKULSKI proposed an amendment to the bill (S. 1394) supra; as follows:

At the appropriate place in the bill, insert the following;

This Title may be cited as the "Polish Permanent Resident Adjustment Act of 1987".

SEC. . ADJUSTMENT TO PERMANENT RESIDENCE OF CERTAIN NATIONALS OF POLAND.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (20), (21), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since July 21, 1984.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien only if—

(1) the alien is a national of Poland;

(2) the alien arrived in the United States before July 21, 1984;

(3) the Immigration and Naturalization Service established a record of entry or other record with respect to the alien before July 21, 1984; and

(4) in the case of an alien who was admitted to the United States as a nonimmigrant, the alien's period of authorized stay as such a nonimmigrant expired not later than 6 months after July 21, 1984, through the passage of time or the alien applied for asylum under section 207 before July 21, 1984.

(c) RECORD OF PERMANENT RESIDENCE AS OF JULY 21, 1984.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of July 21, 1984.

(d) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(e) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 874

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself, Mr. BOREN, Mr. COHEN, and Mr. METZENBAUM) submitted an amendment intended to be proposed by them to the bill (S. 1394) supra; as follows:

At appropriate place in the bill, add the following section.

SEC. . UNDER SECRETARY OF STATE FOR SECURITY, CONSTRUCTION, AND FOREIGN MISSIONS.

(a) THE CONGRESS FINDS THAT—

(1) serious deficiencies exist in the management and construction by the Department of State of buildings overseas;

(2) the security function has been plagued by an inability to anticipate threats or to respond to threats; and

(3) the operations of the Foreign Buildings Office have been characterized by cost overruns, delays, inadequacies of design, deficient construction supervision, and other management flaws.

(b) ESTABLISHMENT OF POSITION.—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State and for other purposes", approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "and an Under Secretary of State for Management" and inserting in lieu thereof "an Under Secretary of State for Budget and Administration, and an Under Secretary of State for Security, Construction, and Foreign Missions".

(c) RESPONSIBILITIES.—The Under Secretary of State for Security, Construction, and Missions shall be responsible for—

(1) the Bureau of Diplomatic Security (established by section 104 of the Diplomatic Security Act);

(2) the new building construction functions of the Office of Foreign Buildings (established to carry out the Foreign Service Buildings Act, 1926); and

(3) the Office of Foreign Missions (established pursuant to section 203 of the State Department Basic Authorities Act of 1956).

(d) AUTHORITIES.—The Under Secretary of State for Security, Construction, and Foreign Missions shall have the authority to prepare and submit a consolidated budget for the programs for which the Under Secretary is responsible and to develop and implement personnel systems for those programs, and to establish procedures for the procurement of goods and services for those programs including procedures to insure that the design and construction of new embassy buildings shall be performed under contract to U.S. construction firms.

(e) REORGANIZATION.—

(1) PERIOD FOR IMPLEMENTATION.—The Secretary of State shall complete implementation of the reorganization required by this section within 6 months after the date of enactment of this Act, including the transfer of personnel and funds to the Under Secretary of State for Security, Construction, and Foreign Missions."

(2) PLAN FOR IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the steps to be taken in reorganizing the Department of State pursuant to this section, including a plan for a separate personnel system and career service for the Diplomatic Security Service.

(3) ROLE OF PRIVATE SECTOR.—Such report shall address the role of U.S. private industry in embassy design and construction, including specific steps to enhance that role, so that the efficiency and expertise of the private sector can by fully utilized consistent with security. Such report shall also include a detailed justification of the current staffing levels in the Foreign Building Office assuming a maximum appropriate use of the private sector in embassy design and construction.

CRANSTON (AND OTHERS) AMENDMENT NO. 875

(Ordered to lie on the table.)

Mr. CRANSTON (for himself, Ms. MIKULSKI, and Mr. KERRY) submitted an amendment intended to be proposed by them to the bill (S. 1394) supra; as follows:

By way of replacement to Section 513 of the State authorization, S. 1394:

Under paragraph (a) on page 97, lines 17–25, and page 98, lines 1–4, delete items (5), (6) and (7); and add the following items:

(5) On July 1, 1987 the government of the Republic of Korea recognized the popular will and announced an eight point proposal for wide-ranging democratic reforms;

(6) There continues to be concern over the possibility of a resurgence of extremist elements within either the military or the broader Korean policy, especially those who have in the past resorted to violence or intimidation to disrupt the democratic process;

(7) The South Korean Minister of Defense, senior officers and top government officials have stated publicly and privately that they support the democratization process and that the military should not disrupt it in any way;

(8) Any action by extremist elements of any faction to impede the progress towards full democracy will have serious, negative ramifications for U.S.-Korean relations.

Under paragraph (b) on page 98, lines 20–23 and page 99, lines 12–17, delete items (4) and (7), and add the following items:

(4) The United States commends the recent agreement between the Democratic Justice Party and the Democratic Reunification Party on the issue of a Korean constitution.

(7) The United States urges the government of President Chun Doo Hwan, in a spirit of reconciliation and in the name of democracy, to free political prisoners, including student activists and labor leaders arrested since June 29, 1987, and to continue to promote democratic reform by ensuring freedom of speech, assembly, and fair elections;

(8) The United States calls on all elements of the South Korean polity, including the military, to continue to demonstrate restraint and not interfere in any way inconsistent with democracy in the campaign period leading up to direct elections in December 1987, or in the aftermath of those elections, regardless of which party's candidate is victorious.

SYMMS (AND OTHERS) AMENDMENT NO. 876

Mr. SYMMS (for himself, Mr. DIXON, Mr. DODD, Ms. MIKULSKI, and Mr. DOLE) proposed an amendment to the bill S. 1394, supra; as follows:

At the appropriate place, add the following new section:

SEC. . ASSISTANCE IN SUPPORT OF SOLIDARITY.

Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for each of the fiscal years 1988 and 1989, not less than $1,000,000 shall be available only for the unconditional support of the independent Polish trade union "Solidarity".

SARBANES AMENDMENT NO. 877

Mr. SARBANES proposed an amendment to the bill (S. 1394) supra; as follows:

On page 73, line 8, insert the following new subsection 217(c)(1)(C).

(C) A foreign bidder can establish that the U.S. goods and services content of his proposal and the resulting contract will not be less than sixty (60) percent of the value of his proposal and the resulting total contract; provided that the U.S. Trade Representatives certifies to the U.S. Information Agency that the foreign bidder is not receiving either direct or indirect subsidies from any government.

On Page 73, line 8, redesignate the present subsection (C) as Subsection (D).

PELL (AND HELMS) AMENDMENT NO. 878

Mr. PELL (for himself and Mr. HELMS) proposed an amendment to the bill (S. 1394) supra; as follows:

At the end of the State authorization bill, add the following, to be numbered appropriately:

VIETNAMESE OCCUPATION OF CAMBODIA

SEC. The Congress finds that:

(1) the armed forces of the Government of the Socialist Republic of Vietnam have invaded and occupied the territory of Cambodia, thereby undermining the sovereignty and political stability of Cambodia;

(2) by invading and occupying Cambodia, the Government of the Socialist Republic of Vietnam violated its obligation, undertaken upon becoming a member of the United Nations in 1977, not to use force against the territorial integrity or political independence of any state;

(3) the General Assembly of the United Nations has on eight separate occasions deplored the continuing occupation of Cambodia and called for the withdrawal of all foreign military forces from Cambodia;

(4) the United Nations General Assembly will be voting again next week on the issue of Cambodia;

(5) Prince Sihanouk and the Coalition Government of Democratic Kampuchea has called for the withdrawal of all armed forces of the Government of the Socialist Republic of Vietnam from Cambodia;

(6) the Government of the Socialst Republic of Vietnam has thus far rejected the efforts of the members of the Association of Southeast Asian Nations to resolve the situation in Cambodia; and

(7) the invasion and occupation of Cambodia by the armed forces of the Government of the Socialist Republic of Vietnam has caused hundreds of thousands of Cambodians to flee their own country and has caused untold suffering for untold numbers of Cambodians.

(b) The Congress therefore declares as follows:

(1) the Vietnamese occupation of Cambodia constitutes a gross violation of international law;

(2) the Government of the Socialist Republic of Vietnam, by its continuing occupation of Cambodia, is violating the fundamental human rights of the Cambodian people; and

(3) the Government of the Socialist Republic of Vietnam should immediately withdraw its occupation forces from Cambodia and agree to negotiate a settlement which restores self-determination to the Cambodian people.

HELMS AMENDMENT NO. 879

Mr. HELMS proposed an amendment to the bill (S. 1394) supra; as follows:

Subsection 102(c) of the bill is hereby amended by inserting after the words "for fiscal year 1988" the following ", of which such funds as may be necessary shall be available for the expense of hosting the 1987 General Assembly of the Organization of American States,".

DIXON AMENDMENT NO. 880

Mr. DIXON proposed two amendments to the bill (S. 1394) supra; as follows:

At the appropriate place, add the following new section:

"SEC. . INTERNATIONAL PARENTAL CHILD ABDUCTION.

"(a) For purposes of this section—

"(1) the term 'child' means a person under the age of 18 at the time the offense occurred:

"(2) the term 'detains' means taking or retaining physical custody of a child, whether or not the child resists or objects; and

"(3) the term 'lawful custodian' means—

"(A) a person or persons granted legal custody of a child or entitled to physical possession of a child pursuant to a court order; or

"(B) the mother of the child when the parents have not been married, the father's paternity has not been established by a court of law, and no other person has been granted custody of the child by a court of law.

"(b) Whoever—

"(1) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the person who has been granted sole or joint custody, care, or possession of the child;

"(2) intentionally removes a child from the jurisdiction of the United States in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State or the United States;

"(3) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the mother or lawful custodian of the child if the person is a putative father who has not established paternity of the child;

"(4) being a parent of a child born out of wedlock if the paternity of the father has been established by a court of law but there has been no order of custody, removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the child's other parent;

"(5) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States after filing a petition or being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody;

"(6) being a parent of the child, and if the parents of such child are or have been married and there has been no court order of custody, conceals the child for 30 days outside the jurisdiction of the United States, and fails to make reasonable attempts within the 30-day period to notify the other parent to the whereabouts of the child or to arrange reasonable visitation or contact with the child;

"(7) being a parent of the child, and where the parents of the child are or have been married and there has been no court order of custody, conceals or detains a child outside of the jurisdiction of the United States when the child was taken with physical force or the threat of physical force;

"(8) at the expiration of visitation rights outside of the jurisdiction of the United States, intentionally fails or refuses to return or impedes the return of the child to the jurisdiction of the United States;

"(9) conceals, detains, or removes the child outside the jurisdiction of the United States for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law;

"(10) being a parent of the child, instructs another person to conceal, detain or remove a child when that act when committed by the parent would be a violation of this act;

"(11) aids or abets any person violating paragraphs (1) through (10), shall be guilty of child abduction and shall be fined in accordance with this title or imprisoned not more than 3 years, or both.

"(c) It shall be an affirmative defense under this section that—

"(1) the person acted within the provisions of a valid court order granting him or her legal custody or visitation rights and that order was in effect at the time of the offense;

"(2) no court within the United States could exercise jurisdiction to determine custody of the child pursuant to the provisions of the Uniform Child Custody Jurisdiction Act;

"(3) the person has physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified or made a reasonable attempt to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible; or

"(4) the person was fleeing an incidence or pattern of domestic violence.

"(d) If, upon sentencing, the court finds evidence of any of the following aggravating factors:

"(1) that the defendant abused or neglected the child during the concealment, detention, or removal of the child or placed or caused the child to be placed in the care of another person who abused or neglected the child;

"(2) that the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

"(3) that the defendant demanded payment in exchange for return of the child or demanded that he or she be relieved of the financial or legal obligation to support the child in exchange for return of the child:

"(4) that the defendant has previously been convicted of a State or Federal child abduction offense; or

"(5) that the defendant committed the abduction while armed with a deadly weapon or the taking of the child resulted in serious bodily injury to another, the sentence imposed in accordance with this title shall be more severe than in the absence of such factors."

(b) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child abduction".

(c) This Act and the amendments made by this Act shall take effect 90 days from the date of enactment of this Act;

(d) where the child was removed from the jurisdiction of the United States prior to the enactment of this Act, charges under this Act may be approved only in cases involving the concealing or detaining of a child in violation of a court order that existed at the time of the child's removal from the jurisdiction;

(e) criminal jurisdiction may be taken under this Act only when a court within the United States could exercise jurisdiction to determine custody of the child pursuant to the provisions of the Uniform Child Custody Jurisdiction Act.

DIXON (AND OTHERS) AMENDMENT NO. 881

Mr. DIXON (for himself, Mr. SIMON, Mr. GORE, Mr. MCCONNELL, and Mr. EXON) proposed an amendment to the bill (S. 1394) supra; as follows:

On page 14, between lines 11 and 12, insert the following new section:

SEC. 110. ALLOCATION OF FUNDS FOR SUPPORT AND REVIEW OF INTERNATIONAL PARENTAL CHILD ABDUCTION CASES

Of the amounts authorized to be appropriated by section 101(a)(1), $250,000 shall be available only for the review and analysis on international parental child abduction cases on a case-by-case basis to anable the Department of State to provide appropriate legal or diplomatic support for parents seeking to recover abducted children.

On page 2, in the table of contents, after the item relating to section 109, insert the following item:

Sec. 110. Allocation of funds for support and review of international parental child abduction cases.

HELMS AMENDMENT NO. 882

Mr. HELMS proposed an amendment to the bill (S. 1394) supra; as follows:

Section 301 of the Foreign Service Act of 1980 (Public Law 96-465 is hereby amended by adding the following after the words "career appointment." in paragraph 301(d)(3): "Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other state or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President."

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, October 6, 1987 at 2 p.m. in closed session to receive testimony on Air Force Space Launch Policy and Plans.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Tuesday, October 6, 1987, to hold hearings on the Reauthorization of the Federal Pipeline Safety Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, October 6, 1987, to hold a hearing on Antitrust Laws Relating to the NFL/EPSN Contract.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, October 6, 1987, to continue hearings on the Nation's Infrastructure Needs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, October 6, 1987, to hold hearings on the proposed nomination of William H. Leblanc III, of Louisiana, to be a Commissioner of the Postal Rate Commission for the remainder of the term expiring November 22, 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, October 6, 1987, the subject of the hearing is the Postal Rate Commission Study of Political Advocacy Third-Class Non-Profit Mail.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, October 6, 1987, to mark up Farm Credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE INF AGREEMENT

● Mr. KERRY. Mr. President, it now appears likely that the United States and the Soviet Union will conclude an INF agreement later this year, and that the Senate will be considering ratification of this agreement early next year. I welcome this development, although it is only a first step in controlling the nuclear arms race.

Graham Allison and Albert Carnesale, who are respectively the dean and academic dean of the Kennedy School of Government at Harvard, have written a thoughtful and incisive article analyzing the implications of the INF agreement. The article, in the fall issue of Daedalus, is aptly entitled "Can the West Accept Da for an Answer?". The article points out that arms control agreements must be assessed in multiple currencies, and that any assessment which considers only the effect on United States forces and ignores Soviet forces will conclude that the agreement is not in the interest of the United States. The authors conclude that "in this instance, the best Western response to da is yes."

It is very important that all Members of the Senate carefully consider all of the implications of the proposed INF agreement. This article is an important contribution to that debate. I ask that the full text of the article be printed in the RECORD.

The article follows:

CAN THE WEST ACCEPT *DA* FOR AN ANSWER?

(By Graham Allison and Albert Carnesale)

QUIZ

1. To present "eliminating all nuclear weapons" as an objective that can be achieved without fundamental changes in the character of international relations (as both President Reagan and General Secretary Gorbachev do) is:

(a) realistic and farsighted.
(b) unrealistic and dangerous.
(c) politically motivated and misleading.
(d) irrelevant.

2. Arms control negotiations and agreements are primarily about:

(a) reducing numbers and types of arms to control the arms race.
(b) managing numbers and types of arms to reduce the likelihood of their use.
(c) controlling public demands for (a) while pursuing (b).

3. If the Soviet Union says *da* (yes) to a NATO proposal, the West should reconsider because:

(a) the proposal must give the Soviets some unilateral advantage that we missed.
(b) the proposal must leave some loophole that would enable the Soviets to circumvent its provisions.
(c) the proposal must not be sufficiently verifiable.
(d) if not (a), (b), or (c), then the proposal must contain some other fatal flaw.

4. Eliminating an entire category of nuclear weapons perceived to have substantial military value (e.g., medium-range missiles) and in which either or both superpowers have made major investments would be:

(a) unprecedented.
(b) nonnegotiable.
(c) absurd.
(d) bad.
(e) all of the above.

5. If the United States and the Soviet Union agree to accept NATO's zero-zero option to eliminate medium-range and shorter-range nuclear missiles, the West's arsenal of nuclear weapons in Europe will be reduced to:

(a) zero.
(b) approximately 100 weapons.
(c) approximately 1,000 weapons.
(d) approximately 5,000 weapons.

6. An arms control agreement that eliminates a 3 to 1 Soviet advantage in warheads on medium-range nuclear missiles in Europe and a 120 to 0 advantage in shorter-range nuclear missiles in Europe should be acceptable to the West only if:

(a) the Soviets agree also to eliminate their advantages in conventional and chemical forces.
(b) the Soviets agree also to withdraw their troops from Afghanistan and halt military aid to Nicaragua.
(c) the Soviets agree also to make significant domestic reforms in the area of human rights.
(d) the Soviets agree to solve the problem of acid rain.

7. An agreement between NATO and the Soviet Union to eliminate medium- and shorter-range nuclear missiles in Europe would:

(a) significantly weaken the ties that couple U.S. and European security, stimulating European doubts about the credibility of the American nuclear commitment.
(b) significantly strengthen the ties that couple U.S. and European security, reassuring Europeans about the credibility of the American nuclear commitment.
(c) have little or no effect on the ties that couple U.S. and European security or on the credibility of the American nuclear commitment.
(d) one of the above, but no one knows which one.

8. The elimination of medium- and shorter-range missiles in Europe would significantly:

(a) increase the likelihood that nuclear weapons will be used in Europe.
(b) decrease the likelihood that nuclear weapons will be used in Europe.
(c) increase the chance that any use of nuclear weapons will be limited to Europe only.
(d) decrease the chance that any use of nuclear weapons will be limited to Europe only.
(e) increase the risk of conventional war in Europe.
(f) decrease the risk of conventional war in Europe.
(g) none of the above.

I

The prospect that the U.S.-Soviet negotiations on intermediate-range nuclear forces (INF) will result in agreement on eliminating all medium-range (600 to 3,000 miles) and shorter-range (300 to 600 miles) missiles in Europe has caused a clamor. Most of the multiple choice answers listed under the preceding questions are confidently asserted by participants in the current debate. In a setting illuminated by such pyrotechnics, even informed observers can lose their bearings. Particularly puzzling is the shrill reaction of groups and individuals who have spend six years urging the Reagan administration to be serious and to speed up the negotiation of an arms control agreement; many of them now exclaim in horror, "But you can't agree to that!"

And what is "that"? An agreement that would achieve the objectives stated by a Democratic administration in 1979 when NATO unanimously took the "dual-track" decision. That decision called for the deployment of medium-range nuclear missiles in Europe on the one hand, and negotiation to reduce both U.S. and Soviet medium-range nuclear missiles on the other. The decision embodied a strategy; by matching the Soviets' new SS-20s with equivalent NATO medium-range nuclear forces. NATO would give the Soviet Union an incentive to eliminate both. the strategy worked. The "zero option" advanced by the Reagan administration in 1981 has been accepted by Gorbachev. But as Gorbachev says *da* to an American proposal that has attracted widespread bipartisan and NATO alliance support, prominent members of the national security establishment, expected to applaud, have instead risen in opposition.

House Armed Services Committee chairman Les Aspin asserts: "The Reagan plan for nuclear weapons in Europe would have us eliminate the weapons we should keep and keep the weapons we should eliminate." Aspin recommends that the United States unilaterally remove battlefield nuclear weapons (those with ranges of less than 300 miles) and rely instead on the medium-range nuclear missiles this agreement would eliminate.

General Bernard Rogers, the American who has headed NATO alliance forces in Europe, opposes the contemplated agreement, claiming that it "would wipe out our opportunity to strike even the Eastern European countries" and would "guarantee that West Germany was the battlefield in a nuclear exchange."

Senate Armed Services Committee chairman Sam Nunn supports the proposal, but argues that "before we enter into INF, we should at least in NATO have come to the conclusion ourselves about what we want in the conventional arms control arena." He suggests that NATO insist upon the right to abrogate the agreement unless a balance of chemical and conventional forces in Europe is achieved by the time 75 percent of the medium-range forces are eliminated.

Henry Kissinger and Richard Nixon join forces to oppose an agreement that "could create the most profound crisis of the NATO alliance in its forty-year history." Why? "If we eliminate the American medium- and short-range forces in Europe without redressing the conventional imbalance, the Soviet nuclear threat to Europe will remain, and the gap in deterrence to conventional attack will be reopened. . . . Removing medium- and short-range nuclear weapons would simply make Europe safe for conventional war." Moreover, they advise against any arms control agreement before there is "significant progress toward resolving key political issues, such as the Soviet occupation of Afghanistan, Soviet arms shipments to Nicaragua, and the Soviet-sponsored subversion in Central America."

Faced with such passionate opposition from knowledgeable authorities on national security, even the most informed observers are left wondering: What is going on? Perhaps accepting the Soviets' *da*, even if it is to our own proposal, would be a major mistake. Perhaps the issue requires difficult, uncertain judgments, about which reasonable people can disagree. Perhaps the loose talk between Reagan and Gorbachev at last October's Reykjavik summit has been taken by the community of national security experts as a rhetorical license for this debate. If Reagan and Gorbachev could seriously discuss "getting rid of all of them" without being clear what they meant by "them," why should others be held to higher standards?

The debate over INF is symptomatic of deeper divisions and confusion about arms control. This article attempts to examine the opposing claims about intermediate-range nuclear forces in Europe in order to identify the hard issue of choice. The debate about INF services as a window through which deeper divisions can be probed; more importantly, it may allow the discovery of general guidelines and principles for approaching issues of arms control in a sensible and systematic manner.

II

The debate on INF began in 1977 when West German Chancellor Helmut Schmidt called on the United States to counteract the rapid Soviet buildup of SS-20 medium-range nuclear missiles in Europe. After initial hesitation by the Carter administration, NATO agreed in 1979 to pursue the dual-track strategy: beginning in 1983, a total of 572 U.S. Pershing II and ground-launched cruise missiles (GLCMs) would be deployed in Western Europe; meanwhile, the United States would negotiate with the Soviets to limit the NATO deployments in return for a limitation on SS-20s. At that time, the prospects for successful deployment by NATO looked dim. Most European governments were lukewarm at best in their support of deployment; public majorities in all the countries opposed any new deployment of nuclear weapons in Europe. In the final days of the Carter administration, few members of the national security community believed that the odds of NATO's deploying any medium-range missiles were better than one in three.

As the Peace Movement in Europe mounted increasing pressure against any such deployment, President Reagan countered in 1981 by proposing what came to be known as the "zero option": NATO would cancel deployments in exchange for the elimination of all SS-20s. The primary audience for this American proposal was the European public. The Soviets rejected the proposal out of hand. Western arms control experts dismissed it as incredible and argued instead for the acceptance of an agreement with unequal limits, allowing the Soviets to keep an INF advantage. The Geneva talks stalled. A concept was discussed in 1982 (in the spirit of the earlier Nixon-Brezhnev "Walk in the Woods") that would have reduced warheads on Soviet SS-20s to 225 while the United States cancelled the Pershing II and limited cruise missile deployment to 300 warheads. But that idea was ultimately rejected by both Washington and Moscow, and in November 1983, in the midst of extensive peace demonstrations, NATO INF deployments began. The Soviet negotiators walked out of the Geneva talks.

While NATO governments struggled to deploy despite persistent and heavy domestic opposition, the Soviets refused to bargain on INF unless NATO stopped deployment. Still, in 1985 the Soviets returned to the conference table. In January 1986 Gorbachev picked up the zero option as part of a comprehensive arms control proposal that linked INF with strategic arms reductions and limits on America's Strategic Defense Initiative (SDI). At the October 1986 summit in Reykjavik, agreement on the zero option appeared possible, and collapsed only when Gorbachev held the INF deal hostage for effective limits on SDI research. In subsequent negotiations the Soviets agreed to decouple INF from SDI, to extend the zero option to shorter-range nuclear missiles, making it a "double-zero" deal, and to make the deal global rather than restrict its coverage to Europe. At this writing, the bargaining continues and certain issues remain unsettled. As currently understood, the double-zero arrangement would:

"Zero out" U.S. and Soviet intermediate-range nuclear missiles globally, eliminating 922 Soviet warheads and 316 U.S. warheads in Europe, and in addition eliminating 513 Soviet warheads targeted against Asia (for which the United States has no counterpart).

"Zero out" shorter-range nuclear missiles globally, eliminating several hundred warheads deployed with Soviet SS-12 and SS-23 missiles and an ongoing deployment program, and no U.S. launchers (since the United States has no such missiles, no current program for acquiring any, and no agreement with any European country to permit their deployment).

Several collateral features of the agreement deserve special note:

British and French independent nuclear forces would remain unconstrained. These forces now include about 200 strategic warheads, and are being modernized and expanded to include about 1,200 by the year 1995.

The five U.S. Poseidon submarines and 150 F-III bombers currently assigned to Western Europe would remain in place. Together, they can deliver 850 nuclear warheads; both have ranges similar to the to-be-dismantled Pershing IIs and GLCMs. In addition, the United States has more than 500 nuclear-capable aircraft in Europe, and the Europeans have about 1,300. The battlefield nuclear weapons (having ranges of less than 300 miles) of both NATO and the Warsaw Pact would, of course, be unaffected by the agreement.

Soviet SS-23 missiles would be included among the shorter-range weapons to be eliminated, even though the Soviets had previously argued that they did not belong in this category.

Imagine that the terms of this proposal were reversed: NATO was trading 922 warheads for 316 equivalent Soviet weapons; NATO was eliminating an entire category of shorter-range nuclear systems that included over 120 already deployed in return for nothing on the Soviet side; and Soviet allies were permitted to keep independent strategic forces, scheduled to expand from about 200 to about 1,200 warheads, for which NATO had no counterpart. The likelihood of such terms proving acceptable to an American president, the U.S. Senate, the leaders of the allied European nations, or the public in any of the NATO countries would be remote. Why, then, the outcry—at least in certain quarters?

III

How does one go about deciding whether or not a particular arms control agreement would serve our national interest? What principles are available to guide us in our attempts to map the issue, assess the costs and benefits, and evaluate the conflicting claims?

The most important initial question is this: What are we trying to do? The primary objective of any U.S. national security policy must be to protect American values, institutions, and citizens from attack or intimidation. Closely related to this is the U.S. commitment to assist its allies in providing protection for themselves. The primary strategy through which the United States seeks to provide this protection is deterrence: the deployment of forces that threaten a retaliatory response to any Soviet attack, and that would inflict costs on the Soviets vastly exceeding any benefits they might hope to achieve. This strategy, however, carries a major constraint: nuclear war must be avoided. Whatever other objectives American policymakers may have, they cannot be achieved in the wake of a catastrophic muclear war between the United States and the Soviet Union. Any conventional war or "limited" nuclear war between the superpowers would be a tragedy in and of itself; it could also lead to an even more tragic global nuclear war. Also, because America's national fate is linked to that of its NATO allies, we must think of their protection as if it were almost indistinguishable from our own.

By some combination of design, skill, good fortune, and providence, these objectives have been realized for more than four decades. Since the end of World War II, there has been no use of nuclear weapons, no global conventional war, and no armed conflict between the United States and the Soviet Union. Preservation of this fragile peace is due in part to the existence of nuclear arsenals on both sides. No rational decisionmaker, American or Soviet, could conceivably conclude that his or her country would be better off with a major nuclear war than without one. While an abstract argument can be made that the presence of nuclear weapons is unrelated to the absence of superpower war, no sensible person can deny that the risk of a nuclear holocaust is a powerful deterrent to aggression.

The arms control process and specific arms control agreements can contribute significantly to reducing the nuclear danger in various ways: reducing the very real risk of war occurring inadvertently through accident, miscalculation, or misperception; limiting the threat of deliberate attack and thereby reducing the cost of acquiring, maintaining, and modernizing nuclear and conventional forces; and alleviating public concern about the dangers inherent in the arms competition. The same process, however, if mismanaged or misused, could prodce an arms control accord that would increase the risk of nuclear war and impose other unacceptable costs—military, diplomatic, economic, and political. Because arms control is but one of many instruments by which the country seeks to improve national security, assessment of any agreement must take into account the full panoply of military and nonmilitary options for achieving the same objectives. While this greatly complicates the task, it is essential if meaningful results are to be achieved. We offer ten basic propositions and principles as navigational aids in assessing arms control agreements.

1. *Any assessment of an arms control agreement that considers only the effects on U.S. forces and ignores the effects on Soviet forces will conclude that the agreement is not in the United States' interest.* The principal military benefits to the United States of an arms control accord are the constraints that such a pact imposes on Soviet forces. If Americans wanted to stop U.S. nuclear testing, we could do so without a comprehensive test ban treaty; if we wanted to reduce the U.S. strategic nuclear arsenal by 50 percent, we could do so without a strategic arms reductions treaty; and if we wanted to withdraw U.S. intermediate-range nuclear forces from Europe, we could do so without an INF agreement. But from a U.S. perspective, the principal purpose of arms control agreements is not to constrain our own freedom of action, but to halt Soviet nuclear testing, to reduce Soviet strategic offensive arms, and to remove Soviet INF from Europe.

2. *Arms control agreements must benefit the Soviets.* Soviet leaders will enter an agreement only if they judge it to be in their interest. They would be foolish to accept an agreement that they perceive to be worse than no agreement at all.

3. *What is good for the Soviets is not necessarily bad for us.* If an arms control agreement benefits the Soviet Union, why should the United States enter into it? The answer is simple: the agreement can benefit us too. Fortunately, arms control is not a zero-sum game; each of the players can leave the table a winner.

4. *Benefits and costs of an arms control agreement are measured in multiple currencies.* The primary currencies are (1) military implications, (2) arms control, (3) alliance cohesion, (4) U.S.-Soviet relations, and (5) domestic politics. Because the negotiating process involves trade-offs among these categories, it is unlikely that the preferred outcome in any currency will be achieved in an agreement acceptable to both sides. The most common failure of critics of proposed agreement is to outline an alternative bargain that is more desirable than the original proposal in one currency but unacceptable in another. For example, many military analysts would prefer an agreement that left NATO with some shorter-range nuclear forces, even if only 100 to the 400 or more Soviet equivalents, but such a proposition would not likely prove acceptable in alliance or domestic politics. Assessing the net value of a proposed arms control accord requires weighing all the benefits against all the costs.

5. *Exchange rates among these currencies are difficult to establish.* How are costs in the military balance to be compared with benefits in U.S.-Soviet relations? Unfortunately, there are no fixed exchange rates. Every expert involved in assessing costs and benefits tends to be expert in only one currency, and to value it more highly than others.

6. *Uncertainty is unavoidable and often dominant.* Assessments of benefits and costs in a single currency are, as analysts like to say, "in principle empirical." But in most cases arising in the real world, the assessment is uncertain. In deciding whether an INF agreement would "couple" or "decouple" the United States and the other NATO countries, an uncertain judgment must be made; that is, one must place a bet on an unknown future. When the uncertainties are combined with the disparities in assumptions, perspectives, and values brought to bear on the analysis by various experts, it is not surprising that the conclusions vary so widely.

7. *Everything is connected to everything else, to some extent.* The significance of each provision of an arms control agreement depends on the other provisions. Each provision's benefits and costs, in terms of each of the principal currencies, are related to the benefits and costs of all the other provisions. Moreover, every arms control issue is linked, in fact or in perception, to numerous other domestic and international issues. The strength and importance of all these links may be amplified or attenuated to suit the bargaining purposes of political factions, allies, and adversaries.

8. *Arms control is but one instrument in the arsenal of national security.* It can play only a limited role in addressing the country's military, diplomatic, political, economic, and social problems. Any realistic arms control accord will exacerbate some of our difficulties while alleviating others.

9. *Close calls are the rule rather than the exception.* Most arms control agreements acceptable to the United States and the Soviet Union will involve close calls surrounded by uncertainties. Rarely will the advantages to either power outweight the disadvantages by more than 60:40; sometimes they may seem as close as 51:49. Hard judgments cannot be avoided.

10. *One arms control agreement requires our success in at least three negotiations.* Accord must be reached within the U.S. government (including the executive branch and Congress), among the NATO allies, and between the United States and the Soviet Union—though not necessarily in that order.

These principles provide a framework for thinking about arms control. They also suggest the complexity of the process of assessing any proposed agreement. Confronted by such complexity, many yield to the temptation to fall back on rules of thumb that are simple and understandable, but all too often wrong. Consider the following examples.

If it's arms control, it's got to be good. Many arms control advocates believe that arms control is good *per se.* Viewing weapons and the arms competition as the most likely causes of a catastrophic nuclear war, they are prepared to judge any constraint on nuclear arsenals as better than none. Others see agreements as a way to reduce tensions and conflict. They tend to support any agreement, without giving a great deal of attention to particular benefits and costs.

If the Soviets are for it, I'm against it. Groucho Marx did not care to belong to any club that would accept him as a member. Similarly, some Americans believe that any agreement acceptable to the Soviets must be contrary to U.S. interests. Underlying this attitude is the notion that arms control is invariably a zero-sum game, or that American negotiators are likely to be duped.

If my political opponents are for it, I'm against it. Some take their cues from their domestic political opponents instead of from the Soviets or from the facts; they simply adopt a position contrary to that of their political rivals.

If my crowd was not involved in formulating or negotiating the agreement, I'm against it. Some political actors believe that only they have the requisite skills to produce an acceptable arms control agreement. They refuse to acknowledge as successful the arms control efforts of any group from which they have been excluded.

If the agreement requires significant change, I'm against it. The predominant European reaction to any proposed change in military forces or doctrine is to oppose it. Typically, more than half of the arguments marshalled against such change reflect a commitment to the status quo. Underlying most centrist Europeans' preference for the status quo over any proposed change is their sense that the dominant characteristic of the status quo is the absence of war.

Most readers will agree that none of these rules of thumb is very useful. Unfortunately, they are all regularly used, despite the fact that arms control is too important a matter to be grounded in such impoverished substitutes for thought. Commonsense application of the ten principles stated previously should facilitate more intelligent assessments.

IV

The Soviet *da* to NATO's proposed zero option troubles members of at least three significant groups: anti-arms-control diehards, national security specialists, and NATO allies (especially in Germany). Anti-arms-control diehards oppose my arms control agreement with the Soviets. They argue that (1) arms control accords lull the West into a false sense of security and lead it to lower its military and political guard; (2) differences in the governmental systems and negotiating styles of the two superpowers invariably lead to agreements favoring the U.S.S.R.; and (3) the Soviets will circumvent or violate an agreement when it suits their interests. The most articulate proponent of radical skepticism about the arms control process, former assistant secretary of defense Richard Perle, is nonetheless a proponent of this INF agreement. Many suspect that he invented the zero option to prevent any agreement (by setting a goal so high and so favorable to the West that the Soviets would find it unacceptable). But having extracted their *da* to his proposition, he remains loyal to it.

Many national security specialists have never taken the zero option seriously; they regard it as a popular idea offered to blunt widespread opposition to INF deployment. Certain members of the national security community oppose the administration's general approach to arms control, which they view as simplistic and inconsistent; others are angry about what they see as its ignorance and arrogance in pursuing national security issues; some fear that the agreement will remove a rung in the ladder of escalation that permits NATO to make a calculated, graduated response to a Soviet attack.

America's NATO allies, in their initial reaction to the prospect of an agreement to eliminate medium-range missiles, vividly illustrate the power of the final rule of thumb ("If the agreement requires significant change, I'm against it"). Considering the initial European public opposition (some violent) to the proposal to place medium-range missiles in Europe, it is extraordinary that those weapons are now accepted as part of the landscape—part of the new status quo. Whatever the initiative, the dominant initial public reaction of our European allies is one of opposition—whether the proposal is to deploy new nuclear weapons or eliminate weapons already deployed, to increase the number of American troops stationed in Europe or decrease their number, to add new chemical weapons to Europe or eliminate old ones. The reason for their opposition is not only a desire to counter America's irrepressible penchant for problem-solving, even when dealing with insoluble problems. Rather, our European allies value the status quo precisely because it has nourished four decades without war, following four centuries in which war was more often the rule than the exception.

Other considerations intensify the attachment of many Europeans to the newly deployed Pershing II and cruise missiles. First, European governments and strategists have invested eight years of political capital in the deployment of NATO's INF. To overcome strong domestic opposition, they developed as many arguments as they could for the support of these weapons. They maintained that the new missiles were necessary to guarantee the credibility of the American nuclear commitment, essential to assure that the Soviet Union would be deterred from any attack on Europe, required to reassure Europeans about the credibility of NATO's defense posture. Strategic analysts understood that many of the technical military arguments were thin. For example, in the early stages of the discussion, the fact that INF in Europe would allow an American president to order a missile attack against the Soviet homeland without directly involving the American central strategic systems led certain strategists to claim that this would have the effect of decoupling U.S. and European security rather than coupling it. But at this stage, having made their vehement arguments in favor of the installations, the European leaders cannot reverse course and argue the contrary without suffering cognitive dissonance and political discredit.

Second, the weapons have become symbols of reassurance. Europe's psychological security tests not on its ability to defend itself, but on the expectation that deterrence will work. Deterrence relies on the Soviet leaders' belief that the costs of an attack will vastly exceed any benefits they might hope to attain. Central to this belief is the Soviet expectation that NATO will fulfill its commitment to use nuclear weapons to meet a successful Soviet conventional attack. In the 1970s, as the Soviet nuclear arsenal reached parity with that of the United States, the credibility of America's threat to uphold that commitment despite the risk of Soviet nuclear retaliation on the American homeland began to erode. Since 1982, "no first use" advocates, including former secretary of defense Robert McNamara, have raised further doubts about the credibility of America's nuclear commitment by arguing that "it is difficult to imagine any U.S. president, under any circumstances," fulfilling that commitment in defense of Europe. Europeans have convinced themselves that NATO's INF is the linchpin of all credible deterrence; who can say that Americans and Russians are not convinced of the same? Elimination of nuclear weapons could upset American perceptions, Soviet perceptions of American perceptions, and Europe's peace of mind.

Adequate assessment of the proposed agreement requires consideration of its advantages and disadvantages in terms of all five of the aforementioned currencies: military implications, arms control, alliance cohesion, U.S.-Soviet relations, and domestic politics.

Military implications

The disadvantages of the INF deal have been asserted most strongly by those concerned with its military implications. Some contend that either "the proposal would be a significant step toward denuclearizing Europe" or that it would make Western Europe "safe for conventional war"; it is also claimed that the agreement would "guarantee that West Germany was the battlefield in a nuclear exchange," "leave a large gap in the capability for flexible response," and "[leave] our allies more vulnerable to Soviet conventional forces and chemical weapons."

Each of these arguments is overstated or misleading, and misrepresents the likely direct effects of the zero-zero agreement. While eliminating NATO's medium- and short-range missiles would certainly leave the alliance without some of the weapons it would otherwise have, the INF arrangement would also eliminate a much larger number of weapons on the Soviet side. When one examines the proposed changes in our forces in relation to the proposed changes in Soviet forces, it appears that the net impact would be minor and uncertain, but more likely to be positive than negative.

With respect to the NATO forces, the agreement would turn back the clock to 1983, just before NATO INF deployment began. In the previous decade NATO had no medium-range missiles, nor did it feel any need for them prior to the dual-track decision of 1979. With the INF accord in effect, NATO would face about 900 fewer Soviet nuclear warheads on medium-range missiles and several hundred fewer warheads (including reloads) on 120 launchers for shorter-range missiles. In the new posture, NATO would continue to rely on a strategy of "flexible response"; that is, combined reliance on conventional weapons and nuclear forces for deterrence and defense.

It is difficult to identify any military function that could no longer be performed after the elimination of NATO's medium-range nuclear weapons; no target now vulnerable to destruction by NATO's INF missiles would be invulnerable to destruction by other European-based nuclear weapon systems. Unlike INF missiles, aircraft carrying nuclear weapons face substantial Soviet defenses. But air- and sea-launched cruise missiles are able to deliver nuclear payloads, and are not constrained by the agreement. NATO could, if it chose, increase its forces of air- and sea-launched missiles to cover any crucial shortfall. And while the Pershing II missiles have a capacity to destroy hard (i.e., relatively resistant to nuclear explosions) targets promptly, the deployment of the Trident II (D-5) submarine-based missiles assigned to NATO will duplicate that function.

The credibility of NATO's nuclear deterrent would be unaffected by the agreement. There is no reason to believe that a presidential or NATO decision to use nuclear arms would depend on whether the weapons would be delivered via land-based ballistic missile, sea-launched cruise missile, or nuclear-capable aircraft. If the location from which the warhead is launched or the ownership of the delivery vehicle were judged important, warheads would be available to meet any such requirement (e.g., from German soil or non-German Europe or sea; via aircraft or missiles belonging to the United States, Germany, or some other European nation).

The effects of these changes on Soviet incentives to strike NATO preemptively appear to be small but positive from a NATO perspective. The Soviet Union has been particularly concerned about the Pershing II missiles based in Germany because of their accuracy and short flight time. Removing those missiles would reduce the likelihood of Soviet preemption in time of crisis.

The probability of accidental or unauthorized use of nuclear weapons would be unchanged. One of the negative aspects of the proposed agreement, Congressman Les Aspin maintains, is that it would make less likely the elimination of battlefield nuclear weapons that risk unauthorized or premature use. While there was little enthusiasm for the elimination of such weapons prior to proposal of the INF agreement, the zero option has intensified the debate on such limitations.

Finally, the Soviet Union has a significant advantage over NATO in its conventional weapons that should neither be forgotten nor minimized. This advantage would not be affected by the INF agreement. To the extent that NATO relies on nuclear weapons to deter a conventional Soviet attack, the reduction of NATO's nuclear arsenal by less than 10 percent will be of little significance. Moreover, the nuclear weapons being eliminated are not the ones that would be preferred for use against Warsaw Pact conventional forces.

While giving up any weapon in our arsenal, especially one invested with symbolism, would constrain some of our military actions, require some changes in our military plans, and stimulate claims that compensating replacements are necessary to fill defensive gaps, it appears that the objective military impact of eliminating NATO's INF would be small.

But no purpose is served by evaluating an agreement only in terms of its effects on the U.S. side of the military balance. The primary benefits for the United States derive from the agreement's effects on Soviet forces. NATO has been rightly concerned about the threat of more than 1,300 Soviet warheads on mobile, accurate SS-20 missiles. These weapons could be effective in a preemptive nuclear attack on nuclear warhead storage bunkers and airfields. Thus, elimination of these Soviet weapons would reduce an important threat to NATO. Similarly, elimination of the Soviets' shorter-range missiles, which could be armed with either nonnuclear (conventional or chemical) or nuclear warheads that would be very effective against NATO airfields, ports, storage sites, and command centers, would also reduce a significant threat to NATO. On balance, elimination of this Soviet conventional capability would marginally lessen NATO's conventional disadvantage. Finally, removal of the Pershing II missiles would undermine the public Soviet rationale for deployment of antitactical ballistic missile (ATBM) systems in Soviet Europe—systems that the United States believes might be upgraded to defend against intercontinental ballistic missiles (ICBMs) and submarine-launched ballistic missiles (SLBMs).

Arms control

Arms control is just one strand in a complex national security policy and ought never to be perceived as an independent objective. Nonetheless, it is worthwhile to consider the implications of an INF accord for arms control.

In terms of arms reduction, the proposed INF agreement would eliminate an entire category of weapons in which both sides have made major investments, and which both perceive as having military and political utility. In this respect, it would be an unprecedented act in arms control. Whereas the SALT I Interim Agreement and the SALT II Treaty essentially legitimized the defense plans of each of the superpowers, the INF agreement would be the first to eliminate a category of weapons that would otherwise have been retained.

As for reducing the likelihood of weapons being used, the effects of the agreement would be small but positive. That the Soviet Union has greatly feared U.S. Pershing II missiles is clear. Why this is so is less apparent, but probably has much to do with the fact that these weapons could reach the Soviet Union. Their speed and accuracy pose a threat to command and communications centers. The Soviets may also fear that these weapons would be among those most favored by an American president ordering an attack. A future American administration might conceivably imagine that the use of European-based (rather than U.S.-based) nuclear weapons against Soviet territory could confine the conflict to Europe and reduce the risk of warfare in the U.S. homeland. Moreover, the fact that the Pershing II missiles are located in Germany concerns the Soviet Union. For these reasons, the INF missiles appear to be prime targets for Soviet preemption; their removal would diminish the risk of such Soviet action.

This INF agreement would demonstrate that a strategy of "arming to parlay" can be successful. To control both the Soviet threat and NATO's arms buildup, NATO armed in order to disarm. Paradoxical as it seems, this strategy appears to have worked. Appropriately presented, it could have a positive effect in sustaining public support for such an approach in the future.

Alliance cohesion

Claims have been made that this agreement would denuclearize Europe, decouple the United States and Europe, and fuel distrust between the United States and Europe—creating, according to Nixon and Kissinger, "the most profound crisis of the NATO alliance in its forty-year history." Such claims are overstated.

The small proposed reduction in NATO's nuclear forces would leave the West with over 5,000 nuclear weapons in Europe, excluding America's strategic arsenal. Whether this step would be followed by further reductions in nuclear weapons, or even by the denuclearization of Europe at some distant future date, is a reasonable question. But this step in itself would have minimal bearing on that eventual outcome.

The argument about decoupling has become almost theological. As noted previously, at the early stages of the development of NATO's INF, many in Europe feared that deployment would decouple American security from that of the Europeans. With U.S. nuclear weapons in Europe, it was argued, some American president might imagine that a nuclear war could be fought in Europe alone (including Soviet Europe) without ever touching the American homeland. U.S. proponents of deployment argued that, on the contrary, the deployment of INF would serve to couple the U.S. and Europe. It would seem that at least one of these arguments is wrong.

The salient fact is that many ties bind the United States and Europe; the deployment of forces like Pershing IIs or GLCMs are thin threads in that complex web. This does not mean that changes in such forces can be made casually. Careful assessment of the military balance before and after an agreement, examination of the agreement's potential effects in particular scenarios, and review of the proposal's benefits and costs in all the relevant currencies are essential. Moreover, meaningful consultation with our European allies constitutes the only approach that will allow a change in forces to strengthen rather than undermine alliance cohesion.

The distrust sown by events leading to the current INF proposal is a serious problem. For many Europeans, including many friends of the United States, a general distrust of the Reagan administration, coupled with serious questions about the administration's competence and style in dealing with arms control issues, make the proposed INF agreement a lightning rod for more general fears. Most European leaders, especially those of a moderate to conservative stripe, see nuclear weapons as an essential element in the security of Europe. President Reagan's talk about eliminating nuclear weapons made them extremely nervous; that he engaged in such talk at Reykjavik without first consulting his NATO allies worries them even more. Germans are particularly worried that President Reagan may reach an agreement with the Soviet Union that will have important effects on their own forces and on German security, without Chancellor Kohl and his party having adequate time to formulate or offer their own views on the subject. The proposal's vitally important impact on the mutual trust between the United States and Europe has been shaped more by how the issue has been framed and handled than by the specific provisions of the agreement; this will continue to hold true in the months ahead.

Few opponents of this agreement have described a realistic alternative. Polls show that citizens in the NATO countries overwhelmingly support it. Indeed, the polls indicate that NATO's hesitancy and the alliance's clumsy diplomacy have allowed the Soviet Union to seize the initiative and the credit in Europe as the source of the zero proposal. Suppose that NATO, at this late date, had accepted the critics' advice and said no to the Soviet *da*. How would the European publics have reacted? Would Prime Minister Thatcher have fared so well in her June election? Would the deployment of cruise missiles in Holland have continued? Imagine that President Reagan had adopted the Nixon-Kissinger approach in response to Gorbachev: instructing Gorbachev to choose again some equal number (for instance, 100 medium-range missiles on each side), and making acceptance of that number contingent on significant progress on Afghanistan and Nicaragua. Which of the critics of the current agreement would now be supporting President Reagan? After the arguments that the leaders of the NATO countries have made during the last eight years, it would be difficult to believe in the sincerity of NATO's commitment to arms control, or to sympathize with NATO's criticism of Soviet intransigence.

In hindsight, it is evident that NATO's diplomatic deftness in deploying INF has not been matched in the recent arms control negotiations. From 1981 to 1983, the zero option played an essential role in sustaining sufficient political support, and in keeping the opposition sufficiently off balance, to allow the deployment of INF in Europe. Thereafter, particularly as the investment of German politicians in the deployed missiles grew, NATO should have recognized the need to revise its proposal to allow for a low number of warheads (e.g., 100) to be deployed, some being left in Germany. Whether such a proposal would have been supported in the Netherlands (always the weak link in the deployment) and whether it could have been successfully negotiated with the Soviet Union is uncertain. In retrospect, such an attempt might have been preferable; still, its consequences might have also led to zero. In any case, the zero option played an essential role in the successful deployment of INF. Had European politics defeated deployment of NATO's INF, as seemed likely in 1981, NATO would have experienced an alliance-threatening crisis. Furthermore, no assertion about a preferred NATO alternative that fails to show how such a posture could have attracted the requisite political support derserves to be taken seriously.

U.S.-Soviet relations

Claims about the likely effects of an INF agreement on U.S.-Soviet relations have generally been exaggerated. Congressman Jack Kemp characterized the proposed agreement as a "nuclear Munich." Brent Scowcroft, former assistant to the president for national security affairs, asserts that "the deal is substantially in Moscow's favor." Others proclaim the deal a herald of a new era in U.S.-Soviet relations.

The most important effect of such an agreement on U.S.-Soviet relations might be to teach each government something about how to deal with the other. For the United States, it would signify that even the Reagan administration can do useful business with "the Evil Empire" and reach arms control agreements that meet appropriate standards for U.S. and allied security. Appropriately presented, the agreement might also reinforce the Reagan administration's general approach to arms control; negotiating from strength. It could also set a new and more ambitious standard for arms control that would call for even more significant arms reductions.

The implications for the Soviet Union appear to be even more important. It is clear that Gorbachev very much wants an accord, but no American analyst can say with great confidence what he and his advisors see in the impending agreement. At a minimum, any agreement that can be presented as being in the Soviets' interest would show Gorbachev to be a leader, able to deal with the United States on the international stage, capable of concluding the first ratifiable arms control treaty since 1972. Such an agreement would reconfirm and recertify American acceptance of the Soviet Union as an equal superpower, conferring upon the Soviet leaders a legitimacy that the Reagan administration did not acknowledge in its first term. Gorbachev's "new pragmatism" rejects failed policies of the past (including the Soviet policy of attempting to frighten NATO out of its INF deployment). A policy of negotiating medium-range missile elimination, if it succeeds, would count as a substantial success: Gorbachev will have traded Soviet weapons that cannot reach the United States for American weapons that threaten the Soviet homeland. Gorbachev and his analysts are undoubtedly hoping, perhaps betting, that certain of the more dire consequences predicted by Western critics of the agreement (such as dismantlement of the NATO alliance) will eventually come to pass. In the long run, Soviet prospects for weakening the ties between the United States and Europe appear at least as good with their new strategy of seduction as they did with their old strategy of intimidation.

While an INF agreement would be but a single step toward improved U.S.-Soviet relations, it could encourage further developments. The opportunity for the United States to test the limits of Gorbachev's preoccupation with domestic problems and to do business on other fronts, including Afghanistan, Central America, and even strategic arms, would be enhanced by such an agreement and the summitry that would accompany it. Given his sense of timing and his frequent good luck, President Reagan might conclude his second term by making more of a contribution to improved relations than he had ever imagined possible.

Should the West reject the Soviet *da*, what would be the effects on U.S.-Soviet relations and on the credibility of U.S. promises and threats? In the Soviet Union (and elsewhere) it would be argued that the West is not really serious about arms control, and will ultimately not even accept its own proposals. The impact that this would have on the internal politics of the Soviet Union and on the nature of Gorbachev's future initiatives is uncertain, but there is no reason to believe that its results would not be disadvantageous to us.

Domestic politics

Some of the opposition to the agreement stems from those of President Reagan's political opponents whose distaste for his administration is intense and who are offended by its strategy or style in foreign affairs. Others object to what they judge to be a fundamental lack of seriousness about the details of agreements in defense and arms control. Some worry that negotiating by threat and the buildup of arms may legitimize bargaining chips again. To others, proposing a ruse like the zero option—and even worse, winning with it—is unconscionable. Still others believe that the administration's enthusiasm for this accord stems primarily from a desire to divert attention from the Iran-*contra* scandal.

Although the potential effects of an INF agreement on American domestic politics are difficult to determine, some attempt must be made. First and perhaps most importantly, the agreement would do a great deal to legitimize arms control across the broad spectrum of American domestic politics. Those who believe that the arms control process itself is harmful to American interests are right to fear the agreement. Those interested in the arms control process over the long run should applaud it. If the Reagan administration reaches an agreement, its right-wing supporters will lack credibility when they argue that it is impossible to bargain with the Soviet Union, that the arms control process per se is bad, that the Soviets can never be trusted to live up to any agreement.

Second, such an accord would force greater realism in arguments about verification. An administration that has made much of "Soviet cheating" will be forced to explain how the United States is able to reach an agreement with a government that cheats. That explanation will be a challenge to formulate. The problem, it will be said, is not with perfect verification, but with significant Soviet noncompliance. The verification provisions of the agreement, according to those who advocate it, will be represented as being sufficient to ensure that Soviet cheating would be detected before it reached a level at which the agreement would no longer serve American interests. Some will go further to argue that we must be willing to take appropriate compensating action if and when Soviet cheating is detected. Improved balance in arguments about verification, cheating, and compliance, as well as about the terms of all agreements, can only be a healthy development in the conduct of American domestic politics.

Finally, absent an agreement, one must ask what the likely terms of political debate would be in 1988. Democrats would proclaim the bankruptcy of this administration's approach to arms control. They would argue also that many other agreements were available, including an antisatellite (ASAT) agreement, a comprehensive test ban treaty, 50 percent cuts in strategic offensive weapons, and legitimate resolution of strategic defense issues. One need only look at the list of unilateral arms control constraints suggested by the Democratic House of Representatives to find a long inventory of proposals that may emerge again.

V

What are the long-term implications of the debate over an INF agreement? To what extent may the outcome shape the nuclear world of the future?

Regardless of the outcome of the current debate, nuclear weapons will still be with us in the twenty-first century, and in very large numbers. Even if an INF agreement were reached, and were followed by reductions of 50 percent in strategic offensive forces by the early 1990s, and even if that were followed by further reductions of 50 percent in the U.S. and Soviet strategic arsenals, more than 10,000 nuclear warheads would remain in the combined arsenals of the superpowers. British, French, and Chinese forces together will contribute additional thousands of nuclear weapons; as we enter the next century, other nations are likely to join the nuclear club. Unilateral and cooperative efforts may reduce the numbers of nuclear warheads over time, but complete abolition is unattainable; nuclear knowledge will always be with us. Whether we like it or not, and whether political leaders admit it or not, nuclear weapons—real or potential—are part of the world's future.

Ironically, the steady growth in the capabilities of the nuclear arsenals of both superpowers has resulted in a correspondingly steady decline in the credibility of the threats to use them. The notion of intentionally committing national suicide in response to an aggressive act other than one that threatens national survival is so irrational and incredible that it is unlikely to deter a determined adversary. Moreover, as public awareness of nuclear arms issues grows in democratic countries, support for a posture that seeks to provide for their security by threatening mutual suicide will continue to erode.

For the foreseeable future, regardless of any unilateral actions that either of the superpowers might take, the number of nuclear weapons on earth will be high and their utility will be low. Arms control negotiations almost certainly will continue to be part of this nuclear picture. Prospects for further success in arms control will depend to some extent on the outcome of the current INF debate.

At this writing, two difficult issues remain as obstacles in the path of the INF negotiations: (1) whether West Germany's seventy-two Pershing I-A missiles and their U.S.-controlled nuclear warheads will be affected by the agreement, and if so, how, and (2) whether mutually acceptable verification provisions can be formulated. An agreement providing reasonable resolution of these issues would clearly serve the interests of both the united States and its allies. If, despite its beneficial character, the agreement were rejected by the West, that action would establish a threshold for future arms control agreements so high that it would probably not be met for a long time to come. Even if the short-term benefits and costs of an INF agreement appear to be more nearly in balance to others than they do to us, long-term consideration should convince at least some skeptics that, in this instance, the best Western response to *da* is yes.●

"MULTILATERAL EXPORT CONTROL SANCTIONS ACT OF 1987"

● Mr. HEINZ. Mr. President, I rise today to bring to the attention of my colleagues, reactions regarding an amendment included in the trade bill, which imposes sanctions against companies that violate United States and multilateral export control laws. The amendment, the Multilateral Export Control Sanctions Act of 1987, garnered wide support in the Senate, passing by a vote of 92 to 5.

As we are all too familiar, in recent years a number of companies have been caught selling highly restricted technology to the Soviet bloc. This amendment was written as a result of the recent, widely publicized sale of sophisticated software and milling equipment to the Soviet Union by Toshiba Machine, which is 50 percent owned by the Toshiba Corp., and by Kongsberg Vaapenfabrikk. This $17 million sale of machine tools and software, which enables the Soviets to build quieter, harder-to-detect submarines, compromised an essential component of our national security—our superiority in submarine warfare. To reestablish that edge, will cost our taxpayers a minimum of $10 billion.

This legislation prohibits imports from the two companies for not less than 2 years and not more than 5 years. The penalties apply to the parent, affiliate and subsidiary companies involved in the sale. The sanctions also include denial of U.S. Government procurement and in the commercial market.

In crafting this amendment, Senator GARN and I had two goals in mind: To repair the damage done to the U.S. strategic position; and, to end the complacency of our allies toward technology.

Our intention was not to wreak vengeance on Toshiba and Kongsberg. We wanted to design tough sanctions that would improve technology security while at the same time we attempted to protect legitimate American interests. In fact, I designed waivers that would do just that. The President may waive the sanctions under certain conditions: Where the product is essential for defense and cannot be obtained elsewhere; and if the product is a spare part essential for U.S. production and servicing.

Many suggestions have been offered to deter such sales and each one has its own ramifications. Toshiba, for example, directly employs 4,000 people in the United States and American consumers buy $2 billion of Toshiba imports each year. While the Japanese Government imposed a 1-year ban on Toshiba's trade with the Soviet bloc and despite Toshiba's relationship with the United States, a number of Members of Congress feel that this was an inadequate response.

Because of this amendment's consequences, I recently asked the people of Pennsylvania to share with me their thoughts on this legislation. Nearly 13,000 people have responded, and for that over 96 percent overwhelmingly support this effort. I would now like to share with my colleagues a sampling of the responses.

Mr. J.D. McNamara, of Maple Glen, PA, wrote:

> The recent sale of machinery and technical support documentations to the Soviet Union by Toshiba and Kronsberg Vaapenfabrik is totally unconscionable. The fact that the equipment will enhance the U.S.S.R.'s submarine capability is personally frightening since my three sons will be naval officers within the next six months. Both of these companies should receive the maximum penalties. * * * An example must be made to set the tone of American determination to

deal with those companies or governments that would place America's defense in jeopardy.

Mr. David M. Smith, of Carmichaels, PA, concurred by writing:

> I have been following with interest the story of Toshiba and the Norwegian company selling one of our most valuable defense secrets to the Soviets * * * Considering the damage to our Navy and the amount it will cost the taxpayers to develop new technology to offset this loss, there should be serious penalties.

The need for more serious penalties than the one Japan placed on Toshiba was emphasized in almost all of the responses. Other Pennsylvanians were out-spoken as well. Mr. Larry D. Bowling of Pittsburgh wrote, "Toshiba, C. Itoh and Company, and all others involved in this illegal act should be severely penalized." Mr. Niels L. Nielson of Bethlehem, a former naval flight officer specializing in antisubmarine warfare for 8 years, wrote, "I agree with your proposed action against Toshiba because their sale of equipment to Russia is a major blow to our antisubmarine capability. Violations, such as the Toshiba sale, should be punished by significant actions and exclusion from the U.S. market for 5 years is an excellent way to do it." Ruth W. Drozin of Lewisburg feels, "Apologies, resignations and promises are not enough this time. Failure to swiftly punish these companies can only be viewed as a license for other companies to act illegally as long as it is profitable."

The amendment does not solely focus on penalties against companies involved in the Toshiba/Kongsberg technology deal. The bill emphasizes that the "United States should also take steps to improve the functioning of the Coordinating Committee [Cocom] * * *" Mr. Frederick Willis of Philadelphia agreed when he wrote, "The West's Cocom organization for controlling and preventing technology sales to the Soviet Union needs to be strengthened to prevent additional militarily useful sales."

Mr. President, I have no doubt the Soviet Union will continue to try to obtain sensitive Western technology. We must send a very clear message to those who jeopardize Western security by trading our resources for profit. I urge my colleagues to join me in working to ensure that provisions which emerge from the trade conference are ones that: Provide sufficient penalties against the companies involved in the Toshiba/Kongsberg technology deal without unduly impairing U.S. interests; and, provide a deterrent against future illegal technology diversions by, for example, encouraging improved cooperation among members of the Coordinating Committee and with other countries, and by strengthening the President's authority to impose sanctions against companies which violate Cocom national security controls.●

DEDICATION OF JOSEPH M. KATZ GRADUATE SCHOOL OF BUSINESS

● Mr. HEINZ. Mr. President, it is with great pleasure I rise today to bring to the attention of my distinguished colleagues the dedication of the University of Pittsburgh's Joseph M. Katz Graduate School of Business.

On September 22, 1987, the University of Pittsburgh, which has recently celebrated its bicentennial, dedicated its new graduate school of business which was made possible by a $10 million donation by Joseph Katz. This extraordinary man, an alumnus of the university, founded the Papercraft Corp. in 1945 on a $10,000 investment and built it into a $170 million a year producer of specialty paper and consumer products. H. Ross Perot paid tribute to Joseph Katz when he told the university's students at the dedication ceremony: "You could get a lot more out of studying Joe Katz's life than studying junk bonds." I wholeheartedly agree.

Since its founding in 1960, Pitt's Graduate School of Business has become one of our Nation's leading schools in its field. Earlier this year, the prestigious Gourman Study ranked the school No. 17 of the more than 700 business schools in the United States. America's leading corporations look to Pitt for their future leaders.

As a result of Joseph Katz's generosity, this gifted graduate school, its 1,500 students and 12,000 alumni, can not only look back with pride on their remarkable achievements but can look forward to a bright and promising future. Equally important, our Nation will gain from the trained and thoughtful men and women whose education has been so greatly enhanced by this magnificent gift.●

CROSSWALK ALLOCATION REPORT

● Mr. HOLLINGS. Mr. President, today I am submitting a report from the Committee on Commerce, Science, and Transportation pursuant to section 302(b) of the Congressional Budget Act of 1974. This report, the so-called crosswalk allocation report, provides for allocations to subcommittees of budget authority and outlays for fiscal year 1987, assigned to the committee by the managers on the conference on the House Concurrent Resolution 93.

I ask that the text of the report be printed in the Record.

The report follows:

Report of the Committee on Commerce, Science, and Transportation Pursuant to Section 302(b) of the Congressional Budget Act of 1974

The Committee on Commerce, Science, and Transportation, having been' allocated certain budget authority and outlays by the managers of the conference on the House Concurrent Resolution 93, reports the division of such allocations among subcommittees of the Committee for fiscal year 1987.

BACKGROUND

Under section 302(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 302(b) of the Act requires the committees to allocate such spending authority among either their subcommittees or the programs over which they have jurisdiction. This section also requires the committees to divide their allocations into amounts that are controllable and amounts that are mandatory under existing law. After consultation with the appropriate committees of the other House, the committees are required to report the allocations they have made.

ALLOCATION RECEIVED BY THE COMMITTEE

The Committee on Commerce, Science, and Transportation received the following allocations for fiscal year 1988:

Fiscal year 1988

Direct spending authority:	*Millions*
Budget authority	$2,326
Outlays	543

ALLOCATIONS MADE BY THE COMMITTEE

The Committee has made its allocations among the several subcommittees as shown in the following table. All figures are CBO estimates as of July 11, 1987.

The total amount of funds allocated in this report is equal to the allocations made to this Committee in House Concurrent Resolution 93.

Fiscal year 1988

Aviation Subcommittee:	*Millions*
Budget authority	$1,600
Outlays	0
Credit	0
Communications Subcommittee:	
Budget authority	−300
Outlays	−300
Credit	0
Consumer Subcommittee:	
Budget authority	135
Outlays	0
Credit	0
Foreign Commerce and Tourism Subcommittee:	
Budget authority	0
Outlays	0
Credit	0
Merchant Marine Subcommittee:	
Budget authority	438
Outlays	440
Credit	0
Science, Technology, and Space Subcommittee:	
Budget authority	39
Outlays	38
Credit	0
Surface Transportation:	
Budget authority	55
Outlays	−4
Credit	0
National Ocean Policy Study:	
Budget authority	352
Outlays	362
Credit	0
Full Committee:	
Budget authority	7
Outlays	7
Credit	0●

PAUL A. STACKHOUSE, SR.

● Mr. HEINZ. Mr. President, I rise today to recognize Paul A. Stackhouse, Sr. of Pittsburgh, PA, who has served as Allegheny County Labor Council president since 1974.

In honor of his exemplary service and commitment to ensure a quality living standard and improved working conditions for all members of our community, the mayor of the city of Pittsburgh jointly with the Board of Commissioners of Allegheny County proclaimed the 100th anniversary of Labor Day parades, September 7, 1987, as "Paul A. Stackhouse, Sr. Day in Allegheny County."

Since his first involvement with the organized labor movement more than 40 years ago, Mr. Stackhouse has been dedicated to upholding the rights of those individuals who have made this country so proud and great, the working people of America.

I extend my congratulations to an outstanding citizen of our community, a widely respected advocate for the American worker, and a man I am privileged to describe as a longtime valued counselor and friend, Paul Stackhouse, for his well deserved recognition. I ask that the proclamation be printed in the CONGRESSIONAL RECORD.

The proclamation follows:

COUNTY OF ALLEGHENY—BOARD OF COUNTY COMMISSIONERS

PROCLAMATION

Whereas, the American Labor Movement, which began more than 200 years ago, has sought to improve the lot of all working people; and

Whereas, labor leaders, from the pioneering days through today's menacing era, have dedicated themselves to the betterment of working men and women to obtain a rightful share of the nation's bounty in return for their daily toil, among those leaders being Paul A. Stackhouse, Sr., who honorably has served as Allegheny County Labor Council President since 1972, striving to uphold and ensure a decent living standard and improved working conditions for all in our community; and

Whereas, the first Labor Day Observance took place more than a century ago, and the Federal Government officially established it as a Legal Public Holiday in 1894, with Pittsburgh and Allegheny County, both known world-wide as great centers of labor and productivity both in times of war and peace, staging many teeming, forceful and proud parades reflecting the workers' self-esteem, as well as their economic and social welfare; and

Whereas, the United Labor Day Parade committee wishes to demonstrate that spirit of pride and togetherness through a meaningful procession in the Heart of Pittsburgh's Golden Triangle strengthened by the theme, "Put America Back to Work," this year's impressive march to commemorate the 100th Anniversary of Pittsburgh's first Labor Day Parade of 1887 when labor's intrepid pioneers proudly marched shoulder to shoulder; Now, therefore, be it

Resolved, That this Board of County Commissioners jointly with Pittsburgh Mayor Richard S. Caliguiri, does hereby commend ACLC President Paul A. Stackhouse, Sr., United Labor Day Parade Committee Chairman Patrick Landy and his competent colleagues, and all labor leaders and working men and women for sharing their great cause and deep desire for the betterment of all working people who helped to build this great community and nation that stands supreme in Freedom and Human Rights, and we urge our citizens to participate in and respectfully observe the 100th Anniversary of the Labor Day Parade on September 7, 1987, which we proudly proclaim, "Paul A. Stackhouse, Sr. Day in Allegheny County." ●

FRAUD OF THE DAY—PART II

● Mr. HEINZ. Mr. President, as I present the second fraud of the day, I do so knowing that there are those who have reservations about my customs fraud amendment that would provide an additional means of dealing with the problem. Some of these critics contend that the only necessary action is to give the Customs Service more funds. Pour more money into the Service, they argue, and our problems will be solved.

Well, Mr. President, the well is dry and pouring more in is not going to happen. Increasing appropriations for the Customs Service is an exceedingly difficult task under favorable budget circumstances. For fiscal 1987, the President requested $747.7 million for the Customs Service. The final appropriation was just over $1 billion, but that included a special $200 million appropriation for the fight against drug smuggling.

For fiscal 1988, the President is seeking $876 million for the Customs Service, a significant reduction from the fiscal 1987 level. We have just passed our appropriations bill which provided a small increase over current levels to $1.15 billion.

There is little dispute that this is an inadequate figure, and, I might add, a self-defeating one, since it is well established that the Customs Service raises revenue far in excess of its expenditures. Past estimates indicated that the Service raises as much as $19 for every $1 it spends. Even half that number would be a bargain.

With a national debt of $2 trillion, a likely budget deficit of over $150 billion, it is unrealistic to think that the Government will put additional resources into the Service to effectively combat customs fraud. Clearly we need another means of providing an effective deterrent, and a private right of action is squarely in that category.

Today's fraud involves ball and roller bearings. On December 28, 1984, multimillion-dollar penalty claims against two companies were settled for $4.1 million, collected as part of an agreement executed between the companies and the Justice Department, with the concurrence of the Treasury Department. The violations involved false descriptions and false valuations of ball, roller, and combination ball roller bearings imported by the companies during the years 1972 through 1978. This is one of the cases, Mr. President, where the Customs Service collected a large sum of money in response to its investigation. Unfortunately, there are not very many of those cases, both because of limitations on Customs' budget and on constraints in the legal and administrative process that deal with alleged offenders that leave Customs holding very few cards in the adjudication process. I will have more to say about that in discussing the next fraud of the day.●

MICHIGAN—RETIREMENT-FRIENDLY

● Mr. RIEGLE. Mr. President, I wish to submit an article regarding a recently published Rand McNally book which lists five Michigan communities as being "retirement-friendly".

The book lists 131 places across the Nation which are the nicest for retirees. Michigan was the 1 Frost Belt State of 10 which was judged to be most favorable for retirement. These five areas put Michigan fourth in the Nation. Florida was at the top with 15, California second with 10 and Arizona third with 6.

The five Michigan areas listed in the book are; Oscoda-Huron Shore, 34th, Traverse City-Grand Traverse Bay, 75th, Petoskey-Mackinac Straits, 85th, Houghton Lake, 93d, and Ann Arbor, 98th.

These places are very special to our State and I have personally enjoyed all of them on many occasions. As this book makes apparent, and as we in Michigan already know, our State holds many treasures. Mr. President, I ask that the entire article be printed in the RECORD.

The article follows:

BOOK LISTS MICHIGAN AREAS IN THE BEST PLACES TO RETIRE

(By David Hacker)

Karen James always knew where she wanted to live, and to get a jump on their retirement years, she and her husband Clarence asked for their last tour of Air Force duty to be at Wurtsmith Air Force Base near Oscoda.

He left the service in 1974, after 20 years, and died in 1983 of a heart ailment, but his widow remains one of 500 service family retirees in Iosco County. There are 1,531 retired military families in the six-county area around Oscoda.

Karen James, 51, didn't need Rand McNally, the publishing giant, to tell her she had made a good choice in settling into the woods and waters of the northeast Lower Peninsula.

Her town—listed as Oscoda-Huron Shore—has just been named the nicest place in Michigan for retirees, 34th in the nation among 131 communities picked by Rand McNally in the $12.95, 220-page paperback book, Retirement Places Rated.

Other Michigan communities in the Rand McNally list: Traverse City-Grand Traverse Bay, 75th; Petoskey-Straits of Mackinac, 85th; Houghton Lake, 93rd; and Ann Arbor, 107th.

Indeed, Michigan is the only Frost Belt state in the 10 states judged by Rand McNally as the most favorable for retirement. Florida is tops with 15 retirement-easy areas, California second with 10, and Arizona third with 6, the only states more retirement-friendly than Michigan.

The authors of the book, Richard Boyer and David Savageau, made their judgments without visiting any of the communities. They drew from reports and statistics compiled by agencies such as the U.S. Census Bureau, the Social Security Administration, the U.S. Department of Transportation, and the American Hospital Association, and from FBI crime-by-county reports.

Personal safety, of course, is a priority for the elderly, and it was one of the six factors used in deciding where the best places are for the elderly to spend their later years. The others: cost of living, housing costs, climate, services and leisure activities.

The Murray-Kentucky Lake region of western Kentucky was picked the No. 1 spot in the nation for retirement. Next: Clayton-Clarkesville, Ga.: Hot Springs-Lake Ouachita in Arkansas; Grand Lake-Lake Teakiller in Oklahoma; Fayetteville, Ark.; St. George-Zion in Utah, Brownsville-Harlingen in Texas, Bloomington-Brown County in Indiana, San Antonio, and Port Angeles-Strait of Juan de Fuca in Washington.

"The worst region chosen by many retirees, however, is the Northeast," said Boyer and Savageau. Nine of the 10 bottom-ranked are in this area. The authors found no good reason to retire to 12 states: Alaska, Kansas, Nebraska, Illinois, the Dakotas, Minnesota, Louisiana, Ohio, West Virginia, Wyoming and Rhode Island.

Said Savageau: "The book is designed to help middle-aged people planning for retirement avoid some of the common mistakes that people have traditionally made in choosing where to live. Too many retirees are discontent" with their first choices and even end up moving back to where they came from.

That's just what happened to James, who grew up in Flint.

"As a teenager," she said, "I used to come up here (to Oscoda) to picnic. It has the most beautiful beach. It's such a quiet, lovely community."

This ease of living and soft pace of life on Michigan's eastern shore was not forgotten by the James family. "When you grow up in Michigan, the 85- or 90-degree Christmases of Orlando, Fla., where I lived for two years, just don't seem appropriate. I like the cool crisp mornings, the fiery fall colors and the cool winter colors. I like the change of seasons."

RETIREMENT PLACES RATED

[Here are the five best retirement spots in the nation, and how five Michigan locations fare among the 131 places profiled in a new edition of Retirement Places Rates, published by Rand McNally.]

Site	Overall	Where rated among 131 places			
		Climate	Housing	Leisure Life	Costs [1]
Murray-Kentucky Lake, KY	1	55	19	93	17
Clayton-Clarkesville, GA	2	53	9	40	8
Hot Springs-Lake Ouachita, AR	3	41	16	39	44
Grand Lake-Lake Tenkiller, OK	4	54	11	94	3
Fayettville, AR	5	61	30	91	24
Oscoda-Huron Shore, MI	34	117	22	36	18
Traverse City-Grand Traverse Bay, MI	75	122	80	47	86
Petoskey-Mackinac Straits, MI	85	122	60	66	76
Houghton Lake, MI	93	128	12	90	13
Ann Arbor, MI	98	98	118	21	126

[1] Based on average Income and cost of living for a two-person household.●

INFORMED CONSENT: NEW YORK

● Mr. HUMPHREY. Mr. President, no matter which side one is on regarding abortion, we all must agree that women are entitled to adequate information when considering abortion. And yet, as each day goes by, women in every State of the Union are submitting to abortion without first being fully informed about the risks, effects, and alternatives.

My office has received hundreds of letters from women in every State detailing what this lack of informed consent has meant in their lives. Today, I present a number of letters from New York, just a sampling of the response we have received from that State in support of informed consent.

My informed consent bills, S. 272 and S. 273, would require that federally funded medical personnel secure informed consent from patients considering abortion. I urge my colleagues to support these two bills, and I ask that seven letters from New York State residents be entered into the RECORD.

The letters follow:

MARCH 24, 1987.

DEAR SENATOR HUMPHREY: I applaud your efforts to insure informed consent for women contemplating abortion. This is a national scourge, and often its victims are ignorant of the life-crippling effects that are involved.

Years ago, my wife and I decided to have an abortion, and met with no voice of caution from the medical professionals involved. We went ahead with it, and only too late do I recognize the severe emotions we have incurred. Our legacy became one of guilt, mistrust, and ultimately, a broken relationship ending in divorce, severely hurting ourselves as well as our two children.

If I only knew then what I know now! But I must be content with trying to help others who are at the same crossroads make the right decision.

Please do whatever you can to protect the young women of today from making destructive decisions at an age when it is difficult for them to see down the road. Let's at least give them all the data that they need to see the whole picture.

Sincerely,

PAUL BATCHIE.

NEW YORK.

DEAR SENATOR HUMPHREY. I am a 30-year-old woman who 2 years ago experienced the healing of scars that began with sexual involvement in my early teens (15 years. old).

I found myself pregnant at the age of sixteen. The local Planned Parenthood counselor told me (at eleven weeks gestation) that "it wasn't really a baby yet—just a bloodclot." She did not discuss with me working things out and telling my parents, or possibility of adoption, abortion was answer to my "problem." "I was too young to have a child." Arrangements were made and the abortion was performed. Word of what happened got around at school and I dropped out.

Although the child was gone, my seeking security, affection and acceptance through sexual encounters remained the same, coupled with the need now to replace the baby I aborted, within one year I was pregnant again, although I had full knowledge of all birth control methods and was prescribed the pill after my abortion. The poor self-image that I already had became self-hatred after my abortion, after all, I had killed my own kid—what else was there somebody could do? Now, I'd already done it once, it didn't matter if I did it again, I couldn't get any lower. During this time other self-destructive patterns accelerated in my life, drugs and alcohol. By the age of nineteen I was alcoholic and in debt, having trouble holding a job. My unresolved problems wrought another pregnancy at this time. But the powerful denial kept me out of the clinic until I was 13½ weeks pregnant. When I questioned the counselor about the procedure this time she said it was "the same but just a little different." (A second trimester D&E was performed much different than the standard suction abortion.)

Shortly after my third abortion someone shared with me the love and forgiveness of God through his son Jesus Christ. I entered a totally new life. The drugs and alcohol, thoughts of self-destruction were gone, as well as the need for love through sexual intimacy.

In 1985, being married and having two boys, some unforeseen problems came and through the ministry of Open Arms Post Abortion Support Group I learned to finally grieve for my dead children. The years of denial ended and I was healed and learned to forgive—especially myself.

Respectfully submitted,

MARY E. LARSON.

NEW YORK.

FEBRUARY 5, 1987.

DEAR SENATOR HUMPHREY: I had a abortion when it was first legalized in N.Y. state. It was explained to me by a nurse or assistant the physical ramifications involved in a suction curettage abortion. I was advanced in my pregnancy to almost three months, and the doctor wasn't sure he could use this procedure at first. I was in no way informed about the grief process that I would have to go through and many psychological problems that I had to work through for many years.

I pray this legislation on informed consent will be passed so that women can understand all that's involved with an abortion.

Sincerely,

CATHY LAGACE.

NEW YORK.

June 9, 1986.

DEAR SIR: I am writing to you in support of the bill *for informed consent.* This is a very important issue. Women and men need to be told the whole truth about abortion. God bless you for this endeavor. We need to stop abortion—but this is a step in the right direction. Thank you!

Sincerely,

MRS. SIGNE DEMPSEY.

NEW YORK.

June 7, 1986.

DEAR SENATOR HUMPHREY: I am writing to encourage your support of the proposed bill to require all women seeking abortion to be informed of all alternatives and consequences before they make the critical decisions that will affect their lives from that point on.

As a mother of three, & expecting my fourth child, I can clearly state that once the decision to abort is made, it will have serious affects on that woman's life, no matter how subtle.

Eight and one-half years ago, I made that decision, & I aborted my baby. Had that choice not been so *easy*, so *simplified*, so *very legal and approved of by our government*, I might have taken the time to think about my decision. But it is irrevocable, & I bitterly regret it and I will do so to my dying day. Four more will not restore that one lost to me in a moment of selfish hate and panic.

Please, *please* fight for the passing of this bill that could spare not only the lives of these unborn children, but also the untold anguish of their mothers. I know the prayers of many will go with you in this effort.

Sincerely,

ANDREA MOSKOWITZ.

NEW YORK.

June 8, 1986.

DEAR SENATOR HUMPHREY: I wholeheartedly support the bill that would require that pregnant women be informed of all alternatives to abortion and advised of possible complications.

I had an abortion 5 years ago. I was told at the time the pregnancy test was done that I had to make the decision (whether or not to terminate) immediately. I was alone, frightened and confused that day, and have regretted my decision ever since.

If I had been given counselling, I might have my child with me today. I suffered psychological complications—depression that caused me to withdraw. Nobody told me it would be like that.

Today, I am healthy, happy and well adjusted, but I'll never forget my abortion experience. I don't know if I suffered any physical damage—I am still unmarried. However, I do hope to marry and raise a family. I pray this legislation passes. I don't have time to tell you about all the heartache this abortion caused me.

I would like to see every woman fully informed about what this procedure is, and can do to you. If only one woman changed her mind about having an abortion, it would be wonderful. There is no need to add extra pain to the experience of an unwanted pregnancy.

If a woman still feels that she wants an abortion after being counselled, at least she has been given alternatives and can make an informed choice.

All women, whether pro-or-anti-abortion, want to know about anything that would effect their physical or mental health.

Sincerely,

KATHLEEN HORAN.

NEW YORK.

June 9, 1986.

DEAR SENATOR HUMPHREY: I was unfortunately a victim of abortion. In 1973, I found myself pregnant for a second time. I allowed society and family to sway my decision to abort. They told me to think of myself. They said we were too poor to have any more children.

If I had known the truth about the life inside me—that my baby's heart was beating and that he was really a living human being, I would have never aborted. However, at the abortion clinic I was led to believe that my baby was just a "mass of tissue."

I suffered from guilt and depression because of my abortion. It caused me to resent my husband for his lack of concern and this affected our marriage. When I came to the realization that I had allowed them to kill my child, I was devastated. I felt I was robbed because no one had told me the real facts about abortion, they just talked me into it.

I still consider the place this child would have in our family if I had only known. I consider the fact that I have robbed my children of a brother (I was told *after* the abortion that it was a male).

Please vote for the *Informed Consent* Law to be passed. I would still have my child today if it was in effect in 1973. Don't let any more girls be hurt because of a lack of information.

DANA DIGGES,
W/E/B/A Member.

NEW YORK.●

MINTING A NEW DOLLAR COIN

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of the United States Coinage Reform Act of 1987. The purpose of this legislation is to authorize the minting of a new dollar coin. This coin, which would be gold in color, would feature the likeness of Christopher Columbus as to commemorate the 500th anniversary of the discovery of the New World. I would like to commend my distinguished colleague from New Mexico for his efforts in introducing this bill.

I must also add that I am quite pleased by the selection of Christopher Columbus as the motif for this new coin. I am hard pressed to think of a better way to recognize this great Italian navigator than to affix his impression upon this new coin. As an American of Italian descent, I would be proud to have an Italian honored on American currency.

There are significant benefits associated with the minting of a dollar coin. According to the Department of the Treasury, the United States could save over $50 million each year by the circulation of a dollar coin. The funds saved are attributable to the longer circulation life of a coin, than that for paper currency.

The physical appearance of the dollar coin would be different from the quarter so as not to confuse consumers. The visually handicapped would be the biggest winners in this respect because the chance of being cheated when receiving change would be lessened considerably. The new dollar would feature smooth edges as opposed to the rougher edges on the quarter.

We are all too familiar with the fiasco of the Susan B. Anthony dollar coin back in 1979. The chances of the same thing happening with the new Columbus dollar are considerably less.

The Columbus dollar will help modernize our currency system. I urge my colleagues to act upon this legislation. It is time that we moved forward and introduced a dollar coin into the U.S. Currency System.●

NAUM MEIMAN

● Mr. SIMON. Mr. President, I would like to bring to your attention, again, the situation in the Soviet Union, where many refuseniks wait for permission to leave the country. As Americans, we are allowed the freedom to choose where we wish to reside. As Soviet Jews, people wishing to leave the Soviet Union are forced to stay. These refuseniks only dream of the freedom we, as Americans, are granted.

Naum Meiman is a familiar name. His story is a sad one which, like Naum himself, is not getting any happier. Naum's wife was brought to the United States last January to undergo cancer treatment. Naum was refused permission to join her. Three weeks after her arrival here, Inna died. Naum was refused permission to attend her funeral. A grave violation of human rights has occurred in the separation of this husband and wife, and now Naum is left, alone.

Naum's wish is that of permission to emigrate to Israel to reside for the remainder of his life. His application for an exit visa has been denied time and time again, for over a decade. Naum has suffered quite enough, and it is imperative that something must be done now. I strongly urge the Soviet Government to grant Naum Meiman permission to emigrate to Israel, immediately.●

NATIONAL ADULT IMMUNIZATION WEEK

● Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate Joint Resolution 168, legislation to designate the week of October 25, 1987, as "National Adult Immunization Awareness Week."

While it is a matter of public policy today that all school age children must be immunized against such diseases as influenza, pneumococcal pneumonia, hepatitis B, rubella, measles, tetanus, and diphtheria, fewer than 12.5 percent of our Nation's adults have been immunized against these deadly diseases. As a result, tens of thousands of American adults, many of them elderly, will die this year of diseases which could have been prevented through a simple vaccination.

The centers for disease control reports that influenza and pneumococcal pneumonia alone claim the lives of almost 70,000 American adults each year. However, if every American adult were immunized against these diseases, it is estimated that we could reduce their death toll by 75 percent.

It is my hope that by designating the week of October 25, 1987, as "National Adult Immunization Awareness week," we will substantially raise the national consciousness about the need for greater adult immunization. Already, scores of volunteer, professional and consumer groups are cooperating with the U.S. Public Health Service to make American adults aware that vaccines are not just for children. It is our obligation to ensure that adults, too, take measures to protect themselves from the ravages of deadly, but preventable, infectious diseases. I encourage my colleagues to join me in support of Senate Joint Resolution 168, and I urge its immediate passage.●

IDAHO'S LLOYD BARRON RETIRES

● Mr. SYMMS. Mr. President, Lloyd Barron, a loyal and distinguished citizen of Idaho, is retiring from the State transportation board after nearly 35 years of dedicated public service. His strong leadership and significant influence in Idaho's transportation makes it appropriate to pay tribute to him at this time.

While working his Camas County ranch, Mr. Barron served 16 years as a member of the Idaho State Legislature and nearly 19 years on the transportation board. Just this year he received the transportation department's "Employee of the Year" award for his major role in developing and improving Idaho's highways and bridges.

Mr. President, an article in the Idaho Statesman newspaper of August 24 describes Mr. Barron's 35 years of service and his significant contributions to the State of Idaho. I ask that it be included in the RECORD.

The article follows:

A NEW ROAD TO TRAVEL—RETIREMENT: RANCHER LLOYD BARRON, 77, TO STEP DOWN FROM TRANSPORTATION BOARD

(By David Ensunsa)

For close to 35 years, Lloyd Barron has been a driving force in the way Idahoans travel.

The Camas County rancher spent 16 years as a member of the Idaho Legislature and now nears his 19th year as a board member of the Idaho Department of Transportation.

But in January, the 77-year-old will change gears and retire.

"I'm going to miss it like the dickens," Barron said last week after a monthly Transportation Board meeting. "It's been very enjoyable. We (board members) have felt a sense of accomplishment."

Barron said the decision to vacate the position of public service was not the result of a desire to slow down, but because he felt Gov. Cecil Andrus may not reappoint him to the post.

"I presumed with all the shuffling around that I may not be reappointed," he said. "I feel I still have plenty of energy for this position."

With an annual budget of $176 million, funding for transportation projects in Idaho gradually has improved but it remains inadequate, Barron said.

"We just have to put up with what we've got," he said. "It's up to the driving public and their representatives to generate more money.

"We have such a broad expanse of roads, it's sometimes beyond our limits to keep up to par."

Barron, a soft-spoken man, began his public-service career in 1939 at the age of 28. He served six years in the House, of which four years were spent as chairman of the Transportation Committee. He also served two years as assistant chief clerk of the House.

In 1958, Barron was elected to the Senate where he spent 10 years as a member of the Transportation Committee, eight of those years as chairman.

At the request of former Gov. Don Samuelson, in 1968, Barron was appointed to the Transportation Board. Barron officially joined the board in February 1969.

When Barron, who owns the 8,400-acre Sun Valley Ranches Inc. west of Fairfield, began working on the Transportation Board, a single road project could total $6 million. Now, the cost of a project can reach $30 million.

In recent years, significant construction has been required on several roads and bridges because of heavier vehicles and increased traffic, he said.

Barron said he has motored across all the 4,985 miles of federal- and state-owned highways in Idaho at least once.

"We've pretty much encompassed this state in all directions," he said.

This year, Barron received the state Transportation Department's Employee of the year Award.

Keith Green, state highway administrator, said Barron has been a "major contributor" to the direction of the Transportation Board.

"He has been an excellent board member," Green said.

Green said Barron has been instrumental in:

Rebuilding stretches of Idaho 95 on Lewiston Hill, White Bird Hill and Coeur d'Alene to Mica Creek.

Constructing the four-lane U.S. 20 from Idaho Falls to St. Anthony.

Constructing the Fish Creek cutoff from Lava Hot Springs to Bancroft.

Reconstructing Idaho 55 near Horsehoe Bend Hill.●

THE 59TH MONTH OF ECONOMIC EXPANSION

● Mr. DANFORTH. Mr. President, October marks the beginning of the 59th month of economic expansion for the U.S. economy. The strength and resilience of the economy continue to surprise and, in some cases, to confound observers. The facts speak for themselves: the longest peacetime expansion on record; the third longest expansion on record, surpassed only by two periods of wartime stimulus; the creation of more than 13.5 million jobs; the lowest jobless level since 1979; significant gains in median family income and the net work of American households; inflation that is down dramatically from the ruinous levels of the 1970's.

Continuation of this economic growth and its distribution to all parts of the Nation and all sectors of the economy demand that Congress meet the deficit reduction targets we have promised to meet, and that we focus our efforts on spending, not on new taxes.

I ask that the New York Times article of October 1 entitled, "Economic Expansion in U.S. Continues into a 59th Month" be printed in the RECORD.

The article follows:

[From the N.Y. Times, Oct. 1, 1987]

ECONOMIC EXPANSION IN U.S. CONTINUES INTO A 59TH MONTH

(By Robert Pear)

WASHINGTON, Sept. 30.—The United States enters its 59th consecutive month of economic growth on Thursday, marking the third-longest expansion of the economy since monthly records were first kept in 1854.

The duration of the current expansion has confounded liberal skeptics, surprised some conservative ideologues and handed Republican candidates a political issue they can use to advantage in elections for the White House and Congress next year.

Since the economy began to pull out of the last recession in November 1982, the nation has created more than 13.5 million jobs. The unemployment rate fell in July to its lowest level since 1979 as employment surged, even in manufacturing, and the rate remained at the same level, 5.9 percent, in August.

Median family income, after adjustment for inflation, rose last year for the fourth consecutive year, according to the Census Bureau. Despite fears about the revival of inflation, the stock market continues strong. The Congressional Budget Office estimates that the net worth of American households has increased 39 percent since late 1982, thanks to increases in the value of stocks, homes and other assets.

And the outlook remains bright. The Government yesterday reported an increase of six-tenths of 1 percent for August in its index of leading economic indicators, which predicts trends three to six months in advance. It was the seventh consecutive rise for the Government's main barometer of economic activity. [Page D1.]

"GET OUT OF THE WAY"

President Reagan says the sustained growth of the economy results, in large part, from his market-oriented policies: his successful campaign to reduce individual income tax rates and Federal regulation while shifting assets and programs from Government to private industry. Others say increased spending, particularly for a military buildup, sustained the growth.

Mr. Reagan said Tuesday that he had helped set off a global "revolution in economic thinking" based on this precept: "The best thing government can do is get out of the way. And that's just what we've tried to do."

The extent of the Reagan Administration's role, though, is a matter of debate. The length of the current expansion also fits into a long-term trend. Geoffrey H. Moore, director of the Center for International Business Cycle Research at Columbia University, said, "The periods of business expansion have become longer and the periods of recession shorter."

"Service industries like banking and insurance have become much more important as a source of employment, and they are less affected by business cycles than the goods-producing industries like manufacturing," he said in an interview. "Typically the service industries don't carry inventories. You can't stock a service. So the service industries have to produce rather steadily and continuously to meet demand."

Only two economic expansions were longer than the current one, and both occurred in wartime. One lasted 106 months, from February 1961 to December 1969, driven in good part by the impact of the Vietnam War. The other ran 80 months through World War II, from June 1938 to February 1945.

Economists said these factors had contributed to the unusual duration of the current economic growth:

A huge infusion of foreign investment has made it possible for American businesses to get the money they need to expand production even as the Government borrows more and more to finance its budget deficits.

Consumer spending has outpaced the growth in personal income and fueled demand for goods and services. Drawing on their personal savings and taking on debt to make purchase, consumers pushed the personal saving rate to its lowest level since 1949.

Members of the baby boom generation who surged into the labor force in the 1970's have gained experience in their jobs and have presumably become more productive, according to Gordon W. Green Jr., assistant chief of the population division of the Census Bureau. In addition, the educational level of American workers continues to rise, even though employers say it is not high enough.

The sharp reduction in inflation, from 12.4 percent in 1980 to 1.1 percent last year, stabilized the economy and restored confidence in its future performance. And tax cuts in 1981 and 1984 apparently stimulated investment, as Mr. Reagan intended.

President Reagan's military buildup created jobs, partly offsetting the long-term loss of jobs in manufacturing. From 1980 to 1985, the number of people holding jobs related to military contracting grew by 45 percent, to a total of 3.2 million, according to a study by the Commerce and Labor Departments.

And military spending rose from $157.5 billion in the fiscal year 1981 to $273.4 billion in 1986. Military outlays accounted for 5.3 percent of the gross national product in 1981 and 6.6 percent in 1986, a slightly higher proportion than in the last years of the Vietnam War.

Lester C. Thurow, dean of the Sloan School of Management at the Massachusetts Institute of Technology, said the growth of the economy tended to confirm the ideas of John Maynard Keynes. "In 1982, we gave the economy a tremendous dose of Keynesian medicine," Mr. Thurow said in an interview. "If you reduce taxes and increase defense spending, it stimulates demand."

IMPACT OF OIL SHOCK

The previous record for the longest peacetime expansion was 58 months, from March 1975 to January 1980, following a serious recession that had been exacerbated by the oil crisis.

Some of the same factors that helped fuel the growth of the last five years have also stirred concern.

C. Fred Bergsten, a Treasury official in the Carter Administration who now serves as director of the Institute for International Economics, a private research center here, said, "We now know the miracle of supply-side economics: Foreigners supplied many of the goods and most of the money."

FUNDS FROM ABROAD

The net inflow of funds from foreign countries totaled $117.4 billion last year and $303.7 billion in the period from 1982 through 1986, according to data compiled by the Commerce Department. Some of the foreign money was lent directly to the United States Government through purchases of Treasury securities. Some was invested in corporate stocks and bonds.

Foreign holdings of such bonds, which reflect borrowing by American corporations in foreign markets, soared to $142 billion last year, from $32.8 billion in 1984, according to the Commerce Department. Foreign investors' spending to acquire or establish businesses in the United States reached a record $31.5 billion last year, double the figure for 1984.

Payment of interest and dividends to foreigners will be a major expense in future years, economists say.

"The combination of the dollar's decline and the massive net U.S. obligations to foreigners will reduce the overall rate of growth of the American standard of living," said Martin Feldstein, a professor of economics at Harvard who served as chairman of Mr. Reagan's Council of Economic Advisers from 1982 to 1984. "In the future, we as a nation will have to give up some of each year's production to service our public and private debts to the rest of the world."

THE SHADOW OF THE DEFICIT

The Federal budget deficit reached a record $220.7 billion in the fiscal year ended Sept. 30, 1986, a record. The budget deficit and the United States trade deficit are closely linked.

Beryl W. Sprinkel, the departing chairman of the Council of Economic Advisers, said the trade deficit "reflects the fact that, as a nation, we are spending more than we are producing and importing the difference." Budget deficits, he said, account for "a substantial portion of this excess of expenditure over income."

In a speech Tuesday at the annual meetings of the World Bank and the International Monetary Fund, Mr. Reagan acknowledged that the United States' record trade deficit was "of justifiable concern." But he said that unemployment in this country had declined dramatically since late 1982, even though the trade deficit had soared. By contrast, he said, in Japan and West Germany, which have large trade surpluses, unemployment has increased.

Mr. Reagan sometimes portrays his economic record as a continuous, glittering success story. But economic growth has been much slower in recent years than in the first year and a half of the expansion.

Prof. Victor Zarnowitz of the University of Chicago, an expert on business cycles, said, "From mid-1984 to date, the average annual rate of growth has been less than the post-war trend of 3.3 percent a year from 1948 to 1975." The economy grew at a rate of 7 percent a year from late 1982 to the middle of 1984. Since then, growth has averaged less than 3 percent a year.

A SHIFT IN SPENDING

Mr. Sprinkel, acknowledged that economic growth was "weaker than expected" in 1985 and 1986. The main reason, he said, is that there was "a shift in domestic spending away from domestically produced goods to imports."

Jerry J. Jasinowski, chief economist for the National Association of Manufacturers, however, said that the sluggish growth of the economy in the last two years had, in a curious way, prolonged the expansion.

"Slow growth," he said, "has provided more economic stability and has prevented inflation from accelerating in such a way that the Federal Reserve would have to tighten monetary policy and bring on the risk of a recession."●

DEATH OF RAY MADDEN

● Mr. QUAYLE. Mr. President, last week Indiana and the Nation lost one of its most distinguished and original leaders. Ray Madden, who represented Indiana's First District, the industrial heart of America, for 34 years, passed away at the age of 95.

Ray's career was symbolic of the great tradition of Midwestern politics that arose as the smokestacks of the Midwest arose in the early 20th century. He was a dedicated and selfless public officer who devoted all his working life to the betterment of his fellow citizens through the political process.

Ray Madden was a lawyer, a judge, treasurer of the steelmaking city of Gary, Congressman, and chairman of the House Rules Committee. In all of these undertakings, Ray was a friend of the working man. As one of the newspapers in Ray's district put it, he "earned his reputation as a watchdog for the little guy during his 34 years in Congress."

Ray came from a part of the country and an age where there were lots of "little guys." Immigrants from eastern and central Europe, Ireland, Russia; political immigrants after the two world wars and the revolutions they spawned; and immigrants from the South of this Nation—all seeking a better future in the factories of northern Indiana. These are the people Ray served so well during his 34 years in Washington.

Ray's only real foray into international affairs was again in service to the people of northern Indiana. He served as chairman of the committee investigating the massacre of Polish Army officers at the Katyn Forest during the Second World War. Many in northern Indiana had relatives among those massacred.

He never forgot his origins nor the people he represented. Those of us in Washington should not forget him, either. I hope my colleagues will join me in paying tribute.

Mr. President, I ask that a "Tribute to Madden," which appeared in the

Hammond Times be placed in the RECORD.

The article follows:

[From the Hammond (IN) Times, Oct. 1, 1987]

TRIBUTE TO MADDEN

Ray J. Madden's long political career as Northwest Indiana's representative in Congress was marked by his steadfast loyalty to working people and the poor.

Madden, who died Monday, earned his reputation as watchdog for the little guy during his 34 years in Congress.

"Labor is the only force that saved this country in the 1930s," Madden once said. "Working people got mad and elected FDR."

Madden ever the hornet at the corporate collar, was known for his spur-of-the-moment tirades against oil companies, big business, bankers and "big-money Republicans." He claimed that if "big oil hadn't spent big money" on Adam Benjamin's 1976 Democratic primary campaign, Benjamin would have never defeated him.

Madden was also known for his rapport with constituents and friendly demeanor. It was this positive relationship with constituents—along with the support of labor and the Lake County Democratic organization—that kept Madden in office for over three decades.

Madden also was one of the most powerful men in Congress. Upon becoming chairman of the House Rules Committee, Madden immediately began reversing the committee's image as a burial grounds for social legislation designed to benefit the poor and the working people.

Madden was thrust into the international spotlight in the 1950s when he was appointed chairman of a special committee investigating the Katyn forest massacre, which occured in World War II. Thousands of Polish officers were slaughtered by Soviet troops in the Katyn forest.

It's often difficult today to figure out where politicians stand on issues, and whose interest they have at heart.

Those who knew Madden never suffered from this confusion. Madden was forthright and above all, a decent person.●

THE PASSING OF FLOYD LEE

● Mr. DOMENICI. Mr. President, I rise today to express my sorrow upon the death of a legendary man of New Mexico.

Floyd Lee died on August 21, 1987, at the age of 91. A man of selfless activities and aspirations, Floyd Lee's life resembled that of a western Horatio Alger hero.

A World War I veteran, Floyd Lee decided to return to college. In order to defray tuition costs, he became a cowboy, and was soon promoted to the position of ranch manager. Twenty years later, Floyd Lee purchased that ranch.

He combined the tradition of the family farmer with the vision and foresight of an inventor. His innovative experiments produced such things as a new strain of sheep and a machine designed to measure the density and quality of wool.

And for his pioneering work, he was awarded many honors. Among them, he was named "Agriculturist of Distinction" by New Mexico State University in 1962, "Cattleman of the Year" by the New Mexico Cattlegrowers Association in 1965, "Farmer of the Year" by the Valencia County Fair and Livestock Bureau in 1967, and "Man of the Year" by the Record Stockman in 1968.

Floyd Lee's pioneering spirit extended to politics. A 12-year State senator, Mr. Lee focused much of his interests on issues such as range management, State growth, economic progress, and educational quality. He bypassed the opportunity to run for Governor, stating that a gubernatorial campaign would drain too much of his time from family fellowship.

He added much to New Mexico through his service on the board of the Bataan Memorial Methodist Hospital, the Albuquerque Production Credit Association, and advisory boards of the Bureau of Land Management. He served as chairman of the New Mexico Wool Growers' Association.

The range of Floyd Lee's achievements reflects the complexity of his amiable character. In addition to his ranching innovations and political accomplishments, Mr. Lee had another lasting influence on our State. He captured the wolf that is the mascot of the University of New Mexico's Lobos.

In rememberance of his dedication to attaining the highest quality education in New Mexico, Mr. Lee's family has established the Floyd Lee Memorial Scholarship at both the University of New Mexico and New Mexico State University.

Floyd Lee was a pioneer. His occupational innovations, his diverse interests, his principled political involvement, and his perpetual altruism assure that Floyd Lee will hold a place among America's western legends.

Mr. President, I know that my colleagues join me in sending our most sincere condolences to Mr. Lee's loving family, including this wife Frances, his daughter-in-law Iona, his sister Margaret McCarthur, his daughter Harriet, and his grandchildren.

New Mexico and America will miss Floyd Lee.●

THE DUKES FAMILY OF TAYLOR'S BRIDGE

● Mr. ROTH. Mr. President, agriculture has been a vital part of American life since the beginning of this country. Since that time farmers have had to contend with mother nature, fluctuating market prices and a variety of other factors, all of which have had effects on their ability to survive as a family farm. We need only remind ourselves of the current plight of the farmer to recognize the successful accomplishments of those American farmers who have been able to keep their farms in the same family since the ratification of the U.S. Constitution.

In connection with this Nation's bicentennial celebration, the Dukes family of Taylor's Bridge in my State of Delaware was recently honored by the U.S. Department of Agriculture for owning and operating a farm for more than 200 years.

An article that recently appeared in the Middletown Transcript describes the family history of the Dukes farm from its purchase by Peter Staats on May 23, 1730, till the present. According to the article, the family history was compiled by Mrs. Edna Dukes who said that she has lived on the farm for about a third of the time that the family has owned the farm. Her great granddaughter Kaila R. Dukes is the 10th generation Dukes to have lived there, while John Dukes, Edna's son, continues to operate the farm as it was in the olden days. I feel that a special tribute should go out to the whole Dukes family for an honor well deserved.

Mr. President, I ask that a copy of an article that appeared in the Thursday, September 3, 1987, edition of the Middletown Transcript be printed in the RECORD.

The article follows:

[From the Middletown Transcript, Sept. 3, 1987]

U.S. HONORS LOCAL FARM FAMILY

On May 23, 1730, one Peter Staats purchased 100 acres of land from one John Goodling with "25 pounds of good and lawful money of America."

It has remained in the same family ever since.

And for that accomplishment, the Dukes Family of Taylor's Bridge was honored for owning and operating a farm for more than 200 years by the U.S. Department of Agriculture and its secretary, Richard E. Lyng in a ceremony last Wednesday at the Claude Moore Colonial Farm at Turkey Run in McLean, Va.

"It was a great day," said John Dukes, (who goes by Jack) who was present at the ceremony along with his wife, Louise, and his mother, Edna.

For the honor, the Dukes received a special plaque which is hanging on a wall in the part of the house occupied by Edna Dukes. Also, the family members were guests of honor at a luncheon which included attendance by Lyng, Delaware Agriculture Secretary William B. Chandler, Jr., and two other families—one from Maryland and one from Virginia—who have farms which also predate the U.S. Constitution. About 250 in total attended the luncheon.

Edna Dukes compiled a family history last year. The earliest reference to her family is this from History of Delaware 1609-1888 by J. Thomas Scharf.

"Abraham Staats came from Holland and was one of the earliest settlers on Manhattan Island where he resided until it was invaded by the English, when he moved to Staten Island which is said to have received it name from him.

"When the Dutch conquered the Swedish settlement in Delaware the Staats family moved to Thoroughfare Neck and purchased land of the Indians. From this ancestor are sprung the present Staats family of this and adjoining hundreds."

A New Castle County deed book carries the 1730 deed transferring the land from John Gooding to Peter Staats. From Peter Staats the land was passed to his son Captain Abraham Staats.

Captain Staats was active in the Revolutionary War serving under Caesar Rodney in the 1st. Company, 3rd. Regiment, Delaware Militia in 1777 and again as Captain of the same Regiment in 1780-81.

Scharf's history says that on the farm of Captain Staats was a tide-water mill, which was abandoned during the time he was in the army.

In Abraham's will he makes bequests to some of his children, then "to my sons Isaac and Peter my tide-water mill together with all the swamps and cripples adjoining the mill, lying and being on a branch of a branch of Black Creek."

After Captain Abraham's death the farm became the property of his son Peter, then to his son Isaac.

Isaac's will leaves to his second wife Catharine Collins Staats a house, household goods and a lot in Middletown. It leaves the rest of his estate including the Tide Mill Farm to his eight surviving children to share and share alike. If anyone contested the will in any way they would lose their share and it would be divided equally among the other children.

Children listed were Elizabeth (married to Henry H. Woodkeeper), Isaac, (married to Margaret Ann Stephenson), Mary, (Single), Emily, S. (married to John Wesley Jarrell), James H. (married to Anna Lynam), Fannie, (Single), Abram, (married to Euphemia Johnson, and George (Single).

Elizabeth bought her brothers and sisters interest in the farm by paying each of them $625.

Elizabeth married Henry H. Woodkeeper and when she died, it was passed to her son, Harry S. Woodkeeper. Harry Woodkeeper married Laurie Huggins and they had one daughter, Edna, who married Charles Z. Dukes.

Edna Dukes, now 86, then passed the farm to her son, John Woodkeeper Dukes, and his wife Louise.

Also living on the farm now are J. Neal and Lori S. Dukes, the son and daughter-in-law of John and Louise, and Neal and Lori's daughter, Kaila R. Dukes, who is five months old.

"The little girl is the tenth generation to live here," said Edna.

Although 250 years is a long time for a farm to be kept in one family, especially in the United States, Edna puts the time in another perspective.

"I've lived here for about a third of the time that the family has had the farm," she said. She has also lived with six of the ten generations of her family who have lived on the farm—her grandmother, her parents, herself, her sons, grandchildren, and her great granddaughters.

John Dukes noted that the farm is still like it was in earlier times because in addition to crops grown, there is also the wintertime harvest of wildlife such as muskrats and deer, ducks and geese. The 500-acre farm has about 390 acres of marshland included in it and Jack attends to it to promote the wildlife in the marsh. The Dukes family and neighbors trap approximately 2,000 muskrats a year on the farm and leases several areas to hunters.

The Dukes family also leases another 400 acres for crops.

Edna Dukes said this award was the first of what is expected to be many such awards to farmers who also have farms which have stayed in the family for 200 years or more. She said area farmers are encouraged to bring their family history to the attention of the Delaware Department of Agriculture.●

GERMAN-AMERICAN DAY, OCTOBER 6, 1987

● Mr. RIEGLE. Mr. President, I was pleased to join my colleague from Indiana, Mr. LUGAR, in introducing Senate Joint Resolution 108, which designates October 6 as German American Day. Unanimously adopted by both the House and the Senate, this resolution acknowledges the special historical and cultural contributions that German Americans have made to our society. To mark this special day, the President has issued a proclamation commemorating the rich history of Germans in America.

Since the settlement of the first Germans in Germantown, PA, on October 6, 1681, German Americans have distinguished themselves as one of the most industrious and prosperous communities in this country. The common heritage shared by Germans and Americans created a unique bond between our peoples. The historic German appreciation for democratic freedoms, for the rule of law and for the importance of family, made it possible for German Americans to become assimilated into our society. But, like other ethnic groups, they faced cultural and language barriers.

Despite these difficulties, German influence soon swept our country. The Brooklyn bridge, the science of pediatrics, and the symbols of the donkey and the elephant to denote the Democratic and Republican Parties, were all the creations of German Americans. As the United States evolved into the great Nation of today, these contributions stand as living symbols of the genius of German Americans, from whom we have benefited so greatly.

We count among our most renowned leaders two famous German Americans: the brave Revolutionary War general, Von Steuben, and the great World War II leader and later President, David "Ike" Eisenhower. To them, all Americans own a special debt of gratitude for guiding our Nation through some of its most difficult days.

More than 300 years after the arrival of the first German immigrants to our shores, one in four Americans—or some 50 million of us—can claim German ancestry. I am proud to be counted among the 2.5 million citizens in my own State of Michigan who are of German descent.

Mr. President, like their ancestors before them, Americans of German descent continue to enrich our Nation with contributions in the areas of art, literature, education, and the sciences, to name just a few. It is in gratitude to them, and to those who came before them, that all of us join in honoring German-Americans on this special day.●

S.J. RES. 184, "NATIONAL SAFETY BELT USE DAY," PLACED ON CALENDAR

Mr. BYRD. Mr. President, I believe the acting Republican leader, Mr. HUMPHREY, is ready to proceed.

I ask unanimous consent that Senate Joint Resolution 184, "National Safety Belt Use Day," be discharged and placed on the calender.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 3226, AMENDMENT OF ANTI-DRUG ABUSE ACT OF 1986, PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3226, a bill to amend the Antidrug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug-Free America to be allowed travel expenses, received today from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask the acting Republican leader if the following nomination, Calendar Order No. 354, on the Executive Calendar, has been cleared on his side.

Mr. HUMPHREY. It has.

Mr. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar Order No. 354 on the Executive Calendar; that it be agreed to; that the motion to reconsider be laid on the table; that the President be immediately notified of the confirmation of the nomination; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The nomination of William F. Sullivan, of Virginia, to be a member of the board of directors of the National Corporation for Housing Partnerships, for the term expiring October 27, 1989, was considered and confirmed.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I do not have any further business. I understand that the distinguished Senator from New Hampshire wishes to speak for a while.

Mr. HUMPHREY. Ten minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended for 15 minutes and that the distinguished Senator from New Hampshire and any other Senator may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

NOMINATION OF JUDGE ROBERT BORK

Mr. HUMPHREY. Mr. President, in connection with the Bork nomination, there has been a great deal of activity on the part of special interest groups directed at influencing Senators. Whatever else one might say about special interest groups, they can hardly be said to take a balanced approach to their agenda. They are subjective, as we would expect them to be. We do not expect them to be wholly objective. They put their agenda first. We do not expect special interest groups to put the general interest first on their agenda.

I suggest to my colleagues that these campaigns by special interest groups against Judge Bork have obscured the impressive qualifications of the nominee and the extraordinary endorsements of the nominee by many eminent and highly respected authorities.

In a calmer and more rational environment, this Senator believes confirmation would be a foregone conclusion.

The point is easily demonstrated. Last year, we confirmed Justice Antonin Scalia for the Supreme Court by a vote of 98-0. When Judge Bork and Judge Scalia were together for several years on the D.C. Circuit Court of Appeals, they voted alike in 98 percent of the cases in which they both participated. Their judicial philosophies are very similar, with Scalia regarded by many as slightly more conservative than Robert Bork. How, then, can the greatly disparate treatment of these two nominees be explained?

The answer is obvious at least to this Senator. Special interest politics have turned the Bork confirmation into a political and ideological contest.

I hope Senators will look at the testimony of some eminent Americans whose judgment we can trust. Americans who have no political or special interest axes to grind. Retired Supreme Court Chief Justice Warren Burger, testified or stated to this effect in any event. "I don't think in more than 50 years since I was in law school there has ever been a nomination of a man or woman any better qualified than Judge Bork." Responding to charges that Judge Bork is outside the legal mainstream of American juris prudence, Chief Justice Burger said, "Senator, if Judge Bork is not in the mainstream, neither am I and neither have I been." (Committee Hearing Transcript, September 23, p. 22.)

To this Senator at least, that kind of accolade coming from a retired Supreme Court Justice speaks far louder than do the criticisms of those who clearly have a special interest agenda to pursue.

Does a retired Supreme Court Chief Justice lightly dispense accolades about nominees to the bench? Certainly not. It is almost unprecedented. Justice Burger has reached the pinnacle of his career in the law. He has gathered all the laurels one can as a lawyer and judge. Are we to dismiss his endorsement? This Senator would sooner dismiss the ravings of all the special interest groups which have been howling for Judge Bork's scalp. Justice Burger says no one has been better qualified than Judge Bork in the last 50 years to serve on the Supreme Court.

I hope Senators will think about that. That is truly an extraordinary endorsement. What a mouthful—that a retired Chief Justice would even involve himself in the proceedings is striking, that he would say no nominee to the Supreme Court in the last 50 years has been better qualified than this nominee, Robert Bork, is an extraordinary endorsement.

Justice Burger says Bork is in the mainstream. Think about that. Measure that statement of a respected jurist who possesses the wisdom of some 50 years in the law profession. Measure his judgment against the politically charged accusations of the special interest spokesmen.

Justice John Paul Stevens, a sitting member of the Court, has also strongly endorsed Judge Bork. Justice Stevens stated that Judge Bork—

> Is a very well-qualified candidate and one who will be a very welcome addition to the court (hearing tr., Sept. 15, p. 6).

Are we to subordinate the opinion of this distinguished jurist to the snivelings and scribblings of the wretched special interest spokesmen? I hope not.

President Gerald Ford said:

> Judge Bork is uniquely qualified to sit on the United States Supreme Court (hearing tr., Sept. 15, p. 8).

The promiment figures who have strongly endorsed Judge Bork's confirmation are politically diverse and varied. Two eminent and respected Democrats, Griffin Bell and Lloyd Cutler, Attorney General and White House counsel during the Carter administration, the two highest Carter administration officials in the area of the law, testified strongly in support of Judge Bork's confirmation.

Lloyd Cutler said to the committee:

> I believe that if Judge Bork is confirmed, the journalists and academics of 1992 will rank his opinions as nearer to the center than the extreme right, and fairly close to those of the very distinguished Justice whose seat he would fill (written statement of Lloyd Cutler, Sept. 22, p. 4).

No less than seven distinguished former Attorneys General of the United States came before the Judiciary Committee to testify in support of Judge Bork's confirmation: Edward Levi, William Rogers, Elliot Richardson, Griffin Bell, Herb Brownell, William French Smith, and William Saxbe.

Seven Attorneys General of both parties, men whose credibility is beyond assail, testified in support of Judge Bork's confirmation.

Consider, for instance, the statement of Edward Levi, certainly one of the most progressive Attorneys General of modern times. He said of Judge Bork:

> In my experience with him, I would say that Judge Bork is an able person of honor, kindness, and fairness, and I would say practical wisdom, which he has shown as an outstanding solicitor general, and an outstanding and eloquent judge, and for the sake of our country, I very much hope he will be confirmed (hearing tr., Sept. 21, p. 218).

The statement of Edward Levi, one of the most progressive Attorneys General of modern times.

William P. Rogers, who has been in the forefront of the modern civil rights movement since its beginnings in the 1950's, had this to say about Robert Bork:

> [B]y all the standards I know, he would be a natural selection. I cannot think of any Court of Appeals judge during the time I was in the Justice Department who had as outstanding a record as he has (hearing tr., Sept. 21, p. 308).

Elliot Richardson, no rightwinger, surely, strongly recommended Judge Bork's confirmation, saying:

> My uncertainty has now been dispelled by the carefully considered testimony that Judge Bork has given to this committee. Though he may not assign the same weight to these considerations that I would give them, I regard his valuation of them as eminently reasonable. I am also satisfied that to portray him as bent on enshrining his every past utterance in some future majority opinion is worse than caricature—it is distortion (written statement of Elliot Richardson, Sept. 29, p. 4).

Elliot Richardson characterizing as distortion the efforts of some to portray Bork as bent on enshrining his every past utterances in some future majority opinion.

Present and former Governors also came forward to attest to Judge Bork's excellence and urge his confirmation. Gov. Jim Thompson of Illinois, one of the Nation's leading moderate Governors, stated:

> I believe Robert Bork would be a fine Justice on the Supreme Court; and more, I believe he would do equal justice under the law, the words carved on the Court, which I passed today to come here to testify (hearing tr., Sept. 23, p. 194).

Richard Thornburgh, former Governor of Pennsylvania, based his strong endorsement of Judge Bork on his personal experience working with him in the Justice Department. As Governor Thornburgh testified:

> I observed him to be a strong advocate of fair and effective law enforcement, committed to ensuring high standards in Government as well as the protection of what I regard as the first civil right of all Americans, the right to be free from fear of violent crime in their homes, in their streets, and in their communities (hearing tr., Sept. 28, p. 156).

Strong support for Judge Bork has come from prominent women legal authorities as well. For example, Carla Hills, former Secretary of Housing and Urban Development, testified forcefully in support of Judge Bork's confirmation. In particular, Secretary Hills refuted the false claims that Judge Bork would be insensitive to the particular legal concerns of women, stating:

> Judge Bork's view of gender equality under the equal protection clause advances, not retards, women's rights" (written testimony of Carla Hills, Sept. 22, 1987, p. 4).

A large number of the Nation's top legal scholars and law school deans forcefully attested to Judge Bork's qualifications and refuted the criticisms of their liberal colleagues. Prof. Daniel Meador of the University of Virginia Law School, one of the country's finest surely, summed it up when he testified:

> Indeed, the nominee's commitment to law and rational legal process, his intellect, and his rich legal experience provide ample evidence from which one can objectively conclude that in many respects he is unusually well-fitted for a Supreme Court Seat (written testimony of Daniel J. Meador, Sept. 25, 1987, p. 16).

There was a whole parade of respected officials, scholars, lawyers, and judges who testified to the extraordinary excellence and integrity of this nominee. But Senators might not have known it from some biased news coverage. For example, news reports critical of Judge Bork were frequently frontpage stuff in the Washington Post. Guess where the Post printed the story on the appearance of Chief Justice Warren Burger on behalf of Judge Bork. Page 3. That tells you how the game is being played.

Witnesses ranging from the learned deans of eminent law schools to the leaders of the Nation's foremost law enforcement and police officers' organizations all stressed the critical importance of confirming Judge Bork.

Surely, the most striking aspect of the testimonials for Judge Bork was that so many of them came from witnesses who had absolutely nothing to gain, and in some cases much to lose, for making those testimonials.

Lloyd Cutler, for instance, a self-professed liberal Democrat who is no supporter of the Reagan administration, put his reputation and integrity on the line in supporting Judge Bork.

Distinguished black Americans such as Dr. Thomas Sowell, and former Deputy Solicitor General Jewell LaFontant, as well as Roy Innis, the Congress of Racial Equality, strongly endorsed Judge Bork. Roy Innis had this to say about the Bork nomination:

> As chairman of the Congress on Racial Equality, I strongly support the nomination of Robert H. Bork to be an Associate Justice of the United States Supreme Court because I believe that he will apply the law in a fair and even-handed way. His record as Solicitor General and as a Federal appellate judge amply attests that Judge Bork will vigorously enforce the civil rights laws on our statute books and in the Constitution. I also believe that Judge Bork's presence on the Supreme Court can contribute mightily to the efforts to confront and mitigate one of the most pressing problems facing black Americans today—urban crime. The testimony of Roy Innis, Chairman of the Congress on Racial Equality, Sept. 30, P. 1).

And surely Justice Stevens and former Chief Justice Burger have no ax to grind in their endorsements of Judge Bork. The statements of these impartial Justices should carry far more weight with us than the hostile assaults on Judge Bork made by the partisan special interest groups.

I regret to say that the unconscionable distortion of Judge Bork's impeccable record has seriously compromised the integrity of this confirmation debate. The unparallelled record of excellence that Bork has achieved as a court of appeals judge and as Solicitor General of the United States has been nearly obliterated by the mudballs thrown by special interest critics.

No one has to take my word on this point. Instead let me quote the testimony of former Chief Justice Burger, who stated as follows concerning the level of distortion.

The PRESIDING OFFICER. The 15 minutes allotted the Senator has expired.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I might continue for another 5 minutes at the most.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

Mr. HUMPHREY. I thank my colleagues and the majority leader.

Justice Burger had this to say about the distortion which has been resorted to by many of the opponents, not all but many:

He was speaking of this confirmation effort and the efforts of those to deny confirmation.

> I do not think there has ever been one with more hype and more disinformation on a nominee than I have observed in recent days." (Hearing tr. Sept. 23, P. 3).

That is a mouthful. The worst one he has seen apparently.

Former Attorney General William French Smith was asked whether he had ever seen a confirmation proceeding with more distortion of the nominees' record. General Smith's response was so heartfelt and compelling that it is worth quoting at some length, and I wish all Senators could have seen General Smith in this response because he is ordinarily a very patrician man of serene attitude and composure but the indigration that have been instructed if Senators could have seen it. He said:

> I do not think I can think of a close second. And it reached the point where one wonders whether anyone is willing to subject himself to this kind of a process in order to get even that high a position.
>
> The thing that is distressing to me is that it really is not just propaganda. Propaganda you can understand that is part of the way we do things. But in this case, I have never seen such misrepresentation, such distortion, and such outright lying. I mean, there are people in very important positions.

He said, as he looked the Senator straight in the eye—

> I mean, there are people in very important positions in this Government who are lying to the American public. Now, that is hard to take.
>
> And the problem is, I say "lying" because they know what they say is not true—and not just people in this Government, but people on law school campuses and elsewhere who presumably are supposedly responsible people.
>
> I have never seen anything like it. I hope I never see anything like it again, and I find it really—well, "inexcusable" is a very soft term to use for it. (Hearing tr. Sept. 21, P. 262).

Attorney General William French Smith accusing opponents of lying about Robert Bork.

Similarly, Prof. Richard Stewart of Harvard Law School testified to the outright distortion of Judge Bork's positions in the various special interest group reports attacking his record. As Professor Stewart testified:

> So there have been some serious charges made here. My memorandum, and others in the briefing book, I think show, that a semblance of these claims is made out by a highly selected culling, unrepresentative sample of cases, and an outright distortion or highly misleading account of those cases when they are discussed in the reports. (Hearing tr., Sept. 22, p. 142).

These are not the kind of men who would make such charges lightly. The fact is that Judge Bork's principled and conscientious judicial philosophy has been shamelessly distorted and defamed in these proceedings. So I urge my colleagues to consider these realities as they reach their decisions on the Bork nomination. I urge them to look beyond the hostile propaganda and focus on the man, his record as a Solicitor General active in pushing outward the coverage of civil rights statute, and his impeccable record as a U.S. Court of Appeals judge. And I urge Senators to reflect on whether the man we unanimously confirmed for those two extremely important posts could possibly be the same man portrayed by Bork's extremist critics. Indeed not.

Mr. President, a grave injustice will be committed if the Senate decides the fate of the Bork nomination on the basis of smears resorted to by some of the more visible Bork opponents. And the Nation will lose someone who would surely be one of the greatest Supreme Court Justices of all times.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

REDUCTION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I believe we have some items that can be taken care of by unanimous consent.

Mr. President, while we are waiting, I ask unanimous consent that the time of the two leaders tomorrow be reduced to 5 minutes each.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

RECOGNITION OF SENATOR BREAUX AND MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the time allotted for the two leaders on tomorrow, Mr. BREAUX be recognized for not to exceed 15 minutes, after which there be morning business between that point and 9 a.m. and that Senators may be permitted to speak for 1 minute each during that period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTOMATIC QUORUM AT 9 A.M.

Mr. BYRD. Mr. President, I believe the order has been entered for a vote to occur at 9 a.m. tomorrow.

The PRESIDING OFFICER. The Chair advises the majority leader that there is no order to that effect.

Mr. BYRD. I ask unanimous consent that there be an automatic quorum to begin at 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPLEMENTATION OF REGULAR ORDER

Mr. BYRD. Mr. President, there will be a motion to instruct the Sergeant at Arms to request the attendance of absent Senators. As I have already indicated today, that will be a rollcall. It will go for 30 minutes, at the end of which I ask unanimous consent that the regular order be implemented.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, on tomorrow the Senate will resume consideration, following that rollcall vote on establishing a quorum, of the pending Department of State authorization bill. Several amendments have been disposed of today. There are several amendments remaining, most of which I believe we will find are on the other side of the aisle.

The whips on this side of the aisle have contacted several of the Senators who have amendments remaining over here, and we are ready to propose time limitations on their amendments. If we cannot get time limitations, the amendments in all likelihood will not take a great deal of time for the most part.

I hope Senators will be able to complete work on the State Department authorization bill tomorrow, so that the Senate then can proceed to other business. There are other matters that are awaiting action. The following appropriations bills are on the calendar: Energy and Water Development; Commerce, State, Justice, Judiciary; Labor, HHS, Education. In addition thereto, under the order that has been entered, the Senate will be taking up the catastrophic illness bill in all likelihood by Thursday. The Verity nomination could come up at any time. So I expect rollcall votes on any and all of these matters to occur early and they can occur late.

UNANIMOUS-CONSENT AGREEMENT—S. 328

Mr. BYRD. Mr. President, this request has been cleared by the distinguished Republican leader. I ask unanimous consent that the majority leader, after consultation with the distinguished Republican leader, may call up S. 328 at any time to require the Federal Government to pay interest on overdue payments, and that that measure be considered under the following time limitation:

Thirty minutes on the bill, equally divided between Mr. SASSER and Mr. TRIBLE.

Ten minutes on an amendment to be offered by Senators LEVIN and QUAYLE on behalf of the committee, dealing with section 7.

Five minutes on an amendment to be offered by Senator DIXON, requiring payment for dairy products no later than 10 days after invoice receipts.

Five minutes on an amendment to be offered by Senator SASSER, making technical corrections.

Five minutes on an amendment to be offered by Senators ARMSTRONG and GRASSLEY to establish a commission to study the Government's debt collection practices and make recommendations.

Forty minutes on an amendment to be offered by Senators DANFORTH, BUMPERS, and PRYOR dealing with interest owed farming entities on overdue CCC payments.

Provided, further, that no other amendments be in order with the exception of the committee-reported substitute.

Provided, that there be 15 minutes on any debatable motion, appeal, or point of order if such point of order is submitted by the Chair for debate.

Provided, that no motions to recommit, without or without instructions, be in order.

Provided, additionally, that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That the majority leader, after consultation with the minority leader, may call up S. 328, to require the Federal Government to pay interest on overdue payments, and that the following amendments be the only amendments in order, except the committee reported substitute:

Levin/Quayle amendment, offered on behalf of the committee, dealing with section 7, 10 minutes

Dixon amendment, requiring payment for dairy products no later than ten days after invoice receipt, 5 minutes

Sasser amendment, making technical corrections, 5 minutes

Armstrong/Grassley amendment, to establish a commission to study the Government's debt collection practices and make recommendations, 5 minutes

Danforth/Bumpers/Pryor amendment, dealing with interest owed farming entities on overdue C.C.C. payments, 40 minutes

Ordered further, That there be 30 minutes on the bill, to be equally divided and controlled by the Senator from Tennessee (Mr. Sasser) and the Senator from Virginia (Mr. Trible), and that there be 15 minutes on any debatable motion, appeal, or point of order, if it is submitted by the Chair for debate.

Ordered further, That no motions to recommit, with or without instructions, be in order.

Ordered further, That the agreement be in the usual form.

Mr. BYRD. Mr. President, I want to thank the floor staffs on both sides for the hard work they have put into getting this agreement. It took a lot of work, and I thank them.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene at 8:30 tomorrow morning. After the two leaders have been recognized not to exceed 5 minutes each under the order, Mr. BREAUX will be recognized for not to exceed 15 minutes; after which, if there is any remaining time before 9 a.m., there will be a period for morning business for Senators to be permitted to speak therein for not to exceed 1 minute each.

At the hour of 9 a.m., the automatic quorum call will begin. At 9:30 a.m., the automatic call for the regular order will be implemented. I would urge all Senators to try to make the rollcall vote early. There will be other rollcall votes tomorrow. The State Department authorization bill will continue to be debated and acted upon.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BYRD. Mr. President, if my distinguished friend from New Hampshire has no further business or no further statements to make, I move, in accordance with the order previously entered, the Senate stand in recess until the hour of 8:30 tomorrow morning.

The motion was agreed to; and, at 8:50 p.m. the Senate recessed until Wednesday, October 7, 1987, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 1987:

DEPARTMENT OF DEFENSE

FRED S. HOFFMAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ROBERT B. SIMS, RESIGNED.

ROBERT CLIFTON DUNCAN, OF MASSACHUSETTS, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING, VICE DONALD ALDEN HICKS, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate October 6, 1987:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

WILLIAM F. SULLIVAN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1989.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, October 6, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember with gratitude, O God, those who serve our Nation in distant places about this world, those men and women of the armed services and the diplomatic corps, as they seek to promote peace and security in many lands. In any moments of danger, give them protection and confidence and at all times may they be aware of the appreciation of a grateful nation. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 799. An act to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes;

H.R. 2713. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes;

H.R. 2937. An act to make miscellaneous technical and minor amendments to laws relating to Indians, and for other purposes; and

H.J. Res. 309. Joint resolution providing support for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2713) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARKIN, Mr. LAUTENBERG, Mr. REID, Mr. STENNIS, Mr. NICKLES, Mr. GRASSLEY, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 247. An act to designate the Kern River as a national wild and scenic river;

S. 578. An act to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail; and

S. 1297. An act to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JOHN H. TEELE

The Clerk called the bill (H.R. 2139) for the relief of John H. Teele.

There being no objection, the Clerk read the bill, as follows:

H.R. 2139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of sections 5724 and 5724a of title 5 of the United States Code, the expenses incurred by John H. Teele to relocate himself, his immediate family, and his household goods and personal effects incident to beginning employment with the Department of the Army at his official station in Huntsville, Alabama, shall be treated as expenses incurred by an employee transferred in the interest of the Government from one official station or agency to another for permanent duty.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM A. CASSITY

The Clerk called the bill (H.R. 2293) for the relief of William A. Cassity.

There being no objection, the Clerk read the bill, as follows:

H.R. 2293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF LIABILITY.

(a) FOR CERTAIN ERRONEOUS PAYMENTS.—William A. Cassity of Memphis, Tennessee, a former employee of the Department of the Navy, is hereby relieved of liability to the United States in the sum of $14,312.01, representing erroneous payments of relocation expenses incident to his transfer from the United States Postal Service to the Department of the Navy in 1984.

(b) CREDIT TO ACCOUNTS OF THE UNITED STATES.—In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by subsection (a).

SEC. 2. PROVISION FOR PAYMENT BY THE SECRETARY OF THE TREASURY.

(a) FOR ANY AMOUNTS ALREADY PAID BY OR WITHHELD FROM WILLIAM A. CASSITY.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to William A. Cassity an amount, if any, equal to the aggregate of any amounts paid by him to, or withheld from sums otherwise due him by, the United States with respect to his indebtedness to the United States referred to in section 1(a).

(b) RESTRICTION ON ATTORNEY'S FEES.—Not more than 10 percent of the amount appropriated in subsection (a) may be transferred, directly or indirectly, to any attorney or other agent as consideration for services rendered to William A. Cassity in connection with the claim for relief of liability made by section 1(a). Any person violating the provisions of this subsection shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RAY A. BONNEY

The Clerk called the bill (H.R. 1578) for the relief of Ray A. Bonney.

There being no objection, the Clerk read the bill, as follows:

H.R. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Ray A. Bonney ([redacted]) of Edwardsville, Illinois, is relieved of liability for repayment to the United States of the sum of $16,890.98 plus accrued interest, which represents the amount that Mr. Bonney is indebted to the Department of Defense for payments received for travel and relocation expenses incurred by him in good faith reliance on the assurances of the Department of Defense that such expenses were authorized as a Government expense arising from his relocation from Pequannock, New Jersey, to Saint Louis, Missouri, to accept employment with the Department of Defense.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RICHARD W. IRELAND

The Clerk called the bill (H.R. 1579) for the relief of Richard W. Ireland.

There being no objection, the Clerk read the bill, as follows:

H.R. 1579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall pay, out of any appropriations or other funds available to the Secretary for the reimbursement of

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

relocation expenses under section 5724a of title 5, United States Code, to Richard W. Ireland, $5,102.08. Such sum shall be in full satisfaction of any claim by Richard W. Ireland, an employee of the Farmers Home Administration, for expenses—

(1) which were incurred in connection with the sale of his residence and transportation of his household goods when he was transferred from Auburn, Maine, to Presque Isle, Maine; and

(2) for which he could have been reimbursed under section 5724a had he been able to complete the sale within the two-year time limit prescribed in paragraph 2-6.1e of the Federal Travel Regulations (FPMR 101-7, May 1973) instead of the three-year time period erroneously approved by the State Director of the Farmers Home Administration.

SEC. 2. No part of the amount provided for in the first section of this Act in excess of 10 per centum thereof shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim described in the first section, and the payment or receipt in excess of 10 per centum of the amount provided for in the first section shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MEALS ON WHEELS OF THE MONTEREY PENINSULA, INC.

The Clerk called the bill (H.R. 1539) for the relief of Meals on Wheels of the Monterey Peninsula, Inc.

There being no objection, the Clerk read the bill, as follows:

H.R. 1539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, except as provided in section 2, Meals on Wheels of the Monterey Peninsula, Incorporated (hereinafter referred to as "Meals on Wheels"), and any individual who performed service in its employ after 1975 and before 1983 are relieved of all liability to the United States for the payment of any interest or penalty assessed or accrued on unpaid taxes imposed by chapter 21 of the Internal Revenue Code of 1986 with respect to service performed in the employ of Meals on Wheels during such period.

SEC. 2. The Secretary of the Treasury shall take no action before the end of the ninety-day period beginning on the date of the enactment of this Act with respect to the collection of any unpaid taxes imposed by chapter 21 of the Internal Revenue Code of 1986 for which Meals on Wheels and any individual who performed service in its employ after 1975 and before 1983 are liable with respect to service performed in the employ of Meals on Wheels during such period. Section 1 shall not apply for purposes of relieving Meals on Wheels of any liability arising after the end of such ninety-day period for the payment of any interest or penalty on any amount of such taxes which remain unpaid after the end of such ninety-day period.

SEC. 3. For purposes of title II of the Social Security Act, service performed in the employ of Meals on Wheels of Monterey Peninsula, Incorporated, after 1975 and before 1983 shall be treated (for purposes of benefits for months beginning after the month in which this Act is enacted) as employment, if and to the extent that a detailed record of such service is transmitted to the Secretary of Health and Human Services within twelve months after the date of enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JEAN DEYOUNG

The Clerk called the bill (H.R. 1490) for the relief of Jean DeYoung.

There being no objection, the Clerk read the bill, as follows:

H.R. 1490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF FROM LIABILITY; REIMBURSEMENT.

(a) AMOUNT OF RELIEF.—Jean DeYoung of Clarendon Hills, Illinois, is relieved of liability to the United States in the amount of $2,932.02, representing overpayment by the United States to Jean DeYoung resulting from administrative error by the Administrative Office of the United States Courts.

(b) REIMBURSEMENT.—The Secretary of the Treasury shall pay to Jean DeYoung, out of any money in the Treasury not otherwise appropriated, any sum paid by her to, or withheld from her by, the United States with respect to the indebtedness referred to in subsection (a).

SEC. 2. AUDIT AND SETTLEMENT; ATTORNEY'S FEES.

(a) AUDIT AND SETTLEMENT.—In the audit and settlement of the account of any certifying or disbursing officer of the United States, full credit shall be given for the amount of liability relieved by section 1(a).

(b) ATTORNEY'S FEES.—Not more than 10 percent of the amount specified in section 1(a) may be transferred, directly or indirectly, to any attorney or other agent as consideration for services rendered to Jean DeYoung in connection with the relief from liability granted in section 1(a) and the reimbursement permitted under section 1(b). Any person violating this subsection shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DAVID BUTLER, ET AL.

The Clerk called the bill (H.R. 1388) for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vincent Maloney, Austin Mortensen, and Kurt Olofsson.

There being no objection, the Clerk read the bill, as follows:

H.R. 1388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT BY SECRETARY.

The Secretary of the Treasury shall pay the sum of $33,433.25, out of any funds in the Treasury not otherwise appropriated, to the United States Property and Fiscal Officer for the State of Massachusetts to be distributed by such officer in accordance with section 2. Such payment shall be in full settlement of all claims against the United States arising from the unauthorized placement of the persons named in paragraphs (1) through (10) of section 2(a) under the Federal Civil Service retirement system upon the reemployment of such persons with the Massachusetts National Guard.

SEC. 2. PAYMENT BY UNITED STATES PROPERTY AND FISCAL OFFICER.

(1) PAYMENT.—Except as provided in subsection (b), the United States Property and Fiscal Officer for the State of Massachusetts, upon receiving the payment authorized by section 1, shall pay—

(1) $3,792.35 to David Butler;

(2) $4,457.47 to Aldo Cirone;

(3) $1,126.87 to Richard Denisi;

(4) $7,791.68 to Warren Fallon;

(5) $1,848.11 to the estate of Charles Hotton;

(6) $4,417.49 to Harold Johnson;

(7) $2,096.58 to Jean Lavoie;

(8) $3,212.69 to Vincent Maloney;

(9) $1,911.38 to Austin Mortensen; and

(10) $2,778.63 to Kurt Olofsson.

(b) DEDUCTION OF INTEREST OBLIGATION.—If any person named in paragraphs (1) through (10) of subsection (a) has an interest obligation to the Massachusetts State Board of Retirement on the date of enactment of this Act because of the unauthorized placement of such person under the Federal Civil Service retirement system, the United States Property and Fiscal Officer for the State of Massachusetts shall pay such obligation from the amount authorized for payment under subsection (a) before making any payment to, or on behalf of, such person under subsection (a).

SEC. 3. LIMITATION ON ATTORNEY'S FEES.

No amount in excess of 10 percent of any payment authorized by section 2(a) shall be paid to, or received by, any agent or attorney in consideration for services rendered in connection with such payment. Any violation of this section shall be a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

COMMITTEE AMENDMENTS

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments:

Page 2, line 3, strike "$33,433.25" and insert in lieu thereof "$37,855.64".

Page 2, line 19, strike "$3,792.35" and insert in lieu thereof "$4,055.95".

Page 2, line 22, strike "$7,791.68" and insert in lieu thereof "$8,333.25".

Page 2, line 24, strike "$4,417.49" and insert in lieu thereof "$4,724.54".

Page 2, line 2[illegible] strike "$3,212.69" and insert in lieu thereof "$3,435.99".

Page 3, line 2, strike "$2,778.63" and insert in lieu thereof "$2,971.77".

Page 3, line 1, strike "and".

Page 3, line 2, strike "." and insert in lieu thereof "; and".

Page 3, after line 4, insert "(11) $2,923.73 to John Jenks".

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vincent Maloney, Austin Mortensen, Kurt Olofsson, and John Jenks."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

APPOINTMENT AS MEMBERS OF DELEGATION TO ATTEND CONFERENCE OF INTERPARLIAMENTARY UNION

The SPEAKER. Pursuant to the provisions of 22 U.S.C. 276a-1, the Chair appoints as members of the delegation to attend the Conference of the Interparliamentary Union to be held in Bangkok, Thailand, on October 12 through October 17, 1987, the following Members on the part of the House:

Mr. PEPPER of Florida, chairman;

Mr. HAMILTON of Indiana, vice chairman;

Mrs. BOGGS of Louisiana;

Mr. SCHEUER of New York;

Mr. BATES of California;

Mr. HAMMERSCHMIDT of Arkansas; and

Mr. BLAZ of Guam.

IRANIAN IMPORT BAN BILL

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, less than 2 weeks ago I, along with Congressman ED JENKINS, introduced legislation to revoke Iran's most-favored-nation trade status. This measure, H.R. 3338, has over 200 cosponsors, and I want to thank my colleagues on both sides of the aisle for their overwhelming support for this bill. This legislation in modified form will be debated today.

Last week, the Ways and Means Committee reported a measure, H.R. 3391, which blended together our bill, H.R. 3338, with language to impose an immediate ban on all products imported from Iran. H.R. 3391, the new bill, includes the language from our bill, H.R. 3338, to repeal Iran's most-favored-nation status, but also includes language to give the President some flexibility in this area by allowing him to restore MFN status if he finds that Iran has ceased their hostile actions. I support this modification, and I am hopeful that the cosponsors of H.R. 3338 will understand and support the new bill, H.R. 3391.

I am pleased that the Ways and Means Committee has acted so swiftly in reporting legislation dealing with our trade situation with Iran, and I fully support H.R. 3391 which sends a strong and clear message to Iran. When this bill is debated later today, I encourage all of my colleagues to support this important and much-needed legislation.

CUBA AND SOVIET UNION ARE PUPPET MASTERS, SANDINISTAS THE PUPPETS

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the meeting Sunday and yesterday between President Duarte and the Salvadoran guerrillas is another indication of President Duarte's commitment to achieving peace in his nation through dialog with the armed opposition.

Sandinista leader Daniel Ortega has refused so far to meet with the armed opposition in Nicaragua in spite of the urging of Cardinal Obando y Bravo, Costa Rican President Oscar Arias, and Presidents Alcond of Honduras and Duarte. Ortega says he will only meet with the puppet masters not the puppets, meaning he won't meet with the Nicaraguan resistance, he'll only talk with the United States.

If that requirement is the controlling condition for Ortega, then perhaps Duarte should agree to talk only with Nicaragua rather than the Sandinista-controlled guerrillas in El Salvador. Or for that matter, the United States should not agree to talks with Nicaragua, but rather only with Cuba and the Soviet Union, since they are the puppet masters and the Sandinistas are the puppets.

GUATEMALA ACCORD IS BEST HOPE FOR GENUINE PEACE IN CENTRAL AMERICA

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, it must pain the rightwing ideologs who advise on foreign policy decisions in town to admit, but the Sandinista government has taken several steps to demonstrate its intent to comply fully with the Guatemala plan. President Ortega has named Cardinal Obando y Bravo, one of the Sandinistas' harshest critics, to a four-person commission that will oversee Managua's compliance with the plan; the Government has permitted two Catholic priests to return from exile and has freed 16 Central Americans captured as mercenaries for the rebels. They have also taken extremely important steps by authorizing the immediate reopening of the opposition La Prensa newspaper and Radio Catolica free of censorship.

While there is still much room for improvement, the Sandinista government has demonstrated that it is willing to take concrete steps to bring peace to Central America through a framework of a peace plan. And what do we hear from the United States? The President's call for another $270 million to be sent to the Contra rebels and a speech to be given this week imposing more conditions on the Sandinistas for peace in that region. It is becoming apparent that the Reagan administration does not view the Arias plan as a path toward peace, but as an obstacle to overthrowing the Nicaraguan Government and installing the Contras in power.

MORE ON THE RISK NOTIFICATION CONTROVERSY

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, there has been a very serious problem in terms of credible information pertaining to the risk notification controversy which is pending before the House in next week's floor activity.

I want to make very, very clear that, all protestations to the contrary, the substitutes being offered by the gentleman from Vermont [Mr. JEFFORDS] and myself do not in any way preempt local right-to-know or hazard communication standards.

I want to make that very, very clear because over and over again we are getting protestations to the contrary. That simply is not the case.

Second, Mr. Speaker, I would like to make very clear that the insurance industry has not signed off on H.R. 162.

Of the top 10 liability underwriters, only 1 has expressed a grain of support for the bill. All the other nine, including the liability underwriters group strongly oppose the legislation.

Third, relative to costs, we are told the cost of this bill to employers is minimal.

Mr. Speaker, the GAO's report on this issue says that the costs are incalculable because of the unknowns. The machine tool industry has done the only econometric model on this and estimates an add-on cost of 5 percent on all manufactured products.

WHAT POLICY DO WE ADOPT TOWARD GENERAL NORIEGA'S PANAMA?

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, in the United States Government a policy debate is raging about what policy to adopt toward General Noriega's Panama, another line of ruthless dictators who suppresses his people and who is the subject of massive demonstrations and discontent. Noriega is fighting insanely to retain power despite evidence that he has long practiced torture, murder, drug trafficking, and gun running. Even the conservative business community in Panama has called for his ouster.

While Marcos and Duvalier were generally regarded as pro-American, Noriega is hardly a friend. He has incited riots against the U.S. Embassy and continues to play up to the Castros and Qadhafis of the world. Noriega claims that it is the conservative reactionary forces in the United States that want him out, because they want to take back the canal. Well, Noriega is wrong. It is that Republicans, Democrats, liberals, moderates, and conservatives that want Noriega out. Most importantly, the Panamanian people like those in South Korea, Haiti, and the Philippines want him out because they want a democracy.

□ 1215

Ultimately whether Noriega stays will be up to the Panamanian people, but if the United States can do what we did with Marcos and Duvalier and give Noriega a one-way ticket to a safe haven, it is worth the risk. We need to avoid bloodshed in Panama and help bring about democracy.

THE PRESIDENT AND NICARAGUA

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I was shocked to see on the front page of the New York Times this morning, the following headline: "Wright, in shift, Denounces Reagan Over Sandinistas—Calls Policy Ridiculous—House Speaker Condemns the Strategy as a Creation of the "Extreme Right-Wing."

The story referred to the Speaker's remarks as "caustic."

I for one think it is better to wait until we find out exactly what the President has to say tomorrow before engaging in such remarks.

But let's look at what the press has reported his remarks will contain and why this has upset the Speaker to such a degree that he has lost that degree of serenity for which he is legendary.

Press reports state the President will demand that the Sandinistas stop taking Soviet-bloc military aid and evict Soviet and Cuban military advisers.

What is ridiculous or rightwing about that? Was it ridiculous or rightwing when the Speaker agreed to similar demands in the Reagan-Wright agreement?

The Speaker, should explain how democracy and freedom can come to Nicaragua if the largest army in Central America, with a Marxist-Leninist political officer for every 30 soldiers, is allowed to remain in the hands of Marxist-Leninists?

I say to the Speaker: Join with us, as you did a few weeks ago, in demanding the Soviets and Cubans get out.

And put some public pressure on Ortega to deal with the Contras, directly or through the church.

Then let's hear what the President has to say tomorrow.

ROBERT WATKINS HAS SOLD AMERICA DOWN THE RIVER

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, today I am absolutely outraged at the despicable behavior of one of this Nation's lead trade negotiators who has sold America down the river to line his own pocketbook. Today I am calling for a full congressional investigation of Mr. Robert Watkins, Deputy Assistant Secretary of Commerce, who has been conducting the United States auto talks negotiations with Japan. No sooner had the ink dried on the agreement just concluded, than Mr. Watkins while still on the United States payroll sought employment and offered his services to Japanese firms in a letter dated September 23. He offers to set up a trade association for them in which he could help them fight American companies by increasing the use of imported components, by weakening U.S. reporting requirements on the practices of foreign firms in America, and by expanding foreign trade zones and foreign investment in the United States.

This is outrageous. Which country does Mr. Watkins work for? Which taxpayers are paying his paycheck? Has he no shame or honor? Which side was he really representing in the trade talks?

I can now understand why Mr. Watkins was such a weak negotiator. I can now understand why he sold the United States down the river. He was out to pad his own pocket on the connections he made while he was supposed to be working for the people of the United States.

It's time Congress pass H.R. 1231, the Wolpe-Kaptur Ethics in Trade Act to stop this type of repugnant behavior on the part of those entrusted with the future of the United States.

THE ELDERLY ARE AGAIN BEING VICTIMIZED

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, once again, the elderly or our Nation are being victimized by a familiar villain: health care inflation.

Last week, it was announced by the Department of Health and Human Services that the Medicare part B premium which covers doctor's bills and outpatient hospital services will increase by a whopping 38.5 percent at the first of next year.

Once again, as seems to be the case with most all increases in out of pocket costs to our seniors, the main culprit is—not improved care—but rather the health care profession charging more for the same or even inferior quality care.

As an original member of the House Select Committee on Aging I have long maintained that increases in Medicare out-of-pocket costs, whether in part A or part B, should be no higher than the annual increase in the Social Security Cost-of-Living Index. One thing is certain, the Social Security COLA for 1988 is not going to be 38.5 percent.

It seems that for elderly on Medicare they are getting it from both sides. Over the past 2 years major increases in the part A hospital deductible were blamed on cost containment policies which resulted in fewer days in the hospital, thus increasing the cost of the first day which is the amount of the part A deductible.

Now we learn that the part B increase is caused by the opposite of cost containment—namely inflation. Yet no matter how you slice it the victim is always the same: the elderly on Medicare.

I hope Congress has an opportunity to legislate a roll back in this excessive part B hike. If not, I would at least most fervently hope that we may complete action on the catastrophic health care bill which offers at least some hope to our seniors that increases in part B premiums in the future will be tied to expanded care rather than to indirectly subsidize the continued gouging of the elderly by the health care profession.

SENTENCING GUIDELINE DELAY

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, today we will vote on the question of whether tough sentencing guidelines will go into effect on November 1.

Those who prosecute criminal cases are firmly opposed to delay of the guidelines. Rudi Guliani, U.S. attorney from the southern district of New York, indicated to me that "as a prosecutor, I have looked forward with anticipation to November 1 and believe that the reasons which favor preserving that date outweigh the arguments urged by those seeking delay." Similarly, Robert Ulrich, spokesman for all U.S. attorneys writes that "the Nation's Federal prosecutors, responsible for prosecution of virtually all criminal violations in each of the 94 judicial districts, oppose extension of the effective date of the sentencing guidelines."

I know that some of you have received communications from Federal judges in your area urging a delay. Well, let's get real. Many of these same judges have never liked the guidelines to begin with. In a letter to me by the person responsible for training the probation officers in how the guidelines will work, I was informed that "judges and probation officers will be ready and able to properly apply the guidelines when they become effective on November 1, 1987."

Let's not give criminals penalties over the next 9 months that this body already determined to be inadequate with the passage of the Comprehensive Crime Control Act. Just say no to H.R. 3307.

THE ARIAS PEACE PLAN IS THE PATH TOWARD PEACE, RECONCILIATION AND DEMOCRACY

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I rise to note a remarkable event that occurred last week—the printing of La Prensa. As we all know, this is the most noted opposition paper in Nicaragua, which was closed by Government order in June 1986. Prior to that, it had been subjected to growing censorship by the Sandinista regime. However, the most current edition was free from Government censorship and control, as evidenced by its lead stories which included a critical analysis of the staggering debt problem facing Nicaragua, and articles whose themes centered on the right to total, free expression and the importance of opposing Communist, totalitarian dictatorships. Clearly, these were aimed at the very government that initially censored and ultimately shut the paper down.

The reopening of this newspaper of the people is a noteworthy happening, and combined with several other acts, it gives hope that the Arias plan may succeed in Nicaragua. Not only was Nicaragua the first country to set up a national reconciliation commission as required by the Arias peace accord, but President Ortega chose Cardinal Bravo, a well-known critic of the Sandinistas, to be chairman of the commission. Furthermore, the government has allowed the reopening of a Catholic radio station and invited three Catholic clergymen, previously exiled by the government, to return to Nicaragua.

I am not so naive to believe that these acts demonstrate President Ortega's sincere desire to bring his country a truly democratic government. There are several tests that must still be met before we should be convinced of Nicaragua's future political path. The next test will occur on November 7, when a majority of the Arias plan's provisions will go into effect. However, we must not belittle what has already happened.

I am concerned about those who now want to place new, unilateral demands on Nicaragua. It seems to me that their only purpose is to ensure that the Arias plan fails even before it is given an opportunity to succeed. They argue that under the Arias plan, there is no mechanism to force the Sandinistas to democratize. Unlike other political systems, democracy cannot be imposed on a people. However, it can be nurtured and incentives offered to pave the way. This is what the Arias plan does.

Though many obstacles remain, this plan sets the war-torn nations of the region on a path toward peace, reconciliation and democracy. The agreement is not perfect and all countries concerned will have to work very hard and earnestly for it to succeed. A promising start has been made and it deserves a fair chance to succeed.

FARM CREDIT SYSTEM BILL IS NEEDED

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, the farm credit system bill should give us what is needed from Congress: lower and more competitive interest rates for the farmer-borrower in a more streamlined system.

Many of the System's wounds are self-inflicted. For example, the General Accounting Office tells us that in 1985 and 1986 the System mismatched the maturities of assets and liabilities. This mistake alone cost the System, or I should say it cost the farmer-borrower, $3.4 billion.

Disastrous financial trends in agriculture deepened and exacerbated FCS' financial crisis. Record deflation in land values, sharp drops in exports, and low prices undermined agriculture's largest lendor.

This bill guarantees farmer stock, imposes a more streamlined, less bureaucratic structure with local controls, expands borrower rights, lays the groundwork for financial aid, and establishes a secondary mortgage market.

It also expressly allows for the establishment of branch offices in merged districts. This means that we could keep the Omaha bank open even if a decision to move elsewhere is taken. This is good news for Omaha FCS employees and Nebraska borrowers.

I urge Members to support the bill and oppose gutting amendments.

DISCHARGE THE RULE FOR A BALANCE BUDGET AMENDMENT

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STENHOLM. Mr. Speaker, it is with some considerable regret that I rise today to urge all Members of this House to join many of your colleagues who already have signed discharge petition No. 2, to bring to the floor a balanced budget amendment to the Constitution.

I understand the concern many of my fellow Democrats may feel about signing discharge petitions and want to assure them that we Democrats who filed and support this petition take this step reluctantly.

We would discharge House Resolution 266, a flexible, modified open rule providing for consideration of a balanced budget amendment, House Joint Resolution 321, and allowing Members full opportunity to offer any amendments.

For months, the 236 sponsors of House Joint Resolution 321 diligently and patiently have sought assurance that such an amendment would be brought to the floor through the normal committee channels. Over time, however, we have become convinced that we have no alternative to the discharge process.

We are seeking nothing more than the full and fair consideration of an issue Americans support by an 85- to 10-percent margin. Our rule and discharge petition would provide nothing less than that full and fair procedure to the entire membership. Why should we expect less in this year 1987 as we celebrate the 200th anniversary of the United States of America?

Mr. Speaker, I submit for inclusion in the Record a copy of House Resolution 266 for full consideration.

H. Res. 266

Resolved, That immediately upon the adoption of this resolution, the House shall resolve itself into the Committee of the Whole House on the State of the Union to provide for the consideration of the joint resolution (H.J. Res. 321) proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation, and the first reading of the joint resolution shall be dispensed with. After general debate, which shall be confined to the joint resolution and which shall not exceed five hours, to be equally divided between the proponents and opponents of the joint resolution, the joint resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the joint resolution shall be in order except: (1) amendments printed in the Congressional Record at least one day prior to the consideration of the joint resolution, said amendments shall not be subject to amendment except by the offering of pro forma amendments for the purpose of debate only and the consideration of all such amendments shall not exceed five hours; and (2) the amendments in the nature of a substitute specified in this resolution.

Following the disposition of amendments made in order by (1) above, it shall be in order to consider the following amendments, if printed in the Congressional Record at least one day prior to their consideration, which shall be considered as having been read, shall be considered only in the following order, and which shall not be subject to amendment: (a) an amendment in the nature of a substitute by, and if offered by Representative Rodino of New Jersey, or his designee, and which shall be debatable for not to exceed one hour to be equally divided and controlled by Representative Rodino, or his designee, and a Member opposed thereto; and (b) an amendment in the nature of a substitute by, and if offered by, Representative Stenholm of Texas, or his designee, which may be offered notwithstanding the adoption of the amendment in the nature of a substitute by Representative Rodino, or his designee, and which shall be debatable for not to exceed one hour to be equally divided and controlled by Representative Stenholm, or his designee, and a Member opposed thereto. If both of said amendments are adopted only the second such amendment shall be considered as having been finally adopted and reported back to the House. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution back to the House with such amendments as may have been finally adopted, and the previous question shall be considered as ordered on the joint resolution and such amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Sec. 2. If the Committee rises on any day without coming to any final resolution on the joint resolution, the House shall, on the next legislative day, following House approval of the Journal, immediately resolve itself into the Committee of the Whole on the State of the Union for the further consideration of the joint resolution, which shall be a matter of the highest privilege of the House and shall take precedence over any other motion, business, or order of the House, and the House shall proceed with the consideration of the joint resolution in accordance with the provisions of this resolution to final passage, without the intervention of any other motion, order, or business.

ANOTHER TRADE OUTRAGE

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, this morning's Washington Post recounts the employment search of Robert Watkins among Japanese automakers. Why should that be news? It is news because Mr. Watkins is currently Deputy Assistant Secretary in the Commerce Department for Automotive Affairs and Consumer Goods.

Has our Government been turned on its head? The very person who deals for us with Japanese automakers is making personal deals with them while still in office. What kind of trade arrangements could possibly result from such a loyal bureaucrat? I have had some very serious reservations about that auto parts agreement. Now I know why. I have not checked the law yet, but it seems clear that this is a violation of law, of trust, and of plain decency.

If, as it seems, this is a violation of law, this man should be investigated and/or prosecuted vigorously.

I join with my distinguished colleague, the gentlewoman from Ohio [Ms. Kaptur], in calling for a congressional investigation immediately.

The tragedy is that Mr. Watkins is not alone. He represents an all-too-common view in our trade community. They are not servants of this Nation and its people, but of the cause of some vague world community.

We must not let them prevail.

□ 1230

WE CAN WIN WAR ON WASTE IN MILITARY PROCUREMENT

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, since 1981, we have undertaken, at an enormous cost, the modernization of our Armed Forces. In the process, we have all heard horror stories about the costs of both systems and their parts. These stories have led many to believe that there are no controls on the spending of our defense dollars. This is far from true.

No doubt there is still waste in Pentagon procurement, but I believe that the services, especially the Army, are turning the corner on getting a dollar's worth of benefits for each defense buck.

Because of the Competition in Contracting Act, and the appointment of a competition advocate for the Army, the increasing number of competitive contracts is reducing costs for American taxpayers. Last year the Army achieved weapons system savings as high as 20 to 30 percent by shifting sole-source procurements to competitive bidding. This success is enabling the Army to pursue modernization while remaining within budgetary constraints.

We have all heard about overpriced coffee makers and toilet seats. But everyone should also know that a previous price of $1,338 paid for a gunner's stand on the M-1 tank was reduced to $386 through competition, a savings of 71 percent. This is not an isolated case; the Army is saving dollars every day through increased competition.

With continued support from Congress, and the leadership of people like Gen. Charles Henry, the Army's competition advocate, there is no reason why we cannot win the war on waste.

SUPPORT FOR CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, the gentleman from Texas [Mr. Stenholm] has just told the Members of discharge petition No. 2.

For those Members who have become cosponsors of the constitutional amendment to balance the budget, this is now the opportunity to bring that issue to the floor for a full and open debate and discussion by all of the Members.

A recent New York Times poll said that over 80 percent of the American people now believe that the only way the Federal Government can control its excesses of spending is to require it through a constitutional amendment to balance the Federal budget.

Yet, the leadership of this House has denied over 237 Members, a substantial majority, and over 80 percent of the American people that very opportunity to at least bring the issue to the floor for a full debate, so we are now asking the Members of the House today, and for the balance of the week and next week, to come to the well and sign discharge petition No. 2 that will discharge an open rule that will bring Resolution 321 to the floor for debate and amendment and consideration by the whole House, a constitutional amendment to require the Government to balance the budget.

SUPPORT FOR ARIAS PEACE PLAN

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, just a few short weeks ago President Reagan joined you in support of a peace initiative for Central America that would ensure the long-term interests of the United States in that region. Since that time, however, the President has backed away from that goal by refusing to endorse the Arias peace accord. In a move that will further distance the administration from these peace efforts, according to the New York Times, the President will announce this week his demand for early elections in Nicaragua.

Like the President, I am concerned about the Sandinistas. Having recently visited Nicaragua, I witnessed first hand their mismanagement and the stranglehold they have on economic growth and opportunity in Nicaragua. But early elections may only solidfy the hold the Sandinistas have on power because opposition groups won't have time to organize. The Arias initiative, agreed to by our democratic allies in Central America, calls for elections as scheduled in each country. That means every Central American nation will hold elections within the next 3 years.

The President has also stipulated that the Soviet military presence in Nicaragua must be eliminated. Again, I share his concern. But that objective must be achieved as a compliment to the Arias peace plan not used as an excuse to oppose the peace process.

Mr. President, it's time to support the peace plan and begin a dialog with the Nicaraguan Government for free elections and other reforms that will bring regional security and tangible benefits to the Nicaraguan people. As President Arias challenged, it's time to "take a risk for peace."

VOTE "YES" TO DELAY EFFECTIVE DATE OF SENTENCING GUIDELINES

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, later on today we will be asked to vote on a measure under suspension which would delay the implementation of the sentencing guidelines which we all support for a 9-month period.

There are two or three basic reasons for asking for this stay of the impending November 1 implementation of the guidelines. No. 1, this will give a final opportunity for the Federal judges and the prosecutors, and the probation officers and all of those in the Federal judiciary who are going to be responsible for executing those sentencing guidelines, to be properly trained for the eventual implementation thereof.

No. 2, the sentencing guidelines as they now are functioning or are prepared for the November 1 deadline are flawed in several different respects.

Some of those flaws are going to be addressed and corrected by the very legislation which will cause this short delay for 9 months; and the other reason, and this is even more paramount than all the others, if we allow the sentencing guidelines to go into effect November 1 as they now appear, it is possible that the first few cases, in fact many cases at the outset, will be targeted for appeals and further delay of the sentencing guidelines process.

Please vote "yes" to delay the effective date of the sentencing guidelines.

INTRODUCTION OF LEGISLATION TO ESTABLISH DAY CARE CENTERS IN VA MEDICAL CENTERS

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, approximately 13 Veterans' Administration medical centers have taken an exciting step toward attracting qualified health care professionals. To insure that they will be able to continue to provide quality care to our veterans in the future, these facilities have established day care centers for the children of VA employees.

Mr. Speaker, over 55 percent of all women work outside the home. Half of all married mothers with infants under the age of 1 are in the work force—a 108-percent increase since 1970. In addition, the number of children under the age of 10 will increase by 14 percent in the next 3 years.

It is obvious that day care will soon be a significant factor in the working world. If the Veterans' Administration is to compete with private facilities for health care professionals in the coming years, it will have to provide services that make it attractive to health care providers. For this reason, I have introduced legislation, H.R. 3409, to establish day care centers in all Veterans' Administration medical centers for the children of VA employees.

These day care centers will be established in existing facilities—thereby avoiding many of the start up expenses that often plague private facilities. The bill seeks to provide uniform procedures for the creation of these centers in the VA medical centers. The day care facilities will be operated by the Veteran's Canteen Service.

Under this legislation, the Administrator will provide space in existing VA facilities, support services—including custodial services—and utilities. Any other facilities or services provided by the Administrator for the day care centers will be provided on a reimbursable basis. In addition, the Canteen Service can establish reasonable charges for the day care centers sufficient to cover the expenses of personnel to run the centers.

Mr. Speaker, businesses across this country are realizing the importance and benefits of providing quality day care for their employees. We cannot continue to provide the highest level of health care for our veterans if we insist that the employees of VA medical facilities choose between their commitment to service and their families. I believe that this legislation will resolve that problem in a fiscally sound way that reaffirms our commitment to the health of our veterans. I urge my colleagues to join me in supporting this legislation.

VOTE "NO" ON H.R. 3307, LEGISLATION TO DELAY IMPLEMENTATION OF SENTENCING GUIDELINES

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, I rise today to express my opposition to H.R. 3307, a bill which would needlessly delay the implementation of important and effective new sentencing guidelines that have already been delayed by 1 year. As it currently stands, these guidelines will apply only to Federal crimes committed after November 1. Very few of the cases that these guidelines will be pertinent to will be processed for sentencing during the next several months, thus everyone involved in the sentencing process should have more than ample time for acquainting themselves with these new procedures. It has taken over 10 years for reform of the sentencing guidelines to work its way through Congress, and any further delay will only strengthen the public's distrust and concern with our judicial system and, more importantly, could result in inequities in the sentencing of criminals deemed a public menace by our courts. The time for delay is past.

FARM CREDIT BILL

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, I support the Agricultural Credit Act. This legislation will require the Farm Credit System to tighten its belt and more efficiently serve the farmers for whom it was created.

Kansas farmers will benefit from this bill in several ways.

By calling for the most complete reorganization in the 71-year history of the System, this bill firmly places control of lending in the hands of local farmer borrowers.

For financially troubled farmers, this bill requires the System to restructure delinquent loans when that would be cheaper than foreclosure.

This bill protects the stock of farmer borrowers for the next 5 years.

And it creates a secondary mortgage market that will broaden credit opportunities for farmers and ensure the availability of long-term, fixed-interest rate loans.

The Agricultural Credit Act is a rescue package for the ailing Farm Credit System which will help keep farmers on their farms.

WHO IS WHO IN FIGHT ON CRIME

(Mr. **WALKER** asked and was given permission to address the House for 1 minute.)

Mr. **WALKER**. Mr. Speaker, the leftwing loonies who control the agenda of this Congress sometimes give the Members a pretty good idea about who they really are and what they really believe.

We are learning at this moment how soft on crime they have really become. The liberals are in the process of slandering and potentially defeating Judge Bork in the other body in part because they know he is a tough anticrime judge.

They have pulled from the calendar in this House legislation that might have given the Members an opportunity to put the criminals that serve in this Congress under the jurisdiction of the special prosecutor law, and they have brought to the Members for a vote today a bill designed to delay tough sentencing guidelines for those found guilty of Federal crimes.

All too often politicians will claim that everyone wants to get tough on crime. Some of the Members vote that way; some Members do not.

There are three issues before the Congress right now that can help Americans determine who is who in the fight on crime.

CALL FOR ROBERT WATKINS' RESIGNATION

(Mr. **LEVIN** of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **LEVIN** of Michigan. Mr. Speaker, for several years a number of the Members in the House on both sides of the aisle worked actively to open up Japanese markets closed to United States auto producers. These efforts led to high-level MOSS talks. They ended just a month ago.

Today we read in the Washington Post that a key United States negotiator in those negotiations, Robert Watkins, sent out a letter a few weeks ago to Japanese auto companies suggesting that they hire him to help them in dealing with the United States.

This is double-dealing in bald form. Strict legalities are not the issue. Mr. Watkins' actions cast a shadow over the degree of administration commitment in the MOSS talks, expecially since they accomplish so little.

Which side was Mr. Watkins on in August, in July, in June if his letter as quoted in the Post, always cast aspersions on the position taken in good faith by him in the United States, especially those taken by Members of the House who wanted more vigorous action.

I tried to reach Mr. Watkins this morning. He has not answered. We are awaiting a copy of his letter.

If the facts are as they appear, and the Post quoted directly, Mr. Watkins can now meet his obligations as a public servant by resigning his position.

OPPOSITION TO JUDGE BORK'S NOMINATION

(Mr. **TRAFICANT** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **TRAFICANT**. Mr. Speaker, the decision on Judge Bork is at hand. I find it very amusing that Judge Bork admitted under oath on several occasions that he has now "changed his position on several issues and opinions that he rendered in the past."

I do not believe Judge Bork, and I not only believe that Judge Bork would turn back the clock on individual rights; but I also believe that he would be easily influenced from the far right.

Thomas Jefferson once warned all of us in years to come to be wary of the appointment of Federal judges, because they can take the Constitution and mold it like clay in their hands. How true he was.

I say today, be wary, Judge Bork, because I fear that when he finished with the Constitution, he would be eligible to join the American pottery union.

The other body must heed the advice of Thomas Jefferson, and there is only one vote today, and it is not to confirm, it is to firm our rights. Vote "no" to Judge Bork.

The **SPEAKER** pro tempore (Mr. RAY). The Chair advises that the gentleman should not refer to prospective votes in the other body in that manner.

LET US NOT ABANDON PEACE PLAN

(Mr. **MRAZEK** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **MRAZEK**. Mr. Speaker, more than 90,000 people have been killed in the civil wars ravaging Central America since 1979. Most of the dead have not been soldiers, but civilians, many of them women and children. It's only an accident of birth that they aren't my children or yours. The Arias peace plan represents the first real opportunity to stop this killing.

The plan is not perfect; it will not, by itself, bring lasting peace to the region. But, it is the best vehicle for negotiating an end to conflict and movement toward genuine democracy in Central America. Important progress toward those ends has already been achieved as a result of the peace plan: Today, the Guatemalan Government is meeting with rebel leaders to discuss an end to their war, just as last Sunday the Salvadoran Government formally met with guerrillas for the first time in 3 years. Among other things, the Nicaraguan Government has declared a unilateral cease-fire, permitted Radio Catolica to resume broadcasts and allowed the opposition newspaper La Prensa to publish again.

It would be tragic if, as has been reported, the administration decides to abandon the peace plan in favor of demanding its own conditions for peace in the region. The best way to ensure U.S. interests is not to unilaterally set requirements that are guaranteed to undermine the diplomatic process already well underway, but to work with the Central American governments through the framework they have established.

□ 1245

IDA NUDEL TO EMIGRATE

(Mr. **HOYER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **HOYER**. Mr. Speaker, on Friday, the eve of the holiest of Jewish holidays, Yom Kippur, we received word that Ida Nudel, the "guardian angel" of the Jewish refusenik community in the Soviet Union, had finally been given permission to leave the Soviet Union.

Ida Nudel is a truly remarkable woman. Unyielding in her desire to live in her Jewish homeland, Israel, she has fought for more than 15 years for the right to leave the Soviet Union to join her sister in Israel. In 1978, she hung a banner from her apartment window stating, "KGB let me go to Israel." That act cost 4 years of her life in internal exile in Siberia and a banishment to the isolated town of Bendery once she was released from prison.

For many, Mr. Speaker, those years of isolation and at times hopelessness would be a deterrent from continuing human rights activity. But not Ida. Her inspiration and her intense desire to join her sister, Ilana, in Israel, urged her on. But more importantly, her indomitable spirit inspired countless others to take a stand with Soviet authorities in their attempts to also emigrate. When they despaired because of Soviet inaction, Ida Nudel was always there to comfort and console. Their priorities became hers.

Mr. Speaker, I last saw Ida in Moscow during the Passover seder hosted by our Embassy. While there, Ida wondered what the future held for her. Ida's future began on Friday and we all anticipate her glorious homecoming in Israel.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 349

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that my name may be removed as a cosponsor of House Joint Resolution 349.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF COMMITTEE ON PUBLIC WORKS AND TRANSPORATION TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, OCTOBER 7, 1987; AND PERMISSION FOR SUBCOMMITTEE ON AVIATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORATION TO SIT DURING 5-MINUTE RULE ON THURSDAY, OCTOBER 8, 1987

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule on tomorrow, Wednesday, the 7th of October, and that the Subcommittee on Aviation of the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule on Thursday, the 8th of October.

I would say further, Mr. Speaker, that this matter has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on both motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the conclusion of legislative business today and following the vote on H.R. 3307, postponed on yesterday.

U.S. MINT AUTHORIZATION

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2631) to authorize appropriations for the U.S. Mint for fiscal years 1988 and 1989, and for other purposes as amended.

The Clerk read as follows:

H.R. 2631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 5132(a) of title 31, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2) Not more than $46,511,000 may be appropriated to the Secretary for the fiscal year ending on September 30, 1988, to pay costs of the mints. Not more than $965,000 of amounts appropriated pursuant to the preceding sentence shall remain available until expended for research and development.

"(3) Of amounts appropriated pursuant to paragraph (2), not more than $75,000 may be expended for the purpose of hosting the International Mint Directors' Conference in the United States in 1988, including reception, representation, and transportation expenses.

"(4) Notwithstanding sections 3302 and 9701 of this title, the Director of the Mint may—

"(A) collect from participants at the International Mint Directors Conference reasonable amounts imposed as fees and other assessments in connection with such conference;

"(B) hold and administer the amounts referred to in subparagraph (A); and

"(C) spend on behalf of the United States the amounts referred to in subparagraph (A) to pay expenses incurred in connection with such conference, including reception, representation, and transportation expenses.".

SEC. 2. PROFITS ON SALE OF NUMISMATIC ITEMS AVAILABLE ONLY TO REDUCE NATIONAL DEBT.

(a) IN GENERAL.—Subsection (b) of section 5111 of title 31, United States Code, is amended by striking out the last 2 sentences and inserting in lieu thereof the following new sentences: "The Secretary shall charge the coinage profit fund with waste incurred in minting coins, costs incurred in distributing coins, and costs incurred in connection with the preparation and sale of numismatic items, including the value of gold certificates (not exceeding forty-two and two-ninths dollars a fine troy ounce) retired from the use of gold contained in any numismatic item. The Secretary shall credit amounts received from the sale of numismatic items to the coinage profit fund. Excess amounts in the coinage profit fund shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 5132(a) of title 31, United States Code, is amended by striking out the second sentence.

(2) Subsection (g) of section 5112 of title 31, United States Code, is amended by striking out "of section 5132(a)(1)".

(3) Paragraph (3) of section 5112(i) of title 31, United States Code, is amended by striking out "of section 5132(a)(1)".

(4) Subsection (f) of section 2 of the Gold Bullion Coin Act of 1985 is hereby repealed.

SEC. 3. REDESIGNATION OF ASSAY OFFICES AS MINTS.

(A) SAN FRANCISCO.—Section 5131(a)(4) of title 31, United States Code, is amended by striking out "assay office" and inserting in lieu thereof "mint".

(b) WEST POINT.—Section 5131(a)(3) of title 31, United States Code, is amended by striking out "assay office at New York" and inserting in lieu thereof "mint at West Point".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The first sentence of section 5131(b) of title 31, United States Code, is amended by striking out "and assay offices, except that only bars may be made at the assay offices".

(2) Section 5132(c) of such title is amended by striking out "and the assay office at New York have" and inserting in lieu thereof "has".

(3) Section 5132(b) of such title is amended by striking out "and assay offices".

(4) Section 5133(a)(1) of such title is amended by striking out "and the assay office at New York and the officer in charge of the assay office at San Francisco" and by striking out "or officer".

(5) Section 5133(a)(2) of such title is amended by striking out "and the officer" and by striking out "or officer".

(6) Section 5133(a)(3) of such title is amended by striking out "and the officer".

(7) Section 5133(b) of such title is amended to read as follows:

"(b) SETTLEMENT OF ACCOUNTS.—

"(1) IN GENERAL.—At least once each year, the Secretary of the Treasury shall settle the account of the superintendents of the mints.

"(2) PROCEDURE.—At any settlement under this subsection, the superintendent shall—

"(A) return to the Secretary any coin, clipping, or other bullion in the possession of the superintendent; and

"(B) present the Secretary with a statement of bullion received and returned since the last settlement (including any bullion returned for settlement).

"(3) AUDIT.—The Secretary shall—

"(A) audit the accounts of each superintendent; and

"(B) allow each superintendent the waste of precious metals that the Secretary determines is necessary—

"(i) for refining and minting (within the limitations which the Secretary shall prescribe); and

"(ii) for casting fine gold and silver bars (within the limit prescribed for refining), except that any waste allowance under this clause may not apply to deposit operations.".

(8) Upon the enactment of this Act, the superintendent of the United States Assay Office at New York, New York, shall assume the position of superintendent of the Mint at West Point, New York.

(9) Section 5133(c) of such title is amended by striking out "and assay offices".

(10) Section, 5133(d) of such title is amended—

(A) in the first sentence, by striking out "and assay office"; and

(B) in the second sentence, by striking out "and assay offices".

SEC. 4. PROTECTION OF INTEGRITY OF COINAGE MANUFACTURE.

Section 5111(c) of title 31, United States Code, is amended to read as follows:

"(c) Procurements Relating to Coin Production.—

"(1) In general.—The Secretary may make contracts, on conditions the Secretary decides are appropriate and are in the public interest, to acquire articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) necessary to produce the coins referred to in this title.

"(2) Domestic control of coinage.—In order to protect the national security through domestic control of the coinage process, the Secretary shall acquire only such articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) for the production of coins as have been produced or manufactured in the United States unless the Secretary determines it to be inconsistent with the public interest, or the cost to be unreasonable, and publishes in the Federal Register a written finding stating the basis for the determination.".

"(3) Determination.—

"(A) In general.—Any determination of the Secretary referred to in paragraph (2) shall not be reviewable in any administrative proceeding or court of the United States.

"(B) Other rights unaffected.—This paragraph does not alter or annul any right of review that arises under any provision of any law or regulation of the United States other than paragraph (2).".

SEC. 5. STANDARDS FOR GOLD COINS.

(a) Fineness.—Section 5112(b) of title 31, United States Code, is amended by inserting the following sentence before the last sentence: "In minting gold coins, the Secretary shall use alloys that vary not more than 0.1 percent from the percent of gold required.".

(b) Weight.—Section 5113(a) of title 31, United States Code, is amended by adding at the end thereof the following new sentence: "Any gold coin issued under section 5112 of this title shall contain the full weight of gold stated on the coin.".

SEC. 6. GOLD SALES TO BE USED SOLELY TO REDUCE NATIONAL DEBT.

The second sentence of section 5116(a)(2) of title 31, United States Code, is amended to read as follows: "Amounts received from the sale of gold shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

SEC. 7. BULK SALES OF SILVER BULLION COINS.

Section 5112(f) of title 31, United States Code is amended to read as follows:

"(f) Silver Coins.—

"(1) Sale price.—The Secretary shall sell the coins minted under subsection (e) to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dies, use of machinery, and promotional and overhead expenses).

"(2) Bulk sales.—The Secretary shall make bulk sales of the coins minted under subsection (e) at a reasonable discount.

"(3) Numismatic items.—For purposes of section 5132(a)(1) of this title, all coins minted under subsection (e) shall be considered to be numismatic items.".

SEC. 8. PUBLIC SALES OF UNITED STATES GOLD AND SILVER COINS.

Section 5112 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) Public Sales at Mint Facilities.—In addition to other means of marketing coins minted under paragraph (7), (8), (9), or (10) of subsection (a) or subsection (e), the Secretary of the Treasury shall make such coins available for sale directly to the public at such facilities of the Bureau of the Mint as the Secretary determines to be appropriate. The Secretary may limit the number of such coins which may be sold to any person, or in any single transaction, at any such facility.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Annunzio] will be recognized for 20 minutes and the gentleman from Indiana [Mr. Hiler] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Annunzio].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2631 authorizes appropriations for fiscal year 1988 for operations of the Bureau of the Mint. It also includes a number of provisions that will improve the mint's operations. I appreciate the hard work of the ranking minority member of the Consumer Affairs and Coinage Subcommittee, Mr. Hiler, in developing this bill as it comes to the floor today.

The bill deals with a number of subjects relating to the U.S. Mint and I would like to take a few minutes explaining them.

Section 1 of the bill authorizes an appropriation of $46.5 million to pay the costs of the mints. The bill also authorizes that the mint may expend not more than $75,000 for the purposes of hosting the International Mint Directors Conference. This is a reduction of $25,000 from the amount that the mint originally requested, but is $22,000 higher than the budget for the Conference that the mint provided to the subcommittee. While there was some sentiment in the subcommittee to reduce the authorization for the Conference to the $53,000 budget that was presented, I believed that a cushion should be provided for unanticipated expenses. Accordingly, the bill authorizes $75,000 which should be more than sufficient for the mint to host the Conference in an appropriate manner without being lavish or extravagant.

Sections 2 and 6 of the bill provide that any profits from the sale of numismatic items or gold used in bullion coins be used solely to reduce the national debt. This is consistent with the policy of the subcommittee to design deficit-reducing programs. The commemorative coin programs that have been adopted by the House have already raised $361 million toward reducing the debt and will have raised almost three-quarters of a billion dollars by the end of 1989. This bill will add even more to that amount.

The bill also redesignates the San Francisco Assay Office and the West Point Bullion Depository as U.S. mints. Both of these facilities strike coins, and it is appropriate that they should be designated as full fledged mints. The West Point facility manufactures all commemorative gold coins and is widely acclaimed as the finest gold mint in the world. The San Francisco facility manufactures most of the other coins struck for collectors and its workmanship likewise is world renowned.

The bill requires the Secretary of the Treasury to protect the integrity of our coinage by acquiring only U.S. produced or provided articles, materials, supplies, and services. The Coinage Subcommittee has seen too many examples over the past several years in which the mint has favored foreign suppliers to the detriment of U.S. based manufacturers and suppliers. This provision is intended to restore the balance for U.S. manufactures.

The Secretary may use foreign sources in either of only two instances. The Secretary need not use American sources if he finds that to be inconsistent with the public interest or the cost to be unreasonable and he publishes in the Federal Register a written finding stating the basis for the determination.

Unreasonable cost is one in which there is a significant difference between the U.S. bidder and the foreign bidder. An unreasonable difference is a substantial difference. Small differences are not unreasonable. In considering cost, the Secretary must consider not just the cost between the competing bids, but the net cost to the United States. For instance, a lower price for a service from a foreign bidder may result in a lower cost for the U.S. Mint but a higher cost to the U.S. Treasury when tax considerations are taken into account. It is these broader considerations that the Secretary must take into account in determining unreasonable cost.

Similarily, the Secretary must weigh various factors in determining whether contracting with a U.S. firm is inconsistent with the public interest. Clearly, the burden of proof lies on the Secretary to show that the contract would be inconsistent with the public interest. The Secretary must consider the effect upon domestic employment, U.S. capacity to provide the goods or services, and the manner in which foreign mints consider bids from U.S. companies.

In publishing his findings in the Federal Register, the Secretary must state the specific reasons for the determination. He is not to make a pro forma finding, but rather must state the specific and particular facts that led to his finding for the particular contract awarded to a foreign bidder.

The Secretary's determination is not reviewable in any administrative proceeding or court of the United States. No private party may bring an action claiming the Secretary's finding is contrary to law.

At the same time, the provision making the Secretary's determination unreviewable does not preclude an aggrieved party from seeking review under any other provision of law. The mere fact that the Secretary has awarded a contract to a foreign firm does not make the award unreviewable. Only the Secretary's finding that the cost is not unreasonable or the award was not inconsistent with the public interest cannot be reviewed. This section would not, for example, preclude a low bidder from filing a challenge on that basis. It would not preclude a firm from a challenge based on a claim that the specifications were changed and that it did not have an opportunity to submit a bid under the new specifications.

The bill also tightens up the standards for the minting of the gold bullion coins. It mandates that the fineness of the gold may vary by no more than one part in a thousand, restoring the standard for gold coins established by Congress more than 80 years ago. Presently, the mint is using a standard that allows more variation.

In addition, the bill requires that no gold coin be issued unless it contains the full weight of gold stated on the coin. This will assure purchaser confidence in these coins and will correct a situation that occurred last year and earlier this year when the mint issued coins which did not contain the stated weight of gold.

The bill also contains a provision requiring the mint to begin over the counter sales of the gold and silver bullion coins. The legislation gives the Secretary of the Treasury to determine which outlets of the mint are appropriate for these sales and allows the Secretary to limit the number of such coins which may be sold to any person or in a single transaction.

The Secretary is not to interpret this provision restrictively. It is intended to make the bullion coins available to as many people as possible. Current law requires the Secretary to sell the coins to the public, but the mint has refused to do so. It is only selling the coins to a cartel of selected distributors.

The provision in this bill is not intended to relieve the Secretary of his obligation to offer the coins to all purchasers on equal terms. It is not intended to allow the Secretary to refuse to sell to small- and medium-sized dealers who are not members of the cartel. Indeed, the Secretary continues to have an obligation to develop a plan allowing all Americans to purchase bullion coins directly from the mint. Purchasers buying coins from the mint in bulk are entitled to a bulk discount. That discount would vary on the size of the purchase, not the size of the purchaser, as is the mint's current policy.

The mint's use of a cartel to distribute the coins is illegal because it is exclusive. It violates the Gold Bullion Coin Act, the Competition in Contracting Act, and the Small Business Act. It will continue to be illegal so long as the mint excludes any purchaser from buying coins from the mint on the same terms as other purchasers. The net worth and liquid net worth of purchasers is, and will continue to be, irrelevant in the mint's sale of gold coins.

This provision before the House today does not ratify the mint's current distribution system and should not be interpreted as so doing. All it does is require the mint to begin over-the-counter sales of the bullion coins to the public. The mint continues to have an obligation under existing law to develop a bulk sales program available to all who meet minimum purchase requirements and to develop a means of allowing all American citizens, regardless of where they are located, to buy U.S. bullion coins from the U.S. Mint. The use of the word "directly" in this provision means "face to face, over the counter," not "without the use of an intermediary." It is used in the same sense here as it is used in section 5132(a)(1) of title 31, United States Code, where it means "face to face" as contrasted with "by mail."

I can assure my colleagues that if the mint does not begin to fully implement the sales provisions of the Gold Bullion Coin Act, I will bring additional corrective legislation to the floor.

Mr. Speaker, this bill is a step toward improving the operations of the Bureau of the Mint and I urge the House to pass it.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the prompt adoption of H.R. 2631. This bill provides for the continuing authorization of the U.S. Mint.

I would first like to commend Congressman ANNUNZIO, chairman of the Subcommittee on Consumer Affairs and Coinage and the members of his staff for the fine work they have done on H.R. 2631. The minority members had several concerns for the bill as it was passed from subcommittee. To satisfy these concerns Chairman ANNUNZIO and his staff worked closely with the minority staff to produce an Annunzio-Hiler substitute approved by the full Committee on Banking. Seldom do we see the spirit of bipartisan cooperation that was exhibited in crafting this compromise legislation.

I am particularly pleased that we have been able to authorize the mint to host the 1988 International Mint Directors' Conference. This is a great honor for our country and represents a forum whereby the U.S. Mint can exchange vital technical information with similar organizations from around the world.

I would like to take this opportunity to outline the provisions of H.R. 2631 to the Members. Section 1 would authorize appropriations of $46.5 million for the mint for fiscal year 1988. This is the amount requested by the mint and includes the authorization of funds for an International Mint Directors' Conference.

Section 2 would require that profits from the sale of numismatic items be used solely for deficit reduction.

Section 3 designates the San Francisco Assay Office and the West Point Bullion Depository as U.S. mints.

Section 4 states that mint procurement of articles, materials, supplies, and services necessary to produce coins should be awarded to American firms unless the Secretary determines that this is inconsistent with the public interest or the cost is unreasonable, and publishes a written finding stating the basis for his determination in the Federal Register. This represents a mere notice requirement and should not unnecessarily burden mint procurement procedures. Such a determination by the Secretary will be unreviewable in any administrative proceeding or court.

Section 5 would require that the gold bullion coins be minted to certain specified tolerances by the mint, and would also require that U.S. gold coins contain the full weight of gold stated on the coin.

Section 6 restricts the use of proceeds from the sale of Treasury gold to solely reducing the national debt.

Section 7 would conform the language authorizing the sale of silver bullion coins with that authorizing sale of the gold bullion coins. It makes explicit that there should be bulk discount sales of the silver bullion coins.

Section 8 requires the Secretary to make available for sale bullion coins at mint facilities that the Secretary deems appropriate. It allows the Secretary to limit the number of coins which may be sold to any person or in any single transaction.

In short, Mr Speaker, I support H.R. 2631 and believe that it allows the mint to be a more efficient as well as effective agency. I am pleased to join Chairman ANNUNZIO in calling for its timely passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Indiana for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 2631, which reauthorizes the operations of the U.S. Mint.

May I say, Mr. Speaker, that both Chairman ANNUNZIO, the chairman of the Consumer Affairs and Coinage Subcommittee, and Representative HILER, the ranking Republican member of that subcommittee, deserve special commendation for their extraordinary hard work and leadership in bringing this bill to the floor today. A few months ago when we started hearings on this bill in the Consumer Affairs Subcommittee, I did not think it would be possible for us to enact legislation without a very heavy floor fight. I think it is to the credit of both these gentlemen that they were able to sit down and were able to work out in a true bipartisanship way this compromise legislation, which is sorely needed.

Mr. Speaker, I am sure that this is not a perfect piece of legislation. The gentleman from Indiana [Mr. HILER] has mentioned one objection by the administration, but it is a bill that we can all support.

I think I should mention that although the administration is still not completely satisfied in every detail, we did take care of a major objection they had, and the gentleman from Indiana [Mr. HILER] has already mentioned that. That is the objection to the Buy American provisions that were contained in the original version of H.R. 2631.

I see in the notice that came out that there is some implication made that the administration is still opposed, but I would say that the Treasury Department, which is the lead agency as far as the administration is concerned, now approves the present wording of section 4 as far as the Buy American provisions are concerned. It says that the mint should use American-made facilities and products in every case, unless the Secretary of the Treasury determines that specific compliance would not be consistent with the public interest or that the cost of compliance would be unreasonable. The gentleman from Indiana [Mr. HILER] has already mentioned that, but I thought for some of our Members I should reemphasize that.

To trigger this, the Secretary must make those findings, but his findings simply must be published in writing in the Federal Register.

The administration as a general proposition now thinks this is a good bill. I think it is a good bill and I think it should be passed.

Mr. HILER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

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Mr. FISH. Mr. Speaker, I thank my colleague for his generous yielding to me.

Mr. Speaker, I rise in strong support of H.R. 2631, the U.S. Mint authorization. I would first like to congratulate the chairman of the subcommittee, Mr. ANNUNZIO, and the ranking minority member, for their outstanding work on this legislation and for their continued support of the Gold Coin Program at West Point.

As each authorization bill is brought before this Chamber, we must be sensitive to the impact it will have on the budget deficit. Today, we are considering legislation with a clear impact on the deficit—this bill works to reduce it.

H.R. 2631 requires all proceeds from the sale of gold, commemorative medals, coins and bullion to go directly toward the reduction of the deficit. To date, the Commemorative Coin Program alone has raised in excess of $360 million to that end. This program has also provided needed money for the U.S. Olympic Committee and the Statue of Liberty Committee.

I am very proud to say that this legislation designates the West Point Bullion Depository in my congressional district in Orange County, NY, as a U.S. Mint. Since 1980, the West Point Gold Coin Program has produced the highly successful 1984 Olympic coin, the Statue of Liberty coin, the American eagle coin, and the commemorative coin marking the bicentennial of the Constitution.

As a mint, the West Point facility offers the security of a military base, close proximity to the New York Financial Center, and the prestige of the U.S. Military Academy. The benefits of this site were realized back in 1937 when West Point was chosen as the depository for the gold bullion supply. In addition to its responsibilities as a gold bullion depository, West Point has also been involved in the production of pennies for the U.S. Mint.

Most recently, West Point was designated as the site to mint the gold coins commemorating the 1988 Olympics and the bicentennial of the U.S. Congress. Time and time again, West Point has demonstrated its minting expertise and has established a standard of excellence for the entire minting program.

Clearly, it is the intent of Congress to keep this facility fully operational and continue the Gold Coin Program there. I congratulate the members of the committee for their exemplary work on this bill and for giving the West Point Program the recognition it deserves. I urge my colleagues to support this legislation.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. FISH. I am delighted to yield to the gentleman from Illinois.

Mr. ANNUNZIO. I thank the gentleman for yielding.

Mr. Speaker, I just want to add that the gentleman is absolutely correct in his observations and in his remarks as to the West Point Mint. I want to assure the gentleman that the committee will continue to support the programs at West Point because of the outstanding job that the mint at West Point has done in helping to make all of these coin programs the success that they have been.

Mr. FISH. I thank the chairman, because we are very proud in Orange County, NY, of the quality of work and the security that the mint—and I am proud to call it a mint today—can afford.

Mr. HILER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I rise in support of H.R. 2631, the U.S. Mint authorization. On behalf of Charles Colver, . former mayor of Covina, CA, and the California State Numismatic Association, I'd like to congratulate Mr. ANNUNZIO, chairman of the Consumer Affairs Subcommittee, and Mr. HILER, the ranking member, for their continued support for section 3 of the bill. Section 3 would designate the San Francisco Assay Office as a U.S. mint.

This designation is long overdue, Mr. Speaker. In 1982, I introduced a bill to permanently change the business of the U.S. Assay Office at San Francisco to the business of a mint, and redesignate the assay office as the mint of the United States at San Francisco. Chairman ANNUNZIO also included a provision in last year's U.S. Mint authorization to redesignate the assay office, but the measure made it no further than the House floor.

Today, the San Francisco Assay Office is a U.S. mint in every aspect except in name. San Francisco had been minting coins as far back as the 1850's, and section 3 of H.R. 2631 would restore that long and proud heritage.

Again, I congratulate Chairman ANNUNZIO and Vice Chairman HILER for their steadfast support for redesignating the San Francisco Assay Office as a U.S. mint, and I urge passage of H.R. 2631.

Mr. HILER. Mr. Speaker, this has proven to be a very popular bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 2631—U.S. Mint authorization and commend the distinguished gentleman, subcommittee chairman, the gentleman from Illinois [Mr. ANNUNZIO] and the ranking minority member, the gentleman from Indiana [Mr. HILER] for their expeditious consideration of this measure. This legislation authorizes $46.5 million in fiscal year 1988 for costs associated with the Bureau of the Mint. Included in this measure is the redesignation of the San Francisco Assay Office and the West Point Bullion Depository as U.S. mints.

Mr. Speaker, as a member of the Mid-Hudson Congressional delegation, I am fully aware of the significant qualifications of the minting facility at West Point to be a designated U.S. mint. There are many good reasons for establishing a U.S. mint at West Point.

For security reasons, West Point is an ideal location for a mint. Located on the grounds of the U.S. Military Academy, the West Point Mint would have absolute security. This would save a great deal of money as security forces would not require any significant provisions as would any other potential new minting facility.

Moreover, for reasons of transportation West Point is a logical location for a U.S. mint. Located only 45 miles north of New York City, West Point has ready access to transportation by air, sea, and rail. West Point is also just south of the intersection of Interstates 84 and 87, thereby providing interstate connections that would permit fast and economical distributions in all directions.

The West Point Mint has acquired extensive experience in the minting of coins. The quality of the craftsmanship at the mint at West Point is superb, as evidenced by the fact that it was West Point that was commissioned to mint the gold Statue of Liberty coins and the Bicentennial of the Constitution coins.

Finally, Mr. Speaker, there is the great history of West Point and its long tradition of educating the men and women who defend our Nation. This great institution that has played so vital a part in the life of our country is deserving of this designation as a U.S. mint.

Accordingly, Mr. Speaker, I urge my colleagues to support H.R. 2631, thereby authorizing future deficit reduction by the sale of U.S. gold coins, and designating two U.S. mints, one at San Francisco and the other at West Point.

Mr. Speaker, I want to commend the gentleman from Illinois [Mr. ANNUNZIO] for bringing this measure to the floor at this time.

Ms. PELOSI. I rise today in support of H.R. 2631, legislation to authorize fiscal year 1988 appropriations for the U.S. Mint. I am pleased that included in this bill is a provision of particular interest to the people of the Fifth Congressional District of California. Section 3 of H.R. 2631 would designate the San Francisco Assay Office as a U.S. Mint. The assay office, called the San Francisco Mint in the city, employs 415 full-time permanent and over 300 temporary workers. Upgrading the status to a full-fledged mint, like the mints in Philadelphia and Denver, would retain their jobs and allow them to continue the office's distinguished history of accomplished work. The work and craftsmanship of the mint, since its creation in 1854, has been widely acclaimed in its striking of coins. It is the only mint which offers fine proof sets for consumers. This legislation would also designate the Superintendent of the Mint as a Presidential appointee, requiring Senate confirmation.

Mr. Speaker, the San Francisco Mint is only currently recognized as an assay office, while it officially functions as one of four existing mints in the Nation. Upgrading its status is an action long overdue. Passage of this legislation would mean that the mint could continue its history and ensure its role as a viable operation in San Francisco. I commend my colleagues in the Banking Committee for their work on this bill. I am particularly grateful to Mr. ANNUNZIO for his assistance with this provision. I urge my colleagues to support passage of H.R. 2631. Thank you.

Mr. ST GERMAIN. Mr. Speaker, I rise in support of H.R. 2631. I want to congratulate the chairman of the Coinage Subcommittee, Mr. ANNUNZIO, and the ranking minority member of the subcommittee, Mr. HILER, for their work in drafting a substitute mint authorization bill. Their hard work results in a bill that improves operation of the U.S. Mint.

I particularly applaud them in their efforts to assure that the mint gives due consideration to contracting with American firms. Currently, much of the gold refined for use in the Gold Bullion Coin Program is being refined overseas, while U.S. refineries lie idle. This bill will require the mint to consider using U.S. refiners. It will require that the mint take into account the net cost of using foreign refiners, including any tax losses to the Treasury, when computing costs. This provision will assure that U.S. refiners and other U.S. industries have a fair chance to compete with foreign corporations.

I also commend the bill for forcing the mint to open up the sale of bullion coins to all Americans. By requiring over the counter sales, the bill takes the first step in assuring compliance with Congress' original intent of allowing all Americans to buy the coins from the mint, rather than from a cartel of intermediaries. I am sure that if the mint does not establish a comprehensive and nondiscriminatory sales procedure to assure compliance with the original Gold Bullion Coin Act then the subcommittee will bring further legislation to the floor mandating such compliance.

Mr. Speaker, I urge the passage of H.R. 2631.

Mr. HILER. Mr. Speaker, I urge adoption of the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RAY). The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 2631, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, H.R. 2631, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations for the Bureau of the Mint for fiscal year 1988 and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2631, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

IRANIAN TRADE SANCTIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3391) to prohibit the importation into the United States of all products of Iran, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Government of Iran has not accepted United Nations Security Council Resolution 598, which calls for an immediate cease-fire in the war between Iran and Iraq, a war that has lasted more than seven years and has resulted in more than 1,000,000 casualties;

(2) there has been conclusive evidence of Iran's complicity in the laying of mines in international waters of the Persian Gulf and the Gulf of Oman;

(3) the introduction of Silkworm missiles, and actions of Iran's armed forces and Revolutionary Guards, significantly threaten the stability and freedom of navigation of nonbelligerent shipping in the Persian Gulf, as well as naval vessels, facilities, and personnel of the United States and other nonbelligerent states;

(4) the Secretary of State has determined, under section 6(j) of the Export Administration Act of 1979, than Iran is a country that has repeatedly provided support for acts of international terrorism;

(5) the purchase by the United States of Iranian oil and other products of Iran, which in recent years has averaged more than one half a billion dollars annually, has enhanced Iran's ability to procure military hardware and to undertake and threaten military and terrorist actions described in paragraphs (2), (3), and (4);

(6) Iran has been a major supplier of crude oil imported into the United States, so that the United States is contributing hard currency to Iran each year;

(7) oil is Iran's principal export, and Iran's continued ability to export oil in such large quantities to the United States clearly enables Iran to sustain its war effort against Iraq and to ignore United Nations Security Council Resolution 598; and

(8) in light of Iranian policy and actions in the Iran-Iraq war and in the Persian Gulf, it is not in the best interest of the United States to practice "business as usual" with Iran.

SEC. 2. IMPORT SANCTIONS AGAINST IRANIAN ARTICLES.

(a) Definition.—As used in this Act, the term "Iranian article" means any article that is the growth, product, or manufacture of Iran.

(b) Import Prohibition.—Subject to section 3, no Iranian article may be entered, or withdrawn from warehouse for consumption, in the customs territory of the United States after the date of the enactment of this Act.

(c) Denial of MFN Treatment.—Subject to section 3, nondiscriminatory treatment (most-favored-nation treatment) shall not apply to any Iranian article that is entered, or withdrawn from warehouse for consumption, in the customs territory of the United States after the date of the enactment of this Act.

(d) Enforcement.—The Commissioner of Customs shall take such action as may be necessary or appropriate to implement—

(1) the import prohibition imposed under subsection (b), including, but not limited to, appropriate action to prevent circumvention of the prohibition through indirect shipment; and

(2) the denial of nondiscriminatory treatment under subsection (c).

SEC. 3. WAIVER OF IMPORT SANCTIONS AGAINST IRANIAN ARTICLES.

(a) In General.—

(1) If the President decides that it is in the overall interest of the United States to delay imposition of the import prohibition under section 2(b) with respect to any Iranian article, the President may delay imposition of the prohibition on imports of that article for up to 180 days after the date of the enactment of this Act.

(2) If the President decides that is further in the national interest to suspend the denial of nondiscriminatoy treatment under section 2(c) to imports of any Iranian article regarding which the import prohibition is delayed under paragraph (1), the President may suspend such denial with respect to imports of the article that are made during the period of the delay.

(b) Report.—If the President decides to delay imposition of the import prohibition for the 180-day period provided for under subsection (a)(1), or any shorter period, the President shall submit to—

(1) the Committee on Ways and Means and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Finance and the Committee on Foreign Relations of the Senate;

a written report that explains the reasons for that decision and specifies how the national interest would be jeopardized by the immediate imposition of the prohibition. If the denial of nondiscriminatory treatment is suspended under subsection (a)(2) with respect to imports during the period of the delay, the report shall specify how the national interest would be jeopardized by the immediate denial of such treatment.

(c) Extension of Import Prohibition Waiver.—If the President decides to delay imposition of the import prohibition under subsection (a) on any Iranian article for the full 180-day period, such import prohibition and the denial of nondiscriminatory treatment (if suspended under subsection (a)) to the article shall go into effect on the day after the 180th day unless the Congress, by joint resolution, extends the 180-day period.

SEC. 4. TERMINATION OF IMPORT SANCTIONS AGAINST IRANIAN ARTICLES.

(a) In General.—The President may terminate the import prohibition and the denial of nondiscriminatroy treatment imposed under section 2 if the President determines, and reports such determination (and the reasons therefor) to the Congress, that Iran—

(1) has ceased all belligerent activities in the Persian Gulf area against nonbelligerent parties; and

(2) has implemented United Nations Security Council Resolution 598.

(b) Reinstatement of Import Sanctions.—If after the import prohibition and the denial of nondiscriminatory treatment are terminated under subsection (a) the President determines that Iran is no longer in compliance with paragraphs (1) and (2) of subsection (a), the President may reinstate the import prohibition and the denial of such treatment under section 2 for such period as he considers appropriate.

SEC. 5. MULTILATERAL IMPORT SANCTIONS.

The President should undertake negotiations with the member nations of the North Atlantic Treaty Organization and the Gulf Cooperation Council, Japan, and other nations concerning a multilateral agreement to prohibit the importation of, and to deny nondiscriminatory treatment to, Iranian articles.

The SPEAKER pro tempore (Mr. Dellums). Is a second demanded?

Mr. CRANE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Rostenkowski] will be recognized for 20 minutes and the gentleman from Illinois [Mr. Crane] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Rostenkowski]

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3391 is a bill designed to impose economic sanctions on Iran until that country ceases all belligerent activities in the Persian Gulf. The bill would ban all imports from Iran until the President finds and certifies to Congress that Iran has ceased its military activities against gulf shipping and has complied with U.N. Resolution 598, which calls for a cease-fire in the Iran-Iraq war. The bill also would deny most-favored-nation status to Iran until it ceases hostilities in the gulf, a measure proposed by my colleague Richard Ray of Georgia and cosponsored by 250 Members. Finally, the Committee on Ways and Means has agreed, at the request of the Committee on Foreign Affairs, to add a very important provision calling for negotiations to achieve a multilateral import ban against Iran.

Mr. Speaker, this bill is long overdue. United States imports from Iran in recent years have exceeded $500 million, and that level has been rising. Imports this year are running at an annual rate of $1.5 billion.

These imports give Iran valuable foreign exchange with which to wage war on our own shipping. It is very clear that Iran is engaged in wholesale terrorism toward neutral shipping in the gulf. Those activities include mine laying in shipping lanes, the firing of missiles against Kuwait, and the refusal to accept a U.N.-sponsored cease-fire.

With so much at stake in the Persian Gulf region, it is time for the United States to cut off this indirect form of support for the Iranian regime, whose policies and actions directly threaten United States interests. I urge my colleagues to vote for H.R. 3391.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3391 and want to congratulate the chairman of the Ways and Means and Foreign Affairs Committees and the leadership for arranging expeditious treatment of this legislation. Upon enactment, this bill will stop all imports from Iran and eliminate most-favored-nation status for that country, until such time as respect for international law and peace is once again assured for the region.

H.R. 3391, I believe, would not be controversial if it were discussed at any town meeting in America. Imports from Iran are small—about $600 million a year—but this represents hard U.S. currency going into the coffers of a country which unceasingly incites instability in a dangerous region of the globe. The revenue is clearly being used to purchase arms to carry out ever-escalating hostilities.

Until Iran decides to adhere to the U.N. resolution and respect the rights of the rest of the world to free passage in international waters, it is imperative that business as usual cease. Mining sealanes and launching silkworm missiles where U.S. service men and women are trying to preserve peace is unacceptable. Our responsibility is to develop strong sanctions against the Ayatollah. Denying access to the United States market is a clear statement of intent which will affect the livelihoods of Iranians in a way that should call their leadership into further question.

I urge my colleagues to adopt H.R. 3391 unanimously.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. WILSON] for the purpose of engaging in an exchange.

Mr. WILSON. I thank the chairman for yielding.

Mr. Speaker, I support H.R. 3391. I would, however, like to request a clarification on one issue and hopefully give some direction to the Commissioner of Customs in issuing regulations to implement H.R. 3391.

As I understand it, one concern discussed during the committee's deliberations on this bill was that it was not the committee's intention in reporting H.R. 3391 to prejudice or cause financial loss to United States companies who were caught by this speedy action of Congress with Iranian products under loading, in transit, or in storage for the United States. It is my understanding, Mr. Speaker, that it was intended that the President should prescribe regulations to "grandfather" those transactions.

Mr. ROSTENKOWSKI. The gentleman is correct.

In fairness to United States business, it was not the committee's intent to affect Iranian products already purchased by United States companies at the time of the enactment. While we want to halt the importation of Iranian products, we do not want to cause financial harm to United States companies who have already purchased goods from Iran. The committee intends for the President to reflect these concerns in appropriate regulations.

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Mr. WILSON. Mr. Speaker, I thank the gentleman for his response.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I support the pending legislation enthusiastically and I commend the distinguished chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. ROSTENKOWSKI] and the distinguished subcommittee ranking member, the gentleman from Illinois [Mr. CRANE], for their expeditious action in bringing this to me. This legislation was modified in discussions between the Ways and Means Committee and the Committee on Foreign Affairs. It now calls for the imposition of a total import ban with respect to Iran, although its imposition can be delayed or modified by the President in the national interest.

This legislation will prevent the American people from being placed in the anomalous position of preparing to bring the Iranian Government before the bar of world opinion for the purpose of imposing an arms boycott and at the same time buying Iranian oil which is used to buy weapons on the open market.

Surely this situation should not continue.

This legislation is an improvement of a prior draft in that it permits a measure of flexibility to the administration in the timing of the imposition of sanctions. By holding out a carrot to Iran, we may—who can tell—persuade them to modify their position.

Accordingly, Mr. President, I urge my colleagues to support this legislation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, less than 2 weeks ago the gentleman from Georgia [Mr. JENKINS] and I introduced legislation to revoke Iran's most-favored-nation trade status. This measure, H.R. 3338, has over 200 cosponsors, and I want to thank my colleagues on both sides of the aisle for their overwhelming support for this bill. Last week the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Ways and Means Committee, reported a measure, H.R. 3391, which blended together my bill with language to impose an immediate ban on all products imported from Iran. H.R. 3391 includes the language from my earlier bill to repeal Iran's most-favored-nation status, but also includes language to give the President some flexibility in this area by allowing him to restore MFN status if he finds that Iran has caused their hostile actions.

I support this modification, and I am hopeful that this will address any concerns that the administration might have.

I am pleased that the Committee on Ways and Means has acted so swiftly in reporting legislation dealing with our trade situation. In fact, Mr. Speaker, the Committee on Ways and Means and the gentleman from Illinois [Mr. ROSTENKOWSKI] have broken records in reporting this legislation, this legislation dealing with our trade situation with Iran.

I fully support H.R. 3391 which sends a strong and clear message to Iran.

I will encourage all of my colleagues to support this important and much-needed legislation. Mr. Speaker, we cannot forget the mischief that has been caused around this world by Iran, including the bombing of our Embassy in Lebanon, the killing of 242 marines through Iran's engineering of that particular debacle, and their holding of 44 hostages for long periods of time. We have to deal with this, Mr. Speaker. Iran is not deserving of most-favored-nation status, but rather indeed is our enemy.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I rise today in support of H.R. 3391, a bill to prohibit the importation of all Iranian products into the United States.

Most Americans would be surprised to learn that each year we import approximately 500 to 600 million dollars' worth of Iranian products. Oil constitutes more than 90 percent of United States imports from Iran, with the remainder consisting of pistachio nuts, rugs, and other products.

For the month of July, the United States imported one-third of Iran's oil, making the United States Iran's biggest customer. Through these actions, the United States is actually subsidizing the Ayatollah's reckless policies and provocative actions.

For the past several months, tensions with Iran have continued to increase. Iranian forces have attacked a British tanker and fired Silkworm missiles near a Kuwaiti ship in the Persian Gulf.

The Iranians are using this influx of American money to purchase weapons that pose a threat against American servicemen who may be in the area. This must come to an end.

This piece of legislation would also help to stimulate our ailing domestic oil production. The number of shut in, or inactive, oil producing wells in my home State of Nebraska increased from 390 in 1976 to 779 in 1986. Moreover, in 1981, 728 new drilling permits were issued in Nebraska. The number of new permits issued in 1986 fell to 142.

Last week the Senate unanimously agreed to an amendment to their Defense authorization bill that imposes a ban on the import of all products from Iran, I urge my colleagues in the House to move in the same direction and support the passage of this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California, Mr. Speaker, I rise in strong support of H.R. 3391, as amended, legislation which would ban all imports from Iran to the United States.

I would like to commend the distinguished chairman of the Committee on Ways and Means, Mr. ROSTENKOW-

SKI, for his leadership on bringing this issue to the floor so expeditiously.

I also want to thank him and his staff for working with the Foreign Affairs Committee to fashion the bill presently before us. H.R. 3391, as amended, is identical to the bill passed out of the Foreign Affairs Committee earlier today on a bipartisan basis. That bill, a modification of legislation—H.R. 3393—I introduced late last week, was cosponsored by the distinguished chairman of the full committee, DANTE FASCELL; the ranking minority member, WILLIAM BROOMFIELD; the chairman and ranking minority member of the Europe and Middle East Subcommittee, LEE HAMILTON and BEN GILMAN, respectively; the chairman for the International Economic Policy and Trade Subcommittee, DON BONKER; and other members of the full committee.

H.R. 3391, as amended, combines the foreign policy components of H.R. 3393 with the sanctions language of the original Ways and Means bill. It makes an extremely appropriate policy statement on Iran's oil sales to the United States and provides a prescription for dealing with this most regrettable situation.

Again, I want to express my appreciation to the distinguished chairman of the Ways and Means Committee for his cooperation in sending this particular vehicle to the floor.

Mr. Speaker, in the last few months, the United States has been actively engaged in an attempt to control the conflict in the Persian Gulf:

We have deployed a naval armada unsurpassed in size since World War II to protect reflagged Kuwaiti ships and to help ensure the free flow of oil; these forces have already attacked an Iranian ship caught laying mines in the shipping lanes of the gulf;

We have led efforts in the United Nations to press both combatants in the war to accept a U.N.-sponsored cease-fire;

And we have attempted to get our allies to support our efforts in the gulf and to support a total arms embargo on whichever country does not agree to a cease-fire—in this case, Iran.

Our policy and our presence in the gulf are obviously not without risk. This essential point has been vividly underscored by the deaths of 37 of our sailors on the U.S.S. *Stark*; by the constant threat of military actions undertaken by Iranian revolutionary guards, as we saw this past weekend in the speedboat incident directed against the Saudis; by the presence of Silkworm missiles along the Strait of Hormuz; and by the maze of mines almost certainly laid down by Iran.

Mr. Speaker, with Iran continually threatening the lives of our men in the gulf, it is an outrage to learn that American dollars have been one of the engines propelling the Iranian war machine.

Mr. Speaker, the increase in tensions in the gulf over the last several months—tensions exacerbated in large part by Iran—have actually coincided with the dramatic increase in United States purchases of Iranian oil, to the point that Iran has become the second largest supplier of crude oil to the United States.

Why have we allowed United States trade with Iran, and particularly the purchase by the United States of Iranian oil—which in recent years has averaged more than one-half a billion dollars annually—to enhance so demonstrably Iran's ability to sustain and escalate its war against Iraq, against the United States, against our allies, and against the other states in the gulf, and to enhance its ability to ignore calls for a cease-fire?

Mr. Speaker, it quite simply makes no sense. It is time to take an unambiguous stand. It is time to bring our economic and foreign policy in line with our military posture. And it is time to end our inexcusable subsidy of the Iranian war effort so that there is no longer a risk of American servicemen in the gulf dying from weapons purchased with American dollars.

The bill before us today, as amended, accomplishes this goal. It calls for a total trade embargo against all Iranian products entering the United States, which will effectively cut off the flow of funds from the U.S. Treasury to the Ayatollah's arsenal. However, it provides—appropriately, in my judgment—the President with sufficient discretionary authority to waive the import sanctions if he decides such action is against the overall interests of the United States.

Equally as important, the bill directs the President to undertake consultations with the member nations of NATO, the Gulf Coordination Council, and other nations concerning the feasibility of negotiating a multinational agreement to embargo products of Iran. Clearly, only a multilateral approach will have the kind of economic impact on Iran which will force it to ameliorate its conduct in the gulf and to seek a settlement of the gulf war.

Again, Mr. Speaker, I thank the chairman of the Ways and Means Committee, as well as my colleagues on the Foreign Affairs Committee, for joining in this important effort. It is an issue in which both committees should play a prominent role.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, yesterday I cosponsored H.R. 3391, a bill to prohibit the importation of all products from Iran. This measure is almost identical to H.R. 3370 which I introduced last week and is pending in the Ways and Means Committee.

Today, the Senate reaffirmed itself on this issue and passed S. 1748 to ban all products of Iran by a vote of 93 to 0. This action follows passage of an amendment offered by Senator DOLE to the Defense authorization bill to impose an embargo against Iran. The amendment passed 98 to 0 and is now part of the DOD bill which is in conference.

Why are we continuing to do business with Iran when they pose a direct threat to United States military personnel stationed in the Persian Gulf? United States intelligence reports have verified that Iran has laid mines in the Persian Gulf and continues to conduct activities that threaten United States military personnel in the region. It is imperative that we stop funding Iranian military action through our oil purchases. Recent media accounts have reported that Iran has become the second largest supplier of crude oil to the United States—19.6 million barrels at a cost of $359 million. These shipments account for over 11 percent of total U.S. oil imports.

The United States must not let itself become too dependent on foreign oil. Domestic oil production has declined to its worst level since the 1950's. The number of new oil wells in my home State of Oklahoma has declined from over 8,500 in 1982 to only 2,700 this year. Texas, Louisiana, New Mexico, and many other States are also suffering from the domestic oil slump.

I urge you to join me in supporting H.R. 3391 to require the President to impose an embargo against Iran.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I will support the resolution that is up for consideration today. Obviously none of us likes the way Iran is behaving in the international arena, none of us likes the fact that American soldiers and sailors are under attack from Iranian forces, and none of us likes the fact that Iran refuses to participate in the United Nations cease-fire.

Nonetheless, I do want to express a couple of concerns. First and primary, the concern I have is that this action further tilts the United States in the direction of Iraq in a bitter 6- or 7-year war in the Middle East, where Iraq is not an innocent party by any means. Iraq started the war.

This resolution deals exclusively with banning imports from Iran, and it does not deal with Iraq, and yet Iraq has conducted at least 21 attacks since August 30 on the ships of nonbelligerent nations.

Currently Iraq is agreeing or agrees to the United Nations cease-fire call, but we should have no illusions at all that Iraq will continue to do that when Iraq feels that its self-interest would be served by some other course.

Second, I would like to mention that as we all know, oil is fungible. We should be under no illusions that this boycott by the United States will harm Iran's economy or its military apparatus in the absence of total cooperation from our trading partners.

From that point of view, I am happy to see the addition to this resolution which was added by the House Committee on Foreign Affairs.

As I say, I will support the resolution today but it seems to me that it would be better if we were even handed and also dealt with Iraq, the country that started the war in the first place.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. DAUB].

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Mr. DAUB. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in strong support of this legislation approved by the House Committee on Ways and Means. As a member of this committee, I was pleased to be an original cosponsor of it.

The brutal and bloodstained reign of Khomeini's regime fully justifies a trade embargo. This regime has a ghastly record of torturing its own citizens. It has continued a war with Iraq including grisly tactics of sacrificing its own people in senseless human waves of often suicidal attacks. It also has well-established connections to international terrorism. We simply cannot continue to buy the products of this regime.

For some time now, the State Department and a number of other agencies have been conducting an indepth study of the effectiveness of sanctions against Iran.

This review was examining such questions as how to effectively keep out Iranian oil. It is often difficult to tell the origins of fungible products like oil and to ensure that an embargo bites economically, this study was trying to answer these kinds of questions.

The Committee on Foreign Affairs has added appropriate language to the bill. The review was intended to culminate in recommendations by the administration to the Congress for this very action, a trade embargo against Iran.

Despite this timing problem, I understand the administration has now indicated that it agrees with the objectives of the trade embargo legislation before the House. It is appropriate for the Congress to bring this bill before the Members at this time.

It is especially noteworth that this well-crafted piece of legislation includes most-favored-nations treatment suspension.

I want to commend the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, for the gentleman's insight, and for the prompt action in bringing this bill to the House, so that we might expedite it procedurally with the other body, the conference, and get this bill to the President for signature.

It should send a strong signal to Iran and to our allies as well, or those who may purchase in return oil from Iran to tranship it to us, that we mean business. It demonstrates our resolve.

The other body yesterday passed a separate bill recognizing the need to expedite the matter free of an amendment attached to the Defense authorization bill.

I urge the Members to support this bill and demonstrate the resolve of the House that we will not tolerate Iran's outlawed conduct on the high seas or against free people and/or those who will defend that freedom anywhere in the world.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this morning the Foreign Affairs Committee reported favorably an amendment in the nature of a substitute to H.R. 3391. As chairman of the Subcommittee on International Economic Policy and Trade, which has jurisdiction over economic sanctions, I believe our action on this measure is necessary. However, I am very concerned with the process we have used to arrive here.

The time is long overdue for the United States to take decisive action to stop imports from Iran. For too long, the United States has always turned to export embargoes to express our displeasure with the conduct of foreign nations. In fact, the United States has maintained a wide variety of export restrictions on our trade with this brutal regime. But, as in so many cases, unilateral export sanctions have little practical effect. The record here shows they have hardly served to deter Iran from pursuing its war effort against Iraq.

Our principal focus is, of course, oil. In May of this year, the United States imported some 75,000 barrels per day [b/d] of oil from Iran; in July, in response to heigthened tensions in the gulf, imports from Iran increased threefold to 237,000 b/d. For that month, Iran became the United States second largest supplier of crude oil, providing more than 11 percent of all United States imports for that month. Through July of this year, the United States had purchased some $800 million worth of crude from Iran, or more than $300 million more than in all of 1986. The irony is that this huge jump in oil purchases from Iran occurred at a time of heightened tensions in the gulf, the United States reflagging of Kuwaiti tankers to protect them from Iranian missiles, and the escalation of the United States military presence in the region to preempt Iranian attempts to disrupt gulf oil shipping.

In 1984, the United States invoked controls for foreign policy reasons on exports that could significantly increase Iran's military capability. The items covered include: aircraft; helicopters and their related parts and components; marine outboard engines; and all equipment controlled for national security purposes that would go for military use or for military end-users. Sixteen chemicals that could be used by Iran to wage chemical warfare are also controlled, as are crime control and detection equipment, military vehicles, and items to manufacture militarily useful equipment. Late last month, the Commerce Department announced an extension of existing foreign policy export controls to cover scuba gear and related equipment, which pose a direct threat to U.S. flagships and naval vessels and other ships and facilities in the Persian Gulf. It is about time we looked to a ban on U.S. imports from that nation.

The measure before us today, which reflects a common effort by our committee and the Ways and Means Committee, would deny the Iranians hard currency dollars which help sustain the war effort against Iraq. It would reinforce in a concrete way United States condemnation of Iran's terrorist tactics throughout the gulf and elsewhere. The amendment also provides the President leeway to delay for 180 days the total cutoff of imports should the President report to the appropriate congressional committees that such action would jeopardize our national interest. And, it recognizes the effectiveness of multilateral action by directing the President to undertake negotiations with our allies and other nations to adopt similar import bans.

At the outset I noted my concern not with the substance of the bill, but with the procedure. I have been a consistent critic of the President and his predecessors for their hair-trigger invocation of economic embargoes when foreign nations act in ways contrary to U.S. interests. Although the Congress has passed laws and crafted procedures requiring the Executive to consult with Congress and, in some cases, with other nations, before economic sanctions are imposed, this process is often ignored. This happened in May 1985 when the President chose to ignore the clear guidelines of the Export Administration Act and invoke instead the International Emergency Economic Powers Act to impose a trade embargo against Nicaragua.

Now, the Congress is exhibiting the same disregard for procedure for which I and others have taken the executive branch to task. We are acting without the benefit of hearings before the Foreign Affairs Committee or its subcommittees. I am not alone in my concern; the chairman and members of the committee expressed similar views this morning.

As an example: During the course of our markup this morning we briefly touched on the possible implications of this import ban for the ongoing claims settlement discussion in The Hague. It was unclear from our short debate whether our action would place the United States in violation of its commitments under the Algiers accords, by which our hostages were released from Teheran in January 1981. It was unclear whether this action would jeopardize some $20 to $30 billion in American claims outstanding at the Tribunal. What is clear is that our action on this import ban can have extremely serious ramifications on our bilateral relations with Iran, on our foreign policy toward the gulf region, and on the way in which other nations judge the sincerity of United States international legal commitments. These are areas in which the Foreign Affairs Committee has expertise. Yet, if the chairman had not made his desire known to have the committee review the legislation, the House would have acted yesterday without the benefit of the committee's input at all.

In my view before the Congress rushes to act on an issue of major import for our foreign policy, the Congress and the American people would be well served by having the considered views of the committee charged with this responsibility.

I urge my colleagues to support the bill H.R. 3391, as amended.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD], our distinguished ranking minority member on the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of this measure to impose sanctions on imports of Iranian products into the United States. Under this bill, imports from Iran would be prohibited unless the President determined that they should be continued. Although the President could permit imports to continue for 180 days, Iran would still lose its most-favored-nation status unless the President also kept it in effect.

The events of recent days have shown the continued intransigence of Iran in the face of international efforts to persuade Iran and Iraq to achieve a cease-fire in the gulf war. Iran has formally rejected a cease-fire and has instead undertaken a series of actions that have resulted in ever greater tensions in the gulf.

After the adoption of resolution 558 of the United Nations Security Council the Secretary General of the United Nations was asked to conduct peacemaking activities. The failure of other actions to achieve a lessening of tensions in the gulf region has led the United States Government to seek an arms embargo on Iran through the U.N. Security Council.

Perhaps the key, however, to the warmaking potential of Iran is its ability to raise hard cash to continue the war through its oil exports. All indications are to the effect that Iran's success in obtaining revenues in this manner is increasing.

In recent years, United States imports from Iran have averaged $500 to $600 million. This year United States oil imports alone from Iran have already totaled nearly $500 million. Iran has become the second largest foreign source of oil for the United States market. While in the past the United States obtained about 3 percent of its oil from Iran, this figure has reached some 11 percent this year.

The proposed prohibition on imports from Iran will not of itself cause the gulf war to end. But it will send a signal both to Iran and to the friends of America that the United States is prepared to stand firm against Iranian provocations. Most important, this measure will help lessen the hard currency available to the ayatollahs to continue their murderous war.

It's highly likely the administration on its own will at some point propose sanctions, similar to these. This bill will let the administration know the feeling of Congress on this matter and encourage further action by the executive branch. Specifically, the bill calls upon the President to seek multilateral agreement on similar trade measure against Iran by the friends and allies of the United States.

Mr. Speaker, in conclusion, I would like to congratulate the gentleman from Illinois [Mr. ROSTENKOWSKI], and other Members who have brought this matter to the floor, the gentleman from Illinois [Mr. CRANE], as well as the gentleman from Florida [Mr. FASCELL], the gentleman from Washington [Mr. BONKER], and quite a few other Members that have made it possible so we can vote on this matter today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today to support the resolution. Additionally I take this time to focus on the fact that there is no need in our great country to be energy dependent on foreign oil. We have the resources and the technology to be energy independent. We lack only the policy.

We need not import energy from foreign countries. Presently we import about $40 billion a year of foreign petroleum products, about one-third of our energy requirements; but if we would enact my bill, H.R. 2031 into law we would take a positive step toward energy independence. The bill would amend the Clean Air Act to require that all gasoline sold by refineries in the United States contain a certain percentage of ethanol and methanol. This approach will make us energy independent, revive the agricultural, coal, and oil-producing regions in our country and result in cleaner air.

Mr. Speaker, I include as a part of my remarks today a speech I delivered to the Renewable Fuels Association last week which explains the plan.

The speech referred to is as follows:

ALCOHOL FUELS SHAPING U.S. PUBLIC POLICY

(Remarks of Representative Bill Alexander at the 1987 National Conference on Fuel Alcohol and Oxygenates, Washington, DC, October 1, 1987)

Since the first Arab oil embargo in 1973, I've looked for each opportunity to take positive steps toward energy independence.

This gathering today is an extraordinarily important assembly of people who want to help provide our great Nation with a new and vital direction in energy policy, and I want you to know I'm proud to be here.

We have the opportunity to take another important step towards energy independence by meeting the challenge posed today by the Persian Gulf War.

We stand poised on the brink of the '90s with the unfinished business of the '70s and '80s still before us.

Shamefully, much of the old agenda is still pending simply because the nation has not wisely used its abundant resources and advanced technology to their fullest potential.

In 1973, the Arab oil embargo rudely awakened the United States from the sweet dream of cheap, limitless energy.

In 1979, oil supply disruptions hit the nation again, fueling runaway inflation that helped bring down a presidency.

Until the recent escalation of the Persian Gulf War, "energy independence" was the abandoned concern of the '70s.

Now, at the end of the '80s, the Persian Gulf War again raises the issue of immediate and devastating oil price shocks.

And this time, the lives of American sailors and airmen are on the line to keep the sea lanes open.

In 1981, the Federal Government embarked on a deliberate policy of deflation and asset devaluation that sent farm income in real dollars to depths not seen since the Great Depression of the 1930s.

Since 1981, America has lost nearly 220,000 farms, according to the Agriculture Department's own estimates.

Now, at decade's end, Americans everywhere are looking for effective ways to increase farm income and revitalize the economy of Rural America.

In 1977, Congress determined that the nation's air was intolerably dirty, and gave the cities ten years to get rid of carbon monoxide and ozone pollution.

Now, ten years later, the clean air program has fallen short of its goals, and Congress is headed back to the drawing boards on air pollution.

In the late 1970s, I served as a member of the National Alcohol Fuels Commission. That experience convinced me that the United States can become energy independent. But we will have to put renewable fuels to work. And, the struggle will be easier with the help of the nation's oil companies.

As a businessman and a commercial lawyer who represented business interests before coming to Congress, I understand the profit motive. Every business must make a profit. I want the oil companies to make a profit, and to continue to make a healthy contribution to the economy of our great nation.

Having had experience in business, I understand the reluctance of the oil companies to share a hundred billion dollar motor fuels market with farmers and coal miners. And, under normal circumstances, government must not interfere.

But energy is essential if the wheels of commerce in America are to turn. And our nation's energy supply cannot be dependent upon countries in the midst of war and internal strife.

The question of our nation's energy supply involves more than free enterprise. It involves national security, economic survival and personal health—all of which are at risk.

Therefore, I call upon the oil companies to join the effort for energy independence by supporting a national blended motor vehicle fuel policy. The oil companies have the technology and the experience to make an immediate contribution to the achievement of this goal.

A national blended motor vehicle fuels policy would help clear away the unfinished business on the nation's plate.

But, more than 15 years experience has taught me that a federal law is needed to get there from here. And, even with the cooperation of the oil companies, I believe it to be necessary to mandate the blending of fuels at the refineries in order to provide for the nation's motor vehicle fuel supply.

In a free society, the goal cannot be achieved without a national policy which is expressed through federal law.

I've introduced legislation, H.R. 2031, that would require two ideal fuels to be produced: one half the nation's gasoline supply would contain ten percent ethanol and the other half five percent methanol and two and a half percent ethanol.

This policy would provide three immediate benefits to the nation: it would enhance our energy independence; it would revive the farm and coal economies; and it would help clean the air.

I've asked the Congressional Research Service to analyze my bill, and the CRS analysis contains encouraging figures.*

In the area of energy security, CRS estimates that my bill would immediately reduce oil imports by between 190 million and 350 million barrels per year.

Given our insatiable thirst for fuel, that initial reduction is modest. But it is a start. Let us remember: you don't have to reflag a grain truck or a boxcar load of coal.

CRS estimates that my bill would create a new market for more than 2.6 billion bushels of grain annually, thereby raising the farm sector's net cash income by about $2 billion per year.

This would raise the price of corn to a level above that at which government price supports kick in—allowing the farmer to receive his income from the market instead of from a government check, and allowing the taxpayer to save the billions that would otherwise be spent on feed grain programs.

Even so, most consumers would barely notice the change. According to CRS, your grocery bill would go up less than a dollar a week.

CRS also estimates that H.R. 2031 would reduce carbon monoxide levels in the atmosphere by between 3 and 10 percent at sea level and by as much as 20 percent at higher elevations.

The choice, then, is clear.

By mandating the use of blended motor vehicle fuels to enhance the national energy policy, America can confront the unfinished business of years gone by and then face the broad vistas of a bright future.

By doing nothing, the nation will lose more ships and men in the Persian Gulf, leave itself vulnerable to oil price shocks, drive more farmers off the land, and continue clean air policies of big talk but little action.

During a town meeting I held Monday at Hazen, Arkansas, a shy teenage girl rose to seek an answer to a question that has troubled her about her government. It ws bluntly put: "When are Congress and the President going to do something besides talk about America's problems?"

A national blended fuels policy would address the nation's needs, and to address the nation's needs would do more than solve America's problems. It woud restore the faith that has been lost in the rhetoric and the hollow promises of the government.

More than hope is needed to face the future. I believe that leadership is action, not position, and that we should begin now to take another step to prepare our nation to compete in the 21st century and beyond.

Thank you very much.

Mr. CRANE. Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today to urge the support of my colleagues for a bill to prohibit the import into the United States of all products grown, mined, produced or manufactured in Iran. This important piece of legislation was introduced and passed by the Senate on September 29, 1987, and unanimously passed by a vote of 98 to 0. It is time for this body to go on record and express its voice on this urgent matter.

My purpose in introducing this legislation is to give our Nation greater leverage for a much needed cease-fire in the current escalating Persian Gulf war. In recent days, it is indeed encouraging to see the administration beginning to work closely with the United Nations in attempting to bring about a cease-fire in that region. The Congress has an obligation and a responsibility to send a strong and clear signal to the administration, the State Department and Iran that the United States can no longer import over 700 million dollars' worth of Iranian products. It is more than hypocritical that our Nation is subsidizing Iran's reckless policies and military actions—our trade with Iran is absolutely absurd.

I am sure all of my colleagues were outraged and shocked to learn last week that our country imported 19.6 million barrels of Iranian crude oil at a cost of $359 million this past July alone. Our oil payments to Iran for just the 3 months ending in July exceeded the annual average in each of the previous 3 years with the United States paying Iran about $700 million for crude oil according to figures released by the Department of Commerce. It is important to note that merely 3 months ago only 3 percent of United States oil imports came from Iran and that has now risen to 11 percent in just the last 3 months. Even more incredible is the fact that since the release of American hostages from Tehran in 1981, there have been no import restrictions since the hostage release agreement 6 years ago.

The legislation we are considering today prohibits the import of all products and material from Iran effective immediately upon enactment although it allows the President the flexibility to waive such a prohibition if it is not in the overall interest of the United States for up to a 180-day window following enactment of the legislation.

Imagine the reaction of the American taxpayers when they realize that the Iranians are turning $700 million of American money to potentially purchasing Silkworm missiles and other weapons that directly threatens our nearly 40,000 American servicemen currently in and around the Persian Gulf. This measure would begin to put our haphazard foreign policy with regard to the Persian Gulf back on the right track to consistency and sanity. I echo the sentiment of Senator DOLE when he said yesterday, "No more business as usual with the Ayatollah."

I am on record with many of my colleagues opposing the U.S. military buildup in the Persian Gulf and I am quite discouraged at Secretary of Defense Weinberger's comments yesterday that it will be "quite a long, cold winter before the United States can reduce its military buildup in the Persian Gulf." Weinberger went on to state that United States military operations "will be required until the Iranians change their behavior." Well Mr. Secretary this legislation sends the clear and strong message that the Congress will do its part in bringing Iran into the reality of being responsible for its war-like behavior which can no longer be tolerated nor be dealt with silently and empty words.

This legislation will add the voice of both Houses of the Congress to supporting the administration's efforts to develop tough sanctions against Iran and continue to focus our attention on a U.N. based cease-fire. The facts are clear as to which side of the war has been least cooperative in working toward a U.N. sponsored cease-fire. Iran has been attacking and placing our servicemen in imminent danger in the Persian Gulf. Iran has clearly spoken of its desire to engage in warlike confrontations with our Nation. Iran has refused to accept the U.N. cease-fire. Iran has one choice if they desire to continue trade with the United States: accept the U.N. sponsored cease-fire.

The reasons for imposing an across-the-board embargo against Iran is that upon a closer look at our imports we find that not only has oil imports grown astronomically but so has the growth of other import commodities. The commodities which have shown a marked increase in imports from December 1986 to June 1987 figures from the Bureau of Census include: tobacco and beverage products, raw textile fibers, inorganic chemicals, medical and pharmaceutical products, perfumes, soaps, natural and synthetic dyes, cheeses, spices, furniture, fresh and frozen fish, shellfish, and numerous agricultural products. The list goes on and on. No doubt our serious trade deficit is only getting worse by importing these domestically produced commodities from the Ayatollah. Such trade only adds to the absurdity of this situation with Iran and hurts our Nation economically.

Tough action and decisionmaking is the name of the game at this point with regard to the war in the Persian Gulf. The Congress can no longer stand silent while the administration supports Iran and the Ayatollah in the Persian Gulf. Our Nation's neutrality in the Persian Gulf war must not be translated into sitting on our hands on the sidelines while we put American lives on the playing field of a war we have no business playing in the first place. Certainly, imports from Iran must come to an immediate halt before the United States loses more money and American lives by supporting the war economy of the Ayatollah.

This is not a partisan bill nor is it anti-administration bill; it is a sensible piece of legislation which every Member of the House can support. My hope is that the House will speak with the same unified voice today as the Senate did last week. Our objective must continue to be to end the hostilities in the Persian Gulf, bring our servicemen home safely as soon as possible and apply economic pressure to Iran to force them to agree to a U.N. sponsored cease-fire to bring the bloody 8-year-old war in the Persian Gulf to an end.

Mr. FLIPPO. Mr. Speaker, the House will take up a measure today to prohibit any and all imports of Iranian products into the United States.

It may surprise many Members to know that over the last few years the United States has imported from Iran products valued between $500 and $600 million on a yearly average. In fact, our imports from Iran have actually grown from a total of $612 million in 1986 to $895 million in the first 7 months of 1987.

Imports of Iranian oil and textiles provide Iran with much needed hard currency to continue their war with Iraq and as we have seen more recently, to purchase the mines and missiles that are being used in an attempt to disrupt shipping in the Persian Gulf.

For the United States to continue to do business with a nation that captured and held for more than a year 52 American hostages—a nation that actively conducts or fosters international terrorism—a nation that was recently caught redhanded mining the area where American servicemen are escorting ships in international waters—for the United States to continue to trade with a nation such as this is preposterous.

This legislation will give the Commissioner of Customs the authority to implement such regulations that are necessary to carry out this prohibition and to take appropriate measures against any attempts to circumvent the prohibition by indirect shipments from third parties. It also provides the President with the flexibility to suspend the prohibition if it is deemed not in the national interest.

Mr. Speaker, it makes no sense whatsoever for the United States on one hand to place U.S. servicemen in a situation where their lives may be imperiled while on the other hand continuing a policy of trade with Iran that gives that nation the financial means to buy weapons that could be used to endanger American lives.

Mr. Speaker, I urge my colleagues' unanimous support for this legislation.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 3391, to require the President to expand the existing embargo on trade with Iran to include a prohibition on the importation of all products from Iran. At the outset, I want to commend the chairman of the Committee on Ways and Means, the gentleman from Illinois, Mr. ROSTENKOWSKI, my good friend and colleague from California, Mr. LEVINE, the ranking minority member of the Committee on Foreign Affairs, Mr. BLOOMFIELD, and other Members for their leadership on this issue.

The legislation before us represents the joint deliberations of the Committees on Foreign Affairs and on Ways and Means concerning United States policy toward Iran. It is a necessary response to the threatening and ever escalating actions taken by Iran in the Persian Gulf. It is a strong signal to Iran that we will stand firm and employ all the tools at our disposal to protect United States national security interests. The findings in H.R. 3391 point out that Iran has layed mines in the Persian Gulf in violation of the international legal principle of freedom of navigation for nonbelligerent shipping in international waters. H.R. 3391 calls on the Government of Iran to accept U.N. Security Council Resolution 598, which calls for an immediate cease-fire in the war between Iran and Iraq, which has caused over 1 million casualties over the last 7 years. To this date, Iran has refused to accept this U.N. resolution.

H.R. 3391 reiterates that the Secretary of State continue to designate Iran as a country which has repeatedly provided support for acts of international terrorism under section 6(J) of the Export Administration Act. Iran's continued support for international terrorism is well-documented and represents a serious threat to the United States and moderate Arab States in the region. It also denies most-favored-nation treatment to Iran and calls on the President to undertake negotiations with member nations of NATO, Japan, and the Gulf Coordination Council to secure a multilateral agreement to prohibit the importation of and deny nondiscriminatory treatment to Iranian articles. Finally, the legislation before the House stipulates that the President may terminate the import prohibitions of this bill only if he determines and reports to Congress that Iran has implemented U.N. Security Council Resolution 598 and has ceased all belligerent activities in the Persian Gulf area against nonbelligerent parties. H.R. 3391 acknowledges that the purchase of Iranian oil and other products explicity contributes to the very economic, military, and political threats to United States interests in the Persian Gulf. Thus, an import embargo is a difficult, but very necessary step.

Mr. Speaker, H.R. 3391 will hopefully be the first step in building a long-term, comprehensive policy toward Iran. The administration has been slow to develop such a policy and until very recently, has even resisted modest trade sanctions against Iran. Passage of this legislation represents an opportunity to move beyond ad hoc, piecemeal reactive steps like the Iran-Contra debacle and the reflagging of Kuwaiti tankers, toward serious meaningful steps to implement an effective foreign policy in the Persian Gulf.

Mr. Speaker, I urge the unanimous adoption of H.R. 3391.

Mr. BRENNAN. Mr. Speaker, I rise today in support of H.R. 3391, a measure to prohibit the importation of all Iranian products into the United States. Given the situation which exists in the Persian Gulf, this legislation is an appropriate response to the hostilities Iran has directed to United States military personnel serving in international waters.

I believe many of my colleagues were shocked and outraged at the reports indicating that trade exists with Iran and one of the contributing factors to our Nation's trade deficit is a trade imbalance between the United States and Iran. According to figures obtained from the United States Department of Commerce, trade between the United States and Iran for the first 7 months of this year resulted in imports of $935 million and exports of $18.4 million. Our imports of Iranian oil have grown from 3 percent of our oil imports to 11 percent in the month of July alone. In addition to oil, the United States is importing rugs, antiques, shellfish, caviar, pistachios, and chemicals. I am certain that the people of Maine are willing to forgo Iranian caviar and Persian rugs through the passage of this important legislation.

However, for this legislation to be effective, the United States must work with our allies to urge their compliance in securing this needed embargo. Unfortunately, when the United States undertakes a trade embargo, we often do not have the full cooperation of our allies. This results in the embargos' effectiveness being severely compromised in the face of trade activity by our allies.

Actions taken by the Senate have preceded actions we are about to take on this legislation. However, the embargo language adopted by the Senate is in the form of amendments attached to two measures, the omnibus trade bill and the fiscal year 1988 Department of Defense authorization act, are under the threat of a Presidential veto. The approval of H.R. 3391 will insure this timely action calling for an immediate embargo can quickly become law.

If the nation of Iran continues open hostilities with our country, we must not allow trade to exist between us. Should the climate improve and Iran accept a cease-fire to the lengthy and tragic war with Iraq, we can then look at possibly renewing our trading practices. The very idea of our military personnel being placed in great jeopardy through the actions or Iranians, and permitting trade to take place with Iran is an affront to all Americans. We must accept whatever hardship will occur in the interests of preventing further United States support for the war economy of Iran. Since 1981, when our hostages were finally returned after over 400 days of captivity by Iran, over $4.5 billion of imports entered our markets. Swift adoption of this legislation is a necessary and proper course of action to take while hostilities exist between our two nations. I urge the State Department to work for the cooperation of our allies to insure effective compliance with an economic trade embargo against Iran. This legislation could serve to place the nation of Iran on notice that their hostilities will not be accepted with the practice of continuing economic ties.

I urge my colleagues to join me in strong support of H.R. 3391.

Mr. SKELTON. Mr. Speaker, I'm pleased to be joining with so many of my colleagues in supporting H.R. 3391, legislation which would ban the importation of Iranian products into the United States.

Relations between the United States and the Islamic Republic of Iran have been frayed since the illegal capture and detention of the American hostages in 1979. Over the past 8 years, official diplomatic contact has been spotty at best. The war in the Middle East and ever increasing Iranian military actions in the Persian Gulf continue to pose a serious danger to United States personnel, equipment and interests.

One way to help force Iran to stop its hostilities in the region would be to prevent Iranian products—especially oil—from reaching our shores. This decision comes in response to news that United States purchases of Iranian oil dramatically increased over the summer months.

This drastic action is necessary because we cannot stand by as the Iranian Government continues to finance terrorist activities around the world. For example, last month we caught the Iranians redhanded as they were attempting to plant potentially deadly mines in water traveled by United States Navy ships.

The embargo is being considered now because it was just disclosed that United States imports of Iranian oil totaled $700 million last summer, making Iran America's second largest supplier of crude oil. Quite frankly, buying oil from the Ayatollah is intolerable and must be ended immediately.

Mr. Speaker, this ban on all Iranian products will do just that.

Mr. WEISS. Mr. Speaker, I rise in support of H.R. 3391. This bill calls for a total ban on the importation of oil and other products from Iran. In addition, the substitute version adopted this morning in the Foreign Affairs Committee would deny Iran most favored nation trade status. Finally, the substitute calls on the President to engage in negotiations with other countries to impose a multilateral ban on Iranian imports.

It is abundantly clear that the continued importation of products from Iran is providing financial support for the Iran war effort at a time when we are attempting to bring an end to the gulf conflict and at a time when our own forces face the threat of ongoing hostilities in the gulf region. In fact, United States purchases of Iranian goods have averaged more than one half a billion dollars annually in recent years.

This bill will bar further subsidies to Iran, a nation that we have formally declared is in support of international terrorism. It will permit the administration to lift this ban only if Iran ceases belligerent actions and agrees to comply with terms of U.N. Security Council Resolution 598, which calls for an immediate cease-fire in the Iran-Iraq war.

The imposition of stiff economic sanctions is far preferable to the course of action that we are now pursuing in the gulf, where our naval escort has been involved in direct hostilities with Iranian forces and is operating in violation of the War Powers Act. In fact, economic sanctions will likely do more to convince the Iranians to change their behavior than will our reckless military adventure in that region.

Nevertheless, it warrants pointing out that the imposition of economic sanctions by the United States alone will have only limited effectiveness. It has been our longtime experience that economic sanctions are only fully successful when they are entered into jointly with our allies.

While we do not yet know how our allies will respond to our call for sanctions, we must realize that our allies cannot have forgotten the recent events in which the United States Government publicly urged other nations to forgo arms shipments to Iran while at the same time carrying out a covert policy of direct arms sales to that nation. This grave foreign policy error by the Reagan administration has undoubtedly undermined our credibility with our allies with respect to Iran and international terrorism in general.

The Iran-Iraq war is an ongoing tragedy that threatens to further destabilize the entire Middle East. The world community must continue to cooperate to bring about an end to these hostilities. This legislation, which will eliminate the flow of United States dollars to the Iranian Government, will contribute to that cause. But it is an unfortunate fact that the grave foreign policy error of the Reagan administration in selling arms to Iran will limit the success of these proposed sanctions. Moreover, the Reagan administration's illegal, dangerous, and misdirected military adventure in the gulf region is threatening American lives and detracting from ongoing efforts to achieve a peaceful solution.

Congress should approve this legislation and oversee its enactment to be certain that the administration complies with its provisions. But we should also go one step further and focus serious attention on the administration's failure to invoke the War Powers Act as legally required, and its failure to articulate a rational policy for the gulf region.

Mr. CRANE. Mr. Speaker, again I urge unanimous support for H.R. 3391; and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 3391, as amended.

The question was taken.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMITTEE ON FOREIGN AFFAIRS SEEKING MODIFIED OPEN RULE ON INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1987

(Mr. FASCELL asked and was given permission to address the House for 1 minute.)

Mr. FASCELL. Mr. Speaker. I rise to inform the House that the Committee on Foreign Affairs is seeking a modified open rule on H.R. 3100, the International Security and Development Cooperation Act of 1987.

PERMISSION TO OFFER AMENDMENTS TO TITLES III AND IV OF H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the gentleman from Vermont [Mr. JEFFORDS] may be allowed to present an amendment to title III in order that it may conform to the title III amendment that will be offered by the gentleman from Texas today.

The SPEAKER pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from Texas?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, that presumes that I would have the right, as I have discussed, to modify that amendment such that I can conform to the wishes of most Members that I have talked to, that the borrower would have the option of having his paper sold on the secondary market without borrower's right, but that would be at the option of the borrower.

The SPEAKER pro tempore. Would the gentleman from Texas restate the gentleman's unanimous-consent request?

Mr. DE LA GARZA. Mr. Speaker, the request is that the gentleman from Vermont [Mr. JEFFORDS] be allowed to introduce or to offer an amendment to title III.

□ 1345

Mr. JEFFORDS. Yes, that is correct, and I also want to include title IV. Title III would modify my original amendment to make it conform to the Stenholm amendment, and, in addition, would allow for notes to be sold on the secondary market for the Farm Credit System with the borrower's approval, without the borrower's rights.

The SPEAKER pro tempore. Does the gentleman from Texas include the second matter in his unanimous-consent request to permit Mr. JEFFORDS to offer two modified amendments to be offered to titles III and IV by Mr. DE LA GARZA?

Mr. DE LA GARZA. The gentleman from Texas does, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HUCKABY. Reserving the right to object, Mr. Speaker, might I inquire, is it the intent of the gentleman from Vermont to make it at the discretion of the Federal Land Bank, for instance, that they might suggest to the borrower that he waive his borrower's right in order to do this?

Mr. JEFFORDS. Mr. Speaker, if the gentleman will yield, the intent is to give the borrower an option that says if you want your borrower's rights, to go through the normal course of the bonding market and pay the interest rates well delineated, which would most likely be higher than the interest rate you could get going to the secondary market. Thus he would then have the option of either keeping the borrower's rights and selling it in the normal course, using the bond funds to fund his note, or to let it be sold on secondary market at a lower interest rate and have the benefit of the lower interest rate, but give up his rights with respect to foreclosure; so it would give the borrower the option, as it would be stated in the amendment.

This gets us out of the problem we have where you would have no notes with borrower's rights being able to be sold on the secondary market, and thus you will be able to put them in a competitive position interest-rate wise with those that are sold by commercial banks and put the bank and the Farm Credit System on a level playing field with regard to the borrower's rights.

Mr. HUCKABY. Mr. Speaker, I thank the gentleman for that explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas [Mr. DE LA GARZA]?

The was no objection.

PERMISSION FOR EN BLOC MODIFICATIONS OF AMENDMENTS TO H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. DE LA GARZA. Mr. Speaker, I further ask unanimous consent be permitted in Committee of the Whole to modify, en bloc, the following amendments originally sponsored by the following Members and adopted by the Committee of the Whole on September 21, 1987: No. 5, offered by Mr. HUCKABY; No. 8, offered by Mr. LIGHTFOOT; No. 15, offered by Mr. SIKORSKI; and No. 39, offered by Mr. WATKINS.

The modifications requested are technical in nature and reflect the sponsors' intents.

Modification No. 1 would modify amendment No. 5, as modified, offered by Mr. HUCKABY to delete a provision as agreed to by both sides, that would provide supervisory and enforcement powers to Farm Credit System Service Banks over each System association operating in its regional service area.

Modification No. 2 would modify amendment No. 8, as modified, offered en bloc by Mr. DE LA GARZA to reflect the sponsor's intent that real estate agents located in the county in which the land is located, instead of where the lender is located, handle offers to sell such property.

Modification No. 3 would modify amendment No. 15, offered by Mr. SIKORSKI, to reflect the sponsor's intent and the discussion of the amendment on the floor on September 21, 1987, to require each Farm Credit System institution with more than 20 employees to establish an affirmative action program plan.

Modification No. 4 would modify amendment No. 39, offered en bloc by Mr. DE LA GARZA, to recognize all the various organizations and individuals assisting our rural sector during times of crisis.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AGRICULTURAL CREDIT ACT OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 265 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3030.

□ 1350

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, and for other purposes, with Mr. TRAXLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, September 21, 1987, amendment No. 25 in House Report No. 100-307 had been disposed of.

Pursuant to the order of the House of Monday, September 21, the following Members will be recognized for 15 minutes each for general debate: the gentleman from Texas, Mr. DE LA GARZA; the gentleman from Illinois, Mr. MADIGAN; the gentleman from Rhode Island, Mr. ST GERMAIN; the gentleman from Ohio, Mr. WYLIE; the gentleman from Michigan, Mr. DINGELL; and the gentleman from New York, Mr. LENT.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA] to offer technical amendments en bloc as permitted by the order of the House of today.

The Chair would inquire of the distinguished gentleman from Texas whether or not he has any technical amendments to be offered.

AMENDMENTS OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. DE LA Garza:

Page 2, amend the item relating to title I in the table of contents to read as follows:

TITLE I—PROVISIONS TO ASSIST FARM CREDIT SYSTEM BORROWERS AND IMPROVE THE ADMINISTRATION OF THE FARM CREDIT ACT OF 1971

Page 3, beginning on line 1 amend the heading for title I to read as follows:

TITLE I—PROVISIONS TO ASSIST FARM CREDIT SYSTEM BORROWERS AND IMPROVE THE ADMINISTRATION OF THE FARM CREDIT ACT OF 1971

Page 4, line 7, insert "at par" before "under".

Page 4, line 12, strike out "(c)" and insert in lieu thereof "(d)".

Page 4, line 15, strike out "the" and insert in lieu thereof "an".

Page 5, beginning on line 6, strike out "allocated equities, and other forms and types of equities" and insert in lieu thereof "and equities that are subject to retirement under a revolving cycle".

Page 6, line 22, strike out "this Act" and insert in lieu thereof "the loan".

Page 8, line 1, strike out "will not foreclose any such suitable loan" and insert in lieu thereof "will review any such suitable loan for restructuring".

Page 8, line 11, strike out "as appropriate,".

Page 8, line 12, insert "if the loan is suitable for restructuring" before the period.

Page 10, line 2, strike out "this Act" and insert in lieu thereof "the loan".

Page 10, line 12, insert a comma after "status".

Page 16, line 12, insert "a copy of the report of" just after the open quotation marks.

Page 20, beginning on line 9 strike out "to whom the System institution has made an agricultural loan" and insert in lieu thereof "who has obtained an agricultural loan from a System institution".

Page 20, line 11, strike out "that" and insert in lieu thereof "which loan".

Page 20, beginning on line 23, strike out "for sale or lease to any other person" and insert in lieu thereof "to any other person for either sale or lease (for a period established by the lender not to exceed ten years)".

Page 21, beginning on line 4, strike out "such real property or lease such real property for a period not to exceed 10 years" and insert in lieu thereof "or lease such real property, as the case may be".

Page 21, beginning on line 9, strike out "such real property, or lease such real property for a period not to exceed 10 years, as the case may be" and insert in lieu thereof "or lease such real property, as determined by the lender".

Page 21, beginning on line 14, strike out "family-owned and -operated" and insert in lieu thereof "family owned and operated".

Page 21, line 16, insert a comma after "located".

Page 21, beginning on line 23, strike out "liquidation, or bankruptcy" and insert in lieu thereof "bankruptcy, or liquidation".

Page 24, beginning on line 17, strike out "this Act" and insert in lieu thereof "the Agricultural Credit Act of 1987".

Page 25, beginning on line 9, strike out "locally-controlled".

Page 30, line 15, insert "Federal land bank association," after "Federal land bank,".

Page 38, line 24, strike out the comma.

Page 39, line 14, insert a comma after "therefrom".

Page 40, line 12, strike out "4.28F(a)(14)" and insert in lieu thereof "4.28G(a)(14) or 4.28H".

Page 40, line 13, strike out "and under section 4.28G,".

Page 41, beginning on line 6, strike out "an equivalent amount of assistance or a commitment for such amount of assistance" and insert in lieu thereof "equivalent assistance".

Page 45, line 9, insert a comma after "Corporation".

Page 53, line 19, insert "appointed by the President, by and with the advice and consent of the Senate, as" before "the Chairman".

Page 55, line 13, strike out "at such time".

Page 55, line 23, strike out "at such time".

Page 56, line 9, insert "percentage of the" before "aggregate".

Page 57, line 17, strike out "or trustees".

Page 65, line 16, strike out "the" and insert in lieu thereof "debt".

Page 69, line 23, strike out "working".

Page 74, strike out lines 4 through 6 and insert in lieu thereof the following:

(A) by inserting after "long-term" the first place it appears the following: ", consolidated, or System-wide";

Page 75, beginning on line 15, strike out "association or other financing institution" and insert in lieu thereof "association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank,".

Page 75, beginning on line 19, strike out "association or other financing institution" and insert in lieu thereof "association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank,".

Page 76, line 17, strike out "proposed".

Page 76, line 20, strike out "based on" and insert in lieu thereof "applicable to each such institution based on the institution's".

Page 80, line 7, strike out "book" and insert in lieu thereof "face".

Page 85, line 22, insert a comma after "place".

Page 86, line 1, insert "board of directors of the" before "bank".

Page 86, line 4, insert "board of directors of the" before "district".

Page 90, beginning on line 22, strike out "district Federal farm credit bank" and insert in lieu thereof "merged".

Page 91, beginning on line 24, strike out "1.4A(b) and 2.1(b)," and insert in lieu thereof "1.4A(b), 2.1(b), and 3.2(a)(2),".

Page 100, strike out line 2 and insert in lieu thereof the following:

igible to borrow from the bank.

"(3) Nothing in this subsection shall be construed to adversely affect the eligibility, as it existed on the date of the enactment of the Agricultural Credit Act of 1987, of cooperatives and other entities for any other credit assistance under Federal law.".

Page 183, line 10, insert "or that are direct borrowers from the merged association" before the period.

Page 185, line 5, insert "issuance of" before "such charter".

TECHNICAL AMENDMENTS OFFERED BY MR. DE LA GARZA OF TEXAS TO AMENDMENTS NUMBERED 5, 8, 15, AND 39 AS ADOPTED BY THE COMMITTEE OF THE WHOLE ON SEPTEMBER 21, 1987, TO BE CONSIDERED EN BLOC

(1) Amendment No. 5, as modified, offered by Mr. Huckaby, is modified by striking out '"manner"' and all that follows through "Farm Credit Act of 1971." and inserting in lieu thereof the following:

'"manner." insert the following:

"After the establishment of Farm Credit System Service Banks as provided for in section 6.2, the Temporary Assistance Corporation may coordinate assistance to each System institution through the Farm Credit System Service Bank serving the region in which the System institution is located.".'

(2) Amendment No. 8, as modified, offered en bloc by Mr. de la Garza is modified by striking out "lender is located" and inserting in lieu thereof "land is located".

(3) Amendment No. 15 offered by Mr. Sikorski is modified by inserting "with more than 20 employees" after "Farm Credit System".

(4) Amendment No. 39, as modified, offered en bloc by Mr. de la Garza, is modified by striking out "It is the sense" and all that follows through "support the National Rural Crisis Response Center." and inserting in lieu thereof the following: "It is the sense of Congress that efforts by various State and local public agencies, citizens' groups, church and civic organizations, and individuals to focus attention on and respond to rural problems throughout the Nation are deserving of the recognition, encouragement, and support of Congress and the American people for the valuable services they provide."

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] is recognized for 10 minutes.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished colleague, the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

We have had the opportunity on this side to review this en bloc amendment, which is in all its parts strictly technical in nature. We have no objection to it and would hope that the entire House would support the amendment.

Mr. DE LA GARZA. Mr. Chairman, I thank the distinguished gentleman for his cooperation.

That explains the amendment, Mr. Chairman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendments were agreed to.

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent, if that be necessary, that my distinguished colleagues from the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce be allowed to utilize their time, if they wish to avail themselves of it at this time.

The CHAIRMAN. The Chair will make a statement. As the Chair stated a few moments ago, pursuant to the previous order of the House, the time has been allocated and apportioned.

Mr. DE LA GARZA. Mr. Chairman, it was my intention in deference to the cooperative spirit of the other two committees, to yield to them to make their presentations prior to mine if they so desire.

PARLIAMENTARY INQUIRIES

Mr. MADIGAN. Mr. Chairman, I would like to address a parliamentary inquiry to the Chair.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MADIGAN. Mr. Chairman, I would like to inquire as to the procedure that is going to occur here. I understand that the Banking, Finance and Urban Affairs Committee and the Energy and Commerce Committee have language in the nature of a substitute for the title III that is contained in the Agriculture Committee reported bill.

I wondered what the procedure was going to be for that amendment in the nature of a substitute arriving and being presented on the floor and how we were going to proceed to ask questions and have those questions answered under this hour and a half procedure that has been described.

The CHAIRMAN. As the Chair understands the orders under which we are operating, there will be an hour and a half of general debate and then the distinguished gentleman from Texas [Mr. DE LA GARZA] has the right to offer modifications of amendments, which will be debated for 20 minutes. Then there could be the Jeffords amendment to that amendment.

Mr. MADIGAN. Pursuing my inquiry, if the Chair will tolerate the pursuit, do I understand then that the de la Garza en bloc amendments to title III will actually be the work of the Banking, Finance and Urban Affairs Committee and the Energy and Commerce Committee and will be offered by the gentleman from Texas?

The CHAIRMAN. The Chair regrets to advise the gentleman that the Chair has no information as to the nature of the compromise amendment or who its authors may be, other than the sponsor, the gentleman from Texas [Mr. DE LA GARZA] or his designee.

Mr. MADIGAN. Well, Mr. Chairman, under a previous order of the Chair, there are only certain amendments that are in order. One of those is the de la Garza amendment to title III, and nowhere on the list of amendments that are in order under a previous order of the Chair is there any reference to an amendment forthcoming from the Banking, Finance and Urban Affairs and Energy and Commerce Committees, so I am curious to know how and when that is going to be before us.

The CHAIRMAN. The Chair would state that the gentleman from Texas has the right under the rule of the House previously adopted to offer a modification of numbered amendments en bloc to title III. It could be part of the gentleman's amendment.

Mr. MADIGAN. May I further inquire, Mr. Chairman, if the time allowed for debate on that amendment has been limited under a previous order?

The CHAIRMAN. The Chair would answer affirmatively. Under the rule that we must operate under, it is 20 minutes.

Mr. MADIGAN. And Mr. Chairman, is that time divided between the majority and the minority equally?

The CHAIRMAN. The gentleman is correct.

Mr. MADIGAN. I thank the Chair for this indulgence, and I apologize.

Mr. FRANK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRANK. Mr. Chairman, under the rule as it now is before us, is an amendment to strike the entire title III in order?

The CHAIRMAN. That could be in order. It is one of the amendments printed in the report from the Rules Committee.

The Chair would also state that under the rule that amendment would have to be offered by the gentleman from Michigan [Mr. DINGELL].

Mr. FRANK. And if the gentleman from Michigan chose not to offer it, it would not be offered?

The CHAIRMAN. Under the rules, the gentleman is correct, it cannot be offered.

Mr. FRANK. I thank the Chairman, who not surprisingly anticipated my further inquiry with his answer.

The CHAIRMAN. The Chair would inquire as to which of the committees seek recognition for time.

Mr. ST GERMAIN. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Rhode Island [Mr. ST GERMAIN] is recognized for 15 minutes.

Mr. ST GERMAIN. Mr. Chairman, I yield myself such time as I may consume.

At the conclusion of the general debate, Chairman DE LA GARZA will offer a substitute for title III which reflects a consensus of the Banking, Energy and Commerce and Agriculture Committees on the structure of a secondary market for agricultural real estate loans. I endorse that substitute and I urge my colleagues to support it.

When H.R. 3030 was reported by the Agriculture Committee, title III raised many questions for members of the Banking Committee. As a committee, we were not opposed to the concept of a secondary market for agricultural loans, but the amount of time for our committee's review, provided by the sequential referral, did not give us an opportunity to study this proposal adequately.

Our discussions with the House leadership, the Agriculture Committee and the Energy and Commerce Committee resulted in a temporary postponement of the consideration of title III. Your Committee on Banking utilized this period to work cooperatively with our sister committees and to produce legislation which merits the support of the House.

The substitute that will be offered by Chairman DE LA GARZA provides for a better run, more efficient secondary market. Because of our experience and knowledge of secondary markets for residential mortgages, we were able to contribute a certain expertise on how a secondary market should be structured and how it can most efficiently function.

In addition, the consensus substitute we bring to the House today now contains needed provisions which strengthen the underwriting standards of the loans to be sold in the secondary markets. The underwriting standards provide greater protection for the U.S. taxpayers and reduce the likelihood that the $1.5 billion line of credit will have to be used. The committees' cooperative effort has produced a secondary market which holds promise to provide the long-term fixed-rate credit that American agriculture needs.

At this point, I want to take time to compliment my fellow colleagues who have contributed to this legislation. Congressman RICK LEHMAN has been the leading proponent of an agriculture secondary market for several years. His efforts and the efforts of Congressman JIM LEACH and Congressman DOUG BEREUTER were essential in crafting this substitute. I want to thank our ranking minority member, Congressman CHALMERS WYLIE, for his cooperation as well. Other members of the Banking Committee who contributed to this product and deserve commendation include MARY ROSE OAKAR, BRUCE VENTO, CHUCK SCHUMER, and BRUCE MORRISON.

I also want to thank my fellow chairmen JOHN DINGELL and KIKA DE LA GARZA. We were able to work together in a cooperative and collegial manner to insure that despite the time pressures and unusual parliamentary situation we faced, we were able to fashion legislation creating a secondary market that we can all support.

Finally, I want to commend the House leadership for recognizing that this legislation raised serious and legitimate concerns for the Banking Committee and for providing time for the committee to recommend changes to improve title III. I believe that as a result of these accommodations we have avoided the types of disagreement which would have endangered chances for passage of any agricultural secondary market.

Mr. Chairman, I want to describe briefly some of the changes recommended by the Banking Committee. The substitute contains several amendments to increase public accountability of the Corporation. The consensus substitute provides for the President to appoint the Chairman of the Board of the Federal Agricultural Mortgage Corporation. We have also required that the Secretary of Treasury and a public representative with knowledge of secondary market operations sit on the Board of Directors.

The Banking Committee also has recommended several amendments which provide greater protection for U.S. taxpayers and decrease the likelihood that the $1.5 billion line of credit to the U.S. Treasury will be used. Specifically, we authorize the Corporation to assess its fees based upon the risk presented by loan pools. The legislation contains requirements for individual loans which reduce the probability of default. These requirements include an 80-percent loan-to-value ratio, property appraisals based on current agricultural use and certification that the property will have a positive cash-flow.

In addition, the substitute contains underwriting standards for the loan pools which require that the pools be composed of loans that are diverse with respect to geographic location, commodities grown and loan size. Also, no single pool may contain two or more loans to related agricultural interests and that no single loan be greater than 2 percent of the entire amount of the pool. We have also provided for a period of congressional review of any underwriting standards.

Finally, the substitute prohibits the payment of any dividend to stockholders if any outstanding obligation to the U.S. Treasury exists.

These and other provisions, recommended by the Committees on Banking and Energy and Commerce greatly improve the legislation before us. I would now like to reserve the balance of my time to allow other Members to describe aspects of this important legislation.

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At this point I want to take time to compliment my fellow colleagues who have contributed to this legislation. The gentleman from Texas [MICKEY LELAND] has been the leading proponent of an agriculture secondary market for several years. His efforts and the efforts of the gentleman from Iowa [JIM LEACH] as well as the gentleman from Nebraska [DOUG BEREUTER] were essential in crafting this substitute.

I want to thank our ranking minority Member, the gentleman from Ohio [CHALMERS WYLIE] for his cooperation as well. Other members of the Committee on Banking, Finance and Urban Affairs contributed to this product and deserve commendation, including the gentlewoman from Ohio [MARY ROSE OAKAR], the gentleman from Minnesota [BRUCE VENTO], the gentleman from New York [CHUCK SCHUMER], and the gentleman from Connecticut [BRUCE MORRISON].

I also want to thank my fellow chairmen, the gentleman from Michigan [JOHN DINGELL] and the gentleman from Texas [KIKI DE LA GARZA]. We were able to work together in a cooperative manner, collegial manner, to ensure that despite time pressures and the unusual parliamentary situation we face, we were able to fashion legislation creating a secondary market that we can all support.

Finally, I want to commend the House leadership for recognizing that this legislation did indeed raise serious and legitimate concerns for the Committee on Banking, Finance and Urban Affairs, and for providing time for the committee to recommend changes to improve title III. I believe that as a result of these accommodations we have avoided the types of disagreements that would have endangered chances for passage of any agricultural secondary market.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. WYLIE] for 15 minutes.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of title III, assuming that it is amended by a substitute which will be offered a little later on by the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Agriculture Committee. I believe that the substitute which we crafted fairly represents a consensus on the part of the Banking, Finance and Urban Affairs Committee, the Energy and Commerce Committee, and the Agriculture Committee and incorporates changes that will promote the creation of a workable secondary market for farm mortgages.

Title III, as revised, hopefully, will ensure that a long-term stable source of funds is available to our Nation's farmers and ranchers. We are all familiar with the highly developed secondary market for home mortgages made possible in large part by the creation of Ginnie Mae, Fannie Mae, and Freddie Mac. The Agricultural Mortgage Corporation is patterned after these organizations and is intended to create a similar market for farm loans.

In 1986, almost $260 billion in home loan mortgage backed securities were issued. This represents almost 70 percent of the $384 billion in the home loan market. The importance of this secondary market in ensuring a continued, adequate supply of home mortgage money cannot be overstated. Of course, we are now witnessing the development of secondary markets for other types of loans; for example, car loans and even credit card debt.

If there is any sector of the economy that is in trouble because of past Government policies, it is the agricultural sector. Creating a secondary market for agricultural loans could help to ensure a more stable supply of credit at a lower cost to our farmers and ranchers. It has worked pretty well for our Nation's housing industry, as I said, and maybe it can work for our Nation's farmers as well.

The consensus substitute that will be offered by the gentleman from Texas [Mr. DE LA GARZA] goes a long way toward resolving the concerns raised by many, including Treasury Secretary Jim Baker and others. The substitute is not perfect, but a number of provisions have been added to protect the interests of the Government. These improvements include, among others:

First, naming the Secretary of the Treasury or his designee to the Board of the Mortgage Corporation;

Second, prohibiting the corporation from paying dividends if any money is owed to the Treasury;

Third, prescribing standards to ensure that the loan pools are diversified;

Fourth, specifying minimum underwriting standards; and

Fifth, authorizing the corporation to base the fee it charges for credit enhancement on the amount of risk represented by the particular loan pool.

The substitute also includes an authorization of appropriations for the $1.5 billion line of credit provided to the Mortgage Corporation.

Mr. Chairman, I would like to thank the chairmen and ranking members of the Committee on Agriculture, the Committee on Energy and Commerce and especially the gentleman from Rhode Island [Mr. ST GERMAIN], the chairman of the Committee on Banking, Finance and Urban Affairs for their very constructive efforts to improve title III. This was truly a bipartisan effort, and I urge adoption of the de la Garza substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], a member of the committee.

Mr. FRANK. Mr. Chairman, I thank the gentleman from Rhode Island for yielding me this time and want to commend the work that he and the chairman of the Committee on Energy and Commerce did to improve this product. They did I think the best that they could given the constraints that they were forced to work under, those constraints being that under the rule and this parliamentary situation they had very limited control. I say that because I think they have improved a bad product, but not to the point where anybody ought to vote for it.

Once again, we have the phenomena that I have not quite focused on of a lot of my friends who so ably support the agricultural sector are great supporters of the free market, and I had not understood the principles of the free market to include quite the degree of Government guarantee to lenders that we see here. I think it is a mistake for us to continue on the path of pouring additional amounts of public money into the agricultural sector without some very significant changes.

Some changes are made in this bill to the whole Farm Credit System, and I understand the need for some response there. But the way the secondary market function exists now, even after the improvements that the chairman of the Committee on Banking, Finance and Urban Affairs and the chairman of the Committee on Energy and Commerce and those working with them were able to effect, still we have a degree of Government subsidy to encourage more lending into the agricultural sector that is not good economics. I do not think it is good agricultural policy, and it builds in further demands on the budget.

It is interesting that many of our colleagues have paused in our insistence on balanced budget amendments, Gramm-Rudman and other ways to cut spending to pour billions and billions more into the agricultural system. Some of it is necessary because we have obligations to deal with people who are already in trouble. But the secondary market with the guarantee in effect that it has is going to continue what seems to me to be a very inconsistent policy of deploring big spending while at the same time we pump it up some more.

So while under the rule there apparently will not be a chance to strike the whole thing, for me it is enough reason to vote against the whole bill.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH] who is one of the principal architects of the substitute to be offered by the gentleman from Texas [Mr. DE LA GARZA].

Mr. LEACH of Iowa. I thank the gentleman for yielding me this time and appreciate his leadership on this issue.

Mr. Chairman, let me just say the secondary market probably represents the single most important credit advance for agriculture in the history of the Midwest. It is of historic significance.

With regard to the comments of the gentleman from Massachusetts who formerly spoke, let me just suggest that this is a step toward free enterprise, not away from it, because in the last several decades what we have seen in agricultural lending is a pullback of the private sector more toward the cooperative sector. This puts the private sector back into lending.

The question can be raised what about the meaning of the 90-percent guarantee. In actual fact, the cooperative sector has 100 percent guarantee because that is the meaning of the bill we are addressing this afternoon, which is in effect a bailout of the Farm Credit System. So this is at least a 10-percent step toward more free enterprise, not toward less.

The second point I would like to raise is if we look at the age factor in American agriculture, the average age of the farmer in the Midwest is in the midfifties. We are going to see an enormous change in land structure in the next decade or two that is going to need an enormous amount of capital. This is one of the most effective, reasonable and accountable ways to bring it into the System.

Finally, let me just suggest that 5 or 6 years ago when one compared the average price of Midwestern or American agricultural land with German, French or Irish, we find that our land was selling at about a half to a quarter. Since then American Midwest farm land has depreciated some 60 percent while theirs has not. Since then the value of the dollar has gone down about 25 percent. Suddenly we have a "for sale" sign over Midwestern agriculture. If we do not come up with techniques and ways of bolstering land prices, and at the same time allowing American farmers to buy American land, we are going to be in a real pickle in this country.

So I would just suggest that this brings fair balance to a fair bill, and it is going to be good for the Farm Credit System and good for the American farmer. I urge its adoption.

Mr. ST GERMAIN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LEHMAN], a member of the committee.

Mr. LEHMAN of California. Mr. Chairman, I rise in support of H.R. 3030, the Agricultural Credit Act of 1987, and would like to indicate my strong support for title III which would establish a secondary market for agricultural real estate loans.

Title III would establish a new secondary market, Farmer Mac, to allow both the Farm Credit System and commercial lenders such as banks and insurance companies, to package or pool their agricultural real estate loans for resale to the investment community.

Farmer Mac will ensure that adequate funds remain available to meet the long-term needs of agriculture by providing greater access to the capital markets. It will help eliminate some of the regionalized problems currently facing agricultural lenders by allowing for diversification of lenders' loan portfolios and it will help stabilize both interest rates and land values.

Secondary markets are not new to Congress nor to the Federal Government. Secondary markets such as Fannie Mae, Freddie Mac, and Ginnie Mae have already contributed enormously to the success of the housing industry. Farmer Mac borrows from the success of these existing secondary market entities and has the potential to be as successful in meeting the real estate financing needs of agriculture.

Mr. Chairman, I first become interested in the need to create a secondary market during the 99th Congress and viewed it as means of avoiding some of the agricultural credit problems which we presently face and are attempting to address through this and other legislation during the past 2 years.

I was joined by my good friend from Nebraska and colleague on the Banking Committee, Congressman DOUG BEREUTER, as well as a number of other like-minded Members, in introducing our own version of Farmer Mac, H.R. 5132, during the 99th Congress. A hearing was held by the Banking Committee on this legislation over a year ago. Since that time a number of different legislative approaches have been introduced in this Congress. Also, the major trade groups who represent commercial agricultural lenders, as well as the Farm Credit System and interest groups who would be served or affected by such a market, have joined to develop this consensus approach.

Studies by these groups, as well as one done at my request by the General Accounting Office, confirm the potential of a secondary market as a means of facilitating the delivery of long-term agricultural credit. Extensive hearings by the House Agriculture Committee further confirmed the need to develop such a market. Let me add that Chairmen DE LA GARZA, ED JONES of the Conservation Credit Subcommittee, and my own chairman of the Banking Committee, FERNAND ST GERMAIN, should be acknowledged for their efforts to perfect this bill.

The substitute amendment being offered by Chairman DE LA GARZA is a well thought out approach that includes a number of recommendations of the Banking and Energy and Commerce Committees. All of the concerns which were raised by Farmer Mac critics several weeks ago have been resolved and this substitute is both good legislation and sound public policy.

Farmer Mac is not a bailout for bad farm debt. It is a means of providing stable and competitive interest rates for long-term agricultural real estate investments. It is time to put aside the rhetoric about creating long-range solutions for America's farmers and do something about it. Farmer Mac is such a solution. It has broad, bipartisan support and I urge my colleagues to support it today.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER], another principal architect of this section, and certainly one of our Members most knowledgeable about this legislation.

Mr. BEREUTER. Mr. Chairman, I thank the distinguished gentleman from Ohio for yielding me this time. I want to begin by saying that I am very pleased to rise in strong support of title III as it will be amended and for the legislation as a whole.

Two weeks ago I was concerned about the postponement of the consideration of title III, concerned with the reasons for doing so, but I do believe that the deliberations of the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce have answered questions in the four basic areas that have been raised about title III. But I think we owe a debt of gratitude to members of the Agriculture Committee, especially the gentleman from Tennessee [Mr. JONES] and the chairman and the ranking member of the Agriculture Committee for their work in crafting the basic legislation, and I commend them for it.

Our chairman, the gentleman from Rhode Island [Mr. ST GERMAIN], the chairman of the Committee on Banking, Finance and Urban Affairs has given us an opportunity to review the legislation and to make improvements in three of the specific areas of concern, and in one area by the Committee on Energy and Commerce, and I thank him and the ranking member [Mr. WYLIE] for that opportunity. I also want to express my appreciation to the gentleman from California [Mr. LEHMAN], for his early work with me on the secondary market concept already in the 99th Congress. We in turn were working with a former Member of Congress from Iowa, Mr. Cooper Evans.

I also want to express appreciation to the various farm organizations and banking associations who have lent their support to this bill. I would point out that virtually all farm organizations, and all financial associations support title III and the creation of Farmer Mac. This degree of support is historically almost unique, and it demonstrates the broad appeal and widespread support for a secondary market.

The many associations supporting Farmer Mac include the American Farm Bureau, the American Agriculture Movement, the National Farmers Union, the National Farmers Organization, the National Corn Growers, the National Cattleman's Association, the National Cotton Council of America, the National Pork Producers, the American Soybean Association, American Bankers Association, the Independent Bankers Association of America and the American Council of Life Insurance.

Today, I want to reiterate that title III is necessary for this bill to be balanced and equitable to all farm lenders and farm borrowers. If title III is not a part of this bill, we will place commercial agricultural banks at a serious disadvantage with the Farm Credit System and deny farm borrowers an alternative and competitive source of long-term, fixed-rate credit.

There have been a few critics of Farmer Mac, but many of their arguments have been spurious at best. Recently, I received a copy of a September 29, 1987, letter written by Mr. H.L. "Bud" Gerhart, a former president of the Nebraska Independent Bankers Association, to our distinguished colleague from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, which I think best summarizes the arguments in support of title III. Mr. Chairman, I will in the House, if necessary, ask unanimous consent to have the letter included in the RECORD.

I would like to quote from Mr. Gerhart's letter, he states:

> Over the 35 years that I have been an agricultural banker, the farmers in my area have enjoyed a variety of choices for their short-term and long-term credit. They could choose from country banks or Production Credit Association for their short-term credit—crop and livestock production, and equipment loans. And they could obtain long-term credit for farm land purchases from the Federal Land Bank or from several different life insurance companies.
>
> Recently, however, life insurance companies are sharply curtailing farm land lending because their supply of long-term funds are shrinking and lending on metropolitan properties offers a higher return than farm land. A farmer seeking a small land loan has to rely more on the Federal Land Bank which is now merged with its PCA counterpart. If that farmer wants a land loan and the Farm Credit System is the only supplier, he will also be forced to borrow his short-term (production) credit from the Farm Credit System. Thus his choices are narrowing.
>
> A secondary market would restore a healthy competitive environment for that farmer wanting to buy land as well as for both the FCS and the agricultural banks who could use the Secondary Market on the equal basis.
>
> The Farm Credit System record of serving its borrowers has been dismal. The 2,855 farms taken over by the FCS in the Omaha District alone during this recent ag crisis means that 2,855 of their farmer borrowers have lost their land, in many cases due to over-lenient lending practices during the 1970's. The real tragedy is that it is too late to save any of these bankrupt farmer borrowers and now the taxpayers must pick up the tab for $7 billion or more to rescue FCS from its past mistakes.
>
> Agricultural banks, on the other hand, have been much more successful in helping their farmer borrowers weather the agricultural crisis. Unlike the shareholders of the Farm Credit System, the ag bank shareholders had to absorb their own losses, thus paying for their own mistakes, with no Government bailout. In the few instances where agricultural banks have failed, the FDIC, not the Government, has picked up the tab. No taxpayer dollars have been used or asked for to cover agricultural bank losses.
>
> Without this secondary market, the farmer's only choice for his agricultural credit will be this huge taxpayer-subsidized Government cooperative. Agricultural bankers will be at a great competitive disadvantage as the Farm Credit System takes over the short term lending needs of farmers as a condition for making a long-term land loan.
>
> The FCS cost of funds today is 2.8 percent higher than their average lending rate. Even so, they are currently offering yet lower rates to farmers willing to move their production loans from agricultural banks to the Farm Credit System. This simply increases their lending loss differential which must be made up from yet higher taxpayer subsidies.
>
> It is difficult * * * to understand why this Republican administration and Mr. Greenspan—who by the way, it is reported, did not consult with the Federal Reserve Board before denouncing title III—can oppose this secondary market concept which would enhance a competitive borrowing environment for farmers. Instead the administration favors a huge Government-subsidized monopoly which is where the FCS and the FmHA will be headed without a secondary market for the private sector lenders * * *.

Farm borrowers deserve the option of more than one place to shop for real estate loans and for production loans. The secondary market will afford that choice with long-term, fixed-rate loans.

Likewise, agricultural banks deserve the opportunity to compete on a equal basis with the Farm Credit System and to continue serving their agricultural borrowers.

Mr. Chairman, I also want to quote from the September 30, 1987, testimony of Mr. C.G. "Kelly" Holthus, chief executive officer of the First National Bank of York, Nebraska, for the American Banking Association.

> The ABA believes that a secondary market for agricultural loans will force the Farm Credit System to become more competitive, but that a guarantee of equal access to the secondary market for the Farm Credit System, when combined with title II of H.R. 3030, which will provide financial assistance to the System and guarantee borrowers' stock, will result in no negative impact on the System.
>
> This conclusion was also presented by the Congressional Budget Office in its analysis of H.R. 3030 where it concluded that the secondary mortgage market would have a "minimal impact' on the cost of H.R. 3030 because CBO does not believe that the Farm Credit System will lose a large amount of business to commercial lenders.
>
> I might also note that it will take some time, probably several years, to develop the structure for the secondary market. It will take time for the stock in the Agricultural Mortgage Corporation to be purchased, the board to be selected, underwriting standards to be developed and approved, poolers to be certified, and relationships to develop between loan originators and poolers so that initial pools can be put together, credit enhancement provided and the securities sold to investors. Since we do not know how long it will take before the first pool of loans can be put together, it is reasonable to conclude that there will be no impact at all on the System for at least 2 years and probably little impact for some time after that. In addition, we expect the Farm Credit System to aggressively move to take advantage of this new product themselves once it is available and their borrowers' stock is guaranteed. In fact, FCS may use this new product to lure former borrowers back to the System.

I think it is important to concentrate on the fact that virtually all of the farm organizations, to my knowledge all of the major farm organizations, both of the major banking organizations, the insurance sector, the securities sector, are supportive of this legislation.

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Indeed, this is the most important measure that the 100th Congress or any recent Congresses have done to improve the access of farm borrowers to long-term agricultural real estate credit at fixed rates.

Most Americans do not realize, and even people in my own agricultural State do not realize, that it is currently impossible for a farm borrower to go to a commercial bank or to go to the Federal Land Bank, for that matter, and to secure long-term, fixed-rate agriculture credit. That is why we saw some of the devastating results that we did have in the late 1970's and early 1980's when the cost of credit practically doubled in the course of a single year.

I think, for the gentleman from Massachusetts [Mr. Frank], it is important to realize what the reforms to the farm credit system in this legislation would cause. The FCS, of course, is a farmer-owned cooperative effort; but what we are doing in trying to rescue and reform the Farm Credit System is moving it from a quasi-governmental organization a long way toward being a traditional governmental organization. That organization then, in concert with the Farmer Home Administration, would cause the Federal Government to dominate the source of agricultural credit. By giving farmers a competitive source of credit on main street America, we are insuring that the interest rates paid by farmers for operating loans and for real estate loans are likely to be more competitive—competitive from commercial financial institutions and from the reconstituted FCS.

Mr. Chairman, I urge my colleagues to support title III and, if title III is included, to support H.R. 3030.

Mr. ST GERMAIN. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. Lehman].

Mr. LEHMAN of California. Mr. Chairman, I would like to ask the gentleman from Tennessee [Mr. Jones] to engage in a brief colloquy with me regarding the intent of the financial reserves that are to be collected to cover the cost of operating the Farm Mortgage Corporation proposed in this legislation.

Mr. Chairman, the Farm Mortgage Corporation guarantee would be backed by three types of financial reserves: First, a 10-percent reserve established by the participating loan poolers; second, special reserve based on credit enhancement fees; and third, a $1.5 billion line of credit to the Treasury.

It is my understanding that the credit enhancement fee is to serve two distinct functions, and I would like to confirm that understanding with you. First, it is to be used to cover the operating costs of the Corporation and this legislation would instruct the Board of Directors of the Corporation to determine those costs and set a reasonable fee. Second, a special reserve would be established for any accumulation of fees not otherwise needed to operate the Corporation.

Mr. Chairman, is it not the committee's intent that these excess fees in special reserve are for use by the Corporation only, that the Corporation is entitled to the accumulated interest, and that none of the fee funds may be used outside of the program, such as the Treasury's general fund or for other general deficit reduction purposes?

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield to me?

Mr. LEHMAN of California. I yield to the gentleman from Tennessee [Mr. Jones].

Mr. JONES of Tennessee. I thank the gentleman for yielding.

Mr. Chairman, the answer is "Yes," the gentleman from California is correct.

Mr. LEHMAN of California. I thank the gentleman.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nebraska [Mrs. Smith], another Member who has worked hard and persistently on this very needed legislation.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank my distinguished colleague for yielding to allow me to speak in favor of title III, the secondary market provisions of H.R. 3030.

H.R. 3030's primary focus is to prevent the almost certain collapse of the Farm Credit System, but its development has opened up a much broader dialog.

The House Agriculture Committee has proposed the establishment of a secondary market for agricultural real estate loans to promote a more diversified and versatile agricultural credit delivery system.

I am talking about the quality of credit available to farmers, not necessarily the quantity.

Yes, the creating of the secondary market will allow commercial lenders to participate in making long-term loans at fixed interest rates. But has competition suddenly become a dirty word.

The Federal Land Banks certainly weren't established by Congress to exclude private sector lenders from making loans for the purchase of farmland. They were established to fill the gap that private lenders were unable to fill.

Title III's opponents launched a campaign to strike the secondary market from H.R. 3030 citing possible weakening of the Federal land banks, increased Treasury liability, and added costs of H.R. 3030.

Nationwide, the Federal land bank's share of the agricultural real estate debt is about 52 percent. In 1978, the Federal land banks held only 40 percent of the market and were recording record earnings.

According to the wildest estimates, the Federal land banks may lose up to 10 percent of their customers. But even if that would happen, their market share would still be historically high.

And I would dispute that assumption. The Federal land banks would also participate in a secondary market and would themselves reap the benefits.

The secondary market may actually help the Federal land banks in several ways and lower the cost of the assistance program. Better quality credit options would make the purchase of farmland more attractive helping to bolster land prices.

The Farm Credit System currently holds 2.4 million acres of farmland worth $1.5 billion. Every increase of 1 percent in farmland values would actually save the Farm Credit System $15 million.

Land prices largely determine the ability of agricultural lenders to restructure nonaccruing loans so that the Farm Credit System is earning something on those loans. The more borrowers who remain in farming repaying their loans, the less this bill will eventually cost.

Title III goes even further in protecting the taxpayer's interest despite the arguments of those who oppose title III and have told us that the secondary market for agriculture is different from secondary markets in other industries.

I do agree that this secondary market is different! H.R. 3030 provides some unique features to insulate the Federal Government from possible exposure.

Title III of H.R. 3030 creates the secondary market as a part of the Farm Credit System which would be the primary guarantor of Farmer Mac's obligations to investors, not the Federal Government.

Participating lenders would be required to establish a reserve of 10 percent of the value of all loans which would be called on long before the Treasury comes into the picture.

Since the private sector is primarily at risk, they have every incentive to abide by underwriting standards that would protect the quality of loans in the secondary market.

Title III may actually reduce the Treasury's risk if you consider the Federal Government is the ultimate backstop for the Farm Credit System. This bill may actually transfer some of that risk to the privately run, privately funded, secondary market.

Finally, Farmer Mac would not necessarily bring more money into agriculture at a time when demand for debt is shrinking. It would give the farmer more options and allow all rural lenders, the Farm Credit System included, to better manage their loan portfolios.

I commend the Agriculture Committee and the Banking and Commerce Committees for their fine efforts to develop this legislation. I believe we must move ahead with the secondary market, and H.R. 3030.

I urge my colleagues to support title III, the secondary market provisions of H.R. 3030.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I rise today in support of title III of H.R. 3030, which establishes a secondary farm mortgage market to provide low-cost capital to the agricultural economy.

There have been a number of objections to this title, some of which will be addressed in amendments the House will consider today. Although this title has been controversial, I urge my colleagues today to adopt it as an integral part of a fair and balanced farm credit package.

This title is good for the entire rural credit infrastructure. It establishes a secondary market which gives rural banks access to the same low-cost capital used by the Farm Credit System.

In the past 3 years, well over a dozen rural banks have failed in my district alone, victims of the farm crisis just as surely as the Farm Credit System has been a victim. As we provide assistance to the Farm Credit System, we need to ensure a level playing field for the other important players in the rural credit arena.

This title is good for farmers, because it will lead to lower interest rates. This secondary market sets in motion two forces to bring down interest rates. First, it gives more lenders access to a secondary market with lower capital costs. Second, it enhances the competition for credit in rural areas, promising a drop in interest rates as a result.

Finally, this title is good for small businesses. Across the rural counties I represent, rural development and job creation have become the leading issue. To create new jobs and build new businesses, you need a healthy credit sector. That credit must come from rural banks, which are allowed to diversify their portfolios. When we strengthen rural banks through the secondary market, we enable them to provide stronger support in other areas that contribute to rural job creation.

This legislation will provide needed assistance to the Farm Credit System. To be complete, however, this bill must also include a secondary market for all of rural America. Such a market will be good for rural banks, good for farmers, and good for Main Street. It will be good for rural America.

Mr. WYLIE. Mr. Chairman, I have no further requests for time but I would like to conclude by saying that I think the substitute that will be offered by the distinguished chairman of the Committee on Agriculture will substantially improve the secondary market provisions in H.R. 3030. A secondary market has become critical to the smooth flow of funds into other mortgage areas; it has worked for housing and I believe it can work for our farmers and ranchers.

The secondary market holds a very real potential for insuring that our farmers and ranchers have a long-term, stable source of funds available. I think this is a huge improvement over the bill that came before our Banking Committee and I urge adoption of the substitute and subsequent passage of the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER], a member of the committee.

Mr. SCHUMER. I thank the chairman and all those who worked so hard on this bill: the chairman in our committee, the gentleman from California [Mr. LEHMAN], and others.

Let me say that I rise in reluctant support of the legislation. I believe that the changes that were made by both the Banking and the Commerce Committees are salutary. They take a bill which simply said, "Go out into the secondary market, do whatever you can," and they honed it and they crafted it and they made it so that both the lenders are safeguarded and the taxpayers are safeguarded, in a far more careful way.

Why is my support reluctant? I would have preferred, much preferred a sunset to this bill. We have problems in the agricultural sector, no doubt about it.

When we had a problem in New York City a long time ago—it seems a long time ago, but it was only 12 years ago—we asked for some kind of loan guarantee and that loan guarantee was supported by many from other parts of the country. When they need help it is easy to fall back on the "total free market" viewpoint, but it is not really fair and it is not right.

But the New York City loan guarantees as well as the Chrysler loan guarantees and others said that "If a part of the economy is down in the dumps let's give some temporary Government help, let's lift them up and then let the private market work again."

That is indeed how Farmer Mac should work. We should be giving help, but we should sunset the legislation so that if a private secondary market can eventually occur, so that if the agricultural sector rebounds, this need not be here.

I was unable to prevail that view upon the Committee on Agriculture and, faced with a choice of voting for the existing bill, which the good chairman from Rhode Island as well as the gentleman from Michigan [Mr. DINGELL] have corrected, I think it is better to have this proposal than not.

So I thank the Chair for the time and hope that the proposal will work and hope that really the Congress will revisit it if we find that a private market will work eventually in the future.

Mr. ST GERMAIN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce, is recognized for 15 minutes.

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in support of the amendment offered by the distinguished chairman of the Committee on Agriculture.

As my colleagues are aware, the Committee on Energy and Commerce had some serious concerns about title III, as originally reported, with regard to its treatment of investor protection issues under Federal and State securities laws. I know you are all too familiar with the fraud and parade of other horribles in the unregulated Government securities market that caused us to pass the Government Securities Act of 1986 in the last Congress.

I am happy to say that due to the bipartisan cooperation of three committees—Agriculture, Banking, and Energy and Commerce—we have been able to present the House with a secondary trading market that is workable, efficient, and in the interests of farmers and investors. I commend my colleagues on these committees for their hard work in reaching the necessary compromises that will allow the House to act on this matter today.

There has been some confusion about the reasons for requiring registration of these securities, and I would like to clarify that point for the benefit of those not familiar with the public policy and interpretations surrounding the issue.

Farmer Mac securities are not the equal of any of the existing "agency" securities, and Farmer Mac itself is not the equal of the existing "quasi-Government agencies." Title III creates a hybrid. Exemption from the Federal and State securities laws therefore is not appropriate.

This legislation creates a type of security different from securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, Freddie Mac, the Federal National Mortgage Association, Fannie Mae, and the Government National Mortgage Association, Ginnie Mae. The mortgage-related securities issued by those federally chartered corporations are, in the case of Freddie Mac and Fannie Mae, which do the pooling themselves, guaranteed as to payment of principal and interest by these entities and, in the case of Ginnie Mae, guaranteed by the United States directly. The farm loan securities, to which Farmer Mac would add "credit enhancement," would be neither issued by nor guaranteed in full by an agency or instrumentality of the United States. Therefore, an exemption for these securities from Securities and Exchange Commission oversight under the Federal securities laws is not warranted.

Section 5.90(b) of the bill provides:

> Each security for which credit enhancement has been provided by the Corporation shall clearly indicate that the security is not an obligation of, and is not guaranteed as to the principal or interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

The second provision of the bill indicating that a cedit enhancement constitutes less than a full guarantee is section 5.85(b)(1). This section sets forth the marketing facility's obligation to maintain either a subordinated interest in the loan pool or a reserve upon which the facility must draw before it "makes any demand with respect to [Farmer Mac's] credit enhancement." Futhermore, Farmer Mac will "assure that timely receipt of principal and interest due security holders only after exhaustion of" the reserve or retained subordinated interest. As the bill is drafted, Farmer Mac is obligated to pay only 90 percent of the principal and interest due on the securities. As a result of these provisions, investors will need to look to two sources—the facility's reserve or subordinated interest and Farmer Mac—for payment.

Thus, the bill expressly limits Farmer Mac's credit enhancement by requiring investors to look first to the private issuer's 10 percent reserve or subordinated interest for payment. Only after the reserve or subordinated interest is exhausted could the issuer draw on the credit enhancement. In addition, the bill contemplates that only the issuers could draw directly upon the credit enhancement, so that individual investors could obtain the benefit of that enhancement only indirectly through an issuer's efforts. The comparable section applicable to Ginnie Mae (12 U.S.C. 1721(g)) provides a far more complete and direct obligation to pay:

> In the event the issuer is unable to make any payment of principal of or interest on any security guaranteed under this subsection [Ginnie Mae] shall make such payment as and when due in cash * * *.

Under these circumstances, the farm loan securities are not securities guaranteed by an instrumentality of the United States.

Registration of these securities will give investors needed information on the financial resources of both the marketing facility issuer who will do the pooling and the insurer, Farmer Mac. It will also give investors access to material information on other matters, such as an issuer's right to call the security before maturity and—particularly relevant here—the risk of prepayment of the underlying assets.

I urge my colleagues to vote for title III.

□ 1430

Again, I want to congratulate and commend my colleagues on the Agriculture Committee. I want to urge my colleagues to vote for title III. I believe it is a useful and desirable step forward.

Mr. Chairman, I reserve the balance of my time.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I had expected when we came into the Chamber today to add my support to the proposed substitute to title III of H.R. 3030, which is, as I understand it, to be offered by the gentleman from Texas [Mr. DE LA GARZA]. I understood earlier today when our Committee on Energy and Commerce marked up this bill that a compromise had been worked out. However, I understand that at the present time that may not be the case and that some changes in the compromise, even as we speak, may now be being carried forward in the text. I just do not know whether I want at this point to give my wholehearted approval to this legislation.

I wonder if I might ask the gentleman from Illinois [Mr. MADIGAN], the ranking minority member on the Committee on Agriculture, who also sits with me on the Committee on Energy and Commerce, if he is satisfied with what has taken place here with respect to new limitations that I understand have been placed in the text of the legislation with respect to a 960-acre limit on property subject to loan, and a $1.5 million limit?

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. LENT. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, the gentleman from New York [Mr. LENT], the ranking member of the Committee on Energy and Commerce, will recall that in committee this morning we received an explanation as to what was going to be in the package that would represent the work of the Committee on Energy and Commerce, and the Committee on Banking, Finance and Urban Affairs. We were told this morning that there would be a provision in this package that would limit an individual loan, the amount of an individual loan, to 2 percent of the total amount of the pool that would be offered in the secondary market.

Now I understand that in negotiations that have taken place here on the floor while we are discussing this bill, that a determination has been made that that 2-percent provision is going to be dropped and will not be in what is being offered as the work of the Committee on Energy and Commerce and the Committee on Banking, Finance and Urban Affairs.

Instead of that, a provision will be inserted in the work of these two committees that will say that the limitation on an individual loan will be a loan for the purchase of 960 acres maximum, or $1.5 million maximum, whichever is the greater of the two.

Mr. Chairman, if we are talking about 960 acres of dry land wheat farm ground, that may be something that is worth $960,000. If we are talking about 960 acres of vineyards in Napa Valley, CA, that may be worth $25 million.

If the language says "whichever is the greater" and the 2-percent number is not in there anymore, then we have made a very, very significant change in what we were told this morning we would be discussing this afternoon.

I do not know if that is good for the package or bad for the package. I do not know if the 960-acre limitation is a good idea or a bad idea. I do not know if $1.5 million is a good idea or a bad idea.

I understood that the 2 percent that we were talking about this morning, and which I thought not to be a particularly onerous thing, because I understood there was no limitation on the size of the total pool, but I would say to the gentleman from New York that there is a tremendous difference in the value of 960 acres of dry land farming ground in one place versus 960 acres of strawberries or 960 acres of vineyards, and I do not know if we are treating agriculture equitably by what we are proposing to do here.

Mr. Chairman, I also will say that no one on this side of the Chamber apparently was consulted about this.

Mr. LENT. Mr. Chairman, I thank the gentleman from Illinios [Mr. MADIGAN] for his contribution. As I indicated earlier, I had hoped to be in a position as the ranking member of the Committee on Energy and Commerce to give the proposed substitute to title III my full support and endorsement.

I do want to say, however, that I wish to thank the chairman of the House Committee on Banking, Finance and Urban Affairs, and the chairman of the House Committee on Energy and Commerce, and the ranking member of the Committe on Banking, Finance and Urban Affairs for their efforts in taking care of and correcting a number of shortcomings in the original title III. I particularly want to highlight the securities law improvements included in this amendment. I am loath ordinarily to included in this amendment. I am loath ordinarily to require unnecessary Federal regulation, but we we saw an opportunity to prevent the kinds of terrible securities frauds that occurred in the Government securities markets.

I truly believe that was have worked out language to prevent the conditions that precipitated the Maryland and Ohio savings and loan crises, and I particularly wish to underscore the fine work of our Subcommittee on Telecommunications and Finance, particularly the gentleman from Massachusetts [Mr. MARKEY], the chairman; and the gentleman from New Jersey [Mr. RINALDO], the ranking minority member, for holding a hearing on Farmer Mac and in helping to formulate the important securities law improvements which are included herein.

Hopefully, before the day is over and we have a vote on the amendment to be proffered by the gentleman from Texas [Mr. DE LA GARZA] or his designee, that some of these problems that the gentleman from Illinois [Mr. MADIGAN] raises will have been worked out to the satisfaction of both sides of the aisle.

In the meantime, Mr. Chairman, having no further requests for time, I am going to yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, farmers need the correct variety of circumstances to get a good crop. The ground has to have the right amount of moisture to plant the seed. The frosts must not come unexpectedly and the winds must not blow too fiercely. The rains must arrive at the right time and the warm Sun must provide for proper growth. It takes a long time—2 years in many cases—to prepare for a crop of wheat and just as long for a herd of beef steers. Farmers do not become prosperous in a single season; for success it takes a number of years with the right things happening at the right time.

Many of the elements of farming are outside the jurisdiction of the Congress. We do help with conservation efforts to prevent wind and water erosion, soil banks to preserve future production and reduce overproduction, and Federal crop insurance to lessen the economic pain of crop failures.

In Montana and across the Nation farm credit is also vital; it is as important as the seed bed and the rain to success. And like the weather, it is necessary that farm credit be dependable over a long period of time for it to truly benefit farmers.

All small farmers and even many large farmers do not have very deep pockets. They do not have large cash reserves. Family farmers depend on their agriculture credit to meet operating expenses—the seed, fuel, and fertilizer for crops and feed and medicine for their livestock. But one important thing that we can do is to provide dependable farm credit.

This bill will put the shaken foundations of the Farm Credit System on firm ground with authorization for full U.S. Treasury backing. It will help restore confidence. It guarantees that those folks, who have until now been unable to receive credit for their FCS "B" stock or who have concern for the future will be able to redeem stock promptly and know it will be guaranteed solvent for at least 5 years. This bill requires the Farm Credit System and the Farmers Home Administration—the agriculture lender of last resort—to address the realities of reduced land and real estate values. Bankers no longer would charge farmers interest on large loans without adequate asset backing and then immediately sell the farm at drastically reduced levels to an absent landlord when the farmers can not make the payment—write down is required before liquidation. The bill provides up to $500,000 for matching grants for States to institute mediation service between borrowers and lenders to help keep farmers on the land where this is appropriate.

This bill does not guarantee the low interest rates that farmers need; but it does make a necessary start in that direction. This bill does not give the Farm Credit System the market advantage over commercial banks that they would like; but it strikes a balance. This bill does not restore local control comparable to former years; but it does increase the opportunity for advice and consultation from our farmers.

This is necessary legislation. I will vote yes and I urge my colleagues to do the same.

Mr. DINGELL. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I would like to briefly respond to the gentleman from Illinois' [Mr. MADIGAN] remarks concerning his reservations of some of the changes in title III.

First of all, the 2-percent limitation on the amount any single loan may be of a given pool is in the bill. That is unchanged.

Mr. MADIGAN. Mr. Chairman, will the gentleman from California yield?

Mr. LEHMAN of California. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, we have just been told that it has been taken out.

Mr. LEHMAN of California. It has not been. I am sure the gentleman from Tennessee will be glad to substantiate that.

In addition to that and after consultation with people on the other side, specifically the gentleman from Iowa [Mr. LEACH], who has been involved in this for several days, there is a provision in the bill that puts a $1.5 million ceiling on an individual loan for a single pool or a 960-acre limitation, whichever is greater.

The reason for that is very simple. Land values change all over the country. We have land in California that could be worth anywhere from $2,000 an acre to $20,000 or $30,000 an acre. That would be an exceptional extreme, but the point is that a dollar limitation really says nothing about the size of the farming unit or its viability, and we felt that those properties which have been defined already by the Federal Government as family farms in other ways ought to be eligible for this program and not be strictly limited by a dollar amount.

In many cases the acreage amount in other parts of the country would actually be lower than the dollar limitation.

Mr. MADIGAN. This morning, when the work of the Committee on Banking, Finance and Urban Affairs was explained to the members of the Committee on Energy and Commerce, I specifically asked the gentleman from Massachusetts [Mr. MARKEY] if there was a dollar limitation or an acreage limitation contained in the product of the two committees that we were addressing this morning.

I was specifically told that there was no limitation.

Since we came on the floor this afternoon, I have been told that a new compromise has been reached that does not have this acreage limitation or the dollar limitation that was in the package this morning. I do not know if that is a good thing or a bad thing, and that is the point that I am making.

I do not know what the consequences of that are for American agriculture, but it is being sprung on us here when we were being told this morning that there was no such thing in the bill.

Mr. LEHMAN of California. Mr. Chairman, there is such a thing in the bill and I suggest it will be very beneficial for the program overall. This ensures that the benefits flow to the greatest number of farmers.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY], the very able chairman of our Subcommittee on Telecommunications and Finance.

Mr. MARKEY. Mr. Chairman, I would like to note that the inquiry this morning went to the 2-percent question and we did note that, but on any of the other questions no specific inquiry was posed to the subcommittee chair, and as a result, I do not recall, and I know that I did not make any specific commitment on other aspects.

Mr. MADIGAN. Mr. Chairman, would the gentleman yield?

Mr. MARKEY. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, if the gentleman will recall, I asked him two questions this morning. The first question was with regard to item No. 4 on the first page of the handout. The second question was with regard to item No. 8 on the second page of the handout. One of those questions went to the 2-percent issue, which the gentleman from Massachusetts [Mr. MARKEY] and I discussed.

Mr. MARKEY. That is correct.

Mr. MADIGAN. The other question went to the acreage limitation, dollar limitation which the gentleman from Massachusetts [Mr. MARKEY] told me had been left blank, and the gentleman from Massachusetts further told me that there was no inclusion of anything like that in the package this morning.

Mr. MARKEY. That is as I had been advised at that point this morning without making any commitment as to what the actual status of it was. I did not comment that there was no, or were not negotiations in process. I just said that in fact there had been nothing that had been agreed to at that point.

Mr. MADIGAN. Nothing had been agreed to?

Mr. MARKEY. That is correct.

Mr. MADIGAN. And that it was blank, is the term the gentleman from Massachusetts had used?

Mr. MARKEY. That is correct.

Mr. MADIGAN. And if the gentleman will yield further, since we began this debate on this bill this afternoon, an agreement apparently had been reached over there in your precinct to include this 960 acres or $1.5 million.

My point is that that may be good and that may be bad, but we were not ready to take this bill up this afternoon and we are doing things over here on the right side here, if you want to take a look over here, there is still a major disagreement about this bill.

Mr. MARKEY. I can understand that. And, if I may reclaim my time, I say to the gentleman from Illinois [Mr. MADIGAN] that as the gentleman knows, our committee had jurisdiction over the securities aspect of this legislation, and we have discharged our responsibility in that area.

The type of agreement which the gentleman is now talking about runs to the Committee on Agriculture, and the Committee on Banking, Finance and Urban Affairs' aspects of this legislation, so as a result quite understandably we were really not a party to that negotiation, so in fact it was in fact an accurate statement to in fact indicate to the gentleman from Illinois that it was blank and that in fact negotiations were underway. That is the point that we were trying to make to the gentleman this morning.

As the ranking minority member of the Committee on Agriculture, I think that the gentleman from Illinois [Mr. MADIGAN] should be concerned about that, but I do not think it really is a Committee on Energy and Commerce question here at this point.

I think if you do have further discussion, I think it probably should be with the Committee on Agriculture, or the Committee on Banking, Finance and Urban Affairs members at this point in time.

Mr. Chairman, at this point I will indicate my support for the de la Garza substitute for title III of H.R. 3030. This proposal is the product of an intensive work effort including staff and membership on the Committee on Energy and Commerce, the Committee on Banking, Finance and Urban Affairs, and the Committee on Agriculture.

This legislation has gone through an extraordinary journey to get where it is today. I want to commend in particular the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce; and the gentleman from Rhode Island [Mr. ST GERMAIN], the chairman of the Committee on Banking, Finance and Urban Affairs, for their remarkable leadership in improving the original proposal. I also want to commend the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture, for his cooperative and receptive approach to the amendment process.

In addition, I want to express my appreciation to the ranking minority members of the relevant committees, in my case to the gentleman from New York [Mr. LENT], and the gentleman from New Jersey [Mr. RINALDO], who have been a vital part of this entire process. I want to thank each of them for their efforts.

Shortly before the August recess, the Committee on Agriculture reported out H.R. 3030, a bill intended primarily to provide financial assistance to the troubled Farm Credit System.

The bill left potential investors at a serious risk and sent the wrong signal to Wall Street at this troubled and critical time in financial markets, and it carved out a back-door exception to the Glass-Steagall Act. The Committee on Energy and Commerce has fashioned amendments in the securities area, and those amendments, I believe, remedy the deficiencies which were in fact existent in the legislation dealing with fraud, dealing with disclosure, dealing with other areas of securities law that had not been properly addressed to ensure that it did in fact reflect the types of protections that investors and all who are concerned with this issue should be afforded.

□ 1445

As a result, we have crafted the amendments. They are included as a part of this package.

They have been drafted by the Committee on Energy and Commerce in conjunction with the Committee on Banking, Finance and Urban Affairs and the Committee on Agriculture.

I do believe that they meet the needs of a modern financial market, and I would hope that they would be included and accepted as part of the overall package which is moving forward in the House at this time.

Mr. DINGELL. Mr. Chairman, I yield 2½ minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

The Energy and Commerce bill, or the amendments that they suggested which are included in the de la Garza amendment providing something slightly different for the securities issued under these provisions than they do under the securities issued under Ginnie Mae or Fannie Mae in that these securities, Farm Credit securities, are not exempt securities under the Securities Act of 1933; and therefore, they trigger in registration and disclosure provisions.

I happen to support what the gentleman has done, but I think for the record we ought to clarify why we are making these securities subject to registration and appropriate regulation where we have not done that in the housing securities under Ginnie Mae or other securities under Fannie Mae.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding to me.

The other agencies referred to pool and issue the securities themselves. They are backed by the full faith and credit of the United States. That means that the registration requirements and the disclosure requirements are no longer necessary.

While Ginnie Mae guarantees securities pooled by third parties, the loans in the pool are themselves Government-guaranteed.

Freddie Mac's statute authorizes that agency to guarantee third-party pooling, which it does not do, but says that any such securities will not be exempt from securities registration.

There are other differences as well with regard to underwriting standards. Farmer Mac provides "credit enhancement" for securities or loans pooled by private third parties.

That is an important distinction—by private third parties—and is obligated to pay only 90 percent of the principal and interest due on the securities, but only after exhaustion of a 10-percent reserve or retained subordinated interest.

Investors must, therefore, look to and evaluate two sources, first, the third-party issuer's reserve or subordinated interest and Farmer Mac for payment.

Mr. GLICKMAN. I think the gentleman from Michigan [Mr. DINGELL], the chairman, has made a good distinction, one that will properly protect farmers in this country from fraudulent activities.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of title III of the Agricultural Credit Act of 1987.

I would like to express my appreciation to the gentleman from Michigan [Mr. DINGELL], the chairman, and the gentleman from Massachusetts [Mr. MARKEY], and the gentleman from Texas [Mr. DE LA GARZA], and the gentleman from Rhode Island [Mr. ST GERMAIN], who have been working together tirelessly over the past weekend to try to put together a consensus bill, especially on title III.

What we have before the House today is probably as good a product that we could put together under the conditions we have been working under the last few days.

I have some concerns about the securities laws provisions in this particular legislation as it applies to Farmer Mac.

Under this bill, Farmer Mac is not treated in a manner consistent with other secondary mortgage markets or the Farm Credit System.

Farmer Mac securities would be subject to Securities and Exchange Commission registration and disclosure, so today clearly what we envision is the creation of a hybrid Government security to fund Farmer Mac, and there should be no question that that is what we are attempting to do today.

Whether in practical reality that is what will be achieved or not is still a matter of question, but there is another point that many of the Members are concerned about that we should also address for just a second, and that is the question of Federal Government exposure.

One of the things that I am more comfortable today with than I was a week ago about this legislation is the fact that the way it is structured today, I think that we have significantly restricted potential Government exposure with this legislation.

Specifically, the underwriting standards that the Committee on Banking, Finance and Urban Affairs have put together are tough. They are certainly tougher than the existing underwriting standards that the Farm Credit System is currently operating under, so that is one point to keep in mind.

The 10-percent reserve established in this legislation certainly makes this particular pool and this particular secondary mortgage market much more secure than the Farm Credit System certainly, and I would argue as secure as the other secondary mortgage markets that are available for the housing industry are; Mr. Chairman, I urge my colleagues to support this legislation.

Again I express my gratitude to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee.

The CHAIRMAN. All time for the Committee on Energy and Commerce has expired.

Does the gentleman from Tennessee [Mr. JONES], the designee of the gentleman from Texas [Mr. DE LA GARZA] seek recognition at this time?

Mr. JONES of Tennessee. Mr. Chairman, I understand that my side has 15 minutes and the gentleman from Illinois [Mr. MADIGAN] has 15 minutes?

The CHAIRMAN. The gentleman is correct.

Mr. JONES of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the fact that the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce have been as cooperative as they have.

No doubt there have been some definite improvements made as a result of the cooperation between the three committees, and I do certainly congratulate and say to the chairmen of both committees how much I appreciate the fact that they were as cooperative as they have been.

Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I thank the gentleman for yielding me this time.

When we first began considering the issue of the secondary market, I have to admit at that time I had some very serious reservations.

Being familiar with the Farm Credit System, and in the way that it is set up, my father spent 35 years as a manager and president of associations in Oklahoma, and another 10 years on the board, so I was very familiar with the System.

The concern was that it appeared to me that the U.S. Government was in effect going into partnership with the Farm Credit System in an effort to make sure that the Farm Credit System survived.

While at the same time, we were entering into that partnership, that assistance to the System, we would be with the secondary market establishing competition with the System itself, so there seemed to be a conflict as far as the interests of the taxpayers and the efforts we were putting forth.

In fact, we could succeed in destroying the Farm Credit System in our zeal to create the secondary market.

As we reflect upon this, Mr. Chairman, I think that we have to keep in mind what the principal objective is. The principal objective has to be to provide financing to our Nation's farmers, to make money available, and the facts are that today that is not the case.

There is a shortage of financing for farmers. There is a shortage that we can see in the foreseeable future, so with that in mind, I felt it was important that we would create the secondary market, and we do it in such a manner that we give the Farm Credit System the best possible chance to survive, and hopefully we will create two systems that will actively compete against each other, that will profit and do well; and at the same time, they will provide our farmers with the very best of both worlds; namely, low prices, low interest rates through this kind of competition.

Mr. Chairman, with that in mind, I would strongly urge the Members to support the secondary market concept.

Mr. Chairman, I yield back the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding me this time.

I would like to alert the Committee to my changed amendment, which was allowed previously by a unanimous-consent request by the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee.

We are all concerned about the health of the Farm Credit System. I originally was seriously concerned about the status of title III. It opened up a secondary market to commercial banks. Yet, because of borrowers' rights that we have attached, effectively it did not allow that market to be available for the Farm Credit System. Thus, we would find that if the secondary market provided a lower interest rate, and it is estimated it would be a half to three-quarters of a percent lower than perhaps the Farm Credit System could get, it would mean that the health of the system would be further destroyed by the commercial banks being able to take away the good, healthy loans, and leave the Farm Credit System with downward spiraling numbers of loans and increasing interest rates.

What I tried with my first amendment to be offered and before the committee was to say, let us attach the borrowers' rights to all the loans. This received the unanimous acclamation of being disastrous to everybody due to the fact that they did not believe that these loans would be marketable at all or would carry substantially higher interest rates than the Ginnie Mae's and other guaranteed loans.

Thus my new amendment will say OK, look at it the other way. Let us give the borrower the option in the Farm Credit System. If there is a lower interest rate on the secondary market, let him say, I will waive those borrowers' rights which will require a higher interest rate through the regular system and get the advantage of lower rates of the secondary market.

Those that do not want to waive these rights may take the higher interest rate through the normal bonding procedure of the Farm Credit System. Such a borrower would rather have those protections; and therefore, accept the possibly higher interest rate that may be offered by the normal system and not use the secondary market system.

Mr. JONES of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. STALLINGS], a member of the committee.

Mr. STALLINGS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 3030 in its entirety. This is an extremely important and timely piece of legislation. It is a culmination of many months of committee work, testimony, investigation, debate, and compromise. Extensive hearings have been held on all portions of the bill. I again commend the committee leadership and my colleagues for their dedicated work.

As anyone who has been in rural America knows, the agricultural economy continues to suffer from its worst period since the Great Depression. More than 700,000 family farms have been lost in the last 5 years. Many farm lending institutions have been crippled with this avalanche of failing farms. This bill directs needed credit relief to borrowers of all major agriculture lenders, primarily to those with the Farm Credit System, but also to farm borrowers with the Farmers Home Administration, and commercial lenders.

The farmers and ranchers of America continue to work endless hours to provide food and fiber for the citizens of this country, providing the cheapest source of the widest variety of foods anywhere in the world. I ask my colleagues to now support our food producers and vote for H.R. 3030.

Today we consider titles 3 and 4, the secondary market for farm real estate and the reorganization of the Farm Credit System. Both of these provisions are necessary to move agriculture and agriculture lenders out of the current recession.

As the original sponsor of the secondary market bill in the House, I can assure you that this provision has been carefully crafted and researched by the Agricultural Committee, and it has been reviewed and fine-tuned by the Banking and Commerce Committees. Without a secondary market, farmers and ranchers of this country will be left with no available options for long-term fixed rate mortgages which have been available in the housing area for years.

Without a secondary market, land prices will continue to be subject to speculative investment and wide price swings. Without a secondary market for agriculture real estate, farm borrowers will continue to see no competition between lenders for real estate loans.

A secondary market is necessary. Now is the time to implement one while land prices and interest rates are relatively stable and at a low point, and I urge my colleagues to support title III.

The reorganization of the system is also a necessary step. For the system to become more competitive and effectively use new financial instruments such as the secondary market, and to make good use of Federal funds, the Agriculture Committee has provided strict restructuring guidelines for the system in order to receive the Federal assistance. I urge my colleagues to support title four.

Finally, I draw the attention of my colleagues to the provisions on borrowers rights in this bill. The guiding premise for this Member in considering this legislation was and continues to be: "How will it help the farm borrower?" We cannot afford to pump Federal funds into lending institutions if we do nothing to pass this assistance on to the agriculture producers. These are important provisions in this bill and I urge support for final passage of H.R. 3030.

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Mr. MADIGAN. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Chairman, I thank the gentleman from Illinois for yielding me this time.

Mr. Chairman, today, the Agriculture Committee stands before this body with a legislative package which will profoundly effect the American farmer.

It seems hard to imagine a time when credit to buy farm land or to purchase seed to plant was not available. But, before our predecessors had the vision of creating a cooperative of agricultural lending, the Farm Credit System [FCS], our farmers didn't have such sources available. The environment in which such an incomprehensible reality could exist is approaching again.

If you listen to the debate today, you will know that reaching an accord on a Federal assistance package has been a difficult task for the committee. We represent widely divergent regions whose agricultural interests vary widely. There is one overlying consideration which is the cord that unites us. We all know that the cornerstone of our Nation's agricultural future is a healthy and competitive source of agricultural credit. Furthermore, we realize that FCS is the major component in assuring such a source.

I understand and whole heartedly support our efforts to expeditiously and prudently deal with the system's financial woes and the difficulties created by the implementation of the 1985 amendments. Through their administration, Texas' healthy district was levied assessments to the point where its own viability was threatened. Both the good sense of the Congress and the wisdom of the courts speak to such imprudence.

In that light, the repayable, Federal assistance provided in H.R. 3030 is an absolute necessity. In order to make sure that viability of the system is accomplished and to undo such misguided policy, we must have some temporary help from the taxpayers.

Many of the Members of this body insist that to allow us to use Federal dollars, some changes must be made. It is understandable, and might I add responsible, on the part of my colleagues to refrain from writing the system a check for several billion dollars without insisting a change in business as usual. Reality mandates a change.

On the other hand, Texas has taken care of its financial business and has given more than its fair share to help the system work out it own financial woes. As legitimate as the need for change, is the desire among borrower/stockholders of healthy districts to lend some direction to the system's restructure. It was my strong hope that healthy districts would be allowed to vote on structural changes before they occurred.

As my colleagues on the committee know, I have strong reservations regarding title IV of the legislation. While I would have the new language go even farther in allowing for stockholder participation, I am pleased that the committee and my colleagues recognizes the importance of such input.

If change is inevitable, then my constituents and I will accept that change. I will expect members of local associations interests and concerns to be considered in developing policy for regional service centers. I will expect that Federal land bank associations find opportunity available to compete in the environment a secondary market creates. I will expect that stockholders do indeed, once and for all, have an ultimate say in the day-to-day management of their local associations. Finally, I will expect and insist that a stable and reliable source of agricultural credit are the result of these profound changes. Because, after all, that is why we are here.

I thank the Members and ask that my colleagues cast a "yea" vote on H.R. 3030.

Mr. JONES of Tennessee. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman I rise today in strong support of title III of H.R. 3030 which establishes a Secondary Market for Agricultural Mortgages. When this was first proposed, I felt that the Farm Credit System was agriculture's secondary market and such a proposal would do more harm than good to agricultural lending. I was also concerned about underwriting standards, costs to the taxpayer, the possibility of harming the Farm Credit System, and other adverse ramifications. I did not wish to find myself supporting secondary markets, only to end up like the little dog who one day actually caught the school bus, and was not quite sure what to do with it. I studied this concept with a great deal of caution and concern. Finally concluding that such an entity would provide farmers with a more sensitive lending environment I felt that if such a provision were carefully crafted, the secondary market would only benefit those who must take on the risk of investing in agricultural real estate. And this could be accomplished without experiencing the possible consequences that we all have toiled with in the past.

The Agriculture Committee in its deliberations have addressed many concerns which were crucial to the proposal being adopted by the committee. In addition, both the Energy and Commerce Committee and the Banking Committee drafted changes dealing with such issues as underwriting standards and others which were needed in order that this newly created paper could function in the bond markets. I will briefly discuss why I believe this market will operate in a manner which will benefit farmer/borrowers, while not providing harmful side effects.

(1) SECURITIES REGULATION

Although other secondary markets are currently exempt from many Federal and State securities laws, agreements have been reached to provide that "Farmer Mac" be subject to these laws. I believe the Agriculture Committee demonstrated a sincere interest and effort to work out these considerations with members on the Energy and Commerce Committee.

(2) CONSUMER PROTECTION

The Agriculture Committee has also shown a willingness to provide that this secondary market be subject to State and Federal antifraud statutes.

(3) FARMER MAC'S EFFECT ON THE FARM CREDIT SYSTEM

Many of my colleagues, both on and off the Agriculture Committee, have expressed justified concerns over the possible impact which a secondary market could have on the Farm Credit System. I myself am a borrower from the Farm Credit System, and I share this concern of my colleagues. This concern has prompted me to be one of the principal authors of title four, which deals with the structure of this system. For it is my belief that a restructured, streamlined Farm Credit System will be able to deliver credit and compete with other entities wishing to make farm real estate loans on an equal basis, and still remain the primary lender to agriculture. Consequently, all lenders will benefit from Farmer Mac the old fashion way they'll earn it.

Contrary to some beliefs, Farmer Mac will provide the Federal Land Bank Associations with a new mechanism which will limit exposure to interest rate risk. In addition, a secondary market will provide many associations with needed liquidity which can be used to replenish loss reserve accounts, or serve other purposes. Let me add the Congressional Budget Office does not expect the Farm Credit System to lose a large amount of business to the secondary market.

(3) BENEFITS TO FARMERS/BORROWERS

The most important aspect of Farmer Mac is the benefits that it will yield to farmer/borrowers. A more responsive and sensitive lending environment will be the best means of serving the borrowers of the 1990's and beyond. The agriculture industry is dependent on large investments of capital via land and machinery. This coupled with the fact that the industry's marketing structure closely fits that of pure competition where there are many sellers and few buyers, means that the cost of debt is perhaps the most crucial element in the success or failure of farming. A secondary market will provide the necessary sensitivity, and responsiveness, through additional competition by accessing capital markets.

Another very crucial benefit is the effect that Farmer Mac could have on the stabilzation of land values, a value which I suspect is often overlooked. Stabilization of farm land values will have a very favorable effect on borrowers loan equity positions, and will build a solid foundation for the turnaround of the Farm Credit System.

SUMMARY

The process which has produced title III of H.R. 3030 has been slow and deliberate. However, Farmer Mac is now a product which addresses the crucial concerns of those serving on the Agriculture, Energy and Commerce, Banking Committees, and many others who have expressed similar concerns. After careful consideration, I am convinced more than ever that Farmer Mac will benefit both farmers and farm lenders without serious consequences. I strongly urge my colleagues to support title III of H.R. 3030.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding.

The gentleman's characterization of what this does in the long term for American agriculture and farm borrowers I think is excellent and I commend the gentleman on his statement. I wish to associate myself with the remarks of the gentleman in that respect.

Mr. MADIGAN. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, it gives me a great privilege this afternoon to rise in support of title III of this particular legislation and to say a special thank you to all those who have been so involved in the working of this whole concept of a secondary market.

When we had general debate on this legislation, now some time ago, I mentioned at that time that it was the overall goal of the House Agricultural Committee to respond in total to the challenges of rural agricultural credit. We dealt with the concept of the borrower's rights. We dealt with the Farmers Home Administration. We dealt with a Farm Credit System and now we are dealing with the commercial sector in the development of a new secondary market for agriculture.

Whether we like it or not, Mr. Chairman, the fact is, the reality is, that the agricultural policy and trends in this country suggest to us that our farm entities are getting bigger. Some of that is incurred by the 1985 farm bill. Some is simply a response to both domestic and international agriculture as we see it.

To go to my own home State of Wisconsin, it is probably one of the last bastions of "family dairy agriculture" in this country. In 1970 the average Wisconsin farmer had 33 cows on his farm. In 1985, the average farmer had 44 cows, and by the year 2000 it is projected that the average farmer will have 66 cows. In other words, over the 30-year period of 1970 to the year 2000 we will have a doubling of the size of the individual production units in my State of Wisconsin. If anything, we are trailing the norm in this country. We are certainly not the leaders.

That indicates to us that the farms we have will be larger, but also there will be fewer farms.

Now, if you have a larger farm, first and foremost you recognize that that is going to demand increased credit needs over a smaller size production unit.

At the same time, if we have less farmers, we quickly recognize, as I think everyone of us from rural America so unfortunately experiences in our own districts today, the need for rural economic development, and yet we have some problems.

One of the things that has been happening parallel to the agricultural transition is also a transition in rural banking in this country, and that transition has moved, for the most part, to the concept of interstate banking into larger banks, et cetera.

Now, we would like to think that every customer of a local bank is so loyal to that community that regardless of interest rates, they will stay at the local bank, keep the money in the local depository and keep it all at home. The reality is that in this day and age that is not happening. We are seeing money being drawn out of our small communities. We are seeing the growth of branch and interstate banking and all of a sudden there is more of a risk and an unwillingness of those banks that are there to invest a percentage of their loan portfolios in agriculture that they have invested in the past, despite by virtue of the transition to agriculture a need for higher amounts of money to be invested in agriculture.

When you add all of this up, we are trying to respond to the dual needs. No. 1, available interest, long-term interest, and hopefully a lower interest rate to our farmers; at the same time, allowing those local financial institutions the opportunity to market their loans on a secondary market, to reliquefy their local cash reserves and use that money again, whether it be for a farmer, not quite in the quality of a loan portfolio of the first farmer, or perhaps to use that money for rural economic development; so the concept of a secondary market as we have had in housing, as we have had in student loans, is a day whose time has arrived for rural agricultural real estate as well.

We believe that the general guidelines adopted by the three committees today move us in the right direction. I will admit that I have a couple questions that I want to have defined and resolved by the technicians between now and conference, but I think today we ought to accept this consensus agreement. We ought to move forward and we ought to make sure that title III is a part of a comprehensive to deal with all the rural credit needs in America in 1987 and beyond.

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Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, on behalf of all of my farmer borrowers from Dodge City, KS, and also all of my friends and colleagues from California, Ohio, and Illinois, I want to say it has taken us the better part of 3 years to address the serious and continuing credit problem in farm country; today we take a most important step.

I wish to commend the distinguished chairman of the committee, Mr. DE LA GARZA, our ranking member, Mr. MADIGAN, the chairman of the Conservation and Credit Subcommittee, Mr. JONES and our ranking member, Mr. COLEMAN. But, in fact, Mr. Chairman, all of the members of the House Agriculture Committee should receive at least some credit in addressing a most difficult and controversial problem.

Last month, the House completed action on the first two titles of farm credit package—the fruits of a marathon session by the committee—we finally passed a bill at 2:30 in the morning—just before the August recess.

I must say, that while our goal was to ensure that borrowers of agriculture credit from the Farm Credit System and the Farmers Home Administration will finally have access to a fair and equitable restructuring and forbearance process, I am concerned that the so-called borrower rights provision of this bill can also be a two-edged sword, causing delay, imposing further costs upon a beleaguered system, and in some cases merely dig the credit hole into a virtual credit grave. I know it is not good politics to say so, Mr. Chairman, but we are very good at mandating forbearance, restructuring and a whole host of borrower rights—and also very good at looking the other way when those rights cause delay, and impose costs upon other borrowers within the system.

Be that as it may, today, we finish work on the two remaining titles.

Mr. Chairman, it was apparently necessary to pasture the secondary market and restructuring titles of this bill at least temporarily within the Banking and Currency and Energy and Commerce Committees. Having worked long and hard through great controversy and difficulty, all committee members are keenly interested in what my colleagues have agreed to do to improve the secondary market title of H.R. 3030. I feel compelled to say, Mr. Chairman, having worked on this problem for the better part of 3 years, it does cause this Member at least some concern that we did not have access to the final product—the one with all of the "i's" dotted and "t's" crossed—until now.

And, I am concerned with changes supported by some of my colleagues that we need to place limits on the size of operations allowed to participate in what we call Farmer Mac. I agree that consideration needs to be given to prevent the Farmer Mac from becoming a credit option available only to a handful of very large producers. However, this business of applying a yardstick to farm program benefits or an economic tool like the secondary market based a social and political and parochial definition of a family farm by individual Members of Congress is very counterproductive. It is important that we do not exclude producers based on someone else's arbitrarily established limits.

I know that targeting of Federal assistance, in whatever form, is a most popular notion within this Congress. There is just one problem. Every Member of Congress wants to define a family farmer to fit his or her district or according to some Walden Pond, nostalgic, Saturday Evening Post cover, reverie that makes good politics.

It is my understanding committee discussion featured limiting the secondary market to dollar amounts and acres and that those dollar amounts and acres pretty much took care of a State like Iowa but somehow decreed that an efficient father-and-two-son dryland wheat operation in my district could or should not qualify. I will not support secondary market restrictions that are designed to fit so called small family farmers in certain geographic areas and restrict family farmers in other areas from participating.

Last, I say to my colleagues, I want to give credit to the gentleman from Texas [Mr. STENHOLM] for being the catalytic factor, if you will, of really pushing the restructuring proposal through the bill.

Mr. JONES of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY], a member of the committee.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 3030, the legislation before us this afternoon.

I initially had concerns about the secondary markets, but I believe it is the right way to go. I think what we are doing here is proper. I think the limitations that have been proposed by the Committee on Banking, Finance and Urban Affairs and will be accepted in the compromise presented later on this afternoon are proper with $1.5 million and a 1,000 acre maximum.

I would like to direct my remarks to the last title, the reorganization, the amendments that will be offered by the gentleman from Texas. There are many people who have worked long hard hours on this. None of us know the right answer. There is no ideal. There is no perfect organizational structure. I would certainly do it different from what is being proposed, and I know some of those who have concerns about what I understand will be offered would do it differently.

But I suggest we need some meat on this framework for when we go to conference with the Senate. I do not think we can say that each local association shall have total autonomy, that there has to be some regional organization, providing for some regional structure as delegated by the local associations, which is what the amendment of the gentleman from Texas will do. I think it is a workable approach. I think it is an approach that we can take to conference and build upon and perhaps improve upon some more and answer some of the concerns.

But for those who are concerned with this approach, I would urge them to reconsider and let us work together rather than be divided on this issue, because we have worked so long and so hard for so many months in trying to reach a consensus position.

Mr. MADIGAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Kansas [Mr. Roberts].

Mr. ROBERTS. Mr. Chairman, when my time ran out I was paying tribute to my friend and colleague, the gentleman from Texas [Mr. Stenholm], who is going to offer an amendment to the restructuring and reform amendment to this bill. My colleague and friend, Mr. Stenholm, as he has done so many times in the past, took on an unpleasant task and with a great deal of courage and introduced a restructuring plan that became the catalyst for action and compromise. Without Mr. Stenholm, I doubt seriously, we would have a bill.

Of particular interest is the change in the language that would allow FCS and its district banks to decide how the regions will be drawn. There are concerns that Congress was going to dictate which district banks would merge and where the new regional bank would be located. This is not going to be an easy decision, but I think the System's Directors are in the best position to decide, not the Congress.

I support the Stenholm concept. I'm sure as we work through the proposed amendment, some of us will find issues and sections that raise concern. But, my farmers and ranchers have told me, "Don't provide one single dime of taxpayer money, unless we reform and restructure to provide local control."

It was clear that the original Stenholm proposal provided a catalyst for reorganizing the Farm Credit System. It was also clear that it will take a great deal more effort to develop a workable process to accomplish the goal of reform and restructuring. Hopefully we will accomplish that Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois [Mr. Madigan] has 1 minute remaining and the gentleman from Tennessee [Mr. Jones] has 2½ minutes remaining.

Mr. MADIGAN. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. Schuette].

The CHAIRMAN. The gentleman from Michigan [Mr. Schuette] is recognized for 1 minute.

Mr. SCHUETTE. Mr. Chairman, I thank the gentleman from Illinois for yielding me this time.

Mr. Chairman, I rise in support of the efforts with respect to title III and the secondary market, and the efforts of the many committees here. The reason I do this is twofold.

Rural banks, rural commercial banks, are under similar portfolio pressures with interest rates, land values as the Farm Credit System has. This secondary market creation will inject capital into the commercial banking stream to help producers, men and women in agriculture for years ahead.

Second, the economics of the banking environment is in an ever changing environment. We need to make sure there is enough flexibility in the future that there is a reliable lender of credit on the farm credit side in rural banks in small town America. This is the second reason why I rise in support of the efforts of the Agriculture Committee and the other two committees who have worked on it today.

I urge my colleagues to support the amendments to title III.

Mr. JONES of Tennessee. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. Oakar], a member of the Committee on Banking, Finance and Urban Affairs.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 3030 and in support of the de la Garza amendment.

I want to say that I am glad that we were all able to work together on this compromise. I think we forgot about jurisdictional considerations and thought about the agricultural industry and how important it is to our country. I was very, very pleased with the work done. I am pleased that some of the language that I submitted for inclusion during our Banking, Finance and Urban Affairs Committee meetings ensures that the secondary markets opens opportunities for small family farmers so that they can grow and prosper, and at the same time the secondary market will provide cash-flow to smaller financial institutions so that they can expand their loan base and provide service to their deserving customers.

I am concerned that title III clearly reflects the intent of this Congress to provide low cost loans to agriculture, and that these low cost loans be made at fixed rates.

I think this amendment includes language that authorizes Farmer Mac to assess risk-based fees, and it is further intended that these fees be made at minimum cost to the borrower.

Finally, I would like to say, in conclusion, Mr. Chairman, Fannie Mae and Freddie Mac have worked very well. Let us all work together so that Farmer Mac can work equally as successfully.

Mr. CRAIG. Mr. Chairman, I would first like to thank the Agriculture Committee for their work on this legislation. I appreciated Subcommittee Chairman Ed Jones' work in soliciting a wide range of qualified testimony and would like to thank him again for the chance to sit with the committee and to question witnesses.

When I testified about the need for a farm credit bill before Chairman Jones' subcommittee this spring, I pointed out the number of borrowers that were daily leaving the Farm Credit System. At that time I urged committee members to act quickly. I appreciate their response and the great amount of work they have done to bring this legislation to the floor in a timely manner.

I especially appreciate the work that was done over the weekend and late last night to outline a workable secondary market for farm mortgages. I have been a strong supporter of the secondary market concept over the years and give my full support to this proposal. While a secondary market is not a cure-all, it is a valuable tool that can be used to provide the agriculture industry with a stable money supply.

To fully understand the need for a secondary market, it helps to look back as well as forward.

In the past, farmers had the chronic problem of being unable to access a constant, stable money supply. In good years, commercial banks were willing to have agriculture be a large part of their portfolios; in bad years, banks restricted their number of agriculture loans, leaving many farmers without the necessary credit to run their operations. Young people found it hard to get into farming because they could not get loans to buy land.

To alleviate this problem, in 1916 Congress passed the Federal Farm Loan Act. Later legislation in 1923 and 1933 helped shape the Farm Credit System. Finally farmers had a reliable source of credit that was dedicated to agriculture. Until recently, farmers have been able to rely on the Farm Credit System. When commercial banks turned farmers away, they could go to the Federal land bank or the production credit association for the credit they needed.

But the world of finance has changed since 1933. The money supply is under more economic constraints. Farmers no longer compete only for a regional money supply; they are thrown into a national market and are forced to compete with all sectors of society for the limited funds available.

Commercial banks and insurance companies have turned their backs to the long-term risks of farm loans. Packaged loans that can be sold for cash present a far more attractive option. Liquidity is at a premium and farm loans do not provide it. This reluctance to make agricultural loans comes at a time when the Farm Credit System—because of poor management decisions and the recent farm recession—does not have the capital to lend to the farmers the banks are turning away. Again, as in the past, there is a shortage of money in the agricultural sector.

A secondary market in farm mortgages is one method of attracting loan money to agriculture. A secondary market would relieve banks of the weight of long-term agriculture loans in their portfolios. Farm loans could be packaged and sold, bringing in cash that would be available to new borrowers.

Insurance companies would also find these packaged loans more attactive, thus allowing agriculture access to their funds.

For the Farm Credit System, the secondary market could solve some of the money shortage problems. Like commercial banks, Federal land banks and production credit associations could package and sell loans, freeing up capital in the Farm Credit System for additional lending.

I strongly support the secondary market proposal. This provision, along with restructuring in title IV and the affirmation of borrower rights in title I, provides the tools necessary to rebuild a stable credit source for farmers across the Nation.

I must state that I do not support title II, which deals with the Farmer's Home Administration. I feel many of the changes are unnecessary and too costly. I am also concerned that the bill does not specify where the recapitalization funding will come from. I hope that these problems will be addressed—if not today, perhaps in a House-Senate conference.

These problems, however, do not outweigh the importance of the other sections of the bill. I support this legislation overall and urge your support for it, especially for the secondary market in farm mortgages.

Mr. DREIER of California. Mr. Chairman, I rise in support of the compromise amendments to title III, which would establish a secondary market for agricultural real estate loans. The creation of this new secondary market, known as Farmer Mac, will be instrumental in improving the delivery of agricultural credit, at a lower cost, to American farmers. It will also have the added benefit of improving the health of those banking institutions in agriculture regions that have been hard hit by the recent recession in the farm economy.

As with other federally sponsored secondary market programs, I have some reservations about the Federal Government's involvement in the development of such a market for agricultural real estate. In particular, I would prefer to see a Federal guarantee lower than the 90-percent guarantee specified in title III of H.R. 3030. I do not believe a 10-percent risk retention is a sufficient inventive in itself to ensure that lenders will act prudently when originating loans.

However, I do believe that the strict underwriting standards, which will be subsequently strengthened by the de la Garza amendments, will minmize any potential risks to the Treasury. Moreover, I recognize that long-term fixed rate loans are not available to farmers, and some Federal backing may be neccessary, in the interim, to ensure stable and affordable interest rates. Hopefully, once the secondary market develops, the Federal guarantee will be rendered unnecessary and will be phased out.

I believe the Farmer Mac proposal is not perfect, but it will enhance credit opportunities for the American farmer. I urge support for title III, and the compromise amendments offered by Chairman DE LA GARZA.

Mr. ROBERT F. SMITH. Mr. Chairman, I rise once more in support of H.R. 3030; today, specifically, I rise in support of title III of that bill, providing a secondary market for agricultural loans.

Inclusion of secondary loan market opportunities from the Federal portfolio isn't new. The precedent was set when Congress created Fannie Mae, Freddie Mac, and Sallie Mae to serve as loan conduits between Wall Street investors and homeowners and students. I think farm borrowers and the financial institutions which support them should be afforded the same benefits of this modern financial mechanism which urban and suburban borrowers have enjoyed for years. Approving a secondary market for agricultural loans through this bill will benefit farmers, ranchers, and agricultural lenders by ensuring that needed capital reserves are replenished, making the Farm Credit System more competitive today and more stable for the long run.

Farm borrowers will benefit by the lower interest rates which can be made available through fixed rate, long-term mortgages. Services to those borrowers would be enhanced due to the increased competition among lenders. Loan originators, using capital replenished by secondary market sales, will have new resources for additional lending to farmers and ranchers.

I think the farm credit bill before you today is the most courageous restructuring I could hope for. With the addition of secondary markets, it's a well balanced bill, capable of bringing a breath of fresh air to the suffocating Farm Credit System.

Indeed, there are many reasons for voting, with me, in favor of H.R. 3030. They include affordable food prices, world trade opportunities and stability in our Nation's economic system. I urge my fellow colleagues to vote for H.R. 3030 in its entirety.

Mr. WOLPE. Mr. Chairman, I rise in support of H.R. 3030. Our colleagues on the House Agriculture Committee have reported a bill that offers a real chance for a long-term solution to the severe financial problems faced by America's single largest agricultural lender, the Farm Credit System [FCS].

We are all too familiar with the economic realities that have prompted this debate. A decade of gross market fluctuation in the agricultural sector have thrust rural America into a seemingly endless economic crisis. In my home State of Michigan, the farmer depression of the 1980's has not been as severe as in some other Midwestern States. Nonetheless, we have lost about 4,000 farm operations in the last 6 years alone. Since 1981, sharp reductions in farm income—coupled with falling land prices—have saddled our Nation's farmers with over $200 billion of debt. And the FCS, the national repository for nearly a third of this debt, now stands at the brink of economic collapse.

We had all hoped the legislative steps we took in 1985 would enable this massive farmer-owned loan network to endure these difficult economic times. Unfortunately, our efforts fell short of the mark. The FCS officials have reported $4.8 billion in operating losses since 1985. Moreover, they project another $3 billion of losses by 1990. Many months ago, members of the House Agriculture Committee realized that the time has come for fundamental reforms. Committee members and their staffs worked many long house with farmers and lending institutions to develop this consensus FCS assistance package. Favorable action by the House today is necessary. We simply cannot afford the "wait and see" approach taken by the administration on this issue.

Though I think we can all agree that the deterioration of the farm economy has been the primary cause of the weakening of the FCS, the authors of H.R. 3030 also recognize that we cannot offer Government assistance to the FCS without appropriate internal reforms to ensure greater accountability and efficiency. H.R. 3030 reorganizes and streamlines this out-dated nationwide network without removing control from those who own the system: the borrowers. This bill provides incentives for farmers to continue to obtain credit from the FCS by providing a 5-year guarantee on the stock held by its borrowers and by extending Government backing to system bonds.

Finally, let me briefly comment on two key strengths of this measure—the restructuring of loans of financially stressed borrowers and the creation of a secondary market for agricultural loans. The debt restructuring that is required of both the FCS and FmHA in the bill is modeled after a program in St. Paul launched by the Seventh District Farm Credit Services, the banks that service four northern farm States, including Michigan. Passage of H.R. 3030 would simply require FCS lenders to restructure the loans of financially strapped borrowers if the lender can recoup more through restructuring than through foreclosure. Not only will the debt restructuring provision help keep farmers on the land, but it will strengthen the system financially. In fact, St. Pauls's aggressive restructuring program has yielded significant profits in the last year. It restructured the loans of about 5,500 farmers who were having trouble making payments, and in the second quarter of this year, showed a $7 million profit. In Michigan, where the FCS has about 21,500 borrowers with a total loan value of $1,275,000,000, the St. Paul program has enabled many families to continue farming by restructuring 410 loans since January 1987. Debt restructuring is an effective protection for farm families, and I am persuaded that this provision of H.R. 3030 will reduce the likelihood of Federal budget exposure. Therefore, it promises to be an effective protection for the American taxpayer.

Second, I would like to commend my colleagues Mr. DE LA GARZA, Mr. DINGELL and Mr. ST GERMAIN for their committees' work on title III of this bill, the creation of a secondary market for agricultural loans. I believe that this secondary market will afford farmers an additional source of credit and long-term, fixed-rate mortgages at potentially lower interest rates.

A strong FCS, a consistent and reliable source for agricultural loans, is no less important today than in 1916 when Congress passed the Federal Farm Loan Act, the beginnings of today's FCS. Therefore, we must commit ourselves to the financial security of this system and to the future availability of credit for farmers by the prompt passage of H.R. 3030.

Mr. GLICKMAN. Mr. Chairman, I rise in support of H.R. 3030, as reported by the Committee on Agriculture.

My comments address provisions of H.R. 3030 that will achieve two important objectives. One, they will put to rest an ongoing controversy relating to assessments made by the Farm Credit System Capital Corporation that has raged since enactment of the 1985 amendments to the Farm Credit Act. Two, they will equitably adjust certain payments made by System institutions under contractual agreements.

The Farm Credit Act of 1971, as amended, authorized banks to engage in self-help through capital preservation agreements to maintain the stability of the Farm Credit System. The banks voluntarily entered into such agreements. The 1985 amendments to the Farm Credit Act made self-help mandatory. The amendments contemplated that financially healthy System institutions would assist those System institutions suffering severe financial stress. The Farm Credit System Capital Corporation was established, in part, to administer the program of System self-help. One of its functions was to "assess" the "have" institutions for funds to be disbursed to aid the "have nots." The identity of the haves and the have nots has changed to some extent since the 1985 amendments.

It soon became apparent that the level or magnitude of the Capital Corporation assessments would spawn much divisiveness. The differences focused in large part on whether the regulations on the subject issued by the Farm Credit Administration were consistent with the statute. The issue essentially is the degree that the resources of contributor institutions may be tapped for assessment purposes. A series of lawsuits ensued challenging the validity of the regulations and the actions of the Capital Corporation taken under them. Some System institutions responded to the Corporation's assessments; others did not.

H.R. 3030, as amended, would finally resolve this issue. It directs the Temporary Assistance Corporation, which the bill establishes as successor to the Capital Corporation, to refund to System institutions, on December 31, 1987, amounts they have paid to the Capital Corporation under its assessments. This would involve retirement of debt and equity obligations issued to such institutions by the Capital Corporation. The legislation would not authorize the Temporary Assistance Corporation to make any new assessments for System self-help purposes.

At this point, it should be made clear that the healthier System institutions, under the capital preservation agreements, have made available over $1 billion to recipient institutions.

System institutions contributed substantial amounts to other institutions under these agreements during the third quarter of 1986. The third quarter contributions were made to avoid a crisis situation under the understanding that they would be refunded upon the receipt by the receiving banks of benefits that potentially were available under then-pending amendments to the Farm Credit Act. Those amendments did become law, but under regulations promulgated by the Farm Credit Administration, the benefits did not become available to receiving institutions until after the third quarter. H.R. 3030 would direct the repayment or reversal of those contributions. It should be noted here that some of the institutions that have contributed in earlier quarters under capital preservation agreements were in need of financial assistance themselves in the third quarter and were among the receiving banks. Other contributing banks now are in need of assistance themselves.

The recipient institutions, however, are in no position to refund the contributions from their own resources. They continue to experience grave economic difficulties. Therefore, the bill requires reversals or refunds only when the recipient institutions obtain financial assistance from the Temporary Assistance Corporation. In this regard, it is essential that these institutions receive assistance from the Corporation that is equivalent to the assistance they had received from the capital preservation agreements.

Financial assistance provided pursuant to the capital preservation agreements is equity of the receiving banks—as contrasted with, for example, debt. Therefore, that assistance protects those banks and their shareholder borrowers against impairment of borrower stock and constitutes collateral for outstanding bank securities. To avoid impairment of borrower stock and collateral deficiencies, replacement assistance from the corporation must be equivalent in kind as well as amount. The bill is intended to assure that present assistance under the capital preservation agreements may be retained by the receiving banks until financial assistance is received from the Corporation that is equivalent in both kind and amount to the assistance presently recorded on the books of receiving banks.

I would add here that, because the bill provides for assistance to the System through the Temporary Assistance Corporation and for protection to holders of System securities through an insurance fund, the bank capital preservation agreements would be suspended during the 5-year life of the Corporation and thereafter when insurance funds are available to help System institutions meet their obligations on debt instruments.

Mr. Chairman, in my judgment, H.R. 3030 constitutes a balanced package of assistance and reforms that will ensure that farmers, ranchers, and their cooperatives will continue to have a reliable source of credit under competitive terms and conditions. I urge my colleagues to support the bill.

Mr. JONES of Tennessee. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

AMENDMENT, AS MODIFIED, OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Chairman, pursuant to the rule, I offer a modified amendment to H.R. 3030 in lieu of amendments 1, 26, 27, 29, 30, and 31.

The CHAIRMAN. Pursuant to the rule, it is now in order to consider the modified amendment offered by the gentleman from Texas, Mr. DE LA GARZA, or his designee, Mr. JONES of Tennessee, in lieu of the amendments numbered 1, 26, 27, 29, 30, and 31 in House Report 100-307, which shall be debatable for 20 minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Said amendment is subject only to the amendment offered by the gentleman from Vermont, Mr. JEFFORDS, consisting of the modified text of amendment No. 26 in House Report 100-307, which shall be debatable for 10 minutes, equally divided and controlled by the gentleman from Vermont, Mr. JEFFORDS, and a Member opposed thereto.

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MADIGAN. Mr. Chairman, I am reading from a previous order of the Chair with regard to the amendment now being offered by the gentleman from Tennessee [Mr. JONES].

It says: "Such amendment en bloc shall be debatable for not to exceed 20 minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture."

The CHAIRMAN. The Chair would state the gentleman's point is well taken and the gentleman is correct.

Mr. MADIGAN. I thank the Chair.

The CHAIRMAN. There does not have to be an opponent, and the gentleman's statement is correct.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment, as modified, offered by Mr. JONES of Tennessee: Page 144, strike out line 10 and all that follows through page 170, line 4, and insert in lieu thereof the following:

Page 144, strike out line 10 and all that follows through page 170, line 4, and insert in lieu thereof the following:

TITLE III—SECONDARY MARKETS FOR AGRICULTURAL LOANS

SEC. 301. THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

(a) Purposes.—The purposes of this section are—

(1) to establish a corporation chartered by the Federal Government;

(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation referred to in paragraph (1); and

(3) to provide for a secondary marketing arrangement for farm real estate mortgages which meet the corporation's underwriting standards in order to—

(A) increase the availability of long-term credit to farmers at stable interest rates;

(B) provide greater liquidity and lending capacity in extending credit to farmers; and

(C) provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding, including funds at fixed rates of interest.

(b) Agricultural Mortgage Secondary Market.—Title V of the Farm Credit Act of 1971 (12 U.S.C. 2221 et seq.) is amended by adding after the part added by section 106(a) the following:

"Part F—Agricultural Mortgage Secondary Market

"SEC. 5.81. DEFINITIONS.

As used in this part:

"(1) Agricultural mortgage loan originator.—The term 'agricultural mortgage loan originator' means any Farm Credit System institution, bank, insurance company, business and industrial development company, savings and loan association, commercial finance company, trust company, credit union, association of agricultural producers, or other entity that originates and services agricultural mortgage loans.

"(2) Agricultural real estate.—The term 'agricultural real estate' means a parcel or parcels of land—

"(A) used for the production of one or more agricultural commodities or products; and

"(B) consisting of a minimum acreage or producing minimum annual receipts as determined by the Corporation.

"(3) Board.—The term 'Board' means—

"(A) the interim board of directors established under section 5.82(c); and

"(B) the permanent board of directors established under section 5.82(d),

as the case may be.

"(4) Certified agricultural mortgage marketing facility.—The term 'certified agricultural mortgage marketing facility' means a secondary marketing agricultural loan facility that is certified in accordance with section 5.84.

"(5) Corporation.—The term 'Corporation' means the Federal Agricultural Mortgage Corporation established under section 5.82.

"(6) Credit enhancement.—The term 'credit enhancement' means the guarantee of timely payment of the principal and interest on securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans.

"(7) Interim board.—The term 'interim board' means the interim board of directors established under section 5.82(c).

"(8) Permanent board.—The term 'permanent board' means the permanent board of directors established under section 5.82(d).

"(9) Qualified agricultural mortgage loan.—The term 'qualified agricultural mortgage loan' means any obligation which—

"(A) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States;

"(B) is approved by a certified agricultural mortgage marketing facility as meeting the standards established by the Corporation under section 5.87;

"(C) is an obligation of—

"(i) a citizen of the United States; or

"(ii) a private corporation or partnership whose members, stockholders, or partners hold a majority interest in the corporation or partnership and are citizens of the United States; and

"(D) is an obligation—

"(i) of a person, corporation, or partnership that has training or farming experience; and

"(ii) meets the criteria established by the Corporation under section 5.87, including underwriting standards.

"(10) State.—The term 'State' has the same meaning given such term in section 5.51(1).

"SEC. 5.82. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

"(a) Establishment.—

"(1) In general.—There is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation which shall be a federally chartered instrumentality of the United States.

"(2) Institution within farm credit system.—

"(A) In general.—The Corporation shall be an institution of the Farm Credit System.

"(B) Financial relationship with other FCS institutions.—The Corporation shall—

"(i) not be liable for any debt or obligation of any other institution of the Farm Credit System; and

"(ii) be the only institution of the Farm Credit System liable for the credit enhancement provided under section 5.85.

"(b) Purposes of the Corporation.—The Corporation shall—

"(1) in consultation with agricultural mortgage loan originators, develop uniform underwriting and other necessary standards for qualified agricultural mortgage loans;

"(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Corporation for the provision of credit enhancement for specific mortgage pools; and

"(3) provide credit enhancement for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans.

"(c) Interim Board of Directors.—

"(1) Number and appointment.—Until the permanent board of directors established pursuant to subsection (d) first meets with a quorum of its members present, the Corporation shall be under the management of an interim board of directors composed of 9 members appointed by the President within 60 days after the date of the enactment of this part, by and with the advice and consent of the Senate, as follows:

"(A) 3 members appointed from among persons who are representatives of banks, other financial institutions, and insurance companies.

"(B) 3 members appointed from among persons who are representatives of the Farm Credit System institutions.

"(C) 2 members appointed from among persons who are farmers and have not served as directors or officers of any financial institution.

"(D) 1 member appointed from among persons who represent the interests of the general public and have not served as directors or officers of any financial institution.

"(2) Political affiliation.—Not more than 5 members of the interim board shall be of the same political party.

"(3) Vacancy.—A vacancy in the interim board shall be filled in the manner in which the original appointment was made.

"(4) Continuation of membership.—If—

"(A) any member of the interim board who was appointed to such board from among persons who are representatives of banks, other financial institutions, insurance companies or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from among persons who are not or have not been directors or officers of any financial institution becomes a director or an officer of any financial instituiton,

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative or becomes such a director or officer, as the case may be.

"(5) Terms.—The members of the interim board shall be appointed for the life of such board.

"(6) Quorum.—5 members of the interim board shall constitute a quorum.

"(7) Chairperson.—The President shall designate one of the members of the interim board as the chairperson of such board.

"(8) Meetings.—The interim board shall meet at the call of the chairperson or a majority of its members.

"(9) Commencement of operations.—Upon the appointment of sufficient members of the interim board to convene a meeting with a quorum present, the interim board shall arrange for an initial offering of common stock and shall take whatever other actions are necessary to proceed with the operations of the Corporation.

"(10) Termination.—The interim board shall terminate when the permanent board of directors established pursuant to subsection (d) first meets with a quorum present.

"(d) Permanent Board of Directors.—

"(1) Time of organization.—When banks, other financial institutions, insurance companies, and Farm Credit System institutions have fully paid in $20,000,000 in capital contributions to the Corporation in return for common stock of the Corporation, the interim board shall arrange for the organization of a permanent board of directors.

"(2) Number and selection.—After the termination of the interim board as provided in subsection (c)(10), the Corporation shall be under the management of a permanent Board of Directors composed of 13 members selected as follows:

"(A) 3 members elected by the holders of the class of common stock issued to insurance companies, banks, and other financial institutions.

"(B) 3 members elected by the holders of the class of common stock issued to Farm Credit System institutions.

"(C) 6 members appointed by the President, by and with the advice and consent of the Senate, of which—

"(i) 2 members shall be appointed from among persons who are farmers who have not served as a director or an officer of any financial institution;

"(ii) 1 member shall be appointed from among persons who represent the interests of the general public and have not served as directors or officers of any financial institution; and

"(iii) 1 member shall be appointed from among persons who—

"(I) represent the interests of the general public;

"(II) are specially qualified to serve on the permanent board by virtue of their education, training, or experience in secondary financial markets; and

"(III) are not directors or officers of any financial institution.

"(D) The Secretary of the Treasury or such Secretary's designee.

"(3) POLITICAL AFFILIATION.—Not more than 4 members of the permanent board appointed under subparagraph (C) or (D) of paragraph (2) shall be of the same political party.

"(4) VACANCY.—

"(A) ELECTED MEMBERS.—A vacancy among the members elected to the permanent board in the manner described in subparagraph (A) or (B) of paragraph (2) shall be filled by the Board from among persons eligible for election to the position for which the vacancy exists.

"(B) APPOINTED MEMBERS.—A vacancy among the members appointed to the permanent board under paragraph (2)(C) shall be filled in the manner in which the original appointment was made.

"(5) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the permanent board who was appointed or elected to such board from among persons who are—

"(i) representatives of banks, other financial institutions, insurance companies or Farm Credit System institutions; or

"(ii) officers or employees of the United States,

ceases to be such a representative, officer, or employee; or

"(B) any member who was appointed from persons who are not or have not been directors or officers of any financial institution becomes a director or an officer of any financial institution,

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative, officer, or employee or becomes such a director or officer, as the case may be.

"(6) TERMS.—

"(A) APPOINTED MEMBERS.—The members appointed by the President shall serve at the pleasure of the President.

"(B) ELECTED MEMBERS.—The members elected in the manner described in subparagraph (A) or (B) of paragraph (2) shall be elected for a term ending on the date of the first annual meeting of the common stockholders of the Corporation which convenes after such member is elected to such term.

"(C) VACANCY APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(D) SERVICE AFTER EXPIRATION OF TERM.—A member may serve after the expiration of such member's term until such member's successor has taken office.

"(7) QUORUM.—7 members of the permanent board shall constitute a quorum.

"(8) NO ADDITIONAL PAY FOR FEDERAL OFFICERS OR EMPLOYEES.—Members of the permanent board who are full-time officers or employees of the United States shall receive no additional pay by reason of such member's service on the permanent board.

"(9) CHAIRPERSON.—The President shall designate one of the members of the permanent board who are appointed by the President as the chairperson of such board.

"(10) MEETINGS.—The permanent board shall meet at the call of the chairperson or a majority of its members.

"(e) OFFICERS AND STAFF.—The Board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the Board determines to be appropriate.

"(f) BYLAWS.—The Board may establish and enforce such bylaws, and prescribe such other policies, as the Board determines to be necessary or appropriate to carry out the provisions of this part.

"(g) POWERS OF THE CORPORATION.—The Corporation shall have the following powers:

"(1) To issue common stock in the manner provided in section 5.83.

"(2) To adopt, alter, and use a corporate seal, which shall be judicially noted.

"(3) To require surety bonds or make other provisions against losses occasioned by acts of officers or employees of the Corporation.

"(4) To provide credit enhancement in the manner provided under section 5.85.

"(5) To have succession until dissolved by Act of Congress.

"(6) To enter into contracts.

"(7) To sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State of Federal court of competent jurisdiction.

"(8) To acquire, hold, lease, mortgage, or dispose of, at public or private sale, any real and personal property, and to otherwise exercise all the usual incidents of ownership of property, which is necessary and convenient to the Corporation's business.

"(9) To exercise such other incidental powers as are necessary to carry out the Corporation's powers, purposes, and functions in accordance with this part.

"(h) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks may act as depositaries for, or as fiscal agents or custodians of, the Corporation.

"(i) ACCESS TO BOOK-ENTRY SYSTEM.—The Secretary of the Treasury may authorize the Corporation to use the book-entry system of the Federal Reserve System.

"SEC. 5.83. COMMON STOCK.

"(a) IN GENERAL.—

"(1) 2 CLASSES OF COMMON STOCK.—The Corporation may issue common stock in 2 classes—

"(A) one of which may be offered only to banks, other financial institutions, and life insurance companies; and

"(B) one of which may be offered only to Farm Credit System institutions.

"(2) LIMITATION ON ISSUE.—After the date the permanent board first meets with a quorum of its members present, common stock of the Corporation may be issued only to agricultural mortgage loan originators and certified agricultural mortgage marketing facilities.

"(3) PAR VALUE.—Each share of common stock of the Corporation shall have par value in an amount determined by the Board.

"(4) AUTHORITY OF BOARD TO ESTABLISH TERMS AND PROCEDURES.—The Board shall adopt such terms, conditions, and procedures with regard to the issue of stock under this section as may be necessary, including the establishment of a maximum amount limitation on the number of shares of common stock that may be outstanding at any time.

"(5) TRANSFERABILITY.—Subject to such limitations as the Board may impose, any share of any class of common stock issued under this section shall be transferable among the institutions to which shares of such class of common stock may be offered under paragraph (1), except that, as to the Corporation, such shares shall be transferable only on the books of the Corporation.

"(6) SHAREHOLDER VOTING RIGHTS.—Each share of common stock shall entitle the holder thereof to 1 vote with rights of cumulative voting at all elections of directors.

"(b) REQUIRED CAPITAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Corporation may require each agricultural mortgage loan originator and each certified agricultural mortgage marketing facility to make, or commit to make, such nonrefundable capital contributions to the Corporation as are reasonable and necessary to meet the administrative expenses of the Corporation.

"(2) STOCK ISSUED AS CONSIDERATION FOR CONTRIBUTION.—The Corporation, from time to time, shall issue to each agricultural mortgage loan originator or certified agricultural mortgage marketing facility common stock commensurate with any capital contributions made under this subsection.

"(c) DIVIDENDS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Corporation may pay to the holders of common stock of the Corporation such reasonable dividends as the Board may declare from time to time.

"(2) RESERVES REQUIREMENT.—No dividend may be declared or paid by the Board under paragraph (1) unless the Board determines that adequate provision has been made for the reserve required under section 5.88(b)(1).

"(3) DIVIDENDS PROHIBITED WHILE OBLIGATIONS ARE OUTSTANDING.—No dividend may be declared or paid by the Board under paragraph (1) while any obligation issued by the Corporation to the Secretary of the Treasury under section 5.91 remains outstanding.

"SEC. 5.84. CERTIFICATION OF AGRICULTURAL MORTGAGE MARKETING FACILITIES.

"(a) ELIGIBILITY STANDARDS.—

"(1) ESTABLISHMENT REQUIRED.—Within 120 days after the date on which the permanent board first meets with a quorum present, the Corporation shall issue standards for the certification of agricultural mortgage marketing facilities, including eligibility standards in accordance with paragraph (2).

"(2) MINIMUM REQUIREMENTS.—To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility shall—

"(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State;

"(B) meet or exceed capital standards established by the Board;

"(C) have as one of such facility's purposes, the sale or resale of securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans that have been provided credit enhancement by the Corporation;

"(D) demonstrate managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing which is acceptable to the Corporation;

"(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures which meet or exceed the standards established by the Board; and

"(F) for purposes of enabling the Corporation to examine the facility, agree to allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation which are necessary to facilitate an examination of the facility's operations in connection with securities, and the pools of qualified agricultural mortgage loans which back securities, for which the Corporation has provided credit enhancement.

"(3) NONDISCRIMINATION REQUIREMENT.—The standards established under this subsection shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

"(b) CERTIFICATION BY CORPORATION.—Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards established by the Corporation under subsection (a)(1).

"(c) MAXIMUM TIME PERIOD FOR CERTIFICATION.—Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation at the time of certification but in no event for any period greater than 5 years.

"(d) REVOCATION OF CERTIFICATION.—

"(1) IN GENERAL.—After notice and an opportunity for hearing, the Corporation may revoke the certification of an agricultural mortgage marketing facility if the Corporation determines that the facility does not meet the standards established under subsection (a).

"(2) OUTSTANDING COMMITMENTS UNAFFECTED.—Revocation of certification shall not affect any commitment issued by the Corporation providing credit enhancement for securities representing interests in, or obligations backed by, any pool of qualified agricultural mortgage loans.

"(e) AFFILIATION OF FCS INSTITUTIONS WITH FACILITY.—

"(1) ESTABLISHMENT OF AFFILIATE AUTHORIZED.—Notwithstanding any other provision of this Act, any Farm Credit System institution (other than the Corporation), acting for such institution alone or in conjunction with 1 or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage marketing facility if, within a reasonable time after such establishment, such facility obtains and thereafter retains certification under subsection (b) as a certified agricultural mortgage marketing facility.

"(2) EXCLUSIVE AGENCY AGREEMENT AUTHORIZED.—Any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified agricultural mortgage marketing facility (including affiliate established under paragraph (1)) to sell the qualified agricultural mortgage loans of such institutions exclusively to or through the facility.

"SEC. 5.85. CREDIT ENHANCEMENT FOR SECURITIES BACKED BY POOLS OF QUALIFIED AGRICULTURAL MORTGAGE LOANS.

"(a) CREDIT ENHANCEMENT AUTHORIZED FOR CERTIFIED FACILITIES.—Subject to the requirements of this section and section 5.86, the Corporation shall carry out a program of credit enhancement and may provide such credit enhancement only for securities issued by a certified agricultural mortgage marketing facility which represent interests in, or obligations backed by, any pool of qualified agricultural mortgage loans which is held by such facility.

"(b) RESERVE OR SUBORDINATED PARTICIPATION REQUIREMENTS.—

"(1) IN GENERAL.—The Corporation may not provide credit enhancement under this section with respect to securities which represent interests in, or obligations backed by, any pool of qualified agricultural mortgage loans unless—

"(A) a reserve which meets the requirements of section 5.86(a) has been established, with respect to the loans constituting such pool, in the manner and in an amount described in such section; or

"(B) subordinated participation interests in such loans which meet the requirements of section 5.86(b) have been retained in the manner and in amounts described in such section.

"(2) EXHAUSTION OF RESERVES; TRANSFER OF SUBORDINATED INTERESTS.—The Corporation shall not be liable for any payment of any amount of the principal of, or interest on, any security for which credit enhancement has been provided under this section until—

"(A) all amounts in the reserve established with respect to the pool of qualified agricultural mortgage loans in connection with which such security was issued have been exhausted; and

"(B) the aggregate amount of subordinate participations in such loans which have been retained by the facility or the originator of any such loan (and the amount in any reserve established by the facility with respect to any such interest) have been surrendered or otherwise transferred to the Corporation.

"(c) STANDARDS REQUIRING DIVERSIFIED POOLS.—

"(1) IN GENERAL.—To reduce the risks incurred by the Corporation in providing credit enhancement under this section and to further the purposes of this part, the Board shall establish standards governing the composition of each pool of qualified agricultural mortgage loans (in connection with which such credit enhancement is provided) over the period during which the commitment to provide credit enhancement is effective.

"(2) MINIMUM CRITERIA.—The standards established by the Board pursuant to paragraph (1) for pools of qualified agricultural mortgage loans shall, at a minimum—

"(A) require that each pool consist of loans which—

"(i) are secured by agricultural real estate which is widely distributed geographically;

"(ii) vary widely in terms of amounts of principal; and

"(iii) are secured by agricultural real estate which, in the aggregate, is used to produce a wide range of agricultural commodities; and

"(B) prohibit the inclusion in any such pool of—

"(i) any loan the principal amount of which exceeds 2 percent of the aggregate amount of principal of all loans in such pool; and

"(ii) 2 or more loans to related borrowers.

"(3) SMALL FARMS AND FAMILY FARMERS.—In establishing the standards described in paragraph (2)(A)(ii), the Board shall include provisions which promote and encourage the inclusion of loans for small farms and family farmers in pools of qualified agricultural mortgage loans.

"(4) CONGRESSIONAL REVIEW.—No standard prescribed under this subsection shall take effect before the later of—

"(A) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to the Congress; or

"(B) the end of a period consisting of 90 calendar days and beginning on such date.

"(d) OTHER RESPONSIBILITIES OF AND LIMITATIONS ON CERTIFIED FACILITIES.—As a condition for providing any credit enhancement under this section for securities issued by a certified agricultural mortgage marketing facility which represent interests in, or obligations backed by, any pool of qualified agricultural mortgage loans, the Corporation shall require such facility to agree to comply with the following requirements:

"(1) LOAN DEFAULT RESOLUTION.—The facility shall act in accordance with the standards of a prudent institutional lender to resolve any default on any such loan in such pool.

"(2) SUBROGATION OF UNITED STATES AND CORPORATION TO FACILITY'S INTERESTS.—The proceeds of any collateral, judgments, settlements, or guarantees received by the facility with respect to any loan in such pool, shall be applied, after payment of costs of collection—

"(A) first, to reduce the amount of any principal outstanding on any obligation of the Corporation which was purchased by the Secretary of the Treasury under section 5.91 to the extent the proceeds of such obligation were used to make credit enhancements in connection with such securities; and

"(B) second, to reimburse the Corporation for any such credit enhancement payments.

"(3) LOAN SERVICING.—The originator of any loan in such pool shall be permitted to retain the right to service the loan.

"(4) LOANS WITH RECOURSE TO ORIGINATOR PROHIBITED.—Each loan in the pool shall have been sold to the certified agricultural mortgage marketing facility without recourse to the originator of such loan (other than recourse to any interest of such originator in a reserve established in connection with such loan or any subordinated participation interest of such originator in such loan).

"(5) COMPLIANCE WITH DIVERSIFIED POOL STANDARDS.—The facility shall comply with the standards adopted by the Board under subsection (c) in establishing and maintaining the pool.

"(6) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The facility shall take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

"(7) NO DISCRIMINATION AGAINST STATES WITH BORROWERS RIGHTS.—The facility may not refuse to purchase qualified agricultural mortgage loans originating in States which have established borrowers' rights laws either by statute or under the constitution of such State.

"(e) ADDITIONAL AUTHORITY OF THE BOARD.—To ensure the liquidity of securities for which credit enhancement has been provided under this section, the Board shall adopt appropriate standards regarding—

"(1) the characteristics of any pool of qualified agricultural mortgage loans serving as collateral for such securities;

"(2) registration requirements with respect to such securities; and

"(3) transfer requirements.

"SEC. 5.86. RESERVE AND RETAINED SUBORDINATED PARTICIPATION INTEREST REQUIREMENTS.

"(a) Cash Contribution Reserves.—

"(1) In general.—A certified agricultural mortgage marketing facility may meet the requirements of section 5.85(b)(1) with respect to any pool of qualified agricultural mortgage loans by establishing and maintaining a cash contribution reserve for each such pool in an amount not less than the amount which is equal to 10 percent of the sum of the principal amount of each loan included in the pool.

"(2) Contributions by agricultural mortgage loan originators.—Under the terms of the sale of any qualified agricultural mortgage loan by the originator of such loan to a certified agricultural mortgage marketing facility, the originator of such loan may agree to contribute an amount to a reserve established by such facility for the pool in which such loan is included.

"(3) Investment of amounts in reserve in case of originator contributions.—If an agricultural mortgage loan originator has agreed to contribute to a reserve as provided in paragraph (2), the certified the loan shall invest the amount in such reserve in United States Treasury securities or other securities issued, guaranteed, or insured by the United States of any agency of the United States.

"(4) Reserve requirements if originators do not contribute.—If an agricultural mortgage loan originator has not agreed to contribute to a reserve as provided in paragraph (2), the certified mortgage marketing facility that has agreed to purchase or hold the loan shall invest the amount in such reserve in such manner as the Corporation deems appropriate.

"(5) Use and disposition of assets in reserve.—Subject to the requirements of subsection (c), any certified agricultural mortgage marketing facility which establishes a reserve pursuant to this subsection shall be required by the Corporation to maintain such reserve as a segregated account consisting of the amounts contributed (but not the earnings accruing on such amounts) to assure the repayment of principal of, and the payment of interest on, the securities representing an interest in, or obligations backed by, the pool of qualified agricultural mortgage loans with respect to which such reserve is established.

"(b) Retention of Subordinated Participation Interests.—

"(1) In general.—A certified agricultural mortgage marketing facility may meet the requirements of section 5.85(b)(1) with respect to any pool of qualified agricultural mortgage loans by retaining a subordinated participation interest in each loan included in each such pool in an amount not less than the amount which is equal to 10 percent of the principal amount of such loan.

"(2) Retention of such interests by loan originators.—Under the terms of the sale of any qualified agricultural mortgage loan by the originator of such loan to a certified agricultural mortgage marketing facility, the originator of such loan may agree to retain a subordinated participation interest in such loan and the amount of the subordinated interest so retained by such loan originator shall be attributed to the facility for purposes of determining whether the requirements of paragraph (1) have been met.

"(3) Distribution rights of holders of subordinated interests.—In order for any interest in a qualified agricultural mortgage loan to be treated as a subordinated participation interest for purposes of section 5.85(b)(1) and this subsection, the instrument creating the subordination of such interest to other interests in such loan shall provide that the right of the holder of such subordinated interest to receive any distribution of principal of, or interest on, such loan shall be subordinate to the rights of any holder of any other participation interest (other than another subordinated participation interest) in such loan (including any holder of any security representing an interest in, or an obligation backed by, a pool which includes such loan) to receive full and timely payments of principal and interest with respect to such loan (or such security).

"(c) Additional Requirements Relating to Subsection (a)(1) Reserves.—

"(1) Distribution of earnings accruing in subsection (a)(1) reserves.—Subject to paragraph (2), any certified agricultural mortgage marketing facility which maintains a reserve pursuant to subsection (a)(1) may withdraw from the reserve the amounts accruing on the amount held in the reserve and distribute, not less frequently than semiannually, such accrued amounts to each contributor to the reserve (including such facility) in an amount which bears the same proportion to the total amount of such distribution as the amount each such contributor's contribution to the reserve bears to the total amount of such contributions.

"(2) Exception for withdrawals which would decrease reserve levels below reserve requirement.—No withdrawal and distribution authorized under paragraph (1) may be made to the extent such withdrawal would cause the reserve to fall below the amount required to be held in such reserve under subsection (a)(1).

"(3) Separate loan loss accounting.—Any certified agricultural mortgage marketing facility which maintains a reserve (pursuant to subsection (a)(1)) to which any agricultural mortgage loan originator has contributed shall maintain separate loan loss accounting for each loan for which a contribution was made by such loan originator to such reserve.

"(4) Loan loss attribution rule.—In the case of any loan with respect to which the originator of such loan has contributed to a reserve maintained by the certified agricultural mortgage marketing facility which holds the loan, any loss on such loan shall be counted against such originator's contribution with respect to such loan (to the extent of such contribution) before the contribution of any other agricultural mortgage loan originator to such reserve may be withdrawn to cover such loss.

"(d) Authority of Board To Establish Other Policies and Procedures.—The Board may establish such other policies and procedures with respect to—

"(1) the establishment of reserves and the retention of subordinated participation interests under this section; and

"(2) the manner in which such reserves or interests shall be available to make payments of interest on, and repayments of principal of, securities for which the Corporation has provided credit enhancement.

as the Board determines to be necessary or appropriate to carry out the purposes of this part.

"SEC. 5.87. STANDARDS FOR QUALIFIED AGRICULTURAL MORTGAGE LOANS.

"(a) Standards Required.—Within 120 days after the permanent board first meets with a quorum of its members present, the Board, in consultation with agricultural mortgage loan originators and in coordination with regulations issued by the Farm Credit Administration under section 4.2B(c), shall establish uniform underwriting and other necessary standards applicable with respect to qualified agricultural mortgage loans.

"(b) Minimum Criteria.—The standards established by the Board pursuant to subsection (a) shall, at a minimum—

"(1) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified agricultural mortgage loan;

"(2) require that any real estate appraisal which is made to determine the loan-to-value ratio of any agricultural mortgage loan for purposes of paragraph (1) be based on the agricultural use of the land at the time such appraisal is made;

"(3) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

"(4) contain sufficient documentation standards; and

"(5) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans.

"(c) Loan Amount Limitation.—

"(1) In general.—A loan may not be treated as a qualified agricultural mortgage loan if the principal amount of such loan exceeds $1,500,000, adjusted for inflation, except as provided in paragraph (2).

"(2) Acreage Exception.—Paragraph (1) shall not apply with respect to any agricultural mortgage loan described in such paragraph if such loan is secured by agricultural real estate which, in the aggregate, comprises not more than 1,000 acres.

"(d) Congressional Review.—No standard prescribed under subsection (a) shall take effect before the later of—

"(1) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to the Congress; or

"(2) the end of a period consisting of 90 calendar days and beginning on such date.

"(e) Nondiscrimination Requirement.—The standards established under subsection (a) shall not discriminate against small agricultural mortgage loan originators or small agricultural mortgage loans that are at least $50,000.

"SEC. 5.88. AUTHORITY OF CORPORATION TO ASSESS FEES IN CONNECTION WITH CREDIT ENHANCEMENT.

"(a) Assessment of Fees.—

"(1) In general.—At the time the Corporation issues commitments to provide credit enhancement for securities backed by a pool of qualified agricultural mortgage loans, the Corporation shall assess a fee against the certified agricultural mortgages marketing facility holding the pool.

"(2) Amount of fee.—The amount of the fee shall be—

"(A) determined at the time the assessment is made under paragraph (1); and

"(B) based on the amount of risk incurred by the Corporation in providing the credit enhancement with respect to which such fee is assessed, as determined by the Corporation.

"(3) Time for paying assessment.—In accordance with such policies as the Board may establish, any fee assessed under paragraph (1) with respect to any credit enhancement may be paid in periodic installments over the period to maturity of the securities for which such credit enhancement has been provided.

"(b) Corporation Reserve Against Credit Enhancement Losses Required.—

"(1) In general.—So much of the fees collected under subsection (a) as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as a reserve against losses arising out of the credit enhancement activities of the Corporation.

"(2) Exhaustion of reserve required.—The Corporation may not issue obligations to the Secretary of the Treasury under section 5.91 in order to meet the obligations of the Corporation with respect to any credit enhancement provided under this part until the reserve established under paragraph (1) has been exhausted.

"(c) Fees To Cover Administrative Costs Authorized.—The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this part to recover its costs for performing such administration.

"SEC. 5.89. REGULATION, EXAMINATION, AND REPORT OF CONDITION.

"(a) FCA Oversight of Corporation.—

"(1) In general.—The Farm Credit Administration shall regulate the safe and sound performance of the powers, functions, and duties vested in the Corporation by this part.

"(2) Criteria to be considered.—In exercising the authority under this subsection, the Farm Credit Administration shall consider—

"(A) the purposes for which the Corporation was established;

"(B) the practices appropriate to the conduct of secondary markets in agricultural loans; and

"(C) the reduced levels of risk associated with appropriately structured secondary market transactions.

"(b) Examinations.—

"(1) In general.—The financial transactions of the Corporation shall be examined by Farm Credit Administration examiners in accordance with the principles and procedures applicable to commercial corporate transactions.

"(2) Frequency of examinations.—Examinations under this subsection shall take place at such times as the Chairman of the Farm Credit Administration Board may determine, but not less frequently than annually.

"(3) Examiner access to books, records and facilities.—The examiners of the Farm Credit Administration who are performing any examination under this subsection shall—

"(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or used by the Corporation which are necessary to facilitate the audit; and

"(B) be afforded full facilities for verifying transactions with certified agricultural mortgage marketing facilities and other entities with whom the Corporation conducts transactions.

"(c) Annual Report of Condition.—

"(1) Publication required.—The Corporation shall make and publish an annual report of condition in the form and manner perscribed by the Farm Credit Administration.

"(2) Contents of report.—Each annual report of condition prepared pursuant to paragraph (1) shall contain financial statements prepared in accordance with generally accepted accounting principles and such additional information as the Farm Credit Administration may, by regulation, prescribe.

"(d) FCA Assessments To Cover Costs.—The Farm Credit Administration shall assess the Corporation for the cost to the Administration of any regulatory activities conducted under this section, including the cost of any examination.

"(e) Independent Audit of Financial Statements Required.—The Corporation shall hire an independent public accountant to audit the financial statements of the Corporation.

"SEC. 5.90. PROVISIONS APPLICABLE TO SECURITIES FOR WHICH CREDIT ENHANCEMENT IS PROVIDED.

"(a) Securities Not Exempt as Government Securities Under Federal Securities Laws.—For purposes of section 3(a)(2) of the Securities Act of 1933, no security representing an interest in a pool of qualified agricultural mortgage loans for which credit enhancement has been provided by the Corporation shall be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No such security shall be deemed to be a 'government security' for purposes of the Securities Exchange Act of 1934, or for purposes of the Investment Company Act of 1940.

"(b) No Full Faith and Credit of the United States.—Each security for which credit enhancement has been provided by the Corporation shall clearly indicate that the security is not an obligation of, and is not guaranteed as to principal or interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(c) Investment of Funds.—

"(1) In general.—Any person, trust, corporation, partnership, association, business trust, or business entity created or existing under the laws of the United States or any State may invest in securities for which the Corporation has provided credit enhancement to the same extent that such person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

"(2) Securities treated as obligations of the United States for purposes of certain State laws.—Except as provided in paragraph (3), securities for which the Corporation has provided credit enhancement shall be treated as obligations of the United States for purposes of any State law that limits the purchase, holding, or investment in obligations issued by the United States by any person, trust, corporation, partnership, association, business trust, or business entity created or existing under the laws of such State.

"(3) Exception for subsequent enactments.—

"(A) In general.—If, during the 3-year period beginning on the date of the enactment of this part, any State enacts a law which—

"(i) specifically refers to this subsection; and

"(ii) either prohibits any person, trust, corporation, partnership, association, business trust, business entity created or existing under the laws of such State from purchasing, holding, or investing in securities for which the Corporation has provided credit enhancement or provides for a more limited authority for any such person to purchase, hold, or invest in such securities than is provided under paragraph (1) or (2),

paragraphs (1) and (2) shall cease to apply with respect to such person, trust, corporation, partnership, association, business trust, or business entity as of the date such law takes effect.

"(B) Prior actions or commitments unaffected.—The enactment by any State of any provision of law of the type described in subparagraph (a) shall not—

"(i) affect the validity of any contractual commitment to purchase, hold, or invest that was entered into before the date of the enactment of such law; and

"(ii) require the sale or other disposition of any securities acquired before such date of enactment.

"(d) State Usury Laws Superseded.—

"(1) In general.—Except as provided in paragraph (2), any provision of the constitution or law of any State which expressly limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified agricultural mortgage market facilities shall not apply to any agricultural loan made by an agricultural mortgage loan originator or a certified agricultural mortgage market facility in accordance with this part.

"(2) Exception for subsequent enactments.—If, during the 3-year period beginning on the date of the enactment of this part, any State enacts a law which—

"(A) specifically refers to this subsection; and

"(B) expressly limits the rate or amount of interest, discount points, finance charges, or other charges referred to in paragraph (1),

paragraph (1) shall cease to apply with respect to such State as of the date of the enactment of such law.

"SEC. 5.91. AUTHORITY TO ISSUE OBLIGATIONS TO COVER CREDIT ENHANCEMENT LOSSES OF THE CORPORATION.

"(a) Sale of Obligations to Treasury.—

"(1) In general.—Subject to the limitations contained in sections 5.85(b)(2) and 5.88(b)(2) and the requirement of paragraph (2), the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation solely for the purpose of fulfilling the Corporation's obligations under any credit enhancement provided by the Corporation under this part.

"(2) Certification.—The Secretary of the Treasury may purchase obligations of the Corporation under paragraph (1) only if the Corporation certifies to the Secretary that—

"(A) the requirements of sections 5.85(b)(2) and 5.88(b)(2) have been fulfilled; and

"(B) the proceeds of the sale of such obligations are needed to fulfill the Corporation's obligations under any credit enhancement provided by the Corporation under this part.

"(b) Expeditious Transaction Required.—Not later than 10 business days after receipt by the Secretary of the Treasury of any certification by the Corporation under subsection (a)(2), the Secretary of the Treasury shall purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the Corporation's credit enhancement liabilities.

"(c) Limitation on Amount of Outstanding Obligations.—The aggregate amount of obligations issued by the Corporation under subsection (a)(1) which may be held by the Secretary of the Treasury at any time (as determined by the Secretary) shall not exceed $1,500,000,000.

"(d) Terms of Obligation.—

"(1) Interest.—Each obligation purchased by the Secretary of the Treasury shall bear interest at a rate determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of the purchase of such obligation.

"(2) Redemption.—The Secretary of the Treasury shall require that such obligations be repurchased by the Corporation within a reasonable time.

"(e) Coordination With Title 31, United States Code.—

"(1) Authority to use proceeds from sale of treasury securities.—For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale by the Secretary of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purchases.

"(2) Treatment of transactions.—All purchases and sales by the Secretary of the Treasury of obligations issued by the Corporation under this section shall be treated as public debt transactions of the United States.

"(f) Authorization of Appropriations.—There is hereby authorized to be appropriated to the Secretary of the Treasury the sum of $1,500,000,000, without fiscal year limitation, to carry out the purposes of this part.".

(c) GAO Audit of Federal Agricultural Mortgage Corporation.—Section 9105(a) of title 31, United States Code (relating to audits) is amended by inserting at the end thereof the following new paragraph:

"(4) Federal agricultural mortgage corporation.—

"(A) Audits authorized.—Notwithstanding any other provision of law and under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the Federal Agricultural Mortgage Corporation on whatever basis the Comptroller General determines to be necessary.

"(B) Cooperation of corporation required.—The Federal Agricultural Mortgage Corporation shall—

"(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

"(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by and depositary, fiscal agent, or custodian.".

Page 170, line 5, strike out "(c)" and insert in lieu thereof "(d)".

Page 171, after line 18, insert the following new subsections:

"(e) Promotion of Private Secondary Market for Securities Backed by Agricultural Mortgages.—

"(1) Study required.—The Secretary of the Treasury shall conduct a study of the feasibility and appropriateness of promoting the establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which credit enhancement has not been provided by the Federal Agricultural Mortgage Corporation (under the amendment made by subsection (b)).

"(2) Report required.—Before the end of the 90-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare a report containing the findings and conclusions of the Secretary with respect to the study conducted pursuant to paragraph (1) and, if appropriate, the Secretary's recommendations for administrative and legislative action necessary to promote such a securities market.

"(3) Submission of report.—The Secretary of the Treasury shall—

"(A) submit copies of the report prepared pursuant to paragraph (2) to the Congress; and

"(B) transmit additional copies of such report to the Farm Credit Administration.

"(f) Report on Feasibility of Expanding Secondary Market To Include Loans Made to Farm-Related and Rural Small Businesses and for Other Purposes.—Within 1 year after the permanent Board of Directors of the Federal Agricultural Mortgage Corporation is duly constituted, such Board of Directors shall complete a study of the feasibility of expanding the authority granted under the amendment made by subsection (b) to authorize the sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses, and report the results of such study to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate. For purposes of this paragraph, the term "farm-related businesses" means businesses 90 percent or more of the annual dollar volume of the sales of which are made to agricultural producers.

AMENDMENT (1)

On page 31, lines 2 and 3, strike out "when funds are made available under appropriations Act".

On page 38, line 16, insert "(a)" before "During".

On page 38, on lines 17 and 18, strike out the following: ", as provided for in appropriation Acts,".

On page 39, strike out lines 10 and 11 and insert in lieu thereof the following:

"(b) For fiscal year 1988, the Secretary of the Treasury shall make available to the Temporary Assistance Corporation under subsection (a) $2,500,000,000. The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of $2,500,000,000.

"(c) For fiscal years 1989, 1990, 1991, and 1992, there are hereby authorized to be appropriated such sums as are certified necessary by the Temporary Assistance Corporation.".

Mr. JONES of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The gentleman from Tennessee [Mr. Jones] is recognized for 10 minutes.

Mr. JONES of Tennessee. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. Nagle], a member of the subcommittee.

Mr. NAGLE. Mr. Chairman, today the Committee of the Whole House resumes its consideration of H.R. 3030, to provide credit assistance to farmers, to strengthen the Farm Credit System, and for other purposes. The Committee has completed most of its work on titles I and II of the bill. Today we will consider the remainder of the bill—titles III and IV.

Section 301 of title III will establish a secondary market for certain agricultural loans. This concept is not a new one. For example, several agricultural secondary market proposals were introduced in the 99th Congress, as well as in this Congress. Section 301 was modeled after H.R. 2435, introduced by Mr. Stallings on May 14, 1987.

The major components of the section 301 secondary market have been carefully structured, to fit together into a successfully functioning secondary market. The Mortgage Corporation itself has three basic functions: first, develop and enforce uniform underwriting, appraisal and repayment standards for loans eligible for the secondary market; second, determine eligibility and certify specific financial institutions to serve as pooler-underwriters of the agricultural mortgages, and third, provide its guarantee for timely payment of interest and principal on qualified pools of mortgages that are securitized. The market will rely for pooling and underwriting—subject to prior certification and direction of the Mortgage Corporation, as indicated—by private-sector institutions with the financial and management capacity to perform those functions efficiently. A special reserve or subordinated participation interest, equal to 10 percent of the face value of mortgages in the pool, is required for each securitized pool of loans. Borrowing authority from Treasury, up to $1.5 billion, is authorized in order to make individual pools of mortgages marketable to investors at competitive prices.

As structured in the bill, the secondary market can provide important benefits to farmers and agricultural lenders including the Farm Credit System, while protecting taxpayer interests. The primary benefits will accrue to farmers. Farm borrowers generally should receive better credit service, including lower interest rates, due to the greater competition among providers of agricultural real estate credit that is fostered by the secondary market. Because the farm mortgages are securitized, farmers will have the valuable option of a long-term, fixed-rate mortgage for the purchase of farmland. Commercial agricultural lenders can originate and sell more long-term farm mortgages, while retaining the servicing with the farm borrowers, without impairing their immediate liquidity or their capacity to meet farmers' needs for operating and equipment financing as the agricultural economy recovers. Smaller agricultural banks can use the secondary market to diversify their income to healthier levels and increase their lending amounts to individual farmers. The Farm Credit System can offer long-term, fixed-rate mortgages without risking the mismatch of their loan assets and bond liabilities that caused a substantial part of the System's present financial difficulties.

Admittedly, the secondary market will not result in new lending to farmers who are hard pressed because they are overextended with debt at interest rates that they cannot manage. Many of those farmers may be assisted by debt restructuring provisions elsewhere in H.R. 3030 that apply to borrowers from the Farmers Home Adminstration and the Farm Credit System. In the case of Farm Credit System borrowers, financial assistance is provided by H.R. 3030 to facilitate debt restructuring. The farmers who are overextended need to be able to reduce their debt relative to their farm income and cash-flow. However, farm borrowers generally should receive improved financial service, including lower interest rates, due to the greater competition and efficiency among providers of agricultural real estate credit that the secondary market will foster.

Mr. Chairman, we have attempted to utilize the experience of successful housing secondary markets in the development of a secondary market for agricultural real estate. Therefore, Farmer Mac has many of the attributes that the Federal National Mortgage Association [Fannie Mae] and the Federal Home Loan Mortgage Corporation [Freddie Mac] exhibit when they provide credit enhancement to pools of mortgages developed by private poolers rather than pooling these loans themselves. Both Fannie Mae and Freddie Mac provide credit enhancement to pools of residential mortgages developed by private poolers—including banks—the securities of which can then be underwritten and sold by the private poolers—including banks. In fact, Fannie Mae provided credit enhancement to approximately 120 billion dollars' worth of private pools of residential mortgages in the last 5 years alone. It is this function of monitoring pools and poolers and providing credit enhancement that is followed in the structure of Farmer Mac included in section 301 of H.R. 3030.

Mr. Chairman, we believe that the structure of the secondary market for agricultural real estate loans included in section 301 is fundamentally sound and will achieve the goals outlined above. The structure was carefully developed and has not been changed significantly since H.R. 2435 was introduced.

Mr. Chairman the amendment to section 301 that I will offer today on behalf of the Committees on Agriculture; Banking, Finance and Urban Affairs; and Energy and Commerce will make a number of changes to meet several concerns that have been raised about the secondary market. Specifically the amendment will—

First, provide that the Chairman of the Board of the Federal Agricultural Mortgage Corporation [FAMC] will be designated by the President.

Second, provide that the Secretary of the Treasury or his designee will serve as a FAMC Board member.

Third, clarify that the credit enhancement fee is based on risk in a pool, and allow the fee to be paid in periodic installments.

Fourth, establish more specific guidelines for underwriting standards to ensure high quality loans and pools:

Limit on loan amount as a percentage of asset value;

Require that property be appraised based on its value for agricultural use;

Require diversity among the loans in a pool based on geography, loan size, and commodity produced;

Require borrowers to demonstrate sufficient cash-flow to service the debt;

Require the standards to promote and encourage the inclusion of small and family farm size loans in pools; and

Require layover for review by Congress of the Corporation's underwriting standards.

Fifth, prohibit poolers from refusing to purchase loans from States with borrowers' rights laws.

Sixth, direct the Board to take necessary steps to ensure that minority underwriters have an opportunity to participate in public offerings of securities.

Seventh, authorize GAO to audit and examine FAMC.

Eight, require poolers to demonstrate sufficient managerial abilities.

Ninth, strike the limited exemption from Federal securities laws provided in the reported bill.

Tenth, strike the exemption from State securities laws.

Eleventh, authorize the Federal Reserve Banks to hold FAMC deposits.

Twelfth, authorize FAMC to use the Federal Reserve Banks' book entry system.

Thirteenth, require the Secretary of the Treasury to conduct a study to determine the feasiblity of establishing a secondary market for loans that do not meet FAMC's underwriting standards.

Fourteenth, clarify that Glass-Steagall will remain the controlling authority for bank underwriting of securities.

□ 1530

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. MADIGAN. Mr. Chairman, it would be awfully tempting at this point to try to foulup this whole procedure and I would not do that because of the involvement of the Committee on Energy and Commerce and the Committee on Banking, Finance and Urban Affairs. I think that everything the Commerce Committee did was good and reflected the fact that there is an expertise there with regard to the securities and exchange law that does not exist in the Committee on Agriculture. So I appreciate the contribution of the Commerce Committee and I also appreciate the work of the Banking Committee because they too know things about the operation of financial markets that we do not know on the Agriculture Committee.

With regard to the frantic last minute activities here on the House floor where limits on this, or limits on that, are in, then they are out, then there is a cap and then there is not a cap; that is not the way I like to see the House of Representatives proceed. But, notwithstanding the temptation to try to throw a monkey wrench into this process because of the way this bill has been handled at the last minute, I am not going to do that, because I understand that we go on to conference and we have an opportunity there to work with Members of the other body and to try to produce a bill that is good for the American farmer and good for America. But I do want to repeat that I do not enjoy being a party to the procedure that has been followed here today.

Mr. Chairman, I reserve the balance of my time.

Mr. JONES of Tennessee. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the amendment. As the original sponsor of H.R. 3030, at least title III of H.R. 3030, I have seen this process through the maze of committees and worked with a number of Members trying to resolve the many issues. Coming from the Agriculture Committee, we have done what I thought was a very good job. Yet I appreciate the work of the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce. They have, in fact, added some things, raised some questions about this legislation that I think needed to be addressed. I believe this amendment now satisfies those needs. I congratulate those who have been involved in this process. I think the real beneficiaries of this amendment will be rural America.

I certainly encourage my colleagues to support it.

Mr. JONES of Tennessee. Mr. Chairman, I have only one more request. I yield 1 minute to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, one little-noticed provision, I think, of the amendment that is being offered is perhaps one of the more important, namely because it provides a method of financing the Farm Credit System assistance.

One of the problems we have wrestled with since the beginning of the year is the question where does the money come from? It is one that has just recently been answered.

I made the suggestion whenever the committee first was considering the farm credit bill back in August, and it is one that has been incorporated in the amendment that is being offered here today. It is one that, namely, provides for a line of credit, a line of credit that is provided through the sale of agriculture assets, namely farmers' home loans. It provides some $2.5 billion. That money, I think, will insure not only that there will be assistance, but it will be immediate assistance. We are all aware of the lengthy process that we have to go through anytime new money is appropriated. So it seems that this is both timely and, I think, appropriate that agriculture assets be sold to finance the Farm Credit Systems' assistance.

Let me also say, Mr. Chairman, that I want to commend the Committee on Appropriations for the cooperation and assistance that they gave in making this possible. Timely assistance is very important, in fact, some would say critical at this point.

So I would urge support of this amendment.

Mr. VENTO. Mr. Chairman, I rise in support of the compromise substitute amendment offered by Chairman DE LA GARZA to title III of H.R. 3030, legislation which will create a secondary market for agriculture real estate loans. Members and staffs of the Agriculture, Banking, and Energy and Commerce Committees have worked long and hard for this compromise and I commend them for this amendment that will establish Farmer Mac as a workable and viable secondary market.

In considering title III of the Agriculture Credit Act, the Banking Committee attempted to provide direction for a responsible and sound secondary market by recommending changes in the composition and leadership of the Board of Directors of Farmer Mac, and mandating minimum underwriting standards for individual loans and loan pools that I believe will improve this market.

I have reservations about the establishment of a secondary market for loans, other than long term agricultural real estate and rural housing loans, that would be administered by the Farm Credit Administration. I believe this market should move slowly, following in the wake of a functioning real estate secondary market, with the Farm Credit Administration producing appropriate and sound underwriting standards along the lines of those formulated by Farmer Mac.

I would like to draw my colleagues attention to language in the amendment that would prevent certified agricultural mortgage marketing facilities from precluding loans originating in states with established borrowers' rights. Section 5.85(d)(7) states that "the facility may not refuse to purchase qualified agricultural mortgage loans originating in States which have established borrowers' rights laws either by statute or under the constitution of such State." The intent of this language is to assure that States with borrowers' rights provisions, which vary from mediation to homestead exemptions to rights of first refusal, are not effectively eliminated from participation in an agricultural real estate secondary market by virtue of these laws. States such as Iowa, Texas, Colorado, North Dakota, Oklahoma, Kansas, Illinois, Montana, my home State of Minnesota and others, should be able to maintain their laws rather than being forced to change their laws to participate in the secondary market. The committee, however, does realize that there will be differences in the security that must be reflected in interest rates and does not intend to preclude such differentiation.

In order to facilitate an understanding that these States are not, in fact, being precluded and that the geographic diversity portion of the minimum underwriting standards is being adhered to, I urge the Farm Credit Administration to include in their annual report, as established by section 5.89(c) (1) and (2) of the amendment, a State-by-State analysis of the number and size of loans participating in the agricultural real estate secondary market.

This provision, along with the others worked out in compromise, will accommodate the pressing needs of agriculture by providing a secure and viable source of capital to the farmers of this Nation. I urge my colleagues to support the compromise amendment to title III for the creation of an agricultural real estate loan secondary market.

Mr. STANGELAND. Mr. Chairman, I rise in support of Chairman DE LA GARZA's en bloc amendment to title III which creates a secondary market for agricultural loans. In addition, I am very glad to see that two amendments which I had intended to offer to this title have now been included in this amendment.

The intent of my amendments was to insure that the secondary market provisions function in an efficient and reasonable manner. One amendment simply added the requirement that an agricultural mortgage marketing facility have acceptable managerial ability to carry out its functions. And the other amendment made it clear that the Federal Agricultural Mortgage Corporation must use as much of its fee income as necessary to build a reserve against losses.

The language in these amendments is essential to the functioning of the secondary market provisions which are now being considered. Furthermore, it is important that this language is now included. And I urge my colleagues' support for this amendment which was created in the spirit of cooperation and compromise.

Mr. JONES OF Tennessee. Mr. Chairman, I have no further requests for time except to say that I wish to say that the Committee on Banking, Finance and Urban Affairs, all as well as the Committee on Energy and Commerce are to be congratulated, as I have mentioned before, for the good work that they did in making title III an even better title than we had in our original bill.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, in a few minutes I will be offering my amendment to title III. Since my time will be quite limited, I thought it would be wise to take some additional time, because it is an extremely important amendment.

It is an amendment that everyone ought to understand when we vote on it. In my mind and the minds of several experts that I talked to who are knowledgeable with respect to the secondary markets and the operation of banks, this amendment may make the difference between the success or failure of the Farm Credit System. I mean that sincerely.

We are all here because the Farm Credit System is in trouble. It is in deep trouble. The question is how we make it into a healthy system. What can we do here to pull it out and let it go forward? We all recognize that the basic problem with the farm credit system has been the farm problems themselves. And because the farm credit system was left with almost all of the farms as the commercial banks gradually withdraw from the market, they have also accepted almost all of the problems of the farm community. For instance the share of farm land loans by commercial banks has gone from 40 percent to 15 percent.

On the one hand we heard arguments in committee that it was important to bring the commercial banks back in, that we need their help. But they will not come back in and be the kind of stable force that they were before if we do not provide them with a secondary market with a Federal guarantee.

I do not make a judgment on that decision. Yet I do know that certainly in those rural areas where you have small banks, it is critically important that they have some sort of a guarantee, if we can expect them to come back into the market.

As I stated the commercial bank share has gone from some 40 percent of the market to some 15 percent of the market. We want to get them back in to establish some sort of a balance.

On the other hand, there are those like the gentleman from Iowa, who I am sure will oppose me, in the amendment, who felt very strongly that we ought to enhance the borrowers' rights for the Farm Credit System. We ought to give farmers a better opportunity than they would get from commercial banks in the event that they go through hard times and needed further assistance, thus borrower rights such as restructuring, foreclosure, extended redemption period or rights of first refusals have been established.

Thus the committee in its wisdom decided that, yes, we should provide borrowers' rights to member borrowers of the Farm Credit System.

The committee also decided that we should make the secondary market available to the Farm Credit System.

That was fine except that when we went to the experts and talked with them and asked, "What will happen if loans come to the secondary market with the borrowers' rights attached, will those loans be able to sell at reasonable interest rates or will they be able to be sold at all?"

One of the experts I talked to said "They will not penetrate the market, they will not be able to be sold."

Others said if they are sold, "If you can group them together, then you will find that the interest rates will be anywhere from half to three-quarters of a percent higher."

If that latter is true, what does it mean? It means that the Farm Credit System will not be able to compete with the commercial system. Your good loans, those that do not feel the need to have the borrowers' rights, will go to the commercial system. The better loans will leave and as a result of that, more and more, will leave. Thus a higher percentage of riskier loans will be in the Farm Credit System which means that the interest rates will become even higher and then higher. Gradually you will drive the Farm Credit System right out of business, and require billions more along the way trying to save it.

These borrowers' rights properly should be restricted to Farmers Home, the lender of last resort. But we have underfunded the Farmers Home for some time, deliberately perhaps by some, and others perhaps felt reluctant to doing so. Thus I understand the committee's actions. But we cannot turn the Farm Credit System into the Farmers Home and at the same time expect it to be able to compete with commercial banks without substantial subsidies.

I first decided well, why do we not put everybody on a level planting field and say let all of the loans, commercial and Farm Credit System loans, carry borrowers' rights? But the screams that I got from the experts said no. That will make all those loans on the secondary market sell at so much higher than the others such as Ginny Mae that they may not even be able to be used. It is the wrong thing to do.

That was my original amendment. So I searched around to find another option, an option that would say, "Can we work it such that there is an option in the borrower that if he desires to have that protection, borrower rights additional protection against foreclosure and all, then he can take his borrowers' rights and get his lending through the normal system of the Farm Credit System. That is funded through selling of bonds, with credit available through the land banks as is available without the secondary market. However, if it turns out that the interest rates are lower on the secondary market, then he would have the option of being able to go to the secondary market, waiving his borrowers' rights and say, "I exercise my rights to a lower interest rate. Incidentally he would not waive all his rights, just those that deal with the foreclosure and the things that would interfere with the free flow of the principal back to the people who are putting the money up.

By doing this then we have put the Farm Credit System on a par with the commercial so that they can compete. And, in fact, they will have the borrowers' rights to offer as an option, giving them perhaps an advantage. We will make the system healthy again.

So I urge you, I urge you to seriously consider this amendment for in my mind it is an extremely important one, possibly making the difference between the success or failure of what we are doing here today on these other matters.

At this time I would yield back the balance of my time.

AMENDMENT OFFERED BY MR. JEFFORDS TO THE AMENDMENT OFFERED BY MR. JONES OF TENNESSEE, AS MODIFIED

Mr. JEFFORDS. Mr. Chairman, I offer an amendment to the amendment offered by Mr. JONES of Tennessee, as modified.

The Clerk read as follows:

Amendment Offered by Mr. JEFFORDS to the en bloc amendment offered by Mr. JONES of Tennessee, as modified: Page 44, line 4, strike the close quotes and the period that follows and insert after such line the following:

"SEC. 5.92. BORROWER RIGHTS.—A borrower may waive any of the rights afforded to the borrower under sections 4.14A, 4.14C through 4.14F, and 4.21 with respect to any qualified agricultural mortgage loan to be included in a pool or trust of such qualified loans backing securities for which the Federal Agricultural mortgage Corporation has provided credit enhancements.".

The CHAIRMAN. The gentleman from Vermont [Mr. JEFFORDS] is recognized for 5 minutes.

Mr. JEFFORDS. Again, I want to point out what I attempted to do here. This is to make sure that the Farm Credit System will not be driven out of business by an unfair advantage of the commercial system through use of the secondary market.

I felt so strongly about this that I was one of two to oppose the bill. I will feel differently if my amendment passes.

To me it is important to remember that you do not get something for nothing and that if we do give borrowers' rights to farmer individuals who come to the Farm Credit System, that is going to result in a higher cost of money.

The question is can we work this in a way that we can have the advantages of the secondary market to bring the commercial banks back in. And at the same time, allow the Farm Credit System to be able to utilize that secondary system if it is providing a lower interest rate, thus they will not suffer the unfair competition from the commercial banks which will make a bad situation worse.

I strongly urge you and would ask you to support this amendmenmt which in my mind may well make the difference between the success and failure of what else we do here today.

PARLIAMENTARY INQUIRY

Mr. JEFFORDS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. JEFFORDS. Mr. Chairman, do I have the option of reserving the balance of my time?

The CHAIRMAN. The gentleman has to use the remainder of his time.

Mr. JEFFORDS. Then I will just reiterate again that what we are trying to do here today is to insure that we have a Farm Credit System which can compete, which can stay in business, which can be healthy again. There is only one way it can be done as far as I am concerned with title III and that is with the adoption of this amendment.

Mr. Chairman, I yield back the balance of my time.

□ 1545

The CHAIRMAN. Does any Member seek recognition to speak in opposition to the Jeffords amendment?

Mr. VOLKMER. Mr. Chairman, I rise in opposition to the Jeffords amendment.

The CHAIRMAN. The gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Chairman, I rise in opposition to the Jeffords amendment. Basically what the Jeffords amendment is, it just deletes from this bill as far as Farm Credit System loans are concerned, the borrowers' rights that we in committee spent many hours in developing in behalf of our farm borrowers out here. They are also stockholders of the Farm Credit System. They are the same people, they are the owners. That is who they are.

The gentleman from Vermont [Mr. JEFFORDS] now says let us provide a way to get rid of all those borrowers' rights. I say to my colleagues, if you want to defeat this bill, the Jeffords amendment goes against this bill because he is not for borrowers' rights. Some have this feeling just as strongly that we need to retain those borrowers' rights.

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. Mr. Chairman, I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Chairman, I thank the gentleman for yielding.

The way I understand it is that you could waive the rights under this amendment?

Mr. VOLKMER. Yes.

Mr. ROSE. And therefore if one went to his banker he could twist your arm and say that to provide a loan there must be a waiver of rights. Could that not happen?

Mr. VOLKMER. The banker does not have to worry, it is the Farm Credit System that has to worry.

Mr. ROSE. That is what I mean.

Mr. VOLKMER. That is right. They can say that the loan will not be made unless there is a waiver of rights.

Mr. ROSE. This could become known as "if you want the loan, you waive your rights" amendment?

Mr. VOLKMER. That is right.

Mr. ROSE. I thank the gentleman for yielding.

Mr. VOLKMER. So we do not have any rights for our borrowers.

Mr. NAGLE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. Mr. Chairman, I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Chairman, I do not want to be too strong on this, but it is a very clear attempt to destroy what the gentleman from Vermont [Mr. JEFFORDS] was unable to destroy in committee, which is the rights of borrowers to use the secondary market. The reason for that is simple. The language itself is quite deceptive. It says that the borrower may waive any of his rights if he wishes to participate in the secondary market. The effect will be that if he goes to the Federal land bank, they will ask if the applicant wants to give up his rights, the applicant will say no, and they will say, I am sorry, the loan with the lower interest rate of the secondary market cannot be made available. Bargaining between two parties on equal footing is always proper, but when one controls whether the applicant gets the loan or not and would have to pay to relinquish rights in order to get the lower loan rate, that is improper.

This destroys the very purpose that the committee worked so long and hard on over the Member's opposition to obtain borrowers' rights for farmers. Farmers should have the same rights as others do when they buy a used car in a town.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. Mr. Chairman, I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman I am in favor of everyone having borrowers' rights. That was my original amendment. The previous speakers have badly misstated my amendment. Loans through the normal Farm Credit System would carry the borrower rights, only loans to be sold on the secondary market are affected.

The experts in the committee that heard this issue said that you cannot attach borrower rights to loans or the secondary market. That the loans with borrower rights will not sell at reasonable rates. You will not have any secondary market. You will have no commercial bank participation.

Thus I have come up with an option where the farmer has an option. If he wants to get the money through the normal Farm Credit System, through sale of bonds, and maybe even at the same interest rate, that can be done. He would go and have his borrower's rights. In addition he also has the option to waive his rights, if it is to his advantage to do so, to receive a lower rate. This might be much more of security against a foreclosure, a better option than provided by borrower rights.

Mr. VOLKMER. Mr. Chairman, reclaiming my time, I would like to again rise in opposition and ask the Members to overwhelmingly vote down this amendment for what its impact is on borrowers' rights of our farmers and stockholders in this legislation, where the Agriculture Committee has worked and developed these borrowers' rights, I think they should be retained and we should not say, as the gentleman from Vermont [Mr. JEFFORDS] would have us do, having the borrowers, having the rights in the legislation, we are really being told if he wants his loan to go through the secondary market then he is going to have to waive those rights which means that it is an imposition on that farmer.

I think that the amendment should be defeated.

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The Gentleman will state his parliamentary inquiry.

Mr. MADIGAN. Mr. Chairman is it permissible under the rule for a Member to ask unanimous consent for time beyond that which is allowed in the rule?

The CHAIRMAN. The gentleman may request a unanimous consent for that purpose under the rule.

Mr. MADIGAN. Mr. Chairman, I ask unanimous consent that I be recognized for 3 additional minutes in support of the Jeffords amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. VOLKMER. Mr. Chairman, reserving the right to object, what was the amount of time requested?

Mr. MADIGAN. Mr. Chairman, if the gentleman will yield, I asked for 3 minutes.

Mr. VOLKMER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, I yield to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the opportunity to close this debate.

Mr. Chairman, I cannot be more serious when I say that I have thoroughly analyzed the situation here. I have talked to experts across the field in banking and the use of secondary markets. I appeared before the Committee on Banking, Finance and Urban Affairs, and underwent extensive questioning on this situation. The analysis that I have come to is that if we are going to save the Farm Credit System it has to be competitive with the commercial system. The only way that it can be done is if we allow the loans that are being sold on the secondary market by the Farm Credit System to be sold on the same basis as those from the commercial banks. If we do not do that, they may not sell at all or they will not sell at a competitive interest rate. Thus, the good loans will go to the commercial banks. As more loans leave the system we will have a spiraling downward of the Farm Credit System, with higher and higher cost of money, with more and more defaults, and we will have a system that will collapse. In addition, more and more funds will be required from us to try and save the system from the problems we create here today.

I am not alone in these beliefs. Experts have testified to these facts.

Mr. Chairman, I urge support of my amendment.

Mr. NAGLE. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. Mr. Chairman, I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Chairman, if I am correct, if all these experts that testified in front of these three committees believe the position you contend, why did not any of the committees adopt this as a provision of the original bill?

Mr. JEFFORDS. I do not have an answer to that. All I know is the Senate has a similar provision in their draft now, and they have agreed with those people, as I do.

Mr. NAGLE. If the gentleman will further yield, did you offer this amendment in the Committee on Agriculture, and if so, what was the outcome of the vote?

Mr. JEFFORDS. I offered the other one which I am sure the gentleman from Iowa [Mr. NAGLE] would have supported, though he did not mention it, that would have put borrowers' rights in all of the loans, commercial loans as well. But from the pained look on the faces of my colleagues on the committee—having to make that choice between the urging of commercial barbs and borrowers rights thus I decided not to call for a vote.

Mr. NAGLE. Would it be fair to conclude that three separate committees had considered your proposal, and we have yet to find it in the bill?

Mr. JEFFORDS. That is not correct. To my knowledge I only appeared before one, and none of the committee had this particular provision proposed to them. This was a compromise that I worked out after appearing and suggesting that the committee adopt my previous amendment which was for all loans to have borrowers' rights on them. This is something that was developed as a compromise after those appearances.

Mr. NAGLE. Do you recall the vote on your original proposal in the Committee on Agriculture?

Mr. JEFFORDS. There was no vote on it.

Mr. NAGLE. The bill itself, however, without your provisions in it passed the Committee on Agriculture 40 to 2, and you were 1 of the 2 dissenting votes; is that correct?

Mr. JEFFORDS. That is correct.

Mr. NAGLE. Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MADIGAN] has expired.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent that I may have 3 additional minutes in opposition to the Jeffords amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. MADIGAN. Reserving the right to object, Mr. Chairman, may I ask, How many minutes did the gentleman from Missouri request?

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield, I asked for 3 minutes.

Mr. MADIGAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, I first yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

The CHAIRMAN. Without objection, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 1 minute.

There was no objection.

Mr. ALEXANDER. Mr. Chairman, I first rise in support of the bill and in support of the title and in support of secondary markets for farmers.

It strikes me as a little unusual that last week leaders from all over the world came to Washington to meet with the World Bank, and the principal concern there was the various need of borrowers from Third World countries who had consideration given to them according to their various needs, according to their various debts, the total of which was less than what is owed by the farmers of America, because of the depression that has beset the farm community over the last 6 years.

Indeed, farmers, like other borrowers, need consideration to be given them for their special needs that have resulted from the difficulties that they face.

I hope the Committee will oppose the Jeffords amendment and go on and pass the amendment that is before us.

Mr. VOLKMER. Mr. Chairman, I yield 1½ minutes to the gentleman from South Dakota [Mr. JOHNSON].

The CHAIRMAN. Without objection, the gentleman from South Dakota [Mr. JOHNSON] is recognized for 1½ minutes.

There was no objection.

Mr. JOHNSON of South Dakota. Mr. Chairman, I thank the gentleman from Missouri [Mr. VOLKMER] for yielding.

Mr. Chairman, I rise in support of the bill but in opposition to the Jeffords amendment. I want to state that the worst thing we can do is to bail out a Farm Credit System while at the same time ignore the very reason why that System exists in the first place, and that is to assist the farmer and rancher borrowers of this country. I think the borrowers' rights provision that we have is a vital component of this reform of the Farm Credit System. It ought to be kept in mind that one of the principal components of that borrowers' rights provision is debt restructuring. Debt restructuring only where it is the least costly alternative.

Too often we have seen instances where farmers and ranchers have been forced to liquidate their farm, and on liquidation the land is resold at 40 cents on the dollar, where in the first instance it would have been cheaper to restructure the debt to keep the farmers on the land.

I think we have a critical decision to be made in this Congress about what kind of agriculture we are going to have, whether we are going to keep farmers on the land or whether we are going to continue the depopulization and decimation of rural America that we have seen. I think this borrowers' rights provision is absolutely vital, and I ask the Members to oppose this amendment.

Mr. VOLKMER. Mr. Chairman, I yield one-half minute to the gentleman from South Carolina [Mr. TALLON].

The CHAIRMAN. Without objection, the gentleman from South Carolina [Mr. TALLON] is recognized for one-half minute.

There was no objection.

Mr. TALLON. Mr. Chairman, I rise in support of H.R. 3030, the Agricultural Credit Act of 1987.

This legislation will shore up the Farm Credit System's financial situation, provide for a reorganization of the System, establish a secondary market for agricultural real estate loans, and put into place a wide range of measures to protect both FCS and FmHA borrowers' rights.

The House Agriculture Subcommittee on Conservation, Credit, and Rural Development spent many days of hearings on the issue of farm credit earlier this year under the able leadership of Chairman ED JONES. I would like to commend him, Chairman DE LA GARZA, the various members who took an active role in the formation of this legislation, as well as all the staff who spent many hours working out the controversial points.

I would like to highlight one section of the bill as reported by the Agriculture Committee which is vital to the Columbia District Bank, which provides credit throughout my congressional district.

The degree to which viable Farm Credit institutions are to share their capital surplus with other Farm Credit institutions experiencing financial difficulty has been an issue since the 1985 Farm Credit Act amendments.

H.R. 3030 includes a provision which would reallocate the System self-help which has occurred to date and apply those resources back to the original districts that are now in need of those resources.

Financial assistance provided through System capital preservation agreements in the third quarter of 1986 would be reversed and replaced with funds administered by the Temporary Assistance Corporation [TAC].

Without this very important provision, what we will have is more Farm Credit institutions needing financial assistance from the Federal Government. The 1985 amendments to the Farm Credit Act never intended that System institutions would be made nonviable or noncompetitive by helping other districts through capital sharing. Furthermore, the 1986 act stated quite explicitly that the commitment of System resources to self-help should be "consistent with sound business practice."

In my district, the Federal Land Bank of Columbia has contributed over $175 million to other Farm Credit districts which has left it in a weakened financial condition. This transfer of capital has cost the farmers in my district about $13 million a year. They have to absorb this extra cost through higher interest rates. Our farmers cannot afford higher interest rates and the ones that can go elsewhere to borrow will. This only serves to compound the System's problems.

Many System institutions have filed lawsuits over this issue, not because they do not want to share their capital, but because they were concerned about their own stockholders having their stock impaired. The assistance they extended for the third quarter of 1986 took them beyond what Congress intended under the 1985 amendments. These districts need to have these resources returned in order to deal with their own problems.

The Farm Credit System has demonstrated the necessary capital sharing before it receives Federal money. We do not need for all of the banks to become stock impaired. H.R. 3030 provides that the third quarter payments will be reversed. This should enable the banks and associations in contributing districts to retain sufficient capital to manage their institutions financial risk and continue as viable institutions. This in turn will minimize the need for Government assistance.

I urge my colleagues' support for H.R. 3030.

Mr. GRANDY. Mr. Chairman, I ask unanimous consent that I be granted 2 additional minutes to engage in a colloquy with the gentleman from Vermont [Mr. JEFFORDS] regarding his amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GRANDY. Mr. Chairman, I would like to pursue the amendment of the gentleman from Vermont [Mr. JEFFORDS] because I think there is some concern obviously on the other side of the aisle that this will restrict borrowers' rights, reduce credit opportunities and, if I understand the gentleman from Vermont [Mr. JEFFORDS] correctly, I think it will do just the reverse. However, I would like the gentleman from Vermont to verify that for me.

As I understand it, if I am a farmer and I go to the Farm Credit System and I apply for a loan in the secondary market, then I am given the option of either waiving my borrower's rights for which I would assume a lower interest rate or merely participate in the regular loan pool which would provide borrowers' rights, is that correct?

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. Mr. Chairman, I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, the gentleman is correct.

Mr. GRANDY. If I am not able to get a reduced interest rate in return for my borrower's rights, I would most likely go to the commercial banks which offer the secondary markets, with no borrowers' rights, is that correct?

Mr. JEFFORDS. That is correct.

Mr. GRANDY. In other words, the farmer has the option always to go to where the borrowers' rights are? What you are offering in your amendment is the opportunity for the Farm Credit System to perhaps be an equal competitor with the commercial banks to offer a lower interest rate, but under these conditions waive borrowers' rights, which the commercial banks do not offer anyway?

Mr. JEFFORDS. That is correct.

Mr. GRANDY. Mr. Chairman, I am not sure I will need the entire 2 minutes. If I recall what the gentleman from Vermont [Mr. JEFFORDS] did in committee, it was to extend borrowers' rights across the board, which was a provision that the banking community did not want and would not accept and consequently would have gutted the entire opportunity and option for a secondary market.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. Mr. Chairman, I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, my question to the gentleman from Vermont [Mr. JEFFORDS] is, since when did we have testimony that with borrowers' rights loans cannot enter the secondary market? None.

In other words, the gentleman from Vermont has erected a paper tiger and he is now knocking it down.

Mr. JEFFORDS. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, I believe if the gentleman from Missouri [Mr. VOLKMER] remembers, questions were posed to the representative from the Treasury, Mr. Sethness, replying to a question as to what would happen with respect to selling on the market with borrowers' rights attached, and I think the answer we got as I remember was that they would have a very adverse reaction. At least this is my memory.

Mr. Chairman, I would be happy to yield to anyone for an explanation.

□ 1600

Mr. MARLENEE. Mr. Chairman, would the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I thank the gentleman for yielding.

Would the gentleman's amendment result in a better interest rate for the borrower, the producer, who needs a better interest rate?

Mr. JEFFORDS. Yes, it would, for those going through the Farm Credit System.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for yielding.

I disagree with the gentleman, and Mr. Sethness has always adamantly opposed the secondary market, done everything he could to kill it.

Mr. JEFFORDS. That is correct. He is opposed. He also stated, as have others in the banking field I have talked with that if you have borrowers' rights, it will cost more money and give a disadvantage to the Farm Credit System. You don't get something for nothing in the secondary market.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Vermont [Mr. JEFFORDS] to the amendment, as modified, offered by the gentleman from Tennessee [Mr. JONES].

The question was taken; and on a division (demanded by Mr. JEFFORDS) there were—ayes 13, noes 50.

So the amendment to the amendment, as modified, was rejected.

The CHAIRMAN. Is there any further debate on the amendment by the gentleman from Tennessee [Mr. JONES]?

The question is on the amendment offered by the gentleman from Tennessee [Mr. JONES], as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. Under the rule, amendment No. 32 is now in order.

AMENDMENT OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATKINS: Page 9, strike out line 15 and all that follows through the end of line 18 and insert in lieu thereof the following:

"(i) four members shall be actively engaged in the production of 1 or more agricultural commodities at the time of their appointment and shall not have served as a director or an officer of any financial institution;

Mr. WATKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. MADIGAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk completed the reading of the amendment.

Mr. WATKINS. Mr. Chairman, my amendment is very simple, and I think that most people would be for it.

Mr. Chairman, there is made provision for 13 board members to be part of this legislation, this Farm Credit Board.

Three of those would be non-Farm Credit System members, three the Farm Credit System members, and seven members to be appointed by the President of the United States.

My amendment would allow 4 of those 13 to be farmers, and so, Mr. Chairman, I think it would allow our farmers to have some voice, a greater voice.

They would not be controlling it by votes by a long shot, because there are 13 board members; and I am asking that they be allowed up to 4 members on that 13-member board to be farmers, so it is a very simple amendment.

The CHAIRMAN. The gentleman from Oklahoma controls his 5 minutes.

Mr. WATKINS. Mr. Chairman, I just explained it.

Mr. EMERSON. Mr. Chairman, would the gentleman yield for a question?

Mr. WATKINS. I yield to the gentleman from Missouri.

Mr. EMERSON. I thank the gentleman for yielding to me.

Is there any mechanism as to who is to appoint those four members.

Mr. WATKINS. The President of the United States.

Mr. EMERSON. I thank the gentleman.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I thank the gentleman for yielding to me.

I think the amendment offered by the gentleman from Oklahoma [Mr. WATKINS] makes eminently good sense.

I see no reason why farmers should not be represented on that board.

It is a very fine amendment, and I commend the gentleman from Oklahoma [Mr. WATKINS] and urge support of the gentleman's amendment.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding to me.

Is the gentleman offering the amendment in the manner in which it is printed in the RECORD?

Mr. WATKINS. No, I am not.

To the gentleman from Illinois, I have made it adaptable to the substitute that has been adopted.

Mr. MADIGAN. It still calls for four or more members?

Mr. WATKINS. Just four, not "or more."

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MADIGAN. Mr. Chairman, is the amendment then in order under the rule?

The CHAIRMAN. The modification is in order only by unanimous consent. The gentleman must otherwise offer it as printed in the RECORD.

Mr. MADIGAN. Has the gentleman from Oklahoma requested unanimous consent?

The CHAIRMAN. Not as yet.

Mr. WATKINS. Mr. Chairman, I did not officially; but if the gentleman would allow me, if it is necessary, I would ask unanimous consent that my amendment be offered.

The CHAIRMAN. Is there any objection to the modification of the amendment?

Mr. MADIGAN. Mr. Chairman, I object at this time.

The CHAIRMAN. The gentleman from Illinois objects.

The Clerk will now report the original amendment as printed in the RECORD.

AMENDMENT OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATKINS: Page 150, strike out lines 3, 4, and 5 and insert in lieu thereof the following:

(I) four or more members shall be actively engaged in the production of 1 or more agricultural commodities at the time of their appointment and shall not have served as a director or an officer of any financial institution; and

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The gentleman from Oklahoma [Mr. WATKINS] has 3 minutes remaining.

Mr. MADIGAN. Mr. Chairman, I ask unanimous consent that the gentleman may have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The gentleman from Oklahoma [Mr. WATKINS] is recognized for 2 additional minutes.

Mr. WATKINS. Mr. Chairman, basically my purpose in altering the amendment was to try to make it applicable to the substitute.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

Would the gentleman be so kind as to favor this side with a copy of what it is that the gentleman is putting before the House, so we might see how it differs from what is printed in the RECORD?

Mr. WATKINS. I will be happy to.

My alteration was to only try to make it adaptable to the substitute which was adopted by the House a few minutes ago.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield further?

Mr. WATKINS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, it is my understanding what has been sent over to the Members here is a copy of the original amendment with two words on that amendment circled?

Those words are "or more" on line 1 following "four."

Mr. WATKINS. Those two words were struck out when I took it to the desk.

Mr. MADIGAN. It is the gentleman's intention to offer his original amendment minus those two words? Is that what we have before the Members?

Mr. WATKINS. Leaving it only to four, not "or more."

Mr. MADIGAN. For the purpose of making some kind of record, it is the gentleman's intention that we would consider an amendment that says, "four or more members shall be actively engaged in the production of one or more agricultural commodities at the time of their appointment and shall not have served as a director or an officer of any financial institution; and * * *."

Mr. WATKINS. The gentleman from Illinois is correct.

Mr. MADIGAN. The gentleman would intend to preclude anyone who has ever served on the board of a land bank or a PCA?

Mr. WATKINS. I do not have any objection to those who have had that kind of previous experience.

Mr. MADIGAN. That is what the gentleman's amendment does.

May I ask if the gentleman would withdraw the amendment, and see if we cannot work on this and offer it a little bit later?

Mr. WATKINS. I will be happy to withdraw it and offer it at a later time.

Mr. MADIGAN. Mr. Chairman, I ask unanimous consent that the rights of the gentleman from Oklahoma [Mr. WATKINS] be protected under the rule.

The CHAIRMAN. Is there any objection to the withdrawal of the amendment under the conditions set forth by the gentleman from Illinois [Mr. MADIGAN] that the gentleman from Oklahoma [Mr. WATKINS] may reoffer the amendment at a later time?

There was no objection.

The CHAIRMAN. The amendment is withdrawn under those terms.

Amendment No. 33 is now in order under the rule.

AMENDMENT OFFERED BY MR. HUCKABY

Mr. HUCKABY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUCKABY: On page 39, strike out lines 10 and 11 and insert in lieu thereof the following:

There are hereby authorized to be appropriated such sums as are necessary to provide to the Temporary Assistance Corporation under this section funds sufficient to ensure that each institution of the Farm Credit System will retire borrower stock at 100 percent of par value as provided in section 4.41, and otherwise to carry out this section.

Mr. CRAIG. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, I thank the gentleman for yielding.

I stand in support of H.R. 3030 as amended.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Texas [Mr. DE LA GARZA] which was adopted.

Mr. HUCKABY. Mr. Chairman, the amendment before the Members simply makes it clear the committee's intent that the Temporary Assistance Corporation [TAC], shall fund the institutions receiving funds at 100 percent of their stock par value.

The intent or the purpose of this amendment is to make clear, so that at the end of 5 years, TAC, the Temporary Assistance Corporation, self-destructs via this legislation, that we will have a Farm Credit System that is sound, viable, and up and running and self-sustaining, because numerous people who have testified before the committee at hearings when we considered this legislation pointed out that if we did not amply fund, bail out these organizations, we could end up in a situation 5 years hence just as we are today, where we are barely limping along.

Several of the institutions are still virtually paralyzed, so I would urge the Members to approve this amendment.

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MADIGAN. Mr. Chairman, I say at the outset that I am extremely grateful for the tolerance of the Chair with regard to the parliamentary inquiries that we have felt it necessary to make today, and with regard to this parliamentary inquiry.

May I ask if a Member must be in opposition to the Huckaby amendment in order to be recognized?

The CHAIRMAN. Under the order and the rule, the answer is "Yes."

The gentleman from Louisiana [Mr. HUCKABY], however, has time remaining.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

My concern is, I believe we are concerned here about what happens to farmers' stock after the 5 years; but I believe the gentleman from Missouri [Mr. COLEMAN] can phrase the question better than I would be able to.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman for yielding to me.

In the bill we have a guarantee of stock for 5 years. That is the same 5 years that the TAC is in existence.

After TAC goes out of existence by operation of law, then the gentleman's amendment says that the gentleman wants to be able to have some moneys available to be able to retire borrowers' stock at 100 percent of par value.

Does that mean that somebody is going to buy that stock from the investors? What is that going to be, and how much money are we are talking about?

Mr. HUCKABY. It simply means that the TAC shall inject funding at such a level to support the stock at 100 percent of par value rather than at some lower level which technically an institution might still remain solvent; but it might not be solvent tomorrow under these circumstances.

I wish to inject an ample amount of cash here, 100 percent of par value, because we have committed to the farmers that we are going to protect their stock.

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Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield for a further question?

Mr. HUCKABY. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, if the TAC Board were to assure 100 percent par value being in the various associations, would it not not then trigger a relationship between that association and the TAC, even though not requested by the local association, and as the gentleman said, even though technically they were solvent, in order to fulfill the requirements of the gentleman's gentleman, such as that local board and association would have to provide a plan to the TAC Board and all the other things that we assume the TAC Board is going to require of an institution in requesting Federal support?

Are we not also by this amendment requiring that be done, even though the local board has not requested such assistance?

Mr. HUCKABY. No, the intent of this amendment, if I might reclaim my time, is merely to say that where TAC is providing assistance, which is keyed elsewhere, the level of assistance shall be at 100 percent of par value.

Mr. COLEMAN of Missouri. So this is only operating for these entities that have previously requested TAC assistance?

Mr. HUCKABY. That is correct.

Mr. COLEMAN of Missouri. I am not sure whether it is clear from a reading of the amendment that that is the intent of the author, and I am glad because I think the gentleman has now shown his intent, and if this record means anything it is much different than what I consider the plain language of what the gentleman has offered here today.

MODIFICATION OF AMENDMENT OFFERED BY MR. HUCKABY

Mr. HUCKABY. Mr. Chairman, I ask unanimous consent to change the amendment pending before us in this manner: Where we say "strike out lines 10 and 11," change that to "after line 11".

This is strictly a technical amendment to conform with the de la Garza amendment that will be offered later on.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The text of the amendment, as modified, is as follows:

On page 39, after line 11 insert in lieu thereof the following:

There are hereby authorized to be appropriated such sums as are necessary to provide to the Temporary Assistance Corporation under this section funds sufficient to ensure that each institution of the Farm Credit System will retire borrower stock at 100 percent of par value as provided in section 4.41, and otherwise to carry out this section.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. HUCKABY] as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. Pursuant to the rule, it is now in order to consider the modified amendment offered by Representative DE LA GARZA, or his designee Representative JONES of Tennessee, in lieu of the amendments numbered 34 and 35 in House Report 100-307, which shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. Said amendment is subject only to the amendment offered by Representative JEFFORDS, consisting of the modified text of amendment numbered 36 in House Report 100-307, which shall be debatable for 10 minutes, equally divided and controlled by Representative JEFFORDS and a Member opposed thereto.

AMENDMENT AS MODIFIED OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Chairman, pursuant to the rule, I offer a modified amendment to title IV of H.R. 3030 in lieu of amendments 34 and 35.

The Clerk read as follows:

Amendment, as modified, offered by Mr. JONES of Tennessee: Page 177, line 23, strike out "Effective beginning 1 year" and insert in lieu thereof "(a) GENERAL.—Effective beginning 6 months".

Page 178, strike out line 6 and all that follows through the end of line 16 on page 181 and insert in lieu thereof the following:

"SEC. 6.1. DISSOLUTION OF FARM CREDIT DISTRICTS AND BANKS.

"(a) The farm credit districts, as established under part A of title V, are hereby dissolved, except that the farm credit district board of directors for each such district shall remain in existence until the Federal land bank and Federal intermediate credit bank in such district are reorganized, as provided under this section, for the purposes of section 5.3 with respect to Federal land banks and Federal intermediate credit banks. Each such district board of directors shall consist of the two directors elected by the Federal land bank associations, the two members elected by the production credit associations, and the member elected under section 5.2(a)(2).

"(b)(1) The Federal land banks and Federal intermediate credit banks operating under titles I and II, respectively, shall be reorganized by the Farm Credit Administration into Service Banks (as provided for under section 6.2), and their assets and debts, obligations, contracts, and other liabilities (whether matured or unmatured, accrued, absolute, contingent, or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the banks) shall be assumed by other institutions of the Farm Credit System, as provided by this subsection (notwithstanding the provisions of sections 2.7 and 4.12). The contractual obligations, security instruments, and title instruments of such banks immediately before such reorganization, by operation of law and without any further action by such banks or any court, shall become and be converted into obligations and instruments of other System institutions assuming the assets and liabilities of such banks, as provided for by the Farm Credit Administration in implementing such reorganization. Such receipt of assets and assumption of liabilities by a nontaxable System institution shall not be treated as a taxable event under the laws of the United States or of any State or political subdivision thereof. The preceding sentence shall also apply to the receipt of assets and liabilities by a taxable institution to the extent that the net amount of the distribution is immediately reinvested in stock of a Service Bank (and in such case the basis of such stock shall be appropriately reduced by the amount of gain not recognized by reason of this sentence).

"(2) The Farm Credit Administration hereby is appointed, for not longer than the time period set forth in paragraph (3), as (A) the receiver for such banks for the purpose of implementing such reorganization of the banks, and (B) agent and attorney in fact of the Federal land bank associations, production credit associations, and Service Banks for the sole purpose of receiving the assets, liabilities, obligations, and instruments of the banks to be reorganized, as provided in this subsection, and initially capitalizing the Service Banks, as provided in section 6.2.

(3) The reorganization of the Federal land banks and Federal intermediate credit banks shall be completed within 18 months after the effective date of this part. In determining the order in which such banks shall be reorganized, the Farm Credit Administration shall give priority to—

"(A) first reorganizing those banks in the farm credit districts (as established under part A of title V) in which one or more banks have received financial assistance or a commitment for financial assistance from the Temporary Assistance Corporation under part F of title IV; and

"(B) then reorganizing the banks in other farm credit districts.

In implementing the reorganization of banks described in subparagraph (A) of the preceding sentence, the Farm Credit Administration shall consult and coordinate its activities with the Temporary Assistance Corporation. In implementing each reorganization of a bank described in subparagraph (B) of the preceding sentence, the Farm Credit Administration shall take into consideration the recommendations of the farm credit district board of directors involved as to the timing of such reorganization.

"(4) On the reorganization of each such bank, the Farm Credit Administration shall—

"(A) with respect to production credit associations—

"(i) subject to the allocation of such assets provided for under section 6.2(d)(2), distribute nonloan assets of the bank (other than stock in service organizations chartered under section 4.25) to the associations affiliated with the bank, with each such association to receive a percentage of such assets that is equal to the percentage of the bank's capital stock and allocated surplus held by or allocated to the association at the time of the reorganization; and

"(ii) distribute the loan assets and stock in service organizations chartered under section 4.25 and related liabilities (including liabilities under section 4.4), of the bank to the Service Bank established under section 6.2 the service area of which includes the farm credit district of the bank;

"(B) with respect to Federal land bank associations—

"(i) distribute loan assets and any related liabilities (including liabilities under section 4.4) of the bank to the association affiliated with the bank, with each such association to receive such assets and property, and a portion of liabilities, held by the bank in connection with loans originated by that association. In connection with each such distribution of loan assets to associations, there shall be executed a simultaneous financing agreement between the association and the Service Bank involved under which the association becomes liable to the Bank for payment of an amount equal to the value of the loan assets distributed to the association (with the loan assets so distributed to serve as collateral to secure payment under the financing agreement), and a transfer of the liabilities associated with such loans to such Service Bank;

"(ii) distribute other nonloan assets of the bank to the associations affiliated with the bank, subject to the allocation of such assets as provided for under section 6.2(d)(2), with each such association to receive a percentage of such assets directly related to the territory served by the association as is fair and reasonable taking into consideration the percentage of the bank's capital stock and allocated surplus held by or allocated to the association immediately before the reorganization; and

"(iii) distribute stock in service organizations chartered under section 4.25 to the Service Bank established under section 6.2 the service area of which includes the farm credit district of the bank;

"(C) cancel and retire all stock of the bank held by the associations affiliated with the bank in consideration for the distributions provided under subparagraphs (A) and (B), and convert participation certificates held by other financing institutions described in section 2.3(a)(2) into participation certificates of the Service Banks; and

"(D) distribute any remaining liabilities to such associations and Service Bank, which shall assume those liabilities, in such manner as the Farm Credit Administration determines appropriate, taking into consideration the distribution of assets and liabilities provided for in the preceding subparagraphs.

"(5) Each Federal land bank and Federal intermediate credit bank shall, to the extent practicable, take such steps as are necessary to expeditiously wind up, before its reorganization, its activities not relating to the provision and service of loans to farmers, ranchers, and others eligible to obtain credit under title I or II of this Act, or to its borrowing and service of debt to provide such credit.

"SEC. 6.2. ESTABLISHMENT OF REGIONAL FARM CREDIT SYSTEM SERVICE BANKS.

"(a) The Farm Credit Administration shall charter a Farm Credit System Service Bank (referred to in this Act as 'Service Bank'), which shall consist of the reorganized Federal land banks and Federal intermediate credit banks, in each regional service area established under subsection (b). The Service Banks shall be federally chartered instrumentalities of the United States and institutions of the Farm Credit System. Each such charger may be modified from time to time by the Farm Credit Administration not inconsistent with the provisions of this title as may be necessary or expedient to implement this Act.

"(b)(1) There shall be not more than six farm credit regional service areas in the United States, which may be designated by number. The Commonwealth of Puerto Rico and the Virgin Island shall be included in one or more of such service areas.

"(2) Each regional service area shall include the entire service area of one or more farm credit districts under part A of title V, as established on the date of enactment of the Agricultural Credit Act of 1987.

"(3)(A) The number of farm credit regional service areas, and the boundaries of each such service area, shall be established by the Farm Credit Administration, not later than 90 days after the effective date of this part, as agreed to by all boards of directors of the farm credit districts under part A of title V. If, at the end of 90 days, the boards of directors are unable to reach agreement on the regional service areas, the Farm Credit Administration, as soon as is practicable, shall establish six regional service areas and determine the boundaries thereof.

"(B) In determining the number of regional service areas (as provided in subparagraph (A)), and the boundaries of each service area, consideration shall be given to the efficiencies that will be achieved by—

"(i) merging the service areas and facilities of two or more farm credit districts that have Federal land banks or Federal intermediate credit banks that have received financial assistance or a commitment for such assistance from the Temporary Assistance Corporation under part F of title IV; and

"(ii) expanding the service areas of other farm credit districts with banks that do not have the need of such assistance to include the service areas of, and making the facilities of such districts available to, districts described in clause (i).

"(c)(1) Except as provided in paragraph (2):

"(A) If a regional service area is established using the criteria specified in subsection (b)(3)(B)(ii), the Service Bank for the service area shall be located in the region covered by the farm credit district whose service area is expanded and facilities made available (unless otherwise agreed to by the boards of the farm credit districts involved).

"(B) Otherwise, the Service Bank shall be established in the location agreed on, within 90 days after the regional service area is established, by all the boards of directors of the farm credit districts involved. If at the end of 90 days, the boards of directors are unable to reach agreement on the location of the Bank, the Temporary Assistance Corporation, as soon as is practicable, shall determine the location of the Bank.

"(2)(A) Each Service Bank may establish such branches or other offices as may be appropriate for the effective operation of its business.

"(B) Whenever a Service Bank is established under subsections (a) and (b) or under subsection (m) that provides services in nine or more States, the Service Bank shall maintain an office and personnel (at a level sufficient to meet the needs of associations that the office serves) in—

"(A) in the case of a Service Bank established under subsections (a) and (b), each of the farm credit districts under part A of title V included in the Bank's service area; and

"(B) in the case of a Service Bank established under subsection (m), each of the original regional service areas served by the Bank.

"(d)(1)(A) Each Service Bank shall be provided capital by the Federal land bank associations and production credit associations in its regional service area, under regulations of the Farm Credit Administration. The Farm Credit Administration regulations shall provide for minimum and maximum levels of capital consistent with the need to ensure the financial safety and soundness of the bank, except that any such minimum or maximum required level of capitalization shall not exceed that necessary to ensure the financial safety and soundness of the bank.

"(B) The regulations required under subparagraph (A) also shall provide for the provision of additional capital by associations, following the initial capitalization of a bank, as provided under paragraph (2), as needed to provide capital to the Service Bank to satisfy the Service Bank's obligations under section 4.4 or to maintain adequate capital in the bank. Such subscriptions shall be subject to call and payment therefor shall be made at such times and in such amounts as are determined by the Service Bank. The Farm Credit Administration may take any action authorized under part C of title V to enforce compliance with any such call or payment.

"(C) Each association in the regional service area shall be jointly and severally liable for the payment of any additional capital that any association primarily liable therefor under subparagraph (B) is unable to make. Any call for funds based on such joint and several liability shall be made taking into consideration the capital, surplus, bonds, debentures, or other obligations that each association may have outstanding at the time of such call.

"(2) To provide for the initial capitalization of each Service Bank, the Farm Credit Administration, as agent and attorney in fact for the associations located in the service area of the Bank, before distributing nonloan assets of reorganized Federal land banks and Federal intermediate credit banks under section 6.1(b)(4) to the associations, shall allocate such portion of such assets to the purchase of stock of the Service Bank sufficient to meet the Bank's credit needs. The obligations of each association to contribute to the initial and any subsequent capitalization requirement of the Service Bank shall be based on the borrowing requirements of such association taking into account outstanding loans held by the association. Notwithstanding any other provision of this Act, in the event that the reorganization proceeds under section 6.1(b)(4) to associations in the service area of the Service Bank are less than the amount needed for the initial capitalization of the Bank, the Temporary Assistance Corporation shall provide funds to the Farm Credit Administration, as agent and attorney in fact for such associations, in amounts sufficient to complete the initial capitalization of the Bank.

"(e)(1) The capital stock of each Service Bank shall be divided into shares of par value of $5 each and may be of such classes as its board of directors may determine with the approval of the Farm Credit Administration.

"(2) Voting stock of each Service Bank shall be held only by the Federal land bank associations and production credit associations, which stock may not be transferred, pledged, or hypothecated, except as authorized under regulations of the Farm Credit Administration.

"(3) The board of directors of each Service Bank from time to time shall increase its capital stock to permit the issuance of additional shares to associations in amounts determined by its board of directors.

"(4) Nonvoting stock may be issued by each Service Bank to, and, notwithstanding the provisions of paragraph (8) of this subsection, shall be retired for, other Farm Credit System institutions as may be authorized by its board of directors. Participation certificates, with a face value of $5, may be issued in lieu of such nonvoting stock to the extent that the bylaws of the bank so provide.

"(5) Participation certificates also may be issued by each Service Bank to financing institutions other than associations that are eligible to borrow from, or discount eligible paper with, or sell certificates of beneficial ownership in loans to the Bank. Participation certificates held by other financing institutions may be transferred to other such institutions on request of, or with the approval of, the Bank.

"(6) Noncumulative dividends may be payable on capital stock and participation certificates of each Service Bank in an amount not to exceed a percent permitted under regulations of the Farm Credit Administration, in any year as determined by the board of directors. Such dividends may be in the form of stock and participation certificates or in cash. The rate of dividends may be different between different classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the Service Bank by such classes and issues. Service Banks shall be subject to the general direction of the Farm Credit Administration with regard to the payment of dividends.

"(7) Whenever the relative amounts of stock in a Service Bank owned by the associations differ substantially from the relative proportions established under the initial capitalization of the bank (based on average loan volume), as provided under subsection (d)(2), and additional subscriptions to stock through which such proportion could be reestablished are not contemplated, the board of directors of the Service Bank may direct either separately or in combination such transfers, retirements, and reissuances of outstanding stock among the asssociations as will reestablish the initial proportions as nearly as may be practicable. Outstanding stock that is retired for the purpose, except as otherwise approved by the Farm Credit Administration, shall be the stock held by the association for the greatest period of time and the Bank shall pay the association therefor at the book value thereof not exceeding par.

"(8) Each Service Bank may retire stock at par and participation certificates at face amount in accordance with regulations of the Farm Credit Administration. Such stock and participation certificates shall be retired without preference and in such manner that, unless otherwise approved by the Farm Credit Administration, the outstanding stock or certificates held for the greatest period of time is retired first. In case of liquidation or dissolution of any Federal land bank association, production credit association, or institution described in section 2.3(a)(2), the stock or participation certificates of the Bank owned by such association or institution may be retired by the Bank at the book value thereof, not exceeding par or face amount, as the case may be.

"(9) Each Service Bank shall have a first lien on all stock and participation certificates it issues and on all allocated reserves and other equities as collateral for any indebtedness of the holder of such capital investments to the Bank.

"(10) In any case where the debt of a Federal land bank association, production credit association, or other financing institution is in default, a Service Bank may retire all or part of the capital investments in the Bank held by such debtor at the book value thereof, not exceeding par of face amount as the case may be, in total or partial liquidation of the debt.

"(f)(1) There shall be a board of directors for each Service Bank.

"(2)(A) The initial board of directors for each Service Bank shall consist of the boards of directors of the farm credit districts under part A of title V the service areas of which are included in the service area of the Service Bank, excluding the two members from each such district board elected by the borrowers from, or subscribers to the guaranty fund of, the district's bank for cooperatives.

"(B) The terms of the members of each initial board of directors of a Service Bank shall be for the period, not exceeding 18 months beginning on the effective date of this part, ending with the election of the permanent board of directors, as provided under paragraph (3).

"(3)(A) the permanent board of directors of each Service Bank shall consist of not more than nine members (such number to be prescribed in the bylaws of the Bank) elected by the holders of voting stock of the Bank, as provided in this paragraph. An election shall be held and each such permanent board of directors shall be established not later than 18 months after the effective date of this part.

"(B) Each permanent board of directors of a Service Bank shall consist of—

"(i) one member chosen by the other members of the board who is—

"(I) not a borrower from, shareholder in, or director, officer, employee, or agent of, any institution of the Farm Credit System; and

"(II) experienced in financial services and credit; and

"(ii) other members elected by the holders of voting stock in the Bank with an equal number of directors elected by the Federal land bank associations and by the production credit associations affiliated with the Bank, and (for the period during which the Temporary Assistance Corporation under part F of title IV is in existence) an equal number of directors elected from each farm credit district the service area of which is included in the service area of the bank.

"(C) The terms of the members of each permanent board of directors shall be for three years, except that the terms of the initially-elected members may be for shorter terms to permit the staggering of the terms of the members of each board over a three-year period. The members of each board of directors shall elect from among themselves a chairman of the board.

"(D) The provisions of subsections (a), (b), and (c) of section 5.2 shall apply to the conduct of any election under this paragraph, except to the extent such provisions are inconsistent with this subsection.

"(E) Any vacancies in a board of directors shall be filled for the unexpired term in the manner provided in this paragraph for the election of such directors.

"(4) Members of the board of directors of each Service Bank shall receive compensation, including reasonable allowances for necessary expenses, in attending meetings of the board including travel time. The compensation shall not be in excess of the level set by the Farm Credit Administration. A director may not receive compensation and allowances for any services, in addition to attending such meetings, rendered in the director's capacity as member of the board or otherwise for more than 30 days or parts of days in any one calendar year without the approval of the Farm Credit Administration.

"(g) Each Service Bank chartered under this section shall have the following functions:

"(1)(A) To discount loans, or to purchase certificates of beneficial ownership in such loans, made by—

"(i) associations chartered under this Act that are affiliated with it; and

"(ii) any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products, except that such financial assistance may be provided to such entities only to the extent authorized under subsections (a), (c), (d), and (e) of section 2.3, and any association chartered under this Act that is not affiliated with it (under criteria established by the committee of representatives of the associations affiliated with it created under subparagraph (B)),

as necessary to enable such associations and institutions to carry out their functions and provide credit under this Act.

"(B) To make loans, make commitments for credit, and extend other similar financial assistance to the entities described in subparagraph (A) for the purposes described in subparagraph (A).

The associations affiliated with a Service Bank, under the procedure provided in the following sentence, shall establish, and may from time to time revise, general criteria to govern the actions of the Service Bank in making such discounts, purchases, loans, credit, or financial assistance available to the associations; and the Service Bank may establish conditions for such discounts, purchases, loans, credit, or financial assistance consistent with such criteria, as necessary to ensure the creditworthiness of the discounts, purchases, loans, credit, or financial assistance. Associations jointly shall develop or revise the criteria described in the preceding sentence through a committee of representatives of the associations consisting of such members as are elected by the associations to fairly represent them.

"(2) To borrow funds, issue notes, bonds, debentures, and other obligations, whether separately or jointly with other System institutions, and assume joint and several liability in conjunction with the issuance of joint obligations, as provided in sections 4.2 and 4.4, as necessary to enable the Bank to perform its other functions, as described in this subsection.

"(3) To serve as an agricultural mortgage marketing facility, and, as such, provide for the sale or resale of securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans of associations that have been provided credit enhancement, as provided under part F of title V.

"(4) To review, approve, and make available to System members or borrowers, through its affiliated associations and under section 4.29 and the regulations promulgated by the Farm Credit Administration, such insurance as is authorized in section 4.29.

"(5) To perform such functions and services (including the conduct of studies and the development of standards for lending for use by the associations affiliated with it (at their option), accounting, administration of personnel and retirement programs, training of personnel, procurement of goods and services, operation of automated data processing systems, and other nonlending and nonmanagement services) for or on behalf of the Federal land bank associations and production credit associations located in its service area as are agreed to and contracted for by such associations.

"(6) Notwithstanding any other provision of law, during the period ending five years after the date of the enactment of the Agricultural Credit Act of 1987, to coordinate and facilitate activities of the Temporary Assistance Corporation established under part F of title IV with respect to each System association, operating in the regional service area served by such Bank, that is receiving financial assistance or has a commitment to receive such assistance from the Temporary Assistance Corporation.

"(h) No Service Bank may engage in general supervisory activities (as defined by the Farm Credit Administration) with respect to Federal land bank associations and production credit associations located in its service area. However, a Service Bank may enter into agreements with such associations to ensure that the Bank will be able to meet its obligations on its notes, bonds, debentures, and other obligations on its notes, bonds, debentures, and other obligations, or to ensure the creditworthy provision of funds or extension of credit to the associations.

"(i)(1) All of the loans, financial assistance, discounts, and purchases authorized by subsection (g)(1) shall be subject to regulations of the Farm Credit Administration and shall be secured by collateral, if any, as may be required in such regulations.

"(2) The loans, financial assistance, discounts, and purchases authorized by subsection (g)(1) to Federal land bank associations, production credit associations, and institutions described in section 2.3(a)(2) shall be for such time periods and carry such interest rates as will enable such associations and institutions to make loans under the terms described in sections 1.6, 1.7, and 2.4, respectively.

"(j)(1) At the end of each fiscal year, the net earnings of each Service Bank, under regulations prescribed by the Farm Credit Administration, shall be distributed on a cooperative basis with an obligation to distribute patronage dividends and with provision for sound, adequate capitalization to meet changing financing needs of Federal land bank associations, production credit associations, and other financial institutions eligible to discount paper with the bank, and prudent corporate fiscal management, to the end that the current year's patrons carry their fair share of the capitalization, ultimate expenses, and reserves. Such regulations may provide for the application of net earnings after payment of operating expenses to the restoration or maintenance of the allocated reserve account, additions to the unallocated contingency reserve account of not to exceed such percent of net earnings as may be established by the Farm Credit Administration in regulations, and the payment of patronage in stock, participation certificates, or in cash, as the board may determine.

"(2) The allocations to the reserve account shall be subject to a first lien as additional collateral for any indebtedness of the holders thereof to the Service Bank and in any case where such indebtedness is in default may, but shall not be required to, be retired and canceled for application to such indebtedness, and, in case of liquidation or dissolution of a holder thereof, such reserve account allocations may be retired, all as is provided for stock and participation certificates in subsection (e).

"(k) Each Service Bank shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have the power to:

"(1) Adopt and use a corporate seal.

"(2) Have succession until dissolved under the provisions of this Act or other of Congress.

"(3) Make contracts.

"(4) Sue and be sued.

"(5) Acquire, hold, dispose, and otherwise exercise all the incidents of ownership of real and personal property necessary or convenient to its business.

"(6) Purchase certificates of beneficial ownership in loans and make and discount loans and commitments for credit, accept advance payments, and provide services and other assistance as authorized in this Act, and charge fees therefor.

"(7) Operate under the direction of its board of directors.

"(8) Elect by its board of directors a president, any vice president, a secretary, and a treasurer, and provide for such other officers, employees, and agents as may be necessary; define their duties, and require surety bonds or make other provisions against losses occasioned by employees.

"(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock is to be issued, transferred, and retired; its officers, employees, and agents are to be elected or provided for; its property is to be acquired, held, and transferred; its purchases, loans, and discounts are to be made; its general business is to be conducted; and the privileges granted it by law are to be exercised and enjoyed.

"(10) Borrow money and issue notes, bonds, debentures, or other obligations individually, or jointly with one or more other banks of the System, of such character, on such terms and conditions, and at such rates of interest as may be determined.

"(11) Accept deposits of securities or current funds from Federal land bank associations and production credit associations holding its shares and pay interest on such funds.

"(12) Deposit its securities and its current funds with, and use the services of, the Federal Reserve Bank serving its territory, any member bank of the Federal Reserve System, any insured nonmember bank (as defined in section 2 of the Federal Deposit Insurance Act), or any insured savings institution (as defined in the Federal Savings and Loan Insurance Act), and pay fees therefor and receive interest thereon as may be agreed. When designated for the purpose by the Secretary of the Treasury, the Service Bank shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government; and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this paragraph shall be invested in loans or bonds or other obligations of the Bank.

"(13) Buy and sell obligations of or insured by the United States or any agency thereof, or securities backed by the full faith and credit of any such agency, and, as may be authorized by its board of directors in accordance with regulations of the Farm Credit Administration, (A) buy from and sell to Farm Credit System banks interests in certificates of beneficial ownership and loans, and in other financial assistance extended, and nonvoting stock, and (B) make other investments.

"(14) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

"(15) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the Bank.

"(l) Each Service Bank and the capital, reserves, and surplus thereof and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation except taxes on real estate held by a Service Bank to the same extent, according to its value, as other similar property held by other persons is taxed. The obligations held by the Service Banks and the notes, bonds, debentures, and other obligations issued by the Service Banks shall be deemed to be instrumentalities of the Government of the United States, and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1971 (31 U.S.C. 742(a)).

"(m) The Service Banks, with the approval of the Farm Credit Administration, may merge with one another under the procedures set forth in sections 4.10 and 4.11, to the extent not inconsistent with this title, except that the board of directors of the Service Bank created by a merger shall consist of the boards of directors of the Banks that are merged.

"SEC. 6.3. ESTABLISHMENT OF BANK FOR COOPERATIVES.

"(a) There is hereby established a Bank for Cooperatives, into which are merged the district banks for cooperatives and the Central Bank for Cooperatives. For purposes of this Act, the Bank for Cooperatives shall be considered to be a district bank for cooperatives and the Central Bank for Cooperatives, and the Bank for Cooperatives and its board of directors shall have all of the powers, rights, responsibilities, and obligations of such banks and their boards of directors, as provided in other titles of this Act.

"(b) The board of directors of the Bank for Cooperatives, through the establishment of branch offices or such other means as it determines appropriate, shall ensure that eligible borrowers effectively and efficiently receive credit and technical and other services authorized by this Act.

"SEC. 6.4. ASSOCIATIONS.

"(a) Effective at such time as the reorganization under section 6.2 of the Federal land bank with which it is affiliated is completed, each Federal land bank association and its board of directors, in addition to the powers, rights, responsibilities, and obligations provided under part B of title I, shall have all of the powers, rights, and responsibilities of a Federal land bank and its board of directors operating under part A of title I before the effective date of this title, except those powers, rights, and responsibilities provided to Service Banks established under section 6.2. All powers, rights, and responsibilities that could only be exercised with bank approval under title I may be exercised by a Federal land bank association without Service Bank approval.

"(b) Effective at such time as the reorganization under section 6.2 of the Federal intermediate credit bank with which it is affiliated is completed, each production credit association and its board of directors, in addition to the powers, rights, responsibilities, and obligations provided under part B of title II, shall have all of the powers, rights, and responsibilities of a Federal intermediate credit bank and its board of directors operating under part A of title II before the effective date of this title, except those powers, rights, and responsibilities provided to Service Banks established under section 6.2. All powers, rights, and responsibilities that could only be exercised with bank approval under title II may be exercised by a production credit association without Service Bank approval.

"SEC. 6.5. CONSTRUCTION.

"To the extent any provision of this part is inconsistent with any provision of titles I through V of this Act, the provision of this part shall prevail.".

(b) REGULATIONS.—Within 120 days after the date of the enactment of this Act, the Farm Credit Administration shall issue proposed regulations governing the transition to the System structure established under subsection (a) of this section. The Farm Credit Administration shall include in such regulations—

(1) provisions to ensure that the holders of stock and other equities in banks and associations that are reorganized or modified are treated fairly and equitably; and

(2) such other reasonable terms and conditions as are appropriate to ensure that the institution contained under subsection (a) provide credit and related services to eligible borrowers at competitive rates.

Page 182, line 9, insert "affiliated with a Service Bank under part A of this title" after "two or more associations".

Page 185, strike line 10 and all that follows through the end of line 16 and insert in lieu thereof the following:

"SEC. 6.13. TAXATION OF MERGED ASSOCIATIONS.—

"(a) Subject to subsection (b), in the case of any entity resulting from a merger in which 1 or more of the constituents is a Federal land bank association, that entity and the notes, debentures, and other obligations issued by such entity shall be exempt from taxation only to the extent provided in section 1.21 for Federal land bank associations.

"(b) For purposes of the Internal Revenue Code of 1986, the gross income of an entity described in subsection (a) shall include—

"(1) income from any loan held by such entity (other than any loan made under section 1.6, as in effect on the date of the enactment of this section), and

"(2) amounts required to be included in gross income by reason of paragraph (2) of section 805(d) of the Tax Reform Act of 1986.

AMENDMENT NO. (35)

Page 181, after line 16, insert the following:

(c) STOCKHOLDER VIEWS.—Before implementing the dissolution of farm credit districts, and the reorganization of Federal land banks and Federal intermediate credit banks into Farm Credit System Service Banks, as required under the amendments to the Farm Credit Act of 1971 made by subsection (a), the Farm Credit Administration shall receive and consider the views of the stockholders of the Federal land banks and Federal intermediate credit banks with respect to the number and location of the farm credit regional service areas and Service Banks.

Mr. JONES of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

Mr. MADIGAN. Reserving the right to object, Mr. Chairman, does the gentleman from Tennessee have the time?

The CHAIRMAN. The gentleman from Tennessee has 10 minutes and the distinguished gentleman from Illinois [Mr. MADIGAN] has 10 minutes.

Mr. MADIGAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The gentleman from Tennessee [Mr. JONES] is recognized for 10 minutes.

Mr. JONES of Tennessee. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM], the author of title IV.

Mr. STENHOLM. Mr. Chairman, I rise today in strong support for the amendment offered by Mr. DE LA GARZA which would make many important clarifications to title IV of H.R. 3030. Mr. Chairman, I have a very large interest in this title of the bill, not only because I am one of the principal authors of title IV, but also because I myself am a borrower from the Farm Credit System.

I would like to begin by providing my colleagues with some background on how the existing structure was created.

In 1916 the Federal land banks and land bank associations were established to provide farmers with a source of long-term credit to be used to purchase farm real estate. In 1923 the Federal intermediate credit banks were established and later in 1933 the production credit associations established. The purpose of these entities is to provide credit for farmers short and intermediate needs, such as operating expenses. Also in 1933 the banks for cooperatives were created to lend to farmers marketing, purchasing, and business service cooperatives. No other changes have been made to the Farm Credit System's structure since 1933.

The Federal land banks have served as the primary lender of long-term agricultural credit since its inception. Competition from other institutions has existed but the Farm Credit System's ability to obtain funds from capital on Wall Street has allowed the System to offer lower interest rates to farmers and ranchers.

However, two major circumstances are driving the need for changes in the Farm Credit Systems structure. The first is the presence of a secondary market for farm mortgages, and the second is the decline in the size of the Farm Credit Systems' loan portfolio.

During committee consideration and the drafting of the amendment offered by Chairman DE LA GARZA, basically five objectives were considered:

First, competitive pricing and quality services should be provided to local production credit associations and Federal land bank associations,

Second, the new structure should reflect borrower control of local associations and service banks,

Third, efficiency should be of highest priority through the elimination of duplication of auditing, redundancy, and excessive overhead,

Fourth, the structure must be one that can survive a highly competitive lending environment to minimize the possibility of the System needing additional assistance from the Federal Government in the future, and

Fifth, the System should be structured to reduce involvement of the regulator in the management and policymaking of the System.

Using these objectives, the amendment offered by Chairman DE LA GARZA will allow the Farm Credit System to again become the most efficient lender to farmers and ranchers.

Basically Chairman DE LA GARZA's amendment would provide for the following:

Within 18 months the 24 Federal intermediate credit banks and Federal land banks will have their assets and liabilities dissolved to local production credit associations and Federal land bank associations. Immediately following dissolution, the associations will capitalize up to six regional Farm Credit System service banks. These associations will provide capital to the service banks according to their projected loan volume and the Farm Credit Administration. Assets other than loan assets and acquired property will be transferred to the associations. The Farm Credit Administration will establish in these service banks both minimum and maximum capital standards.

A minimum standard will ensure investor confidence in the bond markets, and a maximum level will be established so when a service bank becomes strong enough, it would pay dividends to the associations which owns the service bank.

Currently there are 12 Farm Credit System districts. The amendment would establish not more than six new regions. The current 12 district boards would have 90 days after enactment to come to an agreement on the boundaries of the newly created regions. Should the current boards not come up with an agreement, the Farm Credit Administration would then designate these boundaries.

These service banks would be allowed to establish as many branch offices as needed to service the associations in a given region.

Initially, the boards of the service banks are created through the election of a nine member board. The membership of this board will be composed of equal representation of the PCA's and FLBA's, with the previously existing districts both having four members on the board. After 5 years of enactment, the boards of the service banks would be elected by the stockholders of the regions with equal representation from both type of associations but, consideration to the previous district boundaries would not be given.

DUTIES

The largest single duty of a service bank would be that of delivering loan funds from the Farm Credit System Funding Corporation to the production credit associations and Federal land bank associations. After long discussion and deliberation it was decided that these service banks should be capitalized entities which are jointly and severally liable for systemwide obligations issued by the funding corporation. This joint and several liability would also apply to the associations. The banks would then have established a debtor-creditor relationship with the associations.

Criteria for this relationship would be established by a committee with representation from the associations located in a given service bank region. Authorities given to the service banks for these purposes would be provided for by the Farm Credit Administration.

ASSOCIATIONS/LOCAL CONTROL

From the start, one of my main goals was to provide the production credit associations and Federal land bank associations with more local control over the operations of their respective associations. I also have in mind a Farm Credit System in 5 years that will again be a strong entity. This System would be comprised of both service banks and associations. Also a FDIC type insurance corporation will be established whose purpose would be to stand behind systemwide obligations and to assist troubled associations through the facilitation of mergers and other methods. Basically the associations would be on their own to either sink or swim. Therefore, the associations must have certain duties, rights, authorities, and obligations to serve borrowers in this new role as direct lenders who are jointly and severally liable for each other share of systemwide obligations. The de la Garza amendment provides the needed tools for adequate local control.

Under this amendment they would:

First, determine loan criteria for purposes of lending to farmers,

Second, establish criteria to be used in the debtor/creditor relationship between the service banks and associations,

Third, select management and set salary scales without service bank approval,

Fourth, determine their capital structure, and insure whatever classes of stock they choose, Fifth, merge associations without service bank approval, and

Sixth, invest their funds consistent with FCA regulations without bank approval.

BANKS FOR COOPERATIVES

Mr. Chairman, I would like to address the section of the bill regarding restructuring of the banks for cooperatives.

Section 6.3 of the bill provides for the establishment of a single bank for cooperatives. The bill creates this bank by merging the 12 district banks for cooperatives and the central bank for cooperatives into a single entity. This new bank would have all of the powers, rights, responsibilities, and obligations now granted to the district banks and the central bank by title III of the Farm Credit Act of 1971.

This provision follows the study and recommendation of consultants who have recently analyzed the banks for cooperatives structure. Last year the 13 banks for cooperatives agreed to sponsor a steering committee charged with studying the possible consolidation of the banks. The steering committee retained John Hopkin & Associates of College Station, TX, to review the economic and market forces affecting the banks for cooperatives and the various reorganization possibilities. The Hopkin report compared regional structures with total consolidation. The report was prepared after input from a variety of sources, including the National Council of Farmer Cooperatives, various State cooperative councils, and the officers and directors of all 13 banks. The report concluded that total consolidation would result in the most cost-efficient credit delivery system. In addition, the steering committee sponsored a referendum whereby a brief description of the Hopkin recommendation was disseminated to the banks for cooperatives system borrowers requesting responses regarding the proposed consolidation. Over 700 responses were received and, of those borrowers who expressed a view on the proposal, over two-thirds were in favor of the total consolidation.

However, certain banks within the system and certain borrower groups expressed reservations about a consolidation. The concerns expressed relate primarily to the fairness of a total consolidation and the quality of credit delivery services following a consolidation. The concerns raised legitimate questions which certainly need to be addressed. It should be noted that the bill directs the Farm Credit Administration to promulgate regulations which are meant to insure that the reorganization is implemented in a fair and equitable manner. However, the balance of my comments deals with certain basic principles of consolidation which should be contained in these regulations and which I believe adequately respond to the concerns raised.

The issue of fairness relates to whether the owners of banks with relatively strong portfolios will be put in a worse position if their bank is consolidated with banks having weaker portfolios. The concern is both with respect to security of the stock investment and anticipated future borrowing costs. With regard to the security of the stock investment in a share-for-share exchange, the answer is simple—under the bill, borrowers' stock is guaranteed for 5 years. During this 5-year period, the consolidated bank will certainly have adequate time to deal with the process of any needed restructuring of the portfolios. With regard to the anticipated future borrowing costs, two points need to be made. First, a consolidated bank provides the opportunity to eliminate the duplication of many administrative functions that are inherent in a decentralized approach. The Hopkin report, for example, concludes that a consolidated bank would be more efficient than regional banks and would be able to thereby offer lower borrowing costs. Second, the System steering committee recognized that certain district portfolios may be stronger than others. The appropriate way in which to address that issue would be for the new bank to provide for regional or district patronage and capital revolving pools for a period of time. This would allow for the borrowers and stockholders of the strong banks to continue to benefit from their respective portfolios. The FCA regulations should certainly permit and even encourage the management of the new bank to implement such programs.

Another major concern expressed about consolidation of the banks for cooperatives relates to the quality of credit delivery services. This is particularly a concern of smaller cooperatives who fear that a single bank would be dominated by large borrowers and would be less sensitive to local credit needs. It is certainly the intent of this legislation that the Farm Credit System, including any new bank for cooperatives, be responsive to the credit needs of all eligible borrowers in all areas of the country. However, certain safeguards should be built into the Farm Credit regulations. First, a consolidated bank for cooperatives should be governed by a board of directors elected directly by the shareholders. Second, there should be a continuation of the one-man, one-vote concept so that small cooperatives will continue to have a strong voice in the management of the new bank. Third, each district or region should have an equal number of directors so that all areas of the country can be assured fair and equal access to credit programs. Finally, the new bank is encouraged to establish loan offices sufficient in number and staffing to provide for services of no less quality than is now being provided. The object of consolidation is to eliminate duplication of effort and to effect logical cost savings, not to cut back on services.

Mr. Chairman, although there are always difficult choices to be made when we confront a restructuring of an institution as large and complex as the banks for cooperatives, I believe that a BC system structured in the manner that I have just outlined will be both efficient and fair.

CHANGING COMPETITIVE ENVIRONMENT

Commercial banks are searching for new customers. More banks are discovering that financing sound agricultural cooperatives is good business. Insurance companies, brokerage firms, and investment bankers are also expanding into both direct loans to the cooperatives and indirect financing through commercial paper, bankers acceptances, industrial revenue bonds, and private placements.

There is every reason to believe that the volume of banks for cooperatives business will continue to shrink as more regional cooperatives shift their business to other lenders. Also, competing financial institutions will continue to gain the business of the lower-risk cooperatives, leaving the banks for cooperatives with the poorer-quality loans to smaller cooperatives. Trends in volume and quality of loans to farmer cooperatives have already begun in most districts. The bottom line is that the banks for cooperatives must consider alternatives for consolidation which will permit them to seize certain opportunities. Such opportunities include: First, lower lending cost; second, reducing spread and loan risk; third, enhancing market penetration with utilities and other specialities; and fourth, preserving and making better utilization of the banks for cooperatives skills for serving the financial needs of cooperatives of all sizes.

ADVANTAGES OF ONE BANK FOR COOPERATIVES

To address these concerns in a most effective manner it was the feeling of many within the banks for cooperatives system that a merger of all banks for cooperatives into a single bank would do the best job of providing these needed efficiencies. A recent study conducted for this purpose concluded that total consolidation should save 25 basis points over the existing structure and at least 27 basis points over what operating cost might well become by 1990 if no changes are made in the current structure. Other advantages include: Reducing loan risk by spreading loans over a broader and diverse geographic area, and through providing additional capital lending limits will be much improved.

SUMMARY

Mr. Chairman, I do not believe that anyone would create 37 banks and 380 associations for the purpose of lending to 30 percent of the agricultural sector. The presence of a secondary market for agricultural mortgages will provide for a competitive lending environment. Changes must be made to allow the Farm Credit System to compete with other entities which will have access to Wall Street investment. The commercial banks and insurance companies who will become involved in farm mortgage lending do not have the bureaucracy to deal with and pay for. I and other members of the Agriculture Committee have spent numerous hours in crafting language which will provide a streamlined, and more efficient Farm Credit System. Cost of operation will inturn drop dramatically in the years to come. These changes will not come easy, but I strongly feel that now is the time to make these changes to provide the Farm Credit System with the tools needed to adapt to a lending environment that has and will continue to go through the most drastic changes since farmers began to borrow money.

I urge my colleagues to support the amendment offered by Mr. DE LA GARZA.

Mr. MADIGAN. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri [Mr. COLEMAN], the ranking member of our Subcommittee on Conservation, Credit, and Rural Development.

Mr. COLEMAN of Missouri. Mr. Chairman, let me say first of all that the gentleman who just made the statement in the well, the gentleman from Texas, was the one in the committee who was most concerned about trying to structure a restructuring of the Farm Credit System so that when we came to the floor of the House we could say to the membership that in return for the $3 or $4 or $5 or $6 billion that we are going to provide through this legislation, that there be some new structure put in place in order to say that business as usual is not going to be the order of the day of this system that has gotten itself into such deep trouble. Having put together an amendment in the committee that passed 22 to 12, with the understanding that it would be revisited later on, those of us who thought restructuring was a very important and integral part of this bill were pretty happy with the Stenholm proposal as the bill comes to the floor.

Mr. Chairman, I am disappointed, however, that we are losing an opportunity here today to change the way the Farm Credit System functions. This Stenholm amendment is not as good as the original Stenholm language that is in the bill today. It is a step backward toward business as usual.

I know that the author of the amendment has gone through a very difficult process of trying to formulate specific language to carry out the mandate of the committee, and yet I do not think that this is the best product that we could go to conference with. For example, in the original Stenholm language which we have before us in the bill, it says that no service bank may engage in the establishment or supervision of interest rate or loan approval policies, and yet in the Stenholm amendment today there is language which would provide for a service bank to enter into agreements with these associations in order for the bank to meet its obligations, notes, et cetera.

Mr. Chairman, it is not too difficult to read between the lines to see that if the association does not sign the agreement with the service center bank, it does not get any money, and if it does not get any money it really does not exist.

So there may be things being brought in by this amendment through the back door that we are trying to prohibit through the front door simply because of the difficulty of trying to draft something that is acceptable. That is why I think the original amendment is more acceptable than this one. The original Stenholm language would have created a principal agency relationship between the service center bank and the local associations. The associations would issue bonds to the service centers and they would be jointly and severally liable for payments on those bonds; but yes, we believe that all the tasks that the local associations could delegate to the service center banks, and there are many of them, but they do not have to do with policy, they do not have to do with management decisions, they do not have to do with supervisory control, they do not have to do with issuing monies that these service center banks under this proposal are going to raise.

Now, the new Stenholm amendment that we have before us is creating a debtor-creditor relationship between the service center bank and the local association. If I owe you money or if you are going to lend me money, it is not the same thing. You do have control over me. You do have management supervision, and therefore the original intent that the 22 of us on the committee thought we had of providing more local control and more input at that level is being taken away to a certain extent by the current Stenholm language. I have to rise and say that I am concerned about that.

My preference would have been, and we almost had it here today, a meeting or an agreement to try to withdraw the Stenholm amendment and not have it before us now as we do and that all of us, Democrats and Republicans, could go to conference, that we would not go through this process today because many of us believed on both sides of the aisle that this is a work product that could be revised and that we could go in with a solid front into conference with the other body.

□ 1630

But because it is before us today, we are not going to have that opportunity.

But allow me just to say that regardless of what happens to this amendment today that the gentleman from Tennessee [Mr. JONES] is offering for the gentleman from Texas [Mr. DE LA GARZA] which contains the Stenholm language, that all of us tried to get together before we get to conference in order to come up with a solid position that does what at least 22 of us thought we were doing in the committee, and I was 1 of the 22, and that we are not doing here today, and make this better language than what we have before us, and I would say the better language lies in the bill and not in this amendment. I guess I would just ask the gentleman from Texas if this tracks with some of his thinking as to what we might be able to do when we go into conference, regardless of whether or not his language passes here this afternoon, if he thinks we should be able to formulate a position that might be different from what he has given us today.

Mr. JONES of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, when the first portion of H.R. 3030 was considered by the House of Representatives on September 21, I expressed concerns regarding language in the bill which purported to govern the Federal tax consequences of certain transactions and entities. I expressed my concerns in a letter sent to the Honorable E (KIKA) DE LA GARZA, chairman of the Committee on Agriculture, dated September 23, 1987. I submit a copy of that letter for the RECORD.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 23, 1987.

Hon. E. (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, on Monday, the House of Representatives approved Titles I and and II of H.R. 3030, the Agricultural Credit Act of 1987. I wish to thank you and your staff for your assistance in modifying Section 105 of the Act (page 39 of the bill) to remove a jurisdictional issue involving the Federal tax treatment of certain obligations of the Temporary Assistance Corporation.

However, I would like to express my strong concerns about further jurisdictional issues which arise in other portions of the bill. Since House consideration of the remaining titles of the bill will not take place immediately, it is my hope that an agreement can be reached to make the necessary revisions prior to House consideration of the legislation. If this is not possible, I will be constrained to strongly oppose this legislation and to encourage other Members of the Committee on Ways and Means to join me in that opposition.

Specifically, section 401 of the bill, dealing with the reorganization of the farm credit system, contains several provisions which have direct federal income tax consequences. Page 2 of the amendment you plan to offer provides that the reorganization of Federal land banks and Federal intermediate banks into service banks" . . . shall not be treated as a taxable event under the laws of the United States . . .". It is my understanding that the entities to be merged in this transaction may, because of cooperative or other non-stock form of ownership, have technical difficulties complying with corporate reorganization rules contained in the Internal Revenue Code (the "Code"). The proposed language in the bill is overboard in two crucial respects. First, the language leaves unclear whether the assets transferred to the service banks will be asssumed at book or fair market value. A step-up in the basis of the assets, not allowed under normal tax rules in a tax-free exchange, would cause large potential tax reductions in the future upon distribution of those assets. Second, the bill allows funds to be transferred to certain taxable entities, such as certain production credit associations, as part of the transaction. Under normal tax rules, such payments would be considered "boot", and would be taxed to the recipient taxpayer to the extent the fair market value of the distribution exceeds the taxpayer's basis in the interest of the distributing entity. My staff has informed me that these jurisdictional issues could be solved and the integrity of the transaction preserved by a revision in the language of the bill allowing the normal tax-free reorganization rules in the Code to apply to the transaction.

The amendment to Section 401 of the bill also contains, at page 21, a Federal tax exemption for service banks. Since the service bank is the successor entity to existing tax-exempt entities, it is not my intention to object to the granting of that status if certain modifications in the language of that provision can be made. Specifically, the provision exempts the obligations of the service banks from all taxation except Federal income taxation. This allows the obligations of the entity to be exempt from Federal surtaxes, estate, inheritance, and gift taxes, if applicable. This is similar to the problem with the Temporary Assistance Corporation which you and your staff were so helpful with Monday. As you may be aware, Congress has had significant problems in the past protecting the Federal estate tax base in instances where bonds or other schemes could be employed by individuals to significantly reduce tax liabilities. I believe it is necessary to insert language in the bill insuring that the bonds of the service banks could not become an estate planning loophole.

The same amendment to Section 401 contains, at page 17, a provision which is unclear but may override important provisions in the Code dealing with allocations of patronage dividends. My staff would like to discuss with your staff the intention of the language in the provision, so that important tax rules are not nullified, possibly through inadvertance, in the statutory language.

Section 403 of the bill allows the merger of unlike institutions in the farm credit system. This provision is broader than similar provisions contained in section 108 of the bill allowing certain mergers within the same farm credit district, and it is the understanding of my staff that section 403 may be designed to replace section 108. In any event, both of these sections would allow certain organizations which are currently tax exempt to merge with organizations which may be currently taxable, such as certain production credit associations, and presumedly continue the business of the former organizations. Section 403 of the bill (page 185) specifically provides that if either the merged or survivor oreganization is a tax exempt land bank association, then the resulting entity will be tax exempt. Section 108 contains more limited provisions allowing the new organization to have the attributes of the surviving entity. (page 83). Accordingly, in certain circumstances an organization currently taxable will effectively become tax exempt. These provisions raise serious jurisdictional and policy issues regarding the appropriate taxation of certain production credit associations and perhaps other taxable entities in the farm credit system. Last year, during deliberations on the Tax Reform Act of 1986, the conferees decided that taxable production credit associations and banks for cooperatives should be treated consistently with all other finance companies (as opposed to banks or savings and loan institutions) for purposes of the repeal of the deduction for bad debt reserves. It is evident that Sections 403 and 108 of the Farm Credit Act would override a decision of the conferees to last year's tax legislation by effectively granting certain taxable farm credit insitutions a full tax exemption. This action may also result in a substantial revenue loss. I believe it is important that the bill be revised to provide for the continuing status of taxable institutions in the farm credit system, thereby allowing the Committee on Ways and Means to consider changes to the tax treatment of these organizations.

In addition, Section 301 of the bill creates the Federal Agricultural Mortgage Corporation ("FAMC"). As you are aware, the FAMC will be a stock corporation, in part owned by underwriters, banks and other taxable organizations. Although the bill apparently contains no specific tax exemption for this institution, the statute is vague regarding certain functions and operations of the entity. We would like assurances that the entity will be governed by all normal corporate tax rules.

Thank you for your consideration of these issues. I hope that this is a comprehensive list of concerns. However, our review of the bill has begun only very recently. It is my expectation that our staffs can work together to suggest revisions in the bill responding to these jurisdictional concerns before its further consideration by the House. I trust agreements on these important issues can be reached. However, in the event that a jurisdictional accommodation cannot be reached, I will be constrained to ask the Congressional Budget Office to re-estimate the budgetary impact of this legislation taking into account lost tax revenues. I would also be constrained to consider corrective legislative action in the Committee on Ways and Means. I trust that such actions will not be necessary, and that we can reach an accommodation on these issues as we did on matters of concern to this Committee regarding Titles I and II.

Again, I thank you in advance for your efforts to work out these problems of major importance to the Committee on Ways and Means.

With warm regards, I am

Sincerely yours,

DAN ROSTENKOWSKI,

Chairman.

I am now very pleased to report that, due to the efforts of the chairman of the Agriculture Committee, the bill has been adjusted to respond to my jurisdictional concerns. First, the Federal tax consequences to institutions receiving assets and liabilities pursuant to the anticipated amendment to section 401 of the bill have been clarified to insure proper treatment of these distributions. Second, the appropriate continued tax treatment of taxpaying institutions which may merge with tax-exempt institutions under the bill and the proposed amendment is assured. Third, report language will recognize that current law applies section 641 of the Deficit Reduction Act of 1984 to bonds issued by any of the credit institutions created by the bill. Further, confusing language was removed from the bill regarding Federal tax allocations of patronage dividends. In addition, I have received assurances from the Agriculture Committee that no provision in the bill is intended to apply any special Federal tax rules to the Federal Agricultural Mortgage Corporation, and that the rules contained in the Internal Revenue Code of 1986 will apply to that entity.

Again, I thank the chairman for his cooperation in responding to these jurisdictional and tax policy concerns. I also wish to thank Ward Hussey, the House Legislative Counsel, for his wisdom and efforts in drafting language to respond to these concerns.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would ask the ranking Member of the Subcommittee on Conservation, Credit, and Rural Development if he would answer some questions.

Does the current language that we now have on the bill allow reorganization on the basis of need? In other words, under the bill are we allowed to establish State organizations or multistate organizations on the basis of need?

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I think the gentleman might have to ask the original author of the amendment, the gentleman from Texas [Mr. STENHOLM] who could better answer that question.

I am sorry, I cannot give the gentleman a definite answer.

Mr. MARLENEE. My interpretation is that the present language would allow reorganization on the basis of need. What we are doing with the proposed amendment of the gentleman from Texas [Mr. STENHOLM) is going back to something that is cast in concrete. We are going to have a reorganization of banks. These banks will be located in certain cities, and we will take away from the local control that we had intended to give. We had intended that through the drafting of the original language we would return to the State and to the local associations as much control as possible.

It seems to me that the amendment now offered by the gentleman from Texas [Mr. STENHOLM], to the Stenholm language in the bill, does just the opposite of what we intended when we drafted the original language.

Mr. Chairman, I rise in somewhat reluctant opposition to the amendment offered by the gentleman from Texas [Mr. STENHOLM]. However, I do not want my opposition to his amendment to be misunderstood—the present structure of the Farm Credit System desperately needs to be reorganized for the benefit of the borrowers. My real argument against the amendment is that it fails to truly reorganize the System, and represents a retreat from the original provisions offered during committee markup of the bill by the gentleman who now seeks this modification.

Although imperfectly drafted, the reorganization provisions adopted by the Agriculture Committee as I understood the issue at the time clearly staked out some bold new territory, and would have resulted in the elimination of the current system of 12 farm credit district bank regions comprised of a total of 37 lending institutions. It was my understanding that in place of these current organizations, the bill would provide for a suitable number of regional "service centers" which would not operate as banks, but which would simply serve to facilitate and expedite the workings of the various Farm Credit Associations, and that such associations would be the entities which would be vested with the actual banking authority under arms-length regulation by the Farm Credit Administration.

The gentleman's amendment, as I have indicated, is a retreat from the provisions of the original concept as I interpreted them. The amendment offered really will not change and reform the organizational structure of the system save and except to accomplish some consolidation of the existing district bank structure. The original concept approved by the committee would have placed the operations of the farm credit lenders in the hands of locally elected directors. These lenders would have been free to conduct their daily business as best they and local borrowers saw fit, subject to the same type of regulations that any commercial bank must meet. What we have in the suggested modification is just the opposite—we will still have the intermediate, bureaucratic service banks telling local associations how to conduct their business, but the source of the decisionmaking will simply be further removed from the local borrower. All we are doing with this modification is putting a different saddle on the same old horse!

Mr. Chairman, I want to restate my commitment to ensure passage of a viable Farm Credit system assistance package during the closing days of this session. Rejuvenation of the Farm Credit System is absolutely essential if we are to guarantee that farm and ranch producers in this country will have access to adequate capital in the future. But, I am fearful that we will fail to make the kind of true changes which will best benefit those borrowers, and that if we adopt this modification the bureaucratic and regulatory nightmare will only become worse.

Mr. JONES of Tennessee. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. ALEXANDER). The gentleman from Tennessee [Mr. JONES] has 3 minutes remaining.

Mr. JONES of Tennessee. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I rise to express concern about the so-called Stenholm amendment to H.R. 3030 which would make several sweeping organizational changes in the Farm Credit System. In essence, the amendment would replace the 12 districts and 37 banks of the Farm Credit System with 6 districts, 6 regional "service" entities, and a consolidated bank for cooperatives. While convinced that the System's structure can and should be simplified and reformed, I am also convinced that the amendment will produce changes that may be neither necessary nor desirable.

In its current form, the amendment will only serve to increase the amount of U.S. taxpayer dollars needed to save the System and the amount farmers will have to pay to borrow from the System. By dissolving the 37 farm credit banks and reestablishing 382 associations with bank-like authorities and responsibilities, the amendment will increase capital requirements and operating costs. Smaller individual lending units will mean less geographic diversification and, therefore, entities requiring greater amounts of capital and liquidity. Operating costs will increase as the 382 associations are required to perform functions for themselves which perform the 24 Federal land banks and Federal intermediate credit banks now.

In addition to the operational inefficiencies the amendment would increase the System's cost of money. Investors in System securities will not perceive 382 associations in the same say they perceive the current system. That is, the System will not be perceived as a single entity for the purpose of evaluating investment risk and Government support. Erosion in investor confidence will first mean higher money costs for the System and then higher interest rates for system borrowers. It is not possible to quantify how much more farmers will have to pay for credit in any given future year under this amendment. But make no mistake about it, the increase will be substantial. Remember that each increase of 10 basis points—0.1 percent—in the System's cost of funds means an additional $22 million.

I am also concerned that the Farm Credit Administration will be granted broad new powers under this amendment which are inappropriate for an arms-length regulator. The agency would be authorized to restructure the system entirely, including the authority to design districts, liquidate banks and supervise associations. The agency's new supervisory authority over associations would at the absolute minimum exceed the authorities currently exercised by district banks.

Finally, I would like to express regret that the proposal for restructuring the System developed by System directors did not receive the attention which, I think, it deserves. This proposal approved by the farmer and cooperative-elected directors of every farm credit district last month may not be perfect but it would go a long way in streamlining the System and do so with informed stockholder consent.

Mr. JONES of Tennessee. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I too was one of those in the Agriculture Committee who supported the Stenholm amendment. I felt the original concept was sound, that basically secondary market adjustments had to be made by the Farm Credit System.

Also I felt that it held out great promise as far as our farmers were concerned for those who wanted control of the System, who wanted to have control over their own States. Without question, this was supposed to be a cooperative, and that has not always been the case.

I am concerned, however, that it appears that the amendment we are considering here today changes that. It gives the servicing banks control over whether or not the local associations would receive money, and anyone who has control over the pursestrings certainly has control over the System. I am afraid that this reverses what I perceived to be the original intent of the Stenholm amendment; namely, to let the local stock holders decide their own fate, decide exactly what they are going to do with their system. This once again places control of that system back in the hands of the management of the Farm Credit System.

I think that was a mistake, Mr. Chairman.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, let me begin by commending our good friend and colleague, the gentleman from Texas [Mr. STENHOLM] and the leadership on both sides of the aisle for their commitment to reorganization of the Farm Credit System.

However, I have to suggest, as others have before me, that the proposal which is now in front of us backtracks on the commitment to reorganization and restructuring that so many of us strongly endorsed at the committee level. We intended through that whole effort to, No. 1, enhance local control and accountability; and, second, we intended to have a reduction in the district level bureaucracy.

The fact is if we have $30-billion reduction in loan volume in this country, we ought to have some similar reduction in the district level organization in this country. The problem is that the amendment now before us, as opposed to the bill reported by the committee, moves in the opposite direction. The first thing it does is provides for capitalization not only of our local associations, as we have all supported, but it also provides for the capitalization at the district level, and this capitalization is under the control of the Farm Credit Administration, which we assume for accounting and regulatory purposes may want very strong districts and not real strong local associations.

The second problem with the legislation is that it provides the service banks with the authority to establish the conditions for the provisions of funds to those local associations.

The third thing it does is it provides the Farm Credit Administration the regulatory authority that each district bank will have over those local associations.

Each and every one of those things will create more controversy, more strife between our local associations and the district levels than we have experienced over the last 2 years with the Capital Corp. and other such efforts.

I want to call to the attention of my colleagues a number of things in the Stenholm provision.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

Mr. GUNDERSON. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 4 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GUNDERSON. Mr. Chairman, the fact is if my colleagues look at page 9, line 20, of this amendment, they will notice that this also gives each service or district bank the authority to establish branch banks. That is a rather new concept in the Farm Credit System that our banks are going to get into the concept of branch banking for the Farm Credit System. I think that is an issue that ought to be discussed.

On page 10, line 12, of this particular amendment, my colleagues will find that the regulations provide that the capitalization must occur at levels adequate to maintain the soundness of that district or service bank. I would point out to my colleagues the reason we are here is a number of the districts in this country are in financial trouble, and if we are going to require that there must be a capitalization level at the district adequate to guarantee the soundness of that bank, they are going to guarantee that all of the money is going to be at the district level and we are not going to allow any capitalization of those local associations. Understand the implications of that.

On page 11 of this legislation understand that the amendment provides that the district banks get their money first, so we will take any money, any assets that they are given to the district banks first, and only if there is anything left do we give it to the local associations. I again call attention of my colleagues that if there were any money left, any surplus, we would not be here today. We are here because districts are in financial trouble.

To go on, I would like to point out two other things. No. 1, on page 19 of the amendment it says that the power of the district banks to make loans to the local associations and other financial institutions, but it goes on on page 21 and suggests that the power to regulate the operations of the local associations will occur with those district banks because they will be able to enter into the agreements that are necessary in order to provide the funds from the district operation down to that local bank.

I want to call to the attention of my colleagues that the whole concept of reorganization and restructuring of the Farm Credit System that was a part of the Agriculture Committee work, which was built on the premise that we would have strong local financial institutions that would rise or fall on their own, and that we would have a Farm Credit Insurance Corporation to cover those losses so never again would we have to come to this Congress to ask for the kind of assistance that we are asking for today, is all being dealt a severe body blow by this particular amendment.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, does not the amendment offered by our colleague, the gentleman from Texas [Mr. STENHOLM] remove the control further from the local areas?

Mr. GUNDERSON. There is no question about that, because it maintains a district board of directors that while elected by the members of the local associations, it clearly gives the authority to that district bank and that district board to regulate not only their operations but the means by which they will provide financing to those local associations.

Mr. MARLENEE. And in some cases they will be a long distance from those areas being served.

Mr. GUNDERSON. There is no question about that, because we are eliminating at a minimum half of the district banks. So if we are going to maintain the present level of operations, and we are going to go from 12 down to 6 banks, we are clearly going to move that further away from the local farmers.

Mr. MARLENEE. I thank my colleague for yielding.

Mr. GUNDERSON. I yield back the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. MADIGAN] has 1 minute remaining and the gentleman from Tennessee [Mr. JONES] has 2 minutes remaining.

Mr. JONES of Tennessee. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM], the author of the amendment.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding and would like to take this moment to respond to some of the questions asked of me that I did not get a chance to respond to by the gentleman from Missouri [Mr. COLEMAN]. I am surprised by many of my colleagues objecting to the local control and to the decisions that we perfectly clearly make in order under this amendment. All of the bad things my colleagues assume are going to occur can only occur as a result of the majority of the stock holders of the local associations making the decision that some of the things that we make possible can be done, but only if the local stock holders vote to do so.

For the life of me I do not see the evil in this and the change from what we had all agreed to before, because we allowed the local boards to make that decision.

I would remind our colleagues of what else is in this bill. It is true we have a 5-year guarantee of members' stock, but it is also true that we are creating an insurance corporation.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

Mr. STENHOLM. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

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Mr. STENHOLM. In this bill before us, we are creating an insurance corporation that will provide the backup that we need in the future.

We are also providing that we go to at-risk stock in 5 years. Now, keep in mind we are giving to the local associations the control that we believe they are going to need to make a financially sound business, corporative lending business in the future.

Now, the horror stories that we hear, yes, they can occur, but only if the majority of the local stockholders vote to do so.

Now I also would remind myself as well as my colleagues, we have been at this for several months how. It is unfortunate that we had to come to the floor under the conditions that we have had to come with the kind of rule we had to operate under. That was unfortunate. But there was a reason for it. We are displaying right here live and in living color today what the reason is: We cannot agree on every dot of "i" and every cross of "t" and how the new structure is going to be. We can debate this issue from now on and we are still not going to be able to do so.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to my friend from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

I asked the gentleman to yield so that I might take the floor here in deference to my very good friend from Wisconsin and my very good friend from Montana and those who have spoken against this new Stenholm proposal.

Let me just tell you that the bill as it came out of the House Agriculture Committee put the local associations in direct control of the Farm Credit Administration, FCA auditors out of that local association.

Now just let me take you a little bit back in history. Why did the Farm Credit System get into trouble initially? Let me explain to you why it did.

It was loans made by a local PCA organization.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STENHOLM. Mr. Chairman, I ask unanimous consent that I be given 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. STANGELAND. Mr. Chairman, will the gentleman continue to yield?

Mr. STENHOLM. I yield to my colleague from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

The loans were made by a local PCA association, the loans were made by a local Federal loan bank association with very little direction here from Washington from the Farm Credit System, very little auditing by the district bank and so they made the loans. At the time and in that climate those loans may have looked good. But in retrospect that is what got the system into trouble. I am a strong advocate of local control but I think we also need some direction, some leadership for that local association so that they engage in wise banking practices.

I do not want my local associations under the direct control and audit of the Farm Credit Administration. I think they ought to have an intermediary. I think there ought to be a district bank. I think reorganization as the gentleman from Texas has envisioned it now is the appropriate way to go. I think it is far better now than when it was proposed in the House Committee on Agriculture. I strongly support it. I think we all ought to support it. I think it is one way we can strengthen the Farm Credit System, that we can make it more responsive to borrowers.

One last point I want to make: We are going to infuse a good amount of Federal capital into that system. If we do, then it ought not be business as usual. I think the gentleman's amendment makes sure it is not business as usual. It is a new way of doing business, but I think it is a proper and most appropriate way and I support his amendment and I thank the gentleman for yielding.

Mr. STENHOLM. I thank the gentleman very much for his remarks. He is right on target.

I assure the concerns of my colleagues on the other side of the aisle and some on this side of the aisle that we have every intent of working with any and all viewpoints as we move into conference and finally decide what the Farm Credit System of the future is going to be.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to my friend from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

I would like to ask my friend from Texas a question: the 1985 Farm Credit amendments have been the subject of a great deal of litigation, and certain of the regulations issued under those amendments to implement the System self-help mechanism were enjoined by several courts. I would like to know whether consideration has been given to whether it is likely that some will contend that the mandatory aspects of the System restructuring provisions of the pending bill constitute a taking of property without just compensation in violation of the fifth amendment. If such litigation is possible, what steps have been taken to minimize the risk that the assistance program and System restructuring contemplated by the bill will be enjoined, at least temporarily, which the courts consider such constitutional challenges. I ask this question because I believe that any such delay in implementing the pending legislation could seriously jeopardize the System's survival and adversely affect tens of thousands of farmer and cooperative borrowers who rely upon the System as their source of agricultural credit.

Mr. STENHOLM. Mr. Chairman, I appreciate the gentleman from Oklahoma's concerns and want to assure him that extensive consideration has been given to the question he raises. To respond specifically, we believe that the provisions of H.R. 3030 concerning mandatory restructuring are clearly within the authority of the Congress and are fully consistent with the U.S. Constitution. We do not think they constitute a taking of property. Moreover, in light of the Federal assistance to be provided to the System under the bill, which will insure continued funding for the System, we do not believe that the restructuring provisions of the bill give rise to any interference with the reasonable expectations of System institutions or borrowers that would violate constitutional protections.

We are mindful that nothing we do or say can absolutely foreclose the possibility of litigation, and I can state that there is no intention in the legislation to deny private parties the right to assert any constitutional claims they may have against the Government in the Court of Claims under the Tucker Act. The Supreme Court has on several occasions stated that where such recourse is available an injunction to block implementation of a congressional program such as this should not be granted. Thus, we are confident that the courts will not enjoin the implementation of the assistance and restructuring provisions of this legislation on constitutional grounds. I hope that this adequately responds to your question and concerns.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to my friend from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I also have a colloquy.

Mr. Chairman, I would say that my colleague from Kansas [Mr. ROBERTS] and I are concerned, as are others who represent banks that may be called the weaker banks, whether we would in fact perhaps lose some resources in our area.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. GLICKMAN. Mr. Chairman, I ask unanimous consent that the gentleman from Texas be given 2 additional minutes to answer the colloquy.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. In that connection, in considering how to establish the new service areas, this legislation directs both the Boards of Directors and FCA to take into consideration the efficiencies of merging a farm credit district which might receive financial assistance or a commitment for such assistance from the Temporary Assistance Corporation into a district which does not need such assistance.

It would be my understanding in reading this language, in the context of the entire legislation before us, that such a merger would be undertaken to strengthen the resulting service area financially, and thus the entire Farm Credit System, thereby possibly lessen the amount of ultimate financial assistance the recipient bank might need to obtain from the TAC but that in no way should such a merger undermine or in any way deviate from the primary purpose of the System to provide agricultural credit to farmers and ranchers in all parts of the United States. In short, would the gentleman from Texas, who first suggested and proposed a reorganization of the System during committee consideration of H.R. 3030, agree that interdistrict mergers, if they are accomplished, would be motivated primarily to achieve financial strength of the resulting service area and the System as a whole?

Mr. STENHOLM. Yes I would; the gentleman from Kansas is correct.

Mr. GLICKMAN. Finally, in looking at the legislation, it is my reading that while Congress has drawn a broad outline of what considerations should motivate such mergers, Congress has not dictated how the two districts should reorganize themselves. In fact, the administrative, management, and operational decisions which might flow from such a merger of a healthy district and one receiving TAC assistance will, in large part, remain with the boards of directors of the two districts. Such matters might include the location of the headquarters, service centers field offices, personnel levels, and the like. Would the gentleman agree that by this amendment, Congress is not precluding district boards from making these decisions and from setting, at their own initiative, how resulting districts after such mergers will be operated and administered that in short, the responsibility for such decisions will in the end rest with these directors?

Mr. STENHOLM. Yes, I would agree. I have long been an advocate of local control in the System and I believe that this amendment will preserve that at the same time it provides congressional direction to the new organizational plan.

Mr. GLICKMAN. I thank the gentleman from Texas for his explanation and for his leadership on this bill.

The CHAIRMAN. The time of the gentleman from Texas [Mr. Stenholm] has again expired.

Mr. GLICKMAN. Mr. Chairman, I ask unanimous consent that the gentleman from Texas be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, will the gentleman continue to yield to me?

Mr. STENHOLM. I yield to my friend from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding further.

Mr. Chairman, I thank the gentleman for his explanation. That puts us at a little bit of rest for those of us who represent perhaps what are characterized as the weaker districts, that we are making decisions today affecting locations of banks.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield to me?

Mr. STENHOLM. I yield to the gentleman from Kansas [Mr. Roberts].

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, I simply would like to concur with the remarks of my colleague and friend from Kansas and I thank him for his leadership with regard to this colloquy. I think the record is clear.

Mr. GLICKMAN. I thank my colleague.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. COLEMAN of Missouri. Mr. Chairman, I ask unanimous consent that the gentleman from Texas be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield to me?

Mr. STENHOLM. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Chairman, this has to do with a colloquy about the weaker/stronger banks. Let us take the example of Spokane; that bank is considered a weaker bank. Under the proposal of the gentleman, is it not true that it would merge with the Sacramento bank and that if it was a recipient bank it would actually, the new entity could not hold its offices in Spokane, WA, is that correct under the gentleman's amendment?

Mr. STENHOLM. No, that is totally incorrect in the intent. I believe if the gentleman will reread the language in the bill, it will more closely approximate what the gentleman from Kansas and our colloquy rather than the interpretation the gentleman is reading in specifically for the Spokane bank.

Mr. COLEMAN of Missouri. So there is no disqualification for a location of offices in a district which has been a recipient of assistance from the TAC Board, is that correct?

Mr. STENHOLM. If the gentleman will reread the amendment, he will find that that is indeed correct.

Mr. COLEMAN of Missouri. I thank the gentleman.

The CHAIRMAN. The Chair would state that the gentleman from Illinois [Mr. Madigan] has 1 minute remaining and the gentleman from Tennessee [Mr. Jones] has 1 minute remaining.

Mr. ALEXANDER. Mr. Chairman, I ask unanimous consent that the gentleman from Texas [Mr. Stenholm] be recognized for 30 additional seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield to me?

Mr. STENHOLM. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Chairman, I take this time to rise in support of the amendment of the gentleman from Texas [Mr. Stenholm] and to compliment him for his leadership as well as the gentleman from Tennessee [Mr. Jones] in the field of farm credit.

One of the problems that we have all recognized is that the Farm Credit Administation has become a bureaucracy. The gentleman's amendment tends to address that problem and reorganizes that bureaucracy in such a way that it will return farm credit to the farmers of America.

AMENDMENT OFFERED BY MR. JEFFORDS, AS MODIFIED, TO THE AMENDMENT OFFERED BY MR. JONES OF TENNESSEE, AS MODIFIED

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman's amendment is in order under the rule. The Clerk will report the amendment.

Mr. JEFFORDS. Mr. Chairman, I ask unanimous consent that my amendment be modified to read as follows, in the sentence which comes after the letter (b) "within 90 days after the creation of the bank cooperatives" to add "or within 90 days after the regional service area has been established, whichever is later." This is made to make it conform with the recent version of the Stenholm amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

The CHAIRMAN. The modification is agreed to.

The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. Jeffords, as modified, to the amendment offered by Mr. Jones of Tennessee, as modified:

Page 28, strike line 8 and all that follows through the end of line 33 and insert in lieu thereof the following:

"(b) Within 90 days after the creation of the Bank for Cooperatives or, within 90 days after the regional service area has been established, whichever is later borrowers which were stockholders of the district banks for cooperative operating under title III on the date of the enactment of the Agricultural Credit Act of 1987 shall vote either to remain part of the Bank for Cooperatives or to have the Service Bank located in the same regional area as such stockholders retain the authorities of a bank for cooperatives as provided under title III.

"(c) A majority vote of stockholders and contributors to guaranty funds described in title III shall be required from each Service Bank regional area in order for the Service Bank in that regional area to retain the authorities of a bank for cooperatives as provided under title III. The majority vote shall be required based on both (1) the one-man one-vote provisions of section 5.2(c) and (2) a majority of the total equity interests (not including unallocated surplus and reserves) held by voting stockholders and contributors to guaranty funds in the district bank(s) for cooperatives covered by each Service Bank regional area.

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, this amendment deals with an issue which has not been discussed. It sometimes happens when we get excited about various provisions in the bill which are of great importance that something comes through with little notice. In fact this proposal was in the original Stenholm amendment in a different form. Now it is in this amendment that Mr. Stenholm has before us, it deals with the banks of cooperatives. Now the banks of cooperatives have not been discussed, because there is no problem with the banks of cooperatives around the country in the various districts. They are healthy, they have been doing well, they have not been a problem and there is really no need to consider them. But stuck in here, stuck in the middle of this Stenholm amendment is one which takes and changes them from the number of the banks of cooperatives that we have in the various district banks and says there shall be one national cooperative bank, just one, and without the vote of the farmers, the member of the cooperatives, or the cooperatives themselves.

Now I can understand that when we consolidate the other matters that we have been discussing here today, reorganization of the PC's, the land banks and all, there are reasons for that, they are in trouble, they have had problems.

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There is a desire and a feeling that we ought to restructure them because if we do not, there are problems which will create the failure of the system. This is not true for the banks of cooperatives. The additional argument is made that if we have one national cooperative bank, we will have lower interest rates. Yet by examining the situation, and going through bank after bank, one finds that size is not something which leads to lower interest rates, and in fact the examples throughout the system are that in many cases the smaller cooperatives have a substantially lower interest rate than the larger cooperatives. That is true whether one is talking about dollar size or volume of loans or whatever.

The question is, why in this legislation do we suddenly create a national bank, one bank for cooperatives?

I do not believe we should.

I offer this amendment, and what this amendment does is, it says, all right, if the various districts want to have one bank, that is fine, but if one of these re-created regional areas desires to come out and have their own bank of cooperatives, they ought to be able to do that to service their own people or at least give them a vote. This is the only opportunity for any of the farmers in this bill to have a vote over their future. They ask nothing of us other than the right to vote.

I would ask my colleagues to support my amendment.

Mr. MARTIN of New York. Mr. Chairman, will the gentleman yield for a question?

Mr. JEFFORDS. Mr. Chairman, I yield to the gentleman from New York.

Mr. MARTIN of New York. Mr. Chairman, is the gentleman saying that this proposal is suggesting that they go to one national bank for cooperatives without being given an opportunity to vote or make that determination for themselves?

Mr. JEFFORDS. That is correct. As I say, one could argue that that is fine for the PCA and the land banks who are in trouble. We have $2.5 billion to help them. Perhaps we have to do that to them rather than say to them, do it to yourselves.

But here there is no problem. The bank of cooperatives are healthy. Yet we are taking their rights away without a vote.

Mr. MARTIN of New York. Mr. Chairman, if the gentleman will continue to yield, I think what he is saying is that if it ain't broke, don't fix it, because we have problems in other areas, there is no reason that there ought to be one national bank for cooperatives where there has not been a problem.

Mr. JEFFORDS. That is exactly correct. There are some areas that want to have one national bank. They feel it will give them a lower interest rate, but there is no reason to do that here.

Ms. SLAUGHTER of New York. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. Mr. Chairman, I yield to the gentlewoman from New York [Ms. Slaughter].

Ms. SLAUGHTER of New York. Mr. Chairman, I rise in strong support of this amendment to allow stockholder cooperative members to vote on whether their region's needs could best be serviced by a central bank for cooperatives or a regional service bank.

In the 30th District of New York and throughout the Northeast farmers have joined together to form cooperatives tailored to meet their unique needs in marketing their products. Joining them as an expert partner has been the Springfield District Bank for Cooperatives. The farmers and the bank together have crafted innovative responses which have helped keep Northeast agriculture vital and productive.

The farmers in my district do not want to lose this knowledgeable and responsive partner. They fear that a central bank for cooperatives will not be able to provide the required attention nor have the familiarity with the region's problems to work with the farmers to meet their particular needs.

This amendment would allow the cooperative shareholders in each of the current districts to determine what service structure would best meet their needs. Those who believe a central bank would have the ability to reduce their costs and produce adequate service can remain with the central bank. In other regions the shareholders could vote to be serviced by a regional bank which could be more familiar with that region's strengths and requirements. This amendment allows a diversity of bank structure to match the tremendous diversity in American agriculture while reinforcing the American tradition of self-determination.

I urge my colleagues to join me in strong support of this amendment.

Mr. MARTIN of New York. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. Mr. Chairman, I yield to the gentleman from New York.

Mr. MARTIN of New York. Mr. Chairman, I rise in support of Mr. Jeffords amendment to the restructuring provisions of H.R. 3030. Mandating one national bank for cooperatives denies farmer/stockholders the opportunity to exercise their right to structural determination, a right which is retained by the farmer-stockholders of Federal Land Bank Associations and Production Credit Associations under the provisions of the bill.

Mandating one bank could lead to less sensitivity with respect to local and regional agricultural economic conditions; lending to farmer cooperatives would be separated from lending to farmers, thereby losing the opportunity for regional integration of agricultural production and marketing when it is most needed, and it would create an excessive concentration of funding and credit risk in one entity, which could lead to higher costs for all borrowers.

Cooperatives must retain their right of self-determination and be permitted a vote as to whether they prefer to organize on a regional basis rather than being forced into one national bank. Farmers/stockholders must have a voice in deciding the appropriate structure for their lending institutions, including the bank for cooperatives.

I urge my colleagues to support this amendment.

Mr. JEFFORDS. Mr. Chairman, I thank my colleagues for assisting me. This is an important matter to those cooperatives who really feel they ought to have a say in their future, and there is no reason to deprive them of that.

Mr. Chairman, I do not intend to push for a vote on this. The gentleman from Texas [Mr. STENHOLM], original amendment came at 1 a.m. in the morning, and the latest one was delivered to us today. This is really not the time nor the place to try to get into these kinds of details. I recognize that.

This bill is on a fast track, and that is understandably so. However, I have to look as I did on the previous amendment, to the conference committee to try to work some of these problems out. I did want to raise it today. I did want to show that this was not going to go unnoticed, and hopefully in conference we will get this taken care of.

The CHAIRMAN. Does a Member wish to speak in opposition to the Jeffords amendment?

Mr. DE LA GARZA. Mr. Chairman, I rise in opposition to the Jeffords amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Chairman, I rise in opposition to the Jeffords amendment with great respect and admiration for my distinguished colleague from Vermont, but I think perhaps a little legislative history might be in order to correct some misconception that might be taken from the words of the gentleman as to what we are doing and how it was done.

The original bill, H.R. 3030, had this provision, now incorporated into the en bloc amendment, as part of the reported bill, and the banks for cooperatives had in fact initiated the process of consolidating into one. They were way ahead of what we now are attempting to do. It was for that reason that we incorporated that procedure into H.R. 3030; many of those from the banks for cooperatives came and said that this is what they were going to do anyway and they wanted to be a part of the process.

Then the Stenholm amendment was adopted in committee. I do not know that this revision of title IV changes very drastically or changes anything of what we had in H.R. 3030; so the argument that this amendment is on a fast track really has no meaningful import at this time due to the fact that this was part of the original legislation.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I certainly do not want to mislead anyone, but it is my understanding that the System itself and the various cooperative banks did not agree. The national bank of cooperatives, or whatever it is, put this proposal forward, but to my understanding there was never an agreement as a system that this was supported. It was certainly not supported in my area, and I know from a number of other areas it was not supported. I do not want to mislead anyone on the matter.

Mr. DE LA GARZA. To substantiate what I am saying, it preceded the pending amendment to H.R. 3030. They wanted to do this before that time. So it was not a part of the restructuring that came about from the pending amendment. This already had preceded that.

Now further, this provides, and it provided then, that there will be services centers or branch offices or service areas for the bank for cooperatives so that all of the areas can be accommodated. Members are mentioning here that the BC is going to be a distance away. Let me say to my colleagues that it is not like a farmer has to get in his pickup and has to travel to the intermediate credit bank, or to the bank for cooperatives, or to the regional bank. You always have the association for the land bank, you always have the production credit association, you always have the intermediate credit bank. It is not like the farmer has to get in his pickup and travel all these hundreds or thousands of miles to get there.

What is am saying basically is that the gentleman from Vermont [Mr. JEFFORDS], with all due respect and in all honesty, is representing his region, and they may be unhappy with what is happening and I will attest to that and will yield to that fact. The thing is that this is of national significance, and I along with others that coordinated the initial efforts took it to mean that a greater percentage of the people involved in the bank for cooperatives wanted to be consolidated and wanted to go into one bank.

As a matter of fact, I at one time suggested regional banks and they said no, that they want to go on as they were.

That is our intent. That is what we would like to do. We wanted to make them equal to what was evolving as the Stenholm amendment does. So I do not think the individual areas will suffer. If this remains in the final legislation, the farmer is not going to have to get in his pickup and go thousands or hundreds of miles, in the first place. Second, the services will be there; co-ops will have the regional branches or they will have regional office centers. I think the amendment of the gentleman from Vermont [Mr. JEFFORDS] would be superfluous in view of all of the testimony and what we heard as to what the people wanted to do.

Mr. JEFFORDS. Mr. Chairman, I ask unanimous consent for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

The Chair is going to request that in his unanimous-consent request, he ask for 2 additional minutes for the gentleman from Illinois [Mr. MADIGAN]. That will make it a little more orderly. We have not been observing that, but the Chair would request the gentleman do that.

Without objection, the gentleman from Illinois [Mr. MADIGAN] will be recognized for 2 additional minutes, which he may yield.

There was no objection.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, first of all, I want to say that I recognize that especially in your area that there is a great desire for one bank. That is not true of all areas.

Second, I see no reason, but the gentleman is correct, but why not let the farmers vote on the issue? Why take that right away from them in this legislation when we are giving them nothing? Why take the voters' right to the farmers away? Why not let them have regional banks if they desire or go to one?

If they go to one, that is fine. Just let the region have the option of having their own bank if they so desire. I do not see any harm in this amendment.

However, Mr. Chairman, at this time I request unanimous consent that I be permitted to withdraw my amendment. I just want to thank the gentleman for giving his side of the issue, and I am sure the other gentleman from Texas [Mr. STENHOLM] shares it. There are others that do not. I feel that this is an inappropriate place to try and argue this issue out. I am hopeful that the other body will see fit to have a different version and will take care of this in conference, and I certainly appreciate the indulgence of my colleagues in listening to this plea not to do away with the voters' rights of the farmers on this issue.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. CONTE. Mr. Chairman, it's rare for me to take the well to oppose a farm bill, as many of my colleagues know. I'm usually quiet on these agricultural issues.

But when I speak out, it's because over there at the Bureau of Engraving and Printing, they can't print the money fast enough to pay for some of the boondoggles we hustle through this Chamber.

In this case, I'm no expert on farm credit or the banking system so I sympathize with the plight of the Agriculture Committee. I know that all the members of the committee have worked for many months under pressure from many different groups to produce a plan that could balance all the clashing needs, and target real assistance to system institutions on the brink of collapse.

For healthy districts, like my own in Agawam, in the Springfield area, we can live with most of these proposed changes knowing that help is on its way to the weakest banks. It's like an IV filled with cod liver oil.

My major concerns had been that the committee failed to include a specific authorization level, again placing the responsibility squarely on our Appropriations Committee to produce a series of fat supplemental bills.

But now, as I understand it, the agreement appropriates $2.5 billion with offsets to come from loan asset sales. I know these funds are needed; I also figure we'll need a lot more. But let there be no mistake about it—this is another agricultural appropriations bill that didn't originate in the Appropriations Committee.

Based on the concerns of the farmer-borrowers of the Springfield district, the Secretary of the Treasury, and a host of consumer organizations, I have also opposed the costly and damaging provisions in the bill for a secondary mortgage market in title III.

And, while I understand that many significant changes have been made to the original proposal, I remain opposed to the creation of another new farm program to compete with the one we're trying to shore up. Despite all the hard work put into this new package, I regret we don't have the chance to vote up or down on title III.

We are 6 days into a new fiscal year, my friends, but we are still paralyzed by a pounding budget hangover. We all ought to be out here with our party hats blowing our little horns and popping our corks.

How much is this new Farmer Mac going to cost the taxpayers and the solid borrowers of the Farm Credit System? And, how are we going to pay for it?

We've already got $26 billion dollars' worth of CCC entitlement programs, we've got the authorizing committee appropriating another $2.5 billion right here, and who knows how much more we're going to spend on Farmer Mac?

Well, we'll find out how much it will cost us in due time. And we'll pay for it. Last month, we sent the President a cheap tool that I call an "automatic nutcracker." And you just wait until that first crack is heard 14 days from now. There won't be enough shells to hide under.

As one of the representatives of the Springfield district banks, the healthiest in our System, I will continue to work to ensure that they remain healthy. We still have a few dairy farmers who haven't sold their herds under that buy-out program, and a good number of solid borrower-owners who have contributed tens of millions of dollars to other System institutions over the past few years. They don't need a Farmer Mac, and they don't want to be merged unwillingly into a national bank for cooperatives.

Depending on the will of the House on some of these amendments this afternoon, and the action taken in conference later with the other body, I hope to support a bill that addresses these remaining concerns.

Mr. ALEXANDER. Mr. Chairman, I rise in support of the bill. I take this time for the purpose of explaining my amendment to title III which is contained in the committee amendment en bloc.

By the early 1980's aggregate farm debt reached the mindboggling figure of $220 billion. To that figure, we can estimate untold billions more in debt owed by businesses that serve the farm community. In many communities across the Farm Belt, the economy is entirely dependent on agriculture.

The farm debt of the early 1980's was larger than the foreign debt of Brazil and Mexico combined.

Whenever we debate the Third World debt crisis, experts in Congress, the executive branch and international organizations engage in a spirited competition to devise plans for rescuing the debtor nations and the big banks that lent money to them.

Farm debt has now been reduced to between $175 and $200 billion. But reduction did not come about as part of a comprehensive plan to reduce the debt that keeps the rural economy from recovering.

Instead, the issue of debt in rural America has been largely ignored. The administration and the Congress have done little to address this problem, which still awaits a solution.

Beginning in 1981, the administration adopted a policy of deflation, which led to devaluation and depression in the farm community.

As explained in an article published in Business Week magazine, June 9, 1986, entitled "America's Deflation Belt," farm land declined in value by 50 percent or more—leaving farmers unable to pay their obligations.

The multiplier effect was devasting. Even when lenders foreclosed, they were left with collateral worth only a fraction of its original value.

Rural small businesses had even greater problems. Price deflation left farmers with much less purchasing power. Main Street shops and stores lost customers, and income. And, inevitably, the debt of these businesses mounted as well.

Today, even though farm commodity prices show faint signs of recovery, the burden of farm and business debt keeps the rural economy from getting back on its feet.

It is my intent in offering this amendment to seek a plan to address the debt problem. Somehow, the heavy debt which continues to burden the farm community must be relieved—perhaps by expanding the secondary market—in order to free up the credit which is needed to revive rural America.

Today, I offer an amendment to H.R. 3030 as a vehicle to begin the discussion of rural America's debt problem.

The amendment I offer would direct the permanent Board of Farmer Mac to study the feasibility of making rural small business debt eligible for the secondary market.

Debt hangs like a sword of Damocles over rural America. We will have to remove this excess debt, and it is time to explore ways of doing so. This amendment begins that exploration and I urge its adoption.

The CHAIRMAN. The gentleman from Illinois [Mr. MADIGAN] has 1 minute remaining on the Jones amendment; the gentleman from Tennessee [Mr. JONES] has 1 minute remaining on his amendment.

Mr. MADIGAN. Mr. Chairman, I would exercise the use of my 1 remaining minute to inquire of the gentleman from Texas [Mr. DE LA GARZA] if he was aware that this amendment at one point today was going to not be offered and now it is being offered? I just wonder if the gentleman from Texas was aware of that?

I also wonder if he is aware of the fact that the amendment by the gentleman from Louisiana [Mr. HUCKABY], which was agreed to not be offered today, was also offered contrary to that agreement that had been reached?

I wonder if the gentleman from Texas [Mr. DE LA GARZA] was aware of those matters?

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. Mr. Chairman, I yield to the gentleman from Texas to respond.

Mr. DE LA GARZA. Mr. Chairman, at the beginning of this session, the gentleman from Texas was not fully apprised of which amendment would or would not be offered. I had information on both sides. I was prepared for whatever eventuality came to pass.

Mr. MADIGAN. Reclaiming my time, I understand that the amendment of the gentleman from Louisiana [Mr. HUCKABY] which we were assured would not be offered was offered out of order and during some confusion, and did possibly add more than $1 billion to the cost of this bill.

Mr. JONES of Tennessee. Mr. Chairman, at the close of this debate I would like to say that the gentleman from Texas [Mr. STENHOLM], has demonstrated great courage and conviction in pursuing an issue that has been quietly boiling on the back burner for the nearly two decades since I became a member of the Committee on Agriculture.

As one who has campaigned for years for reform of the Farm Credit System's organizational and service delivery structure, I strongly support Mr. STENHOLM's efforts to bring this 70-year-old organization into a position to survive the challenges of the 1990's and beyond.

Without a doubt, differences of opinion continue to exist about exactly how the System should best be reorganized. I dare say that any one of us might construct a system blueprint that would differ significantly from the amendment before us today. However, we must begin to come to grips with this question, and at least the serious debate has finally begun.

H.R. 3030 will fundamentally change the way in which the Farm Credit System operates and its competitive position. If for no other reason, the System must change with the times in response to the provisions in the bill creating a secondary market for all agricultural lenders.

If the System failed to respond to the changing agricultural environment by not streamlining its operations, it would likely fail in the long term, even if it received Federal financial assistance in the short term. To ignore the obvious need for System reorganization would not only be foolish policy, but it would be a breach of trust with our Nation's taxpayers whose resources are now clearly at risk in a direct partnership with the System.

I am encouraged that the System has responded positively and constructively to the structure issue since H.R. 3030 was reported out by the House Agriculture Committee.

Following several weeks of intensive study and analysis, undertaken by the System banks in dialog with local Federal land bank associations and production credit associations, the farmer-elected directors of all the district banks met in Sacramento. A response to our bill, crafted by System leaders in intensive deliberations extending over several days, was presented to the farmer-elected directors. Notwithstanding the diversity of opinion within the System on the question of structure, the recommendations presented received unanimous approval from all 12 farm credit districts.

While I cannot embrace all aspects of this proposal, I think it will be invaluable to those who must work with this bill through the remainder of the legislative process. It is essential that we maintain a constructive dialog with the System throughout this critical period, because we share with its leaders a common desire to ensure the future health and viability of this credit delivery service to America's farmers, ranchers, and cooperatives.

Time will not permit me to review the System's Sacramento proposal in detail, however, I would like to list what I believe are several of its many positive features.

The proposal recognizes the need for streamlining the System operation through a reduction in the number of System banks and districts. Within 90 days of enactment, the stockholders of the banks for cooperatives would vote on the formation of a national bank for cooperatives. The Federal land bank [FLB] and Federal intermediate credit bank [FICB] in districts receiving Federal financial assistance would be required to merge on an expedited basis. Stockholders of FLB's and FICB's in all other districts would be required to vote on similar bank mergers within 6 months. Most importantly, significant incentives would be put in place to obtain stockholder approval of plans to reduce the number of farm credit districts from 12 to no more than 6 with 18 months.

Association shareholders in those districts where the FICB and FLB have merged would be guaranteed the opportunity to vote on the merger of the FLBA's with the PCA's in their district. I believe that this reflects the System's commitment to provide efficient "one stop lending" services to America's farmers. The effort to draft a new farm credit title for the combined FLB/FICB should encourage us to face a number of the significant policy and technical questions posed by such combinations. This is a far better course than to simply leave these issues for the Farm Credit Administration to resolve.

While the proposal retains considerable flexibility, the overall direction for System restructuring is clear. Moreover, a number of the possible combinations of System entities contemplated by the original System merger proposal presented last May in hearings before my subcommittee have been eliminated. I believe that this reflects a recognition on the System's part that we need orderly change and not a hodgepodge of new System entities.

Again, I say to my friends in the System who have labored to further develop this proposal, we must continue to work together. I know your views on the importance of obtaining stockholder approval of mergers and how difficult it must have been to accept any form of mandatory restructuring. However, we are talking about a massive infusion of Federal dollars into the System and, with the new secondary market for farm loans, a radically new playing field for agricultural lenders.

As the representatives of the American taxpayers and for the farmers who rely upon the System for credit, we in the Congress must find a way to justify the expenditures of Federal funds to ensure the continued viability of the Farm Credit System. With your continued cooperation, I am certain that we will succeed.

I would like to request, Mr. Chairman, that the proposed statutory language and explanation of the System's proposal be included in the RECORD.

SECTION-BY-SECTION ANALYSIS OF PROPOSED FCS AMENDMENT ON SYSTEM STRUCTURE

The System's proposed amendment would delete from section , entitled . In lieu thereof, the amendment would insert new sections (a) and (b), which would add to the Farm Credit Act new Titles IVA and IIA, respectively, (c) which would delete Sections 4.10 and 4.11 of the Farm Credit Act of 1971, as amended, (the "Act") as well as the last two sentences of Section 4.12(a) of the Act.

TITLE IVA—MERGER AND CONSOLIDATION OF SYSTEM INSTITUTIONS

PART A—MANDATORY MERGERS OF THE FEDERAL LAND BANK AND THE FEDERAL INTERMEDIATE CREDIT BANK

Sec. 4A.0. Mandatory merger.

This section requires a district's Federal land bank ("FLB") and Federal intermediate credit bank ("FICB") to merge into a single bank (as "merged bank"), if any institution in the district has received financial assistance from the Temporary Assistance Corporation ("TAC"). Such assistance includes equivalent assistance provided by TAC pursuant to section 4.28M for amounts repaid or reversed by a receiving institution under the Capital Preservation Agreements. Such an FLB-FICB merger must occur within six months of such receipt of assistance. The FLB and FICB are to merge pursuant to a plan of merger agreed upon by their boards but if the boards fail to agree on such a plan, TAC is to prescribe a plan.

Sec. 4A.1. Obligation of Temporary Assistance Corporation to provide financial assistance.

This section requires TAC to provide financial assistance to FLBs and/or FICBs merging under the preceding section, to the extent such assistance is needed either (a) to prevent impairment of stock in such banks held by an association or other financing institution as of the merger date or (b) needed, in TAC's judgment, to prevent impairment of such stock for a reasonable time after merger.

PART B—REQUIRED SUBMISSION OF MERGER AND CONSOLIDATION PROPOSALS TO STOCKHOLDERS FOR VOTE

Subpart 1—Merger of Federal Land Bank and Federal Intermediate Credit Bank

Sec. 4A.2. Submission of proposal.

This section requires that, where the FLB and the FICB in a district have not merged under Section 4A.0, the boards of such banks must submit to their stockholders for approval a plan to merge the two banks. Such plan must be submitted within six months of the enactment of the —— Act. The plan must be approved by the Farm Credit Administration ("FCA") before it can be submitted to the stockholders.

Sec. 4A.3. Prerequisite to merger.

This section provides that the stockholder vote required for approval of a merger under section 4A.2 is a majority of the voting stockholders of the FLB and a majority of the voting stockholders of the FICB. The stockholder votes are to be computed in accordance with the one-man-one-vote look-through principle of section 5.2. The FLB and FICB are required to submit their plan of merger to FCA no later than 60 days before they are required to submit it to their stockholders. Finally, FCA is required to expedite its consideration of this plan, so that the stockholder votes can be held within six months of enactment.

Subpart 2—Merger of Certain Production Credit Associations and Federal Land Bank Associations

Sec. 4A.4. Submission of proposal.

This section requires the boards of each production credit association ("PCA") and Federal land bank association ("FLBA") that serve substantially the same geographical territory to present to their stockholders for approval a plan to merge the two associations. Such plan must be submitted within six months after the merger of the district's FLB and FICB. Before such presentation, the plan must be approved by the FCA and by the associations' supervising bank.

Sec. 4A.5. Prerequisite to merger.

This section provides that the stockholder vote required for approval of a merger under section 4A.4 is a majority of the stockholders of each merging association who are present and voting, or voting by written proxy, at a duly authorized meeting. This section makes the provisions of section 4A.3, respecting submission of material to FCA and FCA's expedited consideration of such material, applicable to association mergers.

Subpart 3—Consolidation of the Farm Credit Districts

Sec. 4A.6. Submission of proposal.

This section requires the formation of a special committee composed of one representative from each farm credit district, selected pursuant to FCA regulations. The committee is to develop, in cooperation with TAC, a proposal to consolidate the Farm Credit System into six or fewer districts by inter-district mergers of FLBs and FICBs. Such proposal must be developed within eighteen months after the effective date of the —— Act. This section also requires the committee to report on its progress to the House and Senate Agriculture Committees. These reports are to be made at the end of each calendar quarter beginning at least six months from the date of enactment.

Sec. 4A.7. Prerequisite to consolidation.

This section requires the special committee, within eighteen months of enactment, to submit each proposed inter-district merger to the voting stockholders of each FLB, FICB, and merged bank that is proposed to be a party to such merger. The stockholder vote required for district approval of a merger pursuant to secton 4A.6 is a majority of the aggregate of all the voting stockholders of the FLB and FICB, or of the merged bank, in each district which is a proposed party to the merger. The stockholder votes are to be held in accordance with the one-man-one-vote look-through principle set forth in section 5.2.

Sec. 4A.8. Assistance by the Temporary Assistance Corporation.

This section requires TAC to facilitate any merger or consolidation pursuant to section 4A.6, by providing financial assistance as it deems appropriate.

Sec. 4A.9 Loss of Stock Guarantee.

This section provides that if a district fails to approve the proposal submitted to it under section 4A.6, the borrower stock-guarantee provisions of this Act cease to apply to the borrower stock in any institution in the district, except the bank for cooperatives ("BC").

Subpart 4—Merger of Banks for Cooperatives and the Central Bank for Cooperatives Into a National Bank for Cooperatives

Sec. 4A.10. Submission of proposal.—

(a) This subsection requires the formation of a special committee composed of one central bank for cooperatives ("CBC") board member selected by such board, as well as one of the members of each district board who was elected by the voting stockholders or guaranty-fund subscribers of such district's BC. The committee is to develop a plan for the merger of all the BCs and the CBC into a National Bank for Cooperatives. The committee is then to submit this plan to the voting stockholders of each such bank within 90 days of the effective date of the —— Act.

(b) This subsection requires that within 30 days of enactment the special committee must submit to FCA for approval the proposed plan of merger, as well as all information that is to be distributed to stockholders with respect to the plan. FCA is required to promptly review the submission, and advise the special committee of any required change within 30 days of receipt of the submission.

Sec. 4A.11. Prerequisite to Merger.—

(a) This subsection provides that the stockholder vote required for approval by the CBC of the merger plan submitted pursuant to Section 4A.10 shall be a majority vote for the merger by the CBC's stockholders, with each stockholder having one vote. The vote required for approval by a district BC shall be a majority vote for the merger, cast by the BC's voting stockholders and guaranty-fund contributors, computed (1) in accordance with the one-man-one-vote principle set forth in Section 5.2, and (2) on the basis of the total equity interest in the bank (including allocated, but not unallocated, surplus and reserves held by those eligible to vote).

(b) This subsection provides that if the stockholders of one or more district BCs fail to approve the plan, then each bank whose stockholders did approve is to conduct a second vote, on the question of whether the approving banks should merge. The merger of such approving banks will proceed immediately if, in the second vote, the stockholders of a majority of those banks vote for the merger of such banks. The stockholder votes are to be conducted in accordance with subsection (a). The resulting merged bank will be the National Bank for Cooperatives. Each district BC whose stockholders originally failed to approve the merger plan will continue as a separate BC.

PART C—STOCKHOLDER AUTHORITY TO REORGANIZE SYSTEM INSTITUTIONS TO IMPROVE OPERATING EFFICIENCIES

Subpart 1—Merger of Federal Land Bank and Federal Intermediate Credit Bank in Same district

Section 4A.12. Authority to merge.

This section authorizes the FLB and FICB in a district to merge, subject to (1) approval of a plan of merger by their respective boards; (2) approval of the plan by the FCA; and (3) a majority vote for the merger cast by each bank's voting stock-holders in accordance with the one-man-one-vote look-through principle set forth in section 5.2.

Subpart 2.—Merger of Federal Land Banks and Federal Intermediate Credit Banks in Different Districts.

Sec. 4A.13. Authority to merge.

This section authorizes mergers of FICBs, FLBs or merged banks in different districts, provided that the result of such merger is that all FLB and FICB operations in those districts are located in a single district, in the form of a merged bank or an FLB and an FICB. Such mergers are subject to (1) approval of a plan of merger by the banks' respective boards; (2) approval of the plan by FCA; and (3) a majority vote for the merger cast by each bank's voting stockholders in accordance with the one-man-one-vote look-through provisions of section 5.2.

Subpart 3—Mergers of, and Transfers of Assets and Power by or to, Associations Within a District

Sec. 4A.14. Transfer of loan-related assets and lending authority by a Production Credit Association.

(a) This subsection authorizes a PCA to transfer to the FICB or merged bank in its district such PCA's lending and participation authorities, as well as part of all or the PCA's loan portfolio and/or other assets. The transfer is subject to: (1) agreement to the transfer by the PCA and bank boards; and (2) approval by a vote of a majority of the voting power represented by stockholders of the association present and voting, or voting by written proxy, at a duly authorized meeting. The transfer of assets is to be for agreed-upon consideration.

(b) Under this subsection, after a transfer under subsection (a) the bank shall have all the direct loan authority in the PCA's territory formerly possessed by the PCA.

Sec. 4A.15. Transfers of lending authority by a Federal Land Bank, or a merged bank.

(a) This subsection authorizes an FLB or merged bank to transfer to an FLBA such bank's statutory authority, in the territory served by the association, to make and participate in long-term real-estate mortgage loans. Such transfer is subject to: (1) agreement to the transfer by the FLBA and bank boards; and (2) approval of the transfer by a majority vote of the voting stockholders of the bank and the FLBA, voting in accordance with the applicable provisions of sections 4A.3, and 4A.5, respectively.

(b) Under this subsection, after such transfer, the FLBA shall have all the bank's authorities to make long-term real-estate mortgage loans in the FLBA's territory. Also after the transfer, the FLBA may make loans and extend similar financial assistance to the FLBA, and may discount for or purchase from the FLBA any obligation the proceeds of which have been advanced by the FLBA in connection with long-term real-estate mortgage loans.

Sec. 4A.16. Authority to merge banks with associations.

This section authorizes an association to merge into its supervising bank, or vice versa, provided that all the associations supervised by such bank have previously merged into a single association. Such bank-association merger is subject to: (1) approval of a plan of merger by the bank and association boards; (2) approval of the plan of merger by the FCA; and (3) a majority vote for the plan of merger cast by the voting stockholders of the bank and the association in accordance with the applicable provisions of sections 4A.3 and 4A.5, respectively.

Subpart 4—Mergers Involving Banks for Cooperatives

Sec. 4A.18. Merger prior to action under subpart 3 of part B.

This section prohibits BCs from merging with banks other than BCs until after the stockholders of the FLBs, FICBs and merged banks have acted on the proposal offered under section 4A.6. However, the section permits a BC to merge with one or more BCs prior to such action, but after the votes on a National Bank for Cooperatives under subpart 4 of Part B. Such merger is subject to (1) approval of the plan of merger by the BC's board; (2) approval of the plan of merger by FCA; and (3) a majority vote for the merger cast by the BC's voting stockholders and contributors to its guaranty fund, with the vote computed both in accordance with the one-man-one-vote principle set forth in section 5.2 and on the basis of the total equity interest in the BC.

Sec. 4A.19. Merger after action under subpart 3 of part B.

This section authorizes a BC, after action under section 4A.6, to merge with one or more other BCs as authorized in the previous section, or with a merged bank resulting from a merger under section 4A.0, 4A.2, 4A.10 or 4A.11. A merger with a merged bank must be approved by the stockholders of the merged bank by the vote prescribed in section 4A.3.

Subpart 5—Merger of Service Organizations

Sec. 4A.20. Authority to merge.

This section authorizes the merger or consolidation of two or more service organizations organized under section 4.25. Such mergers or consolidations are subject to: (1) approval of a plan of merger by the organizations' respective boards of directors; (2) approval of the plan of merger by FCA; and (3) a majority vote for the merger cast by each organization's voting stockholders.

Subpart 6—Approval by the Farm Credit Administration of Disclosure Information Relating to Mergers

Sec. 4A.21. Prior approval by the Farm Credit Administration.

(a) This subsection requires the submission to FCA of all plans of merger and plans for the transfer of lending authority (except as to mandatory mergers under section 4A.0 and the initial vote on a National BC under section 4A.10), together with all information that is to be distributed to voters with respect to any such contemplated merger or transfer of authority. Such submission must occur after such materials have been approved the boards of the entities involved if such approval is required, and before the submission of such materials to the voters. If FCA notifies the submitting entities that it finds no deficiencies in the disclosure, or if sixty days after the submission expire without action by FCA, the submitting entities may submit the plan of merger or transfer, together with the disclosure information, to their voters for the prescribed vote.

(b) This subsection provides that if FCA finds the submitted materials deficient, it must so inform the submitting entities within sixty days of submission, and specify the reasons for its finding. In such event, the plan of merger or transfer may not be submitted to the voters until FCA determines that the identified deficiencies have been remedied.

PART D—POWERS; CAPITAL STOCK; EARNINGS AND RESERVES AND DIVIDENDS OF MERGED INSTITUTIONS

Sec. 4A.22. Powers.

This section provides that a merged institution has all the powers and obligations of its constituent entities, except where such powers would be inconsistent with the provisions of Title IIA. This section requires FCA to promulgate regulations governing the consolidation and reconciliation of the powers and obligations of the constituent entities.

Sec. 4A.23. Capital stock.

This section authorizes merging entities, subject to the provisions of title IIA, section ——, and FCA regulations issued under section —— of the —— Act respecting capital adequacy, to determine in their plan of merger the number of shares of capital stock (including participation certificates and interests in guaranty funds) to be issued pursuant to the merger, as well as the classes and rights and privileges of such stock.

Sec. 4A.24. Earnings, reserves and distributions.

This section authorizes the board of directors of a merged bank, subject to the provision of title IIA, section ——, and FCA regulations issued under section —— of the Act respecting capital adequacy, to provide for the application of net earnings after payment of operating expenses. Such application may include restoration of any impairment of capital stock as well as certain other purposes. This section provides that all capital and retained earnings of a merged institution are to be available for use in the institution's activities, without regard to the activities generating such earnings.

PART E—BOARDS OF DIRECTORS OF SYSTEM INSTITUTIONS

Sec. 4A.25. Boards of Directors of merged banks within a district.

This section provides that, where two or more banks in a district merge, the board of the resulting bank is the district board, except in the event that a separate board for a bank is created as provided in the Act. All associations in such a district shall be entitled to vote for four members of the district board.

Sec. 4A.26. Boards of directors of banks resulting from the merger of banks in different districts.

This section provides that, where FLBs and FICBs from different districts merge, the merger agreement is to determine the composition and manner of election of the board of the resulting bank. After the merger, the district boards of such districts are to be dissolved. However, where one or both districts contains a separate BC, the district board will function as the BC board until such BC elects its own board. The board of the merged bank, and, where applicable, the BC board, will take over the functions of the dissolved district boards. The merged bank and BC boards are to cooperate as necessary. This section applies, where appropriate, to separate boards established under section 4A.29 prior to cross-district mergers.

Sec. 4A.27. Boards of directors of banks for cooperatives.

(a) This subsection provides that where BCs merge the merger agreement is to determine the composition and manner of election of the board of the resulting bank.

(b) Under this subsection, where a BC remains in a district whose board has been dissolved, the BC is to modify its bylaws to provide for the election of its own board.

(c) Under this subsection, where a new is formed, a BC in the district may agree with the other banks in the district to be governed by a new district board composed and elected as agreed by the BC and the other banks.

Sec. 4A.28. Board of directors of merged associations.

This section provides that, where associations merge, the merger agreement is to determine the composition and manner of election of the board of the resulting association.

Sec. 4A.29. Separate boards for banks.

(a) If FCA receives a petition representing at least twenty-five percent of the votes that may be cast by the bank's stockholders in the election of district directors, this subsection requires FCA, within 30 days after such receipt, to issue a notice stating the place and time of a special meeting of bank stockholders on a referendum to determine whether the bank should have a board separate from the district board. The meeting must be held not less than 30 nor more than 60 days after mailing of the notice.

(b) Under this subsection, if a majority of votes represented at such meeting vote for the election of a separate board, the FCA must hold an election for such board.

(c) This subsection provides that each separate board is to be comprised of five members elected by the stockholders of the bank. Two members of the original separate board are to be the two district board members already elected by the bank's stockholders (or subscribers). Upon becoming members of the original separate board, these individuals cease to be members of the district board. The remaining three original members, as well as all later members, are to be elected and shall serve in accordance with sections 5.1 and 5.2 of the Act.

(d) Under this subsection, if separate boards are established for two or more banks in a district, the district board is to be dissolved.

(e) This subsection provides that coordination between separate boards in a district is to be accomplished by a committee of their members.

(f) This subsection provides that separate boards may be abolished by a process similar to the process whereby such boards may be established. If a district board has been abolished after the creation of two or more separate boards in the district, the district board can be reestablished only by two or more concurrent referendums by bank stockholders abolishing their banks' separate boards.

(g) Under this subsection, the creation or abolition of a separate board under this section shall last at least five years.

(h) This subsection provides that a separate board elected under this section has the powers granted to the bank by the applicable provision of the Act, but may not exercise any authority granted under section 5.6.

Sec. 4A.30. Appointment of outside directors to district and bank boards.

(a) This subsection requires the elected members of each district board to appoint two additional voting members, who are to be experienced in financial services and are to have no current relation to the System.

(b) This subsection also requires the elected members of each bank board that is not a district board to appoint one or two such additional voting members.

PART F—CONDUCT OF VOTES

Sec. 4A.31. Conduct of votes on proposed mergers.

This section provides that the stockholder votes on proposed mergers under this title are to be conducted by the board of each entity whose stockholders are entitled to vote on the merger. Such boards are required to employ procedures that will provide such stockholders with fair notice and opportunity to vote. Stockholder votes on district consolidation under section 4A.6 and on the National Bank for Cooperatives under Section 4A.10 are to be conducted by the special committees established by those sections.

PART G—TAXATION

Sec. 4A.32. Taxation of merged banks and associations.

This section provides that an entity resulting from a merger in which one or more of the constituent entities was an FLB or FLBA is tax-exempt only to the extent provided in section 1.21 for FLBs and FLBAs.

TITLE IIA—CONSOLIDATED FARM CREDIT BANKS

Sec. 2A.0. Establishment; titles; branches.

This section provides that a bank created by the merger of one or more FLBs with one or more FICBs is to be called a Farm Credit Bank ("FCB") and is to be a federally chartered instrumentality of the United States. FCA may modify an FCB's charter. Each FCB may include a geographical designation in its name, and may establish branches or other offices as needed.

Sec. 2A.1. Corporate existence; general corporate powers.

This section establishes each FCB as a body corporate, and sets forth its corporate powers, which include the powers to own property, make loans, elect officers, prescribe by-laws, borrow money, delegate functions to its association(s), and enter into loss-sharing agreements with other System institutions.

Sec. 2A.2. Farm Credit Bank Stock; patronage dividend.

(a) This subsection provides that FCB capital stock is to be divided into shares with a $5 par value. Capital stock may be of such classes and amounts as the board determines in accordance with the capital adequacy provisions of the Act and with the approval of FCA.

(b) Under this subsection, FCB voting stock may be held only by the FCB's association(s) and direct borrowers. Such stock may not be transferred, pledged or hypothecated except as authorized under the Act.

(c) Under this subsection, each FCB may determine the amount of additional stock to which its association(s) must subscribe, and allocate the subscription obligation(s) of such association(s). Such subscription are to be subject to call.

(d) This subsection provides that patronage refunds may be paid in nonvoting stock, participation certificates, allocated surplus, and other equities of the bank, or cash, or in both equities and cash, as determined by the bank board. Such refunds are to be paid to borrowers of the fiscal year with respect to which such refunds are distributed. All such refunds are to be paid in the proportion that the amount of interest on the loans of each borrower during the year bears to the interest on the loans of all borrowers during the year, or on a different proportionate patronage basis, as determined by the board.

(e) This subsection provides that section 2A.2 does not limit FCA's power to provide general direction to FCBs on the payment of dividends and patronage refunds.

Sec. 2A.3. Lending authority.

This section confers on each FCB the lending authorities conferred on FLBs by section 1.6 and on FICBs by section 2.3.

Sec. 2A.4. Interest rates and other charges.

This section authorizes the FCB board to set interest rates. An FCB may charge variable rates. This section provides that, in setting rates, the FCB's objective is to be the provision of appropriate types of credit at competitive rates.

Sec. 2A.5. Eligibility.

This section restricts eligibility for FCB services to persons who are or become stockholders, and are (1) bona fide farmers, ranchers, or producers or harvesters of aquatic products; (2) persons furnishing services to such persons directly related to their operating needs; or (3) owners of rural homes.

Sec. 2A.6. Security; terms.

(a) This subsection prohibits an FCB from originating or participating in real-estate mortgage loans that are in excess of 85% of the appraised value of the security, or, for government guaranteed real-estate loans, that are in excess of the amount—up to 97% of appraised security value—authorized by FCA regulations. Such loans are required to be secured by liens on interests in real estate of such classes as FCA approves. By regulation or on bank request, FCA may waive the first lien requirement. The value of security is to be determined by appraisal, under standards prescribed by the FCB and approved by FCA. An FCB may require supplemental non-real estate security for a real-estate mortgage loan.

(b) Under this subsection other FCB loans, advances or discounts are to be repayable if not more than seven years (fifteen, if to producers or harvesters of aquatic products). However, the FCB board, under FCA regulations, may approve policies permitting loans that would otherwise be repayable iin seven years to be repayable in ten years.

Sec. 2A.7. Purposes.

This section authorizes FCBs to lend for any agricultural or aquatic purpose. An FCB may also lend for certain basic processing and marketing purposes, if the applicant's operations supply 20 percent or more of the processing or marketing that would be financed by the loan. FCBs may lend to rural residents, under FCA regulations, to finance rural housing. Such housing is to be single-family, moderate-priced dwellings in rural areas, i.e., municipalities having populations of 2,500 or fewer. Such loans may not make up more than 15 percent of an FCB's portfolio. Additionally, FCBs may lend to persons furnishing certain farm-related services to that such persons can purchase obtain necessary capital structures and equipment, and to provide necessary working capital. FCBs may lease needed facilities to eligible individuals.

Sec. 2A.8. Services related to borrower's operations.

This section authorizes FCBs to provide technical assistance to borrowers, members, and applicants, and to make available to them appropriate financial services, to the extent the FCB board determines that this is feasible. The provision or availability of such assistance or services is to be subject to FCA regulations.

Sec. 2A.9. Loans through associations or agents.

This section requires FCBs to make their long-term real estate mortgage loans through an FLBA serving the territory where the real estate is located, provided that, if no such active, solvent FLBA exists, the FCB may make the loan directly, through another FLBA, or through another designated financial institution. In such event, the applicant must purchase FCB stock in an amount equaling 5-10 percent of the loan. The FCB is authorized to prescribe the terms and conditions of such loans.

Sec. 2A.10. Liens on stock.

This section gives each FCB a first lien, for payment of a stockholder's liability to the FCB, on the stock and participation certificates it has issued to such stockholder.

Sec. 2A.11. Taxation.

This section tracks the equivalent sections applicable to FCBs and FICBs. It provides that every FCB, and the capital, reserves, and surplus thereof, as well as the income derived therefrom, are to be exempt from Federal, state, municipal and local taxation, except that real estate held by an FCB may be taxed, according to its value, as other similar property held by other person is taxed. The mortgages and obligations held by the FCBs, and the notes, bonds, debentures and other obligations issued by them, are to be deemed and held to be instrumentalities of the United States Government, and, as such, they and the income therefrom are to be exempt from all Federal, State, municipal and local taxation, other than the Federal income tax liability of the holder of such obligations under the Public Debt Act of 1941.

Sec. 2A.12. Distribution of assets on liquidation.

This section requires that, on liquidation or dissolution of an FCB, the FCB's assets are to be applied first to the payment of liabilities, next to the retirement of all stock at par and all participation certificates at face amount, and thereafter as provided in the FCB's charter and bylaws.

Sec. 2A.13. Net earnings.

This section authorizes an FCB's board to provide for the application of net earnings after payment of operating expenses, subject to the provisions of the Act respecting capital adequacy. This section permits the application of earnings in order to restore any impairment of capital stock, as well as for other purposes. All FCB capital and retained earnings are to be used as the board directs, regardless of the activity generating such earnings.

PROPOSED FCS AMENDMENT ON SYSTEM STRUCTURE

Delete sections and insert, in lieu thereof, the following:

"SEC. (a). The Act (12 U.S.C. 2001 et seq.) is amended by inserting after title IV the following new title:

"TITLE IVA—MERGER AND CONSOLIDATION OF SYSTEM INSTITUTIONS

"PART A—MANDATORY MERGERS OF THE FEDERAL LAND BANK AND THE FEDERAL INTERMEDIATE CREDIT BANK

"SEC. 4A.0. MANDATORY MERGER.—No later than 6 months following receipt by any institution in a farm credit district of financial assistance from the Temporary Assistance Corporation, including equivalent assistance provided by the Corporation pursuant to section 4.28M for amounts repaid or reversed by a receiving institution under Capital Preservation Agreements, the Federal land bank and Federal intermediate credit bank of that district shall merge into a single bank pursuant to a plan of merger agreed upon by the boards of directors of such banks or, if they fail to agree, a plan of merger prescribed by the Temporary Assistance Corporation."

"SEC. 4A.1. OBLIGATION OF TEMPORARY ASSISTANCE CORPORATION TO PROVIDE FINANCIAL ASSISTANCE.—In the case of any merger pursuant to section 4A.0, the Temporary Assistance Corporation shall provide the financial assistance necessary to protect from impairment, as of the date of merger, any stock held by associations or other financing institutions in either of the merging banks, and such additional financial assistance, if any, as the Temporary Assistance Corporation deems necessary to permit the merging banks to operate for a reasonable time without impairment of such stock.

"Part B—Required Submission of Merger and Consolidation Proposals to Stockholders for Vote

"SUBPART 1—MERGER OF THE FEDERAL LAND BANK AND FEDERAL INTERMEDIATE CREDIT BANK

"Sec. 4A.2. Submission of Proposal.—In those farm credit districts where there has not been a mandatory merger under section 4A.0, the board of directors of the Federal land bank and the Federal intermediate credit bank shall submit to the stockholders of such banks for approval, within 6 months after the enactment of the Act, a plan for merging those two banks that has been approved by the Farm Credit Administration.

"Sec. 4A.3. Prerequisite to Merger.—The stockholder vote required for approval of a merger pursuant to section 4A.2 shall be a majority of the voting stockholders of each bank determined in accordance with the one-man-one-vote look-through principle prescribed in section 5.2 for the election of district directors. The plan of merger, together with all information to be presented to stockholders, shall be submitted to the Farm Credit Administration no later than 60 days before the end of the 6-month period prescribed in section 4A.2. The Farm Credit Administration shall expedite its consideration of the plan and accompanying information so that the procedures required by section 4A.21 can be completed in time for a stockholder vote within such 6 month period.

"SUBPART 2—MERGER OF CERTAIN PRODUCTION CREDIT ASSOCIATION AND FEDERAL LAND BANK ASSOCIATIONS

"Sec. 4A.4. Submission of Proposal.—Within 6 months after the date of merger of the Federal land bank and the Federal intermediate credit bank in any district, the boards of directors of each Federal land bank association and each production credit association in that district that share with each other substantially the same geographical territory shall submit to the voting stockholders of such associations for their approval a plan for merging such associations that has been approved by the supervising bank and the Farm Credit Administration.

"Sec. 4A.5. Prerequisite to Merger.—The stockholder vote required for approval of a merger pursuant to section 4A.4 shall be a majority of the voting stockholders of each association present and voting or voting by written proxy at a duly authorized meeting. The provisions of section 4A.3 for submission of material to, and expedited consideration thereof by, the Farm Credit Administration shall apply to mergers under section 4A.4.

"SUBPART 3. CONSOLIDATION OF THE FARM CREDIT DISTRICTS

"Sec. 4A.6. Submission of Proposal.—Within 18 months after the effective date of the Agricultural Credit Act of 1987, a special committee composed of one representative from each farm credit district, selected pursuant to regulations of the Farm Credit Administration, shall develop, in cooperation with the Temporary Assistance Corporation, a proposal to consolidate the Farm Credit System into six or fewer farm credit districts by inter-district mergers of Federal land banks and Federal intermediate credit banks. At the end of each calendar quarter beginning at least 6 months from the date of enactment of the —— Act, the special committee shall report its progress to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"Sec. 4A.7. Prerequisite to Consolidation.—The special committee shall submit within the 18-month period specified in section 4A.6, each proposed inter-district merger to the voting stockholders of each Federal land bank and Federal intermediate credit bank (or merged bank) that is proposed to be a party to that merger. The stockholder vote required for approval of such a merger shall be a majority of the aggregate of the voting stockholders of the Federal land bank and Federal intermediate credit bank (or the merged bank) in each district which is a proposed party to the merger, determined in accordance with the one-man-one-vote look-through principle prescribed in section 5.2 for the election of district directors.

"Sec. 4A.8. Assistance by Temporary Assistance Corporation.—The Temporary Assistance Corporation shall facilitate any merger or consolidation pursuant to section 4A.6, by providing such financial assistance as it deems appropriate.

"Sec. 4A.9 Loss of Stock Guarantee.—If any farm credit district fails to approve the merger proposal submitted to it pursuant to section 4A.6, the provisions of section 4.41 for the guarantee of borrower stock shall no longer be applicable to any such stock in any Farm Credit System institution (except the bank for cooperatives) in that district.

"SUBPART 4. MERGER OF BANKS FOR COOPERATIVES AND THE CENTRAL BANK FOR COOPERATIVES INTO A NATIONAL BANK FOR COOPERATIVES

"Sec. 4A.10. Submission of Proposal.—(a) Within 90 days after the effective date of the Agricultural Credit Act of 1987, a special committee, consisting of one of the members of each district board who was elected by the voting stockholders or subscribers to the guaranty fund of the bank for cooperatives in the district and one member chosen from its members by the board of directors of the Central Bank for Cooperatives, shall develop and submit to the voting stockholders of each bank for cooperatives and the Central Bank for Cooperatives for their approval a plan for the merger of all such banks into a National Bank for Cooperatives.

"(b) In order to comply with the timing requirements of subsection (a), the special committee shall, no later than 30 days after enactment of the —— Act, submit to the Farm Credit Administration for its approval the proposed plan of merger, together with all information that is to be distributed to stockholders with respect to that plan. The Farm Credit Administration shall promptly review the submission and shall advise the special committee within 30 days from receipt of the proposed plan of any required changes in the plan or accompanying information.

"Sec. 4A.11. Prerequisite to Merger.—(a) The stockholder vote required for approval by a district bank for cooperatives of the merger plan submitted pursuant to section 4A.10 shall be a majority vote for the merger cast by its voting stockholders and contributors to its guaranty fund, computed both (1) in accordance with the one-man-one-vote principle prescribed in section 5.2 for the election of district directors and (2) on the basis of the total equity interest in the bank (including allocated, but not unallocated, surplus and reserves held by such voting stockholders and contributors of its guaranty funds). The stockholder vote for approval by the Central Bank for Cooperatives shall be a majority vote for the merger cast by its stockholders, with each stockholder having one vote.

"(b) If the stockholders of fewer than all such district banks approve the plan, then each bank whose stockholders voted to approve it shall conduct another vote of its stockholders on the question whether the approving banks should proceed to merge. If the stockholders of a majority of the originally approving banks vote affirmatively on this second vote (with votes computed upon the same basis that is prescribed in subsection (a)), the merger of all such originally approving banks shall proceed forthwith. The merged bank, whether or not it comprises all the district banks for cooperatives, shall be the National Bank for Cooperatives. Any banks whose stockholders originally voted against the merger shall continue as separate banks for cooperatives.

"Part C—Stockholder Authority to Reorganize System Institutions to Improve Operating Efficiency

"SUBPART 1. MERGER OF FEDERAL LAND BANK AND FEDERAL INTERMEDIATE CREDIT BANK IN SAME DISTRICT

"Sec. 4A.12 Authority to Merge.—Upon the approval of a plan of merger by their respective boards of directors and by the Farm Credit Administration, and a majority vote for the merger cast by their voting stockholders in accordance with the one-man-one-vote look-through principle prescribed in section 5.2 relating to elections of directors of district boards, the Federal land bank and Federal intermediate credit bank in a district may merge into a single entity (referred to in this title as a 'merged bank').

"SUBPART 2. MERGER OF FEDERAL LAND BANKS AND FEDERAL INTERMEDIATE CREDIT BANKS IN DIFFERENT DISTRICTS

"Sec. 4A.13 Authority to Merge.—Upon approval of a plan of merger by their respective boards of directors and by the Farm Credit Administration, and a majority vote for the merger cast by their voting stockholders in accordance with the one-man-one-vote look-through principle of section 5.2 relating to elections of directors of the district boards, Federal land banks and Federal intermediate credit banks, or merger banks, in different districts may merge: *Provided*, That the result of such a merger or mergers is that all Federal land bank and Federal intermediate credit bank operations of all the districts whose banks are parties to such a merger are located in a single district in the form of either a Federal land bank and Federal intermediate credit bank or a merged bank.

"SUBPART 3. MERGER OF, AND TRANSFER OF ASSETS AND POWER BY OR TO, ASSOCIATIONS WITHIN A DISTRICT

"Sec. 4A.14. Transfer of Loan-Related Assets and Lending Authority by a Production Credit Association.—(a) Upon agreement of their respective boards of directors, and approval by a vote of a majority of the voting power represented by stockholders of the association present and voting or voting by written proxy at a duly authorized meeting, a production credit association may assign to the Federal intermediate credit bank, or to the merged bank in the district, and that bank may assume, the authority conferred upon the production credit association by this Act to make and participate in loans and related authorities. The production credit association may also transfer to the bank for such consideration as may be agreed upon part or all of the association's loan portfolio or other assets, or both.

"(b) After a transfer described in subsection (a) of this section, the bank shall have all of the direct loan authority under this Act formerly possessed by the transferring production credit association in the territory served by that association.

"SEC. 4A.15. TRANSFERS OF LENDING AUTHORITY BY A FEDERAL LAND BANK, OR A MERGED BANK.—(a) Upon agreement of their respective boards of directors, and approval of the transfer by a majority vote cast by the voting stockholders of the bank and of the association in accordance with the voting provisions of sections 4A.3 and 4A.5, respectively, applicable to each, a Federal land bank or a merged bank may assign to a Federal land bank association, and the association may assume, the transferring bank's authority in the geographical area served by the association to make and participate in long-term real estate mortgage loans under sections 1.6 through 1.9.

(b) After a transfer described in subsection (a) of this section, (1) the Federal land bank association shall have all of the direct long-term real estate mortgage loan authority formerly possessed by the transferring bank in the territory served by the association, and (2) the Federal land bank or merged bank may make loans and extend other similar financial assistance to, and discount for or purchase from, the transferee Federal land bank association any note, draft or other obligation with its endorsement or guarantee, the proceeds of which note, draft or other obligation have been advanced to persons and for purposes eligible for financing by the association under subsection (a) of this section.

"SEC. 4A.16. AUTHORITY TO MERGE BANKS WITH ASSOCIATIONS.—Where all associations supervised by a bank have merged into one association, upon approval of a plan of merger by their respective boards of directors and by the Farm Credit Administration and a majority vote for the merger cast by the voting stockholders of the supervising bank and of the association in accordance with the voting provisions of section 4A.3 and 4A.5, respectively, applicable to each, a production credit association or a Federal land bank association or a merged association may merge into its supervising bank, or the supervising bank may merge into its association.

"SUBPART 4. MERGERS INVOLVING BANKS FOR COOPERATIVES.

"SEC. 4A.18. MERGER PRIOR TO ACTION UNDER SUBPART 3 OF PART B.—Prior to action by stockholders of Federal land banks and Federal intermediate credit banks on a proposal to consolidate districts under Subpart 3 of Part B but after the votes on a proposal to create a National Bank for Cooperatives under Subpart 4 of Part B, a bank for cooperatives, upon approval of a plan of merger by its board of directors and by the Farm Credit Administration, and a majority vote for the merger cast by its voting stockholders and contributors to its guaranty fund, computed both (1) in accordance with the one-man-one-vote principle prescribed in section 5.2 for the election of district directors and (2) on the basis of the total equity interest in the bank (including allocated, but not unallocated surplus and reserves held by such voting stockholders and contributors or its guaranty funds), a bank for cooperatives may merge with one or more banks for cooperatives but not with any other System bank.

SEC. 4A.19. MERGER AFTER ACTION UNDER SUBPART 3 OF PART B.—After action by stockholders of Federal land banks and Federal credit banks on a proposal under Subpart 3 of Part B, a bank for cooperatives shall continue to have the authority granted by section 4A.18 to merge with one or more banks for cooperatives, and, in addition, in may merge with a merged bank resulting from a merger under section 4A.0, 4A.2, or 4A.6. Such a merger must be approved by the stockholders of the merged bank by the vote prescribed in 4A.3.

"SUBPART 5—MERGER OF SERVICE ORGANIZATIONS

"SEC. 4A.20. AUTHORITY TO MERGE.—Upon the approval of a plan of merger by their respective boards of directors and the Farm Credit Administration and a majority vote for the merger cast by their voting stockholders, two or more service organizations organized under section 4.25 may merge or consolidate into a single entity.

"SUBPART 6. APPROVAL BY THE FARM CREDIT ADMINISTRATION OF DISCLOSURE INFORMATION RELATING TO MERGERS

"SEC. 4A.21. PRIOR APPROVAL BY THE FARM CREDIT ADMINISTRATION.—(a) After their approval, if required, by the boards of directors of the constituent entities and prior to submission, if required, to the voters (voting stockholders and, where required, contributors to guaranty funds) of such entities for their vote, plans of merger and plans for the transfer of lending authority under any section of this title except sections 4A.0 and 4A.10 shall be submitted to the Farm Credit Administration, together with all information that is to be distributed to the voters with respect to the contemplated merger or transfer. Within sixty days from the receipt of such submission, the Farm Credit Administration shall notify the submitting entities whether the Farm Credit Administration has determined that the information submitted fails adequately to disclose all material facts relevant to the vote. Upon notification that the Farm Credit Administration finds no deficiencies in the disclosure, or upon the expiration of sixty days without action by the Farm Credit Administration, the submitting entities may submit the plan of merger or transfer, together with the disclosure information, to their voters for the prescribed vote.

"(b) If the Farm Credit Administration determines that the disclosure information is inadequate, its notification to the submitting entities shall specify the reason for its determination. In that event, the plan of merger or transfer shall not be submitted to the voters for a vote until the Farm Credit Administration determines that the deficiencies in disclosure have been remedied.

"PART D. POWERS; CAPITAL STOCK; EARNINGS AND RESERVES AND DIVIDENDS OF MERGED INSTITUTIONS

"SEC. 4A.22. POWERS.—Except where inconsistent with the provisons of title IIA prescribing powers and obligations of a merged bank comprising a Federal land bank and a Federal intermediate credit bank, a merged institution shall have all of the powers granted by this Act to, and, except as otherwise provided by this title, shall be subject to all of the obligations, including those imposed by this Act, of, any of its constituent entities. The manner in which the powers and obligations of the constituent entities are consolidated and, to the extent necessary, reconciled in the merged bank shall be provided in regulations issued by the Farm Credit Administration.

"SEC. 4A.23. CAPITAL STOCK.—Subject to the provisions of title IIA, section ——, and regulations of the Farm Credit Administration issued under section —— of the —— Act, the number of shares of capital stock, including participation certificates and interests in guarantee funds, issued pursuant to a merger by a merged institution to stockholders and other owners of any constituent entities, and the classes, rights and privileges (including voting power, redemption rights, preferences upon liquidation, and the right to dividends) of such shares shall be determined by the plan of merger adopted by the constituent entities.

"SEC. 4A.24. EARNINGS, RESERVES AND DISTRIBUTIONS.—Subject to the requirements of title IIA, section —— and regulations issued by the Farm Credit Administration under section —— of the —— Act, the board of directors of a merged institution shall provide, in the plan of merger (which may include bylaws of the merged institution) or otherwise, for the application of net earnings after payment of operating expenses. Such application may include restoration of the impairment, if any, of capital stock. Thereafter, it may include, but not necessarily in the following order, additions to an allocated reserve account; additions to an unallocated reserve account; payment of dividends on capital stock; and payment of patronage refunds in cash or in stock or other notices of allocation. All capital and retained earnings of a merged institution shall be available for such use in the activities of the merged institution as the board of directors shall determine, without regard to the activities giving rise to such earnings.

"PART E—BOARDS OF DIRECTORS OF SYSTEM INSTITUTIONS

"SEC. 4A.25. BOARDS OF DIRECTORS OF MERGED BANKS WITHIN A DISTRICT.—Except as otherwise provided herein, the board of a bank resulting from the merger of two or more banks within a single district shall be the district board, provided, however, that all the associaitons in the district (whether production credit associations, Federal land bank associations, or associations resulting from the merger of such associations) shall be entitled to vote for the election of four members of the district board.

"SEC. 4A.26. BOARDS OF DIRECTORS OF BANKS RESULTING FROM THE MERGER OF BANKS IN DIFFERENT DISTRICTS—The composition and manner of election of members of the boards of directors of a bank resulting from the merger of Federal land banks or Federal intermediate credit banks in different farm credit districts shall be as specified in the merger agreement. Upon completion of such merger the farm credit district boards for such districts shall be dissolved, provided, however, that the district board of a district in which there continues to be a separate bank for cooperatives shall become the temporary board for such bank for cooperatives until the stockholders of that bank for cooperatives have a opportunity to elect a separate board for such bank. All responsibilities of the district board of directors for joint undertakings of, and coordination between, the banks in the merging districts shall be assumed by the board of directors of the merged bank and, if applicable, by the board of directors of the banks for cooperatives serving borrowers in their respective districts. The boards of directors shall make such arrangements for cooperation and coordination as may be necessary and appropriate to carry out such responsibilities. If, prior to the consummation of the merger of banks in different districts, the banks in one or more of such districts have elected, pursuant to section 4A.29, to have separate boards of directors in lieu of a district board, the references in this section to the district board of directors shall, where appropriate, be deemed to constitute references to such separate boards of directors.

"Sec. 4A.27. Boards of Directors of Banks for Cooperatives.—(a) The composition and manner of election of members of the board of directors of a bank resulting from the merger of one or more banks for cooperatives shall be as specified in the merger agreement.

"(b) A bank for cooperatives remaining in a district in which the Federal land bank and Federal intermediate credit bank have merged with banks in another district or in which the district board is for any other reason dissolved shall modify its bylaws to provide for the election of a separate board of directors for such bank.

"(c) Following the formation of a new district pursuant to section 4A.6 or 4A.13, a bank for cooperatives in the area served by the new district may, with the agreement of the other bank or banks within such district, agree to be governed by a new district board to be composed and elected in a manner satisfactory to the boards of all the banks in the district.

"Sec. 4A.28. Board of Directors of Merged Associations.—The composition and manner of election of members of the boards of directors of an association resulting from the merger of one or more production credit associations or one or more Federal land bank associations or the merger one or more production credit associations, with one or more Federal land bank associations, shall be as specified in the merger agreement.

"Sec. 4A.29. Separate Boards for Banks.—(a) Within 30 days after receipt by the Farm Credit Administration of a petition from a stockholder or stockholders of any bank (or one or more borrowers from or subscribers to the guaranty fund of a bank for cooperatives) representing at least 25 percent of the total number of votes that may be cast by the bank's stockholders (or subscribers) in the election of directors, a referendum shall be held to determine whether to elect a separate board of directors for the bank. The Farm Credit Administration shall issue a notice to all stockholders (or subscribers) of the bank explaining that such a referendum is to be held. The notice shall state the time and place of a special stockholders' meeting to hold the referendum. The notice to associations shall state the number of voting stockholders of that association on the date of such notice, as determined by the Farm Credit Administration. The meeting shall be held not less than 30 nor more than 60 days after the date the notice is mailed.

"(b) If at the special meeting of stockholders (or subscribers) of a bank called under subsection (a) a majority of the votes represented at such meeting in person or by written proxy are cast in favor of the election of a separate board of directors for the bank, the Farm Credit Administration shall hold elections for a separate board of directors for the bank in accordance with subsection (c).

"(c) Each separate board of directors of the bank shall be composed of five members. Two members of the original separate board shall be the two district board members already elected by the bank's stockholders (or subscribers), who shall no longer be members of the district board. The other three original members, and all succeeding members, shall be elected and serve in accordance with sections 5.1 and 5.2.

"(d) If separate boards are established for two or more banks in a district, the district board for that district shall be terminated.

"(e) Coordination between boards of directors in a district on matters such as joint property, functions, or policy shall be a committee composed of representatives from each board in the district.

"(f) A separate board of directors established under this section shall continue until abolished. If the Farm Credit Administration receives a petition similar to that described in subsection (a) requesting a referendum to determine whether to retain the separate board of directors for the bank, a referendum shall be held as provided in subsection (a). If a majority of the votes represented in person or by a written proxy at the special shareholders' meeting called under the preceding sentence are cast in favor of abolishing the separate board of directors of the bank, the board shall be abolished, and the two most senior members shall join the district board, which shall then act for the bank. If the district board has been terminated under subsection (d), it shall take the concurrent abolition referendums of two district banks to reestablish it.

"(g) The creation of a separate board, or its abolition, resulting from the procedure set forth in this section, shall last at least five years.

"(h) The separate board of directors of a district bank elected under this section shall have the authority to exercise all of the powers granted to the bank in section 1.4, 2.1, 2A.1 or 3.1, whichever is applicable. The district board shall not act for the bank or exercise the authority otherwise granted under section 5.6.

"Sec. 4A.30. Appointment of Outside Directors to District and Bank Boards.—(a) The elected members of each district board of directors shall appoint two additional individuals to serve as voting members of the district board. Such individuals shall—

"(A) not be borrowers from, shareholders in, or directors, officers, employees, or agents of, any institution of the Farm Credit System; and

"(B) be experienced in financial services and credit.

"(b) The elected members of each bank board of directors which is not a district board of directors shall appoint at least one and not more than two additional persons to serve as voting members of such board. Such person or persons shall—

"(A) not be borrowers from, shareholders in, or directors, officers, employees, or agents of, any institution of the Farm Credit System; and

"(B) be experienced in financial services and credit.

"Part F—Conduct of Votes

"Sec. 4A.31. Conduct of Votes on Proposed Mergers.—The stockholder votes on proposed mergers under this title shall be conducted by the board of directors of each entity whose stockholders are entitled to vote thereon, under procedures designed to provide to such stockholders fair notice and opportunity to vote. Stockholder votes on mergers pursuant to sections 4A.6 and 4A.10 shall be conducted at the time or times specified by the special committee charged by those sections, respectively, with the responsibility for developing the merger proposal or proposals.

"Part G—Taxation

"Sec. 4A.31. Taxation of Merged Banks and Associations.—In the case of any entity resulting from a merger in which one or more of the constituents is a Federal land bank or a Federal land bank association, that entity and the notes, debentures, and other obligations issued by such entity shall be exempt from taxation only to the extent provided in section 1.21 for Federal land banks and Federal land bank associations.

"Sec. (b). The Act (12 U.S.C. 2001 et seq.) is amended by inserting after title II the following new title:

"TITLE IIA—CONSOLIDATED FARM CREDIT BANKS

"Sec. 2A.0. Establishment; Titles; Branches.—The banks established pursuant to the merger of one or more Federal intermediate credit banks and one or more Federal land banks pursuant to section 4A.0 or 4A.12, hereinafter referred to as Farm Credit Banks, shall continue as federally chartered instrumentalities of the United States. Their charters or organization certificates may be modified from time to time by the Farm Credit Administration, not inconsistent with the provisions of this title, as may be necessary or expedient to implement this Act. Each Farm Credit Bank may include in its title the name of the city in which it is located or other geographical designation. Each Farm Credit Bank may establish such branches or other offices as may be appropriate for the effective operation of its business.

"Sec. 2A.1. Corporate Existence; General Corporate Powers.—Each Farm Credit Bank shall be a body corporate and, subject to the regulation by the Farm Credit Administration, shall have the power to—

"(1) Adopt and use a corporate seal.

"(2) Have succession until dissolved under the provisions of this Act or other Act of Congress.

"(3) Make contracts.

"(4) Sue and be sued.

"(5) Acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business.

"(6) Make, participate in and discount loans, make commitments for credit, accept advance payments, and provide services and other assistance as authorized in this Act, and charge fees therefor.

"(7) Operate under the direction of its board of directors.

"(8) Elect by its board of directors a president, any vice president, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, including joint employees as provided in this Act, define their duties, and require surety bonds or make other provision against losses occasioned by employees.

"(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, and agents are elected or provided for; its property acquired, held, and transferred; its loans and discounts made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

"(10) Borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, terms, conditions, and rates of interest as may be determined.

"(11) Purchase nonvoting stock in or pay in surplus to and accept deposits of securities or of current funds from its associations and pay interest on such funds.

"(12) Participate with one or more other Farm Credit Banks in loans under this title on such terms as may be agreed upon among such banks, participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act, and participate with lenders which are not Farm Credit System institutions in loans that the bank is authorized to make under this title.

"(13) Approve the salary scale of the officers and employees of its associations and the appointment and compensation of the chief executive officer thereof and supervise the exercise by such associations of the functions vested in or delegated to them.

"(14) Deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank as defined in Section 3 of the Federal Deposit Insurance Act and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

"(15) Buy and sell obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency, and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) sell to lenders which are not Farm Credit System institutions interests in loans, (ii) buy from and sell to Farm Credit System institutions interests in loans and in other finanical assistance extended and nonvoting stock, and (iii) make other investments.

"(16) Conduct studies and make and adopt standards for lending.

"(17) Delegate to its associations such functions as it may determine.

"(18) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

"(19) Require associations to endorse notes and other obligations of its members to the bank.

"(20) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

"(21) Accept contributions to its capital from associations and account therefor as authorized by the Farm Credit Administration.

"(22) As may be authorized by its board of directors and approved by the Farm Credit Administration, agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.

"SEC. 2A.2. FARM CREDIT BANK STOCK; PATRONAGE DIVIDEND.—(a) The capital stock of each Farm Credit Bank shall be divided into shares of par value of $5 each, and may in accordance with section—[capital adequacy] be of such classes and in such amounts as its board of directors may determine with the approval of the Farm Credit Administration.

"(b) Voting stock of each Farm Credit Bank shall be held only by the associations and direct borrowers and borrowers through agents who are farmers or ranchers, which stock shall not be transferred, pledged, or hypothecated except as authorized pursuant to this Act.

"(c) Each Farm Credit Bank, with the approval of the Farm Credit Administration, may determine the amount of the initial or additional stock in the bank to be subscribed for by the associations in the territory served by the bank in order to provide capital to meet the credit needs of the bank. The amount so determined shall be allocated among the associations in a manner determined by the board of directors of the bank. Each association shall subscribe for stock in the bank in the amount so allocated to it. Such subscriptions shall be subject to call and payment therefor shall be made at such times and in such amounts as may be determined by the bank.

"(d) Patronage refunds may be paid in nonvoting stock, participation certificates, allocated surplus, and other equities of the bank, or cash, or in both equities and cash, as determined by the board of the bank, to borrowers of the fiscal year for which such patronage refunds are distributed. All patronage refunds shall be paid in the proportion that the amount of interest on the loans to each borrower during the year bears to the interest on the loans of all borrowers during the year or on such other proportionate patronage basis as the board of directors shall determine.

"(e) Nothing in this section limits the power of the Farm Credit Administration to provide general direction to Farm Credit Banks with regard to the payment of dividends and patronage refunds.

"SEC. 2A.3. LENDING AUTHORITY.—The Farm Credit Banks shall have the lending authorities provided to the Federal land banks pursuant to section 1.6 of this Act and the lending authorities provided to the Federal intermediate credit banks pursuant to 2.3 of this Act.

"SEC. 2A.4. INTEREST RATES AND OTHER CHARGES.—Loans made by a Farm Credit Bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the board of directors of the bank from time to time. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at competitive rates. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

"SEC. 2A.5. ELIGIBILITY.—The services authorized in this title may be made available to persons who are or become stockholders or members of the bank or its associations and are (1) bona fide farmers, ranchers, or producers or harvesters of aquatic products, (2) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs, or (3) owners of rural homes.

"SEC. 2A.6. SECURITY; TERMS.—(a) Real estate mortgage loans originated by a Farm Credit Bank or in which it participates with a lender which is not a Farm Credit System institution shall not exceed 85 per centum of the appraised value of the real estate security, or such greater amount, not to exceed 97 per centum of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration for loans guaranteed by federal, State, or other governmental agencies, and shall be secured by [first] liens on interest in real estate of such classes as may be approved by the Farm Credit Administration. The value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration, to adequately secure the loan. However, additional security may be required to supplement real estate security, and credit factors other than the ratio between the amount of the loan and the security value shall be given due consideration. The Farm Credit Administration may, by regulation or upon request of a bank, waive or modify the first lien requirement.

"(b) Other loans, advances, or discounts made under section 2.A3 of this Act shall be repayable in not more than seven years (fifteen years if made to producers or harvesters of aquatic products) from the time they are made or discounted by the Farm Credit Bank, except that the board of directors, under regulations of the Farm Credit Administration, may approve policies permitting loans, advances, or discounts (other than those made to producers or harvesters of aquatic products) to be repayable in not more than ten years from the time they are made or discounted by such bank.

"SEC. 2A.7 PURPOSES.—Loans made by the Farm Credit Banks to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products; *Provided,* That the applicant's operations shall supply at least 20 per centum, or such larger per centum that is required by the board of directors of the bank under regulations of the Farm Credit Administration, of total processing or marketing for which financing is extended. Loans may also be made to rural residents for rural housing financing under regulations of the Farm Credit Administration. Rural housing financed under this title shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, planned or recommended for the rural area where it is located: *Provided, however,* That a Farm Credit Bank may not at any one time have a total of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 per centum of the total of all loans outstanding in such bank: *Provided, further,* That for rural housing purposes under this section the term "rural areas" shall not be defined to include any city or village having a population in excess of 2,500 inhabitants. Loans to persons furnishing farm-related service to farmers and ranchers directly related to their on-farm operating needs may be made for the necessary capital structures and equipment and initial working capital for such services. The banks may own and lease, or lease with option to purchase, to persons eligible for assistance under this title, facilities needed in the operations of such persons.

"Sec. 2A.8. Services Related to Borrowers' Operations.—The Farm Credit Banks may provide technical assistance to borrowers, members, and applicants and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as are determined to be feasible by the board of directors, under regulations of the Farm Credit Administration.

"Sec. 2A.9. Loans Through Associations or Agents.—The Farm Credit Banks shall, except as otherwise herein provided, make loans of the type authorized by section 1.6 of this Act through a Federal land bank association serving the territory in which the real estate offered by the applicant is located. If there is no active association chartered for the territory where the real estate is located or if the association has been declared insolvent, the bank may make the loan through another such association, directly, or through such bank or trust company or saving or other financial institution as it may designate. When the loan is not made through a Federal land bank association, the applicant shall purchase stock in the bank in an amount not less than $5 nor more than $10 for each $100 of the loan and the loan shall be made on such terms and conditions as the Bank shall prescribe.

"Sec. 2A.10. Liens on Stock.—Each Farm Credit Bank shall have a first lien on the stock and participation certificates it issues for the payment of any liability of the stockholder to the Bank.

"Sec. 2A.11. Taxation.—Every Farm Credit Bank and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Farm Credit Bank to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages and obligations held by the Farm Credit Banks and the notes, bonds, debentures, and other obligations issued by the Banks shall be deemed and held to be instrumentalities of the Government of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

"Sec. 2A.12. Distribution of Assets on Liquidation.—In the case of liquidation or dissolution of any Farm Credit Bank, after payment or retirement, as the case may be, first, of all liabilities; second, of all stock at par and all participation certificates at face amount; any remaining assets of the bank shall be distributed as provided in such bank's charter or organization certificate and bylaws.

"Sec. 2A.13. Net Earnings.—Subject to the requirements of section 4.3, the board of directors of the banks shall provide for the application of net earnings after payment of operating expenses. Such application may include restoration of the impairment, if any, of capital stock. Thereafter, it may include, but not necessarily in the following order, additions to an allocated reserve account, additions to an unallocated reserve account; payment of dividends on capital stock; and payment of patronage refunds in cash or in stock or other notices of allocation. All capital and retained earnings of the bank shall be available for such use in the activities of the merged bank as the board of directors shall determine without regard to the activities giving rise to such earnings.

"Sec. (c). The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by deleting sections 4.10 and 4.11, and the last two sentences of section 4.12(a).

The CHAIRMAN. All time has expired.

Mr. de la GARZA. Mr. Chairman, I ask unanimous consent that I may proceed for 30 seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair wishes to state that the gentleman from Tennessee will control the 30 seconds under the rule.

Mr. JONES of Tennessee. Mr. Chairman, I yield to the gentleman from Texas [Mr. de la GARZA], my chairman.

Mr. de la GARZA. Mr. Chairman, I do so to thank all of the Members and the respective staffs who have worked diligently on this process.

□ 1715

Naturally we cannot satisfy every Member, and that is the unfortunate part, because we would like to.

Legislation is the art of the possible. We have yet to have consideration by the other body of this legislation. We have yet to go to conference, so I tell the Members that are not happy with this process up to now, have faith, we will continue listening, and we will continue working with the Members, but we must move forward.

The farmers of America need this legislation. We need to move this legislation, and I implore of the Members to give us a vote, and we will continue working with the Members until the process finally winds up on the President's desk.

The CHAIRMAN. All time has expired.

The question is on the amendment, as modified, offered by the gentleman from Tennessee [Mr. Jones].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STENHOLM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 322, noes 94, not voting 17, as follows.

[Roll No. 346]

AYES—322

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chappell
Clarke
Clay
Clinger
Coble
Coelho
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Coyne
Craig
Crockett
Darden
de la Garza
DeFazio
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowry (WA)
Luken, Thomas
Lukens, Donald
Mack
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ray
Richardson
Ridge
Rinaldo
Robinson
Rodino
Rogers
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NOES—94

Anderson
Badham
Bereuter
Bliley
Broomfield
Bunning
Burton
Chapman
Cheney
Coats
Coleman (MO)
Courter
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Edwards (OK)
English
Gallegly
Gallo
Gekas
Glickman
Grandy
Gunderson
Hall (TX)
Hansen
Hastert
Henry
Herger
Hiler
Houghton
Hunter
Hyde
Inhofe
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lightfoot
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Martin (IL)
McCandless
McCurdy
McEwen
McGrath
Michel
Moorhead
Nielson
Oxley
Packard
Petri
Pursell
Ravenel
Regula
Rhodes
Ritter
Roberts
Roth
Rowland (CT)
Saxton
Schuette
Sensenbrenner
Shumway
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Spence
Stump
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wilson
Young (AK)
Young (FL)

NOT VOTING—17

Biaggi
Collins
Daniel
Ford (TN)
Gephardt
Kemp
Livingston
McCollum
Oberstar
Ortiz
Pepper
Porter
Roe
Roemer
Swindall
Tauke
Tauzin

□ 1730

Messrs. VANDER JAGT, HANSEN, SAXTON, LUJAN, BEREUTER, McCURDY, OXLEY, LIGHTFOOT, and SMITH of New Hampshire changed their votes from "aye" to "no."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT, AS MODIFIED, OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, under the debate a while ago, the gentleman from Illinois [Mr. Madigan] reserved the right to protect my opportunity to offer an amendment that he assisted in helping to perfect. I have worked it out. I think the gentleman is in agreement, and also the gentleman from Nebraska; so I think we have worked it out. Mr. Chairman, I offer the amendment.

The **CHAIRMAN.** The Clerk will report the modified amendment.

The Clerk read as follows:

Amendment, as modified, offered by Mr. Watkins: Page 9, line 8, after the period insert the following: "At least one of such members shall be actively engaged in the production of one or more agricultural commodities at the time of appointment."

Page 9, line 11, after the period insert: "At least one of such members shall be actively engaged in the production of one or more agricultural commodities at the time of appointment."

Mr. WATKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The **CHAIRMAN.** Is there objection to the modification?

There was no objection.

Mr. WATKINS. Mr. Chairman, in the modification of the amendment we have kept and protected the balance of the board members by basically allowing at least one of the members of the Farm Credit System to be actively engaged in farming, also allowing one of the commercial bankers to be actively engaged in farming. That is what the particular perfecting amendment does.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman has made a very constructive alteration to the amendment. I am going to support the amendment.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the distinguished gentleman from Texas.

Mr. de la GARZA. Mr. Chairman, we have no objection on this side.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for accommodating our concerns about having a delicate balance between the Farm Credit System and the financial institutions. The gentleman has accomplished moving more farmers on without upsetting that balance, and I commend the gentleman for his amendment and I support it.

Mr. WATKINS. Mr. Chairman, I thank the gentleman from Texas, the gentleman from Illinois, the ranking minority member, and also the gentleman from Nebraska for assisting me.

Mr. Chairman, I ask for a favorable vote on my amendment.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I rise today pleased to join so many of my colleagues in supporting H.R. 3030, legislation which would reorganize the Farm Credit System [FCS].

As chairman of the Congressional Rural Caucus, one of my priorities for 1987 is a restructuring of the ailing Farm Credit System. The FCS, a cooperative network of 37 banks and nearly 400 local lending associations, is the Nation's largest farm lender. After making substantial profits in the 1970's, declining land values and the continued economic crisis in agriculture has created financial problems for the FCS in recent years.

The bill calls for a complete restructuring of the FCS within 1 year, to achieve greater efficiency, competitiveness and to increase local control.

Additionally, this measure includes provisions to assist financially stressed farmers having difficulty making loan payments. Under the plan, FCS institutions can restructure loans in cases where restructuring will recover more of the outstanding debt than foreclosure. This provision is important because it will keep family farmers on their land.

Another important proposal is a section which enhances the rights of FCS borrowers, entitling them to a review of adverse credit decisions and a "right of first refusal" to repurchase any foreclosed property.

Make no mistake, this legislation is important to rural America and deserves our support. This bill is designed to meet the needs of both farm lenders and farm borrowers and at the same time restores confidence in the Farm Credit System itself.

Mr. Chairman, I urge adoption of the bill.

The **CHAIRMAN.** The question is on the amendment, as modified, offered by the gentleman from Oklahoma [Mr. Watkins].

The amendment, as modified, was agreed to.

□ 1745

The **CHAIRMAN.** Under the rule, amendment No. 37 is now in order.

Under the rule, amendment No. 38 is now in order.

AMENDMENT, AS MODIFIED, OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Chairman, I offer an amendment and I ask unanimous consent that the amendment be considered as modified.

The Clerk read as follows:

Amendment offered by Mr. Johnson of South Dakota:

On page 185, after line 19, insert the following new section:

SEC. . REVISED PROCEDURES FOR APPEAL OF ADVERSE LOAN SERVICING DECISIONS OF SECRETARY OF AGRICULTURE.

(a) Decision subject to judicial review; appointment of administrative law judges to hear appeals; appeals granted without regard to lender participation.

Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall provide any farmer program borrower that has—

"(A) exhausted the appeals procedure authorized under section 333B(a).

"(B) applied for any primary or secondary loan service programs, and

"(C) been directly and adversely affected by a decision of the Secretary with respect to such application.

with the opportunity for a hearing on the record with respect to such decision, in accordance with regulations issued by the Secretary consistent with this section.

"(2) The Secretary shall appoint administrative law judges under section 3105 of title 5, United States Code, to preside at the hearings required under this subsection, and shall conduct such hearings in accordance with sections 556 and 557 of title 5 of such Code.

"(3) The Secretary shall provide the procedures required to be provided under this subsection without regard to the participation or agreement of any lender.".

(d) EFFECTIVE DATE. The amendments made by this section shall take effect 120 days after the date of the enactment of this title.

Mr. JOHNSON of South Dakota (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The CHAIRMAN. Is there objection to the modification?

Mr. COLEMAN of Missouri. Mr. Chairman, reserving the right to object, I do so that we might be able to have the gentleman from South Dakota explain his amendment. As I understand, it has been accepted, but I think we want to make sure it is the same amemdment we think it is.

Mr. JOHNSON of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from South Dakota.

Mr. JOHNSON of South Dakota. Mr. Chairman, the amendment before us is an amendment to provide for an administration law judge option for farmers who are appealing through the Farmers Home Administration.

This amendment has been presented to the gentleman from Illinois [Mr. MADIGAN]. He has indicated to me his approval of the amendment. It provides for exhaustion of the current inhouse Farmers Home Administration process first, prior to going on to an administrative law judge process, and that is what the amendment does at this point.

Mr. COLEMAN of Missouri. Mr. Chairman, further reserving the right to object, is this the amendment the gentleman has revised to pertain to one class of classes to be heard by the administrative law judges from the Farmers Home Administration any adverse decision made through the restructuring process of Farmers Home and limited solely to that area?

Mr. JOHNSON of South Dakota. The gentleman is correct, yes, this provides in foreclosure and in restructure, but not in the loan application process.

Mr. COLEMAN of Missouri. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota for the modification of his amendment?

There was no objection.

The CHAIRMAN. The gentleman from South Dakota [Mr. JOHNSON] is recognized for 5 minutes.

Mr. JOHNSON of South Dakota. Mr. Chairman, this amendment simply provides for a due process standard for famers engaged in Farmers Home Administration in borrowing. I think it is an essential amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of South Dakota. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I would like to say to my colleagues that we have examined the amendment and have no objection to it.

Mr. JOHNSON of South Dakota. Mr. Chairman, I ask for a positive vote and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from South Dakota [Mr. JOHNSON].

The amendment, as modified was agreed to.

The CHAIRMAN. Under the rule, no further amendments are permitted.

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. TRAXLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, and for other purposes, pursuant to House Resolution 265, he reported the bill back to the House with an amendment adopted by the Committeee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STENHOLM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 365, noes 49, not voting 19, as follows:

[Roll No. 347]

AYES—365

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson

Nichols
Nowak
Oakar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Sundquist
Sweeney
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—49

Anderson
Archer
Armey
Atkins
Badham
Barton
Bates
Beilenson
Bennett
Bilirakis
Carper
Cheney
Coughlin
Crane
Dannemeyer
Davis (IL)
DeLay
DioGuardi
Donnelly
Dreier
Early
Fawell
Frank
Frenzel
Gallegly
Gibbons
Gonzalez
Hunter
Jeffords
Kennedy
Kyl
LaFalce
Lagomarsino
Lowery (CA)
Lungren
Madigan
Meyers
Morrison (CT)
Nielson
Regula
Ritter
Russo
Shaw
Smith, Robert (NH)
Stark
Studds
Stump
Wilson
Yates

NOT VOTING—19

Biaggi
Bruce
Collins
Daniel
Durbin
Ford (TN)
Gephardt
Kemp
Livingston
McCollum
Oberstar
Ortiz
Pepper
Porter
Roe
Roemer
Swift
Swindall
Tauzin

□ 1800

The Clerk announced the following pairs:

On this vote:

Mrs. Collins for, with Mr. McCollum against.

Mr. COUGHLIN changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "a bill to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. DURBIN. Mr. Speaker, I was unavoidably detained and unable to vote on rollcall 347. Had I been present, I would have voted in the affirmative on H.R. 3030, the Agricultural Credit Act of 1987.

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, on rollcall 347, I was unavoidably detained and missed that vote. Had I been present, I would have voted in favor of the passage of H.R. 3030, the Agricultural Credit Act of 1987.

Mr. Speaker, I wholeheartedly support this bill which provides credit assistance to farmers and addresses the financial problems of the Farm Credit System. I am expecially pleased with the guarantee for FCS stock and that we were able to hammer out a compromise which makes possible the establishment of a secondary market for agricultural loans. It is my hope that our entire farm economy will benefit through the adoption of this much-needed legislation.

PERSONAL EXPLANATION

Mr. SWIFT. Mr. Speaker, on rollcall No. 347, the vote on the bill just passed, I was in the Chamber with my card in the slot when the machine went off and the vote was not recorded.

Had it been recorded, I would have voted "yea."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 162, HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1987

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 100-356) on the resolution (H. Res. 280) providing for the consideration of the bill (H.R. 162) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. MONTGOMERY). Pursuant to clause 5, rule I, the Chair will now put the question on the motion to suspend the rules on which further proceedings were postponed on Monday, October 5, 1987, and then on the motion postponed earlier today in the order in which those motions were entertained.

Votes will be taken in the following order: H.R. 3307 by the yeas and nays and H.R. 3391, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

SENTENCING GUIDELINES STAY OF IMPLEMENTATION ACT OF 1987

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3307, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 3307, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 183, nays 231, not voting 19, as follows:

[Roll No. 348]

YEAS—183

Ackerman
Akaka
Alexander
Annunzio
Aspin
Atkins
Barnard
Beilenson
Berman
Boggs
Boland
Bonior
Borski
Boucher
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Callahan
Cardin
Clarke
Clay
Coble
Coelho
Coleman (TX)
Conte
Conyers
Cooper
Coyne
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Frank
Garcia
Gaydos
Gejdenson
Gekas
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes (IL)
Houghton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lantos
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Lujan
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Mica

Mineta
Moakley
Montgomery
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nowak
Oakar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Perkins
Pickle
Price (IL)
Rangel
Richardson
Rodino
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sikorski
Sisisky
Skaggs
Skeen
Smith (FL)
Smith (IA)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Taylor
Thomas (GA)
Torres
Towns
Vento
Visclosky
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wylie
Yates
Yatron

NAYS—231

Anderson
Andrews
Anthony
Applegate
Archer
Armey
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonker
Bosco
Boulter
Boxer
Broomfield
Buechner
Bunning
Burton
Bustamante
Byron
Campbell
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clinger
Coats
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
DeWine
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Frost
Gallegly
Gallo
Gibbons
Gilman
Gingrich
Grandy
Grant
Gregg
Guarini
Gunderson
Hall (TX)
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Jones (TN)
Kaptur
Kasich
Kennelly
Kolbe
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moody
Moorhead
Morella
Morrison (WA)
Myers
Neal
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Petri
Pickett
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rose
Roth
Roukema
Rowland (CT)
Russo
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
St Germain
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Tallon
Tauke
Thomas (CA)
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Weldon
Whittaker
Williams
Wolf
Wortley
Wyden
Young (AK)
Young (FL)

NOT VOTING—19

Bentley
Biaggi
Collins
Crockett
Daniel
Ford (TN)
Gephardt
Kemp
Livingston
McCollum
Oberstar
Ortiz
Pepper
Porter
Roe
Roemer
Spratt
Swindall
Tauzin

□ 1815

The Clerk announced the following pair:

On this vote:

Mr. Pepper and Mrs. Collins for, with Mr. McCollum against.

Mr. MATSUI changed his vote from "nay" to "yea."

Mr. HERTEL and Mr. SLATTERY changed their votes from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

IRANIAN TRADE SANCTIONS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3391, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 3391, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 5, not voting 21, as follows:

[Roll No. 349]

YEAS—407

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze

Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—5

Bosco
Conyers
Kastenmeier
Lowry (WA)
Savage

NOT VOTING—21

Bentley
Biaggi
Collins
Crockett
Daniel
Ford (TN)
Gephardt
Kemp
Livingston
McCollum
Moody
Oberstar
Ortiz
Pepper
Porter
Roe
Roemer
Spratt
Swindall
Tauzin
Towns

☐ 1830

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN ENGROSSMENT OF H.R. 2631, U.S. MINT AUTHORIZATION

The **SPEAKER** pro tempore (Mr. MONTGOMERY). Without objection, in the engrossment of the bill, H.R. 2631, passed earlier today under suspension of the rules, the Clerk is authorized to make a technical correction in the text of the bill to rectify a drafting error.

There was no objection.

THE HENRY-JEFFORDS SUBSTITUTE TO H.R. 162, THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION ACT

(Mr. **BALLENGER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **BALLENGER**. Mr. Speaker, the House will soon vote on H.R. 162, the High Risk Occupational Disease Notification Act. This bill would create a new bureaucracy to contact workers about exposure to toxic substances, including those that may cause cancer.

In 1981, the Office of Technology Assessment issued a report that lists public laws that regulate exposure to cancer-causing agents. This report lists nearly a dozen laws aimed at protecting us from exposure to carcinogens:

PUBLIC LAWS PROVIDING FOR THE REGULATION OF EXPOSURES TO CARCINOGENS

Legislation (Agency)	Definition of toxics or hazards used for regulation of carcinogens	Degree of protection	Agents regulated as carcinogens (or proposed for regulation)	Basis of the legislation	Remarks
Federal Food, Drug, and Cosmetic Act (FDA):					
Food	Carcinogenicity for additive defined by Delaney clause.	No risk permitted, ban of additive	21 food additives and colors	Risk	
	Contaminants	"Necesary for the protection of public health. . ." sec. 406 (346).	Three substances—aflatoxin, PCB's, nitrosamines.	Balancing	
Drugs	Carcinogenicity is fefined as a risk	Risks and benefits of drug are balanced.	Not determined	Balancing	
Cosmetics	"Substance injurious under conditions of use prescribed.".	Action taken on the basis that cosmetic is adulterated.	Not determined	Risk. No health claims are allowed for "cosmetics." If claims are made, cosmetic becomes a "drug.".	
Occupational Safety and Health Act (OSHA).	Not defined in Act (but OSHA Generic Cancer Policy defines carcinogens on basis of animal test results or epidemiology).	"Adequately assures to the extent feasible that no employee will suffer material impairment of health or functional capacity. . ." sec. 6(b)(5).	20 substances	Technology (or balancing)	
Clearn Air Act (EPA):					
Sec. 112 (stationary sources)	"an air pollutant . . . which . . . may cause, or contribute to, an increase in mortality of an increase in serious irreversible, or incapacitating reversible, illness." sec. 112(a)(1).	"an ample margin of safety to protect the public health . . ." sec. 112(b)(1)(B).	Asbestos, beryllium, mercury, vinyl chloride, benzene, radionuclides, and arsenic (an additional 24 substances are being considered).	Risk	Basis of the Airborne Carcinogen Policy.
Sec. 202 (vehicles)	"air pollutant from any . . . new motor vehicles . . . or engine, which . . . cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare" sec. 202A(a)(1).	"standards which reflect the greatest degree of emission reduction achievable through . . . technology . . . available . . ." sec. 202(b)(3)(a) (1).	Diesel particulates standard	Technology Sec. 202(b)(4)(B) includes a risk-risk test for deciding between pollutants that might result from control attempts.	Sec. 202(b)(4)(A) specifies that no pollution control device, system, or element shall be allowed if it presents an unreasonable risk to health, welfare or safety.
Sec. 211 (fuel additives)	Same as above (211(c) (1))	Same as above (211(c) (2) (a)).		Balancing Technology-based with consideration of costs, but health-based in requirement that standards provide ample margin of safety.	A cost benefit comparison of competing control technologies is required.
Clean Water Act (EPA) Sec. 307	Toxic pollutants listed in Committee Report 95-30 of House Committee on Public Works and Transportation. List from consent decree between EDF, NRDC, Citizens for Better Environment and EPA.	Defined by applying BAT economically achievable (sec. 307(a) (2)), but effluent levels are to "provided(s) an ample margin of safety." (sec. 307(a) (4)).	49 substances listed as carcinogens by CAG.	Technology	
Federal Insecticide Fungicide, and Rodenticide Act and the Federal Environmental Pesticide Control Act (EPA).	One which results in "unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered. . .".	Not specified.	14 rebuttable presumptions against registrations either initiated or completed; nine pesticides voluntarily withdrawn from market.	Sec. 2(bb) Balancing: "Unreasonable adverse effects. . .".	"Unreasonable adverse effects" means "unreasonable risk to man or the environment taking into account the economic, social, and environmental costs and benefits. . ."
Resource Conservation and Recovery Act (EPA).	One which "may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or, pose a . . . hazard to human health or the environment . . ." sec. 1004(5)(A)(B).	"that necessary to protect human and the environment . . ." sec. 3002-04.	74 substances proposed for listing as hazardous wastes.	Risk. The Administrator can order monitoring and set standards for sites..	
Safe Drinking Water Act (EPA)	"contaminant(s) which. .may have an adverse effect on the health of persons." sec. 1401(a) (B).	"to the extent feasible . . . (taking costs into consideration) . . ." sec. 1412(a) (2).	Trihalomethanes, chemicals formed by reactions between chlorine used as disinfectant and organic chemicals. Two pesticides and 2 metals classified as carcinogens by CAG, but regulated because of other toxicities.	Balancing	
Toxic Substances Control Act (EPA):					
Sec. 4 (to require testing)	Substances which "may present an unreasonable risk of injury to health or the environment." sec. 4(a) (1) (A) (i).	Not specified.	Six chemicals used to make plastics pliable.	Balancing: "ureasonable risk"	

PUBLIC LAWS PROVIDING FOR THE REGULATION OF EXPOSURES TO CARCINOGENS—Continued

Legislation (Agency)	Definition of toxics or hazards used for regulation of carcinogens	Degree of protection	Agents regulated as carcinogens (or proposed for regulation)	Basis of the legislation	Remarks
Sec. 6 (to regulate)	Substances which "present(s) or will present an unreasonable risk of injury to health or the environment." sec. 6(a).	"to protect adequately against such risk using the least burdensome requirement" sec. 6(a).	PCBs regulated as directed by the law	Balancing: "unreasonable risk."	
Sec. 7 (to commence civil action against imminent hazards).	"imminently hazardous chemical substance or mixture means a . . . . substance or mixture which presents an imminent and unreasonable risk of serious or widespread injury to health or the environment.".	Based on degree of protection in sec. 6.		xl	
Federal Hazardous Substances Act (CPSC).	"any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness . . ." 15 USC sec..	"establish such reasonable variations or additional label requirements . . . necessary for the protection of public health and safety . . ." 15 USC sec.		Risk	"Highly toxic" defined as capacity to cause death, thus toxicity may be limited to acute toxicity.
Consumer Product Safety Act (CPSC)	"products which present unreasonable risks of injury . . . in commerce," and " 'risk of injury' means a risk of death, personal injury or serious or frequent injury." 15 USC sec. 2051. "imminently hazardous consumer product' means consumer product which presents imminent and unreasonable risk of death, serious illness or severe personal injury." 15 USC sec. 2061.	"standard shall be reasonably necessary to prevent or reduce an unreasonable risk of injury." 15 USC sec. 2056.	Five substances: asbestos, benzene, benzidine (and benzidine-based dyes and pigments), vinyl chloride, "tris".	Balancing: "unreasonable"	Standards are to be expressed, wherever feasible, as performance requirements.

Source: Office of Technology Assessment.

Creating another law is not going to protect workers from the effects of harmful substances. We have enough laws to do the job, if they are properly enforced. Congress has the power to make the present laws work.

The Henry-Jeffords substitute offers us a workable plan for making our present laws more effective.

I urge you to vote "no" on H.R. 162 and "yes" on the Henry-Jeffords substitute.

CHICAGO'S 1987 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on Monday, October 12, Chicagoans will celebrate the discovery of America by Christopher Columbus 495 years ago with a gigantic parade. Many thousands will attend this gala processional, and millions more will be able to see this event live on WGN-TV.

The voyage of Christopher Columbus marked one of history's most challenging and rewarding explorations, and this year leading the proud parade assemblage will be Senator JOSEPH R. BIDEN, Jr., of Delaware. Other participants in this year's event will include Mayor Harold Washington of the city of Chicago; Gov. James R. Thompson of the State of Illinois; Congressman MARTY RUSSO; Dr. Leonardo Baroncelli, consul general of Italy, and many other civic and political dignitaries, as well as myself.

Chicago's grand Columbus Day Parade will step off from the corner of Dearborn and Wacker Drive at 1 p.m., and will include over 200 floats, bands, and marching units depicting the theme of this year's parade, "100 years of filmmaking," featuring the contributions of Italian-Americans to the American television and film industry. A special feature of this year's parade will be "look-alike" television and movie personalities who will be riding on some of the floats. Also, colorful floats especially designed for the occasion will carry members of the Italian-American community wearing authentic costumes from the 19 regions of Italy.

The Joint Civic Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day Parade and other related activities. Many local groups cooperate with the Joint Civic Committee in this communitywide tribute to Columbus, and Anthony Sorrentino, the executive director of the Joint Civic Committee, is again helping to coordinate the various activities of the parade as he has done so ably over these years.

Mr. Speaker, the President of the United States, the Honorable Ronald Reagan; the Governor of the State of Illinois, the Honorable James R. Thompson, and the mayor of the city of Chicago, the Honorable Harold Washington, have issued proclamations commemorating the discovery of America by Columbus, and copies of these proclamations follow:

[A Proclamation by the President of the United States of America]

COLUMBUS DAY, 1987

Every October the people of the United States celebrate the day nearly 500 autumns ago when Christopher Columbus and the crews of the *Nina*, the *Pinta*, and the *Santa Maria* found a New World. That world is our Western Hemisphere, and we in the United States trace the history and development of our country and our culture back to Columbus and his daring exploration, his initiative, his faith, and his courage.

Columbus continues to inspire the United States and the rest of the world for almost half a thousand years because of his great understanding and vision and because of his single-minded determination to let no disappointment, ridicule, or risk keep him from a goal he knew to be sensible, feasible, and of great promise. He viewed the unknown as an opportunity, not as a danger.

The Admiral of the Ocean Seas is remembered as well for challenging the horizons of his time and place, for his spirit of reaching beyond the obvious, for defying the pessimists and expanding the frontiers of knowledge. That spirit animated those who followed him to the New World through the centuries and brought untold energy, boldness, and ingenuity with them. We Americans are risk-takers; like Columbus, we have a vision of the world as it can be, and of the future as an opportunity and a challenge.

Italian Americans have special reason to celebrate Columbus Day with great pride. Columbus was the first of many Italian travelers who have made contributions to the New World. Columbus is one of many links binding the United States and Italy in a special relationship.

This tribute also has special meaning for Americans of Spanish descent. Without Spanish support, Columbus's voyage of discovery would not have been possible. Spain's contribution to the New World and to its cultural and economic heritage went on to be even larger, as the recent visit by Their Majesties King Juan Carlos and Queen Sofia of Spain to the American Southwest reminded us.

The year 1992 will be the 500th anniversary of Columbus's first voyage to the Americas. The Christopher Columbus Quincentenary Jubilee Commission, a distinguished group of Americans aided by representatives from Spain and Italy, prepared a report that I transmitted to the Congress in September of this year, making recommendations for our Nation's observance of the Quincentenary, including themes that embody the broad significance of this anniversary and suggestions for Quincentenary programs that will extend to communities, organizations, and institutions around the United States.

In tribute to Christopher Columbus, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as "Columbus Day."

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby proclaim Monday, October 12, 1987, as Columbus Day. I invite the people of this Nation to observe that day with appropriate ceremonies in honor of this great explorer. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

In witness whereof, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan.

State of Illinois—Proclamation

Whereas, every American knows what historic event occurred in 1492, for in that year, the history of the world took a dramatic leap. The voyage of Columbus, which spurred further exploration of the New World, is celebrated annually throughout the land; and

Whereas, Columbus and many other distinguished Italians have contributed to the growth of civilization. The Italian community is joined by Americans of every ethnic background in recognizing Columbus Day; and

Whereas, Italian-American residents in Illinois will be sponsoring their 31st annual Columbus Day Parade to honor their native hero;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 12, 1987, as "Columbus Day" in Illinois.

James R. Thompson,
Governor.

City of Chicago—Proclamation

Whereas, the Joint Civic Committee of Italian-Americans (JCCIA), is sponsoring its annual Columbus Day Parade on October 12, 1987; and

Whereas, the courage and visionary wisdom displayed by Christopher Columbus in his intrepid voyage of discovery is exemplary of the Italian-American community; and

Whereas, those qualities of our Italian-American brothers and sisters are evident in the many contributions to the arts, politics, sports and socio-economic life of Chicago; and

Whereas, the Chicago Office of Fine Arts, Department of Cultural Affairs is presenting its annual Salute to Columbus "Under the Picasso" at the Daley Civic Center, a two program series on October 6th and 8th at 12:00 noon, and a multi-medium exhibit by Italian-American artists on October 5-23, 1987, to which the public is invited; and

Whereas, this year's parade honors the Italian-American Film Industry:

Now, therefore, I, Harold Washington, Mayor of the City of Chicago, do hereby proclaim October 12, 1987, to be "Columbus Day in Chicago" and urge all citizens to be cognizant of the events held in connection with this historical observance in honor of the great navigator, Christopher Columbus.

Dated this 2nd day of October, 1987.

Harold Washington,
Mayor.

Mr. ANNUNZIO. Mr. Speaker, the Chicago Columbus Day celebration will begin at 9 a.m., with a Concelebrated Mass at Our Lady of Pompeii Church. An introduction will be given by Theresa Petrone, the theme coordinator of this year's parade. Anthony Pope will serve as commentator, and the lectors will be Marie Davino and Tena Amico. Ron Onesti will offer the prayer of the faithful, and the members of the offertory procession will include: Lisa Gentile McGuire, who was chosen queen of this year's Columbus Day Parade; Richard Onesti, who will portray Christopher Columbus in this celebration; Marie Palello, secretary of the Joint Civic Committee of Italian Americans; and Ann Sorrentino, costume chairperson of this year's parade. Music will be provided by the Italian Cultural Center Choir, under the direction of Leonara LiPuma, and the organists will be Lawrence Salvador and Frank Pugno. Serving as ushers will be Nick Bianco, John DeBella, Anthony Lanzito, Mike Palello, Anthony Pilas, and Lawrence Spallitta. The principal celebrant will be the Most Reverend Wilton Gregory, Auxiliary Bishop of Chicago.

The fourth degree Knights of Columbus will serve as the honor guard, and following the mass, breakfast will be prepared and served by the Mothers Club of Our Lady of Pompeii Church, with Josephine Messina as chairperson. Also, there will again be a wreath-laying ceremony at the Columbus Statue in Arrigo Park. Coordinating this event will be Thomas Baratta and Sam Garnello of the Order of the Sons of Italy in America, aided by the color guard of the Italian-American War Veterans. The invocation at the wreath-laying ceremony will be given by Bishop Gregory, and the host of ceremonies will be Leonard Giampietro. The posting of the colors will be under the direction of Mike Rongo, State of Illinois commander of the Italian-American War Veterans.

The parade will be televised locally on WGN-TV in Chicago from 1 p.m. to 2 p.m., and the sponsors for this year's parade include: Joe Rizza of Rizza Ford; Dominick DiMatteo of Dominick's Finer Foods; Anthony Fornelli of Festa Italiana; Nello Ferrara of Ferrara Pan Candy Co.; Alitalia Airlines, Anheuser Busch, Inc.; Citicorp.; Casa San Carlo; Buetera's Finer Foods; and St. Paul Federal Saving & Loan.

Other individuals playing an important part in the success of this year's parade are Lawrence Spallitta, coordinating the float personnel; Marco DeStefano, chairman of the parade marshals; Leonard Giampietro, finance and souvenir book chairman, and John Porcelli, cochairman; Ernie Kumerow, chairman of the Labor Committee; Dominic DiFrisco, and Theresa Petrone, cochairpersons of program and arrangements; Rev. Lawrence Cozzi, C.S. and Rev. Leonard Mattei, cochairmen of Religious Program and Organizations; Anthony J. Fornelli, general chairman of the 1987 parade, and Nello Ferrara, grand marshal; as well as scores of members who so tirelessly have served on these committees and the officers and trustees of the Joint Civic Committee of Italian Americans.

One of the highlights of Chicago's Columbus Day celebration is the selection of the queen of the parade. This year, judged on her beauty, poise, and personality, Lisa Gentile McGuire of Berwyn, Illinois, was chosen to reign as "Queen of the Columbus Day Parade." She received a $1,000 prize from the Joint Civic Committee of Italian Americans.

The members of the queen's court include Maria Grisanzio of Addison, IL; Gloria Mancini of Chicago, IL; Michelle E. Dantino of Melrose Park, IL; and Linda Marie Zec of Orland Park, IL.

The chairman of the queen contest is Fred Mazzei and the cochairperson is Josephine Bianco. Judges for the contest included Joseph M. Caliendo, fur fashion designer and co-owner of Bruno & Joseph Furs; the Honorable James A. DeLeo, member of the House of Representatives in the Illinois General Assembly; Barbara Dardanes, personnel consultant; Dr. John Drammis, Jr., cosmetic plastic surgeon and director of Cosmetic Surgery Center of Chicago, Inc., and Liposuction Center; Marilyn Fredericks, choreographer, travel agent and dance instructor; Rose Farina, manager of the Richard J. Daley Center Events for the Chicago Office of Fine Arts; Laura Spingola, president of Trade Resources Ltd., marketing consultants for export and import trade; Anthony Tolitano, owner-operator of U.S. Shoe Repair Stores; and Dr. Carl Tintari, cosmetic dentist and founder of the Midwest School of Facial Aesthetics.

The Columbus Day celebration will close with a reception at the Como Inn Restaurant in Chicago, in honor of our guests, the officers, committee chairmen, and members who are participating in making the 1987 Columbus Day Parade a memorable event.

On this 18th celebration of Columbus Day as a national holiday, as honorary parade chairman, I commend the members and officers of the Joint Civic Committee of Italian Americans for their dedication, careful planning, and hard work that goes into the creation of this great event. Our city and our people are proud of these outstanding citizens and their untiring efforts to make this momentous occasion into another overwhelming success.

Mr. Speaker, the officers and members of the 1987 Chicago Columbus Day Parade Committee are as follows:

List of Officers and Members of Chicago's Columbus Day Parade

COLUMBUS DAY PARADE COMMITTEE

Anthony J. Fornelli, General Chairman.
Nello Ferrara, Grand Marshal.

HONORARY CHAIRMEN

Congressman Frank Annunzio.
Congressman Martin Russo.
Leonardo Baroncelli, Consul General of Italy.

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Leonard Giampietro, 1st Vice President.
Fred Mazzei, 2nd Vice President.
Anthony Terlato, 3rd Vice President.
Fred Bartoli, 4th Vice President.
Thomas C. Baratta, 5th Vice President.
John De Bella, Treasurer.
Josephine L. Ortale, Secretary.
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Congressman Frank Annunzio, Vice Chairman.
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Fred Bartoli.
Anthony Bertuca.
Victor Cacciatore.
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Michael Cardilli.
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Michael Coccia.
James L. Coli.
John Coli.
Mike Coli.
Senator John D'Arco, Jr.
Representative James De Leo.
Pat De Leo.
Dominick Di Matteo.
Marco Domico.

Nello Ferrara.
Anthony J. Fornelli.
Paul Fosco.
Anthony Fratto.
Fire Commissioner Louis Galante.
Leonard Giampietro.
Dr. James F. Greco.
Ernie Kumerow.
Joseph Lizzardo, Jr.
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Charles LoVerde.
Frank Mancari.
Joseph Marchetti.
Pat Marcy, Jr.
Joseph Mazza.
Michael R. Notaro.
John C. Porcelli.
Charles C. Porcelli.
Nunzio Raimondi.
Ciro Rossini.
Tom Roti.
Dr. Salvatore Rotella.
Dr. Mario O. Rubinelli.
John Serpico.
Dr. Raffaele Suriano.
Anthony Terlato.
Joseph Tolitano.
Lester Trilla.
Jerome N. Zurla.

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Alex Batinich.
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Sam Garnello.
Dan Goduto.
Libby Hannigan.
Joseph La Calamita.
Larry Laino.
Leonora Li Puma.
Marino Mazzei.
Anthony Mandolini.
Anthony Morizzo.
Andrew Ortolano.
Michael Palello.
Joseph Pantaleo.
Theresa Petrone.
Anthony R. Pilas.
Gino Pisani.
Louis Rago.
Louis Ranieri.
George Randazzo.
Jeannine Riotto.
Joseph Rizza.
Phyllis Schoene.
Naomi Serpico.
Dr. Joseph Sirchio.
Ann Sorrentino.
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Anthony Tolitano
Mike Tosi.
Ange Tufano.
Renato Turano.
Emil Venuti.
Amedeo Yelmini.

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Mrs. Marion Ortale, 1st Vice President.
Mrs. Judy Guzaldo, 2nd Vice President.
Rose Ortale, Treasurer.
Mrs. Marie Palello, Corresponding Secretary.
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Rev. Armando Pierini, C.S.

Theme coordinator

Theresa Petrone.

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John DeBella.
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Chief Anthony Pilas.
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Tony Judge.
Chuck Spranzo.
John Serpico.
Bruno Caruso.
Mike Coli.
John Coli.

BANDS, MARCHERS, TRANSPORTATION, AND FLOATS

Marie Palello.

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Alderman William Banks.
Anthony Fornelli.
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Fred Serpe.

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Josephine Bianco, Cochairperson.
Anita Louise Biance.
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Mike Palello.
Josephine Ortale.
Fred Serpe.
Norman Boccio.
Ron Onesti.

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Lawrence Spallitta, Chairman.

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Larry Battisti.
John DeBella.
Nick Bianco.
Pasquale Caputo.
Ettore DiVito.
Neil Francis.
Frank A. Lato.
Mike Palello.
Joseph Pantaleo.
Anthony Pilas.
Louis Rago.
Ron Onesti.
Norman Boccio.

STAFF PHOTOGRAPHER

Sam Bruno.

COORDINATOR

Anthony Sorrentino.
Marie Palello.

OFFICE VOLUNTEERS

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Rose Ann Rabiola.
Jo-Anne Frisa Cole.
Nancy Savino.
Ann Sorrentino.
Josephine Ortale.
Amadeo Yelmini.
Lucille Brahill.
Rose Ortale.
Jo Ann Spata.
Philomena Manno.

TRIBUTE TO CLARK ENGLE

The SPEAKER pro tempore (Mr. OWENS of New York). Under a previous order of the House, the gentleman from Alaska [Mr. YOUNG] is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, on Saturday, September 5, the State of Alaska lost one of her greatest and most beloved sons; and I lost one of my closest friends. Clark Engle, one of nature's noblemen, loved Alaska and Alaskans. He loved the outdoor life and he received pleasure and gratification through introducing others to the magnificent wonders of Alaska. He was a guide, trapper, sportsman, and conservationist.

A native of Illinois, Clark decided almost 30 years ago that he wanted to become an Alaskan and that Alaska was the most wonderful place in the world. He knew that Alaska was the place where he could make his contribution to humanity and to the animal kingdom. The road he chose was fraught with peril. He fought death many times and lived to help others through similar life-threatening situations. He was a loving, patient teacher and guide to hundreds of Alaska's visitors, but he could be a tough taskmaster and an avid avenger of those who would violate the ethics of a fair chase hunt.

Clark Engle was an early leader of those who sought to stop the illegal slaughter of animals through the hunting, herding, and shooting of them from airplanes. He was one of the founders of the Alaska Professional Hunters Association and made himself an example for the younger guides to follow. The Foundation for North American Wildsheep was another project to which Clark contributed ideas, ideals, and leadership.

Most legislators—local, State, and Federal—learned to respect Clark Engle for his logical approach, thorough knowledge, and effective suggestions for the resolution of problems affecting Alaska's wildlife and environment. I learned to solicit his opinion and ideas on virtually every piece of legislation concerning Alsaskan wildlife and Alaskan environmental issues. He was a superb consultant.

Only 2 years ago, Clark believed that at last he had found his paradise on Earth. His vision of building his dream house became a reality; a beautiful, spacious, lodge on the western edge of the Mount McKinley National Park and Preserve. He and his beloved wife Audrey had achieved their dream. Alas, for those of us who loved Clark, the dream would be too short in time.

But Clark's contribution cannot be measured by his span of years on Earth. Would that all of us could contribute so much to life in a span of 100 years as Clark did in scarcely more than half that time. Certainly where character, honor, love of nature and fellow man, and sportsmanship are valued, the name of Clark Engle will be emblazoned on the roll of honor.

Clark, I know that I speak for the multitude of your friends when I say, "Thank you for living your life the way you did." Your love of life, humor, and dedication to your ideals will serve as a model to thousands of youngsters that you can remain true to your principles, work hard, yet take time to enjoy life and smell the roses. Memories of your humor and cheerfulness will warm many a cold night and will inspire us all to be true to your ideals.

You pass on to your heirs the most precious heritage and honor that the world can bestow, the love and respect of your fellow man.

To your lovely lady Audrey, son Dale, and daughter Michelle, I offer my deepest sympathy and condolences. May God bless them.

CHARITY SHOULD HELP, NOT PENALIZE POOR

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, as chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, I am introducing today a bill to correct two obscure practices in the welfare system which make the system appear highly insensitive to the needs of low-income persons. I have been working with my colleague, BILL EMERSON of Missouri, who is the ranking minority member of the subcommittee on these provisions. I am pleased that he is agreed to join me as an original cosponsor.

The first provision would amend both the Food Stamp Act and the Social Security Act so that small charitable contributions which are given to poor people, particularly at holidays do not count as income in determining benefits under the Food Stamp or Aid to Families with Dependent Children [AFDC] Program. A situation in my district came to light last year in which a local newspaper in my district, the Monterey Herald, conducted a campaign, "Operation Christmas," to get subscribers to donate money to help needy families over the holidays. The donors and the recipients were both justifiably outraged when they discovered that this altruism caused cuts in welfare benefits. Under Federal law, California welfare officials had no choice but to reduce these benefits.

California officials have been working to ensure that these contributions do not reduce benefits in the State-financed welfare programs, but have come to me for assistance to get the appropriate Federal laws changed.

To correct this problem, this bill provides that under both the Food Stamp and Aid to Families with Dependent Children Programs, up to $300 in a 3-month period would be excluded from income if this amount represents nonrecurring cash donations based on need that are received from one or more private nonprofit charitable organizations. CBO estimates the cost of the charity disregard to be less than $500,000 a year.

This bill will also correct a bureaucratic problem which has come to light in the Food Stamp Program. The Food and Nutrition Service of the U.S. Department of Agriculture has decided that any payment which a food stamp recipient receives for donating blood must be counted in determining food stamp benefits. I personally think it is tragic that some people find themselves in such desperate straits that they have to sell their blood. If the money they get from selling their own blood causes their food stamp benefits to be cut, the tragedy is compounded. Correction of this inequity would cost $1 million a year.

In a perfect world, neither of these provisions should be necessary. If we had a reformed welfare system, which provided adequate benefits to those who cannot work, adequate employment and training opportunities to those who can work, and enough jobs so that all able-bodied welfare recipients truly had the opportunity to escape welfare dependency, this bill would not be necessary.

I do not like proposing specific measures which add more rules and exceptions to the already overly complex welfare system.

On the other hand, it is not reasonable to ask the poor to wait for utopia, or even a pale imitation of utopia. Therefore, we are introducing this legislation today to correct these two inequities.

The following is a text of the bill:

H.R. 3435

A bill to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the food stamp program and the AFDC program

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. FOOD STAMP PROGRAM.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in clause (8) by inserting "cash donations based on need that are received from one or more private nonprofit charitable organization, but not in excess of $300 in the aggregate in a quarter," after "or credits,";

(2) in clause (12) by striking "and" at the end thereof; and

(3) by inserting after clause (13) the following: "and (14) any payment received for blood or blood products contributed by household members".

SEC. 2. AFDC PROGRAM.

Section 402(a)(8)(A) of the Social Security Act (42 U.S.C. 602(a)(8)(A)) is amended—

(1) by striking out "and" after the semicolon at the end of clause (vi) and after the semicolon at the end of clause (vii); and

(2) by adding after clause (vii) the following new clauses:

"(viii) shall disregard any payments which are received in any calendar quarter by a child, relative, or other individual specified in clause (ii) in the form of cash donations based on need from one or more private nonprofit charitable organizations (and which would otherwise be included in the income of such child, relative, or other individual), to the extent that the total of such assistance received and excluded in that quarter does not exceed $300; and

"(ix) shall disregard any payments which are received for blood or blood products contributed by any such child, relative, or other individual; and".

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this Act shall take effect on October 1, 1987.

(b) APPLICATION OF AMENDMENTS.—(1) The amendments made by section 1 shall not apply with respect to any month for which an allotment is issued before October 1, 1987.

(2) The amendments made by section 2 shall apply only with respect to calendar quarters beginning on or after October 1, 1987.

LINKING TRADE AND WORKER RIGHTS YIELDS POSITIVE RESULTS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, make no mistake about it. The laws enacted in 1984 and 1985 that link trade benefits and political risk insurance to respect for internationally recognized worker rights are yielding position results abroad. Consider recent development in two Pacific rim countries—South Korea and Taiwan.

SOUTH KOREA

Last January, USTR cited the following steps to afford worker rights to justify continuing GSP eligibility for South Korea:

First. In late 1986, restrictive laws were amended to provide South Korea's National Labor Confederation, the Federation of Korea Trade Unions, and its regional and national affiliates have the unimpeded right to assist local unions in organizing and collective bargaining;

Second. At the same time, the Korean Government also repealed laws that had placed special restrictions on unions of workers employed in foreign-owned firms;

Third. At the same time, the Government of South Korea passed a new law that clarifies its policy with respect to strikes in important enterprises by specifying the types of businesses where a work stoppage would have a severe impact on the national economy—coal mining, industrial fuel, broadcasting, and telecommunications—and removing the general phrase "industries having a severe impact on the national economy" from its labor dispute adjustment law;

Fourth. In late 1986, the Government of South Korea reportedly adopted a timetable and process for establishing a minimum wage as well as spending increased funds to improve worker welfare and enforcement of labor standards.

The timidity of USTR's actions were overrun by events this past summer when emboldened South Korean workers acted to help themselves.

Fifth. According to Automotive News magazine, fear of the worker rights provisions in U.S. law and those pending in the trade bill and their potential adverse impact on Korean trade with the United States convinced the Korean Government to cool its reaction to spreading labor unrest among South Korean workers seeking more for their labor. In fact, on August 23 the ruling political party called upon the Korean Government "to show maximum patience and restraint" in handling the nation's labor unrest. Since June 29, 3,372 strikes have occurred all across South Korea compared with 276 labor disputes during all of 1986. Of course, strikes in themselves are not necessarily progress, but it is instructive that Korean workers now feel more free to pursue their interests.

Sixth. Workers at Hyundai, makers of the Pony Excel car exported to the United States, won recognition for their independent union, even after the company locked out 40,000 workers.

Seventh. The Korean Government, in a stunning turnabout from its long-established antilabor policies, since June has become actively engaged in mediating labor disputes with landmark settlements being reached at places like the Daewoo Shipyards to increase wages and to establish bargaining in good faith. Since June 29, according to the Labor Ministry, new union contracts have provided factory workers with an average wage increase of 13.4 percent.

TAIWAN

Again, last January USTR preserved Taiwan's GSP eligibility by touting the following steps to afford worker rights:

First. Given assurances that martial law would be lifted at some unspecified date; in fact, martial law was lifted on July 15, 1987.

Second. Enactment of a new labor standards law.

Third. Enactment of a new labor management dispute settlement law to improve legal mechanisms for mediation and arbitration of labor disputes and allows for simplified execution of legal obligations in the national legal system.

But after worker rights abuses were highlighted in congressional hearings in April and May and after new petitions were filed with USTR to revoke GSP eligibility for Taiwan in June, the Taiwanese Government decided further action was well-advised to protect the rights of the workers in Taiwan.

Fourth. On August 1, the Government of Taiwan announced the establishment of an 11-person Cabinet-level labor commission to act on workers' complaints, to strengthen labor unions, and to promote better relations between employers and workers.

Fifth. In response to the USTR petitions to curb imports for their alleged abuse of worker rights, the Government of Taiwan is now preparing to amend the labor dispute law before the end of this year to revise its emergency provisions that prohibit strikes. For decades the right to strike has been prohibited under martial law.

Sixth. Consideration is being given to lifting the statutory ban against union leaders holding office for more than two terms.

We should be encouraged by these victories for working people in South Korea and Taiwan. They were achieved in spite of weak enforcement of the recently enacted worker rights laws by the Reagan administration. Now is the time to proceed full speed ahead with the provisions in the pending trade bill to treat the systematic denial of worker rights as an unfair trade practice.

TRIBUTE TO THE LATE HONORABLE RAY MADDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. WHITTEN] is recognized for 5 minutes.

Mr. WHITTEN. Mr. Speaker, I am saddened to learn of the passing of my colleague and good friend, Ray Madden.

I had the pleasure of serving with Ray throughout most of his career in Congress. It was a long and distinguished career. Ray's work was exemplary. As chairman of the House Rules Committee, he proved himself to be eminently fair and completely competent.

We mourn Ray Madden's passing and shall miss him greatly.

□ 1845

ARMS CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. DOWNEY] is recognized for 60 minutes.

Mr. DOWNEY of New York. Mr. Speaker, probably some time in November after the President has had a Thanksgiving meal, he will sit down in that month and sign an agreement with the General Secretary of the Soviet Union, Mr. Gorbachev, implementing a reduction in intermediate and short-range missiles in Europe. That is an agreement that I personally feel strongly about. I am in favor of it and I hope that the U.S. Senate approves. I am confident that after deliberating several months, that they will.

Mr. Speaker, I rise tonight to discuss in some detail the proposition that the activities of the House and the Senate in the area of arms control, namely, the amendments that we have offered and the activities that we have pursued around the country, it helped the arms control process. There is, of course, some argument as to whether or not we have been a help or a hindrance. I would like to argue tonight that we have been much more a help than a hindrance.

First of all, Mr. Speaker, we should start with the general proposition that national security is not solely the province of the Executive. The warmaking powers, as we are all aware, were granted to the Congresses of the United States. Indeed, the Founding Fathers felt 200 years ago very distrustful of concentrations of power. That is why they divided the power between the three branches of government, but they were specifically concerned about the power of sovereigns. They were all men of history. They understood probably better than many Americans today the role of despots during the 16th century. They knew fresh hand the work of George III and Louis XIV and Louis XVI, Peter the Great, and Charles VII, how those particular monarchs had involved their nations in wars that were inimical to their nations' interest; so they decided that rather than have an executive who solely could declare war, that they would take that power and vest it into the hands of the people. They made the President the Commander in Chief. They did not make him commander in chief of the Nation. They made him Commander in Chief of the Armed Forces, and anyone who has reviewed historically those documents is well aware of the fact that that power was meant to be limited in terms of its use during wartime.

Now, the powers to field an army and navy also require and recognize the responsibility to raise money for the Army and the Navy. They recognized further that there should be tight control on the organizing of militias. That is why they put the power to raise and field armies inside the hands of the Congress.

Now, generally speaking, since the postwar period, Congresses have been fairly compliant with administration wishes about what they want for defense spending. Indeed, the early seventies, throughout the decade of the seventies and up to the early eighties, defense authorization bills that appeared in this Chamber were debated. There were usually just a few amendments offered and they were usually defeated without any trouble.

The Congress of the United States, and particularly the House, felt that if the administration made a request for defense, that it was usually in our national security interest and while there may have been one or two people or a handful of people that disagreed with particular weapons programs, pretty much the administrations got their way.

Now, that all changed dramatically during the Reagan years, and there is a reason for that. For the first time in the postwar era you had a profoundly conservative and ideological President and Secretary of Defense. I do not have to remind my colleagues that the President talked throughout the 1980 campaign about the Strategic Arms Limitations Talks, SALT II, and labeled them fatally flawed; that when he took office he stated that the Soviet Union was an evil empire, that they reserved to themselves the right to lie, cheat, and steal, a kind of West Point honor code in reverse, and that Secretary Haig during his early days suggested that we would fire a nuclear warning shot across the Soviet bow in the event they tried anything provocative in Europe.

Now, this was giving full vent to conservative boilerplate that had been espoused over the years, but it had not been ever espoused by officials as high as the President or as the Secretary of State or Defense. Naturally, people were concerned about this inflammatory rhetoric. They were used to reproaches of the Soviet Union, to be sure, but they were not used to the idea of nuclear warning shots as part of United States policy. It started first in Europe with huge peace demonstrations in the fall of 1981 and it started in this country in town meetings throughout this country advocating a nuclear freeze.

The freeze culminated specifically in 1982 with a rally in March in New York City of some 700,000 people who gave voice to the very simple proposition that it was time to stop the nuclear arms race in its tracks.

Now, in the House, as opposed to the Senate, there were efforts to make the freeze part not only of democratic policy, but national law, and Democrats in the House filled a role that had traditionally been filled by liberal Senators when we started with the Markey freeze bill here in the House.

Now, during this time the administration during the first several months of its administration chose not to sit down with the Soviet Union and discuss the question of arms control. They had gradually got around to that, decided that they would move on the issue of arms control, because they saw that it was not playing to their interests.

In November 1982, you will recall that not only in the midst of a recession, but the freeze was a very powerful political tool and 26 new Democrats were elected as a result of not just the recession, as I talked about before, but also as a result of concern that I believe many people have about the direction the administration was taking with the Soviet Union in the arms race.

Now, during the period of negotiations, the administration was heard to make several points over and over again. They were saying that regardless of who was negotiating and regardless of what subject, that any attempt by the House or the Senate to legislate arms control would somehow undercut the administration in Geneva where the principal arms negotiations were taking place. They said this with respect to the MX missile. Indeed, they brought our chief negotiator, Mr. Kampelmann back to the United States from the middle of the negotiations to argue with the House to go ahead with the MX missile. They were successful in getting 50 MX missiles, despite the fact that there was widespread disagreement about the utility of that particular weapons system.

Also during the last few years of the Reagan administration, they have said, "Please don't do a test ban, because we are in the process of negotiating now. Please don't deal with the SALT agreement or with the strategic defense initiative because we are in the process of negotiating those as well."

The principal position the administration took was, "Don't give the Soviets anything for free. Make them bargain with us and don't reduce our leverage."

On its face, this makes enormous sense. Anyone who has dealt with the Soviet Union over the years would recognize that if you give them something, it is clearly not something that you can negotiate away.

The problem the Reagan administration had, however, was credibility. No one felt seriously that they were interested in reaching an agreement on arms control, and thus the various levers the administration sought to have over the Soviet Union were really not so much levers as they were weapons designed for the U.S. arsenal.

Now, there was another threat or argument that occurred on top of this "Don't undercut our negotiations, and don't negotiate, don't give them anything for free", and that was basically that the Soviets cannot be trusted to deal with arms control, and many conservative Senators made the administration publish a report, which they now do annually, of Soviet violations.

Now, in the past the whole question of violations has been something that was quietly dealt with among the parties. Neither side saw it in their interest to make public ambiguous points for possible treaty violations, because that would foreclose any serious discussion at the standing Consultive Committee which had been set up for resolving differences in both the SALT agreement and the ABM agreement.

This administration broke with that policy and announced both publicly and with some fanfare the violations they believe the Soviets made with respect to SALT, most notably the encryption of telemetry, the SS-25 and the ABM Treaty. The administration correctly, in my view, pointed out the violations that the Soviets made by installing the radar at Krasnoyarsk inland, and also they made arguments that the Soviets violated the threshold test ban by detonating an explosion of above 150 kilotons.

The other argument the administration made, aside from "Don't trust the Russians", was that our patience will be rewarded, that if you continue to play hardball with the Soviets, they will eventually come around, and clearly the administration is going to make this particular argument over and over again, given the fact that the Soviets have agreed to our position on zero-zero in the INF, no one frankly would have believed Secretary Haig who argued in his book rather persuasively that this was a nonnegotiable demand, but that the administration now is in the position to make the argument, I believe somewhat tellingly, that our position has been rewarded and our practice has been justified.

Well, let us try and deal with some of these arguments and also some of the administration's points, because they are interesting and important ones to deal with in some detail.

First of all, we have to recognize that arms control works when there is consensus. Indeed, there has been a consensus since the late sixties that as a component of national security interests, arms control is as vital as building nuclear weapons. Indeed, some of us have argued that a thoughtfully produced verifiable arms control regime in some instances is even better.

Now, today we are ready to approve that INF agreement that the administration has patiently awaited. We need to examine the reasons why that has occurred.

First of all, I think it is fair to say that had Brezhnev or Chernenko or Andropov continued in power in the Soviet Union, there would likely not be the concessions that Mr. Gorbachev has made with respect to that agreement. Simply stated, a change in Soviet leadership has made the INF that much more possible. Their change, their willingness to concede various points has helped this process immeasurably.

Second, I would say that as a result of the deployment of both Pershing and GLCM's, that there have been arms to trade; so the administration deserves some credit for that position, even though I was not a supporter of it. They can argue, I think somewhat persuasively, that if they were not there, they would not be in place to trade.

Third, and probably most importantly with respect to this whole issue, is the reason the Soviet Union wants to sit down and deal with the United States on the question of arms control. It has less to do with the declining state of the Soviet economy or Mr. Gorbachev's willingness to make concessions or United States patience. It has to do with the simple fact that the United States is a powerful country economically and militarily, that right now we have aimed at the Soviet Union 11,000 ballistic missiles. Those will not be negotiated away by the Soviet Union or wished away by them. They recognize this. That is the backdrop of anything we do with the Soviet Union, that they recognize our strength and want to deal with it; that they also recognize, as do we, the implausibility of the catastrophic consequences of nuclear war should also be recognized as a principal reason why negotiations are occurring. Both the Soviets and ourselves recognize that nuclear weapons serve one purpose and one purpose only, and that is to deter the other side from using theirs; so the question is, Do we need 11,000 on the U.S. side to deter the Soviets, and they 10,000 to deter you, or can this be done at drastically reduced levels. I believe at much reduced levels can both sides be deterred from using nuclear weapons, and that is frankly the direction that both sides are now headed in.

Now, given these realities, we also need to understand where we go from here. The Congress of the United States has provided arms control continuity. Now, that is somewhat counterintuitive to some of our colleagues who make the argument that administration policy changes from administration to administration; that indeed, American foreign policy changes dramatically from Nixon to Ford to Carter, back to Reagan. Well, the continuity between these various Presidents has been a strong and abiding consensus in the Congress for arms control.

□ 1900

One of the principal arguments we make against the Soviet Union, reason for distrusting them, reason for being vigilant, is we know nothing about the process of making decisions inside the Soviet Union. Right now Gorbachev is in power. He may be for several years, but if things do not go well economically for Gorbachev, he may no longer be in power and we may no longer be confronted with a Soviet Union that is interested in arms control. The Politburo may suddenly turn around and not be interested in arms control. We have no way of knowing.

Therefore, we need to be concerned and we need to deal with them at arm's length. That is not true in the United States.

A President of the United States may not want the ABM agreement, or he may want to radically change it, but this President, being interested in pursuing a weapons policy in space as a means of deterring nuclear war was basically stopped by a conservative Senate who felt that past agreements that the United States had entered into with the Soviet Union made far more sense, arms control continuity, foreign policy continuity.

Recognizing that as well as the role that the Congress has played, not only on arms control matters that I mentioned, ASAT, SALT, ABM and testing, we have been able to prod the American people who have in turn been able to prod this administration to move directly away from its policy of mindless rhetorical confrontation to one of dramatic, I would say, and thoughtful resolution of arms disagreements at the bargaining table.

The INF agreement comes at an interesting time in our history. It comes at a time when a couple of things should be obvious to the Soviets since they watch us very carefully, and they watch what we do here in Congress.

First, over the last 3 years the Congress of the United States has fairly dramatically reduced the size of the budget. In the past the administration said if you cut our budgets the Soviets will not be prepared to negotiate. It appears as though they are most prepared to negotiate during the steepest period of decline in the defense budgets.

Second, they appear to be willing not only on INF to sit down and agree with us and make concessions, but they appear to be willing to go much further in the area of chemical weapons. Just recently they invited a group of experts to a chemical weapons facility, they invited myself and two of my colleagues to the radar in Krasnoyarsk. During this period of congressional activity, historically a period when the administration would argue that they were undermined by the Congress, the Soviet Union has been more forthcoming on the areas of arms control that are most important to the Representatives in this Chamber and in the other body.

So quite apart from being a thorn in the administration's side, quite apart from undermining the process of negotiation, the Congress has provided the long-term continuity, it has provided the impetus, and to a certain extent it has provided the world community with the offer that the United States is not alone in its desire to simply unilaterally escalate the arms race, that there are many of us in this Chamber and in the other body who feel deeply about the process of arms control.

Simply stated, the Congress of the United States has been a help to this administration in fashioning not only arms policy but arms control policy. We need to be mindful of this fact when the administration will make the argument, as inevitably they will during the INF agreement and during Gorbachev's visit, that we somehow should lay back and not go ahead and do ASAT, that we should not force the administration to adhere to the SALT II agreement, that we should not limit the strategic defense initiative to more manageable expense dollars, that somehow this will undercut the administration in dealing with the Soviet Union. That has not been the history, and it certainly will not be in the future.

On the future I want to make several points, and then I will yield the floor.

The first point is that this is a period of heightened Soviet activity. We should be exploring every subtle probe that the Soviet Union is making with us with a thoughtful and calculated response to push them further. If we sign an INF agreement we will be cutting the nuclear weapons that are cheapest for us to deter the Soviets. We should not then turn around and say we now need to build more offensive, conventional weapons. We should ask the Soviet Union if they would be willing to do a couple of things.

The Palmer Commission report of 1984 suggested that on 150 miles of the West and East German border that both sides withdraw their dual capable artillery and airplanes that are dual capable of firing both nuclear and conventional weapons. We should challenge the Soviet Union to asymmetrically reduce the number of tanks and soldiers that they have in Eastern Europe. They have forces that are arrayed in a way that could only suggest offensive activity. We should demand that they reduce dramatically the number of tanks and the number of soldiers. If we decide to have this cordon sanitaire that I suggested before, these would be profitable ways to respond to the Soviet Union after INF.

It would also make us enormously more secure if we could begin the dramatic reduction of chemical weapons. Clearly the Soviet Union seems interested in that.

Third, I believe that the Soviet Union, if given certain guarantees that are in the United States interest on ABM, would be willing to do dramatic new reductions in the area of strategic ballistic missiles. If the administration recognizes that is SDI bargaining chip is only that and moved quickly, I believe we can see before the Reagan term of office is over a historic reduction in strategic weapons as well.

The final irony of Ronald Reagan would be that he would be able to go out of office with not only an INF agreement, but a dramatic reduction in strategic weapons, and make the first important steps in reducing the possibility of conventional war in Europe.

These are prospects if we are prepared to pursue them. But if we are prepared only to point the finger of blame at one another for ideological differences, we will miss these very important opportunities.

I am one who firmly believes that the Reagan administration is probably the best administration in terms of reducing arms dramatically. It will be far harder, lamentably, for a Democratic President in 1989 to do what Ronald Reagan can do in 1987 and 1988.

As we ponder these things, let us appreciate the important role that we have played here. This is not just some self congratulatory slap on the back about the activities of the House and the Senate. We have pushed the process, we have pushed it thoughtfully. We are now going to reap the benefits of the heightened activity.

Mr. Speaker, I yield back the balance of my time.

TRIBUTE TO THE LATE HONORABLE RAY J. MADDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. VISCLOSKY] is recognized for 60 minutes.

GENERAL LEAVE

Mr. VISCLOSKY. Mr. Speaker, I ask unanimous consent that all Members may be granted 5 days to revise and extend their remarks in regards to my special order in honor of the Honorable Ray J. Madden.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. VISCLOSKY. Mr. Speaker, I rise today in memory of the late Ray J. Madden who passed away on September 28, 1987, in Washington, DC. I join my colleagues to pay special tribute to a dedicated public servant who served the people of northwest Indiana for 34 years in the U.S. Congress.

Ray Madden was an extraordinary individual whose life was marked with great achievements and contributions to the Nation and the district he served.

Chairman Madden came to Congress in 1942 with the objective that he would bring assistance to the common man. A friend of labor and a proponent for equality, his first goal when he arrived in Washington, DC, was to see that postal employees were given appropriate raises citing the lack of a compensation increase for 21 years. He was ultimately successful.

Another area of interest was his commitment to the immigrant community. At the time, northwest Indiana was a melting pot. Chairman Madden worked hard to see that standards were provided to ease the transition of its relatively new immigrant population. In a 1981 interview sponsored by the former Members of Congress Association, Oral History Project, Chairman Madden stated that "his commitment in Congress was to those he represented, the working people and ethnics" and his service reflected his desire to help these people.

At the national level, Chairman Madden took an active interest in supporting legislation on a wide variety of topics. He supported the establishment of the School Lunch Program, authorization of Federal funding for cancer research, assistance for displaced persons, legislation to extend the Reciprocal Trade Act and a variety of bills to protect the rights of workers. Known as a "liberal" Democrat, Madden utilized his seat on the prestigious House Rules Committee to see that the Truman administration's fair deal legislation was moved through committee for full consideration by the House. In a U.S. News and World Report article, Ray Madden was cited as one of the three committee members on whom the administration could depend.

In 1951, Chairman Madden received national attention for his work in investigating the Katyn Forest Massacre. The subject surrounded the killing of some 15,000 Polish army officers and intellectuals during the winter of 1939-40 just after Poland had been divided between the German and Russian occupying forces. In 1943, the Germans disclosed the massacre citing blame on the Russians. Madden introduced a bill in 1951 which created a special committee to oversee an investigation. The measure passed and Madden was named chairman of the special group. He embarked on a trip to Europe where he held meetings and heard testimony from some 400 persons. Based on this fact-finding mission, Madden and his committee determined that the time of the massacre was not later than 1940 when Soviet forces occupied the territory. He recommended that this report be forwarded to the United Nations General Assembly for possible action by the International Court of Justice. As the leader of this investigation, Congressman Madden received accolades for his hard work and efforts to see that the investigation was carried out promptly. He was also recognized in 1952 as having performed a "very real service" to the Nation in this regard.

As the record reflects, Chairman Madden's contributions were numerous and his energy and enthusiasm to participate in developing national policy was unending.

Still he found time to travel to and from northwest Indiana where he participated in meetings and local events. "There were many rubber chicken dinners," Madden stated in a 1981 interview, which reflected the level of participation he had on the local level. He was concerned with the level of health-care services for the thousands of veterans in the first district and testified before the House Veteran's Committee on the need for a health facility in northwest Indiana, specifically Lake County which had the highest concentration of the veteran population. The environment was also a concern and in 1943, Madden introduced a bill to control pollution which was discharged into Lake Michigan.

As a political leader in the area, Madden worked to see that local Federal projects were secured for his district. In the early 1970's Mr. Madden worked to incorporate infrastructure improvement projects for northwest Indiana. In 1973, Chairman Madden was responsible for the development of the Urban High Density Program which designed road transportation improvement projects for areas with high-density traffic patterns. The result created the Cline Avenue project in East Chicago, IN, which initially provided greater access to the area steelmills, the communities of East Chicago and Gary and as important, placed people in an array of jobs. In addition, Madden worked to see that the city of Hammond received Federal funds to initiate a rail relocation program which was targeted to resolve the problem of traffic in the downtown corridor and seen as a positive economic spur for the area. The Cline Avenue project was dedicated this year and the Hammond project continues. His efforts on behalf of the people are well remembered.

He was a public leader of our time who lived through the Great Depression and his experience was reflected in his commitment to see that such an economic dislocation never again occur in our Nation.

On numerous occasions, Madden spoke to students about the need to plan for the future. He wanted to plant the seeds of his vision and he reminded students that "there is today a very serious effort to engage the people of our country in future thinking." This was an ongoing theme during his visits to educational institutions and he reiterated his view in 1982 when he said it was "important for people to realize sooner or later that the average citizen must pay more attention to the Federal Government and those who represent the public's interest."

During his 95 years, Chairman Madden worked hard to positively influence the lives of others. This is reflected by his 60 years of public service ranging from his position as municipal judge in Omaha, NE, to city comptroller of Gary, IN. In addition, Mr. Madden served his country during World War I as an enlisted Navy serviceman.

Mr. Madden is the U.S. Representative who served the longest period of time in the Congress from the State of Indiana. His length of service began on January 3, 1943, and ended on January 3, 1977—a period which spanned 34 years and 9 days.

In addition to his contributions to the people he served, Mr. Madden was a figure I personally respected and admired. I can remember my first trip to Washington, DC, with my father at the age of 13. We made a visit to the Chairman's office and had our pictures taken on the Capitol steps. He took me to my first committee hearing and joined my father and me for dinner later that day. This is a special memory I will carry with me forever and I imagine there are thousands of others in northwest Indiana who have similar memories.

Last week, at the Chairman's funeral he was eulogized as a man who was truly a great leader and a man of his time. A man who during the course of his professional and public life dedicated himself to helping people. One whose heart was so big that he was always there to aid someone and who very seldom thought of himself. His style in public life was marked by his dedication to service. Even after his retirement in 1977, Mr. Madden continued to be active in civic affairs and when I arrived in the Congress in 1985 he was kind enough to share his advice and insights with me.

Ray Madden was a great person—great for his public deeds; greater for his kind heart, and greatest for his attributes as a gentleman and a true representative of the people.

His contributions and efforts will not be forgotten. I know that my colleagues here in the House who remain and served with the Chairman will fondly remember him and can personally attest to their own memories of his presence.

In the First District of Indiana, people will always remember Ray J. Madden.

I would like to close with an excerpt from the Irish tune, "When Irish Eyes Are Smiling" (1912):

WHEN IRISH EYES ARE SMILING

1ST VERSE

There's a tear in your eye, and I'm wondering why,
For it never should be there at all.
With such power in your smile, sure as stone you beguile,
So there's never a teardrop should fall.
When your sweet lilting laughter's like some fairy song, and your eyes twinkle bright as can be;
You should laugh all the while and all other times, smile, and now smile a smile for me.

CHORUS

When Irish eyes are smiling, sure its like a morn in spring.
In the lift of Irish laughter, you can hear the angels sing.
When Irish hearts are happy, all the world seems bright and gay,
And when Irish eyes are smiling, sure they steal your heart away.

2ND VERSE

For your smile is a part, of the love in your heart,
And it makes even sunshine so bright.
Like the linnet's sweet song, crooning all the day long,
Comes your laughter so tender and bright.
For the springtime of life is the sweetest of all, there is ne'er a real care or regret;
And while springtime is ours throughout all of youth's hours, let us smile each chance we get.

□ 1915

Mr. Chairman, we will always remember your smiling eyes. We will always remember the lilt of your laughter. And, Mr. Chairman, we will always remember your happy heart for you have made the lives of the poor, the weak and the young happier than they ever would have been had you not lived amongst us.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. I thank the gentleman for yielding.

And for paying tribute to our late friend, Ray J. Madden, not only of Indiana but also of Iowa.

We hear about when "movies were movies;" Ray began his service in Congress when orators were orators. The rafters rang when Ray Madden took the floor.

Whatever he did, he did with purpose and he did it pretty loud. You could hear him all the way to the Library of Congress with the doors closed.

Among other things, Ray was funny. When Representative HAMILTON and I first arrived together as freshmen from Indiana, Ray took us under his wing. And I remember distinctly one evening he drove us to some function and on the way back he confided to us as follows: He said, "When I first came here I had a chance to buy a farm out here in Maryland. I should have done it. They call it Silver Spring now."

Ray was not always appreciated in hearings. I remember Chairman Colmer found Ray's humor a little bit tedious one day when the Rules Committee was considering a time zone Federal proposal. When it was Ray's time to ask questions, instead of asking questions he said this. He said, "Out in Annapolis the other day a fellow walked into the bus station, walked up to the ticket salesman and said, 'What time does the bus leave for Lebanon?' The ticket salesman said, '10.' The fellow said, 'What time does it get to Lebanon?' He said, '10.' So the prospective customer walked away and came back and said, 'Let me get this straight: what time did you say this bus leaves for Lebanon?' '10.' 'What time did you say it gets there?' '10.' He walked away again and the salesman said, 'Say, do you want to buy a ticket to Lebanon?' The man said, 'No, I don't. But would you mind if I stayed around and watched that bus take off?'"

Well, everybody in the room thought that was pretty funny except Chairman Colmer—I almost said Culver, and my apologies to Senator John Culver who appreciates the story more than most people do—Chairman Colmer rapped for order and it was not easy to restore order on that occasion.

Then back in 1968, I think it was, there was a political entity in our country known as the Yippie party, not to be confused with the Yuppy party, although I would not be surprised to learn that many former members of the Yippie party are now among the Yuppies, from what I read in the Wall Street Journal. But the Yippie party was not just antiwar, it was anti about anything you can think of offhand that had anything to do with the civilization of the United States. And that particular year, as I recall, they had a candidate for the President who happened to be a pig, or a hog. They called him Pigasus. I think they later said they were going to have him at the "inhoguration" in Washington.

Well, one of my friends was up in the gallery when Ray Madden made his annual speech inveighing against the big oil companies in this country. He was convinced they were a mortal danger to our country. Once a year he took the rail and the rafters rang with tones from Ray, "Big oil, big oil."

When he was halfway through the speech, my friend overheard the Yippie sitting directly in front of him—and Ray was probably about 80 years old at the time—and he heard the Yippie say to his friend, "That cat is my man for President."

So somehow or another, Ray Madden seemed to transcend the generations pretty well.

He was a character. He was a person who lived life completely. I do not ever remember seeing Ray Madden unhappy. In fact, those who were here when he was here will recall that most of the time he was humming as he walked through the halls and he always saw life, even in terms of his adversaries, as something of a pleasant exchange of ideas.

Even when his oratory was the most thunderous, somehow you could distill from it not one drop of venom. He was after all, a kindly man. He was a man mountain, a man of enormous physical strength and constitution.

He began his carreer out in Iowa in the second decade of this century already as a city judge. He got tired of that, moved to Lake County and became a U.S. Representative.

Considering all that and his physical strength and his determination and his indomitable spirit, I can only assume that he did not actually die, he just decided to move on and see how things were in Heaven where no doubt he is on some corner now campaigning for the United States House of Representatives and talking about how unfortunate it is there are so many "old goats" in the other body.

Ray Madden should never be forgotten in this Chamber. He should live in spirit, the spirit of give and take, the spirit of strong philosophical views, tempered by kindliness for other human beings who might not share precisely those views. He was the very best of what we dreamed America might one day become.

I thank the gentleman for yielding.

Mr. VISCLOSKY. I thank the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I commend the gentleman from Indiana [Mr. VISCLOSKY] for taking this special order, a tribute to our beloved former colleague, Ray Madden.

It was my privilege to serve here in the House with Ray for 10 years, although he had already been in Congress 24 years when I arrived.

Ray was a member of the first freshman class in Congress after the bombing of Pearl Harbor. Having already worn his country's uniform during the First World War, he returned to the service of his country at age 50 as a Representative in Congress.

Ray was as natural a leader as ever served in this body, his belief being that to lead one must serve. He always placed service to constituents, and service to his country ahead of self-service. This philosophy made him rise up among his colleagues to become chairman of his party's steering and policy committee and chairman of the Committee on Rules.

Ray was truly a powerful chairman of the Rules Committee, but he never abused his power. His Rules Committee always put the needs of the people ahead of themselves or their party.

Mr. Speaker, many of our newer Members are searching for models of statesmanship to guide them in their own congressional careers. They need to search no longer; Ray Madden is their model.

Mr. BURTON of Indiana. Mr. Speaker, I join my colleagues from Indiana and around the Nation today in honoring the memory of the late Ray Madden, who passed away in September.

The day we lost Ray Madden was a sad one for all of us who serve in this body and for Members of Congress who have been fortunate enough to serve with him during his long and distinguished career. He held the record for length of service among Indiana Congressmen, serving the people of Indiana's First District for 34 years. He was first elected to the House of Representatives during World War II in 1942. He went on to serve through 17 Congresses and under 7 Presidents.

But his achievements cannot be measured simply by counting the number of years he served. He served with distinction. Before he was defeated in his bid for reelection in 1976, at the age of 84, he had risen to the powerful position of chairman of the House Rules Committee. In this position, he wielded a tremendous amount of influence over which bills came to the House floor for debate and under what procedures they were debated.

Ray Madden devoted his entire life to public service. Born in 1892, he was elected city judge in Omaha, NE, at the remarkable young age of 23. He resigned his post a year later to enlist in the Navy and fight for his country during World War I. During the 1930's, Madden moved to Gary, IN, and became active in local politics. He was elected Gary city comptroller in 1935 and Lake County treasurer in 1938. With the base of support he had developed in these positions, he then launched his bid for Congress in 1942.

Ray Madden was a man who truly loved this institution. He never drifted far from the House, even when he was retired. He lived in his home at First and Maryland, just a block from the Nation's Capitol, and remained active in matters of national policy until the day he left us.

Mr. Speaker, the people of the First District of Indiana and the Nation's Capital have lost a true friend and a dedicated public servant. We are all greatly saddened by his loss.

Mr. STOKES. Mr. Speaker. I would like to thank the distinguished gentleman from Indiana, [Mr. VISCLOSKY] for reserving this time for Members to pay tribute to our former colleague, the Honorable Ray Madden, who passed away on September 28, 1987, at the age of 95. With his passing, this Nation lost a great leader.

Those of us in the House who worked with Ray Madden through the years will miss him.

Ray represented the residents of Indiana's First Congressional District for 34 years. First elected to Congress in 1942, he holds the record for length of service among the Indiana delegation.

His dedication, hard work and commitment earned him the admiration and praise of his constituents. Ray served as chairman of the Rules Committee, vice chairman of the Democratic Congressional Campaign Committee and chairman of the Democratic Steering and Policy Committee. As demanding as his schedule was, Ray always found time to share his wisdom and experience with others. As a freshman Member of this body, I especially remember and appreciate Ray's advice, support and friendship.

Chairman Madden was a gentleman and a statesman. It was honor to have served with him. I join my colleagues in extending our sympathy to Ray's family and his many friends. Although he is no longer with us, his contributions to this body will long be remembered and his spirit will live on.

Again, I thank the gentleman from Indiana, [Mr. VISCLOSKY] for reserving this time to remember a very special man—Ray Madden.

Mr. SHARP. Mr. Speaker, I would like to join my Indiana colleagues in noting the passing of Ray J. Madden who represented Indiana's First Congressional District in the House of Representatives for 34 years.

Others today have outlined his long and distinguished career, so there is little I can add to the details. When I began my service in Congress in 1975, Ray Madden was dean of the delegation, Consequently, those of us elected the previous year turned to him for advice and counsel. He was always willing to listen and give direction as many of us learned the rules and procedures he had long ago mastered.

There are few in the history of the House who have served as long and diligently as Ray Madden. He understood well the workings of the House and had deep respect for the role of a Congressman being an intermediary between the people and their Government. He performed that function well as a model for those just learning the traditions and rules of Congress and how Government should reflect the needs and aspirations of its citizens.

It was an honor to have known him, and I would like to extend to his family and friends my personal condolences.

Mr. UDALL. Mr. Speaker, it was with sadness that I learned of the death of Ray Madden, a former colleague and friend.

Ray Madden serviced in this House for 34 years, and I'm told that's a record for service in this Chamber.

Records are impressive, but I'm certain Ray would rather be remembered for the standards he set during his time in the Congress, and those worth remembering.

Ray Madden was a man who grew up in his native Indiana during the depression, and those trying and difficult days left a mark on his conscience. He never forgot America's working people. He worked hard to make life better for every citizen.

For Ray, election to the Congress meant public service, and he personified the phrase. He was fair, determined, a devout believer that Government must be civil and compassionate, and above all, he was a gentleman. When the man who defeated him died in 1982, Ray made the trip from Indiana to Washington to attend the service. He had nothing but praise for the late Adam Benjamin, and that was a gesture of grace and kindness that was typical of Ray Madden.

I'm pleased that Ray and I were able to know one another and that we had the chance to work together. My sympathy goes to his family. I am sorry he is gone.

Mr. CONTE. Mr. Speaker, it is with great respect and admiration that I join my colleagues today in paying tribute to Ray John Madden.

Not only was Ray a vibrant and compassionate man, he was a devoted public servant whose work reflected a passionate concern for the people of his district and this Nation. Public service is what Ray valued most, and the only reward he sought was to spend his life working to improve the lives of others.

Before being elected to the House from Indiana's First District in 1942, he served as municipal judge in Omaha, in the Navy during World War I, as the comptroller of Gary, IN, and as the treasurer of Lake County, IN.

Throughout his 34 years in the House, Ray worked long and hard to build a strong national economy and to assist Americans of all walks of life. He served on the Rules Committee for 26 years, the last 4 as its chairman; he fought for the support of housing, education, and mass transit, and he sought to build confidence on our Government among the Nation's youth.

In short, his work provides an inspiring record for all who seek to make a positive impact on the lives of others. For those of us who had the privilege of working alongside him, he was also a man to respect for his independence of thought, insight, and vitality.

It was an honor to have known and worked with Ray, for he was a man whose work is certain to live on as a legacy of selfless service to this country and its people.

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to the late Ray J. Madden, our distinguished former colleague who ably served the citizens of the First District of Indiana for 34 years. His accomplishments and contributions in that time are well-known, his commitment to public service a deep and abiding one.

Ray was an extraordinary individual who compiled an impressive record of achievements in the Congress, earning him the respect of his colleagues and constituents alike. He was a strong and effective leader who served as chairman of the Rules Committee, chairman of the Democratic Steering Committee and vice chair of the Democratic Congressional Campaign Committee. He was also a member of the old Naval Affairs and the Education and Labor Committees. Of all his chairmanship positions, however, he was probably best known for his investigation of the "Katyn Forest Massacre" where some 15,000 Polish army officers and intellectuals were killed during World War II. After lengthy and diligent investigation on the part of the special committee headed by Ray, it was determined that the Soviet Union was in fact responsible for the deaths of these officers.

Since he began his political career at the age of 23, Ray Madden continuously showed compassion and concern for the needs of people, leaving an indelible mark on those whose lives he touched. Although he will be greatly missed, I know his memory will live on, providing inspiration to others. Mr. Speaker, I join with my colleagues to express our deep sense of loss and offer my sympathy to Congressman Madden's family.

Mr. QUILLEN. Mr. Speaker, I want to join with my colleagues in remembering Congressman Ray J. Madden of Indiana who died of a heart ailment on September 28 at the age of 95.

Congressman Madden served as a Member of Congress for 34 years representing the people of the First Congressional District in northwestern Indiana. Mr. Madden and I served together on the House Committee on Rules for 12 years. He was the committee's chairman for the last 4 years of his congressional career and I recall his tenure as chairman as one in which he guided the committee toward increased support for the positions of the House Democratic leadership. He and I enjoyed a good working relationship over the years as we worked on the business of the committee.

Congressman Madden was a physically vigorous man as is attested to by his remarkable longevity. He served his constituents well and worked hard, especially for the interests of the steel industry and the thousands of steelworkers located in his district.

Those of us who knew Congressman Madden are saddened by his passing.

Mr. COATS. Mr. Speaker, I am pleased to join my colleagues in paying tribute to our late colleague, Ray J. Madden, and I thank the gentleman for taking out this special order to honor this exceptional individual.

I was elected to Congress 4 years too late to have had the pleasure to serve with Mr. Madden, but I certainly knew of the legend of Ray Madden upon my arrival. Mr. Speaker, we often talk about the commitment various individuals have made to their constituents, but few can match the record of Ray Madden. I find it truly amazing that Ray Madden first ran for public office in 1916 on the Woodrow Wilson ticket. At that time he was elected to the position of municipal judge in the city of Omaha, NE—making him one of the finest exports the State of Nebraska has ever given Indiana. From that time forward, Ray Madden served his country, his State, and the constituents of the First District of Indiana for 60 consecutive years.

Ray Madden often spoke of the need for the average citizen to pay more attention to the issues and candidates of the government which served them. Certainly, he was, in himself, probably the best example of this type of participation. As was alluded to earlier, Mr. Madden's length of service, 34 years, is a record among Indiana Congressmen.

Mr. Speaker, we in Indiana have been blessed with some exceptional political leaders over the years, but any discussion of the best of the best would certainly have to include the name of Ray Madden. His record is one that his district, his State, and his country will not soon forget.

Mr. ANDERSON. Mr. Speaker, at this time I would like to rise to pay homage to an outstanding individual who not only served the public and our great Nation in the U.S. House of Representatives, but also contributed greatly to humanity. I speak of former Congressman Ray J. Madden.

Ray John Madden faithfully served his first district in Indiana from January 1943 until he retired in January 1971. During his many years in the U.S. House of Representatives, Ray managed to harness his intense energy into serving his fellow man with a sincerity that is rarely equalled. He served as vice chairman of the Democratic Congressional Campaign Committee, chairman of the Democratic Steering and Policy Committee and chairman of the House Rules Committee.

Ray Madden, a graduate of Creighton University Law School, practiced law after serving his country in World War I. His keen interest in politics led him to public office at the age of 23, as he was elected municipal judge of the city of Omaha, NE. From this time until he retired, Ray utilized every effort and opportunity to help those he represented. His expertise, and great understanding of our Constitution and legislative process is reflected in the many years Ray was elected to public office.

Mr. Speaker, the passing of an individual such as Ray Madden will be keenly felt by the district he served in Indiana, the U.S. Congress, and all of mankind. I, along with my colleagues in the U.S. House of Representatives will miss Ray Madden. However, it is comforting to know that Ray contributed so much to our society that these contributions will serve as an enduring tribute to a great American.

Mr. LATTA. Mr. Speaker, I join my colleagues in paying tribute today to Ray Madden who passed away on September 28 at the age of 95. Ray was a good friend to anyone who ever had the opportunity and privilege of knowing him.

Ray Madden was a gentleman and a gentle man. He came to the Capitol in the beginning of 1943 and he never left, living just across the street in the United Methodist Building during his long tenure and afterwards always within sight of the Capitol dome.

Who can forget Ray Madden, as a Member and later as chairman of the House Rules Committee sitting in that small hearing room, just off the House Chambers, happily but softly whistling to himself as witnesses on crucial issues of the day testified at the opposite end of the long table. Those quiet whistles somehow brought a sense of peace to the room.

I served on the House Rules Committee when Ray was its chairman, and I can personally attest that Ray was most cooperative and understanding of the minority side even though he very rarely voted that way.

When Ray Madden passed away last week he left many monuments to the wonderful and dedicated service he rendered to his country. He loved this institution and he will be missed and fondly remembered by all who knew him.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in the House of Representatives in paying tribute to the former chairman of the House Rules Committee, the Honorable Ray J. Madden, who died on September 28, after a long and distinguished career in service to our Nation.

It was a sad day for me when I learned of Ray's death since we had known each other and had been steadfast friends for almost 40 years. I first met Ray during the 1948 Presidential election, when I was serving as the director of political action of the United Steelworkers of America. During the 34 years he served in Congress, Ray received strong endorsements from the United Steelworkers of

America for his unwavering and selfless dedication and responsiveness to the needs of the people he served.

After I came to Congress in 1965, I had the pleasure of serving with Ray for 12 years, and it was a truly rewarding personal experience for me to have worked with him in the House of Representatives. Ray was first elected to the 78th Congress, and proved himself to be a most capable legislator, fully worthy of the trust and confidence of his constituents of the First Congressional District of Indiana. He also was highly respected for his fairness and for his leadership abilities, by every Member in Congress who had the privilege to work with him during the years he served in the House of Representatives.

Seldom does one find a man of Ray Madden's stature, and a man so wholeheartedly committed to the betterment of the lives of working men and women in America. The legacy of outstanding legislative accomplishments he has left to all Americans has made the United States a greater country than ever before. Ray indeed will be missed by all of his colleagues in the House of Representatives and all of the people whose lives were enhanced by his work and his accomplishments.

Mr. DE LA GARZA. Mr. Speaker, many illustrious and distinguished Americans have served in this body, but few have combined such a long and faithful representation of their congressional district with so many other notable achievements as did the late Honorable Ray J. Madden to whom we pay tribute today.

Ray Madden lived a truly full and meaningful life. Throughout his long and productive lifetime he exhibited unlimited devotion to his Nation and to his constituency guided by principles of justice and brotherhood. He was a man of knowledge, experience, kindness, and integrity and for the 34 years he served in the House of Representatives he did so with complete dedication earning the respect of his colleagues. I know it certainly was my pleasure to serve with Mr. Madden and to witness his many accomplishments during a portion of those eventful years.

A man of rich gifts in many fields, an honest and courageous public servant, an unforgetting and unforgettable friend, Ray Madden was a man on fire for his country. He was a man of action calling upon us all to fulfill our responsibilities not only for the sake of our own Nation and people, but for the sake of those throughout the world who look to us for hope, inspiration, and leadership—and we would do well to study the example of his life.

Certainly he carved a place in history in his State of Indiana and his country as well as in the hearts of those who had the rare privilege to know him and to work with him. He will be long remembered as a man who fulfilled his duty to his country in overflowing measure. His passing leaves me with a loss and I take this opportunity to salute the memory of Ray J. Madden, a great American.

H.R. 162, RISK NOTIFICATION BILL

The SPEAKER pro tempore (Mr. OWENS of New York). Under a previous order of the House, the gentleman from Michigan [Mr. HENRY] is recognized for 60 minutes.

Mr. HENRY. Mr. Speaker, I have taken the podium today to discuss the whole issue of H.R. 162, the so-called risk notification bill, and to try to give ourselves an opportunity to deliberate briefly on some of the concerns that many have raised relative to problems in the bill as reported by committee.

For that purpose, I would yield first of all to my senior member and ranking Republican on the Committee on Education and Labor, the gentleman from Vermont [Mr. JEFFORDS].

(Mr. JEFFORDS asked and was given permission to revise and extend his remarks.)

Mr. JEFFORDS. I thank the gentleman from Michigan for yielding to me and for both bringing this special order and also bringing the attention of our colleagues again to the very serious questions we will be facing next week relative to H.R. 162, the high risk notification bill.

I will not take a great deal of time, but I do want to take just a moment to emphasize the substantial advantages that we feel our alternative has. All of us want to do something to help people who have been or are exposed to health hazards in the workplace.

Yet we have to be careful that what we do is productive, and that it will result in improvement of their lives. We also have to be careful not to cast an unfair burden upon businesses which have employed these workers in the past.

Thus the proposal that the gentleman from Michigan has been spearheading for some time now, and that I have also joined in, would try to bring a reasonable resolution to this problem. We believe it has some very real advantages over the proposal being proposed by Mr. Gaydos.

First of all, we believe that it is better to take the existing system, with whatever problems if may have, and improve it. There are a number of things our alternative would do to improve the existing system; expanding the hazard communication standard to other areas, other businesses, for example. We try to make sure that we do not create problems for the future and that we solve those that are presently in the workplace.

Second, we take a more reasonable approach to the problems of the past, recognizing that if we react hastily it could well result in unbelievable litigation. We guard against counterproductive results to employers still in existence, who would have been and are still unable to get insurance for some of the kinds of tort actions that are being brought. Thus, we have moved forward with a positive yet cautious approach in order to make sure that former employees are not neglected.

I commend the gentleman for bringing this special order to acquaint our membership with the very excellent alternative that the gentleman from Michigan certainly must take a large part of the credit for crafting.

□ 1930

Mr. HENRY. Mr. Speaker, I thank the gentleman from Vermont [Mr. JEFFORDS] and again share my appreciation for his effort in trying to bring some light on this issue.

I would also like to point out for the benefit of our Members that there is really only one instance in which the Federal Government has attempted on its own to institute some sort of risk notification program.

Many of our concerns relative to the bill as reported by the committee are really in what we have learned from the one instance in which the Federal Government did conduct on an experimental basis such a risk notification program, and for that purpose I would like to recognize the gentleman from Georgia [Mr. BARNARD], who represents the district in which this event took place, and I am sure he has some good counsel for us.

Mr. BARNARD. Mr. Speaker, I very much appreciate the gentleman yielding me this time. I am delighted to be here this evening to testify as to this experience which happened right in my hometown of Augusta, GA.

Mr. Speaker, next week the House is scheduled to take up H.R. 162, the high risk notification bill. The legislation would set up a mechanism within the Federal Government to notify workers who are at increased risk of contracting a disease that may be occupationally related. That is what I would like to talk about, their experience there. Several years ago the National Institute for Occupational Safety and Health, better known as NIOSH, conducted a pilot risk notification study in my District at the Augusta Chemical Co. in Augusta, GA.

Much of the information we have concerning the Augusta study comes from a detailed report issued by NIOSH in August 1983. Since I can only briefly summarize some of the report's findings today, I would urge each of my colleagues to take the time to read the report to fully understand its significant implications to the legislation at hand.

The pilot project was initiated by NIOSH in 1979 during the last 2 years of the Carter administration. The study was performed in response to inquiries from the Senate Labor and Human Resources Committee, which at the time was chaired by former Senator Harrison Williams of New Jersey. The occupational hazard in question was a chemical called BNA, which has been identified as increasing the risk of contracting bladder cancer to anyone who has been exposed to it. NIOSH concluded that all hourly workers who had worked at the Augusta Chemical Co. between 1940 and 1973 were at increased risk because of BNA exposure, a total of 1,385 individuals. The data presented showed 13 cases of bladder cancer in this group, out of an expected total of less than 4. During the next year and a half, NIOSH worked with the Social Security Administration and the IRS, as well as the Georgia and South Carolina Motor Vehicle Bureaus, to find out the vital status of each person in the cohort group. NIOSH eventually developed a list of 1,094 individuals, assuming that 272 of the original 1,385 were deceased and 19 had no address available.

In August 1981, 2 years after the project was initiated, individual letters of risk notification were sent to each of the 1,094 Augusta workers on the NIOSH list. The letter advised each person of the risk involved and urged the individual to seek medical counseling. Fully one-third, or 364 of the letters were returned because of invalid address, no forwarding address, no such address, and other reasons. The NIOSH report states that "efforts to locate valid addresses of these people were tedious." Second and third letters were sent out, and then telephone contacts were made. In addition to the individual notifications, there was also a communitywide notification effort. This included notifying 900 regional physicians about the project, a media campaign using both print and electronic methods, and the efforts of a worker support and advocacy group called Committee for Concerned Citizens. NIOSH maintained detailed logs to track the responses.

Despite these "fairly rigorous search efforts," as NIOSH described them, 245 out of the 1,094 workers on the NIOSH list were never located. In other words, more than 1 out of every 5 individuals that NIOSH determined were still living and were at increased risk could not be found, even with a concentrated effort to locate them.

Once the notification effort was completed, NIOSH urged the workers to enroll in a NIOSH provided medical screening program, which the agency identified as "a key component of this pilot project." The NIOSH report concludes that "notification is not a single act but rather the first stage in a long followup process." A NIOSH official has estimated that the cost to the agency for the Augusta pilot study was between $¾ million to $1 million. The former plant manager of the Augusta facility estimates that medical screening to date, and remember that this is an ongoing process over the life of each participating worker, has been $5,000 per individual. These figures suggest that the costs attached to medical screening by H.R. 162's proponents have been greatly underestimated. The Augusta experience vividly illustrates that we need better figures on just how much the risk bill is going to cost.

Another revealing consequence of the Augusta study shows that out of the group of 849 who were notified, 171 liability claims were filed against the company, or a claim by over one in every five persons in the group. The total amount asked for in these claims was $335 million. Not surprisingly, NIOSH notes in its report that "many of the lawsuits appear to be by people with no evidence of bladder cancer." It observes that the impact of implementing a comprehensive risk notification program "in terms of litigation, would be staggering." NIOSH goes on to state that a "NIOSH project officer was deposed by an attorney—for a worker—who maintained the BNA caused his client's brain tumor. In the deposition it was stated that there is no such known link in the literature." The report also observes that "many workers expressed fears about their risks and anger at the company," and that "many spouses of the workers expressed fear about their own risks." Bear in mind that the data presented showed 13 cases of bladder cancer in the original group of 1,385 workers, or less than one case per 100 workers.

In addition to the flood of litigation generated by the NIOSH pilot study, other issues of serious concern were raised. For example, the NIOSH report discusses at some length the role of the media in the notification process. NIOSH observes that one of the major Augusta papers chose to "break" the news of the study during its preparatory phase, despite "urgings to the contrary" by project planners. While I am convinced that our local papers were conscientious in wanting to get out the word on an important story, the fact remains that they were dealing with a highly sensitive topic that not even the best scientists yet fully understand.

Between January 1981 and August 1982, the local newspapers ran 59 articles concerning the pilot notification project. Some of the headlines accompanying these articles are notable.

"Ghastly delay."

"Workers sue, seek expenses."

"Notification of cancer ills still 'hung up'."

"20-30 expected to have cancer."

"Former Augusta Chemical worker files $1.5 million suit against firms."

"Screening program for bladder cancer running out of funds."

"Nature of disease blocks aid for workers. Threat can complicate search for new jobs."

"Ex-chemical worker files $4 million suit."—All of these were just headline cases.

How will the media react when the new risk assessment board created by H.R. 162 starts its deliberations on whether a certain group should be notified as at risk? Can we assume that the facts will be reported accurately and without sensationalizing them? How will it be reported if the board concludes ultimately that a risk determination is not warranted? These are questions that should be—but have not been—carefully examined in the context of this legislation.

While the high risk bill contains privacy protections and prevents employment discrimination against those in a population at risk, they could not completely protect individuals. For example, the NIOSH report states that a local newspaper actually published the names of 121 former employees who had not received the notification letter. As the report observes, "such publication potentially invades the privacy of the cohort members." This is another issue that has not been adequately examined.

Additional issues raised by the NIOSH study include whether adequate medical services would be available in the case of a large-scale notification; the problem of locating workers in the population at risk; protections against falsely notifying individuals who should not have been included within the population at risk; and implications to agencies and institutions who perform human health risk studies.

Without disputing the higher risk of bladder cancer to the workers involved in the Augusta study, the fact remains that the overwhelming majority of them will live out their lives without ever contracting the disease. The high risk bill contemplates that as many as 300,000 workers annually will receive risk notifications similar to those received by the Augusta workers. We must ask ourselves whether notifications on that scale, in light of the needless anxiety it will cause to so many individuals, is a wise public policy choice? Perhaps we should proceed a little more cautiously and implement the much more tightly drawn risk notification program contained in the Jeffords-Henry substitute, at least until we know a little more about what will happen when such a requirement is imposed as a matter of Federal policy. Moreover, Jeffords-Henry wisely assigns many of the difficult issues I have discussed today to an expert study commission, which will examine them carefully and report back to Congress with its recommendations on how we should proceed.

I appreciate this opportunity of bringing this document to the attention of the Members on your special order. I realize it was lengthy, but I think it is important for the study of every Member of Congress as to what this bill, H.R. 162, will actually do as far as cost and complication in the notification process.

Mr. HENRY. Mr. Speaker, I want to thank the gentleman from Georgia [Mr. BARNARD] for his very splendid remarks. I think it is very important to recognize that frankly this is the only instance in which the Federal Government has engaged on a pilot effort to see what would happen under such circumstances. As the gentleman from Georgia points out, the flood of litigation was overwhelming, the costs were 10 to the second power greater than what is estimated by the proponents of H.R. 162 on a per-case basis. The community disruption and even in fact some of the secondary effects to the health of the workers in terms of stress claims really gives us serious cause for concern.

Mr. BARNARD. Mr. Speaker, all those are very legitimate concerns.

Mr. HENRY. I thank the gentleman for sharing his insights with us.

Mr. Speaker, I think it is very important that we take a little bit of time to try to in a dispassionate environment separate some of the many issues that have arisen in conjunction with H.R. 162.

I would note that it is a very small bill, it is only some 37 pages. One wonders how such a small bill can cause such controversy and quite frankly such confusion among our own membership. I think the first thing we want to reiterate is to point out the very fundamental distinction between risk notification and hazard communication.

Once again, Mr. Speaker, I must express some degree of distress that I am afraid many of our Members on both sides of the aisle quite frankly are somewhat confused over this issue, but it is a fundamental division in the sense that the risk notification proposal in this bill seeks not to protect employees' health prospectively but, rather, quite frankly, to assign cost and, unfortunately, inadvertently because of the way the bill has been drawn, establishes some rather significant new liability exposures for past practices in the workplace which took place in a very different time and work environment period.

While I want to address that at greater length, we have several other individuals who would like to speak on this bill and particularly its impact on competitiveness and some of the other problems faced by the very businesses that would be faced with the burden of this legislation. For that purpose I am pleased to recognize the gentleman from Illinois [Mr. FAWELL] who has been most helpful on this issue.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me this time. As the previous speaker has indicated, I, too, am concerned about the liability feature, the tort liability feature which is one feature that I think has been indirectly certainly commented upon. The one area that I would like to refer attention to is in section 7, which deals with what I would call a statutory liability that is cast upon the employer.

If I read this section correctly, and I believe I do, it states that upon the request of any employee notified under this act the testing and the evaluation and the medical monitoring to which an employee would be entitled if he is within this population at risk of disease associated with an occupational health hazard, that any such employee shall be provided or made available through the current employer the testing and the evaluation and medical monitoring.

What I notice is that this will be at no additional cost to the employee, and the bill goes on to state, "if any part of such exposure of the health hazard occurred in the course of employee's employment by that current employer."

I construe this to mean first of all looking at it as a lawyer, that there is absolutely no requirement for proximate cause to put this kind of liability upon the current employer, no negligence required whatsoever, and one can get by that, but then it seems to me that it is kind of a musical chairs game played here because it is the last employer, the current employer who may be an employer for only 1 day out of a 20-year work period, somebody may be at a steel company that has gone belly up, and he hires this person in a like industry and it would appear here that just 1 day if there is any part of the exposure occurring in the course of that employment, then that new current employer would be ipso facto liable.

It also seems to me that this would mean that all the employees in the particular class, employees that are in this particular occupational health hazard would all be in exactly the same position and he would be liable for all the medical monitoring costs.

□ 1945

Mr. HENRY. My understanding then is that since under this bill as it was reported by a committee, the current employer bears all the medical monitoring costs, whether or not that employer was in any way negligent in terms of any appropriate standard of the law, or even if the employer was not negligent, but the employee's or any portion of that employee's exposure may have been contributory to the overall risk that an employer may have had over a lifetime of work, the employee takes on the whole cost burden.

Am I right at that point?

Mr. FAWELL. That is exactly the way I would construe it.

Mr. HENRY. Would that not also mean then if I am a laid-off steelworker, or I am a laid-off textile worker, or I have come from any other industrial environment in which I may have been exposed under past occupational practice to some hazard, whether or not it is known that I have any health problem, or at that point whether or not I know I have any risk, that a personnel officer evaluating me with that knowledge quite frankly might be very inclined to shield such a person from prospective employment in order to avoid attaching itself to the liability exposures in this bill.

Mr. FAWELL. That would be in my opinion exactly what would occur.

The gentleman has a type of subtle discrimination. The bill tries to set forth an elimination of discrimination by saying no employer or other person shall discharge or in any manner discriminate against any employee or applicant for work—has been a population at risk, et cetera.

As a practical matter, that is even more of a discrimination upon the current employer, because he is darned if he does and darned if he does not. He is in a position theoretically to accept the employee, even though for 15 years he had toiled in a steelyard and was technically within the particular occupational health hazard which may be similar to his particular form of work, so he would try naturally to avoid that kind of a hiring.

As a practical matter, he not only finds that he must bear all of the expenses insofar as the medical monitoring is concerned, and I do not know, and I do not think there is a prohibition in regard to time involved here; but as a practical matter, if that employee goes to a physician and asks that physician if he should be removed to a less hazardous or nonexposed job, he then really puts a physician in a real dilemma, because any physician is really concerned about medical malpractice, and certainly he is under those circumstances where he is toiling in a business where there is an occupational health hazard, is most likely going to have to agree and say well, you should be removed to a less hazardous, nonexposed job.

That then means the employee has a right to be moved to this less hazardous job, nonexposed job, and shall maintain the earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job, so now the employer has that added responsibility, not only with this one employee, but in regard to all who are in the class of employees who have the same type of an occupational health hazard.

He is stuck with that, as I see it.

Mr. HENRY. I note in some of the other legislation to which we have sometimes referred to the passing on this House floor as mandated benefits legislation, there has been a lot of discussion recognizing that large and small and medium-sized firms are better able in terms of the amount of personnel to make such accommodations.

When we talk about and discuss matters such as mandated benefits in the area of spousal leave and some of the other issues before the floor, we have debated whether or not it should apply to employers with less than 15 employees or now less than 35 or 50.

Are there any exceptions at all in the committee bill relative to occupational job transfer in this provision, finding alternative work replacement?

If I am a small foundry with eight employees, is there any protection for me, or am I going to create a new post, or put this person on the dole?

Mr. FAWELL. I do not believe there is. I believe the gentleman is more familiar with the provisions than I am.

My main point is, it seems to me extremely unfair to the employer who is going to face the potential of an awful lot of tort lawsuits to also have this type of statutory liability cast upon him, while all previous employers who may have contributed get out scot-free.

It is one that not only casts upon him the responsibility of covering all the medical monitoring, all that goes with that, but it also means he has got to make a place of a nonhazardous—and if it goes for one, it will go for all 20 or 50 or 100, and that may be in that particular class of employees, and that is not realistic nor fair.

I think this bill, its intent is fine. Albert Schweitzer said that anybody that got a good idea can carry it too far. This is to me carrying it much too far.

I have a natural sympathy, because I am one who suffers because of environmental problems. I happen to have lost a thyroid gland, because I had some problems some 30 years ago; and I know what it is to suffer under those circumstances and 30 years later have a tumor that has to be taken and all that goes with it.

I am deeply empathetic, and I think we should do all we can possibly do to make the workplace a very, very safe place; but this kind of a bill has been thoughtlessly drawn.

It simply, I repeat, is not fair to the employer, especially under the musical chairs scenario to which I just made reference.

I thank the gentleman for asking me to be a part of this special order.

Mr. HENRY. I thank the gentleman for the gentleman's contribution and for the help the gentleman has been in committee in trying to draw attention to some of these issues as well.

I would like to touch on eight basic issues in this bill and summarize them very briefly.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. HENRY. Mr. Speaker, I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding to me.

I first want to commend the gentleman from Michigan [Mr. HENRY], my good friend and colleague whom I serve with on the Committee on Education and Labor, for the gentleman's leadership on this effort.

The gentleman from Michigan, along with the gentleman from Vermont [Mr. JEFFORDS], is proposing a substitute to H.R. 162, a substitute that in fact will provide the House and the Congress with a way to pass good legislation, legislation that will solve the problem without creating untold new problems.

Mr. Speaker, the proponents have tried to make much about the so-called industry support for the high risk notification bill. In fact, as anyone who takes the time to look will soon discover, that support involves but three industry trade associations and a very few large corporations. The vast majority of U.S. employers, including every major small business association and more than 300 other trade associations and companies who have gone on record, oppose H.R. 162.

One of the trade associations which supports the bill is the Chemical Manufacturers Association, also known as CMA. In a July 14, 1987, letter to House Members, the CMA expressed support for H.R. 162. In another document dated September 10, 1987, and entitled "CMA Analysis of Jeffords-Henry Substitute to H.R. 162," the CMA urges House Members to defeat the alternative to H.R. 162 that will be offered on the floor by Mr. JEFFORDS and Mr. HENRY.

Before proceeding, I want to point out that CMA's support for H.R. 162 is by no means endorsed by all of its member companies. In fact, some of CMA's most notable members, including Mobil, Proctor & Gamble, Georgia Pacific, Goodyear, FMC, Borg Warner Chemical, and Shell, have taken the extraordinary step of publicly disavowing their association's position. As I am about to discuss, perhaps these companies have seen something in CMA's position that they do not find entirely consistent.

CMA decided to support H.R. 162 this year when changes were made to the bill which the association claimed met its previous objections. In fairness, the association has always been on record as supporting the concept of risk notification. CMA's about-face on the Jeffords-Henry substitute makes one wonder if we are dealing with the same association which was actively involved in opposing risk notification legislation last year and supporting a Jeffords substitute similar to this year's alternative.

The gentleman may recall that last year Representatives JEFFORDS and PETRI introduced a substitute to the pending risk notification bill. That substitute, like Jeffords-Henry this year, focused on disease prevention by expanding upon existing Federal programs rather than creating new ones. In an October 15, 1986, letter to House Members directed toward H.R. 1309, the predecessor to H.R. 162, the CMA wrote that the bill was "ill-suited to achieve its goal of worker protection and occupational disease prevention. We believe the Jeffords-Petri substitute, which builds upon the existing OSHA hazard communications standard, is a more practical alternative."

This year, in its analysis of Jeffords-Henry, the CMA claims that it would place new burdens on employers and that it duplicates existing laws and authorities. CMA also claims that Jeffords-Henry would impose significant new liability, cost, and administrative burdens on employers and manufacturers. These are the same arguments, incidentally, that the AFL-CIO is raising against Jeffords-Henry. Unfortunately, they are outright distortions of what the substitute would actually do.

Curiously, while CMA has been retreating on the substitute in this Congress, most other businesses and business organizations have endorsed it as a sensible alternative to H.R. 162. While businesses certainly recognize that Jeffords-Henry does impose additional obligations—the proposal is not, as its critics claim, a legislative ploy to divert attention away from the real issue of disease prevention—they also recognize that, like CMA did last year, it is a more practical alternative.

I should point out that Jeffords-Henry, if enacted, may result in the need for modification of material safety data sheets. The MSDS, as they are known, are required to be kept in the workplace for every hazardous substance. Jeffords-Henry requires the Secretary of Labor to look at existing MSDS to determine whether more useful information concerning chemical hazards can be provided on the MSDS to workers who may come into contact with a hazardous substance. These modifications to the MSDS would have to be made primarily by the manufacturers of the hazardous chemicals. Given CMA's endorsement of H.R. 162 this year, however, certainly the association would not oppose Jeffords-Henry because it contains a requirement that would provide additional health hazard information to workers.

In any case, setting aside the CMA's sudden cold feet with respect to the substitute, how does the revised H.R. 162 address the basic objections to its predecessor, which the association strongly opposed last year?

In a prepared statement submitted to the Education and Labor Committee on March 24, 1987, the CMA stressed its basic position, that is that risk notification should be a two-step process. The first step was the existence of strong scientific evidence that human exposure to a substance was likely to result in disease. Step two required limiting notification only to those employees determined to be at significantly increased risk in light of both the intensity and the duration of their exposure. The bill, as reported by the committee, requires only that evidence show that chronic health effects have occurred in employees exposed to a hazardous substance. That is a far different test than requiring that exposure is likely to result in disease. With regard to step two, the bill would include individuals in a population at risk because of concentrations of exposure or durations of exposure, or both. That means it could be one or the other, but not necessarily both, which had been the original and correct position of the Chemical Manufacturers Association.

Mr. Speaker, I am certainly not a scientist and do not claim to know all of the complicated scientific issues that are present in the high risk bill.

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Nevertheless, as a member of the committee reading and listening to the testimony, I do not think we can look at CMA's two-step process and the language that is actually contained in the bill and conclude they say the same thing. While I do not dispute that some changes were made to the bill that met some of CMA's previous objections, neither does it appear that the bill has fully addressed the association's fundamental concerns which they articulated.

In addition, I am particularly puzzled, regardless of the position on the final bill, by the CMA's strange turnabout on the Jeffords-Henry substitute. That measure, if anything, has been improved over last year's version specifically to meet legitimate industry concerns. Indeed, employers who opposed the substitute last year now support it. Why would the CMA, which last year was one of the substitute's strongest supporters, suddenly find it so objectionable?

The fact is that the answer is contained somewhere in the world of politics and not in the substance of the legislation, and that is unfortunate.

At some point, the CMA representatives, without in my judgment the full understanding of most of the members, believed that they needed to make a deal with committee staffers in order to avoid a worse bill.

Now, there is nothing wrong with that conclusion, but the problem is that those CMA representatives made a bad deal. H.R. 162 is a bad deal for themselves, for their own employees, and for all other American employers and employees alike.

One fact remains which needs to come out loud and clear to every House Member who will vote on this bill, and that fact is this. This bill will cost jobs to American workers. This bill goes too far. It is too extreme and its primary effect will be to drive more American industry overseas and to cost more American workers their jobs.

The extreme restraints and requirements of H.R. 162, I would say to the gentleman from Michigan [Mr. HENRY], are not required in Taiwan. They are not required in Brazil and they are not required in Korea or virtually anywhere else. If the CMA and if the proponents of H.R. 162 have their way and place those extreme requirements and untold costs onto American workers, then there will be fewer American workers. Those American industries can simply locate their businesses someplace else.

Mr. HENRY. Mr. Speaker, I appreciate the gentleman's comments.

I think we ought to make one interjection at that point. We have to make very, very clear, that what is at issue here is not simply trying to compete on the lowest common denominator in terms of the health care protection we give to our workers. The issue is, is there a better way of addressing this issue which is not only more cost effective, but that is better in terms of protecting the legitimate health concerns of the American worker.

I ought to point out that the substitute that the gentleman from Vermont [Mr. JEFFORDS] and myself are offering, by focusing on substantially strengthening hazard communication, substantially expanding the number of workers who come under the protection of the OSHA Act, substantially increasing those hazards against which an expanded population will be advised, and also by testing once again the risk notification for 100,000 workers for which we think some reasonable grounds of risk notification does exist, doing it for the entire population, the entire universe of workers that we know are at this point in time on a carefully guarded basis, rather than opening it up to 20 million manufacturing workers, we can do all that, which is more than the committee bill for less, and that is the key.

Mr. BARTLETT. Mr. Speaker, if the gentleman will yield briefly on that point, the gentleman is absolutely correct.

The gentleman from Michigan [Mr. HENRY] and the gentleman from Vermont [Mr. JEFFORDS] are not advocating simply a continuation of the status quo of the last 10 years. The Jeffords-Henry substitute is proposing a vehicle, a way to provide true disease prevention, of notification of hazards in the workplace and notification of how to avoid those hazards and to do that in a way that will keep those jobs here by not offering an extreme virtually unlimited tort liability kind of legislation in which notification would occur to untold numbers of workers who may or may not have been exposed to any kind of a hazard.

The Jeffords-Henry substitute is indeed a hazard notification substitute that would toughen up the requirements, that would require workers to be notified of hazards in the workplace.

H.R. 162, by contrast, provides something to the opposite. H.R. 162 would take as its basis the requirement that the American Government notify all workers of all populations if they were somehow ever involved in an industry or in a population in which that industry as a whole had a higher statistical sampling of a particular kind of disease. That is not hazard notification. That is an invitation to lawsuits. That is an invitation to chaos in the workplace and it is an invitation to a loss of jobs for American workers.

We can do better. We can do a better job with the Jeffords-Henry substitute by providing disease prevention and hazard notification that protects American workers and saves their jobs at the same time.

Mr. Speaker, I commend the gentleman for his leadership in this area and thank the gentleman for the time.

Mr. HENRY. Well, Mr. Speaker, I appreciate the gentleman's comments and his assistance on this important measure. I thank the gentleman from Texas [Mr. BARTLETT].

Mr. Speaker, I would like if I may to get back to my eight points very briefly, in reclaiming my time, because I think if we focus on eight issues very briefly and simply, it will help many of our Members perceive exactly what all the commotion is about.

Mr. Speaker, the first of these is the whole issue of understanding this clear distinction between risk notification and hazard communication. This morning we were before the Rules Committee and the distinguished chairman asked of those of us before the committee and gave a hypothetical situation and said, "Would H.R. 162 resolve the problem when I get a complaint from a worker or a union official that there is some hazard in the workplace and we would like someone to come in from OSHA to see whether or not our workers are being adequately protected against that hazard?"

Or the other example that the chairman gave to us in our testimony before the Rules Committee, he asked, "What happens when someone phones and says, 'Well, we have found that there is asbestos in the air-conditioning or heating ducts of a building or a school building and we would like some protection for the people in those buildings.' "

The answer, Mr. Speaker, is that H.R. 162 does not address that issue. H.R. 162, as reported by the committee, does not strengthen the powers of OSHA in any manner whatsoever relative to protecting workers in the job place. That is what hazard communication is about.

Hazard communication is when you have standards in which there are rules relative to climbing ladders, chemical exposures, weight burdens, any number of matters. Hazard communication involves material data safety sheets, the instruction of workers in how to handle those materials, the rights of workers in terms of getting adequate training for handling those materials.

Risk notification, by comparison, does not deal with warning workers and improving the present work environment. Risk notification seeks to identify those workers who in the past—and emphasize past tense—in their former work history in a different era, perhaps in many cases prior to OSHA, were exposed to work environments which may in fact have created statistically some risk for them.

Now, I am going to come back to that, because the Jeffords-Henry substitute covers each and every one of those workers with risk notification and assistance, each and every one of those workers who have up to this point through the Department of Labor and through NIOSH been identified as having been exposed to such risk.

Our substitute addresses that population, while at the same time not opening up an entire program of retroactive notification with all its medical personnel and liability problems to a potential population of 20 million people; but if we understand, first of all, the difference between risk notification and hazard notification, understand that the committee bill does not improve hazard communication, the substitute does, and understand that the substitute also addresses the issue of risk for those who have thus far been clearly identified through public health and Labor Department studies as having been exposed to risk in the workplace—past tense.

Second, we ought to address some of the medical concerns with this bill. We ought to point out that the industrial hygienists, for example, those people who specialize in workplace environments, those very professionals who are responsible for occupational safety in the workplace as an organization opposed the risk notification as it came out of the committee. That seems to me, Mr. Speaker, to be a pretty startling observation.

Further, as the gentleman from Georgia [Mr. BARNARD] pointed out, the National Institute of Safety and Health opposes the bill as it came out of the committee, for the simple reason that it believes the efforts are misdirected and mistargeted in terms of a way in which medicine can best attack the problem of improved occupational safety.

Third, we ought to point out that the committee bill establishes a new bureaucracy, a new health risk assessment system with the new Health Risk Board and the Department of Health and Human Services, separate from the Department of Labor, where basically our present worker occupational safety is managed and administered. We have the problem just administratively of computing agency jurisdiction and the Government once again potentially working against itself.

Fourth, Mr. Speaker, is the issue of cost. We are told over and over again that the potential cost here is roughly $50 per employee when a risk assessment determination is made and workers have to be notified.

We asked the General Accounting Office to project the actual true cost. The General Accounting Office said there are so many unknowns that the cost is incalculable.

The machine tool industry is the only trade or labor association in all the debate which has examined this issue in terms of trying to cost out the effect of risk notification on its industry, one of those industrial groups in our country today which is suffering under grave economic duress because of foreign competition and changes in the international marketplace. The machine tool industry suggests a minimum of 2½ to 5 percent impact on the wholesale cost of its manufactured product relative to the cost of notification and health monitoring alone, without regard to increased liability exposure and insurance premiums.

The Steel Institute, the American Iron and Steel Institute, one of those industries most suffering in disarray in our country, estimates the cost as "catastrophic in proportion" in terms of what it means to the American iron and steel industry.

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Then, last, and I refer again to the remarks of the gentleman from Georgia [Mr. BARNARD], we received an unsolicited letter, an unsolicited letter, from the former personnel director of the Augusta Chemical Co. in Augusta, GA, no longer associated with the firm, no special interest in this legislation other than to advise us as to what his experiences were under the NIOSH experiment in the 1970's, and he reports that, no, the costs were not $50 per employee, the costs on the health screening and monitoring thus far have come to $5,000 per employee, without regard once again to the hundreds of millions of dollars of liability suits that are still pending.

Fifth, Mr. Chairman, the liability issue. I would remind Members that such distinguished scholars as Victor Schwartz, the author of the famous Schwartz and Torts, the very book that many Members of this body used in law school, and that is still probably the leading authority on tort law in law schools of the United States today, indicates that the bill has serious, substantial, severe defects in terms of its claim that it has blocked off frivolous lawsuits and difficult and expensive litigation.

The sponsors of H.R. 162 maintain that the bill is liability neutral because the certificate by which a worker would be notified that he has been identified as an individual who is at risk, that certificate cannot be entered into a court of law. That is true, the piece of paper cannot. The fact of his notification can, and there is no privacy on the list of people notified. Any plaintiff attorney can go down to HHS under this bill and get a computer printout of a thousand people who were notified, and my colleagues can see the class-action suits starting and see the odd ad hoc settlements, one by one, $10,000 here, $100,000 here, perhaps $1 million here in this class-action suit, and the costs begin to add up to real dollars.

Sixth, the issue of preemptions. I emphasize this, Mr. Speaker, because there have been several Dear Colleague letters, several floor speeches, made in which it is uttered that the Henry-Jeffords substitute would preempt State and local right to know or community right to know hazard communication standards which are stronger or more effective in terms of protecting public interests or worker interests than the Federal standards. Mr. Speaker, that is simply not true. It is factually incorrect.

There are two types of situations. One is where you have a State with a State plan. A State can have a State plan for hazard communication and community right to know only if its standards exceed those of the Federal Government. The Henry-Jeffords substitute, in fact, raises those standards. It raises the standards in terms of numbers of workers notified, it raises the standards in terms of what they are notified and warned about, and it also establishes a target risk notification to those whom we now know have been at risk. Surely if we raise the standards and the States do not raise theirs, well, yes, we will preempt when our substitute offers better protections than existing, prevailing State or local work protections. But in any instance, whether it be a State plan or even a non-State plan that has a community or State right to know law as opposed to a hazard communication law, or a non-State plan with hazard communication or right to know law above the Federal standard, that will not be preempted by the substitute. That point ought to be reiterated.

Seventh, Mr. Speaker, we ought to touch very briefly on some of the issues of business support, issues not just of large business, it is small business, the National Federation of Independent Businesses to the manufacturing association, the chamber of commerce, the Farm Bureau. The committee bill as it is written makes the family farmer potentially liable for chemicals used on the family farm even with temporary seasonal agricultural workers which the farmer may have employed in past years.

There are over 300 trade associations, professional groups, including many public health groups, who are opposing the committee bill because of the way it is drawn.

Eighth and finally, Mr. Speaker, I would simply once again reiterate the positive benefits of the substitute. The substitute is not a bill that seeks to simply do less for the worker. In fact, what it does is it does more.

As we contemplate whether or not the NFL football players' strike is about to be resolved, and hopefully those of us who are football fans will see it resolved prior to the vote on this matter next week, we might make an analogy. We might ask what if the NFL instead of requiring the players to wear helmets simply had ambulances at each goal post and gave every player an x-ray after every game and said we give you risk notification. This is a hazardous game, it is a risky business, and because of the risk we will check you out constantly after every game. What if they did that as opposed to saying you are going to wear a helmet. That is the basic issue once again between risk notification and hazard communication.

What we have sought to do is strengthen helmet protections for the workers to protect them in the first place, to prevent those kinds of injuries and occupational diseases that are harmful to them.

Not only that, we expand the number of workers, and we do it substantially.

I just have one more point, Mr. Speaker, in closing. This pertains to some misinformation that continues to be reported on the number of occupational injuries which are in some way workplace related in terms of chemical and hidden hazards, you might call them the secret killers. We have heard over and over again that upward of 100,000 of our workers every year die because of back risks, accumulated risk exposures, and upwards of 200,000, 300,000 suffer illness every year. That report, Mr. Speaker, and the report from which those figures have been repeated over and over again were submitted to the Office of Technology Assessment, our own congressional office, several years ago for review. Our own Office of Technology Assessment is on record as having repudiated that report, repudiated those figures as being utterly void of any scientific foundation and credibility.

We have tried to make that point, but the figures keep coming back. I think, as a matter of record, it is only fair to refer the Members to the scientists that we employ at public expense to advise us on such very difficult issues as risk.

Mr. Speaker, I yield back the balance of my time.

MILITARY STRATEGY: UNFOCUSED, UNSTUDIED, UNLEARNED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 30 minutes.

Mr. SKELTON. Mr. Speaker, the American fighting man—soldier, sailor, airman, and marine—fought a war in the jungles of Southeast Asia and never lost a battle. Unlike every other war in our history it was one in which the United States went to battle well prepared. Yet in one of those ironies that abound in history after a staggering investment of blood and treasure, the Republic of Vietnam fell to the Communist forces of North Vietnam.

The American fighting man—not to mention the millions of Vietnamese who now live under Communist rule—was let down by a lack of strategic thinking on the part of military and civilian leaders alike here at home. Well-meaning people who devoted untold hours of hard work at the White House, the Pentagon, the State Department, and, yes, in Congress too, simply did not piece together the right strategy at the beginning of the war to ensure victory.

This is the first of five speeches I will deliver on strategy and military education during the next few weeks. I will do so, as part of an effort to prepare for a series of hearings dealing with the issue of professional military education that will be conducted throughout the course of the next year. In many ways this will be a continuation of the defense reform effort that began 5 years ago when Gen. David Jones, Chairman of the Joint Chief of Staff and Gen. Edward Meyer, Chief of Staff of the Army, called for a substantial reorganization of the Joint Chiefs of Staff. That call for change resulted in the landmark Goldwater-Nichols Department of Defense Reorganization Act of 1986. Now the effort will be to focus more on ideas than on structure.

Mr. Speaker, America has been blessed in decades gone by with outstanding strategic thinkers the father of modern naval warfare, Alfred Thayer Mahan; the architect of victory during World War II, George C. Marshall and the man responsible for today's NATO strategy of flexible response, Maxwell Taylor. Each of these Americans made profound contributions to our Nation's security by sound and original strategic thinking.

Where are our strategic thinkers of today? Does our military structure no longer nurture such individuals? Is our professional military education such that it would be impossible for a Mahan, Marshall, or Taylor to make a contribution? Does our military spend so much time studying weapons systems and tactics that there is no room for strategic thinking.

Today, we see mismatches between strategy and our military posture. Let me cite a few examples. As you are well aware, the United States initially encountered some problems in efforts to escort reflagged Kuwaiti tankers carrying oil through the Persian Gulf. A lack of planning and foresight by our military leaders left us vulnerable in this volatile region to such low-tech weapons as mines. Over the past few years we chose to dedicate our defense dollars to sophisticated equipment to defend the Navy against aircraft, missile, and submarine attacks. Thus, we were left without adequate minesweeping capability to protect our ships in the Persian Gulf.

Second, the U.S. Marine Corps is composed of three active and one reserve division. Its specialty is amphibious assault and yet if all U.S. Navy amphibious ships scattered throughout the world were brought together only 1⅓ divisions could actually be placed on board. There is a disconnect here. Either we have too many Marines or too few amphibious ships.

Let us look at a third issue, the matter of airlift and sealift. We have spent much money over the years to buy airlift, to enable U.S. fighting forces to respond to contingencies on foreign shores and yet at the same time, we have neglected sealift, the transport ships that will keep American forces on foreign shores supplied with the weapons, ammunition, spare parts, oil products necessary to sustain combat forces in battle. We could find ourselves in the very uncomfortable situation of having American men in combat without the ability to take care of them once committed. This has all the elements of a disaster waiting to happen.

Webster's New Collegiate Dictionary defines strategy as "the science and art of employing the armed strength of a belligerent to secure the objects of war especially, the large-scale planning and directing of operations in adjustment to combat area, possible enemy action, political alignment, etc . . .". In simple layman's terms, when we talk about strategy we are talking about how to attain an objective, the means employed, not the final objective or the final goal of our efforts. Too often people in government, the press, and the public at large tend to confuse the two.

The purpose of strategy is to match ends with means. At its best, strategy is a form of intellectual judo, where intelligence is used matching strength against weakness rather than strength against strength. But the use of strategy requires the education of both political and military leaders. Education in the present is the foundation of everything that happens in the future. I will repeat that: Education in the present is the foundation of everything that happens in the future.

Over the past few years, I have received correspondence from a number of individuals who have been intimately involved with national security matters.

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They sincerely believe that a failure of national leadership, both political and military, has occurred with respect to the formulation of a national strategy. One individual informed me that the last time we had an articulated national strategy was during World War II. Another cited the early postwar period when the policy planning staff at the Department of State put together what came to be known as the policy of containment during the Truman administration.

I think maybe one of our problems is that we have a strategy, but it is not an articulated one, one set down on paper. A comparable analogy might be found in the institutions that have arisen here and in Great Britain. We recently celebrated the 200th anniversary of the signing of our Constitution. This document sets down in written form how the American Government is to be run. It is a good document; it is a pretty good blueprint. On the other hand, the British have no single written document. They have laws based on precedent, but no fundamental law to which they can refer the way we have with our Constitution.

In the world of politics, one can get by without a constitution that is written. In military affairs, however, the lack of a blueprint, an agreed-upon military strategy set down on paper, can make it much more difficult to attain the goals laid down by political leaders. This is especially true during the period of violent peace that has been the fate of the world since 1945.

The House Armed Services Committee invited John Collins senior specialist for National Defense at the Congressional Research Service an original thinker if ever there was one, to testify in front of the Defense Policy Panel in October 1985.

During the question-and-answer period following his prepared testimony this is what he had to say about the matter of strategy. "If somebody asked me what is the No. 1 national security problem of the United States I would say that it's an inability to produce creative imaginative strategies that interlock the pieces in meaningful ways * * *. I don't see an apparatus anywhere in the United States that is dedicated to the development of new theories and concepts in this field." Collins went on to make the point one with which I wholeheartedly agree that we need new procedures within existing organizations not a new organization for strategy. In other words there is a need within our existing military education system to develop and encourage strategic thinkers—the end product will be a better and more comprehensive national defense.

In many ways these criticisms are right on the mark. I would argue that there are a number of factors contributing to our lack of focus in formulating a national strategy. First we are a technological rich society. Over the past 40 years we have simply been able to apply the benefits of technology to our defense needs exploiting technological advances as they became available. We have allowed technology to substitute for hard thinking. Second, the relative abundance of financial resources in the postwar era has encouraged a less than rigorous attention to establishing priorities. Thus, the four services have put together "shopping lists" of equipment reflecting four separate service strategies rather than a unified national strategy. Finally, we simply do not devote the intellectual energy necessary at the highest levels of government to study the relationship between historical events and those events taking place today all around the globe. And this I say as criticism directed more at civilians, both in the executive and legislative branches, rather than at the uniformed leadership of the four services—though the military has its share of the blame to shoulder also.

Two factors at work over the recent past will change the relatively carefree ways of the postwar period. Simply put we no longer have the overwhelming economic resources—the money—nor the technological superiority—the weapons—that existed at the end of the World War II and during the first two decades of the cold war. As a result there are a number of efforts underway throughout the national security community to change the way we operate. More attention is being given to strategy at the White House, in the Pentagon, in Congress, and among private research organizations.

In January of this year, in response to legislative measures in last year's Goldwater-Nichols Defense Reorganization Act the White House published a document entitled "The National Security strategy of the United States". It is a first attempt to set down the national strategy in some sort of coherent, articulated fashion. Elsewhere, within the bowels of the Pentagon a bipartisan group of leading defense thinkers has been working on the Commission on Integrated Long-Term strategy. The charter of this select group is to look to the future, to the next twenty years and to provide "insights into the role and strategic implications of new defense technologies. . . . In yet another part of the Pentagon, a newly formed Competitive Strategies Council is giving much attention to aligning United States strengths to Soviet weaknesses, with a careful focus on leading-edge defense technologies.

On Capitol Hill both Armed Services Committees are paying increased attention to strategy. Two years ago the House Armed services Committee established the Defense Policy Panel to spotlight the policy implications of the Department of Defense budget requests. And the Senate Armed Services Committee held a series of hearings earlier this year devoted to the topic of military strategy.

Let me devote a bit of attention to the report sent to the Congress by the President in Janaury of this year entitled "The National Security Strategy of the United States." As the first such report of its kind no one can doubt the formidable task that confronted those who put it together Yet if I were asked to grade the report I would have to give it two grades, a B for effort and a C minus for content.

Let me explain why I would be so hard in my evaluation of the content of the report. As I note earlier strategy is about means, not ends. And yet the report talks about means "the defense capabilities of the United States necessary to . . . implement the national security strategy of the United States"—in only the vaguest of terms. The report simply does not address the issue of the military forces required to carry out the strategy, nor even the adequacy of present forces to do so. For a report devoted to strategy, this is a major failing. For example, there is no explanation of how the figure of 18 Active duty Army divisions was determined—why not 15, or 20, or some other number? In fact, there is no mention in the report as to the number of U.S. Army divisions at all. I know there are 18 active duty divisions because I serve on the Armed Services Committee.

Another example. There is no mention of strategy-force mismatches. Such a report would have been a good place to talk about such mismatches. I have already given examples of strategy-force mismatches earlier in this speech and there is a need to give close attention to them but this report is silent on this all important subject.

In fairness even if we had the most precise statement of national security policies, determining the forces needed to carry out such policies is still more art than science. But it would still be good to arrive at some rough estimate of the military forces needed by the four services to carry out policies formulated in the executive branch. One of the good things about annual reports is that there is the opportunity to improve them to address deficiencies the next go around. The next report if it addresses these areas of concern will be a great improvement.

Mr. Speaker, Frederick the Great once observed "He who defends everything defends nothing." We no longer have the luxury we once had to avoid making tough decisions. We are in for some lean times especially in the military arena. In all probability, we are entering an era of flat military budgets, no increases in real spending. The budget and trade deficits of the 1980's will affect America and the American role in the world to the year 2000. Priorities will have to be set, but they will have to be set in an intelligent way. Unless we think smarter than we have in the recent past we could end up again with a "hollow army", the condition of the armed services in the late 1970's.

If we are to avoid such a reoccurrence, both political and military leaders will need to work more closely together. A national security strategy, a well-formulated and detailed blueprint that both political and military leaders can understand will need to be crafted. Further, there is an overwhelming need for our military educational system to improve its contribution to the strategic thinking for the leaders of our country. I hope that as these hearings of the Panel on Professional Military Education get underway in early December we will be able to focus the spotlight on the importance of putting together such a strategy by improving our military educational system.

Mr. Speaker, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS (at the request of Mr. FOLEY), for today and the balance of the week, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROWLAND of Connecticut) to revise and extend their remarks and include extraneous material:)

Mr. YOUNG of Alaska, for 5 minutes, today.

Mr. CRANE, for 5 minutes, today.

Mr. BOEHLERT, for 5 minutes, on October 7.

Mr. CRANE, for 5 minutes, on October 7.

(The following Members (at the request of Mr. DOWNEY of New York) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DE LA GARZA, for 5 minutes, today.

Mr. PEASE, for 5 minutes, on October 6.

Mr. PEASE, for 5 minutes, on October 7.

Mr. WHITTEN, for 5 minutes, today.

Mr. HOYER, for 30 minutes, on October 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ALEXANDER, prior to the vote on title III in H.R. 3030 in the Committee of the Whole today.

Mr. BRUCE, immediately following the vote on H.R. 3030 in the House today.

Mr. DURBIN, immediately following the vote on H.R. 3030 in the House today.

(The following Members (at the request of Mr. ROWLAND of Connecticut) and to include extraneous matter:)

Mr. LAGOMARSINO.
Mr. SOLOMON in three instances.
Mr. BROOMFIELD in two instances.
Mr. GUNDERSON.
Mr. GREEN.
Mr. BEREUTER.
Mr. GINGRICH.
Mr. DANNEMEYER.
Mr. LATTA.
Mr. BLAZ.
Mr. LEWIS of California.
Mr. COUGHLIN.
Mr. KYL.
Mr. SUNDQUIST in two instances.
Mr. DENNY SMITH.
Mr. HORTON.
Mr. MOLINARI.

(The following Members (at the request of Mr. DOWNEY of New York) and to include extraneous matter:)

Mr. DORGAN of North Dakota.
Mr. HOYER.
Mr. TORRES.
Mr. LIPINSKI in two instances.
Mr. STARK.
Mr. ROE.
Mr. RODINO in two instances.
Mr. DE LUGO.
Mr. MRAZEK.
Mr. MILLER of California.
Mr. GARCIA in two instances.
Mr. FEIGHAN.
Mr. RANGEL.
Mr. RAHALL.
Mr. PENNY.
Mr. HOCHBRUECKNER.
Mr. FORD of Michigan.
Mr. FLORIO.
Mr. VENTO in two instances.
Mr. DINGELL.
Mr. LEHMAN of Florida.
Mr. HOWARD.
Mr. YATRON.
Mr. RICHARDSON.
Mr. EVANS.
Mr. FAUNTROY.
Mr. MARKEY.
Mr. MANTON.
Mr. WYDEN.
Mr. OWENS of New York.
Mr. LELAND.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 247. An act to designate the Kern River as a national wild and scenic river; to the Committee on Interior and Insular Affairs.

S. 578. An act to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail; to the Committee on Interior and Insular Affairs.

S. 1297. An act to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 242. An act to provide for the conveyance of certain public lands in Oconto and Marinette Counties, WI;

H.R. 797. An act to authorize the donation of certain non-Federal lands to Gettysburg National Military Park and to require a study and report on the final development of the park;

H.R. 1205. An act to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida; and

H.R. 2035. An act to amend the act establishing Lowell National Historical Park, and for other purposes.

ADJOURNMENT

Mr. SKELTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 43 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 7, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2200. A letter from the Assistant Secretary for Financial Management, Department of the Army, transmitting a draft of proposed legislation to authorize that premium payments by participants in the retired servicemen's family protection plan and the survivor benefit plan (chapter 73, title 10, United States Code) be deposited in the Department of Defense Military Retirement Fund; to the Committee on Armed Services.

2201. A communication from the President of the United States, transmitting the first annual report on the extent to which significant progress has been made toward ending apartheid in South Africa, pursuant to 22 U.S.C. 5091(b) (H. Doc. No. 100-109); to the Committee on Foreign Affairs and ordered to be printed.

2202. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, Department of State, transmitting a report on gifts by the U.S. Government to foreign individuals, pursuant to 22 U.S.C. 2694(2); to the Committee on Foreign Affairs.

2203. A letter from the Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, Department of Justice, transmitting a draft of three proposed bills to strengthen the administration's antifraud enforcement program, entitled "The Anti-Fraud Enforcement Act of 1987;" "The Bribes and Gratuities Act of 1987;" and "The Contract Disputes Act and Federal Courts Improvement Act Amendments of 1987"; to the Committee on the Judiciary.

2204. A letter from the Adjutant General, Veterans of Foreign Wars of the United States, transmitting a report and financial audit for the fiscal year ending August 31, 1987, pursuant to 36 U.S.C. 1101(47), 1103; to the Committee on the Judiciary.

2205. A letter from the Director, Office of Personnel Management, transmitting notification of the final plan for the National Bureau of Standards demonstration project which addresses the Government's problem of attracting and keeping qualified personnel, especially in high-technology fields, pursuant to 5 U.S.C. 4703(b)(4)(B), (6); to the Committee on Post Office and Civil Service.

2206. A letter from the Secretary of Labor, transmitting the third report on the impact of the Caribbean Basin Economic Recovery Act on U.S. labor, pursuant to 19 U.S.C. 2705; to the Committee on Ways and Means.

2207. A letter from the Chairman, U.S. International Trade Commission, transmitting the second annual report on impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers, pursuant to 19 U.S.C. 2704; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Science, Space, and Technology. H.R. 1517. A bill to amend the Federal Aviation Act of 1958 to require the installation and use of collision avoidance systems in aircraft, to require the Federal Aviation Administration to complete research on and development of the TCAS-III collision avoidance system as soon as possible, and for other purposes; with an amendment (Rept. 100-286, Pt. 2). Referred to the Committee of the While House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAZZOLI: Committee on the Judiciary. H.R. 526, A bill for the relief of Kumari Rajlakshmi Bais, with an amendment (Rept. 100-346). Referred to the Committee of the Whole House.

Mr. SWINDALL: Committee on the Judiciary. H.R. 1112, A bill for the relief of Pablo Cruz Patag, with an amendment (Rept. 100-347). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 1191, A bill for the relief of Maria Helena Vas and Jose Maria Vas, with amendments (Rept. 100-348). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 1390, A bill for the relief of Chu Pei Yun (Zhu Bei Yun), (Rept. 100-349). Referred to the Committee of the Whole House.

Mr. MORRISON of Connecticut: Committee on the Judiciary. H.R. 1420, A bill for the relief of Anthony Stanley Orloff, (Rept. 100-350). Referred to the Committee of the Whole House.

Mr. SWINDALL: Committee on the Judiciary. H.R. 1826, a bill for the relief of Natasha Susan Middelmann, Samantha Abigail Middelmann, Naomi Katrina Orloff Middelmann, and Hannah Emily Middelmann (Rep. 100-351). Referred to the Committee of the Whole House.

Mr. SLAUGHTER: Committee on the Judiciary. H.R. 1863, a bill for the relief of Helen Ying-Yu Lin; with an amendment (Rep. 100-352). Referred to the Committee of the Whole House.

Mr. BRYANT: Committee on the Judiciary. H.R. 2108, a bill for the relief of Chun Wei Wong, Bic Ya Ma Wong, Wing Sing Wong, Wing Yum Wong, and Man Yee Wong; with an amendment (Rep. 100-353). Referred to the Committee of the Whole House.

Mr. McCOLLUM: Committee on the Judiciary. S. 393, a bill for the relief of Emilie Santos (Rep. 100-354). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. S. 423, a bill for the relief of Kil Joon Yu Callahan; with an amendment (Rep. 100-355). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PEPPER:

H.R. 3422. A bill to require the processing of applications from Cuban nationals for refugee status; to the Committee on the Judiciary.

By Mr. BONKER (for himself, Mr. FOLEY, Mr. DICKS, Mr. SWIFT, Mr. LOWRY of Washington, Mr. MORRISON of Washington, Mr. CHANDLER, and Mr. MILLER of Washington):

H.R. 3423. A bill to establish the Grays Harbor National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. FORD of Michigan (for himself, Ms. OAKAR, Mr. ACKERMAN, Mr. CLAY, and Mr. SOLARZ):

H.R. 3424. A bill amending the Defense Department Overseas Teachers Pay and Personnel Practices Act and the Defense Dependents' Education Act of 1978; jointly, to the Committees on Post Office and Civil Service and Education and Labor.

By Mr. BUECHNER:

H.R. 3425. A bill to direct the Administrator of the Federal Aviation Administration to hire additional air traffic controllers, and for other purposes; jointly to the Committee on Public Works and Transportation and Ways and Means.

By Mr. CLINGER:

H.R. 3426. A bill to temporarily suspend the duty on N-methyl aniline and m-chloro aniline; to the Committee on Ways and Means.

By Mr. DYSON:

H.R. 3427. A bill to allow the obsolete submarine United States ship *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period; to the Committee on Armed Services.

By Mr. HOYER:

H.R. 3428. A bill to provide for the distribution within the United States of the film entitled "America The Way I See it"; to the Committee on Foreign Affairs.

H.R. 3429. A bill to amend title 5, United States Code, to provide that the Government's health insurance program for Federal employees include benefits relating to cleft lip, cleft palate, and certain other conditions; to the Committee on Post Office and Civil Service.

By Mr. HUCKABY:

H.R. 3430. A bill to redirect the program for the disposal of spent nuclear fuel and high-level radioactive waste under the Nuclear Waste Policy Act of 1982 to achieve budget savings, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. HUTTO:

H.R. 3431. A bill to release a reversionary interest of the United States in a certain parcel of land located in Bay County, FL; to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY:

H.R. 3432. A bill to provide for adjustment of status of certain Irish nationals who arrived in the United States before September 1, 1987, and who have continuously resided in the United States since before the end of the period; to the Committee on the Judiciary.

By Mr. LEVINE of California:

H.R. 3433. A bill to require manufacturers of toy firearms to distinctively mark the toy firearms as toys; to the Committee on Energy and Commerce.

By Mr. MICA:

H.R. 3434. A bill to amend title 38, United States Code, with respect to funeral expenses; to the Committee on Veterans' Affairs.

By Mr. PANETTA (for himself and Mr. Emerson):

H.R. 3435. A bill to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program and the AFDC Program; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. PEPPER:

H.R. 3436. A bill to amend the Older Americans Acts of 1965 to make technical corrections; to the Committee on Education and Labor.

By Mr. RANGEL (for himself, Mr. Downey of New York, Mr. DioGuardi, and Mr. Green):

H.R. 3437. A bill to amend the Internal Revenue Code of 1986 to provide that employer subsidies for mass transit and van pooling be treated as working condition fringe benefits which are not included in gross income; to the Committee on Ways and Means.

By Mr. WYDEN (for himself, Mrs. Kennelly, and Mr. Donnelly):

H.R. 3438. A bill to amend the Internal Revenue Code of 1986 to provide that long-term health care insurance contracts shall be treated for purposes of determining the income taxation of insurance companies in the same manner as noncancellable accident or health insurance contracts; to the Committee on Ways and Means.

By Mr. MOODY (for himself and Mr. Miller of California):

H.J. Res. 371. Joint resolution to designate March 4, 1988, as "National Children's Acknowledgement Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

224. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the purchase of MH-60G Black Hawk helicopters; to the Committee on Armed Services.

225. Also, memorial of the Legislature of the State of California, relative to maintenance of family unity by undocumented immigrants; to the Committee on the Judiciary.

226. Also, memorial of the Legislature of the State of California, relative to "Red Ribbon Week"; to the Committee on Post Office and Civil Service.

227. Also, memorial of the Legislature of the State of California, relative to tuna fishing; to the Committee on Ways and Means.

228. Also, memorial of the Legislature of the State of California, relative to Taiwanese poultry import restrictions; to the Committee on Ways and Means.

229. Also, memorial of the General Assembly of the State of California, relative to the boundaries of Alaska; jointly, to the Committees on Foreign Affairs and the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. FUSTER introduced a bill (H.R. 3439) for the relief of Marisela, Felix, and William Marrero; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Mr. Moody.

H.R. 38: Mr. Florio.

H.R. 39: Mr. Robinson.

H.R. 52: Mr. Owens of Utah.

H.R. 65: Mr. Dellums, Mr. Foglietta, Mr. Flake, and Mr. Jones of North Carolina.

H.R. 70: Mr. Owens of Utah.

H.R. 355: Mrs. Boxer, Mr. Scheuer, Mr. Flake, Mr. Foglietta, Mr. Conyers, and Mrs. Collins.

H.R. 382: Mr. Owens of Utah, Mr. Kleczka, Mr. Kostmayer, Mr. Coelho, Mr. Skelton, Mr. Moakley, Mr. Fawell, Mr. Wyden, Mr. Kildee, Mr. Torricelli, Mr. Leach of Iowa, Mr. AuCoin, Mr. English, Mr. Flippo, Mrs. Johnson of Connecticut, Mr. Robinson, Mr. Garcia, Mr. Quillen, Mr. Mavroules, Mr. Wolf, and Mr. Oberstar.

H.R. 386: Mr. Davis of Michigan.

H.R. 387: Mr. Davis of Michigan.

H.R. 388: Mr. Bates and Mr. Applegate.

H.R. 393: Mr. Dowdy of Mississippi and Mr. Owens of Utah.

H.R. 397: Mr. Derrick, Mrs. Byron, and Mr. Valentine.

H.R. 550: Mr. Edwards of California, Mrs. Collins, Mr. Murphy, Mr. Leland, Mr. Robinson, Mr. Hayes of Illinois, Mr. Towns, Mr. Borski, Mr. Fazio, Mr. Solarz, Mr. Howard, Mr. Smith of Florida, Mr. Atkins, Mr. Lehman of California, Mr. Gray of Illinois, Mrs. Byron, Mr. Wolpe, Mr. Crockett, Mr. Ortiz, Mr. Feighan, Mr. Matsui, Mr. Fish, Mr. Obey, Mr. Espy, Mr. Staggers, Ms. Slaughter of New York, Mr. Wortley, Mr. Dellums, Mr. McHugh, Mr. Owens of New York, Mr. Fascell, Mr. Boland, Mr. Lewis of Georgia, Mrs. Schroeder, Mr. Oberstar, Mr. Hall of Ohio, Mr. Lantos, Mr. Levine of California, Mr. de Lugo, and Mr. Jontz.

H.R. 639: Mr. Pursell.

H.R. 671: Mr. Bates.

H.R. 680: Mr. Bates.

H.R. 709: Mr. Shays.

H.R. 772: Mr. Gunderson.

H.R. 792: Mr. Barnard and Mr. Buechner.

H.R. 1003: Mr. Biaggi, Mr. Bates, Mr. Fish, and Mr. Traficant.

H.R. 1076: Mr. Manton, Mr. Darden, Mr. Kennedy, and Mr. Coats.

H.R. 1145: Mr. Williams.

H.R. 1250: Mr. McEwen.

H.R. 1531: Mr. Gallo.

H.R. 1536: Mr. Hutto, Mr. Grant, and Mr. Burton of Indiana.

H.R. 1638: Mr. Hayes of Illinois and Mr. Dwyer of New Jersey.

H.R. 1794: Mr. Penny, Mr. St Germain, and Mr. Ford of Michigan.

H.R. 1917: Mr. Staggers.

H.R. 1930: Mr. Howard.

H.R. 1933: Mr. Howard and Mr. Rowland of Connecticut.

H.R. 1957: Mr. Barnard, Mr. Bates, Mr. Boehlert, Mr. Bryant, Mrs. Byron, Mr. DeFazio, Mr. DeWine, Mr. Erdreich, Mr. Fawell, Mr. Foglietta, Mr. Foley, Mr. Garcia, Mr. Gordon, Mr. Gregg, Mr. Hatcher, Mr. Henry, Mr. Kennedy, Mrs. Kennelly, Mr. Kyl, Mr. Livingston, Mr. Lott, Mr. Madigan, Mr. Martin of New York, Mr. Mavroules, Mr. Montgomery, Mrs. Morella, Mr. Murtha, Mr. Rinaldo, Mr. Ritter, Mr. Roemer, Miss Schneider, Mr. Slattery, Mr. Smith of New Hampshire, Mr. Wylie, Mrs. Martin of Illinois, and Mr. Fields.

H.R. 1977: Mr. Evans and Mr. Dornan of California.

H.R. 2114: Mr. Alexander.

H.R. 2248: Mr. Nielson of Utah.

H.R. 2433: Mr. Bunning and Mrs. Collins.

H.R. 2666: Mr. Hochbrueckner.

H.R. 2692: Mr. Smith of New Jersey, Mr. Kanjorski, Mr. Kennedy, Mr. Wolf, and Mr. Hertel.

H.R. 2761: Mr. Kildee, Mr. Savage, Mr. Solarz, Mr. Wise, Mr. Gray of Illinois, Mr. Rodino, Mr. Traxler, Mr. Owens of New York, Mr. Hayes of Illinois, Mr. Jones of North Carolina, Mr. Yates, Ms. Pelosi, Mr. Dellums, Mr. Lewis of Georgia, Mr. Howard, Mr. Lehman of Florida, Mr. Clay, Mr. DeFazio, Mr. Ackerman, Mr. Bonior of Michigan, Mr. Foglietta, Mr. Yatron, Mr. Brown of California, Mr. Annunzio, Mr. Wilson, Mr. Towns, and Mr. Mavroules.

H.R. 2762: Mrs. Boxer, Mr. Mica, Mr. Johnson of South Dakota, Mr. Lantos, Mr. Markey, Mr. Wolpe, Mr. Matsui, Mr. Lowry of Washington, and Mr. Torricelli.

H.R. 2804: Mr. Flake.

H.R. 2859: Mr. Young of Florida and Mr. Biaggi.

H.R. 2888: Mr. Stenholm.

H.R. 2920: Mr. Smith of Florida, Mr. Ford of Michigan, and Mr. Eckart.

H.R. 2972: Mr. Gejdenson, Mr. Dymally, and Mr. Kostmayer.

H.R. 3009: Mr. Towns, Mr. Hayes of Illinois, Mr. Akaka, Mr. Gejdenson, Mr. Lewis of Georgia, Mr. Frank, Mr. Fauntroy, Mr. Hyde, Mr. Mrazek, Mrs. Boxer, Mr. Jontz, Mr. Howard, Mr. Fazio, Mr. Conyers, Ms. Pelosi, Mr. Foglietta, Ms. Kaptur, Mr. Mineta, and Mrs. Collins.

H.R. 3020: Mr. Hansen.

H.R. 3047: Mr. Lipinski and Mr. Buechner.

H.R. 3071: Mr. Kostmayer.

H.R. 3129: Mr. Coats and Mr. Nielson of Utah.

H.R. 3130: Mr. Owens of New York, Mr. Lantos, Mr. Hertel, Mrs. Collins, Mr. Sisisky, and Mr. Murphy.

H.R. 3154: Mr. Huckaby, Mr. Conyers, and Mr. Lewis of Georgia.

H.R. 3291: Mr. Frank, Mr. Smith of Florida, Mr. Hefner, Mr. Ackerman, Mr. Howard, Mr. Yates, Mr. Conte, Mr. Wheat, Mr. Rodino, Mr. Applegate, Mr. Wise, Mr. Hayes of Illinois, Mr. Evans, Mr. Foglietta, Mr. Fauntroy, Mr. Torres, Mr. Solarz, Mr. DeFazio, Mr. Wilson, Mr. Roth, Mr. Rahall, Mr. Kildee, Mr. Towns, Mr. Staggers, Ms. Kaptur, Mr. Roe, Mr. Lowry of Washington, Mr. Biaggi, Mr. Brown of California, and Mr. Studds.

H.R. 3311: Ms. Kaptur, Mr. Fazio, Mr. Florio, Mr. Howard, Mr. Gray of Illinois, Mrs. Collins, and Mr. Biaggi.

H.R. 3336: Mr. Gray of Illinois, Mr. Donald E. Lukens, Mr. Flake, Mr. Konnyu, Mr. Rowland of Connecticut, Mr. Hammerschmidt, Mr. Dornan of California, Mr. Dwyer of New Jersey, Mr. Dorgan of North Dakota, and Mr. McGrath.

H.R. 3346: Mr. Gregg, Mr. Slattery, and Mr. Swift.

H.R. 3348: Mr. Sikorski, Mr. Howard, Mr. Olin, Mr. Owens of Utah, and Mr. Nielson of Utah.

H.R. 3355: Mr. Fauntroy and Mr. de Lugo.

H.R. 3393: Mr. Gejdenson, Mr. Yatron, and Mr. Bilbray.

H.R. 3400: Mr. Burton of Indiana, Mr. Akaka, Mr. Bonker, Mr. Espy, Mr. Gray of Pennsylvania, Mr. McCurdy, Mr. Studds, Mr. SLATTERY, Mrs. BOXER, Mr. HASTERT, and Miss SCHNEIDER.

H.R. 3402: Mr. DORGAN of North Dakota, Mr. PENNY, Mr. EVANS, Mr. ENGLISH, and Mr. JONTZ.

H.R. 3413: Mr. LENT and Mr. MCGRATH.

H.J. Res. 92: Mr. SCHUETTE, Mr. MINETA, Mr. MARTINEZ, and Mr. BONIOR of Michigan.

H.J. Res. 227: Mr. HERTEL, Mrs. COLLINS, Mr. NELSON of Florida, Mr. WYLIE, Mr. DELLUMS, Mr. FUSTER, Mr. LOWRY of Washington, Mr. MILLER of California, Mr. OBERSTAR, Mr. VOLKMER, and Mr. PANETTA.

H.J. Res. 287: Mr. CARDIN.

H.J. Res. 311: Mr. MFUME, Mr. MCHUGH, Mr. FLORIO, Mr. LIPINSKI, Mr. CARDIN, Mrs. COLLINS, and Mr. KOLTER.

H.J. Res. 360: Mr. GONZALEZ, Mr. ALEXANDER, Mr. ROE, Mr. HAMMERSCHMIDT, Mr. TAUKE, Mr. TALLON, and Mr. DORNAN of California.

H. Con. Res. 43: Mr. OWENS of Utah and Mr. FOGLIETTA.

H. Con. Res. 60: Mr. EDWARDS of California, Mr. BORSKI, Mr. MCCLOSKEY, Mr. PANETTA, Mr. LANCASTER, and Mr. SCHUETTE.

H. Con. Res. 87: Mr. EVANS, Mr. HYDE, Mr. RANGEL, Mr. TRAFICANT, Mr. JEFFORDS, Mr. APPLEGATE, Mr. VANDER JAGT, Mr. ENGLISH, Mr. BARNARD, and Mr. ACKERMAN.

H. Con. Res. 119: Mr. NIELSON of Utah.

H. Con. Res. 189: Mr. ASPIN, Mr. TORRES, Mr. WEISS, and Mr. OWENS of Utah.

H. Con. Res. 192: Mr. DELLUMS, Mr. MOODY, Mr. FUSTER, Mr. RAVENEL, Mr. BADHAM, Mr. TRAFICANT, and Mr. TALLON.

H. Con. Res. 193: Mr. BROOMFIELD, Mr. BUNNING, Mr. COUGHLIN, Mr. HENRY, Mr. LIGHTFOOT, Mr. PACKARD, Mr. CLINGER, Mr. WOLF, Mr. BALLENGER, Mr. GALLEGLY, Mr. LUNGREN, Mr. INHOFE, Mrs. BENTLEY, Mr. GINGRICH, Mr. CHENEY, Mr. RAVENEL, Mr. DONALD E. LUKENS, Ms. SNOWE, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. TAUKE, Mr. JEFFORDS, Mrs. VUCANOVICH, Mr. MYERS of Indiana, Mr. HYDE, Mr. HASTERT, Mr. SOLOMON, Mr. WALKER, Mr. ROWLAND of Connecticut, Mr. SMITH of New Hampshire, Mr. GRANDY, Mr. BARTLETT, and Mr. DORNAN of California.

H. Res. 131: Mr. WEISS, Mr. MOODY, Mr. MARKEY, and Mr. BIAGGI.

H. Res. 168: Mr. JONTZ.

H. Res. 225: Mr. BRYANT and Mr. LUNGREN.

H. Res. 276: Mr. DAUB, Mr. MYERS of Indiana, Mr. DE LA GARZA, Mr. LATTA, Mr. LAGOMARSINO, Mr. WALKER, Mr. LIGHTFOOT, Mr. ROBERT F. SMITH, Mr. ESPY, Mr. SKEEN, Mr. BOULTER, Mr. SMITH of New Hampshire, Mr. EMERSON, Mr. BUECHNER, Mr. MACK, Mr. WILSON, Mr. DORNAN of California, Mr. SHAW, and Mr. DANNEMEYER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 349: Mr. SOLOMON.

PETITIONS, ETC.

Under clause 1 of rule XXII.

82. The SPEAKER presented: a petition of Senator Ray David, Five-State Legislative Conference, Bismarck, ND, relative to oil and gas exploration and production wastes, which was referred to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3100

By Mr. DORNAN of California:

—Page 115, strike out lines 10 through 16; line 17, strike out "(b)" and insert in lieu thereof "(a)"; and line 23, strike out "(c)" and insert in lieu thereof "(b)".

—Page 207, strike out lines 2 through 5 and insert in lieu thereof the following:

Section 905 of the International Security and Development Cooperation Act of 1985 is amended—

(1) by striking out "up to $5,000,000 for fiscal year 1986, and up to $5,000,000 for fiscal year 1987, of the funds authorized to be appropriated" and inserting in lieu thereof "up to $10,000,000 for fiscal year 1988, and up to $10,000,000 for fiscal year 1989, of the funds made available"; and

(2) by adding at the end the following: "For purposes of carrying out this section, the President may (notwithstanding any other provision of law) transfer to and consolidate with the funds otherwise made available to carry out those chapters $5,000,000 of the funds authorized to be appropriated each such fiscal year to carry out chapter 1 of part I of that Act (relating to development assistance).".

Page 226, line 8, strike out "$35,000,000" and insert in lieu thereof "$30,000,000".

—Page 207, strike out line 20 and all that follows through line 2 on page 208.

EXTENSIONS OF REMARKS

TEACHERS SALARIES

HON. JOHN H. CHAFEE

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, October 6, 1987

● Mr. CHAFEE. Mr. President, the New York Times recently reported that in Rochester, NY, the median salary for teachers will soon reach $46,000 per year, with the most senior teachers earning as much as $70,000 per year. Starting teachers will, by 1989, earn $29,000 per year. This is a real bright spot in a nation where teacher salaries are notoriously low, and I say three cheers for Rochester.

It is shocking that, on average, we are failing to pay our teachers wages that reflect the importance and the challenge of the job entrusted to them. Consider this: The national median salary for a teacher with a master's degree and 15 years of experience is less than $27,000. In some areas, that figure sinks as low as $19,000. It's no wonder that we often fail to attract and keep the best teachers. The wonder is that we have as many good ones as we do.

Several years ago, an analyst with the Rand Corp., Ms. Linda Darling-Hammond, devised a hypothetical want ad which illustrates what I'm talking about. It is as follows:

> Wanted: College graduate with academic major (master's degree preferred). Excellent communication and leadership skills required. Challenging opportunity to serve 150 clients daily, developing up to five different products each day to meet their needs. This diversified job also allows employee to exercise typing, clerical, law enforcement, and social work skill between assignments and after hours. . . . Typical work week 47 hours. Special nature of work precludes fringe benefits such as lunch and coffee breaks, but work has many extrinsic rewards. Starting salary $12,769, with a guarantee of $24,000 after only 14 years.

School districts like Rochester are taking bold steps to correct this imbalance—to make teaching the prestigious occupation that it should be. With its new pay plan, the city of Rochester is saying unequivocally that it values good teachers, and is prepared to pay for them.

Mr. President, I ask that a copy of the article, "$70,000 Salaries and High Hopes for Teachers," from the New York Times of September 18, 1987, be reprinted in the RECORD.

The article follows:

[From the New York Times, Sept. 18, 1987]

OUR TOWNS: $70,000 SALARIES AND HIGH HOPES FOR TEACHERS

(By Michael Winerip)

ROCHESTER.—Prof. Barbara Agor was to have directed the secondary-teacher education program at the University of Rochester this fall. But she quit a few weeks ago, to return to inner-city schools.

She quit a roomy university office with ivy peeking in the window because, suddenly, she can earn lots more money in public school. A new union contract now makes Rochester teachers the best paid in urban America. Professor Agor was earning $24,500. The city schools are paying Mrs. Agor $42,500. Next year, she hopes to be named to a new "lead teacher" position—a job that will pay $50,000 to $70,000 a year.

Barbara Agor quit for a challenge. To earn their money, lead teachers—the best veteran teachers in the city—will be sent to the toughest schools. As the head of the Rochester teachers' union, Adam Urbanski, said: "We're not just in search of excellence. We're in search of equity. These are public schools."

Mrs. Agor quit, too, because she thinks something stunning is happening here. "I used to tell my University of Rochester students I believed that in their lifetime, teaching would be a legitimate profession—not in my lifetime," she said. "But then this was at my doorstep. It's starting immediately." They are taking the chance here that by squeezing a budget to its limit to pay well, they will attract better teachers, motivate veteran teachers and improve education for city children. As with most city systems, Rochester—with two-thirds black and Hispanic students—needs help. The dropout rate is 30 percent; 80 percent of new kindergarteners test below average for reading readiness.

Much was made of the pay increases in the new New York City contract, but they are no match for Rochester. By 1989, a starting New York City teacher's salary will be $25,000; it will be $29,000 in Rochester, where the cost of living is 10 percent less. The New York City top teacher salary will be $50,000 by 1989; in Rochester, the median teacher will make $46,000 by then, and the top $70,000.

Superintendent of Schools Peter McWalters said that for the first time administrators were talking about going back to the classroom.

Teachers themselves are trying to get used to it all. "You think this can't be happening in Rochester," Gaya Shakes, a junior high school teacher, said. "It's an exciting time to be teaching."

Francine Brown, who teaches English to immigrant children, started in Rochester at $13,000 in 1980 and now makes $37,300. "Amazing," she said. "Amazing."

The Superintendent and union president are in demand all over the country. "Duluth?" said Mr. Urbanski, answering his phone the other day. "You want me in Duluth in the middle of winter?"

Why Rochester? Partly the answer is a strong Superintendent and union leader, both committed to changes. Before this contract, the two had traveled widely together—to Brown University, Albany and Washington—to describe their joint efforts to weed out bad teachers. "I've never been trusted more by management," Mr. Urbanski said, "and I never trusted a rep of management more."

In exchange for more pay, Mr. Urbanski had his members give up traditional practices. The teachers have agreed to work five extra days. Lead teachers—10 percent of the staff, or 240—will work an extra month. School-to-school teacher transfers will no longer be controlled by seniority. Instead, each school will have a planning team of teachers and administrators to decide on filling openings.

Each planning committee will produce an accountability list of goals for improving dropout rates, test scores and attendance.

"It's a big risk," Mr. Urbanski said. "If we can't show a pattern of improvement by the end of this contract," the opening for change may be lost.

The other answer to why Rochester is fiscal. The district received an 18 percent rise in state aid this year, a good one for education spending. Also, nearby suburbs have helped. Spurred on by business leaders, the county legislature a few years ago voted to give Rochester a bigger portion of suburban sales-tax revenues. In contrast, New York City stands alone.

Despite the extra aid, Mr. Urbanski conceded Rochester could face a deficit unless cuts were made in other parts of the school budget. "Typically," he said, "a district takes care of everything and then looks to see how much is left for teachers. For once, teachers came first."

Archie Curry, one of two school board members who voted against the contract, said he believed that in 1990 teachers would suffer for the gains of 1987. "It's too costly," he said. "I see a backlash coming."

Yet for now, it is still an extraordinary novelty, the idea that someone would pay a teacher a fair wage. Mr. Urbanski's phone does not stop. "Don't worry," he told the principals' association. "I sent my card back saying I was coming. I selected the baked halibut."●

OVERSEAS TEACHERS ACT OF 1987

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6. 1987

Mr. FORD of Michigan. Mr. Speaker, I am pleased to introduce the Overseas Teachers Act of 1987, a bill to amend both Public Law 86-91, the Defense Department's Overseas Teachers Pay and Personnel Practices Act of 1959 and Public Law 95-561, the Defense Dependents Education Act of 1978.

This bill principally addresses two issues related to the recruitment and employment of teachers working for the Department of De-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

fense dependents' schools. The first issue concerns the hiring of teachers.

Teachers who are already overseas and who apply for a position within a DODDS school are initially hired into temporary teaching positions to staff our schools on an emergency basis. They help assure the schools are fully staffed when unforseen vacancies occur because of the mobile population which our overseas schools serve. These locally hired teachers are not available for worldwide placement as are the teachers who are recruited in the States; they do not compete with a vast pool of applicants like those in the States; and they are not subjected to the same intense scrutiny as those applying from within the States before being offered employment. These teachers are also not eligible for the same benefits as those teachers who were hired in the States.

Teachers who are recruited in the States are provided transportation between their point of hire in the States and their destination overseas, with additional transportation provided periodically between these two points if they choose to remain overseas. In addition, teachers hired in the States are provided a living quarters allowance to help defray the cost of reestablishing a home abroad. Locally hired teachers do not receive their recruitment benefits.

The locally hired workforce is made up of tourists who choose to remain abroad, spouses of military and civilians stationed overseas, and spouses of business men and women working abroad. A good many of these teachers have no need for housing or travel benefits since they derive these benefits through the employment of a spouse. However, a number of locally hired teachers have either never received benefits through a spouse or can expect to lose their spousal benefits upon the retirement of the sponsoring spouse.

Over the years I have heard from and met many teachers in this category who believe it is neither right nor fair to deny locally hired teachers the same benefits as their peers when they continue to work for many years in our overseas schools. Many of the locally hired teachers are career teachers with outstanding reputations in their fields. I am sympathetic to the issues they raise and have no doubt that these teachers are dedicated, conscientious workers. There is no question that many of these teachers are equal to or superior to their colleagues who were initially hired in the States.

Nonetheless, I have a great deal of concern about the wisdom of allowing or encouraging inconsistencies in a system whereby teachers who happen to be overseas can bypass the rigorous competition found within the States and be selected for a permanent position by local administrators. The practice of hiring locally was intended to offer a short-term solution to the problem created by unforeseen vacancies by allowing schools to fill these vacancies quickly. This avoids any disruption in the education program of our children overseas. It was not intended to create a competing method for selecting long-term, regularly employed teachers.

Unfortunately, this less competitive local-hire method of filling vacancies has become more the rule than the exception to the rule. In fact, approximately 40 percent of our teachers overseas are currently hired through the local-hire method. Moreover, teachers who enter the system this way have been encouraged to remain well beyond their initial year of teaching so that what was envisioned as a temporary appointment has become one that is permanent. Teachers are regularly converted from temporary status over to permanent status without ever having been subjected to the rigorous screening applied to stateside hires.

My concern is that as this method becomes the accepted practice for hiring overseas teachers, the adherence to an impartial set of rules intended to guarantee fair treatment of all current and future employees is completely undermined. Furthermore, by reducing the general use of the more competitive stateside hire system, we are not guaranteeing the best possible selection of teachers.

This issue is not an easy one to address. There are credible arguments that may be made in an effort to justify the continuation of a dual hiring system. Although a solution is not easily found, I believe my bill sets the stage for addressing this problem.

First of all, the bill would take care of the inequities that have been allowed to develop in which locally hired teachers work year after year but continue forever to remain in a second-class status. In my bill, anyone hired as a local hire before October 1987, and who has completed or completes 3 years of teaching, will qualify for full benefits provided he or she does not receive comparable benefits through a military or civilian spouse. Second, anyone hired as a local hire after enactment of this bill may not continue to teach in the DODDS schools beyond 1 year, unless he or she reapplies as a stateside hire and competes with all other stateside hire applicants. The spouses of military personnel are the only exception to this 1-year rule. A spouse may continue to teach so long as he or she continues to reside with the military sponsor.

The second major set of provisions in the bill are aimed at both reducing the reliance on local hires and helping to enforce an effective transfer program. My bill requires that principals provide timely notice to DODDS headquarters in Washington of all vacancies or anticipated teaching vacancies. The bill goes on to prioritize the method by which these vacancies shall be filled. First, teachers holding positions in DODDS schools will be considered for a transfer to a new position. Second, stateside teachers who have applied to work in the DODDS schools will be considered. And last, any local hire may be considered to fill a vacancy.

By enforcing an effective transfer program, teachers will no longer be destined to work in a part of the world considered a hardship post without any expectation that they may be reassigned to one that is more desirable.

I would like to touch briefly on other provisions of the bill which I believe will strengthen the operation of our overseas schools.

The bill would require that the position of the Director of DODDS be designated as a career-reserved position. In the past year there have been three Acting Directors of DODDS following the retirement of its Director last September. I understand a part of the difficulty in finding a new Director had been directly related to political considerations. By having four Directors in less than 1 year, the schools lose continuity and strong leadership. A career-reserved position would ensure the selection of a qualified Director in an impartial and expeditious manner.

My bill would also establish within DODDS' central office the responsibility for coordinating all activities related to filling teacher vacancies along with such things as the recertification of teachers. Local administrators would be relieved of some extremely burdensome paperwork, while the central office in Washington would have up-to-date information on all of its employees which is an essential prerequisite to any effectively functioning system.

This legislation would further the ability of the central office for greater fiscal management by authorizing that the appropriations shall be made available for expenditure on the basis of an academic year and that they may be appropriated in the year preceding the year in which the funds will be obligated. Furthermore, any funds not expended in any one year may be carried over into the next year.

My bill would require that all teachers applying for a position within DODDS be considered for such a position only if they have already taught for 1 year. It would also require that teachers be paid as though having begun at the beginning of the school year when administrative or transportation delays prevent them from reporting on time.

This bill extends the concept of maternal leave to also include paternal leave. Finally, my bill would extend the definition of teacher to include JROTC instructors.

In closing, my bill does not propose radical reforms to the operation of our overseas schools, but I believe it does go a long way in making the system fairer and more effective.

FUNDS FOR SINGLE PREGNANT WOMEN

HON. JOHN H. CHAFEE

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, October 6, 1987

• Mr. CHAFEE. Mr. President, I am pleased to join with Senator HATCH as a cosponsor of S. 1705, legislation clarifying that States may use funds set aside under the Perkins Vocational Education Act for services to single pregnant women.

This was widely assumed to be the case when the set-aside for single parents and displaced homemakers was first created, but it was not spelled out. This has given rise to some doubt as to whether the term "single parent" does indeed apply to single pregnant women. This bill simply clarifies the intent of Congress that single pregnant women be included.

The purpose of the set-aside for displaced homemakers and single parents is to ensure that funds—8.5 percent of each State's allocation under the act—are available to serve this particular

need. At the time, it was our intent that the term "single parent" be applied as well to single pregnant women, so that States would be permitted to use their set-aside funds for services to, for example, pregnant teenagers.

It is essential that funds be available for this purpose, so that single pregnant women—many of them still in their teens, and thus still in school—can get the vocational training they need to become self-sufficient, to care for themselves and their children. Many States, like my home State of Rhode Island, operate excellent programs designed to help pregnant and parenting teens stay in school so that they may complete their education.

Such services are essential to pregnant teenagers, 96 percent of whom choose to keep their babies and raise them themselves. The vocational training made possible by Perkins Act funds would throw a lifeline to these young women who face such extraordinary pressures, giving them the means to support themselves and their children.

I urge the Senate to move swiftly on this measure, so that any ambiguity on this point will be eliminated, and that funds set aside for this purpose under the Perkins Act may be fully implemented.●

NATO AND THE INF TREATY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. GARCIA. Mr. Speaker, today's Washington Post ran a news article on the impact that the proposed INF treaty could have on NATO both politically and militarily.

As a member of the North Atlantic Assembly, and as chairman of that body's Civilian Affairs Committee, I have come to appreciate how important the alliance is to U.S. security interests. While the Post article emphasizes the military aspects of the treaty, it is also pointed out that there are political considerations to be aware of regarding the usefulness of this treaty.

We must proceed cautiously with our allies as we work to develop a NATO strategy devoid of the Pershing II missiles. The consequences of ignoring the political involved with the signing of this treaty could be harmful to the future of NATO.

It is in that light that I am submitting the Post article to the RECORD for my colleague's perusal.

[From the Washington Post, Oct. 6, 1987]

NATO ADVANTAGES SEEN IN TREATY

(By Robert J. McCartney)

BRUSSELS.—NATO planners have concluded that the proposed U.S.-Soviet treaty to scrap intermediate range nuclear missiles would weaken the Soviets' over all military capability by at least as much as NATO's and may result in a small gain for the western alliance in the European nuclear balance.

The Soviets would give up more than three times as many nuclear warheads as NATO in the bargain, an advantage that one top-ranking NATO expert said was "not something to sneeze at."

The Soviets consequently would suffer a relative greater loss in the ability to strike enemy airfields, command and control centers and rear-echelon positions where troop reinforcements would gather in any war between the blocs.

"Clearly, we don't lose badly. In some ways, we think we have a gain. They give up more targets than we do," another expert at NATO headquarters here said.

While some NATO military commanders are unhappy about losing 108 U.S. Pershing II missiles under the treaty, the United States would still retain the ability to hit Soviet territory from Europe with submarine-launched missiles and bombs carried by F-111 based in Britain.

Eliminating the Pershing II missile force based in West Germany was widely considered Moscow's chief military goal in the negotiation on medium and shorter-range nuclear arms. The Pershing II, with a range of 1,100 miles, is regarded as the alliance's fastest and most accurate weapon capable of striking Soviet soil.

The Intermediate Nuclear Forces (INF) treaty would eliminate only ground-based missiles with ranges of between 300 and 3,500 miles, which are estimated to represent less than 4 percent of superpowers' total nuclear arsenals.

"We will have a little less accuracy and flexibility," a NATO military expert said. But he added, "We still have weapons systems that cover those [INF] ranges."

The planned elimination of INF makes it more important than before to fulfill current plans to upgrade NATO's battlefield-range missiles and airborne nuclear weapons systems during the 1990's, according to civilian and military experts at NATO headquarters.

The major potential liabilities for the western alliance in the proposed treaty are political rather than military, according to officials here and at NATO's military headquarters in nearby Mons.

"In purely military terms, there is no question that we gain. In political terms, it's different," said Martin McCusker, director of the North Atlantic Assembly's military committee. The assembly is made up of 200 legislators from NATO member states.

One political question raised by the accord is whether it represents a downgrading of the U.S. commitment to defend Europe. The American INF missiles in Europe, which would be dismantled under the treaty, were deployed beginning in 1983 to counter the growing Soviet arsenal of SS20 missiles and to reassure European allies of U.S. determination to help defend them.

The other major concern is that the pact could create political momentum for additional nuclear disarmament accords that might eventually leave NATO vulnerable to the Warsaw Pact's perceived advantage in conventional forces.

Yet there is sharp debate within the alliance over whether Warsaw Pact conventional forces are really superior to those of the western alliance. The International Institute of Strategic Studies in London judges the conventional forces of both blocs to be in rough parity.

NATO experts expressed special satisfaction that the INF treaty would reduce the threat posed to NATO's 35 operational airfields and to ports such as Antwerp, Belgium, and Rotterdam where U.S. troop reinforcements would arrive in case of war. But the Soviets, like the Americans, would retain the ability to hit those targets with aircraft, submarine-based missiles, ICBMS and, in some cases, battlefield-range missiles.

"Both sides will have to make some adjustments. Both have a variety of options left," said Lawrence Freedman, head of the department of war studies at Kings College in London.

Under the planned INF deal, each side is to scrap all of its landbased missiles with ranges shorter than those of intercontinental ballistic missiles, or ICBMS, and longer than those of battlefield-range or tactical missiles. In terms of nuclear warheads, the western alliance will lose a total of about 480 currently deployed warheads. The Soviets, by contrast, would destroy more than 1,500 warheads.

Perhaps the biggest problem is that the treaty provides for scrapping the missiles considered ideal for making a "demonstration" shot early in a war to seek to persuade the Soviets to call off an invasion of Western Europe by Warsaw Pact conventional forces.

In this scenario, a single missile would be fired at a military target on Soviet territory to show Moscow that NATO was willing to use nuclear weapons to defend Europe. The Pershing IIs and, to a lesser extent, the ground-launched cruise missiles serve this purpose better than the alternatives that would be available after the treaty, NATO experts and private analysts said.

The INF weapons are land-based and, therefore, somewhat more accurate than submarine-launched or airborne weapons. "I wouldn't say it's a major problem, but there is a difference in accuracy," a NATO military expert said.

In addition, it is considered preferable for submarines to fire all of their missiles rather than a single one, because a submarine reveals its location to the enemy when it fires. With aircraft, there is the risk that the planes will not get through to their target, although NATO officials said they are certain that Soviet air defenses could be penetrated.

The INF weapons to be dismantled also have the advantage of what is called "visibility."

As ground-based systems, they cannot easily be withdrawn from Europe, as submarines or aircraft can. The INF weapons, therefore, are seen as having a particularly good deterrent role: if the Soviets were overrunning West Germany, NATO would have to "use them or lose them."

But political and military leaders throughout NATO express confidence that the United States would be willing to use other types of nuclear weapons, if necessary, to protect Europe.

"I don't know a senior U.S. official, Republican or Democrat, who doesn't know that the security of the United States is totally tied up in the security of Europe," a senior NATO planner said. "The idea that the Americans would let the Soviets take Europe is very much mistaken, and the Soviets know that."

A final advantage of the INF weapons is that NATO planners believe that they could use a single Pershing II or cruise missile, rather than another nuclear weapon, with somewhat less risk of triggering an all-out nuclear war.

As intermediate-range, European-based weapons, the INF missiles would carry the "message" that NATO was interested in bringing a European war to an end rather than in raising the nuclear stakes to the strategic level.

But NATO planners say that nuclear weapons carried by European-based aircraft, or fired from submarines in European waters, would send the same signal. About 400 submarine-based nuclear warheads already are assigned to NATO's top military commander in Europe for just this purpose.

IDA NUDEL—FREEDOM AT LAST

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. BIAGGI. Mr. Speaker, in 1978, Soviet refusenik Ida Nudel hung a banner from her window which read, "KGB Give Me My Visa." Nearly 10 years later, I am so very pleased to note that her request has finally come true.

Based on a report I received from the National Conference on Soviet Jewry on Friday, Ida Nudel has been informed by Soviet authorities that her application for an exit visa has been approved and she will be allowed to join her sister in Israel once the paperwork is processed in the next couple of weeks.

At long last, Ida Nudel, the "Guardian Angel" of Soviet refuseniks, will finally have the freedom she has sought for 16 long, excruciating years. It was in 1971 when Ida Nudel and her sister applied to leave the Soviet Union. Her sister, Elena Fridman, was allowed to leave; Ida was not. Her request was denied on the grounds that since she was an economist, she knew too many "state secrets." Further requests for Ida's exit visa over the past 16 years met with similar denials. But, that was not the whole story.

After being denied the right to emigrate, Ida began what the Soviet authorities termed a series of "crimes" that led to 4 years of Siberian exile. What did Ida do to deserve such harsh treatment? She began caring for other Soviet Jews who were similarly denied the right to emigrate and were later imprisoned for simply being true to their Jewish faith. For 7 years, Ida Nudel cared for her fellow Soviet Jews, gaining her considerable notoriety as the "Guardian Angel" of Jewish refuseniks in the Soviet Union. But, the Soviet authorities who were also very familiar with her deeds viewed her action differently. Ida was constantly harassed by government officials for her work and her deep commitment to human rights.

Finally, in a courageous act of defiance, Ida hung the banner outside her apartment window, which read "KGB Give Me My Visa." Soviet justice was swift. She was sentenced to 4 years of internal exile in Siberia for "malicious hooliganism." Ida suffered tremendous physical and mental abuse while in exile. Her physical health dwindled, but her spirit could not be broken. Upon her release she was tested once again—this time being denied a permanent residence. She was forced to wander from town to town until she settled in the remote town of Bendery, where she has been living ever since. Throughout it all, Ida Nudel has never wavered in her relentless pursuit of basic human rights, for herself, but most of all, for others.

Ida Nudel has been an inspiration to all who know her story. That is why I was particularly moved by a personal visit I had last year with Ida's sister, Elena Fridman. In addition to her health, Ms. Fridman was particularly concerned that Ida's heroic deeds and the subsequent notoriety she gained from them had placed her in the position of a valuable bargaining chip. I wrote to President Reagan and Secretary of State Shultz to urge their personal intervention and they responded that the release of Ida Nudel was a top priority of theirs.

It was also in June 1986 that I joined my distinguished colleague from Massachusetts, Mr. FRANK, in spearheading a congressional letter to Soviet leader Mikhail Gorbachev, cosigned by 100 other House Members, urging that Ida Nudel be released. All of these efforts, as is so often the case, were supplemented by and largely the result of tireless and inspired efforts by the Soviet Jewry lobby here in the United States. Their efforts have made a difference, not only in the case of Ida Nudel, but in the case of Soviet Jews in general.

More than 5,000 Soviet Jews have been granted exit visas this year, a figure that is in stark contrast to the fewer than 1,000 who were allowed to leave in all of 1986.

Yet, while there have been some promising words and encouraging actions from the Soviet Union of late, we should not allow ourselves to be misled. We should remain hopeful, but the Soviet's history of human rights violations, particularly against their Jewish citizens, has been too dismal for too long to think that the situation could possibly be reversed overnight. The release of Ida Nudel does not change all of this, but is cause for continued optimism.

Time and history will be the final judge, however. The fact remains that there are some 380,000 Soviet Jews who have applied to emigrate and some 11,000 have been turned down at least once. I would strongly urge my colleagues to join me in reaffirming our resolve to do everything possible to see that all Soviet Jews who wish to emigrate are allowed to emigrate, and that those who want to remain in their homeland are allowed to practice their religious and cultural beliefs without repression.

IN HONOR OF DR. ELLIS McCUNE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. STARK. Mr. Speaker, I would like to draw the attention of the House to an outstanding citizen, Dr. Ellis McCune, president of the California State University at Hayward. In a world where education seems to be of diminishing importance to many Americans, California and the entire country are fortunate to have a man of such great stature: professional, intellectual, and humanitarian. His commitment and devotion to America's young people should be an inspiration to us all.

Ellis McCune will be celebrating his 20th year as president of the University on October 30. During that time he has built the school into one of the leading colleges in the State. In addition, his participation in a long list of professional organizations and committees has won him the respect of his colleagues. Dr. McCune has served as chairman for the Remedial Education Task Force, the Council on Post Secondary Education, and the California State Scholarship & Loan Commission as well as holding many other executive positions on various professional organizations.

Dr. McCune's career has been filled with achievement and service. After graduating with the highest honors from the University of California at Los Angeles, he went on to his Ph.D. in political science at the same university in 1957. As well as being a published writer, Dr. McCune has made valuable creative and consultative contributions to various universities, local governments, and professional meetings in the fields of constitutional law and public administration.

He falls into that select group of individuals called humanitarians. In addition to his devotion to the educations of thousands of young Californians, Dr. McCune has given his time and energy to Hayward's Emergency Shelter Program, the Hayward Area Historical Association, and the Bay Area Urban League. His compassion for his fellow man and his commitment to the good of society seem to be endless.

A man of letters, of great skill and devotion, of unparalleled altruism, he is truly deserving of our thanks. Thank you, Dr. McCune, for giving of yourself so freely. Accept our gratitude and that of the young men and women you have been so instrumental in helping to better themselves. Your 20 years of service have touched and enriched many lives.

THE 50TH WEDDING ANNIVERSARY OF MR. AND MRS. JOHN IGNASZAK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. LIPINSKI. Mr. Speaker, it is my pleasure to bring to the attention of this body an exemplary couple from my district, John and Ann Ignaszak, on the occasion of their 50th wedding anniversary.

Mr. and Mrs. Ignaszak were married at St. John and God Church of Southwest Chicago on August 21, 1937, and have remained active and stalwart members of their church and community since that time. They are exemplary of the family strength and solidity which has made America great. They will be joined in celebration by their family, two children, six grandchildren, and one great-grandchild as well as the many friends they have made in their years in the Southwest Chicago community.

Their commitment to each other and their family is impressive and, especially in today's world, deserving of special recognition and honor. I am sure that my colleagues join me in congratulating Mr. Ignaszak and his bride of

50 years, Ann, on their many years of love and commitment.

GLEN FRAKES—CREATING STIRRING REMEMBRANCES

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. MRAZEK. Mr. Speaker, I rise today to call the attention of my colleagues to a special ceremony scheduled for October 16 in New York City. On that date, a new "diorama" depicting the World War II-vintage destroyer escort U.S.S. *Pettit* at battle in the Atlantic will be unveiled at the Intrepid Sea-Air-Space Museum.

I suppose that, like this Member, most of my colleagues are unfamiliar with the concept of a diorama. Simply put, it is a scenic representation constructed to minature scale and designed to blend realistically into a painted background, including sculpted figures in lifelike detail. In the case of the U.S.S. *Pettit,* this resulted in a 9-foot depiction of this ship as it crashes through the foaming waves of the Atlantic at top speed, and as more than 100 topside figures sprint toward battle stations.

Don Kahler, director of the Destroyer Escort Sailor's Association [DESA], a nationwide organization of 8,500 members, saw the representation of the *Pettit* and said, "This is so real that I can feel the spray on my face and hear the sounds of men at battle stations." The unveiling of the *Pettit* at the Intrepid Museum will memorialize the role of the destroyer escorts in World War II and the 250,000 men who served aboard these vessels during the war.

Dr. Martin Davis, director of historic projects for DESA and a constituent of mine from Huntington, Long Island, provided me with the fascinating story of how this riveting exhibit came to be. It seems that a junior high school in Gilbert, AZ, under the leadership of teacher Glen Frakes, has begun a tradition of constructing dioramas of famous American battles as a means of augmenting the American history course taught by Mr. Frakes, himself a Vietnam veteran. Thousands of man-hours and hundreds of students have contributed to the construction of stirring remembrances of the Battle of the Bulge, Custer's Last Stand, and the Battle of Tarawa, the latter of which has been displayed in these halls. They have just completed a diorama depicting the Battle of the Alamo, which is on display in the statehouse in Austin, TX.

Mr. Frakes obviously has hit upon a novel approach to bring history to life for his students, and he is to be commended for this vision. His students learn much more than names and dates from these projects, as they must immerse themselves in the details of terrain, environment, clothing, architecture, and strategy as they create their works.

Mr. Speaker, I find the establishment of a destroyer-escort museum at the Intrepid through the unveiling of the U.S.S *Pettit* to be altogether fitting and proper as a memorial for all of these class ships and the men who bravely served upon them during World War II. Dr. Davis, who served aboard the original *Pettit,* has located more than 250 former sailors from the *Pettit* and formed the U.S.S. Pettit Association, which has convened annually since 1981. He also is a former superintendent of schools in Cold Spring Harbor, Long Island, and a former associated professor of educational administration at Hofstra University, also on Long Island.

I congratulate the officers and members of the DESA on this great honor, as well as the students of Gilbert Junior High School, as the U.S.S. *Pettit* is unveiled in New York City. Because of their efforts, the brave deeds of these men and their comrades in arms in World War II will become known to a wider cross-section of the American public.

LET'S NOT SACRIFICE SDI AT THE ALTAR OF START

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. BROOMFIELD. Mr. Speaker, recently, I asked Kenneth Adelman, the Director of the Arms Control and Disarmament Agency, to comment on the advisabiliity of House Concurrent Resolution 117, a resolution offered by my colleague on the Foreign Affairs Committee, Congressman STEVEN SOLARZ.

In essence, House Concurrent Resolution 117 calls upon the President to restrict the Strategic Defense Initiative, within the narrow interpretation of the 1972 ABM Treaty, in exchange for reductions in strategic offensive systems. While as ranking member of the Arms Control Subcommittee I have some personal reservations about Mr. SOLARZ's resolution, I thought it would be useful to have the administration comment directly on the merits of House Concurrent Resolution 117. The enclosed letter from Director Adelman outlines his concerns and opposition to House Concurrent Resolution 117.

U.S. ARMS CONTROL
AND DISARMAMENT AGENCY,
Washington, September 29, 1987.

Hon. WILLIAM S. BROOMFIELD,
House of Representatives

DEAR BILL, thank you for the opportunity to comment on House Concurrent Resolution 117. As you know, some of the most critical negotiations in arms control take place not in Geneva with the Soviets, but right here in Washington with the Congress of the United States. In arms control, Congress wields a two-edged sword. It can strengthen the U.S. hand significantly at the bargaining table with the Soviets. It also can tie the U.S. hands in such a way as to make progress in real arms control much more difficult, if not practically impossible. Unfortunately, House Concurrent Resolution 117 falls into the latter category and would remove incentives for the Soviets to bargain seriously toward effective arms reductions.

One of the Soviet goals of the Geneva negotiations has been to add additional constraints aimed at specifically limiting the U.S. SDI program. We do not believe that strategic defense activities should or need be subject to constraints beyond those contained in the ABM Treaty, nor should they be a precondition for reductions in strategic offensive forces. House Concurrent Resolution 117 does not address the fact that in 1972, when we signed the ABM Treaty, both sides agreed that the next step was to achieve significant reductions in our strategic nuclear arsenals. Fifteen years have now passed, and it is time to get on with those reductions envisaged with the ABM Treaty.

The Resolution also does not take into account the promise of newly emerging defense technologies that were not available in 1972 when the ABM Treaty was signed. These new technologies may provide a way out of our current reliance on ballistic missiles to maintain deterrence. If the United States and Soviet Union could develop these technologies and make a stable transition to a greater reliance on effective ballistic missile defenses, then the threat of nuclear devastation could ultimately be reduced.

Throughout the negotiations, the U.S. position has been that deep reductions in offensive nuclear weapons are justified on their own merits and should not be linked to restrictions on SDI. Ironically, SDI alone has made today's negotiations on deep reductions possible. It was only after SDI was launched and given a budget that the Soviets became willing even to talk seriously about deep reductions in offensive weapons. Restricting SDI would remove that key incentive the Soviets have to negotiate deep reductions, would not solve our basic strategic problems, and would hurt our chances to provide for more stable deterrence. It is essential that we see if effective defenses can prove feasible, and explore a joint transition to strategic defenses with the Soviets.

I believe this President has more than amply demonstrated his willingness to go the extra mile to get sound agreements with the Soviets. Progress has been greatest in precisely those negotiations where Congress has been most supportive of the U.S. posture. As we learned in the INF negotiations, strong unequivocal Congressional support for U.S. defense programs and scheduled deployments is the key to U.S. success in negotiating on arms control with the Soviet Union. We should seek to keep arms control a nonpartisan effort and give a President the tools and the time he needs to negotiate effectively. We can do it cooperatively. We cannot do it without your support.

Sincerely,
KENNETH L. ADELMAN.

THE ACCESS-ABILITY COMMITTEE FOR THE STATUE OF LIBERTY/ELLIS ISLAND

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. RODINO. Mr. Speaker, on September 30, the Department of Interior awarded its Conservation Service Award to the Access-Ability Committee for the Statue of Liberty/Ellis Island. This is the highest honor the Secretary of Interior can bestow upon a private citizen or group for service to the Interior Department.

The Access-Ability Committee is a voluntary organization that worked tirelessly on behalf of the disabled to eliminate access barriers at the Statue of Liberty and Ellis Island. As a result of their outstanding efforts, these facilities are being made into an international model of accessibility for disabled visitors.

I want to join with Interior Secretary Donald P. Hodel in honoring these dedicated individuals. I am particularly proud that one of my constituents, Mr. Joseph Llewellyn, was a member of the committee and among the honorees. Mr. Llewellyn is a National Services Officer for the Disabled American Veterans organization in Newark, NJ. He is a dedicated and long time champion of the rights of disabled Americans.

Mr. Speaker, with your permission, I would like to include in my remarks the Secretary of Interior's citation honoring the Access-Ability Committee for the Statue of Liberty/Ellis Island.

CITATION FOR CONSERVATION SERVICE, STATUE OF LIBERTY/ELLIS ISLAND ACCESS-ABILITY COMMITTEE

In recognition of the tireless efforts and voluntary contributions made by the Access-Ability Committee and the Committee's accomplishment achieved by the Statue of Liberty and Ellis Island.

In the fall of 1982, Mr. Richard Bernard, a disabled American Veteran, contacted the National Park Service to inquire about the degree to which the accessibility needs of disabled citizens would be met following the renovation work in progress for the Statue of Liberty and Ellis Island Centennial Celebration. Mr. Bernard offered the assistance of himself and other disabled citizens and advocates to identify access barriers and solutions. The National Park Service accepted Mr. Bernard's offer, and in the spring of 1983, a small ad-hoc committee of disabled citizens and advocates was created. Mr. Bernard agreed to chair the Access-Ability Committee, and work was begun to identify access barriers and to propose potential solutions. From 1983 to the present, Committee members contributed many hours of their personal time and considerable personal expense to assure that the Statue of Liberty, the national symbol of equal opportunity, is as accessible as it can be to all citizens. As a result of the Committee's effort, the Statue of Liberty and Ellis Island are being made an international model of accessibility. As the facilities have been renovated, almost all areas have been made architecturally accessible to physically disabled persons. In addition, state-of-the-art technology has been utilized to make the museums and other informational services accessible to visitors who are blind and deaf. These efforts include captions on audio-visual presentations and telecommunications devices for persons with hearing impairments and tactile exhibits and audio tape messages for those with visual impairments. The Committee also contacted agencies and organizations of disabled persons sharing with them the accessibility features being planned and urged them to become involved in fund raising. As a result of this effort, close to $2 million was contributed by the disabled citizens. This included the major contribution of $1 million from the Disabled American Veterans National Organization. For voluntarily guiding the National Park Service in its efforts to make the Statue of Liberty and Ellis Island an international model of accessibility for all citizens, the Statue of Liberty/Ellis Island Access-Ability Committee is granted the Conservation Service Award of the Department of the Interior.

DONALD PAUL HODEL,
Secretary of the Interior.

CONTINUE AID TO THE CONTRAS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. SOLOMON. Mr. Speaker, two observations should be made about the peace being pursued at this moment in Central America:

First, it would not have been possible had it not been for the pressure applied by the resistance; that is, the Contras; and

Second, there has never, repeat, never, been a time in the last 45 years when relying on the good will of Communist regimes has not backfired, and tragically so. Can anyone think of even one example of negotiations with Communists that lead to freedom?

What conclusions can we draw from those two indisputable facts? The first is that Ronald Reagan should go down in history as the President who prevented the Sandinistas from spreading their tyranny throughout Central America, at least during his watch. The second conclusion is that we should continue to fund the resistance until every trace of danger of a Marxist-Leninist Central America is forever removed.

For that reason, I am glad to enter into the RECORD an excellent recent editorial in a hometown paper, the Albany Times-Union, which reminds us of the facts of life in that troubled part of the world.

MORE AID TO THE CONTRAS?

Last week newsprint was delivered to La Prensa newspaper in Managua, Nicaragua. The paper's owners hope that the signing of Costa Rican President Arias' peace accord earlier this month will mean they will soon able to publish their paper, an independent organ opposed to Sandinista rule, again.

In fact, there is a pervasive feeling throughout Managua that the Sandinistas might soon begin to somewhat loosen their grip on many civic and political activities in this harried nation. The Rev. Bismarck Carballo, the expelled director of the Catholic Radio station, for example, has even returned to Managua in the hopes that they might be allowed to broadcast again. Many opposition political leaders, meanwhile, are preparing to take the debate over Sandinista rule directly to the people.

These are all wonderful and encouraging signs. But we must not lose sight of the fact that these nascent reforms are wholly the result of pressure that the United States has been able to bring on the Sandinista dictatorship. If the United States had not supplied the Nicaraguan rebels and encouraged their efforts, no number of peace treaties by the Contadora nations would have moved the communists to agree, however tentatively, to the Arias peace plan. It is solely because of American aid to the contras, as the rebels are called, that the Sandinistas, first, were diverted from their original goal of subjugating all the Central America and, second, made more agreeable, at least on the surface, to democratic reforms.

While the United States should give the Sandinistas opportunity enough to live up to the reforms they agreed to institute by Nov. 7—reforms that include freedom of the media and political activity—it cannot now afford to relay on Managua's good will alone to see that these changes are actually made. The Arias peace plan, as good a beginning as the Central American nations thought they could get, contains a flaw that could condemn Nicaragua to totalitarian rule if not checked. Specifically, the fatal loophole is the absence of a provision that bars Soviet bloc aid to Nicaragua—even though the same plan bars U.S. aid to the contras.

Obviously, under such an arrangement, the Sandinistas, while pretending to move the country toward freedom and democracy, could merely consolidate their control over the nation and over disputed countryside. The contras, meanwhile, without material aid of any kind, would disband and dissolve.

The United States cannot allow that to happen. It cannot allow the contras to wither on the vine while the world waits to see if the communists live up to their end of the bargain. The contras must be given at least enough aid to keep them intact in the event Senor Ortega reneges. Indeed, a reduction of U.S. aid to the contras should parallel the reduction in the Nicaraguan military forces. As Managua cuts the number of its troops, the U.S. can cut back its military aid to the rebels.

The United States, of course, should give the Arias peace plan a chance to succeed. But, ironically, the United States might very well seal the peace plan's doom if it signals an end to supporting the resistance and gives the communists reason to believe they have no reason to reform.

HONORING THE 1987 EL RANCHO UNIFIED SCHOOL DISTRICT HALL OF FAME

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. TORRES. Mr. Speaker, I want to call to the attention of my colleagues the new members of the El Rancho Unified School District's Hall of Fame. On Saturday, October 10, the fifth annual Hall of Fame Recognition Banquet will be held to honor outstanding former students of the El Rancho Unified School District. These 1987 candidates have gained local, State or national recognition for achievements in their respective professions. Their accomplishments serve as shining examples for present students to emulate.

Mr. Speaker, I want to commend the alumni that will be inducted into the Hall of Fame. They are Catherine (Kelly) Baird, class of 1976, Dr. Armand Hernandez, class of 1968, Alma Martinez Zendejas, class of 1971, Kenneth Musselmann, class of 1964, Esperanza Zendejas, class of 1971.

EL RANCHO UNIFIED SCHOOL DISTRICT 1987 HALL OF FAME RECIPIENTS

CATHERINE (KELLY) BAIRD, CLASS OF 1967

Educational background: Master of Social Work (MSW), CSU, Sacramento; Bachelor of Arts (Psychology), CSU, Sonoma; Associate of Arts (Sociology), Cerritos Community College; California State Registered Social Worker; Credentialed School Social Worker (K-12); Credentialed California Community College Counselor, Instructor and Student Personnel Worker.

Professional affiliations and recognitions: Member National Association of Social

Workers and National Rehabilitation Association; life member Alpha Gamma Sigma Community College Honor Society; attended Pepperdine University on academic scholarship; named to "Dean's List" as undergraduate and graduate student; awarded Bachelor of Arts Degree "With Honors"; former member Board of Directors, Kairos Community Center (Sonoma County); former member Palos Verdes Affiliates for Mental Health (Los Angeles County); recently chosen to present research paper to annual convention of California Association of Marriage and Family Counselors; recently chosen to moderate main workshop for United Cerebral Palsy Association's annual statewide conference; chosen by California State Council on Developmental Disabilities to participate in drafting their recently proposed "5-year Master Plan for Respite Care Services;" member California State Office of Statewide Compliance Advisory Committee; member Sacramento County Board of Supervisors Advisory Committee on the Handicapped; Chairperson, Sacramento Community Partner Committee for 1981 International Year of Disabled Persons.

Ms. Baird has served as Executive Director of the Governor's Committee for Employment of the Handicapped, and served as Assistant Director for the previous two years.

Over the past years, Catherine has received local, state and national recognition as a prominent leader and expert regarding policy and program issues on employment and disability. Although she formally trained to become a family therapy clinical specialist, she eventually became professionally involved in an area that she had extensive personal experience in-disability advocacy.

Catherine became severely disabled soon after beginning her freshman year at El Rancho. Having rheumatoid arthritis (and multiple surgeries) required that she use a wheelchair when "handicapped access" was not yet a part of the general public's awareness.

ARMAND R. HERNANDEZ, M.D., CLASS OF 1968

Educational background: Occidental College, B.A. (Physics); UCLA School of Medicine, M.D.

After graduation from medical school, Dr. Hernandez moved to Honolulu in June, 1976 to complete a three year residency training program in pediatrics at Kapiolani-Children's Medical Center. In 1980 Dr. Hernandez established Leeward Pediatrics. He wanted to fulfill a role as child advocate to assure the best interests of children on the Leeward Coast. Dr. Hernandez is currently the only Board Certified Pediatrician on the Waianae Coast. In order to become Board Certified, a physician must complete at least three years of pediatric residency training and successfully pass both written and oral examinations which demonstrate depth and breadth of knowledge in the field of pediatrics. Board certification is quality assurance that children are being cared for by a capable physician. Dr. Hernandez attends weekly conferences at Kapiolani-Children's Medical Center which enables him to keep abreast of the most recent advances in pediatric practice. Dr. Hernandez is a member of the Honolulu Pediatric Society, the American Academy of Pediatrics, the Waianae Sub-Area Health Planning Council; and is a member of the Waianae Coast Business Association and the Waianae Rotary Club.

Dr. Hernandez was appointed by the Governor of the State of Hawaii as a member of the Waianae sub-area Health Planning Council. The Health Council addresses health related problems as they impact upon the Waianae coast and serves as an advisory group to the State Health Planning and Development Agency and the Hawaii statewide Health Coordinating Council.

He was also appointed as a representative of the Hawaii chapter, American Academy of Pediatrics to the early periodic screening, diagnosis and treatment advisory committee.

Dr. Hernandez is active in state politics to improve funding for health services for the medically indigent. He presented pivotal testimony before the state legislature which resulted in improving access to quality health care for the medically indigent.

ALMA MARTINEZ, CLASS OF 1971

Educational background: University of Southern California; University of Guadalajara; University of Mexico; and Whittier College, B.A. (Theatre).

Co-starred in feature films: Underfire, Zoot Suit, Barbarosa, Trial by Terror. Stage plays. Corridos and Green Card.

Co-starred with Gene Hackman, Gary Busey, Martin Landau, Edward J. Olmos, Willie Nelson, Nick Nolte, Hal Holbrook and Sally Struthers.

For television, Alma guest-starred as 'Isabel Rivera' on "Whiz Kids"; co-starred as 'Ms. Alvarez' on NBC's pilot "Scamps" with Bob Denver; co-starred as 'Anastacia' In "Sequin" with Edward James Olmos for PBS American Playhouse series; co-starred on the hit television series "St. Elsewhere"; made several appearances as 'Sharon Garcia' on the daytime soap opera "General Hospital"; co-starred in the premiere television season on the "Twilight Zone". She was featured in the television movie "Dress Gray" with Hall Holbrook and Eddie Albert as well as "Tough Love" with Bruce Dern and Lee Remick and the television pilot "Murphy's Law". Alma has also become familiar to television audiences, on both English and Spanish networks, for her appearances in commercials including McDonald's, Gain Detergent, Wesson Oil and the California Lottery, among others.

In addition to her busy performance career, Alma, since 1981, serves on the Los Angeles Committee of the Christian Children's Fund. Her work for the C.C.F. has taken her to the refugee camps of Ethiopia to film a television documentary on the plight of the famine victims. She is the proud sponsor of 'Santa Chacon' of Oaxaca, Mexico.

In 1985 Alma was honored as "Outstanding Hispanic Entertainer" by the Equitable Company in N.Y.C. She shared the honor with fellow actors Anthony Quinn, Edward J. Olmos, Ana Alicia, Rene Enriquez and Yolanda Nova.

In 1986 Whittier College honored Alma with an "Outstanding Hispanic Alumni Award".

KENNETH G. MUSSELMANN, CLASS OF 1964

Educational background: California State University, Long Beach, B.S. (Business Operations Management); Cerritos College, A.A. (Business Administration); Rio Hondo Community College; California Polytechnic College, Pomona.

Outstanding achievements or awards:

Army.—Bronz Star, Purple Heart, Combat Infantryman Badge, 1969.

State.—Outstanding Disabled Veteran of the Year—1978, State of California; Elected as California State Department Commander of the Disabled American Veterans (1980-81), representing 49,000 members and over 200,000 service-connected disabled veterans living in California—1980.

National.—Outstanding Handicapped Federal Employee of the Year—1977, Eleventh Naval District; National Commanders Citation, Disabled American Veterans—1981; Certificate of Merit, 1976, U.S. Treasury Department.

Ken sustained a combat injury in Vietnam in 1969 when a land mine explosion and gunshot wounds resulted in the loss of both legs. He has turned a disability into a tremendous ability to achieve. He has become an inspiration to all those who meet and know him.

He has worked 12 years at the Naval Weapons Station, Technical Services Division, Data Processing Department, Seal Beach, California. As Manager his responsibilities include hardware and software acquisition, system software support, data communications, data base technology and computer center operations.

Besides his work, Ken has found time and energy to devote to working on behalf of the DAV. Over the past 12 years, he has accepted increasingly demanding responsible positions, filling his first national position in 1981. In addition, he has been a point of contact for veterans needing assistance. He has provided a marvelous example of how a disabled veteran can make maximum use of his abilities and opportunities to contribute at work, at home and in his community.

Ken is now on a one year leave of absence from his position at the Naval Weapons Station. His duties and responsibilities demand that he work out of the National Offices located in Washington, D.C. and Cinicinnati, Ohio, while he holds the position of National Commander of the Disable American Veterans.

ESPERANZA ZENDEJAS, CLASS OF 1971

Educational background: Imperial Valley College, A.S.; San Diego State University, B.A.; University of San Diego, M.Ed.; and Stanford University, Ed.D.

Who's Who Among Junior College Students, Imperial Valley College, 1952.

Employment history: ESAA Coordinator, K-8, South Whitter Elementary School District; Dean of Students, Gilroy Unified School District; Research Assistant/Superintendent's Intern; and Principal K-6, Gilder Elementary, Oak Grove Elementary School District.

Esperanza Zendejas, youngest of nine children of an Imperial Valley farm laborer, was born in La Yerba Buena, Mexico and immigrated to the United States when she was nine years old. She was in the eighth grade when she decided she wanted to be a teacher. Little did she know that one day she would receive a doctorate from the Stanford School of Education and would be a school principal.

Her doctorate was entitled "The Underrepresentation of Women on Rural School Boards." She focused on the low numbers of women participating in rural education, particularly on rural school boards.

Zendejas, with a "handsome" dummy named Kilo, is a professional ventriloquist and she uses her hobby to instill non-tangible values such as severance, enthusiasm and motivation in her students. "Children enjoy themselves so gratefully. There are no cares in the world when they enjoy themselves. It's so beautiful. You see a magic blanket fall over the children."

Community involvement: 1978-74 Radio Disc Jockey/Mexican; 1972-73 Teaching the Blind to Swim; Coaching Little League; participated in many community/church fund raising events as a professional ventriloquist; participated in the Miss Imperial Valley Pageant; and presentor for many school assemblies in the areas of discipline and self-esteem.

REPRESENTATIVE LAFALCE AND A PLAN TO HELP THIRD WORLD DEBTORS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. GARCIA. Mr. Speaker, the September issue of Euromoney contains an interview with my friend and colleague, JOHN LAFALCE, in which he discusses a proposal he introduced before the Banking Committee's Subcommittee on International Finance, Trade, and Monetary Policy on Third World debt. That proposal was later adopted as part of the committee's title in the trade bill. A similar plan was introduced by BRUCE MORRISON in the Committee's Subcommittee on International Development Institutions and Finance. Both JOHN and BRUCE, along with CHUCK SCHUMER and WALTER FAUNTROY have taken a lead on how we can play a role in trying to better manage this crisis.

On the Senate side Senators PAUL SARBANES, BILL BRADLEY, and JOHN KERRY have also made significant contributions to this effort. As chairman of the Subcommittee on International Finance, I have come to appreciate just how complex but important an issue Third World debt is to the United States, as well as the developing world and other industrialized nations.

I am submitting JOHN's Euromoney article to the RECORD for my colleagues' perusal. I also want to take a moment to commend my friend from New York for the leadership he has shown on this issue.

The article follows:

[From Euromoney, September 1987]

LAFALCE EXPLAINS HIS RAINY DAY PLAN

One of the most imaginative Third World debt proposals has been made by Congressman LaFalce, and backed in the Senate by Senator Paul Sarbanes, the head of the Senate's joint economic and banking committee, LaFalce, the chief spokesman in Congress, has served on the House of Representatives banking committee since 1976.

The scheme calls for the establishment of a new institution. "Baker and Volcker don't have the time to be ringmasters any more," LaFalce told Euromoney. LaFalce wants a repeat of the role the IMF has played in the past. "In the 1970s, the IMF sponsored a special facility to help developing countries deal with problems associated with the first oil shock. It is now time for a multilateral special facility to be created to deal with Third World debt over the long term," LaFalce told the House of Representatives in a recent debate.

LaFalce set out four objectives for the new institution. First, it would give creditor banks another buyer for their loans in the secondary market. Second, it would encourage countries with strong capital surpluses to apply these surpluses to investments in heavily indebted countries. Third, it would buy bank loans to debtor countries at a discount. And, fourth, the new institution would establish mechanisms for passing along the benefit of any such discount or other action of the facility to the debtor country, including mechanisms which would allow the facility to hold the discounted debt as the creditor of the borrowing nation, arrange debt-for-equity swaps with private investors, and transform fixed obligations into long-term securities which create a contingent claim on the export performance of the borrowing country.

The process would begin by the debtor country asking the new institution to buy back a proportion of its debt. It would agree only if the country produced a credible economic plan. Once the amount was agreed, any holder of the country's debt would be able to sell, at the discount agreed.

The facility would raise the money to buy the debt from the international credit markets. LaFalce claims the facility should be able to borrow at attractive rates because it would be backed by commitments from industrial nations or by collateral, such as IMF gold reserves. "I understand the IMF possesses more than 100 million ounces of gold, worth approximately $40 billion, which is not used for any purpose other than as a reserve against a 'rainy day'. Well, that day has arrived," LaFalce told the House of Representatives. He estimated that 10% to 15% of the total amount would be enough to begin the scheme.

Once the facility had bought the debt it would act as a new creditor, but would attempt to recover only the discounted value of the loan. The facility would also seek to lower the debtor's interest burden still further on the new discounted debt. It would do this either by finding private investors who were willing to buy the debt in order to swap it into equity investment in the country, or by packaging the loans into new long-term securities which would carry certain incentives in return for slightly lower interest rates. In one example, investors were given the option to buy some key debtor export such as oil at lower than market prices. Investors would be trading lower current interest rates for the hope of future price movements in a country's basic exports.

The essence of the scheme is that in return for selling their loans at a discount the banks would buy these securities, which would give them a secure stream of income. It is not intended that facility would dispose of all its loans quickly to private investors. One of the facility's functions would be to monitor the progress of the country's economic plan. "Sovereign borrowers' economic game plans are atrocious," said LaFalce. "The facility would be a good neutral institution to provide supervision of a country's economic policies."

For banks, one of the main advantages of the scheme is that if losses are recognized through sale at a discount, the loan is removed from the bank's books, and the bank's exposure to that country declines by the full value of the loan sold. If, however, the losses are recognized through the forced write-down on loans held by the banks, their exposure declines only by the size of the write-down.

Opponents of the scheme claim that forcing banks to accept such discounts on existing assets would not encourage them to renew voluntary lending to Third World countries. "It's a fundamental inconsistency in any scheme for write-downs or debt forgiveness," said one New York bank analyst. But backers of the schemes disagree. "First one might ask—what voluntary lending? Since 1982, private banks have sought to reduce rather than increase their exposure to problem debtors, and all the net new lending which has taken place has been involuntary," LaFalce told Congress in a recent debate. "Threats to withhold voluntary lending are real only if there is some credible expectation that voluntary lending is likely, and, until the debt/export ratio of these countries is reduced, such new voluntary lending is simply not credible."

LaFalce's proposal, called the Third World Debt Management Act, is part of the trade bill which has been passed by the House of Representatives, and is now before the Senate.

LaFalce's critics claim the new facility is just a mechanism for banks to lighten their balance sheets, and will merely allow smaller institutions, such as the US regional banks, to sell off all their debt. Understandably, the big money centre banks are not enthusiastic at such a prospect. When negotiations begin for new lending, the big commercial banks want as many banks involved as possible to lighten the load on themselves.

The realities of US politics also seem to be against the scheme. James Baker is known to oppose it.

"It was only just passed by the House of Representatives," said a source close to the Treasury. "It must now be approved by a conference committee of the House and the Senate, and then the President must give his approval. That's not likely. It's a Democrat-inspired measure, but even they are not fully behind it. Basically, any new institution would require some funding from the US government. And as we can't meet our commitments to existing multilateral organization, I don't think there's much chance of any new body being formed."

NATIONAL PORT WEEK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. BIAGGI. Mr. Speaker, I rise to remind my colleagues that during the first week of October we celebrate National Port Week, a period during which we recognize the vital importance of our national system of modern ports.

Our ports are the conduits through which pass most goods in international trade. Strong and vital ports generate jobs and great economic benefits for the surrounding region. It has been estimated that ports generate over $70 billion in direct and indirect benefits to the national economy.

While the commercial importance of ports is almost self-evident, the military significance of our ports is often overlooked. In any foreign conflict, the vast majority of troops, arms, and supplies would have to be transported by ship and, hence, would be loaded at our ports. To the extent we have developed a modern, efficient system of ports, we are guaranteed that we will be able to meet our national and international commitments.

However, despite the health of our national port system, there is a very serious problem that must be mentioned. While our ports are filled with ships of all types, few of those ships fly the U.S. flag. As the world's foremost trading nation with one of the most extensive port systems, it is a sad comment that there are only a handful of active U.S.-flag vessels.

Certainly, the strength of the ports is reason for celebration, but let us hope that within future port weeks we will also celebrate the rebuilding of our national fleet.

FIFTY-FIFTH ANNIVERSARY OF RHINE POST V.F.W. NO. 2729

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. LIPINSKI. Mr. Speaker, I wish to call to the attention of my colleagues a very special occasion in the history of the Chicago Veterans of Foreign Wars organization, the 55th anniversary of the Rhine Post V.F.W. No. 2729.

This post was organized and chartered on October 29, 1932, by a group of World War I veterans whose war experiences along the Rhine River led them to name their organization the Rhine Post. Since that time, many Chicago area veterans have joined the post to share their common experiences and to continue their service to America and their community. With the addition of 100 members following World War II, the organization became a vital force in the community of southwest Chicago. It has developed far-reaching services to veterans, to orphans, to the needy children of veterans, and considerably expanded the very popular poppy program.

I am sure, Mr. Speaker, that my colleagues join me and the city of Chicago in congratulating the Rhine Post on this important milestone in their organization's history, thanking them for their selfless and exemplary service to America, and wishing them continued success in the future.

BICENTENNIAL OF U.S. CONSTITUTION CELEBRATED

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. MRAZEK. Mr. Speaker, I rise today to join in the celebration sponsored by the Suffolk County, Lond Island chapter of the American Jewish Congress, honoring the Bicentennial of the U.S. Constitution. The ceremony will take place on October 13.

There is a historic bond between the Jewish community and our Constitution. Many Jews immigrated to our country in the early 20th century because they saw something special in America and its Constitution. They saw the Constitution as a document that granted basic freedoms and unlimited opportunities. Like many others that came to this country, they believed America was the true land of opportunity.

We in the United States are free to pursue our opportunities because the Constitution grants us that right. The men who drafted our Constitution were very sensitive toward the rights of the individual. They believed that the exercise of individual rights should be the foundation for a democracy.

With that wisdom in mind, the Founding Fathers drafted one of the most extraordinary documents in history. For 200 years, it has withstood the test of time and endures as the backbone of our system of government. Clearly, the men who drafted our Constitution were some of the greatest thinkers of their time, and the document's longevity is a tribute to their genius.

Yet, the authors of the Constitution did have their shortcomings. The underlying premise of what they wrote was that all people in the United States were created equal and that they had certain rights. Unfortunately, "all the people" did not include black people, nor did it include women.

While there are obvious faults in the original document, its ideals for the most part are with us today. The ideals perhaps most important to American Jews today are freedom of religion and the notion of separation of church and state. The first amendment to the Constitution clearly states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . ."

The Jewish community in the United States has played a leading role in assuring that the spirit of the first amendment is adhered to in our present society, despite direct challenges to it. The Founders were acutely aware of the problems incurred when the state and religion become one. Indeed, many early Americans came to this country to escape religious persecution in Europe. They vowed not to let that form of tyranny rear its ugly head in America.

Today, our freedom to practice any religion, or not practice a religion at all, for that matter, is one of our most cherished principles. Further, tolerance of those who wish to practice a differing faith from those in the majority is a hallmark of this system. American Jews have come to know full well the great meaning this has had in their lives.

On the occasion of the Bicentennial of the Constitution, we should all reflect on this marvelous document and what it means to us. Our day-to-day lives are constantly affected by the Constitution, yet for the most part we take it for granted. I join with the Suffolk County chapter of the American Jewish Congress in honoring the Constitution and commend them for taking the time to organize this important celebration.

CAN A TEMPORARY FOREIGN MISSION REPRESENT THE INTERESTS OF THE CITIZENS OF THE UNITED STATES?

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. BROOMFIELD. Mr. Speaker, I was shocked and dismayed to learn that the State Department would go to the lengths of declaring itself a "temporary foreign mission" in an effort to deflect the loud criticisms of American demonstrators when Soviet Foreign Minister Shevardnadze visited the State Department last week.

It is truly ironic that the State Department would choose a sleight of hand, to utilize a little known technical legality in the D.C. Code, to discourage American citizens from exercising their freedom of expression and freedom of assembly within earshot of the Soviet Foreign Minister's caravan.

All of us agree that it is the responsibility of our Government to make every effort to ensure the safety and security of foreign diplomats while visiting our country. But we should not compromise our democratic values because we are worried about ruffling the feathers of the Soviet Foreign Minister.

There may have been a sound security reason to justify the removal of demonstrators near the State Department entrance. However, using a legal anomaly to designate our State Department a temporary foreign mission is not the answer. It is a deplorable policy statement. This action runs counter to the basic principle of freedoms we enjoy in this country. There are some who contend that the State Department is in fact a "foreign mission" and judging by its acts, has been for many years. The fact is that designating the U.S. Department of State a "temporary foreign mission" was just dumb.

One could only hope that the State Department would be just as concerned about the perception such a declaration has on the American public as they were concerned about the safety and the convenience of the Soviet Foreign Minister.

We have heard much about glasnost and the possible arms accord and the new society Secretary Gorbachev is building in the Soviet Union. However, there are many problems in the Soviet Union which deeply disturb many Americans. Shevardnadaze should have heard the American outcry about Soviet human rights abuses; the recent wounding of an innocent U.S. liaison officer in East Germany; and the outrage over the Soviet missile testing in the Pacific Ocean 350 miles off the Hawaiian coast.

Glasnost has not changed these concerns. Mr. Shevardnadaze should hear and see Americans as they express their deep concerns about the ongoing problems in the Soviet Union. The spirit of glasnost is no substitute for free people exercising their democratic and constitutional rights.

TRIBUTE TO HON. WILLIAM MOORHEAD

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. RODINO. Mr. Speaker, with great personal sadness, I join in honoring our late friend and former colleague, William Moorhead.

Bill's untimely death in August after a long battle with cancer has left a void in the lives of everyone who knew him that will not be easily filled.

Throughout his 22 years as a Member of Congress from Pittsburgh, PA, Bill Moorhead represented his constituents and served in the House with great distinction.

Until his retirement in 1981, Bill was an active participant in addressing many key issues of the day, most notably in the fields of banking, finance, and urban affairs. As the chairman of the Economic Stabilization Subcommittee, Bill's leadership and expertise earned him the respect of his colleagues.

Bill's guide in both his public and private life was his dedication and compassion for others. His commitment to his constituents never wavered and they demonstrated their appreciation with admiration and support. In the House, Bill worked tirelessly and effectively, without fanfare, both in representing his district and in serving the needs of the Nation. His kindness and concern made him a cherished friend.

Bill exhibited all of these characteristics during his long battle with cancer. He faced each day with courage and determination. Perhaps more than anything, this towering example of strength in the face of adversity reflects the true hallmark of this outstanding individual.

I feel privileged to have known Bill Moorhead and to have called him my friend. His unique personality and record of public service will continue to provide an example for all of us. I extend my deepest sympathy to Bill's wife Lucy and his entire family.

VOLUNTEERS PRAISED FOR RESPONSE TO UPSTATE SNOWSTORM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. SOLOMON. Mr. Speaker, those of us who come from upstate New York districts returned today from the earliest severe snowstorm in history. Speaking for my own 24th District, it is my privilege to pay tribute to the volunteer firemen and rescue squad personnel who met nature's challenge with characteristic dispatch and self-sacrifice.

Mr. Speaker, this isn't the first time in which I've singled out those volunteers for well-deserved praise. In most of the small, rural communities in upstate New York and across the Nation, countless men and women give up their time and comfort to protect lives and property, usually without pay and often without public praise proportionate to their contributions.

I also want to take my hat off to law enforcement, utility, and public works crews. Those of us who live in the upstate region, with its severe winters, are well-drilled in responding with both efficiency and regard for neighbor. Last weekend was no exception.

But it is for the volunteer firemen and rescue squad personnel that I reserve my highest tribute. As a former volunteer fireman in my hometown of Queensbury, I take a special pride in asking my colleagues to join me in saluting these selfless men and women.

LOOK TO THE FUTURE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. LAGOMARSINO. Mr. Speaker, this week marks the 30th anniversary of the launch of Sputnik, the event that signaled the start of the space age. In the three decades since the first manmade satellite was placed in orbit, mankind has made enormous strides in technology and in exploration of the solar system.

We have landed men on the Moon; we have placed spacecraft on Mars and sent others to virtually every planet in the solar system; we have probed the deepest and longest-held mysteries of the universe. Yet the sum of our new-found knowledge and achievements pales when compared to what remains to be discovered.

This generation was fortunate to have been present at the start of the space age, and our Nation was fortunate to have been in the forefront of many of these explorations. Like Columbus nearly 500 years ago, we stand poised at the brink of exciting and far-reaching adventures, and like Columbus, we can only guess at what lies ahead.

The benefits of our venture so far have been manifold—in medicine, in communications, in computers and new materials, and an exponential increase in our knowledge of the universe. In perhaps the most important advance of all, we have come to see our planet as it is, a beautiful, fragile, and incredibly complicated ark in which we are all traveling to unknown destinations.

As the first beneficiaries of this new knowledge, we have the obligation to put it to its best use. Whether we will be wise enough to do so remains to be seen. But we have the duty to continue the quest. To those who would shrink from this opportunity, I say look to the future. Our children and their children's children will benefit from what we do today.

Mr. Speaker, we in the Congress are in a unique position to advance or to retard the inevitable wave of the future. We must look forward with wisdom and without fear. We have experienced triumph and tragedy in our efforts, and will undoubtedly experience both many times in the future. That is the nature of human experience, and our legacy. I invite you to join in this journey, to provide the support it requires. It's an investment we will not regret. When time has forgotten all else we may do, it will remember us as the generation which took the first steps toward opening the universe to mankind.

THE GRAYS HARBOR NATIONAL WILDLIFE REFUGE BILL

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. MILLER of Washington. Mr. Speaker, I am delighted today to support and salute my colleague, Mr. BONKER, for his leadership in developing the Grays Harbor National Wildlife Refuge bill. Saving the Bowerman basin for future generations is a priority for our State and should be a priority for our Nation.

Last spring, I joined Congressmen BONKER and LOWRY in a site visit to Bowerman basin. From the air, the area looks like mudflats and marshes. As we came closer, however I saw hundreds and hundreds of shorebirds that had stopped at the basin on their yearly migration from Latin America to Alaska. Even more amazing Mr. Speaker, this was not the peak migratory season, when tens of thousands of shorebirds congregate at Bowerman basin.

The bill we introduce today is an effort to protect this precious habitat and preserve it for future generations. We are setting aside a relatively small area, just 1,800 acres. But we are saving an internationally significant, but currently unprotected, environmental resource.

Protecting Bowerman basin will yield scientific, financial and spiritual rewards. The basin is a premier natural resource laboratory for ornithologists. For birdwatchers, nature photographers and students, it offers unparalleled opportunities to view different species in their natural setting. And for families and others seeking natural and peaceful recreation, the basin is just what the doctor ordered.

Mr. Speaker, I've been involved in efforts to preserve and protect key environmental habitat along the shorelines of Washington State for almost 20 years. Saving Bowerman basin is an important part of this effort. This bill will be referred to the Merchant Marine and Fisheries Committee. As a member of that committee I look forward to joining my colleagues Mr. BONKER and Mr. LOWRY in timely consideration of this important bill. And I look forward to speaking in favor of it again when we bring it to the floor for final consideration.

TO RECOGNIZE THE ACHIEVEMENTS OF SHAUN POWELL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. FAUNTROY. Mr. Speaker, I rise today to recognize the outstanding achievements of Mr. Shaun Powell, a native Washingtonian, and first place winner of the 1986 Associated Press Sports Editors contest. Shaun's award-winning report centered on the effects of proposition 48 on major college football programs and was judged "Best News Story" in the category of daily newspapers with circulations of more than 175,000.

This award was not something that Shaun stumbled upon by mistake, for over the years he has invested much valuable time in the field of journalism. As Oliver Wendell Holmes once uttered, "Knowledge and timber shouldn't be much used till they are seasoned;" I am proud to say that Shaun's exceptional writing ability and style are well seasoned.

While residing in the District, Shaun attended Howard University. During his stay at Howard, he was selected for and completed a sportswriting internship under the auspices of the School's Fritz Pollard National Football League Minority Sports Journalism Program. At present, Shaun is employed as general assignment reporter in the sports department of the Dallas Times Herald.

Shaun brings to life with new meaning the powerful thoughts of the Greek philosopher Aristotle that, "[w]ith regards to excellence, it is not enough to know, but we must try to have and use it." Shaun indeed knows the meaning of excellence, and he exhibits it well.

I ask my colleagues to join me in extending best wishes to Shaun Powell.

IN PRAISE OF A NEW COLLEAGUE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. GARCIA. Mr. Speaker, yesterday's New York Times ran an article on a colleague of mine on the Banking Committee, Representative JOE KENNEDY. That article correctly praised the gentleman from Massachusetts for his compassion and his diligence.

I am inserting the article in the RECORD for my colleagues' perusal. I would only add that I look forward to serving with JOE for years to come. I know he will make a significant and unique mark on this body.

[From the New York Times, Oct. 5, 1987]

MODESTY BECOMES NEWEST KENNEDY

WASHINGTON, Oct. 2—Joseph P. Kennedy 2d began his career in the House of Representatives in just about the least desired suite of offices in the entire Congress but with television crews from as far away as Japan pressing at the door.

High up and far away from the House floor, the small, crowded offices on the sixth floor of the Longworth House Office Building fell to Mr. Kennedy as holder of the second-worst number in the lottery for selection of office space. That showed he was just another Congressional newcomer. The camera crews showed he was different.

The dichotomy has continued through the first several months of Mr. Kennedy's first term in Congress: People on Capitol Hill say this son of Senator Robert F. Kennedy and nephew of President John F. Kennedy has received a bit more attention from other lawmakers, including his uncle, Senator Edward M. Kennedy, and a lot more from the press. Nonetheless, they say, he is still very much a rookie, in conduct as well as seniority.

However much a novice, though, the 35-year-old Mr. Kennedy is winning a reputation among House members as a congenial and hard-working colleague, a compassionate legislator committed to helping the unfortunate and the poor, an independent thinker who has already broken with party leadership on two key votes—and a young Kennedy trying to make his own name in Washington.

'HE DOES HIS HOMEWORK'

"Were his name not Kennedy he still would have made quite a mark as a freshman member," said Representative Henry B. Gonzalez, a Texas Democrat who was a friend of both Robert and John Kennedy and now heads the housing subcommittee on which Mr. Kennedy sits. "He does his homework. He is one of the few who have attended every single one of our subcommittee hearings."

Representative Floyd H. Flake, a freshman Democrat from Queens who sits with Mr. Kennedy on the House Banking, Finance and Urban Affairs Committee, said: "I think all of us give him a little more credence because he is a Kennedy. I think if another freshman says what he says it makes as much sense, but if he says it they listen a little more."

And Representative Barney Frank, a fellow Massachusetts Democrat who is a colleague on the housing subcommittee, said, "He's been very active—he's really thrown himself into the housing issues." But Mr. Frank acknowledged, "When you are a freshman you are overwhelmed by your responsibility, and I think Joe suffers a little from that."

Mr. Kennedy, who is named after his grandfather, gained a lot of notice when he ran for Congress last year. He was a political beginner from a legendary political family, vying for the seat of the retiring Speaker of the House, Thomas P. O'Neill Jr., to represent the Eighth District of Massachusetts. He had never held public office, but he had wealth, backing, charisma, ideas and the attention of the press, and he won easily.

Perhaps too easily. As one Republican Congressional aid said: "He could have come to Washington and gotten a tremendously negative reaction from the other members."

By wide account, the aide added, this did not happen. One reason, members and their staffs say, is that Mr. Kennedy knew his place and, like other newcomers, took to heart the Washington adage that freshmen should be seen and not heard.

Yet a strain of boldness has emerged. A month after his election, Mr. Kennedy skipped part of a Harvard University program for incoming Representatives featuring a speech by Paul A. Volcker, then the chairman of the Federal Reserve Board, and went to a Boston Celtics basketball game instead.

Mr. Kennedy has already broken with the Democratic leadership by voting against an amendment to the trade bill that would impose strict penalties on countries that sell many more goods to the United States than they buy, and against a $16.1 billion appropriations bill for energy and water development projects because it contained money for nuclear warhead production. He has walked out of a hearing to protest the scheduled testimony of Assistant Secretary of State Elliott Abrams, who had earlier admitted to misleading Congress in the Iran-Contra affair.

He also successfully offered a number of amendments to legislation for public housing programs. When that bill came to the House floor, Mr. Kennedy was the model of a modest novice. "Even though I had a bunch of amendments in the housing bill, I went and listened," he said in an interview. "I felt a little bad because I wanted to participate, but I thought it would probably be better to listen."

Like new House members, Mr. Kennedy did not get his first committee choice, that of the Armed Services panel, but unlike most he did get advice on the process from former Speaker O'Neill.

Like many freshmen, he has a staff that is regarded as bright but inexperienced. But unlike them he has an uncle who is a powerful Senator.

He talks with Senator Kennedy by phone, sometimes has dinner at his house and works together with him on Massachusetts issues. But he and aides in both offices say the two lead basically independent personal and professional lives. "Some days I'll speak to him three times a day, some weeks we don't talk to him at all," Representative Kennedy said.

"I've seen them at receptions together," said a longtime aide to Senator Kennedy. "Senator Kennedy will say, 'Joe, I'd like you to meet so-and-so,' and he will give Joe a thumbnail sketch of what the person has done: 'This is so-and-so and he's done such-and-such, and you should get to know him.' But I've seen that happen for the last 20 years."

OF ASSETS AND LIABILITIES

The younger Kennedy, who makes his home in Brighton, Mass, with his wife, Sheila, and young twin sons, Joseph 3d and Mathew, spoke frankly about his unusual position.

"I've always considered my last name to be an asset," he said, but added: "It plays differently here. It has nothing to do with whether or not I'm going to be successful in my day-to-day work and existence—I mean I have to do that on my own, not because of my last name.

"It's just another asset. You have assets and liabilities. And this is an asset, a big one I suppose."

TRIBUTE TO HON. JOHN W. WYDLER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. RODINO. Mr. Speaker, it is with sadness that I join in the tributes to a former colleague and good friend, John W. Wydler, who died on August 4.

For those of us who had the good fortune to know and work with this fine and dedicated public servant, this is a particularly deep loss.

Jack ably served the people of the Fifth Congressional District of New York for 18 years before his retirement in 1981. He was the longtime dean of Long Island's congressional delegation. During his many years of service, Jack remained committed to helping his constituents and representing the concerns of all the people in his district.

As the ranking Republican on the House Science Committee, Jack was instrumental in the efforts to protect the technological competitiveness of America. His support for the pioneering developments in all fields of science guaranteed that the challenges of the unknown were addressed and that the horizons of the future were clearly established.

After he retired, Jack continued to be an active participant in politics and chaired the Government Affairs Committee of the Long Island Association. When he passed away, he was watching the floor debate on a bill affecting the people of Long Island. To the very end of his life, Jack remained a dedicated and selfless public servant always ready to serve his country.

Jack earned the respect and fondness of his colleagues on both sides of the aisle with his energy and warmth. We shall all miss this good friend and outstanding individual.

I join in paying tribute to Jack Wydler and I would like to extend my deepest sympathies to his wife Brenda and his entire family.

TV SUPERJERKS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. SOLOMON. Mr. Speaker, it is always my pleasure to enter into the RECORD examples of a spade being called a spade, or, in this case, a Sam Donaldson being called a "superjerk."

John Elvin's "Inside the Beltway" column in the Washington Times records what we all saw over the weekend, and have been seeing since the press appointed itself a fourth branch of the Government. It is the spectacle of the three chief network White House correspondents, who, in truth, are entertainers rather than journalists, ruining press conferences by making utter fools of themselves in their desire to make a fool of whoever at the time happens to be President.

Those three correspondents especially turn what should be a valuable forum of information into a disgusting circus. Their egos are so heavily invested in those spectacles that no reproach, no criticism, will ever penetrate to subdue them. To the contrary, they will take such criticism as proof of their moral superiority over the great unwashed. In both arrogance and ego, Sam Donaldson surpasses them all.

I'll never understand why these "superjerks" are not simply ignored at press conferences and frozen out of all news until some measure of dignity and decorum is restored at press conferences.

TV SUPERJERKS

The Washington Post reported breathlessly last week that the leather-lunged chief correspondents for the three major television networks are discourteous, loud, bumptious and capable of staging a noise riot from their front-row seats in the White House Press room. This isn't news to other correspondents present whenever President Reagan enters the room, as he did Friday to announce the INF agreement and the fall summit.

This incredible conduct happens nearly every weekday on a somewhat lesser scale. The principal screamers in what has been likened to a feeding frenzy in a shark pool are Sam Donaldson of ABC, Chris Wallace of NBC and Bill Plante of CBS, with Andrea Mitchell of NBC joining in with a glass-shattering soprano.

And the ill-mannered barrage will undoubtedly continue unless the White House imposes some rules for correspondents to ask questions with some semblance of order. Most of the White House press corps is outraged at the conduct of the TV superjerks.

In a related report, the aforementioned Mr. Donaldson was himself manhandled by New York City policemen yesterday as he tried to enter the U.S. mission to the United Nations after Mr. Reagan's speech to the General Assembly. Mr. Reagan is not expected to protest the incident.

CUNY CHANCELLOR MURPHY ON JUDGE ROBERT BORK

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. OWENS of New York. Mr. Speaker, nothing is at once so powerful and so fragile as the basic right of Americans to think, read, and express themselves without fear of state retaliation or repression. The protection afforded by the first amendment of the Constitution forms the core of our democratic society, but protecting all speech inevitably means protecting unpopular speech and that makes the first amendment extraordinarily vulnerable to attack. The temptation to circumscribe its protections, to limit its scope by making arbitrary, convenient distinctions between types of speech will always be there and must always be resisted. To continue to be viable, the first amendment must remain indivisible and complete; it is not possible to chip away at its edges without shattering the whole.

It is for this reason that the prospect of a Supreme Court Justice Robert Bork is so chilling. Almost alone among his peers, Judge Bork has shown himself to be adept at building barriers around the protections of the first amendment and making the arbitrary, convenient distinctions which are so dangerous and devastating. This is most notably evident in Judge Bork's astonishing assertion that nonpolitical speech may not be protected by the first amendment. The danger in this view is not merely that this kind of academic exercise in line-drawing is untenable, even absurd, in a real world where the lines between political and nonpolitical forms of expression are frequently impossibly blurred. It is that the freedom of even purely nonpolitical speech is no less central to an open, democratic society than the right to unencumbered political discourse. As Alexandr Solzhenitsyn remarked:

> Woe to the nation whose literature is disturbed by the intervention of power. Because that is not just a violation against "freedom of print", it is the closing down of the heart of the nation, a slashing to pieces of its memory.

In a recent letter to Senate Judiciary Committee Chairman BIDEN, Joseph S. Murphy, the chancellor of the City University of New York, eloquently describes the threat that Judge Bork's cramped vision of intellectual freedom under the Constitution poses to not only the mission of the university, but to the essence of American society itself. I commend the text of the chancellor's letter to my colleagues:

THE CITY UNIVERSITY
OF NEW YORK,
NEW YORK, NY,
September 10, 1987.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: Judge Robert Bork's nomination to the United States Supreme Court has generated understandable concern on the part of those dedicated to principles of equality, fairness, and free expression of ideas. Not surprisingly, this concern is especially pronounced in the academic community, where issues of social justice and political liberty are of paramount importance. As a member of that community and making no claims to represent on this issue the University I serve, I urge that the Senate Judiciary Committee, and if necessary the full Senate, vote to reject Judge Bork's nomination.

I do so reluctantly. Robert Bork's record of scholarly achievement is impressive; his writings are lucid and well constructed. As academics, we respect diversity of thought; we prize and encourage it.

But the Supreme Court and its prospective members must be judged on more than the intellectual quality of their work. They ought to be evaluated as well on their commitment to those widely held beliefs which are central to the functioning of an open society—in other words, on the relationship between their basic social and political philosophy and the primary moral postulate we call the Constitution.

Those of us in the University, concerned as we are with the force and substance of ideas, attach to some of those philosophical issues a special sense of urgency. For example, affirmative action is not just a mechanistic system for rectifying past injustice; it is an essential means of opening access to intellectual, social and economic advancement to all members of society. Protection of artistic and other creative expression is not just a matter for the marginal few who choose to be different, it is central to what a university exists for. The use of government resources as a means to promote social and economic justice is not to us, in concept, a controversial point—since by their very existence public universities demonstrate the strength of government's commitment to progressive goals.

A lengthy examination of Robert Bork's writings as a scholar and of his opinions as a judge leads to the inescapable conclusion that his is a record of intellectual honesty and consistency of conviction in a lengthy struggle against those very ideas. It is neither alarmist nor extreme to suggest that his presence on the Supreme Court would, therefore, endanger the continued health and vibrancy of much of American higher education. There is much evidence in support of this view, but I would like to point to two special areas of concern.

The first relates to racial justice. What is far out of the mainstream, not just of Constitutional discourse but of most informed political discussion for the past forty years, are Judge Bork's assertions that the Supreme Court erred in holding judicial enforcement of racially restrictive covenants a violation of the 14th Amendment, or that it was wrong to uphold the Voting Right Act's prohibition of certain literacy tests, or his opposition to virtually every means proposed to remedy the effects of racial discrimination in employment.

These are not the views of a cautious advocate of judicial restraint; they are, rather, the opinions of a man willing to sanction the use of the Constitution as a vehicle for the continued oppression of one class of citizens by another.

The second area of concern—of particular relevance to the intellectual community—has to do with Judge Bork's narrow interpretation of the First Amendment's guarantees of free expression. To Judge Bork, the language of the Amendment applies primarily to political speech, and not always then; he sees no Constitutional protection of speech advocating disobedience to immoral or unjust laws. Protection of nonpolitical speech appears to him a highly questionable proposition at best; as he wrote in the *Indiana Law Journal* in Fall 1971, "Constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression, be it scientific (or) literary . . ." Although he later modified his views somewhat—conceding that artistic expression could indeed merit First Amendment protection—Judge Bork emerges from his writings as a reluctant protector, at best, of the scholarly community's right to violate cultural or aesthetic norms without bringing down upon itself the prohibitions of a hostile community.

There is much ground on which to argue with Judge Bork in this area, beginning with the question of what is political speech (Kafka? Darwin? Lenny Bruce?) and what is not. The important question is not definitional but ideological: Since so much that is of value that comes from the campus may, by prevailing community standards, challenge cultural norms, do we not render the First Amendment virtually meaningless by casting a cloud of ambiguity over its protections of certain kinds of expression? I would suggest that Judge Bork's view, were it adopted by the full Court, would have as chilling an effect on academic freedom as any anti-intellectual movement we could imagine.

Finally, in the *Indiana Law Journal* article quoted earlier, Judge Bork expressed the view that the First Amendment, like the rest of the Bill of Rights, "appears to have been a hastily drafted document upon which little thought was expended." That may, or may not be historically true. What should concern us greatly however, is the fact that a good deal of thought has been expended on the Bill of Rights in the two hundred years since; the body of thought produced represents a cornerstone to the freedoms all of us in this society enjoy. Other members of the judiciary—including many named by this President—recognize and respect the fact that American constitutional law embodies the accumulated wisdom of two centuries' experience; they accept the important role precedent and past practice play in shaping current and future decisions. In that sense, they are conservative in the best Burkean sense of the term.

Robert Bork is not. For all his acknowledged brilliance, the judge advocates principles that are destructive of tradition and threatening to the doctrines of ordered liberty that lie at the heart of enlightened self-government. For those reasons, and for the more specific ones cited by so many Constitutional scholars, Judge Bork's nomination to serve as an Associate Justice of the Supreme Court should be rejected.

Warm regards.

Cordially,

JOSEPH S. MURPHY.

NATIONAL SAFETY BELT USE DAY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. DINGELL. Mr. Speaker, I rise today to express my overwhelming appreciation for the continued flood of endorsements for House Joint Resolution 338, to proclaim October 15, 1987, as "National Safety Belt Use Day." Since its passage on the House floor on September 15, 1987, I have continued to receive numerous letters supporting the resolution. The work of these organizations means a great deal to me and to the thousands of Americans whose lives will be saved because they used seatbelts. I thank each one of these groups for their efforts on behalf of Safety Belt Use Day: Aetna Life Insurance Co., Allstate, American Association of Motor Vehicle Administrators, American College of Emergency Physicians, American Insurance Association, American Red Cross, Greene County Area Council of PTA, Illinois State Police, Kemper Group, Los Angeles Police Department, National Association of Independent Insurers, National Commission Against Drunk Driving, National Transportation Safety Board, and New York City Department of Transportation.

LET'S BROADEN THE CRIME VICTIM ASSISTANCE PROGRAM TO INCLUDE ELDERLY CRIME VICTIMS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. GUNDERSON. Mr. Speaker, the U.S. Department of Justice recently notified our congressional offices of a grant award to our respective State through the Crime Victim Assistance Program. Hence, as a cosponsor of H.R. 2018, the "Elderly Victims of Crime Act of 1987," this provides a timely opportunity to highlight the importance of this legislation which intends to broaden the service scope of the Crime Victim Assistance Program.

The distinguished vice chairperson of the House Select Committee on Aging/Subcommittee on Human Services, Representative Olympia J. Snowe, introduced H.R. 2018 on April 8, 1987, in an effort to include crime victims age 60 and older as a priority category for Crime Victim Assistance Program funds. Victims of child abuse, sexual assault, and spousal abuse currently are designated as priorities for service through our Crime Victim Assistance Program.

Enacted nearly three years ago, the Victims of Crime Act has served to provide Federal financial assistance to the States for the purpose of assisting and compensating victims of crime. This law is based upon a recommendation from the President's Task Force on Victims of Crime in its 1982 Final Report. It represents a positive Federal leadership role in the area of victim assistance and compensation without placing a heavy bureaucratic burden upon the States.

The Victims of Crime Act established a special account within the U.S. Treasury known as the crime victims fund. Money for this fund is not generated by taxpayer dollars, but rather by fees and fines imposed on criminal offenders or by public donations. A ceiling of $100 million has been placed on this fund.

From the crime victims fund, the Attorney General is authorized to disburse funds, in the form of grants, to States for the purpose of providing aid and services to victims of crime. As noted earlier, the Crime Victim Assistance Program outlines specific programmatic, regulatory and statutory guidelines requiring "that priority shall be given to eligible crime victim assistance programs providing assistance to victims of sexual assault, spousal abuse, or child abuse."

The mission of this successful program is admirable, and I concur with the sponsor of H.R. 2018 that the scope of this program should be broadened to include as a priority category crime victims age 60 and older. Including the elderly as a priority for assistance under the Crime Victim Assistance Program is a sensitive response in an effort to reduce the economic, emotional, and physical trauma many elderly crime victims face.

I applaud my good friend and colleague, Representative SNOWE for her many initiatives responding to the needs of older Americans, and in this instance, elderly crime victims. It is a pleasure to join her as a cosponsor of this measure.

Mr. Speaker, I wholeheartedly encourage all of my colleagues to cosponsor H.R. 2018, the "Elderly Victims of Crime Act of 1987," and urge the House Judiciary Committee's Subcommittee on Criminal Justice to hold hearings on this legislation as soon as possible.

In conclusion, Mr. Speaker, the following chart reflects the Crime Victim Assistance Program grant funds distributed for the 1987 award year:

Distribution of the Crime Victim Assistance Program funds

State/territory:	*Thousands*
Alabama	$526
Alaska	153
Arizona	426
Arkansas	351
California	2,832
Colorado	439
Connecticut	436
Delaware	165
District of Columbia	166
Florida	1,270
Georgia	722
Hawaii	211
Idaho	207
Illinois	1,327
Indiana	686
Iowa	410
Kansas	360
Kentucky	497
Louisiana	576
Maine	223
Maryland	564
Massachusetts	718
Michigan	1,068
Minnesota	544
Mississippi	377
Missouri	634
Montana	188
Nebraska	271

Nevada	197
New Hampshire	204
New Jersey	901
New Mexico	252
New York	1,991
North Carolina	757
North Dakota	173
Ohio	1,247
Oklahoma	452
Oregon	385
Pennsylvania	1,369
Rhode Island	203
South Carolina	452
South Dakota	175
Tennessee	603
Texas	1,805
Utah	276
Vermont	157
Virginia	701
Washington	564
West Virginia	308
Wisconsin	608
Wyoming	155
American Samoa	4
Guam	12
Puerto Rico	448
Virgin Island	11
North Mariana Islands	2
Trust territories	13
1987 total	30,772

[1] 1987 crime victim assistance payments.

A TRIBUTE TO WBYS RADIO—40 YEARS OF BROADCAST EXCELLENCE

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. EVANS. Mr. Speaker, I want to pay tribute to WBYS-AM Radio of Canton, IL. Forty years ago this week, WBYS began its broadcast operations, bringing news and music to a proud and great west central Illinois community.

Throughout its four decades of operations, WBYS has distinguished itself by continually attaining broadcast excellence and faithfully serving the community and its citizens. 1560 on the radio dial has been a companion to the sick, a friend to the lonely, and voice for all.

It is common these days to hear radio stations reach for the latest trends while tuning out its audience. But even through the tough times, WBYS has held its signal strong and clear, never failing to put its listeners first.

RESOURCE RECOVERY CRUCIAL TO ENVIRONMENT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. FLORIO. Mr. Speaker, I recently gave an interview to Resource Recovery magazine concerning the absence of Federal standards to address the environmental hazards from resource recovery facilities. The only currently applicable Federal standard is 10 years old, and it has effectively been ignored by State officials.

The interview discusses legislation I have introduced to remedy the situation in a way that would open the door for safe resource recovery plants to offer an alternative to less acceptable methods of disposing of the wastes that are increasingly a problem to our Nation's environment and the health of the public.

The text of the interview follows:

AN INTERVIEW WITH CONGRESSMAN JAMES J. FLORIO: FEDERAL REGULATIONS FOR RESOURCE RECOVERY FACILITIES

(Question—R/R Magazine; Answer—Mr. Florio)

RR. Congressman Florio, you introduced a legislative package earlier this year to address the environmental hazards of resource recovery facilities. Why do you believe federal legislation is needed in this area?

Answer. There are several reasons why federal legislation is necessary. More and more resource recovery facilities will be handling an ever-growing percentage of the nation's solid waste. The Environmental Protection Agency has found that the existing 100 incinerators burn about 4 percent of the nation's trash and that by the next century an additional 200 facilities will be handling nearly one third of the wastes we generate. Despite this rapid growth in resource recovery development, the federal government has almost no environmental standards in place to ensure the public that these facilities are safe. The only currently applicable federal standard, a ten-year-old particulate standard, is based on antiquated technologies and has been effectively ignored by state officials. The resulting gap in federal standards has left many states, cities, vendors, and investors in a state of flux and uncertainty about which standards, if any, should be applied to their facilities. This uncertainty not only makes planning and financing difficult, but it leaves the affected public deeply concerned about the adequacy of the environmental controls on these facilities. I believe that uniform federal standards will not only create certainty for city officials and planners but will give added confidence to the public that these facilities can be built in a safe manner.

RR. On July 2, 1987, the U.S. Environmental Protection Agency announced a program to issue environmental standards for resource recovery facilities under existing authorities in the Clean Air Act. In light of EPA's announcement, is your legislation still necessary?

Answer. Ironically, EPA's recent announcement makes federal legislation more important than ever for both cities and the public. In effect, what EPA has said is that these facilities pose a sufficient environmental and public health hazard to warrant additional federal regulation. But, in the same breath, EPA tells us that it will take four or five years to put standards on the books. In the meantime, no one has any idea what those standards will look like. EPA's action has raised the public's concerns, increased the uncertainties surrounding these projects, and placed cities in the difficult and potentially costly position of building facilities today which will require retrofitting under EPA's standards. Federal legislation is also needed to address a problem which EPA has virtually ignored: ash disposal. Even if EPA announced air emissions standards tomorrow, the agency's unwillingness to establish meaningful standards for the management of ash means that cities and the public will still construct these facilities under a disturbing cloud of uncertainty about the environmental hazards of ash.

RR. What impact will your legislation have on existing facilities?

Answer. The legislation I have introduced will require existing facilities to comply with applicable air emissions standards and ash management requirements. The reason we must apply these standards to existing facilities stems from EPA's conclusion that, at least with respect to air emissions, existing facilities can pose a substantially greater threat to public health than new facilities. Even EPA's regulatory proposal calls for regulation of existing facilities under section 111(d) of the Clean Air Act. Although it is clear to me that standards must apply to both new and existing facilities, we can circumvent the tremendous inconvenience and cost of retrofitting if we can put standards in place today, rather than four or five years from now. If a facility being built today has clear federal standards to work from, the city and community can sensibly plan for their waste management needs.

RR. Many states have attempted to fill the gaps left by inadequate federal standards. What impact would your legislation have on those efforts?

Answer. I do not believe we can overstate the important role that the states and the cities themselves have played in attempting to ensure adequate environmental protection for these facilities. From the time the current administration radically cut EPA's role in solid waste management, the states and cities have filled the gap. Even though the federal government promised widespread support to cities and states in the 1976 Resource Conservation and Recovery Act, the federal government essentially welched on its end of the deal from 1981 until today. I strongly believe the federal government must move cautiously and must learn from the efforts taken by our state and local partners. As a result, my legislation preserves the rights of states to impose tougher environmental standards as they see fit. For example, many states now require each facility to supply a comprehensive health risk assessment in addition to descriptions of the facility's pollution control technologies. My legislation would not affect those requirements.

RR. Many have suggested that resource recovery facilities are only one piece in the solid waste management scenario. They argue that it is inappropriate to impose strict regulations on resource recovery facilities without considering the hazards associated with continued land disposal. Do you agree that we must compare our waste disposal alternatives?

Answer. There can be no question that resource recovery is only one piece in the solid waste management puzzle. I believe everyone involved in solid waste issues recognizes that every disposal alternative carries certain public health risks and that we must carefully understand and address those risks. But, I do not believe that there is a city official anywhere in this nation willing to subject their community to a substantial health risk simply to deal with a solid waste problem. There is a minimum level of public health protection which everyone deserves. For this reason, and because the time is ripe to set standards before an additional 200 facilities are built, I fully endorse the need to focus on safety standards for resource recovery facilities.

RR. What role should recycling or source separation play in solid waste management planning and do you believe federal legislation is needed in this area?

Answer. Although there is a great deal of controversy and misinformation concerning resource recovery facilities, one issue that everyone agrees on is the need for recycling and source separation in the mix of solid waste management solutions. What is sharply debated is the degree to which cities can recycle or source separate and, frankly, whether certain recycling options may pose greater health hazards than other alternatives. I believe that issues of recycling and source separation must be encouraged. That is why my legislation would require each community served by a resource recovery facility to prepare a comprehensive solid waste management plan as a condition of receiving a permit for a resource recovery facility. Ultimately, the decision on the degree and extent of source separation and recycling will be made by the locality with full input from the local residents, but the decision will remain a local one. Nevertheless, the legislation will eliminate the inclination of some to build an incinerator without adequately considering their solid waste management options.

RR. Many in the solid waste management area believe that they are being required to shoulder the environmental consequences of our society's changing consumption habits. For example, the decision of many manufacturers to increase their use of plastics in their consumer products has increased the possibility of organic chemical emissions from resource recovery facilities. Do you believe Congress should address this concern?

Answer. Unfortunately, our city officials have been left to deal with the environmental consequences of our changing consumption habits. I am aware of the arguments made by many people that the best way to deal with toxic pollutants entering our environment from solid waste is to limit the introduction of those toxic chemicals into commerce in the first place. This is an ambitious and difficult undertaking and is an issue that requires careful and serious consideration by legislatures at every level of government. However, my legislation deals with the immediate and manageable problem of resource recovery facilities. As policymakers, we must act when we have sufficient understanding of a problem and a workable solution. While we may be at that stage with resource recovery facilities, we are some distance away from dealing with the fundamental notion of product regulation.

RR. States and localities have wrestled with the problem of air emissions for several years now, and, although there are continuing disagreements on some issues, most agree that federal standards are appropriate. However, concern over incinerator ash is relatively a new concern. What is your view of the incinerator ash problem?

Answer. Resource recovery ash is one of the most serious impediments to the continued development of these facilities. Nobody fully understands the environmental risks of ash. Ash which fails to pass EPA's hazard test must be managed like a hazardous waste, according to the 1984 amendments to the Resource Conservation and Recovery Act. EPA has done little, if anything, to deal with this problem. Amazing as it may sound, EPA has devoted only 1 full-time employee to work on ash. The reason I have introduced legislation to deal with ash is that local officials need to know not only what air emissions they must meet, but what type of treatment or disposal will be required for their ash. I believe that EPA's nearly nonexistent efforts on ash will give cities only half of the answer and that a half-answer is as good as no answer at all. If my legislation does nothing more than give ash disposal concerns as high priority as air emissions at EPA, we have accomplished a great deal.

RR. What are the prospects for your legislation?

Answer. Excellent. There has already been a comprehensive hearing on the air emissions portion of my legislation and we are confident that there will soon be a hearing on the ash legislation. Meanwhile, I have been working very closely with Senator Quentin Burdick, Chairman of the Senate Environment and Public Works Committee, who plans to introduce legislation modeled on the bills I have introduced in the House. I have been working with the cities and EPA officials, as well as environmentalists, to achieve a consensus legislative package. I am confident we will see legislation in this area quite soon.

RR. What do you believe should be the long-term goals for Congress in the area of solid waste management?

Answer. We have to do a great deal more to address the real environmental and economic concerns of solid waste management. Resource recovery is only one element among those concerns. Landfill design and management, recycling, source separation, and product design must all be considered if we have any hope of getting a handle on the solid waste crisis facing our nation. While many of these tasks can, and should be handled on the local level, some of these issues can only be tackled effectively on the federal level. As I said before, the federal government welched on its share of the federal-state-local partnership. I believe we should revive our role and do what we can to help solve this very serious national problem.

TOY FIREARMS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. LEVINE of California. Mr. Speaker, today I am introducing legislation that will protect young children, and possibly many adults, from a potentially tragic situation. My bill will require manufactuers of toy firearms, which are intended for use by children and are not designed to function as a firearm, to distinctively mark the toy firearms as toys.

Toy manufacturers, with a total disregard for safety, are producing increasingly realistic looking toy guns which are far too frequently mistaken for the real thing. We frequently hear about incidents in which youngsters, brandishing highly realistic looking toys guns, are being shot at, and many times killed by, law enforcement officials who feel threatened by the situation.

Late last year, in San Francisco, police responded to a silent alarm at a local high school during the middle of the night. A few minutes later, in the darkness, an officer shot at someone who was aiming a gun, or at least what the officer thought was a gun, and fatally wounded a 15-year-old boy. The teenager was not armed with a lethal firearm. The victim was holding a pellet gun that was a realistic reproduction of a .357 magnum Colt Python pistol.

In Rancho Cucamonga, CA, a young man playing with a laser gun was recently shot and killed by a deputy sheriff. Once again, the officer mistook the laser gun for a real one. Late this summer, sheriff's deputies in Los Angeles County drew their guns on a mother and her three children after her teenage son pointed a toy gun at a plain clothes officer while driving on the freeway. Fortunately, this incident ended without tragic consequences. Clearly, action is needed to remedy this dangerous situation.

Many State and local governments are already addressing this problem. In Los Angeles County, at the request of supervisor Kenneth Hahn, who has led the fight on this issue, the board of supervisors recently passed legislation making it illegal to use a toy weapon in a threatening or angry way. The State of Maryland has had legislation introduced that would impose penalties for the use of a toy gun in the commission of a crime and require all toy guns to be marked with a blaze of orange color. Judge Robert Colby of Virginia has, after being faced with three toy gun cases within 1 month, begun campaigning for a law similar to that proposed in Maryland.

Mr. Speaker, it is apparent that we are facing a serious problem. Realistic toy guns cannot always be identified as such by law enforcement officers even in the best of circumstances. How can we expect them to always make the correct distinction during the heat of the moment, when they are staring down the barrel of a gun? Although these toy guns have been used for criminal activities, the victim of mistaken identity is most likely going to be someone who is playing with the toy weapon. And that person most likely will be a child.

One producer of toy guns, Daisy Manufacturing of Arkansas, which also happens to be the leading maker of fake military weapons, has already taken the step of adding distinctive markings to their products. My legislation would direct the Consumer Product Safety Commission to promulgate regulations prescribing the manner and form in which toy firearms are to be marked. It is essential that all toy guns have uniform, distinctive markings so that we can avoid further loss of innocent lives.

Police organizations are aware of this national problem. Jerald Vaugh, executive director of the International Association of Chiefs of Police, told the New York Times "the toy is treated exactly as the real thing" by police officers in critical situations and added that "it's a potential disaster waiting to happen." Mr. Speaker, disasters are not waiting to happen. They have happened, and they will continue unless we do something to stop them now.

FEDERAL HEALTH BENEFITS RELATING TO CLEFT LIP AND CLEFT PALATE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. HOYER. Mr. Speaker, last year I introduced H.R. 5589 which mandated health care benefits under the Federal Employees Health Benefits Program for problems relating to cleft lip and cleft palate. Since that time I have worked with various interested individuals and organizations to improve the legislation. As a result I am introducing today an improved version of H.R. 5589.

Cleft lip and/or palate are the most common form of any craniofacial anomaly. The disfigurement, which affects 1 white child per 800 to 900 births and 1 black child per 1,500 births is not only emotionally draining, but also presents the family with a tremendous financial burden.

The care of the patients suffering from cleft lip requires extensive medical treatment including plastic surgery, dental/orthodontic work, and speech therapy. The rehabilitation of these patients, although it sometimes lasts a lifetime, is both a remarkable medical process as well as an essential phase in the child's progression into a normal and productive adult life.

The severity of the financial responsibilities has been investigated and addressed by the Maryland General Assembly. Following that investigation, in 1982, the general assembly passed and the Governor signed H.B. 91, which mandates health coverage for cleft lip and/or palate, requiring all insurance companies in Maryland to cover the expenses related to the correction of this problem.

A similar type of coverage is necessary in the Federal Employees Health Benefits Program. To provide insurance coverage for this long and costly reconstructive process would relieve the families of a great financial strain and let them concentrate on the continuous emotional needs of their children. With proper medical care and attention, individuals with cleft lip and/or palate stand a better chance to meet confidently their full potential. Requiring that this procedure be covered under the FEHBP, would bring employee benefits in line with those offered to thousands of State and private sector employees.

I look forward to working with the Members of the House on the passage of this most worthwhile legislation.

RADIOACTIVE WASTE

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. HUCKABY. Mr. Speaker, I rise today to urge support for legislation that I am introducing regarding the Nation's high-level radioactive waste disposal program.

Mr. Speaker, the problem of what to do with this Nation's radioactive waste has been with us for 40 years now. In 1983, Congress passed the Nuclear Waste Policy Act [NWPA], a delicately crafted piece of legislation which provided a responsible solution for disposing of radioactive waste. The bill directed the Department of Energy to site, construct, and operate two high-level radioactive waste repositories. Since the NWPA's passage, it has become apparent that the bill's milestone deadlines and cost estimates were overly ambitious. The delays which resulted, along with litigation by affected States, and disagreements in Congress, have resulted in a stalemate in the program.

It is apparent that the Department of Energy's waste disposal program needs to be redirected. The bill that I am introducing today provides the midcourse correction which is necessary to get the waste program back on track. This bill is companion legislation to S. 1668 by Senators JOHNSTON and MCCLURE which is currently moving through the Senate.

This legislation which I am introducing takes the following steps to resolve the waste program's current problems:

It reduces the environmental and financial impact of the first repository site selection process. The bill directs the Secretary to choose one site to characterize based on prodigious studies currently in the final stages of completion and on criteria set in the bill. Under the current program plan, DOE must completely characterize three sites—now identified in Nevada, Washington, and Texas—to select one for licensing. This characterization entails significant construction activity and is now estimated to cost nearly $2 billion per site—a cost borne by nuclear electricity consumers. Thus, by characterizing only one site at a time, $4 billion could be saved should the site chosen be successfully licensed.

The bill resolves uncertainties regarding the status of the selection process for a second repository site. The bill makes it clear that a determination of the need for a second repository will not be necessary until the year 2010, and it suspends site-specific activity at those locations until a decision on the need for a second repository is made. States have been subject to enormous uncertainties by DOE decisions; first, to suspend the second-repository site selection process indefinitely, then that the process would have to be immediately restarted without congressional action.

This legislation authorizes a central processing and monitored retrievable storage [MRS] facility as part of an integrated waste management system. An MRS facility would greatly improve the efficiency and flexibility of the waste disposal program, and such a facility would better ensure DOE's ability to meet its 1998 waste acceptance deadline as set by the NWPA. The bill also nullifies DOE's previous selection of sites in Tennessee for the MRS and requires the Department to restart its search for sites for the facility.

This legislation also authorizes substantial economic incentives for States which would host repository or MRS facilities. The bill provides $100 million and $50 million annual payments for repository and MRS host States, respectively.

Finally, Mr. Speaker, this legislation incorporates the nuclear waste negotiator provisions found in legislation currently before the House by Representative MO UDALL. The nuclear waste negotiator is able to make agreements with States willing to host a repository or an MRS facility. This bill deleted the negotiator's technical responsibilities, which conflict with his primary mission of seeking an agreement with a State. The negotiator's goal of seeking an agreement could bias any technical evaluation done by him. It is my belief that all technical work should be done by the proper Government agencies.

The only other difference between this legislation and the Senate bill is the deletion of language which gives adjacent States rights similar to those of potential host States. The effects of this language are unclear, and giving adjacent States such broad powers could tie up the process of sitting even further.

Mr. Speaker, for too long this Nation was without a sound policy for the disposal of radioactive waste. The program set forth in the NWPA offers such a policy, but a stalemate has developed which is preventing its implementation. Mr. Speaker, this program must go forward, and the legislation that I am introducing today is an attempt to get this program back on track. This bill provides a solid solution for resolving the current impasse facing the waste program, and I hope that my colleagues will support it.

GERMAN-AMERICAN DAY

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to help commemorate German-American Day and to honor the many contributions made by Americans of German heritage.

There has been a German-American community on our shores since early colonial times. In 1776, 10 percent of the colonists were German. Immigration throughout the 19th and 20th century swelled these numbers. It is estimated that over 7 million Germans left their European homeland to begin a new life in America. Now over 30 million Americans take pride in their German heritage. Today, on German-American Day, let us honor the spirit and patriotism that German-Americans have shown throughout this Nation's history.

The State of New York boasts the largest number of people with German ancestry. There are two New Yorkers who I believe exemplify the German-American tradition—John Peter Zenger and John Roebling. John Peter Zenger was a newspaper publisher in colonial America who was charged with libeling the British Governor of New York. Zenger won his acquittal through the then-revolutionary defense that a true statement could not be held libelous. Our tradition of freedom of the press is built on the foundation provided by John Peter Zenger. This case set a legal precedent from which all Americans have benefited.

Another German-American who exemplifies this proud tradition is John Roebling, the man who built the Brooklyn Bridge. Roebling designed the bridge and oversaw its construction at tremendous financial and personal sacrifice. The effort finally cost him his life. However, Roebling's son fulfilled the dream of his father and completed the bridge. The Brooklyn Bridge is one of the rare instances in which the best of engineering and the best of art are combined in one work.

Mr. Speaker, these two men, an engineer and a publisher, show the breadth of contributions by German-Americans to this country.

They both understood the potential greatness of America and the effort needed to achieve this potential. There are millions of other German-Americans that have pursued the same spirit, the same patriotism and the same effort to achieve.

The German-American experience is as rich and diverse as this Nation itself. It is woven so tightly into the fabric of America that sometimes it may not be visible. This day is intended to make sure we take the time to recognize this heritage that is so much a part of our country. As a German-American myself, whose grandparents came from Bavaria and entered the United States through Ellis Island in the early 1900's, I rise today to note these accomplishments and to join with all Americans in celebrating German-American Day.

A CONGRESSIONAL SALUTE TO ED AND CAROL STOUDT

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Ed and Carol Stoudt, founders and owners of the Black Angus Restaurant & Entertainment Complex in Adamstown, PA. On October 7, 1987, the Stoudt's will celebrate the 25th anniversary of the founding of the Black Augus complex. A large celebration, attended by a number of State and local dignitaries, is planned for the occasion. In addition, a time capsule will be sealed for opening at the complex's 50th anniversary in 2010.

Ed Stoudt started the complex in October 1962. It was originally known as the Kountry Kitchen and specialized in Pennsylvania Dutch food. After several years, Ed converted the restaurant into the Black Angus with a specialty in prime cuts of beef. As business boomed, Ed filled the Black Angus with his second love—antiques. Ed soon discovered that many others in our area shared this love. In 1971, he set up a shop and invited several dealers. The antique business was so successful that a special section was added to the complex and the Black Angus Antique Mall was born. The mall now houses 200 antique dealers with additional open air space for 100 additional dealers.

Despite a tragic fire in 1977, the Black Angus complex continued to grow. In 1978, an authentic European beer garden was added. In an effort to truly recreate the spirit of Munich's Oktoberfest, Ed and Carol toured many German beer gardens to make every possible detail as authentic as possible. The success of this venture is clear evidence that their efforts were not in vain. Each summer weekend, Stoudt's is the site of the Bavarian Summer Beer Fest, which draws crowds from across the United States.

Tomorrow also marks the beginning of further expansion with the christening of Stoudt's Brewery Hall. The hall will be used for entertainment throughout the year. The complex also houses Stoudt's Brewery, the first microbrewery in Pennsylvania since prohibition. Under Carol's leadership, Stoudt's brews a delicious beer in accordance with the world's strictest brewing code—the 1516 Bavarian Purity Act. To mark tomorrow's anniversary, a special anniversary amber will be made available.

Mr. Speaker, Ed and Carol Stoudt have seen many successes over the past 25 years. I invite all of my colleagues to visit the Black Angus in Adamstown. I can guarantee that you will thoroughly enjoy the Stoudt's hospitality. In closing, I congratulate Ed and Carol Stoudt for 25 years of success and offer best wishes for continued good fortune in the years to come.

BOWERMAN BASIN IN GRAYS HARBOR, WASHINGTON, DESERVES FEDERAL PROTECTION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. BONKER. Mr. Speaker, today I have introduced legislation to give permanent protection to one of the Nation's most important stopover points for migratory shorebirds. Bowerman Basin in Grays Harbor, WA, is vital to over a million shorebirds—plovers, sandpipers, and curlews—many of which migrate thousands of miles between South and Central American wintering areas and Arctic breeding grounds.

The legislation would designate approximately 1800 acres of the Grays Harbor estuary, known as Bowerman Basin, as a National Wildlife Refuge under the stewardship of the U.S. Fish and Wildlife Service. It would also call on the Fish and Wildlife Service to design an interpretative center and other facilities to accommodate the crowds of birdwatchers and other visitors who descend on the Basin every year.

The wetlands, which include 1,711 acres owned by the Port of Grays Harbor and 68 acres belonging to the City of Hoquiam, have been at the center of a decade-long controversy over how to protect important natural habitat without restricting local economic growth.

After a year of working with all of the local interests, I am pleased to announce that this is a consensus proposal that has broad backing. It is supported by conservationists and local governments alike, and is cosponsored by all of the seven other members of the Washington State delegation in the House of Representatives. Senator Brock Adams is introducing a companion measure in the other body.

Although these shorebirds that stop at Grays Harbor are not immediately threatened or endangered, they are highly dependent on a handful of reststops, or "staging areas," along their migratory corridors. Whole breeding populations of some species must stop at specific staging areas to rest and quickly regain lost weight so they can continue the next leg of their marathon migration. This dependence on key geographic bottlenecks, combined with low reproduction rates, makes the species extremely vulnerable to loss of these staging areas.

The 94-square mile Grays Harbor estuary has been identified by an international consortium of experts as one of the five key Western Hemisphere Shorebird Reserves in the United States. It is the last stop for many shorebirds before they begin their final 1500 mile nonstop flight to Alaskan breeding grounds and is one of four major estuaries in North America supporting more than 1 million shorebirds.

As scientists and conservationists increasingly came to appreciate the importance of the estuary, development pressures on the estuary intensified. In response to this growing conflict, the late Senator Scoop Jackson legislatively established the Grays Harbor Estuary Management Planning [GHEMP] in 1975. The plan is an attempt to reduce these conflicts by establishing an estuary-wide plan for development and protection. Although GHEMP remains controversial and has yet to receive final approval, I have attempted to work within the parameters of the plan in designing the refuge proposal. This legislation complements and enhances GHEMP by implementing the portion of the plan that calls for protection of Bowerman Basin.

I look forward to early action on this consensus legislation by the House Merchant Marine and Fisheries Committee, on which I sit with my Washington State colleagues, Representatives Mike Lowry and John Miller.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a 94-square mile estuary on the coast of the State of Washington, is of critical importance to certain migratory shorebirds and waterfowl and provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known as Bowerman Basin is a high tidal mudflat within the Grays Harbor estuary which attracts hundreds of thousands of migratory shorebirds during spring and fall migrations as well as peregrine falcons and other raptors;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatchers, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to prevent vegetative encroachment and to otherwise protect and enhance its habitat values; and

(5) the Act complements and enhances the goals set forth in the Grays Harbor Estuary Management Plan, which has identified Bowerman Basin as an area deserving permanent protection.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "refuge" means the Grays Harbor National Wildlife Refuge.

(2) The term "lands and waters" includes interests in lands and waters.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "selection area" means lands and waters of Grays Harbor, Washington, depicted on the map entitled "Grays Harbor National Wildlife Refuge", dated

and on file at the United States Fish and Wildlife Service.

SEC. 3. ESTABLISHMENT OF REFUGE.

(a) SELECTION.—Before the first anniversary of the effective date of this Act, the Secretary shall—

(1) designate approximately 1,800 acres of the lands and waters within the selection area as lands and waters that the Secretary considers appropriate for the refuge; and

(2) prepare a detailed map depicting the boundaries of the lands and waters designated under paragraph (1), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service; and

(3) publish notice in the Federal Register of availability of the map for public inspection.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated under subsection (a)(1) as may be necessary to carry out the purposes of the refuge and to facilitate the acquisition of property within the refuge.

(c) ACQUISITION.—(1) The Secretary shall, not later than the 3rd anniversary of the effective date of this Act, acquire—

(A) by purchase, the approximately 68 acres of lands and waters owned by the City of Hoquiam within the selection area for the sum of $500,000, and shall compensate the lessees on such lands and waters for improvements and relocation costs; and

(B) by transfer or purchase, or both (at the option of the Port of Grays Harbor), the approximately 1,711 acres of lands and waters owned by the Port of Grays Harbor within the selection area and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

(2) The appropriate Federal agencies may treat any lands and waters transferred to the Secretary under paragraph (1)(B) as meeting, in whole or in part, mitigation obligations of the Port of Grays Harbor arising under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

(d) FORMAL ESTABLISHMENT.—When the Secretary has acquired under subsection (c) lands and waters sufficient to require administration under section 4, the Secretary shall establish the refuge by publication of notice of the establishment in the Federal Register.

SEC. 4. ADMINISTRATION.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands, waters, and interests therein, acquired under section 3—

(1) in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee); and

(2) in a manner consistent with this Act.

(b) OTHER AUTHORITY.—The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretive education as he considers appropriate to carry out the purposes of the refuge.

(c) TREATMENT OF CONTIGUOUS LANDS.—Neither the Secretary nor the head of any other Federal agency may, because of the establishment of the refuge, impose restrictions on contiguous land use.

(d) MANAGEMENT PLAN.—Within 18 months after the effective date of this Act, the Secretary, shall prepare a management plan for the development and operation of the refuge which shall include—

(1) the construction of a visitor center suitable for year-round use with special emphasis on interpretative education and research;

(2) viewpoints, boardwalks, and access;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth refuge management priorities and strategies.

The Secretary shall provide opportunity for public participation in developing the management plan.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this Act.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, or January 1, 1988, whichever date occurs later.

RANGER CLINT PEOPLES—UNDER NINE BADGES

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. HALL of Texas. Mr. Speaker, as our country celebrates the bicentennial of the Constitution of the United States, I find it extremely appropriate that we will also be celebrating the upcoming bicentennial of the U.S. Marshal Service because it truly represents the very basis of our Constitution—the governing of Americans by Americans.

Clint Peoples, who has served for the past 13 years as U.S. marshal for the northern district of Texas, has been the epitome of an ideal law enforcement officer for 57 years. It is only fitting, then, that Clint has recently been named executive marshal for the bicentennial celebration of the Marshal Service.

Law enforcement has come a long way since President George Washington appointed the first 13 U.S. marshals in 1789. Today, the technology and methodology is something of which our first President did not even dream. However, some basic characteristics of our U.S. marshals have not changed since those early days and they are the ones which Clint Peoples stands for: dedication, integrity, professionalism, and devoted service to our country.

Clint Peoples will always be remembered as one of the "good guys" of the Old West. A lifelike figure of Clint on his horse "Chico" can be seen in the Southwestern Historical Wax Museum in Grand Prairie, TX. He will also be remembered as a man who wore nine different badges in his law enforcement career. No one has ever worn more. Among the titles he has held are chief deputy constable, chief deputy sheriff, highway patrolman, Texas Ranger private, Texas Ranger captain, and, he is only the second man in the history of the Texas Rangers to hold the title of Texas Ranger senior captain of all rangers. There is much more; his honors and titles are too numerous to mention here.

So, Mr. Speaker, I find it a great privilege and honor to speak of Clint Peoples today and am proud to call him my friend. He is a man who serves his country and protects her citizens tirelessly, with a dedication and fierce pride that calls for all of our respect and gratitude.

I move that we adjourn Congress this day in honor of and respect for Capt. Clint Peoples.

MINORITY ENTERPRISE DEVELOPMENT WEEK

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. GREEN. Mr. Speaker, as many of our colleagues may be aware, the first full week of October is annually proclaimed Minority Enterprise Development Week by the President. I would, therefore, like to take this opportunity to join with him, my colleagues, fellow New Yorkers, and all Americans in observing this week, and rededicating our collective commitment to greater economic opportunity for all our citizens.

As the congressional representative for a district with a considerable minority population, I have been particularly aware of the need to promote and facilitate such enterprise. Businesses owned and operated by minorities can go a long way toward promoting the economic and social well-being of urban neighborhoods, and recent trends have been quite encouraging.

Minority self-employment, for example, increased by 64 percent from 1975 to 1985, and was paralleled by a rapid increase in the number of minority-owned businesses. In addition, minority business owners are receiving larger shares of Federal contracts awarded to small businesses. Reflecting broader tendencies, employment in black-owned businesses went up significantly in the service and retail trade sectors. In New York, I am pleased to report that, over a 5-year period, the percentage of black-owned concerns leaped by over 45 percent.

Although minority workers are less than proportionately represented among the self-employed, more minorities appear to be taking advantage of entrepreneurial opportunities. It is to be hoped that this trend will continue, for in an era of changing national demographics and increasingly vigorous international competition, minority enterprise will come to play an even more significant role in contributing to the economy of the future.

NATIONAL DEFENSE STOCKPILE AND THE DEFENSE INDUSTRIAL BASE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. BENNETT. Mr. Speaker, I would like to call my colleagues' attention to an article in Defense News about the sustainability of our military forces in the event of a war. In the article, Gen. Richard Thompson, who has recently retired as the Army's Chief of Logistics, sounds the alarm about the decline of the Nation's defense industrial base. He is most concerned about the ability of suppliers to meet surge demands. Surge demands can only be met if we have adequate strategic and critical materials to meet production requirements. During wartime, we would have to rely on the national defense stockpile as the quickest and cheapest source of these materials.

I urge my colleagues to read the following comments by General Thompson.

[From the Defense News, Sept. 14, 1987]

Gen. Richard Thompson: Former Logistics Chief Still Speaking Out

(By David Silverberg)

WASHINGTON.—A tanker's nightmare: a target in sight, range determined—and no shells. Or an infantryman's nightmare: caught in a crossfire without ammunition. Or a quartermaster's nightmare: a division to supply and no supplies with which to do it.

Those also have been the nightmares of Gen. Richard Thompson—and it has been his job to prevent them from coming true, most recently as commander of the U.S. Army Materiel Command.

Thompson retired as the Armys' chief of logistics in May, but he has continued to be active in sounding an alarm about the state of the nation's defense industrial base. It is an issue with little glamour, one that rarely gets attention. yet for a logistician the defense industrial base is the foundation of his job—as well as the foundation of the nation's defense.

"I'm concerned about the sustainability, not only of the Army, but of the entire defense establishment," says the tall, easy-going general. "My concerns are with the totality of the problem—it's the industrial base, it's stockpiling, it's organization, it's planning, it's orientation, it's transformation of the requirements, it's in our acquisition processes, it's our procurement practices. It is a very deep and pervasive problem."

The perilous state of the nation's industrial base has been getting attention recently, particularly in light of the nation's trade deficit, the emphasis on competitiveness and fears for the health of American industry.

When Rep. Mary Rose Oakar, D-Ohio, chaired hearings on the subject in late July before the House Banking, Finance and Urban Affairs economic stabilization subcommittee, it was only logical that Thompson would testify.

With 43 years in the Army under his belt, starting as a World War II private, Thompson warned that the United States was allowing its defense industrial base to decline as it did after World War II. While administrations since the war have committed themselves to improving the industrial base, none of them, said Thompson, has "stayed the course." The emphasis on pricing has led to decisions based purely on price considerations and not on all aspects of an acquisition—for example, the ability of a supplier to meet wartime "surge" demands. Additionally, while the United States has failed to formulate an overall industrial base policy, authority for meeting industrial base requirements has become progressively fragmented among the services and other interested agencies.

Thompson had five simple and straightforward recommendations for dealing with the problem:

Develop a national industrial base strategy.

Establish requirements and priorities for supply.

Support and adequately fund measures for greater productivity in both public and private sectors.

Institutionalize short- and long-term industrial preparedness planning.

Incorporate industrial planning requirements into acquisition policy.

The time has come to start taking action, says Thompson.

Steps already have been taken, and with Robert Costello's accession to the position of assistant secretary of defense for production and logistics, there is an initiative under way to correct the problem, although Thompson is not sure he fully agrees with its direction. What Thompson keeps emphasizing is that any solution has to take into account the totality of the situation, cutting across jurisdictions and departments.

Moreover, "American industry can't sit out there like birds in a nest, waiting for mother bird to feed them. They too have to get in and become aggressive, they have to improve their own producibility, their own productivity, they've got to be able to improve their quality."

Nor does Thompson believe that procurement of overseas items necessarily damages the U.S. industrial base as some have charged.

"There is a place for overseas procurement. And that place is in things like non-developmental items," he says.

Thompson says he would like to see more concurrent research and development and more sharing and a balance between domestic and offshore procurement with joint ventures, partnerships and licensing holding out hope for the future.

Thompson will be watching as all this develops. He says he is trying to get away from the defense industry and his time in retirement will be spent sitting on the boards of several non-defense-related companies. He also will be working on his massive collection of Napoleanic-era lead soldiers.

But between those activities, he also will be working on industrial base issues, speaking out "as long as I have audiences willing to listen to me."

AIDS: IS HISTORY TRYING TO TELL US SOMETHING

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. GINGRICH. Mr. Speaker, I urge my colleagues to read Dr. Hugh R.K. Barber's editorial in the August 12, 1987, edition of The Female Patient, entitled "AIDS: Time for Drastic Measures?" Dr. Barber raises an interesting point regarding civilizations disappearing without any clues to reason. Dr. Barber says this alone should prompt us to take action to preserve our civilization from extinction. I recommend his article to all my colleagues.

AIDS: Time for Drastic Measures?

Morally and ethically, how do we decide what is appropriate and inappropriate when the human race is threatened with extinction? Since the 1940s, attention has been directed to nuclear weapons, which have the potential to eradicate life on Earth. However, the arms race is still amenable to reasonable control. On the other hand, the acquired immunodeficiency syndrome (AIDS) is a deadly, incurable, infectious disease that now represents an unchecked global threat. The question is, if we know so much about it, why are we unable to control it?

Why have certain forms of life that we know existed disappeared from the Earth? We can speculate on the theories of archeologists, anthropologists, historians, and a variety of other experts, but the fact remains that we do not really know. Civilizations have disappeared without leaving any clue as to the reason. Obviously, history cannot be a science; it is an art that establishes a meaningful order from the chaos of information and a philosophy that seeks perspective and enlightenment. Man can be viewed as the product of a species and a scion of his race, composed of body, character, and mind. Man is also a member of a family and community. In this context, can history teach our global civilization how to avoid extinction? And will we be willing to pay the price that history may demand for our preservation?

Morals are the rules by which society stimulates its members to behavior consistent with its order, security, and growth. Laws are the rules by which society seeks to compel. A quick look at history stresses the variability of moral codes and concludes that they are negligible because they differ and are sometimes contradictory. A larger knowledge of history stresses the universality of moral codes and concedes their necessity. Whenever the world has been threatened, morals have united societies in a common bond to strike an invader, combat disease, or provide food, shelter, and help.

Today, the world is threatened with AIDS. Scientists say that no cure will be available for at least another decade. For the foreseeable future, all we have to offer is palliation and temporizing. Perhaps civilizations before recorded history were wiped out by viruses, fungi, bacteria, or diseases unknown to us today. Therein lies the summons to coordinated and universal action.

What should we do? The consensus seems to be that prophylaxis and preventive measures are the only means of controlling the spread of what could be the most devastating epidemic that the world has ever known. The government and public officials contend that mass screening would not be cost-effective at this time. However, they also predict that by the turn of the century 100 million people could be infected with the AIDS virus. Having reached these proportions, the potential for contact would be so great that few could escape infection. Simple mathematics tells us that, even with this geometric progression, it would take a long time to eradicate 5 billion people. Nonetheless, how can a civilized world with a conscience refuse to face the problem at present? Unless something is done at this point, there may be nothing that we can do later.

The world has watched many ruthless leaders sweep across nations until finally mankind mobilized itself at a tremendous cost to accomplish what could have been done much earlier at a much small cost. Now is the time for the world's humanitarians to stand and demand that we employ the only weapon that we have against AIDS, and that is prevention.

I believe that prevention requires mass screening. I know that this idea has been condemned by civil liberties' and gay rights' activists and—most recently—the American

Medical Association. However, the issue is the good of society as a whole. As the epidemic spreads, blood testing may eventually be initiated for all couples about to wed, every hospital patient, all pregnant women, and everybody suffering from a sexually transmitted disease. This is not enough. It must be universal. Civilization is a social order promoting cultural creation, and it can only be preserved by drastic means. It is my opinion that mass testing should be mandatory, and that it should be repeated at stated intervals. The cost of saving lives, no matter how great, is worth the price.

I realize that homosexual men and intravenous drug users have been the principal victims of AIDS. Resistance to testing stems from the fact that an AIDS diagnosis invariably places patients into one of these two categories. It is an emotional response to a social stigma.

Now, this is changing. Heterosexuals, both men and women, are falling victim to AIDS, and innocent children are being destroyed. AIDS has invaded the blood supply of our nation. Many open heart surgery patients, hemophiliacs, and trauma victims are dying of a disease that they played no role in creating. By the year 2000, one of the most important functions of medicine will be to supply "spare parts" for human beings. Unless mechanical organs are developed that work as well as heterologeous transplants, the AIDS virus may limit the ability of physicians to use donated organs.

Those who oppose mass testing maintain that there is no point in finding the victims of AIDS because there is no cure. What a callous approach to a life-and-death situation! Those who support testing of the general population argue that it will give researchers a better demographic understanding of the disease and how it is transmitted, and will help in identifying those groups that are especially at risk.

We must face the harsh reality of AIDS. The virus does not respect individuals. It is a remorseless killer that must be fought with every weapon a nation can bring to bear. Currently, one of the only things we have to offer is mandatory testing to protect the citizenry. It is a small price to pay now for a few to save many. It will be a tragedy if at some point in time the reverse becomes necessary.

A TRIBUTE TO BODIL LAWAETZ

HON. RON de LUGO

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. DE LUGO. Mr. Speaker, I want to express my praise for one of the finest women on St. Croix, Bodil Lawaetz, who has been counting raindrops for the National Weather Service for 30 years.

Bodil has just been given the U.S. Commerce Department's John Campanius Holm Award, which is reserved for the top 25 Weather Service volunteers around the country.

For the last 30 years—when she wasn't raising her sons or helping to run the farm with her husband, a renowned farmer-politician in his own right—Bodil has been measuring rainfall for the National Weather Service. When they want to know how much rain fell in Annaly, on the north side of St. Croix, they call Bodil.

This 78-year-old native of Denmark has made a number of contributions to our community, and I'm glad to see her get this well-deserved honor for her steady, dedicated work for the National Weather Service.

TRIBUTE TO THE ITALIAN CIRCLE OF PATERSON, NJ, ON ITS 75TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. ROE. Mr. Speaker, it is with a great deal of pleasure that I rise today to tell my colleagues about an extremely important anniversary being celebrated this week in my Eighth District of New Jersey. I speak of the 75th anniversary of the Italian Circle of Paterson, NJ, a prominent civic and social organization which has been a vital part of the Italian community in my district for three-quarters of a century. The members of the Italian Circle, 350 strong, along with family and friends, will celebrate this outstanding organization's silver anniversary with a dinner-dance, Friday, October 9, 1987, at the Westmont Country Club in West Paterson, NJ.

Mr. Speaker, I believe that on this important occasion we should honor the many fine community leaders who have served in the office of president of the Italian Circle during its long and fruitful existence. This group includes Luigi Della Poalera, Frank Puglia, Nicola Parrillo, Giuseppe Aquino, Michael Varallo, Dr. Michela, Dr. A. Ciccone, Ernest Varallo, Thomas Elm, Joseph J. DeLuccia, Andrew Polombo, Michael A. Giglio, Dr. Alvin Cortese, Joseph G. Sproviere, Harry Ramaglia, Joseph R. Brumale, Alex N. DeLuccia, James LaCava, Frank Greco, Ralph Gambatese, Michael Saracco, Dr. James J. DeLuccia, Carmen A. Ferrante, Richard Fontanella, Dr. Ralph DeLuccia, John Deodato, William Marrotta, James LaCava, Jr., Michael Adamo, Nick DeLuccia III, and Elmer Grossi.

Mr. Speaker, the Italian Circle was founded in 1912 under a set of guiding principles that the organization still adheres to today—to be of mutual assistance to one another, to be of service to the community and to establish a center for the promotion of good fellowship. During the past 75 years, all of these goals and ideals have come to fruition. The Italian Circle has had three homes since its beginning, the first one on Cross (now Cianci) Street, the second on Market Street, and its current headquarters in the Hillcrest section of Paterson. I might also note that the Italian Circle, together with the Federation of Italian Societies, were responsible for the relocation of the Christopher Columbus statue for Eastside Park to its present Cianci Street location.

Through its many years, the Italian Circle has continued its work, work that has included establishing scholarship funds for the children of members of the Circle and for others in the community, and adhering to the principle of mutual aid. In the words of the Italian Circle's official history,

> We are, indeed, proud of our heritage, our founding father, our past presidents, our members, past and present, and we pledge ourselves to continue on the paths our predecessors so ably delineated for us.

The commemoration of the Circle's silver anniversary is also noteworthy because this outstanding organization will also take the opportunity to honor the honorable superior court judge, Bruno Leopizzi, as its "Man of the Year" for 1987. A longtime member and former officeholder in the Italian Circle, Judge Leopizzi has earned this honor through his tireless work as both a trial attorney and jurist, as well as his many community and civic activities.

Mr. Speaker, Judge Leopizzi, who attended St. Anthony's Grammar School and St. John's High School, earned his B.A. degree at Drew University and his law degree at John Marshall Law School. He was admitted to the bar in 1951, admitted to practice in the U.S. Federal court and the U.S. Supreme Court. After 21 years of private practice as a trial attorney, he was appointed to the district court in 1972, the county court in 1976 and superior court in 1979.

In his many outstanding years as a trial attorney and judge, he has held membership in a number of professional organizations and currently serves as lecturer for the New Jersey Judicial College, Institute for Continuing Legal Education, Skills and Methods for New Attorneys, Visiting Lecturer at Rutgers Law School and Moot Court Moderator at Drew University. Judge Leopizzi and his wife of 39 years, Terry, are the parents of Raymond, Elaine Reddin, and Terriann Contini, and the grandparents of Raymond, Ryan, Anothony, and Michael Reddin, and Christopher and Cara Leopizzi.

Mr. Speaker, I know that you and our colleagues will want to take this opportunity to join me in offering my sincerest congratulations to the Italian Circle of Paterson, NJ, for all it has contributed to its community during the past three-quarters of a century and to the Honorable Judge Bruno Leopizzi, the Circle's 1987 "Man of the Year." They have indeed, made great contributions to their community, State and Nation, and it is an honor to have them in my district.

SALUTE ON DEPARTURE OF SECRETARY OF TRANSPORTATION ELIZABETH DOLE

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. DENNY SMITH. Mr. Speaker, it's an honor to be here today to join with my colleagues in saluting Secretary of Transportation Elizabeth Dole.

During my four terms of Congress, my background as a pilot and interest in aviation has led to many meetings and contacts with Secretary Dole. In all of my dealings with the Secretary, she has always been an eloquent spokesman for her department, and she has always been ready to listen.

A few weeks ago, I attended the celebration of our Constitution on the Capitol steps. A large number of dignitaries were introduced, and they all received warm applause. There was no doubt, however, that the audience reserved its loudest applause for Secretary Dole. This applause was also accompanied by the delighted shouts of approval from the schoolchildren present.

The reason for this warm greeting was clear: The people of this country realize that Secretary Dole's abilities, character, and courage are a national asset. I know they can count on the fact that Secretary Dole will continue to make invaluable contributions to the future of our country.

JAMES BAMBER HONORED OCTOBER 24, 1987

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. LEWIS of California. Mr. Speaker, it gives me a great pleasure to set aside this time to recognize Mr. James Bamber of Upland, CA. Mr. Bamber will be honored on October 24, 1987, when he will step down after serving as president of the San Bernardino County Bar Association for the year of 1986-87. I would like to honor him today by saying a few words about his accomplishments here in the Chamber of the House of Representatives.

Mr. Bamber received his bachelor of arts degree from the University of California and his juris doctorate from the University of Santa Clara Law School. His diligence as a student has rewarded him professionally; he is a partner in the law firm of Althouse & Bamber in Upland, CA.

As a strong member and able leader in the San Bernardino County Bar Association, James Bamber's contributions are numerous. He has served as an officer and director of the San Bernardino County Bar Association since 1982. One contribution of note is that Mr. Bamber was responsible for obtaining a source of professional liability insurance for bar association members. Also, he has promoted and assisted in the formation of the California Small Bar Associations. His efficient management and leadership has enabled the bar association to achieve all 1986-87 goals within their budget despite increased costs.

In addition to his demanding work as president and as an attorney, he has contributed his time and energy to his profession by serving on several boards. He is a member of the business law section of the California State Bar. Also, he is a member and past president of the Western San Bernardino County Bar Association. Mr. Bamber is a past member of the executive board of West End Trial Lawyers Association.

Even though his days are more than filled with activities in the legal profession, Mr. Bamber finds the time to participate in many community organizations. He is the director of the Upland Rotary Club. He also serves as coach and manager of the Upland Foothill Little League and coach of the American Youth Soccer Organization of Upland. As a member and officer in the Father's Committee to Troop 623, Boy Scouts of America, he makes a fine example for the young Scouts.

I am sure that a great source of his enthusiasm and energy comes from his family. His wife, Julie, and their three sons Christopher, Brendon, and Thomas, provide support and love, which as we all know are fundamental to true success. James Bamber has been a good friend and neighbor, always going that extra mile for his family, friends, and community.

Mr. Speaker, I ask that you join me in saluting Mr. James Bamber. He serves as an outstanding example to us all as a man dedicated to quality in both his professional and personal endeavors. His contributions to the San Bernardino County Bar Association will be valued for years to come. It is with great respect that I pay tribute to him today.

KEEP THE FTC OUT OF AVIATION

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. HOWARD. Mr. Speaker, the House this week will take up a proposal to give jurisdiction over airline advertising and deceptive practices to the Federal Trade Commission. H.R. 2897, the FTC reauthorization, would take this authority from the Department of Transportation, where it is part of a comprehensive, unified regulatory framework, and give it to an agency with no experience in aviation.

The FTC is an agency that has come under sharp criticism over a period of years for lax enforcement in its existing jurisidiction and has indicated that it opposes any action in this field.

The FTC, which under H.R. 2897 would be the consumer watchdog, last week opposed a proposal by the National Association of Attorneys General to develop guidelines on airline advertising. The consumer watchdog said such guidelines might inhibit "effective price competition among airlines."

That is not the agency that should be protecting the Nation's airline passengers. On Monday, the House approved H.R. 3051, the Airline Passenger Protection Act of 1987, providing passengers with additional information. At the same time, the Chairman of the FTC has expressed concern that advertising guidelines may "bury consumers in unnecessary information."

The Department of Transportation agrees that jurisdiction should not be transferred to FTC. DOT said, "Given the aggravation currently being experienced by air travellers, now is not the time to experiment with new arrangements." The Office of Management and Budget agrees, saying it would recommend a veto because title II would "inappropriately fragment regulation of air carriers advertising and consumer protection practices."

The FTC as recently as last Friday, endorsed DOT's activities in this field. Opposing any State action on advertising, FTC said, "DOT already monitors and corrects questionable advertising."

Title II of H.R. 2897 is ill-conceived and ill-timed. I urge strong support for the Mineta amendment which will be offered to strike title II from the bill.

REPRESENTATIVE MILLER HONORS TED WOOTEN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. MILLER of California. Mr. Speaker, I know that all Members of the House of Representatives join me in paying tribute to one of the most talented, and most committed, public servants in the history of Contra Costa County—Ted Wooten.

Later this month, hundreds of Ted's friends and colleagues will honor him at a testimonial dinner for his 30 years of dedicated service as a member of the west Contra Costa sanitary district.

In addition, we honor Ted for his outstanding record as one of California's first black elected officials, a political pioneer who has helped to improve the quality of government in our county, and our State.

Mr. Wooten's life began in North Carolina, as one of 16 children born to Joseph and Hattie Wooten. He began work as a laborer for the U.S. Department of the Navy in 1941, and was shipped to Pearl Harbor, HI, just 1 week before the surprise attack which began American involvement in World War II. For the next 32 years, Mr. Wooten worked for the Federal Government in maritime employment, eventually retiring as a rigger at San Francisco's Hunter's Point Naval Shipyard.

Ted has long been an active member of the west Contra Costa community. In 1958, he was elected a director of the west Contra Costa sanitary district, a position to which he has won reelection seven times. He also has served seven times as the president of the district and has played an integral role in the development and improvement of the west county.

Ted Wooten also served the Richmond community as president of the New Era Civic Club. In addition, he served as the chairman of the North Richmond Neighborhood Council, and another 3 years as chairman of the North Richmond Citizens Civic Club. He also serves as a member of the North Richmond Redevelopment Committee.

Mr. Wooten also is a 25-year member of the North Richmond Baptist Church, an active member and president—on many occasions—of the Winchester Rifle and Pistol Club, and is an active member of the Ashler Masonic Lodge of Richmond, where he holds the 32d degree.

Mr. Speaker, Ted Wooten has an extraordinary record of civic activity and commitment to his community which is deserving of the appreciation and respect of all members of the Contra Costa community. Members of the Congress certainly join my constituents in Contra Costa in saluting the many contributions of Ted Wooten, and in wishing him, his wife Shirley, and their family much happiness in the years ahead.

FORMER SECRETARY DOLE ANSWERS HER CRITICS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. COUGHLIN. Mr. Speaker, critics in the press have recently called into question the solid record of accomplishment left behind by former Secretary of Transportation Elizabeth H. Dole, the longest reigning Transportation Secretary in U.S. history.

As the vice chairman of the Transportation Subcommittee of the House Appropriations Committee, I have had the pleasure of working closely with Mrs. Dole. I feel that I understand better than most people just how effective she was in accomplishing the goals she established for the Department.

The Washington Post was kind enough to allow Mrs. Dole the opportunity to answer her critics at some length and in some detail in an article published on today's editorial pages. The former Secretary's accomplishments speak for themselves, Mr. Speaker, and I urge everyone with an interest in transportation issues to read this article:

ELIZABETH DOLE—MOVING RIGHT ALONG

Transportation in this country has been revolutionized. The economic deregulation of our nation's airlines, railroads and trucking companies has saved American manufacturers and consumers billions of dollars and enormously enhanced our competitiveness in the world economy.

Airline travelers alone have benefited by about $6 billion per year in lower costs and more frequent flights. Airline travel is now within the financial reach of millions of Americans of modest means who never thought they would have the money to fly. The federal role in transportation also has been dramatically reshaped, as we've sold two railroads, including Conrail, transferred two airports out of the federal government and launched a whole new private-sector space industry to compete globally with the French Ariane, the Chinese and the Russians.

A revolution of this magnitude does not occur overnight, nor should we expect it to be painless and problem-free. For the aviation industry in particular, the transition from a sluggish, heavily regulated industry into a vibrant, dynamic one has posed real challenges.

Keeping ahead of the ever-increasing demand for air travel has been a top priority during my tenure as secretary of transportation. Even as the industry has been revolutionized, we in turn have been revolutionizing the way the Federal Aviation Administration does its business.

My Safety Task Force, composed of technical experts and program analysts, began its probing examination of all transportation modes with the FAA. As a result, the airline safety inspection process has been totally overhauled. We broke up any potential for the "buddy" system between FAA inspectors and the carriers they inspect. We conducted 14,000 additional in-depth inspections of the nation's airlines, added hundreds of additional safety inspectors, and levied unprecedented fines for safety violations.

In 1985 and again in this Congress, I proposed legislation increasing fines for maintenance violations from $1,000 to $10,000. We are rebuilding the air traffic controller work force in the wake of the 1981 PATCO strike. The number of fully qualified controllers has increased by 67 percent since 1983. We are asking for an additional 580 new air traffic controllers for fiscal year 1988 and another 860 for FY 1989. I have increased the FAA's budget by 50 percent during my tenure, when budgets overall have been trimmed.

A number of initiatives were taken to ensure that small airplanes do not cross the path of commercial airliners. I issued requirements that small aircraft operating near the nations busiest airports carry altitude-reporting transponders—devices that enable an air traffic controller to "see" an airplane on his or her screen—by Dec. 1. The department also plans to tighten the controls at the country's nine fastest-growing airports and require installation of new collision avoidance warning systems in commercial aircraft. In addition, we proposed a rule that would require all commercial airplanes to be equipped with a system providing wind shear warnings to pilots and instructing them on how to handle such emergencies.

We are overseeing a 10-year, $12 billion program, the most complex nonmilitary project since the Apollo space program, to completely replace the hardware and software of the air traffic control system. With five years completed and 85 percent of the contracts in place, the complete installation of this state-of-the-art technology will mean not only increased safety but also increased system capacity and thus fewer air traffic delays as well.

To address airline delays and other service problems in the near term, we've undertaken action on many fronts. As a result, delays were down 23 percent this August from last. We launched investigations of airline scheduling practices at major airports, culminating in tough agreements in August with carriers to require improved on-time performance. A truth-in-airline-scheduling rule strikes at the heart of consumer concerns by requiring large air carriers to publicly disclose key information on flight delays and baggage problems. Enforcement actions, new flight paths and changes in air traffic control procedures at indivdual facilities have all helped to alleviate this problem.

The last three years saw the safest level of air travel in U.S. aviation history; 1985 and 1986 share the record for the lowest automobile fatality rate ever; and 1986 broke the record for railway safety. These records are not just coincidences. They happened because we worked at it. We expanded and updated safety regulations across all modes. We worked hard for legislation to provide incentives for states to enact Age 21 minimum drinking laws. Forty-nine states have taken this step, and involvement of young people age 18-20 in fatal accidents is down 33 percent.

After 20 years of debate, the department's automatic occupant protection rule is saving lives for the first time. The rule has spawned 29 state safety belt laws, while 25 percent of the new car fleet will be equipped with passive restraints beginning this year. Belt use has increased from 12 to 42 percent. Nearly 1,500 lives have been saved. Our rule also preserved air-bag technology, thus enabling 10 auto companies to offer that option on 1988 model-year cars for those who want this safety device. To reduce the risk of rear-end collisions—accidents that can range from minor fender-benders to fatalities, I required in 1983 high-mounted stoplights for all new cars. We estimate that the lights will prevent approximately 900,000 accidents annually when all vehicles are equipped with them, prevent 40,000 injuries and save approximately $434 million annually in property damage.

To ensure that the American people have a transportation system that is drug-free, the department this month became the first civilian department to administer random drug testing to all senior appointees and 30,000 employees in critical safety and security positions. We are in the process of extending random testing to those we regulate in safety and security positions such as pilots, mechanics, rail engineers and brakemen.

Accommodating the demands of a rapidly growing and constantly changing, dynamic system will be a challenge to my successors for years to come. We have laid a strong foundation upon which others can build.

SURINAME: A MARCH TOWARD DEMOCRACY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. FEIGHAN. Mr. Speaker, in June this year a delegation from the Republic of Suriname visited the United States to present its position on the social, economic, and political developments of Suriname. On June 10, the Prime Minister of Suriname, Dr. Jules A. Wijdenbosch, addressed the protocolary session of the Permanent Council of the Organization of American States. Dr. Wijdenbosch conveyed the special message that on November 25, 1987, general, free, and fair elections will take place in Suriname replacing the current transitional government.

Mr. Speaker, the people of Suriname are committed to the principle of creating a new political and social structure based on democratic, constitutional processes. On November 25, 1985—the 10th anniversary of Suriname's independence—an agreement was reached between the military authority and the major political parties to proceed with elections to choose a new government. During a special session of the National Assembly, the Government announced that on September 30, 1987, a referendum would be held on a new constitution and that elections would take place on November 25, 1987. Establishing a genuine democracy in Suriname faces many obstacles but is a challenge and an opportunity for the people of Suriname to prove that democracy can work in their country.

Mr. Speaker, the Surinamese people appear determined to establish a democratic society. Should this happen Suriname will add its name to the list of South American countries that have democratically elected governments. The United States should support the democratic process in Suriname and do what we can to ensure that fair and free elections take place in that country on November 25, including sending a team of observers to monitor the election in response to the invitation extended by the Government of Suriname to the United States Government. Let us congratulate them as we support their aspirations toward nationhood.

A TRIBUTE TO PAUL J. ABBATE, PRESIDING JUDGE OF THE GUAM SUPERIOR COURT

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. BLAZ. Mr. Speaker, after more than 20 years of service to the people of Guam, Paul J. Abbate, presiding judge of the Guam Superior Court, is retiring. He will be greatly missed and fondly remembered.

He leaves behind a strong, modern court system—the product of his many years of service to the territory—and a reputation for honesty and integrity that has been a hallmark of his long and productive tenure.

Though Paul Abbate is not originally from Guam, he has made it his home and the community has adopted him as one of its own. Born and schooled in New York City, he graduated from St. John's Law School and took his master's of law at Brooklyn Law School. Judge Abbate served in both World War II and the Korean war, winning numerous medals and awards for his service. He retired from the Naval Reserve as a commander in 1972.

He came to Guam in the mid 1960's and from 1967 to 1969 served as assistant attorney general and later as attorney general. He was appointed a judge in the Island Court of Guam that year and became one of the first judges in the newly created Superior Court of Guam, where he served as Presiding Judge from 1974 until this year.

But his service also extended to community affairs. Ordained a deacon in the Roman Catholic Church in 1973, he has served for the past 14 years as a deacon in our archdiocese.

As an assistant professor at the University of Guam, he taught classes in law and police science, helping to build a greater degree of professionalism in our public safety service.

His legacy is the strength, integrity, and independence of the court system. He accomplished this by improving the efficiency of the court, streamlining its operations, creating a talented and dedicated staff and by automating court activities, including the introduction of an electronic court reporting system, microfiche record files, word processing and computerization of financial records. He has pioneered a "cameras in the courtroom" program for selected cases that has helped educate the community in the work of the judicial system.

Among his greatest achievements were the creation of a probation division and alternative sentencing office. His major work-in-progress is the new judicial building center, an expanded court complex to continue and expand the vital role of the superior court in Guam's judicial system.

He will be missed, but never forgotten. We owe him a tremendous debt of gratitude and we thank him for his selfless service to the American people in general and the people of Guam in particular.

DON'T TELL ME

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. KYL. Mr. Speaker, some of my colleagues who are quick to criticize President Reagan would do well to remember a few of the many great things he and his administration have accomplished.

I would like to submit for the RECORD a column that appeared recently in the Phoenix Gazette, written by editorial writer Mr. Richard de Uriarte, that presents a reasonable, objective review of President Reagan's achievements.

[From the Phoenix Gazette, Sept. 28, 1987]

DON'T TELL ME

For more than a generation now, liberals of the media, government and academe have consoled themselves that, no matter how often they were losing at the polls, at least they were right, about everything. Their vision, on scores of issues, has been the more sharply focused, correct one.

How reassuring it has been, the comfort of being right. In this view, conservative "thinkers" (to liberals, the phrase is an oxymoron) were uniformly angry, mean-spirited, conspiratorial, militaristic and simplistic. The descendants of the Tories remained on the outside of power because that's where they deserved to be. After all, the right wing never met a social worker it liked or a defense appropriation it didn't

In domestic policy, they wearily whined about labor unions, progressive taxation, "uppity coloreds" and "creeping socialism." They offered Stone Age solutions to a turbo-powered generation.

In foreign policy, conservatives grumbled about Yalta and saw pinko sympathizers behind every land reform movement. They cheered every macho anti-Communist dictator who ever saddled a white horse, invoking the same logic the hated Franklin Delano Roosevelt once used. "He may be an S.O.B., but he's our S.O.B."

It was so comforting to dismiss the ideological right as intellectually unsophisticated, strategically dull, historically shallow, morally bankrupt, politically inept—and just plain wrong.

And then came Ronald Reagan with his trillion-dollar navies, one-dimensional, Evil Empire perception of foreign affairs and a "Father Knows Best," white picket-fence perspective of American life. He vowed to build up the military. Worse yet, he pledged to use it. He resuscitated the Monroe Doctrine, even adding his own interventionist corollary, shipping arms to Angola, Afghanistan and Nicaragua, invading Grenada, bombing Libya and hijacking terrorists.

How gauche!

This former Hollywood cowboy actor swaggered into dainty diplomatic discussions. He cared little for regional sensibilities or world opinion. Ronald Reagan's America believed in national interest first and pursued it unapologetically. His economic policies, and the confidence he placed on them, recalled the Music Man in River City.

Guess what, guys? After nearly seven years, the world hasn't collapsed. The roof hasn't caved in. and those dreary, always angry right-wing ideologues? They're proclaiming: "It's morning again in America." Even capitalism has a good name!

In his 1984 re-election campaign, Reagan reminded appreciative audiences that communism had not gained "a single inch of territory" during his watch. The line has a lot of appeal, especially when you remember all the wussy excuses the appeasers and detenters invoked for 30 years.

The Soviets, after years of bluster, have done the crawling in seeking an arms agreement, just as Reagan said they would.

The wimpy, ever cautious European allies are actually sharing the burden for common defense in the Persian Gulf, in Chad and elsewhere.

Ninety percent of Latin America is now governed by elected civilian presidents. Military dictatorships have been replaced in Peru, Brazil, Argentina, Honduras, Guatemala and Ecuador. Democratic seedlings are sprouting in the Philippines, South Korea and Haiti.

The aging, detached Ronald Reagan still dominates most every international stage he occupies.

Statist economics are everywhere in disrepute, even in "Red China."

The U.S. economy is still purring along, enjoying its longest peacetime expansion in history.

How could it be? How did this happen? Is it just the Reagan luck? Or were the conservatives right all along?

Naaah, some of the progress is illusory and temporary. There are still a few liberals confident to know the world is really not as simple as Ronald Reagan makes it appear. It just can't be, can it?

NEBRASKA POWER ASSOCIATION JOINS IN COMMEMORATING "PUBLIC POWER WEEK"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. BEREUTER. Mr. Speaker, the week of October 4–10 has been designated Public Power Week. During this week more than 2,000 consumer-owned utilities in the country are conducting activities to increase public awareness of the benefits of public power.

For those of us from Nebraska, public power has special significance. We are the only all public power State in the country. Nebraska is served by approximately 160 public power districts, public power and irrigation districts and municipal electric systems.

As an all public power State, Nebraskans enjoy some of the lowest utility rates in the country. We enjoy adequate and reliable energy supplies. "Celebration Success," is more than Nebraska's slogan for Public Power Week. It is a statement of fact.

This Member is pleased to join the leaders and employees of public power in Nebraska and public power consumers in this "Celebration of Success." I would like to have inserted in the RECORD at this point an article that was prepared by the Lincoln Electric System on the "Early History of Public Power in Nebraska," as well as a resolution that was passed by the community of Auburn, NE, as part of its commemoration activities:

EARLY HISTORY OF PUBLIC POWER IN NEBRASKA

For a subject that many times seems complicated, electric power production in Nebraska had the simplest of beginnings.

Actually, the State's public power story bloomed by twin accidents of geography and economics.

Basically, Nebraska slopes northwest to southeast. Flowing eastward, the State's rivers fall from 4 to 10 feet each mile. From the valleys rise hills and tablelands. In them, nature placed great canyons where man can store water. To get it there from rivers, canals must be built. Dams divert river water into the canals. Finally, water is poured into storage reservoirs. The water can then rush back down hill through turbogenerators and when its electricity-making work is done, the water either returns to the river or feeds other canals to irrigate crops.

Schemes to provide irrigation and power in the early 1900's budded and bloomed for a while—then withered and died much like the crops in the frequent droughts.

Despite the failures of early irrigation and hydro plans, the dreams of water development did not lie.

In 1913, some progressive businessmen including Charles McConaughy and George Kingsley, revived the idea of using Platte River water for irrigation through a series of canals and reservoirs, and, as a side benefit, provide hydroelectric generation.

Nature and an economic depression played a role in the project's eventual success. Floods in 1927 spurred the interest of Congress in flood control. Drought again spotlighted the need for irrigation and the deepening depression brought pleas from the jobless for work.

In 1933, nobody dreamed of a statewide power system.

Actually, public power in Nebraska is more or less a byproduct of power for irrigation and a means of improving the employment and economy of the State during the years of drought and depression.

So, a movement born many years ago in dust, drought and desperation resulted in the only wholly public power State in the Nation.

The people of Nebraska stood ready to man the recovery pump, but it needed priming with cold hard cash. It became available in 1932 when Congress created the Reconstruction Finance Corporation and later empowered it to make loans for local public works.

Nature and an economic depression played a role in the project's eventual success. Floods in 1927 spurred the interest of Congress in flood control. Drought again spotlighted the need for irrigation and the deepening depression brought pleas from the jobless for work.

After Congress created the RFC in 1932 to fund private and public self-liquidating projects the Roosevelt administration expanded the programs in 1933 by the creation of the Public Works Administration. Nebraska's allocation was set at $70 million in grants and loans.

In 1933, the Nebraska Legislature passed the "enabling act" which permitted the formation of public power and irrigation districts as political subdivisions of the State.

Then came the intensified opposition of private power companies who currently foresaw the threats to their continued existence in a State with surplus hydroelectric power sources and no visible markets.

Rural electrification in the State is the result of two major pieces of legislation. First was the passage of the "enabling act" in 1933 and the second was the passage of the Rural Electrification Act of 1936 by the Federal Government.

The passage of these two laws eliminated three factors that had long been blocking the distribution of power to Nebraska's rural areas. The three obstacles were: A lack of necessary legislation making it legal for farmers to organize power districts, the inability to contract for wholesale electricity at low cost; and the necessity of obtaining loans at low interest rates.

When homes and businesses started getting electric lights back in the 1890s, a number of cities built their own power plants. Municipal power got its start with the introduction of electric lights. The first public power in Nebraska was in its towns and cities. Municipally-owned power systems often generated and distributed their own electricity.

By the early 1940s, all investor-owned companies in Nebraska were acquired by payment of a fair price to their owners.

Today, Nebraska's unique public power concept actually boasts of hundreds of public power systems from municipals to rural power districts and cooperatives to large generation and transmission public power districts.

In addition to the humble beginnings of the hydro power plants, the State's public power system today consists of large, efficient coal-fired generating sources and two nuclear power plants.

Electric rates among the lowest in the Nation, public ownership and control, responsive service, and historic pride are among the many benefits Nebraskans derive from living in the Nation's only totally public power State.

Thus, from a need for reliable water supply, came the need for power revenues, came the need for markets and finally the development of Nebraska's unique public power system.

RESOLUTION

Whereas, we, the citizens of Auburn, Nebraska, own and control our own electric utility, and

Whereas, our utility provides us with efficient, reliable and cost effective service, and

Whereas, public power systems like ours operate without profit, allowing all benefits to flow entirely to us, the local consumers, and to our community, and

Whereas, community-owned, public power systems ensure competition and thus lower rates throughout the entire electric utility industry nationwide, and

Whereas, more than 2,000 public power systems across the country will join together the week of October 4th–10th, 1987, to celebrate the contributions of community-owned public service:

Now, therefore, be it

Resolved: That the week of October 4th–10th, 1987, be designated Public Power Week in Auburn, Nebraska, be it further

Resolved: That this community joins with others served by locally owned electric systems in a celebration of public power, and be it further

Resolved: That this community should undertake appropriate activities, honors and celebrations in recognition of public power and its wide-ranging benefits.

Dated this 3rd day of August, 1987.

FARMERS NEED ADVANCE PAYMENTS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, I am cosponsoring a bill, H.R. 3402, which would require the Secretary of Agriculture to make advance payments to farmers who sign up for the wheat, feed grains, cotton, and rice programs. These payments are an important source of operating money for the planting of crops, and I am concerned that the Secretary has not yet announced that these payments will be made. I commend my colleague from South Dakota for introducing this legislation.

The 1985 farm bill authorized the Secretary to pay farmers in advance a portion of the total payments that will ultimately be due under the commodity programs. Given that final payments do not arrive until over a year after harvest, it seems only fair that some payments are made in advance.

In addition, advance payments for the commodity programs have become critical for a large number of farmers in North Dakota. Many farmers are still just getting by, and advance payments are an important source of operating credit for them. Especially with the Farmers Home Administration, to my dismay, making fewer and fewer direct operating loans, farmers have been forced to rely on advance payments to put their crops in the ground and tide them over until harvest. To discontinue this practice now would result in serious hardship in North Dakota and other rural states.

The 1985 farm bill required advance payments for the 1986 crop, and left payments in future years at the discretion of the Secretary. Last year, the Secretary opted to make the payments. H.R. 3402 would simply maintain this practice for the next 3 crop years. It would require no additional outlays, just a change in the timing of payments.

I urge my colleagues to cosponsor this bill to indicate support for advance payments. And if the Department of Agriculture should decide not to make these payments in advance, I ask my colleagues to work with me to pass this bill and prevent disruption of the planting of next year's crop.

BISCAYNE PARK MAYOR ED BURKE: PUBLIC SERVANT AND PUBLIC ASSET

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. LEHMAN of Florida. Mr. Speaker, my wife and I reside in one of the smallest villages in the district I represent and, indeed, in all of south Florida—the village of Biscayne Park.

Living in Biscayne Park is great because of the neighbors and our wonderful south Florida climate, but especially because of our mayor, Ed Burke.

How we in Biscayne Park feel about Mayor Burke and his retirement was expressed by a fellow resident, Nick Ladas, who wrote to 1,500 of his neighbors to alert them to the reports of the mayor's plans. The response was overwhelming.

The Miami Herald recently reported on this matter, and I would like to share this article with my colleague.

[From the Miami Herald, Oct. 1, 1987]

PLEASE DON'T QUIT, MAYOR BURKE URGED

(By Marcia Cummings)

Biscayne Park Mayor Ed Burke thought Jan. 1 would be his last day in public office. He thought he deserved a rest after 26 years of public service. He thought the village deserved a fresh face at the head of the Village Commission table.

The mayor thought wrong, say nearly one-tenth of the village's 3,088 residents. That is about how many letters, phone calls and personal pleas to run once more the mayor estimates he has received at last count Tuesday.

The calls and letters started coming in about mid-August after a group of residents asked Biscayne Park Police Commissioner Harold Hopkin what to do.

"They wanted to know what they could do to urge him to continue on," Hopkin said. "I suggested they write a letter. They did."

Early last month, another Biscayne Park resident Nick Ladas, wrote his own letter. At his own expense, he mailed 1,500 first-class letters to Park residents urging them to write, call or drop in at Village Hall to express their support.

"He's an institution," said Ladas, a Biscayne Park police officer for 12 years. "I, like many other residents, don't want to see Ed Burke leave."

The fuss is causing Burke to reconsider his 1986 decision to retire this year.

"When I said two years ago this would be my last term, I meant it," said Burke, 73, who was first elected a Biscayne Park commissioner in 1961. He was first named mayor by his fellow commissioners in 1963. He lost for mayor to another commissioner in 1965 but was returned to the mayor's job in 1967.

"Now, with approximately four weeks from having to make a final decision, I have some lingering doubts," he said. "The many letters and telephone calls I have received have a lot to do with it. I run into it where ever I go—in church, in the market.

Nov. 3 is the day the people of Biscayne Park will gather at the regularly scheduled commission meeting to nominate candidates. He must decide before that.

"I worry that I might be staying too long," Burke said. "But it isn't easy to walk away from something that has been a big part of your life for 26 years. Especially when for 26 years, you have been asking people to vote for you and they did and now they are asking me to do something. It's not easy to say no."

He has been considering the pros and cons.

"I mention my age," Burke said. "They mention Claude Pepper and President Reagan. So I lose that argument."

His wife of 23 years, Mary Burke, who once told him that he loved Biscayne Park more than he loved her, insists it be his own decisions.

His daughter Cindy, 19, a junior at American University in Washington, thinks he should run. She doesn't think he will be happy without something to do.

"The trouble is he doesn't know how to relax," Mary Burke said.

"I do, too," said the mayor. "I work."

That is the key to Burke, Hopkin said.

"His hobby for the last 25 years has been government," Hopkin said. "He's not a fisherman, a hunter or a traveler. I think it would be a shame to lose his enthusiasm, his experience, his knowledge. Two years ago when he announced his retirement, I said that gives us two years to try to talk him out of it. He's too big an asset to the Park to not to try to hold on to him."

IMPRESSIONS OF NICARAGUA

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. PENNY. Mr. Speaker, during the August recess, I traveled to Nicaragua to investigate hunger, the work of private voluntary organizations, and other related issues including the hope for a diplomatic solution to problems in Central America.

Following my trip, I wrote three columns for distribution in my district that outline my impressions of Nicaragua. I ask that those columns be printed in the RECORD at this point.

NICARAGUA

(By Congressman Tim Penny)

WASHINGTON.—*Editor's Note:* First District Congressman Tim Penny, a member of the House Select Committee on Hunger, recently completed a tour of Nicaragua to investigate hunger and related issues.

The following is the first in a series of three columns detailing his impressions of the Central American country.

AN INDEPENDENT AGENDA

One of the major stipulations I placed on my trip to Nicaragua was that I would set my own agenda. I was not interested in visiting Nicaragua as the guest of any group that was biased toward either the Contras or the Sandinista government. I wanted to see Nicaragua through my own eyes.

Through a very balanced schedule organized by the House Select Committee on Hunger, I was able to tour humanitarian projects sponsored by private voluntary organizations; visit both urban and rural settings and meet with government officials as well as with opposition leaders.

FIRST IMPRESSIONS

Nicaragua is approximately the size of Iowa with a similar population of about three million. Managua, the nation's capital, is crowded and run-down. One million residents flood the city's streets and hang from overloaded trucks and buses.

The business center of the city, which was destroyed by a 1972 earthquake, still lies in rubble. Some neighborhoods have stucco homes but most Nicaraguans live in wooden shacks that stretch from the shores of a dying Lake Managua to the mountains surrounding the city. Families of six or more crowd into small shacks with dirt floors. Typically, chickens or pigs are fenced in the yards. Sewer and water systems and electricity are not evident in much of the city.

Signs remain from deserted or converted American businesses which were located in Nicaragua before the Sandinista government came to power. Most buildings in the city are still covered with revolutionary graffiti as if the revolution had recently occurred, instead of eight years ago.

A DYING ECONOMY

Like Lake Managua, the economy of Nicaragua is dying. Everywhere there are indications that the economy is going from bad to worse. Unemployment exceeds 20 percent. Inflation runs at 15 percent per week making the local currency next to worthless.

Long lines wait outside food outlets and many items are unavailable or difficult to come by due to shortages. The government sets wages and prices and rations many raw materials to manufacturers. A variety of goods, including toilet paper and toothpaste, can only be sold to the government, which then distributes these items to retail outlets.

It's no surprise that under these conditions there is little evidence of private sector investment.

ON THE ROAD

Traveling the roads of Nicaragua, we saw military vehicles everywhere; guards at most intersections and troops at every bridge. Traffic outside the city includes aging vehicles, horse drawn wagons and push carts. By the roadside are many stands where eggs, fruit, vegetables and crafts are sold. Occasionally along the road, young children hold out a chicken or an iguana for sale. Cows and hogs freely cross the roads to graze in the ditches. Periodically, a white wooden cross stands along the road in memory of a life lost in a traffic accident, during the revolution, or in the Contra war.

NOTE: My next column will review projects sponsored by private voluntary organizations (PVOs).

PRIVATE VOLUNTARY ORGANIZATIONS ARE VITAL

(By Congressman Tim Penny)

Washington.—*Editor's Note:* First District Congressman Tim Penny, a member of the House Select Committee on Hunger, recently completed a tour of Nicaragua to investigate hunger and related issues. His first column dealt with his impressions of Nicaragua. This article focuses on the work of private voluntary organizations (PVOs) there.

SITE VISITS

At Las Pencas (about an hour north of Managua) we visited a CARE-sponsored water project which consists of a well, with a hand pump that serves 25 farm families within a two mile radius. Showers and wash basins for laundry were also constructed nearby. A safe, clean water supply such as this is a luxury in Nicaragua.

Chaquitillo (about two hours north of Managua and less than five miles from a recent Contra attack) is the site of an agricultural mechanization school supported in part by CARE, OxFam and the European Economic Community. At the school, campesinos (peasant farmers) are trained in basic maintenance and repair of farm equipment. Many tractors and farm implements are in disrepair and due to the U.S. trade embargo, replacement parts must be fabricated locally. For these reasons, mechanics trained at this school can make a big difference in the productivity of area farms.

Esteli is a town of between 50,000 and 100,000 (no one knows for sure) approximately three hours north of Managua. Save the Children is building latrines in this community which essentially has no sanitary sewer system.

Another Save the Children project has brought brick ovens to nearly 20 percent of the homes in Esteli. Previously, families cooked their meals over open fires and spent as much as half their annual income for firewood. The construction of these three dollar ovens has cut firewood needs by 50 percent, thereby releasing as much as 25 percent of family income for other purposes. In some cases, neighborhood ovens have been built to allow several families to bake additional goods to sell along the roadsides.

OxFam and the European Economic Community provide supplies such as rope, hoes, spades and fertilizer to UNAG (a local agricultural cooperative) for distribution to area farmers through retail co-op stores. Farms are commonly no more than ten acres in size and often tilled by hand or by crude horse-drawn or cow-drawn plows. The agricultural co-op brings low cost supplies to these subsistence farmers.

PVO'S ROLE

Private voluntary organizations (PVOs) such as CARE, OxFam, Save the Children, etc. play a vital role in the life of the average Nicaraguan. through their demonstrated financial commitment to development projects, the groups are also able to pressure the Sandinista government to spend more on economic programs than it might otherwise.

I am convinced that we must do all we can to see that PVO efforts are not hampered. In several instances, private organizations have been prohibited by our State Department from delivering supplies to the Nicaraguan people because, "such transactions are inconsistent with U.S. foreign policy." I don't think denying developmental aid to innocent people is an effective way to pressure the Sandinista government. In fact, our government might even consider resuming humanitarian aid channeled through private groups. After all, even our trade embargo exempts medical supplies in recognition that humanitarian needs must be met. It should be noted that many of our close allies (Norway, Sweden, Canada) do provide this type of aid to the Nicaraguan people.

NOTE: My next column will review the Sandinista government, Contra aid and the peace initiative.

SANDINISTAS, CONTRA AID, AND THE PEACE INITIATIVE

(By Congressman Tim Penny)

WASHINGTON.—*Editor's Note:* First District Congressman Tim Penny, a member of the House Select Committee on Hunger, recently completed a tour of Nicaragua to investigate hunger and related issues. His first two columns focused on impressions of Nicaragua and the work of PVOs. This column deals with the Sandinistas, Contra aid and the peace initiative.

SKEPTICAL OF THE SANDINISTAS

The Sandinistas apparently knew how to win a revolution, but they obviously don't know how to run a government. To their credit, they have provided nationwide public education, at least through the sixth grade. Under the previous regime, only the wealthy could attend school. They have also been responsible for fully immunizing 85 percent of the nation's children—a remarkable achievement.

But the rest of their record is largely one of mismanagment, neglect, and ineptitude. The government is trying to control too much of the economy by adopting a communist-inspired model. It's absurd for a government to oversee the distribution of toilet paper when it can't even provide an adequate sewage system. As another glaring absurdity, the Bulgarians are helping to build a catsup factory in Nicaragua, but there is no identified market for the catsup. More private sector initiatives would do far more to improve the nation's economy.

Land reform, a major promise of the revolution, is not progressing as anticipated. While some reports indicate gains, others suggest that there is less private land ownership now than under the Somoza regime. State-run farms or cooperatives are common. It is no gain for the Nicaraguan people to move from an economy in which a few individuals own most of the land to a situation in which the government controls most of the land.

My deepest concern, however, is the lack of personal and political freedom under the Sandinista government. Opposition leaders are often jailed without cause. According to some reports, perhaps as many as 9,000 political dissenters have been jailed. Freedom of the press is essential to self government, but there is no press freedom in Nicaragua. La Prensa, the opposition newspaper, was shut down by the government, despite the fact that it opposed the Somoza regime as well as the current government. Only state-run radio stations can carry newscasts. The Nicaraguan people cannot determine their own destiny unless they are allowed to hear both sides.

NO TO CONTRA AID

Major economic and social problems would exist in Nicaragua even without the U.S. embargo and the Contra war. Nonetheless, current U.S. policy makes a bad situation worse for the average Nicaraguan.

The Contra war has been used as an excuse to militarize the society and deny free press and other civil rights. Over 50% of the nation's budget supports a military far larger than needed to counter the Contra threat thus diverting funds that could be better used to develop the country and provide for its people.

The war further hurts the economy and results in many goods being rationed. While we were in the country, a gasoline rationing program was instituted due to a cutback in Soviet oil supplies. I am sure it was little consolation to the general public when newspaper headlines announced that the military would be exempt from the rationing program.

Alarmingly, most of the Sandinista military effort is financed and equipped by the Soviet Union. If we remove the Contra war as an excuse, we will be better able to press for a withdrawal of Soviet military support in Nicaragua.

Finally, too many innocent Nicaraguan civilians are caught in the Contra war crossfire. While visiting the mechanized agriculture school, a student told me of his young nephew killed by Contras who ambushed the truck of corn he was driving. A week before our arrival, three civilians, including two children, were killed on a nearby co-op farm—caught in the middle of a fight between government troops and the Contras. Most Nicaraguans have suffered similar losses. Another family tragedy is that the Sandinista government mandatorily conscripts even 16 and 17 year olds into military service.

For all these reasons, I believe Contra aid is not only wrong but counterproductive. Even if the Contras succeed, the Sandinistas would return to the mountains, the fighting would continue, and the suffering of the Nicaraguan people would go on.

PEACE PROCESS OUR BEST HOPE

On August 7, Costa Rican President Oscar Arias Sanchez won the support of his four Central American counterparts, including Nicaraguan President Ortega, for a regional peace plan. The plan calls for democratization, including a free press, amnesty for opposition groups, a restoration of civil rights, political pluralism and free elections. It further provides for a ceasefire, suspension of military aid to rebel forces and border security to assure no territories will be used to attack neighboring states. Finally, the plan calls for international supervision through the Contadora group and the Organization of American States to assure verification.

The plan is good as far as it goes. Other issues—such as the Soviet military presence—must be addressed as a complement to the process and not used as an excuse to oppose the plan.

I believe the plan can work. First, it was developed by the Central American nations themselves, not imposed on them from outside. Second, the Sandinista government has an incentive to comply because by doing so they can end the Contra war, allowing them to focus on their economic crisis. Third, while the Sandinistas need to be watched closely, the peace plan places the focus on compliance. If the U.S. opposes the plan, the Sandinistas will blame us for its failure. If we support the plan, the heat will be on the Sandinistas to comply. Fourth, all groups I spoke with on our tour support the plan as the best hope for regional peace. It has the support of our allies in this hemisphere and around the globe, as well as the support of opposition groups within Nicaragua.

We must show respect for our four democratic friends and allies—Costa Rica, Honduras, Guatemala, and El Salvador. They believe the peace process can work but they need our support to ensure its success. If it does work, political freedom will be restored in Nicaragua and the people there will have an opportunity to choose their own future in a region at peace. As peace negotiations proceed, the U.S. can respond positively to President Arias' challenge to: "take a risk for peace."

YOUNG MAN'S ACHIEVEMENT INSPIRES OTHERS

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. SUNDQUIST. Mr. Speaker, in 1979, Congress established the Congressional Award in order to recognize young men and women who distinguish themselves in community service and personal achievement. It was recently my great pleasure to present the silver Congressional Award to one of my constituents, 17-year-old David M. Berry of Bartlett, TN.

To win the silver award, David was required to devote 200 hours to voluntary public service, 100 hours to personal development, and 100 hours to physical fitness or expeditions. Those are minimums. David Berry went far beyond.

This Eagle Scout devoted more than 600 hours to clean-up and restoration work at the historic Raleigh Cemetery, one of the oldest cemeteries in Shelby County and the place where some of Shelby County's founders are buried. In addition to working long hours himself, David recruited other scouts to the project and organized many of the work details. He compiled more than three times the number of hours needed in each of the silver award categories.

David Berry is the first Tennessee youth to win the Congressional Award, and he has told me he plans to continue his volunteer work in order to win the gold Congressional Award, open to those 20-23 years of age.

I am impressed by what this committed young man has done, and by what he is setting out to do. I am pleased that his winning the Congressional Award has drawn the attention of youth group leaders, educators, and parents in Tennessee to the Congressional Award.

David Berry represents so well the achievement and enthusiasm of youth signified by the Congressional Award. He has earned the respect and recognition of Congress and, more importantly, he has inspired other young people to follow his example.

TAIWAN'S POLITICAL REFORMS

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. MANTON. Mr. Speaker, last month I had an opportunity to visit Taiwan for the first time. During my visit to that island nation of 20 million people, I had an opportunity to meet with senior Government and business officials and to see first hand much of Taiwan's natural beauty and economic growth. Taiwan is indeed a booming economy, and its political system is becoming more open and mature every day.

I was particularly impressed with the decision of the Taiwan Government to end martial law, recognize the rights of domestic opposition parties, and liberalize travel and foreign currency restrictions for its people. These changes, which were announced in July, are a positive step for Taiwan. These reforms also show Taiwan has chosen to respond to its new economic prosperity in a politically sensible and progressive manner. Taiwan's approach to political reform must be contrasted with some of its regional neighbors which have enjoyed similar economic growth but have failed to respond politically to these changes.

Mr. Speaker, on the eve of Taiwan's 76th national day, I take this opportunity to commend Taiwan for its foresight in enacting these political reforms. Leaders in Taiwan should be applauded and encouraged to continue to increase political freedom.

NATIONAL CHILDREN'S ACKNOWLEDGMENT DAY

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. MOODY. Mr. Speaker, children are this Nation's most precious resource.

Today's children face many hardships that were uncommon or unknown in the past. There are the personal problems: abusive parents, absent parents, neglect, drugs, and poverty. And there are the universal problems: pollution, overpopulation, an overwhelming Federal deficit that promises to be a problem for their children, and the threat of nuclear war.

Children are a silent minority in our society. We don't often hear their grievances. But there are more than 7 million children on welfare today. On average, a family on welfare lives at 75 percent of the poverty level. In fact, one out of every five children lives in poverty. These statistics are a sad reflection of some of the more hidden facts of our prosperous Nation.

Many children, both poor and rich, are growing up without love and attention. These needs are almost as basic as food, shelter, and education. I think we need to reassess our priorities and recognize the wealth and potential within children. For that reason, I am today introducing a bill, with the support of Representative GEORGE MILLER, chairman of the Select Committee on Children, Youth, and Families, to designate March 4, 1988, as "National Children's Acknowledgement Day."

Children respond amazingly. A little attention to their needs has tremendous payback. They learn, they create, and they grow.

Even now, children survive. In poverty, in broken homes, and without formal education they live and learn. They do it, but not as easily and as well as they would if we acknowledged their needs and saw that they were satisfied. I hope this resolution will be a first step in this direction, and I invite my colleagues to join me in supporting it.

A SALUTE TO ERASMUS HALL HIGH SCHOOL'S BICENTENNIAL

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. OWENS of New York. Mr. Speaker, the Brooklyn, NY-based Erasmus Hall High School and Academy of the Arts, which first opened its doors 10 days after the signing of our Nation's Constitution, is celebrating its bicentennial this year.

Established in 1787, Erasmus Hall High School is the oldest secondary school in New York State, and the second oldest in the United States. It was named for the 16th century Dutch philosopher and scholar Desiderius Erasmus, a Renaissance man who traveled throughout Europe advocating an open approach to religion, theology, philosophy, and secular living.

Naming the school after this 16th century Dutch intellectual was appropriate, for Brooklyn and its surrounding communities were inhabited by Dutch settlers. In 1786, the pastor of the Dutch Reformed Church in Manhattan, the Reverend John H. Livingston, convinced several important figures of the day to contribute to the school's building fund. Among the contributors were Alexander Hamilton, John Jay, and Aaron Burr.

Reverend Livingston became the first principal of Erasmus Hall High School, which was initially a small private academy for boys, who not only came from the surrounding communities, but from such diverse places as New Orleans, Europe, and the Caribbean.

From its earliest years, Erasmus Hall High School charted the course for secondary school education nationally. Under Reverend Livingston, the course work included practical subjects like math, bookkeeping and grammar, as well as traditional subjects such as Latin and Greek.

As part of its mission to provide education to all people, the high school admitted girls in 1801. Not long after that, when the original schoolhouse was torn down, the academy also served as the Flatbush village school.

In 1896, the academy was taken over by what was then the city, not the borough, of Brooklyn, and Erasmus Hall's name was changed from "academy" to "high school." Continuing its commitment to greater educational inclusiveness, the school's doors were opened to everyone in the community, and admission was free.

The school continued to rapidly change and grow. In 1875, it became the first school to administer the regents examination. It established the first Arista program, a scholastic honor society. And its Academy of the Arts Program has given its numerous students in-depth and specialized training in theater, music, dance, and art.

More than a quarter of a million people have attended Erasmus Hall High School, among them such stellar and accomplished individuals as Earl Graves, publisher of Black Enterprise magazine; singer Barbra Streisand; and novelist Bernard Malamud.

As the first professional librarian elected to the U.S. House of Representatives, I am also appreciative of the role Erasmus Hall High School has played in the history of school libraries. In 1900, Erasmus was the first New York high school to appoint a school librarian; and that librarian, Mary Kingsbury, thus became the first school librarian in the United States.

Erasmus Hall High School has expanded considerably since 1787, with its student population at 3,700 and its offerings of a wide variety of courses, programs and extracurricular activities. But it remains firmly committed to its educational principles. The Brooklyn community is all the better for that commitment, and I am sure it will remain strong in the centuries to come.

AIRLINE PASSENGER PROTECTION ACT OF 1987

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. MARKEY. Mr. Speaker, yesterday the House passed H.R. 3051, the Airline Passenger Protection Act of 1987. I am proud to have supported this legislation and commend Mr. MINETA, Mr. GINGRICH, and other members of the Public Works Committee who worked to bring this important legislation to the floor.

This bill mandates many overdue reforms in our air transportation system. In addition to its many provisions which will effectively ensure the improvement of airline services, section 4 represents the first significant legislative effort to address the pervasive problem of airport congestion.

It is widely accepted that one of the major causes of flight delays, especially during peak hours, is that the demand for access to airports exceeds their practical capacity. These delays cause an exponentially increasing backup throughout the air traffic system. By mandating the establishment and publication of airport capacity levels by the Department of Transportation H.R. 3051 has taken a major step toward relieving the gridlock which presently chokes our aviation infrastructure, delays air travelers, and threatens their safety and that of airport neighbors.

Mr. Speaker, I have and will continue to support H.R. 3051, but offer one important caveat to the Senate and the conference committee which eventually takes up this legislation. Statute should require that after the Secretary establishes capacity limits he or she must work with the airport proprietor to determine the proper allocation of airport capacity. Such an approach will optimize the number of air travel passengers and air cargo that can be handled within the capacity limits by ensuring the participation of the local officials who are most keenly aware of the local situation.

Again, I commend the sponsors of this legislation for their fine work and look forward to lending my support to the final version of this bill.

TENNESSEE YOUTH WINS NATIONAL RECOGNITION

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. SUNDQUIST. Mr. Speaker, I would like to call the attention of this House to the achievement of one of my constituents, Patrick Loflin of Bartlett, TN.

Patrick last week was named national runnerup in the Future Farmers of America Achievement in Volunteerism Awards Program. Those who are familiar with the fine work of FFA chapters across the country can appreciate what it takes to be judged the best in your State, your region of the country, and, finally, to be judged among the Nation's best. I am one of many who are proud of Patrick Loflin and proud of the example he sets for other young people.

Patrick did what no other Bartlett FFA member had ever attempted, he served both as president of the chapter and as chairman of the Bartlett FFA's effort in the Building Our American Communities Program. Under his leadership, the Bartlett FFA set up a Neighborhood Watch Program, repaired the home of a senior citizen, promoted seatbelt usage, put on a demonstration of rural living at the Mid-South Coliseum in Memphis, rebuilt a Bartlett tourist attraction, and helped educate the community by its community flower.

As the mayor of Bartlett has noted, it is hard to travel through the city without noting improvements which the Future Farmers of America have had a hand in. Patrick Loflin deserves a great deal of the credit for this, and I am pleased and proud that his work for the city of Bartlett, TN has been judged among the best. He has brought credit on himself, his family, and his community and, I believe, has set a sterling example for other young people to follow.

FOOD BANKS, A SUCCESSFUL MEANS OF COMBATING HUNGER IN THE UNITED STATES

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. LELAND. Mr. Speaker, last week I introduced House Joint Resolution 368 which designates the week of November 8 through November 14, 1987, as "National Food Bank Week." For the benefit of my colleagues, I would like to share four articles written by Lisa H. Towle and published by the New York Times on October 4, 1987. The articles exhibit the success of food banks at obtaining donations of food and other products from manufacturers and retailers throughout the United States.

[From the New York Times, Oct. 4, 1987]

WHAT'S NEW IN FOOD BANKS

(By Lisa H. Towle)

On October 16, the seventh annual observance of the United Nations-sponsored World Food Day takes place. Its purpose: to draw attention to the issue of hunger. In the United States there is a growing number of people dedicating themselves to one partial solution to this problem at home. They call themselves food bankers.

After a slow start more than a decade ago, food banks have recently picked up speed. Besides social commitment, today's food bankers offer graduate degrees and management skills—and they have become increasingly efficient at luring big corporate names.

Despite the banks' recent growth spurt, however, many people either have not heard of them or confuse them with soup kitchens or food pantries, which distribute food to individuals. Food banks, by contrast, are "wholesalers," setting up the gathering points and distribution warehouses used to provide surplus food to local charities servicing the needy—and they are big business.

In eight years Second Harvest, a Chicago-based national network of 82 member food banks in cities and 120 affiliates in smaller communities, has become the nation's largest private, charitable feeding program. Last year, the network channeled 352 million pounds of food with a retail value of $500 million to nearly 38,000 charitable community feeding programs nationwide.

The need for such an effort is clear. A 1986 study by the Harvard School of Public Health found that there are more hungry people in the United States today than at any time in the last 25 years, and more of them are children and the elderly. Some 20 million Americans go hungry for at least a few days every month, the report said.

Second Harvest estimates that up to 20 percent of the food produced in this country is "lost"—passed over by harvesters in the field, damaged in processing, in transit or at the retail level, or simply thrown away by cooks in institutions, restaurants and private homes. Were it salvaged, it could feed 49 million people. The food banks aim to recapture as much of that lost 20 percent as possible.

Food bankers are the first to admit that their work is not the solution to an overwhelming problem. But they have been increasingly successful at winning donations of surplus food and other products from national companies. The donor list not only includes staple names from America's pantry shelves—Pillsbury, Campbell, Nabisco, Del Monte—but nonfood organizations as well, including Citibank, Sears, GTE and the American Medical Association.

Still, food bankers say their major problem is getting donations. Many people who respond generously to the needs of Ethiopia, for instance, do not realize the urgency of problems in Appalachia.

"Hunger looks different here but it's still hunger; we're doing our job well but that doesn't mean we don't need help," said Charmeen Wing, a spokeswoman for the Los Angeles Regional Food Bank. "We're having to beat the bushes for food."

[From the New York Times, Oct. 4, 1987]

PLEA TO BUSINESS: DON'T DUMP, DONATE

(By Lisa H. Towle)

Waste does not help a company's profit margins—or its image. But in the food industry, where much of the product is fragile and short-lived, waste is an accepted part of doing business. Or at least it was.

Philip R. Warth Jr., the chief executive of the Second Harvest network, says he and his staff spend much of their time convincing the disbelievers and uninitiated that the marriage of their businesses and food banks would be successful. Among the reasons they give are these: savings on dumping costs, good public relations, possible tax credits and, perhaps best of all, "one-stop shopping." Second Harvest offers a way for a company to expend charitable energy and simultaneously find a viable, alternative market for its product.

The arguments have worked. Companies have stepped in and subsequently stepped up food bank efforts. In 1982, for example, the Cincinnati-based Kroger Company became involved with Second Harvest. A year later management had instituted a companywide "donate, don't dump" policy at its more than 1,000 stores in 19 states. In 1985, the national retail supermarket chain contributed 500,000 pounds of food; it later pledged $400,000 over three years to defray operating costs, and sponsored commercials, public-service announcements and in-store promotions. These efforts earned Kroger an award from the President's Citation Program for Private Sector Initiatives.

Five years ago, the Sara Lee Corporation (then Consolidated Foods) had no company-wide policies or procedures for handling its surplus goods. Enter Second Harvest. By last year, the company had donated 3.7 million pounds of products to the network, which cost Sara Lee an estimated $3.5 million. That total included such institution-sized items as microwaves and dishwashers, given by Sara Lee's food service distribution division, PYA/Monarch.

"Second Harvest and its network has taken a big problem off our hands," said Robert Lauer, vice president for corporate affairs. "A vital social service is performed and at the same time companies are assisted in dealing with what can be tremendous amounts of surplus products."

Nabisco Brands Inc., which has donated food, money, technical expertise and equipment to Second Harvest, now sponsors the Model Food Bank Program Awards, giving grants up to $5,000 for innovative thinking and programs that other banks can emulate.

One of the new kids on the block is Entenmann's Inc., whose involvement began about a year ago. In the first eight months of 1987, its Northeast area alone has given 366,930 pounds of baked goods to the Second Harvest network. "We want to donate whenever possible," said Mitchell Bohn, Northeast thrift store manager. "It's against human nature to dump food."

[From the New York Times, Oct. 4, 1987]

BRINGING THE BOUNTY INTO THE BANK

(By Lisa H. Towle)

Today's food banks rarely reflect their own-makeshift origins. New Jersey's Community Food Bank, which found its first home in founder Kathleen DiChiara's automobile, has a new 43,000-square-foot warehouse.

Second Harvest members must meet rigid standards concerning food handling, warehousing, sanitation and modes of transportation for food. Computerization reassures donors that the food has not been waylaid as a bingo hall prize or flea market best buy, but has reached it promised destination.

But that is the final result. Getting the donations in the first place is a challenge that food bankers seem to welcome. The methods are as different as the banks and people who run them.

The Los Angeles Regional Food Bank will again be sponsoring its GTE/Raiders Food Day—post-football strike schedules permitting—on which fans will be asked to bring cans of food to a Raiders football game. Last year, Raiders fans contributed 7.76 tons of nonperishable food and employees of GTE collected 6.69 tons.

In Ohio, corporate employees were given an opportunity to make a financial contribution to the Mid-Ohio Food Bank in Columbus by patronizing a "country store." Stores were set up at various corporations during a 10-week period and stocked with much-needed food bank items—particularly infant formula and high-protein fare like tuna and peanut butter.

William J. Ennis, executive director of the Westside Food Bank in Phoenix, Ariz. is spearheading a first-of-its-kind effort to set up a canning program, starting with "anything that can be juiced."

New York's five-year-old City Harvest effort, (not a food bank per se, because it warehouses nothing), takes cooked food from corporate dining rooms, restaurants and TV commercial sets and distributes it. Expanding on that idea, Atlanta's Community Food Bank began Atlanta's Table last April. Founder Bill Bolling decided to salvage "all the food that was being used to bring people together." He now has "white tablecloth" restaurants—those that cook to order—deliberately making extra fare, thus adding 10,000 to the food bank's monthly poundage.

[From the New York Times, Oct. 4, 1987]

BALANCING BLUE JEANS AND PINSTRIPES

(By Lisa H. Towles)

If the first generation of food bankers in the mid to late 70's brought a personal commitment to feeding the hungry, the second generation has combined that commitment with a heavy overlay of professionalism.

"I don't care how strong your social commitments are; if you don't have an entrepreneurial outlook and management skills, you won't make it in this business," said Philip Warth, Jr., the president of Second Harvest, who holds a master's degree in city and regional planning.

A candidate hoping to be hired as the director of a major food bank would not be required to have a graduate degree—but it certainly wouldn't hurt, said Matt Habash, executive director of the Mid-Ohio Food Bank.

Mr. Habash, who has earned master's degrees in both business and public administration, says his background helps him communicate with senior executives in a language they understand.

"This job requires things today it never required before," Mr. Habash said. He ticked off a few examples: a knowledge of computers, to set up an efficient distribution system; a grasp of accounting and tax law, to understand the problems that donor corporations face in terms of their budgets and their accountability to stockholders and the government; a working knowledge of nutrition, to make sure that a balanced supply of food is offered.

On any given day, Mr. Habash may solicit donations from a board chairman, negotiate with a contractor building a larger warehouse for the food bank or advise the maintenance crew responsible for keeping up his fleet of trucks. His wardrobe reflects the dual nature of the job: on hand at all times are both a pair of jeans and a business suit.

Three and a half years ago, Pamela Green, an M.B.A. and computer programmer who had worked as a lending officer for the First National Bank of Chicago's international division, accepted the mandate to get New York City's Food for Survival food bank up and running after others had failed to make the Bronx-based organization work for all five boroughs.

In 1984, the year Ms. Green joined the bank, it distributed 488,000 pounds of food with the help of one consultant and a handful of volunteers. Last year, the former lending officer oversaw the distribution of 4,221,000 pounds of food to more than 450 agencies. She is proud that her bank's 35-member staff works closely with an affiliate food bank, Long Island Cares, and New York City's emergency food assistance program. The city buys food in bulk, and Ms. Green and her group oversee its distribution to city-supported soup kitchens and pantries.

"Food bankers are professionals in every sense of the word," Ms. Green said. "They have come to realize they must be concerned about quality control and equipment and personnel just like any other business. I don't view leaving my job at First National as having been a sacrifice. I've gained a lot and having come from a corporate setting gives me an edge."

Atlanta's Bill Bolling points proudly to the fact that his operation, founded in 1979, is so well run that for every $1 donated, $11 worth of food is returned.

"You can't beat that," Mr. Bolling said. Then he smiled and added, "You know, my mother always wanted me to be a banker."

CHILDREN, YOUTH AND FAMILIES

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. WHEAT. Mr. Speaker, last month the Congress passed, and the President signed a new and improved version of the Gramm-Rudman balanced budget amendment. Last week, the House Committee on Ways and Means began the difficult task of developing a budget plan to implement this unwieldly law. Due to the recalcitrance of the Reagan administration, the task of the Congress is becoming even more difficult.

When the President of the United States claims that raising taxes is "nuts" and reducing military spending is "nuts", he leaves the Congress with the awesome responsibility of either slashing spending for vital domestic programs or even more difficult, facing the threat of across-the-board cuts in the programs we have developed to protect this Nation's families.

In a recent speech before the National Association of Social Workers, my colleague, the chairman of the Select Committee on Children, Youth and Families, GEORGE MILLER, has outlined the challenges facing our children and their parents and the drastic effect this administration has had on the domestic programs and our ability to protect the American family.

In his remarks, Chairman MILLER shows, yet again, his insight and understanding of the needs of our children. It was his leadership 6 years ago that created the select committee on which I have served since coming to Congress. I am proud to have the opportunity to share with you an example of the compassion and caring with which he chairs this important committee.

REMARKS OF HON. GEORGE MILLER.

I'm delighted to speak this morning to America's front line army of advocates for children and families.

We have a lot in common. The mission of the National Association of Social Workers is the same as my mission. We share the urgent objectives of meeting the needs of the poor, of responding to the plight of neglected children, and of improving the conditions of exploited workers and their families.

I want to express my thanks for all of the support and help you've offered me in the last five years.

Your advocacy led to the creation of the Select Committee on Children, Youth, and Families in 1983.

Your effective lobbying led to the enactment of the Children's Initiative in the 1986 budget—a plan which rejected the proposed Reagan cutbacks and instead expanded cost-effective programs like WIC, Head Start, and maternal and child health.

Earlier this year, I led a fight in the Budget Committee to increase support for the Title XX Social Services Block Grant, which has suffered greater cutbacks than practically any other federal program since 1980. The Title XX report you are releasing today can help provide the momentum we will need in the Congress to make that higher funding a reality in 1988.

These are important victories. But we are still a long way from assuring America's children a decent life. In 1912, the great founders of social work—Jane Adams, Julia Lathrop, and Grace and Edith Abbott—convinced the federal government to establish the U.S. Children's bureau. It was the first time the federal government accepted responsiblity for the public welfare of children, and that paved the way for three generations of involvement by government in improving the health, the education, the development and the economic security of America's children.

It was also in 1912, coincidentally, that the current occupant of the White House was born. But there the comparisons end. For under Ronald Reagan's presidency, the federal government has cruelly turned its back on children and their families.

The Reagan Administration has often stated its "commitment" to children and to families. In the past several weeks, we heard about a new "family impact" analysis of all federal laws and regulations. Last week, the President created a special advisory commission to determine how the federal government could promote adoption. Presumably, that Task Force will uncover that one of the greatest barriers to adoption is the Administration's failure to carry out the terms of the adoption reform law we enacted in 1980.

The Administration's duplicity underscores that it takes far more than words to safeguard the future. It takes more than homilies to assure that our children have the quality of life, the resources, the education and training and the services that are essential.

Today, families in America face a multitude of challenges—regardless of their economic status, their race, their composition, or where they live—and no one knows that better than America's social workers.

Those challenges include: drugs, disabilities, homelessness, teenage pregnancy, AIDS, divorce, underemployment and unemployment, poverty, infant mortality, low birthweight, inadequate nutrition—and the list goes on and on.

You and I know that there is no hope for substantive changes in these grim statistics without the active participation of the federal government.

But for the past seven years, those who view government as the problem, not the solution, have occupied the highest offices in the land.

They have produced a track record of stunning indifference to the growing challenges that confront America's families, and America's children.

This is surely not the first time that America's children have faced indifference from the highest officials of our government. It is not the first time that inadequate resources were directed to their education, their health care, and their sound development.

But it may be the first time that those services were denied them despite undisputed evidence that it is far cheaper than compensating in years to come.

It is not the first time we have lamented the high rates in infant mortality in some of our cities—rates far higher than in many underdeveloped nations.

But it may be the first time that, despite overwhelming medical evidence of the success of prenatal programs, the government has knowingly withheld support.

It isn't the first time that a nation of jobless and homeless has camped in our cities.

But it may well be the first time that government has purposefully created a nation of homeless through the destruction of public housing and mental health programs.

The evidence gathered by the Select Committee on Children, Youth, and Families demonstrates the wisdom of investing in success early in a child's life rather than spending a lifetime paying for failure.

Yet, tragically, this Administration, and often the Congress, too, have chosen the road of failure and indifference, and the children have paid the price. And they will continue to pay the price for years after Ronald Reagan, and Members of the Congress, are long gone.

CHILD POVERTY

Three million children have fallen into poverty since 1981. Today, one-fifth of all children—13 million Americans under the age of 18—are growing up poor. With all of poverty's attendant health, educational and developmental consequences.

INADEQUATE HEALTH CARE

More than 350,000 poor children in America lost their access to health care because of program changes and funding reductions proposed by President Reagan and enacted by the Congress in 1981. It should come as no surprise that the fastest growing group in America without health care is children.

CUTS IN BASIC SERVICES

Since 1981, we have cut support for programs that aid the economic and health security of lower income Americans—health care, social services, nutrition, housing, and legal services—by nearly $100 billion.

IGNORING CHILD ABUSE

While reports of child abuse have risen over 50% in the last four years, resources to combat this tragedy have risen by just 2 percent. Virtually every state has been unable to keep pace with the increased reports of child abuse.

TEENAGE PREGNANCY

More than 12 percent of all teenage girls are already mothers, and each year, more than one million teenagers will become pregnant. Four-fifths of all teen mothers never finish high school, and are twice as likely to depend on welfare for much of their adult lives.

In fact, 60 percent of all welfare spending goes to women who first gave birth as teenagers.

This, and far more, is the record of the Reagan administration on children and families. That record has been worse than misguided.

It is ignorant. It is malicious.

And it must be changed.

For this unprecedented indifference by our elected leaders has left American families far less capable of coping with the multiple stresses and unparalleled crises which afflict them.

Just to maintain a standard of living, both parents in families with children more often than not are employed. Yet even when both parents work, family income has continued to drop.

The result is that families are going deep into debt: they are borrowing more money to pay for school, and to buy basic appliances. We hear a lot about the national debt and the foreign debt, but the fact is that household debt in the United States is also at a record high.

In no area is the government more seriously failing to address emerging family needs than in the area of child care—a policy which is essential to economic security, to reducing welfare dependency, and to sound child development and educational achievement.

Evidence gathered by the Select Committee on Children, Youth and Families shows that child care has taken its place as a big ticket item in most family budgets along with education, health care and housing. The average American family with young children is spending 11% of its income for child care—as much as most families spend for food. And for poor families, the cost of child care represents 20 percent of the household budget.

Many of you will recall that in 1971, the Congress enacted a major comprehensive child care program that was vetoed by President Nixon. Now, 17 years later, we still have no comprehensive child care program, and 17 years later, the need for affordable, quality child care has reached crisis levels in this country.

And once again, the Administration is failing its responsibility to provide leadership for American families on this critical issue.

I know this is an issue of deep concern to you. Over the past five years, I have been proud to work with you to build a coalition of support for child care. And, I am encouraged that Congress has enacted portions of my legislation—The Child Care Opportunities for Families—to provide child care for handicapped children, children at risk of abuse, and children of low-income college students.

But we need to do much more. We may not see a tangible success by the end of the Reagan Administration. But even if we do not succeed in enacting legislation during the 100th Congress, we must spend the next 18 months laying the foundation for a comprehensive child care bill which can be enacted during the next Administration.

But inadequate child care is only part of the problem. The tremendous increase of children and families in poverty, widespread drug abuse, and homelessness, have precipitated a new wave of complex family crises. And these new challenges are especially challenging to you, as social workers, because you have the unenviable task of trying to improve the welfare of greater numbers of troubled families with fewer and fewer resources.

One of the most promising approaches for troubled families—especially where removal of a child is imminent—has been family preservation programs. Unfortunately, despite the efforts of many states and cities to create these programs, they remain too few and far between. Yet they are the programs that will yield the greatest benefits for the most troubled families and reap the greatest savings of taxpayers dollars.

And our goals should be to provide services to families before they reach a crisis.

You know, I'm told there seems to be a growing emphasis in the social work profession on counseling. I'm told that in a speech in Kansas City, one of your past presidents, Nancy Humphreys, asked a group of 500 social workers how many worked with poor families. Of course, most of the hands in the room went up. When she asked how many worked as caseworkers or community organizers in on-the-ground antipoverty programs, there was very little response.

The message here is that when a vulnerable family is facing eviction, social workers can advocate to keep that family in their home. When a young mother can't afford or find day care to enable her to work, social workers can be instrumental in getting her the help she needs. To be sure, psychological counseling has its place, but you have to get your hands dirty to be able to preserve a family.

And we have to do so much more. We have to understand the connections between poverty and family stress: between the lack of affordable housing and homelessness; between the absence of a national policy on child care and children left alone by working parents.

These are the connections early social workers made when they fought for the Children's Bureau, for a minimum wage, and for AFDC.

And now it seems as if your message is finally being heard.

That message was stated clearly in the New York Times editorial plea for cost-effective investments on behalf of poor children.

This week, a distinguished panel of business leaders released a report calling for public support for pre- and postnatal care for high-risk mothers, parenting education, quality child care and preschool programs, and dropout prevention programs for educationally disadvantaged children.

Effective policies for children is quickly becoming one of the major themes of the 1988 Democratic presidential campaign.

And this week, pollster Peter Hart released new findings that not only is the public—by wide margins—concerned about the plight of poor children. But—and listen to this—they are willing to increase their taxes to improve health care and education for young children.

So the momentum is on our side, and growing. Now is the time to rededicate yourselves to the social work mission.

Clearly, the need is there to use your skills to launch healthy children and empower and strengthen families.

Clearly, we have the tools to achieve these critical objectives.

We can achieve these goals if we have the wisdom and the will to do so.

Let us join together in meeting this new challenge—for our children, for our families, and for America's future.

SENIORS INSURANCE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. WYDEN. Mr. Speaker, there are few events sadder than seeing an American family scrimp and save for years only to be impoverished overnight when one spouse goes into a nursing home. The elderly have resorted to increasingly desperate measures: couples separating and even suing each other in order to pay spiraling nursing home costs. This tragedy has struck millions of older Americans who are waiting now for elected officials to act to fill what is unquestionably the greatest gap in Medicare—funding long term care.

On September 21st, a special Task Force on Private Long-Term Health Care Policies gave me several recommendations for improving seniors' access to long-term care. The report discusses the importance of clarifying the tax status of long-term care insurance reserve. Today, I'm introducing legislation to make clear that reserves of long-term care insurance policies that are guaranteed renewable are tax exempt.

Until today, the world of private long-term care insurance has been unchartered territory. Senior citizens haven't purchased insurance because the few policies available have been costly and have provided limited coverage. Insurers haven't offered more extensive coverage because the market is still undeveloped. I believe my legislation will help us out of this chicken-and-egg dilemma and improve the climate for private long-term care insurance development.

There is no question that private insurance will only begin to fill the long term care gap. Millions will not be able to afford private coverage. For those individuals, we must continue to strive for a strong array of publicly funded services to address their long term care needs. Personally, I believe that such service should be added to the Medicaid program.

But, like the American Association of Retired Persons, I believe that private long-term care insurance can play a role in funding long-term care. In a letter to me, John Rother, director of the Legislation, Research and Public Policy Division at AARP, said:

> Increased availability of good private long-term care insurance products can help to protect more individuals and families from the potentially crushing financial burden associated with the treatment and care of chronic illness. Your legislation represents an important step toward addressing part of the problem for those whose needs can be met through the private sector.

Mr. Speaker, private long term care insurance should be one part of a national policy to fund long-term care in an aging society. My legislation—which I believe is revenue neutral—will serve to strengthen our ability to meet the long term care needs of all Americans.

I am happy to be joined by my distinguished colleagues Mrs. KENNELLY, and Mr. DONNELLY in sponsoring this bill. I urge others to join us in sponsoring this important legislation.

A TRIBUTE TO ADOLPHE J. CAPACCI

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. HORTON. Mr. Speaker, on October 16, the Seneca County Republican Committee will hold its annual dinner. This one will be special as it is dedicated to the memory of an outstanding citizen and a great American—Adolphe J. Capacci.

Few people in Washington have heard of Adolphe Capacci. Yet this individual, as much as any individual I have met in my 25 years as a Member of this House, embodies the spirit of our society and of our Government. His dedication to the principles of individual freedom, of representative government, of involvement of the individual in our democratic electoral process, was unequaled. He was respected and admired by all who knew him.

Adolphe was an active and registered Republican, yet his compassion and willingness to lend a hand, in a variety of endeavors, was restricted by no party label. He helped more than 100 immigrants obtain their citizenship through his involvement in "Americanization" programs. He was active in his church, in his community and in the political process, which he enjoyed perhaps more than anything else.

Any one of us, Mr. Speaker, would be very grateful to have an individual like Adolphe Capacci on his team. Every election, he worked tirelessly delivering and distributing literature, placing signs, and representing his candidates. I was one of many candidates to benefit from his efforts over the years. Each election for more than 40 years, Adolphe would rise before dawn, check the polling stations and provide transportation to those men and women unable to get to polling booths on their own.

Adolphe Capacci passed away earlier this year. I will be very proud to attend the Adolphe Capacci Memorial Dinner in Seneca County on October 16. His spirit, I know, will be with his many friends on that night, and I look forward to participating in this tribute to an outstanding American—Adolphe J. Capacci.

TOTTENVILLE HIGH SCHOOL: ONE OF THE COUNTRY'S BEST

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. MOLINARI. Mr. Speaker, yesterday, October 5, 1987, the superintendent of high schools for Staten Island and Brooklyn, Mr. Joseph Fisler; the principal at Tottenville High School, Mr. Herber Balish; and the assistant principal, Mr. Michael Marotta were in Washington, DC, accepting an award for Tottenville High School of Staten Island, NY. The school has been chosen by the Department of Education as one of the top high schools in the country. Earlier in the day, Mr. Herbert Balish was honored with representatives of the other selected schools in a ceremony led by President Reagan in the Rose Garden.

The school was nominated by the New York State Department of Education and was judged by the U.S. Department of Education on 14 attributes including: Clear academic goals, administrative leadership, and concentration on academic learning; as well as on seven indicators of accomplishment—student performance on standard achievement tests, awards for outstanding school programs and teaching, and student success in high school or post secondary education.

The honor bestowed upon Tottenville High School reflects the excellence in education provided to the students as well as the commitment by faculty and administration to preparing the students for postsecondary eduction, full-time employment positions, or determining the path they will follow during the course of their life. This recognition commends the administration and the teachers for their dedication to quality education for the students. The school was established as a public high school in 1898 on the south shore of Staten Island and graduated 750 seniors last year. In addition to the school's fine academic programs, they also boast a citywide championship baseball team, cross country team—both male and female—and girl's gymnastic squad.

Mr. Speaker, I am proud to have such a model of excellence in education in my district and salute the administrators, faculty and students for the fine example they set. I ask my colleagues to join with me in offering proud congratulations to Tottenville High School on their outstanding achievement.

THE JOBLESS YOUNG

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. SAWYER. Mr. Speaker, I commend the chairman of the Education and Labor Committee, Mr. HAWKINS, for calling a special order yesterday on the economy. Clearly, our overall economic performance cannot be accurately measured by aggregate numbers of employment and inflation. The trade deficit and the budget deficit are constant reminders that our economic house is not in order. Unfortunately, the economic impact of deficits like these are felt in the future, rather than at the present, and the implications are easy to ignore. However, they are at least as important a measure of our economic success as are the unemployment rate and the inflation rate.

The Akron Beacon Journal recently ran a series of articles highlighting the underlying economic problems of the Nation. This series focused attention on the plight of the underemployed and discouraged worker, particularly among youth, in today's economy. The articles point out the hardship many of today's potential workers face and illustrate the insufficiency of an economic policy which assumes that "a rising tide lifts all boats." While many people may have found employment in the past few years, many are still being left behind. Our challenge in Congress must be to employ not just the most employable members of society, but everyone who has something to contribute to the economic health of our Nation.

U.S. DOES LITTLE TO TRAIN IDLE YOUNG PEOPLE

(By Keith McKnight)

At Sea World this summer, few people missed the unmarked white van on the mornings it failed to roll up to the security gate and discharge its load of nine or 10 Cleveland youngsters, ready for a day's work at minimum wage in the marine park.

Sea World missed it, though, because Sea World needed the help.

And the young people missed it, too, because without the free ride arranged by the Urban League of Greater Cleveland, there was no way they could get to work and no way they would be paid.

It was the tip of a very large iceberg, a sign of things to come.

And throughout the summer, indications of it grew: Sea World held a "job fair" promising on-the-spot interviews and immediate openings; fast food restaurants began slipping Help Wanted signs onto their tables; and the Beacon Journal started full-page ads to recruit senior citizens willing to get their morning exercise delivering the newspaper.

McDonald's TV commercial, showing an elderly gentleman on his first day of work slinging hamburgers at the Golden Arches, seemed to tell it all.

For America is running out of kids.

And although the shortage is scattered about in pockets, particularly on the East Coast, the trend is in evidence in Ohio.

"We haven't gotten to the point yet where the minimum wage is being forced up," said Keith Fletcher, an area labor market analyst for the Ohio Bureau of Employment Services, "but another summer of this and you'll see it."

Indeed, demographers assure that before the next decade is done, industry will be competing with the military in a scramble for youth.

Yet there is a paradox here: For as that trend grows, so do the numbers of young people destined for life in the ranks of the hardcore unemployed, with all its costly companions of crime, poverty and drugs.

And meantime, it appears, America is doing nothing to stop it.

At this point the federal government's only major effort aimed at salvaging so-called disadvantaged youth—the Job Training Partnership Act—has all the earmarks of a flop.

For even though JTPA programs nationwide legitimately boast of numerous success stories, they pale when compared to the ever-growing army of youth eligible for help who aren't getting it and likely never will.

LEAVING IT UP TO YOUTH

Roger Semerad, the assistant secretary of labor in charge of the national program, bristles at the notion that the federal government needs to do more than it's doing to reach the disadvantaged.

"We live in a competitive society—a society in which some person works harder and he gets the reward of a job or a diploma or whatever, and some choose not to," he said. ". . . we want to make sure the availability (of help) is there for the dropout—and it is under the law—but we have to go with those people who seek our help . . . and in an era of declining resources, we're going to go with the folks that want it bad enough to work for it."

But what happens to the rest?

"What happens to them anyway?" Semerad asked. "We're a nation of workers. If people don't want to work, there isn't a whole heck of a lot you can do about it."

In October 1983, when JTPA became the federal government's new answer to the problem, it eliminated the old answer—the Comprehensive Employment and Training Act (CETA).

In doing so, it also eliminated two thirds of the money dedicated to fighting the problem.

"It's gone roughly from $10 billion to $3 billion," said Lawrence C. Brown Jr., president of 70001 Training & Employment Institute, a non-profit Washington corporation noted for its success in dealing with youth unemployment through 60 programs in 23 states.

"The statistic to focus on," Brown said, "is that under this act only 6 percent of the eligible population could be served if every dollar was spent."

FUNDS SIT UNUSED

And in Ohio, not every dollar is being spent.

In fact, early this year a number of Ohio's 30 Private Industry Councils (created under JTPA) were warned they would lose $32.5 million of the $116 million allocated to Ohio if they couldn't find eligible youngsters to spend it on by July.

Since then, according to the state official who oversees the program, furious efforts have been made to avoid such an embarrassing give-back, but how much of that memory still will be unspent apparently won't be made known until sometime this month.

Whatever the outcome, it's clearly a small part of a national gesture.

"Even if we reached 6 percent of the eligible population," Brown said, "it probably is a colossal flop because there are so many people out there that we need in the labor market. . . . The entire Job Training Partnership Act is a very, very small program in face of the scope of the problem."

The scope of the problem is this:

In the remaining 13 years before the turn of the century, according to a Hudson Institute study released this June, both the population and the work force of America will grow more slowly than it has since the Great Depression.

In that time, as the children of the post-World War II baby boom pass through middle age, and those in the subsequent baby bust go looking for jobs, the average age of the work force will climb from 36 today to 39.

And because of the reduced numbers of youngsters today between the ages of 7 and 16, the report says by the turn of the century there will be only 34 million Americans between the ages of 20 and 29, down from 41 million in 1980, representing a drop in population share from 18 to 13 percent.

However, within that time, it says, 29 percent of the new entrants into the labor force will be non-whites—twice their current share, although their lot in life may not be significantly improved by the trend.

Or as the report, Workforce 2000, puts it: "Although this large share of a more slowly growing work force might be expected to improve the opportunities for these workers, the concentration of blacks in declining central cities and slowly growing occupations makes this sanguine outlook doubtful."

"SOCIAL DYNAMITE"

National experts who have made a career out of dealing with the problem have an even more doubtful and less sanguine outlook:

Last February, Elton Jolly, chief executive officer of Opportunities Industrialization Centers of America, with affiliates in 36 states, warned a Senate subcommittee chaired by Ohio's Howard Metzenbaum that "the 'social dynamite' caused by idle, unemployed, out-of-school youth . . . is growing and becoming more potent."

The black dropout rate, he said, is 40 percent higher than that of whites, and for Hispanics the rate is 250 percent higher.

"We have been looking for an instant solution to these problems for 25 years," Jolly said. "These youth frustrate our schools and employment and training agencies. They are a part of what has become a permanent underclass in our society, which pretends to be classless.

"All of our efforts have failed to reduce the number and percentage of unemployed minority youth."

William H. Kolberg, president of the National Alliance of Business, which conducted its own study of America's employment policies, offered a laundry list of items to the committee which he said "tell a story of impending crisis and profound economic and social cost."

On that list, in part, were the following:

High school dropouts, now about a million a year, are expected to increase despite a declining youth population. In some cities, the rate is 50 percent.

One of every four ninth-graders will not graduate. One of every eight 17-year-olds is functionally illiterate. For minorities and the poor, rates are significantly higher. In Japan, virtually every high school student graduates, and illiteracy has been reduced to the vanishing point.

Youth under 21 account for more than half of all arrests for serious crimes.

From 1960 to 1980, arrests of youngsters under 18 for drug abuse increased 6,000 percent. Arrests for drunkenness among high school seniors rose 300 percent.

There are almost 2.3 million unwed mothers in the U.S. Half have high school diplomas, less than 40 percent have jobs, and over half end up on welfare, costing the U.S. more than $16 billion a year.

The number of children in poverty is increasing, up 16.8 percent in 1975 to 21 percent in 1985. For blacks and Hispanics, the rates are 46 percent and 39 percent respectively.

Only 43 percent of black young people who come from poor homes ever graduate; for whites, it is 53 percent.

"Unless the private sector takes an interest in the quality of tomorrow's workers, both in and out of school," Kolberg said, "businesses will be faced with increased costs such as greater remediation expenses, lower productivity, higher supervisory time, and poorer product quality.

INVOLVEMENT URGED

"Becoming involved is no longer a social option," he said, "it is an economic necessity."

Semerad, the assistant labor secretary in charge of the JTPA program, has a similar view, but it seems to cast the federal government in a role as more of a catalyst in a partnership than as a provider in a leadership position.

"We're trying to wake up the business community to put a lot of the conversation on an economic need basis rather than a social responsibility," he said.

Indeed Workforce 2000, to which Semerad wrote the foreword, places the lion's share of the burden for solutions in the laps of educators and the wallets of the private sector.

"If there are real breakthroughs in training and hiring young disadvantaged workers between now and the year 2000, 'second chance' educational systems developed at the work site are likely to play a key role," the report said.

Furthermore, it notes: "Unless the $127 billion public educational system can somehow be better harnessed to serve minority youth, the $4 billion Job Training Partnership Act system can only make a small dent in the problem."

Meanwhile, Suzanne Schroeder of the California Employment Development Department said there's no real youth shortage in her state because California has a history of attracting young people.

But come to think of it, she said, there were "a number of places" around California this year where summer jobs were tough to fill.

In Orange County, where unemployment was way down to around 3 percent, "they've gotten to the point it's hard for them to fill the minimum-wage-type jobs," but that's because young people are taking jobs that pay more, she said.

PROBLEM NATIONWIDE

California's unemployement rate in July was 6 percent—up a half percent from the month before, which was a 17-year low. Yet state officials estimated the number of disadvantaged youth to be 601,268. And of that number, only 46,226 were in the full-time JTPA program. In other words, 92.4 percent of disadvantaged youth in California are not being reached by JTPA's full-time program.

In Boston, Howard O'Hara, a manager in the employment office of New England Telephone, said this year, for the first time, "we've really had to do some aggressive advertising" in order to get beginning workers for operator and clerk jobs.

"We've been fortunate in the past," he said, "all we had to do was whisper that we were hiring and we'd get enough people walking in the door.

"It's scary what the wage is . . . I saw one the other day: $6.10 an hour for McDonald's or Burger King, I forget which . . . It's not your after-school type wages, but that's what you're competing against in the market place."

Out on Old Cape Cod, where the tourist trade was booming as usual, the youth labor shortage was so much a fact of life there this summer that several businesses—recognizing transportation costs as a barrier for entry level workers—began busing in help daily from other parts of the state.

The unemployment rate in Massachusetts—also the lowest in 17 years—hit 2.6 percent in July. That means that for the second month, less than 100,000 persons in the entire state were considered unemployed. Yet at the same time the state estimated its number of disadvantaged youth at 112,441. And of that number, only 7,000 were enrolled in the full-time JTPA program. That's 6.2 percent.

In New Jersey, John Samerjan, the governor's press secretary, says his state has undertaken "a total overhaul of our state welfare system . . . to provide intensive job training to welfare clients."

And through another program, in a direct attempt to save its own youth for its own work force, Samerjan says the state has persuaded industry to stand behind a guarantee that any urban high school student will be assured a job "if they get their high school diploma, and get the proper training."

It's the fourth year of a youth labor shortage in New Jersey, where this summer a Domino's Pizza shop in a little town near Atlantic City offered anyone with a car $8 to $12 an hour to deliver pizza.

New Jersey's unemployment rate was 4.5 percent in July. It has 127,469 disadvantaged youth, but of that number JTPA has only 10,692 or 8.3 percent in the full-time program.

"For over 20 years," Jolly told the committee, "I have been coming here to the Congress, working with the administration . . . and I find that even after 20 years, with all of the legislation and all of the regulations and all of the authorizations and so forth, we still have an inappropriate social arrangement that does not allow us to do the kinds of things that we know need to be done so that these youngsters can be helped."

Footnote: For the young people of Cleveland, waiting for a ride to Sea World, summer is over. School starts Wednesday, and in what was to be their last full week of work, somebody else needed the white van.

BLACKS AND HISPANICS ARE MUCH LESS SUCCESSFUL IN THE LABOR MARKET

[1986 figures]

	White	Black	Hispanic
Labor force participation (percent)	65.5	63.3	65.4
Unemployment rate (Percent)	6	14.5	10.6
Median family weekly income	$556	$391	$412
Percent below poverty	11	31.1	27.3
Percent of children under 18 below poverty	15.3	42.7	37.1
Median years of schooling	12.8	12.6	12.2

NONWHITES, A GROWING SHARE OF WORKFORCE

	1970	1985	2000
Working age population (more than 16 yrs, old) (in millions)	137.1	184.1	213.7
Nonwhite share (percent)	10.9	13.6	15.7
Labor force (percent)	82.8	115.5	140.4
Nonwhite share (percent)	11.1	13.1	15.5
Labor force increase (over previous period) (percent)	n/a	32.7	25
Nonwhite share (percent)	n/a	18.4	29

Sources: Bureau of Labor Statistics; Handbook of Labor Statistics; 1985; Hudson Institute.

JOB ISN'T ALWAYS A SOLUTION—SOME CAN'T AFFORD TO WORK

(By Keith Mcknight)

Behold: Joan Mitchell, a success story.

Last year, at 19, she was graduated from Akron's Buchtel High School, five months after giving birth to a son out of wedlock.

This year, at 20, after going on to complete a federal job training program and finding work, she is back home, unemployed, locked into the welfare system.

In the book of statistics that measures the worth of the federal government's Job Training Partnership Act, she is listed as a success because she found a job.

Never mind that it lasted only two weeks.

"A lot of people just think you're too lazy to go out and get a job. It's nothing at all like that—nothing at all," she insisted. "A lot of people who say that . . . their parents are taking care of them and they really don't have too much to worry about. Everything that I get comes from the ADC and it's hard. It's really hard."

Under Aid to Families of Dependent Children, Ms. Mitchell gets $253 a month, $108 in food stamps and a card that will pick up medical expenses for her and her son.

But it she takes a job, she runs the risk of losing all that.

So, when the only work she could find after completing the job training program turned out to be in the fast food business—paying minimum wage with no medical benefits—she met the old welfare myth head on: She quit, saying she couldn't afford to work.

Ms. Mitchell is typical of a host of young people caught in the teeth of a tough, performance-oriented, national policy with a sink-or-swim mentality that appears to pay far more attention to the quantity than the quality of its success.

For regardless of her predicament, the program contractor that placed her in the job was paid for being successful—money that would not have been paid if she didn't get the job.

And that, in turn, helped Ohio get rid of a little more of the $32.5 million in leftover federal funds that had piled up in Columbus by this year because various Private Industry Councils around the state couldn't spend the federal dollars as fast as they rolled in.

"To me," said assistant U.S. Labor Secretary Roger Semerad, who is in charge of the JTPA program nationally, "there is no excuse for that kind of backlog."

But on second thought, he later repeatedly pointed out, "Ohio has been a very effective state in JTPA, and Ohio has shown a lot of leadership in a lot of innovative ways."

Locally and statewide, however, statistics that might shed light on the extent of the program's success of failure vary between the obscure and the non-existent.

But a few points seem clear:

There is an increasing number of part-time minimum-wage jobs in Northeastern Ohio, at least, that are not being filled.

There is a growing awareness in the business community that a youth shortage is fast becoming an economic fact of life to be reckoned with statewide and nationwide.

Despite that, there is an uncounted but apparently significant contingent of unemployed, disadvantaged youngsters who, whether dropouts or high school graduates, are not skilled enough or educated enough to be hired in beginning level jobs.

And worse still, there is a pitifully small supply of eligible young people responding to the various job training opportunities funded under the JTPA program in Ohio.

RECRUITING PROBLEM

Robert Taylor, head of the Akron/Summit/Medina PIC, said both the full-time and part-time summer jobs programs have had trouble drawing young people this year, down in numbers from where they were a year ago.

He attributed that in part to youngsters who avoided a new PIC requirement—that any who flunked a course in the past year go to summer school—by simply getting a job on their own in the fast-food industry, where part-time, minimum-wage help is in short supply.

As for the full-time program, Taylor said, many of the youths in the 16-to-21 age group, on which JTPA requires 40 percent of the funds to be spent, "haven't really made a decision on what they want to do with their lives," and "by the time they do they're about 23 or 24 and thus they're not really a part of the group that we're mandated to spend large amounts of money on."

Worse yet, critics point out that young people who need such a program the most are the ones least likely to get help from it simply because helping them involves too much risk of failure—particularly at a time when the state is having difficulty spending money fast enough to justify its allowance.

Contractors who provide employment and training placement services for local PICs usually aren't paid the full amount for service rendered unless and until a trainee is in a job—hence the cream of the crop among those eligible is a much safer bet than the hard-core unemployed.

FUNDS PILE UP

In Columbus, Frankie L. Coleman, who oversees Ohio's JTPA program, says that "the picture is much better" today than in January, when she sent out use-it-or-lose-it letters to several of the state's 30 PICs, warning them they had until July to deal with the problem.

Among them reportedly, was Akron/Summit/Medina PIC with, $2 million; the Stark/Wayne/Holmes/Carroll/Tuscarawas area operation, with $1 million; the Cleveland and Cuyahoga County PICs, with a combined $6 million; and Columbus, with an excess of $5.5 million.

"I can't tell you that we're going to spend all of it." Mrs. Coleman said. "I just know that. . . . I think the year is going to cash out where we would have spent much more than we anticipated."

Perhaps so, but according to Rose Juriga, program manager of Akron 70001 Retail Skills Training Center, "recruitment is and has been an ongoing problem."

"I can speak for this office of 70001 as well as the other service providers here locally. . . . We are not meeting program goals because we are just not receiving in enough youth enrollment.

"It's not a problem with youth unemployment per se, because the jobs are there," she said. "It's the matching of what those jobs provide—whether or not there's enough incentive for that young person to want to go after it."

It's not yet the matter of running out of young people, she said, "but I think that we're running out of a match, I guess you might call it—an incentive to work, as opposed to not work."

And as the skill levels drop among those who are taken in, the time and effort required to reclaim them becomes more and more involved, and more and more costly in a program that stresses the need for keeping down the cost per placement.

REMEDIAL TEACHING

"The majority of ours are high school graduates," she said, "but they're functioning at around a fifth- or sixth-grade level, so we're doing a whole lot of academic remediation before we can even think about training in retail."

There are no numbers available from the Ohio Department of Education to show how many students graduate from Ohio high schools each year who are functionally illiterate, but examples abound of graduates who need re-schooling before their basic reading and math skills are high enough for them to be considered for entry-level jobs.

Likewise, the Ohio Bureau of Employment Services provides no breakdown of how many poverty-level youngsters are among the jobless.

And the Ohio Department of Human Services doesn't calculate a total number of youngsters between 16 and 21 who are on the welfare rolls.

When asked for the total number of disadvantaged youth served by last year's full-time state JTPA program so a percentage of those reached could be calculated for Ohio, the answer was reported as 28,639.

But according to a spokesman for JTPA-Ohio, that number includes 4,714 youth who are 14 and 15 years old—although the federal standard used for disadvantaged youth is 16 to 21.

Furthermore, for purposes of calculating a percentage, the spokesman said the only number available for total disadvantaged youth in the state is 1,218,257—a number that was arrived at in the 1980 Census.

Where it went from there nobody seems to know—despite the fact Ohio has endured significant economic changes in those seven years.

Given those numbers, it would mean the full-time program failed to reach 98.1 percent of those eligible, or 97.7 percent if the 14- and 15-year-olds were included.

Taylor, head of the Akron/Summit/Medina PIC said he could shed no light on such data either.

For even though he is mandated by law to spend 40 percent of the funding on youth, he apparently has no way of knowing what percentage he is reaching or missing.

"It's difficult to really get the information you need," he said. "We run into that problem all the time."

Consequently, those who work within the program speak in terms of the numbers served, and venture few guesses as to how many more there might be who are never reached.

Nationally, those familiar with the program say the number of never-reached is somewhere in excess of 90 percent.

THE COST OF A JOB

But the tale has no relevance to Joan Mitchell. She was reached. Successfully.

Yet she still needs work, she still wants to work, and she still hasn't given up the idea of making money at it.

"If I get a job, I'm going to have to pay a baby sitter. Minimum wage? It's going to take my whole check to pay somebody to watch my son," she said. "I need something full-time, working 40 hours a week, making at least $4 an hour with benefits, for me to say: OK, I'm not going to be on welfare anymore. But it's too hard right now and there's nothing like that available in Akron."

It could be she made a mistake when she quit.

Her food stamp allotment would have been cut back, and her ADC payments would have been reduced at periodic intervals depending upon a variety of factors, but she would be able to keep her medical card as long as she is on welfare and free day care would have been available as long as she worked full time, according to Dave Richards of the Summit County Human Services Department.

But Richards, after reviewing a host of rules and regulations and formulas, acknowledged that such calculations are "a risky proposition" for recipients wanting to move into a job.

"How could you, as a recipient, understand all these dynamics and make a conscious decision?" he asked. "It would be very, very difficult."

So aside from guessing, what should a recipient do in such a case?

"They would have to sit down with their (case) worker and go over, in very intricate detail, what they would be entitled to and for what period of time," Richards said. "And I would suggest to you that it is a lengthy proposition."

So, Ms. Mitchell and many more like her quit their jobs and wait for the day that something better comes along.

The predicament, it appears, is very common.

"We've been trying to beat that one," said Semerad, the assistant labor secretary in charge of the program. "That was one of the changes that we've been trying to institute and I believe we will get that into the law so you will not have that barrier—struggling along.

"We try to measure success in more than a week on the job," he said, but insisted that for those who look critically at JTPA, the "success rate" ought to be viewed as a plus, not a minus.

He described the system as "brutal," but he said it must be kept in mind that local contractors who provide the service that keeps JTPA in business are dealing with, as the assistant secretary put it, "an awful lot of people who are destined to go nowhere."

CAN ARMY OF UNSKILLED YOUTH BE REDEEMED?

(By Keith McKnight)

He was one of five Ohio youngsters invited to Washington in February to tell a U.S. Senate subcommittee what it's like to be young and disadvantaged in today's America.

And this, in part, is what he said:

"My name is Shawn Leyba, I am 19 years old, and I dropped out of school in the 11th grade.

"My story is—my parents had their problems. I never knew my dad. My mom was on drugs. She did not have much going for her. To take care of a little son, that was just an extra problem for her. . . ."

"I was about 5 and my mom just took off, just left me in the apartment. For a couple of days I was taking care of my baby sister. I did not know much, but I knew how to put on Pampers and stuff like that, and we did not eat for a couple of days.

"Then my grandma found out, and from there I was just bounced around from foster homes to my grandma's house, to my uncles, to my aunts, cousins, everybody.

"In between then, I got in a bunch of trouble. . . . I got into a little bit of the drug business trying to survive.

"That is basically it. That is how my life goes. It gets worse from there."

Shawn Leyba is but one of a growing army of America's youth—some under-educated, some illiterate, some unmotivated, but all with an uncertain future because they aren't skilled enough to hold a job, whether they graduated from high school or not.

And the question—posed by those worried about the consequences of doing nothing—is what must be done to redeem such an army.

"In my view, it would take a two-year investment to take a school dropout at the 11th grade, 10th grade, who is four years behind in reading . . . and get them to a position where an employer is ready to hire them. . . . That would be an investment in the neighborhood of $25,000 per kid. Roughly. And we haven't even begun to look at that."

That was the opinion of Eli Ginzberg—noted economist, author and Columbia University professor emeritus—who served 19 years under Presidents John F. Kennedy through Ronald Reagan as chairman of the National Commission for Employment Policy and its predecessor bodies, having oversight responsibility of $100 billion in federal expenditures.

And even though such an effort with such an expensive price tag might not fly in Washington today, Ginzberg ventured to say events may change that in time to come.

"We'll have to burn up some cities, maybe," he said. "You start to burn some cities on a worse basis than you did in the late '60s and a lot of things can fly in Washington.

"You can't run a democratic society with substantial numbers left out with no chance and no future," he said.

PREVENTION, NOT CURES

Ginzberg's response is much the same as experts who view the growing numbers of America's young have-nots with increasing alarm, and see solutions as difficult and expensive but clearly rooted in the need for a revolution in education.

They distinguish between preventing the problem, which starts with children, perhaps long before they reach school age, and curing it, which involves massive funding for the retraining of the already disadvantaged jobless in the work force that far exceeds amounts currently available through the Job Training Partnership Act.

There are also side issues of needs for interim cures on which there is substantial agreement:

Welfare reform that provides a more generous transition period for those who want to work but fear the financial risk of losing all their welfare benefits if they do.

Pooling of the various efforts aimed at different aspects of the problem, to mount a united national program that eliminates duplication and turf battles.

Refocusing the national program not only with additional funding, but also to turn the thrust of the effort toward rehabilitating lost workers with skills that can keep them employed, rather than rushing them into a job they will be unlikely to keep.

"Unless we make fundamental changes in the skills of these people—with respect to education and job experience—they're just going to run into a revolving door in the labor market," said Lawrence C. Brown Jr., president of the Washington-based 70001 Training and Employment Institute.

SYMPATHY IS DECLINING

Assistant Labor Secretary Roger Semerad, the Reagan administration's man in charge of the JTPA program, doesn't dodge such criticism, but meets it head on with a life-is-tough kind of response.

"We've provided this country an enormous public investment in our school systems and dropouts, by and large, are voluntary. So, where does the responsibility lie?

"As a taxpayer I want us to get the return on the investment.

"I think the sympathy level with those who have got a million excuses is declining in this nation.

"We know for a fact that people do break out," he said, "Now if one person can break out . . . you have to say: Well, why didn't their next-door neighbor?"

Trillions of taxpayers' dollars have already been spent on jobs programs, and because they have produced only mixed results, he said, the administration obviously doesn't feel that approach is better government.

Furthermore, he said the government has no notion of providing jobs itself.

"Why should the government provide jobs? Why shouldn't people have to learn to read and write? . . . OK, you're poor, you're disadvantaged, you're illiterate: We'll give you a job. Well," he said, "that's not the way the real world works."

FINANCIAL ALTERNATIVES

Such views, however, do not appear to be widespread among other experts.

"With all due respect to the assistant secretary, he's missed the boat on that," said Elton Jolly, president and chief executive officer of the Philadelphia-based Opportunities Industrialization Centers of America. "The idea is that the only way a youngster can get the benefits of training—where there are no jobs—jobs have to be created. . . . It is done everywhere with the idea in mind he doesn't have to stay in that labor-intensive job but at least he gets a foot in the door.

"That's where you've got to take him," Jolly said. "And it's better there than for them to be on the street. For if you take them to another level of training, it's called the prison."

His views, like Ginzberg's, put far more weight on the effectiveness of public pressure than the strength of the Reagan administration's current policy.

As for the costs, Jolly said the financial alternatives for dealing with the nation's "growing underclass" are very clear.

"When you look at the economics, it's absurd!" he exclaimed. "Here in Pennsylvania, to incarcerate a youngster 16 years old costs $50,000 a year. We can put him through the University of Pennsylvania for $25,000."

According to Jolly, if you train youths and place them in a job, that creates more jobs, adding to (rather than subtracting from) America's tax dollars and productivity.

"We're going to either do it that way, or the second route is that we're going to have to give them welfare," Jolly said. "We'll have to feed them ourselves—your taxes and my taxes—and if we don't do it that way, the third way is that they will take it. And there won't be enough jails in the country to hold them all."

IMPROVING THE SCHOOLS

The Hudson Institute's *Workforce 2000* report—funded and published by the U.S. Department of Labor—explains that the $4 billion JTPA program "can only make a small dent in the problem," then shifts the focus for solutions on the education system, calling for radical change, perhaps "complete privatization" in schools with the most serious problems.

"Performance standards should be applied not only to teachers but to students, administrators, and schools themselves," the report said. "In practice, this might mean not only support for magnet schools that can be islands of excellence, but a willingness to close the worst schools, fire incompetent teachers, and expel disruptive students."

William B. Johnston, project director for the report, elaborated on the point in an interview this way:

"JTPA is only a part of the answer," he said. "I don't think that you can expect to fix this wagon by dealing with people after they are 16 and are already out of the public school system.

"You can make a difference with some second-chance stuff," he said, "but you can't fix the problem unless you go back a long way and start changing the amount of investment in the children."

According to Johnston, when looking at data on the satisfaction of parents from various school districts across the country, "It is striking how satisfied people are out in the suburbs, and how dissatisfied they are in urban areas where the kids are getting a lousy education."

Johnston said he believes that dissatisfaction will translate into action no matter how strong the local institutions that traditionally—under the banner of preserving the public schools—resist change at all cost.

"Among black parents in poorer school districts," he said, "that kind of argument doesn't quite wash any more—even though for a very long period of time the civil rights movement and the educational community have been very united on how they define the agenda."

A LARGER PROBLEM

To Ginzberg, however, preventing the problem involves "a much larger racial, psychological, developmental set of problems" than the schools can overcome.

First, he said, America's basic economy has changed its requirements from a time when a person of working age could easily move from the school system to factory work because of the availability of blue collar jobs requiring only "brute power" that could be learned "in an hour or a day or a week, at most."

"There aren't many of those jobs left," he said. "If you come from Akron, you know what happened to that industry."

Second, he said, the economy has shifted toward white collar jobs that require "a series of social and communications skills and competences that a lot of these kids don't have."

Particularly for minorities who have grown up without any ongoing relationship with a white person, he said, there is a "tremendous problem" because "that's not easy to fit into a white-determined society if you are growing up completely distanced from it."

Furthermore, he said, "ghetto schools are underproducing to an unbelievable extent. They have always underproduced. That's not just racial. They have never done well by poor kids."

According to Ginzberg, "The American school system works for everybody reasonably well who has had a reasonable structure of family life.

"But if the family is in disorganization and the community is in disorganization, the school can't pick up the pieces. It never has in this country."

The point, he said, is not to let the schools off any hook, but "we don't have a substitute for weak families. And to say the schools are to pick up all of that is just ridiculous. They can't do it."

Footnote: Shawn Leyba is a father now. After spending some time in jail, he was placed in a group home where he met a girl he now lives with in a $300-a-month apartment on Cleveland's near west side, supported by $300-a-month welfare payments, food stamps, and whatever else they can scrape together.

They have lived together for nearly five years, but they still aren't married because Shawn says he wants to save enough money first so he can afford a special day they can cherish.

Whatever the future may hold, both he and the woman he loves expect to get their General Educational Development diplomas in two months and from there they will see what life is to become.

The hearing, seven months ago now, was a big event in Shawn's life—he had never been to the nation's capital—but he is uncertain as to how much impact it all may have had on anything.

"In a way, I felt like a statistic," he said. "I don't know if what they said at the hearing is going to help. . . . There's only so much people can do for somebody else. You've got to do it for yourself."

HOUSE OF REPRESENTATIVES—*Wednesday, October 7, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, how we can use the talents and gifts that You have given in ways that benefit people in all the walks of life. Remind us that we need not be set aside for special ministry to see the needs of the world and to use the opportunities of our various vocations in ways that heal and help and reconcile. Bless, O God, every person who works to strengthen the bonds that bind us together as one people.

This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

APPOINTMENT AS ADDITIONAL MEMBER OF DELEGATION TO ATTEND CONFERENCE OF THE INTERPARLIAMENTARY UNION

The SPEAKER. Pursuant to the provisions of 22 U.S.C. 276a-1, and without objection, the Chair appoints as an additional member of the delegation to attend the Conference of the Interparliamentary Union to be held in Bangkok, Thailand, on October 12 through October 17, 1987, the following Member on the part of the House: Mr. DE LUGO of the Virgin Islands.

There was no objection.

MEDICARE SHOULD NOT CURTAIL FACE-TO-FACE HEARINGS

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, I rise today to express opposition to Medicare's recent decision to curtail face-to-face hearings, for people who appeal benefit denials. Under the proposed new system, telephone hearings would be primarily employed, in an effort to make the appeals process more efficient and less costly.

This proposal, however, is riddled with potential problems. Have Medicare officials considered that millions of elderly citizens face the prospect of a denial of due process rights? What sort of credibility determination can an administrative law judge make merely by listening to voices over a telephone, as opposed to personally reviewing witnesses? How will a hearing-impaired elderly claimant effectively communicate by not appearing in person?

This plan may undermine the Administrative Procedure Act of 1946, which provides for in-person hearings before Federal agencies.

I hope that Medicare officials seriously reconsider this step, which could lead to a flood of litigation, and which may only be the beginning of a disastrous course for elderly and disabled applicants.

FAMINE IN ETHIOPIA

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the scourge of famine is returning to Ethiopia. Our hearts must go out to these wonderful people of a rich culture and an ancient heritage. The Ethiopian Government has asked the West for 950,000 metric tons of food. We will comply in the West as we have in the past.

But this time, unlike in 1984 and 1985, we cannot keep sweeping the truth about this Government under the rug. This Government has the worst human rights record in the world. Name any freedom and it does not exist in Ethiopia.

Yes, we want to help the people of Ethiopia but we do not want to help this cruel, inhumane government.

Therefore, this evening I have asked for a special order to discuss this issue. I have invited the chairman of the Subcommittee on Africa and Human Rights, but I have taken this minute to invite all Members who would like to speak out on this very important issue to be with us this evening.

THE IRREGULAR AND UNETHICAL BEHAVIOR OF DEPUTY ASSISTANT SECRETARY OF COMMERCE ROBERT WATKINS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, yesterday, several Members of this House, including Congressman SANDER LEVIN, Congresswoman HELEN BENTLEY and myself called for an investigation of the highly irregular and unethical behavior of Deputy Assistant Secretary of Commerce Robert Watkins. He has been one of the key United States trade negotiators in our auto negotiations with Japan over the last year. Based on a letter he sent out September 23, we learned yesterday he was using his position as a trade official with our Government to obtain jobs with Japanese firms.

What has been the administration's response to this despicable behavior? Did they fire him? No, let's call what they did the Peter Principle. They provided Mr. Watkins with a new position in the Commerce Department. Now he'll be working as a member of the staff of Assistant Secretary Charles Cobb in charge of trade development. Who's kidding whom?

I say to the President of the United States. If you can't stand up for the auto workers and auto companies of America in our trade negotiations with Japan, can't you clean up the abuse and double-dealing in your own administration?

UPDATING THE NOTCH ISSUE

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, after hearing a number of colleagues take to the floor last week calling for a massive funding program and others calling for hearings on the Social Security notch issue, I felt it was necessary to clear the air.

Let us face it, we all know better. It is hard to believe that now that we have achieved stability for Social Security for the foreseeable future, some would endanger the well-being of our senior citizen population for flat-out political reasons. We know that vast amounts of money are being collected from seniors who could ill afford it, by the National Committee to Preserve Social Security and Medicare. They raised $40 million last year, up from $26 million in the previous year and $14 million the year before that.

We all know that politicians want to appeal to the large voter population of senior citizens, many of whom are notch age. We all know that notch year retirees, however, are not getting less than they are entitled to. We also know that the so-called notch babies are in a group who are gradually phased out of the overpayments going to retirees immediately preceding them.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

In that sense, they receive more than those born after them.

We know that the drain on Social Security reserves would severely damage the ability of Social Security to meet its obligations to seniors. Bills like H.R. 1917 would destroy Social Security. We know that CLAUDE PEPPER, the AARP, two former Social Security Administrators are against, against extending payments as would result from a bill like H.R. 1917.

Rhetoric about H.R. 1917, unfairness, and hearings that somehow might underwrite a financial solution making cash payments to notch babies only makes this situation more difficult and increases expectations that at some point will not be fulfilled.

Let us level with senior citizens about the notch. Let us appreciate it. They deserve it. They appreciate honesty.

THE NOMINATION OF JUDGE BORK

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, yesterday, the Judiciary Committee of the Senate sent Judge Bork's name to the Senate with a negative vote.

Although we in the House have no constitutional role in the appointment of judges to the Supreme Court, I don't think that means we have to keep silent. What is happening to Judge Bork is disgraceful.

In yesterday's Washington Post, columnist David Broder, hardly a Reaganite, decried what he calls "the propaganda torture test" Bork is undergoing at the hands of many of his critics.

His opponents say he is not in the mainstream, that he does not care for individual rights.

But former Supreme Court Chief Justice Warren Burger, former Carter adviser Lloyd Cutler and Attorney General Griffin Bell and other former Attorney Generals all believe Bork should be on the Court.

If Bork is not in the mainstream, as his critics contend, how do they explain support from such diverse and reputable sources?

They can't explain it. But they know they don't have to explain anything. All they have to do in their view, is play the political power game. And thus far they have played it well—and brutally.

I am reminded of several years ago when I trekked across the Capitol to testify before the Senate Committee on the Judiciary in behalf of one of our former colleagues, Ab Mikva, who was up for consideration to the Circuit Court of Appeals, the same court on which Judge Bork serves today.

I testified to his personal character, his honesty, his forthrightness, his reasoning, his academic background, his legal background and his power of reasoning. And that was the important thing. Although we were poles apart in our philosophy on anything we voted on the floor of this House.

Oddly enough, when you compare the voting records on the Circuit Court of Appeals of Ab Mikva and Judge Bork, they have been together 74 percent of the time.

My judgment call was good at that time. I will tell you what happened yesterday on the other side of the Capitol. Frankly there was no victory in yesterday's decision, particularly for those who won by using methods they themselves have decried in the past.

THE ARIAS PEACE PLAN SEEMS TO BE WORKING SO FAR

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, the Arias peace plan seems to be working, so far. The Sandinistas are complying, not because they are genuine democrats, they are not; but because they know compliance is their only hope of stopping the Contra war.

The Arias plan is now forcing a modest democratic opening in Nicaragua, whether the Sandinistas want it or not. That opening will become increasingly difficult for the Sandinistas to close. If they do, they risk the wrath of President Arias and those Western European social democrats, some of whom have been supporting them.

□ 1015

With increasing Soviet reluctance to fund another Cuba in this hemisphere, that is not something the Sandinistas can afford. They recognize that the resurrection of the Contra war might well receive widespread support in the Congress if they abandon the steps they have already taken.

In light of all of this, Mr. Speaker, President Reagan has now raised the ante by demanding more than Nicaragua's neighbors did in the August 7 accords.

Mr. Speaker, it appears President Reagan is trying to sabotage the peace process in Central America.

I hope that in his address tonight he'll change his tune. I'm prepared to give him the benefit of the doubt.

THE PRESIDENT'S OAS ADDRESS: DRINKING FROM THE COMMON CUP OF PEACE

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, this summer, President Reagan changed course and joined our Speaker in authoring a peace program for Central America.

As this latest and most prominent convert to the cause of peace addresses the Organization of American States, Mr. Reagan can place the prestige of American foreign policy firmly behind the Guatemalan peace initiative.

Certainly, the President knows how the Arias peace plan fulfills the goals of his policy—by uniting the region against subversion by Nicaragua of its neighbors, and by forcing the Sandinistas to restore freedoms to their people. That's a profreedom, prodemocracy policy for the people of Central America.

And, certainly, the President knows that further requests for Contra aid will scuttle the Guatemalan plan and alienate the United States from our Central American allies.

So, the President stands at a crossroads today. He can help Central and North Americans drink from a common cup of peace or undermine the progress we've made by setting new conditions on the Sandinistas which will effectively scuttle the Arias plan. Let's hope the President is prepared to give peace a chance.

NOTCH

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, I rise today in support of legislation to remedy the notch in the Social Security laws. The problem is 10 years old, and in each Congress since the problem was realized, at least 10 bills have been introduced to correct it.

I am one of several Members who has introduced corrective legislation, but I can't even get a hearing on my legislation let alone get it to the floor of the House for a vote. This should not be a political issue. It is a people issue. This inequity in the law affects all kinds of people from all walks of life. They are rich and poor. They are Democrats and Republicans.

Why then, in this historic 100th Congress, can't this body pass legislation to correct this problem? Almost daily, I receive correspondence from constituents asking why no action has been taken on this issue. They readily point out that we have been quick to pass other legislation that we deem important, but that their situation remains idle.

We owe these people an explanation. The Select Committee on Aging, of which I am a member, has held several hearings focusing attention on this issue. Senior citizens have rallied and lobbied our offices. Our constituents have written letters and individual Members have introduced legislation. Now it is time for the full House of Representatives to act.

TIME TO END THE WAR AND BEGIN THE PEACE

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, I was pleased to learn that President Reagan has decided to express his support for the Guatemala peace agreement today.

While this is a significant shift from calling the plan fatally flawed, it is clear that the administration unfortunately still has no intention of ending its campaign for $270 million for the Contras. President Reagan cannot run from reality. The time for peace has come. The President must choose between peace or war. He cannot have it both ways.

The task ahead is to obtain achievable cease-fire, and I believe that is indeed possible. Both sides, the Government and the Contras, have agreed to allow the cardinal to negotiate a mutual cease-fire. After that, the task is to go to bilateral negotiations between the United States and the Nicaraguan Government to deal with our mutual security concerns.

Keeping the Contras in place with further aid is not an insurance policy for peace, it is a guarantee for further bloodshed and continuation of the war.

The time has come to end the war and begin a positive plan for peace.

A QUESTION OF FAIRNESS

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, some of our colleagues want hearings on notch year reform. They claim those Social Security recipients born between 1917 and 1921 are being treated unfairly.

If hearings are held, other questions of fairness must be answered as well:

First, is it fair to change the COLA formula for people born in these 5 years and not change it for those born in the 66 years that followed?

Second, is it fair to increase the COLA for those who spent most of their lives paying between 1.5 to 3 percent on a taxable earning base of less than $15,000 and not to increase it for those who are paying more than 7 percent on an earning base in excess of $42,000.

Third, is it fair to talk about significant benefit increases for some and substantial tax increases for others who will not benefit.

A fair hearing can only be accomplished if we examine the total impact of the COLA on all beneficiaries from 1917 through 1987—70 years, not just those born between 1917 and 1921.

INTRODUCTION OF LEGISLATION TO CREATE TAX CREDIT FOR EDUCATIONAL INTEREST

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, last year's tax reform bill repealed the deduction for personal interest expenses, unless the interest is paid on a debt for a first or second home. One effect of this provision is to deny deductions for interest on student loans unless the taxpayer uses a home equity loan to pay for educational expenses.

Mr. Speaker, that is wrong. The present law works to the disadvantage of students who are in the greatest need of assistance. Unless a student or his parents own a home or can take a home equity loan, they cannot deduct the interest. Millions of poor- and working-class kids whose families do not own homes or cannot afford to borrow against their homes, are put at a great financial disadvantage.

Today I am introducing legislation to correct that problem. My bill creates a tax credit on interest for qualified educational indebtedness for married taxpayers with incomes below $40,000 or a single taxpayer with income below $25,000.

The tax credit would be 15 percent but reduced as the taxpayer's income increased above those dollar amounts.

Mr. Speaker, I intend to pursue this legislation as the Committee on Ways and Means continues to mark up revenue legislation.

I urge my colleagues to cosponsor this legislation which I have filed this morning.

BUDGET REFORM

(Mr. UPTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UPTON. Mr. Speaker, in a recent editorial in the Wall Street Journal, Congress was described as "a group of people who demonstrate a consistent inability to perform necessary tasks, such as the passage of a Federal budget on time." It is abundantly clear that the Democratic leadership is largely responsible for this sad, but true, characterization of our once distinguished body.

If the Federal Government were a business, it would go bankrupt before you could say the words: "budget deficit." Clearly, our Government has thrown sound business principles out the door and has systematically failed to meet the needs of our country. I can't help but wonder what our forefathers would think if they were here to witness the sorry state of our budgetary affairs.

Simply put, the American people are witnessing a House out of control. The largest contributing factor to this situation is a congressional budget system that is completely out of whack. Because of its lack of enforcement provisions, our budget system allows Members of Congress to take the easy way out. Instead of forcing us to make tough choices to address the deficit, it reinforces our lack of resolve.

To top it off, not in one single instance has Congress met any of the provisions of our own budget act. It's time to finally get our act together and the best way to do that is to adopt the proposals of Bob Michel, Trent Lott, and the Republican task force on congressional reform. Give us a chance. It may be our last.

SOCIAL SECURITY TRUST FUND MUST NOT BE JEOPARDIZED

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, last week there was a considerable hue and cry that people born during the "notch years" are treated unfairly by Social Security. This is not supported by fact or analysis.

In 1972, in order to protect Social Security recipients against inflation, an automatic cost-of-living adjustment was enacted. Sadly, the formula was flawed. As a result of this error, by 1977 the trust funds were facing bankruptcy. To avoid catastrophe we passed the largest tax increase in peacetime history. We also corrected the flawed COLA formula and reduced benefits for all future retirees to past levels. The only exception was a special transitional rule giving higher benefits to people born during the "notch" years. We tried to help the "notch year babies" by phasing it in. Actually, the "notch year babies" will get higher benefits than those following.

In 1977 everyone regarded this as a fair approach. And little or no complaint about it was raised in 1983 when the Social Security System was again on the brink of bankruptcy. But now that the crisis has passed, we hear cries to give this one group higher benefits.

This would be a mistake. First, even after 5 years of uninterrupted economic growth the trust funds have only a 4-month reserve. And while the short-term projections look good, we ought not to be counting our chickens too early. Second, giving a windfall benefit to those born during the notch years would immediately create a long-term deficit. This is the worst possible message to send to younger workers who already doubt that the system will benefit them.

To go back to the old formula would cost anywhere from $30 to $80 billion or more. We should not now jeopardize the solvency of the trust funds in order to provide an extra windfall to this select group of retirees. Neither should we raise taxes on today's workers to provide even higher benefits to retirees who are already getting a better deal than almost everyone else.

MR. PRESIDENT, SUPPORT THE ARIAS PEACE PLAN

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, 2 months ago our Speaker stuck his neck out for peace in Central America.

By vigorously supporting a peace plan with the President, Speaker WRIGHT's courageous action spurred the Central American nations to a peace plan of their own. I do not believe that this administration understands the deep desire for peace on the part of the Central American people. Too many of them have died. Too many children have been maimed for life. They have been waiting for a peace signal from the United States, and when it went out they all have made major steps toward peace, but the Reagan administration is continually mixing signals, first calling the Arias plan fatally flawed and now today hopefully embracing it. By these actions the President has been a very unsure leader.

I only hope his latest embrace of the Arias peace plan is real and not phony rhetoric. I have cause for concern, however. This memorandum was made public during the Iran Contragate hearing, and in it Poindexter says, and I quote:

> Central America, continue active negotiations but agree on no treaty and agree to work out some way to support the Contras either directly or indirectly, withhold true objectives from staff.

Mr. President, turn your back on this unscrupulous advice, nothing less than innocent children's lives are at stake.

DO NOT DERAIL THE PEACE PROCESS NOW

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, I wish to point out to my colleagues that the countries of Central America have made more progress toward democratic reforms in the past 2 months than in years of armed conflict. Waging war has only led to the death of thousands, uprooted families from their homes, and caused untold pain and suffering.

With the signing of the Guatemalan agreement in August, the nations of the region began waging peace: Bringing back the independent voice of the newspaper La Prensa, reopening the Catholic radio station, and opening talks between Government and rebel leaders. A year ago—even 3 months ago—this would not have been possible.

When Costa Rican President Arias visited Washington 2 weeks ago, he was asked "What will you do if the peace process fails?" His response, "What will you do if it succeeds?" I would like to pose the same question to my colleagues; "What will we do if it succeeds?" Clearly, it is time for us to work with our neighbors to begin the difficult process of healing and rebuilding.

The progress of the last 2 months is significant, but we still have a long way to go. I was pleased to learn today that the President has decided to back the Guatemalan peace agreement. I hope he will work with us now to help ensure a lasting peace in the region.

There is no reason to derail the peace process now. Further aid to the Contras will not advance the cause of peace.

□ 1030

ADMINISTRATION'S THREAT TO PEACE PLAN

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, it seems we are supposed to believe that the Reagan administration has had a change of heart about peace in Central America. After first calling the Guatemalan accord "fatally flawed," we are told that President Reagan now intends to express his support for the Guatemalan plan.

Whatever its motives for this new more conciliatory approach, we welcome the administration's change of heart. However, if President Reagan is truly sincere about supporting peace, then the administration should not request an additonal $270 million in military aid for the Contras, which it still says it intends to do before November 7.

The administration argues that continuing aid to the Contras will act as "an insurance policy" for democratic change in Nicaragua. This is utter nonsense. The civil war that the Reagan administration has funded for the past 5 years has brought only increased repression and misery to the people of Nicaragua.

The largest threat to the peace plan is the administration's continued support for the Contra terrorists. President Reagan, if you truly want to support peace, no more aid to the Contras. Give peace a chance.

SOCIAL SECURITY SYSTEM IS FAIR TO "NOTCH BABIES"

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, there is probably no greater rage in human emotion than the perception that one is being treated unfairly, and that perception has been engendered among the people in the so-called notch years of the Social Security System.

It was started by, I believe, a column by a lovelorn lady with thoroughly inaccurate information.

The unvarnished truth is that those of you who are in the notch years are only being treated unfairly in the sense that you are being given greater benefits than those who will follow the notch years.

There was an error in the formula for the cost of living put in in 1972, and by the end of that decade, inflation had been overstated by 30 percent; that is to say, the Social Security people were being paid 30 percent more in real dollars than they were in 1972.

That happened at the same time the people still in the work force saw the purchasing power of their earnings fall 10 percent. That could not go on.

The adjustment was made, and what you have to understand is, those born especially between 1910 and 1916, the Social Security System is more than fair to them and less than fair to the taxpayers.

For the people in the notch years, the Social Security System is, in fact, more than fair to notch people and less than fair to the taxpayers.

Beyond the notch years, the Social Security System becomes fair, if you accept the basic premise that you should be able to buy the same number of beans with your benefits today that you bought in 1972.

I believe you will find on examination that that is clearly the truth.

ADMINISTRATION WANTS PEACE PLAN

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have listened carefully to some of the speeches this morning given by the left with regard to the situation in Nicaragua.

On one hand, we have the left claiming on the floor that there is a situation in Nicaragua where the Commie tyrants down there are obviously not democrats and where they have been brought to the bargaining table largely by the Contra activities there.

On the other hand, we have the left then coming to the floor and suggesting to the Members that the way in which we ought to have the peace process go forward is to make certain we cut off all aid to folks who have brought the Commies to the table. You cannot have it both ways.

If in fact the Contras have been a factor in bringing the Commies to a negotiating posture in Nicaragua, should not the pressure stay? That is the point of this administration.

We want to go ahead with the peace plan. We want the Sandinista Communists to do their job toward implementing that peace plan, but there has to be pressure internally upon them. The Contras are one part of that pressure, not the only part, but one part of the pressure.

The left cannot have it both ways. You cannot cut off pressure and expect the Sandinista tyrants to continue their movements toward reform.

FEDERAL TRADE COMMISSION ACT AMENDMENTS OF 1987

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 279 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 279

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2897) to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendment as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. Jacobs). The gentleman from Missouri [Mr. Wheat] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Missouri [Mr. Taylor], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 279 is an open rule providing for the consideration of H.R. 2897, the Federal Trade Commission Act Amendments of 1987. The resolution provides for 2 hours of general debate. One hour of debate time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The remaining hour is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation.

The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce and now printed in the bill as original text for the purpose of amendment under the 5-minute rule. The resolution further provides that the substitute shall be read for amendment by titles instead of by sections and that each title shall be considered as read.

Finally, Mr. Speaker, the rule provides for one motion to recommit, with or without instructions.

H.R. 2897, authorizes $140.7 million for programs and activities under the jurisdiction of the Federal Trade Commission for fiscal years 1988 and 1989. In addition, H.R. 2897 includes provisions which limit the Commission's authority to intervene in certain State, local, and Federal activities; exempt Federal credit unions from regulation; continue the prohibition against conducting studies of agriculture cooperatives; authorize joint jurisdiction between the FTC and DOT over deceptive advertising and consumer protection complaints involving domestic and foreign air carriers and initiate several agency studies including a study on MediGap insurance and the life care home industry.

Mr. Speaker, the programs and activities of the FTC significantly affect the lives of millions of Americans. The authorizations contained in H.R. 2897 are needed in order that the agency can fulfill its obligations to the citizens of this country. Therefore, I urge that we adopt the rule so that we may proceed to consideration of this measure.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 279 is an open rule under which the House will consider legislation that would shift Federal regulatory authority over airline advertising from the Department of Transportation to the Federal Trade Commission.

The issue contained in H.R. 2897 is quite controversial, and this rule sets the stage for a jurisdictional argument between two House committees, the likes of which the House has not seen since the Legislative Reorganization Act of 1974 was adopted.

The Committee on Energy and Commerce proposes, in the bill it reported, to make a substantive change in law by giving the Federal Trade Commission powers it does not currently have.

The Committee on Public Works and Transportation reported the bill with an amendment striking the Energy and Commerce idea, thereby leaving Federal regulation of airline industry business practices in the Department of Transportation.

Mr. Speaker, the bill reported by the Committee on Energy and Commerce has the practical effect of taking a bite out of the legislative jurisdiction of the Committee on Public Works and Transportation. It may be only a little nibble, but it should not be allowed to take place in this manner.

The Committee on Energy and Commerce does not have jurisdiction to report legislation dealing directly with airline industry advertising. The bill made in order by this rule, H.R. 2897, approaches the issue indirectly, by amending the Federal Trade Commission Act.

In order to gain a share of legislative jurisdiction, the Committee on Energy and Commerce seeks to expand the legal powers of the Federal Trade Commission.

Mr. Speaker, on Wall Street this might be described as an unfriendly takeover.

Mr. Speaker, I do not believe the Committee on Rules should have reported this rule.

The ranking Republican member of the Committee on Rules, the gentleman from Tennessee [Mr. Quillen], and the chairman of the Committee on Rules, the gentleman from Florida [Mr. Pepper], said during our hearing last week that they did not believe we should report this rule.

Since title II of H.R. 2987 proposes a substantive change in law and gives the Federal Trade Commission powers it does not currently have, I believe the Committee on Energy and Commerce should have been required to offer their proposal on the floor as an amendment.

Under this rule, however, they will not have to do that. The Rules of the House give the Energy and Commerce Committee the ability to report a bill expanding the powers of the Federal Trade Commission. They have done so, and it is clearly within their legislative jurisdiction to do so.

The effect of this rule is to require the Committee on Public Works and Transportation to offer an amendment striking the language reported by the Committee on Energy and Commerce in order to retain their legislative jurisdiction and in order to retain within the Department of Transportation the regulatory authority over airline advertising.

It should be the other way around, but it is not.

Mr. Speaker, since this in an open rule the House will at least have the opportunity to make a choice.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no further requests for time. While the issue involved in the legislation itself may be controversial, the rule gives every opportunity to debate those controversies on the floor.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 279 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2897.

□ 1043

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2897) to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes, with Mr. KOSTMAYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 30 minutes, the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 30 minutes, the gentleman from California [Mr. MINETA] will be recognized for 30 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the last FTC reauthorization bill was enacted in 1980 and expired at the end of fiscal year 1982. Since that time the FTC has had to operate without any authorization of appropriations and has been funded only through continuing appropriations. It is essential that Congress act to authorize the Commission in order to give it some guidance and policy direction.

H.R. 2897 authorizes appropriations for the Commission of $69,850,000 for fiscal year 1988, $70,850,000 for fiscal year 1989 and $71,850,000 for fiscal year 1990. This is the amount requested by the FTC.

The committee has continued to aggressively monitor Commission activities through the hearing process. We have identified areas of activity that require legislative remedy and have included several provisions in the bill to provide direction to the FTC. As a result, we included amendments to the act that would limit the Commission's authority to invalidate certain State laws that constitute "State action" under the Sherman Act; provide that FTC rules do not become effective until they are submitted to Congress for 90 days, and would become final if Congress does not disapprove them by joint resolution, prohibit the Commission from conducting any study or prosecution of agricultural cooperatives for conduct permitted by the Capper-Volstead Act; and exempt Federal credit unions from regulation in the same manner as other financial institutions.

We have also acted to establish guidelines for the FTC in instances in which it intervenes in local, State, or Federal proceedings. The committee found that although the FTC can be effective in these interventions, there was little administrative control over staff activities and no clear threshold as to when the staff would need to obtain the Commission's permission for such interventions.

H.R. 2897 requires the FTC to conduct several important studies including Medigap sales to the elderly; the life care home industry; and the high cost of property and casualty insurance.

In addition to these provisions, the bill gives the Commission authority to prevent air carriers from using unfair or deceptive acts or practices and mandates that the FTC promulgate a rule requiring very specific information be included in airline advertising including a "full, conspicuous, and understandable" disclosure of any limitations on a particular fare.

Our Subcommittee on Transportation, Tourism, and Hazardous Materials has been investigating unfair and deceptive airline practices and at a hearing confirmed what many of us have heard from our constituents and experienced ourselves. The carriers will not guarantee that a specific number of seats on any particular flight will be available at the advertised discount. In fact, during a break in the hearing one of our subcommittee members, Mr. SIKORSKI, attempted unsuccessfully to obtain a reservation for a flight at a discount that was currently being advertised, even though he requested a flight on a day that an airline witness said was a light travel day.

In recent years the number of complaints made by consumers to the Department of Transportation and to the airlines themselves have increased dramatically. But the hapless consumer cannot turn to the agency that has the mission to assure fair competition and to protect consumers from marketplace abuses. Regulation is left to the Department of Transportation, which has seen fit to assign 12 employees to handle the more than 19,000 complaints the DOT has received so far this year.

The scandalous conduct of some airlines should be regulated by the FTC just like other businesses. It is the Government agency with the experience and the expertise of 500 employees who handle consumer matters. I urge you to support our bill and strike a blow for the American consumer.

□ 1045

Mr. WHITTAKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2897, the Federal Trade Commission Act Amendments of 1987.

The Federal Trade Commission has not been reauthorized in roughly 5 years. Although the Energy and Commerce Committee has continued to aggressively monitor the Commission's activities, 5 years is far too long for the Commission to have operated without statutory guidelines.

H.R. 2897 would reauthorize the Commission until 1990. It also includes a number of substantive changes—as well as technical amendments—to the Federal Trade Commission Act that are necessary for the Commission's effective and efficient operation.

For example, the bill contains a provision that would establish guidelines for the Commission's intervention program. The basis of the intervention program has been the very broad authority given in the Federal Trade Commission Act, which does not include any guildelines for the operation of the program. The intervention program was the subject of intense examination during our subcommittee hearings. Concerns were raised about:

First, the appropriateness of Federal involvement in State and local proceedings; and

Second, the manner in which the Commission conducts its intervention program.

The committee does not disapprove in principle to the Commission's intervening on behalf of consumers in local, State, or other Federal matters. However, objections have been raised when those activities interfere with the Commission's law enforcement and regulatory responsibilities. There are further objections to the Commission's present manner of conducting the program. The committee's hearings and subsequent investigation led to the conclusion that there is a need to define the form and function of the intervention program and to keep the Congress better informed.

Section 107 of H.R. 2897 places guidelines on the intervention program without placing overwhelming restrictions on that program. Under H.R. 2897, the intervention program will have a more organized approach that will allow the Commission to conduct its responsibilities more effectively and efficiently.

Other provisions of H.R. 2897 codify certain practices of the Commission to examine certain areas within its jurisdiction, and direct the Commission to prevent air carriers from using unfair or deceptive acts or practices. Although this bill is not devoid of controversy, a number of the issues that have stalemated legislation reauthorizing the Federal Trade Commission in the past have been reconciled or resolved through means other than legislation.

In conclusion, I am optimistic that we will be able to send FTC reauthorization legislation to the President before the end of this Congress.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN], who is the author of the legislation which contains the substance of the provisions on airline advertising.

Mr. WYDEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, no matter how false or outrageously distorted the claim about airline service may be, the Department of Transportation has simply been unwilling to intervene on behalf of the consumer.

Now, the Department of Transportation has something that they call the Consumer Affairs Division, but I would suggest that we rename it the Consumer Neglect Division, because right now they are sitting on their hands when it comes to resolving the concerns of airline consumers in this country.

Now, the Department of Transportation has only 12 professional staff members devoted to airline consumer issues and whether it is lost luggage or canceled flights or advertisements, it just seems that when it comes to protecting the consumer, the consumer is in a regulatory twilight zone, because the Department of Transportation is not willing to step in and go to bat for the consumer and resolve those hassles.

Now, by contrast, the Bureau of Consumer Protection at the Federal Trade Commission has a staff of over 500 personnel, including lawyers, economists, and consumer affairs specialists. That would give us a chance to set in place a real watchdog that would protect the consumers' interests and not a sleeping dog, as we have now.

Mr. Chairman, when I introduced legislation with the chairman of the subcommittee [Mr. THOMAS A. LUKEN] to transfer jurisdiction over airline advertising, we said then that it was clear that there finally ought to be one place in Government that would help consumers. Today, we have a chance to establish an office where the consumer would finally have a voice when they are being ripped off by false advertising. That kind of protection is long overdue.

Mr. Chairman, I urge my colleagues to support this legislation and I thank the gentleman from Ohio for the chance to work with him on it.

Mr. WHITTAKER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York [Mr. LENT], the ranking minority member of the full committee.

Mr. LENT. Mr. Chairman, I rise in support of the legislation we are considering which will reauthorize the Federal Trade Commission. H.R. 2897 is bipartisan legislation that will provide the Commission with the legislative direction that is needed for the coordinated and consistent administration of the Commission's responsibilities. I want to commend the gentleman from Kansas [Mr. WHITTAKER], the ranking member of the Energy and Commerce Committee and the gentleman from Ohio [THOMAS A. LUKEN], the chairman, for their leadership in bringing this to the floor.

The Federal Trade Commission Improvement Act of 1980 was the last time the Commission was authorized by Congress. That authorization expired at the end of fiscal year 1982. Although bills were reported by the Energy and Commerce Committee during both the 98th and 99th Congresses, and passed by the House, they were never enacted into law.

The Senate passed legislation to reauthorize the Federal Trade Commission earlier this session. With the passage of H.R. 2897 by the House today, I am optimistic that the Congress will send legislation to the President this Congress.

Now, Mr. Chairman, I would like to direct my comments to a provision in the legislation which has raised undue controversy—that is the provision that provides the Federal Trade Commission with the authority to regulate airline advertising.

Airline carriers are presently exempt from regulation by the Federal Trade Commission. Years ago, instead of giving the Commission the authority to regulate unfair and deceptive practices by airlines, Congress chose to provide the Department of Transportation with that authority.

When Congress made this decision it was persuaded by the arguments that regulation of the airlines should not be divided among several agencies. It was argued that such a division of responsibilities would cause confusion. It is questionable why that argument prevailed, since many practices regulated by the Commission are also regulated by other agencies. Just to provide two examples: The U.S. Department of Agriculture has concurrent jurisdiction with the FTC over certain commodities; and the Bureau of Alcohol, Tobacco and Firearms shares jurisdiction with the FTC over alcohol advertising and labeling.

It is now quite clear that Congress' decision to exempt airlines from FTC regulation has resulted in unfair and deceptive practices by airlines and little, if any, consumer protection. Consumer complaints are raising daily. A single airline stated earlier this year that it receives approximately 9,500 complaints a month.

Something must be done to correct this situation. On Monday the House passed legislation directing the Department of Transportation to address these problems. This is a step in the right direction. But how effective will it really be? The fact is that the Department of Transportation simply does not have the infrastructure to address the problem. The Department has 12 full-time employees and 9 employees who spend one-third of their time on consumer protection issues. The purpose of the Federal Trade Commission, on the other hand, is to protect consumers and the Commission has the expertise and the staff to do just that.

Therefore, the legislation we are considering today would authorize the Commission to regulate unfair and deceptive practices by airlines. It would not take any authority away from the Department of Transportation. This should not be controversial. It simply directs two agencies to work together to protect airline passengers. This is not unlike the Federal Trade Commission's relationship with other agencies.

I anticipate that an amendment will be offered later today to strike this provision. I will oppose any such amendment and I urge my colleagues to oppose that amendment too. The taxpayers are entitled to have the expertise of all the Federal agencies available to them. H.R. 2897 simply authorizes the Federal Trade Commission to use its expertise, along with the Department of Transportation, to protect consumers.

□ 1100

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Chairman, the single biggest consumer hook in booking a flight is price. We know that from the Department of Transportation's figures: 90 percent of all flights are purchased on a discount basis. And the single most effective way of setting the hook in the consumer's mouth is advertising. We have all seen the ads that tell us we can fly to some faraway or nearby, exotic or not so exotic, city at an incredible price. Yet it is only when our constituents, customers, call in response to one of these come-ons, that they are told, "Sorry, those seats are sold out"; "sorry, no spaces available," "sorry, the only space that is available is if you leave on a Wednesday afternoon, stay for 2 weeks, are left handed and come back at 2 in the morning—then you can qualify for that low fare."

This is the type of advertisement that prevailed under the Department of Transportation's notion of consumer protection. The airlines remain free to play this bait-and-switch routine, get the customer on the phone, into the reservations lines and hooked into a trip and at a higher fare.

The Subcommittee on Transportation held a hearing in May of this year to investigate the complaints we have heard. We heard firsthand accounts of fraud, misrepresentation, misleading and deceptive advertising by the airlines.

One airline representative, to his great credit, came to our hearing and proudly played a videotape of an ad that was currently running in the Washington market for a low supersaver or maxisaver fare. He assured us that we could make a reservation at this low fare. I took the challenge. During a break in the hearing I went to the phone, got the reservation lines and the woman there was very cordial, very courteous, very nice. But I could not get a booking.

To give the airline the benefit of the doubt, I asked the airline representative what day of the week would be the best time to book. He said Tuesday, Wednesday, or Thursday and stay away from Memorial week. I did that. Every low fare on every flight on all 3 days were full. So much for my super maxisaver.

It's time that we put an end to the airline industry's deceptive advertising practices. It's time that we require full, conspicuous and understandable disclosure in airline ads. It's time that we give the job of consumer protection to an agency that is capable. Title II of the FTC Reauthorization Act will do so.

Mr. WHITTAKER. Mr. Chairman, I reserve the balance of our time.

Mr. THOMAS A. LUKEN. Mr. Chairman, I reserve the balance of our time.

The CHAIRMAN. The gentleman from California [Mr. MINETA] is recognized for 30 minutes.

Mr. MINETA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from New Jersey [Mr. HOWARD], chairman of the full Committee on Public Works and Transportation.

Mr. HOWARD. Mr. Chairman, the Committee on Public Works and Transportation received a sequential referral of H.R. 2897 and the committee voted unanimously to strike title II. Under the rule approved by the House, the gentleman from California, Mr. MINETA, will be offering an amendment for the House to adopt the committee's position and strike title II.

It is the position of our committee that there is no support on the merits for this proposal to take the jurisdiction over airline advertising and deceptive practices from the Department of Transportation to give it to the Federal Trade Commission. Since there is no basis on the merits, it is clear that this title is a ploy to obtain even more jurisdiction for the Committee on Energy and Commerce.

The issue is clear. The proposed change will have an adverse effect on aviation safety and on passenger protection. It is strongly opposed by the executive branch. Above all, the FTC has demonstrated over a period of years that it is not the agency to handle this additional authority. We should not entrust the fate of the Nation's 450 million airline passengers to an agency that has indicated an inability to protect consumers from deceptive or unfair practices in other areas of business.

As recently as 5 days ago, the FTC, in an official position statement, said that DOT is doing the job of monitoring and correcting questionable advertising. The Commission itself saw no reason for the National Association of Attorneys General to develop guidelines on airline advertising because DOT is doing the job.

In that statement, the FTC provided revealing insights into the agency that the supporters of title II want protecting consumers. The FTC Chairman, Donald Oliver, and the Commission express repeated concern about consumers receiving too much information. Chairman Oliver expresses the concern that State guidelines on advertising would "bury consumers in unnecessary disclosures."

It is the position of the Committee on Public Works and Transportation that consumers should receive information. We want consumers to be able to make informed choices about airline service, to know which airlines provide the best service and to have appropriate remedies if they do not receive proper service.

Under title II of this bill, the recourse of airline passengers with complaints about service would be fragmented between FTC and DOT. That concern has been expressed by the Office of Management and Budget which has threatened a veto on that issue. That is the concern of the Department of Transportation which said, "given the aggravation currently being experienced by air travelers, now is not the time to experiment with new arrangements."

Title II is not the way to provide protection to airline passengers. Splitting the jurisdiction between FTC and DOT, with FTC having absolutely no experience with aviation issues, is not the way to protect airline passengers. If anything, this measure will make it more difficult for passengers to get information and to obtain remedies.

The House has already approved two measures which provide needed assistance for passengers. H.R. 2310 reauthorized the airport and airway trust fund for 5 years, authorizing $28.5 billion for expanded capacity and reliability of the aviation system. H.R. 3051, the Airline Passenger Protection Act, which was approved only 2 days ago, directed airlines to provide detailed information to DOT and passengers on monthly performance, directs DOT to provide that information to passengers and to establish a toll-free telephone line to receive complaints. Passengers would be protected from economic cancellations, baggage losses, and delays.

These two bills should be allowed to work before we make additional major changes. These bills have not even been enacted but title II of this bill would overhaul the entire enforcement system.

In dealing with aviation, safety must be our primary concern. Title II of this bill would dismantle the comprehensive, unified regulatory framework that has been created in the Department of Transportation. DOT, with its overall focus, has the ability to give primary consideration to safety while at the same time considering airline service and deceptive practices. FTC, with no experience in aviation, would be unable to consider safety. There is great concern in the aviation field about what kinds of statistics should be reported and their relation to safety. A new, inexperienced agency would not improve this situation at all. In fact, the new player in the game might cause on-time performance to be emphasized over safety concerns. That is not a risk this body should be willing to take.

I hope my colleagues understand that there is no basis on the merits for title II. The issue is the performance of the Nation's airlines and the safety of airline passengers. It is a jurisdictional dispute that has raised this issue that threatens the aviation system. Title II has been placed in the bill as a backdoor means of regaining jurisdiction for the Committee on Energy and Commerce that was lost in committee reorganization in 1974 by an overwhelming vote of the House. The Commerce Committee has never given up that dream of regaining aviation. They haven't been able to do it through the House rules so they have decided on this bootstrap method.

The House rules give the Committee on Public Works and Transportation jurisdiction over all civil aviation. The Committee on Energy and Commerce has used the flimsy pretext of jurisdiction over "consumers" as the means for this power grab. It is unreasonable and unsupportable to assert that authority over consumers extends to airline practices.

The Committee on Energy and Commerce is using as a vehicle for this an agency that even its own members have questioned. The committee chairman, the gentleman from Michigan, in a hearing called solely for the purpose of examining the FTC's record on deceptive practices, is the very issue involved in title II, said the FTC policy statement on deception "does not inspire confidence in the motives of those who prepared it. It is an attempt to rewrite a 45-year history of law enforcement." He described their position as the "idle tinkering of academics" which threatened the balance of power in the marketplace.

The National Association of Attorneys General, the organization of State Attorneys General, said just 8 months ago, "The Commission chose to alter well developed legal standards for proving deception and thereby made fraudulent schemes more difficult to stop. This alteration confused the law, downplayed the plight of consumers and moved the law closer to caveat emptor."

This is the agency that the Committee on Energy and Commerce now wants to protect airline passengers. It is a Commission that a former Chairman has described as applying budget cuts "to remove the muscle of the Commission's law enforcement capacity." It is a Commission that has only 18 lawyers to handle all advertising cases in all businesses. Aviation issues would be thrown in with the rest of the pile rather than being given top priority as in the Department of Transportation.

That would be the effect of title II. It would fragment the regulatory framework, it would jeopardize aviation safety and it would harm consumers. This body should continue to support the aviation legislation that it has already passed and not make these unnecessary and harmful changes. We should not sacrifice airline passengers to an evergrowing demand by the Committee on Energy and Commerce for more jurisdiction.

□ 1115

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, 3 years ago Congress considered the Civil Aeronautics Board Sunset Act. One of the questions we faced then was whether the CAB's airline passenger protection authority should transfer to the Department of Transportation [DOT] or the Federal Trade Commission [FTC]. At that time, we decided that DOT was in a better position to exercise this authority. Therefore, the legislation passed by Congress and signed by the President transferred passenger protection authority from CAB to DOT.

Now, with this bill (H.R. 2897), the Commerce Committee is trying to raise the same issue all over again. Their version would transfer this passenger protection authority from DOT to FTC. DOT and FTC would, under this bill, have concurrent jurisdiction over unfair and deceptive practices by airlines. I do not think that this is the proper way to go. At the appropriate time, I plan to support an amendment to strike the aviation portion of this bill.

For now, let me just say that transferring the jurisdiction to FTC would not solve the problems we have with airline service. Simply moving the authority around from one agency to another does not, by itself, address the needs of passengers.

I am also concerned that by giving FTC some authority in the aviation area, we will be creating a web of overlapping regulation that will be hard to untangle. There is the potential for conflicting rules that would create confusion for both airlines and airline passengers.

There are several other factors that Members should consider when this amendment comes up.

The Director of the Office of Management and Budget [OMB] has stated that he would recommend a veto of this bill if the aviation portion is not removed. He says it "would inappropriately fragment regulation of air carriers' advertising and consumer protection practices * * *."

The House has already addressed airline service problems in a tough comprehensive passenger protection bill (H.R. 3051) passed last Monday. This bill would, except for the transfer of jurisdiction, be merely redundant.

While the FTC may have more employees handling consumer protection generally, DOT has more that handle airline passenger problems specifically. The FTC's lack of knowledge in the aviation area could cause them to unknowingly create more problems, or even safety hazards, in our Nation's aviation system.

Finally, we strongly object to attempts by other committees to legislate so-called solutions to problems not under their jurisdiction. I hope this body will support our efforts to stop these time consuming jurisdictional raids which serve no purpose.

Mr. MINETA. Mr. Chairman, I yield 4 minutes to our distinguished colleague, the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, one of the big problems that we see here in Washington, and I think if we really tell it like it is, is that too often even Federal agencies and bureaucrats not only do not communicate, many times they openly compete. The taxpayers' dollars are fragmented and spent over many jurisdictional areas. These bureaucrats sit down and they continue to fight for turf.

Now today we are discussing a measure that would take all of the jurisdiction over the aviation industry that now rests with the Department of Transportation, and taking one part of it and putting it under the Federal Trade Commission as this bill would mandate.

Let us take a look at that. No. 1, the most important part of it that I see is that the FTC has stated in the past that they see no need for action relative to airline fare advertising at all.

Second of all, they see no need for any review of frequent flyer programs or addressing any problems therein. They said they are not concerned and do not see a real problem with overbooking compensation policies.

What the Federal Trade Commission is saying is, we do not see a problem.

Last week we passed a bill to direct the feet of the Department of Transportation to correct many of the problems that exist in the airline aviation industry. Now we are talking about doing something today which is to get more people, more hands into the soup and the people that we want to put in are saying they do not even see a problem.

Let us get on with it. This is a turf fight. This is as much a turf fight in Congress as it is a turf fight for consumers. Let us take that consumer language out of here. About the only thing we will end up with is agencies fighting each other, two big agencies split up over jurisdiction, and the end result will be the consumer will get screwed, again.

Specifically, I see many of the members of the Committee on Energy and Commerce saying that they are unsatisfied with the Federal Trade Commission. They have publicly criticized it. Now we are going to go ahead and let them handle this delicate matter.

I say let us forget it. This President's policies and this administration's policy as deals with aviation have been on a crash course from day one. Today we compound it by further aggravating that scenario.

I say today we vote for the Mineta amendment. We send a message to the bureaucrats that we want them to start talking, not competing, and we do not make the soil fertile for infighting and competition among these agencies. We set up clear jurisdictional structure to make sure the consumer cannot be parlayed with one administrator against another.

That is what we are talking about today. I do not want any problems with the Committee on Energy and Commerce, it has one of the greatest chairmen that we have, and it is a great committee, but today we make a mistake if we fracture jurisdiction and the mistake will hit the consumer more than anyone else in America. I think it is time we stop screwing consumers around here, and we start telling it like it is and we should be coming out with legislation to make these administrators start talking to each other and quit competing.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. STANGELAND], a member of the committee.

Mr. STANGELAND. Mr. Chairman, I rise to address provisions in H.R. 2897, the Federal Trade Commission Act Amendments of 1987.

This legislation was reported by the Energy and Commerce Committee and then referred to the Public Works and Transportation Committee for consideration of title II. These provisions give the Federal Trade Commission concurrent jurisdiction with the Department of Transportation over unfair and deceptive acts or practices by domestic and foreign air carriers. Specifically, the bill directs the FTC and DOT to work out a written agreement which gives the FTC sole responsibility for regulating airline advertising. The agreement would also have to include language carving out new jurisdictional boundaries of the two agencies over other airline consumer protection issues.

After reviewing title II, the Committee on Public Works and Transportation concluded that DOT—rather then the FTC—should continue to be responsible for protecting airline consumers. I agree whole-heartedly. Like the committee, the administration and others, I believe concurrent authority to the FTC would create a confusing overlap in jurisdiction and deteriorate current consumer protection efforts.

Everyone recognizes that airline passenger service is not as good as it should be and that DOT should improve its efforts. But Mr. Chairman, the answer is not to strip DOT of its authority and establish a confusing new regulatory scheme involving the FTC. Existing problems with airline advertising can be addressed through tougher DOT regulations and complementary efforts by the States. A transfer to FTC would be a counterproductive, fragmented approach.

Mr. Chairman, the House just passed H.R. 3051 which directs DOT—not the FTC—to improve airline service, including problems associated with deceptive advertising. This is the approach to take. We don't need a Federal regulatory program in which agencies have piecemeal jurisdiction over various areas. We need one strong, centralized program instead.

For all of these reasons, Mr. Chairman, I urge my colleagues to follow the approach of the Public Works Committee and to support the deletion of title II.

Mr. MINETA. Mr. Chairman, I yield myself such time as I may consume.

Mr. MINETA. Mr. Chairman, I rise to express my strong opposition to title II of the bill reported by the Energy and Commerce Committee. Title II would have the effect of transferring jurisdiction over unfair and deceptive practices by airlines from the Department of Transportation to the Federal Trade Commission. The effect of this change would be to give the Committee on Energy and Commerce jurisdiction over an important area of civil aviation. This would reverse the decision which was made in 1974 to transfer jurisdiction over civil aviation from the Committee on Energy and Commerce to the Committee on Public Works and Transportation.

This proposal for a change in jurisdiction over airline advertising is based on the widespread public concern over the recent deterioration in airline service. The Committee on Public Works and Transportation shares this concern. We have been working all year on legislation to deal with the problem and the House within the last week passed two major bills reported by our committee to improve airline service.

Last week the House, by a unanimous vote of 396 to 0, passed our bill to reauthorize the airport and airway trust fund. This bill will make $28 billion available over 5 years to modernize the air traffic control system and improve our airports. With this increased capacity, there should be reductions in the delays and missed connections which have plagued the airlines in recent years.

Earlier this week, the House passed, by voice vote, our committee's consumer protection legislation for airline passengers. This legislation takes a variety of steps to improve airline service, including: Monthly reports on airline service; a prohibition on the cancellation of scheduled flights for any reason other than safety; compensation to passengers for lost or delayed baggage; a requirement that the Department of Transportation establish and enforce capacity limits at the Nation's 41 largest airports; a requirement that the Department of Transportation establish and enforce performance standards for connections at airline hubs; and a requirement that the airlines and the Department of Transportation establish toll-free telephone lines for consumer complaints.

I strongly believe that these two bills will go a long way toward improving airline service. We are committed to continued oversight and to further legislation if it is required. I strongly believe that this type of legislation is the best way to improve airline service. Service will not be improved by legislation which brings new committees into the act and which creates undesirable and unecessary splits in authority between executive branch agencies.

Turning to the merits of the Energy and Commerce bill, there is no reason to believe that the Federal Trade Commission would do an effective job in regulating airline advertising and deceptive practices. The FTC has not been fulfilling its responsibilities to regulate advertising and deceptive practices in other industries. As is detailed in our committee report, FTC inaction has been widely criticized by a variety of persons, including State consumer protection officials, and representatives of consumer groups. Similar sentiments have been expressed by our colleague Congressman FLORIO, chairman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce. Congressman FLORIO stated in an Extension of Remarks on February 5, 1986, that:

> One of the saddest aspects of the Washington scene in recent years has been the failure of Federal agencies to enforce the law . . . A good example of this is the backlash arising from the Federal Trade Commission's relaxed approach to advertising abuses. State and private litigants have moved into the enforcement void because the enforcement breakdown in Washington cannot and will not quell the public's demand for action to restrict abuse.

Since the FTC has not been fulfilling its responsibilities for other industries, the agency cannot be expected to vigorously regulate airline advertising. Indeed, a recent press release indicates that FTC has already made up its mind that there is no need for strong regulation of airline advertising. In the release FTC is quoted as opposing airline advertising guidelines proposed by the National Association of Attorneys General, on the grounds that "The proposed guidelines would * * * bury consumers in disclosure." These comments suggest that FTC would be less than vigorous in regulating airline advertising.

Even if FTC would regulate airline advertising effectively, it would be impractical to give FTC this authority. The Department of Transportation authority's over consumer deception is only one part of a comprehensive regulatory scheme for aviation administered by the Department. This system cannot be divided without impairing its overall effectiveness.

For example, when DOT regulates airline advertising, DOT must be certain that the regulations do not adversely affect safety for which DOT is also responsible. If DOT establishes rules requiring airlines to meet their advertised schedule times, DOT must be certain that these regulations do not place undue pressure on the airlines to operate flights in unsafe conditions.

Similarly, DOT's regulation of advertising for airline charters is part of a comprehensive regulatory scheme under which DOT also regulates the authority of charter operators to change itineraries, the rights of passengers to obtain refunds, and the obligation of charter operators to maintain escrow accounts and performance bonds to ensure that sufficient funds are available for refunds. Advertising cannot be separated out of this regulatory system without creating confusion and less protection for consumers.

The need to have a single agency regulate all aspects of aviation has been fully recognized by the Office of Management and Budget and the Department of Transportation. On October 5, OMB issued a statement of policy that it would recommend a veto of H.R. 2897 unless it was amended to delete title II. In OMB's words, title II "would inappropriately fragment regulation of air carriers' advertising and consumer protection between the Department of Transportation and the FTC." The Department of Transportation has taken a similar position in a letter of October 6 opposing H.R. 2897.

The problem of fragmented responsibility was the main reason the Congress decided in the Civil Aeronautics Board Sunset Act of 1984 that authority over unfair and deceptive practices should be exercised by the Department of Transportation rather than a Federal Trade Commission.

In conclusion, Mr. Chairman, the bill reported by the Committee on Energy and Commerce would make major changes in a comprehensive regulatory system which Congress specifically refused to change only 3 years ago. Because the Energy and Commerce Committee bill would make major changes in the regulatory system governing civil aviation, the bill was sequentially referred to the Committee on Public Works and Transportation. We reported the bill with an amendment to delete title II, the title transferring jurisdicition over airline advertising and deceptive practices from DOT to FTC. When the bill is open for amendment, I will be offering an amendment to support the recommendations of the Committee on Public Works and Transportation to delete title II from the bill.

□ 1130

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, since 1974 the committees were reorganized and since that time, Congress has seen fit to keep the jurisdiction of airline consumer protection issues and airline safety issues within the Committee on Public Works and Transportation.

There is no compelling reason to make a change at this time. In fact, the Subcommittee on Aviation of the Committee on Public Works and Transportation has done a remarkable job. They have been very responsive and responsible to the concerns of the riding public.

They have quickly and effectively responded to their concerns. We have passed several consumer protection and airline safety issues, and certainly there is no reason to assume that they will not continue to address this very important issue effectively as they have in the past.

I support the motion to strike the language that would transfer authority over advertising and deceptive practices from the DOT to the FTC. There is simply no good reason to make this change. The facts do not justify the change.

There is no evidence that the FTC will do a better job. It is highly possible that they will not be as effective as DOT. Scattering authority over aviation issues into several agencies is not the best way to manage a very complicated process.

The DOT is not a perfect organization; but nevertheless, it is not in the best interest to take jurisdiction from them and force a marriage with another agency that simply would not work.

I strongly urge the Members to support the motion to strike and to keep the jurisdictional lines as they are now existing.

Mr. MINETA. Mr. Chairman, I have no other requests for time, and I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LIGHTFOOT], a member of the committee.

Mr. LIGHTFOOT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to express my objection to H.R. 2897 because of my concern over title II, which splits the jurisdiction over airline consumer protection issues between the Department of Transportation [DOT]—where sole authority now rests—and the Federal Trade Commission.

I can understand the concerns of the authors of this bill with regard to deceptive advertising. However, I believe the approach this bill takes is neither the most appropriate nor the most effective way of dealing with the problems we face in this area.

The primary problem with splitting up this authority is that regulation of deceptive advertising is only one component of a comprehensive regulatory process for the commercial airlines. The airline industry is unique in that it is a safety-critical industry. Almost any airline consumer problem—including the cancellation of advertised flights—is either directly or indirectly related to safety. We must keep in mind that the Department of Transportation, in regulating unfair and deceptive advertising practices, must have as its primary consideration the relationship between airline advertising practices and aviation safety. A forceful approach by the DOT can create pressures for airlines to not go ahead with flights that should have been stopped for safety reasons.

Mr. Chairman, because of our heightened concern over airline consumer protection issues, we appear in this bill to be frantically grasping for a way to address the problems. However, we simply cannot start distributing the various components of airline regulation around to the various Federal agencies that might conceivably have a role in it. The result will be a disjointed approach with no sense of direction, leaving us worse off than we already are.

The Department of Transportation, and before it the Civil Aeronautics Board, has already ruled that it is deceptive advertising for an airline to fail to operate scheduled service offered through published schedules and advertising, which violates section 411 of the Federal Aviation Act. Also, the DOT already addresses deceptive advertising cases on a case-by-case basis which has worked relatively well up to this point. If we need to increase our efforts in this area, I suggest we work with the DOT and provide it with the resources it needs to enable it to better address deceptive advertising problems without sacrificing safety in the process. I therefore urge my colleagues to support the Mineta amendment to H.R. 2897, because this very definitely is a safety issue, and the DOT is the one agency that has the expertise to handle it properly.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. INHOFE], a member of the committee.

Mr. INHOFE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong opposition to title II of this bill, and I urge my colleagues' support for Chairman MINETA's amendment to strike this title.

Regulatory authority over airline advertising and deceptive acts is tied closely to safety issues and should remain within the same agency; namely, the Department of Transportation. The Energy and Commerce Committee's proposal to transfer regulation of unfair or deceptive acts to the Federal Trade Commission would result in fragmentation, confusion, and harm to airline passengers. It would also be a direct contradiction of earlier congressional judgments that all matters dealing with aviation should rest within one agency and one committee.

In fact, what has not been brought out during the course of this discussion is that there is a movement to even make it more specialized and maybe put it in an agency all of its own, and certainly a movement in the other direction is not a wise thing.

Besides the potential negative impact on safety and passenger interests, we must consider whether this shift in jurisdiction would even be effective in achieving its sponsors' stated goals.

DOT is capable and experienced in dealing with the airlines. It just needed to be prodded to take action, which the Public Works and Transportation Committee has done.

The FTC, on the other hand, has no experience in dealing with the airlines or the safety considerations that affect their actions.

The gentleman from California [Mr. MINETA] was right, but perhaps the gentleman was a little bit too charitable. In fact, the Committee on Energy and Commerce has been very critical of the FTC's effectiveness in regulating the advertising currently within its jurisdiction, so it is hard to see why they would want to pile more on their plate.

There is a lot of frustration out there with airline service and restrictions on low-fare tickets. Some of the most frequent flyers are right here in Congress, and we certainly don't like to be inconvenienced. The Public Works and Transportation Committee took action to address these concerns when we reported out and then passed H.R. 3051, the Airline Passenger Protection Act of 1987, which requires the airlines and DOT to step up effort to address passenger concerns.

Given the current situation and past history, I find it hard to believe that the true intent of title II is to improve regulation of airline advertising. FTC actions and statements don't give any indication that that would be the result.

As a result, the only conclusion that I can draw is that this is an effort by the Energy and Commerce Committee to gain jurisdiction over the airlines, thereby impinging on the jurisdiction of the Public Works and Transportation Committee. The last subsection of title II clearly supports this conclusion when it directs the FTC and the Secretary of Transportation to reach an understanding on the FTC's role and submit that understanding to the Committee on Energy and Commerce.

Title II of the FTC bill is an obvious jurisdictional grab by the Energy and Commerce Committee. It is unwarranted and unwise, and it should be deleted.

□ 1145

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I thank the gentleman from Arkansas for yielding time to me, and I rise in strong support of the amendment offered today to strike title II from the Federal Trade Commission [FTC] reauthorization bill.

I can understand Members' frustrations with the problems now plaguing the air travel industry. This is one of those issues that has been brought to our attention not only by those we represent, but also by our firsthand experiences as frequent flyers.

I do not doubt the good intentions of my colleagues on the Energy and Commerce Committee in seeking stepped up Federal monitoring of unfair and deceptive practices by the airlines. Nonetheless, I oppose the manner in which they seek to address this issue. Creating concurrent jurisdiction between the FTC and the Department of Transportation [DOT] over airline advertising and deceptive practices would only cause jurisdictional confusion. Simply adding additional bureaucratic involvement in consumer protection does not guarantee more effective enforcement of airline abuses. I envision the two agencies exerting more effort monitoring the regulatory actions of each other, instead of the industry.

In my limited experience as a member of the Committee on Public Works and Transportation, I have been convinced that the regulation of air travel is inextricably linked to safety. The Federal Aviation Act specifically charges DOT to consider "the assignment and maintenance of safety as the highest priority in air commerce." If, for instance, an airline cancels a flight, DOT first determines the reason. Was the flight canceled because the plane or conditions were not travel worthy, or because there were too few passengers to make the run profitable for the airline? The latter reason constitutes the basis for a deceptive advertising practice. The language in this bill transfers authority over deceptive advertising to the FTC, while leaving DOT with sole authority over issues related to airline safety. How will the two agencies communicate over single instances like the one I just related?

The bill is also worded in such a way that FTC authority could be interpreted to cover other aspects of airline operations such as flight scheduling, giving them the ability to prescribe punitive action against an airline for failing to meet a published departure or arrival time. With the threat of sanctions the FTC may provide airlines the incentive to operate on schedule even though it may not be safe to do so.

Just this week this body approved H.R. 3051, put forth by the Committee on Public Works and Transportation in response to public concern over the deterioration of airline service. Among other things, the bill would require that air carrier advertising disclose all restrictions associated with a discount fare. It would also address the problems of unrealistic flight scheduling and cancellation of flights for reasons other than safety. This legislation is the proper means by which to beef up enforcement of unfair and deceptive practices by the airlines.

The administration opposes the transfer of any authority over aviation from DOT to the FTC. I urge you to do the same, and vote in favor of striking title II.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. SUNDQUIST], a member of the committee.

Mr. SUNDQUIST. Mr. Chairman, I rise in strong opposition to title II of this bill and I support the amendment that would strike title II.

The attempt of the Energy and Commerce Committee to transfer authority on airline advertising, I think, is an unwise and unsafe decision.

This body just made great progress in ensuring safe and reliable air transportation by passing H.R. 3051 on Monday. It would be a great contradiction now to transfer the authority we mandated on Monday to an entirely different agency of the Federal Government.

We made very important progress on Monday to strengthen and improve our Nation's air transport system. Supporting this amendment to strike the transfer language will keep that progress intact. I submit to my colleagues that you cannot have supported H.R. 3051 and now vote against the Mineta amendment that would strike this section. It would be a direct contradiction.

By transferring authority for airline advertising and deceptive practices, we would be creating fragmented and additional bureaucracy. It is a proven fact that fragmentation within the Federal Government leads to ineffectiveness. We cannot risk losing any additional effectiveness in air safety. Clearly, the FTC is not equipped to handle the safety questions of aviation.

There is no reason to accept the transfer proposed by Energy and Commerce. There is no evidence to suggest DOT is not doing a proper job in this area, and there is no evidence to prove that FTC is better equipped or better able to handle this important safety policy issue, and there is evidence to suggest that the FTC is not always doing the best job in the areas that they are already handling.

Mr. Chairman, I encourage my colleagues who supported the Airline Passenger Protection Act to remain consistent. And I encourage all my colleagues to ensure safety in air travel by supporting the amendment to strike title II.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER], a member of the committee.

Mr. CLINGER. Mr. Chairman, I also rise in strong support of the amendment.

Mr. Chairman, the debate about Federal enforcement against deceptive airline advertising should not focus so much on which Federal agency can do a better job. Rather, we should look at the broader picture of the resources we in Congress provide the executive branch to police unfair and deceptive advertising practices.

The bill under consideration proposes shifting Federal responsibility for regulating airline advertising, suggesting that the Federal Government's regulation of advertising has not been effective. I agree with that assumption, and I feel certain most Members would agree as well.

But in seeking a solution, I believe that we, as policymakers, are taking the wrong path by parceling enforcement powers among two distinct Federal entities. The proper step, in my opinion, is to keep the enforcement authority consolidated within one agency, as it is now, and give that agency greater resources to carry out its mission.

Earlier this week the House passed H.R. 3051 under suspensions. This bill imposes new reporting requirements on air carriers and gives the Department of Transportation new regulatory and penalty authorities that will largely focus on the very same issues being addressed in title II of this bill.

H.R. 3051 requires carriers to make available its on-time performance record, frequency of flight cancellations, and it provides airline passengers recourse in the event of bumping, delayed flights, and lost baggage. It also addresses abuses now prevalent in the computer reservation industry. The reporting provisions in this bill are not optional; airlines are required to make this information available in a timely manner. Should they fail to do so, or should they falsify their performance, they can face a penalty of up to $10,000.

I have no doubt that once the provisions of this bill are fully implemented we'll see a tremendous reduction in the degree of misleading advertising practiced today.

Indeed, once fully implemented, H.R. 3051 should have the effect of negating any need for overt Federal policing of advertising policies. Why? Because for the first time, airlines will be required to make public their performance statistics. For the first time, consumers can make an educated choice about which carrier to use. The lure of empty promises so popular today will be diminished in the face of actual performance.

Carriers can still post all the glittery, eye-catching ads they choose, but they cannot avoid publishing their actual performance data as well.

In the face of this legislation, it is my fear that H.R. 2897—despite its obvious good intentions—will work to undermine these improvements. H.R. 2897 will begin the bureaucratic nightmare of forcing one agency to negotiate away a portion of its enforcement authority to another Federal agency. Does anyone honestly think such a scheme will foster real improvements? I think not.

In my opinion, neither the Department of Transportation nor the Federal Trade Commission are effective consumer enforcement agencies. Whether you agree or not, I do believe you'll agree that dividing a common industry abuse between them will not work to anyone's advantage, except, perhaps, to the advantage of the industry we're trying to police.

If you sincerely wish to curtail deceptive advertising practices, support the Mineta amendment. To do otherwise only creates mayhem among the agencies, confusion among the consumers, and comfort among the carriers.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, at the appropriate time I will vote in favor of the Public Works and Transportation Committee amendment to strike the language in this bill that transfers authority over airline advertising and deceptive practices to the FTC.

The plan to transfer authority is not in the best interests of airline passengers.

To begin with, I have seen no convincing evidence to lead me to the conclusion that the FTC is in any way better equipped than DOT to deal with deceptive advertising practices on the part of the airlines. If anything, transferring authority to the FTC will only add another layer of bureaucracy to an already elaborate process.

Also, we just passed a bill that will adequately address these problems, and DOT has already moved on the problem with a rulemaking of their own. If Congress or DOT had any way displayed indifference toward the airline industry's problems, there might be precedent for granting authority to the FTC. But that just isn't the case.

Some have claimed that the DOT has only 12 employees on staff devoted to airline consumer protection, and that this fact justifies moving authority to FTC.

Well, I did some checking, and it turns out that at the FTC there are only 18 people on staff who handle all deceptive advertising practices in all industries. These people would have to add authority over the airlines to their many other duties.

In addition, the staff at DOT is essentially the old CAB, which was integrated into DOT intact. Together, they represent a tremendous amount of experience in dealing with the airline industry, and they also understand the evolution of the industry.

As a former commercial airline pilot, I can tell you that such expertise helps immeasurably. I don't see any reason to transfer authority from the experts to the amateurs who already have more than enough to keep them busy.

Finally, I am confused by this proposed division of labor because it erroneously simplifies a very complex problem. Deceptive scheduling is only a symptom of the much deeper capacity problem. It is dangerous to isolate a single problem without understanding its function in the big picture. DOT is the agency with the big-picture view, just as the Aviation Subcommittee is the committee with the big-picture view in Congress.

Why open this can of worms when we don't need to. It doesn't make sense. I urge my colleagues to vote in favor of the amendment to strike title II.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. GINGRICH], the ranking member of the Aviation Subcommittee of the Committee on Public Works and Transportation.

Mr. GINGRICH. Mr. Chairman, I just rise to say that I strongly oppose title II of this bill. It strikes me that title II is very well-meaning, that title II reflects accurately the frustration of many people with the process of change we are going through of deregulation and that those who created title II intend only the best for the consumer; however, I think that in their efforts they misunderstand the nature of the problems in the airline industry and they misunderstand the intricacies of the system with which they are meddling.

If all we were concerned about, if all this said was that the Federal Trade

Commission will look at newspaper advertising and the Federal Trade Commission will be concerned only about the accuracy of newspaper advertising, then I would be in favor of title II, but that is not what it says.

This opens up two very serious problems which I think every Member of the House who cares about the efficiency of the Government and every Member of the House who cares about airline safety should look at very carefully.

First of all, it says that if you are an airline and if you are concerned about serving the public, it is no longer going to be enough to either deal with the Department of Transportation or with the Federal Aviation Administration, you also are now going to start dealing with the Federal Trade Commission. The Federal Trade Commission is going to hire a number of people to set up what I assume will be a new branch, the branch making sure that we safeguard aviation consumers. That new branch will end up asking questions. It will have very well-meaning lawyers hired by the FTC who will start saying, "Why did you say this in this particular ad?" Or, "Why did you do this in this particular television commercial?"

□ 1200

Why is there a change, for example, in scheduling? The airline will then begin to explain, and I think this goes to the heart of what is wrong with title II, that scheduling is important in advertising, but it is vital in safety, that if there is a mechanical problem, for example, if there is a safety problem, if the air traffic control system has had a computer malfunction, and everyone who has flown out of National has had the experience often of being told we could not quite leave on time because for 1 hour and 15 minutes the air traffic control system of the United States stopped us from being on schedule. At the present time one agency and only one agency, the Department of Transportation, reviews the entire system which affects the consumer of aviation travel. That agency, the Department of Transportation, looks at how good your mechanics are, they look at how good your airplane is, they look at how safe your operation is, they make sure your pilots are qualified, they ensure that the air traffic control system is running, and that agency in a tradition which I believes goes back to 1930 when the original Civil Aeronautics Board was given authority over advertising as relates to airlines, because this Congress has felt for over half a century that air traffic safety is integral to advertising, and that the same people who make sure we are safe should look at exactly how we travel.

Mr. THOMAS A. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my good friend, the gentleman from Ohio.

Mr. THOMAS A. LUKEN. Mr. Chairman, the gentleman indicated, interesting enough, and I agree with him, that the FTC should have jurisdiction over newspaper advertising, and since newspaper advertising is the principal medium of airline advertising, I think the bill provides, the Energy and Commerce Committee bill, provides within 180 days of enactment of FTC and the Secretary of Transportation shall enter into a written understanding which defines the role of the Commission, I think under our bill we could do exactly what the gentleman suggests.

Mr. GINGRICH. Let me say to the distinguished chairman of the subcommittee he has just made my point. He will find in total volume of dollars spent television advertising is a larger component than newspaper advertising. The gentleman will find that in fact there are all sorts of intricate forms of advertising, including frequent flyer mailings, travel agent arrangements, tour advertising, and the gentleman has just made my point.

If this were a simple issue and what the gentleman just said was accurate, I would have no objection. In fact, technically I think my colleague will find, for example, for a major airline in total volume of advertising dollars, more in spent on television than is spent on newspapers.

Mr. THOMAS A. LUKEN. Will the gentleman yield again briefly?

Mr. GINGRICH. I am glad to yield to the gentleman from Ohio.

Mr. THOMAS A. LUKEN. Whether the gentleman from Georgia is correct or I am correct as to where more of the advertising is, the point is that it leaves it to the agencies to sit down and define it.

Mr. GINGRICH. Apparently I was not clear. If I thought that the Federal Trade Commission could accurately deal with only that component with which the Federal Trade Commission is comfortable and secure and knowledgeable, I would vote for the bill as the gentleman has written it. But as he just made the point in his own testimony, it is more complicated than it looks on the surface.

Let me make this very, very clear. I do not want some airline executive under pressure from some lawyer at the Federal Trade Commission deciding to make a scheduling decision which involves the safety of those passengers because a pair of bureaucrats wrote a faultily written memorandum between the Department of Transportation and the Federal Trade Commission.

We just passed on Monday a very powerful and tough consumer protection bill for aviation travel which most of the airlines do not like, which is much tougher than they wanted. What I am saying to the House is simply for over 50 years those Democrats and Republicans in the Congress have assigned air safety and airline advertising to the same agency because they understand that they are related. And for over 50 years the position has been clear, that if we care about safety we want the Department of Transportation or its predecessor, the Civil Aeronautics Board, to be dealing with this issue. That has been a long-term, consistent behavior since before I was born.

What I am suggesting is that this House on Monday adopted a bill which clearly states that. This House on Monday took very strong measures in the right direction. And for us to do two things that make no sense, first of all to duplicate who is in charge, to add a whole new layer of bureaucracy that the airlines have to deal with, thereby costing the airlines additional moneys; and, second, to split the function so that the most safety related travel industry in America, the only industry where you run a real risk of dying if the government messes up badly enough, it just seems to me this is a very foolish decision, and I would strongly urge my colleagues to vote for the amendment.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to our very fine colleague, the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I rise in strong support of the Mineta amendment which would delete title II of H.R. 2897, the Federal Trade Commission Act Amendments of 1987. The amendment is identical to one unanimously approved by the Public Works and Transportation Committee when this legislation was before that committee and deserves the full support of the House.

As it now stands, title II of the bill would give the Federal Trade Commission concurrent jurisdiction with the Department of Transportation over unfair and deceptive practices by domestic and foreign airlines. I believe that such an arrangement would create a confusing overlap in jurisdiction which would result in less—not more—protection for consumers.

Additionally, the ability of DOT to carry out its other regulatory responsibilities would be impaired in view of the fact that its authority over deceptive acts and practices is an integral part of a complex regulatory system for aviation. Splitting jurisdiction could have a serious impact on aviation safety because the FTC has had no experience in these matters while DOT has the ability to assess both safety and deceptive practices in a unified manner, with safety being of paramount importance.

Like most of us here, I am not satisfied with the manner in which DOT currently administers its responsibilities in these areas. I am extremely concerned about the deterioration of airline service and the blatant abuse of consumers by the airlines. However, I believe that these problems are adequately addressed by legislation which passed the House earlier this week, H.R. 3051. That bill directs DOT to take a variety of steps to ensure protection of consumers. Included are requirements that airline advertising must include disclosures of restrictions on the availability of discount fares and of other restrictions pertaining to fares. The bill also mandates that information on airline performance be available to passengers. Other provisions are designed to reduce flight delays resulting from overscheduling, to address the problem of missed connections at airline hubs, to ensure improved baggage service and to halt the cancellation of flights for economic reasons.

Finally, in view of the fact that the FTC does not adequately carry out its current responsibilities to regulate advertising, I can see no rationale in giving the agency additional responsibilities. Further, the FTC itself took an official position this week, stating that advertising guidelines would inhibit "effective price competition among airlines." The FTC further stated that "DOT already monitors and corrects questionable advertising." Clearly, this is not an agency equipped or willing to handle additional authority.

Again, I strongly support the Mineta amendment and urge its adoption by the House.

Mr. MINETA. Mr. Chairman, I yield 3 minutes to our very fine colleague and a very effective and active member of our Subcommittee on Aviation, the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong opposition to title II of this bill. Many reasons suggest themselves, such as the confusion consumers would suffer, the difficulty in drawing the line between unfair advertising and safety precautions regarding cancelled flights, or the fact that this matter was deliberately transferred to the Department of Transportation at the sunsetting of the Civil Aeronautics Board in 1984 and not to the Federal Trade Commission.

To me, the most persuasive argument is the fact that any efforts the FTC could make would be as an apprentice. It would be on-the-job training as the agency itself is likely to go through a general housecleaning. Mark Silbergeld, director, Washington Office of Consumers Union suggested that the "shortcomings should be the subject of a separate oversight hearing once—the FTC—has been reauthorized." Our colleagues in the other body intend such action at the earliest date.

So we are faced with giving the agency a job to do and then waiting a couple of years until the problems in the agency are identified and ways to deal with them implemented. Then, perhaps, the agency will work on the airline consumer problems.

Why should we waste this time when the House has already approved two major bills designed to address these problems immediately. The reauthorization of the airport and airway trust fund will provide improved facilities and personnel for alleviating airport congestion and flight delays. The Airline Passenger Protection Act requires public disclosure of airline performance, sets penalties for various consumer problems, provides DOT review of airline schedules and yet maintains adequate DOT regulation of vital safety issues.

DOT has this authority and mandate now. Diluting responsibility and accountability for airline consumer problems will only delay solving the problem if, indeed, it doesn't derail our efforts altogether. Even the organizations which support FTC jurisdiction state, "there is a justifiable lack of confidence in the * * * FTC * * *" and suggest that it is "understaffed, underfunded, * * * and not doing its job on anything—especially deceptive advertising."

Vote to delete title II.

The CHAIRMAN. All time for the Committee on Public Works and Transportation has expired.

The gentleman from Kansas [Mr. WHITTAKER] has 22 minutes remaining and the gentleman from Ohio [Mr. THOMAS A. LUKEN] has 17 minutes remaining.

Mr. WHITTAKER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTON], a member of the committee.

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, we are engaged here in a dialog about results. The U.S. public, the American public, the flying public, does not care what executive agency has jurisdiction, they do not care what congressional committee has jurisdiction. They want results. They are confused, they are concerned, they are fed up with the deceptive practices of the airline industry, the deceptive advertising practices and they want something done about it.

There obviously is a problem. Others more eloquent than I will explain that problem. But the fact is there is a problem.

Is the current designee responsible for regulating these deceptive practices doing an adequate job? The answer to that is no, they are not.

Why? First, they have 12 people, 12 people, a dozen. Jesus Christ had 12 disciples, but the folks over at the Department of Transportation are not the original 12 disciples, and they flat cannot do the job.

Second, it is not their main area of responsibility. My distinguished colleague from Georgia, Mr. GINGRICH, talked about since 1930 the Civil Aeronautics Board had been given this responsibility for regulation of all types of things with regard to the airline industry. That is true, but in 1930 rates were regulated. They did not need anybody to review these rates because there was no deceptive advertising because the rates were the same. The fares were the same. Today that is not the case.

Is there a reasonable alternative to the Department of Transportation and the folks in the Department of Transportation who are involved in this area? The answer is yes: The Federal Trade Commission. That is their primary responsibility, reviewing and regulating deceptive advertising practices and things of that sort.

The Department of Transportation itself has agreed that maybe the Federal Trade Commission is the place that needs to do this. The Federal Trade Commission has indicated that they are willing to assume this responsibility. They have adequate resources, they have an existing bureau, which is called the Bureau of Consumer Protection.

If we were to move this requirement into that bureau there would be automatically a 400-percent increase in resources available to deal with the problem of deceptive airline advertising practices.

So when we get to the amendment to delete title II of H.R. 2897, I am going to vote against that amendment. I think the American public wants results. If we keep title II in, the American people have an enhanced probability of getting the results.

So I hope we remember the bottom line is results. Let us vote to keep title II in the bill.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I think it is very important today that the dual jurisdiction argument being presented by members of the Public Works and Transportation Committee be recognized as a grand red herring, which is what it is.

The purpose of H.R. 2897 is to remove an exemption enjoyed by the airlines that is not enjoyed by virtually anyone else in American industry. The fact of the matter is today that the drawing of a line between regulation of safety on the one hand and the regulation of deceptive trade practices on the other hand and advertising on the other hand is a line that is drawn throughout all of American industry.

The Food and Drug Administration regulates safety of food and drugs, but the Federal Trade Commission regulates trade practices and advertising. The Consumer Product Safety Commission regulates consumer product safety, but the Federal Trade Commission regulates trade practices and advertising. The National Highway Traffic Safety Administration regulates auto safety, but the Federal Trade Commission regulates trade practices and advertising.

And the Bureau of Alcohol, Tobacco and Fire Arms regulates safety with regard to those products, yet the FTC regulates trade practices and advertising.

Under H.R. 2897, we would simply remove the exemption that the airline industry enjoyed while it was regulated as it no longer is and begin to treat it like we treat every other industry in America today.

The fact is that we should not be confused today by this dual jurisdiction argument. It simply does not hold water. The committee bill would remove an exemption enjoyed only by the airline industry and it also would specifically direct the FTC to issue a rule requiring a full conspicuous and understandable disclosure of limitations they may place on the availability of fares. Even if the Department of Transportation had the rule to regulate in this area, which it has demonstrated that it does not have, it does not have the capacity to do so. The Federal Trade Commission does have that capacity. It is time for us to give it to them in order to protect the consumers on the services that are sold by the airlines today.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Chairman, I urge support for H.R. 2897 to reauthorize the Federal Trade Commission, the Federal agency with basic responsibility for consumer protection.

First, I want to join the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the subcommittee chairman, Mr. THOMAS A. LUKEN, in support of the provisions of this bill that would give the Federal Trade Commission the authority to prevent airlines from using unfair or deceptive practices. The bill would require the FTC to define unfair or deceptive practices in airline advertising and would prohibit advertising that does not include a full, conspicuous, and understandable disclosure of the limitations applicable to the availability of tickets, fares or other aspects of service.

In recent years, complaints about airline scheduling, ticketing, advertising, and performance have proliferated. Hearings before the Subcommittee on Transportation brought out the widespread inconvenience among the public. Our committee heard stories of overbooking, failure to compensate for last-minute bumping or cancellations, and simple, bald bait-and-switch advertising where super-cut-rate fares are widely promoted, but when the consumers try to buy a ticket they find limited seats and all kinds of exclusive restrictions tied to the cheap fare.

We all welcome stiff competition in the airline industry and are pleased that under deregulation, some fares have been reduced. The bill before us today does not prohibit airlines from offering deals. What it requires is full, fair, and open advertising of terms and conditions of fares.

Under current law, the airline industry is specifically exempted from FTC consumer protection activities. These functions were transferred to the Department of Transportation under the airline deregulation law, but when it comes to advertising, the DOT has done virtually nothing.

The Federal Trade Commission is the Federal agency with a background and mission to protect consumers from misleading advertising. Misleading advertising is not the fundamental concern of the Department of Transportation. We have afforded consumers protection by the FTC in everything from used cars to funerals. There is no reason airline transactions should not be treated the same.

Second, I want to underscore the provision directing the Federal Trade Commission to conduct a study of unfair and deceptive practices in the life-care industry.

This is a provision I have been particularly concerned with. By incorporating specific language in the Federal Trade Commission authorization bill, the committee gives specific direction to the FTC to examine an area where attention is long overdue—housing and health care for the elderly. The bill before us recognizes that the purchase of health care and housing by the elderly is one of great and unique magnitude.

Life care, also known as continuing care, is a contractual arrangement under which a person usually pays an entry fee—on average $40,000—and a monthly' fee—$300 to $1,200—in exchange for living quarters, health care, and other services for the duration of one's life. In a life-care community, residents receive housing, meals, services such as cleaning, recreation, and health care, including nursing home care. For those who can afford it, it offers a very comforting living arrangement for one's "golden years."

NEED FOR STUDY

The committee decided that a study is warranted for several reasons. The individuals involved are probably the most vulnerable in our society. They are purchasing very expensive services at a time when they are very eager to provide for their needs and are perhaps easily convinced. In some cases, they have to move quickly. Additionally, they literally do not have the time to resort to judicial relief—usually a lengthy process—if abused.

The life-care transaction is unique because of both the nature and the magnitude of the transaction: People give all to get all and many put their entire lifetime resources into their contract, trusting that they will be cared for for life. They literally play "you bet your life."

Because of the size of the transaction, the potential for misunderstanding and risk are great. Live-care proprietors control large sums of money and can have as much as $7 to $12 million on hand before opening the facility. Since estimating life expectancy, turnover, and health care costs is difficult, financial projections often do not match reality. As a result, residents can be left in very vulnerable positions—with little security, insurance or equity, if financial difficulties occur.

In my view, Congress, by adopting these provisions, can take an important step in helping to direct the Commission into an area of critical importance to individuals and to our society. Given the human dimension of the problem and the vulnerability of the individuals involved, this area may represent the ultimate need for consumer protection. I hope the House and Senate will agree to these provisions and that the President will not hesitate to give his support.

I urge my colleague to support the reauthorization of the Federal Trade Commission.

Mr. WHITTAKER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. I thank the gentleman for yielding.

I would just like to repeat a point that was just made by the gentleman from Texas [Mr. BRYANT]. I am sure there are a lot of Members watching or listening to this debate that think this is nothing more than a turf battle between Energy and Commerce and Public Works. "Here is Energy and Commerce which already has a considerable amount of jurisdiction trying to grab another piece."

As Mr. BRYANT said, and I think said very well, this is not a jurisdictional battle. Members should decide on the merits how they are going to vote on this matter. But it is not a jurisdictional battle between the two committees. Let me explain why it is not.

The Energy and Commerce Committee has jurisdiction over consumer protection, and has had for a long time. That jurisdiction includes jurisdiction over the FTC and, naturally, advertising. The Public Works Committee has jurisdiction over aviation matters.

Therefore, bills that concern airline advertising have in the past and are presently jointly referred to both committees. In fact, title II, the portion of the bill that we are talking about now, was introduced originally by Congressman BILIRAKIS and Congressmen WYDEN and LUKEN as H.R. 3415. That bill was jointly referred to both committees; Energy and Commerce and Public Works. If that bill were enacted, both committees would retain jurisdiction over airline advertising.

Thus, what we are looking at here is not a battle of one committee stealing another committee's jurisdiction. We are simply saying there is an agency in the Federal Government that has been set up to deal with advertising.

When it comes to airline advertising, that agency has the expertise to look at the questions that need to be decided, to promulgate the rules and the regulations, to have authority over that practice of the industry. It does in almost every other instance, whether you are talking about automobiles, drugs or other items that the Federal Government has jurisdiction over or deals with. Why not let it have it over advertising?

So we are not taking jurisdiction away from one committee. We are simply saying that there is another agency of the Government that has that as its function and let us give it that authority to go ahead and regulate that as it does the others.

So, fine, look at it from the merits, do not let this come to a jurisdictional matter between the two committees because that is not what it is.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, title II provides some real protection to airline consumers and consumers want us to do something on fares, fare availability and on-time performance.

We have to do something about the airline scandalous advertising. How many times have we seen that ad, "Go coast to coast for $33"? But if you check the fine print you have to do it at 3 a.m. on February 30.

This bill requires full, conspicuous and understandable disclosure. Since the sunset of the Civil Aeronautics Board, the Department of Transportation was supposed to take care of airline advertising.

DOT's stated position is that consumer protection is not among its significant functions. It has filed to promulgate any advertising rules. Its enforcement record on consumer protection in general is abysmal, if not totally nonexistent.

Some statistics: From January to August of 1987, the Department of Transportation received 19,410 airline consumer complaints, 52 percent more than in all of 1986.

Now this did not include complaints sent to airlines directly. A survey of five carriers revealed 275,358 total complaints, nearly 11,000 of those in the area of restrictions and fare availability alone.

What this legislation does is the following: It gives the Federal Trade Commission an opportunity to do something about what the public wants done and that is eliminate some of this scandalous, and I say scandalous airline advertising. It cannot get any worse than it is right now. The Department of Transportation is not doing the job. And the reason we are here is not a turf battle, it is because consumers have been complaining to our offices, to the airlines and the time has come to act.

Mr. WHITTAKER. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. I thank the gentleman for yielding.

I want to reflect what a few other members of the committee have said, that we are not talking about jurisdiction. What we indeed should be talking about is what is good for the consumer of this country or what is not good for the consumer of this country. A lot of people will tell you that the Airline Passenger Protection Act that we just passed, H.R. 3051, was a cure-all, that this is going to take care of it.

Let me make five points: First of all, H.R. 3051 does nothing more in section 1706 than endorse the airlines' present advertising practices.

H.R. 3051 does not acknowledge that the Federal Trade Commission is the institution that has historically protected the public from unfair, deceptive, and fraudulent advertising.

H.R. 3051 does not acknowledge the fact that the Department of Transportation Office of Intergovernmental Affairs and Consumer Affairs has only 12 people, only 12 people who have full-time duties to review these complaints.

H.R. 3051 does not acknowledge that the FTC, whose whole involvement is in protection of the consumer, has over 500 people to do this very thing. H.R. 3051 does not acknowledge that the DOT is a facilitator for complaints, not a watchdog as would be the case for the FTC.

I think we are moving in the right direction on this, for the consumers of this country and I think we ought to support the consumers of this country and allow the FTC to take control of this very important issue.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. I thank the gentleman for yielding time to me.

Mr. Chairman, I wish to commend the chairman and my other colleagues on the Energy and Commerce Committee for the work they have done in bringing the FTC reauthorization bill, H.R. 2897, to the floor. As in recent past Congresses, the reauthorization bill represents a bipartisan consensus which avoids the extreme proposals that have sometimes stalled efforts to reauthorize the FTC.

The FTC is an important agency with responsibility for ensuring both a free marketplace and a fair marketplace. When the FTC is not willing or is not able to do its job, the public is harmed by higher prices and unfair and deceptive advertising practices. Long ago, business leaders as well as consumers recognized that economic progress and public accountability go together.

That is why I am particularly pleased that, with this bill, the House once again rejects some of the extreme proposals to cripple consumer protection which have been suggested over the years. I have in mind, in particular, the proposal, rejected by the bill, to exempt unfair advertising from the Commission's authority to issue industrywide rules.

I know that many Members here today are sensitive to public concern regarding advertising of products that could be harmful, particularly when such promotion is targeted at young people. With its authority to address unfair practices, the FTC is better able to address this problem.

I believe that many in the business community itself realize that an exemption for unfair advertising would provide only an illusory benefit. Without the FTC, we would simply have the same issues more frequently politicized in the legislative arena.

So I commend my colleagues for taking this step, by reauthorizing the FTC, to revitalize the Commission.

As we seek to prevent inflation from reigniting, this is no time to weaken the check of competition on prices.

When we are facing increasingly fierce competition abroad and an influx of quality foreign made products at home, this is no time to weaken the impulse of free enterprise to innovate and improve quality. No time to weaken protections against unfair and deceptive practices. On the contrary, we should reassure the American consumer that the FTC will continue to help the consumer make every dollar count.

For all of these reasons, H.R. 2897 is an important bill, and I commend my colleagues for their success in bringing this balanced, consensus bill before the House.

I would like to speak in support of title II of H.R. 2897, which would return jurisdiction to the Federal Trade Commission over consumer protection for air travelers. In terminating the exclusion of the FTC from this field, we would not disturb the appropriate jurisdiction of the Department of Transportation. We would simply remove the legal barrier to FTC action.

The failure of DOT to address the avalanche of air traveler consumer complaints has become a national scandal. Title II of the bill deals in particular with such areas of frequent consumer concern as failure to disclose limitations on the availability of discount fares or the on-time performance of advertised flights.

Probably few people are surprised by the collapse of consumer protection for air travelers. In recent years, agency after agency of the Federal Government has neglected the rights of consumers. From food safety, to highway safety, to air travel, the story has been the same. Public tolerance for this breakdown in law enforcement is at an end, and Congress has been forced to enact more and more specific and more mandatory consumer protection legislation.

Mandating FTC action to deal with airline advertising is particularly appropriate because advertising is a key area of FTC expertise and responsibility. The Department of Transportation has itself suggested that the FTC would perhaps be better able to protect consumers in its field of expertise.

Public opinion in America long ago concluded that the only free marketplace worthy of the name is a fair marketplace. By not only restoring FTC jurisdiction over air travel, but requiring action to protect consumers, title II of the bill can help restore the protection for consumers that the law and public opinion demand.

Mr. WHITTAKER. Mr. Chairman, to conclude debate, I yield 12 minutes to the gentleman from Florida [Mr. BILIRAKIS], who coauthored the title II amendment.

Mr. BILIRAKIS. Mr. Chairman, H.R. 2897 was developed in a thoughtful, constructive manner and I wish to commend Chairman LUKEN for his hard work and fairness. However, I regret to say that this bill comes to this floor under a cloud. This cloud has been created because of the truth-in-airline advertising language which has been talked about here this morning and which I introduced in committee to protect the consumers of this country against unfair, deceptive, and fraudulent advertising practices of the airlines.

Instead of judging title II on its merits, we are seeing an all-out attack against this consumer protection provision.

The Committee on Energy and Commerce has been accused of thievery and it has been said that passage of title II will have a serious adverse affect on aviation safety.

Mr. Chairman, I am appalled. As the junior Member of this body, I have had a real education in the last few weeks. That education is continuing today as some of us concern ourselves more with turf protection than with protection of the consumer.

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The public already is afraid to fly because of reported near misses, landings at wrong airports, and other alarming news.

However they are being frightened even more by Members of this body who are purporting that passage of legislation to stop deceptive airline advertising will endanger their safety on airplanes.

As elected representatives of the people we have a responsibility to protect the public, not to give rise to unreasonable fears. Let's look at the reasons why I introduced this language.

As we look at the airline ads it's easy to see why we need the FTC to monitor airline advertising. It's plain and simple. The ads with all of their asterisks and crosses and fine print cannot be understood. They say you can buy a ticket at a certain price, yet in the smallest print possible there are confusing restrictions, disclaimers, and rate changes.

But, Mr. Chairman, even if you could understand the restrictions, the fact is that you wouldn't be able to purchase the advertised ticket—because, more often than not, it doesn't exist. This was clearly brought home when a member of my committee, the gentleman from Minnesota [Mr. SIKORSKI] tried, during a hearing, to purchase a ticket that had just been advertised. It simply wasn't available on any day or at any time. However, he sure could have bought a more expensive one, I would wager.

This is nothing more than bait and switch. It is clearly illegal and unethical. If you want to talk about thievery, this fits right in that category. The public's trust is being stolen through deception and outright lies.

If you've watched any television airline ads lately, you've seen even worse. You'll see an ad for some attractive vacation destination with the price of the ticket on the screen and a gorgeous beach in the background. You have plenty of time to take in this imagery. Yet you have only a second or two to digest all of the restrictions on that airline fare as it rolls by on the screen at a rapid rate.

Is this fair or is it deceptive and unfair? It is unfair and deceptive because there is virtually no chance you can buy that particular ticket. Mr. Chairman, you should be able to buy what is advertised, and this simply is not the case with advertised airline tickets.

Travel agents have told me that these airline ads do nothing but cause them trouble and build ill will when a customer calls for one of the special fares and has to be told it simply is not available. Travel agents want this legislation and the American Society of Travel Agents has endorsed this bill. Truth in advertising will certainly make their lives easier.

Let us go now into the substance of title II that is being attacked by some people here on this floor this afternoon. Title II would merely authorize the Federal Trade Commission to regulate unfair and deceptive airline practices including the regulation of airline advertising. It requires the FTC to promulgate a rule, within 180 days, that defines any airline ad that does not include a full, conspicuous, and understandable disclosure of the limitation or other restrictions applicable to the availability of discount fares. The FTC must also require advertising which advertises a flight between two points to include the average on-time performance of the flights between such points.

The bill establishes concurrent jurisdiction between the DOT and the FTC over these practices. It does not revoke DOT's current authority; but rather, requires the two agencies to enter into a memorandum of understanding identifying which agency will be responsible for different consumer protection issues. This dual jurisdiction is not unusual as evidenced by the Bureau of Alcohol, Tobacco and Firearms, the Food and Drug Administration, et cetera, which share jurisdiction with the FTC. Under the language in H.R. 2897, the DOT will continue to regulate such issues as smoking areas on planes and lost baggage, safety measures—in fact, all airlines matters with exception of advertising and deceptive practices which will be regulated by both on a concurrent basis.

In order to ensure that the FTC moves expeditiously, they must promulgate a rule within 180 days. There is no flexibility in this. They will be forced to move rather than undergoing an investigation that could last for years. We know what the problem is so the task is simple. I believe it is vital to the consumers of America that something as important as advertising and other deceptive airline practices be monitored by an agency that has sufficient personnel and expertise in these areas.

Mr. Chairman, the Federal Trade Commission is the Federal Government's consumer protection agency. It is literally the only consumers' protection agency. The Department of

Transportation is a transportation agency. The Bureau of Consumer Protection within the FTC, with 75 years of experience—I repeat, 75 years of experience solely in this area—has the staff, as was mentioned earlier, better than 500 personnel including attorneys, economists, consumers' affairs specialists, and they have 10 regional offices. DOT, on the other hand, as was responded to us in a query to the DOT, has 12 staff devoted to consumer issues plus 9 attorneys who devote about a third of their time to aviation consumer issues.

Furthermore, it is obvious that something is right about title II since it has received the endorsement of the Consumers Union and the Consumer Federation of America, both of which are watchdogs for American Consumers.

Additionally, let me quote from a letter I received from the Florida attorney general, Bob Butterworth. It is dated September 14, 1987:

> The real subject of my letter is the amendment introduced by you, transferring authority to regulate air carrier advertising from the Department of Transportation to the FTC. The absence of effective Federal regulation in this area has prompted increased interest by State authorities to engage in regulating air carrier advertising. There are obvious disadvantages to State regulation, including increased litigation over jurisdiction preemption and choice of law issue. The present regulatory scheme does not effectively protect the public, however, and therefore invites piecemeal State regulation. A better solution for all concerned is to enable the FTC to adopt uniform nationwide rules on advertising. Accordingly, I urge support for H.R. 2897.

Mr. Chairman, it is hard to argue with Attorney General Butterworth's reasoning. It's plain and simple: the DOT hasn't been doing a very good job of protecting consumers, and it's time to admit that a mistake was made when the sunset of the CAB occurred and the FTC was denied its historical function of overseeing advertising and consumer issues as they relate to the airline industry.

Mr. Chairman, I might add at this point in time that I would like to quote from the Federal Register dated June 10, 1987. This is an article by the Department of Transportation, and it reads:

> Through section 5 of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) the FTC has consumer protection authority over most industries. This authority does not extend to air carriers and foreign air carriers subject to the Act, but otherwise is virtually identical to the Department's consumer responsibilities under section 411. It may be advisable to seek legislation that would extend the FTC's jurisdiction to cover airlines, and thereby give that agency concurrent consumer jurisdiction with the Department. At the time of the CAB sunset, the Department took the position that the FTC was the appropriate agency to have responsibility for consumer protection. This alternative would have the advantage of enabling the FTC to apply its consumer protection expertise to the aviation industry.

Mr. Chairman, I urge all of my colleagues to support H.R. 2897 as reported. Let us move forward in protecting consumers.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. BILIRAKIS. Mr. Chairman, I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I thank the gentleman from Florida for yielding. I just want to support what the gentleman has said and commend him for his leadership in handling this particular part of the Federal Trade Commission reauthorization legislation.

There were two things that were said by one of the other speakers earlier that I think needs clarification.

The gentleman correctly pointed out that there were only 12 lawyers down at the Department of Transportation.

Mr. BILIRAKIS. Mr. Chairman, if I may, there are 12 staff, and nine lawyers, one-third of their time being devoted to these matters.

Mr. LENT. Mr. Chairman, I thank the gentleman. This is not a question of jurisdiction. The FTC is better equipped by reason of experience and staff to regulate unfair and deceptive advertising practices by the airlines. I would just point out that we have checked with the Federal Trade Commission. They have a total of 1,014 employees down at the Federal Trade Commission, approximately 400 of whom are assigned to the Bureau of Consumer Protection, and of those 400, 150 are attorneys. Also, someone I think indicated that the Federal Trade Commission was too young an agency to really know what they were doing in this field. I would point out that the Federal Trade Commission has been in this business of unfair and deceptive practices since 1914. That is over 73 years that they have been in the business.

So I just think we ought to try to debunk some of the misconceptions that are being floated here in connection with this legislation.

Mr. BILIRAKIS. Mr. Chairman, I thank the gentleman for those complimentary remarks, and I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Chairman, I am glad to yield the balance of my time, which I understand is 8 minutes, to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. McEWEN. Mr. Chairman, during the debate before us today regarding the Federal Trade Commission authorization legislation, we will be discussing a very serious and very important matter—the jurisdiction over the regulation of airline advertising.

I believe that my colleagues from the Committee on Public Works and Transportation have very clearly defined the issues surrounding this confusing debate. The most important issues are those of safety. How is it, that the very agency that once had jurisdiction over airline advertising—the Federal Trade Commission—lost jurisdiction in 1974 to Department of Transportation, is now, 13 years later going to again gain control over airline advertising and consumer issues? What about the Federal Trade Commission has changed?

Nothing.

In fact, the Department of Transportation has historically been responsible for protecting the traveling public. To, now, include the Federal Trade Commission in the review and oversight of the advertising and consumer related practices will not simply hinder and further delay an already difficult function, but I believe will seriously undermine our ongoing efforts to provide more responsible reporting to the consumer by the commercial carriers.

Mr. Chairman, we made a very serious mistake last week when we voted against removing the aviation trust fund from the unified budget. I hope we will not make yet another mistake, today, by including the Federal Trade Commission in a matter that involves, strictly, the Department of Transportation.

I hope my colleagues will support the amendment to strike title II and will leave the matter of airline advertising where it belongs, in the hands of the Department of Transportation.

Mr. DINGELL. Mr. Chairman, I think it is important to know what this bill does and what it does not do.

A simple explanation of what it does not do I think is first in order. First, it does not fragment jurisdiction over advertising. It simply vests in the FTC, an agency which has traditionally had jurisdiction over unfair and deceptive practices in advertising, the control of that particular unfortunate practice when we have found that that issue has not been properly dealt with at the Department of Transportation.

Second, it is not a jurisdictional raid. I would point out that the issue of jurisdiction has been decided twice, once in the Rules Committee in spite of extremely effective and vigorously pressed protests by my good friends on the Committee on Public Works and Transportation. The Rules Committee plainly ruled that the committee of basic jurisdiction on this matter was the Committee on Energy and Commerce.

It has also been decided by the Parliamentarian in connection with the reference of similar legislation which was jointly referred to the Committee on Energy and Commerce and the Committee on Public Works and Transportation.

It is important to understand what is really at stake here. What is really at stake here is whether we are going to protect American consumers who are now being skinned by unethical, improper, false, deceptive and misleading practices by the airlines with regard to all manner of flights. Seats which do not exist are being advertised, rates which are not available are being advertised, conditions which are attached to the sales of seats are not being disclosed, flights which are being cancelled are not being disclosed, and ontime performance is being exaggerated by airlines. Consumers are, frankly, fed up.

I want to commend the gentleman from Florida [Mr. BILIRAKIS] who originated this amendment. The first time I saw it was when it came up in the Committee on Energy and Commerce on the day in question. I want to commend the distinguished chairman of the subcommittee, the ranking minority member, and my colleagues on both sides of the aisle who have participated actively in moving this matter forward.

One of the settled principals of American law is that where a regulated industry exists, an attempt is made to deal with all of the regulation in one agency. But one of the important things to observe here is that when we deregulated the airlines we really never eliminated the exemption from FTC jurisdiction which they had previously had. Incidentally, it is interesting to note that the previous arrangement which the airlines had was one which vested economic regulation in the Civil Aeronautics Board and safety regulation in the Federal Aviation Administration. The charge has been made here that something is going to fragment economic regulation and safety regulation. That is obviously not true.

What happens here is that the Federal Trade Commission is simply given the power to regulate unethical, false, deceptive practices in advertising as they have always done with regard to virtually all other industries.

Why is this happening? During a recent period the Department of Transportation received over 22,000 consumer complaints. The Department of Transportation investigated, and I ask my colleagues to listen to this, investigated 30 advertising complaints out of a total of 22,000 consumer complaints.

□ 1245

The extent of one of these examinations, according to DOT, was that "the investigator reviewed the ad and determined that no violation under current interpretation of price advertising requirements" existed.

DOT says that it assessed $656,000 in civil penalties since January 1986 for violation of various rules.

Examination shows that these penalties were asserted almost exclusively against small carriers with only one of the cases, one, involving violation of consumer rules by a major air carrier, and only two involving deceptive ads by tour operators and charters.

It is interesting to note that the principal supporters of this legislation outside of this body are the Consumer Federation of America and the Consumers Union.

That tells you where the consumers and the airline passengers are. They are outraged about fraudulent, false, misleading advertising by the airlines. That is the issue which is at stake.

Is the Department of Transportation, which has had jurisdiction over this for a number of years and done nothing, going to continue to rest tranquilly by its responsibilities, or are you going to adopt the legislation before the House which requires the Federal Trade Commission to adopt a rule protecting American passengers from the kind of unfair and improper behavior that we have seen in connection with advertising by the airline industry?

It also requires that there be coordination between the Department of Transportation and the FTC. Is this a raid on the Committee on Public Works and Transportation? It is not.

Is it protection of American consumers and passengers? It is.

Ask the Consumer Federation of America. Ask the Consumers Union. They support this provision.

Ask the travel agents who have to deal with outraged passengers on a daily basis. They will tell you that they support the language of the committee-passed bill and the provisions of title II.

Let me say a little more as to what the Department of Transportation has done to protect you. Remember, I speak now to the frequent fliers in this room.

I also speak to our constituents, who are compelled to rely on the somnolent behavior of the Department of Transportation, and who are compelled to suffer the whim and caprice of airlines which just recently had one of their ticket counters stormed by infuriated passengers.

Perhaps the Members like the idea of consumers storming ticket offices and airlines reservation counters. I personally would prefer to give my constituents a legal remedy and a means to address the problem.

Through June 1987, the Department had received 15,621 complaints compared with 6,393 for the same period in 1986.

If DOT asserted its authority at all, it is clear they have done so with no effectiveness.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

The gentleman from Kansas [Mr. WHITTAKER] has 2 minutes remaining.

Mr. WHITTAKER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me talk about the complaints that the carriers have got and the public-be-damned attitude that the carriers show.

Five carriers reported to the Committee on Energy and Commerce 275,358 complaints during this same period.

Citizens had no redress whatsoever from DOT, which acted on only 30 advertising complaints during this period of time.

DOT has 12 people who work full-time on these matters; approximately one-third of the time of another nine people is applied to these matters.

The Federal Trade Commission has better than 400. Wouldn't the Members like to have this dealt with by an agency which has the manpower and the authority?

Let me just tell the Members a little bit about what one of the airlines said.

They said this: "The Department of Transportation no longer informs us concerning complaints it receives relating to our airline. To the extent that we become aware of such complaints, it is the result of incidental inquiries by Department of Transportation personnel or copies sent to us by the passenger."

Does that tell the Members of diligent application of the law by the Department of Transportation? The answer is, it does not.

When the amendment is offered striking title II, I urge the Members to vote for the passengers. I urge the Members to vote for the American people.

I urge the Members to vote for fairness, and I urge the Members to vote to see to it that jurisdiction is placed in an agency which has the experience, the ability, and which will have the requirement of statute to act on these matters, and to do so vigorously.

The time for citizens having to storm the ticket counters of airlines, I think, should be over. We should see to it that there is a legal remedy available to our people to address the complaints that they have about false, deceptive and misleading advertising, and about the behavior of airlines which is clearly public-be-damned, and let us get down to a situation where we can look for decent, fair and honorable treatment from the airlines instead of the kind of scabrous treatment that has been afforded our people heretofore.

Mr. SLATTERY. Mr. Chairman, I rise in support of H.R. 2897, legislation reauthorizing the Federal Trade Commission. This legislation includes an amendment, which Representative TAUKE and I offered during consideration by the Energy and Commerce Subcommittee on

Transportation, Tourism, and Hazardous Materials, that would prohibit the FTC from studying, investigating, or prosecuting agriculture cooperatives for activities which are protected by the Capper-Volstead Act.

This amendment also includes provisions which would prevent the FTC from conducting any study or investigating of agricultural marketing orders.

These restrictions were originally placed upon the FTC by the FTC Improvements Act of 1980 and have been continued in subsequent continuing resolutions.

There are more than 5,600 farmer cooperatives in the United States, with a combined membership of nearly 2 million farmers. Two-thirds of American farmers are affiliated with one or more cooperatives.

The restrictions contained in this amendment were originally imposed to prevent needless and costly regulation of farmers and their cooperatives by the FTC in areas already fully regulated by the Justice Department and USDA.

Section 1 of the Capper-Volstead Act, which was written by former Senator Arthur Capper, who served the people of Kansas for 30 years as a Member of that body, provides that producers of agricultural products may act together in corporate or noncorporate associations, operated for the mutual benefit of the member producers in collectively processing, preparing for market, handling, and marketing their products. It also authorizes them to have marketing agencies in common and to make the necessary contracts and agreements to effect such purposes.

The Capper-Volstead Act is as important today as it was when it was enacted in 1922.

Farmers marketing their products individually lack bargaining power in the marketplace. There are relatively few buyers who process and distribute raw agricultural commodities. Capper-Volstead protects the consuming public against the possibility of undue price increases as a result of any monopoly position that a group of producers could achieve by acting together.

Section 2 of Capper-Volstead grants specific authority to the Secretary of Agriculture to guard against possible abuses of Capper-Volstead by requiring the issuance of a complaint if the Secretary has reason to believe that any association monopolizes or restrains trade to such an extent that the price of any agricultural produce is unduly enhanced. The Secretary is authorized to issue a cease and desist order against the association.

This oversight of cooperatives is also shared by the Attorney General. Once a cooperative is formed, it is limited in its business activities in much the same way as noncooperatives.

In addition, the Agricultural Marketing Agreement Act of 1937 authorized the Secretary of Agriculture to enter into marketing agreements with handlers or to issue marketing orders regulating the handling of milk and other agricultural commodities in interstate commerce. The objective of the statute is to effect an orderly flow of commodities in order to protect the interests of consumers as well as farmers under the direct regulatory control of the Secretary of Agriculture.

Section 8(b) of the act provides that marketing orders entered into between the Secretary of Agriculture and handlers, or orders issued by the Secretary, are exempt from the antitrust laws. The Secretary is responsible for balancing the public interest among producers, handlers, and consumers. Changes in marketing orders are made on the record following full notice to interested parties and the opportunities to be heard.

During the 1970's, the FTC ignored the provisions of the Capper-Volstead Act and the Agricultural Marketing Agreement Act by proceeding against cooperatives and marketing orders. The costs to cooperatives, and to the Government, as a result of these intrusions into the jurisdiction of the Secretary of Agriculture were substantial.

Mr. Chairman, the exemptions from antitrust laws given to farmers and their cooperatives are limited and carefully drawn. They have been narrowly construed by the courts to achieve only their intended purposes. In addition, the Department of Agriculture has the necessary expertise and trained personnel necessary to monitor and enforce marketing order programs. FTC involvement in these areas would be duplicative, costly, and unnecessary. In short, Mr. Chairman, as we say in the Midwest, "if it ain't broke, don't fix it."

The **CHAIRMAN**. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Federal Trade Commission Act Amendments of 1987".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Trade Commission Act.

The **CHAIRMAN**. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—GENERAL PROVISIONS

SEC. 101. UNFAIR METHODS OF COMPETITION.

Section 5 (15 U.S.C. 45) is amended by adding at the end the following:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act, such method of competition would be held to constitute State action.".

SEC. 102. PROCEEDINGS SUBSEQUENT TO ORDERS.

(a) CIVIL PENALTIES.—Section 5(m)(1)(B) (15 U.S.C. 45(m)(1)(B)) is amended by inserting ", other than a consent order," immediately after "order" the first time it appears.

(b) DETERMINATIONS OF LAW.—Section 5(m)(2) (15 U.S.C. 45(m)(2)) is amended by adding at the end the following: "Upon request of any party to such an action against such defendant, the court shall also review the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a).".

SEC. 103. EFFECTIVE DATE OF ORDERS.

Section 5(g) (15 U.S.C. 45(g)) is amended to read as follows:

"(g) An order of the Commission to cease and desist shall become final as follows:

"(1) Upon the expiration of the time allowed for filing a petition under subsection (c) for review if no such petition has been duly filed within such time, except that the Commission may after the order becomes final modify or set it aside to the extent provided in the last sentence of subsection (b).

"(2) Upon the 60th day after such order is served if a petition under subsection (c) for review has been duly filed, except that any such order may be stayed, in whole or in part and subject to such conditions as may be appropriate, by—

"(A) the Commission,

"(B) an appropriate court of appeals of the United States if (i) a petition for review of such order is pending in such court, and (ii) an application for such a stay was previously submitted to the Commission and the Commission, within the 30-day period beginning on the date the application was received by the Commission, either denied the application or did not grant or deny the application, or

"(C) the Supreme Court if an applicable petition for a writ of certiorari is pending.

"(3) For purposes of subsection (m)(1)(B) and section 19(a)(2)—

"(A) if a petition under subsection (c) for review of the order of the Commission has been filed and if the order of the Commission has been affirmed or the petition for review has been dismissed by a court of appeals of the United States and no petition for certiorari has been duly filed, upon the expiration of the time allowed for filing a petition to the Supreme Court for a writ of certiorari,

"(B) if a petition under subsection (c) for review of the order of the Commission has been filed and if the order of the Commission has been affirmed or the petition for review has been dismissed by a court of appeals of the United States, upon the denial of a petition for a writ of certiorari, or

"(C) if a petition under subsection (c) for review of the order of the Commission has been filed, upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.

"(4) In the case of an order requiring a person, partnership, or corporation to divest itself of stock, other share capital, or assets—

"(A) if a petition under subsection (c) for review of such order of the Commission has been filed and if the order of the Commission has been affirmed or the petition for review has been dismissed by a court of appeals of the United States and no petition for certiorari has been duly filed, upon the expiration of the time allowed for filing a petition to the Supreme Court for a writ of certiorari,

"(B) if a petition under subsection (c) for review of such order of the Commission has been filed and if the order of the Commis-

sion has been affirmed or the petition for review has been dismissed by a court of appeals of the United States upon the denial of a petition for a writ of cer- tiorari, or

"(C) if a petition under subsection (c) for review of such order of the Commission has been filed, upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.".

SEC. 104. CIVIL INVESTIGATIVE DEMANDS.

(a) Section 20(a).—Section 20(a)(15 U.S.C. 57b-1(a)) is amended—

(1) in paragraph (2), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission";

(2) in paragraph (3), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "acts or practices or methods of competition declared unlawful by a law administered by the Commission"; and

(3) in paragraph (7), by striking "unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission".

(b) Section 20(b).—Section 20(b) (15 U.S.C. 57b-1(b)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(c) Section 20(c).—Section 20(c)(1) (15 U.S.C. 57b-1(c)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(d) Section 20(j).—Section 20(j) (15 U.S.C. 57b-1(j)) is amended by inserting immediately before the semicolon the following: ", any proceeding under section 11(b) of the Clayton Act, or any adjudicative proceeding under any other provision of law".

SEC. 105. AGRICULTURAL COOPERATIVES.

The Federal Trade Commission Act is amended by redesignating sections 24 and 25 as sections 27 and 28, respectively, and by inserting after section 23 the following:

"Sec. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq., commonly known as the Capper-Volstead Act), is not a violation of any of the antitrust Acts or this Act.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

SEC. 106. DISAPPROVAL OF FTC RULES.

(a) Amendment.—The Federal Trade Commission Act is amended by inserting after the section added by section 105 the following:

"Sec. 25. (a) The Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same day and to each House of Congress while it is in session.

"(b) Any final rule of the Commission shall become effective in accordance with its terms unless before the end of the period of 90 days of continuous session of Congress after the date such final rule is submitted to the Congress a joint resolution disapproving such final rule is enacted into law.

"(c)(1) If a final rule of the Commission is disapproved in accordance with this section, the Commission may promulgate another final rule which relates to the same acts or practices as the rule which was disapproved. Such other final rule—

"(A) shall be based upon—

"(i) the rulemaking record of the disapproved final rule; or

"(ii) such rulemaking record and any record established in supplemental rulemaking proceedings conducted by the Commission; and

"(B) may contain such changes as the Commission considers necessary or appropriate.

Supplemental rulemaking proceedings referred to in subparagraph (A)(ii) may be conducted in accordance with section 553 of title 5, United States Code, if the Commission determines that it is necessary to supplement the existing rulemaking record.

"(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to Congress in accordance with subsection (a).

"(d) Congressional inaction on a joint resolution disapproving a final rule of the Commission shall not be construed—

"(1) as an expression of approval of such rule, or

"(2) as creating any presumption of validity with respect to such rule.

"(e)(1)(A) For purposes of subsection (b), continuity of session is broken only by an adjournment sine die at the end of the second regular session of a Congress.

"(B) The days on which either House of Congress is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the period specified in subsection (b).

"(2)(A) In any case in which a final rule of the Commission is prevented from becoming effective by an adjournment sine die at the end of the second regular session of the Congress before the expiration of the period specified in subsection (b), the Commission shall resubmit such rule at the beginning of the first regular session of the next Congress.

"(B) The period specified in subsection (b) shall begin on the date of a resubmission under subparagraph (A).

"(f) For purposes of this section:

"(1) The term 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: 'That the final rule promulgated by the Federal Trade Commission dealing with the matter of , which final rule was submitted to Congress on is disapproved.', the first blank being filled with the subject of the rule and such further description as may be necessary to identify it, and the second blank being filled with the date of submittal of the rule to the Congress.

"(2) The term 'rule' means any rule promulgated by the Commission pursuant to this Act other than a rule promulgated under section 18(a)(1)(A) or an interpretive or procedural rule.".

(b) Conforming Amendment.—Section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1) is repealed.

SEC. 107. INTERVENTION ACTIONS.

The Federal Trade Commission Act is amended by inserting after the section added by section 106 the following:

"Sec. 26. (a)(1) The Commission may not engage in any intervention action except in accordance with this section.

"(2) For purposes of this section, the term 'intervention action' means the conduct of any project for the purpose of—

"(A) submitting written statements, comments, or opinions to any local, State, or Federal agency, to a local or State legislative body, or to an officer or member of such an agency or body, or

"(B) appearing, other than as an original party in interest, before such an agency or body,

but does not include any law enforcement activity of the Commission or any administrative activity of the Commission relating to its operation.

"(b) Except where intervention action is required by Federal law, the Commission or the Commission staff may take an intervention action only upon the request of a Member of the House of Representatives or the Senate or upon the request, confirmed in writing, of a local, State, or Federal agency (other than the Commission), local or State legislative body, or any officer or member of such an agency or body. Such request—

"(1) must be received before intervention action is taken, and

"(2) may not be sought or otherwise solicited by the Commission or the Commission staff.

"(c)(1) Upon initiating an intervention action, the Commission shall notify the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and in the case of State and local intervention actions, the United States Representatives and Senators from the State in which such intervention action will take place.

"(2) The notification required under paragraph (1) shall include—

"(A) the name of the Federal, State, or local agency or legislative body or officer or member thereof making the request for intervention action,

"(B) the date on or about which the Commission or the Commission staff expects to first submit statements, comments, or opinions in connection with the intervention action for which the notification is given, and

"(C) a statement of the reasons and justification for initiating the intervention action, including a copy of the requesting party's written request for intervention action.

"(d) The Commission only, and not the Commission staff, may make recommendations as to the amendment, enactment, defeat, or veto of legislation or the promulgation, amendment, or revocation of a rule or regulation.

"(e)(1) The Commission shall transmit the matter described in paragraph (2)—

"(A) to the party who requested the intervention action involving such matter,

"(B) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and

"(C) upon request, to any United States Representative or Senator.

The matter described in paragraph (2) shall otherwise be made available in accordance with section 552 of title 5, United States Code. The Commission may not transmit such matter to any person who is not referred to in subparagraph (A), (B), or (C) or who has not made a request under such section 552.

"(2) The matter referred to in paragraph (1) is—

"(A) copies of all statements, comments, or opinions made or rendered in an intervention action, and

"(B) a list of all significant documentary evidence, interviews, and other sources of information consulted in the formulation of the statements, comments, or opinions submitted in connection with the intervention action.

"(f) Not more than 5 percent of the amount appropriated for the Federal Trade Commission for any fiscal year may be obligated for the Commission's intervention action program in such fiscal year.

"(g) This section shall apply to intervention actions of the Commission until the date of the enactment of an Act which amends this Act to authorize appropriations for a fiscal year after fiscal year 1990.".

SEC. 108. CREDIT UNIONS.

(a) Sections 5(a)(2), 6(a), and 6(b) (15 U.S.C. 45 (a)(2) and 46(b)) are each amended by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),".

(b) The second proviso in section 6 (15 U.S.C. 46) is amended—

(1) by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),", and

(2) by inserting immediately after "in business as a savings and loan institution," the following: "in business as a Federal credit union,".

(c)(1) The second sentence of section 18(f)(1) (15 U.S.C. 57a(f)(1)) is amended—

(A) by striking out "and the Federal Home" and inserting in lieu thereof ", the Federal Home", and

(B) by inserting ", and the National Credit Union Administration Board (with respect to Federal credit unions described in paragraph (4))" after "paragraph (3))".

(2) The third sentence of such section is amended—

(A) by striking out "or savings and loan institutions described in paragraph (3)" each place it appears and inserting in lieu thereof ", savings and loan institutions described in paragraph (3), or Federal credit unions described in paragraph (4)",

(B) by striking out "(A) either such Board" and inserting in lieu thereof "(A) any such Board", and

(C) by inserting ", savings and loan institutions, or Federal credit unions" after "with respect to banks".

(4) Section 18(f) (15 U.S.C. 57a(f)) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting immediately after paragraph (3) the following:

"(4) Compliance with regulations prescribed under this subsection shall be enforced with respect to Federal credit unions under sections 120 and 206 of the Federal Credit Union Act (12 U.S.C. 1766 and 1786).".

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

Section 27 (15 U.S.C. 57c) (as so redesignated) is amended to read as follows:

"SEC. 27. To carry out the functions, powers, and duties of the Commission there are authorized to be appropriated $69,850,000 for fiscal year 1988, $70,850,000 for fiscal year 1989, and $71,850,000 for fiscal year 1990, and such additional sums for fiscal years 1988, 1989, and 1990 as may be necessary for increases in salary, pay, and other employee benefits as authorized by law.".

SEC. 110. ADVERTISING STUDY.

The Federal Trade Commission shall conduct a study of advertising which uses the offering of the opportunity to receive anything of value as an inducement to purchase that which is being advertised to determine if such advertising constitutes an unfair or deceptive practice. The Commission shall complete the study not later than one year from the date of the enactment of this Act and shall report the results of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 111. REPORT ON RESALE PRICE MAINTENANCE.

(a) IN GENERAL.—The Federal Trade Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate the information specified in subsection (b) of this section every 6 months during each of the fiscal years 1988, 1989, and 1990. Each such report shall contain such information for the period since the last submission under this section.

(b) REPORT CONTENTS.—Each such report shall list and describe, with respect to instances in which resale price maintenance has been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission,

(2) each preliminary investigation opened or closed at the Commission,

(3) each formal investigation opened or closed at the Commission,

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission,

(5) each complaint issued by the Commission pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45),

(6) each opinion and order entered by the Commission,

(7) each consent agreement accepted provisionally or finally by the Commission,

(8) each request for modification of an outstanding Commission order filed with the Commission,

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order,

(10) each disposition by the Commission of a request for modification of an outstanding Commission order, and

(11) the number of hours worked by the Commission staff on the activities described in paragraphs (1) through (10).

Such report shall include copies of all consent agreements and complaints executed by the Commission. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The description required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint, those complained about, or those subject to investigation if such identity has not otherwise been made public.

SEC. 112. REPORT ON PREDATORY PRICING.

(a) IN GENERAL.—The Federal Trade Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate the information specified in subsection (b) of this section every 6 months during each of the fiscal years 1988, 1989 and 1990. Each such report shall contain such information for the period since the last submission under this section.

(b) REPORT CONTENT.—Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission,

(2) each preliminary investigation opened or closed at the Commission,

(3) each formal investigation opened or closed at the Commission,

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission,

(5) each complaint issued by the Commission,

(6) each opinion and order entered by the Commission,

(7) each consent agreement accepted provisionally or finally by the Commission,

(8) each request for modification of an outstanding Commission order filed with the Commission,

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order,

(10) each disposition by the Commission of a request for modification of an outstanding Commission order, and

(11) the number of hours worked by the Commission staff on the activities described in paragraphs (1) through (10).

Such report shall include copies of all consent agreements and complaints executed by the Commission. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint, those complained about, or those subject to investigation if the identity has not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses).

SEC. 113. INSURANCE STUDIES.

(a) IN GENERAL.—The Federal Trade Commission shall conduct comprehensive studies of—

(1) the use of potentially unfair, deceptive, or misleading practices in the sale of health insurance policies to the elderly, including the sale of policies marketed as supplements to coverage under title XVIII of the Social Security Act, the relationship of the premiums for such policies to claims paid, and the effectiveness of the States in preventing unfair, deceptive, or misleading practices in the marketing and sale of such policies, and

(2) the increase in property and casualty insurance rates to small business owners, local governments, physicians, nurses, nurse-midwives, dentists, and child care centers over the last 7 years, including the extent of such increases, the relationship of increases to actual costs, the reasons for such increases, and the degree of competition in the market for such coverage.

The study described in paragraph (2) may include rate increases for self-insurers if the Commission deems it necessary.

(b) AUTHORITY, REPORT.—

(1) In conducting the studies under subsection (a), the Federal Trade Commission

may exercise the authority of the Commission under section 6(b) of the Federal Trade Commission Act.

(2) The Commission shall report to Congress within one year the results of the studies under subsection (a). In the event additional time is required to complete such studies, the Commission shall make an interim report within one year. The Commission shall make such reports generally available to the public and appropriate State officials.

SEC. 114. LIFE CARE HOME STUDY.

(a) Study.—The Federal Trade Commission shall conduct a study of unfair and deceptive practices in the life care home industry, including practices engaged in by life care homes. Within 24 months of the date of the enactment of this section, the Commission shall report the findings and conclusions of the study to Congress. If the Commission finds a rulemaking is warranted under section 18 of the Federal Trade Commission Act, the Commission shall, promptly after completion of the study, initiate a trade regulation rule proceeding under such section 18 respecting unfair and deceptive acts or practices in the life care home industry. If the Commission determines a rulemaking is not warranted, the Commission shall include in the report to Congress the reasons for such determination.

(b) Definitions.—For purposes of subsection (a):

(1) The term "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract.

(2) The term "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 115. NATIVE AMERICAN ARTS AND CRAFTS.

(a) Complaints.—The Federal Trade Commission shall monitor complaints received by the Commission on the marketing of imported imitation Native American arts, crafts, and silver jewelry to determine the extent to which such arts, crafts, and silver jewelry contain the English name of their country of origin by means of etching, engraving, die stamping, raised lettering, or other equally permanent method of marking. Upon the expiration of 18 months after the date of the enactment of this Act, the Commission shall report to the Congress on the results of the monitoring under this subsection.

(b) Information Brochure.—The Federal Trade Commission shall revise and distribute a consumer information brochure to assist consumers in filing complaints with the Commission on the sale of imported imitation Native American arts, crafts, and silver jewelry. The revised brochure shall be completed and distribution begun not later than 6 months after the date of the enactment of this Act.

SEC. 116. EFFECTIVE DATE.

(a) In General.—Except as provided in subsections (b), (c), and (d) of this section, the amendments made by this title and this title shall take effect on the date of enactment of this Act.

(b) Sections 101 and 103.—

(1) The amendment made by section 101 shall apply only with respect to proceedings under section 5 of the Federal Trade Commission Act after the date of enactment of this Act. The amendment made by section 103 shall apply only with respect to cease and desist orders issued under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) or to rules promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) after the date of enactment of this Act.

(2) The amendments made by sections 101 and 103 shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. Such amendments shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(c) Section 104.—The amendments made by section 104 shall apply only with respect to compulsory process issued after the date of enactment of this Act.

(d) Section 107.—The amendments made by section 107 shall apply only with respect to intervention actions taken after the date of the enactment of this Act.

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT OFFERED BY MS. SNOWE

Ms. SNOWE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Snowe: Page 25, line 4, redesignate section 116 as section 117 and insert after line 3 on page 25 the following:

SEC. 116. DECEPTIVE MAILINGS.

(a) Study.—The Federal Trade Commission shall conduct a comprehensive study of the degree, type, and pervasiveness of deceptive mail practices in conjunction with the sale of products or services related to governmental functions and the severity of the actual or potential consumer injury from such practices. In conducting the study, the Commission shall include an examination of—

(1) solicitations by non-governmental entities for the purchase of products or services which are in fact provided either free of charge or at a lower price by the Federal Government, and

(2) solicitations by non-governmental entities for the purchase of products or services which bear a seal, insignia, trade or brand name, or any other term or symbol implying Federal Government connection, approval, or endorsement.

(b) Report.—Not later than the expiration of 18 months after the date of the enactment of this Act, the Federal Trade Commission shall report to the Congress the results of the study under subsection (a). If the Commission finds that a rulemaking under the Federal Trade Commission Act respecting deceptive mail practices is warranted, the Commission shall, promptly after completion of the study, initiate a trade regulation rule proceeding respecting such practices, except that the Commission may proceed under section 553 of title 5, United States Code. If the Commission determines that a rulemaking respecting such practices is not warranted, it shall include in its report under this subsection its reasons for such determination.

Ms. SNOWE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maine?

There was no objection.

Mr. WHITTAKER. Mr. Chairman, will the gentlewoman yield?

Ms. SNOWE. I yield to the gentleman from Kansas.

Mr. WHITTAKER. Mr. Chairman, I thank the gentlewoman for yielding.

The minority has no objection to the amendment.

Ms. SNOWE. I thank the gentleman for his support.

Mr. THOMAS A. LUKEN. Mr. Chairman, will the gentlewoman yield?

Ms. SNOWE. I yield to the gentleman from Ohio.

Mr. THOMAS A. LUKEN. Mr. Chairman, I thank the gentlewoman for yielding.

We have had an opportunity to review the amendment offered by the gentlewoman from Maine here on the majority side. We support the amendment.

It would be helpful to the consumer if the FTC would review such advertisements and determine if a rulemaking is appropriate.

Ms. SNOWE. I appreciate the chairman's comment, as well as the support of the chairman.

Mr. LENT. Mr. Chairman, will the gentlewoman yield?

Ms. SNOWE. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I thank the gentlewoman for yielding to me.

I am pleased to advise the gentlewoman that the minority party has had an opportunity to review the amendment the gentlewoman offers, and we think it is a good amendment.

We are going to give it our support.

Ms. SNOWE. Mr. Chairman, I appreciate the gentleman's support and the support of the full committee, as well as the support of the subcommittees involved.

Mr. Chairman, the amendment I am offering today would require the Federal Trade Commission to conduct a study of deceptive mailings put out by shadowy profit making organizations.

The area of deceptive mailings is coming under increasing scrutiny by Congress. Just last week, several colleagues and I testified on legislation which I introduced and legislation introduced by the gentleman from Massachusetts [Mr. Donnelly] to give greater authority to the Postal Service to evaluate and enforce regulations dealing with specific types of deceptive mailings.

Currently, the Postal Service has the authority to request sanctions against organizations that are fraudulent in practice. Even with additional legislation, however, they could still only tackle the problem of deceptive mailings on a case-by-case basis. The Federal Trade Commission, on the other hand, is in a unique position as the principal Federal Consumer Protection Agency to address deceptive mailings on an industry wide scale.

My principal areas of concern are those in which a nongovernmental organization offers for a fee a service which is available either free of charge or at a lower fee from the Federal Government. Examples include the practice among some organizations of offering to obtain Social Security cards for a fee of from $7 to $12. Most often, these organizations do no more than the individual could do himself, and they leave the consumer many dollars poorer and still having to visit the Social Security office.

Still other organizations use symbols, seals, terms and trademarks that imply a government connection. In this way, they add legitimacy to their product by implying that their product is offered or endorsed by the Federal Government.

At this point, the pervasiveness of these practices, and the types of deceptive mailings, is known only anecdotally. For this reason, my amendment would require a study over an 18-month period to determine the extent of the problem of deceptive mailings. At the study's conclusion, the FTC would report to Congress on the results of the study and any need to initiate a trade regulation. To the extent that such a regulation is not warranted, they would indicate in their report the reasons for such a determination.

Mr. Chairman, given proper information, consumers will make informed choices. However, if they are misled either because they believe a product is endorsed by the Federal Government or because they believe the product only is available for a fee, then they cannot exercise good judgment.

Mr. Chairman, this study is an important effort in our efforts to block deceptive mail, and I urge adoption of my amendment.

Mr. LOWERY of California. Mr. Chairman, I rise to express my strong support for the amendment offered by my colleague from Maine. The problem of deceptive mailings deserves close scrutiny. Action must be taken to prevent unscrupulous businesses from implying that their product is endorsed or backed by the U.S. Government.

Thousands of my constituents in Dan Diego received a mailing within the last 2 weeks, asking them for a $25 homestead declaration—a declaration that is available to anyone for a $7 county recording fee.

The California-based firm calls itself the Home Owner Services Administration, Department of Homestead Assistance. And it puts that name on a close facsimile of the Department of Defense seal. Beneath the seal is an address in the State capitol of Sacramento and the note: "Official Business, Penalty for Private Use."

There is fine-print included in the contents of the mailing offering a disclaimer that the organization is not associated with the Government. The disclaimer hardly offsets the overwhelming impression that an organization in the Government is responsible for the mailing.

Mr. Chairman, the effect of this ruse against the public was that many frightened homeowners sent in their $25 for a document that is of dubious use and—if desired—is available through the Government.

Thankfully, the company inadvertently sent copies to the San Diego district attorney's office and steps have been taken to put a hold on mail from this organization. Postal authorities are investigating, but there seem to be few clearcut regulations for this type of activity.

It is time for Congress to gain an understanding of how pervasive the problem is and I commend the Subcommittee on Postal Personnel and Modernization for holding hearings on legislation to end such practices. I support the adoption of the Snowe amendment as an additional step toward consumer protection—I urge my colleagues to do the same.

Mr. PETRI. Mr. Chairman, I rise in support of the gentlewoman's amendment. I firmly believe that the FTC should take a good look at those organizations that charge a fee for those services.

I have received a number of letters from bewildered constituents who wonder why they have to pay to find out their Social Security earnings record. Others have written to find out why they have to send away for an expensive book which premises to tell them everything about government benefit programs.

The answer is, of course, that they don't have to pay and I am happy to tell them so. However, I wonder how many individuals have sent off their money in good faith without stopping to contact me or the local Social Security office. I am sure these people feel that the workings of the Federal Government are too big and too complex for them to try to get this information on their own.

I am a cosponsor of legislation which goes a step further than this amendment. It would require these mailings and advertisements to include a disclaimer stating that "The products or services offered in this advertisement are also provided either free of charge or at a lower fee by the Federal Government."

The amendment before us does not go quite that far. It simply requires that the Federal Trade Commission study these organizations to ensure that they are not deceiving the public about the services they offer. I urge my colleagues to support this amendment.

Mr. FRENZEL. Mr. Chairman, for many years, I have opposed the authorizations, and appropriations of the Federal Trade Commission in the belief that the FTC had rogue agency, a staff-dominated organization which was doing consumers far more harm than good. Nothing in the FTC's recent record has lead me to change that opinion.

The FTC's harrassment of medical groups in my area is vivid in memory. The requests for boxcars full of records to no good purpose other than to raise consumers' costs still aggravates.

I will still vote against this uncontrolled agency even though I know this body will collectively cast on undiscriminating vote of support.

I shall also vote to delete, the provision that transfers jurisdiction of airline adverstising to FTC. DOT's work leaves something to be desired, but shored responsibility with FTC would be suicidal. Its bad enough the taxpayers have to pay for FTC. Airline passengers should not have to pay for it again in terms of excessive regulation.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maine [Ms. SNOWE].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—AIRLINE PRACTICES

SEC. 201. REGULATION OF CERTAIN AIRLINE PRACTICES.

(a) REGULATION OF UNFAIR AND DECEPTIVE ACTS OR PRACTICES.—

(1) Section 5(a) (15 U.S.C. 45(a)) is amended—

(A) in paragraph (2), by striking out "(2) The Commission is hereby empowered and directed to prevent" and inserting in lieu thereof "(2) Except as provided in paragraphs (3) and (4), the Commission shall prevent", and

(B) by adding at the end the following:

"(4) The Commission shall prevent air carriers and foreign air carriers subject to the Federal Aviation Act of 1958 from using unfair or deceptive acts or practices in or affecting commerce.".

(2) In carrying out its authority under section 5(a)(4) of the Federal Trade Commission Act, the Federal Trade Commission shall promulgate a rule, in accordance with section 553 of title 5, United States Code, defining acts or practices in advertising by air carriers and foreign air carriers which are unfair or deceptive acts or practices. Such rule shall define advertising by such carriers as an unfair or deceptive act or practice if the advertising does not include a full, conspicuous, and understandable disclosure of the limitations or other restrictions applicable to the availability of tickets, specific fares, or other aspects of air carrier services. In promulgating the rule, the Commission shall require advertising which advertises a flight between two points to include the average on-time performance of flights between such points. The Federal Trade Commission shall promulgate the rule required by this paragraph within 180 days of the date of the enactment of this Act.

(b) UNDERSTANDING WITH SECRETARY OF TRANSPORTATION.—Within 180 days of the date of the enactment of this Act, the Federal Trade Commission and the Secretary of Transportation shall enter into a written understanding which defines the role of the Commission respecting unfair or deceptive acts or practices involving air carriers and foreign air carriers. The Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Science, Commerce, and Transportation of the Senate a copy of the understanding entered into under this subsection.

PUBLIC WORKS AND TRANSPORTATION COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Public Works and Transportation Committee amendment.

The Clerk read as follows:

Public Works and Transportation Committee amendment: Page 26, strike out line 12 and all that follows through line 7 on page 28.

Conform the bill to reflect the amendment striking title II of the bill.

Mr. MINETA. Mr. Chairman, I rise in support of this amendment of the Committee on Public Works and Transportation. This amendment would delete the provision in the Energy and Commerce Committee bill giving jurisdiction over deceptive acts and practices by airlines to the Federal Trade Commission. The amendment would leave this jurisdiction with the Department of Transportation. This amendment was reported by the Committee on Public Works and Transportation which received a sequential referral of H.R. 2897.

The issue of which agency will regulate airline advertising must be decided in the context of strong congressional concern over the recent deterioration in airline service.

From my perspective, the consumers and passengers of airlines are complaining and are concerned about airlines. They are not complaining about advertising.

I can assure you that the Committee on Public Works and Transportation shares the concerns about airline service and that we are doing something about the situation.

In the last week the House has passed two major bills reported by our committee. Last week the House passed, by a vote of 396 to 0, our bill reauthorizing the Airport and Airway Trust Fund Program and providing $28 billion for development of our airports and airways over the next 5 years. Earlier this week the House passed, by voice vote, our consumer protection bill. I strongly believe that these two major bills are the best way to improve airline service.

Service will not be improved by legislation which brings new committees into the act and which creates undesirable splits in authority between executive branch agencies.

There is no reason to believe that the Federal Trade Commission would do an effective job in regulating airline advertising practices. It has been widely recognized by State consumer protection officials, and by representatives of consumer groups, that the Federal Trade Commission has not been fulfilling its responsibility to regulate advertising and deceptive practices in other industries.

Similar sentiments have been expressed by our colleague Congressman Florio, chairman of the Subcommittee on Commerce, Consumer Protection and Competitiveness of the Committee on Energy and Commerce. Congressman Florio stated in an extension of remarks on February 5, 1986, that:

> One of the saddest aspects of the Washington scene in recent years has been the failure of Federal agencies to enforce the law. . . . A good example of this is the backlash arising from the Federal Trade Commission's relaxed approach to advertising abuses. State and private litigants have moved into the enforcement void because the enforcement breakdown in Washington cannot and will not quell the public's demand for action to restrict abuse.

In view of FTC's failure to carry out its existing responsibilities, there is no reason to think that FTC would do a better job with airline advertising. Indeed, a recent press release suggests that FTC has already made up its mind that there is no need for strong regulation of airline advertising. The story quoted the FTC as saying that airline advertising guidelines proposed by the National Association of Attorneys General would "bury consumers in unnecessary disclosure."

Even if the FTC would regulate airline advertising effectively, it would be impractical to give FTC this authority. The Department of Transportation regulates airline advertising and deceptive practices as part of a comprehensive regulatory scheme under which DOT also has responsibility for such matters as aviation safety, international aviation, and anticompetitive practices. The Department of Transportation and the Office of Management and Budget have both taken the position that they oppose title II of this bill because it is impractical and undesirable to try to divide DOT's regulatory responsibilities between DOT and FTC. These considerations led the Congress to decide in the Civil Aeronautics Board Sunset Act of 1984 that the authority of the Civil Aeronautics Board over deceptive practices should be transferred to the Department of Transportation rather than to the Federal Trade Commission.

I would further note that the Energy and Commerce Committee's proposal would result in that committee gaining jurisdiction over an important area of civil aviation. This would reverse the decision which the House made in 1974 to transfer jurisdiction over civil aviation from the Committee on Energy and Commerce to the Committee on Public Works and Transportation.

In conclusion, Mr. Chairman, there is no reason to think that the Federal Trade Commission could do an effective job in regulating airline advertising. Giving this authority to the Federal Trade Commission would lead to an undesirable fragmentation of the regulatory responsibility over civil aviation, which includes the regulation of safety. I urge support of the amendment of the Committee on Public Works and Transportation which would leave authority to regulate airline advertising with the Department of Transportation.

□ 1300

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this amendment. I recognize that many Members are dismayed and angry about air service. I share that dismay. But the solution is not to transfer jurisdiction from one committee to another or from one Government agency to another. The solution is to face the problem directly as we did Monday when we passed H.R. 3051, the Airline Passenger Protection Act of 1987.

I also am aware that many Members feel that the Department of Transportation [DOT] has not moved aggressively to stop the deterioration in airline service. But again, it will do no good to simply transfer DOT's responsibilities to the FTC. The FTC has a reputation for being even less aggressive than DOT in protecting consumers. Indeed, members of the Commerce Committee have been among the most vocal in their criticism of the FTC's lax enforcement efforts. It now seems odd that these same Members are urging that the FTC take over responsibilities in the aviation area as well.

It should also be pointed out that the consumer protection legislation which this body passed on Monday will have the effect of requiring DOT to substantially increase their resources to improve airline service quality.

There is another concern that we should not lose sight of. That concern is safety. Safety must always be our No. 1 priority. But this legislation could undermine that effort.

This bill transfers authority over all unfair and deceptive acts to the FTC, not just those involving advertising. When the DOT issued its passenger protection rule recently, it did so under the unfair and deceptive acts authority that would be transferred to FTC. In adopting this rule, DOT explained that it was careful not to take actions that would jeopardize safety. DOT has the expertise in this area. If the FTC were to take over this authority, it might unwittingly do something that would impact aviation safety because it has no expertise in this area. Regulations which provide incentives to compromise safety merely to improve the appearance of airline service quality could prove to be disastrous.

Several years ago, the Commerce Committee had jurisdiction over aviation. As part of the 1974 reorganization, that jurisdiction was transferred to the Public Works Committee. That arrangement has worked quite well.

However, the Commerce Committee reported the bill before us which transfers aviation consumer protection jurisdiction from the Public Works Committee back to the Commerce Committee. The Parliamentarian properly referred H.R. 2897 to the Public Works Committee. At the same time, the Public Works Committee reported out a comprehensive aviation consumer bill—H.R. 3051. The Commerce Committee sought a referral of the Public Works bill but the request was rejected by the Parliamentarian. This sequence of events demonstrates that jurisdiction over aviation properly resides in the Public Works and Transportation Committee. I urge my colleagues to support this amendment that would maintain this jurisdictional arrangement.

For all these reasons, I urge my colleagues to support this amendment in order to keep the jurisdiction with the committee and agency that have the expertise.

Mr. THOMAS A. LUKEN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, there is one salient point that I do not think has been made here today and has been confused even a little in the debate, when earlier I think the speakers on the other side suggested that this was a contest not only between committees, but between executive agencies. As a matter of fact, as we all know, the Federal Trade Commission is an independent agency. You might consider it an arm of the Congress, rather than an executive agency, and as such it provides a certain continuity. It is not just by happenstance that the Federal Trade Commission has these crucial jurisdictions of consumer protection, and in this case of overseeing false and deceptive advertising; so that is not the issue, deciding between committees, but between the agencies, if we are forced to that, it would have to come, although as we have pointed out on this side it is true that we are not really changing anything. They have had overlapping jurisdictions, and all we are doing in this is to say to the two agencies to sit down and work it out, and obviously the proper place for the advertising is in the Federal Trade Commission.

So if there is that choice to be made, we go for the independent agency with the continuity, the Federal Trade Commission.

Another argument has been made which shows the desperation of those on the other side, and that is the argument that somehow this is a matter of safety, as if advertising had something to do with safety. Well, if it does, they have ignored the fact that the FDA and the FTC, and I think the FDA, the Food and Drug Administration, has more than a little to do with safety. The FDA and the FTC have a written memorandum of understanding and agreement on their joint overseeing of the jurisdiction of the FDA with the FTC controlling the advertising.

It is also true informally that the FTC works with NITSA in another area just slightly involved in safety.

Another one is the Bureau of Alcohol, Tobacco and Firearms and the Consumer Product Safety Commission; so there is ample support for exactly what we are doing here, the logical thing to do, and that is where there are overlapping jurisdictions, as there are, that we tell the agencies to sit down and do the logical thing and say to the agency with the expertise, the history of overseeing consumer affairs, "You look after the advertising."

As a matter of fact, the bill, the so-called Airline Passenger Protection Act that passed here and it came from the Public Works Commission really just takes a dab, it just makes a feint at the question of advertising. It does not say, as the bill does here, that the FTC should go into rulemaking and should look at the whole subject of unfair and deceptive acts and practices and specifically to include a full and conspicious and understandable disclosure of the limitations and other restrictions. That is a general and a specific injunction in our bill to the FTC to control advertising in a logical and protective way, protective for the consumer.

On the other hand, the so-called Airline Passenger Protection Act has a very scant reference to advertising, and all it does as it says that such promotion, advertising for tickets, should show whether the flights are available, whether the seats are available. That is a very limited application. It does not get into, for example, the false and deceptive advertising which is so prevalent with regard to packages. A member of our staff called just today about an ad in the New York Times and called the airline and said they wanted to take advantage of this package to Hawaii. Well, my staff was advised, "You can't get on this package until you've got reservations in the hotel," and then she was advised that there are no reservations in the hotel in Hawaii, and by the time there are reservations in the hotel available, then the bargain offered has already expired. That is what we have been finding. That is what the gentleman from Minnesota [Mr. SIKORSKI] found when he made the call. We only made these calls pursuant to consumer complaints, consumers who have testifed before the committee.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. THOMAS A. LUKEN was allowed to proceed for 3 additional minutes.)

Mr. THOMAS A. LUKEN. And now on the subject of consumers, there is another argument that shows the desperation of our opponents. They actually are constrained and have put it in the report to suggest that the consumers are with them. Well, the facts are that the airlines are with them, but the consumers are with us.

□ 1315

Here we have the same Consumers Union, the same Consumers Union that they criticized. Sure, the Consumers Union criticized the FTC. Members on this side of the aisle have criticized the FTC. Yogi Berra, or somebody, said nobody is perfect, and nobody over here is going to say that the FTC under this administration is perfect. Far from it. But they are a lot better than the Department of Transportation, and no one can say anything different with reference to advertising and control of false and deceptive advertising.

If there is any question about where the consuemrs actually stand, we have a letter of September 28, 1987, from the Consumers Union which shows the same gentleman who is quoted in the Public Works and Transportation Committee report on their bill, the same Mr. Mark Silbergeld, who gives a very good treatise, a brief, showing why the Federal Trade Commission should have the jurisdiction and not the Department of Transportation, showing why the Federal Trade Commission with its broad undergirding, its framework of power and authority and of history and tradition and of organization, that it can deal with these abusive practices. I quote:

> Legislation addressing airline advertising should grant broad, flexible rulemaking authority to an agency with experience in rulemaking and in regulating advertising.

That is the authority that the Public Works and Transportation Committee just appealed to. September 28, 1987, this gives a detailed treatise, a detailed analysis on various points as to why the FTC is capable and should be given, in the name of protecting the consumer, should be given this jurisdiction.

Members, I think it is clear that whether we are talking about jurisdiction or whether we are talking about protecting the consumer, whether we are talking about who can do the job, there is no question that on balance the FTC is the agency which has the tradition, which in the future we can look to under any administration, which we can look to with having the 500 lawyers, to having the consumer bureau, to having the experience of regulating advertising, the experience of knowing what false and deceptive advertising is, the experience of going out and making surveys, of taking the initiative. Whoever heard of the Department of Transportation with their 9 employees taking initiatives?

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman's amendment. I believe that there is full justification for maintaining the Department of Transportation's regulatory authority over deceptive acts and practices in the air travel industry.

There a number of areas in which DOT must combine its authority to regulate unfair and deceptive practices with other regulatory authority. For example, there is the problem of so-called economic cancellations where a flight appears to be canceled simply because there are insufficient passengers.

DOT has decided in the past that failure to operate scheduled service constitutes deceptive advertising. However, I do not believe that we wish to create a situation where a prohibition on arbitrary flight cancellations includes any kind of cancellation, even that which is due to safety reasons. Joint jurisdiction between the Federal Trade Commission and the Department of Transportation may well wind up jeopardizing the public safety rather than enhancing consumer protection.

After all, how is the FTC supposed to tell the difference between an economic cancellation and a safety cancellation? It is the Department of Transportation that knows what the weather conditions are and what mechanical difficulties airlines may encounter. It is the Department of Transportation that can define the terms so as to ensure that the public good and the public safety remain one and the same.

I can certainly understand the concern of those who feel that the airlines are abitrarily canceling their flights. In response to this concern, DOT is implementing new flight reporting requirements and the House has passed legislation aimed at curbing such practices. Certainly, airlines should be encouraged to see that consumers are well-treated. I believe that the new reporting requirements will help and that the Public Works Committee should continue oversight of this important issue.

When Congress passed the CAB sunset legislation, transferring all of that agency's regulatory functions to DOT was a conscious decision on our part. It was a clear case where two agencies are not better than one. I see no reason to change that decision now, and I urge my colleagues to support this amendment.

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think all are concerned about the bottom line, which is to provide consumer protection to people who fly on airlines, to protect them from unfair or deceptive advertising. The question is how best to do that.

The approach the Department of Transportation has taken is to wait for people to be injured and then send out investigators, and not very many of them. The record is that they have investigated some 30 different injuries that have allegedly occurred out of the thousands and thousands of complaints they have received. This is an after-the-fact investigatory approach.

The approach the FTC bill contains within it is to have a mandatory prospective rulemaking undertaken, spelling out the appropriate course of conduct that the airline will be held to. There is no need for consumers to be injured in order to have a remedy. I think that is very important.

The rulemaking process will spell out the appropriate course of conduct for the airlines to adhere to and therefore, if there is one violation, the whole practice will be penalized. It is a very important point to emphasize.

Do we want to be asking our constituents to endure injury before anyone takes any action, or do we want to spell out a prospective course of conduct inherent in the rulemaking process?

Much has been made by supporters of the amendment of the gentleman from California [Mr. MINETA] of the criticism that a number of us, myself included, have made of the FTC. What is not being appreciated is that criticism has been made in the context of advocating this legislation, that this legislation with title II included in it is designed to address the legitimate criticisms that many of us have made about the FTC's policies over the last number of years.

What we are doing is removing the discretion that in the past the FTC has used not to do what we think is appropriate to ensure a free and a fair marketplace. Title II is quite consistent with that approach. We do not give the agency the discretion to take action as the DOT has; rather, what we do is mandate that this rulemaking will be undertaken and that the industry will be charged with complying with the course of conduct in the area of unfair and deceptive advertising that is spelled out.

The last point I would like to make is the point the gentleman from Ohio made that if anyone has any doubts about how consumer organizations feel, it is obvious and beyond dispute that the consumer organizations have said that the existing system whereby DOT has this authority, without any input from the FTC, is unsatisfactory and therefore they are advocating and supporting and working very hard to ensure that title II of this bill is passed into law so we can deal with the legitimate concerns of consumers in the area of unfair and deceptive airline advertising.

Mr. SKAGGS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the amendment offered by my distinguished chairman, Mr. MINETA.

With air travel at an alltime high, it is important for consumers to have confidence in our Nation's air transportation system. Under current law, the Department of Transportation has sole regulatory authority over all aspects of the airline industry. An integral part of this mandate is the regulation of deceptive practices in the sale of airline tickets. In carrying out its responsibilities to regulate unfair and deceptive practices, the Department is required by law to address the relationship between air safety and airline advertising practices.

In 1984, the Congress considered and rejected a similar proposal to transfer this authority from the Civil Aeronautics Board, which was being abolished, to the Federal Trade Commission. The 98th Congress endorsed the position of the Committee on Public Works and Transportation that the Department of Transportation was the most appropriate agency to take over the consumer protection and unfair competition responsibility from the CAB. Congress concluded that it would be confusing and inefficient to have DOT protect consumers in some areas and another agency, such as FTC, protect consumers in other domestic operations.

Circumstances have not changed during the last 3 years. It still makes sense to keep regulation of all aspects of the airline industry in one department. Transferring the regulation of airline advertising to the FTC, and providing for the regulation of other consumer matters by both the DOT and the FTC, would result in a duplicative and confusing scheme.

It seems surprising to me that the Committee on Energy and Commerce would conclude that the FTC is better able to regulate deceptive advertising by air carriers than the DOT is. The FTC has been repeatedly criticized for failing to use its existing authority to regulate advertising in other industries. In fact, the Chairman of the Energy and Commerce Subcommittee on Consumer Protection has been critical of the FTC's "relaxed approach to advertising abuses."

The FTC itself has said that it is "unaware of any evidence indicating that airline fare advertising, frequent flier programs or overbooking compensation policies are generally unfair or deceptive." I don't believe that we should turn over authority to regulate this area to an agency that is on the record as saying there is no problem.

Finally, and most importantly, creating dual jurisdiction between these two departments will confound consumers, not help them. If we agree to this bifurcated authority, a consumer who has a complaint will likely be shuffled back and forth between the two agencies, with each disclaiming any responsibility for the problem. It will create a classic bureaucratic standoff. This House just passed legislation aimed at providing more protection for airline passengers and placed the authority to ensure that those passengers receive proper service with the DOT. Safety and consumer protection dictate that we keep all regulatory authority in one department.

I urge my colleagues to support this worthy amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I thought I heard the gentleman say during his statement in support of the amendment that he felt the Department of Transportation ought to continue to have exclusive jurisdiction over false and deceptive advertising. We have a statement from the gentleman made on the floor on Monday where the gentleman said, "Although the Department of Transportation has had rulemaking authority to maintain reasonable standards for air travel since deregulation, it has not done enough to protect airline consumers."

I would just say I agree with the gentleman's statement, which he made last Monday, more so than I agree with the gentleman's statement today. Perhaps he would like to clarify the statement he made today.

Mr. SKAGGS. I would love to, and would hope for the gentleman's agreement today as well.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I want to say to the gentleman from New York, my good friend, I believe if he will check the gentleman's statement in context it was precisely in the process of holding hearings, writing a bill and then passing a bill this last Monday which dramatically strengthens the Department of Transportation's orders to work in this area, that the gentleman was in context, and I think the point you just made for us, that precisely because on the Public Works and Transportation Committee they came to the conclusion that DOT had to do a better job, we have already in this House passed a bill to substantially increase the requirements for DOT to do a good job.

Mr. LENT. Mr. Chairman, will the gentleman yield further?

Mr. SKAGGS. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I would simply say to my colleague we can leave the authority to the DOT, but if they only have 12 people working on the problem, and there are 30,000 complaints, they are not going to be able to do an effective job. The Federal Trade Commission, on the other hand, has the expertise, the manpower, and the background to do a good job on airline advertising.

Mr. SKAGGS. If I can take back my time, I understand there is a good deal of disagreement as to, one, the staff of the DOT, which is somewhat larger than the 12 that were referred to, and also the dedicated staff that the FTC has really available to deal with this problem, which is much smaller than the gentleman might have suggested.

I yield back the balance of my time.

Mr. MOLINARI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address the issue that was brought up by the gentleman from New York [Mr. LENT] on the question of the Department of Transportation. I do not know that there is a Member in either House that has been more critical of the Department of Transportation than myself. I do not believe they have done the job over the years. As a matter of fact, when Mrs. Dole left last month I publicly criticized her and her Department for failing to act.

Having said all of that, I think we must recognize if we look at title II more carefully we should understand we are not talking simply about advertising.

Paragraph 4 talks about giving the FTC the power to prevent them from using unfair or deceptive acts or practices in or affecting commerce. That goes beyond the advertising concept.

□ 1330

Now I would be the first one to admit and to believe that our committee, the Committee on Public Works and Transportation, has not moved fast enough. The consumers throughout this country have been screaming for help for a long time. But we finally did get moving and we finally moved a bill and when that bill came out of our committee, it was a great deal tougher on the industry than I ever expected. We finally put together a bill that had some solid teeth in it. It seems ironic that only a couple of days after unanimous passage of that bill, today we are going to take a step backward and take part of that jurisdiction and move it to the FTC. It does not make a bit of sense to me. I can tell you with great conviction that the issue of airline safety is a very difficult and complex one and you cannot separate it out and apart from consumer advertising, unfair practices. If you do that and you give it to an agency that has no experience or authority whatsoever historically you are going to be committing a very serious mistake and perhaps the very goal that you are seeking to address here today you are going to be ending up in the opposite direction.

I appeal to you, give us a chance. We are now moving and we are moving with conviction. We have put together a tough bill. I think we can look forward to our committee, the Committee on Public Works and Transportation, addressing the issue at more length as required and as we move down the line.

Please, at this point I ask the body not to permit us to take a step backward after what we have just concluded, after 1½ or 2 years of hearings.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I would be glad to yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, let me say first of all, I have admired and looked up to the gentleman and responded to his leadership in connection with this whole question of airline safety. I think the gentleman is to be commended. The bill that passed last week, H.R. 3051, the Airline Passenger Protection Act, does make a number of needed reforms in the area of regulation of airline practices.

We feel, however, that the very brief reference to this question of false and misleading advertisement which is contained in that legislation on page 16, barely a paragraph, is hardly enough.

I just want to ask the gentleman: How is the DOT going to do a better job and carry out its responsibilities with respect to misleading and perhaps even fraudulent advertisements when we asked the Department of Transportation during hearings—and our committee has had a number of hearings as the gentleman knows on this issue—"How many personnel at your Department are detailed to aviation consumer complaints?" And here was their answer: "Twelve full-time professional employees staff the offices' Consumer Affairs and Investigation Division."

Now we have been saying 12, the other side has been saying it is a lot more than 12. I do not know how many people they have working at the Department of Transportation. Maybe it is 30,000 or 40,000. Only 12, by the Department of Transportation's own statement given to us during a hearing, are working on the problem of consumer complaints. We can pass all the laws we want, but if they have only 12 people there to implement those laws, we are not going to make any difference.

Mr. MOLINARI. I would agree with the gentleman from New York. In responding to that question, let me say the answer to that is easy. The legislation that we passed would mandate that they are going to have to put in place the proper resources to carry out the intent of our law. If it requires 20 or 25, that is the number that would be put together.

The CHAIRMAN. The time of the gentleman from New York [Mr. MOLINARI] has expired.

(On request of Mr. MINETA and by unanimous consent, Mr. MOLINARI was allowed to proceed for 2 additional minutes.)

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I will be glad to yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. I thank the gentleman for yielding.

It is my understanding, also, that there are only 18 at the Federal Trade Commission dealing with advertising as a subject alone.

Mr. MOLINARI. That is a good point. I am not aware of that number, Mr. MINETA, but certainly those 18 or whatever number of them there might be, they do not know the area that we are talking about, and they would be learning from ground zero.

Mr. LENT. Mr. Chairman, would the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding.

Let us just clarify some issues. We know from the record of the hearings that there are 12 people at the Department of Transportation that are working on the 20,000 or 30,000 the Department has received. At the Federal Trade Commission, here are the figures: They have a total number of employees of 1,014. Obviously, they are not all working on this problem. But in their Bureau of Consumer Affairs, where DOT has 12, FTC has 400 people at work of whom 150 are attorneys.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I yield to the chairman of the committee.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Chairman, the point we are making is that at the FTC they have only 18 lawyers working on advertising and deceptive advertising of all the businesses in the country with the exception of the very few that are exempt.

Mr. MOLINARI. I think the chairman makes a good point. I think we should not play games with numbers here frankly; the issue is too important. It is not a question of whether there is 12 or 18 on line, the issue is what do we need to do to address the problems that are real out there. But please let us not confuse what we are doing today with that very critical issue of aviation safety. That is my chief concern and that is why I am here and support the amendment of the gentleman from California.

Mr. BILIRAKIS. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I would be glad to yield to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. I thank the gentleman for yielding.

Mr. Chairman, referring to the bill that the gentleman referred to, H.R. 3051, which passed on voice vote the other day, as I look at the bill very quickly, page 16, section 1706 entitled "Advertising Requirements," is the only portion of the bill that has anything at all to do with advertising.

The CHAIRMAN. The time of the gentleman from New York [Mr. MOLINARI] has expired.

(On request of Mr. BILIRAKIS and by unanimous consent, Mr. MOLINARI was allowed to proceed for 2 additional minutes.)

Mr. BILIRAKIS. Mr. Chairman, will the gentleman continue to yield?

Mr. MOLINARI. I yield to the gentleman.

Mr. BILIRAKIS. I thank the gentleman for yielding further.

Mr. Chairman, I do not really see where this is the answer to the situation, where this is a panacea. But I would go further. During the general debate, I read comments from the DOT Office of the Secretary, that the Airline Service Quality Performance, volume 52, No. 111, dated June 10, 1987, at page 22058. What basically these comments say, "It may be advisable," that is the DOT, "It may be advisable to seek legislation that would extend the FTC's jursidiction to cover airlines and thereby give that agency concurrent consumer jurisdiction with the Department. At the time of the CAB sunset, the Department took the position that the FTC was the appropriate agency to have responsibility for consumer protection. This alternative would have the advantage of enabling the FTC to apply its consumer protection expertise to the aviation industry."

The Department itself was coming right out and telling us, they do not have the expertise, they do not think they should retain it, they think there should be concurrent jurisdiction. And that is exactly what my amendment does as far as the bill that is on the floor is concerned.

I mean, are we trying to shove something down the throats of an agency that really does not want the jurisdiction, does not really have the expertise, does not have the personnel, that sort of thing? I do not think we should do that. That is not the role of Congress.

Mr. MOLINARI. If I may just respond to the gentleman from Florida, I do not think it is a question of lack of expertise. I think they moved slowly, I think they needed a kick in the fanny by the Congress and we did give them that kick. I think we have them moving now. Now that we have them moving, I am saying this is the wrong time after this momentous step that we took and voted out a tough bill for the first time for the consumers of this Nation, we should not now split off that jurisdiction after we have taken the step that we have. I think the timing of this is atrocious. I would say let it go for a year and then next year at this time if we do not see it being implemented the way that we feel it should, then let us consider this alternative.

The CHAIRMAN. The time of the gentleman from New York [Mr. MOLINARI] has again expired.

(On the request of Mr. MOORHEAD and by unanimous consent, Mr. MOLINARI was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman.

Mr. MOORHEAD. I thank the gentleman for yielding.

I think the big issue here is that the Department of Transportation, even if they are included to do a good job, does not have the staff or the expertise to do the job of regulating properly.

The FTC will be required by title II to promulgate a rule, within 180 days, that defines as deceptive any advertisement that does not include a "full, conspicuous, and understandable" disclosure of the limitations or other restrictions applicable to the availability of discount fares. The Commission must also require advertising which advertises a flight between two points to include the average on time performance of the flight between such points.

I think it is very clear that the FTC is much better prepared to do a good job in this area and I certainly ask for an "no" vote on the gentleman's amendment.

Mr. BILIRAKIS. Mr. Chairman, will the gentleman yield further?

Mr. MOLINARI. I yield to the gentleman from Florida.

Mr. BILIRAKIS. I thank the gentleman for yielding.

Mr. Chairman, again referring back to H.R. 3051, I think the gentleman would admit there are a lot of good things in there, but the advertising portion does not go far enough.

I would suggest even though that was not referred to Energy and Commerce and it should not have been, I suppose, because we did not have the jurisdiction although these other areas involved in deceptive practices and advertising have been, this other legislation; if this had come on the floor through a means other than under suspension with an open rule type of thing so we had the opportunity at least to bring in our points, the improvements that we have done by virtue of the FTC reauthorization bill, it may have been a different situation. We did not have that opportunity and we feel it just does not go far enough.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I would be glad to yield to my colleague.

Mr. STANGELAND. I thank the gentleman for yielding.

Mr. Chairman, I just want to say I rise in strong support of this amendment to strike title II.

The CHAIRMAN. The time of the gentleman from New York [Mr. MOLINARI] has expired.

(On request of Mr. STANGELAND and by unanimous consent, Mr. MOLINARI was allowed to proceed for 4 additional minutes.)

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman.

Mr. STANGELAND. I thank the gentleman for yielding.

Let me inform the committee that when H.R. 3051 was marked up from Committee on Public Works, I offered an amendment that would prevent the States from participating in certain things that the committee decided the airlines should do, such as printing arrivals, departures, baggage records, and a whole list of other things that we thought the airlines ought to do for consumer protection.

After I had offered that amendment, it was accepted. The attorney general of the State of Minnesota contacted me on behalf of all the attorneys general, very concerned that the preemptive language might preempt them from being involved in airline advertising, deceptive advertising, things that normally and naturally the States can handle.

Even the attorney general of California contacted the chairman of the subcommittee, concerned about that preemptive language. And we assured him that in no way did that preemptive language preclude them from dealing in the areas that they could deal with, which is advertising deception, fraudulent advertising, whatever. The States can handle the advertising with the DOT and I think it is wrong for us in this bill to divide the jurisdiction between the FTC and DOT.

I just ask my colleagues to support the gentleman from California, support his amendment, strike title II.

I am confident the gentleman from California, the chairman of the Aviation Subcommittee, the ranking member from Georgia, Mr. GINGRICH, will supervise and oversee the DOT in what they do in airline advertising. And it is wrong, it is in error for us to divide that jurisdiction and have multiple jurisdictions among the bureaucracy.

I urge a "yes" vote for the amendment of the gentleman from California and I thank the gentleman from New York for yielding.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I am troubled by what the gentleman from Minnesota just said, about not having jurisdiction divided. I thought the gentleman was citing the State attorneys general's letter that there should be 50 different false and misleading advertising regulations from each of the States.

Mr. MOLINARI. If the gentleman wants to respond I would be more than happy to yield.

Mr. STANGELAND. I would be more than happy to respond. I think this is appropriate for the States to check the advertising in their States. I think the DOT has the responsibility to set an overall broad parameter. But what you are doing to give this to the FTC could well usurp the States rights in checking faulty, deceptive, fraudulent advertising in their States.

The attorneys general of this country are well prepared and ready to take on any faulty, deceptive, fraudulent advertising.

Mr. LENT. I think the gentleman is making my point: the attorneys general of the 50 States are ready to get into this fray and make 50 different rules, regulations and laws for airline advertising.

Here is what the attorney general of the State of Florida said:

> The absence of effective federal regulation in this area has prompted increased interest by state authorities to engage in regulating air carrier advertising.

In other words, what is happening here is there is a vacuum that has been created by the Department of Transportation's failure to carry out this function.

So not only are we talking about the Federal Trade Commission getting into this, but also the 50 State legislatures and that would be a tremendous mistake. We would really have a Balkanization.

□ 1345

The CHAIRMAN. The time of the gentleman from New York [Mr. MOLINARI] has expired.

(On request of Mr. STANGELAND, and by unanimous consent, Mr. MOLINARI was allowed to proceed for 2 additional minutes.)

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. STANGELAND. Is it the position of the gentleman from New York that now he wants to preempt the State authority and rights to regulate advertising and give it all to the Federal Trade Commission; and to my colleague who preceded me here at the podium who says the Department of Transportation is not prepared, I just ask the question, Is the Federal Trade Commission prepared? Has the Federal Trade Commission done such a magnanimous job in their responsibilities that they are now ready to take on new responsibilities?

I say no.

I say support the gentleman from California. Vote aye on the Mineta amendment. Let us strike title II.

As the gentleman from New York [Mr. MOLINARI] has suggested in a year if this has not worked, let us take a look at another alternative.

Mr. LENT. Mr. Chairmnan, will the gentleman yield?

Mr. MOLINARI. Mr. Chairman, I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, wherever there is advertising that is across State lines, the jurisdiction of the Federal agency would in fact preempt. The individual States have jurisdiction through their attorneys general to regulate intrastate advertising, but here where we are talking about airline regulation, where the airlines crisscross America and go all over the world, it is a far better remedy to have one form of advertising or one regulation coming from the Federal level.

If we pass the bill the way it is now without striking out title II, an understanding or cooperative agreement between the FTC and the DOT will be entered into. It is called for in title II. That is an agreement between the Department of Transportation, which is not doing the job, and the Federal Trade Commission, which is established expressly for that purpose. That is far better than leaving this vacuum so that 50 different States have to come in and pass conflicting, confusing statutes. How is someone going to advertise for airlines in the Washington Post or New York Times under those circumstances?

The CHAIRMAN. The time of the gentleman frrm New York [Mr. MOLINARI] has expired.

(By unanimous consent, Mr. MOLINARI was allowed to proceed for 2 additional minutes.)

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I am glad to yield to the gentleman from New York.

Mr. LENT. How is anyone going to advertise in the newspapers or on television that are involved in interstate commerce if there are 50 different sets of rules and regulations that are balkanizing the advertising industry?

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I am glad to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I would just say to my good friend from New York [Mr. LENT] if the situation were as he described it, I would vote with him, but the fact is that first of all on Monday we passed a bill which takes the right direction. Second, even in the short time that we have been aggressively pursuing this over the last year, the Department of Transportation increased the total number of people involved in one way or another with this issue to 36 people from the 12 that were testified in your subcommittee. Furthermore, I would just suggest that the Federal Trade Commission has more than enough specific areas of consumer complaint and that in fact there are more people currently involved in one way or another at the Department of Transportation on this issue than the total number of people in the specific office involved with advertising deception at the Federal Trade Commission.

Mr. Chairman, if we had not done anything, if we had not passed a bill on this past Monday, if we had not held the hearings, and if the Department of Transportation were not doing its job, I would agree with the gentleman from New York, but I think we have taken tremendous strides in the last year. I think the gentleman from New York [Mr. LENT], who has certainly been an aggressive critic of the Department of Transportation will testify that we are making progress, and I strongly urge support for the Mineta amendment.

I thank the gentleman for yielding.

Mr. MOLINARI. Mr. Chairman, I yield back the balance of my time.

Mr. WYDEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief, and I want to make just one point to my colleagues. That point is that without the language that is now in the bill we will be regulating all the small businesses in this country, the drugstores and the hardware stores, and more significantly with respect to false advertising than we would be regulating the airlines. For example, by Federal Tradfe Commission rule, when a drugstore advertises that it has a sale on toothpaste at 39 cents a tube, that drugstore is required to maintain a certain number of tubes of toothpaste that they are prepared to sell at that price and must provide that product to the consumer at the advertised price even if the stocks are depleted.

No such regulation applies in any way to false advertising in the airline area.

So let us be very clear, without the language in this bill with respect to false advertising, the small businesses in all of our districts, the drugstores and the hardware stores, will be more significantly regulated than the airlines.

The vote today, and the vote for consumers is to support the language in the bill, and I yield back the balance of my time.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, Matthew 6:24 tells us that "no man can serve two masters: For either he will hate the one, and love the other; or else will hold to the one, and despise the other."

This teaching also applies to regulatory ageancies. When an industry must answer to more than one agency they quite often use the demands of one as an excuse for not meeting the requirements of the other. Jurisdiction becomes confused and otherwise simple questions must be settled in the courts.

The aviation industry is currently regulated by the Federal Aviation Administration. H.R. 3051 which this body approved on Monday clarifies the responsibility of FAA to prevent unfair and deceptive trade practices by air carriers. Bringing a second agency, particularly one which does not share FAA's preoccupation with safety, will only complicate our air traffic system and lead to hardship for both air carriers and passengers.

The best that we may hope for from the provisions of title II of this bill is frequent, protracted legal debates as to whose regulations apply in various situations. The worst that might happen is that an airline may place a higher priority on passenger service than on passenger safety. Taking off on time is no bargain if you never arrive at your destination.

My colleagues, I urge you to support the amendment of the Public Works Committee and delete title II from this bill.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague from California which would strike title II of H.R. 2897. As it currently stands, I believe title II would have an adverse effect on aviation safety by splitting the authority for aviation matters between the Department of Transportation [DOT] and the Federal Trade Commission [FTC].

I commend the sponsors of H.R. 2897 for their concern that airlines must not be allowed to continue the practice of deceptive advertising practices. I do not believe, however, that this state of affairs will be rectified by creating a confusing overlap of jurisdiction for this problem between two Federal agencies.

The administration agrees. A statement of administration policy released on October 5 stated that title II "would inappropriately fragment regulation of air carriers' advertising and consumer protection * * *." At this critical time in the history of our air transporation system, I believe we should be seeking greater efficiency, not implement a new regulatory structure which would result in administrative chaos.

Mr. Chairman, the Department of Transportation's authority over aviation is part of a comprehensive program in which the issues of safety, competitivenes, and consumer protection are purposefully intertwined. If matters of consumer protection become separated or preeminent in some way, we run a significant risk of allowing unsafe planes to fly. Likewise, airline competitiveness would be significantly unbalanced if the regulation of computer reservation systems were to be split between two Federal agencies.

Finally, I would like to mention that there is no evidence that the Federal Trade Commission would adequately enforce airline consumer regulations. In fact, the FTC has been highly critized in recent years for its lax and ineffective approach in handling deceptive advertising practices. Now is not the time to be transferring the authority for aviation advertising to an agency which has failed to protect the public in other industries.

Mr. Chairman, the jurisdictional changes of title II are not justified at this time. I urge my colleagues to support the amendment to strike this title so that we might seek to solve the problems of aviation in a comprehensive and reasonable manner.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think for many Members in this body who are not on the Committee on Public Works and Transportation, or on the Committee on Energy and Commerce, the issue boils down to a simple question: Do my colleagues believe that the way the airlines are doing business today and the kind of claims that are being made are anywhere near reality of the service that we are getting?

If my colleagues believe everything is great, that your constituents are being well served, that the claims that are seen on television are anywhere near accurate, go right ahead, vote for the Mineta amendment.

But if my colleagues are wondering about what has happened to airline service in the United States, that my colleagues are thinking twice about that, and have been burned like so many of our constituents, vote down the Mineta amendment.

Mr. BOUCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. BOUCHER. Mr. Chairman, title II of this bill revokes an exemption that the airline industry has enjoyed for 50 years from FTC regulation of unfair and deceptive acts and practices. At one time, this exemption was justifiable and made sense. The CAB for most of that period exercised authority over unfair and deceptive acts and practices as a part of its overall economic regulation of the industry.

That economic regulation however, is a thing of the past. The airline industry has been deregulated, and with that deregulation has come a new set of competitive pressures that have led to widespread consumer abuses. These include unfair and deceptive airline advertising, but consumer problems go well beyond that—to abuses in so-called supersaver promotions, frequent-flyer programs, and a variety of other unsavory practices that have helped to earn this industry the American people's disdain and distrust.

The agency of the Government that, since 1914, has been charged with protecting consumers against unfair and deceptive acts and practices affecting commerce has been the FTC. There is no reason why the airline industry, now deregulated, should continue to enjoy an exemption from the FTC's jurisdiction over these matters.

When the CAB was abolished, its consumer protection authorities were transferred to the Department of Transportation. DOT never wanted this responsibility and opposed such a transfer. Experience demonstrates that the transfer was a mistake. DOT's performance in this area has been abysmal, to say the least.

In the first 8 months of 1987, DOT received 19,410 consumer complaints—52 percent more than in all of 1986. These complaints run the gamut of everything from lousy food to lost luggage, but a significant number entail what are commonly recognized as unfair and deceptive acts and practices—false or misleading advertising, inability to comprehend limitations and restrictions applicable to advertised fares, and so forth.

Has DOT handled this problem effectively? No, the mounting consumer frustration with the industry speaks for itself when it comes to assessing DOT's response. I can't help but be amused by those, including DOT itself, who argue that giving FTC this authority will not help consumers. Apparently, the consumer groups don't agree, as shown by the Consumers Union/consumer Federation of America's endorsement of this bill.

Let's put a collective stop to this industry's outrageous advertising behavior. Support title II of the bill, and defeat this amendment.

Mr. BILIRAKIS. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to the Mineta amendment.

Mr. Chairman, I have four points to make very quickly, if I might, because we are sort of bringing back much of the general debate here.

First of all, I think it is significant that my colleagues know, Mr. Chairman, that this has been called a power grab, we have talked about jurisdiction, turf battle, turf fight, that sort of thing.

Mr. Chairman, I would say to my colleagues that when I introduced the amendment in the Committee on Energy and Commerce, and in the Committee on Public Works and Transportation, it took the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, completely by surprise. It was not a power grab on his part, it was not intended to be a power grab as far as the Committee on Energy and Commerce was concerned. It was intended to be a piece of consumer legislation that was introduced by me, a relatively naive, relatively junior Member of the U.S. Congress who does not concern himself with things like power grabs, jurisdictions, and things of that nature.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. BILIRAKIS. I yield to the gentleman from Michigan.

Mr. DINGELL. The gentleman makes an excellent point. This is a quote from a letter jointly signed by the Consumers Federation of America and the Consumers Union:

> Current deceptive airline advertising, abominable passenger carrier on-time and missed-connection performance and lost baggage experience are consumer problems that have reached scandalous proportions. Consumers Union and Consumer Federation of America strongly support inclusion in H.R. 2897, the Federal Trade Commission Act amendments of 1987, of a provision that would lodge with the Federal Trade Commission responsibility for regulating passenger airline advertising practices.

Mr. Chairman, they go on to say:

> We hope that the FTC Amendments bill approved by the Rules Committee for floor consideration will include Section 201, which is needed to correct current airline industry practices. If it is not, we urge you to seek a rule for and to introduce a floor amendment that adds Section 201 back to the FTC Reauthorization Act.

The consumers and the airlines' passengers support this provision. The airlines oppose it. The question is, Who is the Congress going to look to and serve, the airlines or the consumers?

The choice is simple.

□ 1400

Mr. BILIRAKIS. Mr. Chairman, continuing on, it is also significant that we remind ourselves that the Federal Trade Commission does have the statutory mandate in section 5(a)(1) of the FTC Act to prohibit the use in commerce of "unfair methods of competition" and "unfair or deceptive acts or practices."

This has been one of the FTC's main missions since its creation 73 years ago.

The FTC is the Federal Government's consumer protection agency, and the DOT is a transportation agency.

In spite of all of that, and again in response to the gentleman from Florida [Mr. SHAW], and I do not see the gentleman here, and possibly the gentleman might be watching us on television, the issue of Matthew's comments regarding our being able to serve two masters, that took place long before the FTC and FDA, and what not; but the airline industry is virtually the only segment of American business to enjoy a total exemption from FTC oversight and without FTC protection.

FTC shares jurisdiction with other agencies. There is more than one master being served in other instances with the FTC involved in areas of public health and safety, the Food and Drug Administration, the Consumer Product Safety Commission, the National Highway Traffic Safety Administration, the Bureau of Alcohol, Tobacco and Firearms.

The memorandum of understanding that is reflected in our legislation, there currently exists several liaison agreements and memoranda of understanding between FTC and other agencies which have allowed for aggressive and effective enforcement of shared responsibilities.

Examples include agreement with FDA on OTC and prescription drug advertising; agreement with Department of Agriculture regarding enforcement of the Packers and Stockyards Act; agreement with Department of Justice regarding antitrust and merger authorities; and agreement with Postal Service regarding mail-order fraud.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. BILIRAKIS was allowed to proceed for 1 additional minute.)

Mr. BILIRAKIS. Mr. Chairman, I point out to the Members this particular ad, and there are many of them. This can be compounded so many times over.

This ad dated October 6, 1987, yesterday's New York Times, guaranteed 7-day advance purchase fares from New York to, and it goes on here to list a number of cities, Kansas City has an asterisk, Mexico City has two asterisks, San Diego has a cross, and San Francisco also has what looks like a cross. It is so small, I can barely see it. It is in very small letters.

Fares are one-way based on round-trip purchase, and flights can be rescheduled on Braniff Airlines only. Canceled flights will incur a 50-percent penalty. Tickets must be purchased within 24 hours after making reservations but at least 7 days prior to departure, and you must stay over Friday or Saturday night, et cetera, et cetera.

Mr. Chairman, are these really and truly guaranteed 7-day advance-purchase fares?

I would submit that H.R. 3051, which passed on a voice vote the other day, certainly does not address this type of a problem.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

I think we are coming to the close of a long and, I am sure for a lot of the Members, a slightly confusing debate.

I would like to try for those of the Members who favor the Mineta amendment to explain what I think are the two or three major fallacies in the position of our colleagues on the other side of this issue.

First of all, I would say to the gentleman from Florida, if the gentleman will take a careful look at the Report on the Federal Trade Commission Act Amendments of 1987, page 34, I believe it is fair to say, among those businesses which are exempted, and I am quoting from page 34, I believe it is the committee's report, "* * * except banks, savings and loan institutions described in section 18(f)(3), Federal credit unions described in section 18(f)(4), common carriers subject to the acts to regulate commerce, air carriers and foreign air carriers subject to the Federal Aviation Act of 1958 * * *."

In other words, there are a number of institutions which for one reason or another are not subject to the FTC. It is not accurate to suggest that this is a unique situation.

Second, I would say to the Members, and I think this is part of the difference in approaching advertising as it relates to any other industry, and advertising as it relates to an industry involving air safety, it is a more complicated issue than some of the members on the Committee on Energy and Commerce would believe.

For example, in general debate one of the Members, one of the most distinguished Members, talked about newspaper advertising as though it was the essence of aviation advertising.

In fact, to cite just two airlines, United Air Lines in the U.S. market in 1987 will spend about $82 million, of which between $54 and $62 million will be TV and radio, and only $20 to $28 million will be newspaper.

Delta Air Lines will spend about $80 million this year, of which $57 million will be TV and radio, and $23 million newspaper.

Mr. Chairman, I make that point as a general entry to say, even on the issue of where they do the advertising, we have a disagreement of fact.

Second, we have a disagreement of fact about how many people are involved. It is our assertion, having made the phone calls today, that there are in fact about as many people at the Department of Transportation and three different offices now working on this issue as all of the people at the Federal Trade Commission involved in advertising fraud and all of the topics, in all of the businesses.

I would say to the gentlemen on the FTC side of this argument, they have had some areas looked at for almost 80 years now. It has a long tradition of being in existence.

Yet, every year we hear the members from the Committee on Energy and Commerce get up and explain that they have found new fraud they have to be involved in.

I would just say to the Members, with everything the Members already deal with in business, the Members still cannot handle the fraud that is found each year, so why would you reach out to grab another area?

I understand that the distinguished chairman certainly did not lay awake at night and did not seek to reach out and grab this. On the other hand, if it traipsed near his door, the chairman did not mind taking it in, harboring it for a little while, sheltering it from the cold winds of being ignored.

A final point, we asked the Administrator of the FAA how he felt about us splitting the responsibilities where they relate to aviation safety. He makes the point in a letter dated yesterday that it is very important to keep all of the aviation matters in the same department.

He points out, for example, and I quote:

> The most recent example of this important balancing was Secretary Dole's decision that the reporting of on-time performance statistics by airlines, intended to benefit consumers, should specifically exclude delays and cancellations for maintenance and repair reasons. The Federal Aviation Administration was directly involved in the determination that led to this outcome.
>
> While the Federal Trade Commission could be expected to be receptive to aviation safety arguments for taking a particular course on consumer protection decisions, such a dispersion of responsibilities outside the Department would make our administration of the FAA Act more difficult.

In other words, if the Members are willing to take risks with consumer safety, vote against the Mineta amendment; but if the Members think that advertising is less important than safety, and the Members think that the people in charge of safe travel should also be in charge of monitoring the airline industry, then the Members need to vote for the Mineta amendment.

Mr. BRUCE. Mr. Chairman, I move to strike the requisite number of words.

I am a little perplexed, because I do not know where all of the Members are buying tickets across this country.

Several of the Members fly across the country and use airlines.

Are the Members happy with what is happening when a ticket is purchased? Every weekend when I call, I get a different rate. One picks up an ad, and one sees, get this ticket.

Do the Members see that, One, Two, Free. There is not a gentleman in this Chamber that cannot see that at the back of this Chamber.

Read the bottom lines. The real catchers are free tickets are subject to seat availability. Other restrictions apply.

For complete details pick up a brochure. Seats are limited.

If there is not a single seat available under One, Two, Free, no one is going to do anything to this airline at all, that if you call the minute this ad hits the paper, yesterday if you called and said, "I want to fly on this plan," they could say it is not available.

I have consumers in my district, and they buy and fly airlines. They see ads like this in all my papers and call, and they do not understand why they cannot get this special deal.

The airlines are opposed to this proposal that the FTC control advertising, not safety. No one is saying that safety of the airlines is going to be controlled by the FTC. That is a red herring, wrong.

What we want to do is for the consumer to say when you buy a ticket and see an ad, when they give a contract to you, they have to fulfill the contract. They have to comply with all the safety, licensing, and the guy in the cockpit, the guy that works the airplane, that is going to be DOT and FAA; but we want to say when you pick up a newspaper and look at it, that you can be guaranteed that that is the truth.

It is mandated that in 180 days under the bill as it exists that the FTC draft a rule. If we knock it out, there is no requirement, no 180 days, and no one has to do anything. That is wrong.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BRUCE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding to me.

I commend the gentleman for pointing out that advertisement, as the gentleman from Florida did as well.

I read through the two paragraphs contained in H.R. 3051, which we were told earlier is the ultimate salvation for this whole problem.

There is nothing in this ad that in any way is violative of the two paragraphs that are contained in the bill that is being held out as the hope, so that all of the deficiencies in that ad are explicitly condoned by the type of language we have in this other bill that purports to hold out salvation.

It is important that we have the FTC bill put into effect, rulemaking take place, and then we can ensure that that type of misleading, at best duplicitous, advertising will not be permitted.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. BRUCE. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I thank the gentleman for yielding to me.

I want to make a comment to the gentlemen on the committee.

Would any member on that committee care to bet whether or not in America today in an industry the FTC currently is monitoring, we could find a newspaper ad which has in an industry which is already covered, which has precisely similar exemptions, precisely similar exceptions, precisely similar print, and could be held up on the floor of the House and could be dealt with in exactly the same way, would the Members not stipulate that clearly somewhere in America today we could find an industry already covered which has that kind of an ad?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BRUCE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding to me.

I do not think that is a relevant question.

What is relevant is a background of 275,000 complaints received by the industry in a very brief period, 15,000 complaints received by DOT up to June of this year, and only 30 actions taken by DOT on advertising complaints.

The answer is, something has got to be done.

The Consumer Federation and the Consumers Union of America say, "Support the Committee on Energy and Commerce bill. Oppose the Mineta amendment." That is why they say so. They are fed up with having consumers skinned by this kind of irresponsible behavior, and they want an agency that will be mandated by this statute to go into the question and correct the abuses.

It mandates the FTC to go after this problem. I urge the Members to support the legislation and oppose the Mineta amendment for that reason.

The consumers beg you to do the same thing for the same reason.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. BRUCE. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Did I hear the distinguished chairman of the Committee on Energy and Commerce say that the Department of Transportation had only taken steps on 30 of all of those complaints?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. BRUCE] has expired.

(On request of Mr. LENT, and by unanimous consent, Mr. BRUCE was allowed to proceed for 2 additional minutes.)

Mr. LENT. Mr. Chairman, will the gentleman yield further?

Mr. BRUCE. I continue to yield to the gentleman from New York.

Mr. LENT. We heard a statement of few minutes ago that the Department of Transportation now has 30 people working, and is the gentleman telling me that only 30 complaints were investigated, because that works out to one complaint per employee per year.

That is not the most efficient way for the Government to work.

Mr. DINGELL. Since January 1, 1986, the Department of Transportation has investigated exactly 30 advertising complaints.

I say that is scandalous. The consumers say it is scandalous, and I say it is time something be done.

Mr. LENT. We checked on those, and 29 were investigations against small airlines.

One of them, only one of those complaints, handled by the Department of Transporation, was directed against what might be denominated a major airline in this country.

□ 1415

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. BRUCE. I am happy to yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I would like to ask our colleague, the gentleman from New York and our colleague, the gentleman from Michigan, there may have been 30 actions, but does not this also really mean that there were a lot of them that were settled without having to go to any kind of action? I am not sure what those statistics are anymore than I know what the reference to 30 is.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BRUCE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the answer to that question is no! No!

Mr. MINETA. No—what?

Mr. DINGELL. No, that it would not mean that anything was done by DOT.

Mr. MINETA. Absolutely not.

Mr. DINGELL. DOT has shown, according to their own records, that from January 1, 1986, until this date they have investigated exactly 30 advertising complaints, exactly 30.

Mr. MINETA. Absolutely not. Absolutely not.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. BRUCE. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I think the key word here is investigate. They have only investigated 30 complaints. With these 30 employees that they now have on the job, in 1 year they have investigated 30 complaints.

Mr. BRUCE. Mr. Chairman, I would just like to conclude by pointing out that DOT has many missions. They carry out those missions well. The fact is that the Federal Trade Commission is created for the protection of the consumer and those people ought to be working for consumers against the airlines' false advertising.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are getting to the end of this debate and I hope that during my few minutes I will not be shouting at anyone.

Mr. Chairman, we heard a few things as to reasons why we should in the legislation take jurisdiction from one committee or agency and just willy-nilly put it into another. One of them is the claim is made that the FTC has jurisdiction over all the advertising, all the business in the Nation, except this one, and therefore because they have everything else, they should have this.

Well, there are some businesses in the country that are exempt and the FTC does not regulate them, and they are not that small, either. All of the banks in the United States, all the savings and loans in the United States, all the trucks whether they be regular route, irregular route, or owner-operator, or whatever, are not under the FTC. Buses are not under the FTC, either, so that is not an argument.

Then we heard about the complaints. They want to take over the advertising because of the number of complaints about air service. Well, the last month we have figures for, the month of August, there were 6,822 complaints. But how many of them had to do with advertising, which is the issue here? Of those 6,822, 54, or seven-tenths of 1 percent were complaints about advertising.

We hear talk here that this is an issue of consumer protection. Well, in our view in the Public Works and Transportation Committee and in the Aviation Committee, maybe not in Energy and Commerce, but the ultimate consumer protection, the primary consumer protection is safety,

safety for the consumer, to protect them from dangerous situations, and that is something that we do not want to give up and we will be giving up unless we pass the Mineta amendment today.

The FTC, no experience, admittedly, over aviation safety at all.

You know, you have an organization here that says, first, that business is the important thing. Be efficient and then based on those guidelines, maybe you can be safe.

What we have been insisting on is to make sure that flight is safe first, then be as efficient as you can.

If you want to keep that safety first, then you will vote for the Mineta amendment.

This would fragment jurisdiction, leaving passengers with a confused muddle of agencies to work with. We know where it is now. We passed legislation on this.

The FTC has been criticized, and who criticizes them the most? The Energy and Commerce Committee, the committee that deals with the FTC. They just recently complained about the FTC because they are attempting to rewrite the law on deception that has been used to protect consumers; so after complaining about them trying to rewrite the law, the FTC is saying, "Let's not let the people know too much. That might be bad for them."

We say that we have a program in which we voted here by a voice vote on Monday that the passengers will have all the information that they need, that they will have the information on efficiency and safety and operation and the record, so that they can make a good consumer decision.

You can keep that if you vote for the Mineta amendment.

Last Thursday, just in the last few days, we passed the aviation development bill, a 5-year bill, after we worked on it for several years in order to improve aviation and make it safer and more productive in this Nation.

On Monday, we passed that 396 to 0. Monday, under suspension, we passed by a voice vote the Passenger Protection Act, directing the airlines and directing the DOT as to information for consumers in order to improve the efficiency of the airlines, while not giving up safety; so those bills should be allowed to work before we make radical changes.

Also, and it has been a part of this debate, we spent several years, many years ago, in setting up jurisdictions of committees. We worked for 3 years on it, and then they came to the caucuses of the two parties as to the procedures and that was taken care of and then the House voted on it, a very, very important thing. Let us not go down the road now where just by a piece of legislation coming to this floor we can lift jurisdiction from one area and put it into another one. This may be only against the Public Works and Transportation Committee today, but to anyone who serves on an authorizing committee, you may be next.

So let us do the right thing. Let us keep going with safety first, efficiency second, not the other way around, and vote for the Mineta amendment.

Mr. SLATTERY. Mr. Chairman, I rise in opposition to the amendment offered by Representative MINETA that would strike title II from H.R. 2897, legislation authorizing the Federal Trade Commission.

The airline industry first obtained exemption from FTC jurisdiction because they were a highly regulated industry. Now that the airlines have undergone a major deregulation, and consumers are both reaping the benefits and bearing the burdens of that deregulation, I believe that the airline industry should come under the scrutiny of the Federal agency that was created in order to monitor unfair competitive activities and deceptive advertising practices.

Within the past year, consumer complaints about air service have increased dramatically. Many consumers have complained about inability to obtain advertised fares and to comprehend the limitations and restrictions applicable to those fares. Although the Department of Transportation has the authority to issue regulations governing unfair or deceptive acts or practices regarding the sale or promotion of air transportation, it has failed to issue a single regulation relating to the advertisement of air transportation or air fares. It has instead handled complaints on a case-by-case basis. Resources allocated to the Aviation Consumer Affairs Office at DOT are meager, at best. Transfer of this authority to the FTC will result in a 400-percent increase in the number of personnel available to address airline advertising issues. The FTC is the Federal agency with expertise in regulating advertising. The DOT is not. Title II of the pending legislation would direct the FTC within 6 months to promulgate a strong rule to curb the airlines' advertising abuses by requiring full, conspicuous and understandable disclosure in their advertisements. This is what the American people are asking for and they deserve nothing less.

Mr. BOSCO. Mr. Chairman, I rise in strong support of the amendment offered by my colleague from California, Mr. MINETA. The transfer of jurisdiction over deceptive and unfair airline advertising practices from the Department of Transportation to the Federal Trade Commission is certain to enhance the prestige and jurisdiction of the House Committee on Energy and Commerce, and it is certain to add to the burden of our fine Federal Trade Commission, but it will do so at the expense and peril of the average American airline passenger. I urge my colleagues to join me in voting to delete title II from this legislation.

We in Washington engage far too often in turf wars that, while benefiting one faction or another in the executive and legislative branches of Government, ignore the true needs and concerns of the American public. Not surprisingly, these petty squabbles result in diminished protection for the American consumer and in inadequate policing of vital American industries such as commercial aviation. I have spent my entire professional career laboring in the trenches for the rights of consumers in California and across America, and I am surprised at the frequency with which petty political battles threaten the safety and well-being of the hapless American consumer.

I sincerely hope that my colleagues will look beyond the parade of parochial interests that appears on the floor today and keep an eye instead upon the interests of the millions of airline passengers who are already reeling from the frustrations of modern day air travel. They deserve competent and comprehensive protection against false and deceptive advertising—protection by Government agencies that understand all of the variables in the complicated commercial airline equation—and not empty rationalizations from turf-hungry legislators and bureaucrats. That is what this debate today is all about.

This Congress has been sensitive to the citizenry's outrage at the deceptive and misleading practices and gimmickry often used in airline advertising today. We have also remained cognizant of the complicated relationships between airline industry safety, efficiency, and service, and just this week we passed comprehensive legislation that addresses this complex web of issues. Significantly, the Airline Passenger Protection Act requires full and comprehensive disclosure by the airlines of information that had heretofore been unavailable to the flying public.

However, if this legislation passes today with title II intact, I am afraid that the advertising issue will begin to be addressed in a safety vacuum. It is essential to maintain strong, effective, and unambiguous command and control within the Federal Government with regard to airline regulatory and safety issues—there is no other way to maintain the highest standards of airline safety. Splintered authority over these issues, as prescribed by title II of this legislation, will lead to buck passing and further frustration, and not to increased safety, efficiency, or consumer protection. I urge my colleagues to join me in deleting title II from this legislation.

Mrs. COLLINS. Mr. Chairman, I support the Howard-Mineta amendment striking the Federal Trade Commission [FTC] regulation of airline advertising. While I continue to sympathize with those concerned with shoddy airline advertising, confusing regulatory jurisdiction over the airline industry is not the answer.

The Subcommittee on Government Activities and Transportation, which I chair, has reviewed at staff level, the growing problem of deceptive airline practices—overbooking, misleading advertising, and bait-and-switch fares. Deceptive practices, in fact, appears to be only the tip of the iceberg as far as the airline industry is concerned. My subcommittee has uncovered increasingly questionable maintenance practices, substandard airport security, and racial discrimination in the hiring and promotion of air traffic controllers and pilots. By all accounts the situation continues to deteriorate daily.

I must point out, however, that in the midst of such a sorry state of affairs, the answer is not to rearrange regulatory jurisdiction of the airlines. The answer lies in stepped up FAA activity and close scrutiny of that agency's actions. The statutory authority already exists for the FAA to do its job of protecting airline consumers.

By giving the FTC a portion of jurisdiction over the airlines and leaving the remainder with the FAA, the regulatory situation becomes further muddled. We will be faced with the same problems next year, as these two agencies fight over bureaucratic turf. This is a perfect opportunity for the airline industry to play one regulator off against another.

Let's retain the status quo. Support the Howard-Mineta amendment.

The CHAIRMAN. The question is on the Public Works and Transportation Committee amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HOWARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 171, not voting 16, as follows:

[Roll No. 350]

AYES—246

Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Boehlert
Boggs
Bonker
Borski
Bosco
Boulter
Brown (CA)
Brown (CO)
Buechner
Bunning
Burton
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clinger
Coble
Coleman (MO)
Combest
Conyers
Courter
Coyne
Crane
Daniel
Daub
Davis (IL)
DeFazio
de la Garza
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Dwyer
Edwards (CA)
Emerson
Erdreich
Fazio
Feighan
Fields
Fish
Flippo
Foley
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Gray (IL)
Gray (PA)
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Hughes
Hutto
Hyde
Inhofe
Jeffords
Jenkins
Johnson (CT)
Jones (TN)
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Lantos
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Marlenee
Martin (IL)
Martin (NY)
Mavroules
Mazzoli
McCandless
McCloskey
McDade
McEwen
McGrath
McMillan (NC)
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Molinari
Moody
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nowak
Oberstar
Olin
Ortiz
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Ridge
Roberts
Robinson
Rodino
Roe
Rogers
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Savage
Sawyer
Saxton
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Staggers
Stangeland
Stenholm
Stokes
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Taylor
Thomas (CA)
Thomas (GA)
Torres
Towns
Traficant
Upton
Valentine
Vento
Visclosky
Volkmer
Walker
Weber
Whitten
Williams
Wilson
Wise
Wolf
Wortley
Young (AK)

NOES—171

Ackerman
Andrews
Atkins
Barton
Bates
Beilenson
Berman
Bilirakis
Bliley
Boland
Bonior
Boucher
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Byron
Callahan
Clarke
Clay
Coats
Coelho
Coleman (TX)
Conte
Cooper
Craig
Crockett
Dannemeyer
Darden
Davis (MI)
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dymally
Dyson
Early
Eckart
Edwards (OK)
English
Espy
Evans
Fascell
Fawell
Flake
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Garcia
Gilman
Gordon
Grandy
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hawkins
Hayes (IL)
Henry
Hertel
Hochbrueckner
Huckaby
Ireland
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kasich
Kastenmeier
Kildee
Kostmayer
LaFalce
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Lewis (FL)
Lott
Lowry (WA)
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martinez
Matsui
McCurdy
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Moakley
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Mrazek
Nagle
Nelson
Nielson
Oakar
Obey
Owens (NY)
Owens (UT)
Oxley
Pelosi
Price (NC)
Pursell
Rangel
Richardson
Rinaldo
Ritter
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Schaefer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shays
Sikorski
Slattery
Smith (FL)
Smith (IA)
Snowe
Solarz
St Germain
Stallings
Stark
Studds
Swift
Synar
Tauke
Torricelli
Traxler
Udall
Vander Jagt
Vucanovich
Walgren
Watkins
Waxman
Weiss
Wheat
Whittaker
Wolpe
Wyden
Wylie
Yatron
Young (FL)

NOT VOTING—16

Biaggi
Collins
Coughlin
Gephardt
Grant
Hunter
Kemp
Latta
Livingston
McCollum
Pepper
Roemer
Scheuer
Tauzin
Weldon
Yates

□ 1430

Messrs. GORDON, SHAYS, CROCKETT, HAWKINS, HOCHBRUECKNER, and RANGEL changed their votes from "aye" to "no."

So the Public Works and Transportation Committee amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. KOSTMAYER, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2897) to amend the Federal Trade Commission Act to extend the authorization of appropriations in such act, and for other purposes, pursuant to House Resolution 279, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

□ 1445

The SPEAKER pro tempore (Mr. FOLEY). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 404, nays 10, not voting 19, as follows:

[Roll No. 351]

YEAS—404

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer

Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Courter
Coyne
Craig
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—10

Crane
DeLay
Frenzel
Gekas
Gregg
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Walker

NOT VOTING—19

Ballenger
Biaggi
Collins
Coughlin
Dorgan (ND)
Gephardt
Grant
Hunter
Kemp
Latta
Lewis (FL)
Livingston
McCollum
Pepper
Roemer
Scheuer
Tauzin
Weldon
Yates

□ 1500

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 2897, the bill just passed.

The SPEAKER pro tempore (Mr. HUTTO). Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 2897

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that the Clerk be permitted to make technical and conforming amendments and corrections in the engrossment of H.R. 2897.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce and the Committee on Rules be discharged from further consideration of the Senate bill (S. 677) to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Trade Commission Act Amendments of 1987".

UNFAIR METHODS OF COMPETITION

SEC. 2. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act, such method of competition would be held to constitute State action.".

AGRICULTURAL COOPERATIVES

SEC. 3. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 24 and section 25 as section 26 and 27, respectively, and by inserting after section 23 the following new section:

"SEC. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq., commonly known as the Capper-Volstead Act), is not a violation of any of the antitrust Acts or this Act.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

COMPENSATION IN PROCEEDINGS

SEC. 4. (a) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is repealed, and subsections (i), (j), and (k) of section 18 are redesignated as subsections (h), (i), and (j), respectively.

(b) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking "subsection (i)" and inserting in lieu thereof "subsection (h)".

KNOWING VIOLATIONS OF ORDERS

SEC. 5. (a) Section 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(B)) is amended by inserting ", other than a consent order," immediately after "order" the first time it appears therein.

(b) Section 5(m)(2) of the Federal Trade Commission Act (15 U.S.C. 45(m)(2)) is amended by adding at the end thereof the following: "Upon request of any party to such an action against such defendant, the court shall also review the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a).".

PREVALENCE OF UNLAWFUL ACTS OR PRACTICES

SEC. 6. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by adding at the end thereof the following:

"(3) The Commission shall issue a notice of proposed rulemaking pursuant to paragraph (1)(A) only where it has reason to believe that the unfair or deceptive acts or practices which are the subject of the proposed rulemaking are prevalent. The Commission shall make a determination that unfair or deceptive acts or practices are prevalent under this paragraph only if it has issued cease and desist orders regarding such acts or practices, or any other information available to the Commission indicates a pattern of unfair or deceptive acts or practices.".

EFFECTIVE DATE OF ORDERS

SEC. 7. (a) Section 5(g)(2) of the Federal Trade Commission Act (15 U.S.C. 45(g)(2)) is amended to read as follows:

"(2) Upon the sixtieth day after such order is served, if a petition for review has been duly filed, except that any such order may be stayed, in whole or in part and subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if (i) a petition for review of such order is pending in such court, and (ii) an application for such a stay was previously submitted to the Commission and the Commission, within the thirty-day period beginning on the date the application was received by the Commission, either denied the application or did not grant or deny the application; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending; or".

(b) Section 5(g)(3) of the Federal Trade Commission Act (15 U.S.C. 45(g)(3)) is amended to read as follows:

"(3) For purposes of section 19(a)(2) and section 5(m)(1)(B), if a petition for review of the order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of thirty days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed; or".

(c) Section 5(g)(4) of the Federal Trade Commission Act (15 U.S.C. 45(g)(4)) is amended to read as follows:

"(4) In the case of an order requiring a person, partnership, or corporation to divest itself of stock, other share capital, or assets, if a petition for review of such order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of thirty days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 8. (a) Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) in paragraph (2), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission";

(2) in paragraph (3), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "acts or practices or methods of competition declared unlawful by a law administered by the Commission"; and

(3) in paragraph (7), by striking "unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission".

(b) Section 20(b) of the Federal Trade Commission Act (15 U.S.C. 57b-1(b)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(c) Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)) is amended by striking "unfair or deceptive Acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(d) Section 20(j) of the Federal Trade Commission Act (15 U.S.C. 57b-1(j)) is amended by inserting immediately before the semicolon the following: ", any proceeding under section 11(b) of the Clayton Act, or any adjudicative proceeding under any other provision of law".

DEFINITION OF UNFAIR ACTS OR PRACTICES

SEC. 9. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), as amended by section 2 of this Act, is further amended by adding at the end thereof the following:

"(o) The Commission shall have no authority under this section or section 18 to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.".

CREDIT UNIONS

SEC. 10. (a) Sections 5(a)(2), 6(a), and 6(b) of the Federal Trade Commission Act (15 U.S.C. 45 (a)(2), 46(a), and 46(b)) are amended by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18 (f)(4),".

(b) The second proviso in section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended—

(1) by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),"; and

(2) by inserting immediately after "in business as a savings and loan institution," the following: ", in business as a Federal credit union,".

(c)(1) The second sentence of section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended by inserting immediately after "paragraph (3))" the following: "and the National Credit Union Administration Board (with respect to Federal credit unions described in paragraph (4))".

(2) The last sentence of section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(A) by striking "either such" and inserting in lieu thereof "any such";

(B) by inserting "or Federal credit unions described in paragraph (4)," immediately after "paragraph (3)," each place it appears therein; and

(C) by inserting immediately after "with respect to banks" the following: ", savings and loan institutions or Federal credit unions".

(3) Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting immediately after paragraph (3) the following:

"(4) Compliance with regulations prescribed under this subsection shall be enforced with respect to Federal credit unions under sections 120 and 206 of the Federal Credit Union Act (12 U.S.C. 1766 and 1786).".

COMMERCIAL ADVERTISING

SEC. 11. Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)), as so redesignated in section 4(a) of this Act, is amended by adding at the end thereof the following: "The Commission shall have no authority under this section to initiate any new rulemaking proceeding which is intended to or may result in the promulgation of any rule by the Commission which prohibits or otherwise regulates any commercial advertising on the basis of a determination by the Commission that such commercial advertising constitutes an unfair act or practice in or affecting commerce.".

REPORT

SEC. 12. (a) The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives the information specified in subsection (b) of this section every six months during each of the fiscal years 1988, 1989, and 1990. Each such report shall contain such information for the period since the last submission under this section.

(b) Each such report shall list and describe, with respect to instances in which resale price maintenance has been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include the sum total of matters in each category specified in paragraphs (1) through (10) of this subsection, and copies of all such consent agreements and complaints executed by the Commission. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The description required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint or those complained about or those subject to investigation that have not otherwise been made public.

CONGRESSIONAL REVIEW OF RULES

SEC. 13. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 24, as added by section 3 of this Act, the following new section:

"SEC. 25. (a) For purposes of this section, the term—

"(1) 'appropriate committee' means either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives, as the case may be;

"(2) 'joint resolution' means a joint resolution which does not contain a preamble and the matter after the resolving clause of which is as follows: 'That the Senate and the House of Representatives disapprove the rule entitled , transmitted to the Congress by the Federal Trade Commission on , 19 .', the blank spaces being filled with the appropriate title of the rule and the date of transmittal of the rule to the Congress, respectively; and

"(3) 'rule' means any rule promulgated by the Commission pursuant to this Act other than any rule promulgated under section 18(a)(1)(A) and any interpretive or procedural rule.

"(b)(1) Except as provided in subsection (g)(1), on the day the Commission forwards to the Federal Register for publication a recommended rule, the Commmission shall transmit a copy of such rule to the Secretary of the Senate and the Clerk of the House of Representatives. The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive a recommendation rule under this subsection whether the appropriate House is in session, stands in adjournment, or is in recess.

"(2) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended rule, the Secretary and the Clerk shall transmit a copy of such rule to the appropriate committees.

"(c)(1) Notwithstanding any other provision of law, no recommended rule may become effective until the expiration of a period of ninety days after the date on which such rule is received by the Secretary of the Senate and the Clerk of the House of Representatives, except that such rule may not become effective under this paragraph if within such ninety-day period a joint resolution with respect to such rule has become law.

"(2) For purposes of this section—

"(A) the term 'days' means only days of continuous session of Congress;

"(B) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

"(C) the days on which either House is not in session because of an adjournment or recess to a day certain shall be excluded in the computation of days of continuous session of Congress for the ninety-day period referred to in this amendment if the adjournment is for more than five days.

"(d) Notwithstanding any other provision of law, any rule subject to this section shall be considered a recommendation on the Commission to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this section.

"(e) Whenever an appropriate committee reports a joint resolution pursuant to this section, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(f) Congressional inaction on, or rejection of, any joint resolution shall not be deemed an expression of approval of the rule involved. The compliance of the Commission with the requirements of this section, including any determination by the Commission under this section, shall not be subject to judicial review of any kind.

"(g)(1) If a recommended rule of the Commission does not become effective because of an adjournment of Congress sine die before the expiration of the period specified in subsection (c)(1), the Commission may resubmit the recommended rule at the beginning of the next regular session of Congress. The ninety-day period specified in the first sentence of subsection (c)(1) shall begin on the date of such resubmission, and such rule may only become effective in accordance with this section. The Commission shall not be required to forward such rule to the Federal Register for publication if such rule is identical to the rule transmitted during the previous session of Congress.

"(2) If a recommended rule of the Commission is disapproved under this section, the Commission may issue a recommended rule which relates to the same acts or practices as the disapproved rule. Such recommended rule—

"(A) shall be based upon—

"(i) the rulemaking record of the recommended rule disapproved by the Congress; or

"(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission, in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

"(B) may reflect such changes as the Commission considers necessary or appropriate, including such changes as may be appropriate in light of congressional debate and consideration of the joint resolution with respect to the rule.

"(3) After issuing a recommended rule under this subsection, the Commission shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives, in accordance with subsection (b)(1), and such rule shall only become effective in accordance with this section.

"(h) The provisions of this subsection, paragraphs (1) and (2) of subsection (a), subsection (e), and subsections (i) through (l) are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of joint resolutions, and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(i) Except as provided in subsection (l), joint resolutions shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(j)(1)(A) Except as provided in subparagraph (B), if the committee to which a joint resolution has been referred does not report such resolution within 30 days after the date of transmittal to the Congress of the recommended rule to which such joint resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a joint resolution transmitted from the other House has been referred does not report such resolution within 30 days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) must be supported in the House in writing by one-fifth of the Members, duly chosen and sworn, and in the Senate by motion of the majority leader supported by the minority leader, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a joint resolution has been reported with respect to the same rule), and debate thereon shall be limited to not more than one hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader, or their designees.

"(k)(1) Except as provided in paragraphs (2) and (3), consideration of a joint resolution shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a joint resolution, or when the companion joint resolution from the other House has been placed on the calendar of the first House, it shall be in order, notwithstanding any rule of the Standing Rules of the Senate (except rule XXII) or any rule of the House of Representatives at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of either such joint resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable.

"(3) Debate on a joint resolution shall be limited to not more than ten hours (except that when one House has debated the joint resolution of that House, the companion joint resolution of the other House shall not be debatable), which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled by, the majority leader and the minority leader, or their designees. An amendment to, or motion to recommit, the joint resolution is not in order. Any other motions shall be decided without debate, except that no motion to proceed to the consideration of any other matter shall be in order.

"(l) If a joint resolution has been reported or discharged from the committee of the House to which it was referred, and that House receives a joint resolution with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calendar of the first House. If, prior to the disposition of a joint resolution of one House, that House receives a joint resolution with respect to the same rule from the other House, the vote in the first House shall occur on the joint resolution of the other House.".

(b)(1) This subsection is adopted as an exercise of the power of each House of Congress to determine the rules of its proceedings. The Congress specifically finds that the provisions of this subsection are essential to the Congress in exercising its constitutional responsibility to monitor and to review exercises by the executive of delegated powers of a legislative character.

(2)(A) After the Senate and the House of Representatives adopt a joint resolution with respect to a rule pursuant to section 25 of the Federal Trade Commission Act, it shall be in order in the Senate or the House of Representatives, notwithstanding any provision of the Standing Rules of the Senate (except rule XXII) or the Rules of the House of Representatives, to consider an amendment described in subparagraph (B) to a bill or resolution making appropriations for the Federal Trade Commission.

(B) An amendment referred to in subparagraph (A) is an amendment which only contains provisions to prohibit the use of funds appropriated in the bill or resolution described in such subparagraph for the issuing, promulgating, enforcing, or otherwise carrying out a rule with respect to which a joint resolution has been adopted pursuant to section 25 of the Federal Trade Commission Act.

(3) Debate on an amendment described in paragraph (2)(B) shall be limited to not more than four hours, which shall be divided in the House of Representatives equally between those favoring and those opposing the amendment and which shall be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. An amendment to, or motion to recommit, the amendment is not in order. Any other motions shall be decided without debate, except that no motion to proceed to the consideration of any other matter shall be in order.

(C) The amendments made by this section shall cease to have any force and effect on or after the date which is five years after the date of enactment of this Act.

(d) Section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1) is repealed.

REPORT ON PREDATORY PRICING PRACTICES

SEC. 14. (a) The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives the information specified in subsection (b) of this section every six months during each of the fiscal years 1988, 1989 and 1990. Each such report shall contain such information for the period since the last submission under this section.

(b) Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all such consent agreements and complaints executed by the Commission referred to in such report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint or those complained about or those subject to investigation that have not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses).

INTERVENTION BY COMMISSION IN CERTAIN PROCEEDINGS

SEC. 15. (a) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1988, 1989, or 1990, for the purpose of submitting statements to, appearing before, or intervening in the proceedings of, any Federal or State agency unless the Commission advises the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives, at least sixty days before any such proposed action, or, if such advance notice is not practicable, as far in advance of such proposed action as is practicable.

(b) The notice required in subsection (a) of this section shall include the name of the agency involved, the date upon which the Federal Trade Commission will first appear, intervene, or submit comments, a concise statement regarding the nature and purpose of the proposed action of the Commission, and, in any case in which advance notice of sixty days is not practicable, a concise statement of the reasons such notice is not practicable.

NATIVE AMERICAN ARTS AND CRAFTS

SEC. 16. Section 5(a) of the Federal Trade Commission Act is amended by adding at the end thereof the following:

"(4) It shall be an unfair method of competition in or affecting commerce, or an unfair or deceptive act or practice in or affecting commerce, within the meaning of this section, to sell imitation American Indian art, crafts, or jewelry if the English name of the country of origin of such imitation art, crafts, or jewelry is not marked on such imitation art, crafts, or jewelry by means of etching, engraving, die stamping, raised lettering, or other equally permanent method of marking.".

REGIONAL OFFICES

SEC. 17. The Federal Trade Commission shall, from funds appropriated pursuant to the authorization contained in section 13 of this Act, redirect not less than $858,000 in each of the fiscal years 1988, 1989 and 1990 to support of activities undertaken by the regional offices of the Federal Trade Commission. Not less than $500,000 of such amount shall be redirected from amounts made available for activities undertaken within the Economic Activities Mission and the Office of Policy Development, and the remainder of such amount shall not be redirected from amounts made available for law enforcement activities. In addition to the funds specified in this section, the Federal Trade Commission shall in fiscal years 1988, 1989 and 1990 maintain such regional offices at the locations, and at not less than the funding level, which existed for such offices on the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. Section 26 of the Federal Trade Commission Act, as so redesignated by section 3 of this Act, is amended—

(1) by striking "and" after "1981,"; and

(2) by inserting immediately before the period at the end thereof the following: "; not to exceed $69,850,000 for the fiscal year ending September 30, 1988; not to exceed $70,850,000 for the fiscal year ending September 30, 1989; and not to exceed $71,850,000 for the fiscal year ending September 30, 1990, and such additional sums for the fiscal years ending September 30, 1989 and September 30, 1990, as may be necessary for increases in salary, pay, and other employee benefits as authorized by law".

HEALTH INSURANCE FOR THE ELDERLY, STUDY OF

SEC. 19. (a) "The Commission shall conduct a comprehensive study of—

(1) The use of potentially unfair, deceptive or misleading practices in the sale of health insurance to the elderly, including the sale of policies marketed as supplements to Medicare coverage, the relationship of the premiums for such policies to claims paid, and the effectiveness of the States in preventing unfair, deceptive, or misleading practices in the marketing and sale of such policies; and

(2) The increase in property and casualty insurance rates to small business owners, local governments, physicians, dentists and child care centers over the last seven years, including the extent of such increases, the relationship of increases to actual costs, the reasons for such increases, and the degree of competition in the market for such coverage. The study may include rate increases for self-insurers if the Commission deems it necessary.

(b) The Commission shall have authority under section 6 of the Federal Trade Commission Act (15 U.S.C. 46), to conduct such studies and shall report to Congress within one year the results of such studies. In the event additional time is required to complete such studies, the Commission shall make an interim report within one year. The Commission shall make such reports generally available to the public and other appropriate State officials.

EFFECTIVE DATE

SEC. 20. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, the provisions of this Act shall take effect on the date of enactment of this Act.

(b) The amendment made by section 2 of this Act shall apply only with respect to proceedings under section 5 of the Federal Trade Commission Act after the date of enactment of this Act. This amendment shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. This amendment shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(c) The amendments made by sections 7 and 9 of this Act shall apply only with respect to cease and desist orders issued under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), or to rules promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(d) The amendments made by sections 6 and 11 of this Act shall apply only to rulemaking proceedings initiated after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a rulemaking proceeding which was initiated before the date of enactment of this Act.

(e) The amendments made by section 8 of this Act shall apply only with respect to compulsory process issued after the date of enactment of this Act.

MOTION OFFERED BY MR. THOMAS A. LUKEN

Mr. THOMAS A. LUKEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. THOMAS A. LUKEN moves to strike out all after the enacting clause of the Senate bill, S. 677, and to insert in lieu thereof the provisions of H.R. 2897, as passed, as follows:

SECTION 1. SHORT TITLE, REFERENCE.

(a) Short Title.—This Act may be cited as the "Federal Trade Commission Act Amendments of 1987".

(b) Reference.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Trade Commission Act.

SEC. 2. UNFAIR METHODS OF COMPETITION.

Section 5 (15 U.S.C. 45) is amended by adding at the end the following:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act, such method of competition would be held to constitute State action.".

SEC. 3. PROCEEDINGS SUBSEQUENT TO ORDERS.

(a) Civil Penalties.—Section 5(m)(1)(B) (15 U.S.C. 45(m)(1)(B)) is amended by inserting ", other than a consent order," immediately after "order" the first time it appears.

(b) Determinations of Law.—Section 5(m)(2) (15 U.S.C. 45(m)(2)) is amended by adding at the end the following: "Upon request of any party to such an action against such defendant, the court shall also review the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a).".

SEC. 4. EFFECTIVE DATE OF ORDERS.

Section 5(g) (15 U.S.C. 45(g)) is amended to read as follows:

"(g) An order of the Commission to cease and desist shall become final as follows:

"(1) Upon the expiration of the time allowed for filing a petition under subsection (c) for review if no such petition has been duly filed within such time, except that the Commission may after the order becomes final modify or set it aside to the extent provided in the last sentence of subsection (b).

"(2) Upon the 60th day after such order is served if a petition under subsection (c) for review has been duly filed, except that any such order may be stayed, in whole or in part and subject to such conditions as may be appropriate, by—

"(A) the Commission,

"(B) an appropriate court of appeals of the United States if (i) a petition for review of such order is pending in such court, and (ii) an application for such a stay was previously submitted to the Commission and the Commission, within the 30-day period beginning on the date the application was received by the Commission, either denied the application or did not grant or deny the application, or

"(C) the Supreme Court if an applicable petition for a writ of certiorari is pending.

"(3) For purposes of subsection (m)(1)(B) and section 19(a)(2)—

"(A) if a petition under subsection (c) for review of the order of the Commission has been filed and if the order of the Commission has been affirmed or the petition for review has been dismissed by a court of appeals of the United States and no petition for certiorari has been duly filed, upon the expiration of the time allowed for filing a petition to the Supreme Court for a writ of certiorari,

"(B) if a petition under subsection (c) for review of the order of the Commission has been filed and if the order of the Commission has been affirmed or the petition for review has been dismissed by a court of appeals of the United States, upon the denial of a petition for a writ of certiorari, or

"(C) if a petition under subsection (c) for review of the order of the Commission has been filed, upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.

"(4) In the case of an order requiring a person, partnership, or corporation to divest itself of stock, other share capital, or assets—

"(A) if a petition under subsection (c) for review of such order of the Commission has been filed and if the order of the Commission has been affirmed or the petition for review has been dismissed by a court of appeals of the United States and no petition for certiorari has been duly filed, upon the expiration of the time allowed for filing a petition to the Supreme Court for a writ of certiorari,

"(B) if a petition under subsection (c) for review of such order of the Commission has been filed and if the order of the Commission has been affirmed or the petition for review has been dismissed by a court of appeals of the United States upon the denial of a petition for a writ of certiorari, or

"(C) if a petition under subsection (c) for review of such order of the Commission has been filed, upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.".

SEC. 5. CIVIL INVESTIGATIVE DEMANDS.

(a) Section 20(a).—Section 20(a)(15 U.S.C. 57b-1(a)) is amended—

(1) in paragraph (2), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission";

(2) in paragraph (3), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "acts or practices or methods of competition declared unlawful by a law administered by the Commission"; and

(3) in paragraph (7), by striking "unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission".

(b) Section 20(b).—Section 20(b) (15 U.S.C. 57b-1(b)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(c) Section 20(c).—Section 20(c)(1) (15 U.S.C. 57b-1(c)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(d) Section 20(j).—Section 20(j) (15 U.S.C. 57b-1(j)) is amended by inserting immediately before the semicolon the following: ", any proceeding under section 11(b) of the Clayton Act, or any adjudicative proceeding under any other provision of law".

SEC. 6. AGRICULTURAL COOPERATIVES.

The Federal Trade Commission Act is amended by redesignating sections 24 and 25 as sections 27 and 28, respectively, and by inserting after section 23 the following:

"Sec. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq., commonly known as the Capper-Volstead Act), is not a violation of any of the antitrust Acts or this Act.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

SEC. 7. DISAPPROVAL OF FTC RULES.

(a) Amendment.—The Federal Trade Commission Act is amended by inserting after the section added by section 6 the following:

"Sec. 25. (a) The Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same day and to each House of Congress while it is in session.

"(b) Any final rule of the Commission shall become effective in accordance with its terms unless before the end of the period of 90 days of continuous session of Congress after the date such final rule is submitted to the Congress a joint resolution disapproving such final rule is enacted into law.

"(c)(1) If a final rule of the Commission is disapproved in accordance with this section, the Commission may promulgate another final rule which relates to the same acts or practices as the rule which was disapproved. Such other final rule—

"(A) shall be based upon—

"(i) the rulemaking record of the disapproved final rule; or

"(ii) such rulemaking record and any record established in supplemental rulemaking proceedings conducted by the Commission; and

"(B) may contain such changes as the Commission considers necessary or appropriate.

Supplemental rulemaking proceedings referred to in subparagraph (A)(ii) may be conducted in accordance with section 553 of title 5, United States Code, if the Commission determines that it is necessary to supplement the existing rulemaking record.

"(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to Congress in accordance with subsection (a).

"(d) Congressional inaction on a joint resolution disapproving a final rule of the Commission shall not be construed—

"(1) as an expression of approval of such rule, or

"(2) as creating any presumption of validity with respect to such rule.

"(e)(1)(A) For purposes of subsection (b), continuity of session is broken only by an adjournment sine die at the end of the second regular session of a Congress.

"(B) The days on which either House of Congress is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the period specified in subsection (b).

"(2)(A) In any case in which a final rule of the Commission is prevented from becoming effective by an adjournment sine die at the end of the second regular session of the Congress before the expiration of the period specified in subsection (b), the Commission shall resubmit such rule at the beginning of the first regular session of the next Congress.

"(B) The period specified in subsection (b) shall begin on the date of a resubmission under subparagraph (A).

"(f) For purposes of this section:

"(1) The term 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: 'That the final rule promulgated by the Federal Trade Commission dealing with the matter of   , which final rule was submitted to Congress on   is disapproved.', the first blank being filled with the subject of the rule and such further description as may be necessary to identify it, and the second blank being filled with the date of submittal of the rule to the Congress.

"(2) The term 'rule' means any rule promulgated by the Commission pursuant to this Act other than a rule promulgated under section 18(a)(1)(A) or an interpretive or procedural rule.".

(b) Conforming Amendment.—Section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1) is repealed.

SEC. 8. INTERVENTION ACTIONS.

The Federal Trade Commission Act is amended by inserting after the section added by section 7 the following:

"Sec. 26. (a)(1) The Commission may not engage in any intervention action except in accordance with this section.

"(2) For purposes of this section, the term 'intervention action' means the conduct of any project for the purpose of—

"(A) submitting written statements, comments, or opinions to any local, State, or Federal agency, to a local or State legislative body, or to an officer or member of such an agency or body, or

"(B) appearing, other than as an original party in interest, before such an agency or body,

but does not include any law enforcement activity of the Commission or any administrative activity of the Commission relating to its operation.

"(b) Except where intervention action is required by Federal law, the Commission or the Commission staff may take an intervention action only upon the request of a Member of the House of Representatives or the Senate or upon the request, confirmed in writing, of a local, State, or Federal agency (other than the Commission), local or State legislative body, or any officer or member of such an agency or body. Such request—

"(1) must be received before intervention action is taken, and

"(2) may not be sought or otherwise solicited by the Commission or the Commission staff.

"(c)(1) Upon initiating an intervention action, the Commission shall notify the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and in the case of State and local intervention actions, the United States Representatives and Senators from the State in which such intervention action will take place.

"(2) The notification required under paragraph (1) shall include—

"(A) the name of the Federal, State, or local agency or legislative body or officer or member thereof making the request for intervention action,

"(B) the date on or about which the Commission or the Commission staff expects to first submit statements, comments, or opinions in connection with the intervention action for which the notification is given, and

"(C) a statement of the reasons and justification for initiating the intervention action, including a copy of the requesting party's written request for intervention action.

"(d) The Commission only, and not the Commission staff, may make recommendations as to the amendment, enactment, defeat, or veto of legislation or the promulgation, amendment, or revocation of a rule or regulation.

"(e)(1) The Commission shall transmit the matter described in paragraph (2)—

"(A) to the party who requested the intervention action involving such matter,

"(B) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and

"(C) upon request, to any United States Representative or Senator.

The matter described in paragraph (2) shall otherwise be made available in accordance with section 552 of title 5, United States Code. The Commission may not transmit such matter to any person who is not referred to in subparagraph (A), (B), or (C) or who has not made a request under such section 552.

"(2) The matter referred to in paragraph (1) is—

"(A) copies of all statements, comments, or opinions made or rendered in an intervention action, and

"(B) a list of all significant documentary evidence, interviews, and other sources of information consulted in the formulation of the statements, comments, or opinions submitted in connection with the intervention action.

"(f) Not more than 5 percent of the amount appropriated for the Federal Trade Commission for any fiscal year may be obligated for the Commission's intervention action program in such fiscal year.

"(g) This section shall apply to intervention actions of the Commission until the date of the enactment of an Act which amends this Act to authorize appropriations for a fiscal year after fiscal year 1990.".

SEC. 9. CREDIT UNIONS.

(a) Sections 5(a)(2), 6(a), and 6(b) (15 U.S.C. 45 (a)(2) and 46(b)) are each amended by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),".

(b) The second proviso in section 6 (15 U.S.C. 46) is amended—

(1) by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),", and

(2) by inserting immediately after "in business as a savings and loan institution," the following: "in business as a Federal credit union,".

(c)(1) The second sentence of section 18(f)(1) (15 U.S.C. 57a(f)(1)) is amended—

(A) by striking out "and the Federal Home" and inserting in lieu thereof ", the Federal Home", and

(B) by inserting ", and the National Credit Union Administration Board (with respect to Federal credit unions described in paragraph (4))" after "paragraph (3))".

(2) The third sentence of such section is amended—

(A) by striking out "or savings and loan institutions described in paragraph (3)" each place it appears and inserting in lieu thereof ", savings and loan institutions described in paragraph (3), or Federal credit unions described in paragraph (4)",

(B) by striking out "(A) either such Board" and inserting in lieu thereof "(A) any such Board", and

(C) by inserting ", savings and loan institutions, or Federal credit unions" after "with respect to banks".

(4) Section 18(f) (15 U.S.C. 57a(f)) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting immediately after paragraph (3) the following:

"(4) Compliance with regulations prescribed under this subsection shall be enforced with respect to Federal credit unions under sections 120 and 206 of the Federal Credit Union Act (12 U.S.C. 1766 and 1786).".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 27 (15 U.S.C. 57c) (as so redesignated) is amended to read as follows:

"Sec. 27. To carry out the functions, powers, and duties of the Commission there are authorized to be appropriated $69,850,000 for fiscal year 1988, $70,850,000 for fiscal year 1989, and $71,850,000 for fiscal year 1990, and such additional sums for fiscal years 1988, 1989, and 1990 as may be necessary for increases in salary, pay, and other employee benefits as authorized by law.".

SEC. 11. ADVERTISING STUDY.

The Federal Trade Commission shall conduct a study of advertising which uses the offering of the opportunity to receive anything of value as an inducement to purchase that which is being advertised to determine if such advertising constitutes an unfair or deceptive practice. The Commission shall complete the study not later than one year from the date of the enactment of this Act and shall report the results of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 12. REPORT ON RESALE PRICE MAINTENANCE.

(a) In General.—The Federal Trade Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate the information specified in subsection (b) of this section every 6 months during each of the fiscal years 1988, 1989, and 1990. Each such report shall contain such information for the period since the last submission under this section.

(b) Report Contents.—Each such report shall list and describe, with respect to instances in which resale price maintenance has been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission,

(2) each preliminary investigation opened or closed at the Commission,

(3) each formal investigation opened or closed at the Commission,

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission,

(5) each complaint issued by the Commission pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45),

(6) each opinion and order entered by the Commission,

(7) each consent agreement accepted provisionally or finally by the Commission,

(8) each request for modification of an outstanding Commission order filed with the Commission,

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order,

(10) each disposition by the Commission of a request for modification of an outstanding Commission order, and

(11) the number of hours worked by the Commission staff on the activities described in paragraphs (1) through (10).

Such report shall include copies of all consent agreements and complaints executed by the Commission. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The description required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint, those complained about, or those subject to investigation if such identity has not otherwise been made public.

SEC. 13. REPORT ON PREDATORY PRICING.

(a) In General.—The Federal Trade Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate the information specified in subsection (b) of this section every 6 months during each of the fiscal years 1988, 1989 and 1990. Each such report shall contain such information for the period since the last submission under this section.

(b) Report Content.—Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission,

(2) each preliminary investigation opened or closed at the Commission,

(3) each formal investigation opened or closed at the Commission,

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission,

(5) each complaint issued by the Commission,

(6) each opinion and order entered by the Commission,

(7) each consent agreement accepted provisionally or finally by the Commission,

(8) each request for modification of an outstanding Commission order filed with the Commission,

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order,

(10) each disposition by the Commission of a request for modification of an outstanding Commission order, and

(11) the number of hours worked by the Commission staff on the activities described in paragraphs (1) through (10).

Such report shall include copies of all consent agreements and complaints executed by the Commission. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint, those complained about, or those subject to investigation if the identity has not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses).

SEC. 14. INSURANCE STUDIES.

(a) In General.—The Federal Trade Commission shall conduct comprehensive studies of—

(1) the use of potentially unfair, deceptive, or misleading practices in the sale of health insurance policies to the elderly, including the sale of policies marketed as supplements to coverage under title XVIII of the Social Security Act, the relationship of the premiums for such policies to claims paid, and the effectiveness of the States in preventing unfair, deceptive, or misleading practices in the marketing and sale of such policies, and

(2) the increase in property and casualty insurance rates to small business owners, local governments, physicians, nurses, nurse-midwives, dentists, and child care centers over the last 7 years, including the extent of such increases, the relationship of increases to actual costs, the reasons for such increases, and the degree of competition in the market for such coverage.

The study described in paragraph (2) may include rate increases for self-insurers if the Commission deems it necessary.

(b) Authority, Report.—

(1) In conducting the studies under subsection (a), the Federal Trade Commission may exercise the authority of the Commission under section 6(b) of the Federal Trade Commission Act.

(2) The Commission shall report to Congress within one year the results of the studies under subsection (a). In the event additional time is required to complete such studies, the Commission shall make an interim report within one year. The Commission shall make such reports generally available to the public and appropriate State officials.

SEC. 15. LIFE CARE HOME STUDY.

(a) Study.—The Federal Trade Commission shall conduct a study of unfair and deceptive practices in the life care home industry, including practices engaged in by life care homes. Within 24 months of the date of the enactment of this section, the Commission shall report the findings and conclusions of the study to Congress. If the Commission finds a rulemaking is warranted under section 18 of the Federal Trade Commission Act, the Commission shall, promptly after completion of the study, initiate a trade regulation rule proceeding under such section 18 respecting unfair and deceptive acts or practices in the life care home industry. If the Commission determines a rulemaking is not warranted, the Commission shall include in the report to Congress the reasons for such determination.

(b) Definitions.—For purposes of subsection (a):

(1) The term "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract.

(2) The term "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 16. NATIVE AMERICAN ARTS AND CRAFTS.

(a) Complaints.—The Federal Trade Commission shall monitor complaints received by the Commission on the marketing of imported imitation Native American arts, crafts, and silver jewelry to determine the extent to which such arts, crafts, and silver jewelry contain the English name of their country of origin by means of etching, engraving, die stamping, raised lettering, or other equally permanent method of marking. Upon the expiration of 18 months after the date of the enactment of this Act, the Commission shall report to the Congress on the results of the monitoring under this subsection.

(b) Information Brochure.—The Federal Trade Commission shall revise and distribute a consumer information brochure to assist consumers in filing complaints with the Commission on the sale of imported imitation Native American arts, crafts, and silver jewelry. The revised brochure shall be completed and distribution begun not later than 6 months after the date of the enactment of this Act.

SEC. 17. DECEPTIVE MAILINGS.

(a) Study.—The Federal Trade Commission shall conduct a comprehensive study of

the degree, type, and pervasiveness of deceptive mail practices in conjunction with the sale of products or services related to governmental functions and the severity of the actual or potential consumer injury from such practices. In conducting the study, the Commission shall include an examination of—

(1) solicitations by non-governmental entities for the purchase of products or services which are in fact provided either free of charge or at a lower price by the Federal Government, and

(2) solicitations by non-governmental entities for the purchase of products or services which bear a seal, insignia, trade or brand name, or any other term or symbol implying Federal Government connection, approval, or endorsement.

(b) REPORT.—Not later than the expiration of 18 months after the date of the enactment of this Act, the Federal Trade Commission shall report to the Congress the results of the study under subsection (a). If the Commission finds that a rulemaking under the Federal Trade Commission Act respecting deceptive mail practices is warranted, the Commission shall, promptly after completion of the study, initiate a trade regulation rule proceeding respecting such practices, except that the Commission may proceed under section 553 of title 5, United States Code. If the Commission determines that a rulemaking respecting such practices is not warranted, it shall include in its report under this subsection its reasons for such determination.

SEC. 18. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d) of this section, the amendments made by this title shall take effect on the date of enactment of this Act.

(b) SECTIONS 2 AND 4.—

(1) The amendment made by section 2 shall apply only with respect to proceedings under section 5 of the Federal Trade Commission Act after the date of enactment of this Act. The amendment made by section 4 shall apply only with respect to cease and desist orders issued under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) or to rules promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) after the date of enactment of this Act.

(2) The amendments made by sections 2 and 4 shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. Such amendments shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(c) SECTION 5.—The amendments made by section 5 shall apply only with respect to compulsory process issued after the date of enactment of this Act.

(d) SECTION 8.—The amendments made by section 8 shall apply only with respect to intervention actions taken after the date of the enactment of this Act.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2897) was laid on the table.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I ask for this 1 minute for the purpose of seeking the schedule for the balance of the day and the week.

Mr. Speaker, I am glad to yield to the distinguished majority leader so we could be advised of what the schedule is for today. I understand we have completed our work for today and we do not have any further legislative votes scheduled this week. Is that correct?

I am glad to yield to the gentleman from Washington [Mr. FOLEY] also for the purpose of receiving the schedule for next week.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, he is correct. We have concluded the legislative business for today.

Tomorrow we will be in pro forma session from 10 a.m., and on Friday we will be in pro forma session from 12 noon to accommodate the Republican conference meeting, I believe.

The schedule for next week will be that on Monday, October 12 the House will not be in session in honor of Columbus Day.

On Tuesday, October 13 the House will meet at noon and consider five bills under suspension of the rules:

S. 1666, physicians comparability allowance extension;

H.R. 2961, Federal Communications Commission authorization;

H.R. 3189, Health Services Research Extension Act of 1987;

H.R. 2472, National Telecommunications and Information Administration; and

H.R. 2090, Montana wilderness.

There is also H.R. 3025, Appalachian low-level radioactive waste compact, subject to a rule being granted.

On Wednesday and the balance of the week, October 14, 15, and 16, the House will meet at 10 a.m. on:

H.R. 162, High Risk Occupational Disease Notification and Prevention Act of 1987 (open rule, 1½ hours of debate); and

S. 640, Water and Power Authorization Act of 1987 (subject to a rule).

As usual, conference reports may be brought up at any time, and further program may be announced later.

Mr. LOTT. Mr. Speaker, I thank the gentleman.

With regard to Tuesday, those suspensions if there are any votes, the votes will be postponed until the end of the day, is that correct?

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further, he is correct.

Mr. LOTT. After the five suspensions, and after the Appalachian low-level radioactive waste compact legislation, is that correct?

Mr. FOLEY. Mr. Speaker, the gentleman is correct, yes.

I would like to emphasize, because some Members have wondered whether we would roll those votes until Wednesday, we are not going to do that. Monday is a holiday, and on Tuesday we will be voting on the Appalachian low-level radioactive waste compact, and also on the suspensions at the end of the legislative business.

Mr. LOTT. The point I am trying to emphasize, because Members have been asking about this already, is we should anticipate votes on Tuesday even if the suspensions should get through without a recorded vote being demanded, if we are going to take up the rule on the Appalachian low-level radioactive waste compact bill, and we would have a vote or votes on that.

Mr. FOLEY. Mr. Speaker, nothing in this world or certainly in the House is certain, but I can say that the likelihood of votes on Tuesday actually occurring is 99.999 percent.

Mr. LOTT. That is a pretty strong assurance considering what we have been getting some times in the past, but I think we should emphasize that.

Mr. FOLEY. I am happy to offer the gentleman whatever assurances I can, and I am happy to give him this assurance.

Mr. LOTT. And it is not anticipated at this time that there would be legislative business on Friday?

Mr. FOLEY. It is not anticipated at this time that there will be legislative business on Friday, that is right.

Mr. LOTT. Mr. Speaker, I hate to do this, but let me jump over to November, because we have a little bit of a problem date in November and Members are already beginning to ask about it because they need to know whether or not they can schedule events for Wednesday, November 11, which is Veterans Day.

I assume that we will certainly be off at least that day.

Can you confirm that, and whether or not at this point you know whether it will be the next 2 days or not?

Mr. FOLEY. Mr. Speaker, I would like to be able to confirm that November 11, Veterans Day, will be a holiday and the House will not be in session. Unfortunately, it is not certain that the President will have received a continuing resolution or other satisfactory conclusion of appropriations authority by November 11.

As the gentleman knows, November 10 is the expiration date of the current continuing resolution. We hope that we will be able to take off not only on Wednesday, November 11, but perhaps the balance of that week. However, it would be unwise for Members to schedule even on November 11, I repeat that it would be unwise for Members to schedule even on November 11, Veterans Day, engagements which would create embarrassment if they had to be canceled because of a session of the House.

We have to give absolute priority to the continuation of authority for the operation of the government. I am sure Members would realize that even in honor of veterans for the House not to be in session while veterans benefits and other salaries and essential services of the Government were being interrupted would create a poor way to honor that holiday. But I am confident that with cooperation from the executive branch we will be able to accomplish a veterans' holiday.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Mr. Speaker, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I would like to talk in behalf of the veterans, if I could, for just a few minutes.

Mr. Speaker, actually November 11 is a national holiday and Members, Mr. Leader, for months now have made engagements and I fully realize that this continuing resolution and other resolutions are very, very important but still consideration has to be given to Members who have made plans for several months now.

I called the Speaker's office and I was told we would be off on November 11, 12, and 13.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, I will tell the gentleman that chances of that are very high indeed, but I cannot give the kind of assurance that would say that under no circumstances will we have a session on November 11, 12 or 13 regardless of the fact of the Government having authority to continue in operation. That one condition exists because of the expiration of the CR, that is the one condition that I am stating where it would actually be perhaps necessary for us to stay in session.

Other than that, there will be no routine business scheduled for November 11 and we will not attempt to keep Members in session for consideration of any other business except the absolute essential conclusion of the CR to provide for the Government to operate.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will continue to yield, can the gentleman give us a 99.99-percent assurance that he gave us earlier on that?

Mr. FOLEY. Mr. Speaker, what I want to tell Members is we must conclude action on the CR by November 11.

On November 10 it expires and that must be taken care of. Members should not assume that we can simply avoid doing that and come back the following week. That is not possible, just as we would have to have a Sunday session if that were necessary to conclude the CR. We have not had more than two Sunday sessions in this House in 40 years, but we would have to have a Sunday session in that event.

Mr. MONTGOMERY. Mr. Speaker, could I ask the gentleman to give us that 99.99-percent assurance?

Mr. FOLEY. The chances are probably 99.99 against it happening, but the gentleman should be warned that if we have not concluded action on the CR by midnight on November 10, we will continue in session on November 11.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will continue to yield, where is the big problem on the CR?

Mr. FOLEY. I do not know that there is one, I will tell the gentleman. I just cannot give Members the assurance because of the conjunction of these two dates that we will under all circumstances take off November 11 even if the government is being closed down as a result of the failure of the President to sign a CR. I cannot give that assurance.

I think that cooperation between the two sides of the aisle and the executive branch can virtually guarantee that Members will meet their commitments.

If you ask me, will we permit the government to go into a condition of shutdown because we are going to take off on November 11, 12, and 13, I cannot give that assurance. I want to honor Veterans Day as the gentleman does, and I think that commitments will be able to be kept, but again I cannot give assurance that we would be able to take off on a Sunday, as I have said, if that condition is not met. There is nothing that can be done to give greater assurance than I have given the gentleman, and I hope that there will be no problem. We simply must conclude the action on the CR.

Mr. LOTT. Mr. Speaker, I thank the gentleman for that information. We will make Xerox copies of the colloquy so the Members will be able to determine exactly what they might do.

Mr. FOLEY. If the gentleman will continue to yield, I think the best I can suggest is that all working together in the spirit of proper cooperation, we will be off on November 11.

Mr. LOTT. Mr. Speaker, I thank the gentleman very much for that. I do think the gentleman can assure us about one other holiday, December 25?

Mr. FOLEY. If the government is meeting its obligations, we will be off on Christmas.

Mr. LOTT. Mr. Speaker, I thank the gentleman.

Mr. FOLEY. Do you want to ask about News Year's Eve?

Mr. LOTT. No, no, but the Speaker has announced that we are going to plan on being out by November 21. I think that has been announced publicly, but it has not been announced, there has not been anything of that type announced on the floor.

Is that the intention of the leadership?

Mr. FOLEY. Mr. Speaker, I emphasize "intention." Yes. the gentleman is correct, it is the intention, the hope, the prayer, but not necessarily the prediction of this side.

Mr. LOTT. Mr. Speaker, I thank the gentleman.

Mr. FOLEY. Mr. Speaker, I would like to respond to the gentleman's previous question because I do not want to leave it entirely in a facetious setting.

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The Speaker is determined to exercise every effort to conclude the House business and to put the House in a position to adjourn on the 21st or by the 21st of November; but again there are problems that could arise, including actions that the other body had not concluded which would make the possibility of some later sessions beyond the 21st something that Members would have to consider.

Again I would suggest that while we are going to work toward that goal, Members should be cautious about undertaking any commitments or leaving the city, planning to do so without recognizing the possibility the House may be in session after Thanksgiving.

We hope that that will not be the case, but it is always a possibility.

Let me cite the gentleman the historic record. In the last 10 years going from 1977 to 1987 in dealing only with off years, not election years, the House has adjourned once in October, once in November, twice in December, and once in January.

Mr. LOTT. Are we supposed to take comfort from that?

Mr. FOLEY. No, the gentleman is not to take comfort.

The citation is to somewhat cast a pall of realism and history over the hopes and expectations for a November recess.

Mr. LOTT. The Independent Counsel Act scheduled last week was withdrawn, and the word we received was that it would be scheduled for Thursday of this week, and it is not.

Nothing else is scheduled for Thursday, and I am not complaining, but just so the Members will know that are involved in that, does the gentleman anticipate any date certain?

Mr. FOLEY. I do not have a date to give the gentleman at this time.

The bill will be considered in this session of Congress obviously, and before we adjourn and prior to its expiration in January, with the anticipation that there will be action on the other side.

Mr. LOTT. Please give the Members as much lead time on that as possible. We did not know for sure whether or not it would be taken up tomorrow until about 15 minutes ago, so if it is going to be brought up, if we could get a couple of days' notice, it would be appropriate.

Mr. FOLEY. We always inform the minority within the hour after a decision has been made, and sometimes the decisions are made late in the week.

We do not delay informing the minority immediately of any measure scheduled.

Mr. LOTT. Mr. Speaker, one last question on bills that may or may not be scheduled.

We have three major appropriations bills that have not yet been reported from the Committee on Appropriations: Defense, Agriculture, and Foreign Affairs.

Do we have any information? We are into the fiscal year. Do we have any idea when those appropriations bills will be brought up, if ever?

Mr. FOLEY. The Committee on Appropriations is working on the Foreign Operations, and they are working on the other bills at this moment; and the Agriculture bill will be considered in the committee this week, so I think that we are moving forward to complete all of the appropriations bills.

I would report some, as the gentleman knows, some increase in activity in the other body; and we anticipate that that will continue, and that the appropriation bills will be, a great number of them, will be in conference soon.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

Over in the other body, they seem to be particularly anxious to release whip counts on the subject of Judge Bork. I am wondering, since the whip count seems to be driving whether or not we consider the independent prosecutor bill and the subject of the Shaw amendment, whether or not we might be able to get the numbers released on that, so we have some kind of idea where it stands, and when we might be able to get some consideration of the matter.

Mr. FOLEY. Mr. Speaker, if the gentleman will continue yielding to me, it has been suggested to me, it is in the same state of expectation as the confirmation of Judge Bork.

Mr. WALKER. Sometime in November, is that what the gentleman is saying?

Mr. FOLEY. No. What I am saying is that those who expect the adoption of that amendment should not wager anything material on it.

I think it is unlikely the amendment will be adopted, but until it is considered by the House, no Member has any way of knowing.

Mr. WALKER. It would be helpful to some of the Members if we would be as forthcoming with the vote count taken by the whips as the gentleman, Mr. CRANSTON, is in the other body.

Mr. FOLEY. We have our own ways. Each body has the tradition to observe, and they are wondrous in their differences.

Mr. WALKER. I understand. We have some wondrous ways.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman for yielding to me.

Woodrow Wilson once said that you should never murder a man who is in the process of committing suicide.

I must ask our distinguished majority leader, first of all, as I figured out from the gentleman's report of history, December 12 is the break-even point.

If we get out before December 12, the new leadership team is winning. Every day after December 12 is later than the average for the last 10 years, off-election years. Is that a fair summary?

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further, I have to consult my historian, but I think the date may be a little bit later.

If the gentleman assures me it is the 12th of December that is the average, of course, we will strive to meet that.

Mr. GINGRICH. It was our hope we could find a single date to measure, because these floating dates get complicated.

The welfare reform bill, which is a peculiarly expensive and liberal perversion of that term, is going to be wrapped into reconciliation under one scenario.

Would it not be useful, when we have entire days at a time to stay in and to actually bring up the welfare-reform bill, and possibly even under an open rule, a radical thought, allow the House to actually have a bill on which it could do major work?

Mr. FOLEY. I will certainly pass that suggestion along.

Mr. GINGRICH. I appreciate it.

Mismanagement and misscheduling are clearly the prerogative of the majority. I remember the last Speaker reminding the Members on occasion, the power to schedule is the Speaker's power; but as we get into the more relaxed and friendly season of Thanksgiving, Christmas, New Year's, and Super Bowl, at some point might I suggest we might want to try to work towards rationality?

For example, if we were going to randomly have 5 days off, if we were to put them all in the same week, Members could go home and stay there for a week and do work during a week. There are a number of these innovations.

Mr. FOLEY. We are giving an opportunity this week for Members to leave early tomorrow or late tonight and go home for virtually a week.

That is an opportunity that I know Members cherish; and in the gentleman's case, the gentleman has an opportunity to return promptly to Georgia and to return on Tuesday next or later, if he chooses.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Mississippi, who has some more information.

Mr. MONTGOMERY. I thank the gentleman for yielding to me.

Mr. Speaker, because of the pro forma session tomorrow, I am 100 percent sure we are not going to have the prayer breakfast in the morning.

Mr. LOTT. 100 percent sure we are not going to have the prayer breakfast?

Mr. MONTGOMERY. Yes.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield further?

Mr. LOTT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Having just on Monday passed a bill to protect airline travelers, having today once again fought hard over an amendment to protect airline travelers, one of my concerns as a fiscal conservative is that we could buy tickets in advance, particularly the gentlemen in the West, and go home less expensively and structure our lives so that our wives, our children, all of our relations would know we are coming.

Many things could be accomplished if we had some rationale in the schedule.

Mr. FOLEY. Mr. Speaker, if the gentleman will continue to yield, I appreciate the gentleman's comment.

I hope the gentleman will consider the problems, the burdens that I and others on this side have to carry with respect to the schedule.

If we inform the House that there will be a Friday session, there are groans of unhappiness, because the opportunity to be home with constituents and carrying on that important part of congressional business has been interrupted by a session of Congress.

If we, on the other hand, announce to Members that there will not be a session tomorrow, instead of being greeted by applause, there are groans of concern, so it is to some extent a criticized if you do, criticized if you don't, damned if you do, damned if you don't, situation.

We do try to give Members as much opportunity to make advance plans as possible, and we are going to be consulting, by the way, with Members on the minority side, as well as with Members on this side, for suggestions on how to improve the scheduling in the next session of the 100th Congress.

As sessions end, there is always the difficulty of being absolutely certain about schedules because of actions in the other body, actions in the administration.

We would be delighted and plan to conclude this session as early as possible; and if we can get some understanding and cooperation, not only from the minority, which I know the gentleman is anxious to provide, but from the executive branch, we will be home by Thanksgiving.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I was going to suggest one big schedule improvement would be to end this colloquy right now.

Mr. FOLEY. Mr. Speaker, if the gentleman will continue to yield to me, I would like to correct a statement I made earlier in response to the gentleman from Mississippi.

The House will be in session tomorrow with unanimous-consents, and will be in pro forma on Friday. There will be no record votes tomorrow.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. Hutto). Is there objection to the request of the gentleman from Washington?

There was no objection.

HOUR OF MEETING ON FRIDAY NEXT AND ADJOURNMENT OF THE HOUSE FROM FRIDAY NEXT TO TUESDAY, OCTOBER 13, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, it adjourn to meet at noon on Friday, October 9, and that when the House adjourns on Friday, it adjourn to meet at noon on Tuesday, October 13, 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington.

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL 5 P.M. TOMORROW, OCTOBER 8, 1987, TO FILE SUNDRY PRIVILEGED REPORTS

Mr. GORDON. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until 5 p.m. tomorrow, October 8, to file two privileged reports from the Committee on Rules providing for the consideration of H.R. 3025 and S. 640.

These are noncontroversial rules for bills which the leadership has scheduled for next week.

It is my understanding they will be open rules, and this has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

AUTHORIZING COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO TRANSACT CERTAIN BUSINESS AT CERTAIN TIMES NOTWITHSTANDING PROVISIONS OF HOUSE RULE XI

Mr. DIXON. Mr. Speaker, I ask unanimous consent of the House that during the period October 8 to 16, 1987, the Committee on Standards of Official Conduct be permitted to take testimony and other certain action by a quorum of one of its members, the provisions of House rule XI, clause 2(h)(1), notwithstanding.

This request has been approved by the ranking minority member.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FAMINE IN ETHIOPIA

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FEIGHAN. Mr. Speaker, I am pleased to join the gentleman from Wisconsin in addressing the continuing and unfolding tragedy in Ethiopia.

Mr. Speaker, 3 years ago, 1 million Ethiopians died as a result of famine. At one point, 16,000 people were dying each day in famine camps throughout Ethiopia. We are now hearing reports that famine will be coming again to Ethiopia. The rains stopped suddenly this past June and July—and as many as 5 million Ethiopians will be threatened by famine by the end of this year.

Mr. Speaker, I want to commend the U.S. Agency for International Development for responding so quickly to this news. AID has already announced that 115,000 metric tons of emergency food commodities have been approved for shipment to Ethiopia. I applaud these actions. It's critical that needed foods reach Ethiopia's rural highlands before the famine starts.

But I also want to highlight an important underlying economic problem. Ethiopia has consistently refused to institute badly needed agricultural reforms. Now, although other African countries affected by this latest drought have food stocks from the past 2 good years to rely upon, Ethiopia has almost no food stocks.

We need to understand that a permanent end to hunger in Ethiopia will never occur on the basis of generous American humanitarian relief alone. Humanitarian relief is critical. But we also need to draw the world's attention to why the Ethiopian situation is so chronically desperate.

I'd like to submit a recent Christian Science Monitor article for inclusion in the Congressional Record, which describes this situation especially well. I urge my colleagues in the House to read this article and to follow these developments closely.

[From the Christian Science Monitor, Sept. 22, 1987]

Without Reform, Ethiopia Faces More Trouble, U.S. Says

(By E. A. Wayne)

Washington.—United States foreign assistance officials are quickly gearing up for a new Ethiopian famine.

Pressure from "the public, not just in the US but from all Western donor nations," is needed to push the Ethiopian government to meet the food needs of its citizens, a top US foreign aid official says.

At present, "Ethiopia is not taking care of its people," she says.

The US and other Western donors are much better prepared today than during the 1983-85 famime to meet Ethiopian human needs before disaster strikes, US officials say. Nevertheless, the officials are extremely critical of the Ethiopian government's policies, which one official says only "exacerbate the agricultural problems" of the world's poorest country.

Late last week, three senior officials of the Agency for International Development (AID) shared their assessment of the famine in Ethiopia and US plans to assist. These top officials from AID's bureau for Africa, the office of foreign disaster assistance, and the bureau for peace and voluntary assistance said that a complex "famine early-warning system" is now in place to alert Western donors in times of crisis. This system was created in the wake of the massive 1983-1985 famine to allow foreign donors, including the United Nations and private voluntary organizations such as Save the Children Federation and CARE, to forecast food requirements and make arrangements for international and in-country transportation in an effort to meet hunger before a crisis. The system serves as a "trigger mechanism for government actions," the officials say.

Ethiopia's government has announced it will need 950,000 metric tons of grain aid next year. US and other experts accept this estimate (to be confirmed in November surveys) and say 13.7 million Ethiopians inhabit areas affected by this year's drought. Two to 5 million people are thought to be in danger of famine.

AID is moving rapidly, the officials say, to provide an additional 115,000 metric tons of grain to the 20,000 tons already committed for the months ahead. US officials say this will meet about 38 percent of Ethiopia's emergency needs through next April. Other Western nations are expected to provide the rest.

The problem, however, goes beyond feeding starving Ethiopian peasants, officials say. "The [Ethiopian] government is taking no significant steps to improve the situation" of the country's farming sector, according to a senior AID official. Even in a normal year, he says, Ethiopia would fall short of its food needs, but its population is also growing by 1.5 million people a year. This means that without changes by 1990, Ethiopia will be 2 million metric tons short of its grain needs to feed its people in a normal year, he adds.

U.S. officials say the World Bank and other foreign donors have tried to urge agricultural reform and offered large amounts of money if the Ethiopian government would agree to a reform plan. The Marxist government, however, has refused to do this, they say, and continues to pump most of its resources into stateowned farms rather than peasant agriculture, which accounts for more than 90 percent of Ethiopia's food production.

Other countries in the region, such as Somalia, have begun needed reforms, US officials say. Though these countries still need food aid, it is less than would have been the case otherwise, the officials claims adding that these countries have been able to build up grain stocks.

Ethiopia's government, avowedly Marxist, has a poor human rights record, according to Amnesty International and other rights organizations.

"Political differences should not limit or slow our aid to innocent victims of hunger," says US Rep. Mickey Leland (D) of Texas, chairman of the Select Committee on Hunger.

Another AID official explains that with no bilateral aid program and few other ties, the US has very little government-to-government leverage on Ethiopia. But she adds that Western opinion does have an impact.

Negative publicity about Ethiopia's forced resettlement program (whereby hundreds of thousands of peasants were forcibly moved across Ethiopia) led to suspension of that program in January 1986, she says. This is the best lever, she argues, for pressing Ethiopian President Mengistu Haile-Mariam to change his agricultural policies as well as to prevent a renewed forced resettlement program.

US and other donors are taking steps to avoid other problems that arose in 1983-85 when the US sent $400 million in food aid to Ethiopia. They have prevailed on the Ethiopian government to promise not to raise port fees for relief deliveries. In 1983-85, Ethiopia charged $50 a ton to unload relief grain, while nearby Kenya charged only $12 a ton. Little of that money went into port improvement, US officials say.

Similarly, international donors are now studying transportation needs and resources to ensure that trucks and trains are available to deliver relief supplies. They are hoping to avoid a repeat of the situation in which the export of Ethiopian cash crops (coffee and cotton) slowed distribution of emergency food aid.

The US is trying to "build a coalition" of donors "to have leverage," according to a senior AID official. "However," he adds, "we're talking about a government that is not helping its own people, and they might just say 'too bad.'"

Fifty-eight US congressmen, headed by Toby Roth (R) of Wisconsin and William Gray III (D) of Pennsylvania, have introduced legislation banning coffee imports from Ethiopia, US investment of loans there, and any US support for international lending to Ethiopia, until Colonel Mengistu changes his policies.

□ 1530

YUGOSLAVIA—COMMUNISM WITH A DIFFERENCE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. CRANE] is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, a remarkable article appeared recently in the Washington Times, September 25, 1987, entitled "U.S., Yugoslavia seek military cooperation," by Andrew Borowiec. It indicated that a United States congressional delegation discussed with top Yugoslav defense officials "unprecedented" military cooperation including the construction of components of United States military hardware in Yugoslavia and United States supply of "sophisticated military material" to enable Yugoslavia to modernize its defense forces. Yugoslav sources explained that they could produce spare parts more cheaply than could United States plants.

U.S. assistance to a Communist dictatorship would seem self-defeating. But since the Allied betrayal of General Mihailovich and the forces struggling against the Nazi and Communist tyrannies in World War II, the United State Department has perpetuated the notion that Yugoslavia represents "communism with a difference." In this regard, our State Department treatment of Yugoslav communism is similar to our State Department treatment of Romania. The fiction is preserved that Romania, too, is "communism with a difference," and despite its horrifying human rights record, most-favored-nation treatment is allegedly a way of wooing Ceaucescu from the Soviet orbit. Our former Ambassador to Romania, David Funderburk, in his book "Pinstripes and Reds," explodes this myth, but not the momentum in the bowels of State that continues to push for such policies.

The Yugoslav's can, indeed, produce United States military equipment more cheaply than can U.S. plants. Workers on the production line at the Yugo plant make as little as 25 cents an hour. Certainly this is a factor behind the anticipated mass strikes in Yugoslavia this fall as it should be. Any American concerned about fair labor standards and unfair trade practices should keep this in mind before considering purchase of a Yugo car given this grass exploitation.

Moreover, the Communist dictators of Yugoslavia share another common feature with Ceaucescu—they are hopelessly corrupt. While Ceaucescu sells human beings who want to emigrate, the Communist officials in Yugoslavia who are running state enterprises have fraudulently issued promissory notes to the tune of at least $2 billion for their own personal gain. At the same time, what had been the most prosperous and productive country in the Balkan region prior to World War II has been transformed by the Communists since WWII into a terminal economic patient kept alive through such U.S. life support systems as commercial and multinational lending institutions and preferential access to U.S. markets.

Yugoslavia's outstanding world debt is pushing $19 billion, their inflation rate is well over 100 percent, and their unemployment stands at almost 17 percent. Small wonder, then, that Yugoslav officials would salivate over the prospect of increased business with the United States—at the expense of United States jobs and security.

One must keep security in mind when dealing with any Communist regime. Yugoslavia, for example, has maintained training camps for world terrorists. Have Americans forgotten, too, that the architect of the *Achille Lauro* hijacking Abu Abbas, was rescued and provided sanctuary in Yugoslavia by that Government's secret police?

This is the same government that sold mini-subs to Colonel Qadhafi to be used against U.S. ships in the Mediterranean. And CBS released an unconfirmed report that Yugoslavia has sold sophisticated sea mines to the Ayatollah Khomeini to be used against American vessels in the Persian Gulf. This is totally consistent behavior by an arms supplier to Vietnam, North Korea, Angola, Nicaragua, and the Communist terrorists in El Salvador. There is also a confirmed report that the Yugoslav Government, is producing sophisticated minirockets designed exclusively for the use of terrorists. And it is as naive to believe that any Yugoslav access to new technology is not immediately transferred to the Soviet Union as it is to believe that Ceaucescu does not serve as an immediate conduit for the Soviets.

If all of this were not enough, the "people's militia" in Yugoslavia has responded to protests by everyone from students and intellectuals to workers and minorities with brutal repression. In the Kosovo region, the Government's actions amount to genocide. And thoughout all of this, our State Department pursues a policy of silence and promotion of the fiction that this is "communism with a difference."

Zlatan Stamenich, Chairman of the Yugoslav Commission for Human Rights in the United States, if a former member of General Mikailovich's Army of the Fatherland, which heroically resisted the Nazi invasion of Yugoslavia. Chairman Stamenich reluctantly abandoned his homeland at the end of World War II because to him the wall between "Black Nazis" and "Red Nazis" was indistinguishable. But his dream for the ultimate realization of a free Yugoslavia, a Yugoslavia that fulfills General Mihailovich's expressed hopes for democracy and human rights observance in a postwar world remains undiminished. It is for that reason that Chairman Stamenich continues his struggle, along with thousands of other expatriates from Communist tyranny, to alert Americans to the truth about the sad fate that has befallen his homeland and especially to open the eyes of the United States State Department to its fundamental contradictions in glossing over the realities of contemporary Yugoslavia.

CREDIT CARD COMPANIES FIGHT FIRE WITH SMOKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, once again I greet with great disappointment, but resignation, the tactics credit card companies choose to use in their attempts to nurture a "competitive atmosphere" in the credit card marketplace. While declaiming the need for legislation to control the exorbitant interest rates they charge, credit card issuers refuse to treat the American consumer fairly. The large money center banks continue to make enormous profits by using their market dominance and highly financed promotion campaigns to keep 75 million bankcard-holding customers confused, ill-informed, and overcharged.

In a recent advertisement directed at member banks entitled, "How to stop Optima from making off with your best customers," Visa outlines a series of advisories and support programs that it is providing to member bankcard issuers enabling them to compete with American Express' Optima card.

What causes them to focus on the Optima card is its competitive 13.5 percent interest rate, but, never once are rates mentioned. Visa does not mention their rates—averaging close to 19 percent—Optima's rate, and certainly not the idea that reducing rates would be the appropriate competitive move. Although the advertisement warns that Optima is targeted at "your most creditworthy * * * and valued" customers, the hard hitting campaign they describe never once states their true source of concern.

What is outlined is a series of promotion ploys, public relations gimmicks, and empty inducements to attract and retain customers. Visa warns its bankcard issuers that "valued cardholders lost to Optima means lost revenues from merchant fees, annual card fees and interest charges." I would like for us to remember that credit card companies view merchant fees and annual fees as revenue producers not revenue neutral.

Visa tells its card issuers that "this pro-Visa program can help you retain your valued cardholder base and blunt the ambitious plans American Express has for its Optima card." Visa concudes its advertisement offering marketing materials and a "Visa versus Optima" toll-free hotline. Visa can fund this unnecessary, and I'm sure outrageously expensive, promotion campaign through the obscene profits it earns by overcharging the American consumer. Rather than indulge in this expensive self-promotion, why not treat the consumer fairly, reduce rates, reduce excess, and engage in honest competition?

The reason these companies so fear Optima and not the small card issuers is that the American Express Optima card has a broad enough membership base to truly challenge the big issuers that keep bankcard interest rates artifically high. With the top 10 bankcard issuers—out of over 3,500—controlling 34 percent of the market and the top 100 controlling 70 percent, is it any wonder that bankcard interest rates continue to average over 18 percent?

At this point I'd like to make clear that I do not view American Express as some sort of white knight offering to save the American consumer from a fire-breathing credit card industry. American Express is as interested in profits as Visa and Mastercard.

While Optima advertises a 13.5-percent interest rate, a less advertised fact is that the rate will rise to 1.8 times the prime rate after June 30, 1988. At today's prime, the rate would be 15.75 percent. A significant increase; still a competitive rate. American Express knows how to make money and I can assure you that they would not be offering those rates unless they were profitable.

A very few, mostly small banks have dropped their rates to reasonable levels, but, most have not. The major money center banks have resisted competition through their market dominance, slick public relations, and national media campaigns. When confronted with a competitive challenge to their rates by a major issuer, they react violently.

Last spring, the threat of Optima's serious, national rate competition provoked an arrogant and legally challenged response from Mr. C.T. Russell, president of Visa. The day after American Express introduced its Optima card, Mr. Russell sent a mailgram to banks that issue Visa cards. Rather than viewing the Optima card as a healthy competitive challenge, Mr. Russell urged the Visa-issuing banks to call the head of American Express in protest and apply economic pressure. He suggested that banks discontinue offering American Express products in an effort to squeeze them financially.

Credit card companies are combative in protecting, as Mr. Russell describes it, one of their "more profitable lines of service." Not only do they resist any form of control, but they bridle at the insult of being challenged. They have made it clear that they will allow neither competition nor a sense of fairness and respect for the American consumer to deter them in their profit taking. Only Congress can ensure that the American consumer is no longer subject to the defiant unfairness of credit card companies and big card-issuing banks.

We must accept our responsibility as representatives of the American people and guarantee that they are treated fairly. When the bill on credit card information disclosure is brought to the floor, I will respond to the need of the American consumer and offer an amendment to cap credit card interest rates at 8 points above the yield on 1-year Treasury securities. This floating cap would presently allow for an interest rate of 15.1 percent. This well exceeds the interest rates now being charged by a few small-yet-profitable banks that are engaging in free-market competitive pricing. This legislation is a fair and reasoned response to the greed and arrogance of credit card companies and issuers.

TAX TREATMENT OF INSURANCE PRODUCTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today the gentleman from Ohio [Mr. GRADISON] and I are introducing a bill that would alter the Federal income tax treatment of loans and other predeath distributions under life insurance contracts. This bill is designed to curtail the use of life insurance as a tax-favored investment vehicle by limiting the ability of policyholders to withdraw amounts tax-free from insurance contracts prior to death.

Under present law, the investment income earned on premiums credited under a life insurance contract is not subject to current taxation to the owner of the contract if the contract satisfies certain requirements that are designed to limit the investment orientation of the contract. Distributions under a life insurance contract prior to the death of the insured generally are treated as a recovery of the taxpayer's basis in the contract and then as income. The practical effect of these rules is that a taxpayer can receive annually an amount equal to the investment income on the contract without generating taxable income. No other form of investment, including IRA's, Keogh plans, 401(k) plans, and deferred annuities, is subject to such favorable tax treatment.

Because of the favorable income tax treatment that applies to life insurance contracts, many insurance companies have been marketing single premium and similar life insurance contracts as one of the few tax shelters remaining in the wake of the Tax Reform Act of 1986. In fact, sales of single premium life insurance, which is the most popular investment-oriented life insurance contract, have increased from $1.5 billion in 1985 to an estimated $10 billion in 1987. Sales of single premium life insurance have increased over 600 percent during the past 2 years, while sales of all other ordinary life insurance contracts combined have remained relatively unchanged.

Life insurance is now being offered with various mutual fund investment options, including the ability to invest in junk bonds and other high yielding investments. The proliferation of these investment options, coupled with the ready access to earnings on a tax-favored basis, has attracted investors who have no intention of holding life insurance to provide death benefits to dependents. Rather, these investors are using life insurance as a means to shelter investment earnings from current taxation.

Mr. Speaker, the tax-favored treatment of life insurance is provided today because the financial protection of dependents after the death of an insured person is considered a socially desirable goal. The tax-favored treatment of life insurance can also be justified as a method of encouraging savings for retirement. This bill would ensure that favorable tax treatment is available only if the insurance contract is used primarily for these purposes.

Furthermore, life insurance should not receive more favorable tax treatment than other similar types of retirement savings. The bill introduced today represents an attempt to rationalize and coordinate the tax treatment of distributions from a life insurance contract prior to the death of the insured with the tax treatment of distributions from a deferred annuity contract, a qualified pension plan, or an IRA.

The bill contains three provisions that should curtail the use of life insurance as an investment vehicle: First, distributions under life insurance contracts would be treated as income first and then basis. Second, loans under life insurance contracts would be treated as distributions that are subject to tax to the extent of investment income under the contract. Third, an additional 10-percent income tax would be imposed on the portion of any distribution or loan under a life insurance contract that is includible in income. This additional tax would not apply if a distribution occurs: First, after the holder of the contract attains age 59½; second, on account of the holder's disability; or third, as part of an annuity-type distribution over the holder's life expectancy. These rules are substantially the same as the rules that apply currently to distributions from annuity contracts, qualified pension plans, and IRA's.

The bill would apply to loans and other predeath distributions that occur on or after the date of introduction but only to the extent that the amount distributed is allocable to premiums paid on or after such date. Our hope is that this effective date will reduce the purchase of life insurance solely as a tax-sheltered investment.

H.R. 3441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOANS TREATED AS DISTRIBUTIONS; TREATMENT OF TRANSFERS.

(a) General Rule.—Paragraph (5) of section 72(e) of the Internal Revenue Code of 1986 (relating to retention of existing rules in certain cases) is amended by adding at the end thereof the following new subparagraph:

"(F) Loans treated as distributions; treatment of transfers.—

"(i) In general.—Notwithstanding any other provision of this paragraph—

"(I) paragraph (4)(A) shall apply to any loan after October 7, 1987, under any contract to which this subparagraph applies, and

"(II) paragraph (4)(C) shall apply to any transfer after October 7, 1987, of a contract to which this subparagraph applies.

"(ii) Contracts to which subparagraph applies.—This subparagraph shall apply to any contract which is described in subparagraph (B) or (C) but which is not described in subparagraph (D).

"(iii) Loans to include assignments, etc.—For purposes of this subparagraph, any assignment or pledge (or agreement to assign or pledge) any portion of the value of any contract shall be treated as a loan under such contract.

"(iv) Renegotiations, etc.—For purposes of this subparagraph, any loan made on or before October 7, 1987, and renegotiated, extended, renewed, or revised after such date, shall be treated as made on the date of such renegotiation, extension, renewal, or revision."

(b) Loan and Transfer Rules To Apply to Corporate, Etc., Holders.—Paragraph (4) of section 72(e) of such Code is amended—

(1) by striking out "an individual" in subparagraphs (A) and (C)(i) and inserting in lieu thereof "any person",

(2) by striking out "such individual" in subparagraph (C)(i) and inserting in lieu thereof "such person", and

(3) by striking out "an annuity contract" each place it appears in subparagraph (C) and inserting in lieu thereof "a contract to which this subsection applies."

(c) Effective Date.—The amendments made by this section shall apply to loans, assignments and pledges (and agreements to assign or pledge), and transfers, after October 7, 1987, without regard to when the contract was entered into. For purposes of the preceding sentence, any loan, assignment, pledge, or agreement made on or before October 7, 1987, and renegotiated, extended, renewed, or revised after such date shall be treated as made on the date of such renegotiation, extension, renewal, or revision.

SEC. 2. REVERSAL OF ORDERING RULES FOR DISTRIBUTIONS UNDER LIFE INSURANCE CONTRACTS.

(a) Reversal of Ordering Rules.—Subparagraph (C) of section 72(e)(5) of the Internal Revenue Code of 1986 (relating to retention of existing rules for certain life insurance and endowment contracts) is amended to read as follows:

"(C) Certain Life Insurance and Endowment Contracts Entered Into on or Before October 7, 1987.—Except to the extent prescribed by the Secretary by regulations, this paragraph shall apply to any amount not received as an annuity which is received under a life insurance or endowment contract entered into on or before October 7, 1987, but only to the extent the amount so received does not exceed—

"(i) the aggregate amount of premiums or other consideration paid for the contract on or before October 7, 1987, minus

"(ii) the aggregate amount previously received under the contract to the extent such amount was excludable from gross income under this subtitle or prior income tax laws."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts received after October 7, 1987, in taxable years ending after such date.

SEC. 3. ADDITIONAL TAX ON AMOUNTS RECEIVED UNDER LIFE INSURANCE CONTRACTS.

(a) General Rule.—Section 72 of the Internal Revenue Code of 1986 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (v) as subsection (w) and by inserting after subsection (u) the following new subsection:

"(v) 10 Percent Penalty for Taxable Distributions From Life Insurance or Endowment Contracts.—

"(1) Imposition of Penalty.—If any amount received under a life insurance or endowment contract is includable in gross income under section 72(e), the taxpayer's tax under this chapter for the taxable year for which such amount is so includable shall be increased by an amount equal to 10 percent of the amount so includable.

"(2) Subsection not to apply to certain distributions.—Paragraph (1) shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) which is attributable to the taxpayer's becoming disabled (within the meaning of subsection (m)(7)),

"(C) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of such taxpayer and his beneficiary, or

"(D) which is allocable to investment in the contract on or before October 7, 1987.

"(3) Treatment of certain exchanges.—If any life insurance contract or endowment contract is exchanged for an annuity contract in an exchange to which section 1035 applies, this subsection (and not subsection (q)) shall apply to any amount received under such annuity contract which is includable in gross income."

(b) Technical Amendment.—Subparagraph (C) of section 26(b)(2) of such Code is amended by striking out "or (q)" and inserting in lieu thereof "(q), or (v)".

(c) Effective Date.—The amendments made by this section shall apply to amounts received after October 7, 1987, in taxable years ending after such date.

ARMS CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. Frank] is recognized for 60 minutes.

Mr. FRANK. Mr. Speaker, I want to address today for some time the question of arms reduction and how we can best achieve it, and in the course of it I would also want to pay some attention to the degree to which the Reagan administration foreign policy is coming under increasing attack today. We just heard an example of it. The gentleman from Illinois, a good Republican who preceded me to the microphone, talked with some vigor about the shortcomings of the Reagan State Department. We know there are other Members of the House on the Republican side who are very critical of the arms control treaty the President is about to sign. While I do not always agree with the President, it does seem to me that Ronald Reagan's foreign policy is entitled from time to time to some defense against the Republican attacks that are made on it. I will do some of that later.

Mr. Speaker, at this time I yield to one of my colleagues who has been a leader in this House for a rational defense policy that preserves the peace and defends our security and saves the taxpayer's dollar.

Mr. Speaker, I yield to the gentlewoman form California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the gentleman from Massachusetts. I deeply thank him for his leadership on this issue of farms control. He has been certainly in the leadership of this House on that very important issue.

You know, when we really come down to it, that is the issue that has to prevail in our minds and in our hearts, because we can work hard for housing, we can work hard to educate our kids and we can work hard for economic justice and a clean environment, we can work for all these things, but if we are to lose it all in a nuclear war, it really puts everything into perspective.

I am very encouraged by the prospect of a possible agreement between the Soviet Union and the United States to remove intermediate range nuclear missiles from Europe. While I understand the concerns expressed by some of our NATO allies and by the chairmen of the Armed Services Committees of Congress, I believe it is important to embrace the INF discussions as a first step on the road to achieving reductions in strategic and in conventional weapons.

For those of us who have been so frustrated and angered by the administration's blank record on arms control, it would be hypocritical not to applaud this breakthrough. However, I want to go on record to give credit where credit is due, and credit is due to those in this Congress who have worked, day after day, month after month, and year after year, to fill the vacuum, to impose sanity and restraint on an arms race that is out of control. And our message has reached the people of America and the President has felt the strength and determination of the people. He knows this Congress will not be fooled again into giving away our arms control provisions as we did last year on the eve of the Iceland summit. This year he knows he will have to confront tough House and Senate passed arms control measures—a nuclear test ban, a ban on Asat tests, compliance with the SALT II Treaty limits, and adherence to the traditional or strict interpretation of the ABM Treaty.

This administration simply doesn't understand the reality: Nuclear overkill does not bring us national security. It does break the bank. After 6 years, we have seen a 100-percent increase in military dollars, while domestic programs for our people—education, housing, health care, and the environment—have all suffered.

I would like to bring to your attention a compelling new study by three scientists at the Massachusetts Institute of Technology, a study which points out the utter nonsense of nuclear overkill. It is called, Nuclear Crash: The U.S. Economy After Small Nuclear Attacks. The study, which was based on Government data, concludes that a nuclear attack consisting of only 1 to 2 percent of the Soviet nuclear arsenal could cause a complete and long-lasting economic crash in the United States. It predicts that most of the population would starve to death, with the survivors reduced to near medieval levels of existence for decades.

This small attack, and I emphasize small, would still be enough to devastate 481 cities, towns, and suburbs in our country.

The scientists also concluded that the Soviet Union would be just as vulnerable to attack by a small fraction of our nuclear arsenal.

The implications of this important study are twofold:

First, it quantifies the extent to which we are indulging in nuclear overkill. It says that the arsenals of both the United States and Soviet Union could be reduced to 10 percent of what they are today, and there would still be enough weapons left, strategically targeted, to maintain an effective deterrent.

Second, it also makes clear that anything less than a leakproof star wars shield makes no sense. And no one says the shield will be 100 percent effective. The best estimates are 90 percent and it's not worth it. We are throwing billions away on a system that will not enhance deterrence or our security, but undermine it.

In summary, this study provides a rational, scientific basis for deep reductions in our strategic arsenals while still maintaining deterrence. It also points out the administration's folly in refusing to negotiate with the Soviets on star wars.

I believe the President has opened the door to the possibility of real achievements in the arms control arena. The announcement of a possible INF Treaty is welcome news, but there is much work to be done. And that work cannot proceed until the administration sees itself in partnership with Congress. Any other course is doomed to fail for we will not, cannot relinquish our rights and responsibilities to affect the course of human survival.

Recently, the President said of the doomed Bork nomination that Bork would fail over his dead body. This kind of angry rhetoric doesn't lead anywhere except toward a deeply divided Government.

On the issue of arms control, we cannot afford to be divided, for the future of the whole world is at stake. So let us support the President as he negotiates the INF agreement and let him support us on the very important arms control measures in this year's defense bill.

□ 1545

The result has been for 2 years in a row, perhaps 3, the adoption by the House during the arms authorization bill of a package of arms control and arms reduction measures.

By this year those were really not greatly in doubt. There was a package of five, of a nuclear test ban, which would be verifiable and neutral, abiding by SALT II, abiding by ABM, putting restrictions on antisatellite testing in space. These were adopted by the House.

We were told by our Republican colleagues that we were making a grave error by adopting them, even if they were OK on the merits, because we were told were the House and the Senate to adopt these it would prevent the President from reaching agreement. We get a whole series of very anatomical metaphors from our colleagues, we are tying the President's hands, we are cutting off the President's legs, we are shutting the President's eyes. By the time they are through with their speeches, the poor man has got very little left that is in functioning order. And the argument has been that by putting these things forward we are somehow undercutting his ability to reach an agreement.

We now have an absolute, incontrovertible refutation of that, because the fact is undeniable progress has come in arms reduction in this administration only after first the House and later the Senate adopted arms reduction measures.

I am not arguing at this point that the adoption here caused those agreements. I think we had some positive influence, but I want to deal with the argument which we got from Members in this body, from former Assistant Secretary Perle of the Defense Department, who seemed to me was somewhat hypocritical when he argued that we prevented the President from reaching an agreement since he did not want any of those agreements. But the argument had been from the rightwing and some other Republicans that if the Congress takes pro arms reduction stances it will destroy the negotiation process.

That is wrong. It is demonstrably wrong. Ronald Reagan is on the verge of a very important agreement on intermediate nuclear forces. They have a statement to begin discussing nuclear testing. More progress has been made in the arms reduction area after we began enacting these than before.

I think a lot of change has to do with the ascension of Mikhail Gorbachev and the fact that he may be the first rational Soviet leader in a long time, and one who can understand the true interests of his own society. No one ought to suggest that he is about to become eligible for membership in the American Civil Liberties Union or that any of us would want to live under his society, but he perceives his own interests in the arms reduction. But the argument we were preventing the President from reaching an agreement by adopting an arms control package is wrong.

What is particularly ironic is that we have people in this House who a year ago were saying to us if you succeed in saying by law that we are going to stick with ABM and stick with SALT II and not have nuclear tests, shame on you because you will be preventing the President from reaching an agreement.

But what happened? We did what they told us would prevent the President from reaching an agreement. Despite the fact we did it, the President reached an agreement. And then what happened? Many of the people who accused us of preventing the President from reaching an agreement are now criticizing the President for reaching that agreement. It turns out maybe they were more afraid that we would reach an agreement, and not because we now have criticism of what seems to me, and the President appears to me to believe, is one of the most important foreign policy goals he will have achieved, one of the most important national security goals he will have achieved, which is the Intermediate Nuclear Force Treaty, and what does he find? Opposition within his own party.

Some of us are going to start feeling like Lyndon Johnson and Sam Rayburn defending Dwight Eisenhower against the right wing of his own party, because we have now presidential candidates on the Republican side attacking the President. But we ought to understand the irony.

We have very conservative Members of the House telling us that if we push for arms reduction measures in the Congress we would prevent the President from being able to reach an agreement. We pushed for them. We achieved success legislatively. The President is able to get an agreement, and the very same people who made the argument that we were preventing agreement are now mad that we have an agreement.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentlewoman from California.

Mrs. BOXER. There is a rumor around here that some people are afraid that peace may break out, whether it is here in the arms control arena or in Central America. And it is unbelievable to me that what we have worked for for so long in a bipartisan fashion would make people back away when we are at these very historic times, both in the Central America arena and in the nuclear arms arena.

Mr. FRANK. I agree with the gentlewoman. I think one of the most fascinating foreign policy debates now going on in America is the debate of Ronald Reagan against Ronald Reagan on the Arias plan, because Ronald Reagan said he was for the Arias plan, and Ronald Reagan was very critical of the Arias plan, but then Ronald Reagan came back and thought it was not so bad after all, and we all await the outcome of the Ronald Reagan versus Ronald Reagan debate as to where he stands on the Arias plan.

I think Speaker WRIGHT deserves credit here for consistent leadership. So there are some areas where we do not agree with him, but I think this is a good example, by the way, of where congressional leadership in this body and not the other body—and I make no criticism of them, but I simply at this point note the presence of the leadership element here with the Speaker—it is the Speaker who took the leadership that has produced some very positive results with the Arias plan and its support while the President, as I said, vigorously debates himself.

But in the arms control area we have had people on the Republican side telling us for a long time that it was a mistake for us to push for arms control. In fact, many of them said, Mr. Perle being one, and impugning other people's commitment to national security came easy to him, he said that we had no right as Members of the Congress to express our views that the President was pushing insufficiently for arms control. We were told that it was wrong for Congress to interfere, and there have been a lot of arguments that Congress is again tying the President's hands, cutting off his legs, stopping up his ears, unbuttoning his shirt, loosening his belt, doing all of these rude things so the poor man cannot get an agreement.

And what happens? He gets an agreement, and guess who now is beating up on the President? All these people who told us that Congress should not interfere in foreign policy are upset because the President achieved an agreement. And many of the people who told us we should not try to involve ourselves in Central America, they are the critics of the Arias plan.

I agree, when you criticize the Arias plan you are only being anti-Reagan on Monday, Wednesday, and Friday. You are being pro-Reagan on Tuesday, Thursday, and Saturday because the President is somewhat divided on the Arias plan.

On arms reduction, however, it ought to be noted that many of those, and I invite people to go back through the record of these proceedings in previous times, look at the number of conservative Republicans who said stop interfering in the arms control process, stop undercutting the President, they are the very ones who are today criticizing the President of their own party because he got an agreement. And the argument that by congressional action in favor of arms control we make arms reduction impossible has simply been proven wrong in a way that things are rarely so conclusively demonstrated around here, because Ronald Reagan has been able to get these agreements after the House and the Senate moved and progress in the Intermediate Nuclear Force talks of a very conclusive sort was announced simultaneously with the other body voting for arms reduction agreements, voting to bind the President. The notion that by our arguing for more arms control than the President is willing to get we somehow prevent him from getting agreement, which was very seriously made, it was the major argument made on the floor of this House, ironically again the louder people told us that we were preventing the President from reaching an arms control agreement, the likelier they were to be people who did not want an arms control agreement. But they used the argument and the argument was wrong, because we have under Ronald Reagan today the first genuine progress in 7 years almost of his Presidency on arms reduction, and we have gotten it after the House acted.

I said earlier I would not argue for causality at this point. I want to make clear my central argument is the refutation that has come of the conservative argument that somehow when we engage in pushing for arms control we make arms control impossible. That has been proven flat out wrong.

Beyond that, I believe the fact that we were pushing so hard is one of the things that gave the President the incentive to reach some agreement. That is, the President clearly presides over a divided administration.

Caspar Weinberger's admiration for arms control agreements is only slightly greater than the Ayatollah Khomeini's admiration for the chief rabbi of Jerusalem. Mr. Weinberger is not what you would call the greatest fan of arms control.

There are other people in the administration who are not for arms control. There are people in this Congress who do not support arms control, some of whom are major candidates for President in the President's own party.

Ronald Reagan had to decide, which is not always easy for him to do, to overrule Secretary Weinberger and others, and I believe the activity in this Congress, the fact that people in this Congress were pushing in an arms control direction was one of the factors.

Another critical factor was the greater flexibility of the Russian leadership, but, of course, the most important question facing us internationally right now is to what extent the changes that Gorbachev is engaged in are legitimate. We cannot be sure they are. We have every incentive to hope they are, and clearly to work in a way that encourages them, not out of trust, not out of blind loyalty, but out of hope that there is on his part a genuine recognition of the mutual interest in reduction of arms both for economic and security reasons.

But where we are at this point ought to be very clear. We went through a period when there was in this administration no arms reduction. We began in the Congress, generated here in the House, a working group that pushed for arms control. We began to win some votes. We were on the verge of trying to get some of them voted into law when the President went to Iceland, and we got the great almost agreement, we are told, we got the blowup of any agreements, we got, as Donald Regan later said, comparing himself to the street sweeper who followed the circus elephants down the street, one of the less elegant analyses a chief assistant has ever applied to his President, that Reykjavik was not so bad after all, but it was a disaster from the standpoint of any accomplishment.

On the other hand, it was an indication the President was ready to move. The sequence is clear. Aggressive action by the House and later by the Senate in favor of more arms control than the President was willing to push for preceded any substantial arms control progress on the part of this administration.

The argument that by congressional involvement in arms reduction we retarded progress is demonstrably wrong.

In closing, I just want to say that it is not simply in arms control that we get this argument. The right wing argument has been a surprising change of history. Conservatives used to be somewhat distrustful of executive leadership. Now they are the greatest advocates. They have said that somehow Congress in general should not be involved in foreign policy, the President ought to be left untrammeled. That is a conservative argument in Congress, it is an argument that has a very well known judicial defender, Robert Bork, who in his jurisprudence time and time again has framed arguments that would allow the President to do whatever he wants in foreign policy. No lineman ever ran better interference for a ball carrier than Robert Bork's jurisprudence runs for a President bent on unilateral engagement of American forces in some conflict.

The conservative argument, peculiarly I think in terms of the roots of conservatism, has been legislative participation in foreign policy will be counterproductive. That argument has time and again been proven wrong, and it has been proven wrong demonstrably in these past 2 months.

Speaker Wright took the leadership that gave us progress in Central America, over the President's objections at some points. The performance the President has given with regard to Central America is not a very impressive performance. This administration is badly divided, but it was congressional leadership that was the catalyst that gave us the Arias plan, and I believe it will be congressional leadership that will help it to be carried to fruition.

Congressional leadership is less clearly responsible for arms control progress, but the argument that by Congress getting active we made progress impossible has been irrefutably dealt with. There is simply no validity to that argument, because Congress acted and we got arms control progress. I believe, in fact, that it was the likelihood of binding laws coming to the President to sign or not to sign, of restrictions being put into the appropriations or the continuing resolution by both Houses on ABM and SALT that helped break that deadlock within this administration between the people who wanted arms control and the people who did not.

So as we now look at the record in foreign policy we see a President very much inconsistent on the question of Central America, following the leadership of the Speaker of the House and others. We see an arms reduction, Congress giving a lead, the President going along with it, and now we see those of us in our party on the Democratic side defending the President here. And when it comes to ratification of the intermediate nuclear force, let me make a prediction. I do not think it violates the rules to make a prediction. But if you need two-thirds to ratify a treaty, if there were no Democrats voting in the Senate, they would not get a treaty ratified. The President will not get from his own party in the Senate I believe the two-thirds that he needs. He will get it, but he will get it because of Democrats.

The right wing element in the Republican Party, which increases as the primary season goes forward, is now beginning to turn, as we said, on Ronald Reagan. We heard a very eloquent denunciation of the State Department previously, just before I spoke, from the gentleman from Illinois, a Republican leader in this body. The State Department, least anybody be under any misapprehension, is not a free floating entity, it is not an appointee of the Governor of Illinois, it is run by Ronald Reagan's people. The Secretary of State and the Ambassadors all are Ronald Reagan appointees.

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We are getting an increasing right-wing attack. If President Reagan resolves the debate with himself in favor of the Arias plan, he will be attacked by his own party in substantial numbers. He will find the intermediate nuclear force treaty substantially attacked. If he gets any further progress, he will be substantially attacked. So the notion that congressional participation in foreign policy hurts has been refuted. What they mean, of course, is that when Congress does not agree with them, they should be able to go off and do whatever they want. But the notion that congressional involvement somehow undercuts our ability to get to some kind of common objective is wrong, as the arms control matter shows. Congressional involvement has been very helpful in the matter of Central America. And we now have the phenomenon, as I said, of the right wing of this party turning more and more on the President. And to those who are critical of congressional involvement in foreign policy, I will just note it was not any Democrat who held up for a year the confirmation of the Ambassador to Mozambique because he did not like the President's policy in Africa. Ronald Reagan's foreign policy today is probably receiving more abuse and interference from members of his own party on his right than it is from many of us on our side because at this point there is some agreement on some of the major aspects.

People on the conservative side have a right to decide if Ronald Reagan has gone, in his old age, soft on communism, and to lament his ambivalence about the Arias plan and support of the intermediate nuclear force. But they ought do it with some consistency. And the central point, I think, has been made absolutely clear by the events of the past few months: The notion that congressional involvement in foreign policy is inevitably counterproductive is simply wrong and with specificity we have got for the first time in this administration progress in the arms reduction field. And that without room for doubt follows precisely the kind of congressional activity that we were told would doom such success.

Congressional activity on behalf of arms reduction clearly cannot be accused of in any way retarding our ability to get agreements.

I would yield to my good friend and chairman of my Housing Subcommittee, the gentleman from Texas [Mr. Gonzalez].

Mr. GONZALEZ. I thank my esteemed colleague. I do not mean to intrude on his special order, except for the fact that I want to compliment him and thank him for discussing this issue and particularly this aspect of congressional role in foreign policy, because of the charges that have been leveled from time to time.

They are not new or novel, but they have been more consistently raised as a criticism of Congress meddling improperly in the affairs of the Presidential role in foreign affairs than previously. However, I will remind the gentleman that in the seventies, early seventies, the administration then, in the case of Cambodia and some aspects of the Southeast Asia policy, the Congress was blamed and attempted to be blamed for the reversals that our country suffered. Also, in retrospect, some of those that believed that the United States had it in its power to resolve through victory, meaning unilateral military victory, blamed Congress because of its divisions, it blamed the American public that was so divided and it was clearly a demonstration of the tendency in human beings to blame somebody else for things going wrong.

In this case, though, I think that the gentleman ought to be thanked because more and more of the Congress has been abused as a collective body, as an intruder and an obstacle to the successful carrying out of some activity on the part of the President. The fact is that I do want to point out to the gentleman as I listened to him that I cannot attribute to the President or his administration the dignity of saying that they have evolved a policy, where there has been no policy. There has been evolvement of policy, short-range, long-range or anything, other than the reactive ad hoc situations in which the administration and the President are reacting.

Therefore, a vacuum has been created. We should not be surprised if—what I would not call a conservative, I would not label these voices conservative. I have far more respect for that word, I have a true respect for what I would define as a conservative, as I do for what is defined as a liberal.

I would consider them what Franklin Roosevelt called reactionaries. He called the reactionaries of that day sleepwalkers, walking backwards in their sleep. And that is what he labeled the same kind of voice, vociferous and rather obstreperous objection to some of his actions. And that is what I would do today.

I would think that the people that seemingly have turned on the President actually are those individuals that are so ideologically bound by their blinders that the President, who also is an ideolog, has been caught in his own inconsistencies.

In the case of Central America, it is pathetic and I think that there I must point out to my distinguished colleague that I cannot boast too much of the congressional contribution there because even as of less than 2 weeks ago, the Congress was approving some funds labeled, or mislabeled, as humanitarian for the so-called Contras who, in effect, will prevent any kind of an implementation whether we adopt it or not, of the Arias plan, because we are being held hostage by some 20,000 that we have fed, we have armed, we have supported in Honduras that it would be hard to find out what to do with them.

Mr. FRANK. I thank the gentleman from Texas for the historical perspective that he brings to our discussion as well as the sense of commitment of value. It is very important.

I am in agreement with much of what he said. I regretted the fact that we voted the money for the Contras but I do believe that the leadership the Speaker has shown in submitting the Arias plan is going to prove successful. Of course, if you watch the President flounder around with regard to the Arias plan, the gentleman from Texas said there was a vacuum, it reminds me of the basic truth in politics that just because there is a vacuum does not mean that there is nobody in it. I think that is the situation of the President on Central America.

We have had, in conclusion, let me say demonstrable evidence of the effectiveness Congress can have when we do foreign policy right. In particular, we have had decisively repudiated the rightwing argument that somehow congressional pressure for foreign policy changes will always be counterproductive. We have had particularly refuted the notion that by acting for arms control we undercut the President. And we are in the ironic situation now that many of those who a year ago were impugning our commitment to national defense because we dared to criticize the President on arms control policy, are now beating the President over the head on arms control policy.

Apparently, the argument is that it is OK to object when the President tries to reach an agreement on the ground we should not have any treaties, but it is somehow not fully patriotic to insist that the President ought to be doing some more to reach agreement.

Congressional pressure toward arms reduction, maybe some people want to argue it was neutral, it is certainly not logically possible to argue that it has done any damage. I believe the evidence is that it has been helpful and congressional involvement in Central America, thanks to Speaker Wright, has been particularly helpful.

We will be here for another couple of months and I think we will see increasingly the tendency of the rightwing of the Republican party to attack the President for trying to reach some agreement based on perceived neutral interests with oiur adversaries in various parts of the world and many of us will, when the President shows the kind of realism and leadership that he has shown in INF, we will be here to defend him against these rightwing attacks. And those who think that somehow congressional involvement in foreign policy is improper, maybe that will lead those on the right to stop criticizing the President. I doubt it, because consistency, as we know under the rules of the House, is not binding.

At least, we will be able to deal with these arguments on the merits.

Those of us who want more in the way of arms reduction will be free to make those arguments without the wholly unfounded suggestion, repudiated by the events of the past few months, that we are in any way hindering the President's ability to reach the right kind of agreement.

Mr. MAVROULES. Mr. Speaker, let me first extend my appreciation to Mr. Frank and Mr. Downey for reserving this block of time for a discussion about the pending INF agreement and its ramifications.

There can be no doubt that an INF agreement with the Soviet Union would be a positive step toward a safer world for our children and grandchildren. However, we must not forget that there are other, even more important areas that need to be addressed: strategic, conventional, and chemical weapons.

Let me focus a bit on the conventional imbalance. Quantitatively, the Soviets have a strong edge over our NATO forces, but it is my belief that qualitatively we can offset some of that edge. Nevertheless, we must face the fact that with an INF agreement NATO forces will need a conventional boost.

Many analysts contend that the Warsaw Pact has over a 2-to-1 advantage over NATO in terms of conventional forces. The removal of our strategic missiles in Western Europe leaves NATO without a proven deterrent.

It is time to shift our focus away from buying more and more nuclear missiles, and concentrate on rectifying the conventional imbalance with more planes, helicopters, tanks, and other often neglected systems. Our thinking on the subject of defending our NATO allies must shift. Hard questions must be asked, and hard decisions must be made. I hope that we will have the courage and foresight to confront this reality.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The **SPEAKER** pro tempore (Mr. Hutto). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FAMINE IN ETHIOPIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 60 minutes.

Mr. ROTH. Mr. Speaker, the headlines from Ethiopia are in. It's happening again. The threat of famine is back.

It is estimated that over 5 million people could be in danger of starvation in the near future. The Mengistu regime of Ethiopia is asking the West for 950,000 metric tons of food. That's just about the same amount of food aid that was given by the West to Ethiopia just 2 years ago.

Ethiopia, this once-proud land, a land of gifted people, rich in heritage and culture, has come under this scourge again. Why? Why indeed. It is the purpose of this special order to look at why the people of Ethiopia continue to suffer so much.

When famine came to Ethiopia in 1984 and 1985, there were those in the West who knew that the current dictator—the cruelest in the world, Colonel Mengistu, was responsible for untold human misery and suffering. But among many, there was a conspiracy of silence. Some believed that to tell the truth about this dictator and his disregard for human life, might jeopardize the millions of dollars that was streaming into Ethiopia from the West.

Some of our colleagues in Congress, some in the press, some of our U.N. officials, some of our relief organizations, some of our own government officials looked the other way and were silent about the culpability of the Ethiopian Government. When one relief organization, Doctors Without Borders, had the courage to expose the blatant abuse of relief stations by the Ethiopian Government to round up dissidents and forcibly displacing hundreds of thousands of people, this brave group of doctors were thrown out of the country.

How many people rallied behind them to reinforce the truth that they were speaking? Sadly, not very many.

But there are also a lot of heroes. People who have had the courage to print the truth, to speak their conscience, and to work for justice in Ethiopia.

Two weeks ago, our former colleague, Ambassador Milicent Fenwick came to Capitol Hill to deliver a message. This is what she said:

> When we know of an injustice and we say nothing, it is as though we condoned it. When we contribute to a system of injustices, we become accomplices.

She came to Capitol Hill to speak out against the brutal atrocities of the Ethiopian Government. Some of you may have seen yesterday's Washington Times article which featured her testimony.

She came to speak out against Ethiopia's slavery, Ethiopia's forced displacement of people, the tragedy of the Jewish Falashas, and the exploitation of the charitable instincts of the Western world.

I wish all of you could have heard the stories she told us. Because for so many of us, it is hard to believe that a regime could be so brutal so insensitive to the needs of its own people.

She told us of what happened one day in the town of Makele. People were told that food and relief supplies could be found in Makele. So 1,100 of the strongest men were chosen to go into the town to get food and bring it back for the women, the children, the old, and the weak. They never returned. When they arrived in Makele, they were herded into a fenced school yard and ordered into the waiting trucks. When some refused to get into the trucks, they were shot dead.

They were crammed into the trucks and taken away. Four hundred managed to escape by jumping out of the trucks as it headed to Alamata, the staging point. There, at Alamata, they were held under appalling conditions, with no food, in tin-roofed sheds, until the Soviet planes could come and take them hundreds of miles away to camps they called "resettlement camps."

Once at these camps, people were not allowed to leave. They were guarded night and day. Those who were caught trying to escape had their legs broken.

There is an Aushwitz 1986. It's in Ethiopia.

There were over 600,000 people taken to these camps. Think of that number—600,000. Think of how many families torn apart. How many children were left behind to fend for themselves? How many children will never again see their fathers? How many sisters will never again see their brothers? And, how many wives will never see their husbands?

They are still there. There are still hundreds of thousands of people locked in these camps who may never again see their families and homes.

And that is only one aspect of the horrible nightmare that haunts the people of Ethiopia. The Economist World Human Rights Guide cites Ethiopia as the worst violator of human rights in the whole world.

This is what our Assistant Secretary of State for Human Rights, Richard Schifter, told us 2 weeks ago:

> The People's Democratic Republic of Ethiopia is among the most egregious human rights violators on the African continent * * *. Ethiopians have no civil or political freedoms and no institutions or laws to protect their human rights * * *. Ethiopia is an extraordinarily brutal and repressive police state. Political opponents of the regime have been executed without trial.
>
> Most civil liberties, as clearly spelled out in the Universal Declaration of Human Rights, do not exist in Ethiopia. There is no freedom of speech or press. Assembly of any sort is strictly forbidden. Travel within Ethiopia and abroad is closely controlled. Emigration is highly restricted. More than a million Ethiopians have fled the country by walking across the border into surrounding countries.

I will place both of these statements in the RECORD for the benefit of our readers.

Now some of you may still have doubts about what I have been saying for almost 3 years. But these are not just my words, or just the words of a former colleague who served as our Ambassador to the Food and Agriculture Organization, or just the words of our Assistant Secretary for Human Rights.

Let me quote to you the words of someone who was there. And it was someone very close to Mengistu, Ethiopia's Marxist dictator. His name is Dawit. He was the Deputy Foreign Minister. He was a member of the central committee of the party. And he was the man in charge of Ethiopia's famine relief. He has now come to freedom—as have so many others: Ambassadors; officials of all kinds. And this is what he told us 2 weeks ago before the National Press Club.

> The Ethiopian people continue to suffer under a brutal regime and a political system that has become an instrument to keep a tyrant in power. The entire country is in the grip of terror.
>
> Mengistu's loyal followers are his executioners. As in Hitler's Germany, Mengistu's words have the force of law. Nothing has to be in writing. Massacres and gross violations of fundamental human rights have often been committed on simple, oral instructions. We do not hear about them in Ethiopia. Even family members don't hear about them. They learn about them in an indirect manner. People are first detained, usually by just disappearing from their offices or homes. In some cases, family members are notified and allowed to bring them daily meals. When the guards tell them "No more meals," it means the people have been executed. I can count hundreds of people whom I personally know who have been executed in this manner. Just five weeks ago, five close friends of mine were executed.

Mr. Speaker, can you even imagine that? Can you imagine what it must be like? Can you imagine living in a hell where literally hundreds of your friends have been tortured and killed? Let me read on from Dawit's testimony:

> The secret police and death squads have created an atmosphere where murder and abduction are likely to occur at any moment. Of all the countries in the world, Ethiopia has the largest number of political prisoners, with close to 200,000 in 1985.

Mr. Speaker, a few weeks ago, the Human Rights Subcommittee held a hearing on Ethiopia at my request. One of those political prisoners, who had been arrested 13 years ago, came all the way from London at her own expense to testify. When she got there, she was told that private witnesses had been postponed to another day.

She came to me after the hearing and asked why she had been treated this way in America. I ask the very same question.

But she gave me her written testimony, and I think my colleagues here on the House floor and the American people will be interested to know what she had to say. Her name is Rebecca. She was arrested in 1974, as a 21-year-old young lady, at the prime of her life and held in prison for almost 10 years. Her crime? She was a distant cousin of Emperor Haile Selassie. Two months after she was taken prisoner, her father was executed as were 60 other members of Haile Selassie's government. She was separated from her three brothers and didn't see them again for 8 years.

The prison where she was kept and where hundreds of other women are still held today is in Addis Ababa. It is directly opposite the huge headquarters of the OAU—the Organization of African Unity. There is running water only at nighttime. And a hole in the ground serves as a toilet. There are few beds, most are only given thin mattresses to use on the floor. And rats are everywhere. Authorities provided no food, no bedding, no clothing. You have to depend on friends to provide that.

Rebecca tells us about the awful sessions of torture, prolonged beatings on the soles of your feet while the victim is suspended from a rope, rape, and other gruesome methods.

Since we don't know whether she will be able to testify, I am submitting her testimony here for the RECORD.

Clearly, this is a regime which has little regard for its people. That was no more evident than in the way the Ethiopian Government dealt with the last famine just 2 years ago. The West responded generously to the sight of hungry people. We can be proud of that response and to the outpouring of charity which came from the American people.

But where were the priorities of the Ethiopian Government? How did the Ethiopian Government help in this famine? This is how they helped themselves:

First, they charged us $50 for every ton of American donated food and relief supplies that we sent.

Second, they told us Americans we would have to find and pay for the local transportation to get food off of the docks and out into the country. They had other uses for their own trucks, which I will get to in a moment.

Third, they told us that if we wanted to bring in trucks for transporting the food, they would have to be Mercedes trucks. And, we would have to agree to hand them over to the Government in 2 years time. And we would have to pay a tax of $50,000 for every truck.

This is the story the American people were not told.

These are the conditions that were laid down, and these are typical of the conditions which we, the Western donors, agreed to time and again. Some have estimated that the Ethiopian Government made $200 million through these various schemes and various rackets. I think Ambassador Milicent Fenwick put it very well when she called this scam the "golden flood of famine relief."

Now, why couldn't the Government of Ethiopia provide their own trucks to transport food? Because, they were too busy using them to haul people. It was duped "the resettlement campaign." They were rounding up 1,000 people every day, cramming them into trucks, and forcibly relocating in armed camps hundreds of miles away. In all, 600,000 people were rounded up and still, to this day, they remain in these camps, surrounded by dry moats and guarded day and night.

If this is difficult for you to believe—I'd like to again quote Dawit, the man who was responsible for this resettlement campaign at the time:

> I headed the controversial resettlement program for some time. Even though I have nothing against resettlement in principle, the manner in which it was conducted and the priority given to it caused the death and suffering of millions. In my presence, on several occasions, Mengistu and his followers have ordered the forcible evacuation of people for villagization and resettlement programs. It was disorganized, but Mengistu wanted it done for political reasons. He found it more convenient to experiment with his policy of regimentation and control of society with poor and weak people who have no way to resist.
>
> As a result, thousands died and thousands more were separated from their families. (It) contributed to the death of 1.2 million people between 1984 and 1985.

My friends, some people criticized Doctors Without Borders when they came out publicly and said that 100,000 were killed in the Resettlement Program. Some people thought that figure was exaggerated. But here we have the man who was there and operating the program saying publicly that Mengistu's policies contributed to the death of 1.2 million people.

Some of you may be asking, Why do the Ethiopians put up with this brutality? Why don't they change their Government? Why don't they vote this man, Mengistu, out of office?

There's a very simple answer to that, and I'll quote our State Department human rights report:

> Ethiopian citizens have no legal right or peaceful means to change their government.

Let me give you some of Dawit's own words concerning life in Ethiopia. He says, and I quote:

> There is no democratic participation at all in Ethiopia, and people live in terror. Even a semblance of democracy does not exist. I have been elected and participated in "elections" quote/unquote. People are told in a very subtle way who to vote for and given prepared statements to read in support of issues that are presented to the public.

In Ethiopia, there are no laws that protect individuals. There are no institutions which grant basic civil rights for its people. The people of Ethiopia are suffering at the hands of the cruelest dictator in the world and we continue to sit on the sidelines and do nothing.

This is Dawit's message:

> The people of Ethiopia want an end to the misery of Mengistu's rule. International impotence shocks them.

Why is it that we have been so reluctant to speak out, and speak for the liberties and rights of 40 million people? Why are so many intimidated by this bully?

I think Dawit has some interesting insights here. He told us:

> I have taken many prominent Westerners to see Mengistu in person, particularly Americans. They see themselves face-to-face with a warm, conciliatory, seemingly modest human being. They are confused. They come away with a desire for reconciliation. Even some who are the most virulently opposed to his ideology, they reduce their opposition and want to give him a chance. It is Western naivete. He is playing a game of deception, but it is primarily the visitors who deceive themselves into believing a change might occur. They say "perhaps he will reform. Perhaps his human rights record will change." But this has been the pattern for over a decade.

Dawit continues:

> The U.S. Administration has sometimes been looking for overtures, signs that he might fall in with the West again. Often, they delude themselves into interpreting his statements as they would like to understand them. It's not that he has any special talent for deception; it is almost as if they are surprised to find a human being who has charm and eloquence. Every dictator has also been a human being. It is not the human side of him that is objectionable. It is his ideology, his callousness, and his policies as a national leader.
>
> For those who oppose concrete measures against Ethiopia, and those who still believe Mengistu might change, I would like to ask them what the limit of their tolerance will be? How many more millions should leave the country? How many millions should die? How many more millions should be displaced? How many more thousands should be detained? Let them tell us, so we'll know when we should start talking to them.

Mr. Speaker, I think you will agree with me that Dawit's message strikes home. We must act and we must act now. The United States is the leader of the free.

Listen to the words of Randall Robinson. In Sunday's Washington Post, Mr. Robinson states:

> Mengistu Haile Mariam's dictatorial regime in Ethiopia has killed, tortured and forcibly displaced thousands. Although our involvement there has been on a much smaller scale than in South Africa, we can have a real impact on the Addis Ababa gov-

> ernment by banning the importation of coffee. * * * White liberals will be torn. Not wanting to break ranks with a black-led country, many blacks, I fear, will demur after making themselves believe that things aren't as bad as all that in Ethiopia

End quote. Maybe its time we listen to Randall Robinson.

Mr. Speaker, the time has come to take punitive actions against the brutal Ethiopian regime. Sixty of my colleagues have already joined me and Congressman BILL GRAY in cosponsoring a targeted sanctions bill aimed at stopping these atrocities.

What needs to be done? These five steps are essential:

First, we must get the truth, the true story of Ethiopia to the American public. Americans have a right to expect that Congress—especially the Human Rights Subcommittee—will take the lead and report truthfully on the present status of human rights in Ethiopia.

Second, Congress has a responsibility to look into the exploitation of charity by the Ethiopian Government.

What happened to the money raised by Live Aid?

Let's have a detailed accounting of the conditions laid down by the Ethiopian Government on Western donors.

How much money did we have to cough up, in order to have the privilege of giving food to hungry people?

Third, the Subcommittee on Africa has shunned its responsibility in this area and has been totally derelict. It is the chairman of the Africa Subcommittee, Mr. WOLPE, who should be calling for hearings, pushing legislation through Congress, conducting special orders, organizing press conferences. In short help pass H.R. 588. Where is the leadership on Ethiopia, I ask?

Fourth, we cannot just consider Ethiopia on a crisis basis. Where is your concern for democracy in the Horn in Africa? There are 40 million people in Ethiopia. Don't they deserve some of your passion for freedom and democratic institutions?

Fifth, this Congress should immediately pass H.R. 588, the bill introduced by Congressman BILL GRAY and myself, to show our abhorence of this evil regime. We must send a strong signal now to the Ethiopian people, that we are on their side, on the side of freedom, and on the side of human rights.

The United States supplied over one-third of the emergency humanitarian relief to Ethiopia and we are likely to do so again. We have a responsibility to take a leadership role with our other Western donors, so that we all maximize our leverage with the Ethiopian Government.

My colleagues, history is repeating itself in Ethiopia. We must take note. We must speak out. And we must act now.

Mr. Speaker, I would like to submit for the RECORD two statements, one from the Honorable Millicent Fenwick and the other from Rebecca Asrate Kassa:

TESTIMONY OF HON. MILLICENT FENWICK, FORMER U.S. AMBASSADOR TO THE U.N. AGENCIES FOR FOOD AND POPULATION

First, I would like to thank the distinguished chairmen and ranking members of these two subcommittees for giving me the opportunity to speak today about an important subject: the sufferings of other human beings.

The only aspects of H.R. 588 about which I feel I can usefully testify are the first three sections dealing with human rights. The record in Ethiopia is a sad one, tragic in many ways. Ethiopia offers some truly shocking examples of the cruelty which a government can exert against its own people.

There are four examples which I would like to bring to your attention: The issue of forced labor, which is in truth a new form of slavery: The government policy of forced re-settlement and villagization; the tragedy of the Falashas; and, finally, the exploitation of the charitable instincts of the world in general and the United States in particular.

FORCED LABOR AND SLAVERY

A specific example of the existence of forced labor in Ethiopia concerns a project conducted by a United Nations' agency to which we contribute both food and money. It was authorized in 1979 and first implemented in 1980. The program calls for road-building and reforestation, and was extended last year to a total of $181 million. (Note that this sizeable sum is quite separate from emergency assistance, which will be discussed in the last section of this testimony.)

Workers for this project are recruited in ways that have been questioned even by the University of Addis Abba. Workers are supposed to get wages, half in cash, half in food. But here are the facts: Workers on this project have never received any cash, and they have not received the food they were promised. The project paper, urging further funding, admitted that the workers would have to be persuaded that—and I quote—"the arrears in food would be made up."

Workers on state projects were supposed to be protected from this form of slavery by convention 95, a measure proposed by the International Labor Organization, passed by the U.N. General Assembly, and binding on all its agencies. Work on state property was to have been paid in cash, but the Samson report, received by the International Labor Organization Conference in May 1975, amended this to allow for 50% of the wages to be paid in cash, 50% in food.

The fact is that, in law and in practice, all land in Ethiopia belongs to the state—so there is no use pretending, as some apologists have, that these projects have provided direct, personal benefits to the workers involved by improving the land.

Nor can apologists justify this slavery by pointing to the benefits the country will eventually enjoy, with future generations protected from eroded hillsides. Even here—in the purely practical sense—the project is flawed: Lester Brown reported in World Watch a 15 percent survival rate for the 500 million saplings which had been planted.

Many projects fail, however, including some of our own. The point is that we cannot continue to see human beings so cruelly abused. We must insist on enforcement of convention 95. The existing situation is in many ways more vicious than traditional slavery. There is no incentive for anyone in power to consider the well-being of workers. They are helpless, with no defenders. The world has heard of their suffering, but no one seems to care. There has been no strong, concerted outcry of indignation which might compel a change. The only support received for the position of the United States, when I protested about this at the AID conference last fall, came from the United Kingdom, Canada, the Federal Republic of Germany (for the first time), and Australia—whose representative, Dr. Manning, commented, "We would be morally deficient not to support the United States' stand."

FORCED RESETTLEMENT AND VILLAGIZATION

Under the policy of villagization, people are forced to destroy their homes, and move to another place where they build new huts. There are no services or amenities there, and the farmers face a totally unfamiliar agricultural situation. The purpose is generally admitted to be political; to congregate people so that they can be more easily controlled.

Re-settlement is an older state program. In the famine year of 1985, people were lured with the promise of available food to come to a central town from the outlying fields. Here is a specific example reported by objective, non-governmental foreign observers. Food was made available in the town of Makele and the news went out from there. In a neighboring area, 1100 of the strongest men were chosen to go and bring food back.

When they arrived in Makele, they were herded into a fenced school yard, and ordered into the waiting trucks. When some refused, four were shot dead in front of the shocked foreign observers. Four hundred more were said to have escaped by jumping out of the trucks on the way down to Alamata, the staging point. At Alamata, they were held, in appalling conditions, in tin-roofed sheds, until the Soviet planes could come and take them away to the camp.

Once committed to the camp, people were not allowed to leave. Some who managed to escape reported harsh beatings for those who were caught: In some cases, legs broken by a mallet, or even death by shooting.

Our own Government's policy in the case of these camps has been a very sound one, in my opinion. It is one of which we can be proud. We in the United States know that there has been hunger in the camps and, like any decent society which has the resources, our policy is to send food, with only one condition: That people are free to come and go as they please. It was a great satisfaction to hear last fall, at the conference of the biggest United Nations food agency, that this will be the policy of that agency as well—the first time such an official policy has been announced.

So now we are not alone in finding the forced confinement of innocent people an outrage against human rights. And we are not unique in finding the Government of Ethiopia an offender in this regard. The respected British weekly magazine, the Economist has ranked that government as the worst violator its "World Human Rights Guide."

THE TRAGEDY OF THE FALASHAS

The Falashas were a small peasant group of Ethiopian Jews, perhaps 30,000 in all—long resident in Gondar, not far from the

Sudanese border. In 1975, Israel recognized them and extended to them the "law of return", guaranteeing their right to Israeli citizenship. They started to emigrate, crossing the border on foot in small groups. Emigration from Ethiopia had been declared illegal, but by 1984 what had begun as a small trickle of emigres had turned into a flood. Thousands left. Whole villages were emptied. By this time, violation of the laws against emigration had been declared a capital offense. Some Falashas were caught, and there were reports of torture, beatings, and imprisonment, but the capital penalty was not always applied. Since 1985, little has been heard of them.

THE EXPLOITATION OF CHARITY

We come now to the last point I would like to raise—the exploitation of charity by the deliberate policies of the Ethiopian Government. It has always been a mystery to me why this has not been reported more fully.

It came to my attention through a letter from an American seaman, published in the International Herald Tribune. (I think this was in late 1984 or early 1985.) He reported the arrival of his ship, the *Delta Rose* at the Port of Assab with a cargo of gift food for the starving. He was shocked to discover that they had to pay $500,000 to the Government for port charges in order to get the food off the ship. The fees, apparently calmy accepted by everyone except for the seaman, amounted to $50.50 per ton for all givers except for the United Nations' agency, which was excused the final $1.50 "coordination fee", and therefore paid a total of $49.00 per ton. I protested strongly about this policy, and last time I checked the fees were about $20.00 per ton.

It is important to consider the volume of aid coming into Ethiopia which would be subject to such policies. According to Kurt Jansson, the fine Assistant Secretary General of the United Nations assigned to Ethiopia to coordinate the aid programs, in 1985 the world contributed, in emergency assistance only $998 million—of which the United States gave $279 million. And remember, this is emergency aid only—food and non-food—and does not consider other projects, such as those described in the first section of my statement.

Unfortunately the "port charges" leveled by the Ethiopian Government are not the only example of these kinds of policies. Another example involved a component of non-food aid, the provision of trucks. Band-Aid planned to send 100 trucks to be augmented by 150 from the United States. Warned by the charges on food, an agreement was drawn up by the United Nations agency and the Government to exclude "charges and fees." But when the trucks arrived, the Government proposed a tax on each truck—a tax so exorbitant ($50,000 was mentioned) that an outcry followed. The matter was resolved, but the trucks were still destined to become the property of the Ethiopian Government, This was similar to an earlier truck problem, when the Government insisted on Mercedes trucks to be given for food delivery and to become Government property in two years.

The examples of abuse, cruelty, and injustice bring us to the question of what the position of the Government of the United States should be with respect to aid to Ethiopia. We know that brutal methods are used to force people into camps, but as soon as they are free to leave, as long as they are starving, like every decent society, we should send food. But as for the rest, we must be able to assure our taxpayers, and the many thousand American citizens who contribute so generously to the private agencies, that the food is indeed going to the hungry—and not to the bureaucracy or to an army that consumes 42 percent of the state budget.

It has been well said that when we know of an injustice and we say nothing, it is as though we condoned it. When we contribute to a system of injustices, we become accomplices.

Thank you very much.

REMARKS OF REBECCA ASRATE KASSA

INTRODUCTION

My is name Rebecca Asrate Kassa, daughter of Ras Asrate Kassa who was a distant cousin of Emperor Haile Selasie, and who was Governor of Eritrea from 1963–1970 and later President of the Crown Council. My mother, (who at the time of writing this report is still in prison where she has been since September 1974), is the grand-daughter of the late Empress Menen, Emperor Haile Selassie's wife.

On 12 September 1974 I was arrested together with my mother (then aged 45), my younger sister (than aged 15) and my three brothers (then aged 14, 17 and 23) and taken to the Duke of Harrar's villa in Addis Abeba, next door to the American Embassy. There we joined members of Emperor Haile Selassie's family: his first cousin Princess Yeshasheworq Yilma (than aged 75), his daughter Princess Tenagne (then aged 63) and her four daughters Princess Aida (then 48), Princess Ruth (then 47), Princess Sybil (then 46) and Princess Sophie (then 45). Also detained were Princess Sara (then aged 46) the wife of the Duke of Harrar Prince Mekonnen Haile Selassie (the son of Emperor Haile Selassie who died in 1957) and here three sons Prince Wossen Seged Mekonnen (then 25), Prince Michael Mekonnen (then 24) and Prince Bede Mariam Mekonnen (then 16). In March 1975 the Crown Prince's daughter Princess Igigayehu Asfawoseen (then aged 43) was detained. Crown Prince Asfawossen Haile Selassie with his wife, three daughters and son was in Europe at the start of the revolution. Tragically Princess Igigayehu dies two years later while still in custody in Alem Bekagn prison. Other distant members of the Emperor's family were also arrested but released soon after.

In the beginning there were twenty-two of us—fifteen women and girls and six young men and boys. At first both the male and the female members of the Emperor's family were detained in the Duke of Harrar's villa. We lacked for nothing in the way of comfort. The house was large and very comfortable and we were never cramped for space. The soldiers guarding us were from the 23rd Brigade of the Imperial Body Guards and they treated us if not always kindly at least correctly. We were allowed to see relatives and friends from 11 am to 1 pm every day, although a guard had to stand in between us to listen to our conversation which had to be conducted in Amharic. Food and change of clothing was brought in every day by families and friends. We were allowed books (only Amharic ones) and radios.

On 23 November 1974, sixty members of Haile Selassie's government were executed by the dergue, including my father Ras Asrate Kassa, Commodore Iskinder Desta commander of the Ethiopian Navy and Princess Tenagne's son and General Abeye Abebe who was married to one of the Emperor's daughters, Princess Tsehai (who died in the 1940's) and who was Minister of Defence at the time of the revolution. Three days after the execution and while still in deep shock the women and girls were transferred to the Mechanical Division compound of the Imperial Body Guards, while the young men and boys remained at the villa. In April 1975 we were moved back to the Duke of Harrar's compound—this time to a smaller house—while the young men and boys remained in the bigger villa. We could see them from afar but were not allowed to meet them closely. We remained there until early September 1975 when we were transferred to Alem Bekagne Prison. The boys were then taken to the Grand Palace to join the other political prisoners (mostly government officials). This was the last time I saw my brothers until my release in 1983.

BACKGROUND TO THE DETENTION OF THE WOMEN POLITICAL PRISONERS

I have divided the women political prisoners in detention with me in Alem Bekagn (the central prison in Addis Abeba) into six groups, in order to explain why and when they were arrested:

(a) The first group of women to be arrested in Ethiopia were all members of the Royal Family (see Page 1). No formal charge was ever brought against us. In fact the official line of reasoning was (and thirteen years later still is) that we were being held "for our own protection" on account of our relationship to Emperor Haile Selassie. In August 1981, Princess Yeshashworq Yilma (by this time aged 82) was released. A year later she died. In September 1983 I (aged 30) was released together with my younger sister Mimi (now a young woman of 24) and my three brothers Mulugeta, Kassa and Wendwossen (aged 33, 26 and 23 respectively). On our official release paper the reason given for our nine years imprisonment was "suspected of being anti-revolutionary" (copy of release paper attached). Ten members of the Royal Family are still in prison—seven women and three young men. All of the women are now over fifty-five years old (Princess Tenagne is now 76) and all of them are in poor health after thirteen years in prison. The young men have been imprisoned for the best part of their youth for no other reason than they were the grandsons of the late Emperor.

(b) The next group to be arrested were the wives and children of former government officials. These numbered about seventy. Once again none of these women have ever been formally charged or tried. They were detained on account of their relationship to former government officials, many of whom were executed on 23 November 1974. All have now been released.

(c) The third group to arrive at Alem Bekagn were girls and young women who were suspected of being members of, or having links with, the outlawed Ethiopian People's Revolutionary Party (EPRP). This was at the height of the government's "Red Terror" campaign in 1976–1978. Many of these young women and girls were taken from their homes or off the streets and tortured until they confessed to being EPRP members. Not one of them was ever brought to trial and yet many of them were secretly sentenced to terms of imprisonment ranging from five to fifteen years. Some have been released over the years in the annual general amnesty, but others still remain in prison without having been charged, tried or sentenced.

(d) During 1977-1978 a group of young women who were members of the formerly pro-government All-Ethiopia Socialist Movement or "Meisone" were arrested. These young women were never charged or tried, but two of them, Dr. Nigist Adane and Miss Kongit Kebede were taken from detention in 1979 and their whereabouts is still unknown. It is generally believed that they have been subjected to summary execution. The others were all released in a general amnesty in September 1982.

(e) During 1979-1980 a number of women suspected of being members of, or having links with, one of the groups currently engaged in armed opposition to the government were arrested. These opposition groups include: the Eritrean People's Liberation Front (EPLF), the Eritrean Liberation Front (ELF), the Tigray People's Liberation Front (TPLF) and the Oromo Liberation Front (OLF). Many were civilians detained because their sons or husbands had joined one of the Liberation fronts, so the wives and mothers have had to pay for the "sins" of their husbands and sons. Included in this group are Eritrean prisoners who were captured in the battle fields. All of these "prisoners of war" have been tried in a military court in Asmara, the capital of the province of Eritrea, and sentenced to terms ranging from five years to life imprisonement. The civilian women have never been charged, tried or sentenced although many of them had been tortured. Some of the civilians have been released but a substantial number still remain in prison.

(f) The last group of prisoners, mostly girls and young women, are apparently detained because of their religious beliefs and their membership of Protestant churches (the government has accused these of being opposed to the revolution). These include members of the Ethiopian Evangelical Mekane Yesus Church, the Jehovah Witnesses and the Meseret Chiristos Church (Mennonites). Again these young women were never formally charged, tried or sentenced but all of them have been released.

Other women prisoners that have not been included above are a number of women who, over the years, were captured while attempting to leave the country illegally for political reasons. In most cases these women were convicted and sentenced by a civilian court. There was also one case of an airline hostess who wrote to her brother in Europe to tell him not to return to Ethiopia after he finished his studies. Unfortunately her brother had changed his address and her letter was returned and opened by the authorities. She was never tried but nonetheless was sentenced to five years imprisonment.

TREATMENT OF POLITICAL PRISONERS

Women political prisoners are generally either detained in civil prisons under the jurisdiction of the Ethiopian Prisons Administration, or in the Central Investigation Centre (Me'akelawi Mermera), which is under the control of the Central Investigation Organ of the Ministry of Public and State Security.

The main official prison in Addis Abeba is the central prison known as "Alem Kekagn" or "Kerchele", which is situated opposite the headquarters of the Organisation of African Unity (OAU) in the southern part of the city. The majority of women political prisoners were detained in Alem Bekagn, although many were previously held for investigation and interrogation in the Central Investigation Centre (Me'akelawi), which adjoins the 3rd Police Station situated in the northern part of the city.

The women's quarters in Alem Bekagn is situated in the centre of the prison and separated from the men's by a wall of corrugated irons. Conditions in Alem Bekagn were harsh, and overcrowding was a major problem. Originally there was only one long building, which was divided into two. The larger of the two (approx 30 ft long by 12 ft wide) housed the main body of prisoners, while the smaller one (approx. 15 ft long by 12 ft wide) used to serve as a clinic.

We (i.e. members of the Emperor's family) were held in the smaller room (i.e. the clinic) and were kept apart from the rest of the prisoners. Adjoining our room there was a smaller room with a hole in the ground which served as our toilet. In the beginning we had running water only at night time, so we had to fill containers with enough water for drinking, washing and the toilet since there was no flush. We were not allowed to have any beds and we had to sleep on mattresses on the floor. This did not matter too much for the younger members but for the older ones, who suffered from arthritis, it was a form of torture since the flooring was made of cement which was cold and leaking pipes made the walls damp. The walls were white washed but had long since turned into a dull gray. The ceiling was covered with a yellowish cloth and was torn in places and rats used to fall in from the roof onto our beds. It was a constant battle to try to keep any form of hygene since the prison seemed to be the breeding ground for fleas and rats.

The rest of the women prisoners were housed in the larger room and at one time there were over 200 prisoners in a room that was built for forty, sharing one toilet. Later due to the growing number of political prisoners, another building was erected made out of corrugated iron. Some beds were provided initially for non-political prisoners (i.e. criminals) while the political prisoners were made to sleep on the floor. Because of the greatness of their number, the political prisoners had to trim their mattresses to 45 cm width and to share that narrow space with another person. Later some more beds were provided and some beds were allocated to political prisoners who were elderly and to political prisoners that were there the longest. Despite the fact that the majority of the women in my family were old, and we were the longest in prison, no beds were provided for us. Thirteen years later members of my family who are still in prison still sleep on mattresses on the floor.

The authorities did not provide prisoners with anything. Food, bedding and clothing was provided by families of prisoners. For the prisoners that have no relatives living in Addis Abeba, for example the Eritreans, the majority of whom were brought from Eritrea, this was an additional hardship. They managed to survive by selling handicrafts which they made and asking relatives of prisoners to sell these and buy food for them.

Political prisoners were allowed to see visitors once a week on Sundays between 9 am and 1 pm. Once again my family was excluded from enjoying this priviledge. Instead we were allowed to write to, and receive letters from our relatives and friends (in Amharic and only five lines). In the nine years I spent in Alem Bekagn I was not allowed to see my relatives once. Now my sister and my brothers who are still in the country have permission to see my mother once a week in the prison administration offices. The rest of the family are still not allowed to see visitors.

There was a clinic inside the women's quarters but it was only equipped to deal with minor cases. Once a week a doctor came to visit prisoners and most cases were referred to one of the hospitals in Addis Abeba, but getting there was the problem. There were not enough vehicles to take prisoners to the various hospitals, and not enough soldiers to accompany prisoners. In the beginning political prisoners were not allowed to leave the prison compounds at all, so we all had to make do with whatever medication the prison provided. I developed a skin disease ("discoid lupus") three months after I arrived at Alem Bekagn prison, and I did not get proper medication until my last year of imprisonment.

Torture

Although torture is prohibited by law in Ethiopia, I have seen women torture-victims at Alem Bekagn. Torture was used extensively in the Government's "Red Terror" campaign in 1976-78, particularly against the EPRP, to obtain confessions of involvement in political activities against the government, and to obtain information on political opponents. Many of these women made false statements to avoid further torture.

Nearly all torture of political prisoners occurred in the Central Investigation Centre (Me'akelawi Memeria). Several women prisoners underwent numerous sessions of torture over periods of several weeks. The most frequently used method of torture was prolonged beatings on the soles of the feet while the victim was suspended from a rope in a contorted position. Many women prisoners were raped or had sticks or metal bars inserted into the uterus.

Neither I, nor any other member of my family, was ever subjected to any physical torture. Our torture was mental brought on by our long term imprisonment.

CONCLUSION

Since I left my country soon after my release in 1983 I have been silent and have not campaigned vociferously for the release of my family as I ought to have done. This was for fear of antagonising the government and lessening the chances of release for my family who are still in prison and fear of reprisals to the rest of my family still in Ethiopia.

I have decided to break this silence because of their continued detention and the fear that if they are not released soon many of them will not survive the harsh hardship of conditions of prison life for very much longer.

□ 1630

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. ROTH. Mr. Speaker, I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, let me first of all commend the gentleman from Wisconsin [Mr. Roth] for calling this special order. The gentleman has been in the forefront of efforts to expose the true nature of the Mengistu regime in Ethiopia. His leadership and initiative have kept this important issue on the front burner, and I commend him for it.

Let me also say a word about my own involvement. As the ranking Republican on the Subcommittee on Africa in 1983, I was part of a congressional delegation that visited Ethiopia that year. My interest and concern for the situation in that country has continued throughout my service on the Subcommittee on Human Rights. Since 1984, this subcommittee has conducted three hearings on the situation in Ethiopia, and the fourth one is scheduled for the week after next.

I have always commended Chairman YATRON, our colleague from Pennsylvania who chairs the Subcommittee on Human Rights, for his great interest in seeing to it that the truth about Ethiopia comes to light. And I commend him again today for his continuing leadership in this area.

Mr. Speaker, why is it necessary for three public hearings to be conducted concerning an impoverished country that is 5,000 miles away? The reason is simply this: The United States and the free world have been bailing out the failure of yet another Soviet client. And there is no end in sight. On the very weekend last month when Dictator Mengistu formalized the establishment of the People's Democratic Republic of Ethiopia, the free world was once again asked to rescue his regime from the consequences of his policies. The appeal for emergency food and humanitarian assistance was addressed, appropriately enough, to the free world—which provided more than 95 percent of the aid the last time Ethiopia was confronted with famine.

The tragedy in Ethiopia is all the more poignant because that country was once our closest ally in sub-Saharan Africa. To this day, the Ethiopian people have a deep affection and respect for America and the American people. They long for the day when we will come back to help them—the day when Dictator Mengistu and his Communist thugs get thrown out.

Ethiopia is a beautiful country and the Ethiopian people are proud of their ancient heritage and traditions, and rightly so. But, since the mid-1970's their country has been ruled by a ruthless Communist tyrant. Dictator Mengistu leads a murderous regime whose cynicism and brutality are apparently without limits.

Following my remarks, I would like to insert in the record an article, entitle "Power and Famine in Ethiopia." This article was written by a man who knows what he is talking about—Mr. Dawit headed up Ethiopia's famine relief efforts in 1984 and 1985. In this article he writes, "I have known Colonel Mengistu very well and have seen him change from an apparently nationalistic leader into a disoriented demagog who has made Ethiopia an appendage of the Soviet Union." But I ask you, Mr. Speaker and Members, where does Dictator Mengistu turn when the going gets rough?

I am one of the few Americans who have spoken with Dictator Mengistu face to face. I have heard him revile our government as a bunch of terrorists, exporters of revolution, and imperialist aggressors. But to whom does he hold out his tincup? To the Soviet Union, which has enabled him to build the largest standing army on all of the Africa continent? Or to America and the free world, who really care about the fate of millions of suffering Ethiopians?

I will say today what I said then, after meeting with him, that Dictator Mengistu's priority is crystal clear: to remain in power, no matter how great the toll in human suffering. Sitting atop 4 billion dollars' worth of Soviet armaments, he is unlikely to change his priorities anytime soon. That's right: 4 billion dollars' worth of Soviet armaments have enabled Dictator Mengistu to build the largest standing army in all of Africa—an armed force even larger than those in Egypt and South Africa, an armed force whose primary mission is to defend Dictator Mengistu and his regime from the very people he claims to have liberated.

Mr. Speaker, we could go on all night talking about the ongoing tragedy in Ethiopia—about sadistic human rights abuses, about planned famines, about civil and political repression on a scale so monumental as to be incomprehensible. Suffice to say that the fact Ethiopia is facing another famine comes as no surprise to those of us who have followed this situation for some time.

In conclusion, I will read the final sentence from the article I am submitting for the record. Mr. Dawit, the famine relief commissioner in 1984 and 1985, has this to say: "Unless the regime changes its policies, there will always be famine and starvation, and millions more will die."

Mr. Speaker, I thank the gentleman for holding the public hearing. I only hope that the gentleman, as the ranking Republican on the Subcommittee on International Economic Policy and Trade of the Committee on Foreign Affairs that has jurisdiction over sanction legislation, will help the Members in holding public hearings jointly with our Subcommittee on Human Rights and International Organizations.

The gentleman has not scheduled any yet, and I would urge the gentleman to do so, and I thank the gentleman for holding this special order.

Mr. Speaker, I submit the January 12, 1987, Wall Street Journal article as follows:

POWER AND FAMINE IN ETHIOPIA

(By Dawit Wolde Giorgis)

Ethiopia holds the world's attention because of the famine that has killed a million people. But the world has yet to wake up to political realities in Ethiopia and the truth about its head of state, Lt. Col. Mengistu Haile Mariam, whose fantasies are ruining a nation.

I was an energetic supporter of the revolution when it began in 1974, ending the reign of Emperor Haile Selassie. The Selassie era commenced with years of relative peace and hope, but the emperor was finally deposed when Ethiopia's feudal system could not accommodate the aspirations of an emerging generation of better-educated Ethiopians. Under Selassie, modernization exposed Ethiopia to the outside world, leading to the development of a Western-educated elite. Demands for freedom and economic reform, particularly land reform, became widespread. The student movement, both inside and outside Ethiopia, became the most important catalyst for change.

ORDER OF THE DAY

These developments led initially to the unsuccessful uprising of 1960 and later to the violent revolution of 1974. In the ensuing struggle to overthrow the Selassie regime, many Ethiopians joined the opposition or secessionist movements, others fled the country, and still others were jailed or executed. Ethiopians were ready to accept those sacrifices as the price they had to pay to bring about the change they longed for. Instead, their hopes were shattered as they became victims of the unfolding events.

Today, chronic food shortages, civil war, political unrest and famine are the order of the day in Ethiopia. Any measure is justified if taken in the name of Marxist-Leninist ideology. The prisons are full of victims of arbitrary arrest and injustice by a regime that routinely resorts to torture. Thousands have disappeared or have been summarily executed without trial. Millions of peasants are being uprooted from their homes and villages to implement a policy of regimentation of the rural population and collectivized farming.

Col. Mengistu's dream and primary objective is to make Ethiopia the first African communist country, in the fullest sense, by restructuring the national social fabric and creating a regimented, controlled society. His second objective is to assume leadership of the communist movement in Africa. Both objectives are connected. His domestic programs and policies cannot be successful so long as there are opposing political systems in most of Africa and the Middle East. In the spirit of the Marxist slogan of "proletarian internationalism," he has begun to instigate and support left-wing revolutions on the continent and in the Middle East.

I have known Col. Mengistu very well and have seen him change from an apparently nationalistic leader into a disoriented demagogue who has made Ethiopia an appendage of the Soviet Union. Within the first six years of the revolution, he effectively eliminated independent political pressure groups. Since then, the real Col. Mengistu has emerged as an unchallenged leader who wants to exact revenge for injustices he experienced as a youth. His family was not part of the Amhara, the Christian highland ruling class, and he is obsessed with a desire to settle scores with a society that castigated him.

His decision to adhere to Marxist ideology isn't the result of any intellectual analysis of ideological and political options, but a personal choice: A Marxist-Leninist system can give him power to do whatever he likes.

The Soviet Union encourages this kind of abusive power. The final seal on an Ethiopian-Soviet alliance was stamped in 1984 with the formation of the Marxist-Leninist

Workers' Party of Ethiopia. To reinforce the measure, the regime established a communist state structure parallel to that of the Soviet government.

Col. Mengistu does not attempt to resolve complex issues through compromise and negotiation. He has one solution—force. An example is his aggressive response to the conflict in Eritrea. Fundamental in the search for a peaceable solution to that conflict is a recognition of the Eritrean rebels' long-term grievance against a central government that has suppressed its people's desire for local autonomy. But Col. Mengistu has failed to address the Eritreans' concerns, causing the needless death and suffering of millions during the past 12 years. In his eyes, to embark on a path of diplomacy and permit negotiations with the rebels would indicate failure.

The 1984-85 famine offers the most recent evidence of the cruelty of the Mengistu regime and the bold contradiction between the Ethiopian reality and the illusions of the leadership. In early 1984 the regime was preparing to celebrate lavishly the 10th anniversary of the revolution and inaugurate the Workers' Party of Ethiopia. More than $100 million was spent on the festivities. But the months of March to May in 1984 were also a critical time for preparations of another kind. The government needed to respond quickly to an approaching disaster: Drought brought on by the failure of the seasonal rains threatened the lives of 17 million people. An early warning report on crop failure announced that without immediate assistance, residents in drought-stricken areas would die of starvation.

Col. Mengistu, who talked only of success and never of failure, considered the famine to be an embarrassment. His indifference to the emergency aggravated the effects of the drought, leading to mass death, starvation and migration at the earliest stage of the crisis. While he directed the extravagant preparations for the anniversary celebration in Addis Ababa, the famine was ravaging the countryside.

When the four-day celebration was held in September 1984, thousands of Ethiopians were dying in the countryside or had abandoned their homes, trekking across the desert and mountaintops in search of food and shelter. Many walked all the way from the nothern part of the country to the gates of Addis Ababa. The Commission on Relief and Rehabilitation, which I headed, was instructed to stop them, and police were sent to make a human fence around the capital to prevent these people from entering the city and spoiling the show.

I met with the refugees. They had lost their cattle, abandoned their homes and property and were on their way to the southwestern part of the country to begin a new life where they would have access to sufficient water and fertile land. The commission started a resettlement effort for these people, who were already dislocated.

Our program was designed to organize this spontaneous migration of people, facilitate their movements and help establish them in more productive parts of Ethiopia. But Col. Mengistu, who wanted to take political advantage of their situation, launched a massive resettlement program of 1.5 million people. He believed it an opportune moment to form model collective farms because it was easier to experiment on helpless people.

There were many volunteers at the initial phase of the campaign, but their numbers did not meet the target established by Col. Mengistu. Force had to be used, and a vast number of people were herded like cattle, loaded on to trucks and airplanes and sent to the south.

The world is owed a debt of gratitude for its generous response to the victims of the famine. But the humanitarian assistance has not only saved millions of starving people—it has also helped Col. Mengistu and his regime. Without foreign aid, there would have been bloody chaos, ultimately leading to the removal of Col. Mengistu and the ruling elite.

The future of the Commission on Relief and Rehabilitation is uncertain. As it struggles to address the effects of the famine and coordinate relief, it has been increasingly frustrated by government policies that interfere with its autonomy. The regime now views the commission as an instrument of Western political interests. After the present crisis is over, the agency is likely to be dismantled and reestablished as a communist party structure.

NINE-HOUR MEETING

Just before I left Ethiopia, I was summoned by the government to testify on the activities of my agency. During the nine-hour meeting, the human problems that resulted from the drought were not addressed. The subject of discussion was the political costs. Government officials believed that Western imperialists were using the drought to destabilize the Ethiopian revolution. Agency personnel were accused of masterminding this conspiracy and collaborating with Western agents to overthrow the government or encourage a hostile atmosphere that would pave the way for another revolution in Ethiopia.

In the coming years, Ethiopia won't attract the attention of the world as it did in 1984-85. I make this prediction not because the crisis is over but because the prevailing situation remains unchanged and is no longer newsworthy. Unless the regime changes its policies, there will always be famine and starvation, and millions more will die.

(Mr. Dawit, commissioner of relief and rehabilitation in Ethiopia from 1983 to 1985, defected to the U.S. in 1985. This is based on a talk he gave recently to the East-West Roundtable in New York.)

Mr. ROTH. Mr. Speaker, while I appreciate the gentleman for the gentleman's contributions; and yes, I think it is important to have hearings, and that is one of the reasons that I, of course, introduced the legislation, and I appreciate the gentleman from New York coming over and helping me today.

I also, of course, by a letter invited last week the chairman of the Subcommittee on Human Rights and International Organizations, and also the chairman of the Subcommittee on Africa, so that appropriate dialog could take place and we could talk about this particular issue.

I think there are a good many committees in the Congress who should be working on this, especially the Subcommittee on Human Rights and International Organizations.

After all, you can name any freedom, and it does not exist in Ethiopia.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ROTH. Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

Do I understand the gentleman to say that 1.2 million people have been murdered in Ethiopia?

Mr. ROTH. I quoted from Mr. Dawit.

Dawit, who was at the right hand of Colonel Mengistu, gave us that number at the Washington Press Club 2 weeks ago, yes.

Mr. WALKER. 1.2 million people?

Mr. ROTH. Yes.

Mr. WALKER. This is a massive genocide that is unequaled in nearly any other area of the world.

The only place I can think of in recent years is the massive genocide that we now understand took place in Cambodia, but we have not had anything to equal this any other place in the world, is that correct?

Mr. ROTH. The gentleman is correct. That is one of the reasons the President, when he talks about the number of countries; for example, that the United Nations a few years ago pointed to Ethiopia as an example of where tremendous atrocities were taking place.

Mr. WALKER. The gentleman is an expert in this area; I am not.

Let me see whether my understanding of the situation from articles that I have read is correct.

This 1.2 million people have been murdered as a result of direct government policies, is that right?

Mr. ROTH. That is correct, as a result of government policies of resettlement, government policies of not allowing food to go into certain areas; for example, northern areas of Ethiopia, yes.

That is why I am going to be submitting the remarks of Mr. Dawit, so that they can be reviewed by the entire Congress.

Mr. WALKER. If the gentleman would yield further, Mengistu in Ethiopia has, according to one columnist, employed government-engineered starvation to liquidate millions of his people who oppose his regime.

Is that a correct statement?

Mr. ROTH. Yes, that is a correct statement; and that comes from not only Mr. Dawit, but other defectors from Ethiopia.

The gentleman has to recognize that many of the ambassadors; for example, to England, and some of the Scandinavian countries, Japan, these people have all defected to the West.

The story is always the same, and that is one of the reasons that I was upset that at our human rights hearing that we had, that so-called hearing, none of the defectors were allowed to testify.

We had people from as far away as London coming to the United States who were not allowed to testify. They came at their own expense, not at some government expense, or expense of some foundation, but their own expense, because they had been in prison in Ethiopia; and they wanted to speak out, and they were not allowed to speak out.

Mr. WALKER. I am interested in pursuing, and I think it is important for me to understand and hopefully for others to understand, just exactly what is taking place in Ethiopia.

That is a pretty frightening statement, that you have a government there that is specifically engineering starvation in order to kill millions of people for political purposes.

If I understood the gentleman correctly, the gentleman is saying that that is what is taking place in that country?

Mr. ROTH. In 1984 and 1985; for example, in Tigray, the food was being held from that province because of political disagreement. Of course, it was going on.

You had people rebelling against the government in Addis Ababa. Food was being withheld, that is correct.

Our relief organizations are saying that this famine that is going to be striking within a couple of months, that they have an agreement that food will be allowed into those areas; but of course, our relief organizations in the past have always put the best light on the present situation.

It is only after the situation is over and we hear from some of the people that live through those events, that the real truth comes out.

Mr. WALKER. In other words, we have coming at us very quickly another wave of starvation in Ethiopia.

It is going to receive an awful lot of coverage, because once again we are going to have the children with the bloated bellies, the camps where people are lying on the ground starving with insects flying around them and so on, scenes of just the most horrible kinds of death inflicted upon people.

What we know from the past, and what we are led to now understand for this new wave of starvation, it is specifically engineered by the government, is that correct?

□ 1645

Mr. ROTH. There is a famine coming, there is no doubt about that.

Mr. WALKER. And it is undeniably man-made.

Mr. ROTH. There are a number of variables, but yes, the government has a lot of blame for that.

Mr. WALKER. And let us understand how it is taking place. As I understand, the government will go into areas and according to some testimony we have will literally round up families, separate the mother from her children, separate the mother from her husband, send them out in all kinds of different directions. When one such woman was given a pass by the troops, in other words, sent away by the troops, she complained about being taken away from her husband and children, I was told, and the soldiers laughed and told her, "What do you care about your children? You'll find new ones."

I mean, it is a brutality of unbelievable proportions.

As I understand also, and I would appreciate it if the gentleman could confirm this, the kinds of things they do, they go in and surround the village. They burn the crops. They round up the animals and round up the people and supposedly, I guess, just take the animals off so the Mengistu can have beef for dinner himself while he starves the people and then takes these people, holds them in prison like common criminals, and then gives them little food and little water in those particular locations, and that 60 percent of the people rounded up in that way are dying or being killed in some instances. I mean, is that a real situation?

Mr. ROTH. I was pointing out in my prepared remarks, I will tell the gentleman from Pennsylvania, before he came on the floor, I was talking about an example that was given to us by Millicent Fenwick. I think the gentleman probably will remember her. She served here in the Congress with us and later on became Ambassador in Rome for food and agriculture. She talked about the case where for example in Mekele, where they told the people in the outlying areas that food would be available at Mekele, so 1,100 of the most able and strongest men came into the area to bring food back to the children and to the women, and what happened when they arrived, they took these people and forcibly transported them 500 or 600 miles to the southern part of Ethiopia and no food, of course, ever came back. They separated those men from their families.

This is testimony that Millicent Fenwick gave us before the Human Rights Subcommittee.

Mr. WALKER. And in the meantime, while these people were starving, as I understand it, Mengistu at one point threw a $100 million birthday party for his regime and kept the starving people outside the city at bayonet point.

Mr. ROTH. Well, there is some disagreement as to how much money was spent, whether it was $100 million or $200 million.

Mr. WALKER. But $100 million is the low figure.

Mr. ROTH. Yes, but we know this from fact, that in 1984 at the 10th anniversary of the so-called government they had a huge celebration and, of course, they brought in all the people from the eastern countries, the Soviets and all.

Mr. WALKER. The Soviets went down there and kind of partied for a few weeks at the expense of the starving, is that it?

Mr. ROTH. And what happened is that they did not buy 40 bottles of Scotch or 400 or 4,000 or 40,000, but 400,000 bottles of Scotch.

Mr. WALKER. No vodka?

Mr. ROTH. At the same time, a stone's throw from Addis Ababa people were starving to death; so I think it is a graphic demonstration of what kind of leaders these people have.

You have to remember that this is an ancient civilization, Abyssinia, a great culture, a great people, a gifted people, and for those people to be held under a thug like this and the United States of America does not speak out, we in this Congress do not speak out, is a real mystery.

Mr. WALKER. Let me go back to a point the gentleman was making a minute ago, which is very disturbing. In other words, we know that these kinds of atrocities are going on, and if I understood the gentleman correctly, some of the people who have been witnesses to this kind of barbarism, to this kind of brutality, to this kind of absolute atrocity, came to this country at their own expense, wanted to testify before the U.S. House of Representatives, and were denied the opportunity to do so?

Mr. ROTH. Yes, and the reason I say that, I want to be fair with everyone, so last week I sent a letter to the chairman of the Subcommittee on Africa and the Subcommittee on Human Rights and told them that we were going to take an hour on Wednesday to talk about this issue so that they could come here.

There is a young lady, for example, just to use one example, who came to me after the hearing. Her name is Rebecca. She came all the way from London. She had been in prison for 10 years when she was 21 years old. She went through all kinds of gruesome torture. After the hearing, she came to me and said, "You know, I came all this way at my own expense. I can't come back again, but I have a real story to tell and I want to ask you, Congressman, why wasn't I allowed to tell the story?"

Mr. WALKER. She was not allowed to tell her story before the committee?

Mr. ROTH. That is right, so what I did, I took her testimony.

Mr. WALKER. She can come back, can she not?

Mr. ROTH. Pardon me?

Mr. WALKER. She can come back, can she not?

Mr. ROTH. Well, she sent me a letter afterward and she said that she paid her own way, despite the fact that she is in financial difficulty.

I mean, how many times do you want this woman to come back?

Mr. WALKER. Well, that is just completely unacceptable.

If in fact we had in other situations where the left in this country was focusing on the brutality of some rightwing regime, not only would we hear from the people, but the committees of this Congress would pay their way to get them here so that we could hear from them.

In this case, what the gentleman seems to be telling me is that these people came at their own expense to tell their story and we refused to even listen to them?

Mr. ROTH. That is what I am telling the gentleman, yes.

Now, we are going to have a hearing. Of course, no one has told me about that. I just found out about it when our friend, the gentleman from New York [Mr. SOLOMON] was here. He serves on the Human Rights Subcommittee. He told us there was going to be a hearing on October 21; but I think you have to give the people some notification that you are going to have a hearing. Many of these people are out in various parts of the country and the world and would come here to testify. I think we want them to testify. I am glad we are having this hearing.

But the question I have is, Who are we going to have at the hearing? Is this going to be a whitewash again?

You know, this entire issue of Ethiopia has been swept under the rug. No one has raised their voice. I think we have an obligation on these things.

I think Millicent Fenwick is right when she said that if you see horrendous crimes like this taking place and you do not speak out, you become a part of the problem.

Mr. WALKER. How many years has this been going on?

Mr. ROTH. Well, since this government was installed in Ethiopia for 13 years, but we have been following this since the famine of 1984-85.

Mr. WALKER. So we have had at least 3 years in which to act and really probably should have acted some time within the last 13 years and have done nothing.

Mr. ROTH. Well, we are acting now, because we have a bill before the Congress, H.R. 588, that has more than 60 cosponsors. We want to send a strong message to Ethiopia.

You see, the thing is we want humanitarian aid to Ethiopia to continue, because there are some 5 million people who are suffering and have a strong possibility of dying of starvation. We do not want anyone to starve. We want to help these people, but we do not want to help their government.

I think the way to help the people is by giving humanitarian aid, but also telling the world what kind of government this is and not trying to whitewash this government. I think that is what we have to do.

Mr. WALKER. Should we not make every effort to make certain the government does not get one ounce of that food or any dollars, so that the aid goes directly to the people, rather than going through a government that engineers starvation of its own people?

Mr. ROTH. Yes, I know. That is what we want to do, but we have to take a look at what is taking place. What took place the last time when generous Americans—and we want to give aid, we want to help these people—brought the food to Ethiopia, we had to pay $50 for every ton of donated food in order to unload it at the docks. Then in order to take this food from the docks and take it to the hinterland to help the people, the Ethiopian Government said, "Well, why don't you load it in your own trucks?" But it could not be just any truck. It had to be a Mercedes, and after 2 years the truck had to be handed over from the agency to the Ethiopian Government.

They had another little provision, which was this. You have to get a license. You have to get a permit to bring that truck into the country. You know how much they charged for that? $50,000. That is why there are estimates that the Government made as much as $200 million off the famine. Maybe that is how they paid for their big celebration in Addis Ababa in 1984.

Mr. WALKER. Well, I thank the gentleman for bringing this to our attention. It is one of the sickest stories in the world and this Congress ought to be listening to it because we ought to know the brutality of the Communists around the world. We focus all the time around here on what happens in rightwing regimes, and we ought to. We ought to be for improving human rights in any kind of regime in the world, but I am sick and tired of excusing leftwing regimes that are engaged in some of the most brutal, sickening policies of all times, and basically excusing them in the Congress because we do nothing about it.

I want to thank the gentleman for his leadership in making certain that this particular episode in world history is exposed so that we have some opportunity to act on it.

Mr. ROTH. Well, I thank the gentleman. I appreciate the contribution of the gentleman from Pennsylvania. As always, the gentleman comes right to the core of the issue. I think the gentleman makes a very good point. We do not want a double standard, we do not want 3 standards, 10 standards, or 100 standards. We want one standard for all the nations of the world.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. ROTH. Yes, I am happy to yield to my friend, the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, let me say first of all that I appreciate very much the gentleman undertaking this cause, not just today, but in the constant effort the gentleman has put into this.

I want to ask this before I get into specifics about where we are at today. In the gentleman's investigations, does anybody in the Communist dictatorship starve?

Mr. ROTH. No. In fact, the Communist dictatorship lives very well. There is a book called "Breakfast in Hell" by a doctor by the name of Harris who spent time over there and was helping the people of Ethiopia throughout their country. He has written this book. He, of course, points out how well the ruling elite live, not how the general people of Ethiopia live, and that is why it is so important I think for us.

You see, there is a great untold story here. People know the story, but no one has told the story. Ethiopia has a story to tell and we want to tell that story. I think we have an obligation to tell that story to the world.

Mr. GINGRICH. It seems to me, Mr. Speaker, if the gentleman will yield further, that when we look at the history of the famine in the Ukraine under Stalin and look at the way the Communists in the Soviet Union were willing to starve people in the Ukraine and now we look at the use of food as a weapon in Ethiopia under a Communist regime, there are frightening parallels in the willingness of Communists to allow the most vicious and most brutal kind of famine on the part of those whom they hold in slavery, and yet in both cases there were people in the West, particularly people on the left, who would deny that anything was going on. There were people who visited the Soviet Union during the great famine which killed millions of Ukrainians and came back to the West and said, "Nothing is going on there. There is no famine."

Today, there are people on the left in America and across Europe who ignore the reality.

I want to ask about this in particular. David Korn, who was our charge d'affaire in Ethiopia, wrote a book called "Ethiopia, The United States and the Soviet Union." On page 137 he says:

> On 24 December, Tibebu, still Acting Foreign Minister, called me in to complain about press reports of US food aid "for the secessionists". In the course of our exchange on this subject, Tibebu blurted out with more candor than he probably intended that "food is a major element in our strategy against the secessionists". The Ethiopian army, Tibebu added, tries to cut

the rebels off from food supplies. He threatened that it would destroy any food it found being brought into Ethiopia from Sudan.

Now, the question I want to ask the gentleman is that as I understand it, may I say to the gentleman from Wisconsin [Mr. ROTH], the gentleman had an amendment in the summer of 1985 which called on the President to impose a total embargo if the State Department reported back to Congress that food was being used as a weapon. Is that correct?

Mr. ROTH. That is correct, yes.

Mr. GINGRICH. Well, did the State Department report back that food was being used as a weapon?

Mr. ROTH. The State Department reported back and agreed with me in every contention; however, the State Department is not in favor of sanctions, they tell us, anywhere; so they were opposed to the sanctions, but they agreed that food was being used as a weapon. They agreed with us on every contention we had made.

Mr. GINGRICH. The State Department agrees, but then is impotent?

Mr. ROTH. Well, I will let the gentleman draw that conclusion.

Mr. GINGRICH. Let me go one step further, because I am fascinated by certain patterns here.

On pages 173 and 174 of Mr. Korn's book he says:

> By its very existence the party helps create a bulwark for the regime. Because of the jobs and privileges they derive from party membership, a whole new category of people has a stake in the system. To a large extent the same can be said of Ethiopians returning from study in the East Bloc. According to official Soviet figures, the Soviet Union provides over 500 scholarships a year to Ethiopian students at the undergraduate and post-graduate levels and the number currently in these programs is nearly 2,500.
>
> If shorter technical training programs are included, the number of Ethiopians studying in the Soviet Union must be much higher. Figures for Ethiopians in school elsewhere in the East Bloc are not available, but East Germany, Bulgaria and Cuba all have large training programs.
>
> It is estimated that some 20,000 young Ethiopians have passed through the Cuban center for indoctrination and technical training on the Isle of Pines.

□ 1700

The point I want to make, and I want the gentleman to comment, if he would, I want to ask the gentleman because it seems so clear a parallel that students of history who have studied the way the Soviet empire expands and studied the use of Cuba and training centers and have studied the way in which the Soviets used food as a weapon, and have studied the mass starvation in the Ukraine, and the mass murder in Cambodia, and now mass murders in Ethiopia, should we not as we look at Nicaragua and as we look at Angola and as we look at Afghanistan, and as we try to come to grips with the nature of this Communist disease, should we not recognize that we need a much more aggressive policy in Ethiopia, and we have an obligation in our concern for human rights to have the courage to stand up to a dictatorship willing to starve its own people.

Mr. ROTH. I think that is a question many of us have been asking. I asked a similar question of Dawit at our press conference. We were talking about this issue and he of course says that the people in the West are wishful thinkers. They feel that things will turn out the way they wish they will. So, for example, when he introduced some Westerners, especially Americans, to Mengistu, why he flattered them, and they walked away and they felt maybe we can work with this man. It is something like Neville Chamberlain trying to work with Adolf Hitler. So it is a historical thing.

People have said we never learn from history, we always repeat it, we never learn from it, and the gentleman having a doctorate in history I think probably would agree.

Mr. GINGRICH. If the gentleman will yield one more time, let me just say I think just as people can learn from history that the gentleman is fulfilling the same tradition as Winston Churchill of standing up here today and speaking out for freedom and having the courage to tell the truth, and I for one want to encourage every citizen in this country to pay heed to this terrible human tragedy in Ethiopia.

I thank the gentleman for his fine leadership he is showing on this topic.

Mr. ROTH. I thank the gentleman for those very nice remarks.

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I am happy to yield to the gentleman from Virginia.

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding. I was listening to this special order back in my office and I felt compelled to come over.

I was the first Member of Congress to visit Ethiopia and live in the refugee camp. Several other Members had been there a couple of weeks before when the first famine developed, and I will tell you what the gentleman said is accurate. There were many Ethiopian citizens who were forced into the trucks and the airplanes and forced from the northern part, Eritrea and Tigre down to the southern part, and they emptied out of the trucks and were forced into a different environment. It would be like taking someone from Colorado and then putting them in an airplane or a truck and taking them down to Guatemala and releasing them without any tablets or medicine for malaria or things like that.

Second, we saw the Soviets, and the Soviet helicopter ships were there, and the gunships, and the Soviet weapons and the Cuban troops, and everything the gentleman said about Mengistu is absolutely right.

As the gentleman knows, Millicent Fenwick contended that the food given by the relief agencies during the famine of 1984-85 was used to lure these able-bodied men and women into the food sites. Once there, they were herded into vehicles and shipped to distant resettlement camps, and thousands died.

Second, Ambassador Richard Shifter, the Assistant Secretary for Human Rights and Humanitarian Affairs, an outstanding individual, testified that most civil liberties as written and signed by the Universal Declaration of Human Rights are nonexistent in Ethiopia. There is no freedom of speech, press, assembly is forbidden, travel is restricted. In this little town where we were one night, or at 3:30 in the afternoon, no one was allowed to leave the town. Soldiers guarded the place, it was just like being almost in a prison camp.

Travel is restricted, and religious groups such as Coptic Christians, the Orthodox Church, Protestant Evangelicals, and Ethiopian Jews have suffered tremendous persecution through the closure of churches, the nationalization of church property, and harassment, including arrest of religious leaders.

I will not take much more time. I just wanted to thank the gentleman for taking time to hold this special order so that our colleagues and the American public can really know, because this issue will be in the press quite a bit in the future. There will be another famine. We have an obligation to do everything we can to help the people of Ethiopia who are starving. I think we have an obligation almost based on Matthew 25 that those who are hungry we should feed them, and those who are in prison we should visit them, and those who are naked we should clothe them. But in the process I think we must make sure that we get the Mengistu government to respect human rights and bring about greater freedom of religion, press, and assembly.

I just want to thank the gentleman for taking this time.

Mr. ROTH. I thank the gentleman and want to thank him for coming over here and giving us the benefit of his experience. I heard of the days the gentleman spent in these camps and the poignant stories he can tell, and I want him to know that there was a man by the name of John Kennedy who was President back in 1961, and in his inaugural address he ended it by saying:

"And here on Earth God's work must truly be our own," and of all the people in the Congress I think that the gentleman is doing God's work, and I want to say thanks for that.

Mr. WOLF. I thank the gentleman very much.

Mr. YATRON. Mr. Speaker, I welcome this opportunity to discuss one of the most tragic and compelling human rights issues in the world today—Ethiopia. I want to commend Congressman ROTH for calling this special order and for his outstanding leadership in heightening public awareness of this matter.

As chairman of the Subcommittee on Human Rights and International Organizations, I have been actively working to pressure for human rights improvements in Ethiopia. In fact, this country has been a central focus of the subcommittee for several years. Most recently, on September 15, my subcommittee, along with the Subcommittees on Africa and on International Economic Policy and Trade, conducted the first of a two-part hearing on Ethiopia.

Testimony presented by the Assistant Secretary of State for Human Rights and Humanitarian Affairs, Richard Schifter, and by a former House colleague and U.S. Ambassador to the U.S. Food and Agricultural Organization, Millicent Fenwick, showed that human rights conditions in Ethiopia remain one of the worst in the world with little prospect for improvement.

The subcommittee will continue its investigation into this appalling situation later this month in which we hope to hear from some prominent Ethiopian defectors, scholars, and representatives of nongovernmental organizations intimately familiar with this subject.

Over the years, the subcommittee has been able to document a long list of abuses committed by the nefarious despots in Addis Ababa. In August 1984, at a hearing on the Horn of Africa, the extent of Ethiopian repression was poignantly depicted.

On October 16, 1985, at the subcommittee hearing on Human Rights and Food Aid in Ethiopia, evidence was presented indicating that the regime was deliberately manipulating food assistance for blatantly political ends. Congressman ROTH testified at this hearing and called for strong economic sanctions to pressure Ethiopian authorities to change their human rights policies.

In addition, the last 2 years, at the subcommittee's hearings to review United States human rights policy, Ethiopia played a prominent role in the discussions. In 1986, at a subcommittee hearing on the U.N. Human Rights Commission, United States, as well as United Nations, policy toward Ethiopia was pursued.

It is indeed most unfortunate that the subcommittee's extensive investigations into the Ethiopian situation reveal that the people of that country continue to suffer under a ruthless, brutal, tyranny that exercises complete control over the press, education, labor activities, political processes, the legal system, and freedom of movement. No dissent is allowed, and there are no political or civil freedoms. Arbitrary arrests, torture, prolonged detention and detention without charge, and political killings are common.

The Ethiopian regime continues to pursue Marxist collectivization farm policies, which contributed significantly to the famine and poor state of agriculture in that country. The Communist-run economy continues to deprive people of their economic potential, keeping that nation one of the poorest in the world.

Perhaps most unsettling are the revelations that the Ethiopian regime's resettlement and villagization programs resulted in the deaths of tens of thousands of innocent people, family separations, beatings, and countless other heinous abuses. Port fees, taxes, and other bureaucratic obstacles deliberately erected by the government seriously inhibited the flow of food aid to the starving people.

This special order is most important. I hope that it will serve as a catalyst to greater action to press for human rights improvements in Ethiopia. Clearly, quiet diplomacy will not work. Only through relentless international pressure will there be a chance for change. The temporary suspension of the resettlement program and expressions of concern over another impending famine by Ethiopian authorities indicate that even the hard-core in Addis Ababa are sensitive to international scrutiny.

The State Department authorization bill, as passed by the House, includes a condemnation of Ethiopia. Clearly, more must be done. A bipartisan, united foreign policy is always optimum in promoting and protecting America's interests. The situation regarding Ethiopia is ripe for such cooperation. I call on the administration to increase economic and political pressure, take the lead in international fora, and work closely with Congress to reduce the terrible plight of Ethiopians.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries.

EXTENDING PERIOD OF MAXIMUM EFFICIENT RATE OF PRODUCTION OF NAVAL PETROLEUM RESERVE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-110)

The SPEAKER pro tempore (Mr. HUTTO) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services and ordered to be printed:

(For message, see proceedings of the Senate of today, Wednesday, October 7, 1987.)

U.S. POLICY IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, you have been most patient, and I can assure you on this day that even though I have been granted the maximum time allowed under special order of 1 hour I shall scarcely have need to use but just a fragment.

Mr. Speaker, I am compelled to rise because I have been from the very beginning, 1981, a consistent, and to the extent of my human power, a very vocal critic of President Reagan's actions with respect to Latin America generally and specifically Central America, and more specifically Nicaragua.

The Washington Post today carried the front page story that I think is very hopeful in that it indicates and predicts that President Reagan in an appearance or an address to the United Nations will affirm or show at least some adherence to the so-called President Arias peace plan, President Arias being the President of Costa Rica, and whom we had the great pleasure and privilege of listening to here in the Hall of the House in a joint caucus. It was not a joint session, but a joint caucus meeting of the Democratic caucus and the Republican Conference of Republicans sponsoring that appearance.

The fact that President Reagan, if this story is correct, and if it turns out it will be correct, and I pray to the Lord Almighty that it is, has obviously realized that the Arias plan, put together in defiance of the United States and the President's State Department, has had overwhelming support, and then I imagine again with the accompanying story also on the front page of Speaker JIM WRIGHT's support of the Arias plan.

To back up a little bit, a few weeks ago the administration, that is President Reagan and Speaker WRIGHT, announced an agreement on a peace plan of some sorts. It was kind of vague. It was a little contradictory, and I said so in the last appearance I had here on the House floor. However, I must remind my colleagues, and through them the people they represent, the American people, that even if the President accepts in good faith and truly adheres to supporting the so-called Arias plan, that it will be most difficult to bring about a realization of a consistent, creative, and wholesome policy. One thing is to have done what the administration has done for 6 years or so, and that is jump from one to another position, speak out, then backtrack, and the other is to be able to have the ingenuity, the wit, and the will, as I call it, to evolve a policy both short-ranged as well as vastly needed long-range approaches, because the cost to our country in its destiny and future development as we go into the history of cosharing of the destiny of this part of the world known as the New World must revolve itself in the light of what we do today. All future history is dependent on what is prologue at the time it becomes history, and that is the point we are living.

I have also, while raising my voice of criticisms, offered specific suggestions, those going back to the pre-Reagan era. That is April 1, 1980, when President Carter was President. It was obvious to me, without ever claiming any kind of expertise in the matter, that the United States was poised at a critical juncture in its relationship with the countries south of the border. It had to do with the fact that President Carter in the light of the developments in the Salvadoran regime in September 1979 had not evolved himself some creative approach to dealing with the Salvadoran revolution.

I will remind my colleagues that the Salvadoran turn of events in the last week of September resulted in the tumbling from power of the then put together junta, the second time that the present leader, Napoleon Duarte, had to flee the country, and the era of the so-called death squads, headed by the very questionable character, D'Aubuisson, who is still in El Salvador and who still has the support of very strong elements in the United States of America. And the fact that it came after the victory of the so-called Sandinista movement or rebellion in Nicaragua, which, if my colleagues will recall, triumphed in the early summer of 1979. I waited 6 months between September 1979 and April 1, 1980, failed to have any access to either the diplomatic, the State Department or the President himself, and therefore felt impelled, charged with knowledge—I have always felt that when an individual charged with a public trust such as this, and who is informed and has knowledge and fails to speak out, that he is in effect abdicating from a faithful discharge of that trust, which is the oath of office we assume and take when we assume office.

□ 1715

It has been with a great deal of reluctance and actual sadness that I have delivered from this floor what I consider to be very strong denunications, first of his first Secretary of State, Alexander Haig, second the consistent pattern followed by President Reagan; his oft-resorted hyperbole, Presidential hyperbole in calling and describing the so-called Contras hiding out in Honduras as the moral equivalent of our Founding Fathers.

I thought that was such a terrible and gross distortion and abuse of words and descriptive phrases that I denounced the President.

Then what I have said, leading to the introduction of the impeachment resolution that I introduced, House Resolution 111 on March 5 of this year, and the specific allegations that I incorporated in that resolution, six specific, one general, seven in all titles or articles, were because and as a result of what I considered to be and still do the plans in being to invade Nicaragua.

So that story today is a very happy one for me and I pray, as I said earlier, that this indeed be what the President will follow as a course. That is, for the first time trying to take the last remaining vestiges of America's suasive leadership power and incorporating it and perhaps even improving the so-called Arias plan.

But even if we were to, even if the President were to, he is going to find it very, very difficult to extricate himself, and so will the Congress, because in effect, the Congress and the President are being held hostage by some 20,000 individuals labeled as Contras or rebels, as the point of view may dictate, whom we have fed, whom we have armed, and whom we have stimulated to invade and destroy a regime with whom we are at peace, ostensibly; for we have a fully empowered envoy or ambassador in Nicaragua which testifies to the world that we accept that regime as a legitimate regime.

This kind of contradiction is a reason why throughout the world there is not one country of any size or consequence that has sided with us in the actions of this Government. It is the reason why the world court of justice or the International Tribunal for Justice found against us, condemned us of acts of terrorism and actually assessed fines with us for the first time since our country was one of those party-initiators of this tribunal. We walked out of that tribunal. We turned our back on world law and order and are found guilty by the world tribunal of acts of terrorism against the state of Nicaragua and causing destructive things to come about in their public buildings, harbors, docks, and the like.

These are things we are going to have to recognize. These are things that I think our leaders can exert leadership, in an effort to reconcile our cooperation, if indeed we do, with the Arias plan.

It has always been true that when one undertakes some activity that is not either legitimate, legally or morally, that many things follow in the wake of the pursuit of that violation.

The fact that the President would elevate to a position not entitled by the group called the Contras who have from time to time raped, pillaged, plundered, have killed American citizens and without any protest on the part of our Government, but who continue to receive aid even as a matter of less than 2 weeks ago this Congress approved $3 million in what I again call an abuse of words, "humanitarian aid."

There is no such thing under these circumstances. Clearly to my mind that indicates that we not only have to make some kind of pronunicamento or expression of atonement, we have to find a way to extricate our leaders, the President and the Congress, from being held hostage by these 20,000 or so individuals.

Now what has been the result of doing what has held us up to ridicule in the world? That is violating our own laws in providing aid and comfort to elements hiding out externally from a country that we are seeking to overthrow while we pretend to the world that given our Ambassador there we recognize that as the legitimate regime? It led to violating many other laws, including the sorry tale recently recited in these hearings of the joint committees of the House and Senate, the so-called Iran-Contra hearings, but actually which were natural concomitance with the desire of the President to avoid complying with the laws that the Congress had passed, enticing private citizens and inviting them to violate the laws, the neutrality acts—because there are several of those, the Logan Act and others—in order to aid what the Congress had mandated in 1984 should not be aided.

So it led to such things as the diversion of funds from the illegal trafficking in drugs, hard drugs, if you please, that some of the high echelon element in this Contra command have participated in with the aid and connivance of our own Government. It led to the CIA developing a private air force and holding our regular Department of the Air Force hostage and leading to such tragedies as the crash of this private craft at Kelly Air Force Base in my district, involved in a CIA operation; an equally tragic crash in California at another base, killing all five of the crew in that case; all of them involved in these clandestine operations to provide ostensible help and aid to the so-called Contras, most of the time hiding out in Honduras. Not having the support of the Nicaraguan people they have to hide out in that neighboring country.

We also have compelled, we have extorted the compliance, reluctant and unwilling, of the Honduran Government officials. Never have we received the consent of the Honduran people's representatives in their assembly. As a matter of fact, they have had resolutions denouncing the American military presence. We are occupying and have occupied Honduras, literally, so what are we going to do now? All of a sudden abandon those 20,000 without some viable means of accommodating a gradual disarmament of those individuals as perhaps the Arias plan may not set forth clearly? What are we going to do about all of the men that have become accustomed to violating the laws who are officials of our Government? To what other area will they translate their actions?

Just as in the case of the former General Secord, Colonel North, and a couple of the others such as Armitage and a few others that we read about during those hearings, who first started out in Southeast Asia and had the same way of operating. General Secord, then starting out as a captain, or major, and as one of his assistants was 2d Lt. Oliver North. They then involved themselves, because Secord was involved in the so-called counter-insurgency, not only in South Vietnam but in Thailand and in Cambodia and in Laos where, through their activities in conjunction with the leading Southeast Asia drug trafficker, a multimillionaire if you please, successfully eliminated his competitors by killing, assassinating dozens and dozens of village mayors, councilmen, local officials, that they had accused of being sympathetic to the Communist movement in those respective countries. It led to the greatest importation of hard drugs to the United States ever, just as in the case in South America and Central America the cheek-by-jowl arrangement of our so-called law enforcement agents together with those that we considered anti-Communist and therefore are sympathetic to whatever cause it was that we thought we were advocating, led to the still-continuing, undiminished importation of hard drugs, the kind of drug traffic as I stated as early as 1970 and the kind of crime that has victimized our country, would not be possible unless that was a copartnership of the private sector, business, and government—government officials corrupted—and, of course, law enforcement agencies.

So until we are able to exterminate that, we will be victimized with what I called for 3 years "king crime."

Who is going to say that all of this indirectly stems from these mistaken notions and policies that have been the course of conduct of our leaders in the last 6 or 7 years?

So that, of course, I desire that the President in effect finally decide to join these countries. When the so-called Contadora process countries, which include four or five, Mexico, Venezuela, Panama, Colombia, first made their attempts for a peaceful approach, our Government, our President did everything in its power to obstruct, to prevent. The Arias plan resulted only after the Central American presidents, including the Sandinista President got together and decided and said, "Well, we are going to have peace regardless." Your only problem has been Honduras, because we dominate them so much that it is conceivable that before the first week in November when and if the plan is implemented a cease-fire will be declared, it is conceivable that the one holdout that can prevent that is Honduras.

However, the Honduran leaders have come out and have said—first they denied that they were giving official hostage to the Contras, they had to because before international law they could not stand up and admit that they were harboring them—so finally when they admitted, they said, "We are going to have to expose them," as they say in Spanish, "exposare", in other words, to expel. When that happened I think we had a crisis. This happened just less than a month ago. I think it is one of the reasons contributing to the President having a change of course. And I am glad he has. I want to compliment him if indeed he does. I think it is never too late to correct errors.

I regret that it has taken so long. I regret the cost that it is going to cost us in the future.

□ 1730

The history reveals that our country has been less than creative in asserting its leadership. When Simon Bolivar, the Great Liberator, was fighting for the independence of countries that are now individual countries in South America and also Central America, his dream after freedom was won from Spain, was to have what he called a grand republic of all of these countries to be governed in a common parliament.

Finally in 1826, in June, a meeting was convoked in Panama, and they reached some kind of tentative agreement but since the United States would not agree, in fact Secretary of State Henry Clay said definitely we cannot afford to have it, so that our policy since then in the last century and in the first part of this century up to about 1929 and the time of Calvin Coolidge was either, one, divide and destroy; or, two, invade and interdict with our Marines in what some of our historians got to calling gunboat diplomacy.

If somebody had told me 10 years ago that at this point in the 20th century we would have a President and a Congress to go along that would regress to 1929 with direct military intervention in Latin America generally, I would say that that cannot happen ever. It is not true. You cannot turn the clock that much.

If it had not been for Franklin Roosevelt's Good Neighbor Policy after Calvin Coolidge, we would never have had allies but instead enemies during World War II.

There were many, many Mexicans, many Central Americans and quite a number of South Americans who died in behalf of our cause in World War II. The Republic of Mexico even offered a squadron of fighter planes, Escuadron 200, Squadron 200, for service.

If you walk across the border in the border point at Tamaulipas, in Nuevo Laredo and you go to the cemeteries, you will see each year when we celebrate what we call Veterans Day, you will see flags flying over the grave sites of Mexicans who died in the war in the service of the United States.

Mexico permitted the United States to draft those eligible for the draft whether or not still Mexican citizens living in the United States.

So that all of that would not have been possible given the hard feelings after Coolidge and gunboat diplomacy. The occupation of Nicaragua by our Marines for 13 years, the imposition of the Somoza regime and the formation of the national guard to keep him in power, all of these were American government activities and we no longer live in that kind of a world. This is the reason I have been so critical. I have not done it because I have derived pleasure out of it but because I feel for the country. I feel that with the wit and the will developed by such leaders as Under Secretary for Latin American Affairs Sumner Welles, the architect of the Roosevelt policies, and I think we have Americans today that have that wit and that will and that capacity, we could have more brains than the enemy and bring about without loss of blood and treasure, not only a happy ending but a fruitful one where we could have a very, very, very successful economic relationship where we are the arsenal of democracy in time of war, and the great, great source and breadbasket and the like, until lately, and could find a very good accommodation.

Today we have gone a long way in starting a trend that will be in the future damaging to American leadership. I do not say it is too late to retrieve it because I think the United States still has the inherent power. All it has to do is develop what I have called the moral leadership, not supplying soldiers they do not want or need, not supplying tanks, not supplying rifles and munitions, but supplying actual help in the way that will be in harmony with our own national interests. Ultimately we will not be able to succeed through occupation or armed force. As I have said repeatedly, we are not going to be able to shoot ourselves into the hearts of the Latin American people. You do not win hearts by shooting them.

You win hearts by actions that are creative and constructive.

What I see now is a good thing if indeed it is genuine, if it is sincere, and I hope and I pray that the President is, and I have enough confidence and faith even though my criticism has been very hard and some consider harsh, it has been only because it was with a vain hope that somehow it would stimulate some change of course. I hope this indeed is happening. I want to be the first to congratulate the President and to add my voice of support if indeed this is the avenue he will seek, certainly as a Member of

Congress, maybe an inconsequential Member, but I would willingly lend my voice and my vote in support of a creative and constructive approach.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Combest) to revise and extend their remarks and include extraneous material:)

Mr. Burton of Indiana, for 60 minutes, today.

Mrs. Bentley, for 60 minutes, on October 13 and 15.

(The following Members (at the request of Mr. Gray of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. McHugh, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, on October 8 and 9.

Mr. Dingell, for 60 minutes, on October 15.

Mr. Morrison of Connecticut, for 60 minutes, on October 14.

Mr. Jacobs, for 60 minutes, on October 21.

Mr. Glickman, for 60 minutes, on October 15.

Mr. Conyers, for 60 minutes, on October 8.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Petri, prior to the Snowe amendment to H.R. 2987 in the Committee of the Whole today.

(The following Members (at the request of Mr. Combest) and to include extraneous matter:)

Mr. Broomfield.
Mr. Dannemeyer.
Mr. Lewis of California.
Mr. DioGuardi.
Mr. Lagomarsino.
Mr. Kemp.
Mr. Sensenbrenner.
Mr. Daub in two instances.
Mr. Parris.
Mr. Badham.
Mr. Gilman.
Mr. Hansen.

(The following Members (at the request of Mr. Gray of Illinois) and to include extraneous matter:)

Mr. Stark in two instances.
Mr. Lipinski.
Mr. Miller of California.
Mr. Smith of Florida.
Mr. Lehman of Florida.
Mr. Mazzoli.
Mr. Coleman of Texas.
Mr. Tallon.
Mr. Lantos in three instances.
Mr. Hawkins in three instances.
Mrs. Kennelly.
Mr. Pepper.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 242. An act to provide for the conveyance of certain public lands in Oconto and Marinette Counties, WI;

H.R. 797. An act to authorize the donation of certain non-Federal lands to Gettysburg National Counties, WI;

H.R. 1205. An act to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida;

H.R. 2035. An act to amend the act establishing Lowell National Historical Park, and for other purposes; and

H.R. 2249. An act to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Thursday, October 8, 1987, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of Oct. 6, 1987]

Mr. FROST: Committee on Rules. House Resolution 280. Resolution providing for the consideration of H.R. 162, a bill to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes (Rept. 100-356). Referred to the House Calendar.

[Submitted Oct. 7, 1987]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3025. A bill to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact (Rept. 100-322, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on gouging the rural ratepayer: Interest rate policies of the rural telephone bank (Rept. 100-357). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on the Judiciary discharged from further consideration of H.R. 285; H.R. 285 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MOAKLEY (for himself, Mr. Waxman, Mr. Whittaker, Mr. Biaggi, Mrs. Boxer, and Mr. Conyers):

H.R. 3440. A bill to direct the Secretary of Health and Human Services to promulgate fire safety standards for cigarettes and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK (for himself and Mr. Gradison):

H.R. 3441. A bill to amend the Internal Revenue Code of 1986 with respect to the taxation of life insurance contracts and annuity contracts; to the Committee on Ways and Means.

By Mr. COLEMAN of Missouri:

H.R. 3442. A bill to require reports relating to certain contributions received for the purpose of supporting or defeating the confirmation of a Supreme Court nominee by the Senate; to the Committee on the Judiciary.

By Mr. DANNEMEYER (for himself, Mr. Bliley, Mr. Ritter, and Mr. Nielson of Utah):

H.R. 3443. A bill to establish an Administrator for Consumer Product Safety within the Department of Health and Human Services and to transfer the functions of the Consumer Product Safety Commission to the Secretary of Health and Human Services and for other purposes; to the Committee on Energy and Commerce.

By Mr. DONNELLY (for himself, Mr. Conte, and Mr. Kennedy):

H.R. 3444. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers a nonrefundable credit of not more than 15 percent of interest paid on indebtedness incurred to finance qualified educational expenses; to the Committee on Ways and Means.

By Mr. DOWDY of Mississippi (for himself, Mr. Swift, and Mr. Bryant):

H.R. 3445. A bill to regulate interstate natural gas pipelines providing transportation service which bypasses local distribution companies and to encourage open access transportation by local distribution companies at cost-based rates; to the Committee on Energy and Commerce.

By Mr. JOHNSON of South Dakota:

H.R. 3446. A bill to amend section 105(c) of the Agricultural Act of 1949; to the Committee on Agriculture.

By Ms. KAPTUR:

H.R. 3447. A bill to suspend for a 2-year period the duty on positive displacement reciprocating machines, parts for machines of that kind, and other related articles; to the Committee on Ways and Means.

By Mrs. KENNELLY (for herself, Mr. Pickle, Mr. Downey of New York, and Mr. Matsui):

H.R. 3448. A bill to provide for a White House Conference on the International Trade in Services; to the Committee on Ways and Means.

By Mr. MONTGOMERY (for himself, Mr. Hammerschmidt, Mr. Solomon, Mr. Mica, Mr. Stump, Mr. Penny, Mr. McEwen, Mr. Staggers, Mr. Smith of New Jersey, Mr. Rowland of Georgia, Mr. Bilirakis, Mr. Bryant, Mr. Ridge, Mr. Gray of Illinois, Mr. Rowland of Connecticut, Mr. Kanjorski, Mr. Robinson, Mr. Stenholm, Mr. Harris, Mr. Kennedy, and Mrs. Patterson):

H.R. 3449. A bill to amend title 38, United States Code, to improve health care programs of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. PEPPER:

H.R. 3450. A bill to amend the Federal Election Campaign Act of 1971 to require candidates for Federal office to be clearly identified in their radio and television advertisements, in accordance with regulations prescribed by the Federal Election Commission; to the Committee on House Administration.

By Mr. PEPPER (for himself, Mr. Owens of Utah, and Mr. Conte):

H.R. 3451. A bill to amend title XVIII of the Social Security Act to require certain procedures to be followed by fiscal intermediaries in denying certain claims for home health services, to provide for notification of beneficiary rights with respect to home health services, posthospital extended care services, and extended care services furnished under such title, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WISE:

H.R. 3452. A bill to establish the Stonewall Jackson Lake National Recreation Area in the State of West Virginia and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WYDEN (for himself, Mr. Sawyer, and Mr. Kolbe):

H.R. 3453. A bill to amend section 17 of the Child Nutrition Act of 1966 to permit a State agency to use 25 percent of the savings achieved through the purchase of supplemental foods at reduced prices for the costs of nutrition services and administration associated with increases in the number of persons served; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 42: Mr. Stump, Mr. Walker, Mr. Frank, Mr. Lagomarsino, Mr. Badham, Mr. Donald E. Lukens, Mr. Bilirakis, Mr. Saxton, Mr. Porter, Mr. DeFazio, Mr. Oxley, Mrs. Collins, Mr. Frost, and Mr. Roe.

H.R. 190: Mrs. Collins.

H.R. 468: Mr. McEwen.

H.R. 578: Mr. Schuette and Mr. McCloskey.

H.R. 613: Mr. Tauke, Mr. Alexander, Mr. Skelton, Mr. Edwards of Oklahoma, Mr. Leach of Iowa, Mr. Volkmer, Mr. Wylie, Mr. Boland, Mr. Inhofe, and Mr. Russo.

H.R. 622: Mr. Robinson.

H.R. 755: Mr. McDade, Mr. Stokes, Mr. Fazio, Ms. Kaptur, and Mrs. Bentley.

H.R. 758: Mr. Hefley.

H.R. 778: Mrs. Bentley and Mr. de Lugo.

H.R. 898: Mr. Owens of New York.

H.R. 938: Mr. Smith of New Hampshire.

H.R. 1313: Ms. Oakar, Mr. Ireland, Mr. Carr, Mr. Howard, Mr. Kastenmeier, Mr. Vander Jagt, Mr. Clarke, Mr. Rogers, and Mr. Bilirakis.

H.R. 1395: Mr. Ridge and Mr. Courter.

H.R. 1560: Mrs. Boxer.

H.R. 1654: Mrs. Kennelly and Mr. Andrews.

H.R. 1681: Mr. Livingston.

H.R. 1710: Mr. Matsui.

H.R. 1713: Mrs. Bentley.

H.R. 1721: Mr. Pickett, Mr. Saxton, and Mr. Lagomarsino.

H.R. 1774: Mrs. Bentley.

H.R. 1782: Mr. Leath of Texas, Mr. Wise, Mr. Schaefer, and Mr. Olin.

H.R. 1879: Mr. English, Mr. Jontz, and Mr. Crockett.

H.R. 1891: Mr. Bryant.

H.R. 2134: Mr. Kennedy, Mr. Studds, Mr. Solomon, and Mr. Mineta.

H.R. 2181: Mr. Pursell, Mr. Stratton, and Mr. Crane.

H.R. 2248: Mr. Chapman.

H.R. 2328: Mr. Schuette.

H.R. 2433: Mr. Walgren.

H.R. 2482: Mr. DeWine.

H.R. 2509: Mr. Mrazek, Mr. Foglietta, Mr. Garcia, and Mr. Bliley.

H.R. 2587: Mr. Buechner and Mr. Johnson of South Dakota.

H.R. 2624: Mr. Foglietta and Mr. Bryant.

H.R. 2640: Ms. Snowe, Mrs. Byron, Mr. Pursell, Mr. Crane, Mr. McCloskey, Mr. Borski, Mr. Moakley, Mr. Latta, Mr. Lujan, Mr. Schumer, Mr. Smith of New Hampshire, Mrs. Boxer, Mr. Andrews, and Mr. Gordon.

H.R. 2641: Mr. Sawyer.

H.R. 2719: Mr. McCloskey.

H.R. 2725: Mrs. Bentley, Mr. Buechner, Mr. Martinez, Mr. Gilman, Mr. Kolbe, and Mr. Wolpe.

H.R. 2753: Mr. Borski.

H.R. 2793: Mr. Schuette and Mr. Duncan.

H.R. 2879: Mr. Lewis of Georgia, Mr. Chapman, and Mrs. Collins.

H.R. 2977: Mr. Traxler, Mr. Bunning, Mr. Thomas of Georgia, Mrs. Meyers of Kansas, Mr. Holloway, Mr. Robinson, Mr. Howard, Mr. Robert F. Smith, Mr. Stump, Mr. Grant, Mr. Wolpe, Mr. Young of Florida, Mr. Boulter, Mr. Lancaster, Mr. Wyden, Mr. Bilirakis, Mr. Craig, Mr. Emerson, Mr. Hansen, Mr. Ridge, Mr. Mollohan, Mr. Fields, Mr. Ray, Mr. Wilson, Mr. Slattery, Mr. Hopkins, Mr. Schaefer, Mr. Pashayan, Mr. Hatcher, Mr. Dreier of California, Mr. Packard, Mr. Bennett, Mr. Schuette, Mr. Wortley, Mr. Richardson, Mr. Perkins, Mr. Miller of Ohio, Mr. Dickinson, Mr. Ritter, Mr. Rowland of Georgia, Mr. Cheney, and Mr. Pickle.

H.R. 2997: Mr. Foglietta, Mr. Schuette, Mr. Howard, Mr. Buechner, Mr. Packard, Mr. Feighan, and Mrs. Collins.

H.R. 2998: Mr. Foglietta, Mr. Howard, Mr. Schuette, Mr. Buechner, Mr. Packard, Mr. Feighan, and Mrs. Collins.

H.R. 3005: Mrs. Collins.

H.R. 3067: Mrs. Bentley.

H.R. 3074: Mr. Bryant.

H.R. 3144: Mr. Livingston, Mr. Hutto, and Mr. Tauzin.

H.R. 3160: Mr. Ford of Tennessee and Mr. Rahall.

H.R. 3187: Mr. Hall of Texas and Mr. Coleman of Texas.

H.R. 3202: Mr. Bennett, Mr. Packard, Mr. Miller of Washington, Mr. Smith of Florida, Mr. MacKay, Mr. Lehman of Florida, Mr. Grant, and Mr. Nelson of Florida.

H.R. 3214: Mr. Bonior of Michigan, Mr. Feighan, and Mr. Dornan of California.

H.R. 3250: Mrs. Boxer, Mr. DeWine, Mr. Quillen, Mrs. Kennelly, Mr. Price of North Carolina, and Mr. Lehman of Florida.

H.R. 3312: Mr. Ford of Tennessee.

H.R. 3317: Mr. Crockett, Mr. Towns, Mr. Owens of New York, Mr. Downey of New York, Mr. Studds, Mr. Kastenmeier, Mr. Berman, Mr. Flake, Mr. Ford of Michigan, Mrs. Collins, Mr. Frost, Mr. Gonzalez, Mr. Fauntroy, and Ms. Pelosi.

H.R. 3322: Mr. Russo, Mr. Richardson, Mrs. Boggs, Mr. Panetta, Mr. Jontz, and Mr. Bilirakis.

H.R. 3334: Mr. Conyers, Mr. Bevill, Mr. Traficant, Mrs. Collins, and Mr. Dornan of California.

H.R. 3338: Ms. Slaughter of New York, Mr. Hammerschmidt, Mr. Lent, Mr. Miller of Ohio, Mr. McCloskey, Mr. Owens of Utah, Mr. Chappell, Mr. Roe, Mr. LaFalce, Mrs. Martin of Illinois, Mr. Boland, Mr. Traxler, Miss Schneider, Mr. Dorgan of North Dakota, Mr. Nielson of Utah, Mr. Berman, Mr. Holloway, Mr. Eckart, Mr. Upton, Mr. Wortley, Mr. Biaggi, Mr. Campbell, Mr. Denny Smith, Mr. Lehman of Florida, Mr. Price of Illinois, Mr. Traficant, Mr. Walker, Mr. McCurdy, Mr. Whitten, Mr. Foglietta, and Mr. Nowak.

H.R. 3351: Mr. Applegate and Mr. Wortley.

H.R. 3390: Mr. Gray of Illinois, Mr. Conyers, and Mr. Lagomarsino.

H.R. 3403: Mr. Andrews, Mr. Gallo, Mr. Buechner, and Mr. Fazio.

H.J. Res. 48: Ms. Snowe, Mr. Hall of Texas, Mr. Donnelly, Mr. Miller of Ohio, Mr. Hansen, and Mr. Schulze.

H.J. Res. 55: Mr. Moody, Mr. Thomas of Georgia, Mr. Conte, Mr. Gonzalez, Mr. Wolf, Mr. Florio, Mr. Wylie, Mr. Mineta, Mr. Quillen, Mr. Spence, Mr. Scheuer, Mr. Neal, Mr. Mrazek, Mr. Valentine, Mrs. Patterson, Mr. Frost, and Mr. Frank.

H.J. Res. 112: Ms. Pelosi, Mr. Panetta, Mr. McHugh, Mr. Weiss, and Mr. Hyde.

H.J. Res. 274: Mr. Akaka, Mr. Bonker, Mr. Coats, Mr. Dellums, Mr. Hall of Ohio, Mr. Guarini, Ms. Kaptur, Mr. Donald E. Lukens, Mr. Morrison of Washington, Mr. Pepper, Mr. Porter, Mr. Rowland of Connecticut, Mr. Scheuer, Mr. Spratt, Mr. Kasich, Mr. Mollohan, Mr. Young of Alaska, Mr. Mavroules, and Mr. Packard.

H.J. Res. 321: Mr. Andrews.

H.J. Res. 328: Mr. Wyden, Mr. Brennan, and Ms. Pelosi.

H.J. Res. 336: Mr. Skeen, Mr. Stark, Mr. Panetta, Mr. Hansen, Mr. Nagle, Mr. Schumer, Mr. Whittaker, and Mr. Brennan.

H. Con. Res. 28: Mr. Kildee, Mr. McDade, Mr. Moody, Mr. DeWine, Mr. Dornan of California, Mr. Hutto, and Mr. Hochbrueckner.

H. Con. Res. 97: Mr. Callahan.

H. Con. Res. 193: Mr. Robinson, Mr. Baker, Mr. Courter, and Mr. Sunia.

H. Res. 210: Mr. Armey, Mr. Tauke, and Mr. Mack.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3100

By Mr. DORNAN of California:

—Page 115, after line 8, insert the following:

(c) COBRA HELICOPTERS.—The President shall, using funds authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), furnish 5 AH-1 Cobra helicopters in a downgraded G-configuration to El Salvador during each of the fiscal years 1988 and 1989.

SENATE—*Wednesday, October 7, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. BREAUX].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Behold, how good and how pleasant it is for brethren to dwell together in unity! * * * As the dew of Hermon, and as the dew that descended upon the mountains of Zion: for there the Lord commanded the blessing, even life for evermore.*—Psalm 133:1, 3.

Gracious Father in heaven, grant to the Senate today oneness in mind and heart as they strive for the common good. We remember that our Nation was born out of controversy, conflict, and compromise. Out of this struggle came the United States of America—splendidly diverse—profoundly united—out of many one, "e pluribus unum." Though our diversity has multiplied, we remain a union. Merciful God, as the Senators in their diversity represent States and regions even more diverse—bind them together in their commitment to the Union. In controversy and conflict, lead them to compromise which does not sacrifice principle and strengthens unity. We ask this in the name of Him by whom all things are held together. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair will recognize the acting majority leader, the Senator from Wisconsin.

THE FUTURE TERROR: INTEREST ON THE NATIONAL DEBT

Mr. PROXMIRE. Mr. President there has been almost no discussion in this body of the third biggest expenditure of this Federal Government. It has also been the most rapidly rising cost of our Government. Within a few years it could exceed every other Government expense. I'm talking about interest on the national debt. When I entered this body in 1957 the interest charge on the national debt was $5.9 billion. Twenty-four years later in 1981 it had soared to $95 billion a sixteenfold explosion. By last year, 1986 interest cost had more than doubled in 5 short years to more than $190 billion. Focus for a minute, Mr. President, on that $190 billion. What did we get for it? Did it educate a single child? No. Did it provide lodging for even one family? No. Did it buy a submarine or even one round of ammunition to defend our country? No, Mr. President, for that $190 billion our country got nothing, zero, zip. All of that $190 billion was paid to creditors of this Government because the Congress had failed either to hold down spending or raise taxes to meet the spending that we as a Congress refused to pay for in past years.

The cost of carrying the national debt is made up of two components. No. 1 is the national debt itself, the principal on which the interest is paid. Obviously the bigger the debt, the bigger the interest payment if the interest rate remains the same. But the reason the interest charge on our debt rose so rapidly between 1957 and 1981 is not just because the principal rose so swiftly. The principal did rise from $272 billion in 1957 to $1.004 trillion in 1981. But the interest rate rose just as fast. The interest rate on 3-year Treasury bonds—the average maturity of Treasury debt—soared from 3.89 percent in 1957 to 14.44 percent. That combination skyrocketed the interest cost. The principal increased by a little more than threefold. But the interest burden increased about sixteenfold.

So what kind of interest burden should we expect to fall on this Government in the next few years? All of us know that depends in part on how successful the Congress is in holding down the deficit. But it also depends in equal measure on what happens to interest rates over the next few years. We know the deficits will continue. We know therefore that the principal of the debt will grow. How much will it grow? The Office of Management and Budget estimates the principal, that is the Federal debt itself, will climb from $2.35 trillion this year to just over $3 trillion in 1990. OMB has always been optimistic on these figures. This Senator thinks they are too optimistic on this one. But the real optimism comes in the OMB estimate of what will happen to interest rates in the next 3 or 4 years. The market is betting interest rates will rise. That's why long-term interest is sharply higher than short-term interest and has been rising more rapidly.

Interest rates are also likely to rise because the demand for credit as represented by the huge borrowing of the Federal Government will tend to drive up interest rates. The even greater borrowing by the household sector of our economy that is already at $2.8 trillion and rising very sharply will add to the pressure on interest rates. And the nearly $3 trillion borrowing by the nonfinancial business sector is also rising apace and will add even more pressure to interest rates. At the same time the supply of credit reflected in savings has dropped to less than 4 percent in 1986 and is still going down. In this kind of situation will the Federal Reserve Board be able to resist the intense pressure to accommodate the demand for more credit by sharply increasing the money supply? If they give in to the pressure and provide big increases in the money supply, there will be a massive increase in prices. Those price increases will pull interest rates right up through the roof.

In spite of this outlook OMB optimistically estimates that somehow interest rates will fall in the next 3 or 4 years. CBO could be very wrong about that. But let us suppose they are just a little wrong. Suppose instead of interest rates falling gradually as OMB predicts they rise by just 1 percent per year—a moderate rise given present circumstances. Then what happens to the cost of interest on the national debt, over the next 4 or 5 years?

Here's what happens: First, we recognize the fact that the Treasury refinances only about a third or a quarter of the debt each year. Then here's what happens to the interest burden: In 1988 it rises from the present 1987 level of about $193 billion to $202 billion in 1988, then to $225 billion in 1989, to $275 billion in 1990, and to $345 billion by 1991. And if this progression were to go on for another 2 years interest payments in 1993 would exceed $500 billion.

And never forget, Mr. President, that interest payments when they come due we must pay. We must pay them on time. We must pay them in full. We can cut education or housing or national defense expenditures. We can even change the law and reduce Social Security expenditures. But there is one iron, absolute expenditure we must make. That is the $500 billion we may find due in 1993.

Here is why Mr. President, it is essential that we get dead serious about cutting spending and then cutting spending some more and, if necessary, raising taxes by whatever is necessary to make real progress in cutting the deficit.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair will now recognize, under the standing order, the acting minority leader, the Senator from Nebraska, Mr. KARNES.

S. 1127, THE MEDICARE CATASTROPHIC LOSS PREVENTION ACT

Mr. KARNES. Mr. President, the Senate will soon consider legislation to expand the Medicare system to cover so-called acute-catastrophic needs. I have discussed this legislation with many of my constituents in town meetings over the past weeks, and I have noted a great deal of confusion over what the bill will and will not provide. Many older Americans have been led to believe that all health care needs we typically refer to as "catastrophic" will be covered upon passage of this legislation. In truth, most of these constituents would be surprised to learn this legislation essentially expands Government-sponsored insurance without even mentioning their primary need—long-term care. And it is important to note this would be done by significantly increasing every Medicare beneficiaries part B premium! Mr. President, I know the majority of my constituents that are on fixed incomes can ill-afford such an outrageous plan.

Medicare's 1966 hospital deductible has grown astronomically as have daily coinsurance amounts and skilled nursing facility copayments. The part B premium, while covering only 25 percent of program costs, will rise to nearly $25 per month in the coming year. These amounts are a burden on our seniors. Couldn't Congress perhaps adjust these amounts as an alternative to the expanded Medicare benefits program we are about to consider?

This legislation greatly expands Medicare and finances this expansion with a new tax on about 40 percent of our seniors. Although deductible this tax could be as much as $800 per retiree in 1988, rising to as high as $1,000 per retiree by 1992. This tax is indexed to Medicare cost increases, which are directly related to the extremely high inflation that plagues the health care industry. Typically, inflation outside the health care industry is much lower, and because Social Security and pension COLA's are tied to this form of inflation, Medicare premiums will likely outpace any increase in seniors' retirement benefits. Do we really want to see Medicare coverage become unaffordable for many of our seniors?

Mr. President, the "surtax" on high-income elderly persons to fund Medicare catastrophic benefits is simply a disguised reduction in Social Security cash benefits. Furthermore, the surtax could unfairly exceed the value of benefits received in some cases. Finally, the surtax introduces a new tax on the elderly for "in kind" benefits rather than benefits actually received. Can we really believe the Nation's seniors would approve of such a plan?

This concept will challenge the solvency of the Medicare trust fund. Without this legislation, the trust fund is already experiencing serious financing difficulties. As we are so keenly aware, the original Medicare program's costs were underestimated, and it is evident this is the case with this proposal as well. In light of these facts, how can we seriously believe this is an acceptable initiative?

Also, this proposal attempts to replace private Medicare supplemental coverage now provided to nearly 70 percent of the Nation's elderly, with a Government program. Furthermore, a retiree must opt out of part B altogether if he or she chooses not to be covered and not to pay the new tax. Is this fair?

In addition, this initiative will require changes in State law minimum requirements for Medicare supplement policies. In the event this legislation should pass, States will need time to amend State laws, insurers will require time to adjust coverages and premiums, and the elderly consumer will need to be educated on the new Medicare coverages and private options. Now, although the insurance industry has always served our seniors well, can we truly expect them to accomplish all of this by the January 1, 1988, effective date currently requested?

Finally, the Senate is expected to consider an amendment to this legislation that will provide an outpatient prescription drug benefit. Recognizing the significant cost prescription drugs present to our seniors, as the amendment is drafted, less than 20 percent of our Medicare beneficiaries will ever receive reimbursement for these expenses, yet all will pay a significant premium for this add-on benefit. Can we really call this a benefit?

Mr. President, these are just a few of the many questions I have about this legislation in its current form. I believe we should all review this initiative very carefully. Because I feel so strongly in this regard, I ask unanimous consent that my specific thoughts on the "Seniors Surtax"; "State Law Problems"; and the "Role of Private Insurance" be included in the RECORD immediately following my oral remarks. I hope each of our colleagues will have the opportunity to review them as we prepare to address this concept.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENIORS SURTAX

Under the legislation, as many as 40 percent of all Medicare beneficiaries electing part B coverage will mandatorily pay a new annual "supplemental" premium or "surtax" of as much as $850 per person based upon the tax liability of the beneficiary. Revenues are used to fund Medicare acute-catastrophic coverage for relatively few beneficiaries.

This so-called premium will rise to as much as $1,000 per person by 1992 and, by some estimates, $2,000 per person for today's 50 years olds when they turn 65. This is comparable to a tax on the elderly, a "seniors surtax," for acute-catastrophic care coverage regardless of whether these benefits are utilized. Few of these taxpayer beneficiaries will utilize these additional Medicare benefits and will continue to need private insurance coverage for other health care needs.

The Treasury has reviewed this income-related financing mechanism and agrees that, even though deductible, it is a surtax which represents an income tax rate increase. This surtax would rise with Medicare's costs, and thus would rise faster than the income of these Medicare-eligible beneficiaries.

Witness the recent 38.5-percent increase in part B premiums which cover only 25 percent of part B program costs. This part B premium alone is projected to amount to nearly $300 for the 1988 calendar year. On top of this amount, the bill would add up to another $850 in supplemental premiums for some 40 percent of Medicare recipients.

Beneficiaries would not know the amount of surtax owed until tax returns are filed. All elderly filing tax returns will be required to file additional forms and compute calculations based upon months of Medicare coverage. These elderly would consult a table similar to the current income tax tables to determine this surtax. The IRS would keep this tax data for audit purposes.

The "surtax" on high-income elderly persons to fund Medicare catastrophic benefits is simply a disguised reduction in Social Security cash benefits. Furthermore, the "surtax" could unfairly exceed the value of benefits received in some cases. Finally, the "surtax" introduces a new tax on the elderly for "in-kind" benefits rather than benefits actually received and complicates income tax "simplification" reforms of the 1986 Tax Reform Act.

A significant portion of Medicare-eligible persons are covered for acute-catastrophic benefits under employer-provided group health plans. While many such plans pay the basic part B premium for retirees, the Senate bill would shift costs for catastrophic care from employers to beneficiaries.

The Senate bill, like the House-passed bill, replaces private Medicare supplemental coverage now provided to nearly 70 percent of the Nation's elderly, with a Government program. A retiree must opt out of part B altogether under the Senate bill if he or she chooses not to be covered and not to pay the new tax.

STATE LAW PROBLEMS

Mr. President, in expanding Medicare benefits, we should be keenly aware that the Congress also forces changes to State laws which regulate minimum standards for Medicare supplement insurance.

All private policies provide supplemental coverage pursuant to minimum standard requirements of State law. State laws, in turn, reflect the model standards issued by the National Association of Insurance Commissioners (NAIC). These model standards are drafted to comply with Federal standards for Medicare supplement policies included in the 1980 "Baucus amendment" to the Social Security Act (P.L. 96-265). This provision defines minimum standards that must be met before companies can market Medicare supplement policies.

Medicare supplement policies generally cover those costs not covered by Medicare, primarily deductibles, coinsurance and some policies cover costs in excess of Medicare-approved amounts. One provision of the "Baucus amendment" establishes Federal sanctions, consisting of fines, imprisonment, or both for knowingly selling policies that duplicate coverage in individual already has under Medicare. This provision was enacted, in part, in response to reported marketing and advertising abuses in the sale of private Medicare supplement insurance to the elderly.

The bill S. 1127 would increase Medicare coverage primarily by eliminating certain deductibles and coinsurance. As a result, benefits now being provided by private Medicare supplement insurance policies under the standards required by State laws pursuant to the 1980 "Baucus amendment" model standards will duplicate Medicare-covered benefits.

It is anticipated that changes to current NAIC "Medicare supplement" model standards and subsequent State law changes may not occur for one to three years. Thus, until State laws are conformed, Medicare supplement insurers will be in the untenable position of either providing the minimum coverage required by State law and thus be subject to Federal sanctions of a $25,000 fine, 5 years imprisonment, or both; or violating State law standards by eliminating their Medicare supplement policy coverage which would duplicate Medicare.

In addition, a significant number of private Medicare supplement-policies are required by State law or private contract to be "guaranteed renewable," and the insurer must renew the policy upon the timely receipt of a renewal premium. While permiums under such guaranteed renewable contracts may be adjusted for all policies on a class basis, renewal is considered to be a continuation or extension of the original contract. Thus, Medicare supplement insurers may not unilaterally alter the coverage of such a policy. Insurers may be subject to numerous legal actions if coverage is unilaterally restructured to reflect the changes precipitated by this legislation.

At best, Mr. President, in enacting this legislation this year with its effective date on January 1, 1988, we will be giving States three months to change their laws. We will be giving insurers three months of alter policy coverages, recalculate premiums, and inform elderly consumers.

Perhaps all Medicare benefit increases under the bill should be made effective at least one year from the date of enactment to give States time to amend State laws, to give insurers time to adjust coverages and premiums, and to educate elderly consumers on the new Medicare coverages and private options. A January 1, 1989, effective date would provide a minimal transition period for these changes.

PRIVATE INSURANCE ROLE

Mr. President, Medicare has come a long way since its enactment in 1966. Following the system's creation most commercial insurance companies began to write what we called "Medi-Gap" policies. Typically, these policies would pay a specific benefit addressed as either a Medicare copayment amount or a deductible amount or both. These policies looked like they worked with Medicare, but didn't actually. This was not a satisfactory situation.

As I mentioned earlier, the "Baucus amendment" directed the States to set specific standards for what would then be termed "Medicare supplement insurance." Only policies meeting these standards could employ this term and no other policy could address Medicare in its benefits. Further, any other type of health insurance policy delivered to a person eligible for Medicare because of age must be accompanied with an outline of coverage including the statement, "this policy is not a Medicare supplement policy."

This action not only eliminated the confusion of what was and what was not Medicare supplement insurance, but also allowed companies a standard base upon which they could build Medicare supplement insurance coverage. This has worked very well and as pointed out in the Bowen report of last November has provided private industry prepayment of normal expenses and insurance for extraordinary expenses while acting as a simplifying mechanism for dealing with the complexities of the Medicare program. Industry statistics indicate that 70 percent of the Medicare beneficiaries have insurance of this nature.

Private Medicare supplemental insurance has been criticized because many of these policies are said to have low loss ratios. Loss ratios must be kept in perspective as only one element in measuring the value of a health insurance product. According to GAO's own observations, loss ratios must be interpreted with care. Various factors can affect loss ratios such as health of the policyholder (healthy people file few claims), the number of policyholders under group plans, or whether premiums can be adjusted annually.

Medicare itself could be said to have a 75-percent loss ratio rather than the 98 percent often touted by some. Based upon the detailed figures included in the "Appendix" for the "Budget for Fiscal Year 1988," the Federal hospital insurance trust fund had income of about $67 billion, and outgo of $49.6 billion. A loss ratio is essentially premium income compared to benefits paid. Thus, the trust fund's loss ratio is about 75 percent, the minimum "target" under the "Baucus amendment" for group policies.

Legislation establishing Medicare catastrophic coverage must maintain a significant role for private insurance.

CONCLUSION

Mr. President, Medicare's 1986 $40 hospital deductible has now grown to $540, the hospital daily coinsurance amounts have risen from $10 to $135 and $270 with a skilled nursing facility daily copayment amount of $67.50. The part B premium is rising to nearly $25 per month. Expenses for care which exceed Medicare approved costs and other noncovered costs are increasing.

These amounts are significant out-of-pocket costs for the elderly and it's obvious changes are needed. I would support such changes, but the legislation before us, does far more than adjust the deductible and coinsurance amounts, and will add more costs for retirees participating in the program. Costs of expanded benefits will rise in later years, further burdening both retirees and the Federal Treasury.

We will consider an amendment to this bill to establish a Medicare provided outpatient prescription drug benefit. Recognizing prescription drugs are a large expense for seniors, I also note there is nearly an $8 billion difference in estimates between CBO and HHS on the cost of establishing such a benefit. Absent certainly, how do we ensure a self-funding program? What if costs escalate above the added income from the new surtax?

Do we really want to impose a new tax on the elderly? The financing mechanism, a mandatory tax on senior citizens, also poses uncertainties as these mandatory supplemental premiums rise even higher in later years to as much as $1,000 or more per person. What if costs rise to such amounts that beneficiaries do opt out of part B? With the Medicare trust fund's financial picture already appearing somewhat precarious in future years, will this further exacerbate the problem?

This legislation will challenge the solvency of the Medicare trust fund. Without this legislation, the trust fund is expected to experience financial difficulties, falling some $20 billion short by the year 2005. Just as the original Medicare Program's costs were underestimated, it is likely that, due to our increasingly aging population, costs will outpace the "self-financing" mechanism of this legislation.

Mr. President, perhaps we need to further study and reflect on this plan and its implications before hastily expanding benefits for reasons that appear to be politically motivated. Are we making the wisest choice to invest scarce Federal dollars in this program, or should these dollars be used to support our seniors' true catastrophic need—long-term care?

I thank my colleagues for considering these remarks and urge a careful review of this legislation.

RECOGNITION OF SENATOR BREAUX

The PRESIDING OFFICER (Mr. PROXMIRE). Under the previous order, the Senator from Louisiana is recognized for not to exceed 15 minutes.

NOMINATION OF JUDGE ROBERT BORK

Mr. BREAUX. Mr. President, my colleagues and I have been asked by the President of the United States to confirm his nomination of Robert Bork to be an Associate Justice of the U.S. Supreme Court. My duty as a U.S. Senator, under article 2, section 2 of our Constitution, is to confirm that nomination or to reject it. This is not an easy task, but it is one that carries

with it enormous responsibility which I and my 99 colleagues accept.

Who is this man that President Reagan asks me to confirm? Some of my constituents tell me, in good faith, he is a legal scholar, extremely intelligent, a former law professor, and court of appeals judge who would protect our Constitution from all legal attacks and I ought to vote to confirm him.

Others, with equal good faith, tell me that he has a dedicated political agenda, is committed to reversing decades of Supreme Court precedents and wiping out constitutionally protected privacy, free speech, and equal rights for all classes of people and I should vote to reject his nomination.

All my constituents' views are important. I have received, as other Senators, numerous calls and letters, and I commend my constituents for participating in the public debate by following the Senate hearings and expressing their opinions.

However, this decision, Mr. President, cannot be a political decision. It cannot be a popularity contest. It cannot be decided by adding up the numbers in a poll or merely counting the mail we received. My decision must be based on whether this nominee in and of himself is the right person for the job.

I feel, Mr. President, that a nominee to our Highest Court must be predictable as to what kind of Justice he will be. By predictable, I mean not how he will vote on each and every case, but predictable as to the philosophy upon which he will rely throughout his Court tenure. Robert Bork lacks this predictability.

He was, at one time, a socialist campaigning for socialist candidates. He has been a New Deal liberal. At another time he was a libertarian. Then he changed, again, to become a strong conservative. During the confirmation hearings he tried aggressively to portray himself as a moderate. One can only wear so many hats before it becomes impossible to tell what role he is playing.

A lifetime of political writings and speeches by Judge Bork, followed now by his public testimony discounting these former views, clearly suggests a lack of predictability.

Lack of predictability for a person who will be appointed for life is a serious concern that we cannot dismiss.

Our Constitution, which we celebrate this year for protecting our democratic form of government for 200 years, is protected itself principally by our Supreme Court. That document guarantees the rights of the majority and it also protects the rights of the minority. Judge Bork views the Constitution differently, it seems, depending on the issue.

When the issue is individual rights, Judge Bork says he is a strict constructionist and he has consistently exercised judicial restraint when individuals have asked the court to prohibit Government interference with their activities.

However, when the case is big business complaining about Government intrusion, Judge Bork has been much more willing to find new constitutional protection for big business. Judge Bork has, for instance, voted against individuals and workers and in favor of the Government in 26 of 28 administrative law and constitutional split decisions. He also voted in favor of business and against the executive branch in eight out of eight administrative law split decisons. In cases where individuals sought the right to have their day in court, Judge Bork voted against the individuals in 14 out of 14 split cases.

The hearings themselves have produced in Judge Bork's testimony a man who has written and decided cases one way, versus candidate Bork who reversed himself on the protection of the first amendment, who reversed himself on the protection of women and who reversed himself on civil rights. But the facts of history cannot be reversed and his record is what we must use to judge him.

The personal credentials of Judge Bork are impressive: law professor, court of appeals judge and, from all evidence, a man of high moral principle and honesty. In fact there are many areas addressed in his writings with which I agree. I agree, for instance, with Judge Bork's critique of the judicial excesses that led the Court to decide the Roe versus Wade decision allowing for abortion. But we cannot support a person for a lifetime appointment based on one issue, any more than we can oppose him for that reason—the total picture must be evaluated.

Finally, as Southern Senator, let me say that I feel strongly that geographical representation on our Nation's Highest Court is important. Is there not a single person from the South competent to replace our retired southern justice from Virginia, Justice Powell? Why not search again and send us our brightest and most intelligent?

So I say to our President:

"Your duty, Mr. President, is to nominate the best you can find. Our duty is to make sure that the person is, in fact, the best.

"Send us a conservative, Mr. President, if that is your wish. That is your right. But Mr. President, send us the very best you can find. I want to help you in that search. Let us go back and look again, ask for new recommendations and then come back and let us work together—so that history will record that Ronald Reagan found the very best."

My vote, Mr. President, will be not to confirm this nominee.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will not be a period for the transaction of morning business, not to extend beyond the hour of 9 a.m., with Senators permitted to speak therein for not to exceed 1 minute.

PROHIBITION OF IMPORTS OF PRODUCTS FROM IRAN—S. 1748

Mr. DOLE. Mr. President, I would like to offer one point of clarification with respect to S. 1748 and to offer guidance thereon to the appropriate agencies of the Federal Government in establishing regulations and procedures of implementation.

In fairness to United States businesses, it was not the Senate's intent to affect Iranian products under loading, in storage to or in transit to the United States on the date of enactment. While we want to halt the importation of Iranian products, we do not want to cause financial harm to United States companies presently involved in legitimate business transactions with Iran. The Senate intends for the appropriate Federal agencies to reflect these concerns when promulgating regulations.

THE BORK NOMINATION

Mr. GORE. Mr. President, when the nomination of Judge Robert Bork to the Supreme Court was first announced in July, I pledged to keep an open mind and give the matter serious consideration. I have kept that pledge. The issue has raised strong emotions on both sides, and there was pressure to make hasty judgments. I believed that Judge Bork deserved a fair hearing.

This is not a partisan matter. I do not believe that Judge Bork or any other Supreme Court nominee should be subjected to an ideological litmus test. Ideology should never be the sole criterion used either for nomination or confirmation. I wouldn't vote against Judge Bork solely because he is a conservative.

I have listened carefully to what Judge Bork has said, and given his views careful scrutiny. I reviewed the committee hearings and Judge Bork's testimony. I met with Judge Bork in my office on Friday and asked him to address some of my concerns. I respect Judge Bork as a man of integrity and intellect. He is neither a racist nor a bigot. But I have come to the view that Judge Robert Bork does not belong on the Highest Court of our Nation. In all good conscience, I cannot support his nomination, and I will vote against that nomination when it reaches the floor.

Judge Bork does not understand the Constitution as most Americans do. He says he would interpret the Constitution exactly as the framers would have, 200 years ago. But 200 years ago black people were property and women couldn't vote. Two hundred years ago, due process was a restriction on the Federal Government alone. Not only have we added amendments to our Constitution, we have changed the context in which it should be read.

We have grown as a people. Our country has made great strides toward eliminating injustice. Our society now stands as an example of the greatness that can be achieved if everyone is given an opportunity.

The Constitution is not a mere list of 200-year-old rules. It is an instrument of dynamic principles and the blueprint of a broad, democratic and pluralistic society. Americans are not ready to let the Supreme Court take us back to the days when our Constitution was given a narrow and restrictive interpretation.

The Supreme Court is the guardian of our liberties, all of our liberties. We need Justices with the courage and compassion to ensure that our country truly has liberty and justice for all. To quote Congresswoman Barbara Jordan, "I like the idea that the Supreme Court of the United States is the last bulwark of protection for our freedoms." That is essential to our system of government and our tradition of liberty.

Judge Bork has opposed every major civil rights initiative of the last 30 years. He now admits that many of these initiatives have worked—and I agree. Judge Bork has great faith in the legislative process and sees it as the last resort for those who have been treated unfairly by the State. However, he has criticized many cases which have expanded voting rights so that we have a truly representative democracy. How can a judge say: "The legislature will protect your rights" when he opposes decisions to strike down poll taxes, literacy tests, and malapportioned districts that deny minority voting rights?

It is not solely Judge Bork's narrow views of the Constitution and the protections it provides minorities. it is also his unwillingness to find protection for fundamental rights in the due process clause, his failure to find a right to privacy or first amendment protections for creative expression and civil disobedience, that disturb me. In addition, he finds no legal basis for Members of Congress to sue the executive for unconstitutional behavior. Not only are these matters disturbing, Judge Bork's positions on these issues are at odds with generally accepted constitutional law and Supreme Court precedent.

The due process guarantees of the 5th and 14th amendments, along with the 9th amendment's assurance that "(T)he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people," demonstrate that the framers intended to protect fundamental values from Government intrusion. The most scholarly and conservative Justices of this century have recognized this. Why is Judge Bork seemingly blind to this aspect of original intent?

The right to privacy provides us all with a safeguard against unreasonable governmental intrusion into our private lives. And just as Judge Bork does not like his adversaries investigating which movies he views in the privacy of his own home, the American public does not want the Government interfering with the privacy of the marital relationship. There are certain activities and areas which should remain unassailable by the Government I do not wish to see a Justice on the Supreme Court who does not recognize that fundamental principle.

The first amendment's right to freedom of speech is the cornerstone of the American system of government. We cannot afford to limit it in any way, save that of protecting our people from imminent lawless action. We cannot afford to distinguish between Thomas Paine's eloquence regarding the harshness of British rule and Paul Cohen's jacket demanding—in crude terms—an end to the Vietnam war draft. Both are expressions of dissatisfaction with the Government, and both deserve the protection of the Constitution.

Last, I believe that Judge Bork's view that Members of Congress do not have standing to sue the executive branch provides the executive with too much power, thereby undermining the balance of power which the framers of the Constitution originally intended. We cannot let the executive authority run rampant. The "Iran-Contra affair" should have taught us at least this. If the Supreme Court won't hear the claims of Members of Congress that the executive has gone beyond the limits of its power, who will? If the Legislature is the last resort for those whose rights have been trampled on—as Judge Bork contends—what are we to do when an imperial executive ignores that law and tramples on the Legislature. We cannot allow a judge on the Court who would eschew that responsbility.

For all these reasons, I will vote against Judge Bork's nomination. I do not mean to say that he lacks intelligence or experience. However, there are other characteristics which are equally important for a Supreme Court Justice. While I do not believe in judges making law—that is a congressional responsibility—I do believe that they must take care to see that the spirit as well as the words of the Constitution and the laws of the United States are fairly and equally applied. And the Supreme Court must not only ensure that the laws are fairly applied, but that the laws themselves are fair. Fair means not only that they do not unduly burden our right to privacy, but that they do not deprive us of a fundamental right, and that they do not distinguish on the basis of race, sex, religion, or other invidious and largely irrelevant factors.

I oppose Judge Bork's nomination.

BICENTENNIAL MINUTE

OCTOBER 7, 1929: BRITISH PRIME MINISTER RAMSAY MAC DONALD ADDRESSES SENATE

Mr. DOLE. Mr. President, on October 7, 1929, British Labor Party Prime Minister Ramsay MacDonald delivered a major address before the Senate. He spoke warmly of British-American friendship, and advocated making the Kellogg-Briand peace pact, ratified earlier that year, a living principle. While MacDonald's was one of the more substantive addresses by a visiting dignitary to be given before the Senate, it was not the first. Ever since 1852, when Gov. Louis Kossuth of Hungary addressed the Senate, foreign leaders occasionally have sought the Senate Chamber as the site of major speeches. Prior to MacDonald, the only Englishman to address the Senate had been Prime Minister Arthur James Balfour, whose grim mission in May 1917 was to brief the Senators on the terrible war in Europe that the United States had just voted to enter.

The purpose of MacDonald's 1929 visit to America was to invite the United States to join England, France, Italy, and Japan for a naval conference in London, designed to avert future wars. The Prime Minister arrived at the Senate trailing clouds of good will and hope for a safer world, and made his way into the Capitol through the cheering crowds of well-wishers lining the stairs. Nearly every Senator was present and the galleries were packed with notables eager to hear more about the conference he proposed. The Labor Party leader was roundly applauded when he declared that—

> There can be no war—nay, it is absolutely impossible, if you and we do our duty in making the peace pact effective, that any section of our arms, whether land, or sea, or air, can ever again come into hostile conflict.

The conference MacDonald espoused did take place and in April 1930 the London Naval Treaty was signed by the United States, Great Britain, and Japan. The next Englishman to address the Senate was King George VI in June 1942. Like Balfour before him, the King came in the midst of a devastating war, which had not been averted as MacDonald had dreamed in 1929.

AMERICA'S SELF-INTEREST IN HELPING GORBACHEV

Mr. PELL. Mr. President, the New York Times this morning, October 7, published an extraordinary article by Whitney MacMillan and Richard H. Ullman entitled "America's Self-Interest in Helping Gorbachev." Mr. MacMillan is chief executive office of Cargill Inc., and Richard Ullman is a very distinguished professor of international affairs at Princeton University. Both are members of a task force convened during the last 6 months to assess recent Soviet reforms and to suggest what would be wise policy responses for the United States. This task force, organized by the Institute for East-West Security Studies, has among its membership some of the most experienced and knowledgeable Americans who have dealt with Soviet affairs. So this is a group, and a report, that deserves to be taken seriously.

In their analysis, Professor Ullman and Mr. MacMillan take account of the argument often heard that any apparent move toward "reform" in the Soviet Union should be viewed with suspicion, the argument summed up in the homely precept that "a well-fed Russian bear may be even more dangerous for the West than one on short rations."

In rejecting this view, their article states:

> Such a projection may someday be valid. But that would be many years from now, and if Mr. Gorbachev succeeded in his plans the Soviet Union would likely by then be a considerably changed society with a growing stake in a moderate international order. Thus any risks for the West in Mr. Gorbachev's success would more than be balanced by the likely benefits.

Professor Ullman and Mr. MacMillan cite chapter and verse to demonstrate that Mr. Gorbachev "has begun to move Soviet policy in a number of directions that are broadly compatible with longstanding Western interests"—in agreeing to the U.S. proposal to eliminate all intermediate range nuclear missiles; in accepting onsite inspections for verification of nuclear reductions; and in revising long established Soviet precepts on reductions of conventional forces in Europe.

The same appears to be true in Soviet domestic policy, where Gorbachev's leadership has sought to move the Soviet internal economy in directions that will enable it to respond to market forces. Improvements in the area of human rights have been widely reported and stand at the heart of the glasnost that has become the signature of Gorbachev's policy.

Mr. MacMillan and Professor Ullman conclude:

> None of these suggested measures is irreversible. None will weaken the West . . . Where they strengthen the Soviet Union they strengthen those elements that most want to move Soviet society in directions that further long-run Western interests in a moderate international order.

In short, while we should continue to be realistic in our appraisal of these changes, there is every reason, on the basis of careful, clear-eyed analysis, to hope for their success as being in our own national interest, as well as that of the people of the Soviet Union.

Mr. President, I ask unanimous consent that the full text of the article from today's New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 7, 1987]

AMERICA'S SELF-INTEREST IN HELPING GORBACHEV

(By Whitney MacMillan and Richard H. Ullman)

Mikhail S. Gorbachev's remarkable efforts to transform the Soviet economy—and, perforce, Soviet society—have captured the attention of the American public. That is scarcely news. But what is striking is the breadth of the developing consensus among knowledgeable Americans that it is very much in the interest of the goal of American policy to help him.

Over the last six months, a 37-member task force, called together by the New York-based Institute for East-West Security Studies (we are both members), has been meeting to assess the Soviet reforms and to suggest policy responses for the United States. The group will present its report at an international conference in St. Paul, Minn., next weekend.

Among the members are former officials of several recent administrations, including Ronald Reagan's. At the outset, many were skeptical that Mr. Gorbachev intended fundamental changes. But last June's meeting of the Communist Party's Central Committee convincingly demonstrated not only the far-reaching nature of his agenda but also that he enjoys sufficient support to set change in motion.

The task force's consensus view—that it is an American interest to encourage Mr. Gorbachev's reforms—was not a foregone conclusion. Against it was the argument that a well-fed Russian bear may be even more dangerous for the West than one on short rations.

If the Soviet Union provided a formidable threat when its economy was woefully inefficient, the threat might only be magnified when higher productivity meant fewer economic constraints on Soviet power.

Such a projection may someday be valid. But that would be many years from now, and if Mr. Gorbachev succeeded in his plans the Soviet Union would likely by then be a considerably changed society with a growing stake in a moderate international order. Thus any risks for the West in Mr. Gorbachev's success would more than be balanced by the likely benefits.

To succeed, Mr. Gorbachev needs not merely to channel resources away from the military sector toward civilian consumption but toward civilian investment as well. He also needs to provide much more scope for entrepreneurial creativity. That means giving the individual managers of factories and farms a larger voice in allocating resources and freedom from control by a heavy and deadening central bureaucracy.

As Mr. Gorbachev has emphasized in his public pronouncements, that means introducing something approaching market mechanisms in the place of rigid price and quantity controls. It also means the widespread adoption of information technologies that are incompatible with the secretive, closed society that has until now been synonymous with Soviet rule.

Teaching old bureaucracies new tricks is scarcely new. Mr. Gorbachev has made clear that he seeks not merely to induce the Communist Party apparatus and economic planners to behave in radically different ways but also to curb the powers of the military and the internal security services.

Mr. Gorbachev has also made it clear that in his view restructuring the economy requires international stability. That is not simply because higher spending on arms absorbs vitally needed resources. Unstated, but surely on his mind, is the danger that if the security apparatus can point to a growing threat from abroad, or if it can allege that he has allowed the Soviet Union to fall seriously behind the United States in military preparedness, it might use such arguments to unseat him.

During the last year, while Mr. Gorbachev has been consolidating his power, he has begun to move Soviet policy in a number of directions that are broadly compatible with long-standing Western interests.

In the military realm, he has accepted President Reagan's proposal for eliminating all intermediate-range nuclear missiles. In so doing, he will have to scrap several times the number of warheads Mr. Reagan will. Moreover, he has also agreed to intrusive on-site inspections, heretofore anathema to the Soviet Union.

Perhaps even more significant, Mr. Gorbachev has raised the prospect that Moscow might accept asymmetrical reductions of conventional forces in Europe, and he has suggested that "sufficiency," rather than superiority over or parity with the West, should be the appropriate measure for structuring Soviet military forces.

On his economic agenda, Mr. Gorbachev has come forward with proposals for making the Soviet internal economy responsive to market forces and for substantially increasing Soviet participation in the international economy. In the area of human rights, he has introduced a degree of openness and toleration of dissent that would have seemed unthinkable when he came to power two and one-half years ago. And there are signs that there will soon be a substantial easing of the barriers that now prevent Soviet citizens from emigrating.

The West should welcome these measures as significant. While their long-term success is obviously uncertain, they nevertheless hold out the promise of a further moderation of Soviet power and an opportunity not only to develop additional areas of East-West cooperation but to institutionalize them so as to make it more likely that they will survive changes in the leadership of both superpowers.

Mr. Gorbachev's programs are not unopposed. Resistance seems to be coming from just those circles that are most fearful of and hostile to the West. If he were to fail, his successor would be likely to come from those circles. The West should therefore seek to strengthen his hand. The task force reached that conclusion in full awareness, however, that the game now being played out in Moscow is very much a Soviet contest, with local rules and local prizes. The West is likely to have only marginal influence over its outcome. But the stakes for the West are such that the margins are important.

The chances for effective influence are probably greatest in the security sphere. Mr. Gorbachev sorely needs to cut military spending. This priority might make it possible to reduce conventional force levels, especially in Europe, and in doing so eliminate some of the forces—in particular, forward-based armored units—that pose the greatest threat of surprise attack.

Similar motivations—most notably the desire to avoid a costly race to deploy defenses against missile attacks—might make possible the rapid conclusion of an agreement that combined deep reductions in strategic offensive nuclear forces with a reaffirmation of the existing SALT I treaty so as to assure that any research on strategic defensive systems is within permissible bounds.

Within the economic sphere, Western governments and companies should welcome Soviet efforts to develop the legal foundations for a system of equitable joint ventures. And while Western governments should not subsidize credits, neither should they oppose the extension of credits at commercial rates.

If Moscow continues to demonstrate heightened respect for human rights, Congress should bring United States policy into line with that of our allies by repealing the Jackson-Vanik and Stevenson amendments restricting trade and credits. Except in the precisely defined area of strategic technologies, East-West trade should be expanded.

Finally, if the Soviet Union demonstrates that operational decentralization of the economy is genuine, so that prices reflect costs and commercial information is freely available, the West should respond favorably to Soviet initiatives such as requests for observer status in international trading and monetary organizations that would tie Moscow more closely into the world economy.

None of these suggested measures is irreversible. None will weaken the West. All are worth taking whether or not Mr. Gorbachev's reforms turn out to be deep-seated and long-lasting. Where they strengthen the Soviet Union they strengthen those elements that most want to move Soviet society in directions that further long-run Western interests in a moderate international order.

The changes now under way as Mr. Gorbachev attempts to modernize and liberalize the Soviet Union are among the most encouraging developments of our era. The West should always realistically appraise them, but it should also hope for their success.

IN MEMORY OF THOMAS E. KEPPLE

Mr. DODD. Mr. President, I would like to pay tribute to a long-time constituent of mine, Thomas E. Kepple, who passed away on September 22 at the age of 74.

A resident of Stonington, CT, Mr. Kepple loyally served his community and State as an active member of the Southeastern Council on Alcoholism and Drug Dependence, Inc. He was devoted to the fight against drug and alcohol abuse.

Mr. Kepple proudly served his country as a member of the 93rd Armored Division during World War II and later as an integral player in the development and maintenance of our Nation's defense system as an employee of the Electric Boat Division of General Dynamics.

Mr. Kepple was an outstanding citizen. His commitment to his community, State and country are a fine example for all in Connecticut.

I offer my deepest condolences to the Kepple family. My thoughts and prayers are with them.

DEATH OF THOMAS D'ALESANDRO, JR.

Mr. DODD. Mr. President, it is with great sadness that I rise today to remember Thomas D'Alesandro, Jr., a great American, and the father of a good friend of mine, Congresswoman NANCY PELOSI. Tommy, as everyone knew him, passed away during the August recess, leaving behind a host of admirers who were touched by his life and its many achievements. Others before me have done an excellent job of enumerating his many accomplishments but, Mr. President, I would like to take a few moments today to highlight again some of the things that made Tommy D'Alesandro such an extraordinary and inspiring individual.

Tommy was a doer. He served the people of Baltimore with distinction as a State delegate, a U.S. Representative, and mayor. As a Member of Congress during the New Deal, he went to bat with President Roosevelt to get jobs for his constituents, and was successful. As a three-term mayor of Baltimore, he worked to transform that city into the great metropolis it is today. He pushed through an urban renewal program to revitalize the downtown area, and he improved neighborhoods by building an unparalleled number of schools, roads, and hospitals. He was responsible for the development of Friendship Airport, which we now know as BWI. And of course he brought the national pastime back to Baltimore, as the St. Louis Browns became the Baltimore Orioles in 1954.

Tommy D'Alesandro's life also serves as a great inspirational example. His was the type of success story that embodies the American dream. As 1 of 13 children of an immigrant laborer, he had to quit school at age 13 to earn money for his family. He worked in factories, he sold insurance, and he continually nurtured his love for politics. America is a land of opportunity, because of this all his hard work paid off. He rose from humble beginnings to be a political leader of national importance, to be on familiar terms with Presidents.

Despite his success and fame, however, he remained all his life a man of the people, never forgetting that it was his job to serve. He never forgot his roots among his friends and neighbors in Baltimore's Little Italy section, and he lived there his entire life. Such loyalty is both heartening and reassuring in a world where it sometimes seems all too rare.

Tommy instilled in his offsprings and in others a love for public service that will be perhaps his most lasting legacy. Many an aspiring politician began their career under his tutelage. The people of Baltimore were blessed when Tommy's son, the Honorable Thomas D'Alesandro III was elected mayor in 1967. And of course, it was just a few months ago that Tommy D'Alesandro—former mayor, former Member of Congress sat in the House beaming with pride as his daughter NANCY PELOSI took the oath of office as a U.S. Representative.

I know that Tommy D'Alesandro's life, Mr. President, will continue to be an inspiring example for all of us. A dedicated public servant, a loyal husband, father, and neighbor, and a man who encouraged others to aspire to public service, he will never be replaced, and he will be greatly missed.

REED BUDGE: ROCK OF THE IDAHO LEGISLATURE

Mr. SYMMS. Mr. President, Reed Budge, a great leader in the State of Idaho for more than two decades, died recently in his hometown of Soda Springs. He was a friend of mine and he will be missed by many others.

Thousands were influenced by his life of public service, his example of personal integrity, and his love for his family and friends.

Reed was also a dedicated American patriot. As he served in the U.S. Army during World War II as a medic in the Second Armored Division, his commitment to his country earned him the Purple Heart, the Silver Star, and five battle stars.

Reed's greatest contribution to the State of Idaho was his pervasive conservative influence in the State legislature for 20 years, as he battled big government and fought to preserve the rights of the individual.

His colleagues in the Idaho Senate will remember him as a representative of the people who stood true to his deep convictions of conservative principles and ideals. The respect he commanded as the chairman of the Transportation Committee and president pro tem for two terms made him the "rock of the Idaho Legislature."

Reed Budge also had a strong belief in the importance of family. While serving in the legislature, he often returned home to Soda Springs on weekends to spend time hunting and fishing with those he loved most. Some of his most favored memories came from his experiences with his children in the Idaho outdoors, and, indeed, they and his wonderful wife were his most cherished friends.

Mr. President, I have two articles that were published in honor of Mr. Budge; I ask unanimous consent that they be inserted in the RECORD immediately following my remarks, and encourage my colleagues to read them and consider the example set by Reed Budge.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BUDGE NEVER BUDGED AGAINST CONVICTIONS

(By Quane Kenyon)

BOISE.—Former state Senate power Reed Budge, who died at his Soda Springs ranch at age 66 last week, was a fixture—and a power—in the Idaho Legislature for 20 years.

That he held to his very conservative convictions, no matter what, was pointed up in 1974.

Prodded by Gov. Cecil Andrus, the Idaho Legislature was pushing through a major reorganization of state government.

Over the years, nearly 270 separate state boards, commissions, agencies and departments had sprung up, and some lawmakers said the huge number made it almost impossible to govern them all properly.

McCall lumberman Warren Brown, then a state senator, spearheaded a series of meetings in the summer of 1973, preparing to reorganize state government into no more than 20 executive departments.

The plan went before the 1974 session. Legislative leaders took it to their caucuses and got general agreement that no one would try to tear it apart. The theory was that if anyone started making small changes, the entire proposal would fall apart.

Budge stood almost alone in arguing, and voting against, the reorganization plan.

He told Senate members that if they thought it would cut government, result in less state spending and fewer employees, they should think again.

The Legislature passed the plan anyway. True to Budge's predictions, state government continued to grow in the 1970s, and there were no major cutbacks in the number of employees then.

In a generally conservative state, Budge could be considered far more conservative than most Idahoans, and he didn't mind standing alone when he felt the other legislators were wrong or were approving spending that wasn't absolutely necessary.

Budge served many years as chairman of the Senate Transportation Committee, and his intransigence on tax matters made it futile even to consider such legislation in his committee.

Budge was elected the Senate's presiding officer in 1978 when Phil Batt of Wilder gave up the job to run for lieutenant governor and later governor. He held the president pro tem post for four years, then was defeated in 1982 by the man who still holds the job, Sen. James Risch of Boise.

Budge wasn't happy over being ousted as pro tem by Risch. But he didn't take it out on anyone and quitely went back to being chairman of Transportation and representing the southeastern corner of the state.

Partly because of his opposition to Andrus' programs, the governor in 1976 personally went into Budge's district to campaign for his Democrat opponent, J. David Roberts of Preston. Budge won, anyway, 6,227-4,287 and never was seriously challenged again.

He was a rugged outdoorsman, and often during his legislative service would leave the weekend parties, lobbying efforts and dinners to the others and return to his ranch. After a weekend at home, he came back and talked about enjoying riding the range in sub-zero temperatures more than taking part in city diversions.

EX-LEGISLATOR DIES AFTER HEART ATTACK

SODA SPRINGS.—Former state Sen. Reed Budge, a veteran of 20 years in the Idaho Legislature and two terms as Senate president pro tem, died Friday of an apparent heart attack. He was 66.

Relatives said Budge, who had been in good health, was stricken at his Soda Springs home about 1:30 p.m. and died a short time later at Caribou Memorial Hospital.

Budge, the grandson of one of Idaho's early pioneers and political leaders, was appointed to the Idaho Senate in 1967 while he served as a Caribou County commissioner. He retired from the Senate after the 1986 session.

Budge was elected Senate president pro tem late in 1978 and served in that office through the 1982 session. For many years, Budge was chairman of the Senate Transportation Committee.

Political colleagues were saddened by Budge's death, and remembered Budge as an extremely honest, and unflinchingly conservative, lawmaker.

"Reed had been involved in politics in Idaho for more years than I can count," Idaho Republican Party Chairman Blake Hall said Saturday. Hall described Budge's death as a "tremendous loss."

"I felt like he was one of the most consistent conservative senators that I had the opportunity to work with," said Sen. Mark Ricks, R-Rexburg, the Senate's Majority Leader, "He did not yield to special interest groups."

Budge served as pro tem during extremely difficult fiscal times, Ricks said, and saved Idaho taxpayers millions of dollars during that time.

"He was a good leader for that period of time," he said. "He was very thorough and consistent."

Sen. James Risch, R-Boise, who succeeded Budge as pro tem in 1982, said he was shocked by Budge's sudden passing.

"It's a great loss to the Republican Party—there's no question about that," Risch said.

Risch described Budge as a "very honest man and very true to his convictions," which was reflected in his career as pro tem.

"His leadership was geared toward moving the state toward his conservative philosophy," Risch said.

Contrary to his image in the media, Budge "was a very warm person, a very caring person," who interacted well with people, Risch said.

Sen. Dennis Hansen, the Soda Springs Republican who succeeded Budge last November, said he received a great deal of support from Budge.

"It was nice last year, a few times, to lean on him," Hansen said. "He did help me a lot."

Hansen said he called Budge for guidance several times last session. While he offered background and advice, Hansen said Budge never pressured his voting decisions. Likewise, Budge did not try to exert influence through Hansen, the freshman senator said.

"I had to initiate it, and when I did, he was very helpful," Hansen said.

Hansen also praised Budge as a "valiant fighter" for his convictions.

"I know he put in an awful lot of hours outside of the legislative session working for the people," he said.

Budge's unwavering devotion to conservative causes was the object of humor at his retirement roast in Preston earlier this year. Lt. Gov. C.L. "Butch" Otter, who served as a senate page while Budge was in office, said the first thing he heard about Budge was that "he can't read and won't budge."

"You always knew where he stood," he added.

Budge's son Randy also noted that his father's conservative leanings made him more than a few political enemies.

"When dad was considering running for re-election, he weighed his campaign fund against his retirement fund," Randy Budge said at the roast. "When he got seven contributors to his retirement fund, he figured it was time to quit. The seven were Gov. Andrus, Gov. Evans, the AFL-CIO, the IEA, Idaho Fish and Game, Sierra Club and the NAACP."

Despite philosophical differences with the conservative Budge, area Democrats said they enjoyed good personal relations with him.

Former governor John Evans, who was chief executive of the state from 1977 until last year, said Saturday of Budge: "Idaho has lost a true friend and leader."

The Malad native recalled that he and Budge went to the Legislature together in 1967 and were very close friends, "even though we were on opposite sides of the fence."

"I always had high respect for his honesty, integrity and his drive to accomplish things important to Idaho and its people.

"And while we very seldom voted alike on any issue, I continue to hold him in high respect," Evans said.

Sen. C.E. "Chick" Bilyeu, D-Pocatello, said Budge was governed by "a very strong set of principles that he believed in . . .

"He was a lot of fun to be around," Bilyeu said. "We got along well personally, although our political views were different."

Sen. Bert Marley, D-McCammon, said consistency was one of Budge's hallmarks. However, Budge would not hold grudges over political disagreements.

"He was always friendly to me," Marley said. "You could disagree with him and still like him."

Budge, a livestockman, was a much-decorated World War II veteran. As a young medic, he landed with the 2nd Armored Division on Omaha Beach.

Later, he was wounded in the Battle of the Bulge and earned five battle stars, the Purple Heart and the Silver Star.

After the war, he took over a huge but broke family livestock operation and put it back into the black.

Budge was one of the Senate's most conservative members, but was extremely popular in his eastern Idaho voting district, which most of the time covered the southeastern corner of the state.

In 1974, Gov. Cecil Andrus won a landslide victory. Two years later, he came to Soda Springs to personally campaign for Budge's opponent, hoping to unseat a conservative Republican who had opposed many of his programs. But Budge won by 20 percentage points, and never was seriously threatened when he retired in 1986.

Budge was a member of a pioneer Idaho family. William Budge, a Scotsman who emigrated to the United States in 1860 as a convert to the Church of Jesus Christ of Latter-Day Saints, was sent by the church in 1868 to colonize Utah's Cache Valley.

Two years later, he moved into Idaho Territory's Bear Lake country.

William Budge, who served in the territorial legislature, had three wives and 36 children, including some of Idaho's best-known political names.

Alfred Budge was chief justice of the Idaho Supreme Court. Alfred's sons included Hamer Budge, who served four terms as Idaho's 2nd District congressman, and Walter Budge, former Utah attorney general. Reed Budge's father, was one of 15 children of William Budge's third wife.

He is survived by this wife of Soda Springs, and three sons and two daughters. Funeral services will be Tuesday at noon at the Soda Springs LDS Stake Center with Bishop Jack Christensen officiating.

COMMENDING LT. COL. SAVA M. STEPANOVITCH, U.S. ARMY, UPON HIS RETIREMENT

Mr. D'AMATO. Mr. President, I rise today to call to the attention of my colleagues and the American people Lt. Col. Sava M. Stepanovitch's extraordinary contributions to the United States of America and to the cause of freedom. Colonel Stepanovitch's story is the story of a professional soldier—a warrier of great courage and ability—who has risked his life in the service of the ideals of liberty in widely varied assignments in the armies of three countries.

Colonel Stepanovitch retired from the U.S. Army on September 13, 1987. He has left his current assignment as Chief of the U.S. Army Europe/NATO Central Army Group Liaison Mission to the Commander-in-Chief French Forces in Germany and 1st French Army (France) to enjoy civilian life for the first time since just after the conclusion of World War II.

He takes with him decorations for valor in combat from three armies—the Royal Yugoslavian Army for his service against Nazi forces during World War II, the French Army for his service against the Viet Minh in Indochina and the insurgent forces in Algeria, and the U.S. Army for his service against Viet Cong and North Vietnamese forces in South Vietnam. He also takes with him awards for outstanding performance in highly sensitive staff positions from the United States—the Joint Service Commendation Medal—and France—the National Order of the Legion D'Honneur.

This notable achievement caps a long, brilliant, and varied career which began when Colonel Stepanovitch was born in Novisad, Yugoslavia, on January 2, 1927. At the age of 15, he enlisted in the Yugoslavian Royal Army. He served in the royal forces, known as the Chetniks, taking part in a number of battles, receiving decorations for bravery under fire, and was promoted to the rank of sergeant cadet. During this period, he was responsible for saving at least 12 U.S. Army Air Corps crewmen who had to bail out over Nazi-occupied Yugoslavia. Seriously wounded in action against Nazi forces in February 1945, he was evacuated to Italy, where he recovered in a U.S. military hospital.

After release from the hospital, he traveled to France, where he completed school at the Lycee Lakanal. He then entered the French military academy, St. Cyr, receiving a commission in the French Army upon his graduation in 1951. Following completion of the French Army's Advanced Cavalry Armor School at Samur, he was assigned to the French expeditionary force in Indochina.

Serving in Indochina from 1953 to 1955, he was awarded the War Cross of the Foreign Theaters of War with bronze star, having been mentioned in brigade orders for "his enthusiasm and disregard of danger" as a young armored car platoon leader. In Indochina, he was assigned to the French Foreign Legion 1st Cavalry Regiment, the 1st Amphibious Group, and the 2d Paratrooper Battalion.

Following his Indochina tour, Lieutenant Stepanovitch was assigned to Algeria, where he served in the 2d Motorized Saharan Company of the Foreign Legion and in the Group Commando Paratroop General Reserves. He received three decorations for valor in combat during this period of Algerian service.

For his services as an armored car platoon leader, he was awarded the Cross for Military Valor with silver gilt, having been cited in corps orders for his "outstanding and unusual determination and courage." He received two other awards of the Cross for Military Valor with silver star for subsequent actions, in which he was described as being "incessantly in the forefront of every fight, being always exemplary by his utter disregard of danger."

In 1961, Lieutenant Stepanovitch resigned from the French Army and came to the United States to start a new life. Upon his arrival, he contacted Gen. William B. Rosson, whom he had known in Indochina as a result of Rosson's service as a U.S. liaison officer with the Saigon headquarters of the French Commander in Chief for Indochina.

I ask that an excerpt from a letter from General Rosson who then headed the U.S. Army's special warfare activities in the Pentagon, be printed in the Record immediately following these remarks.

As that letter indicates, Colonel Stepanovitch served his adopted country with extraordinary distinction, he received the Silver Star, the Bronze Star with "V" device and three oak leaf clusters, and the Air Medal with "V" device and six oak leaf clusters for his service in Vietnam. I ask that the citation accompanying that award be reprinted as well.

The American people owe this distinguished soldier a debt of gratitude, and their sincere thanks for a job well done. His service on the battlefield, in the classroom, and as a soldier-diplomat should serve as a model and inspiration for aspiring officers. And, indeed, all Americans wish him the best in his civilian pursuits, in confidence that he will be as successful in his next endeavors as he has been as a solider.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Excerpts From an August 20, 1987 Letter From General Rosson (Retired)

". . . It became evident that Stepanovitch wished to resume military service as an officer in the US Army. Unfortunately, regulations were such as all but to rule out this possibility. Moreover, it also became evident that his command of English was so limited as to require appreciable upgrading.

"With the help of several officers in my [Rosson's] organization who took an interest in Stepanovitch, wheels were set in motion to explore the feasibility of a special commission, to arrange instruction in English (eventually at Georgetown University) and to enquire as to whether the CIA might wish to interview him. Whereas the latter initiative produced several discussions, and whereas Stepanovitch signified to me at one stage that he was considering seriously a proposal made to him by the CIA, he decided ultimately against accepting it. . . .

"During this same period the Army's special warfare directorate within my [Rosson's] organization was able to employ Stepanovitch as a civilian consultant on counterinsurgency, thus capitalizing on his experience in Indochina and North Africa. (President Kennedy's emphasis on counterinsurgency at the time provided a receptive environment for utilization of individuals who possessed desired qualifications.) He worked with a contract group located at American University, devoting much of his effort to producing documents for army counterinsurgency education and training. He also worked with the U.S. Army Special Warfare Center and School at Fort Bragg, North Carolina.

"This was Stepanovitch's status when I [Rosson] left the Pentagon for reassignment in July 1963. Before my departure, however, I conferred with both the Secretary of the Army and the Chief of Staff of the Army concerning him, and urged that consideration be given to granting him a special direct commission based upon his experience and his potential. Early in 1965 he was commissioned as a captain. I do not know the provisions under which the commission was approved, but I recall meeting him at Fort Bragg soon thereafter where he was serving with the special warfare center.

We made a parachute jump together on that occasion, and I suspect that it was the first jump he had made since leaving the French Army. . . .

"All of Stepanovitch's service in Vietnam as an officer of the U.S. Army occurred during periods when I was assigned there as well. I recall his having been an advisor to South Vietnamese Airborne Division, 1966; the S-2 (intelligence officer) of a battalion of the 1st Brigade, 101st Airborne Division, 1967; and an assistant operations officer on the staff of the aforementioned brigade, 1968. In all of these assignments his knowledge of Vietnam and of the Vietnamese people enabled him to contribute importantly to plans and operations involving interface with South Vietnamese units and the civilian population. As commander of the corps-level force to which the 1st Brigade, 101st Airborne Division was assigned, it was my honor to decorate him with the Silver Star for gallantry in action, and I was aware of two other acts of valor for which he was awarded the Bronze Star. When he was serving with the U.S. Army Special Forces unit in Thailand in 1971, I observed his experience and professionalism at work during the course of a field visit made when I [Rosson] held the post of commander in chief, U.S. Army Pacific."

The following description from the August 25, 1968 citation for his Silver Star award illustrates the the level of heroism he displayed:

"For gallantry in action in the Republic of Vietnam on 7 October 1967. At 2000 hours on 7 October 1967, the Tactical Command Post of the 2d Battalion (airborne) 327th Infantry, located near Chu Lai, Republic of Vietnam, received a heavy ground attack with grenades and B40 rockets. The initial attack was on the perimeter outposts nearest the battalion command post and spread to other outposts around the perimeter. Captain Stepanovitch immediately moved to the outposts receiving the initial attack. . . . By this time the intensity of the attack had grown to a full assault on these positions. With complete disregard for his own safety, Captain Stepanovitch moved from position to position, directing fire and attempting to organize the situation. . . . He directed fire, established communications, and controlled the ammunition resupply until reinforcements could be deployed, and friendly mortars and artillery effectively employed to halt the attack. His conduct and leadership under fire were inspirational in halting the attack without further loss to friendly troops."

NATIONAL EMPLOY THE HANDICAP WEEK—OCTOBER 4-10, 1987

Mr. DOLE. Mr. President, each year in October we celebrate "National Employ the Handicapped Week" to focus national attention on creating job opportunities for the disabled. Employment is the key to full participation in American society. Without a job and the money it brings in, we become dependent on society instead of contributing to it.

When we enacted the unemployment rate the disabled population was approximately 70 percent. That was about 10 times the national average.

Since then, the Federal Government has attacked the problem on several fronts. We passed laws prohibiting discrimination against an individual merely because he or she was disabled. We continue to support programs to help disabled individuals receive vocational guidance, training, and assistance with placement. We passed tax deductions and credits for employees and employers to help encourage businesses to hire the disabled. And we also passed tax incentives to help the disabled become employed and remain employed. I was pleased to play a role in helping enact a special itemized tax deduction for the severely handicapped.

Through the President's Committee on Employment of the Handicapped, we continue a significant publicity drive to encourage employers, including the Federal Government, to hire persons with disabilities. We are reviewing our disability support programs, such as supplemental security income, to remove disincentives to work. And we fund research into rehabilitation engineering so that severely disabled individuals may benefit from recent advances in technology.

As a result of these initiatives, and because employers realize that it makes both economic and social sense, more disabled individuals are working today than ever before. Corporations and public agencies interested in cutting costs are reviewing their disability retirement and workman's compensation programs and developing mechanisms to help disabled employees return to work. Some corporations have even found it economical to contract with rehabilitation facilities for severely disabled individuals to work onsite with the support of rehabilitation specialists. I would especially like to commend two companies in Kansas, Quaker Oats and Packer Plastics, for hiring some 50 severely disabled individuals in a support employment initiative. The opportunity to work in a real work setting, and the chance to interact with other employees who may not be disabled, has helped these severely disabled individuals to gain the self-confidence and ability to succeed on their own in competitive employment. Quaker Oats was so convinced about the economic and social value of this experiment that they produced a tape entitled "It's Just Good Business." I think all of my colleagues in the Senate should see it.

But there is still alot to be done. A 1986 Harris poll indicated that 67 percent of the disabled population was unemployed. This is 12 years after passage of the Rehabilitation Act and the unemployment rate among disabled individuals is still 10 times the national average.

I am not sure why we have not made better headway against the unemployment rate. But whatever the problem is, I intend to be part of the solution. I look forward to working with my colleagues in the Senate, disability organizations, unions, and employers both public and private to find the solutions with the honest hope that we can make significant inroads against the unemployment rate in the next 12 years.

As a nation we cannot afford economically or socially, to allow these human resources to go unutilized and dependent on society.

We made a promise in 1974 that we would open the doors of opportunity to disabled individuals. We have in some ways, but I think it is time for us to renew that promise and together solve this problem.

RETIREMENT OF SENATOR PROXMIRE

Mr. WIRTH. Mr. President, I rise today to give tribute to my friend and colleague, the senior Senator from Wisconsin, WILLIAM PROXMIRE. The record BILL PROXMIRE has amassed in the U.S. Senate throughout his 30 years in this Chamber sets a number of standards those of us who are relatively new to this body can only hope to emulate.

In my mind, perhaps Senator PROXMIRE's greatest role in the Senate has been his prescience of, and efforts to battle, the Federal budget deficit. Along with many of you, I believe that one of the very greatest challenges those of us in the Congress face today is the thorny issue of how to deal with the budget deficit. While our concern about this particular problem is certainly genuine, the relatively recent arrival of so much concentration on this issue stands in contrast to BILL PROXMIRE's record as a champion of fiscal restraint.

Senator PROXMIRE's famous "Golden Fleece" awards have become a focal point for those of us who have tried to spotlight and eliminate waste anywhere it is found in the Federal Government. I was recently reminded of one of my favorite "Golden Fleece" awards, which was given in 1977 to the Department of Agriculture for spending $46,000 to find out how long it takes to cool breakfast. It certainly has made a difference in my life.

BILL PROXMIRE's legendary frugality, however, did not end with his role as a watchdog on Government spending. I think it is particularly fitting that, after we have just temporarily moved off the debate concerning limiting the skyrocketing cost of elections, we look to the example BILL has set in his various campaign efforts. In 1976, for instance, Senator PROXMIRE was elected by a 2-to-1 margin, having spent the grand sum of $177.75. The 1982 campaign proved to be a little easier on the pocketbook, costing a total of $145.10. Although this is in large measure an indication of the great affection the people of Wisconsin have for their beloved Senator, it is certainly a campaign spending record without equal in this age of multimillion dollar campaigns.

As my colleagues have previously noted, Senator Proxmire has never been timid about standing up for his beliefs. His tenacious efforts to pass the Genocide Treaty—speaking on the Senate floor on its behalf every day the Senate was in session for 19 years—are the stuff of legend. The dedication Bill showed to deeply-felt principles eventually paid off through the passage of this measure on February 19, 1986. The saga of this treaty remains an example of the difference one Senator can make in this body.

Speaking of legendary performances, it is hard to imagine a more durable mark than Senator Proxmire's record of continuous rollcall votes, which he continues to surpass every day. Like Joe DiMaggio's streak of hitting safely in 56 consecutive games, Bill Proxmire's record of over 10,000 consecutive rollcall votes will undoubtedly remain safely esconced in Senate lore for the foreseeable future. As any baseball fan will tell you, most records were meant to be broken, but the ones that endure do so mostly as a result of the recordholder's dedication, his perseverance, and, most importantly, his ability to keep his eye on the ball. Bill has certainly demonstrated these qualities in abundance throughout his Senate career.

As a new member of the Senate Banking Committee, I am particularly cognizant of the contributions Senator Proxmire has made to the laws of the land with regard to the financial services industry. The Truth-In-Lending Act and the Competitive Banking Equality Act are only two of the many examples I could cite. I regret that I will have the opportunity to witness and learn from his leadership on the committee only for the remainder of this Congress.

I know that I will miss Bill Proxmire being in the chair of the Banking Committee. More to the point, however, I will miss his tenacity, his sense of commitment, and his devotion to the task at hand that have marked his service here.

I wish him the very best. I look forward to continuing to work with him and to learn from him during the remainder of the 100th Congress.

HONOR AND MEMORY OF JUDGE JAMES A. SPRUILL, JR.

Mr. THURMOND. Mr. President, the State of South Carolina suffered a great loss with the death of Judge James A. Spruill, Jr., who died on Saturday, August 29, 1987 at the age of 79.

Judge Spruill was one of the most respected men in my State. His integrity, intellect, and sound judgment led him to become one of the most capable jurists in South Carolina. Judge Spruill was elected to the bench in 1961 and served as a circuit judge until 1979, continuing as a special referee and acting judge until 1983.

As a Rhodes scholar and then as a professor of law at the University of South Carolina and the University of Georgia, Judge Spruill sought knowledge and truth in its purest form, and imparted this wisdom in his gentlemanly manner in all of his endeavors. Elected in the 1950's, Judge Spruill served in the South Carolina State House of Representatives for 10 years. He continued his political service when he was appointed to the governing board of the department of health and environmental control in 1983.

His life will serve as an example for future generations of statesmen, politicians, and judges. We are saddened by the death of Judge James A. Spruill, and I join with my colleagues in extending deepest sympathy to his lovely wife, Eleanor, and other members of his family during this time of bereavement.

Mr. President, I would like to ask unanimous consent that two editorials on Judge Spruill from the State and the Cheraw Chronicle and an obituary from the Cheraw Chronicle be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

Scholarly Judge

James A. Spruill Jr., who died last weekend at the age of 79, served South Carolina with scholarly distinction for nearly four decades.

Few individuals who have donned the black robe in this state have possessed the qualities of Judge Spruill—studious intellect, wit, compassion and gentlemanliness. He kept courtroom proceedings firmly in hand without being overbearing. He earned respect by displaying it at all times towards others.

As a member of the state House of Representatives from Chesterfield County in the 1950s, Mr. Spruill stood apart from the rough-and-tumble demeanor of many of his colleagues. His courtly manner, grace and command of language attested to his student days as a Rhodes Scholar at Oxford University and as a teacher at the law schools of the University of South Carolina and the University of Georgia.

Mr. Spruill served 10 years in the House before his election to the bench in 1961. Most of the time, he kept his counsel. But when he chose to speak, other legislators stopped talking and listened. So did the normally jaded newsmen, whose reactions to State house rhetoric tended, more often than not, towards ennui and cynicism.

We well recall the time when the House Ways and Means Committee chairman was explaining why something had been written into the state budget. Unconvinced, Mr. Spruill rose and proceeded to pick apart the chairman's argument, courteously but methodically. As far as he, Jimmy Spruill, was concerned, the chairman was indulging in nothing more than "sugar-coated sophistry."

Such civilized talk is always a pleasure to hear, especially in a forum so frequently given over to oratory heavy with cliches, crassness and crudity.

Judge Spruill retired from the circuit bench in 1979, but continued to serve as a special referee and acting judge until 1983. That year, he was appointed to the governing board of the Department of Health and Environmental Control.

During a long and productive life, James A. Spruill gave generously of his time and talents to his state. His counsel will be sorely missed.

. . . As Good a Friend As I Ever Expect to Have

(By Laura R. Harris)

After the news of Judge James Spruill's death spread throughout the state, local mourners seemed to agree that Spruill had done more than his share for mankind, and that his death will be grieved by many.

Fourth Judicial Circuit Court Judge James Spruill, Jr. died in Cheraw August 29, following an extended illness. He served the State of South Carolina on the bench for almost 18 years before he retired on December 31, 1978. Since his retirement he served as a special referee and acting judge until his appointment by former Governor Dick Riley in 1983 to the Board of Directors for the S.C. Department of Health and Environmental Control (DHEC).

"Regardless of their creed, color or race, each person received from him equal courtesy and respect," said Mrs. John W. Justice, who worked very closely with Judge Spruill as his secretary for numerous years.

According to Fourth Judicial Circuit Court Judge C. Anthony Harris, who practiced law with Spruill from 1955-1961, Spruill was one of the most intelligent men he has ever come in contact with. "When a person like Jim Spruill dies, it reminds me of something that was said about Clarence Darrow (a famous lawyer of the early 1900's) when he died . . . 'In the great flood of humanity that is spawned upon the earth, it is not often that a man is born.'"

T. Belk Ingram, local attorney and Chesterfield County Magistrate said that Spruill was a genuine person who had a great legal intellect. "He was certainly a most compassionate fellow for his fellowman."

Representative Jean Harris said that Spruill's many contributions to the community will never be forgotten. "He was always a gentleman, and one of our most beloved citizens."

According to local attorney William P. Griggs, Spruill influenced his life in professional and personal ways. "When I first began working as a page in the S.C. House of Representatives in January of 1959, Judge Spruill sponsored my appointment. He was like a father in his concern and support, and he was a sounding board and mentor for not just me, but for our entire law firm. He was as good a friend as I can expect to have," Griggs said.

Local attorney C. Anthony Harris, Jr. said that Spruill was widely known and respected for his even temperament, keen intellect and his genuine kindness and concern for others. "His legal career was exemplary, and one to which all young lawyers should aspire."

Louise Sallenger of Florence, Spruill's court reporter for his 18 years on the bench, had one simple thought when remembering him, "Or walk with Kings—nor lose the common touch."

JAMES P. SPRUILL, JR., RETIRED CIRCUIT COURT JUDGE, INSTRUCTOR

CHERAW.—James P. Spruill Jr., 79, died Saturday.

Born in Cheraw, he was a son of the late James A. and Mrs. Louisa McIntosh Spruill. He attended Chesterfield County schools and graduated from University of North Carolina in 1928. He was a Rhodes scholar and attended Oxford University of England, where he received a bachelor's degree in modern history and political science in 1933. He received a bachelor's of law degree from the University of South Carolina in 1934 and a master's of law degree from Columbia University in 1937.

He taught at USC and University of Georgia law schools and worked for Government Administrative Services of Washington, DC. He had a private law practice in Cheraw for a number of years and was a member of the House of Representatives from 1949 to 1954 and from 1957 to 1960. He was active in civic organizations such as the Kiwanis Club and was a member of St. David's Episcopal Church. He was elected judge of the S.C. Fourth Judicial Circuit in 1961 and served until retiring in 1979, when he served as special referee and acting judge until 1983. He was appointed in 1983 by former Gov. Dick Riley to the board of directors of DHEC.

Surviving are his widow, Mrs. Eleanor Duvall Spruill; sons, James A. Spruill III of Cheraw and W. Duvall Spruill of Columbia; daughters, Mrs. Eleanor Smith of Columbia, Mrs. Louisa S. Riddick of Burlington, Vt., and Ms. Marian Spruill of Hinesville, Ga.; sisters, Mrs. Rosa S. Davis of Pinehurst, N.C., and Mrs. Louisa S. Wannamaker of Atlanta; and grandchildren.

Services will be held at 11 a.m. Monday at St. David's Episcopal Church with burial in Old St. David's Cemetery.

Memorials may be made to Old St. David's Cemetery Association of Historic Cheraw.

Norton-Rushing Co. Inc. Funeral Directors is in charge.

Mr. BREAUX. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE ROLL

The PRESIDING OFFICER. Under the previous order, the hour of 9 a.m. having arrived, the clerk is now directed to call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 26]

Adams
Bentsen
Breaux
Daschle
Ford
Glenn
Hecht
Karnes
Proxmire
Pryor
Rudman

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. BREAUX. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. PACKWOOD] is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 13, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—85

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Thurmond
Trible
Warner
Wilson
Wirth

NAYS—13

Bond
Evans
Garn
Helms
Kasten
Murkowski
Nickles
Quayle
Sanford
Stevens
Symms
Wallop
Weicker

NOT VOTING—2

Packwood
Simon

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 85, the nays are 13. A quorum is present.

The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, we had been talking last night about the Symms amendment which is eligible to be brought back before the Senate at any moment, and there will probably be a tabling motion thereon which would mean another vote immediately. But it was indicated that overnight on that amendment there might be a decision to withdraw that amendment.

Can the distinguished manager or managers enlighten us on this subject?

There are other amendments that we can get time agreements on this side. I will not state them now until both managers are on the floor. I would hope at some point that when the two leaders are on the floor together we can see where we are going on this bill and how fast we are going to get there. We want on the bill Friday. We were on it yesterday.

We have made good progress, but I hope to be able to bring up the catastrophic illness bill tomorrow. If we hope to complete action at all on this bill today, we need to cut down on the number of amendments or get some time agreements thereon or in some fashion move ahead more speedily.

I yield the floor.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The ACTING PRESIDENT pro tempore. The question now recurs on S. 1394, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the United States Information agency, the Board for International Broadcasting, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Symms Amendment No. 860, to express the sense of the Senate that the Senate ought not to have consented to the ratification of the Panama Canal Treaties, whereby the Panama Canal was given away and that such treaties are voidable unless and until Panama formally accepts the DeConcini Reservation and should be voided by the President if such acceptance is not forthcoming within six months of the adoption of this section.

(2) Melcher Amendment No. 851, to recommend to the President that he submit a plan for the sharing of costs involved in the use of United States Armed Forces in the Persian Gulf operation.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Chair will state the pending business before the Senate is the Melcher amendment to the bill S. 1394.

Mr. PELL. My understanding is that Senator MELCHER wants to lay that aside for a short period of time. So I ask unanimous consent that that amendment be laid aside.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. GRASSLEY. Mr. President, would I be in order to send an amendment to the desk and ask for its immediate consideration?

The ACTING PRESIDENT pro tempore. The pending business, the Chair will state, is now the Symms amendment to the bill. The Chair will state the Senator from Iowa can send an amendment to the desk.

AMENDMENT NO. 883

(Purpose: To establish a United States Commission on improving the effectiveness of the United Nations)

Mr. GRASSLEY. I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] for himself, Mr. SIMON, and Mr. MOYNIHAN, proposes an amendment numbered 883.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 111, after line 21, add the following new title:

TITLE VII—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

SEC. 701. FINDINGS.

The Congress finds that—

(1) on December 19, 1986, the Forty-first Session of the United Nations General Assembly approved major reforms in the budget decisionmaking process, the administration, and the management of the United Nations;

(2) President Reagan characterized this achievement as "an historic step to adopt sweeping reforms of its organization and methods of operation";

(3) the United States Permanent Representative to the United Nations, Ambassador Vernon Walters, has stated that the adoption of these reforms is "the beginning, not the end, of a process of reforming and improving the United Nations in the interests of all its members";

(4) the cooperation of many other member states of the United Nations as well as the United Nations Secretary General was indispensable to this historic accomplishment;

(5) the United Nations (of which the United States is a member by treaty) was established for the purposes, as enunciated in the Charter, of maintaining international peace and security, developing friendly relations among nations based on respect to equal rights and self-determinations, achieving international cooperation in solving economic, social, cultural, and humanitarian problems, and promoting respect for human rights;

(6) the United Nations has also, on occasion, strayed from its original purposes and has served as a forum for irresponsible rhetoric and politicization, such as the adoption by the General Assembly in 1975 of Resolution 3379 equating Zionism with racism;

(7) in spite of such grave lapses, the United States remains committed to the United Nations and the purposes of the Charter, not only as a member of the United Nations and one of its earliest leaders and supporters, but also as host to the United Nations headquarters;

(8) testament to the continued relevance of the United Nation's purposes and principles can be found in the President's addresses to the United Nations General Assembly, in which he declared that "the vision of the United Nations Charter—to spare succeeding generations this scourge of war—remains real" and that the United States, "which has always given the United Nations generous support, will continue to play a leading role in the effort to achieve its noble purposes"; and

(9) this is an appropriate time for the United States public and its representatives in Congress to participate in the ongoing United Nations reform process and to recommend means of making that institution more effective and responsible, consistent with the national interests of the United States.

SEC. 702. ESTABLISHMENT OF COMMISSION.

The United States Commission on Improving the Effectiveness of the United Nations (hereafter in this title referred to as the "Commission") is hereby established.

SEC. 703. PURPOSES OF THE COMMISSION.

(a) PURPOSES.—The purposes of the Commission shall be to—

(1) examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses; and

(2) prepare and submit to the President and to the Congress recommendations on ways to improve the effectiveness of the United Nations system and the role of the United States in the United Nations system, including the feasibility of and means for implementing such recommendations.

(b) SPECIAL ATTENTION.—In carrying out its responsibilities under subsection (a), the Commission shall pay special attention to the following:

(1) The mechanisms and procedures within the United Nations system for peacekeeping and conflict-resolution and ways in which they may be expanded or improved, examining in particular the functions of the Secretary General, the role of the Security Council, the use of the International Court of Justice, potential third-party dispute-solving mechanisms (as in the establishment of a United Nations Mediation and Conciliation Service), the possible creation of standing United Nations peacekeeping forces or antiterrorism units, the role of United Nations institutions in factfinding, and potential verification and inspection services to assist in enforcing compliance with international arms control agreements.

(2) Formal and informal decisionmaking procedures in the United Nations system and recommendations to modify those procedures which have emerged from various interested parties, examining in particular the role of consensus decisionmaking, the feasibility and advisability of weighted voting (including the so-called "binding triad" formula requiring multiple concurrent majorities based on one-nation-one-vote along with population and contributions), the possible modification of the Security Council veto, and the relationship of the principles of universality and democracy to decisionmaking procedures.

(3) The cost-effectiveness and administrative efficiency of the United Nations system, examining in particular the recently adopted budgetary, management, and administrative reforms, the role of the major donors in budget decisionmaking, the prioritization of programs, adjustments in assessments, potential alternative nongovernmental sources of revenue, salaries, benefits, hiring of consultants, contracts for goods and services, and appointment of staff in the Secretariat.

(4) The economic, social, humanitarian role of the United Nations system, examining in particular the optimum coordination of economic development programs, short-term and long-term response to crises and natural disasters, population health issues, refugee relief, the protection of the environment, narcotics control, the implementation of international human rights law, and the potential creation of a United Nations High Commissioner for Human Rights.

(5) United States participation in the United Nations system, examining in particular the strengths and weaknesses of United States performance, United States policy toward the International Court of Justice and international law, provisions in United States law relating to the United Nations system, ways in which the United States can better use the United Nations system to advance its national interests, the state of public opinion with regard to the United States role in the United Nations system, United States voluntary and assessed contributions, and the hiring of United States citizens in the United Nations system.

(6) Strategies and actions for promoting the implementation of recommended reforms in the United Nations system and the United States role in the United Nations system.

(c) CONSULTATION REGARDING OTHER UNITED NATIONS REFORM EFFORTS.—In carrying out this section, the Commission shall make every effort to consult, where appropriate, with other public and private institutions and organizations engaged in efforts to reform the United Nations system, including efforts being made directly under the auspices of the United Nations.

SEC. 704. MEMBERSHIP OF THE COMMISSION.

(a) MEMBERS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 18 members, appointed as follows:

(A) Two Members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the minority leader of the Senate.

(B) Two Members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the minority leader of the House.

(C) Eight individuals from the private sector, two appointed by the President pro tempore of the Senate, two appointed by the minority leader of the Senate, two appointed by the Speaker of the House, and two appointed by the minority leader of the House.

(D) Six individuals appointed by the President, not more than three of whom may be from the same political party.

(2) CRITERION FOR APPOINTMENTS.—Individuals appointed pursuant to subparagraphs (C) and (D) of paragraph (1) shall be representative, to the maximum extent possible, of the full range of American society.

(3) APPOINTMENTS TO BE MADE PROMPTLY.—All appointments pursuant to paragraph (1) shall be made not later than sixty days after the date of enactment of this Act.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(b) ADVISORS.—Former United States Permanent Representatives to the United Nations who are not appointed to the Commission shall be invited by the Commission to serve as advisors to the Commission.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission, and Advisors serving pursuant to subsection (b), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Chairman and Vice Chairman shall be elected by the Commission from among members of the Commission.

(e) QUORUM.—Ten members of the Commission shall constitute a quorum for purposes of transacting business, except that four members shall constitute a quorum for holding public hearings.

SEC. 705. POWERS OF THE COMMISSION.

(a) IN GENERAL.—For the purpose of carrying out this title, the Commission may hold such hearings (subject to the requirements of subsection (b)) and sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to fulfill the purposes specified in section 703. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) MEETINGS.—

(1) MINIMUM NUMBER OF PUBLIC HEARINGS.—The Commission shall hold a minimum of five public hearings.

(2) OPEN MEETINGS.—Section 552b of title 5 of the United States Code shall apply with respect to the Commission.

(3) CALLING MEETINGS.—The Commission shall meet at the call of the Chairman of a majority of its members.

(c) DELEGATION OF AUTHORITY.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of any such Federal agency shall furnish such information to the Commission, to the extent authorized by law.

SEC. 706. STAFF.

(a) STAFF MEMBERS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for Level V of the Executive Schedule under section 5316 of title 5, United States Code;

(2) appoint and fix the compensation of such other staff personnel as the Chairman considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) DETAILING OF GOVERNMENT PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out this title.

SEC. 707. REPORT.

The Commission shall transmit to the President and to the Congress a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, including minority views. This report shall be transmitted not later than eighteen months after the date on which all members of the Commission have been appointed.

SEC. 708. FUNDING FOR THE COMMISSION.

(a) COMMISSION TO BE PRIVATELY FUNDED.—The Commission may accept and use contributions from private United States sources to carry out this title. No Federal funds may be made available to the Commission for use in carrying out this title.

(b) LIMITATION ON SIZE OF CONTRIBUTIONS.—The Commission may not accept contributions from any single source which have a value of more than—

(1) $100,000, or

(2) 20 percent of the total of all contributions accepted by the Commission.

(c) COMMISSION APPROVAL OF CERTAIN CONTRIBUTIONS.—The Commission may accept contributions having a value of $1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions.

(d) DISCLOSURE OF CONTRIBUTIONS.—

(1) PERIODIC REPORTS TO CONGRESS.—Every thirty days, the Commission shall submit to the chairman of the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding thirty days.

(2) FINAL REPORT.—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 707.

SEC. 709. GENERAL ACCOUNTING OFFICE AUDITS OF THE COMMISSION.

The provisions of subchapter II of chapter 7 of title 31 of the United States Code (relating to the general duties and powers of the General Accounting Office) shall apply with respect to the programs and activities of the Commission, including the receipt, disbursement, and use of funds contributed to the Commission, to the same extent as those provisions apply with respect to other agencies of the United States Government.

SEC. 710. TERMINATION OF THE COMMISSION.

The Commission shall cease to exist sixty days after submitting its report pursuant to section 707.

Mr. GRASSLEY. Mr. President, it is my understanding that this amendment has been cleared on both sides of the aisle.

Mr. HELMS. I expect it has, I say to the Senator, but I need to have my memory refreshed as to what the amendment is. I do not have a copy of it.

Mr. GRASSLEY. This is the amendment that sets up a commission to study the United Nations. It is not funded with public funds. It would provide for such a commission to report back recommendations for changing the procedure and makeup of the United Nations so it can be more effective in meeting the world conditions in the 1980's and into the future.

Mr. HELMS. Would the Senator accept a modification to move the United Nations to Moscow for the next 5 years? [Laughter.]

Mr. GRASSLEY. I appreciate the Senator's dislike for the United Nations. I am sure we all understand that. But, no, I could not accept that as a friendly or unfriendly amendment.

Mr. HELMS. As Will Rogers said, "I was afraid you were going to say that."

The amendment is fine. We agree to it on this side.

Mr. PELL. We are familiar with the amendment and believe it to be approved.

Mr. GRASSLEY. Mr. President, today, along with my distinguished colleagues Senator SIMON and Senator MOYNIHAN, I am offering an amendment to the State authorization bill to establish a U.S. Commission on Improving the Effectiveness of the United Nations.

Although I am one who agrees with the original goals of the United Nations Charter, I have certainly been critical of the effectiveness of the United Nations as a functional institution. One of the most disturbing features of the United Nations has been the inflammatory nature of much of the rhetoric in the General Assembly. Unfortunately, much of this rhetoric has tended to be eventually formalized in U.N. resolutions that have led to polarization and politicization rather than reconciliation and understanding.

Mr. President, in the past, I have supported measures that have called attention to the U.N.'s difficulties. For example, in the last Congress, I supported the amendment sponsored by our able colleague from Kansas, Senator KASSEBAUM, that required the United States to cut its contribution to the United Nations from a quarter of the U.N. budget to a fifth until the United Nations made necessary budget reforms. As a result of this congressional pressure, the so-called U.N. Group of 18 was created and its proposals were adopted. Unfortunately, the only area of attempted reform included the budgetary process. Indepth program evaluation was never pursued, and even the budgetary reforms were very short on results.

Essentially, the Group of 18's answer to the U.N.'s budgetary crisis was to create a restructured Committee for Program and Coordination. The committee is supposed to operate by consensus and the General Assembly is supposed to treat the committee's budget decisions as binding, but there is no requirement to do so. Therefore, since a consensus isn't required, the United States has no more of a voice in U.N. budgetary matters that it did before the so-called reform.

Mr. President, notwithstanding the continuing debate on U.N. budgetary matters, it is my goal to push for U.N. reform beyond the budget battles into serious overall programatic reform of the United Nations. By offering this amendment to establish a commission to study the United Nations. I am attempting to make a positive contribution to this process. This amendment will establish a commission which will be charged with examining the U.N. system as a whole in order to identify and evaluate its strengths and weaknesses. The commission will be required to prepare and submit to the President, Congress, and the Secretary General of the United Nations recommendations on ways to improve the effectiveness of the U.N. system and the role of the United States in that system. The commission would not receive any Government funds, but would be entirely funded by private contributions.

Mr. President, there is a growing frustration in Congress and among the public with the flaws of the U.N. system. Nevertheless, I agree with President Reagan that the vision of the U.N. Charter—to spare succeeding generations this scourge of war—remains as real today as when the Charter was adopted. It's my hope that the offering of this amendment will encourage Congress, the executive branch, the American people and the U.N. organization to constructively address the very real problems facing the United Nations and help the United Nations to renew its commitment to be a forum where effective and responsible world debate and action can take place.

The ACTING PRESIDENT pro tempore. If there be no further debate, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 883) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 884

(Purpose: To restrict certain U.S. contributions to international organizations until certain actions to eliminate abuses of the U.N. system are undertaken)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ], for himself, Mr. COHEN, Mr. BOREN, Mr. KASTEN, Mr. QUAYLE, Mr. MCCAIN, Mr. NICKLES, Mr. SYMMS, and Mr. HELMS, proposes an amendment numbered 884.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) The Congress finds that the use of salary remission arrangements whereunder the nationals of member states of the United Nations serving as employees of the United Nations Secretariat or its specialized agencies are required to turn over their salaries to their national governments and retain only a portion of the salary paid to them by the United Nations violates the United Nations Charter and seriously compromises the independence of the United Nations' international civil service.

(b) The elimination of salary remission arrangements that compromise the independence of the international civil service should be a high priority of the United States in its efforts to reform the personnel practices of the United Nations system.

(c) Fifty percent of the funds made available for the fiscal year 1988 by any provision of law to meet the obligations of the United States for assessed contributions to the United Nations and its specialized agencies may not be obligated until the President certifies to the Congress that significant progress has been made within the United Nations Secretariat and the United Nations specialized agencies in eliminating—

(1) the excessive use of secondment by member states whereunder nationals of the member states serving as employees of the United Nations Secretariat are seconded to such employment on fixed-term contracts and not allowed to become regular career employees of the United Nations, with a view to implementing the recommendations of the Group of 18 with respect to limits on the use of secondment; and

(2) the blatant control of nationals of member states serving as employees of the United Nations Secretariat or the specialized agencies through regular supervision, consultation, and evaluation of such nationals of member states by their permanent missions to the United Nations or to the specialized agencies of the United Nations.

Mr. HEINZ. Mr. President, I thank the chairman and ranking member of the Foreign Relations Committee for accepting my amendment. This amendment is identical to one I offered 2 weeks ago to the Defense authorization bill. The Senate adopted the amendment on that bill by a unanimous vote of 95 to 0.

My amendment restricts United States assessed contributions to the United Nations until there has been progress in eliminating the excessive use of secondment, or temporary assignment, of Soviet bloc personnel to the U.N. Secretariat. This use of temporary duty by Soviet bloc nationals at the United Nations greatly facilitates the abuse of these U.N. posts for espionage directed against the United States. Ending the practice of excessive secondment will not stop Soviet abuse of the United Nations for espionage—but it will make it much more difficult.

The Senate spoke with great clarity and force 2 weeks ago when it adopted this amendment. I hope that the leadership at the United Nations, which is struggling with various management and financial problems, will take this as a signal to address this basic issue that undermines American support for the United Nations. This body supports the objectives of the United Nations. We hope that the Secretary General succeeds in improving the management of the United Nations. But we demand that action be taken to end a flagrant violation of the spirit of the U.N. Charter before we give our unstinting financial support.

I thank the managers for their cooperation. I thank my colleagues for their support on this important issue.

I discussed this with the managers and my understanding is that it is acceptable to them.

Mr. HELMS. I will accept it on the condition you make me a cosponsor.

Mr. HEINZ. Mr. President, I have to confess the Senator from North Carolina is already a cosponsor.

Mr. HELMS. I thought I was. We accept it.

Mr. PELL. This amendment has already been voted on and is acceptable.

The ACTING PRESIDENT pro tempore. If there be no further debate, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 884) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I believe the Senator from Delaware is going to bring up an amendment. I would ask unanimous consent there be 10 minutes evenly divided, no second-degree amendments.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Without objection, the Senator from Delaware is recognized to offer an amendment.

AMENDMENT NO. 885

(Purpose: To amend the Foreign Missions Act regarding the treatment of certain Communist countries, and for other purposes)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware [Mr. Roth], for himself and Mr. Dole, proposes an amendment numbered 885.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of title V, add the following:

Sec. . The Foreign Missions Act (22 U.S.C. 4301 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION TO CERTAIN COMMUNIST COUNTRIES

"Sec. 215. (a) Notwithstanding any other provision of this title, the Secretary shall apply to each foreign mission in the United States of the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Rumania, and Cuba the same terms, limitations, restrictions, and conditions which are applied under this title to the foreign mission in the United States of the Soviet Union unless the President determines and so reports in a classified document to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that national security and foreign policy circumstances require that this section be waived in specific circumstances with respect to such country or particular agency of such country.

"(b) The Secretary shall prepare and transmit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House or Representatives a report describing—

"(1) not later than thirty days after the date of the enactment of this section, the plans of the Secretary for implementing this section; and

"(2) not later than six months thereafter, the actions taken pursuant to these plans.".

Mr. ROTH. Mr. President, I rise to propose an amendment which is designed to limit the unfettered freedom with which foreign diplomats of Warsaw PACT nations move across our Nation and gain access to intelligence targets and information. This amendment would expand the Foreign Missions Act to ensure that whatever restrictions are placed on Soviet diplomats within the United States are placed on certain other block nations as well.

In the past, our counterintelligence efforts have focused primarily on restricting Soviet diplomats who reside in the United States. These efforts have proven fruitful and made it more difficult for the Soviets to run intelligence operations in the United States. Of course, the Soviets have not stopped their operations. They have simply turned on many occasions to their surrogates of the bloc, to carry out their espionage missions on U.S. territory.

In hearings before the Permanent Subcommittee on Investigations during the 99th Congress, then FBI Director and now CIA Director William Webster cited three examples of espionage operations carried out by Eastern Europeans in the United States at the behest of the Soviet Union. As his testimony demonstrated, if the Soviets do not initiate the operation, it is clear that they "piggyback" onto operations run by a bloc country if the operation involves valuable information from the United States. One of those examples cited by Judge Webster was the case of James Durwood Harper whose information on missile systems went straight to the Soviet Union, although he was recruited by a Polish intelligence officer. Assistant Secretary of Defense Richard Perle testified that some of the most serious losses we have suffered through espionage operations have been through activities by members of the Warsaw Pact. These cases, delineated during PSI hearings and periodically in our newspapers, should tell us loud and clear that the Soviet bloc works in tandem against us. We are, as Soviet defector Victor Bilenko reminds us, "the main enemy."

While we acknowledge that there are differences among the bloc nations in many areas, when it comes to their No. 1 intelligence target, the United States, they act as one. Therefore, it makes no sense for our Government to differentiate among members of the Warsaw Pact in applying restrictions. If we restrict Soviets in their travel, what sense does it make to let others who work at their direction have free access to our country? If they wish to be treated differently, let them establish a record of refusing assignments from their Kremlin bosses. We must act on the information we have, and the record of cases clearly shows them hard at work for the Soviets.

Of course, there may be circumstances in which it is in our Nation's best interest to remove these restrictions from a particular nation. My amendment contains a provision which enables the President to exempt a particular nation from these restrictions should national security or foreign policy considerations dictate. And the President can accomplish this, if necessary, by submitting a classified document to the Senate and House Intelligence Committees. Thus, my amendment allows a substantial amount of flexibility to the President.

I introduced legislation similar to this amendment during the 99th Congress which was adopted by the Senate. That bill, S. 1901, was cosponsored by 37 Senators including: Senators Nunn, Cohen, Glenn, Exon, Wallop, Symms, Boren, Rudman, Chiles, Riegle, Specter, Kennedy, Hecht, Dole, Bumpers, Burdick, Ford, Dixon, Warner, Wilson, Kasten, Proxmire, Quayle, Mitchell, Armstrong, Boschwitz, Heinz, Moynihan, Gore, Bingaman, Hatch, Levin, and Domenici.

I ask my colleagues to join me in supporting this amendment.

Mr. President, I reserve the balance of my time.

The ACTING PRESIDENT pro tempore. The Senator reserves the balance of his time. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, I oppose this amendment, particularly as one who served behind the Iron Curtain where we always had the advantage of being able to travel freely in Hungary or in Czechoslovakia in those different countries.

I think if this amendment was passed it would invite sure retaliation and limit the ability of our diplomats to travel freely in the countries of Eastern Europe, because reciprocity would be invoked and we could find our people limited.

By the same token, over here, which is an open society you do not have to do too much traveling to get a great deal of information. All you have to do is listen to people and everybody goes through New York before they are through, anyway, at the United Nations.

So my own thought is that amendment would be self-defeating. It would be harmful to the ability of our diplomats. I know that its elements are opposed by the intelligence community and I believe it should be defeated. I am prepared to move to table it at the right moment.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island has 3 minutes 50 seconds.

The Senator from Delaware.

Mr. ROTH. I would just ask the question: Who is receiving the most valued information? I think, unfortunately, the record clearly shows that it is the Warsaw Pact.

Just let me read from the intelligence report of the Select Committee on Intelligence, U.S. Senate. On page 18 of this report issued last year it says:

> The intelligence services of Poland, East Germany, Czechoslovakia, Bulgaria, Hungary, and Cuba not only serve their own national interests but also act as surrogates for Soviet intelligence. While a member of the Warsaw Pact, Romania has looser ties with the Soviet intelligence area. Recent cases demonstrate the aggressiveness of the

Warsaw Pact services. The recent agency report on Soviet acquisition and military significance of Western technology documents fully shows the relationship between Soviet intelligence and the Warsaw Pact service.

Mr. President, this amendment was adopted last year. I will ask for the yeas and nays at the appropriate moment.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Rhode Island.

Mr. PELL. Mr. President, to give an example of the harm this amendment would do it would mean that diplomats in Warsaw cannot visit in Danzig if the Poles invoke the same procedure we do. I think if we ask anyone who serves behind the Iron Curtain what his reaction to this amendment would be he would say it would be against our national interest. For this reason, Mr. President——

Mr. HELMS. Mr. President, would the Senator withhold?

Mr. PELL. I will.

Mr. HELMS. Mr. President, with all deference to my good friend, the chairman of the Foreign Relations Committee, I support the amendment.

Mr. President, I always hear the word retaliation, whether it be with respect to trying to curb criminal assaults, robberies, dope trafficking, that sort of thing, by people with diplomatic immunity, or people like this. I think it is a good amendment.

Let me claim just a minute of time by unanimous consent, Mr. President, to make a unanimous-consent request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to call for regular order on the Symms amendment to be effective at the conclusion of the vote on the Roth amendment.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator? Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. PELL. Mr. President, at this time I move——

The ACTING PRESIDENT pro tempore. The Senator from North Carolina has been recognized for 1 minute.

Mr. PELL. On whose time?

Mr. HELMS. I do not need the time. I am entitled to time as manager of the bill.

Did the Chair rule on my unanimous-consent request?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. As I understand it, regular order will be presumed to have been called at the conclusion of the vote on the Roth amendment.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. Mr. President, at this time I move to table the Roth amendment.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to table the amendment of the Senator from Delaware. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina [Mr. SANFORD] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] and the Senator from Oregon [Mr. PACKWOOD] are necessarily absent.

The PRESIDING OFFICER (Mr. Dixon). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—36

Adams
Baucus
Bentsen
Biden
Boschwitz
Bradley
Breaux
Bumpers
Conrad
Cranston
Daschle
Dodd
Evans
Fowler
Graham
Harkin
Hatfield
Inouye
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
Metzenbaum
Mikulski
Pell
Proxmire
Pryor
Rockefeller
Sarbanes
Sasser
Stennis
Weicker
Wirth

NAYS—60

Armstrong
Bingaman
Bond
Boren
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gore
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kasten
Levin
McClure
McConnell
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Quayle
Reid
Riegle
Roth
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—4

McCain
Packwood
Sanford
Simon

So the motion to lay on the table amendment No. 885 was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was not agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(The following occurred later:)

Mr. CHILES. Mr. President, earlier I inadvertently voted to table Roth amendment No. 885. I am a strong supporter of the amendment. I, therefore, ask unanimous consent to change my vote from "yea" to "nay". This will not change the outcome of the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The above tally has been changed to reflect the foregoing order.)

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was not agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. May we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Senate. Will the Senators take their seats?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. If we might have the attention of Senators——

The PRESIDING OFFICER. There is not order in the Senate. May we have order? May the majority leader have order?

Mr. BYRD. Mr. President, it might be helpful to all Senators if we could hear from the managers right now as to what the prospects are for proceeding expeditiously on the bill, and hopefully winding up action on it today, after which I would like to discuss with the distinguished Republican leader the prospects for other legislation. I want to talk also about the calendar, and our target date for adjournment sine die.

First of all, I would like, if the managers could help us with their estimates of where we are on this bill, where we are going, and how fast we are going to get there.

Mr. PELL. Mr. President, on the Democratic side there are about a dozen amendments, many which are acceptable.

Mr. LEAHY. Mr. President, can we have order, please?

The PRESIDING OFFICER. May we have order in the Senate? May the managers have the attention of the Senate? May the majority leader hear what is being said?

Mr. PELL. On the Democratic side there are about a dozen amendments. I think we can get through these—some are most acceptable—within a couple of hours. That would be my hope. I am not sure how the Republicans feel.

Mr. HELMS. Mr. President, we have 20 and counting.

Mr. BYRD. The Senator has what?

Mr. HELMS. We have 20 and counting, as we say. I think most of them we can take care of with very few rollcall votes. But I am not prepared to decide that yet. But I have been around this place, not as long as the distinguished majority leader, but when we start trying to get a time agreement, that takes an hour and a half just about every time. Why do we not just plow ahead? I think we will surprise the majority leader.

Mr. BYRD. Very well. That sounds good enough for me right now.

Let us proceed to the next step.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order, please. The majority leader is recognized.

Mr. FORD. Mr. President, will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. FORD. Mr. President, the distinguished Senator from Arizona [Mr. McCain] was assisting me in chairing the Commerce Committee hearings. He expected me to return when I came to the Senate Chamber. I found we were to have a rollcall vote almost immediately following the other one. I called back, and he missed the vote.

I would like to ask unanimous consent of this body, under those circumstances—and I feel responsible—that since it will not change the outcome of the last vote, he be allowed to vote.

Mr. BYRD. No, I will strenuously object to that.

Did you say he missed the vote?

Mr. FORD. He ran all the way, and he was out of breath.

Mr. BYRD. I am sorry, but I will object very emphatically. The rules provide that such a unanimous-consent request cannot even be entertained by the Chair after the results of a vote have been announced.

Mr. FORD. I feel responsible for it. At least, it is part of the Record that it is my fault that he missed that vote. When the roll is called out yonder, he can lay it on me. [Laughter.]

Mr. BYRD. I know that the Senator is very sorry about it, and so am I.

Mr. President, I have had a meeting, together with other members of the Senate Democratic leadership today—Mr. Cranston and Mr. Inouye, with the Speaker and Mr. Foley and Mr. Coelho and others in the leadership on the House side. We have discussed the legislative program for the remainder of the first session of the 100th Congress.

I had previously discussed that program with the distinguished Republican leader in this body. I felt that I should start here, and the Republican leader and I have had some good discussions on the matter.

I think it is appropriate at this time to state publicly what our target date is, and also the remaining work that needs to be done, if we are to achieve that target date, so that all Members will know what we have left on the platter, generally speaking, with the understanding, of course, that we cannot dot every "i" and cross every "t" at this moment, because some matters may be unforeseen that would need to be dealt with. In the normal course of things, there will be legislation that can come up by unanimous consent or on a very short time limit, which will be over and above the items that I am going to lay out here.

I believe that the Republican leader and I are pretty much in agreement. He is here on the floor and will speak for himself.

The target date is November 21. That is the Saturday before Thanksgiving. I emphasize that that is only the target date. Following the current week of action, that would leave us only 6 full weeks in which to complete our work.

Mr. President, if we may have order in the Senate and a little less talk, I will try to shorten my own talk.

That leaves 6 weeks, with the understanding that there will be no Monday sessions the remainder of this month, but next month the Senate will be in on Mondays.

These are the bills and other matters that we must act on before adjournment.

The appropriation bills: There are 13 regular appropriation bills. We have already acted on four of them this year in the Senate—within the last 2 weeks, as a matter of fact.

On the calendar right now, there are four additional appropriation bills: Labor-HHS, Energy-Water, HUD, and State-Justice-Commerce. They are on our calendar awaiting action. They have been passed by the House, have been reported out by the Appropriations Committee, and are ready for action here, except for the fact that we do need to do the State Department authorization bill before we move to the State-Justice-Commerce appropriation bill.

Following action on the appropriation bills, we have to have another continuing resolution, if by these we have not completed action on all 13 and sent them to the President's desk or the President has not signed them. If we have any appropriations measures we have not completed action on or if the President vetoes some of these bills, then we will have to fold them into the continuing resolution.

So, appropriation bills and continuing resolution: Whatever assistance we can get in scheduling appropriation bills, all the better.

This week, we have scheduled the catastrophic illness legislation, to follow the State Department authorization bill, or no later than 2 o'clock tomorrow; that 2 o'clock deadline may be slipped a little if necessary. But the catastrophic health care bill is on deck, and we need to complete action on it.

There is a war powers amendment, which Senators Weicker and Hatfield introduced, and which I am committed to call up, after consultation with the minority leader, and I will carry out that commitment.

THE SAUDI ARMS SALE

I do not know whether such will be submitted; but if it is, we will have to face up to that matter.

FARM CREDIT

I think the Republican leader, and I have agreed that we ought to act on farm credit.

THE AIRPORT TRUST FUND AND OTHER AIRLINE LEGISLATION

I think it is imperative that we do this legislation before we go out. I believe the House has already acted.

THE PROMPT PAYMENT ACT

We have a time agreement on that, so that will be no problem timewise.

THE INDEPENDENT COUNSEL REAUTHORIZATION

There are some other bills that obviously will not take much time.

THE BILL TO IMPLEMENT RECOMMENDATIONS OF THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

It is important legislation, and it should not take much time.

THERE ARE SOME VETERANS BILLS

The omnibus veterans benefits and services bill. That has already been reported to the Senate.

THERE ARE VARIOUS CONFERENCE REPORTS

The trade bill conference report. So far as I am concerned, the Senate will not act on any agreement with Canada this year. We are going to have to do the trade bill first. I would hope that conferees on both sides will do their utmost to bring in the conference report by the 31st day of this month. That is an extremely important piece of legislation.

THE NOMINATION OF WILLIAM VERITY

We will move to that at any time, so all Senators are on notice that that can come like a lightning bolt out of the blue, almost at any time.

The nomination of the as-yet-unnamed Secretary of Transportation.

THE HOUSING CONFERENCE REPORT

I talked to the Speaker this morning; that matter has been in conference for months, and we ought to try to get that out.

THE DEFENSE BILL CONFERENCE REPORT

That is very important. We should have that before we have an appropriation bill dealing with defense.

The nomination of Judge Robert Bork or any other nominee whose name may be sent up by the White House in the event that nomination is pulled back or rejected. I would say that if there is any thought, that there will be a recess appointment of a Supreme Court Justice, such an approach will not be feasible, and the administration ought to know it. In the first place, I think it would be unwise for the President to pass up the opportunity to make a permanent appointment and go for an appointment that would last only until the next session. Moreover, I would not adjourn the Senate. If it comes to that, we will go into pro forma meetings, and we will be here and ready to do business if need be.

I would hope that we could move quickly, if the administration is insistent upon a vote. As I understand, there is talk that there would be some "political" capital in having a rollcall vote on the Bork nomination. That is all right with me. I have taken my stand, and I am sure others are willing to do the same.

Our Republican friends will not escape walking the plank, either. If that is the position that the White House is going to take, then I think it is obvious that that is a very political approach. It looks to me like they are insisting on going to a vote for political reasons only.

I have maintained all along this is not a partisan matter. I have not lobbied any Senator for his vote. I have not carried around in my pocket any list. That is not my job to begin with, but I have not counted votes. I have not asked anyone on my side what the nose count is, and no one on my side has voluntarily given me a nose count.

So I would say that if the White House chooses on making Democrats "walk the plank," and apparently that is what they have in mind, they should remember that there are some Republicans who have already announced their opposition to this nomination, and that took a good bit of courage on their part. But if that is the game plan, then it is obvious that this is a political decision.

I have heard that by having a showdown at the OK Corral on the Bork nomination, the Republican Party will reap dividends in next year's elections. Well, they are going to have to go down to the shootout at the OK Corral, too. That makes Mr. Bork the victim in what, if I hear correctly, is a White House decision in order to "reap political benefits" in the next election. Something like that was said at the Judiciary Committee on yesterday that "If we win on Bork, fine; if we do not win on him now, we will have an issue that we can win on in 1988 and 1990."

I hope that the White House will consider Mr. Bork and his feelings and the fact that the Court has a vacancy, and that as long as that vacancy exists, there is not going to be any Federal precedent that amounts to anything because tie votes on the Court mean that the lower court holdings stand; therefore, it is in the interest of the Court and of the country that we get on with this nomination or some other.

That can be a matter which can hold us here into December. That is why I am going into this subject quite at length.

I have no problem, if the President wants to have a vote on this floor. If that is the case, the sooner the committee can report that nomination to the calendar the sooner we will have a vote on the floor if the President insists on it. It seems to me that it is becoming pretty clear, to Members on both sides of the aisle, that this nomination is not going anywhere except down, vote or no vote.

I leave that to the judgment of others, but that is one item that can keep us here well beyond November 21.

I want to see the vacancy filled. If there is another nomination sent up rather soon the Senate can give its attention to it. I do not expect us to rubber stamp any second nomination, but it is our duty to fulfill our role under the Constitution and give adequate time to consideration of any nomination. We have time remaining in this session and before November 21 to act on another nomination if it is submitted quickly.

I hope the White House will at least seek the advice of Republicans and Democrats if they decide to send up another nomination soon.

The advice of this Democrat did not count for much on Mr. Bork, but perhaps the advice of the Republican leader and others, and hopefully some of us Democrats, might be sought on the next nomination and might be listened to. It is not my position nor would I be so presumptuous as to believe that the President has to send someone up that I approve. After all, the White House came to me seeking my advice on the Bork nomination, but the very next day, it was obvious that their minds were probably already made up when they came here because they announced the nomination of Mr. Bork.

Anyhow, so much for that.

This is the program and if Senators will cooperate and work hard, we can get this done. We cannot do it, however, unless we have cooperation in getting the legislation up, and even more hopefully, getting some time agreements along the way.

I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I thank the majority leader.

As I have indicated earlier I think our lists track fairly closely.

Mr. BYRD. Could I mention one other?

Mr. DOLE. Yes.

Mr. BYRD. That is reconciliation.

Mr. DOLE. I was going to mention that. I did not hear reconciliation mentioned, nor did I hear Contra aid funding mentioned.

Mr. BYRD. Yes, Contra aid and Saudi arms sales if they come up from down town. We have to deal with those matters one way or the other.

Mr. DOLE. Those two would be dealt with under the expedited procedure. There are a few others that are on the Republican list that are not on the majority's list. I can go over those later with the distinguished majority leader.

I think food safety research, Export-Import Bank, drug testing, nuclear waste amendments, NRC authorization, these may be matters that can be taken care of rather shortly, as well as reauthorization of the Clean Air Act, the lobbying bill, older Americans conference report, AIDS education, veterans, and a bill to raise the administrator of VA to the Cabinet level.

As far as the Bork nomination is concerned, it is my understanding that the President has had or will have or is having a discussion with Judge Bork maybe right now or maybe he has already had that meeting. I met with Judge Bork yesterday afternoon. I had a phone conversation with Judge Bork this morning.

There are still about 10 or 12 undecided Senators at least according to most observers. I think that is the unknown. If all Senators would announce their position, then we could probably make a valid judgment on the fate of this nomination. But there are still enough Senators if they will vote to confirm Judge Bork to make the outcome uncertain. I think that is sort of that unknown area that the President and Judge Bork are looking at. Plus I think there is a feeling by a number of those who strongly support Judge Bork that there ought to be a vote. I conveyed that to Judge Bork. I have not tried to influence Judge Bork one way or the other. I think that is a judgment he will have to make.

He indicated he was not a politician and he did not understand the politics of a lot of these things. But he is obviously looking at all of his options, just as we look at all of our options every day.

I will just say to some of the undecided Senators, if you would make a position known, hopefully in the affirmative, that would be very helpful.

But there has been no indication from the President and none from Judge Bork that he is going to adopt any other course at this time, than to take the nomination to the floor.

If something did happen and the nomination were withdrawn, then I would guess there would have to be fairly rapid action in order to confirm someone before November 21, but in any event, that certainly is a matter that needs to be addressed.

I would say to the majority leader, if we are fairly firm on that target date, then I think it makes it a lot easier to get agreements and get other things done. Because I think it puts the leadership in a stronger position to go to our colleagues and say: "OK, if we can do A, B, C, D, E, and F, that is the date. If not, it will be December 21 or some other date following the Thanksgiving recess."

So I will be visiting the majority leader later on privately to go over the list again. I will be very pleased to cooperate with the majority leader to see if we can start getting agreements. Hopefully, we will get a time agreement on the HUD appropriation bill, which can be used in this little gap of time. The Verity nomination is another matter of importance. I hope we might be able to move to that today. I know there is some opposition, which happens to be on this side. But that is another nomination the President wants very badly.

So I thank the distinguished majority leader.

Mr. BYRD. I thank the distinguished Republican leader. The leader and I have agreed, and the Speaker, that it will be November 21. That is our target. We are going to make every effort to achieve it. It will take a lot of cooperation. The distinguished Republican leader has made a very, I think, strong statement. With cooperation we can do it, and he is going to do everything he can, and I believe him.

(Several Senators addressed the Chair.)

Mr. HELMS. Regular order, Mr. President.

The PRESIDING OFFICER. Does the majority leader yield to the Senator from Massachusetts?

Mr. BYRD. What is the regular order?

Mr. HELMS. It is a unanimous consent agreement that we stop the talking and go about our business.

Mr. BYRD. I ask unanimous consent that I may proceed for 5 minutes.

Mr. HELMS. I do not have any objection to the majority leader, but if we are going to pass this ball around I am going to insist on regular order.

Mr. BYRD. I will help the Senator get regular order.

Mr. HELMS. I thank the Senator.

Mr. BYRD. I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

The distinguished majority leader indicated that he gave no advice to Judge Bork as to whether to withdraw. I wanted to address a question to the distinguished minority leader, because I heard press reports that he did urge Judge Bork to withdraw. That has something to do with what we may expect here. I wonder if the distinguished minority leader would care to comment on that.

Mr. BYRD. I yield for that purpose, Mr. President.

Mr. DOLE. Well, that is not an accurate report. In fact, it was almost the reverse of that.

Mr. McCLURE. I thank the Senator.

Mr. KENNEDY. Will the Senator yield?

Mr. BYRD. Yes; I yield to the Senator from Massachusetts without losing my right to the floor.

Mr. KENNEDY. On the previous list, we had the AIDS legislation. That is approximately a $2 billion authorization in the Budget Committee. The budget has been allocated. It is being considered now by the Appropriations Committee. It was reported out of our committee virtually unanimously by Republicans and Democrats alike. That has been on the agenda and, in terms of health legislation, it is of enormous importance. I have indicated so to the majority leader. I think it is absolutely essential that we have that legislation on our agenda.

The other item, Mr. Leader, is the Grove City legislation that has been on the calendar for about 5 months. It is not without some differences within this body.

But those are two major pieces of legislation. I would certainly hope that in any consideration of a deadline we would have the opportunity to address those. I cannot think of anything that we are going to be doing in December back with our constituencies that is more important than considering the No. 1 health hazard in our country. I respectfully urge, when the majority leader meets with the minority leader, that those two pieces of legislation be discussed.

Mr. BYRD. They will certainly be discussed and considered. As I indicated earlier, the list that the Republican leader and I have been discussing publicly here today obviously does not constitute the beginning and the end of all that we hope to do. I hope there will be other measures, like one or two of the veterans' measures, that would not be too controversial. Hopefully, we may get time agreements on them and weave them in and out. They are important pieces of legislation, but I am thinking they should not take too much time of the Senate as will some of these other matters.

Mr. CRANSTON. Will the majority leader yield?

Mr. BYRD. I yield to the distinguished Democratic whip.

Mr. CRANSTON. Mr. President, at the request of the majority leader, the whip operation has been working on amendments to the State Department bill, as we did on the Defense authorization bill. I believe we are down to 12 amendments. Senators are ready to bring them up and they are willing to accept time agreements on virtually all of them, if not all of them.

I hope the Republican whip is doing the same and we can have the same kind of cooperation we had on the DOD authorization bill.

Mr. BYRD. Mr. President, I compliment the whips on both sides for the work they did on the DOD authorization bill. I hope that they will be as successful on the pending bill.

Mr. SIMPSON. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. SIMPSON. Mr. President, indeed, I try to collaborate daily with my colleague on the other side of the aisle, Senator CRANSTON, in my role as minority whip in working toward trying to attain a time agreement on these various amendments. But, as always, our colleagues on both sides of the aisle do not come forward with their amendments until, at least often, their staffs become creative overnight and then cook up some more amendments.

So I will work and continue to work toward that, and I pledge that cooperation. I am going to give every effort to attaining your goal of that adjournment date. I hope it is realistic. We have no desire to obstruct.

Mr. BYRD. I thank the distinguished Republican whip.

On this evening, I should alert all Senators, there will be no rollcall votes after circa 6:30 p.m. I will have to make something like the same statement with respect to next Tuesday. Each side understands that we are having little events, the Democrats tonight, the Republicans next Tuesday.

Mr. President, I yield the floor.

VOTE ON AMENDMENT NO. 860

The PRESIDING OFFICER. The Senator from North Carolina has suggested that regular order take place. The call for regular order having been requested, the Symms amendment recurs. No debate or amendments to the amendment are in order. The yeas and nays have been ordered.

The Senator from Rhode Island is recognized.

The Senator from North Carolina.

Mr. HELMS. Parliamentary inquiry. We have not yet acted on the Roth amendment. It will be voice voted, I am sure. I think the Senator will ask to vitiate the yeas and nays.

I ask unanimous consent that it be in order to act on the Roth amendment and then go to the Symms amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I hope the Chair will protect Senators who have been recognized. The chairman was recognized.

The PRESIDING OFFICER. May I say to the majority leader, I had the impression that the Senator from

Rhode Island had yielded to the Senator from North Carolina, in my observation.

Mr. BYRD. Well, he may have done that. I did not hear him say so.

The PRESIDING OFFICER. I say to the majority leader, in my observation, the Senator from Rhode Island indicated to me by a nod that I observed that he did yield to the Senator from North Carolina.

Mr. PELL. That is correct.

Mr. BYRD. I just want to be sure that we do not have conflicts in the future. Because unless he yields for a parliamentary inquiry or unless he yields for a unanimous consent request, it cannot be made.

Mr. HELMS. I am not going to take advantage of the Senator.

Mr. BYRD. No. I am not suggesting the Senator is taking advantage of him. Nobody is going to take advantage of him.

The PRESIDING OFFICER. It had been my observation that the Senator from Rhode Island had yielded to the Senator from North Carolina.

Is there objection?

Mr. KENNEDY. Objection.

Mr. ADAMS. Objection.

The PRESIDING OFFICER. Objection is noted.

Mr. PELL. Mr. President, as long as the objection is noted, I move that we table the pending amendment.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island [Mr. PELL] to table the amendment of the Senator from Idaho [Mr. SYMMS]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. PACKWOOD] is necessarily absent.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—59

Adams
Baucus
Bentsen
Biden
Bingaman
Bradley
Bumpers
Byrd
Chafee
Chiles
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Evans
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Specter
Stafford
Stennis
Stevens
Warner
Weicker
Wirth

NAYS—39

Armstrong
Bond
Boren
Boschwitz
Breaux
Burdick
Cochran
Cohen
Dole
Domenici
Exon
Ford
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Humphrey
Johnston
Karnes
Kasten
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Pressler
Roth
Rudman
Shelby
Simpson
Symms
Thurmond
Trible
Wallop
Wilson

NOT VOTING—2

Packwood
Simon

So the motion to lay on the table amendment No. 860 was agreed to.

Mr. PELL. I move to reconsider the vote by which the motion was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I ask unanimous consent to print in the RECORD an article of February 16, 1985, from Human Events, by distinguished journalist M. Stanton Evans, and an article by retired Gen. Victor Krulak from the Strategic Review, summer of 1987, an editorial, "Panama, 10 Years Later."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Human Events, Feb. 16, 1985]

SOVIETS, CUBANS USING PANAMA CANAL

(By M. Stanton Evans)

Though the danger is coming from an unexpected quarter, the Cassandras who said the Panama Canal treaties we ratified in 1978 would be injurious to our security are turning out to be correct.

Most of the debate about this topic in the latter 1970s focused on the possibility that the canal might be closed off to us by an unfriendly government or Marxist sabotage. In view of the two-ocean responsibilities of our Navy, such a shutdown would be a serious blow to our defenses. To date that hasn't happened, though it still might do so in the future.

What has already happened is the flipside of this concern: Increasing use of the canal by the Soviet Union, Cuba and other nations of the Eastern bloc, coincident with Communist efforts to penetrate this hemisphere. The canal has become a major conduit for our enemies, with Communist vessels transiting its waters on a daily basis. And, under the canal treaties, there seems to be little we can do about it.

Comparing statistics on use of the canal in the years preceding and immediately following ratification of the treaties in 1978 shows the rapid increase in Communist traffic in vivid form. Of special note are the transit figures for the Soviet Union and Cuba, which are the heaviest Communist users of the canal, as well as the principal sponsors of subversion in Central America and the Caribbean:

Thus, while Soviet-Cuban use of the canal in the years just prior to adoption of the treaties was hardly negligible, it was on the average far below the level of use by these two Communist powers once the treaties were in effect. In the period 1974-78, Soviet-Cuban transits combined averaged less than 300 annually; in the period 1979-83, Soviet-Cuban use of the canal more than doubled, averaging better than 640 transits per year.

The period 1979-83, it may be recalled, was also the period in which the Communists stepped up their efforts at subversion in this hemisphere, first in Nicaragua, then through Nicaragua into El Salvador. A joint report from the departments of Defense and State tells us that, in this span, hundreds of tanks, artillery pieces, and military trucks were shipped into Nicaragua, along with anti-aircraft weapons, SAM missiles, and military helicopters. In 1983, according to this document, the Soviet bloc delivered more than $100 million in military hardware to the Sandinistas.

How much of this stuff has actually transited the canal is not apparent from the existing reports, though this column is endeavoring to find out. According to the Panama Canal Commission, shipments going through the canal are not subjected to serious inspection unless there is reason to believe, from cargo manifests or otherwise, that some safety hazard is involved. If the Soviets and Cubans want to ship weapons through the canal, and keep us from knowing about it, they could simply doctor the manifests.

Under the agreements we so blithely ratified, moreover, it apparently makes no difference if the Communists funnel weapons through the isthmus. According to the so-called "neutrality treaty" that was part of the package, we specifically agreed that "all ships shall have the right to transit the canal in time of war and in time of peace." We thus relinquished our previously exercised right to bar access to the canal by those who sought to use it for aggressive purposes.

As noted at the time of the treaty debate by Adm. Thomas Moorer, President Woodrow Wilson prohibited use of the canal by enemy ships in World War I, and also barred enemy aliens from entering the Canal Zone. President Roosevelt did the same in World War II. In those days, Moorer observed, "no nation in the world ever questioned our right to protect, defend and police the canal and Canal Zone and adjacent waters. . . ."

As the figures cited amply testify, that right is certainly being challenged today. Or, to be more exact, it is no longer asserted by us. We voluntarily surrendered it in 1978. Thanks to the canal treaties, a multi-billion-dollar investment by the United States has become an open channel for Communist supply ships conducting a hostile ferry service into the Caribbean.

[From the Strategic Review, summer 1987]

PANAMA, 10 YEARS LATER

(Victor H. Krulak)

In 1977, during negotiations with the Republic of Panama, intended to redefine our authority over the Panama Canal, an editorial in this publication warned: "To confide this crucial waterway to the nominal control of a small country which is ill-qualified to administer or defend it is an act of Great Power irresponsibility." Further, the editorial opined, were we to abandon our responsibilities in Panama, "Marxist-Leninist subversion would be intensified. . . . Friction would mount and the U.S. position would become intolerable."

The philosophy expressed by the editorial was rejected in the imprudent and potentially tragic events of the next year, when Carter Administration representatives negotiated the now historic treaty in which we agreed to turn over to the Panamanians, by the year 2000, control of both the Canal and the Canal Zone.

Opposition to the pact, as negotiated, was intense. Often heard were the words of Theodore Roosevelt: "We should only dig the canal if we are to use it against our foes in time of war." Senate ratification was finally secured only by the addition of a reservation to the treaty that asserted our right, if anyone interfered with Canal operations, to use military force to restore its integrity. After U.S. Senate approval, Panamanian President Omar Torrijos then added a reservation of his own unilaterally, declaring that Panama did not acknowledge the U.S. right to use force to ensure Canal operations, thus creating a situation where the parties to the pact were not in agreement as to its content, and bringing its validity into question.

Had the Senate been afforded an opportunity to consider the Panamanian reservation before voting, it is likely that the pact would not have been ratified. But it was, committing us not only to turn over control of the Canal but to relinquish the eleven military bases we have built in the zone and to pay the Panamanians about $3 billion as an inducement to accept our gift.

The idealists who negotiated the surrender of this great strategic asset, through which half of our overseas trade and two-thirds of our imported strategic minerals pass, did so on the fragile assumption that Panama could handle the responsibility. A little country, smaller than Maine, with slightly over two million people, Panama was not stable in 1977, and is even less stable now. Under the control of a mercurial dictator, General Manuel Antonio Noriega, the country is impoverished, driven by violence and oppression, and offers little prospect of having the strength or stability that would warrant our entrusting the precious Canal to their care.

Noriega, both hated and feared, maintained his grip on the little country through the power of the 20,000-man National Guard, the police and patronage of the Civil Service. The responsible opposition, from the business sector, the media, the church and students, are harassed and suppressed. Many have been imprisoned, including Colonel Roberto Diaz Herrera, former Chief of Staff of the Armed Forces, who has openly accused Noriega of vote fraud and political murder.

A communist since student days, Noriega is open in his admiration of the Soviet Union, boasting recently that if Gorbachev makes a rumored trip to Peru, he will come to Panama City as well. He has dispatched senior members of his government on official visits to Cuba and Moscow. He has affiliated his Democratic Revolutionary Party with the Socialist International and, most recently, has turned over the former U.S. Naval Air Station at Coco Solo to the Soviets, who now call it a "vehicle distribution center." The Soviet Union, it is quite plain, has a friend in Noriega, a fact which must give thinking Americans serious pause.

Their greatest concern must be the prospect of our permitting a repetition in Panama of the tragedy we allowed to happen in Nicaragua where, before our eyes, Marxist-Leninist extremists seized control of the government and, literally, turned it over to the Soviet Union. The scene is set for that exact circumstance to develop now, as was forecast in our 1977 editorial. Were we to permit it to happen, we would indeed be guilty of "an act of Great Power irresponsibility."

We still have time to adopt a position before the world that comports with our stature as a great nation, and which recognizes the flaws in the treaty under which we are operating.

Specifically, we should announce our determination to respect the independence of other nations, but an equal determination, by whatever means necessary, to ensure the free use of the Panama Canal. In this endeavor we should openly support the many responsible Panamanians who are dedicated to establishing a free and democratic government, while withholding all support of whatever nature from the Noriega regime. And we should make our position doubly emphatic by a substantial increase in the U.S. forces in the Canal Zone.

The obligations of the United States as a guardian of democracy and leader of the Free World demand no less.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Delaware [Mr. ROTH].

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that the yeas and nays on the Roth amendment be vitiated.

The PRESIDING OFFICER. Is there objection?

The yeas and nays have not been ordered.

Mr. HELMS. In that case the pending business would be to approve the Roth amendment. I suggest we vote.

The PRESIDING OFFICER. The question is on agreeing to the Roth amendment.

The amendment (No. 885) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. CHILES. Mr. President, will the Senator yield to me for 1 minute?

Mr. HATFIELD. I will be very happy to yield.

Mr. CHILES. Mr. President, we just had a voice vote on the Roth amendment. I ask unanimous consent to be recorded voting "aye."

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 886

(Purpose: To provide for the protection of refugees in Southeast Asia through improvements in camp security and living conditions, as well as through the promotion of appropriate durable solutions and an ongoing resettlement program)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Melcher amendment must be set aside.

Mr. HATFIELD. I ask unanimous consent that the Melcher amendment be set aside temporarily in order to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself, Mr. PELL, Mr. BOSCHWITZ, Mr. EVANS, Mr. STAFFORD, Mr. KASTEN, Mr. HELMS, Ms. MIKULSKI, Mr. INOUYE, Mr. GLENN, and Mr. DODD, proposes an amendment numbered 886.

Mr. HATFIELD. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, after line 21, add the following new title:

TITLE VII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SHORT TITLE

SEC. 701. This Title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

CONGRESSIONAL FINDINGS

SEC. 702. The Congress finds that—

(1) the continued occupation of Cambodia by Vietnam and the instability of the governments of Vietnam, Cambodia, and Laos have led to a steady flight of refugees from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) because of our past military and political involvement in the region, the United States has a continued, special responsibility to the persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) in view of this special responsibility, the United States has placed a special priority on the resettlement and protection needs of the Indochinese refugees;

(4) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand, have been the front line countries bearing tremendous burdens caused by the flight of these refugees, distinguishing themselves as the leaders of an unprecendented humanitarian response to the plight of Indochinese refugees;

(5) largely in response to a lessened commitment among resettlement countries to the refugees of the region, these countries of first asylum have recently taken steps to close refugee camps. Such camp closings would seriously undermine the continuation of a humane refugee policy and are inimical to the resolution of refugee problems in the region;

(6) the United States bears a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of unnecessarily slow and complex resettlement procedures; prolonged and often questionable adjudications in humanitarian parole, immigration and refugee cases; failure to implement effective policies for the region's "long-stayer" populations; failure to adequately monitor refugee protection and screening systems along the Thai-Cambodian and Thai-Laotian borders; a policy of allocating admissions numbers to "carryover" refugees approved in previous years rather than qualified new cases; and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure for refugees from that country, including Amerasians and long-held "re-education camp" prisoners;

(7) the United National High Commission for Refugees (UNHRC) shares responsibility for the hardening of attitudes in first asylum countries. The UNHCR should be pressed to upgrade its staff presence and level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region; to pursue voluntary repatriation possibilities, but only in cases where monitoring is available and the safety of the refugees assured; and

(8) given the serious protection problems in Southeast Asian first asylum countries, and the need to preserve first asylum in the region, the United States must renew its commitment to an ongoing, generous refugee resettlement and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved.

CONGRESSIONAL FINDINGS ON INDOCHINESE REFUGEE PROCESSING

SEC. 703. The Congress finds that—

(1) there have been numerous diplomatic problems arising from inconsistent refugee processing by the Immigration and Naturalization Service, most recently with respect to processing of Cambodian refugees at Khao I Dang, and also to the processing of Lowland Lao;

(2) there have been questionable documentation requirements of Indochinese refugees by the INS, leading to unjust adjudications to the detriment of deserving refugee cases;

(3) there have been historic problems with INS staffing commitments in the region, frequently precipitating delays and necessitating the assignment of temporary duty officers who lack expertise in Indochinese refugee processing;

(4) while the overall approval rates of Indochinese refugees has been acceptable, it has been achieved at the expense of multitudes of rejected cases which are contributing to a growing "long stayer" population in the region;

(5) the INS is an immigration service and is not well-suited to the sensitive area of refugee processing, particularly as it involves the fulfillment of commitments made by the Secretary of State in the conduct of United States foreign policy; and

(6) Given the longstanding problems associated with INS processing, dating back to the distributing INS performance in 1982-83 which led to the issuance of National Security Decision Directive Number 93 and to new INS processing guidelines, the United States must consider the possibility of denying the INS any further role in the processing of refugees.

REPORTING REQUIREMENT

SEC. 704. The President shall submit a report within 120 days of enactment of this Act assessing the merit of transferring the authority to admit all refugees under the Immigration and Nationality Act from the Attorney General to the Secretary of State.

ALLOCATIONS OF REFUGEE ADMISSIONS

SEC. 705. (a) Given the existing connection between ongoing resettlement and the preservation of first asylum, and to provide a stable and secure environment for refugees while dialogue is pursued on other long-range solutions, including voluntary repatriation and local settlement, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps, and

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), a number of admissions allocated in a fiscal year under priorities II and III of the Program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Americans and their immediate family members under priority I, should be at least 1,500.

LONG-STAYER RESETTLEMENT

(b)(1) It is the sense of the Congress that Indochinese refugees who have lived in camps for three years or longer are of special humanitarian concern to the United States and should be considered as eligible for refugee processing. Under the leadership of the United States, renewed international efforts should be made to resettle these long-stayers, as proposed in the Report of the Secretary of State's Indochinese Refugee Panel in April, 1986.

ALLOCATION OF EDUCATIONAL ASSISTANCE FOR THAILAND

SEC. 706. Section 105 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) Of the amounts authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1988 and 1989 may be available for educational programs, projects, or activities along the Thai-Laotian border and the Thai-Cambodian border which are carried out by Thai or other non-governmental organizations in conjunction with relief organizations and civilian camp leadership."

ALLOCATION OF ECONOMIC SUPPORT FUND ASSISTANCE FOR THAILAND

SEC. 707. Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is amended by adding at the end thereof the following new section:

"SEC. 536. ALLOCATION FOR THAILAND.—(a) The Congress finds that many Thai residents of villages located near the border with Laos and Cambodia have been adversely affected by artillery shelling and refugee migrations.

"(b) Of the amounts authorized to be appropriated to carry out this chapter for the fiscal years 1988 and 1989, $5,000,000 for each such fiscal year may be available to provide financial assistance for Thai villages affected by Indochinese refugee camps."

ALLOCATION OF INTERNATIONAL MILITARY EDUCATION AND TRAINING ASSISTANCE FOR THAILAND

SEC. 708. Chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) is amended by adding at the end thereof of the following new section:

"SEC. 546. ALLOCATION FOR THAILAND.—Of the amounts to be appropriated to carry out this chapter for the fiscal years 1988 and 1989, $2,000,000 for each of such fiscal years may be available to train and deploy the Royal Thai Army to protect Indochinese refugees and those in refugee-like situations in Thailand.".

POLICY TOWARD PROTECTION OF REFUGEE CAMPS

SEC. 709. It is the sense of the Congress that the international community should increase its efforts to assure that Indochinese refugee camps are protected and that international observers and relief personnel should be present on a twenty-four hours a day basis at camp "Site 2" and any other camp where it is deemed necessary.

Mr. HATFIELD. Mr. President, today I am offering this amendment to the State Department authorization bill which is very similar in form and purpose to S. 814, which is the Indochinese Resettlement and Protection Act of 1987. I might observe that that particular bill has been cosponsored by 24 Members of the Senate including the chairman of the Foreign Relations Committee, Senator PELL, as well as Senators DODD, KERRY, SIMON, SANFORD, ADAMS, MOYNIHAN, BOSCHWITZ, MURKOWSKI, and EVANS, all members of the committee. And since a majority of this committee, Democratic and Republican members together, cosponsored S. 814, I feel it would be appropriate to offer this amendment to this bill.

I have made a number of changes in this amendment today to accommodate the chairman of the Foreign Relations Committee who would prefer not to have legislation amending the Refugee Act of 1980, which is the domain of the Judiciary Committee, appended to his committee's jurisdiction. Nevertheless, I do believe we need a vote on this particular measure.

Mr. President, I would like to just digress for a moment to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. I thank the Chair. I believe it is important to put the Senate on record on the simple question: Should the United States continue with a minimum Indochinese refugee resettlement program, which in turn guarantees refugee protection, through the end of the decade? This is an important question, especially now as negotiations are under way for a possible settlement to the Cambodia question. I believe that if the United

States does not go on record now, assuring the first-asylum countries of our commitment for the next 3 years, then it is just possible that at the moment Cambodia is close to resolution, hundreds of thousands of refugees will be forced back to their homelands before safety guarantees are in place, and I do not believe anyone wants that.

Mr. President, for the past 7 years there has not been a single debate on the Senate floor concerning the U.S. Government's policy toward refugees in Southeast Asia. There has been an informal agreement in effect here that once the Senate passed the Refugee Act of 1980, our refugee work was completed, the refugee program was safely on automatic pilot, and every Senator not on the authorizing subcommittee could close the files on Indochina and go on to other business.

Let me read you a sampling of recent news clips on the deteriorating refugee situation in Southeast Asia: September 6, San Diego Union newspaper headline, "Asian Refugees Face a New Tragedy"; September 14, Minneapolis-St. Paul Star Tribune headline, "Refugees in Peril; Basic Rights Erode"; and a related article the same day entitled "Camp life [in Thailand]: Unrelieved Danger, Despair"; then, September 20, New York Times magazine, feature article "A Broken Country . . . Cambodia Is Drowning in a Sea of Despair"; September 21, front page of the New York Times, "Trapped at Thai Camps, Cambodians Despair"; and finally, the new Atlantic magazine article "The Last Bus," which tells of the misery and hopelessness of another group, the Hmong refugees who live to the north of the Cambodian refugees, and who are in no better shape.

Mr. President, those news clips paint an ugly portrait of life in the refugee camps of Southeast Asia. Thailand, Hong Kong, Malaysia, and the asylum countries in the region have asked us for a commitment because they have seen our decreasing refugee ceilings and the conflicting and ambiguous signals from Washington, and have given us an ultimatum: "Speak now, or forever hold your peace. If you want these refugees protected until they can return safely to their countries of birth, then give us a commitment, yes or no."

Mr. President, this amendment is the moment of reckoning for the U.S. Senate on Indochina refugee policy. The Senate has depended upon the Immigration and Refugee Policy Subcommittee for the last 7 years to draft annual refugee programs, and to balance all of the complex, competing interests involved. In large part due to the able leadership of Senator SIMPSON, and this year, Senator KENNEDY, the U.S. refugee program has been perhaps the greatest humanitarian initiative of the U.S. Government this century—if not in quality alone, then certainly so in duration.

But it is unfair for the Senate to place this heavy burden of politically volatile policymaking on a subcommittee of three Senators, and to abdicate our individual responsibilities to participate in the process of charting refugee policy in Southeast Asia, a process that really represents a constant battle to choose among undesirable options.

Today the Judiciary Committee is fulfilling its primary responsibility to consider the Bork nomination and has little time to address the refugee emergency in Indochina.

It is a small miracle that the committee was able to get a refugee consultations letter together which confirms Department of State admissions recommendations. Unfortunately, the Refugee Act procedures do not adapt themselves to the exceptional circumstances in Southeast Asia that demand more than a "year to year" lease. The first-asylum countries are asking for a specific commitment of a longer duration, and I believe we can and should make such a modest commitment. It appears the Judiciary Committee will not have the opportunity this year to consider substantive legislative action to commit the United States to an Indochinese refugee resettlement and protection program through the end of the decade, and therefore I and my 23 fellow cosponsors turned to this authorization bill, and will turn again to the State and Justice Departments appropriations bill.

In light of the critical situation in Southeast Asia as reported by the press, by the Citizens Committee on Refugees, by the Lawyers Committee on Human Rights, and by so many other individuals and groups who have returned from the camps, I believe this amendment, title VIII, is absolutely necessary to stop the bleeding in the first-asylum situation in Southeast Asia.

I am certain that the situation in Southeast Asia is a matter of life and death, and that if the Senate remains silent and does not go on record in support of a continued humane and generous refugee program, there will be consequences of our inaction that will be deeply regretted.

Mr. President, the events of this past year indicate beyond doubt that the protection of refugees in Southeast Asia is linked to a reasonable resettlement effort by donor countries. For the past several years there have been conflicting signals sent by administration and congressional officials about the resolve of the United States to continue to assist with first-asylum camp populations. So for those who question the necessity of title VIII of this bill, I suggest you listen to what the first-asylum country chiefs said at the June ASEAN meetings. Why did Foreign Minister Siddhi of Thailand issue a public statement in March in support of S. 814, the Indochinese Refugee Resettlement and Protection Act of 1987? Thailand and Hong Kong and other asylum countries have an understandable apprehension about U.S. resolve in a continued resettlement partnership. These countries look to the roller-coaster rejection rates of the INS; they look to the admissions ceiling numbers that have decreased steadily since 1980 and have approached the point of being almost too low to matter; they look at the United States unwillingness to give more than 6-month commitments on refugee resettlement processing; they listen to the voices of some U.S. Government officials citing "compassion fatigue" or urging a movement toward the elimination of a refugee program in favor of an immigration program (as if there were such a consensus in Congress and as if the United States could not accommodate both programs); and, they look at the Department of State's strained logic in opposing S. 814, as proof of the lingering mean spirit identified with a former U.S. Coordinator for Refugees who sought to "manage down" to death the refugee program.

These countries look to the aforementioned signs of reluctance and indifference from Washington and conclude that U.S. resolve is dying if not dead. Mr. President, these signs and signals send messages that I do not believe represent the sense of the Senate or the American people. I believe the United States remains committed to a responsible resettlement program in Southeast Asia for the next 3 years. Only such a commitment will ensure protection for the overwhelming majority of refugees in the region who will not be resettled and who can not go home at this time.

All of us favor repatriation. But there can be no doubt whatsoever that repatriation at this time is foreclosed as an alternative. The other preferred solution, local resettlement, can be further explored, but ASEAN countries face economic problems of their own. And furthermore, local resettlement was not the agreement we struck with them when the refugees first started pouring out of post-Vietnam War Southeast Asia.

I am confident that the progress in the reestablishing of U.S. dialog with Vietnam through General Vessey's efforts bodes well for a future repatriation agreement that is humane and capable of monitoring.

This amendment puts the Senate on the record on a question which for too long has languished in neglect: the question of the U.S. commitment to the refugees of Southeast Asia and to our ASEAN friends who are providing asylum for them. For those who suggest that this amendment is unnecessary, I say they are terribly naive—it has been the avoidance of this question which, in part, has led to the steady erosion of trust between the United States and our great friend Thailand and others. We need to go on record whether there is an American commitment through the end of the decade to the refugees of Southeast Asia. I target the next 3 years—this is fundamental—because experts are in agreement that this is the earliest date for a possible resolution of Cambodia.

Mr. President, we had better start addressing the source of aggravation for many of these refugees which is the unresolved MIA-POW question, and the humanitarian issues relating to MIA-POW which have to be settled first, before Cambodia can be resolved. I commend the administration for having now elevated that issue to the focus that they have in sending General Vessey to Vietnam for preliminary discussions. And I think that we can all take pleasure in that there has seemed to be a welcome response on the part of Vietnam.

The bill also addresses the lingering INS difficulties in processing refugees, a difficulty that dates back to 1982 and Regional Head Joseph Sureck, and a difficulty that apparently was purposely ignored by the U.S. Coordinator for Refugee Affairs. While the President himself had to intervene in May 1983 to settle the immediate problem, there still persists INS inconsistency and roller-coaster rejection rates.

Mr. President, at this time I ask unanimous consent to insert into the RECORD the processing guidelines signed by the President of the United States addressing these very severe difficulties that occured under the INS.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT NO. 1

THE WHITE HOUSE,
May 13, 1983.

Memorandum for the Vice President, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Transportation, Administrator, Agency for International Development, the Director, Central Intelligence Agency, Assistant to the President for Policy Development, U.S. Coordinator for Refugee Affairs.

Subject: Refugee Policy and Refugee Processing in Indochina.

The President has approved the attached National Security Decision Directive on Refugee Policy and Processing Refugees from Indochina.

WILLIAM P. CLARK.

REFUGEE POLICY AND PROCESSING REFUGEES FROM INDOCHINA

I have reviewed the reports and recommendations on processing refugees in Indochina from the Departments of Justice and State and the Coordinator for Refugee Affairs, as forwarded by the latter's memorandum of April 21.

The Immigration and Naturalization Service (INS) and the Department of State have taken significant steps over the past several months to improve the processing of these refugees. At the same time, it is clear that further steps are necessary to ensure proper and effective processing consistent with United States law and policy objectives, including steps to improve central guidance.

Accordingly, drawing on all necessary information including the views of the Secretary of State and the Coordinator for Refugee Affairs and after consulting with both, the Attorney General should determine whether there are categories of persons who, under the Refugee Act of 1980, share common characteristics that identify them as targets of persecution in a particular country. This review should focus initially on the following categories for Indochinese refugees: those who fled Cambodia because of occurrences during the Pol Pot regime, former members of the military, those with close relatives in the United States, and persons who refuse to work with the new regime in Cambodia. Other categories should also be reviewed, such as unaccompanied minors and those deserting from or evading military service with the forces of the Socialist Republic of Vietnam.

Applicants for refugee status who fall into any such categories of fact as may be determined by the Attorney General and who allege persecution will not have to present independent evidence regarding persecution. The establishment of such categories will not prejudice applications by those that may not fall within any category that is determined and applied through the above process.

Guidance on the initial and possibly other categories should be provided to INS officers as early as possible and no later than June 10, 1983. Relevant information from the concerned agencies should be provided to the Department of Justice by May 20.

To further advance United States objectives in this area, the following actions should be instituted by the Department of Justice and INS, in consultation with the Department of State and the Coordinator's office:

● Discretionary review of special cases and additional guidance to the field on identifying such special cases;

● Review to check for indications of legally significant inconsistency in determinations (for example, by sampling rejections and/or acceptances); and

● Review of possible additional training and regular rotation of INS offices.

The concerned agencies should review and provide guidance to ensure full compliance with the objectives of this directive by all personnel involved in refugee processing from the Departments of State and Justice, INS, and the Joint Voluntary Agencies.

Given the important foreign policy, political, security and financial implications associated with refugee issues, I have decided to establish a Senior Interagency Group for Refugee Policy (SIG/RP) to assist and advise me and the heads of concerned agencies. The SIG/RP will be comprised of the Coordinator for Refugee Affairs (Chairman), and representatives of the Secretaries of State and Health and Human Services, the Attorney General, the Administrator of the Agency for International Development, the Director of Central Intelligence, the Director of the Office of Management and Budget, the Assistant to the President for National Security Affairs, and the Assistant to the President for Policy Development. Representatives from the Departments of Labor and Transportation and other agencies with responsibilities for specific matters to be considered by the SIG/RP will attend on invitation by the Chairman.

The SIG/RP will:

● Review and assist in the development of United States Government refugee policies, programs and activities;

● Ensure that important refugee policy or program issues requiring interagency attention receive full, prompt and systematic consideration, including the recommendations concerning the annual determination on refugee admission ceilings;

● Initiate an immediate review of the country condition reports to ensure that they are clear, accurate and useful in developing guidance for refugee processing;

● Initiate a review of refugee processing in other areas of the world, similar to the completed review concerning refugees from Indochina, and of asylee processing in the United States;

● Establish subordinate interagency groups as necessary for the execution of its mandate; and

● Seek to resolve any differences among concerned agencies in the area and provide reports and recommendations to the heads of concerned agencies and, as appropriate, to me on issues warranting high level attention or decision.

The SIG/RP will oversee implementation of the decisions in this directive.

RONALD REAGAN.

Mr. HATFIELD. Mr. President, this amendment makes a number of congressional findings about the INS processing performance, and requires the President to submit a report within 120 days on the feasibility of the State Department taking over this responsibility.

Let me emphasize that S. 814 does in fact seek to transfer those responsibilities, from INS to the State Department. This amendment does not. This is a sense-of-the-Senate resolution that does not address that point specifically except to require the President to submit a report.

I think the INS is an immigration service and is fundamentally ill-suited for refugee processing and all of its attendant foreign policy delicacies. But again I am not going to address that issue in the manner I have in S. 814.

The amendment also provides for earmarks for protection of the refugees at the border camps of Thailand, and provides money for education there. The amendment acknowledges that Thailand has borne the brunt of the refugee problem, and provides a continuation of the already successful Affected Thai Villager Program.

Mr. President, refugee policy has been the last in line for the Judiciary Subcommittee's attention. I commend Senators SIMPSON and KENNEDY for the work they have done the past few years in getting comprehensive immigration reform legislation in place. Unfortunately, this year the Bork hearings have precluded any new attention to the refugee crisis in Thailand and the region. So while I understand the concern of some that this amendment is meddling or is trespassing, I assert the emergency in the region and the necessity for action as the two reasons for why I and the majority of U.S. Senators want to see some action—today.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I appreciate the initiative of my colleague, the senior Senator from Oregon [Mr. HATFIELD] in presenting this amendment on protection and assistance for Indochinese refugees in Southeast Asia. I was an original sponsor of this proposal and am glad to associate myself with the concepts and purposes that it sets forth.

All of us recognize that protection and assistance for refugees is a worldwide problem. The United States has long been in the lead of nations helping to respond to the needs of refugees. Just this week the United Nations High Commissioner for Refugees, Mr. Jean-Pierre Hocke, the very qualified and energetic Swiss who previously served with great distinction as Director of Operations of the International Committee of the Red Cross, is meeting with his Executive Committee in Geneva, Switzerland. The United States, represented by our U.S. Coordinator for Refugee Affairs, Ambassador at Large Jonathan Moore, is participating actively in the meetings of the Executive Committee, demonstrating anew the American commitment to do our share for the world's refugees.

At any given time there are some groups of refugees that stand in particular need, and particular groups for whom U.S. responsibility is especially keen. To say this does not understate the needs of other refugees, and, indeed, all refugees. The recognition that the United States has special responsibilities in certain areas does not diminish our concern for other refugees elsewhere. Aid to refugees should not be viewed as a zero-sum game, in which helping one group comes at the expense of aid to others. United States programs have long recognized some refugees as of special concern, without in the least detracting from our commitment to help refugees elsewhere.

So I welcome the Senator's initiative in proposing this amendment, as a timely reminder of our special concern and responsibility for Indochinese refugees. All of us know that the American people have done a great deal for the Indochinese refugees, nearly a million of whom have joined us as new Americans since the fall of Vietnam, Laos, and Cambodia in 1975. And we have gained from them. The great majority of the Indochinese living among us are self-supporting as productive citizens and residents of our country. There is no greater concentration of Indochinese than in my own State of Rhode Island. In proportion to our population, we have the highest number of Indochinese refugees of any State in the Nation.

From my own contacts with refugees, I am personally aware of their concern about their relatives who remain stranded in Southeast Asia. Our refugee programs should continue to be used with flexibility and good will to bring about family reunions, in addition to cases that can be assisted through immigration procedures and the individual approvals of humanitarian parole. There are Cambodians, for example, in the gravest need of protection stranded along the Thai/Cambodian border, whose relatives in our country are tormented by the daily awareness of the plight of their loved ones. We must act to help these people without further delay.

This amendment restates America's special responsibility for the resettlement and protection needs of the Indochinese refugees. It recognizes the tremendous burdens that have been carried by the front line countries in Southeast Asia that have provided first asylum for the refugees. I join in expressing our appreciation to Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand.

Just last week I had the honor of meeting with the Foreign Minister of Thailand for discussion of the continuing refugee situation as it effects that country. Foreign Minister Sitthi said that his country would continue to be helpful, and he specifically undertook to facilitate the processing of some 2,000 cases of Cambodians with relatives in the United States.

It is up to our own Government to take advantage of this opportunity through our State Department and the Immigration Service to see that these family reunification cases are processed quickly, for immigration visas, humanitarian parole, and for refugee admissions as authorized by the Refugee Act of 1980, and as carried out resourcefully in the past by our overseas refugee processing offices. If Thailand is prepared to let us process these cases, on the border and at the Khao-i-Dang refugee camps, we should act quickly to take advantage of this humanitarian window of opportunity.

No aspect of this amendment is more important than its call for improved protection of the Indochinese refugees. The increase resettlement programs that it envisages can at best help only a small proportion of those remaining, particularly if one includes the over 250,000 Cambodians on the border. So protection will remain central. This amendment encourages us to continue to work closely with the first asylum countries, with the U.N. High Commissioner for Refugees and with the International Committee of the Red Cross, to secure such protection as long as it is needed. I commend the Senator from Oregon for presenting it.

Mr. President, I believe this is an excellent amendment, and at the appropriate time I will suggest that we vote on it.

Mr. HELMS. Mr. President, I share the opinion of the distinguished chairman with respect to this amendment, and I support it.

Mr. HATFIELD. I thank both Senators.

Mr. SIMPSON. Mr. President, this is a tough one, and I think there will be an attempt to just accept it on the basis of heart and soul. But I hope Senators will pay close attention to what this does.

I am strongly resisting it. I think it is a mistake. I hope that after Senators hear my brief remarks, they will agree that it is a mistake.

It is one of those things I have watched since I have ben involved with immigration and refugee matters. It comes from impatience and frustration, and it comes from other genuine emotions.

There is no one—and I surely mean this—for whom I have a higher regard in this place than my friend MARK HATFIELD, from Oregon. If I said he was simply a friend, and all the connotations that indicates, that would be it. But he is a very special friend. We have shared much together.

One of the toughest problems in dealing with immigration and refugee matters is that the people of the United States and many of our colleagues do not even understand the difference between a refugee and an asylee, a special entrant, an extended voluntary deportee, temporary resident alien, a parolee permanent resident alien, or any one of other various categories. That makes it tough to debate.

I have seen that in all my time in dealing with it: There are tremendous differences between the people who are true refugees and those who just do not like their country, or do not like the draft in their country, or do not like seeing their neighbors get shot, do not like their property confiscated, do not like anything about their country, and want to get out. But that does not qualify them as a refugee.

Either you are going to change the definition of "refugee" or stick with it and be honest about who are refugees and who are not refugees. It is a very well-meaning piece of legislation, but very ill-advised, and let me tell you why.

We have done our share—in awesome fashion. Anyone who can get up in the United States of America and say we have not done our share is really missing the whole issue of the last 15 years in Southeast Asia.

The first thing you do with a true refugee—there are three things you do. These are historical things.

First, you try repatriation—sending them back to their own country; not in the sense where they will go through the hideous act of refoulment, which is if they were to go back into their country they would be slain, thrown out, chopped up. That is refoulment. That is a cruel and hideous thing. But first option is repatriation.

The second option is first asylum, and they come to this country that they have "escaped to." They are refugees now. That means they are fleeing persecution based on race, religion, national origin, or membership in a political or social organization. That is a refugee. Please hear very carefully that refugees are not people who hate their country, the draft, or confiscation of property. Either change the definition of "refugee" under the Refugee Act or under the United Nations, or let us cease doing this kind of disservice to the act. That is the second one—first asylum. You give a person asylum in the country they flee to, and they are refugees.

The minute they get to the country where they want to go and they are fearful and they may speak or even literally grunt that they are asylees, or just make some indication with their hands, they are then in the country as asylees and are dealt with as asylees.

The third option, and the last—and the less-used option, particularly in earlier days—is third country resettlement. This is the one you hope to do last. In Southeast Asia, we have just tipped the mountain on its end. Now, the first option is third-country resettlement. The second option is asylum, and the third option is repatriation—all because of a most ghastly war. Most every person who put in their hand with us or joined our forces has been taken, and the ones who are left, who are in reeducation camps, we will deal with and process on a person-to-person, case-by-case basis. But that is not fast enough for some. There is too much frustration about that, but that is the way it should be done.

We have done our share in extraordinary ways. What really disturbs me as I look at this—and this is a fine piece of work from a humanitarian standpoint, it is beyond parallel, but from a policy standpoint, it is impossible.

The key is in this paragraph of the congressional findings. It says:

> Because of our past military and political involvement in the region, the United States has a continued special responsibility to the persons——

Please hear that—

> to the "persons" who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam.

We do not have that obligation. We have that obligation to refugees, not the "persons."

There are 16 million refugees properly described in the world who will probably seek access here, and we will have to deal with that. But there are several billion persons who do not like what is going on and flee their country or leave to work or are economic migrants.

The Gov. Bob Ray Commission pointed that out. We sent a commission to Southeast Asia, under the chairmanship of Bob Ray, former Governor of Iowa. It was a remarkable group: Mrs. Irena Kirkland; Edward Schmults, Gale McGee, a fine friend and former professor of mine and former Senator from Wyoming, a superb foreign policy person; and Jonathan Moore, present refugee coordinator. They went and they looked and they observed, and they were from all ideological bents. They all came back with a new view of Southeast Asia and said that more and more of the people there are seeking greater freedom and greater economic opportunity. They are economic migrants, not refugees. That may not mean anything to anybody. I know it is tough, but that is the way it is. Their April report said:

> The persons fleeing today are no longer predominantly persons who were associated with the United States nor does it appear that the majority have been singled out for harsher treatment than that generally suffered by the rest of the population. Far more appear to be taking this perilous journey in search of economic and political freedom or to be reunited with family members.

There is nothing wrong with that, but you cannot call them refugees; and when you do, you distort the Refugee Act. I think it is a good act. It was put on the books when I was in the minority here. Senator KENNEDY was one who helped put that together. I helped to support it.

This must be said: We have protected first asylum by leading the world in resettlement of Southeast Asian refugees. Sixty percent of all of them resettled in the world today came here. Yet, here it is stated that we have not done enough. We have done 800,000 human beings worth, more than everybody else in the world entire combined.

And our loveliest allies, Canada and Australia, are telling us that the flow is over, and yet we continue to whip up new numbers and a new bureaucracy for a certain specific area of the world where we have Southeast Asian refugees.

Now, this added finding provision I think is quite disturbing. It says our policies have led to a steady flight of refugees from these countries.

Let me tell you this, and I hope this will also be heard: Also, whenever we crank up our resettlement program, and we do periodically because of the pressure, not from those countries but from voluntary agencies and people working in that area of the world, and that is a very real thing you do not want to miss. There is a crankup operation. There are many wonderful people with the most sincere of motives in that part of the world who do not want to see this kind of a flow end. It is a bureaucracy the scope of which might numb you and many of them live and work in that area of the world.

Bangkok is quite a headquarters. It is a remarkable place. And these are compassionate, extraordinary, and remarkable people, but they are still part of a bureaucracy that might be surprising to you.

They do not want to see those numbers go down in that part of the world. They want to keep those numbers up even if those people do not qualify, and the troublesome part about that is very simple, that the resettlement program then creates a real draw. We go ahead with third country resettlement to the United States of America, and that is a draw which increases that flight, so if there is a flight of refugees and you bet it is a steady flight, and every time we have become more generous in that area—and I tell you there is nothing that will outmatch the communications system among human beings in that part of the world. Ma Bell could tear down the wires, for I tell you they all know very well what is up. They then say they are relaxing in the United States and here we go. And that draw contributes to that flight, and this bill will lead to an ever greater draw and an extraordinary draw it will be.

Then it surely disturbs me, and I know that this really needs to be said in complete context, and I will not even put anything else on it, but it says in the findings "that the United States" bears a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of unnecessarily slow and complex resettlement procedures.

I know that is frustrating because the people do not fit the definition. But that statement is not fair or right. No other country in the whole world has come close to the resettlement record of the United States, taking 50 to 60 percent of the entire current flow, 800,000 total since 1975, and as our allies drop away we are going to be the only ones doing it.

Another one is stated here in this remarkable piece of legislation that says the U.N. High Commissioner for Refugees shares responsibility for the "hardening of attitudes" in first asylum countries, that is just not so.

The UNHCR has even recently made new initiatives to pursue repatriation, and that is always the first option. Do not forget that is what that is. So that is not so.

Then it goes on to say the United States must "renew its commitment to an ongoing generous refugee resettlement." How extraordinary that is. We have allocated 38,000 refugee numbers this year alone. I signed the letter the other day, along with Senators TED KENNEDY, STROM THURMOND and JOE BIDEN, and we unanimously sent up the recommendation. I objected to the amount of the numbers but everything else was beautifully said. I commend that letter to those who wish to pursue this issue, and I know you probably do not because it is that kind of an issue, but we have allocated 38,000 refugee numbers and we have also this program in Vietnam called the orderly departure program or ODP.

We have orderly departure numbers for Southeast Asia in the next fiscal year and they are within that figure. No one is being left out unless you are doing things with the system that were never intended to be done and that out of frustration and irritation and a bureaucracy wanting to just tilt things in one area of the world alone, and that is absurd.

What about other countries that have the same problems as Southeast Asia, people that want to come here, they do not like their country; do you tilt for them, too?

I do not know. It does not seem sensible to me.

Then, of course, I think that it needs to be addressed where it is and there have been numerous diplomatic problems arising from inconsistent refugee processing by the INS, the Immigration and Naturalization Service, most recently with respect to processing of Cambodian refugees in Khao I Dang.

I think many who have ever been involved in refugee matters have been to this area of the world and many go back on many occasions. They may go every 2 months or every 3 months and they keep it cooked up. They cook the books in Bangkok and they go again and again, and they press and they push and they ask for new numbers and they ask for all this and more. Finally, really if they are honest with you they say we really do not care what kind of bureaucratic numbers you produce, or about all this hoke you are giving us; just give us those people and we will resettle them in the United States of America. We will place them.

"We have a tragic situation right now with H'mong. I visited the H'mong camps. Some said they are better there than they are in southern California because they have great difficulty in adapting and they have a great deal of difficulty and their dependency rate is extraordinary compared to every other kind of refugee. But you have to watch it when you say that because you can then be nailed as mean spirited and evil. I have been through that.

And all I am saying is that when you talk to the H'mong leaders in that area of the world, they say, "You know, we don't know that it is always best for our people to go to the United States of America. They have a lot of difficulty there." The Minnesotans have settled them superbly, and the Californians have done a beautiful job too, but the issue is is that to the best interest of the H'mong? And now you see a rather remarkable thing happening. There is almost an inducement to the H'mong to get into this new refugee flow. Yes, there are many who wish to come and, yes, there are those who do not want to come, and that is the way it is, too.

So what has happened in this area of the world is that they have reviewed these people once, they have reviewed them twice, they have reviewed them three times. They did it on a case-by-case basis and they did not meet the test. And now they want them anyway.

It is like dealing with the emotional issue of agent orange, dioxin—you can hear that argument too. It goes: What were we going to do?" It is a troublesome problem and we have to use sound medical and scientific evidence and we are just not there yet, whether we like it or not, and we are sure not here yet when we have an INS person and a process of personal inventory and review and personal visits with people in any language where they sit a person down, a live human being, and say "Here's a map of Laos or Vietnam. Where were you at that time of your life that you say that qualified you for refugee status?"

I have sat in on those and people will look and say "I don't know." "Maybe you don't read a map, so I will not ask you that. What village do you come from?" "I don't know that either." "Where did you live, who did you know?" "I don't know that either."

No ties at all. No obligation at all to this country.

You show me a person that tossed in their mitt with us and said "I am going to fight with you in Southeast Asia" and I will say bring them to the United States of America and resettle them. No questions asked. Period. I do not have a single problem with that at all. But do not tell me about people who never threw in their hand with us, never were involved with us for any reason and do not like their country and just say "I want out of there and I want to be known as a refugee and I want to have somebody help me," and there are plenty of people there to help like dozens of voluntary agencies as we call them the VOLAG's.

So they have reviewed them and reviewed them and revised under the full guidance of the United States of America and the INS and the State Department, and it did not clear the remainder of them out.

So, the advocates now will just not be satisfied until they are all in the United States and hope they will quit asking us these absurd questions about case by case handling and that kind of thing. And then there is another extraordinary statement. I do not know what it means and I know the Senator from Oregon will tell me because I do want to get the full answers to my questions here.

It says "While the overall approval rates of Indochinese refugees has been acceptable, it has been achieved at the expense of multitudes of rejected cases."

Yes, I am sure that is true. I do not know how else that could be. I do not know what that is supposed to mean unless it means everybody who applies should be cleared and if that is what it means that is surprising, very surprising. There are going to be rejected cases.

Let me tell you a most disturbing thing, Mr. President. As I say, I have been in this when I was chairman of this subcommittee. I would be visited by people with most extraordinary humanitarian impulses in this area. There is one fellow, and I leave his name out of the debate, who must have some kind of a special seat in various aircraft where he goes back and forth to Bangkok and he gets there and then he just raises hell with all the State Department people and the embassies and the INS and the VOLAG's and he says, "You must bring more people back here to the United States."

Well, we are bringing all we can. We resettled more than anyone else in the world. We are trying to look for true refugees. And he gets frustrated and he goes to these camps.

Finally, he came into my office 2 or 3 years ago. I said, "You are an amazing guy and you are very compassionate and very extraordinary. What is it you want done?" Then he gave a remarkable expression of what he wanted done, and that is almost clearly that everybody who is in a camp in Thailand should be brought here. Just do not ask any more questions. If they got there to those camps then they must be a refugee.

I said, "Well, that is impossible."

Then he said, "Well, could we just have a few, maybe 3,000?"

"Well," I said, "who are the 3,000?"

"Well, I have a list."

Well, we looked at that list and we cleared a lot of those 3,000. They were people who have been in the service, in the military—a colonel, I remember; another remarkable lady, I personally recall. They are more than numbers. I met with them and many were later cleared, and they are here.

Then, finally, he said, "But then there is this other person here whose brother is in Massachusetts," or his sister is somewhere. And I said, "What is the special humanitarian concern of this person?"

Well, I found out, he was the brother of this man's gardener and he needed some help up there on the grounds. And there is nothing wrong with that, either, but that person is not a refugee, He is not. That is a person seeking to come to the United States of America to work and be economically productive. And there is nothing wrong with that, either.

But there is something wrong with all that when we distort the refugee policies of the United States to accommodate that kind of altruism. I do not like that, and I do not think you do, either.

So then we go to another comment in here, which is another disturbing one.

> Given the longstanding problems associated with the INS processing, dating back to the disturbing INS performance in 1982-83 which led to the issuance of National Security Decision Directive No. 93——

Now, that is the date when the chairman of the Appropriations Committee, my friend MARK HATFIELD, got into this process. And when the chairman of the Appropriations Committee gets into the process, it is a very notable event. And he did it for all the reasons that make him so special—his humanitarian concern and his love of fellow human beings.

But he mentioned Joe Sureck. Joe Sureck in INS parlance is like Joe Hill in labor lore. A hero.

> I dreamt I saw Joe Hill last night alive as you and me——

I can still sing that one, even as a Republican.

So Joe Sureck becomes the great hideous ogre, the evil one, the personification of mean spiritedness. And that incident, let me tell you, and they still talk about over there, because there was a letter to the President that got the attention of the President and a later directive of Judge Clark that really, really had the effect of undermining Joe Sureck. It did not come from the chairman of the Appropriations Committee. It just came the way it comes, because Joe Sureck was saying, "Read the book. A refugee is a refugee is a refugee." And they bounced Joe Sureck out on his head in a most remarkable way.

And I have seen the State Department fight with the INS. They really do in this area. If you were to leave refugee processing only to the State Department—and this is no reflection on the present occupant of the chair or anyone past or future—you will not even make any really hard decisions on refugees, because the issue will become very simple: "Don't mess with that country. If they say they are under some pressure, we will take them and we will invent a category for them or put them under parole authority or change the name to EVD," or whatever else one may want to call it.

So the State Department is never going to make those, tough decisions about exclusion of human beings from our shores. That is the way it is.

And that is what happened with Joe Sureck. And I watched it. Joe Sureck watched it. He really did not enjoy it at all. It was harsh. And it may have come from the best of reasons, but with the very poorest of factual data. The humanitarian reasons were real, but the facts were wanting.

Now as to the allocations of refugee admissions. This is interesting here. This is in this proposal. It says:

> Within the worldwide refugee admissions ceiling determined by the President, the President should allocate.

And here is where we get into some pretty effective statutory language——

> At least 28,000 admissions from East Asia, first-asylum camps.

That is unnecessary; totally unnecessary because of what we just did several days ago. We have already given East Asia the lion's share of refugee spots, 38,000 in fiscal year 1988—38,000.

And then it goes on to say that we must have "at least 8,500 admissions for the Orderly Departure Program for each of the fiscal years 1988, 1989, and 1990." And yet the 38,000 includes the 8,500 for ODP, the Orderly Departure Program.

Then we go on to allocation. There is a discussion there. And then it states "the number of admissions allocated for Amerasians and their immediate family members under priority I should be at least 1,500."

I am sure that it must be just as disappointing to my friend MARK HATFIELD as it is to me that the Orderly Departure Program has not worked better. The Vietnamese have really gummed that one up. The Senator from Oregon went there. My chief staff person went there and returned just within the last weeks.

But under ODP, we are taking them as fast as we can, considering the lack of diplomatic relations with Vietnam. I hope we break down that extraordinary artificial barrier. I have and will work with the Senator from Oregon, and we will yet do that. I think we ought to establish full diplomatic relations with Vietnam. That is my view. You cannot talk or argue or negotiate if you are giving each other the ice treatment.

So we do take them as fast as we can. But we not only get the Amerasian children, we now get now two or three family members. In fact, they are even selling children. They can see that when you get this person selected under ODP and you might get two or three relatives to go with him, some of them who are going to get new papers, a new lease on life. I am not challenging that, either. But you get a lot of nonqualifiers in there. You get two or three members of the family when you use the orderly departure program and it was set up for one—the Amerasian orphan child.

Then there is the final statement that needs addressing. It says: "It is the sense of the Congress that the Indochinese refugees who have lived in camps for 3 years or longer"—that is then all you have to do; remember, you would then not have to be a refugee, you just have to have lived in a camp—"are of special humanitarian concern to the United States and should be considered"—now, that is a key phrase, "special humanitarian concern;" those are words of art—"should be considered as eligible for refugee processing."

Those are called longstayers. They are a problem, a problem to Thailand; they are a problem to many. But longstayers do not, in most cases, qualify for our program. That is why they are longstayers. They have not been cleared. They have been reviewed again and again and again and have not passed the test and they are not cleared. So they remain "longstayers." So processing them will only and assuredly bring other nonqualifiers into the border camps.

They will say—and do not think they do not know what goes on in that part of the world—"you mean if they are really taking those persons who are the longstayers, then I am going to go there to that camp too." Again, I am not talking about refugees. I am talking about people who just want to get out.

And so then the nonqualifiers draw other nonqualifiers to the border and interior camps.

Finally, this legislation talks about $5 million for each of the fiscal years 1988 and 1989 to be available for educational programs, projects, or activities along the Thai-Laotian border and the Thai-Cambodian border which are to be carried out by the Thais. We do that. We already do that.

It is an indigestible amount of money from everything that I have found in my personal travels there. The most extraordinary thing is that we are already providing the money for the agencies who already do it ever better than anyone else. We are currently providing funding to United Nations Border Relief, UNBR; to UNHCR, the U.N. High Commissioner for education and other humanitarian assistance. We are doing that right now.

Then it goes on to talk about another $5 million to provide financial assistance for Thai villages affected by Indochinese refugee camps. The State Department is already doing that. But let me tell you something that really irritates the Thais. You send the money into Thailand and use it for construction of buildings and warehouses and Thailand farmers in the area of 30 or 60 kilometers or 100 kilometers are infuriated.

They say, "What are you doing? I mean, I live in lesser conditions—I cannot even pull any teak stumps out. There is nothing left on my property and you have erected the Taj Mahal over there for a group of people who are not refugees." And then we wonder why the Thais resist?

The Thais will eventually harden their hearts and just say no. But they are not going to allow buildings to go up and construction sites and great warehouses full of grain and rice for people who have been reviewed again and again, maybe three times, and are unable to pass the test as refugees.

They indeed pass the test as human beings who are in wretched circumstances, but do not pass the test of refugee. But we help them in other ways.

That is where we are for that. There are some good things here: allocations to Thailand to carry out some activities, redeployment of the Royal Army to help train them in humanitarian care of refugees. But we do not need this legislation to do that.

I just do not think, Mr. President, that it is right to do violence to the Refugee Act by legislating specific numbers for a specific area of the world. That is exactly what we tried to get away from when we passed the Refugee Act of 1980. Even a sense of the Senate resolution, which this is, with a few added bits, is most ill advised in this situation.

We have a very full and effective consultation each year in order to provide the proper allocation. The State Department is involved, the INS is involved. The Judiciary Committees of the House of Representatives and the Senate are involved.

Please understand, and I would never intend to speak for my dear friend Peter Rodino, the chairman of the Judiciary Committee or my old sidekick Ron Mazzoli, chairman of the Subcommittee on Immigration and Refugee Policy in the House. But I can tell you that they are going to have a lot of difficulty with this. If we are going to do something like this, let us revisit the Refugee Act or the definition under the Refugee Act because that is, in effect, what should occur first.

So, we have already consultation process with the Judiciary Committee of the House and the Senate, and ranking members and the chairmen. That is the very essence of the Refugee Act.

I could tell you from my own personal experience, and as I say I have had my old bald dome hammered in this area, I can tell you this: I have learned that there is an amazing network of old "Saigon Cowboys," some people who really almost are irritated at their own country and they remain in that part of the world, raising hell with their own country. They do it subtly, but it is very devastating and dazzling to watch them work. I have met some of those folks.

They also referred to them in the old days as "old China hands." There are a lot of old China hands over there in the East Asia Bureau of the State Department. They have some sour taste about something in the past, or some allegiance unknown. And they are involved deeply in this.

Then you want to remember this extraordinary bureaucracy I talked about and that is the voluntary agencies. People of my church, the Episcopal church; people of the Catholic charities; and there are Lutherans—they are truly amazing and they are over there and they are doing remarkable work. But there are some in the administration of those agencies that do not want to see this flow halt.

To halt the flow from Southeast Asia is to halt their jobs, which is a rather remarkable incentive to keep right on going and keep those numbers up; and, actually, setting a quota, which is what this would do, outside of the Refugee Act.

I do not know how many people in the United States know that they are called VOLAG's, voluntary agencies, but we do pay them money. We pay them $565 per human being in a thing called the R&P grant. They are then to take that person and resettle them in the United States.

We found some serious abuses of that years ago, where they would take the person to a community without a proper "cushion" for assimilation, no real anchor relatives, no ability to speak; and do, maybe, a $150 job of that resettlement and put the rest of it in the bank. One agency had $6 million invested. We visited with that group and said, "What is the purpose of this money?" "Well, it is money from the State Department for resettlement."

"Well, why aren't you using it?" "Well, we will."

"Well, it might be good to use it now for each individual. You might even expend the whole $565. That is what you have it for."

I have been through this. The tomatoes have been lobbed. But somewhere along the line, somebody has to breathe a little sense into it and, again, you know, if we are going to let our hearts overwhelm our heads on each occasion, then we are in difficult straits with existing law, especially the definition of refugee.

So, that has been my experience. It has been a rather lonely and dazzling quest, as I have messed around with this issue. I would suppose that this amendment will pass because I will not get a chance to speak to my colleagues for 30 minutes like I just did. Somebody will come up and say: Why would you want to resist that? I would not possibly be able to explain it.

But I can tell you that it is a mistake and it is a distortion of the Refugee Act. It does something which I think is very troubling. It takes us back to where we were before the Refugee Act and that is to look at certain segments of the world and give them special preferences. That is what you are doing in this situation, special preferences because of pressure from "old Saigon cowboys" and "China hands and other people who just do not want to relinquish their grip.

It is an issue we deal with every 12 months. You here may not know that. The last 2 years we have had two consultations a year. There have been staff trips and research reports and the Ray Commission and there has been no debate on the Senate floor on this issue and not one single hearing in any sense because—why? Because the refugee consultation procedures have served us well.

It is simply not true that only three Senators on the subcommittee conduct the business of the refugee program. Senator Thurmond has always been deeply involved; Senator Simon; Senator Kennedy and Senator Grassley were all involved. The entire Judiciary Committee participates.

As one would notice, as I say, the committee chairman, the ranking member and subcommittee chairman and ranking member all signed the last document. I hope this will not be misread because I do not go along looking for things to do in this remarkable place. I have plenty to do. So turf wars are not the most attractive thing, but my question is: I wonder why the Appropriations Committee or the Foreign Relations Committee have a grasp of the issue—and I know they do. I do not denigrate that at all. But the Judiciary Committee has the statutory jurisdiction and has been exercising that jurisdiction for all the time I have been here, and under the Refugee Act.

Many have agreed with the observations I have just shared with you. I hope you will read the comments of the State Department. I insert that in the Record. They are not out to protect things; they are out to do a job in an area of the world which is very troublesome, but which, if anybody tells you we have not done our share, that will not sell at all.

We have done our share for 800,000 human beings and we will be there to do more, especially for those who threw their lot in with us in Southeast Asia. But remember when that war ended, what is the obligation to someone who is saying, "This is a child 9 years old who was part of that." That cannot quite be.

Either we change the Refugee Act or we do a disservice to it by legislation such as this. I will be pleased to meet with any Member of the body who wishes to discuss it, to visit with the State Department, to do something sensible and correct. I certainly pledge that type of assistance.

I just urge my colleagues that if we are really going to do these things, really make quotas in one area of the world, where do you draw the line when somebody else in another part of the world says, "I saw what you did in Southeast Asia. You set some numbers. We want that here."

We tried to recognize the flow in Africa, which is in such terrible shape. We tried to recognize the new glasnost with the Soviet Union, with new numbers there. We have to be flexible to keep those numbers loose so that we can take, I hope, 5,000 Soviet Jews and other people from the Soviet Union.

That is why we must work within the Refugee Act and that is why we have the consultation process of the House and Senate Judiciary Committees.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise in support of the amendment offered by the Senator from Oregon. I was an original cosponsor of the bill he introduced on this matter earlier this year, and I am a cosponsor of this amendment.

I saw first hand the plight of the refugees in Southeast Asia.

In November 1979, I, along with other Congresswomen, went to the killing fields in Southeast Asia and was involved in witnessing the camps throughout Thailand. We worked on a bipartisan and humanitarian effort. We pledged our support then to those refugees and said we would act and never forget.

Yes, we did act then, but we must continue our commitment and show we never will forget.

The refugees in Southeast Asia are in a truly desperate situation and they deserve the attention and support of the U.S. Senate.

The key to protecting these refugees is a strong, sustained resettlement commitment from the United States. This amendment displays that strong commitment.

If first asylum countries like Thailand think that the United States is no longer willing to resettle these refugees, Thailand will no longer be willing to provide them a temporary safe haven.

Thailand is wondering if we are victims of compassion fatigue, wondering if we have run out of energy and are no longer willing to put resources into the activity of keeping an international commitment we made. I wonder if we are not also engaged in congressional chic, that once an issue leaves the headlines it leaves our attention. These refugees are still in need and still need the help of the United States.

Also, I have a fundamental disagreement with those people in the State Department and the Immigration and Naturalization Service who have been involved in this issue. I am not so sure that they understand the difference between an immigrant and a refugee.

We must keep in mind that there is an inherent and very important difference between immigrants and refugees. Refugees face an urgent, compelling need for safety and protection. Immigrants do not flee from their country to save their lives and the lives of their children. The refugees from Cambodia and Vietnam have escaped from some of the most brutal and horrifying regimes this world has ever known. The killing fields were real. I saw them with my own eyes.

Southeast Asian refugees who continue to seek freedom for themselves and safety for their families deserve our fullest commitment. In 1985, President Reagan said:

> The drive of our people to assist refugees in need overseas and to resettle those who need it is an integral part of the American ethic.

This amendment will ensure that the United States lives up to its responsibility to Southeast Asian refugees and continues its humanitarian ideals of protecting and resettling them.

I urge my colleagues to support the amendment.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the Senator from Wyoming for his very eloquent and comprehensive review of the refugee matter. He illustrates again a grasp of all parts of this refugee problem. The only problem is he comes to the wrong conclusions. I suppose that is his view of my conclusions.

I want to thank also the Senator from Maryland for her frank statement, the Senator from Rhode Island, chairman of the Foreign Relations Committee, and the Senator from North Carolina the ranking member of the Foreign Relations Committee, for their statements of support.

Mr. President, let us go back to the case made by the Senator from Wyoming.

I want to first of all say that there is no one in this Senate who would prefer more than I to see the possibility of repatriation which he very accurately stated to be one of the propositions that we must consider in resolving refugee problems.

I would like to see all of the refugees be able to return to their homelands in safety, with some confidence that they could pursue their lives in their own native land, whether it be Cambodia, Laos, or Vietnam.

But to say that all of those who have crossed the border into Thailand and other countries, are nothing but economic refugees is without foundation. It might be called inaccurate.

If the Senator will go back into the records, he would find that many of those who have been rejected have been rejected on the basis that they cannot meet the stringent documentation requirements. So they are "not qualified" or outright rejected.

That in no way affects their status of whether they are political or economic. It merely says, "You do not qualify under our regulations."

To blanket all those under the term economic refugees is simply not fair or accurate.

The Senator also quotes the Rey Commission. Let me quote the Rey Commission. They have two specific proposals in the Rey Commission report to expand the refugee processing.

First, they proposed the U.S. participating immediately in an effort to resolve the "long stayers" population and, second, to reconsider the rejected Cambodians.

It is also interesting to note that the President of the United States, President Reagan, invited the Congress to broaden the definition for categories of refugees to handle peculiar characteristics of Cambodian, Lao and Viet refugees, in NSDD 93.

But, Mr. President, regardless of the Rey Commission's recommendations to expand the qualifications for refugees, despite the President of the United States urging the Congress to review those qualifications, this amendment does not amend the Refugee Act.

I ask the Senator from Wyoming to show me where a sense-of-the-Senate resolution amends an act.

We are not asking for any change in definitions. We are not asking for any change in the regulations. In this sense-of-the-Senate amendment we are merely saying, "let us make a 3-year commitment."

The Senator says, "Well, we have already done that in the Judiciary Subcommittee, and approved a very generous figure."

Let me read from the letter. He quotes the 29,500 proposed for the regional ceiling on "first asylum refugees." But then in the middle of that paragraph he cuts it in half. Let me read the whole paragraph.

> 1. While our commitment to work in partnership with Southeast Asian governments continues, we are nonetheless at a critical juncture in our programs in the region; we therefore request that only half of the 29,500 numbers proposed for the regional ceiling on "first asylum refugees" in Southeast Asia—that is, 14,750—shall be allocated before further mid-year consultations with the Committee. We make this stipulation for the following reasons:

Then they give the reasons for asking for that, proposing that first-asylum numbers be shifted to ODP.

Mr. President, first of all, this is the first year, I believe, and I will not put this into concrete, that the committee had telephonic consultations. They did not even have a meeting to air out these major changes. Maybe that is certainly an accceptable way of doing business, but it seems to me if we are going to make drastic changes in a policy, certainly there ought to be some kind of a meeting of the committee. I think again this illustrates this has really not been high priority of the committee.

Mr. President, I am not going to talk long on this for the simple reason that all we are saying in effect is that the Royal Thai Government and other friends of our country need some kind of planning period, not a 6-month allocation.

Now, in addition to that, you would think that we were going to open the floodgates; by listening to the Senator from Wyoming this morning, somehow we are going to declare everybody who crosses the border as a refugee. We are going to qualify them all to come to the United States. We are going to flood the country with refugees is the implication.

Now, we ought to recognize we are only suggesting a modest number, not 38,500 that we have this year including the ODP, but we are suggesting 36,500 total for the next 3 years. That is not the estimated 400,000 that may be in those camps today or even the 125,000 of the 400,000 that might be eligible for interviewing and processing. We are only asking for 36,500, on a planning basis, for 3 years.

Now, the Senator refers to the amendment's use of the term "persons." Somehow that gives the red flag—we are going to flood the country with every and all persons. Let me tell you why we used the word "persons." We are engaged, I remind the Senator, in a refugee program. We are engaged in a program in which we are hoping that those people who are fleeing their countries will return. That is why we included "persons," because we are involved in issues more than processing people to come to this or other countries. We are involved in the protection of those refugees, most of whom will never resettle. And I would also like to make the record clear that we in the Appropriations Committee had to earmark the money for the protection of those refugee camps that were being raided—people being raped and killed, such as the land Vietnamese. The Appropriations Committee did that.

I am not going to start here and excuse the attack on the voluntary organizations, that somehow they are a bunch of bureaucrats protecting their jobs. Let me tell you, Mr. President, we would not have been this successful over the period of our refugee program in Southeast Asia if it had not been for the support and the undergirding of those auxiliary groups of volunteer organizations.

Mr. President, anybody who is familiar with volunteer organizations—and I happen to have served on the board of a couple of them myself and I can speak from firsthand information—understands that the volunteer organizations are always seeking money just to stay alive to do the task for which they have been called.

Now, all of these groups, are not religious, but let me tell you—and I can say this also from personal experience—many of these who are part of a volunteer organization with religious foundations are there as a mission, feeling called to affirm their spiritual faith by performing services to their suffering fellow human beings. And let me say one thing further. Practically all of these are worldwide organizations. To say that somehow the suffering of these refugees in these camps has to be maintained as a way for Volags to hold their jobs or to maintain their bureaucracy I think is not an accurate assessment, because if they were through with refugee work in Southeast Asia, there would be plenty of need in other parts of the world. The Senator is absolutely right when he says there are many parts of the world hurting today with refugees for whom we cannot respond at all; it is not just Southeast Asia. That is very true.

The American Council for Nationalities Service, American Fund for Czechoslovak Refugees, Church World Service, Hebrew Immigrant Aid Society, International Catholic Migration Commission, International Rescue Committee, Lutheran Immigration and Refugee Service, Migration and Refugee Services—U.S. Catholic Conference, Polish-American Immigration and Relief Committee, Presiding Bishop's Fund for World Relief/Episcopal Church, Refugees International, Save the Children Federation, Tolstoy Foundation, and World Relief of the National Association of Evangelicals, this is the list of those who see the necessity of this amendment. Some of them are there in Southeast Asia, others not.

But they have a comprehension of the problems facing refugees at large, the worldwide problem, and they feel the necessity of this simple sense-of-the-Senate resolution. They have indicated their support. I think we ought to be saluting these people for their marvelous humanitarian contributions rather than to give the impression that somehow they are bureaucrats only interested in the maintenance of their employment or their job, trafficking in refugees.

Mr. President, yes, this is a special area of the world, and I am sure the Senator from Wyoming would not deny we have a special relationship with the countries of Southeast Asia. I need not raise the bloody shirt again of a very, very tragic war in which we were involved that triggered the kind of problem we are facing today as it relates to refugees in Southeast Asia. Yes, it is a special consideration. Yes, it is because it is a special part of the world with a very special relationship with the United States and a certain commitment of the United States from long ago, that we have granted special treatment and preference to those refugees for over a decade. Eight hundred thousand, yes, the Senator is correct, but, Mr. President, the job is not done. That is all this resolution recognizes, simply that as much as we have done, the job is not finished. Can we walk away from it? Can we in a sense say we will wash our hands of these suffering people? I also want to say, Mr. President, this is not a cause for the do-gooders. I hate to even see such language put in print, let alone indicate some official status of this particular letter from the then Deputy Coordinator of Refugee Programs, dated January 2, 1985. I think it reflects a lot of people's thinking. I am not saying he is alone on this. He is writing from the Embassy of the United States of America in Bangkok, Thailand, and keep in mind, he was representing the United States and implementing its refugee policy. In the second paragraph of this letter to his successor, he says:

> You will come in with a great advantage: you are not I. This will give you something of a honeymoon with JVA, voluntary agencies, UNHCR, and the assorted other do-gooders who believe the US role in Thailand is to take every last person who claims to be a refugee. As you are aware, our processing is way down, we are continuing to cut staff, and all of our talk has been directed to getting across the idea that the refugee program, as it has benefitted the hangers-on for years, is drawing to a close, and the new era will see greater application of refugee criteria and an increased emphasis on immigration. Many believe that I have been the architect of this change, and while I would like to take credit, it is not all my doing. I wish you luck in carrying through the proc-

ess of dismantling the operation while not making the enemies I did.

Well, that is one attitude, and I do not deny people their own perceptions, even members of our Foreign Service. But I would argue with them on those perceptions. I am sure that many of our body have been in refugee camps. I do not think anybody in this body would say they are a pleasant place. I cannot imagine that anybody who has been in any refugee camps would feel there is anything but a call to all of us to try to eliminate the problem.

In 1968, on the floor of the Senate, I made a speech about refugees in the Middle East. I stated then and I would restate now, that there will never be peace in the Middle East until the Palestinian refugee problem is addressed. That brings down the ire of some people, too. But that is still a human problem.

Now, Mr. President, I feel very strongly; we are not asking the Senate to do anything but assert itself through a sense-of-Senate resolution to send a signal—and that is about all you can call this, a signal because it is a sense-of-the-Senate resolution—to our friends in the world that we are going to carry through with this commitment for a 3-year period, and let me emphasize again why the 3 years. This is the period of time that prayerfully—and hopefully we can all agree on this point—through a new initiative, through new efforts we can resolve the MIA/POW problem and the other humanitarian issues unresolved with Vietnam, which would be the triggering mechanism to resolve the problem of Cambodia which has been the major source for many of the Indochinese refugees today.

I am going to yield to the Senator from Minnesota, who wants to be heard on the issue relating to the H'mong situation which has been specified in this same letter that the Senator has quoted and has signed along with other colleagues.

I know of no other ethnic group in the whole world where we have specified some kind of a special treatment, as the Judiciary letter stipulates, that intimates a threat to our country than how the letter singles out the H'mongs. I interpret this as not really something protecting ourselves so much as it is a demeaning affront to an ethnic group.

Let me just say briefly the H'mongs were some of the most loyal fighters that the United States had in the war in Vietnam. If any one group went out on a limb, so to speak, and stood with the United States cause, how ill defined it may have been in Vietnam, it was the H'mongs. The H'mongs are now refugees because they had taken that political stance so clearly, risking their lives and giving their lives. They came to this country as part of the resettled refugees, and one of the first things we discovered was the H'mongs did not have a written language. I am proud to say that Portland State University and others joined together in a coalition to develop a written language out of the phonetics of the H'mongs language. And I can also say that as one State with one of the highest refugee populations per capita of any State certainly, there were some problems initially with not only the H'mongs but with many other groups as well. I see no reason for singling the H'mongs out at this time as it has been done in this letter because I think again the Senator from Minnesota will testify to the fact that Minnesota, with one of the largest H'mong populations, has seen a tremendous improvement within the H'mong group, as well as I can testify from the H'mong experience in Oregon.

Mr. President, I will not go into the Sureck case. I have alluded to it, and the Senator from Wyoming has outlined a procedure that, somehow, a letter from the appropriations chairman that I confess to having written to the Presdient of the United States and to the Secretary of State, outlining the case as I saw the problems of the refugees in Southeast Asia, somehow defeated Mr. Sureck and brought a change in assignment.

I would say regarding the President of the United States I have recommended many things to him, and he has taken very few of my recommendations. And I used to even write some of those recommendations on the Appropriations Committee stationery and sign my name as chairman of the Appropriations Committee.

It is merely because I and 13 other Senators wrote a letter, which did not necessarily mean the President of the United States and the Secretary of State are going to immediately respond in the affirmative or support my proposition in the letter, that they looked into the situation. They took action on that situation based upon the facts of the case that they obtained and that they also reviewed. And that was the basis of their decision, not because I wrote a letter as chairman of the Appropriations Committee. If anyone wants to test that further, I will give them the win and loss record of my recommendations to the White House. It almost got to the point where I did not bother to send recommendations down there any more. But again, the implication of somehow that the President's action was taken on the basis of my stationery, I would refute that.

Mr. President, I hope we can move to a vote shortly on this. I do know the Senator from Minnesota as well as the Senators on the floor here may wish to speak to this amendment.

I again thank the chairman of the Senate Foreign Relations Committee.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illnois.

Mr. DIXON. Mr. President, the distinguished manager has been gracious enough to say that I can proceed for a few minutes to make a statement. I thank the President for recognition.

THE NOMINATION OF ROBERT BORK

Mr. DIXON. Mr. President, when I last stood on the Senate floor to discuss a Supreme Court nomination—the nomination of Justice Rehnquist to be Chief Justice—I laid out three tests that I would use to guide my consideration of such an appointment: First, great intellectual capacity; second, the kind of background and training that appropriately prepares the nominee for the post to which he or she is recommended; and third, personal integrity and a good reputation. I also stated that opposing the political or judicial philosophy of a President's nominee is not generally a basis for a vote against that nominee.

I had voted for Judge Bork's appointment to the D.C. Circuit Court of Appeals, and I remembered that the American Bar Association had rated him "exceptionally well qualified" for that position. Judge Bork was unanimously confirmed for the Circuit Court of Appeals. Therefore, when the President sent the nomination of Judge Bork to the Senate, my initial inclination was to favor the appointment.

However, the Supreme Court is unlike any other court in the land. Its rulings on constitutional issues cannot be appealed, and can only be overturned by another ruling of the court, or through the extremely difficult and time-consuming process of constitutional amendment. My responsibility as a Senator therefore demanded that I review Judge Bork's qualifications and suitability for the Supreme Court with great care.

I have thought about this nomination a lot since it was first sent to the Senate on July 1 of this year. I have read a number of Judge Bork's writings and judicial decisions. I have listened to the hearings in the Judiciary Committee when possible, and I have reviewed the transcript of those hearings. I hoped that review would definitively answer all the questions that have been raised about this nomination. Unfortunately, it did not.

Despite Judge Bork's undeniable brilliance, I have to say that I do not believe he has put a number of the major issues involving this nomination to rest.

I want to take a moment to briefly discuss the areas where I have real concerns, but before I do, I want to comment on one general matter concerning whether the Senate would advise and consent to the nomination of any philosophical conservative.

I do not object to the nomination of a judicial conservative to the Supreme Court bench. I think the President is entitled to nominees that share his philosophy. I have voted for the nominations of judicial conservatives to the bench in the past, and I expect to support the nomination of judicial conservatives to judicial posts in the future. I have supported the nomination of Justice Rehnquist to be Chief Justice, and the nominations of Sandra O'Connor and Antonin Scalia to be Justices. If the Senate rejects the nomination of Judge Bork, I fully expect President Reagan to send the Senate a conservative nominee, and I fully expect that the Senate will confirm a conservative nominee.

The questions the Bork nomination raises for me, though, do not go to the question of conservative or liberal philosophy. Rather, they go to the fundamental question of how he views our Constitution, how he sees the powers of government and individual liberties, and the role he sees for the Court in protecting individual rights guaranteed by our Constitution.

Our Constitution replaced the Articles of Confederation. The Articles of Confederation were abandoned because they were not strong enough to manage the country. Our Nation's founders knew they needed to strengthen the fundamental law on which our country is based. At the same time, however, they wanted a limited government, one that preserved individual liberties. The Government of the United States, therefore, is a government of limited powers. Even that was not enough to satisfy the Founders that individual liberties would be sufficiently protected. They felt compelled to add the Bill of Rights—the first 10 amendments to the Constitution—in order to ensure ratification.

The Bill of Rights is every American's guarantee that their liberties will be preserved. It specifically guarantees such fundamental rights as freedom of speech and religion, and the right to trial by jury. It is much more, however, than a list of specific rights, and even more importantly, it is not an exclusive list.

The ninth amendment states:

> The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

What that means is that the Constitution explicitly recognizes that those rights explicitly listed in the Bill of Rights or elsewhere in the Constitution do not represent all the rights of Americans that are constitutionally protected. Simply because a right is not spelled out, like the right to marry, for example, does not mean that it does not exist.

The Constitution, at least in my view, thus takes an expansive view of the individual liberties it guarantees. Judge Bork's writings, opinions, and testimony before the Judiciary Committee leaves real questions, however, as to whether he sees the Constitution in that light. A strong case can be made that his view of the Constitution leads to a much more cramped and narrow view of individual rights and liberties in such important areas as civil rights and the right to privacy.

Let me say at the outset that I do not believe that Judge Bork is a prejudiced man. In the area of civil rights, however, I think there is a real question as to whether his views on a number of vitally important issues are in the mainstream of American opinion.

He has criticized, for example, Supreme Court opinions holding racially restrictive real estate covenants—preventing the sale of real estate to blacks or other minorities—as unconstitutional, and overturning State poll taxes. He argues that many civil rights issues should be brought to the Congress for resolution, rather than being left to the courts. However, he has also criticized congressional action in the civil rights area as exceeding its powers.

These criticisms of Judge Bork's record come, not from some narrowly based interest group. Rather, they come from a broad spectrum of America and must be taken seriously. They come from such people as William Coleman, a Republican member of President Ford's cabinet, and a distinguished lawyer who started his career as an appellate court and then a Supreme Court clerk.

What troubles me most is that the civil rights questions Judge Bork takes issue with are basically settled law, well accepted throughout the legal community. It creates a real question in my mind about how he would approach future civil rights cases.

Judge Bork has also criticized the well-accepted line of cases affirming every American's right to be let alone—to be free from intrusive governmental invasion of their personal liberty and privacy. He has objected to Supreme Court opinions affirming the fundamental right to marry, to travel, and to privacy. Again, however, that is a view that seems to be well outside of the judicial mainstream.

I could go on at some length on this subject, because I am deeply troubled by the picture of Judge Bork's views on individual liberties that has emerged since the nomination was sent up. I am also greatly concerned, for example, about his approach to first amendment and sexual discrimination issues, where he again takes a very narrow view of individual rights.

Instead, however, I would like to make one other point before I conclude. I have had a long career in politics, Mr. President, and I have had the privilege of serving in all three branches of government. I started my career as a police magistrate in Belleville, IL, just about as far as one can get from the Supreme Court.

I learned something important in that job, though, something that has stayed with me through my entire life, and that is that justice is about people. Decisions have a real impact on real people's lives and liberties. Justice was a very personal business in the magistrate's court. You come to know the parties that came before you in a way that is impossible at the Supreme Court level.

Even though that same personal touch cannot be there at the Supreme Court level, however, that same truth still applies. In fact, Supreme Court decisions are perhaps even more about people because many more people are affected by a Supreme Court decision than by any decision of the Belleville Police Magistrate Court. What that means is that a Supreme Court Justice, no less than a police magistrate, must be sensitive to the fact that the cases before the Court are more than legal questions, that real people's interests and freedoms are at stake.

I acknowledge that Judge Bork is a superbly qualified lawyer. Yet as I read his writings and judicial opinions, as I listened to him before the Judiciary Committee, as I read the transcript, I could not eliminate my doubts about his sensitivity to the fundamental people issues that are at stake in the cases he argues so well.

A Supreme Court Justice must have that sensitivity because the Court is not a simple mechanical, analytical institution. It is a political institution, in the best sense of that word, designed to protect American liberties by checking the excesses of the legislative or executive branches. It is a dynamic institution, and like the other parts of government, must respond to changing circumstances by viewing the Constitution as the living, breathing, document that it is. Our Government was created to protect the life and liberty of every American, and the Supreme Court functions as a key part of that protection.

I want to conclude by stating that the more I reviewed Judge Bork's record, the more questions I had. I want the President to be able to get his choice confirmed, but my own responsibilities under the Constitution demand that I carefully examine every prospective nominees views on fundamental constitutional issues.

In many areas, I like to give the President the benefit of the doubt. I have voted for many Cabinet appointments that I personally would not have made. I voted for Justice Rehnquist, though I disagreed with some of his philosophy.

The issues raised by this nomination, though, are not really about whether the nominee is a conservative. If it were that simple, I would be supporting the nomination. Rather, the issues relate to Judge Bork's fundamental approach to the Constitution, and to what is the Constitution's first priority—to preserve the liberty of all who live in the United States. This is an area where the President cannot have the benefit of the doubt. Questions in this area must be satisfactorily resolved before the Senate can advise and consent to the nomination. Unfortunately, in the case of Judge Bork, these questions still remain. I must therefore oppose his nomination.

NOMINATION OF JUDGE BORK TO THE SUPREME COURT

Mr. EXON. Mr. President, the controversy over the Bork nomination is tearing America apart, dividing friends and families, and spewing acrimony between special interest groups. Enough is enough of this hysteria in this Senator's view.

This is by far the most divisive issue I have seen since coming to the Senate. Reason has given way to harshness.

The question at this juncture is no longer whether one agrees or disagrees with the nomination. The issue now is what can be done promptly to stop the blood-letting and start weaving together a sense of national fabric and understanding of others' points of view that is basic to America's greatness. This Supreme Court seat does not belong to President Reagan or Robert Bork. It belongs to all the people.

Last Friday, I tried to encourage the President to withdraw the nomination, since I was convinced the President and the Court could only be harmed, and thus the country, by further needless conflict. This might not have been fair to Judge Bork or the process, but that was the way it was. Mankind sitting in judgment of its fellow man is difficult and at times imperfect, as history and our religions have taught us. To say that Judge Bork was somewhat controversial is a clear understatement, complicating the situation, although I had thought that I might eventually vote for him. I am troubled by many of his seemingly shifting views, highlighted by the National Catholic Register editorial in opposition to his confirmation because of his unclear stand on the abortion issue.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, in my view, Judge Bork was not nearly as bad as his detractors state nor as irreplaceable as his supporters contend. But that is not the question now. The 9-to-5 negative vote in committee sealed what had been all but a lost cause. The rush to judgment day accelerated as pressures and demands from special interest groups mounted to record proportions.

As a genuinely undecided Senator, I have been forced to the conclusion that, regardless of other considerations, Judge Bork has not exhibited due judicial temperament by his adamant position to fight to the end a certain defeat. This is hardly in keeping with the "prudent man" principle. He appears incapable of grasping that there is a time to aspire and a time to concede.

I respectively urge Judge Bork and the President to come down from their defiant mountain top and end the confrontation. They cannot win, but they do not have to lose, and there need be no "dead bodies." All the king's horses and all the king's men can't put Judge Bork's nomination back together again.

When this is accomplished, the President could then promptly send up a new nominee for confirmation. The Senate could then hopefully put all of this behind us and get on with the many important and controversial issues confronting the Congress and the executive branch. These matters are far more important to the Nation and the free world than one of nine members of the Supreme Court, as important as that body and its membership is. I would have no trouble voting for a conservative judge for the Supreme Court, but this appointment is divisive, and it is tearing the country apart.

To the end of moving forward and to eliminate any uncertainty as to this Senator's position, as dictated by events, which might prolong the meaningless controversy, I announce that when and if the nomination comes to a vote, I shall oppose the nomination of Judge Bork.

EXHIBIT 1

BORK AND PERSONHOOD

The evening before I was to begin my first job at a neighborhood supermarket, my father gave me some advice: "Son, remember, the boss isn't always right. But he's always the boss." There were many occasions to resent those words, like on icy winter nights when the truck arrived late and we bagboys were stuck until the wee hours unloading it. Why it couldn't wait for morning was beyond us, but the manager said it couldn't. His job was to make these decisions. The boss was the boss.

Then, as now, I recognized that there are times when one must buck authority—or better put, the misapplication of authority. Nuremberg demonstated that you can hang for "just following orders." And, yet, while a father who counsels his daughter to get an abortion violates his God-given responsibility as a parent, his misdeed cannot negate the very concept of parental authority. There is a critical difference between resisting illegitimate acts by those in authority and denying authority as it validly subsists within an individual or institution.

In the holy-war atmosphere surrounding the confirmation hearings for Supreme Court nominee Robert Bork, some pro-Bork factions, among them pro-lifers eager to end America's abortion holocaust, are failing to observe this distinction. In their enthusiasm to score a political victory, pro-lifers have tied their cause to an agenda whose result could be to strip the court of its authority to interpret the Constitution and define civil rights—including the unborn's right to life.

One conservative coalition admits that its gripe with the judiciary is more "procedural" than "substantive," a claim which, if only a pretense, isn't likely to persuade anay diehard pro-abortionists in the Senate. "Free the Courts" avowed mission is to save the court from itself, or as they insist, "from over 30 years of institutional enslavement to activist jurisprudence." Not only is this goal different from the pro-life movement's primary legal objective; the two may actually conflict.

A categorical rejection of "Judicial activism" would disallow all federal interest in abortion pending enactment of a human life amendment. That could "free the court" of its obligation to straighten out the mess it made in *Roe vs. Wade*—not by inanely "returning the issue to the states," but by ruling in favor of the unborn. For as William F. Buckley Jr. writes, "To withdraw the license of *Roe vs. Wade* is not to illegalize abortion." It does not adjudicate in favor of the unborn's right to life.

Rather than seeking to emasculate the court, pro-lifers should invoke a little "activist jurisprudence" on behalf of their silent constituents. This is what the Constitution, not to mention the urgency of the situation, requires.

The question: Would Bork's confirmation signal the demise of legal abortion? Despite all the hysteria and euphoria, there's room for doubt. Whereas Bork's disdain for the court's performance in *Roe vs. Wade* is evident, his commitment to a positive, federally guaranteed right to life isn't.

Bork has decried the Roe decision as a "usurpation of state legislative authority." Nowhere does that statement suggest that what Roe more critically denied is a constitutional right embedded in the Fifth and 14th Amendments. In fact, Bork once expressed skepticism of the idea that rights inhere in humans. Although he vehemently rejects a right to abortion, he could prove just as biased against a constitutional interpretation mandating civil rights protection in the form of personhood for the unborn.

Roe vs. Wade is characterized by three determinations:

First, that abortion is subject to federal review and jurisdiction;

Second, the denial of personhood to the human fetus:

Third, the creation of a right to abortion.

In deferring to the states' prerogative, Bork opposes the first and third determinations, but refuses to cite fetal personhood as a point of dissent. Most pro-lifers, on the other hand, would concur with the first determination, agreeing with Roe's majority that abortion is not amenable to local resolution. Moreover, they would affirm fetal personhood as the reason, thereby also overriding any right to abortion.

There is simply no way to ignore fetal personhood and truly reverse Roe vs. Wade. The court will either support personhood for the unborn or, by turning a blind eye to the issue, reaffirm its denial through default. Incidentally, Bork testified against the Helms Human Life Bill, charging it unconstitutionally infringed upon the court's role to enunicate personhood. Pardon me, but that puts the ball back in the judiciary's court.

The question facing pro-lifers as well as the Senate Judiciary Committee is this: Given an opportunity to declare the fetus a person deserving a civil right to life, would Bork advance this argument? Or would he dismiss it as "judicial imperialism"? Might Bork succumb to a neanderthal hostility toward civil rights doctrine as "utopian?"

He in fact argued against the Civil Rights Act of 1964, predicting "a loss in a vital area of personal liberty." Bork says he regrets that rhetoric. But it would be a tragic irony if pro-lifers were to find their ultimate goal of securing personhood for the unborn sabotaged by the very tenets of judicial conservatism in which they have placed their hope.

Justice Bork could turn out to be far more dedicated to limiting the rights of unions, minorities and those accused of crimes than he is to promoting an unborn baby's rights to enter this world alive.

Meanwhile, despite its horrendous errors, the court is still the institution with a responsibility to defend civil rights. There is but one compelling reason for it to renounce abortion on demand, and that's a firm conviction that the unborn are persons with a right to life. Any other rationale may culminate in a faint attempt to shun its duty, while more than 4,000 unborn children continue to be executed each day.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of S. 1394.

AMENDMENT NO. 886

The **PRESIDING OFFICER.** Who yields time?

Mr. **PELL.** Are we on limited time, Mr. President? I do not think so.

The **PRESIDING OFFICER.** Time is not limited.

Who seeks permission to speak?

Mr. **BOSCHWITZ.** Mr. President, how much time remains?

The **PRESIDING OFFICER.** There is no time limit.

Mr. **BOSCHWITZ.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BOSCHWITZ.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BOSCHWITZ.** Mr. President, I see that my distinguished colleague from Wyoming is back and I want to respond to some of the remarks he made. I did not hear his entire talk, but I heard some of it and I will respond to those remarks.

While I find myself most often in agreement with my good friend from Wyoming, in this case I do not find myself in agreement at all.

My friend from Wyoming said that in the event you transfer this to the State Department hard decisions on refugees will not be made.

Mr. President, that is not the experience of my life. The hard decisions that were made by the State Department, the hard decision that I see being made by the State Department, the hard decisions that were made in the early part of my life with respect to refugees by the State Department, certainly would suggest that the statement by my friend from Wyoming really is not based on fact.

During the thirties and forties the attitude of the State Department, with the notable exception of the father of the distinguished chairman of the Foreign Relations Committee, with the exception of very few people other than Senator PELL's father, was that they made decisions that were not hard but were harsh, that were unfeeling, and, as you see the State Department making the hard decisions that indeed have to be made in the field of foreign relations, the idea that, if you transfer to the State Department these decisions, that hard decisions are not going to be made certainly has no precedent in history and certainly I do not think is rooted in fact.

The fact that they do know what is going on in those border camps, the fact that they have a larger and broader viewpoint of who is a refugee and who is indeed under stress in the world than perhaps does the INS is to its credit and is the reason that they should be included in this process.

So, first, in response to my good friend from Wyoming, and indeed he is my good friend, I say that the transfer of some of this authority and some of the decisionmaking to the State Department is indeed called for and he should not fear that the State Department is going to take an attitude that is not hardminded as he wants those decisions to be.

Then my friend from Wyoming said that we get two or three members of the family now in addition to the refugee. I am not quite sure why he finds that to be such a disadvantage. Indeed we should bring over the members of the family.

I agree with him that some of the organizations should be forced to expend the funds and not bank them, and those kind of things, but the family is indeed welcome in this country. I was a member of one of those families at an earlier period of my life and the idea that close members of the family should somehow be excluded is I think not becoming to this entire argument.

You only have to live in a camp to be a refugee for a few years says the Senator from Wyoming. Well, I do not understand that these folks are there in those camps by choice, and I would say to him they are not Taj Mahal's there as he used the expression. Those camps are indeed dangerous. Those camps are often out of control. Those camps are not desirable places to live and to bring up your family as some people must, but those camps are indeed often the scum of where one would not want to be there and people are not there most often by choice but because indeed if they return to their original country or if they return to the place from where they come they would be severely deprived, their lives indeed would be in danger.

Then the processing will only draw more people to the camps, the processing of long stayers, people who somehow are not refugees, according to my friend from Wyoming, but have been there for years in these camps and in the event that they are processed, they will only draw more people to the camp. Regrettably that appears that it may be true, that the condition of many of these people in that part of the world is so bad that in the event that refugees are allowed to be processed often this attracts more people to these camps, more people who have a hope for freedom, more people who have a hope that their lives may be fulfilled and they should not live in fear an deprivation.

So I respectfully disagree with my friend and colleague from Wyoming. I feel that the coming of these refugees not only enobles our country and enobles our people, but it strengthens our country whether it is economically or morally or any other way and indeed it rejuvenates our coutnry, as I see the young people go through high school and college with my children, outstanding students, students that have excelled because they, as other refugees before them who have built this country, really rejuvenate and strengthen and bring new energy to this country, and it really is in the interest of our country that that continue.

I say to my friend from Wyoming that these people are not from Taj Mahal, that these people are in those camps because they mostly cannot go back to the country from where they come.

So I rise today, Mr. President, in support of Senator HATFIELD's Indochinese Refugee Resettlement Act of 1987 as an amendment to this State Department authorization bill. I am proud to say that I am an original cosponsor of this important and very necessary legislation.

We in Minnesota, Mr. President, despite the fact that perhaps some would think it is a little out of the way, have a large population of Indochinese refugees, particularly of the H'mong and I believe in comments before I came to the floor my friend from Wyoming spoke about the H'mong and that they indeed have a difficult time in adjusting to their new country, and they do.

And they do have a difficult time adjusting to the United States. But when they adjust, as we have found in Minnesota, where we have 20-odd thousand H'mongs, they adjust and become really an essential part of the community, part of the building of the community, much in the way as Senator HATFIELD has mentioned in his response to Senator SIMPSON a little bit earlier.

These people may not adjust well to the United States or as rapidly as my family did or as people who come from Europe, but they adjusted very rapidly when our troops and when our fighting men and women in Southeast Asia needed their help. And for that, they are now a deprived people there. And to allow them to remain there and to allow them to continue to be persecuted really is not within the scope of the feeling of this country as I have always believed it to be.

The problem of Southeast Asian refugees may sound far away to some, but I believe their struggle for freedom is very much a struggle that is the history of our country. For many Southeast Asians, the flight from persecution follows a path something like this: They find a way to escape their own country and make their way to Thailand, virtually always on foot. If they are "lucky," they are allowed to enter a camp where they wait, on the average, 5 years for the chance to have a resettlement interview. For 5 years, Mr. President, they wait to have a chance to have a resettlement interview.

If they are luckier still, they may make their way to this country or to some other Western country. And that path is strewn with risks and many pitfalls. Escape from their own country is dangerous, and often results in arrest and persecution.

Once a refugee camp is reached, there is no guarantee that they will be allowed to enter that camp, let alone be resettled. The camps themselves suffer from inadequate supervision and black-marketeering of humanitarian aid. Unscrupulous camp authorities demand bribes. Ban Vinai Camp in Thailand, for example, is now under both Thai and United States investigations for corruption. Many people here in the United States have to raise money for relatives in camps to enable them to leave or to stop the patrols from pushing their loved ones back into the country from which they escaped.

Senator HATFIELD's amendment will address these serious problems by asserting the right of third country resettlement for Indochinese refugees. It demands better protection for displaced Indochinese refugees along the Thai border. It will increase stability in the region through the recognition of a resettlement problem, not a repatriation or integration problem. The amendment does this by expressing the sense of Congress concerning floors for annual admission numbers for Indochinese, the Orderly Departure Program, and Humanitarian Parole from Southeast Asia during fiscal year 1988 to fiscal year 1990. It also suggests admission numbers to address the plight of those refugees who have been in camps for 3 years or more—the so-called long-stayers that my friend from Wyoming spoke about, who have no chance for a new life. The amendment authorizes funds for educational programs for displaced persons living on the Thai border who will not be resettled, Thai village assistance, and training for Thai border protection rangers. It also expresses the sense of the Senate in favor of a 24-hour presence of international relief personnel in the site 2 Cambodian border camp which has suffered terribly from present protection problems.

We have a special relationship and a historic responsibility toward Southeast Asian refugees. Many of them are perhaps refugees even because of our actions.

Last June, in a speech to the Association of South East Asian Nation countries, Secretary of State George Shultz reaffirmed that the United States will continue to provide refuge for substantial numbers of displaced persons.

In response to the ASEAN countries' growing impatience with the continuing stream of refugees, Secretary Schultz reassured them that U.S. commitment to resolving the Indochinese refugee problem is as strong today as it ever has been. This amendment is a step toward fulfilling these promises.

As the only refugee in the U.S. Senate, Mr. President, I feel I have a special obligation to represent those who choose to make the United States their new home. I believe this amendment will pick up where we've left off in refugee-related legislation and that it will make our present system more flexible and open. It deserves our serious attention and prompt consideration and, indeed, it deserves passage.

I yield the floor.

● Mr. SIMON. Mr. President, I am a cosponsor of S. 814 authored by my colleague Senator HATFIELD of Oregon and I wish to add my support to its addition to the State Department authorization bill.

The Southeast Asian Refugee Resettlement Program has been a good one having settled over 1½ million refugees worldwide. We have already accepted 800,000 refugees in the United States and that has been the right thing to do. Through this program, we have enabled these refugees to start a new life. Clearly, refugee resettlement is a worldwide problem with which all nations should be concerned. But just as clearly our country has a special responsibility to that region because the continuing dislocation in the area is in large part due to the lingering disruptions of the Vietnam war.

As we get farther and farther away from the years of involvement in the war, there are fewer and fewer of what can be accurately called refugees. But we cannot end our participation in this program right now. This amendment will lead us to the end of U.S. participation but in an orderly fashion that provides justice and fairness to those currently in refugee camps.

This amendment provides a clear U.S. commitment to continue the program over the next 3 years. It addresses the problem of the long-stayer population by increasing admissions numbers for certain categories. It requires greater use of humanitarian parole and seeks better protection for camps through better training for security forces and an increased international presence.

This is not, as some have described it, acting with our hearts and ignoring our heads. We are guided by both. We owe it to the people in the camps and to ourselves to look for a way to bring this program to an orderly end. This legislation is a big step in that direction. This amendment will force us to make clear decisions on what we need to do and it clarifies to Thailand and the first asylum countries what they can reasonably expect from us over the next 3 years.

I urge the adoption of this amendment.●

(Ms. MIKULSKI assumed the chair.)

Mr. DURENBERGER. Madam President, I rise today in strong support of the Hatfield amendment. As I do, I want to compliment my constituents for their good judgment in picking a refugee to represent them in the U.S. Senate. Each time this body addresses itself to the problem of refugees, I hope that RUDY BOSCHWITZ will take just a few minutes to come and remind us of the value that refugees have meant to this country and will mean in the future.

It is just a deep honor and a privilege for me to serve with him. I think—and I am sure the Senator from Wyoming and everyone else would agree with this—that his example to all of us in this Chamber in times like this is a particularly rewarding one for each of us who call ourselves Americans. His only drawback, as we all know, is, because of the place of his birth and because of the current state of the Constitution of this country, he is unable to rise to what some would consider higher office in this country.

Madam President, this amendment is a modification of S. 814, the Indochinese Refugee Resettlement and Protection Act of 1987. I cosponsored S. 814 last March and am pleased to see it introduced in amendment form today.

This action is necessary because the refugee problem in Southeast Asia persists, more than a decade after the United States left Vietnam. Since that time, our Nation has placed a high priority on resettling refugees from Indochina. Instability, repression, and tyranny have not abated since U.S. forces left Saigon in 1975—conditions have worsened. The North Vietnamese are well on their way to fulfilling historical ambitions of hegemony in the region. The murderous Pol Pot regime in Cambodia has been replaced by a brutal Vietnamese occupation. And the stream of refugees continues.

It is the countries that are unfortunate enough to have to coexist with the Vietnamese imperialists that have borne the brunt of the refugee burden. The countries of first asylum—where refugees stop immediately after flight from their homes—have experienced a huge drain on their resources and, in some cases, military attack due to their willingness to allow refugees asylum. Since 1975, the countries most affected are Thailand, Hong Kong, Malaysia, Indonesia, Singapore, and the Philippines.

But it is in Thailand where the refugee crisis is most acute. Thailand has, in recent years, come to doubt the commitment of third countries to resettlement programs. The United States, in particular, shares part of the responsibility due to cumbersome bureaucratic procedures, questionable adjudication in some cases, and a failure to address the issue of the long-stayers—those who have been in the camps for years rather than months.

The doubts about resettlement have led the Thais to worry that they will be left with thousands of refugees that have no third country options nor little prospect to return to their homes. The Thais, regrettably, have begun to act unilaterally. They have moved to close the Khao I Dang refugee camp and have theatened to close more camps. There are disturbing reports of forced repatriation—of refugees being forced back across the border they risked so much to cross in the first place.

I have expressed my concerns about the Thai action on several occasions. But we need to do more. The Senate needs to let the Government of Thailand know that our commitment to a resolution of the refugee crisis in Southeast Asia. As long as Thailand knows that the United States remains dedicated to admitting refugees from Southeast Asia, they will not conclude they need to take unilateral actions that compound the human misery of the camps.

Some will no doubt argue that this amendment is unnecessary, that we should not tamper with the Refugee Act of 1980, that the plight of Southeast Asians is an economic not a refugee problem. But these arguments are wrong. This amendment is necessary because there are persistent rumors that the Reagan administration plans to phase out the Southeast Asian refugee program. Last fall many of my constituents, a large number of them refugees from Indochina, came to Washington to express their concerns on this issue. I can assure my colleagues that their personal experiences made it clear to me that there still is a refugee problem in Southeast Asia. It is surprising to this Senator that given what we know of the Communist Vietnamese, there can be doubt that human beings in countries under their control are in fear for their lives because of race, religion, or political beliefs.

This amendment will go a long way toward letting the world know the United States will not lessen its commitment to resettling Indochinese refugees. It has been changed from binding legislative language to expressing the sense of the Senate at this point. The message will be sent and we have the option of using binding language later if the need arises.

This amendment expresses the sense of the Senate that the United States should accept at least 36,500 refugees from Indochina for each of the next 3 years. It also targets specific groups within the overall ceiling: 1,500 Amerasians and 9,000 long-term camp residents per year. It urges the Attorney General to exercise his authority to parole a minimum number of Indochinese for humanitarian reasons.

The amendment also authorizes funds designed to aid refugees directly and indirectly. The amendment fences $5 million for education programs and projects to be carried out by nongovernmental organizations near the Thai borders with Cambodia and Laos. The same amount is reserved in our economic support for Thailand to aid villages affected by the camps. Finally, $1 million is reserved for special training for the Thai military to protect the camps from cross-border raids. It should be pointed out that in each case, these funds come from amounts authorized; this amendment does not authorize more spending.

The amendment is not perfect and it will not solve the problems of the refugee crisis in Indochina. But it is a tremendous step in the right direction. I urge my colleagues to support this amendment and commend my colleague from Oregon for his work on this issue.

Mr. PELL. Madam President, the pending business is the amendment of the Senator from Oregon; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PELL. I hope we would get to a vote soon.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Madam President, I certainly share in that view, but I do need to respond to the thoughtful comments of my friends from Oregon and Minnesota. I certainly owe an apology to Senator HATFIELD. I was called off the floor to visit with Judge Bork as he was nearing the end of his debate in his powerful remarks. Certainly it is not my usual bent to leave while one of my colleagues is involved in debate with me and I certainly apologize for that very necessary absence.

Well, in just about 4 or 5 minutes more, maybe, I could just say, you have seen what you go through when you get in this game. I must have pressed some buttons, some old buttons there. That is what you do when you deal with refugees or immigration. There is a spirited defense sent up in every way. I told you what happens.

You get into a discussion on this tough issue, and you may get hammered flat with emotion, with guilt, and yes with some very real emotion. I know the Senator from Minnesota is a refugee. He is one of the most delightful men I know.

I know that the people that come out of Thailand, the bulk of them, are refugees. I really do know that. I do also know that some are not refugees.

I do know that the voluntary agencies do a remarkable job, and I do know some that are duds. That is the way it is. But every time you get into this kind of an issue, it is portrayed as mean spirited and, you know, I do not really like that because that is not me. But you heard the list that was read. I heard that. I know who those people are. They are remarkable people. They serve their fellowman.

I am not one single shred less in my degree of humanitarianism because I happen to resist the gimmicking of the Refugee Act. That is for sure. I am offended, somewhat, when that is brought up. I would just say that.

So, to have any less degree in following of those concepts—and, as I say, it is not a new experience. It is a very fresh experience over the past 6 years.

But, nevertheless—and I want to be sure that you hear me carefully—when the Senator from Minnesota was talking about my remarks about bringing two or three family members out of Vietnam I was talking about something where his staff may have been ill-advised. I was talking about the orderly departure program. I was not talking about Thailand in any sense and I want to say that because I know how this busy place works, and I suggest he was ill-advised by his staff because I do know RUDY BOSCHWITZ. That is the way it sometimes is.

I did not say that we should not take family members of refugees in Thailand. I did say—and if you will all remember, you were all here when we did it—that we did something with Amerasian children. Do you remember that? We said we were going to bring out Amerasian orphan children, and I helped work hard to get that bill passed.

But let me tell you that the Vietnamese are using it to bring out stepfathers, please hear that, stepbrothers, stepsisters, stepuncles, and even people who sell themselves to come out under the orderly departure program from Vietnam. It has nothing whatsoever to do with Thailand. Except that the Thais may get them and then wonder if they are being honestly treated; and they are not, because the Vietnamese have gimmicked the ODP Program.

Some Amerasian children have actually been sold to families in Vietnam who wish to come to the United States. I wish that were not true. I wish I did not have to tell you that in the debate but I do not know how else, honestly, to express things. If emotion is used in the debate, I get to come back and use a bit and tell you the actuality of how people gimmick the system. That ODP Program in Vietnam has been gimmicked. That is an unfortunate truth; but in certain instances, that is the way it is without question.

The voluntary agencies—I did speak about the voluntary agencies. I know many of the people involved with them. I could name many of them: Wells Klein, a most superb man. There are so many of them. Without him I would have been able to do little in this area. There are some tremendously good ones and some who are really not quite so good. Awfully enough, there are some who did stockpile up some money, and yet they have often done the best job when they finally unleashed the funds.

We could not have reached this extraordinary record we have in the Indochinese Refugee Program without the dedicated work of the volunteer agencies, of the VOLAG's, but there have been some unfortunate experiences in the resettlement of the VOLAG groups because the VOLAG's failed to do what they were paid for and that is to stay on top of the resettlement effort, follow up on that individual person and not just let them free float in the United States.

It is also true that some depend on these R&P grants for the majority of their funding and they, therefore, do have a very high interest in the numbers that we talk about. That is the way that is. I want to, perhaps, just lay that one with the rest of the facts.

Then there is a serious error of my dear friend from Oregon. That letter he read does not cut anything in half. I see the staff member has left, too. I hope somebody will read it, eventually, in the process of this effort. It does not cut the number in half at all.

The letter did not reduce the number by half. It simply requested—and that is all it did was request—that no more than half of the total number be admitted until we have had the midyear consultation. It was signed by Senators BIDEN, THURMOND, KENNEDY, and myself. We are not cutting anything in half.

So I conclude that—I have no desire at all to talk about flooding the country. I am not a xenophobe. I do not spend any time in that, not a whit. All I am saying is we should not blanket people into the United States. Read the entire Ray report—they are very thoughtful people, together, who did it. I think it is absurd to say that I am saying that all people who come from Thailand are not refugees. Many of them are, and we owe them an obligation. But we owe it on a case-by-case basis and not some blanket process which distorts the Refugee Act and everything we have tried to do.

There is no doubt in my mind either that the H'mong people served us beautifully in Laos in the most extraordinary way. I do not argue with that one whit. And they then if they did, are refugees.

I simply ask this. And, as I say do not throw anything yet as I pose this question: Is it more humane to bring the H'mong to the United States of America where they may spend the rest of their lives whiling their time away on public assistance—hear this carefully, or I will get hammered flat—public assistance in a strange culture where notably they are those who have more refugee dependency rates than any other group? Or would it honestly be better, and this is what I am saying, for them to remain in Thailand while we seek voluntary and safe repatriation for these people or settlement in a place in Thailand where the entire local population is ethnically and culturally similar to the H'mong? Would the latter be better? That is all I have asked in that situation. And that is all I have to say in this situation. Nothing more. That is an issue that deserves to be addressed.

When I used the words "Taj Mahal," I am speaking of the Thai farmer. Somebody must have missed that one too. How the Thai farmer, 30 or 60 or 100 kilometers away from a new construction zone of barracks, which are admittedly pretty poor, and warehouses, that is how he feels and how he refers to it when his government is not giving him money and then they see it going to displaced persons who are not refugees.

I am quite aware that this amendment will carry. I must have a provocative nature to want to just say that when everything else fails, I think everyone is entitled to their own opinions, but nobody is entitled to their own facts. I hope we will look at all the facts in this very serious issue, at what you are doing here. You may think you are not amending the Refugee Act but indeed you are in a sense. Even though you are not formally amending the Refugee Act, and I do not believe I have said that any more than I said a phrase like "do-gooders"—I can tell you what it does do. It sends a signal to would-be migrants from Indochina who want to escape economic hardship in their homeland, who do not like the draft, their country any more, or a lot of things about it. It sends that signal. This sense-of-the-Senate amendment will send out the news of the opportunity to migrate to the United States through the use of a refugee program—and that is a distortion of everything we know. We do not mean to send such a signal to these people or other people or the Thais. They already have their correct signal. In our consultation figure for fiscal year 1988, it is the signal of higher numbers than those in this resolution. In fact, for the first time in 6 years, our overall admission numbers increase and they include 29,000 slots for Southeast Asia. That is the lion's share for all the world's numbers.

If we are going to tilt things for Southeast Asia, let us be ready to tilt it all for other countries. Let us try to get back to the Refugee Act. Let us stick with the definition of refugees under that fine act.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I might say that I do not know of any other person in the Senate who spent more time and devoted more effort, and frankly who has more knowledge of the issue of immigration than my distinguished friend from the State of Wyoming. I particularly empathise, I guess, with those in foreign lands. Being the parent of a child from a foreign country, I understand all the reasons of compassion and concern. But I think we have to deal with realities, too.

We travel around this world and see one-fourth of the world going to bed hungry every night, another one-fourth suffering from malnutrition, and half of them would move here tomorrow if they could.

I know of no other country that has a more generous quota for immigrants coming into this country, or more willingly accepts refugees.

I know what is on the Statue of Liberty, and I know when it was placed there. That is when the West was not settled and we needed more immigrants. But there is a limitation even in this country.

We have a limitation that is placed after very careful consideration under the Refugee Act. What we are seeing here in my opinion is an end run around it.

Other than just coming to this country, there is also the question of relocation in some of their own countries.

Time and time again we are seeing people who are not just political refugees, people who are not oppressed because of dictatorship or political process, but are really economic refugees. There is no way this country of ours can absorb all those persons.

I share the views and the concerns of my distinguished friend from Wyoming. Alhough I understand where the emotions are on this issue, and the great compassion of the Members of the Senate, I hope the position of the Senator from Wyoming will prevail.

Mr. EVANS. Madam President, I rise to support the amendment of my distinguished colleague from Oregon. Among many other shared concerns, we share a deep and long-standing concern about the plight of refugees languishing in Indochina.

Since the fall of the Indochinese countries to Communist forces over 1.7 million Vietnamese, Lao and Cambodian nationals have fled their homelands and sought refuge in neighboring countries. The other countries in Southeast Asia, notable Thailand, Malaysia, Singapore, Indonesia, the Philippines, and Hong Kong, have offered safe haven to the Indochinese refugees with the understanding that the international community would provide for their care and would seek to resettle the refugees outside the region. Thailand alone hosts approximately 300,000 people who have fled persecution in their own country.

There are clear signs that these first-asylum countries, who have distinguished themselves in their humanitarian response to the plight of the Indochinese refugees, are inceasingly less willing to bear the burden. These countries have borne tremendous burdens—social, economic, and political—to provide temporary asylum to the refugees. For example, when I visited the refugees camps in Thailand last December, I saw the trucks which transport huge tanks of fresh water to the camps. On their way, they rumble through tiny Thai villages that do not have enough water for themselves. I ask my colleagues, who among you would want to face constituents in a similar situation? This amendment provides a small amount of financial assistance for Thai villages affected by Indochinese refugee camps; assistance that is sorely needed.

The countries of Southeast Asia watch as the world's attention is diverted to new horrors and tales of human tragedy in other parts of the world. They find the international community less and less willing to accept the Indochinese refugees languishing in their camps. We can all agree that much remains to be done with respect to protecting and resettling or repatriating the Indochinese refugees. The least we can do is assure that the funding needed to continue our efforts is available. I am pleased to say that such funding was included in this bill at my request during the Foreign Relations Committee's consideration.

We must also make certain that there are no impediments to the protection and resettlement or repatriation of these refugees. I believe my colleague's amendment does much to further this objective and I urge my colleagues to support the amendment.

Mr. PELL. Madam President, I ask that the name of Senator Dodd be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, I think there has been ample discussion with all sides having been heard. I suggest we go ahead and vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from New York [Mr. Moynihan], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore] would vote "yea."

Mr. BYRD. Regular order, Madam President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, and nays 33, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—63

Adams
Armstrong
Baucus
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Chafee
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Fowler
Garn
Glenn
Graham
Harkin
Hatch
Hatfield
Hecht
Heinz
Helms
Hollings
Inouye
Kasten
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
Melcher
Metzenbaum
Mikulski
Mitchell
Murkowski
Nunn
Packwood
Pell
Quayle
Reid
Riegle
Sanford
Sarbanes
Sasser
Specter
Stafford
Stennis
Stevens
Symms
Trible
Warner
Weicker
Wilson
Wirth

NAYS—33

Bentsen
Biden
Bond
Breaux
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Danforth
Exon
Ford
Gramm
Grassley
Heflin
Humphrey
Johnston
Karnes
Kassebaum
Lugar
McConnell
Nickles
Pressler
Proxmire
Pryor
Rockefeller
Roth
Rudman
Shelby
Simpson
Thurmond
Wallop

NOT VOTING—4

Gore
Kennedy
Moynihan
Simon

So amendment No. 886 was agreed to.

Mr. PELL. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Madam President, I understand that the Senator from Montana has an amendment.

The PRESIDING OFFICER. The Senator from Rhode Island will withhold. The Senate is not in order. The Chair cannot hear the Senator from Rhode Island, nor do I believe that Senators wishing to participate in the debate can hear the Senator from Rhode Island. If Senators will withhold their conversations, it will be appreciated.

Mr. PELL. Madam President, I ask unanimous consent that when we start the amendment of the Senator from Montana, there be a time limit of 10 minutes, equally divided, and that there be no second-degree amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. Madam President, I want to find out, from the standpoint of my own convenience: When the amendment of the Senator from Montana is disposed of, would it be timely for the Senator from Ohio to bring up an amendment? I do not think it will take any more than 10 minutes. It is my understanding that it is acceptable on both sides. I want to check for my own schedule.

Mr. PELL. Senator McCain has one after Senator Melcher, and then yours.

Mr. CHAFEE. Am I next on this side?

Mr. PELL. No. Senator McCain is.

Mr. CHAFEE. Is that going to be a rollcall vote?

Mr. PELL. I do not think so.

Mr. CHAFEE. Will it be brief?

Mr. PELL. I hope so.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 851

(Purpose: To recommend to the President that he submit a plan for the sharing of costs involved in the use of United States Armed Forces in the Persian Gulf operations)

Mr. MELCHER. Madam President, this amendment was laid down last night and there was a brief discussion on it. As a result of that, I modified my amendment and that modification is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

"SEC. . PLAN FOR SHARING COSTS INVOLVED IN THE USE OF UNITED STATES ARMED FORCES IN THE PERSIAN GULF

In order to pay for the costs of the protection provided by the United States Armed Forces for shipping in the Persian Gulf, it is the sense of Congress that:

(1) Countries which directly benefit from the United States policy of providing military protection to re-flagged Kuwaiti vessels and maintaining freedom of navigation in the Persian Gulf should share in the costs incurred by the United States Armed Forces in providing such protection;

(2) The President of the United States should enter into negotiations with such countries to secure reimbursements based on a pro-rata share of these costs.

(3) The President should prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

"(A) his assessment of the costs incurred by the United States Armed Forces in carrying out the policy of protecting re-flagged Kuwaiti vessels: and maintaining freedom of navigation in the Persian Gulf;

"(B) his assessment of any costs which would be incurred by the United States and its citizens in the event that oil supplies transiting the Persian Gulf were not available to the United States:

"(C) his determination as to which countries benefit directly from the U.S. re-flagging policy including:

(i) Kuwait;

(ii) Other Oil Producing Gulf States; and,

(iii) countries purchasing Persian Gulf oil;

"(D) an accounting of the amount of benefit derived by each of these countries from the U.S. re-flagging policy;

"(E) an accounting of any assistance or support such countries are already providing the U.S. re-flagging policy;

"(F) a plan apportioning out the costs of U.S. Naval protection among those countries directly benefiting from the U.S. re-flagging policy; and

"(G) a discussion of the status of negotiations entered into for the purpose of implementing the plan.".

Mr. MELCHER. Madam President, this amendment is a sense-of-the-Congress resolution that says, that the President should enter into negotiations with the government of any country benefiting from the protection to oil shipments and other navigation in the Persian Gulf in order to establish a pro rata share in those costs.

Under our system of government the President could negotiate with these countries, could suggest to them rather bluntly that since they are benefiting they ought to pay for part of the costs that are involved in having the Navy there.

From the standpoint of the Constitution, that is the President's prerogative. That is one of his plenary powers, to engage in discussions with other countries some mutual cooperative program.

Who benefits from the Persian Gulf operation? Obviously, Kuwait and other Persian Gulf countries which are sending oil and whose oil is protected in transportation through the gulf.

Who else benefits? Obviously, those who receive the oil supplies from these countries and whose oil is protected in freedom of navigation in the Persian Gulf. Japan and Europe are principal users of that oil. Japan receives more than 50 percent of the oil that is consumed in Japan from the Persian Gulf; European countries, a lesser percentage. But they should all share in the costs.

We are a great nation, it is true; but, in my opinion, the greatest navy in the world, the U.S. Navy, is protecting the freedom of navigation in the gulf, and it costs us a bundle.

How much does it cost? A September 8 article in "Current News," early bird edition, from the Department of Defense, quotes an article from the September 5 Washington Post, saying that the gulf cost is estimated by the Pentagon to be $200 million a year, yet the Navy vigorously disagrees with that. They say that just operating one aircraft carrier group is $1.4 million per day, and we have many ships there. Other countries participate in providing some ships, ranging from an aircraft carrier group and other vessels from France to several vessels from Britain and some from Holland, Italy, and Belgium.

Obviously, these costs are very great for the United States. The countries that benefit from the protection of freedom of navigation in the Persian Gulf should share in these costs. That is only common sense.

To the credit of Japan, they are attempting to get approval in their country to pay some of these costs—and I say that is to the credit of Japan. Their constitution restricts what they can spend on any vessels. They are prohibited from sending vessels into a war zone. They are prohibited by their constitution from sending any armed forces into any foreign country or any foreign area.

Nevertheless, it is just good, common sense that the costs that the United States bears in supporting free navigation in the gulf, by having the presence of our naval vessels, both in the gulf and in the Arabian Sea, should be shared pro rata by the countries that are benefiting from it.

That is all this sense-of-the-Congress resolution does. I hope we can accept it.

Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Madam President, I think this is an excellent amendment, a fair amendment, and one that should be adopted.

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes.

Mr. HELMS. Madam President, I certainly commend the distinguished Senator from Montana for his excellent amendment, which, as the distinguished occupant of the chair knows, is a sense-of-the-Congress amendment stipulating that those countries directly benefiting from the U.S. reflagging policy help in defraying the cost of operations. When I say that, I can almost hear the American people applauding, because they certainly agree with that.

The Melcher amendment proposes that the President enter into negotiations with those countries benefiting, for the purpose of securing such assistance, and calls for a report to Congress outlining the costs incurred by the United States in this operation and the amount of benefit derived by those countries which directly benefit from our reflagging operations.

I am obliged to say, Madam President, that since the State Department came up with this reflagging plan, I have been apprehensive about the proposition.

From the very beginning I was among Senators who faulted the State Department for not pressing the beneficiary countries to participate in the cost of the operation and participate in other ways, as a matter of fact.

So, all in all this is a timely amendment and it gets to the point that needs to be stressed and that is that the State Department should not be in the business of offering other countries, any other country, a free ride.

I have been particularly concerned about Japan which so heavily depends upon the gulf oil yet has been slow to offer to participate in the operation.

Incidentally, I notice the press report this morning, Madam President, to the effect that the Japanese are at long last pledging to provide some assistance.

The report called for in this amendment would inform Congress as to exactly what will be involved in such assistance.

May I inquire of the distinguished chairman if he would be willing to propound a unanimous-consent request that this rollcall vote start at 2:30 so that Senators may attend the memorial service for Judge Sneed? Will he be willing to concur in that?

Mr. PELL. With the concurrence of the leadership and acquiescence of the author of the amendment, I think that would be a fine idea and I will accede.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Madam President, I understand the request. But what happens to those other amendments that might come up in the interim? Is it possible to go ahead and debate them and not have a rollcall vote interrupt, say, at 2:30, in the middle of those amendments?

Mr. HELMS. I say to the Senator that is precisely what we contemplate.

Mr. CHAFEE. In other words, the Senator's request would provide for stacking the Melcher amendment with the next rollcall vote.

Mr. PELL. No. My thought was we would not have any amendment that would require a rollcall in between.

Mr. HELMS. That would not preclude the Senator from offering an amendment and delaying the vote until after.

Mr. CHAFEE. The only difficulty is let us say if the Senator's suggestion were adopted, you will have a couple of swift amendments that are adopted; then at 2:15 I go forward with my amendment which is a fairly lengthy one and has to be debated. Then at 2:30 in the middle of the discussion does time stop for a 15-minute vote?

Mr. PELL. Under the unanimous-consent agreement, yes.

Mr. CHAFEE. I see the majority leader is here. What is going to happen is I certainly do not want to go ahead with my amendment at 2:15 under those conditions to have the flow of the discussion interrupted by a 15-minute rollcall.

However, if everybody is going to agree with the Melcher amendment, there is no question about it, and I would not mind the situation in which we go ahead with the debate and then when there is a rollcall on my amendment have it and then back to back have a rollcall on the Melcher amendment, if that was suitable to him.

But I would like to have the situation where our discussion took place and then the rollcall vote on my amendment and then go back to the Melcher amendment.

Mr. PELL. That is agreeable to the Senator from Montana, and again, with the concurrence of the majority leader, that sounds fine with me.

Mr. CHAFEE. On the other hand, if you want to go ahead with this arrangement, then I will just come up at some later time. We are going to be on this bill a long time.

Mr. HELMS. We will work out something.

Mr. PELL. There is no objection for you to proceed.

Mr. BYRD. Madam President, shall I put that in the form of a request?

Mr. CHAFEE. Yes, I would put it in the form of a request.

Mr. BYRD. Is his amendment up yet?

Mr. PELL. No, not up.

Mr. CHAFEE. It is not up yet, but it is my understanding that following the Melcher amendment, there are about five amendments that are going to be accepted, which will take little or no time; as I understand, no rollcall votes.

Let me say this, if I might, if the distinguished leader on this side wishes to attend a service and also wants to be involved in any way in the debate on my amendment, I would put mine off and wait until the regular flow, whenever you come back at 3:30, whatever it might be.

Mr. HELMS. If the Senator will yield, let me suggest we see how it works out. I think it is going to work out anyhow because Senator McCAIN will be after Senator MELCHER, and then we go back to the Democratic side. I think the time will take care of itself. He will not have an interruption in his debate.

Mr. CHAFEE. Does the Senator mean others are going to take until 2:30 anyway and then vote on the Melcher amendment?

Mr. HELMS. Go to the vote on the Melcher amendment.

Mr. PELL. We have five amendments to take over.

Mr. CHAFEE. In that case I think I will reserve.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

The PRESIDING OFFICER. Is the unanimous-consent request from the Senator from North Carolina asking for the Melcher amendment to be voted on at 2:30 agreed to?

Mr. HELMS. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Which Senator seeks recognition?

The Senator from Virginia.

Mr. WARNER. Madam President, I wonder if I might propound a question or two to the distinguished proposer of this amendment, the Senator from Montana and if I might get his attention. I address specifically my inquiry to the first paragraph and I read as follows: Generally, it states that it is the sense of the Congress that these countries which directly benefit from our reflagging policy help in defraying the cost of this operation.

It is the word "cost" that concerns this Senator. Just by way of background——

Mr. McCAIN. A parliamentary inquiry, Madam President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCAIN. It was my understanding that we were now off of the Melcher amendment at this time. Is that correct? Or are we still on the Melcher amendment?

The PRESIDING OFFICER. We still have a minute and a half remaining on the Melcher amendment.

Mr. McCAIN. Thank you, Madam President.

Mr. WARNER. Madam President, does this mean that the colloquy I am about to enter into with the proponent is limited to a minute and a half?

The PRESIDING OFFICER. Unfortunately the Senator is correct.

Mr. WARNER. I am wondering if the managers of the bill would consider some expansion of time for the purpose of a colloquy with the distinguished proponent of the amendment?

Mr. HELMS. Madam President, is there a time limitation on this amendment?

The PRESIDING OFFICER. There were 5 minutes equally divided and the Senator from North Carolina has a minute and a half.

Mr. WARNER. I need a good 6 minutes.

Mr. HELMS. Madam President, I ask unanimous consent that the distinguished Senator from Virginia be allowed to proceed for 6 minutes on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the managers of the bill and I will try to be as brief as I can.

We go again to the document in front of me reciting that the amendment states that it should be the policy to defray cost of this operation.

My concern, I say to my friend from Montana, is that we are not beginning to indicate that the U.S. military person, be he or she a soldier, sailor, airman, or marine, is a mercenary, and we are sending them in harm's way, beyond the shores of this Nation, on any basis that some other nation which—and I will get the specifics of Japan—cannot put their men and women in the armed forces in a similar situation of harm's way, and therefore, we, the United States, receive some sort of monetary payment for the cost of the service, the cost of the risk of our service persons. I hope that was not the intention or the purport of this amendment, and I come back to the word "mercenary."

My distinguished colleague from Montana who served in World War II was recently given a second award by our Government, long delayed, well deserved for his valor in combat.

Our Nation, since its very origin, has only sent our citizens from our shores in harm's way in the cause of freedom. And all throughout this Persian Gulf debate, as you know, the Senator from Virginia has taken quite an active role supporting the President. But I must say I have been troubled as to whether or not this particular policy in the gulf is motivated more by economics than the potential loss of freedom. It is that loss of freedom that has been the hallmark of the involvement of this country.

So I return to the question as to the word "cost." Does that indicate or imply in any way that the American service person is for hire as a mercenary by another nation?

Mr. MELCHER. Will the distinguished Senator yield for me to respond?

Mr. WARNER. Yes, Madam President. I just hope we have sufficient time to address what I regard as an important issue.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. I am indebted to the distinguished Senator from Virginia for this colloquy, because I want to make it abundantly clear that, as the author of the amendment, I in no way disparage the use of the U.S. Navy and Air Force personnel and whatever other Armed Forces personnel might be necessary to protect the freedom of navigation in the Persian Gulf. I support that as a necessary action for the reason that countries must rely on the freedom of navigation in the gulf for them to pursue their normal economic interests. It is in no way to be cast as an amendment that would indicate that our Armed Forces are there for any other reason. They certainly are not for mercenary reasons. They are there for the protection of freedom of navigation.

Mr. WARNER. Let us take a hypothetical. The Department of Defense has been asked by the Armed Services Committee to begin to run a balance sheet on what it is costing, over and above normal operational cost, to have our forces employed in support of the President's policies in the gulf. Say that is coming up now to, and I do not have the accuracy of a figure, but say $1 million a month over and above what those forces would cost if deployed elsewhere in normal training cycles or other military commitments. But if a nation were to come in and say, "Well, now, we cannot employ our military forces"—for example, like Japan, because of an archaic constitution, saying that "Our military forces cannot go beyond the immediate geographic area of Japan, the defense force area, but we will send you $500 million toward that as a part of our payment for you service personnel taking risks in the gulf."

Now, to me, that borders on being a mercenary force. Fortunately, Japan, I think in a forthright way, is beginning to involve itself economically in the region, as set forth in the newspaper this morning, with navigational aid and the like. That benefits all military forces. And I accept that as a gesture of good faith.

But what concerns me is that we do not set up a precedent in this amendment that the U.S. forces are for hire, either in the gulf or in a future military operation, when countries, for reasons of their own, be it constitutional or otherwise, do not want to send in young people in harm's way.

I am wondering if you might consider some amendment to that first paragraph to make it eminently clear that we are not setting a precedent that the U.S. forces are for hire.

Mr. MELCHER. If the distinguished Senator from Virginia will yield, I would respond by saying that such clarification would be welcome. I would be glad to so modify it if we can agree on appropriate language prior to the vote. Because the amendment itself does not address any U.S. Navy for hire. It is not intended to have any connotation at all that our Armed Forces are to be used as mercenaries. Rather, it is to indicate that the U.S. Navy presence in and around the Persian Gulf are there for the protection of freedom of navigation. And that is to the interest of the United States, something that we would pursue in any event. But to indicate that under the constraints that other countries have—and the distinguished Senator mentioned Japan, the restraints their constitution places on it. Perhaps that can be accepted by us, but if we accept that, perhaps they can reimburse some of the expenses that we have in other ways.

(Mr. WIRTH assumed the chair.)

Mr. WARNER. Mr. President, the issue in Japan we could debate another day. I happen to think that constitution is outdated and that they ought to begin to involve themselves in the real world, a world that is not risk free. Putting that aside for the moment.

Mr. MELCHER. Might I say to my distinguished friend, I agree with his statement.

The PRESIDING OFFICER. The Chair would note that all time on this amendment has expired. The vote on this amendment, under a previous order, was agreed to occur by 2:30.

Mr. WARNER. Mr. President, I wonder if I might seek recognition for the purpose of a unanimous-consent request for another 2 minutes.

Mr. McCAIN. Reserving the right to object.

Mr. HEINZ. Reserving the right to object. I do not intend to object. I would like to seek unanimous consent myself to proceed for not more than 2 minutes on another subject not related to this.

Mr. McCAIN. Reserving the right to object, I would like to point out to my good friend from Pennsylvania that I have been waiting here with an amendment that would take approximately 5 minutes. So I would object at this time until after I have finished with my amendment. Then I would certainly consent to the Senator's request.

Mr. PELL. Mr. President, I suggest the Senator from Virginia talk on for 2 minutes. We can get unanimous consent for that. Then Senator McCAIN, who has been here for some time, could offer his amendment and limit it to 5 minutes, and then the Senator from Pennsylvania, speaking as if in morning business, could limit himself to 2 minutes.

Mr. HEINZ. Make it 3, please.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The Senator from Virginia is recognized for 2 minutes.

Mr. WARNER. Thank you, Mr. President. I thank my colleagues, and particularly the manager of the bill.

I am certain, as I listened to my good friend from Montana speaking in response to my inquiry, that we are in agreement and that, if it is not feasible to support a change in the amendment at this time, the legislative history certainly has been established that this is not intended in any way to set a precedent.

Mr. MELCHER. The Senator from Virginia is absolutely correct.

Mr. WARNER. Or that the U.S. forces could ever be employed now or in any other situation as a mercenary force.

Mr. MELCHER. I very much agree with the Senator from Virginia.

Mr. WARNER. Mr. President, that satisfies this Senator's concern and I intend to support the amendment.

The PRESIDING OFFICER (Mr. Fowler). The Senator from Arizona is recognized.

AMENDMENT NO. 887

(Purpose: To express the sense of Congress toward a partial lifting of the trade embargo against Nicaragua)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona (Mr. McCAIN), for himself and Mr. DOLE, proposes an amendment numbered 887.

Mr. McCAIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. 517. SENSE OF THE CONGRESS TOWARD A PARTIAL LIFTING OF THE TRADE EMBARGO AGAINST NICARAGUA.

SENSE OF CONGRESS.—It is the sense of Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua's independent print and broadcast media, private sector and trade union groups, non-governmental service organizations, and the democratic civil oppostion.

Mr. McCAIN. Mr. President, it is my understanding, under a previous unanimous-consent agreement, that I have 5 minutes to discuss the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. Mr. President, I rise to propose this amendment today, which has been, I am glad to say, cleared by both sides of the aisle. I will try to be brief.

Basically, it says:

It is the sense of the Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua's independent print and broadcast media, private sector and trade groups, nongovernmental service organizations, and the democratic civic opposition.

Mr. President, I am pleased to be joined in this amendment by the distinguished Republican leader, Senator DOLE.

Mr. President, in 1985, the President of the United States, acting under the National Emergencies Act, imposed economic sanctions on Nicaragua and, as a result, there has been no trade between the two nations since that time. I believe that the sanctions at that time were justified. Indeed, I still do at this time.

But I think that we have an important exception situation which has arisen as a result of the Guatemala City treaty which offers a brief opportunity for democratic opposition inside Nicaragua. In order for that democracy to be healthy, they must demonstrate and have the ability to operate. At the present time, Mr. President, the people who compose the democratic opposition within Nicaragua are in desperate straits for funding.

In conversations with Mrs. Violeta Chamorro, she stated that they had sold their last vehicle for delivery of La Prensa. They are now delivering their newspaper by means of private vehicle. Other media outlets which would like to resume broadcasting find it impossible to do so for the lack of basic equipment.

I would like for this country to be able to provide the democratic opposition in Nicaragua with the means with which to express themselves and their views and their opposition or their support of the Central American Peace Treaty and I believe they cannot do it without the assistance of the United States.

I think the amendment of my colleague from Texas, Senator BENTSEN, giving the National Endowment For Democracy an additional $250,000 for the opposition groups is important. I think we should allow them to purchase that equipment—and necessary means for communicating their views—from the United States. I think it is a logical complement to the Bentsen amendment, and I urge the support of my colleagues to this amendment so we can indeed give this peace plan an opportunity to succeed. We can only do so by providing the democratic opposition in Nicaragua an opportunity to truly express themselves and their views.

With that, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I am pleased to join Senator McCAIN in cosponsoring this important amendment.

In May 1985 the President—acting under the National Emergencies Act—imposed tough economic sanctions on Nicaragua. As a result, there has been virtually no trade between the two countries since that time.

In my view, the sanctions imposed by the President were justified and needed. And I believe most of them should remain in place now—at least until we see whether the Sandinistas keep their promises under the Guatemala City accord.

But Senator McCAIN and I are urging that one segment of the sanctions package be lifted—covering equipment and supplies that are to be used by the independent press and other media which exists, or comes into being, in Nicaragua.

When Senator McCAIN and I were in Nicaragua about 6 weeks ago, we had the opportunity to meet with both Cardinal Obando—who is responsible for Catholic Radio—and Violetta Chamorro—the editor of La Prensa. La Prensa, of course, is already publishing again, and we hope to see Catholic Radio back on the air soon.

But both the cardinal and Mrs. Chamorro indicated to us the great practical difficulties that they would face in revitalizing their media outlets. In both cases, there will be serious, potentially crippling shortages of equipment and supplies, which will be needed both initially, and over time, to insure continued operation. In regard to Catholic Radio, what will be needed is production, broadcast, and transmitting equipment—both original equipment and spare parts. With La Prensa—and other independent papers which are permitted to reopen—the needs will include newsprint, ink, copying equipment, and the like.

Right now, due to the embargo in place, none of that equipment can come from the United States. In order to give these important media outlets every chance to succeed—and to deny the Sandinistas any leverage to keep them from succeeding—it makes sense for us to lift our embargo on such equipment and supplies which would be destined for the independent media.

Our resolution urges the President to modify the embargo to that end—while ensuring that the other elements of the embargo, aimed at pressuring the Sandinista regime, remain in place. The President has existing authority to make this change. I believe that, with the spur of passage of this amendment, he will do so promptly.

So I encourage all Senators to support this amendment, as another small step in the direction of maximizing the opportunities for free expression in Nicaragua.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 887) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROLLCALL POSTPONED TO 2:40

Mr. PELL. Mr. President, I would ask unanimous consent that the rollcall ordered for 2:30 be postponed to 2:40, and that the Senator from Ohio be recognized at this time to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

AMENDMENT NO. 888

(Purpose: To direct the use of funds for Slovenian broadcasts by the Voice of America)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) for himself, Mr. DODD, and Mr. KERRY, proposes an amendment numbered 888.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, between lines 22 and 23, insert the following:

(c) CONTINUATION OF SLOVENIAN BROADCASTS.—The Voice of America shall use such funds as may be necessary in order to provide, on a daily basis, broadcasts in the Slovenian language.

Mr. METZENBAUM. Mr. President, this amendment ensures the continuation of Voice of America's Slovenian broadcasts.

The people of Eastern Europe, Mr. President, are starving. They hunger for freedom. They hunger for liberty. They hunger for the promise represented by America. That promise—that message of hope and defiance—is what Voice of America's Slovenian language program is all about.

These broadcasts create a bond between the people of Slovenia and all other Slovenian speaking people in Europe and the people of the United States.

It shows that we care. It shows that we support their struggle. It shows that we will not abandon their cause.

Unfortunately, as the Voice of America has faced large cutbacks in recent years, Slovenian broadcasts have been severely reduced. At one point, these broadcasts were suspended. Fortunately, the broadcasts were reinstated, but now they are a low priority on the Voice of America list. On June 1, I wrote to Charles Wick, Director of the U.S. Information Agency, urging him to keep Slovenian broadcasts on the air. His response expressed a sincere interest in these broadcasts, but he could not assure me that they would be continued. I ask unanimous consent to insert this letter and his response at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

United States Senate,
Washington, DC.
June 1, 1987.

Mr. Charles Z. Wick,
Director, U.S. Information Agency,
Washington, DC.

Dear Mr. Wick: I am writing again to express my concerns about Voice of America's Slovenian broadcast program.

I have always been interested in ensuring that this program be continued. However, it has been brought to my attention that although the Slovenian program remains on the VOA broadcast schedule, it has been designated a low priority on the USIA-VOA language priority list. I would like to see this priority changed to make this program a permanent part of your broadcast programming. The Slovenian program cannot be continually embroiled in a competition with other low priority language services.

I am concerned with the long-term future of this programming—it would be a great tragedy if the Slovenian broadcasts were to be forced off of the VOA program list. Voice of America represents our nation's voice of freedom to oppressed countries all over the world, and the Slovenian language program reaches countless listeners in Eastern Europe who hunger for freedom and liberty. I will continue to strongly oppose any curtailment of VOA's Slovenian broadcasts, and I will appreciate your keeping me abreast of any further developments where this program is concerned.

Thank you for your continued attention to this matter.

Very sincerely yours,
Howard M. Metzenbaum,
U.S. Senator.

U.S. Information Agency,
Washington, DC.
June 24, 1987.

Hon. Howard M. Metzenbaum,
U.S. Senate.

Dear Senator Metzenbaum: Thank you for your letter of June 1 concerning reservations about the placement of Slovene language broadcasts. The Agency finds the deletion of any language from its broadcast schedule distasteful. In the more than 100 broadcast hours we were forced to eliminate earlier this year, we did eliminate one language service, however, we were pleased to be able to restore the complete Slovene broadcast schedule on January 25.

We have four categories of language priority. Slovene is in the third category: national or regional languages of people with whom the United States has a continuing need to communicate. This group consists of 20 other languages in addition to Slovene. Although Slovene is in the third category, I do not consider it a "low priority." Should further budget cuts require additional reductions in broadcast hours, a number of languages would be affected. We would, of course, consult with appropriate members of Congress before effecting any new cuts. Our hope, however, is to maintain or expand our present broadcast schedule.

We appreciate your efforts in support of adequate funding for the entire overseas information and cultural program. With such backing, we will, as you say, consistently reach countless listeners in Eastern Europe and all over the world who hunger for freedom and liberty.

We do, indeed, appreciate your continuing support and interest in the Agency.

Sincerely,
Charles Z. Wick,
Director.

Mr. METZENBAUM. It is clear to me that Slovenian broadcasts continue to face the danger of being suspended again. Discontinuing these broadcasts sends the wrong signal to those we care about in Eastern Europe.

We should not turn our backs on them. My amendment is straightforward. It simply requires the Voice of America to provide regular daily Slovenian broadcasts. We need to keep these broadcasts going. The spoken world is a powerful weapon. In fact, our message of freedom may be the most powerful weapon in our arsenal.

A vote for this amendment is a vote to strengthen this arsenal.

Mr. President, it is my understanding that the amendment has been cleared on both sides. If that is the case, I would ask for prompt action.

The PRESIDING OFFICER. Is there further debate?

Mr. PELL. On this side of the aisle we have examined the amendment and think it is an excellent amendment. We recognize the fairness of it and recommend its approval.

Mr. HEINZ. Mr. President, the amendment directs the Voice of America to continue Slovenian broadcasts. We know the broadcasts reach a very broad, diverse audience within the Warsaw Pact. I am advised by those who I have been in contact with, the members of the minority in the Foreign Relations Committee, that this amendment is acceptable to the manager of the bill, for whom I am currently standing in.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 888) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I thank the managers on both sides of the aisle for their accommodating me with regard to this amendment.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. I ask unanimous consent that the order for the quorum call be rescinded.

VOTE ON AMENDMENT NO. 851

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the hour of 2:40 having arrived, the question recurs on the amendment offered by the Senator from Montana, Mr. Melcher. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon] and the Senator from Mississippi [Mr. Stennis], are necessarily absent.

The PRESIDING OFFICER (Mr. Leahy). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—95

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—2

Quayle
Wallop

NOT VOTING—3

Gore
Simon
Stennis

So the amendment (No. 851), as modified, was agreed to.

Mr. BYRD. Mr. President, I am seeking again to ascertain whether we might be able to get some time agreements on amendments.

Will the managers enlighten us on the prospects?

Mr. President, I ask unanimous consent—after having discussed this request with the two managers—that there be a time limitation on the following amendments of 10 minutes each, to be equally divided, and that no amendments to the amendments be in order: Messrs. CONRAD, PRYOR, BIDEN, COHEN, BINGAMAN, KERRY, and DODD.

The PRESIDING OFFICER (Mr. BUMPERS). Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, there are a couple I want to check on.

The PRESIDING OFFICER. Will the Senator from North Carolina use his microphone?

Mr. HELMS. I was using it, but I have my thumb over it.

Mr. BYRD. Mr. President, while these discussions are going on, I limit that list to amendments by Mr. CONRAD and Mr. COHEN. There will be a 10-minute time limitation on each, with no amendments in order to either.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

AMENDMENT NO. 889

(Purpose: To express the sense of Congress that the President should enter into negotiations with members of mutual defense alliances with the United States for the purpose of achieving a more equitable distribution of the financial burden of support of such alliances)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 889.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following:

SEC. 812. SENSE OF CONGRESS RELATING TO SUPPORT OF MUTUAL DEFENSE ALLIANCES.

(a) FINDINGS.—Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends more than $100,000,000,000 annually to provide the defense umbrella for the allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and Japan is not commensurate with their economic resources, and, as a result, the United States is forced to bear a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its GNP on defense.

(5) The greatest weakness in the ability of the United States to provide for the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(6) The level of Federal spending must be reduced in order to reduce the Federal budget deficit and revitalize the economy.

(7) The continued unwillingness of the allies of the United States to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) POLICY.—It is the sense of Congress that—

(1) the President should enter into negotiations with countries which participate in mutual defense alliances with the United States, especially the member nations of the NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such negotiations with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; and

(3) The President should report to Congress, within one year after the date of the enactment of this Act, on the progress of such negotiations.

(4) If, in the judgement of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

Mr. CONRAD. Mr. President, the amendment I have offered is an amendment that has been adopted by a vote of 90 to 4. It is an amendment I offered to the Defense authorization bill. Given the fact that the President is going to veto that bill, I am offering the amendment again on this legislation.

Mr. President, this amendment has been cleared on both sides of the aisle. It is an amendment that involves the question of burden sharing. Who ought to have the burden of providing the mutual defense? As Senators know, we are currently spending over $100 billion a year to provide the defense umbrella for Western Europe and Japan. That may have been reasonable and may have made some sense after World War II. I question, and I think many Members question, whether that makes any sense today.

We believe this is a time to insist that our allies start to pay their fair share of their own defense costs. Frankly, we simply cannot afford to be the ones who are providing for their defense any longer, given the fact that we have a massive Federal deficit and given the fact that they are resurging economically. They are well positioned now to provide for their own defense, and that is the reason why this sense-of-the-Senate resolution has been offered. It simply requires a 1-year study or 1-year negotiations by the President with our allies to achieve a more fair distribution of the defense budget.

At the end of that period, we ask the President to report to us on the progress that has been made. If substantial progress has not been made at the end of 1 year, then Congress would revisit the issue and determine whether further legislation is necessary to assure that our allies bear their fair share of the defense burden.

That, Mr. President, is the essence of the amendment. I do not feel any need to belabor the issue.

I want to thank the Chair, thank the managers of the bill, and I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Who yields time in opposition?

Mr. PELL. I am happy to say there does not seem to be any opposition.

I have no objection on this side.

The PRESIDING OFFICER. Do the managers yield back their time?

Mr. PELL. I do.

Mr. HELMS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Dakota.

The amendment (No. 889) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 890

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 890.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

(1) Participating Agencies.

On page 79:

After line 8, insert the following:

"(8) the Director of the United States Geological Survey;

(9) The Secretary of Energy; and".

On line 8, delete the word "and".

On line 9, change "8" to "10".

(2) Advisory Role.

On page 79:

On line 14, after "Relations" add a semicolon and "the Committee on Commerce, Science and Transportation;"

On line 16, after "Affairs" add a semicolon and "the Committee on Science and Technology;"

On line 18, after "Force" delete the period and add a comma and "along with any other Members designated by the majority and minority leaders of the Senate and the Speaker of the House of Representatives."

(3) Chairman and Vice-Chairman.

On page 78:

On line 18, delete the comma and "who shall serve as Chairman".

On line 21, delete the commas and "who shall serve as Vice Chairman and Executive Director for Research".

On line 17, after "of" insert "the following, from among whom the President shall designate a Chairman and a Vice-Chairman".

(4) Causes of Global Warming

On page 77:

On line 6, after "may" insert a comma and "in combination with deforestation,".

On line 21, after "pollution" insert "and deforestation".

Mr. BIDEN. Mr. President, in this bill there is a provision relating to global warming. That was accepted in the committee and is part of the legislation.

I am moving to amend my own language in the bill to meet some of the criticisms that have been made of the provision, and I can be very brief.

There are four pieces. One relates to the agencies that would participate in the Task Force mandated by the provision. I am adding the United States Geological Survey and the Department of Energy to the participating agencies.

Second, there is a provision relating to advisory roles. I am adding the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Science, Space, and Technology in the House.

The third change relates to who is the Chair and the Vice Chair of this Task Force. In the bill, as written, the Secretary of State is the Chair. I am changing the amendment to permit the President to make this determination.

The final change relates to the findings of causes of global warming. This change adds "deforestation."

I view these as technical changes, and I move to amend that portion of the bill accordingly.

The **PRESIDING OFFICER.** Who yields in opposition?

If there is no further debate, the question is on agreeing to amendment of the Senator from Delaware.

The amendment (No. 890) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 891

(Purpose: To enhance cooperation between United States Government agencies in the control of illegal international arms transfers, to aid in the identification and apprehension of illegal arms traffickers, and to expedite procedures for reviewing and issuing commercial arms export licenses)

Mr. PRYOR. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an amendment numbered 891.

Mr. PRYOR. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 111, after line 22, add the following new title:

TITLE VII—MUNITIONS CONTROL ACT OF 1987

SHORT TITLE

SECTION 701. This title may of cited as the "Arms Export Control Enforcement and Coordination Act of 1987".

EXPORT LICENSES

SEC. 702. Section 38 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(g)(1)(A)(i) The Agency shall develop appropriate mechanisms to identify in connection with the export licensing process—

"(I) persons who have been indicted for or convicted of violations of this Act, the Export Administration Act of 1979, the Espionage Act, the Trading with the Enemy Act, the Foreign Assets Control Act, or

"(II) persons who have been indicted for or convicted of conspiracy to violate any of the statutes described in this subparagraph, and

"(III) persons who are ineligible to contract with or receive export or import licenses from any agency of the United States Government.

"(ii) The Agency shall require that each applicant for a license to export an item from the United States Munitions List shall identify in his application all parites to the proposed export.

"(B) If the Agency has reasonable cause to believe that an applicant or party to the export has violated any of the status cited in subparagraph (A) or has been indicted for violations of any of the statutes cited in subparagraph (A), the Agency may disapprove the application. The Agency application shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

"(C) No person may be issued a license to export an item covered by the United States Munitions List if—

"(i) such person or any party to the export has been convicted of violating a statute referred to in subparagraph (A), or such person or any party to the export is at the time of the license review ineligible to contract with or receive export or import licenses from an agency of the United States Government, except as may be determined on a case-by-case basis by the Agency, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to contract and a finding by the Agency that appropriate steps have been taken to mitigate any law enforcement concerns; or

"(ii) such person is a foreign person, except in cases in which an export has been agreed to under Foreign Military Sales authority.

"(2) The agency shall have the authority to require an export license (or other authorization) for any item on the United States Munitions List before it is sold to, provided to, or taken possession by a foreign person or a person acting on behalf of a foreign person.

"(3) The President shall direct the Secretary of State, the Secretary of Defense, and the Secretary of Treasury to detail personnel with appropriate expertise to the Agency to assist in the initial screening of applications for export licenses under this section for the purpose of determining the need for further review of such applications for foreign policy, national security, and law enforcement concerns.

"(4) For purposes of this subsection—

"(A) the term 'Agency' means the United States Government agency charged with administration of this section;

"(B) the term 'foreign person' means any person who is not a citizen or national of the United States or a person lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act, and such term includes foreign corporations and their United States subsidiaries, international organizations, foreign governments, and any agency or subdivision of foreign governments, including diplomatic missions and embassies;

"(C) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities; and

"(D) the term 'party to an export' means any employee of, consultant to, or agent for the person requesting the export license who is involved in the sales or marketing of items covered by the United States Munitions List, any person that exports or causes to be exported the item or items being exported, and the end user of the item or items."

REGISTRATION

SEC. 703. Section 38(b)(1) of the Arms Export Control Act is amended—

(1) by inserting "(A)" immediately after "(1)"; and

(2) by adding at the end thereof the following new paragraph:

"(B) A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. Reports on such concerns shall be made to the Agency as may be deemed necessary."

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair.

Mr. President, some people may disagree with me, but I see nothing wrong with the prudent sale of U.S. military hardware abroad. However, we have learned the hard way that a clever black market for American military parts and munitions efficiently supplies many of our potential enemies, from Iran to North Korea.

Mr. President, today we must ask ourselves about what kind of people get licensed to export arms overseas. We must also ask ourselves about how these arms traffickers elude our security controls on arms sales and exports. Where are the weaknesses and the holes within our system?

Mr. President, during two hearings this year I think we have identified one of the biggest weaknesses and prepared this amendment to improve a very disturbing situation. The weak link I refer to is in the Office of Munition Controls or OMC at the State Department. OMC's tiny staff, 30 people, grant over—and listen to this, Mr. President—over 15 billion dollars' worth of commercial arms sales export licenses every year. This is up from roughly $3 billion only 10 years ago.

Mr. President, further, the Office of Munition Control, and this is a staggering figure, goes through a huge number of applications, some 49,000 of them each year, to see who is going to become a licensed export arms dealer. This is up from just 24,000 licencees only 10 years ago.

OMC does not run the Foreign Military Sales program or any government-to-government sales. That is done entirely by the Department of Defense. OMC does not license exports of civilian aircraft or civilian products. OMC's sole duty, Mr. President, is to license military goods for export to private citizens, private companies and dealers and commercial sales to foreign governments. This includes radars, communication gear, fighter aircraft parts, M-16 rifles and other commercial military goods.

In recent hearings that we have held and reports, we have discovered that the Office of Munition Controls in the State Department is either negligent or incapable in almost all of its responsibilities. In short, we have lost control over who gets an arms export license and ultimately where those arms exports end up.

Mr. President, very briefly, let me explain two of the more shocking findings about the Office of Munition Controls within the State Department. OMC claims it does not have the authority to deny export licenses to known or suspected criminals. In other words, a person can be convinced of treason, murder, terrorism, in fact anything other than violating the Arms Export Control Act, and OMC will not lift a finger to stop him or her or that company from exporting defense items to a particular foreign country.

That sounds unbelievable. It ought to be in Ripley's Believe It Or Not. But it is the case and our hearings have borne this fact out.

As one also might guess, Mr. President, the Office of Munition Controls does not even bother to maintain a list of questionable exporters, arms merchants, or foreigners associated with terrrorist groups. Unbelievable? It is a fact.

What is the result of such negligence? What is the result of this very, very poor way of granting export licenses to arms manufacturers and dealers to export overseas?

One study of export crime found negative export information on 26 percent of a sample of companies registered to export at the Office of Munition Controls. It also found bad information on one-fourth of the people who received OMC-licensed exports.

Our investigation has found six companies that received hunderds of arms export licenses from the Office of Munition Controls, our own State Department, even though the company or principals of the company had been convicted or indicted of serious export law violations, ranging from the Trading With the Enemy Act to the Arms Control Act.

Yes, Mr. President, it is shocking. But, once again, it is true.

In fact, a September GAO study that I requested found that the Office of Munition Controls gave 322 licenses worth $15 million to a company while it was denied export privileges across the street by the Commerce Department.

Mr. President, I have heard many people criticize the Commerce Department export office for being too easy on questionable exporters. I would suggest that there is a more frightening threat to export our military weapons, our military security, and that it is found in our own State Department, in the Office of Munition Controls.

I have further proof of this point, Mr. President. In the last 10 years, OMC has punished only four export law violators. Last year alone, the Commerce Department issued export denial orders on 58 exporters and imposed fines worth $3.6 million.

GAO's study fleshed out most of OMC shortcomings. If found sloppy procedures, second-rate automation, little knowledge or concern about illegal exports, and severe understaffing. The State Department admits to some of these problems and it blames a lack of legal authority and poor funding and understanding.

The current foreign assistance bill contains an additional $100,000 for the small and understaffed office of OMC and the State Department has now promised to allocate some new funds for this office. These actions should be applauded, but much more is needed. In fact, the amendment that I offer is needed to help clear up this situation.

My amendment is very simple, Mr. President. To address some of the problems, it requires immediate remedial legislation. First, it clarifies OMC's authority and responsibility to deny export licenses for questionable arms shipments. It also clarifies when an export license is required in transactions with foreign persons. And third, it increases interagency cooperation in the early screening of licenses that will aid law enforcement and will help speed the review of export applications for honest exporters. These are some of the major provisions of this amendment.

My amendment does nothing to harm honest exporters or to impede international trade. It does not create burdensome reporting requirements nor does it place any additional limits on the arms trade except a new procedure by which there can be some checks and balances as to who becomes the recipient of these arms export licenses granted by our own Government, by our own Department of State.

It does get tough with criminal arms traffickers and it will help to deny our enemies the benefit of our military industry.

This amendment will also put some muscle behind the very inefficient and backward Government bureaucracy at the Office of Munition Controls in the Department of State.

Mr. President, I am very hopeful that this amendment will be voted on favorably. In fact, I even suggest it might even be successfully adopted by unanimous consent. I have been negotiating with the managers of the bill and look forward to their discussion of this proposal.

Mr. President, I ask unanimous consent that a recent GAO findings relative to the Office of Munition Controls within the State Department be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF GAO FINDINGS—AUDIT OF THE OFFICE OF MUNITIONS CONTROL

SCOPE OF OMC'S RESPONSIBILITY

OMC issued licenses for the export of $14.9 billion of defense articles and services in FY 86—up from $3.3 billion in FY 77. (This compares to $8 billion in FY 86 for U.S. foreign military sales and assistance programs.)

In FY 84, although OMC authorized $12.7 billion in exports; only $3.8 billion was actually exported.

Export values are also understated—GAO reports that OMC's export data "is not verified, current, or compatible" with other foreign military sales data.

ENFORCEMENT

OMC "does not verify the accuracy of information provided by registrants." (One is supposed to register before licensing.)

OMC does not systematically check applicants, freight forwarders, or consignees against "lists of questionable exporters, exporters convicted of past export violations, or those denied export privileges of the Department of Commerce."

GAO found that OMC issued 322 licenses worth $15 million in FY 86 to a company denied export privileges by the Department of Commerce.

A 1987 study found "negative information" on 26% of a random sample of OMC registrants and 27% of foreign consignees.

OMC does not formally develop "watch lists" of questionable exporters out of concern for FOIA and the Privacy Act. (Commerce, DOD and Customs do so and consider it legal and important.)

OMC told GAO it is aware of less than 30 questionable firms and individuals (DOD said there were hundreds).

OMC can revoke license privileges. However, it has done so only four times since 1976, the last time in 1983.

END USE

OMC asked US embassies to verify the end use of only 50 exports in FY 86 (on 49,000 license applications).

OMC's stated reason: resource limitations and inability to identify suspicious exports.

POLITICAL CONTRIBUTIONS AND AGENT FEES

Most licenses worth over $250,000 require letter stating whether political or agent fees were paid. GAO found that 43% of a license sample did not contain any such statement.

OMC'S BUDGET AND ADMINISTRATIVE TROUBLES

OMC officials maintain that an increased work load and static resources have restricted their efforts.

The volume of munitions cases has increased from about 26,000 in 1977 to over 49,000 in 1986. Over the same period, OMC's staff has remained at around 30 persons, with about 10 staff members authorized to approve licenses.

OMC's computer system is essentially an "automated filing system" of limited capacity. "Even with planned software improvements, the system will remain an automated filing system."

Requests for additional staff have been deleted from the State Department's budget request by OMB.

OMC plans meet short term problems but do not address long term needs.

GAO'S CONCLUSIONS AND RECOMMENDATIONS

OMC has worked to process license applications quickly, at the expense of careful license review and administrative and reporting requirements.

OMC must make better use of information available from other federal agencies regarding exporters to identify applications requiring closer scrutiny.

OMC must develop criteria and procedures for getting more end-use verifications from U.S. embassies abroad.

OMC should require exporter compliance with administrative and reporting requirements.

OMC needs to greatly improve its computer system.

Mr. HELMS. Mr. President, I certainly find the amendment acceptable and I commend the Senator on it. It is cleared on this side.

Mr. PELL. It has been cleared on this side, too. It is a good amendment. I trust it will pass.

The PRESIDING OFFICER. Is there further debate?

Mr. PRYOR. I thank both of the distinguished managers of this bill. I think this will be a constructive move, and I ask for its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 891) was agreed to.

Mr. PRYOR. I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE BORK NOMINATION

Mr. FOWLER. Mr. President, I have not held my peace this long on the question of confirming Judge Robert Bork to the Supreme Court only to confound my friends and adversaries and confuse the media. Until yesterday, I was genuinely undecided about my vote. I view this as one of the greatest responsibilities I have undertaken as a new Member of the U.S. Senate. I promised the people of Georgia from the start that I would not flock to any banner, that I would consider all the evidence presented and let the decision rest with my conscience.

As I have done so, I have grown to have great respect for Judge Bork. I admire his intelligence and, especially, his candor, his readiness throughout his career to withstand public controversy and political pressure. We need, throughout our Government, but especially in the courts—we need men and women who will stand up against noisy but narrow special interests that do not necessarily represent the overall welfare of our country. That is one issue that should not be lost on us, regardless of the outcome of this nomination.

Many moot issues have been raised, on the periphery of these proceedings, by both sides. I am appalled by the way this became a plebiscite. We do not elect Justices to the Supreme Court in this country. We should not conduct national referendums. And I can sum up the effect of these campaigns on me: Those who attacked Judge Bork made me often yearn to confirm him. Those who campaigned for him by attacking his opponents turned me against the nomination.

I do believe Judge Bork has confused the issues to some extent himself—by promoting the doctrine of "original intent," which supposedly keeps the values of judges out of their deliberations. Judge Bork opposes some rulings as contrary to the intent of the framers, but says he would uphold other rulings if they had a "reasonable basis." The latter method—I cannot escape this conclusion—is another way of referring to a value judgment by the jurist himself.

I agree with Justice Harlan, who said in his concurring opinion to Griswold versus Connecticut:

> While I could not more heartily agree that judicial "self-restraint" is an indispensable ingredient of sound constitutional adjudication, I do submit that the formula for achieving it is more hollow than real.

I find no reason to oppose Judge Bork for failing to adhere strictly to a theory that I consider ab initio unworkable. Nor will I oppose him on the basis of his opinion on any single issue, however controversial.

I do reject the Judge's particular form of strict construction. Because it has prevented hard facts—the actual injustices, hardships, discrimination, miseries and oppression experienced by real people in an imperfect society—from penetrating the world of pure theory.

Reality does have to enter the ethereal world inhabited by the courts and the Constitution, to bring that world into contact with the society we are struggling to govern and to shape. The way reality enters this world is through the facts and the issues that come before the Supreme Court in living controversies, as set forth in the Constitution.

A Justice on the United States Supreme Court should demonstrate the capacity to confront the difficult decisions he or she must make—and excel not only in intellect, but in fortitude, in determination to uphold justice, and finally in wisdom to apply the broad guidelines of our Constitution to the narrow and particular sets of facts that arise as unresolved cases of law.

I cannot agree with Judge Bork's application of these guidelines, because it is not informed by values set forth in the preamble to the Constitution, and readily discoverable in the history of the founding of our republic. Our forefathers were profoundly influenced by the conflicts of their times, yes, yes, but also by their belief in the gifts of a supreme being. Hear Thomas Jefferson when he proclaimed for his constitutional colleagues: "We hold these truths to be self-evident * * * that we are endowed by our creator with certain inalienable rights."

I think Judge Bork keeps out of his reading of the Constitution those intangibles that are most central to its intent. In the process, his attempt to prescribe 18th century values, stands as one of the greatest works of 20th century relativism.

Judge Bork, for all the brilliant qualities he does possess, does not incorporate the attributes we need most at this time in our history. I do not believe he embraces the spirit that can unite our people today, the same spirit that certainly united the authors of our Constitution.

If the court is to succeed, it must aim for consensus among its own members and among the people of our country. I worry about the deep divisions in the Court as reflected by the growing number of 5 to 4 decisions on important cases in recent years. We now need a conciliator, not a swing vote. That was the great contribution of Justice Powell, one of conciliation in a divided court.

Mr. President, if you subscribe to the view that there is a moral order to this world, then you will recognize the deep-seated feeling that comes upon you so strongly at times, that there is a reason for everything that happens—just as you will feel that there is a reason, a moral basis for every word of our Constitution.

In this instance, as painful as it has been for our country, the debate over Judge Bork's confirmation has brought the law of these United States to life. It has exposed many phony issues. It has illuminated the relationship between our law and the things we hold dearest.

How many Americans had heard of Griswold versus Connecticut before? The whole issue of the right to privacy? Arcane legal cases have come down from their musty shelves. Their meaning has come alive in the minds of Americans who never attended a day of law school, who never argued before a jury or deliberated on the bench. In this respect, Judge Bork has succeeded in what I believe he set out to accomplish in his career.

What we have been through cannot help but renew the understanding and commitment necessary for the operation of our Republic. It is for that reason that I decline to criticize President Reagan for advancing this divisive nomination. I cannot support it, but I believe it has opened the discussion necessary to discover the road to consensus.

I want to add one last thought if I may. We will have a conservative Justice on the Court. I welcome that. It is clearly time to sort out the gains we have made, and to heal the wounds we know we have suffered along the way. We require steadiness and careful deliberation. It is not time for careening off in any extreme direction.

It is in that spirit that I ask now, after this wide-open and exhausting controversy, that we now move on to a nominee that our citizens in the great middle ground of America, majorities and minorities, men and women, Democrats and Republicans can rally around. I pledge to President Reagan everything in my capacity to assure that the Court vacancy will be filled by year's end. Our country—and our countrymen—deserve no less.

I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Florida.

JUDGE BORK

Mr. CHILES. Mr. President, few issues have been as troubling for me as considering the nomination of Judge Robert Bork as Associate Justice of the Supreme Court. I approach this decision with the sure knowledge that a position on the supreme court carries with it the potential to have immense impact on the future of all Americans. For the Senate it is an irrevocable judgment. The men and women we confirm can serve for life.

In my three terms in the Senate I have supported every nomination made to the Supreme Court.

I certainly have not agreed with every position these individuals espoused but I was confident in their ability, their integrity and their adherence to fundamental principles of constitutional law. I see my role as a Senator not to second guess the President in his choice but to make a judgment that a person has the intelligence, temperament and principles to serve on our highest Court.

I do not share the view that somehow the Senate must insure some sort of balance on the Court. That is not our role and in view of the historical unpredictability of justices after ascending to the Court it is to me a pointless exercise.

Rather I have tried to satisfy myself that Judge Bork is a jurist who has the capacity to serve on the Court and that he will adhere to the principles and rulings that have developed under our Constitution and are the bedrock of our free society. In doing so I have closely studied the proceedings of the Senate Judiciary Committee and read Judge Bork's writings and decisions.

Frankly, in areas such as law enforcement and the prerogatives of the legislature I find much that I can agree with.

I am satisfied that Judge Bork has the capacity. He seems to be a highly intelligent, perhaps brilliant legal scholar. I do not question his competence nor his integrity.

It is Judge Bork's overall philosophy with respect to the Constitution that I find radical and greatly at odds with our 200-year experience under the Constitution. Our Founding Fathers intended to preserve and guarantee individual rights and liberties and to limit the powers and intrusions of Government. The great progress this country has made in assuring these rights to all segments of society—to minorities, to women, to the traditionally underrepresented—has in effect been progress toward a fuller realization of what the Constitution promises to all Americans.

I am not convinced that is Judge Bork's view. His is a much narrower view of individual rights guaranteed by the Constitution. His view of the Constitution is to limit the rights of individuals, to reserve to government those rights not literally spelled out in the Constitution. To my mind this is a view at odds with the intent of our Founding Fathers.

My study of the adoption of the Constitution indicates that the Founding Fathers were concerned about excesses of government. They wanted in effect to limit the power of the state. They were not trying to confer additional powers on the government. They were establishing a charter as to what the powers of government would be, and those not given to the government were reserved to the people.

Mr. President, I feel that they are inherent rights guaranteed by the Constitution and that was intended by the Founding Fathers.

This narrow stance of Judge Bork represents a threat to the difficult and continuing effort to assure the civil rights of all Americans. It is a threat to the rights of privacy that Americans believe are guaranteed by their Constitution. And I have found in Judge Bork's decisions a disturbing pattern that would sacrifice family relationships and the rights of children and parents to the perceived needs of the state.

Mr. President, I began my consideration of the Bork nomination with the hope that I would be able to vote to confirm.

I have always felt that the President is entitled to have the benefit of the doubt on his nominee. I had no problem in confirming Justice Scalia or Justice O'Connor, nor in confirming Justice Rhenquist to be Chief Justice of the Court. I, too, believe that the President is entitled to nominate, a conservative to the Court.

I think there are many, and certainly many Southerners, who are qualified in this regard. I know of several on the appellate bench from my State.

I regret that I can not vote to confirm Judge Bork as a Justice of the Supreme Court.

FOREIGN RELATIONS AUTHORIZATION ACT FISCAL YEAR 1988

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent on an amendment by Mr. CHAFEE that there be a time limitation of 1 hour, to be equally divided in accordance with the usual form; that on an amendment by Mr. COHEN there be a 10-minute limitation, to be equally divided in accordance with the usual form; that on an amendment by Mr. BINGAMAN there be a 10-minute limitation, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I think the majority leader should have said we have not heard from Senator SIMPSON yet so that might be set aside.

Mr. CHAFEE. I wanted to discuss that. I would not want to proceed without his approval.

Mr. BYRD. Then I would withdraw that portion. It leaves the Cohen and Bingaman amendments to have a time limitation of 10 minutes each, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico.

AMENDMENT NO. 892

(Purpose: To maintain Latin American and Caribbean data bases, and for other purposes)

Mr. BINGAMAN. Mr. President, on behalf of Mr. DOMENICI and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 892.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. 517. LATIN AMERICAN AND CARIBBEAN DATA BASES

(a) The Secretary of State, in consultation with the appropriate departments and agencies of the U.S., may maintain data bases on the Latin American and Caribbean region. In developing these data bases the State Department shall be required to satisfy the following conditions:

(1) Any new contractual agreement entered into for purposes of this section shall be subject to full and open competition among qualified U.S. institutions with strong Latin American and Caribbean programs; and

(2) The Secretary of State shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

(b) Contracts made under subsection (a) shall be subject to the availability of appropriations.

Mr. BINGAMAN. Mr. President, I am offering this amendment to require the State Department to maintain a computerized data base or data bases on Latin American and the Caribbean. The need for such services is great. The link between the national security interests of the United States and events in Latin America and the Caribbean is indisputable. It is an unfortunate fact that many of our neighbors to the south are racked with political and social problems, which, as we are too well aware, often turn to violence. Our sensitivity to events in the region is justifiably high, and consequently the need for comprehensive, up-to-date, and readily available information on Latin America is also great.

I noted that the version of the State Department authorization bill which passed the House included a provision, section 136, earmarking not less than $1.3 million for each of fiscal years 1988 and 1989 for the State Department to establish a Latin American and Caribbean data base.

I commend our friends in the House for recognizing how imperative it is to have information on hemispheric affairs available; I am concerned, however that the House provision does not mandate full and open competition for the funds and might set up a new data base that would significantly duplicate existing services. My amendment addresses these concerns and is offered as further clarification and improvement on the House language. First, it mandates that any funds for this purpose shall only be awarded through full and open competition among qualified U.S. institutions. Second, it calls on the Secretary of State to verify that funds are not awarded to provide services which would substantially duplicate existing services.

Technology is now available to organize and process text and statistical material on Latin America. Up-to-date information can be accessible to members of the government, the business community, the academic community and the public via on-line data services. I would point out that several fine institutions have already developed significant capabilities in this area, and that the State Department would greatly benefit from fortifying and expanding these capabilities under the provisions of this amendment. I am aware, in particular, of extensive data base programs on Latin America and the Caribbean available at the University of California at Los Angeles and the University of New Mexico, in Albuquerque. I have a brief description of the Latin American data base at the University of New Mexico, which, for the sake of time, I will not read to you. However, I would ask unanimous consent that it be included at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. In these days of tight budgets I believe that it would be imprudent to authorize funds which could significantly duplicate existing capabilities. Rather, we should focus such efforts on qualified existing institutions with substantial capabilities in this area.

Whether policy debate in our country is focusing on the impact of immigration, narcotics trafficking, human rights, foreign aid, trade, or our efforts to promote peace and democracy in Latin America and the Caribbean, the availability of on-line and up-to-date information is vital. I hope that my colleagues will support this amendment to provide for such services. I believe that my amendment, and specifically its provisions mandating full competition and eliminating the possibility of significantly duplicative services, is the best way to balance our need for these services with budgetary considerations.

Mr. President, I hope my colleagues will support the amendment. I believe the amendment is one which is supported or not opposed by the two managers of the bill. I conclude my description at this point.

Mr. President, I am not aware if there are others who wish to debate the amendment or not.

EXHIBIT 1

LATIN AMERICA DATA BASE

INTRODUCTION

The Latin America Data Base (LADB) at the University of New Mexico at Albuquerque (UNM) was created in 1985 to collect, organize and process text and statistical materials on Latin America, including Brazil. The LADB has accumulated, on a daily basis, a wealth of information on Latin American economic, political, social, and international developments. Today the LADB Is the leading computerized database in the United States, with about 80 million bytes of online information, the equivalent of some 40,000 printed pages.

The LADB offers a variety of services. Its technical staff utilizes state-of-the-art technology in unique applications to monitor electronic and print sources from all over Latin America. The LADB staff and editorial board are professional writers and scholars specialized in Latin American affairs. They offer subscribers a solid merger of expertise, communication skills, and objectivity in reporting on the region.

LADB Director Nelson P Valdes is associate professor of sociology at the University of New Mexico. Dr Barbara A Kohl, LADB managing editor, is a visiting scholar of the UNM Latin American Institute (which administers the LADB); she is also a former Fulbright scholar.

In January 1986 the LADB launched two electronic newsletters: the Latin American Debt Chronicle (LADC) and the Central America Update (CAU). The LADC covers political and economic events and issues and analyses related to the foreign debt burdens and debt payment capacities of the countries of Latin America. The LADC is published on Tuesdays and Thursdays. The CAU is focused on economic, political, security, and human rights developments throughout Central America. The CAU is published on Wednesdays and Fridays.

SERVICES

Issues of the CAU average twelve articles in ten single-spaced pages; issues of the LADC average ten articles in nine single-spaced pages. Both newsletters are available in the United States via NewsNet, via the Compuserve gateway to NewsNet, via Peacenet, via Bitnet (an international academic network), and via Technet (covering the Rio Grande Research Corridor in New Mexico). All back issues are available on 5¼-inch personal computer disks. A weekly print version of both newsletters will be available beginning in October 1987.

COMMENTS

The LADC and the CAU have been well received by diverse user groups, including scholars, human rights activists, radio and newspaper journalists, congressional research staffs, economic development specialists, and United States-based transnational companies. Among these user groups are the North American Congress on Latin America (NACLA), Beyond War Foundation, Hoover Institution, Pacifica News Service, US Agency for International Development (USAID), and Shell Oil Company. The LADB has been cited in such diverse publications as the Tower Commission chronology of events concerning Central America which accompanied its report on the Iran-contragate affair, and in the Journal of Current History.

Finally, the LADB has just gone online through a mainframe computer at the UNM Computer and Information Resources and Technology Center. With this development, powerful search and retrieval software give those using the LADB rapid and wide-ranging access to the entire database. Anyone making economic, financial, or political risk decisions related to Latin America now has a comprehensive, current and accurate source.

The PRESIDING OFFICER. Is there further debate?

The Senator from North Carolina.

Mr. HELMS. Mr. President, I have studied the amendment of the distinguished Senator.

As I understand it, he is authorizing the State Department to contract with institutions to maintain the data base at the institutions. Is that correct?

Mr. BINGAMAN. That is correct.

Mr. HELMS. This is strictly authorizing. We have worked with the Senator on the amendment. I appreciate his working with us. I find it entirely acceptable, Mr. President.

Mr. PELL. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BINGAMAN. I yield back my remaining time.

Mr. HELMS. I yield back my remaining time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 892) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. ROTH addressed the Chair.

Mr. HELMS. Mr. President, if the Senator will withhold for just one moment.

The PRESIDING OFFICER. The Senator from Florida has been recognized

Mr. GRAHAM. Mr. President, our responsibility to the public——

Mr. BYRD. Mr. President, will the distinguished Senator yield for a question? The managers are trying to alert other Senators when they may proceed with their amendments. Could the distinguished Senator indicate how long he will be speaking?

Mr. GRAHAM. Approximately 10 minutes.

Mr. BYRD. Very well. There is no time agreement on the bill and there is no way you can limit any Senator. So the Senator would be speaking about 10 minutes. I would hope we could get some time agreements so we could move on with the amendments and in this way if we yield to Senators, if they want to speak, yield 5 minutes to them or whatever.

Mr. President, I yield the floor so the Senator may proceed.

Mr. GRAHAM. I thank the Senator.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. PELL. Mr. President, yesterday many Senators wanted to speak on this subject, and we tried to limit it to 5 minutes. I know Senator PRESSLER yesterday waited quite a while.

Mr. PRESSLER. I would say——

The PRESIDING OFFICER. The Senator from Florida controls the floor. One would have to ask him to yield in order to speak.

NOMINATION OF JUDGE BORK

Mr. GRAHAM. Mr. President, our responsibility to the public we serve embraces few tasks graver and more consequential than the confirmation of the nomination of a Supreme Court Justice.

Clearly both our President and Judge Robert Bork have approached the matter of Judge Bork's nomination with the utmost respect for and reflection upon the role of a Supreme Court Justice in our society.

Judge Bork has dedicated a lifetime to scholarly pursuit and judicial application. He has repeatedly defined a set of deeply-held convictions which inform his decisions. His intellect is formidable. His articulation of his views is forceful.

We in the Senate have no lesser responsibility. Ours is to evaluate the candidate proposed and to measure and reflect the will of the people not only in choosing a justice, but maintaining the historic confidence of the American people in American justice.

Such a decision must probe deeply held beliefs and can be, as we have seen, contentious, even anguished.

Each of us has had to pause in the inevitable clamor of pressing daily events—to consult the people of our State;

The words and decisions of the candidate;

The history of U.S. law and judicial interpretation which hold the pattern and direction for our future;

And we have had to pause to search our own souls for a sense of what will best serve the people of this Nation.

As a Floridian, as someone whose life has been dramatically affected by a Supreme Court decision, I have a unique perspective on this particular choice. I might never have been elected to public office were it not for the Supreme Court decision on reapportionment.

Another former Governor of Florida, Leroy Collins—a man whose record is distinguished by courageous battles to bring Florida into the 20th century of civil rights and equal opportunity—tells a story which illustrates the intimate and ultimate power of the Supreme Court to influence and be influenced by our efforts to sustain a workable democracy.

Governor Collins found himself next to Justice Hugo Black after a Georgetown dinner party in 1963. Justice Black asked Collins what his biggest disappointment had been as Governor.

Collins replied without hesitation that he had been unable to convince the Florida Legislature to reapportion the voting districts of the State—in effect, to reform itself to reflect the dynamic growth of Florida and the diversity of ethnic backgrounds and political positions.

Justice Black told Governor Collins that the Florida experience was discussed by the Court during deliberations on the case of Baker versus Carr, which dealt with Tennessee's reapportionment. Florida's inability to resolve the issue through the State legislative process convinced the Court that it had the final role in ensuring equal weight to each voice—one man/one vote.

We heard eloquent testimony from former Congresswoman, Barbara Jordan who ran for office twice, garnered an impressive turnout twice—and lost twice before reapportionment allowed her to win a seat in the Texas House of Representatives.

She told the Judiciary Committee:

> My opposition to this nomination is really a result of living 51 years as a black American born in the South and determined to be heard by the majority community.
>
> When you experience the frustration of being in a minority position and watching the foreclosure of your last appeal and then suddenly you are rescued by the Supreme

Court of the United States—that is tantamount to being born again.

It is this hope—confidence in the essential fairness and justice of our Government which has served as strong sinew in binding our Nation together.

The expectation of full membership in the family of America has kept those waiting for admission within the democratic system.

Our Constitution is the wellspring which inspirits the Nation. The Supreme Court is the channel for the great river of democracy that flows from it. Time and again throughout our history, the Court's decisions have changed the direction of our individual lives.

The Court struck down the poll tax. It said we can teach foreign languages in our schools. It supported affirmative action. It affirmed that individual privacy is a right. It opened our schools to all of our children. It affirmed that the law must equally protect every American. And that no American may be deprived of liberty without due process of law.

His inattention to the human consequence of adjudication is seen as a threat by many who have only recently won—hardwon—progress toward equity for all Americans.

In the course of these hearings, Judge Bork has amended some of his views, altered others. But in the course of his judicial and academic work, the judge has chosen consistently to be provocative, to be divisive.

We are an expansive people; we cannot be constricted by a narrow view. Scholastic brilliance, when it is bloodless and abstract, is nothing more than a brilliance with blinders.

Thomas Jefferson wrote of the Constitution:

> Some men look at constitutions with sanctimonious reverence and deem them like the ark of the convenant, too scared to be touched.
>
> Laws and institutions must go hand in hand with the progress of the human mind.

The greatest lessons in our common history are the lessons of the heart:

All men are created equal. We are each entitled to a share of the abundance of this Earth. We have rights to express our opinions, to seek knowledge and gainful employment, to live in adequate shelter, to shield our privacy, to be heard equally, to be judged equally, to find our own happiness, to dream our own dreams.

If the Constitution is the framework of our Government—if the Declaration of Independence is the soul and spirit of our Nation—then the Supreme Court has the responsibility to infuse the one with the other. The Supreme Court is the living instrument of the will and yearnings of the American people.

A justice of that Supreme Court must be a part of that humanity, not apart from that humanity. Judiciousness is reached through streets teeming with the noise and struggles and fears and joys of life. One who is untouched by his passage through those streets is unprepared to wield the power of decision which will so intimately touch other lives.

I have decided I cannot support the nomination of Robert Bork as an associate justice of the Supreme Court. His own words mark him as an inappropriate candidate. In response to Senator Simpson's question:

> Why do you want to be an associate justice of the U.S. Supreme Court?

Judge Bork replied:

> I think it would be an intellectual feast just to be there and to read the briefs and discuss things with my colleagues. That is the first answer.

We need not go on. That is the wrong answer.

The dedication of a life to the shaping of so many lives is the highest honor—and the highest austerity. The preparation for such a rule must be rigorous. The character of such an aspirant must fully exhibit intellectual discipline informed by real passion.

The pursuit and definition of justice is passionate work.

It is all-consuming.

It is a trust we can call sacred.

It is my life and your lives and the lives of our children and the foundation of the democracy we safeguard for all Americans—the enlightened hope we hold up as a beacon to the rest of the world.

Mr. President, thank you.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I ask unanimous consent that there be the following time limitations on amendments: 20 minutes on an amendment by Mr. Roth; 10 minutes on an amendment by Mr. Roth, and these amendments are identified by both managers; 90 minutes on an amendment by Mr. Chafee and Mr. Simpson, to be equally divided; and all in accordance with the usual form, that no amendments be in order to either of the amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I am glad someone is at least listening on the squawk boxes. Ten minutes on an amendment by Mr. Roth to be equally divided; 90 minutes on an amendment by Mr. Chafee to be equally divided; both in accordance with the usual form, no amendments to be offered to either; and I withdraw my request for the time on the amendment dealing with the Bahamas by Mr. Roth.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Reserving the right to object; I will not object.

Mr. CONRAD. May I have recognition?

Mr. BYRD. No. I have recognition.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. ROTH. Yes. I want 20 minutes on the second amendment.

Mr. BYRD. That is not the one that deals with the Bahamas?

Mr. ROTH. Yes. Twenty minutes; that is correct.

Mr. BYRD. That is not the one that deals with the Bahamas. I have an objection to that. Yes. But the other one, I put the request for 10 minutes to be equally divided. Is that agreeable?

Mr. ROTH. That is fine.

Mr. CONRAD. Might I inquire, if this unanimous-consent request is agreed to, would that preclude any intervening statements on the Bork nomination.

Mr. BYRD. Senators could ask for the managers to yield time. It is the only way that the managers have of controlling the floor at this time and getting on with this bill. They can still yield time to Senators who may wish to speak.

Mr. CONRAD. If the floor managers would be willing to grant me 10 minutes—I think it could be done in less than that—I would certainly not object.

Mr. ROTH. Reserving the right to object, I have been waiting for nearly an hour, and I do not want to prevent any Senator who desires to speak the time to do so, but I would like to proceed with my amendments.

Mr. CHAFEE. Might I direct an inquiry to the majority leader? Regarding these unanimous-consent requests, will they then proceed in that order? In other words, the Senator from Delaware for 10 minutes, then we will go to my amendment?

Mr. BYRD. That would be fine. I could include that in the request. Yes I do include that in the request.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Again, Mr. President, reserving the right to object, and I certainly prefer not to object, but I am in a difficult situation in that I have pledged to announce my vote today. I would like to be able to explain it. I am just inquiring of the floor managers of this bill if there would be a chance to get some time as we proceed. If there is a chance, I will certainly not object. If there is no chance to get time, I will be left with no alternative but to object.

Mr. BYRD. Mr. President, I hope the Senator will not object. Senators have been waiting patiently. The Senator from Rhode Island was here this morning trying to call up his amendment.

I ask unanimous consent that after the amendments by Mr. Roth and Mr. Chafee have been disposed of Senators may speak on other matters for not to exceed 10 minutes each.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. Reserving the right to object, I do not intend to object. Senator DeConcini is on his way over here, and he is interested in the Bahamas amendment. I would imagine when he comes over he may well agree to a time limitation. I wonder if we could not keep the two Roth amendments together.

Mr. ROTH. I will be happy to agree to a time period.

Mr. BYRD. But the objection was to the time limit.

Why do we not proceed with the bird in the hand and not try to get the two in the bush right now. Mr. DeConcini is on his way over. He could negotiate with the Senator on the second amendment. Would that be agreeable?

The PRESIDING OFFICER. Is there objection to the request? Without objection—does the Senator from Delaware object?

Mr. ROTH. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Do I understand the agreement that is being proposed is the Senator from Delaware will proceed on his 10-minute amendment and I will proceed?

The PRESIDING OFFICER. That is the Chair's understanding. Without objection, it is so ordered.

The Senator from Delaware. The Senator from Delaware is recognized for a period not to exceed 10 minutes, time which will be evenly divided between the Senator from Delaware and the Senator from Rhode Island.

AMENDMENT NO. 893

(Purpose: To insure that due concern for security is reflected in future construction projects in Communist-controlled countries)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. Roth], for himself and Mr. Dole, proposes an amendment numbered 893.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Sec. 1. That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by any provision of law shall be available for undertaking any additional construction activity on any project planned or underway in any Communist-controlled country until 30 days after—

(1) receipt by the Congress of a detailed report submitted by the Secretary of State and approved by the Directors of the Central Intelligence Agency, Defense Intelligence Agency, and National Security Agency, on any such project. Such report shall include—

(A) an evaluation of all security-related factors which must be and are being considered in the planning and implementation of such project; and

(B) how any existing and potential security related issues and problems are being addressed in the planning and implementation of such project; and

(2) receipt by the Congress of a certificate made by the President that appropriate and adequate steps have been taken to ensure that the project may proceed without undue risk that American security interests will be compromised thereby.

Sec. 2. Neither the Department of State, nor any other Executive department or agency engaged in negotiations with the government of any Communist-controlled country for the construction of diplomatic or other official facilities in such countries, shall make any binding commitments on behalf of the United States in regard to such projects, or similar projects of such country in the United States, until a report such as is described in Section 1 shall be submitted to the Congress.

EMBASSY CONSTRUCTION IN EASTERN EUROPE

Mr. ROTH. Mr. President, as I mentioned on the floor of the Senate this morning, when we discuss intelligence matters, it makes little sense to talk of the Soviet Union. Rather, we should talk of the Warsaw Pact nations, because the intelligence services of those countries are thoroughly coordinated with and, on occasions, substitute for the KGB and the GRU.

Consequently, Mr. President, we must expect that whatever efforts were made to compromise the security of our Embassy in Moscow—and we now know that those efforts were legion—have also been made in Eastern Europe. If the KGB was willing to go to such great lengths to plant listening devices in our new Moscow Embassy, we should expect that it was equally firm in instructing its Eastern European surrogates to undertake similar efforts against our facilities in Warsaw Pact countries.

In this context, I must point out that the Senate Select Committee on Intelligence, in making its report on the security of the United States Embassy in Moscow asserted, "there is no doubt that similar efforts will be made to attack the six new Embassies now planned for construction in Eastern Europe. This suggests the real possibility that the United States will be placed in the same position with respect to these Embassies as it is in Moscow." (P. 11, recommendation 5, "Report on security at the United States Embassy in Moscow and other areas of high risk," Sept. 9, 1987.)

Mr. President, I do not believe that the Senate should contemplate such an unnecessary repetition of our disastrous Moscow experience. To prevent such a development, I have sent an amendment to the desk on behalf of myself and the Republican leader. This amendment calls for the halting of State Department construction in any Communist-controlled country until 30 days after the Congress has received a report from the Secretary of State including an evaluation of all security related factors which must be, and are being considered in the planning of such a project and how such problems are being addressed. This report by the Secretary of State must be approved by the Directors of the Central Intelligence Agency, Defense Intelligence Agency, and National Security Agency.

Similarly, the amendment precludes the State Department, or any other executive agency engaged in negotiations with a Communist-controlled country for the construction of diplomatic facilities in such countries from making any binding commitments on behalf of the United States until a report on the projected agreement, along the lines I have already outlined, has been submitted to the Congress.

Mr. President, this amendment has been designed to cause minimal disruption to the State Department's construction program, while insuring against the repetition of recent sad developments. I ask Members to view this amendment as a sensible, prudent move to assure us security in regions where it is so frequently threatened.

Mr. DOLE. Mr. President, I am pleased to join with the distinguished Senator from Delaware [Mr. Roth] in offering this amendment. It is a straightforward piece of legislation, with two basic provisions.

NO CONSTRUCTION WITHOUT SECURITY GUARANTEES

First, it prohibits any further expenditure of funds for construction of diplomatic or official facilities in Communist countries—until the Congress receives a report that appropriate precautions have been taken, to insure that such construction can proceed without compromising the security of the facility.

It is obvious—from the debate in the Senate over recent months, and from some of the other amendments being offered to this bill—that there is still great concern about whether the State Department, acting solely on its own, will do everything that needs to be done to insure the security of these projects. As a result, we have built into this amendment a requirement that the report we are prescribing, although submitted by the Secretary of

State, would have to be approved as well by the CIA, DIA, and NSA—in other words, to insure that their national security-related responsibilities, experience and concerns are taken into account.

So that is the first provision—dealing with construction projects already decided on, where planning or construction are underway.

THINK FIRST, BEFORE YOU SIGN

The second provision concerns ongoing negotiations with Communist-controlled countries on future construction projects—whether they be our projects in their country; or their projects here. Basically, we require that the State Department, or whoever is negotiating on behalf of the United States, make no binding commitments until we are certain that appropriate weight has been given to security considerations. Again, we ask for that assurance through a report, which must be submitted prior to making any such commitments.

Let me stress: We do not intend to stop or disrupt ongoing negotiations. Often, pursuit of those negotiations—and the projects being negotiated—serves our national interest; including our national security interest. So the negotiations can go forward.

But when it gets to the stage of making firm commitments in those negotiations—when we say, for example: "OK, we'll let you build in location *X* in Washington, if you'll let us build in location *Y* in your capital"—when we get to the stage of making those kinds of deals, we want to see a report before the final deal is struck. We want to be sure the deal will not disadvantage us in security terms.

There is growing feeling, I think, that the Mt. Alto deal was a pig in the poke for the United States, in security terms. An unequal deal, which we should never have made in the first place.

This amendment says: No more Mt. Alto's. Let us think first, before we sign on the dotted line.

URGE PASSAGE

So, Mr. President, I think this is a clear amendment, which puts security high on the priority list of things to consider in new construction projects in Communist countries. That is how we ought to treat security—and that is why we should adopt this amendment.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Rhode Island.

Mr. PELL. Mr. President, on behalf of the Democratic side, we have had a chance to examine this amendment and think it is a good amendment. I am glad to agree to it and recommend its adoption.

Mr. ROTH. I thank the distinguished chairman of the Foreign Relations Committee.

Mr. President, I am ready to yield back my time.

The PRESIDING OFFICER. The Senator yields back his time.

Is all time yielded back?

Mr. PELL. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 893) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President——

(Disturbance in the gallery.)

The PRESIDING OFFICER. The Senator will suspend.

The Sergeant at Arms will restore order in the gallery.

The Senator will suspend. The time will not be used.

Mr. CHAFEE. Mr. President, I have 45 minutes, I believe, on my side, on this amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 894

(Purpose: To amend the Immigration and Nationality Act to waive the continuous residence requirement under the legalization program for spouses and children of qualified legalized aliens)

Mr. CHAFEE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. PELL, Mr. MOYNIHAN, Mr. HEINZ, Mr. STAFFORD, Ms. MIKULSKI, Mr. CRANSTON, Mr. GORE, Mr. MATSUNAGA, Mr. SIMON, Mr. ADAMS, and Mr. MELCHER, proposes an amendment numbered 894.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

a. Section 245A(a)(2) of the Immigration and Nationality Act is amended by adding at the end thereof the following new subparagraph:

"(D) CONTINUOUS RESIDENCE NOT REQUIRED FOR SPOUSE AND CHILDREN OF QUALIFIED ALIENS.—Subparagraphs (A), (B), and (C) shall not apply to an alien who is the spouse or child of an individual otherwise qualifying for adjustment of status under this subsection"

Mr. CHAFEE. Mr. President, today, together with Senators PELL, MOYNIHAN, HEINZ, STAFFORD, MIKULSKI, CRANSTON, GORE, MATSUNAGA, SIMON, ADAMS, and MELCHER, I am offering an amendment to correct a serious flaw in the new immigration law—its failure to take into account the unity of families.

I would like to especially thank the distinguished senior Senator from Rhode Island for his help as a cosponsor of this amendment, and for allowing this measure to be considered as an amendment to the State Department bill.

The Immigration Reform and Control Act passed by Congress and signed into law last year was the product of years of debate and negotiation, and much compromise. Many believed that, given the strong feelings on every side of the issue, it would be impossible to write an immigration reform law that would gain enough support to pass Congress.

Thanks to the perseverance and leadership of Senator SIMPSON and others, we beat the odds by passing such a law. In general, I believe we did a good job. I supported the immigration bill in part because it contains tough new provisions to crack down on illegal immigration in the future. I would like to assure my colleagues that I would never support legislation that would open the floodgates to new immigration.

There was another important feature of the immigration bill that compelled me to support it: It treats longtime resident illegal aliens compassionately. The centerpiece of the law, the Amnesty Program, is based on the reality that there are many aliens who have made new lives for themselves in this country, who are already hard working Americans, and who should therefore be granted the benefits of legal residency.

Since the immigration law went into effect, however, many immigrants and people who work with immigrants have noticed a glaring deficiency in the Amnesty Program. In April, I held a conference in Rhode Island on the new law. At that meeting, a number of social service providers and clergymen asked, on behalf of the illegal aliens they counsel, "What is the INS going to do about family members who do not qualify for legalization? Will the new law result in the separation of families?"

At that time I assured them that, in devising the Amnesty Program, Congress did not mean for families to be separated. I advised Rhode Islanders concerned about the potential separation of families to wait for the Immigration and Naturalization Service to issue its final regulations, which were supposed to address the problem.

When the INS issued its final regulations on May 1 of this year, it failed to deal specifically with the problem of ineligible family members. In other words, the regulations do not tell INS officials how to treat a family in which one member or some members qualify for amnesty, while others do not. INS field officers have been given broad discretion in this area, which leaves the entire problem unresolved. In my opinion this is not fair to the families concerned about separation. A family cannot be sure, for example, if the father's application for amnesty will result in the deportation of the mother.

Reports are coming in to suggest that the law is being applied stringently in some cities and leniently in others. Immigration experts and counselors here in Rhode Island tell me that the failure of the INS to confront the problem of ineligible family members has resulted in a climate of fear and uncertainty among undocumented aliens. Many who are eligible for legalization are not coming forward because of their fear that their ineligible spouses and children will be deported. In Rhode Island, only 750 of the estimated 5,000 eligible aliens have filed applications for amnesty, and I am told that the vast majority of those applicants are single individuals without children. The others would rather remain illegal and keep their families intact than risk being separated from them. I cannot say that I blame them.

For example, I know of a family in Central Falls, RI, that faces a painful decision. The mother entered the United States with her three small children before the cutoff date of January 1, 1982, and thus all four are eligible for legalization. The father, however, entered the country shortly after the cutoff date, and therefore is ineligible for amnesty. As the law now stands, there is a possibility that he will be deported and separated from his family.

Furthermore, even if he decides to remain with his family illegally, he will be unable to work because of the new law's strict prohibition against hiring illegals. How can we, in good conscience, place people in this position?

Mr. President, throughout the United States there are many similar cases. I believe that they offer an explanation—probably the main explanation—for the low level of activity in the Amnesty Program. INS offices have been receiving a trickle of applications rather than the flood that was expected. Many, many hard working, honest, immigrant families, fearful of deportation of one or more ineligible members, are choosing not to participate. The irony is that these are exactly the kinds of people the new law was meant to help. Rather than offering them a new beginning, as was our intention in passing the law, the Amnesty Program has given these eligible aliens more cause for confusion and anxiety.

Immigration officials and some Members of Congress argue that INS officials will use the flexibility of the regulations to avoid the separation of family members. That is encouraging to hear, but it is not enough for me.

I am also aware that some Senators who support family unity were hopeful that the problem could be worked out administratively. Several Senators have taken part in negotiations with the INS to arrive at a satisfactory family unity policy. Mr. President, these negotiations have been going on for months, and no agreement has yet been reached. How much longer are we going to wait for this problem to be resolved? The Legalization Program is more than half over. Action is urgently needed to protect the integrity of immigrant families and to convince aliens that they can come out of hiding, before the legalization program ends in May 1988, 7 months from now.

In recent months, I have received letters and petitions from thousands of constituents, asking that Congress correct this problem. These friends and neighbors of undocumented aliens insist that the law as it stands is, to quote one petition: "punitive to family life in our community." I agree with them that it is time for us to act and believe the only effective solution is legislation that will leave no doubt about the unity of immigrant families.

I want to make it clear that my amendment just deals with spouses and with children. It does not touch uncles or aunts or grandparents or nieces and nephews, just spouses and children.

My amendment will only assist individuals who already are in the country when the immigration law became effective.

What my amendment does is as follows: If a spouse or member of the family were here prior to the cutoff date of January 1, 1982, and the rest of the members of the family—and just spouses and children we are talking about—were here prior to the law becoming effective, then if that one individual in the family, we are usually talking of the father, were here satisfactorily and qualifies for this new status, then his children and his wife will likewise qualify.

The amendment I am offering today will allow spouses and children of eligible aliens to remain here legally with their families.

Since my amendment will only assist individuals who were already in this country when the immigration law was passed, it will not increase immigration levels whatsoever. Not a single new person will be able to enter the country and participate in the amnesty program.

This amendment would not be a drain on the taxpayers or the U.S. economy. At the time they achieve the status of legal residents, most newly legalized immigrants will not become eligible for public assistance. Since most aliens eligible for legal status already have jobs here, and since the new law contains strict sanctions against employers who hire illegal aliens, this amendment will not take work away from American citizens. In fact, many sectors of our economy, especially agriculture and the service industry, would welcome additional labor.

I believe that the family unit is sacred. No law or Federal program should threaten the integrity of the family, which is the foundation of American society. Our amendment is based on this principle. Let us help those immigrant families who now find themselves in the excruciating position of having to choose between family unity and citizenship: If they have family unity they do not get the citizenship on the one hand, or citizenship without family unity on the other hand.

I believe it is time for the Senate to act to keep families together.

We might get some objections to this and I suspect we will. The principal one will be the following: Why do these people, the illegal aliens who are members of the family, get special treatment when those who immigrate through the proper channels must wait a long time before their families can enter legally. That is a fair question.

Here we are giving an illegal alien who qualifies amnesty and his family as well, but as to a legal alien who came in and went through the routine steps his family could not come in.

The answer to this is as follows. We are already treating these illegal aliens differently by offering them amnesty. That is what the whole program is about. We have made a decision that we are going to give amnesty to those who are here illegally if they can prove it before January 1, 1982.

It is different from the legal immigrant who comes in and leaves his family behind. The legal immigrant has made a decision to leave his family behind. He has made that choice. But here we have an illegal alien and we set up an amnesty program for him. His children and spouse arrive. They are in the country, just after perhaps the cutoff date, but they are here. They have been here in many instances 3 or 4 years, or 5 years perhaps, and we are saying, "No, we are breaking up this family," and I just do not think that is what we want.

Some will also say, well, we do not need binding legislation; let us work this out administratively.

I have already said the INS in some places treats this rather leniently and in others they do not. So let them work it out administratively.

The answer to that is they have not, and how much longer are we going to wait.

This legislation, I believe, is critical if we are going to have this whole program succeed and if we are going to treat a family the way I believe it ought to be treated to keep it together.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has reserved the remainder of his time.

Who yields time?

Mr. CHAFEE. I yield 6 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 6 minutes.

Mr. MOYNIHAN. Mr. President, I rise in fervent support of the thoughtful and necessary amendment which the distinguished Senator from Rhode Island has offered and, as he indicated earlier, there are many of us who join him in the measure.

It is particularly appropriate that this measure should be offered on the State Department Authorization Act.

Mr. President, I ask the fellow Senator how much of our efforts in the world with other nations is involved with this question of family reunification?

Our Secretary of State and our Ambassadors travel the world, speaking in this capital and that capital, to the elemental issue of good conduct by governments toward families who have been separated and ask to be reunited.

In so many states—for example, the Soviet Union—this is a question of government policy not to do, or to do very rarely, and after extensive negotiating. This is a principle which is offensive to the good opinion of mankind, and surely fails to meet that standard of conduct to which we so often refer.

If we are going to make representations abroad on behalf of that elemental standard, surely we ought to meet it ourselves, here.

I make the point, Mr. President, and it may not always be remembered, that most immigration follows a pattern which historians have called "chain migration." First one person comes to our country, settles somewhere, and sends for a relative. Then that relative sends for yet another relative, and the result is that it is very common for groups of people to be found from one part of Sweden, Ireland, Germany, or Mexico, all in one particular place.

Permit me to explain a case in point. When my grandfather Jack left the County Kerry, he went straight to Jamestown, NY. Why? Because an uncle had done that before him and consequently there was a place where he had connections and could be settled until he found work.

As a matter of fact, I might say to the Senator from Rhode Island, and I am sure it is his experience, that many of the cases that we are coming upon in our part of the world right now involve Irish migration. This was the first great migration to this country, and as it has resumed in considerable part, the Irish are having to separate their families once again.

It seems to me that the same spirit of amnesty that motivated to pass the Immigration Reform and Control Act last October should be extended, to not a large number of persons, but for a large principle. And there is a large principle involved here. If our Secretary of State is to raise issues of family reunification with the heads of Communist governments and other such, he ought to do so in the knowledge that his own government is sensible in such matters, and pursues them here on the Senate floor where laws can be passed and matters resolved directly.

I urge the adoption of this amendment, Mr. President, and I thank the distinguished Senator for allowing me time to speak.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from New York.

At this time, Mr. President, I ask unanimous consent to have printed in the Record a letter from the American Jewish Committee in support of this amendment and also writing on behalf of the following organizations who also support the amendment: American Civil Liberties Union; American Council for Nationalities Service; American Immigration Lawyers Association; AFL–CIO; Association of Farmworker Opportunity Programs; Friends Committee on National Legislation; International Ladies' Garment Workers' Union, AFL–CIO; League of United Latin American Citizens; Lutheran Immigration and Refugee Service; Mexican American Legal Defense and Educational Fund; National Association of Latino Elected and Appointed Officials; National Coalition for Haitian Refugees; National Council of La Raza; National Urban League; and the United States Catholic Conference, Migration and Refugee Services.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Institute of Human Relations,
New York, NY, October 5, 1987.

Dear Senator: We are writing in support of an amendment to be offered by Senator John Chafee (R-RI) to the Department of State Authorization bill. The amendment, known as the Humanitarian Family Unity Act (S. 1408), would prevent the deportation of family members of persons eligible for legalization under the Immigration Reform and Control Act.

The separation of families of legalization applicants remains an unresolved issue of critical importance to the success of the legalization program. Under current law ineligible family members of persons who qualify for legalization can be deported. This frightening prospect has persuaded many qualified persons not to apply for legalization.

Thus far, the Immigration Service has rejected appeals from members of Congress as well as members of the general public to issue clear guidelines ensuring that spouses and children of qualified applicants would not be deported.

The undersigned organizations are committed to the success of the legalization program. We believe that a clear, positive national policy is needed to ensure that spouses and children of eligible applicants will not be deported and will be authorized to work. Senator Chafee's amendment would establish such a clear policy by waiving the continuous residency requirement for the spouses and children of qualified legalization applicants.

We urge your support for Senator Chafee's amendment. Thank you for your consideration of these views.

Sincerely,

American Jewish Committee; American Civil Liberties Union; American Council for Nationalities Service; American Immigration Lawyers Association, AFL–CIO; Association of Farmworker Opportunity Programs; Friends Committee on National Legislation; International Ladies' Garment Workers' Union, AFL–CIO.

League of United Latin American Citizens; Lutheran Immigration and Refugee Service; Mexican American Legal Defense and Educational Fund; National Association of Latino Elected and Appointed Officials; National Coalition for Haitian Refugees; National Council of La Raza; National Urban League; United States Catholic Conference, Migration & Refugee Services.

Mr. CHAFEE. Mr. President, I also ask unanimous consent that two additional letters, one from the American Bar Association in support of this amendment, and another from the United States Catholic Conference, in which the Monsignor Daniel F. Hoye, general secretary, writes the following:

The United States Catholic Conference (USCC) strongly endorses the initiative of Senators Chafee, Pell, Moynihan, Heinz, Cranston, Stafford, Mikulski, Gore, Matsunaga, Melcher, and Kennedy, which addresses the threat of family separation that may otherwise result from the legalization provisions of the Immigration Reform and Control Act of 1986 (IRCA). * * *

I hope that you will be able to support this fundamental humanitarian principle.

There being no objection, the letters were ordered to be printed in the Record, as follows:

American Bar Association,
Governmental Affairs Office,
Washington, DC, October 6, 1987.

Hon. Claiborne Pell,
Chairman, Committee on Foreign Affairs,
U.S. Senate, Washington, DC.
and
Hon. John H. Chafee,
U.S. Senate, Washington, DC.

Dear Chairman Pell and Senator Chafee: On behalf of the American Bar Association, we are writing to urge support for the provisions of the proposed Humanitarian Family Unity Act, S. 1408, which we understand you will offer as an amendment to the Department of State authorization bill, S. 1394.

Only one year ago, Congress passed a generous legalization program which the American Bar Association enthusiastically endorsed. However, during the program's first five months, it has become increasingly apparent that the effective implementation of the program is endangered because the statute fails to protect from deportation the spouses and minor children of legalized aliens whose continuous residence cannot be proven or who arrived after the January 1, 1982 cut-off date.

For many persons who are eligible for legalization, the new law forces a cruel choice between remaining lawfully in the United States while sending away ineligible family members, most often minor children, or foregoing this once-in-a-lifetime opportunity rather than endure the trauma of family separation. The third, equally unsatisfactory option is for eligible persons to apply without resolving the status of their ineligible family members, who would remain outside the scope and protection of our law.

The success of this one-time legalization program rests upon maximum participation by the eligible population. Conversely, the absence of a national policy which assures that family members will not be deported currently deters the participation of eligible individuals. Your amendment would establish a clear and humane national policy to unite families, rather than to divide them.

On behalf of the American Bar Association, I commend you for proposing this amendment and urge your colleagues to support it.

Sincerely,

Robert D. Evans.

United States Catholic Conference,
Washington, DC, October 6, 1987.

Dear Member of Congress: The United States Catholic Conference (USCC) strongly endorses the initiative of Senators Chafee, Pell, Moynihan, Heinz, Cranston, Stafford, Mikulski, Gore, Matsunaga, Melcher, and Kennedy, which addresses the threat of family separation that may otherwise result from the legalization provisions of the Immigration Reform and Control Act of 1986 (IRCA).

We strongly urge you to support the amendment to the Department of State Authorization Bill (S. 1408), the Humanitarian Family Unity Act of 1987. This Bill would amend the Immigration and Nationality Act to "waive the continuous residence requirement under the legalization program for spouses and children of qualified aliens." The Bill addresses an issue of paramount importance to the National Conference of Catholic Bishops (NCCB). As Archbishop John L. May, President of NCCB/USCC, wrote to President Reagan on May 4th of this year, the U.S. Catholic Bishops have been deeply concerned about IRCA confronting aliens with a "cruel" dilemma. This dilemma forces some aliens who would otherwise qualify for legalization to choose between the threat of family separation (if they have non-qualifying nuclear family members) and "continuing existence in the shadows of illegal status" to protect their family.

The degree to which this has and will continue to happen is not at issue here. What is important is to recognize that in the absence of a clear and uniform national policy on this issue, the perception that applying for legalization in some case threatens family unity is persisting. This amendment, S. 1408, addresses that problem by providing a clear policy to assuage the fears of those who are confronting this dilemma.

Support for the Humanitarian Family Unity Act of 1987 conforms with the fundamental principle of the sanctity of family unity—a principle enshrined in U.S. immigration law and a clear derivative principle in customary international law.

I hope that you will be able to support this fundamental humanitarian principle.

Sincerely,

Rev. Msgr. Daniel F. Hoye,
General Secretary.

Mr. CHAFEE. Mr. President, I also wish to make the following points to show how the system is not functioning to the degree that was expected, because the number of applicants under the amnesty program is nowhere near expected. And there is good reason to believe it is because of this family separation provision.

The Eastern Regional Processing Office was geared up for a capacity of 312,000 legalization applications by September 30, a week ago. It did not receive 312,000 applications. It received 61,000, one-fifth.

The northern processing office was geared for a capacity of 338,000. It received 81,000, about one-fourth.

The southern office was expecting 431,000 applications. It received not 431,000, it received 189,000.

The western processing office received the largest percentage of those anticipated, but still not what they expected. They expected 640,000 applications. Instead they received 450,000, about two-thirds.

In other words, they were ready for 1,700,000 by September 30. Instead of 1,700,000, they received 783,000, less than half of what was expected.

Mr. President, I also ask unanimous consent to have printed in the Record an article from the Wyoming Star Tribune of September 8, 1987, in which they state in Wyoming that about 100 illegal aliens in the State applied for amnesty.

Only about 100 of Wyoming's suspected 2,000 illegal aliens have applied for amnesty under the 1986 Immigration Reform and Control Act.

There is lingering distrust in the INS and there are various suggestions of why that was as it was.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wyoming Star Tribune, Sept. 8, 1987]

About 100 Illegal Aliens in State Apply for Amnesty, Official Says

(By Daniel Wiseman)

Casper.—Only about 100 of Wyoming's suspected 2,000 illegal aliens have applied for amnesty under the 1986 Immigration Reform and Control Act, an Immigration and Naturalization Service official says.

Fear of the INS and the legalization process may be responsible for the low turnout, volunteers assisting the aliens suggest.

Jim Knight, INS legalization officer for the Denver district, which includes Wyoming, said last week that "everybody now knows about the new immigration law." Most may be delaying application since the deadline is not until May, he said.

But officials with the Wyoming Ecumenical Legalization Project, a volunteer group approved by the U.S. Attorney General to assist aliens in applying for amnesty, disagree.

Lingering distrust of the INS, the agency responsible for the deportation of illegal aliens, still exists among aliens, said Tony Padilla, manager of the ecumenical office in Green River.

Gale Peterson, the manager in the legalization project's Casper office, said that aliens fear the INS will split up the families of illegals whose members all do not meet amnesty requirements even though the INS has indicated it will not.

Other illegals believe they will not meet the requirements for amnesty and do not apply, Padilla said.

More applications to the INS should be forthcoming because the legalization project in Wyoming is screening about 300 more illegals, Peterson noted.

Also, applying for amnesty is complicated and expensive, Peterson said. A great deal of documentation is required and the application process can cost more than $400, he said.

Padilla said he believes the great majority of aliens who so far have applied for amnesty did so with outside help.

The legalization project charges $50 a person to process an application and the INS charges another $185, Padilla said. He added there also can be fees for medical exams, photos and travel.

Knight said the INS has not received any reports of unscrupulous operators in Wyoming offering assistance to aliens in the application process—possibly resulting in the fleecing of illegals.

But Padilla said he had heard of illegals in Wyoming paying as much as $30 for free application forms. Peterson, however, said such abuses are not widespread in the state.

The INS will be in Casper and Worland later this month to handle legalization requests from illegal aliens. This will be the third trip to Wyoming for INS officials who previously visited the state this year in June and August.

An INS team will be at the Worland Municipal Airport from 8 a.m. to 4 p.m. Sept. 22 and 8 a.m. to 2 p.m. Sept. 23, and in Casper at the Wyoming Wool Growers Building, 811 N. Glenn Rd., 8 a.m. to 4 p.m. Sept. 24–25.

At the sessions, the INS will schedule interviews for aliens and accept additional applications for amnesty as well as special agricultural field-worker permits.

All those who apply for amnesty are given a temporary employment card.

The drive to give amnesty to aliens began four months ago, and since then Knight said the INS has received 90 applications for amnesty and 11 for special fieldworker permits in Wyoming.

Regionally, Knight said the INS estimates that between 10,000 and 25,000 illegal aliens live in the three-state Denver district of Wyoming, Colorado and Utah. To date in the three states, 6,000 people have applied for amnesty—which protects aliens from prosecution for entering the country illegally—and another 7,000 applications have been requested, Knight said.

All information given to the INS is kept confidential, he said.

To qualify for amnesty, Knight said a person must have lived in the country continuously before 1982.

There are two kinds of special agricultural permits that can be awarded, Knight said. One, for those who have more work experience, puts a person on a faster track to receiving a permanent residency card and subsequent citizenship.

Aliens wanting to file for legal status must meet a number of requirements, according to the new immigration law.

In addition to meeting certain residency requirements, applicants must submit proof of identity, results of a medical examination by an INS-approved doctor, be fingerprinted and show proof of financial responsibility.

The financial requirement is to avoid accepting anyone who might become a burden to public assistance programs, the law says.

An applicant with more than three misdemeanors or one felony conviction also can be disqualified.

After an application is filed, INS personnel will conduct an interview and decide whether to recommend temporary residency to the regional office. Temporary residency usually is granted within six months of the interview, and permanent residency another 12 months after that, Knight said.

An alien can apply for citizenship after living in the country for five years.

As for another section of the new immigration law that creates civil penalties for employers who hired illegals after Nov. 6, 1986, Knight said there have been no citations issued for violations in Wyoming.

Knight also said that through June 1988, only citations will be issued to employers who violate the law. After that he said, employers could receive even more stringent penalties.

Mr. CHAFEE. So throughout the Nation we are seeing that these applicants, potential applicants for amnesty, are not coming forward. I believe that one of the reasons, not the sole reason, but one of the principal reasons—and I base this not on JOHN CHAFEE sitting here in the U.S. Senate somehow feeling the pulse of the Nation, but instead I base it upon contacts that I have had with those in my home State who are deeply familiar with this, plus others across the country who have suggested that one of the principal reasons is the fear for one's family. The fear that the individual will qualify, he will come forward, make the application, and his family will not qualify. Indeed, even though it is not meant to occur, even though on the application record, where one sets forth that he has a family and children in the country, that is not meant to result in punitive action, but it does, and it has resulted that the families are punished.

So once that happens—and I think we all know there is a network amongst the illegal aliens; it goes like wildfire; word travels how they are treated—once that happens, and it has happened in my State that a person came forward, applied, and there was retribution against his illegal alien children and his wife, who did not qualify, then nobody else is going to come forth and take a chance. That, I believe, is one of the principal reasons for the low application rate that I stated.

Mr. President, I reserve the balance of my time.

Mr. SIMPSON. I yield to the Senator from California.

The PRESIDING OFFICER. If the Senator has not sought recognition, the time is controlled by the Senator from Rhode Island and the Senator from Wyoming at this moment.

Mr. SIMPSON. Mr. President, I would inquire of the Senator from California if his request is to participate in this debate?

Mr. CRANSTON. I would like to speak very briefly on behalf of the Chafee amendment.

Mr. CHAFEE. Mr. President, I yield 6 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 6 minutes.

PRESERVING FAMILY UNITY UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

Mr. CRANSTON. Mr. President, I rise in support of Senator CHAFEE's amendment to H.R. 1777 which would waive the continuous residency requirement for the spouse and children of a qualified applicant for legalization under the Immigration Reform and Control Act [IRCA] of 1986. The objective of Senator CHAFEE's amendment is similar to that of my resolution, Senate Joint Resolution 131, which I introduced on May 19, 1987. Senate Joint Resolution 131 urged the Immigration and Naturalization Service [INS] to adopt a uniform national policy to provide relief from deportation for ineligible family members, and work authorization where appropriate, to assure family unity. Although INS' regulations implementing IRCA clarify that INS district directors have authority to exercise their discretion to prevent their deportation of ineligible family members where there is a humanitarian need, a legislative solution to this problem appears necessary in order to obtain a uniform national policy.

Mr. President, the day after I introduced my resolution I, along with my colleagues from California, Representatives ROYBAL, BERMAN, and TORRES, met with Commissioner Nelson to express our concern regarding this issue and the need for an INS national policy on family unity. At the conclusion of the meeting, Commissioner Nelson agreed to draft a policy on family unity and to bring that policy to a follow-up meeting with myself and the California Congressmen within a week's time.

Well, Mr. President, it has not been over 4 months since that meeting with Commissioner Nelson and he has not established a uniform national policy on family unity. During this 4-month period, a member of my staff has regularly contacted Commissioner Nelson's office to schedule a follow-up meeting but has been given a variety of excuses why Commissioner Nelson is not ready to meet with me and other concerned Congressmen. Just yesterday I was informed that there is a letter in the mail to me from INS indicating that they are in the process of drafting a family unity policy. From my perspective, Mr. President, INS' 11th hour statement of intent to address this issue is too little, too late.

Clearly, Mr. President, Commissioner Nelson's hesitancy to address this issue calls for expedited congressional action. I continue to receive reports from California social service agencies and church groups providing assistance to undocumented persons who may qualify for legalization that the lack of a uniform national policy on family unity is deterring individuals from completing the application process. Since the 1-year application period is nearly half over, and since the expected number of applications have not been filed, we must do everything we can to assure that the lack of a national policy on family unity does not ultimately undermine the legalization program.

FAILURE TO ACT ON FAMILY UNITY ISSUE CONFLICTS WITH THE REAGAN ADMINISTRATION'S EXECUTIVE ORDER ON THE FAMILY

Moreover, Mr. President, INS' failure to establish a uniform national policy on family unity contradicts President Reagan's recently issued Executive order on "the family." That order directs executive departments and agencies, when formulating and implementing policies and regulations that "may have a significant impact on family formation, maintenance, and general well-being," to consider whether such action will "enhance family well-being." The objective of the Executive order, Mr. President, is to require that policies developed by executive departments and agencies "strengthen the institutions of marriage and family in America."

The issuance of this Executive order highlights the unreasonableness of INS' delay in establishing a uniform national policy on family unity. Because INS is clearly out of step with the Reagan administration's policy in this area, and clearly out of touch with the real predicament that many applicants for legalization find themselves in, we must take action today.

CONCLUSION

Finally, Mr. President, we must not forget the purposes for which we included the legalization program in the Immigration Reform and Control Act of 1986. If this program is undermined due to the lack of a national policy assuring family unity in the legalization process, we will continue to have problems such as the straining of INS's limited resources for internal enforcement purposes, the existence of an exploitable subclass of undocumented persons, and the unavailability of an adequate legal work force for employers. In short, Mr. President, our attempt to immigration reform will amount to no reform at all, and we will continue to face the social, legal, and economic problems which have plagued us in the past.

A better approach is to make sure that all necessary steps are taken to assure the success of the one-time legalization program. For this reason, I am a cosponsor of Senator CHAFEE's bill, S. 1408, and I strongly support this amendment. I hope that all Senators who profess to care about strengthening and supporting families will join us in this truly pro-family effort.

Mr. KENNEDY. Mr. President, I strongly support this important initiative on the part of Senator CHAFEE, Senator PELL, Senator MIKULSKI, and others. As they know, for many weeks I have pressed the administration, on the issue of family unity in the legalization program, to use readily available authorities to permit immediate relatives of legalized aliens to remain with their families. This has been a key topic in the oversight hearings conducted in the subcommittee on Immigration and Refugee Affairs, and one which I have addressed, as chairman of the subcommittee, in correspondence with the Commissioner of the Immigration and Naturalization Service.

While I believe we've made some progress with the Immigration Service on this question—and a policy directive on this issue from that agency may be forthcoming—I also share the frustration of the sponsors of this amendment. We stand now, nearly 6 months and almost 1 million legalization applications into the legalization program, and this important question has still not been resolved. It makes absolutely no sense that an administration which purports to represent family values will not utilize the authorities under existing law to keep spouses and their children together.

Our subcommittee staff has met with immigration officials around the country in order to assess the implementation of the Immigration Reform and Control Act of 1986. And I think it's interesting to note that they have found a strong desire on the part of the immigration officers in the field to deal humanely with this problem. I am convinced these officers do not want to systematically deport the spouses and children of newly legalized persons. In the absence of an official policy in this area, their cases are simply going to be placed on the bottom of the enforcement heap.

But, Mr. President, this approach does not address the anxiety faced by these family members, who must daily seek to avoid contact with the authorities.

On a recent site visit by our subcommittee staff, they encountered a Central American family in which the husband, wife, and two of their children had qualified for legalization. However, two other minor children came to the United States after the January 1, 1982, eligibility cut-off date. The immigration officers accepted the application for the eligible spouses and children. But the two ineligible minor children were simply turned away until an official directive was issued.

Obviously, we're not going to deport these children. They will eventually qualify for immigrant visas in any case as their legalized family members obtain permanent resident status and, later, citizenship. I think it's appropriate, therefore, for us to take the modest step of relieving uncertainties which exist by passing the pending amendment.

Mr. President, I ask that a letter on this question which I sent to Alan Nelson, Commissioner of the Immigration and Naturalization Service, be included at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 17, 1987.
Commissioner ALAN C. NELSON,
Immigration and Naturalization Service,
Washington, DC.

DEAR COMMISSIONER NELSON: Over the past several weeks since the beginning of the legalization program, our Subcommittee staff has visited a number of the INS District as well as Legalization Offices around the country and also with many of the community groups—Qualified Designated Entities—assisting in the program. They have been uniformly impressed with the level of dedication exhibited by all those involved in the effort, both within INS and the voluntary agencies. I would like to relay to you some observations we have developed from these visits and reports from the field, which I think require immediate attention and on which I am prepared to take action.

First, it is apparent from the staff visits that additional resources are needed to augment key aspects of the legalization program. I am pleased with current levels of participation in the program, with now over a quarter million applications pending at INS. In addition, various voluntary agencies report hundreds of thousands of pre-registrants. But this rising volume cases is placing tremendous demands on even the most competent voluntary agencies, who are struggling to maintain pace with new and untrained staff. For example, in Los Angeles alone the Catholic Church reports over 350,000 pre-registrants.

Visits by my staff suggest that a failure to provide additional resources to cope with these problems may in the end cause participation to fall short, and many who might have qualified for legalization won't.

I want, therefore, to explore with you your willingness to devote additional funds to two areas.

1. Training. It is understandable that a significant proportion of the staff in community groups and the INS have little or no experience in this kind of complex immigration processing. The need for methodical training is evident. We have met a number of persons within the voluntary agency community with impressive credentials in this area who would be valuable trainers for both Q.D.E. and INS staff. But usually the voluntary agencies cannot afford to permit these persons to train than those within their own specific agency. I think it in the best interest of the program that INS establish a continuing legalization training program in which the Service would encourage certain voluntary agencies to make available their most competent and experienced staff and for which the Service would fund the full cost.

2. Additional funding for qualified designated entities. It is apparent that the task of completing even the most routine legalization application is far more labor-intensive than expected, usually consuming 4-5 hours of counseling over serveral different visits. We found this to be confirmed by INS staff who have taken the time to counsel applicants from start to finish, as all Q.D.E.'s must do in each case. I think it is important to recognize this fact now, and to provide an increase in the very modest grant already made available to Q.D.E.'s on a per capita basis. An increase of only $10 to be used at the community level would enable participating local groups to hire the additional staff needed to sort through and verify documents, provide rudimentary counseling, and more—all tasks which would greatly enhance participation in the program.

Second, mid-course corrections in field guidance are required in two areas.

1. Family unity. I raised with you during our oversight hearing the need to deal with the problem of nuclear families in which not all members may qualify for legalization. Your May 1 regulations for the legalization program note appropriately that authorities exist currently to permit District Directors on a case-by-case basis to exercise discretion in providing a legal status to family members not qualifying for legalization. Subsequently, you and your staff have indicated a willingness to clarify this issue further in cooperation with the Subcommittee, a process which I support in lieu of legislation in this area. Furthermore, field visits with various District Directors and Legalization Directors suggest that they too are expecting further guidance in this area, and are anxious to deal humanely with this problem.

I think the time has come to develop such an administrative clarification over the next several days, and my staff is available to work with you on this at any time.

2. Documentary standards. I have commended you in the past for the appropriately flexible list of possible documents suggested in the May 1 regulations to prove eligibility for legalization. We have witnessed this same flexibility in various Legalization Offices as well. However, what is lacking at this point is a standard—further guidance, if you will—governing the use of documents. Both INS and voluntary agency officials are uncertain to what extent documentation is required, or at least preferred. I, like you, reject the notion that rigid documentary guidelines are required. But I do think further guidance can be issued without sacrificing the paramount need for flexibility.

You and your colleagues are to be commended for your efforts thus far. We will continue to observe the implementation of the Immigration Reform and Control Act and share with you our observations from the field. I assure you of my desire to work with you and the voluntary agencies to ensure the smoothest possible implementation of the new law. If additional appropriations, or legislative ear-marking, is necessary, I am prepared to raise the issue with the Appropriations Committee, as I have already done.

Again, many thanks for your consideration, and best wishes.

Sincerely,

EDWARD M. KENNEDY,
Chairman.

The **PRESIDING OFFICER**. The Senator yielded back the remainder of his time. Who yields time? If neither side yields time, the time will run and will be equally divided.

The Senator from Wyoming.

Mr. **SIMPSON**. Mr. President, that is the fastest 6 minutes the Senator from California has ever used in this Chamber. He was very swift.

The **PRESIDING OFFICER**. The Senator was prompt.

Mr. **SIMPSON**. When he says 6 minutes, I usually count on 7 or 8. I am glad I have returned to the Chamber and I appreciated hearing the comments. Thank you, also, my friend from Rhode Island, for protecting the floor.

I understand the time ran equally in that brief few seconds.

Well, here I am again on this day. I spoke against the amendment of Senator HATFIELD and I think mostly for the record, because the vote on that was quite concise. This one I hope will be even more for the record and that people will listen to the position of those who do not support this amendment.

Senator CHAFEE and Senator MOYNIHAN, who have both spoken, could not have been more consistent supporters of the issue of doing things with illegal immigration reform—when we were dealing with illegal immigration and the Immigration Refugee Act.

Throughout the long course of that, Senator CHAFEE and Senator MOYNIHAN were very supportive, consistently so, and very helpful.

We even finally made a convert out of the Senator from California, late in the last session, when we dealt with the issue. He, too, supported the legislation. But let me just review this briefly, as to where we are, because it is one of those issues that will also be filled up with emotion and guilt, and that is the way it is. That is what I have learned that I must deal with in these issues.

Emotion, fear, guilt, and racism are the four things that flock to this particular issue. They always will.

It is important, I think, whether we are for or against, that at least we assess what it is we are doing and try to keep some semblance of perhaps a thread of common sense and reason. I hope so. That is not to say that these arguments are presented in any way which is not terribly authentic and appropriate—they are.

This amendment, if you look at it, it simply excises three paragraphs from Public Law 99-603, signed November 6, 1986. That, to me, needs attention. The amendment disturbs me because it destroys the delicate balance of the recently passed immigration reform legislation which so many assisted with here.

We have already debated the issue of legalization. Legalization, amnesty—that is also the word. It always stunned people. They did not like amnesty. People in America do not like amnesty. They were able to take it and embody it in the legislation, even though they did not like it.

I remember the arguments throughout the years were: How can you possibly reward people who are here illegally and give them a legal status—not citizenship for we were never giving anybody citizenship—we were giving them temporary resident alien status or permanent residence alien status; and how can you do that when millions of people are standing in line under our legal immigration system and they cannot come in? It is a good question.

I said, well, you know, there is a reason why we are doing it. We are going to remove a fearful subculture of human beings who are afraid to go to the cops, afraid to go to the hospital, afraid to go to their employer, certainly. So we gave amnesty and I fought hard for that.

The amnesty provision only passed the U.S. House of Representatives by seven votes. Legalization was nearly stricken from the bill by a seven-vote margin in the U.S. House of Representatives. It was tough over here to pass. So it is the least popular part of the bill.

Not only are you reopening it, but what this is actually a second amnesty. I want every one to realize what this is. It is a second amnesty.

We have debated the issue of legalization of illegal aliens. Congress decided that those aliens who had lived here continuously since January 1, 1982, or before should be allowed to receive a legal status.

The Senate Judiciary Committee reported on this bill and stated very clearly how nonqualifying family members of illegal aliens should be treated. This was agreed to by the U.S. Senate and I might add that there was never a shred of partisanship in the immigration reform legislation. I must share with my colleagues—not a shred. That was just an extraordinary series of allies and detractors from all over the political spectrum. But it said:

> It is the intent of the committee that the families of legalized aliens will obtain no special petitioning rights by virtue of the legalization. They will be required to "wait in line" in the same manner as immediate family members of other new resident aliens.

That was the report of the U.S. Senate. That is the language of the report.

As I say, the amendment is thus an attempt at a second amnesty. All of us as sponsors, those who worked on the bill through those years, promised during the immigration bill's consideration in the last 6 years that legalization would be a one-time only program. We all remember that? "This is it. It is one shot. You come forward and you have a year to do it. One time only."

We intend to keep that promise to those Members who voted on this legislation despite having real, serious reservations about a legalization program. I think there are probably, and this is perhaps unfortunate, but there are probably as many people in Congress today who want to narrow and pinch up the legalization program as there are those who wish to broaden it. This, surely, broadens it.

We have already grappled with and anguished over the legalization issue and conclusively decided it. As I say, it was tough: by only seven votes in the House. I do hope my colleagues are listening, and it is tough as we all do so much around this fascinating arena. The cruel irony of this amendment, and it is very real, is that it will treat illegal, undocumented immigrants more generously than we treat legal immigrants in the United States. I think everyone should be aware of that.

It is all right if you do that. Just know what we are doing. It treats illegal immigrants better and more generously than it treats legal immigrants.

Under our present legal immigration system a new permanent resident alien who does not enter with his immediate family members has to apply through the preference system for his entire family to immigrate. That is the present law.

In such cases there is a wait for 16 months for the nationals of most countries and longer waits in countries of high visa demand: Mexico, Philippines, some other Asian countries—which can be 6, 8, or even 10 years. I am talking now about legal immigration, not illegal immigration.

As the newly legalized aliens receive permanent resident alien status, then they may apply for the admission of their family members in the same manner that legal immigrants or residents do now. I think that is very important to remember.

First they go into temporary resident alien status, 18 months under this legalization, under the new bill. Then, 5 years of permanent resident alien status; and then into naturalization or citizenship if they wish. They need never come into that if they do not want to. Many choose not to.

Of Mexican nationals in the United States who have permanent resident alien status, only about 14 or 16 percent of them ever go on to citizenship. They choose to keep the dual status: permanent resident alien here; citizenship there. There is nothing wrong with that. That is the way we do it.

Many Americans objected to the original legalization and they said it was going to law breakers. How then could that be done? It rewarded law breakers while penalizing those waiting patiently in line to immigrate legally.

While I and others opposed those arguments, and I surely did, I believe that this amendment so plainly reopens those painful arguments that the public is unlikely to see it in its best light. Without adequate public support, always, any immigration policy is doomed. I fear we are actually undercutting exactly that support by adopting this amendment which gives more favorable treatment to illegals than it does to legals.

Here is the point. There have been claims that the legalization provisions are breaking up families. I have heard some very passionate remarks about families on this issue—or that we are deterring applicants for legalization. That somehow this factor alone is keeping people from coming forward.

I think that is highly unsubstantiated and exaggerated and just not so.

The illegal alien families are the ones who previously chose voluntarily to break up their own families. That is an unfortunate statement, but it is a true statement. And they did it for the best of reasons, to seek a job. But they knew when they came here they were coming illegally. So the illegal alien families were the ones who chose this themselves, to "break up their families." The United States of America did not do it, the immigration bill did not do it, they did it. They made their choice.

Had they all migrated to the United States together—and that could have been done; many had done that—they would all then qualify for the legalization program together. I want everyone to be aware that that is the reality.

There is much anecdotal commentary here and there will always be those terribly painful situations of this person, that family, and that is not the way that law was to be, but thank Heavens we always try to respond to that. But there is no hard evidence that the family unity issue is deterring substantial numbers of aliens who apply for legalization. It is just not there.

In fact, let me ensure my colleagues that the legalization program is proceeding quite smoothly.

There have been—and you must hear this if you are going to embrace the fullest sense of it—there have been now 800,000 applicants for amnesty legalization under the bill. That is an extraordinary number; 662,000 of them were general legalization; 138,000 came in for what we call the special agricultural worker program, the SAW Program. We appear to be well on course toward the 2 million applications by the end of the statutory period, slightly more than the Congress had anticipated.

There were some people who said there were 12 million illegals in the United States. There were people who said there could not be any more than 2 million in the entire United States. The true irony is that most of the organizations who signed the letter that Senator CHAFEE put into the RECORD were among those who said there were never more than 2 million illegal people in the entire United States. I could go through that list in individual ways and show you that during the course of the entire debate they said, "Wait a minute. This is all balled up. It is all distorted. There are just not over 2 million illegal people in the whole United States." Now they say after almost half that number have come forward in these 5 months that they are being deterred?

Those are the people who signed the letter which has gone into the RECORD. That is, I think, a rather extraordinary irony when they say that this bill, itself, is a deterrent to the legalization program.

I think there really is little room in this debate for the position that somehow this alone is the singular factor deterring legalization. That is not so. Nothing we have shows that. In fact, it is not justified.

I wish to point out how certainly broad this amendment is under this proposal. If you follow this, a family member of a formerly illegal alien who enters the United States illegally 1 day before the President signed the bill would be granted the same status that is being given to someone who has lived here illegally for 5 years. That is what this amendment does, without any question.

The new immigration law recognized certain equities. We talked about equities that long-term illegal residents have established in this country. No such equities have been established by someone who came to this country last November. That is not the way equities are calculated.

Another aspect of how broad is this amendment, another case, is an illegal alien family member who spent 4 years, 11 months, 15 days, who chose to be separated voluntarily in the United States may choose to have legal status based on their having been here illegally this past 11 months.

Earlier this year we saw an effort by some organizations to weaken the employer sanction provisions in the new law. There were some good reasons presented as to timing and the delivery of the I-9 form to the employers and that type of thing. I think we handled those well. We handled things about temporary workers in agriculture. I think we handled that well. Now we see an effort to broaden the other key aspect of immigration reform, legalization.

In both cases, I would point out that the special interest groups supporting both of these adjustments to the bill were among the most historic and persistent opponents to the entire illegal immigration reform movement. With one or two exceptions from the organizations on that list they whomped on this bill from dusk to daylight and daylight to dusk.

I think you want to keep that in perspective. There was no way I could ever satisfy them. I had them in every hearing I held. Sometimes they did not want to come and I said, "Show up. I want to be sure you are there because I do not want it ever said that you were not treated fairly."

So, if you look at that list, you find these historic opponents of the entire package that are listed right there. At least, I think my colleagues can now better understand why it took 6 years to pass the bill. I have never seen the extraordinary array or panoply of resistance by people who had the most narrow of interest and tried still to say that it was being done for the Nation's good.

Satisfied or not, they are back, and they are a very vocal, special-interest array of groups who just cannot accept the fact that Congress passed an Illegal Immigration Reform and Control Act last year, and passed judgment on it just last year in October.

While I know that my colleagues who sponsor these amendments have very different and clear motivations, I caution everyone to view with care the endorsement of this long laundry list of groups. How did those groups stand on the final passage of this legislation last year? I think the best way to describe it was that I was standing and they were the firing squad. Their position, their long antipathy toward the bill is nothing new, nothing fresh, nothing to be added to the debate. A majority of the House and Senate voted in favor of this legislation last year and the President signed it. I think it is time to allow the legislation to mature and now to move on to the new questions facing U.S. immigration policy in the legal immigration policy areas, such as the overwhelming influence of family unification. There is nothing wrong with that, but we do want to be sure that we draw upon seed immigrants like we have throughout the history of our country and not go back to any racist selection or ethnic solution in the process.

The important thing to remember is that all the players are still here. The people who were involved in the immigration reform bill in the House and the Senate—all of us here and Congressman RODINO, Congressmen MAZZOLI, SCHUMER, FISH, LUNDGREN, and the new ranking member of the House Immigration and Reform Subcommittee, PAT SWINDALL and, most importantly, the Commissioner of the Immigration and Naturalization Service Al Nelson are still right here. There is no question about what the legislative intent is or was. We are all still here to perform our oversight role. And there is no sweeping activity in either the House Judiciary Committee or the Senate Judiciary Committee to do anything right now with this legislation. That is why it comes up today before us with no hearings on this bill of State-Justice. It does not really fit here at all. Unless I am mistaken, I do not recall any hearing on it in my time as ranking member of the subcommittee.

So I just do not believe that any administrative relief is warranted for some family members who may not qualify for the congressionally-mandated cutoff date. We will never, ever fully resolve that, but I would be very pleased to work with any Member of this body on either side of the aisle and in the administration in creation of any new immigration policy.

However, the question of legislative relief was timely handled just several months ago. It has already been debated and disposed of. I think this amendment is particularly unacceptable. I do have some questions, serious questions and I hope for some serious answers on this amendment, and it will not take but a moment to do that. But I think that there has been such tremendous discussion and passionately so, of the issue of family unity, and that is supposed to be the high ground of the issue. I think it is, but if we refer to it more honestly as the second amnesty, I think that might offset the advantage of the words used of family unity. Just as it can be called family unity, it can be called second amnesty, because it creates a new group of beneficiaries which the Senate did not include in that one time only legalization in the original bill. The original bill most clearly stated that each applicant has to qualify on his or her own, and this amendment would grant legal status to ineligible family members, people who do not qualify under the first amnesty and hence the second amnesty.

What is the remainder of my time, Mr. President?

The PRESIDING OFFICER. The Senator has 23 minutes remaining.

Mr. SIMPSON. Mr. President, I yield 5 minutes to my colleague from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment of the distinguished Senator from Rhode Island. It would broaden the amnesty program of the new immigration law. I do not know of anyone who has worked harder for any piece of legislation than our distinguished Republican whip, AL SIMPSON. We worked on this matter day and night for years. The Immigration Reform and Control Act was considered, debated, and voted on during three separate Congresses. Every facet of it was gone into and it was a hard job to get it passed at that—most difficult. I believe Congress judgment is final on this issue.

I was chairman of the Judiciary Committee during the Senate's consideration of the immigration bill, and I assure you that Senators on both sides of the aisle felt that amnesty was necessary but publicly unpopular.

Now, a decision was consciously made to require everyone to qualify individually for the amnesty program. Why should not everyone qualify? Simply because one member of the family qualifies does not mean you have to bring in all members of the family. It just does not make sense. That was never the intention of the bill.

Senator SIMPSON has assiduously handled this matter. He worked faithfully. He has worked conscientiously and he has done as well as anybody could have done in handling this legislation. I think we will make a great mistake if we now try to broaden this law and simply say because one member of the family is qualified, you can bring in everybody.

Without this requirement I do not believe the amnesty program would have been passed in the first place. We must not now make the amnesty program so broad that all public support disappears for our immigration policy. This amendment would treat illegal—I want you to catch that, Mr. President—illegal immigrants more generously than it would legal immigrants. I believe the American public objects to such a practice. There are solutions to the problems of family members who do not qualify for the amnesty program because they enter the program too late. First of all, their relatives, when they become legal, may apply for them through the legal immigration preference system. Second, the immigration services may grant administrative relief in hardship cases. So that is fair. That is reasonable. Why should you go any further? I believe these remedies are sufficient and they should be pursued.

Mr. President, I object to the creation of a second amnesty program, and that is what this will be—second amnesty program. I urge my colleagues to reject this amendment. I think it would be unfair, it would be unreasonable, and I am sure the public would not favor it.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I have just a few questions if I might ask of the sponsor and then I think I can yield back the remainder of my time.

Mr. PELL. I just want to say a word in support of the bill.

Mr. SIMPSON. Please.

Mr. President, not on my time. I want that understood.

Mr. CHAFEE. I yield 5 minutes to the senior Senator from Rhode Island.

Mr. PELL. I thank my colleague from Rhode Island.

Mr. President, I am very glad to be a cosponsor of this amendment. We in Rhode Island are particularly conscious of the importance of the unification and reunification of immigrant families. From a statistical viewpoint I believe I am correct in saying that our State has the highest percentage of foreign-born people.

We speak a great deal about the importance of family unification, family life, family values. All of these thoughts would be better served by the passage of this legislation because, without it, there will be many families forced to either split or disobey the law. That is a very, very cruel choice which people are actually facing at this very moment.

So for all these reasons and recognizing the difficulties that the Senator from Wyoming faced in trying to get the legislation through, legislation for which I voted and support, I still believe this is a good amendment and would hope that it is accepted.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Wyoming.

Mr. SIMPSON. I think I will ask these questions and get the response, and then perhaps we can conclude.

I thank Senator THURMOND for his remarks, for his extraordinary support of me when I was chairman of the subcommittee. There was no one more generous or more helpful or more supportive than that chairman. He moved me along in his remarkable way, usually with a firm grip on the arm. I appreciate that. He served with my father, he served with me, and he will probably serve with some other son or something. He is the most extraordinary man I have ever known, a marvelous friend, and I think one of the deeply respected Members of this body.

My questions are short and they are not whiz-bangers, but I think they need to be in the RECORD. The Senator can answer them later, I say to my colleague from Rhode Island, but they are certainly questions that must be asked. I think they are quite salient.

What immigration status, I ask my friend from Rhode Island, does this amendment offer to the beneficiaries?

Mr. CHAFEE. The immigration status of the beneficiaries, which would be the children and the spouse, if that were the situation, would be similar to that of the one who would qualify through the Amnesty Program. In other words, the one who qualified has status. That same status would be given to his spouse or children, temporary legal residence.

Mr. SIMPSON. That would be then the status of permanent resident alien for 18 months and then coverted to permanent resident status after 18 months. That would be the same status.

Mr. CHAFEE. That is right. I think it is very important to realize that we are not opening the floodgates; that anybody who comes in and qualifies can then send down to Colombia, wherever it is, and bring in his wife or children. It is only those who were here, that is, children or the spouse, when the law became effective. Now, that law was signed by the President November 6, 1986.

It is my understanding that the commissioner said the effective date was May 1 of this year. So that is past. The cutoff date is past. There is no more all-in-free; bring in wives and children from some distant country and they will qualify.

The second point is that this is not for all the family. Somehow the suggestion has been given that uncles, aunts, relatives, cousins can come in. No. It is only for spouses and only for children.

Mr. SIMPSON. I thank my colleague from Rhode Island. My time is running.

Mr. CHAFEE. I will be glad to give the Senator some time.

Mr. SIMPSON. I thank my colleague.

I guess rather than a question, it seems to me that the status they are going to give under this amendment is the same given to illegal aliens who have lived here illegally since January 1, 1982, or before and who qualify for the Legalization Program. That would be correct.

Mr. CHAFEE. That is correct.

Mr. SIMPSON. Then the amendment removes the requirement that an illegal alien family member must have entered the United States on January 1, 1982, or before?

Mr. CHAFEE. That is correct.

Mr. SIMPSON. Does the amendment remove the requirement that an illegal alien family member must have lived in the United States continuously since January 1 1982?

Mr. CHAFEE. Some would not have been here since January 1, 1982, because that is the very situation we are trying to cover, but, they must have lived here continuously from the date they came.

I am perfectly glad to have report language or whatever is necessary to make that clear. It is not somebody that is going in and out. They have come, and they have remained here.

Mr. SIMPSON. Mr. President, that is the disturbing thing. I would like to visit and time is of the essence here. But the amendment of the Senator from Rhode Island simply waives sections 2(a), 2(b), and 2(c) under Public Law 99-603, and that section is that the alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status. So I think it is very clear that that removes the requirement of living continuously in the United States. There is no question about that. They could go in and out.

Mr. CHAFEE. That is not the intention. We can have report language or however the Senator wants it.

Mr. SIMPSON. The final question, because I have two colleagues that apparently wish to speak briefly, is this: I think this is the most serious question and knowing my colleague will give it the most serious of answers. It is this: Why is it more of a hardship, more difficult in essence or more unfair or more unjust for an illegal immigrant to be separated from family members than it is for a legal immigrant?

Mr. CHAFEE. I tried to answer this in the statament that I made. The Senator is absolutely right. The illegal alien is being treated in a preferential fashion over the legal alien. But that is what the legislation is all about.

If the Senator when he proposed legislation was dedicated to the proposition that illegal aliens would receive no preference over legal aliens we never would have had the Amnesty Program. That is what the Amnesty Program is all about; that you say those who are here at a certain time, you came in illegally, but we are going to recognize this. We are going to give you a preference. But I do not think in giving them this preference we wanted to impose upon those illegal aliens that we are giving you, and obtain your citizenship and send your children home, your wife cannot obtain a job, she remains in this black shady area of never-never land where she is an illegal alien and is subject to all the restrictions that are placed upon illegal aliens, and thus the family is split.

I do not think that was the objective. I would like to point out the Senator several times mentioned that this bill barely passed the House of Representatives. But this bill passed the Senate 69 to 30. And one of the principal reasons was the advocacy and the dedication that the distinguished Senator from Wyoming had given to this legislation. But I do not think it meant that it was set in concrete. Frankly, I do not think many of us realize that we are possibly breaking up families in giving this amnesty.

Mr. SIMPSON. Mr. President, indeed the bill did pass the Senate by a better margin than in the House. But the issue of legalization is what I was saying passed the House by only 7 votes. Here it passed by a much more substantial margin. And I want to say to my colleague from Rhode Island, or to anyone involved or listening in the debate, that it certainly is not my intention to express some kind of pride of authorship or something, and that this bill should not be changed. It should indeed have careful oversight. The committees are prepared to do that, and have not.

I will ask my colleague: Have there been any hearings on this issue perhaps in the committee under his jurisdiction on this singular, specific, isolated issue?

Mr. CHAFEE. No. There has not. This bill has been introduced for several months. And there have not been hearings on it before the Judiciary Committee. But let me just say, I do not think the issues are all that complicated. We wrestled with the whole problem of amnesty for 6 years. I believe, and the Senator from Wyoming can correct me, that we passed this bill once prior to the passing last year. Am I not correct? We passed it in the Senate?

Mr. SIMPSON. That is correct.

Mr. CHAFEE. I remember that clearly. It was the Simpson-Mazzoli bill. We passed, I suppose, sometime in 1985 perhaps.

Mr. SIMPSON. The Senator from Rhode Island helped in that cause.

Mr. CHAFEE. So, this is an issue which is not an issue that none of us know about. Frankly, it is not that complicated. We do know that the system of amnesty is not functioning to the extent that any of us thought it would. That applies not only to my State, it applies to the distinguished Senator's State, and it applies throughout the Nation in the figures that I have previously quoted.

Mr. SIMPSON. My final question, Mr. President, is this, and just as seriously presented as the previous one. Why should the alien person who disregarded our laws receive a benefit then? It is not the same question rephrased because it is a benefit we just do not provide to one who is here legally under our laws in the status of permanement resident alien. A permanent resident alien cannot do this, and may have to wait 16 months, 2 years, 3 years, or 10 years.

I think it is disruptive. It is going to be disruptive out in the communities for the person with the green card who is saying, "Wait a minute. I have been waiting in permanent resident status for 5 years, and I could not get my family reunified." Then they can immediately get citizenship so at least they can get swift family reunification. But how is that fair, and how are we going to justify that to permanent resident aliens of the United States? And there are millions of them who are not going to receive the same benefit that is to be received if this amendment should pass.

Mr. CHAFEE. I think we crossed that bridge when we got into the whole business of the amnesty. A decision was made. A decision was made to treat certain illegal aliens differently. And we made it. Now there is a good deal of objection.

I am sure no one knows better than the man who really succeeded in putting this bill together, and having it pass, the junior Senator from Wyoming. He was constantly confronted. Why are you treating these people differently? And we treated them differently because these folks had established themselves in the country, were working, had their families here in many instances, and we said we are starting fresh. Those that were here have such roots in our country that we are saying all right, we are not going to jerk you out of your homes, out of your jobs, away from your families, and send you back. We are going to let you stay.

That was a tough decision, but we made it, and we made it by 69 votes to 30 in this body. I do not think we thought that in doing that we were going to split up families.

Now, you might say, why should not the legal alien object? I am sure he objects. The point I make is that the legal alien who has come here without his family has consciously made a decision to leave his family behind. He knew the rules when he came here. The others came in illegally—we know that—and they raised a family, the children have been here. They have been in this lower world, as it were, where no one can let themselves be identified for fear of being thrown out.

I just do not think we want to ship away children and spouses because of the effect of this law, which I do not think many of us realized was going to end up in splitting up families.

Mr. SIMPSON. Mr. President, those are some of the questions I wanted to ask.

The legalization was designed to eliminate a subclass of persons who had lived here for at least 7 years.

When we started—and the Senator is correct, it was January 1, 1980, when we set the date. Then we changed it to 5 years, in the conference, which was eventually accepted. But it was never intended for legalization to give any group special consideration, but to address only a serious national problem and to do it one time and say, "This is it. It is a one-shot."

I think we cannot do it many times without a severe public backlash, and especially the severe public backlash of the permanent resident aliens, part of our national community, who have petitioned for their relatives and are now going to see, if this amendment is adopted, that people here just months are going to have a status better than theirs.

I want to say that we do not ship anybody out. We are not good shipper-outers in America. That is not what we do. All that material is confidential. If they have an illegal, they are never going to know it, because the records are not available to anybody in the United States. So I think that is important to remember. We only deported about 20,000 people last year. That is not our nature.

Mr. President, I believe the Senator from Texas wishes to participate. I do not believe I have more than 2 or 3 minutes. I wonder if the Senator from Rhode Island might be generous enough to yield 2 or 3 minutes to the Senator from Texas.

Mr. CHAFEE. Let me see what the time situation is.

The PRESIDING OFFICER. The Senator from Rhode Island has 18 minutes and 42 seconds remaining. The Senator from Wyoming has 2 minutes and 26 seconds remaining.

Mr. GRAMM. Mr. President, will the Senator yield me 3 minutes?

Mr. CHAFEE. I yield 3 minutes.

Mr. GRAMM. I thank the distinguished Senator for yielding time.

Mr. President, I am sorry that I missed the earlier part of the debate, but I would like to give one example that I think shows the great unfairness of the amendment that has been presented here.

It is important for us to remember that there are over 2 million people who have applied to come to the United States legally. If I have a person in my State, or if there is a person in your State, who is here legally, who came legally, who waited to come here, who has worked his way through the process to become a permanent resident alien, and this person happens to be from Mexico, and this person goes today down to the INS office and says, "I would like my wife to come here so that I might share my life with her"—remember, we are not talking about somebody who came here illegally, not somebody who worked 60 days last year in agriculture, not somebody who has been here illegally since 1982. We are talking about somebody who has worked years, complying with the law, is here legally, and goes down and says, "I would like to apply for my wife to come here."

Do you know how long it currently is taking for the person who abided by the law to get his wife to this country? In most cases, at least several years, and in some cases, up to 10 years—10 years.

Now, I ask Members of the Senate: Given that it takes up to 10 years for the guy who abided by the law to bring his wife to this country illegally, do we really want to adopt an amendment that says to the 2 million people around the world who have applied to come to America legally, under our existing quota system, "We are not worried about you, because you abided by the law. We are going to say to the fellow who violated the law and whose spouse violated the law that they can come here and be here instantaneously"?

I understand what the distinguished Senator is trying to do. Everybody wants to promote love and happiness. That is the only legitimate goal of a free government—promoting the happiness of the people. But part of happiness is fairness, and I simply cannot support an amendment that is so unfair that it perpetuates a situation where the person who came to America legally is waiting up to 10 years to bring his wife here, and we are going to say overnight, because somebody violated the law and came here illegally, that we are going to allow his spouse to be legalized.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. I have made the point. I hope my colleagues will pray over that point as they cast this vote and will vote against amendment.

Mr. CHAFEE. Mr. President, I appreciate the admonition for prayerful consideration of this amendment. I am quite certain that the distinguished Senator from Texas voted against the whole amnesty program, the bill itself, last year. Am I not correct?

Mr. GRAMM. The Senator is correct.

Mr. CHAFEE. So there is a difference here. The Senator, for good and fair reasons, objected to the whole amnesty program.

What I am saying to those Senators who voted for the bill last year is that they should vote for this amendment. If you voted against the bill last year, you are probably against the whole idea of amnesty to start with. Fair enough. But if you voted for the bill last year, as I did and 68 other Senators did, you voted for amnesty, a program to create some fairness, recognizing that, true, the illegals are getting a break over the legals. We decided that. We thought it was a fair way to proceed. But I do not think we ever thought that the result of this was going to be the breaking up of a family. At least, here is one Senator who did not think that, and I do not think many others did.

This situation has been raised by members of the immigration subcommittee.

Mr. SIMON. Mr. President, I wish to add my support to the Humanitarian Family Unity Act of 1987 which Senator Chafee seeks to add to the State Department authorization bill. It has been almost a year since the 99th Congress passed the Immigration Reform and Control Act. We recognized that the final bill represented a compromise and a balance between employer sanctions and a legalization program. Clearly, it was not a comprehensive answer to our immigration needs for that is a long-term process which requires efforts to improve economic development, free institutions, and peace in Latin America. But one step we can take today to improve upon the bill passed last year is passing this amendment which will keep families together without having to forego obtaining legal status in the United States.

This Congress intended that the maximum number of aliens eligible for legalization be legalized. In the Immigration Subcommittee, I and my colleagues have raised the family unity issue a number of times. I have been made aware of instances in which eligible aliens are not coming forward to apply for legalization not because they themselves are not eligible but because they have a family member who has met the requirements except for being continuously in the United States since January 1, 1982. For those people, the choice between legalization for themselves and possible deportation of their spouse or children or separation from them is a choice we should not force them to make. Fortunately, the INS District Director in my State of Illinois has stated that, "If a person in the family has a legal claim [to amnesty], then we should unify them here." (Chicago Sun Times, Mar. 23, 1987.) However, that welcoming call has not been echoed in all INS districts which further necessitates Congress taking action now.

This amendment will make clear that unified families are important to this Nation as well as to the long-term prospects of self-sufficiency of those who are affected by the Immigration Reform and Control Act. I urge its adoption.

I ask unanimous consent to have the following articles printed in the Record: First, Chicago Sun-Times, "Alien Amnesty Splits Families," March 23, 1987; second, Chicago Tribune, "Keep Immigrants' Families Together," April 4, 1987; third, San Francisco Progress, "Amnesty Seekers Must Know They Can Keep Their Families Together," August 23, 1987; and fourth, "Atlanta Journal/Constitution, "Families of Immigrants Deserve Amnesty," July 17, 1987.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Chicago Sun-Times, Mar. 23, 1987]

Alien Amnesty Splits Families

(By Tim Padgett)

Sandra Lopez knows she can't spend the rest of her life relying on "coyotes" to keep her family united.

Lopez, 40, her husband and five of her seven children are Mexican illegal aliens living in Pilsen. When immigration authorities deported her in 1982, she paid "coyotes" (alien smugglers) to return her to her family here.

That deportation made Lopez (not her real name) the only member of her family not eligible for amnesty under the new federal immigration law, which offers temporary legal residence to illegals who have lived here continuously since before 1982.

Lopez wept last week as she watched her husband and children preparing for the yearlong amnesty application period beginning May 5.

"If they deport me again, even with the pain in my heart, I would have to leave my children here," she said. "Their lives are here."

Scores of cases like Lopez's darken the law's promise for Pilsen's underground alien community as they do in communities such as East Los Angeles, Calif. That community's congressman, Rep. Edward R. Roybal (D-Calif.), is introducing an amendment to the immigration law that would grant amnesty to ineligible illegals such as Lopez whose spouses or family members do qualify.

"Too many families stand to be separated under this law," Roybal aide Elaine Sierra said last week.

Earlier this month, A.D. Moyer, the Immigration and Naturalization Service's district director here, said he agreed that family unification should be the "No. 1 principle" of the law's legalization program, which could include up to 300,000 illegal aliens in Chicago.

"If a person in the family has a legal claim [to amnesty], then we should unify them here," Moyer said. "Likewise, if no one has a claim, then we should deport the family.

"The key to immigration history in the United States has been based on [whether] that one person in the family can make it."

Moyer emphasized, however, that each family member should be required to apply for amnesty, not just those who are eligible, to ensure against fraud.

Under the law, the INS cannot use an applicant's information, such as past deportations, for any purpose other than determining eligibility for amnesty.

For that reason, Lopez said, she will apply and risk revealing to the INS that she has returned rather than stay underground. "It's better than sitting in the house with all this fear," she said.

Pilsen's illegal aliens recently have been able to take their fears out of the house and down the street to informational meetings at Catholic churches. The Rev. Chuck Dahm, pastor of St. Pius Church, 1919 S. Ashland, said the threat of separated families is the chief anxiety among Pilsen's illegals.

Pilsen's Ald. Juan Soliz (25th), an attorney, said he is advising illegals in Lopez's situation "absolutely not" to apply for amnesty because he fears "the rules will be strictly enforced, and they could risk being deported."

Roybal's amendment still must go to the House immigration subcommittee. But the INS last week announced tentative regulations to implement the law. The regulations will be finalized in mid-April. Among them is an amnesty application fee of $185 for most illegals, and an extension of the time illegals could have been outside the country since 1982, and still be eligible, from 150 to 180 days.

Moyer said last week his office has selected one of the four Chicago-area sites for applying for amnesty, the Forest Park Mall at Roosevelt and Des Plaines in Forest Park.

"It has tons of parking, a bus line on Roosevelt which goes straight into the mall, and ideal space," he said, adding that his staff still is negotiating sites on North Pulaski Street, in Blue Island and Aurora.

Illinois House Speaker Michael J. Madigan (D-Chicago) has chosen state Rep. Joseph Berrios (D-Chicago) to form a task force that will oversee the law's implementation in Illinois, which has the fourth largest number of illegals in the United States.

[From the Chicago Tribune, Apr. 4, 1987]

Keep Immigrants' Families Together

Immigration laws have been variable over the years, but they have been consistent on at least one principle: the encouragement of family unification. But the provisions for amnesty in the nation's latest immigration law depart from that sound tradition. It is an oversight that should be corrected.

Starting May 5, the new law allows illegal aliens, estimated to number 300,000 in the Chicago area alone, a year to apply for legal residency status, if they have lived here continuously since before Jan. 1, 1982. But the new law does not extend the amnesty to close relatives who fail to meet that requirement. That could mean, for example, that one parent in a family could meet all the requirements and receive amnesty while the other does not and remains subject to deportation.

Immigration and Naturalization Service spokesmen say the agency has no intent to break up families and will not use any of the information submitted on amnesty applications for any purpose other than amnesty. But the understandable fear of families who have been living in the underground world of illegal aliens makes some reluctant to apply for amnesty at all.

An amendment sponsored by Rep. Edward R. Roybal (D., Calif.) would help close this gap in the law by extending amnesty to the immediate families of those who qualify. All spouses and children would have to apply but, if one parent qualifies for amnesty, the other family members would only have to show continuous residency in the United States since Nov. 6, the new immigration law's enactment date, instead of the regular amnesty cutoff date.

The United States has a long tradition of humanitarian concern for the unity of immigration families. All efforts should be made to continue that tradition.

[From the San Francisco Progress, Aug. 23, 1987]

Amnesty Seekers Must Know They Can Keep Their Families Together

Imagine you're an immigration official trying to determine whether a family of undocumented Salvadorans can legally stay in this country under the amnesty program.

In this hypothetical case, the Salvadoran father clearly qualifies. He has lived and worked in the United States since 1981, and he has the documents to prove it. But his wife and three young children arrived in 1983, too recently to meet the requirement.

Would you legalize the father, then have his wife and children deported? Or would you let the entire family stay?

It would be unconscionable to give an undocumented worker legal status in this country, then make him send his family away or keep it in hiding.

Immigration officials are allowed to bend the rules to keep such a family together. Surely many of them would. But the rub is: They don't have to.

That means, thousands of undocumented families must play a kind of immigration roulette. Whether all the family members get the benefits of amnesty may depend on where they apply or the policy of a particular district director. Will they draw a kindly, humane immigration officer in San Diego or a curmudgeon in San Francisco?

This kind of uncertainty prompted Senator Alan Cranston to say that an amnesty program with a humane intent could become "a cruel instrument of family suffering."

"We must not force people to make the terrible choice of either breaking up their family or ignoring the law and remaining in the dark shadows of an underground illegal world," said Cranston, who introduced a congressional resolution calling on the INS to find a way to keep families together.

While, Rep. Edward R. Roybal, a Los Angeles Democrat, has introduced a bill that would amend the immigration reform law to accomplish that aim, Cranston has the right idea. The amnesty program only lasts until next May. It's too late for a lengthy congressional debate.

INS Commissioner Alan Nelson could solve the problem administratively in a minute by telling all district directors to be flexible so that amnesty doesn't separate husbands from wives, parents from sons and daughters.

The INS promised to interpret amnesty generously. This is one way the agency can prove its good faith.

[From the Atlanta Journal/Constitution, July 17, 1987]

Families of Immigrants Deserve Amnesty

Last May, as the amnesty program for illegal aliens began, the U.S. Immigration and Naturalization Service (INS) hunkered down for an expected stampede. It was set to handle 1.6 million applications by Sept. 30 (and 2.3 million more over the next 12 months). But—surprise! So far, the totals have been distinctly underwhelming. As of last Monday, 282,000 aliens had applied, a sharp contrast to the 800,000 projected to have signed up by now. What's going on?

One can only guess. Maybe Washington overestimated the number of illegals who are eligible. Maybe, as the Congressional Hispanic Caucus charges, the INS has given insufficient publicity to the program. Maybe the feds underestimated the deep-seated fear and mistrust with which many immigrants regard the INS. Maybe all of the above.

But one flaw is obvious. In its eagerness to reach a compromise on immigration reform, Congress glossed over the question of family reunification. That is, if a worker qualifies for amnesty, does the worker's family thus qualify as well? Congress didn't say. So now INS officials must make such decisions case by case. Surely, the possibility of an adverse decision has discouraged more than a few immigrants from applying.

Not only is this inhumane, it undermines a fundamental reason why our immigration laws were reformed: to reduce the nation's large, shadow population of vulnerable and exploitable illegals. The government simply should not be in the business of arbitrarily separating families.

The INS needs to establish a national policy of blanket amnesty to spouses and children. That's the least the "pro-family" administration can do.

Mr. SIMPSON. Mr. President, I inquire about the time situation.

The PRESIDING OFFICER. The Senator from Wyoming retains 2 minutes and 26 seconds.

Mr. SIMPSON. I yield 1 minute to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank the Senator for yielding.

We had a debate over this issue, employer sanctions, amnesty, and the entire package last year. Over 20 Members of the Senate opposed the bill. The distinguished Senator is correct that I was counted in that number.

But that is not the point that we are making here. The point we are making here is that there are 2 million people who are on waiting lists to come to America. They are from all over the world, and they are waiting, going to bed every night praying that their number is going to come up and they are going to get a share of what we have.

The amendment of the distinguished Senator would make some sense, it might not be acceptable but it would make some sense if he were proposing to eliminate the waiting period so that every person in this country legally, whether they have amnesty or came here legally to begin with, could bring their spouse and children here immediately. At least that amendment would make some sense and would have some equity.

But to say the people who have been waiting for up to 10 years should forget it and we will let the people who came here illegally have advantage over them is totally unfair.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHAFEE. I just wish to stress this. It is not, as I have said before, a call out to those spouses and children who are somewhere abroad, "Come on in; the gate is open. You can come in."

That is not the situation. They must have been here. They must have been here by the time this bill became effective. That date has gone by. Nobody came in anticipating that they are going to have that break because the break was not there at the time the law was passed.

Mr. President, I feel so strongly that we have made this decision and a right decision last year, but we certainly did not make it with the intention of breaking up families and submitting an individual who qualifies to the cruel choice. Take this wonderful advantage we have given you under the immigration reform bill last year. You can qualify as a U.S. citizen, but your children and your spouse cannot. Your wife is an illegal alien. She is subject to every restriction, cannot get a job, all impositions that we imposed on illegal aliens. I just do not think that is the purpose.

Mr. SIMPSON. Mr. President, I thought another colleague was going to participate. I do not see that person.

Mr. CHAFEE. I will yield additional time to the Senator.

Mr. SIMPSON. No, I do not require any further time from the Senator from Rhode Island.

I would just say that in concluding any time we set a date it will have the effect of excluding someone. This amendment here is going to exclude someone, too.

Mr. CHAFEE. That is right.

Mr. SIMPSON. It is going to exclude anyone who came after November 6, 1986, and the next amendment at some future time, very short time, will be how to pick up that bunch and how to handle that.

I just think it is ill advised to have a second amnesty, and that is what this is. I do not think we are ready for that in this country.

Let us do the first one. They have a year to do it. Let us have them do it. It works well; 800,000 came in, and they have until May 5, 1988, and I hope millions of them will come forward.

But nobody on this list ever told me over 2 million were in the United States. How interesting, curious, and surprising.

Mr. CHAFEE. Mr. President, I would like to make one other point. The distinguished Senator from Texas raised a situation that somehow a great unfairness is going to be perpetrated on those legal aliens who have come to this country. We are not affecting them one way or another under this bill. We are affecting probably a relatively small group who were here before a certain cutoff date and yet not here by January 1, 1982, and their spouses and their children. They are not uncles and grandparents and nieces and nephews. They are the intimate part of what we call a family.

I see no one else who wishes to speak and indeed I am prepared to yield the Senator some of my time if he wants it. But I would yield back my time and move for the yeas and nays on my amendment.

The PRESIDING OFFICER. All time is yielded back.

Mr. SIMPSON. I yield back the remainder of my time and move to table the Chafee amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Could I get the yeas and nays on my amendment myself, Mr. President?

The PRESIDING OFFICER. Is there a parliamentary inquiry from the Senator from Rhode Island?

Mr. CHAFEE. Yes, I would like the yeas and nays on my amendment if I might. I asked for that.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming to lay on the table the amendment of the Senator from Rhode Island.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—55

Armstrong
Biden
Bingaman
Bond
Boren
Breaux
Burdick
Byrd
Chiles
Cochran
Cohen
Danforth
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Lugar
McClure
McConnell
Metzenbaum
Mitchell
Murkowski
Nickles
Nunn
Pressler
Proxmire
Pryor
Reid
Riegle
Roth
Rudman
Shelby
Simpson
Stennis
Symms
Thurmond
Trible
Wallop
Warner

NAYS—45

Adams
Baucus
Bentsen
Boschwitz
Bradley
Bumpers
Chafee
Conrad
Cranston
D'Amato
Daschle
DeConcini
Durenberger
Evans
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
Melcher
Mikulski
Moynihan
Packwood
Pell
Quayle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Specter
Stafford
Stevens
Weicker
Wilson
Wirth

So the motion to lay on the table amendment No. 894 was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. BYRD. Mr. President, would the distinguished Senator from Oregon yield to me briefly?

Mr. HATFIELD. I would be happy to yield.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, the two managers have a list of amendments with the names of the authors of such amendments. I wonder if we can get time limitations on the following: An amendment by Mr. ROTH, 20 minutes, equally divided.

Mr. HELMS. Mr. Roth has agreed to that.

Mr. BYRD. Mr. President, I make that request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. An amendment by Mr. MOYNIHAN, 20 minutes equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, 10 minutes on an amendment by Mr. SYMMS on Mount Alto, equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. I have 20 minutes on the Symms amendment on Mount Alto.

Mr. BYRD. All right.

Mr. PELL. He said 10 minutes would be adequate.

Mr. HELMS. All right.

Mr. BYRD. And another amendment by Mr. SYMMS, 10 minutes, equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CONRAD. May I inquire of the majority leader?

Mr. BYRD. Yes.

Mr. CONRAD. Are these to be sequentially addressed without Senators seeking recognition on another matter?

Mr. BYRD. Mr. President, the order that was previously entered would allow Mr. CONRAD to speak now for not to exceed 5 minutes. That was the order previously entered. That order will be honored.

Mr. HATFIELD was recognized. I hope Mr. HATFIELD will yield to Mr. CONRAD so he can make that 5-minute speech. That was under a previous order.

If I could proceed for another 2 minutes without impinging on anyone, Mr. PRESSLER would have 2 minutes on one amendment and there will be 2 minutes on an amendment by Mr. KENNEDY, equally divided; two amendments by Mr. HUMPHREY, 20 minutes on each of two amendments by Mr. HUMPHREY, equally divided.

Mr. President, for the information of Senators, the next vote will occur at 9 o'clock tomorrow morning. There will be no further rollcall votes tonight.

If Senators have amendments that may be called up and accepted, or at least debated, they are urged to stay, if the managers are willing to take on that task.

Was the last request agreed to?

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Was the amendment by Mr. KENNEDY for 2 minutes agreed to?

Mr. President, I withdraw that.

Mr. President, if Senators would pay attention so that the Chair could hear and the managers could hear, it would be appreciated.

Let me inquire: Were the requests which I put before the Senate agreed to with reference to Mr. ROTH, Mr. MOYNIHAN, two amendments by Mr. SYMMS, and two amendments by Mr. HUMPHREY?

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request just outlined by the majority leader? Without objection, it is so ordered.

Mr. GLENN. Mr. President, reserving the right to object, am I on the list?

Mr. BYRD. Not yet.

Mr. GLENN. Mr. President, I would like to have a half hour on one amendment, with 15 minutes on a side.

Mr. HELMS. Could we have a copy of that amendment?

Mr. GLENN. I will send you a copy.

The ACTING PRESIDENT pro tempore. The Senate will please be in order.

Mr. BYRD. Mr. President, one amendment by Mr. ROTH, 20 minutes to be equally divided, with no amendments thereto in order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. The amendment by Mr. MOYNIHAN on which there will be 10 minutes equally divided I believe was agreed to on time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. I earlier had two amendments by Mr. SYMMS. I want to restate that. I understand there is an objection.

One amendment by Mr. SYMMS on the subject of messages to the Soviet Union, 10 minutes to be equally divided.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Two amendments by Mr. HUMPHREY, on each of which there will be a 20-minute time limitation to be equally divided, one amendment dealing with Afghanistan——

Mr. HELMS. Both relate to Afghanistan.

Mr. BYRD. Both of which relate to Afghanistan with no amendment to be in order thereto.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, if I did get an order for an amendment by Mr. SYMMS concerning Mount Alto to be dealt with in 10 minutes, I have had objection to that. I therefore ask that that request be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. An amendment by Mr. KENNEDY, 2 minutes, on Cuba, with no amendment in order thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. One amendment by Mr. GLENN on which there would be a 30-minute time limitation equally divided in accordance with the usual form, with no amendment in order thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GLENN. I do not think we will need that much time.

Mr. HELMS. Mr. Leader, I think you have just about covered my list. I thought there was a Dixon amendment on which he asked for 10 minutes.

Mr. BYRD. One amendment by Mr. DIXON, 10 minutes, equally divided and controlled in the usual form, with no amendment in order thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. And you have two others. Senator WILSON, I believe, has two amendments. One is on Mexico. There would be 20 minutes equally divided.

Mr. PELL. I understand there is a problem on the one dealing with Mexico.

Mr. BYRD. One amendment by Mr. WILSON dealing with an international peace conference in the Middle East, 20 minutes equally divided and controlled in the usual form, with no amendment in order thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. The Senator from Massachusetts [Mr. KERRY] is here. I believe he agreed to modify his amendment. We can do that tomorrow.

Mr. BYRD. Very well.

Mr. HELMS. We have enough to handle until the morning.

Mr. BYRD. Mr. President, I want all requests to be under this controlling rubric, that there be no amendments to the amendments and no amendments in order to the language to be stricken if such amendments to strike are included.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, no unanimous consent has been requested with reference to a Kerry amendment; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HELMS. I thank the Chair. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. Leader, I am going to take a shot at it. I am sure Senator MURKOWSKI would agree to no more than 20 minutes equally divided on his amendment.

Mr. BYRD. All right. Mr. President, I make the same request to the amendments and amendments to material stricken in regard to an amendment by Mr. MURKOWSKI, 20 minutes equally divided.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I thank the managers and all Senators. Now, the managers have indicated they will be here and willing to discuss amendments, accept some amendments hopefully, and it is also understood——

Mr. HATFIELD. Mr. President, before I yield, I believe that I yielded to the majority leader for the activity that just has now been consummated. I would like to make a parliamentary inquiry at this point to ask the Chair to define the unanimous-consent agreement that was entered into concerning those matters which would follow the disposition of the Chafee amendment.

The ACTING PRESIDENT pro tempore. The Chair will say to the Senator from Oregon that the agreement entered into was that following the disposition of the Chafee amendment Senators would be allowed to speak up to 10 minutes.

Mr. HATFIELD. I see. In other words, there was no definitive order for Senators to speak.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HATFIELD. I understand. Now, I understand that there was informal agreement, or at least an informal understanding that the Senator from North Dakota was expected to speak first.

Mr. PELL. Mr. PRESSLER was first to be recognized.

Mr. HATFIELD. After the 1 minute or 2 minutes for the Pressler amendment. Is that correct? I would ask the majority leader.

Mr. BYRD. The agreement was—and I had specifically in mind Mr. CONRAD because he was on the floor and prepared to object to other requests that we were making—that following the vote on the amendment by Mr. CHAFEE and Mr. SIMPSON, Senators would be recognized to speak on the Bork nomination for not to exceed, I thought it was 5 minutes. Was it 10 minutes?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. BYRD. Very well. Specifically Mr. CONRAD we had in mind. We had an informal agreement, however, that Mr. PRESSLER would go before Mr. CONRAD. Mr. CONRAD acquiesced in that. That was to be for 2 minutes.

Mr. HATFIELD. Mr. President, I am very happy if the Senator from North Dakota wants to go first. I expect to make a statement on the Bork nomination as well. I have the floor at this point in time to make that statement. But if there has been some informal understanding with the Senator from North Dakota, I would be very happy to yield to the Senator from North Dakota following the amendment of the Senator from South Dakota, but I would also then ask unanimous consent at this point that I be recognized for my statement on Mr. Bork following the Senator from North Dakota.

The ACTING PRESIDENT pro tempore. Is there objection to the request? The Chair hears none, and it is so ordered.

The text of the unanimous consent request is as follows:

Ordered, That when the Senate resumes consideration of the pending business, S. 1394, a bill to authorize appropriations for fiscal year 1988 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes, the following time agreements apply to the following amendments, with the time to be equally divided and controlled in the usual form:

Roth—20 minutes.

Moynihan—10 minutes.

Symms—message to the Soviet Union, 10 minutes.

Humphrey—2 amendments dealing with Afghanistan, 20 minutes each.

Kennedy—dealing with Cuba, 2 minutes.

Glenn—30 minutes.

Dixon—10 minutes.

Wilson—International peace conference on the Mideast, 20 minutes.

Murkowski—20 minutes.

Cohen—10 minutes.

Ordered further, That no amendments to the above listed amendments, nor to the language proposed to be stricken by these amendments, shall be in order.

Mr. SASSER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that I be recognized to make a statement relative to Mr. Bork following the statement of the distinguished Senator from Oregon.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair.

AMENDMENT NO. 896

(Purpose: Sense of the Senate that State Department should examine purchasing or entering into long-term leases (rather than entering into short-term leases) of foreign residential properties needed to house the principal diplomatic officers of the United States and require a report to Congress regarding the advantages or disadvantages of purchasing or leasing such properties)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment of the Senator from South Dakota, Mr. PRESSLER.

Mr. HATFIELD. Mr. President, parliamentary inquiry. Will the Senator yield for just 1 more minute?

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. HATFIELD. Is there a time certain to adjourn tonight, may I ask the Chair? These 10-minute increments, do we pursue them against a timeframe?

The ACTING PRESIDENT pro tempore. The Chair would have to state to the Senator from Oregon there is no agreement on adjournment for this evening.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment of the Senator from South Dakota.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 896.

Mr. PRESSLER. I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PURCHASING AND LEASING OF OVERSEAS RESIDENCES.

(a) FINDINGS.—1. The Congress finds that annual lease costs to the U.S. Government for leasing the official residences of U.S. Ambassadors, Deputy Chiefs of Missions, or other principal officers of the U.S. Government at the foreign mission posts of the United States exceeded $132 million in Fiscal Year 1987; and

2. This amount represented an increase of 14.8 percent over the previous fiscal year; and

3. Substantial savings to the American taxpayer could result from purchasing rather than leasing such residences where necessary; and

4. Foreign governments prohibit the U.S. Government from purchasing such residences at 26 percent of the locations in which the U.S. maintains an official diplomatic post.

(b) SENSE OF THE CONGRESS—It is the sense of the Congress that:

(1) The U.S. Department of State should make every effort to determine whether the purchasing rather than the leasing of the residences of the principal officers of the U.S. Government's overseas missions is in the best economic interest of the U.S. Government; and

(2) The U.S. Department of State should enforce a policy of fully reciprocal treatment toward foreign governments that prohibit the U.S. Government from purchasing foreign residential properties to house U.S. diplomatic personnel in their countries; and

(3) In its Fiscal Year 1989 budget presentations to the Committee on Foreign Relations of the U.S. Senate and the Committee on Foreign Affairs of the U.S. House of Representatives, the U.S. Department of State shall provide sufficient information on the advantages and disadvantages of purchasing rather than leasing such properties to enable the Congress of the United States to determine the specific amount of savings that would or would not be achieved by purchasing such properties. The Department also shall make recommendations to the Congress on the purchasing and leasing of such properties.

Mr. PRESSLER. Mr. President, this amendment has been agreed to on both sides. I know many Members are waiting to speak. I shall be very brief.

I shall not take long in outlining the amendment as I understand the managers have agreed to accept it.

The purpose of my amendment is twofold: To encourage the State Department to study whether the purchasing or long-term leasing rather than the short-term leasing of residential properties overseas to house the principal diplomatic officers of the United States is in our best economic interest; and to require a State Department report by next spring on the advantages and/or disadvantages of purchasing rather than leasing such properties.

This amendment would apply only to the official residences of U.S. Ambassadors, Deputy Chiefs of Mission, or the other principal post officers at American missions overseas. It is intended to save the taxpayers of this country millions of dollars in excessive leasing costs that now must be paid to house these diplomats. As I indicated in my floor statement on September 11, we are generally better off buying homes for our Ambassadors than renting them.

The problem with short-term leasing is that foreign landlords have us over a barrel. They predictably raise the rent every year or two, and rental costs for such residences have reached astronomical levels in a number of cases. In addition, expensive security equipment often is installed in these buildings by the U.S. Government. This makes it too expensive to move to lower rent residences. The security expense would be too great. The result is that, in the long run, American taxpayers end up paying more under short-term leases than they would if we owned such residences outright.

At the current time—of 5,734 residential properties occupied by American diplomats overseas—less than 20 percent are owned by the U.S. Government. Seventy-five percent are held under short-term leases—the most expensive form of occupancy. My amendment would require the State Department to determine whether and how much money could be saved by purchasing such properties or renting them under long-term leases. It does not advocate going on a diplomatic home-buying spree.

The Department of State and a number of American Ambassadors with whom I have spoken have supplied me with information that indicates it would be preferable to purchase or lease long term such properties. We need more systematic analysis of this matter by the State Department to determine how we might save American taxpayers some of the $132 million spent annually on short-term leases. It may be that purchasing is not advisable in every case.

Mr. President, I ask unanimous consent that at this point in the RECORD there be printed some State Department overseas residential property data. These include tables on annual lease costs by geographic regional bureau, worldwide property count totals by type of ownership, and lease costs of official residences throughout the world organized by regional bureau. I think Members of the Senate will be astounded by some of the very high lease costs we are paying.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANNUAL [1] LEASE COSTS BY REGIONAL BUREAU

Bureau	1986	1987
Inter-American	$27,689,000	$27,466,000
Europe	30,584,000	38,490,000
East Asia/Pacific	15,045,000	18,870,000
Near East/South Asia	20,762,000	21,893,000
Africa	21,409,000	25,759,000
Total	115,489,000	132,478,000

[1] Prior to fiscal year 1986, lease expenditures were included as part of Regional Bureau S & E funds.

WORLDWIDE PROPERTY COUNT TOTALS

	GO	STL	LTL	CWIP	Total
Residential	1,129	4,283	311	11	5,734
Office	267	240	35	6	548
Other	674	506	63	16	1,259
Total	2,070	5,029	409	33	7,541

Note: Abbreviations are as follows:
GO=Government Owned.
STL=Short Term Lease.
LTL=Long Term Lease.
CWIP=Construction Work In Progress.
Other=Warehouses, community centers, garages, lots.

DEPARTMENT OF STATE.—LEASE COSTS OF OFFICIAL RESIDENCES

INTER-AMERICAN

	Ambassador	Deputy Chief of mission residence	Principal officer residence
St. John's, Antigua (E) [2] Charge'	32,400		
Nassau, Bahamas (E)		$37,800	
Bridgetown, Barbados (E)			
Belize City, Belize (E)	$27,000	21,600	
Belo Horizonte, Brazil (CG)			$13,000
Porto Alegre, Brazil (C)			5,600
Recife, Brazil (C)			19,000
Salvador de Bahia, Brazil (C)			8,500
Sao Paulo, Brazil (CG)			[1] 33,600
Barranquilla, Columbia (C)			22,800
Santo Domingo, Dominican Republic (E)		16,170	
San Salvador, El Salvador (E)		36,000	
Martinique, French Caribbean Dept. (CG)			12,857
St. George's, Grenada (E) [2]	36,000	24,000	
Guatemala City, Guatemala (E)		18,600	
Ciudad Juarez, Mexico (CG) [2]			31,200
Guadalajara, Mexico (CG) [2]			36,000
Hermosillo, Mexico (C) [2]			36,000
Matamoros, Mexico (C) [2]			22,800
Mazatlan, Mexico (C) [2]			24,000
Merida, Mexico (C) [2]			30,000
Monterrey, Mexico (CG) [2]			24,000
Nuevo Laredo, Mexico (C) [2]			14,400
Tijuana, Mexico (CG) [2]			27,000
Curacao, Netherlands Antilles (CG)			13,483
Managua, Nicaragua (E)	32,000	18,000	
Panama, Panama (E) [2]		48,788	
Asuncion, Paraguay (E)		30,000	
Port of Spain, Trinidad and Tobago (E)		45,000	
Maracaibo, Venezuela (C) [2]			14,018
EUROPE			
Salzburg, Austria (CG)		94,700	25,710
Brussels, Belgium (USEC)	25,823		
Nicosia, Cyprus (E)		14,400	
East Berlin, German Dem. Rep. (E) [2]	106,155	35,196	
Vatican City, Holy See (E) [2]	65,000	80,000	
Reykjavik, Iceland (E)		16,300	
Genoa, Italy (CG)			39,000
Milan, Italy (CG)			59,985
Palermo, Italy (CG)			30,000
Turin, Italy (C)			45,600
Luxembourg, Luxembourg (E)		18,300	
Valletta, Malta (E)		8,000	
Krakow, Poland (C) [2]			23,569
Oporto, Portugal (C)			16,800
Ponta Delgada, Azores, Portugal (C)			27,600
Bucharest, Romania (E) [2]	96,100	32,170	
Stockholm, Sweden (E)		11,600	
Goteborg, Sweden (CG)			12,345
Bern, Switzerland (E) [2]		43,200	
Geneva, Switzerland (BO) [2]	70,400		
American Branch Office			
US Mission to U.N.			
Zurich, Switzerland (CG) [2]			53,300
Adana, Turkey (C)			10,400
Moscow, U.S.S.R. (E) [2]	189,000		
Leningrad, U.S.S.R. (CG) [2]			23,857
EAST ASIA/PACIFIC			
Bandar Seri Begawan, Brunei (E) [2]	68,500		
Beijing, China (E) [2]	58,666		
Shenyang, China (CG) [2]			26,001
Suva, Fiji (E)		13,565	
Surabaya, Indonesia (C)			10,000
Naha, Japan (CG) [2]			31,418
Manila, Philippines (E)		54,000	
Cebu, Philippines (C)			15,000
Bangkok, Thailand (E)	1,832		
Chiang Mai, Thailand (CG)			6,780
Songkhla, Thailand (C)			12,825
Udorn, Thailand (C) [2]			7,328
NEAR EAST/SOUTH ASIA			
Oran, Algeria (C) [2]			9,500
Manama, Bahrain (E) [2]	42,240	36,800	
Dhaka, Bangladesh (E) [2]	31,746	17,857	
Baghdad, Iraq (E) [2]	91,613	58,065	
Kuwait, Kuwait (E) [2] [3]	8,434	12,335	
Beirut, Lebanon (E) [2]		35,000	
Rabat, Morocco (E) [3]		27,523	
Kathmandu, Nepal (E)		9,186	
Muscat, Oman (E)	102,884		
Doha, Qatar (E) [2]	99,173		
Riyadh, Saudi Arabia (E) [3]	160,000	64,000	
Damascus, Syria (E)		27,500	
Abu Dhabi, United Arab Emirates (E) [2]		64,258	
Sanaa, Yemen Arab Rep. (E) [3]	166,000	43,836	
AFRICA			
Cotonou, Benin (E)	$27,000		
Gaborone, Botswana (E)		$16,400	
Ouagadougou, Burkina-Faso (E)	15,800	13,400	
Yaounde, Cameroon (E)	25,714	20,649	
Douala, Cameroon (CG)			$35,064
Praia, Cape Verde (E)	9,000		
N'Djamena, Chad (E)	101,600	29,500	
Brazzaville, Congo (E)	34,000		
Moroni, Cosmoros (E)	24,000		
Djibouti, Djibouti (E) [2]		54,286	
Malabo, Equatorial Guinea (E) [2]	14,000		
Accra, Ghana (E) [2]		18,000	
Conakry, Guinea (E)		42,000	
Monrovia, Liberia (E) [2]		17,500	
Antananarivo, Madagascar (E)		14,800	
Maputo, Mozambique (E) [2]		28,000	
Niamey, Niger (E)		12,700	
Kaduna, Nigeria (CG)		66,000	
Kigali, Rwanda (E)		17,700	
Dakar, Senegal (E)	27,100	22,000	
Victoria, Seychelles (E)	19,600		
Freetown, Sierra Lione (E)	35,000	21,000	
Mogadishu, Somalia (E)	18,000	24,000	
Khartoum, Sudan (E)	48,000	69,200	
Mbabane, Swaziland (E)	19,200		
Banjul, The Gambia (E)	2,100		
Lome, Togo (E) [1]	6,900	10,400	
Kampala, Uganda (E)		36,000	

[1] Option to purchase.

[2] Posts where U.S. Government can no longer purchase properties.

[3] Construction of new official residence authorized.

Mr. PRESSLER. Finally, Mr. President, the amendment calls for reciprocal treatment of those countries which prohibit the United States from purchasing additional residential properties. Approximately 26 percent of all U.S. overseas diplomatic missions are in countries which prohibit us from buying residences for our diplomats. Those countries should receive the same treatment here, and my amendment moves in that direction.

Mr. President, I urge that the amendment be adopted.

The ACTING PRESIDENT pro tempore. The Senator yields the floor. Is there additional debate? The Senator from Rhode Island.

Mr. PELL. We have examined this amendment, find it acceptable, and urge its passage.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. HELMS. Mr. President, it is a good amendment. We find it acceptable on this side.

The ACTING PRESIDENT pro tempore. The question occurs on the adoption of the amendment of the Senator from South Dakota.

The amendment (No. 896) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to, Mr. President.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota, Senator CONRAD.

THE NOMINATION OF JUDGE ROBERT BORK

Mr. CONRAD. Mr. President, I rise to speak on the nomination of Judge Robert Bork to the Supreme Court of the United States.

When the President announced Judge Bork's nomination, I indicated that I would not make a final decision on my vote until the hearings process had been completed. That process was completed yesterday with a vote in the Judiciary Committee. I am now ready to announce my vote and give the reasons for it.

Throughout the confirmation process, I have followed the committee's proceedings with great interest and with an open mind. I have read books on the constitutional debates of our Founding Fathers; reviewed transcripts of the hearings; and read countless articles on the confirmation fight. I have heard from thousands of people in my home State of North Dakota who care deeply about whether of not Judge Bork will be confirmed. Over the past 2 months, I actively sought the viewpoints of my constituents at town meetings in 22 communities; at a debate I sponsored at the University of North Dakota Law School; and by writing to all members of the State bar association. And I was fortunate to have the opportunity to meet privately with Judge Bork last week for more than an hour in my office.

The debate over Judge Bork's nomination has provoked deep divisions in my State as it has in the Nation. This controversy is not just the work of partisan politics, nor is it a simple clash between liberal and conservative ideologies. President Reagan has won Senate confirmation of three conservative Supreme Court Justices; two of them with unanimous support from the Senate.

No, Mr. President, it is not politics which placed this nomination in jeopardy but the record of the man himself. Nor should this nomination be viewed as a simple test of whether the Supreme Court decision allowing abortion should be reconsidered. No judicial nomination can be decided on the basis of a single issue because a judge of the U.S. Supreme Court must rule on hundreds of critical matters in the course of a lifetime appointment to the court. Any nominee must be judged on that broader basis.

Mr. President, I am troubled by a nominee who has argued that the constitutional guarantees of freedom of speech provided for in the first amendment, only applied to political speech. That was his position. Now he has changed.

I am troubled by a nominee who argued that the equal protection provisions of the 14 amendment only applied to race and ethnicity. That was his position. And now he has changed.

I am troubled by a nominee who can find no constitutional justification for the one-man one-vote principle—so fundamental to our system of representative government. But that is his position.

I am troubled by a nominee who had not met all of his tax obligations until he was nominated for a position on the Supreme Court. Perhaps that is especially sensitive with me as a former State tax commissioner. If he does not show personal respect for the basic tax laws of his jurisdiction, how can he be respected as an interpreter of law on our highest court?

I am troubled by a nominee whose actions as Solicitor General at the height of a constitutional crisis deferred to the wishes of the executive branch and the firing of a special prosecutor.

From the outset I expressed deep reservations about Judge Bork's role in one of our country's most serious chapters: the Watergate Saturday Night Massacre. At the time, our system of government was gravely tested. In my view, Robert Bork did not rise to the challenge of restoring public confidence in the rule of law.

I have found Judge Bork's explanation of his Watergate role inadequate in both his testimony to the Judiciary Committee and in the private meeting he held with me. His decision as Solicitor General to fire Watergate Special Prosecutor Archibald Cox demonstrates to me a serious flaw in judgment.

As a top law enforcement officer, he acted in a way that could have allowed massive abuse of Presidential power to go unchecked.

Instead of providing a satisfactory answer, the confirmation process has raised more questions about this episode than it has answered. Discrepancies exist in Judge Bork's recounting of those events following the firing of Mr. Cox and his testimony was seriously challenged by others involved in the Watergate investigation.

Beyond the implications of his own actions, Judge Bork denounced the law providing for independent special prosecutors as probably unconstitutional. That position would leave the Congress powerless to deal with future questions of illegality in the highest reaches of the executive branch of Government.

But it is not conflicting statements or past deeds alone which give me concern about the pending nomination of Judge Bork to the Supreme Court. It is Judge Bork's narrow vision of the document itself. I am not a constitutional scholar, but I have a vision of the Constitution and its underlying values—values which I have taken an oath to preserve, protect, and defend.

I am deeply troubled by Judge Bork's limited view of the Constitution which has inspired anxiety rather than confidence about whether basic individual rights and freedoms will be protected by him. Judge Bork believes that unless these rights are strictly specified in the Constitution, they do not exist.

Judge Bork, for example, argues that the Constitution does not protect an individual's right to privacy. He states that because privacy is not specifically identified in the Constitution or the Bill or Rights, such a right does not exist.

He calls the ninth amendment, which preserves for the people rights not enumerated elsewhere in the Constitution, "nothing more than a water blot on the document." I disagree. My reading of the debates of the framers of our Constitution and the Bill of Rights indicates that they feared someone would read the rights of the people so narrowly that unless they were specifically listed, they did not exist.

That is precisely why they included the ninth amendment in the Bill of Rights. It was meant to signal to all of us that just because a right is not specifically set out in the Constitution, it is not to be denied to the people. Judge Bork's view would confine the constitutional search for justice to an 18th century world where women could not vote and where slaves were property.

I believe the framers of our Constitution created a more visionary document. Our forefathers could not anticipate all the changes that would shape this country, or all of the issues society would face in the centuries ahead. But their framework endures because it encompasses flexibility, building in a system of interpretation by the court, allowing for the possibility of future amendment, and providing a Government of checks and balances.

I also believe that legal outcomes matter—not just the process of legal reasoning by which decisions are reached. Judge Bork's record and writing show too little concern for their human consequences. His assertion that there is no right to privacy leads him to conclude that the Government could have the right to dictate whether a married couple uses birth control devices in the privacy of their bedroom. I believe that is a profound misreading of the constitutional guarantees of liberty and freedom provided by our forefathers.

Without question, Judge Bork is one of the Nation's foremost legal scholars. Yet the picture that emerged from the hearings process and from the thorough examination of the rulings, writings, and public statements of Judge Bork is disturbingly inconsistent. I am left with an impression of unpredictability. While I do not fault him for revisiting issues and changing his mind, it is hard to believe he's willing to abandon some of his long-held views.

The task of a Justice of the Supreme Court demands not mere strength of intellect but a sensitivity to the core values and aspirations of the Constitution. Because I do not find in the works of Judge Bork these qualities and sensitivities, I cannot consent to his nomination. The Bork nomination is clearly now in jeopardy and I believe that it should be withdrawn. If the nomination proceeds to a vote of the full Senate, I will oppose Judge Bork's appointment to the Supreme Court.

This nomination has deeply divided our State and the Nation. I fervently hope if Judge Bork's nomination is defeated, that the President will send the Senate a nominee who provides this country a spirit of unification and not division.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair now recognizes the Senator from Oregon, Senator HATFIELD, for 10 minutes.

THE BORK NOMINATION

Mr. HATFIELD. Mr. President, David Broder grasped the political dynamic of the current dilemma over the Bork nomination far better than I when he said:

> I have seen enough politics in my life to have lost my squeamishness. But watching these tactics applied to judges is scary. It should send shivers down the spine of anyone who understands the role of the judiciary in this society.

Mr. President, I will not impugn the motive of any Senator, who, after having weighed the evidence, decides to vote for or against Judge Bork. Far be it for me to do that. And I will not suggest here today that any Senator's decision was produced under duress from the runaway politico-technological hate machines that operate as I speak. Nor Mr. President do I believe, as appalled as I may be, that the atmospheric rancor which has descended upon this body can be justly cited by anyone as a basis for a decision on this matter. But I will say this: though our revulsion should not determine the manner in which we should proceed, it most certainly should sound an alarm that this democracy is in poorer health today than it was the day before all this happened.

Yes, we have been here before with Brandeis. We have been here before with Parker. We have been here before with Black. And due to the magnificent resilience of our constitutional democracy we have recovered. And I am sure we will now.

But never before have we seen the type of political visciousness which is unique to the television age threaten the independence and the integrity of the judiciary. It has transformed a good man into an evil symbol. We have watched the political extremes—the fear warriors and the hate warriors of the left and the right—each side reinforcing the extremism of the other in a hate concerto.

Mr. President, anyone who observed the Judiciary Committee's vote yesterday knows that Judge Bork's intelligence is not in question; knows that his honor is not in question; knows that his character is not in question; knows that his experience is not in question. And while each of these factors is as pertinent to his fitness to serve as any other, I will lay those matters aside and ask simply: By what standard do we determine whether the ideological portrait of this man lies within reasonable bounds?

The first consideration must be the framework within which we judge him. The viciousness of which I just spoke is something we have come to expect if not condone in the arena of elected office. But its presence in this skirmish is proof of something more profound. We have lost touch with a vital democratic premise: the distinction between legislation and adjudication.

The former demands that the overriding consideration is the ultimate policy which emerges from the thinking and the actions of the legislator. The latter must be dominated by the ultimate quality of the reasoning brought to bear on the interpretation of the law. To suggest otherwise would endorse the view that adjudication is "merely a continuation of legislation by other means"—which it most definitely is not. This does not mean that the result is unimportant, because it is—does not mean that the element of understanding and compassion brought to bear on the decision is not important—because it is. It simply means that there is a different order of priorities which we must apply to the selection of a judge as distinguished from the election of a legislator.

Having established a framework for consideration of this problem, I want to turn to the fundamental accusation around which this matter revolves: is this man an ideologue? We Senators have before us an individual with a long and distinguished career. As that career progressed, a number of transformations in his political orientation occurred. Now we have an obligation to choose the points of reference we will apply. We cannot simply add everything up and honestly say that the whole equals Judge Robert Bork of 1987. Is Judge Bork "the libertarian" the most telling point of reference? Judge Bork the Socialist? Judge Bork the professor? Though they are all relevant, I do not think so. I will say, however, that this very fact of an individual who has undergone such profound changes in political outlook over the course of a lifetime defies the definition of ideologue.

Nevertheless, he has produced during those periods, opinions on the great issues of our day, most particularly in the area of civil rights, which I find profoundly disturbing. But it is my obligation, as one who stands in judgment, to place it in context. Of all the criteria which we have at our disposal to determine the likely quality of his performance on the Supreme Court, the fairest, most complete and I believe the most accurate measurement is provided by Judge Bork's record on the U.S. Court of Appeals, the most recent position he has held.

During this 5-year period, with over 400 decisions and 125 opinions which he authored, spanning a wide range of constitutional and statutory questions. Judge Bork voted with the so-called "liberals" on that court in 75 percent of the cases. Of the 10 race, sex and age discrimination cases involving substantive legal issues as to the scope of the protection of those rights, Judge Bork voted with the plaintiff 7 times. Of the three remaining cases in which Judge Bork voted against the plaintiff, the Supreme Court upheld Judge Bork's position in two of them.

But the most important conclusion is simply this: At no time has the Supreme Court reversed Judge Bork during his tenure as a judge on the U.S. Court of Appeals. At no time. That is not the record of an ideologue.

As Lloyd Cutler, a liberal Democrat, has described it, this is a record of an individual closer to the center than to the right, more in the mainstream than on any fringe, and more in keeping with the status quo of Supreme Court decisions than a disruption of any balance which now exists.

Let me remind the Senate: in 1982 we unanimously confirmed Judge Bork. If anything we have a far more moderate record today upon which to judge him than we did in 1982. At worst, there is absolutely nothing in his record over that 5-year period to indicate that he has suddenly become a danger to the Republic. If you listen to the logic of his detractors, he must have been a danger to the Republic in 1982. Where were they then? We had the same documents—the same opinions—the same writings. There is no escape from the charge: This Senate was either asleep at the wheel and therefore derelict in its duty or there is something very wrong with what is occurring right now. Something very, very wrong. The case against this man is flawed.

I would say this to my fellow liberals: We above all others have a solemn obligation to stand firm against unfounded charges of extremism. We above everyone had better err on the side of tolerance lest we be deemed intolerable ourselves.

If I were to judge this man exclusively on the degree of common political ground we share, then I also forfeit my right to urge tolerance upon my colleagues when a liberal whose views are more fully compatible with my own is nominated by a future President to the Supreme Court. I have said many times that the President, Democratic and Republican alike, deserves to choose his own team unless serious questions of character exist. The Supreme Court, however, is not the President's team any more than we are part of his team. That is precisely what separates us from dictatorship.

But in some ways I do not view this decision in a radically different context from the one I faced regarding the nomination of Kenneth Adelman to the directorship of the Arms Control and Disarmament Agency. There is no cause to which I have been more fervently committed throughout my life than the end of the nuclear arms race. There was probably not one issue with which I found myself in agreement with Mr. Adelman, yet I voted for him. I voted for him because my eye was on Mr. Adelman—but it was also on the future. I voted for him because I had not given up the dream of a future President who would come to the White House unabashedly determined to end this madness and appoint a negotiator who would do just that. If I were to oppose a qualified individual who was not an extremist, I would abandon my right and my credibility to fight for the next individual to come along whose views are more in keeping with my own.

Who will the President send us next if this nomination is defeated or withdrawn? This President is not going to send a liberal up here. In fact, it is my guess that when all is said and done, once the smoke clears; it will be the ideologues on the right who will have the last laugh.

This man has flaws. He has taken positions which concern me deeply. I cannot vote for him without doubts. But I also cannot in good conscience oppose him on the ground that he is an extremist because the record flies in the face of that charge. This nomination debate has been described as a lynching. That imagery should serve as a reminder to all of us. For it is moments such as this when we should remember that the independence and the integrity of this Nation's judiciary is sometimes all we have to protect us from popular hysteria and the tyranny it feeds when there are no cool heads left.

When we politicians cower in fear of an arrogant majority or a potent minority, we had better hope that there are people seated on the bench who are willing to accept the accusation that they are "narrowly legalistic"—as Judge Bork has been accused.

I hope my colleagues also remember those periods in our history when the ruling majority in Congress held the same party label as the man who sat in the White House—those periods when the Congress played "rubber stamp" to the President. The independence of the Supreme Court and only the independence of the Supreme Court stood between us and what could be described as a voluntary totalitarianism. If I thought for a moment that this man was capable or likely or disposed to turn back the clock on civil rights, on antidiscrimination laws, on privacy—on any form of civil liberty—I would be leading the opposition on this floor today. But that is not the case and I think most of us know that is not the case. With all the legitimate concerns one may have—and there have been many voices of reason opposing Judge Bork struggling to be heard above the shrill catcalls—there is no question in my mind that we will live to regret the course which this body seems intent on pursuing.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized for 10 minutes.

THE NOMINATION OF ROBERT BORK TO THE SUPREME COURT

Mr. SASSER. Mr. President, I rise today to offer my views on the nomination of Judge Robert Bork to be an Associate Justice of the Supreme Court.

I think I can forgo any further discussion on the importance of this nomination. It has controlled the attention of the American people in recent weeks.

We are all aware that the seat to which Judge Bork aspires is pivotal. The person who takes it may well make decisions that will determine the direction of the body of law in this country for decades to come.

When President Reagan nominated Judge Bork to the Nation's highest court, I stated that I would not make a decision on the nomination until the hearings were completed. The hearing process is now over and the record of Judge Bork has been laid before the Senate and the country in detail.

For good or ill, we have had one of the most intense scrutinies of a Supreme Court nomination in recent history, perhaps in the history of the Republic.

While before the Judiciary Committee, Judge Bork revealed himself to be a complex and brilliant scholar. He has a searching intellect that has resulted in some truly profound inquiries into this Nation's judicial heritage.

After a thorough examination of his academic writings and after scrutiny of the Judiciary hearing record, there can be no doubt, and I have no doubt that Judge Bork is a man of the highest intellectual and moral integrity. I am convinced that this intellectual and political odessey has been absolutely sincere.

But having said that, I am concerned about some of Mr. Bork's personal characteristics—characteristics that may well work to produce excellence in a scholar but which in a Supreme Court Justice may produce deep doubt, distrust, and divisiveness.

Mr. President, the Supreme Court is, as it was called repeatedly by our distinguished colleagues on the Judiciary Committee, a peoples' court. For many of our citizens, who may well have exhausted all other means of redress, it is indeed the court of last resort.

My fears about Judge Bork arise largely from my foreboding that approval of his nomination to the Court will persuade millions of American citizens that the ultimate bar of justice has been closed to them, that the final arbiter in conflicts between personal rights and government rights has been rendered deaf to the voice of the individual.

Frankly, I must confess that I am deeply troubled by the erratic nature of Judge Bork's views. I am troubled by his journey from a youthful Socialist who believes that Government supplies all the answers to a libertarian who believes that government has little or no place in regulating the conduct of human affairs.

I am equally troubled by his more recent journey from a radically conservative judicial belief that majority views are paramount and predominate to the exclusion of minority views, a journey that continues to what we are told now is a quiet, moderate niche in the judicial mainstream.

For anyone who has followed the confirmation process and seen the radical activist Bork, the originalist Bork, then heard about the libertarian Bork and the moderate Bork, the question must be clear and alarming: Who is the real Robert Bork and how can we possibly predict with any reasonable degree of certainty what kind of Justice he will be?

Mr. President, I am not convinced that Judge Bork has abandoned the radical judicial agenda he has charted out very carefully through 25 years of deeply considered scholarship. And if that scholarship is to be our true guide, there is far too much in it that is extreme, inflammatory, and, to quote my distinguished friend from Alabama, Judge HEFLIN, "Bordering on the strange."

I believe these radical views derive from a constricted view of the individual rights upon which this country was founded, a view that we should bind our civil and individual liberties in a straitjacket called original intent.

Mr. President, I practiced law in the courts of this land for 15 years before being elevated to this body by the people of Tennessee and in that time I think I developed some view as to what our Constitution should be, and my view is that the Constitution is a living document whose basic genius is that it lays down a broad mandate for the individual rights and liberties that must evolve in response to changing social and technological circumstances as our country travels through the centuries.

In my judgment, the Constitution is a solid, brilliantly constructed foundation upon which we have built, for 200 years, a superstructure of deeply considered judicial belief.

I submit it would be the opposite of conservatism to tear the roof off that superstructure, rip down the walls and pillars of this carefully crafted hall of justice, in order to declare that we are preserving the pure foundation of original intent that undergirds it all.

Quite frankly, Mr. President, that is the very definition of a "foolish consistency," and it results in precisely the kind of judicial thinking that is represented in a careful reading of Judge Bork's Indiana Law Review article of 1971.

It results in a denial of any right to privacy, a view that privacy is not implicit in our Constitution or a right to privacy is not implicit. It results in the view that there are no real rights outside of those that are explicitly enumerated in the language of the Constitution itself.

It results in challenges to the Public Accommodations Act—title II of the Civil Rights Act of 1964. It results in the most narrow and miserly possible interpretation of the 14th amendment "equal justice under the law" clause.

Finally, it results in statements like these from Judge Bork's 1971 "neutral principles" piece.

And I quote from that piece, Mr. President. Judge Bork wrote that:

> Constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression, be it scientific or literary.

That is too narrow a reading of what American citizens have come to construe now for almost 200 years as freedom of speech.

What about the principle of one man, one vote? Here is what Judge Bork wrote about it.

> The principle of one man, one vote was not neutrally derived: It runs counter to the text of the Fourteenth Amendment, the history surrounding its adoption and ratification and the political practice of Americans from colonial times up to the day the court invented the new formula.
>
> That is one man, one vote.

And the new formula that he says the Court invented out of thin air was one man, one vote.

Now, to be fair about it, Judge Bork has subsequently recanted these radical views. And if we are to believe his testimony before the Judiciary Committee, he would not shred the very fabric of our culture in order to preserve the purity of the theories that he so carefully crafted over the past 20 years.

But I submit, Mr. President, the Bork nomination was sent to this body basically on the strength of the judge's ideological purity. The Robert Bork who has been proposed for the High Court was proposed precisely because of his strictly held originalist beliefs and because of the promise implicit in them that he would roll back the clock on issues like civil rights, privacy, and equal justice under the law.

So the question occurs once again, Mr. President, Who is the real Judge Bork? And can we afford to send him to the Highest Court in the land, the pivotal seat, before we know for sure?

My answer, like the answer of so many of my colleagues from the southeastern region of the United States, must be no.

Mr. President, the Southland that I love has been down a long and difficult road in pursuit of equal rights for people of all races and all sexes. We have fought a bloody war over this issue that pitted brother against brother.

I know that the citizens of my State, and the citizens of the South in general, do not want to retraverse that painful journey.

I believe we want rigorous jurisprudence in accordance with the guidelines established by the Constitution, but consistent with the 200 years of constitutional experience that have enshrined in our canon of ethics the simple principle of "equal justice under the law."

In conclusion, Mr. President, I would urge the President to send to this body the name of one of the many highly qualified candidates for the Court from the Southern States.

I called upon the President to select a southerner when Justice Powell announced his resignation from the Court.

I would remind my distinguished colleagues that Justice Powell of Virginia succeeded Justice Hugo Black, of Alabama, who was also a Southerner. We have always had a Southerner on the Supreme Court.

I would urge that the principle of regional balance is well worth preserving. There are numerous Southern judges who exemplify the qualities we need on the Court—scrupulous adherence to the values inherent in the Constitution—tempered by a broad understanding of the struggle for individual liberty that has been our heritage for 200 years.

So, Mr. President, in conclusion, I urge the President of the United States to send to the Senate another nominee for the Supreme Court.

The PRESIDING OFFICER (Mr. REID). The Senator's time has expired.

Mr. MOYNIHAN. Mr. President, before proceeding with the amendment which has been scheduled, may I take a moment to express my great appreciation and admiration for the statements of the Senator from Tennessee which were so cogent, thoughtful, and modulated. May this Yankee express his agreement with the thought that, of course, there ought to be a Southern member of the Supreme Court. There has always been. I hope that he is heard carefully in the executive branch.

Mr. SASSER. Mr. President, I wish to thank my distinguished friend from New York for his remarks.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate resumed consideration of the bill.

AMENDMENT NO. 898

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 898.

At the appropriate place, insert:

It is the sense of the Senate that the Department of State, in arranging visits of foreign dignitaries to the Capitol, shall have in mind that ours is a republican institution which by long established practice, and as a matter of principle, conducts its affairs with a minimum of display. Individual Senators do not have official cars, do not have motorcycle escorts, do not have praetorian guards. The recurrent spectacle of screeching, self-important, heavily armed caravans of limousiness, some "decoys," bearing foreign visitors is discordant, disruptive, and scarcely a service to the visitors themselves. The Department of State is urged to consider that two unadorned automobiles and no motorcycles would ensure foreign visitors a warm welcome, and make clear to them that they are visiting the representative body of a democratic state, and not some besieged citadel of a fearful tyranny.

Mr. MOYNIHAN. Mr. President, I will be brief.

I make two observations. It has long been the observation of historians that organizations in conflict become like one another. And anyone who has been in and out of of our Nation's Capital for some near three decades, as is the case with the Senator from New York, will have observed the ever-rising degree of spectacle with which we encounter executive branch performances; the heightened security, the outriders, the decoy limousines, the stationwagons filled with armed men and women, which are scarcely appropriate to a republic.

We here in this Capitol are representatives of a free people. We are freely elected. If anything befalls us, misfortune of any kind, we will be replaced by other equally free representatives.

I do not like, and I cannot think others do, the impression that we are somehow emulating the manner of other nations where rulers roar down the streets, traffic is cleared, and passers-by are scrutinized for whatever unhappy intent they might well indeed have.

We are not that kind of a nation, but much more the kind of a nation, may I say, where the previous President walked down Pennsylvania Avenue in his inaugural parade.

I just hope that the State Department would understand that they are likely giving a very wrong impression to others when they bring them to us in this manner.

Yesterday afternoon, the President of Mozambique arrived here in a manner which Mr. Duvalier would have found excessive as he roared through Port-au-Prince. Indeed, that President enjoyed such treatment as any dozens of tyrants or dictators in the world are accustomed to. That is not our practice. This is not their place.

I would hope that the State Department would hear us saying: Bring them up, but have them arrive the way we arrive.

Mr. President, the distinguished Senator from North Carolina has asked that he might be a cosponsor of this measure and I am very happy that he should be.

Mr. PELL. I would like to be added, as well.

Mr. MOYNIHAN. Mr. President, my day is now fully filled with joy that our beloved and distinguished chairman of the Committee on Foreign Relations joins in this matter.

Mr. BYRD. Mr. President, I would like to be added as a cosponsor.

Mr. MOYNIHAN. I think I will mark this day as one of permanent happiness. The distinguished majority leader as a cosponsor: A man who represents everything we are talking about, a plain Democratic representative in a Republican institution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, if there are no further comments, I move the adoption of the amendments, encouraging the Secretary of State to pay heed.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. With full support for this amendment on this side of the aisle, I trust the amendment will pass.

Mr. HELMS. And the unbridled and enthusiastic support on this side.

The PRESIDING OFFICER. Senators have yielded back their time?

Mr. MOYNIHAN. Yes.

Mr. PELL. Yes.

The **PRESIDING OFFICER.** All time has expired. The question is on agreeing to the amendment.

The amendment (No. 898) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMPLOYEE OWNERSHIP WEEK

Mr. BYRD. Mr. President, there is one measure on the calendar which I believe has been cleared on the other side, Calendar Order No. 369.

Mr. KARNES. Yes.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of that resolution.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 295) to express the sense of the Senate that the period commencing October 5, 1987, and ending October 11, 1987, should be recognized as "Employee Ownership Week."

The **PRESIDING OFFICER.** Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANFORD. Mr. President, I rise to speak in recognition of Employee Ownership Week. It is a special pleasure for me that such a week has been named and we are able to observe it across the country this week. As you know, I have been an ardent supporter of the adoption of employee stock ownership plans, and I believe that the special designation of an Employee Ownership Week acknowledges overall congressional support of ESOP's. The week is a sign that employees and companies alike are now encouraged to participate in employee stock ownership plans.

Why do we encourage employee stock ownership plans? The answer is that they are one of the best ways to promote a wider sharing in the ownership benefits of capitalism. In 1987, a GAO report revealed that 90 percent of corporate stock is owned by just 10 percent of the households in America. Employee ownership plans are one of the most effective ways to broaden that ownership. And that is what our great country is built upon, and we should do everything possible to make all the people participants and beneficiaries of the fruits of that system.

Why should we encourage expanded capital ownership? There are a myriad of good, specific reasons. I will list only a few here. It enhances motivation, dedication, quality, creativity and competitiveness throughout the economy. It improves productivity—from both people and physical assets. It lowers job absenteeism, turnover and grievances. It promotes a better understanding by all employees of company's goals and what is needed to achieve those goals. It improves the quality of working life. It facilitates a new style of management—giving the manager more time for planning. It can save time and costs by flattening the organizational pyramid. It enhances cooperation and teamwork. It promotes a sense of shared values, the most powerful factor underlying the superior performance of the most excellent firms. It encourages a focus on the needs of customers. It enhances personal dignity. It empowers people.

Just this week the Bureau of National Affairs released the results of a comprehensive study of employee ownership plans at 8,000 companies. The study found that workers at employee-owned companies work harder and pay more attention to quality than workers at nonemployee owned firms. The study also found that 57 percent of those surveyed would trade their next wage increase for a share of ownership in the firm.

I was particularly pleased to hear the testimony at hearing this year before the Banking Committee from Bob Strickland, chairman of the board of one of North Carolina's finest companies—Lowe's. This company has been included in the book "The Hundred Best Companies To Work For In America," largely because of its employee stock ownership plan. Currently, employees own over 22 percent of Lowe's outstanding shares. In commenting on the tremendous growth and profitability of Lowe's, Mr. Strickland stated that successes were created by: First, employee stock ownership; second, the motivation and productivity created by the employee ownership; third, the growth in profitability which thereby ensued; and fourth, the increase in the price of Lowe's stock as Lowe's incentives and growth pattern were recognized by the stock market and financial community.

In connection with the marking of Employee Ownership Week, I would note two recent developments regarding employee ownership. Last week the Banking Committee passed in its markup of legislation on corporate takeovers a very significant provision that would give employee ownership groups additional time to arrange financing if they wish to match the bid that a raider makes as part of a takeover.

Time and time again the committee heard testimony from a wide variety of employee groups who were cut out of the takeover process, despite the fact that it is their labor that will be essential to paying off the debt accumulated as a result of the takeover. The main problem was that employee groups simply could not put together multimillion or even billion dollar financing packages in the 20 day time period currently allowed for tender offers. This important amendment would provide employee stock ownership groups an additional 60 days to finance their own offer for the company.

Second, I was pleased that an amendment I encouraged was added to the omnibus trade bill passed by the Senate. This provision promotes ESOP's as part of debt-equity swaps used to retire debt in Third World countries.

Again, the arguments for promoting employee stock ownership, particularly in developing countries, are many. Sharing ownership benefits will counter the reluctance of nations to allow extensive foreign ownership of domestic companies and refute the Marxist claim that private enterprise only benefits the few. It also provides a much needed third road between the extremes of complete government ownership and concentrated private ownership that has led to instability in so many lesser developed countries.

The encouragement of expanded capital ownership through employee stock ownership plans provides a vision that serves as a challenge for our democracy. It provides a national strategy that fosters a true national unity—a unity that can command respect, nationally and internationally, over a long period of time. And marking this week as Employee Ownership Week is an important symbol of the support we should give to expanded capital ownership at home and abroad. Mr. President, I wish to urge all my colleagues to give special recognition to the importance of this Employee Ownership Week and to support legislation as it comes before the Congress that promotes and encourages employee stock ownership. Expanded capital ownership is something we can all support. As Bob Stickland commented, "What is more Republican than making people capitalists? And what is more democratic than sharing the wealth?" I hope we can all support Employee Ownership Week.

Thank you, Mr. President.

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 295

Whereas employee ownership is instrumental in helping more Americans share in our Nation's growth and prosperity by enabling them to accumulate significant amounts of capital stock in their companies:

Whereas employee ownership is a powerful incentive for workers to make the best use of their talents and energies in the work place, thus strengthening the competitive potential of our Nation's enterprises;

Whereas employee ownership is a viable tool for creating and retaining jobs in our Nation's communities;

Whereas the growing number of firms with employee owners deserve special praise for their participation in the positive economic trend of employee ownership; and

Whereas the United States Congress, as a matter of sound economic policy, supports the further adoption and expansion of employee ownership in American business: Now, therefore, be it

Resolved, that it is the sense of the Senate that the period commencing October 5, 1987, and ending October 11, 1987, should be recognized as "Employee Ownership Week".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the preamble is also agreed to.

ORDERS FOR THURSDAY

RECESS UNTIL 8:45 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent when the Senate complete its business today it stand in recess until the hour of 8:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The foregoing order was changed later to provide for a recess until 8:30 a.m.

LEADERSHIP TIME WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that time for the two leaders be waived on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. BYRD. Mr. President, I ask unanimous consent immediately following the prayer Mr. PROXMIRE be recognized for not to exceed 5 minutes; and immediately following Mr. REID a quorum call begin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, that will be a live quorum. It will be a 30-minute quorum call.

CALL FOR THE REGULAR ORDER TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that the call for the regular order be automatic after the conclusion of 30 minutes on that rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Immediately following that rollcall the two managers are prepared to proceed with the business that we have been on for the last 2 days. Amendments hopefully will be ready for action. I urge all Senators who have amendments to be prepared to call up their amendments tomorrow. It is hoped that action can be completed on this measure by 2 o'clock tomorrow afternoon. Obviously there will be some rollcall votes in connection therewith.

I compliment the two managers on their handling of this bill. They have disposed of a good many amendments today and yesterday and on Friday last. They have been at their posts of duty, ready to take on all amendments. I wish them well on the morrow.

I hope that we can finish this measure, as I say, by 2 o'clock tomorrow. It would be my expectation then to go to the nomination of Mr. Verity. It is also possible that tomorrow afternoon we could do the prompt payment act. The order, of course, is for going to catastrophic illness, but I am thinking of changing this order for good reasons.

It would be my plan, then, on Friday, to take up catastrophic illness, in the event that matters work out as I hope they will and as I have tentatively set them forward here.

PROPOSED UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF MR. VERITY

Mr. BYRD. Mr. President, I will put this in the form of a consent. I ask unanimous consent that upon the disposition of the State Department authorization bill on tomorrow, the Senate go into executive session and proceed to the consideration of Mr. Verity. I am sure there will be a vote on that nomination. I ask unanimous consent that the vote on the nomination of Mr. Verity occur on Friday at the hour of 9 a.m. and that upon the disposition of that nomination, the Senate then proceed to the consideration of the catastrophic illness legislation, if the State Department authorization bill has been completed prior thereto.

Mr. DOLE. Mr. President, reserving the right to object, I needed to make one phone call on this. I had someone indicate they could not give consent to move to the Verity nomination. I know you could get it——

Mr. BYRD. Mr. President, at the moment I withdraw the unanimous consent and thank the Senator from Nebraska for his courtesy for yielding.

THE NOMINATION OF JUDGE ROBERT BORK

Mr. KARNES. Mr. President, I rise at this time to speak on the nomination of Judge Robert H. Bork to serve as Associate Justice of the Highest Court in our country—a nomination which surely will go down in history for the unprecedented level of attention and degree of scrutiny it has received.

I believe this particular issue is the most significant of my short Senate career. Indeed, it is one of the most important of our constitutional responsibilities as U.S. Senators, thus, I have given great care, attention and study to my decision to support the President's nomination of Judge Bork.

Of greatest importance in making a decision of this nature is the recognition of qualities which must be present for the confirmation of a nominee to the Supreme Court. Drawing upon the collective wisdom and experience of colleagues like Senator THURMOND, and my personal beliefs as to the measure of responsibility demanded of an individual sitting in judgment of the will of the people as expressed through their elected representatives and found through the acts of citizens, I note the following as important factors:

First, unquestioned integrity as evidenced through courage to render decisions in accordance with the Constitution and the will of the people as expressed in the laws of Congress;

Next, knowledge and understanding of the law, in other words, professional competency;

Next, understanding to recognize both the rights of the individual and the rights of society in the quest for equal justice under law;

Next, appropriate judicial temperament; the ability to prevent the pressures of the moment from overpowering the composure and self-discipline of a well-ordered mind;

Lastly, an appreciation for the greatness of our system of government—in its separation of powers between the branches of our Federal Government and its division of powers between the Federal and State Governments.

Certainly no one look at the career of Judge Bork and not be singularly impressed with his extraordinary credentials, nor doubt that Judge Bork meets these qualifications. At this point, I think it serves to reiterate what many have already emphasized about Judge Bork's record.

A graduate of the University of Chicago Law School, a Phi Beta Kappa and managing editor of that institution's Law Review, Robert Bork has twice served on the faculty of Yale Law School and was a professor at that prestigious institution for 15 years. In his private practice of law, Mr. Bork earned a national reputation as an outstanding litigator. In his 4 years as Solicitor General of the United States, Robert Bork fulfilled his role in a job that is universally recognized as one requiring the talents of a "lawyer's lawyer".

Robert Bork has, in my opinion, since 1982, accumulated a remarkable record as judge on the Circuit Court of

Appeals for the District of Columbia. This record should be most relevant to this Senate's consideration. Of the 426 cases, in which he has participated, Judge Bork has been the author of the majority opinion in 106 instances. With respect to those 106 majority opinions, it is deserving of emphasis that he never has been reversed by the Supreme Court. Furthermore, of the 401 cases in which Judge Bork joined with the majority, none have been reversed by the U.S. Supreme Court.

In addition, Judge Bork authored dissenting opinions in 25 remaining cases, and the Supreme Court adopted the viewpoint expressed by Judge Bork in those dissents on six different occasions. Many have offered the observation that Judge Bork may well have the most remarkable record on appeal of any currently sitting U.S. Federal judge. I, too, think that it is a fair conclusion from these statistics that Judge Bork's judicial rulings during these 5 years have not been at variance with the prevailing views of the current Supreme Court.

I also must add that twice before, Judge Bork has passed confirmation of this U.S. Senate for positions on the Federal Bench, each time unanimously.

Mr. President, a great deal has been said during these hearings concerning judicial philosophy and/or ideology. As the Senate looks at a nominee's record in its duty to advise and consent, it is reasonable to look at other aspects of the person and his record. Broadly put, the "ideology" of the nominee is a factor among numerous factors that I previously cited which are within the discretion of Senators to consider. However, I believe that many of my colleagues are making the grave mistake of declaring ideology the dispositive factor—a first among equals as a criterion for confirmation. Of course, reality is that the ideology question is rarely based on an objective weighing of the lofty ideals of freedom and democracy, but rather a subjective examination of the nominee's views and how his views square with the prevailing ideological beliefs of the questioner—in other words, "does the nominee think the same way I do?" As one witness noted, "the critics bless their own views as the mainstream and damn everyone else as outside of it."

Mr. President, I feel that the overly great importance on matters related to individual ideology found in the Bork nomination works a disservice to the people and to the system of Government that serves them. There are many levels on which Supreme Court nominees are examined, investigated, questioned and judged; in this case, the life of Robert Bork has been completed dissected. I believe so much so, that the Bork confirmation process itself is legitimately subject to criticism.

In this regard, I feel obligated to publicly state my tremendous frustration and disgust with the scope of any apparent disinformation campaign created by opponents of Judge Bork. I have read a number of his opinions and find the distortions of his record in the media, in advertisements, and in the hearings designed to create the public image of a man very different from the one I met with on Monday of this week, and very different from the one that emerges from a fair reading of his record.

I have previously cited Judge Bork's outstanding judicial record. In my mind, judicial experience and one's judicial record, if available, should provide the principal basis for one's determination and conclusions on judicial philosophy. Clearly, the law school writings of 15-20 years past should be considered but not predominate. The selected culling and frequent unrepresentative sampling of cases cited by the opponents of Judge Bork created in my view a highly misleading account of his judicial philosophy or ideology, if you will. Unfortunately, I believe this orchestrated effort at disinformation apparently will achieve nonconfirmation. As well, it establishes an extremely threatening scenario for the future politicizing of Presidential nominees to the Court. If such media hype and public hysteria continues, it will inevitably discourage vigorous advocates of the Constitution and the rule of law, such as Judge Bork, from seeking high judicial positions in this country. Again, I have no objection to full, fair and comprehensive hearings and inquiries into the nominee. However, the pattern of unrelenting disinformation is unsuitable and unjustified.

Mr. President, in reaching my decision to support the nomination of Judge Bork, I have reviewed carefully the confirmation hearing record on his views concerning criminal law, civil rights, the right of privacy, equal protection, the first amendment, the Watergate circumstances, his view of judicial precedent/stare decisis, the separation of powers, and judicial restraint and judicial standing issues. In certain instances, I must admit that the outcome or the final decisions in these areas may not have been to my complete liking or agreement, but the fact is Judge Bork has consistently applied a reasoned and principled standard of judicial restraint in deciding cases that underscore his oft-stated, long-held belief that people—we the people—make the laws—not judges.

It seems to this Senator that the fundamental focus of Judge Bork's detractors in his criticism of judicial activism, and his strong objection to the role of courts on occasion creating "judge-made" law equal to the system of laws passed by legislatures.

As Judge Bork put it 3 weeks ago: "the judge must be every bit as governed by law as is the Congress, the President, the State Governor and legislatures, and the American people. No one, including a judge, can be above the law".

To say that judges must follow the law rather than their personal bias is not to say that individual liberty or freedoms are not without full scope or vitality in the mind of Judge Bork. To the contrary, when deciding constitutional cases in the "grey area", Judge Bork testified that the judge's responsibility is to discover the framers' values, defined in the world they knew, and apply them to the world we know. I don't suggest that this formula always yields an easy result—or even a result I always agree with—but it is a reasoned and principled approach to cases and disputes. Simply stated, his view is that the Court's role is to interpret the Constitution, interpret the laws passed by Congress, and rule on the administration of those laws when appropriately presented to the Court. He objects to the concept of the super legislature made up of lifetime appointees who are beyond the review of the people or of the other branches of Government. Are these views not what the framers had in mind when they divided the authority of Government between three separate and distinct branches in order to avoid the dangerous accumulation of autonomy in any one branch or power within the governmental framework? I believe that they are what the Constitution requires and the framers, given a fair interpretation of intent, sought. Thus, I believe in Judge Bork's justifiable concern for an unrestrained, nonreviewable role of the Court. To do otherwise would do violence to the concept of the separation of powers and what has come to be known as the system of checks and balances—that indefeasible guarantee that the people will never become isolated from the mechanism that governs them.

At this point, I ask if this judicial philosophy is one that may be labeled—and has been labeled by opponents of Judge Bork—as an extremist judicial philosophy? I think not. As Chief Justice Warren Burger declared during the confirmation hearings, "It would astonish me to think that he is an extremist any more than I am an extremist * * *. Senator, if Judge Bork is not in the mainstream—of American judicial thought—neither am I, and neither have I been."

Thus, in the mind of this Senator, Judge Bork's belief of judicial restraint results not in a Constitution that is static, worthless, wholly lacking in interpretative flexibility to deal with a rapidly changing environment, but instead, the Bork constitution is indeed dynamic and vital. Consider the expansion of the first amendment protection to the electronic media and the fourth amendment to electronic surveillance, as examples.

Judge Bork has clearly stated throughout the hearings that when social change is mandated by a principle within the Constitution or a statute, then the Court has a legitimate warrant to bring about expanded liberty and freedoms. As Judge Bork explained, "Brown versus Board of Education" brought about enormous social change, and properly so.

Mr. President, I believe after much review and thought that Judge Bork represents a judicial philosophy not of the minority, but indeed the majority of the American citizenry. I sincerely hope that he will have a chance to show the nay sayers and the skeptics that the wisdom, courage and foresight reflected so clearly and vividly in our Constitution can be placed in the hands of a man who respects this great document so much and is eminently qualified to serve as a member of the Supreme Court. I am confident that he possesses the qualities, character, integrity, and intellect of the finest of our country's Supreme Court Justices and that with his strong personal commitment to justice, the Constitution will continue to be the solid anchor holding our Nation in place through trial and tribulation, storm and crisis, opportunity and achievements, now and in the future.

In conclusion, I must acknowledge and thank the many citizens of Nebraska who took the time to communicate with my offices in Nebraska and Washington and with me personally as I traveled the State on this most important subject.

Such input was not a referendum on the nominee and the decision I have just made is mine and mine alone considering many factors as I have stated. However, I sincerely appreciate each citizen's active participation by sharing with me their thoughts and questions. I am proud to represent the great people of the State of Nebraska. I will always encourage such communication on any issue of concern.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me. I commend the distinguished Senator from Nebraska for his excellent remarks.

Mr. KARNES. I thank the Senator.

Mr. HELMS. Senator KARNES is the newest Member of the Senate, but he hit the ground running when he arrived here. His eloquence was apparent in that statement, and I thank him.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of the bill.

Mr. HELMS. What is the pending business, Mr. President?

The PRESIDING OFFICER. Senate bill 1394.

Mr. HELMS. I judge that it is open to amendment?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. Mr. President, I have several amendments on behalf of a number of Senators. These have been cleared on both sides, I might add.

AMENDMENT NO. 899

Mr. HELMS. I send an amendment to the desk on behalf of the distinguished Senator from Wisconsin, Mr. KASTEN, and ask it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for Mr. KASTEN, proposes an amendment numbered 899.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . REPORT ON POLICIES PURSUED BY OTHER COUNTRIES IN INTERNATIONAL ORGANIZATIONS.

The last sentence of section 117 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 is amended by inserting before the period the following: "together with the amount and type of foreign assistance (if any) made available by the United States for the preceding fiscal year to each such country under the Foreign Assistance Act of 1961, the Arms Export Control Act, the Export-Import Bank Act of 1945, and the Peace Corps Act".

Mr. KASTEN. Mr. President, I have two amendments to this legislation which I am certain are noncontroversial and which have been accepted in the House relating first to the voting practices report which is required yearly and second, the problem of the use of secondment by the Soviet Union in order to circumvent the United Nations' hiring freeze.

FOREIGN AID AND UNITED NATIONS VOTING PATTERNS

The first amendment would change the current law so that in addition to requiring voting reports each year, that report would also contain the amount of foreign assistance, if any, which is made available by the United States for each country enumerated in that report.

The voting report has become a very useful tool in trying to determine the support or nonsupport of countries in the United Nations, and I believe it would be of even more use and interest if it included U.S. foreign assistance which goes to those countries. Mr. President, this amendment is identical to section 183 of H.R. 1777.

SOVIET USE OF SECONDMENT TO CIRCUMVENT U.N. HIRING FREEZE

Mr. President, my second amendment, which is also identical to a provision of the House passed bill, section 199(g) of H.R. 1777, addresses the problem which I raised early last summer relative to the use of secondment by the Soviet Union and Eastern bloc countries in the United Nations to circumvent the hiring freeze. This amendment addresses these concerns in three fashions. First of all, it criticizes the Soviets for failing to adhere to the personnel practices spelled out in the United Nations Charter, second, it calls upon the president to take all necessary steps to ensure compliance with the United Nations hiring freeze, and third, it requires the Secretary of State to annually report to the United States Congress on the status of secondment by the Soviet Union and Soviet bloc nations in the United Nations. It also asks for a report on actions taken by the United States and the United Nations to enforce the provisions of the charter which governs the activities of U.N. employees.

Mr. President, I believe that both of these amendments are acceptable and would urge my colleagues to support them.

Mr. HELMS. I support the amendment of Senator KASTEN, and it has been cleared on this side.

For the record, Mr. President, let me summarize the provisions of the amendment.

The amendment expressed the sense of Congress that:

The President should take any action necessary to ensuring compliance with the hiring freeze, including withholding all United States assessed contributions to the United Nations and denying visas to new Soviet-bloc officials.

The President convey to the United Nations that the hiring freeze continue indefinitely, or until the United Nations complies with group of 18 recommended reductions in U.S. personnel.

The Secretary General should revoke all exceptions to the hiring freeze.

Violations of articles 100 and 101 of the U.N. charter and abuse of secondment by Soviets and Soviet-bloc are reprehensible.

The United Nations should adopt the G-18 recommendation that no member-nation be allowed to second more than 50 percent of its nationals.

The Soviet Union be condemned for its refusal to adhere to the principles of the U.N. charter calling for an international civil service and its abuse of secondment.

The amendment also requires the State Department to annually report on:

Number of Soviet and Soviet-bloc personnel seconded to the U.N.

Number of Soviet and Soviet-bloc personnel employed by the United Nations.

Measures taken by the United States to persuade the U.N. Secretariat to enforce articles 100 and 101 of U.N. Charter.

Measures taken by the United States to end Soviet/Soviet-bloc abuse of secondment.

Measures taken by the United States to verify credentials of Soviet-bloc nationals and deny them entry visas, based on their intelligence threat to the United States.

AMENDMENT NO. 900

Mr. HELMS. Mr. President, I send an amendment to the desk on behalf of Senator Kasten, and I ask that it be stated, and that it be in order for it to be offered. It is not a second-degree amendment, it is just a second amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. Helms] for Mr. Kasten, proposes an amendment numbered 900.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . PROBABLE EXEMPTIONS TO THE UNITED NATIONS EMPLOYEE HIRING FREEZE.

(a) Findings.—The Congress makes the following findings:

(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the "Group of 18 Experts").

(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was considering granting 156 exceptions to the hiring freeze.

(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

(6) According to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

(7) Other United States intelligence authorities estimate that as many as one-half of the Soviets and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus in the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(12) As of Septmber 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are "seconded," that is, serve on short, fixed-term contracts.

(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effectively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

(b) Report to Congress.—(1) The Secretary of State shall report to the Congress not later than 90 days after the date of enactment of this Act and annually thereafter as to the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.

(2) Such report shall contain as a minimum, a thorough analysis of the following issues:

(A) The number of Soviet and Soviet-bloc nationals who are currently seconded to the United Nations system on short, fixed-term contracts in New York, Geneva, Vienna, and Nairobi, and the percentage such number is to the total number of Soviet and Soviet-bloc nationals so seconded.

(C) The number of Soviet and Soviet-bloc nationals who are currently employed in the United Nations system on long-term contracts.

(D) The measures undertaken by the United States to persuade the United Nations Secretariat to enforce the provisions of the United Nations Charter which specifically govern the behavior and activities of United Nations employees, especially Articles 100 and 101.

(E) The measures undertaken by the United States either through bilateral or multilateral channels with the Soviet Union and other members of the Soviet-bloc to end their abuse of secondment.

(F) The measures undertaken by the United States to challenge Soviet and Soviet-bloc nationals credentials and to deny them entry visas, in order to keep Soviet and Soviet-bloc intelligence operatives out of the United States and United Nations.

(G) The counterintelligence efforts undertaken by the United States to protect United States national security from hostile intelligence activities directed against the United States by Soviet and Soviet-bloc intelligence operatives employed by the United Nations.

(c) Sense of the Congress.—It is the sense of the Congress that—

(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

(2) the President, through the Department of State and the United States mission to the United Nations, should express to the Secretary-General of the United Nations the insistence of the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

(6) the Soviet Union is hereby condemned for—

(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

(B) its abuse of secondment, and

(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the

United Nations Charter to which every other member-nation must adhere.

(d) Definition.—For the purposes of this section, the term "Soviet-bloc" means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania.

Mr. HELMS. Mr. President, this is a very useful amendment. It will provide additional information with regard to how much of each type of foreign aid is received by member nations of the United Nations. Earlier this year I had the staff make a less sophisticated comparison of the A.I.D. budget request for each country compared with that country's voting record from the most recent report on U.N. voting. I ask unanimous consent that the table be printed at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1)

This amendment will help illustrate the great disparity between the amount of money we give to foreign countries and their often shallow level of support for U.S. positions at the U.N.

While a country's U.N. voting record should not be the sole criteria for receiving American aid, we cannot and should not give millions of American tax dollars to assist foreign countries which demonstrate an outward hostility toward American values.

For example, Mr. President, Mozambique last year received $10.5 million in American assistance, despite supporting the United States only 7.2 percent of the time at the U.N.

During fiscal year 1985, we gave 42 African nations an average of $29 million in foreign aid, even though they voted against the U.S. positions at the U.N. 84 percent of the time. Latin American nations received an average of $73 million from us, while opposing us 74 percent of the time in the U.N., and finally, Mr. President, Eurasian countries received an average of $247 million in U.S. foreign aid, despite voting against us 75 percent of the time at the U.N.

In my judgment, such figures call attention to the need to reevaluate our foreign aid program. In the meantime, the American people will be more informed on how these countries are voting and how much of their tax dollars go to these countries.

There being no objection, the table was ordered to be printed in the Record, as follows:

Exhibit 1

BY-COUNTRY COMPARISON OF THE 1986 U.N. VOTING RECORD WITH PROPOSED FISCAL YEAR 1988 U.S. ASSISTANCE

[Dollars in thousands]

Country	1986 10 key U.S. votes: agree, disagree, or abstain/absent [1]	1986 plenary votes, percent agreeing with United States [1]	Fiscal year 1988 proposed U.S. assistance [2]
Africa:			
Angola	0–8–2	6.8	0
Benin	0–5–5	9.8	$2,978
Botswana	4–5–1	17.6	19,663
Burkina Faso (Upper Volta)	1–8–1	11.8	7,432
Burundi	4–5–1	14.2	3,265
Cameroon	3–1–6	20.9	26,602
Cape Verde	1–3–6	16.0	2,909
Central African Republic	4–1–5	19.7	6,091
Chad	7–1–2	29.0	21,048
Comoros	3–3–4	17.1	1,531
Congo	0–6–4	12.3	680
Djibouti	4–4–2	15.8	5,135
Equatorial Guinea	3–1–6	23.4	2,407
Ethiopia	1–8–1	11.8	3,389
Gabon	4–2–4	19.4	4,976
Gambia	3–1–6	11.1	6,408
Ghana	4–5–1	16.1	18,216
Guinea	4–2–4	14.9	13,331
Guinea-Bissau	2–3–5	16.2	3,366
Ivory Coast	6–1–3	32.2	399
Kenya	5–5–0	17.2	67,324
Lesotho	3–5–2	17.6	17,602
Liberia	5–1–4	30.1	46,601
Madagascar	1–6–2	10.0	11,449
Malawi	5–3–2	36.8	12,868
Mali	3–3–4	13.1	16,441
Mauritania	3–4–3	16.0	10,272
Mauritius	7–1–3	27.4	2,014
Mozambique	0–5–5	7.2	11,618
Niger	4–1–5	18.2	22,463
Nigeria	3–4–3	14.1	100
Rwanda	4–2–4	17.4	9,986
Sao Tome and Principe	4–2–4	18.2	607
Senegal	4–2–4	18.4	46,007
Seychelles	2–3–5	10.6	3,436
Sierra Leone	5–1–4	17.1	8,939
Somalia	4–4–2	15.3	67,957
Sudan	4–6–0	15.7	89,739
Swaziland	4–3–3	21.7	7,854
Tanzania	2–5–3	12.4	6,576
Togo	5–2–3	21.7	8,077
Uganda	1–5–4	13.6	7,669
Zaire	6–2–2	30.3	62,688
Zambia	3–5–2	13.8	25,089
Zimbabwe	2–5–3	13.0	175
East Asia and Pacific:			
Burma	4–3–3	16.8	21,260
Fiji	6–1–3	35.5	4,078
Indonesia	3–6–1	13.2	81,411
Malaysia	4–5–1	15.8	5,000
Papua New Guinea	5–1–4	20.8	1,349
Philippines	5–2–3	19.0	266,172
Singapore	5–1–4	20.9	50
Solomon Islands	5–4–1	16.5	1,023
Thailand	5–1–4	23.5	92,573
American republics:			
Argentina	4–3–3	16.4	50
Bahamas	4–1–5	23.1	100
Belize	6–0–4	28.3	12,419
Bolivia	4–2–4	18.3	98,436
Brazil	4–2–4	18.5	2,550
Chile	7–1–2	38.3	50
Colombia	7–2–1	32.4	22,800
Costa Rico	8–1–1	42.2	123,484
Dominican Republic	8–1–1	35.7	81,800
Ecuador	6–2–2	28.7	48,081
El Salvador	8–0–2	43.7	439,203
Guatemala	7–1–2	32.2	149,702
Guyana	2–5–3	13.1	4,050
Haiti	5–1–4	19.7	94,366
Honduras	7–1–2	36.4	242,016
Jamaica	5–2–3	24.4	104,833
Mexico	4–2–4	17.6	17,175
Panama	5–2–3	22.5	32,990
Paraguay	5–1–4	26.5	2,511
Peru	5–4–1	18.4	56,454
St. Kitts	8–1–1	38.4	2
St. Lucia	8–0–2	35.4	3
Suriname	3–3–4	17.1	50
Trinidad and Tobago	4–3–3	16.2	50
Uruguay	5–2–3	21.7	1,625
Venezuela	5–2–3	19.0	200
Near East and South Asia:			
Algeria	0–7–3	7.4	100
Bangladesh	4–4–2	18.6	140,695
Egypt	5–1–4	17.3	2,299,204
India	0–6–4	9.5	143,795
Israel	10–0–0	89.9	3,000,000
Jordan	4–4–2	13.3	71,800
Lebanon	2–4–4	16.1	775
Maldives	3–4–3	11.3	30
Morocco	5–4–1	24.5	133,280
Nepal	4–3–3	16.7	17,498
Oman	4–3–3	15.4	25,300
Pakistan	4–5–1	16.4	684,161
Sri Lanka	4–3–3	14.5	36,217
Tunisia	4–3–3	17.4	68,190
Western Samoa	7–1–2	36.5	978
Yemen	1–6–3	7.5	32,065
Europe:			
Austria	6–2–2	48.1	60
Cyprus	2–5–3	13.8	10,000
Finland	3–2–5	46.3	60
Greece	7–2–1	42.7	436,250
Iceland	8–2–0	66.0	40
Ireland	7–2–1	55.1	35,030
Luxembourg	8–0–2	79.2	30
Poland	2–7–1	12.0	0
Portugal	8–0–2	74.3	207,550
Spain	8–1–1	57.8	280,000
Turkey	5–1–4	37.1	914,900
Yugoslavia	4–5–1	13.1	100
Non-U.N. members receiving assistance:			
Cambodian Resistance			3,350
Gaza			543
Kiribati			274
South Africa			15,700
South Korea			2,000
Tonga			639
Tuvalu			127
West Bank			1,022

[1] President's 1987 report on U.N. voting.

[2] AID fiscal year 1988 congressional presentation.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me for a parliamentary inquiry, and for a unanimous-consent request?

Mr. HELMS. Yes.

Mr. BYRD. Are the two amendments pending before the Senate at the same time?

The PRESIDING OFFICER. Two amendments are now pending.

Mr. BYRD. Mr. President, I was going to ask that they be considered en bloc to save time.

Mr. BYRD. If the manager has no objection to consider the two amendments en bloc, I have no objection.

Mr. HELMS. Mr. President, I ask unanimous consent.

The PRESIDING OFFICER. Is there objection to the amendments being considered en bloc? Hearing none, it is so ordered.

Mr. BYRD. Will the distinguished Senator yield to me?

Mr. HELMS. I yield.

(Orders for tomorrow are printed later in the Record.)

AMENDMENTS NOS. 899 AND 900

Mr. HELMS. Mr. President, I am ready to vote on the two amendments en bloc.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendments of the Senator.

The amendments (Nos. 899 and 900) were agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, Senator Humphrey, I believe, has an amendment. We welcome that.

AMENDMENT NO. 901

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. Humphrey] proposes an amendment numbered 901.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . AMBASSADOR AT LARGE ON AFGHANISTAN.

(a) Findings.—The Congress finds that the Administration has failed to make Afghanistan a sufficient priority in the conduct of the foreign policy of the United States.

(b) Establishment of Position.—There is established in the Department of State the position of Ambassador at Large on Afghanistan who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Responsibilities.—The Ambassador at Large on Afghanistan shall coordinate the activities of the United States Government with respect to Afghanistan, shall be the point of contact for Congress on the Afghanistan issue, shall represent the United States in public diplomacy meetings and conferences abroad on the Afghanistan issue, shall maintain contact with the Afghan Resistance Alliance, shall serve as liaison with foreign governments and international organizations on issues and programs regarding the war in Afghanistan.

(d) Duration of Position.—The Department of State shall retain an Ambassador at Large on Afghanistan until the President certifies to Congress that the following conditions have been met:

(1) the complete withdrawal of all Soviet troops from Afghanistan;

(2) the independent and nonaligned status of Afghanistan;

(3) the self-determination of the people of Afghanistan;

(4) the return of Afghan refugees in safety and honor.

The PRESIDING OFFICER. The Chair notifies the Chamber that this amendment by unanimous consent has 20 mintues to be equally divided.

Mr. HUMPHREY. The offeror would notify the Senate that it has been agreed to by the two sides, and I would expect it to be disposed of swiftly.

Mr. President, today I am offering an amendment that provides a means to more effectively focus State Department efforts on Afghanistan. The amendment would establish an Ambassadaor at Large for Afghanistan. The intent is to create a position, with appropriate stature and resources, to enable more effective implementation of the Department's stated goal of steadily increasing pressure on the Soviet Union to withdraw its army from Afghanistan.

Two years ago, asked to rate the administration's implementation of Afghanistan policy, former National Security Adviser Zbigniew Brzezinski, charged the administration with "managerial neglect." Having immersed myself in the Afghanistan issue for 3 years, I come to the same conclusion. Our stated goal is to bring about the end of Soviet occupation and the restoration of a free and independent Afghanistan. But our deeds fall far short of our rhetoric.

Richard Pipes, professor of history at Harvard University, who served in this administration as Director of East European and Soviet Affairs at the National Security Council, agrees. In testimony before the congressional task force on Afghanistan, Dr Pipes was asked to rate the performance of the administration in dealing with the Afghanistan situation. He replied: "Oh, very poorly, I think. It's really on the back burner, quite neglected. All the motions are perfunctory."

Mr. President, last December Deputy Secretary of State Whitehead articulated what United States policy on Afghanistan is supposed to be. In the Department's annual statement, he said: "it is clear that only steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces."

Those are fine words. Unfortunately, the State Department bureaucracy has failed to implement such policy. Except for the military pressure, which is not the responsibility of the State Department, pressures have actually been reduced, not increased. Repeatedly, I have asked the State Department to list specific instances in which they have brought "steadily increasing pressure" to bear—politically or diplomatically—on the Soviet Union over past years. They have been unable to cite any substantive pressures.

Mr. President, this administration has failed to implement an effective policy on Afghanistan because our effort is, in the words of Drs. Brzezinski and Pipes, "neglected." The State Department has been unwilling to assign Afghanistan its due priority. The neglect has bred mismanagement of existing programs and an abdication of executive branch leadership on an important foreign policy issue. The neglect has rendered Secretary Whitehead's strong words into empty platitudes.

Here is the crux of the problem: There is not one single high-ranking official in the United States Government assigned to devote full time attention to Afghanistan. At the State Department—the Department charged with conducting United States foreign policy—there is not a single ranking official working full time on Afghanistan. While there is a position of "special assistant of Afghanistan", that position is tucked far away in the recesses of the Near East Bureau. The special assistant has no staff and must report to a Deputy Assistant Secretary.

So, at present, this relatively obscure position is the only one in the entire Department of State for coordinating policy on Afghanistan. However, even this meager effort has been threatened. Earlier this year, there was an attempt to eliminate this position.

Because of Foggy Bottom's vacuous efforts on Afghanistan, the Congress has been forced to take the lead. Virtually every major overt program that assists the Afghans was initiated here in Congress, not in the executive branch. I must add, they were initiated with the overwhelming bipartisan support of Congress.

I would like to list just a few of the programs that have been forced on the administration by the Congress:

Cross Border Humanitarian Assistance program: One-third of the Afghan people have been driven from their homeland or internally displaced as a result of the war. Yet, this administration only began a Cross Border Humanitarian Assistance Program last year, after it was unanimously mandated by Congress. Funding levels for the program have been forced on the administration by Congress. In fact, just last August the House Appropriations Committee increased the fiscal year 1988 request by $15 million.

Mr. President, this program has been spectacularly successful. Food, medical supplies, educational materials, and other humanitarian needs are finally making their way inside Afghanistan. It is astonishing to this Senator that the administration continues to begrudgingly request funding levels equal only to those that were forced upon them by Congress the previous year.

The Department of Defense Airlift Program: This is a humanitarian program that provides excess medical and personal equipment from the Department of Defense. The program also provides for the transport of wounded Afghans to the United States, where they receive medical treatment on a pro-bono basis. In fact, several Members of Congress have sponsored patients under this program.

Radio Free Afghanistan: This program was implemented by Congress, and now provides daily broadcasts of information inside Afghanistan, as part of Radio Free Europe/Radio Liberty.

The Afghan media project: This program that was initiated by Congress provides for the training of Afghans in reporting skills so that they travel inside Afghanistan—and report to the world on what is truly happening inside their country. It was almost 18 months after the Congress appropriated moneys for this program before any training began on the media project.

USIA Country Program: USIA lists Afghanistan as one of "the most significant international political/security interests expected to be confronting the United States during the program year of 1988." Yet, until just 2 months ago, USIA did not even have a country program on Afghanistan. I note that section 214 of this bill specifically mandates that USIA create a country plan on Afghanistan. So, it was only after the prodding of Members of Congress, and specifically the Senate Foreign Relations Committee, that USIA devoted appropriate resources toward creating a formal country plan on Afghanistan.

Human rights in Afghanistan: The Congress, in Public Law 99-399, called upon the Secretary of State to determine whether Soviet policies in Afghanistan constitute the crime of genocide. To my knowledge, no review was ever conducted. Earlier this year, Senators BYRD and DOLE joined me in a letter to the Secretary of State, asking again for action in this important matter. We still await a reply from the administration.

Most-favored-nation trading status: MFN was not withdrawn from Afghanistan until January 1986. Even the administration agreed that the extension of MFN to Afghanistan was inconsistent with United States policy. Nonetheless, it was not withdrawn until the Congress took action and unanimously granted the President specific authority to suspend MFN—6 years after Soviet troops rolled into Afghanistan.

Trade with Afghanistan: The United States continues to trade with the area of Afghanistan under the direct control of the genocidal puppet regime in Kabul. In fact, a substantial portion of that trade directly benefits the regime itself. This Senator has seen a number of United States manufactured cigarettes, for example, that are specifically marked "Afghan Government monopoly."

Once again, the Congress was forced to take action. Last June, this body unanimously adopted an amendment providing the President with specific authority to suspend all trade with Afghanistan.

Mr. President, the sorry State Department performance will continue, unless Congress once again takes action.

The amendment I am offering is very modest. It calls for the creation of a position at the Department of State of Ambassador at Large for Afghanistan. The Ambassador at Large would be appointed by the President, with the advice and consent of the U.S. Senate. The Ambassador would be responsible for coordinating United States policy on Afghanistan, and giving that policy the full-time, high-level, aggressive attention that it badly deserves. In short, he or she would have the stature and resources to turn neglect into effective policy.

We presently have Ambassadors at Large for cultural affairs, nonproliferation, arms control, refugee affairs, and counterterrorism. We are long overdue in appointing an Ambassador at Large for Afghanistan.

Such a position would not cause bureaucratic upheaval at the Department of State. I would note that there is a corresponding bureau for virtually all of the other Ambassador at Large positions. However, these are issues in which the administration has decided that higher level, full-time attention is needed. I would add that it is the intention of the author of this language, that the President appoint an Ambassador at Large on Afghanistan within 60 days of the enactment of this act.

This is an effort that is long, long years and years overdue. It is unfortunate that it takes an act of Congress to get the Executive to undertake this kind of public diplomacy effort. It is one more indication that the administration fails abjectly to implement deeds commensurate with its lofty rhetoric on Afghanistan.

The second provision which I commend and for which I am grateful to the chairman and ranking member is section 509 of title V of the bill. This section contains a statement by Congress on United States policy toward Afghanistan. It declares it to be the policy of the United States to "support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a timeframe based solely on logistical criteria."

We have heard a lot in recent months, most of it propaganda, I fear, from the Soviets, about their wish to withdraw from Afghanistan. If they were sincere about their statement of wishing to withdraw, they could do so in the space of a very few months, based on logistical criteria. Instead, they insist on something upward of 1 year, which makes it perfectly clear that they are not at all anxious to withdraw unless they can leave behind a puppet government they can control. That is unacceptable to the United States, as it is to the people of Afghanistan.

So I commend and thank the ranking member and staffs for these two important and signal provisions of this bill which is before us.

Mr. President, as to the amendment, the amendment would establish a position within the Department of State—the position of Ambassador at Large on Afghanistan, who shall be appointed by the President, by and with the advice of the Senate. The Ambassador at Large shall coordinate the activities of the United States Government with respect to Afghanistan, shall be the point of contact for Congress on the Afghanistan issue, shall represent the United States in public diplomacy meetings and conferences abroad on the Afghanistan issue, shall maintain contact with the Afghan resistance alliance, shall serve as a liaison with foreign governments and international organizations on issues and programs regarding the war in Afghanistan.

Mr. President, this is a major step forward, far more significant than perhaps might seem on first hearing. As Senators may know, this Senator has been deeply involved in the Afghanistan issue for over 2 years, and the essential bottom line finding, I have to report, is that with respect to our efforts, now very costly, there is no one in charge in the Executive.

Most of these programs were started by Congress, over the opposition of the Executive. Many of these programs are diffusely managed. That is to say, responsibility for management of these programs is diffuse and very ineffective and uncoordinated.

This measure, creating the post of Ambassador at Large for Afghanistan, will go a long way toward rectifying that sorry situation.

I recall that about 2 years ago, the former National Security Adviser to President Carter appeared before the Congressional Task Force on Afghanistan. This was, of course, former National Security Adviser Brzezinski, who accused the administration of "managerial neglect" in dealing with the situation in Afghanistan.

I am sorry to say that it is my observation, given with certainty and all the assurance I possess, that the situation has not changed in those 2 years. We still suffer. This cause still suffers from managerial neglect. I believe that the creation and filling of this position will go a long way toward correcting that sorry and costly deficiency in our effort.

First, the program is costing us a great deal in money. But, more important, I believe that this managerial neglect has had the result of failing to bring to bear all the kinds of pressures we could reasonably bring on the Soviets to withdraw, which, in turn, has had the effect, in my opinion, of prolonging the war and the suffering and the dying.

So I commend this amendment to my colleagues. I am pleased to observe the amendment has been agreed to on both sides of the aisle.

Mr. PELL. Mr. President, I think this amendment has merit. I think the idea of having an ambassador at large to exercise overall responsibility with respect to our policies in Afghanistan is a good idea, and I support it.

Mr. HELMS. Mr. President, I concur.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 901) was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I would like to commend the Foreign Relations Committee, and particularly the chairman of the committee, for including two important provisions in this bill pertaining to Afghanistan. I have comments that I would like to address to both important provisions.

Mr. President, section 214 of title II of this bill, contains a provision requiring the Director of USIA to develop a comprehensive country plan on Afghanistan, and report back to Congress within 60 days. I commend the committee for including this language, and indicate that this initiative is long overdue.

The human rights situation in Afghanistan today is deplorable and shows no signs of improving. Soviet policies in Afghanistan have resulted in the deaths of more than 1 million people, and have driven more than one-third of the Afghan people into exile. These policies have gone largely unnoticed by the vast majority of the world. This is no accident. The Soviet Union has succeeded in bringing down a dark curtain which masks their barbarities from the rest of the world.

The Soviet Union has employed every tactic to conceal the facts of their policies in Afghanistan from the world. The Soviet Ambassador to Pakistan has gone so far as to warn journalists:

> Stop trying to penetrate Afghanistan with the so-called Mujahideen. From now on, the bandits and the so-called journalists—French, American, Britain, and others—accompanying them will be killed.

The Soviets have followed through with these threats. Two years ago, American journalist Charles Thornton was brutally murdered in Afghanistan.

The Congress, for its part, has been far ahead of USIA, and this administration in encouraging a more vigorous public information on Afghanistan. Public Law 99-399, expresses the sense of the Congress that:

> The United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through * * * a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world.

The Congress also appropriated funding for the establishment of an Afghan news agency to train Afghans with basic journalism skills, so they can broadcast their story to the world.

Mr. President, I would note that a document distributed by USIA entitled "Country Plan Themes for FY 1988," cites Afghanistan as one of the "most significant international political/security interests expected to be confronting the United States during the program year of 1988." Therefore, it was astonishing to this Senator, that at the time that document was circulated, USIA did not have a formal country plan on Afghanistan.

This year, following extensive prodding from Congress, USIA has finally begun to devote the necessary resources and staffing toward developing a formal country program on Afghanistan.

Mr. President, in recent months I have held extensive meetings with USIA officials to discuss USIA's plans to finally begin developing an Afghanistan country program. I have been assured that USIA has identified $1,579,000 within its fiscal year 1988 budget for new programming on Afghanistan. This action by USIA is long overdue. It is tragic that this war is now in its eighth year, and USIA is only beginning to develop a formal program on Afghanistan. I am confident that if the Foreign Relations Committee had not taken action on this matter, there would be no effort at USIA to begin developing a country program.

I would hope that given the strong congressional support for the Afghanistan Country Program, the chairman of the Foreign Relations Committee would join me in calling upon USIA to send a specific request for the Afghan Country Program, as part of their overall request for fiscal year 1989. I hope that the committee will closely scrutinize the report that is required to be reported under this bill.

Mr. President, section 509 of Title V of this bill contains another important provision on Afghanistan.

That section contains a statement by the Congress on U.S. policy toward Afghanistan. In particular, it declares it to be the policy of the United States to:

> Support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a time-frame based solely on logistical criteria.

Mr. President, that section reflects what both the Secretary of State and the President of the United States have declared to be United States policy with regard to a Soviet withdrawal from Afghanistan. In a statement on Afghanistan issued on March 21, 1987, the President stated:

> Such a timetable must be based solely on logistical criteria and be expressed in terms of months, a very few months, not years.

Recently, however, I have received indications that there are those in the Department of State who no longer advocate a Soviet withdrawal timetable that is based solely on logistics. In fact, there are indications that some in the administration may be willing to advocate that the United States serve as an "appropriate guarantor" to a settlement providing for a Soviet withdrawal timetable of 1 year or more.

Such a policy decision by the Department of State, would constitute a massive shift in United States policy toward Afghanistan. It would also seriously jeopardize the fate of the Afghan people who under the terms already agreed upon would be cut off from all outside assistance for a year or more.

I hope that the chairman and ranking minority member would join me in expressing to the Department of State, that any settlement that does not include the criteria set forth in this bill, would face strong opposition from the Congress.

AMENDMENT NO. 902

(Purpose: To have an audience survey of Worldnet)

Mr. PELL. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 902.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 75 between lines 12 and 13, add the following new section:
>
> Section 218 Audience Survey of USIA Worldnet Program.
>
> (a) Of the funds authorized to be appropriated for USIA's Worldnet program by section 201(b), not less than $500,000 shall be available only for the purpose of conducting a survey of the number of viewers in Europe who watch the daily passive (non-interactive) shows of USIA's Worldnet program.
>
> (b) Such survey shall be conducted by a company, such as the A.C. Nielson Company, which has a long established reputation for objective estimates of audience size and which has not less than 15 years of substantial experience in estimating audience size.

(c) Not later than 9 months after the date of enactment, the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the House Committee on Foreign Affairs containing:

(1) the best estimate by the company performing the audience survey of the number of persons in Europe who watch, on a daily basis, the passive (non-interactive) shows of USIA's Worldnet program. Such estimate shall include an estimate of the number of persons who watch a part of the daily passive (non-interactive) shows of USIA's Worldnet program and the number of persons who watch such programs in their entirety;

(2) a description of the demographic composition and nationality of the persons watching such programs;

(3) the entire report prepared by the company conducting the survey.

(d) At least 30 days prior to the approval by the Director of the United States Information Agency of a contract with a company conducting the survey required by this section, the Director shall provide the Chairman of the Senate Committee on Foreign Relations and the Chairman of the House Foreign Affairs Committee of the name of the company selected to conduct the survey together with a copy of the proposed contract.

Mr. PELL. Mr. President, this amendment calls for a survey of the effectiveness of Worldnet, USIA's television program. It provides that there be a survey taken, somewhat along the lines of the Nielson Co., to see what the audience participation is.

We have to go into eight or nine different countries. It would be around $500,000, which is what is permitted in the amendment as offered. It is an amendment that would help us a great deal in the future in determining whether Worldnet is doing its job, in which case its authorization and appropriation should be increased, or whether we should keep it at the level we have in the bill.

Mr. HELMS. Mr. President, it is an excellent amendment, and I congratulate the distinguished Senator for offering it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 902) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 903

Mr. HELMS. Mr. President, on behalf of the distinguished Senator from Minnesota [Mr. BOSCHWITZ] I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. BOSCHWITZ, proposes an amendment numbered 903.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD LEBANON.

(a) Findings.

(1) After nearly 13 years of civil conflict and foreign intervention, the situation in Lebanon appears no closer to resolution.

(2) Through most of the last dozen years, the Lebanese have managed to continue economic activity sufficient to stave off economic collapse and provide its citizens with basic necessities.

(3) During the past year, however, the collapse in the value of the Lebanese pound from less than 40 to the dollar to nearly 300 has made the importation of wheat, rice and other basic commodities prohibitively expensive.

(4) As a result, for the first time, the Lebanese are faced with the prospect of starvation.

(5) Hizballah and other radical elements are taking advantage of the current economic crisis by providing foreign supplied food. In so doing, they are winning converts to their cause and radicalizing the youth.

(6) It is in the interest of the United States to support the traditional Lebanese free enterprise system of distribution of food which until now has been able to compete successfully with these radical movements.

(b) It is the sense of the Congress that the United States should base its policy toward Lebanon on the following principles:

(1) Preservation of the unity of Lebanon.

(2) Withdrawal of all foreign forces from Lebanon.

(3) Recognition of and respect for the territorial integrity of Lebanon.

(4) Reassertion of Lebanese sovereignty throughout the nation and recognition that it is the responsibility of the Government of Lebanon for its safekeeping.

(5) Reestablishment of the authority of the Government of Lebanon throughout the nation is a prerequisite for a lasting solution to the problem of international terrorism emanating from Lebanon.

(c) It is the further sense of Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through PL-480, Title I and Section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States. Provision of this assistance will meet the United States policy objective of strengthening the Central Government as well as helping alleviate a serious hunger problem.

Mr. BOSCHWITZ. Mr. President, this amendment concerns United States policy toward Lebanon. This amendment describes the current economic situation in Lebanon, restates existing United States policy toward Lebanon, and then states that it is the sense of Congress that provision of wheat and rice to the Government of Lebanon will meet our policy objectives of strengthening the central Government of Lebanon as well as helping alleviate a serious hunger problem.

As one who has been disturbed and disillusioned with the course of events in Lebanon, I do not believe it wise or in our interest to abandon totally the Lebanese. At the same time, I do not believe a high investment in capital would be prudent.

Our policy, as stated by Secretary Shultz and President Reagan, seems to be correct: We must support Lebanon's unity, sovereignty and independence, and the withdrawal of all foreign forces. In addition, we should support the restoration of a political dialog and the strengthening of Lebanon's legally constituted central Government.

While no course offers an assured solution to the Lebanese morass, it is clear that nothing we have done in the past has succeeded.

Through the provision of food aid, America can take a step to alleviate the economic disorder in Lebanon which threatens the democratic government of Amine Gemayel, and upon which the expansionistic Syria forces and the Islamic fundamentalist Iranian forces prey. Furthermore, such food aid will be distributed by the central Government through the private market system which is currently threatened with collapse. The downfall of the free enterprise system would all but seal the success of the antidemocratic forces now embattling Lebanon. Democracy and freedom both require watchful support. Without American support now, the democratic and free enterprise system in Lebanon will be that much closer to defeat by hostile foreign forces.

Mr. PELL. Mr. President, I rise to express support for the amendment offered by the honorable Senator from Minnesota. The provision of food aid to Lebanon is a positive, peaceful step America can take to promote our expressed policy of support for the Lebanese Central Government, the restoration of political dialog among Lebanese factions, and the withdrawal of foreign forces from that nation. Surely no people have suffered more over the past decade than the Lebanese. War, terrorism, and foreign intervention have resulted in over 100,000 casualties over that period. America has committed itself to promote the restoration of democracy and order in Lebanon. Providing Public Law 480, title I food aid or section 416 would be a positive step in this direction.

Lebanon is today faced with the horrible prospect of starvation of its population. Until now, that prospect has been avoided because the government was able to maintain the value of the Lebanese pound and, therefore, continue the traditional importation of food upon which Lebanon depends. Last year Lebanon imported 400,000 tons of wheat and 25,000 tons of rice. Since that time, however, the value of the Lebanese pound has plummeted. This fact has made the purchase of necessary food problematic. The vast majority of Lebanese will soon not be able to afford basic foodstuffs. To help overcome this deficiency, Lebanon has requested 200,000 tons of wheat and 25,000 tons of rice from the United States. America's commitment for stability in Lebanon must include a commitment to assure that the Lebanese people are adequately fed. Without this basic need fulfilled, any hope for order is folly.

The provision of food aid in this manner is made even more attractive by the fact that proceeds resulting to the Lebanese Government from the sale of Public Law 480 grain will be used to pay the salaries of educational and medical personnel. Without funding from somewhere, these services are also threatened in Lebanon. So, in effect, by supplying grain, America will help assure that three basic necessities are available in Lebanon: food, medicine, and education.

American policy must continue to support efforts to restore democratic institutions to the war ravaged country of Lebanon. America has had little opportunity to effectively support the Lebanese Government since 1984. Through the provision of food aid, America has that opportunity. This measure will allow us to actively pursue our stated policy, and strengthen the democratic institutions inside Lebanon. Without this, there will be no peace in Lebanon.

Mr. HELMS. Mr. President, I rise in support of the amendment offered by the Senator from Minnesota. As you know, I have been deeply concerned over developments in Lebanon and about the lack of coherent and forceful American policy in support of President Amine Gemayel and Lebanese democracy. The United States should support, through efforts such as that offered here, the continuation of Lebanese democratic institutions in the face of a brutal occupation by Syrian and Iranian forces. The United States has voiced support for the Lebanese Central Government since the beginning of hostilities there 7 years ago. However, since the withdrawal of American marines from Beirut in 1984, we have refused or been unable to muster any truly effective action in support of Lebanese democracy. Today we are faced with an opportunity to do so.

Economic chaos is an inevitable outcome of political upheaval. Lebanon has certainly seen plenty of political upheaval but had, until this past year, been able to avoid economic chaos. In the past year, however, the Lebanese pound has suffered a depreciation of over 400 percent. Consequently, the importation of food upon which Lebanon has traditionally depended is now extremely difficult. Foreign forces occupying Lebanon, unfortunately, are taking great advantage of this situation by garnering support through the provision of food. Economic chaos plays right into the hands of those foreign forces, in this instance Syria and Iran.

The slow process of strengthening the Lebanese Central Government and encouraging all Lebanese to participate in the governing process appears to be the only hope of ending Lebanon's turmoil.

I am well aware of the difficulties in assisting a weak central government. However, providing wheat under title I of Public Law 480 or under section 416 of the Agriculture Act of 1949 appears to be one way to do so. The Lebanese Ambassador has told me that they have requested a minimum of 200,000 tons of wheat and 30,000 tons of rice.

Only the Lebanese can resolve the situation in their country. Wheat and rice will give them tools to begin the process. The risk one takes in such an endeavor is that our bureaucratic oversight would be less than perfect because of the lack of security in Lebanon. I believe this is a risk worth taking. Moreover, we reduce the danger of mismanagement by providing wheat and allowing the Government of Lebanon to use generated local currencies for budget support. Under such conditions the need for our thorough accounting procedures would be reduced. Given the political and humanitarian benefits that could accrue from such a program, it should be undertaken.

Mr. President, I support this amendment to support a constructive and humanitarian policy toward Lebanon.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 903) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 904

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 904.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . U.S. DEPARTMENT OF STATE FREEDOM OF EXPRESSION ACT OF 1987.

(a) This section may be cited as the "United States Department of State Freedom of Expression Act of 1987."

(b) Finding. Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) Prohibition. It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

Mr. HELMS. Mr. President, the pending amendment is identical to an amendment offered by this Senator, and adopted by the Senate, on September 29, by a vote of 90 to 7. That vote occurred, as the distinguished occupant of the Chair knows, on the Department of Defense authorization bill, which, in the judgment of this Senator, is going nowhere, because it is going to be vetoed.

The pending amendment requires that the Department of State not ever again be declared a foreign mission. The Senate has already spoken on this matter previously, and it seems to me that the previous overwhelming vote of the Senate speaks for itself on the Senate's rather strong views on the subject.

Inasmuch as the amendment was originally offered to the defense authorization bill, I figured it would be better to put it on something that has a chance of being enacted and signed into law by the President.

Mr. PELL. Mr. President, I have had a chance to study the amendment. I think it is excellent. It has been adopted by the Senate already and we should adopt it now.

Mr. HELMS. I thank the distinguished chairman.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question occurs on the amendment of the Senator from North Carolina.

The amendment (No. 904) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Would the Chair give us just one moment?

Mr. President, as I said last night, I believe, as the song does, we have gone about as far as we can go.

BITTER OVER THE SWEET

Mr. MATSUNAGA. Mr. President, I rise to rectify an appalling amount of misinformation and distortion inserted

into the CONGRESSIONAL RECORD of August 7 this year by the reproduction of an article that appeared in the August Reader's Digest magazine.

The article—a scurrilous polemic—was entitled "The Unsweetened Truth About Sugar Subsidies," but truth is no where to be found in its reading. Quite to the contrary, it sets a new low in journalistic standards for a once proud publication whose founding editors and publishers in their day accepted no advertising lest their editorial independence be called into question. This is no longer the case, however, and apparently no longer a matter of editorial concern.

Ordinarily, Mr. President, I would not take the floor to condemn such an outrageous example of prostituted reportage, for to do so would only extend its circulation. But because a member of the other body has seen fit to have the entire article inserted into the RECORD and commend it to his colleagues, I believe his colleagues and others are entitled to the benefit of a rebuttal sent to the editor of Reader's Digest by the president of Hamakua Sugar Co., Francis S. Morgan, who is also the current president of the Hawaiian Sugar Planters Association. Not only does this letter refute the claims of the article; it also sets the record straight on a matter which is very much misunderstood here in Washington—the U.S. Sugar Program. Mr. President, I ask unanimous consent that the text of Mr. Morgan's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HAMAKUA SUGAR CO., INC.,
Honolulu, HI, August 10, 1987.

The EDITOR,
Reader's Digest,
Pleasantville, NY.

GENTLEMEN: I wish to register my profound disgust at the article entitled "The Unsweetened Truth About Sugar Subsidies," authored by Thomas K. Billington, which appeared in the August 1987 issue of Reader's Digest. Heretofore, I had considered The Digest to be a reputable magazine which presented issues in an even handed manner providing a balanced view. This article, being completely one sided and replete with misinformation, distortions, and outright fabrication, has completely destroyed your credibility with me. Being fully knowledgeable of all the issues covered in this article, I am acutely aware of the gross deception that you have perpetrated on your readers, and I have, therefore, lost confidence in any information that may appear on subjects which I am not familiar. This article is yellow journalism at its worst and reduces the caliber of your magazine to a scurrilous rag.

The impression that the author of this article is trying to create is that all the rest of the world outside of the United States is able to buy sugar at the "world" price, which is currently about 5½ cents per pound of raw sugar; foreign producers are able to survive at this price and that only in the United States are consumers forced to pay substantially higher prices. Furthermore, were it not for the U.S. sugar program, U.S. consumers could also satisfy all their sugar and sweetener requirements at the "world" price, which would continue at about its present level on into the future. In other words, the American consumer is being ripped off unmercifully by an inefficient and greedy domestic sugar industry.

Nothing is further from the truth. Actually, the "world" price is an anomaly which has no relationship with the actual prices at which the vast majority of sugar is traded or with the cost of producing sugar. Between 65 percent and 70 percent of the sugar that is produced in the world is consumed in the country of origin, and all of these countries have some mechanism to insulate their producers from the "world" price, which is very substantially lower than the very lowest cost producer in the world. Most of the remaining sugar is exported in accordance with bilateral trade agreements between countries which provide for prices far in excess of "world" prices.

Examples of such agreements are those between Russia and Cuba, the EEC and its former colonies under the Lomé convention, and under the U.S. sugar program. Sugar is also often sold under long-term private agreements. Only about ten percent of the world's production is actually sold on the "world" market, which is a small dumping ground for surplus sugar which does not have a home. This market cannot sustain even the lowest cost sugar producers in the world and is, therefore, not a realistic price to use for economic purposes. Much of the open interest held and trading done in the "world" futures market is by speculators who never own any sugar and who close their positions before physical exchange is required. Their only interest is in price movement, and they are not concerned if prices have no relationship to the true economic value of sugar.

Actually, the present price of raw sugar in the United States is lower than the average price that sugar is actually traded at throughout the world, including U.S. prices. In addition, a recent tabulation of retail prices of refined sugar in a large number of capital cities throughout the world showed that the price of sugar in retail stores in Washington, D.C. was lower than in most of the other capitals and was also lower than the average price. Furthermore, a recent study by Landell Mills, a very reputable sugar consulting firm who have a good knowledge of world production costs concluded that if all government trade barriers were eliminated and all world producers had to survive on competitive prices, the "world" price would average out of a level which is higher than the current U.S. price. This would be necessary in order to sustain production at current world consumption levels.

If the United States were to unilaterally eliminate its sugar program, or substantially dismantle it as proposed by the Reagan Administration, which the author infers it should do, the immediate effect would be to reduce U.S. prices drastically while our farmers harvested their crops in the ground and domestic production was being phased out. Foreign sugar producers, particularly in the EEC, would continue to receive their subsidies so they could continue planting new crops. After that, the small "world" market could not possibly supply the entire nutrative sweetener demand in the U.S. after domestic production had terminated. The price would then rise to levels much higher than those presently prevailing, and most of our sugar would be supplied by foreign producers whose costs are higher than those of domestic producers. It is unrealistic to think that foreign countries or their producers would continue to subsidize American consumers when there was no need to do so, and therefore, prices would continue at high levels. The interest of American consumers is best served by continuing to support a viable domestic sugar producing industry, as every other sugar producing country does.

It is completely false to imply that the U.S. sugar program has perpetrated a fraud upon the American public as described in the article which appeared in your magazine. In order to expound such drivel a person would have to be either abysmally stupid, totally ignorant of the facts, or have some ulterior motive which they prefer not to divulge. I do not know which of these apply to the author of the article, but it would be interesting to find out.

I would now like to comment on several statements in the article and refute the points made or the meaning inferred.

In the first paragraph, the inference is that the "world" price is a realistic price which should be available to U.S. consumers. The $3 billion a year figure is derived from multiplying the difference between the fictitious "world" price and the domestic raw sugar price by the total sugar and high fructose corn syrup (HFCS) consumption in the country. This is a completely erroneous assumption, and the conclusion is invalid.

In the second paragraph, mention is made of the "mountains" of raw sugar sold to communist China at a loss of $45 million, inferring that this deplorable situation was caused by the sugar program. We agree that the situation is deplorable, but was caused by the administration which deliberately and knowingly set the import quota at a level much higher than needed for domestic consumption, thereby causing a surplus and driving the price below the established loan rate. Therefore, the problem lies, not with the program, but with its deliberate misadministration by the executive branch of the government.

In the third paragraph, the blame for the closing of the Revere Sugar Refinery in Brooklyn was placed on the sugar program. It was the growth of HFCS which caused sugar consumption and imports to drop. The program did not cause the drop but merely reacted to it. Furthermore, the Revere Refinery was an antiquated, inefficient operation which had been allowed to deteriorate, and this no doubt contributed to its demise. The article conveniently omitted any mention of the closing of many sugar beet and cane processing factories over the last decade or two which caused far greater unemployment, and this occurred in rural areas where alternate employment was more difficult to find. It is an obvious desire to distort the situation and mislead the public.

The fourth paragraph contains more one sided and exaggerated editorializing and makes no mention of the havoc that would be wreaked on American farmers if the sugar program were to be scuttled. The impact on my state, Hawaii, particularly the islands of Hawaii, Maui, and Kauai, would be devastating. Why is this important reality covered up? Also, the statement that the benefits of the program are limited primarily to 12,000 to 15,000 farmers is another effort to distort and mislead. Do you consider that the hundreds of thousands of employees of these farmers and the processing plants are second-class citizens who are unfit for the consideration you are so anxious to bestow on foreigners?

I take complete exception to the statement in the fifth paragraph that American consumers would be outraged at the sugar program if they understood the full picture. You are trying to deliberately foment this outrage by purposefully withholding information in distorting what you do present. This paragraph also assumes that the Administration's foreign policy has a special priority above all other considerations and relegates domestic interests far below that of foreigners. I wonder why you espouse this concept with such enthusiasm.

At the end of the seventh paragraph, you state that the quotas and tariffs keep domestic prices high. High in comparison to what? I submit that domestic prices are not high in relation to actual prices paid for sugar in other countries and to average worldwide cost of production. Here again, you are attempting to perpetuate a lie merely by repeating it.

In the eighth paragraph, you state that processors are guaranteed against loss. There is no such guarantee, and I am sure that the author is not so ignorant that he is unaware of it. Did he suppose that the processors who went out of business did so for fun? Further on in that paragraph, much is made of the forfeiture of sugar to the Commodity Credit Corporation. Why did you conveniently neglect to say that this forfeiture was the result of deliberate misadministration of the sugar program, through excessive imports of foreign sugar, in direct opposition to the intent of Congress when it enacted the law.

The tenth paragraph again repeats the fallacy that domestic sugar prices are unduly high.

In the eleventh and twelfth paragraphs, you imply that the sugar program caused the decline in sugar consumption in the U.S., which resulted in a reduction in refining capacity. Again, you neglect to say that the decline really resulted from the replacement of sugar by HFCS in many industrial uses, particularly in beverages. This replacement would have occurred regardless of the sugar program, and inevitably, under such circumstances, something has to give. HFCS production got its start and established its major growth record from 1974 through 1980 when there was no sugar program, stimulated by high world prices. Therefore, it was not the sugar program which nurtured HFCS since it was well established when sugar was first included in the General Farm Act in 1981.

In the fifteenth paragraph, you seem to conclude that the Dominican Republic is liable to go communist because it concluded a three-year agreement to sell sugar to the Soviet Union at a substantial loss, thus aggravating its economic woes, notwithstanding the fact that it has frequently sold sugar to the Soviets in the past through trade houses. I do not see how you come to this conclusion.

In paragraphs seventeen through twenty-four, you attempt to create the impression that the "sugar lobby" has been able to perpetuate a great fraud upon the public through graft and corruption and by overwhelming Congress with lavish doses of money. This is such a distortion that it is ludicrous. I am familiar with the contributions to PAC's by individuals in the Hawaiian sugar industry, and they are meager indeed. The concept that these contributions could sway anything at the National level in Congress is a joke. Also, a joke is your inference the 12,000 to 15,000 struggling farmers, through their PAC's, could overwhelm the contributions of the well-heeled sugar user and cane refining industries. I have personally spent much time talking to many congressmen and their staffs and have obtained their support, not because of any contributions made, but by presenting the full picture so that they could determine for themselves the justice of the position I was supporting.

In your last two paragraphs, you clearly join forces with those whose special interests would be served by the destruction of the domestic sugar industry. Contrary to your misstatements, this is an efficient industry in world terms, and it would be sheer folly to wipe it out and subject American consumers to the avarice of high cost foreign producers. The domestic industry is continuing to improve its efficiency and reduce its costs so that if the subsidies and other supportive measures of foreign producing countries are ever relaxed, we will be able to successfully compete with them on an even basis. It is critical, however, not to jettison our industry before the "level playing field" has been achieved.

I strongly urge that you counteract the gross misrepresentations of this article by issuing another one which presents a balanced picture. The media loves to say that it has the obligation and duty to present the truth to the public. You have prostituted this sacred trust with this article, and you owe it to the public to correct it.

If you need any help in documenting the statements I have made, please let me know, and I will provide what assistance I can.

Sincerely,

FRANCIS S. MORGAN,
President and Chief Executive Officer.

INVESTIGATION ON CONTINUED PRODUCTION OF THE NAVAL PETROLEUM RESERVES—MESSAGE FROM THE PRESIDENT—PM 76

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

In accordance with section 201(3) of the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7422(c)), I wish to inform you of my decision to extend the period of maximum efficient rate production of the naval petroleum reserves for a period of 3 years from April 5, 1988, the expiration of the currently authorized period of production.

I am transmitting herewith a copy of the report investigating the necessity of continued production of the reserves as required by section 7422(c)(2)(B) of the Naval Petroleum Reserves Production Act of 1976. In light of the findings contained in that report, I hereby certify that continued production from the naval petroleum reserves is in the national interest.

RONALD REAGAN.

THE WHITE HOUSE, *October 7, 1987.*

MESSAGES FROM THE HOUSE

At 3:30 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1388. An act for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vincent Maloney, Austin Mortensen, and Kurt Olofsson;

H.R. 1490. An act for the relief of Jean DeYoung;

H.R. 1539. An act for the relief of Meals on Wheels of the Monterey Peninsula;

H.R. 1578. An act for the relief of Ray A. Bonney;

H.R. 1579. An act for the relief of Richard W. Ireland;

H.R. 2139. An act for the relief of John H. Teele; and

H.R. 2293. An act for the relief of William A. Cassity.

The message also announced that pursuant to the provisions of section 276a-1, of title 22, United States Code, the Speaker appoints Mr. DE LUGO as an additional member of the delegation to attend the Conference of the Interparliamentary Union, to be held in Bangkok, Thailand, on October 12, through October 17, 1987.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1388. An act for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vincent Maloney, Austin Mortensen, and Kurt Olofsson; to the Committee on the Judiciary.

H.R. 1490. An act for the relief of Jean DeYoung; to the Committee on the Judiciary.

H.R. 1539. An act for the relief of Meals on Wheels of the Monterey Peninsula; to the Committee on Finance.

H.R. 1578. An act for the relief of Ray A. Bonney; to the Committee on Armed Services.

H.R. 1579. An act for the relief of Richard W. Ireland; to the Committee on the Judiciary.

H.R. 2139. An act for the relief of John H. Teele; to the Committee on Governmental Affairs.

H.R. 2293. An act for the relief of William A. Cassity; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-332. A resolution adopted by the Five-State Legislative Conference relating to oil and gas exploration and production wastes; to the Committee on Environment and Public Works.

POM-333. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 37

"Whereas, The boundaries of the State of Alaska are of vital concern to the state government of Alaska; and

"Whereas, The essence of sovereignty of a state within America's federal system requires that a state government have complete and unambiguous jurisdiction over well-defined geographical boundary lines; and

"Whereas, Any time that boundaries of a state are to be altered in any way, that state has an essential and overriding interest in the determination of the boundary; and

"Whereas, Alaska is unique among all American states in that it is the only state with the potential for having boundaries with more than one foreign country (i.e. Canada and the Soviet Union); and

"Whereas, Boundaries with foreign countries and a state are, and ought to be, coterminous with America's national boundaries with those foreign countries; and

"Whereas, Negotiations are underway between the United States Department of State and government of the Soviet Union over setting boundaries between the United States and the Soviet Union, and there have been at least seven rounds of negotiations on this issue since 1981; and

"Whereas, The economic issues of petroleum, fishery, and other valuable resources have great impact on Alaska's welfare and prosperity; and

"Whereas, At no time has the United States Department of State allowed, or even offered to invite, a representative of the state government of Alaska to be on any negotiating delegation, nor has it formally solicited the input or advice of the state government of Alaska over the content or form of these negotiations; and

"Whereas, These negotiating delegations, which the United States Department of State has assembled, have included representatives of various other agencies of the federal government; and

"Whereas, It is settled procedure for negotiation of boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the proposed terms of the boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain in 1842 over the boundary between Canada and the State of Maine); and

"Whereas, A usurpation of one state's rights and sovereignty is an attack on the entire federal system of the United States of America; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to ensure that any terms and conditions of any boundary agreement with respect to Alaska's boundaries are consented to by the State of Alaska, and that any such boundary agreement is drafted in the form of a treaty for ratification by the United States Senate; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Governor of Alaska."

POM-334. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION NO. 53

"Whereas, Californians for Drug Free Youth, Inc., a statewide parent/community organization, and the California Department of Alcohol and Drug Programs are cosponsoring "Red Ribbon Week" October 25–31, 1987; and

"Whereas, schools, businesses, law enforcement, churches, hospitals, service clubs, government agencies, and individuals in the State of California will demonstrate their commitment for a drug-free society by wearing and displaying red ribbons during this weeklong campaign; and

"Whereas, The community of Sacramento has further committed its resources to ensure the success of the Red Ribbon Campaign; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the California State Legislature does hereby support the Red Ribbon Campaign, and the proclamation of October 25-31, 1987, as "Red Ribbon Week," and encourages the citizens of California to participate in drug awareness activities, making a visible statement that we are strongly committed to live a healthy life; and be it further

"Resolved, That the Legislature respectfully memorializes the President and the Congress of the United States to support the Red Ribbon Campaign and to proclaim October 25-31, 1987, as "Red Ribbon Week," and to encourage all citizens of the United States to participate in this drug awareness activity; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 574: A bill entitled the "Battle Mountain Pasture Restoration Act of 1987" (Rept. No. 100-194).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 575: A bill to convey public land to the Catholic Diocese of Reno/Las Vegas, Nevada (Rept. No. 100-195).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1366: A bill to provide for the transfer of certain lands in the State of Arizona, and for other purposes (Rept. No. 100-196).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

H.R. 2741: A bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games (Rept. No. 100-197).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANFORD:

S. 1760. A bill to authorize the Secretary of the Army and the Secretary of the Navy to convey certain real property to the State of North Carolina; to the Committee on Armed Services.

By Mr. DURENBERGER (for himself and Mr. DOLE):

S. 1761. A bill to amend the Internal Revenue Code of 1986 to provide that a decedent's spouse may enter into a cash lease of farm and other real property with family members and still qualify for the special estate tax valuation of the property; to the Committee on Finance.

By Mr. HEINZ:

S. 1762. A bill to amend title XVIII of the Social Security Act to require certain procedures to be followed by fiscal intermediaries in denying certain claims for home health services, to provide for notification of beneficiary rights with respect to home health services, post-hospital extended care services, and extended care services furnished under such title, and for other purposes; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. HEINZ, Mr. STAFFORD, and Mr. BOSCHWITZ):

S. 1763. A bill to direct the Secretary of Health and Human Services to promulgate fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1764. A bill to amend title 39 of the United States Code, to grant local governments the discretion to assign mailing addresses to sites within their jurisdiction; to the Committee on Governmental Affairs.

By Mr. MITCHELL:

S. 1765. A bill to amend title XVIII of the Social Security Act to provide payment for direct graduate medical costs related to nurse clinical training, to establish demonstration projects to provide payment on a prepaid capitated basis for community nursing and ambulatory care furnished to medicare beneficiaries, to amend titles XVIII and XIX of such Act to provide coverage for certain nursing services, and for other purposes; to the Committee on Finance.

By Mr. SARBANES:

S. 1766. A bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia; to the Committee on Rules and Administration.

By Mr. BURDICK (for himself, Mr. LEAHY, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. BAUCUS, Mr. SHELBY, Mr. PRYOR, Mr. HEFLIN, Mr. MCCLURE, Mr. COCHRAN, Mr. GRASSLEY, Mr. MELCHER, Mr. CONRAD, Mr. KARNES, Mr. WEICKER, Mr. BOND, Mr. DASCHLE, Mr. EXON, Mr. LUGAR, Mr. SYMMS, Mr. BOSCHWITZ, and Mr. WALLOP):

S. 1767. A bill to protect the environment and public health by reducing the levels of agricultural nitrogen in ground water and surface water; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for himself, Mr. DURENBERGER, Mrs. KASSEBAUM, Mr.

Rockefeller, Mr. McCain, Mr. Inouye, and Mr. Danforth):

S. 1768. A bill to amend title XVIII of the Social Security Act to ensure that medicare-dependent, small rural hospitals receive for a three-year period at least their reasonable costs for inpatient hospital services furnished under the medicare program; to the Committee on Finance.

By Mr. HECHT (for himself, Mr. Nunn, and Mr. Levin):

S.J. Res. 195. Joint resolution to designate the period commencing October 11, 1987, and ending October 17, 1987, as "National Angel Plane Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANFORD:

S. 1760. A bill to authorize the Secretary of the Army and the Secretary of the Navy to convey certain real property to the State of North Carolina; to the Committee on Armed Services.

CONVEYANCE OF CERTAIN REAL PROPERTY TO THE STATE OF NORTH CAROLINA

Mr. SANFORD. Mr. President, I rise to introduce legislation, authorizing the Secretary of the Army and the Secretary of the Navy to convey certain real property to the State of North Carolina. The property will be used for the creation of new State-operated veterans' cemeteries.

More than a half million veterans reside in the State of North Carolina. These men and women, like veterans everywhere, have earned the right to be buried in a veterans' cemetery. Unfortunately, the four existing national cemeteries in North Carolina are projected to be filled by 1992. Any veteran in the State wishing to be buried in a veterans' cemetery after that year would have to be buried in Alabama, the State closest to North Carolina with available space.

The effort to create three new cemeteries in North Carolina has broad support in the North Carolina House delegation and the State legislature. The work needed to create the cemeteries has almost been completed. The only step remaining to be taken is for the Senate to pass this bill to make the land available.

Mr. President, I respectfully request the support of my colleagues on behalf of North Carolina's veterans and all veterans across the country. The timely passage of this bill serves the Nation by honoring those who have given so much in her defense.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCES, FORT BRAGG AND CAMP LEJEUNE, NORTH CAROLINA

(a) Authority to Convey.—Subject to subsection (b)—

(1) the Secretary of the Army may convey, without consideration, to the State of North Carolina all right, title, and interest of the United States in and to approximately 51 acres of real property, with improvements thereon, located in the FARTC area of Ft. Bragg, North Carolina; and

(2) the Secretary of the Navy may convey, without consideration, to the State of North Carolina all right, title, and interest of the United States in and to approximately 50 acres of real property, with improvements thereon, located in the Montford Point/Camp Johnson area of Camp Lejeune, North Carolina.

(b) Conditions.—(1) The conveyances authorized by subsection (a) shall be subject to the condition that the property conveyed by the Secretary of the Army and the property conveyed by the Secretary of the Navy be used by the State to establish State veterans' cemeteries.

(2) If either of the properties conveyed pursuant to subsection (a) is not used for the purpose described in paragraph (1), all right, title, and interest in and to such property shall revert at no cost to the United States, which shall have the right of immediate entry thereon.

(c) Legal Description of Land.—The exact acreage and legal description of each of the properties to be conveyed under subsection (a) shall be determined by a survey that, in the case of the property referred to in clause (1) of such subsection, is satisfactory to the Secretary of the Army and, in the case of the property referred to in clause (2) of such subsection, is satisfactory to the Secretary of the Navy. The cost of such surveys shall be borne by the State.

(d) Additional Terms and Conditions.—The Secretary of the Army, with respect to the conveyance authorized by subsection (a)(1), and the Secretary of the Navy, with respect to the conveyance authorized by subsection (a)(2), may require such other terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

By Mr. DURENBERGER (for himself and Mr. Dole):

S. 1761. A bill to amend the Internal Revenue Code of 1986 to provide that a decedent's spouse may enter into a cash lease of farm and other real property with family members and still quality for the special estate tax valuation of the property; referred to the Committee on Finance.

AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986

Mr. DURENBERGER. Mr. President, I rise to introduce legislation that will redress an unfair estate tax penalty that is unwarranted and illogical, and is making it impossible for some families to hang on to their family farm.

I am pleased that the distinguished republican leader, Senator Bob Dole, is cosponsoring this remedial legislation.

Mr. President, in the Tax Reform Act of 1976, Congress recognized that if farm property is being used by family members before and after the death of the owner, it would be inappropriate to impose estate taxes based on a market value that does not reflect its value in its current use. In fact, to do so could result in forced liquidation of many family farms in order to pay Federal estate taxes.

Unfortunately, changes made in the law since 1976 haven't cleared up all the problems that remain.

For example, a family operating a farm in Jackson County, MN, face tax and penalties of several tens of thousands of dollars, which could mean the end of generations of ownership of that land. Because this widow rents the land to her son-in-law on a cash basis, rather than a share-rent lease as the law requires, they are disqualified for relief intended in section 2032A of the law.

Mr. President, It's unwarranted and illogical to require a widow in her seventies, who has never been involved with the actual farming operation while her husband was alive, to now become involved in the farming operation through a share-rent lease in order to qualify for the benefits intended by the law. A cash rent between a widow and one of her children should be all that is necessary to qualify.

I know for a fact that in Minnesota, when a widow cash rents her farm to one of her children, she is, in fact, taking just as much risk on crop prospects as if she had entered into a share rent lease.

I think we can be certain that if the crop fails in Minnesota, or Kansas, or Iowa or anywere else in the United States, the widow who is owed that rent is not going to exact every nickel of the rent due from her child. She is just as much at risk as if she entered into a share-rent agreement.

Mr. President, I hope we will include this legislation in our upcoming reconciliation bill. It is desperately needed relief for many farm families throughout the country who now face unwarranted recapture taxes and penalties simply for maintaining the cash rental agreements which existed prior to the death of the father or mother.

I ask unanimous consent that the text of the bill be inserted in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 2032A(c) of the Internal Revenue Code of 1954 (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), a spouse who acquired (or was passed) qualified real property from a decedent shall not be treated as ceasing to use such property for a qualified use solely by reason of entering into a cash lease of such property with a member of the spouse's family."

(b) The amendment made by subsection (a) shall apply to leases for periods after December 31, 1976, of qualified real property of decedents dying after December 31, 1976.

Mr. DOLE. Mr. President, I am pleased to join with the distinguished Senator from Minnesota [Mr. DURENBERGER] in introducing a technical correction to the estate tax rules which will help keep family farms in the family.

Back in 1976, Congress recognized that too many family farms had to be sold to pay estate taxes. The reason for this was that the estate tax laws required that a family farm had to be valued at its "highest and best use," which, in some cases greatly exceeded its value as an ongoing farm. For that reason, we enacted legislation to allow family farms to be valued as such for the purpose of calculating estate taxes.

We soon recognized that often a farmer would, as he got older, be forced to take a less active role in the farming operation and would rent the farm to one or more of his children. We, therefore, modified the rules in 1981 to make certain that a cash rent lease of this sort would not disqualify a farm from the special valuation rules.

This created a problem that we did not foresee at the time. We took care of the farmer who rented the farm out to a family member before he died. But we did nothing to help the situation where the farmer's widow was forced to enter into a similar lease after he died.

It does not take much imagination to think of a situation where a widow, who worked side by side on the farm with her husband for years, comes to a point where she needs the help of her children to run the farm and enters into a cash rent lease. I can see no reason to treat this situation less favorably than the situation we corrected in 1981. The farm is still in the immediate family and the widow is as dependent on its fortunes as she was when she operated the farm herself.

I hope that our colleagues will carefully review this remedial legislation. I am sure that they will come to the same conclusion as Senator DURENBERGER and I did. This measure should have been included in the original legislation and deserves to be enacted now.

By Mr. HEINZ:

S. 1762. A bill to amend title XVIII of the Social Security Act to require certain procedures to be followed by fiscal intermediaries in denying certain claims for home health services, to provide for notification of beneficiary rights with respect to home health services, posthospital extended care services, and extended care services furnished under such title, and for other purposes; to the Committee on Finance.

MEDICARE ACCESS PROTECTION ACT

Mr. HEINZ. Mr. President, today my colleague in the House, Congressman CLAUDE PEPPER and I are introducing legislation to vaccinate the Medicare home health industry against unwarranted "medical denials."

For the past year I've seen a disease infect the Medicare home health program—the disease of pennypinching over pound prudence. Home health agencies have had reimbursements for critical services denied on the grounds that a patient was not "homebound" or that the care was not "intermittent."

Mr. President, the issue here is more than hair splitting over a definition of terms. At issue here is the health and well-being of 31 million aged and disabled Americans under Medicare.

The new Medicare payment system for hospitals—the DRG's—have added a whole new dimension to the already traditionally significant role of home health care providers. These care givers have become the front line M-A-S-H teams, nursing thousand of casualties in both the Congress and the administration's war against escalating hospital expenses. The home health industry has geared up to treat the growing volume of sicker patients. And for their efforts have experienced the frustrations of what I see as arbitrary, confusing and even illegal decisions by the administration to deny payments for these increasingly critical services.

There is something wrong with the way the home care system is operating when payment is denied for cases like Harvey Sims. Harvey is a 71-year-old constitutent of mine who has undergone a total larngectomy for cancer. Legally blind and deaf, living alone, Mr. Sims received home health services to help him learn to care for his stoma. His care was denied because his brother assisted him to his doctor's office for treatments and thus he was declared not to be "homebound."

Congress saw through this type of denial, saw them as an attempt to defy the spirit of the law in an effort to scimp on spending. And we have acted to do something about it.

First, legislation I introduced this spring, the Home Care Protection Act, S. 961, will improve access and reimbursements by clarifying the definition of intermittent to include care provided up to 7 days a week, for more than one visit per day. The bill also expands the number of days of care covered from 21 to 60. A modified version of the proposal is included in the catastrophic bill before the Senate.

Second, Senator BRADLEY and I, have cosponsored the Medicare Home Services Improvement Act of 1987, S. 1076. Among its many access and quality provisions, this bill clearly defines "homebound" as a condition which restricts an individual's ability to leave home without substantial support.

But in the face of congressional action to cure the disease of denial, the Health Care Financing Administration has introduced a mutant strain of the virus. So-called Medical denials have replaced technical denials as a reason to cut costs.

Another constituent of mine, Ruth Gillespe, was a victim of this new variation of denials. Ms. Gillespe suffers from a number of painful and debilitating conditions, including osteoathritis, Parkinson's disease, hypertension, and reoccurring urinary tract infections. She has been hospitalized at least six times in the past year. Her regime of medications is complex. Her personal care needs are demanding. Her dependency on skilled medical assistance to just maintain her fragile health is blatently evident even to the untrained eye. Yet reimbursement for Ms. Gillespe's care was denied on the basis of the unsupported and undocument allegations that it was not "medically necessary."

Mr. President, the bill I am introducing today would call the administration's bluff on medical denials. The key provisions of the bill would require full disclosure of the reasons for a claim denial and that a physician review appealed claims that were denied for reasons of medical necessity. Under current regulation, nurses employed by the fiscal intermediary evaluate claims to determine whether or not they are appropriate.

Prompt notification—within 45 days—of the results of an appealed claim would also be required under this bill, as would a biannual consultation between the fiscal intermediaries and providers, consumers and personnel from the Health Care Financing Administration. These consultations hopefully would eliminate some of the confusion over interpretation of regulations and provide a forum for airing gripes and suggestions for program improvement.

Finally, Mr. President, the home care denial bill would require the fiscal intermediaries and home health agencies to distribute a notice of beneficiary coverage under the Medicare Home Health Program and an explanation of the appeals rights and procedure.

Congress must take every appropriate action to assure Medicare beneficiaries access to the high quality home health care they have paid for and deserve. Our challenge is clear and I ask for my colleages' support with passage of this legislation.

By Mr. CRANSTON (for himself, Mr. HEINZ, Mr. STAFFORD, and Mr. BOSCHWITZ):

S. 1763. A bill to direct the Secretary of Health and Human Services to promulgate fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

REDUCING FIRES CAUSED BY CIGARETTES

Mr. CRANSTON. Mr. President, most people do not realize that year after year cigarette fires are the No. 1 cause of residential fire deaths in the United States. This growing tragedy lies hidden for a very simple reason: Cigarette fires cause death and destruction without fanfare, without making the headlines in our daily newspapers. Because large numbers of lives usually are not lost in any one location at any one time, it is difficult to grasp fully the widespread devastation in terms of lost family members and damaged property that these fires cause.

In 1985, the most recent year for which the U.S. Fire Administration has compiled data, there were a total of 48,300 residential structural fires associated with cigarettes. These fires resulted in 1,640 civilian deaths, 3,980 civilian injuries, and $319.2 million of destroyed property. There were also thousands of nonresidential fires associated with cigarettes during that year.

More and more people are recognizing that cigarette fires pose a serious safety hazard and are an unacceptable risk, especially insofar as a solution is clearly within reach. I commend the many state efforts, including my home State of California, to grapple with the problem. However, cigarette fires are not confined to any region of this country. It is a national problem that demands a national solution.

Mr. President, in order to address the problem of cigarette-ignited residential fires, I sponsored legislation in the 96th, 97th, and 98th Congresses that would direct the Consumer Product Safety Commission [CPSC] to establish performance standards ensuring that cigarettes and little cigars have a minimum capacity for igniting upholstered furniture and mattresses. That legislation was never enacted.

However, in order to address the Tobacco Institute's claim that a less fire-prone cigarette was infeasible, I joined Senator HEINZ in introducing legislation, S. 1935, in the 98th Congress that established an Interagency Cigarette Safety Task Force to conduct studies and make recommendations concerning the technical and economic feasibility of developing less fire-prone cigarettes and little cigars. The bill specified that representatives of the Tobacco Institute, as well as private individuals, were to participate in the feasibility studies. S. 1935 passed both Houses and was enacted in 1984.

Mr. President, I have recently received a draft of the final report of the technical study group established by S. 1935. According to that report, it is technically feasible to develop cigarettes that will have a significantly reduced propensity to ignite upholstered furniture or mattresses. The report notes that the characteristics which reduce the ignition propensity of the cigarette included: reduced circumference, lower density tobacco, less porous paper, and the reduction of certain chemicals in the paper. The report also delineates the further technical research which is necessary to develop performance standards for less fire-prone cigarettes.

Mr. President, now that we know that a less fire-prone cigarette is feasible, I am reintroducing legislation that will mandate the development of performance standards for less fire-prone cigarettes and will require cigarette manufacturers to comply with such standards. I am pleased to be joined by the Senator from Pennsylvania [Mr. HEINZ], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Vermont [Mr. STAFFORD], in introducing this legislation which is being introduced in the House today by Representative MOAKLEY.

Mr. President, this is not an antismoking bill. It is legislation directed at a proven safety hazard.

This legislation which I am introducing today is substantially similar to that which I have introduced previously. It differs from my earlier bills in that the authority to develop the standards is given to the Department of Health and Human Services [HHS], Food and Drug Administration [FDA], rather than the CPSC. This change was made because the FDA appears to have the necessary resources to complete the technical research and develop the standard for fire safe cigarettes.

In sum, Mr. President, the time has come for Congress to take a simple step to address the leading cause of residential fires. My bill directs the Secretary of HHS to seek the advice and expertise of the National Bureau of Standards and other Federal and State agencies engaged in fire safety in developing standards for less fire-prone cigarettes, and to take into account the results of the feasibility study. The bill further stipulates that the Secretary shall issue the standards for fire safe cigarettes within 1 year of the date of enactment, and shall set an effective date for the standards not later than 2 years after the date of enactment. In addition, Mr. President, my bill states that the standards shall be developed in accordance with the Administrative Procedures Act, provides for judicial review, and clarifies that the standards developed pursuant to this bill shall not preempt any State law that prescribes more stringent standards for fire safe cigarettes.

Mr. President, this is a reasonable measure in light of the lives that may be saved and the property damage that can be avoided if cigarette manufacturers are required to produce less fire-prone cigarettes. This time is long overdue for Congress to turn the spotlight on this unpublicized killer and to get the tobacco industry to halt this needless loss of life and property. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "An Act to Reduce Fires Caused by Cigarettes".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(2) CIGARETTE.—The term "cigarette" has the meaning prescribed by section 3 of the Federal Cigarette Labeling and Advertising Act.

SEC. 3. FIRE SAFETY STANDARDS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall by rule issue a fire safety standard for cigarettes to reduce the risk of ignition presented by cigarettes.

(b) CRITERIA.—In establishing the standard the Secretary shall—

(1) consult with the National Bureau of Standards and seek the advice and expertise of other Federal and State agencies engaged in fire safety; and

(2) take into account the findings in the report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1974 (15 U.S.C. 2054 note).

(c) PROCEDURE.—The rule under subsection (a) shall be issued—

(1) in accordance with section 553 of title 5, United States Code, except that if the rule is significantly different from the recommendations of the Technical Study Group on Cigarette and Little Cigar Fire Safety pursuant to the Cigarette Safety Act of 1984 (15 U.S.C. 2054 note), the Secretary shall include in the statement required under subsection (c) of section 553, an explanation of the reasons for the difference; and

(2) without regard for the requirements of Executive Order 12291.

(d) EFFECTIVE DATE.—The Secretary shall prescribe the effective date of the standard issued under subsection (a), except that such date may not be later than 2 years after the date of the enactment of this Act.

(e) STOCKPILING.—

(1) IN GENERAL.—The Secretary shall prohibit a manufacturer of cigarettes from stockpiling cigarettes that are subject to the standards issued under subsection (a).

(2) DEFINITION.—For purposes of this subsection, the term "stockpile" means the

manufacturing or importing of a cigarette between the date a standard is issued under subsection (a) and the date the standard is to take effect, at a rate greater than the rate the cigarettes were manufactured or imported for the 1 year period ending on the date the standard was issued.

(f) Judicial Review.—

(1) Court of appeals.—

(A) In general.—Any person who is adversely affected by the standard issued under subsection (a) may, at any time before the 60th day after the Secretary issues the standard, file a petition with the United States Court of Appeals for the District of Columbia Circuit, or for any other circuit in which such person resides or has its principal place of business, to obtain judicial review of the standard.

(B) Notification of Secretary.—A copy of the petition filed under subparagraph (A) shall be promptly transmitted by the clerk of the court to the Secretary.

(C) Record of proceedings.—The Secretary shall file in the court the record of the proceedings on which the Secretary based the standard as provided in section 2112 of title 28, United States Code.

(2) Additional evidence.—

(A) Hearing.—If the petitioner applies to the court for leave to discover additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to discover such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary in a hearing or in such other manner, and on such terms and conditions, as the court deems proper.

(B) Modification of findings.—The Secretary may modify the prior findings as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file such modified or new findings, and the recommendations of the Secretary, if any, for the modification of the standard.

(3) Review of standards.—On the filing of a petition under paragraph (1), the court shall have jurisdiction to review the standard of the Secretary, as modified, in accordance with chapter 7 of title 5, United States Code.

(g) Implementation.—The Secretary carry out this Act through the Food and Drug Administration.

SEC. 4. ENFORCEMENT.

(a) Prohibition.—No person may manufacture or import a cigarette unless the cigarette is in compliance with a fire safety standard issued under section 3(a).

(b) Penalty.—A violation of subsection (a) shall be considered a violation of section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331).

SEC. 5. PREEMPTION.

This Act does not preempt any law of a State or political subdivision of a State that prescribes a fire safety standard for cigarettes that are more stringent than the standard prescribed under section 3(a).

SEC. 6. DEFENSES.

In any civil action for damages, compliance with the fire safety standard promulgated under section 3(a) may not be admitted as a defense.

● Mr. HEINZ. Mr. President, I rise today with my colleague Senator Cranston to introduce legislation to create a fire-safe cigarette.

Four years ago Senator Cranston, Representative Moakley, and I asked our colleagues in the Congress to move forward with legislation which could save thousands of lives and millions of dollars each year. We wanted a bill to develop and enforce manufacturing specifications for tobacco companies to reduce the risk of a cigarette igniting fabric.

As chairman of the Senate Special Committee on Aging, I had learned at a committee hearing that cigarettes are the number one cause of fire deaths in this country. In 1984, 67,000 cigarette-ignited fires resulted in 1,570 deaths, 7,000 serious injuries and $390 million in property damage. I am particularly concerned that older Americans are two to three times more likely than other age groups to die in home fires.

For over two decades, fire safety efforts have focused on making mattresses and upholstery more flame-retardant. Both of these industries are to be applauded for their dedication to developing and applying life-saving standards. But until we make the cigarette itself less likely to start a fire, we've broken the match but not extinguished the flame.

Our efforts in 1983 and early 1984 met with stiff opposition from the tocacco industry and its lobbying groups. Tobacco companies argued that having at least two fire-safe cigarettes on the market did not prove that all cigarettes could be reasonably produced to meet safety standards.

So we engineered a compromise and in October 1980 mandated an interagency committee to study the technical and commercial feasibility of fire-safe cigarettes. That study is now complete. The Government, industry, and consumer experts who participated in this effort conclude that a fire-safe cigarette is indeed technologically feasible and can be produced at minimal additional costs.

Mr. President, I think we've paid a high price to prove the obvious. We've invested 3 years, lost almost 5,000 lives, and over $1 billion in property for official confirmation that a fire-safe cigarette can be manufactured and marketed at a cost that is certainly less than the potential benefit to society.

The legislation Senator Cranston and I are introducing today—and the companion bill to be introduced by Congressman Moakley, is long overdue. All that now stands between the public and a fire-safe cigarette is the willingness of Congress to act. It is possible, profitable and prudent for the tobacco industry to support this effort and I would urge its full cooperation.

Mr. President, the "act to reduce fires caused by cigarettes" will require the Food and Drug Administration to issue and enforce a fire safety standard for cigarettes within 2 years from the date of enactment.

We've mandated seat belts and safety standards for cribs and high-chairs. We require inspections for food purity and declarations for potential carcinogens. America is a health- and safety-conscious nation. It is unconscionable that we continue to ignore one of the greatest public threats of all—a lit cigarette with the potential to maim, kill, and destroy.●

By Mr. BRADLEY (for himself and Mr. Lautenberg):

S. 1764. A bill to amend title 39 of the United States Code to grant local governments the discretion to assign mailing addresses to sites within their jurisdiction; to the Committee on Governmental Affairs.

LOCATABLE ADDRESS LEGISLATION

● Mr. BRADLEY. Mr. President, I rise today to introduce the locatable address bill, which would enable municipalities to designate addresses for all the sites within their jurisdictions. Joining me in introducing the legislation is my colleague from New Jersey, Mr. Lautenberg. Identical legislation has been introduced in the House by Congressman Saxton. I believe this legislation will improve emergency services in many small townships in my State and around the country.

Mr. President, under current law, the Postal Service has the responsibility for determining addresses. The postal address, which is based on postal delivery routes, is often vague and confusing. This creates many problems for communities, particularly those in rural areas. One problem occurs when regional emergency services try to respond to a crisis. There have been cases where emergency personnel were delayed in arriving on the scene of a serious accident because an insufficient home address—such as a road with no house number or a rural delivery address that cuts across municipal lines—was the only address available to the rescue squad. For example, a constituent of mine in Southampton Township, NJ, who was badly burned in an accident did not receive prompt medical attention because emergency personnel had trouble finding the man's home. The postal address was insufficient for the rescue squad to rapidly respond to the call for help.

Mr. President, another problem is that the current system sacrifices community identity for the sake of the bureaucratic efficiency of ZIP Codes. In areas where a small town is located near and served by a larger municipality's post office, the name of the larger municipality may serve as the smaller town's "town name" on its mailing address.

I have been contacted by many municipalities in New Jersey suffering from this identity crisis. An example, Mr. President, is Little Egg Harbor Township, which is losing its identity because the entire township has a mailing address of Tuckerton—simply because they are served by a post office in Tuckerton Borough. Another example is the growing township of Branchburg, where there is constant frustration because mail must be addressed to the borough of Somerville. Along with mail delivery problems, township officials in Branchburg have explained to me their difficulties in communicating to outsiders that they are not part of Somerville, as their postal address implies.

Other examples abound. The South Jersey community of Westhampton is served by five larger neighboring towns; imagine, a town of 6,000 has five different town names for mail delivery purposes. Need I tell you that confusion abounds? The township of Aberdeen has no ZIP Code and mail is handled by three neighboring towns; local officials have discussed their concerns with me, including the difficulty in planning township-wide events because, not surprisingly, there is little sense of community.

Mr. President, some have argued that this legislation would wreak havoc with the Nation's post offices. I disagree. This legislation does not require the establishment of separate post offices or changes in mail delivery routes. It only gives local political units the authority to designate local street and town addresses. We need to give municipalities the right to exercise greater home rule—for the sake of the community and for the safety of its residents. I believe this legislation does just that, and I urge my colleagues to give consideration to this small but important piece of legislation.●

By Mr. MITCHELL:

S. 1765. A bill to amend title XVIII of the Social Security Act to provide payment for direct graduate medical costs related to nurse clinical training, to establish demonstration projects to provide payment on a prepaid capitated basis for community nursing and ambulatory care furnished to medicare beneficiaries, to amend titles XVIII and XIX of such act to provide coverage for certain nursing services, and for other purposes; to the Committee on Finance.

NURSING MANPOWER SHORTAGE ACT

● Mr. MITCHELL. Mr. President, today I introduce a bill that would address the growing shortage of registered nurses in this Nation's hospitals, nursing homes and other health care facilities. This shortage has an especially great effect on the elderly and disabled because of their high need for nursing care and the critical shortage of nurses with special training and competency in geriatrics and rehabilitation.

There have been several occasions in the past 20 years that there was an anticipated or actual shortage of nurses. In each of those instances, the apparent shortage was resolved with little or no Federal intervention. Unfortunately the current situation is different, both qualitatively and quantitatively. It is very unlikely that the situation will be significantly improved without fundamental changes in both the pay and status of professional nurses.

The facts are disconcerting. The number of hospitals reporting vacancies in nursing more than doubled between 1985 and 1986. More than a quarter of all hospitals had nursing vacancy rates exceeding 15 percent. Further the shortage appears to widespread in terms of geography and of both specialty and basic nursing. Nursing home, emergency rooms, and outpatient facilities are also feeling the effects of the shortage.

Unfortunately the shortage appears to be growing and the future looks even worse. The decline in both the length of stay and admission rate to hospitals appears to have reached a plateau. Further changing demographics will result in a significant increase in the number of elderly, especially in the oldest age group who are also the highest users of nursing services. As a result the Bureau of Labor statistics has predicted a 33-percent increase in the number of positions for registered nurses in the next decade.

In the face of this increased demand, the supply of nurses is, paradoxically, undergoing a steep decline. Admissions to all types of professional nursing programs fell in 1986, with baccalaureate programs declining 7 percent, associate degree programs by 10 percent and diploma programs by nearly 20 percent. These rates for 1986 represent an acceleration of the rate of decline that has existed for 5 years.

Even more disturbing are surveys that reveal that a decreasing number of women in high schools and colleges see nursing as a likely or desirable career choice. And this decrease in the proportion interested in nursing is occuring during a period in which the absolute number of students entering high schools and college is, and will continue to, decline.

There are those who feel there is no real shortage, that women trained in nursing do not fully participate in the labor force. However a recent study revealed that nearly 80 percent of all nurses were active in the labor force, as compared to 55 percent of all women. While there is some room for attempts to increase the participation of nurses in the labor force, such efforts, even if successful, will not solve the problem.

The reasons for the growing shortage are many. They will not yield to quick fixes. Nursing is almost exclusively a profession of women. As barriers to women in many areas of employment are removed, there has been a major increase in other careers open to women. The relatively low pay and status of nurses in our health care system has resulted in women choosing careers in medicine, business, or law, rather than nursing.

It is likely that market forces will result in at least a partial resolution of the problem of relatively low pay. This adjustment will be difficult, coming as it does at a time of fiscal restraint in reimbursement for health care services. However, higher income is only a part of the solution. We must take other steps to enhance the status of the nurse.

It is toward that end that I introduce legislation to provide reimbursement and encouragement for nurses to use the full range of skills and knowledge that they gain in their professional training. In addition, the legislation provides incentives to enhance opportunities for nurses to receive advanced clinical training.

Before discussing the specifics of the proposed legislation, I would like to note that this legislation is meant to complement the legislation introduced earlier in the year by Senator KENNEDY, myself, and other Members of the Senate. The earlier legislation was directed at the recruitment of nurses at the entry level and the creation of innovative hospital nursing practices. The intent of this legislation is to assist in the process of creating a clinically related career ladder for nurses, and to enhance the attractiveness of nursing as a career especially in relation to the care of the elderly and disabled.

I. MEDICARE SUPPORT FOR NURSING CLINICAL TRAINING

One of the most difficult problems in the provision of adequate clinical education for nurses is the lack of reimbursement for advanced clinical education equivalent to that available to physician trainees. A significant number of persons, both in and out of nursing feel that one result of this lack of reimbursement has been an underemphasis on clinical training in nursing education. In addition, the lack of a defined and appropriately supported clinical career path for nurses has resulted in a loss of attractiveness of nursing as a career.

The provisions in this legislation would establish for nursing education an opportunity similar to that extended to medical education.

First, expenses for the clinical training of nursing students for a master's degree or higher level degree would be recognized as an allowable cost in the graduate medical education pass through in the Medicare hospital payment system. This would be in addition to the current Medicare reimbursement for nursing education.

Second, only time spent in the clinical setting in the direct care of patients would be recognized for purposes of reimbursement.

Third, the number of such positions would be limited to no more than one full-time equivalent [FTE] student per 10 hospital beds in any institution.

Fourth, as with the training of physicians, time spent in ambulatory care facilities, including nursing homes, would be recognized for purposes of reimbursement.

Fifth, reimbursent for students in programs leading to a degree or certification as a geriatric nurse practitioner or gerontological nurse specialist would be reimbursed at 1.5 FTE, while other trainees would be recognized at 1.0 FTE for the first year of such training, and 0.50 for the second. No one individual could receive more than 2 years—or 24 months—of clinical training under these provisions.

Sixth, each hospital seeking reimbursement under this provision would be required to have a contract with one or more schools of nursing or other entity accredited to provide a master's or doctoral degree in nursing.

Seventh, costs related to the direct clinical teaching may be included as direct costs of education.

Eighth, the total cost per FTE may not exceed $20,000 per year in 1988, adjusted in future years by the CPI.

II. HOME AND COMMUNITY BASED NURSING ORGANIZATIONS

BACKGROUND

One of the issues raised by those concerned about the future of nursing is the lack of opportunities for nurses to practice nursing in an environment of cooperation and equality, rather than as an adjunct to the physician. This provision is a refinement of a concept first introduced by Senators INOUYE, PACKWOOD, and DECONCINI in 1983 and more recently by Senator CHAFEE.

The Secretary shall designate at least seven sites as demonstration projects for community nursing centers. Such centers would provide services under the supervision of a registered nurse, including at least those services provided by certified home health care agencies, as well as case management. Reimbursement for these services would be on a capitated basis.

III. NURSING HOME SERVICES BY CERTIFIED NURSE PRACTITIONERS

First. Certified Nurse Practitioners would be eligible, as consistent with State law, to provide nursing and medical services in Medicare Certified Nursing Homes. Nurses providing those services must have a written agreement with a physician to provide those services that are restricted by State law to physicians.

Second. Reimbursement would be at a rate of 85 percent of that provided to a physician for the same service code. However, the Secretary of Health and Human Services would conduct a study of the relative complexity of services provided by nurses and physicians in the same setting. Such services would be subject to the same regulations as for currently defined physician services.

Third. The Secretary shall specify that each State plan for participation in Medicaid must contain a provision specifying the eligibility of CNP's to participate in medical care in nursing homes. Such plans shall be consistent with State law, but may not be more restrictive than provisions in relevant State law dealing with nursing practice in nursing homes—or if not specifically mentioned than in general or in hospitals.

Fourth. For both Medicare and Medicaid certified nursing homes, certified nurse practitioners shall be eligible to certify, or recertify, the need for nursing home services.

IV. DIRECT REIMBURSEMENT FOR CERTAIN MEDICARE SERVICES

In order to provide less costly services and at the same time enhance the career pathway of nurses, Senator INOUYE has introduced similar legislation in the past which provides for direct reimbursement for nurse midwives and pediatric nurse practitioners. While the number of children or pregnancies under Medicare is small, the principle is important since a number of other insurors follow the lead of Medicare—although in this regard, a number of insurors and HMO's already use and/or provide for reimbursement of NP's.

Services for certified pediatric nurse practitioners and nurse midwives, as permissible under the appropriate State laws, would be directly reimbursed, under a fee schedule set at 85 percent of the applicable prevailing fee for the same services provided by a physician.

V. STUDY OF THE EFFECTS OF CURRENT MEDICARE REIMBURSEMENT AND MEDICAID/MEDICARE REGULATION OF HOSPITALS AND NURSING HOMES

BACKGROUND

One of the limits on an expanded role for nurses may be, in part, the result of Medicare or Medicaid rules for staffing in hospitals or nursing homes. Current Medicare policies of reimbursement for nursing services under PPS or part B of Medicare may be retarding development of the field. We propose a study of the issue by a private not-for-profit entity to review what further changes might be made in Medicare or Medicaid to enhance nursing recruitment and retention.

The Secretary is directed to issue a request for proposal for a grant or contract with a private not-for-profit entity, with funds appropriated as needed from the Hospital Insurance Trust Fund, to study and make recommendations identifying existing barriers or specifying new policies that should be instituted, in Medicare or Medicaid regulations or reimbursement policies. The Secretary will issue the RFP by January 1, 1988 with a study completion date of October 1, 1989.●

By Mr. SARBANES:

S. 1766. A bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia; to the Committee on Rules and Administration.

ESTABLISHMENT OF A MEMORIAL TO MAHATMA GANDHI

● Mr. SARBANES. Mr. President, I am introducing legislation today to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia. The Indian American Forum, a nonpartisan educational organization, was established in 1982 and is the only national organization solely designed for the political education of American citizens and residents of Asian-Indian origin. The forum has now taken on the responsibility of placing a statue of Mahatma Gandhi in Washington, DC. The project will be entirely funded by private contributions and will be a simple but powerful statement about the extraordinary life and achievements of Gandhi.

Forty years after his tragic death, Mahatma Gandhi remains one of the most revered world leaders of this century. He spent his life as a relentless champion of human rights and human dignity everywhere. He helped sow the seeds of freedom following World War II. Through his unshakeable faith in the power of nonviolent struggle, he inspired the civil rights movement in this country under the leadership of Dr. Martin Luther King, Jr.

Gandhi's intellectual relationship with this country is well documented. During his second imprisonment in South Africa in 1907, he read Henry David Thoreau's "Civil Disobedience" and studied the works of Ralph Waldo Emerson. These readings provided the basis for the formulation of his philosophy of creative nonviolence. In 1949, the 81st Congress passed a resolution memorializing Gandhi which cited his "selfless devotion to peace" and stated that Gandhi's life should "awaken and keep alive in people everywhere the sense of their individual dignity and independence, as well as an abhorrence for civil, religious, and communal strife anywhere."

The Indian American Forum for Political Education is dedicated to spearheading the effort to raise funds for the Gandhi memorial. Gandhi's principles guide and direct the forum in its goal of providing opportunities for learning various aspects of issues affecting individuals of Indian origin residing in the United States. I commend the forum for its dedication to building the Gandhi memorial, and I urge my colleagues in the Senate to join in this effort to provide an appropriate memorial to one of the great leaders of the 20th century.●

By Mr. BURDICK (for himself, Mr. LEAHY, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. BAUCUS, Mr. SHELBY, Mr. PRYOR, Mr. HEFLIN, Mr. MCCLURE, Mr. COCHRAN, Mr. GRASSLEY, Mr. MELCHER, Mr. CONRAD, Mr. KARNES, Mr. WEICKER, Mr. BOND, Mr. DASCHLE, Mr. EXON, Mr. LUGAR, Mr. SYMMS, Mr. BOSCHWITZ, and Mr. WALLOP):

S. 1767. A bill to protect the environment and public health by reducing the levels of agricultural nitrogen in ground water and surface water; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL NITROGEN MANAGEMENT ACT

● Mr. BURDICK. Mr. President, today I am introducing the Agricultural Nitrogen Management Act of 1987.

I am very pleased that Senator LEAHY, the chairman of the Agriculture Committee, is joining me in introducing this important legislation.

Other cosponsors of the bill include Senators MOYNIHAN, DURENBERGER, BAUCUS, SHELBY, PRYOR, HEFLIN, MCCLURE, COCHRAN, GRASSLEY, MELCHER, CONRAD, KARNES, WEICKER, BOND, DASCHLE, EXON, LUGAR, SYMMS, BOSCHWITZ, and WALLOP.

I am also introducing this legislation as an amendment to S. 1105, the Ground Water Research Act of 1987.

The Agricultural Nitrogen Management Act is intended to protect public health and the environment by reducing the levels of agricultural nitrogen in surface water and ground water.

The bill would establish an Agricultural Nitrogen Best Management Practices Task Force. The task force will develop best management practices for agricultural nitrogen utilization in crop production and for protection of public health and surface and ground water quality. The task force will also develop educational and training materials and disseminate these materials to farmers.

The Agricultural Nitrogen Best Management Practices Task Force would include representatives of the Department of Agriculture including the Administrators of the Agriculture Research Service, the Soil Conservation Service, the Agricultural Stabilization and Conservation Service, and the Extension Service.

In addition, the task force would include representatives from the Environmental Protection Agency, the National Fertilizer Development Center of TVA, fertilizer retailers, the U.S. Geological Survey, and National Academy of Sciences.

Because we must rely on our farmers to implement agricultural nitrogen best management practices, the bill provides that the task force include a farmer-representative. The farmer-representative is to be selected by the Secretary of Agriculture.

This legislation asks our Nation's agricultural producers, the fertilizer industry, scientists, and others to work together to develop methods of reducing the levels of agricultural nitrogen in surface water and ground water.

I am convinced that many of the water quality problems associated with agricultural nitrogen can be prevented right from the start through increased education, public information, and the adoption of agricultural best management practices. This legislation is an important step toward an effective prevention program.

I am very pleased to report that my bill is endorsed by the Fertilizer Institute.

I urge my colleagues to give this important legislation their full support.●

● Mr. LEAHY. Mr. President, I am pleased to join Senator BURDICK as a cosponsor of the Agricultural Nitrogen Management Act of 1987.

The ultimate goal of this legislation is to promote "best management practices" that minimize the impact of agricultural nitrogen, such as commercial fertilizer, on ground and surface water. An Agricultural Nitrogen Best Management Practices Task Force would be created and charged with researching and developing these practices for crop production and disseminating their findings to farmers. The task force would report the results to Congress in 12 months.

The rising level of nitrogen/nitrates in the water supply of some areas of the United States is caused in part by the methods farmers use to produce crops. One source of contamination is inorganic nitrogen fertilizers use, which doubled on a per-acre basis between 1965 and 1984. Studies have shown that a significant percentage of nitrogen applied on certain soil types is not taken up by plants and is leaching into ground water. Tillage and irrigation practices may also contribute to increased nitrate levels.

Last year farmers spent $7 billion on fertilizer. The purpose of this legislation is to educate our producers about the most efficient use of agricultural nitrogen, which will save them money and help protect the quality of our water supply.

The U.S. Department of Agriculture, using data compiled by the U.S. Geological Survey, estimates that over 7 million people are using water from sources potentially contaminated by nitrates. Approximately 5 percent of the counties surveyed had wells showing nitrogen/nitrate concentration in excess of the Federal drinking water standard. While a few documented human health risks have been directly attributed to nitrates, some proportion of nitrates is converted to nitrites once ingested. Nitrites can then combine with other substances to produce nitrosamine, a potent carcinogen. The key to minimizing this risk is preventing nitrates from leaching into ground water.

The research and education on best management practices that would be conducted under this measure are a significant first step toward preventing contamination of our water resources. I believe that the best management practices in S. 1419, the Ground Water Safety Act, will be equally effective in preventing pesticide contamination of ground water. We must provide our producers with up-to-date information to help them make wiser production decisions that protect the quality of our Nation's water resources.

I urge my colleagues to support the Agricultural Nitrogen Management Act.●

By Mr. DOLE (for himself, Mr. DURENBERGER, Mrs. KASSEBAUM, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. INOUYE, and Mr. DANFORTH):

S. 1768. A bill to amend title XVIII of the Social Security Act to ensure that medicare-dependent, small rural hospitals receive for a 3-year period at least their reasonable costs for inpatient hospital services furnished under the Medicare Program; to the Committee on Finance.

REASONABLE SUPPORT FOR MEDICARE SERVICES PROVIDED BY RURAL HOSPITALS

Mr. DOLE. Mr. President, today, joined by a number of my colleagues, I am introducing legislation which will provide a measure of support to some of our small rural hospitals. A similar bill has been introduced on the House side by my colleague from Kansas, Congressman PAT ROBERTS.

When we first put the Medicare prospective payment system into place we acknowledged that this new system might well have a negative impact on certain institutions, including rural hospitals. These hospitals tend to be smaller, have fewer patients, lower costs, fewer specialized areas, and often serve a population older than average.

A payment system like the DRG system which is based on averages just doesn't work for these hospitals. They face the combined problem of having too few patients most of which are costly.

We have in years since the enactment of the DRG system agreed to a number of changes designed to assist these hospitals, but for some, it just hasn't been enough. And as those of you from rural areas know, many of our communities cannot afford to lose their hospitals as they provide the only reasonably accessible health services.

Our legislation simply helps those hospitals of 50 beds or less, in which medicare patients comprise at least 70 percent of their discharges. We would, for a period of 3 years, ensure that these institutions receive in payment at least their reasonable costs.

The solution we propose, which arguably moves us away from the prospective payment system, is not a perfect answer to the problem. It is for this reason that we have provided for a sunset of the provision. The 3 years the provision is in place will give us an opportunity to examine more carefully how we might do away with the current payment bias against rural institutions thereby insuring that our citizens in rural communities will have access to services in the future.

Mr. President, the bill has a very small cost associated with it of $5 million per year. Compared to the entire Medicare budget this is a small amount, but critical to those few hospitals, approximately 100 nationwide, who might qualify. We cannot allow our rural health care system to decline. This is a small step in an effort to prevent that from occurring.

Mr. President, I ask, unanimous consent that the full text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. ENSURING ADEQUATE PAYMENTS FOR INPATIENT HOSPITAL SERVICES FURNISHED BY MEDICARE-DEPENDENT, SMALL, RURAL HOSPITALS.

(a) In General.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

"(G)(i) For cost reporting periods beginning after September 30, 1987, and ending before October 1, 1990, the Secretary shall provide for an additional payment amount for each medicare-dependent, small, rural hospital (as defined in clause (ii)) to ensure that the total of the payments made to the hospital under this section (including this clause) for any such cost reporting period is at least equal to the reasonable costs associated with the hospital's operating costs of inpatient hospital services for that period. In determining the reasonable costs of a hospital under the previous sentence, limitations under section 1861(v) on such cost shall not apply. In the case of a hospital receiving payments on a periodic interim basis under section 1815(e)(1) and entitled to additional payment amounts under this subparagraph, such additional payment amounts shall be included in the payments made under section 1815(e)(1).

"(ii) In clause (i), the term 'medicare-dependent, small, rural hospital' means, for a cost reporting period with respect to which such clause applies, a subsection (d) hospital—

"(I) that is located in a rural area (as defined in subsection (d)(2)(D)) and has no more than 50 beds; and

"(II) for which period at least 70 percent of inpatient hospital services (determined, at the hospital's option, on a per diem basis or on a discharge basis) are attributable to inpatients who are entitled to benefits under part A.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

● Mr. DURENBERGER. Mr. President, I am pleased and honored to join the distinguished Republican leader in sponsoring this vitally important legislation.

Senator Dole has called attention to the precarious financial position of many of our smallest rural hospitals which results from their service to Medicare beneficiaries and their dependency upon the Medicare prospective payment system. That system continues to discriminate against rural hospitals by paying lower rates for an inpatient service in a rural hospital than paid for the same service in an urban hospital. Because of their small size and the large number of Medicare beneficiaries, these hospitals are unable to compensate adequately for the low Medicare payment provided for each case. They cannot take advantage of the "law of large numbers" so crucial to the implementation of a fair payment system.

This bill, as well as proposals which I and others have introduced during this session, provide important, concrete solutions to problems faced by a few hospitals in desperate need. For the next 3 years, this bill provides that rural hospitals with no more than 50 beds and with at least 70 percent of its inpatients being Medicare beneficiaries, would be paid at least the reasonable costs of care rendered. This measure is necessary to assure that these hospitals, so critical to the health of the communities which they serve, will not face financial disaster due to unfair Medicare payment policies.

I view this bill as providing necessary, short term relief. It will enable us to work toward the overall objective of eliminating the payment bias toward rural hospitals. There are numerous other rural hospitals which will not obtain assistance through this legislation yet will continue to feel the effects of inequitable Medicare payments. Many of these hospitals may be forced to close their doors unless we move quickly to correct Medicare payment problems.

The financial viability of our rural hospitals is directly tied to the equity of the Medicare system. We must continue to push for reducing the gap between urban and rural payments. This year, for example, I am calling for a Medicare rural hospital update of at least 4 percent above the urban update. And I have proposed that the entire differential in the rural/urban standardized payment rate be eliminated completely over the next 3 years.

Time is running out. We must act quickly to assure Medicare beneficiaries and other residents of rural areas that unfair policies will not decrease the quality and availability of health care. I urge my colleagues to join Senator Dole and me in supporting this legislation which is so important to the health of rural America.●

By Mr. HECHT (for himself, Mr. Nunn, and Mr. Levin):

S.J. Res. 195. Joint resolution to designate the period commencing October 11, 1987, and ending October 17, 1987, as "National Angel Plane Week"; to the Committee on the Judiciary.

NATIONAL ANGEL PLANE WEEK

Mr. HECHT. Mr. President, today, I am introducing a joint resolution to proclaim the week of October 11-17, 1987 "National Angel Plane Week." I am pleased to be joined by my colleagues, Senators Nunn and Levin, in honoring this very worthwhile and admirable organization.

Mr. President, Angel Planes is a national group of individual airline pilots who provide transportation, at no cost, to people living in rural America who are in need of urgent medical attention. In many instances, emergency assistance is impossible to find, yet, the Angel Planes are there to provide transport when none is available. And, while their efforts are aimed at transporting those in need of medical care, Angel Plane pilots also carry blood supplies and donor organs to hospitals for patients in need.

Inasmuch as the State of Nevada is the home of the founding chapter, as well as Angel Plane's national headquarters, I am greatly honored to bring attention to the worthwhile and charitable activities of a truly outstanding group of individual pilots.

Mr. President, in conjunction with the upcoming national convention of the Angel Planes, which will be held in Nevada on October 18, 1987, it is fitting that Congress acknowledge the tremendous contribution that the members of this organization have made, and are making, to help their fellow Americans.

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. Moynihan, the names of the Senator from Illinois [Mr. Simon], and the Senator from Michigan [Mr. Riegle] were added as cosponsors of S. 27, a bill to establish the American Conservation Corps, and for other purposes.

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 567

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 567, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1075

At the request of Mr. LAUTENBERG, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1075, a bill to require the processing of applications from Cuban nationals for refugee status and immigrant visas.

S. 1199

At the request of Mr. LAUTENBERG, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1199, a bill to prevent suicide by youth.

S. 1676

At the request of Mr. DECONCINI, the names of the Senator from Tennessee [Mr. SASSER], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 1676, a bill to amend the Comprehensive Crime Control Act of 1984 to provide for an orderly transition into sentencing with guidelines and for other purposes.

S. 1686

At the request of Mr. GRASSLEY, the names of the Senator from Idaho [Mr. MCCLURE], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1686, a bill to amend the Internal Revenue Code of 1986 to defer the tax consequences of the repayment of a Commodity Credit Corporation loan with a generic commodity certificate.

S. 1713

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1713, a bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture to make advance deficiency payment for the 1988 through 1990 crop years for certain crops.

SENATE JOINT RESOLUTION 105

At the request of Mr. LAUTENBERG, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from Texas [Mr. GRAMM], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 105, a joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 125

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Joint Resolution 125, a joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week."

SENATE JOINT RESOLUTION 170

At the request of Mr. ROTH, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 170, a joint resolution designating the month of September 1988 as "National Ceramic Arts Month."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. STEVENS, the names of the Senator from California [Mr. CRANSTON], the Senator from Delaware [Mr. ROTH], the Senator from Illinois [Mr. SIMON], the Senator from Oregon [Mr. PACKWOOD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from North Carolina [Mr. SANFORD], the Senator from Connecticut [Mr. DODD], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 246

At the request of Mr. MOYNIHAN, the names of the Senator from Utah [Mr. GARN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

AMENDMENTS SUBMITTED

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

GRASSLEY (AND OTHERS) AMENDMENT NO. 883

Mr. GRASSLEY (for himself, Mr. SIMON, and Mr. MOYNIHAN) proposed an amendment to the bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes; as follows:

On page 111, after line 21, add the following new title:

TITLE VII—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

SEC. 701. FINDINGS.

The Congress finds that—

(1) on December 19, 1986, the Forty-first Session of the United Nations General Assembly approved major reforms in the budget decisionmaking process, the administration, and the management of the United Nations;

(2) President Reagan characterized this achievement as "an historic step to adopt sweeping reforms of its organization and methods of operation";

(3) the United States Permanent Representative to the United Nations, Ambassador Vernon Walters, has stated that the adoption of these reforms is "the beginning, not the end, of a process of reforming and improving the United Nations in the interests of all its members";

(4) the cooperation of many other member states of the United Nations as well as the United Nations Secretary General was indispensable to this historic accomplishment;

(5) the United Nations (of which the United States is a member by treaty) was established for the purposes, as enunciated in the Charter, of maintaining international peace and security, developing friendly relations among nations based on respect to equal rights and self-determinations, achieving international cooperation in solving economic, social, cultural, and humanitarian problems, and promoting respect for human rights;

(6) the United Nations has also, on occasion, strayed from its original purposes and has served as a forum for irresponsible rhetoric and politicization, such as the adoption by the General Assembly in 1975 of Resolution 3379 equating Zionism with racism;

(7) in spite of such grave lapses, the United States remains committed to the United Nations and the purposes of the Charter, not only as a member of the United Nations and one of its earliest leaders and supporters, but also as host to the United Nations headquarters;

(8) testament to the continued relevance of the United Nation's purposes and principles can be found in the President's addresses to the United Nations General Assembly, in which he declared that "the vision of the United Nations Charter—to spare succeeding generations this scourge of war—remains real" and that the United States, "which has always given the United Nations generous support, will continue to play a leading role in the effort to achieve its noble purposes"; and

(9) this is an appropriate time for the United States public and its representatives in Congress to participate in the ongoing United Nations reform process and to recommend means of making that institution more effective and responsible, consistent with the national interests of the United States.

SEC. 702. ESTABLISHMENT OF COMMISSION.

The United States Commission on Improving the Effectiveness of the United Nations (hereafter in this title referred to as the "Commission") is hereby established.

SEC. 703. PURPOSES OF THE COMMISSION.

(a) PURPOSES.—The purposes of the Commission shall be to—

(1) examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses; and

(2) prepare and submit to the President and to the Congress recommendations on ways to improve the effectiveness of the United Nations system and the role of the United States in the United Nations system, including the feasibility of and means for implementing such recommendations.

(b) SPECIAL ATTENTION.—In carrying out its responsibilities under subsection (a), the Commission shall pay special attention to the following:

(1) The mechanisms and procedures within the United Nations system for peacekeeping and conflict-resolution and ways in which they may be expanded or improved, examining in particular the functions of the Secretary General, the role of the Security Council, the use of the International Court of Justice, potential third-party dispute-solving mechanisms (as in the establishment of a United Nations Mediation and Conciliation Service), the possible creation of standing United Nations peacekeeping forces or antiterrorism units, the role of United Nations institutions in factfinding, and potential verification and inspection services to assist in enforcing compliance with international arms control agreements.

(2) Formal and informal decisionmaking procedures in the United Nations system and recommendations to modify those procedures which have emerged from various interested parties, examining in particular the role of consensus decisionmaking, the feasibility and advisability of weighted voting (including the so-called "binding triad" formula requiring multiple concurrent majorities based on one-nation-one-vote along with population and contributions), the possible modification of the Security Council veto, and the relationship of the principles of universality and democracy to decisionmaking procedures.

(3) The cost-effectiveness and administrative efficiency of the United Nations system, examining in particular the recently adopted budgetary, management, and administrative reforms, the role of the major donors in budget decisionmaking, the prioritization of programs, adjustments in assessments, potential alternative nongovernmental sources of revenue, salaries, benefits, hiring of consultants, contracts for goods and services, and appointment of staff in the Secretariat.

(4) The economic, social, humanitarian role of the United Nations system, examining in particular the optimum coordination of economic development programs, short-term and long-term response to crises and natural disasters, population health issues, refugee relief, the protection of the environment, narcotics control, the implementation of international human rights law, and the potential creation of a United Nations High Commissioner for Human Rights.

(5) United States participation in the United Nations system, examining in particular the strengths and weaknesses of United States performance, United States policy toward the International Court of Justice and international law, provisions in United States law relating to the United Nations system, ways in which the United States can better use the United Nations system to advance its national interests, the state of public opinion with regard to the United States role in the United Nations system, United States voluntary and assessed contributions, and the hiring of United States citizens in the United Nations system.

(6) Strategies and actions for promoting the implementation of recommended reforms in the United Nations system and the United States role in the United Nations system.

(c) CONSULTATION REGARDING OTHER UNITED NATIONS REFORM EFFORTS.—In carrying out this section, the Commission shall make every effort to consult, where appropriate, with other public and private institutions and organizations engaged in efforts to reform the United Nations system, including efforts being made directly under the auspices of the United Nations.

SEC. 704. MEMBERSHIP OF THE COMMISSION.

(a) MEMBERS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 18 members, appointed as follows:

(A) Two Members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the minority leader of the Senate.

(B) Two Members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the minority leader of the House.

(C) Eight individuals from the private sector, two appointed by the President pro tempore of the Senate, two appointed by the minority leader of the Senate, two appointed by the Speaker of the House, and two appointed by the minority leader of the House.

(D) Six individuals appointed by the President, not more than three of whom may be from the same political party.

(2) CRITERION FOR APPOINTMENTS.—Individuals appointed pursuant to subparagraphs (C) and (D) of paragraph (1) shall be representative, to the maximum extent possible, of the full range of American society.

(3) APPOINTMENTS TO BE MADE PROMPTLY.—All appointments pursuant to paragraph (1) shall be made not later than sixty days after the date of enactment of this Act.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(b) ADVISORS.—Former United States Permanent Representatives to the United Nations who are not appointed to the Commission shall be invited by the Commission to serve as advisors to the Commission.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission, and Advisors serving pursuant to subsection (b), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Chairman and Vice Chairman shall be elected by the Commission from among members of the Commission.

(e) QUORUM.—Ten members of the Commission shall constitute a quorum for purposes of transacting business, except that four members shall constitute a quorum for holding public hearings.

SEC. 705. POWERS OF THE COMMISSION.

(a) IN GENERAL.—For the purpose of carrying out this title, the Commission may hold such hearings (subject to the requirements of subsection (b)) and sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to fulfill the purposes specified in section 703. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) MEETINGS.—

(1) MINIMUM NUMBER OF PUBLIC HEARINGS.—The Commission shall hold a minimum of five public hearings.

(2) OPEN MEETINGS.—Section 552b of title 5 of the United States Code shall apply with respect to the Commission.

(3) CALLING MEETINGS.—The Commission shall meet at the call of the Chairman of a majority of its members.

(c) DELEGATION OF AUTHORITY.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of any such Federal agency shall furnish such information to the Commission, to the extent authorized by law.

SEC. 706. STAFF.

(a) STAFF MEMBERS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for Level V of the Executive Schedule under section 5316 of title 5, United States Code;

(2) appoint and fix the compensation of such other staff personnel as the Chairman considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) DETAILING OF GOVERNMENT PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out this title.

SEC. 707. REPORT.

The Commission shall transmit to the President and to the Congress a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, including minority views. This report shall be transmitted not later than eighteen months after the date on which all members of the Commission have been appointed.

SEC. 708. FUNDING FOR THE COMMISSION.

(a) COMMISSION TO BE PRIVATELY FUNDED.—The Commission may accept and use contributions from private United States sources to carry out this title. No

Federal funds may be made available to the Commission for use in carrying out this title.

(b) Limitation on Size of Contributions.—The Commission may not accept contributions from any single source which have a value of more than—

(1) $100,000, or

(2) 20 percent of the total of all contributions accepted by the Commission.

(c) Commission Approval of Certain Contributions.—The Commission may accept contributions having a value of $1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions.

(d) Disclosure of Contributions.—

(1) Periodic reports to congress.—Every thirty days, the Commission shall submit to the chairman of the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding thirty days.

(2) Final Report.—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 707.

SEC. 709. GENERAL ACCOUNTING OFFICE AUDITS OF THE COMMISSION.

The provisions of subchapter II of chapter 7 of title 31 of the United States Code (relating to the general duties and powers of the General Accounting Office) shall apply with respect to the programs and activities of the Commission, including the receipt, disbursement, and use of funds contributed to the Commission, to the same extent as those provisions apply with respect to other agencies of the United States Government.

SEC. 710. TERMINATION OF THE COMMISSION.

The Commission shall cease to exist sixty days after submitting its report pursuant to section 707.

HEINZ (AND OTHERS) AMENDMENT NO. 884

Mr. HEINZ (for himself, Mr. Cohen, Mr. Boren, Mr. Kasten, Mr. Quayle, Mr. McCain, Mr. Nickles, Mr. Symms, and Mr. Helms) proposed an amendment to the bill S. 1394, supra; as follows:

At the end of the bill, add the following new section:

Sec. . (a) The Congress finds that the use of salary remission arrangements whereunder the nationals of member states of the United Nations serving as employees of the United Nations Secretariat or its specialized agencies are required to turn over their salaries to their national governments and retain only a portion of the salary paid to them by the United Nations violates the United Nations Charter and seriously compromises the independence of the United Nations' international civil service.

(b) The elimination of salary remission arrangements that compromise the independence of the international civil service should be a high priority of the United States in its efforts to reform the personnel practices of the United Nations system.

(c) Fifty percent of the funds made available for the fiscal year 1988 by any provision of law to meet the obligations of the United States for assessed contributions to the United Nations and its specialized agencies may not be obligated until the President certifies to the Congress that significant progress has been made within the United Nations Secretariat and the United Nations specialized agencies in eliminating—

(1) the excessive use of secondment by member states whereunder nationals of the member states serving as employees of the United Nations Secretariat are seconded to such employment on fixed-term contracts and not allowed to become regular career employees of the United Nations, with a view to implementing the recommendations of the Group of 18 with respect to limits on the use of secondment; and

(2) the blatant control of nationals of member states serving as employees of the United Nations Secretariat or the specialized agencies through regular supervision, consultation, and evaluation of such nationals of member states by their permanent missions to the United Nations or to the specialized agencies of the United Nations.

ROTH (AND DOLE) AMENDMENT NO. 885

Mr. ROTH (for himself and Mr. Dole) proposed an amendment to the bill S. 1394, supra; as follows:

At the end of title V, add the following:

Sec. . The Foreign Missions Act (22 U.S.C. 4301 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION TO CERTAIN COMMUNIST COUNTRIES

"Sec. 215. (a) Notwithstanding any other provision of this title, the Secretary shall apply to each foreign mission in the United States of the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Rumania, and Cuba the same terms, limitations, restrictions, and conditions which are applied under this title to the foreign mission in the United States of the Soviet Union unless the President determines and so reports in a classified document to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that national security and foreign policy circumstances require that this section be waived in specific circumstances with respect to such country or particular agency of such country.

"(b) The Secretary shall prepare and transmit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report describing—

"(1) not later than thirty days after the date of the enactment of this section, the plans of the Secretary for implementing this section; and

"(2) not later than six months thereafter, the actions taken pursuant to these plans.".

HATFIELD (AND OTHERS) AMENDMENT NO. 886

Mr. HATFIELD (for himself, Mr. Pell, Mr. Boschwitz, Mr. Evans, Mr. Stafford, Mr. Kasten, Mr. Helms, Ms. Mikulski, Mr. Dodd, and Mr. Glenn) proposed an amendment to the bill S. 1394, supra; as follows:

On page 111, after line 21, add the following title:

TITLE VII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SHORT TITLE

Sec. 701. This Title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

CONGRESSIONAL FINDINGS

Sec. 702. The Congress finds that—

(1) the continued occupation of Cambodia by Vietnam and the instability of the governments of Vietnam, Cambodia, and Laos have led to a steady flight of refugees from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) because of our past military and political involvement in the region, the United States has a continued, special responsibility to the persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) in view of this special responsibility, the United States has placed a special priority on the resettlement and protection needs of the Indochinese refugees;

(4) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand, have been the front line countries bearing tremendous burdens caused by the flight of these refugees, distinguishing themselves as the leaders of an unprecedented humanitarian response to the plight of Indochinese refugees;

(5) largely in response to a lessened commitment among resettlement countries to the refugees of the region, these countries of first asylum have recently taken steps to close refugee camps. Such camp closings would seriously undermine the continuation of a human refugee policy and are inimical to the resolution of refugee problems in the region;

(6) the United States bears a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of unnecessarily slow and complex resettlement procedures; prolonged and often questionable adjudications in humanitarian parole, immigration and refugee cases; failure to implement effective policies for the region's "long-stayer" populations; failure to adequately monitor refugee protection and screening systems along the Thai-Cambodian and Thai-Laotian borders; a policy of allocating admissions numbers to "carryover" refugees approved in previous years rather than qualified new cases; and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure for refugees from that country, including Amerasians and long-held "re-education camp" prisoners;

(7) the United Nations High Commissioner for Refugees (UNHCR) shares responsibility for the hardening of attitudes in first asylum countries. The UNHCR should be pressed to upgrade its staff presence and level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region; to pursue voluntary repatriation possibilities, but only in cases where monitoring is available and the safety of the refugees assured; and

(8) given the serious protection problems in Southeast Asian first asylum countries, and the need to preserve first asylum in the region, the United States must renew its commitment to an ongoing, generous refugee resettlement and protection program

for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved.

CONGRESSIONAL FINDINGS ON INDOCHINESE REFUGEE PROCESSING

SEC. 703. The Congress finds that—

(1) there have been numerous diplomatic problems arising from inconsistent refugee processing by the Immigration and Naturalization Service, most recently with respect to processing of Cambodian refugees at Khao I Dang, and also to the processing of Lowland Lao;

(2) there have been questionable documentation requirements of Indochinese refugees by the INS, leading to unjust adjudications to the detriment of deserving refugee cases;

(3) there have been historic problems with INS staffing commitments in the region, frequently precipitating delays and necessitating the assignment of temporary duty officers who lack expertise in Indochinese refugee processing;

(4) while the overall approval rates of Indochinese refugees has been acceptable, it has been achieved at the expense of multitudes of rejected cases which are contributing to a growing "long stayer" population in the region;

(5) the INS is an immigration service and is not well-suited to the sensitive area of refugee processing, particularly as it involves the fulfillment of commitments made by the Secretary of State in the conduct of United States foreign policy; and

(6) Given the longstanding problems associated with INS processing, dating back to the disturbing INS performance in 1982-83 which led to the issuance of National Security Decision Directive Number 93 and to new INS processing guidelines, the United States must consider the possibility of denying the INS any further role in the processing of refugees.

REPORTING REQUIREMENT

SEC. 704. The President shall submit a report within 120 days of enactment of this Act assessing the merit of transferring the authority to admit all refugees under the Immigration and Nationality Act from the Attorney General to the Secretary of State.

ALLOCATIONS OF REFUGEE ADMISSIONS.

SEC. 705. (a) Given the existing connection between ongoing resettlement and the preservation of first asylum, and to provide a stable and secure environment for refugees while dialogue is pursued on other long-range solutions, including voluntary repatriation and local settlement, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps, and

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), a number of admissions allocated in a fiscal year under priorities II and III of the Program (as defined in the Department of State Bureau of Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be at least 1,500.

LONG-STAYER RESETTLEMENT

(b)(1) It is the sense of the Congress that Indochinese refugees who have lived in camps for three years or longer are of special humanitarian concern to the United States and should be considered as eligible for refugee processing. Under the leadership of the United States, renewed international efforts should be made to resettle these long-stayers, as proposed in the Report of the Secretary of State's Indochinese Refugee Panel in April, 1986.

ALLOCATION OF EDUCATIONAL ASSISTANCE FOR THAILAND

SEC. 706. Section 105 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) Of the amounts authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1988 and 1989 may be available for educational programs, projects, or activities along the Thai-Laotian border and the Thai-Cambodian border which are carried out by Thai or other non-governmental organizations in conjunction with relief organizations and civilian camp leadership."

ALLOCATION OF ECONOMIC SUPPORT FUND ASSISTANCE FOR THAILAND

SEC. 707. Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is amended by adding at the end thereof the following new section:

"SEC. 536. ALLOCATION FOR THAILAND.—(a) The Congress finds that many Thai residents of villages located near the border with Laos and Cambodia have been adversely affected by artillery shelling and refugee migrations.

"(b) Of the amounts authorized to be appropriated to carry out this chapter for the fiscal years 1988 and 1989, $5,000,000 for each such fiscal year may be available to provide financial assistance for Thai villages affected by Indochinese refugee camps."

ALLOCATION OF INTERNATIONAL MILITARY EDUCATION AND TRAINING ASSISTANCE FOR THAILAND

SEC. 708. Chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) is amended by adding at the end thereof the following new section:

"SEC. 546. ALLOCATION FOR THAILAND.—Of the amounts to be appropriated to carry out this chapter for the fiscal year 1988 and 1989, $2,000,000 for each such fiscal years may be available to train and deploy the Royal Thai Army to protect Indochinese refugees and those in refugee-like situations in Thailand.".

POLICY TOWARD PROTECTION OF REFUGEE CAMPS

SEC. 709. It is the sense of the Congress that the international community should increase its efforts to assure that Indochinese refugee camps are protected and that international observers and relief personnel should be present on a twenty-four hours a day basis at camp "Site 2" and any other camp where it is deemed necessary.

McCAIN (AND DOLE) AMENDMENT NO. 887

Mr. McCAIN (for himself and Mr. DOLE) proposed an amendment to the bill S. 1394, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. 517. SENSE OF THE CONGRESS TOWARD A PARTIAL LIFTING OF THE TRADE EMBARGO AGAINST NICARAGUA.

SENSE OF CONGRESS.—It is the sense of Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua's independent print and broadcast media, private sector and trade union groups, non-governmental service organizations, and the democratic civic opposition.

METZENBAUM (AND OTHERS) AMENDMENT NO. 888

Mr. METZENBAUM (for himself, Mr. DODD, and Mr. KERRY) proposed an amendment to the bill S. 1394, supra; as follows:

On page 58, between lines 22 and 23, insert the following:

(C) CONTINUATION OF SLOVENIAN BROADCASTS.—The voice of America shall use such funds as may be necessary in order to provide, on a daily basis, broadcasts in the Slovenian language.

CONRAD AMENDMENT NO. 889

Mr. CONRAD proposed an amendment to the bill S. 1394, supra; as follows:

On page 111, between lines 16 and 17, insert the following:

SEC. 812. SENSE OF CONGRESS RELATING TO SUPPORT OF MUTUAL DEFENSE ALLIANCES.

(a) FINDINGS.—Congress makes the following findings.

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends more than $100,000,000,000 annually to provide the defense umbrella for the allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and Japan is not commensurate with their economic resources, and, as a result, the United States is forced to bear a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its GNP on defense.

(5) The greatest weakness in the ability of the United States to provide for the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(6) The level of Federal spending must be reduced in order to reduce the Federal budget deficit and revitalize the economy.

(7) The continued unwillingness of the allies of the United States to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) POLICY.—It is the sense of Congress that—

(1) the President should enter into negotiations with countries which participate in mutual defense alliances with the United

States, especially the member nations of NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliance;

(2) the objective of such negotiations with the member Nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; and

(3) the President should report to Congress, within one year after the date of the enactment of this Act, on the progress of such negotiations.

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

BIDEN AMENDMENT NO. 890

Mr. BIDEN proposed an amendment to the bill S. 1394, supra; as follows:

(1) Participating Agencies.

On page 79:

After line 8, insert the following:

"(8) the Director of the United States Geological Survey; (9) the Secretary of Enemy; and".

On line 8, delete the word "and".

On line 9, change "8" to "10".

(2) Advisory Role.

On page 79:

On line 14, after "Relations" and a semicolon add "the Committee on Commerce, Science and Transportation;"

On line 16, after "Affairs" add a semicolon and "the Committee on Science and Technology;"

On line 18, after "Force" delete the period and add a comma and "along with any other Members designated by the majority and minority leaders of the Senate and the Speaker of the House of Representatives."

(3) Chairman and Vice-Chairman

On page 78:

On line 18, delete the comma and "who shall serve as Chairman".

On line 21, delete the commas and "who shall serve as Vice Chairman and Executive Director for Research".

On line 17, after "of" insert; "the following, from among whom the President shall designate a Chairman and a Vice-Chairman".

(4) Causes of Global Warming.

On page 77:

On line 6, after "may" insert a comma and "in combination with deforestation,".

On line 21, after "pollution" insert "and deforestation".

PRYOR AMENDMENT NO. 891

Mr. PRYOR proposed an amendment to the bill S. 1394, supra; as follows:

On page 111, after line 22, add the following new title:

TITLE VII—MUNITIONS CONTROL ACT OF 1987

SHORT TITLE

SECTION 701. This title may of cited as the "Arms Export Control Enforcement and Coordination Act of 1987".

EXPORT LICENSES

SEC. 702. Section 38 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(g)(1)(A)(i) The Agency shall develop appropriate mechanisms to identify in connection with the export licensing process—

"(I) persons who have been indicted for or convicted of violations of this Act, the Export Administration Act of 1979, the Espionage Act, the Trading with the Enemy Act, the Foreign Assets Control Act, or

"(II) persons who have been indicted for or convicted of conspiracy to violate any of the statutes described in this subparagraph, and

"(III) persons who are ineligible to contract with or receive export or import licenses from any agency of the United States Government.

"(ii) The Agency shall require that each applicant for a license to export an item from the United States Munitions List shall identify in his application all parites to the proposed export.

"(B) If the Agency has reasonable cause to believe that an applicant or party to the export has violated any of the status cited in subparagraph (A) or has been indicted for violations of any of the statutes cited in subparagraph (A), the Agency may disapprove the application. The Agency shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

"(C) No person may be issued a license to export an item covered by the United States Munitions List if—

"(i) such person or any party to the export has been convicted of violating a statute referred to in subparagraph (A), or such person or any party to the export is at the time of the license review ineligible to contract with or receive export or import licenses from an agency of the United States Government, except as may be determined on a case-by-case basis by the Agency, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to contract and a finding by the Agency that appropriate steps have been taken to mitigate any law enforcement concerns; or

"(ii) such person is a foreign person, except in cases in which an export has been agreed to under Foreign Military Sales authority.

"(2) The agency shall have the authority to require an export license (or other authorization) for any item on the United States Munitions List before it is sold to, provided to, or taken possession by a foreign person or a person acting on behalf of a foreign person.

"(3) The President shall direct the Secretary of State, the Secretary of Defense, and the Secretary of Treasury to detail personnel with appropriate expertise to the Agency to assist in the initial screening of applications for export licenses under this section for the purpose of determining the need for further review of such applications for foreign policy, national security, and law enforcement concerns.

"(4) For purposes of this subsection—

"(A) the term 'Agency' means the United States Government agency charged with administration of this section;

"(B) the term 'foreign person' means any person who is not a citizen or national of the United States or a person lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act, and such term includes foreign corporations and their United States subsidiaries, international organizations, foreign governments, and any agency or subdivision of foreign governments, including diplomatic missions and embassies;

"(C) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities; and

"(D) the term 'party to an export' means any employee of, consultant to, or agent for the person requesting the export license who is involved in the sales or marketing of items covered by the United States Munitions List, any person that exports or causes to be exported the item or items being exported, and the end user of the item or items."

REGISTRATION

SEC. 703. Section 38(b)(1) of the Arms Export Control Act is amended—

(1) by inserting "(A)" immediately after "(1)"; and

(2) by adding at the end thereof the following new paragraph:

"(B) A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. Reports on such concerns shall be made to the Agency as may be deemed necessary."

BINGAMAN (AND DOMENICI) AMENDMENT NO. 892

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill S. 1394, supra; as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. 517. LATIN AMERICAN AND CARIBBEAN DATA BASES.

(a) The Secretary of State, in consultation with the appropriate departments and agencies of the United States, may maintain data bases on the Latin American and Caribbean region. In developing these data bases the State Department shall be required to satisfy the following conditions:

(1) Any new contractual agreement entered into for purposes of this section shall be subject to full and open competition among qualified United States institutions with strong Latin American and Caribbean programs; and

(2) The Secretary of State shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

(b) Contracts made under subsection (a) shall be subject to the availability of appropriations.

ROTH (AND DOLE) AMENDMENT NO. 893

Mr. ROTH (for himself and Mr. DOLE) proposed an amendment to the bill S. 1394, supra; as follows:

SECTION. 1. That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by any provision of law shall be available for undertaking any additional construction activity on any project planned or underway in any Communist-controlled country until 30 days after—

(1) receipt by the Congress of a detailed report submitted by the Secretary of State and approved by the Directors of the Central Intelligence Agency, Defense Intelligence Agency, and National Security Agency, on any such project. Such report shall include—

(A) an evaluation of all security-related factors which must be and are being considered in the planning and implementation of such project; and

(B) how any existing and potential security related issues and problems are being addressed in the planning and implementation of such project; and

(2) receipt by the Congress of a certification made by the President that appropriate and adequate steps have been taken to ensure that the project may proceed without undue risk that American security interests will be compromised thereby.

SEC. 2. Neither the Department of State, nor any other Executive department or agency engaged in negotiations with the government of any Communist-controlled country for the construction of diplomatic or other official facilities in such countries, shall make any binding commitments on behalf of the United States in regard to such projects, or similar projects of such country in the United States, until a report such as is described in Section 1 shall be submitted to the Congress.

CHAFEE (AND OTHERS) AMENDMENT NO. 894

Mr. CHAFEE (for himself, Mr. PELL, Mr. MOYNIHAN, Mr. HEINZ, Mr. CRANSTON, Mr. STAFFORD, Ms. MIKULSKI, Mr. GORE, Mr. MATSUNAGA, Mr. SIMON, Mr. ADAMS, and Mr. MELCHER) as proposed an amendment to the bill S. 1394, supra; as follows:

At the end of the bill, add the following:

(a) Section 245A(a)(2) of the Immigration and Nationality Act is amended by adding at the end thereof the following new subparagraph:

"(D) CONTINUOUS RESIDENCE NOT REQUIRED FOR SPOUSE AND CHILDREN OF QUALIFIED ALIENS.—Subparagraphs (A), (B), and (C) shall not apply to an alien who is the spouse or child of an individual otherwise qualifying for adjustment of status under this subsection."

NATIONAL PROGRAM OF GROUND WATER RESEARCH

BURDICK AMENDMENT NO. 895

(Ordered referred to the Committee on Environment and Public Works)

Mr. BURDICK submitted an amendment intended to be proposed by him to the bill (S. 1105) to authorize a national program of ground water research; as follows:

On page 71, line 10, insert the following new section:

AGRICULTURAL NITROGEN MANAGEMENT

SEC. 302(a). AGRICULTURAL NITROGEN BEST MANAGEMENT TASK FORCE—

(1) PURPOSE.—The purpose of this section is to protect public health and the environment through development of educational programs on agricultural best management practices to minimize nitrogen losses from all potential agricultural sources and practices.

(2) FINDINGS.—The Congress finds that—

(A) efficient plant uptake of nutrients is essential to maximize the farmer's return on investment and to minimize nutrient losses from erosion and leaching;

(B) sound irrigation water management is essential to protecting public health and the environment, as agriculture is the largest single consumer of water in rural America, with irrigation used on more than 41,000,000 acres;

(C) selection of the proper combination of agricultural best management practices will help farmers reduce the effect of agricultural practices on ground and surface water quality through the judicious use of plant nutrients;

(D) technology and education on soil and tissue testing, in managing both economic and environmental concerns of agriculture, deserve renewed emphasis in view of changing farmer needs;

(E) least-cost production strategies continue to offer the best long-term hope for sustaining American agriculture; and

(F) farmers must be fully informed to ensure that nutrient applications are both agronomically and environmentally sound.

(3) ESTABLISHMENT.—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall establish an Agricultural Nitrogen Best Management Practices Task Force consisting of—

(A) the Administrator of the Agriculture Research Service;

(B) the Administrator of the Extension Service;

(C) the Chief of the Soil Conservation Service;

(D) the Administrator of the Agriculture Stabilization and Conservation Service;

(E) the Administrator of the Cooperative State Research Service;

(F) the Manager of the National Fertilizer Development Center, Tennessee Valley Authority;

(G) the Chief of the Nonpoint Source Program, Environmental Protection Agency;

(H) the Director of the Office of Ground Water Protection, Environmental Protection Agency;

(I) a representative of the United States Geological Survey;

(J) an individual selected by the Board of Agriculture of the National Research Council of the National Academy of Science;

(K) a representative of fertilizer retailers nationwide, to be selected by the Secretary of Agriculture; and

(L) a representative of farmers nationwide, to be selected by the Secretary of Agriculture.

(4) FUNCTIONS.—The task force shall—

(A) develop agricultural best management practices for agricultural nitrogen utilization in crop production and protection of public health and surface and ground water quality;

(B) develop educational and training material including slide presentations, brochures, and video tapes; and

(C) disseminate the educational materials to American farmers through appropriate means, including—

(i) county Agricultural Soil Conservation Service offices, and county soil and water conservation district offices;

(ii) extension agents; and

(iii) state agencies.

(5) REPORT.—The task force shall report back to Congress 1 year after the date of the enactment of this Act on the progress of its efforts. The report shall include a description of—

(A) the agricultural best management practices developed, with particular emphasis on practices to minimize the impact of agricultural nitrogen on ground water and surface water quality;

(B) material developed to promote agricultural best management practices;

(C) the strategy for dissemination;

(D) the number of farmers exposed to the information; and

(E) the number of farmers adopting agricultural best management practices.

(6) DEFINITIONS.—For the purpose of this section—

(A) the term "agricultural nitrogen" means nitrogen in all forms which may be present and available for crop production (whether natural, physical, man-made, chemical or biological) including nitrogen supplied by leguminous plants (such as soybeans and alfalfa), animal manures, decaying leaves and other vegetation, commercial fertilizers, human and industrial sewage, precipitation, dustfall, soil and soil bacteria; and

(B) the term "agricultural best management practices" means management practices designed to protect public health and to reduce or prevent contamination of ground water and surface water and erosion and runoff from cropland, including, but not limited to, use of conversion tillage, no-till, ridge planting, strip tillage, contour farming, strip cropping, irrigation water management, judicious fertilizer application, slow-release fertilizers, soil and tissue testing and vegetative buffer strips.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act such sums as may be necessary for each of the first five fiscal years beginning after the date of the enactment of this Act.

(b) NONPOINT SOURCE MANAGMENT PROGRAMS.—

(1) STATE REPORTS AND MANAGEMENT PROGRAMS.—Section 319(c) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(3) CONSULTATION REQUIREMENT.—Any approved management program and report required by subsection (b) shall be made available to the Agricultural Nitrogen Best Management Practices Task Force established by section 302(a)(3) of the Ground Water Research Act of 1987.".

(2) REPORTS OF THE ADMINISTRATOR OF EPA.—Section 319(m)(2) of such Act is amended by adding at the end thereof the following new paragraph:

"In preparing reports under this paragraph, the Administrator shall consider the report of the Agricultural Nitrogen Best Management Practices Task Force required under section 302(a)(3) of the Ground Water Research Act of 1987.".

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

PRESSLER AMENDMENT NO. 896

Mr. PRESSLER proposed an amendment to the bill (S. 1394) supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PURCHASING AND LEASING OF OVERSEAS RESIDENCES.

(a) FINDINGS.—1. The Congress finds that annual lease costs to the U.S. Government for leasing the official residences of U.S. Ambassadors, Deputy Chiefs of Missions, or other principal officers of the U.S. government at the foreign mission posts of the United States exceeded $132 million in Fiscal Year 1987; and

2. This amount represented an increase of 14.8 percent over the previous fiscal year; and

3. Substantial savings to the American taxpayer could result from purchasing rather than leasing such residence where necessary; and

4. Foreign governments prohibit the U.S. Government from purchasing such residences at 26 percent of the locations in which the U.S. maintains an official diplomatic post.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that:

(1) The U.S. Department of State should make every effort to determine whether the purchasing rather than the leasing of the residence of the principal officers of the U.S. Government's overseas missions is in the best economic interest of the U.S. Government; and

(2) The U.S. Department of State should enforce a policy of fully reciprocal treatment towards foreign governments that prohibit the U.S. Government from purchasing foreign residential properties to house U.S. diplomatic personnel in their countries; and

(3) In its Fiscal Year 1989 budget presentations to the Committee on Foreign Relations of the U.S. Senate and the Committee on Foreign Affairs of the U.S. House of Representatives, the U.S. Department of State shall provide sufficient information on the advantages and disadvantages of purchasing rather than leasing such properties to enable the Congress of the United States to determine the specific amount of savings that would or would not be achieved by purchasing such properties. The Department also shall make recommendations to the Congress on the purchasing and leasing of such properties.

MEDICARE CATASTROPHIC ILLNESS COVERAGE

WALLOP AMENDMENT NO. 897

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill (S. 1127) to provide for medicare catastrophic illness coverage, and for other purposes; as follows:

On page 56, strike lines 5 and 6 and insert in lieu thereof the following:

"SCOPE OF BENEFITS FOR CERTAIN INDIVIDUALS COVERED UNDER PARTS A AND B".

On page 56, line 10, strike "shall" and insert in lieu thereof "(and who is an individual described in section 1890(a)) shall".

On page 57, line 4, strike "may" and insert in lieu thereof "(and who is an individual described in section 1890(a)) may".

On page 60, strike lines 1 and 2 and insert in lieu thereof the following:

"SCOPE OF BENEFITS FOR INDIVIDUALS COVERED UNDER PART A ONLY AND CERTAIN INDIVIDUALS COVERED UNDER PARTS A AND B".

On page 60, line 6, strike "shall" and insert in lieu thereof "(or who is covered by such program but is not an individual described in section 1890(a)) shall".

On page 61, line 6, strike "may" and insert in lieu thereof "(or who is covered by such program but is not an individual described in section 1890(a)) may".

On page 62, line 16, strike "in" and all that follows through the period on line 19 and insert in lieu thereof "(or who are covered by such program but are not individuals described in section 1890(a)) in the same manner and to the same extent as those provisions apply to individuals who are covered under both such programs (and who are individuals described in such section).".

On page 66, strike lines 17 and 18 and insert in lieu thereof the following:

"DEDUCTIBLES AND COINSURANCE FOR CERTAIN INDIVIDUALS COVERED UNDER PARTS A AND B".

On page 66, line 22, strike "during" and insert in lieu thereof "(and who is an individual described in section 1890(a)) during".

On page 68, lines 4 and 12, strike "shall" and insert in lieu thereof "(and who is an individual described in section 1890(a)) shall".

On page 71, strike lines 12 and 13 and insert in lieu thereof the following:

"DEDUCTIBLES AND COINSURANCE AMOUNTS FOR INDIVIDUALS COVERED UNDER PART A ONLY AND CERTAIN INDIVIDUALS COVERED UNDER PARTS A AND B".

On page 71, line 18, strike "shall" and insert in lieu thereof "(or who is covered by such program but is not an individual described in section 1890(a)) shall".

On page 72, line 22, strike "shall" and insert in lieu thereof "(or who is covered by such program but is not an individual described in section 1890(a)) shall".

On page 73, line 6, strike "shall" and insert in lieu thereof "(or who is covered by such program but is not an individual described in section 1890(a)) shall".

On page 73, line 14, strike "in" and all that follows through the period on line 16 and insert in lieu thereof "(or who are covered by such program but are not individuals described in section 1890(a)) in the same manner and to the same extent as those provisions apply to individuals covered under both such programs (who are individuals described in such section 1890(a)).".

On page 74, line 23, strike "in" and insert in lieu thereof "(and who is an individual described in section 1890(a)) in".

On page 75, line 20, strike "part B," and insert in lieu thereof "part B (or who is covered by such program but is not an individual described in section 1890(a)),".

On page 76, line 5, strike "shall" and insert in lieu thereof "(and who is an individual described in section 1890(a)) shall".

On page 76, line 13, strike "in" and insert in lieu thereof "(or who is covered by such program but is not an individual described in section 1890(a)) in".

On page 77, line 24, strike "entitlement" and insert in lieu thereof "with respect to an individual described in section 1890(a), entitlement".

On page 81, line 3, strike "incurs" and insert in lieu thereof "(and who is an individual described in section 1890(a)) incurs".

On page 81, line 19, strike "that" and insert in lieu thereof "(and who is an individual described in section 1890(a)) that".

On page 82, line 7, strike "shall" and insert in lieu thereof "(who is an individual described in section 1890(a)) shall".

On page 85, line 25, strike "shall" and insert in lieu thereof "(and who are individuals described in section 1890(a)) shall".

On page 87, line 1, strike "shall" and insert in lieu thereof "(and who are individuals described in section 1890(a)) shall".

On page 87, line 22, strike "for" and insert in lieu thereof "(and will be individuals described in section 1890(a)) for".

On page 88, line 5, strike "to" and insert in lieu thereof "to such".

On page 90, line 3, strike "and".

On page 90, line 5, strike the period and insert in lieu thereof "; and".

On page 90, between lines 5 and 6, insert the following new subparagraph:

"(C) is an individual described in section 1890(a).".

On page 90, line 11, strike "part," and insert in lieu thereof "part (and was an individual described in section 1890(a)),".

On page 94, line 19, strike "for" and all that follows through the period on line 21, and insert in lieu thereof "(and was an individual described in section 1890(a)) for the longer period during the taxable year (or if such period is the same for both spouses, either spouse).".

On page 94, line 24, strike "part," and insert in lieu thereof "part (and are individuals described in section 1890(a) during such year),".

On page 97, line 8, strike "for" and insert in lieu thereof "(and is an individual described in section 1890(a) of such Act) for".

On page 97, line 11, strike "months" and all that follows through "coverage" on line 12, and insert in lieu thereof "number of months".

On page 97, lines 14 and 16, strike "of coverage".

On page 98, line 14, strike "part B," and insert in lieu thereof "part B (and who is an individual described in section 1890(a)),".

On page 101, between lines 3 and 4, insert the following new section:

SEC. 9A. ELECTION TO RECEIVE CATASTROPHIC COVERAGE BENEFITS.

Title XVIII is amended by adding at the end thereof the following new section:

"ELECTION TO RECEIVE CERTAIN BENEFITS UNDER PARTS A AND B

"SEC. 1890. (a) An individual is described in this section for any period of time in which the individual elects in accordance with subsection (b) to pay the appropriate monthly catastrophic coverage premium amount under section 1839(g) and (if required for such individual) applicable supplemental premium under section 1839A.

"(b)(1) An election made under subsection (a) shall be made under procedures established by the Secretary and (subject to paragraph (2)) shall be effective with respect to any calendar year beginning after the date on which the election is made.

"(2)(A) An individual may (in accordance with procedures established by the Secretary) revoke an election made under subsection (a).

"(B) An election made under subsection (a) shall not be effective with respect to any calendar year beginning after the date on which the individual revokes such election under subparagraph (A).".

Add the following language at the end of the bill:

"SEC. 1882. (k) Nothing in this Title shall be construed as to prohibit the offering of a medicare supplemental policy which provides benefits that duplicate any benefits provided by any sections of this title which requires voluntary participation."

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

MOYNIHAN (AND OTHERS) AMENDMENT NO. 898

Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. PELL, and Mr. BYRD) proposed an amendment to the bill S. 1394, supra; as follows:

At the appropriate place insert:

It is the sense of the Senate that the Department of State, in arranging visits of foreign dignitaries to the Capitol shall have in mind that ours is a republican institution which by long established practice, and as a matter of principle, conducts its affairs with a minimum of display. Individual Senators do not have official cars, do not have motorcycle escorts, do not have praetorian guards. The recurrent spectacle of screeching, self-important, heavily armed caravans of limousines, some decoys, bearing foreign visitors is discordant, disruptive, and scarcely a service to the visitors themselves. The Department of State is urged to consider that two unadorned automobiles and no motorcycles would ensure foreign visitors a warm welcome, and make clear to them that they are visiting the representative body of a democratic state, and not some besieged citadal of the fearful tyranny.

KASTEN AMENDMENT NOS. 899 AND 900

Mr. HELMS (for Mr. KASTEN) proposed two amendments to the bill S. 1394, supra; as follows:

AMENDMENT No. 899

At the appropriate place in the bill, add the following new section:

SEC. . REPORT ON POLICIES PURSUED BY OTHER COUNTRIES IN INTERNATIONAL ORGANIZATIONS.

The last sentence of section 117 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 is amended by inserting before the period the following: ", together with the amount and type of foreign assistance (if any) made available by the United States for the preceding fiscal year to each such country under the Foreign Assistance Act of 1961, the Arms Export Control Act, the Export-Import Bank Act of 1945, and the Peace Corps Act".

AMENDMENT No. 900

At the appropriate place in the bill, add the following new section:

SEC. . PROBABLE EXEMPTIONS TO THE UNITED NATIONS EMPLOYEE HIRING FREEZE.

(a) FINDINGS.—The Congress makes the following findings:

(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the "Group of 18 Experts").

(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was considering granting 156 exceptions to the hiring freeze.

(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

(6) According to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

(7) Other United States intelligence authorities estimate that as many as one-half of the Soviets and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus in the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(12) As of Septmber 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are "seconded," that is, serve on short, fixed-term contracts.

(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effectively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

(b) REPORT TO CONGRESS.—(1) The Secretary of State shall report to the Congress not later than 90 days after the date of enactment of this Act and annually thereafter as to the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.

(2) Such report shall contain as a minimum, a thorough analysis of the following issues:

(A) The number of Soviet and Soviet-bloc nationals who are currently seconded to the United Nations system on short, fixed-term contracts in New York, Geneva, Vienna, and Nairobi, and the percentage such number is to the total number of Soviet and Soviet-bloc nationals so seconded.

(B) The number of Soviet and Soviet-bloc nationals who are currently employed in the United Nations system on long-term contracts.

(C) The measures undertaken by the United States to persuade the United Nations Secretariat to enforce the provisions of the United Nations Charter which specifically govern the behavior and activities of United Nations employees, especially Articles 100 and 101.

(D) The measures undertaken by the United States either through bilateral or multilateral channels with the Soviet Union and other members of the Soviet-bloc to end their abuse of secondment.

(E) The measures undertaken by the United States to challenge Soviet and Soviet-bloc nationals credentials and to deny them entry visas, in order to keep Soviet and Soviet-bloc intelligence operatives out of the United States and United Nations.

(F) The counterintelligence efforts undertaken by the United States to protect United States national security from hostile intelligence activities directed against the United States by Soviet and Soviet-bloc intelligence operatives employed by the United Nations.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress

(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

(2) the President, through the Department of State and the United States mission to the United Nations, should express to the Secretary-General of the United Nations the insistence of the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

(6) the Soviet Union is hereby condemned for—

(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

(B) its abuse of secondment, and

(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the United Nations Charter to which every other member-nation must adhere.

(d) DEFINITION.—For the purposes of this section, the term "Soviet-bloc" means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania.

HUMPHREY AMENDMENT NO. 901

Mr. HUMPHREY proposed an amendment to the bill S. 1394, supra; as follows:

At the end of the bill, add the following new section:

SEC. . AMBASSADOR AT LARGE ON AFGHANISTAN.

(a) FINDINGS.—The Congress finds that the Administration has failed to make Afghanistan a sufficient priority in the conduct of the foreign policy of the United States.

(b) ESTABLISHMENT OF POSITION.—There is established in the Department of State the position of Ambassador at Large on Afghanistan who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES.—The Ambassador at Large on Afghanistan shall coordinate the activities of the United States Government with respect to Afghanistan, shall be the point of contact for Congress on the Afghanistan issue, shall represent the United States in public diplomacy meetings and conferences abroad on the Afghanistan issue, shall maintain contact with the Afghan Resistance Alliance, shall serve as liaison with foreign governments and international organizations on issues and programs regarding the war in Afghanistan.

(d) DURATION OF POSITION.—The Department of State shall retain an Ambassador at Large on Afghanistan until the President certifies to Congress that the following conditions have been met:

(1) the complete withdrawal of all Soviet troops from Afghanistan;

(2) the independent and non-aligned status of Afghanistan;

(3) the self-determination of the people of Afghanistan;

(4) the return of Afghan refugees in safety and honor.

PELL AMENDMENT NO. 902

Mr. PELL proposed an amendment to the bill S. 1394, supra; as follows:

On page 75 between lines 12 and 13, add the following new section:

SECTION 218. AUDIENCE SURVEY OF USIA WORLDNET PROGRAM.

(a) Of the funds authorized to be appropriated for USIA's Worldnet program by section 201(b), not less than $500,000 shall be available only for the purpose of conducting a survey of the number of viewers in Europe who watch the daily passive (non-interactive) shows of USIA's Worldnet program.

(b) Such survey shall be conducted by a company, such as the A.C. Nielson Company, which has a long established reputation for objective estimates of audience size and which has not less than 15 years of substantial experience in estimating audience size.

(c) Not later than 9 months after the date of enactment, the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the House Committee on Foreign Affairs containing:

(1) the best estimate by the company performing the audience survey of the number of persons in Europe who watch, on a daily basis, the passive (non-interactive) shows of USIA's Worldnet program. Such estimate shall include an estimate of the number of persons who watch a part of the daily passive (non-interactive) shows of USIA's Worldnet program and the number of persons who watch such programs in their entirety;

(2) a description of the demographic composition and nationality of the persons watching such programs;

(3) the entire report prepared by the company conducting the survey.

(d) At least 30 days prior to the approval by the Director of the United States Information Agency of a contract with a company conducting the survey required by this section, the Director shall provide the Chairman of the Senate Committee on Foreign Relations and the Chairman of the House Foreign Affairs Committee of the name of the company selected to conduct the survey together with a copy of the proposed contract.

BOSCHWITZ AMENDMENT NO. 903

Mr. HELMS (for Mr. BOSCHWITZ) proposed an amendment to the bill S. 1394, supra; as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . Sense of Congress Regarding United States Policy Toward Lebanon.

(a) Findings.

The Congress finds that:

(1) After nearly 13 years of civil conflict and foreign intervention, the situation in Lebanon appears no closer to resolution.

(2) Through most of the last dozen years, the Lebanese have managed to continue economic activity sufficient to stave off economic collapse and provide its citizens with basic necessities.

(3) During the past year, however, the colapse in the value of the Lebanese pound from less than 40 to the dollar to nearly 300 has made the importation of wheat, rice and other basic commodities prohibitively expensive.

(4) As a result, for the first time, the Lebanese are faced with the prospect of starvation.

(5) Hizballah and other radical elements are taking advantage of the current economic crisis by providing foreign supplied food. In so doing, they are winning converts to their cause and radicalizing the youth.

(6) It is in the interest of the United States to support the traditional Lebanese free enterprise system of distribution of food which until now has been able to compete successfully with these radical movements.

(b) It is the sense of the Congress that the United States should base its policy toward Lebanon on the following principles:

(1) Preservation of the unity of Lebanon.

(2) Withdrawal of all foreign forces from Lebanon.

(3) Recognition of and respect for the territorial integrity of Lebanon.

(4) Reassertion of Lebanese sovereignty throughout the nation and recognition that it is the responsibility of the Government of Lebanon for its safekeeping.

(5) Reestablishment of the authority of the Government of Lebanon throughout the nation is a prerequisite for a lasting solution to the problem of international terrorism emanating from Lebanon.

(c) It is the further sense of Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through PL-480, title I and section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States. Provision of this assistance will meet the United States policy objective of strengthening the Central Government as well as helping alleviate a serious hunger problem.

HELMS AMENDMENT NO. 904

Mr. HELMS proposed an amendment to the bill S. 1394, supra; as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . U.S. Department of State Freedom of Expression Act of 1987.

(a) This section may be cited as the "United States Department of State Freedom of Expression Act of 1987."

(b) FINDING. Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) PROHIBITION. It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on product substitution in Department of Defense contracting.

These hearings will take place on Thursday, October 15, 1987, at 10 a.m., and on Friday, October 16, 1987, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel F. Rinzel of the subcommittee staff at 224-9157.

Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on the Federal Government's handling of Soviet and Communist-bloc defectors.

These hearings will take place on Thursday, October 8, 1987, at 9:30 a.m., Friday, October 9, 1987, at 9:30 a.m., and Wednesday, October 21, 1987, in room 342 of the Dirksen Senate Office Building. For additional information, please contact Eleanore Hill or John Sopko of the subcommittee staff at 224-3721.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the information of the public and my colleagues in the Senate that H.R. 2566, a bill to extend the term of the Delta Region Preservation Commission has been added to the list of bills to be considered at the hearing of the Subcommittee on Public Lands, National Parks and Forests. This measure passed the House on September 29, 1987.

Those wishing information on this hearing should contact Tom Williams at 224-7145 or Beth Norcross at 224-7933 of the subcommittee staff.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the information of the public and my colleagues in the Senate that another day of hearings before the full committee on Energy and Natural Resources has been scheduled on S. 1217, a bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the coastal plain of the Arctic National Wildlife Refuge, of Alaska, for oil and gas exploration, development and production.

The hearing will be held on October 22, 1987 beginning at 9:30 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing information on this hearing should contact Tom Williams at 224-7145 of the committee staff.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AVIATION

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Aviation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 7, 1987, to resume hearings on S. 1600, legislation establishing an independent Federal Aviation Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, October 7, 1987, in open session to receive testimony on armaments cooperation within the NATO alliance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, October 7, 1987, to conduct a hearing on "Poverty and Policy."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. PELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, October 7, to mark up clean air legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, October 7, 1987, at 2 p.m. to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MR. BYRT WAMMACK—PLANNER OF THE YEAR

● Mr. DeCONCINI. Mr. President, I rise today to recognize Mr. Byrt Wammack, formerly a community planner with the Army Corps of Engineers who has been named as "Planner of the Year" by that agency for his outstanding efforts in Clifton, AZ. Today, Byrt is being honored by his former colleagues in a ceremony in Los Angeles and I wanted to take a moment this morning to show my appreciation for his service to my constituents and my State.

Many of my colleagues are familiar with Clifton and the troubles that have beset this small copper mining community in southeastern Arizona. In 1983, while in the midst of a labor dispute involving its largest employer, Clifton was devastated by the most severe flooding to ever occur in the State of Arizona. Almost $20 million in flood damages were incurred and the physical destruction of this community was overwhelming.

Agencies at all levels of government came to the aid of this beleagured community, including the Corps of Engineers. Byrt, noting the severity of the devastation and the urgency of the situation, took it upon himself to coordinate the actions of all of these agencies in their efforts to help Clifton recover from this low point in its long and proud history. This unusual display of leadership and commitment to public service is indicated by the support of the ultimate flood control plan by all of the parties involved, including this Senator. Byrt earned the trust and respect of Clifton and, most importantly, revived their confidence and showed them that they could recover from this devastation and once again become a thriving community.

Mr. President, I am happy to say that today Clifton is well on its way to that end. The corps has approved the flood control plan, my colleagues and I from Arizona are pursuing the necessary funding to proceed with this project, and, in my opinion, there is a general feeling of optimism and hope for what their future holds by the residents of Clifton. Byrt's dedication and leadership has resulted in the success of our efforts to help Clifton. He not only provided Clifton with an effective flood control solution, he provided them with the tools and the skills for future economic development and growth.

I know that the residents of Clifton are appreciative of Byrt's efforts on their behalf and for that I am grateful. Many times elected officials are given credit for the hard work of dedicated public servants such as Byrt. I am the beneficiary of his good work and I, therefore, wanted to recognize the achievements of this outstanding young man.●

FRAUD OF THE DAY—PART III

● Mr. HEINZ. Mr. President, when I spoke yesterday about Customs fraud, I also addressed the issue of the Customs Service budget. I argued that it was unrealistic to expect a significant increase in funds allocated to the Customs Service. Today, I want to discuss the very real limitations on Customs enforcement efforts even if the budget were adequate. The reality is that many perpetrators of fraud would continue to escape without any real punishment.

Today's fraud illustrates these limitations. It does not focus on a particular case or a specific company. Instead, it involves the entire photo album industry, and makes clear the way in which a private right of action could have a decisive role in helping the Customs Service fight fraud.

In 1985, Korea exported 1.859 million dozen photo albums to the United States. After an antidumping investigation, during which none of the information provided by Korean manufacturers could be verified, the Department of Commerce found a dumping margin of 64.8 percent. In 1986, after the implementation of the anitdumping duty order, imports of photo albums from Korea dropped 98 percent to 35,391 dozen. One would normally conclude from that that the problem of photo albums dumping and subsided.

The facts, however, show quite a different story. The domestic industry immediately began noticing that photo album imports from Asian countries other than South Korea were increasing dramatically. After January 1986, exports of photo albums from Korea to Taiwan rose 560 percent, from 265,498 dozen to 1.952 million dozen. Exports to Singapore rose 489 percent, to 2.51 million dozen. That means that Singapore was importing 10 photo albums per resident in 1986.

At the same time, Taiwan and Singapore increased their photo album exports to the United States by 1,300 and 860 percent, respectively. It seems to me that these are persuasive figures that something funny has been going on—most likely that Korean producers were transshiping to the United States through Singapore and Taiwan in order to avoid the dumping duties.

In pursuit of these not-so-elusive albums, one prosecution has occurred. MBI, a Korean company which manufactures photo albums, pleaded guilty in December 1986, to fraudulently transshipping photo albums and received $5,000 in criminal fines. Customs' efforts to obtain a large civil penalty have been thwarted thus far by the defendant's appeal of Customs' ruling that a substantial transformation did not occur in the country from where the albums were shipped That ruling is based on ample precedent, but the system permits a defendant—in this case one which pleaded guilty and was convicted—to tie up civil litigation indefinitely. The net result is that MBI has effectively gotten away away with its crime and is free to continue it through other countries and other ports of entry.

Subsequent efforts to enforce the dumping duty order more broadly have run up against real limitations in Customs resources, the perceived extent of its legal authority to investigate allegedly sham assembly operations in the United States and in third countries, lack of cooperation by third country governments and producers in Customs' enforcement activities, and the relatively low priority the Justice Department gives prosecutions of this nature.

Recently Customs has been making a determined effort to surmount these difficulties, has suspended liquidation of all entries of photo albums and has seized at least one additional shipment in a different port. Even so, simply keeping up with an operation that is constantly shifting from country to country and port to port well beyond the service's capacity.

Mr. President, last month I wrote a column on this case that appeared in the New York Times. I ask that that article be printed in the RECORD at the conclusion of my remarks today.

Mr. President, there is no question in my mind that if a private right of action existed today in cases like this one—where again, the foreign party pleaded guilty to criminal fraud—U.S. companies would have a valuable tool to assist the Customs Service's efforts to see that people comply with the law.

The column follows:

[From the New York Times, Aug. 21, 1987]

A HUGE CUSTOMS SCAM VICTIMIZES UNCLE SAM

(By John Heinz)

WASHINGTON.—Nobody enjoys a good snapshot more than the people of Singapore. Last year alone, enough photo albums were imported into Singapore to supply 10 to every man, woman and child in that country. Singaporeans are not just camera happy; they must be ecstatic.

But Singaporeans are not nearly the shutterbugs they appear to be. In fact, the flood of photo albums is just part of a grand scheme that makes a mockery of United States trade laws. Other nations are funneling these albums through Singapore to the United States in order to circumvent trade quotas imposed on those countries. In short, it is customs fraud.

In industry after industry, customs fraud is being perpetrated on such a huge scale by many of our trading partners that Federal enforcement agencies cannot keep up with it.

An amendment that is attached to the omnibus trade bill, however, permits those who have been victimized by customs fraud to sue for monetary damages in the United States Court of International Trade. The measure is patterned after remedies that have long been available under antitrust and securities laws. Although many unscrupulous foreign exporters are jittery about the amendment, it is doubtful that a single photographer in Singapore has even noticed.

Customs fraud is increasing. Items ranging from photo albums to steel to coffee are being laundered from one country to another, intentionally mislabeled and sent on to the United States. The practice costs the United States billions of dollars, hundreds of thousands of jobs and a lot of pride.

The Customs Service estimates that about 10 percent of all imports are fraudulent. In fiscal years 1984 and 1985, only 27 percent of the textile and apparel imports involved in customs fraud were even detected, according to customs officials.

A study by the National Treasury Employees Union concludes that such fraud costs America $19 billion a year in lost sales, $8 billion to $12 billion of our gross national product, $1.5 billion to $2.2 billion in Federal taxes and $2 billion in customs revenue. It also results in the loss of 500,000 jobs a year, the union study says. The phantom photo albums are just part of a much bigger problem.

There is compelling evidence that South Korean photo albums are being transshipped to America through third countries such as Singapore in order to circumvent a 1986 United States antidumping order. That order charged that South Korea's photo albums were being unfairly dumped at 65 percent below their cost of production. As a result, we imposed offsetting antidumping duties.

South Korean album exports to the United States subsequently declined from 22.32 million in 1985 to 424,692 in 1986. But at the same time, South Korean album exports to Singapore shot up 480 percent, while shipments to Taiwan increased 560 percent. The two countries, in turn, increased their 1986 photo album exports to the United States by 800 percent and 1,300 percent, respectively.

Despite labels and other identifying marks showing that the products came from Singapore, Taiwan and Hong Kong, laboratory tests have proved that the photo albums were actually made in South Korea. Other evidence suggests that even some albums labeled "Made in the USA" are actually products of South Korea.

Yet no effective action has been taken against this evasion of our laws as the American photo album industry watches its sales dwindle. The domestic industry's right to sue could not be clearer.

Executives of the American photo album industry, however, have only met frustration in their attempts to stop this practice. Customs officials assert that they are spread too thin to catch every fraudulent shipment. Our inability to enforce the antidumping order makes it virtually meaningless.

Nor is the problem limited to Singapore photo albums, or even to false listings of country of origin. Filing false tariff numbers, counterfeiting foreign export visas and providing inaccurate values of shipments are other common methods of operation for crooked traders.

The amendment to the trade bill gives aggrieved companies a way to defend themselves against unfairly traded imports. It puts teeth in the customs laws, and it gives victims of customs fraud the same legal recourse that victims of securities fraud have.●

INFORMED CONSENT: NORTH CAROLINA

● Mr. HUMPHREY. Mr. President, I bring to your attention the issue of informed consent. As hundreds of letters to my office testify, there is no State in our Nation that is free from the effects of abortion. These letters tell a consistent story of how women have been denied the facts about abortion that would have enabled them to make an informed choice. Understandably, many of these women are bitter and even angry that they were not told that their abortions could cause lingering effects such as sterility, nightmares, or depression.

I ask my colleagues to help alleviate this unjust situation and join in supporting my informed consent legislation, S. 272 and S. 273. The bills would afford women the information they deserve when it comes to abortion, namely, the facts. Medical personnel would be required to inform those considering abortion about the risks, effects, and alternatives before they could proceed. Such information is already required for virtually every other medical procedure.

Mr. President, informed consent is a matter of justice, and again I urge my colleagues to support S. 272 and S. 273. I also ask that two letters from North Carolina in support of informed consent be entered into the Record.

The letters follow:

North Carolina,
January 31, 1987.

Dear Honorable Sir: I must tell you that after my high school sweet heart and I were engaged that we committed sin and the consequences were my becoming pregnant. We immediately got married (months earlier than originally set.) He was in his first year in colleage and we had talked it over and decided to have an abortion. I was 12 weeks so everything had to move quickly. We married one day and had the abortion the next. His counselor had given him the name of a clinic that helped people to get abortions (which were legal if there was a threat to the mother's health.) The truth was we didn't want to be embarrassed and people find out what this fine "christian" couple had done. Also we were afraid he'd have to drop out of colleague if we had children so soon. Anyway we rationalized and set up an appointment with the clinic (psychologist prepared to tell him my "nerves" wouldn't take it) it was simply inconvenient and embarrassing the doctor said ok and set up an immediate appointment with a clinic abortionist doctor. I believed that it was only a fetus which I thought was only a blob not yet alive as a little baby. No one counseled me or even told me this but this was my opinion. At no time did I know more nor did anyone inform me that any doctor or anyone in form me that this "fetus" had arms and legs and a heart. I would have never gone through with it. I just didn't understand. I had no counseling.

I was okay for a while but years later guilt came and I had a hard time accepting what we'd done. We could have a happy 16 yr. old today if we'd only been counseled. I still have times of tears when I looked at my other three children and see how precious they are.

Counseling is so necessary it could actually save someone from a nervous breakdown later if she'd found out what a "fetus" really was and what God would consider an abortion. I never realized I was actually having our baby killed!

Please do whatever possible to make sure women have to be formed on what abortion is-murder. At least make sure women have a chance to understand what she has inside her before deciding whether or not she wants to go through with this.

Thank so much for your work and dedication to this cause. May God richly bless you.

Sincerely,

Sad but forgiven!

North Carolina,
February 12, 1987.

Dear Senator: Your proposal to have informed consent bill is needed if the country continues to legalize abortions. Of course, my prayer is that we will soon make it illegal.

My daughter was pregnant out of wed lock and had an abortion without realizing the consequences. If she had more information and had to wait longer, it may not have happened. She has married now and can't have a child.

Sincerely,

W. R. Duke, Jr.●

JOE PISCOPO LEADS THE PARADE

● Mr. LAUTENBERG. Mr. President, I would like to salute an outstanding New Jerseyan and a great performer, Joe Piscopo.

Almost everyone has recognized Joe's face on television. A native of Passaic, NJ, for five seasons, Joe performed in the renowned reportory group appearing on NBC Television's "Saturday Night Live." But before joining the cast of SNL, Joe performed as a standup comic and worked in many television commercials.

From his brilliant characterizations of Frank Sinatra and "60 Minutes's" Andy Rooney, to his numerous commercials, Piscopo has established a comedic style all his own. Throughout his career, Joe has proven his versatility and creativity as an actor and a comedian. Joe received awards for his memorable multiperformances in Miller Lite Beer commercials.

Mr. President, in New Jersey, Piscopo is to comedy, what Springsteen is to rock 'n roll. Joe may have hit the big time, but he is still a boy from New Jersey at heart. He is proud of our State and we are proud of him.

Joe Piscopo is being honored this year as the grand marshal of the annual Columbus Day Parade in Newark, NJ, on October 11. In what promises to be one of the largest Columbus Day parades in the Nation, I am proud to serve alongside Joe in this important celebration of our "first" Italian-American, Christopher Columbus.●

CONGRESSIONAL BLACK CAUCUS AWARDS DINNER

● Mr. SIMON. Mr. President, the Congressional Black Caucus recently completed its 17th annual legislative weekend here in Washington. Under the stewardship of my friend, the Honorable Mervyn Dymally of California; the distinguished gentleman from California, the Honorable Julian Dixon; and my friend and former colleague in the other body, the Honorable Mickey Leland from Texas—this has been one of the most successful legislative weekends since the caucus was created in 1970. The Congressional Black Caucus, now 23 members strong, chose for its 1987 legislative theme: "Educating the Black Child: Our Past and Our Future."

I join the Congressional Black Caucus in this salute and commitment to addressing the educational needs of black children, elementary and secondary students and dwindling numbers of them who reach and complete a higher education. I especially want to commend Representative Augustus F. Hawkins who Chairs the Education and Labor Committee in the other body. He has been a leader in education and employment legislation in the Congress. During the 100th Congress, he has succeeded in engineering through the committee and the other Chamber, H.R. 5, the School Improvement Act of 1987—a legislative masterpiece. In an April 22, 1987, editorial, the Washington Post characterized the bill as "an education bill without losers." That bill is also one which principally concentrates limited Federal chapter 1 funds on the school districts and those schools with the students in greatest need of help.

One of the highlights of this 17th renewal of the caucus' legislative weekend was an address at the Congressional Black Caucus awards dinner by Marian Wright Edelman, president of the Children's Defense Fund. Her address captured not only the essence of the problems facing the Congress, the States and local school districts as we seek to improve quality, ensure accountability and enhance achievement, but she also provided a much needed prescription for overcoming the problems and formulating a solution.

Mrs. Edelman outlines the following steps:

The first step is to remember and teach them that black folk have never been able to take anything for granted in America and we had better not start now in these waning Reagan years of budget deficits and looming economic recession.

The second step is to teach them the importance of getting a good education.

The third step is to tell them that forming families is serious business and requires a measure of thoughtful planning and economic stability.

The fourth step is to set goals and work quietly and systematically toward them.

The fifth step is knowing the difference between substance and style.

The sixth step is valuing family life.

The seventh step is to vote and use our political and economic power.

Remember your roots, your history, and the forebears' shoulders on which you stand.

The last step is to keep dreaming and aiming high.

Mr. President, I ask that the entirety of Mrs. Edelman's remarks be printed in the RECORD and I urge my colleagues to read her thoughtful words.

The remarks follow:

PRESENTATION BY MARIAN WRIGHT EDELMAN, PRESIDENT, CHILDREN'S DEFENSE FUND, SEPTEMBER 26, 1987

"It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of light, it was the season of darkness, it was the spring of hope, it was the winter of despair" ("A Tale of Two Cities" Book 1, Chapter 1).

"You have no right to enjoy a child's share in the labors of your fathers unless your children are to be blest by your labors." (Frederick Douglass, "The Meaning of July Fourth for the Negro").

For many of you sitting in this room, it is the best of times. Black per capita income is at an all-time high and many of you have moved up the corporate ladder even if the ladders you are on frequently don't reach towards the pinnacle of corporate power. Black purchasing power, now at $200 billion, exceeds the gross national product of Australia and New Zealand combined. But it has not yet been translated into commensurate black economic influence and benefit. Black elected officials are more numerous than ever (6,681 in 1987, a 350 percent increase since 1970). But white economic power still controls our city tax bases. The amassing of committee and subcommittee chairmanships (8 full House Committee chairs including the Select Committee, and 18 subcommittee chairs) by members of this Congressional Black Caucus is impressive by any standards although the main political game in town is cutting the budget deficit. Spelman College, my alma mater, looks towards its future with a stronger endowment and student body than ever before while many other black colleges are struggling mightly to survive.

Bill Cosby is America's favorite Daddy and Michael Jackson and Whitney Houston dot the top ten charts. Black leadership has permeated a range of mainstream institutions. Bill Gray chairs the House Budget Committee, Frank Thomas heads the Ford Foundation, and Cliff Wharton heads TIAA-CREF. A. Barry Rand is in charge of marketing at Xerox. Anita De Frantz is America's representative to the Olympic Committee, and Richard Knight is the city manager of Dallas.

I am proud of these and many similar accomplishments and applaud the black middle class for whom the times are good tonight. We've worked hard to get where we are. However, we have to work harder still to stay there and to move ahead.

But there is another black community that is not riding high tonight and that is going down and under. If you and I don't build a bridge back to them and throw out some strong lifelines to our childen and youths and families whom poverty and unemployment and hopelessness are engulfing, they're going to drown, pull many of us down with them, and undermine the black future that our forebears dreamed, struggled, and died for.

I am grateful, therefore, that the Congressional Black Caucus has focused attention this year on Educating the Black Child. Just as Martin Luther King, Jr. and others accepted the challenge of their time, so the challenge of our time is educating all of our children in mind, in body, and in soul if we are to preserve and strengthen the black future.

It is the worst of times for poor black babies born within a mile of this hotel and in many inner cities around the country who have less of a chance of living to the first year of life than a baby born in Costa Rica. Black babies are still twice as likely to die in the first year of life than white babies.

It is the worst of times for black youth and young adults trying to form families without decent skills or jobs and without a strong value base. Young marriages have essentially stopped in the black community. Sixty percent of all black babies today born to never married single mothers; 90 percent of those born to black teens are born to unmarried mothers. One out of two children in a female-headed household is poor. Two out of three (67.1 percent) children in black female-headed households are poor. If that household is headed by a mother younger than 25, three out of four are poor. Even when teen pregnancy results in marriage, young two-parent families are almost three times as likely to be poor as those with parents 25 to 44 years of age.

A significant cause of this black family problem lies in young black men's eroding employment and wage base. Only 26.5 percent of all black male teens were employed in 1986 and 61.3 percent of those 20 to 24 years old. And even when they are lucky enough to work they frequently can't earn enough to lift a family out of poverty. Between 1973 and 1984, the average real (inflation-adjusted) annual earnings among males ages 20 through 24 fell by nearly 30 percent (from $11,572 to $8,072 in 1984 dollars). This sharp drop affected virtually all groups of young adult males—whether white, black, or Hispanic—although young black men suffered the most severe losses (nearly 50 percent). So the links between teen pregnancy and poverty are related not just to age and single parenthood but also to the poor skills and employment experience young parents seek to bring to the work force and to the lower wages young workers are paid.

To combat the poverty which is engulfing half of the black babies born today—half of our future as a black community—we must all work to prevent too early sexual activity and pregnancy and encourage our boys and girls to wait until they have the education and economic stability to form lasting families. If the share of single births in the black community grows at the rate of the last decade, by the year 2000, only one black baby in five will be born to a married woman. And if you don't care about these babies unselfishly you'd better care selfishly, for the future black voting and economic base upon which much of our leadership status rests resides in the health and education of the black child and the strength of the black family.

Not only are too many black babies and youths fighting poverty and sickness and homelessness and too little early childhood stimulation and weak basic skills preparation, they are also fighting AIDS and other sexually transmitted diseases; drug, tobacco, and alcohol addiction and crime which hopelessness and the absence of constructive alternatives and support systems in their lives leave them prey to. A black baby is seven or eight times more likely to be an AIDS victim than a white baby and minority teens [15 to 19] are the highest risk group for a range of sexually transmitted diseases. A black youth is five times more likely than a white youth to end up in an institution and is nearly as likely to be in prison as he is to be in college. Between 1979 and 1985 the number of black youth in juvenile detention facilities rose by 40 percent while the number of black youth entering college immediately after high school graduation fell by four percent. More black males go to prison each year than go to college. There are more black drug addicts than there are black doctors or lawyers.

Now some of you sitting here will ask what this has to do with you. You struggled and beat the odds and those folks who haven't made it could do the same. Others of you will rightfully say you're already doing your bit for the race by achieving yourself and by contributing to black organizations. Still others place the blame for growing black family proverty and weakening community bonds and support systems on urbanization and the continuing racial discrimination in national life which devalues black talent and curbs black opportunity.

As many nuggets of truth as each of these views may contain, I will simply say that unless the black middle class begins to exert more effective and sustained leadership within and without the black community on behalf of black children and families both as personal role models and value instillers and as persistent advocates for national, state and local policies—funded policies—that assure our children the health and child care, education, housing, and jobs they need to grow up into self-sufficient adults, to form healthy families, and to carry on the black tradition of achievement, then all of our Mercedeses and Halston frocks will not hide our essential failure as a generation of black haves who did not protect the black future during our watch.

Just as our nation is committing moral and economic suicide by permitting one in four of its preschool children to be poor, one in five to be at risk of being a teen parent, one in six to have no health insurance, and one in seven to face dropping out of school at a time when the pool of available young people to support an aging population and form a strong workforce is shrinking, so we are committing racial suicide by not sounding the alarm and protecting our own children from the poverty that ravages their dreams. For America will not treat our children fairly unless we make it.

We must recapture and care about our lost children and help them gain the confidence, self-esteem, values, and real world opportunities—education, jobs, and higher education which they need to be strong future guardians of the black community's heritage.

How do we do this? There are nine steps we must take if we are to help our children:

The first step is to remember and teach them that black folk have never been able to take anything for granted in America and we had better not start now in these waning Reagan years of budget deficits and looming economic recession. Frederick Douglass put it bluntly: "Men may not get all they pay for in this world, but they must certainly pay for all they get." So you make sure that you are ready to do your part to help yourself and black children and to hold public and private sector officials accountable for doing their part in fostering health, education, and fair employment policies that are essential to black family survival.

Tell our children they're not going to jive their way up the career ladder. They've got to work their way up—hard and continuously. Too many young people want a fast elevator straight to the top floor and resist walking up the stairs or stopping on the floors of achievement between the bottom and top. Tell them to do their homework, pay attention to detail, and take care and pride in their work. People who are sloppy in little things tend to be sloppy in big things. Tell them to be reliable, to stick with something until they finish and resist jumping from pillar to post. And tell them to take the initiative in creating their own opportunity. They can't wait around for other people to discover them or to do them a favor.

The second step is to teach them the importance of getting a good education. While not a guarantee of success, education is a precondition to survival in America today. At a time when a smaller proportion of black high school graduates go on to college than ten years ago, we need to tell all of our children that college pays. In 1986, the average unemployment rate among black college graduates under 25 was 13.2 percent—more than one in every eight. Among young black high school graduates, it was 26.6 percent—more than one in four. College doubles their chance of getting a job. And we need to insist that they get a liberal education and learn how to think so that they can navigate an ever changing job market.

The third step is to tell them that forming families is serious business and requires a measure of thoughtful planning and economic stability. In 1986, one in every five black families with children under 18 had someone unemployed. Of those 44 percent were single parents with no one at work. Among black married couples with children, only 18 percent had no one working.

That is the crucial point. Education alone, although of enormous value in itself, cannot guarantee a young black adult the income needed to raise children in economic safety today. But two black adults, both working, have the safety net of the second income when unemployment strikes. Remember, that's the only safety net President Reagan hasn't found a way to cut yet.

All these figures are from 1986, the fourth year of a long period of economic recovery. When the next recession arrives—and it will—the black unemployment rates will soar. Since this recession will come at a time when we have an extraordinary budget deficit, there is a great danger that the American voters will buy the argument that we must cut government spending in order to reduce interest rates and stimulate the economy. If this happens, there will be many unemployed teachers, nurses, employment counselors, and government workers of all sorts.

There is a warning here that relates to steps one and two. Just as black penetration into civil and social service professional jobs occurs, the growth and security of such jobs fall. Just as blacks rise to senior ranks in industrial and industrial union jobs, steel and auto manufacturing industries enter a steep decline. The economic goal posts keep shifting. How then, do we work towards a full share in the power to set the goals in place, and not just the right to run the race?

The fourth step is to set goals and work quietly and systematically towards them. So often we feel we have to talk loud rather than act effectively. So often we get bogged down in our ego needs and lose sight of our broader community goals. T.S. Eliot in his play "The Cocktail Party" said that "half the harm that is done in this world is due to people who want to feel important." Wanting to feel important is good, but not at the expense of *doing* important deeds—even if we don't get the credit. You can get a mighty lot done in this world if you don't mind doing the work and letting other people take the credit. You know what you do and the Lord knows what you do and that's all that matters.

The fifth step is knowing the difference between substance and style. Too many of us think success is a Saks Fifth Avenue charge card or a "bad" set of wheels or coming to this Black Caucus dinner. Now these are things to enjoy, but they are *not* life goals. I was watching one of President Johnson's inaugural balls on television with a black college president's wife in Mississippi when Mrs. Hamer, that great lady of the Mississippi civil rights movement who lacked a college degree, but certainly not intelligence or clear purpose, came onto the screen. The college president's wife moaned: "Oh my, there's Miz Hamer at the President's ball and she doesn't even have on a long dress." My response was: "That's alright. Mrs. Hamer with no long gown is there and you and I with our long gowns are not." So often we miss the real point—we buy BMWs and fur coats before we think about whether we're going to drive and wear them is worthwhile. Nobody ever asks about what kind of car Ralph Bunche drove or designer suit Martin Luther King, Jr., bought. Don't confuse style with meaning. Get your insides in order and your direction clear first and then worry about your clothes and your wheels. You may need them less.

The sixth step is valuing family life. We must build on the strong black tradition of family and teach our children to delay family formation until they are economically and emotionally stable and ready to raise the new generation of black children and leaders. Black and white men must support their children as best they can and not have them until they are ready to take responsibility for them. We must strengthen family rituals: prayers if we are religious, regular family meals, and participation in school work and in non-school activities. Our children need constructive alternatives to the street. We must *do* things with our children. Listen to them. Be moral examples for them. If we cut corners, they will too. If we lie, they will too. If we spend all our money on our backs and wheels and tithe no portion of it for our colleges, churches, and civic causes, they won't either.

We must join together as an entire community to establish an ethic of achievement and self-esteem in poor and middle class black children. They can do science and math as well as basketball and football, computers as well as cotillions, reading along with reggae, if we expect these accomplishments of them, support them in their learning processes, and help them in setting priorities. They need strong consistent adult buffers to withstand the negative messages of the external world that values them less than white or middle class children.

When I, like many of you, was growing up in my small segregated southern town, the whole outside world, the law of the land, local officials, the media, almost everybody outside our own community told black children we weren't worth much or were second rate. But we didn't believe it because our parents said it wasn't so. Our preachers said it wasn't so. Our caring teachers said it wasn't so. And they nurtured us as a community, shielded us against the constant psychological battery of our daily environment and made us understand that we could make it—had to make it—but in order to do so, we had to struggle to make our own opportunities in order to help change America. And we went on to college—poor and black—and tried to carry out their other lesson to give some of what they gave us back in service to others left behind. Service, they taught, is the rent you pay for living. Where is our buffer today for the black and poor children who are daily wounded by a national administration who would rather judge than help the poor? Where are the strong local officials and community voices and hands shielding and fighting for the poor children in our city streets against the ravages of drugs and crime? Where are the role modelling, mentoring, and tutoring programs that help black children overcome the pernicious undercurrents of many, even our purported friends, who really think black children lack the potential of other children? What activities are your churches and sororities and fraternities sponsoring to keep children busy and off the streets?

The seventh step is to vote and use our *political and economic power.* Only 51 percent of all voting age blacks voted in the 1980 election and only 53 percent in the 1984 election. Seventy percent of 18- to 25-year-old black youths did not vote in the last election. People who do not vote have no line of credit with people who are elected and pose no threat to those who act against our interests. Don't even pretend that you care about the black community, about poor children, about your nation, even about your own future, if you don't exercise the political leverage Medgar Evers and others died to make sure we had. And run for political office. And when you win don't forget that you are the means to serve others well and not the end.

No one running for president or any office should get black community support unless they have a well thought-out set of policies designed to lift the black child and family. Similarly, we need to use our economic power for the benefit of black families particularly in industries where we constitute a large market share.

Two last steps and I'm done.

Remember your roots, your history, and the forebears' shoulders on which you stand. And pass them on to your children and to other black children whose parents may not be able to. As a black community today there is no greater priority than assuring the rootedness of all of our children—poor, middle class, and Ivy League. Young people who do not know where they come from and the struggle it took to get them where they are now will not know where they are going or what to do for anyone besides themselves if and when they finally arrive somewhere. And if they run into bad weather on the way, they will not have the protective clothing to withstand the wind and the rain, lightning and thunder that have characterized the black sojourn in America. They need the anchor and rightful pride of a great people that produced a Harriet Tubman and Sojourner Truth and Frederick Douglass from slavery, a Benjamin Mays and Martin Luther King, Jr. and Fannie Lou Hamer from segregation, people second to none in helping transform America from a theoretical to a more living democracy.

The last step is to keep dreaming and aiming high. At a time when so many in public and private life seem to be seeking the lowest common denominator of public and personal conduct, I hope you will dream and set new examples of service and courage.

Dr. Benjamin Mays, a former president of Morehouse College and role model for me said: "It must be borne in mind that the tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a calamity to die with dreams unfulfilled, but it is a calamity not to dream. It is not a disaster to be unable to capture your ideal, but it is a disaster to have no ideal to capture. It is not a disgrace not to reach the stars, but it is a disgrace to have no stars to reach for. Not failure, but low aim, is sin." We must aim high for our children and teach them to aim high.

I'd like to end with part of a prayer for children written by Ina Hughes of South Carolina.

We pray for children
who spend all their allowance before Tuesday,
who throw tantrums in the grocery store and pick at their food,
who like ghost stories,
who shove dirty clothes under the bed, and never rinse out the tub,
who get visits from the tooth fairy,
who don't like to be kissed in front of the carpool,
who squirm in church and scream in the phone,
whose tears we sometimes laugh at and whose smiles can make us cry.
And we pray for those
whose nightmares come in the daytime,
Who will eat anything,
Who have never seen a dentist,
who aren't spoiled by anybody,
who go to bed hungry and cry themselves to sleep,
who live and move, but have no being.
We pray for children who want to be carried and for those who must,
For those we never give up on and for those who don't get a second chance,
For those we smother . . . and for those who will grab the hand of anybody kind enough to offer it.

Please offer your hands to them. Let your Amen be in your committed actions to help black children when you leave here. They desperately need your help on a one-to-one basis and in the political arena. We must all work to redirect the nation's foolish priorities which favor bombs and missiles over babies and mothers upon whom our real national and community security rest.●

NOMINATION OF JUDGE ROBERT BORK

● Mr. BOSCHWITZ. Mr. President, I ask that that testimony of Jewel LaFontant, given before the Judiciary Committee in support of Judge Bork be entered into the Record.

Mr. President, this is remarkable testimony given by this Nation's first Deputy Soliciter General who was a woman. She worked for Judge Bork during his time as Solicitor General.

Since so many people have questioned Judge Bork's attitude on issues regarding women, I felt this testimony would be helpful to insert into the Record.

As the testimony indicates, only one Senator was present throughout her testimony. It is indeed regretful that others did not hear it.

The testimony follows:

Statement of Jewel LaFontant

The Chairman. Thank you, Mr. Randolph. Ms. LaFontant?

Ms. LaFontant. Good afternoon, Mr. Chairman and Members of the Committee.

Judge Bork has asked me to appear on his behalf. I have reviewed most of the relevant court cases; I have read his writings; and I have watched and listened to his testimony as well as that of many witnesses who have appeared before your. There has been a thorough discussion of the cases in which he has been involved and an unending criticism of much of his writings. I must say that I don't recognize the Judge Bork I know from so much of what has been said by his opponents here.

You see, I knew him well. Let me tell you about the heart of the man. In 1973 after I left the United Nations, I came to the Office of the Solicitor General. I was a rarity, if not an oddity: there never had been a woman, black or white, Deputy Solicitor General of these United States. And my presence here is due to the high regard I have for Judge Bork, based upon my personal experiences with him.

Judge Bork placed me in charge of the entire Civil Division where I reviewed hundreds and hundreds of cases that had been determined first in the United States district courts and then in the United States courts of appeal. I say I was an oddity—and it's not just my assessment; it appeared that there was also the perception of the staff in the offices of the SG. You see, attempts were made to isolate me. On one occasion, a secretary who had warmed up to me after a few months after my arrival, she said: I am going to tell you something, Mrs. LaFontant, that you are not going to like—the other deputies meet regularly, and you are not included. How do you know this, I asked. She continued: I was told to call the deputies in to a meeting and the names were called, and I said: "And Mrs. LaFontant?" The response was: oh, no, just the men. The response could have been: oh, no, just the whites.

I immediately reported this to Solicitor General Bork, and it is an understatement to say that he was appalled. And though he is usually a calm and even-tempered person, he exhibited strongly his dismay and sputtered his unhappiness about this attempt to exclude me and to discriminate against me. The very next day was the beginning of my attending so many briefings—I was bombared with meetings—that I wondered to myself whether I had been wise in complaining in the first place.

But those meetings were very important, not only because the current cases were discussed, the relevant law reviewed, but the cases for argument before the Supreme Court were assigned at those meetings, and those in charge of assigning have the pick of the cases to present to the various lawyers.

By being kept out of these discussions, my education of course was being limited, to say the least, and I was not given the choice cases to argue.

But Judge Bork handled this in his usual low-key, quiet but determined and fair manner—no confrontation, no embarrassing accusations—things just changed. He had seen to it that I was treated the same as the others.

And during my entire tenure there, Judge Bork exhibited complete fairness and openness. He was always open for debate—actually enjoyed the give and take of debate. He believes, and has said: intellect and discussion matter, and can change the world. He doesn't have a closed mind.

Bob Bork's devotion to women's rights was further exhibited in his support of the Federal Women's Program of the entire Department of Justice. In fact, the Federal Women's Program was founded in my quarters of the Solicitor General's Office, and I became its first chair, which could not have happened without the blessing and encouragement of Judge Bork.

The purpose of the Federal Women's Program was the elimination of sexism, to enlarge the recruitment and promotion of women. It seemed there was an invisible ceiling at about Grade 12 for women when I was here. Our group studies and tracked women and men from their entry into the Department and throughout their careers, and found that women with the same or similar credentials as men could not rise above Grade 12. We sensitized, through written and verbal contact, the department heads to the discrimination against women at the Department of Justice, and held what was called "women's exposition" at the Justice Department each year for several days, and included all agencies of government and even the surrounding business and civil community. We put in place programs to combat the sexism that was rampant. Our efforts played no small role in opening the doors of opportunity for women and improving the status of women. We take some credit for increasing the number of female employees, as well as an improvement in their overall distribution to more responsible positions.

I do believe that Bob Bork, by putting the weight of his office behind this program, caused the department heads to sit up and take notice.

All of my life I have been involved in civil rights organizations, having served for many years as secretary of the Chicago branch of the NAACP, on the board of directors of the American Civil Liberties Union and its legal redress committee, and as chairman of the Illinois Advisory Committee of the United States Civil Rights Commission, as well as being a commissioner of the Martin Luther King Holiday Commission. I have no hesitancy in supporting Judge Bork's nomination to the Supreme Court.

Not only is he a supporter of equal treatment for women. I sincerely believe that he is devoid of racial prejudice, or else I would not be here.

But what I like about him further is that he can be persuaded. In his 1963 "New Republic" article, he opposed the public accommodations provision of the proposed 1964 Civil Rights Act, but ten yeas afterwards, in '73, while I was in the Solicitor General's Office, he changed his mind. He admitted he was wrong, and he has been severely criticized for his change of heart. To me that is a sign of true intellect, that you can admit you made a mistake. Bork said: "I was on the wrong track, the civil rights statute has worked very well. Were it to be proposed today. . ."—and he was talking in 1973—"I would support it."

Judge Bork's commitment to and great and unusual respect for precedent was made clear to me when he was Solicitor General.

He preached the importance of the stability of the law. He stated at these hearings that he would respect precedent. I believe him.

When he states he now accepts Brandenburg, I believe him. Recently I asked Judge Bork a question: Is a case that was decided by a 5-to-4-vote, such as Roe versus Wade, just as much a precedent as one that was determined by a 9-to-0 vote? His response was: you bet you. He is no ideologue, but an objective clearthinking jurist who, in spite of his difference with the rationale of Roe versus Wade, testified along with Archibald Cox against the pro-life bill, or the human life bill proposal that would have made abortion murder, as defining life as beginning at conception.

But no matter how well you know a person, in evaluating the judicial competency and suitability of one who is being considered for appointment to the Supreme Court, there is no looking glass into which we can gaze and with accuracy and credibility determine or predict with certainty how an Associate Justice will perform, reason, decide, and vote in the abstract. The Justices, as I understand the situation, decide cases on the basis of the facts before them, the nuances of the circumstances, and the controlling precedent.

Indeed, no attempt should be made to really obtain prior commitments as to how he will vote. It's inappropriate to attempt to fetter the judicial freedom of a jurist by seeking or demanding to know how he will decide issues and cases in the future.

I see that my time is up. I have submitted a paper. I'd like at this time to say thank you very much, and I am open to questions.

Senator HUMPHREY. Ms. LaFontant, if you are nearly finished, why don't you go ahead and complete your statement, if you wish?

Ms. LAFONTANT. Well, there is a notable situation involving the great controversy and debates—I should say thank you very much—there is a notable situation involving the great controversy and debates which arose during confirmation hearings of the nomination of Mr. Justice Hugo Black to the Supreme Court in 1935.

Before the hearings, it was widely published and disseminated that Hugo Black in early life, while an elected official in the political life of Alabama, had been a member of the Ku Klux Klan. When confronted with this allegation, he admitted indeed he had been a member of the Klan. Justifiably, the black community, fair-minded people, were seriously and appropriately concerned about a former member of the Klan becoming a member of the Supreme Court of the United States.

In spite of this prior Klan membership, he was confirmed. And Mr. Justice Black, the former Alabama Senator and former KKK member, once confirmed and sitting, became a champion of the rights and interests of the oppressed and downtrodden and especially of the black citizens of the United States.

Justice Black's opinions were and are among the most liberating in bringing blacks into the mainstream of the American society and releasing them from the shackles and servitudes of an unsavory history and period of segregation and discrimination.

It is certainly within the realm of probability that when confirmed, Mr. Justice Bork could very well emulate the distinguished and liberating career of Mr. Justice Black.

As a woman and a black woman, I have no fear of entrusting my rights and my privilges to Robert Bork as an Associate Judge of the Supreme Court. I believe in him.

I ask this Committee and the Senate without reservation to give this learned jurist, this legal scholar and philosopher, this craftsman of jurisprudence, this man with heart, an opportunity to serve on the highest Court.

Thank you very much.

Senator SPECTER. You have arrived at a time which may be less desirable than ten o'clock at night; you have arrived over the lunch hour. And I just stepped out for a brief bite. It is perhaps an opportunity for Senator Humphrey and myself to make a motion and to decide what the Committee will do here in the absence——

Senator HUMPHREY. I am delighted, whatever it is.

Senator SPECTER [continuing]. In the absence of the Chairman or anybody from the other side of the aisle.

Ms. LaFontant, let me direct my next question to you. I note that your statement recounts Judge Bork's concern about your status as a woman in the Department. And I notice that you refer to your years as Secretary of the Chicago Branch of the NAACP and the Board of Directors of the American Civil Liberties Union.

Ms. LAFONTANT. That should also be the Illinois Division of the American Civil Liberties Union.

Senator SPECTER. It will stand as amended—and a number of other qualifications. And the question I have for you relates to Judge Bork's attitude on the issue of minorities and the Public Accommodations Act, which has been the subject of considerable discussion here, and the opposition that he had early on, his New Hampshire article of 1963. And I would be interested in your view of Judge Bork's sensitivities to the issue of blacks, public accommodations, women. It is probably going to exceed my time, but I think the Chairman will allow you to answer the question.

Ms. LAFONTANT. Thank you. I think the Sixties and Seventies changed America, especially in the civil rights area. The article written by Judge Bork was in 1963. America has changed since then, people have changed, and I believe Judge Bork definitely has changed. After he wrote that article in '73, he said, "I made a mistake. I was on the wrong track."

Senator SPECTER. Did he say that to you?

Ms. LAFONTANT. No. I am quoting from a written statement that he made. But I would say since then he has said he made the mistake, definitely, yes.

Senator SPECTER. Well, I am very much interested in your testimony, and I do not wish to interrupt you and prolong it, but I had thought he might have said something to you personally, or some insights you gleaned personally, which might provide an additional dimension of help to the Committee. That is why I had interrupted you.

Ms. LAFONTANT. Certainly, Judge Bork has said to me he made a mistake, and that he was on the wrong track. And even though I would say personally that I was on the right track long before Judge Bork got on the right track, I do not hold it against him. All my life, I have been involved in the civil liberties area, civil rights area, have argued cases and been active with every organization you can imagine. I just threw out a few of them here. You might hold it against me if I throw out a few more.

So I was on the right track because I had a heritage that has sensitized me, not only because I am black and female, but I had a father and a grandfather who were lawyers and extremely active in the civil rights movement. My father was a great labor lawyer, representing A. Phillip Randolph in the founding of the Brotherhood of Sleeping Car Porters Union.

So I would say since childhood I have been sensitized, I have known the problems, and I was on the right track. Judge Bork was not on the right track in '63, but he recanted, he changed, and in '73, he came out and said it in writing. I talked with him just last month because, when he asked me to come here and testify in his behalf, I flew to Washington to talk with him about some issues that were of concern to me. He reiterated his belief in civil rights, equality for women as well as blacks. And I am sold on the fact that he is completed devoid of racial prejudice. He is not prejudiced against women. I am convinced of it.

I heard his testimony here, and it is like a jury trial. You look at the witness, and you assess him from the way he appears. So that has to be left with you—how did he appear to you. To me, he is an honest, fine man who would not tell me these things if he did not sincerely believe them.

I even asked him a question about affirmative action when I came to visit with him. And his position is that affirmative action is a good thing; it has been good as a remedy, to remedy the wrongs. And he is for it until the imbalance is cured. Now, some people might say, well, that may be forever; but he said he is for affirmative action as a remedy until the imbalance of this discrimination is cured.

Senator SPECTER. Thank you very much, Ms. LaFontant.

Thank you all, and thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Humphrey.

Senator HUMPHREY. Ms. LaFontant, you cited your family history; your grandfather and your father both were involved in civil rights struggles. Tell us about some of these other organizations in which you have served. What are some of the things you have done in this area, in addition to serving as Deputy Solicitor General?

Ms. LAFONTANT. Let me say at this point that I am director of the Southern Christian Leadership Conference.

Senator HUMPHREY. You are a director?

Ms. LAFONTANT. Yes. Of course, I've been active with the Black Bar, National Bar Association which was founded by my father with three other people during a time that Blacks could not join the American Bar Association. I've kept up my activity in that kind of setting also.

Then also I've worked very hard in the majority community of law, of civic affairs, and I'm sure you don't want to have a whole list of all the civic affairs. I'm trying to get them together in my own mind.

Senator HUMPHREY. I would if I had unlimited time, but may I ask, Mr. Chairman, that Ms. LaFontant be offered the opportunity to provide and be directed, in fact, to provide us a more comprehensive list of her affiliations and activities and achievements in this area?

Ms. LAFONTANT. Yes, I could do that at the end of this testimony.

Senator HUMPHREY. Happy to have you.

I've heard, only hearsay, that you were under some pressure not to appear and testify on behalf of Robert Bork, is that correct?

Ms. LaFontant. I don't know that I like the word "pressure". Let's say on the Hill we call it lobbying, don't we.

Senator Humphrey. You were lobbied——

Ms. LaFontant. Yes.

Senator Humphrey [continuing]. By some mainline minority groups, is that it? Or do you care to say? Individuals or groups?

Ms. LaFontant. Primarily individuals representing various groups, yes.

Senator Humphrey. You know these nuances. You mentioned the importance of looking the members of the jury in the eye and the witnesses in the eye, and so on. Certainly we have had an opportunity to do that, and a lot comes out in the way of nuance.

So can you give us a little more detail in the way of nuance about the event that you described when you went to Robert Bork while he was Solicitor General and complained that all of the men deputies were being invited to important meetings but you were being excluded and that furthermore because you were being excluded you were missing out on the details of the department's work and were not being offered an opportunity to argue some of the important cases?

Can you give us a little bit more about that? You went and saw Robert Bork face-to-face or was it a phone call or a letter? How did it work?

Ms. LaFontant. No. I went right in to see him. He was that kind of boss, so to speak, that he didn't stand back on ceremony. You didn't have to call and make an appointment. You go into his office, and if the secretary said he was in, you asked to see him, and he let me see him immediately.

At that point, I did not know how important it was that I was not at some meetings since this was my first affair. I just know that I rebel against being left out of anything where I am supposed to be, and I don't carry a chip on my shoulder, but I was aware of the fact that there had never been a Black at the deputy solicitor general's level.

We had had a Black Solicitor General which was Thurgood Marshall, but there had never been a woman, Black or White, and the way I was treated when I first went there—I was aware of the fact that I was being ignored because I had been ignored before.

But it was so important to me to have the opportunity to argue our government's cases in the Supreme Court that I won't say I adjusted, but I tried to put it behind me, the fact that I was being ignored.

But when I was told that I was being isolated and kept out of these meetings and I went to Bob Bork, I really did not know the importance of it. I just knew that this was something that was happening because of my color or because of my sex.

He knew what was happening at that time, and that's why I think he was so upset because he had just come onboard himself. I came in in February of 1973, but Bob Bork did not come until about May.

Senator Humphrey. Yes.

Ms. LaFontant. So he couldn't believe it. He said, "Are you sure?" And I told him what I had heard and he took care of it right away. No nuances except he is a very straightforward guy. He saw an injustice and decided to correct it.

When we started our Federal Women's Program, he was behind it 110 percent, and actually when we would have our activities, what I call women's expo, Judge Bork actually participated in the program. He lent the weight of his office to this endeavor and we were very grateful for it.

Senator Humphrey. Well, even though in the case of rectifying the wrong involving discrimination against you with respect to not being invited to the meetings, even though he was brand new in the job, just getting his feet on the ground, one would think he wasted no time in righting that injustice.

Ms. LaFontant. That is right.

Senator Humphrey. Well, an old Chinese proverb says—I'm really making this up—but an old Chinese proverb says that actions speak louder than old articles.

Ms. LaFontant. And a late convert is sometimes the best.

The Chairman. Thank you very much. An questions from my colleague from Alabama?

Senator Heflin. I will pass.

The Chairman. Senator Leahy?

Senator Leahy. I will pass.

The Chairman. I want to thank you all very much for your being here. Again, thank you for allowing us to take one of the witnesses out of order.●

Mr. BYRD. Mr. President, orders have been entered with respect to the program at the beginning of the day on tomorrow, which I would like to vitiate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

RECESS UNTIL 8:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. BYRD. Upon the completion of the two orders for the recognition of the leaders, which would be reduced to 5 minutes each, I ask unanimous consent that Mr. Proxmire be recognized for not to exceed 5 minutes; and that Mr. Reid be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that at that point, there be a period for morning business not to exceed 5 minutes with statements limited therein to 1 minute each; and that upon the conclusion of the morning business period, the Senate resume consideration of the Foreign Relations authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON THURSDAY

Mr. BYRD. Mr. President, at that point, I will suggest the absence of a quorum. That will be a live quorum. And there will be a motion to instruct the Sergeant at Arms.

I ask unanimous consent that when that motion is made, and if the yeas and nays are ordered thereon, I ask unanimous consent that there be a 30-minute rollcall vote; and that the call for regular order be automatic at the end of 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent at this time that it be in order to ask for the yeas and nays on the motion to instruct the Sergeant at Arms tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

PROGRAM

Mr. BYRD. Mr. President, let me just state my intentions. I do not think I am stating any intention here that is adverse to the wishes of the Republican leader and the manager on the other side. It would be my intention on tomorrow upon the completion of the Foreign Relations authorization bill to move to go into executive session to consider the nomination of Mr. Verity. I may be able to do that by unanimous consent in which case there will not be any need for a rollcall vote.

It will be my intention on tomorrow to move to the Verity nomination, and also it may be that I would also tomorrow afternoon go to the prompt payment legislation, on which there has already been a time agreement. I have consulted with the distinguished Republican leader, and I think it is agreeable to him that I do that tomorrow if the situation would appear to be favorable to my doing that.

Mr. President, also in view of the fact that there has already been an order that the Senate go to the catastrophic illness legislation on tomorrow, I ask unanimous consent that the order be changed, and that I be authorized to go to it at such time as I may wish on tomorrow or Friday following consultation with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. So that then gives us some flexibility on tomorrow on the Verity nomination, on the prompt payment legislation, and on catastrophic illness.

ORDER ON THE ENERGY-WATER APPROPRIATION BILL

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader may at any time after consultation with the minority leader proceed to take up the appropriation bill on energy-water.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, if the majority leader will yield, I will try to have that by some time tomorrow. There is no objection on this side. But I need to run the hot line. There are three other appropriation bills. I do not know of any objection to taking them up. There may be amendments, and there may be some debate. Obviously, we will try to have that information in the morning.

Mr. BYRD. Very well. I thank the distinguished Republican leader for his cooperation and helpfulness.

I thank the two managers for their courtesies.

I yield back the time.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. PELL. Mr. President, I move that the Senate stand in recess pursuant to the previous order.

The motion was agreed to; and, at 7:41 p.m., the Senate recessed until Thursday, October 8, 1987 at 8:30 a.m.

EXTENSIONS OF REMARKS

RECOGNITION OF THE CHIEF EXECUTIVE OFFICER OF THE ST. PAUL DISTRICT OF FARM CREDIT, MR. LARRY D. BUEGLER

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. VENTO. Mr. Speaker, it is indeed fitting that yesterday when the House debated the merits of H.R. 3030, the Agricultural Credit Act of 1987, that the accomplishments of Larry D. Buegler, the Chief executive officer of the St. Paul District of the Farm Credit System, were highlighted in the Wall Street Journal. Mr. Buegler has shown commendable foresight, ability and courage in turning around the performance of the St. Paul district and I would like to share this article with my colleagues.

[From the Wall Street Journal, Oct. 6, 1987]

PLANTING SEEDS OF DEBT RELIEF FOR FARMERS

(By Scott Kilman)

ST. PAUL, Minn.—By all rights, Ruben Maisel should have lost his farm last year. For two years, he hadn't paid his biggest lender, the Farm Credit Services in St. Paul, and he didn't have the money to start paying anytime soon.

But the threat of foreclosure evaporated after a banker named Larry D. Buegler took over the St. Paul district, one of the weakest in the Farm Credit System, and put in place a radical plan. The strategy: restructure half of its $1.3 billion portfolio of bad loans in six months.

One-third of Mr. Maisel's debt was forgiven and his interest rate halved to 8%. He'll start making payments again in January. "If Larry Buegler hadn't come in, I would have had to file bankruptcy," he says.

Mr. Maisel is one of a legion of Midwest farmers plucked from the brink of foreclosure by Mr. Buegler, the 50-year-old president and chief executive of the St. Paul district, which covers four states. Regulators and bankers say Mr. Buegler, who left a fast-track banking career with Norwest Corp. of Minneapolis, has restructured the loans of more borrowers in less time than any private U.S. banker they know of—about 5,000 farmers holding approximately $709 million of loans.

A MODEL FOR THE SYSTEM

In Congress, some are calling Mr. Buegler's strategy a model for how the Farm Credit System, the nation's largest farm lender, should mend itself. But it has scared just as many; the plan involves enormous risks that are driving away creditworthy borrowers and may only postpone the day when the district must face up to its bad loans. Mr. Buegler's staff calculates that each of the 5,152 loans it rescheduled in the first quarter has a one-in-five chance of turning sour; if the farm economy weakens, that number would soar.

Raging around Mr. Buegler is a storm over how to revive the ailing farmer-owned Farm Credit System, which operates banks across the country. The system—federally chartered but not financed or insured by the U.S.—has had $4.8 billion in losses over the past 2½ years. Federal regulators expect it to have an additional $1.2 billion in losses for the last half of this year. The system wants a government bailout of as much as $6 billion, and Mr. Buegler's approach is getting attention as one of the least expensive alternatives.

"He has raised a lot of eyebrows," says Neil Harl, a farm economist at Iowa State University. Adds U.S. Rep. Steven Gunderson, a Wisconsin Republican: "He is not the most popular man in Farm Credit Services. He is much more popular in Congress." Mr. Buegler's strategy solves a political dilemma: How to clean up Farm Credit without forcing more farmers out of business.

REPUTATION FOR TURNAROUNDS

A slow-talking Minnesotan who unwinds by taking Las Vegas gambling trips—"I have never gambled with anyone else's money," he hastens to add—Mr. Buegler was considered the ideal candidate to take over the St. Paul district. He was an outsider to the Farm Credit System—something federal regulators pushed for. He brought a flock of ideas from commercial banking, where he had built a reputation for turning around ailing banks, generally by trimming staff and courting clients.

At the Farm Credit district, he decided quickly that he had to slash the size of the loans owed by farmers in default, often by writing them down to the value of the land and stretching out payment terms. The move is pumping money into the coffers; before the revamping, so many farmers were paying their loans late that the district was losing $480,000 a day just paying the bonds floated to make the loans.

What's more, the traditional solution—foreclosing on bad loans—wasn't working because land values had fallen to a fraction of the loans they backed, says Dave Lins, a University of Illinois professor. Now the district says it will come out ahead even if one-third of the reworked loans fail again after two years. Meanwhile, getting farmers paying again—even if the amount is smaller than what they should have been paying—produced a $7 million second-quarter profit for the district, compared with a $210.7 million year-earlier loss.

"I personally have a problem with restructuring loans," says John Shaffer, a farmer and a director of a Farm Credit office in Worthington, Minn. "But the old ways don't work anymore."

Yet Mr. Buegler's strategy involves big risks. For one, it almost encourages farmers to default: It is an easy way to get big parts of their debt forgiven. Others worry that it only postpones the problem, that more farmers are destined to fail in any event.

TIGHT DEADLINES

Such concerns are fueled by talk that Mr. Buegler's loan restructurings were hasty. A study commissioned by Mr. Buegler, which hasn't been released, says that in many cases loan officers were under such tight deadlines that they didn't have time to get appraisals and income statements. A midlevel official who is quitting after 17 years complains that a lot of mistakes were made because his staff was given weeks to restructure loans that required months of research and negotiation.

"There were a lot of seat-of-the-pants judgments," says Mr. Lins, who was also one of the study's authors.

The pressure isn't easing. Bad loans keep sprouting. The district is scrambling to restructure an additional $500 million in loans by the end of this year and anticipates more next year.

And Mr. Buegler has yet to figure out how to rebuild loan business at a time when few farmers are willing to go deeper into debt; more are turning to commercial banks and the lower interest rates they offer. He eventually wants to offer farmers mutual funds, estate planning and brokerage services.

Mr. Buegler also has made peace with some of the district's traditional adversaries. Last summer, he had breakfast with James M. Corum, a Minnesota lawyer who represents farmers in disputes with Farm Credit Services. "It was the first time that anyone over there has drawn me out," Mr. Corum says.

As a condition of any government bailout, Congress will probably demand sweeping cuts in the Farm Credit System's bloated bureaucracy. In a pre-emptive move. Mr. Buegler is negotiating a merger with the Omaha, Neb., district. It isn't certain that he will get the top job, but he is likely to remain a key player.

"Not many people get an opportunity to walk into an institution that had lost a billion dollars," he says. "It was an opportunity to look good."

A NATION IN DECLINE?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. STARK. Mr. Speaker, forewarned is forearmed.

In recent years, Americans have come to accept incompetence, stupidity, and dishonesty from their government and leaders. It doesn't have to be that way. We need to take a good, hard look at where we're headed—and change course as fast as we can.

I recommend the following essay by the eminent American historian Barbara W. Tuchman. It should wake us up.

The essay follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

[From the New York Times Magazine, Sept. 20, 1987]

A NATION IN DECLINE? THE AUTHOR FEARS A DETERIORATING ETHIC IN THE U.S. WITH INCOMPETENCE AND INEFFICIENCY THREATENING SURVIVAL

(By Barbara W. Tuchman)

Decline of a nation or a society is a provocative historical problem. In Rome, it is associated with external pressure from the barbarians and the inability of the empire's agricultural rim to offer firm resistance. In the ancient Greek cities of Asia Minor, it can be traced to the silting up of harbors, closing them to access by sea. In the Aztec empire of Mexico it was the invasion of ruthless Europeans. In China, it is a long story.

In the United States, who knows? One certainly feels a deteriorating ethic in many spheres. Our Government is beset by incompetence; our officials display an inability to execute policy efficiently or with the law. The policy-making apparatus itself appears to have broken down, with the chain of command in the Government's executive branch reduced to a meaningless flow chart. Such incoherence and disarray in policy and its implementation result, in turn, from the public's unthinking acceptance of image over substance in its choice of Government officers.

Incompetence is a companion of decline because decline has no goal; when people do not care and have no goal in view they do not function at their utmost. They grow lax and accept defeat. They will go on producing babies for an ever-increasing population because that is easy, but they will not control the poisoning of air and water for preservation of the national health.

One of the members of the Congressional panel investigating the Iran-contra affair stated that the chief issue to emerge from the hearings was "incompetency in government." I entirely agree with him, and had been thinking the same thing myself. I define incompetence as sloppy and ragged performance that ends in unwanted result. Competence, the obverse, is the ability to do work expertly, neatly and correctly without foolish mistakes.

Incompetence can be of two kinds: first, poor performance, the inability to accomplish a given task without making a mess of it, like a person who washes the dishes and leaves them greasy; and second, poor thinking—also known as stupidity—when a person adheres inflexibly to preconceived notions and fails to discern a meaningful pattern in facts or circumstances that stare him in the face, and hence fails to act sensibly in relation to them. This was the kind of incompetence that Neville Chamberlain took along with his umbrella to face Hitler at Munich. Both kinds will be present in a society in decline.

And massive incompetence of both kinds can be seen clearly in the case of the frigate Stark. After being warned, the ship could not manage (for reasons still not fully explained) to shoot at a hostile plane approaching it with intent to attack. The captain was not even on the bridge at the time of the attack, and the antimissile defense equipment was not in operation. This was an example of physical incompetence on the part of Stark's commanders. But it was owed to the mental incompetence of the Defense Department staff at home, which dispatched to the Persian Gulf a frigate not designed for independent battle duty in waters where active self-defense could be expected, but as a component of a carrier force. Consequently, the Stark could not or did not defend itself.

In the case of the Stark, no one was tried by court-martial to establish a clear verdict of responsibility. In 1756, in an analagous situation, the British Navy sent an inadequate and poorly manned fleet to fight off a French attack on Minorca. When the commander, Adm. John Byng, lost the island through a half-hearted defense, he was tried and condemned for not doing his utmost, and then executed by firing squad. I am not advocating that we imitate the procedure—the exaggerated penalty did more to harm the Royal Navy than six Byngs on the bridge. Nevertheless, persons in positions of command, military or civil, must be held to standards of competent performance if our ships are to hold the sea and our policies not be held to ridicule.

In the Iran-contra affair, the most egregious case of incompetence, leaving us in shocked wonderment, is the sale and delivery of arms to Iran without obtaining fulfillment of their side of the bargain—which was, according to Rear Adm. John M. Poindexter, a straight trade of arms for hostages. At first, only one hostage was released, then two more trickled out; but then three more were seized and are still being held. Our arms bought us a total of one recovered hostage.

The mental incompetence of our self-appointed operators was clear. In a situation of their own creation, these agents of covert operations entered an antique land with no more serious thought than tourists off a cruise ship, with no knowledge of the language or the culture of the Levant, no acquaintance with the ancient skills of the bazaar, unprepared to do anything but botch the job. I quite understand and approve President Reagan's desire to bring the hostages out, for their sake and for his. But why on earth did his agents, knowing his urgency and informed that their intermediary, Manucher Ghorbanifar, was a liar and unreliable, not require some down payment, a hostage on the table, so to speak, or some evidence of good faith in the bargain, before delivering the arms?

Unaware or unconcerned, President Reagan benignly kept these off-the-reservation adventurers in position and sanctioned their exploits. With no one actively in charge, the National Security Council ran wild in support of the contras, in the name of "patriotism." They might just as well have been bombing abortion clinics and calling it "patriotism," because abortion was something the President was known to oppose.

Reagan was the security council's chief, but his interest in the position was lackadaisical, and he apparently was oblivious to its responsibilities. That may have been due to age. When a person reaches 70 or 75, consequences seem less important, and someone carrying heavy responsibilities will have a tendency to let things go, in the comfortable belief that they must end up in someone else's lap. The report of the Tower Commission concluding that Mr. Reagan is a hands-off President is widely accepted because it fits, and because of the statement let slip by Secretary of State George P. Shultz during the hearings that he obtained an interview with Reagan when the President "happened to be in Washington." This stays with me as the single most memorable remark of the hearings.

Reagan's attitude resembles to some extent the easygoing acceptance by the Aztec emperor Montezuma of the invasion of the Spanish conquistadors in 1519. He bestowed gifts on them, even received them in his court. His downfall and death soon followed at their hands.

Lawlessness often accompanies incompetence. When the President authorized the arms sale to Iran without informing Congress, he may have violated the Arms Export Control Act. According to that law, in a transaction involving the export of arms by a private manufacturer, the State Department has the authority to decide whether the release is advisable and politically suitable. If the arms have become part of United States stock in the possession of the Defense Department, as were the TOW missiles that found their way to Iran, the export requires an authorizing document signed by the Secretary of Defense or an officer of his department.

The act requires that Congress be notified of significant sales of arms abroad, and that arms not be sold to a customer for transfer to a third party. Thus, in authorizing the sale in his finding of Jan. 17, 1986, President Reagan twice ignored that law by failing to notify Congress and by using Israel for the transfer to Iran. This must have been done consciously—unless he is given to signing documents with his eyes closed.

Lawlessness appears again as a twin of incompetence in the Reagan Administration's mining of Nicaraguan waters in 1984, a belligerent act against a country with which we were not and are not at war, ordered by our Government as a whole, not by the outriders of the National Security Council. What was gained? A hash of our Good Neighbor policy and greater turmoil than before in Central America—hardly the record of a competent government.

Pundits talk about the need for legislation to tighten our rules of conduct within the Government, to prevent any recurrence of an aberration like the Iran-contra case. But all the rules are already in place. What is missing is compliance. You cannot pass a law, it has been said, to stop people from breaking the law.

Next we have the extraordinary spectacle of the American Government exerting diplomatic pressure on friendly nations not to sell arms to Iran while we were simultaneously sending official American envoys—Robert C. McFarlane and Oliver L. North—to Teheran to negotiate just such an arms sale by ourselves, for the sake of improved "dialogue" with Iran and for release of the hostages. Is this coherent government?

The open expression of divided opinion among citizens is the virtue of our democracy; the divided policy to which it may lead is the hazard. Because of the divisions, agents of Government take it upon themselves to act independently, with a quite astonishing inattention to ordinary lines of command, despite all their loyal readiness to do a headstand if ordered and salute smartly in response, an athletic trick when both hands are braced on the floor.

The saddest records in this affair, after the President's, seem to me to be those of the Secretaries of State and Defense. For Shultz and Caspar W. Weinberger to say that they strongly disapproved of the arms sale to Iran and to do nothing effective to restrain it, and then to claim they knew nothing about it (which I cannot believe) can only be labeled pathetic—for men in their position.

The most outspoken action the two could have taken would have been simply to refuse to give their departments' license for the sale of arms and, upon this refusal, to resign—as former Secretary of State Cyrus R. Vance did over the attempted rescue of the earlier hostages in Iran, as British Foreign Secretary Anthony Eden did in 1938 over Chamberlain's rapprochement to Fascist Italy.

Ministerial resignation, renouncing the important scream of a motorcycle police escort and accepting exile from the golden circle of insiders, is a difficult and infrequent choice. Secretary Shultz says he offered his resignation three times to the President, but in terms that could not have been very firm or convincing, for he is still here. He based his desire to quit not on any principle of policy, but because he was cut out of decision-making and kept uninformed, was being deceived by the White House staff and came to feel "a sense of estrangement" from the White House and from associates at the National Security Council. As the State Department's chief, knowing he was being misinformed, surely Shultz should have exerted a stronger hand to put an end to unauthorized initiatives. Otherwise, he would have been left presiding over a department of anarchy and futility.

The failure by Weinberger and Shultz to say anything publicly of their disapproval of Reagan's signed "finding" approving the arms sale seems to me a disillusioning indication of their independent judgment as Cabinet officers. They are, or should be, advisers to, not minions of the President. "My country right or wrong" has a certain nobility of sentiment, but "our President right or wrong" signals the collapse of constitutional government.

A disquieting result of the revelation of the bizarre disorder in American Government will be the effect it will have on the relationship to us of other nations, friendly and unfriendly, allies and foes. The former will find it difficult to know where to locate the source of American policy and how to identify the author of policy on whom they should rely. Uncertain what, or whom, to count on, allies will be less inclined to want attachment to us in a firm relationship. Uneasiness has shown itself already in the initial reluctance of states benefitting from our protection of their oil tankers in the Persian Gulf to aid us in mine sweeping.

Foes, on the other hand, seeking to take advantage of our internal disorders, will use them for whatever machinations and mischiefs they can employ.

To many Americans, the most disturbing revelation of the Iran-contra fiasco, I think, is the degree to which the occupants of important political office seem to be able to distract or divert policy in any direction they personally think it should go, even when contrary to Congressional prohibition. What assurance have we that some extremist from what is wistfully called the "intelligence community" will not one day veer off in a wild turn, of which his superiors will blandly tell us afterward they knew nothing?

This brings me to Oliver North and "Ollie mania." North is unquestionably the most striking public personality to take over television since the wonderful Sam Ervin, the Senator from North Carolina who chaired the Watergate hearings. But oh, the difference! Senator Ervin was the perfect elder statesman, inspiring confidence, expressing truth and integrity in every lift of his white eyebrows and murmur of his drawl. North, with his good looks, sharp military appearance, his poise, his excellent grammar and diction and his "can-do" spirit is, if perhaps a little too slick, the ideal young American activist. An attractive figure, he could not fail to conquer the viewers.

But the reality underneath North's heroic exterior is that of a meddlesome, overgrown Boy Scout with streaks of megalomania, whose activities, rather less than heroic, caused more trouble for his country than did all of Nixon's "CREEP." The "Olliemania" phenomenon—which now reaches from Oliver North T-shirts to clubs promoting North for President—demonstrates a distressing popular development that I consider the main point of the Iran affair, deeper than the issue of incompetence in government. It is the public's acceptance of the pictured image without regard to the reality underneath.

The problem is serious. It has caused us to put in the Presidency a person who appears likable and avuncular on the screen but is not otherwise equipped for the White House.

I need not say that this is the result of a visual—which is to say a nonthinking—culture, inculcated by the age of you-know-what. Television has been a great boon to the ill and lonely, but the degree to which it has impaired the brain cells of the general population has not been measured.

A visual culture has important implications for government. The subjects of the Bourbon monarchy were so overcome by the mystique of the court—curled wigs and elegancies—that they allowed the Bourbons to reign in decadence until revolution became inevitable. Today, television has become our monarch. It determines more and more our choice of candidates for office and the persons we now elect to exercise the government we live under.

As the world grows more complex and more in need of expert handling in foreign relations, we must not rest content with persons who merely look good on television. As we learned from the hearings, they and their appointees are not the most competent caretakers of national security.

The National Security Council officers' admitted lying to and misleading of Congress is somehow less shocking than their incompetence because, hateful though it is to say, falsehood and false dealing have become so much a part of American life that we almost take them for granted.

I recently saw on television a survey of airline delays and cancellations. Corporate officers, with the same nonchalant admission of lying shown by Poindexter and North, acknowledged that their companies issued false statements of flight times—showing a shorter time between given points than their competitors—so that they would appear more favorably on travel agents' timetables and would thus obtain the most bookings.

Though not horrendous in itself, the fact of its being acknowledged so frankly and openly, in the same insouciant tone as the National Security Council admissions, gives one the feeling that false dealing is now the prevailing element of American life and may account for the sense of decline we feel in the American condition. This condition was clearly exhibited in the Iran-contra hearings, and in every morning newspaper, which bring us (along with our orange juice and coffee) news of yet another municipal or Federal official indicted for, or charged with, wrongdoing of one kind or another, from the nation's highest judicial officer down to the cop on the block.

It does seem that the knowledge of a difference between right and wrong is absent from our society, as if it had floated away on a shadowy night after the last World War. So remote is the concept that even to speak of right and wrong marks one to the younger generation as old-fashioned, reactionary and out of touch.

I choose that war as the turning point in public morality. It is my belief that the Nazi years have been underrated as a milestone in history marking the onset of a continuing period of interpersonal violence in the 20th century. Comparable crimes have been known in other times, although not with quite the same deliberate, officially pursued purpose. So much evil was perpetrated by the Germans and callously accepted by our own and other nations that harm done to fellow human beings began to appear normal, and there was a consequent failure to regard wrongdoing in general as out of bounds and punishable. Killing and meaningless mass murder without affect, as the psychologists say, and brutality in unspeakable terms (like the man who cut off the arms of the woman he raped, and the other men who, for hire, slashed the face of a model) have become too frequent occurrences in contemporary life.

Whether a national decline has ever been initiated by a habit of violence would require a lifetime of study to obtain the evidence. I think a good case can be made for the Ottoman Turks, after their conquest of Constantinople in 1453. Some 400 years after that victory, the once-all-powerful Ottoman empire, mired in an orgy of atrocities in Bulgaria, had become the "Sick Man of Europe" and had earned Gladstone's famous peroration (from his 1876 pamphlet "The Bulgarian Horrors and the Question of the East") on "fell satanic orgies . . . gross and incurable misgovernment . . . unbridled and bestial lust, . . . fiendish misuse of power, of . . . loathsome tyranny. . . . There was not a criminal in a European gaol, not a cannibal in the South Sea Islands, whose indignation would not rise at a recital of Turkish crimes. . . . Let it be over. Let them clear out of Europe with . . . their Bimbashis and their Yuzbashis . . . one and all, bag and baggage . . . for nothing less can bring relief . . . to the overcharged emotion of a shuddering world."

One cannot resist such a gorgeous example of invective by a master of the art when "intoxicated," as Disraeli said, with "the exuberance of his own verbosity." Granted, a "specter at whom cannibals shuddered" is not a fate one necessarily foresees for the United States, but today's climate of bloody violence is not reassuring.

Our electoral choices now become crucial, and one hopes they will be founded next time on a basis more mature than the televised-TelePrompTer-artificial images packaged by professional fund-raisers and advertising companies.

Maturity and education are long, slow processes. Although our current disarray is urgent, we shall not achieve a more mature public opinion overnight, especially against worshipers of the populace who insist there is no cause for worry because the voice of the people is always right. That is nonsense. It is no more right than would be the voice of a herd of sheep—if it had one.

The re-election of Ronald Reagan by popular choice in 1984 was not right, but disastrous. "I do not understand," a foreign visitor said to me at the time. "Everywhere I go, everyone tells me how harmful and inadequate Mr. Reagan is as President and yet assures me he is certain to be re-elected. Why is that so?" All I could tell him was that the American people, in the era of television, with the heavy hand of advertising exerted upon them from the cradle, are not now very smart in their political understanding. What is needed—and God knows how it may be achieved—is more political sense in the American citizen.

One improvement would be to prohibit packaged 30-second spots on television by political candidates. We should permit only live, spontaneous appearances of a minimum duration of two minutes, to allow us more realistic ideas of the candidates.

This would be only a tiny beginning, and much more must be done to put sense into the electorate. We have to recognize that where the buck stops in this crazy Iran-contra affair is here on the doorstep of the American people. Somehow, we must learn to do better, if more and perhaps more dangerous mischief is not to revisit us.

A peculiar vacuum exists in American public opinion: not "where's the beef?" but where's the outrage? Where's the anger that ought to have met the deaths of 241 United States marines in the truck-bombing in Beirut through the failure by officers of the station to block the road? Where's the anger over the 37 deaths on the Stark? And now, where's the outrage over the disclosures of misconduct and incompetence in Government by public officials of the highest rank?

Those deaths and illegalities excited hardly a tremor, but the amorous peccadilloes of Gary Hart generated as much excitement (largely due to male jealousy, I suspect) as if Marilyn Monroe had returned to earth and was found living in the Taj Mahal. The passionate interest the Gary Hart episode aroused in the public, contrasted with the flaccid reaction to lost lives and broken laws, illustrates the shallowness and frivolity of popular opinion. If the American people do not grow angry when their sons' lives are sacrificed to official negligence, or when statutes are casually violated by the caretakers of the nation's security, one cannot expect any change to a steadier Government that commends more respect. Anger when anger is due is necessary for self respect and for the respect of our nation by others.

What has become of American wits? What has become of the America of Washington, Adams and Jefferson? What has become of national self respect, not to mention common decency? (Perhaps the last should be left out of the discussion, because common decency is not considered to be a necessary component of realpolitik in foreign affairs.)

To raise the level of public understanding from frivolity to a readiness to take serious things seriously will require a great and concerted national effort—if, like the problem of controlling AIDS, we can figure out how it may be done. Until it is, we shall not soon retrieve coherent national policy or the rule of law.

A TRIBUTE TO REV. MSGR. JOHN PATRICK CARROLL-ABBING

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. DioGUARDI. Mr. Speaker, I rise today to once again pay tribute to Rev. Msgr. John Patrick Carroll-Abbing, a man who has made many outstanding contributions to world peace. It is my pleasure to announce that I have nominated Reverend Monsignor Carroll-Abbing as a candidate for the Nobel Peace Prize. I respectfully submit my letter of nomination to the CONGRESSIONAL RECORD.

Monsignor Carroll-Abbing's major accomplishment has been the founding of the Boys' Towns, institutions established in order to help shape the lives of thousands of abandoned children after World War II. His selflessness toward both children and adults has stretched far beyond what most men and women give in their lifetimes.

Mr. Speaker, I ask that this body recognize Monsignor Carroll-Abbing's unceasing activity on behalf of the suffering and his many years of dedicated service to children throughout the world and join me in wishing him luck upon his nomination for the Nobel Peace Prize.

Reprinted below is the letter of nomination I sent to the Nobel Foundation in Sweden:

I would like to call your attention to a man who in the opinion of many deserves the respected honor of the Nobel Peace Prize. Monsignor John Patrick Carroll-Abbing, age 75, has spent fifty years in the service of humanity. He has devoted his life to the care of the children of the world. Over the past fifty years Monsignor Carroll-Abbing has had a tremendous influence on the lives of tens of thousands of destitute youngsters whom he has guided and helped to mold, youngsters who would otherwise have been helpless and hopeless.

Monsignor Carroll-Abbing was born in the County of Dublin in Eire on August 11, 1912. He moved to Rome to study for the priesthood in 1930, and although he has lived in Italy from that time on, he proudly retains his Irish citizenship. His dream in those days—a dream which fate would never let him realize—was to have a parish in northern England or in a poor area of Wales. He became fluent in four languages, and was ordained a priest in 1937. After his ordination he was appointed to Vatican service in the same year.

THE WAR YEARS

During World War II Monsignor Carroll-Abbing worked hard to help civilians who were being injured, starved and evicted by the war. He was permitted to cross allied and German territories in order to give aid, such as medical supplies, clothing and blankets to the native populations. While performing these services he was in constant danger, many times actually working under fire. As a chaplain for the war-wounded, he founded many first aid stations for wounded civilians and organized a group called Medical Aid for the Battle Areas. As the allies swept north, new territories in need of aid were opened. Monsignor Carroll-Abbing also worked for the Resistance, finding shelter and eventual freedom for allied prisoners of war and Italian Jews who were sought by the Nazis.

For these actions he was awarded Italy's Silver Medal for Military Valor, an honor rarely given to a civilian. After the war he was put in charge of all medical supplies sent by American relief funds, and began to give his attention to the problems of the many displaced persons, the living casualties of wartime, especially those who were disabled and ridden with disease.

The most influential aspect of these years was his association with young people. "During the war when I was involved in the underground and needed helpers, I turned to the young people," he said. "I came away from this experience with a new vision of youth." Beginning in 1943 he recruited young volunteers to aid war refugees. Many of these youths were the children of Italian aristocrats, but they quickly became accustomed to their situation, and demonstrated their selflessness, maturity and quick acceptance of hardships.

After the war, the Monsignor set up nationwide medical and relief efforts. It was the orphaned children of the war who attracted his attention the most. "There were street boys everywhere, shining shoes, surreptitiously holding out packs of stolen American cigarettes, leading drunken soldiers by the hand up ill-famed alleyways, tendering the photos of girls who were up for sale," he wrote. "Ragged, dirty, emaciated, brutalized children, whose own indomitable spirit was the only force to keep them alive. What was to become of them?" He was touched by the orphaned, homeless children who were trying to survive: "I was amazed and moved by their fortitude," he wrote. "They had experienced every heartbreak; they could not possibly look to the future without a feeling of terror, and yet they could still find the courage to smile. They pushed forward along the roads, barefooted and half-naked, undernourished and sickly, exposed to every physical and moral danger. I was amazed not by the temptations to which they had succumbed, but by the virtues which they had preserved. Behind the older boys trailed the smaller children, not bound to them by any ties of blood but only by the brotherhood of the road, protected by them, fed by them and—why not?—loved by them in their own rough and often profane way."

THE BOYS' TOWNS

During the last Christmas of World War II, in 1944, Monsignor Carroll-Abbing realized that he would dedicate his life to helping these homeless children. Boys were pressed against walls and each other for warmth, and were dazed by cold and hunger. "That night, on a Christmas Eve, there was born within me a feeling of deep, personal responsibility to help these boys," he said. Another time, he explained his feelings on that night: "I knew I could not stand by and just watch thousands of youngsters rot away on the streets." In 1945 he received the approval of the Pope to concentrate his efforts on children. With that, he devoted his life to the salvation of this younger generation.

No institution would accept the vagabonds, nor would the youngsters accept any institution. Monsignor Carroll-Abbing established a place for these homeless boys called the "Shoeshine Hotel," where he lived with them. Eventually the boys set up a division of labor by which each was responsible for some aspect of keeping up the hotel, such as cooking and cleaning. The Monsignor referred to the hotel as "their hotel, their home." As soon as the group outgrew the Shoeshine Hotel, the Monsignor negotiated with the Ministry of Defense for the use of abandoned barracks on the outskirts of Rome to house the children temporarily.

Monsignor Carroll-Abbing's final solution to the problem of the thousands of abandoned children were the Boys' Towns, for which he is now world-renowned. The first was set up in 1945 forty-five miles northwest of Rome, on the coast. Soon others appeared. The purpose of the Boys' Towns was to give a home, as well as dignity, to the youngsters who had lost so much during the war. He also succeeded in establishing them in society by giving them responsibilities. Trust and love were his two foundations. The Boys' Towns were run completely by the children, whose ages ranged from ten to eighteen years. He raised funds for his Boys' Towns by bringing the plight of the homeless children to the attention of the world through fundraising tours in the United States and other countries.

Each Town has its own shops, farms and banks, which are all run by the youths. The Towns have lush vegetation and decorations of which the inhabitants are proud. Each youngster learns a trade which will be developed in his or her adult life. There is a trade system by which they export much of their ceramic, leather and wood products. (Monsignor Carroll-Abbing himself is usually found wearing a pair of hand-made shoes). The truly amazing thing about the Towns is that they are completely self-governing; adults have no part in the operation. The inhabitants elect a Mayor and assembly to a one-month term. A Judge is elected as well, to ensure that the codes of law remain unbroken. The Boys' and Girls' Towns are examples of democracy working at its best. Theft and violence are virtually unknown. There is no jail; in the rare event that a crime is committed, the guilty party is given extra work instead of having time for recreation.

TODAY

Today there are nine Boys' Towns and one Girls' Town in Italy, as well as more than thirty day-care centers, all run by Monsignor Carroll-Abbing's international Boys' Towns of Italy, Inc. These Boys' and Girls' Towns have produced tens of thousands of alumni. In addition, there are countless nurseries, welfare centers and community centers. Beyond the establishment of these organizations, Monsignor Carroll-Abbing and his assistants have given clothes, medical and dental care, beds and furniture to thousands of children in hospitals and charitable institutions throughout the world.

He now helps children world-wide. There are over four hundred refugees from countries in Africa and Asia who have suffered from war, famine or natural disasters and who have now found a home in his Boys' Towns. Fifteen percent of the inhabitants are Ethiopian refugees, and most of the Italian children are orphans or those whose parents could not support them because of alcohol or drug abuse problems.

To this day, Monsignor Carroll-Abbing travels to the scenes of disasters, such as earthquakes or floods, to set up relief programs for the victims, with children as his helpers. His contributions to humanity have not diminished with his considerable age.

Monsignor Carroll-Abbing is an authority on the problems facing today's young generation. He has worked with children who have abused drugs, attempted suicide, run away from home and committed acts of violence. He has an understanding with the Italian government to allow him to gain custody of children through the court system and to rehabilitate the delinquents. He has proven time and again his ability to communicate with young people, even those who would potentially pose a threat to society.

Monsignor Carroll-Abbing says that a rise in delinquency comes from the break-up of the family, whether through war, death, neglect or any other means. In the past, a child may have had responsibilities to his or her family, such as looking after siblings or making a financial contribution; but today, he or she feels like a burden. "The only way we can reclaim our young people is to give them responsibility, give them a sense of dignity," he says. "Kids will never mature unless you give them responsibility." Furthermore, "they must be taught responsibility today, while they are young. Not with sermons, not with mere words, but by giving them concrete day-to-day responsibilities." The Monsignor feels that it is important for parents to show love and caring to build their child's self-esteem.

THE LEGACY

His major contribution to society has been to give so many young people a new chance, to give each child a purpose in life. This comes from the trust of adults and the responsibility which comes from being needed. "You have to let kids know their lives are worth something," he once said, "and you have to offer them support and warmth. . . . The only hold I've had on young people over the years is that they've known my sincerity. There's not much apart from that." Another time he expressed his goals in this way: "Why wait until young people become criminals or victims of drugs? Why not teach them when they are very young that their lives have a worthwhile purpose? Why not help them today to discover their hidden talents, to have confidence in themselves?"

Monsignor Carroll-Abbing is a man who has been recognized and applauded by many leaders of the world. He has been praised by at least six United States presidents, several Italian presidents, many Popes, President Jaime de Pinies of the United Nations General Assembly, the British royal family and many leaders of other countries. These are just some of the things they had to say about the Monsignor and his kind works:

President Bettino Craxi of Italy: "I wish to express the warm appreciation of the Italian Government and my own personal gratitude to the Foreign Press Association for its most praiseworthy undertaking in singling out one man's dedication to peace and to the defense of civil rights that has earned him the admiration and respect of the whole world."

President Sandor Pertini of Italy: "The Boys' Towns of Italy demonstrate how precious is the contribution, that all over the world, our young people can make to the building of a more freedom loving and a more just society."

United States President Harry S. Truman: "I cannot think of a more practical philanthropy nor one that breathes more deeply the spirit of true Christian brotherhood than this work."

Pope Paul VI: "It is obvious that this work has received God's blessing."

Prime Minister John Gorton of Australia: "It gives me great pleasure to extend to Boys' Towns of Italy my warmest congratulations and good wishes. . . . I am aware of the splendid work your organization has done for the children of Italy, and it gives me great satisfaction to know that many ex-citizens of your Boys' Towns have settled happily and successfully in Australia."

United States President Ronald Reagan: "Over the years, you have not only given many children love and shelter, but also taught them how to govern themselves in a Democratic way and thus become responsible citizens. People throughout the world applaud and thank you for your work as they find inspiration in your deeds."

President Guiseppe Saragat of Italy: "* * * an undertaking that has done so much good to our country and that puts into practice the highest moral principles of the Christian message. Our very particular gratitude to you who have founded and nurtured this organization with such enthusiasm and meritorious fervor."

Chancellor Konrad Adenauer of Germany: "Congratulations for your beneficient work for the underprivileged children of Italy."

United States President Richard Nixon: "The vital work of Boys' Towns of Italy merits the gratitude and admiration of all men of conscience and goodwill. For if we are to realize the peaceful, prospering society we seek, we must begin by forging a better life for the world's children."

United States President John F. Kennedy: "* * * a model for those in the world who would endow a coming generation with hope and courage."

Prime Minister Pierre Trudeau of Canada: "One measure of the compassion, generosity and goodness of man can be found in his willingness to give voluntarily for the welfare of those around him who are victims of misfortune. Boys' Towns of Italy is an outstanding example of a deeply human response to a tragic legacy of war and destruction. In Canada, we are happy to have as our citizens, many individuals who have benefitted from the Boys' Towns Organization."

In addition to the countless compliments and laudations received by Monsignor Carroll-Abbing, he has been given awards and honorary titles from hundreds of governments, cities, and universities. In June of 1987, on the anniversary of the liberation of Rome during World War II, Monsignor Carroll-Abbing was made an honorary citizen of that ancient city—only the third non-Italian to be given such an honor. In 1985 he was given the first "World Humanitarian Award" by the Foreign Press Association, a group of journalists with members from sixty countries. The following is a list of other awards and titles given to the Monsignor:

From Italy:

Grand Cross Knight of the Order of Merit.

Gold Medal of the Ministry of Public Health.

Gold Medal of the Ministry of Public Instruction.

Gold Medal of the Ministry of Justice.

Silver Medal for Military Valor.

Gold Medal of the City of Rome.

From elsewhere:

Gold Cross of the Ministry of Public Service (France).

Youth Award of the Ministry of Youth Affairs (Indonesia).

Many university honorary doctorates.

Many honorary citizenships.

Many humanitarian awards.

Monsignor John Patrick Carroll-Abbing has served humanity all his life. For more than forty years he has devoted his life to helping young people. He has given of himself and received the pleasure of seeing his thousands of sons and daughters learn values and morals while growing up. His children have learned the value of good citizenship. During World War II and during natural disasters he has always helped the sick, with no thought for himself. His actions for the poor, the helpless and the unfortunate people of the world should earn him the Nobel Peace Prize.

ADDRESS BY MARIAN WRIGHT EDELMAN

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. HAWKINS. Mr. Speaker, on September 26, 1987, the Congressional Black Caucus Foundation hosted their annual awards dinner. I was proud to introduce the keynote speaker of the dinner, Marian Wright Edelman, president of the Children's Defense Fund. No one has been a stronger advocate of the rights and needs of children in America than Marian Wright Edelman. Her strong and eloquent address at the Black Caucus dinner was truly an inspiration for all who attended. This powerful statement, which I would like to submit in the RECORD, should also provide an inspiration to this body as we work toward improving the quality of life in America.

The address follows:

It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of light, it was the season of darkness, it was the spring of hope, it was the winter of despair.—*A Tale of Two Cities* Book 1, Chapter 1.

You have no right to enjoy a child's share in the labors of your fathers unless your children are to be blest by your labors.—Frederick Douglass, "The Meaning of July Fourth for the Negro."

For many of you sitting in this room, it is the best of times. Black per capita income is at an all-time high and many of you have moved up the corporate ladder even if the ladders you are on frequently don't reach towards the pinnacle of corporate power. Black purchasing power, now at $200 billion, exceeds the gross national product of Australia and New Zealand combined. But it has not yet been translated into commensurate black economic influence and benefit. Black elected officials are more numerous than ever (6,681 in 1987, a 350 percent increase since 1970). But white economic power still controls our city tax bases. The amassing of committee and subcommittee chairmanships (8 full House Committee chairs including the Select Committee, and 18 subcommittee chairs) by members of this Congressional Black Caucus is impressive by any standards although the main political game in town is cutting the budget deficit. Spelman College, my alma mater, looks towards its future with a stronger endowment and student body than ever before while many other black colleges are struggling mightily to survive.

Bill Cosby is America's favorite daddy and Michael Jackson and Whitney Houston dot the top ten charts. Black leadership has permeated a range of mainstream institutions. Bill Gray chairs the House Budget Committee, Frank Thomas heads the Ford Foundation, and Cliff Wharton heads TIAA-CREF. A. Barry Rand is in charge of marketing at Xerox. Anita De Frantz is America's representative to the Olympic Committee, and Richard Knight is the city manager of Dallas.

I am proud of these and many similar accomplishments and applaud the black middle class for whom the times are good tonight. We've worked hard to get where we are. However, we have to work harder still to stay there and to move ahead.

But there is another black community that is not riding high tonight and that is going down and under. If you and I don't build a bridge back to them and throw out some strong lifelines to our children and youths and families whom poverty and unemployment and hopelessness are engulfing, they're going to drown, pull many of us down with them, and undermine the black future that our forebears dreamed, struggled, and died for.

I am grateful, therefore, that the Congressional Black Caucus has focused attention this year on Educating the Black Child. Just as Martin Luther King, Jr. and others accepted the challenge of their time, so the challenge of our time is educating all of our children in mind, in body, and in soul if we are to preserve and strengthen the black future.

It is the worst of times for poor and black babies born within a mile of this hotel and in many inner cities around the country who have less of a chance of living to the first year of life than a baby born in Costa Rica. Black babies are still twice as likely to die in the first year of life than white babies.

It is the worst of times for black youths and young adults trying to form families without decent skills or jobs and without a strong value base. Young marriages have essentially stopped in the black community. Sixty percent of all black babies today are born to never married single mothers; 90 percent of those born to black teens are born to unmarried mothers. One out of two children in a female-headed household is poor. Two out of three (67.1 percent) children in black female-headed households are poor. If that household is headed by a mother younger than 25, three out of four are poor. Even when teen pregnancy results in marriage, young two-parent families are almost three times as likely to be poor as those with parents 25 to 44 years of age.

A significant cause of this black family problem lies in young black men's eroding employment and wage base. Only 26.5 percent of all black male teens were employed in 1986 and 61.3 percent of those 20 to 24 years old. And even when they are lucky enough to work they frequently can't earn enough to lift a family out of poverty. Between 1973 and 1984, the average real (inflation-adjusted) annual earnings among males ages 20 through 24 fell by nearly 30 percent (from $11,572 to $8,072 in 1984 dollars). This sharp drop affected virtually all groups of young adult males—whether white, black, or Hispanic—although young black men suffered the most severe losses (nearly 50 percent). So the links between pregnancy and poverty are related not just to age and single parenthood but also to the poor skills and employment experience young parents seek to bring to the work force and to the lower wages young workers are paid.

To combat the poverty which is engulfing half of the black babies born today—half of our future as a black community—we must all work to prevent too early sexual activity and pregnancy and encourage our boys and girls to wait until they have the education and economic stability to form lasting families. If the share of single births in the black community grows at the rate of the last decade, by the year 2000, only one black baby in five will be born to a married woman. And if you don't care about these babies unselfishly you'd better care selfishly, for the future black voting and economic base upon which most of our leadership status rests in the health and education of the black child and the strength of the black family.

Not only are too many babies and youths fighting poverty and sickness and homelessness and too little early childhood and weak basic skills preparation, they are also fighting AIDS and other sexually transmitted diseases; drug, tobacco, and alcohol addiction and crime which hopelessness and the absence of constructive alternatives and support systems in their lives leave them prey to. A black baby is seven or eight times more likely to be an AIDS victim than a white baby and minority teens [15 to 19] are the highest group for a range of sexually transmitted diseases. A black youth is five times more likely than a white youth to end up in an institution and is nearly as likely to be in prison as he to be in college. Between 1979 and 1985 the number of black youths in juvenile detention facilities rose by 40 percent while the number of black youth entering college immediately after high school graduation fell by four percent. More black males go to prison each year than go to college. There are more black drug addicts than there are black doctors or lawyers.

Now some of you sitting here will ask what this has to do with you. You struggled and beat the odds and those folks who haven't made it could do the same. Others of you will rightfully say you're already doing your bit for the race by achieving yourself and by contributing to black organizations. Still others place the blame for growing black family poverty and weakening community bonds and support systems on urbanization and the continuing racial discrimination in national life which devalues black talent and curbs black opportunity.

As many nuggets of truth as each of these views may contain, I will simply say that unless the black middle class begins to exert more effective and sustained leadership within and without the black community on behalf of black children and families both as personal role models and value instillers and as persistent advocates for national, state and local policies—funded policies—that assure our children the health and child care, education, housing, and jobs they need to grow up into self sufficient adults, to form healthy families, and to carry on the black tradition of achievement, then all of our Mercedeses and Halston frocks will not hide our essential failure as a generation of black haves who did not protect the black future during our watch.

Just as our nation is committing moral and economic suicide by permitting one in four of its preschool children to be poor, one in five to be at risk of being a teen parent, one in six to have no health insurance, and one in seven to face dropping out of school at a time when the pool of available young people to support an aging population and form a strong workforce is shrinking, so we are committing racial suicide by not sounding the alarm and protecting our own children from the poverty that ravages their dreams. For America will not treat our children fairly unless we make it.

We must recapture and care about our lost children and help them gain the confidence, self-esteem, values, and real world opportunities—education, jobs, and higher education which they need to be strong future guardians of the black community's heritage.

How do we do this? There are nine steps we must take if we are to help our children:

The first step is to remember and teach them that black folk have never been able to take anything for granted in America and we had better not start now in these waning Reagan years of budget deficits and looming economic recession. Frederick Douglass put it bluntly: "Men may not get all they pay for in this world, but they must certainly pay for all they get." So you make sure that you are ready to do your part to help yourself and black children and to hold public and private sector officials accountable for doing their part in fostering health, education, and fair employment policies that are essential to black family survival.

Tell our children they're not going to jive their way up the career ladder. They've got to work their way up—hard and continuously. Too many young people want a fast elevator straight to the top floor and resist walking up the stairs or stopping on the floors of achievement between the bottom and top. Tell them to do their homework, pay attention to detail, and take care and pride in their work. People who are sloppy in little things tend to be sloppy in big things. Tell them to be reliable, to stick with something until they finish and resist jumping from pillar to post. And tell them to take the initiative in creating their own opportunity. They can't wait around for other people to discover them or to do them a favor.

The second step is to teach them the importance of getting a good education. While not a guarantee of success, education is a precondition to survival in America today. At a time when a smaller proportion of black high school graduates go on to college than ten years ago, we need to tell all of our children that college pays. In 1986, the average unemployment rate among black college graduates under 25 was 13.2 percent—more than one in every eight. Among young black high school graduates, it was 26.6 percent—more than one in four. College doubles their chance of getting a job. And we need to insist that they get a liberal education and learn how to think so that they can navigate an ever changing job market.

The third step is to tell them that forming families is serious business and requires a measure of thoughtful planning and economic stability. In 1986, one in every five black families with children under 18 had someone unemployed. Of those 44 percent were single parents with no one at work. Among black married couples with children, only 18 percent had no one working.

That is the crucial point. Education alone, although of enormous value in itself, cannot guarantee a young black adult the income needed to raise children in economic safety today. But two black adults, both working, have the safety net of the second income when unemployment strikes. Remember, that's the only safety net President Reagan hasn't found a way to cut yet.

All these figures are from 1986, the fourth year of a long period of economic recovery. When the next recession arrives—and it will—the black unemployment rates will soar. Since this recession will come at a time when we have an extraordinary budget deficit, there is a great danger that the American voters will buy the argument that we must cut government spending in order to reduce interest rates and stimulate the economy. If this happens, there will be many unemployed teachers, nurses, employment counselors, and government workers of all sorts.

There is a warning here that relates to steps one and two. Just as black penetration into civil and social service professional jobs occurs, the growth and security of such jobs fall. Just as blacks rise to senior ranks in industrial and industrial union jobs, steel and auto manufacturing industries enter a steep decline. The economic goal posts keep shifting. How then, do we work towards a full share in the power to set the goals in place, and not just the right to run the race?

The fourth step is to set goals and work quietly and systematically towards them. So often we feel we have to talk loud rather than act effectively. So often we get bogged down in our ego needs and lose sight of our broader community goals. T.S. Eliot in his play "The Cocktail Party" said that "half the harm that is done in this world is due to people who want to feel important." Wanting to feel important is good, but not at the expense of *doing* important deeds—even if we don't get the credit. You can get a mighty lot done in this world if you don't mind doing the work and letting other people take the credit. You know what you do and the Lord knows what you do and that's all that matters.

The fifth step is knowing the difference between substance and style. Too many of us think success is a Saks Fifth Avenue charge card or a "bad" set of wheels or coming to this Black Caucus dinner. Now these are things to enjoy, but they are *not* life goals. I was watching one of President Johnson's inaugural balls on television with a black college president's wife in Mississippi when Mrs. Hamer, that great lady of the Mississippi civil rights movement who lacked a college degree, but certainly not intelligence or clear purpose, came onto the screen. The college president's wife moaned: "Oh my, there's Miz Hamer at the President's ball and she doesn't even have on a long dress." My response was: "That's alright. Mrs. Hamer with no long gown is there and you and I with our long gowns are not." So often we miss the real point—we buy BMWs and fur coats before we think about whether where we're going to drive and wear them is worthwhile. Nobody ever asks about what kind of car Ralph Bunche drove or designer suit Martin Luther King, Jr., bought. Don't confuse style with meaning. Get your insides in order and your direction clear first and then worry about your clothes and your wheels. You may need them less.

The sixth step is valuing family life. We must build on the strong black tradition of family and teach our children to delay family formation until they are economically and emotionally stable and ready to raise the new generation of black children and leaders. Black and white men must support their children as best they can and not have them until they are ready to take responsibility for them. We must strengthen family rituals: prayers if we are religious, regular family meals, and participation in school work and in non-school activities. Our children need constructive alternatives to the street. We must *do* things with our children. Listen to them. Be moral examples for them. If we cut corners, they will too. If we lie, they will too. If we spend all our money on our backs and wheels and tithe no portion of it for our colleges, churches, and civic causes, they won't either.

We must join together as an entire community to establish an ethic of achievement and self-esteem in poor and middle class black children. They can do science and math as well as basketball and football, computers as well as cotillions, reading along with reggae, if we expect these accomplishments of them, support them in their learning processes, and help them in setting priorities. They need strong consistent adult buffers to withstand the negative messages of the external world that values them less then white or middle class children.

When I, like many of you, was growing up in my small segregated southern town, the whole outside world, the law of the land, local officials, the media, almost everybody outside our own community told black children we weren't worth much or were second rate. But we didn't believe it because our parents said it wasn't so. Our preachers said it wasn't so. Our caring teachers said it wasn't so. And they nurtured us as a community, shielded us against the constant psychological battery of our daily environment and made us understand that we could make it—had to make it—but in order to do so, we had to struggle to make our own opportunities in order to help change America. And we went on to college—poor and black—and tried to carry out their other lesson to give some of what they gave us back in service to others left behind. Service, they taught, is the rent you pay for living. Where is our buffer today for the black and poor children who are daily wounded by a national administration who would rather judge than help poor? Where are the strong local officials and community voices and hands shielding and fighting for the poor children in our city streets against the ravages of drugs and crime? Where are the role modelling, mentoring, and tutoring programs that help black children overcome the pernicious undercurrents of many, even our purported friends, who really think black children lack the potential of other children? What activities are your churches and sororities and fraternities sponsoring to keep children busy and off the streets?

The seventh step is to vote and use our political and economic power. Only 51 percent of all voting age blacks voted in the 1980 election and only 56 percent in the 1984 election. Seventy percent of 18- and 25-year-old black youths did not vote in the last election. People who do not vote have no line of credit with people who are elected and pose no threat to those who act against our interests. Don't even pretend that you care about the black community, about poor children, about your nation, even about your own future, if you don't exercise the political leverage Medgar Evers and others died to make sure we had. And run for political office. And when you win don't forget that you are the means to serve others well and not the end.

No one running for president or any office should get black community support unless they have a well thought-out set of policies designed to lift the black child and family. Similarly, we need to use our economic power for the benefit of black families particularly in industries where we constitute a large market share.

Two last steps and I'm done.

Remember your roots, your history, and the forebears' shoulders on which you stand. And pass them on to your children and to other black children whose parents may not be able to. As a black community today there is no greater priority than assuring the rootedness of all of our children—poor, middle class, and Ivy League. Young people who do not know where they come from and the struggle it took to get them where they are now will not know where they are going or what to do for anyone besides themselves if and when they finally arrive somewhere. And if they run into bad weather on the way, they will not have the protective clothing to withstand the wind and the rain, lightning and thunder that have characterized the black sojourn in America. They need the anchor and rightful pride of a great people that produced a Harriet Tubman and Sojourner Truth and Frederick Douglass from slavery, a Benjamin Mays and Martin Luther King, Jr. and Fannie Lou Hamer from segregation, people second to none in helping transform America from a theoretical to a more living democracy.

The last step is to keep dreaming and aiming high. At a time when so many in public and private life seem to be seeking the lowest common denominator of public and personal conduct, I hope you will dream and set new examples of service and courage.

Dr. Benjamin Mays, a former president of Morehouse College and role model for me said: "It must be borne in mind that the tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a calamity to die with dreams unfulfilled, but it is a calamity not to dream. It is not a disaster to be unable to capture your ideal, but it is a disaster to have no ideal to capture. It is not a disgrace not to reach the stars, but it is a disgrace to have no stars to reach for. Not failure, but low aim, is sin." We must aim high for our children and teach them to aim high.

I'd like to end with part of a prayer for children written by Ina Hughes of South Carolina.

We pray for children
who spend all their allowance before Tuesday,
who throw tantrums in the grocery store and pick at their food,
who like ghost stories,
who shove dirty clothes under the bed, and never rinse out the tub,
who get visits from the tooth fairy,
who don't like to be kissed in front of the carpool,
who squirm in church and scream in the phone,
whose tears we sometimes laugh at and whose smiles can make us cry.
And we pray for those
whose nightmares come in the daytime,
who will eat anything,
who have never seen a dentist,
who aren't spoiled by anybody,
who go to bed hungry and cry themselves to sleep,
who live and move, but have no being.
We pray for children who want to be carried and for those who must,
For those we never give up on and for those who don't get a second chance.
For those we smother * * * and for those who will grab the hand of anybody kind enough to offer it.

Please offer your hands to them. Let your Amen be in your committed actions to help black children when you leave here. They desperately need your help on a one-to-one basis and in the political arena. We must all work to redirect the nation's foolish priorities which favor bombs and missiles over babies and mothers upon whom our real national and community security rest.

PUBLIC POWER WEEK

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. DAUB. Mr. Speaker, the American Public Power Association has designated the week of October 4-10 as Public Power Week. During this week, the APPA and the nearly 2,000 publicly owned electric utilities across the country are conducting public awareness activities designed to communicate the benefits of public power to electricity consumers.

The great State of Nebraska has called this week a "Celebration of Success" as it looks back on the tradition of public power in Nebraska. Nebraska is the only State which is entirely supported by locally owned public power. It is not a coincidence that Nebraska continues to have some of the lowest electricity rates in the Nation.

The presence of public power in the Great Plains has helped to deliver electricity to rural areas which would not have power otherwise. Whether it's irrigation, electricity, or recreation, the products of public power in Nebraska have enhanced the quality of life for the people of Nebraska.

I encourage my colleagues to take a look at the fascinating history of public power and understand its importance to the economic well-being of States like Nebraska.

COMMENDING THE WESPINE STUDY CENTER

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. BUECHNER. Mr. Speaker, I rise today to extend both my congratulations and my gratitude to my friend, Mr. John Gatewood, on his devotion of volunteer service to young men in my district. John is the executive director of the Wespine Study Center—an organization made possible only by the selfless dedication of John and others like him.

No matter how big Government gets, and no matter how many services it provides, it can never take the place of volunteers. Wespine has provided a great service in building character and integrity in young men. This summer, I had the privilege of meeting some of the young men at their summer camp. Computers, lab equipment, the great works of literature, and the ever important perfect paper airplane—to study aerodynamics—were all part of this unique setting.

The Wespine Study Center fosters personal and intellectual leadership among young men. Their activities include: supplementary educational activities for junior high school boys in which the boys learn new skills and put their hands and their minds to work, using their time constructively. With a combination of athletics, hobby skills, and academic activities, these young men are encouraged to give importance to serious study, loyal friendships, respect for family values, and sportsmanship.

In the area of spiritual and personal growth, Wespine offers evenings of conversation with area leaders, weekly conferences given by the chaplain, personal counseling, college entrance, and career guidance programs. They engage in volunteer activities such as service projects in conjunction with social service agencies and visits to the elderly who live alone or in nursing homes.

Wespine is operated by the Association for Educational Development, a not-for-profit corporation which conducts youth centers throughout the Midwest. Spiritual guidance at these centers is entrusted to Opus Dei—work of God—a prelature of the Roman Catholic Church.

The professional men and older students who comprise the volunteer staff transmit to young people a youthful and practical desire for human excellence and the pursuit of ideals in life.

Through its programs and activities, Wespine offers human and spiritual formation to young men during the most formative years of their lives—from fifth grade up.

Mr. Speaker, there are no substitutes for gifts of service given from the heart. President Reagan has made voluntarism—private sector initiatives—a national priority. And it is fitting that we honor the Wespine Study Center, which has met the needs of so many young men and their families over the years.

FINANCIAL SERVICES HOLDING COMPANY ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. DREIER of California. Mr. Speaker, the Financial Services Holding Co., concept is a new and ambitious proposal for restructuring the financial services industry. On October 1, I introduced H.R. 3360, to establish financial services holding companies, a concept developed by the Association of Bank Holding Companies. As is the case with any new proposal which seeks fundamental change, the Financial Services Holding Co., concept raises as many questions as it does answers in the present debate over the appropriate legal and regulatory structure of banks. I would like to submit for the record responses to some fundamental questions regarding H.R. 3360.

Questions and Answers Regarding "Financial Services Holding Company Act"

1. Why is a "financial services holding company" needed?

For years, the financial services industry was rather neatly compartmentalized. Brokerage firms served one segment of the market, commercial banks another segment of the market, and thrift institutions yet another. Beginning in the mid-1970's, these clear-cut distinctions among the various providers of financial services began to evaporate. The invention of "NOW" accounts by the thrift industry in New England, and of money market funds by the securities industry, are two examples of the changes that took place in the 1970's. The unique and well-defined categories of business for banks and other financial institutions no longer fit. As these distinctions broke down, a new perception of what constituted banking began to emerge. This new perception involved a broader view of banking, and assumed that the financial services marketplace consisted of a variety of firms, some narrow in focus, others diversified, all competing for commercial and consumer business. In this new environment, "commercial banking" came to be seen not as a discrete line of business, but rather as a part of a broader financial services industry that included traditional banking and also insurance, mutual funds, securities and real estate brokerage and the like.

The changes in the marketplace for financial services that occurred in the 1970's generated policy responses within the Federal Government. In October 1981, then-Treasury Secretary Donald T. Regan presented the views of the Reagan Administration to the Senate Banking Committee favoring a major revision of the Bank Holding Company Act and the Glass-Steagall Act in order to allow the nation's financial system to "respond more efficiently to changes in the economic and competitive environments for the benefit of everyone.". In March 1984, then-Chairman Paul A. Volcker of the Federal Reserve Board urged the same Committee to permit bank holding companies to undertake significant additional activities along the lines recommended earlier by Mr. Regan. While inconclusive debate ensued in Congress, non-bank financial firms were obtaining banking powers by acquiring so-called "non-bank banks." What was lacking was an overall legal structure to tie together the new and broader range of activities that were being conducted by banking and non-banking firms in the financial services marketplace.

The "Financial Services Holding Company Act" (FSHCA) proposed by the Association of Bank Holding Companies provides this structure by allowing any company "financial in nature" to own a bank holding company, and thereby own a full-service commercial bank or banks. At the same time, a bank holding company may utilize the same FSHCA framework to own insurance, securities and real estate firms. By building on the experience of the Bank Holding Company Act, the FSHCA provides a flexible mechanism for financial services companies to serve businesses and consumers while still allowing for appropriate regulation and supervision of the affiliated despository institutions.

The Financial Services Holding Company (FSHC) concept is therefore a product of market forces.

2. Would the FSHC proposal require major changes in the present system of delivery of financial services?

The creation of a FSHC is voluntary. There is no requirement for change in the present operation of existing financial institutions. A bank holding company may continue to operate under present law and regulation. Only when the management of a bank holding company desires full entry into the securities, real estate and/or insurance fields need it then opt for FSHC status. The same course may be followed by non-bank financial companies: only if the managements of these firms chose to own full-service commercial banks would it become necessary to form a FSHC.

3. How would a FSHC be structured vis-a-vis a bank holding company?

The bank holding company is the cornerstone of the FSHC, in recognition of the fact that today most banks are affiliated with bank holding companies. (At the end of 1986, there were 6,465 bank holding companies, and these controlled 9,409 commercial banks.) The FSHC would be a corporation owning a bank holding company and one or more other companies of a financial nature, all operating as separate subsidiaries.

4. What type of financial company or "companies of a financial nature" would be included under a FSHC? In other words, what activities would be authorized by the legislation?

In addition to bank holding companies, savings and loan associations would be included, as well as these activities: the issuing, underwriting, sale and distribution of securities; acting as investment adviser; operating mutual funds; engaging in the business of insurance, including underwriting and brokerage; and real estate development and brokerage. Any company engaged in any of these activities, or a combination of them, would be eligible to form a FSHC or affiliate with one.

5. How would risk be minimized so that the condition of a subsidiary would not be a threat to the stability of the bank?

The legislation provides for the insulation of the bank holding company and its insured bank subsidiaries from the FSHC through restrictions on transactions with affiliates. Transactions covered under this legislation would take place on terms that are substantially the same as, or no more favorable than, comparable transactions involving non-affiliated companies. This provision, together with current restrictions in the Federal Reserve Act, are intended as further protection under the FSHC. The overall aim of the FSHC is to insulate the insured depository from the activities of its uninsured affiliates, thereby protecting depositors' funds.

6. How would an FSHC be certified and regulated?

Certification of an FSHC would be obtained by submitting a notice to the Federal Reserve Board stating that the company's activities will be limited to those provided for by the Act and that insured depository institutions affiliated with the FSHC will be in compliance with the provisions of the FSHCA restricting transactions with affiliates. Following certification by the Federal Reserve Board, which would be an automatic process so long as the terms of the statute were met, the activities of the FSHC would be regulated on a functional basis. The bank holding company would be regulated and supervised by the Federal Reserve Board and state bank supervisors; savings and loan associations by the Federal Home Loan Bank Board and state savings and loan supervisors; insurance companies by their respective state insurance commissioners; and investment companies and securities companies by the Securities and Exchange Commission and state securities regulators.

7. Are companies outside the scope of "financial in nature" covered by the Financial Services Holding Company Act?

Companies outside the scope of "financial in nature" are not covered by the FSHCA. This means that a firm in commerce generally—e.g., retailing, manufacturing or publishing—would not be eligible to form an FSHC in order to own a full-service commercial bank. The FSHCA broadens the scope of financial businesses that may be affiliated with insured commercial banks, but it retains a distinction between financial services and commerce generally.

8. Some commercial companies own "non-bank banks." What would happen to these institutions under the FSHCA?

Under the FSHCA, a commercial firm could retain its "non-bank bank," but it could not convert the bank to a full-service commercial bank by utilizing the FSHC.

9. Would the enactment of the FSHCA affect interstate banking laws?

The enactment of the FSHCA would have no effect on interstate banking laws. They would remain as they are today.

10. One of the arguments used against broader authority for bank holding companies is that the managements of these companies will coerce customers to buy products and services they do not want. For example, an insurance policy may be tied to the extension of an automobile loan. Won't the FSHCA simply encourage such coercion?

An adequate framework of consumer protection has been built into the Bank Holding Company Act. "Tying" of products, by making it mandatory to purchase one product in order to obtain another, is illegal. Legitimate consumer concerns regarding the sale of a variety of financial products and services via the FSHC can be dealt with as well. There is no need to prohibit such activities.

In fact, the cross marketing of financial products and services lies at the heart of the FSHC concept. Cross marketing, however, does not imply coercion. It does imply increased convenience, greater efficiency and the potential for considerably lower costs to consumers. In combining various products and services, the financial services industry is simply following in the path of the retailing industry which, through department stores and supermarkets, accomplished the same thing years ago. As noted earlier, the changes are, and have been, consumer driven.

Anti-competitive interests will always attempt to block market improvements by using arguments against change. Nonetheless, these anti-competitive arguments should not obscure the fact that consumers will benefit from the diversification and competition occurring in all segments of the financial services business.

11. Will the creation of FSHC's lead to an undesirable concentration of financial resources?

The FSHC proposed by the Association reflects the view that commercial firms such as General Motors or Ford should not be affiliated with a bank holding company. We believe that if such affiliations were permitted, they could lead to an undesirable concentration of economic resources.

With regard to companies "financial in nature," each industry—banking, securities, insurance and real estate—have different levels of concentration and different yardsticks by which concentration is measured. It is not at all clear that, taken either separately or together, concentration in these industries should be considered a problem.

In banking, for example, the industry is noteworthy for its lack of concentration. Moreover, there has never been agreement among academicians about what should constitute a true measure of concentration in banking. Should it relate to deposit-taking or to the granting of commercial or consumer credit? If deposits are considered as the criterion, should foreign and domestic deposits be included, and should the deposits in thrift institutions and such near-deposits as money market funds be included? Citicorp, for example, as the nation's largest bank holding company, has less than two percent (2%) of the domestic deposits of all U.S. banks; if deposits of thrift institutions are included, this number drops to about 1.35%. Thus, there is no evidence that the growth of bank holding companies has led to adverse concentration in the national banking market. It is relevant to note that the number of commercial banks, 14,200, is the same as it was ten years ago. Even with the spate of mergers that have occurred, many new banks have been formed as well. (These 14,200 banks operate 56,000 separate offices.) Concurrently, foreign banks not subject to many of the restrictions placed on American banks continue to garner a growing share of U.S. banking assets.

Using yardsticks applicable to their industry, the securities and insurance businesses turn out to be much more heavily concentrated. For example, the ten largest life insurance companies have 43 percent of the industry's assets. Nevertheless, with thousands of firms in this industry, and with relatively easy entry, the life insurance industry need not be considered overly concentrated. With regard to the securities industry, various criteria may be used, and some show significant concentration. For example, the New York Times reported that the top ten corporate underwriters accounted for 91% of all volume of new corporate issues in 1985; by a different measure, the Securities Industry Association reported that in 1984 the top ten firms' total underwriting revenues came to 48% of the total for the industry.

By eliminating artificial barriers to entry of bank holding companies into other financial services activities, and allowing for reciprocity, the FSHC can promote increased competition, which should be the guiding principle for antitrust policy in any industry. And because commercial and manufacturing firms would not be allowed to establish FSHC's, there is no possibility that corporate combinations along the lines of Japanese or German models could emerge.

12. What are the advantages of the FSHC structure to smaller institutions?

There are advantages to the FSHC structure to institutions of all sizes. First, this flexible structure would be an option available to all institutions. It is not necessary for an institution to be a particular size to take advantage of the opportunities that the FSHC structure provides. Second, even though an institution may not choose to engage in the expanded securities, real estate or insurance activities that would be made available under the FSHC concept, it nonetheless would find increased flexibility to conduct its existing businesses. Any bank holding company could benefit from reorganizing its existing nonbanking businesses into the FSHC structure so as to utilize the advantages of the system of functional regulation it provides.

Also, the bill contains provisions allowing national banks to engage directly in low-risk, agency-type financial activities, without having to establish a bank holding company and/or financial services holding company structure.

A FUNNY MAN'S FIGHT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. CLAY. Mr. Speaker, a celebrated comedian and one of the most dedicated civil rights activist of all times, Dick Gregory deserves the accolades recently bestowed upon him in the Washington Times. Today, I wish to share with my colleagues the story of a man who recognizes that the civil rights struggle is no laughing matter.

A MONSTER AT HIS HEELS KEEPS GREGORY GOING

(By Gail A. Campbell)

Funny?

It's always been the Dick Gregory philosophy. Hit 'em quick. Don't give them too much time. Use satire so sweet, they don't immediately notice the bitterness. So potent, it hits hard later on.

Remember his old chicken joke?

"Last time I was down South I walked into this restaurant and this white waitress came up to me and said, "We don't serve colored people here."

"I said, 'That's all right. I don't eat colored people. Bring me a whole fried chicken'."

"Right about that time these three cousins walk in. You know the ones I mean—Klu, Kluck and Klan. And they say: 'Boy, we're givin' you fair warning.' Anything you do to that chicken, we're gonna do to you."

"So I put down my knife and fork, and I picked up that chicken and I kissed it."

In his autobiography, "Nigger," published in 1964, Mr. Gregory tried to describe the urge that compels him to become involved in one cause after another, often at great expense:

"I feel it when we march down a street for our rights. A familiar dry taste in my mouth, that old hot water seeping into a cold body . . . the race was for survival and the *monster* said go."

The monster's been at his heels for 35 years.

"I'm thankful I'm married to a black woman that's never put a demand on me," Mr. Gregory said in a recent interview. "I've never had to make a decision based on how it affects my family. The decision has always been, 'How will it affect the movement?'"

Since the mid-'70s, Mr. Gregory has lived with his wife, Lillian, on a farm in Plymouth, Mass. He said they raise not crops but "children."

Mr. Gregory is the father of 10 with seven of his children still in college. His oldest, Michele, is earning a doctorate in sexual harassment in the work place at the London School of Economics, an accomplishment he mentions with immense pride in his sing-song tenor.

At 55, the mature Dick Gregory isn't much different from the skinny welfare kid who shined shoes in St. Louis, according to his boyhood friend Earl Wilson, an IBM marketing executive who still lives in Missouri.

"Unlike some people who get ahead, he always remembers his friends," Mr. Wilson said. "He'll always stop and say, 'Hi.'"

Mr. Gregory's been an entrepreneur for several years. Last year, Dick Gregory's Slim-Safe Bahamian Diet and his firm, The Dick Gregory Correction Connection Inc., which distributes a substance abuse remedy, grossed $61 million. He has plans in the works for a children's anti-drugs coloring book and expansion into non-perishable household items.

"But he's still the same," Mr. Wilson said. "He's never lost his roots." Mr. Gregory's "roots" were a mother he idolized, three brothers, two sisters, and an abusive and often absentee father. The Gregory household was so poor that often there were no lights, no hot water and no working stove.

Rep. William Clay, a Missouri Democrat who knew Dick Gregory as a boy, remembers that poverty and added, "But he was a very good athlete."

Mr. Gregory became a distance runner and track star. That got him a scholarship to Southern Illinois University at Carbondale. He never graduated. There was no time. Show business was calling.

"He was the first black comic to play the Playboy Club, even before Bill Cosby," Mr. Wilson recalled. "But he gave it all up to join the civil rights movement."

That call came from the late civil rights activist Medgar Evers. Mr. Gregory canceled engagements and flew to Mississippi and Alabama. At his expense, he airlifted food to Mississippi families whose federal food subsidies were cut off by the Leflore County government in retaliation for black voter registration drives there.

Before it was all over, Mr. Gregory was beaten, jailed and often criticized by a press that claimed he joined the movement for the publicity. "No way," said Mr. Wilson. "He actually lost a lot of bookings because he was helping the movement."

"He was always there," recalled Carl Holman, executive director of the national Urban Coalition. "Unlike some entertainers who got in, then got out of the movement, he's remained a supporter of causes even to his own financial detriment. The phone rings and Dick Gregory is there."

"I used to tell him, 'Dick, why are you going to give up all your nightclub engagements for the movement? Why not keep working and give money?'" said lifelong friend Ron Townson, a signer with the Fifth Dimension. "But Dick said he felt he had to be there. He felt he had something more to give than money."

Mr. Gregory remembers his roller-coaster financial predicament very well: "I owned a Rolls-Royce once and had it repossessed. But it was never an embarrassment to my wife if everything we had was lost, because we always knew that the civil rights movement was bigger than our family, our marriage, our relationship."

"Dick was protesting segregation long before Brown vs. the Board of Education," Mr. Townson said. "When we were in high school, he led a walkout.

"Summer High School was a black school that had three times the 1,200 kids it was supposed to have. It wasn't long after that we got annexes for the overcrowding. A few years later the schools were desegregated."

Mr. Clay's wife, Carol, was Mr. Gregory's classmate. "Dick led 3,000 kids on a march to the board of education," the congressman recalled. "He organized his school and the two other black high schools, which were so overcrowded the kids were sitting on the radiators.

"Dick Gregory decided to do something about it. He stirred that city up."

When the civil rights turmoil calmed, the monster still wouldn't let him rest. In November 1967, Mr. Gregory began a series of fasts, lasting from 40 to 80 days, to dramatize his anti-war stance on Vietnam.

Between 1962 and 1968 he was arrested more than 20 times for nonviolent protests. In 1969, he reduced his political activism, resuming his nightclub act for four years. He left show business for good in 1973.

But even venturing into business didn't stop the urge.

As recently as April, Mr. Gregory was arrested in McLean, Va., for protesting too close to CIA headquarters. He called for a federal grant jury probe of charges made in the CBS-TV newsmagazine "West 57th." The show claimed the CIA employed known drug smugglers to fly arms to Nicaraguan rebels and looked the other way when the planes returned with cargos of illegal drugs.

Mr. Gregory had just gotten out of jail after being arrested the week before in Atlanta for demonstrating outside the federal jail, protesting Cuban refugees' treatment there. The week before he was arrested in Washington after protesting too near the South African Embassy.

He's said more than once while being led to prison, "Here I go again!" That commitment has not gone unnoticed. Cars stopped when drivers spotted Mr. Gregory's reed-thin figure walking through the streets of Washington recently.

"Hey Greg! How ya doing? Good to see you," yelled one driver after another.

He waved casually, yelled back, "How y'all doing? God bless you!"

"It's nice to be recognized for a good reason," Mr. Gregory said softly. "It's not like being Hitler or somebody."

As long as he's known him, Mr. Clay said, Mr. Gregory's been willing to go anywhere to help a cause. But some of the causes these days stem from within the activists.

"The two things closest to my heart are the black family and changing the whole diet," Mr. Gregory said. "I feel the No. 1 problem confronting America today in health, and black forks are at the top of the list."

According to figures compiled by his firm, blacks are 12 percent of the population. But they are at greater risk than whites for cancer, high blood pressure and diabetes.

"All the major things we die from are not diseases. They're conditions," Mr. Gregory said. "Let's look at the diet. My contention is that growing up black in America means cigarettes, soda pop, candy bars, dope, beer and whiskey."

His solution is to consume less meat, sugar, salt and caffeine; eat more fruits and vegetables, and exercise. He has been a strict vegetarian for years.

Of course, being a businessman too, he's not likely to let the moment go by without a pitch to join Dick Gregory's Correction Connection, Inc., and urge his listener to become one of its distributors.

"But even if you don't join my company, join somebody's. If you're not in business in America, you might as well go to another country," he said. "America caters to business."

He advocates making this system work for blacks and the poor.

"We need to come together, pool our resources and sell each other products. If women are being oppressed by men, then why don't women sell cosmetics to women?

"Last year, black folks spent $1.5 billion with Coca-Cola. If our muscles had been flexed right, Coca-Cola would have been out of South Africa a long time ago.

"We spent $600 million on candy bars, and we don't even make a wrapper. How can my black colleges be closing down when we spend $600 million on candy bars?" he asked, his voice rising to an excited pitch.

"The black community needs to be re-educated in a number of ways. I think Jesse [Jackson] will be able to do that, with the visibility. Even if he doesn't win—which he will—just seeing a black man run for president will do a whole lot of folks good."

Mr. Gregory said he plans to work with the Jackson campaign: "I wouldn't be anyplace else, because of what it means. It means more blacks will get into the economic mainstream.

"What keeps me going is there's always been more victories than failures. Because of Malcolm [X] and Martin [Luther King] and the Urban League and the SCLC and SNCC, and Stokely [Carmichael] and Ralph [Abernathy] and the NAACP, something happened in the '60s that changed this planet.

"I'm so glad I can say I was part of it. We black folks pulled something off that had never been pulled off before.

"There are folks out there who just sit and criticize and have unknowlingly pimped the civil rights movement. But when you hear black folks say we're losing what we gained, it's because they haven't been out there."

He can't talk much longer. He's off again to do a "Donahue" show in Connecticut, then there are other meetings in London, then Los Angeles. He seldom stops. The monster won't let him.

CONTRACTS FOR OBLIVION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. KEMP. Mr. Speaker, I applaud the efforts of my Senate colleagues Senator JESSE HELMS and Senator ALFONSE D'AMATO in bringing attention to C. William Verity's record on East-West trade relations.

The following editorial from the Washington Times chronicles the reasons why some of us believe that Mr. Verity's record and public statements must be examined very carefully before there is a vote to confirm him in the Senate.

[From the Washington Times, Oct. 7, 1987]

CONTRACTS FOR OBLIVION

The choice of C. William Verity for Secretary of Commerce seems to be raising some eyebrows on Capitol Hill, with Sens. Jesse Helms and Alfonse D'Amato joining in an effort to block his Senate confirmation. The reason for the brewing storm is both Mr. Verity's long record of promoting trade with the Soviet Union and, perhaps more alarming, evidence that he has been less than enthusiastic about assisting persecuted Soviet Jews.

As for the first, in the early 70's, Mr. Verity joined Armand Hammer and David Rockefeller in the effort to create a U.S.-U.S.S.R. Trade and Economic Council, an idea long cherished by Mr. Hammer and officially boosted by a diplomatic protocol co-signed by then Treasury Secretary George Shultz. From 1977 to 1984, Mr. Verity co-chaired the council, working with Soviet Deputy Foreign Trade Minister Vladimir N. Shushkov and executive committee member Yevgeny P. Pitovranov, a former director of the KGB training school. Mr. Shushkov's greatest contribution to world comity was helping to forge the deal by which private American companies constructed the giant Kama River truck factory for the Soviet government.

If Mr. Verity was shocked when armored cars equipped with Kama River engines rolled into Afghanistan—despite solemn Soviet assurances never to use Kama-produced equipped militarily—he gave no sign of it. Indeed, he was soon ridiculing embargoes against the Soviets arguing that a more reasonable policy after the rape of Afghanistan would be to *expand* East-West trade, which he claimed would "not add significantly to the military capacity of the U.S.S.R."

Mr. Verity's interest in the issue was not merely academic. In the detente boom years, the Soviet Union purchased $80 million in goods and services from Armco, Inc., of which Mr. Verity was then chairman. In the late 70's the would-be Commerce Secretary was working to seal a multibillion dollar deal with the Soviets, which would have engaged Armco in a dozen industrial projects in the U.S.S.R. over a 15 to 20 year period.

Mr. Verity's zest for making money from trade with Moscow seems to be in indirect relation to his concern for the victims of Soviet repression. In 1979, he contributed to a book published by the American Committee on East-West Accord entitled "Common Sense in U.S.-Soviet Trade." Mr. Verity assailed the Jackson-Vanik amendment, which tied Soviet trade status to Jewish emigration, and warned fellow free enterprisers to beware lest the Soviets consider protestations about the plight of more than 400,000 refuseniks an "interference with domestic affairs." Just in case he might be misunderstood, Mr. Verity later clarified his position on the issue, saying, "The American Jewish community can never be satisfied on this matter. Their desires will ever be escalating."

Mr. Verity's life has been subsumed in commerce, and perhaps he can be forgiven for mistaking world politics for a contract negotiation; his apparent obliviousness to legitimate demands by religious dissidents for the right to practice their faith is less excusable. He should not be invited to help formulate American policy.

A TRIBUTE TO ARCHBISHOP IAKOVOS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. FEIGHAN. Mr. Speaker, on behalf of the people of northeast Ohio, I would like to take this opportunity to welcome Archbishop Iakovos to the city of Cleveland. On October 24, 1987 we will be hosting His Eminence and hundreds of other Greek Orthodox faithful from throughout the Western Hemisphere to commemorate the archbishop's 28th year as primate of the Greek Orthodox Church of North and South America.

Archbishop Iakovos, spiritual leader of over 2 million Greek Orthodox Christians in the Americas, and dean of all religious leaders in the United States, has worked diligently for over three decades to bring greater vitality and unity to the church.

A vigilant crusader for human rights, Archbishop Iakovos aligned himself and his church with the civil rights movement in the 1960's. He lobbied Congress in favor of the Civil Rights Act and marched beside Dr. Martin Luther King in Selma on that historic day in 1965. In 1974, he initiated a massive campaign to assist Greek Cypriot refugees following the invasion of Cyprus by Turkish forces, and he has forcefully spoken out against the violation of human rights by oppressive governments throughout the world.

An ardent ecumenist, Iakovos was the first Greek Orthodox Archbishop to visit the Pope in 350 years when he was received by Pope John XXIII at the Vatican in 1959. Ten years later, he was the first Greek Orthodox Archbishop to preach in St. Patrick's Cathedral. He also served as copresident of the World Council of Churches for 8 years and initiated Orthodox dialogs with Roman Catholics, Anglicans, Lutherans, Southern Baptist, and Black church leaders.

Acknowledged as the most important figure in American Orthodoxy, he has not only headed the largest Orthodox body in the United States, but also founded and chairs the Standing Conference of Canonical Orthodox Bishops in the Americas [SCOBA], representing over 7 million Orthodox Christians of Greek, Russian, Romanian, Antiochian, Bulgarian, Carpatho-Russian, Serbian, and Ukrainian jurisdictions. On September 20 of this year in our Nation's Capitol, he led a Doxology with his fellow SCOBA hierarchs on behalf of all Orthodox Christians, commemorating the 200th anniversary of our Nation's Constitution.

Archbisop Iakovos has received honorary degrees from 35 universities and accolades from church and government leaders around the world. In 1980, President Carter presented him with our Nation's highest civilian award, the Presidential Medal of Freedom, and President Reagan awarded him the Ellis Island Medal of Honor in 1986.

These signal awards recognize the great contribution that Archbishop Iakovos has made to America's religious, political, and cultural life. As a progressive religious leader concerned with human rights and the ecumenical movement, he has put his preaching into practice and given guidance to millions. We are proud to welcome him to Cleveland.

BUSINESS'S ABILITY TO STAY IN BUSINESS

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. DELAY. Mr. Speaker, all too often Congress has passed legislation without fully understanding the consequences on the Federal trough or on an employer's ability to effectively compete in the world market. Two examples immediately come to mind: The 1972 amendments to the Longshoremen and Harbor Workers Compensation Act and the 1972 and 1977 amendments to the Black Lung Benefits Act. In both of those cases, Congress had to revisit the legislation to undo what had originally been done. Let's not make the same mistake with H.R. 162, the High Risk Occupational Disease Notification and Prevention Act.

Enactment of S. 79/H.R. 162 will, by any reasonable measure, destroy the jobs of countless American workers. That sentence appeared in an open letter to Members of the House and Senate from approximately 200 businesses and associations.

This open letter had attached to it a chart setting out the economic side effects of this legislation. The chart illustrates the costs of implementing H.R. 162 for two businesses: For an average-sized small business with 57 employees and for a small business with 16 employees. It is based on actual operating cost data and illustrates the impact on bottom-line combined costs of implementing the mandated benefits provisions in H.R. 162.

The chart indicates that the total cost to the small employer is $26,000 to $50,000 and the cost to the medium employer is $37,000 to $97,000. These estimates take into consideration such things as individual notification cost, surveillance and testing, transportation, food, and lodging associated with medical monitoring, cost of idle equipment, and the cost of the medical removal provision. What it does not include in the total cost estimate are the inestimated increases or savings in workers' compensation or health insurance.

Another letter from a businessman to one of our colleagues states:

> H.R. 162 would place an unacceptable burden on the small and medium manufacturing businesses and their employees in the United States.

Should your first thought be, "This is the usual rhetoric we hear from the business community"? Allow me to dissuade you of that thought.

This particular letter came from Mr. Ken Foster, the former plant manager of the Augusta Chemical Plant where the National Institute for Occupational Safety and Health [NIOSH] did a pilot notification project.

Mr. Foster's letter goes on to state:

> The resulting scenario was an unmitigated disaster which produced enough information about screening large groups of people for specific illnesses to cause your esteemed body to pause before it acts.

I urge my colleagues not to turn a deaf ear to Mr. Foster. Let's pause before we consider enacting H.R. 162.

The liability ramifications of H.R. 162 are enormous for our Nation's small employers. While it is true that large employers have had liability insurance, it is also true that hundreds, if not thousands, of small employers have had no liability insurance and would be threatened with an incredible number of lawsuits. Even where some insurance existed, insurance companies will fight a claim for past liability 20, 30, 40 years ago, where coverage is ambiguous. Where does that leave an employer who is faced with a class action suit filed by several of his former employees? Punitive damages alone, which in some States are not insurable, could bankrupt a small business.

Last year, the White House Conference on Small Business named product liability as the number one problem facing small business. Passage of H.R. 162 would only exacerbate this serious problem.

Let's not act in haste. Let's follow the advise of our experienced small businessmen. Trade legislation will not protect the bankrupt business.

Reject H.R. 162 and support the more reasonable approach set forth in the Jeffords/Henry substitute.

THE ALAMEDA BUREAU OF ELECTRICITY AND THE PUBLIC POWER MOVEMENT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. STARK. Mr. Speaker, this week we are celebrating Public Power Week. The public power movement started over a century ago, on the night of March 31, 1880, in Wabash, IN. Ten thousand people watched as four 3,000-candlepower arc lights on the top of the courthouse were lit. The scene that followed was described by a witness:

"The strange, weird light, exceeded in power only by the sun, rendered the square as light as midday. Men fell on their knees, groans were uttered at the sight and many were dumb with amazement."

The electrical revolution had begun.

Today we're so accustomed to living with electricity that we take it for granted. If the power goes out on Thanksgiving before dinner is cooked, then we might groan—we might even fall to our knees, if we trip over the cat in the dark—but never again will we be dumb with amazement when the lights go on. Electricity is now too commonplace. That is the triumph of the electrical revolution started by the public power movement.

I am proud to have in my district one of the pioneers of the public power movement, the Alameda Bureau of Electricity. Alameda was among the first cities to generate electricity. In 1885, it contracted with the Jenny Electric Co. to install a generating plant and 59 street lights. Two years later, Alameda bought the works. The Alameda Bureau of Electricity was born.

At the time, opponents presented figures proving that it would take 101 years to pay off the $40,000 price from profits. Alameda's Board of Trustees fearlessly went ahead. Today, 100 years later, the Bureau of Electricity pays annual dividends to Alameda's General Fund of $2.1 million.

The Alameda Bureau of Electricity has a financial record that puts numerous privately operated companies to shame. What's more remarkable, its record of service and good management is not unusual in the public power movement. Consider these facts:

First, public power plant company rates are far lower than private power company rates. Residential customers pay on average 40 percent less for public power, and commercial customers 30 percent less.

The difference between public and private company rates has actually widened over the past decade. Why? Nonprofit status. Dividends don't have to be paid to out-of-town stockholders.

Second, public power companies pay more of their gross income to the communities where they operate than private companies do. It's only natural. Locally controlled companies have a greater stake in the community.

Third, public power companies have prevented private power companies from monopolizing power and jacking up rates sky-high. When communities with private power companies merely consider switching to public power, suddenly the private company will lower rates and grant concessions. Even customers of private power companies benefit from public power!

In fact, the public power companies have promoted competition so well that in the 1920's the private power companies tried to eliminate them. The private companies waged a national campaign to stop the public movement. They thought they'd won. In his 1925 inaugural address, President Calvin Coolidge said that, by his election, "the policy of public ownership of railroads and certain electric utilities met with unmistakable defeat."

Coolidge should have kept silent. Public power held on—and preserved healthy competition in the power industry.

The public power movement exemplifies the American ideal of local people working together to meet local needs. It's an American success story. The Alameda Bureau of Electricity has been a part of that success since the movement began.

A TRIBUTE TO VERA DEMARCO

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay tribute to a distinguished member of my district, Vera DeMarco. On Friday, October 9, Vera will be the honored recipient of the 1987 Humanitarian Award presented by the city of Yonkers Columbus Day Celebration Committee.

Vera's commitment to her community and her family is unyielding. Her spirit of volunteerism has positively affected the lives of people of all ages. From young children to teens to senior citizens, Vera has worked assiduously helping others. She is a past president of the Queens Daughters Day Care Center, a member of the advisory board and board of directors of Enrico Fermi School, and the Treasurer of "YES," Yonkers Employment for Seniors. In addition, The Italian Government knighted Vera with the title of "Cavaliere" for her tireless dedication to the Italian language classes and Italian community. She is also the president of the Westchester Chapter of the American Committee on Italian Migration.

Vera has been an involved member of many diverse community groups and organizations. She is a past president of Big Brothers, Big Sisters; past residential chairperson of the United Way of Yonkers and an honorary board member; a board member of the American Cancer Society; member of the Yonkers Rotary Club; past president and breakfast chairperson of the Yonkers Chamber of Commerce; president of the North Yonkers Merchants Association; treasurer of the Friends of the Yonkers Public Library; cochairperson of the annual March of Dimes Walk-a-Thon, and secretary and advisory board member of the Salvation Army.

In addition to her innumerable volunteer activities and services, Vera is employed as assistant vice president of the Westminster Bank of U.S.A. Remarkably, she still finds time to devote to her husband, Albert and their two children, Michael and Mary.

Mr. Speaker, please join me today in paying tribute to this incredible woman and constituent of mine, Vera DeMarco. She is truly deserving of the recognition she is being paid today.

HOW MANY TIMES DO WE NEED TO HEAR IT: CHILD CARE?

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. HAWKINS. Mr. Speaker, how many times do we have to hear it? How many times does it have to be said? Child Care. America's children are in need of quality child care that is affordable and accessible to all working parents. Different communities across the country are spreading the news.

Several Members of the House and Senate, including Representatives LANTOS, MILLER, BIAGGI, KILDEE and Senators RIEGLE, DODD, and CRANSTON have brought the issue before their respective houses.

Several reports have been issued in the past year that break down the facts about the types of child care needed and the cost. For example, AT&T released "Investing in Quality Child Care," which provided recommendations on employee child care support for employers. "Who's Minding the Kids?" issued by the Bureau of the Census, U.S. Department of Commerce, provided data on child care arrangements during the winter of 1984-85.

The Population Reference Bureau, Inc., released, "Juggling Jobs and Babies: America's Child Care Challenge," a report that documented the increasing number of mothers with young children in the work force and the need to provide quality child care. The American Federation of State, County and Municipal Employees [AFSCME] reported findings from a survey of 600 working Americans regarding the growing need for child care by working parents. The National Black Child Development Institute examined the potential consequences of establishing child care in public schools.

The media has loaded the public with refrains for child care, including Fortune magazine, "Executive Guilt: Who's Taking Care of the Children?", Time magazine, "Who's Bringing Up Baby?", Ms. Magazine, "Whose Job is Child Care?", and Newsweek, "What Price Day Care?" Local TV and radio stations and newspapers, including USA Today, the New York Times, the Washington Post, the Los Angeles Times, and the Boston Globe have expounded on the need for child care.

Most recently, representatives from the business community added their voices. The Committee on Economic Development [CED] issued its report, entitled, "Children in Need: Investment Strategies for the Educationally Disadvantaged." According to Owen B. Butler, vice chairman of the CED, who testified before a joint session of the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources, CED recommended a number of early interventions that "* * * can help children embark and stay on the road to successful lives * * *" including quality child care arrangements for teen parents in schools and poor working parents.

According to the CED report, child care should "* * * provide intellectual stimulation and opportunities to learn socialization skills. Good child care programs should provide low staff-to-child ratios and an appropriate developmental curriculum * * *" in a physically safe environment with flexible hours.

The United States is the only Westernized Nation that does not have a National child care policy. With the increasing influx of women into the labor force, the issue of how to care for America's children is becoming critical. Productivity and efficiency suffer when workers spend more time worrying about their children during the workday.

Last year, as chairman of the Education and Labor Committee, I issued the "Report on Children in America: A Strategy for the 100th Congress," which calls for, as one of its goals, the development of a national child care policy. In order to build that policy, I recommended that Congress take the following actions during the 100th session:

First. Enact the Family and Medical Leave Act of 1987;

Second. Increase funding of title XX of the social services block grant for child care;

Third. Increase funding of the Child Care Food Program;

Fourth. Increase funding for Head Start annually so that the number of children receiving assistance is increased by 20 percent annually until all eligible recipients are served;

Fifth. Enact legislation that provides tax incentives to employers who make provisions for child care for employees;

Sixth. Enact legislation that provides standards for training, planning, and development of child care services and credentialling by 1990; and

Seventh. Expand the information and referral activities of the State Grants for Dependent Care Program. Also, implement a program of demonstration activities for preschool and early childhood education targeting low-income children, and a program of school-based comprehensive centers with child care for teen parents.

The time has come to begin to put the pieces of a national child care policy together. A coalition of labor, education, religious, social services, science, and government organizations have mobilized the Alliance for Better Child Care [ABC]. The coalition's primary purpose, at this time, is to develop legislation to help create a national child care policy. It is anticipated that the Act for Better Child Care Services of 1987, a comprehensive child care bill, will be introduced in both houses soon.

Some of the pieces of a national child care policy are already in place. Others will need to be created. The ABC bill is a good beginning, but this bill is just that—a beginning. I encourage my colleagues to give this important issue their attention and best efforts.

DEREGULATION AND RURAL AMERICA

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. DAUB. Mr. Speaker, I would like to express my concern regarding deregulation and the effects it has on rural areas with small populations. Whether it is the bus system, the airlines, the telephones, trucking, or the banks, rural areas often pay for the costs of deregulation while others reap the benefits.

I read with interest a Wall Street Journal article which discusses the effects of deregulation in rural areas, and I ask that it be included in the RECORD so that Members may be aware of the consequences in rural America.

I would also like to ask that my comments on the designation of October 4-10 as Public Power Week by the American Public Power Association be included in the RECORD.

The article follows:

[From the Wall Street Journal, Oct. 5, 1987]

COUNTRY BLUES: DEREGULATION RAISES PRICES, CUTS SERVICES IN MANY RURAL AREAS

(By Bill Richards)

SCOTTSBLUFF, NE.—As Scottsbluff's mayor, Donald Overman, recalls that unpleasant morning several years back, snow was blowing out of a leaden sky when his eastbound Frontier Commuter Airlines flight set down at North Platte, Neb.

As soon as the door popped open, the crew hastily departed, leaving the plane sitting on the tarmac with Mr. Overman and 20 other bewildered passengers waiting to fly on across the state. The pilot returned to announce that the airline was jettisoning its unprofitable route across Nebraska. He gave the passengers a choice: Fly 200 miles in the opposite direction to Frontier's home base in Denver or stay dumped in North Platte. Mr. Overman calls it "a pretty dramatic lesson in deregulation."

For big-city dwellers, deregulation has mostly been a boon. Wider freedom from federal rules has often led to cutthroat competition in everything from interest rates to intercity flights and telephone calls.

DIFFERENT IN THE PANHANDLE

But in sparsely populated places like the Nebraska Panhandle, deregulation hurts. Although some 700 banks have branches in New York City and about 40 airlines fly in and out of Chicago, a rural area frequently has only a single supplier of such vital services.

So as regulatory control fades, prices are climbing in these areas—and service is dwindling. From banks to buses to telephones, deregulation is driving home a hard economic lesson: Big government may not fit with the rural self-image of rugged individualism, but no government is sometimes worse.

"Rural people place great value on the idea of self-sufficiency, but they operate in a framework that is anything but independent," says George W. Rucker, research director for Rural America, a Washington D.C. public-interest group. Mr. Rucker and others say that federal regulation has long amounted to a subsidy of low-price rural power, transportation, telephone and other services, acting as a form of social engineering to build and maintain rural populations.

"In a sense," says Calvin Beale, a U.S. Agriculture Department population expert, "rural development was propped up by federal regulation."

SPEEDING DEPOPULATION?

Deregulation is underscoring the extent of those hidden rural subsidies as it wipes them out. Mr. Beale and others worry that the process is also hastening the depopulation of some of the same communities that regulation once helped build.

"If the present deregulation trend continues," warns Sen. Larry Pressler, Republican of South Dakota, a longtime opponent of the trend, "small cities and towns could end up as remnants of the past."

Since the beginning of the 1980s, nearly half the nation's nonmetropolitan counties have lost population, reversing the widely publicized back-to-the-land trend of the previous decade. Agriculture's problems, farm consolidations and the aging of the rural population have all contributed. "But when you deregulate," says William S. Duncan, head of the Mountain Association for Community Economic Development in Berea, Ky., "you're making a social decision to become a nation of big cities."

On the high plains of western Nebraska's Panhandle, a region that is as large as all of lower New England but has a population of less than 100,000 deregulation's impact isn't like that of the dust storms and droughts that sent farmers stampeding in years past. Instead, it is more like erosion, making life a bit more expensive here and a bit less palatable there.

THE TELEPHONE

At her desk in Crawford, Neb.'s tiny city hall, Mary McGinnis, 65, holds forth about her telephone bill from Northwestern Bell Telephone Co. "Can you believe?" Crawford's white-haired water commissioner tells a handful of loungers. "The bill on that old el-cheapo dial telephone of mine, it went up nearly 300% since 1984"—from $7 a month to $27.

In the past, the Federal Communications Commission required telephone companies to charge urban and rural customers the same for service, in effect subsidizing rural service, which is far more expensive because there are far fewer customers to cover fixed costs. But since deregulation, phone companies are passing on more of the actual service cost to their customers, and rural phone bills are soaring.

By itself, a rising phone bill isn't likely to send anyone packing for the city. Still, Mrs. McGinnis says she sometimes finds herself thinking the unthinkable these days—contemplating a move to a bigger place, like Rapid City, S.D. "It would be nice," she says, "living close to where things are cheaper."

THE BUS

William Shay is one of a contingent of disabled veterans around Scottsbluff who travel regularly to Veterans Administration hospitals for treatment. He suffers from edema. Twice a month, the 70-year-old former farm laborer leaves his rented room so that doctors can drain off the fluid that balloons his weight to 290 pounds.

Mr. Shay, who has had two heart atacks, used to take the bus to the veterans' hospital in Hot Springs, S.D., some 150 miles north of Scottsbluff. Then came deregulation and the bus route was eventually dropped. Now he waits for the local veterans' office to find him rides and doesn't always get to the hospital on schedule. "That bus," he says, "was the difference between life and death for me." Now his life depends on a more haphazard arrangement.

Since bus deregulation began in 1982, more than 3,000 small towns and cities have lost bus service, according to the Department of Transportation. Star Bus Lines, the Panhandle's last remaining local carrier, still has travel posters for Hawaii and Australia on the walls of its Scottsbluff terminal. But a bus traveler headed for one of those exotic destinations must first take Star's 6:30 a.m. bus 40 miles south to Kimball, Neb., then catch the westbound Greyhound for Cheyenne, then wait for the bus south to Denver. The 250-mile trip takes a day and a night. Few people bother.

Darlene Ruth, Star's manager, says the bus line is thinking about ending its scheduled runs and just offering charter service. Under deregulation, big carriers like Greyhound Lines Inc. juggle schedules and routes so fast, Mrs. Ruth says, that feeder operations like Star can't keep up. "You get the impression they don't care about us little people in between the big cities," she says.

TRUCKS

Richard Holliday, a blunt-spoken former trucker whose Gehring, Neb.-based Nebraska Transport Co. is the region's biggest truck line, says that since deregulation he has routinely slashed rates for customers on highly competitive interstate-highway routes. But customers in communities off the beaten path, where there is no truck competition, have to pay more than their urban counterparts. Mr. Holliday offers a gloomy prediction for some of the industry's customers: "The mom-and-pop store in some small, out-of-the-way town—they've had it."

In a corner booth at the 77 Lounge in Chadron, Neb., far from any interstate, owner Evva Gore whips out a freight bill to show a visitor just how fast her trucking costs are climbing. It costs $13.55 to have three cases of liquor hauled 400 miles across the state from Omaha, up from $12.78 last year.

"When I saw that I said 'bullfeathers,'" says Mrs. Gore, a 27-year veteran of the bar business. The 77 Lounge is up for sale—not because of deregulation—and Mrs. Gore says she is looking forward to moving someplace warmer. Meanwhile, she confides that she has worked out a way to beat the price increase: "I drive my motor home to Omaha and tell them to fill up the bathtub with cases of booze."

Not everyone in Chadron's business community can improvise like Mrs. Gore. James Aspden, manager of Jenkens Implement Co., wends his way between bins stuffed with spare farm-machinery parts and stops in front of a 16-foot sickle bar. Mr. Aspden says the device costs only $150, but he has to tack on $50 more to cover trucking charges. When a freak hailstorm caused $25 million of damage to the town last summer, Chadron residents discovered they could find replacements for their shattered storm windows for $20 less in towns with better truck service.

THE BANK

When Robert McCulley turned up at the Holiday Restaurant in Kimball, Neb., one evening this past July, more than 50 people crowded into the back room to meet him. Mr. McCulley is no celebrity; he is a broker for E.F. Hutton & Co. And like a growing number of bankers, brokers and other money managers these days, he spends more time in small towns and cities and the

Panhandle trying to persuade people to put their money elsewhere than the local bank.

Deregulation means more business for Mr. McCulley and his fellow circuit riders. But it is sapping life from small-town banks and from the communities that rely on them. Under deregulation, many rural banks are forced to pay higher interest to compete with outsiders for deposits. Deregulation has also cleared the way for big outside banks to steal away borrowers who once automatically would have gone to their local bank for cash.

In a report on changes in rural America last year, researchers at the Kansas City Federal Reserve Bank weighed the pros and cons of bank deregulation and concluded, "On balance, economic activity in many rural communities probably has been negatively affected by higher [loan] interest rates from deregulation."

Michael Nelson, president of Kimball's First State Bank, estimates that 25% of the money the town's 3,500 residents might have deposited in his bank in the past now goes to brokerage houses and other outsiders. Squeezed for profits, small-town banks are shying away from putting money into uncertain local business ventures. "These days," says Lewis Mehling, vice chairman of American National Bank in Sidney, Neb., "you're a little less inclined to stick your neck out to help some young person get started."

Mr. Mehling's bank recently turned down applicants seeking business loans to launch a restaurant and a retail store in Sidney. There isn't much likelihood the businesses will get help elsewhere. "E.F. Hutton," Kimball's Mr. Nelson points out dryly, "doesn't finance gas stations and clothing stores."

THE PLANE

At his insurance agency in Scottsbluff, Mayor Overman keeps a plastic model of a passenger jet behind his desk. It is a talisman of sorts, since Scottsbulff has managed to hold on to some air service since deregulation. But at a price. There are no Supersavers or fare wars. Since 1984, four airlines have come and gone, including the one that stranded Mr. Overman in North Platte. The 150-mile flight to Denver now costs $75, up from $49 three years ago.

(A 1982 federal study showed that following deregulation, the average cost of flying out of a small town had climbed by 16% while the cost of flying out of big cities had declined by 33%. A federal aviation expert says those percentages are "still in the ballpark today.")

Mr. Overman isn't complaining about the price. He has been to Washington twice recently pleading for federal help to keep Scottsbluff's air connection alive. The city is 400 miles from Lincoln and Omaha, Nebraska's state capital and its financial center. Without air service, the mayor says, "we might as well be in another country,"

Other Panhandle communities are even more worried. Since deregulation, virtually all the region's air service depends on the federal government's Essential Air Service program, which provides subsidies to commuter lines servicing otherwise unprofitable rural areas. The program is scheduled to end next year.

Panhandle officials say that losing air service would be deregulation's cruelest blow. Without it, a distant traveler who wanted to get to Chadron would have to fly to Rapid City, the nearest city with scheduled air service, hire a car and drive 114 miles to reach Chadron. "It would have a drastic effect on our economic development effort," says Carl Dierks, Chadron's city manager.

Among other problems, Mr. Dierks points out, there would be no air link for nearly 2,000 students who attend Chadron State College, the community's economic anchor. Mr. Dierks is heading an effort to broaden Chadron's agriculture-based economy. But he says one of the first things prospective employers ask about is air service.

"Disaster might be too strong a word to describe the effect of losing our air service," Mr. Dierks says. "But it would certainly make Chadron a less desirable place to live."

THE FUTURE OF BLACK AMERICA

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. CLAY. Mr. Speaker, The Congressional Black Caucus and Congressional Black Caucus Foundation recently convened the 17th annual legislative weekend in Washington. In conjunction with the theme of this year's event, "Educating the Black Child: Our Past and Our Future" the keynote speaker, Marian Wright Edelman, president of the Children's Defense Fund, gave a moving address on the very special needs of our black children. I commend her remarks to my colleagues.

CONGRESSIONAL BLACK CAUCUS AWARDS DINNER, WASHINGTON, DC, PRESENTATION BY MARIAN WRIGHT EDELMAN, PRESIDENT, CHILDREN'S DEFENSE FUND

It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of light, it was the season of darkness, it was the spring of hope, it was the winter of despair.—A Tale of Two Cities, book 1, chapter 1.

You have no right to enjoy a child's share in the labors of your fathers unless your children are to be blest by your labors.—Frederick Douglass, "The Meaning of July Fourth for the Negro."

For many of you sitting in this room, it is the best of times. Black per capita income is at an all-time high and many of you have moved up the corporate ladder even if the ladders you are on frequently don't reach towards the pinnacle of corporate power. Black purchasing power, now at $200 billion, exceeds the gross national product of Australia and New Zealand combined. But it has not yet been translated into commensurate black economic influence and benefit. Black elected officials are more numerous than ever (6,681 in 1987, a 350 percent increase since 1970). But white economic power still controls our city tax bases. The amassing of committee and subcommittee chairmanships (8 full House Committee chairs including the Select Committee, and 18 subcommittee chairs) by members of this Congressional Black Caucus is impressive by any standards although the main political game in town is cutting the budget deficit. Spelman College, my alma mater, looks towards its future with a stronger endowment and student body than ever before while many other black colleges are struggling mightily to survive.

Bill Cosby is America's favorite Daddy and Michael Jackson and Whitney Houston dot the top ten charts. Black leadership has permeated a range of mainstream institutions. Bill Gray chairs the House Budget Committee, Frank Thomas heads the Ford Foundation, and Cliff Wharton heads TIAA-CREF. A. Barry Rand is in charge of marketing at Xerox. Anita De Frantz is America's representative to the Olympic Committee, and Richard Knight is the city manager of Dallas.

I am proud of these and many similar accomplishments and applaud the black middle class for whom the times are good tonight. We've worked hard to get where we are. However, we have to work harder still to stay there and to move ahead.

But there is another black community that is not riding high tonight and that is going down and under. If you and I don't build a bridge back to them and throw out some strong lifelines to our children and youths and families whom poverty and unemployment and hopelessness are engulfing, they're going to drown, pull many of us down with them, and undermine the black future that our forebears dreamed, struggled, and died for.

I am grateful, therefore, that the Congressional Black Caucus has focused attention this year on Educating the Black Child. Just as Martin Luther King, Jr. and others accepted the challenge of their time, so the challenge of our time is educating all of our children in mind, in body, and in soul if we are to preserve and strengthen the black future.

It is the worst of times for poor black babies born within a mile of this hotel and in many inner cities around the country who have less of a chance of living to the first year of life than a baby born in Costa Rica. Black babies are still twice as likely to die in the first year of life than white babies.

It is the worst of times for black youth and young adults trying to form families without decent skills or jobs and without a strong value base. Young marriages have essentially stopped in the black community. Sixty percent of all black babies today are born to never married single mothers; 90 percent of those born to black teens are born to unmarried mothers. One out of two children in a female-headed household is poor. Two out of three (67.1 percent) children in black female-headed households are poor. If that household is headed by a mother younger than 25, three out of four are poor. Even when teen pregnancy results in marriage, young two-parent families are almost three times as likely to be poor as those with parents 25 to 44 years of age.

A significant cause of this black family problem lies in young black men's eroding employment and wage base. Only 26.5 percent of all black male teens were employed in 1986 and 61.3 percent of those 20 to 24 years old. And even when they are lucky enough to work they frequently can't earn enough to lift a family out of poverty. Between 1973 and 1984, the average real (inflation-adjusted) annual earnings among males ages 20 through 24 fell by nearly 30 percent (from $11,572 to $8,072 in 1984 dollars). This sharp drop affected virtually all groups of young adult males—whether white, black, or Hispanic—although young black men suffered the most severe losses (nearly 50 percent). So the links between teen pregnancy and poverty are related not just to age and single parenthood but also to the poor skills and employment experience young parents seek to bring to the work force and to the lower wages young workers are paid.

To combat the poverty which is engulfing half of the black babies born today—half of our future as a black community—we must all work to prevent too early sexual activity and pregnancy and encourage our boys and girls to wait until they have the education and economic stability to form lasting families. If the share of single births in the black community grows at the rate of the last decade, by the year 2000, only one black baby in five will be born to a married woman. And if you don't care about these babies unselfishly you'd better care selfishly, for the future black voting and economic base upon which much of our leadership status rests resides in the health and education of the black child and the strength of the black family.

Not only are too many black babies and youths fighting poverty and sickness and homelessness and too little early childhood stimulation and weak basic skills preparation, they are also fighting AIDS and other sexually transmitted diseases; drug, tobacco, and alcohol addiction and crime which hopelessness and the absence of constructive alternatives and support systems in their lives leave them prey to. A black baby is seven or eight times more likely to be an AIDS victim than a white baby and minority teens (15 to 19) are the highest risk group for a range of sexually transmitted diseases. A black youth is five times more likely than a white youth to end up in an institution and is nearly as likely to be in prison as he is to be in college. Between 1979 and 1985 the number of black youth in juvenile detention facilities rose by 40 percent while the number of black youth entering college immediately after high school graduation fell by four percent. More black males go to prison each year than go to college. There are more black drug addicts than there are black doctors or lawyers.

Now some of you sitting here will ask what this has to do with you. You struggled and beat the odds and those folks who haven't made it could do the same. Others of you will rightfully say you're already doing your bit for the race by achieving yourself and by contributing to black organizations. Still others place the blame for growing black family poverty and weakening community bonds and support systems on urbanization and the continuing racial discrimination in national life which devalues black talent and curbs black opportunity.

As many nuggets of truth as each of these views may contain, I will simply say that unless the black middle class begins to exert more effective and sustained leadership with and without the black community on behalf of black children and families both as personal role models and value instillers and as persistent advocates for national, state and local policies—funded policies—that assure our children the health and child care, education, housing, and jobs they need to grow up into self sufficient adults, to form healthy families, and to carry on the black tradition of achievement, then all of our Mercedes and Halston frocks will not hide our essential failure as a generation of black haves who did not protect the black future during our watch.

Just as our nation is committing moral and economic suicide by permitting one in four of its preschool children to be poor, one in five to be at risk of being a teen parent, one in six to have no health insurance, and one in seven to face dropping out of school at a time when the pool of available young people to support an aging population and form a strong workforce is shrinking, so we are committing racial suicide by not sounding the alarm and protecting our own children from the poverty that ravages their dreams. For America will not treat our children fairly unless we make it.

We must recapture and care about our lost children and help them gain the confidence, self-esteem, values, and real world opportunities—education, jobs, and higher education which they need to be strong future guardians of the black community's heritage.

How do we do this? There are nine steps we must take if we are to help our children:

The first step is to remember and teach them that black folk have never been able to take anything for granted in America and we had better not start now in these waning Reagan years of budget deficits and looming economic recession. Frederick Douglass put it bluntly: "Men may not get all they pay for in this world, but they must certainly pay for all they get." So you make sure that you are ready to do your part to help yourself and black children and to hold public and private sector officials accountable for doing their part in fostering health, education, and fair employment policies that are essential to black family survival.

Tell our children they're not going to jive their way up the career ladder. They've got to work their way up—hard and continuously. Too many young people want a fast elevator straight to the top floor and resist walking up the stairs or stopping on the floors of achievement between the bottom and top. Tell them to do their homework, pay attention to detail, and take care and pride in their work. People who are sloppy in little things tend to be sloppy in big things. Tell them to be reliable, to stick with something until they finish and resist jumping from pillar to post. And tell them to take the initiative in creating their own opportunity. They can't wait around for other people to discover them or to do them a favor.

The second step is to teach them the importance of getting a good education. While not a guarantee of success, education is a precondition to survival in America today. At a time when a smaller proportion of black high school graduates go on to college than ten years ago, we need to tell all of our children that college pays. In 1986, the average unemployment rate among black college graduates under 25 was 13.2 percent—more than one in every eight. Among young black high school graduates, it was 26.6 percent—more than one in four. College doubles their chance of getting a job. And we need to insist that they get a liberal education and learn how to think so that they can navigate an ever changing job market.

The third step is to tell them that forming families is serious business and requires a measure of thoughtful planning and economic stability. In 1986, one in every five black families with children under 18 had someone unemployed. Of those 44 percent were single parents with no one at work. Among black married couples with children, only 18 percent had no one working.

That is the crucial point. Education alone, although of enormous value in itself, cannot guarantee a young black adult the income needed to raise children in economic safety today. But two black adults, both working, have the safety net of the second income when unemployment strikes. Remember, that's the only safety net President Reagan hasn't found a way to cut yet.

All these figures are from 1986, the fourth year of a long period of economic recovery. When the next recession arrives—and it will—the black unemployment rates will soar. Since this recession will come at a time when we have an extraordinary budget deficit, there is a great danger that the American voters will buy the argument that we must cut government spending in order to reduce interest rates and stimulate the economy. If this happens, there will be many unemployed teachers, nurses, employment counselors, and government workers of all sorts.

There is a warning here that relates to steps one and two. Just as black penetration into civil and social service professional jobs occurs, the growth and security of such jobs fall. Just as blacks rise to senior ranks in industrial and industrial union jobs, steel and auto manufacturing industries enter a steep decline. The economic goal posts keep shifting. How then, do we work towards a full share in the power to set the goals in place, and not just the right to run the race?

The fourth step is to set goals and work quietly and systematically towards them. So often we feel we have to talk loud rather than act effectively. So often we get bogged down in our ego needs and lose sight of our broader community goals. T.S. Eliot in his play "The Cocktail Party" said that "half the harm that is done in this world is due to people who want to feel important." Wanting to feel important is good, but not at the expense of *doing* important deeds—even if we don't get the credit. You can get a mighty lot done in this world if you don't mind doing the work and letting other people take the credit. You know what you do and the Lord knows what you do and that's all that matters.

The fifth step is knowing the difference between substance and style. Too many of us think success is a Saks Fifth Avenue charge card or a "bad" set of wheels or coming to this Black Caucus dinner. Now these are things to enjoy, but they are *not* life goals. I was watching one of President Johnson's inaugural balls on television with a black college president's wife in Mississippi when Mrs. Hamer, that great lady of the Mississippi civil rights movement who lacked a college degree, but certainly not intelligence or clear purpose, came onto the screen. The college president's wife moaned: "Oh my, there's Miz Hamer at the President's ball and she doesn't even have a long dress." My response was: "That's alright. Mrs. Hamer with no long gown is there and you and I with our long gowns are not." So often we miss the real point—we buy BMWs and fur coats before we think about whether where we're going to drive and wear them is worthwhile. Nobody ever asks about what kind of car Ralph Bunche drove or designer suit Martin Luther King, Jr., bought. Don't confuse style with meaning. Get your insides in order and your direction clear first and then worry about your clothes and your wheels. You may need them less.

The sixth step is valuing family life. We must build on the strong black tradition of family and teach our children to delay family formation until they are economically and emotionally stable and ready to raise the new generation of black children and leaders. Black and white men must support their children as best they can and not have them until they are ready to take responsibility for them. We must strengthen family rituals: prayers if we are religious, regular family meals, and participation in school work and in non-school activities. Our children need constructive alternatives to the street. We must *do* things with our children.

Listen to them. Be moral examples for them. If we cut corners, they will too. If we lie, they will too. If we spend all our money on our backs and wheels and tithe no portion of it for our colleges, churches, and civic causes, they won't either.

We must join together as an entire community to establish an ethic of achievement and self-esteem in poor and middle class black children. They can do science and math as well as basketball and football, computers as well as cotillions reading along with reggae, if we expect these accomplishments of them, support them in their learning processes, and help them in setting priorities. They need strong consistent adult buffers to withstand the negative messages of the external world that values them less than white or middle class children.

When I, like many of you, was growing up in my small segregated southern town, the whole outside world, the law of the land, local officials, the media, almost everybody outside our own community told black children we weren't worth much or were second rate. But we didn't believe it because our parents said it wasn't so. Our preachers said it wasn't so. Our caring teachers said it wasn't so. And they nurtured us as a community, shielded us against the constant psychological battery of our daily environment and made us understand that we could make it—had to make it—but in order to do so, we had to struggle to make our own opportunities in order to help change America. And we went on to college—poor and black—and tried to carry out their other lesson to give some of what they gave us back in service to others left behind. Service, they taught, is the rent you pay for living. Where is our buffer today for the black and poor children who are daily wounded by a national administration who would rather judge than help the poor? Where are the strong local officials and community voices and hands shielding and fighting for the poor children in our city streets against the ravages of drugs and crime? Where are the role modelling, mentoring, and tutoring programs that help black children overcome the pernicious undercurrents of many, even our purported friends, who really think black children lack the potential of other children? What activities are your churches and sororities and fraternities sponsoring to keep children busy and off the streets?

The seventh step is to vote and use our political and economic power. Only 51 percent of all voting age blacks voted in the 1980 election and only 56 percent in the 1984 election. Seventy percent of 18- to 25-year-old black youths did not vote in the last election. People who do not vote have no line of credit with people who are elected and pose no threat to those who act against our interests. Don't even pretend that you care about the black community, about poor children, about your nation, even about your own future, if you don't exercise the political leverage Medgar Evers and others died to make sure we had. And run for political office. And when you win don't forget that you are the means to serve others well and not the end.

No one running for president or any office should get black community support unless they have a well thought-out set of policies designed to lift the black child and family. Similarly, we need to use our economic power for the benefit of black families particularly in industries where we constitute a large market share.

Two last steps and I'm done.

Remember your roots, your history, and the forebears' shoulders on which you stand. And pass them on to your children and to other black children whose parents may not be able to. As a black community today there is no greater priority than assuring the rootedness of all our children—poor, middle class, and Ivy League. Young people who do not know where they come from and the struggle it took to get them where they are now will not know where they are going or what to do for anyone besides themselves if and when they finally arrive somewhere. And if they run into bad weather on the way, they will not have the protective clothing to withstand the wind and the rain, lightning and thunder that have characterized the black sojourn in America. They need the anchor and rightful pride of a great people that produced a Harriet Tubman and Sojourner Truth and Frederick Douglass from slavery, a Benjamin Mays and Martin Luther King, Jr. and Fannie Lou Hamer from segregation, people second to none in helping transform America from a theoretical to a more living democracy.

The last step is to keep dreaming and aiming high. At a time when so many in public and private life seem to be seeking the lowest common denominator of public and personal conduct, I hope you will dream and set new examples of service and courage.

Dr. Benjamin Mays, a former president of Morehouse College and role model for me said: "It must be borne in mind that the tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a calamity to die with dreams unfulfilled, but it is a calamity not to dream. It is not a disaster to be unable to capture your ideal, but it is a disaster to have no ideal to capture. It is not a disgrace not to reach the stars, but it is a disgrace to have no stars to reach for. Not failure, but low aim, is sin." We must aim high for our children and teach them to aim high.

I'd like to end with part of a prayer for children written by Ina Hughes of South Carolina.

We pray for children
who spend all their allowance before Tuesday,
who throw tantrums in the grocery store and pick at their food,
who like ghost stories,
who shove dirty clothes under the bed, and never rinse out the tub,
who get visits from the tooth fairy,
who don't like to be kissed in front of the carpool,
who squirm in church and scream in the phone,
whose tears we sometimes laugh at and whose smiles can make us cry.

And we pray for those
whose nightmares come in the daytime,
who will eat anything,
who have never seen a dentist,
who aren't spoiled by anybody,
who go to bed hungry and cry themselves to sleep,
who live and move, but have no being.

We pray for children who want to be carried and for those who must,

For those we never give up on and for those who don't get a second chance.

For those we smother * * * and for those who will grab the hand of anybody kind enough to offer it.

Please offer your hands to them. Let your Amen be in your committed actions to help black children when you leave here. They desperately need your help on a one-to-one basis and in the political arena. We must all work to redirect the nation's foolish priorities which favor bombs and missiles over babies and mothers upon whom our real national and community security rest.

AMERICA'S ECONOMIC MIRACLE

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. BUECHNER. Mr. Speaker, the U.S. economy is now entering its 59th month of sustained growth—the second longest economic growth period since World War II. The rate of inflation is at its lowest level since the early 1960's. Unemployment is at its lowest level in 8 years. Interest rates are far below their record levels of 1979. More people are employed now than in any other time in our history. The stock market and the continuing steady growth have created wealth for many Americans.

You would not know this though, if you read the newspaper or listened to my Democratic colleagues and their candidates for President. The Democrat's talk about our economy as if we are in the middle of a depression. They ignore all of the signs of economic growth and prosperity, and focus instead on the so-called loss of our manufacturing base. The Democratic Presidential candidates talk about impending economic doom that can only be corrected by Federal Government action. Several major daily papers have run stories about how the middle class is disappearing. Other major themes repeated again and again include the increasing income disparity in our Nation, and the ever increasing number of people becoming poor. Yet while all the gloom and doom soothsayers predict economic disaster, the economy keeps moving ahead. Why is this so?

The reason we are entering the 59th month of economic growth is due to the solid economic policies of President Reagan. By following free market economic policies, lowering tax rates, and continuing the deregulation of industry have brought this country back from the brink of economic disaster that President Carter and the Democrats brought during the late 1970's. All Americans have benefited from this economic expansion, and I would like to cite four areas of the economy where the American family has benefited most from the economic policies of President Reagan.

In 1979, the inflation rate for the year was 13.3 percent. In 1980, 12 percent. Throughout the Carter administration, the inflation rate averaged 10 percent. If you combine the rate of inflation with the rate of unemployment, the so-called misery index in 1979 was 17.9, and in 1980 the misery index was 20.6, the highest level ever. The American consumer found that through the late 1970's the price of all goods rose beyond their means. "Bracket creep" was further eroding the earnings of all Americans by pushing their taxable income into the highest levels of taxation. Due to the combination of inflation and bracket creep, median family income fell 5½ percent in 1979, and an additional 3½ percent in 1980.

Falling incomes and a high rate of inflation were hallmarks of the Carter administration. The Reagan administration has been a most pleasant change from the days of stagflation. The average rate of inflation for the period 1982-86 has been 3.3 percent. In 1986, the rate of inflation was 1.9 percent. This is the lowest rate of inflation since the early 1960's. The days of double-digit inflation are but a distant memory. The Reagan administration has broken the inflationary psychology, and restored confidence in the American economy. Furthermore, the Reagan administration forced Congress to pass an indexing of Federal tax rates in 1985. No longer will Congress be able to raise more revenue by allowing inflation to take more of your paycheck.

What has the lower inflation rate meant to the average American? First and foremost, it has meant more take-home income. Stable prices have allowed people to plan ahead and make long-term investments without the fear of losing their investment value to the ravages of inflation. Finally, the additional income has allowed people to purchase more goods and increase their standard of living.

Another area where the American public has greatly benefited is the tremendous job creation brought about during this economic expansion. Mr. Speaker, this Nation has created more jobs in the last 4 years than the entire European and Japanese economies combined in the last decade. The U.S. economy has created almost 14 million jobs between 1982-86. This is in comparison to West Germany, where virtually no new jobs were created during the same time period. Contrary to the myth that we are losing our manufacturing sector, the United States has created 406,000 new manufacturing jobs since 1982. Approximately 65 percent of all Americans are working, which is the highest percentage ever for the American work force. At this moment, over 113 million Americans are employed.

What is more incredible is that the overwhelming number of jobs created are full-time, long-term, high-paying jobs. Several Democratic candidates for President are traveling throughout the country telling people that we are becoming a nation of burger flippers. They claim that the jobs being created are low-pay, service jobs. The so-called Mc-Jobs scenario is simply not true. Let me state some facts, Mr. Speaker:

60% of the increases in employment have occurred in the highest pay category ($390 or greater per week, 1986 dollars)

Only 12% of new jobs have been in the low-skill, low pay category. (Bureau of Labor Statistics)

94% of new jobs created in 1982-1986 are full-time jobs

According to the Bureau of Labor Statistics, in the last twelve months, over 59% of jobs have been professional or managerial jobs. This is the greatest number of jobs at this level ever.

The jobs being created by this expansion are high-wage, executive and managerial jobs. This is further adding to the growth environment and business expansion in our economy.

A third area in which the economic expansion has improved conditions for the average citizen is in the tremendous amount of wealth created. Another falsehood that has been circulated by Democrats is that the economic growth experienced under President Reagan has benefited only one segment of society—the rich. Once again, the facts prove this claim to be completely false. For example, the bull market that has raised the Dow Jones Industrial Average over 1,800 points has added almost a trillion dollars in value to pension funds. This translates into more stable and secure retirement funds for all workers.

The expansion of wealth has greatly increased the personal wealth of Americans. This flies in the face of the portrayal of households awash in debt. If you believe some people in the press, you would be convinced that American consumers have mortgaged their futures and are in debt over their heads. In reality, household net financial assets have increased since 1982 from $3.5 to $5.6 trillion, a 55-percent increase. In comparison, total debt increased increased 52 percent. Thus we are creating new wealth faster than new debt. This increase in household wealth is another sign of economic growth and prosperity.

I mentioned before Mr. Speaker, that the bull market has increased 1,800 points since President Reagan began his first term. What this increase has meant to the public is an increase in wealth of between 1½ trillion dollars. Individual stockholders have seen tremendous increases in wealth. In the last 5 years, households have purchased a total of $402.1 billion in new equities, which in turn has added over $1 trillion in household wealth and equity. In per capita terms, this translates into $4,000 for every man, woman, and child in this Nation. The bull market further benefits American consumers by contributing to an expanding economy by encouraging spending by consumers and businesses, and thereby generating additional job growth and equity.

The final area of economic gain that the American public has seen is in the rise of personal incomes. Incomes for all Americans have made real gains since 1982. For example, in the past 4 years, real family income has increased 10.7 percent, the best increase since the 1960's. Real disposable income has risen 10.8 percent since 1982 as compared to dropping 0.1 percent from 1978 to 1982. Median family income has also recovered from the ravages of the Carter administration's stagflation. Median income has increased from $26,618 to $29,458 (1982-86).

Another sign of the strength of this recovery is the amount of people moving up the income ladder. Another myth perpetuated is that the rich are becoming richer and the poor are becoming poorer under the Reagan administration. Two statistics will once again prove this false. The poverty rate has been falling since 1983: In 1983, 15.2 percent of the population was below the poverty level. In 1986, 13.6 percent of the population was below the poverty level. In 1986 alone, 700,000 people were removed from the Nation's poverty rolls.

While the number of people living below the poverty line is decreasing, the number of families with incomes above $50,000 a year have increased dramatically since 1980. When measured in 1986 dollars, the percentage of families making under $20,000 a year have fallen from 33.4 percent of families in 1980 to 31.8 percent in 1986. The proportion of families earning between $20,000 and $50,000 a year also fell from 52.7 to 47.5 percent over the same period. The only family wage group to increase in size from 1980 to 1986 are those families that make over $50,000—from 14.8 to 20.7 percent of total; a 33-percent increase. Thus, the perception of an increasing division between rich and poor Americans is not true. We are upwardly mobile and affluent.

What should one conclude then Mr. Speaker? The conclusion is very simple: We are in the middle of one of the greatest peacetime expansions in our Nation's history, which shows no signs of retreating. This expansion is based on real growth and income increases, and should continue through next year, and perhaps beyond. The gloom and doom soothsayers keep wondering why the American public is so complacement about their economic decline. The reason is that the American public lives in the real world, and those in the real world know that their standard of living is increasing. The alleged decline in the standard of living and incomes for American wage earners is a myth which is not supported by everyday experiences.

This myth will become reality if the Democrats who control Congress have their way. The House pushing for a protectionist trade bill that reminds us of the Smoot-Hawley Act—the precursor of the Great Depression. The Democratic budget calls for $18 billion in unspecified tax increases. The Speaker of the House has proposed delaying the final decrease of tax rates in the 1986 Tax Reform Act. Several pieces of legislation requiring mandated employee benefits and increased employer costs are going to be considered by the House. While the Majority talks about competitiveness, they introduce legislation that even further raises the cost of doing business in the United States. These various proposals could cost the American consumer billions of dollars and slow the economy. We must continue to stay the course of low taxation, slowing government spending, continued deregulation, and using market policies to maintain the economic growth and prosperity that benefit all Americans.

A BILL TO REMOVE BARRIERS TO UNITED STATES-CANADA TRADE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. OXLEY. Mr. Speaker, I know that the idea of free trade frightens some of my colleagues in the Congress. Nevertheless, I think that the United States and Canadian trade negotiators not only deserve a great deal of credit for their efforts to open up trade between our two countries, but they also deserve our thoughtful and serious evaluation of the free trade agreement they have negotiated.

Although it is difficult to sign off on the agreement until all the details are known and it is nearly impossible to please everyone on every provision in such a broad agreement, there are some compelling reasons why the agreement in principle may be in the best interests of both countries.

A lot of time and attention have been devoted recently to efforts aimed at improving the overall competitive ability of U.S. industry, and many proposals are under consideration in the Congress right now. However, a free trade agreement which eliminates obstacles to trade will do far more to foster competitiveness than any protection-oriented proposal or measure.

Without the protection of tariffs and other nontariff measures, which we have seen reduce the efficiency and competitive ability of certain United States industries, both United States and Canadian industry will have to be efficient producers of quality products to remain competitive. All things being equal, fair competition, pure and simple, will do more to improve competitiveness than anything else.

The flow of goods and services between the United States and Canada is simply tremendous. In fact, we have the greatest trading and overall economic relationship in the world.

In 1986, the United States exported some $54 billion worth of goods and services to Canada. This is about 24 percent of total 1986 United States exports, making up close to 70 percent of Canadian imports for the same year. At the same time, the United States market absorbs over 70 percent of Canada's exports.

It is interesting to note that while our exports were declining in other parts of the world over the last 6 years or so, United States exports to Canada increased substantially—by more than $14 billion—over the same time period.

We have directly invested about $46 billion in Canada spread among a variety of industries, including agriculture, forestry, fishing, oil, and chemicals to name a few. Similarly, the Canadians have invested some $17 billion in the United States.

As these facts indicate, the economic stakes in consideration of a free trade agreement are extremely high.

The fundamental purpose of this free trade agreement is to remove barriers to United States-Canada trade, thereby building on the foundation of our long and generally healthy economic relationship.

Yet, even though our countries are bound by deep ties and a special friendship, coming together on a sweeping free trade agreement is not an easy process.

I am confident, though, that my colleagues in the Congress will agree that any agreement which potentially improves on this mutually beneficial economic relationship is certainly worthy of our careful and complete consideration in the coming weeks.

CHINO, CA, CELEBRATES 100TH YEAR OF FOUNDING

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. LEWIS of California. Mr. Speaker, it gives me great pleasure to stand before the House of Representatives and read to you this proclamation honoring the 100th year of the founding of the city of Chino, CA:

Whereas, The City of Chino is celebrating 100 years of founding in 1987, a time during which it is appropriate to reflect upon the civic and political achievements, growth, and prosperity of the Chino Valley; and

Whereas, the history of Chino began some 200 years ago when bands of Indians roamed the fertile valley and hunted the game that existed in ample supply; and

Whereas, in the early 1800's, the land became a part of the San Gabriel Mission and was used to graze horses and cattle belonging to the Mission, in 1810 a young Spaniard named Don Antonio Mario Lugo began to accumulate lands, and, in 1841, he was granted rights to what was to become the 47,000 acre Rancho Santa Del Chino, and later sold the Rancho to his son-in-law, Issac Williams; and

Whereas, Richard Gird purchased Rancho del Chino from Williams' heirs, and in 1887 subdivided 24,000 acres in small ranches and 640 acres into the town-site of Chino; and, consequently 1897 is demarked as Chino's Centennial year; and

Whereas, Chino remained basically an agricultural community until the 1950's at which time Chino saw the beginning of residential, commercial, and industrial development, growing from a population of 3,196 in 1930 to its present population of well over 50,000; and

Whereas, the achievements and advancements which the citizens of Chino have seen since its founding are extensive and reflect the commitment, fortitude, and determination of all the residents of Chino; now therefore be it

Resolved, I, Congressman Jerry Lewis, congratulate and commend the City of Chino upon the occasion of its 100th year of founding and honor the people in the area for the outstanding display of Civic involvement which they have contributed in the area's advancement, and extend best wishes for continued growth and prosperity in the years to come.

CARL F. LOWTHORP TO RECEIVE BEN NORDMAN PUBLIC SERVICE AWARD

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the presentation of the prestigious Ben Nordman Public Service Award to a good friend, Carl Lowthorp.

This award was established in perpetuity by the late Ben Nordman who was recognized as a leader in his profession and in the community. The annual award trust fund is administered by United Way and honors an individual who epitomizes the best in the legal profession and in service to the community.

The second annual Ben Nordman Award is being presented on October 17 to an attorney practicing in the city of Oxnard, CA. Carl Lowthorp attended the University of North Carolina and was graduated from UCLA in 1956. He later attended Loyola University Law School graduating in 1963. Additionally, he attended USC Graduate Law School taking courses in the field of taxation.

Carl was admitted to the California Bar in 1964 and is a member of the California Bar Association, the American Bar Association and the Ventura County Bar Association. He is a member of the probate and estate planning section of the California and Ventura County Bar Associations and a member of the taxation section of the California and American Bar Associations. He is a principal in the Oxnard law firm of Lowthorp, Richards, McMillan, Miller, Conway & Templeman.

Mr. Lowthorp has been extremely active in civic affairs. He has been a member of the Oxnard Rotary Club since 1966 and is a past president, member of the Boys and Girls Club, board member since 1969, is a past president and received the Man and Boy Award from Boys Club of America in 1976, the Boys Club Medallion in 1978 and the Bronze Medallion in 1985. Carl also has been a member of Ventura County Economic Development Association since 1973, is a member of the board of directors and past president. He has served on the board of directors of the Salvation Army, board of directors of the Channel Islands Community Hospital and served as vice president of the Swift Memorial Health Care Foundation since its inception in 1985.

Carl serves on the Educational Partnership Committee. The purpose of which is to bring the business and professional community together with the high school district so that the educational goals of the district can be better understood and achievement enhanced. He has served on the board of the Camarillo Youth Football Program for 5 years and is a past president and has chaired the Camarillo fund drive for the United Way.

Professionally, activities include the executive committee of the Ventura County Bar Association in 1978–79, is president-elect of the Ventura County Bar Association and is cochair of the Probate and Estate Planning Committee of the Ventura County Bar Association.

In other activities Carl is a member of the board of directors of Ventura County National Bancorp, is a past member of the Ventura County Republican Central Committee and has served on numerous political campaign committees including my own.

Please join me in congratulating Carl F. Lowthorp on this occasion of being presented the Ben Nordman Public Service Award.

LOCAL STUDENT SHOOTS FOR THE STARS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. HAWKINS. Mr. Speaker, in light of recent educational reports citing the declining scientific and mathematical abilities of our Nation's students, especially in inner-city schools, I am honored to highlight the achievements of a student in my district.

Mark E. Christian, a student attending the King/Drew Medical Magnet High School in Los Angeles, was recently selected as a national winner in the seventh annual Space Science Student Involvement Program. Mark's project, "The Susceptibility of Escherichia Coli and Staphylococcus Aureus to the Bactericidal Effects on Space-Grown Antibiotics," competed with 800 entries nationwide, with a special panel of teachers, scientists, and engineers selecting the winners.

This gifted senior has already established himself in a highly complex discipline; his project will be tested on an upcoming space shuttle or space station mission. As the winner of a $3,000 scholarship and personal computer, Mark plans to attend the University of California, Berkeley and major in medicine or biology. His project would help to determine the effects of a microgravity environment on the production of antibiotics. As a result, scientists may be able to learn whether microgravity affects the reaction of bacteria in an artificial environment to antibiotics produced in space.

The outstanding students and faculty at the King/Drew Medical Magnet High School deserve recognition. The school, a part of the Los Angeles Unified School District, is located on the campus of Drew University. It attracts students from the Los Angeles area and is known for its emphasis on guiding and directing high school students into health careers. Students of Mark's caliber and aptitude are desperately needed in our increasingly technological society; young scholars must be encouraged to pursue careers in these fields.

Mark's achievements are indicative of the academic excellence found in many of the effective schools across the Nation. It is important to recognize Mark's hard work and dedication because he serves as an inspiration to our inner-city youth to strive for a higher standard. There are positive avenues in life to pursue; crime and drugs are not the answer. Mark and King/Drew Medical Magnet High School should be applauded for their tremendous contributions to the scientific community.

TRIBUTE TO THE LATE HONORABLE RAY J. MADDEN

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in tribute to a great Member of the House of Representatives and a great man, Ray J. Madden of Indiana.

Although not a native of the area, Ray Madden came to symbolize the strength and industry of the great steel city of Gary. As a next door neighbor to my hometown of Chicago, he shared the passion for what the Midwest had become in his lifetime—the focal point of American manufacturing. Ray Madden represented his district, and his entire area, with consummate skill and energy.

At the helm of the Rules Committee, Chairman Madden steered a firm and fair path through the legislative process. Much of what I have adopted as my way of chairing a committee I learned from him.

Ray chose to stay in Washington after he left the Congress, and I had many happy occasions of encountering him on the street and in the halls. He always had something worthwhile to say, and many of us have benefited from his on-the-spot insights into the politics and issues of the day.

I will miss Ray Madden, but I will remember him, what he stood for, and what he passed along to his admirers. May he rest in peace.

FINANCIAL PROTECTION TO POULTRY PRODUCERS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. GEKAS. Mr. Speaker, I am pleased to be joining today with my colleague from Texas, Mr. STENHOLM, in introducing legislation to extend the same financial protection to poultry producers as is currently enjoyed by red meat producers under the Packers and Stockyards Act. This legislation, the Poultry Producers Financial Protection Act of 1987, represents a great effort by all sectors of the poultry industry to reach an agreement acceptable to everyone.

Let me start by saying that this issue is not new to me. Since 1984, I have introduced three different bills upon hearing of problems that poultry producers have had in receiving prompt payment within my district in Pennsylvania. These producers have been very anxious to receive such protection since virtually every other commodity sector of agriculture is now covered by similar protection. For the last two Congresses I have worked with the Pennsylvania Farmers Association and the Pennsylvania State Grange, and their national parent organizations, to craft a measure that will offer the needed protections to poultry producers in the State and Nation. I am pleased that my efforts in those past two Congresses are now seeing fruition with the introduction of this new measure.

Mr. Speaker, as you realize, we in Congress prefer to deal with noncontroversial issues—issues where all sides have pulled together through extensive negotiations and reached common ground. Over the past 2 years, I have watched with great interest as the National Grange, the American Farm Bureau Federation, the National Broiler Council and the National Turkey Federation have spent countless hours at the negotiating table. This legislation we are introducing today represents the carefully crafted compromise produced through those talks. Many discussions have been held where these farm organizations even flew producers in from several poultry States for their direct input into the process.

At this point, it might be useful for me to briefly explain how this compromise differs from the legislation I introduced in the 98th and 99th Congresses. First, my earlier bills would have allowed the Packers and Stockyards Administration to enforce all existing regulations over poultry marketing practices through administrative procedures. This meant that the Department of Agriculture's administrative law judges could have pursued alleged violators of regulations over such areas as contract compliance and weighing practices without having to take them to U.S. district court. Both the National Broiler Council and the National Turkey Federation felt that giving such additional enforcement authority to the Packers and Stockyards Administration would be unacceptable. Subsequently, poultry producers agreed to limit this additional enforcement authority to only the prompt payment and trust provisions being created by the legislation we are introducing today.

The second major difference involves a longstanding legal dispute over which agency has authority to regulate the marketing practices of poultry products. The processing industry maintains that the Federal Trade Commission is solely responsible. But the Packers and Stockyards Administration has repeatedly attempted to assert jurisdiction, which has resulted in extensive and expensive litigation. The National Grange and the American Farm Bureau Federation both opposed an attempt in 1984 by the distinguished Senator from Alabama, Mr. HEFLIN, to legislatively clarify that the Federal Trade Commission has sole jurisdiction over this area. In order to reach agreement on this legislation, both farm organizations have accepted that clarification which is contained in this bill. No similar provision existed in the earlier Gekas bills.

Finally, the previous legislation contained similar prompt payment and trust protection for egg producers. In fact, an earlier draft of the bill being introduced also contained the egg section. However, unlike the poultry processing industry, the Farm Bureau and the grange have been unable to draw the egg integrators and contractors to the negotiating table to reach an acceptable compromise. Consequently, due to differing opinions within the egg industry about the need for this protection, and the need to move the broiler and turkey protection through the legislative process this year, a decision was made to remove the egg provisions.

Mr. Speaker, again I would like to reiterate the years of effort that have been put into reaching this compromise. I would hope that, for the sake of poultry growers in Pennsylvania and all over the United States, this Congress would expedite its consideration of this package since it is noncontroversial. It is my understanding that the House Agriculture Committee is planning to mark up this bill on October 14, and I hope it will receive quick attention on the House floor.

CALIFORNIA FIGHTING DRUG ABUSE

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. BADHAM. Mr. Speaker, it is my pleasure to tell my colleagues about a special program in California to fight drug abuse. It's called Red Ribbon Week and it lasts from October 25 to October 31.

This statewide campaign is designed to attack the drug problem where it starts by encouraging everyone to stay away from drugs. Last year thousands of people wore red ribbons to show their support for a drug-free community. Government leaders, school teachers, students, businessmen, lawyers and reporters wore the ribbons. The ribbons remind us that we have a lot of work to do to stamp out drug abuse, but they also show our commitment to show drug abuse for what it is: contemptible, despicable, and pitiful.

Wearing ribbons alone will not solve the drug problem, but when so many people demonstrate that they know the terrible punishment that drugs can inflict upon individuals and society, we make progress toward making drug abuse socially unaccceptable to our entire community. I would like to take this opportunity to commend Californians for a Drug Free Youth and the California Department of Alcohol and Drug Programs for their work on this important project. The California State Assembly and the California State Senate have expressed their support for Red Ribbon Week and I'm sure my colleagues in the House of Representatives join me in commending this program.

Mr. Speaker, we must fight drug abuse with strength and commitment. I encourage all Californians to wear red ribbons during this special week to show such commitment.

UNITED STATES POLICY TOWARD SOUTH AFRICA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. BROOMFIELD. Mr. Speaker, it has been nearly 1 year since Congress overrode the President's veto and imposed sanctions against South Africa. While the Anti-Apartheid Act of 1986 contained several different approaches toward South Africa, including aid to black and other disadvantaged communities in that country, it is most widely known for the economic sanctions it contains. Before the ink was dry on the act's implementing regulations, calls for more and tougher sanctions were already being heard.

Before Congress rushes headlong into the process of adding to the list of economic sanctions already in effect against South Africans—both black and white—perhaps we should attempt to determine the effect sanctions have had on South Africa. As the Washington Post indicated in its lead editorial October 4, 1987, "before considering new sanctions, more time and evidence are needed to calculate the net effect of old ones." The Post goes on to indicate that current administration policy toward South Africa "makes sense," and cites Secretary Shultz's remarks about "the contribution the United States intends to keep making by its openness to all peaceful groups, by its aid to black projects and by its forward-looking private business presence." For the benefit of my colleagues who may not have seen this editorial, it follows in its entirety:

[From the Washington Post, Oct. 4, 1987]

THE WRONG SOUTH AFRICA DEBATE

A requirement for review written into anti-apartheid legislation enacted last year is putting the question of sanctions against South Africa back on the political agenda. It's a debate for which there is no serious need. There is scant agreement on whether the sanctions voted last year (over a presidential veto) were wise. The Reagan administration feels they haven't worked and won't, and some part of the Congress feels they haven't worked and will—if they are strengthened. Many others who detest apartheid are agnostic. A year's experience has shown sanctions cut both ways: they push the ruling white minority toward reform, but they also stiffen its resistance. Before considering new sanctions, more time and evidence are needed to calculate the net effect of old ones.

There is genuine uncertainty about which external actions promote and which retard internal change. Still, what is clear is that South Africa is not only a society being daily torn apart by apartheid but also one being increasingly touched by impulses toward reform. Whether these will produce a sustained wave is the great question. It is evident that the various sources of change inside and outside South Africa are making a mark. Look at the items listed by Secretary of State George Shultz in a speech on Sept. 29: the new Indaba constitutional proposals negotiated by all racial groups in Natal, the meetings of Afrikaners and the African National Congress, negotiations across racial lines by black trade unions and other groups. Any strategic view must take into account the reality of apartheid's horrors and the potential of developments like these.

In his speech Mr. Shultz reaffirmed the administration view that the primary sources of change in South Africa are internal and that American influence is necessarily limited. He took the occasion to present a democratic vision of South Africa's future and to summarize the contribution the United States intends to keep making by its openness to all peaceful groups, by its aid to black projects and by its forward-looking private business presence.

Some critics view the administration approach as a cop-out, or worse. We disagree. The administration's effort to keep the policy, and the policy debate, within consensual bounds makes sense.

A TRIBUTE TO THE 175TH TACTICAL FIGHTER GROUP

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. McMILLEN of Maryland. Mr. Speaker, Top Gun is alive and performing well for the 175th Tactical Fighter Group of the Maryland Air National Guard.

Recently, fighter pilots from this unit won the East Coast Hog Shoot, taking two of the seven individual awards and receiving top marks for navigational skills. Flying the A–10 attack plane, or "Warthog" as it is fondly referred to by its pilots, the 175th Tactical Fighter group will now go to the international competition Gunsmoke to be held by the U.S. Air Force at Nellis Air Force Base in Nevada. At the last international competition in 1985, the 175th Tactical Fighter Group also represented the Air National Guard's A–10 units.

We all know how important the Air National Guard is to our national security, Mr. Speaker. They mean much more to our defense posture than a "weekend warrior" tag could ever imply. To Maj. Ron Ball, Maj. Charlie Morgan, Maj. Ron Henry, Capt. Ron Paul, Capt. Mike Cornwell, and Capt. Joseph Houghton III of the 175th Tactical Fighter Group of the Air National Guard, I commend you for a job well done.

A TRIBUTE TO MRS. VIRGINIA H. AND JOHN T. HAZEL, JR.

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. PARRIS. Mr. Speaker, on October 17, 1987, Mrs. Virginia H. and John T. Hazel, Jr., will be honored by receiving the Founders Award, presented by the Northern Virginia Community Foundation at its annual dinner.

My colleague, Representative FRANK WOLF, of Virginia, joins me today in applauding the accomplishments of Jinx and Til Hazel and in saluting the Northern Virginia Community Foundation for its outstanding achievements which have benefited all citizens in northern Virginia. NVCF is a tax-exempt organization established in 1978 by a number of citizens from northern Virginia. The foundation's funds are used to support the arts, education, health care, youth oriented programs and civic improvements for the benefit of citizens living and working in northern Virginia.

The Founders Award is NVCF's most prestigious award and is presented annually for outstanding community service and dedication to the betterment of northern Virginia and to promote awareness of the significance of individual action in improving the quality of life for all persons in the community.

This year's recipients, Jinx and Til Hazel have had an enormous, personal influence on the improvement and character of our northern Virginia community.

Both Jinx and Til were born in Arlington, VA, and both graduated from Washington-Lee High School. Jinx went on to attend Western Maryland University, while Til attended Harvard College and ultimately graduated from Harvard Law School. They have four children, Leigh Ann, Jack, Jim, and Dick.

It is difficult to summarize the impact that Jinx and Til Hazel have had on the northern Virginia area. Many of you in the Congress know this area as a thriving business and residential community. Let me assure you that it was not always this way. In fact, they used to refer to the congressional districts across the river as the "bedroom community" of Washington, DC.

But thanks to the guidance of people like Jinx and Til Hazel, northern Virginia has grown into its own—a major metropolitan community, offering the best in schools, housing, recreation, economic opportunity, jobs, and so much more that I can't name all its attributes in the time alloted.

Northern Virginia is a thriving business community, with one of the lowest unemployment rates in the United States. This is in no small part due to Til Hazel, who envisioned northern Virginia as an ideal area, ripe for business development. Corporations by the hundreds have relocated in northern Virginia, making it one of the leading commercial communities along the east coast.

As if that wasn't enough, Jinx and Til have involved themselves in civic activities too numerous to mention. But let me give you just a few examples.

Jinx Hazel has been active in education, serving as president of her local PTA association; serving on the board of the Fairfax Symphony; first recipient of the Women of St. Stephan's award, an award which will hereafter be presented as the Jinx Hazel award on an annual basis.

Til Hazel's accomplishment's are also too numerous to list, but I will highlight a few of those I consider among the most notable. He provided the leadership and has been largely responsible for the dramatic growth of George Mason University, moreover, he helped found the George Mason University Law School, advancing this area's education by providing northern Virginia with a quality university and law school. He has served as the head of our area bar association, he is the senior partner in one of the areas largest law firms, and has served as an associate judge in Fairfax County.

He's been active in multiple charities from the Boy Scouts to tuberculosis research, receiving awards of all kinds for his community service. He has served as the chairman of the Washington Board of Trade, and was a member of the Dulles Task Force.

I will conclude Mr. Speaker, by simply stating that Jinx and Til Hazel have contributed so much to northern Virginia, their home community, that a statement such as this can never convey that full commitment. In expressing mine, and Congressman WOLF's gratitude, I want to say thank you so much for your service. You can look back and be proud of the community that you have helped create.

SOLVING MEDICAL MYSTERIES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. WYDEN. Mr. Speaker, medical research is vital to understanding the complexities of medicine and improving our Nation's health. Solving our medical mysteries can only be done through hard work and a commitment to research.

One of America's key medical research centers is the Oregon Health Sciences University [OHSU]. And, thanks to the hard work of many Oregonians, OHSU is about to expand into another vital research area. Recently the university established the Institute of Nutrition and Cardiovascular Research.

One of the institute's major projects is to examine the relationship between hypertension and calcium intake. Preliminary animal research has shown that many with hypertension have calcium deficiency. Oregon Health Sciences University, in conjunction with dairy farmers from around Oregon, began this research in 1980. In one study, the majority of elderly people given an additional 1,000 milligrams of calcium daily had reduced blood pressure for 48 weeks. This information is very important in assisting researchers in metabolic and nutritional controls of high blood pressure—a well known precursor to cardiovascular disease.

Thanks to support for the National Dairy Board, the National Institutes of Health, and the U.S. Department of Agriculture, OHSU will be a national leader in the field of nutritional research. I commend them for their leadership in this vital area.

STOPPING UNNECESSARY HOME HEALTH CARE DENIALS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. PEPPER. Mr. Speaker, I am pleased to advise my colleagues that I am today joining Senator JOHN HEINZ in introducing legislation that will help to bring an end to the increasing incidence of home health care coverage denials throughout the United States.

As you know, I was pleased that this administration has at long last recognized the need to provide catastrophic health care for the elderly people of this country. I am hopeful that such a policy will soon be expanded to encompass every man, woman, and child in America. What disturbs me, however, is the fact that at the same time the administration is promising the American people greater health care protection, they are cutting back on the most vital element of any catastrophic health care plan—the home care benefit.

Home care prolongs a sense of self-sufficiency. Home care has the positive effect of permitting the aged and infirm to enjoy the comfort of familiar settings. Home care relieves some of the pressure on institutions to care for the rapidly growing elderly population. And, in many cases, home care can mean considerable savings to an American health care system already battling spiraling costs.

Despite all these advantages, the home care benefit is denied to many older Americans. An estimated 5 million people are going without the home care they need and deserve.

In addition, increasingly restrictive eligibility requirements are forcing thousands of home care recipients to join the 5 million already going without care. In recent months, the fiscal intermediaries under pressure from the Health Care Financing Administration [HCFA], are increasing the number of denials of home health care claims with the argument that they are "not medically necessary." These denials, which are a direct override of patients' physicians orders, often result from reviews by nurses with little or no experience in home health care delivery.

The victims of such arbitrary denials are frail, sick older Americans who are least likely to successfully seek recourse. Many home health care providers also find themselves faced with serious economic uncertainty as such denials are not routinely accompanied by an explanation. Furthermore, it is difficult for them to comply when there is no explanation for denials and when physicians orders are being challenged by lower level and inexperienced health care personnel.

Our bill would address the problem of medical necessity denials by requiring three changes in intermediary procedures:

First. All denials for medical necessity must be accompanied by a written explanation indicating the reason for the denial and a reference to HCFA policy or statutory language supporting the denial;

Second. All denials for medical necessity that are submitted for reconsideration must be reviewed by a physician with expertise in home health care; and

Third. All reconsiderations for medical necessity denials must be reviewed and a determination communicated to the provider within 45 days.

Restrictions, such as medical necessity denials, come at a time when demand for such care is increasing. The newly implemented prospective reimbursement for hospitals has resulted in a 40-percent increase in patients discharged into home care. With sicker patients being discharged, community home care services are pressed to meet the growing need and the patient is oftentimes left to pick up the bill.

The humanitarian benefits of home care have long been recognized. For the vast majority of people, if proper medical care can be given or assistance rendered, they are so much happier to be able to stay in their own homes. Let us not deny them that privilege.

I urge my colleagues in the House to join me in cosponsoring this important and meaningful corrective measure.

THE 50TH WEDDING ANNIVERSARY OF MR. AND MRS. MATTHEW WISNER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. LIPINSKI. Mr. Speaker, it is my pleasure to bring to the attention of this body an exemplary couple from my district, Matthew and Genevieve Wisner, on the occasion of their 50th wedding anniversary.

Mr. and Mrs. Wisner were married at Sacred Heart Church of southwest Chicago on August 28, 1937 and are exemplary of the family strength and solidity which has made America great. They will be joined in celebration by their family, two children and two grandchildren, as well as the many friends they have made in their years in the southwest Chicago community.

Their commitment to each other and their family is impressive and, especially in today's world, deserving of special recognition and honor. I am sure that my colleagues join me in congratulating Mr. Wisner and his bride of 50 years, Genevieve, on their many years of love and commitment.

ARE TERRORISTS ON DOD'S PAYROLL?

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. MILLER of California. Mr. Speaker, I am certain that many Members of the House were as troubled as I when they were reminded in the New York Times, that former Honduran dictator Gen. Gustavo Alvarez has been a paid consultant to the United States Department of Defense.

During the period 1981-84, when General Alvarez ruled Honduras with the endorsement of the Reagan administration, dozens of people were allegedly abducted by Government security forces, and subsequently joined the tragic disappeared populations of Central and South America.

The tragic record of those years is currently under review by the Inter-American Court of Human Rights, a branch of the Organization of American States. It is perhaps ironic that the President of the United States will speak before the OAS and will issue his challenge to Central America to meet his personal measure of democratization, when at the same time, his administration has not only provided sanctuary to an alleged practitioner of state terrorism, but has had General Alvarez on the payroll.

Last May, the Washington Post reported that General Alvarez was paid $50,000 for 6 months' work in 1986—at a rate of $400 a day.

I am sending a letter to the President and to the Secretary of Defense asking for an accounting of all funds expended by any agency of the U.S. Government to support General Alvarez. I also am requesting an accounting of all such funds which may be supporting any other individuals currently under investigation by the Inter-American Court of Human Rights.

The American people do not support the use of their tax money to support terrorists or dictators, and this Congress should act swiftly to determine how much is being spent for those sordid purposes by the Administration, and we should stop it.

I am submitting for my colleagues' review the column from today's Times by Aryeh Neier which describes the actions of the Inter-American Court and the allegations against General Alvarez.

[From the New York Times, Oct. 7, 1987]

HONDURAS ON TRIAL

(By Aryeh Neier)

Though it has attracted scant attention in the United States, an extraordinary event is under way in Costa Rica. An international judicial body is trying the Honduran Government for "disappearances"—perhaps the most horrifying of the abuses of human rights that has plagued Central America and South America in two decades.

The Inter-American Court of Human Rights, an agency of the Organization of American States that comprises seven judges from as many Western Hemisphere countries, is hearing evidence about such disappearances in Honduras, where at least 130 people were abducted by the Honduran security forces between 1981 and 1984 and never reappeared.

The country was then governed by a United States-backed, Argentine-trained strongman, Gen. Gustavo Alvarez. His rule, and the disappearances that characterized it, ended in March 1984 when his military colleagues became fed up and put him on a plane that took him out of the country. (*He has since been a* United States resident and a *well-paid consultant to the Department of Defense.*)

The case before the court involves two Costa Ricans and two Hondurans who disappeared in 1981. Their families obtained assistance from Americas Watch and other human rights groups that are pursuing the case in conjunction with another body of the O.A.S., the Inter-American Commission on Human Rights.

Witnesses include Ines Consuelo Murillo, a young law school graduate who was kidnapped in March 1983 and held in three different clandestine detention centers for 79 days where she was tortured and sexually abused. She was one of the few to survive abduction and secret detention. Another witness is Florencio Caballero, who says he was an interrogator with "Battalion 316," the unit established by General Alvarez to conduct kidnappings and executions of suspected leftists.

Though the O.A.S. court was established several years ago, this is the first case in which a government has been put on trial. Previously, the court has handed down 10 advisory opinions dealing with such matters as Guatemala's reimposition of the death penalty after it had been abolished and with Costa Rica's requirements that journalists should be licensed. Both practices were found to violate treaty obligations under the American Convention of Human Rights.

The case involving Honduras represents a coming of age for the court, which could order the Honduran Government to pay damages to the families of the disappeared. By now, eight Western Hemisphere democracies—Argentina, Colombia, Costa Rica, Ecuador, Guatemala, Peru, Uruguay and Venezuela—in addition to Honduras, accept the binding jurisdiction of the Inter-American Court of Human Rights. Several of these have only recently accepted jurisdiction following transitions to democracy after years of military dictatorships.

Though Washington has no role in the proceedings in Costa Rica, it would be a shame if our Government permitted the trial to proceed without comment. We should at least be cheering these efforts by Latin Americans to confront their own sordid history of human rights abuse.

[From the Washington Post, May 10, 1987]

OUSTED CHIEF OF HONDURAN MILITARY WAS HIRED AS U.S. DEFENSE CONSULTANT—ALVAREZ RECEIVED $50,000 FOR PENTAGON STUDIES

(By Charles R. Babcock and Terri Shaw)

Former general Gustavo Alvarez Martinez, a controversial U.S. ally who was ousted as head of the Honduran armed forces in early 1984, received more than $50,000 in Defense Department consulting work during the past two years after telling a Pentagon friend he needed work.

Alvarez said in a telephone interview from Miami last week that he was paid several thousand dollars by the Rand Corp. of Santa Monica, Calif., for a lengthy paper he wrote as part of a 1985 Rand study on U.S. involvement in Central America.

He also said he was paid $50,000 last year for six months' work—at a rate of $400 a day—as a consultant to retired Army lieutenant general Gordon Sumner Jr. on another Pentagon contract, a classified "sole-source" study of "low-intensity conflict" in the region.

Alvarez said he asked Nestor D. Sanchez, then deputy assistant secretary of defense for inter-American affairs, for help after he arrived in the United States in April 1984. The contracts were issued by the office of Fred C. Ikle, undersecretary of defense for policy.

Ikle said in a statement yesterday that "the Department of Defense did not commission two studies in order to provide a job for Gen. Alvarez." Alvarez was asked to share "his perceptions and knowledge" for a Rand study "already in progress," Ikle said.

But Michael Landi, who was a Rand vice president at the time, said in a recent interview that the Pentagon approached the think tank in the summer of 1984 with the idea of doing a project on Latin America and using Alvarez as a source of information "because he had recently become available."

Landi said he remembered the project very well because Alvarez "is a controversial guy and we deliberated with great care before we took on the project." A preliminary interview with Alvarez showed he could "contribute things we hadn't known" about U.S. involvement in the region, he said, so Rand developed a project and Alvarez was hired in 1985.

Alvarez has been a controversial figure in Honduras because of his close ties to the U.S. military at a time when the Reagan administration was creating a military presence there, building air bases and running war games near the border of neighboring Nicaragua.

It also was alleged recently that under Alvarez's tenure as chief of staff a specially trained Honduran Army battalion kidnaped and tortured suspected leftists there. Alvarez had denied the charges a former battalion member made to a Washington Post reporter.

Sanchez said in a recent interview that he recommended Alvarez be hired because of his expertise in the region. He said the work should not be viewed as a reward to a deposed U.S. ally. Sanchez said of the Rand contract, "They didn't have any expertise to do the study. We're paying for it and we have the right, if they don't have the expertise, to suggest someone."

Brian Jenkins, head of the Rand branch that conducted the study, said, "We wanted to make sure we had some variety of viewpoints * * * so we made a conscious effort to talk to people on the left of the political spectrum and the center as well as Gen. Alvarez, who could certainly be placed on the right."

Early last year, the Pentagon announced plans to negotiate with Sumner's firm on a noncompetitive basis to do a top-secret "Assessment of Low Intensity Conflict in Central America." Sumner, who has been a special adviser to the State Department on Latin America, said in a phone interview from his New Mexico office that he was unfamiliar with details of Alvarez's role on the $139,000 study.

Alvarez recalled that his task was "to analyze the alternatives on what would be the best political alternative in Central America."

WHITE HOUSE CONFERENCE ON SERVICES TRADE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mrs. KENNELLY. Mr. Speaker, today I am joined by Congressmen DOWNEY, MATSUI, and PICKLE, in introducing a bill to authorize a White House Conference on the International Trade in Services.

In recent years the issue of trade in services has moved from relative obscurity to the forefront of U.S. trade policy. Yet, international service transactions are not well quantified, and the service economy is not well understood in general terms.

To better understand services trade, a variety of Government and private sector institutions have planned or begun projects to measure service sector output and the effect of U.S. domestic policies on our services trade position.

My bill would establish a White House Conference on the International Trade in Services to bring together this diverse group of researchers and trade policy experts to exchange information on the work they have begun, and to coordinate their efforts on future projects.

The legislation I am introducing today provides an efficient and effective means of addressing a broad subject. The benefit of shared information on this complex issue is tremendous, and I hope you will join with me in seeing this important bill through to prompt passage.

LET'S GET THE CONSUMER PRODUCT SAFETY COMMISSION BACK TO SAFETY

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. DANNEMEYER. Mr. Speaker, today I am introducing the Consumer Product Safety Amendments of 1987 on behalf of myself and my colleagues, Congressmen BLILEY, RITTER, and NIELSON. We offer this bill as an alternative to H.R. 3343, which was introduced by Commerce Subcommittee Chairman FLORIO 2 weeks ago. We do not claim that our piece of legislation is a perfect consumer product safety reauthorization bill, but we trust our legislation will be a useful tool for debate as we endeavor to craft a bipartisan reauthorization bill.

Our only goal is to protect the American public. We believe that this Nation's consumers are entitled to a consumer product safety organization that works. That organization should spend its time and money protecting consumers from unreasonable risks associated with consumer products. We are tired of the time and attention that has been given to the politicization of the issues—consumers and the products they use have become pawns in political headline grabbing.

In April of this year the General Accounting Office recommended that the Commission be replaced with a single administrator. The legislation that we are introducing today implements that recommendation. Under our bill, an administrator would be appointed by the President with the advice and consent of the Senate. Our bill adopts the administration proposal to transfer the functions of the CPSC to the Secretary of the Department of Health and Human Services. It also transfers all of the current CPSC personnel, appropriations and cases to the Secretary. The $1 million savings that would be realized by the change from Commission to single administrator would be retained by the Consumer Produce Safety Office to be used for the protection of consumers. This piece of legislation also authorizes appropriations in the amounts of $34,636,000, $35,800,000, and $36,870,000 for the fiscal years 1989, 1990 and 1991, respectively.

Finally, our bill would specifically overrule the CPSC's recent interpretation that a 1977 CPSC regulation denies the minority party an equal right to obtain records of the Commission for committee business.

Unfortunately, the CPSC has become the focal point for political hypocrisy and sensational headlines. In legislating policy the American public demands intellectual honesty and integrity. The only way to best serve the public interest is through a truly bipartisan reauthorization process. I look forward to working with the chairman of the Commerce Subcommittee to craft a bipartisan bill to reauthorize the CPSC.

THE 76TH ANNIVERSARY OF THE REPUBLIC OF CHINA

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. AKAKA. Mr. Speaker, in commemoration of the 76th anniversary of the founding of the Republic of China, I would like to join Taiwan's many friends in Hawaii in extending congratulations to President Chiang Ching-kuo and Dr. Frederick Chien, representative of the coordinating council in the United States.

The people of Taiwan have much to be proud of and look forward to at this time. Economically, Taiwan is experiencing a commercial liberalization and internationalization, establishing itself as a financial center in the Far East. An impressive foreign reserve, totaling $60 billion, attests to the nation's economic prosperity.

I would like to draw special attention to the substantive progress toward greater democratization achieved by the Taiwanese government. This past summer witnessed the lifting of martial law and the countenancing of a genuine opposition party. Additionally, the government is now considering lifting the travel ban to the People's Republic on the mainland.

We in the United States are impressed with the economic prosperity and political reforms accomplished under President Chiang Ching-kuo's leadership. We wish him and all our friends on Taiwan continued success as they continue efforts to strengthen democracy in their nation.

Congratulations.

GAO FINDS OFFICE OF PUBLIC DIPLOMACY INVOLVED ONCE AGAIN IN IMPROPER ACTIVITIES

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. COLEMAN of Texas. Mr. Speaker, the General Accounting Office has found that the State Department's Office of Public Diplomacy engaged in illegal "covert propaganda activities" to influence the news media and the public in support of the administration's failed Central American policy.

This is the same office, of course, that improperly handed out hundreds of thousands of dollars' worth of PR contracts to right-wing consulting firms, and then classified the contracts secret to avoid detection by the press, the public, and the Congress, even though the State Department's own inspector general found that no justification existed for classifying the contracts.

Mr. Speaker, these recent revelations by the GAO are but one more reason why this Office of Public Diplomacy for Latin America and the Caribbean should not be funded in fiscal year 1988, as called for in my amendment to the State, Commerce, Justice Appropriations bill. I intend to fight to retain that amendment in the upcoming conference committee, and I urge my colleagues to support it as well.

The recent article on the GAO report is as follows:

GAO ACCUSES ADMINISTRATION OF ILLEGAL LATIN PROPAGANDA—CONGRESS' BAN VIOLATED IN 1985, AGENCY SAYS

(By Don Oberdorfer)

The Reagan administration engaged in illegal "covert propaganda activities" designed to influence the news media and the public to support its Central American policies, according to a report by the congressional General Accounting Office released yesterday.

The report said the State Department's Office of Public Diplomacy for Latin America and the Caribbean had violated a congressional ban on the use of taxpayers' money for unauthorized publicity and propaganda purposes in 1985.

In a statement releasing the report, Rep. Jack Brooks (D-Tex.), chairman of the House Government Operations Committee, said that "this illegal operation represented an important cog in the administration's effort to manipulate public opinion and congressional action."

Rep. Dante B. Fascell (D-Fla.), chairman of the House Foreign Affairs Committee, said, "It makes me wonder what else is still being hidden from Congress and the American people."

Attached to the GAO report is a "confidential eyes only" memorandum of March 13, 1985, to Patrick J. Buchanan, then White House communications director, from Johnathan S. Miller, then an official of the State Department Latin America public diplomacy unit, boasting of its "white propaganda" operations. Later Miller became a

White House administrative aide and resigned last May after it was revealed that he had cashed traveler's checks from Lt. Col. Oliver L. North's National Security Council safe for payment to a contra leader.

In a related development, President Reagan prepared to inaugurate a new phase of his campaign to continue U.S. aid to the Nicaraguan contras in a speech Wednesday, demanding additional actions by Nicaragua to change its internal policies and meet U.S. national security concerns, White House sources said yesterday.

Reagan's speech to the Organization of American States, followed by an address by Secretary of State George P. Shultz in Chicago Friday, was described as the kickoff of a month-long drive that will culminate in a request to Congress shortly after Nov. 7 for additional contra aid.

The administration's efforts to continue contra aid have been complicated by Nicaraguan government acceptance of a Central American peace agreement calling for major policy shifts, including greater political freedoms and other reforms, by Nov. 7.

The New York Times reported yesterday that the White house has settled on a list of demands to be made of the Nicaraguan government that go beyond the Central American peace agreement. The Times said these demands include new presidential elections, an end to Soviet and Cuban military aid, negotiation of a Nicaraguan cease-fire directly or indirectly with the contras, full amnesty for the contras, release of all Nicaraguan political prisoners and sharp reduction in the size of the Nicaraguan armed forces.

A White House official confirmed that these points have been under discussion in the executive branch, but said it is uncertain whether Reagan will spell them out in his OAS address Wednesday.

Nicaragua's ambassador to the United States, Carlos Tunnermann, said yesterday that "it is not up to the government of the United States to take upon itself the right to tell the presidents of the Central American countries to add to the Guatemala accords." Tunnermann said Nicaragua would refuse to change the timing of its next presidential elections, which are scheduled for 1990 under the country's constitution.

In the "white propaganda" memo to Buchanan released yesterday in the GAO report, Miller cited the Wall Street Journal's publication on its March 11, 1985, op-ed page of an article by John F. Guilmartin Jr. on Soviet arms aid to Nicaragua.

Guilmartin was identified by The Journal only as a professor at Rice University and a former U.S. Air Force officer and editor of the Air University Review. However, Miller told Buchanan in the memo that "Professor Guilmartin has been a consultant to our office and collaborated with our staff in the writing of this piece * * *. Officially, this office had no role in its preparation."

Guilmartin, now an associate professor at Ohio State, said yesterday that he had received "less than $1,000" as a State Department consultant on Nicaraguan arms but that his Wall Street Journal article was "mine and only mine" without any collaboration with the public diplomacy office.

Robert L. Bartley, Wall Street Journal editor, said he would look into the circumstances of the Guilmartin article before making further comment.

The "white propaganda" memo also said that op-ed pieces for The Washington Post and The New York Times were "being prepared by one of our consultants" for the signatures of then-contra leaders Alfonso Robelo, Adolfo Calero and Arturo Cruz.

The Post carried an op-ed article by Calero on April 7, 1985, but deputy editorial page editor Stephen S. Rosenfeld said yesterday he worked directly with Calero on the article and had no indication of a State Department hand in it. The Times carried an op-ed article by the three contra leaders on Dec. 13, 1985. Robert B. Semple, editor of The Times op-ed page, said it was "far from clear" that the article was the same one "that apparently was being prepared the previous March."

The GAO report said the unit's activities violated a law against the use of State Department funds "for publicity or propaganda purposes not authorized by Congress." Otto Reich, who was head of the Latin American public diplomacy office at the time and is now U.S. ambassador to Venezuela, said he had not been interviewed by the GAO, and that his office "did not engage in any kind of propaganda of any color."

FRIENDS OF THE NATIONAL MULTIPLE SCLEROSIS SOCIETY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. SMITH of Florida. Mr. Speaker, I would like to bring recognition to an event in my district which deserves as much praise and attention as we can give.

The Friends of the National Multiple Sclerosis [MS] Society is holding its fifth annual luncheon on November 23, 1987 at the Diplomat Hotel in my district of Hollywood, FL. The success of these luncheons have garnered close to $1 million for multiple sclerosis research. Proceeds will benefit the south Florida chapter of the National MS Society and the Ronni Eisenberg Research Fund of New York's Albert Einstein School of Medicine.

The Diplomat ballroom will be filled to capacity with close to 1,000 people who will view an exciting fashion show staged by Saks Fifth Avenue. The number of participants and supporters of MS fundraising events has grown exponentially in response to the consistent, dedicated work of cochairwomen Sylvia Hagler and Blanche Messinger. As public attention focuses on MS, fundraising events such as this one are becoming more and more plentiful. I would like to express my gratitude to Mr. Ben Pearlman for his hard work in promoting this event. In time, I hope these events will lead to escalated research and a cure for MS.

I, too, have personally made efforts to help MS victims by cosponsoring legislation to encourage greater self reliance for people with MS. This mysterious and confusing affliction must not keep ambitious hard working people from losing benefits in the workplace for occasional leaves of absence due to MS. This legislation would remove work disincentives by affording people with MS permanent disability status notwithstanding their return to work.

Combined efforts on both local and national fronts are working to reduce the complications associated with MS. I urge my colleagues to join me in congratulating and supporting the hard work and energy the Friends of the National Multiple Sclerosis Society has put forth to promote the fight against MS.

REMARKS OF THEODORE ELLENOFF, PRESIDENT OF THE AMERICAN JEWISH COMMITTEE, HONORING RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. LANTOS. Mr. Speaker, last night the American Jewish Committee and the Congressional Human Rights Congress sponsored an outstanding reception to mark the sixth anniversary of the signing of legislation conferring honorary U.S. citizenship upon Raoul Wallenberg. The American Jewish Congress and its president, Ted Ellenoff, have been most supportive of Raoul Wallenberg and the effort to make his story known around the globe.

At the reception last night, Ted Ellenoff delivered a moving and significant address. Mr. Speaker, I ask that Mr. Ellenoff's speech be placed in the RECORD for the benefit of my colleagues.

REMARKS FOR RAOUL WALLENBERG RECEPTION

The American Jewish Committee is proud to be part of tonight's historic occasion, as we remember that six years ago (yesterday) President Reagan signed the bill making Raoul Wallenberg the second person in the history of our country to receive honorary U.S. citizenship.

And we are honored to cosponsor this commemoration with the Congressional Caucus for Human Rights. This unique organization, which was founded in 1983 by two distinguished members of Congress, Tom Lantos of California and John Porter of Illinois—who serve as its co-chairmen—continues to provide important leadership on human rights issues, and to increase Congressional, and indeed national, awareness of persecuted individuals and groups throughout the world.

We are all here to pay tribute to a true hero of our time—a person who proved that one person can make an extraordinary difference in history—a man imbued with righteousness, justice and courage. Raoul Wallenberg has come to identify for decent people around the world the indomitability of the human spirit.

But, his story might have been consigned to the black hole of history had it not been for the dedication of many of you represented in this room who have kept the name of Raoul Wallenberg alive, who have persevered against all the odds, who have sought to raise the compelling issue of his fate time and again in every appropriate forum.

While I wish time would permit me to name all of the people who have been involved, I would like to note a few particular individuals. In this regard, I know you join with me in applauding the relentless efforts of Senator Claiborne Pell. Senator Pell introduced the legislation, whose anniversary we mark today, in the Senate. In so doing he has carried on the significant work of his father, who, as head of the U.S. delegation to the United Nations War Crimes Commission, was responsible for having genocide declared a war crime. Senator Pell himself has countless times demonstrated a special sensitivity to the needs of the victims of terror. For example, as vice president of the humanitarian International Rescue Committee, he was responsible for its relief effort in Europe after the 1956 Hungarian uprising. In 1979, Senator Pell joined with Senators Rudy Boschwitz, Daniel Patrick Moynihan, and the late Senator Frank Church to create the Free Raoul Wallenberg Committee in the United States.

Together they declared, "there is too much evidence to accept the pat Soviet statement that he died in 1947. It appears that the Soviets want to sweep the Wallenberg case under the rug. They do not want to be forced to explain why they imprisoned someone whose only crime was saving lives."

Senator Rudy Boschwitz, who unfortunately could not be here this evening, has worked with Senator Pell to keep the memory of Wallenberg alive in the U.S. Senate and elsewhere. A refugee from Nazi Germany, Senator Boschwitz told his colleagues in 1981, "It is only appropriate to confer honorary U.S. citizenship upon Raoul Wallenberg, both as part of the effort to secure for him the same life and liberty he brought to so many others, and to honor this great individual."

Authors Rabbi Werbel and Kati (pronounced "kahtee") Martin, together with several other authors who could not be here this evening, and journalists, like Richard Cohen who has joined us this evening, have sought to tell the world of Raoul Wallenberg's heroic deeds. And we deeply appreciate these indispensable efforts. Zakhor, Jews are implored. Remember! And these people have helped us to remember.

Finally, I would like to give special recognition to a couple, who as young children in their native Budapest, seemed to face certain death at the hand of the Nazis; two young people rescued by the moral resolve of a Swedish diplomat; two people who, even as they established new lives in our blessed land, never forgot the courageous man who saved their lives.

From his position in the United States Congress, Representative Tom Lantos, that young Jewish boy in Budapest, has led the fight to honor and to rescue Raoul Wallenberg. In 1981 he introduced the legislation that accorded Wallenberg with honorary U.S. citizenship.

From her home, and during recent years, from her husband's office, that young girl in Budapest, Annette Lantos has tirelessly persevered. As a result, she is well known to the press, our government, and to many citizens of this nation as a moral conscience in behalf of Raoul Wallenberg. Nowhere is this more evident than in her moving and informative article in this month's *Moment* magazine, copies of which are available here this evening. Annette Lantos summed it up when she wrote, "Raoul Wallenberg not only saved 100,000 lives, he saved our faith in humanity."

Today, we, the American Jewish Committee, the nation's oldest human relations agency, reaffirm our commitment to do all that we can to bring about the truth of Raoul Wallenberg's circumstances. The United States and the Soviet Union are now engaging in increasingly frequent, and one would hope, frank dialogue. We hope and pray in this atmosphere that the Soviet Union will, once and for all, face its historical truths, reveal Wallenberg's whereabouts and release him immediately, if, God willing, he is still alive. Let us hope—Congressmen Lantos and Porter—that next August when you mark Raoul Wallenberg's birthday, you will be graced by his presence.

MARTIAL LAW ABOLISHED IN TAIWAN

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. TALLON. Mr. Speaker, I was fortunate to be able to visit Taiwan in August, a happy time for Taiwan's 19 million people. The Government had just abolished martial law and it promised even more political freedoms to the people. A byproduct of Taiwan's political liberalization was the birth of many new ideas, one of which being the Government's tentative plan to allow its citizens to visit their relatives in mainland China.

If adopted by the Government, this decision will mean the reunion of many thousands and thousands of families which have been separated since 1949 when the Chinese Communists took over the mainland as the Nationalists moved to Taiwan. Now nearly 40 years later, Taiwan, under its private enterprise system, enjoys one of the highest standards of living in the world, while the mainland, under the rigidity of its Marxist-Leninist ideology and planned economy, is both backward and poor.

Taiwan citizens, given the opportunity to visit the mainland, will be able to tell their relatives and friends Taiwan's success story; at the same time, their mainland cousins will have ample time to wonder why the Communist system does not work and to draw their own conclusions.

On the eve of the 76th National Day of the Republic of China on Taiwan, I must say I am happy to see Taiwan moving forward politically—in abolishing martial law, in allowing a genuine political opposition party to exist and in possibly allowing its people to visit the mainland. It's my hope that Taiwan and the mainland will compete with each other politically as well as economically in the years to come.

CHILDREN IN NEED

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 7, 1987, into the CONGRESSIONAL RECORD:

Children in need are emerging as a central concern. Voters want to help disadvantaged children, politicians are talking about their needs, prominent business leaders are urging heavy investment in their education, and experts tell us how early intervention reduces their failure in school and their dependence on welfare.

One way of judging the health of a nation is to judge the state of its children. By that measure, the United States lags behind other industrial nations. We rank 15th in infant mortality rates. American children rank below average in math and science skills. More than one-fifth of our nation's children live in poverty, by far the highest of any age group in the United States. Almost one-third of our children are at risk of being severely uneducated. Less than 50% of high school seniors can read at levels adequate to carry out simple tasks, and 80% have inadequate writing skills. Children in need suffer from a wide assortment of troubles, including high infant mortality, malnutrition, recurrent and untreated health problems, child abuse, and learning disabilities.

These children lack the skills necessary in the workplace and face a life of unemployment and welfare dependency. As adults, they will not be able to enjoy the opportunities for personal growth and economic prosperity available to other citizens, or be able to participate fully in the democratic process. Many will have children of their own before they reach twenty. They are caught up in a cycle of dependency and ignorance. The effects of this cycle are not limited to personal suffering; with such limitations on human potential, America's ability to lead and compete in the international marketplace has been and will continue to be damaged.

The social conditions that result in illiteracy, poverty, and future dependency among children are several. A primary concern is the number of teenage mothers in this country. One out of every six children is born to a teenage mother. Often, the child is born prematurely or with a low birth weight, and the mother drops out of school and becomes dependent on welfare. Lack of child care for disadvantaged children is another concern. Parents need better access to child care, and service that is more than just custodial. This is particularly important for those single parents who are unable to give adequate care to their infants. Another concern is children of people in marginal, low-paying jobs. Such families barely scrape by; they are ineligible for many types of government assistance, such as food stamps.

How can children break out of this cycle of poverty, illiteracy, and unemployability? Based on recent experience, we do not know how to prevent every disadvantaged child from failing, but we do know what works for many of them. Successful efforts include quality pre-school enrichment programs for 3 and 4 year olds, prenatal and postnatal care for teen-age mothers, as well as follow-up health care for their infants, educational programs to help parents learn more about raising children, programs to keep teenage mothers in school, and quality child care for poor working parents. These efforts help cut dropout rates, crime, and welfare dependency, while improving performance in school.

It is clear that to meet the needs of disadvantaged children we cannot do business as usual. Quality care for these children is not an expense; it is an investment that will return handsome profits to the children and to society. If we try to save money by deferring these preventive efforts, we will incur much higher costs on older children who have already failed. Early prevention not only relieves human suffering, it is cost-effective. For each dollar spent on prevention through early health and education programs, some $4 is saved from the cost of remedial programs, welfare, and crime.

A principal objection to such programs is based on the belief that children are the responsibility of their parents and that parents have the right to raise their children as they see fit. No one quarrels with that, but early prevention programs sidestep the objection because they are voluntary and beneficiaries generally show a great willingness to participate in them.

Early childhood programs, of course, do not prevent all the problems of children. Even the best programs reach only some of the children in need. Moreover, schools themselves sometimes contribute to the failure of their students through alienation, poor teaching, and large, impersonal environments. A two-pronged attack to address fully the problems of children is needed. The first would contain early prevention, pre-school programs and the second would contain educational reform and programs for disadvantaged children in the school system.

The private sector can help children, too. Motivated by the desire to become more competitive, businesses have become involved in improving local school systems, supporting at-risk parents and their children, providing referral services and employee discounts for child care, and giving grants to inner-city schools.

I have the uneasy feeling that children may be worse off than adults in America today. Children, especially poor children, need special help; and I conclude that we can rescue most of them if we improve their education and reach them and their families in the earliest years. The focus of our efforts should be on poor children, building on current assistance and training programs by using federal income tax credits as well as direct expenditures. Since 1981 significant cuts in education, health, and welfare programs have resulted in an increase in the number of poor children and the severity of their poverty. Funding increases have been difficult because of the huge federal budget deficits, the comparative lack of organized support for the children, and the emphasis of social programs on the needs of older persons. Current efforts of the private sector, schools, foundations, community agencies, and every level of government have become more sensitive to the needs of children. Much has been achieved, but much more remains to be done.

TAIWAN'S NATIONAL DAY

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. PERKINS. Mr. Speaker, as the Chinese people in the Republic of China on Taiwan celebrate their National Day on October 10 of this year, I wish to assure them that the Taiwan-United States relationship is on-going and strong, under the stewardship of Envoy Fredrick Chien in Washington, D.C. Despite differences of opinion regarding trade matters, Taiwan is an ally whose security and prosperity are of great interest and concern to the United States.

My colleagues and I have total faith and confidence in Taiwan's present and future, as we affirm our support of the Taiwan Relations Act of 1979.

Good luck, President Chaing Ching-kuo. We salute you and your people.

THE ROUSE BROTHERS: LEGENDARY MEN OF MUSIC

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. LEHMAN of Florida. Mr. Speaker, the Rouse brothers—Ervin and Ernest—have been an institution in Florida music for over 50 years.

In the 1930's, what we now call country-western music was known as hill billy music—coarser and less refined but honest, compelling music that had the power to make strong men weep and proper ladies kick up their heels on the dance floor.

Hill billy music was very important to the culture of Florida, particularly a special tune called "The Orange Blossom Special" which was named after a train that ran from New York to Palm Beach and then down to Miami. To this day, every good country-western band—particularly those with a fiddler—tries to do a faster and more exciting version of this classic, to the delight of audiences everywhere.

A resolution passed by the Florida Legislature honors the Rouse brothers and the immortal tune they wrote. I would like to share this resolution with my colleagues.

Text of resolution follows:

A RESOLUTION

Whereas, Ervin Thomas Rouse, Sr., deceased, and Ernest Gordon Rouse wrote and performed music extensively in the State of Florida and elsewhere, as the Rouse Brothers, and

Whereas, the Rouse Brothers performed in such memorable arenas as the Olympia Theater, the Royal Palm Club, the Miami Biltmore in Miami, and Wometco Theaters throughout the state, and

Whereas, in 1937 the Rouse Brothers wrote the song "The Orange Blossom Special" in honor of the Seaboard Airline Railroad train called the Orange Blossom Special, and

Whereas, the Orange Blossom Special train ran from New York to West Palm Beach from 1925 until 1927, and from New York to Miami from 1927 until 1953, and

Whereas, the American Society of Composers, Authors and Publishers (ASCAP) named the song "The Orange Blossom Special" as "The most played song in 1982", and

Whereas, the song "The Orange Blossom Special" emphasizes the Florida citrus industry, one of the major industries of the state, and

Whereas, The Orange Blossom is the state flower, as designated by the 1909 Legislature, now, therefore,

Be it resolved by the Senate of the State of Florida, That the Florida Senate hereby recognizes and honors Ernest Gordon Rouse and the family of Ervin Thomas Rouse, Sr., for their contributions to the culture and popularity of the state by their musical performances, and especially their composition, recording, and many performances of the song, "The Orange Blossom Special".

Be it further resolved That a copy of this resolution, with the seal of the Senate affixed, be presented to Ernest Gordon Rouse and the family of Ervin Thomas Rouse, Sr., as a tangible token of the sentiments expressed herein.

THE ECONOMY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. SCHEUER. Mr. Speaker, on September 30 our colleagues on the other side of the aisle presented a series of speeches that painted a surrealistic view of our Nation's economy under the Reagan administration. Not to be outdone by Salvador Dali, our Republican colleagues put forth their rosy view of an American economy where record budget and trade deficits don't fit into the equation.

Our colleagues praised 59 months of economic growth as the longest peacetime recovery in our Nation's history. Mr. Speaker, when compared to previous periods of recovery in the 1960's and late 1970's, the current economic recovery has posted: The lowest rate of growth in real gross national product; the lowest rate of growth in industrial production; the lowest rate of growth in real after-tax income; and the highest rates of growth in real Federal and private debt.

Our colleagues failed to note that President Reagan promised us a balanced Federal budget by 1983, but to date his administration has not presented Congress with a single balanced budget plan.

Our Nation still faces annual budget deficits topping $150 billion—nearly three times the size of any single deficit prior to 1981.

It took 189 years, 39 Presidents from George Washington to Jimmy Carter, five major wars and a catastrophic depression for our Nation to reach the first trillion dollars in national debt in 1980. But it took only 5 years after President Reagan took office in 1981 for our debt to double to more than $2 trillion.

In 1981, the United States was the largest creditor nation in the world—now, 6 years later, we have become the largest debtor nation. As a result, the American taxpayers are paying $140 billion a year in interest alone on the national debt—a legacy our children and grandchildren will inherit for decades to come.

Mr. Speaker, we must work to get our economic house in order, but it will take hard work, not rhetoric.

PERSONAL EXPLANATION

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. MOODY. Mr. Speaker, on Tuesday, October 6, I was unavoidably detained and unable to vote on H.R. 3391, a bill to ban the importation of Iranian products. I voted to approve the measure during its consideration by the Ways and Means Committee. Had I been able to vote, I would have supported the bill on the floor as well.

TRIBUTE TO FORMER CONGRESSMAN WILLIAM S. MOORHEAD

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. DE LA GARZA. Mr. Speaker, when I came to the Congress in January 1965, Representative William S. Moorhead had long since established himself in this Chamber.

As the years went along, it was to great figures such as he that younger Members would turn for advice and a helping hand. We all remember, in this connection his service on our House Banking, Finance and Urban Affairs Committee.

There is a special remembrance that I have of Bill Moorhead. He worked hard at what he did—accomplishing every legislative task with determination and persistence. His 22 years are testimony to this. He never lost sight of his objectives.

In one sense we owe a debt of gratitude to Representative Moorhead. His efforts remind us that being a Congressman requires study and hard work, critical examination and compromise. Bill Moorhead truly saw his role as a Member of Congress to be a profession—a career to be nurtured and in which to grow.

In these times when professional mobility and changes seem the order of the day, it is reassuring to remember Bill Moorhead's commitment to the task of representing his constituency in this great Chamber.

I thank our colleague, JOSEPH GAYDOS, for giving us the opportunity to speak of our departed colleague and remember his enormous contributions and the fellowship he leaves behind.

THE TRAGEDY OF DR. SHIMON YANTOVSKY AND DR. VLADIMIR DASHEVSKY: SOVIET REFUSENIKS

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. SENSENBRENNER. Mr. Speaker, I come before you today, a few days after the Jewish holidays of Rosh Hashanah and Yom Kippur, to remind my colleagues of the terrible plight of Soviet "refuseniks." I consider the cause of Soviet Jewry to be of continuing concern, especially during this time when the so-called policy of glasnost or openness is receiving so much public attention.

We see that Premier Gorbachev, in the spirit of glasnost, has released several well-known and celebrated refuseniks during the past year and has filled many with great hope. His actions have been received with great fanfare and approval. A recent New York Times article reflected data from a poll done by the Gallup organization which indicates that Gorbachev's public approval rating in the United States is higher than that of Wall Street investors, former President Richard M. Nixon, and Jerry Falwell. I think that is ironic.

Ironic because, despite his release of a few prominent Soviet Jews and his cosmetic liberalization of Soviet society, things really have not changed much. If he wants us to believe that he means well, then why not release the thousands of Soviet Jews still held in psychiatric hospitals and in the gulag system? And why not allow the emigration of the hundreds of thousands of Soviet Jews who want and have applied to leave? And why not allow religious freedom to those who want to stay?

It is hard to believe that he genuinely means to create a more free society because he has not moved beyond the pathetically superficial gestures to which the media pays so much attention. Real change has not come to the Soviet people, and it has not yet come to Soviet Jews.

Real change has not yet come to the lives of Dr. Shimon Yantovsky and Dr. Vladimir Dashevsky. And unless we champion the cause and tell the story of these two men, and all the others, no real change will ever come.

Dr. Shimon Yantovsky is a respected chemical physicist and decorated Soviet war hero. However, he is also a Jew and held in very high esteem by the refusenik community. Born in 1909, he has been persecuted his entire life because of his defense of his Jewish brothers. Now, after defending his homeland from the Nazi's in World War II, after contributing his life's work to the U.S.S.R. Academy of Sciences, and after being imprisoned, repressed, and continually harassed by that same homeland, he is just a 79-year-old man who wants the freedom to leave Moscow and live with his family in Jerusalem.

Dr. Vladimir Dashevsky also wants to leave. He is a brilliant Ph.D. who has contributed immensely to the study of astrophysics in the Soviet Union and throughout the global scientific community. He is recognized as a full member of the American Astronomical Society which, by the way, has only three distinguished members from the Soviet Union. But as a Jew he has been frustrated, detained, threatened, and abused. He has had enough. He is ready to leave. Since 1976, he has waited for a visa to Israel.

I have attached biographies of these two men to my statement for inclusion in the CONGRESSIONAL RECORD.

While we watch with hope that the Soviet Union will, at long last, take steps which will give its long-suffering people a chance to attain the same level of human dignity that we enjoy, we must also be cautious not to let our hopes influence our good judgment. We must be cautious in our praise every time a suppressed book is published, or some poor citizen is allowed access to better food rations, or one of the ample supply of political prisoners is allowed to emigrate. Premier Gorbachev is certainly more sophisticated than his predecessors, but he has not altered the basic structure of the system and has not suggested he will. And why would he? He is part of it: it brought him to power and keeps him there.

No, I will wait. I will applaud only when Gorbachev changes the repressive mentality of his police state. I will wait until he arrests and tries those men, and that system, which sent Dr. Sakharov into exile, Shcharansky to jail, thousands of perfectly sane people to psychiatric hospitals and the brave psychiatrist Dr. Koryagin to the gulag for exposing the truth about these "hospitals".

I will wait until the Soviets abide by the agreements signed by Leonid Brezhnev which were incorporated into the Helsinki accords final act: article 18 provides for freedom of thought, conscience and religion; article 19 provides for freedom of expression and opinion; and article 13 provides for the right to freedom of movement including the right to leave any country and return.—U.N. Charter, Universal Declaration of Human Rights incorporated into Helsinki final act, principle VII.

I will wait until he lets Dr. Dashevsky and Dr. Yantovsky, the brilliant scientists I spoke of earlier today, emigrate to Israel.

Only then will I believe Gorbachev intends to respect the universally accepted principles of dignity and respect the state owes the individual. Only then will I believe that he genuinely wants to reform his society. Only then will I believe he wants glasnost.

THE REFUSENIK CASE HISTORY OF DR. SHIMON YANTOVSKY

Shimon Yantovsky was born in 1909. When he was 17 years old, he became a member of Shomer Hazair, a youth Zionist organization. In 1926 the organization was destroyed by the authorities and an article appeared in the newspaper "Priazovksy Proletary" accusing Yantovsky of anti-Soviet activity. Fearing arrest, he fled to Kharkov where he continued his Zionists activity. Persecuted his entire life for his involvement in the Zionist movement, he was blacklisted as a traitor, dismissed from the Red Army in 1934 and deprived of the right to vote.

Later on Shimon managed to get into the Polytechnical Institute. After graduation, he worked as a chemical physicist in the USSR Academy of Sciences. During the second World War he volunteered in the Soviet Army, took part in battle, received four medals for bravery, was captured and was kept as a war prisoner in Finland from 1942 till 1944. After an attempt to escape he was sent to a penal camp and suffered there from dystrophya. At his request he was transferred to a special camp for Jewish prisoners in Finland. He was then transferred to a third camp—a Soviet camp for Soviet soldiers who had been in enemy prison camps.

After the war, he continued his scientific work. In 1948, during the Stalin repressions, his past Zionistic activity was discovered and he was dismissed from his job. Only after Stalin's death did he begin to work as a scientist again and got a scientific degree for his dissertation on the problem of flame and combustion. He is the author of many scientific papers and two books.

In 1977 Shimon applied for permission to reunite with his brother in Israel. He was refused because of "alleged secrecy of his previous job." Since 1977 Shimon has not worked in his profession.

In 1980 he made his summer home available to the Moscow underground Jewish Kindergarten. The authorities threatened to take the summer home away from Shimon if he helped the kindergarten.

Through the years Shimon collected information about Jewish religious life in the Soviet Union. This information includes conditions of Synagogues and various Jewish communities throughout the country and is not available through official channels. In July 1987 Shimon presented an exhibit of this research in his Moscow apartment. Shimon is active in all aspects of refusenik life and is one of the organizers of the refusenik seminar dealing with secrecy refusals, which will take place in the fall of 1987. He is respected and held in esteem by all refuseniks. In the course of 10 years since 1977 he applied many times for permission to unite with his family in Israel, but was always refused.

In 1982 Shimon married Professor Erlena Matlina. Since that time they have applied together for permission to go to Israel. Erlena's son is living in Israel. His address is: Michael Kara-Ivanov, Hai Taib 64, apt. 13, Jerusalem. (tel. for messages—02-715-958)

THE CASE OF VLADIMIR DASHEVSKY

Vladimir Dashevsky was born in Poltava, Ukraine. He studied at Odessa university and received his Ph.D. in physics in the 1960's. He worked for twenty years as an astrophysicist in the Institute for Terrestrial Magnetism, and has published an enormous number of scientific studies. Dashevsky first applied for a visa to Israel in 1976. At that time he lost his position at the Institute. His application was first denied in 1979 because of "security" reasons. He has not been allowed to continue his research.

In the late 1970's, Dashevsky became interested in Judaism and soon became active in the religious national movement group in Moscow. He has obtained Israel citizenship and has taken part in various refusenik activities including scientific seminars. As a result of his activities he had been exposed to pressure from the authorities.

In May of 1986 Dashevsky was summoned to the State Committee on Religious Affairs. He was accused of organizing religious seminars and of meeting with foreigners too often. He was warned of possible criminal prosecution.

Vladimir Dashevsky is married and has a grown-up daughter and three small children. He is a full member of the American Astronomical Society which has only three members from the Soviet Union.

Vladimir's older daughter, Ira arrived in Israel in May 1907. The same month Vladimir Dashevsky was asked to resubmit his papers to OVIR and he is unable to do it because his wife's parents refuse to give her documents required by OVIR stating that he is free of any financial obligation. This kind of bureaucratic barrier intentionally created by Soviet authorities prevents emigration of many Jewish families. The problem is therefore not just a personal one and demands a more general legal approach.

Ira Dashevsky-Kara-Ivanov a citizen of Israel made a formal declaration that she was "fully responsible" for the complete payment through appropriate agency of the USSR of any judgment which shall be rendered by competent court of the USSR against her father and his wife.

Vladimir asks that Israeli or another western government will guarantee this financial obligation of Ira Dashevsky. Other legal ways to deal with this problem may be also discussed.

Vladimir Dashevsky's current address is: USSR, Mostuvskaya oblast, Koitzk, ul. Pushkovykh, 7-a apt. 10.

His daughter's address is: Hal Taib St., 64, Har Nof, Jerusalem, Israel.

TRIBUTE TO THE LATE HONORABLE RAY J. MADDEN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. MAZZOLI. Mr. Speaker, it is with sorrow today that I join my colleagues in a special tribute to our former friend and colleague, the Honorable Ray J. Madden.

Ray Madden served his constituents in the First District of Indiana—and this Nation—well and with distinction for over 30 years in the House of Representatives. Those of us who served with Ray have benefited greatly from his leadership and guidance as a legislator—one who, as chairman of the Committee on Rules, was dedicated to seeing the House conduct its business smoothly and effectively. Ray deservedly earned the respect and admiration of everyone with whom he worked throughout his remarkable career of more than six decades in public service.

I would like to extend my sincerest sympathy to Ray's family. Ray was an extraordinary gentleman who brought much honor and dignity to the House of Representatives. His presence will be sorely missed.

LET'S ENDORSE A SOUTH PACIFIC NUCLEAR-FREE ZONE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1987

Mr. SOLARZ. Mr. Speaker, one of my colleagues on the House Foreign Affairs Committee, the distinguished gentleman from Guam, Hon. BEN BLAZ, recently published an article explaining the significance of the recent refusal by the administration to sign the Treaty of Rarotonga, which created a South Pacific nuclear-free zone.

Mr. BLAZ, as a former brigadier general in the U.S. Marines, has an important perspective on the importance of this issue in both our regional policy in the South Pacific and in our efforts to promote a responsible nuclear nonproliferation policy. Because of the importance of this issue with many of our friends in the South Pacific, particularly with our ANZUS ally, Australia, who played a crucial role in drafting this treaty, I urge my colleagues to take the time to familiarize themselves with this issue.

Mr. Speaker, I ask that the entire text of Mr. BLAZ' article as published in the "World and I" be included in today's CONGRESSIONAL RECORD. After reading this article, I hope that more of our colleagues in the House and Senate will join Congressman BLAZ, Congressman LEACH, Congressman ATKINS, and myself in cosponsoring our resolution (H. Con. Res. 158), which calls on the President to sign this Treaty of Rarotonga.

LET'S ENDORSE A SOUTH PACIFIC NUCLEAR FREE ZONE

The United States has, over the past decade, joined with nations around the world in establishing four major nuclear-free zones that play an important role in preventing the proliferation of nuclear weapons by carving out huge slices of the earth where, by international agreement, the nuclear arms race is prohibited.

There has been bipartisan approval by several U.S. administrations of the concept and practice of nuclear-free zones. Our government continues to support efforts to establish effective nuclear-weapons-free zones in other regions of nonproliferation concern, specifically, in the South Asia subcontinent, Africa, and the Middle East.

Our nation is now a member of the Treaty of Tlatelolco, the Antarctic Treaty, the Seabed Arms Control Treaty, and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space. These declare nuclear-weapons-free zones, respectively, for all of South America, Antarctica, the deep seabeds of the world, and all of outer space, including the moon and other celestial bodies.

These are vital pacts that complement bilateral and multilateral arms reduction treaties among the nuclear powers. The zones act, in a sense, to set borders on the arms race, to limit it, and to provide assurances to nervous nations that their neighbors are not attempting "to steal a nuclear arms march" on them.

We should not ignore the exclusion-zone front because of preoccupation with bilateral negotiations. Neither should we encourage or join zones that jeopardize our strategic interests by hampering our existing nuclear forces. That, to my mind, would be a form of unilateral disarmament that would undermine the strong deterrence we need to bring the Soviets to the nuclear arms reduction negotiating table.

The United States has a new opportunity to create movement on this lesser-known front, but we remain mired in the trenches because of a lack of clarity among policymakers on whether a South Pacific Nuclear-Free Zone hampers or helps our strategic interests.

The Treaty of Rarotonga, which came into effect in December 1986, has been endorsed by more than a dozen nations of the South Pacific, including such firm U.S. allies as Australia and Fiji.

The treaty prohibits the testing, manufacture, acquisition, and stationing of nuclear weapons in the territory of the signatories to the agreement. That zone stretches from Australia to Kiribati, from the Equator to the Antarctic—an immense trapezoid covering some 12 million square miles of the Earth's surface.

The United States was asked to sign protocols along with the other nuclear powers. The Reagan administration, citing worldwide security interests, earlier this year declined to sign.

China signed, as did the Soviet Union, although it did so only with significant reservations. France, which would be most directly affected because of its controversial nuclear weapons testing program in Polynesia, refused to sign. The United Kingdom also has not signed.

POLITICAL CONSIDERATIONS

The arguments for and against the United States signing the Treaty of Rarotonga range from the theoretical to the practical.

Con: Nuclear-weapons-free zones, in and of themselves, do not make the world or the zones safer in an age when weapons can rain their destruction on any far corner of the world in minutes. Moreover, the ability of nuclear ballistic missile submarines to roam the seas unchecked and undetected by the treaty nations means there is no adequate enforcement mechanism.

It is, therefore, a grave disservice to those who seek an end to the arms race to pretend that these zones offer protection or contribute to a restriction of the arms race.

Pro: A large-scale nuclear exchange would engulf the world, and nuclear winter, many believe, would finish off even the remotest peace-loving nation. That is true.

It is also true that nuclear-weapons-free zones are not primarily created to shield themselves from worldwide nuclear confrontation but for much more practical political reasons: Proponents believe that they can lessen their "targetability" by not having nuclear bases and at the same time provide a positive influence on the worldwide arms reduction movement.

On a more practical level, however, the South American zone was created because of nuclear weapons proliferation concerns among the nations of the region. That treaty provides assurances through verification and enforcement mechanisms so that the nations will monitor each other in a cooperative effort to prevent any state from acquiring nuclear weapons. That was in our best strategic interest, also.

In the South Pacific, the treaty is aimed specifically at forcing the French to cease nuclear weapons testing at Mururoa in Polynesia. As I will point out, this is a worthwhile political aim.

Moreover, the treaty can be a valuable tool in creating greater regional integration, encouraging a stronger sense of regionalism, and supporting the regional interests of one of our closest allies in the region: Australia.

A political and psychological value of the treaty lies in its potential to develop greater interisland ties and encourage a greater sense of regionalism among the widely scattered and economically disparate nations of the South Pacific. This interest alone dictates our cooperation and encouragement.

The Australians went the extra distance for us on this treaty, ensuring that it did not compromise our essential defense needs and strategic interests in the region. Specifically, they were largely responsible for ensuring the treaty did not ban the transit and port calls of our nuclear navy ships and overflights of nuclear weapons-capable aircraft. How have we thanked them for their effort? By leaving them dangling slowly in the wind, naked to the criticism of their regional neighbors that Australia carries little weight in our councils.

A BAD PRECEDENT

Con: Signing the treaty protocols would set a bad precedent for our Asia-Pacific and European forces by encouraging nuclear-weapons-free zones in these strategic areas.

In the present state of East-West tension, the zone is seen by administration officials as a possible precedent, adding stimulus to other regional groups, like the Association of Southeast Asian Nations, to extend the zone to their area or to adopt their own zone.

Nuclear-weapons-free zones that might compromise our military forces, for example in the Philippines, would worsen an already tense situation and create conditions for tremendous instability that would affect the entire Asia-Pacific region.

There is also concern that European and Pacific Labor parties, like Britain's and Australia's, which call for nuclear-free zones, would misinterpret U.S. acceptance of the South Pacific Nuclear-Free Zone.

Pro: Signing the protocols would not set any precedent that we have not already set by joining four other treaty zones, including one for the heavily populated and militarily important South American region.

Moreover, we should not be afraid to do something smart now out of fear we will do something stupid later. If a proposed zone hinders or compromises our nuclear forces, we should not join it, and we should not support it. And we should enunciate our reasons clearly and forcefully.

Our past policy on considering these zones has been set out in specific detail. Seven very clear criteria must be met for us to judge the effectiveness of a proposed zone in meeting our strategic interests:

1. The initiative is from the nations in the region;
2. All nations whose participation is deemed important participate;
3. Adequate verification of compliance is provided;
4. It does not disturb existing security arrangements to the detriment of regional and international security;
5. all parties are barred from developing or possessing any nuclear device for any purpose;
6. it imposes no restriction on international legal maritime and aerial navigation rights and freedoms; and
7. it does not affect the international legal rights of parties to grant or deny other transit privileges, including port calls and overflights.

The Treaty of Rarotonga meets all those requirements. Zones that don't meet our requirements should not be endorsed. It can be that simple.

If the United States were to lose its access and flexibility of movement of its nuclear-powered ships as well as nuclear-armed vessels and nuclear-equipped forces—if our Navy lacked the needed bases or flexibility of movement to operate in vast ocean areas that cover access to strategic locations—we would clearly be within our legal international rights not to join the zone.

But we do not face these restrictions under the Treaty of Rarotonga. Zones like it, which do not adversely affect our ability to project and maneuver our forces and which serve a political (albeit in some cases psychological and propaganda) effort, should be encouraged and we should join them.

In fact, we are already observing all of the protocols that we refuse to sign. Our nation has already agreed in international fora not to dump nuclear waste or test nuclear weapons in the region. Administration spokesmen have testified that we do not need new bases or nuclear storage in the area.

OUR FRENCH CONNECTION

Con: Signing the treaty would add the considerable weight of official U.S. support for the movement to force the French government to cease its nuclear testing program at Mururoa. The French nuclear weapons arsenal is considered a part of the West's overall deterrent in the global balance of forces and their testing program, like ours, is necessary to maintain a credible deterrent. The French are our allies. We should not undercut them on this issue.

Pro: I strongly believe the administration should sign the protocols to add our voice to the chorus of criticism on French testing in the South Pacific.

Against the moral outrage of Pacific islanders, the French are adamantly continuing their testing in Polynesia, and that is a tragic mistake. On humanitarian grounds alone they should cease testing in Mururoa immediately.

Former U.S. arms negotiators have testified that the French underground testing program at Mururoa has fractured the coral reef, causing fissures that leak radioactive material into the lagoon and surrounding ocean.

Moreover, recent regional climatic changes (the El Nino effect) have brought about an increase in the number of tropical cyclones that batter French Polynesia and Mururoa, further endangering the test site and increasing the possibility of contamination.

Reports persist that the French will move their Mururoa site to the Kerguelen Islands in the Indian Ocean because of these complications. That may help lessen the antinuclear sentiment in the region, but it may also create a stimulus for a zone in the Indian Ocean, which would pose an even larger problem for our Diego Garcia base.

The French are in the process of developing their second generation of nuclear weapons. They are "MIRVing" their weapons—creating smaller weapons for multiple targeted reentry vehicles. There is no technological or logistical reason they cannot do this in the United States or on the French mainland.

We should offer France the use of our Nevada testing grounds as an interim solution. The offer also should be made to demonstrate to our South Pacific allies that we are trying to persuade the French to end their Pacific-based testing, not simply acquiescing in this environmentally and politically dangerous program.

On political grounds, the French should stop before they cause a total revulsion of Pacific island peoples—a revulsion that could, by association with our nuclear deterrent and our refusal to sign the protocols, further severely damage U.S. relations with the region.

While there are no technological or logistical reasons why they cannot test in France, there doubtless are political and psychological reasons against underground testing on the French mainland—many of the same reasons South Pacific islanders want the French testing program out of Mururoa.

THE PROPAGANDA WAR

A bonus to our signing the protocols is the value it will have in the heightened information war in the region—the war of words in the market of public opinion.

America's image has been significantly damaged by our refusal to sign. We have handed the Soviets a propaganda bonus. We must fight against the movement in the region to equate anti-nuclear and anti-French feelings with anti-American sentiment.

Clearly our military presence and nuclear deterrent have enabled the region to prosper. But I believe all sides to the dispute now hold that ever-growing nuclear arsenals are not the answer. The Reagan administration is working to reduce nuclear arms and lay the groundwork for continuing the arms reduction dialogue well into the next century.

But we must not lose sight of the significant benefits we also can gain from small steps in regional cooperation for the sake of a safer world and our political interests.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 8, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 9

9:00 a.m.
Foreign Relations
To hold hearings on the nomination of William H. Houston III, of Mississippi, for the rank of Ambassador during his tenure of service as United States Negotiator on Textile Matters.
SD-419

9:30 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings on morale, welfare, and recreation programs of the Department of Defense.
SR-232A

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on government handling of Soviet and communist bloc defectors.
SD-342

Labor and Human Resources
Business meeting, to consider S. 1663, authorizing funds for programs of the Child Abuse Prevention and Treatment Act, S. 1726, to promote employee health and disease prevention, budget reconciliation and pension reform proposals, and pending nominations.
SD-430

10:00 a.m.
Environment and Public Works
Business meeting, to resume markup of proposed legislation to provide limited extensions in the Clean Air Act deadlines.
SD-406

OCTOBER 13

9:30 a.m.
Armed Services
Conventional Forces and Alliance Defense Subcommittee
To hold closed hearings on the military balance in Europe.
SR-222

Energy and Natural Resources
To hold hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on globalization of securities markets.
SD-538

OCTOBER 14

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider legislative recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures, as imposed by H. Con. Res. 93, setting forth the congressional budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.
SR-332

Energy and Natural Resources
To continue hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on implications of new technology for banking regulation.
SD-538

Finance
To resume hearings on how to improve the existing family welfare system and how to promote the well-being of families with children.
SD-215

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
Business meeting, to mark up proposed legislation appropriating funds for fiscal year 1988 for foreign assistance programs.
S-126, Capitol

OCTOBER 15

9:00 a.m.
Select on Indian Affairs
To resume hearings on S. 721, to provide for and promote the economic development of Indian tribes.
SR-485

9:30 a.m.
Energy and Natural Resources
To continue hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on safety and re-regulation of the airline industry.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on product substitution by Department of Defense contractors.
SD-342

Judiciary
To hold hearings to review new Federal sentencing guidelines and proposals to delay implementing the guidelines.
SD-226

Small Business
To hold oversight hearings on the Small Business Administration small business development center program.
SR-428A

OCTOBER 16

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on product substitution by Department of Defense contractors.
SD-342

OCTOBER 19

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To resume hearings on the effect of current tax laws on American competitiveness.
SD-215

OCTOBER 20

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 816, S. 1026, and S. 1040, bills relating to the construction, acquisition, or operation of rail carriers, and to review the Interstate Commerce Commission consideration of railroad line sales.
SR-253

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 2629, to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations and the State of Alaska, S. 1335, to establish the City of Rocks National Reserve in Idaho, and S. 1675, to provide for the establishment of the Hagerman Fossil Beds National Monument in Idaho.
SD-366

OCTOBER 21

9:00 a.m.
Rules and Administration
To hold hearings on the feasibility of providing captioning for the hearing impaired of television from the Senate Chamber.
SR-301

Select on Indian Affairs
Business meeting, to consider proposed amendments to the Indian Self-Determination and Education Assistance Act (P.L. 93-638), S. 1236, to authorize funds for certain programs of the Navajo-Hopi Relocation Program, and S. 795, San Luis Rey Indian Water Rights Settlement Act; to be followed by hearings on S. 1321, to declare that the United States holds in trust cer-

tain lands for the Camp Verde Yavapai Apache Indian community.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.

SR-253

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on government handling of Soviet and communist bloc defectors.

SD-342

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

OCTOBER 22

10:00 a.m.

Commerce, Science, and Transportation

To resume hearings on safety and re-regulation of the airline industry.

SR-253

OCTOBER 23

10:00 a.m.

Judiciary

Immigration and Refugee Affairs Subcommittee

To hold hearings on S. 1611, to effect changes in the numerical limitation and preference system for the admission of immigrants.

SD-226

OCTOBER 27

9:00 a.m.

Office of Technology Assessment

The Board, to meet to consider pending business.

EF-100, Capitol

10:00 a.m.

Energy and Natural Resources

To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.

S-407, Capitol

2:00 p.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on pending water resource projects of the Soil Conservation Service, Department of Agriculture.

SD-406

OCTOBER 28

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.

SD-562

2:00 p.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of Francis J. Ivancie, of Oregon, to be a Federal Maritime Commissioner, and Francis H. Fay, of Alaska, and William W. Fox, Jr., of Florida, both to be Members of the Marine Mammal Commission.

SR-253

OCTOBER 29

10:00 a.m.

Commerce, Science, and Transportation

To resume hearings on safety and re-regulation of the airline industry.

SR-253

NOVEMBER 4

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

NOVEMBER 5

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on certain provisions of the Omnibus Drug Enforcement, Education, and Control Act (P.L. 99-570).

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.

SR-253

NOVEMBER 10

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on implementation of the Indian Child Welfare Act (P.L. 95-608).

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

NOVEMBER 12

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

NOVEMBER 16

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 1722, to establish the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian.

SR-301

NOVEMBER 19

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations.

SR-485

NOVEMBER 24

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation program.

SR-485

CANCELLATIONS

OCTOBER 8

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

OCTOBER 9

10:30 a.m.

Conferees

On H.R. 3, Omnibus Trade and Competitiveness Act of 1987.

SD-430

NOVEMBER 5

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on implementation of the Kamehameha elementary education project as applied on the Navajo Reservation at Rough Rock, Arizona.

SR-485

HOUSE OF REPRESENTATIVES—*Thursday, October 8, 1987*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. COELHO].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 8, 1987.

I hereby designate the Honorable TONY COELHO to act as Speaker pro tempore on Thursday, October 8, 1987.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, that we can live where our religious attitudes can be freely expressed and we can share our beliefs with one another. May this openness to hear and communicate our deepest feelings of faith encourage us to listen to others, learning always, and so testify to Your Word of love. This we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

A VERY SAD SPECTACLE

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, the American people are currently witnessing a very sad spectacle. We have an administration which has suggested a nominee to the U.S. Supreme Court whose views have clearly been repudiated by a majority of the other body. And yet, despite this repudiation, this administration is now forcing this nominee, not to just go through a repudiation of his views, but to go through a personal repudiation as well.

The intransigence of this administration when the votes are clearly in, when the verdict has clearly been rendered, when bipartisan Members of the other body have expressed the conclusive judgment that his views are not in the mainstream of American judicial thinking, is unfortunate. This is the time for the administration to act with some wisdom and some leadership rather than with the intransigence that is being demonstrated by the refusal to withdraw this nomination. The lack of leadership and the lack of judgment that we are now seeing from this administration is divisive and counterproductive for the country.

WHERE IS THE BUDGET?

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, we are already 8 days into the new fiscal year, but we have yet to see any evidence that Congress is moving on essential spending and reconciliation legislation.

Although the Senate has finally started moving on appropriations measures, none has yet been scheduled for conference with the House. And we are apparently some time away from having a reconciliation measure reported from the Budget Committee and the various authorizing committees.

Mr. Speaker, this is a national disgrace. We are almost at the point of facing a sequester of appropriated funds under the revised Gramm-Rudman-Hollings measure. On October 10, just 2 days from today, there will be a "snapshot" of the current budgetary situation. On October 15, in a week from now, we will receive a preliminary sequester report from the Congressional Budget Office, to be followed on October 20 by a similar report from OMB.

I emphasize, Mr. Speaker, that time is running out. Let us get these measures out of committee, out to the floor, and get on with the provision of essential Government services. We owe at least that much to the constituents we serve and represent.

TRIBUTE TO MR. DWIGHT L. DILLON

(Mr. DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL. Mr. Speaker, I rise to pay tribute to Mr. Dwight L. Dillon of Bassett, VA, who has recently completed his term as president of the Independent Insurance Agents of America.

President of Dillon Insurance Agency, Inc., Mr. Dillon was elected to the Executive Committee of the Independent Insurance Agents of America in 1981, and became president in 1986. As president, Mr. Dillon served as chairman of the IIAA/ISO Senior Company Forum and a member of the IIAA/State Association Coordination Committee. During his tenure thus far with IIAA, he has been their representative for civil justice reform, as well as serving on the InsurPac Board of Trustees and the Future One Federal/State Association Coordination Task Force.

Having served as president of the Independent Insurance Agents of Virginia, in 1982 he received its Past President's Award for his efforts on behalf of Virginia's open competition law and bank holding company prohibitory legislation. He has served as chairman and a member of the Martinsville-Henry County polio fund, as well as such organizations as the West Piedmont Planning District Commission, the Jaycees, and the volunteer fire department.

Mr. Speaker, Dwight Dillon's dedication to his association should be commended, especially in light of the personal sacrifices he has made for his fellow agents. He has guided the Independent Insurance Agents of America through a turbulent year, both on Capitol Hill and in the State Capitols.

Mr. Dillon's community spirit and civic activism are an inspiration to all. Although his term as president of the IIAA has come to a close, his leadership and ability will live on, both in the community and as a member of the Executive Committee of the Independent Insurance Agents of America.

AIDS AND THE EDUCATION OF OUR CHILDREN, A GUIDE FOR PARENTS AND TEACHERS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, I would like to draw to my colleagues' attention to the fact that in the last several days, Secretary of Education Bennett has produced a publication that will be of interest to the parents, the children, schoolteachers, school administrators of America on the subject of how we can deal with educating our children and ourselves on the AIDS epidemic in this country.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I want to commend Secretary of Education Bennett for producing this publication called "AIDS and the Education of Our Children, a Guide for Parents and Teachers," a publication of the U.S. Department of Education under the leadership of Secretary of Education Bennett. This document recognizes the inseparability between human sexuality and morality and ethics.

When our society affirms that inseparability, we have the chance of coming out of this epidemic that is now facing this country.

For the last two decades in America, we have been engaged in the sexual revolution where our society has indeed questioned the existence of standards, themselves, relating to human sexuality.

Secretary of Education Bennett, a voice in America that is providing the leadership to affirm again that the basis of our civilization is the Judeo-Christian ethic, that it was good when Moses brought those tablets down from Mount Sinai, it is good today and it will be good for all time.

It is good for us to study these principles in terms of how we can deal with the AIDS epidemic in America.

HAPPY BIRTHDAY, REPUBLIC OF CHINA

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, I rise today to congratulate the Republic of China on its 76th anniversary. The Republic of China has long been recognized as a valuable ally of the United States. The location of this island nation of Taiwan, only 90 miles from the coast of Asia, makes this one of the most geopolitically important in the world.

Since moving to Taiwan in 1949, the Republic of China Government repeatedly has offered the use of the island's facilities to the United States forces in time of war; truly a friend.

In addition to its strategic value to the United States, I believe that one of the most effective ways we have of creating attitudes conducive to the democratization of nations is to look to the success stories such as the Republic of China. The Republic of China has proved to be one of the most important examples of how free enterprise and democratic principles can promote economic growth and self-determination.

Nations throughout the Third World, particularly in Latin America, should look to the Republic of China as a model for their own economic and social development.

I had the opportunity to visit this great nation back in August and after nearly a week in Taiwan, my positive feelings about this great nation, shared by my fellow Americans, have been reinforced.

I admired the physical beauty of its economic structures, the majestic lush green mountains and the blue-green waters that surround it which are like a jeweled picture frame. But transcending all of this, I believe all of us there felt the warmth and graciousness of the Chinese people. We breathed with them the precious air of freedom. There is no more freedom-loving country than the Republic of China.

So congratulations, Republic of China, on your 76th anniversary.

COMMEMORATING THE 50TH ANNIVERSARY OF THE FOUNDING OF THE MONTGOMERY COUNTY NAACP

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, today brings a special commemoration of an organization that means hope and justice, breathing new life into the ideal that all men are created equal. The Montgomery County, MD, branch of the National Association for the Advancement of Colored People celebrates its 50th anniversary today, in this year of the 200th anniversary of the U.S. Constitution.

Fifty years ago, William H. Hastie became the first black to sit as a Federal judge in the history of the United States. Richard Wright became editor of Challenge magazine, challenging blacks to write with greater "social realism." And the national office of the NAACP was already nearly 30 years old.

The beginnings of the Montgomery County NAACP in 1937 are found in its support for county black teachers in a first-of-its-kind lawsuit to equalize teachers' salaries. Supreme Court Justice Thurgood Marshall, then assistant chief counsel for the national office, helped negotiate the final settlement. Throughout its history, the Montgomery County NAACP has emphasized educational improvement for black students and teachers in the county, working for continued desegregation and integration of schools, faculties, and courses, as well as physical improvements.

Today, the Montgomery County, MD, NAACP, over 1,000 strong, also strives for equal employment opportunities, voter education and registration, minority business and economic development, fairness in the criminal justice system, and fair housing practices.

Mr. Speaker, Benjamin Hooks, national office executive director, wrote of the Montgomery County branch: "You have consistently participated in making positive things happen." From its first president, William B. Gibbs, to today's president, Roscoe Nix; its current leadership: Mr. Nix; executive vice president Mrs. Gladys Young; and vice presidents Mr. Hanley Norment and Ms. Ellen Nickens, and its over 1,000 members—the Montgomery County NAACP has made positive things happen. Its 50 years of service, of caring and sharing, has brought out the best in all of us.

Mr. Speaker, today we are reminded of the words of Martin Luther King, a great man with a dream that all people would not be judged by the color of their skin but by the content of their character. He said, "Injustice anywhere is a threat to justice everywhere." In this 50th year of the Montgomery County NAACP, let us all work for justice everywhere.

POSITIVE AND ENCOURAGING NEWS FROM THE WHITE HOUSE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, yesterday President Reagan spoke before the OAS and said he backed the Arias plan for peace in Central America. This was positive and encouraging, because for many weeks it appeared that the administration was trying to scuttle the Arias plan. It was a positive step; yet in almost the same breath, the President said he was going to ask for aid to the Contras, perhaps humanitarian aid. You cannot have it both ways. But nonetheless, it appears that a softening is taking place and the President realizes that he has to work with Congress so that we have a bipartisan Central American policy.

The Sandinistas have taken positive steps. It remains to be seen whether they are cosmetic or not. The Contras have taken positive steps.

The Central American Presidents, all five of them, are putting all their political capital on this peace plan. The Congress, through Speaker WRIGHT, has cooperated in a bipartisan effort. It is critically important now that the President, who has signaled that he wants to bank the Arias plan, is going to follow through and not ask for any aid to the Contras until after peace has a chance to operate.

Hopefully, he will not have to. Hopefully, the Arias plan or the Reagan-Wright plan will be the law and rule of the land.

This is the last hope for peace and hopefully the President's speech yesterday was a start in that direction.

LET US SEE WHO IS FOR LAW AND ORDER, LET US HAVE A VOTE ON JUDGE BORK'S NOMINATION

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, from at least one of the speeches we have heard today, it sounds to me as though some liberals want the decision on Judge Bork to be rendered before the votes are counted.

The facts are clear, Mr. Speaker. Judge Bork is a tough law and order judge. Many liberals do not want their votes on the record against law and order.

So what they want is for the administration to throw in the towel without a vote.

"Don't do it, Judge Bork, don't do it, Mr. President."

Let us have a vote, let us see who is for law and order. Let us see who believes that the conglomerate of liberal special interests that have lined up and slandered Bork, let us find out whether or not they are more in tune with America than those Americans who want law and order.

The vote on Judge Bork will be a key law and order vote in this decade. Let us have it.

□ 1015

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 1574) to combine the Senators' Clerk Hire Allowance Account and the Senators' Official Office Expense Account into a combined single account to be known as the "Senators' Official Personnel and Office Expense Account," and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. DANIEL). Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I do so to yield to the distinguished majority whip to explain the bill.

Mr. COELHO. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, this bill authorizes use of the Senate contingent fund to pay for the consolidated office and staff expenses of Senators. The CBO cost estimate in Senate Report 100-134 states that—

The bill would provide Senators with increased flexibility in managing staff salaries and official expenses, but would not change the amounts Senators are authorized to spend.

This bill passed the Senate before the August recess, and represents an internal change in the way the Senate wishes to administer its allowance system. If the House is to assist the Senate in this internal Senate matter, we must act now to ensure adequate time for Senate offices to become familiar with the new procedures prior to implementation. This bill deals only with internal Senate policy and the use of the Senate contingent fund. And as a matter of comity regarding the internal policies of the other body, the House should pass the bill at this time.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the minority concurs in the description and the conclusions. The bill sets no precedent for the House. It bears on the House not at all. It is a matter of comity, and we believe it should be passed immediately.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) effective January 1, 1988, there shall be, within the contingent fund of the Senate, a separate appropriation account to be known as the "Senators' Official Personnel and Office Expense Account" (hereinafter in this section referred to as the "Senators' Account").

(2) The Senators' Account shall be used for the funding of all items, activities, and expenses which, immediately prior to January 1, 1988, were funded under either (A) the Senate appropriation account for "Administrative, Clerical, and Legislative Assistance Allowance to Senators" (hereinafter in this section referred to as the "Senators' Clerk Hire Allowance Account") under the headings "SENATE" and "SALARIES, OFFICERS AND EMPLOYEES", or (B) that part of the account, within the contingent fund of the Senate, for "Miscellaneous Items" (hereinafter in this section referred to as the "Senators' Official Office Expense Account") which is available for allocation to Senatorial Official Office Expense Accounts. In addition, the Senators' Account shall be used for the funding of agency contributions payable with respect to compensation payable by such account, but moneys appropriated to such account for this purpose shall not be available for any other purpose. The account, which in clause (A) of the first sentence of this paragraph is identified as the "Senators' Clerk Hire Allowance Account" and the account, which in clause (B) of such sentence is identified as the "Senators' Official Office Expense Account" shall, when referred to in other law, rule, regulation, or order (whether referred to by such name or any other) shall on and after January 1, 1988, be deemed to refer to the "Senators' Official Personnel and Office Expense Account".

(3)(A) Effective on January 1, 1988, there shall be transferred to the Senators' Account from the Senators' Clerk Hire Allowance Account all funds therein which were available for expenditure or obligation during the fiscal year ending September 30, 1988, and from the Senators' Official Office Expense Account so much of the funds therein as was available for expenditure or obligation for the period commencing January 1, 1988, and ending September 30, 1988; except that the Senators' Official Office Expense Account shall remain in being solely for the purpose of being available to pay for any authorized item, activity, or expense, for which funds therein had been obligated, but not paid, prior to such transfer.

(B) Any of the funds transferred to the Senators' Account from the Senators' Clerk Hire Allowance Account pursuant to subparagraph (A) which, prior to such transfer, had been obligated, but not expended, for any authorized item, activity, or expense, shall be available to pay for such item, activity, or expense in like manner as if such transfer had not been made.

(4) On January 1, 1988, there shall be transferred to the Senators' Account, from the appropriation account for "Agency Contributions", under the headings "SENATE" and "SALARIES, OFFICERS AND EMPLOYEES", so much of the moneys in such account as was appropriated for the purpose of making agency contributions for administrative, clerical, and legislative assistance to Senators with respect to compensation payable for the period commencing January 1, 1988, and ending September 30, 1988; and the moneys so transferred shall be available only for the payment of such agency contributions with respect to such compensation.

(5) Vouchers shall not be required for the disbursement, from the Senators' Account, of salaries of employees in the office of a Senator.

(b)(1) Effective January 1, 1988, section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended to read as follows:

"SEC. 506. (a) The contingent fund of the Senate is made available for payment to or on behalf of each Senator, upon certification of the Senator, for the following expenses incurred by the Senator and his staff:

"(1) telecommunications equipment and services subject to such regulations as may be promulgated by the Committee on Rules and Administration of the Senate;

"(2) stationery and other office supplies procured for use for official business;

"(3) reimbursement to each Senator for costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business;

"(4) reimbursement to each Senator for official office expenses incurred (other than for equipment and furniture and expenses described in paragraphs (1) through (3)) for an office in his home State;

"(5) reimbursements to each Senator for expenses incurred for publications printed or recorded in any way for auditory and visual use (including subscriptions to books, newspapers, magazines, clipping, and other information services);

"(6) subject to the provisions of subsection (e) of this section, reimbursement of travel expenses incurred by the Senator and employees in his office;

"(7) reimbursement to each Senator for expenses incurred for additional office equipment and services related thereto (but not including personal services), in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate;

"(8) reimbursement to each Senator for charges officially incurred for recording and photographic services and products; and

"(9) reimbursement to each Senator for such other official expenses as the Senator determines to be necessary, but only (A) in the case of expenses for the period commencing January 1, 1988, and ending with the close of September 30, 1988, to the extent that such expenses do not exceed ten percent of the total amount of expenses authorized to be paid to or on behalf of such Senator under this section (excluding any amount so authorized by subsection (b)(2)(A)(iv) of this section), and (B) in the case of expenditures for periods commencing on or after October 1, 1988, to the extent such expenses do not exceed ten percent of the total amount of expenses authorized to be paid to or on behalf of such Senator under this section (excluding any amount so authorized by subsection (b)(3)(A)(iv) of this section for the fiscal year involved).

Reimbursement to a Senator and his employees under this section shall be made only upon presentation of itemized vouchers for expenses incurred and, in the case of expenses reimbursed under paragraphs (6) and (9), only upon presentation of detailed itemized vouchers for such expenses. Vouchers presented for payment under this section shall be accompanied by such documentation as is required under regulations promulgated by the Committee on Rules and Administration of the Senate. No reimbursement shall be made under paragraph (4) or (9) for any expense incurred for entertainment or meals.".

(2) Effective January 1, 1988, section 506(b) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)) is amended—

(A) in paragraph (1), by striking out "Except as otherwise provided in paragraph (2) of this subsection," and inserting in lieu thereof the following: "(A) Except as is otherwise provided in the succeeding paragraphs of this subsection and subject to subparagraph (B) of this paragraph,",

(B) by redesignating paragraph (2) as subparagraph (B) of paragraph (1), and

(C) by adding at the end thereof the following new paragraphs:

"(2)(A) In the case of the period which commences January 1, 1988, and ends September 30, 1988, the total of—

"(i) the expenses paid to or on behalf of a Senator under this section for such period, plus

"(ii) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such period (as determined for purposes of section 105(d) of the Legislative Branch Appropriation Act, 1968),

shall not exceed the aggregate of—

"(iii) subject to subparagraph (B), an amount equal to 75 percent of the amount of the authorized expenses under this section for the calendar year ending December 31, 1987, as determined in the case of a Senator, who represents the State which such Senator represents, whose term of office included all of such calendar year, plus

"(iv) the amount by which (I) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for the fiscal year ending September 30, 1988, pursuant to the limitations imposed by section 105(d) of the Legislative Branch Appropriation Act, 1968 (as determined without regard to paragraph (1)(B) thereof), exceeds (II) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for that part of such fiscal year which precedes January 1, 1988.

"(B) In the event that the term of office of a Senator begins after the first month of the period which commences January 1, 1988, and ends September 30, 1988, or ends (except by reason of death, resignation, or expulsion) before the last month of such period, the amount computed pursuant to subparagraph (A)(iii) of this paragraph (but before application of this subparagraph) shall be recalculated as follows: such amount, as computed under subparagraph (A)(iii) of this paragraph, shall be divided by 9, and multiplied by the number of months in such period which are included in the Senator's term of office, counting any fraction of a month as a full month.

"(3)(A) In the case of the fiscal year beginning October 1, 1988, or any fiscal year thereafter, the total of—

"(i) the expenses paid to or on behalf of a Senator under this section for such fiscal year, plus

"(ii) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such fiscal year (as determined for purposes of section 105(d) of the Legislative Branch Appropriation Act, 1968),

shall not exceed the aggregate of—

"(iii) subject to subparagraph (B), in case the Senator represents Alabama, $53,000, Alaska, $137,000, Arizona, $63,000, Arkansas, $54,000, California, $95,000, Colorado, $59,000, Connecticut, $44,000, Delaware, $36,000, Florida, $56,000, Georgia, $53,000, Hawaii, $156,000, Idaho, $62,000, Illinois, $71,000, Indiana, $53,000, Iowa, $55,000, Kansas, $55,000, Kentucky, $52,000, Louisiana, $56,000, Maine, $48,000, Maryland, $40,000, Massachusetts, $51,000, Michigan, $59,000, Minnesota, $56,000, Mississippi, $54,000, Missouri, $57,000, Montana, $62,000, Nebraska, $56,000, Nevada, $64,000, New Hampshire, $45,000, New Jersey, $48,000, New Mexico, $60,000, New York, $76,000, North Carolina, $50,000, North Dakota, $55,000, Ohio, $64,000, Oklahoma, $58,000, Oregon, $66,000, Pennsylvania, $63,000, Rhode Island, $43,000, South Carolina, $48,000, South Dakota, $56,000, Tennessee, $53,000, Texas, $79,000, Utah, $62,000, Vermont, $44,000, Virginia, $45,000, Washington, $68,000, West Virginia $44,000, Wisconsin, $55,000, Wyoming, $58,000, plus

"(iv) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for such fiscal year, under the limitations imposed by section 105(d) of the Legislative Branch Appropriation Act, 1968, but without regard to the provisions of paragraph (1)(C)(iv) thereof.

"(B) In the event that the term of office of a Senator begins after the first month of any such fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of any such fiscal year, the amount referred to in subparagraph (A)(iii) shall be recalculated as follows: such amount, as computed under subparagraph (iii), shall be divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(3) Effective January 1, 1988, section 506(h) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(h)) is amended—

(A) by striking out paragraph (2) thereof and by striking out "(1)" where it appears immediately after "(h)"; and

(B) by striking out "(a)(5)" and inserting "(a)(4)".

(4) Effective January 1, 1988, subsection (e) of section 506 of such Act (2 U.S.C. 58e) is amended to read as follows:

"(e) Subject to and in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate, a Senator and the employees in his office shall be reimbursed under this section for travel expenses incurred by the Senator or employee while traveling on official business within the United States. The term 'travel expenses' includes actual transportation expenses, essential travel-related expenses, and, where applicable, per diem expenses (but not in excess of actual expenses). A Senator or an employee of the Senator shall not be reimbursed for any travel expenses (other than actual transportation expenses) for any travel occurring during the sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office (within the meaning of section 301(b) of the Federal Election Campaign Act of 1971), unless his candidacy in such election is uncontested. For purposes of this subsection and subsection (a)(6) of this section, an employee in the Office of the President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority shall be considered to be an employee in the office of the Senator holding such office.".

(5) Effective January 1, 1988, the first sentence of subsection (j) of section 506 (2 U.S.C. 58(j)) of such Act is amended by striking out "(a)(8)" and inserting in lieu thereof "(a)(6)".

(c)(1) Effective January 1, 1988, section 105(d)(1) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)) is amended—

(A) by striking out "The" at the beginning of paragraph (1) and inserting in lieu thereof "(A) Except as is otherwise provided in subparagraphs (B) and (C), the", and

(B) by adding at the end of paragraph (1) the following new subparagraphs:

"(B) In the case of gross compensation paid to employees in the office of a Senator for the period commencing January 1, 1988, and ending September 30, 1988, the total of—

"(i) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such period, plus

"(ii) the expenses paid to or on behalf of such Senator under authority of section 506 of the Supplemental Appropriations Act, 1973 (as determined after application of subsection (b) of such section, but without regard to paragraph (2)(A) (iv) thereof),

shall not exceed the aggregate of—

"(iii) subject to the next sentence, the amount by which (I) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for the fiscal year ending September 30, 1988, as determined under this subsection (but without regard to this subparagraph), exceeds (II) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for that part of such fiscal year which precedes January 1, 1988, plus

"(iv) the amount described in section 506(b)(2)(A) (iii) of the Supplemental Appropriations Act, 1973.

In the event that the term of office of a Senator begins after the first month of the period which commences January 1, 1988, and ends September 30, 1988, or ends (except by reason of death, resignation, or expulsion) before the last month of such period, the amount computed pursuant to clause (iii) of this subparagraph (but before application of this sentence) shall be recalculated as follows: such amount, as so computed, shall be divided by 9, and multiplied by the number of months in such period which are included in the Senator's term of office, counting any fraction of a month as a full month.

"(C) In the case of gross compensation paid to employees in the office of a Senator for the fiscal year beginning October 1, 1988, or any fiscal year thereafter, the total of—

"(i) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such year, plus

"(ii) the expenses paid to or on behalf of such Senator under authority of section 506 of the Supplemental Appropriations Act, 1973 (as determined after application of subsection (b) of such section, but without regard to paragraph (3)(A) (ii) and (iv) thereof),

shall not exceed the aggregate of—

"(iii) the amount determined under subparagraph (A) for such year, plus

"(iv) the amount described in section 506(b)(3) of the Supplemental Appropriations Act, 1973 (as determined without regard to subparagraph (A) (ii) and (iv) thereof).".

SEC. 2. Section 110 of the Supplemental Appropriations and Rescission Act, 1981 (Public Law 97-12; 2 U.S.C. 58b) is repealed effective January 1, 1988.

SEC. 3. Subsection (b) of section 111 of the Legislative Appropriations Act, 1978 (Public Law 95-94) is repealed, effective as of the first day of the 100th Congress.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THE ARIAS PEACE PLAN

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, the Arias peace plan is a good one, but it can be made even better. The United States can and should seek to perfect it. It can do so by pressing for bilateral negotiations with Nicaragua as part of the peace process. Addressing United States security concerns in the region is vital to peace in Central America. We should not miss this opportunity to at the very least obtain the removal of Soviet military advisers in Nicaragua.

At the same time, it is also important for President Ortega of Nicaragua to work out a legitimate cease-fire with the Contras. Cardinal Obando y Bravo as head of the reconciliation commission is crucial to a true cease-fire negotiation. Timing will be very important. But at some point very soon, certainly before November 7, we all need to deal. The United States should negotiate for a Soviet-free Central America. The Sandinistas should negotiate for a genuine cease-fire in Nicaragua.

Let us not miss this historic opportunity to contribute to the peace process. Otherwise we will have no one but ourselves to blame if on November 7, 1987, the Soviet military advisers still remain in Nicaragua.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2260

Mr. ROE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 2260.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 1988

Mr. ROE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2782) to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 101. This title may be cited as the "National Aeronautics and Space Administration Authorization Act, 1988".

SEC. 102. There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987:

(a) For "Research and development", for the following programs:

(1) Space station, $767,000,000;

(2) Space transportation capability development, $592,600,000;

(3) Physics and astronomy, $591,800,000;

(4) Life sciences, $74,600,000;

(5) Planetary exploration, $307,300,000;

(6) Space applications, $651,400,000;

(7) Technology utilization, $18,300,000;

(8) Commercial use of space, $30,700,000;

(9) Aeronautical research and technology, $375,000,000;

(10) Transatmospheric research and technology, $66,000,000;

(11) Space research and technology, $212,000,000;

(12) Safety, reliability and quality assurance, $16,200,000; and

(13) Tracking and data advanced systems, $18,100,000.

(b) For "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,150,600,000;

(2) Space transportation operations, $1,885,800,000;

(3) Space and ground network, communications and data systems, $944,900,000; and

(4) Expendable launch vehicle operations, $100,000,000.

(c) For "Construction of facilities", including land acquisition, as follows:

(1) Construction of LC 39 Operations Support Building, Kennedy Space Center, $17,000,000;

(2) Construction of Spacecraft Systems Development and Integration Facility, Goddard Space Flight Center, $8,600,000;

(3) Modifications for utility reliability, Goddard Space Flight Center, $2,900,000;

(4) Construction of Integrated Test Facility, Dryden Flight Research Facility, $10,500,000;

(5) Modifications to Hypersonic Propulsion Facility for Vacuum Systems, Langley Research Center, $3,100,000;

(6) Construction of addition to the Research Analysis Center, Lewis Research Center, $9,800,000;

(7) Modifications for Fan/Compressor Research, Engine Research Building, Lewis Research Center, $6,500,000;

(8) Construction of Communications Development Antenna, Goldstone, California, Jet Propulsion Laboratories, $6,400,000;

(9) Repair of facilities at various locations, not in excess of $750,000 per project, $25,000,000;

(10) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $32,000,000;

(11) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $8,000,000;

(12) Environmental compliance and restoration, $23,900,000;

(13) Repair and modernization of the 12-foot pressure wind tunnel at the Ames Research Center, $41,000,000; and

(14) Facility planning and design not otherwise provided for, $16,000,000.

(d) For "Research and program management", $1,598,000,000.

(e) Notwithstanding the provisions of subsection (h), appropriations authorized in this Act for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(f) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development," for "Space flight, control and data communications" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(g) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(h) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided,* That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs: *And provided further,* That, of the funds appropriated pursuant to subsection (d), not in excess of $500,000 per project, including collateral equipment, may be used for repair, rehabilitation or modification of facilities controlled by the General Services Administration.

SEC. 103. Authorization is granted whereby any of the amounts prescribed in paragraphs (1) through (13) of section 102(c) of this title—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 104. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 102(a) or (b) of this title may be transferred to and merged with the "Construction of facilities" appropriation, and when so transferred, together with $10,000,000 of funds appropriated pursuant to section 102(c) of this title (other than funds appropriated pursuant to paragraph (14) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in section 102(c)), if (1) the Administrator determines that such action is necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditures or expended to construct, expand, or modify laboratories and other installations unless a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the President of the Senate and to the Speaker of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a written report containing a full and complete statement concerning (A) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining therto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

SEC. 105. Notwithstanding any other provision of this title, no amount appropriated pursuant to this title may be used for any program—

(1) deleted by the Congress from requests as originally made either to the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science and Technology of the House of Representatives;

(2) in excess of the amount actually authorized for that particular program by section 102(a), (b), and (d); and

(3) which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by the President of the Senate and the Speaker of the House of Representatives and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 106. No civil space station authorized under section 102(a)(1) of this title may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 107. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronatics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 108. Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $4,550,000 for fiscal year 1988.".

SEC. 109. (a) Section 201(a) of the National Aeronautics and Space Act of 1958 is amended—

(1) by striking "Aeronautics and";

(2) in paragraph (6), by striking the period and inserting in lieu thereof ", who shall be the Vice Chairman of the Council; and"; and

(3) by adding at the end thereof the following:

"(7) such other members as the President may appoint.".

(b) Section 201(b) of the National Aeronautics and Space Act of 1958 is amended to read as follows:

"(b) In the absense of the Vice President, the Administrator shall preside over meetings of the Council.".

(c) Section 201(c) of the National Aeronautics and Space Act of 1958 is amended to read as follows:

"(c) Each member of the Council may designate an officer of their department or agency to serve on the Council as their alternative in their unavoidable absence.".

(d) Section 201(d) of the National Aeronautics and Space Act of 1958 is amended by striking "by and with the advice and consent of the Senate".

(e) Section 201(e) of the National Aeronautics and Space Act of 1958 is amended by striking all after "with respect to" and inserting in lieu thereof the following: "the following functions:

"(1) survey of ongoing civilian space activities;

"(2) review of long-range goals for civilian space activities;

"(3) coordination of civilian space activities among civilian agencies and with agencies involved in national security space activities; and

"(4) interagency cooperation in civilian space activities.".

(f) Section 201 of the National Aeronautics and Space Act of 1958 is amended by adding at the end thereof the following:

"(g)(1) The Council shall establish a Users' Advisory Group composed of nine non-Federal representatives of industries and other persons involved in space activities.

"(2) The Vice President shall name a Chairman of the Users' Advisory Group.

"(3) The Council shall from time to time, but not less often than once a year, meet with the Users' Advisory Group.

"(4) The function of the Users' Advisory Group is to ensure that the interests of non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the Council.".

SEC. 110. Title II of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"DONATIONS FOR SPACE SHUTTLE ORBITER

"SEC. 208. (a) The Administrator may accept gifts and donations of services, money, and real, personal, tangible, and intangible property, and use such gifts and donations for the construction of a space shuttle orbiter.

"(b)(1) The authority of the Administrator to accept gifts or donations pursuant to subsection (a) of this section shall terminate five years after the date of the enactment of this section.

"(2) All gifts and donations accepted by the Administrator pursuant to subsection (a) of this section which are not needed for construction of a space shuttle orbiter shall be used by the Administrator for an appropriate purpose—

"(A) in tribute to the dedicated crew of the space shuttle Challenger; and

"(B) in furtherance of the exploration of space.

"(c) The name of a space shuttle orbiter constructed in whole or in part with gifts or donations whose acceptance and use are authorized by subsection (a) of this section shall be selected by the Administrator of the National Aeronautics and Space Administration from among suggestions submitted by students in elementary and secondary schools.".

SEC. 111. (a) It is the sense of the Congress that the United States must promptly restore its space transportation capabilities, and such restoration must be accomplished without deemphasizing other space programs.

(b) The Administrator shall take the necessary steps to return safely the space shuttle fleet to flight status.

(c) There are authorized to be appropriated for fiscal year 1988 such sums as may be necessary to carry out this section.

SEC. 112. Title III of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"CONTRACTS REGARDING EXPENDABLE LAUNCH VEHICLES

"SEC. 311. (a) Notwithstanding any other provision of law, the Administrator may enter into contracts for expendable launch vehicle services that are for periods in excess of the period for which funds are otherwise available for obligation, provide for the payment for contingent liability which may accrue in excess of available appropriations in the event the Government for its convenience terminates such contracts, and provide for advance payments reasonably related to launch vehicle and related equipment, fabrication and acquisition costs, if any such contract limits the amount of the payments that the Federal Government is allowed to make under such contract to amounts provided in advance in appropriation Acts. Such contracts may be limited to sources within the United States when the Administrator determines that such limitation is in the public interest.

"(b) If the funds are not available to continue any such contract, the contract shall be terminated for the convenience of the Government, and the costs of such contract shall be paid from appropriations originally available for performance of the contract, from other, unobligated approriations currently available for the procurement of launch services, or from funds appropriated for such payments.".

TITLE II—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

SEC. 201. This title may be cited as the "National Space Grant College and Fellowship Act".

SEC. 202. The Congress finds that—

(1) the vitality of the Nation and the quality of life of the citizens of the Nation depend increasingly on the understanding, assessment, development, and utilization of space resources;

(2) research and development of space science, space technology, and space commercialization will contribute to the quality of life, national security, and the enhancement of commerce;

(3) the understanding and development of the space frontiers require a broad commitment and an intense involvement on the part of the Federal Government in partnership with State and local governments, private industry, universities, organizations, and individuals concerned with the exploration and utilization of space;

(4) the National Aeronautics and Space Administration, through the national space grant college and fellowship program, offers the most suitable means for such commitment and involvement through the promotion of activities that will result in greater understanding, assessment, development, and utilization; and

(5) Federal support of the establishment, development, and operation of programs and projects by space grant colleges, space grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

SEC. 203. The purposes of this title are to—

(1) increase the understanding, assessment, development, and utilization of space resources by promoting a strong educational base, reponsive research and training activities, and broad and prompt dissemination of knowledge and techniques;

(2) utilize the capabilities and talents of the universities of the Nation to support and countribute to the exploration and development of the resources and opportunities afforded by the space environment;

(3) encourage and support the existence of interdisciplinary and multidisciplinary programs of space research within the university community of the Nation, to engage in integrated activities of training, research and public service, to have cooperative programs with industry, and to be coordinated with the overall program of the National Aeronuatics and Space Administration;

(4) encourage and support the existence of consortia, made up of university and industry members, to advance the exploration and development of space resources in cases in which national objectives can be better fulfilled than through the programs of single universities;

(5) encourage and support Federal funding for graduate fellowships in fields related to space; and

(6) support activities in colleges and universities generally for the purpose of creating and operating a network of institutional programs that will enhance achievements resulting from efforts under this title.

SEC. 204. As used in this title, the term—

(1) "Administration" means the National Aeronautics and Space Administration;

(2) "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(3) "aeronautical and space activities" has the meaning given to such term in section 103(1) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2452(1));

(4) "field related to space" means any academic discipline or field of study (including the physical, natural, and biological sciences, and engineering, space technology, education, economics, sociology, communications, planning, law, international affairs, and public administration) which is concerned with or likely to improve the understanding, assessment, development, and utilization of space;

(5) "panel" means the space grant review panel established pursuant to section 210 of this title;

(6) "person" means any individual, any public or private corporation, partnership, or other association or entity (including any space grant college, space grant regional consortium, institution of higher education, institute, or laboratory), or any State, political subdivision of a State, or agency or officer of a State or political subdivision of a State;

(7) "space environment" means the environment beyond the sensible atmosphere of the Earth;

(8) "space grant college" means any public or private institution of higher education which is designated as such by the Administrator pursuant to section 208 of this title;

(9) "space grant program" means any program which—

(A) is administered by any space grant college, space grant regional consortium, institution of higher education, institute, laboratory, or State or local agency; and

(B) includes two or more projects involving education and one or more of the following activities in fields related to space:

(i) research,

(ii) training, or

(iii) advisory services;

(10) "space grant regional consortium" means any association or other alliance which is designated as such by the Administrator pursuant to section 208 of this title;

(11) "space resource" means any tangible or intangible benefit which can only be realized from—

(A) aeronautical and space activities; or

(B) advancements in any field related to space; and

(12) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.

SEC. 205. (a) The Administrator shall establish and maintain, within the Administration, a program to be known as the national space grant college and fellowship program. The national space grant college and fellowship program shall consist of the financial assistance and other activities provided for in this title. The Administrator shall establish long-range planning guidelines and priorities, and adequately evaluate the program.

(b) Within the Administration, the progran shall—

(1) apply the long-range planning guidelines and the priorities established by the Administrator under subsection (a) of this section;

(2) advise the Administrator with respect to the expertise and capabilities which are available through the national space grant college and fellowship program, and make such expertise available to the Administration as directed by the Administrator;

(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 206 and 207 of this title to assure that the purpose set forth in section 203 of this title is implemented;

(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national space grant college and fellowship program, on a cooperative or other basis;

(5) encourage cooperation and coordination with other Federal programs concerned with the development of space resources and fields related to space;

(6) advise the Administrator on the designation of recipients supported by the national space grant college and fellowship program and, in appropriate cases, on the termination or suspension of any such designation; and

(7) encourage the formation and growth of space grant and fellowship programs.

(c) To carry out the provisions of this title, the Administrator may—

(1) accept conditional or unconditional gifts or donations of services, money, or property, real, personal or mixed, tangible or intangible;

(2) accept and use funds from other Federal departments, agencies, and instrumentalities to pay for fellowships, grants, contracts, and other transactions; and

(3) issue such rules and regulations as may be necessary and appropriate.

SEC. 206. (a) The Administrator may make grants and enter into contracts or other transactions under this subsection to assist any space grant and fellowship program or project if the Administrator finds that such program or project will carry out the purposes set forth in section 203 of this title. The total amount paid pursuant to any such grant or contract may equal 66 percent, or any lesser percent, of the total cost of the space grant and fellowship program or project involved, except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Administrator pursuant to section 205(c)(2) of this title.

(b) The Administrator may make special grants under this subsection to carry out the purpose set forth in section 203 of this title. The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection, unless the Administrator finds that—

(1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a) of this section;

(2) the probable benefit of such project outweighs the public interest in such matching requirement; and

(3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a) of this section or section 207 of this title.

(c) Any person may apply to the Administrator for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe.

(d)(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2) and (3) of this subsection and to such other terms, conditions and requirements as the Administrator considers necessary or appropriate.

(2) No payment under any grant or contract under this section may be applied to—

(A) the purchase of any land;

(B) the purchase, construction, preservation, or repair of any building; or

(C) the purchase or construction of any launch facility or launch vehicle.

(3) Notwithstanding paragraph (2) of this subsection, the items in subparagraphs (A), (B) and (C) of such paragraph may be leased upon written approval of the Administrator.

(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Administrator shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for three years after the completion of such a program or project. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers and records of receipts which, in the opinion of the Administrator or the Comptroller General, may be related or pertinent to such grants or contracts.

SEC. 207. (a) The Administrator shall identify specific national needs and problems relating to space. The Administrator may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved.

(b) Any person may apply to the Administrator for a grant or contract under this section. In addition, the Administrator may invite applications with respect to specific national needs or problems identified under subsection (a) of this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 206(d)(2) and (4) of this title and to such other terms, conditions and requirements as the Administrator considers necessary or appropriate.

SEC. 208. (a)(1) The Administrator may designate—

(A) any institution of higher education as a space grant college; and

(B) any association or other alliance of two or more persons, other than individuals, as a space grant regional consortium.

(2) No institution of higher education may be designated as a space grant college, unless the Administrator finds that such institution—

(A) is maintaining a balanced program of research, education, training, and advisory services in fields related to space;

(B) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(C) meets such other qualifications as the Administrator considers necessary or appropriate.

(3) No association or other alliance of two or more persons may be designated as a space grant regional consortium, unless the Administrator finds that such association or alliance—

(A) is established for the purpose of sharing expertise, research, educational facilities or training facilities, and other capabilities in order to facilitate research, education training, and advisory services, in any field related to space;

(B) will encourage and follow a regional approach to solving problems or meeting needs relating to space, in cooperation with appropriate space grant colleges, space grant programs, and other persons in the region;

(C) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(D) meets such other qualifications as the Administrator considers necessary or appropriate.

(b) The Administrator shall by regulation prescribe—

(1) the qualifications required to be met under subsection (a)(2)(C) and (3)(D) of this section; and

(2) guidelines relating to the activities and responsibilities of space grant colleges and space grant regional consortia.

(c) The Administrator may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a) of this section.

SEC. 209. (a) The Administrator shall support a space grant fellowship program to provide educational and training assistance to qualified individuals at the graduate level of education in fields related to space. Such fellowships shall be awarded pursuant to guidelines established by the Administrator. Space grant fellowships shall be awarded to individuals at space grant colleges, space grant regional consortia, other colleges and institutions of higher education, professional associations and institutes in such a manner as to assure wide geographic and institutional diversity in the pursuit of research under the fellowship program.

(b) The total amount which may be provided for grants under the space grant fellowship program during any fiscal year shall not exceed an amount equal to 50 percent of the total funds appropriated for such year pursuant to this title.

(c) Nothing in this section shall be construed to prohibit the Administrator from sponsoring any research fellowship program, including any special emphasis program, which is established under an authority other than this title.

SEC. 210. (a) The Administrator shall establish an independent committee known as the space grant review panel, which shall not be subject to the provisions of the Federal Advisory Committee Act (5 App. U.S.C. 1 et seq.; Public Law 92-463).

(b) The panel shall take such steps as may be necessary to review, and shall advise the Administrator with respect to—

(1) applications or proposals for, and performance under, grants and contracts awarded pursuant to sections 206 and 207 of this title;

(2) the space grant fellowship program;

(3) the designation and operation of space grant colleges and space grant regional consortia, and the operation of space grant and fellowship programs;

(4) the formulation and application of the planning guidelines and priorities pursuant to section 205 (a) and (b)(1) of this title; and

(5) such other matters as the Administrator refers to the panel for review and advice.

(c) The Administrator shall make available to the panel any information, personnel and administrative services and assistance which is reasonable to carry out the duties of the panel.

(d)(1) The Administrator shall appoint the voting members of the panel. A majority of the voting members shall be individuals who, by reason of knowledge, experience or training, are especially qualified in one or more of the disciplines and fields related to space. The other voting members shall be individuals who, by reason of knowledge, experience or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning or any other activity related to efforts to enhance the understanding, assessment, development or utilization of space resources. The Administrator shall consider the potential conflict of interest of any individual in making appointments to the panel.

(2) The Administrator shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

(3) Voting members of the panel who are not Federal employees shall be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

(4) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Administrator.

(5) The panel may exercise such powers as are reasonably necessary in order to carry out the duties enumerated in subsection (b) of this section.

SEC. 211. Each department, agency or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, matters relating to space—

(1) may, upon a written request from the Administrator, make available, on a reimbursable basis or otherwise, any personnel (with their consent and without prejudice to their position and rating), service or facility which the Administrator considers necessary to carry out any provision of this title;

(2) shall, upon a written request from the Administrator, furnish any available data or other information which the Administrator considers necessary to carry out any provision of this title; and

(3) shall cooperate with the Administration.

SEC. 212. (a) The Administrator shall submit to the Congress and the President, not later than January 1, 1989, and not later than February 15 of every odd-numbered year thereafter, a report on the activities of the national space grant and fellowship program.

(b) The Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy in the Executive Office of the President shall have the opportunity to review each report prepared pursuant to subsection (a) of this section. Such Directors may submit, for inclusion in such report, comments and recommendations and an independent evaluation of the national space grant college and fellowship program. Such comments and recommendations shall be submitted to the Administrator not later than 90 days before such a report is submitted pursuant to subsection (a) of this section and the Administrator shall include such comments and recommendations as a separate section in such report.

SEC. 213. The Administrator shall not under this title designate any space grant college or space grant regional consortium or award any fellowship, grant, or contract unless such designation or award is made in accordance with the competitive, merit-based review process employed by the Administration on the date of enactment of this Act.

SEC. 214. (a) There are authorized to be appropriated for the purposes of carrying out the provisions of this title sums not to exceed—

(1) $10,000,000 for each of fiscal years 1988 and 1989; and

(2) $15,000,000 for each of fiscal years 1990 and 1991.

(b) Such sums as may be appropriated under this section shall remain available until expended.

TITLE III—AMENDMENTS TO THE LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984

SEC. 301. This title may be cited as the "Land Remote-Sensing Commercialization Act Amendments of 1987".

SEC. 302. The Congress finds and declares that—

(1) the implementation of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) has begun and some of the major milestones contained in that Act have been met;

(2) Congress remains strongly committed to the guiding principles set forth in that Act;

(3) notwithstanding the accomplishments thus far, the relationships among the involved Federal agencies and the private sector have not yet been adequately defined; and

(4) inasmuch as the technical development and commercial applications of future land remote-sensing systems cannot now be predicted with certainty, it is in the national interest of the United States that the involved Federal agencies and the private sector remain flexible in carrying out their respective responsibilities under that Act.

SEC. 303. It is therefore the purpose of this title to set forth amendments to the Land Remote-Sensing Commercialization Act of 1984 to ensure that—

(1) the original intent of that Act is carried out in the most effective manner consistent with the guiding principles expressed therein;

(2) specific mechanisms for carrying out the original intent of that Act are provided in those cases where none have materialized thus far; and

(3) the working relationships among involved Federal agencies and private sector parties for the purpose of carrying out that Act are fully developed and mutually understood.

SEC. 304. Section 202(a)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4212(a)(4)) is amended by inserting before the semicolon at the end thereof the following: ", except in the case of research and development activities conducted in accordance with section 504".

SEC. 305. Title III of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4221 at seq.) is amended by adding at the end thereof the following new section:

"DISPOSITION OF GOVERNMENT ASSETS

"Sec. 308. Following the completion of a contract made pursuant to this title, the Secretary may, upon 30 days advance notice to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives, dispose of assets (other than real property) under the control of the Secretary in a manner which best ensures the continuation of the contractor's commercial activity.".

SEC. 306. Section 502 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4262) is amended to read as follows:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF FEDERAL AGENCIES

"SEC. 502. Each Federal agency is authorized and encouraged to provide data gathered in experimental remote-sensing space programs to related research and development programs funded by the Federal Government (including application programs) and to cooperative research programs if the Federal agency involved determines that the data will not be used—

"(1) for any commercial purpose, or

"(2) in substantial competition with data available from a licensee under this Act, except pursuant to section 503.".

SEC. 307. Title V of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4261 et seq.) is amended by adding at the end thereof the following new section:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF SYSTEM OPERATORS

"SEC. 504. Notwithstanding section 601, any system operator under title II, III, or IV of this Act, or any marketing entity under section 503 of this Act, may provide data for any research and development programs if—

"(1) a complete and timely disclosure of the results of such research and development is made in the open technical literature or is otherwise made publicly available;

"(2) the system operator or marketing entity provides to the Secretary an annual report of all research and development data transactions including the nature of any cooperative agreements and the prices charged for data; and

"(3) the data are not used for commercial purposes or in substantial competition with data available from a licensee under this Act.".

SEC. 308. Section 603 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4273) is amended to read as follows:

"NONREPRODUCTION

"SEC. 603. In addition to such other terms and conditions as the system operator may set forth in compliance with section 601 of this Act, the system operator may require that unenhanced data not be reproduced or disseminated by any foreign or domestic purchaser.".

House amendment to Senate amendment:

In lieu of the matter proposed to be inserted, insert the following:

That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act of 1988".

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 101. (a) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Research and development", for the following programs:

(1) Permanently manned space station, $767,000,000;

(2) Space transportation capability development, $553,600,000;

(3) Physics and astronomy, $581,800,000;

(4) Life sciences, $74,600,000;

(5) Planetary exploration, $320,300,000, of which $42,300,000 is authorized only for the purpose of preparing the Mars Observer Spacecraft for launch in 1992 and for procuring spare parts for a Planetary Observer program;

(6) Space applications, $651,400,000, of which $84,000,000 is authorized only for the Advanced Communications Technology Satellite;

(7) Technology utilization, $18,300,000;

(8) Commercial use of space, $30,700,000;

(9) Aeronautical research and technology, $387,000,000;

(10) Transatmospheric research and technology, $66,000,000;

(11) Space research and technology, $234,000,000;

(12) Safety, reliability, and quality assurance, $16,200,000; and

(13) Tracking and data advanced systems, $18,100,000.

(b) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,174,600,000, of which $76,000,000 is authorized only for initial layin spare parts for the space shuttle orbiter;

(2) Space transportation operations, $1,885,800,000, of which $106,700,000 is authorized only for flight spare parts for the space shuttle orbiter;

(3) Space and ground network, communications, and data systems, $924,900,000; and

(4) Expendable launch vehicle operations, $60,000,000.

(c) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Construction of facilities", including land acquisition, as follows:

(1) Construction of LC 39 Operations Support Building, Kennedy Space Center, $22,800,000;

(2) Construction of Spacecraft Systems Development and Integration Facility, Goddard Space Flight Center, $8,600,000;

(3) Modifications for utility reliability, Goddard Space Flight Center, $2,900,000;

(4) Construction of Integrated Test Facility, Dryden Flight Research Facility, $10,500,000;

(5) Modifications to Hypersonic Propulsion Facility for Vaccum Systems, Langley Research Center, $3,100,000;

(6) Construction of addition to the Research Analysis Center, Lewis Research Center, $9,800,000;

(7) Modifications for Fan/Compressor Research, Engine Research Building, Lewis Research Center, $6,500,000;

(8) Construction of Communications Development Antenna, Goldstone, California, Jet Propulsion Laboratories, $6,400,000;

(9) Repair of facilities at various locations, not in excess of $750,000 per project, $25,000,000;

(10) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $32,000,000;

(11) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $8,000,000;

(12) Environmental compliance and restoration, $23,900,000;

(13) Repair and modernization of the 12-foot pressure wind tunnel at the Ames Research Center, $41,000,000; and

(14) Facility planning and design not otherwise provided for, $16,000,000.

(d) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Research and program management", $1,583,000,000.

(e) The Administrator is authorized (to the extent provided in an appropriation Act) to transfer $22,000,000 from any funds which were made available for prior years, and which remain unobligated as of the date of the enactment of this Act, except for funds made available for Aeronautical and Space Research and Technology, Transatmospheric Research and Technology programs, Construction of Facilities activities, and Research and Program Management activities for the support of such programs, and use such funds for the preparation of the Mars Observer spacecraft for launch in 1992.

(f) Notwithstanding the provisions of subsection (h), appropriations authorized in this Act for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration (hereinafter in this title referred to as the "Administraion") for the performance of research and development contracts, and (2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereinafter in this title referred to as the "Administrator") determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(g) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(h) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(i) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided,* That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs: *And provided further,* That, of the funds appropriated pursuant to subsection (d), not in excess of $500,000 per project, including collateral equipment, may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration.

SEC. 102. Authorization is granted whereby any of the amounts prescribed in paragraphs (1) through (13) of section 101(c) of this title—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 101 (a) or (b) of this title may be transferred to and merged with the "Construction of facilities" appropriation, and when so transferred, together with $10,000,000 of funds appropriated pursuant to section 101(c) of this title (other than funds appropriated pursuant to paragraph (14) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in section 101(c)), if (1) the Administrator determines that such action is necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the President of the Senate and to the Speaker of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report containing a full and complete statement concerning (A) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

SEC. 104. Notwithstanding any other provision of this title, no amount appropriated pursuant to this title may be used for any program—

(1) deleted by the Congress from requests as originally made either to the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science,

Space, and Technology of the House of Representatives;

(2) in excess of the amount actually authorized for that particular program by section 102(a), (b), and (d); and

(3) which has not been presented to either such Committee,

unless a period of 30 days has passed after the receipt by President of the Senate and the Speaker of the House of Representatives and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 105. No civil space station authorized under section 101(a)(1) of this title may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 106. (a) The Administrator is directed to undertake the construction of a permanently manned space station (hereinafter referred to as the "space station") to become operational in 1995. The space station will be used for the following purposes—

(1) the conduct of scientific experiments, applications experiments, and engineering experiments;

(2) the servicing, rehabilitation, and construction of satellites and space vehicles;

(3) the development and demonstration of commercial products and processes; and

(4) the establishment of a space base for other civilian and commercial space activities.

(b) The space station shall be developed and operated in a manner that supports other science and space activities.

(c) In order to reduce the cost of operations of the space station and its ground support system, the Administrator shall undertake the development of such advanced technologies as may be appropriate within the level of funding authorized in this Act.

(d) The Administrator shall seek to have portions of the space station constructed and operated by the private sector, where appropriate.

(e) The Administrator shall promote international cooperation in the space station program by undertaking the development, construction, and operation of the space station in conjunction with (but not limited to) the Governments of Europe, Japan, and Canada.

(f) The space station shall be designed, developed, and operated in a manner that enables evolutionary enhancement.

SEC. 107. (a) For each of the fiscal years 1989 through 1996, the Administrator, along with the President's submission to the Congress of the annual budget request for the National Aeronautics and Space Administration, shall submit a capital development plan for the space station program. Each such plan shall include the estimated cost of all direct research and development; space flight, control and data communications; construction of facilities; and research and program management for the fiscal year involved and the two succeeding fiscal years.

(b) For fiscal year 1989, the capital development plan shall also include a statement outlining the total cost, schedule, and configuration of the Administration's space station proposal, as well as an analysis of the "Report of the Committee on the Space Station of the National Research Council". Such analysis shall examine alternatives for the configuration of the space station including but not limited to low cost alternatives.

SEC. 108. In order to ensure that the development of the space station is part of a balanced civilian space program, the Administrator is instructed to establish as a goal a funding profile that limits (1) space station total annual costs under the capital development plan in section 107 to 25 percent of the total budget request for the National Aeronautics and Space Administration and (2) all space station direct operations costs, except for those costs associated with the utilization of the space station, to 10 percent of the total budget request for the National Aeronautics and Space Administration.

SEC. 109. (a) It is the sense of the Congress that the launching and servicing of the space station should be accomplished by the most cost-effective use of space transportation systems, including the space shuttle and expendable launch vehicles.

(b) Not later than January 15, 1988, the Administrator shall submit a preliminary report on the cost-effective use of space transportation systems for the launch of space station elements during the development and operation of the space station. The Administrator shall consider—

(1) the potential use of future advanced or heavy lift expendable launch vehicles for purposes of the assembly and operation of the space station;

(2) the use of existing expendable launch vehicles of the National Aeronautics and Space Administration, the Department of Defense, and the Private Sector;

(3) the requirement for space shuttle launches; and

(4) the risk of capital losses from the use of expendable launch vehicles and the space shuttle.

SEC. 110. (a) The Administrator shall set and collect reasonable user fees for the use and maintenance of the space station.

(b) The Administrator shall set user fees so as to—

(1) promote the use of the space station consistent with the policy set forth in section 106;

(2) recover the costs of the use of the space station, including reasonable charges for any enhancement needed for such use; and

(3) conserve and efficiently allocate the resources of the space station.

(c) The Administrator may, on a case-by-case basis, waive or modify such user fees when in the Administrator's judgment such waiver or modification will further the goals and purposes of the National Aeronautics and Space Act of 1958, including—

(1) the advancement of scientific or engineering knowledge;

(2) international cooperation; and

(3) the commercial use of space.

SEC. 111. No later than September 30, 1988, the Administrator shall submit a detailed plan for collecting reimbursements for the utilization of the space station under section 110, including the services to be offered, the methodology and bases by which prices will be charged, and the estimated revenues.

SEC. 112. The Intergovernmental Agreement currently being negotiated between the United States Government and Canada, Japan, and member governments of the European Space Agency, and the Memorandum of Understanding currently being negotiated between the National Aeronautics and Space Administration and its counterpart agencies in Canada, Japan, and Europe concerning the detailed design, development, construction, operation, or utilization of the space station shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. No such agreement shall take effect until 30 days have passed after the receipt by such committees of the agreement.

SEC. 113. (a) It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

(b) The Administrator shall report to the Congress on the extent to which such consideration has been given and such ways and means explored during fiscal year 1987, and shall submit such report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 15, 1988.

SEC. 114. (a) The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitions for bids are issued after the date of the enactment of this Act.

SEC. 115. Title II of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"DONATIONS FOR SPACE SHUTTLE ORBITER

"SEC. 208. (a) The Administrator may accept gifts and donations of services, money, and real, personal, tangible, and intangible property, and use such gifts and donations for the construction of a space shuttle orbiter.

"(b) (1) The authority of the Administrator to accept gifts or donations pursuant to subsection (a) of this section shall terminate five years after the date of the enactment of this section.

"(2) All gifts and donations accepted by the Administrator pursuant to susection (a) of this section which are not needed for construction of a space shuttle orbiter shall be used by the Administrator for an appropriate purpose—

"(A) in tribute to the dedicated crew of the space shuttle Challenger; and

"(B) in furtherance of the exploration of space.

"(c) The name of a space shuttle orbiter constructed in whole or in part with gifts or donations whose acceptance and use are authorized by subsection (a) of this section shall be selected by the Administrator from among suggestions submitted by students in elementary and secondary schools.".

SEC. 116. (a) It is the sense of the Congress that the space shuttle is a critical national resource that should be preserved; that it should be used primarily for those missions which require its unique capabilities; and that a diversified family of expendable launch vehicles should be incorporated by use into the Nation's civilian space flight program.

(b) The Administrator shall establish a program for launching payloads by means of expendable launch vehicles and, if available, by commerical launch services.

(c) The Administrator shall take such action as may be necessary to ensure that expendable launch vehicles or, if available, commerical launch services are obtained for the launch of the following payloads:

(1) Roentgen Satellite (ROSAT), for launch in 1990;

(2) Tracking and Data Relay Satellite (TDRS)-F, or a planetary mission;

(3) Extreme Ultraviolet Explorer (EUVE), for launch in 1991; and

(4) Mars Observer, for launch in 1992.

(d) The Administrator shall report to the Congress not later than January 15, 1988, on the Administrator's compliance with this section, and shall submit such report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

SEC. 117. Title III of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"CONTRACTS REGARDING EXPENDABLE LAUNCH VEHICLES

"SEC. 311. (a) The Administrator may enter into contracts for expendable launch vehicle services that are for periods in excess of the period for which funds are otherwise available for obligation, provide for the payment for contingent liability which may accrue in excess of available appropriations in the event the Government for its convenience terminates such contracts, and provide for advance payments reasonably related to launch vehicle and related equipment, fabrication, and acquisition costs, if any such contract limits the amount of the payments that the Federal Government is allowed to make under such contract to amounts provided in advance in appropriation acts. Such contracts may be limited to sources within the United States when the Administrator determines that such limitation is in the public interest.

"(b) If funds are not available to continue any such contract, the contract shall be terminated for the convenience of the Government, and the costs of such contract shall be paid from appropriations originally available for performance of the contract, from other, unobligated appropriations currently available for the procurement of launch services, or from funds appropriated for such payments.".

SEC. 118. (a) It is the sense of the Congress that the capital investment in space satellites and vehicles should be enhanced and protected by establishing a system of servicing, rehabilitation, and repair capabilities in orbit (hereinafter referred to as "satellite servicing").

(b) The Administrator shall conduct a thorough and comprehensive study of satellite servicing with a view toward establishing national goals and objectives for utilizing such capabilities.

(c) In conducting the study of satellite servicing under this section, the Administrator shall give consideration to—

(1) the use of the space shuttle, the space station, and other space vehicles to carry out or support satellite servicing;

(2) all potential users of satellite servicing capabilities, including civilian, defense, private, and foreign satellites and space vehicles;

(3) experience to date with in-orbit satellite servicing including the costs of such operations and the fees charged users that are not from the National Aeronautics and Space Administration;

(4) the pertinence of satellite servicing to insurance, including the character, cost, and availability of insurance;

(5) the pertinence of satellite servicing to satellite and vehicle design;

(6) the pertinence of satellite servicing to the National Aeronautics and Space Administration and other space programs, including science and applications programs; and

(7) the prices to be charged for satellite servicing such that the full costs of such servicing can be recovered.

(d) The Administrator shall complete the study and present a full report on it to the Congress on or before January 15, 1988.

SEC. 119. The Administrator shall review the findings, recommendations, and proposed space agenda of the National Commission on Space as set forth in its report submitted under section 204(c) of the National Aeronautics and Space Administration Authorization Act, 1985 (Public Law 98-361; 98 Stat. 422), and shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives, within 60 days after the date of enactment of this Act, a recommendation for a long-range implementation plan, including an impact assessment of such implementation on personnel, budget, and other resources.

SEC. 120. Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $4,548,000 for fiscal year 1988.".

SEC. 121. (a) It is the sense of the Congress that the solid rocket motor project of the space shuttle program would benefit from competition, and that an advanced solid rocket motor would enhance the margin of safety, reliability, and performance of the space shuttle.

(b) By the date on which the President submits to the Congress the fiscal year 1990 budget request for the National Aeronautics and Space Administration, the Administrator shall issue a request for proposals to acquire by means of a competitive procurement an advanced solid rocket motor. The Administrator shall also consider ways and means to improve quality control, reduce operational hazards, reduce costs, increase competition, and enhance manufacturing processes, including, but not limited to, constructing a government-owned and contractor-operated solid rocket motor production facility and providing for a dual source of supply of the advanced solid rocket motor.

(c) Until a request for proposals has been issued under subsection (b) of this section, no contract for the purchase of additional solid rocket motors shall be extended or signed by the Administrator. The Administrator may proceed with the procurement of long-lead materials for the solid rocket motors from the current contractor only after the Administrator has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives that such action is necessary to prevent a delay in the space shuttle launch schedule.

(d) The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives if the competitive procurement specified in subsection (b) cannot be conducted. The Administrator shall transmit such notice along with a complete explanation of the reasons supporting such determination. Following such determination, but no sooner than 30 days following the transmission of the notice required under this subsection, the Administrator shall—

(1) conduct a competition to select a qualified second source of supply (in addition to the current contractor) for flight sets of the redesigned solid rocket motor that is currently under development; or

(2) recompete the current source of supply for flight sets of the redesigned solid rocket motor.

(e) No later than March 31, 1988, the Administrator shall present to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive acquisition plan for the advanced solid rocket motor in accordance with this section.

TITLE II—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

SEC. 201. This title may be cited as the "National Space Grant College and Fellowship Act".

SEC. 202. The Congress finds that—

(1) the vitality of the Nation and the quality of life of the citizens of the Nation depend increasingly on the understanding, assessment, development, and utilization of space resources;

(2) research and development of space science, space technology, and space commercialization will contribute to the quality of life, national security, and the enhancement of commerce;

(3) the understanding and development of the space frontiers require a broad commitment and an intense involvement on the part of the Federal Government in partnership with State and local governments, private industry, universities, organizations, and individuals concerned with the exploration and utilization of space;

(4) the National Aeronautics and Space Administration, through the national space grant college and fellowship program, offers the most suitable means for such commitment and involvement through the promo-

tion of activities that will result in greater understanding, assessment, development, and utilization; and

(5) Federal support of the establishment, development, and operation of programs and projects by space grant colleges, space grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

SEC. 203. The purposes of this title are to—

(1) increase the understanding, assessment, development, and utilization of space resources by promoting a strong educational base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques;

(2) utilize the abilities and talents of the universities of the Nation to support and contribute to the exploration and development of the resources and opportunities afforded by the space environment;

(3) encourage and support the existence of interdisciplinary and multidisciplinary programs of space research within the university community of the Nation, to engage in integrated activities of training, research and public service, to have cooperative programs with industry, and to be coordinated with the overall program of the National Aeronautics and Space Administration;

(4) encourge and support the existence of consortia, made up of university and industry members, to advance the exploration and development of space resources in cases in which national objectives can be better fulfilled than through the programs of single universities;

(5) encourage and support Federal funding for graduate fellowships in fields related to space; and

(6) support activities in colleges and universities generally for the purpose of creating and operating a network of institutional programs that will enhance achievements resulting from efforts under this title.

SEC. 204. As used in this title, the term—

(1) "Administration" means the National Aeronautics and Space Administration;

(2) "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(3) "aeronautical and space activities" has the meaning given to such term in section 103(1) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2452(1));

(4) "field related to space" means any academic discipline or field of study (including the physical, natural, and biological sciences, and engineering, space technology, education, economics, sociology, communications, planning, law, international affairs, and public administration) which is concerned with or likely to improve the understanding, assessment, development, and utilization of space;

(5) "panel" means the space grant review panel established pursuant to section 210 of this title;

(6) "person" means any individual, any public or private corporation, partnership, or other association or entity (including any space grant college, space grant regional consortium, institution of higher education, institute, or laboratory), or any State, political subdivision of a State, or agency or officer of a State or political subdivision of a State;

(7) "space environment" means the environment beyond the sensible atmosphere of the Earth;

(8) "space grant college" means any public or private institution of higher education which is designated as such by the Administrator pursuant to section 208 of this title;

(9) "space grant program" means any program which—

(A) is administered by any space grant college, space grant regional consortium, institution of higher education, institute, laboratory, or State or local agency; and

(B) includes two or more projects involving education and one or more of the following activities in the fields related to space—

(i) research,

(ii) training, or

(iii) advisory services,

(10) "space grant regional consortium" means any association or other alliance which is designated as such by the Administrator pursuant to section 208 of this title;

(11) "space resource" means any tangible or intangible benefit which can only be realized from—

(A) aeronautical and space activities; or

(B) advancements in any field related to space; and

(12) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

SEC. 205. (a) The Administrator shall establish and maintain, within the Administration, a program to be known as the national space grant college and fellowship program. The national space grant college and fellowship program shall consist of the financial assistance and other activities provided for in this title. The Administrator shall establish long-range planning guidelines and priorities, and adequately evaluate the program.

(b) Within the Administration, the program shall—

(1) apply the long-range planning guidelines and the priorities established by the Administrator under subsection (a) of this section;

(2) advise the Administrator with respect to the expertise and capabilities which are available through the national space grant college and fellowship program, and make such expertise available to the Administration as directed by the Administrator;

(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 206 and 207 of this title to assure that the purposes set forth in section 203 of this title are implemented;

(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national space grant college and fellowship program, on a cooperative or other basis;

(5) encourage cooperation and coordination with other Federal programs concerned with the development of space resources and fields related to space;

(6) advise the Administrator on the designation of recipients supported by the national grant college and fellowship program and, in appropriate cases, on the termination or suspension of any such designation; and

(7) encourage the formation and growth of space grant and fellowship programs.

(c) To carry out the provisions of this title, the Administrator may—

(1) accept conditional or unconditional gifts or donations of services, money, or property, real, personal or mixed, tangible or intangible;

(2) accept and use funds from other Federal departments, agencies, and instrumentalities to pay for fellowships, grants, contracts, and other transactions; and

(3) issue such rules and regulations as may be necessary and appropriate.

SEC. 206. (a) The Administrator may make grants and enter into contracts or other transactions under this subsection to assist any space grant and fellowship program or project if the Administrator finds that such program or project will carry out the purposes set forth in section 203 of this title. The title amount paid pursuant to any such grant or contract may equal 66 percent, or any lesser percent, of the total cost of the space grant and fellowship program or project involved, except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Administrator pursuant to section 205(c)(2) of this title.

(b) The Administrator may make special grants under this subsection to carry out the purposes set forth in section 203 of this title. The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection, unless the Administrator finds that—

(1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a) of this section;

(2) the probable benefit of such project outweighs the public interest in such matching requirement; and

(3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a) of this section or section 207 of this title.

(c) Any person may apply to the Administrator for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe.

(d)(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2) and (3) of this subsection and to such other terms, conditions and requirements as the Administrator considers necessary or appropriate.

(2) No payment under any grant or contract under this section may be applied to—

(A) the purchase of any land;

(B) the purchase, construction, preservation, or repair of any building; or

(C) the purchase or construction of any launch facility or launch vehicle.

(3) Notwithstanding paragraph (2) of this subsection, the items in subparagraphs (A), (B), and (C) of such paragraph may be leased upon written approval of the Administrator.

(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Administrator shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for three years after the completion of such a program or project. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers and records of receipts

which, in the opinion of the Administrator or the Comptroller General, may be related or pertinent to such grants and contracts.

SEC. 207. (a) The Administrator shall identify specific national needs and problems relating to space. The Administrator may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved.

(b) Any person may apply to the Administrator for a grant or contract under this section. In addition, the Administrator may invite applications with respect to specific national needs or problems identified under subsection (a) of this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 206(d)(2) and (4) of this title and to such other terms, conditions, and requirements as the Administrator considers necessary or appropriate.

SEC. 208. (a)(1) The Administrator may designate—

(A) any institution of higher education as a space grant college; and

(B) any association or other alliance of two or more persons, other than individuals, as a space grant regional consortium.

(2) No institution of higher education may be designated as a space grant college, unless the Administrator finds that such institution—

(A) is maintaining a balanced program of research, education, training, and advisory services in fields related to space;

(B) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(C) meets such other qualifications as the Administrator considers necessary or appropriate.

(3) No association or other alliance of two or more persons may be designated as a space grant regional consortium, unless the Administrator finds that such association or alliance—

(A) is established for the purpose of sharing expertise, research, educational facilities or training facilities, and other capabilities in order to facilitate research, education, training, and advisory services, in any field related to space;

(B) will encourage and follow a regional approach to solving problems or meeting needs relating to space, in cooperation with appropriate space grant colleges, space grant programs, and other persons in the region;

(C) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(D) meets such other qualifications as the Administrator considers necessary or appropriate. (b) The Administrator shall by regulation prescribe—

(1) the qualifications required to be met under subsection (a)(2)(C) and (3)(D) of this section; and

(2) guidelines relating to the activities and responsibilities of space grant colleges and space grant regional consortia.

(c) The Administrator may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a) of this section.

SEC. 209. (a) The Administrator shall support a space grant fellowship program to provide educational and training assistance to qualified individuals at the graduate level of education in fields related to space. Such fellowships shall be awarded pursuant to guidelines established by the Administrator. Space grant fellowships shall be awarded to individuals at space grant colleges, space grant regional consortia, other colleges and institutions of higher education, professional associations, and institutes in such a manner as to assure wide geographic and institutional diversity in the pursuit of research under the fellowship program.

(b) The total amount which may be provided for grants under the space grant fellowship program during any fiscal year shall not exceed an amount equal to 50 percent of the total funds appropriated for such year pursuant to this title.

(c) Nothing in this section shall be construed to prohibit the Administrator from sponsoring any research fellowship program, including any special emphasis program, which is established under an authority other than this title.

SEC. 210. (a) The Administrator shall establish an independent committee known as the space grant review panel, which shall not be subject to the provisons of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.; Public Law 92-463).

(b) The panel shall take such steps as may be necessary to review, and shall advise the Administrator with respect to—

(1) applications or proposals for, and performance under, grants and contracts awarded pursuant to sections 206 and 207 of this title;

(2) the space grant fellowship program;

(3) the designation and operation of space grant colleges and space grant regional consortia, and the operation of space grant and fellowship programs;

(4) the formulation and application of the planning guidelines and priorities pursuant to section 205(a) and (b)(1) of this title; and

(5) such other matters as the Administrator refers to the panel for review and advice.

(c) The Administrator shall make available to the panel any information, personnel and administrative services and assistance which is reasonable to carry out the duties of the panel.

(d)(1) The Administrator shall appoint the voting members of the panel. A majority of the voting members shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields related to space. The other voting members shall be individuals who, by reason of knowledge, experience or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning, or any other activity related to efforts to enhance the understanding, assessment, development, or utilization of space resources. The Administrator shall consider the potential conflict of interest of any individual in making appointments to the panel.

(2) The Administrator shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

(3) Voting members of the panel who are not Federal employees shall be rimbursed for actual and reasonable expenses incurred in the performance of such duties.

(4) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Administrator.

(5) The panel may exercise such powers as are reasonably necessary in order to carry out the duties enumerated in subsection (b) of this section.

SEC. 211. Each department, agency or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, matters relating to space—

(1) may, upon a written request from the Administrator, make available, on a reimbursable basis or otherwise, any personnel (with their consent and without prejudice to their position and rating), service, or facility which the Administrator considers necessary to carry out any provision of this title;

(2) may, upon a written request from the Administrator, furnish any available data or other information which the Administrator considers necessary to carry out any provision of this title; and

(3) may cooperate with the Administration.

SEC. 212. (a) The Administrator shall submit to the Congress and the President, not later than January 1, 1989, and not later than February 15 of every odd-numbered year thereafter, a report on the activities of the national space grant and fellowship program.

(b) The Director of the office of Management and Budget and the Director of the Office of Science and Technology Policy in the Executive Office of the President shall have the opportunity to review each report prepared pursuant to subsection (a) of this section. Such Directors may submit, for inclusion in such report, comments and recommendations and an independent evaluation of the national space grant college and fellowship program. Such comments and recommendations shall be submitted to the Administrator not later than 90 days before such a report is submitted pursuant to subsection (a) of this section and the Administrator shall include such comments and recommendations as a separate section in such report.

SEC. 213. The Administrator shall not under this title designate any space grant college or space grant regional consortium or award any fellowship, grant, or contract unless such designation or award is made in accordance with the competitive, merit-based review process employed by the Administration on the date of enactment of this Act.

SEC. 214. (a) There are authorized to be appropriated for the purposes of carrying out the provisions of this title sums not to exceed—

(1) $10,000,000 for each of fiscal years 1988 and 1989; and

(2) $15,000,000 for each of fiscal years 1990 and 1991.

(b) Such sums as may be appropriated under this section shall remain available until expended.

TITLE III—AMENDMENTS TO THE LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984

SEC. 301. This title may be cited as the "Land Remote-Sensing Commercialization Act Amendments of 1987".

SEC. 302. The Congress finds and declares that—

(1) the implementation of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) has begun and some of the major milestones contained in that Act have been met;

(2) Congress remains strongly committed to the guiding principles set forth in that Act;

(3) notwithstanding the accomplishments thus far, the relationships among the involved Federal agencies and the private sector have not yet been adequately defined; and

(4) inasmuch as the technical development and commercial applications of future land remote-sensing systems cannot now be predicted with certainty, it is in the national interest of the United States that the involved Federal agencies and the private sector remain flexible in carrying out their respective responsibilities under that Act.

SEC. 303. It is therefore the purpose of this title to set forth amendments to the Land Remote-Sensing Commercialization Act of 1984 to ensure that—

(1) the original intent of that Act is carried out in the most effective manner consistent with the principles expressed therein;

(2) specific mechanisms for carrying out the original intent of that Act are provided in those cases where none have materialized thus far; and

(3) the working relationships among involved Federal agencies and private sector parties for the purpose of carrying out that Act are fully developed and mutually understood.

SEC. 304. Section 202(a)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4212(a)(4)) is amended by inserting before the semicolon at the end thereof the following: ", except in the case of research and development activities conducted in accordance with section 504".

SEC. 305. Title III of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4221 et seq.) is amended by adding at the end thereof the following new section:

"DISPOSITION OF GOVERNMENT ASSETS

"SEC 308. Following the completion of a contract made pursuant to this title, the Secretary may, upon 30 days advance notice to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives, dispose of assets (other than real property) under the control of the Secretary in a manner which best ensures the continuation of the contractor's commercial activity.".

SEC. 306. Section 502 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4262) is amended to read as follows:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF FEDERAL AGENCIES

"SEC. 502. Each Federal agency is authorized and encouraged to provide data gathered in experimental remotesensing space programs to related research and development programs funded by the Federal Government (including application programs) and to cooperative research programs if the Federal agency involved determines that the data will not be used—

"(1) for any commercial purpose, or

"(2) in substantial competition with data available from a licensee under this Act,

except pursuant to section 503.".

SEC. 307. Title V of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4261 et seq.) is amended by adding at the end thereof the following new section:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF SYSTEM OPERATORS

"SEC. 504. Notwithstanding section 601, any system operator under title II, III, or IV of this Act, or any marketing entity under section 503 of this Act, may provide data for any research and development programs if—

"(1) a complete and timely disclosure of the results of such research and development is made in the open technical literature or is otherwise made publicly available;

"(2) the system operator or marketing entity provides to the Secretary an annual report of all research and development data transactions including the nature of any cooperative agreements and the prices charged for data; and

"(3) the data are not used for commercial purposes or in substantial competition with data available from a licensee under this Act.".

SEC. 308. Section 603 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4273) is amended to read as follows:

"NONREPRODUCTION

"SEC. 603. In addition to such other terms and conditions as the system operator may set forth in compliance with section 601 of this Act, the system operator may require that unenhanced data not be reproduced or disseminated by any foreign or domestic purchaser.".

Mr. ROE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from New Jersey for an explanation.

Mr. ROE. Mr. Speaker, I thank the gentleman from New Mexico for yielding.

Mr. Speaker, the amendment which I am offering today to the Senate passed House bill has been cleared with our counterpart committee in the other body.

Like H.R. 2782, which was overwhelmingly passed by the House on July 9, this version of the bill contains full funding to initiate development of the space station, and to continue the space shuttle accident recovery effort. It also retains many of the principal features of the House-passed bill.

Our agreement with the Senate will maintain a vigorous space science program—including such projects as the advanced communications technology satellite, and the Mars observer—an active aeronautics program; and an enhanced basic research program.

Finally, the amendment I am offering will authorize the purchase of expendable launch vehicles that will be needed to support future space science initiatives. This was an important new initiative moving toward a mixed fleet recommended by the Committee on Science, Space, and Technology following the *Challenger* accident.

In aggregate, this bill authorizes $9,573,800,000 for the National Aeronautics and Space Administration for fiscal year 1988. This funding level, I believe, strikes a reasonable balance between the funding priorities that were contained in the original House and Senate passed bills.

I am including with my remarks a chart which outlines all of the specific funding changes that have been made in the bill.

I would now like to mention some of the key language differences that are contained in this bill as compared to the original House-passed version of H.R. 2782. They can be summarized as follows:

We have accepted the Senate's language with regard to NASA's reprogramming authority. Significant revisions to this authority have been deferred so that the House and Senate committees can work with NASA to update and revise the language that it will propose using in the future;

We have accepted the Senate's use of language from the Outer Space Treaty concerning the civilian nature of the space station; the station will be reserved for peaceful uses, and forbidden to be used to place nuclear weapons or other weapons of mass destruction into orbit;

We have deleted the requirement for a joint NASA/DOD 5-year funding plan;

We have revised the "Buy America" provisions of the bill to ensure consistency with established laws;

We have accepted the Senate's use of language from last year's House- and Senate-passed bill that would permit NASA to accept donations for the construction of a space shuttle orbiter;

We have strengthened the language that directs the NASA Administrator to develop an advanced solid rocket motor;

We have deleted the language that detailed NASA procedures for selecting new astronauts;

We have accepted the Senate's technical language to facilitate NASA's purchase of launch services for Government payloads;

We have accepted some minor Senate revisions to clarify our long-term guidance concerning the funding and operation of the space station;

We have accepted the Senate's language calling for NASA to institute a system of "space grant colleges;"

We have accepted amendments to the Land Remote Sensing Commercialization Act that were included in last year's House and Senate bill—and in fact, originated in the Committee on Science, Space, and Technology;

We have removed the requirement that the Department of Transportation report to us any agreements involving the commerical use of Government launch facilities. We are following these activities in the executive branch and are pleased with the progress made in this area.

In summary, Mr. Speaker, I believe that we have crafted an amendment that is balanced, fair, and workable. I also believe that the passage of this bill will be an important step in helping NASA to get the civil space program back in order. Therefore, Mr. Speaker, I strongly recommend that all of my colleagues on both sides of the aisle support this amendment.

NASA FY 1988 SPREAD SHEET

[In millions of dollars]

Program	FY 1987 current estimate	FY 1988 request	H.R. 2782 passed	Senate amendment to H.R. 2782	Budget amendment	Compromise	Notes
Total: NASA budget	10,534.0	9,481.0	9,522.0	9,621.0	9,509.0	9,573.8	
Research and Development:							
Space Station	420.0	767.0	767.0	767.0		767.0	
Space Trans. Cap. Development	495.5	568.6	538.6	592.6		553.6	1
Space Science and Applications	1,552.6	1,508.3	1,598.3	1,625.1		1,628.1	
Physics & Astronomy	552.3	567.1	577.1	591.8		581.8	2
Life Sciences	72.2	74.6	74.6	74.6		74.6	
Planetary Exploration	358.4	307.3	342.3	307.3		320.3	3
Space Applications	569.7	559.3	604.3	651.4		651.4	4
Commercial Programs	41.3	54.0	49.0	49.0		49.0	
Technology Utilization	15.7	18.3	18.3	18.3		18.3	
Commercial Use of Space	25.6	35.7	30.7	30.7		30.7	
Aeronautics & Space Tech	592.0	691.0	715.0	653.0		687.0	
Aeron. Res. & Tech	376.0	375.0	399.0	375.0		387.0	5
Transatmospheric Res. & Tech	45.0	66.0	66.0	66.0		66.0	
Space Research & Technology	171.0	250.0	250.0	212.0		234.0	6
Safety Reliability & Quality Assurance	9.2	16.2	16.2	16.2		16.2	
Tracking & Data Advanced Systems	17.1	18.1	13.1	18.1		18.1	
Total Research & Development	3,127.7	3,623.2	3,697.2	3,721.0		3,719.0	
Space Flight, Control, & Data Com.:							
Space Shuttle Prod. & Cap. Dev	1,005.1	1,229.6	1,174.6	1,150.6		1,174.6	
Orbiter & Oper. Capability	373.0	403.2	348.2	324.2		348.2	
Launch & Mission Support	148.2	249.3	249.3	249.3		249.3	
Propulsion Systems	463.9	552.1	552.1	552.1		552.1	
Changes & Systems Upgrading	20.0	25.0	25.0	25.0		25.0	
Replacement Orbiter	2,100.0	0	0	0		0	
Space Transportation Operations	1,847.0	1,885.8	1,885.8	1,885.8		1,885.8	
Flight operations	557.7	561.1	561.1	561.1		561.1	
Flight hardware	936.0	923.1	923.1	923.1		923.1	
Launch and landing oper	353.3	401.6	401.6	401.6		401.6	
Expendable Launch Vehicle Oper	0	0	60.0	100.0	28.0	60.0	
Space & Ground Network, Com. & Data Systems	862.9	948.9	913.9	944.9		924.9	
Space Network	407.3	481.5	446.5	481.5		461.5	8
Ground Network	250.1	257.1	257.1	257.1		253.1	9
Com. & Data Systems	205.5	210.3	210.3	206.3		210.3	
Total Space Fl. Con. & Data Com.	5,815.0	4,064.3	4,034.3	4,081.3		4,045.3	
Construction of Facilities	166.3	195.5	185.5	210.7		216.5	10
Research & Program Management	1,425.0	1,598.0	1,605.0	1,608.0		1,593.0	11

Notes to accompany NASA FY 1988 spread sheet: The amendment makes the following changes relative to the funding levels contained in H.R. 2782 passed by the House on July 9, 1987.

1. $15,000,000 is restored to the development of the Orbital Maneuvering Vehicle (OMV) bringing the total amount for OMV to $75,000,000.
2. Funding for suborbital programs is increased by $4,700,000 bringing the total to $80,400,000 for this program.
3. Funding for Mars Observer is reduced from a level of $64,300,000 to $42,300,000 in FY 1988 to be augmented by $22,000,000 in FY 1987 funds in accordance with Sec. 101(e).
4. A total of $47,100,000 is added to the Space Applications budget of which $39,000,000 is for the Advanced Communications Technology Satellite, $4,100,000 for the augmentation of microgravity research and $4,000,000 for Solid Earth Observations.
5. The Aeronautical Research and Technology funding is reduced by $12,000,000 but remains a total of $12,000,000 greater than the Administration's request. The additional $12,000,000 is to be applied as follows: $2,000,000 to augment the engine hot section work under the Advanced High Temperature Engine Materials Systems Technology program and $10,000,000 to be applied to basic research in aerodynamics, propulsion, materials and structures, and controls and guidance.
6. The Civil Space Technology Initiative funding was reduced by $16,000,000 which will be offset by funding provided by the Department of Defense in support of the Advanced Launch System.
7. $5,000,000 is restored to the Tracking and Data Advanced Systems program.
8. $15,000,000 is restored to the TDRS replacement program within the Space Network line bringing the total TDRS replacement funding to $56,000,000.
9. The amendment reflects the Senate's reduction of $4,000,000 in the Ground Network Tracking budget.
10. Funding for Wind Tunnel Repair is increased by $31,000,000 to provide $41,000,000 for the repair and refurbishment of the Ames Wind Tunnel Facility.
11. Research and Program Management is decreased by $12,000,000 for a total authorization of $1,593,000,000. This amount includes those funds authorized in Title II of the bill for the Space Grant College program and the authorization contained in the original House passed Bill for an additional 175 aeronautical research positions. The amendment also provides for a general reduction of $15,000,000 due to savings realized from the implementation of the Federal Employees Retirement System.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I would like to make a few observations and comments on this legislation.

I commend the gentleman from New Jersey for his perseverance in getting this bill to the floor. This is an important piece of legislation which we all want to see enacted. However, I must be candid and express my disappointment that we found it necessary to drop a number of very important provisions in our bill in order to accommodate the other body. It is my personal view that in so doing we have compromised our oversight role in a number of critical areas.

Mr. Speaker, as you recall, we in Congress received considerable criticism after the *Challenger* tragedy because of our failure to provide adequate oversight. We have all been guilty of accepting on faith whatever NASA told us—not only Congress, but the media and the public as well. It is true that the activities of the agency have come under more scrutiny this past year, but it is also true that the committee's concerns are often ignored.

The bill that the House passed by an overwhelming margin earlier this year was a responsible effort to address this problem. Unfortunately, in our desire to get an agreement with the Senate we have forfeited nearly all of the language that would have required NASA to be responsive to our concerns.

It is especially disappointing to me that the provision in the bill addressing the serious inequities in the astronaut selection process has been deleted. Since the House passed their bill I have received substantial additional evidence that the problem is indeed a very serious one that deserves our attention.

At this time I ask the gentleman from New Jersey to join me in a colloquy.

Mr. ROE. I will be glad to engage in a colloquy with the gentleman.

Mr. LUJAN. Mr. Speaker, I recognize that we dropped section 111 which I authored, concerning the selection of astronauts, from the final version of this bill because it was more appropriate to address this issue as an administrative matter rather than including it in public law. However, to ensure that our legislative intent is clearly established, will the chairman of the committee agree with me that it is the intent of the House and the Committee on Science, Space, and Technology that the reports required in section 111 of the House-passed bill will still be required?

Mr. ROE. If the gentleman will yield, Mr. Speaker, I agree with the gentleman from New Mexico, and it is certainly our intent to follow up on this matter.

Mr. LUJAN. Would the committee chairman further agree to hold hearings next year to review the current astronaut selection process and the results of the mission specialist selections that have been made to date?

Mr. ROE. I will be happy to hold hearings for this purpose.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. Mr. Speaker, I thank the gentleman from New Mexico for yielding.

Mr. Speaker, I rise in strong support of the amendment being offered today to H.R. 2782, the National Aeronautics and Space Administration Act of 1988. The House voted overwhelmingly to pass this authorization on July 9 of this year. This amendment is the result of long and detailed discussions with our counterpart committee in the other body, and represents a strong, and fully supportable space program for the fiscal year which began just 1 week ago.

We have reached an agreement on funding which balances the needs to return the space shuttle to flight in less than 8 months from today, the start of full scale development of the space station, and the need to maintain a strong and vigorous space science program.

As a major proponent of commercialization of space activities, I am glad to report to the House that this bill takes a major stride in that direction. We have agreed to provide NASA with the authorization to procure commercial launch services, if they are available, for four NASA launches on expendable launch vehicles. These include the Roentgen satellite, [Rosat], in 1990; a tracking and data relay satellite [TDRS-F], or a planetary mission; the extreme ultraviolet explorer [EUVE], in 1991; and the Mars observer in 1992.

I am also glad to report that section 311 provides the authorization for NASA to enter into multiyear contracts for expendable launch vehicle services. Mr. Speaker, these provisions will do much to move the United States back into the forefront of international space leadership.

Finally, Mr. Speaker, let me say that we are strongly supporting the development of the national aerospace plane, also known as the Orient Express, which is making tremendous progress.

Mr. Speaker, this compromise with the other body is a strong, well crafted piece of legislation that deserves the full support of the House. I urge its adoption.

Mr. Speaker, if the gentleman would yield further, I would like if I could to engage the gentleman from New Jersey [Mr. Roe], the chairman of the committee, in a colloquy with regard to a particular section of the bill.

Would the gentleman from New Jersey be willing to talk to me here for a moment about section 207?

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, I am happy to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, I say to the gentleman, by all means.

Mr. WALKER. I thank the chairman, and note that the required plan outlining the cost and development of the space station, which was in the House-passed bill in section 207, no longer contains a requirement to include an analysis of the report of the Office of Technology Assessment entitled "Civilian Space Stations and the United States Future in Space" and an examination of alternatives including, but not limited to, low cost alternatives. I would ask the chairman if the absense of that requirement is intended to relieve NASA of the responsibility for doing that analysis?

Mr. ROE. I would assure the gentleman from Pennsylvania, the author of the language in question, that in attempting to simplify the statutory language the title of the study done by the Office of Technology Assessment study was dropped, but it was not the intention of this chairman that the requirement endorsed by both the committee, and the House, that NASA would be relieved of the requirement to provide the Committee on Science, Space, and Technology with a full and responsive analysis of the OTA study.

Mr. WALKER. I thank my chairman for that assurance, and I urge the House to support this bill.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida [Mr. Nelson].

Mr. NELSON of Florida. Mr. Speaker, I thank the gentleman from New Mexico for yielding.

Mr. Speaker, I take this opportunity to urge our colleagues to support this NASA authorization bill and to thank the gentleman from New Jersey [Mr. Roe], the chairman of the full committee, the gentleman from New Mexico [Mr. Lujan], our ranking member, and especially the gentleman from Pennsylvania [Mr. Walker], the gentleman that I had the privilege of working with as our ranking member on the Subcommittee on Space Science and Applications. This has been a long process of working out a lot of details. We started this in our hearings that started last February and over the course of that time coming to the floor with an extraordinarily large margin of support coming out of this body, and then working out these few details with the other body, the Senate, to produce this document today. The import of this document is that the Nation needs to be back in space. It is important that we pull together our program and that in the process of getting us flying again with the space shuttle that we become visionary as we look to the future of what this Nation needs and expects beyond the space station in the decade of the 1990's into the next century.

This document, this NASA authorization bill, provides that foundation from which to launch.

Mr. Speaker, there is so much more to be done. It is going to be the privilege of our subcommittee to launch into this with hearings in trying to help suggest ways as we chart the course of the future of this Nation's Space Program.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have no comments on the bill. I have great confidence in the members of this committee because I have trusted them in the past, and I have every reason to believe that my confidence has been well placed.

I do want to, however, serve notice on the Speaker and the majority that it has been my custom and the custom of our other Members of this body to request votes when we are authorizing vast expenditures of the taxpayers' money or appropriating expenditures. This bill authorizes just short of $10 billion and it is the kind of thing that I would normally call for a vote on because I think it is important that we be recorded whenever large sums of taxpayers' money are involved.

Mr. Speaker, I am not going to do that in this case, but I would like people to be on record that when the leadership of this House sends the Members home with a general amnesty and a promise that there will be no votes, then there should not be important legislation of vital substantive interest to the country and to the Members of this House taken up in this way.

I am not going to ask for a vote this morning, Mr. Speaker, because of my confidence in the gentleman from New Jersey [Mr. Roe], the chairman of the committee, and the members of the committee, but I do want to be sure the House is on notice.

Mr. Speaker, I thank the gentleman for yielding.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I might tell the gentleman from Minnesota [Mr. Frenzel], that this is just a little bit different because we had voted on this bill before, and the House is on record on this bill.

This is just what we have been able to work out in the compromise.

Mr. FRENZEL. Mr. Speaker, if the gentleman will continue to yield, I understand that.

□ 1030

The bill is a little more expensive than when it left the House. Some of the things that were in the House bill have been removed. Some things in the bill of the other body have been put into the bill.

I want to tell the gentleman, and all of the Members, that when we are voting on sums of money this large, I am normally going to ask for a vote; but because of the magnificent behavior on the part of the gentleman from New Mexico, and the members of the committee, I shall not do so this morning.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. Torricelli].

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I too would like to congratulate the gentleman from New Jersey [Mr. Roe], the chairman, and the gentleman from New Mexico [Mr. Lujan], the ranking member, for their leadership and diligent efforts in addressing a most difficult problem; and that is, Mr. Speaker, that after the loss of the space shuttle *Challenger*, questions arose over the safety and efficiency and costs of operation of the solid rocket motor program.

I appreciate the diligent work you and the ranking Republican member of the committee lent to the solid rocket motor section of this bill. It is important because it could result in a new generation of more reliable solid rocket motors for the shuttle and the provision may, for the first time, introduce competition into what has been a sole source NASA contract for 14 years.

As the gentleman knows, Mr. Speaker, I have been vitally concerned as to what may occur if the new motor, the advanced solid rocket motor, or ASRM, does not become a reality.

While the amendment clearly addresses the need for NASA to study the feasibility of a dual source of production for the ASRM, if there is no ASRM and the Administrator decides to recompete the current contract instead of selecting a second source of production, we'll be right back where we are now—with a monopoly.

I know members of the committee are concerned that a second source of supply, with the declining number of projected shuttle flights, could cost the taxpayers more rather than improve the economies of shuttle flight. Since there is more than a year before any of the solid rocket motor decisions required by this bill have to be made, would the chairman and ranking Republican member agree to request that GAO thoroughly investigate whether on the basis of cost and safety a second source should be the favored alternative if the ASRM does not advance?

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. Roe], the chairman of the committee.

Mr. ROE. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman knows, the entire trust of the language is to advance the prospects for an advanced solid rocket motor. I believe that second sourcing of a redesigned motor could enhance safety and quality and reduce the costs of the solid rocket program. I will request a GAO study to determine the cost and safety benefits, if any, of contracting two sources of supply for the redesigned solid rocket motors if the favored alternative, the ASRM, does not advance. The GAO study will help serve as a basis for evaluating any further NASA decisions to procure redesigned motors not now under contract.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, both sides of the aisle recognize the potential benefits of contracting two sources of production for the shuttle's solid rocket motors. We recognize the quality enhancements and the cost savings that dual sourcing has brought to several military programs. Since the committee realizes that the scale of NASA's solid rocket motor program may further encourage second sourcing, I will join the chairman in requesting the GAO study.

Mr. TORRICELLI. Mr. Speaker, if the gentleman will continue to yield, if the ASRM plan is not implemented, and NASA must develop a procurement plan for the redesigned solid rocket motor [RSRM], is it your expectation that NASA must thoroughly and accurately justify its cost assumptions to Congress?

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I thank the gentleman for yielding.

If NASA finds that it must purchase redesigned motors beyond those now under contract, the committee expects that NASA will transmit to it a full and accurate summary of the cost assumptions that led to its decision.

Mr. TORRICELLI. Is it your expectation that in order to come to an accurate understanding of the costs of single sourcing and second sourcing the RSRM, NASA must first receive cost proposals for the redesigned motor from the Nation's solid rocket motor producers?

Mr. ROE. Yes. The committee recognizes that NASA has never received proposals from the Nation's solid rocket producers to build the RSRM. If NASA is to accurately consider these potential costs, it must first solicit reliable cost information from potential bidders.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I further yield to the gentleman from New Jersey [Mr. Torricelli].

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for again yielding.

Finally, if I could then, many of the Members have been frustrated by the fact that through the years, there have been assumptions about the possibility of a contribution by other contractors; but in fact they have never been asked, and I wondered if we could in fact agree that if it becomes necessary to consider a single additional or second source, whether NASA should first receive cost proposals for a redesigned motor from a variety of the Nation's solid rocket producers.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. Roe].

Mr. ROE. I thank the gentleman for yielding.

The committee recognizes that NASA has never received proposals from the Nation's solid rocket producers to build the RSRM. If NASA is to accurately consider these potential costs, it must first solicit reliable cost information from potential bidders.

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman from New Jersey [Mr. Roe], the chairman of the committee, for his responses, and more than that, I thank gentleman from New Mexico [Mr. Lujan], the ranking member, for the gentleman's contribution.

Mr. LEWIS of Florida. Mr. Speaker, I rise in support of the amendment to H.R. 2782, the National Aeronautics and Space Administration Authorization Act of 1988. I am especially pleased to support the aeronautics portion in this amendment.

Included is $41 million for the repair and modernization of the 12-foot pressure wind tunnel at the NASA Ames Research Center. The original version that passed the House provided only $10 million for the project. The 41-year-old wind tunnel was recently found to have a 140-inch long crack that penetrated 80 percent of the thickness of the steel wall. The total cost of repair to this facility may be over $60 million.

The importance of this one facility to the U.S. aeronautics industry is enormous. Virtually every class of U.S. airplane flying today was tested at the facility. Moreover, without the wind tunnel, testing can only be conducted in other countries.

The managers of the amendment to H.R. 2782 for the House, Mr. ROE, Mr. MCCURDY, and Mr. LUJAN, are to be commended for providing long-term solutions to real problems rather than using a band-aid approach.

NASA provides national leadership in aeronautical resarch and technology and national aeronautical facilities. This leadership has contributed to the aerospace trade surplus of $11.8 billion in 1986, which was the highest of all U.S. export sectors.

If we are to maintain our world leadership in aeronautics, we cannot delay the repair and restoration of this wind tunnel and other NASA facilities. Our international competitiveness in the aeronautics industry will benefit from this legislation that is before the House.

Many of the NASA space programs have been strengthened by this amendment. I urge my colleagues to support this legislation.

Mr. LUJAN. Mr. Speaker, we have covered the waterfront, as far as this legislation is concerned; and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. DANIEL). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

SUPREME COURT NOMINATION PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN of Missouri. Mr. Speaker, like most Americans, I am shocked and saddened by the blatant political lobbying that has characterized the Bork nomination. While such activity is not prohibited, it has never been an accepted part of the confirmation process; it has degraded the independent stature of the Supreme Court.

The American people and the Senators who cast the deciding votes have the right to know who is sponsoring powerful campaigns to support or defeat a nominee to the Nation's Highest Court. That is why I have introduced legislation that will require individuals and organizations lobbying for or against Supreme Court nominees to file Federal financial disclosure forms. Failure to disclose under the bill would carry severe penalties.

If individuals or groups are spending millions of dollars to influence the outcome of a Supreme Court nomination, we should know who they are. There must be some accountability for those funds. That is the purpose of this bill.

Specifically:

Individuals and organizations receiving or expending $5,000 or more to support or defeat Senate confirmation of a Supreme Court nominee will be required to file reports with the Clerk of the House of Representatives.

Filed reports must be itemized listing each individual contribution of $100 or more.

Financial disclosure reports must be filed within days of reaching the $5,000 level. Subsequent reporting is required to follow any additional contributions or expenditures of $5,000 or more.

Anyone who violates these reporting requirements will be charged with a misdemeanor and fined up to $5,000, imprisoned for up to one year, or both.

Repeat offenders will be fined up to $10,000, imprisoned for up to five years, or both.

The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) would provide the framework for the enforcement of this bill, including penalties for violations.

It has been reported that at least 200 groups have been campaigning for or against Judge Bork's confirmation. Under the terms of this bill, the public and the Senate will know precisely who these groups are and where they get their money to wage million dollar public relations campaigns.

Campaign-like activities surrounding the Bork nomination have set a dangerous precedent that goes to the heart of our constitutional government: the independence of the judiciary branch.

The confirmation procedure was never intended, under the Constitution, to be an elective process. I am hopeful my bill will help contain the alarming popularity-styled confirmation process we are witnessing.

GENERAL LEAVE

Mr. COLEMAN of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the amendments to H.R. 2782, the bill considered earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GAY RIGHTS WEEKEND IN WASHINGTON, DC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK. Mr. Speaker, this weekend a very large number of our fellow and sister citizens will be coming to Washington to lobby the Members of Congress, those few Members that they can find in town this weekend, but they will have left behind the staffs which do so much of the work and are available for this sort of thing.

A very large number of men and women will be coming to Washington to express their support for the broad set of issues that is covered by the title "Gay Rights."

A large number, not all, but a very large number, will be themselves lesbians and gay men who have experienced, to some degree, discrimination in this society, and who will be acting in the finest traditions of American democracy.

They will be coming to the seat of government and petitioning their representatives for redress of grievances. The grievances are several.

As in other areas where we have confronted prejudice in this society, I think we have seen substantial improvement in recent years. The prejudices that have existed in this society based on race have substantially eroded, although they remain a fairly big obstacle in some areas.

The prejudices based on sex are also less virulent than they used to be, but have not completely disappeared.

The prejudices against lesbians and gay men are less in my judgment than they were, but they are still far higher than they ought to be, because there ought to be in this society no prejudice whatsoever.

The fundamental request that is being made by people this weekend is one that everyone in this country ought to agree to. The people are asking for the right to be judged by others on their behavior, their qualifications, their own individual merit.

They are asking not to be prejudged, because some individuals do not approve of some aspects of their lives which are relevant to them and them only.

People are asking for the freedom from discrimination and the freedom to act that most Americans take for granted.

There are several aspects of this. There is legislation that would ban discrimination based on sexual orientation in housing and employment. One of the main sponsors of that bill, the gentleman from New York, is here today and will be joining me in this special order.

There is a proposal to repeal a very offensive part of our law in the immigration law which would ban visiting in this country, many people who visit regularly, on their sexual orientation. There is a terrible problem of AIDS. There is a great deal of understandable resentment at the very slow Federal response of this crisis which has taken the lives of so many, and which threatens the whole range of society, but has had in its initial stages an unfortunate impact on gay men.

There is always a concern that this disease not be used as an excuse by those who would further prejudice.

With regard to AIDS, the general thrust of the requests made this weekend will be that we as a Congress follow what the medical profession on the whole thinks wise.

Mr. Koop may have a few years ago struck some as an unlikely hero for the marchers who will gather in Washington this weekend; but by his integrity, the Surgeon General by his commitment to sensible medically driven responses to the AIDS crisis, he has become to a lot of people a symbol of how you do your job right, even in the face of rightwing pressures that have undercut his ability to do that in this administration.

So, along with many of my colleagues, I want to welcome our fellow and sister citizens, gay men and lesbians, to Washington this weekend. Not everyone will agree with all of the specific requests, demands, and proposals being made. Not everyone will agree with all of the specific tactical decisions that are made.

□ 1045

That is very much in the American tradition. When a large number of people come together to make political requests, you do not get unanimity if you are in a genuinely democratic society. Unanimity is something we leave to oppressed rigid totalitarian societies. In this country, diversity of opinion is one of the things we treasure, but there is a common thread and the common thread is that the prejudice that exists against people based on their sexual orientation, the prejudice that exists against people because of purely private aspects of their lives, is illegitimate in this society and to the extent that the Federal Government can act against that prejudice in continuation of our efforts to live out the ideals of this Constitution, we ought to do it. I think it is entirely appropriate that this march take place on the 200th anniversary of the Constitution.

Mr. Speaker, at this point I would like to yield to my colleague and neighbor, the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

I would like to take this opportunity to commend the gentleman for taking this time, and for his own integrity and courage. It is refreshing to hear my colleague from Massachusetts speak as slowly for once and with such obvious feeling. Even the Speaker pro tempore from the distinguished State of Virginia has been able to understand him in the last few moments and I think there is something to be said for that.

I also commend the gentleman for placing in the context of American political history the march and demonstration which will occur this weekend in Washington, DC. There have been a great many marches here, Mr. Speaker. I think many of us, certainly this Member of the House, began our political careers and had our political energies ignited in the first instance by the great marches and the movements of the sixties, the civil rights movement in the sixties, certainly the marches and the effort to bring to an end the tragic war in Southeast Asia.

I first marched myself in Washington in 1963 with Martin Luther King for civil rights. I marched again with Martin Luther King from Selma to Montgomery in 1965. I marched two more times, Mr. Speaker, on this city in the sixties in the great demonstrations against our involvement in the war in Vietnam. I marched in 1967. I marched again in 1969.

An extraordinary thing happened to me a few years later. I was elected to this body and normally one ceases to march upon one's self at a time like that. There was another great march in the late 1970's, Mr. Speaker. It was the first, and until this weekend the only march for lesbian and gay rights in the fall of 1979 in Washington. Having joined so many of the major efforts on behalf of my black brothers and sisters and people of color in the sixties, I did not, I was unable to bring myself to join the march in 1979 for my own civil rights. The closest thing I could come to an act of courage at the time was to alter my routine jogging path so as to come within sight of the march as it came down the mall in 1979.

This weekend, Mr. Speaker, I shall be in this march, along with hundreds—we do not know how many, but certainly hundreds and hundreds of thousands of our fellow Americans.

I would like to join my colleague from Massachusetts in welcoming the men and women from I suspect every State in this country, virtually every city of this country, who will be here in unprecedented numbers to do something which first of all, as the gentleman pointed out, is in the mainstream, well within the American political tradition, which is to petition their government for redress of grievances.

Second and sadly, to do something which they ought not to have to do at all, which is to request as American citizens their fundamental civil rights.

Mr. Speaker, this is a city where much is spoken and all too often little is said, where English has not been spoken in many places for years, where a great many people like to refer to themselves as conservatives, which is further proof of the inadequacies of the language these days here; but let me submit, Mr. Speaker, to my colleagues that there is no more fundamentally conservative proposition in this land than the contention that all Americans ought to be guaranteed fundamental civil liberties and civil rights. That ought to be so fundamental as to be not subject to debate, and yet we are still in this country debating the equal rights amendment, whether or not to extend the protections of the Constitution to people regardless of sex, and those who would argue that that amendment is not necessary because the Constitution already guarantees those rights need look no further than Judge Bork, the great living incarnation of the argument for the ERA, who explicitly says that in his judgment the Constitution does not mean to extend those rights to women, because women did not enjoy them a century ago when the fundamental amendments were drafted. That same logic, Mr. Speaker, would leave us with involuntary servitude, because many of the men who wrote that Constitution themselves held slaves.

Times change. We change with them and now another category of Americans long denied their fundamental rights are coming to Washington peacefully to assemble and to ask for those rights.

I have a feeling, Mr. Speaker, that if it were possible for Members of this House to vote their hearts and consciences, that there would be very little debate at all. There is no controversy and deep down inside people know. I think it was Mark Twain who said, "Always do right. This will gratify some people and astonish the rest."

There is no about whatsoever what the right thing to do is here, Mr. Speaker. It is my hope that even the President of the United States, one of those many at this time in Washington who like to refer to themselves as conservatives, will grasp the fundamentally conservative nature of what is being requested here.

It is my hope, Mr. Speaker, if the gentleman will yield further for one moment, that this Sunday when hundreds and hundreds of thousands of Americans are gathered on The Mall and are marching toward this Capitol Building, that perhaps the President could look out from the White House across The Mall and realize that what he was seeing in the sea of humanity that he will see on that day is simply a cross section of this country, his country, his America, young and old, black and white and brown and yellow, rich and poor, male and female, gay and straight.

This, Mr. President, is your country and it is asking for something which is your responsibility. Mr. President, which is leadership.

If I had the ear of the President, which as the gentleman knows is not the case, I would ask that he speak to our compassion and our love and not to our ignorance and our hate. I would ask that he call on what is best in us, not pander to what is worst in us. We are better than you think, Mr. President, we as a people, and we are far better certainly than you fear.

Finally I would say, Mr. President, if you must listen to a general, for God's sake listen to your Surgeon General and not to your Attorney General.

If I may quote Dr. Koop, who as the gentleman from Massachusetts said, is perhaps one of the more unlikely heros to some of us this time, Dr. Koop said recently. "I am the Surgeon General of heterosexuals and the homosexuals, of the young and the old, of the moral or the immoral, the married and the unmarried. I don't have the luxury of deciding which side I want to be on."

Finally, Mr. Speaker, may I pay a special tribute to the gentleman from New York, our colleague [Mr. Weiss] who will participate in just a moment. In the march of 1979, which as I indicated earlier I did not participate in, that march was addressed by two Members of this House, the gentleman from New York [Mr. Weiss] and our late and sorely missed colleague, the gentleman from California. Mr. Phillip Burton. I clearly remember, I think I am correct, that the first time there was mention on this floor of the tragedy of AIDS, it was a special order taken by the gentleman from New York [Mr. Weiss] in which I had the honor of participating in 1983. That, too, Mr. Speaker, is a subject which ought not to be a subject of debate here.

Finally, I thank the gentleman from Massachusetts. I commend him and I join with him in welcoming many, many of our fellow citizens. I hope they will not have to make this march again.

Mr. FRANK. Mr. Speaker, I thank the gentleman from Massachusetts.

I am delighted to yield at this point to my good friend, the gentlewoman from Maryland [Mrs. Morella]; although she was originally from Massachusetts, but she is now representing the State of Maryland.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman. He has an excellent memory.

Mr. Speaker, I am pleased to participate in today's special order to welcome to Washington those individuals who will be coming here for the Sunday Gay-Lesbian Rights March on Washington.

I also want to commend the previous speaker, also from Massachusetts, for his very eloquent testimony.

I join a number of my colleagues here today in expressing my support for H.R. 709, legislation to end discrimination based on sexual orientation. This bill would amend existing statutes to prohibit this discrimination with respect to employment, housing, public facilities, and federally assisted opportunities.

Congress must clearly ban discrimination on the basis of sexual orientation with respect to these very basic human rights; this bill is a simple affirmation of civil and human rights to which every individual is entitled. Unfortunately, H.R. 709 is misunderstood by some, despite the support of a number of religious and civil rights organizations. I urge my colleagues to support this legislation.

I also want to take this opportunity to express my support for a strong Federal response to the AIDS crisis. Federal funding for research and education must be a top priority. This growing epidemic will not be stopped without an immediate and substantial Federal commitment. I thank my colleagues from Massachusetts and California for reserving this time today to discuss and call attention to these important issues. I am proud to be part of the tribute and welcome.

Mr. FRANK. Mr. Speaker, I thank the gentlewoman for her participation. It means a great deal to us and we appreciate it.

Mr. Speaker, I would just like to note that there are many additional statements, but they could not, despite their own great interest, be here in person today, our colleague, the gentleman from Ohio [Mr. Stokes] and the gentleman from California [Mr. Edwards] both of whom have been outstanding in their devotion to combating prejudice against women, against racial minorities, against religious groups and against gay men and lesbians.

Mr. Speaker, at this point I yield to one of those who has been one of the outstanding leaders in this fight, the gentleman from New York [Mr. Weiss].

Mr. WEISS. Mr. Speaker, I want to thank my distinguished friend and colleague for yielding this time to me, and most importantly, for arranging for this special order, and beyond that for the leadership that the gentleman has provided on this and so many other issues of great concern to our entire Nation.

Mr. Speaker, I want to join in welcoming our fellow citizens from across the country who will be gathering in Washington this weekend in a great outpouring, a great demonstration of that which the Constitution grants all Americans, the right to peacefully assemble for their rights and to demonstrate their grievances.

This is the second great march against the discrimination to which people are subjected in this great country because of their affectional or sexual orientation or preferences. The one in 1979 was an impressive gathering. The one this year promises to be an even greater gathering.

I think that we meet this time at this gathering under much graver circumstances. With the advent of the AIDS epidemic, we now have people's lives and well-being and their very capacity to enjoy their jobs or their homes being discriminated against because of the ignorance of a lot of people who, instead of determining that the occasion of illness ought to bring out the best in us, use the occasion to do the worse to their fellow citizens in awful need.

So it seems to me that at the very least what we are underscoring by this great demonstration is a call to responsibility, a call to compassion, a call to the Federal Government to provide the kind of leadership which will allow us to meet the challenge AIDS as quickly and as urgently and as effectively as we possibly can.

The numbers of people who have already been diagnosed with AIDS itself is awesome, some 42,000 people. Twenty-four thousand of those people have already died; but those numbers become tiny by comparison to what is being projected in the immediate future. By 1991, the National Academy of Sciences and the Public Health Service itself tell us that there will be something like 270,000 cases diagnosed and as many as 170,000 people will have died. In 1991 alone, there will be probably somewhere around 75,000 new cases diagnosed, people who will not have had AIDS before will be diagnosed that year as having it.

□ 1100

Probably half of those people it is now projected already have the virus within them. But the other half will be contracting the virus in the years between now and 1991.

The great tragedy is that if there were a sufficient effort at informing people as to the steps that they could take to give themselves the best chance to prevent them from contracting the virus or from spreading or transmitting the virus, half of those people could be prevented from getting the disease. And it is, I think, a great national scandal that because of the in-fighting, to use the kindest word, that is going on within the administration on the part of those who believe that you can send a preachment or a moral message alone and solve the problem, has prevented the professionals in the Public Health Service from doing that which they know and have said has to be done, which is to provide as much clear and explicit information as possible to try to prevent scientifically the spread of the disease.

So although the Congress, in a great demonstration of responsibility and lack of partisanship, has repeatedly voted far more money than the administration has wanted, not only for education but for research, we find that the money that it has appropriated simply has not been spent because the moralists have taken the field under the leadership of Secretary Bennett and have really refused to allow the money to be spent the way that it ought to be.

Hopefully the outpouring of hundreds of thousands of people this weekend will again heighten public concern to the extent that it will be able to have some significant impact on this administration. Then, of course, we have the basic, fundamental thrust toward extending basic constitutional protections to all of our citizens.

The gentleman from Massachusetts [Mr. FRANK] from the outset indicated the march we have had through our history in extending the rights which were guaranteed but not really implemented to our citizens, as he pointed out, on matters of race and religion and sex and national origin, we have made steady progress over the years. Discrimination still exists, but it does not have the weight or the support of the law, and where in fact it is found to exist there is quick action to penalize those who participate in it.

The one remaining major area of discrimination is regarding discrimination based on affectional or sexual orientation. It is conservatively estimated that there are somewhere between 20 or 25 million of our fellow citizens who fall within the category of discrimination, and yet they have no real protection at this point in regard to housing, in regard to employment, in regard to place of public accommodation or public facilities, because the statutes do not include protection for them.

The legislation which I have had the privilege of being the prime sponsor of since 1979, and which this year has some 70 cosponsors, and every Congress we have increased the number of sponsors for that legislation, seeks to amend the existing civil rights laws which already bar discrimination based on the grounds that I have set forth before simply by adding the words affectional or sexual orientation as being grounds on which discrimination will be not permitted and will be outlawed. I think that it is high time that that kind of legislation was on the books.

States and cities and localities across the country are taking their own lead in enacting legislation, or in some instances having executive orders issued to provide the kind of protection that this legislation would enact. In my own city of New York we started the effort in 1971 and took some 15 years until we finally got legislation enacted. Prior to that time, the mayor of the city of New York had issued an executive order which provided the protection. And because of the very introduction of the legislation and the discussions and debate surrounding it I think that the educational process itself helped to reduce the impacts of discrimination.

I think that even without the benefit of legislation there is undoubtedly less discrimination today than there was 15 years ago. But legislation itself provides a great moral drive and thrust, and so we hope that the demonstration, the march that we will be participating in and that hundreds of thousands of Americans will be participating in again will provide the additional impetus so that we can have early enactment of legislation which will implement the provisions of basic civil rights and civil liberties to all of our citizens, regardless of their sexual orientation.

Again I commend my colleague and thank him for arranging for this special order.

Mr. FRANK. I thank the gentleman from New York who has been a beacon of concern. I think it is relevant to note that his concern, which I appreciate both personally, as a colleague for the rights of lesbians and gay men goes along with his concern for racial minorities, for the homeless, for people without handicaps. There are a lot of differences, obviously among all of those groups. What many of the groups have in common is one thing: They would like other citizens to treat them as individuals, on their merits, not because of prejudices.

I want to talk just a little bit about that, Mr. Speaker. Members of legislative bodies as we all know are not great fans of controversy. They will ask people why they chose to bring controversial issues like this forward, can things like this not be handled in a quiet way.

I would like you, Mr. Speaker, to think what it is like to be 18, 19, 20 years old, young man or young woman, to have feelings, urges over which you have no control. Obviously we can all control how we act, but we cannot control our basic feelings. People do not volunteer to have one sexual orientation or another. And you work hard, you love your parents, you love your siblings, you go to school, maybe you go to church or to synagogue. You live up to all of the obligations you are told you ought to live up to, and you encounter people who because of a fact of your life over which you have no control, and does no damage to anybody, you encounter people who despise you, ridicule you, perhaps even engage in physical violence, because one of the pieces of the agenda this weekend is to address the problem of physical violence against people based on their sexual orientation.

Our colleague from Michigan, Mr. CONYERS, has had some excellent hearings in his Crime Subcommittee about the problem of people being beaten, killed, in a couple of cases, because other people did not like the way in which they chose to express love and affection.

Many of us are here to say to these 18-, 19-, and 20-year-olds that they have no reason to feel ashamed, that those who have singled them out for maltreatment and abuse are wrong, and that no American ought to have to apologize for any aspect of himself or herself. People have a right to live their own lives. Yes, we all have an obligation to respect the rights of other people. People who do that, people who live by the rules, people who work, worship, go to school, respect others, they have a right to reciprocal respect.

Think what it would be like, Mr. Speaker, to be told that because some people do not like the way in which you choose to spend your most private and intimate moments that you cannot have a job. Think what it would be like to be told we are not going to rent to you, again not because of anything you impose on anyone else, but because of personal, private choices you make. This is why this is a very important issue.

I am happy to yield again to my friend from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I believe what the gentleman has just said is both moving and profound, and I think all Americans have the capacity and the experience to identify exactly with what the gentleman has just said.

Those of us, of whatever religion we may be, know just in looking back at our own personal and religious histories that there were times and places in this country, and there still may be some times and some places in this country, and I know that there are, where because of one's religion one individually or one's group was in fact discriminated against. So it seems to me that just again on the basis of religious identification we as Americans really know what it is like to be discriminated against, and it should be easier for us to understand the thrust of those of our fellow citizens who want to be treated individually, equally, and not be discriminated against because of sexual preference or orientation any more than they would want to be discriminated against because of religions or race, or what country we came from or what sex we are.

Again, I think the gentleman's statement is very, very profound.

Mr. FRANK. I thank the gentleman.

I am an adult expected to be mature, although I would not always make the claim. I am one of the luckiest people in this country, in my judgment, to have this job which I enjoy as much as I do, and I am pretty well protected from the prejudice which I think as a gay man I might be expected to encounter. But I am not totally free from it, and I have to think in my situation, lucky as I am to be in this job, to have the kind of support that I have, I have got to stop and think sometimes about how I am going to cope with prejudices. I would ask, Mr. Speaker, that you think what it is like for people who do not have the kind of protection or position or resources that we have. Think what it is like to be someone vulnerable and an average working person, a man or a woman. Think what it is like to have parents who are themselves the product of this society who may be expressing, because they think it is socially approved, a kind of fundamental dislike of you, their child, despite every effort you make to be the kind of loving and respectful son or daughter that you are expected to be.

That is why people are coming to Washington, DC, this weekend. Gay men and lesbians are coming at some cost to themselves, at some risk to themselves personally in some cases, because they want to hold out the hope to other people that the prejudices that have affected all of our lives would not affect the lives of young people yet to come, and that we will reach sooner than we might otherwise the ideal of a society in which no one gets special treatment, no one gets special preferences, in which individuals are judged on their own merits, and in which I show compassion for those who may not be able to succeed on their own because of some illness or some other problem, but that in general the rule will be you have a right to privacy.

I think one of the most important lessons that we have learned from the actions of the Senate in the past few weeks is that in general the American people care about privacy, that privacy is not simply some abstract creation of an ultra liberal theorist. Keeping the Government out of the most private and intimate aspects of our lives is something everybody wants, and people are not here asking in Washington this weekend for Government intervention in their private lives. What we are asking is Government assertion that private lives are private and people ought not be made to pay any penalty because of those choices, loving choices they make.

Let me just add, Mr. Speaker, before yielding to someone who has joined us and has become very quickly a leader in fighting against antigay and lesbian prejudice, our colleague from California [Ms. PELOSI], let me just add an example. We talk about AIDS and AIDS is a very important issue. There are other important issues for the gay community. One of the things we are told we should be doing to combat AIDS is education, responsibility. People who want to judge others ought to look at the reaction of the gay and lesbian community to the problem of AIDS. There are exceptions. There are always exceptions when you are dealing with millions of people. But on the whole, it has been a model of social responsibility, of people raising money to take care of others, of education, of crusading for safe practices. The degree of education, responsibility and compassion that people in the gay and lesbian community have been showing toward each other as part of the fight against AIDS is I think one that most Americans if they look at it will find genuinely inspiring in its degree of responsibility and in its showing that individuals can take responsibility for each other in a positive way.

Mr. Speaker, we had the gentlewoman from California [Ms. PELOSI] and I each take out an hour special order. Mr. Speaker, because of an unexpected decision yesterday that we would not be in formal session today with votes, there are fewer of our colleagues in town. People have obligations in their own districts, so we might be consolidating this special order with myself and the gentlewoman from California. But I would like to make clear that we are equal partners in this special order, and each of us had taken out 1 hour because we did not know how many of our colleagues we would have to accommodate. But there being fewer in town than we expected, I am delighted at this point to yield to our newest and very able colleague, the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding. It is an honor for me to share in this special order and I thank my colleague from Massachusetts for joining with me in calling for these special orders to welcome our visitors to Washington for the march.

□ 1115

I also am proud to say in Congress, because of the hard work of our colleague from New York, Congressman WEISS, I was able to join as a cosponsor in his bill banning discrimination on the basis of sexual orientation. I hope that our visitors to Washington who are here will help lobby for more cosponsors for that legislation which is so fundamental to us as Americans.

I had the honor a couple of months ago of having a press conference in my home in San Francisco to give some publicity locally to the national march. I thought it was very important because I think the march presents a very special opportunity for us to talk about antidiscrimination, for us to talk about the very serious problem of AIDS which confronts us, for us to talk about Congressman CONYERS' crimes of hate legislation and for us to talk about education to help us in all of those areas.

As you know, for the next few days hundreds of thousands of our friends will be visiting Washington, DC. My colleague from Massachusetts had the idea that we would welcome them first on the floor of Congress and I am happy to be part of that. Tomorrow we will emphasize the serious nature of this march, this visit to Washington. My colleagues, Congressman WEISS and Congressman FRANK and others will be joining us at a legislative briefing for lobby day. At that time, we will review an agenda to help promote the issues, some of the issues concerned with the march, that being some of the things that will be needed in our fight against AIDS. Every chance we get we have to emphasize how important education is in the fight against AIDS. It is very important for us to have adequate funding also for an antiviral agent for those infected with the vaccine; it is important for us to provide sufficient, adequate patient care for those who are infected with the disease of AIDS and it is also important for us to provide leadership on a very important prevention effort throughout our community. I believe that we are not as a government utilizing every resource at our disposal. I believe it is unfortunate, as the mother of five children in the age range of 17 to 23, many of whom are going off to college and into the world for the first time, whose judgment may not be what a mother would hope, I think I share a concern many parents do in the country that it is important for us to equip our children with as much information as possible.

Certainly we can start by saying, "Just Say No" but we cannot think that that is an answer to stopping the spread of AIDS. We must insist that public policy, and the executive and legislative branches assume full responsibility in educating the public in the dangers inherent in the spread of this terrible, terrible virus.

What some of the events of this weekend will point up very clearly is the toll that has been taken by this disease. At my press conference at my home, we had the privilege of announcing something called the Names Project, which I would like to share with my colleagues, Mr. Speaker, if I may.

The Names Project is a project which is a quilt containing the names of thousands and thousands of people who have died of AIDS. These quilts have been made by the families of the people with AIDS; they have been made by friends, relatives, et cetera.

The quilt, roughly the size of two football fields, is composed of thousands of individual 3 by 6 fabric panels, each bearing the name of a single person, as I said, lost to AIDS. The quilt panels have been designed and constructed in homes across America by the families and friends of those who have died.

Inspired by the American folk art traditions of quilting and sewing bees, the Names Project is a positive expresseion of personal loss as well as the dramatic illustration of the impact of AIDS on American society.

The executive director of the project, my constituent Cleve Jones said:

> The quilt illustrates the enormity of this epidemic by showing the humanity behind the faceless statistics. It also provides a positive and creative means for Americans to express their loss. The quilt is a symbol of the unity in the national struggle against AIDS.

The inaugural unfolding of the quilt takes place on the Capitol Mall between 7th and 8th Streets and we are very grateful to the Park Service for their cooperation, on Sunday, October 11, scheduled to begin at sunrise, 7:13 a.m. That will be on Sunday, I say to my colleagues.

The unfolding will be concurrent with the reading of the names of those who have died of AIDS. The process will take 32 workers about 1½ hours to complete the mere unfolding of it. I have the honor of reading some of the names of my friends who have died of AIDS, some from the gay and lesbian community, some who just happened to have been infected and died, not members of the community. I think quilt, I know that this quilt will have the names of men, women, and children from all segments of our community who have been infected, afflicted, and have died from it.

What is important about it, though, is to know that from our community in San Francisco where we will have a large contingent of people coming, this quilt will give us strength to continue in the fight against AIDS. It is an inspiration to us.

The number of people in San Francisco now from the gay community who are infected in the past 12 months, infected with the virus, has been reduced to almost zero. I think nothing speaks so eloquently to the effectiveness of education as that statistic. We are dealing with a very sophisticated community, which when knowledgeable about the issue, made the necessary behavioral changes and brought the infection rate down to zero. This does not mean that many people will not be sick who were infected before the educational process and many of them will die unless we come up with a cure.

But nonetheless, the zero rate of new infections gives us hope for the rest of our community and the entire society of this world not only this country.

So I want to take a few moments to plead, to beseech the administration to do everything in its power, and it has the power to spread the information contained in the Surgeon General's report, the President's own medical adviser wrote, the Surgeon General's report which I believe to be a very effective tool in the educational process.

As a Member of Congress I have requested to be able to send these brochures into my district. I have not received them after a few months of requests. I hope that they will come soon, because it is a matter of life and death.

I believe that the President should take the advice again of his medical adviser and send these because if we have the behavioral change, we will save the lives of our children and our friends. I would also like to say that at our legislative briefing tomorrow, we have plans to review a legislative agenda already in the Congress. My colleague, Congressman BARNEY FRANK from Massachusetts mentioned Congressman CONYERS' legislation about crimes of hate. I already addressed my colleague's, Chairman WEISS' legislation on discrimination. Right on point is our colleague from California, Congressman WAXMAN'S legislation dealing with confidentiality and nondiscrimination for those who are infected with the AIDS virus. If it is important to have education, and I believe that it is, and if it is important for people to have behavioral changes, and we know that that is necessary, then, too, it is urgent for us to be able to guarantee the confidentiality of any testing that may accompany counseling, that accompanies behavioral change. Congressman WAXMAN'S bill would insure that.

In addition to the confidentiality, it is important for us also to push for the nondiscrimination measures in Congressman WAXMAN'S bill, so that our people who do come forth for counseling and in some cases testing, if they test positively for the virus that they will not be discriminated against in housing, employment, education, in the schools, in government, in all areas of their endeavors. If we can ensure confidentiality and nondiscrimination, we can ensure that more people will change their behavior, will seek counseling and in some cases the testing that goes with counseling for this. It is absolutely urgent. It has worked in our community. We have almost a zero rate of new infections.

I would like to, for the benefit of my constituents, point out one very small but important difference or distinction in this discussion: Those who are infected with the virus are those that are addressed in the bill. That does not mean they have contracted AIDS, it simply means that they are infected with the virus. They show no signs, no symptoms, and we should not fear that those with AIDS and ARC or those infected by the AIDS virus are in any way endangering the health and welfare of the rest of us.

We should have enough concern and enough fear of this disease to take action, but we should not be so panicked that we do foolish things about it.

So let us create a situation which encourages people to come forward, to find out if they are in fact infected, not discriminate against them, keep their records private, and then in terms of those unfortunately at the next step, those who are infected with the AIDS, who have contracted AIDS or ARC, it is absolutely necessary for us to be able to provide some opportunity for a cure, but certainly the patient care that is necessary for the rest of their lives which unfortunately will be all too short.

And so our friends will descend on Washington this weekend. We welcome them here today. We will begin tomorrow in my office with a legislative briefing and I know my colleagues have plans of their own to welcome their constituents, to focus on the very serious matter before us. The AIDS issue makes the nondiscrimination issue even more important than it was in the past.

So I look forward to joining my colleagues, many of whom could not be here today, but who will be here tomorrow, in welcoming our friends to the march on Washington.

I hope that many of my colleagues will visit the Names Project. I think you will be inspired by it. I can tell you it is a source of strength to us.

I look forward to having my constituents visit my colleagues on Capitol Hill to show you some of the model programs that we have had in San Francisco, the San Francisco AIDS Foundation, the Shanty Project, the models of patient care that we have at San Francisco General Hospital.

There are answers, they are working. We would like to provide the opportunity for our colleagues to see how they have worked, how they can be effective.

Again, in closing, all of this to lobby the executive branch of Government to reach down and make a decision in favor of life, make a decision to do all in its power in the fight against AIDS.

I thank my colleague from Massachusetts for taking these special orders and I yield back the balance of my time.

Mr. FRANK. I thank the gentlewoman from California.

Mr. Speaker, I should note we have also received a statement from our colleague from New York [Mr. GREEN] who has joined us in this special order.

I want to express particular appreciation to those who have sent in their remarks and those who have come in person. This is a larger representation for a special order than you usually get. Had we not, Mr. Speaker, decided yesterday for good reasons that there would be no votes today, we would have had more people.

Mr. Speaker, I would like to just summarize for my colleagues: Tens of thousands, perhaps more, lesbians and gay men and friends of theirs are, as we speak, arriving in Washington and will be here by Sunday. They are coming in the American tradition to petition for a redress of grievances. The fundamental grievance is that they, we, are victims of prejudice, a prejudice which is based in some part on honest ignorance, in other parts on motives that are not as legitimate.

What people are asking is for the Federal Government adequately to fund the effort to combat AIDS and to follow in that effort the recommendations of the Public Health Service as exemplified by Ronald Reagan's choice as Surgeon General, Everett Koop.

People are asking that if it be a Federal crime to commit violence on some fellow or sister citizen, because of a prejudice, that this prejudice against gay men and lesbians be included. People are asking for the most fundamental American rights, to be able to live and work wherever you are qualified to do so and not face rejection because of an unreasoned, unreasonable prejudice against you. People are fundamentally asking, lesbians and gay men of all ages, for the right, in the words of Justice Brandeis, and it is a right that was just vindicated, I believe, by the decision that has in effect been made on the nomination of Judge Bork, and Justice Brandeis before coming to the court talked about, the right to be let alone. That is fundamentally what people want. People want to interact with others, people want to work, play, cooperate, build, they want to do all of the things everyone else does.

They also want in those most private and intimate aspects of their lives to be let alone, to be given the freedom to pursue what they and those close to them find to be appropriate. People who respect the rights of others, people who show a willingness to comply with the obligations, that each of us ought to have, to respect the property, the person of other people, then there ought not to be barriers based on race or sex or religious or sexual orientation.

□ 1130

Mr. Speaker, as I have said, not everyone will agree with every aspect of the march this weekend. I must say I do not agree with everything that is being proposed, and if I had been the one planning this, there would have been some differences.

People who make plans for events such as this have in this country the right to their own choices, and others have the right to participate in this or not to participate. But I believe there is overwhelming agreement within the gay and lesbian community and clearly among many of us here in Congress as well, on the central theme, prejudice against people based on the fact of their sexual orientation is simply wrong. It is harmful to this country, it is harmful to individuals, and it is something that the Federal Government has a responsibility in part to combat.

That is the purpose of this march this weekend.

I want to welcome our friends to Washington, and I want to yield again to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. FRANK] for yielding.

Mr. Speaker, I would like to say that my colleague from San Francisco, the gentlewoman from California [Mrs. BOXER], would be with us in special orders today, however she is holding a hearing right now on the AIDS issue and it has not ended in time for her to be here before my colleague from Massachusetts finishes this special order.

In addressing one of the comments my colleague made about not agreeing with everything that is proposed for the march, it is hard to think of anything in which agreement is unanimous, where we have agreed with every aspect of any program that has ever come down the pike. But I will say this, while we may disagree on uniformity, we certainly have unity today, and I know that my colleague from California, Mrs. BOXER, joins me in extending that unity and welcome to our visitors.

Mr. FRANK. Mr. Speaker, I am glad to yield to my good friend from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding. I guess my closing words go to those who are participating in the march and those who are members of the gay and lesbian community whether or not they are participating in the march, and that is that I think all of us understand how difficult it is when you are denied basic rights. It seems to me that the courage and the commitment that it takes to fight for your own right is extremely important, and I think it sets the standards by which others who do not receive that particular form of discrimination may also be inspired and aroused to help in joining in that fight.

So I think this is an extremely important event coming up this weekend.

Mr. FRANK. Mr. Speaker, I thank the gentleman from New York [Mr. WEISS] for his kind words. Let me just say in closing that this is a very American thing we are doing here this weekend. The prejudice against people based on their being gay or lesbian is not confined to this country. The prejudice exists all over the world. That does not justify it, however. It is like other prejudices, vicious and unjustified, and ought to be combated. We could not have in the Soviet Union or Cuba, where any gay and lesbian prejudice exists, the kind of head-on assault against that prejudice that we are going to see here in Washington this weekend.

I want to congratulate those who have the initiative and the courage and the energy to put aside their normal practices, their work, their relaxation, to give up a weekend and perhaps take a few days off from work, to find the money, and some will find it easily and some will not, to come to Washington and to participate in this most American of activities, a legitimate and reasoned demonstration on behalf of people's rights.

I am grateful to my colleagues for having participated in this special order and to those who I know will be participating by sending in their remarks under the general leave which the Chair has aided me in getting.

Mr. Speaker, I want to close by joining my colleagues in welcoming many people here to Washington. We look forward to working with them on a common agenda.

Mr. LEVINE of California. Mr. Speaker, I wish to thank my distinguished colleagues for reserving this time, and join in welcoming the Marchers for Gay and Lesbian Rights to Washington, DC. And I wish to extend a special welcome to several of my constituents who have come to Washington this week to participate in this march.

This is an historic occasion, and I commend the marchers' efforts in coming to Washington, many at personal expense, to demonstrate their support for the civil rights of all individuals, regardless of sexual orientation. I am an original cosponsor and strong supporter of H.R. 709, the Civil Rights Amendments Act of 1987, which would prohibit discrimination on the basis of affectional or sexual orientation. H.R. 709 will prevent discrimination in such important areas as housing, employment, and public accommodations. I have cosponsored this legislation every session since I have been in Congress, and I will continue to support it until there is no longer a need for marchers to come to Washington and defend civil liberties.

Many of the marchers who have come to Washington, including several of my constituents who are here, are people with AIDS. AIDS is the most serious public health threat facing our Nation today, and stopping the spread of AIDS is one of my top legislative priorities.

I am very pleased that H.R. 3058, the HHS appropriation bill for 1988, includes almost a billion dollars, $945.4 million for efforts to combat AIDS, an increase of $466.2 million over last year's appropriation. The Senate bill, which will be going to the floor of the Senate shortly, includes $946.3 million. This appropriation includes increased funding for AIDS research, conducted by the National Institutes of Health, and the Center for Disease Control AIDS efforts. Although important strides are being made in AIDS research, a cure, vaccine, or even a successful treatment are still along way off. Additional funding will be required to halt this disease. I share the commitment of the marchers here today to ensuring that adequate funding is allocated to ensure successful research into ending this disease.

I am also a cosponsor of legislation which would ensure the confidentiality of AIDS testing, and provide counseling for those seeking testing. This legislation is an important component of a national policy to halt the spread of AIDS. Prevention is the best weapon we now have against AIDS. By insuring the confidentiality of test results, we can best encourage people to seek testing, and receive counseling. I am committed to ensuring the passage of this legislation, as a vital part of our national AIDS policy.

Mr. Speaker, again I wish to commend the marchers who have made the effort to come to Washington to demonstrate their support for the rights of all individuals. I welcome their efforts, and I look forward to continuing to work with them to achieve a prejudice free society.

Mr. FAZIO. Mr. Speaker, I would like to join my colleagues in welcoming to Washington the thousands from across the country who are here to participate in the events associated with the Gay and Lesbian March on Washington.

This event is important for it draws attention to a number of serious issues currently confronting our Nation. For example, there is great concern for civil rights for all Americans, regardless of race, creed, color, or sexual orientation. I wholeheartedly support the efforts to eradicate discrimination or bias based on any of these characteristics. This concern and support includes sexual orientation; consequently, I am cosponsoring legislation, the Civil Rights Act Amendment of 1987, which would prohibit discrimination on this basis.

The events of this week are also important for the attention they are bringing to the AIDS crisis. Not only do the events of this week draw attention to the plight of those afflicted with AIDS, but they also reaffirm the very stark reality that AIDS is a very complex and devastating disease which will get worse before it gets better.

Earlier this year we found that the President had designated AIDS-related funding as a priority item, by initially putting in a budget request of $534 million. Later this figure was raised to $790.9 million. Yet we in Congress found that even the revised proposal was insufficient and eventually approved $970 million for AIDS-related funding. This total represented an increase of $179.1 million above the President's revised budget request and $475 million over the fiscal year 1987 amount, representing a 95-percent increase.

One thing which has become apparent is that a strong Federal commitment to AIDS-related funding is essential if we are to eradicate AIDS. By using Federal resources, we can educate which will hopefully change behavior necessary to curb the spread of AIDS. However, this will also involve efforts at the private and individual level and must involve all segments of society as this disease is rapidly spreading outside of the gay and IV drug abuser populations. We are finding that individuals from all walks of life are becoming part of the growing statistics on AIDS.

Our continued efforts to provide adequate funding are essential. We are planning to spend less than $1 billion on AIDS-related programs in fiscal year 1988. Although this represents a significant increase over the previous year it is just a fraction of what this disease will eventually cost us. Not only are we losing young productive individuals, who are the prime candidates for contracting this disease, but we will also be spending billions of dollars in health and supportive services. Surgeon General C. Everett Koop estimates that in the year 1991, care for the projected 145,000 AIDS patients will cost between $8 and $16 billion.

In closing, I would just like to reiterate my strong commitment to eradicating AIDS and my support for those here in Washington this week helping in that fight.

Mr. GREEN. Mr. Speaker, I rise today to welcome the participants in the National March on Washington for Lesbian and Gay Rights which will convene here in Washington, DC, on October 11, 1987.

There is a long tradition in this country of people coming to the Nation's Capital to dramatize the need for change. With the same devotion and commitment as the civil rights and antiwar activists before them, they will come to Washington, DC, to let Congress and the administration know that lesbian and gay rights are human rights which should be fully reflected in our national laws and policies.

I, too, shall not rest in my efforts as a Member of Congress to help bring about changes that they seek: Full extension of civil and human rights, increased funding of AIDS research and education, confidential and voluntary AIDS testing with counseling and strong antidiscrimination measures.

In 1986, after a long and contentious struggle, the New York City Council passed a bill to ban discrimination in employment, housing, and public facilities on the basis of sexual orientation. I was gratified by this hard-won victory and hope that it will serve as an example of what should be done at all levels of government. On the Federal level, I am a cosponsor of the Civil Rights Amendment Act which would prohibit discrimination on the basis of sexual orientation in employment, housing, Federal programs, and public facilities. I believe that sexual preference should not be considered legitimate grounds for bias any more than race, creed, color, or gender. Homosexuals should receive the same judicial protection that other citizens take for granted.

As for AIDS, I do not need to state the obvious—we are seeing our colleagues, friends, and loved ones dying of this disease. The tragedy of AIDS must be addressed with comprehensive government action including: research so that a cure can be found, education to help people understand the facts about AIDS, confidential and voluntary testing and counseling to help prevent the spread of HIV, and strong antidiscrimination measures to ensure that no one suffer the loss of a home or job because of a positive test result.

"For Love and for Life, We're Not Going Back" is the theme of this march. That is how progress begins—when people join together and refuse to turn away from their struggle for justice. I commend the strength and commitment of the marchers and look forward to continuing my work to end the most immediate and important problem, and terrible tragedy of AIDS and also to help America learn about the need to grant all of its citizens, including gay men and lesbians, their human rights.

Mr. EDWARDS of California. Mr. Speaker, I want to thank the gentlewoman from California, Congresswoman NANCY PELOSI, and the gentleman from Massachusetts, Congressman BARNEY FRANK, for reserving the time to recognize the value of this Sunday's National March on Washington for Lesbian and Gay Rights.

When I first came to Congress in 1963, the civil rights movement was in full bloom. Hundreds of thousands marched on Washington, and Congress responded to the outpouring of opposition to discrimination based on race, religion and national origin. The Civil Rights Acts of 1964 and 1965 were the result. This Sunday's civil rights march is in the tradition of the demonstrations that produced these laws.

The estimated 25 million lesbian and gay citizens of the United States suffer from discrimination based on sexual orientation. This Sunday's march—the largest demonstration for lesbian and gay rights in U.S. history—will call for an end to this insidious form of discrimination. Thousands of lesbian and gay rights supporters will exercise their first amendment right to take this message directly to the Government.

One of the primary purposes of the March is to support the passage of the Civil Rights Act of 1987 which would ban discrimination on the basis of sexual orientation. A fundamental purpose of the Constitution is to protect basic individual freedoms. Individual preference in matters of sexual orientation is a deeply personal and private matter. It is a basic individual freedom that must be respected and protected, just as the freedoms specifically enumerated in the Constitution must be respected and protected. Failure to make clear that sexual orientation is not grounds for discrimination erodes the right to privacy afforded by our Constitution. And when any individual's constitutional rights are violated, the rights of all of us are threatened. For this reason I wholeheartedly support the Civil Rights Act of 1987.

Mr. STOKES. Mr. Speaker, our country has just celebrated the 200th anniversary of the signing of the U.S. Constitution. This historic document ensured that all people of this Nation receive the full and equal protection of the laws. Unfortunately, this has not been the case for all citizens of this country.

On Sunday, October 11, 1987, this city will observe the March on Washington for Lesbian and Gay Rights. This event represents a unified message to this Nation on behalf of the gay and lesbian communities. This message is that all people have a right not to be victimized or discriminated against because of their sexual orientation.

Mr. Speaker, I stand here today, along with many of my colleagues, to welcome the gay and lesbian community to Washington and to support their rights under the Constitution of the United States. I stand here, as an original cosponsor of the gay rights bill and as an endorser of this historic march, in opposition to any form of discrimination including the right of sexual preference for men and women.

Moreover, I support a vigorous and efficient Federal response to the AIDS crisis. It has largely been as a result of the organized effort of the gay and lesbian community that we have mobilized our energies to fight this dreaded disease. If we are to win this fight against AIDS, we must support, not resist, all efforts to conquer this disease.

Mr. Speaker, this Nation's greatest accomplishments have resulted from its diversity. There is no greater tribute that we can pay to our Founding Fathers, and our future generations, than to ensure the rights of "life, liberty and the pursuit of happiness" for all Americans and to support the March on Washington for Lesbian and Gay Rights. It is through the fight for minority causes in our Nation that we have preserved the rights of the majority.

Mr. DEFAZIO. Mr. Speaker, I commend my colleagues for calling this special order. I believe today marks an important opportunity for the Congress to discuss one of the most pressing health issues facing our Nation—AIDS.

AIDS is the No. 1 public health problem facing this country. The facts are all too familiar.

The Centers for Disease Control has reported 40,000 cases of AIDS in the United States alone; 20,000 of those cases have resulted in death.

Estimates show that by 1991, at least 270,000 Americans will have been infected by AIDS and 179,000 Americans will have died from the disease.

These statistics are alarming. AIDS is no longer someone else's problem. It affects everyone.

Despite the dire threat to our Nation's citizens and to our health care system, the Reagan administration is way behind other governments in taking the necessary steps to mount the education and research campaign that is necessary to slow the spread of AIDS.

We, as Members of Congress, have a tremendous responsibility to the Nation to develop a plan to combat this dreaded disease.

That is why legislative efforts such as the Waxman-Kennedy bill, which authorizes $1.2 billion over the next 3 years for voluntary testing, education, and counseling, deserve our strong support.

That is why the Intravenous Substance Abuse and AIDS Prevention Act, which authorizes $200 million in grants to nonprofit organizations for education, counseling, and treatment services to drug users and AIDS victims, should be one of our highest priorities.

That is why we should support spending a minimum of $100 million on demonstration projects to reduce and prevent the incidence of AIDS transmission to infants.

That is why we should do all we can to increase Federal support for expanded AIDS education and research.

And that is why we should make the Surgeon General's report on AIDS available to every interested person.

But in fighting this dilemma, we must remember that throwing money and programs at the virus will not alone halt its spread. The only known way to curb AIDS is to educate people about high-risk activities.

No one knows how widely AIDS will spread. No one knows how many lives will be lost. We do know, however, that prudent precautions and Federal investments in education help slow it down.

We also know that mandatory testing does not. Mandatory testing and reporting programs only increase the level of fear and misunderstanding that already surrounds the disease.

Any testing programs we pursue must preserve protections for those who participate. If our programs require disclosure, we doom to failure the only viable way of preventing transmission of the virus—voluntary testing.

People in high-risk categories, those who need testing the most in order to modify their behavior, already face undue discrimination. Forced AIDS testing would lead to threats of job and housing discrimination. The very people who need testing the most would be discouraged by the possible consequences of disclosure. We owe it to ourselves and to them not to increase the burdens they face.

Besides, according to a Harvard University study, the two standard AIDS tests are dangerously inaccurate when applied to large populations. The study showed that the tests would identify 28 true positives, 2 false negatives, and 11 false positives in a sample of 100,000 people.

As the New York Times said in an editorial recently:

> The tests risk falsely informing 11 individuals that they carry the virus of a deadly disease and should never have children. Without guarantees of confidentiality, the insurers, employers, landlords and classmates of these 11 individuals may also learn, and act, on the false information. What a burden for mandatory testers to bear.

We should do everything we can to make testing safe and confidential.

And finally, we must remember that AIDS is a medical issue, not a political issue. The virus strikes people of all political persuasions. Those who politicize AIDS threaten the formation of a sound, rational, and effective national policy that will put an end to this killer disease and that will save the lives of untold numbers of people.

Mr. Speaker, I urge my colleagues to support all reasonable Federal efforts to combat the AIDS virus.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. INHOFE) to revise and extend their remarks and include extraneous material:)

Mr. BOEHLERT, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, on October 9.

Mr. COLEMAN of Missouri, for 5 minutes, today.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BROWN of California, for 30 minutes, on October 14.

Mr. MORRISON of Connecticut, for 60 minutes, on October 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. INHOFE) and to include extraneous matter:)

Mr. DANNEMEYER.

Mr. SCHAEFER.

Mr. CRANE.

Mr. GALLO.

Mr. SENSENBRENNER.

Miss SCHNEIDER.

(The following Members (at the request of Mr. FRANK) and to include extraneous matter:)

Mr. RODINO.

Mr. STOKES.

Mr. WHEAT.

ADJOURNMENT

Mr. FRANK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 35 minutes a.m.), under its previous order, the House adjourned until Friday, October 9, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

2208. Under clause 2 of rule XXIV, a letter from the Comptroller General, General Accounting Office, transmitting the agency's report on the results of its examinations of the U.S. General Services Administration's consolidated financial statements for the fiscal years ended September 30, 1986 and 1985, which contains separate reports on GSA's system of internal accounting controls and on its compliance with laws and regulations, was taken from the Speaker's table and referred to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BEILENSON: Committee on Rules. House Resolution 281. Resolution providing for the consideration of H.R. 3025, a bill to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact (Rept. 100-358). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 282. Resolution providing for the consideration of S. 640, an act for the relief of the city of Dickinson, ND (Rept. 100-359). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 940. A bill to provide for the regulation of the disposal of plastic materials and other garbage at sea; to provide for negotiation, regulation, and research regarding fishing with plastic driftnets; and for other purposes; with amendments; referred to the Committee on Public Works and Transportation for a period ending not later than October 10, 1987 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(p), rule X (Rept. 100-360, Pt. 1). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 940 was referred to the Committee on Public Works and Transportation for a period ending not later than October 10, 1987, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(p), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FLORIO (for himself, Mr. Coelho, Mr. Nagle, Mrs. Collins, Mr. Cooper, Mr. Wyden, Mr. Richardson, Mr. St Germain, Miss Schneider, Mr. Hall of Ohio, Mr. Traficant, Mr. Rowland of Connecticut, Mr. Gallo, Mr. Roe, Mr. Morrison of Connecticut, Mr. Oberstar, Mr. Frost, Mr. Dwyer of New Jersey, Mr. Howard, Mr. Feighan, Mr. Rodino, Mr. Weiss, Mr. Kolter, Mrs. Johnson of Connecticut, Mr. Gonzalez, Mr. Smith of Florida, Mr. Garcia, Mr. Kastenmeier, Mr. Sabo, Mr. Rahall, and Mrs. Kennelly):

H.R. 3454. A bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DYMALLY:

H.R. 3455. A bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia; to the Committee on House Administration.

By Mr. MONTGOMERY:

H.R. 3456. A bill to provide for the lease, sale, and other disposition of lands owned in fee simple by the Mississippi Band of Choctaw Indians; to the Committee on Interior and Insular Affairs.

By Mr. STENHOLM (for himself, Mr. Gekas, Mrs. Bentley, Mr. Bevill, Mr. Boehlert, Mr. Callahan, Mr. Campbell, Mr. Clinger, Mr. Coelho, Mr. Dickinson, Mr. Emerson, Mr. Erdreich, Mr. Espy, Mr. Flippo, Mr. Foley, Mr. Glickman, Mr. Goodling, Mr. Grandy, Mr. Harris, Mr. Hatcher, Mr. Holloway, Mr. Huckaby, Mr. Jeffords, Mr. Jones of North Carolina, Mr. Jones of Tennessee, Mr. Kolter, Mr. Lewis of Florida, Mr. McDade, Mr. Murphy, Mr. Murtha, Mr. Olin, Mr. Penny, Mr. Ridge, Mr. Roberts, Mr. Rose, Mr. Schulze, Mr. Denny Smith, Mr. Tallon, Mr. Thomas of Georgia, Mr. Towns, Mr. Walker, Mr. Yatron, Mr. Panetta, and Mr. Madigan):

H.R. 3457. A bill to amend the Packers and Stockyards Act, 1921, to provide financial protection to poultry growers and sellers, and to clarify Federal jurisdiction under such act; to the Committee on Agriculture.

By Mr. TRAFICANT:

H.R. 3458. A bill to authorize assistance for opposition civilian democratic forces in Nicaragua; to the Committee on Foreign Affairs.

By Mr. CAMPBELL (for himself, Mr. Udall, Mr. Young of Alaska, Mr. Yates, Mr. Kildee, Mr. Rhodes, Mr. Coelho, Mr. Berman, Mr. Brown of Colorado, Mr. Carr, Mr. DeFazio, Mr. Dixon, Mr. Dorgan of North Dakota, Mr. Dymally, Mr. Fazio, Mr. Gejdenson, Mr. Hansen, Mr. Howard, Mr. Inhofe, Mr. Johnson of South Dakota, Mr. Kennedy, Mr. Lewis of Georgia, Mr. Lowry of Washington, Mr. Lujan, Mr. Martinez, Mr. Matsui, Mr. Mineta, Mr. Moody, Mr. Owens of Utah, Mr. Richardson, Mr. Skaggs, Mr. Skeen, Mr. Torres, Mr. Towns, and Mr. Wyden):

H.J. Res. 372. Joint resolution to designate the week beginning November 22, 1987, as "American Indian Week"; to the Committee on Post Office and Civil Service.

By Mr. SMITH of New Jersey (for himself, Mr. Mollohan, Mr. Hyde, Mr. Weber, Mr. Kolter, Mr. Hunter, Mr. Lagomarsino, Mr. Badham, and Mr. Pashayan):

H. Con. Res. 194. Concurrent resolution expressing the sense of the Congress that efforts to allow people to assist others to commit suicide and efforts to promote suicide as a rational solution to certain problems should be opposed; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Miss SCHNEIDER (for herself and Mr. Udall):

H. Res 283. Resolution expressing the sense of the House of Representatives that more Members of Congress should travel in the Union of Soviet Socialist Republics and more Soviet leaders should travel in the United States; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1349: Mr. Ridge, Mr. Bryant, and Mr. Kolbe.

H.R. 2758: Mr. Fawell.

H.R. 2837: Mr. Davis of Michigan.

H.R. 3194: Mr. Pursell.

H.R. 3266: Mr. Applegate and Mr. McEwen.

H.R. 3281: Mr. Frank, Mr. Hughes, Mr. DeLay, Mr. Mfume, Mr. Carper, Ms. Kaptur, Mr. Kennedy, Mr. Vento, Mrs. Bentley, and Mr. Foglietta.

H.R. 3336: Mr. Biaggi, Mr. Bryant, Mr. Chapman, Mr. Owens of New York, Mrs. Johnson of Connecticut, and Mr. Lightfoot.

H.R. 3413: Mr. LaFalce.

H.J. Res. 227: Mr. Grant, Mr. Leath of Texas, Mr. Robert F. Smith, Mr. Pashayan, Mr. Durbin, Mr. Campbell, Mr. Cardin, Mr. Bilbray, Mr. Dingell, Mr. Coble, Mr. Carper, Mr. Eckart, Mr. Scheuer, Mr. Burton of Indiana, Mr. Mica, Mr. Synar, Mr. McCloskey, Mr. Brooks, Mr. Stallings, Mr. Craig, Mr. McHugh, Mr. Sisisky, Mr. Evans, Mr. Huckaby, Mr. Wyden, Mr. Owens of Utah, and Mr. Lewis of Georgia.

H.J. Res. 337: Mr. Brown of California, Mr. Dyson, Mr. Fish, Mr. Foglietta, Mr. Goodling, Mr. Gray of Pennsylvania, Mr. Parris, Mr. Sobo, Mr. Shumway, Mr. Visclosky, Mrs. Vucanovich, Mr. Yatron, Mr. Gunderson, Mr. Bosco, Mr. Davis of Michigan, Mr. Flake, Mr. Mineta, Mr. Moody, Mr. Herger, Mr. Vento, Mr. Sikorski, Mr. Weiss, Mr. Owens of New York, Mr. Denny Smith, Mr. Panetta, Mr. Wyden, and Mrs. Boxer.

H. Res. 276: Mr. Ray, Mr. Weber, Mr. Armey, Mr. Ballenger, Mr. Bartlett, Mr. Bunning, Mr. Crane, Mr. DeLay, Mr. Barton of Texas, Mr. Gallo, Mr. Gingrich, Mr. Henry, Mr. Inhofe, Mr. Lewis of California, Mr. Lott, Mr. Packard, Mr. McEwen, Mr. Grandy, Mr. Ritter, Mr. Roberts, Mr. Hatcher, and Mr. Gunderson.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2260: Mr. Roe.

SENATE—*Thursday, October 8, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 8:30 a.m., on the expiration of the recess and was called to order by the Honorable William Proxmire, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

For there is no power but of God: the powers that be are ordained of God.—Romans 13:1.

Almighty God in whom all power resides and from whom all power derives, help all of us who have the privilege of serving here whether Senators or staff to remember that in the final analysis we are accountable to You. Our words however carefully or carelessly spoken—our deeds however thoughtfully or thoughtlessly done—our relationships however reconciling or alienating—even our thoughts and motives however pure or diluted—are known to You. At some future moment unknown to us each of us will appear before Your judgment seat to give an account of his stewardship. Give us grace so to desire—so to think—so to speak—so to behave—that we will give You pleasure and honor. We pray this in the name of the Righteous One. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

> U.S. Senate,
> President pro tempore,
> *Washington, DC, October 8, 1987.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable William Proxmire, a Senator from the State of Wisconsin, to perform the duties of the Chair.
>
> John C. Stennis,
> *President pro tempore.*

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. Breaux). The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, I shall yield 5 minutes of my time to Mr. Proxmire.

Mr. PROXMIRE. Mr. President, once again I want to thank my good friend, the majority leader.

SHOULD BANKING AND COMMERCE BE KEPT APART?

Mr. PROXMIRE. Mr. President, Gerald Corrigan, President of the Federal Reserve Bank, appeared before the Senate Banking Committee in June. Mr. Corrigan testified on the action this Congress should take with respect to bank deregulation. Our banking system is undergoing the most profound changes in many years. Whether the Congress acts or fails to act, American banking is bound to become very different. If one of us should leave this planet today and return 20 years from now, he wouldn't recognize the way financial institutions, including banks, will be doing business. The States have already started to make this dramatic difference by beginning to abolish the historical restrictions that have prevented nationwide branch banking. Already, 12 States permit banks based in other States to branch into their State. And a whopping 41 States permit States located in their immediate region to own branches across State lines and branch into their States. Bank regulators are permitting banks to begin to nose their way into security underwriting. Some States permit banks to sell insurance. Some sanction bank trading in real estate. Some permit banks to sell brokerage services.

Meanwhile, we have a big push for a wedding of commerce and banking. This is the subject that President Corrigan of the Federal Reserve addressed when he appeared before our committee in June. Corrigan came down hard in favor of continuing our historical separation of banking and commerce.

Here's why: First, Corrigan points out that there is no compelling public policy reason to change this separation of banking and commerce principle. He's right. Following this principle, this country has been able to establish the most widely used and highly respected capital markets in the world. With 14,000 independent banks, our banking system is without question the most competitive anywhere. Some have charged that our country is slipping because the Japanese now have five of the six biggest commercial banks in the world. They argue that this has happened in the last few years. It has, indeed. Why? First, because the yen has appreciated enormously in value compared to the dollar. Second, the Japanese save about 20 percent of their income. Last year, Americans saved 3 percent of their income. Japanese savings goes into Japanese banks. Third, Japan has less than 200 banks. We have more than 14,000 banks. So, yes the Japanese have the biggest banks. So what? Are the Japanese banks more efficient? There is no evidence that they are. Are the biggest Japanese banks more successful in international financial competition? Again, no way. Indeed, the most aggressive and successful Japanese bank is not a big bank. It is the Bank of Tokyo. And where does the Bank of Tokyo rank in size? It is 29th. That makes it well behind several U.S. banks. U.S. banks have done very well in international competition. According to former Fed Chairman Paul Volcker, American banks have been on the cutting edge, the leaders in international finance. Would mergers provide additional needed capital to American banks? Here's Corrigan's answer:

> It is not clear that such investment would materially augment banking's true capital base * * * capital will be attracted only by underlying profitability. Merely permitting commercial ownership of banks would seem to do little to change that unless the owners were allowed to push extensive interrelationships which is the very source of my concern.

Then Corrigan points to the risks that we can expect when we blend commerce and banking:

> The first class (of problems from mixing banking and commerce) comprises the historic concerns about concentration, conflicts, unfair competition and breaches of fiduciary responsibilities. * * * The second would be the extension of the safety net (Federal deposit insurance, the full faith and credit of the Federal Government backing up those deposits and direct access to the payments system) to any firm that owns and controls banks. * * * If banks cannot be fully insulated from a parent firm's commercial entities, either the safety net under them will have to be extended to all who would own and control banks, or the safety net should be eliminated.

To all of which, Mr. President, this Senator says: Amen. Corrigan has made a devastating case against this push of commerce into banking. First, it serves no purpose. Second, it gives huge commercial conglomerates the opportunity to take from our banking system deposits insured with the full faith and credit of the United States. The conglomerate also enjoys the implicit guarantee of the Federal Government, a kind of free ticket for a bailout. Third, it gives commercial firms direct access to the payments system. Fourth, it increases the concentration of financial power. Fifth, it heightens the conflict of interest in financial dealing. Sixth, it provides unfair competition between those commercial firms that control banks and those that do not. Seventh, it breaches fiduciary responsibilities.

Mr. President, recently the Wall Street Journal carried an excellent summary of Mr. Corrigan's testimony. I ask unanimous consent that the summary be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BANKING AND COMMERCE BELONG APART

(By E. Gerald Corrigan)

While the current debate regarding reform of the banking and financial system has many controversial aspects, one of the most crucial of those aspects is whether we should preserve a separation between banking and commerce. I believe we should.

The case for permitting commercial firms to own and control banks is based on a view that there is nothing inherently wrong with such combinations or that they can provide economic benefits in a framework of regulatory or managerial protections of the public interest. I have grave doubts on both accounts.

It is not desirable for unregulated, unsupervised commercial concerns to own and control depositories having access to the overall federal financial safety net. In no major country are banks generally owned and controlled by commercial companies.

One question is, why do commercial companies wish to control banks?

There are three possible answers: First, companies visualize the relative returns available in banking as superior. Second, they believe combining banking with existing lines of business will help maximize overall return on capital. And third, they see economic advantages in gaining access to one or more of the privileges associated with banking; such as access to the market for insured deposits or direct access to the payment system. The motivation for bank ownership might well reflect some combination of the above, but if it is even partly related to the second or third explanations, there are dangers.

One might be more inclined to run those risks if there were a compelling public-policy reason to do so. Satisfying the business interests of a handful of corporations is not one. On the other hand, one might look at banking/commerce in a different light if there were strong evidence of all absence of competition in banking, strong evidence that combinations of banking and commercial concerns would unleash powerful new economies of scale that did not run afoul of the public interest, or if the banking industry was suffering a chronic shortage of capital.

While a case can be made that banks' capital base should be bolstered further, it is by no means clear that the best way to remedy that is to permit commercial firms to acquire banks. Indeed, it is not even clear such investments would materially augment banking's true capital base. That would depend, among other things, on the nature of such investments, the prices paid and the manner in which a particular investment was financed by the commercial company.

More important, capital will be attracted only by underlying profitability. Merely permitting commercial ownership of banks would seem to do little to change that unless the owners were allowed to push extensive interrelationships, which is the very source of my concern.

Another problem is how businesses conduct their affairs. Do large, diversified bank-holding companies, financial conglomerates or even commercial-financial firms have an integrated approach to management—especially in times of stress? Or are the parents and offspring each willing and able to go their own ways even when one or the other is faced with adversity?

Some observers cite examples of fail-safe managerial fire walls. But fire walls are not fail-safe, and large financial concerns mostly are managed and operated as consolidated entities. The mere need to set up a fire-wall system creates doubt about the good sense of prompting such combinations in the first place.

There are two major classes of risks that must be considered if we are prepared to permit the blending of commerce and banking. The first class comprises the historic concerns about concentration, conflicts, unfair competition and breaches of fiduciary responsibilities. Even most proponents of blending banking and commerce acknowledge those risks.

The second set of risks would be the extension of the safety net to any firm that owns and controls banks. Commercial concerns wishing to own banks undoubtedly will not be limited to a few "blue chip" companies—the list of potential acquirers will include all comers, something I am convinced we should be especially sensitive to in this era of merger mania in which even solid firms can be forced into elaborate defensive financial strategies that undermine their balance sheets.

Therein lies the problem: Even the official act of approving an application of a commercial firm to acquire a bank carries with it the extension of some elements of oversight and the implication of official blessing of the transaction and the relationship. This extension of the safety net is not something we should take lightly, since we must be prepared to live with the consequences in foul weather as well as fair. If banks cannot be fully insulated from a parent firm's commercial entities, either the safety net under them will have to be extended to all who would own and control banks, or the safety net should be eliminated.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, the Chaplain gave us a great prayer this morning, reading from Romans. It made me think of J.G. Holland's poem "God, Give us Men." The Chaplain spoke of Government authorities being ordained, ordained of God. Holland called upon God to give us men.

God, give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo! Freedom weeps,
Wrong rules the land and waiting Justice sleeps.
God give us men.
Men who serve not for selfless booty,
But real men, courageous, who flinch not at duty.
Men of dependable character, men of sterling worth,
Then wrongs will be redressed and right will rule the Earth.
God, give us men.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am notified now that Mr. REID will not take his order this morning. I ask unanimous consent that the order that was entered for the recognition of Mr. REID for 15 minutes be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 O'CLOCK

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 9 a.m.

There being no objection, the Senate, at 8:44 a.m., recessed until 9 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BREAUX).

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, S. 1394, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

The Senate resumed consideration of the bill.

CALL OF THE ROLL

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. A quorum is not present. The clerk will please call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 27]

Armstrong
Breaux
Byrd
Cranston
Grassley
Packwood
Stevens

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD. Mr. President I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Ms. MIKULSKI], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], the Senator from Mississippi [Mr. STENNIS], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Idaho [Mr. MCCLURE], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

The PRESIDING OFFICER (Mr. SHELBY). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 77, nays 11, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—77

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Thurmond
Trible
Warner
Wilson

NAYS—11

Bond
Evans
Garn
Helms
Kasten
Murkowski
Nickles
Quayle
Symms
Wallop
Weicker

NOT VOTING—12

Burdick
Gore
Gramm
Humphrey
Kassebaum
McClure
Mikulski
Pressler
Riegle
Simon
Stennis
Wirth

So the motion was agreed to.

Mr. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for. The clerk will tally the roll.

On this vote, the yeas are 77, the nays are 11. The motion is agreed to and a quorum is present.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3058

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I have cleared this request with the distinguished Republican leader. I ask unanimous consent that the majority leader may proceed at any time after consultation with the minority leader to the consideration of H.R. 3058, that is the Labor-Health-Education appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate resumed consideration of S. 1394.

The PRESIDING OFFICER. The Senator from Rhode island.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1394, the State Department authorization bill.

Mr. PELL. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 905

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for himself, Mr. BOREN, Mr. COHEN, Mr. METZENBAUM, Mr. HOLLINGS, and Mr. CRANSTON proposes an amendment numbered 905.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At appropriate place in the bill, add the following section.

SEC. . UNDER SECRETARY OF STATE FOR SECURITY, CONSTRUCTION, AND FOREIGN MISSIONS.

(a) THE CONGRESS FINDS THAT.—

(1) serious deficiencies exist in the management and construction by the Department of State of buildings overseas;

(2) the security function has been plagued by an inability to anticipate threats or to respond to threats; and

(3) the operations of the Foreign Buildings Office have been characterized by cost overruns, delays, inadequacies of design, deficient construction supervision, and other management flaws.

(b) ESTABLISHMENT OF POSITION.—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State and for other purposes", approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "and an Under Secretary of State for Management" and inserting in lieu thereof "an Under Secretary of State for Budget and Administration, and an Under Secretary of State for Security, Construction, and Foreign Missions".

(c) RESPONSIBILITIES.—The Under Secretary of State for Security, Construction, and Missions shall be responsible for—

(1) the Bureau of Diplomatic Security (established by section 104 of the Diplomatic Security Act);

(2) the new building construction functions of the Office of Foreign Buildings (established to carry out the Foreign Service Buildings Act, 1926); and

(3) the Office of Foreign Missions (established pursuant to section 203 of the State Department Basic Authorities Act of 1956).

(d) AUTHORITIES.—The Under Secretary of State for Security, Construction, and Foreign Missions shall have the authority to prepare and submit a consolidated budget for the programs for which the Under Secretary is responsible and to develop and implement personnel systems for those programs, and to establish procedures for the procurement of goods and services for those programs including procedures to ensure that the design and construction of new embassy buildings shall be performed under contract to U.S. construction firms.

(e) REORGANIZATION.—

(1) PERIOD FOR IMPLEMENTATION.—The Secretary of State shall complete implementation of the reorganization required by this section within 6 months after the date of enactment of this Act, including the transfer of personnel and funds to the Under Secretary of State for Security, Construction, and Foreign Missions.

(2) PLAN FOR IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the steps to be taken in reorganizing the Department of State pursuant to this section, including a plan for a separate personnel system and career service for the Diplomatic Security Service.

(3) ROLE OF PRIVATE SECTOR.—Such report shall address the role of U.S. private industry in embassy design and construction, including specific steps to enhance that role, so that the efficiency and expertise of the private sector can be fully utilized consistent with security. Such report shall also include a detailed justification of the current staffing levels in the Foreign Building Office assuming a maximum appropriate use of the private sector in embassy design and construction.

(f) The provisions of subsections (a) through (e) shall enter into force on April 1, 1988, unless the following conditions are met—

(1) the Department of State submits to the Senate Foreign Relations Committee and the House Foreign Affairs Committee no later than February 1, 1988, a plan for

restructuring the Department which would (i) accord higher priority to diplomatic security; (ii) improve coordination between the Bureau of Diplomatic Security and the Offices of Foreign Buildings and Foreign Missions; (iii) ensure that the design and construction of United States embassies is performed by United States firms as provided by relevant law; and (2) the Congress approves this restructuring plan, or a modification thereof, by joint resolution.

(g) for the purpose of expediting the consideration and enactment of a joint resolution referred to in subsection (f), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, and as highly privileged in the House of Representatives.

The PRESIDING OFFICER. There are 20 minutes on each side of this amendment equally divided.

The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, this amendment has been cleared with the floor managers on both sides of the bill.

Along with my distinguished colleagues, Senator BOREN, Senator COHEN, the chairman and vice chairman of the Intelligence Committee, Senators HOLLINGS and CRANSTON, and I offer the amendment with the intent of clarifying the responsibility associated with Embassy construction.

As the Chair knows, we have had an extraordinary situation with regard to our Embassy in the Soviet Union, which has been debated and given a great deal of consideration by this body, the intelligence community, the Foreign Relations Committee, and others.

The purpose of the amendment is to improve the coordination and ensure greater reliance on the expertise of U.S. construction firms, international construction firms, and firms of U.S. origin in the construction and protection of our U.S. embassies abroad. The purpose is to correct the most glaring weaknesses in the way we build and secure our embassies.

First, the amendment will consolidate the diplomatic security, foreign buildings, and foreign missions offices into a new bureau under an Under Secretary of State for Security, Construction and Foreign Missions.

Second, this consolidation will help insure that those in the State Department responsible for diplomatic security, embassy construction, and supervising foreign missions talk to one another and really work together under a single management team concept. The new Under Secretary will have direct access to the Secretary of State. It will make it crystal clear where the ultimate responsibility lies for embassy security.

As the President knows in the case of our Embassy in the Soviet Union it is pretty hard to pinpoint just where the responsibility lay and that was indeed unfortunate.

Third, the amendment will mandate that the State Department make full appropriate use of American design and engineering firms to construct future embassies.

We have had an extraordinary situation in Egypt where we had an embassy that was built over there in Cairo, built by a Japanese construction firm that qualified appropriately; however, much of the subcontracting work was done by the parent Japanese firm. That was not the intent of the State Department. The manner in which they let the bids, they required that they have a U.S. subsidiary. They did have a United States subsidiary and turned around to sub the project out to the Japanese parent. Obviously, that was going a bit too far.

The colossal fiasco of the new U.S. Embassy in Moscow has thrown the spotlight on the State Department's ingrained inability to take the hostile intelligence assault on American embassies seriously. Diplomats trained in the arts of persuasion and negotiation too often seem to regard counterintelligence and diplomatic security as somehow undignified—a reflection more of paranoia than any real threat.

In defiance of experience and common sense, the State Department allowed the Russians almost complete control over the construction of the new U.S. Embassy in Moscow. The result was totally predictable—a building so riddled with listening devices as to be a virtual microphone plugged into KGB headquarters. Nor is this the only such horror story; I assure you there are others.

The failures in Moscow, combined with the unfortunate decision to award the Soviets the best electronic eavesdropping site in Washington for their new embassy, signify a fundamental institutional failure. The State Department is structured to assure that security and counterintelligence are accorded less than the highest priority. The Office of Diplomatic Security is buried inside the Bureau of Management. The Office of Foreign Buildings responsible for designing and constructing U.S. embassies and the Foreign Missions Office that provides necessary support to foreign embassies in Washington, are quite separate.

Extensive hearings before the Intelligence Committee revealed that this arrangement has meant that security concerns have not been brought to the early and forceful attention of the Secretary of State nor has there been close communication and coordination between those who design and build embassies and those responsible for the security of those buildings against penetration by hostile intelligence.

Likewise, when the Soviets have chosen to pressure or harass our diplomats in Moscow by manipulating heat, water, and electricity services to our Embassy, we have not responded in kind because the Foreign Mission Office at the State Department was not even informed, much less authorized to retaliate.

When Congress has tried to fix responsibility for mishandling embassy security it has found that no one is fully accountable. Accountability disappears in a fog of tangled communications and diffused responsibilities.

All these problems have been compounded by a lack of real expertise in constructing buildings in the State Department. Foreign Service officers, however intelligent and energetic, are not experts in construction. It is time we relied less on bureaucrats and more on those in the private sector who really know construction, to design and build our embassies.

Experience has demonstrated that the State Department's "in-house" design and construction services leave a great deal to be desired. This amendment is intended to improve that situation. It is this Senator's intent that the Secretary of State, when carrying out the reorganization mandated by this amendment, will move many of these "in-house" functions out of the Department to the private sector.

When that happens, the process of designing and constructing embassies will become far more cost effective. The State Department will determine its needs and requirements, communicate those to the selected private architectural or engineering firm, and that firm will do the actual design and construction based on a general plan from the Department.

This amendment calls for a report from the Department on its own reorganization plans and another report on the implementation of the plan. The latter report must contain a justification of the staffing levels of the reorganized branches of the Department.

Mr. President, I would like to put the Department on notice that I intend to carefully scrutinize both reports when they are submitted. If they do not reflect a concerted effort to make maximum use of the private sector, then I will have no choice but to revisit this issue.

The present authorization bill calls for a task force to study these problems. As a member of both the Foreign Relations and Intelligence Committees, I have heard detailed testimony on all aspects of embassy security, particularly as highlighted by the situation in Moscow. The time for study is past; we know what the problems are and we know how to solve them. It is time to act.

In conclusion, Mr. President, it is evident that what we are trying to do here is to identify where we can fix responsibility in the future. We are trying to coordinate a cohesive group within the various departments in the State Department that are responsible for construction and make that construction more meaningful. We are trying to involve American international construction companies in the design and construction of those embassies. It is clear that the State Department's effort in the Embassy in Moscow was a gross example of inefficiency and the structure not working.

There are certain considerations that trigger the timing of this that indicate that if the State Department by February 1 has not initiated these changes internally to the satisfaction of this body, then this amendment would become a reality.

I again have talked to my colleague, the chairman of the Foreign Relations Committee, and I believe that we have worked out any differences that we may have, although I am sure he wishes to speak on the subject, and the ranking minority member also may have something to say. I would be happy to answer any questions on the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, this amendment, which would seek to centralize the responsibility for embassy security for the Embassy building operations and the like, is a good amendment with a good objective. I recommend it be passed and I support it.

Mr. HELMS. Mr. President, this side fully concurs and commends the Senator from Alaska on his amendment. We urge its approval.

Mr. PELL. I am prepared to yield back the balance of my time.

Mr. MURKOWSKI. I yield back the balance of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 905) was agreed to.

Mr. PELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 906

(Purpose: Sense-of-the-Congress resolution commending progress toward democracy in Taiwan)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 906.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

The Congress finds:

(1) economic vitality, educational advancement and social progress have created conditions favoring the furtherance of democracy in Taiwan; and

(2) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the United States and the people of Taiwan; and

(3) the authorities on Taiwan are nurturing a transition toward more truly democratic and representative political institutions; and

(4) the lifting of Martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan.

It is the sense of the Congress that:

(1) the United States Congress welcomes the democratic trends emerging in Taiwan and commend the progress that has been made recently in advancing democratic institutions and values; and

(2) the United States Congress encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions; and

(3) the United States Congress requests American representatives to convey this nation's continuing support for a free and prosperous Taiwan as stated in the Taiwan Relations Act and our encouragement for democracy to the leaders and the people of Taiwan.

Mr. MURKOWSKI. Mr. President, as our friends on Taiwan prepare to celebrate their 76th National Day, it is appropriate for us to reflect on some of the significant events that have taken place in Taiwan under the leadership of President Chiang Ching-Kuo, and to express our pleasure and continued support for a free and prosperous Taiwan.

In the past decade, we have witnessed remarkable economic progress in Taiwan. Taiwan is now our fourth largest trading partner and the world's second largest holder of foreign exchange reserves. In response to the concerns expressed by the United States over the growing trade imbalance between our two countries, the Government has taken significant steps to reduce tariffs, remove nontariff barriers and encourage the purchase of more American goods and services.

Accompanying Taiwan's economic success, the Government has taken unprecedented steps to further the evolution of democracy. The lifting of martial law, the rise of a multiparty system and the release of detainees reflect an increased sensitivity and commitment to the principles of human rights, democracy, and freedom.

In addition to the emergence of an important trading partner, our support for the development of democratic, free market institutions on Taiwan has an important added bonus: We have had an ally which has supported our goals in East Asia for over 30 years.

We in America take pride when reflecting upon the long friendship between our Nation and satisfaction that the United States has contributed much to the extraordinary transition of Taiwan to a world trading power.

Mr. President, wherever the principles of democracy thrive, we in the United States must give our continued support to protect them. Therefore, the purpose of this amendment today is to express our respect and admiration for Taiwan's achievements and reaffirming the solemn obligation we have to the people of Taiwan as embodied in the Taiwan Relations Act.

I urge my colleagues to join me in sending this expression of support for our friends on Taiwan on the eve of this important day.

Mr. PELL. Mr. President, this is a very timely and thoughtful amendment. I think it will help those that seek democracy in Taiwan, and I recommend its passage.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HELMS. The amendment is perfectly acceptable.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 906) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 907

(Purpose: To facilitate implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DIXON], for Mr. SIMON, for himself, Mr. DIXON, Mr. WALLOP, Mr. GORE, Mr. STENNIS, Mr. EXON, Mr. INOUYE, Ms. MIKULSKI, Mr. D'AMATO, Mr. KASTEN, Mr. KENNEDY, Mr. DANFORTH, Mr. ROTH, Mr. SPECTER, Mr. CRANSTON, and Mr. HOLLINGS, proposes an amendment numbered 907.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE VII— INTERNATIONAL CHILD ABDUCTION ACT

SECTION 701. SHORT TITLE.

This title may by cited as the "International Child Abduction Act".

SEC. 702. FINDINGS AND DECLARATION OF PURPOSES.

The Congress finds that—

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The 1980 Hague Convention on the Civil Aspects of International Child Abduction establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(5) This Act is designed to facilitate implementation of the Convention in the United States.

(6) The provisions of this Act are in addition to and not in lieu of the provisions of the Convention.

(7) In enacting this Act the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(8) The Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

SEC. 703. DEFINITIONS.

For the purposes of this Act—

(1) "Convention" means the 1980 Hague Convention on the Civil Aspects of International Child Abduction;

(2) "United States Central Authority" means the agency of the Federal Government designated by the President to perform on behalf of the United States the functions of Central Authority set out in the Convention and this Act;

(3) "court" means any court of competent jurisdiction of a State, the District of Columbia, a territory or possession of the United States, or the United States;

(4) "Federal Parent Locator Service" means the service established by the Secretary of Health and Human Services pursuant to section 453 of the Social Security Act (42 U.S.C. 653);

(5) "person" includes any individual, an institution, or any other legal entity or body;

(6) "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(7) "petitioner" means any person who files a petition in court seeking relief under the Convention and this Act;

(8) "respondent" means any person against whose interests a petition is filed pursuant to the Convention and this Act;

(9) "authorities" as used in article 15 of the Convention includes public officials and courts;

(10) "rights of access" means visitation rights;

(11) "wrongful removal or retention" includes a removal or retention of a child prior to the entry of a custody order regarding that child; and

(12) "commencement of proceedings" as used in article 12 of the Convention, with regard to the return of children located in the United States, means the filing of a petition in accordance with section 704(b).

SEC. 704. ADMINISTRATIVE AND JUDICIAL REMEDIES.

(a) The courts of the States, the District of Columbia, and the territories and possessions of the United States, and the United States district courts shall have concurrent original jurisdiction with regard to actions arising under the Convention and this Act.

(b) Any person seeking judicial relief under the Convention and this Act may commence a civil action by filing a petition in any court described in subsection (a) within the jurisdiction of which a child is located at the time the petition is filed.

(c) Notice of an action for the return of a child pursuant to the Convention and this Act shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) A petitioner who seeks return of a child under the Convention and this Act shall establish by a preponderance of the evidence that the child has been wrongfully removed or retained. A respondent who opposes return of the child has the burden of establishing by clear and convincing evidence that one of the exceptions set forth in the Convention applies.

(e) Full faith and credit shall be accorded by courts in the United States to the judgments of other courts in the United States ordering the return of a child pursuant to the Convention and this Act or denying such return.

(f) The remedies established by the Convention and this Act shall be in addition to remedies available under other laws or international agreements.

SEC. 705. PROVISIONAL REMEDIES.

(a) In furtherance of the objectives of the Convention and subject to the provisions of subsection (b), any court exercising jurisdiction over a petition filed pursuant to the Convention and this Act, may, either directly or through an appropriate intermediary, take or cause to be taken provisional measures under Federal or State law, as appropriate, to protect the well-being of a child or to prevent the child's further removal or concealment prior to final disposition of the petition.

(b) No court exercising jurisdiction over a petition filed pursuant to the convention and this Act may order a child provisionally removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

SEC. 706. ADMISSIBILITY OF DOCUMENTS.

Any application to the United States Central Authority or petition to a court submitted in accordance with the terms of the Convention, together with documents and any other information appended thereto or provided subsequently, shall be admissible in court without the need for any legalization or authentication.

SEC. 707. UNITED STATES CENTRAL AUTHORITY.

(a) The President shall designate a Federal agency to serve as Central Authority for the United States.

(b) The functions of the United States Central Authority and cooperating State and local authorities and agencies are those ascribed to the Central Authority by the Convention and this Act.

(c) The United States Central Authority shall have authority to issue regulations to implement the Convention and this Act.

(d) The United States Central Authority shall have authority to obtain information from the Federal Parent Locator Service under section 463 of part D of title IV of the Social Security Act.

SEC. 708. COSTS AND FEES.

(a) No Federal, State, or local authority shall impose on the applicant any fee in relation to the administrative processing of applications submitted under this Convention.

(b) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions and travel costs for the returning child and any accompanying persons, except as provided in subsection (c) or (d).

(c) Subject to subsection (d), legal fees or court costs incurred in connection with proceedings under the Convention or this Act shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(d) Any court ordering the return of a child under the Convention shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of return proceedings, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

SEC. 709. COLLECTION, MAINTENANCE AND DISSEMINATION OF INFORMATION.

(a) Notwithstanding section 522a of title 5, United States Code and any other provision of law, the United States Central Authority may, under such conditions as it prescribes by regulation, receive from or transmit to any Federal, State, or foreign authority or person information for purposes related to the Convention. No information shall be disclosed by the United States Central Authority pursuant to this section, however, if such disclosure would contravene the national security or law enforcement interests of the United States or the confidentiality of census data.

(b) Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) Notwithstanding any other provision of law (but subject to subsection (d)), whenever the head of any department, agency, or instrumentality of the United States or of any State, territory, or possession of the United States receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the United States Central Authority, except that if any information is obtained the disclosure of which would contravene national security or law enforcement interests of the United States or the confidentiality of census data, such information shall not be transmitted. The responding agency shall be obligated to advise the United States Central Authority immediately upon completion of the requested search.

(d) To the extent that information the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Federal Parent Locator Service under the provisions of section 463 of the Social Security Act, such Central Authority shall use the procedure provided for under such section 463 in its efforts to obtain such information, and shall not request such information directly under the provisions of subsection (c) of this section.

(e) Nothing in this section shall be construed as permitting the United States Central Authority to obtain tax return information except as provided in section 6103 of the Internal Revenue Code of 1986 and section 453 of the Social Security Act.

(f) The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

SEC. 710. INTER-AGENCY COORDINATING GROUP.

(a) The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor operation of the Convention and to provide advice on its implementation. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the coordinating groups at rates not to exceed those authorized for Federal employees under title 5 of the United States Code.

(b) The interagency coordinating group shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App. I).

SEC. 711. AUTHORIZATION OF APPROPRIATION.

There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this Act.

SEC. 712. AMENDMENT CONCERNING FEDERAL PARENT LOCATOR SERVICE.

Section 463 of the Social Security Act (42 U.S.C. 663) is amended—

(1) in subsection (b), by striking out "under this section" and inserting in lieu thereof "under subsection (a)"; and

(2) by adding at the end the following new subsection:

"(e) The Secretary shall enter into an agreement with the Central Authority designated by the President in accordance with section 707 of the International Child Abduction Act, under which the services of the Parent Locator Service established under section 453 shall be made available to such Central Authority for the purpose of determining the whereabouts of any parent or child when such information is to be used to locate such parent or child for the purpose of carrying out its responsibilities under that Act. The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

SEC. 713. AMENDMENT TO THE INTERNAL REVENUE CODE.

Subparagraph (B) of section 6103(l)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(6)(B)) is amended by inserting before the period at the end thereof the following: "and for purposes of, and to the extent necessary in, locating individuals in connection with the abduction or wrongful restraint or retention of a child".

Mr. DIXON. Mr. President, I am proposing this amendment on behalf of my good friend and distinguished colleague from Illinois, Senator SIMON. I have the honor of being a cosponsor of the amendment.

Mr. President, this amendement will implement the 1980 Hague Convention on the Civil Aspects of Parental International Child Abduction.

The State Department has recorded over 2,500 cases of international child abduction. The victims of this crime are children from each and every State of this country, who have been abducted by one of their parents and detained in countries around the world.

Once the children are taken out of this country, their rightful custodians face an impossible task to have their children returned. In virtually every case, the country to which the child is illegally taken, whether ally or enemy, has refused to honor the decision of an American court, and return the child to the parent having legal custody of the child in the United States.

At the present time a parent whose child has been taken to, or retained in, a foreign country in violation of a valid custody decree, must attempt to have that decree recognized by the foreign court. This process is costly, time-consuming and frequently requires the rightful custodian to be subject to another hearing on the merits of the custody claim. This hearing takes place in the abducting parent's home country. Even if such a hearing can be obtained, it almost always results in the abducting parent being granted custody.

Therefore, a person who has lost a custody battle in this country has enormous incentive to abduct the children and take them out of the United States. Where they know they cannot be forced to return the children to their rightful custodians.

Without ratification of the Hague Convention, the U.S. Government has little ability to assist parents recover their abducted children. Right now, our State Department seems to function as the world's largest legal services referral office, telling a parent whose child has been stolen away to contact a lawyer in the country to which the child has been taken.

Mr. President, the Hague Convention is an important first step in the continuing efforts to deal with this problem. The convention does not provide for the recognition and enforcement of foreign custody decrees. Rather, it sets up a system of administrative and legal procedures designed to ensure the prompt return of children who are wrongfully removed to or retained in a ratifying state. This would restore the custody status quo that existed before the abduction. It thus denies the abductor any legal advantage in the country to which the child has been taken, as the courts in that country are under treaty obligation to return the child to the country from which he or she was abducted without conducting any proceedings on the merits of the underlying custody claims.

The convention was adopted by unanimous vote of the 23 countries who participated in the negotiation of this agreement, and is currently formally in force in 8 of these nations.

Last year, the Senate consented to convention by a vote of 98-0. This amendment will fully implement the various aspects of the convention and allow for formal ratification by the United States. Once the United States formally adopts the Hague Convention, several additional countries are reportedly likely to follow.

The Hague Convention could begin to provide relief from the problem of international child abduction. Secretary of State Shultz has said that over the past several years nearly half of all reports of parental kidnapings have involved abductions to countries which participated in the preparation and negotiation of the Hague Convention.

Because this problem affects nearly every nation in the world, I believe that once the convention is ratified by a number of countries, additional nations will be encouraged to adopt it in order to deter the abduction of children from their own countries.

Let me remind my colleagues of one tragic case which demonstrates how ineffective the current system is, and the dire need for ratification of the Hague Convention.

I have spoken on this floor about the pain and disruption that have been experienced by Patricia Roush, whose two daughters were illegally abducted by her fugitive father, Khalid Al-Ghesayan, to the Kingdom of Saudi Arabia. For over a year, I have been pressing the Saudi Arabian monarchy to bring these two children home.

My constituent, Patricia Roush, has been told by the State Department that there is nothing our Government can do to bring these two young citizens back to their mother and their country. I personally brought this matter to the attention of Saudi representatives in my Senate office, and urged that the decision of the United States court be honored. I was told that these children could not be returned.

What I learned from the Saudis is that they intend to do absolutely nothing to bring these United States citizens home to their mother, despite the fact Geshayan has kidnaped two United States citizens from my State.

I showed the Saudis a criminal complaint, the United States of America verus Khalid Hamad Al-Geshayan. A warrant for the arrest of Mr. Geshayan has been issued by the Circuit Court of Cook County for child abduction. Under Federal Law, he is charged with unlawful flight to avoid prosecution.

The Saudi repersentative, however, asserted that my constituent, Patricia Roush, has few rights under Saudi religious law, and under that same law, has no claim to her two American children. I learned further, that in the event Mr. Geshayan is deemed an unfit parent by the Saudi courts themselves, which is quite possible given his long history of a drinking problem and criminal activity, the children, Alia and Aisha, would not go to their mother but to a relative of Khalid Geshayan's!

I was told that under Saudi law, Geshayan enjoys the right to these two United States citizens, and that there is no opportunity for a greater Saudi Government role in this matter, and that the King, the Ambassador, and the ruling family of this Saudi Arabian monarchy can't help these children in any way.

I cannot accept this, Mr. President! I believe the Saudi Government can and must do something about these two young American girls currently being held hostage in Saudi Arabia. In the spirit of goodwill and comity, I believe the ruling monarchy in Saudi Arabia can restore these two young United States citizens to their mother, in whose custody they belong, according to the United States courts. While we must accept the reality that different nations maintain divergent legal systems, I find the specifics of this case grossly unfair!

It is for Patricia Roush and the thousands of people in the United States who have had experiences like her's, that I vigrously urge my colleagues to support this implementing legislation of the Hague Convention on the Civil Aspects of Parental International Child Abduction.

Mr. President, the Hague Convention on International Child Abduction is needed. It would provide an important step forward in providing assistance and hope and for the family's of the victims of international parental child abduction.

● Mr. SIMON. Mr. President, I am grateful to my colleague from Illinois for offering this amendment on my behalf. It will implement the Hague Convention on the Civil Aspects of International Child Abduction. The amendment is identical to S. 1347, which I introduced on June 9 of this year, and which is cosponsored by 15 of my colleagues on both sides of the aisle.

Most of our colleagues here in the Senate have, at one time or another, experienced the frustration of trying to help a constituent who has had a child abducted by the other parent to a foreign country. We know that the job of trying to get these children returned to their lawful custodians is a difficult, if not impossible, task. And the problem is clearly growing, as parents deprived of legal custody in the courts of this country choose to hide behind the legal systems in countries who do not recognize the custody decrees of our courts.

As of May 1, 1983, the Department of State knew of 667 unresolved cases of child abductions from the United States. As of December 31, 1986, such cases totaled 2,353. The State Department's statistics suggest that children are being abducted from the United States and kept outside of this country at the average rate of about 35 per month.

Twenty-nine nations, meeting in the Hague, Switzerland, in 1980, recognized the growing dimensions of this international problem. In the belief that international parental abductions are harmful to the children involved, they agreed on the importance of taking some action to reduce the number of such abductions through adoption of a mechanism for resolving international child custody disputes. The document resulting from these negotiations, the Hague Convention on the Civil Aspects of International Child Abduction, was signed by the United States on December 23, 1981, after it was endorsed by the American Bar Association and the Secretary of State's Advisory Committee on Private International Law. The Senate voted unanimously on October 9, 1986, to give its advice and consent to the ratification of the Hague Convention.

The convention established an administrative and judicial mechanism to bring about the prompt return of children who have been abducted from their home countries in parental custody disputes. It is important to note that the convention, and the implementing amendment I am offering, does not alter custody decisions concerning abducted children. Those decisions are still left to local courts and authorities. Instead, the convention would simply eliminate an incentive for abducting a child. The incentive would be gone because, if the child were taken to a signatory nation, the child would be automatically returned to his or her habitual place of residence, unless, of course, a judge found that return would post a grave risk to the child's well-being.

Close to half of the State Department's unresolved cases of abductions from the United States involve countries which have expressed an interest in ratifying the convention. Ratification by the United States will undoubtedly have an impact on the decisions of many countries on whether to become a party to the convention.

The last remaining barrier to ratification by the United States is the adoption of implementing legislation that will ensure that the provisions of the convention are carried out in a manner consistent with the intent of the convention's negotiators in the context of the legal system of the United States. The bill I am offering as an amendment was drafted over a lengthy period of time by the State Department in consultation with the Departments of Justice, Health and Human Services, and Treasury. It will ensure uniform implementation throughout our 50 States by resolving such issues as concurrent jurisdiction in State and Federal courts, defining the terms of the convention, providing exemption from Privacy Act requirements to allow exchange of necessary information about the child, and by clarifying issues related to legal costs. The legislation is fully supported by the administration.

Parental child abductions are too often seen as domestic matters that do not warrant government involvement. But the evidence is clear that children who are torn from familiar environments, from family members and friends, suffer greatly. We must do all we can to end the grief and heartache for these children and their families. This legislation will not solve all of the problem, but it is likely to help solve many individual cases and to prevent many others. I welcome the support of the chairman of the Foreign Relations Committee and my colleagues for this amendment.●

Mr. DIXON. Mr. President, I believe that this amendment has been accepted on both sides. I thank the managers for their acceptance of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield myself such time as necessary.

The Senator from Illinois is absolutely correct. This has been cleared on both the minority and majority sides. The acting minority leader is here.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I commend the Senator from Illinois for the amendment to increase awareness of, and efforts in, the field of child abduction from parental custody cases.

I have recently, Mr. President, been approached by interested parties in a case of child abduction regarding an American diplomat in the Middle East who removed from the country his illegitimate child. The mother had been trying to resolve the situation and has run into many difficulties caused by the claim of diplomatic immunity for the American diplomat.

I hope the Secretary of State will take some action to avoid the misuse and abuse of diplomatic immunity by American diplomats involved in child custody disputes.

Then, Mr. President, there is another matter. There is a case, of which I am aware, in which the former Somali Ambassador to the United States is holding a child, born in this country, born to an American mother who is married to the son of the former Somali Ambassador. That Ambassador is, I believe, very much in the wrong in keeping the child in a place where the mother has no legal way whatsoever to gain access to her son because of the former Ambassador's abuse of his diplomatic immunity.

There are other cases that we have in our files, Mr. President. I mention these two just to illustrate what is going on. There are undoubtedly thousands of custody disputes that have been complicated by one parent removing the child from the country so as to avoid legal authority of the courts.

I am happy to accept the amendment.

Mr. DIXON. Would my friend from North Carolina yield for a moment?

Mr. HELMS. I certainly will.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I want to thank my friend from North Carolina for his remarks and say very briefly that he is quite correct when he says there are many of these cases that are of tremendous emotional concern for American citizens. I just want to point out one, Mr. President, that caused me to become very much involved with the problem of international parental child abduction, and that is the case of Patricia Roush, of Cicero, IL. She is a registered nurse. Years ago she married a Saudi Arabian citizen in our country who had been sent here by his government to go to school.

They had two little girls.

This young man was arrested several times for violations of criminal laws in our country. He was an abuser of alcohol. He beat his wife. He beat his children. He had a lawyer in the divorce proceedings.

Ms. Roush was finally granted custody of the two little daughters in the Circuit Court of Cook County. Later, out of kindness of her heart she let her ex-husband see those two children. He kidnapped them, took them back to Saudi Arabia and refused to return those two daughters to the custodial mother.

Sadly, may I say to my friend from North Carolina, under Saudi Arabian law she does not even have standing in court over there.

I have talked to the people in the Saudi Arabian Embassy here. I have talked to the State Department. We have made a great efforts to try to get those two children out and they still have not been released.

There are over 2,300 cases, may I say to my friend from North Carolina and the distinguished manager on this side, of American parents who were given custody of their children in lawful court proceedings, many times where the other party was represented by counsel, who have been deprived of their children now held in foreign countries.

I want to say that I very much appreciate the fact that the Senator from North Carolina is aware of this very serious problem because I believe, as more and more Senators become aware of it and become concerned about it, more will be done by the State Department.

Frankly, the State Department could do more in these cases. I say that without criticizing either the Secretary of State himself, who is a good man, or others in that Department. But I want to make it very clear that many of us are sorely disappointed by the lack of support from the State Department in these matters.

I thank my dear friend from North Carolina.

Mr. HELMS. I thank my friend from Illinois. He has performed a most useful service and a compassionate one and I congratulate him. Of course we are delighted to approve the amendment.

The PRESIDING OFFICER. Is all that yielded back?

Mr. PELL. I yield back the balance of my time.

The PRESIDING OFFICER. All time having been yielded back the question is on agreeing to the amendment.

The amendment (No. 907) was agreed to.

Mr. DIXON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. I thank the managers. I appreciate it.

AMENDMENT NO. 908

(Purpose: To waive certain naturalization requirements for certain former Cuban political prisoners)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 908.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . WAIVER OF CERTAIN NATURALIZATION REQUIREMENTS FOR CERTAIN FORMER CUBAN POLITICAL PRISONERS.

(a) FINDINGS.—The Congress finds that the following individuals, now in the United States, were members of Brigade 2506 and imprisoned in Cuba for 25 years following the Bay of Pigs Invasion: Ricardo Montero Duque of Union City, New Jersey, and the following five individuals of Miami, Florida: Ramon Bernardo Conte Hernandez; Jose Rafael Machado Concepcion; Nicolas Edigno Hernandez Mendez; Rogelio Milian Perez; and Pedro Armando Santiago Villa.

(b) WAIVER.—Notwithstanding section 316 of the Immigration and Nationality Act, no continuous residence or physical presence requirement shall apply to the eligibility for naturalization of the persons named in subsection (a).

Mr. KENNEDY. Mr. President, this year marks the 26th anniversary of the Bay of Pigs.

When the members of Brigade 2506 were finally returned to the United States after intense negotiations between the Government of Cuba and the Kennedy administration, there were nine who remained behind. These brave soldiers all served long and difficult terms in Cuban jails after their capture at the Bay of Pigs.

Last year, in response to my requests and to the appeals of many other interested Americans, the Government of Cuba finally released the last two members of the brigade. Ricardo Montero Duque—the last officer—was released last June, and Ramon Conte Hernandez—the last soldier—was released last October. After their capture at the Bay of Pigs, these two men were held for over 25 years in Cuban jails.

The purpose of this amendment is to waive the residency requirement for U.S. citizenship as it applies to these two Bay of Pigs veterans and to four other veterans who were similarly held for long periods of time in Cuban jails after their capture in 1961. This amendment does not waive any other citizenship requirements. Only the waiting period which is otherwise required for U.S. citizenship is eliminated. All other requirement will still apply. But because these Bay of Pigs veterans spent so many years in Cuban jails after their capture, the Congress should recognize that it is only fair that these six individuals be given special treatment in their efforts to become American citizens.

The American people owe these six individuals a debt of gratitude. They went to Cuba as patriots, and they have returned to the United States with a desire to become American citizens. They have already waited too long. No more waiting should be necessary.

It is my understanding that this amendment has been cleared by both sides of the aisle, and I urge all Members of the Senate to support it.

Mr. HELMS. I want the Senator from Massachusetts to hold on to his desk. This is a splendid amendment. I am delighted to support it.

Mr. KENNEDY. Mr. President, if we are abiding by the time agreement, I yield back any remaining time.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 908) is agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask for unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, I ask for unanimous consent that I may proceed for 3 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the Senator from Virginia.

JUDGE BORK

Mr. WARNER. Mr. President, yesterday the leadership of the Senate discussed the Bork nomination and the responsibilities of this body. I am hopeful that we will proceed to have a debate on this issue at the earliest possible date and urge the leadership this morning to renew their efforts to expedite a full floor debate.

We pride ourselves on being one of the oldest, if not the oldest, deliberative bodies here in the United States of America. The issues revolving around this nomination are being deliberated in almost every place in America but here where that debate should take place: By the full Senate on the floor of this Chamber.

This Senator, out of respect for the traditions of this institution, the U.S. Senate, and out of respect for the nominee, has not declared his intentions as to how he would vote. I have done that for, I believe, valid reasons.

First, I have not had the opportunity, nor do I believe many others have had, to examine with care the record compiled by the Senate Judiciary Committee. While the record was given to Senators at the end of last week, there has been inadequate time to review this voluminous report.

Second, some Senators have taken the floor to read carefully prepared statements or to make remarks, but we have not looked at each other, into the whites of our eyes, and provided one another with the benefits of reasoning, argumentation, and confrontation that are essential to a full debate, debate that I think this case merits.

Third, this Senator has been engaged for some several weeks as comanager of the Senate Armed Services authorization bill for 1988. That required well over 100 hours of debate on the floor. As such, I was deprived of the opportunity to spend as much time as I would have liked to review the testimony of the witnesses who appeared before the Judiciary Committee.

The Senate's advise and consent responsibility for Presidential nominees to the judicial branch, most particularly to the Supreme Court, is one of the most important duties given to this body by the Constitution. I take this responsibility, I am certain as do others in this Chamber, very seriously and want to have the opportunity to prepare, and the opportunity to participate in a debate of the Senate as a whole.

The constitutional responsibility under advise and consent in connection with the judicial branch, I believe, is unique. It is distinguishable, I believe, from our responsibility to nominees for Cabinet posts, senior military, or ambassadorial posts. Cabinet officers are an extension of the Presidency and the Presidents choices should carry convincing weight.

I put judicial nominees in a separate category because in many respects the third branch of our Government, the judiciary, is created by a joint effort between the executive branch and the advise and consent responsibility of the Senate to approve nominations.

The judiciary is an independent third branch of our Government and the role of the Senate in helping to create this branch through its advise and consent responsibility is among the Senate's chief responsibilities under the Constitution. It requires, in my judgment, the collaborative efforts of the Senate as a whole.

The Senate should not consider itself discharged of this responsibility simply because the Committee on the Judiciary has rendered its report, and some Senators have made statements. In the case of Judge Bork, we have not had the opportunity for a full Senate debate on the floor; to exchange our views confront one another in a manner that the Founding Fathers conceived when they established the U.S. Senate. That concerns me.

In the history of this body, there was a time when we did the advise and consent without the benefit of any committee structure. It had not been created, and Members took the floor exchanged their views, often in heated debated, and arrived at a consensus of the Senate. We should do that in this important case.

Theoretically, and I say this without any disrespect to any of my colleagues, if each of us sought to announce ahead of a floor debate how we are going to vote on this nomination it would eclipse the necessity for that debate. A debate would be lifeless, if not useless. I feel very strongly that we would have then surrendered our responsibility.

This Senator out of respect for the traditions of this institution, the Senate acting as a whole, and out of respect for the nominee and President who made that nomination, has deliberately not made a declaration, nor am I about to announce my intention as to how I would vote. I do not make that declaration because I continue to hope that this body will proceed as I have outlined to debate as a whole to reach this decision.

Accordingly, Mr. President, I hope that the Senate leadership will soon arrive at an appropriate schedule and that we may commence this important debate. This Senator will make my declaration at an appropriate time either in the course of that debate or at the time the vote is taken.

I thank the Chair.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of the bill.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 909

(Purpose: To void certain agreements relating to the site of the Soveit Union's embassy in the District of Columbia)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 909.

Mr. SYMMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . (a) FINDINGS.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance having been offered to the Soviets at a time when electronic surveillance techniques and potentials were not fully understood in the West.

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of . . . real property . . . where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) NEW AGREEMENT WITH SOVIET UNION.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) EMBASSY AGREEMENTS.—For the purpose of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", entered into force on May 16, 1969; and

(2) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

Mr. PELL. Will the Senator from Idaho yield?

Mr. SYMMS. Yes.

Mr. PELL. Mr. President, I ask unanimous consent that on this amendment there be no second-degree amendment and that we have a 10-minute time limitation on each side.

Mr. SYMMS. I agree with that.

Mr. HELMS. Reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, is my unanimous consent agreed to?

The PRESIDING OFFICER. Ten minutes on each side and no second-degree amendment. Without objection, it is so ordered.

The Senator from Idaho.

Mr. SYMMS. Mr. President, I yield myself such time as I might consume.

Mr. President, I thank the distinguished chairman of the committee and the ranking member for the time agreement and for the agreement that no amendments are in order. I might say this is the third time the Senate has considered this amendment. The first vote was on July 30 on a vote to table the Symms sense-of-the-Senate amendment. The motion to table failed by a vote of 71 to 26. The second vote was on September 24 as an amendment to the Department of Defense authorization bill and the language is identical that was voted on on the Defense authorization bill as the language which is here before the Senate today. That amendment was agreed to by a vote of 70 to 27.

Mr. President, the House version of the State authorization bill does contain language which is similar, although not identical, to the Symms language which we now have before the Senate.

The Senate is already on record supporting the language we have, and I think that the language we have here in the Senate is much preferable to the House language because the House language contains a provision which would allow the President to waive voiding the Embassy agreements between the United States and the Soviet Union.

The Senate is on record in favor of this language which makes it clear that the security interests of the United States will be looked out for and that the Embassy agreements should be voided between the Soviet Union and the United States as is contained in the current law, which gives the Secretary of State the authority right now under subsection (b) of 22 U.S. Code 4305, specifically allowing the Secretary of State to require any foreign nation to divest itself of real property where otherwise necessary to protect the interests of the United States.

I think that is the case now, but with the current love-in between the United States and the Soviet Union that is going on over the INF, the United States State Department, of course, does not want to do anything that might rock the boat or offend the Soviet Union dictators, so to speak.

I reserve the remainder of my time or I am happy to yield some time to the distinguished ranking member.

Mr. HELMS. I would like that in just a moment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield myself such time as is necessary.

Mr. President, the Senate has spoken already twice on this matter and has approved the substance of the amendment of the Senator from Idaho. I have no objection to this amendment although obviously, having voted against it in the past, I do not agree with it. But I have no objection to it and I recommend its adoption.

Mr. HELMS. Will the Senator yield?

Mr. SYMMS. I will be happy to yield such time as I have to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair and I thank the distinguished Senator from Idaho.

Mr. President, this is an amendment that absolutely needs to be drilled home again and again so that it will penetrate the conscience of the U.S. State Department on a perfectly outrageous development with respect to the Soviet Embassy in the United States and the United States Embassy in Moscow.

The Soviets conned the United States into Mount Alto up on top of a hill, one of the highest points if not the highest point, where they could monitor electronically everything in Washington, DC. They can monitor with electronic equipment the Foreign Relations Committee of the U.S. Senate. And, as I understand it, the Oval Office.

In the meanwhile, what do we do about our Embassy which is in Moscow? We agreed to put it into a swamp and proceeded to build it. Then the Soviets were not satisfied with that disadvantage of the United States. Through error, misjudgments, inefficiency, inepititude, whatever, the State Department began building the United States Embassy in Moscow and they allowed offsite prefabrication. That is where the bugging occurred.

Mr. President, I thank the Senator for offering this amendment again. As he has indicated, it is a part of the Department of Defense authorization bill, which is going absolutely nowhere. The President is going to veto it and there are enough votes in the Senate to sustain the veto. But there is some hope that we will enact this bill into law and the President will sign it.

In any case, I commend the Senator and I thank him for the amendment. It is cleared on this side.

Mr. PELL. I yield back the remainder of my time.

Mr. SYMMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 909) was agreed to.

Mr. PELL. My vote should be registered as no, but the ayes have it.

Mr. SYMMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 910

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 910.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new title:

TITLE —DIPLOMATIC IMMUNITY ABUSE PREVENTION ACT

SECTION 1. SHORT TITLE.

This title may be cited as the "Diplomatic Immunity Abuse Prevention Act".

SEC. 2. CRIMES COMMITTED BY DIPLOMATS.

Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act") is amended by inserting after section 204A the following:

"Sec. 204B. Crimes committed by diplomats.

(a) RECORDS—(1) The Director shall develop and maintain records on each incident in which an individual with immunity from the criminal jurisdiction of the United States under the Vienna Convention who the Director reasonably believes has committed a serious criminal offense within the United States. Each such record shall include—

"(A) the identity of such individual;

"(B) the nature of the offense committed by such individual, including whether against property or persons;

"(C) whether such offense involved reckless driving or driving while intoxicated; and

"(C) the number and nature of all other criminal offenses committed in the United States by such individual.

"(2) The Director shall submit an annual report to the Congress on the incidents occurring during the preceding year. The report shall include the information developed and maintained under paragraph (1).

"(b) LOCAL LAW ENFORCEMENT INDIVIDUALS—The Director shall take such steps as may be necessary-

"(1) to educate local law enforcement officials on the extent of the immunity from criminal jurisdiction provided to members of a foreign mission, and family members of such members, under the Vienna Convention; and

"(2) to assure that local law enforcement officials fully investigate, charge, and prosecute, to the extent consistent with immunity from criminal jurisdiction under the Vienna Convention, any member of a foreign mission, and any family member of such a member, who commits a serious criminal offense within the United States.

"(c) INFLUENCE OF LOCAL PROSECUTIONS—

"(1) No officer or employee of the Department of State may seek to influence any investigation, charge, or prosecution by a State or local government of—

"(A) an alien who is a member of a foreign mission,

"(B) a family member of an alien described in subparagraph (A), or

"(C) any other alien not covered by immunity from the criminal jurisdiction of the United States under the Vienna Convention.

"(2) The Secretary may waive paragraph (1) with respect to an individual if the Secretary determines, and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after each such waiver, that such waiver is required by significant foreign policy considerations or the national security.

"(d) NOTIFICATION OF DIPLOMATIC CORPS.—The Director shall notify the members of each foreign mission of United States policies relating to criminal offenses (particularly crimes of violence) committed by such members, and the family members of such members, including the policy of obtaining criminal indictments, requiring such members to leave the country and declaring such members persona no grata.

SEC. 3. REGISTRATION AND DEPARTURE PROCEDURES FOR INDIVIDUALS WITH DIPLOMATIC IMMUNITY.

Section 210 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4310) is amended—

(1) by inserting "(a)" after "Sec. 210."; and

(2) by adding at the end thereof the following:

"(b) The Director shall develop and implement registration and departure procedures for members of foreign missions, and the family members of such members, in order to identify those individuals in the United States with immunity under the Vienna Convention on Diplomatic Relations of April 18, 1961 (TIAS numbered 7502, 23 UST 3227.)"

SEC. 4. WAIVER OF DIPLOMATIC IMMUNITY OR DECLARATION OF PERSONA NON GRATA WHEN CHARGED WITH A SERIOUS CRIME.

(a) WAIVER.—When an individual who is entitled to immunity from the criminal jurisdiction of the United States under the Vienna Convention on Diplomatic Relations is believed to have committed a serious criminal offense (particularly a crime of violence), a summons for that individual to appear in court shall be issued. Thereupon the Secretary of State shall—

(1) request that the country such individual represents waive the immunity of that individual, or

(2) if such waiver is denied, immediately declare non grata such individual if there is a prima facie case against such individual which absent diplomatic immunity would lead to prosecution and thereby require that individual to leave the United States.

(b) COMMUNICATION TO IMMIGRATION AND NATURALIZATION SERVICE.—The Secretary of State shall notify the Commissioner of the Immigration and Naturalization Service of each individual who voluntarily leaves, or is asked to leave, the United States because of that individual's alleged involvement in a serious criminal offense in order to prevent that person from reentering the United States.

(c) EXCLUSION OF ALIENS PREVIOUSLY INVOLVED IN A SERIOUS CRIMINAL OFFENSE COMMITTED IN THE UNITED STATES.—Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended—

(1) by striking out the period at the end of paragraph (33) and inserting in lieu thereof "; and" and

(2) by adding after paragraph (33) the following new paragraph:

"(34) Any alien with respect to whom the Secretary of State has notified the Commissioner of the Immigration and Nationality Service under section 4 of the Diplomatic Immunity Abuse Prevention Act because of that alien's alleged involvement in a serious criminal offense, except that such alien may be admitted to the United States—

"(A) with respect to any proceeding regarding such crime, or

"(B) if the Attorney General, in consultation with the Secretary of State, determines that admitting such individual into the United States is in the national interest.".

SEC. 5. AUTHORITY TO INSTITUTE AND MAINTAIN CRIMINAL PROSECUTIONS.

Section 5 of the Diplomatic Relations Act (22 U.S.C. 254) is amended by inserting before the period at the end of the first sentence the following: ", except that in the case of a criminal proceeding, prosecution may be instituted and maintained provided that no measure is taken in derogation of the diplomatically immune individual's inviolability or immunities from jurisdiction".

SEC. 6. REVIEW OF UNITED STATES POLICY ON DIPLOMATIC IMMUNITY.

The Secretary of State and the Comptroller General of the United States shall separately review the policy of the United States of providing privileges and immunities to foreign missions, the members of the missions, their families, the diplomatic couriers, and others which result in treatment which is more favorable than the treatment required to be provided under the Vienna Convention on Diplomatic Relations. Within 180 days after the date of enactment of this Act, the Secretary and the Comptroller General shall each submit separately to the Congress recommendations—

(1) for such changes as may be necessary in such United States policy so that such privileges and immunities do not exceed United States treaty obligations; and

(2) to promote the observance by foreign missions, the members of the mission, their families, the diplomatic couriers, and others of United States law.

SEC. 7. REVIEW OF PROCEDURES FOR ISSUING VISAS TO DIPLOMATS TO THE UNITED STATES AND THE UNITED NATIONS.

In order to ensure conformity with the treatment accorded to United States diplomats by other countries, the Attorney General, in consultation with the Secretary of State, shall review the procedures, and make such changes in the procedures as may be necessary, for issuing nonimmigrant visas to the aliens described in subparagraphs (A) and (G) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)). Within 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of such review and describing the changes, if any, made in such procedures.

SEC. 8. DEFINITION OF FAMILY MEMBERS.

Paragraph (2) of Sec. 2 of the Diplomatic Relations Act (22 U.S.C. 254a) is amended to read as follows:

"(2) the term 'family' means—

"(A) the spouse of a member of the mission and his or her unmarried children under 21 years of age, who are not members of some other household, and who reside exclusively in the principal's household;

"(B) unmarried children under 23 years of age who are attending an institution of higher education on a full-time basis; and

"(C) under exceptional circumstance and with the express advance approval of the Department of State, other persons who are not members of some other household, who reside exclusively in the principal's household, and who are recognized by the sending State as members of the family forming part of the household.".

SEC. 9. MINIMUM INSURANCE COVERAGE.

Section 6(b) of the Diplomatic Relations Act (22 U.S.C. 254c(b) is amended by adding at the end the following new sentence: "Such requirements shall provide that the minimum amount of insurance carried for injury resulting from the operation of any motor vehicle, vessel, or aircaraft is $1,000,000 per incident."

SEC. 10. LIABILITY INSURANCE TO BE CARRIED BY DIPLOMATIC MISSIONS.

(a) REQUIREMENT.—Section 6 of the Diplomatic Relations Act (22 US.C. 254(c) is amended by adding at the end thereof the following new subsection:

"(d) The Director of the Office of Foreign Missions shall, by regulation, establish, and take such steps as he deems necessary to ensure compliance with, liability insurance requirements which can reasonably be expected to afford adequate compensation for injury to person or property resulting from or arising out of the activities of a mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, other than liability relating to risks described in subsection (b).".

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (d)".

SEC. 11. PROCEDURES FOR CERTIFYING IMMUNITIES.

The Diplomatic Relations Act (22 U.S.C. 254) is amended—

(1) by redesignating sections 8 and 9 as 9 and 10, respectively; and

(2) by inserting after section 7 the following new section:

"PROCEDURES FOR CERTIFYING IMMUNITIES

"SEC. 8. Certification to the Court of immunity from criminal prosecution of any individual summoned under the procedures established under section 4 of this Act who is entitled to immunity under the Vienna Convention on Diplomatic Relations, or under section 3(b) or 4 of this Act, shall be made only if the request has been made by the foreign minister of the sending state to the chief of the U.S. mission in the sending state and such request is transmitted to the Secretary of State."

SEC. 12. DIPLOMATIC POUCHES.

The President shall—

(1) take such steps as may be necessary to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, and weapons and any material used to foster terrorism into the United States; and

(2) seek in every appropriate forum the adoption of measures which will ensure that diplomatic pouches are not used to smuggle illicit narcotics, explosives, weapons, and any material used to foster terrorism.

SEC. 13. DEFINITIONS.

For purposes of this title, the term—

(1) "serious criminal offense" means any crime of violence, as defined in section 16 of title 18, United States Code, or reckless driving or driving while intoxicated or under the influence of alcohol or drugs; and

Mr. HELMS. Mr. President, this amendment has been agreed to by the distinguished chairman of the Foreign Relations Committee. I appreciate his cooperation. As I have said many times on this floor and elsewhere, I enjoy working with Senator PELL, a thoroughly civil gentleman. We do not always agree but, by George, when we disagree, we agree to disagree agreeably.

Now, this issue of diplomatic immunity is something that troubles not only this Senator but countless hundreds of thousands of American citizens, many of whom have been victimized by not only Ambassadors, and admittedly the abuses by Ambassadors have been relatively few, but the families of Ambassadors and employees of embassies.

The time has come to correct the worst abuses of diplomatic immunity that have allowed the family and support staff of foreign diplomats to commit crimes that would warrant serious punishment if committed by U.S. citizens. The escalation in the number of so-called diplomatic personnel in our country to the present level of 58,000 has exacerbated this problem. In practice, these 58,000 foreigners are free, under current law, to commit any crime—no matter how serious, how violent, or how heinous—and remain free from prosecution.

The problems faced by our citizens are greater than in other countries because of the large foreign delegations to the country as well as the delegations, which also enjoy diplomatic immunity at the United Nations, and other international organizations physically located in the United States.

The amendment emphasizes a change in the treatment of diplomatic immunity for family and support staff of foreign diplomats when the families or staff traffick in drugs, drive while intoxicated or commit other reckless driving offenses, or commit violent crimes against U.S. citizens.

Let me be clear. This amendment does not do enough. However, it is a first step in the direction of curtailing the abuses of diplomatic immunity that have been tolerated by the Department of State. Many of these abuses could have been addressed administratively, but the Department did not do so. This amendment will require the Department to act properly in this area.

I advise the Department of State that the Senate expects to see immediate improvement in the handling of these diplomatic immunity cases. The Department's negligence has contributed, in part, to the need for such action. Mr. President, I ask unanimous consent that background material prepared by the committee staff of the subject of diplomatic immunity be printed at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, the thrust of the proposal is that foreign diplomats charged with serious crimes will continue to be eligible to have diplomatic immunity invoked on their behalf. However, this immuity will only be available if invoked by the Foreign Minister of the sending country.

The Secretary of State is required, under the amendment, to request of the sending country that diplomatic immunity be waived in the case of serious crimes in order to permit the prosecution of the individual. If that immunity is waived by the Foreign Minister, the individual will be subject to normal prosecution procedures in the various jurisdictions where such crimes are committed.

If, however, the sending country does not waive the immunity, the Secretary of State is required to declare the person "non grata" and require that individual to leave the United States.

Individuals who are required to leave under such circumstances will be permanently excluded from the United States under the immigration revisions also included in the amendment.

The ability of diplomatic representatives or members of their families to remain in the United States despite the commission of serious crimes is an outrage. Perhaps the most striking example presented to the committee was the case of "Holly," a young girl who lives in the Metropolitan Washington area. Holly's mother presented the committee with testimony of the rape of this young girl by two young men who taunted her with the fact of their immunity during the assault. In order to spare the family further attention and anguish, Holly's real name and her family's identity were not included in the testimony, but her case is quite real. I ask unanimous consent that this testimony be printed at the conclusion of these remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 2.)

Mr. **HELMS.** Mr. President, the amendment also increases the amount of automobile liability insurance that is to be maintained by diplomatic personnel to $1 million. This will ensure that sufficient insurance is available to cover injuries suffered by innocent U.S. citizens in cases of automobile accidents. While such actions are relatively rare, they can have serious consequences. I ask unanimous consent that the testimony of Mr. Max D. Leifer on behalf of Ms. Margaret Curry be printed at the conclusion of these remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 3.)

Mr. **HELMS.** One of the important aspects of the amendment is the requirement that the Office of Foreign Missions establish liability insurance requirements which can reasonably be expected to afford adequate compensation for injury to person or property resulting from or arising out of the activities of the mission. This provision should set in motion safeguards to ensure that future victims of diplomatic crime will be compensated, at least to some extent, for their injuries.

The amendment also addresses the abuses of the diplomatic pouches—pouches intended primarily to carry messages to and from the sending country. The amendment requires the President to take such steps as may be necessary to prevent the use of diplomatic pouches for the transportation of illicit narcotics, explosives, and weapons or any material used to foster terrorism into the United States.

There is no legislation, Mr. President, that can remove the pain and suffering of Americans who have suffered violence at the hands of foreign diplomats or their families. However, this amendment sets up parameters to improve the treatment of U.S. citizens and provide incentives for improved behavior by those guests in our country who serve as diplomatic representatives of their governments.

Mr. Ken Skeen summarized the current frustration of many Americans during his testimony before the committee on August 5. Mr. Skeen was shot several times by the son of the Brazilian Ambassador. As it turned out, the Ambassador's son—who had diplomatic immunity—had previously been involved in at least one other serious crime. Yet nothing had been done to him. Mr. Skeen summarized the frustration:

> I am an American. He is over here in my country, on my property. He shoots me. I am working. And I look like I am the bad guy, and he walks away scot free.
>
> I was just wondering if anybody here can explain how anybody can get away with attempted murder, running over people, raping women in this country. We have a very civilized country. We are not a country where we do not have laws. We protect our people.
>
> I just cannot understand it up till this day how somebody can walk away from a serious crime.

Mr. President, from the date this provision is enacted, these diplomatic personnel and their families no longer will be able to walk away from a serious crime. Either the foreign minister of the sending country will waive diplomatic immunity and permit prosecution, or the individual will be expelled from the United States and never be permitted to return. Additionally, those who suffer injury will be assured of some compensation through the insurance system that is required to be established.

This amendment, Mr. President, is not a complete answer. I believe a direct approach is required. However, that approach was defeated by the Senate on September 25, 1987, when it tabled an earlier amendment on this subject that I offered to the Defense authorization bill, S. 1174. Thus, Mr. President, for the time being we will settle for this approach until the Senate recognizes the need to do the whole job.

Mr. President, I ask unanimous consent that other testimony by Chuck Ashman and Pamela Trescott be printed immediately following the earlier inserts to which I alluded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 4.)

EXHIBIT 1

OVERVIEW OF DIPLOMATIC IMMUNITY

(Prepared by the Staff of the Committee on Foreign Relations)

Diplomatic immunity has received considerable press attention in the United States in the last five years, principally in Washington, D.C. and New York where most of the foreign diplomatic representatives live. Several incidents in particular, the shooting of an American outside a Washington nightclub by an ambassador's son, the serious injury to an American as a result of an ambassador's reckless driving, and numerous violent assaults have justifiably outraged the American public.

Balanced against this concern must be that of the protection of our envoys abroad. Removal of, establishment of less absolute levels of, or restrictions or limitations on diplomatic immunity in the area of criminal liability, could potentially open up U.S. diplomatic agents to harassment suits as well as to "trumped-up" criminal charges by politically motivated persons or states. Under such circumstances, U.S. diplomats might not simply be detained briefly or expelled by unfriendly governments, but could become long-term hostages subject to criminal prosecution, show trials, and eventual imprisonment. The United States, with its high respect for the rule of law, would be unable to reciprocate with similar harassment of the diplomats of such offending states, but might seek other remedies.

BACKGROUND

Diplomatic immunity, generally, shields duly accredited diplomatic officers of other States, and their families and staff, from legal jurisdiction under both criminal and civil law of the host country.

The concept of diplomatic privileges and immunities stretches back into ancient history. In the 13th century, B.C., a treaty of peace and alliance negotiated by Rameses II of Egypt and the Hittites included provisions concerning diplomatic privileges and immunities. Many of the fundamental principles of diplomatic law as it exists today were in practice in ancient Greece and Rome more than 2,000 years ago.

Diplomacy as it is understood today developed during the Renaissance in Italy, with the emergence of permanent resident diplomatic representatives. As early as 1625, the customary international law of diplomatic immunity had become deeply entrenched. A treatise on diplomatic relations published in that year stated:

> There are two maxims in the law of nations relating to ambassadors which are generally accepted as established rule: The first that ambassadors must be received and the second that they must suffer no harm.

In 1790, the first Congress of the United States enacted a statute providing for absolute immunity for diplomats.

VIENNA CONVENTION ON DIPLOMATIC RELATIONS

The 1961 United Nations conference at Vienna produced the Vienna Convention on Doplomatic Relations, which was signed on April 18, 1961, and entered into force in accordance with its terms when ratified by twenty-two States on April 24, 1964. (Although the Senate gave its advice and consent to the Vienna Convention on September 14, 1965, its ratification was delayed until December 13, 1972, a delay caused by efforts of the State Department to obtain before ratification the enactment of new legislation to bring about conformity between the international and domestic legal standards on diplomatic immunity through repeal of the 1970 statute. That legislation was not enacted until 1978, in the form of the Diplomatic Relations Act of 1978. See discussion below.)

The 1961 Vienna Convention codified the customary law of diplomatic relations and resolved many of the inconsistencies of State practice, including those relating to the scope of immunities and the persons to whom they apply. This Convention, most of which is binding as customary law even upon States that have not ratified it, is the authoritative international statement of diplomatic privileges and immunities. Under the United States Constitution, it is nonetheless subject to modification or abrogation by statute.

Immunity as addressed by the Convention varies according to the function of the individual within the mission. Members of diplomatic rank and their families enjoy full criminal, civil and administrative immunity. Their immunity is limited in only three situations—there is no civil or administrative immunity in cases relating to private real property situated in the host State, cases involving private inheritance matters, and cases arising from the diplomat's private professional or commercial activities in the host State.

Members of the staff of the mission who are employed in administrative or technical positions and their families receive full criminal immunity under the Convention, but civil and administrative immunities do not extend to acts performed outside the scope of their official duties.

Members of the service staff of the mission are afforded immunity only for acts performed in the course of their employment, and they have no civil or criminal immunity for their private acts. Private servants employed by members of the mission enjoy no diplomatic privileges or immunities, except that they are exempt from taxes upon income derived from their employment.

A similar breakdown of privileges and immunities apply to consular officers and employees and to missions to International Organizations. The location of the United Nations in New York therefore presents a unique problem for the United States.

The Vienna Convention allows other actions to be taken against diplomats who flout local law. Under Article 9 of the Convention, the receiving State may at any time, without explanation, declare the head of a mission or any other member of the staff of the mission "non grata" and expel that person. However, that person is not subject to any criminal investigation and no charges can be brought in the receiving state. This procedure is usually invoked only in very serious crimes, such as espionage and murder.

Article 32 of the Convention provides that the host state can request the foreign country to waive the diplomat's immunity. Understandably, states are reluctant to waive the immunity of their diplomats. Under U.S. Foreign Service rules, only the Secretary of State may waive an American diplomat's immunity.

In 1978 there were approximately 23,000 people in New York and Washington, D.C. possessing full diplomatic immunity. As of February 1987, over 33,000 people have criminal immunity.

It should also be noted that there are certain countries with which the United States has concluded bilateral agreements which grant to all members of the staff of their respective embassies (provided that they are nationals of the sending country) the privileges and immunities to which only diplomatic agents are normally entitled. At present there are such agreements with the U.S.S.R., the People's Republic of China and East Germany.

THE DIPLOMATIC RELATIONS ACT OF 1978 AND THE 1983 FOREIGN MISSIONS AMENDMENTS

On September 30, 1978, President Carter signed the Diplomatic Relations Act, marking the first major change in American law on diplomatic privileges and immunities in 188 years. The Act, largely the product of work by Senator Sarbanes, repealed the 1790 Act and incorporated the 1961 Vienna Convention into United States law. The Act also requires that diplomats and embassies carry automobile, boat, or aircraft liability insurance for property damage or personal injuries received in automobile accidents caused by diplomats.

While the Act required liability insurance with respect to risks arising from the operation of motor vehicles, aircraft, or vessels, it left victims of other types of torts with no judicial remedy. Moreover, if the required insurance lapsed or was canceled, the injured party could be left without a remedy. Finally, it was difficult to find sufficient sanctions to enforce the Act. A diplomat could register his vehicles without State Department approval if he wished to pay the local licensing fees, thus avoiding the cost of liability insurance if it became too high or too difficult to obtain.

Responding to these concerns, in 1983 Congress enacted new provisions, again under the leadership of Senator Sarbanes, relating to enforcement of compliance with the liability insurance requirements as a part of the State Department Authorization Act for fiscal years 1984 and 1985. Under these provisions, foreign missions must notify the director of the Office of Foreign Missions of the lapse or termination of any liability insurance coverage held by a member of the mission, and must make annual reports on their vehicles and insurance arrangements. If a diplomat is at fault in an accident and either lacks insurance or fails to satisfy a court judgment against him or is not legally liable, the director of the Office of Foreign Missions can determine the victim's compensation.

RECENT INCIDENTS INVOLVING DIPLOMATS

In late 1982, the Brazilian ambassador's son shot an American citizen three times outside a Washington, D.C. nightclub. The diplomat's son was charged with assault with a dangerous weapon, which carries a 10-year prison sentence, but the charges were dismissed based on diplomatic immunity. The victim, Kenneth Skeen, filed suit against both the ambassador and Brazil. The charges against the ambassador were dismissed based on diplomatic immunity; the charges against Brazil were dismissed based on sovereign immunity. The Ambassador's son was sent home to Brazil.

In 1983, the son of a Saudi Arabian diplomat was suspected of raping a 16-year-old in Alexandria, Virginia. The State Department presented evidence to the Saudi Embassy, which made "no denial" of the allegation. The suspect was sent home to Saudi Arabia. Some reports indicate he subsequently returned to the United States. No charges were brought because he had diplomatic immunity from prosecution.

In February of this year, the Papua New Guinea ambassador to the United States crashed into four parked cars on Wisconsin Avenue, seriously injuring Stephen Hagan, a 26-year-old radio newsman who was sitting in one of the automobiles. State Department and police officials said that the Ambassador had been drinking before the incident. The Ambassador could not be prosecuted because of diplomatic immunity. He was recalled by his government shortly after the accident.

RECENT STATE DEPARTMENT INITIATIVES

Hours after the accident involving the Papua New Guinea Ambassador, the State Department put into practice new policies with respect to diplomats who abuse their privileges of immunity. The State Department revoked the Ambassador's driver's license, and more importantly, contacted the U.S. Attorney's office in the District of Columbia to urge a complete investigation in order to provide facts for U.S. government decisions about the diplomat in question, including the issue of expulsion, and to lay the groundwork for possible prosecution later. Although obtaining an indictment or arrest warrant has no immediate legal effect, it does lay the basis for a prosecution at a later date if the individual is declared "persona non grata" and fails to leave, or later returns to this country without diplomatic immunity. In addition, an outstanding arrest warrant, when entered into U.S. immigration records, could bar the offender from coming back to the U.S. after leaving a job as an accredited diplomat.

EXHIBIT 2

STATEMENT TO THE COMMITTEE ON FOREIGN RELATIONS OF THE U.S. SENATE, AUGUST 3, 1987

(Statement made by "Judy" (mother of sixteen year old victim of rape perpetrated by the son of a Saudi Arabian diplomat and the son of a World Bank official, on January 29, 1983) at the request of Senator Jesse Helms concerning S. 1437)

BACKGROUND

On January 28, 1983, my husband "Joe" and I decided to take a much-needed weekend together to celebrate our 21st anniversary. We booked a room at a local hotel, and placed those children not in college with neighbors. Our daughter, whom we shall call "Holly," was staying with a couple across the street from our home. During the daylight hours, she was permitted to come into our home to use the telephone, to study, to do her laundry, etc. One of the phone calls she received during the afternoon on Saturday, January 29, was from two students whom she had met at school, one a Saudi Arabian and one an Egyptian. Holly, a learning disabled student, met a number of foreign students who came through the special education department for assistance with English as a second language, and she shared study halls with these two students who called her.

The boys had called to invite Holly to a party at the condominium complex where they lived. She knew and felt she could trust these fellow students—she considered them friends. They described a party, assuring her there would be 30-40 people present. Although we were not available for her to obtain specific permission, she already had our neighbors' permission to attend a birthday party that night, and she chose to accept this other party invitation in its place.

When the two boys came to pick her up, they were in a car belonging to the father of the Saudi Arabian boy. It bore diplomatic plates (#5023 VA). Our neighbors noticed Holly drive away in a large impressive car and realized she had not told them of her change in plans.

Upon arrival at the condominium complex, Holly became thoroughly confused, losing her bearings as they drove through a maze of curved drives and multiple high-rise buildings within the secured compound of gardens and resort-like facilities. At last they entered underground parking at one of the buildings and escorted Holly upstairs by elevator to one of several units owned or rented by the Saudi Arabian diplomat for his family.

On entering the residence, Holly initially found herself at a large party of young people, of whom she was the youngest, as it soon became apparent when most of the guests decided to go to Georgetown to "party" and Holly was too young to accompany them. She was left behind with her two escorts and another couple. The other couple left before long, leaving Holly in the awkward situation of being alone in the boys' apartment, dependent on them for a ride home since she was unsure where she was or how to leave alone either gracefully or safely.

THE RAPE

The two young men had already suggested a "strip" game, which caused the one remaining couple to depart. Once they had Holly alone, they were quick to take advantage of her building fear, intimidating her by boasting that they could do anything they wanted to her because they had diplomatic immunity. They pressed liquor on her, and after protesting, she eventually acquiesced, hoping if she cooperated they would stop their threatening manner. Instead, they began to disrobe and demanded she join their "game". Dizzy and disoriented from the liquor to which she was unaccustomed, Holly was easily subdued as they forced her to the floor, one holding her down while the other removed the clothing from her lower body. The Saudi Arabian then forcibly had intercourse with her while the Egyptian restrained her, both taunting her with their diplomatic immunity and her powerlessness throughout the assault. The Saudi Arabian then restrained her while the Egyptian took his turn, raping her a second time and again taunting her verbally with their immunity.

Sick and frightened, Holly was allowed to clean herself and dress. She was then made to walk with her tormentors through the recreational areas of the condominium complex before they took her back to the car and drove her to the neighbor's home where she was staying. When they left her there, arriving before her 11:30 p.m. curfew, Holly was too confused and embarrassed to tell her neighbors what had happened.

Indeed, when her parents returned the day after the crime, Holly had become reluctant to tell even them, feeling she should not have accepted the invitation to begin with and blaming herself for getting into a situation she couldn't handle.

THE AFTERMATH

When Holly went to school that Monday morning, she found that her locker had been vandalized with obscenities in paint. By the end of the day, it seemed as if the whole student body had heard the story—the two perpetrators had been boasting throughout the school that they had committed this crime and that they could not be "touched" because of diplomatic immunity. Other boys, whose fathers' positions in various embassies gave them similar protection from the law, had begun to approach Holly and tell her that they had heard she was a "good date" and wanted to go out with her.

On Tuesday, she found obscene notes had been slipped through the louvers on her locker, and one of the young men who had raped her called her that evening to ask her to another party, "like last weekend". He indicated there were others who wanted to meet her because of their date.

Holly's terror now became unmanageable. Her father and I had realized something was wrong but hoped she would come to us, to talk, as she would normally have done. On Tuesday evening she came downstairs after the telephone call from the rapist, and collapsed in my arms in tears and a rush of words. Gradually the entire story came out. As I held this fragile, 5' 2" child who had just days earlier turned sixteen, I feared there was nothing I could do to keep her from shattering emotionally.

Our first action after the immediate attempt to provide comfort and support was to take Holly to a physician and a psychiatrist. We also consulted an attorney and ultimately filed a report with the police. Both the lawyer and the police advised us that Holly's terror of her attackers and their wide network of foreign diplomatic friends would make it very difficult for her to testify, if not being traumatic for her. The police also made it clear to us that we could prefer charges but that it would be useless to put Holly through that since the son of the World Bank official had fled the country and the son of the diplomat had total immunity and could not be prosecuted.

THE CHALLENGE

We found ourselves faced with real danger to our daughter and a real powerlessness to protect her if the police were helpless to take action in this crime. The school administration was supportive but could only be certain of providing protection while Holly was physically on the school grounds. They could not expel the boy, nor even remove him from Holly's study hall. Finally the teacher gave up her office for Holly's exclusive use during classes. The school could only suggest that, because they were powerless to take significant action, we should consider placing Holly in a private school. We contemplated such action, but with the advice of our daughter's psychiatrist and with our support, Holly elected not to be forced to leave her own school by a foreigner who had perpetrated a crime against her.

Through friends, we were at last able to make contact with the State Department. We provided our notarized statement, police report, and physician's report to the Office of Protocol to enlist their help. In late March, they contacted the Saudi Arabian Embassy on our behalf, and the Embassy reported that the rapist's diplomat father had voluntarily sent his son out of the country. We still had some concern about possible retribution by the boy's friends, but we were vastly relieved.

Until, that is, we were contacted by the State Department, informing us that the diplomat was terminally ill and that, although the rapist had left the country, the parents wished him to return to finish his senior year of high school, see his father, and provide support for his mother. The State Department insisted the decision was up to us, but said the Saudi Arabian Embassy had promised the rapist would never enter the State of Virginia if we would agree. We felt that however well-intentioned the request, our daughter's safety was our responsibility and that given rapist's network of friends, the continuing residency of his brothers and family in Virginia, and the extreme difficulty of preventing him from crossing State lines, we would be powerless to safeguard our daughter should he return to this country at all. We therefore denied the request and were therefore able to enjoy a fairly peaceful summer.

The young man's father died in a Baltimore hospital early in the fall. In November, our daughter was horrified to see her attacker face to face in a fast food establishment where she worked. Her terror was so great that she quit her job on the spot and fled to our home. Incredulous, her brother persuaded her to return with him to the restaurant for him to confirm the identify. They both saw him, as he was still there, and identified him.

We contacted the State Department, who protested to the Saudi Arabian Embassy. The Embassy responded that the boy in question had left and was currently out of the country, that he had two brothers who resembled him, and that the identification was in error. We had no proof they could accept.

In December the boy was seen again by our daughter and her date, who had known him at the high school and was also a member of the foreign community. Again, we contacted the State Department with our concern.

The State Department responded in January of 1984, stating that the Embassy had again asserted that the boy was not in the country, that the family was preparing to move out of the area because of our "harrassment", and that the State Department should prevail upon us to stop causing problems.

We were frustrated and irritated, but we were assured by the State Department that they had gone to the limit of their ability to help us.

To our shock, the family was indeed relocated—to a house across the street from us, not more than 75 yards from our front door! All of us, including our daughter, now saw her rapist several times a week as he moved about the neighborhood. We also saw his brothers, whom the Embassy kept saying we were mistaking for the rapist as they continued to deny his presence in this country. The rapist himself played the game of frequently following Holly to the grocery store, for example, waiting for her to come out, and then speeding off with a squeal of tires.

Our initial contact at the State Department finally was able to determine that the rapist's widowed mother had been given a nominal position at the Embassy as a secretary. This presumably provided her and her family, including the rapist, with diplomatic immunity once again, although it is believed that the rapist's re-entry into this country, while never officially acknowledged, was on a student visa following his father's death.

When Chuck Ashman's book on diplomatic crime was published in May, we had reached the limits of our tolerance for this situation, but we continued powerless to effect any change. The explosion of publicity resulting from the book appears to us to have put pressure on the Saudi Arabian Embassy that has had some gratifying results.

On Saturday, June 13, we engaged a private investigator, at our expense, and he photographed the rapist. We offered the photographs to the State Department as evidence of his presence in this country.

On Sunday, June 14, 1987, we were told by the State Department that they had been officially informed at 4:00 P.M. that "the subject is not in this country." The implication was that he had left at that time. We have not seen him since that day.

We have reason to believe that he has completed three years at a State supported university and has been planning to finish his degree there this coming year. Our fear has been that even if he were gone now, he would find a way to return in the fall.

With the continuing publicity, his mother was released from her position at the Saudi Arabian Embassy effective June 16, 1987. With the loss of her diplomatic status, she then had thirty days in which to leave the country (a grace period granted to any former diplomat). Once she departs the U.S., she can, of course, apply for another kind of visa. This would extend to all members of her family.

We have information that she has moved, once again, approximately one mile away, but her present address is unknown to the State Department as well as the Immigration and Naturalization Service, which is the enforcement arm. To our knowledge, she is still here.

As for her son, our daughter's attacker, we have reason to believe that he is actually in his own country of Saudi Arabia at this time and that his Saudi passport has been revoked. Should this be untrue, and he attempts to re-enter, he has been red-flagged by the INS and will be prevented from entry and/or detained for a hearing.

SUMMARY

The above paragraphs are one family's experience with the inequities in diplomatic immunity. In the long run, however, I have come to consider us one of the fortunate few. We were able to provide our daughter with both the physical and the incredibly important emotional help which she required. Her psychotherapy continues to the present. This is not true for all victims, and while we seek to have the perpetrators punished, one of our primary obligations should be the physical and emotional care of the victim. It will forever amaze me, as a mother if in no other way, that a father's profession can shield his son from the consequences of his felonious act.

On the other hand, I feel obligated to state that I have relatives who are serving our country in non-ambassadorial positions in other countries. The present treaty governing diplomatic immunity protects them from any "trumped-up" charges. I would expect them to pay the price for a crime they might commit as long as the laws under which they would be charged and prosecuted were fair and comparable to our own. Essentially I feel that diplomats must have diplomatic immunity in order to dispatch the mission with which they are entrusted. It is even possible that they could not function effectively if certain of their staff were not also granted immunity. However, I fail to understand how any member of a mission, including children, servants and others, can advance their own country's purposes and honor by being allowed to run amok.

In this country we have due process of law. It is not so the world over. Therefore, we should punish ours, and remove them from the service they have dishonored, and we should demand that other countries punish theirs, and remove their right to return to this country or any other free state.

We need some form of diplomatic immunity. At no point in our history have we granted anyone a license to commit felony.

I am grateful for this opportunity to present our case and my views, and I regret that I cannot be here in person. However continued concern for our family's anonymity, privacy and security precludes my appearance.

EXHIBIT 3

AUGUST 4, 1987.

Re Margaret Curry, 97-11 Horace Harding Blvd., Apt. 16M, the Peru Building, Rego Park, NY.

Hon. JESSE HELMS,
U.S. Senate, Committee on Foreign Relations, Washington, DC.

DEAR SENATOR HELMS: On July 12, 1987 between the hours of 2:00 P.M. and 3:00 P.M., Ms. Margaret Curry sustained severe personal injury when she was struck by a vehicle owned and operated by representatives of The Afghanistan Consulate. At the time of the said occurrence, Margaret Curry was directing Mr. George Mosley into a parking space for the purpose of picking up large speakers from the "Crazy Eddie" store on Main Street, Flushing, Queens, New York. The speakers were quite large and Mr. Mosley's direct ability to park his vehicle in the space required the assistance of Miss Curry. While she was directing the vehicle into the parking space, a Lincoln being driven by a young individual who identified himself as a member of the diplomatic corps, insisted that he needed the space and requested her to immediately vacate the area of the parking space. Miss Curry advised him that the space was unavailable at which point the gentleman engaged the vehicle and rather than backing away from the parking space, moved forward, striking Miss Curry and pushing her into another vehicle. At the same time this same individual struck another vehicle owned by an employee of Crazy Eddie.

As Ms. Curry was slammed into the back of the other vehicle and knocked to the ground, an elderly gentleman, who later was identified as the Afghan representative said to Miss Curry and Mr. Mosley that "you look O.K." and entered the Lincoln automobile. The Lincoln then began to leave the scene of the accident. Mr. Mosley attempted to force the vehicle to stop by grabbing onto its antenna, but this proved unsuccessful. The vehicle left the scene of the accident. Policemen from the 109th Precinct and numerous other residents appeared at the said scene. Eventually an ambulance brought Miss Curry to the Flushing Hospital emergency room at which point it was determined that she received numerous bruises and contusions and soft tissue injury, including a severe concussion. Miss Curry later went to her HIP Center and received further treatment. The treating physician determined that she had a severe concussion and had the following systems: ringing in the ears, headaches, nausea and other balancing difficulties. He advised her to rest at home.

Mr. Mosley and Miss Curry's children noticed an immediate personality change in Miss Curry. She had difficulty coping on a daily basis and could not function as she has for many years, to support her family. Ultimately she obtained a psychiatric evaluation where it was determined that she had suffered a severe psychological trauma precipitated by the automobile accident. This trauma required hospitalization at the Gracy Square Psychiatric Hospital in Manhattan. She is presently under the care of Dr. Leonard Deutsch, a treating psychiatrist, at said hospital.

Before the accident Miss Curry was a fully functioning individual, supporting her family, actively employed at her job of the Jewish Service for the Aging and raising three (3) children, ages 21, 20 and 17. She had no prior psychiatric difficulty. The psychiatrist clearly indicates that the trauma from the automobile accident, the shock of the said incident, and more importantly the frustration experienced by Miss Curry directly relate to the psychiatric difficulties she is presently having, as well as the emotional inability to cope and the physical impairments she is experiencing.

As to the representative from the Consulate, contact was made with Detective Torres who is assigned this matter. He indicated that because of other pressing matters pending in his Precinct, he was not able to deal directly with this matter but would be referring it to the DPU Unit at 325 Hudson Street, New York, New York. He has obtained various witness information and statements and though the police report was prepared, investigations could not be completed due to the presence of other serious crimes in the Precinct, including homicides and rapes.

Inquiry was made as to the status of the potential defendant and we were advised that normally in a hit and run situation such as the one experienced by Ms. Curry, a full investigation would be undertaken and/or an arrest made. However, because of the diplomatic situation, and the low priority placed on this matter by the precinct, no arrest would be imminent, no further efforts be undertaken at this point and all further inquiries would be deferred to the police department for further consideration. The police assigned No. 61-12541 to the case. Detective Torres also advised that he was contacted by the State Department, the UN and representatives of the Afghan Embassy almost immediately after the occurrence which seems quite unusual under the circumstances.

Very truly yours,

MAX D. LEIFER.

TESTIMONY OF CHUCK ASHMAN—AUTHOR OF "DIPLOMATIC CRIME"

Mr. Chairman and Members of the Committee, I am Chuck Ashman, a journalist and author. I currently cover the United Nations and international stories for the Sunday Express in London and write syndicated articles for several other newspapers. In addition, I broadcast weekly for the London Broadcasting Company.

It is a great pleasure and honor to appear before you today. I have prepared written testimony which I ask be made part of the record. I would like to spend a few minutes reviewing a brief portion of that testimony and then answer any questions that you or members of the Committee might have based upon our three years' investigation about this subject.

Pamela Trescott and I have traveled to seven countries and twenty-six of our states researching our recently published book "Diplomatic Crime" which details the history and abuses of diplomatic immunity and which we believe sets out clearly the need for changes in the applicable law such as the legislation now before you represents.

As we listened to the heartbreaking stories of people wronged by diplomats, we got angry. The more we heard, and the more we researched, the angrier we became. During the process I was changed from an objective journalist researching an interesting story into an advocate hoping that what I was doing would somehow lead to some critically needed changes. It is my most fervent hope that what we are involved in here today is part of that process.

Indeed, we have already made progress. We have been notified that during the past several days, a rapist in the State of Virginia who had boasted of his immunity as he raped, and who was granted immunity and who returned in recent months to terrorize his victim and her family has been finally kicked out of this country.

Ambassador Peter Sebastian stated in Chicago this past week—after emphasizing he had been briefed by the State Department and was appearing with their consent—that a new crackdown on diplomatic abuses with tougher enforcement was beginning. He added that the publication of our book and media attention on the issue is partly responsible.

The idea that a diplomat should be free from hindrance in the performance of his duties is an age-old concept. It was codified into English law by the Diplomatic Privileges Act of 1708 which granted virtually complete immunity from both criminal prosecution and civil suit to diplomatic "agents," their families, their staffs and their personal servants. "Agents" in turn had the broadest definition and covered just about everyone in an embassy or mission. Under the statute, anyone with diplomatic immunity could simply ignore any kind of summons or court document because it was without force; and, in fact, a person or government official could actually be prosecuted for initiating a suit or arrest against a person he knew to have diplomatic immunity. In 1790 the new United States adopted almost exactly the 1708 British law.

But by the late 1950s, there was general agreement in the world community that this blanket grant of immunity to the ever larger diplomatic community was getting out of hand.

Some 100 nations, including both the United States and the United Kingdom, met in Vienna at a UN-sponsored Vienna convention on Diplomatic Relations, for the purpose of drafting a new international treaty on diplomatic relations. Of the 53 articles agreed to at the conference, twelve dealt directly with the subject of personal diplomatic immunity.

Since the Vienna convention in 1961, the governments of the United States and most nations of the world have formally recognized the importance of diplomatic immunity principles with new structured guidelines and specific procedures for honoring the cardinal principles of diplomacy.

But the Vienna Convention opened a Pandora's box of problems of interpretation and allowed host nation discretion that has resulted in a wide variance of interpretations of similar incidents throughout the world. For example, in the United States and the United Kingdom a very liberal interpretation is afforded the definition of "Direct Family" which has come to mean spouses and children and even a diplomat's parents or brothers and sisters under some circumstances. This growing group of privileged visitors who are immunized from criminal prosecution and civil process are the basis of most of the problems you will hear about today.

It is not the Ambassador who rapes. It is more likely his son. It is not Ambassador who kills. It is more likely his chauffeur. And yet, we grant immunity.

Both the United States and United Kingdom signed the Vienna Convention as it has become known, in 1961. Its provisions were enacted intact into British law in the Diplomatic Privileges Act of 1964. But for varying reasons, the U.S. Senate did not ratify the convention until 1965 and when ratifying it, delayed its effective date until 1972. But when it ratified the Vienna Convention, it did not repeal the existing broader diplomatic immunity act of 1790. Thus in 1972, when the Convention became effective, the U.S. in effect had two contradictory laws on its books. The State Department continued to adhere to the broader law until 1978 when Congress got around to repealing the 1790 law when it passed what is known as the "Diplomatic Relations Act of 1978" (DRA).

Under the Diplomatic Relations Act, no diplomatic agent, or member of his family, once his identity has been established and it is confirmed that immunity exists, can be arrested or even detained on criminal charges.

In the case of civil proceedings, the grant of immunity is not automatic in that it cannot be given directly by the State Department. It can only be granted by the courts, and usually only after the individual has made an appearance and raised the defense and the State Department has certified that the individual is entitled to immunity. As a practical matter, since lawyers know that bringing suit against immune diplomats is an exercise in futility, few suits are ever brought where it is clear that the defense will be raised.

But, Mr. Chairman, what is of paramount importance to remember is that the single rationale behind the creation of diplomatic immunity is to ensure that a diplomat will be able to perform his functions free from hindrance or the threat of hindrance and to preserve the free flow of information between that diplomat and his government.

Certainly there was no intent to allow diplomatic immunity to become a license to rape or steal or kill and to, in general, flaunt the laws and customs of the host Country.

Let me quote from the preamble of the Vienna Convention: "The purposes of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the function of diplomatic missions as representing states."

Our research has shown this noble and necessary idea has become perverted. Somehow diplomatic immunity has, in fact, become a license to allow diplomats and their dependents to flaunt the laws and codes of civilized behavior and to do so with a growing impunity and arrogance.

Over the last 18 months the government of the United Kingdom has been undertaking a painful re-examination of the laws of diplomatic immunity in the wake of the terrible murder of Yvonne Fletcher, an unarmed policewoman shot by a Libyan sniper as she stood guard outside the Libyan embassy in St. James Square.

As the government of Prime Minister Margaret Thatcher noted in an official White Paper on the subject of abuses of diplomatic immunity: "The main abuse lies not so much in the comparative number of alleged offenses . . . or in their relative gravity, but in the reliance on immunity to protect individuals for offenses without any obvious connection to the efficient performance of the functions of a diplomatic mission.

We have talked with 300 victims, family members, witnesses, police and government officials. We have heard how diplomats, their relatives and staff, have killed and raped and stolen and dealt drugs and escaped punishment.

It was with a sense first of shock and then growing outrage that we listened to the pain of a mother grieving for her dead daughter killed by a diplomat who was allowed to walk free even as the young woman was being buried. We talked with a young man who had been shot and left for dead by a diplomatic dependent who was allowed to go free even as the man fought for his life. We have talked with men and women whose lives have been ruined by the actions of diplomats and diplomatic dependents and who have no recourse in our courts or before any governmental agency.

We had talked with merchants for whom theft by persons with diplomatic immunity has become a depressingly anticipated part of doing business. We have talked with the directors of security at stores both in New York and Washington, D.C. who say the apprehension of diplomatic shoplifters have become a regular occurrence and their release such a routine matter that store security personnel don't even give it a second thought.

We have come to share the frustrations of our law enforcement officers whose job it is to protect us and to apprehend criminals but who must tell victims that those who have raped them or assaulted them or stolen from them must go free because that is what our federal government has decreed.

As New York City Deputy Police Chief Peter J. Prezioso, commander of the NYPD's intelligence division, put it: "It's not that easy to explain to a victim why you have to release the diplomat. We have to say, 'Make believe he got away.' Because that's the reality."

Mr. Chairman, we have been told repeatedly by representatives of our State Department that the United States government takes the position that immunity protections offered diplomats and their dependents in the United States must be kept unchanged because those immunities protect our diplomats and their dependents serving abroad and that this is necessary if our representatives are to continue to effectively serve abroad.

We believe, however, that this is largely a fallacious argument.

Is it really the position of our government, that if one of our representatives abroad breaks the law of the host country, if they rape or steal or drive drunk that they deserve to walk free simply because they are in that country in an official capacity?

Let me cite just one example. In December of 1985 London police responded to a complaint of a mother who said that her six-year-old daughter had been sexually abused by a man who was baby sitting the young girl. When police went to the home of the man they reportedly found a large cache of child pornography and quite rightly they were outraged. This was a case they were determined to prosecute.

The man involved was the husband of a middle level employee of our London embassy. He had diplomatic immunity by virtue of his wife's position. So the British Foreign Office duly asked our State Department to waive the man's immunity so he could face his accusers in a British court of law. The State Department refused and the man and his wife had to be allowed to leave Britain.

It seems to us that the United States had no more right allowing this man to walk free than the government of Ghana did by insisting that the son of one of its UN attaches walk away laughing from the charges that he raped 15 women in New York.

The alleged child molester in the United Kingdom was an American citizen named James Ingley. An army of journalists chased Mr. Ingley as he returned to the United States and disappeared. Some months later, officials of the Justice Department and the State Department leaked to us the fact that Ingley was married to an intelligence agent in a very sensitive position. It was her role given as the reason for bringing Mr. Ingley home and not following the announced policy of waiving diplomatic immunity when American officials or their relatives became embroiled in legal disputes in the United Kingdom and elsewhere.

This was wrong. Perhaps it will require another forum and another day to discuss the policies and procedures regarding the placement of dependents of officials with sensitive positions without properly checking them.

Where is Mr. Ingley now? How do we explain to an ally that we are invoking diplomatic immunity to protect a dependent. If this proposal before you today became part of the law of our land, we would have every right to expect that the United Kingdom and other nations might similarly act. James Ingley would have stood trial and not have been brought home free by the U.S. government.

Our State Department relies on the argument that we must allow diplomatic immunity abuses to remain unchecked because this protects our diplomats from the fear of being hauled into some foreign court on phony charges meant to harass our government. We recognize this is a real problem, but we believe it is one which this country can address if we have the will.

Simply put, why do we attempt to maintain full and normal relations with countries who refuse to abide by the notion of civilized behavior. If our diplomats fear serving in some country because that country has a history of lodging phony charges against our diplomats and their dependents, then we should reduce our presence in that country to a single diplomat and insist that nation reduce its representation here similarly. If we cannot trust the welfare of even a single diplomat in that country, we should remove him also and deal with that country by electronic communications and insist that country remove its representatives from the United States.

This country does not need and should not want to maintain normal and full relations with nations that cannot act in a civilized manner towards our representatives.

Mr. Chairman, we believe that S. 1437 is an important step in righting some of the wrongs in one diplomatic immunity system.

We support this bill on moral, political and legal grounds. We urge its passage but also respectfully submit that you consider additional changes.

In New York City and throughout the United States, there are continuous questions raised as to the validity of the presence of the United Nations. Certainly there would be more good will and more support for its efforts if we eliminated the near daily epidemic of arrogance that occurs in the city's traffic patterns and on the police ledgers of several precincts.

It is inexcusable that 73,000 traffic violations are ignored in one year. It is unacceptable that diplomatic cars park where they want and often in interference with the flow of normal traffic and emergency vehicles. It is unconscionable that a small community of visitors parades through New York protected from the civil and criminal repercussions of their acts.

Why should theft from stores be an expected part of doing business without the right to punish? Why should the officers assigned to the area where the United Nations is located know that delegates, staff and their families, can be involved in the most serious of crimes, that even good detective work can do little more than discover their identity. They cannot be charged.

Was it really our intention to afford immunity from prosecution for rape to the lowest attache from the Ghana mission at the United Nations and through him, to his son, the actual rapist?

At the risk of being presumptuous, may we observe that while the subjects of S. 1437, diplomats committing violent acts, drug dealing and driving impaired, are among the worst abusers of the system, there are several other problems with the current diplomatic laws and in the way they are interpreted. I believe this committee can and should address these areas.

For example, if a diplomat or immune dependent leaves this country voluntarily, even if under a cloud, there is no assurance that he or she will not return with a visitors visa or a student visa.

This is an intolerable situation that cannot be allowed to continue. If need be, our immigration laws must be changed to not only allow the State Department, but to require it, to deny any kind of visa to anyone leaving this country voluntarily, under these circumstances.

Our government tells the American people that for the greater good of all and in the furtherance of good relations with foreign governments, we must deny our citizens access to our courts and the protections of our laws, both criminal and civil, if they are involved in disputes with a privileged immunized individual.

This denigrates our established passion for justice and fairness.

Should not our government compensate any American citizen if his normal rights to redress under our laws are denied him in the name of the greater good? We have long established that if the government takes a person's property, it can only do so by the payment of just compensation. The same should be true if we deny someone the right to avail himself of our legal system in any dispute with someone abusing diplomatic immunity protections.

We believe the Congress must establish a mechanism to compensate someone wronged by a diplomat. Either Congress should appropriate funds or require liability insurance from all nations sending immunized representatives to our country.

We now have some protection by mandating automobile insurance as a condition of diplomatic driving. By what logic should we deny victims the right to collect damages for personal injuries, doctors bills, lost earnings, and destroyed personal property? A victim's compensation program, comparable to that proposed by Congressman Steven Solarz is needed.

We do not have accurate or complete information concerning criminal incidents involving diplomats and dependents and staff members. Too many instances are handled casually with the first indication of immunity resulting in a discouraged police officer convincing a victim not to bother to move ahead with any complaint. There is no mandate in this country that irrevocably requires any disclosures to the State Department of each and every incident involving a diplomat or other immunized individual. This can be corrected administratively and this Committee and ultimately the public should be made aware of all such incidents.

The Vienna Convention was carefully drafted to give the most country a rather wide latitude in how it administers the rules of diplomatic immunity. Traditionally the western countries, and especially the United States, have administered the rules of diplomatic immunity in a very lenient way giving the diplomat or the dependent every benefit.

The broad granting of immunity to members of diplomatic staffs accredited to the United Nations is a serious problem area. Under Article 5 of the U.N. Charter, the United States is only obligated to grant immunity to the head of missions or persons who carry the rank of ambassadors. Others may be accorded immunity, "as agreed upon" between the United States and the United Nations and the sending state. In practice, what has happened is the State Department has been granting immunity to almost anyone.

Likewise, under the headquarters agreement that established the United Nations in New York City, the United States had discretion in granting immunity to members of the United Nations' permanent staff. Again, the State Department has interpreted the agreement broadly and hundreds of U.N. staffers, and their families, are walking around New York with unwarranted immunity.

As a result, diplomats stationed in this country have been allowed to get away with almost everything. It is time that we say to the diplomats stationed here that we have had enough. No longer are we willing to allow diplomatic accreditation to be a license for crime.

Since our book was published in the United Kingdom and we obtained 500,000 signatures on petitions for change, there have been significant developments.

The Thatcher government has repeatedly told the diplomatic corps in London that it has had enough. Britain has set forth a new policy which includes "strict application of the existing provisions of the Vienna Convention and introducing restrictive but legally justifiable interpretations of specific provisions of the Vienna convention where required."

As a result of this policy change, the United Kingdom today is ordering repeat offenders of drunk driving laws and shoplifting laws and other laws out of the United Kingdom. They are ordering out first offenders of serious crimes. Foreign Office officials have told us recently they are seeing a clear decline in the number of offenses committed by diplomats.

The victims you will hear from today represent a cross section of Americans. Each of them, however, was taught that our Constitution protects certain basic rights. Each of them have come to rely upon their citizenship as the key to basic assurances of fair play.

There is no acceptable explanation for the victim or the family of the victim of a violent crime that will justify the criminal going free without so much as a hearing and a presentation of evidence.

The bill before you today can be a first step. It would certainly be appropriate for the United States to assert its position of leadership and initiate discussions at the United Nations regarding international accord predicated upon the demands of this bill and perhaps the other changes we have suggested.

Finally, I want to thank you for his unique opportunity. It is reassuring that our law makers will listen and will deliberate. I am not wise enough to know whether this bill is absolutely the best way to solve the problem. We are committed to supporting this approach as well as any other reasonable one. The only unacceptable course of action would be to memoralize these proceedings for the record and not to prevent future criminal actions.

We urge the passage of this bill and serious discussion of other proposals designed to prevent incidents in the future victimizing more of our citizens. It is interesting to project how many of the violent crimes we have documented would not have taken place if, at the time they entered the United States, these criminals had been told they would be subject to prosecution in our courts. Would Manuel Ayree have raped 15 women if he knew he faced the severest penalties under the law? Would the son of the Brazilian Ambassador have shot one of our citizens if he knew he would stand trial and be punished? What about the others?

TESTIMONY OF PAMELA TRESCOTT, ATTORNEY-AT-LAW, AND AUTHOR OF "DIPLOMATIC CRIME," BEFORE THE U.S. SENATE COMMITTEE ON FOREIGN RELATIONS

Mr. Chairman and members of the committee, I am Pamela Trescott. I am an attorney at law practicing in California and a lecturer on diplomatic immunity. I spent four years serving in the International Trade Administration of the United States Department of Commerce and was based in Washington, D.C., Beijing, and Taiwan. I researched the legal aspects of the study over three years which resulted in the book "Diplomatic Crime."

I believe that the vast majority of diplomats and their dependents and staff in the United States are responsible individuals dedicated to their work and adhering to high standards of professional and social conduct. I know the same is true of Americans who represent our country abroad.

Unfortunately, that generality is of little relief to the victims of violent crimes whose frustration and suffering are comparable to what has been expressed to you here today.

I have a unique opportunity of wearing more than one hat with respect to this issue. First, I was victimized while in Washington, D.C. My home was burglarized and the police here were frustrated in their efforts to investigate because a ladder used to gain second story entrance was rooted on the soil of a foreign chancery.

Secondly, together with Chuck Ashman, I have researched and investigated cases throughout the U.S. and other nations and compiled them in our book on diplomatic crime.

Finally, as an attorney, I have been asked to assist individuals in securing compensation and other satisfaction in incidents involving individuals with diplomatic immunity. I welcome the opportunity to testify in support of S. 1437 which would close the umbrella, if you will, and narrow the scope of diplomatic immunity so as to place the relatives of diplomatic agents and their staff members within the jurisdiction of our laws when violent crimes are committed. I respectfully submit that this bill addresses a serious problem in a responsible manner and would help reaffirm domestic and foreign policy and would be constitutionally sound.

There are occasions when it is particularly difficult to distinguish between the rule of law and practicality. As we celebrate the 200th anniversary of our Constitution, it is difficult to explain "exceptions." It is difficult because we have come so far.

The poor may obtain legal services and medical treatment previously denied them by economic reality. Consumerism has arrived throughout corporate America and at every government agency and the age-old adage of not being able to fight city hall does not quite ring true. And yet, we must tell certain victims of violent crimes that they may not confront those who have injured and abused them.

We must tell certain victims of violent crimes that they may not avail themselves of our legal system. We must tell certain victims of violent crimes that this country can offer no assurance that criminals will not be free to commit other violent crimes, perhaps even victimizing the same persons again.

This is not a loophole in the law but rather an unconscionable crater of inequity. This situation is in direct opposition to the fundamentals of fair play, due process and equal protection that we as lawyers discuss, but that all citizens desperately rely upon.

The Vienna Convention on diplomatic relations was designed to codify the modern practice of nations under customary international laws with respect to the treatment of foreign representatives and mission personnel. One of its primary goals was to resolve many of the inconsistencies of state practice. Supposedly, the Vienna Convention incorporated a modern functional approach to the bestowal of immunity upon foreign diplomats. Under the terms of that convention, no longer would visitors in this country who were associated in any capacity with a diplomatic mission be granted complete and unqualified immunity for their actions.

This functional approach was designed to grant privileges and immunities to foreign diplomats only to the extent necessary to enable a mission to perform its representative functions in the receiving state. That ideal is the essence of why we are here today to support this bill.

The Vienna Convention is very precise in setting forth the legitimate functions of a diplomatic mission. They are as follows: (a) representing the sending state in the receiving state; (b) protecting in the receiving state the interests of the sending state and its nationals within the limits permitted by international law; (c) negotiating with the government of the receiving state; (d) ascertaining by all lawful means conditions and developments in the receiving state and reporting thereon to the government of the sending state; (e) promoting friendly relations between the sending state and the receiving state and developing their economic, cultural and scientific relations.

These are the lofty and noble goals of a mission. In other words, that mission is in the business of communications. By what twisted logic can anyone classify a serial rapist, a drunken driver, a drug smuggler or any other felon as serving the innumerated goals of the mission in this United States from which that "functional" immunity arises?

The Vienna Convention and the numerous articles that have interpreted that treaty repeats consistently: "It is the work, rather than the official, which must be protected." It must then be also noted that it was the intention of the Vienna Convention that such officials obey all ordinary laws governing their private actions.

Violent crimes are the ultimate private actions. The son of an Ambassador shooting an innocent citizen in this city is not an act of self-defense arising out of some mission function. It is an uncivilized and unacceptable breach of our ordinary laws and must be punishable. The same is true of the other violent crimes reported to you today.

The United States at present is signatory to treaties that shield thousands of members of foreign diplomatic missions and foreign consular posts from the criminal laws of the United States: the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations. Under the former treaty, for instance, Article 36, the families of diplomatic agents, and the administrative and technical staffs of missions, including their families, are immune from the hands of the criminal law. A corresponding immunity for members of foreign consular posts is vested by the later treaty. The proposed legislation would supercede these treaty-based immunities for a narrow array of universally recognized serious crimes.

Clearly, the Congress of the United States has the constitutional right to pass legislation that may be inconsistent with treaty obligations of the United States. Frankly, I think there is a strong argument that the bill before you may not be inconsistent with the Vienna Convention. As previously stated, the concept of diplomatic immunity in that treaty is so clearly linked to function and the mandate of behavior so well established that punishment for a violent crime may indeed be an enforcement of the Vienna Convention.

It should be noted that since 1884 the Supreme Court has held that "so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal." In the *Heads Money Cases,* 112 US 580 (1884), the Supreme Court unanimously sustained a federal immigration statute that imposed a customs charge of fifty cents on the arrival of non-citizens in the United States ports. The Court denied that Congress lacked power to override an existing treaty barring such a customs duty. This constitutional standard has been repeatedly reaffirmed in sequal cases. (See e.g. *The Chinese Exclusion Case,* 130 US 581, 600 (1893).

The Vienna Convention provides for disputes among signatory nations over interpretation of its mandates. The United States should be prepared to enter into arbitration not to retreat from the position set forth in the bill before you but to urge greater adherence to the goals of the Vienna Convention as set forth by representatives of signatory nations.

Certainly there would be political reaction to the enactment of this bill. Hopefully responsible nations concerned with the well-being of their citizenry would join by legislating comparable exceptions to diplomatic immunity.

The international repercussions created by enactment of S. 1437 would be modest. The President would retain his constitutional prerogative to determine whether to prosecute members of foreign missions subject to the nation's criminal laws in light of all circumstances. See ***United States* v. *Nixon*,** 418 US 683, 693, (1974); ***United States* v. *Cox*,** 342 F. 2d 167, 171 (5th Cir. 1965).

Nothing in this bill would emasculate the President from his constitutional power of pardon or commutation would be motivated by foreign policy considerations. In other words, there can be negotiations, give and take, and even "swaps."

It has been suggested by a distinguished fellow of the Heritage Foundation that this bill be amended so as to transfer jurisdiction to the federal courts all crimes of violence committed by the classification of individuals described in the bill. It has been suggested that by federalizing these crimes the bill would safeguard the Executive Branch's voice in dealing with Vienna convention signatory nations politically when and if a crime occurs.

This proposal is not unlike the federalization of crimes that would otherwise be violations of state law when the victims fall into a particular category i.e., federal officials. I join in urging the committee seriously consider this proposal amendment.

A political and quasi-legal argument has also been raised against this bill with respect to possible retaliatory actions by other nations. It is argued that if we were to prosecute, a rapist for example, it might invite that criminal's homeland to fabricate a basis for prosecution of an American diplomat or a member of his or her family.

Recent events have illustrated that if a nation wishes to fabricate charges against an American, they will do so whether or not we are proceeding in a lawful and civilized manner. I remind the Chairman within the past ten days, the government of Cuba has made public again ridiculous charges of criminal action by American diplomats, their family members and staffs. Certainly this is not retaliation for the United States prosecuting offending Cuban officials.

We learned the hard way what capitulation to terrorism, blackmail and extortion can get us. If we are to deny further due process because we fear potential future acts against us, we will have capitulated to a point of no return.

In reviewing the position taken by our State Department, there is repeated mention of the option that the offending immune criminal will be punished in his or her homeland. This is fantasy.

The difficulties in bringing evidence and witnesses to a different legal system make it virtually impossible to expect prosecution in an other nation in the absence of a legal mandate.

Finally, we must address the concern that American diplomats are often stationed in nations whose legal systems are so alien to our own that to waive diplomatic immunity would be to subject them to kangaroo courts and cruelty. In those cases where drunkenness may be penalized by flogging or where adultery may be penalized by stoning, we should by treaty establish clear procedures for actions to be taken in this country comparable to those court martials that have occurred when American servicemen attached to our missions commit unlawful acts.

It is natural to expect that after this legislation is approved, other nations will enact laws bringing the dependents and staff of American diplomats under their jurisdiction of criminal laws for violent crimes. Frankly, this should not create a problem for American diplomacy since, in most instances, American officials and those traveling with them abroad are the best behaved. Where a violent crime occurs in a country with a legal system not totally incompatible with our own, it would be appropriate to have the American involved stand trial and face potential punishment.

As to those nations that may enact laws exposing Americans to legal procedures and levels of punishment totally incompatible with American justice, there is the option of a bilateral agreement providing for each nation to try and punish its own citizens. It is our position that nothing in the Vienna Convention would prohibit such bilateral agreements.

We believe that the bill before you is bold. We believe it is a most appropriate first step in bringing the concept of diplomatic immunity down from a pedestal in the sky to the real world. We support the bill on constitutional grounds and as a moral imperative. At the same time, we would urge this committee to use the full weight of its influence to guide the State Department into negotiations at the United Nations designed to bring about international consistency with this approach to diplomatic crime.

Mr. PELL. Mr. President, I am very appreciative of the kind words of the Senator from North Carolina. I reciprocate and say that when we disagree we disagree agreeably and very, very often, to the surprise of our friends—I think we have been referred to in the press as the weird twosome—we quite often agree.

Mr. HELMS. We certainly do.

Mr. PELL. In any case I am very pleased that the Senator from North Carolina and the Senator from New York, Mr. MOYNIHAN, have reached agreement on this amendment which really does a good job in striking a balance between empowering the State Department to crack down on foreign diplomats who commit serious crimes while guests in our Nation and, at the same time, protecting the important protection for diplomatic envoys and immunity from criminal jurisdiction of the receiving state.

As one who has benefited from the immunity privileges when stationed behind the Curtain as a Foreign Service officer, I think that this is a very important protection that should not be diluted, and this amendment, as modified, succeeds in striking a very good balance between both objectives.

Mr. President, this amendment requires the Director of the Office of Foreign Missions to develop and maintain records on each incident of alleged criminal misconduct on the part of a foreign diplomat, and to report annually to Congress on those incidents.

It directs the Office of Foreign Missions to undertake an education program for local law enforcement officials to assure that local officials know which members of the diplomatic community are entitled to what levels of immunity under the Vienna Convention, and to take necessary steps to assure that crimes alleged to have been committed by foreign diplomats entitled to immunity are fully investigated, charges filed, and prosecution instituted, to the extent consistent with the criminal immunity granted to the accused under the Vienna Convention.

It prohibits the Department of State from influencing any criminal investigation, charge, or prosecution of any member of a foreign mission, or family member of such member, not entitled to immunity under the Vienna Convention.

It requires the Director of the Office of Foreign Missions to notify the diplomatic corps of U.S. policies relating to criminal offenses committed by members of the diplomatic community.

It requires the Director of the Office of Foreign Missions to develop and implement procedures for the registration and departure of diplomats and their families.

It sets forth a procedure for the issuing of a summons to any individual entitled to immunity under the Vienna Convention believed to have committed a serious crime, and requires the Secretary of State to request the sending state to waive immunity of any individual charged with a serious criminal offense, and if such waiver is not granted to declare such individual persona non grata.

It requires the Secretary of State to notify the Commissioner of the INS of each diplomat who leaves voluntarily or is asked to leave because of an alleged criminal offense.

It amends the immigration law to bar reentry into the United States of any individual who has left the country voluntarily or who has been asked to leave because of alleged involvement in a serious criminal offense.

It authorizes the institution and maintenance of criminal prosecution provided that no measure is taken in derogation of the immune individual's inviolability or immunity.

It requires both the Secretary of State and the Comptroller of the United States to review and report on U.S. policies of providing privileges and immunities to foreign diplomats.

It requires the Attorney General, in consultation with the Secretary of State to review U.S. procedures for issuing visas to diplomats to the United States and the United Nations.

It increases current law's minimum automobile liability insurance of $300,000 to $1 million.

It requires the Director of the Office of Foreign Missions to set up a liability insurance scheme to compensate victims of crimes committed by diplomats.

It requires the President to take necessary steps to prevent the use of diplomatic pouches for illicit transportation of drugs, explosives, and weapons or any material used to foster terrorism.

It institutes procedures for certifying to a court immunity from criminal jurisdiction of any individual issued a summons by the court under the provisions of this title, under which the foreign minister of the sending state must request certification of immunity for an individual alleged to have committed a criminal offense to the head of the U.S. mission in the sending state, who shall then make that request to the Secretary of State; and

It amends the definition of "family" in the Diplomatic Relations Act to exclude, except in exceptional cases, children aged 21 or over, or aged 23 or over if the child is a full-time student in a postsecondary institution.

I recommend its passage.

Mr. **HELMS**. Mr. President, I thank the Senator. I yield back the remainder of my time.

The **PRESIDING OFFICER**. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 910) was agreed to.

Mr. **HELMS**. I move to reconsider the vote by which the amendment was agreed to, Mr. President.

Mr. **PELL**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 911

Mr. **HELMS**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 911.

Mr. **HELMS**. I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Section 401 of the Foreign Service Act of 1980 is amended by adding at the end of paragraph 401(a) the following "Such salary shall be full compensation for the services of the Chief of Mission, who shall not be eligible for additional compensation in the form of hardship differential or other incentive or performance pay supplements other than danger pay.

(b) Subsection 302(b) of such Act is amended by inserting the word "not" between "may" and "elect" in the second sentence of such subsection.

Mr. **HELMS**. Mr. President, this amendment I believe will gain the applause of a great many people, particularly taxpayers. It places a ceiling on the salary of Ambassadors, a ceiling which would be equivalent to the salary level paid to Members of Congress.

A year ago the Department of State provided the Foreign Relations Committee with a list of all of its employees who are earning more than Members of Congress. I think a lot of Senators were astonished that that list contained the names of 307 employees, only 2 of whom were in positions whose basic salary level was higher than that of a Member of Congress. That was the Secretary and his Deputy.

The rest of the list, some 305 employees, were employees who were serving as Ambassadors or in other State Department positions and receiving a compensation package of salary and special incentive pay ranging up to $100,000 a year or more. That was made possible by some quiet, little changes that occurred down in Foggy Bottom with regulations that were made without consultation with the Foreign Relations Committee of the Senate or the Committee on Foreign Affairs of the House of Representatives. So this amendment will put an end to that and restore some degree of equity and common sense.

Every time I think of this situation I think of the distinguished Member of the Senate, Ed Zorinsky, who died earlier this year. Ed was a delightful man, a good friend. We did not belong to the same parties but we thought alike on so many things, and he was a man of great courage. I was decimated by his untimely passing.

Ed Zorinsky was one of the first to look into this matter, and he and I had a lot of interest in it. I started to say we had a lot of fun looking into it, but it was not funny. If Senator Zorinsky were alive and in the Senate today, he would be offering this amendment and not JESSE HELMS.

The pending amendment provides that the salary of an Ambassador shall be the complete compensation for his services. He remains eligible for the normal allowances in the foreign service, such as cost of living, education allowances, and the like, but may not receive hardship and other incentive pay supplements.

The amendment also equalizes the compensation of all Assistant Secretaries and Under Secretaries in the Department of State and other foreign affairs agencies. We have had an anomoly in recent years in which the noncareer assistant and under Secretaries in the State Department were being paid tens of thousands of dollars less each year than their colleagues in the career service. I think this is less than fair to the many talented individuals in these agencies who have sacrificed financially to accept the President's request that they join the public service.

The **PRESIDING OFFICER**. The Senator from Rhode Island.

Mr. **PELL**. Mr. President, I think this is a good amendment. It makes sure that no diplomats receive salaries, basic salaries higher than that of a Senator, a Member of Congress. As I understand it, the bill itself excludes danger pay from being included and also we do not include cost of living and educational allowances. That is correct, I believe?

Mr. **HELMS**. Was that a question?

Mr. **PELL**. Yes.

Mr. **HELMS**. I thought it was a statement. I was going to say the statement is absolutely correct.

Mr. **PELL**. Fine. I thank the Senator. I think it is a good amendment. It has been cleared on this side and I recommend its passage.

The **PRESIDING OFFICER**. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 911) was agreed to.

Mr. **HELMS**. I move to reconsider the vote by which the amendment was agreed to.

Mr. **PELL**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 912

Mr. **HELMS**. Mr. President, I send to the desk an amendment by the distinguished Senator from Kansas [Mrs. KASSEBAUM] and I ask that it be stated.

The **PRESIDING OFFICER**. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mrs. KASSEBAUM, proposes an amendment numbered 912.

Mr. **HELMS**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 19, strike out lines 1 and all that follows through line 14, and insert in lieu thereof the following:

"(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

"(c) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) the former spouse remarries before age 55;

"(2) the former spouse is less than 50 years of age; or

"(3) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

On page 19, line 15, strike out "(c)(1)" and insert in lieu thereof "(d)(1)".

On page 20, line 25, strike out "(d)" and insert in lieu thereof "(e)".

Mrs. **KASSEBAUM**. Mr. President, the State Department authorization bill contains several provisions of enormous importance to a group of 70 or 80 divorced foreign services spouses. Most of the women in the group are now in their sixties. On average, their marriages last for 23 years—19 years of which they worked side-by-side with their husbands in overseas posts. Traveling with their spouses, they had no opportunity to work and thereby build up their own entitlement to a pension benefit. Moreover, until recently, the Foreign Service was not covered under Social Security—so most are not eligible for benefits under that system. As a result, many of these women are virtually destitute today.

These are women whose plight prompted Congress to include pension and survivor benefits for former spouses in the Foreign Service Act of 1980. Ironically, these women have never benefited from the enactment of that legislation, as the 1980 act excluded individuals divorced prior to February 14, 1981.

The legislation we are considering today makes pension and survivor benefits available to these spouses. In addition, it permits former Foreign Service spouses divorced prior to May 7, 1985, to participate in the Federal Employees Health Benefits Program on the same basis as other divorced spouses.

The amendment I am offering makes a minor adjustment in the section of S. 1394 dealing with survivor benefits. This adjustment addresses a situation faced by a small number of former spouses. These are spouses who were designated as beneficiaries of survivor benefits under existing provisions of the Foreign Service Act. The election made regarding these spouses provides them with a much smaller benefit than they would be eligible to receive under this bill. My amendment would permit these spouses to receive the same level of survivor benefits made available to all other eligible former spouses.

I urge adoption of the amendment.

Mr. HELMS. Mr. President, as the distinguished Senator from Kansas [Mrs. KASSEBAUM] has said, the State Department authorization bill contains several provisions of enormous importance to a group of 70 or 80 divorced Foreign Service spouses.

Most of the women in the group are now in their sixties, and Senator KASSEBAUM has moved in a very special way to correct this inequity and improper matters that have needed correcting for a long time.

I yield back the time on this side.

Mr. PELL. Mr. President, I am familiar with this amendment and have talked with some of the Foreign Service spouses who found themselves in this very tough situation. I think it is a good amendment, and I recommend its passage.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Kansas [Mrs. KASSEBAUM].

The amendment (No. 912) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed on another matter until such time as the managers tell me that I need to quit so they can get back to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPPOSITION TO CONFIRMATION OF JUDGE BORK

Mr. BUMPERS. Mr. President, I have always believed that the Senate's advise and consent role is one of our most important duties. Some Senators argue that the President should "have his man," but nothing could be further from the intent of the Founding Fathers. As a matter of fact, there were four votes in the Constitutional Convention on sharing Supreme Court appointments with the President and four times it failed. Only toward the end of the Convention was the President even given the power to nominate, and they retained the power of approving a nomination in the Senate, because they did not want the President to have the power to just appoint "his man." They said, in arguing to give the Senate power to name Supreme Court Justices, that "it would be less easy for candidates to intrigue with them, than with the President." So the duty of Senators is clear.

The suggestion that the opposition to Judge Bork in the Senate is the result of some kind of powerful public relations campaign is an insult to every Member of this body. I cannot remember a nominee to anything ever having been accorded 30 hours to explain his philosophy and intellect. And I know from private cloakroom talk that this nomination was very troubling to many Senators for and against who followed the hearings, read Judge Bork's writings and opinions, and very carefully evaluated him. His academic credentials are unquestionably impressive, but, of course, that is only one consideration. Judge Bork must be evaluated for his intellect, character, compassion, judicial temperament, and, most importantly in my view, his views on the Constitution.

I was generally familiar with Judge Bork's career before he was nominated. And though I was troubled by his views on the Constitution and his role in the Saturday Night Massacre, I withheld judgment in the interest of fairness and decency and an effort to give him a chance to clarify his writings and his philosophy regarding the so-called doctrine of original intent. I attentively listened to and watched with interest much of the Judiciary Committee hearings and read extensively, hoping to hear Judge Bork speak of his compassion for his fellow man, especially the less fortunate, minorities, and women. I listened to see if he felt that the most powerful and compelling thrust of the Constitution was that it speaks of justice and liberty for each one of us and says, in effect, "Each one of us counts" and that our Judeo-Christian guide says we each have worth that must not be ignored or trampled.

I gained the distinct impression, rightly or wrongly, that Judge Bork is so intellectually wrapped up in what I view as a very narrow, original intent theory of the Constitution that he is not fully cognizant of the fact that people—living, breathing human beings—can and often do suffer irreparable damage as a result of decisions by the Supreme Court.

I had hoped to hear Judge Bork say in the hearings that he believed in "letting justice roll down like the waters" as the prophet Amos spoke about in the Old Testament; for some evidence of a willingness, in the really close cases under the Bill of Rights—and virtually all cases that reach the Supreme Court are close cases—to reach out in a principled way for protection of the individual.

Sadly, what I saw instead was a judge who is uncomfortable with the great elasticity that must bound in the realm of constitutional interpretation; a judge who longs for constitutional certainty and who finds it in the doctrine of original intent; a judge who is willing to apply that doctrine even though it might result in wholly unjust outcomes and which would erode, if not destroy, the spirit of liberty, due process, and equal protection; a judge whose constitutional philosophy seems almost always to lead to a crabbed interpretation of individual rights and liberties. Even assuming the validity of the doctrine or original intent, which I do not, it would unquestionably lead to a severe limitation on constitutional guarantees we cherish.

In the hearings I heard a clinical, mechanical discussion of the Constitution; about what it did not say, and how we must not read things into it that the framers did not intend or foresee. Without belaboring the point, this doctrinaire approach to constitutional interpretation, would, in my view, turn the clock back, and provide basic liberty only if granted by a majority in the State legislatures at any given time.

Each of us has a philosophical rudder, and Supreme Court Justices are no different. But no Justice should be such a slave to ideology that he or she is incapable of rending simple justice under the Constitution. Freedom is more important than an airtight and invincible ideology. As former Congresswoman Barbara Jordan testified:

> When you experience the frustrations of being in a minority position and watching the foreclosure of your last appeal and then suddenly you are rescued by the Supreme Court of the United States, Mr. Chairman, that is tantamount to being born again.

I detected no humility in Judge Bork, though if confirmed, his task would be awesome—sorting out and giving meaning to the greatest legal document ever devised by the mind of man, a document full of majestic phrases and words that regale the dignity and importance of every American. In such an enterprise, Mr. President, there is little room for the arrogance of certainty about what the founders may have intended. As a matter of fact, the hearings raised an additional concern that I had not anticipated, and that is that on some issues Judge Bork seemed to accept precedents he had formerly condemned, indicated he did indeed believe in precedent and generally left me with a serious question: "Who is the real Robert Bork?" But my principal concern is that he is such a slave to ideology that he might be incapable of rendering simple justice. And I question whether Judge Bork would for the sake of ideology reopen old wounds and settled doctrines that the American people, especially southerners, do not want reopened. We in the South have been through traumatic times and feel that we dealt with our problems in an exemplary way. We know there is much that remains to be done, but we do not want to revisit those problems we have worked so hard to resolve. And I note that virtually every Southern Senator opposes Judge Bork.

Judge Bork's answers to important questions about the Constitution were fundamentally wrong, in my view. On the most basic questions facing a jurist, Judge Bork is not just marginally wrong—the kind of thing about which reasonable people can differ and argue. He starts with a fundamentally bad premise, and this would make it very difficult for him to come to the "just" answer, the right answer, in specific cases.

I believe the critics of Judge Bork have missed a very important point. They have argued with him about his reasoning in various cases and have thereby neglected the much more important and basic question, which is whether he could reach a just result in a given case by some means other than that of which he disapproves. He suggested such a possibility in the hearings but never gave a specific example. In a case he called fundamentally unconstitutional, Griswold versus Connecticut, the Supreme Court ruled unconstitutional a Connecticut law which would literally dictate conduct by a husband and wife in the privacy of their bedroom. The Supreme Court ruled this Connecticut law was unconstitutional because it constituted an invasion of privacy. Any other conclusion would seem bizarre to me, but not to Judge Bork, who disagreed because the word "privacy" was not found in the Constitution. Despite the historic sanctity of the home and the family, Judge Bork could find no right to personal privacy protected by the Constitution. I might add that there is also no right to travel between States specifically outlined in the Constitution, but the Supreme Court has held that such a right exists, and I do not believe Judge Bork has taken issue with this decision. Privacy, however, means the right to be left alone. People do not want their government telling them what to do or say or peering in their bedroom windows.

I believe that Judge Bork is not merely wrong in a few cases but fundamentally wrong about the nature of the Constitution and the source of the power of sovereignty. Original intent is the notion that the intentions of the founders in that hot summer of 1787 should be our guideposts to specific questions about rights and remedies of aggrieved parties. Judge Bork has made original intent the starting point and ending point for all analysis of both private rights and intergovernmental relations.

The preamble says "We the People," not "We the Founders of this Constitution," or "We the Wise Men gathered in Philadelphia in 1787." It also says the Constitution is established "for ourselves and our posterity." Our Constitution has survived for 200 years because of the flexibility built into it by such broad phrases as "no unreasonable searches and seizures," "freedom of speech," "privileges and immunities," "due process of law," and "equal protection."

Each generation has reinterpreted and reapplied these values in light of the specific problems facing the Nation—from Civil War to world war, from prosperity to recession to depression. None has been limited by the remedies specifically known to the Founding Fathers.

In the area of personal liberties, original intent is especially limiting. What can the founders have thought about prayer in public schools when there were no public schools in their generation? Are we limited to their specific thoughts about the privacy of communications in the days before electronics? In the 18th century, pickpockets were hanged in the public square; women were considered the property of their husbands with no right to own property, much less vote; slavery was accepted in most parts of the country. Should we so limit the rights and remedies of the Bill of Rights to whatever the Founding Fathers thought and knew in those circumstances?

It is in the area of personal liberty that I am most concerned about the direction in which Judge Bork might try to take the Court. Although the Constitution does not mention a right to privacy in so many words, the concept and spirit of privacy is clearly enshrined in the fourth amendment's protection against searches and seizures without a warrant; in the majestic guarantees of the first and fifth amendments; and in the broad language of the ninth amendment which says, "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." Edmund Randolph, a vocal participant at Philadelphia, said the framers had put broad principles in the Constitution so it would accommodate times and events in the future.

As historian Arthur Schlesinger points out, the drafters knew how to be specific: The President must be 35 years old, Senators must be 30, and treaties must be ratified by a two-thirds vote, and it will require a two-thirds vote to override a Presidential veto. But on difficult or general issues, they used broad and sweeping phrases which enshrined certain values from our religious and political heritage—such as the fourth amendment protection against unreasonable searches and seizures, and the first amendment protection of freedom of religion, speech, and the press. Justice Felix Frankfurter wrote of these phrases that "their ambiguity is such that the Court is compelled to put meaning into the Constitution, not to take it out."

Finally, there is an arrogance in proclaiming to know the original intent of the writers of our Constitution. It assumes a certainty about events that occurred two centuries ago. Original intent casts Supreme Court Justices in a role of high priests or historians, whose sacred responsibility it is to see into the minds of men dead for almost 200 years and to divine their will for facts and circumstances which they could not begin to imagine. Worse, it says nothing at all about how we are to resolve conflicts in the record as to what the founders contemplated on some issues, or how to read amendments to the Constitution which have fundamentally altered the balanced of power between the States and the National Government, and between the Government and the people. How can Judge Bork claim to know the original intent of the framers when Madison and Hamilton, two chief architects of the Constitution, argued strenuously about intent 6 years after the Constitution was ratified? Would Judge Bork repeal the doctrine of judicial review, which allows the Supreme Court to declare a law unconstitutional? The doctrine, declared in the case of Marbury versus Madison, was not mentioned in the Constitution, and created an uproar when Chief Justice Marshall wrote the decision, even amongst some who were in Philadelphia that hot summer. Yet, we now know that but for that decision, the Constitution would have become a meaningless and irrelevant document.

We must not forget that the Bill of Rights was adopted to limit the power of the National Government against individuals. Likewise, after the bloodiest war in our history, the 13th, 14th, and 15th amendments were drafted as fundamental limitations on the power of the States to abuse their citizens. The Southern States were required to ratify these amendments as a condition of readmission to the Union, and these amendments changed forever the relations between the States, their citizens, and the National Government which had been laid down in 1787. Whose intent governs interpretation of the 14th amendment? Is it the Members of Congress who drafted the amendment, or is it the statements made by State legislators on the floor of their respective bodies as they debated whether or not to ratify it? Which bears more weight, statements on the floor of the Senate, or a report from the Judiciary Committee? In these cases, original intent is of little help.

Justice Robert H. Jackson, whom Judge Bork says he admires, wrote in 1954:

> The people have seemed to feel that the Supreme Court, whatever its defects, is still the most detached, dispassionate, and trustworthy custodian that our system affords for the translation of abstract into constitutional commands. (The Supreme Court in the American System of Government, p. 23, 1954.)

The words of one of the Founding Fathers, who did not serve in the Constitutional Convention because he was serving as our Ambassador to France, come to mind. Thomas Jefferson wrote:

> I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the process of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as a civilized society to remain ever under the regimen of their barbarous ancestors.

Finally, Mr. President, I consider one who says he is a conservative to be one who believes States have some rights. One of those rights is to govern utility company operations, including the setting of utility rates. I have a parochial interest, admittedly, in a case which imposed an historic burden on the people of Arkansas by forcing them to pay 36 percent of the costs of a $3.5 billion nuclear plant, though the Arkansas Commission, charged with responsibility for permitting plant construction and setting the rates to be charged for amortizing constructions costs, was never even consulted as to our need for the power. Judge Bork, in a decision, which I consider to be judicial activism at its worst, as well as an evisceration of States' rights, has held that 36 percent was probably not enough and ordered FERC to justify not exacting even more than 36 percent of the costs from the people of my State.

Mr. President, I am deeply disturbed by Judge Bork's slavish devotion to original intent and his unwillingness to find any right to privacy in our constitutional guarantees. I believe that government invasion of privacy can be a prelude to tyranny. I do not wish to reopen old wounds and settled doctrines on which we have grown to rely. I would not be troubled in the least if he were a mainstream conservative. The Senate has now confirmed 322 Reagan judicial appointees to U.S. district and circuit courts, and heretofore I have only opposed 3 of them. Moreover, I voted for Justices O'Connor and Scalia and to elevate Justice Rehnquist to Chief Justice. But sadly, Mr. President, although I have not opposed 99 percent of President Reagan's judicial nominees, I must oppose Judge Bork.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

JUDGE BORK

Mr. SARBANES. I thank the Chair.

Mr. President, I want to commend my able friend from Arkansas for his very thoughtful statement.

Mr. President, I, too, want to address the matter of the nomination of Judge Robert Bork to be a Justice of the Supreme Court of the United States.

Mr. President, it is difficult to exaggerate the importance of a Supreme Court appointment. The Supreme Court stands at the head of the judiciary, the third independent and coequal branch of our Government. Throughout the history of this Nation the judiciary has played a particularly significant role in defining the nature of American society. It is the Supreme Court's responsibility to expound and interpret the Constitution, which is our basic charter and lies at the very heart of what our Nation stands for and represents.

Mr. President, I think the Senate, as it considers judicial nominations submitted to it by the executive, needs to review them from a more independent position than might be the case in considering nominees to the executive branch. After all, nominees to executive branch positions are to help the President carry out his responsibilities for that branch of the National Government for which he is responsible.

In contrast, a judicial nominee becomes a member, upon confirmation, of the third independent branch of our National Government. I believe, therefore, we are called upon to make a more independent judgment with respect to such nominees—particularly given that, once confirmed, they serve for life.

In the thorough hearings that have taken place in the Judiciary Committee with respect to Judge Bork's nomination, in the course of which both his proponents and opponents have been heard at length, a number of areas of significant concern have emerged. They do not reach to Judge Bork's scholarship and ability but rather to his judicial philosophy and the constitutional values which he perceives as being encompassed within the Constitution.

These areas of concern are matters on which Judge Bork in the past has been explicit in stating his positions: The one-man-one-vote principle, which was essential in giving true meaning to our political democracy; civil rights, on which our Nation has made such progress in just the last quarter of a century. Access to the courts, which provides the measure by which our people can seek a lawful resolution of their grievances.

Or consider: The area of individual liberties. It must be remembered that at the very founding of the Republic, our people were so concerned about the protection of individual liberties from the potential tyranny of government that the undertaking for a bill of rights was necessary to obtain ratification of the Constitution; the principle of equal protection of the laws which has been expanded to encompass all of our population, and is an assurance of equal justice under law for all Americans.

Consider also the question of the balance between the executive and the legislative branches where Judge Bork has consistently supported executive power; and finally consider an area which has not attracted as much attention as in my view it deserves—Judge Bork's views on economic issues where there is an insensitivity to the problems of small business and to the danger of economic concentration to the functioning of our competitive system.

In the course of his testimony, Judge Bork offered a number of explanations in these various areas with respect to positions he had earlier enunciated. His supporters point to his opinions as an appellate judge as a clear indication of his views. Mr. President, I submit that Judge Bork's rulings as an appellate court judge are much less an indication of his basic constitutional philosophy than his writings and speeches because, as a lower court judge, he is obligated to decide cases within the rulings which has been handed down by the Supreme Court.

In carrying out his responsibilities on the appellate court, he is required to reach decisions consistent with the constitutional framework in which Supreme Court decisions have placed him.

It is a matter of the deepest concern that repeatedly in the past, as the Court was reading decisions in these areas: One-man, one-vote; civil rights; access to the courts; individual liberties; equal protection of the law; a balance between our branches of government; a competitive economy; Professor Bork, or lawyer Bork, expressed sharp disagreement with the Court. He was sharply critical of many landmark decisions in these areas, even going so far in some instances as to label some of them "unconstitutional."

It is worth reflecting on the fact that at the time those rulings were made, had Judge Bork had his way, they would have been decided very differently. What I think most Americans regard as significant constitutional advances would not have taken place. Even now, in retrospect there is considerable doubt as to how Judge Bork views some of those rulings. But in any case it is clear that had he been heading the determination at the time the decisions were made, when the issues were posed, when the questions of the nature of our constitutional system were before the Courts, those landmark decisions would not have taken place.

Mr. President, it is my conclusion that while Judge Bork is a powerful logician, he is a powerful logician on behalf of an overly constrictive view of the Constitution. He starts from premises which result in a highly diminished view of what the Constitution should stand for.

As a consequence, I believe he would end up restricting constitutional values which are essential for a fair, tolerant, just America.

Mr. President, I join with those of my colleagues who oppose this nomination. I thank the Chair.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Maryland has yielded the floor. The Senator from North Carolina.

Mr. HELMS. Mr. President, Senator PELL and I have a bit of a dilemma. We want to accommodate all our colleagues who wish to speak on the Bork nomination, but we also feel that we have an obligation to the leadership to try to move this bill along.

I urge Senators, certainly on this side, who have amendments, to check in with us and let us move as many amendments as we can.

I do not want to offend anybody but if we have a 2- or 3-minute gap where a Senator is on his way to call up an amendment and a quorum call is in progress, I would object to it being called off until the Senator presents his amendment. But we want to work with Senators who want to make statements on the Bork nomination.

I will say to the chairman that there is still the Pastore rule that maybe some of the newer Senators are not familiar with. Anyway, we want to accommodate anybody we can, but we ask their forebearance in terms of lengthy speeches, as we need to move some of these amendments.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank the Senator from North Carolina for his observations.

Our belief, our hope, our expectation is to get this bill through by 2 o'clock this afternoon and we cannot do that if we have a lot of statements about Judge Bork. So I would hope that my colleagues, particularly addressing those on this side of the aisle, would be able to resist the temptation to talk unless there is a real gap or quorum call going on, until after this bill is passed.

That is the only way we will get it passed. I think we have a very good chance of doing that by 2 o'clock if my colleagues will follow along the line that the ranking member and I have suggested.

Mr. HELMS. I agree with that statement by the chairman.

AMENDMENT NO. 913

(Purpose: To provide for the imposition of further sanctions against drug-transiting countries unless such countries curtail corruption and cooperate with the United States to combat drug trafficking)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 913.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

That (a) section 802 of the Trade Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (7);

(C) by amending paragraph (7), as so redesignated, to read as follows:

"(7) take the action described in paragraph (6) and any combination of the actions described in paragraphs (1) through (5)."; and

(D) by inserting after paragraph (3) the following new paragraphs:

"(4) limit by one-half the number of visas that may be issued for aliens born in that country for nonimmigrant status described in section 101(a)(15)(B) of the Immigration and Nationality Act;

"(5) take the steps described in subsection (d) to curtail air transportation between the United States and that country;

"(6) withdraw the personnel and resources of the United States from participation in any arrangement with that country for the pre-clearance of customs by visitors between the United States and that country; or";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "corruption by government officials and" after "preventing and punishing";

(B) in paragraph (2)(A), by striking out "and" at the end thereof;

(C) in paragraph (2)(B), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new clause:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery."; and

(3) in subsection (c), by inserting "paragraph (1), (2), or (3) of" after "under"; and

(4) by adding at the end thereof the following new subsection:

"(d)(1)(A) The President shall notify the government of a country against which is imposed the sanction described in subsection (a)(5) of his intention to suspend the rights of any air carrier designated by the government of that country under the agreement between the United States and that country relating to air services to service the routes provided in the agreement.

"(B) Ten days after the imposition of the sanction described in subsection (a)(5), the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the government of that country under the agreement to provide service pursuant to the agreement.

"(C) Ten days after the imposition of the sanction described in subsection (a)(5), the President shall direct the Secretary of Transportation not to permit or otherwise designate any United States air carrier to provide service between the United States and that country pursuant to the agreement.

"(2)(A) The Secretary of State shall terminate the agreement between the United States and that country relating to air services in accordance with the provisions of that agreement.

"(B) Upon termination of such agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the government or nationals of that country from engaging in air transportation with respect to the United States.

"(C) The Secretary of Transportation shall prohibit the takeoff and landing in that country of any aircraft by an air carrier owned, directly or indirectly, or controlled by a national of the United States or by any corporation or other entity organized under the laws of the United States or of any State.

"(3) The Secretary of Transportation may provide for such exceptions from the prohibition contained in paragraph (1) or (2) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(4) For purposes of this subsection, the terms 'aircraft', 'air transportation', and 'foreign air carrier' have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).".

(b) The title heading for title VIII of the Trade Act of 1974 is amended to read as follows: "TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES".

Mr. ROTH. Mr. President, the purpose of my amendment is to enlarge the scope of possible sanctions against countries involved in the international drug trade. My amendment builds on the provisions of the comprehensive antidrug bill which Congress passed and President Reagan signed into law last October. That law requires the President to report to Congress each year on the progress in the fight against drugs and to certify that certain countries are cooperating fully in the drug interdiction efforts. If not certified, such countries are subject to a cutoff of foreign aid. My amendment would permit a reduction in visas and a cutoff of air service and would require termination of Customs preclearance facilities for countries which are not certified in the future.

My amendment is based on the language of S. 1379, which I introduced on June 17, 1987. Senator Nunn, the distinguished chairman of the Permanent Subcommittee on Investigations, was a cosponsor of this bill.

My colleagues will recall that a lengthy debate took place on the Senate floor during April on the question of whether the Senate ought to disapprove the certification of three countries, Mexico, Panama and the Bahamas, on the grounds that they had not been fully cooperative in fighting drug trafficking as the law required.

As a result of some of the questions raised during the debate, I resolved to take a closer look at the activities of several of these countries.

The Permanent Subcommittee on Investigations, which I previously chaired and on which I now serve as ranking minority member under the distinguished chairmanship of Senator Sam Nunn, has long had a bipartisan interest in the problem of international drug trafficking. Over the years, under both Senator Nunn's chairmanship and under my chairmanship, PSI has held numerous hearings on drug interdiction efforts, money laundering of drug profits and programs to reduce the demand for drugs in the United States.

In a continuation of that bipartisan effort, Senator Nunn and I earlier this year sent PSI staff members to the Bahamas for a first-hand look at antidrug efforts there.

The results of that investigation can be summarized briefly. While some Bahamian authorities have clearly been very cooperative in joint antidrug efforts with United States law enforcement agencies, including assigning Bahamian law enforcement officers to joint task forces and allowing hot pursuit of drug smugglers into Bahamian territory, it is also true that Bahamian authorities have failed dismally to deal with widespread drug-related corruption at all levels of the Bahamian Government and have similarly failed dismally to adequately prosecute drug smugglers in Bahamian courts.

Let me give you an example. The United States operates U.S. Customs and Immigration preclearance facilities at the Nassau and Freeport Airports in the Bahamas. These facilities allow passengers who are about to enter the United States to clear U.S. Customs and Immigration before they ever leave the Bahamas. Now these preclearance facilities are of little value to the United States. In fact, the Customs and Immigration personnel which we station in the Bahamas probably cost us more money than if they were stationed at the regular ports of entry in the United States. However, because of the convenience they offer passengers and the improvements in airline scheduling, the preclearance facilities are of significant assistance to the Bahamian tourist industry. Now, I don't object to that. What I do object to is what too often happens when drug smugglers are caught by U.S. officials at these preclearance facilities. Since they are apprehended in Bahamian territory, they are turned over to Bahamian authorities for prosecution. Many of the smugglers who are arrested are allowed to post relatively low bond, are released and then allowed to leave the Bahamas, never to be heard from again, according to statistics supplied by the Bahamian Government, in only 11 out of 103 cases were convicted drug smugglers given mandatory sentences of more than 9 months. Many were never brought to trial or were given no prison sentences at all. At the same time, according to statistics compiled by the U.S. Customs Service, the number of narcotics seizures and the amount of cocaine seized at these preclearance facilities has increased more than fivefold from fiscal year 1985 to fiscal year 1986. Given the lack of serious prosecution effort by the Bahamian authorities, it is no wonder that this huge increase in seizures occurred during the course of a single year.

One of these cases involved the arrest of Gaius Bethel, the son of the Bahamian Minister of Transportation, whose jurisdiction included the operations of the Nassau Airport. Mr. Bethel was caught with a confederate attempting to smuggle a kilo of cocaine. Mysteriously, the charges against Mr. Bethel were dropped for "lack of evidence."

Perhaps this result was not so mysterious given the history of corruption of public officials in the Bahamas by narcotics smugglers as detailed at great length in the December 1984 report of the Royal Commission of Inquiry and more recently by sworn testimony before the Terrorism, Narcotics and International Operations Subcommittee of the Senate Foreign Relations Committee. The subcommittee heard testimony under oath from a former drug smuggler who paid off many officials in the Bahamas over a period of years, and testimony from Gorman Bannister, whose father, Everette Bannister, is a friend and business associate of numerous high-level Bahamian Government officials. Gorman Bannister testified at length about payoffs his father transmitted to Bahamian Government officials, including payments to Prime Minister Pindling, and assistance his father gave to the notorious Columbian cocaine dealer, Carlos Lehder. For several years, Lehder enjoyed the use of an entire island in the Bahamas as a protected stop-over point for narcotics he was bringing into the United States.

What has the Bahamian Government done about this widespread corruption? Sadly, very little. In fact, some very disturbing signals have recently been sent. Two former members of Parliament, who resigned or were forced out of office after detailed allegations of corruption were cited against them in the Royal Commission report, were placed on the Government party's ticket in the parliamentary elections of June 19, 1987 and were returned to Parliament. One of them is reportedly under consideration for a high-level Government post. Those actions strongly suggest that the current Bahamian Government has no real commitment to eliminating drug-related corruption in the Bahamas.

The sanctions of elimination of foreign assistance which is possible under current law in the event of decertification, holds little incentive for the Bahamas to curtail the drug trade since that country receives almost no foreign aid from the United States. That is why my amendment is necessary. It will add some meaningful teeth to the sanctions by mandating elimination of the Customs preclearance facilities and permitting the termination of direct airline service and a limitation on the number of visas which may be issued.

Moreover, "full cooperation" in eliminating drug trafficking manifestly ought to include real efforts to eliminate the bribing of public officials by drug dealers. If public corruption is permitted or encouraged, the fight against the international cocaine cartel will have no chance to succeed. That is why my amendment also includes lack of efforts against official corruption as one of the factors to be considered in determining whether a particular country should be certified.

Of course, these sanctions will be imposed only if a country is not certified next year as being fully cooperative in the efforts to eliminate the international drug trade. While my concern in offering this amendment is aimed primarily at the Bahamas, the language of my amendment applies to all countries which facilitate the international drug trade. So the Bahamas is not the only country being singled out. But there is still time for the Government of the Bahamas and other countries to wake up and take meaningful action against official corruption and against drug smugglers through their own criminal system.

I am confident that the vast majority of Bahamian citizens as well as U.S. citizens want the drug trade eliminated. A vote for my amendment will help speed that result.

The PRESIDING OFFICER. The Senator has yielded the remainder of his time. Who yields time?

The Senator from Rhode Island.

Mr. PELL. Mr. President, do I have my own time?

The PRESIDING OFFICER. If the Senator favors the amendment, then the allocation of time would move to the Senator from North Carolina.

Mr. HELMS. Which presents an oddity because the Senator from North Carolina also favors the amendment.

The PRESIDING OFFICER. Nonetheless, that is the effect of the division of time in the usual form and irony of this institution.

Mr. HELMS. I understand.

Mr. PELL. Will the Senator yield me 5 minutes?

Mr. HELMS. Absolutely. Yes.

Mr. PELL. I thank the Senator from North Carolina.

This is an amendment that we have discussed in the past. There is a very real problem because there is no question that corruption is rampant in the Bahamas. There is no question but that they have closed their eyes in the past to drug trafficking many times, but I think they are finding that their young people are getting contaminated and hooked on these drugs and their own spine is stiffening at this time in this regard.

I would like to ask a couple of questions if I could of the Senator from Delaware.

Mr. ROTH. I will be happy to yield.

Mr. PELL. Am I correct that this amendment would only affect those countries that have not yet been certified by the President as having made a fully cooperative effort to combat drugs in their nations? For example, early in the year we had a debate on the floor regarding the Bahamas, Mexico, and Panama over their certification. The Bahamas and Mexico were essentially held by the Senate to be in compliance, but we defeated the certification resolution regarding Panama. So I am assuming—I trust I am correct—that the Senator's amendment would be prospective, addressing those nations that are not certified now or will not be certified next year, fiscal year 1988. Is that correct?

Mr. ROTH. Yes. The distinguished Senator from Rhode Island is correct in that conclusion. This amendment is prospective.

Mr. PELL. I thank the Senator from Delaware. Would I also be correct in saying there is nothing in this amendment that decertifies any nation regarding the antidrug efforts or overturns what the Senate approved earlier this year?

Mr. ROTH. Again, the distinguished Senator is correct.

Mr. PELL. I thank the Senator from Delaware for his replies. I am glad to support this amendment. I have no objection to this amendment.

Mr. ROTH. I appreciate the support of the Senator.

Mr. PELL. I yield the floor.

Mr. HELMS. I will indicate my support of the amendment by asking the distinguished Senator if he will add me as a cosponsor.

Mr. ROTH. I would be very happy to add the name of the distinguished Senator from North Carolina.

Mr. HELMS. I thank the Senator. I yield back such time as I may have.

The PRESIDING OFFICER. The Senator has yielded back the remainder of his time. There being no time remaining, is there any further debate? If not, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 913) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

AMENDMENT NO. 914

(Purpose: To prevent a reoccurrence of the Medvid affair, and make it unlawful to expel from the United States, its foreign diplomatic missions or consulates, or its military installations, persons seeking political asylum without review of their claims)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. HELMS. Before the clerk states the amendment, looking down the list, I think I ought to live under the same rules that others are and so I am going to ask unanimous consent that on this amendment there be a 20-minute time limitation with no amendment.

The PRESIDING OFFICER. Is that 20 minutes equally divided?

Mr. HELMS. Equally divided.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. Is there objection? The Senator from Rhode Island.

Mr. HELMS. I will withdraw my unanimous-consent request.

The PRESIDING OFFICER. The Senator has that right. Does the Senator from Connecticut have a question?

Mr. WEICKER. I am sorry, I did not understand the unanimous-consent request.

Mr. HELMS. I have withdrawn the unanimous-consent request.

The PRESIDING OFFICER. The request was for a minimum time limitation but it has been withdrawn. The Senator from North Carolina still has the floor.

Mr. HELMS. I thank the Chair.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] for himself and Mr. D'AMATO, proposes an amendment numbered 914.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the bill:

SEC. . PROHIBITION OF EXPLUSION OF PERSONS SEEKING POLITICAL ASYLUM

(a) SHORT TITLE.—This section may be cited as the "Miroslav Medvid Memorial Act of 1987".

(b) CRIMINAL PENALTY.—Any United States national employed by the United States Government who orders the expulsion from the United States, its territories, possessions, or special maritime jurisdiction, of any person seeking political asylum from a Communist country, without the review and rejection of the person's claim by the Secretary of State and the Attorney General, if such person is so expelled, shall be punished by imprisonment of not more than 2 years or fined in accordance with title 18, United States Code and suspended without pay for no less than 365 days.

(c) DUTIES OF SECRETARY OF STATE AND ATTORNEY GENERAL.—The duties and obligations of the Attorney General and Secretary of State provided for in this section may not be delegated.

(d) Reports to Congress.—

(1) Not later than forty eight hours after an expulsion of a person seeking political asylum described in subsection (b), the Secretary of State shall prepare and transmit to the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate setting forth the reasons for the rejection of such person's claim.

(2) No later than January 31 of each full year following enactment of this section, the Secretary of State shall prepare and transmit to the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Foreign Relations of the Senate, a report on the whereabouts and welfare of individuals who have been denied political asylum since such denial.

(e) Publication of Applicability of Criminal Penalties.—Not later than 60 days after the date of enactment of this section, the head of each United States diplomatic mission or consular post in each Communist country shall cause to be publicly displayed at the principal entrance to such mission, in English and the official languages of the country in which the mission or post is located, a notice of the applicability of criminal and other penalties for conduct described in section 2 and copy of this section.

(f) Definitions.—For purposes of this section, the term "Communist country" refers to any country listed in section 620(f) of the Foreign Assistance Act of 1961, Nicaragua and Mozambique.

Mr. HELMS. Mr. President, the amendment addresses what I think to be, one of the darker moments of American history when the Ukrainian seaman, Miroslav Medvid, tried desperately to defect outside of New Orleans. He jumped off a Soviet ship two or three times, and United States authorities, acting much like Keystone cops, and then ultimately making a terrible decision, forced that young man back on that ship. He was hauled back to the Soviet Union and has not been heard from since.

After having tried desperately to defect to the United States in October 1985, Miroslav Medvid was forcibly returned to that ship by U.S. authorities in what has to be some of the worst judgment ever exercised by Government officials.

The facts, as Senators may recall, go like this: The young man, Miroslav Medvid, jumped from the Soviet freighter, a grain ship, the *Marshal Konev.* He jumped 40 feet into the Mississippi River while the ship was docked outside of Belle Chasse, LA. Senator Johnston is going to hate me for not knowing how to pronounce the name of that community. After having asked to be turned into the New Orleans Police, Medvid was instead turned over to the U.S. Border Patrol.

The Border Patrol, in turn, had Medvid talk to an interpreter on the phone, and then returned Medvid to the Soviet freighter. This interpreter testified subsequently before Congress that Medvid had made clear to her his desire to be granted political asylum.

Upon realizing that Border Patrol agents were returning him to the freighter, Medvid once again leapt overboard and swam ashore, a clear indication of his desperation, his yearning to defect from the Soviet Union to the United States. This time he began beating his head against the shore in an apparent attempt to get medical attention on shore. But what happened, Mr. President? It is embarrassing to review the circumstances of this case.

Instead of receiving medical attention, he was restrained by his Soviet shipmates with handcuffs provided by the United States Border Patrol. With the assistance of the United States Border Patrol he was then forced, kicking and screaming along the way, to reboard the Soviet ship.

If that young man is still alive—and I doubt he is—it must be a less than comfortable life he is now living in the Soviet Union. It is tragic and ironic that this asylum attempt was denied as a direct result of actions by U.S. officials.

Mr. President, Miroslav Medvid should have never been returned to the Soviet freighter, and we should assure that such an action is never repeated in the future. It is a blot on the history of our country.

That is why I am offering this amendment titled "The Miroslav Medvid Memorial Act of 1987."

This amendment would make it a criminal penalty for any U.S. national employed by the U.S. Government to order the expulsion of any person desiring political asylum from a Communist country unless both the Secretary of State and the Attorney General have reviewed and rejected the person's claim. That is a fair proposition.

Specifically, the amendment provides that an official who fails to follow this procedure be punished by imprisonment of not more than 2 years or fined in accordance with title 18, United States Code, and be suspended without pay for no less than 365 days.

Senator Pell and I were conferring just a moment ago. And he raised the point quite correctly that the penalty involved could possibly come under the jurisdiction of the Judiciary Committee. I am willing to modify the amendment and we will discuss that in just a second.

But in any case, there ought to be a penalty of some sort as a signal to officials of this Government that this sort of sordid incident should never happen again. At least it will assure that Government bureaucrats do not, on their own, have the authority to reject asylum requests if persons would otherwise end up having to live the rest of their lives in the bleak existence endemic to Communist countries, or worse. As I said earlier, we have not heard anything from or about Medvid since he was returned to the Soviet Union.

In addition, in order to assure that all requests forwarded to the Secretary of State and the Attorney General are given full consideration, the amendment requires a report be transmitted to the chairman of the Committee on Foreign Affairs in the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate whenever asylum is denied to someone seeking political asylum from a Communist country describing the reasons for the rejection.

As a further check on our employees overseas, and to communicate to those in Communists countries that the United States sympathizes with their plight, the amendment also requires that this act be publicly displayed in English and the official languages of the country at the main entrances to U.S. diplomatic posts in Communist countries.

Mr. President, I fear that our State Department is all too inclined to deny defectors their human rights and send them, against their will, back to their Communist oppressors. Yet, this is tantamount to turning our back on every goal the American Revolution was fought for: Freedom for the oppressed.

Our due process of law entitles the accused the right to a fair trial and the assumption of innocence before indictment. A defector from the Communist bloc to the West should be protected on the same basis. This amendment takes a step in that direction, and that is my purpose in offering it.

Mr. President, there are those who have questioned whether or not Miroslav Medvid genuinely wished to escape his oppressed existence. Unfortunately, that was the attitude of the employees of the American people responsible for sending Medvid back to the Soviet Union.

His planned escape was evidenced by the watertight jar containing his watch and other possessions, the violence with which he was treated upon his refusal to return to the ship and the administration of drugs to Medvid the night after his return to the ship. Mr. President, these actions represent clear evidence of the intense desire of this young man to be granted the freedom of political asylum in the United States.

The failure of our U.S. officials to recognize Medvid's plea for asylum from the onset was not the only action for which our Government should be ashamed. It was compounded by a series of acts apparently motivated more by a desire to appease the Soviet Embassy than to provide Medvid with the freedom he so intensely desired.

These acts include the refusal of the Department of State to allow Medvid to be interviewed without the presence of Soviet officials, the use of the Russian language instead of Medvid's native Ukrainian in the interviews, the denial of access to Medvid by American relatives, press and others, and the superficial physical examination which ignored the Soviets' own admission that Medvid had been heavily drugged and which omitted such routine steps as testing blood or urine samples.

This incident raised quite an uproar in 1985, as well it should have. The need for immediate review of the U.S. asylum procedures which allowed such a tragic act to occur was understood by 60 Senators who cosponsored the Humphrey-Dixon bill of November of 1985. The legislation established a Special Panel on Asylum to investigate the handling of the Medvid case and instances where defectors from the Soviet Union were returned in violation of U.S. law. Mr. President, I ask unanimous consent that the list of the cosponsors be inserted in the Record at the conclusion of my remarks.

A review of the facts and legalities involved is contained in "The Miroslav Mevid Incident Report" issued by the Commission on Security and Cooperation in Europe, cochaired by Senator DeConcini. Senators Lautenberg, Wirth, Fowler, Reid, D'Amato, Heinz, McClure, and Wallop served with the Senator from Arizona on this Commission. This investigation compiled the results of more than 200 interviews and informal contacts with witnesses and involved officials. What they produced was an eye-opening examination of the extraordinary maneuvers of certain U.S. officials who actively cooperated with a totalitarian regime and denied this courageous young Ukrainian his natural rights. The report shows how Medvid's faith in the United States was trampled by U.S. officials who preferred to appease a totalitarian dictatorship rather than uphold the principles of freedom.

The Commission's report concluded that in the Medvid case—

> The White House, National Security Council, Department of State and Department of Justice officials deviated from constitutionally and congressionally mandated procedures. This failure to follow prescribed procedures constitutes a violation of law.

Another finding discussed the unnecessary intrusion of the Department of State into what should have remained INS jurisdiction. The report states:

> The Department of State had no statutory or regulatory basis for intruding operationally into the Medvid case. Their role should have been limited to conducting negotiations with the Soviet Embassy and advising the INS. At the same time, INS relinquished its jurisdictional responsibility under the INA (Immigration and Nationality Act of 1952) to the Department of State in direct conflict with the intent of Congress.

As the Commission further reports, its directive includes the review of additional instances of enforced repatriation where U.S. officials violated prescribed immigration law. The eight case studies describe a consistent trend of intervention by the State Department overstepping its negotiatory and advisory role and inexplicable decisions by U.S. INS officials which had the direct result of sending the applicant back to his Communist captors, in one case by countermanding an order of the INS.

Probably one of the most shocked observers of the handling of the Medvid case was Simas Kudirka. In November of 1970, Simas Kudirka jumped ship off Martha's Vineyard to board the U.S. Coast Guard vessel, the *Vigilante*. After a series of communications by phone and radio with the U.S. Coast Guard Headquarters, and ominously, with the State Department Soviet Desk, Soviet crewmen were allowed to board the *Vigilante* and remove Kudirka by binding him with a blanket and rope, beating him, and removing him from the ship while the U.S. authorities actively cooperated. Kudirka was subsequently sentenced to a 10-year prison sentence for treason upon his return to the Soviet Union. He served 4 of the 10-year term after which he was granted permission to emigrate because his mother was American-born. Mr. Kudirka's case has a unique ending. It is improbable that Miroslov Medvid is alive today.

Mr. President, I ask unanimous consent that the conclusions and recommendations of the Commission as well as the other incidents of repatriation cases and editorials be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Humphrey-Dixon Cosponsors, December 16, 1985

Humphrey, Gordon J.; Dixon, Alan J.; Grassley, Charles E.; Kerry, John F.; Denton, Jeremiah; Proxmire, William; Hawkins, Paula; Hatch, Orrin G.; Mitchell, George J.; Exon, J. James; Simon, Paul; Burdick, Quentin N.; Bumpers, Dale; Riegle, Donald W.; D'Amato, Alfonse M.; Lautenberg, Frank R.; Symms, Steve D.; Bradley, Bill; Armstrong, William L.; Murkowski, Frank H.; Long, Russell B.; Stevens, Ted; Mattingly, Mack; Eagleton, Thomas F.; Kassebaum, Nancy Landon; Gore, Albert; Boschwitz, Rudy; DeConcini, Dennis; Andrews, Mark; Baucus, Max; Helms, Jesse; Harkin, Tom.

Moynihan, Daniel Patrick; Nickles, Don; Boren, David L.; Specter, Arlen; Zorinsky, Edward; Pryor, David; Rockefeller, Jay D.; Ford, Wendell H.; Wallop, Malcolm; East, John P.; McClure, James A.; Hecht, Chic; Heflin, Howell; Garn, Jake; Pressler, Larry; Heinz, John; Abdnor, James; Sarbanes, Paul; Glenn, John; Melcher, John; Warner, John; Dodd, Christopher J.; Quayle, Dan; Johnston, J. Bennett; Kasten, Bob; Gorton, Slade; Chafee, John H.; Domenici, Pete V.

[From the Wall Street Journal, Thurs., Nov. 21, 1985]

The Medvid Case: American Honor Lost

(By Fred J. Eckert)

In the early evening of Oct. 24, on board the Soviet grain freighter Marshal Konev, docked in the Mississippi River just outside New Orleans, a 25-year-old Ukrainian seaman approached the ship's rail and looked down.

He was standing 40 feet above the river. It was dark, stormy and raining.

Miroslav Medvid was ready to jump ship and defect to America. He was wearing short pants, a sweater and tennis shoes. He held a container protecting personal papers valuable to him.

He jumped, from three stories high, into deep, turbulent water. The shore was more than the length of a football field away. He struggled to reach American soil. He struggled to reach freedom.

Miroslav Medvid reached American soil. He did not reach freedom.

Five days later Anatoly Dobrynin, the Soviet ambassador, emerged from a meeting with Secretary of State George Shultz at the State Department to tell reporters: "It's settled. He's coming home."

One persistent reporter asked: "If Seaman Medvid really wanted to return to the Soviet Union, why did he jump ship and why did he do so many other things that so clearly indicated he wanted to defect?"

Mr. Dobrynin said: "I am not a sailor." Then he chuckled. And then he turned his back and walked away.

RETURN TO A NIGHTMARE

For the Soviet ambassador, the sad case of the Ukrainian seaman is something to laugh about. But for young Miroslav Medvid, his life has turned into a nightmare, a nightmare inflicted upon him by the incompetence and insensitivity of low-level U.S. officials. A nightmare caused by the feeble fears and limp leadership of high-level U.S. government officials.

After Mr. Medvid jumped ship and swam to shore, he encountered Joseph and Wayne Wyman in the parking lot of their jewelry store. The Wymans say he was very excited and nervous, and that he kept looking over his shoulder to see if he was being followed. The Wymans and Mr. Medvid could not understand anything they said to each other.

The Wymans guessed Mr. Medvid might be Russian and concluded that they were witnessing an attempted defection. They also concluded that he was asking them to take him to the police. Wayne Wyman drove him to a police station. Mr. Medvid was so grateful that he tried to kiss Wayne's hand.

The police took Mr. Medvid to the Harbor Police, who in turn handed him over to the Border Patrol, a part of the U.S. Immigration and Naturalization Service. The police say Mr. Medvid smiled and laughed and seemed very happy.

The Border Patrol set up a three-way telephone interview with Mr. Medvid, a Border Patrol agent and Irene Padoch, a New York-based translator who works part time for INS. She is the only American ever to have spoken with the Ukrainian seaman in Ukrainian. She has testified that she told officials at the scene that Mr. Medvid said he didn't want to return to the ship and did want political asylum. It is standard INS procedure to tape and transcribe such a sensitive conversation—but it was not done in this case.

For reasons that have yet to be explained, U.S. Border Patrol officials told two employees of Universal Shipping Agencies, the private shipping company that serviced the Soviet ship, to turn Mr. Medivd back to the Soviets. The two men hired a launch and set off for the ship. Raymond Guthrie, the launch pilot, said: "I felt sorry for the seaman. He was kicking and screaming. He didn't want to go back." And Mr. Medvid ran his fingers across his throat—a gesture indicating he feared harm would come to him.

When the launch came abreast the Soviet ship at about 2 a.m., a Soviet officer spoke to Mr. Medvid. The seaman became even more frightened. He again dived into the river and swam to shore. Soviet officers and the two U.S. shipping-company employees grabbed him. Mr. Medvid screamed, kicked, punched and bit, but he couldn't get free. They handcuffed him, with handcuffs that had been turned over to these private citizens—and, it turns out, to Soviet authorities, too—by the U.S. Border Patrol. Mr. Medvid then began to bang his head against rocks along the shore. He was overpowered again. Finally, he was returned to the Marshal Konev.

Under well-established U.S. government procedure, Mr. Medvid should have been detained for several days until he had time to complete all necessary interviews and applications. But he wasn't.

No Soviet ship sails abroad without KGB agents on board. Now the KGB was free to interrogate and intimidate the young sailor. Free to threaten him with retaliation against family and friends. Free to do whatever it wished.

It was not until Mr. Medvid had been back on the ship for more than 12 hours that the State Department was informed of the matter. One would think that procedures in such a sensitive matter should call from prompt notification to higher-ups. They do—but they weren't followed.

Four days later the State Department issued a statement that ends by saying, "The United States Government considers this matter closed." The statement opens by assuring us that from the moment the department "was first informed of this case, the Department of State has been attempting to determine the intentions of Soviet Seamen Miroslav Medvid."

One would think that a review of Mr. Medvid's actions would make it clear what his intentions were—but nowhere in the State Department "case closed" statement is there a single reference to Mr. Medvid's actions prior to his return to the ship.

The department assures us that it "immediately" dispatched "a Russian-speaking Foreign Service Officer." But Mr. Medvid is Ukrainian, not Russian! And the State Department does not mention in its report that it had rebuffed offers of Ukrainian language translators. The department says it provided "an expert Russian interpreter . . . to ensure there would be no difficulty in communicating with Seaman Medvid." No difficulty for him to communicate in a language that Ukrainians resent? Maybe. Maybe not.

Yes, a team of U.S. officials and a U.S. doctor did communicate with Mr. Medvid aboard the Marshal Konev and later aboard a U.S. Coast Guard cutter. But, no they never once spoke with Mr. Medvid without Soviet agents present. And never once in his own language.

"We insisted," the State Department boasts in its statement; "on a non-threatening environment in which to conduct the interview." Baloney! Wouldn't it have been more non-threatening if Mr. Medvid had been permitted to speak to U.S. officials without Soviet agents glaring at him and listening to his every word?

We are assured by the State Department that "Medvid appeared to be in generally good condition." Oh? Did the physical examinations given him include blood and urine tests to detect the presence of drugs? Well, no. This despite the fact that we had intercepted a communication between the Soviet Embassy and the captain of the Marshal Konev in which the embassy instructed the captain to administer certain specified drugs to Mr. Medvid.

"Generally good condition?" But U.S. officials observed that Mr. Medvid's wrist had been slit. No mention of that in the official statement! That came out days later in a congressional hearing. Was Mr. Medvid asked if he had attempted suicide? Did we conclude he had been tortured? Such questions aren't raised in the report.

The State Department does mention that Mr. Medvid was examined by a U.S. psychiatrist who found him competent to decide whether he wanted to defect or not. But the department does not mention that the psychiatrist believed that Mr. Medvid knew what he was doing when he jumped ship and that he believed he had been threatened and that he believed the threats involved Mr. Medvid's parents, possibly a threat against their lives.

The State Department report has it that we gave this man every chance to defect and that later we afforded him a nice "non-threatening environment" in which to think things over.

The truth, of course, is that a frightened sailor who had been dragged back to the Soviets has very good reason to be leery of Americans—and even more good reason when later they permit Soviets to stand watch over him while they promise him that this time he really can be free.

CONGRESSMEN INCENSED

But the State Department report was enough to convince the White House to echo that the case was closed. It was also enough to incense this member of Congress and many of my colleagues. Some of us asked the president to order an investigation (which he did do) and to detain the ship and give Mr. Medvid another chance at freedom (which he did not do).

We should have announced the immediate suspension of those government employees responsible for this fiasco—pending dismissal proceedings. Mr. Medvid should have come off that ship and into U.S. custody even if we would have had to physically remove him. We should have detained him until the effects of the drugs inside him had dissipated. And we should have demonstrated to him that most Americans are not as dumb and insensitive as the Border Patrol agents who handed him back the first time and not as feeble and deferential toward the Soviets as the U.S. officials who handed him back the second time. And we should have let him meet with Ukrainian-Americans, including those who say they are related to him. We should have done all this not only to give Miroslav Medvid another chance for freedom but also to give ourselves a chance to atone for disgrace and dishonor.

But we didn't.

Somewhere out on the high seas the Marshal Koney is carrying Ukrainian Seaman Miroslav Medvid to the hell that awaits him back in the Soviet Union. The ship is also carrying away a full load of American grain. And pieces of America's reputation, pride and honor.

[From the Wall Street Journal, Sept. 29, 1987]

KEELHAULED AGAIN?

The State Department denies reports that some of the 26 seamen returned to Iran over the weekend did not want to go back. We are not persuaded.

The Iranian sailors were aboard the Iran Ajr, the mine-laying ship shot up and captured by the Navy in the Persian Gulf. On Saturday they were flown from the amphibious ship Raleigh to an Omani airfield, turned over to Iranian diplomats and later flown off in an Iranian plane. During his Gulf tour a day earlier Secretary of Defense Weinberger had said publicly that some of the captured Iranians were helping the U.S. find the mines. Any Iranian who did that would face torture and execution if put back in the hands of the militant regime in Tehran; it's difficult for us to believe that any such person would return willingly.

Too, the dispatches of American correspondents in Bahrain are not so easily dismissed: "The first reports that some of the Iranians did not want to return home came from Navy personnel aboard the U.S. ships where the captives were held," reported Michael Ross of the Los Angeles Times. "One Iranian sailor got down on his knees and broke into tears as he begged not to be sent back, one person close to the naval operation said," according to John Kifner of the New York Times.

Patrick E. Tyler of the Washington Post reported, "U.S. Ambassador to Bahrain, Sam H. Zakhem, told reporters today that he believed that, if given the chance, some of the crewmen of the Iran Ajr would have sought political asylum in the West. But, he added, no State Department personnel responsible for handling requests for asylum had access to the Iranians while they were in U.S. Navy custody."

Yesterday a State Department spokeswoman explained at a press briefing: "When the Iranian sailors that were on the Raleigh were still under the control of the United States, we told them exactly what was going to happen, that they were going to be sent to Oman for repatriation to Iran. None of them objected and the transfer was carried out." She added, "It is my understanding that Ambassador Zakhem's reported remarks were inaccurate."

History suggests believing the reports instead of the denials. One of the sorriest blots on the American record is the habit of turning would-be defectors back to their tormentors.

Less than three years ago Miroslav Medvid, a 25-year-old Ukrainian seaman, jumped off a Russian ship anchored in the Mississippi River and swam ashore. The U.S. Border Patrol directed that he be returned; he kicked and screamed, ran his hand across his throat and jumped into the river again. Finally he was returned to the ship in handcuffs. Before the ship was allowed to sail, State Department authorities went aboard to interview Medvid, and determined he wanted to go back to Russia.

In 1979, Ludmilla Vlasova was taken into custody by Soviet officials in New York City, after the defection of her husband, Alexander Godunov, during a tour of the Bolshoi Ballet. Eight guards escorted her onto a Soviet airliner at Kennedy airport, which was then grounded for three days. The episode ended when the State Department agreed to interview her in a mobile lounge next to the airliner in the presence of 12 Russians. State determined she didn't want to defect.

In 1970, Simas Kudirka, a Lithuanian then 40 years old, jumped off a Soviet ship onto the deck of a U.S. Coast Guard cutter at Martha's Vineyard. Though he asked for asylum, the Coast Guard let Soviet officials board the vessel to apprehend him. He was shipped back to Russia and sentenced to 10 years in a labor camp. American officialdom belatedly learned that Mr. Kudirka was in fact eligible for American citizenship since his mother had been born in America. Happily, he was released, and allowed to come to the U.S., after serving 48 months of his sentence.

Even earlier, the repatriation of prisoners was a sticking-point that held up the Korean War armistice for two years. In the end, it contained laborious compromises, but South Korean President Syngman Rhee risked U.S. wrath by summarily releasing 27,000 North Korean captives.

Most notorious of all was Operation Keelhaul, the return of Soviet prisoners of war by American and British authorities under the Yalta agreement. Whether they had been freed from German POW camps or had actually opposed the Soviet regime by joining the German forces, many of these prisoners saw return as a death sentence, and went to every length to resist. In June of 1945, 154 Soviet citizens captured in German uniforms attempted mass suicide at Fort Dix; three succeeded, and the rest were shipped back to Russia.

There is nothing in this record, to put it mildly, that disposes us to take at face value the State Department's assurances that the Iranians wanted to go back to Iran. In light of how many times the same mistake has been repeated, indeed even State's own bland account is a disgrace. Trading in arms with Ayatollah Khomeini may be *Realpolitik*, but trading in human lives is an outrage.

PART II. OTHER INCIDENTS

In addition to the Medvid case, Section 23(a)(1)(B) of S. Res. 353 directs the Commission to review "instances in which an individual . . . who was a national of the Soviet Union or a Soviet-bloc Eastern European country [defined as Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland and Romania], requested political asylum in the United States and was returned to the authorities of his country in violation of any United States, state, or local law . . ." Overall recommendations to Congress by the Commission are to include consideration of these cases.

Based upon leads developed during the course of the Medvid investigation, the Commission staff reviewed numerous INS and State Department case files on Soviet and Soviet-bloc nationals who were either repatriated or detained and questioned by US officials as to whether they were departing the United States voluntarily. In addition, the investigators reviewed INS reports on deserting crewmen and alien apprehensions.

A. REPATRIATION CASES

The following cases have been identified either as instances where US officials deviated from prescribed procedures established for the implementation of the Immigration and Nationality Act or situations which raise issues similar to those found in the Medvid case.

1. CASE STUDIES

(a) Piotr Kalitenko and Gregorij Sarapushkin

In developing leads to identify other cases of relevance to the investigation, the Commission noted published reports of the Kalitenko/Sarapushkin cases, which contended that the two Soviets had landed in a small boat off the Alaskan coast and were sent back to the USSR despite their requests for asylum. Upon review of the case file, it became apparent that these statements were misleading, at best.

INS files reveal that on August 7, 1965, Piotr Kalitenko and Gregorij Sarapushkin landed on the Alaskan coast in a small boat made from walrus skin stretched over a frame of bent metal tubing and wood. The men, identified as Soviet nationals, were interviewed by INS authorities and told a convincing story about plans to go to an offshore island to gather mushrooms which they could sell to augment their income. According to the men, one of their two outboard motors failed and they drifted accidentally onto US soil. One of the men, Sarapushkin, did not have the required authority to travel and was obviously concerned about possible repercussions upon his return to the Soviet Union. However, INS records indicate that both men insisted upon returning immediately to the Soviet Union. Both men insisted that they did not want asylum.

Since the men were in technical violation of US law, having no authority to land, they were given the option of going through deportation proceedings or agreeing to voluntary departure. Wanting to return home as quickly as possible, the two men agreed to voluntarily depart the US.

For reasons that appear somewhat unclear at this point in time, the original decision by INS to take the two men to Soviet authorities in Anchorage was cancelled and the US Coast Guard was instructed to return the men to an island within Soviet territory, approximately three miles away. Before the men could be returned, however, they changed their minds and requested asylum. In the meantime, the Department of State countermanded the INS order.

[The records cited no legal authority for this action.]

Pursuant to Department of State instructions, the Soviets were taken to Anchorage where they were met by representatives from the Department of State and the Soviet Embassy who questioned them as to their desire to seek asylum. [The file indicates that the Department of State advised the Soviets of the defections, but contains no explanation as to why this was done.] Kalitenko confirmed that he wanted asylum, but Sarapushkin requested more time, apparently concerned that he would be punished if he returned to the USSR. Although the Soviets insisted upon seeing Sarapushkin alone, US officials denied their request. Sarapushkin later agreed to return to the Soviet Union, then regretted his decision and again requested asylum. Sarapushkin was apparently granted asylum, but redefected on November 30, 1965.

In the months that followed, Kalitenko received letters from his family and from Sarapushkin, who assured his companion that he was working at his old job in the Soviet Union and had not received any punishment. Based upon these assurances, Kalitenko contacted the Soviet Embassy and requested assistance in returning to the USSR. The Embassy then contacted the Department of State on September 8, 1965, and informed them that Kalitenko wanted repatriation.

Although Kalitenko was in Soviet custody, there is no indication that the Embassy resisted efforts by immigration officials to question Kalitenko in a pre-departure interview on September 16, 1966. The interview was held at INS facilities with the assistance of a State Department interpreter. INS records indicate that Kalitenko's decision appeared to be voluntary.

Further disposition of the Sarapushkin and Kalitenko cases are unknown.

(b) Simas Kudirka

Perhaps the most egregious case of forced repatriation occurred on November 23, 1970, when, by prearrangement, a Soviet fishing trawler, the Sovietskaya Litva, and the USCGC Vigilant moored along side each other off Martha's Vineyard to discuss problems of interest to the New England fishing industry. A member of the Soviet crew, Simas Kudirka, notified the Coast Guard that he would try to defect. Several hours later, the seaman jumped from the Soviet vessel to the Vigilant.

Following a series of radio and telephone conversations with Coast Guard Headquarters and the Department of State Soviet Desk, Soviet crewmen were allowed to board the Vigilant and, using a blanket, rope and ball of material, bound and gagged Kudirka. The seaman was subsequently beaten and removed from the ship, while US officials looked on. [For a detailed discussion of the case, see "Attempted Defection By Lithuanian Seaman Simas Kudirka," Report of the Subcommittee on State Department Organization and Foreign Operations of the Committee on Foreign Affairs, U.S. House of Representatives, 91st Cong., 2d Sess. (1971).]

Although the incident occurred in US waters and the seaman clearly sought asylum, there is no indication that INS was advised or even consulted in the case.

Kudirka was forced to return with his ship to the USSR where he was imprisoned for four years for treason. Due to continued pressures from the West, Kudirka was allowed to emigrate to the United States with his family when he was released from prison in 1974.

(c) The Polish Seaman

In September of 1978, a Polish seaman on shore leave contacted the Border Patrol office in New Orleans and indicated that he was unwilling to return to his ship and that he wanted to stay in the United States. Since the seaman spoke only a few words of English, he was taken directly to the INS district office. An interpreter was eventually located through the FBI office.

In a conversation with the interpreter, the seaman indicated that he had been experimenting with mental telepathy for years and wanted to contact American scientists doing research in that field so that he could assist them in their research. He claimed to have spoken telepathically with his wife while the ship was enroute to the United States and she had told him that she and the children were in Bermunda, enroute to the United States. He contended that his wife told him that she and the children would meet him in the United States.

Upon further questioning, it was learned that the seaman was not dissatisfied with his work and was not in fear of returning to Poland. He simply wanted to stay in the United States because he believed that his wife and children were either in the country or enroute. He was also convinced that the

American scientists would welcome his help in their research.

At this point, US agents determined that the individual was out of touch with reality and possibly psychologically unbalanced. It was then suggested to the individual that he return to his ship and think things over. If he still wished to remain in the United States, he could contact the Service and discuss the matter further. After some discussion, he agreed to return to the ship. The agents drove him close to the landing nearest to where his ship was anchored, but allowed the man to return unescorted to the ship to avoid any questions about his activities ashore. The individual was not heard from again.

(d) Lyudmila Vlasova

In August of 1979, while on tour with a Soviet dance troup, ballet dancer Aleksandr Godunov defected to the United States. He informed US officials that he wanted to see his wife, Lyudmila Vlasova, also a dancer, who was scheduled to leave on a return flight to the Soviet Union a few days later. Since Godunov contended that she also wanted asylum, INS officials issued an order to prevent her departure until she could be interviewed.

By the time the order was served, Vlasova had boarded the plane and was awaiting takeoff. The plane was stopped and the Department of State began negotiations with Soviet officials to allow a departure control interview to be conducted. In the interim, INS developed a contingency plan for the forced removal of Vlasova, if the Soviets refused to allow US authorities to interview the ballerina.

Seventy-three hours later, State Department officials interviewed Vlasova in a mobile lounge vehicle which had been pushed next to the Aeroflot aircraft. Vlasova repeatedly insisted that she wished to go back to the Soviet Union. Finally, the INS lifted the prevent departure order and the plane, with Vlasova, was allowed to leave.

The following year, Vlasova unsuccessfully sought to leave the USSR and join her husband in the United States.

(e) Irina Mamedova

On September 25, 1981, Irina Mamedova, the wife of Georgy Mamedova, who served as second secretary at the Soviet Embassy in Washington, DC, took their five-year old daughter Tatyana, and entered an FBI office where she requested asylum. She was immediately placed into protective custody and her request processed expeditiously. A few days later, Georgy Mamedova was escorted to the airport by Soviet security agents and flown to Moscow.

Upon learning of the incident, Soviet Embassy officials alleged that Mrs. Mamedova was being held against her will and insisted upon meeting with her. Mrs. Mamedova initially refused to meet with Embassy officials, then changed her mind.

At a meeting on October 7, 1981, Soviet officials expressed their concern about her marital problems and promised that there would be no reprisals if she returned to the USSR. At the end of the meeting, Mrs. Mamedova agreed to return to the Soviet Union and left with two Soviet officials.

(f) Andrey Berezhkov

In August of 1983, Andrey Berezhkov, the 16-year old son of the first secretary of the Soviet Embassy, reportedly wrote letters to President Reagan and the New York Times declaring his intention to seek asylum in the United States and outlining his plan to defect. On August 10th, Soviet officials, unaware of the letters, reported the boy as missing to the Soviet Desk at the State Department. Later that morning, Berezhkov returned home, voluntarily, without contacting US officials.

As information regarding the letters became available, US officials expressed a desire to question Berezhkov. The case presented unique problems because of the boy's age, his diplomatic status, and the fact that he was in Soviet custody within the Embassy grounds. For instance, the Commissioner of INS issued an order to prevent Berezhkov's departure, but since the boy had diplomatic immunity, the order's validity and enforceability were in doubt.

The State Department engaged in negotiations with the Soviet Embassy which eventually agreed to allow the boy to answer questions from the press. Soviet officials refused to allow INS to conduct a departure control interview.

On August 18, 1983, the Soviet Embassy held a press conference where the boy's father made a short statement to the press, then allowed his son to answer questions directly. Berezhkov repeated his desire to go home with his parents and denied writing the letters.

Several days later, the boy and his family returned to the Soviet Union. While at the airport, before departing, another brief press conference was held and Berezhkov reiterated his desire to go home with his parents. Again, US officials were denied access to the boy.

(g) Sergei Kozlov

On April 30, 1984, Sergei Kozlov, a Soviet mathematician and senior exchange student at the California Institute of Technology, complained to U.S. authorities in Pasadena that he has was being followed by the KGB and that someone was trying to poison him. Pasadena paramedics subsequently reported that Kozlov appeared to be mentally ill.

Kozlov also called the Soviet Consulate and said someone was trying to kill him. He told his host in the US that he wanted to defect, indicating that he was in trouble with the KGB.

The Soviet Consulate in San Francisco obtained permission from the Department of State to take Kozlov back to the Consulate, indicating that he was "very sick." He was later escorted by Soviet officials on a flight to Washington, DC, where he refused to board a flight bound for Moscow.

After negotiations with Embassy officials, the Department of State was allowed to meet with and interview Kozlov. At the request of the State Department, Kozlov's Soviet doctors also discussed the case with State Department psychiatrists. The Soviet doctors indicated that Kozlov was suffering from an "acute paranoid psychotic break" and indicated that he had been treated with "injections of standard anti-psychotic compounds (Haloperidal, Thorazine, Artane)." He had also been treated with "amenizine and maybe stelezine." The State Department psychiatrist, who never personally examined Kozlov, recommended to other DOS officials that the Soviets be allowed to immediately evacuate Kozlov from the US for medical reasons, based upon the consultation with Soviet doctors.

Kozlov was allowed to depart the US with his Soviet escorts on June 5, 1984.

(h) Danut Eugen Vasile

On September 18, 1984, Danut Eugen Vasile, a Romanian seaman, jumped ship at Belle Chasse, LA, and was apprehended by a Plaquemines Parish Sheriff's Deputy as he walked along Louisiana Highway 83. Vasile, who spoke English, told the Deputy that he had left his ship because of problems on board the vessel, but repeatedly asked to be returned to the vessel.

The seaman was turned over the US Border Patrol for processing. Since they were near the anchorage, the Patrol Agent escorted the seaman back to the ship. INS reports reflect that at no time did the seaman indicate that he was unwilling to return to the vessel.

On September 20, 1984, the Plaquemines Parish Ambulance Service, received a call to assist the seaman who had attempted suicide. The ambulance transported Vasile to the Touro Infirmary in New Orleans where the seaman was treated for a minor self-inflicted laceration of the left wrist.

Vasile was released into the custody of the shipping agent. Later in the day, he was returned to the clinic for further examination and was advised to see a psychiatrist, since he appeared to be suffering from alcoholism, which was causing depression. Vasile was then taken to DePaul Hospital, where he was diagnosed as suffering from paranoia and was described as being dangerous. The doctor recommended that Vasile be hospitalized and repatriated as soon as possible. Vasile was then admitted to DePaul Hospital, while the shipping agent made arrangements to repatriate Vasile to Romanian authorities. Vasile was picked up at the hospital and transported to the airport. Vasile refused to board the aircraft until he had his seaman's book, which he claimed was still aboard ship, and as a result of the delay, Vasile missed his flight.

Border Patrol Agents again returned Vasile to the shipping agent so that new travel arrangements could be made for his repatriation. At first, the Master of Vasile's ship did not want to take the seaman back on board, claiming that Vasile had caused considerable problems. Eventually, the Captain relented, and Vasile returned to his vessel.

CONCLUSIONS

Based upon a detailed review of the facts in the Medvid case and the applicable statutory and case law, the Commission staff finds the following:

I. White House, National Security Council, Department of State, and Department of Justice officials deviated from constitutionally and congressionally mandated procedures. This failure to follow prescribed procedures constitutes a violation of law.

Congress has primary power over immigration matters and has assigned the main responsibility for immigration, and specifically asylum matters, to the Attorney General and other Department of Justice officials pursuant to the Immigration and Nationality Act of 1952, as amended, 8 USC Sections 1103(a) and 1158. US Supreme Court decisions affirm that the comprehensive character of the INA vastly restricts the role of the executive in immigration matters. While the president may exercise his plenary authority over foreign relations and delegate the Department of State to assume control, he must clearly identify this as the authority. However, in the Medvid cases, DOS repeatedly cited 8 CFR Sections 215.2 and 215.3 as the legal basis for detaining and questioning Medvid. These regulations, promulgated pursuant to the INA, directs that INS, *not* DOS, has primary responsibility in asylum matters.

The Department of State had no statutory or regulatory basis for intruding operationally into the Medvid case. Their role should have been limited to conducting negotiations with the Soviet Embassy and advising the INS. At the same time, INS relinquished its jurisdictional responsibility under the INA to the Department of State in direct conflict with the intent of Congress.

While the outcome of the case might not have been altered, such deviations from specifically mandated procedures violate the provisions of the INA. Furthermore, the lines of responsibility were unnecessarily confused, resulting in unacceptable delays in planning, organization and execution.

II. The White House, DOS, DOJ and other executive agency officials reviewed the subpoena issued by the Senate Agriculture Committee and determined that the executive branch would make no effort to "enforce" the subpoena. Current law does not require the executive branch to enforce congressional subpoena, as statutory provisions exist for this purpose. However, INA regulations do *require* an INS departure control agent "who knows or has reason to believe" that an alien is "needed . . . in connection with any investigation or proceeding being, or soon to be conducted by any . . . body in the United States" . . . "shall temporarily prevent the departure of such alien from the United States." 8 CFR Sections 215.2(a) and 215.3(h). INS, at the direction of executive branch officials, ignored their own regulations, violating current law.

III. Procedures established for the implementation of the Immigration and Nationality Act of 1952, as amended, and specifically the handling of asylum applicants, were not followed during the initial stages of the Medvid case. These infractions, while serious inconsequence, were the result of carelessness and poor judgment rather than willfulness.

There is no evidence to support allegations that the decision to return Medvid to the M/V Marshal Konev on the evening of October 24, 1985 was made by anyone other than Border Patrol Agent Ernest Spurlock.

Current INS/Border Patrol procedures are adequate for disciplining Border Patrol officers who fail to follow proper procedures.

IV. Allegations of a secret grain agreement to return deserting Soviet crewmen and of State Department intervention directing the return of the seaman to his ship are unsupported.

V. There is no evidence to support allegations of collusion and conspiracy between US and USSR officials to repatriate Medvid.

VI. Concerns about the potentially negative influence of the approaching Summit Conference in Geneva upon Medvid's processing and repatriation were unfounded. In fact, the pressures generated by this event may have had a positive influence on US efforts to resolve the matter.

VII. There was no Medvid imposter. Fingerprint analysis proves that the person fingerprinted by the US Border Patrol on the night of October 24, 1985, was the same person who signed statements on October 29, 1985, specifying his desire to return to the Soviet Union.

VIII. Medvid was administered drugs aboard the M/V Marshal Konev after his initial repatriation on October 25, 1985. Even though US medical authorities utilized reasonable techniques in attempting to determine Medvid's ability to make an asylum determination, body fluid tests should have been taken for a more technically accurate diagnosis of residual drug effects.

IX. INS/Border Patrol discovered sufficient evidence to justify removing Medvid for additional questioning after his initial repatriation, pursuant to 8 CFR Sections 215.3(j) and 253.1(f). Initial steps taken to resolve the matter by removing Medvid from the ship were appropriate. However, once it was determined that Medvid was unconscious and not in a state to be readily removed from his ship, INS/Border Patrol deferred to situational aspects prohibiting his immediate transfer into US custody. As a result, the opportunity was lost and Medvid was allowed to remain on board the ship far too long.

The necessity for immediate action cannot be overemphasized. Nothing will compensate for this failure. The success of the asylum program, as intended by Congress, hinges on quick, decisive action by US officials.

Mr. HELMS. I might say further, Mr. President, that I was an active participant in efforts to try to rescue Mr. Medvid. At that time, I was chairman of the Senate Agriculture Committee. I was concerned about what was happening to Medvid. So I asked counsel for the committee and other lawyers if in my capacity as the chairman of the Senate Agriculture Committee a subpoena signed by me and approved by a majority of the committee would be in order. I was sure it was. Such a subpoena was drafted, signed, approved by all but two of the committee members, and I think they were out of town.

The committee then arranged for two representatives to go to New Orleans and the port where the Soviet ship was then being detained to serve the subpoena on the captain of the ship. The subpoena was served properly, in accordance with applicable law. There is no question about that. I was assured by the Customs Service that if the subpoena could be served properly and lawfully that ship would not leave port with Mr. Medvid aboard. But the Customs Service was countermanded, and without any notification to me or anybody else interested in saving Mr. Medvid, a decision was made in and by the State Department that this might somehow offend the Soviet Union if we detained their ship in Louisiana long enough to have Mr. Medvid released. The Customs Service had no choice but to let the ship go, despite the subpoena which had been lawfully and properly served.

I want that kind of thing never to happen again, Mr. President. That is the purpose of this amendment.

I ask my distinguished friend from Rhode Island, the chairman of the Foreign Relations Committee, if I modify the amendment—and I am addressing myself to the Judiciary Committee purview—if we strike from line 5 the words "criminal penalty" and replace them with "suspension" and by deleting on line 12 the words "punishment by imprisonment" through——

Mr. President, I am just striking "criminal penalty" and all the rest after that, down to but not including—make it read "suspension without pay for no less than 365 days."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I might explain to the Chair that Senator PELL and I want to be sure on the question of the jurisdiction of the Judiciary Committee, so that is being checked.

I ask unanimous consent to lay aside my amendment, subject to recall.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I believe Senator WILSON has an amendment.

AMENDMENT NO. 915

(Purpose: Regarding Soviet participation in a Middle East Peace Conference)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON], for himself and Messrs. DECONCINI, DOLE, MOYNIHAN, D'AMATO, ARMSTRONG, BOND, DIXON, BOSCHWITZ, CHAFEE, GRAMM, HEINZ, BRADLEY, LAUTENBERG, HECHT, KASTEN, MCCONNELL, SIMPSON, WALLOP, QUAYLE, SYMMS, and GRAHAM proposes an amendment numbered 915.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Time is equally divided on this amendment.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following:

POLICY ON MIDDLE EAST PEACE CONFERENCE

(a) FINDINGS.—The Congress finds that—

(1) the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

(2) the Government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent initiative for direct, bilateral negotiations among the warring parties of the Middle East including the Camp David Accords of 1979 and the Reagan plan of 1982;

(3) the Government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews

who wish to live and work in the State of Israel; and

(4) a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements among the Arab and Israeli states.

(b) Policy.—(1) It is the sense of the Congress that the Soviet Union should not even be given consideration as a possible participant in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless and until the Government of the Soviet Union has first:

(A) re-established diplomatic relations with the State of Israel at the ambassadorial level;

(B) publicly re-affirmed its acceptance of United Nation Resolutions 181, 242, and 338, and finally,

(C) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within the Soviet Union who have applied for emigration to the State of Israel.

(2) It is the further sense of the Congress that in the event that the Soviet Union should perform these conditions, Soviet participation shall require the approval and joint invitation of the governments of Egypt, Israel, and Jordan.

Mr. WILSON. Mr. President, I rise today for the purpose of reproposing as a resolution, an amendment which earlier was introduced with the broadest possible bipartisan cosponsorship. In fact, I am speaking today for myself and the Senator from Arizona [Mr. DeConcini]; the distinguished minority leader, Mr. Dole; both my friends from New York, Senators Moynihan and D'Amato; Senators Armstrong, Bond, Dixon, Boschwitz, Chafee, Gramm, Heinz, Bradley, Lautenberg, Hecht, Kasten, McConnell, Simpson, Wallop, Quayle, Symms, and Graham.

Mr. President, this resolution is very brief and occupies barely two pages, but it addresses a subject of enormous importance to us all. It has to do with peace in the Middle East. It has to do with the hope that the State of Israel and its neighbors will have a new opportunity to reconcile their differences and move ever closer to a new regional community of nations living in security and freedom.

Although the burden of settling disputes and resolving territorial problems clearly rests with Israel and the Arab States, almost every proposal offered for a diplomatic conference on the Middle East has embraced the idea of participation by the two superpowers. We would ignore history, then, should we not discuss the pattern of Soviet intervention in the region, a pattern modeled on a search for power rather than a search for peace.

So this brief resolution, Mr. President, addresses that reality. But it does not dwell on Soviet financial and material support for terrorist groups, nor does it cite the massive rearmament efforts that Moscow undertook on behalf of its regional allies following each of the wars between Israel and its Arab neighbors.

This resolution expresses the sense of the Senate that the Soviet Union should not even be given consideration as a participant in any international summit on the Arab-Israeli conflict unless it reestablishes diplomatic relations with Israel, publicly reaffirms U.N. Resolutions 181, 242, and 338, which legitimizes Israeli claims to territory and liberalizes substantially emigration quotas for Jews in the Soviet Union who wish to emigrate and then live in Israel.

Finally, Moscow's participation would require the approval and joint invitation of the Governments of Egypt, Israel, and Jordan.

Mr. President, the Soviet Union must take a responsible diplomatic stand as the price for officially talking about peace with other nations. Ever since 1967, the Soviets have not formally recognized Israel nor have they acknowledged its right to exist as a free state within secure boundaries. In addition, from the time of the 1956 Suez crisis to the present, the Soviet strategy for the Middle East has rarely deviated from the aims of exploiting tension, cultivating arms markets, supporting terrorism, or neutralizing the Western alliance through control of the oil supply.

And because the Soviets have never demonstrated any real interest in the cause of peace, they must provide more than a token or verbal commitment now to the cause of reconciliation between Israel and her Arab neighbors. Thus, we have included the liberalization of emigration quotas as one of the criteria. For it would be ludicrous, Mr. President, to give the Soviets the right of participation in a Middle East peace conference if they deny Soviet Jews the right to claim their Israeli citizenship.

Now it is certainly up to those whose peace and whose security is at stake Egypt, Israel, and Jordan, to determine whether they can agree to any conditions for Soviet participation. But I think that if these three nations do not have the right to formally ask the Soviets to attend a conference, they would be under pressure to entertain the goals of outside powers instead of looking to their own interests to resolve whatever disputes they may have as neighbors.

In proposing these criteria, then, we affirm the U.S. position that any outside participants in a conference must respect the sovereignty of all Middle Eastern countries willing to settle their differences through peaceful and diplomatic means. This requirement is vital for third-party nations to earn the confidence of both Israeli and Arab Governments. It would also allow the conference to focus on truly regional problems by removing some of the obstacles between the United States and the Soviet Union over the status of Israel and the pace of Jewish emigration.

So it seems, Mr. President, that the conditions stated in this resolution really are a bare minimum that we have every right to expect from the Soviet superpower seeking to be a participant by any means or in any way in a Middle Eastern peace conference. They are the decent minimum that any civilized nation hoping to lay a foundation for peace should be expected to meet.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who controls time? The Senator from Rhode Island.

Mr. PELL. Mr. President, this amendment expresses the sense of the Senate that the Soviet Union ought to meet these simple conditions prior to the participation in the Middle Eastern peace conference.

If the Soviets want to claim a major role in the Middle Eastern peace conference they must demonstrate a willingness to act responsibly and cannot act as a broker between Israel and the Arab nations when they fail to maintain full diplomatic relations with Israel.

My intention would be to support this amendment.

I am wondering if the Senator from California would consent to pass this by voice vote, saving the time of the Senate since both his side and my side recommend its passage.

Mr. WILSON. Let me say to my friend from Rhode Island, I would, except I think it is important that there be a rollcall and the statement be made with clarity and force. I do not wish to take time, but I do think under the circumstances the rollcall is desirable.

Mr. PELL. I am prepared to accept it and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island has yielded back the remainder of his time.

The Senator from California.

Mr. WILSON. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from California yields back the remainder of his time. No time is remaining.

The question is on agreeing to the amendment of the Senator from California. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Michigan

[Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], the Senator from Mississippi [Mr. STENNIS], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. BYRD. Regular order, Mr. President

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced, yeas 95, nays 0, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—95

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NAYS—0

NOT VOTING—5

Gore
Riegle
Simon
Stennis
Wirth

So the amendment (No. 915) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD. Will the distinguished Senator yield?

Mr. HELMS. Certainly.

Mr. BYRD. Mr. President, I wonder if we might get some idea of what amendments remain now so we can hopefully plan our work for the rest of the day and tomorrow.

I ask the distinguished manager of the bill and the distinguished Senator from North Carolina if they can indicate how many amendments they see remaining and how much more time they expect to require?

Mr. PELL. Mr. President, there are about 14 amendments remaining, of which probably 5 will require rollcall votes. I think we have a very good chance of finishing up rapidly because the rest of the amendments are mostly acceptable and will require no more than 5 minutes each.

Mr. HELMS. That is my feeling on it as well.

Mr. BYRD. Mr. President, I have indicated to the distinguished Republican leader that I would call up the Verity nomination after the disposition of this measure. I understand there may be some chance for quite an extended discussion of the nomination. I hope that is not the case.

I am committed to Senator WEICKER and Senator HATFIELD to call up the war powers matter. I made that commitment and, as I said on yesterday, I intend to keep it.

Also, I have indicated the Senate needs to get on with the catastrophic illness legislation. I have been trying to get that up for many, many weeks. I now have the approval of the distinguished Republican leader to go to it after consultation with him. The same is true with the Labor, HHS, Education appropriation bill, and the same is true with the Energy and Water Development appropriations bill.

Mr. President, there is no objection on this side with regard to the Verity nomination. The objection is on the other side. It is the administration's nomination. It is the President's nomination. I would hope that at such time as I call it up there will not be an overly extended discussion of it that will go on for too long. I think the Republican side of the aisle has the responsibility to help to carry the ball on putting the President's nominations across the goal line.

I may go to the Verity nomination this afternoon, but if there is any indication that there is going to be extended discussion on it, I will immediately file a cloture motion on it and go out of executive session and go on to the War Powers Resolution, where I am committed to Senator WEICKER and Senator HATFIELD.

Mr. President, as of now I want to thank the two managers for the work they are doing and the progress they are making. I hope that all Senators will cooperate with them.

I thank the Senator from North Carolina for yielding.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

VISIT TO THE SENATE BY MEMBERS OF THE DELEGATION OF THE COMMITTEES ON AGROINDUSTRIAL COMPLEX OF THE U.S.S.R. SUPREME SOVIET

Mr. MOYNIHAN. Mr. President, I will ask unanimous consent that the Senate might stand in recess for 2 minuts in order that we might welcome Mr. Victor P. Nikonov, the Deputy Chairman, Committee on Agroindustrial Complex of the Soviet Nationalities, and other members from the Soviet Union.

RECESS FOR 2 MINUTES

Mr. President, I ask unanimous consent that the Senate now stand in recess for 2 minutes.

There being no objection, the Senate, at 12:27 p.m. recessed until 12:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANFORD).

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

AMENDMENT NO. 916

(Purpose: To require an annual security report from responsible officials at certain high risk embassies)

Mr. HELMS. Mr. President, on behalf of the Senator from Kansas [Mr. DOLE] and the Senator from Delaware [Mr. ROTH], I send an amendment to the desk and ask for its immediate consideration. I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. DOLE and Mr. ROTH, proposes an amendment numbered 916.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. 1. The American Ambassador (or the highest ranking American official, when no Ambassador shall be present) to the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Rumania, Cuba, the People's Republic of China, Laos, Afghanistan, Nicaragua and Yugoslavia shall submit to the Under Secretary of State for Management no later than October 1 of each year a report—

(1) on the security of the United States diplomatic and official facilities in such country and the existing or potential vulnerability of personnel attached to such facilities during the preceding year;

(2) describing any significant efforts by a foreign government or agent thereof to penetrate or compromise the security of the United States diplomatic or official facilities, or to recruit or manipulate any government employee with the aim of conducting espionage against the United States; and

(3) describing the security program or programs at such facilities for the upcoming year.

SEC. 2. The Under Secretary of State for Management shall, within 90 days after receiving the report described in Section 1, transmit the report to the Congress, together with—

(1) an evaluation of the security program or programs described in Section 1, to include a certification that the Under Secretary approves or disapproves of the program or programs; and

(2) any further statement, comments or recommendations he wishes to submit regarding the security of the United States diplomatic and official facilities and personnel which are the subject of the report.

TWO GIANT STEPS FORWARD

Mr. DOLE. Mr. President, I am pleased to join the distinguished Senator from Delaware, Mr. ROTH, in cosponsoring this amendment. It represents one small but significant step we should take to deal with a problem that has become all too real and immediate—the breakdown of security at our embassies overseas.

American secrets have been flowing to the Soviets, and their allies and surrogates, at an alarming rate. The flow must be stopped, now.

ANNUAL REPORT FROM RESPONSIBLE OFFICIALS

The main element of the amendment is a requirement for an annual report submitted by each American diplomatic mission in the Soviet Union and other high risk countries—high risk in terms of a foreign intelligence threat. The report would be signed by the Ambassador—so there would be no doubt who was responsible for its contents and conclusions.

It would cover all relevant security concerns at the post. And it would go to the senior management of the State Department, in the person of the Undersecretary for Management, who would have to review and evaluate it; and then submit it to Congress.

The report could contain classified information, and would be appropriately controlled if it did. It must be comprehensive—but obviously discretion would be necessary in its preparation, to protect especially sensitive information.

The bottom line is: The Ambassador and the Undersecretary for Management would have to sign on the dotted line, personally, on the security situation at each of these high risk embassies. The Congress would have a thorough report, annually updated, on the threat they face; the precautions they have taken; the plans they are making.

That will be an enormous spur to make sure things are done right; and an important guide in assigning appropriate responsibility when things are done wrong.

The object is not to find scapegoats; it is to make sure those who have the security job, do it; those who have the security responsibility, take it.

So, Mr. President, I am convinced this is a needed, and will be an effective, amendment. And I urge its overwhelming approval.

Mr. HELMS. Mr. President, this amendment has been agreed to, I might add, by both sides.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 916) was agreed to.

Mr. PELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF JUDGE ROBERT H. BORK

Mr. MITCHELL. Mr. President, I will vote not to confirm the nomination of Judge Robert Bork to the Supreme Court.

Before deciding how to vote on the nomination, each of us must first decide what factors should be considered. The President says that Senators should limit their examination to the nominee's legal ability, experience, and judicial temperament. Those are relevant factors. But they are not the only relevant factors.

In the President's view, we should not consider Judge Bork's legal philosophy. But his view is refuted by history and by common sense. The Constitution contains nothing to suggest that the Senate's role is so limited. It says the President, "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint * * * Judges of the Supreme Court. * * *"

Our history has been consistent with those words. Since our first President, George Washington, saw his nominee, John Rutledge, rejected by the Senate in 1795. Washington was so certain of his confirmation that he gave Rutledge a recess appointment and had the commission papers drawn up and ready to execute.

Washington had reason to be confident. Rutledge had been confirmed to the Supreme Court in 1790. He had been a delegate to the convention which wrote the Constitution. And when he resigned from the Court in 1791, he did so to become Chief Justice of South Carolina. There was no question about his ability or experience.

Yet the Senate rejected him because of his strong attack on the Jay Treaty with Great Britain, a controversial issue at the time.

That was the first, but not the last time the Senate rejected a nominee for policy reasons.

In 1811, President Madison's nomination of Alexander Wolcott was rejected by a Senate in which Madison's own party controlled 28 of the 34 seats.

Wolcott's rejection reflected both ability and politics, in particular his strong enforcement of the embargo during the war with Britain. By constrast, President John Quincy Adams' nomination of John Crittenden in 1829 failed on purely partisan grounds. Crittenden was rejected because Adams was a lame duck President, having already lost the election to Andrew Jackson.

For similar reasons, President Johnson was forced to withdraw the nomination of Abe Fortas to be Chief Justice. Fortas was nominated in 1968, an election year in which Republicans expected to win the Presidency. Within 24 hours of his nomination, 19 Republican Senators, including then-Senator Howard Baker, issued a statement that "the next Chief Justice should be selected * * * after the people have expressed themselves in the November elections. We will * * * vote against confirming any Supreme Court nominees by the incumbent President."

Thus, 19 Senators committed themselves to voting against any nominee, regardless of his qualifications or his views.

Senator Baker said, "I have no question concerning the legal capability of Justice Fortas, * * * there are, in my opinion, more important considerations at this time. * * * The appointment of the Chief Justice really ought to be the prerogative of the new administration. * * * In my opinion, the judicial branch is not an isolated branch of Government * * * [i]t is and must be responsive to the sentiment of the people of the Nation."

Senator THURMOND said that "a man's philosophy, both his philosophy of life and his philosophy of judicial interpretation, are extremely important."

Senator Robert Griffin, Republican of Michigan, who led the fight, repeatedly acknowledged that Fortas' qualifications weren't the issue.

The withdrawal of the Fortas nomination was forced, not by a directly voted rejection, but through the filibuster of a Senate minority, even though there were more Senators for him than against him.

It is ironic to hear some of those who opposed Justice Fortas because of his legal philosophy now argue that it is wrong for this Senate to consider Judge Bork's philosophy.

It is clear that there is no constitutional, legal or historical basis for the assertion that the Senate should not consider the legal philosophy of this or any other nominee to the Supreme Court.

In the 200 years since the Constitution was written, 26 nominations to the Supreme Court have been rejected or withdrawn because of Senate opposition—almost 25 percent. Indeed far more Supreme Court nominations have been rejected by the Senate than nominations for any other post.

The reasons for that are clear. The Supreme Court is one of the three governing institutions of this country. Only at the time of confirmation is there any opportunity for the public, through Congress and the President, to have any influence on the Court.

The constitutional role of the Senate is as an equal participant with the President in appointments to the judiciary. The Senate is not a rubber stamp.

So the standards governing Supreme Court nominations, as opposed to other judicial nominations, are different because the Supreme Court is different.

The Supreme Court establishes the precedents that lower courts are bound to follow. Supreme Court decisions influence the quality of justice for the entire Nation. Supreme Court decisions are final. Other than the Court overruling a prior decision—a rare occurrence—the only recourse from a Supreme Court decision a change in the law, when a statute is struck down, or a constitutional amendment, when a question of constitutional significance is at stake.

If one Congress writes a law, the next Congress can change it, repeal it, or pass a new law. But Supreme Court decisions can and do remain unchanged for decades, outlasting the service of any one Justice or any elected official. And precisely because they can affect our society for decades, it is important that the men and women who will be making those decisions be given careful scrutiny.

In 1896, the Supreme Court ruled in Plessy versus Ferguson that the guarantee of equal treatment under the law did not prohibit segregated carriages on the Nation's railroads. That ruling became the foundation for segregated facilities for more than six decades.

In 1928, the Supreme Court ruled in Buck versus Bell that the State of Virginia could surgically sterilize people with low IQ scores. More than four decades of personal tragedies followed, as 7,500 persons were sterilized until that law was abandoned in 1972.

So when the Senate considers the Supreme Court nominee, it is making more than a contemporaneous choice; it is deciding part of the future as well.

The questions that flow from that fact go beyond any individual nominee's views. They reach directly to our vision of what kind of Nation we are, and want to be.

Ideas have consequences. We would not meet our responsibility if we failed to recognize that ideas which cannot be easily reconsidered have potentially graver consequences than those which are subject to regular review.

That responsibility does not demand review of a nominee's specific views on individual cases. But it does require review of the overall record of what a nominee has said and done.

Based on that review, and applying the considerations already outlined, I believe Judge Bork should not be confirmed to the Supreme Court.

Judge Bork has attempted in the Judiciary Committee hearings to portray himself as a mainstream, conservative jurist. But his own writings, on and off the court, are to the contrary.

Judge Bork's view that the Government is the source of individual rights for Americans is not conservative. The conservative view is precisely to the contrary.

A conservative view limits the power of Government and extends to the maximum the rights of individuals.

Judge Bork, by contrast, believes that the power of Government is unlimited except where an individual right is specifically written into the Constitution.

Such a viewpoint grants Government virtually unlimited power to intrude into the private lives of the people.

So, instead of proposing the conservative view that Government's powers are limited, Judge Bork actually takes an opposite view that expands Government's powers to the maximum and contracts individual rights to the minimum.

And as between the branches of Government, a traditional conservative approach seeks to restrain the Executive power and to preserve the power of the legislature.

But in every such contest where Judge Bork has been called upon to rule, he has sided with the Executive power against the legislative. That is not a conservative view.

Justice Frankfurter said constitutional adjudication is statecraft: A recognition of the practical needs of Government. His view was that the Constitution is a living framework through which the changes induced by time and altered circumstance can be applied. Statecraft demands men and women with insight into the needs of their own generation; not the mechanical application of theory divorced from reality or regardless of practical effect.

Much has been said of the theory of jurisprudence known as "original intent," as though the slogan self-evidently describes the results it produces.

But like other slogans, it means little standing alone.

Ironically, those who speak loudest of their reverence for "original intent" choose to ignore what is most clearly the ultimate original intent: The creation of a system of Government that does not encroach on the liberties of the people.

What we know of the debates at the convention, the language of the Constitution itself, and the specific instructions of those who conditioned their acceptance of it on the adoption of an explicit bill of the rights—all make clear that the purpose of the Constitution was to create a government limited in its ability to restrain individual liberty.

That premise was clearly spelled out by James Madison himself:

> The prescriptions in favor of liberty ought to be leveled against that quarter where the greatest danger lies, namely, that which possesses the highest prerogative of power. But this is not found in either the Executive or Legislative Departments of Government, but in the body of the people, operating by the majority against the minority. (I Annals 437)

The text of the Constitution and the Bill of Rights embodies precisely that view. It places certain rights beyond the reach of any majority.

One of the bedrock principles of constitutional law was laid down by Chief Justice John Marshall in McCulluch versus Maryland, in 1819. Faced with a conflict and given no specific wording in the Constitution that covered the conflict, Marshall laid down the principle which has guided our judicial system ever since:

> Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.

As to the power of Government, Judge Bork has readily adopted Marshall's view and recognized the existence of powers nowhere mentioned in the Constitution.

But as to the rights of individuals, if a right is not specifically mentioned in the Constitution, Judge Bork says it doesn't exist.

Two examples make the point.

Nowhere does the Constitution mention "Executive privilege," which is the power of the President to withhold information from Congress or the public. Despite its absence from the Constitution, Judge Bork has had no problem in finding and supporting such a power.

But when it comes to an individual citizen's right to privacy, Judge Bork says that no such right exists because it's not mentioned in the Constitution.

Aside from inconsistency, the problem with that view is that few of the individual rights in our Constitution are specifically defined. But they are there.

Take the right of individual privacy, which Judge Bork says doesn't exist. The third amendment forbids the Government from quartering troops in private houses. That right involves privacy.

The fourth amendment forbids the Government from searching the "homes, papers and effects" of Ameri-

cans without reasonable cause. That right involves privacy.

The fifth amendment recognizes a personal right not to incriminate oneself, the right to remain silent. That right involves privacy. And the first amendment establishes the right of a free conscience. The American Government may not inquire into the personal beliefs of any American for any reason. That right involves privacy.

Each of these rights involves and protects some aspect of an individual right of privacy. To assert, as Judge Bork repeatedly has, that because privacy does not appear directly in the Constitution it cannot therefore exist as a constitutionally protected right is not a conclusion reached by logic. It is a conclusion that reflects Judge Bork's preference.

Neither American tradition nor American law supports that preference.

The liberties that the Constitution was written to preserve arise from human experience, knowledge and custom shared across time and embodied in traditions of common law, religious faith, political practice, and history.

The fundamental American understanding, from the time of the Revolutionary War to this day, is that government is the servant of the people. The people do not exist to serve the ends of government.

The idea of individual rights is deeply rooted in our tradition and our law. It is on this crucial point that Judge Bork's jurisprudence is most disturbing. For whenever an individual right is not precisely defined, he is unable to perceive it. It is precisely this narrow perspective which is so at odds with the history and meaning of the Constitution and the Bill of Rights.

In his writings over the course of more than three decades, Judge Bork has criticized the Supreme Court for finding it impermissible for the Government to dictate to Americans what they do in the most personal, intimate decisions of their lives.

Since he first claimed in 1971 that the idea of an individual right of privacy is not based on any principle, Judge Bork has maintained that view. In 1986, he said that "the right of privacy strikes without warning. It has no intellectual structure to it so you don't know in advance to what it applies."

But the right of privacy does have an intellectual structure. It also has a long history.

Since the last century, the Court has recognized the right of privacy. In 1897, the Court said:

> The "liberty" mentioned in [the fourteenth] amendment means, not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling. *Allgeyer* v. *Louisiana* (1897)

In 1923, the Court said:

> Without doubt, it [liberty] denotes not merely freedom from bodily restraint, but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. *Meyer* v. *Nebraska* (1923)

The famous dissent of Justice Brandeis in Olmstead versus United States, in 1928, sums up for most Americans the core value that the Constitution and the Bill of Rights are intended to preserve. Justice Brandeis wrote:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized man.

All our great Justices, many of them conservative, have recognized that the broad phrases and generous words of the Constitution must be construed to expand, not constrict, the liberties of individual citizens.

Justice Frankfurter wrote:

> Great concepts like * * * liberty * * * were purposely left to gather meaning from experience. For they relate to the whole domain of social and economic fact, and the statesmen who founded this Nation knew too well that only a stagnant society remains unchanged.

By contrast, Judge Bork has repeatedly said that liberty consists of what the majority decides at any one time and place.

But if one thing is clear from the structure and language of the American Constitution it is that from its very initiation certain rights were withdrawn from the power of the majority.

The prohibitions against ex post facto laws, against punishing a family for the treason of one member, and the specific protections in the Bill of Rights are all limits on the power of the majority.

They are all efforts to place beyond popular vote the fundamental rights which constitute the liberty that our Government was created to protect.

In this important area, Judge Bork's views are inconsistent with two centuries of American constitutional law and the common understanding of the American people.

There is another principal area of concern I have with this nomination. It is the tragedy of racial discrimination, the most divisive issue in American history.

The Constitution could not remain as the Founders wrote it because they left undisturbed the institution of slavery. That institution was washed away by the blood of the Civil War. The amendments to the Constitution that followed abolished slavery, guaranteed to all persons equality before the law, and extended to black men the fundamental right of every citizen in a democratic society, the right to vote. In doing so, those amendments fundamentally altered the original Constitution.

But not until nearly a century later, with the 1954 Supreme Court decision in Brown versus Board of Education, did we begin to take the steps necessary to bring true racial justice to our society. Progress was painfully slow. It was enhanced by the courage of men like Martin Luther King, who was willing to go to jail to protest unjust laws. It was helped along by brave Federal judges who applied the law that the Supreme Court handed down, often in the face of political intransigence and public violence.

By contrast, Judge Bork criticized as wrong every major law which sought to enhance the civil rights of black Americans.

It is especially astonishing, in light of our history of racial injustice and conflict, that Judge Bork could say, as he did in response to a question by Senator SPECTER in the hearing, that his theory of "original intent" would not have permitted the Supreme Court to order the desegregation of District of Columbia schools on the same day it determined that the 14th amendment prohibited segregated schools in the States, because the District of Columbia is not a State.

Judge Bork denied that the fifth amendment, which provides for "due process" could be read to reach such a conclusion. The Supreme Court unanimously held that it must be so read.

Although he has said he recognizes that the 14th amendment outlaws discrimination based on race, he denies that the language gives Congress any power to fulfill that pledge except to fashion remedies for damage already done. In testifying on proposed efforts to enforce equal educational opportunity against de facto discrimination, Judge Bork said in 1973:

> * * * it is suggested that Congress' power under the Amendment is broader than the Courts. * * * The solution leaves the legislative power where it belongs, in the Congress. * * * The solution seems improper, however, for it leaves the legislative power where it belongs only as between Congress and the Courts and shifts it impermissibly to Congress from the state legislatures. There is no warrant in the language or history of Sec. 5 to suppose that it is a national police power superior to that of the states.

> The power to "enforce" the Fourteenth Amendment is the power to provide and regulate remedies, not the power to define the scope of the amendment's command or to expand its reach indefinitely.

But despite his asserted reliance on legislative majorities to correct those areas into which he believes courts should not venture, Judge Bork denies that equality of suffrage is an important element in ensuring fair elections.

In a long string of writings, he has consistently maintained that the one-man one-vote rule enunciated by the Supreme Court in Baker versus Carr has no constitutional basis. He has said it is contrary to "the text of the 14th amendment, the history surrounding its adoption and ratification, and the political practice of Americans from colonial times up to the day the Court invented the new formula."

Judge Bork opposed the Court ruling which struck down a Virginia poll tax. He said it was a very small tax—even though the record in the case showed that State legislators at the turn of century adopted the poll tax explicitly to prevent black citizens from voting.

By contrast, the words of Chesterfield Smith, a former president of the American Bar Association, reflect the realities of political change, democracy and representation which have flowed from Baker versus Carr and similar rulings. Mr. Smith told the Judiciary Committee:

> I think the greatest single act of government that ever happened in our nation was Baker versus Carr. I think that when the Court, that Supreme Court, decided one man, one vote they gave the states to be revitalized, to free themselves from the special interests that totally controlled them, to get out to the people where they can be concerned about civil rights, civil liberties and economics. They changed the South * * * I saw our state take power away from Washington and move it back down to Tallahassee and meet the needs of the people because a court was willing to act.

There is an unmistakable pattern in Judge Bork's thinking that rights are the Government's to grant or withhold. But it's really the other way around. The people have rights that Government is bound to respect.

The debate over this nomination has been difficult and divisive. There has been exaggeration and invective on both sides. For Judge Bork and his family, and for all of us, it is a sad time.

Those who support the nominee are understandably disappointed. Some, in their disappointment, attack some members of the Judiciary Committee and blame the special interests for the outcome.

But with all due respect to those who fought on both sides, Judge Bork will not be confirmed for one simple and profound reason. The American people agree with the Supreme Court. They don't agree with Judge Bork.

For nearly a quarter of a century, Judge Bork has harshly attacked the Supreme Court. On the most difficult and divisive issues of our time—racial justice, personal privacy, one-man one-vote, free speech—he has heaped scorn and ridicule on the Court's decisions.

But the verdict of history is with the Court. Those decisions have been widely accepted by the American people and become deeply embedded in American society. That is because on these issues, the American people have never doubted that the Court acted with justice, with humanity, in the spirit of the Constitution, and in the way that is right for 20th century America.

These momentous decisions are what the Constitution and the Supreme Court are all about.

Judge Bork himself recognized that on the eve of his confirmation hearings. But his modifications at the hearings were too little, too late.

The American people don't want to go backward on race, on privacy, on one-man one-vote, on free speech. And they know that the Supreme Court is the one institution in our country that has historically preserved our Constitution and protected our individual liberties.

In this 200th year of our Constitution, those are valuable lessons to relearn.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of S. 1394.

AMENDMENT NO. 917

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Helms amendment is set aside temporarily.

The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 917.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, beginning on line 23, through page 81, line 11, strike out all text and insert the following:

(3) the Director of the National Science Foundation;

(4) the Director of the National Academy of Sciences;

(5) the Administrator of the National Aeronautics and Space Administration;

(6) the Administrator of the National Oceanic and Atmospheric Administration;

(7) the Administrator of the Agency for International Development;

(8) the Director of the United States Geological Survey;

(9) the Secretary of Energy; and

(10) the heads of other appropriate Government agencies, and other persons knowledgeable about the problems of global warming, as the Chairman and Vice Chairman may determine.

(d) ADVISORY ROLE.—The chairmen and ranking minority members of the Committee on Foreign Relations; the Committee on Commerce, Science and Transportation; the Committee on Governmental Affairs; and the Committee on Environment and Public Works of the Senate and the Committee on Foreign Affairs; the Committee on Science and Transportation; and the Committee on Energy and Commerce of the House of Representatives shall serve as advisors to the Task Force, along with any other Members designated by the majority and minority leaders of the Senate and the Speaker of the House of Representatives.

(e) TASK FORCE REPORT.—Not later than 12 months after the date of enactment of this Act, the Task Force shall develop and transmit to the President a United States strategy on the global climate, which shall include—

(1) a full analysis of the global warming phenomenon, including its environmental and health consequences;

(2) a comprehensive strategy, including the policy changes, further research, and cooperative actions with other nations that would be required to stabilize domestic and international emissions of atmospheric pollutants at safe levels; and

(3) an analysis of the impact of deforestation worldwide on the global climate.

SEC. 404. REPORT TO CONGRESS.

Not later than 3 months after receipt of the United States strategy on the global climate, the President shall submit such strategy, together with recommendations for further legislative action, to the Speaker of the House of Representatives and the chairmen of the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Environment and Public Works of the Senate.

SEC. 405. AMBASSADOR AT LARGE.

To coordinate and lead the participation of United States Government agencies in various multilateral activities relating to global warming, including United States participation in planning for the International Geosphere-Biosphere Program scheduled for the early 1990's, the President shall appoint an Ambassador at Large, who shall also represent the Secretary of State in the operations of the Task Force.

SEC. 406. INTERNATIONAL YEAR OF GLOBAL CLIMATE PROTECTION.

In order to focus international attention and concern on the problem of global warming, and to foster further work on multilateral treaties aimed at protecting the global climate, the Secretary of State shall undertake all necessary steps to promote, within the United Nations system, the early designation of an International Year of Global Climate Protection.

SEC. 407. CLIMATE PROTECTION AND UNITED STATES-SOVIET RELATIONS.

In recognition of the respective leadership roles of the United States and the Soviet Union in the international arena, and of their joint role as the world's two major producers of atmospheric pollutants, the Congress urges that the President accord the problem of climate protection a high priority on the agenda of United States-Soviet relations.

SEC. 408. TERMINATION OF PROVISIONS.

This title shall terminate 12 months after the date of the enactment of this Act.

Mr. GLENN. Mr. President, this amendment addresses what I believe are some extremely serious omissions in title IV of S. 1394, the Foreign Relations Authorization Act for Fiscal Year 1988. The title is identical to S. 420, the Global Climate Protection Act of 1987, a bill which is pending in the Committee on Governmental Affairs.

Despite the fact that my distinguished colleague from Delaware, Senator BIDEN, in response to concerns I had raised, yesterday made come crucial changes to title IV, I believe some very important alterations remain. I also must indicate that I was prepared to offer an amendment to strike this entire title. Title IV almost exactly duplicates efforts currently underway in the Committee on Earth Sciences, an interagency task force set up in June, under the auspices of the Federal Coordinating Council for Science, Engineering and Technology [FCCSET]. At a time when we need to be especially attentive to the allocation of research moneys to many different areas, it seems imprudent and unwise to spend precious funds on a program whose basic function is already being performed. Furthermore, and just as important, I was simply unwilling to accept passage of the provision without the Governmental Affairs Committee having had time to carefully examine it. However, after discussions with several of my colleagues and in the spirit of compromise. I am now offering this amendment which simply augments certain key areas and clarifies the role of the Governmental Affairs Committee in an interagency examination of global climate problems.

Mr. President, the redundancy of title IV is just one of several problems I see with this provision. In my judgement, title IV continues to be seriously flawed in several other key respects:

First, despite numerous congressional hearings on global climatic changes, not one hearing has been held on the specific proposals contained in title IV. As I stated at the beginning of my remarks, S. 420, a bill by my distinguished friend and colleague Senator BIDEN, which is identical to title IV, was referred to and is currently pending in the Governmental Affairs Committee. The committee had planned to hold a hearing on this legislation and will hold hearings on the issue of government organization for global climate protection. It would, in my view, have been better to wait for such hearings before passing this legislation. In addition, comments by executive branch agencies on S. 420, customarily requested by the Governmental Affairs Committee, have either not yet been received or are negative. The Agency for International Development [AID], for example, has indicated its complete opposition to the measure, citing its duplication of other, independent research efforts now underway. Even the State Department itself opposes the title. Up until yesterday, the State Department was, believe it or not, the designated chairman of the task force!

To show just how carelessly this legislation was put together, until yesterday title IV did not not include in the task force membership the Department of Energy [DOE] or the Geological Survey [USGS]. DOE has had a substantial role in efforts to understand the greenhouse effect, a condition in which atmospheric pollutants may be causing a gradual increase in global temperature. The USGS has also contributed to research on global climatic problems and is the designated Chair of the Committee on Earth Sciences. The importance of its inclusion in an interagency task force cannot be overstated.

Finally, although the bill as amended yesterday broadens the number of interested members and committees of Congress as advisors, serious omissions remain in this area.

I have joined with others to remedy these problems in the past few days. But I must also state my belief that legislating in the manner this title does, in utter haste and without proper examination, risks the serious disruption or misdirection of existing efforts to address global climate problems.

I wish to emphasize my belief that the protection of our global climate is a serious issue with important consequences for all the peoples of the world. I bow to no one in my concern regarding what has been happening to the ozone layer, to the forests around the world, which affect our climate, and to the impact on our climate due to the burning of fossil fuels. The recent international agreement to cut down on the use of chlorofluorocarbons, which have a debilitating effect on the ozone layer, indicates that these concerns are finally being addressed. However, we can and must do more. That requires appropriate government organization involving many agencies working cooperatively and internationally with agencies from other countries. I have no disagreement with the intent of the legislation introduced last January by the distinguished Senator from Delaware, Mr. BIDEN, and which, as I noted earlier, has been incorporated as title IV of the State Department authorization bill.

My problem, Mr. President, is that this legislation has not been sufficiently examined. Despite the improvements that have been made, I confess to still having concerns about this. Although global climate protection is a serious issue that needs to be addressed, it does not need to be legislated in a way that would suggest acute crisis bordering on panic. The fact is that many of the substantive proposals in this legislation are already being done. Whether they are being done well or badly is something that should have been examined before legislating. However, in a spirit of comity, I have withdrawn a proposed motion to strike title IV as long as the changes I have proposed are incorporated.

Let me talk briefly about how the amendment I am offering today addresses some of those remaining problems I have mentioned. First, there is the issue of title IV's reporting requirements. Even as amended, title IV does not require the task force to report to the Governmental Affairs Committee, the committee with singular referral of S. 420 which is, as already noted, identical to title IV. I should add that Governmental Affairs was the first committee on Capitol Hill to hold a major hearing on the greenhouse effect. This was in 1979, and some of us have maintained an interest in the issue ever since.

Second, the title as amended mentions global deforestation in its "Findings" section, but does not formally require the task force to study the problem. In my estimation, that is a very serious omission. If Congress makes a finding, it is only logical that the entity it legislates into existence should study that finding to determine causes and solutions. Accordingly, my amendment adds language to the task force report requirement to include an examination of global deforestation as a potential contributory factor in harmful effects on the global climate.

Finally, because of the uncertainties with this legislation, there is need for a sunset provision for the task force to ensure that Congress would closely examine its operation in a timely manner.

I understand the changes I am proposing in my amendment are acceptable to the Senator from Delaware and to the floor managers, and I thank them for their consideration.

Mr. PELL. Mr. President, a great deal of hard work went into working on the compromise that is before us at this time. This is an excellent amendment, and I commend the Senator from Ohio for it. We approve of it on this side.

Mr. HELMS. Mr. President, this amendment has been cleared on this side, and I express my approval by asking the Senator to include me as a cosponsor.

Mr. GLENN. I thank the Senator.

Mr. President, I yield back my time.

Mr. HELMS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 917) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the Helms amendment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum, while I confer with the distinguished chairman.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Conrad). Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask the Senator from Iowa, just as an accommodation to me, how long he intends to take.

Mr. HARKIN. I thank the distinguished Senator. Less than 10 minutes—probably 5 to 7 minutes.

Mr. HELMS. Will the Senator agree to 7 minutes.

Mr. HARKIN. I can get through in 7 minutes.

The PRESIDING OFFICER. The Senator from Iowa.

NOMINATION OF JUDGE ROBERT BORK

Mr. HARKIN. Mr. President, when the nomination of Judge Bork, to be a Justice of the Supreme Court, comes before the full Senate, I will vote against confirmation.

I will do so because I have come to believe that Judge Bork's judicial philosophy is incompatible with the constitutional ideals to which our great Nation aspires.

The United States has always looked beyond mere survival. Our accomplishments over the past 200 years have been far more than our military successes or our growth in GNP. Americans possess a sense of high moral values which have guided us toward greater achievements—the recognition of dignity of all human beings, the understanding that the doors of opportunity should be open to all Americans, and the realization that certain personal liberties should not and cannot be usurped by the Congress or the States.

Granted, some of these achievements were too long in coming. At our Nation's birth, all men were proclaimed to be equal, but in practice, all men—and women—were not treated as equal. But because our Constitution is a living, growing document, and because the Supreme Court has been free to view it as such, our inner values triumphed over time-worn prejudices. Uncovered were the rights of all Americans to live free from government discrimination, coercion, and intrusion.

Because, unfortunately, electoral politics often silences strong voices of moral leadership in the legislative and executive branches of government, the Supreme Court has evolved into a protector of individual liberties—a role which I believe to be not only appropriate, but essential. However, I fear that Judge Bork does not share that belief. Thus, I cannot support his elevation to the highest court in this land.

When Judge Bork was first nominated by President Reagan, I knew certainly of his service in Government as Solicitor General and Federal Appeals Court Judge, and I was aware of his reputation as an intellectual and legal scholar. However, I was not familiar with the details of his record or philosophy. Therefore, I decided to wait until the Senate Judiciary Committee hearings had been completed—affording me an opportunity to listen to and read his testimony—before making my own decision. Moreover, because many eminent politicians, lawyers, and scholars whom I respect were more familiar than I with Judge Bork's work and record, I wanted to hear what they had to say. Also, I felt it was ironic that many people who were accusing Judge Bork of being close-minded were doing so on the basis of quick summaries and snap judgments. Judge Bork was entitled to be heard in full by the Senate Judiciary Committee and, for my own part, I wanted to be sure that that entitlement was not denied him and that I did not approach his nomination with a closed mind.

During the course of the Judiciary Committee hearings, I found Judge Bork to be a very interesting person who possesses many qualities which are refreshing. He is certainly not boring. He has a varied background and has experienced the rough and tumble of life. He is a thinker who is not afraid to test the edges of controversial thought. However, Judge Bork's views on the role of the Supreme Court and the Constitution manifest a posture which would starve rather than nourish the American attitude that justice and equality should always prevail.

One of my concerns about Judge Bork's philosophy relates to his comments regarding what he calls a redistribution of liberty. To quote from one of his 1985 speeches, Judge Bork said, "When a court adds to one person's constitutional rights, it subtracts from the rights of others." When asked about this by Senator Simon during the hearings, Judge Bork responded that "it's a matter of plain arithmetic."

I think this comment reflects a very narrow vision of the Constitution on Judge Bork's part. His view gives very little value to the guarantees of the due process and equal protection clauses. I believe, as Senator Simon does, that when you increase the scope of fundamental human rights for one, you increase them for all. To strip the Constitution of this fundamental belief would be to belie the progress we have made in guaranteeing fundamental human rights in our society.

I remember when, in the 1960's, we were finally making strides in the civil rights area through the recognition of the full equality of blacks. At long last, blacks could go to school, could vote, could eat at public restaurants without the fear of restraint and harassment and humiliation. And when that freedom came for blacks, freedom also came for whites. Enlarging the sphere of rights for minorities was indeed enlarging the sphere of freedom and liberty for the Nation as a whole.

I am also concerned about Judge Bork's unwillingness to recognize a constitutionally guaranteed right to privacy. He has attacked court rulings supporting a right to privacy as unprincipled. Far from being unprincipled, these decisions, I believe, recognize that there is a realm of personal integrity which the government cannot invade. To deny a person the right to control his or her own personal life is to tear at the fabric of our family oriented society. As Judge Brandeis wrote, "the right to be let alone (is) the most comprehensive of rights and the most valued by civilized men."

Contrary to his narrow reading of the Constitution with regard to the rights of individuals, Judge Bork holds a very expansive interpretation of the power of the executive branch. Our Founding Fathers created three equal branches of Government. Yet Judge Bork seems to shun this necessary balance. His testimony and opinions have supported a strengthening of executive power. In any case or situation where Congress and the President come head to head, Judge Bork has consistently favored the President over Congress. He has opposed the Special Prosecutor Act, congressional standing, and limitations on the President's foreign affairs activities such as those embodied in the War Powers Act. We are a democracy not a monarchy. But Judge Bork's views clearly favor the emergence of an imperial Presidency.

So, in closing, Mr. President, unlike the President and Members of Congress, the Justices of the Supreme Court do not have to answer to an electorate. The Constitution is their guide. The Court should feel free to act, but those actions should be based on a solid belief that the Constitution is a living, growing document embodying values that have served us so well for more than two centuries. In my view, Judge Bork does not share that belief or understand those values. Thus, I will oppose his nomination.

I thank my friend and colleague from North Carolina for giving me this opportunity.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of the bill.

AMENDMENT NO. 918

Mr. HELMS. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Washington [Mr. EVANS] and the distinguished Senator from Minnesota [Mr. BOSCHWITZ] and ask that it be stated.

The PRESIDING OFFICER. Without objection, the Helms amendment No. 914 will be temporarily laid aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS for Senators EVANS and BOSCHWITZ, proposes an amendment numbered 918.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In Section 108, delete subsection (c) and insert the following new sections:

(c) LIMITATION ON CONTRIBUTIONS.—Notwithstanding subsection (a), for fiscal year 1988, the United States contribution to the regular budget of the International Committee of the Red Cross shall not exceed nor be less than the amount contributed by the United States to the regular budget of the International Committee of the Red Cross in fiscal year 1987.

(d) RECOGNITION OF THE RED SHIELD OF DAVID.—It is the sense of Congress that a diplomatic conference of governments should grant identical status of recognition to the Red Shield of David (Magen David Adom) as that granted to the Red Cross and the Red Crescent and that the Red Shield of David Society of Israel be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

Mr. EVANS. Mr. President, I am offering an amendment for myself and Senator BOSCHWITZ. The amendment limits the U.S. contribution to the regular budget of the International Committee of the Red Cross to the contribution in fiscal year 1987. The second part of the amendment states the sense of Congress that a diplomatic conference of governments should grant identical status of recognition to the Red Shield of David—Magen David Adom—as that granted to the Red Cross and the Red Crescent and that the Red Shield of David be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

Let me offer an historical perspective.

In 1864, a diplomatic conference convened in Geneva to establish, by international treaty, the neutrality of medical services of armies in the field. The conference prepared the first Geneva Convention and adopted the red cross on a white background as its emblem. The emblem was to be the sole, distinctive, uniform symbol for the protection of all military medical personnel, military hospitals and ambulances evacuation parties and all personnel enjoying neutrality.

In 1876, during the Russo-Turkish war, Turkey announced that it would use the red crescent on a white background as its protective symbol.

In 1918, the Magen David Adom Society of Israel was formed, with the Red Shield of David as its emblem.

In 1929, a diplomatic conference officially recognized the Red Crescent and the Persian Red Lion and Sun as emblems.

In 1949, the new State of Israel acceded to the 1929 Geneva Convention. During the 1949 diplomatic conference, Israel sought recognition of the Red Shield of David as its official emblem; this recognition was not granted.

A number of times during the intervening years, Israel's Magen David Adom Society has sought recognition for itself and its emblem.

The Magen David Adom is caught in a catch-22. The International Committee for the Red Cross has the authority to grant recognition to new societies, if and only if, they meet ten requirements, as specified in article 38 of the Geneva Convention adopted in 1949. One of the requirements is that the society adopt the red cross as its emblem. The red cross has long since ceased to be the sole emblem. Given these circumstances, clearly, Israel's humanitarian society has a right to its emblem.

The ICRC does not have the authority to grant exceptions to these requirements—it is merely the executor of the Geneva Convention as it pertains to International Red Cross membership. Exceptions can only be granted by member governments, meeting in a diplomatic conference. Thus far, the Magen David Adom has not fared well in such conferences.

I commend the efforts of the American Red Cross in seeking recognition of the Magen David Adom. The Congress has gone on record many times expressing its desire to see this recognition granted. I know that this is a matter of personal conviction to Senator BOSCHWITZ and to the chairman of the Foreign Relations Committee. They have worked tirelessly in the past to secure recognition. Unfortunately, their efforts have been to no avail.

I was at a loss to find alternative ways to impress upon the other members of the International Red Cross the seriousness with which we view this issue. I therefore offered a provision to this bill, a provision that was adopted by the Foreign Relations Committee, to limit the United States contribution to the International Red Cross to the 1987 levels until the Red Shield of David is recognized.

Mr. President, the provision got their attention. I knew when I offered the provision that the ICRC itself does not have the authority to make exceptions to the requirements for recognition. Nonetheless, I am certain the ICRC carries great weight with member governments. I wanted to impress upon them and the other member governments the seriousness of our commitment to this issue. I believe they are now impressed with the seriousness of our commitment. I expect the ICRC to work for the recognition of the Magen David Adom and the acceptance of the Magen David Adom Society as a full member of the League of Red Cross Societies.

Mr. President, I have the utmost respect and admiration for the work of the International Red Cross and its international and national members. Since its creation in 1864, the International Red Cross and its national societies have kept alive the spirit of humanitity and caring that is uniquely human. The proliferation of small wars and endless conflicts and our awareness of the world's disasters has increased the demands on the ICRC. Even in these times of financial asuterity, especially with respect to our international obligations, I believe it is imperative that the United States maintain its current level of contributions to the ICRC regular budget. We must also respond to special appeals for additional contributions to cover emergencies.

This amendment allows us to fulfill our obligations to the International Committee of the Red Cross and reiterates our strong desire to see the Red Shield of David recognized. I urge my colleagues to accept this amendment.

Mr. BOSCHWITZ. Mr. President, I find it outrageous that the symbol of the National Red Cross Society of Israel, the Red Shield of David—Magen David Adom, has not been accorded identical status as that granted to the Red Cross and the Red Crescent, and that the Red Shield of David Society has not been accepted as a full member of the League of Red Cross Societies. Is this due to some failing of the Red Shield of David, some shortcoming in the provision of humanitarian services? Of course not; it is simply a political act, part of a larger campaign to isolate Israel.

The International Committee of the Red Cross, a group which does very needed and essential work, and which I support, contends that it can do little to rectify this situation. It is, they say, up to a diplomatic conference to resolve. That may be literally true, but in fact there are things that the ICRC could be doing now to facillitate resolution:

Reestablish the working group on the recognition issue;

Foster the process of bilateral recognition from other national Red Cross societies;

Extend invitations to the Red Shield of David to all international events of the ICRC and the League of Red Cross Societies.

Mr. President, this issue has been allowed to fester for all too long. I assure you that I, for one, intend to continue to press for its resolution at every possible opportunity.

Mr. PELL. Mr. President, this amendment is acceptable on this side. It has been modified to take away objectionable features that were in it before. I think it is to the advantage of our country to pass it. I recommend its passage.

Mr. HELMS. Mr. President, obviously it is acceptable on this side.

The PRESIDING OFFICER. Is there any further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 918) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, first let me thank both managers for the courtesy that they have extended to all Senators who have wanted to speak on matters that are not germane to the pending legislation.

This bill has been before the Senate now since last Friday. It was called up on Friday. Today is Thursday. So this is the fourth day.

Both managers have been on the floor all the time at their post of duty.

I can understand how other Senators wish to speak on other subjects. But I hope that I can make a proposal that will be fair to all. I hope that we can finish this bill today.

If it is going to be interrupted by lengthy speeches—I do not say this in criticism of anyone, because as I say, I understand how Senators feel compelled to speak out on the Bork nomination and other matters—but if the actions on this bill are going to be consistently interrupted throughout the day, that means we will not finish this bill today. We have the State-Justice-Commerce appropriation bill that is awaiting action on this measure.

I am committed to call up the war powers resolution, and have been committed since that matter was before the Senate.

I ask unanimous consent that, throughout the remainder of the day while this measure is before the Senate, any speeches that are not germane not extend beyond 3 minutes, with this exception: four Senators on my side of the aisle have spoken today on the Bork nomination. I understand that there is at least one speaker on the other side of the aisle who wishes to speak on the Bork nomination, and there may be more. So I think, in fairness to all, that there be three exceptions to this request for the other side of the aisle.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the two managers.

Mr. HELMS. I thank the majority leader.

Mr. President, I know that Senator STEVENS wishes to speak. Did the unanimous consent stipulate a time limitation?

Mr. BYRD. Yes; 3 minutes on any speeches that are not germane.

Mr. HELMS. In the case of Senator STEVENS?

Mr. BYRD. He would be an exception.

Mr. HELMS. I would like to have the majority leader's consent to expand that to 7 minutes.

Mr. BYRD. Yes. There is no exception to those 3.

Mr. HELMS. I see.

Mr. BYRD. The 3-minute limitation does not apply to those three exceptions.

Mr. STEVENS. Will the Senator yield?

Mr. HELMS. Who has the floor?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Certainly, I yield to my friend.

Mr. STEVENS. I just walked in at the end and I did not understand what the unanimous-consent request was. I wonder what the impact would have on my request.

Mr. HELMS. We had worked out a certainty that you would have time. We are trying to limit any additional speeches.

Mr. BYRD. It would not have any impact on the Senator's statement.

Mr. HELMS. Does the Senator wish to speak now?

Mr. STEVENS. I have something coming over.

Mr. HELMS. Very well. We will proceed for a few more minutes, then.

AMENDMENT NO. 919

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Senator's previous amendment will be set aside.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 919.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

(a) Section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007) is amended by adding the following subsection:

"(e)(1) The Secretary, in consultation with the Committee on Foreign Relations of the Senate, and the exclusive representatives, shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service, and shall by June 1, 1988, transmit its report and recommendations to the Secretary of State and Chairmen of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(2) Effective October 1, 1987, and through October 1, 1988, the Secretary of State shall stay the selection out of any foreign service member whose selection out is in consequence of this section.

Mr. HELMS. Mr. President, to save the Chair the responsibility of having to remind us that there is a pending amendment, I ask unanimous consent that if Senator PELL or I, either of us, sends an amendment to the desk, it will be presumed that the amendment is laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, this amendment provides for the suspension of the so-called selection out system in the Foreign Service pending the completion of a serious study of the Foreign Service personnel system.

The study will be conducted by a commission of experienced personnel system managers who will be charged with a review of the present system to see whether it meets the two basic requirements of a personnel system. First, and most importantly, a personnel system must provide a means of providing experienced, trained, and capable employees to carry out the tasks which the employer needs to have done. On the other hand, a personnel system must provide the employees with their legitimate needs for income, income security, and job satisfaction.

The present Foreign Service Act was passed by the Congress in the closing days of the Carter administration. It was the product of intensive lobbying by the Carter administration's Under Secretary of State for Management, Ben Reed. The system has been in operation for 6 years. Many of the supporters of the 1980 act have now become concerned about the operation of the system established by the act.

These concerns are voiced both by management officials in the Department and by representatives of the Foreign Service officers' union, AFSA. It seems to me that when management and union are raising questions about a personnel system that they both supported only 6 years ago, then there is good reason to pause and demand an examination of the system.

I do not have in mind a model of a personnel system structure that should be adopted for the Foreign Service. It might even be said that the problems in the Foreign Service may be the result of too many people without knowledge and experience in the design and management of large personnel systems having had in the past too great a role in the creation of the current Foreign Service system. This is why I have included in my amendment the requirement that the members of the Commission have at least 10 years' experience in the management of large personnel systems. It is my hope that some experienced personnel system managers from both private industry and State or local government personnel managers will be willing to serve their country by accepting an invitation from the Secretary of State to serve on this Commission.

Mr. President, there have been many changes in the Foreign Service personnel system—changes both in legislation and in policy—that have seen individual employees penalized for having heeded past personnel policies, only to have the rules of the game changed under their feet. Many of the individuals who are being selected out of the Service this year are Foreign Service officers who had volunteered for hard language training and other assignments which have impeded their career progression in the Service. Two years of hard language training, which is something that should be supported, usually cost the officer his chances of promotion since it is rare that officers are promoted on the basis of their performance in language class. Other individuals who accepted assignments to jobs which did not provide management experience are now paying the price because they accepted those assignments.

I want to be fair to the individual employees in the Service and to assure that they are not selected out in April or May of next year only to find that the report of the Commission changes the rules of the personnel system in a way that would have saved their careers. We should treat employees of this Government as human beings, not cattle. In my amendment there is a provision for a hiatus in the selection out system in the Foreign Service until after the report has been received and studied by the administration and Congress. This is only fair to the officers who have served this country for many, many years.

AMENDMENT NO. 920

(Purpose: To conduct a study of the Foreign Service Personnel system)

Mr. PELL. Mr. President, I think that the amendment of the Senator from North Carolina has a great deal of merit. However, I question the blanket holding up of the selection out process. I think, however, that a study of the selection out process is needed. For that reason I send to the desk a second-degree amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 920 to amendment No. 919.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

(e)(1) The Secretary, in consultation with the Committee on Foreign Relations of the Senate, and the exclusive representatives, shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service, and shall by June 1, 1988, transmit its report and recommendations to the Secretary of State and Chairmen of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

Mr. PELL. Mr. President, as I have stated, I think a thorough review of the State Department's selection out system is badly needed and I welcome that portion of Senator HELMS' amendment.

However, it would be a mistake for the Congress to put the entire system on hold pending the outcome of the study as Senator HELMS' amendment would do. Because the "up-or-out" system has been a fundamental part of the Foreign Service system since it was created by the Foreign Service Act of 1946, it should be thoroughly examined before we take action to weaken or abolish it. The entire purpose of the study is to examine the viability of the existing system. Therefore, to jettison the existing system before the completion of the study is to prejudge the outcome of that study.

To freeze the existing system would also create major problems. Eighty-three of the one hundred and four officers required to leave this year, after having a year to make new career arrangements since they failed to be promoted or extended, have already left the Department. The remaining 23 are still on the payroll, under the provisions of the Foreign Service Grievance System, and will remain so pending resolution of their grievances. Any of the others with complaints about the system could have chosen the same route. Thus, there is no need to suspend the system by statute.

Since the Department must cut its personnel complement for budgetary reasons, to recall these officers who have already left would cause exceptional problems. Others have already been assigned to fill the positions they have vacated, and makeshift positions would have to be found for the returnees. There would of necessity be a major negative impact on junior hiring, making it extremely difficult to staff the consular function at posts abroad. Officers at the FSO-1 or SFS levels would hardly be pleased to fill junior officer consular positions.

All those leaving receive an immediate annuity, have had a year since being notified to plan their transitions, and have had the opportunity to participate in a 90-day outplacement seminar. To retain or recall them would largely become an extended form of severance pay.

For these reasons I urge my colleagues to support my amendment.

Mr. President, I believe this amendment has received the concurrence of the ranking minority member.

Mr. HELMS. Reluctantly, I say to my friend, the Senator's amendment is agreeable. I had hoped to suspend the selection out system, pending the study; now we will have just a study, but that should be useful.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

The amendment (No. 920) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the underlying amendment? If not, the question is on agreeing to the amendment of the Senator from North Carolina [Mr. HELMS].

The amendment (No. 919) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 921

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 921.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

The Director of the Office of Personnel Management shall conduct an audit and inspection of the operation of the merit personnel system in the Foreign Service and report to the Congress, not later than June 1, 1988, as to any improvements in the merit personnel system that the Director deems necessary. The report of the Director shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment and promotion of Foreign Service employees.

Mr. HELMS. Mr. President, as the ranking Republican member of the committee I was taken aback to read an article recently in the New York Times in which it was stated that the State Department was the worst Agency of the Federal Government when it came to equal employment opportunities. This is an allegation that needs to be fully explored, and if the allegation is correct, drastic action needs to be taken.

The amendment I send to the desk requires that the Director of the Office of Personnel Management conduct a thorough investigation and report to the Congress on whether the merit personnel system of the Foreign Service has been undermined by racial, ethnic, sexual, or other discriminatory practices. I have long been concerned that the apparent favoritism in the Foreign Service toward graduates of Ivy League universities like Harvard, Yale, Princeton, and the like, has brought into the State Department the same exclusions and prejudices that these universities have applied in the past to their admission policies. After all, these are universities that were all male, until recently, and which applied a quota system for the various religious and ethnic applicants.

Many members of the Foreign Service have joined to file a lawsuit against the Department of State for its discriminatory policies in the recruitment, appointment, assignment, and promotion of certain ethnic groups. Without in any way seeking to influence the outcome of that lawsuit, I want to assure that the executive branch and Congress fulfill their responsibilities to assure that the merit personnel system's integrity is maintained.

I ask unanimous consent that the New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 29, 1987]

BLACKS AND THE ELITIST STEREOTYPE

(By Robert Pear)

WASHINGTON, September 28.—When the highest-ranking black official in the State Department resigned recently after suggesting that he had been treated in a racially insensitive manner, many other blacks knew how he felt.

The official, Alan L. Keyes, was the Assistant Secretary of State in charge of dealing with international organizations. He said John C. Whitehead, the Deputy Secretary of State, had snubbed him by talking past him and addressing questions to two of his subordinates, who are white.

Mr. Whitehead denies the charge, but acknowledges that he had clashed with Mr. Keyes, an ardent 37-year-old conservative, over the timing of United States payments to certain agencies of the United Nations.

ONE WHO SYMPATHIZES

Joseph N. Cooper, a black who served for 18 months as head of the Labor Department office that combats discrimination by Federal contractors said he felt like calling Mr. Keyes to say: "I sympathize with you. I know exactly what you went through."

Mr. Cooper said he was kept "out of the loop" when Reagan Administration officials discussed plans to revise the affirmative action program for Federal contractors, even though he was supposedly responsible for the program. White officials, he said, were "talking around and going past me and keeping me out of meetings." Mr. Cooper, who left in January, is now a management consultant advising Federal contractors on their civil rights obligations.

Clarence Thomas, chairman of the Equal Employment Opportunity Commission, said in an interview that "indifference to the views of black appointees has been pretty prevalent" within the Administration, even when those appointees, like Mr. Thomas, generally endorse President Reagan's policies.

As a black in the Administration, Mr. Thomas said, "you constantly have to prove your conservative credentials because it is assumed that you are liberal."

In a speech this summer at the Heritage Foundation, a conservative research and policy institute, Mr. Thomas complained that conservative too often gave the impression that blacks were "tolerated but not necessarily welcomed" within conservative ranks. To be accepted by white conservatives, it often seems that a black must "become a caricarture of sorts, providing side shows of antiblack quips and attacks," he said.

TERRIBLY IRONIC

Mary Frances Berry, a member of the United States Commission on Civil Rights who has harshly criticized Mr. Reagan's civil rights policies, said: "It is terribly ironic for people like Keyes and Thomas to complain about racist behavior within the Administration because they have been defending the Administration as colorblind in confrontations with civil rights leaders over the last few years.

"Even if racism exists among the Reaganites, these guys should be embarrassed to mention it."

Mr. Keyes, who plans to join the American Enterprise Institute, a Washington-based research organization, now plays down the significance of race as a factor in his decision to resign.

"The problem at the State Department is less racism than a kind of elitism, not just toward blacks but toward most people in this country," he said today. "There is a feeling that the career bureaucratic elite know what's best for this country, and they are not really comfortable with democratic processes."

Clarence E. Hodges, the equal employment opportunity officer for the State Department, said Mr. Keyes's case was unusual because "we almost never see public or formal complaints from senior-level officials."

But Mr. Hodges, a Deputy Assistant Secretary of State, said the case was typical in another respect. "People often assert that blacks who hold positions of responsibility serve as tokens without full authority to deal with policy issues," he said. "The civil rights community considers it usual that blacks in high-level positions are snubbed and passed by."

Blacks are underrepresented at many Government agencies, but the problem has been particularly acute at the State Department. In a history of the Foreign Service, John Ensor Harr, a former State Department official writes that diplomatic careers were originally "the preserve of the sons of the upper classes in the north-eastern United States, mostly graduates of the Ivy League colleges."

Another historian of the Foreign Service, Warren Frederick Ilchman, says that at least until World War I, most American diplomats had "private means of support" and "a host of social prejudices."

The elitist stereotype persists even though Congress, in the Foreign Service Act of 1980, declared that America's diplomatic corps should be "representative of the American people," with officers from "all segments of American society."

Despite these goals, Mr. Hodges says that only 248 of the 4,000 Foreign Service officers, or 6.2 percent, are black and that of the 650 senior officers, only 12, or 1.8 percent, are black. Within the next month, he says, three more blacks will probably be promoted to senior positions. Senior Foreign Service officers hold top positions at the

State Department and in American embassies.

Representative George W. Crockett Jr., a Michigan Democrat, said these statistics were "dismal and disgraceful" and indicated that the department had "failed to fulfill the Congressional mandate."

In a cable to American embassies in September 1986, Secretary of State George P. Shultz acknowledged that the "representation of women and minorities in the Foreign Service is still unacceptably low." He expressed particular concern about the small number of blacks in senior Foreign Service jobs.

"This is not simply a personnel issue," he said. "It is a foreign policy problem which affects our image as a nation."

Mr. Shultz last year approved a list of 32 recommendations from Mr. Whitehead to increase opportunities for blacks in the Foreign Service. For example, he said, there will be "exceptional efforts" to give blacks "more responsible, high-visibility assignments."

Last October, two black Foreign Service officers filed a lawsuit accusing the State Department of racial bias in the evaluation, promotion and assignment of Foreign Service officers. Bernard Johns, one of the plaintiffs, said the same type of prejudice distorted United States "perceptions of other societies, particularly in assessing political events in the non-white third world."

A WHITE MALE IMAGE

Mr. Crockett said the United States was projecting "a white male image to a world whose population is dominated by people of color."

Even though the Foreign Service is supposed to be an aristocracy of talent, not birth, some aspects of the hiring process still may favor people from families affluent enough to afford foreign travel and study, according to Mr. Hodges.

In applying for Foreign Service jobs, he said, candidates are often asked about the use of visas and various services provided by American embassies. In answering such questions, he said, "people who have had an opportunity to travel extensively overseas have an advantage over those who have never been outside the country."

Mr. PELL. Mr. President, I have had an opportunity to study the amendment. I believe it is a good amendment and recommend its passage.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 921) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 922

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. Helms] proposes an amendment numbered 922.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

Sec. . Section 1107 of the Foreign Service Act of 1980 is hereby amended by adding the following new subsection:

(e) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor of the grievant. The Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such supervisor is nominated for any position requiring the advice and consent of the Senate. Under appropriate procedures to safeguard confidentiality, the Board shall provide access to the entire record of any proceedings of the Board to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such Committee.

Mr. HELMS. Mr. President, this amendment changes the section of the Foreign Service Act concerning formal grievance procedures in the Foreign Service.

It requires that when the Grievance Board determines that a supervisor's conduct was a factor in the Board's decision to award remedial action, the Board must include its determination in the supervisor's performance file.

This amendment is designed to provide an important protection to Foreign Service employees. Under the present procedures, to give just one example, if the Board determines that a female employee has been the victim of sexual harassment by her supervisor and the supervisor has retaliated against her by giving her a critical or mediocre performance rating, thus costing her promotions, the Board can award remedial action but there is no procedure for this incident to be included in the supervisor's performance rating. Surely in such a situation there should be a means for the promotion panels to be informed of the supervisor's misconduct.

The amendment also explicitly requires that information be provided to the Committee on Foreign Relations concerning awarded grievances. The Congress clearly intended that such information be provided to it, but some employees in the Department of State are claiming that grievance information is protected from any disclosure to Congress. In fact, some of the lower ranking employees are right now claiming that grievance information can be denied to the Secretary of State and his Deputy. That is surely one of the most outrageous claims ever made by an employee to his boss. If that precedent is maintained, the Secretary and his Deputy will soon find themselves being told by their underlings "I'm sorry, sir, but that's classified information and we're not sure of your clearances."

It is important for the committee to have information on awarded grievances when it considers nominations. To go back to the example I have given, it is vital for the committee's to know about a supervisor's sexual harassment of a female employee if the supervisor is being nominated for an ambassadorial or other supervisory position. How can we do our job if this information is denied to us.

I believe that this amendment will be understood to be just what it is—an amendment designed to protect the Foreign Service from supervisory misconduct—and will be acceptable to the chairman.

Mr. PELL. Mr. President, this is, I think, a useful amendment, particularly useful at this time when we have the nomination under consideration. I recommend its passage.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 922) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 923

(Purpose: To demand the immediate release of University of Arizona student Yang Wei)

Mr. HELMS. Mr. President, I send an unprinted amendmemt to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. Helms], for himself and Mr. DeConcini, proposes an amendment numbered 923.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 516, add the following new section:

Sec. . RELEASE OF YANG WEI.

(a) Findings.—The Congress finds that—

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his Masters of Science degree in microbiology in 1986;

(2) In May 1986, Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a Ph.D. program at the University of Arizona;

(3) On January 11, 1987, while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau;

(4) Yang Wei has been held without charge or trial since January 11, 1987;

(5) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities;

(6) Mr. Yang's father, Yang Jue, and his mother, Bi Shuyun, have been denied all contact with their son;

(7) The Chinese Criminal Procedure law of 1979, sections 92, 97, 125, and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over six months, contrary to Chinese law;

(8) Yang Wei has not committed any crime under United States or Chinese law;

(9) Yang Wei and his wife only aspire to freedom and democracy;

(10) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities; and

(11) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country.

(b) Policy.—It is the sense of Congress that—

(1) The People's Republic of China should immediately release Yang Wei.

(2) The United States should offer extended voluntary departure status to those Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

Mr. HELMS. Mr. President, the distinguished Senator from Arizona [Mr. DeConcini] joins me in the sponsorship of this amendment relating to the continued imprisonment without charge of University of Arizona student Yang Wei. Obviously, Yang Wei is being held by the Communist Chinese.

Mr. President, there is a best selling book now on the market entitled, "Life and Death in Shanghai" by Nien Cheng. It is an extraordinary story of courage. During the cultural revolution the author was imprisoned, tortured and her daughter was driven to suicide. But she survived. I would like to read a short passage from page 128 of her book:

> Soon the jeep stopped outside a black iron gate guarded by two armed sentries with fixed bayonets that glistened under the street lamps. On one side of the gate was a white wooden board with large black characters; No, 1 Detention House.

Mr. President, today University of Arizona student Yang Wei is in that same Shanghai No. 1 Detention House. Mrs. Cheng notes that the notorious No. 1 Detention House is famous for holding Catholic bishops, well-known writers and artists as well as other political prisoners. It was to be her home for 6 years of agony and it has been the home of Yang Wei since January 11, 1987.

Mr. Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his masters of science in microbiology in 1986. In May of that year he returned to China to marry and arrange for the continued funding of his Ph.D. program at the university.

On January 11, 1987 while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau. He has been held without charge or trial ever since. According to testimony by the State Department before the Committee on Foreign Relations on September 17, it is contrary to Chinese law to hold someone without charge or trial more than 4½ months. Therefor, Yang Wei is being held in violation of Chinese law as well as international norms of behavior.

I ask unanimous consent that the two legal opinions on Yang Wei by the Far East Law Library of the Library of Congress be printed at the conslusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Since he has never been charged, we do not, in fact, know why Yang Wei is being held. The evidence points strongly to imprisonment for his political beliefs. In testimony before the Senate Foreign Relations Committee, Amnesty International declared that it expects to make him a Prisoner of Conscience.

What we do know is that he is being held incommunicado. PRC authorities have not allowed his parents or his wife to visit him. Nor, have they permitted any letters or other communications. We believe he is still alive but that is only belief. There is no proof. There are only rumors, including rumors of a secret trial.

Mr. President, this is not the first time that the cause of Yang Wei has been before this body. I have raised it repeatedly as has Senator DeConcini. I have asked Secretary Shultz to raise it when he was in Communist China last March. Senator DeConcini has sent a letter to Deng himself. On July 30, 17 Members of the Congressional Human Rights Caucus sent a letter to the PRC Ambassador.

Mr. President the issue here is the life of one man, whether it be Raoul Wallenberg, Anatoly Shcharansky, or Yang Wei. The Senate has stood up for the first two; I believe we should stand up for the third.

The amendment offered by Senator DeConcini and I is quite simple. It recounts the history of Yang Wei's arrest and illegal detention. The first operative paragraph calls for the release of Yang Wei and compensation for his detention. The second notes that the human rights situation in the PRC is currently unstable and suggests that the United States should offer Chinese students now studying in the United States participation in the Extended Voluntary Departure Program. Since Yang Wei is manifestly a returned student who is being persecuted, I don't think we want to force anyone to return against his or her will.

Mr. President, I ask unanimous consent that the letter of July 30, 1987 from the Congressional Human Rights Caucus to the PRC Ambassador be printed following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 2.)

Mr. HELMS. Mr. President, I will add that this is a deplorable set of circumstances. I am grateful to the Senator from Arizona, Senator DeConcini, for joining in trying to be of assistance in this matter.

EXHIBIT 1

THE YANG WEI CASE AND CHINESE CRIMINAL PROCEDURE LAW

Mr. Yang Wei, a 31-year-old Chinese citizen who studied in the United States from 1983–1986, was detained by the Chinese police in his parent's Shanghai home on January 11, 1987.[1] He is still in custody, charged with counterrevolutionary activities, and there has been no public trial to date. Questions have been raised about the legality of his treatment under the laws of the People's Republic of China (PRC).

The National People's Congress (NPC) of the PRC enacted a Code of Criminal Procedure on July 1, 1979; it came into force January 1, 1980.[2] The code had only been in effect two years when critical aspects concerning the timing of criminal investigations were amended, first for a two-year period,[3] and then permanently.[4] This Code, together with the Criminal Code that was adopted at the same time, forms the basis for the first systematic structure for criminal justice in PRC history. In addition, the PRC has enacted regulations governing arrest and detention procedures.[5]

The public security forces (police) in China in theory arrest individuals only after obtaining the approval of a people's court or people's procuratorate.[6] They are, however, allowed to detain people prior to formal arrest for a period of up to 10 days.[7] In Yang Wei's case, he was detained January 11, 1987, and formally arrested January 16, well within the prescribed limits.[8] After detention or arrest, Chinese law requires that within 24 hours the family or work unit be notified of the reason for the action and the place in which the person is being held, unless the "investigation may be hampered or notification is impossible." [9] Thus Yang's parents should have been informed of where he was incarcerated and on what charge by January 12, 1987. According to Yang's wife, Che Shaoli, his parents did receive a copy of the arrest warrant some time between January 18 and January 21, 1987, but they were not told where he was being held. It was not until early February, Che reports, after she held a press conference in the U.S. and stated publicly, "we do not even know where he is," [10] that the family was told that Yang was in No. 1 Detention House in Shanghai.

Under the Code of Criminal Procedure as originally enacted, the Chinese authorities have a three-month period in which to conduct an investigation of a case; for major cases, the Supreme People's Procuratorate may request that the Standing Committee of the NPC issue an extension (art. 92). In 1984, this time limit was extended by two months, to a total of five months, for handling "serious crimes involving criminal groups and serious and complex cases involving criminals on the move."[11] Since the term "criminal groups" is not concretely defined, it may be presumed that Chinese officials have some leeway in applying this provision where they find it appropriate. In Yang's case, although no official document of the charges is at hand, his wife was informed by a member of an official education delegation visiting the U.S. this summer that Yang is considered to have organized a counterrevolutionary group;[12] such a group might be deemed a "criminal group." The amendment also allows the time for investigation to be extended if the accused "is found to have committed another major crime" (art. 3). In addition, time "needed to conduct a psychiatric examination of the accused is not included" in any time limits (art. 9). There is no information available on whether or not such complicating circumstances apply in Yang's case. If it is assumed that there are none and that no action was taken by the Standing Committee of the NPC, the time allotted for investigation would have been over approximately by June 16, 1987. The people's procuratorate then would have had a month and a half to decide whether or not to initiate prosecution.[13] Barring any extensions, such as for psychiatric evaluation, prosecution should have been initiated against Yang Wei by early August.

No trial has as yet been publicly announced for Yang. His wife states that the U.S. consulate in Shanghai was informed by local Chinese officials that a trial is now in progress.[14] Under the Code of Criminal Procedure, trials for cases involving state secrets or the "shameful private affairs"[15] of individuals may be closed to the public, but in such cases the reason for holding the trial in private must be announced at the trial (art. 111). Since Yang is charged with counterrevolutionary activities, the authorities might consider that state secrets are involved. There has not, however, been any notice to the family that a trial is being held in private. While the Code provides for trials that are closed to the public to protect secrets, it does not authorize secret trials.

To summarize, there are three aspects of the handling of Yang Wei's case in regard to which questions can be raised under Chinese law. 1) Apparently, the family was not informed of the place of detention promptly. 2) Assuming that no trial has been held, the time limit for investigation before prosecution may have been exceeded. 3) There is some possibility that a non-public trial has begun without public announcement. The Chinese laws themselves are written with many "loopholes," like the rule extending without limit the time a person may be held during psychiatric evaluation or the fact that notification of the place of detention may be delayed if giving the information would impede the investigation.—Prepared by Tao-tsi Hsia, Chief, and Constance A. Johnson.

FOOTNOTES

[1] This was widely reported in the U.S. press. *See for example The New York Times*, Feb. 1, 1987, at 36; *The Christian Science Monitor*, Feb. 27, 1987, at 7, Associated Press, a.m. cycle, Mar. 25, 1987, retrieved from LEXIS/NEXIS computerized data base. This report has been prepared without access to any of the documents in the case; information has been obtained from press reports and from Yang Wei's wife, Che Shaoli.

[2] Chinese text in *Zhonghua renmin gongheguo falu buibian 1979-1984* [Laws of the People's Republic of China 1979-1984; hereafter cited FLHB] 133-167 (Beijing, People's Press, 1985); English available in *The Criminal Law and the Criminal Procedure Law of China* [Hereafter cited CLCPL] 111-168 (Beijing, Foreign Languages Press, 1984). The Chinese texts have been used in the preparation of this report as the English versions are of uneven quality.

[3] Decision of the Standing Committee of the National People's Congress Regarding the Question of the Time Limits for Handling Criminal Cases, Sept. 10, 1981, FLHB at 276; CLCPL at 226.

[4] Amendment Concerning the Time Limit for Handling Criminal Cases, July 7, 1984, FLHB at 601-603; English text in Foreign Broadcast Information Service, *Daily Report: China*, July 9, 1984, at K4-K5.

[5] Feb. 23, 1979, FLHB at 52-55; translated as "Arrest and Detention Act of the People's Republic of China," in Leng & Chiu, *Criminal Justice in Post-Mao China* 187-191 (Albany, State U. of N.Y. Press, 1985).

[6] Art. 2, Arrest and Detention Act, *supra* note 5.

[7] Art. 48, Code of Criminal Procedure, *supra* note 2. The public security organs may detain a person for three days before submitting a request for approval of arrest to the people's procuratorate. This may be extended for four more days "under special circumstances." The people's procuratorate then has three days in which to make the decision to arrest.

[8] Information obtained by telephone Sept. 11, 1987, from Che Shaoli. She is currently a student at Baylor College of Medicine in Houston, Texas.

[9] Arts. 43 & 50, Code of Criminal Procedure, *supra* note 2. Art. 5, Arrest and Dentention Act, *supra* note 5. Both have the qualification quoted above.

[10] *The New York Times, supra* note 1.

[11] Art. 1, *supra* note 4.

[12] *The Washington Post*, June 3, 1987, at A36.

[13] Art. 97, Code of Criminal Procedure, *supra* note 2.

[14] Telephone conversation, *supra* note 8.

[15] The Chinese term is *yinse* and it is generally taken to refer to sexual matters.

HUMAN RIGHTS CONSIDERATIONS AND THE YANG WEI CASE

Yang Wei, a Chinese citizen, was arrested by the public security forces (police) in the People's Republic of China (PRC) on charges of counterrevolutionary activities in January 1987. The handling of his case under criminal procedure law is discussed in a separate report. There are several aspects that are of interest from the point of view of the status of human rights in the PRC.

1. THE NATURE OF THE ACCUSATION

The charge against Yang is "counterrevolutionary activities." His wife, Che Shaoli, reports that she was given the details of the charge orally by the Chinese consulate in Houston last February.[1] Yang is accused of distributing reactionary leaflets and posters and inciting students to demonstrate. These are the kinds of activities American students and members of all kinds of community and political interest groups engage in as their right every day. Under the Chinese Constitution, citizens have "freedom of speech, of the press, of assembly, of association, of procession, and of demonstration."[2] They also have the right to "criticize and make suggestions to any state organ or functionary" and not be penalized for such criticisms (art. 41). But the Constitution does require that, "The exercise by citizens . . . of their freedoms and rights may not infringe upon the interests of the state, of society, and of the collective. . . ." (art. 51). These phrases are not concretely defined in the Constitution or elsewhere; the Standing Committee of the National People's Congress, the body with the right to interpret the Constitution, has so far as is known never done so. In effect, the Constitutional guarantees of basic freedoms can be easily invalidated, and any acts deemed not in the interest of the state can be condemned as counterrevolutionary.

Che also reports that a member of a Chinese official education delegation visiting the U.S. said Yang was charged with organizing a counterrevolutionary group to overthrow the government.[3] It is not known whether this is in fact part of the formal charges. An official of the Chinese consulate in New York, in response to a question from a student there, stated that Yang Wei's actions were against the "four cardinal principles."[4] These principles are support for the leadership of the Communist Party, for Marxism-Leninism and Mao Zedong Thought, for socialism, and for the people's democratic dictatorship. They are included in the preamble to the Constitution, and, like the provisions cited above, are not well defined in law or through interpretation. It thus is quite difficult to defend oneself against the charge of not supporting the principles.

There are two separate laws that list the punishments for counterrevolutionary actions: the Criminal Code[5] and one of the PRC's early laws, enacted February 20, 1951, and never repealed, for the punishment of counterrevolutionary acts.[6] In a civil law country, a specific criminal statute covering certain offences usually applies in place of a more general statute such as the Criminal Code. Since the punishments are on the whole more severe in this specific law, with the death penalty possible for many counterrevolutinary crimes, the question of which applies has some importance. Although Chinese officials have stated that it is the Code that will be used, they have never formally abolished the old statute.

2. THE USE OF THE CHARGES TO INTIMIDATE OTHER CITIZENS

Che Shaoli states that other Chinese now studying in the U.S. have been visited by Chinese officials and read the details of the charges against Yang.[7] The purpose of such visits is clear; these students are being warned against free expression of critical ideas. Yang himself was a student in the U.S. from 1983 to 1986, but his arrest resulted from actions in China after his return. Those who have studied abroad and then returned to China have in the past been targeted in "anti-rightist" campaigns, such as the one in 1957-58 and in the Cultural Revolution, as being too-foreign or not sufficiently revolutionary in their thinking. Many Chinese students were involved in distributing leaflets and putting up critical posters in the winter of 1986-87; by choosing Yang as one of the few actually arrested, the Chinese may be trying to give a signal to others who study in the West. The use made of Yang's arrest and the current campaign against bourgeois liberalism may work together to inhibit Chinese intellectuals both at home and abroad.

3. THE NATURE OF THE CRIMINAL JUSTICE SYSTEM

Since 1979, China has been attempting to strengthen its legal system, and the enactment of the criminal and criminal procedure codes was one of the first important steps toward that goal. These two laws, however, are vaguely drafted, leaving a great deal of room for the authorities to deal with cases as they feel is appropriate. Furthermore, the laws have already been amended in ways that have a negative impact on fair trial procedures. Despite the claims of the leadership that the new legal structure would not be hurt by political movements, campaigns such as the "anti-crime" effort in

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Footnotes at end of article.

1983 did result in important changes. For example, Chinese practice is not to allow defense counsel during the pre-trial stages, and the regulations, as amended in 1984, permit a suspect in certain types of major cases to be held before trial for close to seven months, even without extenuating circumstances.[8] So far as his wife can determine, Yang, has not yet had the opportunity to consult a lawyer. Under the 1984 amendments, the authorities can easily extend the pre-trial detention period by bringing additional charges or having the suspect undergo psychiatric evaluation. It is not known whether such steps have been taken in Yang's case. Even after the trial stage has been reached and consultation with a lawyer is permitted, it is not clear that under the Chinese system one can obtain a true defense. Lawyers are governed by regulations that define them as the state's legal workers; their first loyalty must be to the state, not their client.[9]

Another major weakness in the Chinese criminal justice system is the lack of true judicial independence. Although there was some discussion of the concept of independence of the judiciary in the early 1950's, the idea was rejected as not right for a system of class justice. Party officials played a key role in deciding major cases, and independent decision-making by trial judges was not seriously considered again until the early 1980's. In 1981, Jiang Hua, then the president of the Surpeme People's Court, stated that all of the decisions of judges must be approved by court presidents or other senior judicial officials, but that the courts as a whole would be independent of interference by party committee secretaries.[10] Later that year, however, Jiang revised his position somewhat, stating that the people's courts should seek the guidance of the party both on policy matters and in important or complex cases.[11] A party directive of January 1982 strongly suggests that the party should direct political-legal work and that local party leaders will personally consider all imortant cases.[12] Thus the outcome of a case like Yang Wei's may depend a great deal on the political climate.

In addition, if authorities feel that state secrets are involved in the case, the trial can be closed to the public under article III of the Code of Criminal Procedure.[13] China's state secrets laws are broad in nature and vague in phrasing. A large range of materials is considered to be secret; there is even a "catch-all" phrase providing that "other state affairs that must be kept secret" are to be included in the definition.[14] Since Yang is charged with counterrevolutionary actions, it is possible that the authorities feel that state secrets are involved and that therefore a closed trial is warranted. Che Shaoli has expressed her fear that such a trial is already underway.[15] If a trial is being held without the knowledge of the family, it would be a secret trial, not merely a closed one as outlined in the Code. Chinese Communist jurists have criticised the Lin Biao and the ultra-leftist "gang of four" for holding such secret trails.[16] If the current regime resorts to the same practice, it may lose some of its claim to superiority over its ultra-leftist predecessors.—Prepared by Tao-tai Hsia, Chief, and Constance A. Johnson.

FOOTNOTES

[1] Telephone conversation with Ms. Che on Sept. 11, 1987. She is at present studying at Baylor College of Medicine, Houston, Texas.

[2] Constitution adopted Dec. 4, 1982, art. 35. English text in *The Constitution of the People's Republic of China* (Beijing, Foreign Languages Press, 1983).

[3] *The Washington Post*, June 3, 1987, at A36.

[4] Discussion described in Lin Sen, "Defending Yang Wei—Che Shaoli Discusses the Yang Wei Case," *Jiushi niandai* [The Nineties] 44-45 (Sept. 1987).

[5] Adopted July 1, 1979; effective Jan. 1, 1980; text in *Zhonghua renmin gongheguo falü huibian 1979-1984* [Laws of the People's Republic of China 1979-1984, hereafter cited FLHB] 98-132 (Beijing, People's Press, 1985); English translation available in *The Criminal Law and Criminal Procedure Law of China* [herafter cited CLCPL] 5-64 (Beijing, Foreign Languages Press, 1984).

[6] Translated as "Statute on Punishment for Counterrevolutionary Activity," Blaustein, *Fundamental Legal Documents of Communist China* 215-221 (South Hackensack, Fred B. Rothman & Co., 1962).

[7] Telephone conversation, *supra* note 1.

[8] *See* the previous report, "The Yang Wei Case and Chinese Criminal Procedure Law." The seven months can be broken down roughly as follows: ten days detention before formal arrest, five months for investigation, and 6 weeks for the procuratorate's decision to proceed to trial.

[9] Art. 1, Provisional Regulations on Lawyers, Aug. 26, 1980; English translation in 2 *East Asian Executive Reports* 28-29 (Oct. 1980).

[10] "On the Question of the Trial Independence of the People's Courts," *Zhongguo fazhibao* [China Legal News], May 29, 1981, at 1. *See also*, Zhang Zhidong, "The Abolition of the Examination and Approval of Cases by Party Committees," *Zhongguo baike nianjian* [China Encyclopedic Yearbook] 189 (Shanghai, China Encyclopedia Press, 1981).

[11] Address at the Third National Conference on the Work of Criminal Adjudication, Nov. 18, 1981, reported in *Zhongguo fazhibao*, Nov. 27, 1981, at 1.

[12] Reprinted in Chinese as "Chinese Communist Central Committee Directive on Political-Legal Work," *Chung kung nien pao 1983-84* [Yearbook of Chinese Communism 1983-84] 8-3 to 8-6 (Taipei, Chung kung yen chiu, 1984).

[13] Adopted July 1, 1979; effective Jan. 1, 1980; text in FLHB at 133-167, CLCPL at 111-168. The Code was amended July 7, 1984.

[14] Art. 2, Provisional Regulations for the Preservation of State Secrets, June 8, 1951. *See* Hsia, Hambley, & Johnson, "Introduction to the state secrets laws of the People's Republic of China," 2 *China Law Reporter* 267-278 (1983). English translation included.

[15] Telephone conversation, *supra* note 1.

[16] *Zhonghua renmin gongheguo xingshi susong fa jianghua* [Talks About the Code of Criminal Procedure of the People's Republic of China] 31 (Beijing, The Masses Press, 1979).

EXHIBIT 2

CONGRESSIONAL HUMAN RIGHTS CAUCUS,
Washington, DC, July 30, 1987.

His Excellency HAN XU,
Embassy of China, Washington, DC.

DEAR MR. AMBASSADOR: We, the undersigned members of Congress actively involved in human rights, are writing to express our deep concern about the fate of Yang Wei, who remains a prisoner in the People's Republic of China following his arrest on January 11, 1987 by the Shanghai Security Department.

Mr. Wei received his master's degree from the University of Arizona in 1986. His wife, Che Shaoli, is currently studying medicine at Baylor College in Texas. According to our information, Mr. Wei was arrested after participating in student demonstrations for freer speech and democracy in China. He was merely exercising his rights to freedom of speech and freedom of assembly, as guaranteed by the Constitution of the People's Republic of China. It appears that Mr. Wei was singled out from among tens of thousands of students demonstrating in Shanghai as a result of his American studies.

We urge that Mr. Wei be released immediately. We have seen no evidence of Mr. Wei's involvement in any crime and believe he is being unlawfully detained. If there is rightful cause to hold Mr. Wei, then we request he be given a fair and open trial.

Restoring Mr. Wei's rights would clearly demonstrate your country's commitment to the protection of human rights and your true desire to maintain improved relations with our country.

Your cooperation in this matter is greatly appreciated.

Sincerely,

John E. Porter, Tom Lantos, Christopher H. Smith, Gus Yatron, Frank R. Wolf, Gary L. Ackerman, Raymond J. McGrath, John R. Miller, Thomas M. Foglietta, Matthew G. Martinez, Jim Leach, Dante B. Fascell, Beau Boulter, Paul B. Henry, Jan Meyers, Sander M. Levin, and Gerald B. Solomon, Members of Congress.Q02

Mr. PELL. Mr. President, I join with the Senator from North Carolina in deploring the plight of the unfortunate Mr. Yang Wei and hope that he will soon be released. I know this amendment is acceptable on this side. Originally we had problems with it, but it is now modified so cases could be examined on a case-by-case basis and not generically. I move we accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 923) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 924

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The clerk read as follows:

The Senator from Rhode Island [Mr. PELL] for himself and Mr. HELMS proposes an amendment numbered 924.

Mr. PELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On line 23 on page 68, strike "7" and insert in lieu thereof "9";

On line 24 on page 68, strike "Two" and insert in lieu thereof "Five";

On line 2 on page 69, strike "5" and insert in lieu thereof "4";

On page 69, strike lines 3 through 13 and insert in lieu thereof:

"(A) Two members shall be appointed by the Chairman or Ranking Minority Member of the Committee on Foreign Relations of the Senate, whichever is not of the same political party as the President;

(B) Two members shall be appointed by the Chairman or Ranking Minority Member of the Committee on Foreign Affairs of the House of Representatives, whichever is not of the same political party of the President.

Mr. PELL. Mr. President, what this amendment does is it, we think, somewhat changes and improves the legislation setting up the public advisory commission for the USIA.

It moves it from seven to nine members, leaves the President making five of the appointments and the other four appointments to be made by the chairman and ranking minority member with respect to Foreign Relations and Foreign Affairs Committees providing they are not of the same party as the President.

I move its adoption.

Mr. HELMS. This has been cleared on this side. We recommend its approval.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 924) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 925

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 925.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

"SEC. . (a) "Within ninety (90) days of the enactment of this act, the Department of State shall submit to the Chairmen and Ranking Members of the Senate Committee on Foreign Relations, the Senate Committee on Governmental Affairs, the House Committee on Foreign Affairs, and the House Committee on Government Operations, a report complying with the 1980 and 1984 requests of the Senate Committee on Governmental Affairs for a listing and description of all Policy and Supporting Positions in the Department of State and related agencies. The report shall include a complete and thorough unclassified tabulation of the following:

(1) all Foreign Service Officer positions subject to noncareer appointments;

(3) all positions in the Senior foreign service subject to noncareer appointment; and

(3) The name of the incumbent; location; type; level, grade, or salary; tenure; and expiration (if any) of each positon.

(b) Notwithstanding any other provision of law, or of this Act, no funds authorized to be appropriated by this Act shall be obligated or expended unless the requirements described in (a) have been fully and faithfully complied with.

Mr. HELMS. Mr. President, in 1980 and again in 1984, the Senate Committee on Governmental Affairs requested that the State Department submit a complete tabulation of "policy and supporting positions" subject to political appointment. The committee made this same request of every Government agency, and every one of them complied, Mr. President, except the State Department.

Mr. President, the State Department seems to consider itself immune from the laws of this country. If they want to encourage democracy abroad, can the State Department ignore democracy at home? Do they consider themselves exempt from any law they find inconvenient?

Mr. President, this amendment requires the State Department to do what every other Government agency does without any grousing and claim of special privilege. Every 4 years, the Governmental Affairs Committee publishes the listing of policy and support positions subject to noncareer appointment. This publication serves as an important tool for the Congress in its oversight capacity, and responds to the people's right to know what jobs are availabe to any American who is not a career Federal employee.

Mr. ROTH. Mr. President, I rise in support of the amendment of the distinguished Senator from North Carolina to require State Department compliance with the personnel information requests of the Senate Committee on Governmental Affairs.

As my colleagues may know, this is not a new issue. The Senate Governmental Affairs Committee has sought to obtain the information described in the amendment before us for nearly 7 years.

Despite the repeated efforts of the committee leadership, however, the State Department has refused to supply the requested information on noncareer State appointments. This occurred with both the 1980 and 1984 committee requests. I want to underscore that the entire leadership of the committee was in agreement on this issue. Senator Tom Eagleton, then ranking minority member of the committee, was every bit as aggravated and infuriated as I that the State Department refused to provide the desired information. This is not a partisan concern, Mr. President, but an open Government concern.

By way of background I want to submit for the RECORD the statement that Senator Eagleton and I included in the forward to 1984 edition of the U.S. Government Policy and Supporting Positions Document:

Agreement could not be reached with the Department of State on the printing of a complete tabulation of positions in the Senior Executive Service subject to noncareer appointment. The committee's request for the information was identical to the request made in 1980, when the State Department also did not provide complete information.

The committee leadership strongly disapproves of the incomplete submission of the State Department and supports the public's right to know who is administering State Department programs.

Mr. President, despite the unique nature of the State Department personnel system, the Department does not have the right to withhold this personnel information from the Congress and the public. The information requested relates only to positions, not to the names of individuals who hold these positions. Thus the security of State Department personnel will not be threatened in any way by the provision of this data.

This is a full disclosure issue, Mr. President. If the American people desire to know the positions of those responsible for administering our foreign policy programs they should be permitted to obtain that information.

The amendment offered by my colleague will ensure that this public information is made available through the appropriate channel. I urge my colleagues to vote for the Helms amendment.

Mr. PELL. I think this is an excellent amendment. It has been cleared on this side and we support it.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing on the amendment.

The amendment (No. 925) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 926

(Purpose: Provide the State Department with flexibility to transfer certain funds between "Salaries and Expenses" accounts)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 926.

Mr. PELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Section 401(a)(4) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399) is hereby repealed. Funds authorized to be appropriated by Section 401(a)(1)(A) of that Act may be used for any "Salaries and Expenses" purpose, provided that use of funds for other than Diplomatic Security purposes shall be treated as a reprogramming.

Mr. PELL. Mr. President, this amendment, which has been cleared by both sides, would allow the State Department to use funds previously authorized for salaries and expenses under the diplomatic security program to be used for any salaries and expenses function.

Today we face an absurd situation. While certain programs are being squeezed to the bone, and the Department is considering laying off 1,200 people because of a shortage of funds for salaries and expenses, other funding categories are growing at a rate that cannot be absorbed. This amendment will give the State Department some discretion in moving funds to the areas of most need.

I think this is a truly worthy amendment and I trust it will pass.

The **PRESIDING OFFICER.** The Senator from North Carolina.

Mr. HELMS. I certainly agree with the amendment. It will be useful to allow the Secretary of State to make adjustments in the programs of the Department of State to allow the Department to deal with the budget reductions in the State Department—reductions which are affecting all agencies.

We are in a time of budgetary restraint, thank the Lord, at long last. This will help some, I hope, in terms of getting the Federal deficit under control. So I support the amendment.

The **PRESIDING OFFICER.** Is there any further debate on this amendment? If not, the question is on agreeing to the amendment. The amendment (No. 926) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 927

Mr. PELL. Mr. President, I send an amendment to the desk on behalf of the Senator from Texas [Mr. BENTSEN] and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for Mr. BENTSEN, proposes an amendment numbered 927.

Mr. PELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At appropriate place in the bill, add the following section:

SECTION. . DISTRIBUTION WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "AMERICA—THE WAY I SEE IT".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "America—The Way I See It"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Mr. BENTSEN. Mr. President, this amendment would permit distribution within the United States of a well-regarded film by a noted Danish filmmaker, Ebbe Larsen. Such legislation is needed in each and every exceptional case because of a prohibition in law against distribution of materials originally financed by the U.S. Information Agency.

This is an exceptional case, worthy of broader viewing. Ebbe Larsen's film, "America—The Way I See It," is a stirring depiction of our Nation's freedom and diversity. It contrasts sharply with the usual critical European view of American life and praises our people and our political system.

Mr. Larsen is the head of Orion Films, which produces documentaries widely used on Danish and European television. This particular film has been shown throughout Europe. Now, I believe, we in America should also have the privilege of viewing it.

I have a special interest in this matter because my own Danish ancestors came to America with the same hope and determination, the same love of freedom and willingness to do hard work, which Mr. Larsen's film shows we still have.

I hope that the Senate will agree to permit all Americans to see this fine film on our country.

Mr. HELMS. We concur in the amendment.

The **PRESIDING OFFICER.** Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 927) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 928

(Purpose: Changes the notification date for submission of the Presidential certification required by law on major drug-producing and transit countries from March 1 to February 15; extends the congressional review period from 30 to 60 days, and requires that the report include specific comments and recommendations by Federal agencies involved in drug enforcement)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 928.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the end of title V, insert the following new section:

SEC. . CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES AND INCLUSION OF SPECIFIC AGENCY COMMENTS.

(a) Section 481(e) of the Foreign Assistance Act of 1961 is amended by striking out "March 1" and inserting in lieu thereof "February 15".

(b) Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"(7) Each report pursuant to this subsection shall include specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have cooperated fully with such agencies during the preceding year as described in subsection (h).".

(c) Section 481(h) of the Foreign Assistance Act is amended in subparagraph (A), by striking out "30" and inserting in lieu thereof "60".

Mr. HELMS. Mr. President, the purpose of this amendment is to incorporate into the State Department authorization bill three noncontroversial provisions dealing with the annual narcotics report that were adopted by the Committee on Foreign Relations during consideration of the foreign aid authorization bill. Inasmuch as the future consideration of that legislation is in doubt, it seemed that this vehicle would serve as a logical vehicle for these very worthwhile changes.

All changes are designed to increase congressional oversight over the contents of the annual narcotics report in which the President certifies whether countries identified as major drug producing or drug-transit countries are cooperating fully with the United States.

Existing law provides, and the amendment does not change, the congressional procedures for reversing the

President's determination, except that the review period is increased from 30 days to 60 days.

Section (a) of the amendment amends section 481(e) of the Foreign Assistance Act of 1961 to change the notification date for submission of the annual Presidential certification required by law on major drug-producing and transit countries from March 1 to February 15.

Section (b) of the amendment amends section 481(e) of the Foreign Assistance Act of 1961 relating to the annual narcotics report to require that the report include specific comments and recommendations by Federal agencies involved in drug enforcement, including the U.S. Customs Service and the Drug Enforcement Administration, with respect to the extent to which countries listed in that report have cooperated fully with those agencies during the preceeding year.

Section (c) of the amendment amends section 481(h)(4) of the Foreign Assistance Act of 1961 to extend the congressional review period from 30 to 60 days.

Mr. PELL. Mr. President, the amendment that has been offered has already been approved by the Committee on Foreign Relations during its markup of the fiscal 1988 Foreign Assistance legislation; essentially it would provide more time for the Congress to consider the case made by the administration for certification of major drug producing or transit countries, and would ensure that the U.S. Customs and Drug Enforcement Agency are fully involved in the deliberations prior to the submission of certification.

I support the amendment as a practical, workable improvement to existing law.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 928) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 929

(Purpose: To limit the use of a foreign mission in a manner incompatible with its status as a foreign mission in order to correct abuses at the United Nations)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 929.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . LIMITATION ON THE USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

(a) AMENDMENT TO FOREIGN MISSIONS ACT.—The State Department Basic Authorities Act of 1956 is amended by adding at the end of title II (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act") the following:

"USE OF FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION

"(a) ESTABLISHMENT OF LIMITATION ON CERTAIN USES.—A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

"(b) TEMPORARY LODGING.—For the purposes of this section, the term 'residence' does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

"(c) WAIVER.—The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'foreign mission' includes any international organization as defined in section 209(b); and

"(2) the term 'unaffiliated alien' means, with respect to a foreign country, an alien who—

"(A) is admitted to the United States as a nonimmigrant; and

(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).

Mr. HELMS. Mr. President, this amendment, already passed by the House makes it unlawful for a foreign national to reside in housing provided by a diplomatic mission at the United Nations or elsewhere unless he or she is accredited to that mission.

For too many years now, the Soviet, and Eastern-bloc missions have followed the practice of housing two distinct groups of people in diplomatic compounds. The first group is diplomatic personnel and workers in the diplomatic mission itself. The second consists of personnel seconded to or employed by United Nations agencies who have a more limited form of diplomatic immunity than real diplomats.

The second group is not supposed to be living in quarters with the privileges of full diplomatic immunity and under the total control of the KGB. These international civil servants are supposed to be neutral, with their loyalties to the United Nations administrators, and not to their country of origin and citizenship. As long as they live under Soviet control, they are subject to Communist manipulation and obedience. They are, in short, agents, and spies for the Soviet Union.

The Soviet Mission to the United Nations houses its staff in the three Soviet apartment complexes on 5700, 5800, and 5900 Arlington Avenue, Riverdale, NY, and in the main Soviet Mission complex on 355 West 255th Street. There are approximately 235 Soviet nationals with their families who, like the Eastern-bloc and Chinese Missions, are not only housing international civil servants in violation of the United Nations Charter, but other equally high national security risks.

This amendment would also serve to correct other abuses practiced in foreign missions such as the housing of state commercial enterprises, businesses, or journalist teams.

This amendment also provides for a waiver by the Secretary of State, should he find an exceptional circumstance exempting a country's missions, however, waiver authority is granted only with a month's notification to Congress stating the reasons for the waiver.

This provision does not eliminate all of the violations of the United Nations Charter's regulations which it and the State Department had the power to enforce all along. But it does begin the effort to reduce an improper influence by home governments and the contribution of the American taxpayer to the salaries of supposed United Nations staffers who actually work for the Soviet bloc.

Mr. PELL. Mr. President, this is an excellent amendment and fills a gap. I recommend its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 929) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

AMENDMENT NO. 930

Mr. PELL. Mr. President, I send an amendment to the desk on behalf of Mr. PRESSLER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for Mr. PRESSLER, proposes an amendment numbered 930.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, lines 10 and 11, delete everything after the word TRANSYLVANIA.

Mr. PELL. Mr. President this amendment is purely a technical correction. In the markup session of this bill we deleted certain provisions from section 516 of the bill. Due to an oversight, the title of the section was not adjusted to reflect these changes. This technical amendment corrects the oversight and brings the title of the section in conformity with its content.

Mr. HELMS. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 930) was agreed to.

Mr. PELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I seek to exercise the right to use one of the time slots that the distinguished majority leader mentioned earlier.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

NOMINATION OF JUDGE ROBERT BORK

Mr. STEVENS. Mr. President, when Judge Bork was nominated by the President, I indicated on a trip to my home State, as I think the occupant of the Chair did, that I would await the completion of the hearings and an opportunity to examine the record before I would make any decision concerning this nomination.

I want to say in the beginning, Mr. President, that I am disturbed about the trend we are seeing in the Senate. We schedule hearings and invite people to come to us from all over the country to give us their points of view. They arrive to testify only to find the Members of the Senate reading prepared statements, stating their point of view before the hearings even commence. That happened in this instance and it bothered me. It bothered me considerably.

Then, as time passed, I found one after another Members of the Senate stating their positions before the hearings had been completed, before there was any recommendation to the Senate, and, I think, without an adequate time to determine which of the competing claims concerning Judge Bork's qualifications to become a member of the U.S. Supreme Court had merit.

I have now received the committee print of the hearings and I have them here, Mr. President. I have to confess I have not read them completely, but I have gone through them and found statements of many good friends and many good people I have known and relied upon for years on both sides of this issue.

Then I was presented by my good friend, the Senator from New Hampshire [Mr. HUMPHREY] with a compilation of key excerpts from the hearing record which I found quite helpful to me.

I might say that this is not the final hearing record as I understand there are some corrections to be made.

My findings are these: Robert Bork was Solicitor General from 1973 to 1977. He was confirmed by the Senate. I was a Member of the Senate at that time. Twenty-five Members of the Senate who accepted him unanimously as Solicitor General at that time are here now.

In December 1981, he was nominated to become a member of the Court of Appeals for the District of Columbia, probably the most important circuit court from the point of view of Government activity in our Nation. He was confirmed unanimously on February 8, 1982. Seventy-two Members of the Senate at that time, any one of whom could have objected and had a rollcall vote on his nomination, are still in this body today.

He has now been involved in 416 cases as a member of the court of appeals. In 95 percent of the cases that he has been involved in as a member of the court of appeals, he was in the majority.

The Supreme Court of the United States has never reversed a decision that Judge Bork was involved in as a member of the majority.

He has written 20 dissenting opinions. On six occasions the Supreme Court has considered cases in which Judge Bork has written dissents, and in each case they have reversed the court of appeals majority and sent the case back because they agreed with Judge Bork.

Last year we confirmed Judge Scalia unanimously; a very competent jurist who came from the same court of appeals.

In looking over the record, I find that Judge Bork agreed with Judge Scalia 98 percent of the time when they sat together on the court of appeals. In the two cases where they did differ, Judge Scalia, interestingly enough, criticized Judge Bork as being too liberal in his interpretation of the Constitution.

The current judges of the Circuit Court for the District of Columbia are predominantly appointees from Democratic administrations, and yet Judge Bork has agreed with his colleagues, who were appointed by former administrations, 75 to 90 percent of the time. Justice Powell, whom Judge Bork would replace, agreed with the position taken by Judge Bork 9 out of 10 times in cases that were reviewed by the Supreme Court.

I have gotten the impression from listening to other Members of this body that somehow or other this man is not in the mainstream. So my attention was taken by this publication I have in my hand, a special issue of Benchmark, a bimonthly report on the Constitution and the courts, prepared by the Center for Judicial Studies, a center with which I have had other contacts, and so have reason to rely upon their work.

I found this to be one of the most interesting studies that I have ever seen of any judge. This is a review by a series of professors, practicing lawyers, and resident scholars at the Center for Judicial Studies of the judicial record of Judge Robert Bork. They come to the conclusion, and it is a conclusion I now share, that Judge Bork would make an excellent member of the Supreme Court.

One of the things that interested me, for instance, is on page 140 of this report. It is this statement:

In cases involving statutory construction, for example, Judge Bork adhered to the view that legislative intent controls regardless of whom that may benefit.

One of the real difficulties I have had in 19 years as a Member of this body is trying to understand judges who totally ignore congressional intent. We go to the trouble of writing reports, of having dialog on the floor trying to establish the intent of Congress and time after time I have seen it discarded with one sentence: "We know the intent of this statute."

Here is a man who has been attacked because he has a strict construction philosophy, and that strict construction is based upon the concept that legislative intent should control.

For anyone who is still in doubt about Judge Bork, I would recommend that book. I think I have never seen a more scholarly approach by a group, an independent nonpartisan, nonprofit group reviewing objectively the work of a judge.

I am a former U.S. attorney, a former prosecutor. I am now married to a former prosecutor. My wife Catherine is a good lawyer and was an excellent prosecutor. We believe that one of the problems we have faced in our country in recent years has been the inability of the public to secure a fair hearing in criminal cases, that at times courts have gone astray. I believe it is time for a criminal justice system that is not only fair but is tough. I think the President has brought forward a judge who has a record demonstrating he shares that philosophy.

So if people are talking now about the concepts of not only protecting the constitutional rights of the accused but also protecting the rights of the public, law-abiding citizens to be free from criminal activity to the maximum extent possible under our democracy and pursuant to our constitutional rights and privileges, then I think this man's record as Solicitor General and as a judge confirms that he supports this concept and would do so as a Justice on the Supreme Court.

I was really taken by the fact that a whole series of former Attorneys General—the Attorney General under whom I served, two of them, as a matter of fact, Attorney General Brownell and Attorney General Rogers; also my good friend, former Attorney General Richardson, as well as former Attorney General Griffin Bell, whom I have had the pleasure to visit with only recently—have come forward in support of this nomination. I am currently a member of the Commission on the Bicentennial of the Constitution, and I was interested to see that our former Chief Justice, Warren Burger, who has dedicated himself to that Commission, also came forward and made an excellent statement in behalf of the nominee. Carla Hills, a former Cabinet Secretary, came forward and testified in his behalf.

For those who worry about Judge Bork's record on civil rights, I think they should look to the statement that was made by a young woman, Jewel LaFontant, a former Deputy Solicitor General, now in practice as a senior partner in a law firm. She came forward to tell of her experience as a young lawyer working with Judge Bork when he was Solicitor General; an excellent statement, and she was extremely fine under questioning according to the record.

I am not one who sits in my office and watches televised reports of what is going on in hearings. I do not have cable television at home, so I do not see these things at night. I rely upon the hearing records. I again have to put on the RECORD that I am saddened that we are almost compelled to come forward and state our position prior to the time that the nominee is called before the Senate. This is developing as part of the nomination process, and I think we should take a look at it.

Finally, Mr. President, Judge Bork is slightly younger than I am. He comes from almost my generation. I was interested that he served in the Marines, started in law school and left law school to go back for a second tour in the Marines during the Korean days. The dedication that this man has shown to his country, his dedication to his former wife, and his obvious dedication to the law support the judgment I have now reached that if his name comes before the Senate, I shall vote for him.

I should note in passing also that I have high regard for Lloyd Cutler, who was formerly President Carter's attorney in the White House, and who has also recommended the confirmation of Judge Bork.%

All in all, Mr. President, I am hopeful that some people will reconsider. They should look at this record and they should examine this document of the Center for Judicial Studies. It is called, A Constitutional Inquiry, the Judicial Record of Judge Robert H. Bork. If they did that, I think they would agree with me that this man deserves to be fairly treated as a nominee and we should vote to confirm him.

If my good friend wishes to make the statement, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I seek recognition in my own right to make a brief statement relating to the procedures of the pending nomination of Judge Bork.

The PRESIDING OFFICER. The Senator is recognized for that purpose. The Chair might note that two of the four slots have been used on this side of the aisle, so there would be two remaining. Senator WARNER would be using one of those.

Mr. WARNER. Mr. President, I thank the Chair.

(Mr. WARNER'S remarks are printed earlier in the RECORD.)

Mr. INOUYE. Mr. President, I ask unanimous consent that I be allowed to proceed for 8 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. INOUYE. On Monday, October 5, I met with Judge Robert H. Bork. I, with many other Americans, heard his commanding voice and saw him on television as he testified before the Senate Judiciary Committee. However, I wanted to meet and talk with him personally before reaching a final decision on his nomination.

After the President submitted Judge Bork's name to the Senate on July 7, 1987, I received an avalanche of reading material on his educational background, scholarly achievements, and professional prowess. Like many other Americans, I was impressed with his accomplishments and the many articles that he has authored. We politicians frequently give speeches, but seldom sit down to frame our views for publication and for posterity. I was also impressed with Judge Bork's academic record.

I further disagree with some of the objections that have been raised against Judge Bork's nomination. I would not question a person's qualifications to serve on the Court because he or she once entertained ideas that today seem questionable. Further, I would not condemn a person for experimenting with different political philosophies, or for changing his or her mind over time.

I also do not fault Judge Bork's mastery of the law. However, as indicated in a recent editorial in the Washington Post, a Supreme Court Justice requires more than technical legal ability. To put it simply, Supreme Court decisions should not be rendered in a vacuum. Rather, Justices must appreciate the "real-world" consequences of their decisions.

The purpose of the Court is not to design a vast edifice of impeccably logical legal rules. As one legal scholar noted, in this country the courts must do what is necessary and impossible—necessary because justice and decency require it; impossible because we often lack the courage, compassion, and sensitivity that our system demands of us.

There is a difference between technically applying legal rules and achieving justice. A legal technician could logically argue that there is no constitutional basis for prohibiting discrimination on the basis of sex, sexual preference, or race. However, in my view, the Supreme Court exists to pursue justice and not just to conduct exercises in logic. The Supreme Court is not a debating society convened to determine who has the most powerful intellect.

Judge Bork has stated that he wants to become a member of the Court to enjoy an "intellectual feast." I commend his enthusiasm for ideas. However, I believe that the role of the Supreme Court is to work with the executive and legislative branches of Government to carry out the commitments stated and implied in the Constitution.

I agree with Judge Bork that we must be unfailingly loyal to the Constitution and to its framers' intent. However, I cannot understand or accept his very narrow assumptions about the intentions of those who founded our Nation. I believe the framers differed on too many issues to resolve them in detail. Accordingly, they deliberately used language that invites us to continue the process of shaping a just and decent society. I am certain that they expected us to be flexible, realistic, sensitive, and compassionate.

The Supreme Court, through the years, has embraced these values to uphold not only the words but also the spirit of our Constitution. The Court has been called upon when the executive and legislative branches of Government either refused or lacked courage to act.

For example, the Court, in *Brown* v. *Board of Education,* 347 U.S. 483 (1954), overruled the "separate but equal" doctrine adopted in *Plessy* v. *Ferguson,* 163 U.S. 537 (1896), holding that the segregation of school children solely on the basis of race violated the 14th amendment right to equal protection.

The Court acted similarly in *Griswold* v. *Connecticut,* 381 U.S. 479 (1965), to protect a married couple's right to use any form of birth control or for a physician to counsel a married couple with regard to contraception. It's decision was based upon the right to privacy implicitly protected by the Bill of Rights or its penumbra.

Moreover, in a unanimous decision, the Court, in *Meritor Savings Bank* v. *Vinson,* 106 S. Ct. 2399 (1986), ruled that unwelcomed sexual advances creating an offensive and hostile working environment constituted sexual harassment in violation of the equal protection clause. The issue of whether the employee "voluntarily" engaged in such conduct was held not to be paramount to a finding of sexual harassment.

Further, in *Wallace* v. *Jaffree,* 472 U.S. 38 (1985), the Court held that silence for meditation or voluntary prayer violates the freedom of religion clause of the Constitution. This first amendment freedom protects the right to select any creed or none at all. Accordingly, the Court reasoned that an individual's freedom to choose a religion is equally balanced by the right to refrain from accepting a particular religion established by the majority.

These decisions embody the concept of domestic tranquility as contained in the preamble of the Constitution of the United States. I do not recall any references to "domestic tranquility" in the volumes of testimony delivered before the Senate Judiciary Committee. However, I submit that it is a concept central to our constitutional system, which has, on many occasions, been preserved by Supreme Court decisions allowing people of disparate views and traditions to live and work together.

I believe a special place was reserved for the Supreme Court in our constitutional system to provide for both continuity and change in our society, and to protect the inalienable and implicit rights of our people. We can differ about the meaning of the words used by the framers of the Constitution, as they differed among themselves. However, we cannot dispute the basic system they created which commands that the Court concerns itself with the realities of human lives.

Most respectfully, I believe that Judge Bork's view of the Court diminishes its responsibilities and trivializes our system. As Supreme Court Justice Oliver Wendell Holmes said, "The life of the law is not logic but experience." Judge Bork may be a superior legal technician, but unfortunately he has not displayed an appreciation of the need for compassion, sensitivity, and justice in constitutional interpretation.

Accordingly, I do not support the nomination of Judge Bork to serve on the U.S. Supreme Court.

The PRESIDING OFFICER (Mr. ADAMS). The time of the Senator from Hawaii has expired.

MAKE A WISH

Mr. McCAIN. Mr. President, I rise to make a few remarks about a remarkable and wonderful foundation called the Make a Wish Foundation.

This foundation, a nonprofit, volunteer organization, was started in Arizona in 1981. The purpose was to grant the wishes of children under 18 years of age suffering from life-threatening illnesses. Over 1,000 children last year had their wishes granted. These wishes range from a trip to Disneyland to a trip to Mexico City, a visit with their elected Governors; indeed, on occasion, the wishes of these young Americans are to visit their elected representatives in Washington.

Funds for this organization are privately raised. Local chapters receive funding assistance from the national organization, and there are substantial contributions received in goods and services that lead directly to granting wishes of children.

Mr. President, we lead a rather hectic life, and sometimes a frustrating one, here in the U.S. Senate; but, fortunately, on occasion our lives are touched by those who show courage, enthusiasm, and love in the face of serious problems which confront them. Such a young man is here today with me in Washington—Mr. Tom Foley, of Tucson, AZ. He and his family have been here since Monday. Tom Foley will receive an operation for a bone marrow transplant next week.

I have been touched by his courage and impressed with his enthusiasm, and I am proud that he is a fellow Arizonan. He is a young man who not only we in Arizona are proud of, but all Americans are proud of. Our thoughts, hopes, and prayers will be with him next week as he undergoes an operation that we all hope will be successful.

The PRESIDING OFFICER. The time has expired under the unanimous consent request.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the continuation of S. 1394.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I believe the distinguished Senator from New Hampshire has an amendment.

The PRESIDING OFFICER. Does the Senator request unanimous consent that the Helms amendment be set aside for the consideration of his amendment?

Mr. HUMPHREY. I ask unanimous consent for that agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 931

Mr. HUMPHREY. Mr. President, I ask for the consideration of this amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY] proposes an amendment numbered 931.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . ADMINISTRATION POLICY ON AFGHANISTAN.

(a) Findings.—The Congress finds that—

(1) Each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) Although the Administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces," political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) In the absence of a coordinated and aggressive policy by the Administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union;

(4) Despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the Administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) Report to Congress.—(1) Not later than sixty days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction;

(2) Not later than sixty days after the date of enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that will be withheld from the Soviet Union, if they do not withdraw all troops from Afghanistan within a date that is three months after the date of the enactment of this Act;

(3) A detailed and comprehensive report in a suitably classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawal and any new troops deployment;

(4) A status report on the structure, coordinating and military success of the Afghan Freedom Fighter Alliance.

Mr. HUMPHREY. Mr. President, I thank the chairman of the Foreign Relations Committee, Senator Pell and the ranking member, Senator Helms, for cooperation in coming to an agreement.

I understand this amendment is now acceptable to both sides. It consists of findings that the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted, and goes on to note that while the administration's stated policy is that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to withdraw their forces," nonetheless, such political and diplomatic pressures have been reduced. Reduced, not increased, reduced and they are steadily being reduced.

Indeed in my view it is business as usual between the United States and the Soviet Union and not only is this business as usual but business increasingly more friendly and effusive and comprehensive than usual, and that would be well in normal times but while the Soviet Union is engaged in the daily brutalization and bludgeoning and raping of Afghanistan these can hardly be called normal times.

So this is an important amendment and reaches those findings and others and requires in effect an explanation and a list of sanctions which this administration is willing to impose as a penalty for the Soviet crimes in Afghanistan.

I thank my colleagues for their cooperation and that of their staffs in coming to an agreement on this important amendment.

Mr. PELL. Mr. President, this amendment is a good amendment. It has been worked out after considerable discussion between the Senator from New Hampshire and our staffs. I think it should be passed and I intend to support it.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I will express to the distinguished Senator from New Hampshire my acceptance of the amendment and asking him to make me a cosponsor of the amendment.

The PRESIDING OFFICER. I could not hear the remarks of the Senator from North Carolina.

Mr. HELMS. Mr. President, the Senator from North Carolina was not thoughtful enough to pick up his microphone. I apologize.

I simply told the Senator from New Hampshire that I would express my approval of his amendment by asking him to make me a cosponsor of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I thank the distinguished majority leader and the ranking member of the Foreign Relations Committee for adding their luster to this effort. I thank the chairman for his help.

The PRESIDING OFFICER. Do the Senators on the majority and minority sides yield back the balance of their time on this amendment?

Mr. PELL. I do.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Yes, Mr. President.

The PRESIDING OFFICER. All time has been yielded back. Therefore, the question recurs on agreeing to the amendment of the Senator from New Hampshire [Mr. Humphrey].

The amendment (No. 931) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 932

Mr. KERRY. Mr. President, I send as amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. Kerry], for himself, Mr. Harkin, Mr. Ford, Mr. Wirth, Mr. Simon, Mr. Adams, Mr. Moynihan, Mr. Hatfield, Mr. Dixon, Mr. Weicker, Mr. Sarbanes, Mr. Melcher, Mr. Bond, and Mr. Johnston proposes an amendment numbered 932.

At the appropriate place in the bill, add the following new section:

Sec. . Findings.—The United Nations has passed nine resolutions condemning the violation of human rights in Iran;

The United Nations Subcommission on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that to date, more than 200,000 Iranians have been imprisoned, tortured or executed because of their beliefs;

The United Nations Commission on Human Rights confirms 7,000 executions in Iran between 1978 and 1985, and attests that the actual number is probably much higher;

Despite the persistent requests over the past 6 years by the United Nations and by many human rights organizations that the Iranian Government allow a special representative of the United Nations Security Council to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian Government;

Executions, including executions of children and members of religious minorities, apparently still take place in Iran;

The Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

Iran has rejected all proposals to end the 7 year Iran-Iraq War.

Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq War;

The Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region;

It is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy; Now therefore the Congress—

(1) Expresses concern for those citizens who against their will must endure war and unprecedented repression;

(2) Supports an official U.S. policy of completely halting the shipment of any kind of armament to the Government of Iran;

(3) Urges that the President continue to make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons and to pressure Iran to permit inspection of Iranian prisons by an international delegation; and

(4) Expresses support for all efforts made through the United Nations Security Council to pressure the Khomeini government to accept peace and to end the carnage caused by the 7 years of war.

Mr. KERRY. Mr. President, I thought the clerk, by reading that, in fact could save me from making a long speech. I appreciate his doing so.

I think the resolution is self-explanatory.

I think all of us know that there are governments and there are entities around the world that engage in violations of human rights, but I do not think any of us know of one entity that adopts as a public policy a right to violate those human rights and flaunts it so willingly in the face of all people in the world.

In 1985, Sa'eed Raja'i Khorrassani, the ayatollah's personal envoy to the United Nations, said:

> We do not claim that we observe human rights standards. The bill of human rights and its contents are not criteria for us to judge by or to make decision on. We urge our critics not to criticize us for what we do not believe in.

Well, Mr. President, they are signatories to the United Nations covenant on civil and political rights and that expresses the unanimity of support among nations for the protection of certain fundamental rights—fundamental rights—that go well beyond the Constitution or the individual prerogatives of any country.

This resolution documents the incidents of children's torture, of children being sent to the war front against Iraq. Against all of their pronouncements we again and again see Iran take the initiative in violent actions against other countries.

I am joined by Senators FORD, WIRTH, HARKIN, SIMON, ADAMS, MOYNIHAN, HATFIELD, DIXON, WEICKER, SARBANES, MELCHER, JOHNSTON, and BOND, who all feel that we should make an appropriate statement here in the U.S. Senate about our feelings about that kind of attitude and that kind of position of any sovereign nation in the world today.

The U.N. International Covenant on Civil and Political Rights, to which Iran is a signatory, expresses the unanimity of support among nations for the protection of certain fundamental rights. To abide by this covenant does not infringe on the autonomy of any government. Therefore, while we recognize Iran's rights to base its laws on social, cultural, and religious traditions, we maintain that those laws must be in accord with the human rights obligations every nation has to its own people. To reject the legitimacy of basic human rights, as has the Khomeini regime, is to license unrestrained and unlimited government atrocities. For Iran to reject the U.N. Covenant represents an effective declaration of war by that government against its own people.

No government in the world is quicker than the Khomeini regime to accuse other nations of fostering violence in instability in international affairs. Yet it is this same regime which has consistently spurned attempts by the international community to end its 7 year war with Iraq. It is this same regime which refused to cooperate with U.N. Secretary General Javier Perez de Cuellar during his attempt to bring about a cease-fire in the Persian Gulf in September. It was the revolutionary guards of the Khomeini regime that were caught last month by U.S. naval forces laying mines in international waters, and it is the open policy of this regime to attack participants and non-participants in the Persian Gulf conflict, military and nonmilitary alike.

The Khomeini regime simply has no regard for its responsibilities either to the international community or to the people of Iran. Iranians are routinely and systematically denied even the most basic and fundamental of individual rights: The right to life, to freedom of thought and expression, to religious and political beliefs, and the rights of security of person and property. Denial of these rights is the action of despots.

According to the reports of the U.N. Subcommission on the Prevention of Discrimination and Protection of Minorities, more than 200,000 Iranians have been imprisoned, tortured, or executed because of their political beliefs or their opposition to the government of the Ayatollah Khomeini. The U.N. Commission on Human Rights has information on some 7,000 persons executed in Iran between 1979 and 1985, and attests that the actual figure was probably much higher. The executions cannot be justified under any religious or political pretense. They amount to little more than cold-blooded murder.

There is no legal recourse for those accused of political crimes or crimes of conscience in Iran. Amnesty International knows of no political case before a revolutionary court in which the accused was allowed to have a lawyer. Executions are carried out based on no more than a summary trial. Charges and verdicts are often kept secret, and there is no right to appeal. To conduct trials in this way is a cruel mockery of justice. It provides little more than a forum for the formal pronouncement of death against which the victim is entirely defenseless.

Furthermore, Iran routinely uses torture against prisoners. Amnesty lists beatings on the feet, floggings, and hanging by the arms or wrists as common methods of abuse used on prisoners of conscience. There also have been regular reports of sexual abuse and mock executions. I reiterate that there is no justification for these tactics under any rational system of justice, and there is most certainly no justification under the humane teachings of the Koran.

The Government of Iran does not discriminate by sex or age in its abuse of human rights. Amnesty International has received numerous testimonies from former political prisoners in Iran that many of the victims of political detentions and executions in Iran are women and children. Executions of children and young people under the age of 18 is prohibited by international law, including the U.N. Covenant on Civil and Political Rights, which Iran has ratified and now openly renounced.

Human rights violations in Iran are not restricted to the realm of the courts, prisons, torture chambers, and gallows. The Khomeini regime demonstrates a complete disregard for acceptable standards of decency in the conduct of its war with Iraq. The regime continues to forcibly dispatch children to the war fronts. Iranian President Ali Khamene'i explained the regime's rationale in 1985, stating:

> Our enemies think if they publicize that the Islamic Republic sends youngsters to the war fronts we will fear the negative publicity and will back down and stop mobilizing youngsters. The children and adolescents themselves cry and beg to be sent to the fronts.

It is difficult to imagine an attitude more cynical or a style of leadership more cowardly and manipulating than that of religious leaders who are willing to send their children to the fronts as cannon fodder in what they perpetuate under the guise of "holy war."

Over the past 6 years, the United Nations and many other respected human rights organizations have repeatedly requested that a special representative of the U.N. Security Council be permitted to inspect Iranian prisons to determine the extent of torture used by the Government of Iran against its own people. These requests have been consistently rejected. This amendment calls upon the Government of Iran to cooperate with the United Nations to halt the practice of State-sanctioned torture and political executions, and to open their prisons to inspection by respected international human rights organizations.

The amendment also calls for Iran to embrace the efforts being made by the United Nations to bring an end to fighting between Iran and Iraq and to make a sincere effort to restore peace to the Persian Gulf region. To further this end, our amendment endorses the policy of our Government calling for a total embargo in the shipment of arms to Iran.

Finally, in this amendment, we express our solidarity with the people of Iran, who have had to endure countless hardships and injustices to maintain a repressive regime in power. The criticisms of this amendment are aimed at the regime of the Ayatollah Khomeini. The solidarity expressed in this amendment in support of justice and peace is extended to the Iranian people. We are adding our angry voices to those of the international community who support the Iranian people's effort to throw off the yoke of tyranny and to live free of fear of the arbitrary violence which characterizes the regime of the Ayatollah Khomeini.

I believe this amendment will be accepted by both the minority and the majority.

Mr. PELL. Mr. President, the Senator from Massachusetts is correct. This is a good amendment and most acceptable to this side of the aisle.

Mr. HELMS. Mr. President, it is a good amendment and I ask the distinguished Senator from Massachusetts to include me as a cosponsor.

Mr. KERRY. I do so, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 932) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. A parliamentary inquiry, Mr. President. Is an amendment in order at this time?

The PRESIDING OFFICER. The Helms amendment No. 914 is presently pending and would have to be laid aside.

Mr. HELMS. I ask unanimous consent that my amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the amendment is temporarily laid aside.

The Chair will state that the amendment of the Senator would be in order at this time.

Mr. DOMENICI. Are there any previously agreed to time limitations that apply to the amendment of the Senator from New Mexico?

The PRESIDING OFFICER. There are no time limits.

Mr. DOMENICI. Mr. President, I will say to the managers of the bill I will try my best to take no longer than 20 minutes on my amendment. It is a very simple and brief amendment. I would also like to address what I consider to be a very serious matter with reference to the operation of our diplomacy overseas. Mostly, though, I wish to discuss the budget sequester, which is imminent, as it might affect the other part of our activities overseas; namely, the military of the United States.

Might I say to the floor managers while I do not agree to a 20-minute time limitation at this point, I probably will not take longer than that.

AMENDMENT NO. 933

(Purpose: To modify committee language prohibiting State Department closings of U.S. embassies and consulates abroad, so that amount of State Department salaries and expenses funds "fenced" or withheld from obligation pending reopening of certain consulates is reduced from $500 million to $50 million)

Mr. DOMENICI. Mr. President, unlike the distinguished managers of this bill, I am not an expert, nor do I claim to be, on the inner workings of the State Department. On the other hand, I do know something about the budgetary crisis that is facing this Government.

I know that our national security is at risk as the Departments of Defense and State are picked out by Congress as the place to find almost all of our deficit reduction this year on the spending side of the ledger.

Many Senators spoke about the problems of defense reductions over the past few weeks, and I will shortly have more to say about that.

THE FOREIGN AFFAIRS BUDGET CRISIS

Regarding the problem of foreign affairs budget reductions, however, I can do no better than the editors of the New York Times last Saturday.

> The lawmakers are playing dice with the country's security.

Mr. President, I ask unanimous consent to insert at this point in the RECORD the New York Times editorial to which I have just referred.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 3, 1987]

THE FRONT LINE OF DEFENSE AND PEACE

> Unless Congress decrees otherwise, the United States will soon be closing 15 overseas diplomatic posts including two embassies, and laying off 1,300 employees from a State Department payroll of 22,000. Congress proposes to slash a crippling 23 percent, or $767 million, from the Department's budget. And this is being inflicted by the same lawmaker's who piously bewail Washington's declining global influence and risky dependence of cheaper-to-hire foreign nationals.
>
> These prospective cuts represents the mentality of a banana republic, not a great power. Diplomacy is the first line of defense and the front line of peace.
>
> Congressional desire to reduce the Federal deficit makes sense. But the cuts are far from equitable and sensible. The same Congress that begrudges diplomacy continues to approve by unrecorded voice votes billions for pork-barrel programs. And it's not just a matter of pouring money into vote-getting domestic programs. Congress has disproportionately cut State Department operations overseas compared with overseas missions of other departments that employ 70 percent of U.S. personnel abroad.
>
> The lawmakers are playing dice with the country's security: America's Foreign Service officers supply the bulk of political and economic intelligence. They often work under the worst and most dangerous conditions, as in Lebanon. Now they are asked to do more for less, and are blamed for failures to improve embassy security in Moscow—which is a bit much coming from legislators who for years showed so little interest in repeated appeals for needed security funds.
>
> No homeowner would sensibly economize by canceling fire insurance. That's what Congress proposes to do—unless the Senate rises above the House's banana-republic reflexes and reinstates money denied a Federal department as vital as it is vulnerable.

Mr. DOMENICI. When the reductions, earmarks, and other restrictions, imposed upon the Secretary of State by this authorization bill, are combined with the actions taken by the Appropriations Committee to live within its budget, the outcome, I assure you, will be more than trimming around the edges. It will make it impossible for the Secretary of State to effectively manage his Department.

Whether one agrees with the Secretary of State all the time or not, I would repeat, if we end up with the limitations, restrictions, fencing, and what the Appropriations Committee intends to spend on foreign affairs, it will make it impossible for the Secretary of State to effectively manage his Department and our affairs overseas.

Mr. President, I am not critical of the managers of this bill. They are doing their very best in a difficult situation. I know that the distinguished chairman, the Senator from Rhode Island, and the distinguished ranking Republican manager of this bill, the Senator from North Carolina, have both spent many years, in different ways, working to improve the State Department.

Like the managers, at times I have been frustrated by the Department. I hear from New Mexicans who have problems with the Department overseas. I also know line officers who served in the Department with distinction and, in fact, several of them, two from my home State of New Mexico, are on the most recent promotion list in the Foreign Service of the United States. One of them, Roger Gamble is deputy chief of mission in Mexico.

As we all work to improve this Department and reduce the overall budget, we cannot make it impossible for these officers to do their difficult jobs. Unfortunately, that may be exactly what we are doing here, reducing necessary flexibility.

MORE FLEXIBILITY IS NEEDED ON POST CLOSINGS

One of the provisions of this bill that appears to ignore the budget cuts facing the Department is section 107. It not only forbids the closing of any consulates and other State Department posts overseas, but it requires that several already closed be reopened.

As I indicated, I am not an expert on which should posts be open and which should be closed, but I know enough to be troubled by this restriction.

As this bill is about to be approved by the Senate, I have not yet heard an explanation of how it is going to be possible to keep every post open and live within the budget Congress has passed. Yet, section 107 holds hostage $500 million of State Department salaries unless this is done immediately.

The Department faces unprecedented reductions in its budget. Salaries and expenses alone are going to be reduced by more than $200 million below the 1988 request of the Secretary.

After all, the Secretary of State has announced the closing of 13 consulates and 2 Embassies and the reduction of more than 1,000 positions from the Department's Washington staff. In this Senator's view, since he is confronted with these kinds of problems, that is a prudent decision.

Now, Mr. President, after a few minutes of discussion on the defense part of our National Security, I will propose an amendment that I think will be acceptable to the managers of this bill with reference to section 107.

THE IMPACT OF A SEQUESTER ON NATIONAL DEFENSE

Mr. President, I came to this body in January 1973. In this Chamber I have participated in many difficult and trying events: the aftermath of Vietnam, Watergate, a terrible recession. There have been periods of turmoil and there have been periods of triumph.

What I want to talk about with my colleagues is what we might anticipate over the next several weeks, a period that is likely to prove as trying and as difficult as any we will experience during our careers as Members of this body.

This will be the period when we go face to face with the budget, when the vise of the sequester is tightened on programs for both our defense and various domestic needs.

I need not remind the Senate that I did not support the last Gramm-Rudman-Hollings fix, and I do not appear here today to discuss as sour grapes what is going to happen to the defense of our Nation under that sequester. I believe we should just all face up to it, because I think there are some very big myths out there and some serious misunderstandings.

We are going to see that vice tighten, as I indicated, on both defense and domestic programs. Remember that we must reduce the deficit by $23 billion, or such a cut will automatically occur through sequester across the board.

Throughout this period, I anticipate we will hear from many of our constituents and we will hear one constant refrain: "Take it out of defense."

The defense budget, we will be told, contains a lot of fat, has grown precipitately, and is responsible for the deficit. No problem, take it out of defense.

Mr. President and Members of the Senate, that is false. If we continue to revert to this easy answer to America's difficult problem, we will with absolute certainty increase the danger that the Federal Government will have to go through a sequester. Somehow, the truth about defense spending has failed to reach the American people, including, I fear, many Members of Congress.

Let us look at the record, at the history of our recent spending on defense. Despite what we hear about the President's so-called military buildup, one of the best kept secrets—I repeat, one of the best kept secrets—in Washington is this fact: For 3 years, Mr. President—not 1, not 2, but for 3 years—there has been a banana peel under the defense budget. The defense budget has been slipping backward, even before any discount for inflation. In fiscal year 1985, we spent $295 billion on defense. That was the budget authority for defense, Mr. President. Let me repeat, in 1958, our budget authority for defense was $295 billion.

Now, Mr. President, I am absolutely confident that if you had a random selection of 100 Americans at almost any meeting and you said to them, "The Defense budget in 1985 was $295 billion. What do you think it is today? Do you think it has gone up?" I predict that 99 out of 100 would raise their hand and say, "It has gone up."

Ninety-nine would be wrong.

A year later, we cut defense spending to $287 billion. Then came 1987. I figure if we said to our fellow Americans, and some Members of Congress, "Put up your hand if the defense budget is higher in 1987 than 1985," a huge percentage would put up their hands and say it is higher.

Let me tell the Chair and the Members of the Senate, those who did so would be wrong again. In fiscal year 1987, we ended up with a defense budget lower still, $285 billion.

Now, you recall we started at $295 billion in 1985. We are now 2 full fiscal years later at $285 billion.

Each year, of course, we approved far less than the President recommended. For some, that may not even be a relevant fact. But for others it is; it offers a benchmark. Over these 3 years we budgeted a total of $85 billion less than President Reagan proposed for national defense.

What happened in the rest of the budget? Over the same period of time, Mr. President, 1985 to 1987, nondefense spending rose to $635 billion from $565 billion. The arithmetic is simple and the number is rather large—an increase of $70 billion. Those figures ignore all costs related to interest on the national debt, but they are very simple. In 3 successive years, defense went down, from $295 billion to $285 billion, while domestic programs went up $70 billion.

Now, I am not here making the case, Mr. President, that domestic spending went up an inordinate degree. I am not trying to make that case. Let us make that case as we analyze other things.

I am merely making the point, Mr. President, that it is not an enormous increase in the Federal Government's defense spending that is causing the problem.

The deficit problem today, no matter what some may argue, is not the product of America's defense spending. The deficit has been riding a tidal wave of domestic increases.

What about this year? The first whirlwind will strike us this weekend, and that is why I am speaking. On Saturday, the Department of Defense must decide under the new law whether to extend the sequester to military personnel, and thus hold its overall sequester rate to 6.5 percent across the board, or whether to exempt military personnel and raise the sequester across the board for the rest of defense to more than 10 percent on all accounts.

Now I note that the distinguished occupant of the Chair, a former chairman of the House Budget Committee, is listening intently. The Defense Department of the United States this weekend will decide whether it will exempt military personnel, which we allowed them to do under the sequester. But you see military personnel spends out so rapidly that they are making a major, major decision. If they exempt military personnel, they will have to cut the rest of the Department of Defense across the board 10 percent. If they leave personnel in, and let personnel take its share with all the others, it will be 6.5 percent.

Mr. President, some may have thought when we gave the Defense Department in the Gramm-Rudman-Hollings latest fix the option to exempt military personnel it was going to be an easy choice. I submit that the numbers indicate that it is not going to be.

As a matter of fact, I believe it is fair to say that the leaders of America's defense are clearly considering the option of cutting military personnel along with everything else because of what I have just described.

So let me suggest to my fellow Senators, and my fellow Americans, and those who are concerned about America's defense, what is apt to be the result this weekend if the Department of Defense elects to take the sequester across the board on everything, including personnel. I believe they might do that in spite of the fact that we have finally built an All-Volunteer Army that is heralded as the best we have ever had, and despite the fact that we have exciting young men and women joining up. They may be forced to opt not to exclude personnel.

Now, I would like my fellow Senators to listen to what will happen if they decide to let the cut occur across the board, including military and civilian personnel to avoid a huge, 10-percent across-the-board cut in the rest of the defense programs. I hope we will listen carefully.

I hope Senators who think there is no real problem with defense—it has the easy way; we can just keep cutting—will listen to what news they are going to get Saturday, Sunday, or Monday across this land.

If military personnel are not protected from a sequester, a lot of soldiers, and sailors, and airmen will soon be coming home to look for jobs. To meet this sequester, the Department of Defense estimates that it will have to lay off, Mr. President, and send home to look for other jobs, or demobilize throughout the fiscal year, 287,000 active military personnel, men and women of the Army, Air Force, Marines, and Navy; 287,000. That is not the end of it.

Those are 287,000 out of the 2.1 to 2.2 million active military personnel. The number is so high because of the slow spendout rates on the other accounts.

The cuts do not end there. The Department of Defense will reduce its Reserve forces 130,000. And it will have to reduce, slash, cut, whatever you want to call it, 138,000 civilian personnel presently working for the Department of Defense. I hope you got the numbers: 138,000 civilians will be looking for work; 287,000 active military will be coming home, while we are running advertisements saying "Join the Marines; come and join the Navy; see the world, get educated, learn a trade."

We can cut those ads off. The good young people that are going to be looking at the military are going to be welcoming their brothers home.

I am not overstating the case. Frankly, if I were the Secretary of Defense, I would have a very difficult decision because, I repeat, it is either this or you take a huge cut across the board in all the rest of defense—operation and maintenance, spare parts, those things that spend out rather rapidly and quickly. That will be an enormous cut, in excess of 10 percent. They have to make a decision whether they want to build down in the midst of a modernization, or let these personnel—civilian, military, and reservists—go home.

I do not know what the right decision is. But I can tell you, there is only one of two ways. If they keep them, they slaughter the rest of defense; if they lay them off, they slaughter America's program of the All-Volunteer military with the very finest that we have ever had.

(Mr. DIXON assumed the chair)

I wish them well in their decision. But I suggest this is not what we ought to do.

I wish I could say that the sequester is the only problem; that the across-the-board cut is the only problem. If you listen to the numbers, then you will find out that we have taken the easy way even without the across-the-board cut because if we were to appropriate what is in the budget, we are only going to appropriate $286 billion, and the sequester or across-the-board is only $280.

So no matter which way we go, the orderly way of funding it, or the unorderly way of having the train wreck of sequester, we have obviously sold ourselves a bill of goods that this deficit ought to be solved on the back of defense spending. Some will still say it is outragous, it is exhorbitant, it is the cause of the deficit. I hope those who look at the budget and look at America's defense will read these numbers, will read the facts, and conclude that we had better, in the interest of common ordinary sense, dispel the myth that it is defense spending that has caused us to have this enormous deficit.

Mr. President, I have more remarks to dispel the notion that somehow or another this buildup in our defense is inordinate in comparison to past American defense spending eras and periods.

Suffice it to say that we are nowhere close to past eras and how much of our GNP or our budget we spend on defense. As a matter of fact, at 6 percent of GNP, which is where we are headed, we will be close to the lowest point, other than one short period during the Presidency of President Carter. In all other years since the Second World War, we have never been at so low a level, and yet, there are those who continue to say the biggest portion of savings for budget reduction should come out of defense.

This will be the fourth year in a row when defense has come down, not up, in terms of programmatic authority to keep our military equipped, manned, and moving toward modernization.

There are many other arguments that are left out of this short discussion, the last one being that once you have built, spent, and are ready to have America's military modernized, it is almost lunacy to take away the operation and maintenance money, the spare parts, and put the ships into harbor instead of at sea, leave the airplanes on the ground instead of in the air. It would be enough for any corporation to fire its CEO for malfeasance.

Suffice it to say that we are moving toward a low, low level, when it does not seem to me that there is any evidence that the world has grown safer.

Whether we end up with a low-tier defense of $289 billion, or a high-tier defense of $296 billion, or whether we have a sequester that could drive defense spending down as low as $280 billion, America's defenses will be hurting.

At the very most, we will spend only $1 billion more for defense than we did 3 years ago. In inflation-adjusted dollars, that puts defense spending at 9 percent below where it stood 3 years ago. That's the very best level. The low number would mean a post-inflation drop exceeding 10 percent.

All of this gives America far less defense than the bare-bones $303 billion defense authorization bill the Senate passed last week under the leadership of the distinguished Senator from Georgia [Mr. NUNN].

But the myth persists: There is lots of fat in the Pentagon. Let us look a bit deeper to see where we might find all those so-called easy cuts in the defense budget.

Close to half the defense budget goes to pay and pensions and other people-related spending. As I indicated, I doubt cuts in this area will be easy.

Another quarter of the defense budget goes to preparedness, which is really operations and maintenance—keeping the planes flying and ships afloat. That's where Congress has done most of its cutting over the past 3 years. Are there any more easy cuts left in this area? I doubt it.

Where Congress probably will cut, and cut again, is in the programs like research and weapons—our investment in our future defense. In these areas, to get $1 billion in cuts that count toward the deficit, we actually have to reduce budget authority far more. Outlays simply come very slowly out of this type of spending authority.

Remember how tight things were last year? They were so tight that we had to delay DOD paychecks for a day into the new fiscal year, which gave us a $3 billion savings the previous year to meet the appropriations level.

Then this year, we produced another gimmick. The House recommended $6 billion in bill-me-now-pay-you-later savings; all we do is ignore our defense bills the final 12 days of the fiscal year.

Under the new Gramm-Rudman-Hollings law signed a week ago, spending gimmicks like that no longer can count toward deficit reduction.

Before closing, I believe we must set some of these figures into an historic perspective. Many people may not realize that the United States is now spending a far smaller proportion of our gross national product on defense than at any time since World War II, wartime or peacetime. The only exception is the pit reached in 1980, when that share dropped to a frighteningly low 5 percent.

Our present rate is back to 6 percent, a number that contrasts sharply, of course, with what the Soviets spend. Their defense spending stands in the range of 15 to 17 percent of their GNP.

Does anyone on this floor believe the Soviets will cut back their spending if we do? If we cut military personnel by 287,000, will they match us?

Do any of my colleagues doubt that our increased military spending prior to 1985 acted as the catalyst that dragged the Soviets to the arms-control table?

Mr. President, I ask unanimous consent to have printed in the RECORD some charts in connection with this matter.

There being no objection, the material ordered to be printed in the RECORD, as follows:

SPENDING DEFENSE VERSUS NONDEFENSE, FISCAL YEAR 1985-1988

DEFENSE

In nominal dollars defense budget authority (the true measure of defense spending) has declined steadily since 1985. Under the proposed low-tier spending level for 1988, *defense budget authority will be $5.7 billion lower than the level in 1985*. This would represent an absolute decline at an annual rate of 0.6 percent per year.

	Budget authority	Outlays
1985	294.7	252.7
1986	286.6	273.0
1987	285.6	280.4
1988:		
Low tier[1]	289.0	283.6
High tier[2]	296.0	289.5

1985-88, −5,700,000,000.
1985-88, +1,300,000,000.

From 1985 to 1988 low-tier, defense spending authority has declined $5.7 billion; from 1985 to 1988 hi-tier spending authority has remained virtually unchanged, with a slight increase of $1.3 billion

In real dollars (corrected for inflation) defense spending authority has declined at an annual rate of 3.7 percent, between 1985 and 1988 (using low-tier). Even using the 1988 high-tier spending level defense in real terms will have declined 2.9 percent per year.

NONDEFENSE SPENDING

In comparison nondefense spending (excluding interest payments) has increased over the last three years by over $70.0 billion. *Nondefense spending has increased from $564.2 billion in 1985 to a projected $634.5 billion in FY 1988* (using the FY 1988 Budget Resolution assumptions). This represents a growth in nondefense spending of 4.0 percent annually.

Nondefense spending:

1985	$564.2
1986	579.5
1987	593.1
1988	634.5

NOTE.—Increase 1985-88−$70,300,000,000. Nominal increase per year equals 4 percent.

HISTORY OF CONGRESSIONAL ACTION ON THE DEFENSE BUDGET

[Budget authority, in billions of dollars]

	1983	1984	1985	1986	1987	Total
President's request	263.0	280.5	313.4	322.2	320.2	1,499.3
Senate-passed budget resolution	251.7	270.7	299.0	302.5	301.0	1,424.9
House-passed budget resolution	253.6	263.9	285.7	292.6	285.0	1,380.8
Conference budget resolution	253.6	268.6	292.9	302.5	292.2	1,409.8
Final congressional action (appropriations)	245.0	265.2	294.7	289.1	285.6	1,379.6
Final level compared to:						
President's request	−18.0	−15.3	−18.7	−33.1	−34.6	−119.7
Senate-passed budget resolution	−6.7	−5.5	−4.3	−13.4	−15.4	−45.3
House-passed budget resolution	−8.6	−1.3	−9.0	−3.5	−.6	−1.2
Conference budget resolution	−8.6	−3.4	−1.8	−13.4	−6.6	−30.2

Source: Prepared by SBC republican staff, October 8, 1987.

BUILD-UP BUILD-DOWN OF NATIONAL DEFENSE

[Budget authority, in billions of dollars]

	1982	1985	1988[1]	Build-up, 1982-85	Build-down, 1985-88
Milpers	55.7	67.8	76.5	+12.1	+8.7
O&M	62.5	77.8	83.0	+15.3	+5.2
Procurement	64.5	96.8	76.4	+32.3	−20.4
RDT&E	20.1	31.3	35.8	+11.2	+4.5
Milcon/family housing	7.1	8.3	8.3	+1.2	0
Total, DOD, military	209.9	282.0	280.0	+72.1	−2.0

[1] HASC as amended by Aspin amendment/low tier.

Note.—In nominal dollars.

BUILD-UP AND BUILD-DOWN OF NATIONAL DEFENSE

[Budget authority, in billions of dollars]

	1982	1985	1988[2]	Build-up 1982-85	Build-down 1985-88
Milpers	56.4	61.3	63.0	+4.9	+1.7
O&M	63.3	70.4	68.4	+7.1	−2.0
Procurement	65.3	87.5	62.9	+22.2	−24.6
RDT&E	20.3	28.3	29.5	+8.0	+1.2
Milcon/family housing	7.2	7.5	6.8	+.3	−.7
Total, DOD, military	212.5	255.0	230.6	+42.5	−24.4

[1] HASC as amended by Aspin amendment/low tier.

Note.—In constant, fiscal year 1982 dollars.

POST CLOSINGS OVERSEAS

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an amendment numbered 933:

At page 9, line 20, strike "$500,000,000" and insert "$50,000,000".

At the end of Section 107, add the following new subsection:

"(d) The provisions of this section shall not take effect until 180 days after the date of enactment of this Act."

Mr. DOMENICI. Mr. President, the amendment speaks for itself.

In my earlier remarks, I indicated that I did not see how we could fence $500 million and say you must open these 10 or 23 consulates and Embassies in order to recover and spend $500 million. That $500 million is about one-third of salaries and expenses of the Department. It seemed to me that we are inviting the appropriators to defy this authorization provision because it is unreasonable.

The distinguished chairman and the minority manager have agreed that they want the fencing, which I would prefer to get rid of. They have agreed that the fenced amount would be greatly reduced, so as to keep pressure on but to make it reasonable in dollar amounts.

Obviously, Congress has to give the Secretary reasonable time to reopen, regroup, or otherwise comply, or it will not work. The managers have agreed to that language modification, and I thank them for it. I still do not see how the Secretary can keep all posts open with the budget he will get.

I hope the amendment is adopted, and I hope we find a way to work our way out of this kind of legislating, but I appreciate their concern.

Mr. PELL. Mr. President, with the modifications the Senator from New Mexico has mentioned, it is a good amendment, and we recommend its adoption.

Mr. HELMS. Mr. President, I support the position of the chairman concerning maintaining consular posts. There is very little, if any, real savings to the American taxpayer from closing most of the consular posts that we maintain overseas.

Consular work—issuing visas, protecting American tourists and businessmen from the many hazards of overseas life, issuing passports to tourists who have lost them, and the like—has to be done regardless of any decision to close the consular post. Were a consulate in Strasbourg to be closed, and an American tourist finds himself arrested or otherwise stranded in Strasbourg—well, someone from Paris has to travel over to Strasbourg to meet with the American citizen and extend to him his legally awarded rights.

In many countries, the consulate has been established because of domestic political controversies which the American Government recognizes as making a consulate useful to our national policy. For instance, we have a consulate in Northern Ireland because it would be very difficult to provide consular services to the people of Northern Ireland from our Embassy in Dublin or that in London. In Belguim, it is important to maintain a consulate in Antwerp in order to avoid embroiling ourselves in the ethnic competition between the French- and Flemish-speaking communities in that country. The same could be said of our maintenance of consulates in Canada in Quebec and other provinces.

From the point of view of quality political reporting from the foreign service, consulates provide a useful insight into the real political thinking of the people of a country.

How misinformed would a foreign government be if its sole contact with the United States were to be Washington, DC? I think we all recognize how important it is for each of us to get out of Washington and hear the real voices of the American people. That is as true for the Government in its relations with foreign countries as it is for an American political leader. You need to get out and talk to the people outside the capital city.

To close consulates would be, in my opinion, to cut ourselves off from understanding the people of these countries and to make ourselves captive of the capital city elites. This—as we learned from Iran—can be a very costly mistake.

The Senate from New Mexico has pointed out a way that we can improve our bill by reducing the amount we have fenced off to encourage the maintenance of these posts.

Mr. President, I am obliged to say to the Senator that he has given us another thoughtful insight into the budgetary problems, along with the discussion of the amendment. I wish that what he has said about the problem we have and the origin of it, particularly with national defense and the statistics I have heard him give many times, could be made required reading by a lot of people in this country.

The Senator knows that I admire him. He did well today, as he always does. So far as the amendment he has offered is conerned, as usual, he has made a constructive approach. It is an improvement, and on our side we are prepared to accept the amendment. I thank the Senator for his contribution.

Mr. DOMENICI. I thank the distinguished Republican manager of the bill.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 933) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 934

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there consent to setting aside the Helms amendment, No. 934?

Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. Chafee] for himself, Mr. Stafford, Mr. Baucus, and Mr. Mitchell proposes an amendment numbered 934.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, add the following at the end of line 15:

"The Task Force also shall encourage and support activities of the United Nations Environment Program, the World Meteorological Organization, and other international or national organizations which the Task Force determines to be appropriate, to:

"(1) foster cooperation among nations to develop more extensive and coordinated research efforts with respect to the greenhouse effect;

"(2) identify existing and potential strategies, including technologies and activities, to stabilize global climate, and atmospheric concentrations of greenhouse gases, at current levels; and

"(3) increase the worldwide dissemination of information with respect to-

"(i) the causes of the greenhouse effect;

"(ii) the environmental and health consequences of the greenhouse effect; and

"(iii) methods to alleviate or avoid the greenhouse effect and the consequences of such effect.

Mr. CHAFEE. Mr. President, this is an addition on page 78, at the end of line 15, some language dealing with the Global Protection Act of 1987. It would add charges to the task force that primarily increase its obligation to deal with international organizations in considering how to handle the greenhouse effect and the climatic changes that are coming about in the world.

This amendment has been cleared by both sides and all those parties who are interested in it, and I believe it is acceptable.

As I say, the stress is on cooperation with international organizations, because it is my belief that the United States cannot go it alone in trying to do something about the ozone effect and the greenhouse effect, curbing the CFC's and other activities. We need international cooperation.

THE GLOBAL CLIMATE PROTECTION ACT OF 1987

Mr. CHAFEE. Mr. President, as reported by the Committee on Foreign Relations, this bill includes a title known as "the Global Climate Protection Act of 1987." That portion of the bill is designed to address the problems of global climate change due to the greenhouse effect.

The greenhouse effect is a major environment threat that I, along with my colleagues in the Environment and Public Works Committee and other interested Senators, have been examining and working on for quite some time. In addition to holding numerous hearings, we have initiated several important studies, including two that are being conducted by the EPA: One examining the health and environmental effects of climate change, and another examining the policy options that, if implemented, would stabilize current levels of greenhouse gases in the atmosphere.

Through a process of continued oversight and participation in meetings with experts from the scientific community and the Federal Government, we have made significant progress during the past 18 months. A consensus has developed around the three propositions that we set forth in June 1986: first, the problems and threat of global climate can no longer be treated solely as important scientific questions; second, we need to expand efforts to understand more fully the effects that atmospheric pollution has on the environment; and third, we need to develop an extensive range of policy options for dealing with the serious global problem of climate change due to the greenhouse effect. One of the most significant developments has been the ever increasing public awareness and understanding of the problem.

My colleagues from Rhode Island, Senator Pell, and from Delaware, Senator Biden, are to be congratulated for including in this bill, provisions dealing with the greenhouse effect. The effort being devoted to this problem by our Government and the governments of the world is woefully inadequate. The bill before us seeks to correct this.

The amendment I have sent to the desk will retain the essential elements of the original provisions but it will redirect the focus just a bit. Rather than having the U.S. Government decide what the solution will be for this global problem and then trying to convince the rest of the world to follow our lead, my amendment would direct the United States to begin an international process to more fully understand and come to grips with the threats of global climate change.

The international process that led to the Montreal protocol on protection of the ozone layer should serve as a model for dealing with the greenhouse effect. The United States can and should be a world leader in this area but we must also take care to work with other nations every step of the way. Not only must we convince the doubting Thomas' that the problem is real but we may find that, by working together, we come up with solutions that did not occur to us before or find that some solutions are easier to implement than we originally thought.

Using the international process that led to the ozone agreement once again, we need to start thinking of initial, preliminary steps that we can begin to take immediately. No one expects to solve this problem quickly or all at once. But there are things that we can do in the short term to buy time, to give us the chance to develop more lasting solutions.

Mr. President, I have some reservations about how well this new interagency task force will work. As with any interagency effort, by formalizing the process we run the risk of driving agencies apart at the exact moment when they should be coming together. Turf battles and decisionmaking by committee can paralyze an otherwise productive effort. This is particularly true where, as here, we are dealing with a complex scientific phenomenon that has important policy implications in areas that transcend traditional agency mandates.

To what extent will the science agencies seek to influence policy choices? Similarly, will the policy agencies seek to control the science? This is a problem and we can only imagine what pitfalls lie ahead.

To prevent this task force from becoming a clone of the National Acid Precipitation Assessment Program [NAPAP], the group that produces good science that is promptly ignored by policy officials who do not want to address the problems of acid rain, and to prevent a repeat of the domestic process that threatened to undermine the role of the United States as a world leader at a crucial point in the ozone negotiations, we have put this group on a fairly short leash. The sunset provision will allow us the opportunity to pull the plug if the task force becomes too politicized. In an attempt to avoid this problem, the bill specifies who shall serve on the task force.

We cannot expect to enact this bill, sit back, and wait for the report to show up. This project will require constant attention, oversight, and guidance from those of us in the Congress who are concerned about these problems. As a senior member of the Committee on Environment and Public Works, the committee with primary jurisdiction over the greenhouse effect, I plan to continue our work in this area and to make sure that the task force effort is a success.

Mr. BAUCUS. Mr. President, let me commend the Senator from Rhode Island [Mr. PELL] the chairman of the Foreign Relations Committee and the Senator from Delaware [Mr. BIDEN] for their leadership on the question of global warming.

The proposed amendment establishing a policy directive for the United States to begin working with the worldwide community is an important step forward in coming to grips with the problem of global climate change.

Greenhouse gases including carbon monoxide, nitrous oxides, methane and chlorofluorocarbons present a challenge to their control which will rely upon the need for new technologies and new ways to think about policies to control emissions.

It is this challenge that will take education, cooperation, and a concerted effort by the worldwide community to address their control. This proposed amendment will provide the framework to meet this challenge.

A policy office to interact with the worldwide community will be put in place. The United States will then be in a position to facilitate education, and cooperation to find ways to control greenhouse gases.

Recently the National Academy of Sciences issued a report on global climate change at the request of myself and other Senators. This report stated, among their findings:

> We are on the whole confident that changes of the anticipated magnitude will produce major unforseen consequences—in climate, in ecosystem responses, in human responses, and in local or national economic impacts.

Global climate change may become the most difficult scientific challenge this planet has ever faced. Over the next decade, scientists have predicted that we can expect to see a gradual warming of the globe.

Over the next century, the global climate will be exposed to a climate that hasn't been experienced for over 100,000 years.

But unlike past climate changes, these changes won't occur over tens or hundreds of centuries. It will occur within our sons and daughter's lifetimes.

The ecological, social, and economic challenge posed by this global climate change will affect every corner of the world.

Environmental impacts will be worldwide. When one thinks of environmental damage, an image of cause and effect comes to mind. A hazardous waste dump polluting ground water, a smokestack polluting the air or a reservoir flooding prime wildlife habitat.

Global climate change knows no boundaries. Fossil fuel combustion, release of methane gases or CFC's released anywhere in the world will collectively form a soup trapping additional radiation throughout the planet.

The full implications of change of this magnitude are poorly understood at best. It will take a major commitment of resources to achieve that end. We as Congress must take the lead in fulfilling this need.

Just as the environmental impacts will be felt worldwide, the social and economic impacts know no bounds. Some areas will be impacted more and some less. Developed countries and undeveloped countries will each be confronted with the need to adopt. No country will escape some impact.

Every major country must participate in the highest level discussions to address and hopefully avert environmental change of this scope.

Last month, a diplomatic conference completed work on a convention to protect the stratospheric ozone layer. The Montreal Convention as this agreement is known represents a major accomplishment of the greater global community.

For the first time, the global community has come together to address a worldwide environmental problem. Namely, the release of chlorofluorocarbons into the atmosphere and the subsequent destruction of the stratospheric ozone layer.

CFC's not only destroy the ozone layer, they are themselves powerful greenhouse gases in their own right. It has been projected that a 50-percent reduction in CFC's will led to a 10-percent reduction in greenhouse gases. This level of reduction is significant.

The agreement is a major step forward in protecting the environment and in worldwide cooperation.

As a nation, we must examine the Montreal Agreement and build on its strengths.

Drs. Rowland and Molina first alerted the world to the potential for CFC's to destroy ozone in 1974. The Council on Environmental Quality recommended the eventual phase-out of CFC's. Four years later in 1978, the United States banned the use of CFC's in aerosols. The problem went away—or did it.

By the mid-eighties, there was a growing awareness that worldwide consumption of CFC use was growing rapidly.

A call was made for worldwide action. It was this call for action that led to the Montreal Agreement.

As the world began to act, an unexpected, unpredicted and poorly understood phenomenon was discovered over Antarctica. Each spring, an ozone hole where ozone was depleted over 90 percent occurred over Antarctica.

A little over a week ago, the preliminary results of an expedition to investigate the hole indicated a strong correlation between CFC's and Antarctic ozone depletion. At least one scientist called this fall's expedition the "smoking gun."

This scientific finding raises questions about whether or not we waited too long to act. The Montreal Agreement will not take effect until 1990 at the earliest—16 years after the problem was identified. Significant reductions will not occur for 10 more years, 26 years after the problem was identified.

The legislation before us seeks to avoid the long lead times before the world community acts.

The United States cannot go it alone, the world community must be part of a solution to the problem.

This legislation puts a mechanism in place for the United States to take a leadership role to address the issue of global climate change with the world community.

The legislation recognizes the United States has the technical capability, the scientific understanding and the environmental commitment to develop policy options to address the problem. The legislation before us recognizes the lead role of the Environmental Protection Agency.

I commend Mr. BIDEN and Mr. PELL for their leadership and I join with Mr. CHAFEE in this amendment.

PLANNING ESSENTIAL TO AVOID CLIMATE DISRUPTION

Mr. STAFFORD. Mr. President, the evidence is now compelling that human activities have already disrupted the environment of the planet. Other changes, largely unknown, lie in the future. Many of these future disruptions can no longer be avoided because they will result from actions of the last generation or even the last century. But other changes can be averted and even those which we must later confront can have their impacts minimized through prompt and immediate planning and action. This amendment will assure that the planning and analysis to avoid some changes and minimize the effects of others begin now and that they are conducted on an international scale.

The underlying provision of the bill, which was first proposed by Senator BIDEN, establishes a task force on climate change. This amendment elaborates on the responsibilities of that task force and establishes some specific tasks.

First, and most importantly, it requires that this country do its utmost to establish this system of planning, analysis and action as an international endeavor. While U.S. leadership is important, perhaps vital, the total effort must be a collaboration between all of the nations of the world. But we can foster international cooperation by acting unilaterally in a number of areas if that is necessary.

One way for the United States to further international awareness and cooperation is to share with other nations the information and knowledge which we have accumulated. This was done very effectively in the months before the recent international agreement to protect the ozone layer and similar activities would no doubt be helpful in this area as well. International meetings, both in the United States and abroad, can be held. Science exchanges, technology expositions, and policy conferences can and should be established. And whenever possible these should take place within the ambit of international organizations such as the U.N. Environmental Program and the World Meteorological Organization. It will be not only appropriate but very probably essential for the United States to assume much or all of the financial burden of these activities. I say this because this country is the world's largest emitter of most gases which contribute to the greenhouse effect.

The focus of these activities should include ways to avoid future climate change and, if at all possible, reduce the emissions which may be contributing to these changes. Technologies and other alternatives now exist that could allow continued growth in both industrial and developing countries while actually reducing trace gas emissions. These should be investigated and be included in the evaluations and report to the Congress. They include the following:

End use technologies which are more efficient or for other reasons use less energy to do their work. High efficiency engines, automobiles, refrigerators, and commercial and residential lighting and heating are but a few of the examples which spring to mind.

Energy supply, conversion, and transmission technologies which are more efficient. Popular attention has focused on superconducters, while less glamorous—but equally effective technologies—are available here and now at minimal incremental costs. They include super-efficient generating turbines, combustion units for electric powerplants, and modern transmission systems.

Changes in the development paths of some heavily forested nations, so that the rapidly advancing deforestation is halted, thus preserving a sink for carbon dioxide and eliminating a major new source of trace gases. Deforestation needs to be stopped and reforestation must be accelerated on an international scale. Although agriculture is a separate issue from forestation, the two are related because it is the agricultural practices of some countries which leads to forest loss. Therefore, it is likely that changes in such practices could advance efforts to halt forest loss. This should probably include an examination of the agricultural practices which contribute to the growing problem of deforestation.

Possible shifts in the fuel mix toward fuels which produce smaller amounts of trace gases, especially nitrous oxide and both carbon monoxide and carbon dioxide. In addition, it may be possible to develop new pollution control strategies or devices, or expand the application of existing ones, to prevent the release of these pollutants into the atmosphere.

Strategies which could cause the price of fuels and other products or activities to reflect their true ultimate costs in terms of a hotter earth or arid and unproductive lands. Whether accomplished through taxation or other means, a mechanism for forcing these products and activities to reflect their true costs will lead toward encouraging the kinds of changes which may be desirable. At present, this generation is shifting the cost of some activities to future generations—in effect mortgaging the future—and the global climate. This is an artificial and unreal subsidy at the expense of other, safer and more cost effective technologies and activities.

Mr. President, these issues are among the most serious that the world will face during the coming decades and the time has arrived for us to acknowledge and deal with them. This amendment will start that process.

Mr. PELL. Mr. President, I think this is an excellent amendment. I believe we are foolish if we concentrate just on the national, State, and local environment. We have to take into account international considerations, as we see these problems multiply around the world.

I recommend that we approve the amendment.

Mr. HELMS. Mr. President, we are in concurrence.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 934) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 935

(Purpose: To express the sense of the Senate regarding the harboring of international terrorists)

Mr. HELMS. Mr. President, I say to the distinguished Senator from Iowa that we have three quick items that we will handle, and then, without objection, he will be recognized. He has been waiting a long time.

Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. Helms] proposes an amendment numbered 935.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To be added at the appropriate place in the bill:

A. Findings. The United States Senate finds that

(1) a terrorist bomb exploded on August 8, 1987, in the China Palace restaurant in Tegucigalpa, Honduras;

(2) the bomb was directed at American soldiers and did in fact wound American soldiers and an American contractor;

(3) the wounded American soldiers are identified as SFC Ronald W. Rodriguez (California), SFC Robin Jackson (New York), SFC Ian Holt (Colorado) SFC Direak McKeen (Illinois), and SFC David Lambert (Iowa), and the American contractor is Barry Stein (Florida);

(4) the U.S. military personnel were in Honduras assigned to Joint Task Force Bravo;

(5) Honduran authorities have named Alfonso Guerrero Ulloa as a suspect in this act of terrorism and have a warrant for his arrest;

(6) the Government of Mexico, contrary to accept norms of international law on harboring terrorists, has granted asylum to Mr. Guerrero, and

(7) the United States Government has protested to the Government of Mexico.

B. Statement of Policy. It is the sense of the Senate that

(1) the United States Senate deplores the harboring of international terrorists, and

(2) the United States Government should call upon the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras.

Mr. HELMS. Mr. President, two very important events of the past week have brought Mexico to the forefront of United States foreign policy interests. First of all, the Institutional Revolutionary Party, known as the PRI, has chosen its candidate to succeed Mr. Miguel de la Madrid. The candidate, whose nomination is tantamount to election, is Mr. Carlos Salinas de Gortari, who has been a confidante of President de la Madrid for the last 8 years.

Mr. President, I intend to discuss the 1988 Mexican elections at an appropriate time in the future. As chairman of the Foreign Relations Subcommittee on Western Hemisphere Affairs I held hearings on Mexico in May and June of 1986. I later hosted many Mexicans who came to Washington during the visit here of President de la Madrid to protest the fraudulent state elections held in Mexico at that time. So it is clear that Mr. Salinas de Gortari has his work cut out for him.

Mr. President, I must also report to the Senate that an issue has arisen which casts dark clouds over the news of Mr. Salinas de Gortari's selection. In fact, the situation is so grave that it threatens to do serious damage to the bilateral relations between the United States and Mexico.

The facts are these, Mr. President. On September 18, 1987, a terrorist sought protection in Mexico's Embassy in Tegucigalpa, the capital of Honduras. The Mexican Government granted him asylum about 2 weeks ago, calling him a freedom fighter.

Mr. President, the incident is reported in the New York Times of Sunday, October 4, in an article which I ask to have printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Oct. 4, 1987]

Honduran Bombing Suspect Is Given Asylum by Mexico

(By Lindsey Gruson)

Tegucigalpa, Honduras, Sept. 30.—Mexico has granted permanent asylum in its embassy here to a man suspected of planting a bomb that exploded in a Chinese restaurant in August, slightly wounding six United States soldiers and a Honduran civilian.

Charging that the Mexicans are harboring a "terrorist" in violation of all international conventions, the United States has lodged a "firm" behind-the-scenes protest with the Mexican Government in Mexico City, diplomats in Mexico said.

But the Mexican Government has dismissed the American protest. Mexican diplomats called the man, Alfonso Guerrero Ulloa, 22 years old, a "freedom fighter" whose life was at risk because of his political views. They said he had a right to asylum and was welcome to stay.

The Mexican Government's decision is the latest twist in a case marked by strange turns. Mr. Guerrero was first implicated by a Félix Fernando Castro Martínez, who confessed to taking part in the bombing. But he later retracted his confession, charging that the military had tortured him.

DEBATE ON HUMAN RIGHTS RECORD

That charge is pushing the case into the center of a debate about Honduras's human rights record and the Government's refusal to appoint a National Reconciliation Commission as called for in the peace agreement signed on Aug. 7 by the Presidents of Costa Rica, El Salvador, Nicaragua, Guatemala and Honduras.

The church and a coalition of small, left-of-center political and social groups assert that Honduran society is deeply divided and that human rights violations remain pervasive. In the campaign to force the Government to appoint a reconciliation commission, some groups have cited the case as an example of political persecution.

But President José Azcona Hoyo said there was no need for a reconciliation commission since Honduras had a free press and did not hold any political prisoners. He added that the left-of-center groups were trying to use the reconciliation commission as a political platform and that there were few human rights problems in Honduras.

A spokesman for the Honduran armed forces, Juan Sierra Fonseco, said there was "a lot of incriminating evidence" that Mr. Guerrero planted the bomb, which exploded on Aug. 8 in the China Palace, near the largest United States military base in Honduras.

SUSPECT DENIES ROLE IN BOMBING

Spokesmen for the United States and Mexican Embassies here repeatedly declined to comment on the case. The Mexican Ambassador, Francisco Correa, confirmed, however, that Mr. Guerrero was granted asylum about two weeks ago to "protect his personal safety."

Mr. Guerrera could not be reached for comment. But in a unsigned statement dictated to the Committee for the Defense of Human Rights in Honduras before he sought asylum, he denied taking part in the incident and said he was in Tegucigalpa attending a show with his sister when the bomb exploded.

Mr. HELMS. Mr. President, the article states, correctly, that the United States has lodged a firm protest with the Government of Mexico because of this incident. In fact, our Government has made repeated protests over the matter. I must say, Mr. President, that they had a very good reason to do so.

The reason, Mr. President, is this: The terrorist whom the Mexicans are harboring is suspected of trying to kill several American soldiers this past August 8. The terrorist, named Alfonso Guerrero Ulloa, planted a bomb at a Chinese restaurant in Tegucigalpa, injuring six American servicemen.

Mr. President, it is clear that any Government giving aid and comfort to a terrorist should be condemned by the international community. That is self-evident.

However, Mr. President, when the government of a country which borders on the United States harbors a terrorist who is suspected of bombing a public restaurant in order to kill American servicemen, it constitutes an intentional and outrageous affront to the American people.

Mr. President, I have been assured that the United States Government is attempting to do everything it can to convince the Mexicans that harboring this terrorist will profoundly damage United States-Mexican relations. The Mexicans have rebuffed our overtures, Mr. President, and have told us, putting it plainly, to "bug off."

Mr. President, all we are asking is that the Honduran judicial proceedings be allowed to go forward. Mr. Guerrero is a key figure in the case, and there is currently a warrant for his arrest. If he is innocent, the Honduran courts can exonerate him. But the Hondurans have asked the Government of Mexico to make him available to the Honduran Government so that justice can be done. And so far the Mexican Government has steadfastly refused to do so.

Mr. President, it is time for the U.S. Senate to go on record in condemnation of this overtly offensive act directed at the American people.

Mr. President, this amendment has been worked out, and it is agreed to by both sides.

Mr. PELL. Mr. President, that is correct, and we hope it will be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 935) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 936

Mr. HELMS. Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 936.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill add the following:
>
> SEC. . CLOSING OF DIPLOMATIC AND CONSULAR POST IN ANTIGUA AND BARBUDA.
>
> (a) PROHIBITION ON USE OF FUNDS.—None of the funds made available for the Department of State for any fiscal year may be used for the expenses of maintaining a United States diplomatic or consular post in Antigua and Barbuda.
>
> (b) EFFECTIVE DATE.—The prohibition contained in subsection (a) shall take effect 60 days after the date of enactment of this Act.

CLOSING THE ANTIGUA-BARBUDA EMBASSY

Mr. HELMS. Mr. President, our State Department is presently operating a totally unnecessary embassy operation in Antigua-Barbuda. It costs over $1 million a year, but has functions which duplicate those of our very capable Embassy on Barbados which is located nearby. For instance, 80 percent of the visas handled by the Antigua facility are done by mail—and could thus be easily issued by the Barbados Embassy without any additional cost whatsoever. The present Ambassador to Barbados and the immediate past Ambassador agree that this is a wise move to save money and duplicated effort.

Mr. President, I have agreed with Senator PELL that many of our consulates in Europe—Salzburg and Strassbourg come to mind—should be kept open. That costs money, Mr. President, and this amendment reflects our need to bite the bullet: When we want to spend more money in one area—to keep key consulates open, for instance—we have to be willing to make cuts somewhere else.

Mr. President, this amendment addresses that responsibility squarely: Let us save unnecessary expenditures at Antigua-Barbuda for the many strategic needs for expenditures which exist elsewhere in the world.

Mr. President, this amendment has been agreed to by both sides.

Mr. PELL. Mr. President, that is correct. I have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 936) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 937

(Purpose: To record the Senate as requiring the President to explain whether Soviet violations of the ABM Treaty jeopardize U.S. supreme national interests and whether the U.S. should accordingly withdraw from such treaty)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 937.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> "SEC. . Within 30 days of the enactment of this Section the President shall report to Congress (1) whether Soviet violations of the ABM Treaty and the complete failure after the ratification of such treaty to reduce or limit the increase of Soviet offensive intercontinental nuclear weapons systems jeopardize the supreme national interest of the United States and (2) whether the United States should accordingly withdraw from such treaty.".

WITHDRAWAL FROM THE ABM TREATY

Mr. HELMS. Mr. President, my amendment on withdrawal from the ABM Treaty is clear and straightforward. It requires the President to report whether U.S. supreme national security interests have been jeopardized by Soviet violations of the ABM Treaty and by the failure to achieve permanent constraints on offensive weapons—the ongoing Soviet strategic offensive and defensive buildups—and whether the United States should therefore withdraw from the ABM Treaty. Such a report would be logical and reasonable. The President has already done most of what is required. It is primarily the conclusions from the known facts—the President's conclusions are what the report would provide.

The Senate needs to be reminded of certain basic facts about arms control and its history. That will help bring into focus why this report required by this amendment is needed.

First, on May 9, 1972, the United States in an official statement to Congress announced its intentions on withdrawing from the SALT I ABM Treaty as follows:

> The United States [SALT I] Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces. . . . If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, United States supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty.

Second, 15 years after the United States made the policy declaration of May 9, 1972, the United States has still not yet achieved the objective of "an agreement providing for more complete strategic offensive arms limitations."

Third, President Reagan reported to Congress on June 3, 1986, that there was a "growing strategic imbalance between the United States and the USSR." President Reagan added that the Soviet Union now has a "first strike capability" which was "seriously eroding the stability of the strategic balance," and which has resulted in a "loss in the survivability of United States strategic forces."

Fourth, I would point out that article XV of the SALT I ABM Treaty, which was ratified on October 3, 1972, states:

> Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of the Treaty have jeopardized its supreme interest.

Fifth, President Reagan reported further to Congress that the siting, orientation, and capabilities of the Soviet Krasnoyarsk ABM Battle Management Radar "directly violates" three provisions of the SALT I ABM Treaty. Both the Senate and the House of Representatives have now each voted unanimously that the Krasnoyarsk Radar is a "violation" of the SALT I ABM Treaty.

Sixth, President Reagan has also reported further to Congress that it is highly probable that the Soviet Union has conducted multiple tests of surface-to-air missile interceptors and radars in a prohibited ABM mode, and has developed a prohibited mobile ABM system. The President has also reported to Congress that "all Soviet large phased array radars * * * have the inherent capability * * * of contributing to ABM battle management * * * and LPAR's have always been considered the long lead time elements of a possible territorial defense." President Reagan added that the Soviet Union "may be developing a nationwide ABM defense" in direct contravention of article I of the ABM Treaty, the most important provision of the treaty.

Mr. President, I believe that the failure to achieve permanent constraints on offensive weapons and the Soviet strategic offensive and defensive buildups have placed the supreme interests of the United States in jeopardy. I believe further that the President should be required to report to the Senate on an urgent basis whether the United States should withdraw from the SALT I ABM Treaty.

My amendment provides that the President of the United States should make such a report. It does no more. It makes no judgment regarding the withdrawal from the ABM Treaty, but it asks for the President's judgment.

The issue is not how to construe the ABM Treaty, but whether we should be in the treaty at all.

Mr. PELL. Mr. President, this amendment has been cleared on this side and we recommend its passage.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 937) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I have an amendment which I wish to send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the Helms amendment for the consideration of the amendment of the Senator from Massachusetts?

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

AMENDMENT NO. 938

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. CRANSTON, Mr. LUGAR, and Mr. DODD proposes an amendment numbered 938.

Mr. KERRY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

By way of replacement of items in Section 513 of the State Authorization, S. 1394:

On page 97, strike line 17 through line 20 and substitute the following language:

"The Government of the Republic of Korea recognized the popular will be formally announcing that there will be direct election of the President as part of the nation's constitutional reform."

On page 97, strike line 21 through line 25 and substitute the following language: "the peaceful transition of government power promised for 1988 will respond to the hopes of millions of South Koreans and help alleviate pressure for political turmoil in that nation;"

On page 98, strike line 20 through line 23 and substitute the following: "the United States applauds the decision of the Chun government on June 29, 1987, to support efforts for constitutional reforms essential to a meaningful and peaceful transfer of power."

On page 99, strike line 12 through line 17 and substitute the following language:

"The United States welcomes the decision by the Republic of Korea to proceed with constitutional reform and continue the search for a peaceful agreement among Korean parties on this issue in the spirit of compromise essential to democracy."

Add the following item, after item (7) of section (b):

"(8) the United States applauds public and private statements by the South Korean Minister of Defense, senior officers and top government officials that they support the democratization process and that the military will not disrupt it in any way."

Mr. KERRY. Mr. President, considerable attention has been focused this summer and fall on the democratization process in the Republic of Korea.

The amendment I am offering on behalf of myself and my distinguished colleagues, Senator CRANSTON and Senator LUGAR, reflects the progress that has been made in the Republic of Korea since the Senate Committee on Foreign Relations considered this matter in marking up the pending legislation.

Assistant Secretary of State for Asian Affairs, Gaston Sigur, recently placed the administration on public record against any form of military intervention or interference with the process of democratization. Mr. Sigur, who incidentally I feel is doing a superb job, has been very consistent in placing the United States squarely behind the process of democratic reform in the Republic of Korea.

Credit should be given to the South Korean Minister of Defense, senior military officers and top Korean Government officials who have stated publicly and privately that they support the democratization process and that the military will not disrupt it in any way. I applaud these statements and this signal of commitment on their part.

Much has been accomplished in the past few months in moving one of our closest allies toward true democratization. Some obstacles do remain, and in raising these issues, I am not diminishing in any way the importance I attach to the progress that has been made.

The process of reform gained significant momentum in June when South Korean students organized and led massive demonstrations that were eventually joined by business people, office workers, and the clergy. Then on June 29, the ruling party chairman, Roh Tae Woo acceded to student and opposition demands with his stunning eight point plan speech. President Chun endorsed ROH's plan 2 days later and negotiations proceeded between representatives of the ruling party and the opposition party for constitutional reform.

Those negotiations have already yielded success on the complicated issue of direct elections, but there still remains little progress on the issues of release of political prisoners and press censorship. While President Chun has released numerous political prisoners, he has refused to set free those he labels Communist, which in South Korea has been broadly defined to include virtually anyone who engages in anti-government activity. The government maintains there are less than 100 political prisoners still in jail, but opposition and human rights groups believe the figure is several hundred. It is also worrisome that hundreds of labor and student activists have been arrested since ROH's June 29 speech.

On the issue of press censorship, there has been some relaxation in the print media. For instance, for the first time in nearly 20 years newspapers have printed the photograph of opposition leader Kim Dae Jung. But the electronic media remains strictly controlled by the government and President Chun shows no signs of loosening his firm grip.

If progress is not made quickly on these issues it is certain that the students will take to the streets in even greater numbers. That, in turn, raises the spector of military intervention, which has haunted South Koreans and stifled other opportunities for democratic reform during the last 35 years.

There are other circumstances under which the military might intervene. It has been widely rumored that the military will not tolerate a Presidential candidacy by Kim Dae Jung. The Korean Army Chief of Staff, General Park He Do, has reportedly said that "something unhappy" might happen if Kim runs for President.

The United States has significant military and economic ties with South Korea. But Americans are nonetheless viewed with great suspicion by the Korean people and especially by the Korean students. I think it is important, for that reason, that we play a positive role in the democratization process. If we use our influence to assure that process moves ahead, free of the threat of military intervention, we can build a foundation of goodwill and trust with the next generation of South Koreans that will ensure a close relationship between our two nations.

Mr. President, this is an amendment which earlier met with some discussion.

I had met with the Senator from Texas and other Senators, and we are, I think, fully cleared on this amendment at this point in time.

Mr. President, this is an amendment to express the Senate's concurrence in the efforts that have been made in the Republic of Korea to move toward the process of democratization.

As all of us know, we have watched with great interest what is involved there and we have great interest in the Republic of Korea.

It is our hope that that process of democractization is going to continue without any intervention of the military, without a derailing of the current election process, and obviously with the continued effort to open up additional access to the press, particularly the electronic media.

This particular amendment recognizes the steps that the ruling party has taken and President Chun has taken in order to guarantee the integrity of that process.

We congratulate them for the current steps they have taken in an effort to try to move toward electoral reform, and we are hopeful in this amendment that further steps will be taken as rapidly as possible to open up a fully democratic process for the current elections.

Mr. President, I believe that both sides are willing to accept this amendment at this point in time.

The PRESIDING OFFICER. Is there any further debate on the amendment?

The Senator from North Carolina.

Mr. HELMS. Mr. President, we have examined the amendment currently and the Senator wished to modify it to one extent. We find it entirely acceptable.

Mr. PELL. Mr. President, this amendment is a result of a great deal of converstion and efforts and mutual give and take. It is a good amendment and I very much urge its passage.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 938) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 939

Mr. PELL. Mr. President, I have an amendment that I ask to be immediately considered and sent to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] for Mr. WILSON, for himself and Mr. CRANSTON, proposes an amendment numbered 939.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 74, strike lines 11 through 16, and add the following in lieu thereof:

(D) proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project comparable in nature and technical complexity to that being contracted for;

Mr. WILSON. Mr. President, section 217(d)(1)(D) of the bill states that a U.S. contractor can be considered for award of a contract under the Voice of America [VOA] Program only if it has achieved a total business equal to or greater than the value of the project being bid in 3 years of the 5-year period prior to the issuance of the RFP or IFB.

While I support the intent of the provision to ensure that proposals from only qualified contractors be considered, I am concerned that a number of qualified U.S. contractors, particularly in the high-technology areas such as radio transmission and antenna manufacturing, would be deprived from competing for these contracts because they do not meet the extreme size standards of this provision.

Therefore, I offer this amendment which would allow small but technically competent U.S. firms to bid on certain portions of the VOA's modernization program.

Mr. PELL. Mr. President, this is a small technical amendment I am proposing at the request of Senator WILSON. It is a refinancing.

Mr. HELMS. The amendment is accepted.

The PRESIDING OFFICER. Is there any further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 939) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I wish to send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to setting aside the Helms amendment, No. 914?

Without objection, it is so ordered.

AMENDMENT NO. 940

(Purpose: To make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment by the Senator from Iowa.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 940.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To be added at an appropriate place in the bill:

SHORT TITLE

SECTION 1. This Act may be cited as the "Anti-Terrorism Act of 1987".

FINDINGS; DETERMINATIONS

SEC. 2. (a) The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this Act referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine. Thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

PROHIBITIONS REGARDING THE PLO

SEC. 3. It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this Act—

(1) to receive anything of value except informational material from the PLO or any

of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) not withstanding any provision of the law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

ENFORCEMENT

SEC. 4. (a) The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this section.

(b) Any district court of the United States for a district in which a violation of this Act occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this Act.

EFFECTIVE DATE

SEC. 5. (a) Provisions of this Act shall take effect 90 days after the date of enactment of this Act.

(b) The provisions of this Act shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

Mr. GRASSLEY. Mr. President, the contents of the amendment now before this body are exactly the contents of legislation introduced as the Anti-Terrorism Act of 1987. That bill—not this amendment, that bill has 50 cosponsors, ranging from 21 Democrats to 29 Republicans.

So I myself, not for the other Member cosponsors, unless they later on decide they want to cosponsor, bring this amendment before this body.

Mr. President, I want this body to consider the following undisputed facts that are not in any way in dispute: In 1974, a TWA jet was exploded in midair by the Palestine Liberation Organization. Eighty-eight people were killed, including many Americans.

In 1976, an aide to Senator Jacob Javits was murdered by an affiliate of the PLO.

In 1985, PLO terrorists took credit for the massacres in the Rome and Vienna airports.

Later in 1985, PLO guerrillas hijacked the *Achille Lauro* and killed an American passenger, Leon Klinghoffer.

Abu Abbas, who is wanted in connection with the *Achille Lauro* hijacking, is now a member of the PLO's Executive Committee.

I would also like this body to consider the following astonishing fact: The PLO—the world's preeminent terrorist organization—has operated two offices within the borders of the United States for the past 10 years. Within the shadow of the White House, the PLO maintains an information office.

I suppose technically that may be in transition now because of some changes that the State Department is making. But the PLO also maintains a U.N. observer mission in New York. For some time, Members of Congress have questioned the administration policy which permits PLO operations on our soil. Consequently, several months ago, I, along with Senators DOLE, LAUTENBERG, METZENBAUM, and BOSCHWITZ, introduced the Anti-Terrorist Act of 1987, that I previously referred to and in the intervening time since our news conference, we now have 50 Senators who have cosponsored this bill to shut down the PLO safe harbor in the United States.

So, at least 50 Members of this body believe that we ought to shut down the PLO safe harbor in the United States.

We introduced this legislation because we cannot support the hypocrisy of talking tough about terrorism while playing host to the world's kingpins of terror.

Today I am offering the Anti-Terrorism Act as an amendment to this State Department authorization bill, because I think we can wait no longer to deal with this very important issue.

Mr. President, PLO offices in Europe have long been used to support terrorist operations. Their European agents recruit, rent safehouses, provide identities and documents, choose potential targets, and collect operational intelligence. The New York Times reported on April 14, 1986, that each PLO mission in Europe has on its staff a "specialist in clandestine operations including terrorism."

Moderate Arab leaders, disgusted with the PLO and its commitment to terror, have responded. And they have responded more decisively than we have in this country. President Mubarak of Egypt and King Hassan of Morocco have acted decisively to close the PLO offices on their soil, joining King Hussein of Jordan who did so a year earlier.

Some have suggested that legislation to close the PLO offices violates the free speech guarantee of the first amendment. I disagree. No foreign entity has a constitutional right to operate on our soil. Our Government does not recognize the PLO, and has committed itself not to do so until the PLO ends its policy of terror. Moreover nothing in this legislation—absolutely nothing in this legislation—would restrict the right of anyone in the United States to exercise his first amendment right of free speech to speak out in support of the PLO.

With respect to the New York office in particular, the fact that it is loosely connected with the United Nations does not confer any automatic rights for the PLO nor create any absolute obligations on the United States. The U.N. Office of Legal Affairs has ruled that—

> Permanent observer missions (such as that of the PLO) are not entitled to diplomatic privileges or immunities * * *. If they are not listed in the United States diplomatic list, whatever facilities they may be given in the United States are merely gestures of courtesy by the United States authorities.

Nor does the United Nations headquarters agreement confer any particular rights for the PLO. The terms under which the United States accepted the headquarters agreement specifically state that—

> Nothing in the Agreement shall be construed as in any way diminishing * * * the right of the United States to safeguard its security and completely to control the entrance of aliens * * *.

Under the power of this reservations clause, the United States has, on hundreds of occasions, excluded or expelled from U.S. territory various delegates, representatives, or invitees of the United Nations who, it believed, posed a threat to American security. Recently, for example, the Soviet Union—which enjoys far greater rights under the charter than a mere observer delegation—was ordered by the United States to send a third of its delegation home.

Those who allege that this legislation will hurt the peace process have it exactly backwards. Egypt, Jordan, and Morocco have closed the PLO offices in those countries to send a clear message. That message is if the PLO wants to participate in the diplomatic process, the first step must be to renounce terror. It is this, and nothing more or less, that motivates our actions to close the PLO offices in the United States.

Mr. President, as to that portion of this amendment that relates to the United Nations office, we all know the relationship that the PLO has had with Colonel Qadhafi and the role that Libya has played in fomenting terrorism around the world. How many of my colleagues know and how many Americans know that the Libyan delegate to the United Nations has just—and I mean just in the month of September—been elected chairman of the General Assembly's Sixth Committee, which is in charge of the United Nations' terrorism policy?

Mr. President, it's incredible to me that Colonel Qadhafi is now in charge of terrorism policy at the United Nations. I cannot believe that we are going to sit by and let this kind of thing happen. We should all be outraged. Apparently, U.N. delegates have been sarcastically joking that no other country knows more about terrorism, and is, therefore, more suited for the job, than Libya.

The amendment before us, Mr. President, will strike a body blow against terrorism. It is going to send a message, a very strong message, that this body will do everything within its power to prevent, at the very least, a terrorist attack within our borders. I, therefore, urge my colleagues to adopt this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment by the Senator from Iowa?

Mr. BINGAMAN. Mr. President, I take the floor to oppose the amendment that is offered by my distinguished colleague from Iowa. And I need to oppose the amendment—and I want to be precise on this—in its present form and as it presently reads.

The amendment embodies what was S. 1203, the Antiterrorism Act of 1987. In my view, Mr. President, we need to further explore the issues raised by this amendment. It is an amendment that has not had hearings, has not been considered in committee, and one that raises very serious issues of constitutional rights; it therefore needs to be considered very seriously by this body.

The proposed amendment would make it illegal for any American citizen who was sympathetic to the nonterrorist activities of the PLO, to open an office to publicize the PLO's nonterrorist views, if that American citizen operated the office "at the behest or direction of" the PLO. If that citizen wanted to operate his or her own office, at his or her own expense, to conduct a campaign to publicize the legitimate views of the PLO. It would be unlawful for that citizen to take any directions in that effort from any representative of the PLO.

The illegality here that is contemplated in this statute would be the taking of any direction from the PLO. The citizen could conduct the same campaign if he or she did not act "at the behest or direction of" the PLO, or did not take directions from any other organization but one—the PLO. The citizen could conduct a similar campaign "at the behest or direction of," or even under the absolute control of, any other foreign country or principal which had registered its agent with the Justice Department. So the amendment prohibits certain activities with, connections to, or associations with, the PLO. But the amendment does not clearly specify what those activities, connections, and associations are. We are left to wonder what "at the behest and direction of" means. Thus, the amendment would prohibit citizens—that means citizens of this country—engaging in certain collective efforts to espouse certain public policy positions—positions which they have the undeniable constitutional right to advocate. It burdens American citizens' first amendment rights to freedom of association. It places limitations on, and obstacles in the way of, certain American citizens exercising their right to advocate beliefs which are otherwise protected under the Constitution.

To me, the constitutional analysis of the language in its current form is straightforward. The amendment before us today would limit, restrict, and burden the exercise of the rights of association and free speech under the first amendment by certain particular persons espousing certain specific views. Therefore, the amendment amounts to at least an incidental restriction on the freedom of association and the right of free speech. But the amendment cannot meet the test in United States versus O'Brien in at least one significant respect: The Government interest in the legislation is not "unrelated to the suppression of free speech." The amendment, whether by design or by its use of vague terms, discriminates against the free speech rights of only those American citizens who want to consult with and coordinate their activities with the PLO or have some other association with the PLO.

Proponents of the current language of the amendment argue that there will be no burden on the exercise of association and free speech rights. They say that American citizens still will be able to open up an office with a different title, advocate PLO views, and collect money from the PLO so long as they do not do it "at the behest or direction of" the PLO.

But I asked an advocate for the amendment whether, for example, a monthly phone call to representatives of the PLO would mean "at the behest or the direction of" the PLO. He told me "No," that that would only be consultation with the PLO. That seems like a pretty fine distinction to me. Because violating the law depends on a precise interpretation of vague terms such as "at the behest of," and getting all of these fine distinctions just right, the effect of the law will be uncertainty. Ideologically motivated supporters of the PLO will have to err on the side of caution because of the danger of drawing the line at the wrong place. Thus, precisely the burdens and the limitations on the right of free speech that I am worried about will come to pass.

Of course, this amendment is before this body inspite of, and not because of, its constitutional problems. The amendment is supported by numerous Senators who are otherwise staunch protectors of the Bill of Rights. They do so because the terrorist activities of the PLO are truly reprehensible and repugnant to all of the values for which this Nation stands. We are so justifiably outraged by the terrorist activities of the PLO, that we see red. We are so angered, and rightly so, that we cannot see the damage to the Constitution which this amendment may inflict.

But we must try to see clearly through our anger. We must try to see the dangerous constitutional precedent which this amendment threatens to establish. To see better, let us imagine an amendment which would provide the following. "No American citizen shall be permitted to disseminate information to the American public from any office which he or she maintains at his or her own expense, * * * if that citizen coordinates his or her activities with the advice and direction of any group * * * which a majority of the Congress of the United States has at any time declared to be 'a terrorist organization and a threat to the interests of the United States,'" to quote from the preamble to the amendment before us now.

And remember that the ideological makeup of the Congress and the targets of its sense outrage can change from time to time with the tides of public opinion. One Senator's freedom fighter one day may become another Senator's terrorist the next. So let us suppose further that a majority of a future Congress were to determine that the African National Congress is a terrorist organization and a threat to the interests of the United States. Or that the United Nicaraguan Opposition is such an organization. Or that the Sandanista government in Nicaragua is such an organization. Or that the IRA or the United Patriots for Justice is such an organization. Or suppose that such an amendment had been law 45 years ago, and that a simple majority of the Congress had determined then that the World Zionist Organization, because of the activities of its military arm, the Irgun, was such an organization.

Given those scenarios, would we be as pleased to enact such an amendment? Would we be as comfortable that we were not restricting basic first amendment freedoms of speech and association? I think not.

We are only tempted to adopt the proposed amendment because it singles out certain connections with one particular organization which has conducted totally reprehensible terrorist acts. We think for a moment that we can limit our intent to just this one single group—that we can avoid setting precedent that will erode our first amendment rights with respect to other organizations and other first amendment advocacy rights generally.

But we cannot limit that damage. The imaginary amendment I proposed is only different because it applies generally and not just to a single group. Passage of the amendment proposed today enacts a principle into law which is destructive of basic constitutional rights.

I believe it is critical for this Senate to condemn the activities of terrorist organizations like the PLO. We have a responsibility to call to the attention of the world their hateful acts and take whatever steps are necessary to combat their terrorist activities. And I have consistently supported Senate bills and resolutions to that effect.

But it is quite another thing to express our outrage by restricting the constitutional rights of American citizens. Such a step would have no tangible effect on the terrorist actions of the PLO. It would only reduce the freedoms which our own citizens enjoy.

It is ironic that we have just completed hearings on the nomination of Robert Bork. In those hearings, many Senators spoke eloquently about their concern about the right of free speech in the first amendment. One of the points made over and over again was that the right of free speech of all American citizens should not be limited by a narrow reading of the Constitution. Senators quite correctly upheld the standard of Brandenburg versus Ohio that stated that the right of political speech should be limited only to the extent of speech which incited or produced "imminent lawless action."

But this proposed legislation would amend the Brandenburg decision. It would add a second, significant restriction on the right of free political speech. It would say the political speech will be illegal if it either incites "imminent lawless action," or if it comes out of an office which American citizens run with the advice, consultation, and some kind of direction of one particular organization—the PLO. Before we vote on the amendment, we need to recall the eloquence with which many spoke before the Judiciary Committee less than 3 weeks ago.

The least that we should do today is to vote for a motion to table the amendment pending consideration by the relevant committee of its merits. Hearings have previously been scheduled on S. 1203, and I believe very sincerely, Mr. President, we should hold those hearings before we move on this legislation.

Moreover, we need to explore whether the language of the legislation before us should be modified and clarified in such a way as to remove any impediments to the exercise of American citizens' constitutional rights of free speech and association. This amendment has been offered at the 11th hour, and this body has not had enough time to review the constitutional implications of the language in the legislation. Nor have we had the chance to contemplate alternative formulations that could achieve the legitimate objectives of the legislation without restricting the American citizens' constitutional rights.

On this 200th anniversary of the Constitution, Mr. President, I believe the amendment needs to be seriously considered before action is taken on it. I hope an effort will be made to table the amendment. If it is, I will support that effort. I thank the Chair.

The **PRESIDING OFFICER.** Is there further debate?

The Senator from Iowa.

Mr. **GRASSLEY.** Mr. President, first of all, I think we ought to pay close attention to any colleague who raises questions about legislation that might violate first amendment rights, so I listened, as I should, closely to my colleague from New Nexico. But I find his arguments wanting in several respects because this amendment in no way violates any of the basic freedoms of speech of American citizens.

I think first of all I should address my colleague's call for hearings on an amendment like this before we act on it.

I think that the fact that 50 Members of this body have cosponsored legislation which is exactly like the amendment offered, speaks for the concern of my colleagues—that is half of this body—and the study that has already been given to this legislation. And yet, year after year, month after month, and I suppose almost daily even though it is not reported in our newspapers, there are acts of terrorism all over this world. Maybe not immediately impacting upon Americans, but a challenge to the policy of our Government to root out terrorism anywhere in the world regardless of who foments it.

So I feel that hearings will only prolong the process, a process that already has probably gone on too long concerning the acts of terrorism against Americans that I have already enunciated.

I think, too, that I need to address more specifically this issue of constitutionality because nowhere in the Constitution is there a right of a foreign entity to operate an office in the United States to practice its method of killings and assassinations or to spend funds to that end.

This is not constitutionally protected speech as we know it. There are a number of examples of prohibiting certain activity by foreign nationals which claim to have an impact on first amendment rights, such as restrictions on campaign funds by foreign nationals and regarding the labeling of propaganda, as such, when it is being disseminated on behalf of a foreign national.

In any event, if a U.S. citizen desires to set up an office and to promote the views of the PLO, there is nothing, absolutely nothing, in this amendment that prevents that.

What we prevent in this legislation is nothing more or nothing less than the expenditure of PLO funds and the running of an office at the behest or direction of the PLO.

These are all activities which are not in my view, or anybody else's, constitutionally protected.

We allow, for instance, in this legislation, the receipt of informational materials so that there is no infringement upon the freedom of speech, per se.

I think we ought to think twice before extending the first amendment right to foreign entities using our soil and facilities in our country to practice and to carry out acts of terrorism or even preach that.

The amendment contains no broad prohibition on Americans joining together to advocate on behalf of the PLO. It does not even prohibit contact with the PLO.

It prohibits only a principal agency relationship between the PLO and American citizens.

There is no constitutional doctrine which gives Americans a constitutional right to serve as agents of a foreign power. There is no case that we have found and no principle we can discern which allows a foreign group hostile to the United States to insist on functioning here merely because individual Americans allege that they wish to submit themselves to its domination and control or to serve as its agents.

So I believe, Mr. President, that this issue has been thought out very well from the standpoint of good public policy, but, more importantly, from the standpoint of constitutionality because this Senator in no way wants to step on the Constitution of the United States and primarily upon one of the most important rights protected by that document, the First Amendment, which includes freedom of speech.

I yield the floor.

Mr. **LAUTENBERG.** Mr. President, I join Senators GRASSLEY and others in offering this amendment to close down the PLO office in Washington, DC and the PLO Observer Mission in the United Nations. This amendment, which tracks S. 1203, the Anti-Terrorism Act of 1987, also makes it illegal to receive anything of value except informational material from the PLO or its agents in furtherance of the PLO's purposes, or to spend money from the PLO or its agents to further those purposes.

Mr. President, I have long advocated the closing of the PLO office in Washington and the Observer Mission in New York, both in testimony before the Senate Judiciary Subcommittee on Terrorism last year, and in questioning various witnesses before the Senate Budget and Appropriations Committees on which I sit. I have repeatedly urged the Attorney General and Secretary Shultz to investigate how this could be done.

Last year, I authored a provision in the Commerce-State-Justice appropriations bill to require that the Department of Justice investigate whether the PLO office in Washington was in compliance with the Foreign Agents Registration Act. Finally, the State Department has announced its intention to close the PLO's information office in Washington, a welcome step.

But Mr. President, this amendment goes farther than the State Department's action. It will finally close not only the office in Washington but the PLO office in New York. This amendment hangs a sign on America's doors that says, "Terrorists not welcome here". And well it should. The time is long past when our country should hold out a welcome mat for the PLO, whose record of hijacking, murder, and kidnappings is well-known and well-documented. Instead, we should pull the rug out from under an organization who so clearly embodies, in rhetoric and in action, the word terrorism.

Yasser Arafat, the head of the PLO, has long been recognized by this administration as a prime culprit in terrorist crimes. On April 8, 1986, Attorney General Meese declared, "We know that various elements of the PLO and its allies and affiliates are in the thick of international terror. And the leader of the PLO, Yasser Arafat must ultimately be held responsible for their actions." In referring to the fight against terror, Meese stated, "you don't make real progress until you close in on the kingpin."

Moreover, the PLO has been implicated in the murder of U.S. diplomats overseas, and has proudly taken credit for the murders of dozens of American citizens abroad. The PLO national charter states that "armed struggle is the only way to liberate Palestine," demonstrating that the dedication to violence is not a mere passing fancy but a well-thought out strategy to achieve its goals.

Nor has the tiger shown any indication of changing its stripes. The recent Palestine National Council [PNC] meeting in Algiers made clear that the PLO has once again said no to peace and yes to terror. At that meeting, the PLO rededicated itself to armed struggle, its code word for terror, in all forms. It pledged its continued rejection of the Security Council Resolution 242 and the Camp David accords.

This was not mere rehetoric. At the outset of the conference, Arafat's Fatah faction dispatched three infiltrators across the Lebanese frontier to attack Israeli border settlements. The PLO also pledged to seek better relations with Syria on the basis of the struggle for objectives hostile to imperialism and Zionism. It condemned Egypt for its peace treaty with Israel, and canceled the accord to coordinate peace efforts with Jordan. Perhaps most revealing, the Palestine National Council reelected Abul Abbas, currently under U.S. indictment for planning and overseeing the hijacking of the *Achille Lauro* and murdering an American, to a leadership position on the PLO's 15-man executive committee.

If there were still any doubters, the meeting in Algiers made clear that the PLO is not interested in peace, only in violence.

In the wake of the PNC meeting in Algiers, both Egypt and Morocco closed the PLO offices in their countries, as Jordan had earlier. Why have we waited so long?

These offices not only legitimize the PLO's policy of terror. There is a real fear that these offices in Washington and New York might be used as bases for terror. According to an April 13, 1986, New York Times article, PLO offices in 18 non-Communist countries were put under close scrutiny by European intelligence and security officials to insure they carry out only official functions.

In that same article, the Director General of the Israeli Foreign Ministry was quoted as saying that people attached to PLO offices in Europe were preparing a support structure for terrorist operations. They recruited, rented safehouses, provided identity documents, chose potential targets, and collected operational intelligence.

While all PLO representatives in Europe describe their activities as political, education, and cultural, professor Wilkinson of Aberdeen University in Scotland, a specialist in Palestinian movements, says there are several kinds of people employed in PLO offices, and they are all ready to do violence.

With such questions about the PLO offices in Europe, can the PLO office in Washington or New York be so different? They, too, say their purposes are cultural, educational, and political. But their former head, Hatem Hasseini, is a member of the PLO Executive Committee. We should not take that chance.

Some have argued that this amendment is unconstitutional because it interferes with free speech and other rights. I disagree.

The bill to close the PLO offices in Washington and New York is constitutional, and was carefully drafted to protect freedom of speech. American citizens remain free to speak on behalf of the PLO, its programs, its views on the Middle East crisis, or even, to the extent it falls short of actual incitement, its use of terrorism.

They may solicit money and contribute it to the PLO, and the bill specifically allows literature from the PLO in any form to enter the country without restriction. Membership in the PLO is not made illegal; it is only the PLO as a foreign entity which is prohibited from transacting business in this country and then only until it renounces the use of terrorism as a political method. The PLO cannot be heard in our courts to agrue that its own free speech rights have been abridged, since the PLO is not a domestic entity, and is not entitled to invoke the protection of the first amendment.

If one argues that prohibiting the operation of PLO offices here deprives American citizens of the benefit of direct exchange with members of the PLO and thus violates the Constitution, I would point out that restrictions on access to the United States and its citizens are a necessary adjunct of foreign policy which the courts have consistently upheld over direct challenge. It is clear that claims that this bill is unconstitutional are without merit.

If our tough talk on terror means anything, it means we should not allow a terrorist organization to operate freely in our nation's capital, or in New York City. For too long, this country has said one thing and done another when it comes to terror. Now is the time to deny the PLO a forum on our shores for practicing terror.

I urge my colleagues to act swiftly in passing this legislation.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to briefly comment on the remarks offered by the Senator from New Mexico. I thought they were very thoughtful in raising concerns that an amendment such as the Senator from Iowa offers. I can well appreciate Senator GRASSLEY's concerns, but we do have hearings scheduled in the Foreign Relations Committee, October 20, tentatively, but certainly in October, and I think with an issue which is in many ways sensitive to a number of parties it is important for us to have a hearing to explore the ramifications of the issue before we would make this a definitive policy of the United States.

I would just like to lend support to the comments of the Senator from New Mexico. I yield the floor.

Mr. PELL. Mr. President, I recognize very strongly the political force behind this amendment. It has 50 cosponsors, from both sides of the aisle, a great deal of support. Personally, I do not agree with it. We have already closed down the PLO office in Washington, and the one in New York, I think, has the right to be there because of a treaty we have with the United Nations.

In saying this, I want to stress that I violently disagree with the PLO, with what it says, what it stands for, and, more important, what it does. I think they are a bad organization, but I must say I recognize they have the right to be there in New York. I do recognize the political force behind this amendment and would suggest that we vote on it.

Mr. HELMS. Mr. President, like the distinguished Chairman, I think we ought to go ahead and have a vote, perhaps a voice vote, on the Senator's amendment but before we do I want to commend the Senator from Iowa, Mr. GRASSLEY. He is exactly right. There is no constitutional issue involved here, no more than there would be a constitutional issue involved if your yard were full of rattlesnakes. You would not have to hold a hearing to decide whether you were going to get rid of them or not, or at least prevent them from biting you. He is right on target with this amendment. We can have hearings to ventilate how we feel about the PLO, but the fact that well over half of the Members of the Senate have cosponsored or are cosponsoring the legislation of the Senator from Iowa indicates that it has widespread support.

So, Mr. President, I suggest we go to a vote on it. I commend the Senator.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER (Mr. FOWLER). Is there further debate?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. I could not find the Senator from New Mexico. Excuse the Chair. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me very briefly respond to the Senator from Iowa. I certainly do not want to delay a vote, and I understand that the managers would like to have this issue voted on very quickly.

I do think it is clear from a reading of the amendment that this is not an amendment designed to root out terrorism in this country. There are laws on the books that prohibit terrorism in this country, and clearly we all support those laws. This amendment prohibits people from disseminating information, if they do so at the direction or behest of the PLO. As I indicated in my earlier statements, it is clear that U.S. citizens have the right to discuss political issues, public policy issues and the positions of some may be very objectionable to many people in this body, including this Senator. But clearly they have a right to express those views and a right to join together in offices to disseminate that information if they feel that is appropriate.

I do think this is a first-amendment issue. I do think that the right of free speech of individuals—individuals who are U.S. citizens—is at stake here, and I would hope that the Senate would not adopt this amendment until there has been an opportunity to have a hearing and to explore possible changes in this language which would make this amendment consistent with the Constitution which we are honoring on this 200th anniversary. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The question now occurs on the amendment offered by the Senator from Iowa, Mr. GRASSLEY.

The amendment (No. 940) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I would like the RECORD to show on that voice vote I voted in the negative.

Mr. BINGAMAN. Mr. President, I also would like the RECORD to show that I voted in the negative on that vote.

(During the consideration of the foregoing amendment the following occurred.)

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, this request was cleared earlier by the distinguished Republican leader. It has been cleared by both managers and they have gone at great lengths to clear it.

I ask unanimous consent that following the disposition of the Grassley amendment no further amendment be in order, with the two exceptions, one by Mr. SYMMS and one by Mr. GRAHAM, and that the bill then be advanced to third reading upon the disposition of those two amendments.

Mr. HELMS. No.

Mr. BYRD. Did the Senator have another amendment?

Mr. HELMS. No. I have one more.

Mr. BYRD. And one by Mr. HELMS.

Mr. HELMS. And there is one pending.

Mr. BYRD. And there is one pending. Other than any technical amendments which the managers may have.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. HELMS. Mr. President, reserving the right to object, would a second-degree amendment be in order to the Graham amendment?

Mr. BYRD. No. These would be the only amendments that would be in order.

Mr. HELMS. I am advised that there is an objection temporarily on this side by another Senator.

Mr. BYRD. Mr. President, all right, then a second-degree amendment by Mr. HELMS to the Gramm amendment.

The PRESIDING OFFICER. Is there objection to the request for the unanimous-consent agreement? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators and I thank the distinguished Senator for his courtesy in yielding. I ask that his speech show no interruption in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. I appreciate very much the very difficult job the majority leader has. Any time that it expedites the business of the Senate for me to quit speaking and yield to him, I am very happy to do that.

Mr. HELMS. Mr. President, regular order, please.

The PRESIDING OFFICER. Regular order is the amendment of the Senator from North Carolina [Mr. HELMS] No. 914.

Is there further debate on the amendment?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I have no intention of debating the amendment further. As a matter of fact, I think it will be agreed to. But I would simply say that this involves the case of the Ukrainian sailor who jumped ship two or three times trying to escape from communism, and he was thrust back on that ship, sent back to the Soviet Union, and has not been heard from since. I just hope that never happens again. That is the purpose of the amendment.

Mr. President, we are checking one Senator to see if he has any comments on this amendment.

Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

AMENDMENT NO. 941

(Purpose: To prohibit the Department of State from acquiring a house for the Secretary of State)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 941. Strike section 136 of the bill, and add at the end of the bill the following new section:

SEC. . Notwithstanding any other provision of law or of this Act, the Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State.

Mr. HELMS. Mr. President, I thank the distinguished clerk for reading the entire amendment.

On a DOD bill and on this bill earlier there was an inconclusive vote certainly as to the latter as to the Senate's wishes on the questions of whether we shall go down that long, tedious road of providing mansions for Cabinet officers in this city. This has been proposed by the Secretary of State, and in fairness to him no such mansion would be available to him probably by the time he leaves office. But the precedent will have been set, not only for the Secretary of State, but also for all Cabinet members.

All sorts of reasons have been given for why funds should be solicited from the private sector to purchase, or build, or both, such a mansion for the Secretary of State to entertain. He has lavish quarters down at the State Department right now available to him which are used frequently and constantly for necessary entertaining.

When we talk about security, the problem with that is that the distinguished Secretary of Defense, Mr. Weinberger, is equally a target, if indeed Mr. Shultz is a target at all. So most of this, it seems to me, is based on ego, but in any case I do not think that the Senate should get into the business of endorsing a mansion for one Cabinet officer. Cases can be made right on down the line for the Attorney General, the Secretary of Education, the Secretary of Interior, so forth and so on. But in any case, this past Tuesday night we had the parliamentary situation where the Chateau Shultz, as I call it, amendment was the underlying amendment, and the Mozambique amendment was the amendment in the second degree. Senator DANFORTH came in not agreeing with the Mozambique amendment, moved to table the underlying amendment which, of course, brought down both amendments. So we never had a conclusive vote on the issue of an official residence.

We had several Senators come to the table and say, well, I agree with one, but not the other.

So I want to put the Senate on record one way or another about Chateau Shultz, and see if the Senate wants to embark on that long, long road which will involve funds which, whether anybody admits it or not, will involve in turn a quid quo pro.

People do not give millions of dollars or hundreds of thousands of dollars or $50,000 or $50 or whatever without expecting something in return. There is not that much generosity left in the world today, particularly among the people who can afford to give hundreds of thousands of dollars. They know what they are doing and there will be a quid pro quo, and I expect there will be some corruption and that sort of thing down the road.

So I just do not think as a matter of policy that we ought to get in the business of encouraging this business of providing a mansion for any member of the Cabinet. I am aware of bipartisan support for elimination of the authority for starting down the road this way and, as I say, I feel that the Senate should speak up or down on this issue.

So, that is the sole subject of the amendment. Mr. President, I am ready to vote and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. This amendment would negate the provision in the committee bill that provides authority to build a permanent residence for the Secretary of State, as long as it would be privately funded. After the President and the Vice President, the Secretary of State receives more threats on his life than any other official. As each new Secretary of State comes in, security provisions have to be made in his house, and his living quarters where he has to entertain visiting chiefs of state, chiefs of government, or secretaries of state. Each time the Secret Service comes in, they either invade the house or they have to build some kind of separate annex. It is hideously expensive and an onerous proposition. Every time there is a change in administration or every time there is a change in the Secretary of State, this same transfer of effort has to be made.

In the long run, my own view is it would be cheaper and more efficient to have a house for the Secretary of State, and bearing in mind that it will cost the Government not one nickel because the money will be provided by private subscription.

I oppose this amendment and would ask my colleagues to vote against it.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the additional views from the committee entitled "The Secretarial Mansion" should be made a part of the RECORD at this point, and I ask unanimous consent to do so.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Excerpts from Additional Views of Senator Jesse Helms, Senate Report 100-75 to accompany S. 1394]

THE SECRETARIAL MANSION

Section 136 of the committee bill authorizes the acquisition of an official Secretarial Mansion for the Secretary of State. This section represents a major change in the level and nature of the compensation payable to the Secretary of State. As a major change in the compensation payable to a Government official, the proposal is properly within the jurisdiction of the Committee on Governmental Affairs under the Senate rules.

The professed purpose of the Secretarial Mansion is to save the Department of State the expense of installing security and communications equipment in a new residence each time there is a change in Secretaries of State. State has provded no information to the committee substantiating the level of savings that would accrue from the elimination of the changes, nor has State provided any feasibility study in support of their request for an official Secretarial Mansion. Such a study was required by Public Law 99-93. I believe that in the absence of such a study, the proposal should be held in abeyance unless and until a serious cost analysis has been conducted by independent analysts.

Reports emanating from informed sources with the Department of State and other Government agencies suggest that the proposal for an official residence is a "pet project" of the current Secretary who looks upon the acquisition of an official residence as his "legacy to future Secretaries of State." The entire project has been nicknamed "Chateau Shultz" by State Department officials.

An official residence will entail more than simply providing an empty house to the Secretaries of State. According to my sources in the Department, the Secretarial Mansion envisioned by the Department will be a very large and impressive home. The plans call for a dining room large enough to accommodate 20 to 24 guests for what is described as "small breakfasts and dinner parties." One can reasonably presume that the other rooms in the house will be of similar proportions.

A large 7,000- to 10,000-square foot house will lead, as sure as the sun in the morning, to a request by the spouse of the Secretary for household assistance. Since the Department of State already provides a full-time maid to the Deputy Chief of Mission at the U.S. Mission to the United Nations to care for a relatively small three-bedroom apartment, it would be reasonable to assume that at least three full-time servants will be required to maintain the interior of the Secretarial Mansion. Using State Department payments to the maid in New York as a guide, we can safely presume that the cost will be $20,000 each.

Furthermore, it would be fair to expect that the Secretary will not be spending his weekends gardening, pruning the bushes, sweeping the sidewalk, fixing the window screens, and the other household chores and expenses of a homeowner since after all it will be the Government's property. He will expect the Government to provide for such maintenance of the Government's house. Add another $20,000 to $30,000 a year.

Finally, future Secretaries of State may not wish to spend the money to acquire adequate furnishings to fully furnish and outfit a house substantially larger than their permanent residence. The Government will thus be asked to provide for furnishings and fittings for the house. While this proposal is justified on the basis of a cost savings resulting from the elimination of expenses incurred to install security systems and secure communications equipment in the Secretary's home each time there is a new Secretary of State, once an official Secretarial Mansion is acquired there will be even greater expenditures of public funds as each Secretary and his or her spouse remodels, renovates, and refurbishes the official residence to suit personal tastes and styles. It is well known to those who follow the State Department closely that it is not uncommon for tens of thousands of dollars to be spent to redecorate official ambassadorial residences to suit the different tastes of the occupants. It is unlikely that the Department would refuse to redecorate the residence of its Secretary.

One can easily and accurately project that the acquisition of an official residence will require, in addition to the acquisition, depreciation, and major renovation costs now under discussion, an annual expenditure of at least $100,000. In effect, the Secretary of State will receive compensation double that of his Cabinet colleagues.

State Department officials claim that the complete cost of the Secretarial Mansion will be born from private contributions from wealthy individuals and special interest groups. This claim needs careful examination. The State Department has encountered serious difficulties in obtaining private contributions to pay for the remodeling of the Secretary's office suite and entertainment areas. The Department has "borrowed" funds from the appropriation for emergencies in the diplomatic and consular services to pay for $2.5 million per room conversion of the Secretary of State's office into the most luxurious and ostentatious office in the Federal Government. (Tens of thousands of dollars were spent putting real gold leaf onto the walls despite the ability of the Secretary's boss, the President, to survive with only white paint on the walls of the Oval Office.) With the reduction in the tax benefits for tax deductible contributions, the Department's difficulties in obtaining long-term private support for the acquisition, maintenance, and staffing of an official residence will only increase.

Even if privately funded, I question the propriety of asking for wealthy individuals to contribute to an expense that has heretofore been considered strictly personal. It is good for the country for the Secretary of State to beg wealthy individuals for contributions to help him pay for expenses of maintaining his household? I cannot help but believe that in the long run, such a process will serve only to erode public confidence in the independence and probity of the Secretary of State.

Finally, I am concerned about the precedent that would be established by section 136. Other officials of the Government can claim, legitimately or not, to have similar security concerns that would justify an official residence for themselves and their successors. One can easily identify at least some of those positions: White House Chief of Staff, Secretary of the Treasury, CIA Director, Attorney General, DEA Administrator, National Security Advisor, Secretary of Defense, National Security Agency Director, FBI Director, and so forth. As a matter of fact, all Cabinet officers and senior White House officials could make this claim. It would not take much imagination for Senators and Congressmen to work up a justification for an official residence for themselves on the same basis as has been used for the Secretarial Mansion that the Secretary of State wishes to leave as his legacy.

If the time comes that such residences are required for security reasons, then I believe private funding for these expenses would be highly inappropriate. Without constant monitoring, fundraising for these residences could become almost extortionary. The private contributors to these residences would, in all likelihood, be the very individuals within the ambit of the position. Defense contractors and interest groups would contribute to the housing for the Secretary of Defense, banks and other financial interest groups to the housing for the Secretary of the Treasury, agribusiness organizations to the housing for the Secretary of Agriculture, and on and on.

I believe the Senate will vote to strike section 136 from the bill. A motion to delete the section failed on an 8-9 vote with several members not voting. Such a close vote in the committee with the closest ties to the Department augurs well for the deletion of this section on the floor.

Mr. HELMS. Mr. President, I am very concerned by the proposed authority to accept gifts for the purchase of a permanent residence for the Secretary.

It seems to me that in an effort to avoid an unwarranted expenditure of tax dollars, the concept of privatizing the acquiring of a mansion may have some very negative, unintended results.

Most obvious is the obvious conflict of interest. Out of what charitable motive are we to expect that various individuals or corporations will make contributions for the purchase of a residence?

The great majority of corporations have international interests, if not international operations. Would it not be a flagrant conflict of interest to permit them to donate for such a purpose?

What special favors—implied or inferred—would be expected for the rich donors who give gifts for the purchase of an official residence?

The Congress has decided to limit campaign contributions for precisely this reason.

The idea of putting up for sale signs on the Secretary's office seems extremely unwise.

If we have allegations that administration officials have used their influence after they have left office for certain clients, are we not opening the door for more such allegations to permit contributions while an administration official is still in office?

This is an an expense—housing—that has always been considered an unquestioned personal expense, like groceries, clothing, and the like. To allow donors to contribute to those expenses raises the most serious questions.

Mr. President, let me address very directly several issues that are raised about this issue—security and the idea that there is no cost to the Federal Government.

Mr. President, I do not begrudge the Secretary of State a safe and secure residence. By no means. However, this Secretary of State and every preceding one have been furnished with regular security protection, including installation of security devices at their homes.

I think it only marginally plausible to suggest that the Secretary of State runs a greater security risk than any other cabinet secretary.

What about the Secretary of Defense?

What about the Director of the Central Intelligence Agency?

What about the U.S. Representative to the United Nations?

These are individuals who also deal with international issues that might easily subject them to physical harm. But, if we start down this road of official residences, Mr. President, where will it end?

Each secretary will claim with equal sincerity that he needs a permanent official residence for his safety.

Again, I'm not being trite, Mr. President, but it seems that the precautions we have taken have been effective. I see no compelling reason to embark on a new and expensive pattern of providing an official residence for the Secretary of State.

The $100,000 the Department claims is spent on security for each new Secretary is not unreasonable given the infrequency with which such changes are made. The alternative favored by the Secretary, that of an official residence, would be far more costly.

And, as I noted in the additional views, while no immediate expense may be incurred by the Federal Government, there would definitely be long-term costs that would be borne by the taxpayer.

Mr. EVANS. Will the Senator from North Carolina yield for a question?

Mr. HELMS. Yes.

Mr. EVANS. Would the effect of this amendment be essentially to turn over or undo the action that was adopted by the Senate Foreign Relations Committee?

Mr. HELMS. That is true. Yes; an erroneous action in my judgment. Every Senator has a right to take any matter to the floor.

Mr. EVANS. I understand that. I wanted to make it clear that this was a proposal adopted by the Senate Foreign Relations Committee.

Mr. HELMS. By a one vote margin, I will say to the Senator, in the committee.

Mr. EVANS. I remember it being 10 to 7.

Mr. HELMS. Eight to seven.

Mr. EVANS. It could have been close. But there are many other amendments adopted by a one-vote margin in that committee as well. I wanted to get that message across.

Mr. HELMS. Every Senator has a right to take this case as far as he can. That is what I am doing.

Mr. EVANS. Of course. I understand that. I just wanted to make very clear what the order of events has been.

I do not believe that this amendment is worth arguing very much about, frankly. It would be my hope that if the amendment is adopted, it will find its way to the floor of the corridor, long before it gets to the conference committee, or that it will get lost in conference, as I suspect it will. It does not deserve to be on this bill. In fact, there are a good many things which have been adopted—which I will speak on later—which I do not believe belong on this bill. We have trivialized a very important piece of legislation, and I hope we do not trivialize it further.

Mr. HELMS. If the Senator will permit me, I have been corrected. It was a one-vote margin, but it was nine to eight. There were a substantial number of proxies cast on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. HELMS]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 48, nays 47, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—48

Armstrong
Bingaman
Bond
Boren
Burdick
Byrd
Chafee
Cochran
Conrad
D'Amato
DeConcini
Dixon
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Humphrey
Karnes
Kasten
Leahy
McCain
McClure
Melcher
Mikulski
Mitchell
Murkowski
Nickles
Packwood
Pressler
Proxmire
Quayle
Roth
Shelby
Stafford
Stennis
Symms
Thurmond
Wallop
Weicker
Wilson

NAYS—47

Adams
Baucus
Bentsen
Biden
Boschwitz
Bradley
Breaux
Bumpers
Chiles
Cohen
Cranston
Danforth
Daschle
Dodd
Domenici
Evans
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McConnell
Metzenbaum
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Rockefeller
Rudman
Sarbanes
Sasser
Simpson
Specter
Stevens
Trible
Warner

NOT VOTING—5

Dole
Gore
Sanford
Simon
Wirth

So the amendment (No. 941) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to extend my remarks out of order for 10 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

THE NOMINATION OF JUDGE ROBERT BORK

Mr. HOLLINGS. Mr. President, in 1969, I visited with President Richard Nixon and submitted the name of Clement Haynsworth for Associate Justice of the U.S. Supreme Court. President Nixon was looking for a Southerner, one 55 years of age or younger with judicial experience and, of course, a supporter. When the name of Haynsworth was first mentioned that morning, the President said he couldn't remember him. I told how he had met Haynsworth on a visit to Greenville, SC; that Haynsworth was a summa cum laude graduate of Harvard Law School, that he was chief judge of the Fourth Judicial Circuit, that he was 55 years of age and that when I was running the Kennedy campaign in South Carolina in 1960, Haynsworth was for Richard Nixon. His memory refreshed, the President put on a broad smile and immediately requested that I submit this to him that day in writing.

I returned to my office on the Hill, wrote the Haynsworth letter to the President and at 6 o'clock that evening, Attorney General Mitchell called to say that the President was selecting Haynsworth. In due course, the Haynsworth name was submitted along with Warren Burger to the American Bar Association, which gave both Burger and Haynsworth their highest rating. Then, White House politics set in. Burger would be submitted first to the Senate and thereafter Haynsworth separately, to milk the appointment for political credit in the South. But after the approval of Chief Justice Burger, the powerful Republican minority leader, Everett Dirksen, died, and special interest politics took over. They moved in to the local scene, painting Haynsworth as a racist, a bigot, antilabor, who constantly ruled with conflicts of interest. The United States Code forbids a judge recusing himself from presiding in a case when only a minimal interest is involved and Judge Haynsworth adhered to the code.

No one in any case ever suggested that Clement Haynsworth had a conflict of interest. The statute leaves the question discretionary—easily manipulated to mob hysteria. It was difficult to find a Republican to talk in Haynsworth's behalf. Day in and day out Republican voices cried for the President to withdraw the nomination. I scurried around over the weeks of Senate consideration, each day wondering whether the Clement Haynsworth being caricatured was the same Clement Haynsworth I knew. Judge Haynsworth lost confirmation by five votes. Since that time, at least seven Senators have individually recanted to me.

Now, with the Bork nomination, I could immediately see the gathering storm. Bork had been approved for Solicitor General 15 years ago and as judge of the circuit court of appeals 5 years ago. Until now, he has borne the reputation of being one of the outstanding jurists in this land. So much so that the chairman of the Judiciary Committee last year when asked about a possible Bork nomination to the Supreme Court stated, "I would have to vote for him and if the groups tear me apart that's the medicine I will have to take * * *." But it didn't take long to tear him apart.

The Leadership Conference on Civil Rights moved to organize some 300 interest groups ranging from environment to labor, including such organizations as the Epilepsy Foundation of America, the United Cerebral Palsy Association, and the Retarded Citizens Association. Norman Lear highlighted the onslaught with TV shorts and the mob was on the march. Threatening Senator MOYNIHAN that he had better vote against Bork, a board member of the NAACP stated, "I have the votes in New York to defeat him."

In South Carolina, the executive director of the State NAACP said, "If HOLLINGS supports Bork, he might as well forget the black vote." The threats and the pressures were on. While we are mature enough to understand these threats, I was determined not to join the mob. I stated that I had voted for Judge Bork as Solicitor General, that I had voted to confirm Judge Bork as a circuit court judge and I expected to confirm him for the Supreme Court barring any unforeseen developments at his hearings. The Bork hearings were historic.

Habitually, those coming for elevation to the Supreme Court of the United States appear with the bland defense, "Well, Senator, I have yet to be confirmed. If and when I am confirmed, I will study the circumstances involved and under the law and the facts make a decision at that time." In this innocent but uninformative fashion, most nominees answer nothing and one never knows anymore about the nominee after the hearing than before. In contrast, Judge Bork did not hide. He was forthright. The judge is experienced as a practitioner, as a professor, lecturer, Solicitor General, and as a presiding judge. He was downright masterful in his more than 60 hours of testimony. He took on all comers and in a constitutional and understanding fashion proved his reputation as one of the outstanding jurists of our time.

A famous political axiom of former Speaker Tip O'Neill is that all politics is local. President Reagan appeared in my State last year opposing my reelection and such was the case of many of the Senators elected. I am not indebted to the President for my reelection. But I do owe a debt of gratitude and understanding for the overwhelming black support that I received. Were it not for my experience in the Haynsworth defeat, were it not for the distinguished character and ability of Bork the man, it would be easy politically to find something wrong or puzzling and vote "no" on Bork. Being reminded time and again by strong supporters that this is a vote they won't forget—and they won't—makes it difficult to vote "aye." But vote "aye" I must.

For somewhere, sometime in this Senate we must stand up to the onrush of contrived threats and pressure. As the world's most deliberative body, we must return to our roots. We must deliberate. Celebrating the 200th anniversary of our Constitution, we must be reminded of the inner discipline in our form of government; the discipline that sprang from the character of the framers and the character of the times. There was a discipline or responsibility, there was a discipline of consensus. The theme of the Constitution is the discipline of checks and balances. The framers would not suffer undisciplined, direct democracy. Rather, they crafted a disciplined, representative democracy and the greatest threat to our Constitution today is the tendency toward direct democracy. We are governing by political poll. The most deliberative body in the world is becoming a rigged jury.

The charges against Bork are contrived. The calls from my State say that Judge Bork is against civil rights where in truth as Solicitor General and judge, he has expanded and enforced the civil rights laws that protect the interests of minorities and women in this country. They ask where was Robert Bork while the civil rights battles of the last two decades were being fought. The answer is clear: Arguing before the Supreme Court in a case after case to expand the opportunities of blacks and women in this country.

For example, in 17 significant cases before the Supreme Court, Solicitor General Bork argued for a position at least as favorable and often more favorable to the interests of women and minorities than the Supreme Court ultimately supported. In addition, in cases in which both the Solicitor General and the NAACP Legal Defense Fund filed briefs before the Supreme Court, the NAACP supported the position taken by Robert Bork 9 out of 10 times. The list of landmark civil rights victories in which Robert Bork participated could go on and on. Just two examples: In Runyon versus McCrary, Solicitor General Bork successfully argued that the civil rights laws prohibited private schools from denying admission to children solely because they were black. And in General Electric versus Gilbert, Bork argued that discrimination by employers on the basis of pregnancy was prohibited sex discrimination under title VII. On the court of appeals, Judge Bork has countinued to uphold the rights of women and minorities. In seven out of eight cases, Judge Bork voted in favor of minorities and women, asserting a substantive civil rights claim.

The calls from home contend that Judge Bork should not be confirmed because to do so would open old wounds. If this were true, I would oppose Judge Bork because I lived through those turbulent, troubled times in the South and I do not want to relive them. But this is patently false. Judge Bork not only would not reopen old wounds but was himself instrumental in healing those wounds in the past.

The calls from my home State say that he is against the Voting Rights Act where in truth Judge Bork has time and again applied the Voting Rights Act—most notably in County Council of Sumter County, SC versus The United States of America. In that case, Judge Bork, in upholding the constitutionality of the Voting Rights Act of 1965, allowed seven black citizens of the county to intervene, long after the statutory deadline had passed.

Opponents say these are "confirmation conversions" where in truth Robert Bork stated before the Senate over 15 years ago that the voting rights decision of South Carolina versus Katzenbach was correct.

They say that Judge Bork dismisses the ninth amendment to the Constitution as "an inkblot" where in truth Judge Bork has only adhered to the dictum of Doe versus Bolton wherein Justice William O. Douglas stated that, "The Ninth Amendment obviously does not create federally enforceable rights." This is why Judge Bork has stated that if the courts cannot discover what role the framers intended for the ninth amendment then they cannot treat the amendment as a blank check to legislate for the nation. This is in lockstep with the great civil libertarian Justice Hugo Black who stated of the ninth amendment, "Use of any such broad, unbounded judicial authority would make this Court's members a day to day constitutional convention."

They say that Judge Bork can find a "penumbra" for the rights of government in the Constitution but is unwilling to look for a similar "penumbra" to find individual rights. In truth, the Constitution constitutes the government. It does not enact a legislative code. Judges are forced to look to the structure and relationship the Constitution creates. Judges will find that the checks and balances of the Constitution answer the questions about governmental power and responsibility. And Judge Bork has consistently applied this same approach in the area of individual liberties. Judge Bork has argued that the right of the individual to free speech and to contest government is manifest in our republican form. On this ground Judge Bork argued that the landmark decision in Baker versus Carr, upholding the rights of minorities, was correct.

They say that Judge Bork in disputes between the executive and legislative branches always sides with the executive where in truth he does not favor the executive power, the judicial power, or the legislative power. He favors separation of powers. This respect for the separation of powers is the source of Judge Bork's philosophy of judicial restraint. The opposite of this philosophy—judicial activism—represents above all, an assumption by the judiciary of the authority to make public policy.

This power rightly belongs only to us in the Congress and the other elected representatives, not to unelected judges. In resisting the encroachment of one branch's power by another, the judge has opposed the human life bill, court stripping bills, and attempts by the executive to assume authority over the Congress. Thus, Robert Bork as a lawyer in the executive branch argued against the use of the pocket veto by the President as a device to avoid the possibility of a congressional override of his veto. In the case of the city of New Haven, Judge Bork argued against Presidential rescissions of funds appropriated by Congress.

They say that Judge Bork opposes congressional standing where in truth Judge Bork opposes governmental standing. The idea that officials of the government—whether Members of Congress, executive branch officials, or judges—can go into court to sue members of another branch or members of their own branch every time they have a dispute is very disturbing. This doctrine of governmental standing would turn every political dispute into a legal dispute to be resolved by the courts. This would cause a significant shift in power away from Congress and away from the President in favor of an all-powerful judiciary.

They state that Judge Bork is a radical, an extremist, or perhaps he would develop into an extremist, when in truth, he has written 100 majority opinions and never been reversed.

They say that Robert Bork is insensitive when in fact the opposite is true. Mrs. Jewel Lafontant, former Deputy Solicitor General of the United States, former secretary of the Chicago branch of the NAACP and member of the board of directors of the ACLU, testified at his confirmation hearing:

> As a woman and a black woman * * * let me tell you about the heart of the man * * * I have no fear of entrusting my rights and my privileges to Robert Bork * * * not only is he a supporter of equal treatment for women, I sincerely believe he is devoid of racial prejudice or else I would not be here.

They state that Judge Bork would fail to safeguard the liberties guaranteed by the Constitution where their real complaint is that Judge Bork will not bend or ignore the Constitution in order to reach results they want but cannot achieve through the political process.

They state Judge Bork is controversial where in truth the opposition manufactured the controversy. None of the interest groups petitioning now for Judge Bork's defeat appeared at his confirmation hearings for Solicitor General or circuit judge. Only weeks after scandalous disinformation was packaged and piped out did these groups join the fray. Former Chief Justice Warren Burger who appeared with other justices stated that Judge Bork was the most qualified individual to be nominated in the past half-century. Chief Justice Burger stated further that never before had he witnessed such a sustained campaign of disinformation and distortion.

This disinformation has now taken root. Public opinion polls against Judge Bork are consistently cited. Winston Churchill stated, "Nothing is more dangerous than to live in the temperamental atmosphere of a Gallup poll, always feeling one's pulse and taking one's temperature. * * * There is only one duty, one safe course and that is to try to be right. * * *" But today the Senate is responding to the polls and a brilliant jurist is left lying in the dust and the reputation of the Senate with him. As David Broder stated, "It's something else when judges are lynched to appease the public."

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. LAUTENBERG). The majority leader is recognized.

Mr. BYRD. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1394. The amendment of the Senator from North Carolina is pending.

Mr. HELMS. Has the Senator had the opportunity to review it?

Mr. PELL. We have had a chance to go over it and have it properly cleared on this side.

Mr. SIMPSON. Mr. President, I speak from my deep concern that we should not lightly, and on an ad hoc basis, amend the Refugee Act of 1980.

The Refugee Act was enacted in 1980 to bring some order and rationality to one of the most important traditions of this country: providing asylum for persons from around the world who flee political persecution in their homelands. For 35 years following World War II, we followed a case-by-case, or country-by-country, refugee program, admitting refugees and displaced persons in fits and starts in a manner which Congress determined to be inadequate, discriminatory and out of touch with refugee and asylum needs in the 1980's

The Refugee Act was drafted to establish a policy which would treat all refugees and asylees fairly and assist all refugees and asylees equally. It was intended that the piecemeal approach we had followed previously would be replaced by a coherent, comprehensive policy.

Yesterday, Mr. President, we debated an amendment which urged a special refugee policy for one particular region of the world—an amendment which will distort the working of the Refugee Act. The amendment before us now would make changes in our Refugee Act where particular countries are concerned; and I believe both amendments are a real step backward from the Refugee Act which has eliminated the former geographical and ideological restrictions on the admission of refugees. I fear we are returning to the old patchwork of different programs that evolve in response to specific areas of concern—or pressure.

I do understand the sponsor's strong feeling about the Medvid incident. I share his concern and distress about the initial handling of that situation, but we should not amend the Refugee Act based on one isolated incident. The Refugee Act was specifically drafted to be ideologically neutral. We should not change that.

But more importantly, we surely don't need to amend the Refugee Act. The protection this amendment would seek is available under current law stating:

> The Attorney General shall not deport or return any alien (other than a Nazi who participated in the persecution of others) to a country, if the Attorney General determines that such aliens life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion. Section 243(h)(1), Immigration and Nationality Act.

Mr. President, the current law and our traditionally generous refugee and asylum policy cover very well the situation this amendment would address. The amendment is unnecessary, and would only encourage additional "country specific" amendments to the Refugee Act which, as I have said, was enacted to avoid exactly this kind of off the cuff refugee and asylum policy.

Further, this amendment would create an extraordinary intrusion into the jurisdiction and authority of the Justice Department, which, under current law, is the designated agency to determine asylum status and the admissibility of refugees. We should not now shift all or part of that duty to the State Department which is ill-equipped to handle it. Nor should we transfer jurisdiction over this matter in Congress from the Judiciary Committee to the Foreign Relations Committee, as the amendment would do in its reporting requirements. Its a bad way to go.

Mr. KENNEDY. Mr. President, I want to join my colleague, the Senator from Wyoming [Mr. SIMPSON], in voicing my opposition to this amendment.

It really turns the clock back on our efforts to treat all refugees from all countries fairly and equitably. It undermines The Refugee Act of 1980—which seems to have become fair game on this bill.

That act mandates that we treat all refugee and asylum claims the same, from whatever country. It also stipulates that we shall not return any person seeking asylum on our shores who can claim a well-founded fear of persecution and who would face danger if he or she were returned to their country.

It doesn't take this amendment to do that. That, Mr. President, is our international obligation as a signatory to the "United Nations Convention and Protocol Relating to the Status of Refugees"—which was incorporated into our immigration laws by the Refugee Act of 1980.

Finally, I am astonished anyone would propose that we treat refugees fleeing Communist persecution any differently than we treat refugees fleeing persecution of the left or right. Why not add Iran, South Africa and Chile to the list of countries identified in this amendment? Surely refugees from those countries are deserving of our humanitarian concern.

It is time we stop, through ad hoc amendments, picking and choosing which refugees should be helped, to the exclusion of others. It is time we stopped interfering with the effective implementation of the Refugee Act, as the pending amendment so obviously does.

Mr. President, I strongly oppose its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 914) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 914, AS MODIFIED

Mr. PELL addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Rhode Island.

Mr. PELL. Mr. President, there was an earlier modification proposed to the Senator HELMS and Senator D'AMATO amendment that was accepted, No. 914, and the wrong document was sent to the desk. I now send to the desk the correct document on the amendment concerning the expulsion of people seeking political asylum.

The **PRESIDING OFFICER.** Is there objection to correcting the language? Without objection, it is so ordered.

The modified amendment, as corrected, is as follows:

"SEC. . PROHIBITION OF EXPULSION OF PERSONS SEEKING POLITICAL ASYLUM.

(a) SHORT TITLE.—This Section may be cited as the "Miroslav Medvid Memorial Act of 1987".

(b) SUSPENSION.—Any United States national employed by the United States Government who orders the expulsion from the United States, its territories, possessions, or special maritime jurisdiction, of any person seeking political asylum from a Communist country, without the review and rejection of the person's claim by the Secretary of State and the Attorney General, if such person is so expelled, shall be suspended without pay for no less than 365 days.

(c) DUTIES OF SECRETARY OF STATE AND ATTORNEY GENERAL.—The duties and obligations of the Attorney General and Secretary of State provided for in this section may not be delegated.

(d) REPORTS TO CONGRESS.—

(1) Not later than forty eight hours after an expulsion of a person seeking political asylum described in subsection (b), the Secretary of State shall prepare as modified, and transmit to the Chairman of the Committee on foreign Affairs of the House of Representatives, and the Chairman of the Committee on Foreign Relations of the Senate setting forth the reasons for the rejection of such person's claim.

(2) No later than January 31 of each full year following enactment of this section, the Secretary of State shall prepare and transmit to the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Foreign Relations of the Senate, a report on the whereabouts and welfare of individuals who have been denied political asylum since such denial.

(e) PUBLICATION OF APPLICABILITY OF CRIMINAL PENALTIES.—Not later than 60 days after the date of enactment of this section, the head of each United States diplomatic mission or consular post in each Communist country shall cause to be publicly displayed at the principal entrance to such mission, in English and the official languages of the country in which the mission or post is located, a notice of the applicability of criminal and other penalties for conduct described in section 2 and copy of this section.

(f) DEFINITIONS.—For purposes of this section, the term "Communist country" refers to any country listed in section 620(f) of the Foreign Assistance Act of 1961, Nicaragua and Mozambique.

AMENDMENT NO. 943

(Purpose: To express the sense of the Congress regarding criteria for measuring Nicaragua's compliance with the Guatemalan accords)

Mr. GRAHAM addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise for purposes of offering an amendment which I then intend to ask to be withdrawn after having an opportunity to briefly discuss it. There might be others who would like to comment upon it.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 943.

Mr. GRAHAM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 16 and 17, insert the following:

CRITERIA FOR MEASURING NICARAGUA'S COMPLIANCE WITH THE GUATEMALAN ACCORDS

In order for the Government of Nicaragua to be in full compliance with the letter and spirit of the Central American Peace Accord signed on August 7, 1987, the Congress hereby declares that it is imperative that the Government of Nicaragua take the following mutually reinforcing steps:

I. ESTABLISHING THE RULE OF LAW

A. Bring the 1987 Constitution in conformity with the American Convention of Human Rights to which Nicaragua is a signatory.

B. Annul the March 1982 State of Emergency Decree and its amendments that suspends all rights and guarantees of the Nicaraguan people.

C. Repeal the Law of Public Security and Maintenance of Order and its amendments.

D. Restore "habeas corpus" and annul all laws or decrees that may suspend or restrict it in any way.

E. Dismantle the Anti-Somozist Popular Tribunals and rescind the judicial functions of the Sandinista police. All persons held as a result of their actions should be released since they have not been accorded due process.

F. Abolish the authority accorded the Sandinista Defense Committees as instruments of political control as paramilitary institutions and as controllers of food quotas and job recommendations.

G. Cease the discriminatory use of the military draft as a punitive measure against persons not affiliated with the Sandinista Front. The regulation of compulsory military service must be established once the army is separated from the Sandinista Front.

H. End all government subsidies to all mass organizations affiliated with the Sandinista Front and respect the will of individuals who do not wish to be affiliated with such organizations, especially government employees and teachers.

I. Restore the independence of the judiciary. Due process should be reinstated, including the right of all prisoners to habeas corpus, to know the charges against them, to appeal to a higher court, to have the right to an attorney, and to not testify against oneself.

II. NATIONAL RECONCILIATION

A. The establishment of a mutually acceptable cease-fire between the Nicaraguan government and the resistance, subject to international verification. This ceasefire must allow the resistance to remain in place and able to receive humanitarian aid.

B. The establishment of a full and complete amnesty. This amnesty cannot contain provisions excluding particular groups, e.g. excluding military elements of the Nicaraguan Resistance while permitting political elements to return. Demobilized forces must be allowed to reintegrated fully into both the civil and political life of the country. Exiled Nicaraguans must be allowed to return with full guarantees about their personal safety.

C. All political prisoners without exception or condition, including former combatants, should be released. Of particular concern are those convicted by the Sandinista police, the popular tribunals and under the Law of Public Security and Maintenance of Order. Such convictions should be annulled and property confiscated as a result of such verdicts should be restored. All individuals being investigated because of political or related reasons and who have not been duly processed before a court of law should be freed. Outside organizations such as the International Committee of the Red Cross and the Inter-American Commission of Human Rights should be allowed to monitor and verify the prisoner release.

III. DEMOCRATIZATION

A. Restore the Freedom of Expression.

1. Allow the establishment of all publications, including all those previously closed down by the government.

2. Rescind all decrees and constitutional articles that restrict the freedom of expression.

3. Return confiscated media outlets to prior owners.

4. Provide unrestricted and equal access to newsprint, key supplies and foreign exchange to import equipment and spare parts.

5. End all forms of economic harassment against independent publishers.

6. Allow private television broadcasting.

7. Allow the reopening of some 25 private news programs closed or taken over by the Government beginning in 1982.

8. End all arbitrary arrests and turba attacks against journalists, writers and publishers.

B. Restore complete civil rights and political liberties.

Political Parties

1. Allow political parties to hold marches, demonstrations and public outdoor meetings without government or Sandinista Front harassment or intimidation.

2. End the practice of jailing opposition party activists, and drafting them or their children in reprisal for non-violent political activity.

3. End government infiltration of party meetings and all pressure against opposition party members to inform against colleagues and leaders.

4. Grant opposition parties access to the media and allow them to operate their own publications.

5. Permit opposition parties to freely publicize party meetings and to travel throughout the country to attend such meetings.

6. Release all opposition members from prison.

7. Create an independent electoral commission to establish new procedures for the next elections and allow independent observers to monitor the results.

Human Rights Groups

1. End all jailings, harassment and threats, including the cancelling of food rations against the Mothers of Political Prisoners Movement, the Permanent Commission for Human Rights and the Nicaraguan Bar Association.

2. Allow independent human rights defenders to hold meetings and travel freely throughout the country to monitor the human rights conditions.

3. Provide the CPDH and human rights organizations access to all judicial proceedings and all places of detention.

4. Permit human rights groups to report freely on their findings both in their own reports and through the media.

Labor Unions

1. Ensure labor unions and cooperatives the right to strike, bargain collectively, to demonstrate, to publicly meet and to take collective action to press for labor rights.

2. Ensure that workers and campesinos have the right to join and form unions and cooperatives of their own free will and to elect their own leaders through secret ballot. These unions should be recognized according to the labor code.

3. Ensure that unions and cooperatives can voice their views in the national media and in their own publications without government interference.

4. Guarantee that union leaders enjoy total freedom of movement and have the ability to visit all areas and worksites to conduct union business.

5. End direct and indirect harassment and pressure against independent trade unions.

6. Release all trade unionists currently imprisoned in connection with union activity.

Church Groups

1. Allow the Catholic Church to reopen its social welfare office, human rights office, newspaper and radio station.

2. Allow the return of all 20 expelled Catholic priests.

3. Repeal Article 124 of the 1987 Nicaraguan Constitution, which bars religious education from the curriculum of private schools.

4. End the prohibition against Protestant evangelicals from holding or attending prayer meetings.

5. End coercion against religious believers to join pro-Sandinista groups or to incorporate Sandinista ideology into religious teachings.

6. End detention, intimidation and their coercive measures on the basis of religious affiliation.

The Atlantic Coast

1. Permit free access to and movement within the Atlantic Coast region.

2. Permit Indians and other indigenous peoples and their organizations freely to assemble, speak, publish, disseminate, written material and broadcast their views.

3. Return to its prior owners, the independent radio station "Radio-Ver".

4. Begin a dialogue with the armed and creole opposition to redress past grievances and permit civilian rule in all towns and villages in the region.

5. Permit all independent Indian and Creole political, cultural, economic and social organizations to operate freely in the region.

6. End arbitrary arrests, detentions and threats against the residents of the Atlantic Coast.

Rural Population

1. End practice of forcible relocation of Indian and campesino villages and allow their return to their homes and villages.

2. Abolish the current practice of preventive detention of the rural population without charges.

3. End pressures against small farmers to join Sandinista cooperatives and to join and attend meetings of the Sandinista political organizations.

4. Demilitarize cooperatives during the period of ceasefire.

5. Cease all aerial bombing and strafing attacks against civilians, their villages, homes and property.

Professional Organizations

1. Respect the integrity of all private sector and professional organizations.

IV. THE CESSATION OF AID TO INSURGENTS

A. Suspend all military training, aid and logistical support to the FMLN and all other Central American guerrilla and terrorist organizations.

B. Close all guerrilla training facilities under international supervision.

C. Close the FMLN command and control center in Nicaragua.

Mr. GRAHAM. Mr. President, we all share a common hope for our neighbors in this hemisphere, and that is a hope for peace, but the word peace has many meanings. One definition of peace is the cessation of hostilities. We hope that that will be part of the definition of peace. Another definition of peace, which is deeper, is a true respect for dignity, for human rights, those rights of each individual for which we as a nation stand, which we fought for under the Declaration of Independence, and which we venerate this year in the 200th anniversary of our Constitution.

It is to that deeper definition of peace that we are now especially committed in the five nations of Central America.

I offer this amendment for purposes of focusing the attention of this great deliberative body. I recognize that today is not the day in which to engage in a full debate, but this is a debate, Mr. President, which we will have and the question is under what circumstances and when.

I believe, Mr. President, that it would be in the interest of our Nation and in the interest of the region if we were to clearly establish the standards by which we will eventually grade compliance with the Guatemala accords. We cannot avoid eventually having to set those standards and applying those grades. The issue is will we do it in one acrimonious debate probably framed on the issue of has there been sufficient compliance that we can now with confidence withdraw a military option from Nicaragua or will they be arrived at in a sequential form where we can clearly establish what we expect of the Sandinistas and send a message to the Sandinistas themselves as to how we will be viewing them in terms of the grades that they will utlimately receive.

The language of the amendment, Mr. President, operates within the boundaries and parameters of the Guatemala accords. There are important national security interests to the United States which lay outside that document. The most significant to me is the issue of the continued Soviet-Central European-Cuban presence in Nicaragua.

In a recent meeting with the President of El Salvador, President Duarte, that strong leader for democracy in the region stated it was not possible for the countries of Central America and would be inappropriate for the countries of Central America to purport to negotiate the relations between the United States and the Soviet Union, that the United States must negotiate those issues of continued Soviet and surrogate presence in Nicaragua with the Soviet Union itself.

I agree with President Duarte, and I urge as an important part of the evaluation of our own national security interests in this region we encourage the President and those who have responsibility for the foreign relations of this country to place as a high priority in negotiations with the Soviet Union the elimination of their military presence in our hemisphere.

Mr. President, the reason why I feel it is important that we, prior to November 7, determine the standards by which we will evaluate performance is particularly demonstrated in the area of the Guatemala accords under the key requirement of democratization.

I am going to read, Mr. President, the first sentence of the paragraph under democratization as illustrative of what the accord requires and then leave it to the Members of this body to assess the difficulty of applying a standard of performance or nonperformance against this sentence.

> Democratization. The governments commit themselves to promote an authentic pluralistic and participatory democratic process which implies the promotion of social justice, the respect for human rights, sovereignty, territorial integrity of the nation and the right of all nations to freely determine, without any sort of foreign interference, its own economic, political, and social model and they will undertake in a verifiable manner the measures conducive to the establishment and, when necessary, the perfection of representative and pluralistic democratic systems which guarantee the organization of political parties and the effec-

tive popular participation in decisionmaking and the assurance of free access to differing currents of opinion to honest and periodic electoral processes based on clear observance of citizens' rights.

That, Mr. President, is the first sentence of the paragraph under "Democratization." I suggest that is a sentence which defies our ability now, a week from now, a month or a year from now to determine compliance. Thus, I suggest, for our own purposes and those in the region who are going to be affected by how we evaluate performance, we take the step of giving some definition.

In response to that same issue of democratization, Mr. President, the amendment before the Senate suggests this level of specificity, that in the restoration of the freedom of expression, we request the following as a standard of performance:

1. Allow the establishment of all publications, including all of those previously closed down by the government.
2. Rescind all decrees and constitutional articles that restrict the freedom of expression.
3. Return confiscated media outlets to prior owners.
4. Provide unrestricted and equal access to newsprint, key supplies and foreign exchange to import equipment and spare parts.
5. End all forms of economic harassment against independent publishers.
6. Allow private television broadcasting.
7. Allow the reopening of some 25 private news programs closed or taken over by the government beginning in 1982.
8. End all arbitrary arrests and turbal attacks against journalists, writers and publishers.

Mr. President, I suggest that is the level of specificity that this Senate, this Congress, and the people of the United States want to be able to apply in making a very important judgment for the future of this hemisphere and the national security interests of the United States of America.

Since proposing this amendment, I have met with the chairman and ranking member of the Foreign Relations Committee. I have met with the members of the observer commission appointed by the leadership of the Senate. I have discussed what I feel is the critical importance of establishing these specific standards. I have been given assurance not from all but from a significant majority of those with whom I have discussed this matter that this would be given serious consideration by the committee, and by the observer group, so that this full Senate, after an opportunity for full consideration of what the specifics of these standards of measurement should be, will have an opportunity to adopt for our own purposes and for the benefit of the peace process in Central America our standard of measure.

Mr. President, with that statement, I have the hope and expectation that well before November 7, when we are going to be asked not only to set the standards but also to apply a grade of performance behind those standards, this Senate will have clearly stated how we intend to evaluate the performance by a government which has caused such rancor in the region and in this hemisphere, and a government in which we might be asked to invest our faith in the future of its performance.

Mr. President, with those remarks and reserving to other Senators who might wish to speak on this matter, I ask to withdraw the amendment that has been offered and look forward to a day when we can have a full debate to a final conclusion on this issue.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, the amendment is withdrawn.

Mr. PELL. Mr. President, I thank the Senator from Florida for his thoughtfulness and the thoughtful exposition of his amendment. As he said, I had a chance to study it, look at it, and made a commitment to circulate it to the members of the committee. I think his ideas are excellent. I am grateful to him nor only for advancing them but also for withdrawing the amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I join the distinguished chairman in expressing my gratitude to the Senator from Florida. I also say to him that I can sympathize with his intentions.

Mr. President, I can sympathize with the intentions of the Senator from Florida. There is a great danger that those who oppose the efforts of the freedom fighters in Central America to fight for freedom in Nicaragua will find themselves slowly twisting in the wind while the Communist government in Managua pretends that it is in compliance with the Guatemalan agreement. While the resistance loses heart over the continued delay at the achievement of democracy in Nicaragua, while funding dries up, and, perhaps, men drift off, the Communists can make a few dramatic cosmetic changes which don't really change the structure of power.

But the fact is, Mr. President, that the Guatemala agreement is not a recipe for peace. President Reagan pointed out only yesterday that the agreement is fatally flawed. It is deficient in guaranteeing that the Sandinistas will actually transfer the power that protects their totalitarian grip on the country.

The real power is the Communist structure of the country. The real power is the military force that gives the Communists the strength to enforce its control over every aspect of life. The real power is the identity between the authorization Communist Sandinista Party and the military forces. The real power is the Cuban and Soviet financial, military, and technical assistance that provides the wherewithal to hold the country in slavery.

A few promises to respect human rights, Mr. President, will not change this intolerable structure of power. We must go beyond the Guatemalan agreement if we want to give Nicaraguans a free choice, a free chance to oust communism from their midst.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would also like to say I am pleased the Senator, Mr. GRAHAM, has withdrawn his amendment. I think it expresses a desire that many of us would share here that democracy can take place, and grow and flourish in Central America, specifically in Nicaragua. I think there is the opportunity to have a bipartisan effort here to establish some benchmarks that will be important to these efforts. But I think we must be cautious not to be too specific. If I am correct in reading this amendment, there were 40 some specifics suggested. It seems to me that we must shape together a little bit broader framework by which we can judge the initiatives regarding the peace plan. It is important that we do this.

Just today President Ortega in the United Nations reiterated his determination not to negotiate a cease-fire with the Nicaraguan resistance. This came 1 day after the Sandinista government began implementing their unilaterally declared cease-fire in Nicaragua.

I think these recent events underscore the fact that the Sandinistas unilateral cease-fire raises grave concerns about the prospects for success of the Guatemala peace accord.

There is less than 1 month left before the five Central American countries have to meet the requirements of the Guatemala accord. The establishment of a cease-fire is a key provision of the accord. It is extremely difficult to conceive that national reconciliation, democratic reforms and full amnesty can be achieved unless the terms of a cease-fire are agreed to by both sides of the conflict.

Over the past week, the Governments of El Salvador and Guatemala have begun negotiations with their armed opposition. President Arias have attempted to break the deadlock in Nicaragua on the cease-fire issue with the suggestion that Cardinal Obando y Bravo serve as the intermediary between the Nicaraguan resistance and the Government.

I believe very strongly that a binding cease-fire which moves Nicaragua on the path of national reconciliation cannot be satisfied by a unilateral announcement by the Sandinistas. The stakes in the region are high and time is running short. I urge President Ortega to seriously consider the suggestions offered by President Arias of Costa Rica on a negotiated cease-fire.

I would like to join with Senator GRAHAM, Senator McCAIN, Senator LUGAR, Senator DODD, and others who are trying to shape some benchmarks that we can agree are important to be looked to regarding the peace initiative. But I think this must be done within a broader framework than the one proposed by Senator GRAHAM, and I am pleased that the Senator has withdrawn his amendment at this time. I look forward to working with him in the future in this effort.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN Thank you, Mr. President.

I would also like to express, to start with, my appreciation to the Senator from Florida [Mr. GRAHAM] who has since the day he stepped into this august body has declared his intentions to do what he can to find a peaceful solution to the Central American debacle in which we find ourselves. He has taken an active role and a leadership role in trying to shape the consensus, and a bipartisan basis which is long overdue in addressing this difficult question. I share his views.

I think it is important that he presented this amendment when he did to provide the impetus that I hope will lead us within a week or so, and I would like to remind my colleagues it is not very long between now and November 7. We will provide the impetus in the next few days for us to come together with an agreement on the criteria that we can expect for the Nicaraguans to comply with as well as other signatories to the agreement in order that we might truly be able to judge the progress or the lack of progress of the August 7 Guatemalan agreement.

I think it is also important, as my friend from Florida pointed out, that we cannot totally ignore the Soviet-Cuban presence in Nicaragua. We cannot ignore the largest military buildup in the history of Latin America existing in our very hemisphere, and not be deeply concerned with the threat that poses to the United States' national security.

At the same time, I think it is important for us to also appreciate that the November 7 agreement did not address that issue which is not nearly as important to the governments of Central America as it is to our own Nation.

But I also want to reemphasize that November 7 is a date, November 7 is the date agreed upon, for certain standards of compliance. The greatest disservice we could do to the people of Central America is to allow that date to slide by on some grounds of partial compliance, not enough time, they are doing a good job, but let us give them some more time because it was not the United States of America, Mr. President, that decided on the date of November 7. It was the agreement of the five Central American Presidents that agreed on November 7 as the date for compliance.

I would suggest if there is a reason to extend that date, then perhaps there may be a reason for extending the date of the existence in some way or another of the Contras because there is no doubt in my mind, Mr. President, that it was the presence of the Contras that provided the pressures against the Sandinista government that led them to sign the agreement. If it was not, they would have signed something in the last 8 years or they would have adhered to the promises that they made in 1979 which are basically what this Guatemalan agreement is, the same promises they made in 1979 to the Organization of American States, the United States of America, and, most importantly, to the Nicaraguan people.

So I would suggest that November 7 is a date which is a key date for us to be able to assess the degree of compliance, and what measures we need to take in the aftermath, including, Mr. President, devoting that $270 million, if the governments are in full compliance, in economic aid to heal the wounds in all three nations in Central America that will be so badly in need to our help to repair their badly damaged economies in the event that we reach the goal which we all strive for; that is, a true peace in Central America.

Let me also emphasize that in my dealings with Central American leaders both in public and private, there is healthy skepticism on their part along with a commitment toward peace. I think that should characterize the mood of this body toward this agreement and the Central American agreement. I believe full democratization is that people ought to be allowed to speak, and I believe full democratization means that Radio Catolica and La Prensa be allowed to stay open. There were 22 additional media outlets that were in operation in 1979. It means more than allowing opposition parties to form. It means that there is a commitment toward the ultimate test of any democracy, and that is a free election in which all are allowed to participate.

Very importantly, Mr. President, it means a negotiated cease-fire. Any student of military tactics will tell you that a unilateral cease-fire is not worth the paper it is written on. It must be a negotiated cease-fire. I am very disappointed to hear President Ortega's remarks today at the United Nations that he will not agree to a negotiated cease-fire.

Let me draw a scenario for my colleagues which could present us with a rather serious problem. President Ortega and the Sandinista government refused negotiations or refused to even use Cardinal Obando y Bravo as their mediator in a cease-fire until around November 1. Then they agree to use the cardinal but as of November 7 there is no meaningful negotiation toward a cease-fire.

I do not underestimate the intelligence of the Sandinista government nor do I underestimate the intelligence of the people that are advising them, both in Central America and here in the United States. And we have to very carefully scrutinize what happens in the way of cease-fire because, my friends, cease-fire means stopping of killing, and cessation of killing is the primary goal of any peace agreement and must be the first and foremost and integral part of it.

Democratization can take place. Freedom of expression can take place. But until people lay down their arms and negotiate with one another on an equal basis, with the assistance of the United States of America, if necessary, and anyone else, then, and only then, can we believe that we have made significant progress toward true peace in Central America.

Mr. President, I also appreciate the efforts of my colleague from Connecticut, Senator DODD, who has shown his leadership in more ways than one on this issue. We are in disagreement on some particulars, but I think we share the same goal.

I appreciate the long commitment of Senator KASSEBAUM to this process. I am appreciative of the very thoughtful and critical views she has had on this issue from time to time, which have made her, Senator RUDMAN, Senator COHEN, and others very important figures in this entire debate; and people will be looking to my colleague from Kansas as to her views with respect to the progress of peace in the region.

Again I express my appreciation to the Senator from Florida for bringing up this issue. I hope we can have a commitment on this on the part of all of us to work together, so that in a few days we can reach an agreement as to the criteria as to what this Nation can expect, not in the way of interfering with the process but in furthering the cause of peace in Central America.

Mr. DODD. Mr. President, I thank the Senator.

I also thank the Senator from Florida for withdrawing the amendment.

I associate myself with the remarks of the Senator from Kansas, to the extent that there is a process ongoing here. There are criteria laid out by the OAS plan. They are not as detailed as the plan laid out by the Senator from Florida. We are all watching with anticipation as to how this process is going to proceed in the coming weeks.

I certainly do not have any argument or quarrel with any of the specifics suggested by the amendment of the Senator from Florida. In fact, I do not think anyone could. There are elements there that every one of us endorses, regardless of where the country or the region may be. But at this juncture, I think it would be complicating or would be perceived as adding additional criteria at a time when five of these countries are struggling—I probably should not include Costa Rica, because they do not have the same difficulties; but the other four nations obviously are wrestling to resolve these matters with commissions on reconciliation and a variety of other people. So I hope they would succeed in that. I think that holding up on this amendment until they have had an opportunity to do that is the best course to follow.

So I am grateful to the Senator for withdrawing the amendment, and I look forward to working over the next few weeks with the Senator from Arizona and the other observers and those who are not members, but who, over the years, have followed the actions in Central America with a great deal of care, diligence, and thoughtfulness.

I refer specifically to our colleague from Kansas in that regard and others who have been active on this issue during my 7 years in this body.

Mr. SANFORD. Mr. President, I express my appreciation to the Senator from Florida for his thoughtful presentation. I assure him that this member of the team of observers greatly appreciates the guidance that this carefully thought out amendment will provide.

I also thank him for withdrawing it at this time, so that we will not add to the confusion in Central America. I thank him for his statement, as well as for his skillful presentation of some good ideas.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EVANS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. Mr. President, we have been through several days now of amendments to this bill and are approaching the end of debate on it.

I should like not to offer an amendment but, rather, to speak to three subjects, all of which I believe are important to the subject we are dealing with and the process by which we are dealing with it.

First, Mr. President, this bill—and I will suggest in later debate when the foreign operations bill comes before us, that, too—is seriously inadequate to do the job of carrying out an effective American foreign policy, seriously inadequate in the money we have set aside, that relatively small proportion of our budget which goes into running the foreign affairs of this Nation.

We purport, on the one hand, to be a superpower. We like to consider ourselves as the strongest Nation on Earth, a protector of democracy, both here and elsewhere. A nation whose Constitution is copied and whose freedoms are deeply desired by peoples all over the world. Yet, Mr. President, we in this Congress simply refuse to provide adequately for taking on the role in the world that we say we want.

Recently, the Secretary of State, in a speech to the employees of his Department, said that foreign affairs and the foreign affairs budget have been brutalized in the budget-cutting process. I thoroughly agree with his perception of what has happened and what will happen to an even greater degree with the passage of this authorization act and the appropriations bill which will flow from it.

Mr. President, the cuts we are forcing on the Department of State will cause that Department to consider potentially drastic reorganization. I ask, Mr. President, at what point will such budget cuts and reorganizations jeopardize the very nature of our State Department and the responsibilities we purport to be carrying out in the advancement of American security interests; in the advancement of America's national interests; in the advancement of America's international economic interests; in the advancement of the cause of our friends and allies around the world? I think we are perilously close to the point where we are going to jeopardize all these important U.S. responsibilities.

What part of the Department's mandate is likely to go first? I will tell you what is going to go first—people. People are the mainstay of that Department and of our representation overseas in diplomatic posts in more than 150 nations.

They are the essence of our foreign policy representation. Salaries and the necessary expenses to support those salaries are a significant part of the State Department's budget. The Secretary estimates that about 1,250 personnel will have to be cut during the 1988 fiscal year.

Not only that, but these cuts come on top of substantial cuts in the budget, not cuts in the growth of budgets which is typical in other agencies of Government but actual dollar cuts which came between 1986 and 1987. So this is continuation of a trend not matched in 90 percent of the other agencies of our Federal Government.

We talk about cuts in defense. There are no cuts in defense. There is a decrease in the amount of increase. That is all.

We talk about cuts in other programs. They are merely decreases in the amount of increase.

We have more to deal with year to year but not quite as much more as we would like. Yet in this one budget we have to deal with actual reductions which increasingly are making it impossible to carry on the responsibilities we claim we should be carrying out.

Not only is money at stake, Mr. President, but amendment after amendment we have adopted in this bill restricts the Department's flexibility on the one hand, we say we are going to cut the budget and on the other hand we are going to mandate certain items that will make it even more difficult for the Department to deal with this reduced amount of money.

Let me give an example.

Section 107 essentially prohibits the closing of any post or diplomatic mission abroad. Yet in the Secretary's speech he notes that to break even the Department will have to close at least 15 posts during this fiscal year with more closures to come in subsequent years.

I realize that this body is not necessarily consistent in everything it does. But it seems to me we ought to at least try to be reasonably consistent within the same bill and on the same subject within the same bill. We say, on the one hand, here is less money to deal with, substantially less money; on the other hand, for heaven's sake, do not close any of your current posts, do not diminish anything you are now doing.

I fully agree with statements made by the chairman and the ranking member of the Foreign Relations Committee. They have said our consular posts and our Embassies represent America's first line of defense. Our presence is and should be an extremely cost-effective means of promoting America's interests abroad.

Is this any time for us to decrease our presence abroad? Especially at a time when the Soviet Union is increasing its presence in many countries, countries which are at risk today. And in which we have an extraordinary interest? And yet our presence in these countries may well fall prey to our reduced budget at a time our major adversary is increasing its presence.

I do not want to reduce our presence. I would rather give the Secretary the money he needs to do an effective job and give him the flexibility to do it adequately.

Mr. President, the budget for 1987 is down 7 percent in current dollars, more in real dollars, from 1986. In 1988, if we buy this authorization bill, it will be down another 4 percent in current dollars, more in real dollars.

Yet we retain all of these demands to expand, to do more, even to hire new Under Secretaries. We have a broad new list of elements and items that some would add to this bill requiring the Secretary of State to add more here, to do more there, and not cut anywhere.

Everyone wants to get their own little item in but nobody wants to provide enough resources to do an effective job in American foreign policy.

Mr. President, I ask unanimous consent that an address by the Honorable George Shultz, Secretary of State, before the State Department employees be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE GEORGE P. SHULTZ, SECRETARY OF STATE

I have a very unpleasant duty to perform, and that is to tell you about some things that we must do, many of which are, in my opinion, not in the interests of the United States. But, nevertheless, if we are going to live within the appropriations that the Congress gives us, which we must do, then we have to cut out functions and, in the end, that means find our way to having considerably fewer people. There isn't any other way.

I think everyone is aware of the way in which the Foreign Affairs budget that the President submitted has been brutalized in the budget-cutting process. It isn't just the security assistance, the economic assistance, the other functions—the 150 function, the Foreign Affairs function—that have been cut, but also our funds available for the operation of the Department of State have been cut. There's just not enough to do the things as we are now doing them, so we must change.

We will carry out this process in a careful, legally proper way. We will try to do it without the so-called "rif." Everybody's rights will be respected fully, but somehow, some way, we have to find our way to a reduced pattern.

I think we need to start at the top. So we have made plans, and we are reducing the number of positions on the so-called Seventh Floor. We're reducing 21 positions.

I know I have to travel around a lot. I don't have any alternative if I have even a remote chance of doing the job I'm supposed to do. But the burden of proof is going to be very heavily on expensive travel, and we'll just have to forego some diplomatic missions. So we're going to have to cut at the top, but we're going to have to do much more.

We will consolidate functions and organizations. I know it makes sense, with respect to many functions, to have a central functional bureau, like our Congressional Relations or Economic Bureau, and to have positions out in the various other bureaus that can relate to that function because it's so important for us in the geographic bureaus. We're going to have to forego that and centralize that. The centralized functional bureau is just going to have to service you adequately and you'll have to demand it, but we'll save some people that way.

There are quite a number of examples where we think such a process can be worked out, and we'll do it.

There are a lot of organizational units within the bureau structure that we'll consolidate and merge. We are going to have to cut down, perhaps rather drastically in some cases, the number of Deputy Assistant Secretaries. The Deputy Assistant Secretaries are very good people so they're going to do something else, but we're just going to have to find out how to operate with fewer of them.

We have been at this now for two or three years. I think it's fair to say, and I was startled to see some figures a couple of months ago as I've been working on this, the extent to which, over the last couple of years, our posts overseas have borne the burden of the cuts that we've already had to work out. So we will have to lighten the burden on them and take more of it proportionately in Washington, and that is what is being done.

However, there are additional things that we can do. And, as you may know, we have been experimenting with the so-called "small Embassy concept"—certain posts. If we have an Embassy that doesn't deal in any classified information, this means it doesn't have to have certain kinds of communications equipment which means it doesn't have to have the communicators to go with it and which means you don't have anything you have to guard. It also means that there's less that they can do. So from this end you can't task them the same way; you can't get as much reporting from them. But, nevertheless, we will continue to be at those posts and we'll represent America. We'll have a reporting flow. And if there's a need to deal in classified information, the people will just have to go to some other country where we have that kind of communication. So we're going to use the small Embassy concept in more places.

We find that there are functions—multi-post-functions—that are performed in some posts, and we're going to have to look carefuly at that. We have looked and we have our ideas. So that if we find we're performing a function for several posts at a place that's expensive, even though it's nice, it's not going to be done there anymore. It's going to be done where it's less expensive, the least expensive we can find.

We hope to expand considerably the non-immigrant visa waiver program. If we can do that effectively, that may be a very good thing in and of itself. We will have to close more posts. In FY 1986 we closed seven posts. In FY '87, we proposed closing an aditional seven. We're going to have to close 13 more consulates and two embassies. We'll still maintain representation in those countries, but we will not have the kind of post representation that we have had. We'll just have to cut it down.

We will have a special early retirement program that may help to manage this in a way that doesn't harm the interests of individuals and helps do things in a proper and legal way, which we must do. We're going to look very hard at everything we do that involves another agency, and charge them adequately for it so we get some money back that way. And we'll look at various other cost reductions.

Some of the recommendations that I have we can implement directly, and we are going to do it immediately. Others will involve reprogramming of funds, so we'll have to get permission from our committees to do that. Others will require change in the law, so we'll have to ask for the change in the law.

These recommendations have been put together by a steering group of experienced people chaired by the Deputy Secretary, John Whitehead, including Ron Spiers and Mel Leuitsky and Mike Armacost, so there's a lot of experience represented in that group. Of course, they have the benefit all the way through of the support staff and George Vest, and so on.

In the implementation, this steering group will stay active and watch and push through these changes. Ambassador Brandon Grove is in the process of leaving his post at Zaire. Bill Harrop is going out there. So as he (Ambassador Grove) comes back, he will give full-time attention to getting this implemented. So we'll have somebody looking at this full time to get it down under the direction of people who have lots of other things to do. So we don't want to have this fall through the cracks, because nobody is working at it full time, so we're just going to push and push and push this thing through.

The cuts that we've identified so far amount to about $59 million worth in fiscal year 1988. As the full year—as these are realized through fiscal year 1989, we think they will amount to about $116 million. We have to find more. We have to cut further. I'm just telling you where we are so far. We have to cut further, because we don't have the money, and we have to find a way to live within the money, as I said, that the Congress appropriates for us, and we'll do it.

Many of you have heard me say before what I believe, that the Department of State is fortunate in having an extraordinarily high quality of person working here. We have genuinely gifted people—the heavy cream—and people work very hard. We've just had a heavy week of work, and the people that have been supporting me and working with me in this have just done a super job, and they have worked themselves to the bone and enjoyed it. That's the only way you can work as hard as we do is that you have to enjoy it. So I think that the quality is terrific, and somehow or other in this process we must find a way—and I have this very much on my mind—to see to it that the basic quality that we have is not eroded in any way.

I met with the incoming Foreign Service class, so-called, the other day, and I looked through their resumes—50 new people. They are extremely good—very impressive—and I feel that I owe it to my successors to see to it that the incoming classes come, that the career development process continues, and the same in other fields of our work, so that my successors will have that quality to draw on, because without it there's no way in this country that we can develop and carry out the kind of foreign policy that the world's leading nation must have and deserves. So we're going to hold our head up, and we're going to maintain our quality, but we're going to have to find our way to get along with less money.

I'm still close enough to the private sector to think that the sums of money we're talking about here are large. However, sometimes I find myself in conversations about our budget, and the trillion dollars or so that's in there, and some of the things people talk about rather casually. And there are many areas in our government where the sums of money we're struggling to save are so small they don't even notice them. They're below the error of estimate.

However, our life is a people life. Our budget consists of what you are here. Maybe that's one reason you're so good, that it's

> people, and we work together, and we care a lot about what we're doing. So I deliver this message to you with great regret, because I don't think what we're doing is in our interests. Nevertheless, we must live within the amounts of money that the Congress gives us, so we have to take these actions. We will take them definitively, we'll take them properly, and we'll take them in a manner that is as consistent as we can possibly be, with the maintenance of the quality and capability that this Department gives to our country, not only today, but thinking that we must maintain that so that the incoming classes—the incoming people are there, and they have the capability and the opportunity to have the career exposure and experience that will enable them to perform the kind of sevices as they gain experience that must be performed if we're to have an effective policy.
>
> I know that I and the committee that I'm working with will have your support in this. It's not a pleasant undertaking, but, like everything else, we'll just have to roll up our sleeves and do it. Thank you. [Applause.]
>
> Don't clap.

Mr. EVANS. Mr. President, second, I would like to speak on a subject which is not before the Senate formally yet, but which I believe shows clearly how our processes have simply gotten out of whack.

At least twice in the last decade, we have had proposals to sell arms to Saudi Arabia. Recently a petition was circulated in this Senate by distinguished leaders in the Senate to deny any sales to the Saudis. That petition was signed by almost two-thirds of this body. It was a petition signed before any requests were even made.

It is a petition before the fact. It is very much like the nomination of Judge Bork by the President where many of my colleagues could not wait for the nomination to get up here so they could come out in opposition to him. No matter that the hearings had not started, no matter that information had not been gathered, no matter that there was no time to thoughtfully listen to the applicant. Hang him first and have the trial later.

I think in many respects this petition falls in much the same category.

What should American policy be in the Middle East? I believe, as one Senator, that the free flow of trade is a fundamental element of that policy. The free flow of commerce and obviously oil is the major element of that is important to the security of the Western World and very likely to the peace of the Western World.

Another fundamental bastion of American foreign policy is and should be our dedication to the continued security and independence of the State of Israel—as we have been since the birth of the State of Israel.

Further, I believe that our policy should bring us closer relationships with friendly Arab States. Over an extended period of time these relationships will help to bring us closer to peace in the Middle East.

I am concerned that recent decisions of this Nation have advanced none of these fundamental objectives.

Mr. President, because of my conviction, I asked the Congressional Research Service to do a study to analyze what happened in two quite different circumstances to determine if this could tell us anything about the future. This is a pretty important thing for us to do. Before we look ahead to the future and a decision which we may have to make, we ought to look back and see what happened under similar circumstances. What decisions did we make in the past and what was the result?

Mr. President, this study of the Congressional Research Service is not only fascinating but revealing. Let me just read some excerpts from it for my colleagues and then I will ask that the entire report be printed in the RECORD.

> On April 28, 1978, the Carter administration formally notified Congress of its proposal to sell Saudi Arabia 60 F-15 aircraft, together with associated spare parts, support equipment, basic munitions, technical and pilot training, at an estimated cost of $2.5 billion. The sale to the Saudis stimulated much debate in the Congress. Resolutions of disapproval were introduced in both Houses. On May 15, 1978, the Senate by a vote of 55-44 rejected Senate Concurrent Resolution 86, thereby permitting the sales to go forward.

Let me briefly talk about what happened as a result of that sale of F-15's to the Saudi Arabians.

First of all, and I think of least importance this was a $2½ billion sale, having positive trade balance for the United States. But more important, we had some major stipulations connected with that sale as to how and under what circumstances the Saudis would use those aircraft.

A major restriction, is that the F-15's, would be interceptors with limited ground attack capabilities, a very important proviso for the security of the State of Israel.

> The United States did not intend to furnish Multiple Ejection Racks (MER 200), which would permit the Saudi F-15s to carry a substantial bomb load.

Another important consideration:

> The United States did not intend to sell any other systems or armaments that would increase the range or enhance the ground attack capability of the Saudi F-15s.

In addition, Secretary Brown noted that:

> The Saudi government had assured the United States that it would use its F-15s only for legitimate self-defense, and not employ the aircraft in offensive operations.
>
> The Saudis had assured the U.S. Government that the F-15 aircraft would not be based at Tabuk Air Base.

Which is close to the border of the State of Israel.

> The Saudis had assured the U.S. Government that it would not transfer the F-15 to any third country or permit access to it by third country nationals without prior U.S. consent, and that the appropriate security of the aircraft would be maintained; and
>
> The Saudis had assured the U.S. Government that it did not intend to acquire any additional combat aircraft from other countries while it was preparing for and receiving the F-15s.

Mr. President, there were several other restrictions that come from our Arms Control Export Act which were also applied to this F-15 sale. Mr. President, it is my understanding that in each and every one of these cases the Saudis have lived within the conditions placed on them by the United States at the time. This sale was consummated in 1978.

Subsequent to that sale,

> * * * the United States was reportedly approached by that nation regarding additional purchases of F-15's. According to press accounts, when it seemed clear that the United States was not prepared to make further sales of the F-15, the Saudis sought additional planes from other suppliers.

Mr. President, at that time, as I remember, it was a petition similar to that now circulated by Members of the House and the Senate which caused the Saudis to go elsewhere. It would have been of little use to put forward a proposal with two-thirds or more of each House having already signed up in opposition.

Mr. President, what was the result?

> In late 1985, the Saudi Government signed an initial memorandum of understanding with the British Government for the purchase of 72 Tornado aircraft. In February of 1986, the contract finalizing this sale was signed by the Saudis and the British Government.

There are more details in here, Mr. President, for those who wish to read the entire report. But "according to British Aerospace and press accounts, the Saudis are purchasing 72 Tornado aircraft, 48 of the Interdictor Strike version" ground attack aircraft which we had denied to the Saudis in the F-15 sale we had made some years before. "The IDS version of the Tornado is designed to carry heavy loads of weapons. It is a fighter bomber."

"Although the 72 aircraft are the largest element of the Saudi aircraft sale by the British," there are many other elements to that sale package. That package constituted the "largest British arms export order ever placed. The value of the order for the initial 3-year phase is 5 billion British pounds—which at today's exchange rate is roughly $8 billion."

The report goes on to say, Mr. President, that there were few limits placed by the British on the Saudis for the basing or the use of the aircraft purchased. The report states:

> In the case of the British sale of Tornado aircraft to Saudi Arabia, the Saudi Government states that Britain has placed no contractual restrictions on the deployment or use of these aircraft by the armed forces of Saudi Arabia.

Mr. President, let me get then to the final implications stated by this comprehensive report. They are implications which I think we ought to consider very carefully, because they deal with two proposals at different times to the same nation, one consummated, one denied. And we can see pretty clearly what the end results of each have been.

What are these implications?

One basic implication of these two sales cases is that Saudi Arabia has shown a willingness to seek alternative sources of advanced fighter aircraft should American aircraft not be available to it. Because the British have had a long-standing relationship with the Saudis they were a logical source of supply. Indeed, prior to the sale of the U.S. F-15 in 1978, the Saudis' principal fighter was the British Lighting. Clearly the British are prepared to seize the opportunity to make arms sales to the Saudis that the United States is not prepared to make.

Second, while most details of the British Tornado contract are not publicly available, the Saudi government states that the British have not placed any restrictions on the deployment or use of the Tornado aircraft by the Armed Forces of Saudi Arabia. Thus it is clear that the Saudi government is free to base the Tornado aircraft where it chooses to do so, including at Tabuk Air Base.

Third, it seems evident that the United States has a more rigorous system of restrictions on the use of the defense articles it sells to foreign buyers than does Great Britian. Not only does the United States system require a review of a sale before it is made—including a review by the U.S. Congress of major sales—it sets standard restrictions on the use of the equipment after a sale is made. The United States makes it publicly clear that it reserves the right in all cases to terminate or suspend a sale if a purchasing country does not adhere to the conditions set out in its FMS contracts or if the United States determines that its national interests alone require contract suspension or termination.

Mr. President, I ask unanimous consent that the entire report of the Congressional Research Service be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, August 25, 1987.

To: Honorable Daniel J. Evans. Attention: Christine Dawson.

From: Richard F. Grimmett, Specialist in National Defense, Foreign Affairs and National Defense Division.

Subject: Sale of Advanced Fighter Aircraft to Saudi Arabia.

This is in response to your request for a memorandum focusing on the sale of advanced fighter aircraft to Saudi Arabia by the United States in 1978 and by Great Britain in 1986. As you requested, this memorandum specifically includes an assessment of the controls on the deployment and use of the British aircraft sold to the Saudis in contrast to those that might have been imposed on additional F-15 aircraft sold by the United States.

SALE OF F-15 AIRCRAFT BY UNITED STATES IN 1978

On April 28, 1978, the Carter Administration formally notified Congress of its proposal to sell Saudi Arabia 60 F-15 aircraft, together with associated spare parts, support equipment, basic munitions, technical and pilot training, at an estimated cost of $2.5 billion. The sale to the Saudis stimulated much debate in the Congress. Resolutions of disapproval were introduced in both Houses. On May 15, 1978, the Senate by a vote of 55-44 rejected Senate Concurrent Resolution 86, thereby permitting the sales to go forward.

Prior to the Senate vote on the Saudi F-15 sales, then-Secretary of Defense Harold Brown sent a letter to both Senator John J. Sparkman, Chairman of the Senate Foreign Relations Committee, and Representative Clement J. Zablocki, Chairman of the House International Relations Committee. This letter, dated May 9, 1978, contained a number of assurances regarding the type of F-15 that would be sold to Saudi Arabia, and the purposes for which the F-15 would be used. The Brown letter also noted specific assurances that the Saudis had given regarding the places where the F-15s would be based, among other things. A copy of the Brown letter is attached to this memorandum.

Most observers agree that the assurances provided in the letter of Secretary Brown were very important in convincing the Senate to reject the resolution aimed at blocking the Saudi F-15 sale. Among the major stipulations in the letter are the following:

The Saudi F-15s would be intercepters, which had limited ground attack capabilities;

The United States did not intend to furnish Multiple Ejection Racks (MER 200), which would permit the Saudi F-15s to carry a substantial bomb load; and

The United States did not intend to sell any other systems or armaments that would increase the range or enhance the ground attack capability of the Saudi F-15s.

In addition, Secretary Brown noted that:

The Saudi government had assured the United States that it would use its F-15s only for legitimate self-defense, and not employ the aircraft in offensive operations;

The Saudis had assured the U.S. Government that the F-15 aircraft would not be based at Tabuk Air Base;

The Saudis had assured the U.S. Government that it would not transfer the F-15 to any third country or permit access to it by third country nationals without prior U.S. consent, and that the appropriate security of the aircraft would be maintained; and

The Saudis had assured the U.S. Government that it did not intend to acquire any additional combat aircraft from other countries while it was preparing for and receiving the F-15s.

Some of the assurances in the letter of Secretary Brown were reiterations of clauses in the standard United States FMS (Foreign Military Sales) contract (DD-1513); others were more restrictive than the standard contract. The Arms Export Control Act (AECA) specifically stipulates, among other things, that no sale of defense articles or services may be made by the U.S. Government under the AECA unless:

the country purchasing the items agrees not to transfer title to, or possession of, any defense article or related training or other defense service furnished to it to anyone who is not an officer, employee, or agent of that country;

the country agrees not to use or permit the use of such article or related training or other defense service for purposes other than those for which furnished, without receiving the prior approval of the President;

the country agrees to maintain the security of the defense article or service, providing substantially the same degree of security protection that is afforded such items by the U.S. Government;

the contract for sale of defense articles or defense services contains a stipulation that the United States may cancel such contract, in whole or in part, or suspend its execution, at any time under unusual or compelling circumstances should the U.S. national interest require that this be done.

SALE OF TORNADO AIRCRAFT BY THE UNITED KINGDOM IN 1985-86

Subsequent to the 1978 U.S. sale of F-15 aircraft to Saudi Arabia, the United States was reportedly approached by that nation regarding additional purchases of F-15s. According to press accounts, when it seemed clear that the United States was not prepared to make further sales of the F-15, the Saudis sought additional planes from other suppliers. In late 1985, the Saudi government signed an initial Memorandum of Understanding with the British government for the purchase of 72 Tornado aircraft. In February 1986, the contract finalizing this sale was signed by the Saudi and British governments.

The basic elements of the Tornado sale to Saudi Arabia are outlined in the 1986 Annual Report of British Aerospace, the prime contractor for the British government in the Saudi sale. British Aerospace, together with companies in West Germany and Italy produce the Tornado aircraft. According to British Aerospace and press accounts, the Saudis are purchasing 72 Tornado aircraft, 48 of the Interdictor Strike (IDS) version and 24 of the Air Defense Variant (ADV). The IDS version of the Tornado is designed to carry heavy loads of weapons. It is a fighter-bomber. The ADV Tornado is an intercepter designed to operate at longer ranges.

Although the 72 Tornado aircraft are the largest element of the Saudi aircraft sale by the British, the sale package also includes 30 Hawk jet advanced trainers, and 30 Swiss Pilatus PC-9 turboprop basic trainers. In addition, the sale package includes Sky Flash radar guided air-to-air missiles, ALARM anti-radar missiles, and Sea Eagle anti-ship missiles. British Aerospace will also supply a range of advanced flight simulators and cockpit procedure trainers, together with a comprehensive program of training for air and ground crews. Named "Project Al Yamamah," the package of aircraft sales to the Saudis constitutes the largest British arms export order ever placed. The value of the order for the initial three-year phase is 5 billion British pounds—which at today's exchange rate is roughly $8 billion.

While most details of the British contract with the Saudis relating to the sale of the Tornado aircraft are not publicly available, it is possible to provide a general idea of what controls, if any, the British may have imposed on the use of these planes. Simply stated, the British seem to place greatest emphasis on control of arms sales at the beginning of the sales process. Since all sales of British weapons require an export license before a sale can be made, it is the decision to sell a system that is the critical control point.

According to the British government, once a weapon system is sold—barring extraordinary circumstances that substantially alter the original basis of the sale—the British will implement the contract that was signed. Should it choose to do so, the British government can insist that a clause be included in any arms sales contract forbidding any re-transfer of the system sold without the prior consent of Britain. But the inclusion of such a clause is not mandatory. The decision to do so is made on a case-by-case basis.

Likewise, in a few circumstances, the British government may require that a contract clause be included "to restrict the use of equipment within the customer country or by its forces outside that country for purposes of self-defence only." However, such clauses are not standard features in British arms sale contracts. Decisions to include them or not are made when each sale proposal is reviewed. In the case of the British sale of Tornado aircraft to Saudi Arabia, the Saudi government states that Britain has placed no contractural restrictions on the deployment or use of these aircraft by the Armed Forces of Saudi Arabia.

Because arms sales are also regarded by the British government as a potentially valuable means of reducing unit costs of British weapons systems it seems reasonable to presume that British sales contracts are less likely to contain restrictions on uses of weapons sold—barring exceptional factors. This British perspective on arms export is set out in the 1985 "Statement on the Defence Estimates" as follows:

> The United Kingdom's defence industries have traditionally been strong, able and competitive. But with the rising real cost of defence equipment, both our ability to provide the Services with the weapon systems they require and the continued strength of our defence industries depend more then ever on a vigorous but responsible overseas sales policy. The government therefore supports British firms in their effort to sell defence equipment overseas, whenever this is compatible with wider political, strategic and security interests, since the unit costs of equipment we purchase ourselves are driven down both by competition and by the longer production runs required for overseas sales. (Vol. I, p. 40)

According to the British government, the United Kingdom is willing to sell defense equipment to all friendly and non-aligned states, subject to an examination of the individual circumstances of the sales. Before an export license is granted, the Foreign Commonwealth Office (FCO) and Ministry of Defence (MOD) consider factors deemed relevant to British interests, including the effect on British interests in the area of the sale, the likely use to which the equipment will be put, the character of the purchasing country, whether the sale would upset the balance of power in a region, and the risk of diversion of the equipment from its stated end-use. The British pay particularly close attention to proposals to sell very high technology items in order to prevent diversion from a third country to the Soviet Union. It is British policy not to sell arms to the Eastern Bloc, although it will consider the sale of some systems to China.

It is evident that Saudi Arabia met all the pertinent criteria set out by the British before it was sold the advanced Tornado aircraft. Indeed, the British government is clearly proud of its sale of the Tornado aircraft to the Saudis. In the 1987 "Statement on the Defence Estimates" this sale was the most prominantly noted of the "spectacular achievements" in arms sales made by Great Britain in 1986. (Vol. I, p. 49)

SOME IMPLICATIONS

Our basic implication of these two sales cases is that Saudi Arabia has shown a willingness to seek alternative sources of advanced fighter aircraft should American aircraft not be available to it. Because the British have had a long-standing relationship with the Saudis they were a logical source of supply. Indeed, prior to the sale of the US.. F-15 in 1978, the Saudis' principal fighter was the British Lighting. Clearly the British are prepared to seize the opportunity to make arms sales to the Saudis that the United States is not prepared to make.

Second, while most details of the British Tornado contract are not publicly available, the Saudi government states that the British have not placed any restrictions on the deployment or use of the Tornado aircraft by the Armed Forces of Saudi Arabia. Thus it is clear that the Saudi government is free to base the Tornado aircraft where it chooses to do so, including at Tabuk Air Base.

Third, it seems evident that the United States has a more rigorous system of restrictions on the use of the defense articles it sells to foreign buyers than does Great Britain. Not only does the United States system require a review of a sale before it is made—including a review by the U.S. Congress of major sales—it sets standard restrictions on the use of the equipment after a sale is made. The United States makes it publicly clear that it reserves the right in all cases to terminate or suspend a sale if a purchasing country does not adhere to the conditions set out in its FMS contracts or if the United States determines that its national interests alone require contract suspension or termination.

Part of this difference may be explained by the differing approach to arms sales in general. The United States sees arms sales more as an instrument of its foreign policy than as a matter of commerce and a way to reduce unit costs of weapons systems. The British, on the other hand, view arms sales more as a commercial enterprise than a foreign policy instrument. To be sure, both nations have restrictions on sales based on criteria deemed important to each. In the case of Britain, the critical threshold that must be crossed is obtaining the export license in the first instance. Once that has occurred, the purchasing nation generally does not labor under continuing special restrictions. That is not true in the case of the United States.

Mr. EVANS. Mr. President, I think then we must ask ourselves the question: Are we better off as a nation in terms of our policies in the Middle East having rejected this last sale to the Saudis? Is Israel's security better for having 72 Tornado aircraft, most of which are fighter bombers stationed anywhere in Saudi Arabia, than if the United States, in a carefuly controlled, sale had kept that type of aircraft from the Saudis? Are our relationships with the Saudis better for having denied a sale and rejected their request? I think not.

Are United States interests in the Middle East enhanced by that rejection? I think not. We are not likely to have a better relationship with the Saudis as a result of that rejected sale.

I think the answer to each of those three fundamental elements of American Middle Eastern policy is that, no, we did not gain by that rejection.

Mr. President, I do not know at this time whether it is appropriate or wise for us to engage in an arms sale to Saudi Arabia. But I certainly believe that it is important for us to examine the question carefully and closely. We must not close our minds before a request is even made or before we even have an opportunity to examine the issue. We ought to do more oversight, which, unfortunately, we do not. We ought to look backward instead of always forward, to see what has been instead of will be, to learn from our own experiences and our own decisions.

If we do that job wisely and well and thoughtfully, I think we will come up with some better answers than by refusing to listen and by acting before a request is even made.

Mr. President, let me end with a third element I want to speak to. I have watched and listened carefully, because I do serve on the Foreign Relations Committee, to action taken on this bill. I find it unfortunate, although understandable, that, at times, the desirability of speeding amendments was so great that not only did we not read the amendment, but neither manager even explained the amendment. For Members who were here on the floor or for Members who were watching from their offices, it was impossible to tell what amendment was up or what its subject matter was.

I hope in the future, Mr. President, we take the few minutes to at least briefly explain amendments that are going to be agreed to on both sides. It would be helpful for all Members who do not happen to be on the floor, or even if on the floor, do not have a chance to understand what the amendments are.

Mr. President, I fear we are perilously close to trivializing our whole process. It is easy to bash foreign operations and it is fun to go after the Department of State. But, Mr. President, I can tell you that foreign governments do not understand what we are doing. They are certainly confused, not educated, by what goes on on the Senate floor in conjunction with a bill like this one. They are watching and attempting to understand what we are doing and I do not believe we are helping very much in the task.

Others have said on more than one occasion that we cannot act as 100 Secretaries of State. To that I say amen.

Because we are not very good Secretaries of State. Not because we could not be, but because we simply cannot and do not spend full time on the job.

We intermittently dash to the floor and produce our ideas of foreign policy and dash off to the next item on the agenda. Even if we all spent 100 percent of our time on the job, the end result would be administration by committee; probably the worst form of executive management known to mankind.

Mr. President, too often we reopen old events. For goodness' sake, we, at one time in this bill, wanted to revisit the Panama Canal Treaty. I wonder how long it will be and on what bill we will finally find an amendment wanting to reconstitute the Treaty of Paris of 1783, which ended the Revolutionary War.

We constantly harp on the old faithfuls, certain countries to bash, certain countries to support. We tend to have our favorites, just like the fans of the National Football League—at least when it was operating. Everyone has their own favorite team and their favorite team to hate. We express our pleasures and displeasures in terms of amendments which probably, fortunately, by the time we go through conference and by the time we get to the President, have dropped by the wayside.

We see Commies under every bed or we recognize that Fascists are running country A or country B or country C and we must do something about it.

We seem to create amendments, Mr. President, by reading yesterday's headlines so that we can write today's amendments so that we can garner tomorrow's headlines.

I am saying all of this with great respect to the bill's managers. They try to keep things under control, on this and other bills. They would like to focus on the important issues and keep the number of amendments down. But it is impossible to do so if we all constantly insist on our prerogatives to bring up every amendment no matter how trivial, no matter how unworkable; no matter, in some cases, how detrimental to the operation of American foreign policy.

I will predict, Mr. President, unfortunate as though it may be, if you like this one, just wait until the foreign operations bill comes in front of you. We have gone through 100 or more amendments on this bill, asked for a dozen studies and reports, created several new commissions and bodies. But that is miniscule compared to what we are likely to do when the foreign operations bill comes before us.

Mr. President, I believe it is time for some restraint. It is time for us to concentrate on priorities, the important priorities of this Senate, of this country and of the world.

Mr. President, I think that it is time that there be some recognition of committee action, of a committee's report and of a committee's expertise. Not just this committee but all committees of the Senate.

This plea may fall on deaf ears, but if we continue on our course, Mr. President, this body will become as irrelevant as the House of Lords in England with the important distinction that we will still have a critical vote. Mr. President, I suggest that is the most dangerous combination of all.

I thank the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Rhode Island.

Mr. PELL. Mr. President, I appreciate the words of the Senator from Washington. His reference to the fact that we do not learn from our errors reminds me of Santayana's statement that those who do not learn from the lessons of history are condemned to repeat them. There are many improvements that one could think of, but we have to work in an imperfect world. I think this bill has been put together as well as we could. It passed the committee by a vote of 18 to 1. Finally, the main problem is that the funding emphasis of this administration has not been on the nonmilitary side of our foreign efforts, but more on the military side.

I recognize the merit in what was said.

Mr. EVANS. I wonder if the Senators would yield for just a moment, because as the distinguished chairman of the Foreign Relations Committee knows, I argued strenuously and vociferously in committee for a broader authorization, with the understanding that we were facing some very difficult decisions at the appropriations level.

Mr. PELL. Absolutely.

Mr. EVANS. But if we did not offer what we thought was a necessary budget on the authorization side, we would never have the opportunity to lay before the Appropriations Committees our idea of what was important in foreign relations. I am sorry we did not take that course.

In spite of that I would agree with the chairman that the bill, as it came out of committee, was adopted by an overwhelming vote of the committee. It is just our misfortune that the bill as it now sits does not look very much like the bill that came out of committee.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, first of all I want to commend both the chairman and the ranking member, Senator HELMS, on the work they have done on this bill. In recognition of all of their work, Senator HATFIELD and I have decided to forgo the opportunity to propose an amendment to this legislation; an amendment would call for a vote on invoking the War Powers Act.

However, this is not the end of the matter. I have talked to the majority leader and he has assured me that his word, given last week, would be lived up to insofar as the request by Senator HATFIELD and myself for Senate consideration of Senate Joint Resolution 194, that it be taken off the calendar and made the business of the Senate.

As most of my colleagues know, an hour or so ago the Defense Department announced what in its terms was clearly a hostile act consisting of the sinking of three Iranian patrol boats by at least two United States helicopters.

As best as can be surmised from the information disseminated, the Iranian patrol boats fired on the United States helicopters. The United States helicopters probably returned fire sinking the Iranian patrol boats. At least two Iranian survivors have been picked up.

Again, I want to point out to my colleagues that, No. 1, I certainly commend our own Armed Forces in responding as they did, but I want to point out to my colleagues that there are two issues before this Nation, more particularly two issues before the U.S. Senate: First, our policy in the Persian Gulf; Second, as to whether or not the President and the Senate are going to live up to the law of the United States and invoke the provisions of the War Powers Act.

Let us make it clear from the outset: nobody, on the basis of this latest action, is calling for any withdrawal of U.S. forces. What we are calling for is living up to the law as it is written, and by virtue of that law it is perfectly possible for the U.S. Senate and the House to keep our forces as they are now, in the Persian Gulf, ad infinitum, if that is the wish of the Congress and the President.

But as these matters compound themselves, we all look like fools; fools that are disregarding the law. Decisions of war and peace are clearly to be made jointly by the President and the Congress. I would hope that, No. 1, we will go to War Powers Resolution either this evening or tomorrow morning, tomorrow at the latest. I am not going to make a big production of it. I am going to ask that that resolution be brought off the calendar. It is just straight War Powers Resolution, not as previously amended by Byrd-Nunn. I am going to ask that the resolution be brought off the calendar. I will not speak more than 3 or 4 minutes and then I hope we vote it, one way or the other.

If there are those who want to filibuster, I am going to suggest to the majority leader to take it down. Let the American people know that the Senate will continue to actively ignore or actively disregard the law. I am not going to sit here and deliver any glistening lectures on why it is that we should be discharging our duties under the law. As I have said again and again, either you obey it or you do not obey it.

I do not know whether three Iranian gunboats and that type of a hostile act—using the term of our own State

Department—is enough to have to finally invoke the War Powers Act. But I am going to tell my colleagues this: Every single time we do this, I am going to raise the issue and sooner or later somebody is going to tell their Senator, "Senator, either obey the law or get it off the books." And that is fair enough.

So my comments at this time do not take the form of an amendment. In fact, I will repeat the previous unanimous-consent order.

> The majority leader, after the consultation with the Republican leader, may call up at any time, without debate, S.J. Res. 194, a joint resolution to require compliance with the provisions of the War Powers Resolution.

I probably will modify that amendment so that it relates to the most recent hostile actions declared by the Defense Department, the one this evening, so that we do not have to worry about the fact that we are going to again catch the President short. It will relate to the latest action.

I see the distinguished majority whip here in the Chamber, and I would hope he would convey to the majority leader my wish and Senator HATFIELD's wish that this matter be raised before the Senate tomorrow, especially if it would appear that the Verity nomination will be debated at length. Maybe we can dispense with the Verity nomination and that is fine. I understand that is the next order of business. But immediately after that it would be my request, Senator HATFIELD's and mine, that the unanimous consent agreement be honored, modified only by reference to a specific event, that being of today's vintage rather than the one that was referred to in the original resolution.

The **PRESIDING OFFICER**. The Senator from California.

Mr. **CRANSTON**. Mr. President, I applaud the actions announced and intended by the Senator from Connecticut. We should indeed be obeying the law. It is clear that American forces have been placed in an area where they have been engaged in hostilities. Clearly, the War Powers Act is supposed to be invoked under those circumstances. I will certainly convey the wishes of the Senator from Connecticut and the Senator from Oregon [Mr. HATFIELD] to the majority leader and join in urging that we get to this matter and start obeying the law.

I would like to point out that we have now seen more than once that there are weaknesses in that law as written because what happens under that law is that the President commits American troops, commits the flag, and then we may be consulted.

We all know that it is rather difficult under those circumstances to suggest that American troops be withdrawn. The Senator from Connecticut was careful to state that his proposal by no means calls for American forces or troops to be withdrawn, but simply a call for the President to obey the law and to obey what is the clear requirement of the Constitution that in war and peace decisions, the Congress of the United States is supposed to share. The fact is that the Constitution gives the Congress, not the President, the power to declare war.

The weaknesses of the War Powers Act have been recognized by the Senate in that a number of Senators have recently suggested that we establish a commission to look over the War Powers Act and make recommendations for overhauling it, if necessary, and overhauling certainly is necessary. I believe we should go back to the version that was written by the Senate way back in 1973. Unfortunately, it was watered down in conference with the House of Representatives.

That original Senate version required that except in circumstances where the United States faced an imminent threat of attack or where American lives were in immediate danger, that troops should not be committed until the Congress was consulted. Under those circumstances, we would have the power, the right, and the opportunity to be involved in the decisionmaking before American troops were placed in the way of danger.

I hope that after we have dealt with the immediate need to obey the present law that we can all join together in moving back to that original Senate version which would be far more meaningful and far more likely to help us stay out of situations like what we now face in the Persian Gulf.

Mr. **WEICKER**. I thank the distinguished Senator from California. I note the majority leader is on the floor now.

Let me say this: I am not just calling on the President to comply with the law. I am calling upon the U.S. Senate to act too.

That is what is involved here, the Senate, us. There is no point sitting here pointing the finger at what the President has done if we do not have the courage to do it ourselves.

Let me say to the Senator from California, I have agreed, along with the distinguished Senator from West Virginia, the distinguished Senator from Virginia, and others I know of, to sit down and devise amendments to the War Powers Act. It is clearly deficient, most particularly it is deficient in the sense, in the way I read it and the way everybody else reads it, the Senate never has to act. Obviously, we want to have a situation in there which has taken specific action. But I want to make it clear it is not a question right now—I have heard all from Oliver North and Mr. Goetz and others as to what they think the law to be. They thought they were doing this and it was their opinion that. Forget it. The law is clear and it is on the books and we obey it until we change it or get rid of it. I do not want to lend the prestige of the U.S. Senate to this idea that is sort of grabbing the Nation right now that everybody can have their own interpretation as to what the law is or what laws we will obey or what laws we will not obey.

Now, we all admit the law is deficient and it should be changed, and it will be changed. In the meantime I suggest we obey it. As I indicated when the distinguished majority leader came to the floor, I would hope that upon disposition of this bill—and I do not want to hold it up any longer—and upon whatever action he plans to take on the Verity nomination, we would raise the matter in Senate Joint Resolution 194 and I would be prepared to vote immediately on it. If there are those who want to filibuster it and not have a vote, let them get up here and say so and we can get on to other things.

But as I said I am not concerned that there will be ample opportunity again and again and again to make us look like idiots in our disregard of the law. I can assure my colleagues, as much affection as I have for the institution and for them, I am going to make sure that is exactly what we do look like until finally we act one way or the other.

Mr. **CRANSTON** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from California.

Mr. **CRANSTON**. If I may just briefly comment on the further remarks of the Senator from Connecticut, the War Powers Act requires the President to consult Congress prior to placing American troops in circumstances where hostilities are likely to occur. The President did not live up to the War Powers Act in that respect when he decided to send our forces to the gulf on their present assignment.

I will grant that that was a matter of judgment. Some of us at that time said the War Powers Act should be invoked, the President should consult Congress. The President apparently felt that they would not face the hostilities there so he did not comply with our wishes and with our interpretation of the War Powers Act.

I grant that is a matter of judgment. I think our judgment has now been upheld that they would get into hostilities there, and it is really the President who should now comply with the law and ask Congress to apply the War Powers Act and to give its consent or denial to the right of those forces to be in the gulf.

Mr. **WARNER** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Virginia.

Mr. WARNER. Mr. President, we once again revisit this issue under a new set of facts, and I concur in the observation of our distinguished colleague from Connecticut that facts have occurred which bring us within the spirit and certainly perhaps the letter of the War Powers Act.

I apologize to my colleagues; I have not had the opportunity to listen to all of the debate, but it appears to me that we have to also take into consideration where we go once we take the first step into the War Powers Act.

The best of minds in this Chamber, the best of minds outside of this Chamber and each President, Democrat and Republican, have stated that there are unconstitutional provisions, there are unenforceable provisions. And if we take that first step, it seems to me we go into a Byzantine thicket of quicks and at a critical time when our forces are engaged.

I say to my good friend, I wonder if I might engage him in a colloquy, looking at the responsible way in which the majority leader and others last time this issue was up tried to tailor a special piece of legislation to allow the Congress, and particularly this Chamber, to provide its judgment on the question of the involvement of our armed forces in the Persian Gulf but to do so in a manner that does not lead us into the inconclusive situation of the War Powers Act. My good friend knows that the War Powers Act has provisions by which one Chamber can sit and do nothing and yet the time clock triggers and the President is compelled under the act. Is there not an option at this critical point to look at a fresh piece of legislation, albeit not the one that eventually hopefully we come to the conclusion that should replace the War Powers Act but a piece of legislation which would enable this Chamber to focus upon the issues over here in a very timely fashion?

I stress timely because when we go under the War Powers Act we have 60 days, with an extension period if we so desire, and that period of indecision allows any enemy, any enemy the advantage of an option to modify their military tactics in such a way that this Chamber is engaged in a prolonged debate.

My question is, would the Senator consider, as we embark on this course, tailoring a special piece of legislation to enable us to act and act promptly and speak our piece and not let us just act by virtue of indecision over a prolonged period?

Mr. WEICKER. In response to my good friend from Virginia, as he knows, we enjoy a very special relationship, both professionally and personally, and have already decided we are going to work on this matter together, and we will, and include any others who care to go ahead and have their input. I have no problem with that. We should be able to do so very shortly, and bring it here to the floor.

Having said that, I want to make it clear that even after the invocation of the act as it is now, we can give extension after extension after extension and in no way bind the President and, in fact, as he knows, in a modified resolution that is what we did in Lebanon.

So I again want to make clear that there are two things that need doing here, but there is no reason by invocation of the act here in the Senate, by a vote in the Senate, that in any way is the President or the military going to be restricted in either their presence or their tactics, nor is it going to give any comfort to the enemy as to the fact they can expect a deadline when we are going to be out.

Now, the problem only arises if by majority vote the people of America say we do not want to continue the Persian Gulf policy. That is what this Nation is all about. But I want to assure my colleague that in no wise is any vote that is taken now meant to bind the President and that extensions can be voted. In the meantime what I would like to see is possibly something coming forth from the distinguished Senator from Virginia and myself which could be out here on the floor within a week or 2 weeks' time.

Mr. WARNER. Mr. President, I am not sure we have the luxury of time. I see others who wish to speak to this. I think our President has complied with the spirit of the War Powers Act all along in connection with the Persian Gulf. Others may differ. But the record is there—consultation after consultation and reports and communications with the Congress.

But putting that aside, the enemy, those who are threatening our forces in the Persian Gulf today, know every word of that War Powers Act. It is the law of this land. It is publicized. It is known. It is not clearly understood by an enemy or the Congress the executive branch. Nevertheless, if we take that first step, they see many avenues by which the Congress can proceed to address the issue over varying periods of time.

I know my good friend wants to have this Chamber address the issue of the policy in the gulf. Let us put our heads together, together with others tonight perhaps, and see if we cannot fashion some vehicle by which this is done in a timely fashion so we either step up as a Congress, reflecting presumably and hopefully the opinions of the people of our land, and say, "Mr. President, we are with or we are not with you." Let us stand up and be counted and not enter into a period of prolonged indecision.

Mr. WEICKER. I could not agree more with the remarks of the distinguished Senator from Virginia. I know we have taken enough time, in relation to those who worked so hard on the instant legislation, but I just want to alert everybody that the matter is going to be before us again. It is just a matter as to whether we vote or as to whether delay substitutes for the law.

With those remarks, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, perhaps I should say that it is my intention upon the passage of this bill this evening to move to bring up the Verity nomination, and the next matter will be the War Powers Resolution. I have discussed this with the distinguished Senator from Connecticut. At the time we had the DOD authorization bill up, after we tried and tried and tried and failed and failed and failed to come to any conclusion on the Byrd-Nunn amendment in the interest of getting that bill to conference, the distinguished Senator from Connecticut, Mr. WEICKER, and the distinguished Senator from Oregon, Mr. HATFIELD, agreed to lift this language out of that measure, and have it as a separate resolution. I committed to them that I would call it up, and that commitment will be made good.

I would call it up immediately upon the disposition of this pending measure, but I know that the distinguished Republican leader wants to move to the Verity nomination. There are others who want to move it, also. The distinguished Senator from Connecticut indicated that he would have no problem with going to the Verity nomination today, and then moving to the other matter. I will not stay on Verity too long; I will put a cloture motion in on it if I see I cannot dispose of it in a reasonable length of time. That is no threat, but I have to keep my commitment on the War Powers Resolution. That will be done.

I think I should state that now so that everyone will be prepared to move in that direction. I would hope now that we could finish the pending bill.

Mr. HELMS. Mr. President, I thank the Senators for their comments on the bill.

Let me deal with several issues.

First, the budget:

The Senator from North Carolina did not invent the budget constraints under which the Foreign Relations Committee—and all other committees, for that matter—must operate. The budget resolution, as adopted by the Congress, provided those parameters.

The chairman and I have been in agreement that our committee would comply with those parameters, and I believe we have.

Essentially, the complaint of the State Department all year long has been that not enough was going to be spent for either the State Department authorization or the foreign aid authorization.

As is evident from the congressional budget action, those expectations are not in compliance with fiscal reality. Whether or not this bill spends enough money was long ago decided by the budget resolution which assumed a 5 percent reduction in all function 150 MX (foreign affairs) spending.

This bill implements that aspect of the budget. For example;

First. The bill provides flexibility to the Secretary of State to restructure his priorities and to shift funds from one function to another within those priorities. This is hardly a bill that engages in micromanagement.

Second. The committee necessarily had to work within the limitations imposed by the budget process. There is a need to reduce costs in the Foreign Service, and I understand that increasingly the Secretary of State is initiating this effort to lower costs.

Third. Consulates are an important element in our foreign policy establishment. The Senator from Washington and the ranking members of the committee have a difference of opinion on this subject. It is simply that: a difference of opinion between the more senior members of the committee and another member.

Fourth. There are a lot of amendments on this bill, yet this bill has been considered by the Senate in less than 4 days. That is, for those who know the history of foreign policy legislation in the Senate, a very credible record to be able to complete this bill in so little time.

Fifth. Inadequate funding is a matter of opinion. This bill will require sacrifices in the State Department. It is up to the Secretary to decide whether those sacrifices will be harmful to our national interest or merely a matter of adopting a more frugal style of diplomacy.

Sixth. For instance, this bill changes the housing supplement scheme in New York for State employees in a way that will save a million dollars. Surely the Senator from Washington is not defending charging the American taxpayer $123,000 a year to provide a luxury apartment, maid, and other benefits to a second tier representative to the UN!

Seventh. There are many other cases which have not been identified. It costs the American taxpayer $8,000 per household to provide gardening services to third tier American diplomats in Belgium. There are about 20 of them who get that particular benefit. That adds up to $160,000. Cut out that one benefit in that one post and you will save enough money to keep two employees on the payroll. Multiply that particular saving by the thousands of other examples there are in the State Department, and you will find that there would be funds to keep our national interests well protected.

Eighth. I am advised that the Secretary's trip this year to China, 8 days long and highlighted by only 8 hours of meetings with the Chinese officials, cost the American taxpayer $5 million. Could we not have accomplished the same thing by spending only $2 million to send the Secretary of State overseas.

Ninth. I won't dwell on this subject, but the King of Spain's royal entourage on his official visit to this country was only 70 people. Why then did it require 207 State Department officials to accompany the Secretary to China?

Tenth. Do we, really need 800 employees in the United States Embassy in West Germany?

Other observations: The Domenici amendment dealing with past closings modified the committee's provision, wisely I believe, to provide some greater flexibility for the Secretary of State in the management. However, Mr. President, we do not want to see a "Washington monument" response to budget constraints. Under that theory the first items to be cut are those of greatest visibility to the public. Closing posts is such a case. That gives the appearance that the United States is "withdrawing from the world", as the Secretary of State likes to describe it. However, when such steps are taken without first taking measured steps to reduce entrenched bureaucracies within the Department of State, my sympathy for the Secretary's plea for flexibility is greatly reduced.

It should be noted, Mr. President that many of the amendments which were adopted dealt with administrative issues within the Department of State. Some of these are in areas which have been brought to the attention of the Department in the past, but about which nothing has been done. Corrections were necessary, Mr. President, and I believe this bill provides a reasonable number and an appropriated degree of guidance to the Secretary of State and his subordinates.

With respect to the amount of time spent on this bill, I note that many hours while this bill was pending were actually spent discussing the nomination of Judge Bork for the Supreme Court.

Several Senators have commented on the number of amendments offered to the bill. Indeed, there were quite a few—most of which I noted were adopted without the need for a roll call vote. Senators were most cooperative in working out the details of their amendments so that they could be accepted.

Mr. President, with all due respect to my distinguished chairman, the number of amendments was caused by two primary factors:

First. The chairman's method for markup on this bill was to present to the committee a proposed mark of various proposals gathered from the four winds—except that Republican amendments from members of the committee generally were not included in the mark presented to the committee. I offered a number of amendments in committee, which were adopted. I also indicated at the time that I would have additional amendments, but that I did not wish to delay the committee in reporting the bill. That was back in June, Mr. President.

Second. Additionally, Mr. President, many of the amendments that have been offered, not only by the Senator from North Carolina, but also other Senators, are in response to changing events which have taken place since the committee bill was reported.

Many of the amendments dealt with foreign policy issues which are certainly appropriate to be considered in relation to this bill. We had amendments expressing the sense of the Senate on U.S. policy toward various countries—China, the Soviet Union, South Korea, Iran, Taiwan, Angola, Mexico, South Africa, to cite a partial list, Mr. President.

Mr. PELL. Mr. President, before we conclude debate on this important bill, I would like to make an observation regarding overall resource levels for the departments and agencies funded by S. 1394. For the second year in a row, this committee has been forced to make significant reductions in the funds allowed for the foreign affairs agencies. Clearly, we do not do this because we believe that their role is in any way diminished. Quite the contrary. No Member of this body supports the role of diplomacy—both public and private—any more than this Senator does. No Member of this body has had the experience of serving this Nation as a diplomat abroad. And no Member of this body more deeply regrets the need to make reductions in these allowances.

Just last week, this body considered and passed an authorization bill for the Department of Defense. That bill, allocated resources in excess of $300 billion. This bill, providing funds for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting, authorizes a total of $3.6 billion. The discrepancy is clear. It is also deplorable.

This committee was able to allocate full funding for certain key activities—most notably, for payments to U.N. organizations, and for educational and cultural exchange activities. Other, equally critical functions, were forced to suffer reductions. The Voice of America, which already has reduced its broadcasts by 130 hours, or 10 percent of its total air time, in the last year, will, under this legislation, suffer a further $15 million reduction in its salaries and expenses account. In addition, the committee was unable to allocate a single dollar to the VOA's modernization program—a long overdue, projected $1.3 billion upgrade of the "Voice's" broadcast facilities.

We have likewise been forced to make reductions in diplomatic security funding—funds which are needed to construct new embassies and provide needed protection for our diplomats abroad.

This bill represents our best judgment, as a committee, on the allocation of the scarce resources available to us. It also represents an unfortunate allocation of priorities—an allocation which places a greater emphasis on military defense than on the defense of the spoken and written word, an allocation which emphasises arms over ideas, an allocation which says that hardware is more important than software.

It is no secret that I have long questioned these priorities. I have made the point, for many years, that the public diplomacy efforts of this Nation could operate for a year on what we spend to produce a single ship for the navy or a high-technology fighter plane for our Air Force. Could we sacrifice one ship, or one plane, in order to reach hundreds of millions of people through exchange of persons programs, speakers and radio?

Mr. President, I sincerely regret that this bill does not allocate more funds for the vital work of the Department of State, the USIA, and the Board for International Broadcasting. I would like to increase funds for exchanges tenfold; I would like to expand the Book Program of USIA, to increase broadcasting to the denied areas of the world through VOA, RFE, and RL. As we say in this country, "a mind is a terrible thing to waste." We risk wasting hundreds of millions of them worldwide if we do not rellocate our priorities and find additional resources for these programs. As we move to final passage of this bill, I am therefore in the anomolous position of expressing the hope that somehow, somewhere, we may find more funds than this bill allows for these essential programs.

I would like to express the hope that adequate funding could be found for these vital national security programs.

To do so, will require revenue adequate to pay for these vital national security programs. The reasons our numbers are so low is that the administration has refused to consider any proposal to pay for what our national security requires in the foreign policy area. I regret that and hope the spirit of compromise will allow us to increase funding for these programs.

Mr. KENNEDY. Mr. President, let me commend the chairman and the committee for the careful and important recommendations with respect to U.S. participation in international organizations urging full U.S. support for international organizations such as the United Nations, NATO, the OAS and the vital technical organizations such as the Pan American Health Organization, the World Health Organization and the International Atomic Energy Agency.

This bill enables the United States to pay its full assessed contribution to the United Nations and to the U.N. specialized agencies. It also reflects a bipartisan and governmentwide consensus providing for the full amount requested by the administration.

I endorse vigorously the committee's recognition of the work of the Pan American Health Organization. For many years, PAHO has worked tirelessly to advance primary health care in the Western Hemisphere. The organization led the world's campaign against smallpox and played a critical role in enabling our hemisphere to be the first to declare itself free of smallpox. PAHO has made substantial contributions to the effort to control malaria and to organize the regional campaign against AIDS.

Today, PAHO is in the vanguard of regionwide special initiatives to eradicate polio in this hemisphere by 1990 and to achieve universal immunization against that deadly disease. In these efforts, PAHO acts as a catalyst and expert advisor, bringing together governments, volunteer organizations, rotary international, UNICEF, universities and foundations to help nations design and implement their immunization strategies.

Founded in 1902, PAHO is the oldest international health agency and has evolved to become the pre-eminent clearinghouse for health data in this hemisphere. In this role, PAHO extends the Center for Diseases Control monitoring system beyond our own borders across our hemisphere. That epidemiologic monitoring role is vital to the health of the millions of U.S. citizens traveling to and from Latin America and the Caribbean.

PAHO also operates the United States-Mexican Border health program which links together Southwestern U.S. health authorities with Mexican public health counterparts to exchange public health data and develop joint health programs along our border. PAHO also offers U.S. scientists a unique opportunity to study health problems in the region with their Latin American and Caribbean colleagues.

PAHO has inaugurated a series of special subregional initiatives in recent years which demonstrate that health concerns can bridge political differences. The joint endeavor "Health as a Bridge for Peace," has sparked a series of projects in priority health areas in Central America. It inspired the annual truce in El Salvador to permit national immunization campaigns and helped the governments in that region respond to such varied crises as the earthquake in El Salvador, malnutrition in Guatemala, and basic sanitation needs in many of the other Central American countries. Recently, the initiative was replicated in the Caribbean.

In the midst of their impressive achievements, PAHO has been responsive to the economic crisis facing Latin America and to the budget crisis in the United States. The organization has ensured that the United States is included in the key units determining the organization's biennial budget, has reduced its staff, has transferred resources to the field, and has had zero real growth budgets. PAHO has had the lowest budget growth for over a decade of virtually any international organization.

Let me also take a moment to emphasize the critically important work of the World Health Organization. WHO acts as an international clearinghouse for epidemiological information and research on AIDS. In 1986 WHO launched an ambitious special program on AIDS aimed at preventing the spread of AIDS in every country across the globe.

WHO's program in child health and nutrition has led to significant decreases in infant mortality and healthier children. WHO's expanded program on immunization, conducted in collaboration with UNICEF, has set as its goal the immunization of all the children in the world against the common infectious diseases by 1990.

WHO has put the urgent issue of preventing alcohol and drug abuse high on the agenda of many member governments. WHO opened the way to treatment of tuberculosis at a fraction of the cost of institutional care, and has demonstrated to member countries how to prevent a number of cardiovascular diseases and cancers.

WHO conducts an extensive program of research in tropical diseases and is coordinating research for the development of effective vaccines against malaria, leprosy, cholera and typhoid. It also adopts international requirements for vaccines and innoculations for international travelers. WHO is engaged in continuous work on control of environmental health hazards and toxic wastes and is monitoring long-term health effects from the Chernobyl nuclear disaster.

These are but a few of the important programs of WHO and PAHO, but they demonstrate the urgency of the work of these organizations. And both WHO and PAHO need the full support of the United States if they are to continue to carry out their critical work. I urge my colleagues to take note of the fine record of these organizations and to work to ensure that the United States fulfills its commitments to them by providing our assessed contributions in full to PAHO and WHO.

Mr. PROXMIRE. Mr. President, I intend to vote against S. 1394, the State Department authorization bill for fiscal year 1988. I recognize that the Committee on Foreign Relations has done a good job of keeping this bill under the administration's budget request and that there is only a nominal 1.4 percent increase over last year's authorization.

Even this admirable job of budget restraint, I continue to believe that of all the budget functions, this particular area must bear a greater proportion of actual cuts in outlays than any other. The budget crisis cannot be solved by making judicious reductions in each function. It can only be attacked by establishing priorities and then cutting drastically in those areas which rank as less important.

While the United States has national security obligations which are funded in this legislation, there are many other areas where reductions should have been taken or in some cases where programs should have been eliminated entirely. This would have been painful but how much more painful will it be to wait and see higher priority programs suffer drastically later this year.

This bill represents an actual decrease of 1.5 percent in real terms compared to last year. That is to be commended. But the bill should have been trimmed by 10 percent or more—in real terms. That would have been a sacrifice in some programs we all support. But it is just a downpayment on the deficit program we must face in the next few months. If we cannot make reductions of that magnitude here, where can we make them?

Where should we have cut this bill? The administration of foreign affairs account is up by $457 million over the request. International organizations and conferences will receive almost $100 million more than the request. Clearly these two categories needed a sharper knife. If these two accounts had been held to the President's request, we could have saved an additional $557 million. That would have brought this bill closer to budget reality.

It is often said that foreign aid is an easy target. Well I am here to say that it is not. It has a constituency of its own. We have new definitions of national security which now encompass international organizations and conferences. Many of these organizations serve extremely worthwhile, humanitarian purposes. But we have come to the point when we must say no to the programs we love as well as those with which we disagree. Until that fact of budget life is recognized, there will be no answer to the deficit crisis.

CORRECTION OF THE RECORD

Mr. SIMPSON. Mr. President, in the CONGRESSIONAL RECORD of yesterday's date, October 7, 1987, certain remarks of my friend Senator SIMON regarding the Chafee amendment, No. 894, to the State Department authorization bill, were incorrectly attributed to me. Those remarks appear beginning at the top of the right column on page S13737 of the overnight copy of yesterday's RECORD.

I have the highest regard for my friend, Senator SIMON. I have enjoyed his friendship for over 15 years. His contribution to immigration legislation as a member of the Subcommittee on Immigration and Refugee Policy since he came to the Senate has been distinctive and outstanding. I do, however, wish to see that his remarks are properly identified as that, and not in any way wish to take credit for them—especially since they were taking a position exactly contrary to my own. The Senator from Illinois and I respectfully disagree on this issue.

Therefore, Mr. President, I ask unanimous consent that the permanent RECORD be corrected in order to reflect that those remarks beginning on page S13737 were made by Senator PAUL SIMON, and not Senator AL SIMPSON.

I do thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, before we vote, I want to comment on the staff work on this bill. I have the utmost respect for the majority staff, and the minority staff. They have worked together many times, and I think the chairman will agree are largely responsible for the facilitation of this bill. We handled a great deal of amendments. There have been just literally dozens of instances where there would have been long debate on various amendments had it not been for the staff work—and some participation by the distinguished chairman and myself.

I want to pay my respects to Gerry Christianson, staff director; Peter Galbraith; John Ritch; Chris Van Hollen; Gerry Connolly; Janice O'Connell; Nancy Stetson; Barry Sklar; Hank Kenny; Bill Ashworh; Dave Keaney; Marcia Verville; and on the minority staff, the staff director, Jim Lucier; Phil Christenson; Quentin Crommelin; Darryl Nirenber; Bill Triplett; Deborah DeMoss; Bob Friedlander; Chris Manion; Dave Sullivan; Tom Boney; and Cliff Kiracofe.

Mr. PELL. Mr. President, I concur with the Senator from North Carolina. There was a great deal of cooperation and work done together by the two committees. Without their help, this bill would not be finished as it is today after 3 days of hard debate.

I also join in thanking the staffs, my own staff working with Gerry Christenson of the minority staff, and working with Jim Lucier. They all did a fabulous job and particularly I would like to say on the record how much I appreciate the cooperation of the ranking minority member and working with him on this matter.

Now I would suggest third reading.

Mr. HELMS. I thank the Senator. I certainly feel the same way about him.

Third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 1777.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. PELL. Mr. President, I move to strike all after the enacting clause of H.R. 1777, and insert in lieu thereof the text of S. 1394, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. PELL. I ask unanimous consent that the rollcall vote ordered on the passage of the Senate bill occur instead on the House bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, are we voting on the House bill, as modified?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Very well.

Mr. BYRD. Mr. President, have the yeas and nays been ordered on the House bill?

The **PRESIDING OFFICER**. The Chair will state that the yeas and nays have been transferred from the Senate bill to the House bill.

Mr. **BYRD**. I thank the Chair.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. **BYRD**. Mr. President, before the response to the call, I do not know whether I will be allowed to go to the nomination of Mr. Verity by unanimous consent. If I am not, I will have to move, and that will be a nondebatable motion. The yeas and nays will be ordered thereon. So I just say that so Senators might be aware that there will be other rollcall votes.

I yield the floor.

The assistant legislative clerk called the roll.

Mr. **CRANSTON**. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY] would vote "yea."

Mr. **SIMPSON**. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Kansas [Mr. DOLE] are necessarily absent.

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 8, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—85

Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NAYS—8

Conrad
Daschle
Evans
Exon
Hollings
Lugar
Pressler
Proxmire

NOT VOTING—7

Adams
Boschwitz
Dole
Gore
Kerry
Simon
Wirth

So the bill (H.R. 1777), as amended was passed.

The text of the bill, H.R. 1777 will be printed at a later date.

Mr. **PELL**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **PELL**. Mr. President, I move that the Senate insist on its amendment, request a conference with the House on a disagreeing vote between the two Houses on H.R. 1777, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. PELL, Mr. BIDEN, Mr. SARBANES, Mr. HELMS, and Mr. LUGAR conferees on the part of the Senate.

Mr. **PELL**. Mr. President, I ask unanimous consent that S. 1394 be indefinitely postponed.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **PELL**. Mr. President, I thank my colleagues and all staff for their great help. I am very glad this bill is finished with.

ORDER OF PROCEDURE

Mr. **BYRD**. Mr. President, I have indicated earlier my intention to go to the Verity nomination in executive session. I am prepared to do that now.

Mr. President, let me first see if there is any objection to a unanimous-consent request.

Mr. President, I ask unanimous-consent to go into executive session to proceed to the consideration of the nomination of Mr. C. William Verity, of Ohio, to be Secretary of Commerce.

The **PRESIDING OFFICER** (Mr. ROCKEFELLER). Is there objection?

Mr. **ARMSTRONG**. Reserving the right to object, only for the purpose of seeking further advice from the leader. Can you tell us what your plan would be? I gather the Senator from Maine wishes to proceed with a matter ahead of the Verity nomination. Could you kind of outline the schedule for the rest of the evening?

Mr. **BYRD**. Yes. I would hope, of course, we could get a vote on the nomination this evening. I do not know whether that will be a realistic hope or not. But, if it is going to be debated at considerable length, it would be my plan to enter a cloture motion on it.

I will ask unanimous consent that the distinguished Senator from Maine [Mr. COHEN] be permitted to speak as in legislative session for not to exceed 10 minutes, so that will take care of his desire to speak.

Mr. **SIMPSON** addressed the Chair.

Mr. **BYRD**. Mr. President, I still have the floor.

Mr. **SIMPSON**. Mr. President, if the majority leader would yield.

Mr. **BYRD**. Yes; certainly.

Mr. **SIMPSON**. We have several who are inquiring, as usual, about the schedule, and voting, and so on. You described that somewhat. If voting should occur, could you give us an idea when that might be, realizing that might go on for some time?

Mr. **BYRD**. Let me correct one inaccuracy that was in my earlier response. I would not vote on the Verity nomination tonight, because the distinguished Republican leader is not here. That is a vote that he would want to make and indicated to me that he wanted to be here on that.

If, perchance, we should get to a vote on that this evening, it would be put over until in the morning to accommodate the Republican leader.

I, myself, plan no votes tonight. That would be the only vote I would seek. The only way in which a rollcall vote could occur tonight would be in the event, against my desires, that motions might be made that would require rollcall votes—motions to postpone, motions to recess, motions to adjourn, motions to go back into legislative session. There are a lot of motions to be made that would bring about rollcall votes. I have no plan for any rollcall votes.

If it is just a matter of Senators getting the floor and speaking, there would be no more rollcall votes tonight.

It would be my plan to go next to the war powers resolution. That would be, I assume, tomorrow morning because, as I say, I cannot finish the Verity nomination insofar as the votes are concerned until tomorrow morning when the Republican leader is here.

Mr. **SIMPSON**. Mr. President, I appreciate the review of matters. I appreciate the majority leader's accommodating the Republican leader.

As far as those other possibilities of motions, we on this side have no creativity like that in mind at all. So I do not think there will be any problem with that.

Mr. **BYRD**. Mr. President, the distinguished Senator from Wyoming is an honorable man and he has always shot straight with me and played his cards right on top of the table. I take it from what he has said that there is not going to be any necessity for rollcall votes tonight.

EXECUTIVE SESSION

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Senate proceed to executive session and to the nomination of Mr. C. William Verity.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. COHEN may speak as in legislative session for not to exceed 10 minutes.

DEPARTMENT OF COMMERCE

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read the nomination of C. William Verity, Jr., of Ohio, to be Secretary of Commerce.

The Senate proceeded to consider the nomination.

ORDERS FOR FRIDAY, OCTOBER 9, 1987

RECESS UNTIL 8:30 A.M.

Mr. BYRD. Mr. President, so that Senators will know about the schedule tomorrow, as in legislative session, I make this statement and these requests:

I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS IN LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR DOMENICI

Mr. BYRD. Mr. President, I ask unanimous consent that, on tomorrow after the two leaders have been recognized for not to exceed 5 minutes each, the Senator from New Mexico, Mr. DOMENICI, be permitted to speak for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON FRIDAY

Mr. BYRD. Mr. President, I ask unanimous consent that upon the completion of the remarks by Mr. DOMENICI, that an automatic quorum call begin, and that on the motion to instruct the Sergeant at Arms to request the attendance of absent Senators—there will be the yeas and nays ordered thereon—on that vote, which later will become a rollcall, that that vote last for not to exceed 30 minutes and that the regular order be automatic at the end of 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, all Senators are informed that there will not be any more rollcall votes today; that the Senate will go out after a while until 8:30 tomorrow morning.

After the two leaders have been recognized for not to exceed 5 minutes each on tomorrow morning, Mr. DOMENICI will be recognized for not to exceed 20 minutes, after which there will be a quorum call. It will be live and a motion to instruct the Sergeant at Arms to request the attendance of absent Senators will come very early.

I ask unanimous consent that it be in order now to order the yeas and nays on that motion, which I will make.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays, as in legislative session, on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Then, following the rollcall vote on tomorrow morning, it will be my plan to go to the War Powers Resolution. Rollcall votes could occur during the day. I intend to keep my commitment to Mr. WEICKER and Mr. HATFIELD.

As I have indicated to all Senators, unless we can reach some agreement this evening as to when a vote will occur on the Verity nomination, then I will have to put a cloture motion in this evening.

I should say one final thing: That if, perchance, it is agreed during the evening that the rollcall vote could occur tomorrow morning at 9 o'clock in place of the rollcall vote on the motion to instruct the Sergeant at Arms, that that would be the vote that would occur. But I do not know that I have good reason to believe that will be the case or not.

I thank the distinguished Senator for his patience and I thank all Senators.

JUDGE ROBERT BORK

Mr. COHEN. Mr. President, the nomination of Judge Robert Bork to the Supreme Court has set off frenzied attacks and endorsements that are unprecedented during my service in the Congress for the past 15 years.

His approval or rejection, while important, is not an imperative of fatal consequence to the Court. If approved, he would not lead the Court off over the edge of the rightwing world. If rejected, the Court will continue to function with an excellence that has not been impaired by his absence.

But the manner in which the Senate goes about deciding his future and fate will have profound consequences for the country and for this institution.

I have spent the past few weeks reviewing articles and opinions written by Judge Bork as well as his testimony before the Senate Judiciary Committee. I have been asked to express support or opposition even before the Judiciary Committee voted on his nomination just 2 days ago. Apparently, we have reached the point in our political process where we insist upon a wonderland mandate of "verdict now, evidence later."

Frankly, I have been appalled by some of the pettiness and invective leveled against Judge Bork, just as I have been struck by some of the moral pieties of some of his supporters.

While I do not support much the President's social agenda, the fact remains that the President is entitled to nominate individuals to the Supreme Court that he believes view the world through the same philosophical prism as he does. And it is my belief that the Senate, as an institution, must be convinced that his choice is so lacking in intelligence, personal or professional integrity, or judicial competence that the nominee's confirmation would result in a disservice to the Court and to the country.

While I do not share the restrictive interpretation of the Constitution that Judge Bork has articulated, I am not persuaded that his views are so extreme as to place him beyond the pale of judicial acceptability.

Judge Bork's past essays are valid objects of examination as they are key to understanding his deductive abilities and philosophical convictions. But his writings as a professor should not be viewed in isolation or without regard to his service as Solicitor General or that on the Circuit Court of Appeals for the District of Columbia.

It is argued that he must be held to his words even though his views may have evolved. That is a standard to which we would not hold ourselves.

A number of Senators from the South, for example, resisted the coming of civil rights in the 1960's and the early 1970's and are now strong advocates of enforcing and, indeed, even enlarging those civil rights.

Justice Thurgood Marshall recently observed that President Johnson had the best record of any President on civil rights. As a President, perhaps; as a Senator, hardly. Were President Johnson's—and those of his Senate colleagues—change of views the result of pragmatic expediency or rather that of an evolving enlightment? Few of us are able to look behind the words into the hearts of those that express them.

I don't know whether Judge Bork has changed his views in a calculated and cynical effort to appease his opponents or whether his expressions consist of a heartfelt admission that the Constitution was not etched in stone and handed down from Mount Sinai and that while the vessel that embodies our political and social values must be firm, it must also be flexible. I cannot make an absolute determination any more than I could pass judgment on the changing views of my distinguished colleagues. But I do know that Judge Bork is capable of change—from one who embraced socialism, then libertarianism, and now conservatism. I view that capacity for change as a positive element in his character.

Ironically, his capacity for change is now held against him. Predictability is the touchstone by which we shall pass judgment on his worthiness for the bench.

It is interesting to note that Judge Bork's opponents and supporters both subscribe to this view. Opponents view expression of doubt or change as craven expediency. His supporters fear the same. Ideologues, liberal or conservative, tend to view doubt or diviation from their totem pole of tests as unacceptable apostasy.

But Presidents have learned that party labels and prior philosophic views of nominees have not proven a reliable index to their future behavior. Were Oliver Wendell Holmes, Jr., Hugo Black, Earl Warren, and Lewis Power known quantities before they went on the Bench or did they shift into the unknown, the unpredictable, only after confirmation?

I am certain that Judge Bork does not share my views on a number of key issues. But if I were to apply the test of my views to those of past nominees, I would not have voted for Justices Black, Powell, O'Connor, Rehnquist, or Scalia.

Some have suggested that Judge Bork should be confirmed because his successor would be far worse. That is an idle threat because I would have no hesitancy to vote against any one I believe to be unqualified to sit on that august Bench.

A more plausible argument is that if Judge Bork is defeated or withdraws, his replacement is likely to more conveniently predictable, more mainstream, less provocative, and perhaps even rather mediocre by comparison.

I believe that if Judge Bork is confirmed, there are three results that could follow:

First. He, by the sheer force of his intellect, would pull the Court toward rightwing radicalism—which I think is unlikely;

Second. His extremism would drive even the conservative members of the Court to the philosophical center—which is possible;

Third. He will evolve into the same kind of conservative centrist as the man that he is replacing—a result I regard as quite probable.

Late last night, I reread the papers of Justice Felix Frankfurter—"Of Law, Life and Other Things That Matter."

Upon this retirement, his fellow justices wrote Frankfurter a wonderfully sensitive and touching letter. It was signed by Earl Warren, Hugo Black, William Douglas, Tom Clark, John Harlan, William Brennan, Jr., Potter Stewart, and Byron White. Justice Frankfurter responded in kind. In his letter "To his brethren," he left us with some characteristically important words:

> The nature of the issues which are involved in the legal controversies that are inevitable under our constitutional system does not warrant the nation to expect identity of views among the members of the Court regarding such issues, nor even agreement on the roots of thought by which decisions are reached. The nation is merely warranted and expecting harmony of aims among those who have been called to the Court. This means pertinacious persuit of the processes of reason and the disposition of controversies that come before the Court. This presupposes intellectual disinterestedness in the analysis of the factors involved in the issues that call for decision. And this in turn requires rigorous self-scrutiny to discover with a view to curbing, every influence that may deflect from such disinterestedness.

Mr. President, I believe that Judge Bork is capable of measuring up to the intellectual vigor and moral responsibilities required by service on our highest court.

I yield back the balance of my time.

NOMINATION OF C. WILLIAM VERITY TO BE SECRETARY OF COMMERCE

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I rise this evening to oppose the confirmation of Mr. C. William Verity as the Secretary of Commerce. I strongly believe that Mr. Verity's confirmation would send a disastrous signal to the Soviet Union, to dissidents and refuseniks, and to supporters of human rights around the world.

Since 1977, William Verity has repeatedly stated his opposition to any so-called barriers to increased United States-Soviet trade. Verity's remarks denouncing the Jackson-Vanik amendment—the cornerstone of this Nation's stated trade policy regarding the Soviet Union—were broadcast over Radio Moscow in 1984. Verity said, and I quote,

> I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians. * * * It does no good.

In 1979, referring to Soviet Jewish emigration, Verity said that:

> The American Jewish community can never be satisfied on this matter * * * their desires will ever be escalating.

That view is totally unacceptable coming from any would-be U.S. Cabinet officer.

During his confirmation hearing, he grudgingly accepted Jackson-Vanik as "the law of the land," but wasted no time stressing his desire to achieve a waiver of the amendment. His testimony's thrust reflects his overriding desire to increase United States-Soviet trade at the expense of any other policy objectives. I will comment further on his testimony later in my remarks.

Verity's goal of expanding United States-Soviet trade at any cost strikes at the foundation of President Reagan's policy toward the Soviet Union, which links together progress on bilateral issues, regional issues, human rights, and arms control. Verity clearly wants to sever this linkage in order to expand trade.

After 2 years as Chairman of the Helsinki Commission, when I read Mr. Verity's remarks, I compare his views to the words of Natan Shcharansky, Yuri Orlov, and Andrei Sakharov. I believe that his confirmation would undermine years of careful diplomacy in the Helsinki process, as we and our allies have fought for better Soviet human rights compliance.

Mr. Verity's emphasis on increased United States-Soviet trade undercuts and ignores the sacrifices made by Soviet dissidents and refuseniks. His past statements exactly echo Soviet positions taken to blunt Western human rights concerns—that pressing for improved respect for human rights and fundamental freedoms is an unacceptable "interference in the Soviet Union's internal affairs," to quote the Soviets.

Verity's nomination sends absolutely the wrong signal to the Soviets, to our allies, to supporters of human rights, and to world opinion. It tells the world that our principles are for sale—if the price is right.

I believe that the American people put human rights and the hope of international liberty ahead of trade and profit. The Senate should not confirm him as Secretary of Commerce.

I want to discuss at greater length one of the points I raised earlier in my remarks. I raised the question of United States policy toward the Soviet Union and Mr. Verity's opposition to the concept of linkage. This matter deserves a more detailed exploration.

Let us begin by looking at what Mr. Verity himself said during his confirmation hearing. On page 21 of the hearing transcript, responding to a question as to whether fears of the supporters of Jackson-Vanik were well-founded, Mr. Verity responded as follows:

> Jackson-Vanik is the law of the land, and I intend to uphold that. And that's exactly what Mac Baldrige did. And it seems to me that it is a well-founded position.

So far, so good. He went on, however; at a later point he said, and I think this is what Mr. Verity really seeks:

> I would like to qualify that by saying that I do believe that if the Soviet Government would be willing to increase emigration by some amount—

I wonder what that amount would be. I wonder if it would be 100 additional dissidents a month or 100 a year or 200 or 300, or what the amount is. I wonder if it means if the Soviet Union were to increase emigration by some amount, whether it would be the Soviet Jews or whether it would be other ethnics who are persecuted or Pentacostalists.

He goes on to say:

> And I don't know what that amount is—I believe that the Jewish Community in this country would be willing to work with the Congress on some modification.

I would like to say that I do not believe that is an accurate reflection of the Jewish community or any community, if that places a premium as we do in this country on human rights and the dignity of men and women, the dignity of men and women to practice their religion, seek their cultural meanings and traditions that they adhere to, to seek their families, family reunification. This is not just a Jewish issue: this is an issue that we speak to that confronts all men and women.

He goes on to say:

> I believe that the Jewish community in this country would be wiling to work with the Congress on some modification, a waiver perhaps, which would make it possible to increase trade—

Always increasing trade. This is what Mr. Verity's motivation is—

> which has been my interest, to try to increase trade between the Soviet Union and the United States.

Mr. President, to cut right to the core of it, right to the nub of it, Mr. Verity's singular interest is to increase trade with the Soviet Union regardless of the consequences, regardless of whether or not Jackson-Vanick is the law of the land, regardless of what the Soviet positions on these critical issues are.

So, I shall support Jackson-Vanik. I know why it was put there. I respect the reason it was put there. I believe that if we can get the Soviets' attention on this important subject, it would be possible to get a waiver which I think would be a very good thing.

Mr. President, I am tempted to read that answer again, slowly, in full, because many of the reasons for my opposition to Mr. Verity's confirmation may be found in this one answer.

The problem is that he views Jackson-Vanik "as an important instrument for the Jewish community." There is no doubt that the American Jewish community has a very strong interest in Jackson-Vanik, but I get the clear sense from his remarks that he believes that Jackson-Vanik is a regrettable expression of the power of a special interest lobby and is not in the general interest of the United States as a whole.

Another problem is that Mr. Verity's dedication to the cause of increasing United States-Soviet trade rises above all other considerations. It is a cause to which Mr. Verity has dedicated a large part of his adult life and I would expect no different from him.

His statement that if Soviet Jewish emigration increases to some unspecified higher level, the Jewish community would be willing "to work with the Congress * * * on a waiver, which would make it possible to increase trade, which has been my interest * * *," puts the matter very clearly. His promise to obey Jackson-Vanik as "the law of the land" is grudging.

What else could he say? He cannot disobey Jackson-Vanik, because granting a waiver is not within his power. The question is what he will do once he is confirmed. I detect no dedication to the cause of human rights. I detect the reverse—a firmly held opinion that human rights gets in the way of trade and that it should not be permitted to do so.

A person with that view cannot be expected to press his Soviet counterparts at every opportunity for compliance with their international human rights obligations. In fact, we will have to press him to obtain even lip service to the cause of human rights.

This is not a trivial matter. Attitudes can weigh heavily in high-level international contacts. If the United States Secretary of Commerce shows the Soviet Minister of Trade that he is not concerned about human rights in the Soviet Union, one major channel through which cases can be resolved is closed and we send a signal to the Soviet hierarchy that money is more important than the fate of people.

In my opinion, that is not a signal the United States should be sending.

It is also a signal which is not, I believe, acceptable to the majority of the American people. As a nation, we will not accept the idea that profit comes ahead of principle.

We just voted unanimously to cut off all trade with Iran, trade which was clearly profitable to many people and corporations. But the American people would not stand for a continuation of that trade while the ayatollah's men were mining the waters sailed by the U.S. Navy.

The American people, regardless of Gorbachev's campaign to overwhelm us with the glamour of glasnost, have not forgotten that the Soviet bear has not become the Soviet lamb. It still has its teeth and claws and the will to use them. In fact, its usual victims are those who cannot defend themselves. Just ask the dissidents and refuseniks who have suffered and who continue to suffer oppression and persecution in the Soviet Union.

Let me return to the point that Mr. Verity views Jackson-Vanik as a "Jewish" matter, rather than a fundamental premise of American policy. Leave aside the small matter that it represents the official commitment of all Americans. The fact is that Catholics, Lutherans, Moslems, Baptists, and all who are denied their rights under Soviet oppression, look to us and to our diplomacy in the Helsinki process and elsewhere to the leverage we can exert through Jackson-Vanik, as their glimmer of hope for liberty. Responding to a question about his commitment to involve himself actively in the issue of Soviet Jewish emigration, on page 25 of the hearing transcript, Mr. Verity said, and I quote:

> Well, Senator, I believe I can. I know there are stories about the fact that at times I have argued about the effectiveness of Jackson-Vanik. And I still have reservations about its effectiveness. I believe that a lot of the recent movement of Jewish emigration is because negotiations are occurring at various levels, which may be a more significant way to increase emigration.

Mr. Verity continued:

> But I have worked with the Jewish community very closely for the last 10 years. I have taken several messages concerning this problem to the leaders of the Soviet Union for two different presidents. I can assure you that I have been interested in this for a long time. I have met with leaders in the Jewish community recently and assured them the same thing that I will assure you, that I will do all I can to help in this Jewish emigration problem.

Mr. Verity's statement can only be characterized as condescending and defensive.

I appreciate his action of meeting with the leaders of the Jewish community. But if he understood the matter, he would have met with the leaders of Helsinki Watch, Amnesty International, and the other groups which form the nongovernmental human rights organizations in this country, representing the Jews, Catholics, Lutherans, Moslems, and Baptists who are subject to persecution for attempting to exercise their faiths in the Soviet Union.

The Jackson-Vanik and the Stevenson amendments are simply the highest profile expression of U.S. human rights concerns. Nowhere in the text of those amendments appear any words restricting their application to Soviet Jews. After all, Armenians and ethnic Germans have been denied the right to emigrate from the Soviet Union as well. They are covered by the terms of those amendments.

If Mr. Verity understood the problem, his answer would include a reference to the Soviet Union's promise to uphold the right of every person "to leave and freely to return to his country," the basic right Soviet law and practices violate. This is a right that all civilized governments respect.

Mr. Verity apparently just does not see that Soviet policy on Jewish emigration is a major example of the basic differences between the United States and the Soviet Union. The basic problem is that the Soviet Union does not respect individual rights. In fact, it denies their existence.

In contrast, in this bicentennial year of the signing of our Constitution, it is proper to point out that our entire society, not just our political system, is founded upon respect for the rights of the individual. The Constitution and the Bill of Rights were designed to create a national government of limited Powers. The exercise of these limited powers was controlled by a system of checks and balances to prevent abuses of individual rights. This is the system we have spent 200 years perfecting.

Mr. Verity almost seems to be wearing moral blinders about this situation. The American people will not accept any deal, let alone "business as usual," with the Soviet Union which ignores inhumane abuses against their own citizens. Verity's statements suggest that our eyes should be fixed on profit, not principle. We would be making money and ignoring all other values.

Mr. President, that is not the way America works. Every time we turn a blind eye to our own values, we regret it. I worry that Mr. Verity attaches less importance to these values than he should. Perhaps he spent too long in the world of business and not enough time dealing with ordinary Americans—who work hard, want business—but still care, and care deeply, about those who still look to us as their last, best hope.

Mr. President, a number of my colleagues wish to express their views on Mr. Verity. There are many elements in the current situation, and his record should deserve our attention.

For example, there is the question of Soviet slave labor. Mr. Verity's desire to expand trade requires serious concern regarding goods produced in the Soviet Union, in whole or in part, in their vast network of prison and labor camps. Importation of goods made with forced labor is prohibited under our law. As most of us know, that law is not being enforced against Soviet-made goods, even though they were made in Soviet labor camps. If trade is expanded, this issue must be addressed urgently.

Then there is the question of Soviet aggression in Afghanistan. Soviet forces have been in Afghanistan since 1979, expanding their empire by force of arms.

The continued rape of Afghanistan must be taken into account in this debate. I will defer to my colleagues who desire to discuss this and other important aspects of this nomination. I encourage my colleagues to join us in opposing Mr. Verity and in voting against his confirmation as Secretary of Commerce.

Mr. President, let me say that I detect a certain sense, in discussing this matter with my colleagues, that they may not be happy with the Verity nomination. For a number of reasons, they will not actively oppose it; and, unfortunately, in some cases, they will support it.

What are those reasons? Some, out of a sense of loyalty to the President. I admire that, because I have given our President support on many occasions on issues on which reasonable people could have disagreed. But I defy anyone to explain to me how we can so easily put aside the stated and open and public perception, one which is inconceivable and out of step with what we as Americans believe, when he says that the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians. He has not recanted that.

In his testimony before the Commerce Committee, indeed, he reaffirms and looks for ways to vary that. He said that is the law of the land. But he does not indicate that he has the slightest appreciation or understanding of how Jackson-Vanik came about and why.

I think it is absolutely unconscionable that some of those who should be taking leadership in this area have chosen to turn their back because they saw it as a loser, as a battle that one could not win. I wonder what it would be like if we all undertook our jobs and our responsibilities as only opposing those things we know we will be successful in opposing. What takes place to our democracy, to our form of government? I suggest that that is a cop out.

I have no illusions about what this process eventually will yield to because, unfortunately, it will lead to his overwhelming confirmation. And that is a mistake. That is a mistake, to send someone and to annoint him with the overwhelming approval of the U.S. Senate and to let him take this position, with a view which he has stood for publicly, which he has broadcast on Radio Moscow, which he has reaffirmed, the principle of trade and money first over human rights, that we, the U.S. Senate, are giving our assent, our consent, and our approval, because that is what we are doing.

There is the other side to this: I have heard it said more than once that he is only going to be there a short period of time. He will be there a little more than a year, so what damage can he be doing? Why should we oppose him?

I suggest that to the people who are behind the Iron Curtain, whose rights are regularly abused, it may be more than a year. What a terrible setback to them and their hopes and their aspirations as a result of that kind of philosophy!

I see nothing in the record, in his testimony before the committee, that would lead me to believe that Mr. Verity has a greater appreciation and sensitivity to the situation today than he had in 1984, when he said quite clearly to the Soviets, on Radio Moscow, for the world to hear, that Jackson-Vanik was a terrible mistake.

As a matter of fact, one of the witnesses at Mr. Verity's confirmation hearing was Mr. Anthony Harrigan, who spoke on behalf of the U.S. Business and Industrial Council. He had an extensive statement which covered Mr. Verity's view on United States-Soviet trade, and I think the statement deserves the attention of my colleagues.

Since I know that all my colleagues have not had an opportunity to read the record of Mr. Verity's confirmation hearing in full, I will read at this point some of Mr. Harrigan's statement into the RECORD.

Let me state, before I do this, that I do not share all the views expressed by Mr. Harrigan in his statement. However, his account of the history of United States-Soviet trade makes a very strong counterpoint to Mr. Verity's dedication to increasing this trade.

Before I undertake reading Mr. Harrigan's remarks, I am going to suggest the absence of a quorum, so that I might have an opportunity to consult with the distinguished floor manager.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I rise to speak on behalf of the nomination of William Verity to be Secretary of Commerce. This may be rather unusual for me to be the lead speaker for a nomination from the Reagan White House to the Cabinet, particularly when a Republican friend of mine has spoken in opposition. But I believe that William Verity has distinguished and accomplished credentials that make him highly suited to serve as Secretary of Commerce. He knows the issue well of maintaining U.S. competitiveness first hand.

He was former chairman of the steel company Armco, an industry hard hit by changing economic times.

He is a former chairman of the U.S. Chamber of Commerce. He is a former Chairman of the President's Task Force on Private Sector Initiative.

He cochaired the U.S./U.S.S.R. Trade and Economic Council.

Mr. Verity is a leader. We need a leader at times when we face these tremendous handicaps in world trade.

Mr. Verity has progressive and forward-looking views on trade. He will work hard for a moderate trade bill. He will work toward the elimination of draconian export licensing procedures. As a proponent of expanded trade with the Soviet Union, Mr. Verity's views are consistent with the administration's position. I believe that trade with the Soviet Union will lead to increasing communication and improve our general relationships, and, as all of this effects the desire of the Jews and others to emigrate from the Soviet Union, we have seen that that unfortunately has become rather a barometer of United States general relations. When they are good, the restrictions on emigration are relaxed; when relations go bad, the right of Jews and others to leave the Soviet Union is drastically curtailed.

So if we are able in ways consistent with our national security to increase trade with the Soviet Union, I believe that the Jews who wish to emigrate will benefit. I believe that our country will generally benefit in many obvious ways if trade develops with the Soviet Union, in ways that deal with our import-export deficit to some extent, that our economy will be improved. I believe that William Verity as Secretary of Commerce can be helpful in achieving those ends. Those are the reasons that I support this nomination.

THE CONFIRMATION OF C. WILLIAM VERITY

Mr. SYMMS. Mr. President, I am going to vote in favor of the confirmation of William Verity to be Secretary of Commerce. I know Bill Verity personally and I support the President's choice. He is a very capable man and I believe the President has chosen a good and capable man for a most important Cabinet position, particularly at this time when international trade is so critical to our economy.

Bill Verity is one of the great examples of successful American businessmen. He went to work for Armco, Inc., in 1940 and rose through the ranks to become its president and chief executive officer in 1965 and chairman of the board in 1971. He retired from Armco in 1982, but remained on the board of directors until 1986.

He was elected chairman of the U.S. Chamber of Commerce in 1980. In 1981, he was appointed Chairman of the President's Task Force on Private Sector Initiatives. This task force promoted private sector leadership and responsibility for solving public needs and recommending ways of fostering privatization of government services. His distinguished record of achievement in the free market and leadership in public service makes him preeminently qualified for the job of Secretary of Commerce.

In the next few months the trade bill will be reported out of the conference committee, and it is likely to contain a number of antitrade provisions. The ability of our economy to continue to grow and provide new jobs will depend upon how the Congress finally deals with the trade issue, and the administration has to get its positive message into that conference committee. William Verity is an acknowledged expert in this field, and I believe the President has decided he wants Mr. Verity to perform this crucial task.

I would, however, say, Mr. President, that I do have serious reservations about some of Bill Verity's past statements concerning trade with the Soviet Union and his opposition to the Jackson-Vanik amendment. I believe there is no justification for restrictions on emigration such as the Soviet Union has, and I have consistently supported the Jackson-Vanik amendment as a leverage tool. I trust Mr. Verity to abide by the letter and spirit of the Jackson-Vanik amendment so long as it is the law.

I am not a supporter of bilateral trade with the Soviet Union. Their totalitarian economic system has proven itself incapable of technological leadership, except in areas where they pour in massive resources—such as their space program and their "star wars" weapons systems. Socialist agriculture cannot even feed the native population of the Soviet Union, and the self-inflicted wounds of economic irrationality, which they practice, ought to be the natural reward for a society based on human slavery.

I intend to continue voicing strong opposition to imports from the Soviet Union that are produced with slave labor. I believe there is a serious danger of dumping in the United States whenever any product is imported from a socialist country.

The Soviets have no way of accurately calculating the costs of production for goods they produce. There is every reason to believe that if they can import items here and sell them for less than Americans can produce them that the products are subsidized by the very inefficiency of totalitarian economics.

I want my friend, Bill Verity, to know that I support his confirmation as Secretary of Commerce because I believe he has the personal and professional qualifications necessary to serve the Nation well in that position. I support him with full faith that he will abide by the letter and spirit of the Jackson-Vanik amendment and that he will seek unfailingly to protect the security and economic interests of the United States in implementing our trade policy with the Soviet Union and its allies. I look forward to working with Secretary Verity on a number of important trade issues in the months ahead.

Mr. BINGAMAN. Mr. President, I rise in support of the nomination of C. William Verity to be Secretary of Commerce. I believe he is well-qualified to head our Commerce Department. At this time when the United States faces strong economic competition, the Commerce Department must take an active role in improving our international economic position. Mr. Verity will provide, I believe, strong leadership in our quest for improved competitiveness.

My support, however, is coupled with serious concerns about Mr. Verity's stated position on the Jackson-Vanik amendment and on granting of most-favored-nation status to the Soviet Union.

Although I am pleased by the recent release of several prominent Jewish refuseniks from the Soviet Union, this good news must be considered in the sobering context of the other hundreds of thousands of Soviet citizens who have been denied their human rights, including the right to emigrate. At this time, it is estimated that 400,000 Jewish citizens have been denied this basic right, and emigration levels are far below the 1979 level of 51,000. Given this fact, the United States must not relax its insistence on an acceptable human rights and emigration record before granting most-favored-nation status. Jackson-Vanik is an indispensable tool for signaling to the Soviet Union our determination to keep human rights at the forefront of United States-U.S.S.R. relations. To relax, or ignore, Jackson-Vanik would represent a serious blow to our moral standing in the world.

Thus, I condition my support with an appeal to Mr. Verity to reconsider his position on trade with the Soviet Union and to uphold the moral imperative of the letter and the spirit of the Jackson-Vanik amendment.

Mr. FORD. Mr. President, if you will bear with us just a minute, I understand that we are about ready to close down for the evening. The majority leader is here on the floor. We will have some business to attend to.

Mr. President, I yield the floor.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of C. William Verity, of Ohio, to be Secretary of Commerce.

Robert C. Byrd, Chuck Grassley, Kit Bond, John H. Chafee, Ted Stevens, Phil Gramm, J.J. Exon, Frank Lautenberg, Patrick Leahy, George J. Mitchell, Bob Dole, Bob Kasten, Bob Packwood, Robert Stafford, Larry Pressler, Wendell Ford, and Dennis DeConcini.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate resumed legislative session.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business for not to exceed 10 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION OF THE MANAGERS ON THE STATE DEPARTMENT AUTHORIZATION BILL

Mr. BYRD. Mr. President, I wish to take this opportunity to thank the two managers of the State Department authorization bill, the chairman of the Foreign Relations Committee, Mr. PELL, and the ranking manager, Mr. HELMS. This is always a difficult bill to manage and to bring to third reading. Our managers willingly put in long days, and they were at their posts of duty throughout. Their diligence and dedication brought forth a fine bill, and I commend them both.

BICENTENNIAL MINUTE

OCTOBER 8, 1893: SENATORS AT LUNCH

Mr. DOLE. Mr. President, throughout our history commentators have tried to read meaning into every action of the Nation's political leaders, so it is not surprising that 94 years ago today, on October 8, 1893, the New York Times devoted a long column to the luncheon habits of U.S. Senators.

In the early 19th century there was only one eating place in the Capitol. A tiny room known as the "Hole in the Wall," it was located beneath the Rotunda in the area near the present offices of the Architect of the Capitol. From the little we know about its menu, it seemed to specialize in oysters—raw, fried, steamed, or baked. In the 1850's, when the current Senate and House wings were added to the Capitol, more formal dining rooms were constructed. Senators then ate in the richly decorated room that is now the anteroom to the Senators' Dining Room.

The rules prohibited the sale of alcoholic beverages in the Capitol. However, the proprietor of the restaurant knew the tastes of his customers, and kept them satisfied. The Times reported that in 1893 the Senators enjoyed cocktails with their lunches, and an occasional cold bottle of beer. Senator Gorman of Maryland was so fond of cold lamb that it was never missing from the menu. Senator Hoar of Massachusetts favored the restaurant's terrapin. Senator Blackburn of Kentucky swore that the Senate restaurant was the only place in the world to get true deviled ham. Senator Murphy of New York always ate a plain luncheon, but then refreshed himself with a strong cigar. New York's other Senator, David Hill, generally passed up the more tempting dishes of the menu and dined on soup, or eggs on toast. Hill was always more preoccupied with politics than food, and could be seen waving his spoon to make a point, rather than using it as an eating utensil. That's the way Senators ate a century ago.

TAX INCENTIVES FOR CASH PROFIT SHARING IN GREAT BRITAIN

Mr. BUMPERS. Mr. President, on April 7 I introduced S. 932, a bill to provide a modest tax incentive to encourage employees to take part of their compensation in the form of cash profit sharing.

I am pleased to report to my colleagues that my proposal has now been enacted into law—in Great Britain.

In my introduction statement on S. 932 I mentioned that Great Britain was considering a proposal similar to that which I was introducing. (133 CONGRESSIONAL RECORD S4736—S4737, April 7, 1987.) On July 20, after a very well informed and lively debate, the House of Commons did adopt a bill providing a modest tax incentive in favor of cash profit sharing and on July 24 the profit sharing bill was given royal assent and became law. The British law is strikingly similar to that which I have suggested be adopted in this country.

So, we debate S. 932 and profit sharing here in the Congress, I am sure that our debate will resemble that which already has taken place in the House of Commons. In the coming months we can follow the implementation of the profit sharing law in Great Britain and we can begin to document its impact on the British economy. This presents a special opportunity for the U.S. Congress and I am sure that our consideration of S. 932 will be better informed as a result.

WHAT WE CAN LEARN

The premise of the British profit sharing incentive is the same as that for S. 932. Specifically, the British Government believes, as I do, that cash profit sharing plans have a positive impact on both productivity and employment.

As British companies and employees implement cash profit sharing plans, we can determine what impact these plans have on productivity and employment. The National economic impact on employment of the profit sharing plans which are adopted in Great Britain will depend on the number of firms and employees which adopt plans and the proportion of the day of the employees at these firms which is contingent on the profitability. But, no matter how many firms adopt plans, it should be possible to determine whether the adoption of plans has a positive impact on the productivity and employment of the firms which adopt the plans.

If it is determined that the adoption of cash profit sharing plans in Great Britain does have a positive impact on productivity and employment, we should be able to project that the adoption of cash profit sharing plans in the United States would have the same effect. There is no reason to believe that the economic theory which underlies cash profit sharing would have an impact in one country and not in the other.

If it is determined that the adoption of cash profit sharing plans is a desirable goal in the United States, then we can debate the terms of S. 932 and determine what type of tax incentive—or other incentive—would be helpful in stimulating the adoption of such plans. We can learn from the British experience on this issue as it works to implement its law.

The point is that the adoption of the cash profit sharing law in Britain is a unique opportunity for the United States. We don't need to debate S. 932 in the abstract. We can learn from the experience in Britain and have confidence that its experience is directly relevant to the issues which will be considered here on this issue.

It is often the case here in the Senate that we wish we knew more about the issues we are debating. The issues are complex to begin with, but often there are competing views both of Members and of outside experts on the likely effects of the actions we take.

In the case of economic policy this is especially true. In 1981 we began a riverboat gamble with the supply-side theory of economics and we are still reviewing the results. In 1986 we adopted a controversial tax reform bill and we will have to wait several years to determine its impact on the economy. With the issue of cash profit sharing, however, we can learn from the British about its effect on employment and productivity.

I am anxious to learn as much as I can from the British experiences with this innovative and importance concept. I am confident that the British will find that providing a tax incentive in favor of cash profit sharing is a worthwhile initiative and one that is well worth the revenue expenditure involved.

But, I am open to learning about the limitations of cash profit sharing as well. I am just as interested to learn from any problems in implementation which occur, to see how cash profit sharing relates to other incentives for productivity, and to examine how well this concept is received by the employees of the firms which adopt plans. We may well be able to avoid problems here that could not be avoided in Great Britain.

ROLE-REVERSAL ON CASH PROFIT SHARING

There is an ironic role-reversal taking place here. The New York Times heralded Professor Weitzman's views on profit sharing as the best idea since Keynes. (New York Times editorial, March 24, 1985.) We in America learned much of value from John Maynard Keynes' general theory and in this case the British may be learning much of value from Martin Weitzman's share economy. With Keynes, we applied his macroeconomic theories first under Franklin Roosevelt and with Weitzman, the British are applying this theory first under Margaret Thatcher. Hopefully, this will turn out to be a comparable exchange.

I commend the British Government for its willingness to experiment with cash profit sharing incentives. It is showing a willingness to take risks with a new and untried concept. I am hopeful that we can learn enough from this experiment to fortify our courage here in America to take the initiative ourselves. Our willingness in this country to take risks and to try new approaches to old problems has always been our strength and has always demonstrated our ability to lead the free world.

AVAILABILITY OF MATERIALS ON CASH PROFIT SHARING

I am happy to share with my colleagues a compendium of materials regarding the British tax incentive for cash profit sharing. These materials include a detailed memorandum outlining the origin and rationale for the tax incentive for profit sharing in Great Britain which my staff has prepared. To save printing costs for the CONGRESSIONAL RECORD, I have not submitted the compendium or memorandum for printing in the RECORD, but I would be happy to make them available to interested Members and staff and to interested persons in the private sector.

Requests for this document should be sent to Mr. Charles Ludlam, Chief Tax Counsel, Senate Small Business Committee, 428 Russell Building, Washington, DC 20510.

I ask unanimous consent that an index to the materials which are available in this compendium be inserted in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPENDIUM NUMBER SEVEN: TAX INCENTIVES FOR CASH PROFIT SHARING IN GREAT BRITAIN, SEPTEMBER 1, 1987

"Profit Related Pay: A Consultative Document," published by the Chancellor of the Exchequer, July 1986 (The "Green Paper" on which the profit related pay bill in Great Britain was based.)

Budget statement of Rt. Hon. Nigel Lawson, Chancellor of the Exchequer, March 17, 1987.

"New Income Tax Relief for Profit Related Pay (PRP)," press release of Inland Revenue, April 8, 1987.

Letter from Rt. Hon. Peter Brooke, Minister of State, HM Treasury, To Senator Dale Bumpers, May 18, 1987.

Speech by Rt. Hon. Peter Brooke, Paymaster General, on profit related pay bill to conference on company-wide incentive schemes, July 15, 1987.

Parliamentary debates (committee deliberations) on profit related pay bill, July 14, 1987 (Excerpt from Hansard).

Parliamentary debates (final passage) on profit related pay bill, July 20, 1987 (Excerpt from Hansard).

Text of profit related pay title of second finance bill, as approved by the Queen on July 24, 1987.

Letter from Mr. W. Guy, Treasury Chambers, to Mr. Charles Ludlam, Senate Small Business Committee, August 21, 1987.

"Background Memorandum: Tax Incentive for Cash Profit Sharing in Great Britain," Mr. Charles Ludlam, Senate Small Business Committee, October 1, 1987.

THE IMPORTANCE OF PUBLIC DIPLOMACY TO U.S. NATIONAL SECURITY

Mr. KERRY. Mr. President, I believe that the work of the U.S. Information Agency is vital to America's national security interests.

It becomes clear with each passing year that public diplomacy—governments speaking directly to the peoples of other nations—plays an increasingly important role in the way we conduct foreign affairs.

Others, including our adversaries, are learning this truth only too well. In the past year, Soviet Premier Mikhail Gorbachev, has waged a highly successful Western-style public relations campaign to influence world opinion on many key foreign policy issues.

The Soviet Union's sophisticated campaign outspends the United States Information Agency's public diplomacy efforts by a very wide margin.

This is not the time to slow down or reduce our own efforts. Regrettably, because of the overall budget difficulties our Government is facing, S. 1394 would curtail these efforts. The $779.8 million provided in this bill would require significant cutbacks in all areas of USIA's operations. This is particularly damaging in the light of the 1987 budget cuts that curtailed severely USIA operations this year.

We need a vigorous USIA now to counter the major public diplomacy offensive which has been launched by the Soviet Union. Somehow, the Senate and the Congress must find a way to make additional funds available for this important work. Therefore, it is my hope that if additional flexibility is found during the appropriations process, that adequate funding could be provided to our public diplomacy efforts in fiscal year 1988.

RADON

Mr. LAUTENBERG. Mr. President, America today faces a deadly health threat. Virtually unknown until recently, it kills thousands each year. Men and women. Rich and poor. Young and old. It doesn't discriminate.

What is this deadly health threat? No—I'm not talking about AIDS. I'm talking about radon.

Mr. President, a few weeks ago the Environmental Protection Agency reported on surveys conducted in 10 States around the country. The results are frightening. One in five homes tested have potentially dangerous levels of radon. One in five.

Why is that frightening? Because it means a lot of deaths from lung cancer. An awful lot. According to EPA estimates, up to 20,000 each year. Others say twice as much. Only cigarette smoking causes more.

Radon is clearly a national problem. Contrary to earlier misconceptions, it threatens every region. Not just the Northeast. It's everywhere. Out in Colorado and Wyoming, for example, about one-third of all homes tested reportedly have dangerous levels.

Mr. President, when a homeowner discovers dangerous levels of radon in his or her home, he or she must take action. Sometimes, it's a simple matter of caulking a foundation or installing a fan. But sometimes it requires more costly improvements. These can run into the thousands of dollars and create severe hardships for people with low or moderate incomes.

I've introduced a bill, S. 756, to clarify that the medical expense deduction is available for these people. Expenses incurred to rid homes of radon have only one goal: to prevent lung cancer. Nothing else. Yet the IRS has expressed doubt over whether they qualify for the medical expense deduction. Congress should make it clear. Radon mitigation costs are health care costs only and should be treated as such.

S. 756 is a realistic, well-targeted bill that provides a safety net only for those in most need.

A bipartisan group of 22 Senators already has cosponsored S. 756, including 9 members of the Finance Committee. Organizations such as the National Association of Realtors, the American Lung Association, the Associated Specialty Contractors, the American Academy of Pediatrics and the Consumer Federation of America are also supporting the legislation. I invite others to join with us.

Radon may be oderless and invisible. But it can't be ignored.

Mr. President, I ask unanimous consent that a copy of letters from the above organizations in support of the bill, a list of cosponsors, the revenue estimate from the Joint Committee on Taxation, and a New York Times article concerning the radon threat be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, October 1, 1987.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the 780,000 members of the National Association of Realtors, I am pleased to convey to you our support of S. 756, a bill to ensure that costs related to radon mitigation qualify for the tax deductions for medical care expenses.

While we believe that much remains to be learned about the radon phenomenon, your bill would enhance the opportunity to take the necessary steps to minimize radon exposure in homes. As real estate professionals, we are encouraged to see that reasonable proposals to address this evolving issue such as S. 756 are being advanced in Congress.

As an organization which has historically concerned itself with restraint of federal spending, we are also pleased to note that S. 756 is estimated to have a relatively minimal budgetary impact.

The National Association of Realtors appreciates your leadership on this issue and looks forward to working with you and your staff for quick passage of this legislation.

Very truly yours,
STEPHEN D. DRIESLER.

AMERICAN LUNG ASSOCIATION,
Washington, DC, September 9, 1987.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: The American Lung Association, and its medical section the American Thoracic Society, commend your introduction of S. 756, the "Radon Mitigation Clarification Act of 1987." The provision of a tax deduction for medical care expenses in connection with home improvements initiated to mitigate indoor air contaminants represents a significant step toward addressing and rectifying a substantial health threat.

The ALA/ATS continues to be particularly concerned that the potential for increased exposure to indoor contaminants is exacerbated by the onslaught of energy conservation techniques and efforts to reduce heating and cooling costs through the reduction of infiltration and ventilation. Radon is among the indoor pollutants of primary concern to the ALA-ATS. Others include carbon monoxide, and nitrogen oxides, formaldehyde and asbestos.

The ALA/ATS also continues in its strong support for increased research on the possible effects of indoor and outdoor air pollution. The increase and integration of research are essential to permitting the development of appropriate control strategy. We know that you share this perspective.

Again, we congratulate you on the foresight shown in the introduction of S. 756.

Sincerely,
FRAN DU MELLE,
Director.

ASSOCIATED SPECIALTY
CONTRACTORS, INC.,
Bethesda, MD, October 1, 1987.

Senator FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Associated Specialty Contractors (ASC) is an umbrella organization of eight national associations of construction specialty contractors, whose membership represents a segment of the construction industry comprising nearly 200,000 specialty contracting firms. These firms have a combined annual volume of over $100 billion and employ nearly 1.5 million workers.

ASC is pleased to endorse S. 756, legislation aimed at helping to alleviate the growing and serious health problems associated with residential radon contamination. Individuals who discover that their home is contaminated with radon gas face the prospect of being at increased risk of developing lung cancer. These homeowners may also feel that they simply cannot afford the expense of radon mitigation.

S. 756 would enable individuals who must make home improvements to mitigate harmful levels of radon gas, to qualify for the medical care expense tax deduction. This tax deduction would provide relief for homeowners with the most serious radon problems, and those who are least able to afford mitigation costs.

ASC commends your efforts to help thousands of homeowners who have radon gas trapped in their homes, and we look forward to working with you towards passage of S. 756.

Sincerely yours,
DANIEL G. WALTER,
President.

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, September 9, 1987.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American Academy of Pediatrics recognizes that radon poses a serious threat to the health of residents in contaminated homes. Children are at particular risk due to their length of exposure. The Academy's Committee on Environmental Hazards has reviewed S. 756, the Radon Mitigation Clarification Act of 1987. We applaud your leadership in proposing this important legislation and strongly endorse the bill.

Offering a tax deduction for radon clean up will serve as an incentive for homeowners who might otherwise attempt to ignore the problem. Radon gas is invisible and odorless, which abets procrastination. Efforts to encourage and facilitate home improvements to eliminate radon gas should be supported.

S. 756 will assist parents with the financial burden assumed for radon clean up, which will have a direct impact on the health of children across the country. We will be happy to work with you to assure passage of this bill. Please contact our office for additional information.

Sincerely,
WILLIAM C. MONTGOMERY, M.D.,
President.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, October 8, 1987.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: As part of its primary concern for indoor air quality, the Consumer Federation of America (CFA), representing over 230 national, state, and local consumer organizations, supports passage of S. 756, the Radon Mitigation Clarification Act of 1987. Identifying indoor air pollution as this nation's number one hidden health threat, CFA estimates that illnesses caused by indoor pollutants alone cost this nation billions of dollars annually in medical expenses and lost wages. Radon gas figures prominently as one of the most hazardous indoor air pollutants.

With estimates of as many as 20,000 lung cancer deaths attributed annually to radon and as many as one in five homes exceeding current acceptable radon levels, radon mitigation presents an immediate need for enhanced federal leadership. Residents are encouraged to test their homes and to make home improvements if harmful levels of radon are detected, in order to protect their health. Yet these mitigation measures can be costly, posing a substantial burden to many taxpayers who recognize the need to limit dangerous exposures.

As simply a clarification of the current medical care deduction, S. 756 makes clear that taxpayers in fact can deduct these mitigation measures as medical care expenses. For this reason, CFA supports S. 756.

Thank you for your leadership on this issue.

Sincerely yours,
SUSAN A. WEISS,
Legislative Representative.

AMERICAN SUBCONTRACTORS
ASSOCIATION, INC.,
Alexandria, VA, August 24, 1987.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The American Subcontractors Association would like to commend you for your recent efforts to help educate the public about the dangers of radon contamination in many American homes. You have managed to heighten awareness of the increasing dangers of the poisonous gas, and your bill, S. 756, to allow homeowners a tax deduction for home modifications needed to quell any radon contamination is a productive step in the right direction to helping solve this pervasive problem.

As I'm sure you are aware, the Environmental Protection Agency reported that radon is believed to cause between 5,000 and 20,000 deaths each year and is the leading cause of lung cancer among non-smokers. ASA has become increasingly aware of the expenses that many homeowners face in order to rid their homes of contamination. While some homes may only need to have foundation cracks sealed, other homes may need installation of underground ductwork and ventilation fans, which can become a very expensive process.

ASA is making every effort to educate its members about the dangers of radon contamination. It is indeed a subject of which the construction industry should be aware.

Once again, thank you for your efforts in this field and we hope you have continued success in educating the public about this deadly substance.

With best regards,

M.R. (MAC) SULLIVAN, JR.,
Chairman, ASA Government Relations Committee.

COSPONSORS OF S. 756

Senators Bradley, Moynihan, Dole, Durenberger, Chafee, Riegle, Daschle, Boren, Heinz, Specter, Burdick, Heflin, Melcher, Gore, Kennedy, Mikulski, Shelby, Pell, Ford, Reid, Cranston, and Bumpers.

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, September 25, 1987.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: This in response to your request for revenue estimates of two legislative proposals, S. 756 and S. 2100 (99th Congress).

S. 756 provides that home improvement expenses incurred to mitigate radon gas contamination would qualify for the itemized deduction of medical expenses. This provision would be effective for tax years beginning after December 31, 1987. The revenue impact of this proposal is as follows:

Fiscal Year:	*Millions*
1988	([1])
1989	−$3
1990	−4
1991	−6
1992	−7

[1] Loss of less than $500,000.

S. 2100, as introduced in the 99th Congress, would grant an amnesty from civil and criminal fines and penalties for a 6-month period. We agree with the Congressional Budget Office estimate that this proposal would increase budget revenues by approximately $1 billion over the fiscal year period 1988 to 1992.

Sincerely,

DAVID H. BROCKWAY.

[From the New York Times, Aug. 5, 1987]

10-STATE SURVEY FINDS PERIL FROM RADON IN 1 IN 5 HOMES

(By Philip Shabecoff)

WASHINGTON—August 4.—One of every five homes tested in a 10-state survey last winter was found to contain health-threatening levels of radon, a naturally occurring radioactive gas, the Environmental Protection Agency reported today.

"These findings indicate that radon may be a problem in virtually every state," A. James Barnes, the deputy director of the agency, said at a news briefing today.

The survey was conducted in Alabama, Colorado, Connecticut, Kansas, Kentucky, Michigan, Rhode Island, Tennessee, Wisconsin and Wyoming by the respective state government in cooperation with the Federal agency. Twenty-one percent of the 11,600 homes tested were found to have levels of radon considered to pose a threat to health under E.P.A. guidelines.

Mr. Barnes said these states were surveyed because they volunteered to participate, not because there was evidence of high radon levels. He said the surveys were scientifically sound in each of the six states where sufficient numbers of samples had been taken. The samples taken in Connecticut, Rhode Island, Colorado and Kansas fell short of the numbers needed.

NATIONWIDE PROBLEM IS SEEN

While cautioning that the results of the 10-state survey were not intended to be extrapolated for the entire country, Mr. Barnes said the study along with other data that were examined strongly suggested radon contamination was a nationwide problem.

Radon is a colorless and odorless gas formed by the decay of uranium in the soil. The gas itself decays into radioactive particles that can lodge in the lungs and cause lung cancer or other damage to lung tissue.

The 10-state surveyed were among 20 that had offered to cooperate with the E.P.A. in determining the extent of their radon problem. The Federal agency agreed to supply the testing equipment, do the laboratory analysis and other "groundwork," according to Christian Rice, an agency spokesman.

Mr. Barnes and other officials of the agency said the survey results supported previous estimates by scientists that high indoor radon levels cause 5,000 to 20,000 lung cancer deaths each year in the United States.

The American Cancer Society, which estimated that 136,000 people would die of lung cancer this year, said 85 percent of all lung cancer was caused by cigarette smoking.

While the average levels of radon found in homes varied widely from state to state, "hot spots" of high radon levels were found in every state, the environmental agency said.

The agency said that another survey of radon in homes would be conducted this winter in Arizona, Indiana, Massachusetts, Minnesota, Missouri, North Dakota and Pennsylvania and on Indian reservation in Michigan, Minnesota and Wisconsin. The tests are made in winter, when windows tend to be closed and radon accumulates inside homes.

NEW YORK AND NEW JERSEY ACT

Agency officials also noted that a number of states, including New York and New Jersey, were conducted their own radon surveys.

A year ago the agency recommended that homeowners take action to protect themselves and their families when radon levels inside their houses are 4 picocuries per liter of air of higher. A picocurie is one-trillionth of a curie, a common measurement of radiation.

By way of comparison, the agency noted that exposure to 3 picocuries is equivalent to radiation of more than 200 chest X-rays a year. The agency estimates that for every 1,000 people exposed to that level of radon 75 percent of the time over a 70-year lifetime, from 13 to 50 people would die of lung cancer.

The survey found that among the states surveyed, Colorado had the highest percentage of homes with radon levels over the 4 picocurie per liter level, with 39 percent of the tested homes exceeding that number. Alabama at 6 percent, had the lowest average number of homes above that level. But the highest single reading of the survey, 180 picocuries, was in a home in Alabama.

Among the homes tested in Connecticut, 19 percent, or close to the 10-state average, recorded radon levels above the level at which homowners are urged to take protective action. But the E.P.A. noted that the tests in Connecticut were taken on a voluntary rather than a radon basis and the results therefore applied only to the houses tested.

The percentage of houses tested that exceeded the action level in the other states surveyed were 21 percent in Kansas, 17 percent in Kentucky, 9 percent in Michigan, 19 percent in Rhode Island, 16 percent in Tennessee, 27 percent in Wisconsin and 26 percent in Wyoming.

CLUES FROM AREA'S GEOLOGY

E.P.A. officials said the geology of an area was often a good indicator of whether radon was escaping from the soil. It noted that black shales, phosphatic rocks and granite were more likely to have higher than average concentrations of radon.

Outdoors, radon dissipates quickly and does not pose a health hazard. But when the gas enters a house through drains, cracks in the foundation, and other openings in the foundation or walls, it can accumulate and concentrate, particularly in newer buildings that are well insulated and more airtight.

The highest levels of indoor radon have been recorded in Pennsylvania, New Jersey and New York, in areas built over a geologic formation known as the Reading Prong.

Richard Guimond, the director of the E.P.A.'s radon action program, said that the 10 states in the survey reported today "were not picked out to be representative of the whole country," and that the survey was only a "first step" in developing a more precise understanding of the radon problem.

But a "fact sheet" on radon issued by the agency today stated that "virtually every house in the United States has some level of radon gas in its air," and that estimates suggest that the average annual indoor levels range from 1 to 2 picocuries per liter of air.

The agency has accumulated a list of some 300 private companies it deems qualified to make accurate tests of radon levels in houses. Tests with charcoal canisters can cost from $12 to $20 and take two days to a week. Other, more precise tests can be taken over a longer period at a cost of up to $50.

RADON LEVELS REQUIRING ACTION

The agency recommends that when radon contamination levels are from 4 to 20 picocuries, homeowners should take remedial action within a few years. With radon in the 20-to-200 picocurie range, the agency said, action should be taken within several months. And if the level is over 200 picocuries, action to reduce radon levels in the house should be taken within weeks and, if that is not feasible, residents should temporarily move out.

Alfred Lindsey of the agency's research and development office said that high radon levels could often be reduced by construction work costing from a few hundred dollars to $3,000. Usually all that is necessary is to seal cracks and close drains and other openings in the foundation and perhaps to place some sort of ventilation system beneath the building.

Legislation has already passed the Senate that would provide more than $30 million to help the states to study and deal with radon contamination in homes and schools. The legislation is pending in the House.

PERSECUTION OF BAHA'IS IN IRAN

Mr. PRESSLER. Mr. President, in 1979, shortly after I became a Member of this distinguished body, one of my first speeches on this Senate floor commented on the persecution of the people of the Baha'i faith living in Iran.

At that time, Iran was under a different government. Today it is under the repressive reign of the Ayatollah Khomeini and his terrorist henchmen. The situation of the Iranian Baha'is is far worse today than it was in 1979. Thousands of Baha'is have been brutally persecuted and mistreated. A reign of terror has been prosecuted against all dissenters in Iran, but those of the Baha'i faith have been singled out for especially deadly treatment by the agents of Khomeini. Since 1979, 188 Iranian Baha'is have been killed for religious reasons and others are missing and presumed dead. In addition to executions, the repression of Iranian Baha'is has included arbitrary arrests, torture and the denial of education, religious freedom, and the right to engage in meaningful economic activities. The world is aware of this pattern of deliberate persecution of Iranian Baha'is.

The government and constitution of Iran under Khomeini offer no protections or rights to Baha'is. They are a people whose human rights have been exterminated by a fanatical and tyrannical regime. As a free people who respect the rights of people of all faiths to worship in their own ways, we Americans have a special desire to call attention to religious repression wherever it exists. The American people believe that the religious freedom they enjoy should be enjoyed by the Baha'is in Iran. We are united in our determination to support efforts to guarantee fair treatment of Iranian Baha'is, both in the United Nations and in every other international forum where religious freedom is a concern of the representatives of the nations of the world.

FRAUD OF THE DAY—PART IV

Mr. HEINZ. Mr. President, today marks my fourth discussion of customs fraud, and I expect that Senators will only have to listen to me discuss customs fraud in this format for another 3 or 4 weeks. I could, however, spend the rest of this year presenting the fraud of the day and not come close to exhausting all of the available examples.

It is an unfortunate truism in our society that where there are rules or laws, there are people who are going to break them. If there is a quota on men's sweaters, an unscrupulous importer can easily mislabel his men's sweaters as women's sweaters and thereby avoid the quota restrictions. A steel importer might misstate the country of origin of his steel, so that he can avoid the restrictions of the President's steel program. Wherever you have sanctions, quotas, embargoes, restraints, agreements, duties or tariffs, you will find business people who are willing to take a slight risk in order to evade these controls.

The slight risk these importers take can net them significant profits. The Darvel Corp., a company which imports apparel from Hong Kong and the Philippines, took such a risk. After extensive investigation, they were found to have under-valued 300 of their shipments of wearing apparel. The loss of revenue to the United States Government—and the American taxpayer—was $1,534,383. The risk did pay off for Darvel in this case, even though they were caught, since the criminal penalty for the fraud was a practically token fine of $10,000. Restitution of avoided revenues was also sought. The sum demanded was $1.276 million, payable over 7½ years. Darvel must have realized that the return they would receive from committing this fraud and taking these risks was substantial, and the possibility of crippling, or even significant penalty, slight.

If a private right of action had existed in this case, it is highly unlikely that Darvel would have escaped with such a minimal financial penalty. Domestic producers of comparable goods could have sued the Darvel Corp. in the Court of International Trade and recouped some of the losses which they suffered. The domestic apparel industry can ill afford such unfair trade practices by its foreign competitors. This industry's employment level has been falling for the last decade at the rate of practically 1 percent a year. Losing those jobs as a result of fair competition is bad enough. Losing them because of fraud and other violations of U.S. law is something we should not tolerate. My amendment would allow domestic manufacturers at least a vestige of redress via a private right of action, just as it would also facilitate compliance with the law.

MESSAGES FROM THE HOUSE

At 3:59 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1574. An act to combine the Senators' Clerk Hire Allowance Account and the Senators' Official Office Expense Account into a combined single account to be known as the Senators "Official Personnel and Office Expense Account," and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2631. An act to authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes; and

H.R. 3391. An act to prohibit the importation into the United States of all products of Iran, and for other purposes.

MEASURES REFERRED

The folowing bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2631. An act to authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3391. An act to prohibit the importation into the United States of all products of Iran, and for other purposes; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMPSON:

S. 1769. A bill to establish an office of Inspector General in the Nuclear Regulatory Commission; to the Committee on Environment and Public Works.

S. 1770. A bill to reorganize the functions of the Nuclear Regulatory Commission by abolishing the Commission and, in its place, establishing the Nuclear Regulation Agency, in order to promote more effective and efficient nuclear licensing and regulation; to the Committee on Environment and Public Works.

By Mr. STAFFORD (for himself and Mr. LEAHY):

S. 1771. A bill to amend part A of title IV of the Social Security Act to provide that an individual under the age of 21 who otherwise meets the requirements of that part shall continue to be considered a dependent child for so long as the individual is a full time student and may be expected to complete the educational program in which the individual is enrolled before he or she attains the age of 21; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. ROTH, Mr. DASCHLE, and Mr. DODD):

S. 1772. A bill to provide a White House Conference on International Trade in Services; to the Committee on Finance.

By Mr. INOUYE:

S. 1773. A bill to amend the Soft Drink Interbrand Competition Act to prohibit certain unfair competition by manufacturers of soft drinks; to the Committee on the Judiciary.

By Mr. PRYOR (for himself, Mr. REID, Mr. GRASSLEY, Mr. BAUCUS, Mr. BOREN, Mr. DASCHLE, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ARMSTRONG, Mr. DURENBERGER, Mr. WALLOP, Mr. ADAMS, Mr. BINGAMAN, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. COCHRAN, Mr. D'AMATO, Mr. DODD, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GRAMM, Mr. HARKIN, Mr. HATCH, Mr. HECHT, Mr. HEFLIN, Mr. HELMS, Mr. HUMPHREY, Mr. JOHNSTON, Mr. KARNES, Mr. KASTEN, Mr. LEVIN, Mr. MCCAIN, Mr. MELCHER, Mr. NICKLES, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. STEVENS, Mr. SYMMS, Mr. WEICKER, Mr. WILSON, Mr. WIRTH, Mr. CHILES, and Mr. EXON):

S. 1774. A bill to promote and protect taxpayer rights, and for other purposes; to the Committee on Finance.

By Mr. BUMPERS:

S. 1775. A bill to amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to donate or transfer FmHA inventory farmland to Federal and State wildlife authorities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ARMSTRONG (for himself, Mr. Dole, Mr. Simpson, Mr. Wallop, Mr. Pressler, and Mr. Bond):

S. 1776. A bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ARMSTRONG:

S. 1777. A bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. Stafford, and Mr. Adams):

S. 1778. A bill to provide for a rural educational opportunities program; to the Committee on Labor and Human Resources.

By Mr. PACKWOOD (for himself, Mr. Bradley, Mr. Stevens, Mrs. Kassebaum, Mr. Dodd, and Mr. Burdick):

S.J. Res. 196. A joint resolution to designate February 4, 1988, as "National Women in Sports Day"; to the Committee on the Judiciary.

By Mr. DOLE:

S.J. Res. 197. A bill to designate the month of April 1988 as "Prevent-A-Litter Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMPSON:

S. 1769. A bill to establish an Office of Inspector General in the Nuclear Regulatory Commission; to the Committee on Environment and Public Works.

OFFICE OF INSPECTOR GENERAL IN THE NUCLEAR REGULATORY COMMISSION

Mr. SIMPSON. Mr. President, today I am introducing legislation to establish a statutory inspector general for the Nuclear Regulatory Commission. The bill that I am introducing would amend the Inspector General Act of 1978 and add the Nuclear Regulatory Commission to the list of agencies covered by this act, in accordance with the recommendation of the General Accounting Office in a report entitled "Improvements Needed in the Nuclear Regulatory Commission's Office of Inspector and Auditor."

I am convinced, Mr. President, that legislation such as this will serve to address the concern, whether real or perceived, that the Commission's current approach to conducting investigations and audits of agency employees and agency programs lacks the necessary independence or objectivity—and thus the public confidence—that is so crucial to this function. In addition, I trust that this legislation will, if enacted, permit the Commission to concentrate its efforts and resources on the crucially important task of regulating the 110 operating nuclear power plants, together with the other associated licensing activities within the Commission's jurisdiction.

The Subcommittee on Nuclear Regulation, which began a series of hearings today on the organization of the Commission, the effectiveness of the Commission's internal and external investigative programs, and the relationship of the Commission to the industry that it regulates, will focus on this legislation—together with other proposals to reform the organization of the Commission—at hearings later this month. At that time, Mr. President, it would be my desire that serious consideration be given to addressing the organizational problems that have plagued the Commission since virtually the day it was established. This particular initiative, along with a second bill that I am introducing today to convert the Commission from its current collegial structure to an agency headed by a single administrator, would be the single most important step that Congress could take, in my judgment, to improve the regulation of nuclear power plants and thus enhance protection of the public health and safety. The time has come, Mr. President, for the Congress to move forward to address this pressing problem, and I look forward to working with my colleagues, including my good friend and chairman of the Nuclear Regulation Subcommittee, Senator Breaux, in this endeavor. I ask unanimous consent, Mr. President, that a copy of the bill be printed in the Congressional Record following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT OF AN OFFICE OF INSPECTOR GENERAL IN THE NUCLEAR REGULATORY COMMISSION

Sec. 2. (a) The Inspector General Act of 1978 is amended—

(1) by inserting "the Nuclear Regulatory Commission," before "the Small Business Administration" in section 2(1);

(2) by redesignating subparagraphs (M) and (N) of section 9(a)(1) as subparagraphs (N) and (O), respectively;

(3) by inserting after subparagraph (L) of such section the following new subparagraph:

"(M) of the Nuclear Regulatory Commission, the offices of that agency referred to as the 'Office of Inspector and Auditor';

(4) by striking out "or" after "Transportation" in section 11(1) and inserting in lieu thereof a comma;

(5) by inserting "or the Chairman of the Nuclear Regulatory Commission," before "as the case" in such section; and

(6) by inserting "the Nuclear Regulatory Commission," before "the Small Business Administration" in section 11(2).

By Mr. SIMPSON:

S. 1770. A bill to reorganize the functions of the Nuclear Regulatory Commission by abolishing the Commission and, in its place, establishing the Nuclear Regulation Agency, in order to promote more effective and efficient nuclear licensing and regulation; to the Committee on Environment and Public Works.

NUCLEAR REGULATION REORGANIZATION ACT

Mr. SIMPSON. Mr. President, today I am introducing the Nuclear Regulation Reorganization Act of 1987, for the purpose of abolishing the Nuclear Regulatory Commission, and in its place, establishing an independent regulatory entity, the Nuclear Regulation Agency. This new agency would be headed by a single administrator and would be responsible for carrying out those licensing and regulatory functions now exercised by the Nuclear Regulatory Commission.

When I first arrived in the Senate in January 1979, Mr. President, I assumed the role of ranking minority member of the Subcommittee on Environment and Public Works. What appeared to me at the time, was a legislative responsibility for which I would have the luxury of devoting a good deal of time in learning the complicated issues involving this Nation's commercial nuclear power industry. It didn't quite pan out that way. The task quickly became a major focus of many Americans and everyone in the Congress, as we all witnessed the Three Mile Island accident unfold in Pennsylvania in late March 1979.

After that incident and before I really knew it, I was on a helicopter with my good friend and former colleague, Senator Hart—who was, at the time, the chairman of the Nuclear Regulation Subcommittee—winging our way up to Pennsylvania to witness first hand those unsettling days immediately following the accident.

Since that time, of course, this Nation's commercial nuclear power industry and the agency that was established in 1975 for the purpose of regulating that industry, the Nuclear Regulatory Commission, have been tested by the most difficult of times. For the commercial nuclear power industry, we have witnessed a major retrenchment, with no new reactor orders submitted since 1978. Reactors originally planned in the early 1970's, in the midst of the oil crisis that this country experienced, are now working their way through the licensing pipeline, battered by the high-interest rates that resulted in skyrocketing construction costs and by the failure of many utilities to devote the careful scrutiny which is so very essential to the construction and operation of a nuclear powerplant.

On the regulatory side, the Nuclear Regulatory Commission has struggled to regain its posture as a credible, disciplined, and effective regulator. Faced with mounting criticism from all quarters, the Nuclear Regulatory Commission has attempted to steer a steady and straight course through some pretty heavy seas that have plagued the Commission from virtually the day that it was established.

Thoughout all of this, Mr. President, I have observed with great interest and ever-increasing concern—for the past 9 years that I have been a member of the Nuclear Regulation Subcommittee—as we have lost ground in the struggle to restore the credibility and stability of the nuclear power industry and the Nuclear Regulatory Commission. In the absence of full public confidence in both the commercial nuclear power industry and in the agency that is charged with regulating that industry, we shall never succeed in realizing the potential that nuclear power holds for us—and it distresses me to report that, in the absence of fundamental change in our approach to the regulation of nuclear power in this country, I honestly feel that we will never overcome the problems facing us today. It is for that reason, Mr. President, that I am proposing today a fundamental change—I feel a very important improvement—in our approach to regulating commercial nuclear power—by abolishing the collegial Nuclear Regulatory Commission, and in it place, establishing an agency headed by a single administrator.

BACKGROUND

The Nuclear Regulatory Commission's roots go back to 1946, when the Congress established the five-member Atomic Energy Commission and charged it with the responsibility to oversee the development and management of nuclear weapons. Congress established this "independent regulatory commission" to ensure that the far-reaching policy decisions associated with this country's nuclear weapons program were not the responsibility of a single individual, but rather would be made after the collegial, deliberative discussions of a five-member commission, drawn from many and diverse backgrounds.

When the Congress opened the door for the commercial development of nuclear power in 1954, the collegial body was retained. As it turned out, however, the principal focus of the AEC continued to be upon development of nuclear weapons, and to an increasing degree, on the development of a commercial nuclear power industry. To a large extent, those functions involving the licensing and regulation of nuclear power were carried out within the AEC by the AEC staff, with a very minimal involvement of the five-member collegial commission.

In 1975, the Atomic Energy Commission was abolished and the Nuclear Regulatory Commission was then established to assume the licensing and regulatory responsibilities of the former AEC. At the time, two major advantages were cited in support of the collegial approach: First, an independent regulatory commission, such as the NRC, would be insulated from undue executive branch interference, and thereby the agency would be enabled to function in a truly independent capacity; and second, a five-member collegial body would provide a diversity of views and philosophies and opinions consensus and decisionmaking.

Today, 12 years after the Congress formally constituted the Nuclear Regulatory Commission and charged it with the responsibility for regulating the commercial nuclear power industry on a collegial basis, we now see the results.

The principal advantage of the original Commission approach—the value of bringing diverse views to bear, in a collegial context, on the licensing and regulatory issues facing the Commission, has all but been hopelessly lost. The Commissioners simply do not communicate with one another as a group—and when they do, it is most often done in a sterile and formal manner, through the exchange of written comments. This is not what the American public expects and deserves. We have a "collegial body that doesn't college." Former Commissioner Victor Gilinsky—a thoughtful and effective man—who served on the Commission from 1975 through 1984, testified before the Subcommittee on Nuclear Regulation in the last Congress that "the interaction between the Commissioners has dwindled over the past several years, with little interchange of ideas or collective decisionmaking taking place."

Beyond that, this collegial body is almost isolated from their own staff in those instances where adjudicatory proceedings are pending before the NRC. As the ultimate supreme court for all these adjudicatory proceedings, the Commissioners cannot even legally discuss the substance of ending adjudications with staff members who are involved as a party to those proceedings. Unfortunately, the Commission has taken this separation of functions concept far beyond what even the Administrative Procedures Act requires and, as a result, the Commission has only severely limited itself in communications with staff on important safety matters.

Finally—and most importantly—the collegial approach has resulted in the lack of any real responsibility to be vested in a single member to carry out a decision, and a corresponding lack of any real accountability by any single individual for the decisions that are made—or not made. This pernicious and confounding diffusion of responsibility and accountability, at a moment of time when virtually all collegial decisionmaking has essentially stopped anyway, has resulted in not only the appearance but the clear and documented reality of indecisive, inefficient, and ineffective regulation of the commercial nuclear power industry—the worst of all possible worlds. The Commissioners are fine and honest people, but they cannot succeed in performing their tasks. I have come to them all and I admire them greatly. They work hard—but are trapped in a feckless exercise.

SUMMARY OF BILL

It is for these reasons, Mr. President, that I am introducing legislation to convert the Nuclear Regulatory Commission to an agency headed by a single administrator. The Nuclear Regulatory is virtually the last Federal agency, with the exception of the Consumer Product Safety Commission, where critical public health and safety responsibilities—that in many cases require prompt and decisive action—are undertaken by a collegial body. The Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, and many others all function quite effectively, independently, and with the benefit of considerable diversity of opinions, even though headed by a single administrator. It is now time for us, Mr. President, to consider this option very seriously if we are to truly have the proper and responsible regulation of commercial nuclear power in this country.

The legislation which I am introducing establishes a new agency, the "Nuclear Regulation Agency," to be administered by a Director, who will be appointed by the President, with the advice and consent of the Senate. In addition, the bill provides for a Presidentially appointed Deputy Director, and Presidentially appointed Assistant Directors, one each for the three present functions of nuclear reactor regulation, nuclear materials safety and safeguards, and research. All functions, duties, and responsibilities of the Nuclear Regulatory Commission are then to be transferred to this new Agency.

I would ask unanimous consent, Mr. President, that a copy of the bill be printed in the CONGRESSIONAL RECORD following my remarks, and I urge my colleagues to give their thoughtful personal attention to this issue as we embark on our consideration of this bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Nuclear Regulation Reorganization Act of 1987".

DECLARATION OF PURPOSES

SEC. 2. The Congress declares that—

(1) a clear and coordinated national policy for the development, use, and regulation of atomic energy for peaceful purposes, in accordance with the objectives of the Atomic Energy Act of 1954, as amended, is in the best interest of the general welfare and the common defense and security of this Nation; and

(2) to best achieve these objectives, improvements in the effectiveness and efficiency of the current approach to the licensing and regulation of atomic energy for peaceful purposes are required.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "Agency" means the Nuclear Regulation Agency established under section 4; and

(2) the term "Director" means the Director of the Nuclear Regulation Agency appointed under section 5(a).

ESTABLISHMENT OF NUCLEAR REGULATION AGENCY

SEC. 4. There is established as an independent regulatory agency of the Government the Nuclear Regulation Agency (hereinafter in this Act referred to as the "Agency"). The Agency shall succeed the Nuclear Regulatory Commission in existence on the day before the effective date of this Act.

(b) For purposes of chapter 9 of title 5 of the United States Code, the Agency is an independent regulatory agency.

OFFICERS

SEC. 5. (a) The Agency shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall carry out all functions transferred to the Agency by this Act and shall have authority and control over all personnel, programs, and activities of the Agency.

(b) There shall be in the Agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director shall prescribe. The Deputy Director shall act for and perform the functions of the Director during the absence or disability of the Director, or in the event of a vacancy in the office of the Director.

(c) There shall be in the Agency not to exceed three Assistant Directors, one each for nuclear reactor regulation, nuclear material safety, and research, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Directors shall perform such functions as the Director shall prescribe. The Director shall designate the order in which the Assistant Directors shall act for and perform the functions of the Director during the absence or disability of the Director or the Deputy Director, or in the event of vacancies in all of those offices.

(d)(1) Section 5331 of title 5, United States Code, is amended by adding at the end thereof the following: "Director, Nuclear Regulation Agency.".

(2) Section 5341 of title 5, United States Code, is amended by adding at the end thereof the following: "Deputy Director, Nuclear Regulation Agency.".

(3) Section 5316, of title 5, United States Code, is amended by adding at the end thereof the following: "Assistant Administrators, Nuclear Regulation Agency.".

ABOLITION OF NUCLEAR REGULATORY COMMISSION

SEC. 6. The Nuclear Regulatory Commission is hereby abolished. Sections 201, 203, 204, 205, and 209 of the Energy Reorganization Act of 1974, as amended, are repealed.

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 7. The personnel employed and the assets, liabilities, contracts, property, records, and unexpended balances or appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available, or to be made available, in connection with the Nuclear Regulatory Commission and the functions transferred under this Act, are, subject to section 1531 of title 31, United States Code, transferred to the Agency for appropriate allocation.

EFFECT ON PERSONNEL

SEC. 8. (a) The transfer of personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of such transfer.

(b) Any person, who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Agency to a position having duties comparable to those performed immediately preceding his appointment, shall continue to be compensated in his new position at not less than the rate provided for his previous position for the duration of his service in his new position.

INCIDENTAL TRANSFERS

SEC. 9. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide may make such determinations as may be necessary with regard to the transfer of the Nuclear Regulatory Commission pursuant to this Act and the transfer of functions under this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriation, authorizations, allocations, and other funds held, used, arising from, available, or to be made available in connection with the Nuclear Regulatory Commission and the functions transferred under this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determination as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with the transfer of the Nuclear Regulatory Commission pursuant to this Act and the transfer of functions under this Act.

SAVINGS PROVISIONS

SEC. 10. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, the Nuclear Regulatory Commission, or any court of competent jurisdiction, in the performance of functions which are transferred under this Act; and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the President, the Director, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings pending at the time this Act takes effect before the Nuclear Regulatory Commission with respect to functions transferred, may be continued before the Agency. Orders may be issued in such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings may continue in effect until modified, terminated, superseded, or repealed by the Administrator, by a court of competent jurisdiction, or by operation of law.

(2) The Director is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) of the Agency.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect actions commenced prior to the date this act takes effect, and

(2) in all such actions proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Nuclear Regulatory Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Nuclear Regulatory Commission or functions transferred under this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of action or actions or other proceedings with respect to the Nuclear Regulatory Commission, may be asserted by or against the United States or an official of the Agency, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) If, before the date on which this Act takes effect, the Nuclear Regulatory Commission, or any officer thereof in the official capacity of such officer, is a party to an action, and under this Act such action shall be continued with the Director or other appropriate official of the Agency, as the case may be, substituted or added as a party.

(f) Orders and actions of the Director in the exercise of the functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Nuclear Regulatory Commission in exercising such functions immediately proceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to the exercise of such functions transferred under this Act shall apply to the exercise of such functions by the Director.

REFERENCE

SEC. 11. Well respect to any function transferred under this Act and exercised after the effective date of this Act, any reference in any other law, or in any rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act to the Nuclear Regulatory Commission shall be deemed to refer and apply to the Agency or the Director.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one hundred and twenty days after the date of its enactment, or on such earlier date as the President may prescribe and publish in the Federal Register, except that any time on or after the date of the enactment of this Act, any of the officers provided for in section 5 may be nominated and appointed, as provided in this Act. Funds available to the Nuclear Regulatory Commission may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this section and other transitional and planning expenses associated with the establishment of the Agency until such time as funds for such purposes are otherwise available.

By Mr. STAFFORD (for himself and Mr. LEAHY):

S. 1771. A bill to amend part A of the Social Security Act to provide that an individual under the age of 21 who otherwise meets the requirements of that part shall continue to be considered a dependent child for so long as the individual is a full time student and may be expected to complete the educational program in which the individual is enrolled before he or she attains the age of 21; to the Committee on Finance.

CONTINUING HIGH SCHOOL EDUCATION FOR CHILDREN ON AFDC

● Mr. STAFFORD. Mr. President, I am introducing, for myself and the junior Senator from Vermont [Mr. LEAHY], a bill to correct a problem that has developed for high school students whose families receive assistance from the AFDC Program.

The goal of our legislation is to permit students to continue their high school education to graduation without the problem of having their AFDC payment cut off because they have reached the age of 19.

Mr. President, under the current Aid to Families with Dependent Children regulations, a high school student's eligibility is limited to that of an otherwise eligible child, age 18, who is a full-time student in a secondary school, or its equivalent, who may reasonably be expected to complete a program before reaching age 19. Thus, under the regulations, if a student cannot reasonably be expected to complete the program before reaching age 19 he or she must be removed from the AFDC rolls upon reaching age 18.

I have trouble, and so do many Vermonters, accepting the wisdom of such a policy. Education is one of the time-proven ways to break out of the poverty cycle. By denying the chance for a high school diploma we are condemning many of our young people to a life in the welfare system. This should not be an effect of Federal policy.

An example of how the present AFDC regulations work would be a high school student who turns 19 in May and is scheduled to graduate in June. Under current policy the student would be terminated from the AFDC Program the previous May, when he or she turns 18. The negative impact might be the major reason for the student to decide not to finish high school.

If the 19th birthday of this same high school student was in June, he or she would be eligible through the month of graduation. Thus, an incentive would remain for the student to stay in school and graduate.

Mr. President, in our society a high school education, or its equivalent, is necessary to be competitive in our job market. Anything less increases the probability of a wide range of social cost in later years. The disincentives for low-income Vermonters, and other low-income Americans, to complete their high school educations should be eliminated from existing law.

Furthermore, Mr. President, the regulation as it now exists, could easily be interpreted as discriminatory against handicapped children. These children often have to proceed through the school system at a slower pace than those who are not impaired. These children have important contributions to make to society. They should not be the victims of the law that, by design, could prevent handicapped children from reaching their full potential.

Mr. President, the bill that we are introducing would amend existing law by striking out age 19 and replacing it with age 21. This would allow a student turning 19 or in the case of a handicapped student, turning age 20, to be able to complete her or his high school education.

I can think of no more important factor in aiding an individual to become independent and break the welfare cycle than the completion of a high school education.

I urge my colleagues to review this legislation closely and sincerely request their support for this bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

In addition, Mr. President, I also ask unanimous consent that a letter I received from Emily K. O'Hara, registered nurse of the Vermont Visiting Nurses Association, be printed in the RECORD. It concerns the impact of the existing law on a family that she serves as a visiting nurse. I think this letter points out more clearly than I can the need for this change in the AFDC law.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 1771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF DEPENDENT CHILD.

(a) IN GENERAL.—Section 406(a)(2)(B) of the Social Security Act (42 U.S.C. 606(a)(2)(B)) is amended—

(1) by striking "nineteen" each place it appears and inserting in lieu thereof "twenty-one", and

(2) by striking "reasonably".

(b) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(2) In the case of a State plan approved under part A of title IV of the Social Security Act that the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of its failure to meet such additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

VISITING NURSE ASSOCIATION,
Burlington, VT, February 1, 1987.

Hon. ROBERT STAFFORD,
U.S. Senate,
Washington, DC.

DEAR SENATOR STAFFORD: I am a nurse in the Maternal-Child Health program at the Visiting Nurse Association in Burlington, Vermont. I am writing in regard to the current ruling that cuts ANFC benefits to refugee children/dependents who will not graduate from high school by their nineteenth birthday. I am particularly writing to advocate for a Cambodian refugee family who I visit and who are drastically affected by this ruling.

The eldest daughter in this family of seven, is highly motivated and does well in school. However, she is not scheduled to graduate until she is twenty years old. She has recently been removed from the family ANFC benefits. This has created a tremendous financial burden to the family, thus she is now faced with finding a job to help support her family. This places an inordinate and unnecessary burden on this young woman's shoulders.

Some people are forced to drop out of school to help meet their family expenses. This sabotages motivated individuals and families from becoming successful and optimally integrated into the U.S. culture/society.

It is important to recognize and allow time for enculturation and education. This may not necessarily occur for the refugee student at the same time as for the "average American" student.

Your thoughtful consideration and action to change this errant ruling thus allowing refugee children to complete their high school education without penalizing the family by losing ANFC benefits is much needed.

Sincerely yours,
EMILY K. O'HARA, R.N.●

● Mr. LEAHY. Mr. President, I rise today in support of Senator STAFFORD's bill to extend AFDC benefits for high school students up to the age of 21. I applaud the senior Senator from Vermont, who for several years has been a leader in the area of education and I am proud to be a part of such important legislation.

Due in great part to the Vermont Low Income Advocacy Council, a serious problem in the AFDC Program has been recognized and brought to our attention. Under present law a high school student who will turn 19 before graduation from high school, possibly because they were held back a year or could not attend due to illness, will be terminated from the AFDC Program on their 18th birthday. Lacking this financial assistance, a student may be forced to drop out of school in order to support family members. I do not believe a young person should be penalized because his or her birthday does not fall on the right day.

This legislation, authored by the distinguished Senator from Vermont, will amend the Social Security Act so that, at State option, full-time students will continue to receive AFDC benefits until the age of 21.

Experience has shown education to be one of the most important avenues away from a life of welfare and poverty. And as today's job market becomes increasingly competitive, the completion of high school or vocational training becomes a necessity. Let us not deny our young people the opportunity to improve their lives and that of their families. I compliment my very good friend and colleague from Vermont for drafting this important bill, and I am proud to join in cosponsoring it.●

By Mr. MOYNIHAN (for himself, Mr. ROTH, Mr. DASCHLE, and Mr. DODD):

S. 1772. A bill to provide a White House Conference on International Trade in Services; to the Committee on Finance.

WHITE HOUSE CONFERENCE ON INTERNATIONAL TRADE IN SERVICES ACT

● Mr. MOYNIHAN. Mr. President, I am pleased today to introduce, together with my colleague Senator ROTH, legislation to authorize a White House Conference on International Trade in Services. I also ask that Senators DASCHLE and DODD be listed as original cosponsors of this bill. Similar legislation is being introduced in the House of Representatives by Congresswoman KENNELLY.

The purpose of this bill is to provide the forum and prestige of a White House conference to address the critical issue of international negotiations on trade in services. At a time when the U.S. deficit in manufactures trade is large, it is often overlooked that the United States continues to have a surplus in services trade. A healthy expansion in our services exports could be an important component of our national effort to bring our trade accounts back into equilibrium.

Despite these important trends, inadequate attention has been focused on the services portion of international trade. Although the GATT rules covering trade in goods are sometimes weak and often insufficient, there are presently no international rules governing services trade. Indeed, since the end of the Tokyo Round of GATT negotiations in 1979, the United States has pressed to expand the scope of the GATT to include trade in services. Ultimately, the United States succeeded in this effort, despite the opposition of a number of developing countries including Brazil and India, when the GATT contracting parties agreed at Punta del Este last year to include services on the agenda for the new round of multilateral trade negotiations.

However, even as the United States has led the charge for services negotiations, inadequate attention has been paid to the U.S. position for such talks. Trade in services is a newcomer to the international agenda—and the appropriate U.S. priorities for services trade rules remain opaque. Since the negotiations are now underway, we have an urgent need to clarify our priorities. A White House conference would provide valuable assistance in the development of U.S. goals for these negotiations.

In addition, the importance of trade in services has been highlighted in recent free trade negotiations with Israel and Canada. These negotiations have served as a useful supplement to the U.S. effort to establish multilateral rules on services trade. The United States has also pursued the liberalization of services trade barriers with a number of countries pursuant to section 301 investigations and as part of more informal efforts. These types of negotiations will almost certainly continue in the future, and it is important that the U.S agenda for such efforts clearly reflect U.S. commercial interests.

Services now account for over 75 percent of U.S. employment and over 70 percent of U.S. GNP. But our understanding of the services economy is incomplete. In many ways it remains difficult to adequately define and measure the services sector and data on services productivity needs improvement. A White House conference would also help to facilitate the joint effort of our Nation's economists, statisticians, corporate planners, and trade experts, to construct a solid base of information from which to build our trade policy.

This legislation would convene a White House conference no later than 1 year after the date of enactment. It would require that within 120 days after the conference is held a report would be transmitted to the President. The report would provide a clear agenda for the United States for international negotiations on services trade. It would provide the necessary information and guidance for our negotiations in the Office of the U.S. Trade Representative and the Treasury Department.

The passage of this bill by the Congress would represent an important, perhaps crucial, step in the evolution of a coherent U.S. trade policy for services. Without such a forum, the effort of the U.S. Government to design an effective services trade policy will be more difficult.

I strongly urge that all Members of the Senate join with me and Senator ROTH to assure the prompt passage of this legislation.●

● Mr. ROTH. Mr. President, I am pleased to join with my colleague from New York in sponsoring legislation to establish a White House Conference on Services Trade.

Services have indeed become a critical element of our Nation's trade policy. This administration has steadfastly promoted liberalization of international trade in services, pressing strongly for inclusion of services in both the bilateral trade talks with Canada and the multilateral round of negotiations underway at GATT.

With an increased awareness of the important role of services, our efforts to understand the service sector have expanded. But the expansion has not been a coordinated task. Today, the variety of ongoing projects and studies related to the service economy is as broad as the service sector itself. The Federal Government alone has more than 30 agencies with some responsibility for services.

Our legislation proposes a White House Conference on International Trade in Services as an opportunity to aggregate the efforts of leading researchers, private sector representatives and Federal officials in studying the service economy and coordinating future initiatives. Working from a base of shared information, this convergence of talent will be able to more efficiently address this very broad subject.

As each of us knows, the U.S. economy has undergone a dramatic transformation over the last 20 years, as services have accounted for an increasing share of our balance of trade. Now, services make up about one quarter of all U.S. exports. Advances in telecommunications and an innovative U.S. work force have strengthened the U.S. position as a leader in global services trade.

The rapid developments in services trade pose a profound challenge for economists and statisticians, and those of us who rely on their information. Measuring services productivity, or predicting services business cycles has proved difficult. We must grapple with both the details of the service economy as well as the broader concept of international trade policies. All of this points to the need for a cooperative endeavor. Our proposal for a White House conference would provide a focal point for these efforts.

Our future competitive edge depends to a great extent on how we shape the future of our service industries. A better understanding of this portion of our economy is critical if we are to undertake the task of forming viable domestic and foreign policies which will carry us into the 21st century.●

● Mr. DODD. Mr. President, I am pleased to cosponsor the White House Conference on International Trade in Services Act with my distinguished colleagues from New York and Delaware, Senators MOYNIHAN and ROTH. My colleague from Connecticut, Mrs. KENNELLY, has introduced similar legislation.

The initiative that we are introducing will establish a White House Conference on International Trade in Services. We view this legislation as serving a dual purpose: To establish communication between individuals and institutions concerned with trade in services and to provide a base of information to better understand service sector output and the effect of U.S. domestic policies on our services trade position.

In recent years, as the trade debate has moved to the forefront of the national dialog, the issue of trade in services as part of the debate, has moved from relative obscurity to the forefront of our discussions in trade.

Services trade now accounts for one quarter of all world trade and the United States is the largest single-nation trader of services with over 21 percent of world receipts. The service sector employs over 75 percent of the U.S. work force and produces over 70 percent of the gross national product of the United States. In fact, services now make up a significant portion of the economies and labor forces of most industrialized nations. However, Government policies have been slow to react to the evolution of the service sector.

Part of the difficulty in responding to this evolution rests with the varied nature of the service sector and the sheer volume of information necessary to form a cogent trade strategy for services. A short cut to combining ongoing efforts to quantify and interpret the service sector and to consolidating information on services can be accomplished through the establishment of a White House Conference on International Trade in Services. The United States has already led the way in actively demonstrating the importance of services in a nation's economy and trade. This legislation will help organize the development of a cogent policy toward services.

In general, White House conferences are a means by which timely issues are addressed at a high and visible level. One need only to look at the effect and results of the recent White House Conferences on Productivity, Small Business and Drug Abuse to measure their indisputable effectiveness. A White House Conference on International Trade in Services will provide an opportunity to aggregate the efforts of leading researchers, private sector leaders and Government officials and encourage them in their present and future endeavors in the services field. The report and recommendations of the conference will be a valuable tool in shaping a services trade strategy and will serve as an important marker against which future progress in this enormous area may be measured.

I urge you to work with us to assure the prompt passage of this important legislation.●

By Mr. INOUYE:

S. 1773. A bill to amend the Soft Drink Interbrand Competition Act to prohibit certain unfair competition by manufacturers of soft drinks; to the Committee on the Judiciary.

SOFT DRINK INTERBRAND COMPETITION ACT

● Mr. INOUYE. Mr. President, the bill I am introducing will amend the Soft Drink Interbrand Competition Act to prohibit certain unfair competition by manufacturers of soft drinks. It will expressly prohibit unfair competition and unlawful practices by manufacturers and will prohibit the distribution of free beverage dispensing equipment.

In their efforts to further monopolize the soft drink market, certain large soft drink manufacturing companies have embarked on a practice of placing at negligible cost or actual loaning at no cost, beverage dispensing equipment to potential large retail customers in order to lure them away from competition.

Placing beverage dispensing equipment in a customer's place of business for no charge or at a negligible charge creates an unspoken obligation to purchase the soft drink syrup from the company giving away the equipment. Furthermore when these large soft drink syrup manufacturers install the beverage dispensing equipment at no charge with a new customer, the equipment usually has just sufficient dispensing outlets on the unit to handle the syrup flavors sold by them, leaving no room for the restaurant or tavern to dispense the soft drinks of a competitor.

The damaging impact of this equipment give-away program on the beverage dispensing equipment industry is twofold. First, and most dramatically it totally undermines the survival of those companies whose very existence is dependent upon the sale or lease of beverage dispensing equipment. A large seller of fountain dispensing soft drinks such as a fast food chain when faced with a choice of buying or renting the beverage dispensing equipment or receiving it free of charge has little difficulty in making a decision. The result is always the same—a member of the beverage dispensing equipment industry loses another customer. Second, once the equipment is installed the customer invariably purchases its syrups directly and exclusively from one of these big soft drink manufacturers, depending on who installed the free equipment. Thus, the beverage dispensing equipment industry is not the only victim of this anticompetitive practice.

Unless action is taken to preserve what little competition remains in the fountain soft drink industry, these large soft drink manufacturers will totally eliminate any competition in the fountain soft drink market and will decimate the beverage dispensing equipment industry.

I urge the support of my colleagues for this bill.●

By Mr. PRYOR (for himself, Mr. REID, Mr. GRASSLEY, Mr. BAUCUS, Mr. BOREN, Mr. DASCHLE, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ARMSTRONG, Mr. DURENBERGER, Mr. WALLOP, Mr. ADAMS, Mr. BINGAMAN, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. COCHRAN, Mr. D'AMATO, Mr. DODD, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GRAMM, Mr. HARKIN, Mr. HATCH, Mr. HECHT, Mr. HEFLIN, Mr. HELMS, Mr. HUMPHREY, Mr. JOHNSTON, Mr. KARNES, Mr. KASTEN, Mr. LEVIN, Mr. MCCAIN, Mr. MELCHER, Mr. NICKLES, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. STEVENS, Mr. SYMMS, Mr. WEICKER, Mr. WILSON, Mr. WIRTH, Mr. CHILES, and Mr. EXON).

S. 1774. A bill to promote and protect taxpayer rights, and for other purposes; to the Committee on Finance.

OMNIBUS TAXPAYERS' BILL OF RIGHTS ACT

Mr. PRYOR. Mr. President, as we all know, this year is the 200th anniversary of our Constitution. Few of us, however, realize that this is also the anniversary of the founding of the Internal Revenue Service; 125 years ago, President Lincoln signed the law that created the agency that we now know as the Internal Revenue Service.

In 1862, the IRS had a small staff and its mission was limited. Its intrusion in the daily lives of American citizens was slight, and most people in this country probably did not even realize that the IRS existed. As a result, few checks existed to ensure that this new agency acted within the boundaries of its mandate.

Through the years, the role of the IRS has changed. Year by year, its power has grown. Today, the IRS has over 100,000 employees, processes millions of returns, and collects billions of dollars each year. The IRS performs an essential function—collecting our Nation's revenues. But in this process of collecting our tax dollars, we have seen that all too often the rights of American taxpayers are forgotten.

So it is fitting on this 125th anniversary that Congress once again look at the relationship between the tax collector and the taxpayer and clearly define the boundaries under which the IRS operates.

Last Sunday was another anniversary of sorts. Eight months ago, Senators Reid, Grassley, and myself, along with Congressman Tallon in the House, introduced the Omnibus Taxpayers' Bill of Rights. Since then, we have held three hearings during which we heard from taxpayers, former IRS employees, present employees, and of course, the Commissioner of Revenue, Lawrence Gibbs. We were all impressed with Mr. Gibbs' emphasis on service and treating the taxpayer like a customer. However, we also learned that the IRS's well-intentioned policy statements and guidelines from Washington are often ignored out in the real world.

In the months since the hearings, we have met with former IRS Commissioners, representatives from the American Bar Association and American Institute of Certified Public Accountants, and some of the best tax brains from around the country. We have invited their comments, listened to their criticisms and, in the process, learned a great deal about how to refine and improve our bill.

Today, we introduce a new and improved Taxpayer Bill of Rights. It is new because it provides additional protections that were not in the previous bill. And it is improved because we believe that it corrects some of the technical problems that were brought to our attention. The bill that I introduce today has the backing of 11 members of the Finance Committee, and of 51 Members of the Senate. Clearly, the committee wants this bill, the Senate wants this bill, and the American taxpayer wants this bill. The time has come to put the taxpayer on an equal footing with the IRS. In the next few weeks, I predict that Congress will do just that.

An additional protection provided by the new bill would require that the IRS state separately on all notices it sends to taxpayers the amount of the deficiency, interest, and penalties, as well as the reason behind the tax bill. Along those same lines, it would require the IRS to support and explain the penalties it assesses against taxpayers. The new bill would establish a new Assistant Commissioner of Taxpayer Services and require him to present Congress with an annual report on the state of taxpayer services.

The original bill proposed that the burden of proof be shifted from the taxpayer to the IRS in civil proceedings. The new bill would achieve the same objective of the original proposal by applying the standards of care currently required of taxpayers in the Tax Code and regulations to the IRS and its employees.

If an IRS claim against a taxpayer proves to be unreasonable, the taxpayer will be able to recover his costs for defending himself. Additionally, in cases where the IRS acts in careless, reckless, or intentional disregard of statutes and regulations, taxpayers will be able to recover actual damages from the IRS. This new approach will place pressure on the IRS to be more careful from the outset of its dealings with the taxpayer.

Clearly, the IRS needs to be held accountable for its mistakes and overreaching behavior. Even the President of the United States is not safe from wrongful acts that can be taken by the IRS. In a recent Washington Post article, we learned that through an inadvertent mistake, the IRS filed a lien against the property of President and Mrs. Reagan. An amusing story, until you realize that such mistakes occur on a daily basis, and that most people do not have the resources available to them that the President has to remove the lien. Mr. President, the American people are losing their faith in the IRS's ability to collect taxes fairly.

Our hope is that the revised Taxpayers' Bill of Rights will help to restore the American taxpayers' faith in the voluntary tax collection system. Faith of the American taxpayer is the essential ingredient that has allowed the IRS to perform its revenue-gathering function for the past 125 years. The Taxpayers' Bill of Rights will ensure that for the next 125 years, that faith will continue.

I ask unanimous consent that an outline and a copy of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF INTERNAL REVENUE CODE OF 1986.

(a) Short Title.—This Act may be cited as the "Omnibus Taxpayers' Bill of Rights Act".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. DISCLOSURE OF RIGHTS AND OBLIGATIONS OF TAXPAYERS.

(a) In General.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, prepare a brief but comprehensive statement which sets forth in simple and nontechnical terms—

(1) the rights and obligations of a taxpayer and the Internal Revenue Service (hereinafter in this section referred to as the "Service") during an audit;

(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

(b) Transmission to Committees of Congress.—The Secretary of the Treasury shall transmit drafts of the statement required under subsection (a) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day. Any draft (or any revision of a draft) of the statement may not be distributed under subsection (c) until 90 days have elapsed from the date it was transmitted to such committees.

(c) Distribution.—The statement prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to all taxpayers receiving the annual tax filing forms from the Internal Revenue Service.

SEC. 3. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7519. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

"(a) In General.—Any officer or employee of the Internal Revenue Service in connection with any interview with any taxpayer relating to the determination or collection of any tax shall, upon request of such taxpayer—

"(1) conduct such interview at a reasonable time and place convenient to the taxpayer and such officer or employee, and

"(2) allow the taxpayer to make a recording of such interview at his own expense and with his own equipment.

An officer or employee of the Internal Revenue Service may record any such interview if he informs the taxpayer of such recording prior to the interview and provides the taxpayer with a transcript of such recording upon the request of the taxpayer and reimbursement for the cost of reproduction of such transcript.

"(b) Safeguards.—An officer or employee of the Internal Revenue Service shall prior to any interview described in subsection (a) explain the audit process to the taxpayer and such taxpayer's rights under such process. If the taxpayer indicates in any manner and at any time during the interview that he wishes to consult with an attorney, certified public accountant, enrolled agent, or enrolled actuary, such interview shall be discontinued regardless of whether he may have answered some questions.

"(c) REPRESENTATIVES HOLDING POWER OF ATTORNEY.—Any person who, under regulations—

"(1) is eligible to practice,

"(2) has a right of limited practice, or

"(3) has a right of special appearance,

before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer may be authorized by such taxpayer to represent the taxpayer in any interview described in subsection (a). An officer or employee of the Internal Revenue Service shall treat such person as the taxpayer for purposes of such interview unless such officer or employee notifies the taxpayer that such person is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7519. Procedures involving taxpayer interviews.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interviews conducted on or after the date which is 30 days after the date of the enactment of this Act.

SEC. 4. ADVICE OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(f) ABATEMENT OF ANY PENALTY OR INTEREST ATTRIBUTABLE TO WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE.—The Secretary shall abate any penalty or interest imposed on any deficiency attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in his official capacity, in response to a specific request of the taxpayer unless the deficiency resulted from a failure by the taxpayer to provide adequate or accurate information.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5. TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to general rules for application of the internal revenue laws) is amended by adding at the end thereof the following new section:

"SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

"(a) AUTHORITY TO ISSUE.—Upon application filed by a taxpayer with the Office of Ombudsman (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Ombudsman may issue a Taxpayer Assistance Order if, in the determination of the Ombudsman—

"(1) the taxpayer is suffering or about to suffer from an unusual, unnecessary, or irreparable loss as a result of the manner in which the internal revenue laws are being administered by the Secretary, and

"(2) with respect to such taxpayer, the Secretary has failed to carry out his duties under the law or has violated any provision of law.

"(b) TERMS OF A TAXPAYER ASSISTANCE ORDER.—The terms of a Taxpayer Assistance Order may require the Secretary—

"(1) to release property of the taxpayer levied upon, or

"(2) to cease any action, or refrain from taking any action, with respect to the taxpayer under—

"(A) chapter 64 (relating to collection),

"(B) subchapter B of chapter 70 (relating to bankruptcy and receiverships),

"(C) chapter 78 (relating to discovery of liability and enforcement of title), or

"(D) any other provision of law which is specifically described by the Ombudsman in such order.

"(c) EFFECT OF ORDER.—The Secretary shall obey any Taxpayer Assistance Order issued by the Ombudsman under this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 is amended by adding at the end thereof the following new item:

"Sec. 7811. Taxpayer Assistance Orders.".

(c) ISSUANCE OF REGULATIONS.—The Secretary of the Treasury shall issue such regulations as the Secretary deems necessary within 90 days of the date of the enactment of this Act in order to carry out the purposes of section 7811 of the Internal Revenue Code of 1986 (as added by this section) and to assure full, fair, and impartial due process for taxpayers under such section 7811.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6. OFFICE OF INSPECTOR GENERAL.

(a) IN GENERAL.—Paragraph (1) of section 2 of the Inspector General Act of 1978 (5 U.S.C. App. 3) (relating to the purpose and establishment of offices of inspector general and the departments and agencies involved) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) ADDITION OF DEPARTMENT OF THE TREASURY TO LIST OF COVERED ESTABLISHMENTS.—Paragraphs (1) and (2) of section 11 of such Act (relating to definitions) are amended by striking out "or Transportation" both places it appears and inserting in lieu thereof "Transportation, or the Treasury".

(c) TRANSFER OF EXISTING AUDIT AND INVESTIGATION UNITS.—Paragraph (1) of section 9(a) of such Act (relating to transfer of functions) is amended—

(1) by redesignating subparagraphs (I), (J), (K), (L), (M), and (N) as subparagraphs (J), (K), (L), (M), (N), and (O), respectively, and

(2) by inserting after subparagraph (H) the following new subparagraph:

"(I) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States Customs Service', the 'Office of Inspections, Internal Revenue Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;".

(d) SPECIAL PROVISIONS RELATING TO DEPARTMENT OF THE TREASURY.—The Inspector General Act of 1978 is amended by inserting after section 8A the following new section:

"SPECIAL PROVISIONS REGARDING THE DEPARTMENT OF THE TREASURY

"SEC. 8B. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have general oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, the Office of Inspections of the Internal Revenue Service, and the Office of Inspections of the United States Secret Service. The head of each such office shall periodically report to the Inspector General the significant investigative activities being carried out by such office.

"(b) Notwithstanding subsection (a), the Inspector General of the Department of the Treasury may conduct an investigation of any officer or employee of such Department if—

"(1) the Secretary of the Treasury or the Deputy Secretary of the Treasury requests the Inspector General to conduct an investigation;

"(2) the investigation concerns senior officers or employees of the Department of the Treasury, including officers appointed by the President, members of the Senior Executive Service, and individuals in positions classified at grade GS-15 of the General Schedule or above or classified at a grade equivalent to such grade or above such equivalent grade; or

"(3) the investigation involves alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.

"(c) If the Inspector General of the Department of the Treasury initiates an investigation under subsection (b), and the officer or employee of the Department of the Treasury subject to investigation is employed by or attached to a bureau or service referred to in subsection (a), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (a) with written notice that the Inspector General has initiated such an investigation. If the Inspector General issues a notice under the preceding sentence, no other investigation shall be initiated into the matter under investigation by the Inspector General and any other investigation of such matter shall cease.

"(d)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the issuance of subpenas, which require access to information concerning—

"(A) ongoing criminal investigations or proceedings;

"(B) sensitive undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior; or

"(E) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person authorized protection by section 3056 of title 18, United States Code.

"(2) With respect to the information described in paragraph (1), the Secretary of the Treasury may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena, after the Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Secretary of the Treasury determines that such prohibition is necessary to preserve the confidentiality of or prevent the disclosure of any information described in paragraph (1).

"(3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing of such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Joint Committee on Taxation, together with any comments the Inspector General deems appropriate.".

(c) DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION.—Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

(i) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code (relating to positions of level IV) is amended by adding at the end thereof the following new item:

"Inspector General, Department of the Treasury.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) IN GENERAL.—Records of tax enforcement results shall not be used—

(1) to evaluate enforcement officers, appeals officers, and reviewers, or

(2) to impose or suggest production quotas or goals.

(b) CERTIFICATION.—Each district director shall certify monthly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 8. APPLICATION OF THE REGULATORY FLEXIBILITY ACT TO THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(e) INTERPRETATIVE RULEMAKING.—In order for a rule to be an interpretative rule under section 553(b) of title 5, United States Code, the Secretary must certify that the rule, as proposed by the Internal Revenue Service, is the only alternative that meets the mandate of the statute and publish that certification in the Federal Register. If the Secretary does not so certify, the rule shall not be an interpretative rule.".

(b) DIRECT AND INDIRECT IMPACT OF RULES ON SMALL ENTITIES.—

(1) IN GENERAL.—Section 601 of title 5, United States Code (relating to definitions) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and" and by adding at the end thereof the following new paragraph:

"(7) the term 'impact' means the direct and indirect effects of a proposed or final rule which are beneficial and negative and which an agency can anticipate at the time of publication.".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 603(b) of such title (relating to initial regulatory flexibility analysis) is amended by striking out "apply" and inserting in lieu thereof "directly apply and an estimate of the number of small entities to which the rule will indirectly apply".

(c) CERTIFICATION.—

(1) IN GENERAL.—Subsection (b) of section 605 of title 5, United States Code (relating to avoidance of duplicative or unnecessary analyses) is amended by striking out "or" the second place it appears and inserting in lieu thereof "and".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 611 of such title (relating to judicial review) is amended by striking out "analysis for" and inserting in lieu thereof "analysis or decision made by the head of the agency under section 605(b) of this title with respect to".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any rule or regulation prescribed after the date of the enactment of this Act.

SEC. 9. PRELIMINARY LETTER OF DEFICIENCY.

(a) IN GENERAL.—Subchapter B of chapter 63 (relating to assessment) is amended by inserting after section 6211 the following new section:

"SEC. 6211A. PRELIMINARY LETTER OF DEFICIENCY.

"(a) IN GENERAL.—If, after the examination of a return, the Secretary determines that there may be a deficiency in respect of any tax imposed by subtitle A or B or chapter 41, 42, 43, 44, or 45, he shall send a preliminary letter of deficiency to the taxpayer by certified mail or registered mail to an address as determined under section 6212(b).

"(b) TIMING OF LETTER.—The mailing of the preliminary letter of deficiency shall precede any mailing of a deficiency notice under section 6212 by at least 30 days.

"(c) EXCEPTIONS TO MAILING.—The Secretary may, in his discretion, decline to issue a preliminary letter of deficiency if:

"(1) the applicable period of limitations will expire within 60 days, or

"(2) the taxpayer waives, in writing, his right to such letter.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 63 is amended by inserting after the item relating to section 6211 the following new item:

"Sec. 6211A. Preliminary letter of deficiency.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 3, is further amended by adding at the end thereof the following new section:

"SEC. 7520. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

"Any tax due notice or deficiency notice, including notices described in sections 6155, 6211A, and 6212, shall describe the basis for the tax due or deficiency and identify the portion of the tax due or deficiency that constitutes interest, additional amounts, additions to the tax, and assessable penalties.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7520. Content of tax due and deficiency notices.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mailings after the date of enactment of this Act.

SEC. 11. FULLER EXPLANATION OF BASIS FOR ASSESSING PENALTIES.

(a) REGULATION AUTHORITY.—The Secretary of the Treasury shall issue regulations, within 90 days of the date of the enactment of this Act, requiring all officers and employees of the Internal Revenue Service to explain and support their position in assessing any additions to tax or penalties against any taxpayer.

(b) STUDY AND REPORT BY GAO.—

(1) STUDY.—The Comptroller General of the United States shall study and evaluate the quality of documentation and use of facts to support the application of regulations and rules in the assessment of additions to tax and penalties under the Internal Revenue Code of 1986.

(2) REPORT.—The Comptroller General of the United States shall report the findings of such study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives no later than December 31, 1988.

SEC. 12. INSTALLMENT PAYMENT OF TAX LIABILITY.

(a) IN GENERAL.—Subchapter A of chapter 62 (relating to place and due date for payment of tax) is amended by adding at the end thereof the following new section:

"SEC. 6159. AGREEMENTS FOR PAYMENT OF TAX LIABILITY IN INSTALLMENTS.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to satisfy liability for payment of any tax in installment payments if the Secretary determines that such agreement will facilitate collection of such liability.

"(b) EXTENT TO WHICH AGREEMENTS ARE BINDING.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any agreement entered into by the Secretary under subsection (a) shall be binding.

"(2) INADEQUATE INFORMATION.—An agreement entered into by the Secretary under subsection (a) shall not be binding if information which the taxpayer provided (upon request of the Secretary) to the Secretary prior to the date such agreement was entered into was inaccurate or incomplete.

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—

"(A) IN GENERAL.—If the Secretary makes a final determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or annul such agreement.

"(B) NOTICE AND HEARING.—Action may be taken by the Secretary under subparagraph (A) only if—

"(i) a hearing on the record conducted in accordance with subchapter II of chapter 5 of title 5, United States Code, is held on the financial condition of the taxpayer prior to the making of any final determination under subparagraph (A) with respect to such taxpayer, and

"(ii) notice of such hearing is provided to the taxpayer no later than 30 days prior to the date of such hearing, and "(iii) such notice includes the reasons why the Secretary believes a significant change in the financial condition of the taxpayer has occurred.

"(4) FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE.—An agreement entered into by the Secretary under subsection (a) shall not be binding in the case of the failure of the taxpayer to pay—

"(A) any installment at the time such installment payment is due under such agreement, or

"(B) any other tax liability at the time such liability is due.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6601(b) (relating to last day prescribed for payment) is amended by inserting "or any installment agreement entered into under section 6159" after "time for payment".

(2) The table of sections for subchapter A of chapter 62 is amended by adding at the end thereof the following new item:

"Sec. 6159. Agreements for payment of tax liability in installments.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13. LEVY AND DISTRAINT.

(a) NOTICE.—Section 6331 (relating to levy and distraint) is amended—

(1) by striking out "10 days" in subsections (a) and (d)(2) and inserting in lieu thereof "30 days",

(2) by striking out "10-day period" in subsection (a) and inserting in lieu thereof "30-day period",

(3) by striking out "10-DAY REQUIREMENT" in the heading of subsection (d)(2) and inserting in lieu thereof "30-DAY REQUIREMENT", and

(4) by adding at the end of subsection (d) the following new paragraph:

"(4) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1)—

"(A) shall cite the sections of this title which relate to levy on property, sale of property, release of lien on property, and redemption of property, and

"(B) shall include a description of—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) all alternatives available to the taxpayer which could prevent levy on the property (including installment agreements under section 6159),

"(v) the provisions of this title relating to redemption of property and release of liens on property, and

"(vi) the procedures applicable to the redemption of property and the release of a lien on property under this title.".

(b) EFFECT OF LEVY ON SALARY AND WAGES.—Paragraph (1) of section 6331(e) (relating to effect of levy) is amended to read as follows:

"(1) EFFECT OF LEVY.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until—

"(A) the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time,

"(B) the taxpayer and the Secretary have entered into an agreement for the payment of such liability, or

"(C) the Secretary has determined that such liability is unenforceable due to the financial condition of the taxpayer.".

(c) PROPERTY EXEMPT FROM LEVY.—

(1) FUEL, PROVISIONS, FURNITURE, AND PERSONAL EFFECTS.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects) is amended—

(A) by striking out "and poultry" and inserting in lieu thereof "poultry, and other animals", and

(B) by striking out "$1,500" and inserting in lieu thereof "$10,000".

(2) BOOKS, TOOLS, AND MACHINERY.—Paragraph (3) of section 6334(a) (relating to books and tools) is amended to read as follows:

"(3) PROPERTY OF A TRADE OR BUSINESS.—If the taxpayer is not a C corporation, so much of the books, tools, machinery, equipment, and other property necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate $10,000 in value.".

(3) WAGES, SALARY, AND OTHER INCOME.—

(A) INCREASE IN AMOUNT EXEMPT.—Paragraph (1) of section 6334(d) (relating to exempt amount of wages) is amended—

(i) by striking out "$75" in subparagraph (A) and inserting in lieu thereof "$150", and

(ii) by striking out "$25" in subparagraph (B) and inserting in lieu thereof "$50".

(B) EXEMPT INCOME DEPOSITED WITH CERTAIN FINANCIAL INSTITUTIONS.—Subsection (a) of section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(11) EXEMPT DEPOSITS.—Any account of the taxpayer maintained at a qualified institution and any withdrawable or repurchasable shares in a qualified institution held by the taxpayer shall be exempt to the extent any deposit to such account, or purchase of such shares, was made with funds exempt from levy under paragraph (9) by the taxpayer during the 30-day period beginning on the day on which the taxpayer was paid or received such funds. For purposes of the preceding sentence, the term 'qualified institution' has the meaning given to such term by section 128(c)(2), as in effect for taxable years beginning in 1982.".

(4) PROPERTY EXEMPT IN ABSENCE OF APPROVAL OR JEOPARDY.—

(A) IN GENERAL.—Subsection (a) of section 6334 (relating to property exempt from levy), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(12) PROPERTY EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—Except to the extent provided in subsection (e)—

"(A) the principal residence of the taxpayer (within the meaning of section 1034),

"(B) any motor vehicle which is used by the taxpayer as the primary means of transportation to the place of business of the taxpayer, and

"(C) any tangible personal property used in carrying on the trade or business of the taxpayer, but only if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business.".

(B) LEVY PERMITTED IN CASE OF JEOPARDY OR APPROVAL BY CERTAIN OFFICIALS.—Section 6334 is amended by adding at the end thereof the following new subsection:

"(e) LEVY ALLOWED ON CERTAIN PROPERTY IN CASE OF JEOPARDY OR CERTAIN APPROVAL.—Property described in subsection (a)(12) shall not be exempt from levy if—

"(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

"(2) the Secretary finds that the collection of tax is in jeopardy.".

(d) UNECONOMICAL LEVY; LEVY ON DAY OF SUMMONS.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsections:

"(f) UNECONOMICAL LEVY.—No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds—

"(1) the fair market value of such property at the time of levy, or

"(2) the liability for which such levy is made.

"(g) LEVY ON DAY OF SUMMONS.—

"(1) IN GENERAL.—No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) responds to a summons issued by the Secretary.

"(2) NO APPLICATION IN CASE OF JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy.".

(e) SURRENDER OF BANK ACCOUNTS SUBJECT TO LEVY ONLY AFTER 21 DAYS IN ESCROW.—

(1) IN GENERAL.—Section 6332 (relating to surrender of property subject to levy) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULE FOR BANK ACCOUNTS.—The Secretary may demand surrender of any deposits in any bank (as determined in section 401(d)(1)) only after 21 days after service of notice of levy.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 6332 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)".

(B) Subsection (e) of section 6332, as redesignated by subsection (a), is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)(1)".

(f) RELEASE OF LEVY.—Subsection (a) of section 6343 (relating to release of levy) is amended to read as follows:

"(a) RELEASE OF LEVY.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon if—

"(A) the liability for which such levy was made is satisfied,

"(B) release of such levy will facilitate the collection of such liability,

"(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments,

"(D) the expenses of levy and sale of such property exceed the amount of such liability,

"(E) the taxpayer can substantiate that the levy prevents the taxpayer from meeting necessary living expenses, or

"(F) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

"(2) SUBSEQUENT LEVY.—The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property.".

(f) Effective Date.—The amendments made by this section shall apply to levies made on or after the date of the enactment of this Act.

SEC. 14. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES.

(a) In General.—Subsection (a)(1) of section 7429 (relating to review of jeopardy assessment procedures) is amended—

(1) by inserting "or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a)," after "6862,", and

(2) by inserting "or levy" after "such assessment".

(b) Administrative Determinations.—Paragraph (3) of section 7429(a) (relating to redetermination by the Secretary) is amended to read as follows:

"(3) Redetermination by secretary.—After a request for review is made under paragraph (2), the Secretary shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.".

(c) Tax Court Review Jurisdiction.—Subsection (b) of section 7429 is amended to read as follows:

"(b) Judicial Review.—

"(1) Proceedings permitted.—Within 90 days after the earlier of—

"(A) the day the Secretary notifies the taxpayer of his determination described in subsection (a)(3), or

"(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States in the Tax Court or in a district court of the United States for a determination under this subsection. If a petition for a redetermination of a deficiency under section 6213(a) has been timely filed with the Tax Court before the making of an assessment that is subject to the review procedures of this section, and 1 or more of the taxes and taxable periods before the Tax Court because of such petition is also included in the written statement that is provided to the taxpayer under subsection (a), then the Tax Court shall have exclusive jurisdiction over any civil action for a determination under this subsection with respect to all the taxes and taxable periods included in such written statement; in all other instances, the district courts of the United States shall have exclusive jurisdiction over any civil action for a determination under this subsection.

"(2) Determination by court.—Within 20 days after a proceeding is commenced under paragraph (1), the court shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances. If the court determines that proper service was not made on the United States or on the Secretary, as may be appropriate, within 5 days after the date of the commencement of the proceeding, then the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States or on the Secretary, as may be appropriate.

"(3) Order of court.—If the court determines that the making of such levy is unreasonable, that the making of such assessment is unreasonable, or that the amount assessed or demanded is inappropriate, then the court may order the Secretary to release such levy, to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate.".

(d) Venue.—Section 7429(e) (relating to venue) is amended to read as follows:

"(e) Venue.—

"(1) District court.—A civil action in a district court under subsection (b) shall be commenced only in the judicial district described in section 1402(a) (1) or (2) of title 28, United States Code;

"(2) Transfer of actions.—Whenever a civil action is filed under subsection (b) with the Tax Court or a district court and such court finds that there is want of jurisdiction because of the exclusive jurisdiction provisions of subsection (b)(1), then the Tax Court or the district court, as the case may be, shall if it is in the interest of justice transfer the civil action to such other court in which the action could have been brought at the time it was filed. Any civil action so transferred shall proceed as if it had been filed in the district court or the Tax Court, as the case may be, to which it is transferred on the date on which it was actually filed in the Tax Court or the district court, as the case may be, from which it is transferred.".

(e) Conforming Amendments.—

(1) Section 7429(c) (relating to extension of 20-day period where taxpayer so requests) and section 7429(f) (relating to finality of determination) are amended by striking out "district" each place it appears.

(2) Section 7429(g) (relating to burden of proof) is amended—

(A) by inserting "the making of a levy described in subsection (a)(1) or" after "whether" in paragraph (1),

(B) by striking out "TERMINATION" in the heading of paragraph (1) and inserting in lieu thereof "LEVY, TERMINATION,", and

(C) by striking out "an action" and inserting in lieu thereof "a proceeding" in paragraphs (1) and (2).

(3) The heading of section 7429 is amended by inserting "LEVY OR" AFTER "jeopardy".

(4) The table of sections for subchapter B of chapter 76 is amended by inserting "levy or" after "jeopardy" in the item relating to section 7429.

(f) Effective Date.—The amendments made by this section shall apply to jeopardy levies and assessments made after the date of the enactment of this Act.

SEC. 15. ADMINISTRATIVE APPEAL OF LIENS.

(a) Establishment of Administrative Appeal for Disputed Liens.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by redesignating section 6326 as section 6327 and inserting after section 6325 the following new section:

"SEC. 6326. ADMINISTRATIVE APPEAL OF LIENS.

"Any person shall be allowed to appeal to the Secretary, in such form and at such time as the Secretary shall prescribe by regulations, the imposition of a lien under this subchapter on the property or the rights to property of such person.".

(b) Regulations.—The Secretary shall prescribe the regulations necessary to implement the administrative appeal provided for in the amendment made by subsection (a) within 180 days after the date of the enactment of this Act.

(c) Clerical Amendment.—The table of sections for subchapter C of chapter 64 is amended by striking out the item relating to section 6326 and inserting in lieu thereof the following:

"Sec. 6326. Administrative appeal of liens.

"Sec. 6327. Cross references.".

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 16. JURISDICTION TO RESTRAIN CERTAIN PREMATURE ASSESSMENTS.

(a) In General.—Section 6213(a) (relating to time for filing petition and restriction on assessment) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof ", including the Tax Court. The Tax Court shall have no jurisdiction to enjoin under this subsection unless a timely petition for a redetermination of the deficiency has 1st been filed and then only in respect of the deficiency that is the subject of such petition, in which event the Tax Court shall have exclusive jurisdiction to enjoin.".

(b) Appeal of Order Restraining Assessment, Etc.—Section 7482(a) (relating to jurisdiction on appeal) is amended by adding at the end thereof the following new paragraph:

"(3) Certain orders entered under section 6213(a).—An order of the Tax Court which is entered under authority of section 6213(a) and which resolves a proceeding to restrain assessment or collection shall be treated as a decision of the Tax Court for purposes of this section and shall be subject to the same review by the United States Court of Appeals as a similar order of a district court.".

(c) Effective Date.—The amendments made by this section shall apply to orders entered after the date of the enactment of this Act.

SEC. 17. JURISDICTION TO ENFORCE OVERPAYMENT DETERMINATIONS.

(a) In General.—Section 6512(b) (relating to overpayment determined by the Tax Court) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)" in paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting the following new paragraph after paragraph (1):

"(2) Jurisdiction to enforce.—

"(A) In general.—If, after 120 days after a decision of the Tax Court has become final, the Secretary has failed to refund the overpayment determined by the Tax Court, together with the interest thereon as provided in subchapter B of chapter 67, then the Tax Court, upon motion by the taxpayer, shall have jurisdiction to order the refund of such overpayment and interest.

"(B) Sanctions if failure to refund not substantially justified.—

"(i) Burden of proof.—In any proceeding under this paragraph, the burden of proof shall be on the Secretary to establish that his failure to credit, offset, or refund the overpayment and interest to the taxpayer was substantially justified. The Secretary's failure to refund the overpayment and interest shall be conclusively presumed to be substantially justified to the extent of any credit or offset made pursuant to section 6402.

"(ii) No jurisdiction over credits and offsets.—In deciding whether the Secretary's failure to refund an overpayment and interest was substantially justified, and for that purpose only, the Tax Court shall have no jurisdiction over the validity or merits of any credits or offsets that the Secretary is authorized to make under section 6402 and that the Secretary claims as credits or offsets to the overpayment and interest.

"(iii) Sanctions.—If the Secretary does not establish that his failure to refund the overpayment and interest was substantially justified, then—

"(I) the taxpayer shall be entitled to interest at a rate of 120 percent of the overpayment rate provided by section 6621(a)(1), such interest to begin on the date the Tax Court determines under this paragraph that the Secretary's failure to refund the overpayment was not substantially justified, but in no event earlier than 121 days after the decision of the Tax Court determining the overpayment under paragraph (1) has become final, and

"(II) the taxpayer shall be entitled to reasonable litigation costs (as defined by section 7430(c)(1)), incurred in proceedings under this paragraph.

"(iv) Reviewability.—Any order of the Tax Court disposing of a motion by the taxpayer under this paragraph shall be subject to review, but only with respect to the matters determined in such order.".

(b) Amendments Adding Cross References.—

(1) Section 6214(e) is amended by striking out "Reference.—" and inserting in lieu thereof "References.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding the following new paragraph after paragraph (1) (as so designated):

"(2) For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).".

(2) Section 7430 is amended by adding at the end thereof the following new subsection:

"(f) Cross Reference.—

"For provision giving the Tax Court jurisdiction to award reasonable litigation costs in proceedings to enforce an overpayment determined by such court, see section 6512(b)(2).".

(c) Effective Date.—The amendments made by this section shall apply to overpayments determined by the Tax Court which have not yet been refunded by the 90th day after the date of the enactment of this Act.

SEC. 18. JURISDICTION TO REVIEW CERTAIN SALES OF SEIZED PROPERTY.

(a) Jurisdiction to Review Certain Sales of Property.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by adding at the end thereof the following new subparagraph:

"(C) Review by tax court.—If a sale would be prohibited by subparagraph (A)(iii), but for the application of subparagraph (B), then the Tax Court shall have jurisdiction to review the Secretary's determination under subparagraph (B) that the property may be sold. Such review can be commenced upon motion by either the Secretary or the taxpayer. An order of the Tax Court disposing of a motion under this paragraph shall be subject to review.".

(b) Effective Date.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 19. JURISDICTION TO REDETERMINE INTEREST ON DEFICIENCIES.

(a) In General.—Section 7481 (relating to date when Tax Court decision becomes final) is amended by adding at the end thereof the following new subsection:

"(c) Jurisdiction over Interest Determinations.—Notwithstanding subsection (a), if—

"(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

"(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer moves in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.".

(b) Technical Amendment.—Section 6512(a) (relating to effect of petition to Tax Court) is amended by inserting after "section 6213(a)," the following: "or 7481(c) with respect to a determination of statutory interest,".

(c) Effective Date.—The amendments made by this section shall apply to assessments of deficiencies redetermined by the Tax Court made after the date of the enactment of this Act.

SEC. 20. REFUND JURISDICTION FOR THE UNITED STATES TAX COURT.

(a) In General.—Section 7442 (relating to jurisdiction of the Tax Court) is amended to read as follows:

"SEC. 7442. JURISDICTION.

"(a) General Rule.—The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926 (44 Stat. 10-87), or by laws enacted subsequent to February 26, 1926.

"(b) Refund Jurisdiction.—The Tax Court and its divisions shall have original jurisdiction of any civil action against the Secretary for the recovery of any tax, addition to the tax, additional amount, or penalty which would be subject to the deficiency procedures of subchapter B of chapter 63 if the Secretary determined a deficiency therein.".

(b) Conforming Amendments.—

(1) Amendment of section 6212.—Paragraph (1) of section 6212(c) (relating to further deficiency letters restricted) is amended by inserting "or if the taxpayer has commenced a proceeding under section 7442(b)," after "section 6213(a),".

(2) Amendment of section 6214.—Subsection (a) of section 6214 (relating to determinations by Tax Court) is amended to read as follows:

"(a) Jurisdiction as to Increase of Deficiency, Additional Amounts, or Additions to the Tax.—

"(1) Jurisdiction to determine.—Except as provided by paragraph (2) and by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or any addition to the tax should be assessed, if claim therefor is asserted by the Secretary at or before the hearing or a rehearing.

"(2) Limit on determination.—In the case of any proceeding under section 7442(b), no deficiency shall be determined unless the Tax Court determines as part of its decision that such deficiency was asserted by the Secretary in an appropriate pleading filed with the Tax Court within the period of limitations provided in section 6501.".

(3) Amendment of section 6228.—Paragraphs (1)(B) and (2)(A)(i) of section 6228(b) (relating to certain requests for administrative adjustment) are each amended by inserting "or 7442(b)" after "section 7422".

(4) Amendment of section 6512.—Paragraph (1) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by inserting "if the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes), if the taxpayer files a petition with the Tax Court within the time prescribed by section 6213(a), and" after "section 7463,".

(5) Amendments of section 7422.—

(A) The first sentence of paragraph (1) of section 7422(f) (relating to limitation on right of action for refund) is amended by striking out "A suit" and inserting in lieu thereof "Except as provided in section 7442(b), a suit".

(B) Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Special Rule in Case of Notice of Deficiency.—If the Secretary has sent a notice of deficiency with respect to income tax for a taxable year, gift tax for a calendar year or calendar quarter, estate tax in respect to the taxable estate of a decedent, tax imposed by chapters 41, 42, 43, or 44 with respect to an act (or failure to act), or tax imposed by chapter 45 for a taxable period, no proceeding under section 7442(b) may be commenced in the Tax Court with respect to any such tax for so long as the taxpayer is permitted to file a petition with the Tax Court for a redetermination of such deficiency.".

(6) Amendments of section 7423.—

(A) Section 7423 (relating to repayments to officers or employees) is amended to read as follows:

"SEC. 7423. RECOVERIES AGAINST OFFICERS OR EMPLOYEES.

"(a) Repayments to Officers or Employees.—The Secretary, subject to regulations prescribed by the Secretary, is authorized to repay—

"(1) Collections recovered.—To any officer or employee of the United States the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expense of suit; also

"(2) DAMAGES AND COSTS.—All damages and costs recovered against any officer or employee of the United States in any suit brought against him by reason of anything done in the due performance of his official duty under this title.

"(b) NO EXECUTION AGAINST SECRETARY.—Execution shall not issue against the Secretary for a refund on a final decision of the Tax Court in a proceeding under section 7442(b), but any amount payable as a result of such decision shall be paid out of the proper appropriation by the Department of the Treasury.".

(B) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7423 and inserting in lieu thereof the following new item:

"Sec. 7423. Recoveries against officers or employees."

(7) AMENDMENTS OF SECTION 7451.—

(A) Section 7451 (relating to fee for filing petition) is amended by striking out "petition" and inserting in lieu thereof "initial pleading", and by inserting "or for the recovery of any amount under section 7442(b)" after "section 6228(a)".

(B) The heading of section 7451 is amended by striking out "petition" and inserting in lieu thereof "initial pleading".

(C) The table of sections for part II of subchapter C of chapter 76 is amended by striking out "petition" in the item relating to section 7451 and inserting in lieu thereof "initial pleading".

(8) AMENDMENT OF SECTION 7459.—The first sentence of subsection (c) of section 7459 (relating to reports and decisions) is amended by inserting "or overpayment" after "amount of the deficiency".

(9) AMENDMENT OF SECTION 7463.—(1) The first sentence of subsection (a) of section 7463 (relating to disputes involving $10,000 or less) is amended by striking out "petition" and inserting in lieu thereof "pleading", and by inserting "or for a refund," after "of a deficiency".

(10) AMENDMENTS OF SECTION 7482.—

(A) Subparagraph (A) of section 7482(b)(1) (relating to venue) is amended by inserting "or a refund" after "tax liability".

(B) Subparagraph (B) of section 7482(b)(1) is amended by inserting "or a refund" after "tax liability", and by inserting "or refund" after "the liability".

(C) The last sentence of section 7482(b)(1) is amended by striking out "petition" the first time it appears and inserting in lieu thereof "initial pleading", and by inserting "or a refund" after "tax liability".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to proceedings commenced in the United States Tax Court on or after July 1, 1988.

SEC. 21. AWARDING OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND CIVIL ACTIONS.

(a) IN GENERAL.—Subsection (a) of section 7430 (relating to awarding of court costs and certain fees) is amended—

(1) by striking out "civil",

(2) by inserting "or before the Internal Revenue Service" after "Claims Court)" in paragraph (2), and

(3) by inserting "or a claim settlement by the Internal Revenue Service Office of Appeals" after "district court)".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7430(b) is amended by inserting "in any proceeding brought in a court of the United States" after "subsection (a)".

(2) Paragraph (4) of section 7430(b) is amended by striking out "civil".

(3) Subparagraph (A) of section 7430(c)(1) is amended—

(A) by striking out "court costs" in clause (i) and inserting in lieu thereof "proceeding costs from the date of a preliminary letter of deficiency under section 6211A, or in the absence of such letter, a notice of deficiency under section 6212",

(B) by striking out "civil" in clause (ii)(I),

(C) by inserting "or Internal Revenue Service Office of Appeals" after "court" in clause (ii)(II),

(D) by striking out "civil" in clause (ii)(III), and

(E) by inserting "or Internal Revenue Service Office of Appeals" after "court" in clause (ii)(III).

(4) Subparagraph (B) of section 7430(c)(1) is amended by inserting "before the Internal Revenue Service" after "Tax Court" each place it appears.

(5) Subparagraph (A)(i) of section 7430(c)(2) is amended to read as follows:

"(i) with respect to, the United States fails to establish that the position of the United States in the proceeding was substantially justified,".

(6) Subparagraph (B)(i) of section 7430(c)(2) is amended by inserting "or Internal Revenue Service Office of Appeals" after "court".

(7) Paragraph (3) of section 7430(c) is amended to read as follows:

"(3) PROCEEDINGS.—The term "proceeding" includes a civil court action and an administrative action.".

(8) Paragraph (4) of section 7430(c) is amended by striking out "civil".

(9) Subsection (d) of section 7430 is amended by striking out "civil".

(10) Subsection (e) of section 7430 is amended to read as follows:

"(e) RIGHT OF APPEAL.—

"(1) CIVIL COURT ACTIONS.—An order granting or denying an award for reasonable litigation costs under subsection (a) in a civil court action, in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

"(2) ADMINISTRATIVE ACTIONS.—A decision granting or denying an award for reasonable litigation costs under subsection (a) by the Internal Revenue Service Office of Appeals shall be subject to appeal to the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute).".

(11) Section 504 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The provisions of this section shall not apply to any costs, fees, and other expenses in connection with any action or proceeding to which section 7430 of the Internal Revenue Code of 1986 applies.".

(12) The heading for section 7430 is amended by striking out "court".

(13) The table of sections for subchapter B of chapter 76 is amended by striking out "court" in the item relating to section 7430.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 22. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO FAILURE TO RELEASE LIEN.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7432 as section 7433 and by inserting after section 7431 the following new section:

"SEC. 7432. CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN.

"(a) IN GENERAL.—If any officer or employee of the United States knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) actual damages sustained by the plaintiff as a result of actions of the defendant, or $100 per day for each day the failure occurred, whichever is greater, and

"(2) reasonable litigation costs (as determined under section 7430(c)(1)(A)).".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of such Code is amended by striking out the item relating to section 7432 and inserting in lieu thereof the following new items:

"Sec. 7432. Civil damages for failure to release lien.

"Sec. 7433. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 23. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO UNREASONABLE ACTIONS BY INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to proceedings by taxpayers and third parties), as amended by section 22, is further amended by redesignating section 7433 as section 7434 and by inserting after section 7432 the following new section:

"SEC. 7433. CIVIL DAMAGES FOR UNREASONABLE ADMINISTRATIVE ACTIONS.

"(a) IN GENERAL.—If any officer or employee of the United States carelessly, recklessly, or intentionally disregards any provision of this title, regulation promulgated thereunder, and such determination or collection is resolved in favor of the taxpayer at the administrative level, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) actual damages sustained by the plaintiff as a result of actions of the defendant, and

"(2) reasonable litigation costs (as determined under section 7430(c)(1)(A)).

"(c) DAMAGES DENIED WHERE PLAINTIFF IS CONTRIBUTORIALLY NEGLIGENT.—No award for damages may be made under subsection (a) if the plaintiff is found to have been contributorially negligent.".

(b) DAMAGES FOR FRIVOLOUS OR GROUNDLESS CLAIMS.—

(1) IN GENERAL.—Section 6673 (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended by inserting "(a) IN GENERAL.—" before "Whenever" and by adding at the end thereof the following new subsection:

"(b) CLAIMS UNDER SECTION 7433.—Whenever it appears to the district court that the taxpayer's position in proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, damages in an amount not in excess of $10,000 shall be awarded to the United States by the court in its decision. Damages so awarded shall be assessed at the same time as the deficiency, if any, and shall be paid upon notice and demand from the Secretary and shall be collected as a part of the tax.".

(2) CLERICAL AMENDMENT.—The heading for section 6673 is amended by striking out "TAX".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76, as amended by section 22, is further amended by striking out the item relating to section 7433 and inserting in lieu thereof the following new items:

"Sec. 7433. Civil damages for unreasonable administrative actions.

"Sec. 7434. Cross references.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 24. AUTHORIZING, REQUIRING, OR CONDUCTING CERTAIN INVESTIGATIONS, ETC.

(a) IN GENERAL.—Section 7214 (relating to offenses by officers and employees of the United States) is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZING, REQUIRING, OR CONDUCTING CERTAIN INVESTIGATIONS, ETC.—

"(1) IN GENERAL.—An officer or employee of the United States acting in connection with any revenue law of the United States shall not knowingly—

"(A) authorize, require, or conduct any investigation of, or surveillance over, any taxpayer which is not relevant to the determination or collection of such taxpayer's tax liability, or

"(B) maintain any records containing information derived from such an investigation or surveillance.

Any person violating the preceding sentence shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution.

"(2) EXCEPTION.—The provisions of paragraph (1) shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) INVESTIGATIONS.—The term 'investigations' means any oral or written inquiry directed to any person, organization, or governmental agency.

"(B) SURVEILLANCE.—The term 'surveillance' means—

"(i) the monitoring of persons, places, or events by means of electronic interception, overt or covert observation, or photography, and

"(ii) the use of informants.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, except that such amendment shall not apply with respect to the maintenance of records during the 90-day period beginning on such date of enactment if such records were in existence on such date.

SEC. 25. ASSISTANT COMMISSIONER FOR TAXPAYER SERVICE.

(a) IN GENERAL.—Section 7802 (relating to Commissioner of Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations) is amended by adding at the end thereof the following new subsection:

"(c) ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES.—There is established within the Internal Revenue Service an office to be known as the 'Office for Taxpayers Services' to be under the supervision and direction of an Assistant Commissioner of the Internal Revenue. As head of the Office the Assistant Commissioner shall be responsible for telephone, walk-in, and educational services, and the design and production of tax and informational forms.".

(b) ANNUAL REPORTS TO CONGRESS.—The Assistant Commissioner for Taxpayer Services and the Chief Problem Resolution Officer for the Internal Revenue Service shall jointly make an annual report regarding the quality of taxpayer services provided. Such report shall be made to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

TAXPAYERS' BILL OF RIGHTS

TAXPAYER SERVICES AND INFORMATION

1. Assistant Commissioner of Taxpayer Services: The revised bill will establish an Assistant Commissioner for Taxpayer Services with jurisdiction over telephone, walk-in and educational services and drafting of forms.

2. Deficiency notice information: The bill would require the Service to disclose in all notices sent to taxpayers the basis of the claimed tax deficiency or assessed tax and to break the claimed amount into tax, interest and penalties.

3. Brief statement of rights and obligations: The bill would require the Treasury to prepare a statement explaining the taxpayer's and the IRS's rights and obligations during an audit, and describing the procedures for appeal, filing complaints, and pursuing refund claims. A draft statement must be provided for review by the Congressional tax writing committees at least 90 days before it is distributed to the public.

OVERSIGHT OF THE INTERNAL REVENUE SERVICE

1. Statutory Inspector General: The bill would create a statutory Office of Inspector General in the Treasury Department. The Inspector General would possess internal audit authority, with specified restraints, over the Treasury Department and the Service.

2. Annual report on the State of Taxpayer Services: It would require that the new Assistant Commissioner and the Chief Taxpayer Ombudsman to present an annual report on the state of taxpayer services.

TAXPAYER INTERVIEWS

1. Scheduling interviews: Under the bill, employees of the Service must schedule any interview at a reasonable time and place convenient to both the Service and the taxpayer.

2. Explanation of interview procedures: The bill would require the Service prior to any interview to explain the audit process to the taxpayer and his rights under such process. If the taxpayer indicates in any manner and at any time during the interview that he wishes to consult with an attorney, certified public accountant, etc., the interview must be discontinued.

3. Representatives holding a power of attorney: The bill provides that any person who under regulations is eligible to practice, has a right of limited practice, or has a right of special appearance before the Service and who has a written power of attorney may be authorized to represent the taxpayer in any interview with the Service.

INTERNAL REVENUE SERVICE ADMINISTRATIVE PRACTICES

1. Basis for evaluation of service employees: The bill states that records of tax enforcement results shall not be used to evaluate enforcement officers, appeals officers and reviewers, or impose or suggest production quotas or goals. District Directors shall certify in a letter to the Commissioner each month that statistics are not used in such a manner.

2. Prohibition against non-tax investigations: Service employees would be subject to a $10,000 fine or imprisonment of not more than 5 years for knowingly authorizing or conducting an investigation or surveillance over any taxpayer which is not relevant to the determination or collection of such taxpayer's tax liability. Suits would be initiated by the Justice Department.

3. Advice of the Internal Revenue Service: The bill will empower the Secretary to abate any penalty or interest attributable to erroneous written advice furnished by the Service, in response to a specific request of the taxpayer unless the deficiency resulted from a failure by the taxpayer to provide adequate or accurate information.

4. Taxpayer assistance orders: Under the bill, the Office of the Ombudsman would have authority to issue "taxpayer assistance orders." Such an order would be issued for the relief of taxpayers who face unusual, unnecessary, or irreparable loss due to the administration of the tax laws or some violation thereof.

INSTALLMENT PAYMENT OF TAX LIABILITY

1. Installment agreements: The bill would empower the Service to enter into installment agreements and would make such agreements binding on the Service. If the Service wishes to unilaterally cancel the agreement due to changed circumstances of the taxpayer, they must give notice and hold an administrative hearing. The taxpayer must keep current on the agreement payments and other tax obligations or the Service will be able to terminate the agreement without notice and a hearing.

LEVY AND DISTRAINT

1. Waiting period: The bill would increase the waiting period for levies on property from 10 days after notice to 30 days after notice.

2. Disclosure of levy procedures: It woud require the disclosure of levy procedures, administrative appeals process, and alternatives available to the taxpayer.

3. Effect of levy: A levy on salary, wages, or property rights would terminate if the liability is satisfied, if the Service and the taxpayer enter into an agreement for the payment of such liability, or if the liability is unenforceable due to the financial condition of the taxpayer.

4. Summons: The bill would preclude the Service from levying on any day on which a

taxpayer responds to a summons issued by the Service.

5. Exempt property: The bill would exempt property of a trade or business to the extent of $10,000, but only if the trade or business is not a corporation. It would increase the amount of salary or wages exempt from levy from $75 per week to $150 per week plus $50 per week for each dependent.

6. Levies on certain property: The bill would preclude levies on certain property (principal residence, vehicle used as transportation to and from work, and tangible personal property used in a trade or business) unless approved by a district director or unless collection of tax is in jeopardy.

7. Garnishment of bank accountants: It would require that banks hold accounts garnished by the Service for 21 days to allow taxpayers the opportunity to recover their money in a timely fashion if the garnishments are incorrect. The bank could return the money to the taxpayer any time before the end of the 21 days upon notice of release from the Service.

8. Uneconomical levies: Under the bill, the Service would be prohibited from levying on any property if the expenses incurred with respect to the levy would exceed the fair market value of such property or the liability for which the levy was made.

9. Review of jeopardy levies: The bill would expand the section of the Code providing for administrative and judicial review of jeopardy assessments to include jeopardy levies.

10. Administrative appeal of liens: The bill would establish an administrative appeals process for disputed liens.

11. Damages for failure to remove lien: The Service will pay actual damages or $100 a day for every day it fails to release a lien after the 30 day waiting period elapses.

APPLICATION OF THE REGULATORY FLEXIBILITY ACT

1. Regulatory Flexibility Act: The bill would require the Secretary to certify that a published regulation is the only alternative that meets the mandate of the statute in order to avoid a Regulatory Flexibility Act analysis.

PROFESSIONAL FEES AND COSTS

1. Burden of proof: The bill would shift the burden to the Service to prove that their claim was substantially justified in order to prevent a taxpayer from recovering professional fees and costs.

2. Administrative recovery of fees and costs: The taxpayer would be able to recover all fees incurred after the receipt of the 30 day preliminary notice, and the Service would be empowered to settle all fees and costs, subject to appeal to the Tax Court.

DAMAGES FOR INTERNAL REVENUE SERVICE WRONGFUL ACTIONS

1. Actual damages: The bill would allow taxpayers to recover compensatory damages from the Service for careless, reckless, or intentional disregard of statutes, regulations, or rules. In order to recover, taxpayers must not have been contributory negligent. Damages suits would be subject to frivolous claims penalties.

TAX COURT JURISDICTION

1. Premature assessments: The bill would expand the powers of the Tax Court to stop premature assessments after taxpayers file a timely petition before the Tax Court.

2. Tax Court review of jeopardy assessments and sale of assets: The bill would give the Tax Court the authority to review post-petition jeopardy assessments and jeopardy assessment sale of assets.

3. Interest determinations and refund over-payments: It would provide the Tax Court with the jurisdiction over interest determinations and with the power to order refund overpayments.

4. Refund jurisdiction: The bill would add to taxpayers' remedies the right to file suit for refund in the Tax Court, without restricting his ability to file in the District court or Claims Court.

PENALTIES

1. Explanation of penalties: The bill would require the Service to support and explain all additions to tax and assessment penalties.

2. GAO investigation and report: The bill would ask the GAO to analyze present practices of the Service in implementing penalties and provide congress with a report.

Mr. BINGAMAN. Mr. President, I rise today in support of the newly revised version of the taxpayers' Bill of Rights. I was a cosponsor of the earlier version of the bill, S. 604. I believe this measure will go a long way toward ending the numerous abuses of the Internal Revenue Service [IRS] and will better protect American taxpayers. I commend the prime sponsor of this legislation, the distinguished Senator from Arkansas, Senator PRYOR, for his leadership on this issue, which affects nearly all Americans.

We have all heard horror stories about the lack of accountability and abuses by the IRS. Taxpayers have had not only their own property and savings seized by the Service, but that of their family and friends. IRS offices have based internal promotion strictly on the amount of seizures made by an agent. Whistleblowers in the IRS have been harassed and discriminated against when they tried to point out illegal and abusive acts.

These stories are disturbing. I believe, however, that far more serious than these individual abuses is the deep and widespread fear and mistrust that most Americans feel for the IRS, a fear that is directly attributable to the agency's unaccountability. These fears have led record numbers of Americans to withhold owed taxes or to improperly fill out their income tax returns. I firmly agree with James D. McCarthy of the U.S. Chamber of Commerce who points out that "a higher degree of tax compliance would be achieved if the nature of the IRS-taxpayer relationship were less adversarial and less one-sided."

I believe this bill is an important first step toward restoring trust in the IRS. The measure would establish a statutory Office of the Inspector General within the Department of the Treasury with internal auditing authority. The bill also would create a new position of Assistant Commissioner of Taxpayer Services, and expand the powers of the already existent Office of Ombudsman to better serve the needs of individual taxpayers.

The legislation also embodies other important protection for taxpayers. These include requiring the IRS to prepare a statement explaining both taxpayers and IRS rights and obligations during an audit. The statement would also explain the processes for appealing rulings, filing complaints, and claiming refunds. The bill would also more fully protect taxpayers from illegal seizure of their property, and preclude or limit certain types of levies on this property.

Finally, the measure forces the IRS to be more careful in filing claims against taxpayers. It shifts the burden of proving that a claim is substantially justified from the taxpayer to the IRS. The bill also establishes penalties for false claims and liens levied against individuals by the IRS and for IRS investigations for nontax purposes.

I believe this measure will give American taxpayers the protection and assistance they deserve. I also hope it will be a first step toward reinstating trust in the Internal Revenue Service. I am proud to be a cosponsor of this important legislation and I will work for its passage by the Congress.

Mr. HECHT. Mr. President, today my esteemed colleague and good friend from Arkansas, Senator PRYOR, is introducing a revised version of his taxpayer bill of rights. I fully support this measure and I am proud to be an original cosponsor of this important piece of legislation.

As I have previously stated, it is my belief that the citizens of Nevada, and this Nation, are concerned that the IRS is an Agency out of control. Well, Mr. President, the time has come when we need to protect the rights of taxpayers from the abuses of the IRS. This bill is a positive step in returning due process to the taxpayers of this country.

However, I believe this bill only goes half way toward complete protection for the American taxpayer. I wish the bill went further, to protect taxpayers from the abuse of out-of-control congressional spending. If you care about the rights of taxpayers, you simply must support relieving their ever-increasing tax burden.

In my view, any measure that fully protects the taxpayer would have to include the balanced budget amendment, a line-item veto, and President Reagan's economic bill of rights—all of which are aimed at cutting runaway spending and keeping taxes low. Mr. President, as you know, there are currently close to 250 proposals which would increase taxes in an attempt to balance the Federal budget. But, historically, whenever taxes are raised the Government just finds another place to spend it.

Mr. President, the way to cut the deficit, and to fully protect the taxpayer, is simply to cut Government spending.

Mr. REID. Mr. President, as an original sponsor—along with Senators Pryor and Grassley—of the original taxpayers' bill of rights, I rise today to thank my 51 colleagues who have cosponsored the revised omnibus taxpayers' bill of rights. Such strong support—including the support of 11 members of the Finance Committee—guarantees passage of a measure which will do nothing more than provide a legislative remedy to the discourteous, rude and illegal behavior of the IRS toward taxpayers, I have been made aware of since stating my intention to offer such a bill during my maiden Senate speech in January. The majority support of this great body will move a measure discussed, debated, modified, and much maligned for at least the last decade to final passage by the end of the year.

Passage of the omnibus taxpayers' bill of rights will be a victory for the ordinary, middle-class taxpayers who pay their tax in a timely and conscientious manner, year after year, after year, then make one mistake and find themselves treated like a common criminal by overzealous IRS agents. This amazing victory can be attributed to two factors. First, the incredible horror stories of taxpayer abuses each and every Senator has received in droves since the introduction of the original bill in February. When a Senator receives literally thousands of these letters, each handwritten, it is hard to dismiss cases of IRS abuse as the ravings of a few isolated tax protestors. It is clear that the real grassroots is in support of this legislation and that is why it has garnered the majority support of my colleagues.

The other reason the omnibus taxpayers' bill of rights has come so far is due to the efforts of one man: My friend and colleague, Senator David Pryor. There have been many previous efforts in both Houses of Congress to pass a comprehensive bill addressing some of the problems found in the IRS. I myself introduced such a bill in the other body during the 99th Congress. It was sponsored by over 50 of my colleagues but went no where because members of the Ways and Means Committee refused to consider it. But Senator David Pryor, a member of the Finance Committee, agreed in early January to champion the bill and thus guaranteed it would receive a fair hearing and move through the Senate.

Senator Pryor has done yeoman's work. In addition to chairing three subcommittee hearings on this bill, he also met with virtually every professional group with an interest or expertise in passage of the bill. He met with the ABA, the CPA's, former IRS Commissioners and many, many others. He took the feedback he received in all these meetings, crafted them into legislative proposals and used them to greatly improve the original bill. It is safe to say that without David Pryor there would be no taxpayers' bill of rights.

By Mr. BUMPERS:

S. 1775. A bill to amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to donate or transfer FmHA inventory farmland to Federal and State wildlife authorities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

TRANSFER OF FMHA FARMLAND TO FEDERAL AND STATE WILDLIFE AUTHORITIES

● Mr. BUMPERS. Mr. President, today I am introducing a bill to grant authority to the Secretary of Agriculture to transfer or donate Farmers Home Administration inventory property to the Fish and Wildlife Service or to State game and fish authorities. Under my bill, the Secretary will have the authority to donate land in FmHA inventory, or any lesser interest in such land, if the land is marginal, environmentally sensitive, or of administrative importance for fish and wildlife conservation purposes.

Currently, there is in excess of 1,700,000 acres of farmland in FmHA inventory. Some of this land is still subject to the rights of prior landowners to lease, to lease to purchase, or to purchase outright from the Government. I was very active in seeing that these rights were included in the Food Security Act of 1985, and the bill I am introducing today clearly states that the rights of the previous owner shall not be impaired. Only that land which meets the program eligibility criteria and to which the rights of the previous owner have either expired or are exhausted can be considered.

Of the land currently in FmHA inventory, the Fish and Wildlife Service says that only 5 to 7 percent is useful for the purposes set out in my bill. Most of this land has little value as farmland but could be put to productive use for fish and wildlife purposes if administered by State or Federal fish and wildlife authorities. Unfortunately, constraints of funding and expertise within the FmHA make it virtually impossible for that agency to adequately manage this inventory property. Thus, this important land is essentially lost for conservation, fish and wildlife, and recreational purposes. The USDA recognizes this fact, but the Secretary of Agriculture does not currently have the authority to donate or transfer inventory land to those agencies that could manage the land more effectively.

My bill will correct this deficiency. Discretionary authority to transfer or donate will be vested with the Secretary of Agriculture, but if in his wisdom he believes that petitioned land would be better left in FmHA inventory to help meet program goals of the FmHA or any other program, then he need not transfer such lands. My bill will not interfere with the vital functions performed by the FmHA, but would, in fact, give the Secretary of Agriculture an important vehicle to help reduce the inventory property burden while at the same time helping to preserve the immeasurable benefits of environmentally important land for this generation and for generations to come.

I urge my colleagues to support this bill.●

By Mr. ARMSTRONG (for himself, Mr. Dole, Mr. Simpson, Mr. Wallop, Mr. Pressler, and Mr. Bond):

S. 1776. A bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution; to the Committee on Banking, Housing, and Urban Affairs.

AMERICAN COIN REDESIGN ACT

● Mr. ARMSTRONG. Mr. President, in the spirit of celebration that surrounds the 200th anniversary of our Constitution, I am today proposing legislation that calls upon the Secretary of Treasury, upon consultation with the Commission of Fine Arts, to suggest ways in which many of our circulating coins, where appropriate, could be redesigned to capture the attention and imagination of all who see, use and collect them. This legislation features a requirement that the reverse of one coin commemorate the bicentennial of the Constitution for a period of 2 years.

Under article I, section 8 of the Constitution, Congress is given the right to "To coin Money, regulate the value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;"

Today some 127 billion American coins—pennies, nickles, dimes, quarters, and half dollars—circulate throughout the Nation and world. These coins depict some of the greatest advocates and symbols of our American democracy—Washington, Jefferson, Lincoln, the American eagle. At home, these coins are daily reminders of our great leaders and our ideals; abroad, they are ambassadors of our democratic society.

During our constitutional bicentennial, it is particulary fitting to take a second look at our coins. In recent years, only a few American coins have been introduced or redesigned. The image of Lincoln on what is known as the obverse side of the copper penny we use now was designed in 1909; in 1959, the reverse side of the penny was changed from stalks of wheat to the Lincoln Memorial. The Jefferson nickle was designed in 1938. The Roosevelt dime was designed in 1946. The quarter we use today was designed in 1932, although there was a 2-year period in 1975-76 when the quarter was specially designed in honor of the 200th anniversary of the Declaration of Independence. The Kennedy half dollar was introduced in 1964.

There is a constant interest among citizens to mint new coins as reflected by the purchases of commemorative coins. Coins have been minted to honor the Olympics, the Statue of Liberty, and the Bicentennial celebration of the Declaration of Independence. Each of these respond to public interest in having major events, people and places depicted on our coins, but few of these changes have worked their way into our circulating coinage.

So, relatively few changes recently have been made in American "money" available for circulation. This has not always been true. There was a time in our history when so many types of currency circulated in the country that it created severe problems. Just prior to the adoption of the National Banking Act of 1863, there were as many as 10,000 different varieties of currency in circulation issued by 1,600 banks. That was a little much. The 1863 Act established a uniform system of currency and coinage that continues to this day. The only other statute that exists on the subject directs that the Secretary of Treasury should not approve a coin redesign any more frequently than once every 25 years.

Change shouldn't be made solely for the sake of change. But I think it is now timely to review our coin designs, and see how we might renew interest in our circulating coinage. With the bicentennial of our Constitution at hand, now is a good time to consider just that.

The legislation I am introducing today begins that process. Specifically, the bill provides that:

First, over a 6-year period after the date of enactment, the Secretary of Treasury shall mint and issue coins—penny, nickle, dime, quarter, and half dollar—with new designs that he has approved;

Second, any new design on the fronts of the coins—known as the obverse side—shall contain the likenesses of those currently displayed;

Third, the reverse shall have new designs;

Fourth, the reverse side of one coin shall reflect the celebration of the bicentennial of the Constitution and shall be minted for only 2 years;

Fifth, the inscriptions "Liberty," "United States of America," "In God We Trust," "E Pluribus Unum" and the value of the coin would remain as required by current law;

Sixth, any profits from the sale of uncirculated and proof sets of these coins shall be used to reduce the Federal debt.

One facet of minting new coins bears on this legislation, and deserves special mention. Whenever new circulating coins are minted, the Government makes a profit from the proof sets and other numismatic sales of the coins. Issuing new circulating coinage will more than pay for itself according to many involved. "Seigniorage" is the numismatic term describing the difference between the face value of a coin and its cost including the manufacturing expense. Merely by introducing new circulating coins will pay for itself and generate seigniorage, or profit for the government. The U.S. Treasury Department estimates that this bill could generate between $27.5 million and $164 million over a 5-year period depending on coin sales. Other experts, including the American Numismatic Association, say the bill could generate as much as $216 million over the similar time period.

Mr. President, there is an organization that is older than some of the designs on our coins and that is the Commission of Fine Arts, established by Congress in May 1910. The Commission has agreed to and forwarded to the Treasury Secretary a resolution urging that our circulating coinage be benefited by an appropriate redesign.

I urge my colleagues to consider supporting this legislation and adding to the continuing enthusiasm here and abroad for the American experiment and the celebration of the bicentennial of the U.S. Constitution.●

By Mr. ARMSTRONG:

S. 1777. A bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes; to the Committee on Finance.

PHASEOUT OF EARNINGS TEST

● Mr. ARMSTRONG. Mr. President, today I am introducing legislation to phase out the Social Security retirement earnings limit for beneficiaries over age 65. In 1983, I advanced a similar proposal during consideration of the Social Security solvency amendments. That proposal was approved by the Senate Finance Committee and included in the Senate-passed version of those amendments. Unfortunately, however, it was dropped in conference committee at the behest of the House of Representatives.

In my view, it is time once again to consider this proposal

Under current law, Social Security beneficiaries under age 70 face sharp reductions in their monthly benefits if their earnings exceed a specified amount. In 1987, the earnings limit for those age 65 to 70 is $8,160. Those earning above this will receive a cut in Social Security of $1 for every $2 earned above the limit. In 1990, the ratio improves slightly to a cut of $1 for every $3 earned above the limit. The test does not apply to beneficiaries over age 70.

Under my proposal, the earnings limit would be increased by $3,000 a year beginning in 1990 and eliminated entirely in 1995 for beneficiaries above the normal retirement age, currently age 65. The legislation woud also accelerate the effective date of the 8-percent delayed retirement credit contained in current law from 2009 to 1995.

It is my hope this legislation will help rekindle debate in the Senate on a provision of law which has so many harmful effects on elderly citizens.

First, the earnings test impose a terrible disincentive on elderly citizens who want to continue working. After contribution to the Social Security Program for decades and reaching age 65, the elderly are presented with a stark choice: eliminate virtually all significant earnings or face stiff cuts in the benefits to which they are otherwise entitled. A choice like that can't help but drive productive individuals to a full retirement or force them to forgo benefits they've worked for over a lifetime.

Many elderly citizens, while ready to reduce their work activity at age 65, do not want to withdraw completely from the work force. Many desire to remain productive and contributing members of society. Some need additional earnings to meet living and health care expenses at a time when their principal sources of income are fixed. Yet because of the low earnings limit, there is seldom a viable choice but to stop working.

Second, the marginal tax rates imposed by the earnings limit are, quite simply, confiscatory. By its own terms, the text establishes a 50-percent marginal tax rate on individuals who earn in excess of $8,160. When other Federal and State tax liabilities are figured in, this marginal tax rate may approach 73 percent. No one supports tax levies on the elderly of that magnitude, but that is precisely what can happen under current law.

Third, the earnings limit is an administrative monster. The Social Security Administration spends over $200 million a year and uses 8 percent of its employees to police the income levels of beneficiaries. SSA estimates that 6 percent of all overpayments and 45 percent of underpayments are attributable to the limit. For beneficiaries, the earnings limit can mean confusion and frustration at requirements to monitor, estimate, and report income levels or, even worse, pay back benefits to the Government. The result is often a sense of disillusionment in a program many believed would pay full benefits when they turned 65.

When Social Security was started in the wake of the depression, it was deemed appropriate to establish incentives for the elderly to leave the work force to open jobs for others. The earnings test was born of this view. Today, such a notion is a complete anachronism. Congress is now interested in encouraging people to work longer. In the past decade, mandatory retirement laws have been largely repealed because the elderly should not be automatically shunted aside when they reach a certain age. The normal retirement age under Social Security was slated to increase to 67 in the next century because life expectancy continues to increase.

At the same time, birth rates are declining and the demand for experienced labor is on the rise. There is, in short, a real need to encourage people to continue working, if that is their desire. Directing people into retirement through excessive benefit reductions is obviously inconsistent with that goal.

Let me acknowledge that this proposal is not without some critics. Some may say that retirement benefits should not be paid to people who still work. Again, that view would either discourage senior citizens from pursuing productive lives, or deny them the benefits of a program they contributed to during their working days.

Some may also say this proposal benefits the rich among Social Security beneficiaries, those able to continue working and earn extra income. This view certainly doesn't account for the many who have already opted out of the work force in part because of the earnings limit. It also doesn't account for the fact that over two-thirds of the additional benefits that would be paid under this proposal would go to recipients with incomes below $40,000.

More importantly, this proposal would actually mitigate one of the more egregious anomalies under present law whereby Social Security beneficiaries with unlimited "unearned" income from pensions, investments, or stock dividends, face no reductions in benefits through the earnings test while those who work to earn $8,160 a year have their benefits cut. Rather than favoring the well-to-do, this proposal should restore some sense of equity in the tax treatment of retired citizens.

Finally, there is the all important issue of cost. Eliminating the earnings test immediately for all beneficiaries would cost $11 billion in the first year alone and $57 billion over 5 years. By limiting repeal to those over age 65, delaying implementation until 1990, and phasing-out the limit over 5 years, the cost of the proposal drops to $500 million in the first year and $6.6 billion over 5 years, a fraction of the projected trust fund surpluses during this period.

Moreover, there's good reason to believe the cost of this proposal would be much less than this since the estimate does not take into account additional revenues flowing to the Government as the result of a larger work force paying income and Social Security payroll taxes, higher wage levels subject to taxation for those no longer constrained by the earnings limit, and additional revenues derived from the existing tax on Social Security benefits. The Social Security Administration estimates that the long-term cost of this proposal to the trust fund is a just .01 percent of taxable payroll.

Further ways to minimize the short-term cost of the proposal should be explored. But the inequities imposed by the earnings limit are so great, that the time to again consider its repeal has arrived. I hope my colleagues will join me in pursuing this proposal and reaffirming the Senate's position of 1983. This legislation can help make the retirement years of the elderly as productive and prosperous as possible.

I ask that the text of the legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIBERALIZATION OF EARNINGS TEST OVER THE PERIOD 1990-1994 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) IN GENERAL.—Effective with respect to taxable years ending after 1989, subparagraph (D) of section 203(f)(8) of the Social Security Act is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be increased by $3,000 in each taxable year over the exempt amount for the previous taxable year, beginning with any taxable year ending after 1989 and before 1991.".

(b) CONFORMING AMENDMENT.—The second sentence of section 223(d)(4) of such Act is amended by striking out "which is applicable to individuals described in subparagraph (D) thereof" and inserting in lieu thereof "which would be applicable to individuals who have attained retirement age (as defined in section 216(l)) without regard to any increase in such amount resulting from a law enacted in 1987".

SEC. 2. REPEAL OF EARNINGS TEST IN 1995 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Effective with respect to taxable years ending after 1994—

(1) clause (B) in the third sentence of section 203(f)(1) of the Social Security Act is amended by striking out "age seventy" and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(2) section 203(f)(3) of such Act is amended—

(A) by striking out "33½ percent" and all that follows through "other individual" and inserting in lieu thereof "50 percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8)", and

(B) by striking out "age 70" and inserting in lieu thereof "retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AND RELATED AMENDMENTS.

Effective with respect to taxable years ending after 1994—

(1) section 203(c)(1) of the Social Security Act is amended by striking out "is under the age of seventy" and inserting in lieu thereof "is under retirement age (as defined in section 216(l))";

(2) the last sentence of subsection (c) of section 203 of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(2) paragraphs (1)(A) and (2) of section 203(d) of such Act are each amended by striking out "under the age of seventy" and inserting in lieu thereof "under retirement age (as defined in section 216(l))";

(3) section 203(f)(1) of such Act is amended by striking out clause (D) and inserting in lieu thereof the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or";

(4) subparagraph (D) of section 203(f)(5) of such Act is amended—

(A) by striking out "(D) In the case of" and all that follows down through "(ii) an individual" and inserting in lieu thereof the following:

"(D) An individual";

(B) by striking out "became entitled to such benefits" and all that follows and inserting in lieu thereof "became entitled to such benefits, there shall be excluded from gross income any such other income."; and

(C) by shifting such subparagraph as so amended to the left to the extent necessary to align its left margin with that of subparagraphs (A) through (C) of such section;

(5) section 203(f)(8)(A) of such Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "the new exempt amount which is to be applicable";

(6) section 203(f)(8)(B) of such Act is amended—

(A) by striking out all that precedes clause (i) and inserting in lieu thereof the following:

"(B) The exempt amount which is applicable for each month of a particular taxable year shall be whichever of the following is the larger—";

(B) by striking out "corresponding" in clause (i); and

(C) by striking out "an exempt amount" in the matter following clause (ii) and inserting in lieu thereof "the exempt amount";

(7) section 203(f)(8)(D) of such Act (as amended by section 1(a) of this Act) is repealed;

(8) section 203(f)(9) of such Act is repealed;

(9) section 203(h)(1)(A) of such Act is amended by striking out "age 70" each place it appears and inserting in lieu thereof "retirement age (as defined in section 216(l))";

(10) section 203(j) of such Act is amended to read as follows:

"Attainment of Retirement Age

"(j) For purposes of this section—

"(1) an individual shall be considered as having attained retirement age (as defined in section 216(l)) during the entire month in which he attains such age; and

"(2) the term 'retirement age (as defined in section 216(l))', with respect to any individual entitled to monthly insurance benefits under section 202, means the retirement age (as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.";

(11) section 202(w)(2)(B)(ii) of such Act is amended—

(A) by striking out "either"; and

(B) by striking out "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit"; and

(12) the second sentence of section 223(d)(4) of such Act (as amended by section 1(b) of this Act) is further amended by striking out "without regard to any increase in such amount resulting from a law enacted in 1987" and inserting in lieu thereof "but for the liberalization and repeal of the earnings test for such individuals in 1990".

SEC. 4. ACCELERATION OF 8 PERCENT DELAYED RETIREMENT CREDIT.

Effective with respect to taxable years ending after 1990, paragraph (6) of section 202(w) of the Social Security Act is amended—

(1) by striking out "2005" in subparagraph (C) and inserting in lieu thereof "1989"; and

(2) by striking out "2004" in subparagraph (D) and inserting in lieu thereof "1988".●

By Mr. HARKIN (for himself, Mr. Stafford, and Mr. Adams):

S. 1778. A bill to provide for a rural educational opportunities program; to the Committee on Labor and Human Resources.

RURAL EDUCATIONAL OPPORTUNITIES ACT

● Mr. HARKIN. Mr. President, the National League of Cities, in a March 1987 study entitled "Poverty in America," reported that the greatest increase in the rate of poverty since 1979 has taken place in rural America. Thus, I rise today to introduce a bill which will address the educational needs of children from low-income families who reside in rural America. While the need to create a stronger economic base in these areas through agricultural development, community development, and the attraction of new industries is essential, we cannot overlook the educational needs of children from low-income families who reside in rural and small town America.

In 1986, Congress requested that nine regional educational laboratories identify and support further development of promising, rural small-school activities within their region. From this a National Rural, Small Schools Task Force was established. This task force, chaired by Robert Benton who, until recently, was the chief school officer in my State of Iowa, studied regional trends by surveying school board presidents, district superintendents, building principals, and classroom teachers with close ties to rural schools.

Two primary concerns were identified in all nine regions as reported in "Building on Excellence, Regional Priorities for the Improvement of Rural, Small Schools" written by the Regional Educational Laboratories to the National Rural, Small Schools Task Force. 67 percent of building principals and 65 percent of teachers said that academic performance of children from low-income families are in great need or fairly strong need of improvement. A similar rank was given for students' thinking and reasoning skills.

I believe that meeting the needs of educationally deprived children from low-income families as well as improving their academic standings must be top priorities. While appropriating additional funds for chapter I would be beneficial, the problems facing rural school districts and low-income children cannot be solved with money alone. We must provide these schools with the strategy for improvement.

I am pleased to introduce today a rural education initiative. This legislation creates additional technical assistance centers to focus on the needs of poor and rural school districts. $10 million in grant moneys will be provided to the Department of Education to establish and operate 10 regional rural assistance centers. These centers will provide evaluation assistance, consultation, and training aimed at helping State educational agencies and local educational agencies improve the quality of the education provided to educationally deprived children participating in programs under chapter I who reside in rural areas or attend small schools. These centers will be provided with a fixed amount of core support funding to enable them to work with districts in the development of assistance proposals. Any additional funding would be awarded upon the approval of a State plan of assistance.

Under this legislation rural assistance centers will have three objectives. Through a coordinated effort between the centers and the State educational agencies, a statewide plan will be developed. An individual plan for schools within chapter I eligible school districts would then be developed. These plans, which include the recommendations of teachers and their principles, must be approved by their district offices. Next, the plan is submitted to the State departments of education for second review and approval. Once it grants approval, the state department would notify the center involved, the local educational agency and the Department of Education. At this time, the Department of Education would release funds to the center to conduct the assistance effort.

If we are to remain true to our belief that children are an investment in our future, then we must provide assistance, not limited to financial, to ensure their progress.●

By Mr. PACKWOOD (for himself, Mr. Bradley, Mr. Stevens, Mrs. Kassebaum, Mr. Dodd, and Mr. Burdick):

Senate Joint Resolution 196. Joint resolution to designate February 4, 1988, as "National Women in Sports Day"; to the Committee on the Judiciary.

NATIONAL WOMEN IN SPORTS DAY

● Mr. PACKWOOD. Mr. President, I rise today to introduce a joint resolution which would designate February 4, 1988 as National Women in Sports Day.

Although the history of women in sports is rich and long, there has been little national recognition of the significance of women's athletic achievements. Over the last 15 years, women athletes in our country have become more and more visible. They serve as examples of the avenues available through which women of America may develop physical fitness, self-discipline, initiative, confidence, and leadership skills. National Women in Sports Day will recognize the importance of these athletic achievements to our country.

Today women represent 30 percent of all college student athletes, and over 10,000 of these women attend college on athletic scholarships. However, the athletic opportunities for male students at collegiate and high school levels still far exceed those for female students. It is time to recognize these inequities still exist, while highlighting how far women have come in their athletic achievements.

As part of this year's celebration, I was honored to present our country's premier tennis player Martina Navratilova with the Flo Hyman award. Ms. Hyman, a tireless supporter of Federal funding for women's sports, was at the peak of her volleyball career when she died tragically. Known to all from her prowess on the tennis court, Ms. Navratilova has been a willing spokesperson for the cause of advancing equal opportunities for women athletes.

I invite all my colleagues to join me in recognizing our women athletes. I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 196

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, confidence, and leadership skills;

Whereas support and fitness activity contributes to emotional and physical well-being and women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions of coaches, officials, and administrators has declined drastically over the last decade and there is a need to restore women to these positions to ensure a fair representation of women's abilities and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the athlete's contributions at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited for all of us the true meaning of fairness, determination, and team play;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 4, 1988, is hereby designated as "National Women in Sports Day", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.●

● Mr. BRADLEY. Mr. President, I rise to join the Senator from Oregon [Mr. PACKWOOD] in introducing a joint resolution to designate February 4, 1988, as "National Women in Sports Day." Although the history of women in sports is rich and long, there has been little national recognition of the significance of women's athletic achievements. Over the last 15 years, several women athletes in our country have emerged as international figures. Their talent, determination, and dedication serve as an example for all Americans. National Women in Sports Day will recognize the importance of these athletic achievements to our country.

Today, over 10,000 women attend college on athletic scholarships. Women represent 30 percent of all college athletes, yet the athletic opportunities available to male students at collegiate and high school levels remain significantly greater than those for female students. It is time to acknowledge the existence of such injustices, while emphasizing the progress women have made in their athletic community.

Over the last decade, there has been a decline in the number of women in athletic leadership positions of coaches, officials, and administrators. Women need to be restored to these positions in order to ensure equitable representation of women's abilities and to provide role models for young female athletes.

Mr. President, athletic fitness contributes to emotional as well as physical health. Women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, and confidence, as well as acquire leadership, communication, and cooperation skills. The bonds built between women through athletics help to break down social barriers of racism and prejudice. The positive effects of participation in athletics are bound to carry over to the athlete's contribution at home, at work, and to society.●

By Mr. DOLE:

S.J. Res. 197. Joint resolution to designate the month of April 1988, as "Prevent-A-Litter Month"; to the Committee on the Judiciary.

PREVENT-A-LITTER MONTH

Mr. DOLE. Mr. President, today I am pleased to introduce a joint resolution designating the month of April 1988, as "National Prevent-A-Litter Month."

This joint resolution addresses the nationwide crisis of pet overpopulation, promotes responsible pet ownership and focuses on the primary solution to this tragedy—the need for pet owners to have their dogs and cats spayed and neutered.

Representative FOLEY is introducing companion legislation in the House to promote this same deserving cause.

Pet owners in the United States allow approximately 70,000 puppies and kittens to be born each day.

Add the number of puppies and kittens born to stray or homeless animals, and you have as many as 250,000 newborn animals every 24 hours. There are clearly not enough good homes for these animals. For this reason, many animals must be destroyed in shelters throughout the country. And, these may be considered lucky, since they are spared the suffering of malnutrition, disease, or injury guaranteed to an abandoned or stray animal struggling to survive on its own.

I am particularly sensitive to this problem because the Dole family includes our wonderful dog, Leader, a homeless pet we adopted from an animal shelter. I am therefore very supportive of a major public awareness campaign being sponsored by the Humane Society of the United States.

The campaign, "Be a Pal—Prevent a Litter," will educate the public to the need for responsible pet ownership. It will focus on the solutions to the tragic pet overpopulation problem and is designed to make people who haven't neutered their animals more aware of their need to act.

To bring even greater attention to this crisis, the Humane Society has chosen the month of April as "Prevent A Litter Month."

This problem pervades every community in the United States. Across the country animal welfare organizations, shelters, and communities are successfully working to reduce pet overpopulation through education programs, spay/neuter clinics and local ordinances which encourage spaying and neutering. But much remains to be done.

The Senate can play a vital role in this worthwhile educational effort by declaring April as "National Prevent A Litter Month."

Mr. President, I ask that the Joint Resolution be printed in the RECORD.

S.J. Res. 197

Whereas throughout the Nation, millions of dogs and cats are destroyed each year due to the uncontrolled breeding allowed by some pet owners who have not sought to prevent the needless breeding of their pets through spaying and neutering;

Whereas this irresponsibility by some pet owners has created a pet overpopulation problem in this country that can only be solved by the active promotion of pet-owner-responsibility programs, that includes spaying and neutering of pets, compliance with community animal control regulations, and proper care and sheltering of pets;

Whereas the problem of pet overpopulation extends beyond the tragedy of the needless destruction of pets, manifesting itself in cruelties such as abandonment, starvation, injury, and other results of neglect; and

Whereas the cruelties described above not only have a cost in animal lives, but also in the resources of the thousands of communities that must shelter displaced pets, and such costs can be substantially reduced by responsible pet ownership: Now, therefore, be it:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April, 1988, is designated as "Prevent-A-Litter Month" as a statement of affirmation to prevent the needless destruction of this Nation's pets, which could be ended by adopting responsible pet ownership as a way of life, and by spaying and neutering pets as one means of ameliorating the pet overpopulation tragedy.

ADDITIONAL COSPONSORS

S. 542

At the request of Mr. ARMSTRONG, the names of the Senator from Missouri [Mr. BOND], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 542, a bill to recognize the organization known as the "Retired Enlisted Association, Inc."

S. 756

At the request of Mr. Lautenberg, the names of the Senator from Oklahoma [Mr. Boren], the Senator from Arkansas [Mr. Bumpers], and the Senator from Kansas [Mr. Dole] were added as cosponsors of S. 756, a bill to ensure the amounts paid for home improvements to mitigate indoor air contaminants such as radon gas qualify for the tax deduction for medical care expenses.

S. 1016

At the request of Mr. Kennedy, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 1016, a bill to provide financial assistance for the establishment and operation of literacy corps programs.

S. 1188

At the request of Mr. Symms, the names of the Senator from Arkansas [Mr. Bumpers], and the Senator from Washington [Mr. Adams] were added as cosponsors of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1522

At the request of Mr. Riegle, the names of the Senator from Rhode Island [Mr. Pell], the Senator from Rhode Island [Mr. Chafee], and the Senator from North Carolina [Mr. Sanford] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1561

At the request of Mr. Bond, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1586

At the request of Mr. Kerry, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 1586, a bill to provide financial assistance under the Education of the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers, and for other purposes.

S. 1600

At the request of Mr. Ford, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1601

At the request of Mr. McCain, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 1601, a bill to permit the immigration of Vietnamese Amerasians to the United States.

S. 1715

At the request of Mr. Dixon, the names of the Senator from Iowa [Mr. Harkin], and the Senator from North Dakota [Mr. Burdick] were added as cosponsors of S. 1715, a bill to amend the Internal Revenue Code of 1986 to provide that certain transfers of a commodity pledged as collateral for Commodity Credit Corporation loans not be taken into account in computing Federal income tax liability.

SENATE JOINT RESOLUTION 105

At the request of Mr. Lautenberg, the names of the Senator from Nebraska [Mr. Karnes], the Senator from Idaho [Mr. McClure], and the Senator from Pennsylvania [Mr. Specter] were added as cosponsors of Senate Joint Resolution 105, a joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 119

At the request of Mr. Riegle, the names of the Senator from Vermont [Mr. Leahy], the Senator from Arkansas [Mr. Bumpers], and the Senator from New York [Mr. Moynihan] were added as cosponsors of Senate Joint Resolution 119, a joint resolution concerning the April 1986 accident at the Chernobyl nuclear powerplant in the Soviet Union.

SENATE JOINT RESOLUTION 126

At the request of Mr. Packwood, the names of the Senator from Vermont [Mr. Stafford], the Senator from Arizona [Mr. McCain], the Senator from North Carolina [Mr. Sanford], the Senator from Wisconsin [Mr. Kasten], the Senator from Alabama [Mr. Shelby], the Senator from New Jersey [Mr. Lautenberg], the Senator from Utah [Mr. Garn], the Senator from Connecticut [Mr. Dodd], and the Senator from Michigan [Mr. Riegle] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 144

At the request of Mr. Wirth, the names of the Senator from Alabama [Mr. Heflin], the Senator from Nebraska [Mr. Karnes], the Senator from Louisiana [Mr. Johnston], the Senator from Arizona [Mr. McCain], the Senator from Idaho [Mr. McClure], the Senator from Florida [Mr. Graham], and the Senator from Illinois [Mr. Simon] were added as cosponsors of Senate Joint Resolution 144, a joint resolution designating the week beginning October 18, 1987, as "Financial Independence Week."

SENATE JOINT RESOLUTION 146

At the request of Mr. Wirth, the names of the Senator from West Virginia [Mr. Byrd], the Senator from Kansas [Mr. Dole], the Senator from Washington [Mr. Adams], the Senator from Colorado [Mr. Armstrong], the Senator from Montana [Mr. Baucus], the Senator from Oklahoma [Mr. Boren], the Senator from Minnesota [Mr. Boschwitz], the Senator from New Jersey [Mr. Bradley], the Senator from Arkansas [Mr. Bumpers], the Senator from North Dakota [Mr. Burdick], the Senator from North Dakota [Mr. Conrad], the Senator from California [Mr. Cranston], the Senator from New York [Mr. D'Amato], the Senator from Connecticut [Mr. Dodd], the Senator from Minnesota [Mr. Durenberger], the Senator from Washington [Mr. Evans], the Senator from Georgia [Mr. Fowler], the Senator from Ohio [Mr. Glenn], the Senator from Iowa [Mr. Grassley], the Senator from Utah [Mr. Hatch], the Senator from Nevada [Mr. Hecht], the Senator from New Hampshire [Mr. Humphrey], the Senator from Wisconsin [Mr. Kasten], the Senator from Massachusetts [Mr. Kerry], the Senator from Michigan [Mr. Levin], the Senator from Indiana [Mr. Lugar], the Senator from Idaho [Mr. McClure], the Senator from Maine [Mr. Mitchell], the Senator from New York [Mr. Moynihan], the Senator from Alaska [Mr. Murkowski], the Senator from Oklahoma [Mr. Nickles], the Senator from Oregon [Mr. Packwood], the Senator from Wisconsin [Mr. Proxmire], the Senator from Indiana [Mr. Quayle], the Senator from Nevada [Mr. Reid], the Senator from Michigan [Mr. Riegle], the Senator from West Virginia [Mr. Rockefeller], the Senator from Maryland [Mr. Sarbanes], the Senator from Vermont [Mr. Stafford], the Senator from Mississippi [Mr. Stennis], the Senator from Alaska [Mr. Stevens], the Senator from Idaho [Mr. Symms], the Senator from Wyoming [Mr. Wallop], the Senator from North Carolina [Mr. Sanford], the Senator from Alabama [Mr. Shelby], the Senator from Louisiana [Mr. Breaux], the Senator from New Jersey [Mr. Lautenberg], the Senator from Arizona [Mr. DeConcini], the Senator from California [Mr. Wilson], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating January 8, 1988, as "National Skiing Day."

SENATE JOINT RESOLUTION 168

At the request of Mr. Melcher, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of Senate Joint Resolution 168, a joint resolution designating the week beginning October 25, 1987, as "National

Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. Riegle, the names of the Senator from Iowa [Mr. Grassley], the Senator from Missouri [Mr. Bond], the Senator from Montana [Mr. Baucus], and the Senator from Arizona [Mr. DeConcini] were added as cosponsors of Senate Joint Resolution 184, a joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

At the request of Mr. Murkowski, his name was added as a cosponsor of Senate Joint Resolution 184, supra.

SENATE JOINT RESOLUTION 188

At the request of Mr. Sarbanes, the names of the Senator from North Carolina [Mr. Helms], the Senator from Colorado [Mr. Wirth], the Senator from New York [Mr. Moynihan], the Senator from Kansas [Mr. Dole], the Senator from New Jersey [Mr. Bradley], and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of Senate Joint Resolution 188, a joint resolution designating the week of November 1 through November 7, 1987, as "National Watermen's Recognition Week."

SENATE RESOLUTION 246

At the request of Mr. Moynihan, the names of the Senator from Kansas [Mr. Dole], the Senator from California [Mr. Wilson], the Senator from Missouri [Mr. Bond], the Senator from Michigan [Mr. Riegle], and the Senator from Oregon [Mr. Packwood] were added as cosponsors of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

Admiral Ustick. }amendment

AMENDMENT NO. 892

At the request of Mr. Graham, his name was added as a cosponsor of amendment No. 892 proposed to S. 1394, an original bill to authorize appropriations for fiscal year 1988 for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and for other purposes.

AMENDMENTS SUBMITTED

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

MURKOWSKI (AND OTHERS) AMENDMENT NO. 905

Mr. MURKOWSKI (for himself, Mr. Boren, Mr. Cohen, Mr. Metzenbaum, Mr. Hollings, and Mr. Cranston) proposed an amendment to the bill (S. 1394) to authorize appropriations for fiscal year 1988 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes; as follows:

At appropriate place in the bill, add the following section:

SEC. . UNDER SECRETARY OF STATE FOR SECURITY, CONSTRUCTION, AND FOREIGN MISSIONS.

(a) The Congress Finds That.—

(1) serious deficiencies exist in the management and construction by the Department of State of buildings overseas;

(2) the security function has been plagued by an inability to anticipate threats or to respond to threats; and

(3) the operations of the Foreign Buildings Office have been characterized by cost overruns, delays, inadequacies of design, deficient construction supervision, and other management flaws.

(b) Establishment of Position.—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State and for other purposes", approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "and an Under Secretary of State for Management" and inserting in lieu thereof "an Under Secretary of State for Budget and Administration, and an Under Secretary of State for Security, Construction, and Foreign Missions".

(c) Responsibilities.—The Under Secretary of State for Security, Construction, and Foreign Missions shall be responsible for—

(1) the Bureau of Diplomatic Security (established by section 104 of the Diplomatic Security Act);

(2) the new building construction functions of the Office of Foreign Buildings (established to carry out the Foreign Service Buildings Act, 1926); and

(3) the Office of Foreign Missions (established pursuant to section 203 of the State Department Basic Authorities Act of 1956).

(d) Authorities.—The Under Secretary of State for Security, Construction, and Foreign Missions shall have the authority to prepare and submit a consolidated budget for the programs for which the Under Secretary is responsible and to develop and implement personnel systems for those programs, and to establish procedures for the procurement of goods and services for those programs including procedures to insure that the design and construction of new embassy buildings shall be performed under contract to U.S. construction firms.

(e) Reorganization.—

(1) Period for implementation.—The Secretary of State shall complete implementation of the reorganization required by this section within 6 months after the date of enactment of this Act, including the transfer of personnel and funds to the Under Secretary of State for Security, Construction, and Foreign Missions.

(2) Plan for implementation.—Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the steps to be taken in reorganizing the Department of State pursuant to this section, including a plan for a separate personnel system and career service for the Diplomatic Security Service.

(3) Role of private sector.—Such report shall address the role of U.S. private industry in embassy design and construction, including specific steps to enhance that role, so that the efficiency and expertise of the private sector can be fully utilized consistent with security. Such report shall also include a detailed justification of the current staffing levels in the Foreign Building Office assuming a maximum appropriate use of the private sector in embassy design and construction.

(f) The provisions of subsections (a) through (e) shall enter into force on April 1, 1988, unless the following conditions are met—

(1) the Department of State submits to the Senate Foreign Relations Committee and the House Foreign Affairs Committee no later than February 1, 1988, a plan for restructuring the Department which would (i) accord higher priority to diplomatic security; (ii) improve coordination between the Bureau of Diplomatic Security and the Offices of Foreign Buildings and Foreign Missions; (iii) insure that the design and construction of United States embassies is performed by United States firms as provided by relevant law; and (2) the Congress approves this restructuring plan, or a modification thereof, by joint resolution.

(g) for the purpose of expediting the consideration and enactment of a joint resolution referred to in subsection (f), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, and as highly privileged in the House of Representatives.

MURKOWSKI AMENDMENT NO. 906

Mr. MURKOWSKI proposed an amendment to the bill S. 1394, supra, as follows:

At the appropriate place in the bill insert the following:

The Congress finds:

(1) economic vitality, educational advancement and social progress have created conditions favoring the furtherance of democracy in Taiwan; and

(2) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the United States and the people of Taiwan; and

(3) the authorities on Taiwan are nurturing a transition toward more truly democratic and representative political institutions; and

(4) the lifting of Martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan.

It is the sense of the Congress that:

(1) the United States Congress welcomes the democratic trends emerging in Taiwan and commend the progress that has been made recently in advancing democratic institutions and values; and

(2) the United States Congress encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions; and

(3) the United States Congress requests American representatives to convey this nation's continuing support for a free and prosperous Taiwan as stated in the Taiwan Relations Act and our encouragement for democracy to the leaders and the people of Taiwan.

SIMON (AND OTHERS) AMENDMENT NO. 907

Mr. DIXON (for Mr. Simon, for himself, Mr. Dixon, Mr. Wallop, Mr.

Gore, Mr. Stennis, Mr. Exon, Mr. Inouye, Ms. Mikulski, Mr. D'Amato, Mr. Kasten, Mr. Kennedy, Mr. Danforth, Mr. Roth, Mr. Specter, Mr. Cranston, and Mr. Hollings) proposed an amendment to the bill S. 1394, supra; as follows:

At the end of the bill, add the following new title:

TITLE VII— INTERNATIONAL CHILD ABDUCTION ACT

SECTION 701. SHORT TITLE.

This title may be cited as the "International Child Abduction Act".

SEC. 702. FINDINGS AND DECLARATION OF PURPOSES.

The Congress finds that—

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The 1980 Hague Convention on the Civil Aspects of International Child Abduction establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(5) This Act is designed to facilitate implementation of the Convention in the United States.

(6) The provisions of this Act are in addition to and not in lieu of the provisions of the Convention.

(7) In enacting this Act the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(8) The Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

SEC. 703. DEFINITIONS.

For the purposes of this Act—

(1) "Convention" means the 1980 Hague Convention on the Civil Aspects of International Child Abduction;

(2) "United States Central Authority" means the agency of the Federal Government designated by the President to perform on behalf of the United States the functions of Central Authority set out in the Convention and this Act;

(3) "court" means any court of competent jurisdiction of a State, the District of Columbia, a territory or possession of the United States, or the United States;

(4) "Federal Parent Locator Service" means the service established by the Secretary of Health and Human Services pursuant to section 453 of the Social Security Act (42 U.S.C. 653);

(5) "person" includes any individual, an institution, or any other legal entity or body;

(6) "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(7) "petitioner" means any person who files a petition in court seeking relief under the Convention and this Act;

(8) "respondent" means any person against whose interests a petition is filed pursuant to the Convention and this Act;

(9) "authorities" as used in article 15 of the Convention includes public officials and courts;

(10) "rights of access" means visitation rights;

(11) "wrongful removal or retention" includes a removal or retention of a child prior to the entry of a custody order regarding that child; and

(12) "commencement of proceedings" as used in article 12 of the Convention, with regard to the return of children located in the United States, means the filing of a petition in accordance with section 704(b).

SEC. 704. ADMINISTRATIVE AND JUDICIAL REMEDIES.

(a) The courts of the States, the District of Columbia, and the territories and possessions of the United States, and the United States district courts shall have concurrent original jurisdiction with regard to actions arising under the Convention and this Act.

(b) Any person seeking judicial relief under the Convention and this Act may commence a civil action by filing a petition in any court described in subsection (a) within the jurisdiction of which a child is located at the time the petition is filed.

(c) Notice of an action for the return of a child pursuant to the Convention and this Act shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) A petitioner who seeks return of a child under the Convention and this Act shall establish by a preponderance of the evidence that the child has been wrongfully removed or retained. A respondent who opposes return of the child has the burden of establishing by clear and convincing evidence that one of the exceptions set forth in the Convention applies.

(e) Full faith and credit shall be accorded by courts in the United States to the judgments of other courts in the United States ordering the return of a child pursuant to the Convention and this Act or denying such return.

(f) The remedies established by the Convention and this Act shall be in addition to remedies available under other laws or international agreements.

SEC. 705. PROVISIONAL REMEDIES.

(a) In furtherance of the objectives of the Convention and subject to the provisions of subsection (b), any court exercising jurisdiction over a petition filed pursuant to the Convention and this Act, may, either directly or through an appropriate intermediary, take or cause to be taken provisional measures under Federal or State law, as appropriate, to protect the well-being of a child or to prevent the child's further removal or concealment prior to final disposition of the petition.

(b) No court exercising jurisdiction over a petition filed pursuant to the convention and this Act may order a child provisionally removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

SEC. 706. ADMISSIBILITY OF DOCUMENTS.

Any application to the United States Central Authority or petition to a court submitted in accordance with the terms of the Convention, together with documents and any other information appended thereto or provided subsequently, shall be admissible in court without the need for any legalization or authentication.

SEC. 707. UNITED STATES CENTRAL AUTHORITY.

(a) The President shall designate a Federal agency to serve as Central Authority for the United States.

(b) The functions of the United States Central Authority and cooperating State and local authorities and agencies are those ascribed to the Central Authority by the Convention and this Act.

(c) The United States Central Authority shall have authority to issue regulations to implement the Convention and this Act.

(d) The United States Central Authority shall have authority to obtain information from the Federal Parent Locator Service under section 463 of part D of title IV of the Social Security Act.

SEC. 708. COSTS AND FEES.

(a) No Federal, State, or local authority shall impose on the applicant any fee in relation to the administrative processing of applications submitted under this Convention.

(b) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions and travel costs for the returning child and any accompanying persons, except as provided in subsection (c) or (d).

(c) Subject to subsection (d), legal fees or court costs incurred in connection with proceedings under the Convention or this Act shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(d) Any court ordering the return of a child under the Convention shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of return proceedings, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

SEC. 709. COLLECTION, MAINTENANCE AND DISSEMINATION OF INFORMATION.

(a) Notwithstanding section 522a of title 5, United States Code and any other provision of law, the United States Central Authority may, under such conditions as it prescribes by regulation, receive from or transmit to any Federal, State, or foreign authority or person information for purposes related to the Convention. No information shall be disclosed by the United States Central Authority pursuant to this section, however, if such disclosure would contravene the national security or law enforcement interests of the United States or the confidentiality of census data.

(b) Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) Notwithstanding any other provision of law (but subject to subsection (d)), whenever the head of any department, agency, or instrumentality of the United States or of any State, territory, or possession of the United States receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the United States Central Authority, except that if any information is obtained the disclosure of which would contravene national security or law enforcement interests of the United States or the confidentiality of census data, such information shall not be transmitted. The responding agency shall be obligated to advise the United States Central Authority immediately upon completion of the requested search.

(d) To the extent that information the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Federal Parent Locator Service under the provisions of section 463 of the Social Security Act, such Central Authority shall use the procedure provided for under such section 463 in its efforts to obtain such information, and shall not request such information directly under the provisions of subsection (c) of this section.

(e) Nothing in this section shall be construed as permitting the United States Central Authority to obtain tax return information except as provided in section 6103 of the Internal Revenue Code of 1986 and section 453 of the Social Security Act.

(f) The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

SEC. 710. INTER-AGENCY COORDINATING GROUP.

(a) The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor operation of the Convention and to provide advice on its implementation. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the coordinating groups at rates not to exceed those authorized for Federal employees under title 5 of the United States Code.

(b) The interagency coordinating group shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App. I).

SEC. 711. AUTHORIZATION OF APPROPRIATION.

There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this Act.

SEC. 712. AMENDMENT CONCERNING FEDERAL PARENT LOCATOR SERVICE.

Section 463 of the Social Security Act (42 U.S.C. 663) is amended—

(1) in subsection (b), by striking out "under this section" and inserting in lieu thereof "under subsection (a)"; and

(2) by adding at the end the following new subsection:

"(e) The Secretary shall enter into an agreement with the Central Authority designated by the President in accordance with section 707 of the International Child Abduction Act, under which the services of the Parent Locator Service established under section 453 shall be made available to such Central Authority for the purpose of determining the whereabouts of any parent or child when such information is to be used to locate such parent or child for the purpose of carrying out its responsibilities under that Act. The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

SEC. 713. AMENDMENT TO THE INTERNAL REVENUE CODE.

Subparagraph (B) of section 6103(l)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(6)(B)) is amended by inserting before the period at the end thereof the following: "and for purposes of, and to the extent necessary in, locating individuals in connection with the abduction or wrongful restraint or retention of a child".

KENNEDY AMENDMENT NO. 908

Mr. KENNEDY proposed an amendment to the bill S. 1394, supra, as follows:

On page 111, between lines 16 and 17, insert the following new section:

SEC. . WAIVER OF CERTAIN NATURALIZATION REQUIREMENTS FOR CERTAIN FORMER CUBAN POLITICAL PRISONERS.

(a) Findings.—The Congress finds that the following individuals, not in the United States, were members of Brigade 2506 and imprisoned in Cuba for 25 years following the Bay of Pigs Invasion: Ricardo Montero Duque of Union City, New Jersey, and the following five individuals of Miami, Florida: Ramon Bernardo Conte Hernandez: Jose Rafael Machado Concepcion; Nicolas Edigno Hernandez Mendez; Rogelio Milian Perez; and Pedro Armando Santiago Villa.

(b) Waiver.—Notwithstanding section 316 of the Immigration and Nationality Act, no continuous residence or physical presence requirement shall apply to the eligibility for naturalizaton of the persons named in subsection (a).

SYMMS AMENDMENT NO. 909

Mr. SYMMS proposed an amendment to the bill S. 1394, supra, as follows:

On page 111 between line 16 and 17, insert the following new section:

Sec. . (a) Findings.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance having been offered to the Soviets at a time when electronic surveillance techniques and potentials were not fully understood in the West.

(6) subsection (b) of 22 U.S.C. 4309 specifically allows the Secretary of State to "require any foreign mission to divest itself of . . . real property . . . where otherwise necessary to protect the interest of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) New Agreement With Soviet Union.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) Embasy Agreements.—For the purposes of this section the term "embassy agreement" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", entered into force on May 16, 1969; and

(2) the "Agreement between the United States of America and the Unon of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

HELMS (AND OTHERS) AMENDMENT NO. 910

Mr. HELMS (for himself, Mr. Moynihan, and Mr. Pell) proposed an amendment to the bill S. 1394, supra, as follows:

On page 111, between lines 16 and 17, insert the following new title:

TITLE —DIPLOMATIC IMMUNITY ABUSE PREVENTION ACT

SECTION 1. SHORT TITLE.

This title may be cited as the "Diplomatic Immunity Abuse Prevention Act".

SEC. 2. CRIMES COMMITTED BY DIPLOMATS.

Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act") is amended by inserting after section 204A the following:

"Sec. 204B. Crimes committed by diplomats.

(a) Records—(1) The Director shall develop and maintain records on each incident in which an individual with immunity from the criminal jurisdiction of the United States under the Vienna Convention who the Director reasonably believes has committed a serious criminal offense within the

United States. Each such record shall include—

"(A) the identity of such individual;

"(B) the nature of the offense committed by such individual, including whether against property or persons;

"(C) whether such offense involved reckless driving or driving while intoxicated; and

"(C) the number and nature of all other criminal offenses committed in the United States by such individual.

"(2) The Director shall submit an annual report to the Congress on the incidents occurring during the preceding year. The report shall include the information developed and maintained under paragraph (1).

"(b) Local Law Enforcement Individuals—The Director shall take such steps as may be necessary-

"(1) to educate local law enforcement officials on the extent of the immunity from criminal jurisdiction provided to members of a foreign mission, and family members of such members, under the Vienna Convention; and

"(2) to assure that local law enforcement officials fully investigate, charge, and prosecute, to the extent consistent with immunity from criminal jurisdiction under the Vienna Convention, any member of a foreign mission, and any family member of such a member, who commits a serious criminal offense within the United States.

"(c) Influence of Local Prosecutions—

"(1) No officer or employee of the Department of State may seek to influence any investigation, charge, or prosecution by a State or local government of—

"(A) an alien who is a member of a foreign mission,

"(B) a family member of an alien described in subparagraph (A), or

"(C) any other alien. not covered by immunity from the criminal jurisdiction of the United States under the Vienna Convention.

"(2) The Secretary may waive paragraph (1) with respect to an individual if the Secretary determines, and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after each such waiver, that such waiver is required by significant foreign policy considerations or the national security.

"(d) Notification of Diplomatic Corps.—The Director shall notify the members of each foreign mission of United States policies relating to criminal offenses (particularly crimes of violence) committed by such members, and the family members of such members, including the policy of obtaining criminal indictments, requiring such members to leave the country and declaring such members persona no grata.

SEC. 3. REGISTRATION AND DEPARTURE PROCEDURES FOR INDIVIDUALS WITH DIPLOMATIC IMMUNITY.

Section 210 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4310) is amended—

(1) by inserting "(a)" after "Sec. 210."; and

(2) by adding at the end thereof the following:

"(b) The Director shall develop and implement registration and departure procedures for members of foreign missions, and the family members of such members, in order to identify those individuals in the United States with immunity under the Vienna Convention on Diplomatic Relations of April 18, 1961 (TIAS numbered 7502, 23 UST 3227.)"

SEC. 4. WAIVER OF DIPLOMATIC IMMUNITY OR DECLARATION OF PERSONA NON GRATA WHEN CHARGED WITH A SERIOUS CRIME.

(a) Waiver.—When an individual who is entitled to immunity from the criminal jurisdiction of the United States under the Vienna Convention on Diplomatic Relations is believed to have committed a serious criminal offense (particularly a crime of violence), a summons for that individual to appear in court shall be issued. Thereupon the Secretary of State shall—

(1) request that the country such individual represents waive the immunity of that individual, or

(2) if such waiver is denied, immediately declare non grata such individual if there is a prima facie case against such individual which absent diplomatic immunity would lead to prosecution and thereby require that individual to leave the United States.

(b) Communication to Immigration and Naturalization Service.—The Secretary of State shall notify the Commissioner of the Immigration and Naturalization Service of each individual who voluntarily leaves, or is asked to leave, the United States because of that individual's alleged involvement in a serious criminal offense in order to prevent that person from reentering the United States.

(c) Exclusion of Aliens Previously Involved In a Serious Criminal Offense Committed In the United States.—Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended—

(1) by striking out the period at the end of paragraph (33) and inserting in lieu thereof "; and" and

(2) by adding after paragraph (33) the following new paragraph:

"(34) Any alien with respect to whom the Secretary of State has notified the Commissioner of the Immigration and Naturalization Service under section 4 of the Diplomatic Immunity Abuse Prevention Act because of that alien's alleged involvement in a serious criminal offense, except that such alien may be admitted to the United States—

"(A) with respect to any proceeding regarding such crime, or

"(B) if the Attorney General, in consultation with the Secretary of State, determines that admitting such individual into the United States is in the national interest.".

SEC. 5. AUTHORITY TO INSTITUTE AND MAINTAIN CRIMINAL PROSECUTIONS.

Section 5 of the Diplomatic Relations Act (22 U.S.C. 254) is amended by inserting before the period at the end of the first sentence the following: ", except that in the case of a criminal proceeding, prosecution may be instituted and maintained provided that no measure is taken in derogation of the diplomatically immune individual's inviolability or immunities from jurisdiction".

SEC. 6. REVIEW OF UNITED STATES POLICY ON DIPLOMATIC IMMUNITY.

The Secretary of State and the Comptroller General of the United States shall separately review the policy of the United States of providing privileges and immunities to foreign missions, the members of the mission, their families, the diplomatic couriers, and others which result in treatment which is more favorable than the treatment required to be provided under the Vienna Convention on Diplomatic Relations. Within 180 days after the date of enactment of this Act, the Secretary and the Comptroller General shall each submit separately to the Congress recommendations—

(1) for such changes as may be necessary in such United States policy so that such privileges and immunities do not exceed United States treaty obligations; and

(2) to promote the observance by foreign missions, the members of the mission, their families, the diplomatic couriers, and others of United States law.

SEC. 7. REVIEW OF PROCEDURES FOR ISSUING VISAS TO DIPLOMATS TO THE UNITED STATES AND THE UNITED NATIONS.

In order to ensure conformity with the treatment accorded to United States diplomats by other countries, the Attorney General, in consultation with the Secretary of State, shall review the procedures, and make such changes in the procedures as may be necessary, for issuing nonimmigrant visas to the aliens described in subparagraphs (A) and (G) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)). Within 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of such review and describing the changes, if any, made in such procedures.

SEC. 8. DEFINITION OF FAMILY MEMBERS.

Paragraph (2) of Sec. 2 of the Diplomatic Relations Act (22 U.S.C. 254a) is amended to read as follows:

"(2) the term 'family' means—

"(A) the spouse of a member of the mission and his or her unmarried children under 21 years of age, who are not members of some other household, and who reside exclusively in the principal's household;

"(B) unmarried children under 23 years of age who are attending an institution of higher education on a full-time basis; and

"(C) under exceptional circumstance and with the express advance approval of the Department of State, other persons who are not members of some other household, who reside exclusively in the principal's household, and who are recognized by the sending State as members of the family forming part of the household.".

SEC. 9. MINIMUM INSURANCE COVERAGE.

Section 6(b) of the Diplomatic Relations Act (22 U.S.C. 254c(b) is amended by adding at the end the following new sentence: "Such requirements shall provide that the minimum amount of insurance carried for injury resulting from the operation of any motor vehicle, vessel, or aircraft is $1,000,000 per incident."

SEC. 10. LIABILITY INSURANCE TO BE CARRIED BY DIPLOMATIC MISSIONS.

(a) Requirement.—Section 6 of the Diplomatic Relations Act (22 US.C. 254(c) is amended by adding at the end thereof the following new subsection:

"(d) The Director of the Office of Foreign Missions shall, by regulation, establish, and take such steps as he deems necessary to ensure compliance with, liability insurance requirements which can reasonably be expected to afford adequate compensation for injury to person or property resulting from or arising out of the activities of a mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, other than liability relating to risks described in subsection (b).".

(b) Conforming Amendment.—Subsection (a) of such section is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (d)".

SEC. 11. PROCEDURES FOR CERTIFYING IMMUNITIES.

The Diplomatic Relations Act (22 U.S.C. 254) is amended—

(1) by redesignating sections 8 and 9 as 9 and 10, respectively; and

(2) by inserting after section 7 the following new section:

"PROCEDURES FOR CERTIFYING IMMUNITIES

"Sec. 8. Certification to the Court of immunity from criminal prosecution of any individual summoned under the procedures established under section 4 of this Act who is entitled to immunity under the Vienna Convention on Diplomatic Relations, or under section 3(b) or 4 of this Act, shall be made only if the request has been made by the foreign minister of the sending state to the chief of the U.S. mission in the sending state and such request is transmitted to the Secretary of State.".

SEC. 12. DIPLOMATIC POUCHES.

The President shall—

(1) take such steps as may be necessary to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, and weapons and any material used to foster terrorism into the United States; and

(2) seek in every appropriate forum the adoption of measures which will ensure that diplomatic pouches are not used to smuggle illicit narcotics, explosives, weapons, and any material used to foster terrorism.

SEC. 13. DEFINITIONS.

For purposes of this title, the term—

(1) "serious criminal offense" means any crime of violence, as defined in section 16 of title 18, United States Code, or reckless driving or driving while intoxicated or under the influence of alcohol or drugs; and

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HELMS AMENDMENT NO. 911

Mr. HELMS proposed an amendment to the bill S. 1394, supra, as follows:

Section 401 of the Foreign Service Act of 1980 is amended by adding at the end of paragraph 401(a) the following "Such salary shall be full compensation for the services of the Chief of Mission, who shall not be eligible for additional compensation in the form of hardship differential or other incentive or performance pay supplements (other than danger pay).

(b) Subsection 302(b) of such Act is amended by inserting the word "not" between "may" and "elect" in the second sentence of such subsection.

KASSEBAUM AMENDMENT NO. 912

Mr. HELMS (for Mrs. Kassebaum) proposed an amendment to the bill S. 1394, supra, as follows:

On page 19, strike out lines 1 and all that follows through line 14, and insert in lieu thereof the following:

"(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

"(c) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) the former spouse remarries before age 55;

"(2) the former spouse is less than 50 years of age; or

"(3) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

On page 19, line 15, strike out "(c)(1)" and insert in lieu thereof "(d)(1)".

On page 20, line 25, strike out "(d)" and insert in lieu thereof "(e)".

ROTH (AND HELMS) AMENDMENT NO. 913

Mr. ROTH (for himself and Mr. Helms) proposed an amendment to the bill S. 1394, supra, as follows:

At the end of the bill add the following:

That (a) section 802 of the Trade Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (7);

(C) by amending paragraph (7), as so redesignated, to read as follows:

"(7) take the action described in paragraph (6) and any combination of the actions described in paragraphs (1) through (5)."; and

(D) by inserting after paragraph (3) the following new paragraphs:

"(4) limit by one-half the number of visas that may be issued for aliens born in that country for nonimmigrant status described in section 101(a)(15)(B) of the Immigration and Nationality Act;

"(5) take the steps described in subsection (d) to curtail air transportation between the United States and that country;

"(6) withdraw the personnel and resources of the United States from participation in any arrangement with that country for the pre-clearance of customs by visitors between the United States and that country; or";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "corruption by government officials and" after "preventing and punishing";

(B) in paragraph (2)(A), by striking out "and" at the end thereof;

(C) in paragraph (2)(B), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(D) By adding at the end thereof the following new clause:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery."; and

(3) in subsection (c), by inserting "paragraph (1), (2), or (3) of" after "under"; and

(4) by adding at the end thereof the following new subsection:

"(d)(1)(A) The President shall notify the government of a country against which is imposed the sanction described in subsection (a)(5) of his intention to suspend the rights of any air carrier designated by the government of that country under the agreement between the United States and that country relating to air services to service the routes provided in the agreement.

"(B) Ten days after the imposition of the sanction described in subsection (a)(5), the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the government of that country under the agreement to provide service pursuant to the agreement.

"(C) Ten days after the imposition of the sanction described in subsection (a)(5), the President shall direct the Secretary of Transportation not to permit or otherwise designate any United States air carrier to provide service between the United States and that country pursuant to the agreement.

"(2)(A) The Secretary of State shall terminate the agreement between the United States and that country relating to air services in accordance with the provisions of that agreement.

"(B) Upon termination of such agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the government or nationals of that country from engaging in air transportation with respect to the United States.

"(C) The Secretary of Transportation shall prohibit the takeoff and landing in that country of any aircraft by an air carrier owned, directly or indirectly, or controlled by a national of the United States or by any corporation or other entity organized under the laws of the United States or of any State.

"(3) The Secretary of Transportation may provide for such exceptions from the prohibition contained in paragraph (1) or (2) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(4) For purposes of this subsection, the terms 'aircraft', 'air transportation', and 'foreign air carrier' have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).".

(b) The title heading for title VIII of the Trade Act of 1974 is amended to read as follows: "TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES".

HELMS (AND D'AMATO) AMENDMENT NO. 914

Mr. HELMS (for himself and Mr. D'Amato) proposed an amendment, which was subsequently modified, to the bill S. 1394, supra, as follows:

Add at the end of the bill:

"SEC. . PROHIBITION OF EXPULSION OF PERSONS SEEKING POLITICAL ASYLUM

(a) Short Title.—This section may be cited as the "Miroslav Medvid Memorial Act of 1987".

(b) Suspension.—Any United States national employed by the United States Government who orders the expulsion from the United States, its territories, possessions, or special maritime jurisdiction, of any person seeking political asylum from a Communist country, without the review and rejection of the person's claim by the Secretary of State and the Attorney General, if such person is so expelled, shall be suspended without pay for no less than 365 days.

(c) Duties of Secretary of State and Attorney General.—The duties and obligations of the Attorney General and Secretary of State provided for in this section may not be delegated.

(d) Reports to Congress.—

(1) Not later than forty eight hours after an expulsion of a person seeking political asylum described in subsection (b), the Secretary of State shall prepare and transmit to the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee

on Foreign Relations of the Senate setting forth the reasons for the rejection of such person's claim.

(2) No later than January 31 of each full year following enactment of this section, the Secretary of State shall prepare and transmit to the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Foreign Relations of the Senate, a report on the whereabouts and welfare of individuals who have been denied political asylum since such denial.

(e) Publication of Applicability of Criminal Penalties.—Not later than 60 days after the date of enactment of this section, the head of each United States diplomatic mission or consular post in each Communist country shall cause to be publicly displayed at the principal entrance to such mission, in English and the official languages of the country in which the mission or post is located, a notice of the applicability of criminal and other penalties for conduct described in section 2 and copy of this section.

(f) Definitions.—For purposes of this section, the term "Communist country" refers to any country listed in section 620(f) of the Foreign Assistance Act of 1961, Nicaragua and Mozambique.

WILSON (AND OTHERS) AMENDMENT NO. 915

Mr. WILSON (for himself, Mr. DeConcini, Mr. Dole, Mr. Moynihan, Mr. Armstrong, Mr. Bond, Mr. Boschwitz, Mr. Bradley, Mr. Lautenberg, Mr. Dixon, Mr. Chafee, Mr. D'Amato, Mr. Gramm, Mr. Heinz, Mr. Hecht, Mr. Kasten, Mr. McConnell, Mr. Simpson, Mr. Symms, Mr. Quayle, Mr. Wallop and Mr. Graham) proposed an amendment to the bill S. 1394, supra, as follows:

On page 111, between lines 16 and 17, insert the following:

POLICY ON MIDDLE EAST PEACE CONFERENCE

(a) Findings.—The Congress finds that—

(1) the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

(2) the Government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent initiative for direct, bilateral negotiations among the warring parties of the Middle East including the Camp David Accords of 1979 and the Reagan plan of 1982;

(3) the Government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews who wish to live and work in the State of Israel; and

(4) a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements among the Arab and Israeli states.

(b) Policy.—(1) It is the sense of the Congress that the Soviet Union should not even be given consideration as a possible participant in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless and until the Government of the Soviet Union has first:

(A) re-established diplomatic relations with the State of Israel at the ambassadorial level;

(B) publicly re-affirmed its acceptance of United Nation Resolutions 181, 242, and 338, and finally,

(C) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within the Soviet Union who have applied for emigration to the State of Israel.

(2) It is the further sense of the Congress that in the event that the Soviet Union should perform these conditions, Soviet participation shall require the approval and joint invitation of the governments of Egypt, Israel, and Jordan.

DOLE (AND ROTH) AMENDMENT NO. 916

Mr. HELMS (for Mr. Dole, for himself and Mr. Roth) proposed an amendment to the bill S. 1394, supra, as follows:

At the appropriate place in the bill, insert the following:

Section 1. The American Ambassador (or the highest ranking American official, when no Ambassador shall be present) to the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Rumania, Cuba, the People's Republic of China, Laos, Afghanistan, Nicaragua and Yugoslavia shall submit to the Under Secretary of State for Management no later than October 1 of each year a report—

(1) on the security of the United States diplomatic and official facilities in such country and the existing or potential vulnerability of personnel attached to such facilities during the preceding year;

(2) describing any significant efforts by a foreign government or agent thereof to penetrate or compromise the security of the United States diplomatic or official facilities, or to recruit or manipulate any government employee with the aim of conducting espionage against the United States; and

(3) describing the security program or programs at such facilities for the upcoming year.

Sec. 2. The Under Secretary of State for Management shall, within 90 days after receiving the report described in Section 1, transmit the report to the Congress, together with—

(1) an evaluation of the security program or programs described in Section 1, to include a certification that the Under Secretary approves or disapproves of the program or programs; and

(2) any further statement, comments or recommendations he wishes to submit regarding the security of the United States diplomatic and official facilities and personnel which are the subject of the report.

GLENN (AND HELMS) AMENDMENT NO. 917

Mr. GLENN (for himself and Mr. Helms) proposed an amendment to the bill S. 1394, supra, as follows:

On page 78, beginning on line 23, through page 81, line 11, strike out all text and insert the following:

(3) the Director of the National Science Foundation;

(4) the Director of the National Academy of Sciences;

(5) the Administrator of the National Aeronautics and Space Administration;

(6) the Administrator of the National Oceanic and Atmospheric Administration;

(7) the Administrator of the Agency for International Development;

(8) the Director of the United States Geological Survey;

(9) the Secretary of Energy; and

(10) the heads of other appropriate Government agencies, and other persons knowledgeable about the problems of global warming, as the Chairman and Vice Chairman may determine.

(d) Advisory Role.—The chairmen and ranking minority members of the Committee on Foreign Relations; the Committee on Commerce, Science and Transportation; the Committee on Governmental Affairs; and the Committee on Environment and Public Works of the Senate and the Committee on Foreign Affairs; the Committee on Science and Transportation; and the Committee on Energy and Commerce of the House of Representatives shall serve as advisors to the Task Force, along with any other Members designated by the majority and minority leaders of the Senate and the Speaker of the House of Representatives.

(e) Task Force Report.—Not later than 12 months after the date of enactment of this Act, the Task Force shall develop and transmit to the President a United States strategy on the global climate, which shall include—

(1) a full analysis of the global warming phenomenon, including its environmental and health consequences;

(2) a comprehensive strategy, including the policy changes, further research, and cooperative actions with other nations that would be required to stabilize domestic and international emissions of atmospheric pollutants at safe levels; and

(3) an analysis of the impact of deforestation worldwide on the global climate.

SEC. 404. REPORT TO CONGRESS.

Not later than 3 months after receipt of the United States strategy on the global climate, the President shall submit such strategy, together with recommendations for further legislative action, to the Speaker of the House of Representatives and the chairmen of the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Environment and Public Works of the Senate.

SEC. 405. AMBASSADOR AT LARGE.

To coordinate and lead the participation of United States Government agencies in various multilateral activities relating to global warming, including United States participation in planning for the International Geosphere-Biosphere Program scheduled for the early 1990's, the President shall appoint an Ambassador at Large, who shall also represent the Secretary of State in the operations of the Task Force.

SEC. 406. INTERNATIONAL YEAR OF GLOBAL CLIMATE PROTECTION.

In order to focus international attention and concern on the problem of global warming, and to foster further work on multilateral treaties aimed at protecting the global climate, the Secretary of State shall undertake all necessary steps to promote, within the United Nations system, the early designation of an International Year of Global Climate Protection.

SEC. 407. CLIMATE PROTECTION AND UNITED STATES-SOVIET RELATIONS.

In recognition of the respective leadership roles of the United States and the Soviet

Union in the international arena, and of their joint role as the world's two major producers of atmospheric pollutants, the Congress urges that the President accord the problem of climate protection a high priority on the agenda of United States-Soviet relations.

SEC. 408. TERMINATION OF PROVISIONS.

This title shall terminate 12 months after the date of the enactment of this Act.

EVANS (AND OTHERS) AMENDMENT NO. 918

Mr. HELMS (for Mr. EVANS, for himself and Mr. BOSCHWITZ) proposed an amendment to the bill S. 1394, supra, as follows:

In section 108, delete subsection (c) and insert the following new sections:

(c) LIMITATION ON CONTRIBUTIONS.—Notwithstanding subsection (a), for fiscal year 1988, the United States contribution to the regular budget of the International Committee of the Red Cross shall not exceed nor be less than the amount contributed by the United States to the regular budget of the International Committee of the Red Cross in fiscal year 1987.

(d) RECOGNITION OF THE RED SHIELD OF DAVID.—It is the sense of Congress that a diplomatic conference of governments should grant identical status or recognition to the Red Shield of David (Magen David Adom) as that granted to the Red Cross and the Red Crescent and that the Red Shield of David Society of Israel be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

HELMS AMENDMENT NO. 919

Mr. HELMS proposed an amendment to the bill S. 1394, supra, as follows:

At the appropriate place, insert the following:

(a) Section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007) is amended by adding the following subsection:

"(e)(1) The Secretary, in consultation with the Committee on Foreign Relations of the Senate, and the exclusive representatives, shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service, and shall by June 1, 1988, transmit its report and recommendations to the Secretary of State and Chairmen of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(2) Effective October 1, 1987, and through October 1, 1988, the Secretary of State shall stay the selection out of any foreign service member whose selection out is in consequence of this section.

PELL AMENDMENT NO. 920

Mr. PELL proposed an amendment to amendment No. 919 to the bill S. 1394, supra, as follows:

Strike all after the first word and insert the following:

(e)(1) The Secretary, in consultation with the Committee on Foreign Relations of the Senate, and the exclusive representatives, shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service, and shall by June 1, 1988, transmit its report and recommendations to the Secretary of State and Chairman of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

HELMS AMENDMENT NO. 921

Mr. HELMS proposed an amendment to the bill S. 1394, supra, as follows:

At the end of the bill, add the following new section:

SEC. . The Director of the Office of Personnel Management shall conduct an audit and inspection of the operation of the merit personnel system in the Foreign Service and report to the Congress, not later than June 1, 1988, as to any improvements in the merit personnel system that the Director deems necessary. The report of the Director shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment and promotion of Foreign Service employees.

HELMS AMENDMENT NO. 922

Mr. HELMS proposed an amendment to the bill S. 1394, supra, as follows:

At the end of the bill, add the following new section:

SEC. . Section 1107 of the Foreign Service Act of 1980 is hereby amended by adding the following new subsection:

(e) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor of the grievant. The Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such supervisor is nominated for any position requiring the advice and consent of the Senate. Under appropriate procedures to safeguard confidentiality, the Board shall provide access to the entire record of any proceedings of the Board to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such Committee.

HELMS (AND DECONCINI) AMENDMENT NO. 923

Mr. HELMS (for himself and Mr. DECONCINI) proposed an amendment to the bill S. 1394, supra, as follows:

At the end of section 516, add the following new section:

SEC. . RELEASE OF YANG WEI.

(a) FINDINGS.—The Congress finds that—

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his Masters of Science degree in microbiology in 1986;

(2) In May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for this continued studies under a PhD program at the University of Arizona;

(3) On January 11, 1987 while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau;

(4) Yang Wei has been held without charge or trial since January 11, 1987;

(4) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or conditions by Chinese authorities;;

(5) Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son;

(6) The Chinese Criminal Procedure law of 1979, Sections 92, 97, 125, and 142 provides for a maximum of four and a half months of detention without charge or trail and Yang Wei has now been held over six months, contrary to Chinese law;

(7) Yang Wei has not committed any crime under United States or Chinese law;

(8) Yang Wei and his wife only aspire to freedom and democracy;

(9) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by chinese authorities;

(10) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country;

(b) POLICY.—It is the sense of Congress that—

(1) The People's Republic of China should immediately release Yang Wei;

(2) The United States should offer extended voluntary departure status to those Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

PELL (AND HELMS) AMENDMENT NO. 924

Mr. PELL (for himself and Mr. HELMS) proposed an amendment to the bill S. 1394, supra, as follows:

On Line 23 on Page 68, strike "7" and insert in lieu thereof "9";

On line 24 on page 68, strike "Two" and insert in lieu thereof "Five";

On line 2 on page 69, strike "5" and insert in lieu thereof "4".

On page 69, strike lines 3 through 13 and insert in lieu thereof:

"(A) Two members shall be appointed by the Chairman or Ranking Minority Member of the Committee on Foreign Relations. The Senate whichever is not of the same political party as the President;

(B) Two members shall be appointed by the Chairman or Ranking Minority Member of the Committee on Foreign Affairs of the House of Representatives, whichever is not of the same political party of the President."

HELMS AMENDMENT NO. 925

Mr. HELMS proposed an amendment to the bill S. 1394, supra, as follows:

At the end of the bill, add the following new section:

SEC. . (a) Within ninety (90) days of the enactment of this act, the Department of State shall submit to the Chairmen and Ranking Members of the Senate Committee on Foreign Relations, the Senate Committee on Governmental Affairs, the House

Committee on Foreign Affairs, and the House Committee on Government Operations, a report complying with the 1980 and 1984 requests of the Senate Committee on Governmental Affairs for a listing and description of all Policy and Supporting Positions in the Department of State and related agencies. The report shall include a complete and thorough unclassified tabulation of the following:

(1) all Foreign Service Officer positions subject to noncareer appointments;

(2) all positions in the Senior foreign service subject to noncareer appointment; and

(3) The name of the incumbent; location; type; level, grade, or salary; tenure; and expiration (if any) of each position.

(b) Notwithstanding any other provision of law, or of this Act, no funds authorized to be appropriated by this Act shall be obligated or expended unless the requirements described in (a) have been fully and faithfully complied with.

PELL AMENDMENT NO. 926

Mr. PELL proposed an amendment to the bill S. 1394, supra, as follows:

At the appropriate place, insert the following:

Section 401(a)(4) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) is hereby repealed. Funds authorized to be appropriated by section 401(a)(1)(A) of that Act may be used for any "Salaries and Expenses" purpose, provided that use of funds for other than Diplomatic Security purposes shall be treated as a reprogramming.

BENTSEN AMENDMENT NO. 927

Mr. PELL (for Mr. BENTSEN) proposed an amendment to the bill S. 1394, supra, as follows:

At the appropriate place in the bill, add the following section:

SECTION . DISTRIBUTION WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "AMERICA—THE WAY I SEE IT".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "America—The Way I See It"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

HELMS AMENDMENT NOS. 928 AND 929

Mr. HELMS proposed two amendments to the bill S. 1394, supra, as follows:

AMENDMENT NO. 928

At the end of title V, insert the following new section:

SEC. . CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES AND INCLUSION OF SPECIFIC AGENCY COMMENTS.

(a) Section 481(e) of the Foreign Assistance Act of 1961 is amended by striking out "March 1" and inserting in lieu thereof "February 15".

(b) Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"(7) Each report pursuant to this subsection shall include specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have cooperated fully with such agencies during the preceding year as described in subsection (h).".

(c) Section 481(h) of the Foreign Assistance Act is amended in subparagraph (A), by striking out "30" and inserting in lieu thereof "60".

AMENDMENT NO. 929

On page 111, between lines 16 and 17, insert the following new section:

SEC. . LIMITATION ON THE USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

(a) AMENDMENT TO FOREIGN MISSIONS ACT.—The State Department Basic Authorities Act of 1956 is amended by adding at the end of title II (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act") the following:

"USE OF FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION

"(a) ESTABLISHMENT OF LIMITATION ON CERTAIN USES.—A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

"(b) TEMPORARY LODGING.—For the purposes of this section, the term 'residence' does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

"(c) WAIVER.—The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'foreign mission, includes any international organization as defined in section 209(b), and

"(2) the term 'unaffiliated alien' means, with respect to a foreign country, an alien who—

"(A) is admitted to the United States as nonimmigrant, and

"(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.".

(b) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).

PRESSLER AMENDMENT NO. 930

Mr. PELL (for Mr. PRESSLER) proposed an amendment to the bill S. 1394, supra, as follows:

On page 109, lines 10 and 11, delete everything after the word TRANSYLVANIA.

HUMPHREY (AND OTHERS) AMENDMENT NO. 931

Mr. HUMPHREY (for himself, Mr. BYRD, and Mr. HELMS) proposed an amendment to the bill S. 1394, supra, as follows:

At the end of the bill, add the following new section:

SEC. . ADMINISTRATION POLICY ON AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) Each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) Although the Administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces," political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) In the absence of a coordinated and aggressive policy by the Administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union;

(4) Despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the Administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) REPORT TO CONGRESS.—(1) Not later than sixty days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction;

(2) Not later than sixty days after the date of enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that will be withheld from the Soviet Union, if they do not withdraw all troops from Afghanistan within a date that is three months after the date of the enactment of this Act;

(3) A detailed and comprehensive report in a suitably classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments;

(4) A status report on the structure, coordinating and military success of the Afghan Freedom Fighters Alliance.

KERRY (AND HELMS) AMENDMENT NO. 932

Mr. KERRY (for himself, Mr. Helms, Mr. Harkin, Mr. Ford, Mr. Wirth, Mr. Simon, Mr. Adams, Mr. Moynihan, Mr. Hatfield, Mr. Dixon, Mr. Weicker, Mr. Sarbanes, Mr. Melcher, Mr. Johnston, and Mr. Bond) proposed an amendment to the bill S. 1394, supra, as follows:

At the appropriate place in the bill, add the following new section:

FINDINGS

Sec. . The United Nations has passed nine resolutions condemning the violation of human rights in Iran;

The United Nations Subcommission on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that to date, more than 200,000 Iranians have been imprisoned, tortured or executed because of their beliefs;

The United Nations Commission on Human Rights confirms 7,000 executions in Iran between 1978 and 1985, and attests that the actual number is probably much higher;

Despite the persistent requests over the past six years by the United Nations and by many human rights organizations that the Iranian government allow a special representative of the United Nations Security Council to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian government;

Executions, including executions of children and members of religious minorities, apparently still take place in Iran;

The Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

Iran has rejected all proposals to end the seven year Iran-Iraq War.

Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq War;

The Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region;

It is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy; Now therefore, the Congress—

(1) Expresses concern for those citizens who against their will must endure war and unprecedented repression;

(2) Supports an official U.S. policy of completely halting the shipment of any kind of armament to the Government of Iran;

(3) Urges that the President continue to make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons and to pressure Iran to permit inspection of Iranian prisons by an international delegation; and

(4) Expresses support for all efforts made through the United Nations Security Council to pressure the Khomeini government to accept peace and to end the carnage caused by the seven years of war.

DOMENICI AMENDMENT NO. 933

Mr. DOMENICI proposed an amendment to the bill S. 1394, supra, as follows:

At page 9, line 20, strike "$500,000,000" and insert "$50,000,000".

At the end of section 107, add the following new subsection:

"(d) The provisions of this section shall not take effect until 180 days after the date of enactment of this Act."

CHAFEE (AND OTHERS) AMENDMENT NO. 934

Mr. CHAFEE (for himself, Mr. Stafford and Mr. Baucus and Mr. Mitchell) proposed an amendment to the bill S. 1394, supra, as follows:

On page 78, add the following at the end of line 15:

"The Task Force also shall encourage and support activities of the United Nations Environment Program, the World Meteorological Organization, and other international or national organizations which the Task Force determines to be appropriate, to:

"(1) foster cooperation among nations to develop more extensive and coordinated research efforts with respect to the greenhouse effect;

"(2) identify existing and potential strategies, including technologies and activities, to stabilize global climate, and atmospheric concentrations of greenhouse gases, at current levels; and

"(3) increase the worldwide dissemination of information with respect to—

"(i) the causes of the greenhouse effect;

"(ii) the environmental and health consequences of the greenhouse effect; and

"(iii) methods to alleviate or avoid the greenhouse effect and the consequences of such effect.

HELMS AMENDMENT NOS. 935 THROUGH 937

Mr. HELMS proposed three amendments to the bill S. 1394, supra, as follows:

Amendment No. 935

To be added at the appropriate place in the bill:

A. Findings. The United States Senate finds that—

(1) a terrorist bomb exploded on August 8, 1987, in the China Palace restaurant in Tegucigalpa, Honduras;

(2) the bomb was directed at American soldiers and did in fact wound American soldiers and an American contractor;

(3) the wounded American soldiers are identified as SFC Ronald W. Rodriguez (California), SFC Robin Jackson (New York), SFC Ian Holt (Colorado), SFC Direak McKeen (Illinois), and SFC David Lambert (Iowa), and the American contractor is Barry Stein (Florida);

(4) the U.S. military personnel were in Honduras assigned to Joint Task Force Bavo;

(5) Honduran authorities have named Alfonso Guerrero Ulloa as a suspect in this act of terrorism and have a warrant for his arrest;

(6) the Government of Mexico, contrary to accepted norms of international law on harboring terrorists, has granted asylum to Mr. Guerrero, and

(7) the United States Government has protested to the Government of Mexico.

B. Statement of Policy. It is the sense of the Senate that—

(1) the United States Senate deplores the harboring of international terrorists, and

(2) the United States Government should call upon the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras.

Amendment No. 936

At the end of the bill, insert the following:

Sec. . Closing of diplomatic and consular post in Antigua and Barbuda.

(a) Prohibition on Use of Funds.—None of the funds made available for the Department of State for any fiscal year may be used for the expenses of maintaining a United States diplomatic or consular post in Antigua and Barbuda.

(b) Effective Date.—The prohibition contained in subsection (a) shall take effect 50 days after the date of enactment of this Act.

Amendment No. 937

"Sec. . Within 30 days of the enactment of this Section, the President shall report to Congress (1) whether Soviet violation of the ABM Treaty and the complete failure after the ratification of such treaty to reduce or limit the increase of Soviet offensive intercontinental nuclear weapons systems jeopardize the supreme national interest of the United States and (2) whether the United States should accordingly withdraw from such treaty.".

KERRY (AND OTHERS) AMENDMENT NO. 938

Mr. KERRY (for himself, Mr. Cranston, Mr. Lugar, and Mr. Dodd) proposed an amendment to the bill S. 1394, supra, as follows:

On page 97, strike line 17 through line 20 and substitute the following language:

The Government of the Republic of Korea recognized the popular will by formally announcing that there will be direct election of the President as part of the nation's constitutional reform.

On page 97, strike line 21 through line 25 and substitute the following language:

"the peaceful transition of government power promised for 1988 will respond to the hopes of millions of South Koreans and help alleviate pressure for political turmoil in that nation;"

On page 98, strike lines 20 through 23 and substutute the following:

"the United States applauds the decision of the Chun government on June 29, 1987, to support efforts for constitutional reforms essential to a meaningful and peaceful transfer of power."

On page 99, strike line 12 through line 17 and substitute the following language:

"The United States welcomes the decision by the Republic of Korea to proceed with constitutional reform and continue the search for a peaceful agreement among Korean parties on this issue in the spirit of compromise essential to democracy."

Add the following item, after item (7) of section (b):

(8) the United States applauds public and private statements by the South Korean Minister of Defense, senior officers and top government officials that they support the democratization process and that the military will not disrupt it in any way.

WILSON (AND CRANSTON) AMENDMENT NO. 939

Mr. PELL (for Mr. Wilson, for himself, and Mr. Cranston) proposed an amendment to the bill S. 1394, supra, as follows:

On page 74, strike lines 11 through 16, and add the following in lieu thereof:

(D) proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project comparable in nature and technical complexity to that being contracted for;

GRASSLEY AMENDMENT NO. 940

Mr. GRASSLEY proposed an amendment to the bill S. 1394, supra, as follows:

To be added at an appropriate place in the bill:

SHORT TITLE

Section 1. This Act may be cited as the "Anti-Terrorism Act of 1987".

FINDINGS; DETERMINATIONS

Sec. 2. (a) The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this Act referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee is under indictment in the United States for the murder of that American Citizen;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) not withstanding any provision of the law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

ENFORCEMENT

Sec. 4. (a) The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this section.

(b) Any district court of the United States for a district in which a violation of this Act occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this Act.

EFFECTIVE DATE

Sec. 5. (a) Provisions of this Act shall take effect 90 days after the date of enactment of this Act.

(b) The provisions of this Act shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorism actions anywhere in the world.

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and have been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine. Thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

PROHIBITIONS REGARDING THE PLO

Section 3. It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this Act—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

HELMS AMENDMENT NO. 941

Mr. HELMS proposed an amendment to the bill S. 1394, supra, as follows:

Strike section 136 of the bill, and add at the end of the bill the following new section:

Section . Notwithstanding any other provision of law or of this Act, the Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State.

AIRPORT AND AIRWAY CAPACITY EXTENSION ACT

BENTSEN (AND PACKWOOD) AMENDMENT NO. 942

(Ordered to lie on the table.)

Mr. BENTSEN (for himself and Mr. Packwood) submitted an amendment intended to be proposed by them to the bill (S. 1184) to amend the Airport and Airway Improvement Act of 1982 to improve the safety and efficiency of air travel, and for other purposes; as follows:

At the end of the bill, insert the following new title:

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 201. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This title may be cited as the "Airport and Airway Revenue Act of 1987".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. 4-YEAR EXTENSION OF TAXES ON TRANSPORTATION BY AIR; REDUCTION OF TAXES IN 1991 IF FUNDS REMAIN UNOBLIGATED.

(a) Tax on Transportation of Persons by Air.—Section 4261(f) (relating to termination of tax on transportation by air) is amended to read as follows:

"(f) Termination; Reduction in 1991 if Funds Remain Unobligated.—

"(1) In general.—Except as provided in paragraph (2), the taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1992.

"(2) Reduction of rate in 1991.—In the case of transportation beginning in 1991, if the unobligated balance in the Airport and Airway Trust Fund as of September 30, 1990 (as determined by the Secretary) exceeds $3,000,000,000, then—

"(A) subsections (a) and (b) shall each be applied by substituting '4 percent' for '8 percent', and

"(B) subsection (c) shall be applied by substituting '$1.50' for '$3'.

"(3) Treatment of obligations.—For purposes of determining the unobligated balance of the Airport and Airway Trust Fund under paragraph (2)—

"(A) In general.—Except as provided in subparagraph (B), an amount shall be treated as obligated when it is appropriated.

"(B) Amounts obligated under section 505 of airway improvement act.—An amount shall be treated as obligated under section 505 of the Airport and Airway Improvement Act of 1982 when such amount is authorized."

(b) Tax on Fuels Used in Noncommercial Aviation.—

(1) In general.—Section 4041(c)(5) (relating to termination) is amended to read as follows:

"(5) Termination; reduction in 1991 if funds remain unobligated.—

"(A) In general.—Except as provided in subparagraph (B), the taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, 1991.

"(B) Reduction of rate in 1991.—In the case of any sale or use during 1991, if paragraph (2) of section 4261(f) applies during 1991, then—

"(i) paragraph (1) shall be applied by substituting '7 cents' for '14 cents', and

"(ii) no tax shall be imposed under paragraph (2).".

(2) Refund of fuel taxes on noncommercial aviation.—

(A) In general.—Section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) GASOLINE USED IN NONCOMMERCIAL AVIATION DURING 1991.—Except as provided in subsection (k), if section 4041(c)(5)(B) applies during 1991 and—

"(1) any tax is imposed by section 4041(c)(2) or 4081 on any gasoline sold during 1991, and

"(2) such gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess (if any) of the aggregate amount of tax paid under sections 4041(c)(2) and 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used.".

(B) TECHNICAL AMENDMENTS.—

(i) Paragraph (1) of section 6427(i) is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (p)".

(ii) Clause (i) of section 6427(i)(2)(A) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (p)".

(c) TAX ON TRANSPORTATION OF PROPERTY BY AIR.—Section 4271(d) (relating to termination) is amended to read as follows:

"(f) TERMINATION; REDUCTION IN 1991 IF FUNDS REMAIN UNOBLIGATED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1992.

"(2) REDUCTION IN RATE IN 1991.—In the case of transportation beginning in 1991, if paragraph (2) of section 4261(f) applies during 1991, then subsection (a) shall be applied by substituting '2.5 percent' for '5 percent'.".

(d) EXPENDITURES FROM TRUST FUND.—

(1) IN GENERAL.—Section 9502(b) (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking out "January 1, 1988" each place it appears and inserting in lieu thereof "January 1, 1992".

(2) EXPENDITURES FROM TRUST FUND.—The material preceding subparagraph (A) of paragraph (1) of section 9502(d) (relating to expenditures from Airport and Airway Trust Fund) is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1990".

(3) TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) is amended by inserting before the semicolon "or under the Airport and Airway Capacity Expansion Act of 1987 (as such Act was in effect on the date of the enactment thereof)".

SEC. 203. EXEMPTION OF CERTAIN HELICOPTERS FROM TAX ON TRANSPORTATION OF PERSONS BY AIR.

(a) EXEMPTION.—Subsection (e) of section 4261 (relating to exemption for certain helicopter uses) is amended by striking out "or" at the end of paragraph (1), by inserting "or" at the end of paragraph (2), and by adding after paragraph (2) the following new paragraph:

"(3) any other use if tax is imposed under section 4041(c) or 4081 on fuel used in connection with such use,".

(b) IMPOSITION OF TAX ON FUELS USED BY HELICOPTERS EXEMPT FROM TAX ON TRANSPORTATION OF PERSONS.—Paragraph (4) of section 4041(c) (defining noncommercial aviation) is amended by adding at the end thereof the following new sentence: "Except as provided in subsection (l), the term 'noncommercial aviation' shall include the use of any helicopter which does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970 or otherwise uses services provided pursuant to the Airport and Airway Improvement Act of 1982.".

(c) TECHNICAL AMENDMENTS.—Sections 4261(e) and 4041(l) are each amended by striking out "System Improvement Act" and inserting in lieu thereof "Improvement Act".

(d) EFFECTIVE DATE.—

(1) EXEMPTION.—The amendments made by subsection (a) shall apply to transportation beginning after September 30, 1988, but shall not apply to any amount paid on or before such date.

(2) FUELS TAX.—The amendment made by subsection (b) shall apply to sales or uses after September 30, 1988.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

GRAHAM AMENDMENT No. 943

Mr. GRAHAM proposed an amendment to the bill (S. 1394) supra; as follows:

On page 111, between lines 16 and 17, insert the following:

CRITERIA FOR MEASURING NICARAGUA'S COMPLIANCE WITH THE GUATEMALAN ACCORDS

In order for the Government of Nicaragua to be in full compliance with the letter and spirit of the Central American Peace Accord signed on August 7, 1987, the Congress hereby declares that it is imperative that the Government of Nicaragua take the following mutually reinforcing steps:

1. ESTABLISHING THE RULE OF LAW

A. Bring the 1987 Constitution in conformity with the American Convention of Human Rights to which Nicaragua is a signatory.

B. Annul the March 1982 State of Emergency Decree and its amendments that suspends all rights and guarantees of the Nicaraguan people.

C. Repeal the Law of Public Security and Maintenance of Order and its amendments.

D. Restore "habeas corpus" and annul all laws or decrees that may suspend or restrict it in any way.

E. Dismantle the Anti-Somozist Popular Tribunals and recind the judicial functions of the Sandinists police. All persons held as a result of their actions should be released since they have not been accorded due process.

F. Abolish the authority accorded the Sandinista Defense Commitees as instruments of political control as paramilitary institutions and as controllers of food quotas and job recommendations.

G. Cease the discriminatory use of the military draft as a punitive measure against persons not affiliated with the Sandinista Front. The regulation of compulsory military service must be established once the army is separated from the Sandinista Front.

H. End all government subsidies to all mass organizations affiliated with the Sandinista Front and respect the will of individuals who do not wish to be affiliated with such organizations, especially government employees and teachers.

I. Restore the independence of the judiciary. Due process should be reinstated, including the right of all prisoners to habeas corpus, to know the charges against them, to appeal to a higher court, to have the right to an attorney, and to not testify against oneself.

II. NATIONAL RECONCILIATION

A. The establishment of a mutually acceptable cease-fire between the Nicaraguan government and the resistance, subject to international verification. This ceasefire must allow the resistance to remain in place and able to receive humanitarian aid.

B. The establishment of a full and complete amnesty. This amnesty cannot contain provisions excluding particular groups, e.g. excluding military elements of the Nicaraguan Resistance while permitting political elements to return. Demobilized forces must be allowed to reintegrate fully into both the civil and political life of the country. Exiled Nicaraguans must be allowed to return with full guarantees about their personal safety.

C. All political prisoners without exception or condition, including former combatants, should be released. Of particular concern are those convicted by the Sandinista police, the popular tribunals and under the Law of Public Security and Maintenance of Order. Such convictions should be annulled and property confiscated as a result of such verdicts should be restored. All individuals being investigated because of political or related reasons and who have not been duly processed before a court of law should be freed. Outside organizations such as the International Committee of the Red Cross and the Inter-American Commission of Human Rights should be allowed to monitor and verify the prisoner release.

III. DEMOCRATIZATION

A. Restore the Freedom of Expression.

1. Allow the establishment of all publications, including all those previously closed down by the government.

2. Rescind all decrees and constitutional articles that restrict the freedom of expression.

3. Return confiscated media outlets to prior owners.

4. Provide unrestricted and equal access to newsprint, key supplies and foreign exchange to import equipment and spare parts.

5. End all forms of economic harassment against independent publishers.

6. Allow private television broadcasting.

7. Allow the reopening of some 25 private news programs closed or taken over by the Government beginning in 1982.

8. End all arbitrary arrests and turba attacks against journalists, writers and publishers.

B. Restore complete civil rights and political liberties.

Political Parties

1. Allow political parties to hold marches, demonstrations and public outdoor meetings without government or Sandinista Front harassment or intimidation.

2. End the practice of jailing opposition party activists, and drafting them or their children in reprisal for nonviolent political activity.

3. End government infiltration of party meetings and all pressure against opposition party members to inform against colleagues and leaders.

4. Grant opposition parties access to the media and allow them to operate their own publications.

5. Permit opposition parties to freely publicize party meetings and to travel throughout the country to attend such meetings.

6. Release all opposition members from prison.

7. Create an independent electoral commission to establish new procedures for the next elections and allow independent observers to monitor the results.

Human Rights Groups

1. End all jailings, harassment and threats, including the canceling of food rations against the Mothers of Political Prisoners Movement, the Permanent Commission for Human Rights and the Nicaraguan Bar Association.

2. Allow independent human rights defenders to hold meetings and travel freely throughout the country to monitor the human rights conditions.

3. Provide the CPDH and human rights organizations access to all judicial proceedings and all places of detention.

4. Permit human rights groups to report freely on their findings both in their own reports and through the media.

Labor Unions

1. Ensure labor unions and cooperatives the right to strike, bargain collectively, to demonstrate, to publicly meet and to take collective action to press for labor rights.

2. Ensure that workers and campesinos have the right to join and form unions and cooperatives of their own free will and to elect their own leaders through secret ballot. These unions should be recognized according to the labor code.

3. Ensure that unions and cooperatives can voice their views in the national media and in their own publications without government interference.

4. Guarantee that union leaders enjoy total freedom of movement and have the ability to visit all areas and worksites to conduct union business.

5. End direct and indirect harassment and pressure against independent trade unions.

6. Release all trade unionists currently imprisoned in connection with union activity.

Church Groups

1. Allow the Catholic Church to reopen its social welfare office, human rights office, newspaper and radio station.

2. Allow the return of all 20 expelled Catholic priests.

3. Repeal Article 124 of the 1987 Nicaraguan Constitution, which bars religious education from the curriculum of private schools.

4. End the prohibition against Protestant evangelicals from holding or attending prayer meetings.

5. End coercion against religious believers to join pro-Sandinista groups or to incorporate Sandinista ideology into religious teachings.

6. End detention, intimidation and their coercive measures on the basis of religious affiliation.

The Atlantic Coast

1. Permit free access to and movement within the Atlantic Coast region.

2. Permit Indians and other indigenous peoples and their organizations freely to assemble, speak, publish, disseminate, written material and broadcast their views.

3. Return to its prior owners, the independent radio station "Radio-Ver".

4. Begin a dialogue with the armed and creole opposition to redress past grievances and permit civilian rule in all towns and villages in the region.

5. Permit all independent Indian and Creole political, cultural, economic and social organizations to operate freely in the region.

6. End arbitrary arrests, detentions and threats against the residents of the Atlantic Coast.

Rural Population

1. End practice of forcible relocation of Indian and campesino villages and allow their return to their homes and villages.

2. Abolish the current practice of preventive detention of the rural population without charges.

3. End pressures against small farmers to join Sandinista cooperatives and to join and attend meetings of the Sandinista political organizations.

4. Demilitarize cooperatives during the period of ceasefire.

5. Cease all aerial bombing and strafing attacks against civilians, their villages, homes and property.

Professional Organizations

1. Respect the integrity of all private sector and professional organizations.

IV. THE CESSATION OF AID TO INSURGENTS

A. Suspend all military training, aid and logistical support to the FMLN and all other Central American guerrilla and terrorist organizations.

B. Close all guerrilla training facilities under international supervision.

C. Close the FMLN command and control center in Nicaragua.

RECLAMATION AUTHORIZATION ACT AMENDMENTS

EVANS (AND ADAMS) AMENDMENT NO. 944

Mr. D'AMATO (for Mr. EVANS, for himself, and Mr. ADAMS) proposed an amendment to the bill (S. 649) to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327); as follows:

Strike everything after the enacting clause and insert in lieu thereof:

"That section 208 of the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327) is amended by deleting "$39,370,000 (January 1976 prices), plus or minus such amounts, if any," and inserting in lieu thereof "88,000,000 (January 1987 prices), provided that of the $88,000,000 authorized herein, only $18,000,000 thereof may be adjusted by such amounts, plus or minus,".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, October 21, 1987, at 9 a.m., to receive testimony on the feasibility of providing captioning for the hearing impaired of television broadcasts from the Senate Chamber. Organizations and individuals who wish to testify or submit a statement for the hearing record are requested to contact Martha Spenger of the Rules Committee staff on 202-224-6686.

At such time as a administrative quorum is achieved, the committee will hold a business meeting to consider items pending on its administrative agenda, including the display of flags in the corridors of the Senate Office Buildings, proposed regulations for providing commercial legislative information services to Senators, committees, and other senatorial offices, and access to the Senate floor during recesses of the Senate. For further information regarding the business meeting, please contact Carole Blessington of the Rules Committee staff on 224-0278.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the information of the public and my colleagues in the Senate that H.R. 2566, a bill to extend the term of the Delta Region Preservation Commission has been added to the list of bills to be considered at the hearing of the Subcommittee on Public Lands, National Parks and Forests on October 20. This measure passed the House on September 29, 1987.

Those wishing information on this hearing should contact Tom Williams at 224-7145 or Beth Nocross at 224-7933 of the subcommittee staff.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production on Friday, October 16, 1987, at 10 a.m. in room 366 of the Dirksen Senate Office Building. The purpose of the oversight hearing is to consider the processing of oil shale mining claims and patents by the Department of the Interior under the Mining Law of 1872.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke at 202-224-2383 or Lisa Vehmas at 202-224-7555.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that hearings have been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearings will take place November 3 and 5, 1987, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearings is to receive testimony on the following measure currently pending before the subcommittee:

S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

Those wishing information about testifying at the hearings or submitting written statements should write to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, room SD-364, Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Tom Williams at 224-7145 or Beth Norcross at 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 8, 1987, at 2 p.m. to hold oversight hearings on the International Marketing Programs of the U.S. Travel and Tourism Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, October 8, to conduct an oversight hearing on the Office of Investigations, Nuclear regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, October 8, 1987, to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, October 8, beginning at 1:30 p.m., to conduct an oversight hearing on the Office of Inspector and Auditor, Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, October 8, 1987, to hold hearings on the Federal Government's Handling of Soviet and Communist Bloc Defectors.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE HANDICAPPED

Mr. BYRD. Mr. President, I ask unanimous consent that the Handicapped Subcommittee, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, October 8, 1987, to conduct a hearing on "Handicapped Oversight Issues."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 8, 1987, at 3 p.m. in both closed and open sessions to hear testimony on current issues in the Philippines.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 8, 1987, to hold a hearing on acid rain: United States-Canadian relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 8, 1987, to begin work on budget reconciliation legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, October 8, 1987, at 2:30 p.m. to hold a business meeting to discuss committee supplemental funding, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MEMORIAL TO DR. LAUREL D. LOFTSGARD

● Mr. CONRAD. Mr. President, October 1, 1987, North Dakota lost a leading educator in Dr. Laurel D. Loftsgard. A North Dakota native, Dr. Loftsgard was born in Hoople, ND, on September 4, 1926. He served our country in two tours of duty with the U.S. Army—once in 1946-47 and, again, during the Korean war from 1950-51. He received his undergraduate degree in agricultural economics from North Dakota State University and a doctorate from Iowa State University.

In 1968 he became the president of the North Dakota State University. During the two decades he served as president, the university grew from a relatively small college to a university with national recognition. The enrollment was increased by 50 percent and building and remodeling projects totalling more than $30 million were undertaken during his tenure.

Dr. Loftsgard's most outstanding achievement was his development of agriculture research and economics. North Dakota State University has become a national center for innovative agriculture techniques. His leadership in developing new farming methods has helped the people in our State and throughout the country.

The people of North Dakota will miss Dr. Loftsgard personally but his legacy will live on through the quality of education students receive at North Dakota State University and the quality and quantity of food and fiber available to the world.●

PRESIDENT'S SOUTH AFRICA REPORT

● Mr. WEICKER. Mr. President, 1 year ago, the United States ended its years of silent complicity and told the world apartheid was unacceptable—that we found it morally reprehensible, and that we would support the South African people in their quest for the basic dignities to which every human being is entitled. Today, the President, whose veto we had to override to make our long overdue statement, suggests in his report that sanctions have been ineffective, and that the best way to bring about change is to return to the old policies of constructive engagement.

No one here believed that sanctions would be the final solution to the great wrong of apartheid. Rather we viewed them as a first step, as a foundation upon which we and other nations could build a concerted international response to bring pressure to bear on the minority regime.

That international response was undercut by the President himself. In February of this year, when the United Nations Security Council passed a resolution that would have made mandatory for all U.N. members a package of sanctions similar to our own, the administration, to the shame of the American people, ordered the U.S. Ambassador to veto the resolution.

At best the administration has been reluctant to uphold the law, and at its worst, it has been obstructionist. It has allowed South Africa to use loopholes to get around the ban on uranium imports. It has been unwilling to assure us that the intelligence community is not engaging in military collaboration with South Africa, and it has allowed the U.S. trade representative to formally disavow responsibility for implementing provisions punishing foreign countries that take commercial advantage of U.S. sanctions. And now the President, in clear violation of the law, has refused to recommend additional sanctions.

Section 501(c) of the Anti-Apartheid Act states:

> If the President determines that significant progress has not been made by the Government of South Africa in ending the system of apartheid and establishing a nonracial democracy, the President shall include in the report required by subsection (b) a recommendation on which of the following additional measures should be imposed.

And the act lists five distinct measures including a ban on steel imports from South Africa, a prohibition on military assistance to nations circumventing the international arms embargo to South Africa, and a prohibition on importing food, diamonds, and textiles.

The President shall recommend. There are no if, buts or maybes there. The President shall recommend. As we have seen most recently as it concerns the War Powers Act, the President is again blatantly disregarding the law. We should ban the importation of diamonds, not sit back and throw up our hands and say, well, its just a little law, no harm done in not enforcing it. What kind of message does that send to the world about American resolve?

Sanctions the President says "are not the best way to bring freedom to South Africa." If we were to gauge the effects of sanctions solely on the demeanor of the apartheid leadership, I might agree that sanctions have been ineffective. But the pulse of the Nation cannot be found by gently holding Botha's wrist, the heartbeat comes from the South African people themselves. While many white voters, reacting to the scare tactics of the Botha administration's law-and-order campaign, increased the strength of the ruling party, there are many indications of positive movement toward change.

On October 22, within 3 weeks of the passage of the Anti-Apartheid Act, the South African Dutch Reformed Church, the leading church among Afrikaners, which had always held that apartheid was sanctioned by Biblical teaching, reversed itself, announcing that it had been wrong, that apartheid was not justified by the Bible, and that it was not compatible with Christian principles.

On November 28, within 2 months of passage of the act, black and white leaders in the Natal province—a province that holds 20 percent of South Africa's population—sat down together and negotiated a plan to end apartheid in their area and implement political power sharing.

And this summer, in Senegal, there occurred a historic meeting between leaders of the African National Congress and key members of the Afrikaner community. While they had open differences, they accepted the goal of a nonracial democracy for South Africa.

Taken together these actions represent an enormous step toward change. In fact recent opinion polls reveal three times as many South African whites prefer to speed up reform as slow it down, and over half now favor a nonracial government.

White South Africans are recognizing the high costs—both moral and monetary—of resisting change. The decline of investment, the outflow of capital, the exodus of skilled workers, and the country's growing isolation from the world, demonstrate that apartheid has no future, and that long-time security lies with reform.

In his report, the President says that our policy has hurt the blacks of South Africa. Yet throughout South Africa, moderate black leaders and organizations continue to call for stronger sanctions.

Last July, Desmond Tutu reaffirmed his support for sanctions and disinvestment as an effective nonviolent action to gain blacks political power.

Also in that month, COSATU, the largest black trade union in the country, with over a million members, called for comprehensive and mandatory sanctions and disinvestment.

And even the Reverend Leon H. Sullivan, who for 10 years has been the principle advocate of fair employment principles for U.S. companies doing business in South Africa, has given up that fight and urged those companies to sell their investments there and end all commercial ties.

The President is dead wrong that sanctions haven't helped. While I agree we need diplomacy, diplomacy alone did not do the job. I came to the Congress back in 1969. Back then people were saying just give South Africa a chance, they'll come around. For 18 years we've heard that same message, but they didn't come around. Now after 1 year of sanctions, the President wants us to admit sanctions have failed. After just 1 year, he wants to go back to the failed policies of decades. The fact is what we have in South Africa is an intransigent regime that wants to maintain its power as long as it can, and mere talking without sanctions or moral weight to back our words up, will not precipitate a change in power or basic policy. In just 1 year, we have begun to change the situation.

The people of South Africa, as evidenced by men like Archbishop Tutu and the Reverend Sullivan, know that slaves' bread provides no nourishment to the dreams of humanity. They are willing to fight and to suffer if their campaign will take them across the ignoble grounds of their lifelong repression and bring them to the time and place where they and their people can rightfully assume the responsibilities and dignities to which every man and woman should be heir.

When we passed the Anti-Apartheid Act 1 year ago, we sent a clear message to the people of South Africa that has resounded throughout that country. We told them the United States of America was on their side, and not with their oppressors.

Today instead of retreating, we must reaffirm our commitment and our support for the dreams of a people. With increased sanctions against the apartheid regime, and if the President will be willing to assume his responsibilities in upholding the law of this land, we can take the next needed step toward ridding humankind of the pestilence of apartheid.●

NUCLEAR NONPROLIFERATION

● Mr. GLENN. Mr. President, on July 31 the Senate passed by unanimous consent a resolution I introduced on future United States assistance to Pakistan. That resolution, along with an identical one approved by the House, expresses grave concern about the effect of Pakistan's unbridled nuclear weapons program on future United States-Pakistani relations.

Specifically, the resolution communicates the sense of the Senate that Pakistan must live up to its past promises if it expects further military assistance from the United States. These include commitments to refrain from producing weapon-grade nuclear materials and from illegally purchasing nuclear equipment in the United States.

Evidence strongly suggests that Pakistan has not been standing by its word. Indictments unsealed in July charge Pakistanis and others with attempting to export United States bomb-related materials to Pakistan. In response, the Pakistani Government has invoked the Iran-Contra defense; the smuggling scheme, Islamabad claims, was an unauthorized—or "rogue"—operation.

This explanation is simply unacceptable. For more than a decade, Islamabad has relied on a global network of Government agents and middlemen to supply its clandestine nuclear weapons program. Press reports and court records point to official Pakistani involvement in this most recent smuggling operation as well.

Neither Congress nor the American people should be taken in by Pakistan's implausible denials. In the words of my colleague Senator PELL, the distinguished chairman of the Senate Foreign Relations Committee, "It is time to get tough with Pakistan * * *. If Pakistan perceives that the United States means business, it is more likely to keep its word." Mr. President, I ask that the full text of Senator PELL's recent article in the Washington Post be printed in the RECORD.

While Pakistan, and its rival India, edge toward the nuclear precipice, developments in Latin America are slightly more encouraging. In November 1986, Argentine nuclear officials toured Brazil's sensitive nuclear facilities at the University of Sao Paulo. This visit was reciprocated in July, when Brazilian President Jose Sarney surveyed Argentina's closely guarded uranium enrichment complex at Pilcaniyeu.

Let there be no mistake about it: Such one-time visits are no replacement for a more rigorous and comprehensive mutual inspections regime. To date, both Brazil and Argentina continue to resist full-scope safeguards and remain outside both the global Nuclear Non-Proliferation Treaty and the regional Treaty of Tlatelolco. Similarly, neither nation has subscribed to the widely accepted international guidelines governing the export of nuclear equipment. Nonetheless, this nuclear glasnost marks an important first step toward reducing tensions between these regional rivals. It is a process worth nurturing, both in Latin America and in South Asia.

This progress, however, must be weighed against recent nonproliferation setbacks in both Argentina and Brazil. Of particular concern is Argentina's role as a nuclear supplier; since June, Argentine President Raul Alfonsin has agreed to provide both Iran and Brazil with enriched uranium, as well as to help complete construction of Iran's twin nuclear power reactors. The opposition Peronist party, which scored surprising upsets in regional elections early last month, has attached the "doctrine of nonproliferation," including controls on nuclear exports and reciprocal inspections with Brazil. The Peronists are thought to favor preserving Argentina's nuclear weapons option.

The most disturbing news, however, has come not from Argentina but from Brazil. President Sarney announced in early September that Brazil had succeeded in enriching uranium outside the purview of international controls for the first time. This following startling reports a year earlier that Brazil's armed forces were building a nuclear weapon test site at a remote military installation. While it is doubtful that Brazil will be capable of producing significant quantities of unsafeguarded weapon-grade uranium in the near future, advances in this field threaten to upset its as yet fragile rapprochement with Argentina.

As you can see, Mr. President, the spread of nuclear weapons knows no summer recess. If we truly hope to avert a world in which the shadow of nuclear war eclipses regional and subnational conflict, we must remain vigilant. Mr. President, I ask that the attached press reports be printed in the RECORD.

The material follows:

[From the Washington Post, Aug. 5, 1987]

(By Claiborne Pell)

"GET TOUGH WITH PAKISTAN"

Pakistan is treating the United States with distain. In its pursuit of a nuclear weapons capability, Pakistan is breaking its commitments to the United States and is flouting U.S. laws. Pakistan's conduct casts doubt on the viability of its current security assistance relationship with the United States.

Earlier this month a Pakistani agent was arrested in Philadelphia for attempting to export a specialty steel for use in Pakistan's nuclear weapons program. This case follows a much publicized 1984 incident involving the attempted export of electronic switches designed to detonate nuclear explosives. The furor set off by the 1984 case led to Pakistani promises not to acquire nuclear technology in the United States and to a new law barring U.S. assistance to nations that attempt to acquire illegally nuclear technology in this country. It is this commitment and this law that Pakistan has now so balatantly violated.

Pakistan has treated other promises to the United States with a comparably cavalier attitude. It continues to act in a manner consistent with its promise not to manufacture nuclear weapons, and it has violated a pledge to President Reagan not to enrich uranium above 5 percent. In the area of narcotics control, Pakistan promised in 1985 a major effort to reduce opium production. In 1986 such production increased.

With regard to terrorism, Pakistan promised an uncompromising stance. Specifically, we were told the four Palistanians apprehended for last year's murderous hijacking of a Pan Am 747 would meet "Pakistani justice," a term widely understood to mean a prompt rendezvous with Allah. Nearly a year later no trial has been set.

Why does the United States tolerate such a total disregard for commitments made to it, commitments that affect the vital interests of our country? The answer, in a word, is Afghanistan.

Although Pakistani restraint on its nuclear program was an explicit quid pro quo for renewed U.S. assistance, the Reagan administration has been unwilling to use the assistance program as a lever to force Pakistan to honor its nonproliferation commitments. Pakistan may respond to any such effort, the administration argues, by shutting down the aid pipeline to the Afghan Freedom Fighters. So far, Congress has bought this argument. It is, however, an argument of dubious validity.

Pakistan permits assistance to the Afghan Freedom Fighters for its own strategic and political reasons. The continued Soviet occupation of Afghanistan is far more of a threat to Pakistan than to U.S. interests. If the Soviets were to consolidate their position in Afghanistan, Pakistan would face another neighbor militarily more powerful and with oft-stated designs on Pakistani territory. Pakistan has an obvious interest in preventing such a consolidation, which is why it had permitted assistance to the Freedom Fighters for nearly two years before U.S. foreign assistance to Pakistan was resumed. A cutoff of such U.S. aid would not change Pakistan's strategic interest in maintaining the Afghan pipeline.

For domestic reasons Pakistan cannot afford to shut down the Afghan pipeline. Since the 1979 Soviet invasion Pakistan has generously played host to some 3 million Afghan refugees. These refugees, who are heavily armed, have settled mostly in Pakistan's Northwest Frontier province. It is an area long prone to separatist sentiment and whose 10 million indigenous inhabitants are tribal kinsmen of the Afghan refugees. Pakistani authorities know that a decision to retaliate against a U.S. aid cutoff by shutting down the Afghan pipeline could result in civil war.

Finally, Pakistan has diplomatic reasons to maintain the Afghan pipeline. Pakistan's closest military partner is China, a country reportedly much involved in assisting the Afghan Freedom Fighters. Another military and financial partner is Saudi Arabia, which also has a strong interest in assisting the devout Afghan fight the atheistic Soviet invaders. Retaliation would put Pakistan in the position of cutting off it Chinese-Saudi nose to spite its American face.

Pakistan has repeatedly stated that its Afghan policy is undertaken for its own reasons and is not dependent on U.S. assistance. In this case, there is every reason to believe Pakistan.

The administration has played, on Pakistan's behalf, an Afghan card that Pakistan does not possess and indeed does not claim. The result has been an American posture of weakness on matters of vital national interest.

Our failure to hold Pakistan to its nonproliferation commitment risks a disastrous nuclear arms race in South Asia and undermines the credibility of our global nonproliferation policy. The costs are also high in the areas of terrorism and narcotics.

In addition, our willingness to accommodate Pakistani deceit on the nuclear issue may be harmful to the Afghan program itself. Journalists and South Asia experts have estimated that a large part of the assistance intended fot the Afghan Freedom Fighters is being diverted into Pakistani pockets. Such diversions obviously are harmful to the Afghan cause. They are made possible, in part, by a Pakistani belief that the United States is unwilling or unable to hold it accountable.

It is time to get tough with Pakistan. The policy of excuses and quiet diplomacy has failed to arrest Pakistan's nuclear program and has invited a cavalier Pakistani approach to all its commitments to the United States. If Pakistan perceives that the United States means business, it is more likely to keep its word. It will certainly respect us more.

[From the Rio de Janeiro Jornal do Brasil, June 14, 1987]

NUCLEAR PLANT CONTRACT SIGNED WITH IRAN

(By Rosental Calmon Alves)

BUENOS AIRES.—As part of an offensive to gain entrance into the restricted international nuclear industry exporter club, Argentina has signed a contract for the sale of enriched uranium to Iran, which will use it in an experimental reactor. It also intends to participate in the construction of an Iranian electricity-generating nuclear plant. In addition, Argentina has closed other business deals with Brazil, Peru, and Algeria, and it plans to sell to other countries.

A high-ranking Argentine official has said: "We have reached the conclusion that we must export, because our nuclear industry now exceeds our needs after the national atomic energy program was adjusted." He was referring to the serious financial crisis the sector is facing, even after the ambitious targets of the Argentine nuclear program had been reduced.

Shortly before President Alfonsin came to power in 1983, the military government announced that the country had been able to develop its own technology to enrich uranium up to 20 percent. This is why in 1985 Argentina was approved by the International Atomic Energy Agency (IAEA) as one of the countries that could sell enriched uranium to Iran.

The enriched uranium Argentina sells will be used to put back in operation an experimental reactor built at Tehran University 20 years ago by the U.S. company G.A. Technologies. Until the overthrow of the shah, the United States supplied 93-percent enriched uranium for the operation of the reactor, but then the supply was suspended and the reactor was closed down.

At a cost of $5.5 million, Argentina will now modify the core of that reactor so that it can operate with 20-percent enriched uranium and will furnish 150 kg of that grade of fuel in 30 years. This will make it possible to put the reactor at the Tehran University back in operation.

In addition, with the cooperation of an FRG company and a Spanish company, Argentina has formed a consortium that will try to resume construction of two 1,287-MW electricity-generating nuclear plants in southern Iran. These plants were being built by the FRG company KWU (Kraft Werk Union) when the shah was overthrown and the work was halted. KWU now will take over a third of the contract and its Argentine and Spanish associates will take over the remaining two-thirds, in a deal involving more than $3 billion if construction of the two plants is resumed.

Argentina intends to export services to various countries, particularly in the Third World. For example, Argentina is participating in bids to provide services in the construction of nuclear plants in Czechoslovakia. This is the first time Argentina is competing with traditional exporters, such as the FRG and Canada.

In Latin America, Argentina has done important business with Brazil, and there are prospects that the two countries will join forces to reach third countries. In Peru, a project for the construction of an atomic center in Huarangal, near Lima, is being completed. This project includes the installation of a reactor designed and manufactured by Argentina. The cost of this project surpasses $100 million. A similar contract, under which Argentina is installing the reactor, has been signed with Algeria.

[Buenos Aires TELAM, July 17, 1987]

Alfonsin Opens "Secret" Nuclear Lab to Sarney—CNEA President Explains Work

[Excerpts]

San Carlos de Bariloche, July 16.—Emma Perez Ferreira, president of the National Commission for Atomic Energy (CNEA), this afternoon told Brazilian President Jose Sarney that his presence in the secret nuclear laboratory of INVAP (Applied Research) will serve to disprove malicious reports spread abroad about the use of nuclear energy.

Perez Ferreira guided Presidents Jose Sarney and Raul Alfonsin inside the laboratory to explain the work being conducted there. The INVAP laboratory is located in Pilcaniyeu, 60 km from San Carlos de Bariloche. She added that Sarney's visit will do away with any uncertainty or doubt about our two countries.

Television cameras were not allowed inside and pictures of the area were prohibited. Alfonsin and Sarney posed for cameramen and photographers at the entrance of the building.

Once inside the building Sarney and Alfonsin were briefed on how INVAP operates by CNEA President Perez Ferreira and INVAP Director Baroto. He gave a superficial explanation on how INVAP operates, without getting into scientific details that are considered secret.

President Sarney was very interested and on several occasions asked questions about the equipment shown by the technicians and engineers.

Alfonsin's and Sarney's visit to Pilcaniyeu is the first made by a national and foreign chief of state to a nuclear element processing plant.

Alfonsin Reaffirms Peaceful Program

[Buenos Aires Noticias Argentinas, July 16, 1987]

[Excerpts]

San Carlos de Bariloche.—President Raul Alfonsin today affirmed to his Brazilian counterpart Jose Sarney the Argentine decision to offer all necessary safeguards to demonstrate that the objectives of the Argentine nuclear program "are absolutely peaceful."

This was revealed here this afternoon by a source of the Argentine delegation that is accompanying President Alfonsin, after a 40-minute visit the two presidents made to the secret uranium enrichment plant located in Pilcaniyeu, a desolate area 60 km east of San Carlos de Bariloche.

The sources did not discard the possibility that during the talks held this afternoon Alfonsin and Sarney could have reached some progress toward the possibility that Argentina—taking into account the advanced technology it has in Pilcaniyeu—could in the future enrich uranium for Brazilian industry.

The Argentine delegation source added that Alfonsin and Sarney held a first working meeting on the plane that took them to Bariloche, during which they discussed almost exclusively aspects of the political situation in Brazil and Argentina.

Asked whether Argentina will maintain a system of mutually exchanging information with Brazil in the nuclear field, Alfonsin said Sarney's visit to the uranium enrichment plant marks the beginning of increasingly fruitful talks, which could lead to various resolutions. In this regard, Sarney said his visit to Argentina marks the first time a head of state has invited another head of state to visit a uranium enrichment plant, which is a secret facility. Sarney made it clear that this gesture shows President Raul Alfonsin's statesmanship, vision of the present, and vision of the future. I hope that on his next visit to Brazil I will have a chance to reciprocate Alfonsin's gesture by inviting him to our [uranium enrichment] plant, Sarney added. Sarney said: Our two nations are entirely dedicated to the peaceful use of nuclear energy and to achieving access to advanced technology through our scientists and technicians.

[Buenos Aires Domestic Service, July 16, 1987]

Sarney on Reciprocal Visit

[Excerpts]

Argentine President Raul Alfonsin and Brazilian President Jose Sarney at noon today arrived in Bariloche, where they will hold a second working meeting to discuss the integration process.

Before leaving for Bariloche, Alfonsin said in Buenos Aires that among the agreements signed with Brazil, the most important is the one establishing a trade currency. He also stated that Argentina is carrying out activities in the nuclear field for peaceful purposes.

Brazilian President Jose Sarney said that the Brazilian-Argentine nuclear agreement will have a great impact internationally because the two countries are showing they have peaceful intentions and the development of the nuclear field is intended only for peaceful purposes. Sarney added: I see that the agreements signed 1 year ago with Argentina are being fulfilled, and I believe Argentina and Brazil have strengthened their bilateral ties.

Before boarding the plane for Bariloche, Sarney said: I have loved Argentina and strengthened bilateral relations more than any other Brazilian president.

[From the New York Times, July 22, 1987]

Brazil and Argentina Start Nuclear Discussion

(By Michael R. Gordon)

Washington, July 21.—The President of Brazil has visited a sensitive Argentine nuclear installation in an unusual move that American officials hope will help prevent the spread of nuclear weapons to South America.

American officials today welcomed the visit last Thursday by President José Sarney as an important symbolic step. "It is a far cry from an effective inspection system but it is a politically important step to reduce mutual suspicions," said one Reagan Administration official.

Argentina and Brazil are potential nuclear rivals. American officials have long feared that the political rivalry between them would prompt one, or both, to develop a nuclear weapon.

In 1978, Argentina's military leaders began a project to build a plant at Pilcaniyeu, 1,100 miles southwest of Buenos Aires, to produce enriched uranium. The installation is not subject to inspection by the International Atomic Energy Agency because Argentina, like Brazil, is not a signatory to the Non-Proliferation of Nuclear Weapons Treaty that requires such inspection. The existence of the project was disclosed shortly before Raúl Alfonsin was elected President in 1983 and Argentina returned to civilian rule.

KEEPING OPEN THE NUCLEAR OPTION

Argentine officials say that the Pilcaniyeu facility was initiated so that Argentina would not be dependent on foreign suppliers for fuel for its research reactors and that all of the enriched uranium will be used for peaceful purposes. But American officials say that Argentina does not need enriched uranium from Pilcaniyeu. They say that the facility may have been built to keep open

Argentina's option to develop nuclear weapons.

Brazil's nuclear program has also been a cause for concern, experts say. Among other programs, Brazil is building a uranium enrichment facility that will not be subject to international inspections.

In 1985, Mr. Alfonsin was said to have agreed in principle to mutual inspections with the then Brazilian President-elect, Tancredo Neves. Mr. Neves died shortly thereafter and it was unclear until last week whether his successor, Mr. Sarney, would follow through.

"The importance of this is mainly political in the sense of confidence building," said José Maria Otegui, counselor at the Argentine Embassy here. Mr. Otegui said that he did not know what further steps would be taken or whether Brazil had agreed to a reciprocal visit.

Paul Leventhal, president of the Nuclear Control Institute, a policy group in Washington, said the visit "is part of a pattern that offers promise."

"Both civilian leaders would like to see a process of confidence building," he said. "The question is whether the civilian Government in Brazil can withstand continuing pressures from the military" to maintain a program that could head to the development of nuclear weapons.

[From Nucleonics Week, July 23, 1987]

SARNEY VISIT TO PILCANIYEU WAS KEY TO RECIPROCAL INSPECTIONS

Brazilian President Jose Sarney's inspection of Argentina's unsafeguarded Pilcaniyeu pilot uranium enrichment complex on July 16 was reciprocation for a November 1986 visit by Comision Nacional de Energia Atomica (CNEA) personnel to sensitive nuclear facilities operated by Brazil's Instituto des Pesquisas Energeticas e Nucleares (IPEN) at the University of Sao Paulo.

Informed sources told Nucleonics Week the Argentines visited a small unsafeguarded gas-centrifuge uranium enrichment plant under construction and a laboratory-scale reprocessing facility—both under the control of the Brazilian navy. Officially, neither government will confirm or deny the secret Argentine inspection. The sources affirmed the Argentines were not given access to the Brazilian air force's aerospace technology center at Sao Jose dos Campos, where laser enrichment is under development. Brazilian sources revealed Argentine President Raul Alfonsin will tour the Sao Jose dos Campos complex in December when he visits Brazil.

It was not known if Sarney's unprecedented decision to let CNEA examine part of his country's "parallel" nuclear program was made with the understanding that Argentina would then allow Brazil to visit the Pilcaniyeu plant. Informed sources suggest that while such linkage was not explicit, it was implied, even though the Brazilians were aware Argentina had more to lose since its unsafeguarded uranium enrichment program is more advanced.

Both sides long ago recognized that the Pilcaniyeu plant was the key link in creating a stable, noncompetitive nuclear relationship. However, as Sarney remarked to journalists on July 17, it was Alfonsin who made the political decision to give Brazil access to Pilcaniyeu. "This gesture demonstrates the vision of President Raul Alfonsin to build the future," Sarney said.

On the strength of their growing friendship and earlier meetings where Sarney and Alfonsin discussed bilateral nuclear security issues, Sarney decided to initiate a process of "action and reaction" that would eventually leave their nuclear programs "transparent," as one Brazilian source put it.

Brazil's unsafeguarded nuclear research program has been slow and costly and is not held in high esteem at home. Thus, Sarney could overcome military resistance to inspections by holding out the possibility of Brazilian access to Argentine enrichment know-how. By contrast, Argentines of all political stripes consider the Pilcaniyeu complex the apex of their country's technological achievements, even if they are not enthusiasts of the nuclear program. In the eyes of some, nothing Brazil could offer was worth an end to the hegemony Argentina enjoys over uranium enrichment in Latin America.

Alfonsin disagreed, paving the way for Sarney's visit to the plant. The plant is producing 8%-12% U-235 by one account, with enrichment levels to reach 20% U-235 by April 1988 at a rate of 500 kilograms a year. Over 350 technicians work at the facility operated by Investigaciones Aplicadas (Invap), jointly owned by CNEA and Rio Negro Province. Plant capacity is to reach 20,000 SWU by 1989, the first module for an eventual expansion to 100,000 SWU.

Aside from Sarney, about 15 other Brazilian officials visited the plant for 40 minutes, including Sebastiao Rego Baros, the chief Brazilian government nuclear negotiator; Rex Nazare Alves, president of Comissao Nacional de Energia Nuclear (CNEN); and Brazil's ambassador to Argentina Joao Hermes Pereira de Araujo. Senior Argentine foreign ministry and nuclear officials accompanied Alfonsin.

Argentine officials denied they had dismantled or covered up parts of the plant during the Sarney visit as some western diplomats thought they might do. Both they and the Brazilians said the plant was fully toured, including working compressors, cascades, uranium hexafluoride handling, treatment and storage facilities, and related laboratories. CNEA President Emma Perez Ferreira said the Brazilian visit "removes the insidious interpretations that exist abroad (about) Argentina's nuclear program objectives." A statement issued by both presidents after the visit said it was a "fundamental milestone in the process of fostering mutual confidence" between the two countries. One Brazilian official said, "This is proof we are not in an arms race with the Brazilians."

However, Argentine officials worried about domestic reaction to the Sarney visit. When Alfonsin revealed his plan on July 14, nationalists were stunned. A well-known radio commentator here raged against Alfonsin for giving access to a plant that "belonged to the people and not the government." The influential pro-Peronist Buenos Aires newspaper, Clarin, which favors open-ended "independent" Argentine nuclear development, ignored Alfonsin's announcement until Sarney visited the plant. Some CNEA scientists fretted that Alfonsin had "given it all away" to the Brazilians without fully comprehending the agency's sacrifices over the years to master the nuclear fuel cycle in spite of foreign opposition. Other Argentines grumbled Alfonsin was going too far with Brazil, a country which they have traditionally disparaged.—*Richard Kessler, Buenos Aires.*

[From Nucleonics Week, July 23, 1987]

ARGENTINA TO SELL BRAZIL LOW- AND MEDIUM-ENRICHED URANIUM

Argentina will supply Brazil with unspecified amounts of low- and medium-enriched uranium fuel later this decade from its unsafeguarded Pilcaniyeu pilot facility, under existing bilateral nuclear cooperation agreements. Argentine President Raul Alfonsin made the announcement after visiting the plant on July 16 with Brazilian President Jose Sarney.

Brazil would use the low-enriched fuel at its Angra-1 Westinghouse PWR, and the fuel enriched to 20% U-235 at some or all of Brazil's three principal research reactors. The U.S. had supplied enriched fuel for all four reactors under IAEA safeguards but halted shipments after Brazil refused to accept full-scope safeguards on all its nuclear facilities as required under the 1978 Nuclear Nonproliferation Act.

Since 1981, Brazil has been using fuel enriched by Urenco for Angra-1 reloads that was originally targeted for the still incomplete Angra-2. Officials here could not immediately name fuel suppliers for that country's three research reactors. The 500-KW (thermal) Iear-1 pool-type reactor in Sao Paulo is scheduled to be shut down soon for a core conversion, to allow use of 20% U-235 from 90% U-235 now. Other units are the 10-KW Rien-1 Argonaut-type reactor in Rio de Janeiro and a 100-KW Triga-1 reactor in Belo Horizonte.

A key factor in Brazil turning to Argentina for enrichment services is the ongoing problems with its own enrichment program, informed sources said. Brazil's economic problems have repeatedly delayed completion of its safeguarded jet-nozzle enrichment facility at Resende, supplied by Kraftwerk Union. The plant may not come fully on-stream until 1993.

The sources said Brazil has yet to fully master the complex processes required to enrich uranium using gas-centrifuges and lasers at various unsafeguarded research facilities directed by the Brazilian navy and air force. Moreover, Sarney has shown little interest in funding the so-called parallel enrichment program, and recently postponed key parts of the centrifuge enrichment program, the sources said.—*Richard Kessler, Buenos Aires.*

[From Nucleonics Week, July 30, 1987]

BRAZIL'S NUCLEBRAS WANTS TO SELL SLIGHTLY ENRICHED U TO ARGENTINA

Brazil's Nuclebras will propose supplying Argentina with slightly-enriched uranium from its jet nozzle enrichment plant at Rezende, according to Nuclebras director for fuel David Simon. The news came just after Argentine President Raul Alfonsin announced Argentina will supply Brazil with unsafeguarded low- and medium-enriched uranium fuel (NW, 23 July, 1). Rezende output is safeguarded under Brazil's 1975 nuclear agreement with West Germany.

The proposal, to be made at the next meeting of the bilateral working group for nuclear integration in Buenos Aires next week, would involve supplying the slightly enriched uranium that Argentina's Comision Nacional de Energia Atomica (CNEA) plans to use for increased burnup in Atucha-1, which currently run on natural uranium. Simon said that Rezende, in its preliminary phase of operations due to start in May 1988, will produce 0.85% enriched U-235. While insufficient to serve Brazil's Angra-1, which requires 3.2% U-235, this degree of enrichment is enough for Argentina's optimization plans at its plants, said Simon.

The Rezende plant, whose first cascade has already cost some (U.S.) $290-million and will require another $20-million to be ready by May, cannot reach the enrichment necessary for Angra-1 without two more cascades, an investment the government won't decide on before 1990. Pilcaniyeu is already at levels of 8-12% enrichment and should reach 20% next April, so Brazil's slightly-enriched output could serve in a trade for the Pilcaniyeu product to be supplied to Brazil's three research reactors and Angra-1, in unspecified amounts later this decade. The Nuclebras director said that, even in its initial phase of operations, Rezende would be able to meet Argentina's needs for slightly-enriched uranium, some seven metric tons per annum.—*Rik Turner, Sao Paulo.*

[From the New York Times, Sept. 6, 1987]

Brazil's Leader Reports Success in the Enriching of Uranium

(By Alan Riding)

Rio de Janeiro, September 5.—President Jose Sarney has announced that Brazilian scientists have succeeded in enriching uranium, a key stage in this country's development of its own nuclear energy technology.

But Mr. Sarney also moved quickly to forestall speculation that Brazil was moving toward construction of a nuclear bomb. "Brazil's commitment to using nuclear energy exclusively for peaceful purposes is beyond all question," he said Friday at a ceremony in Brasilia.

Describing the breakthrough as "a fact of utmost importance in the scientific history of Brazil," Mr. Sarney said it was achieved through a process known as ultra-centrifugation at the Institute for Nuclear Energy Research of the University of São Paulo.

He said the technology was developed with Brazilian resources without any foreign help and, he added, at times "in face of restrictions and difficulties imposed from abroad." He was apparently referring to past efforts by the United States to control the transfer of nuclear technology to Brazil and other developing countries.

Argentina, which achieved a similar breakthrough in 1983, is the only other Latin American country with the capacity to enrich uranium. Until now, Brazil has acquired enriched uranium for use in nuclear reactors from the United States and Western Europe.

In the late 1970's, when both Brazil and Argentina were governed by military regimes, there was frequent speculation that the two countries were embarked on a race to build a nuclear device. With both countries now under civilian rule, however, they have moved to reassure each other that they have no such intentions.

Although neither Government signed the 1967 Nuclear Nonproliferation Treaty, they were co-sponsors last year of a resolution adopted by the United Nations General Assembly proclaiming the South Atlantic to be an area of "peace and cooperation" free of nuclear weapons.

Argentina and Brazil also both signed the 1968 Treaty for the Denuclearization of Latin America, known as the Treaty of Tlatelolco. Only Brazil has so far ratified it, although it added the reservation that it would become law here after its two protocols were signed and ratified by the nuclear powers. One protocol is still awaiting France's ratification.

[From the Washington Post, Sept. 10, 1987]

Brazil Uranium Enriched—Sarney Rules Out Any Military Application of the Process

(By Richard House)

Sao Paulo, Brazil.—President Jose Sarney has affirmed that Brazil has crossed the nuclear threshold to join the restricted club of nations capable of enriching uranium, but he promises it will not build atomic weapons.

Sarney said on Sunday that scientists working at an institute in Sao Paulo—the existence of which until now was not acknowledged officially—had without outside help achieved "complete domination" of the ultracentrifuge process for enrichment of uranium. This process is used to create fuel for nuclear reactors, and can be used to produce weapons-grade plutonium.

Although experts said uranium enrichment had not yet surpassed 1.2 percent, a new plant supervised by the Navy would soon achieve 20 percent enrichment in industrial quantities. Weapons-grade uranium requires 90 percent enrichment, but less pure uranium can produce plutonium.

[In Washington, the State Department said "we are as yet unaware of the details" of the development announced by Sarney "and have requested additional information from Brazilian officials." A spokesman said that while the United States considered Sarney's statement that Brazil is committed to an exclusively peaceful nuclear program to be "encouraging, any spread of unsafeguarded uranium enrichment technology is of proliferation concern."

[Leonard Spector, of the Carnegie Endowment for International Peace, said the development appeared to represent "quite a bit of progress—more than had been anticipated" for Brazil's nuclear capability. The announcement indicated that Brazil has "figured out how to make these centrifuges work," he said. Although Brazil still appears to be far from achieving the grade of enrichment and the quantity needed for nuclear weaponry, he added, the "new capability" is "something that will have to be watched closely."]

The United States and its allies first blocked exports of ultracentrifuge enrichment technology to Brazil in the 1950s. In 1976, they vetoed West German proposals to hand over the secret as part of a multibillion-dollar accord that was to include eight nuclear powerplants.

Brazil is not a signatory of the nuclear Non-Proliferation Treaty. When the military then ruling Brazil discovered that safeguards surrounding the West German agreement would prevent acquisition of weapons technology, it embarked on a secret "parallel" program, centered largely at the Institute of Nuclear and Energy Research at the University of Sao Paulo.

"Brazil's commitment to use nuclear energy exclusively for peaceful purposes is unquestionable," said Sarney, repeating his commitment to a nuclear-free Latin America as envisioned in the 1962 Treaty of Tlatelolco. Brazil signed and ratified the treaty, but in such a way that it evades responsibilities until all Latin American countries have done so. Argentina has not ratified the treaty.

"We are not going to build the bomb because we do not want the bomb," said Rex Nazareth, president of the nuclear energy authority. But the discovery last year of a supposed underground weapons testing site in the Amazon, and development of a rocket much like a ballistic missile have raised suspicions.

[An analysis published by the Congressional Research Service last month named Brazil as a country that plans "to have fairly capable satellite launch vehicles around 1990," which would give it "a capability to deliver weapons payloads to most significant targets in neighboring countries."]

Traditional rivalry between Brazil and Argentina's past military governments recently has been replaced by nuclear cooperation. Last month, Sarney visited the plant where Argentina first enriched uranium in 1983. Sarney forewarned Argentina of his announcement and the two countries may soon begin exchanging enriched nuclear material without international safeguards. Both are known to be planning nuclear-powered submarines.

Sarney's announcement that Brazil has beaten the big powers' nuclear boycott could soon result in a ban on sales of sensitive equipment. The State Department reportedly has held up the sale of a Cray supercomputer to the national oil company because of the possibility that Brazil could violate U.S. requirements and use it for a weapons program.

Sarney's announcement was carefully timed to reinforce the idea that Brazil's military is serving the long-term interests of the nation, just as opposition parties were raising the specter of the generals hampering the transfer to full democracy.

Army Minister Gen. Leonidas Pires Goncalves recently warned a Cabinet meeting that the Army would not tolerate proposed changes in the constitution that would curtial the military's right to use force whenever it considered internal law and order to be under threat. The general also attacked proposals to trim Sarney's contingent of six uniformed Cabinet ministers to a single civilian defense minister.

Soon afterward, Sarney praised the irritated general as "one of the pillars of democratic transition." On the eve of Brazil's independence day military parade on Monday, the president announced the nuclear breakthrough in strongly nationalist terms that clearly pleased the military.

[From Nucleonics Week, Sept. 17, 1987]

Ultra-Nationalist Peronists Again Argentina's Majority Political Force

With the ultra-nationalist Peronists again Argentina's majority political force after the September 6 mid-term elections, President Raul Alfonsin's government will be under pressure to promote "independent" nuclear energy development at home and pursue a rigid foreign policy against the "doctrine of nonproliferation" as interpreted by the London Suppliers' Club, local political analysts said here.

The nationwide Peronist electoral gains stunned Alfonsin's government. The voting left Alfonsin's ruling Radical Party with governors in only two of 22 provinces, and minority status in both houses of Congress.

With Alfonsin now a lame duck president, the Peronists find themselves able to dominate the national agenda for the first time since Argentina's return to elected rule in 1983. Alfonsin leaves office in 1989.

Key Peronist leaders moved quickly to reassure nervous foreign leaders and lenders that the party had broken with its authoritarian and violent past, and would not seek to undermine Alfonsin's economic and foreign policies. "We want to help govern the country," prominent Peronist economist and newly elected congressman Guido di Tella told Nucleonics Week.

Di Tella insisted the party had "expunged its gangster elements." He said his party would respect Argentina's existing nuclear agreements with Brazil. However, other Peronists say their formal position on nuclear integration with Brazil is far from settled.

On the domestic front, the Peronists contend the government's program to expand generation capacity of base-load electricity from nonnuclear energy sources has failed to keep pace with demand and will short-circuit economic growth.

They are bitterly critical of Alfonsin's handling of the nuclear program. That program is "grossly underfunded with the best minds leaving right and left," a Peronist said.

They promise increased funding and political support to enable Comision Nacional de Energia Atomica (CNEA) to close the fuel cycle and move ahead as soon as possible with a proposed fourth nuclear station. Salaries at CNEA must be sharply raised to end the brain drain, or the next station "might as well be ordered as a turnkey project since Argentina will have no one left that knows how to build it," quips a Peronist.—*Richard Kessler, Buenos Aires.*●

INFORMED CONSENT: OHIO

● Mr. HUMPHREY. Mr. President, I urge my colleagues to respond to the cries of women across the country who are suffering negative effects from their abortions, effects they were not warned might occur. My office has received hundreds of letters from women in every State, each telling a solitary story of life in the aftermath of abortion. These women are not shirking the responsibility of the decision they made, but most do express anger that they weren't told the whole truth before they consented to an abortion.

My informed consent legislation, S. 272 and S. 273, would help alleviate this situation by requiring medical personnel to secure informed consent from women considering abortion. I ask my colleagues to support the bills, and I ask unanimous consent that two letters from women in Ohio be entered into the RECORD.

The letters follow:

CINCINNATI, OH,
June 5, 1986.

SENATOR HUMPHREY: I wish to thank you for your support in the fight to stop abortion, and to bring to the floor of the Senate a bill to make them inform any women of its effects.

I've had an abortion! My husband was a drunk and already had two children. I just couldn't think of having another baby. I didn't know anything about abortion. My friend took me, to a doctor.

He gave me drugs and took my baby from me. I started to bleed when I got home. I almost bled to death. I had no help, no where to turn. I did get through that, but my health was never good again.

But this was not the worse. The psychological effects were the worse time of my life. There was guilt. I was suicidal. When I laid down at night I heard babies crying. I was full of anger and rage, and had no self esteem. Regret and remorse stayed with me.

Thank God for saving me. It breaks my heart to think how many girls are suffering the way I did.

So please see to it that they are informed, before the abortion procedure. I pray for all those girls each day and pray they will get help.

Sincerely,

GAYE WEBSTER.

CLEVELAND, OH,
February 20, 1987.

DEAR SENATOR HUMPHREY: It's been 14 years since I had an abortion. Another lifetime. Its hard to even think about it let alone write it down, but if in some way this letter can help in the fight against abortion, then its worth the pain.

I had no counseling. I knew what I was doing was wrong, but little did I know the pain and terror that I caused my baby, not to mention the guilt and regret I will live with for the rest of my life. May God bless you in your efforts to help the unborn.

Sincerely,

Anonymous.●

NICARAGUAN REFUGEES GET HELP FROM MINNESOTA FARM FAMILY

● Mr. BOSCHWITZ. Mr. President, last October, I spoke on the Senate floor about two fellow Minnesotans, Nana and John Gill, who, after traveling to Central America at their own expense, have dedicated themselves to helping the Nicaraguan refugees they met in the Honduran camps. After considerable effort, the Gills were able to cut through U.N. bureaucratic redtape and visit the refugees in several camps. Nana and John collected letters from the refugees concerning their needs and promised to return with help—last winter they delivered 50,000 pounds of goods and supplies, tailored to refugee families. However, they did not stop there. The Gills continue to solicit contributions and are returning this month with 100,000 pounds of humanitarian aid. I am proud to say that I have personally sponsored two families in the camps.

An article about the Gills recently appeared in the St. Paul Pioneer Press Dispatch and I respectfully ask that it be printed in the CONGRESSIONAL RECORD.

The article follows:

NICARAGUA REFUGEES GET HELP FROM FARM FAMILY

(By Michele Cook)

For the second time in a year, a Rosemount family is heading to Central America to distribute 100,000 pounds of humanitarian aid they collected for Nicaraguan refugees.

Nana and John Gill, farmers, moved to action after visiting a camp in Honduras 18 months ago, are sending the aid to Honduras on U.S. military planes. Nana Gill will take a commercial flight to Honduras with a dozen volunteers Oct. 28, to oversee distribution.

The project, which began with the Gills asking neighbors for donations and then storing items in a hayloft, has grown so big that the couple expect to seek non-profit organizational status.

"We're not looking at paid staff and an office," Nana Gill said. "Our concept from the beginning was we didn't want to start another organization that would eat up the funds that should go to the people we are trying to help. So everything will remain totally volunteer."

The Gills began their first donation drive after visiting Nicaragua and Honduras in 1986—taking their four children in a van—to learn first-hand about the politics of the region.

After cutting through red tape to get into a camp sponsored by the United Nations, the Gills collected letters listing the needs of Nicaraguan families there and promised to return with aid.

Their impromptu pledge has become a mission they say they will continue indefinitely. After delivering 50,000 pounds of goods to the camp last winter, they collected letters of need from a second camp. Gill expects the latest load will serve more than 6,000 refugees.

Gill said the effort will be organized under an organizational label that is not affiliated with a church or civic group. Volunteers now are of different faiths and political persuasions although Nana Gill's own bent is toward the Contras, she said in an interview last year.

"It's really just a group of people who want to help people in need," she said.

The goods are being airlifted by U.S. military planes under a 1985 law that requires military aircraft to transport donated humanitarian items whenever space is available.●

JEFFCO PUBLIC SCHOOLS: COMPANY OF THE YEAR

● Mr. ARMSTRONG. Mr. President, recently Colorado Business magazine chose as Colorado's "Company of the Year" the Jefferson County public schools.

It is rare for a school system to be selected for such an award, but it was well deserving. The Jefferson County school system was selected for its good business practice, vision and quality of management, operational efficiency, research and development and community service.

Jefferson County schools is the largest of its kind in Colorado, and the 30th largest in the Nation. Its students rank above average on standardized tests in comparison with those in Colorado and the Nation. It has achieved all of this while maintaining a tax rate that is actually lower than it was 10 years ago. This effective fiscal management allows Jefferson County schools to finance a 5-year capitol improvement program that includes 347 projects in schools throughout the county.

I hope that not only other school systems follow the example of the Jefferson County School District, but businesses as well. I commend the administrators, faculty, staff and students for a job well done. Mr. President, I believe my colleagues will be encouraged by this refreshing achievement, so I ask that an article explaining the details of this award be printed in the RECORD.

The article follows:

JEFFCO SCHOOLS NAMED "COMPANY OF THE YEAR"

Jefferson County School District has received the prestigious "Company of the Year" award in a competition sponsored by Colorado Business magazine and Coopers and Lybrand, Certified Public Accountants.

"The Service and Professional category drew entrants from a wide range of missions, so it is difficult to draw broad comparisons. But certainly vision of management, a clear mission, operating efficiency, and community service are key. Receiving honorable mention in this category are AIRCOA . . . and KUSA 9. Our Company of the Year might surprise you a little. Its operation is the largest of its kind in Colorado, and the 30th largest in the nation. Most important, it is responsible for some of the metropolitan area's most valuable assets—more than 75,000 school students. Its students consistently rank high in standardized tests in comparison to other Colorado schools and throughout the nation. It has achieved this remarkable record while having the lowest school tax rate among the 15 metropolitan area districts, a rate that is actually lower today than it was in 1976. We all should operate so efficiently. Our Company of the Year in the Service and Professional category is the Jefferson County Public Schools."

The District was honored at a recent luncheon, organized by the Colorado Association of Commerce and Industry, at the Hyatt Regency Hotel and will be featured in the August issue of *Colorado Business* magazine.

"Your entry clearly showed superior performance and we are delighted with the judge's decision," said John Grace, Managing Partner, Coopers and Lybrand, and E. Patrick Wiesner, President, *Colorado Business* magazine in a telegram informing the District of the award.

Criteria for the award included good business practices, vision and quality in management, operational efficiency, research and development and community service.

Indicators of sound management that the District described in its letter of nomination for the award are:

Jeffco students achieve highly on standardized tests in comparison with those in Colorado and the nation. (See related story, p. 5)

Research and development are based on a clearly focused mission and goals developed through wide participation of citizens. Hundreds of Jeffco citizens were involved in the development of the District's mission statement and goals. "Freedom to Excel for the New Century Generation," a paper written by Superintendent John Peper and adopted by the Board of Education, provides long-range goals for the District. The Board of Education and Dr. Peper annually set goals based on "Freedom to Excel" and other educational needs in the District. (See related story, p. 3)

The Jefferson County property tax rate for 1986 (61.55 mills) was lower than the rate for 1976 (64.05), demonstrating effective fiscal management through a decade of growth and inflation.

Jeffco's 1986 school tax rate was lowest among the 15 metropolitan area districts, and high educational attainments are being delivered at low costs. (See related story, p. 4)

Within this low tax rate, the District is financing a five-year, $107.8 million capital improvement program that includes 347 projects in schools throughout the county. Good schools attract business and enhance the property values of everyone in the community.

Sixty-four percent of Jeffco graduates go on to college and achieve excellence in many ways.●

NATIONAL NURSE MIDWIFERY WEEK

● Mr. BRADLEY. Mr. President, this week, October 4-10, 1987, is "National Nurse Midwifery Week." Nurse midwives are professionals who are educated in the two disciplines of nursing and midwifery.

I would like to take this opportunity to recognize the valuable role these members of the health care team have in our communities. They work in hospitals, clinics, birth centers, homes, and private offices in all States and they offer high quality care to mothers and babies throughout the maternity cycle. Nurse midwives encourage family preparation during pregnancy, childbirth and early parenting, and they emphasize health education to promote healthy lifestyles. Aside from offering responsive and participatory care to well-informed childbearing families, often nurse midwives provide care to teenagers and to socially disadvantaged segments of the population.

Certified nurse midwives have a proven record in the reduction of low birth weight, infant mortality and morbidity and have been demonstrated as cost-effective health care practitioners. The National Academy of Sciences, Institute of Medicine report on "Preventing Low Birthweight" calls for more reliance on nurse midwives to increase access to prenatal care for hard-to-reach groups.

There are educational programs for nurse midwives in many universities. I am very proud of the Nurse Midwifery Program in my home State at the University of Medicine and Dentistry of New Jersey in Newark.

I'd like to extend my congratulations to the certified nurse midwives and to thank them for their invaluable work.●

THE LAST FULL MEASURE

● Mr. McCAIN. Mr. President, every day and every night across this land the brave men and women of law enforcement place their lives at risk to protect and serve the public. Although they come from many different walks of life, they share an enormous responsibility—one that demands great heart, dedication and commitment, and from time to time one's life.

This year, Mr. President, the Arizona State Lodge of the Fraternal Order of Police celebrates its 50th anniversary. To mark the occasion, Detective P.J. Lawton of the Pima County Sheriff's Office published a book titled "The Last Full Measure" memorializing the 163 law enforcement officers who have given their lives in Arizona from 1866 to the present. The names of the fallen and the description of the incidents that took their lives evoke a profound sense of solemn awe and deep respect.

James Epp of the Maricopa County Sheriff's Office was killed by flood waters attempting to rescue two women trapped in a car. James Dorgan of the Pinal County Sheriff's Office died in a plane crash after trying to locate a missing person. Thomas McNeff and Richard Stratman of the Department of Public Safety, after saving numerous individuals during the flood of 1983, died in a helicopter crash attempting to come to the aid of a woman in labor. Ignacio Conchos and John Davis of the Phoenix Police Department were killed by a gunman on August 8, 1983, while investigating a crime. These are only a few examples cited in the book of the bravery and sacrifice of the fallen.

As citizens of this Nation whose rights and lives are protected by these unique individuals, let us never forget their dedication and sacrifice. Those who have died in the line of duty must be a constant reminder to us of the officers who are on the street today, protecting and serving, no less willing to make the sacrifice than their fallen colleagues. To the officers of today, yesterday and tomorrow, to those who have given the last full measure and to their families—thank you.

Mr. President, I ask that the names of the Arizona's law officers who have given their lives in the line of duty be entered into the record with the date of their death.

The information follows:

LIST OF INCIDENTS BY DATE

1800'S

George Leihy, November 18, 1866.
James T. Dana, September 20, 1871.
James Haines (or Hines), August 26, 1879.
James Craigh (or David F. Criaghe), April ?, 1880.
Fred White, October 27, 1880.
Albert D. Sterling, April 19, 1882.
Andrew W. Holbrook, May 4, 1882.
John Snodgrass, May 25, 1882.
John L. Colvig, July 6, 1882.
Kip Phillips, July 7, 1882.
John Collins, August 10, 1883.
D. Tom Smith, December 8, 1883.
I.L. Roberts, March 6, 1884.
William A. Daniels, June 9, 1885.
Casper Albert, November 26, 1885.
Ben Crawford, December 3, 1885.
John M. Murphy, December 20, 1885.
Cesario Lucero, August 12, 1888.
Hank Frost, c.1888.
Jake Bowman, c.1888.
Glenn Reynolds and William A. Holmes, November 2, 1889.
W.W. Lowther, April 10, 1890.
Jerry Ryan, c.1890.
Ben Williams, c.1890.
William Elliot, July 2, 1892.

Charles Flake, December ?, 1892.
Frank P. Robson, August 12, 1896.
Chet Ainsworth, Summer 1899.

1900's

Carlos Tafolla and William B. Maxwell, October 7, 1911.
William H. Katzenstein, July 26, 1902.
Charles Hawkins, c.1902.
Tom Vaughn, May 16, 1903.
Joe Giles, October 28, 1905.
Charles Edwards, January 10, 1908.
Escupala Moro-Dominguez, July 17, 1908.

1910's

Charles King, August 27, 1910.
Frank Trask, May 10, 1911.
E.L. Drew, May 15, 1911.
Tom Campbell and Albert Munguia, September 24, 1912.
Joe W. Meeks, January 21, 1913.
Henry Peterson, November 12, 1913.
Ed Miller, c.1913.
Phineas Brown, August 19, 1914.
John C. Power, November 5, 1914.
James A. Mercer, December 2, 1914.
Orson McRae, July 12, 1917.
Robert McBride, Martin Kempton, and Kane Wooten, February 9, 1918.
James Lowry, July 16, 1918.
Albert Nettle, May 18, 1919.
Victor Melick, May 31, 1919.

1920's

A.E. Sheppard, September 16, 1920.
Cyrus M. Spangler, January 11, 1921.
Edward F. Bowers, Jr., July 1, 1921.
Almon W. Dana, April 8, 1922.
George White and Leonard A. Smith, July 13, 1922.
Haze Burch, February 5, 1925.
William W. McKee, April 23, 1926.
Lon Parker, July 25, 1926.
Edwin Conoley, August 12, 1927.
Clifford Nelson, October 23, 1928.
Paul Reynolds, August 9, 1929.

1930's

Lee Wright, January 28, 1930.
Clyde Bristow, January 12, 1932.
Fred Kenney, June 17, 1932.
Dave Reese, May 22, 1933.
John Bradbury, March 13, 1935.
Robert V. Cummins, September 3, 1936.
Edward J. Roberts, July 21, 1937.
Jack Hickox, June 8, 1938.
Colby S. Farrar, October 8, 1939.
Hoska Thompson, October 21, c. 1939.

1940's

John Nunn, February 28, 1942.
Sam Blackwell, June 2, 1943.
Clarence Dotson, February 8, 1945.
Jewel Trask, April 9, 1947.
Joe McDaniel, April 15, 1947.
Sylvester Villa, January 24, 1948.
Walter Akers, February 4, 1948.
Edward Smith, August 3, 1948.
John D. Anderson, August 9, 1948.

1950's

Walter H. Stewart, February 19, 1952.
Edmond L. Schweppe, September 15, 1952.
Jack R. Brierly, November 16, 1953.
Gerald Barnes, October 5, 1957.
Louis Cochran, December 22, 1958.

1960's

Robert M. Tarr, October 21, 1963.
Robert L. Dorn, August 31, 1965.
Herman W. Nofs, September 4, 1965.
James Steiner, September 18, 1967.
Paul E. Marston, June 9, 1969.
Leroy Brown, December 6, 1969.
Bobbie R. Walker, December 31, 1969.

1970's

Gilbert Duthie, September 5, 1970.
Albert Bluhm and Dale Stone, December 28, 1970.
Warren Larue and Rex Stone, January 18, 1971.
James L. Keeton and Don A. Beckstead, February 5, 1971.
Kenneth Lindley, February 10, 1971.
Quincey Haywood, November 22, 1971.
J.D. Smith, March 20, 1972.
Ralph Butler, June 13, 1972.
James M. Morgan, February 25, 1973.
George White, March 25, 1973.
Theodore Buckley and Dale E. Morey, June 22, 1973.
George McMurren, June 24, 1973.
Alan H. Hansen, July 5, 1973.
Delbert Berry, September 2, 1973.
Carl Fritz and John Blue, October 4, 1973.
Michael D. Hemschmeyer, November 2, 1973.
Lloyd D. Heilman and Frank E. Howard, November 8, 1973.
Lewis Dixon and Charles Bokinskie, April 24, 1973.
James M. Lewis, July 22, 1974.
Barry W. Headricks, October 28, 1974.
Gilbert Charvez, June 16, 1975.
Burton Begay, November 17, 1975.
John F. Macinnis, February 22, 1976.
Arthur E. Del Gaudio, April 22, 1976.
Gregory A. Diley, December 2, 1977.
James L. Epp, March 1, 1978.
Noah M. Merrill Jr., December 11, 1978.
Loren Whitehat, May 10, 1979.
John Walker, November 30, 1979.

1980's

James A. Smith, October 28, 1980.
William Murie, November 16, 1980.
Kenneth E. Campbell, January 29, 1982.
Jeffrey Ross, February 19, 1982.
Ignacio Conchos and John Davis, July 1, 1982.
John B. Jamison, September 5, 1982.
Jeffrey C. Brown, October 23, 1982.
Victor Ochoa, March 11, 1983.
Milton P. Antone, April 14, 1983.
Michael Young, May 26, 1983.
Ernest Calvillo, July 21, 1983.
Thomas P. McNeff and Richard Stratman, October 1, 1983.
Russell L. Duncan, November 10, 1983.
Errol C. Hawkins, April 24, 1984.
Robert L. Polmanteer, May 4, 1984.
Kevin W. Forsythe, September 7, 1984.
John Robertson, November 17, 1984.
Darrell D. McCloud, May 13, 1985.
Lester L. Haynie, June 14, 1985.
Sam Jaramillo, September 25, 1985.
Robin L. Ahrens, October 4, 1985.
Robert T. Fike, January 8, 1986.
Randall Graves, January 21, 1986.
Glen A. Miles, February 21, 1986.
Jose Orduno, April 3, 1986.
Gary Maas, April 9, 1986.
Richard White, January 14, 1987.●

WE THE PEOPLE

● Mr. ARMSTRONG. Mr. President, my home State of Colorado is honored to count among its citizens one of this country's foremost parliamentarians, Prof. Herman W. Farwell.

Professor Farwell recently retired from his teaching post at the University of Southern Colorado in Pueblo, where for many years he made enormous contributions to the thought life of the university community and enriched the minds of many, many students.

He has been a national figure in his chosen discipline and is widely recognized as one of this country's leading authorities in the field of parliamentary procedure. For half a dozen years, he has been the editor of the American Institute of Parliamentarians' quarterly publication, "Parliamentary Journal." He has now handed on this editorial responsibility, and this month will see the publication of the last volume of the journal under his editorship.

On August 14 of this year, Professor Farwell gave the keynote address at the 28th annual session of the American Institute of Parliamentarians in Washington, DC. He was speaking about halfway between two bicentennial observances this summer: The July bicentennial of the great compromise at the Constitutional Convention, which created our bicameral Congress, and the September bicentennial of the completion and signing of the Constitution itself.

It was therefore fitting that Professor Farwell's talk on that occasion took its title from the first three words of the Constitution's preamble, "We the People." His remarks are deeply insightful and have a very special meaning for all of us who study the laws of the American Republic and for whom parliamentary procedure is part of our everyday business. By brilliantly linking the ordinary mechanics of modern legislation to the extraordinary and magnificent ideals of our Constitution, Professor Farwell has proven once again that the Constitution is truly a living thing with day-to-day influence on our national life. With these thoughts, as with a lifetime of labor, he has given us a great deal to think about; Congress and the Nation owe him a deep debt of gratitude.

I ask that the text of his remarks be printed in the RECORD at this point.

The text of the address follows:

WE THE PEOPLE . . .

(Keynote Address by H. W. Farwell, CPP)

Last April, in an editorial letter to the readers of the Parliamentary Journal, I wrote of the exuberant excitement with which we Americans celebrated the 200th anniversary of the signing of the Declaration of Independence. I hoped that the bicentennial celebration of our Constitution would involve us at least to an equal degree, for I felt strongly, as I do now, that of the two documents, our Constitution is by far the more significant. It is certainly true that the Declaration of Independence cut us away from any ties with Great Britain or any other nation, and our Constitution could never have existed had not the Declaration preceded it. But the lifespan of the Declaration of Independence began on July 4th, 1776, when a few individuals believed that we should be free, and it lasted only until the defeat of Lord Cornwallis at Yorktown and the signing of the Treaty of Paris in 1783, when the whole civilized world formally recognized us as a new and independent nation. A new and independent nation, however, can become almost anything. What we did become, and what we are today, is directly related to our Constitution, a vital, living document which is as meaningful to us as it was to those who wrote it two hundred years ago.

Listen to these words:

"We the People of the United States, in Order to form a more perfect Union, establish justice, insure domestic Tranquility, provide for the Common Defense, promote the general Welfare, and secure the Blessings of Liberty for ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

That's how it begins. Those are the words of the Preamble of the Constitution of the United States, a document which has taken its place among the most significant writings of our civilization, a document created two hundred years ago which has enabled us to attain power, prestige and prominence, not only as a nation, but as individuals banded together by a single majestic ideal.

Almost every nation has a constitution of some sort. Some, like Great Britain, have no single, formal document, but rely upon a body of laws which have been developed over the centuries. Others, such as the Soviet Union, use a constitution patterned roughly upon democratic principles, but based upon the concept of an all-powerful state as interpreted by the fourteen-member Politburo. Still others have constitutions not unlike our own.

Yet, of approximately one hundred and eighty nations of this world, the United States remains unique. When we ask ourselves why, there is but one simple answer. We stand apart from all other countries because of our Constitution, a document which welded together a group of thirteen fiercely independent, self-governing states into a strong and united nation. Our Constitution embodies an inspired system of checks and balances which has both regulated and protected the rights, freedoms and obligations of the executive, legislative and judicial branches of our government and of the people of this nation.

But the system of checks and balances, the establishment of a strong national government, the division of the government into three branches, the fact that it created a single chief executive officer, the fact that it is a formal written document—none of these is the key to the real significance of our Constitution. While all of these factors have undoubtedly contributed to the greatness of our country, the real magic lies in just three of its four thousand, five hundred and forty-three words—the first three words—"We the People."

These three words symbolize the very essence of our country. They symbolize the starting point of our national philosophy, the foundation of governmental power and authority, the cornerstone of the United States of America.

We the People—in those three words our Constitution designates the people of the United States as the source of ultimate power and authority, and with those three words, our nation took the first steps toward greatness—We the People—not an all-powerful state, not a self-appointed ruler nor a victorious conqueror, not even a monarch who holds power by divine right or family inheritance—none of these! The source of our governmental power is written in those first three words—We the People.

Our Constitution is a document which was, indeed, conceived and developed by We the People, but its birth was not a painless one. In fact, during its gestation, there were frequent times when all effort seemed in vain, for, history tells us, not everyone favored such a firm and centralized form of government.

We have all read of the chaos and confusion which existed under the Articles of Confederation, a weak agreement by which the thirteen States implemented a single-chambered Congress composed of representatives appointed by the State Assemblies. While authorizing Congress certain powers, each State retained "its sovereignty, freedom and independence and every power, jurisdiction and right." Congress could not levy taxes nor did it have the authority to enforce any of its decisions. Each State felt free to issue its own currency, to maintain its own navy, and many times neglected to send enough representatives to Philadelphia to provide a quorum. John Hancock, elected President of the Congress in 1785, took his duties so lightly that he rarely bothered to attend.

George Washington wondered whether the Revolution had been worth all the bloodshed and suffering. "We are either a united people under one head, for Federal purposes," he wrote, "or we are thirteen independent sovereignties, eternally counteracting each other." The articles of Confederation, intended to unite the States in a "firm league of friendship" were, in Washington's words, "little more than the shadow without the substance."

And so it was that in 1786, several States followed the leadership of Virginia and issued an invitation to all thirteen States to meet in Philadelphia the following May to "render the Constitution of the United States adequate to the exigencies of the Union."

Forced by this action, the Confederation Congress itself then issued a call for a constitutional convention, specifically stating that it was "for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein." In response, eight states instructed their delegates to operate under the Virginia Call, while four limited their delegations to the revision of the Articles of Confederation as specified by the Confederation Congress. Rhode Island refused to send any delegation at all.

In this brief summary of the first faltering footsteps of our nation, I have mentioned only one aspect of parliamentary procedure—the Quorum. I stated that the Confederation Congress was frequently unable to conduct business because of its inability to muster a quorum. This, however, was the result of indifference, not ignorance. These early statesmen were not ignorant of procedure and it played an important role in their actions. They had committees, they presented resolutions, they made motions. Our founding fathers were familiar with parliamentary procedure—they knew it, they understood it, and they used it.

Almost daily, from May 30th to July 24th, the members of the Convention resolved themselves into a Committee of the Whole in the early part of the day and transacted all business, including much debate, under committee rules, until late afternoon. Although George Washington had been elected President of the Convention on the very first day of business, Nathaniel Gorham of Massachusetts, who had just completed a term as President of the Confederation Congress, was elected Chairman of the Committee of the Whole.

It took almost forty days for the Committee of the Whole to debate and, indeed, almost come to blows over such controversial matters as the question of whether there should be a single chief executive or a committee of several; should there be proportional representation or should the one man/one vote formula prevail; should slaves be counted as population or as property; should the chief executive be elected by the people or by the legislators; should the term of office of the chief executive be six, eleven, or twenty years or should he serve, like Supreme Court Justices, "during good behavior," the lifetime term as defined, even today, in our Constitution.

All in all, the Committee of the Whole adopted about thirty resolutions, and considered but did not adopt several other plans. From July 18th to the 24th, the Committee reported their recommendations to the Convention where, of course, considerable additional debate occurred. On July 24th, however, the approved resolutions were referred to a new committee, the five-man Committee on Detail. Chaired by John Rutledge of South Carolina, the Committee on Detail was given ten days to combine the referred material into a draft constitution. The Convention then recessed.

During the next ten days, the Committee struggled with their monumental task. They also considered parts of the Articles of Confederation, they discussed some of the better sections of various state constitutions and even some of the features of several of the plans which had been suggested to but not approved by the Committee of the Whole. Edmund Randolph, a member of the committee on Detail, wrote that it was essential that simple and precise language be used to avoid misunderstandings, and most importantly,

". . . To insert essential principles only, lest the operations of government should be clogged by rendering those provisions permanent and unalterable which ought to be accommodated to times and events."

We parliamentarians can learn much from these words. When we are called upon to prepare bylaws for organizations or to assist in drafting proposed amendments, we would do well to remember Randolph's instructions, ". . . to insert essential principles only, lest the operations of government be clogged by rendering those provisions permanent and unalterable which ought to be accommodated to times and events." We should suggest that the specific details be left to some parliamentary guide, just as our national legislatures rely upon Riddick's Senate Procedure, Deschler's Rules of the House of Representatives and some special standing rules. We should encourage those we serve to have bylaws which prescribe only the objectives of their organizations, spelling out the details of procedure by which business is transacted in Standing Rules—which may be accommodated to times and events.

On August 6th, the Convention reconvened to consider the report of the Committee on Detail. Needless to say, extensive discussion and debate followed. It is interesting to note that at this time, because the delegates were getting anxious to finish their work—several weary members had already returned to their homes—the Convention found it appropriate to appoint a Committee on Postponed Matters to which all items still delayed by controversy and conflict were referred for the development of compromise recommendations. It was a month before consensus could be reached on matters such as the qualifications of voters, the powers of the President, the power of the Congress to issue paper money and other similar matters.

Finally, however, the new Constitution was unanimously approved by all twelve states. The vote within several delegations was not unanimous, however, and a minority of members made several last-minute attempts to present additional amendments. Despite his own dissatisfaction with several key points, Benjamin Franklin offered some words of wisdom which apply to deliberative assemblies such as ours today as much as they did to the assembled delegates at the Constitutional Convention in 1787. In part, he said,

"Mr. President, I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure that I shall never approve them. For, having lived so long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions, even on important subjects, which I had once thought right but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment and to pay more respect to the judgment of others.

". . . I doubt whether any other convention we can obtain may be able to make a better constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests and their selfish views. From such an assembly, can a perfect product be expected?

"It therefore astonishes me to find this system approaching so near to perfection as it does. . . . Thus I consent, Sir, to this Constitution, because I cannot help expressing a wish that every member of this Convention who may still have objections to it would with me, on this occasion, doubt a little of his own infallibility and, to make manifest our unanimity, put his name to this document."

On September 17th, 1787, the new Constitution was signed by thirty-eight of the forty-one delegates present. The Constitutional Convention then adjourned sine die.

Let's turn our attention for a moment to those basic parliamentary principles long accepted as the foundations of parliamentary practice: Freedom of Choice; Open Debate; Voluntary Decisions; Majority Rule; Minority Rights; Absentee Rights; Equality of Members; and the promotion of Order and Justice.

By Freedom of Choice, we mean that every member may vote and has the right to do so without fear of reprisal. Open Debate we interpret as the right of every person to speak and to be heard. Voluntary Decisions are made by members based upon each individual's understanding of the facts and circumstances, not because of intimidation and threats. Majority Rule is commonly understood to apply to decisions made when more than half of a group agrees, while preserving the minority rights of those who disagree. Equality of Members does not allow for any preferential treatment of members because of race, status or other factor, and when we consider the Rights of Absentees we are remembering that "Taxation without representation is tyranny!" We are concerned with the Promotion of Order and Justice because without Order, we have nothing but chaos and only with Order and rules of procedure may we hope to progress. Without Justice, we cannot be fair and equal.

These fundamentals of parliamentary procedure are far more than the bases of our craft—We the People have incorporated them into the very fabric of our Constitution and of our Nation.

It doesn't take much effort to find reflections of these parliamentary principles in our Constitution. And it takes even less effort to see how the philosophy of the fifty-five men who assembled in Philadelphia in the summer of 1787 has affected modern parliamentary practice. We the People of the United States may exist forever shielded by our Constitution from tyranny and oppression, but we parliamentarians, almost more than any other groups, must continually guard against even minor infringements of the guarantees provided to us by our Constitution, and help others to do the same. A minor infringement, left unchecked, may become monstrous.

How easy it is to find organizations, big and small, where the power, the source of real authority—has imperceptibly shifted from We the People to small groups of ambitious, self-serving leaders who permit little if any challenge to their actions. How easy it is to point to examples of misuse of authority—to petty dictatorships—to cronyism and intolerance. There are far too many cases to mention of leaders who loudly profess their willingness to fight to the death to preserve our Constitution, but who, because of ambition or indifference, disregard all its provisions, Federal, state and local laws or even their own bylaws because We the People take too long to discuss openly and vote voluntarily to reach decisions.

I shall never forget the mayor of the small town in my state of Colorado who said he didn't need a parliamentarian. "I just tell them how to vote and they do it and that's all there is to it!" Any historian will tell you that both Adolf Hitler and Benito Mussolini got things done! For the first time in centuries, the streets of Rome were clear to beggars—the railroad trains of Germany won international acclaim for cleanliness and punctuality. We the People do take longer to make decisions because we listen to the opinions and arguments of every person who desires to speak and then we make decisions by consensus or majority vote. We the People can never be as efficient as a dictator. But we must always be cautious not to relinquish, for the sake of efficiency, so much power and authority to an organization that We the People can no longer control our own destiny.

When we join any organization, we voluntarily surrender a small measure of our personal, individual rights. We do this because we know that only in this way can we "promote order." We value the right to discuss matters openly and freely, but we know that were everyone to speak simultaneously, total confusion would result. It has been well said that you can listen best with your mouth closed.

If you are a member of the vast, unorganized group of automobile drivers in the United States, you have automatically agreed to sacrifice your right to drive anywhere you want at any speed. By accepting your driver's license, you have agreed to drive on the right side of the highway and to obey the speed limit.

You like to spend your evenings at home with your family, but you join an organization which meets on Wednesdays at 7:30 p.m. You surrender your right to be with your family because you want to share in the group's goals and achievements.

You believe that your club dues are adequate to meet expenses, but the majority of the members voted to raise the dues by 10 percent. Even though you feel that this decision is both unwise and unnecessary, you must either accept it and pay the increase, or forfeit your membership in the organization.

We recognize that we sacrifice some of our personal liberty and our individual rights for the good of the group—but woe betide us were we ever to abandon all our rights and permit the group to establish itself as the source of all power. If a group were to become the supreme authority by usurping the rights and power of its members, they have become not decision-making participants of the group—they have become its slaves! If an all-powerful state can decide what's right and what is wrong based upon what is best for the state, its citizens cannot Speak Freely, they cannot enjoy Domestic Tranquility or the General Welfare, nor can they Inherit the Blessings of Liberty for Themselves and their Posterity. And, in such a state, there would be no need and no place for parliamentarians.

It is not easy to contemplate our Constitution without considering simultaneously its first ten amendments. Even though it was December 15th, 1791, before the Bill of Rights was added to the Constitution, I speak of it now as an integral element, partly because I doubt greatly that much will be made of that Bicentennial Anniversary in 1991, but also because I feel strongly that the relationship between parliamentary procedure and our Constitution was strengthened enormously by various sections of the Bill of Rights.

The First Amendment, which prohibits any abridgement of the Freedom of Speech and guaranteed the right of the people "peaceably to assemble," is surely relevant. The rights of absentees; the rights of minorities; the promotion of order and justice; the equality of members—all of these are affected by the Fourth, Fifth, Sixth, Seventh and Eighth Amendments.

Let's return to the Preamble of the Constitution. In one sentence, this simple statement sums up so much of the philosophy of the United States that We the People would do well to memorize it—to engrave it on our buildings—and teach it to the generations who will succeed us. Look at it more closely. Stripped of its explanatory clauses, this simple statement says, "We the People of the United States . . . do ordain and establish this Constitution. . . ." That's all there is to it! We the People established the Constitution! No monarch did it, no dictator did it, no invisible state did it. We the People of the United States did it!

The Declaration of Independence made the American colonies independent from the British crown. The Constitution of the United States created a new and vital nation. We the People are the beneficiaries of these two documents and only our eternal vigilance can preserve the legacy of freedom, strength, justice and equality our forefathers bequeathed us. Those parliamentary principles of which I spoke provide a barricade which can protect us as it protects the rights and privileges guaranteed by the Constitution. In the words of Supreme Court Justice William O. Douglas, "Procedure is more than formality. Procedure is, indeed, the great mainstay of substantive rights. . Without procedural safeguards, liberty would rest on precarious grounds." As parliamentarians, it must be our task to insure that the safeguards provided by parliamentary procedure are understood, maintained and rigidly enforced.

Today, two hundred years after the Constitution was signed, many people take it for granted. Despite its precision and clarity, few people other than lawyers and legislators have read it, and sometimes we are forced to wonder if they understood it—if they did read it.

Today, more than one hundred years after the publication of Henry Martyn Robert's Pocket Manual of Rules of Order for Deliberative Assemblies, and despite the sale of many millions of copies of the Rules of Order, comparatively few people, including lawyers and legislators, have read and understand the skills, the techniques, and most of all, the philosophy of parliamentary procedure.

Today, as in 1776, as in 1787, as in 1861, as in almost any day of our complex, chaotic world, group decision-making plays an essential role in determining where we are going, how we will get there, and even where we are today. Parliamentary procedure is the ultimate tool of group decision-making.

Today, in 1987, and in all the years to come, there is a challenge here for all of us. If we genuinely desire to insure the objectives voiced by our founding fathers in 1787—the more perfect union, domestic tranquility, provision for the common defense, promotion of the general welfare and the blessings of liberty for ourselves and our posterity—we must always keep before us the single fundamental concept that the true source of power and authority in our nation is—and must always be—written in those first three words—We the People!●

THE BORK NOMINATION

● Mr. KERRY. Mr. President, we celebrate this year the 200th anniversary of our Constitution. It is a time for reflection on the enduring values which that document embodies, and their meaning in our society. It is not inappropriate, therefore, that we are embroiled now in a painstaking consideration of a nominee for the U.S. Supreme Court, the ultimate arbiter of our Constitution.

While I am not a member of the Senate Judiciary Committee, I am a lawyer and a former prosecutor, and I have followed closely the debate over the nomination of Judge Bork. I did not take an early position on that nomination, because I wanted to hear Judge Bork's testimony and that of other legal scholars before coming to a final conclusion. But several days ago I announced my opposition to this nomination. Now I would like to set forth my reasons.

I have no objection to the appointment of a conservative to the Supreme Court. I have voted for many conservatives nominated by President Reagan to the Federal bench. I have voted for such distinguished conservatives as Antonin Scalia, James Buckley, Douglas Ginsburg, and David Sentelle. In fact, I have voted for nearly all of the President's judicial nominees in his second term, with very few exceptions.

But I am concerned by aspects of Judge Bork's record, and I am concerned about how, in the hearings before the Senate Judiciary Committee, Judge Bork has shifted positions on a number of important issues. He has most recently tried to portray himself as a man who is older and wiser, who has abandoned much of the rhetoric and views which he has espoused over the past 25 years. Anyone can change their mind. In fact, we encourage people to keep open minds and to grow with knowledge and experience. But I find Judge Bork's shifts to be troubling.

I find his "confirmation conversion," as it has been called, to be unconvincing. I have serious doubts whether a man with the strong views of Judge Bork can suddenly cast off the convictions of a lifetime. I am skeptical of his current guise of judicial "moderate," when assuming that guise means disavowing positions held all of his adult, intellectual life.

This conversion does not persuade me. Indeed I find that it casts even more doubt on Judge Bork's judicial personality and his credibility. I can well understand a judge who came before the Senate and said, "These are my views—and here is the rational basis for those views. This is what I have stood for throughout my life, and what I will continue to stand for on the Supreme Court if confirmed." That would be a direct, comprehensible approach. But, as my colleague from Pennsylvania, Senator SPECTER, put it after questioning Judge Bork at length, "What concerns me is, where is the predictability in Judge Bork?"

Or as my good friend from Alabama, Senator HOWELL HEFLIN, expressed it, it might take a psychiatrist to understand all of the changes in Judge Bork's views.

I myself am tempted to ask the question—Will the real Judge Bork please stand up?

I am also troubled by the tone of much of Judge Bork's writings. In those writings there is no absence of arrogance. In some places there is an outright contempt for the views of those who disagree with him, an unwillingness to acknowledge the validity of an opposing point of view. In criticizing various laws and Supreme Court decisions, he has used words and phrases like "unprincipled," "utterly specious," "unsurpassed ugliness," "unconstitutional," "judicial usurpation," and "improper and intellectually empty." Those do not strike me as the words of a man who tolerates differing points of view. Indeed, they are words which seem to scorn traditional judicial temperament.

In order to understand why Judge Bork's testimony is so troubling, it is necessary to review his record over the past 25 years. To do so yields numerous contradictions, and raises further troubling questions.

In 1968, prior to joining the Nixon administration, Robert Bork wrote this:

> The text of the Constitution, as anyone experienced with words might expect, is least precise where it is most important. Like the Ten Commandments, the Constitution enshrines profound values, but necessarily omits the minor premises required to apply them. The First Amendment is a prime example. . . To apply the amendment, a judge must bring to the text principles, judgments and intuitions not to be found in the bare words.

The Judge Bork of today, however, has embraced the "original intent" thesis of Attorney General Meese. He now tells us that constitutional decisions can only be based on the actual text of the Constitution and the intentions of the original framers of that document. And he tells us that, as an "originalist" judge, he would feel free to overrule the decisions of his "nonoriginalist" predecessors.

I believe that there is a degree of presumption in that formulation—in the assumption that he and he alone understands the true meaning of the Constitution and the original intent of its framers. Judge Bork has shown no hesitation in his writings in singling out past Supreme Court decisions which he believes were wrongly decided.

I am troubled by views expressed by Judge Bork in his "Neutral Principles" article in the Indiana Law Review in 1971. He now claims to have recanted these views to some extent, though it is not clear to what extent. But I would like to know what led him to state, in that comprehensive article, that the Bill of Rights was "a hastily drafted document on which little thought was expended." To me, this is an incomprehensible statement.

The Bill of Rights is one of the fundamental documents of our democracy. I wonder how he would justify this alarming statement with his current view of himself as one adhering to the original intent of the framers. Surely he has read the writings of Samuel Adams, Thomas Jefferson, John Hancock, and James Madison emphasizing the importance of the Bill of Rights, and urging its incorporation into the Constitution.

I am also concerned by Judge Bork's shifts on a number of significant issues, by his almost casual disavowal of views which he has expressed strongly and frequently in his writings.

One example is on the issue of the first amendment and political speech. In his now-famous 1971 Indiana Law Review article, which was and is the most complete and comprehensive statement of Judge Bork's philosophy, he explicitly stated that, in his view, only political speech was protected by the first amendment. When Judge Bork wrote this article, he was a full professor at Yale Law School. He wrote that constitutional protection should be given "only to speech that is explicitly political." He wrote that courts should not "protect any other form of expression, be it scientific, literary, or that variety of expression we call obscene or pornographic."

In 1979, Judge Bork reaffirmed these views in a speech in Michigan. He said that—

> There is no occasion . . . to throw constitutional protection around forms of expression that do not directly feed the democratic process. It is sometimes said that works of art, or indeed any form of expression, are capable of influencing political attitudes. But in these indirect and relatively remote relationships to the political process, verbal or visual expression does not differ at all from other human activities, such as sports or business, which are also capable of affecting political attitudes, but are not on that account immune from regulation.

This is not a mainstream view of the first amendment. It would mean that a town council could ban all books by James Joyce, or Ernest Hemingway, or F. Scott Fitzgerald, without fear of challenge on first amendment grounds. It would mean that a legislature could ban books dealing with Darwin's theory of evolution, or Einstein's theory of relativity. It would mean that the works of Carl Jung or Sigmund Freud could be prohibited, because they are not "political" in nature. In Judge Bork's view, that is what the framers of the Constitution intended.

In 1984, in a letter to the ABA Journal, Judge Bork partially modified these views, saying that—

> Moral and scientific debate are central to democratic government and deserve protection.

Significantly, he did not include artistic or literary expression in this formulation. And in an interview just 3 months ago, Judge Bork reaffirmed that position, saying:

> There comes a point at which the speech no longer has any relation to those processes. When it reaches that point, speech is really no different from any other human activity which produces self-gratification.

The new Judge Bork has disavowed all of that. Not only does he say that he doesn't believe it now, he says that he never really did believe it. When Chairman BIDEN asked him "When did you drop that idea?", Judge Bork responded "Oh, in class right away." He also said that "I have since been persuaded—in fact I was persuaded by my colleagues very quickly, that a bright line made no sense." Judge Bork now tells us that "there is now a vast corpus of first amendment decisions that I accept as law. It does not disturb me. I have no desire to disturb that body of law."

But any reading of Judge Bork's statements in 1971, in 1979, in 1984, and in 1987 prior to his nomination shows us clearly that Judge Bork did advocate significant limitations on first amendment protection of speech. I find it difficult to believe that he has now seen the light and shifted his views so substantially from what they were before.

I am also troubled by Judge Bork's approach to precedent in the Supreme Court. All of us in this body who are lawyers know of the importance of the principle of stare decisis. We know of the respect, indeed reverence, which must be given to precedent and to past decisions of the Supreme Court. We know that the principle of stare decisis is the cornerstone and foundation of our legal tradition.

But Judge Bork seems to take a very dim view of stare decisis and of the importance of respecting precedent. He may now claim to be a moderate. He may claim that he, as a Supreme Court Justice, would respect and uphold the precedents that he has criticized for so many years. But his record belies those assurances.

It is useful to examine a list of the major precedents and landmark Supreme Court cases which Judge Bork has rejected, in the areas of civil rights, of privacy, of education, of freedom of speech, and of antitrust law. They reveal the record of a man who would freely overturn precedent to achieve the results that he desires. This record has already been examined by a panel of experts who reviewed Judge Bork's record for the Judiciary Committee, and by those who have testified before the committee in the hearings. But I would like to briefly review that record.

In the area of civil rights, our analysis must begin with Shelley versus Kraemer, a 1948 case in which the Court held that the 14th amendment forbids State court enforcement of a private, racially restrictive covenant. This has long been considered settled law. But in his famous "Neutral Principles" article, Judge Bork wrote that he "doubted" that it was possible to find a "neutral principle" which would "support" Shelley.

Again, on Reitman versus Mulkey, Judge Bork took a similar position. This was a 1967 case in which the Court invalidated a State referendum that prohibited open housing statutes, holding that the referendum "was intended to authorize, and did authorize, racial discrimination in the housing market. The right to discriminate is now one of the basic policies of the State." Judge Bork criticized this decision in an article entitled "The Supreme Court Needs A New Philosophy," saying that the "startling conclusion—in Reitman—can be neither fairly drawn from the 14th amendment nor stated in a principle capable of being uniformly applied."

In Baker versus Carr in 1962, and Reynolds versus Sims in 1964, the Court considered State legislative reapportionment plans, and adopted the principle of one person, one vote. Judge Bork wrote that "on no reputable theory of constitutional adjudication was there an excuse for the doctrine it imposed" in those cases. And in 1973, Judge Bork testified that "I do not think there is a theoretical basis for one man, one vote."

In Katzenbach versus Morgan in 1966, the Court upheld the provisions of the 1965 Voting Rights Act that banned the use of literacy tests in certain circumstances. And in Oregon versus Mitchell in 1970, the Court upheld a national ban on literacy tests. In 1972, Judge Bork criticized the decision in Katzenbach as improper. And in 1981, Judge Bork testified that the two cases were "very bad, indeed pernicious, constitutional law."

In Harper versus Virginia Board of Elections in 1966, the Court outlawed the use of a State poll tax. In 1973, in hearings on his nomination as Solicitor General, Judge Bork said that "as an equal protection case, it seemed to me wrongly decided." He also said that "as I recall, it was a very small poll tax, it was not discriminatory, and I doubt that it had much impact on the welfare of the Nation one way or the other." Judge Bork repeated this view in 1985, when he wrote that the Court "made no attempt to justify—its decision—in terms of the historic constitution or in terms of any other preferred basis for constitutional decision-making."

And in 1978, in the famous case of Bakke versus Board of Regents, the Court held that universities may not use raw racial quotas but may consider race, among other factors, in making admissions decisions. Judge Bork was critical of this decision also.

It might be noted that, in the Bakke case, Judge Bork wrote a biting critique of the carefully crafted opinion written by Justice Powell, which staked out a middle ground in the affirmative action dispute. Judge Bork now is presented to the Senate as a moderate, following in the footsteps of Justice Powell. But, in an article entitled "The Unpersuasive Bakke Decision," then-Professor Bork wrote that Justice Powell's opinion was "justified neither by the theory that the amendment is problack nor that it is colorblind," and continued that "it must be seen as an uneasy compromise resting upon no constitutional footing of its own."

I am concerned also by Judge Bork's refusal to recognize a right of privacy as implicit in the Constitution. The Supreme Court has long found such a right. This should be settled doctrine, no longer subject to dispute.

In an age of high technology, of computerized data bases, of high-speed telecommunications, of sophisticated electronic surveillance techniques, it is absolutely essential that the privacy rights of all Americans be not only recognized, but protected. A judge whose views seem to be rooted in the world of the late 18th century, who refuses to even recognize a right of privacy, is not a man whom I would feel safe entrusting with the responsibilities of protecting those rights in the late 20th century and beyond.

Let us review some of the major Supreme Court decisions in the area of privacy, decisions which Judge Bork has strongly criticized.

In Griswold versus Connecticut in 1965, the Court struck down a State law making it a crime to advise married couples about birth control. Judge Bork criticized this in his "Neutral Principles" article as an "unprincipled decision." In 1985, he said that there was "no supportable method of constitutional reasoning underlying it." In 1986, he wrote in the San Diego Law Review that Justice Douglas' approach in Griswold should be replaced with "a concept of original intent," and that this was "essential to prevent courts from invading the proper domain of democratic government."

Now, in his confirmation hearings, the new Judge Bork tells us that he has no problem with the decision in Griswold. Somehow, I find that assertion unconvincing in light of his earlier statements.

In Skinner versus Oklahoma in 1942, the Court struck down a law that authorized the involuntary sterilization of criminals. Judge Bork wrote in "Neutral Principles" that the Skinner decision was "as improper and intellectually empty as Griswold."

And, of course, Judge Bork had criticized the Court's landmark 1973 decision in Roe versus Wade, which recognized a constitutional right to abortion. Judge Bork has testified, in hearings on the "Human Life Bill", that Roe versus Wade "is, itself, a serious and wholly unjustifiable judicial usurpation of State legislative authority."

The new Judge Bork now tells us in his confirmation hearings that "There may be someway to do it. I have heard fairly strong moral arguments for abortion, just as I have heard fairly strong moral arguments against it. Whether those moral arguments could be rooted to the constitutional material, I really do not know."

Who are we to believe—the new Bork or the old Bork? For this Senator, the guidance must come from the views which Judge Bork has expressed consistently throughout his career—the views which are consistently hostile to any finding of a right of privacy, and to any case which upholds that right.

I am also deeply concerned by Judge Bork's repeated criticism of cases upholding freedom of speech. I have already discussed his limited view of the first amendment. That view is amply demonstrated by his criticisms of leading Supreme Court cases in this area.

In the Pentagon Papers case in 1971, the Court dissolved an injunction against the Washington Post and the New York Times, and permitted them to publish the Pentagon Papers in spite of the Government's claims of national security considerations. Judge Bork criticized this decision as one in a line of cases which in his view were wrongly decided. He stated that "in some of these cases, it is possible to believe, the press won more than perhaps it ought to have." He stated that, in his view, the Pentagon Papers case was "stampeded through to decision without either Court or counsel having time to learn what was at stake." He also said, in his Michigan speech in 1979 on "The Individual, the State, and the First Amendment," that "these cases are instances of extreme deference to the press that is by no means essential or even important to its role."

In that same speech, Judge Bork also criticized several other important Supreme Court decisions dealing with freedom of speech. He criticized Landmark Communication versus Virginia, a 1978 case in which the Court blocked the criminal prosecution of a newsman who published the name of a judge who was being secretly investigated by the State judicial review commission. Judge Bork commented that "one may doubt that press freedom requires permission * * * to publish the details of an investigation which the State may lawfully keep secret." Judge Bork also was critical of the Court's decision in Cox Broadcasting Corp. versus Cohn in 1975, in which the Court struck down a statute that prohibited publication of the name of a rape victim.

And he criticized the Court's 1976 decision in Buckley versus Valeo, which sustained the Federal Election Campaign Act's limitations on contributions to a candidate for office, but struck down its limits on a candidate's personal expenditures. Judge Bork stated in the Michigan speech that "it is arguable that—Buckley was—the most important first amendment case in our history * * * and it was there that the amendment went soft at its center."

Judge Bork also criticized the Court's decisions in "offensive language" cases such as Cohen versus California (1971), Rosenfield versus New Jersey (1972), Lewis versus New Orleans (1972), and Brown versus Oklahoma (1972). The Court held that "one man's vulgarity is another's lyric * * * The Constitution leaves matters of tastes and style so largely to the individual." Judge Bork criticized this line of cases, saying that "these cases might better have been decided the other way on the ground of public offensiveness alone * * *. If the first amendment relates to the health of our political processes, then, far from protecting such speech, it offers additional reason for its suppression."

Judge Bork has also criticized dissents of Justice Holmes, joined by Justice Brandeis, in Abrams versus U.S. (1919) and Gitlow versus New York (1925). In these dissents, which are now accepted historically as representing the better and accepted view, Justice Holmes created the test that the government may only forbid speech when it presents a "clear and present danger." Judge Bork wrote in "Neutral Principles" that "the 'clear and present danger' requirement (is improper) because it erects a barrier to legislative rule where none should exist. The speech concerned has no political value within a republican system of government." In the 1979 Michigan speech, Judge Bork added that "in fact the superiority of the famous dissents by Justice Holmes and Brandeis is almost entirely rhetorical."

These comments are ironic in view of Judge Bork's recent attempts to cast himself in the mold of Justice Brandeis, as one who would respect and uphold precedent.

Judge Bork has also criticized the Court's holdings in two more recent free speech decisions, Brandenburg versus Ohio (1969), and Hess versus Indiana (1973). Brandenburg held that speech can only be restricted when it is "directed to inciting or producing imminent lawless action and is likely to incite or produce such action." In Hess, the Court overturned the conviction of a campus demonstrator, holding that his words were "mere advocacy of illegal action at some indefinite future." Judge Bork, in the Michigan speech, said that both of these cases were "fundamentally wrong interpretations of the first amendment."

And Judge Bork has also found fault with two other first amendment cases decided by the Supreme Court. In Virginia Board of Pharmacy versus Virginia Citizens Consumer Council (1976), the Court struck down a statute prohibiting advertising the prices of prescription drugs. And in Bates versus State Bar of Arizona (1977), the Court struck down a rule against advertising by attorneys. Judge Bork critized these decisions as "eccentric," and said that they reflected a trend "in which the Constitution becomes diffuse and trivialized at the hands of an activist judiciary." He added "that is not the sole force at work * * *. The first amendment seems to have gone soft at its center."

Perhaps Judge Bork is right in all of these cases, and the Supreme Court is wrong. Perhaps Judge Bork's vision is clearer than that of Justices Holmes, Brandeis, Douglas, and Powell. Perhaps all of these cases should be overturned. But, if our legal traditions of precedent and stare decisis are to continue to have meaning, then I believe that these precedents must be accepted, and Judge Bork's views must be rejected.

Judge Bork has also been critical of a long line of Supreme Court cases involving religious and ethnic minorities in public education. In Meyer versus Nebraska (1923), the Court held that there was a right to teach or study a modern foreign language in school. Judge Bork, in "Neutral Principles," said that this case was "wrongly decided."

In Pierce versus Society of Sisters (1925), the Court held that there was a right to operate or attend private schools. In Judge Bork's view, this case was also "wrongly decided." He wrote that "perhaps Pierce's result could be reached on acceptable grounds, but there is no justification for the Court's methods."

In Engle versus Vitale (1962), the Court held that public school officials may not require students to recite a State-sanctioned prayer at the beginning of each day. Judge Bork, in a 1982 speech, criticized this as a "noninterpretivist" decision.

In Lemon versus Kurtzman (1971), the Court established a three-part test for evaluating challenges that a given law establishes a State religion. Judge Bork challenged each part of the test, calling it "inconsistent" with the meaning of the establishment clause.

And in Aguilar versus Felton (1985), the Court invalidated New York City's use of Federal funds to pay public school employees teaching in parochial schools. Judge Bork in 1985 said that Aguilar "illustrates the power of the three-part test to outlaw a program that had not resulted in any advancement of religion but seems entirely worthy."

Judge Bork has also been very critical of the Supreme Court, as well as the Congress, in the area of antitrust law. Ironically, for a man who claims to believe that Congress, not the courts, should make the laws, he has been scathingly critical of Congress in the area of antitrust. In fact, in his book "The Antitrust Paradox," Judge Bork wrote that "Congress as a whole is institutionally incapable of the sustained rigor and consistent thought that the fashioning of a rational antitrust policy requires."

If Judge Bork is correct, if Congress is "institutionally incapable of sustained rigor and consistent thought," why should that be limited only to the area of antitrust? Why should Congress be entrusted with the power to enact laws in the area of civil rights, or the budget, or defense, or any other area? In fact, as Senator SPECTER brought out in his questioning in the hearings, Judge Bork's attitude toward Congress in the antitrust area is indicative of a basic contradiction in his philosophy.

But his criticism is not limited to the Congress in the antitrust area. He also has been equally critical of the Supreme Court as well. In Brown Shoe versus United States (1962), the Court outlined the factors to be used in assessing the effects of a merger, and documented a congressional intent under the antitrust laws to protect small businesses. Judge Bork wrote in his book that "Brown Shoe was a disaster for rational consumer-oriented merger policy."

In Federal Trade Commission versus Proctor & Gamble Co. (1967), the Court articulated its theory prohibiting some conglomerate mergers. Judge Bork criticized this decision, saying that it "makes sense only when antitrust is viewed as pro-small business—and even then it does not make much sense."

In Standard Oil versus United States (1949), the Court defined the limits of exclusive dealing arrangements. Judge Bork criticized this decison in his book, saying that it rested "not upon economic analysis, not upon any factual demonstration, but entirely and astoundingly, upon the asserted inability of courts to deal with economic issues."

And in Dr. Miles Medical Co. versus John D. Park and Sons Co. (1911), the Court created a per se rule forbidding resale price maintenance. Judge Bork criticized this case as well, calling it "a decisive misstep that has controlled a whole body of law."

To summarize, Judge Bork has criticized and rejected Supreme Court precedents dating back to the beginning of this century in several important areas of law. In the area of civil rights, he has rejected major precedents going back to Shelley versus Kraemer in 1948, which I and many others studied in law school as a cornerstone of modern civil rights law. In the area of privacy, he has criticized the entire line of Supreme Court decision starting with Skinner versus Oklahoma in 1942. Indeed, he still refuses to acknowledge that the Constitution even contains an implicit right to privacy.

In the area of free speech, he has rejected the entire line of cases dating back to Abrams versus U.S. in 1911, in which Justices Holmes and Brandeis articulated what is now the accepted view of the Supreme Court on the "clear and present danger" test. In the area of education, and the separation of church and state, Judge Bork has rejected Supreme Court cases going back as far as 1923, in Meyer versus Nebraska, and 1925, in Pierce versus Society of Sisters. And in the area of antitrust law, Judge Bork has rejected the entire line of Supreme Court decisions going back to Dr. Miles Medical Co. versus John D. Park and Sons in 1911.

Perhaps Judge Bork is right in all of these cases. Perhaps courts are unable to deal with economic and other important issues. Perhaps Congress is institutionally incapable of the sustained analysis and intellectual rigor which is essential for good lawmaking. But perhaps Judge Bork is wrong.

I, for one, am not willing to take that chance. I cannot believe that a whole body of Supreme Court precedents, in vital areas such as civil rights, free speech, privacy, and so many other areas, should be overturned. I am not willing to substitute one man's opinions for an entire body of law, a constitutional tradition of respect for precedent, which we have built in this country over the past 200 years.

There are other areas in which I also have serious problems with Judge Bork—on the War Powers Act, on his deference to the executive branch, on his rejection of congressional standing, and on his actions during Watergate. These issues have been discussed at length by my colleagues. I will not repeat all of those arguments now. But suffice it to say that the Senate has an obligation to take a very close look at this nominee, and to determine whether a man who has expressed such views throughout his legal career is a man whom we trust with the high responsibilities of an Associate Justice of the Supreme Court of the United States.

As Prof. Laurence Tribe of Harvard has written, "there has arisen the myth of the spineless Senate, which says that Senates always rubber-stamp nominations and Presidents always get their way." This has not been true historically. It is not true today. The Senate has a duty to closely examine the views, the writings, and the character of any man or women nominated to the bench of our highest Court. To do any less would not be true to the original intent of the framers of our Constitution.

I believe that a careful examination of Judge Bork's record reveals that he is neither a moderate, nor a conservative. He has consistently rejected precedents of the Supreme Court and settled areas of law. To place this man on the Supreme Court would be to reopen old wounds and to refight old battles. It would not be in the best interest of the people of the United States. I urge my colleagues to reject the nomination of Judge Bork.●

PRESIDENT REAGAN'S OAS SPEECH

● Mr. HARKIN. Mr. President, I read with great dismay and alarm President Reagan's address before yesterday's session of the Organization of American States.

I came away with the conclusion that the President still does not understand either the historical significance of the peace accord signed in Guatemala on August 7, or the intent of the signatories of that document.

I came away realizing that the President resists accepting this newfound political independence of Latin America by insisting to impose his will on the continent.

I realized the President still refuses to head Latin America's call for peace, reconciliation and democracy by continuing to push a policy destined only to bring further bloodshed and economic dislocation to Central America.

Mr. President, you cannot have it both ways.

You cannot quote from President Oscar Arias, while your administration withholds from Costa Rica United States economic aid to punish Arias for his leadership on the peace issue.

You cannot embrace the Guatemala plan, while supporting an aid program for the Contras which if approved would torpedo the peace process.

You cannot refer to Simon Bolivar's plea for Latin independence, while refusing to heed current Latin leaders call for peace and reconciliation.

To quote from the Senator from North Carolina, Mr. Reagan, it's time you woke up and smelled the coffee.

By signing the Guatemala accord and taking the steps necessary to implement it, the Central Americans have redefined the debate in the region and in Congress. The question now on the table is, "Do you support the peace process?" It is no longer, Mr. President, whether or not you support the Contras.

The August 7 signing of the Guatemala plan marked the culmination of 4 years of effort by Latin America to gain control over its political destiny. It began in January 1983, when Mexico, Venezuela, Panama, Colombia, and Venezuela formed the Contadora group to promote a peaceful resolution of the conflicts in Central America.

By February of this year, when the President of Costa Rica announced the Arias plan, the Central Americans took their first step toward resolving their conflicts.

Today, the Central American Presidents are on the verge of bringing peace to their region.

And to the surprise of many of us, in the past 10 days, they have demonstrated the strength of their will to comply with the promises of the Guatemala accord.

Mr. President, we must reward Central America's courage by heeding their call for peace and by respecting their efforts to end their civil conflicts. That means adhering to the guidelines of the Guatemala accord, not, Mr. President, adding new conditions not agreed to by the Central Americans themselves.

The Guatemala accord offers a blueprint for arranging a cease-fire, for promoting internal reconciliation, and for insuring political pluralism.

Plans for reducing military forces and removing foreign military advisers are not specifically called for in the plan signed by the five Central American Presidents.

Those steps, of course, are essential for long term peace, but they can be best handled by resuming bilateral discussions with the Nicaraguans.

A new era of independence is dawning in Latin America. Through the Contadora process and the Guatemala plan, our Latin neighbors have begun grappling with their political futures and set a middle course free from Soviet colonialism and independent of the unilateral dictates of the United States.

While Latin America has embarked on a rendezvous with their future, Mr. Reagan, tragically, is anchored to the failed policies of the past.

I hope that in the absence of the President's understanding, the Congress exercises the good sense to heed the call for independence now stirring in Latin America.●

THE CALENDAR

Mr. BYRD. Mr. President, may I inquire of the distinguished acting Republican leader if there is any objection to proceeding to the consideration of Calendar Order No. 359.

Mr. D'AMATO. No. There is not.

Mr. BYRD. Mr. President, I thank my friend.

RECLAMATION AUTHORIZATION ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 359, S. 649, a bill to amend the Reclamation Authorization Act of 1976.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read a follows:

A bill (S. 649) to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327).

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 359

Mr. D'AMATO. Mr. President, I send an amendment to the desk in behalf of Mr. Evans, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'Amato], for Mr. Evans for himself and Mr. Adams, proposes an amendment numbered 944.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike eveything after the enacting clause and insert in lieu thereof:

"That section 208 of the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327) is amended by deleting "$39,370,000 (January 1976 prices), plus or minus such amounts, if any," and inserting in lieu thereof "88,000,000 (January 1987 prices), provided that of the $88,000,000 authorized herein, only $18,000,000 thereof may be adjusted by such amounts, plus or minus,".

Mr. EVANS. Mr. President, today I am offering, along with my distinguished colleague from Washington, Senator Brock Adams, an amendment in the nature of a substitute to a bill we both sponsored, S. 649. This bill is needed to increase the authorization ceiling level by $18 million on the Oroville-Tonasket Irrigation Project in our State. This amendment clarifies that under the current policies of the Bureau of Reclamation, only this $18 million is available for additional adjustments based on changes in the costs of construction. This amendment will serve a beneficial purpose in sending a clear message to the Bureau of Reclamation that we expect the project to be completed without further delay and without the cost estimates that we have been given.

It is my sincere hope that this legislation will lead to a speedy resolution of a problem that has plagued the farmers in the Oroville-Tonasket Irrigation District for too long—getting clean water from their irrigation system. The Oroville-Tonasket irrigation project was authorized by Congress in 1976 to replace an antiquated delivery system with a pressurized delivery system to benefit growers in north-central Washington. At that time, the project was authorized at $39.4 million in January 1976 prices. In today's dollars, that translates to an authorization ceiling of $70.8 million. The Bureau now estimates that it will need $88 million to complete the project. This amount includes both the costs to complete the third phase of the project and to repair problems that have plagued the construction of the second phase of the project.

Due to problems relating to both insufficient analysis, inadequate design, and faulty materials in the second phase of construction, farmers have been struggling with a new system, that often delivers more silt than water. The irrigators dependent on the water delivery system have experienced heavy damage to sprinklers and regulators. In some cases, irrigators have not been able to use the system at all. Initial attempts to try to repair the system to make it work proved futile and frustrating.

Fortunately for the growers in the Oroville-Tonasket Irrigation District, the Bureau has finally admitted "it can't get there from here." It has scrapped its original attempt to fix the siltation problem and has agreed to construct siltation ponds at five pumping plants along the Okanogan River. Water will remain in the settling ponds for a few hours and than screened to remove as much silt and other material from the water before it enters the grower's distribution systems. After many long months of discussing the issue, there is finally some agreement on how to proceed.

This legislation is crucial to the farmers dependent on that irrigation system. I must take this opportunity, however, to express my strong concerns about the practices and policies of the Bureau of Reclamation that seem to continually result in cost overruns and extended delays in completing projects.

Mr. President, our farmers are dependent upon the Federal Government fulfilling the commitments made to them when Congress authorizes water projects. These farmers should not be subject to the endless delays and broken promises that so frequently accompany Bureau projects. I urge my colleagues to support the speedy passage of this legislation.

OROVILLE-TONASKET IRRIGATION DISTRICT LEGISLATION

Mr. ADAMS. Mr. President, I rise to propose, along with the distinguished senior Senator from my State of Washington, Mr. Evans, an amendment designed to help complete a small water project in my State.

The Bureau of Reclamation is currently constructing the Oroville-Tonasket Unit extension project in the Oroville-Tonasket Irrigation District in north-central Washington. The purpose of this project is to rehabilitate the district's existing deteriorated irrigation system. Legislation is needed to raise the authorization ceiling on the project from $39,370,000—January 1976 prices to $88 million—January 1986 prices. This is not as large an increase as it appears—at today's prices the current ceiling is $70.8 million—so this legislation only raises the ceiling another $70.8 million. This increase is necessary not only to complete the final stages of the project, but to fix problems encountered in earlier phases of the project, but to fix problems encountered in earlier phases of the project that resulted in damage to district irrigators' on-farm systems.

I would like to emphasize, Mr. President, that my support for raising this authorization ceiling is not an endorsement of Bureau of Reclamation practices that result in early underestimates of project costs, and subsequent cost overruns. These practices are causing delays and threatened cancellation of important water projects all across the West. Failure to raise this authorization ceiling, however, would result in cancellation of the project. This would be a needless waste of the time and money spent so far. It would also result in injustice to district irrigators dependent on completion of the project who have suffered inconvenience and damage to their personal property in the course of its development. Mr. President, I ask my colleagues to give this legislation favorable consideration.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington [Mr. Evans].

The amendment (No. 944) was agreed to.

Mr. ADAMS. Mr. President, I rise as a cosponsor of this legislation, which marks the beginning of a successful end to the saga of the Oroville-Tonasket Irrigation project. I would first like to thank my distinguished senior colleague, Senator Evans, for his leadership and hard work on this bill, and I also appreciate the efforts of his colleagues on the Senate Energy Committee for moving so promptly to bring this bill to the floor.

This bill raises the authorization ceiling on the Oronville-Tonasket project being constructed by the Bureau of Reclamation. This increase will be used to complete the project, and to fix problems encountered in earlier phases. The Bureau of Reclamation has sufficient appropriated funds on hand, but will soon reach their authorization ceiling; and be unable to continue work.

This project, which rehabilitates the Oroville-Tonasket Irrigation District's deteriorating irrigation system, has not been trouble free. Design failures have resulted in large amounts of sediment being pumped through the system, with resulting damage to irrigator's pumps and irrigation pipes. Irrigation farmers have had legitimate concerns that once the project was completed the irrigation district would be left with a system that doesn't work.

Fortunately the irrigation district and the Bureau of Reclamation have worked together in the last few months to develop solutions acceptable to all parties. I commend both the district and the Bureau for their cooperation in reaching this agreement.

Mr. President, all that remains to be done is for Congress to take a final step in insuring that the Federal Government fulfill its obligations to the people of the Oroville-Tonasket region. Without passage of this legislation, the significant Federal resources already committed will be wasted. More importantly, however, we would be committing an injustice to the farmers of the Oroville-Tonasket Irrigation District. These farmers have suffered delays, inconvenience, and damage to their equipment. The entire community has, in my opinion, shown enormous patience throughout this process. It would be very wrong not to complete this project, and leave these people in a worse situation than where they started.

Fortunately that will not be the case. Legislation insuring a successful conclusion to this project is before the Senate today, and I urge my colleagues to support it.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 649), as amended, was passed, as follows:

S. 649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 208 of the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327) is amended by deleting "$39,370,000 (January 1976 prices), plus or minus such amounts, if any," and inserting in lieu thereof "$88,000,000 (January 1987 prices), provided that of the $88,000,000 authorized herein, only $18,000,000 thereof may be adjusted by such amounts, plus or minus,".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REIMBURSEMENT OF EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON TRANSFER OF A FEDERAL EMPLOYEE

Mr. BYRD. Mr. President, I ask the acting leader on the other side as to whether or not Calendar Order No. 362 has been cleared.

Mr. D'AMATO. It has been cleared by the minority side.

Mr. BYRD. I thank the Senator.

I ask unanimous consent, Mr. President, that the Senate proceed to the consideration of Calendar Order No. 362.

The PRESIDING OFFICER. Without objection, the bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1750) to amend title 5, United States Code, to liberalize certain provisions authorizing reimbursement for expenses of sale and purchase of a residence upon the transfer of a Federal employee, and to provide for the payment of certain travel and transportation expenses of civil service career appointees.

There being no objection, the Senate proceeded to consider the bill.

The **PRESIDING OFFICER.** The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT OF EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON THE TRANSFER OF A FEDERAL EMPLOYEE.

(a) REIMBURSEMENT OF EXPENSES.—Section 5724a(a)(4)(A) of title 5, United States Code, is amended—

(1) by inserting before the period at the end of the first sentence the following: "; and expenses, required to be paid by the employee, (i) of the sale of the residence (or the settlement of an unexpired lease) of the employee at the official station from which the employee was transferred when he was assigned to a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), and (ii) of the purchase of a residence at the new official station when the employee is transferred in the interest of the Government from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), to an official station (other than the official station from which he was transferred when assigned to the foreign tour of duty) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or such areas and installations in the Republic of Panama"; and

(2) by adding at the end thereof the following new sentence: "Reimbursement of expenses prescribed under this paragraph in connection with transfers from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), shall not be allowed for any sale or settlement of unexpired lease or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the foreign post of duty.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applicable with repect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section.

SEC. 2. CERTAIN TRAVEL AND TRANSPORTATION EXPENSES OF CIVIL SERVICE CAREER APPOINTEES.

Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of 18,000 pounds net weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979, (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside), if such individual—

"(i) has previously been transferred in the interest of the Government from one official station or agency to another for permanent duty during the term of Government employment of such individual; and

"(ii) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or of chapter 84 of this title.".

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **D'AMATO.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRAVEL EXPENSES FOR ADDITIONAL MEMBERS OF WHITE HOUSE CONFERENCE FOR A DRUG-FREE AMERICA

Mr. **BYRD.** Mr. President, I inquire of the distinguished Senator from New York if Calendar Order No. 368 has been cleared on the other side of the aisle?

Mr. **D'AMATO.** It has been approved by the minority.

Mr. **BYRD.** I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 368.

The **PRESIDING OFFICER.** The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3226) to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug-Free America to be allowed travel expenses, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

The **PRESIDING OFFICER.** The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **D'AMATO.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SAFETY BELT USE DAY

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 338 designating October 15, 1987, as "National Safety Belt Use Day" and that the Senate proceed to the consideration of the joint resolution.

The **PRESIDING OFFICER.** The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 338) designating October 15, 1987, as "National Safety Belt Use Day."

The **PRESIDING OFFICER.** Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 338) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. **D'AMATO.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Calendar Order No. 367, which was a companion Senate joint resolution, be indefinitely postponed.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

PROGRAM

Mr. **BYRD.** Mr. President, I shall state the program now for tomorrow.

Mr. President, on tomorrow the Senate will convene at 8:30 a.m. After the two leaders have been recognized under the standing order for not to exceed 5 minutes each, Mr. DOMENICI will be recognized for not to exceed 20 minutes and at the conclusion of the 20 minutes or at 9 o'clock, whichever is the later, the clerk will call the roll to establish a quorum and upon the announcement by the Chair that a quorum is not present, a motion will be made to instruct the Sergeant at Arms to request the attendance of absent Senators. The yeas and nays have already been ordered on that motion. There will be a 30-minute rollcall vote and the call for the regular order will be automatic at the conclusion of the 30 minutes.

After that rollcall vote has occurred and a quorum has been established, it will be my intention then to proceed, pursuant to my previous commitment a pursuant to the statement that I made earlier today, to take up the War Powers Resolution from the calendar. There is no time limitation on that resolution. Motions and amendments and debate can be expected throughout the day.

The number of the resolution is Senate Joint Resolution 194, a joint resolution to require compliance with the provisions of the War Powers Resolution. The authors are Messrs. WEICKER and HATFIELD.

Does the distinguished Senator from New York have any further statement or any further business he would like to transact?

Mr. D'AMATO. Mr. President, I am appreciative of the majority leader's inquiry, but I have no further business.

Mr. BYRD. I thank the Senator.

I may ask my distinguished colleague who is presiding over the Senate, Mr. ROCKEFELLER, if he has any business he wishes to transact or any statements he wishes to make in which case I will relieve him at his post of duty at the moment and he may take my place on the floor.

The PRESIDING OFFICER. The Chair awaits the direction of the majority leader.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 8:30 tomorrow morning.

The motion was agreed to; and, at 7:58 p.m., the Senate recessed until Friday, October 9, 1987, at 8:30 a.m.

EXTENSIONS OF REMARKS

PRESIDENT REAGAN'S ADDRESS TO GENERAL ASSEMBLY OF THE OAS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. LAGOMARSINO. Mr. Speaker, yesterday President Reagan addressed the General Assembly of the Organization of American States on the peace process in Central America. The President's remarks are so important I believe each Member should have the opportunity to read his speech in its entirety. For that reason I am submitting President Reagan's address to be included in the RECORD:

REMARKS BY THE PRESIDENT TO THE ORGANIZATION OF AMERICAN STATES

Mr. President, Mr. Secretary General, ambassadors, ladies and gentlemen: It is a great honor to have this opportunity to address this session of the O.A.S. I confess to a feeling of great pride at being here today. For this is no ordinary diplomatic event, but what must be the largest assembly of ambassadors from democratic countries in the history of the hemisphere.

As we gather here today, the hopes and dreams that built this hall and formed this organization have never been so near fulfillment. The work of our forefathers, honored in the Hall of Heroes, has never been so close to completion. We come together as the representatives, not of one country, nor of a single continent—but of a hemisphere dedicated to the cause of human freedom and democratic government.

This last decade has witnessed the triumph of freedom in the Americas. Ten years ago, the great majority of people in Latin America lived under oppression. Today, 90 percent know the freedom and dignity of democratic government. The story of that democratic transformation is one of the proudest chapters in human history. Many here in this room today have been a part of it. It is a story of courage, statesmanship, perseverance; of heroism and, yes, sometimes, martyrdom.

It is the story of men such as Victor Paz Estenssoro, fighting terrorists, drug traffickers, and sheer poverty to keep Bolivia free.

It is the story of Raul Alfonsin, raising Argentina from defeat and dictatorship to a new democracy.

It is the story of Jose Napoleon Duarte—detained, tortured, and exiled after winning El Salvador's presidency in 1972, he had the courage to return home, face down his tortures, and prevail.

It is the story of all the valiant statesmen of Central and South America who struggle to establish and maintain democracy in their countries.

It is also the story of common people, such as the woman in El Salvador, wounded by guerrilla fire on the way to vote. She stood in line at the polls for hours, but would not leave to have her wounds treated until after she had voted. And the grandmother who had been warned by the Communists that if she voted she would be killed when she returned from the polls. "You can kill me," was her defiant answer, "[You can] kill my family, kill my neighbors, but you can't kill us all."

That is the voice of the Americas, the proud voice of the descendants of Simon Bolivar who demand freedom as their birthright. "The veil has been torn asunder," Bolivar once wrote. "We have already seen the light and it is not our desire to be thrust back into the darkness."

Yes, the Americas have come far into the light of liberty, and we have no intention of falling back into the shadows of oppression and tyranny. But for all the heroism and perseverance, our journey is not yet complete. Today, we are called upon to face one of the most serious challenges that has ever confronted our hemisphere. It will demand from all our nations the same statesmanship, the same courage, and the absolute commitment to freedom that have brought us this far.

I am talking about the efforts of the democratic nations of Central, South, and North America to bring Nicaragua into the embrace of freedom, to sever its ties from the expansionist, colonial force, and to secure for the people of Nicaragua the fulfillment of the promises of democracy and human rights made to the O.A.S. in 1979.

We are now at a critical juncture. The Guatemala Peace Accord, an historic agreement signed by the five Central American Presidents on August 7th, contains many of the elements necessary to bring both lasting peace and enduring democracy to the region. The Accord calls on all parties to end the fighting and insist on true democracy and human rights in Nicaragua, including freedom of the press; freedom of worship; the right of free political association; and full, free, and fair elections. The Accord makes clear: Democracy is the bottom line. There can be no compromise on that point.

But while there is reason for hope, there is also reason for great caution. President Arias has stated that it is only with true democracy in Nicaragua that peace will survive. "If democracy doesn't take hold in Nicaragua," he said, "the armed struggle will continue." And of the Sandinistas, he has said, "It is true that they are Marxists. It is true that if they consolidate themselves they are going to try to export the revolution, to undermine Costa Rica, to try to create subversion in this country."

We share President Arias's hope and aspirations, but also his skepticism of the Communist Sandinistas—a skepticism born of a long record of Sandinista deceit and broken promises. I think skeptics may be excused if they ask: Just where will Daniel Ortega be on November 7th, the day the Accord goes into effect?

We cannot forget that there already exists a negotiated settlement with the Sandinistas that pre-dates the Guatemala Plan—the settlement of 1979, in which this organization, in an unprecedented action, removed recognition from a sitting government, the government of Anastasio Somoza, and helped bring the Sandinistas to power. As part of that settlement, the Sandinistas agreed to implement genuine democracy with free elections and full civil liberties. Each nation here, as a member of the Organization of American States, is a party to that negotiated settlement.

We know now that the Sandinistas never intended to carry out those promises. Just a few months later, the Sandinistas met in secret and drafted what has come to be known as "The 72-hour Document," in which they spelled out their plans for building another Cuba in Nicaragua. And even as the United States was sending the new Nicaraguan government millions of dollars in aid, more aid than any other nation, the Sandinistas were busy smuggling arms to the Communist guerrillas in El Salvador.

But although the Sandinistas have reneged on their commitment to that negotiated settlement, this organization must not. Those promises of democracy and peace were promises we made as well—promises to the people of Nicaragua that their hopes for freedom would not be disappointed. We gave our word of honor, and we can't walk away from it. Those promises still form the absolute base of any negotiated settlement with the Sandinista Communists. Full, free, and fair elections and the open society that alone can make them possible, including full human rights and expulsion of all Soviet and Cuban forces—these must be the bedrock conditions upon which any further agreement with the Sandinistas is built.

This is why, as we press on toward negotiations, we must remain steadfast in our commitment to bring true democracy to Nicaragua and clear-eyed and realistic about who and what the Sandinistas are. In response to the Guatemala Accord, the Sandinistas have taken a few initial steps toward compliance—but these welcome steps are only a beginning. *La Prensa* and Radio Catolica have been allowed to reopen, but the other independent papers remain closed. The dozen other radio stations are still not allowed to broadcast.

Recently, the Social Christian Party held its 30th anniversary celebration in Managua. In a demonstration of the internal opposition to the Sandinistas, some 4,000 people attended the rally. The Sandinistas allowed the rally to take place, but immediately detained 18 of the Social Christian Party members on trumped-up charges. The former President of Venezuela, Luis Herrera Campins, who was there as a special guest, called the arrests a "blatant act of political harassment."

The Sandinistas must learn that democracy doesn't mean allowing a rally to take place and then arresting those who take part—it means hundreds of such rallies, free from harassment, either by the secret police or by what the Sandinistas call the "divine mobs." Democracy doesn't mean opening one newspaper and one radio station—but opening them all. Democracy doesn't mean releasing a few political prisoners—but all 10,000 of them, some of whom have been imprisoned as long as 8 years. Democracy doesn't mean selectively granting temporary freedoms in order to placate world opinion—but permanent, across-the-board human

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rights, guaranteed by a constitution and protected by the checks and balances of democratic government.

Ultimately—and this is the most important lesson of all—democracy means returning power to the hands of the people. The Sandinistas have to understand that they do not have the option of being dictators. Their only option is to lead a political party, and serve for limited terms of office, if chosen by the people in free and fair elections.

What happens in this next month will be crucial—and it will be the responsibility of all of us in the O.A.S. to insist that the Sandinistas give peace a chance by truly opening up their society. More than anyone, the members of the O.A.S. have a particular responsibility to take the lead in verification of the Guatemala agreements. We cannot be satisfied with facades of freedom erected to fool international opinion, and then quickly dismantled when the pressure is off. We must insist or real democracy in Nicaragua—not for a week, not for a month or a year—but for always.

All we are asking for is true democracy. Anyone who demands anything less is not serving the cause of peace in Nicaragua. And let me just say, there are no new demands here. It is all spelled out in the Guatemala Accord and the Wright-Reagan peace plan. Tell me—now can you have democracy, when thousands are imprisoned for political reasons. How can you have a democracy, when individuals who displease the Sandinistas are punished by withholding the ration cards that allow them to buy food and other necessities. How can you have democracy with a secret police force, commanded by dedicated Leninists, that keeps tabs on every citizen through the so-called "block committees." How can you have democracy, when the entire society is being militarized, with the military under the control of one political party and its Cuban and Soviet "advisors."

Democracy is made up of specifics. Day-to-day freedoms. Just as tyranny is made up of day-to-day oppressions. Is it sincere to talk about democracy, but ignore the specific markers by which we can tell if democracy truly exists? I don't think so. And that is why the march towards peace in Central America must be a march—step-by-step, perhaps, but still relentless—towards democratic freedom.

Along with democratic reforms, the Guatemala Accord calls for national reconciliation in Nicaragua, through a negotiated ceasefire and a full amnesty. Just this week, President Duarte has called for a spirit of national reconciliation in his country, urging all Salvadorans to, in his words, "forgive all those acts that have touched our hearts with pain." Despite the violence done to him and his family by the guerrillas, he has begun negotiations with them. President Cerezo of Guatemala, too, has responded to the call for reconciliation and his government will soon be meeting with the guerrillas there. They have done so because they want the Guatemala Accord to work. If the Sandinistas truly want the Accord to work, isn't it time they sat down and negotiated with the Nicaraguan freedom fighters?

I'd like to take a moment now to address myself to the ladies and gentlemen of the press. As the process of national reconciliation moves forward, your profession bears a special responsibility to see that the terms of the peace process are fully carried out and democracy finds a permanent home in Nicaragua. Sometimes in the past, the media has been criticized for having a double standard. As the story unfolds in Nicaragua, there can be no double standard, only one single and absolute standard—democracy. You must keep watch on the progress of democracy in Nicaragua. Train all your investigatory abilities, all your skepticism on the Sandinista government. Demand full disclosure. See that they live up to their promises. This could be one of journalism's finest hours when, with the truth, you helped set a people free.

As I said, the Guatemala Accord is a positive movement in the continuing effort, begun with the O.A.S. negotiated settlement in 1979, to bring democracy and peace to Nicarauga. But although the Accord is a step in the right direction, it does not address U.S. security concerns in the region—the growing Soviet-Cuban presence that seeks to establish a Soviet beachhead on the American mainland, and the rapid and destabilizing growth of the Sandinista armed forces that threatens Nicaragua's democratic neighbors.

However, these security concerns are addressed in the Wright-Reagan peace plan. The first paragraphs of that plan state in no uncertain terms, "That there be no Soviet, Cuban, or Communist bloc bases in Nicaragua," and "That Nicaragua pose no threat to its neighbor countries nor provide a staging ground for subversion . . . in the hemisphere."

In other words, the Soviet-boc and Cuban forces must leave. We will not tolerate Communist colonialism on the American mainland. Freedom in Nicarauga. Liberation from all tyrants, domestic and foreign—that is the commitment of the United States, a bipartisan consensus on the conditions that will satisfy U.S. security interests.

And let me add, those security interests are shared by every democratic nation in the hemisphere. From the first Congress of American States, convened by Simon Bolivar, and the Treaty of Perpetual Union, League and Confederation, the peoples of the American hemisphere have insisted on the sovereignty and independence of member states against foreign imperialism. Today, there are only two colonial dictatorships in the Americas. Of one, John Kennedy said over 20 years ago, ". . . forces beyond the hemisphere . . . have made Cuba a victim of foreign imperialism, an instrument of the policy of others, a weapon in an effort dictated by external powers to subvert the other American Republics." Today, those same forces grip Nicaragua, but there, an anti-colonial struggle has arisen that can throw off the imperialist yoke.

The fact is that there is only one reason why the Communist subversion of the Central American democracies has been—for the moment—blocked. There is only one reason why the democratic process envisioned in the Guatemala plan still has a hope for success.

That is the brave Nicaraguan freedom fighters who are battling—and dying—to bring freedom and justice to their homeland. Most are young men, barely in their twenties—only children when the Somoza regime was toppled. They have heard of the promises of 1979—of freedom, human rights, democracy—but they have known only tyranny, the steadily-growing stranglehold of the new dictators on their society. They have seen their freedoms choked off, one by one, their farms confiscated, their priests harassed. They have seen arbitrary arrests, beatings, and official murder become the order of the day. They have seen other young Nicaraguans drafted to serve under Soviet and Cuban so-called "advisors," pawns in their war to impose a foreign tyranny on the American mainland.

Yes, these Nicaraguans have known only tyranny. They have seen one dictator fall, only to be replaced by nine commandantes who are far worse—and they have rebelled. Their hearts demand freedom. In the spirit of the American freedom fighters of earlier centuries, they are fighting for liberty, they are fighting for independence.

There are now well over 15,000 Nicaraguan freedom fighters—three times the number that overthrew Somoza—operating throughout the entire length of Nicaragua. They would not have survived without the friendship and help of the Nicaraguan people. For 7 years now, the freedom fighters have prevented the consolidation of totalitarian power in Nicaragua. For now, the billions of dollars in Soviet-bloc military aid pouring into Managua have been aimed primarily at defeating the freedom fighters—so that later they may attack the surrounding democracies.

All of us in public life should remember it is the freedom fighters—most of them poor farmers fighting against overwhelming odds in the jungles of Nicaragua—it is their blood and courage that have stemmed the tide of Communist expansion in Central America. without the freedom fighters, the Sandinistas never would have signed the Guatemala Accord, and there would be no pressure on the Sandinistas to reform.

Their totalitarian grip on Nicaragua would only grow tighter and, with all dissent quashed at home, the Sandinistas would soon turn their attention to their neighbors. The huge Sandinista military machine—equipped and staffed by Cubans and Soviet-bloc "advisors"—would spread its shadow across all of Central America. Their proven subversion of the surrounding democracies—only temporarily slowed—would continue apace. In fact, even now, in the middle of the peace process, with all world opinion focused on the Sandinistas they still continue to supply weapons to the Communist guerrillas in El Salvador.

We will not just shrug our shoulders and watch tens of thousands of brave men and their families turned into refugees. No—we want to see that nation reconciled. We want to see the freedom fighters able to go home to live in peace and freedom in Nicaragua. The Congress of the United States has made a moral commitment to these men—it cannot just walk away. I have made a personal commitment to them—and I will not walk away. They are fighting in the jungles of Nicaragua not only for their own freedom—but for your feedom and mine. And I make a solemn vow—as long as there is breath in this body, I will speak and work, strive and struggle, for the cause of the Nicaraguan freedom fighters.

But continuing aid to the democratic resistance is not only a moral obligation—it is the essential guarantee that the Sandinistas will live up to the democratic conditions of the Guatemala Accord and that the democratic countries of the Americas will be safe from Sandinista subversion. We must ask: Would the Sandinistas have signed the Accord if it weren't for the freedom fighters? If the United States Congress had voted against aid to the freedom fighters last year, would we be talking about democratic reforms in Nicaragua today? The answer is clearly, no.

For these reasons, I will request and fight for a $270-million package of renewed military and humanitarian assistance for the freedom fighters that will be spread over an 18-month period. The renewed assistance will continue until the Sandinistas, negotiating with the freedom fighters, conclude an agreement for a ceasefire and full democracy is established in Nicaragua. Once a ceasefire is fully in effect, only that support necessary to maintain the freedom fighters as a viable force will be delivered. Then we—and they—will be watching to see how genuine the democratic reforms in Nicaragua are. The best indicator will be when the freedom fighters are allowed to contest power politically without retribution, rather than through force of arms. As that happens, our support levels to the resistance forces will decrease proportionately. The assistance money will then be redirected to strengthening the democratic process underway in Nicaragua.

In the next crucial months, the free nations of the Americas will have to be ever vigilant. We will have to be steadfast in our insistence that democracy is the only guarantee of peace. But the Americas would not have come this far without the courage, perseverance, and commitment to freedom I spoke of earlier. I have no doubt that freedom will prevail. Jose Marti, the great Cuban apostle of freedom, once said: "There are two sides in this world: on one side are those who hate liberty because they want it solely for themselves; on the other are those who love liberty for one and all."

Liberty for one and all—that might be the motto of this organization. During the laying of the cornerstone of this building, the Brazilian statesman, Joaquim Nabuco, talked of the special destiny of the American hemisphere and the unique purpose of the O.A.S.: "It seems indeed that a decree of Providence made the Western shore of the Atlantic appear late in history as the chosen land for a great renewal of mankind." That is the solemn trust of this organization—to keep watch over this chosen land, to keep it secure from alien powers and colonial despotisms, so that man may renew himself here in freedom.

That is why, in 1979, this organization, and many of the American states individually, reached out to the Nicaraguan people and pledged to them true freedom and full human rights. Now we must simply hold to that promise, just as we hold to our love of liberty—not for the few, but, as Jose Marti said: liberty, for one and for all.

CAREER PARTNERS PROGRAM

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to support and praise the efforts of the YMCA in establishing the Career Partners Program. This unique program is educating participating middle school students on specialized careers and has earned respect and admiration for its success.

The YMCA of central and northern Westchester originated the Career Partners Program in the hope that its widespread application would reduce high school drop-out rates and encourage our youth to seriously prepare for their future careers.

The project coordinator, Henry M. Smalls, and the president, Thomas E. Stidham, Sr., have put together a list of 200 career partners from many fields within the commercial community. These people are regularly sent out to middle schools to talk to students about work. The professionals are able to help the students decide what to do with their lives at a time when the students are very optimistic about their futures. Two important things happen here: the professionals enjoy sharing their knowledge with the students and the students benefit from their acquaintance with 10 or 12 careers.

This approach is a great success because of the well-intended and well prepared efforts, and the sense of commitment of the participants. I have participated in the Career Partners Program and conversed with a small group of young people interested in Government. The students were able to get information on this topic from someone in the field, and one cannot compare the knowledge obtained from the experienced individual to the kind of knowledge one learns in a textbook. In many cases, subjective knowledge is more valuable than textbook knowledge, and when we consider careers, subjective knowledge can be quite useful.

This unique program should be sought out by all middle school facilities across the Nation. If this program was widespread, the high school drop-out rates would decline and our youth would be better prepared for the decisions they will be facing about their future.

I commend the quality leadership which the coordinators of this program have shown as well as their deep interest in better serving the needs of our children. I hope other communities will be able to share the benefits of incorporating the Career Partners Program into their own educational practices as much as we have in Westchester.

UNITED STATES AID TO NICARAGUAN POLITICAL OPPOSITION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. TRAFICANT. Mr. Speaker, since coming to Congress I have been an outspoken opponent of United States aid to the Nicaraguan resistance, better known as the Contras. My opposition to Contra aid was based not on my belief that the Communist Sandinista government does not pose a threat, but rather on my belief that Contra aid will not effectively result in the stated purpose of our policy: the democratization of Nicaraguan society.

I believe that Contras—no matter how much aid we send them—will be unable to effectively influence the type of democratic change in Nicaragua all of us in Congress desire. Militarily they are greatly outnumbered and, until recently, have been forced to operate from Honduras and Costa Rica. Politically, they have yet to garner the type of popular support so vital to any revolutionary movement. However, I remain deeply concerned over the consolidation of power by the Sandinistas and the ever growing influence of the Soviet Union and Cuba in Nicaragua.

The major threat we face in Nicaragua is the Soviets and Cubans will establish a firm beachhead in Central America. I am concerned over the prospect of the Soviets having submarine and bomber bases in Nicaragua. I am concerned over the flood of refugees that will pour out of Nicaragua fleeing Communist repression. I fear the type of economic malaise that will grip Nicaragua if the Sandinistas are permitted to shackle the economy with the failed socialist economic policies of Cuba and the Soviet Union.

Without question, we are faced with a threat—a threat the United States must feel. Where I differ with the administration and with many in Congress is on strategy. In my view, aid to the Contras will not do the job. I believe that the United States should work within the framework of the recently signed Guatemala accords.

Nicaraguan President Daniel Ortega signed that agreement, which calls for the full democratization of Nicaraguan society by November 7, 1987. So far, Ortega has made some token measures that are encouraging—reopening La Prensa and Radio Catholica. However, the true test will be whether or not Ortega will open up the political system and allow the political opposition parties to operate freely and without harassment.

Instead of proposing additional aid to the Contras should Ortega fail to implement the promised democratic reforms—which would give Ortega a convenient explanation for not adhering to the peace agreement—the United States should pursue a new approach that emphasizes support for political opposition to the Communist Sandinistas. Today I am proposing such an approach.

I am introducing legislation today that would authorize the State Department to provide financial assistance to opposition civilian democratic forces in Nicaragua to support the political activities of those forces. Funds provided under this bill may be used only to support peaceful political activities and may not be used to support military or paramilitary activities.

Under my bill the following funds would be authorized: $15 million for fiscal year 1988, $20 million for fiscal year 1989, $25 million for fiscal year, 1990, and such sums as Congress may determine to be appropriate for fiscal years 1991 and 1992. This bill represents a long-term commitment to the democratic opposition forces inside Nicaragua who genuinely believe in the democratization of Nicaraguan society. These are the groups we should be supporting.

My legislation would also require the State Department to provide to Congress every 90 days a detailed report and accounting of how these funds are being used and a description of the steps taken to ensure that the funds are being used solely for political activity. If the Secretary of State certifies to Congress and the President that the Sandinistas no longer control the Nicaraguan Government, then this program would cease.

This legislation represents a new policy toward Nicaragua. I believe it is a policy shift that Congress must address. I recognize the fact that the political opposition in Nicaragua is fragmented and at the present time cannot match the dominance of the Sandinistas. However, with the proper support and in a freer political atmosphere, I believe that the opposition could garner enough popular support to prevent the Sandinistas from transforming Nicaragua into a Communist client state of the Soviet bloc. Without the excuse of Contra aid to lean back on, I believe that Ortega and his Communist cohorts would be exposed to the Nicaraguan people as totalitarian dictators.

President Oscar Arias, of Costa Rica, has offered the people of Central America the prospect for peace and freedom. The United States should give the Arias peace plan a chance. Let's call Ortega's bluff. At the same time, let us also embark upon a new policy committed to the democratic opposition forces in Nicaragua and put the United States on the moral high ground.

I urge all of my colleagues to support this bold legislative initiative.

WHERE IS GLASNOST?

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. GALLO. Mr. Speaker, I rise today to ask the question, "Where Is Glasnost?" In the past few months, since the Soviet Government announced its intentions to resolve human rights abuses in their country, it has been widely reported that the emigration pleas of Soviet Jews are being answered.

Unfortunately, for too many Soviet Jews, this simply is not the case. I want to take this opportunity to challenge the Soviet claim of commitment to glasnost by sharing the plight of the Kagan family of Leningrad with my colleagues in the House of Representatives.

Abram Kagan and his family have been waiting many years to emigrate to Israel. In 1984, I adopted this family and have been seeking exit visas for them since then. For many years, Abram was told that his knowledge of state secrets prevented him from leaving the Soviet Union, but this claim was never substantiated.

I had reason to hope and to believe that the Kagan's situation would be resolved with the implementation of the glasnost policy. Apparently, my hopes and beliefs may be in vain.

In July of this year, I met Mr. Evgeny Kutovoy, Minister-Counselor of the Soviet Embassy to discuss Abram's application for exit visas and requested that he intervene in Abram's behalf.

At about the same time, Abram received notice that his two children and his wife could leave the Soviet Union, but that he could not.

In response, I wrote the following letter to Mr. Evgeny Kutovoy, to the Leningrad OVIR, and to Abram's employers:

AUGUST 31, 1987.

His Excellency EVGENY KUTOVOY,
Minister-Counselor, U.S.S.R. Embassy,
1125 16th Street NW., Washington, DC.

DEAR MR. KUTOVOY: I am writing to you, once again, with regard to the Kagan family of Leningrad.

I am deeply troubled by recent events affecting this family. On August 27, 1987, Abram Kagan was called into the Leningrad OVIR's office and was notified that his wife and two children could emigrate, but that he could not.

Clearly, you must realize that this is an intolerable situation and one that conflicts with the very letter and spirit of the Helsinki Accords. It is unthinkable that after waiting for 13 years to emigrate, this family must now make a decision to separate from each other, perhaps forever. I do not believe that this policy is representative of your country's commitment to "glasnost" and to basic human rights.

If Abram Kagan's exit visa is being delayed or withheld because of work-related matters, I urge you to take the necessary steps to see that these objections are removed. This action will allow the Kagan family to emigrate to Israel together, instead of being forced to separate.

As I expressed to you in the past, the Kagan family's welfare is of personal interest to me. So I appeal to you, once again, to take whatever steps are necessary to allow the Kagan family to emigrate.

Sincerely,

DEAN A. GALLO,
Member of Congress.

The only response I have received from Mr. Kutovoy is as follows:

DEAR CONGRESSMAN: This is to acknowledge receipt of your letter dated August 31, 1987.

I would like to inform you that the letter has been forwarded to the appropriate Soviet authorities.

Sincerely,

E. KUTOVOY.

The answer, therefore, to my question, "Where is glasnost?" is that glasnost does not exist. It appears that this policy, along with the thousands of applications for exit visas, has been filed in the circular file.

The question in my mind, about whether or not the Soviet's were making progress on human rights abuses in their country, remains no longer. It is clear that despite the promise of glasnost, Soviet Jews continue to be denied their fundamental human rights. Soviet Jews are still waiting for exit visas and I will continue to publicly record the Soviet government's actions on this issue.

In light of Soviet promises and the contrasting reality of the Kagan's situation, it is clear that there is an important role for all of us to play—we must keep up the pressure.

INTERNATIONAL COOPERATION AND THE SSC

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. SENSENBRENNER. Mr. Speaker, I introduced legislation with my colleague from Texas, Mr. HALL, which will enable the Congress to assess the level of foreign interest in sharing the costs of the superconducting super collider [SSC].

The construction of the SSC is projected to cost the American taxpayer in excess of $4 billion. Many Members of Congress, including myself, are concerned that if researchers from around the world are going to be allowed to use this facility for high-energy physics research, their respective nations should be prepared to share a portion of the cost. This bill will allow Congress to assess the level of interest worldwide in sharing the cost of the facility in the spirit of international scientific cooperation.

In addition, skyrocketing Federal deficits require that Congress be provided with the best cost estimates available when facing the difficult decision as to whether or not to support this project. If foreign nations are willing to help the United States finance this project, that support should be calculated in budget estimates for the cost of the SSC. This bill directs the Secretary of the Department of Energy to ascertain the extent and nature of interest by foreign countries in providing funding or other assistance for the construction or operation, or both, of the SSC and to determine the total impact of such assistance on the Federal budget for fiscal year 1989 and thereafter.

It further requires the Secretary to consult with domestic industry and other Federal agencies as necessary to be able to provide to Congress a report which assesses the national security implications which may arise from such cooperation and the impact on the international competitiveness of American industry if high-technology contributions should be accepted from overseas.

I urge my colleagues to support this legislation to ensure that foreign contributions to the SSC are being solicited by the Secretary of Energy and to be better able to identify the level of foreign support for this project with greater confidence. The SSC will be a research facility of such magnitude and importance to the world's scientific community that our failure to involve foreign countries to the maximum extent possible would not be in the best interest of the American taxpayer.

H.R. 3030

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. STANGELAND. Mr. Speaker, this week H.R. 3030 was passed in the U.S. House of Representatives. This very complex and important legislation is designed to bring affordable credit to America's farmers and to save a system that has fallen on hard times.

This legislation is the result of many long hours of deliberation, consultation, and compromise on the part of the members of the House Committee on Agriculture and its staff. Parts of the final product were also developed by the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce.

In addition, the Senate has yet to complete work on its version of a farm credit bill and then more work will be required by those involved in the conference committee.

I was pleased to see that several of my ideas regarding protection of borrower stock, as well as my amendments regarding the secondary market for agricultural loans were either incorporated into the initial language or added to the bill by amendment.

Also, my concerns about the restructuring of the Farm Credit System were addressed by the Stenholm amendment for restructuring the System. This is a new and innovative idea and is necessary if we are serious in creating an efficient and viable Farm Credit System. When the Committee on Agriculture reported H.R. 3030 the language was not clear about the powers, rights and responsibilities of the new entities which were created. Because of this, I was concerned that there was a strong possibility that the regulator, the Farm Credit Administration, would play too strong of a role in the reorganized system, and become too directly involved in system policy.

With the new Stenholm amendment, power is given to the local stockholders to vote for what they perceive will be needed by them to make their lending institution financially sound and responsive to their local needs. Certain guidance and direction is given to the service bank, however, local control is maintained and the responsibility is placed locally.

A workable two-way communication and service system will be established between associations and the regional bank which serves them. Briefly, the banks will serve the associations by issuing bonds, be jointly and severally liable for such bonds, and be required to hold assets sufficient to collateralize those bonds. The associations will also be jointly and severally liable for system debt, but will be given the sole authority to originate loans to farmers. Also, the election of the board members of the service banks will be in their hands.

The restructuring concept will be beneficial to the entire System. It is time that the local associations played a greater and more important role in credit lending policies and plans. In addition, it is also important that they receive the necessary coordination, support and guidance which will be provided by the regional service banks.

As the work continues on this legislation I plan to work very closely with my colleagues so that the final bill creates a stable and efficient Farm Credit System which is sympathetic and directly responsive to the credit needs of America's farmers.

TRIBUTE TO MOUNT VERNON HIGH SCHOOL

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. DioGUARDI. Mr. Speaker, I rise to pay tribute today to Mount Vernon High School, which was chosen as one of 123 schools of 23,000 schools to receive national recognition and were honored at the White House on October 5 when the schools met with President Reagan.

The philosophy of the education of Mount Vernon High School affirms that a successful approach to the education of their students involves the resources of students, teachers, administrators, counselors, parents, and the business community. The teachers are dedicated, diversified in training and background, and have a deep desire for improving their departments and offerings. There is a strong regard for communication displayed by the staff and student body. Moreover, there are large rewards which provide incentives for achievement and excellence.

Mount Vernon High School serves as a unique model and source of encouragement among our Nation's large, urban secondary institutions. The students develop the potential to function as clear-thinking, productive members of a democratic society. Most important, when a student graduates from Mount Vernon High School, they posess the necessary abilities and skills to enable them to serve the community and themselves.

It is a great honor to have Mount Vernon High School in my congressional district. Being nationally recognized for excellence in education is an accomplishment of which we are all proud in the 20th Congressional District.

TRIBUTE TO MILL CREEK CHAPTER OF THE AMERICAN BUSINESS WOMEN'S ASSOCIATION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. TRAFICANT. Mr. Speaker, on November 10, 1987, the Mill Creek Chapter of the American Business Women's Association [ABWA] will be celebrating their 25th anniversary. I rise today, Mr. Speaker, to pay tribute to this fine organization.

For a quarter of a century the Mill Creek Chapter of the ABWA has worked hard to promote the business, cultural, and social advancement of women. On behalf of all my constituents, I thank them for the valuable service they have provided to the Mahoning Valley community. Much of the work the Mill Creek Chapter of the ABWA goes unheralded, yet the work they do is extremely important.

In the past 25 years women have made great strides in the business world. More and more women are not only entering the business community, but are becoming leaders. An increasing number of businesses—small and large—are now run by women. In the Mahoning Valley, the Mill Creek Chapter of the ABWA has enthusiastically supported the exciting advancement of women in the business world.

America is a great nation because it has always opened its doors to all people and has always welcomed and rewarded the entrepeneurial spirit. It has taken a while, but America has opened its doors to women and women are now making new and important contributions to America's growth. Organizations like the Mill Creek Chapter of the ABWA have played a vital role in the advancement of women and their 25th anniversary is a time to reflect on the truly remarkable achievements business women have made—in the Mahoning Valley and throughout the country.

I salute the Mill Creek Chapter of the ABWA and am honored to pay tribute to such a fine organization. I want to also offer a special tribute to Rita Lushinsky, president of the Mill Creek Chapter. Rita is a highly successful business woman and she also is a dedicated citizen who cares deeply about her community. People like Rita make the Mahoning Valley a better place to live and I have no doubt that with Rita at the helm, the Mill Creek Chapter of the ABWA will continue to do a stalwart job in promoting the achievements of business women in the Mahoning Valley.

NEED FOR BETTER UNDERSTANDING BETWEEN UNITED STATES AND U.S.S.R. IS A TWO-WAY STREET

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Miss SCHNEIDER. Mr. Speaker, today I am joining my colleague, Representative Mo UDALL, in introducing a resolution to encourage greater exchanges between Members of Congress and members of the Supreme Soviet, the Soviet Union's parliamentary body. This resolution is similar to one introduced in the last Congress, but even more timely. The Soviet Union under General Secretary Gorbachev is undergoing dramatic changes—changes that not only affect the Soviet people, but that affect the Soviet role in international politics. If Members of Congress are to make informed decisions about the relationship between the United States and the Soviet Union, it is imperative that we become aware of these changes. Clearly, there is no substitute for personal experience as a way of bringing about that awareness.

The need for better understanding between the United States and the Soviet Union is a two-way street. It is just as important that a wider range of Soviet officials be encouraged to visit the United States so that they can make up their own minds about the strengths and flows of our system.

Every day, decisions are made by Congress and the Supreme Soviet that attempt to assess intentions and goals as well as the political and military capabilities of the other side. These debates will not be simplified by increased awareness of the culture, government, and people on the other side, but certainly the quality of the debates will be improved. Increased awareness resulting from exchanges with Soviet delegates will add to the debate the richness of personal experience.

To my colleagues who are contemplating a visit to the Soviet Union, I would commend a pamphlet prepared by the Federation of American Scientists entitled "Raising the Rate of Exchange." It contains historical perspectives on traveling to the Soviet Union, information on congressional trips, and it presents a very strong case for the value of firsthand experience.

Mr. Speaker, there simply is no good reason that so few of the Members of Congress have felt compelled to visit the Soviet Union. Ours is a nation that prides itself on the freedom to travel and to learn about other people. Establishing greater contact between the two most powerful nations in the world should be viewed as not merely an opportunity, but an obligation.

SOUTHSIDE HIGH SCHOOL—SCHOOL OF EXCELLENCE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. HAMMERSCHMIDT. Mr. Speaker, earlier this week there was a very special ceremony at the White House which honored the recipients of the Department of Education's Secondary School Recognition Program Award. I am proud to say that Southside High School in Fort Smith, AK was one of the 88 schools so honored nationwide. Southside was first selected for this honor in the 1982–83 school year, the year the Department began the Secondary School Recognition Program.

The nomination process for the award is very competitive. After completing an extensive nomination form, the nominations are forwarded to the State Department of Education, where a selection committee selects schools which they nominate to the Federal level. The number of nominations each State is permitted to make is based upon its number of congressional districts, plus its number of senators. Southside was one of six schools nominated from Arkansas this year.

Once a school has won the award, it cannot be nominated again for 5 years. This was the first year that Southside was eligible to compete for the award again. In this, their 25th anniversary year, it is especially significant for Southside to have been selected as a school of excellence for the second time. I would like to offer my congratulations to the administration, faculty, staff, students and parents associated with Southside. Your dedication to the advancement of excellence in education stands as a model for the entire Nation.

I would like to insert the following article on Southside High School, which appeared in the Arkansas Democrat Newspaper:

SOUTHSIDE HIGH SCHOOL WINS U.S. FLAG OF EXCELLENCE AGAIN

(By Max Parker)

FORT SMITH.—Southside High School, which is celebrating its 25th anniversary this year, is one of only four schools in the nation selected by the U.S. Department of Education as a school of excellence for the second time.

The Secondary School Recognition Program Award was implemented during the 1982-1983 school year, Southside Principal Wayne Haver said.

At that time, Southside and Jonesboro high schools in Arkansas were among 88 high schools in the nation honored as having model school programs, he said, adding that once a school has won the award, it cannot be nominated again for five years.

This time, Southside stands alone as Arkansas' only recipient and will receive special acclaim for being one of the four to again get the recognition. Of the 271 schools named as 1987-88 recipients, Haver said half were junior high schools.

"It's really maybe even a greater award this time," Haver said.

The other three schools honored for a second time are: Chandler High School in Chandler, Ariz.; Jefferson Junior High School in Washington, D.C.; and James Logan High School in Union City, Calif., a spokesman with the Department of Education said.

Haver and School Superintendent Benny Gooden will be among more than 1,000 people traveling to Washington, D.C., Oct. 4-5 for a reception and a White House ceremony with President Reagan and Education Secretary William Bennett.

A ceremony at Southside celebrating the award is tentatively scheduled for Oct. 9, Haver said.

Competition for the award began with an extensive 25-page nomination form focusing on 14 attributes of success and seven indicators that judges use to establish a school's success, Haver said. The forms are sent to the state Department of Education, where a selection committee chooses six schools to nominate for the award.

The number of nominations allowed to each state is based on its number of congressional districts, plus its number of senators. Other Arkansas schools nominated for excellence were: Batesville Junior High School; Fairview High School at Camden; Lakewood Junior High School in North Little Rock; and Kimmons Junior High School and Northside and Southside high schools, all in Fort Smith, were also nominated.

A 32-person screening committee at the national level cuts the field even further and then sends two representatives from the U.S. Department of Education to evaluate each school, Haver said. Southside was the only Arkansas school to reach that stage.

Southside now has a flag it won in 1982–83. The flag, given to all schools that win the recognition award, has blue borders, the presidential seal and red lettering on a white background signifying the year. Another flag, distinguishable by its powder-blue background, will be awarded to the four second-time honored schools, Haver said, adding two new flag poles were being installed.

In a state that ranks near the bottom of the nation in public education, Southside has somehow been able to overcome the problems plaguing the overall system.

TO AID OR NOT TO AID

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. FLORIO. Mr. Speaker, in the coming weeks, the Congress will again be debating the issue of U.S. military aid to the Contras in Nicaragua.

The President has announced his intention to seek another $270 million for the Contras.

As an alternative, Mr. Speaker, I believe the Arias peace plan, signed by the Presidents of Costa Rica, Nicaragua, Guatemala, El Salvador, and Honduras, deserves a chance to succeed. That plan calls for a ceasefire by November 7, and progress toward democracy in Nicaragua.

Our colleague from Pennsylvania, PETER KOSTMAYER, who serves on the Foreign Affairs Committee, met recently with President Oscar Arias of Costa Rica to discuss the prospects for peace in Central America.

I would like to share with my colleagues the views of Congressman KOSTMAYER as they appeared in the Los Angeles Times, on September 22:

[From the Los Angeles Times, Sept. 22, 1987]

GIVE ARIAS' PEACE PLAN ITS 6½ MORE WEEKS OF GESTATION

(By Peter H. Kostmayer)

We are now halfway through the 90 days given the Central American peace plan to succeed or fail, and the outlook is shaky.

Part of the problem is equivocation by the Reagan Administration. On Aug. 8 President Reagan "welcomed" the initiative, authored by Costa Rica's President Oscar Arias Sanchez and signed by the five Central American governments the day before. But conservatives read the plan as abandonment of the contras, and by Sept. 4 Secretary of State George P. Shultz was promoting a $270-million aid package to keep the contras operative well into the next Administration.

This illuminates the key point on which the Arias plan rests: sincerity of intent.

It appears that the Sandinistas and the Reagan Administration are counting on one another not to comply with the terms of the plan. The Sandinistas don't believe that the United States will end military assistance to the contras by Nov. 7. The Administration doesn't believe that the Sandinistas will moderate their behavior and move toward democracy after Nov. 7.

The Sandinistas have two objectives: to end the contra war, which has been economically ruinous, and to maintain political power.

Between now and Nov. 7 it's logical to expect them to do enough to persuade Congress to block further funding of the contra war, but not enough to end their hold on political power in Nicaragua.

Since most members of Congress are already decided on the question of contra aid, a relatively small number of swing votes in the House and Senate will hang on this question: Have the Nicaraguans demonstrated enough commitment to regional peace to justify ending military support to the contras, or is their compliance with the Arias plan only a temporary tactic?

Two people have enormous credibility to make this judgment and influence congressional and world opinion. they are not Ronald Reagan and Daniel Ortega.

The first is Nicaragua's Cardinal Miguel Obando y Bravo, the anti-Sandinista prelate who serves as one of four members of the National Reconciliation Commission, established under the Arias plan. The cardinal was an outspoken opponent of dictator Anastasio Somoza and is regarded as the one member of the commission who cannot be controlled by the Sandinistas. HIs opinion about the progress and sincerity of democratic reforms in his country will carry great weight.

The second person is the author of the peace plan, Oscar Arias Sanchez, a genuine democrat who leads the only truly democratic society in Central America.

Arias desperately wants the plan to work, because without a more democratic and stable Nicaragua, Central America will remain in turmoil and pose a threat to Costa Rica and other neutral countries. And he believes that his plan can work, not by turning Nicaragua into a Jeffersonian democracy overnight on Nov. 7 but rather by creating a small, yet dynamic, opening for democracy. He believes that even modest changes envisioned under his plan—a freer press, an amnesty and a release of political prisoners, freedom of assembly and demonstration—could yield dramatic results.

As Arias envisions it, several thousand Nicaraguan exiles will return to enter the political fray, making a reality of democratic opposition. There are 11 political parties active in Nicaragua now that, although they are legal, operate under severe restraints.

The newspaper La Prensa, which is hostile to the Sandinistas, will reopen, as will a church radio station.

Independent labor unions, seething over low pay and high unemployment, will resume high-profile activity.

Add to that municipal elections scheduled for the first half of next year, and the Sandinistas may have ended up signing their own political death warrant on Aug. 7.

This scenario contrasts sharply with that drawn by critics in the Administration and Congress who say that the plan won't work because the Sandinistas won't comply fully, and that the military option is the only viable one.

The point is that the Sandinistas don't have to willingly or even fully comply for the plan to advance democracy and U.S. interests. What they cannot do is sabotage the Arias plan, for it would destroy their already badly eroded credibility elsewhere in the world. They need to enhance their stature, not diminish it, to be eligible for continuing support from European and Latin American democracies.

Stuck between killing the Arias plan and taking the blame, or complying with it and unleashing their opposition, the Sandinistas will probably choose a middle course of modest democratization. Even so, pressure will build for Nicaragua's political situation to change peacefully, not militarily.

The Arias plan is an opening for democracy in Nicaragua—nothing more, nothing less. To demand a fully functioning democracy there by Nov. 7 is worse than unreasonable; it is to sabotage the peace plan for all of Central America.

Rep. Peter H. Kostmayer (D-Pa.) is a member of the Western Hemisphere subcommittee of the House Foreign Affairs Committee. He visited Nicaragua and Costa Rica earlier this month.

THE POULTRY PRODUCERS FINANCIAL PROTECTION ACT OF 1987

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. STENHOLM. Mr. Speaker, I am very pleased to join with my colleague GEORGE GEKAS from Pennsylvania in introducing the Poultry Producers Financial Protection Act of 1987. Joining us are 42 Members of Congress, 22 of which are members of the House Agriculture Committee. This bill amends the Packers and Stockyards Act of 1921 to extend similar financial protection to poultry producers as enjoyed by red-meat producers since 1976. It will also clarify a longstanding dispute over the jurisdiction of the Packers and Stockyards Administration with respect to poultry and poultry products.

The legislation that we are introducing today represents a long-sought compromise between poultry producers, integrators, and processors. The poultry industry has negotiated for 2 years on this legislation and the results are contained in this bill. As a result, this package has the strong support of the American Farm Bureau Federation, the National Grange, the National Broiler Council, and the National Turkey Federation. Due to this industrywide support, I expect this bill to move quickly since there is no opposition.

Currently, poultry producers are not afforded prompt payment and trust protection comparable to that provided to livestock producers under the act. Other segments of agriculture have similar protection. The Perishable Agricultural Commodities Act of 1984 provided trust protection for fresh fruit and vegetable growers. The Bankruptcy Reform Act of 1984 provided payment assurance for grain producers in case of grain elevator bankruptcy. Finally the 1984 supplemental appropriations bill was amended to require the Government to pay poultry processors within 7 days for poultry products. Poultry growers both want and need this type of protection.

Since 1982, six live poultry dealers have declared bankruptcy owing 1,983 growers approximately $14.3 million. In some cases this money has been recouped by the grower but not for several months or years and in many of these cases the settlement has been a fraction of the amount owed. Currently a poultry grower's status is that of an unsecured creditor in the event of a failure of the integrator or buyer. This legislation would change that. It would provide for a live poultry dealer in trust provision for the benefit of all unpaid poultry growers and sellers.

Concern has been expressed over the extent to which live poultry dealers are able to force growers to carry them financially by failing to pay in a timely manner. In some cases, growers have waited 45 days or even up to 3 months for payment while their bills and payments continue to come due. This is unfair and this bill would correct this inequity by requiring that all poultry growers under a growout contract must be paid for their products or services by the 15th day following the week in which the poultry is slaughtered. However, in the case of a cash sale, payment must be made by the close of the next business day—the same requirement as exists for red meat.

This bill would provide the Packers and Stockyards Administration the administrative authority to enforce only the prompt payment and trust provisions. This will expedite the process of enforcing these provisions, and is similar to the authority provided to the Packers and Stockyards Administration for the red-meat industry.

With regards to other live poultry transactions, the Packers and Stockyards Administration will retain jurisdiction as the Act currently provides. These transactions include things like weighing practices and contract compliance. The Packers and Stockyards Administration must continue to enforce these provisions through U.S. district court.

Finally, the bill clarifies that the Federal Trade Commission and not the Packers and Stockyards Administration would have jurisdiction over the marketing practices of poultry products like the Federal Trade Commission's jurisdiction over virtually all other food products. There has been longstanding uncertainty regarding which agency has jurisdiction over poultry products and this uncertainty has led to costly litigation over the jurisdictional issue. It is logical for the Federal Trade Commission to regulate poultry products, like other food items, in an effort to avoid duplicative regulations.

As I mentioned earlier, this compromise bill will correct the problems which poultry producers and poultry processors are facing today. Its quick enactment will remove the possibility of any more poultry producers suffering financial losses caused by failure of their buyers. I would encourage my colleagues to join with the gentleman from Pennsylvania and myself in this effort by cosponsoring the bill and supporting it when it reaches the floor for consideration.

UNITED STATES WITHHOLDS FUNDING FOR UNFPA

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. MOODY. Mr. Speaker, the world's population has just passed the 5 billion mark. Many of these people are living in poverty and in areas where food and resources are scarce. In light of this, it's vital that people everywhere have the ability to determine how many children to have. Organizations such as the United Nations Fund for Population Activities [UNFPA] provide the information to let people make this a safe decision.

UNFPA is the world's largest multilateral population program, working in 134 countries with a budget of $145 million, none of which now comes form the United States. The United States first cut its support in 1985 due to reports of coercion in China's population program, to which UNFPA contributes a small sum. Since 1985, we have given nothing to UNFPA.

Our decision to withdraw from UNFPA does not really affect China's program because we provided less than 1 percent of its budget, with our aid going toward projects such as providing technical support for a census, population education, and administrative training.

The decision not to contribute to UNFPA does affect the many poor countries that now won't receive adequate funding—or even any funding—for their population programs. Many of these countries are having to scale back their first attempts to bring population growth in line with available resources.

Coercive abortion as a means of family planning is a tragedy. But the United States should support funding UNFPA and other family planning organizations because they help prevent abortions—not promote them.

I am inserting into the RECORD an editorial that appeared in the Milwaukee Journal on August 21, 1987. This piece eloquently describes the erroneous reasons and the effects of the U.S. Agency for International Development's recent decision not to appropriate the $25 million obligated for UNFPA for 1987.

CLUMSY AID CUTOFF FOSTERS ABORTION

The Reagan administration is famous for its vocal opposition to abortion. Less well known is the fact that, indirectly, one of its policies has made abortion more likely in some parts of the world.

The administration has withheld money from the United Nations Fund for Population Activities. The US Agency for International Development announced the other day that, for the second year in a row, it would hold back its $25 million contribution to the fund because of allegations that the fund supports coerced abortion in China.

In fact, the UN fund supports projects in China to produce and import contraceptives, buy medical equipment, train demographers, collect and analyze census information and provide similar services, none of which include the delivery of direct medical care. Nevertheless, AID claims that these efforts make it possible for China to plan programs of coercive abortion as part of that country's effort to limit family size.

According to AID, the demographic work, for example, provides data that the Chinese might use to promote forced abortions. That connection is pretty far-fetched. The Chinese government can use demographic and other information for a thousand purposes, some good, some perhaps not.

The practical impact of the US aid cutoff will be an erosion of the UN fund's family-planning work, not only in China but also in areas of the world, notably Africa, where the population explosion constitutes a real menace. If poor women in Africa and elsewhere cannot get birth-control information and other family-planning help from the UN fund, many will feel no recourse but to seek abortions. There is no way of knowing how many abortions will result from this aid cutoff.

The situation in Africa has been described as critical by fund officials, and with good reason. A few weeks ago, the Population Institute, in Washington, D.C., warned that by the year 2020—in just 33 years—the combined populations of Asia and Africa will be six to eight billion, significantly more than the current population of the entire planet. Does anyone imagine that it will be possible to provide suitable food, medicine, clothing and jobs for those added billions?

In deliberately adopting a policy that it must know will result in abortions by women who might not otherwise choose them, the Reagan administration is doing in effect much the same as it accuses the Chinese of doing: promoting (if not coercing) abortion. Instead of supporting the aid cutoff, pro-life activists in Congress and elsewhere should rise up in anger against it, and help see that the UN fund gets the money it needs, so that millions of women are given an alternative to abortion.

MINORITY ENTERPRISE DEVELOPMENT WEEK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. RODINO. Mr. Speaker, this week, activities honoring minority businesses are taking place throughout the United States. By Presidential proclamation, October 4–10 has been designated "Minority Enterprise Development Week." This annual celebration is a time to recognize and pay tribute to the outstanding contributions that minority enterprises have made to our Nation.

It is only fitting that we honor minority business men and women. Today, there are more than 840,000 minority entrepreneurs in the United States involved in all types of business activity. They are a vital segment of the American economy offering a wide range of job and training opportunities. Many of these businesses are small neighborhood-based operations that make a unique social and economic contribution to the community.

Minority businesses have carried on the best traditions of the American entrepreneurial spirit. The energy of minority business men and women creates jobs, brings new services and products to the marketplace, refines technological developments and helps to maintain America's competitiveness. They are an inspiration to us all.

As we celebrate "Minority Enterprise Development Week" during this year of the Bicentennial of the Constitution, it is particularly appropriate to reflect that this great compact guarantees equal opportunity for all citizens. Minority businesses demonstrate that the equality of opportunity contributes to our prosperity and enhances our quality of life. We must ensure that all of our citizens continue to have the opportunity to participate fully in the economic development and prosperity of America.

THE 90TH BIRTHDAY OF SALVATORE LOGUZZO

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. LIPINSKI. Mr. Speaker, I would like to bring to the attention of my colleagues today a widely known and respected citizen of Chicago's great southwest side, Mr. Salvatore Loguzzo.

Mr. Loguzzo was recently recognized and honored upon the occasion of his 90th birthday, September 21. As a member of St. Rita's Parish in Chicago, he was joined in celebration by his many friends and neighbors there. As the patriarch of a large family, he was also joined in celebration by his 5 children, 10 grandchildren, and 15 great-grandchildren. Finally, as a respected member of the Chicago community, he was officially congratulated and honored by the city of Chicago.

Mr. Speaker, I am sure that my colleagues join these many celebrants in congratulating Mr. Loguzzo upon this milestone in his life and sincerely wishing him all the best in the years ahead.

THE TRUTH HURTS, BUT AIDS KILLS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. DANNEMEYER. Mr. Speaker, for more months than I care to remember I have repeatedly stated that the genus of AIDS is promiscuous or perverse sex. In response to this statement I have been ridiculed and held in contempt—the "there he goes again" kind of attitude. Opponents of my sad message call it "gay bashing," the media portrays my stand as insensitive and uncompassionate.

Mr. Speaker, with hordes of homosexuals due to invade Capitol Hill over the next few days, I want it stated for the record that if I truly did not care for these individuals I would be marching in their parades and supporting their cause. If I really felt their lives to be insignificant I would actively encourage them to sodomize themselves into oblivion. If my heart was filled with malice toward them I, too, would sell them on the idea of "safe sex."

But I do care. I care enough to tell them and the public the truth. That while the disease of AIDS can affect every human, the plague of AIDS is primarily the concern of only those whose behavior is out of control. I care enough to hold homosexuals accountable for the consequences of their behavior. If they want out of the closet, now's the time. But, alas, being "in the closet" and "gone underground" are part of their pathology—the homosexual pathology of nonaccountability.

Mr. Speaker, I care enough to warn them not to bet their lives on condoms. The only "safe homosexual sex is no homosexual sex. Would I ask them to deny an inherent nature? No. I am telling them to change their behavior. The only things natural about homosexuality are the disease-ridden consequences homosexuals must endure.

Mr. Speaker, I care enough to say to the American people, how much money do we have to spend to tell men not to bugger each other? Likewise, how much money do we have to spend to tell IV drug users that they do so at their own peril? Evidently a billion dollars isn't enough. We should stop trying to buy behavioral changes from adults and start expecting more from our fellow citizens.

Mr. Speaker, in these days of "gay pride," I care enough to say on behalf of a concerned citizenry, give us something to be proud about. And, last, I care enough to commend the following article for your attention:

THE DEADLY SILENCE—THE TRUTH ABOUT AIDS

AIDS AND SOCIAL CENSORSHIP

(By Eugene V. Clark)

We are an amazing nation. Almost daily we are reminded that we are blessed with media analysts who fear nothing and will always tell us the unvarnished truth. Nor do we lightly ridicule the media's sacred cows. Defamation awaits anyone who speaks impiously of, for instance, the Nobel Prize, clubbing seals, Black African governments, Planned Parenthood, anti-Fascists, etc.

With such imperial powers, commentators are tempted now and again to don the Emperor's clothes.

Consider one example, *U.S. News & World Report*, no partisan publication, printed (January 12, 1987) a cover story on AIDS. It exposed the fearful statistics. 29,000 Americans infected, with between 1.5 and 4 million carrying the virus at the end of 1986; by 1991, 179,000 will have died, with 91,000 dying. In twenty years, "a significant portion of our nation may be incapacitated." Dying, that is. AIDS is 100 percent lethal.

With all that, the writers in *U.S. News* danced as close as they dared to the unmentionable fact that promiscuous sodomy is the root cause, not of the untraceable virus, but of incubating the virus into a plague.

U.S. News posed the question bravely. "What causes AIDS?" Answer: "AIDS is caused by a virus usually knows as human immuno deficiency virus or HIV." No one laughed. The naked Emperor stared us down. No one in the media dares ask the obvious next question: And how did the HIV get into the bloodstreams of homosexuals who in turn sent it via bisexuals, into the bloodstreams of heterosexuals on a plague level?"

Remember that these writers are the same men and women who will track apartheid into hidden unconscious prejudice; who will track a national policy to a casual remark of Nancy Reagan; who can trace an anti-Sandinista dollar in and out of Switzerland, Zaire, and the Cayman Islands; who pursue the causes of any social horror—discrimination, censorship, anti-Semitism, facism—right into the ganglia of miscreants. But our major publications and the networks are satisfied to trace the "cause" of this major death-dealing plague to a dumb, hitherto quiescent virus, not to any human action.

The closest the media come to mentioning real causes is to state that AIDS victims are 65 percent homosexual, 25 percent users of contaminated needles, and 4 percent heterosexual, with 3 percent transfusion victims. The unthinking might conclude that AIDS is a disease that comes, with unfair emphases, from many sources—two kinds of sex, one needle and one operation. In fact, the virus-turned-plague has only one source—sodomy. Heterosexuals are infected only from homosexuals, or from heterosexuals infected by bisexuals, the latter transmission being impossible without a previous homosexual encounter. Despite the millions of words that have been written on AIDS this simple fact is rarely stated.

What restrains the pens and stops the tongues of a news industry that otherwise revels in its fearlessness? It is time to speculate. Speculation is forced upon those who see an exception to the strongly stated ideal of intellectual integrity among American newspeople. Why this exception?

The accepted wisdom seems to be this. Talking morals may lead to a renewed popular condemnation of sodomy which, in turn, may become a vicious discrimination against homosexuals. Since the fury of a public facing death for themselves and their children may not be containable, let us never, never raise the question of the morality or ethics of sodomy and its *sequellae*. We may start a train of events leading to a fascism based on public health and on to the lynching of homosexuals.

Two nervous adjuncts strengthen the case. First, everyone can see an awkward parallel in the insouciant exiling of smokers from elevators, restaurants and the like, with little regard for the rights of smokers. Second, religious people, in the secular myth ever ready for more burnings at the stake, may use the terrible consequences of this particular moral failure (sodomyt) to reassert faith by the sword.

The merry fascism of the anti-smoking drive—always for the good of the people, whether or not *they* know what is good for them—needs no comment. Anti-smoking loses its real punch once this parallel becomes clear. Soon anti-tobacco activtists will be coming out of the trenches with their hands high.

But the religious factor is real and more complex. The homosexual trust, very powerful indeed, and its libertarian protectors are generally and reasonably angry with institutional religion which condemns sodomy as a serious sin. But the fact is that religion has been anything but aggressive on this question. Overwhelmingly, traditional moralists do not want AIDS victims or high-risk homosexuals to lose their jobs or housing. They support programs to care for the lonely victims and have tolerated demands for research disproportionate to all other health research. Catholics first, and many other religious groups, quickly joined in the compassionate care of dying AIDS victims. By and large, the homosexual community has done little for the victims, but that has not decreased religious commitment and generosity.

The reaction of religious persons to AIDS victims is not important to homosexual activist tacticians. What bothers them is their suspicion that believers in the Ten Commandments, rattled by the sexual revolution, are now regrouping and saying to themselves, "Ha! We were right all along. *Sexual promiscuity* is wrong, and homosexual practice is heading us toward Sodom and Gomorrah." In dirty talk among themselves, homosexuals say that religious people across the nation rejoice in the extermination of homosexuals as a display of God's anger against sinners. Such a mind exists perhaps among a few fevered fundamentalists and cocktail-party wise guys. But homosexual activists will not relinquish the rhetorical weapon of anticipated persecution.

It may be important to say here that Christians and Jews, in contemplating any sin, do not pass judgment on the guilt of individuals. That is exclusively God's province. The media choose not to understand this. Maybe they cannot.

It is a critical distinction. To equate the objective wrongness of any act with personal guilt is an error that paralyses moral reflection. Personal guilt is established in the unfathomable relationship between God and a human person. If we accuse anyone of moral guilt, we err. We act *ultra vires*. But we can and should discuss the objective morality of any significant act, in this case the protection of some or exploitation of others in a plague situation. This can be done without pretending to know any individual's guilt. What American doubts the moral wrong of racial discrimination, without needing to know the guilt or moral ignorance of individual perpetrators? So, with insouciant homosexual infectors.

Annoyance that religious believers may be strengthened in their moral convictions runs deep in many circles today. It revealed itself in the *U.S. News* piece. The only allusion to a moral dimension in the spreading of HIV was this: "As in those (Dark Ages) now there are calls for quarantines—social exile—especially from the religious right, whose members see AIDS as God's rough justice for the sin of homosexuality." In eleven pages, that was the only reference to Christianity's contribution to the question. Nor was there a reference to any moral or ethical question that practicing homosexuals, bisexuals or dying AIDS victims might address in so grave a situation. Remember that this article appeared in one of our three leading news weeklies that handily discuss the ethics and moral stature of political leaders, pressure groups, Sandinistas and *contras*, and many others, as if readers were begging for their moral and ethical judgment.

The terror of any editor today seems to be that through a careless phrase, he or she might appear to consider a religious view of AIDS as less dangerous than AIDS itself. To be safe, writers must avoid anything like a moral or ethical approach to AIDS. If the dread subject must be raised, let someone else handle it. And try not to think of how one deals with smoking.

Is this censorship? No, it would be said, only the condition for survival in the world of publishing. But of course it *is* censorship, however voluntarily submitted to.

This raises another question for religious believers. Why is it that people who do care about morality and who are mandated to love homosexuals (and probably do) do not speak more precisely about AIDS as a moral and ethical problem? The question invites reflection on the plight of religious spokesmen in our time.

Mainline Christians, accustomed to a marginal role in public life, do not often enter the major debates. There are two unhappy results of this. First, the debates engage the views of only half the nation. For example, the exchange between rationalist evolutionists and fundamentalist creationists should have been joined by intellectual Christians with informed views on both evolution and the meaning of the Bible. As it took place, the debate was perfect for the media, but the fault for that lies in good measure with thoughtful Christians who were lethargic about addressing a tired question.

A second and more disturbing result of this marginality is the dilution of moral commentary in general. Today Christians and Jews of traditional conviction often fall silent on moral issues that affect individuals. They speak volubly enough on community morals, but rarely speak at all of individual morality. The reason is clear. Moral norms for individuals suggest moral authority and discipline, both unacceptable to many.

Consider the weak Judeo-Christian response to the reality of AIDS and the anger of homosexuals.

Has any minority reaction ever silenced logical discussion as effectively as the current fury of the homosexual community? If, conscious of that anger, most media commentators have said everything they can about AIDS except to mention its cause, mainline religious commentators have not said much more. Writers in the religious press and spokesmen for Churches have concentrated on good works toward the dying victims. But that sympathetic response cannot excuse religious writers if they too bury the truth.

It is a classic red herring and harmful to homosexuals to speak of the plague of death—dealing AIDS as if it were equally a problem of heterosexuals or even drug users. This is the rhetoric of the media and of public health officials. Surely, they know this is not the case. They know that there would be no AIDS threat in this nation if it were not for homosexual acts performed voluntarily and promiscuously by so many. Who has spoken or written this central fact? Have our moral theologians, religous commentators and bishops? Homosexuals did not, of course, invent the deadly *viri* that are normally kept at bay by the wonderful balance of created life. But the imbalance that led to AIDS in this country (and soon in the world) was not caused by mysterious developments in Africa and Haiti. The plague (not the virus) was caused by the promiscuous performance of an essentially unsanitary sexual act. I use the words carefully. Such activity continues to be the source of the plague. Does any thoughtful religious person think that homosexuals are helped by clouding that fact?

In recent decades, many homosexuals quietly dismissed the cautions of nearly every culture and the strictures of the Judeo-Christian relevation against the homosexual act. Homosexuals dealt with morality in their own way. Then nature reacted to the violation of its ageless requirement that healthy organisms be protected from noxious elements. Research has not yet pinpointed the chemistry of AIDS, but it is glaringly clear what activity brought about and daily expands the base of the plague. It is the act of sodomy. Without promiscuous sodomy, the plague would cease to be fueled and would die back, slowly and perhaps painfully, but it would die back.

A similar paragraph can be written about heterosexual promiscuity. Forbidden by Judeo-Christian morality, sleeping around is now also proscribed by diseases that emerged after the wisdom of nature and her Creator were dismissed by many.

After reading the escalating projections of death among homosexuals, among the innocent wives of promiscuous bisexual men, and among babies born deformed and dying, why are Jews and Christians reluctant to ask the homosexual community to rethink its destructive practice? Does homosexual preference stand irresistible against their own group suicide? And where are the moralists? Persistent sodomy kills friends, wives, babies, and pathetic prostitutes. Does this not involve objective moral questions homosexuals must deal with? Do thoughtful Christians and Jews serve them well in not urging these thoughts upon them?

There *is* a body of Judeo-Christian thought regarding homosexuality. Sodomy is not a birthright. Like adultery and running a red light, it is a voluntary act. And like them it has consequences.

The obscurantism of homosexual activists and the relative silence of Christians and Jew are not made worse by the number of victims. But it is important to know that we are just at the beginning of a plague that could become genocidal. We know that the killer *viri* have entered our society through and because of promiscuous sodomy; they are transmitted only by sexual contact or dirty needles or contaminated blood. All heterosexual victims can trace their illness back to a homosexual source. But—and this is the latest horror—these facts do not mean that the *viri*, multiplying geometrically, will continue to confine themselves to a sexual transmission belt. Public health officials are well aware of this hideous potential.

With determination and some gusto we told alcoholics, drug-abusers, air and water polluters, and smokers that only abstention from their health-destroying habits would allow nature to restore health. We gave them honest sympathy, but we did not deceive them. It is unlikely that expensive research will cure AIDS any more than it did venereal disease, of which there is a richer variety today than before penicillin. The manufacturers of condoms will now add to the lies, despite the fact that the protection they market provides much the same odds as Russian roulette. An active homosexual will be infected in August instead of July. Predictably, the facts are not deterring manufacturers, advertisers or publishers.

The truth is writ large. *Every AIDS victim diagnosed in 1982 and 1983 is now dead.* Soon those of 1984 will be dead—all of them. The only way to protect the next class of potential victims, of whatever year, is homosexual abstinence. Only sodomy is the primary cause of AIDS. Was a moral imperative for abstinence ever clearer? Neither accusations against others nor "promising research," any more than "safe sex," will save thousands, perhaps hundreds of thousands, in the next class. Only homosexual abstinence in 1987 will save them.

Other sticky moral questions arise and need careful reflection. Since AIDS kills 100 percent of its victims, does a known HIV carrier have a right to marry, have a right to sexual acts with another person, knowing it is more than probable that he or she will transmit the lethal virus? We forbid mariage of first cousins for the safety and health of progeny. But we have yet even to ask the question: May a known AIDS carrier be allowed to acquire a right to sexual intercourse with a noninfected person or sire an infected baby? Will the AIDS carrier enjoy the protection of civil rights in bringing about the death of spouse and child? Perhaps of contributing to genocide? If so, why do we still ban marriage of first cousins?

Denouncing the heterosexual community, hospitals, Congress and Mother Tereas are ways for homosexuals and their protectors to run away from the truth, away from the law of God that thou shalt not kill—not even for sex. Christians and Jews must enter the public debate and say that sodomy, even for unbelievers, is wrong, profoundly wrong, because it ineluctably punishes practitioners and threatens millions of innocents with a terrible death.

If we do not say this, who will?

Homosexuals deserve the nation's sympathy and love of those who believe in the Gospel and all the help they need in this exceedingly difficult decision. But we will not help them by cooperating in the burial of the truth.

KODAK RESOLUTION

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. QUILLEN. Mr. Speaker, I wish to bring to the attention of Members in this bicentennial celebration of the Constitution of the United States the stirring words presented in a resolution drawn by members of the Northview Community Association of Kodak Community located in beautiful Sevier County of east Tennessee, which is in my First Congressional District.

This resolution, signed John E. Manning, president; and Dwight W. Shepherd, secretary/treasurer, exemplifies the tradition which Americans hold dear in honoring our priceless heritage as presented in the Constitution.

The resolution follows:

Whereas in the last quarter of the 18th Century, there was no country in the world that governed with separated and divided powers providing checks and balances on the exercise of authority by those who governed. A first step toward such a result was taken with the Declaration of Independence in 1776, which was followed by the Constitution drafted in 1787; and in 1791 the Bill of Rights was added. Each had antecedents back to the Magna Carta and beyond.

And whereas the work of fifty-five men in Philadelphia in 1787 marked the beginning of the end of the concept of the divine right of kings. In the place of absolutism of monarchy, the freedoms flowing from this document created a land of opportunities. Ever since then discouraged and oppressed people from every part of the world have made a beaten path to our shores. This is the meaning of our Constitution.

Therefore be it resolved on this the two hundredth anniversary of the signing of the Constitution of the United States of America, that the Northview Association, Inc. affirms its belief that the Constitution has safeguarded the American spirit and the freedom of the people of this country for the past two hundred years.

Approved this 17th day of September, 1987.

AMERICAN INDIAN WEEK

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. CAMPBELL. Mr. Speaker, I introduced a commemorative honoring the first Americans whose ancestors were here to greet European adventures who sailed across the ocean to discover the New World. This resolution would designate Thanksgiving week, November 22, 1987, through November 28, 1987, as "American Indian Week." This resolution is similar to legislation which was enacted unamiously by both the House and Senate in 1986.

I believe that this resolution is especially appropriate in 1987, the year of our Nation's bicentennial of our Constitution. Many times our history books do not focus on the many achievements American Indian people have contributed to our Government, especially the principles enunciated in the Constitution. Indeed, the Iroquois Confederacy was a model for the Articles of Confederacy, our first form of Government as an independent nation. In addition, the Iroquois Confederacy was a source of the revolutionary political concept incorporated in the Declaration of Independence, that one purpose of Government was to ensure to all individuals the right to pursue happiness.

American Indians have made enormous contributions to every aspect of our lives and continue to do so today. Many of our foods and medicines are traceable to the food and medicinal herbs used by the Indians for centuries. In time of both war and peace, American Indians have served in our Armed Forces with great distinction and valor. Our fine arts continue to be enriched by the great traditions of Indian art. Many Indian people have contributed in the field of athletics.

It is appropriate that Thanksgiving week be set aside to acknowledge the contributions of American Indians to our society, culture, and government. This great American holiday reflects the tradition of giving and sharing which is the cornerstone of all native cultures. Indeed, it was this tradition which led to the first Thanksgiving and the assistance offered by American Indians to the first colonists. That assistance allowed the colonists to survive their first years in what seemed to them a new and harsh land.

I hope that you will join me in sponsoring this resolution as one small gesture of appreciation and recognition of the great contributions Indian individuals and tribes have made to this great country.

REPUBLIC OF CHINA ANNIVERSARY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. CRANE. Mr. Speaker, October 10 will be a very special day for the Chinese people in the Republic of China [ROC] on Taiwan. They will be celebrating the 76th anniversary of the founding of their country. I join the ROC's friends in the United States in congratulating President Chiang Ching-kuo and the Chinese people in Taiwan.

During the last year, the ROC has taken gigantic strides toward full representation. In July of this year, the ROC abolished martial law and enacted a new national security law that enhances the rights of assembly and association for the people. It also allows for more freedom of the press, and specifies that private citizens are to be tried in civilian courts instead of military courts.

Equally as significant, the ROC now has two political parties: the ruling Kuomingtang, and a new opposition party known as the Democratic Progressive Party. So far, the two political parties, depsite their ideological differences, have cooperated with each other and are functioning well in coexistence. The Chinese people's genius for compromise, negotiation, and self-restraint, said Ambassador Fred Chien of the ROC, is the force behind the successful implementation of the two party system.

The ROC's political success, I hope, will be a good example to other countries aspiring for political change toward a more representative system of government. At the same time, these recent advances should provide the basis for continued stability, and even greater political and economic growth in the ROC.

Congratulations and happy anniversary to the Republic of China.

THE MAQUILADORA PROGRAM

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. KOLBE. Mr. Speaker, not since Congress passed the highly protectionist trade package known as the Smoot Hawley Act of 1930 has America been so willing to erect insurmountable barriers between itself and its trading partners. Trade legislation currently in Congress smacks of those predepression days, and comes in response to anguished cries from American industrial powers alleging unfair foreign competition.

While many of their arguments are well-founded, lawmakers and manufacturers alike should understand that the character of the global economy is not easily manipulated by the conscious efforts of one nation, even a superpower. If it were, it wouldn't be a good idea.

But, almost unconsciously, America has found itself involved in a program that makes brilliant economic sense; it helps our industries compete against manufacturers from the Far East; it protects, promotes, and creates jobs for American workers; and it contributes to the economic stability of a nation of vital strategic importance. You might not expect it from this glowing description, but this program has been the target of much criticism within Congress.

It is called the Maquiladora, or in-bond assembly plant program. It combines the favorable tariff treatment of U.S. produced components assembled in Mexico, and the increasing realization by the Mexican Government of the benefits they derive from relaxation of their traditional barriers against foreign investment and management in their country.

In this program, American companies manufacture components, then ship the items to Mexico where they are assembled by Mexican workers who are paid at or above the Mexican minimum wage. Using sections 806.3 and 807 of the U.S. Tariff Code, the assembled products can then be shipped back to the United States for final packaging and distribution with a duty paid only on the difference between the value of the finished product and the sum of the value of its American-made parts. The result is a mutually productive manufacturing support system, utilizing a North American lifeline for maximum efficiency.

Labor organizations in this country have bemoaned the loss of jobs to Mexico. That view is blind to the real choices faced by American companies today. The choice is frequently not between keeping jobs in the United States or moving them to Mexico, but rather having a percentage of their operations in Mexico, moving an even more extensive percentage to the Pacific rim, or going out of business altogether. The choice, very simply, is whether or not American companies want to be competitive and indeed, survive against foreign rivals.

The issue should not be low-cost Mexican labor versus the much higher cost of its American counterpart. The issue should be the inefficiency and waste of certain U.S. manufacturers. Is there really a choice between putting the bulk of American manufacturing operations in Asia or using the lower priced labor just across the border?

There are nearly 1,000 maquiladora plants along the United States-Mexico border. They employ some 300,000 Mexicans. The amount of value associated with maquila products that is actually sourced is close to 80 percent. In the Far East, that figure is close to 10 percent. In recent hearings before Congress, we were told that American labor wanted equity of benefits from the maquiladora operations. According to the U.S. Department of Commerce, the domestic content of items falling under items 806.3 and 807 resulted in the creation of an estimated 500,000 American jobs in both the initial manufacturing process as well as the reprocessing stage upon reentry of the products into the United States from Mexico. William Mitchell, marketing director for Bermudez Industrial Parks Group, which pioneered the Maquiladora program in the early 1960's, estimates a multiplier effect resulting from maquiladoras of 2.5 American jobs created or maintained in the United States for every new job in the maquiladora industry. This sounds more than equitable.

And the benefits are not restricted to the hard-pressed border region. Indeed, a recent Commerce Department study of the impact of the maquiladora plants in Juarez, Mexico, adjacent to El Paso, indicates that of the 5,714 suppliers in 44 States, 62 percent were located in U.S. States other than those along the border. These businesses not only provide the components for assembly in Mexico, many also provide the materials and equipment necessary to construct the actual facilities and factories used by maquila workers.

The maquiladoras are a fundamental aspect of our entire trade relationship with Mexico. Through this system, we've seen trade barriers between our two nations lowered and sometimes removed. Mexico is our third largest trading partner, behind Canada and Japan. Its economic recovery can only benefit this country as well. A growing market for United States goods and services in Mexico, spurred by increased economic activity in that country, could be valuable in helping to reduce our trade deficit. Increased economic stability in Mexico would also be welcome relief to United States banks who still have nearly $24 billion in outstanding loans in Mexico.

As a nation that shares an international boundary with only two countries, it is not surprising that we sometimes lose sight of the delicate interplay and mutual cooperation that characterizes the trading practices of, for example, the European Community. Self-sufficiency is a noble American trait, but one that requires some modification in the face of cutthroat international competition for survival in the marketplace.

In a broader sense, where our trade policy has not been fruitful, is in our attempts to break down institutional and historical barriers to free exchange of goods. In the past, it wasn't always necessary, since our trade domincane was unquestioned and pervasive. In that sense, the trade practices along the United States-Mexico border hold a lesson for us. As Mario Rodriquez Montero, commercial counselor at the Mexican Embassy in Washington, DC, has said: "Together, the United

States and Mexico can make cheaper and better cars than either Japan or Korea. Instead of competing, we can be complementary and face the rest of the world together."

The intertwining of our problems and concerns makes crass political manipulations all the more destructive. While politicians are too often wedded to a comforable but unhealthy status quo, the private sector has moved ahead into uncharted territory. Through involvement in programs like the maquiladoras, we may yet find a path to regional trade stability.

FROM KENYA TO CLEVELAND, A MESSAGE OF UNITY GROWS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. STOKES. Mr. Speaker, "Harambee," a Kenyan word meaning "putting things together," takes on a special significance in the 21st Congressional District of Ohio. Harambee: Services to Black Families is a unique adoption agency which recruits black parents for adoption of black children in Cleveland.

Founded in 1979 by the local chapter of the National Association of Black Social Workers, Harambee provides a much needed service in our community. More importantly, however, Harambee has demonstrated a commitment to the preservation of the family and the development of our children.

Ione Willis-Hancock serves as director of Harambee and is the driving force behind the organization. Her belief that "the black community has a responsibility to help solve the problems facing black families," is the key to the program's success. In June of this year, Harambee received the Isaiah Award for an outstanding agency in human relations.

Recently the Cleveland Plain Dealer newspaper featured an article on Mrs. Willis-Hancock and Harambee. I am pleased to share the article with my colleagues. I would also like to personally commend Mrs. Willis-Hancock and her staff for the outstanding service Harambee is providing in Cleveland.

Mr. Speaker, as a community, there is no greater priority than assuring the development and well-being of our children. Thanks to the efforts of Harambee this challenge is being met.

[From the Plain Dealer, Sept. 20, 1987]

From Kenya to Cleveland, a Message of Unity Grows

(By William Onyango)

"Harambee" is a Kenyan philosophy based on the struggle against suppression and human suffering that has found its way—through an adoption agency—to Cleveland.

Harambee, which means pulling together and putting things together, evolved from the vision of Kenyans Omolo Okore and Jomo Kenyatta, Kenya's first African president.

It is the philosophy behind the founding of the Harambee; Services to Black Families, which recruits black parents for adoption of black children in Cleveland.

"We have pride in our heritage, legacy and our culture, and this we will preserve. It has been important to our forefathers and important to this new generation," said agency director Ione Willis-Hancock. Harambee follows the philosophy espoused by Kenya's President Daniel arap Moi: "Be proud of what you are."

Harambee was founded in 1979 by the local chapter of the National Association of Black Social Workers, with the conviction that the black community had a responsibility to help solve the problems facing black families, Willis-Hancock said.

The agency did not receive its full adoption and placement license until July 1983. In August 1983, the agency signed a contract for adoption services with the Cuyahoga County Department of Human Services. About 60 children have been placed since then.

Marjorie Hall-Ellis, outgoing director of the Cuyahoga County Department of Human Services, said Harambee works very closely with her department. Hall-Ellis said her department helps fund the agency, which also receives funds from the United Way and various foundations. Its budget for 1987 is $205,000, said Willis-Hancock.

Harambee does not take custody of children but actually recruits prospective parents, said Willis-Hancock.

She said most adoption agencies in Cleveland prefer nuclear families, but Harambee also recruits single parents. They look for those who are mature and have a good career, and have a strong support system, including an extended family.

"We don't want these children to stay in the system all their lives," said Denise Smith, public information officer with the Department of Human Services. "They must move out and join the community. . . . The concept of communal child-rearing is a part of our heritage."

The department may offer subsidies and legal assistance for adoption, depending on the needs of the children, she said.

A 1984 study conducted by the Institute of Child Advocacy shows that of the total children in Ohio waiting for placement, 75% are blacks, she said, adding that most are older children ranging in age from 4 to 17.

Harambee "cross-matches" its children and families through interviews and other assessments.

After the match is established, Harambee provides special training for the adopting parents. For instance, said Willis-Hancock, for a parent to declare to the child that he or she is adopted, the word adoption must be introduced to the child's vocabulary at a very young age. But this should be done through a doll or a story, picture and so forth. "The efforts are to help a child to begin conceptualizing, so that it does not come to the child in a dramatic way."

One of its goals, Willis-Hancock said, is to offer its own children for adoption. But Harambee is not yet ready to take on that financial responsibility.

In June 1987 Harambee's efforts were recognized when it won the Isaiah Award for an outstanding agency in human relations.

BEHIND "HARAMBEE," EQUALITY IS AT WORK

Harambee reflects a non-combative philosophy invoked in the creation of the new nation of Kenya in 1963. Omolo Okore was among Kenyans who were in the forefront in the struggle against colonialism. Like Jomo Kenyatta, Okore believed that when the first missionaries came to Kenya, the Africans got a raw deal. "They came with the Bible, asked us to close our eyes and pray. When we opened our eyes the Bible was in our hands, and our land was gone," wrote Kenyatta.

Okore coined the word "Harambee," which means pulling together in Kiswahili, Kenya's national language. That philosophy has become part and parcel of Kenya's national development. Schools, health centers, hospitals, roads and water projects are all built through "Harambee."

Harambee comprises a broad social movement; it recognizes that poverty, for example, denies an individual medical services and other essentials. It subsequently advocates equal access to social services.

Adoption Agency Spreading Hope and Happiness

(By William Onyango)

It was the happiest moment for Marie Smiley when on May 1, 1987, she and her husband brought into their family a 2½-month son from the adoption agency.

Smiley, of Warrensville Heights, says that for the last eight years she had lived with her second husband aware that there was a "missing link" in the family.

She has a daughter of 16 from a previous marriage but her husband, and she, wanted to have a child as well.

"Due to medical reasons I could not give birth to another child," Smiley said. As for her husband, "His feelings were very clear he was missing something in the family," she said.

About four years ago Smiley heard of Harambee: Services to Black Families, but she did not seriously consider adopting a child until 1985, when she presented the idea of adopting a child to her husband. "No way," he told her.

"My husband didn't know what adoption was all about," she said. "To him adoption meant being given a bad child (who was) a social reject."

But she never gave up. Last year, her husband said, "OK, see what is going on at the agencies."

"I started calling children services, but most of them had children from 6 months and above," she said.

Smiley, who is black, wanted to adopt a black child. "I telephoned Harambee, asked if they could help me and I left my address and telephone number," she said.

Later she received a letter from Harambee asking her to come to the agency with her husband. "It was hard convincing my husband, but the eventually accompanied me to the agency." There they met with Harambee director Ione Willis-Hancock.

Social worker Mary Pope later visited the family and held discussions with them individually. The home study, which was completed in October 1986, was followed by a long spell of waiting. While they waited, they attended parent support meetings at Harambee.

"During such meetings prospective parents and adopting families jointly discuss raising children, getting the feelings of a new child joining the family and how to be a parent of a child which is not biologically yours," said Pope.

Smiley's daughter also came to these meeting. "She was asked how she felt with a new baby joining the family and whether she would be jealous," Smiley said. "My daughter wasn't too sure of her feelings, (but) what was clear was that she wanted to have a sister or brother."

In April 1987, Smiley received a call from Harambee, asking the family to travel to

Akron where there was a children's home that could provide them with a baby.

"When I first saw a baby at the children's home, I knew I had met my son," she said. "He was alert and handsome." She said that she rushed and kissed him and held him tightly in her arms with joy.

She was asked to leave the baby there and consider her decision overnight. "But I had made my decision. I wanted that baby," she said. "I went home I asked God, 'Lord, if you know that is my son please open our hearts.'"

The next day, Friday, May 1, Smiley and her husband returned to Akron. "We brought our son home," she said. "The boy has brought much happiness to the family; to quote from the spirit of Harambee, the new baby is pulling the family together."

THE NOTCH PROBLEM

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. SCHAEFER. Mr. Speaker, I would like to take this opportunity to speak out on the Social Security notch. As my colleagues know, this notch affects those retirees who were born in the years 1917–21, and was created when Congress altered the formula for calculating Social Security benefits.

In 1975, Congress initiated automatic benefit increases for those on Social Security. Due to the rampant inflation of that period, benefits were increasing far beyond intended levels. At that time, the Social Security trust was headed for bankruptcy, so in 1977 Congress amended the method of calculating benefit adjustments. Thus, those retiring in 1979 received lower benefits than those retiring in 1978.

In response to this, I invite my colleagues to join me in cosponsoring legislation introduced by Congressman LENT, House Concurrent Resolution 15, which has been the first responsible step taken in addressing the concerns of the notch babies. This legislation would call on the Commissioner of the Social Security Administration and the Secretary of the Department of Health and Human Services to study and report to Congress methods of correcting the disparity in benefits created by the notch.

It is important that we solve the notch problem, but we must do so without jeopardizing the solvency of Social Security. This measure would help provide Congress with all the alternative solutions in rectifying the unfair treatment of the notch babies.

STAFF TRIP TO NICARAGUA AND HONDURAS

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1987

Mr. CHANDLER. Mr. Speaker, last month my legislative assistant for foreign affairs, David Dworkin, led a delegation of congressional staff to Nicaragua and Honduras. They were able to meet with a wide variety of people who are involved and affected by the civil war in Nicaragua.

In 4 days they met priests, merchants, opposition leaders, refugees, Sandinista officials, and Contras during nearly 20 meetings.

I would like to submit Mr. Dworkin's report on this trip for the consideration of my colleagues.

HUMAN RIGHTS AND WAR IN NICARAGUA—REPORT ON A STAFF TRIP TO NICARAGUA AND HONDURAS, AUGUST 7–11, 1987

(By David M. Dworkin)

GENERAL BACKGROUND

On August 7–11 a bipartisan delegation of five House staffers traveled to Nicaragua and Honduras to discuss human rights in Nicaragua, and the war between the Sandinista government and the Nicaraguan Resistance, known as the contras. The trip was funded by the National Forum Foundation, a non-partisan organization that promotes conservative domestic and foreign policy causes. Two NFF staffers accompanied the delegation, James Denton, its President, and Wesley Smith. The congressional staff was led by David Dworkin of Congressman Rod Chandler's office (R-Wash.) Also participating were Sheri Wolfe, with Rep. Ben Nighthorse Campbell (D-Col.), Marshall Smith with Rep. Martin Lancaster (D-NC), Margaret Adams with Rep. Robin Talon (D-SC), Karen Miller with Rep. Tom Ridge (R-Penn.) and David Kendall with Rep. Mike Andrews (D-Tex.)

The timing of the trip was particularly fortuitous as we arrived in Managua on the same day the five Central American Presidents signed the Esquipulas II document. This agreement committed the signatories to take certain steps within 90 days to ensure peace in the region. Some of these include a suspension of the state of emergency in Nicaragua, an amnesty for those who have taken up arms against the Nicaraguan government, and a cease fire between the Sandinista Peoples Army [EPS] and the contras. While the purpose of the trip was not to analyze the peace agreement, we were able to obtain the initial reactions of many key players.

Internal Opposition leaders, Sandinista officials and contra leaders had widely variant views on the meaning of this agreement and its prospects for successful implementation. Opposition leaders were extremely pessimistic of any significant long term improvement, while Sandinista officials considered themselves already in full compliance with most of the documents provisions (i.e., the amnesty, electoral freedom). Contra military commander Enrique Bermudez was concerned that the agreement would lead to the destruction of his forces without a change in political power in Nicaragua.

HUMAN RIGHTS

The human rights situation in Nicaragua appeared much worse than any of the staffers in the group had anticipated. We heard numerous personal accounts of government harrassment, arrest without charges, torture and intimidation. Some of the people we met reported cases of summary execution by the Sandinista's Interior Police, as well as murder and rape by guards in the prison system. While these charges cannot be adequately corroborated during a five day trip, the frequency and spontaneity of the reports, coupled with the similarities of methodology described by people scattered throughout Managua, does lend a fair amount of credibility.

An overall perspective on the human rights situation was obtained from Mr. Leno Hernandez, the president of the Permanent Commission on Human Rights (CPDH). This organization was founded on April 20, 1977 to promote and defend human rights under the regime of the dictator Anastasio Somoza Debayle. When Somoza was overthrown by the Sandinistas in July, 1979, the CPDH quickly earned the consternation of the Sandinista junta by investigating the summary executions of a number of National Guardsmen shortly after the revolution, contrary to the commitments made by the FSLN before the O.A.S.

According to Hernandez, the Sandinista government operates on two levels. On the one hand, it projects to foreign journalists, government officials and internationalists who come to Nicaragua to do volunteer work, an image of political pluralism and respect for human rights based on an extensive and elaborate disinformation campaign. On the other hand, beyond the limited view of official trips and sympathetically organized internationalist projects, "the government utilizes policies of terror and fear, of persecution and blackmail against those persons who think differently and refuse to bow without protesting the implementation of a political and ideological plan which in essence disregards the fundamental rights of the Nicaraguan people." Our discussions with relatives of political prisoners, political activists, and ordinary citizens met in the Eastern Market supported this conclusion.

One common experience was the fundamental distrust people throughout the capitol had of our delegation. Surprisingly this was not because we represented the U.S. Congress, but because it was feared we were "internationalistas" who might report their criticisms to the State Police, or who might be travelling with Sandinista agents. "Are you internationalista?" we would be cautiously asked. When we responded we were not, the merchant or shopper at the Market would look quickly around, pull us aside, and share his reasons for opposing the Sandinistas. Some even asked if the U.S. would come and rescue them. One man we met with told us how the Sandinistas confiscated his farm by refusing to sell him barbed wire, and then condemning the property for not being properly fenced.

Hernandez himself was jailed just a few day after our meeting, arrested by the State Security Police at a rally following the signing of the Esquipulas II document. Hernandez and Alberto Saborio, President of the Nicaraguan Bar Association, were watching a demonstration by 1,500 members of the Nicaraguan Democratic Coordinadora, a coalition of peaceful opposition groups on August 15. Saborio was arrested by State Security Police when he commented that not since the days of the Spanish Inquisition had dogs been used against the Nicaraguan people. Hernandez came to Saborio's aid when the police began to beat him. Both men were arrested and Hernandez says he was tortured with an electric cattle prod. They were released from their 30 day sentences on September 8th after intense international pressure on the Sandinistas.

Ironically, many of the major Sandinista leaders were at one time defended by the CPDH, including Interior Minister Tomas Borge. The CPDH receives between 130–140 reports of abuses each month, and only handles cases based on first hand complaints. In 1986 they received 1,400 direct reports of abuses by the Sandinistas, and 18 by the contras. Hernandez estimates that there are

7,000 political prisoners, 2,500 additional National Guard prisoners, and 4,500 common criminals currently being held in the three types of Sandinista prisons. In addition to this over 140,000 people have been forced into relocation camps that Hernandez said are more like concentration camps.

Hernandez explained that there are thousands of peasants who are jailed on their own confessions obtained under torture. Anyone sentenced to more than five years is subject to the loss of all of his property, adding an economic incentive as well as a political motivation for the government to find accused prisoners guilty.

Hernandez also told us of a meeting that Christian Rechardo, an Interior Ministry official in Region One of Nicaragua, had with 40 members of the families of political prisoners. "He said 'we know you have told people that we have tortured your families and this is false,'" Hernandez said. "'If you tell anyone this you will be in jail. Here in Nicaragua, we don't even touch the hair of our prisoners head.'" After reporting the crimes to the CPDH, all forty were arrested and are serving prison terms between three and thirty years.

Last May, the CPDH criticized Amnesty International for its inadequate investigation of human rights abuses in Nicaragua. According to their Special Report, CPDH took issue with Amnesty's March 1986 report of 1,200 political prisoners in Sandinista jails for political reasons. Yet that May a report issued by the Dept. of Statistics of the Anti-Somoza Peoples Tribunals indicated that over 1,200 prisoners had been tried (with over a 90% conviction rate) since June, 1983. This figure did not include people sentenced between 1980 and 1983, or those awaiting trial in State Security Prisons.

In an emotional meeting with the January 22 Mothers of Political Prisoners Movement, we heard graphic accounts of the human rights abuses discussed by Hernandez. One woman, Sra. Conapeion Salazar Gonsal told us how the Interior Police "killed one of my sons at Tipitapa and took another one and put him in El Chipote. After eight days without food they made him sign a confession," she said. "He was sentenced to eleven years in prison. I had to steal my dead sons body from the hospital so I could bury him. They weren't going to let me have him. Barricada reported he was killed while fighting in the mountains."

At the Teupasenti UNHCR Refugee Camp in Honduras, recent refugees reported similar stories. Of the twenty-one refugees we spoke with, four had been in prison, four had fought with the contras and fifteen were farmers. All said the reason they fled Nicaragua was because of persecution by the Sandinistas and not the contras. One man, a 70 year old campesino from Juan Blan said the Sandinistas took all of his children, "and left me nothing to grow food with. They took my sons and they killed them." He said he had two sons, 25 and 30, who were killed by the ESP.

Another man reported that while he was imprisoned in the Zona Franca Prison he saw a woman murdered and burned after she came to visit her husband in January of 1984. "The prisoner had been lost and she became hysterical because they could not find him. They arrested her and they took her to Pavilion 3, Cell 22 and they killed her and burned her body. We were in that Pavilion and we saw her body," he said. Another man reported that just last May he witnessed an ESP attack on civilians in Chinondega. "They took three men and they killed these three men and cut their kidneys out and skinned them. Then they chopped them up into little pieces and burned them in the road. They also killed a man we called Anselmito. They shot him in the head. He left three children. They attacked us because the contras had passed through our village and the Sandinistas accused us of helping them."

THE INTERNAL OPPOSITION

While in Nicaragua we also had the opportunity to meet with the leadership of the Independent Liberal Party, among other opposition parties. At the meeting with the PLI, we discussed the role of the political opposition with Enrique Campos, Virgilio Godoy, Arjuelio Roche, and Maria Nidia. According to Godoy, "we all fear [Sandinista repression for political activity.] You would have to be stupid not to have fear. But we must overcome our fear for the fight is here and not in Miami."

The greatest obstruction to political organizing are the Sandinista Defense Committees (CDS), taken from the Cuban model. These committees watch their neighbors on each block and are also responsible for distributing ration cards. Those who are opposed to the Sandinistas, or who do not attend the meetings, are discriminated against when the ration cards are distributed. Maria Nidia explained that while "a very small percentage of the people support the Sandinistas, the CDS controls the people. And since these organizations are on every block, the people feel completely controlled and are afraid to organize against the Sandinistas."

Yet in spite of this sense of hopelessness, the PLI leadership is convinced that if the Sandinistas allowed free expression for even a short time, the people would take to the streets and the Sandinistas could not put down all of the attacks and protests. "This is why they have had to close Radio Catolica and La Prensa," Godoy said.

Regarding the contras, the PLI refused to take a say whether the U.S. should support the contras, instead saying that the best solution was a peaceful one. But when asked whether they would be better or worse without the contra war, they were emphatic. "If the contras were gone tomorrow," Roche said, "there would be no freedom." Campos added that "if it were not for the contras we would not be in this room right now." As for contra abuses, Godoy acknowledged that the contras have committed abuses in the heat of battle, but asserted that more abuses were committed by the Sandinistas.

One key leader of the opposition in Nicaragua has been the newspaper La Prensa. Heavily censored during the past few years, La Prensa was closed in June of 1986 for allegedly being a front for the CIA. La Prensa's most famous Publisher was Pedro Juaquin Chammorro, who was gunned down by Somoza's National Guard in 1979. Chammorro's wife, Violetta, took over the paper and helped bring the Sandinistas to power later that year. She was a member of the first junta but resigned after four months because of what she says was the Sandinistas clear Marxist-Leninist philosophies and the proliferation of Cuban advisors at the highest levels of government. Now she waits in her home for the government to allow her broken presses to be repaired and permits to be issued to allow her to publish again. So far this had not been allowed. Once a 60 page daily, La Prensa is barely capable of printing a six page tabloid because of government persecution, vandalism, and economic damage inflicted by the closing.

Chammorro, who left Nicaragua because her own life was in danger under Somoza came back in July of 1979 during the revolution. The Sandinistas promised her there would be real freedom and political pluralism, but within two days I could see that there were Cuban advisors. . . What we have in this country is a betrayal," she said. "What we have is a Marxist-Leninist government."

Asked about the contra war, Chammorro said that "this war is very sad, but why do they have it? Because we have a politcal party that has not fulfilled any of the promises it made to us." She also insisted that the Sandinista charges that La Prensa was a tool of the CIA and supported the contras are absolutely unsupportable. "What's going on with the Contras has nothing to do with the closing of La Prensa. The government controlled the paper supplies to harass us before [the contras existed]," she said. "When La Prensa would scoop Barricada and Nueva Diario, the La Prensa article was stolen and censored, appearing in Barricada and Nueva Diario only." The current situation for press censorship and harassment, she said, is much worse than it was ten years ago under Somoza. "During that time," she said, "the press was closed and people were exiled but we were always able to reopen."

Unfortunately, we were not able to see senior officials of the Catholic Church in Nicaragua. However, we were able to meet Father Mondragon, who runs the parish which includes the Eastern Market. Mondragon's parish was a hotbed of Sandinista support during the revolution, yet it now presents one of the most tenacious pockets of opposition. Earlier this year Mondragon was arrested by the Interior Police, taken to the interrogation facilities at Somoza's old bunker, and questioned by Lenin Cerna personally. Cerna is in charge of State Security. Mondragon says he was subjected to psychological torture. "They accused me of being a friend of the North Americans and said I could not speak to journalists, I could not speak to North Americans and I couldn't celebrate religious services outside my church. If I did any of these things," he said, "I would be sentenced to 30 years, they told me. . . The Sandinistas want a treaty with the Church. But it would condemn Ronald Reagan, and the contas, and bless the Sandinistas. It would also forbid the Church from being involved in human rights." This, Mondragon said, is not acceptable.

Mondragon was skeptical of the peace plan. "Ortega says there is no need to democratize. We already have perfect democracy," he told us. "Yesterday he signs the document, today he denies everything." Mondragon said that he does not support the war, "the people of this country do not want war, and the Catholic Church does not want war." But when asked if the Church would be better off if there were no contras, he replied with an emphatic "no, we would be worse off. If they weren't there the proletarian dictatorship would be completed. If there were no counterrevolution we would definitely have a Cuba here right now. Borge said 'we took the power and we will never give it up.' When the Sandinistas took their own poll they found only 12% of the people support them. Borge just laughed and said 'we only need 8% to rule,' and he is right."

THE OFFICIAL SANDINISTA POSITION

While our delegation met with opposition leaders and victims of Sandinista persecution, President Ortega declared that Nicaragua was already leading the vanguard of democratization. During a 7:00 pm speech on national television, Ortega stated that the democratization elements of the agreement "are not news to us because in Nicaragua, when we speak of democratization, we are not speaking of anything new . . . We are all pledged to continue developing the democratic, pluralist, and broad process, which implies the promotion of social justice, human rights, sovereignty, territorial integrity, etc.—which is really what we are doing in Nicaragua." Can Nicaragua be trusted, in light of the vast gap between Ortega's comments and the reality we witnessed, to comply with the requirements of the Esquipulas document? Early indications on our trip were not encouraging.

At a meeting with William Vijil, who directs the North American division of the Minister of the Exterior (MINEX), several disturbing points were made by the Nicaraguan government. Vijil said that the state of emergency will only be lifted for political parties already recognized as legal. The amnesty, he said, "does not apply to those detained [for political reasons], only those involved in 'irregular activities,'" which he explained is contra activity. As for the importation of sophisticated Soviet aircraft, Vijil insisted that Nicaragua has the right to import MiG fighters into the country whether or not the agreement is carried out.

THE CONTRA CAMPS

On August 9th the delegation arrived at Toncontin Airport in Honduras and was flown in two Bell UH-1 helicopters to the contra base camp Aquacate. At that time it was the temporary headquarters of Enrique Bermudez, military commander of the Nicaraguan Resistance. Aquacate is also the central air resupply hub for the contras.

Behind Bermudez was a sign that said "We shall fight against the Yanqui enemy of all humanity," which is taken from the Nicaraguan national anthem. He told us the Sandinistas "say they are not against the American people, they are against Ronald Reagan, but this is their message. Judge them not by what they say outside their country," he said, "but by what they do and say inside their country."

Since the contras have moved the majority of their forces into Nicaragua, they have functionally closed their training camp known as the CIM, and their base camp at Yamales. Bermudez planned to make the Bocay camp the operational headquarters eventually, which is located on the Honduran side of the Rio Coco. Bermudez said that the agreement signed in Guatemala puts no pressure on the Sandinistas, but puts much pressure on the contras.

Bermudez explained why the contras are so dependent on U.S. support. "There are so many controls on the resources [of Nicaragua] by the Sandinistas," he said. "It is very different than in El Salvador where the FMLN can buy supplies in the markets. In El Salvador, an FMLN commander can go to the store and buy 500 pairs of boots, and the seller will get him to buy 1000 for a better price. In Nicaragua, if a campesino wants to buy two pairs of boots he is suspected of being a contra." Bermudez explained that they do not expect a military victory in the traditional sense, but look to incite a national insurrection instead, as the Sandinistas did in 1979. He added that the contras biggest failure is in public relations with the U.S. and Europe. The contras have begun a rural health program in Nicaragua with air dropped medicine, he said, and give their parachutes to the local peasants in Nicaragua to use for cloth.

On the peace plan, Bermudez said that a cease fire must be in terms that guarantee there will be democracy in Nicaragua. "There must be free [presidential] elections and a clear timetable. And they must empty the prisons of [political] prisoners." Furthermore, he said, the Cubans, other foreign advisors, and internationalists must also be forced to leave.

Members of the group challenged Bermudez on allegations of contra human rights abuses, particularly attacks on "soft targets" like cooperatives guarded by militia units. His response was that "the Sandinistas can turn a defeat into a victory. When we hit a town and one pregnant woman is killed, they show her body to the press and win. Who can say who killed that woman? Or when they bring forward naked corpses and say they are contras—who can say they are contras?" On the cooperatives, Bermudez said that their purpose is to "saturate the country with the militia and radicalize the people. The cooperatives are not made to benefit economically the population. Many have no people working, but are depots for food from other farms."

Bermudez derided the requirement for free elections to the central American Parliament that is included in the Esquipulas II document. "What is this Central American Parliament," he asked. "Their stomachs are empty, they are terrorized by the State Security. But they can vote for the Central American Parliament, like this is some kind of big achievement. This is crazy. This is stupid."

After the meeting with Bermudez we were given a tour of the Aquacate facility. Large stores of food, arms and Redeye missiles appeared in the process of shipment to Nicaragua. Contra records list 17,067 FDN troops: 1,323 in Yamales, 470 at the CIM, 1,589 at San Andreas Bocay, 107 at NVOCE, 131 in Tegucigalpa, 739 at Agucate, 740 in Corinto, 125 in Copoja, and 11,843 inside Nicaragua. The next page lists contra casualty figures for 1987 and 1986. Bermudez said the figures for his troops are accurate, but his estimates of Sandinista casualties are probably inflated about 50% by zealous troops reporting from the field. All the reports are compiled from radio reports inside Nicaragua that are relayed to Aguacate and entered in Radio Shack computers. However, the one sided view these battle statistics give causes them to be highly suspect.

From Aguacate, we were flown to the contra camp at Rus Rus, home of several hundred Indian and Creole combatants. Rus Rus is located about 6 kms from the Rio Coco on the eastern-most point of Honduras. This part of Nicaragua and Honduras is extremely thick and marshy jungle. Indian officials told us they are badly in need of boats and helicopters, as well as regular air resupply. They claim to have 1,117 combatants inside Nicaragua and at Rus Rus. They also claim to be able to mobilize 2,000 more men now in refugee camps who cannot fight without uniforms and weapons.

	Contra casualties		Sandinista casualties	
	Dead	Wounded	Dead	Wounded
January 1986	13	1	492	571
February 1986	26	14	429	526
March 1986	46	26	748	585
April 1986	29	23	770	933
May 1986	43	21	1,200	713
June 1986	44	18	683	374
July 1986	60	6	360	502
August 1986	32	16	461	315
September 1986	47	5	270	428
October 1986	34	34	438	409
November 1986	35	5	322	822
December 1986	17	12	177	198
January 1987	51	23	300	390
February 1987	53	26	487	470
March 1987	72	22	367	261
April 1987	88	39	1,031	958
May 1987	37	41	336	220
June 1987	45	30	560	380
July 1987	20	35	516	406
Total	792	397	9,947	9,461

Disputes between Indian leaders and the CIA over accounting requirements have delayed delivery of U.S. aid. These problems have been exacerbated by very poor working relations between the Agency people on the ground and the contras. With the acceptance of the accounting requirements by the Indians, staff changes at the Agency, and increased flows of arms, much of the tension has been relieved. Seasonal flooding, however, along with Typhoid and Malaria epidemics in the area, have weakened the Indians resources.

CONCLUSIONS

It was clear from this trip that human rights violations committed by the government are common and part of a clearly organized government policy of intimidation and repression. It is also clear that the Sandinistas have mobilized a tremendous propaganda machine to cater to the preconceived views of internationalist visitors. The people we met fear these "internationalistas" as zealous supporters of the Sandinista party's continued repression.

While this assessment is probably not completly fair, it is the perception held by the Nicaraguan people we spoke to. How many of them are simply naive, determined not to let go of the early hope for the "Sandinista Triumph" in spite of the overwhelming evidence to the contrary, and how many know the truth but support the Sandinistas anyway, is not clear.

As for the contras, this trip did not give us a thorough enough examination to draw any conclusions on their human rights conduct, their capacity to win the war, or their qualifications for ruling the country. However, it was clear that they are actively engaged with the Sandinistas inside Nicaragua, that their leadership is sensitive to the human rights issue, and that a considerable majority of Nicaraguan refugees in Honduras fled their homes because of Sandinista rather than contra abuses.

HOUSE OF REPRESENTATIVES—*Friday, October 9, 1987*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 8, 1987.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on Friday, October 9, 1987.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, teach us to be better listeners to the words and messages of truth that touch our lives. May we truly hear before we speak and earnestly seek to understand before we act. May we hear the words of friends and colleagues that voice support and guidance. May we hear even in silence the majesty of Your creation, and may we learn to accept the words of Your grace that ever nourish us in health and in peace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

THE PRESIDENT MUST INVOKE THE WAR POWERS ACT

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, how many attacks must Iran make on United States forces before the President acknowledges that we are engaged in hostilities?

How many Iranian boats must the United States forces sink before the President acknowledges that we are engaged in hostilities?

How many lives must be lost before the President acknowledges that we are engaged in hostilities?

There is a war going on in the Persian Gulf. Iranian forces and United States forces have been engaged in direct combat on a number of separate occasions. The lives of Americans are in grave danger. In such instances, the laws of the United States of America speak clearly. The President must invoke the War Powers Act.

There are no ifs, there are no ands, and there are no buts. If the President is to uphold the law, he must act and he must act now. Any further delay will dishonor the very office of the Presidency and discredit the Constitution.

The American people expect that the President will fulfill both the letter and the spirit of the law.

Now, Mr. President, is the time to meet that expectation.

ALTERNATIVES TO MEDICARE CATASTROPHIC PROTECTION ACT

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, on July 22, I rose before this Chamber to express my grave doubts concerning the majority's Medicare Catastrophic Protection Act of 1987. I rise again today to reaffirm my opposition to this legislation.

The measures prescribed in this bill are far too expensive for both a government ostensibly committed to fiscal restraint and an older population already overburdened by Medicare premium costs. Requiring outlays of $33 billion over 5 years and demanding $500 a month surtaxes from older Americans, H.R. 2941 is a fiscal menace.

And it is not only a menace, but it is virtually useless, as well. For it does not address the truly catastrophic issue facing our elderly population: long-term care costs.

It is for this reason that I have introduced bills which address the real problem by providing tax incentives to those who seek long-term catastrophic insurance coverage in the private sector. H.R. 2997 and H.R. 2998 represent practical, effective approaches to our senior citizens' health concerns.

The House erred in passing the majority's catastrophic plan, and I can only hope that the Senate's Members will exercise wisdom and defeat the version of the Catastrophic Act which has been brought before them.

Congress must acknowledge the glaring faults of these bills, and work to solve America's real health care problems.

REPORT ON UNIFORM PERCENTAGE TO REDUCE OUTLAYS FOR TRAVEL, TRANSPORTATION, AND SUBSISTENCE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations, and ordered to be printed:

(For message, see proceedings of the Senate of today, October 9, 1987.)

DEBT FOR NATURE SWAPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, I am pleased to introduce today a bill which would permit lenders to obtain a cost-basis deduction for donations of Third World debt to U.S. conservation organizations for use in qualifying international conservation programs.

Much has been written about the economic effect of the international debt crisis, but little has been written about the ecological effect. Because of the debt crisis, many Third World countries have been unable to devote adequate funds toward protecting the environment. In many instances, the countries with the largest economic burden have some of the most valuable and the most endangered natural areas.

Innovative solutions to these pressing problems are necessary. The conservation community has proposed the imaginative approach of "debt for nature" swaps. Under these programs, U.S. conservation groups, such as the World Wildlife Fund, Conservation International, the New York Zoological Society, and many others, would acquire Third World debt from the holders of that debt and then swap it with the debtor country for foreign currency that would be used exclusively for conservation purposes within the debtor country.

This plan to increase support for international conservation efforts is similar in principle to the debt-equity swaps currently being advocated by the Treasury Department as a partial solution to the Third World debt crisis. Treasury Secretary James A. Baker III, in a June 25, 1987, letter to Dr. Thomas E. Lovejoy, executive vice president of the World Wildlife Fund, noted that the proposed amendment "gives some further impetus to swapping debt for equity and for debt conversions which we have encouraged to help reduce debt and debt service burdens." The conservation community does not, however, view the proposed "conservation swaps" as a solution to the debt crisis for either the lenders or the debtor nations. Rather they see the swaps as presenting a unique opportunity to target increased conservation support toward those countries which can least afford to fund conservation measures—those suffering from a severe debt burden.

Under the prototype debt for nature swaps, conservation groups have purchased the debt from the lender with donated funds. The proposed amendment is designed to encourage the lenders themselves to donate a portion of their Third World debt to conservation organizations for use in the debt for nature program.

Under present law there is a disincentive for such charitable giving, since the amount of the deduction for a charitable contribution of property is the fair market value of the property at the time of contribution. Thus, if a bank loaned $1,000—its cost basis—to a Third World country, but that debt could only be sold today for $500—its assumed fair market value—the bank would be limited to a $500 charitable deduction for the donation of that debt.

As a result, it is more advantageous for lenders to sell Third World debt, claim a loss deduction and donate the proceeds to charity than to donate the debt outright. For example, if a lender sold the $1,000 debt for $500 and donated the proceeds to charity, it would be able to deduct a $500 loss on the sale and would also receive a $500 charitable deduction.

The distinction between selling property and donating the proceeds and making an outright gift of the property is an anomaly in our tax law that the proposed amendment seeks to correct with respect to donations of Third World debt to U.S. conservation organizations.

The amendment would provide lenders with a cost-basis deduction for donations of Third World debt to support conservation measures. It would thus make tax law a neutral factor in a lender's determination of whether to donate debt or cash. The cost basis deduction would be available only if the donation: First, is a qualified debt instrument relating to certain specified countries; second, is donated to an organization qualifying for exemption under section 501(c)(3) of the Internal Revenue Code; and third, is for a qualifying international conservation purpose.

I believe there is substantial merit to this proposed legislation and I invite and urge my colleagues to join in its support.

EXPLANATION OF WAIVER OF BUDGET ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Gray] is recognized for 5 minutes.

Mr. GRAY of Pennsylvania. Mr. Speaker, I wanted to take this opportunity to comment on the need for the waiver of section 311(a) of the Budget Act contained in the rule providing for the consideration of H.R. 2310, the Airport and Airways Improvement Amendments of 1987 (H. Res. 278, adopted by the House on Oct. 1, 1987).

Section 311(a) prohibits the consideration of any measure, including amendments, which, if enacted, would reduce revenues below the appropriate level of revenues set forth in the most recently agreed to concurrent resolution on the budget.

The current estimate of revenues is much lower than the revenue floor of $692.3 billion set forth in House Concurrent Resolution 93, the concurrent resolution on the budget for fiscal year 1988.

The general rule for applying section 311(a) of the Budget Act to revenue measures is that if the current level of revenues is below the revenue floor set forth in the budget resolution, and legislation is considered which is either revenue-neutral or raises revenues, then the section 311(a) point of order would not apply. This is the case even if the revenues raised by such legislation are not sufficient to bring the aggregate level of revenues up to the revenue floor.

H.R. 2310 extended the various aviation user taxes already in place for an additional 5 years beyond their scheduled expiration date of December 31, 1987, but also excepted from these extended taxes are emergency medical helicopters of nonprofit hospitals.

Since 1977, the budget scorekeeping convention has been to assume the extension of excise taxes dedicated to trust funds at current rates, expiration dates notwithstanding. Consequently, the CBO's revenue baseline which was incorporated into the revenue figure in House Concurrent Resolution 93 assumed the extension of all current aviation user taxes on all current classes of users, yielding revenues of $3.388 billion in fiscal year 1988. Thus, in exempting the narrow category of emergency medical helicopters of nonprofit hospitals from the extended aviation users taxes, the revenue base is being eroded, albeit by less than $1 million in each of the next 5 fiscal years.

At the moment of the bill's consideration, revenues were substantially below the floor of the budget resolution, largely owing to the fact that Congress has not enacted the reconciliation package called for in that resolution. Accordingly, in generating less revenues than assumed in the revenue baseline, H.R. 2310 would be subject to a point of order under section 311(a) of the Budget Act. Even though the bill technically raises revenues by extending an expiring revenue-raising provision, since the point of order is measured against the current estimated revenues, and since the extension of such taxes is already incorporated into that estimate, the revenues generated from such an extension are not considered when comparing the revenues provided by the bill to the budget resolution revenue floor.

The Ways and Means Committee accurately described the situation in the committee print accompanying their reported amendment:

> The 5-year extension of the present-law aviation excise taxes will have no effect on net budget receipts, as the Congressional Budget Office assumes the extension of these taxes in its baseline budget * * *. The Exemption from aviation excise taxes for certain emergency medical helicopters is estimated to reduce net budget receipts by less than $1 million per year (WMCP 100-21).

The reason I have submitted this detailed explanation is the unique nature of this legislation, which while raising revenues would have been subject to a Budget Act point of order for reducing revenues below the baseline, in the absence of the waiver contained in House Resolution 278.

THE UNITED STATES NEEDS A NEW INDEPENDENT AIDS PANEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Weiss] is recognized for 5 minutes.

Mr. WEISS. Mr. Speaker, a coordinated aggressive fight against AIDS is simply too important to permit the Presidential AIDS Commission to continue in complete disarray.

Mr. Speaker, this Presidential AIDS Commission is a disgrace and should be disbanded. The Commission has now no Director, practically no staff, and the few moderate Commission members have now publicly acknowledged their inability to move the panel in any meaningful direction.

The panel that remains will simply be another layer of excuse for Presidential inaction.

Months ago, many of us warned that a panel staffed by the President with ideologs and rightwing radicals was destined for failure. This has now become the sad reality. Once again, the Congress must step in and take the lead on AIDS. We must renew the fight to establish an independent AIDS panel outside the direct control of the President.

Last April I introduced legislation to create an independent panel and the House has already acted on a similar measure. I urge my colleagues to join me in pressing for creation of a new independent AIDS panel.

Mr. Speaker, the Congress has been remarkably responsible in providing the leadership in fighting the AIDS crisis that should have been coming from the administration. Over the course of the past 3 years we have seen appropriations for AIDS research primarily but also for education and for voluntary testing programs, increase from less than $5 million to a point where the fiscal 1988 budget appropriation approved by the House is almost $1 billion. But the Congress should not have been left to do this job alone or in the face of hostility from the administration. It is now very, very clear that the epidemic has taken on crisis proportions. This is perhaps the gravest health crisis that we have ever faced in the history of this country. Already, over 42,000 Americans have been diagnosed as having AIDS. Over 24,000 persons have died.

Yet, that is only a small portion of what is likely to be happening on the basis of all the scientific projections.

The National Academy of Sciences as well as the National Public Health Service have told us that by 1991 we will have a cumulative total of some 270,000 people with AIDS and that close to 180,000 people will have died from AIDS by 1991.

At this point there are over 2 million Americans who have been infected with the virus. In the year 1991 alone, on the basis of present projections, there will be 75,000 new cases of people diagnosed with AIDS.

It seems to me that given the enormity of those numbers and each of those numbers stands for an individual American and all of their families, that we ought to be doing our utmost in trying to prevent the spread of the disease. There are very few therapeutic drugs available; in fact, there is only one, AZT, that is being used and shows any hope of being effective.

Vaccines are far down the line if they will ever come into being. The major weapon—the major tool—has to be education and that takes coordinated concentrated action, not preachments, not moralizing; it means clear, honest, factual information to be given to the people as to how this disease is transmitted and how people can help to prevent the spread of the disease.

An independent panel made up of scientists, medical people and the like could help to organize this effort both from the research point of view and from an educational point of view so that there will be no gaps, so that the information given out will clearly be honest and factually correct information rather than stilted information or biased information coming from the political philosophers of this administration.

Dr. Koop should be given all the help that he can get from this administration rather than the kind of backbiting and undercutting that has been coming from Secretary Bennett's office.

If we are really serious about dealing with this most serious epidemic and most serious crisis in our history, now is the time for concerted action.

I urge the President to disband that panel and have appointed a strictly scientific panel which will be making the judgments on the basis of science and medicine and facts rather than on the basis of philosophy.

OBEY THE WAR POWERS ACT

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, we have a law on the books entitled the "War Powers Act." This is a law that requires that if we are in hostilities or if there is an imminent danger of hostilities the President must come to the Congress and seek congressional action with regard to the hostilities or the imminent danger that hostilities are present.

The banner headline from today's Washington Post reads, "U.S. Helicopters Sink Three Iranian Gunboats in Persian Gulf."

To most observers, Mr. Speaker, this constitutes hostilities. Shots were fired. Ships were sunk. Men were killed.

Mr. Speaker, regardless of the policy involved in the Persian Gulf, this administration has an obligation to comply with the law. This administration has an obligation to come to Congress under the War Powers Act.

Mr. Speaker, I respectfully submit that this administration might be surprised to find that it might get some good advice, some good input, from the Congress if it comes to Congress, obeys the law and consults in the manner that it is required by law to do.

Mr. Speaker, the law is on the books; either it must be changed or it must be observed.

We are clearly, in addition, under the War Powers Act. The language is clear. The administration has a responsibility to obey the law and to come to the Congress.

□ 1215

ORDER OF BUSINESS

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent that I may be allowed to proceed out of order with my special order at this time.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Georgia?

There was no objection.

THE CHALLENGE OF DEALING REALISTICALLY WITH COMMUNISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I very much want to thank my friend, the gentleman from Texas [Mr. GONZALEZ], for allowing me to proceed out of order at this time.

I am going to talk today on corruption, communism, the 100th Congress, and a time to tell the truth. I was fascinated that my colleague spoke a minute ago and talked about the obligation to comply with the law and talked about obeying the law.

I think that clearly we in the 100th Congress have a serious obligation of citizenship to confront two issues, both of which scare us: The issue of corruption and the issue of communism. Each frightens us for a variety of reasons. Each is a powerful emotional issue. Anyone who has read the newspapers, anyone who has read the recent magazine articles understands that the very problems, the very concerns about ethics that affect us about Wall Street and affect us about Presidential candidates also affect us on Capitol Hill. Anyone who has looked at our deliberate, willful avoidance of dealing with those issues on Capitol Hill knows that there is a very large challenge ahead for the Members of the 100th Congress to have the courage to comply with the law, to comply with the Ethics Code, to assure that we honestly investigate where there are allegations, to be sure we confront where there are problems.

But today I want to talk about the other half of that problem, for just as we are afraid to deal directly with corruption, I think this Congress is afraid to deal in an honest and direct way with communism, and I think the place that is most obvious is in Central America.

Our Central American policy is today in many ways a pathetic shambles. We disagree about it as a country. We are, I think, misinformed about it. We tolerate levels of behavior among our own politicians that undermine American foreign policy. We are not able to focus on what is going on.

I said a few days ago that I was very impressed with President Arias of Costa Rica when he visited, but I found in private conversations that he was a serious man, genuinely concerned about communism in Central America and genuinely committed to trying to do something about communism in Nicaragua. I discerned a series of principles that I think President Arias stood for, principles that he talked about in his own words: First, that freedom and democracy are the keys to peace in Central America.

As he said, and I quote:

> If democracy does not take hold in Nicaragua, the armed struggle will continue. The day the Sandinistas or another political movement is chosen freely in elections, accepted by all Nicaraguans, there will be no more reason for violence. (Washington Post, February 1, 1987.)

It is very important to understand the distinction between those leftwing Democrats in this country and those who would argue for peace and slavery, who would go to Nicaragua, as some have, and encourage the Nicaraguan Government, the current Communist dictatorship, to do as little as possible and remain a dictatorship.

We have in effect some people who are coaching Communists on how to survive as a dictatorship, and that is wrong on two counts. It is wrong, first of all, because, as President Arias himself has said, it is freedom which is the key to peace. A free Costa Rica and a free Nicaragua can live side by side, but a Communist Nicaragua will in the long run have to eat up Costa Rica, for the very same reason that the East Germans have built a Berlin Wall, because a Communist dictatorship cannot survive living next to a free country, because every person who can leave will leave the country. We have already seen that. There are 300,000 refugees in Honduras, there are 100,000 refugees in Costa Rica, and the Communist dictatorship makes it impossible for those refugees to go home. Indeed recently when the freedom fighters freed in Costa Rica 80 Sandinistas, 60 of them refused to go back to Nicaragua; 60 out of the 80 said, "I do not want to return to a Communist dictatorship."

So I draw the first distinction. Our leftwing Democratic friends in the United States who go down to Nicaragua and coach Ortega on how to survive are in fact making probable the very war that Arias is warning about. It is communism that threatens peace.

Second, Arias makes it very clear that the Nicaraguan Government is a Communist dictatorship and as such is committed to aggression against its neighbors.

> It is true that they are Marxists. It is true that if they consolidate themselves, they are going to try to export their revolution, to undermine Costa Rica, to try to create subversion in this country. All that is true. And I don't want them in power. (McLaughlin's "One On One," September 12, 1987.)

Those of our leftwing Democratic friends in the House who would get up and say to us, "Well, they are really not Communists" are not for the Arias plan, they are for the Ortega plan, which is for the Communist domination of Central America.

Our leftwing Democratic friends in the House who get up and say, "Oh, Ortega can be talked to" do not understand the principles Arias is describing, because President Arias of Costa Rica himself has said:

> It is true that they are Communists. It is true that if they consolidate themselves, they are going to try to export their revolution, to undermine Costa Rica * * *.

Now, for those of our leftwing Democratic friends who are perennially innocent, who never get enough evidence, who would believe any Communist on any morning, no matter what they promised, let me suggest that they read this month's Playboy. What do we find in Playboy? We find an interview with Daniel Ortega, and on page 130, this is what Daniel Ortega, the dictator of Nicaragua, said:

> What I really would like to be doing is what Che did—not to have stayed in Nicaragua after the triumph but, rather, to have gone on to other lands to struggle. Che left a very strong impression on me. But we have a reality here—the ongoing confrontation—and we've been confronting it for 6 years. Since 1981, when Reagan was inaugurated. And we continue combating it. So I assume my responsibility in this context.

In other words, I would say this to anyone who intends to vote against aid to the freedom fighters: Not only has the President of Costa Rica told us that in his judgment Ortega and the Communists are a dictatorship that will export aggression, but in this month's Playboy Ortega himself says in effect that if the freedom fighters cease to exist, if the Contras are disbanded, as soon as they consolidate the Communist dictatorship in Nicaragua, he wants to go overseas. This is his own quote: "* * * to have gone on to other lands to struggle."

Why? Because in the tradition of Che Guevara, an Argentine who fought in Colombia and who was killed in Bolivia, he wants to export communism across Central and South America.

Now, there are some in the West, whether it is Adolf Hitler or Joseph Stalin or Daniel Ortega, who insist on pretending that Communists are reasonable, that somehow we can have, as one of our Democratic colleagues said, just a little bit of change and that will change everything. But I asked President Arias whether that is true, and others have asked him, and President Arias of Costa Rica, our next-door neighbor, says: "Change in Nicaragua must be fundamental and not cosmetic."

He went on to say:

> I think that they are going to try to make cosmetic changes just to show the world that they are trying to comply with the Guatemala accord * * *. Ortega cannot give us an excuse now and try to say to the whole world that his definition of democracy is different to that of the four other Presidents. (John McLaughlin's "One On One," September 12, 1987.)

Let me make this clear. There are coaches of communism in the U.S. Congress who have been going to Nicaragua and trying to explain the situation to Ortega and others. They say, "Just have a few cosmetic changes. Just do a few little things. Let us destroy the freedom fighters. You don't really have to give up your dictatorship." And I can find the precise quotes if any of my colleagues would like to challenge that assertion. I can find the evidence. I can bring it to this floor, because we have had people in the meetings who have heard Members of the Congress tell Ortega, "Oh, you don't have to do very much, just enough so the U.S. Congress will be duped once again so they will believe you."

But President Arias, the head of Costa Rica, says something very different. He says that it must be fundamental and not cosmetic.

Now, what does Ortega say? What did he say as recently as yesterday in the United Nations? According to today's Washington Post, he said this, quoting the Washington Post:

> * * * at a press conference, Ortega cautioned that the recently reopened opposition newspaper La Prensa could be closed again if it "starts to defend the Reagan policy" of funding rebels fighting to overthrow Nicaragua's Sandinista rulers.

The Post goes on to say:

> He also made clear that his government could not grant amnesties, called for in general terms in the peace plan, to all 2,000 former members of the National Guard and 2,000 rebel fighters convicted of crimes against the state.

In other words, even in the middle of pretending that he is trying to conform to the Guatemala plan that Arias developed, Ortega is telling us openly in Playboy, "I am going to export aggression and undermine my neighbors as soon as I can." Ortega is telling us openly in the United Nations in a press conference that he reserves the right to censure La Prensa as soon as he wants to. Even when everything that has been said about the Arias plan calls for the release of prisoners, Ortega says that the Government of Nicaragua, the Communist dictatorship, will not grant amnesties to 4,000 political prisoners.

Now, I say to my Democratic friends on the left: What are you going to do about this? You tell us you do not like the freedom fighters, you do not like the Reagan program, and you do not like the U.S. foreign policy. What are you going to do?

Their answer is that, well, hopefully someday he will be nicer. Adolf Hitler would have loved dealing with the Democratic left in this country. They are gullible, they are weak, they are afraid. They take any promise in order to avoid the reality of dealing with a Communist dictatorship.

The fourth principle that Arias describes is that—

> Real deadlines must exist for achieving real progress toward democratization and human rights in Nicaragua.
>
> I think it would make a mockery of the hopes of 25 million human beings here in Central America to continue postponing the agreements. (Wall Street Journal, September 21, 1987.)

Now, Arias has said then in the first four principles that the key to analytically understanding the Central American debate is that freedom and democracy are the key to peace. This is my first major argument against the pacifist unilateral disarmament left, with the people who are coaching communism in the U.S. Congress. It is not that peace gets you to freedom and democracy, it is that freedom and democracy gets you to peace.

Today, the challenge is not to find a way to appease the Communists, it is not to find a way to sell out freedom to Ortega, it is not to find a way to somehow have a partnership in repression and slavery with the Communist dictatorship; the key is to help freedom and democracy arrive in Nicaragua, and then Central America will be peaceful.

Second, Arias says that the Nicaraguan Government is a dictatorship, a Communist dictatorship, and it is a threat to everybody around it. That is very clear, and people can agree or disagree, but I would suggest to our Democratic friends on the left in this House that they have a very great burden to share in the next 60 days if they are going to come to the floor and say that Ortega is not a Communist and then on November 7, if Ortega does in fact go to Moscow, as he promised, to stand next to Gorbachev to celebrate the 70th anniversary of the Soviet takeover and dictatorship. It is going to be rather tricky for our Democratic friends here in the House to get up and say, "Oh, he is really not a Communist. He is just a tourist visiting Moscow. He just happens to be standing next to Gorbachev celebrating the 70th anniversary of communism."

Third, Arias points this out—and this is what won me over, because I must say candidly in this House that when I first heard Arias, I did not believe in his principles because I thought they were nice words but with no meaning. But as I listened to him again and again, I came to the conclusion that he meant it when he said this:

> I think they are going to try to make cosmetic changes just to show the world that they are trying to comply with the Guatemala accord * * *. Ortega cannot give us an excuse now and try to say to the whole world that his definition of democracy is different to that of the four other Presidents.

In other words, when Arias said, "My plan requires true democracy," it became much easier, and I intend on November 7, and 8, and 9 to ask the Speaker of the House and to ask the Democrats in this House on the left: Have the prisoners been freed? Are the freedom fighters able to go home? Has the secret police been disbanded?

□ 1230

Are we able to have freedom of the press and free radio and free television in Nicaragua? Are the Cubans and the Soviets gone? Do not tell us how you hope later someday they will be nice people. Tell us the truth today.

Have the same courage to face communism's reality as we in the House need to face corruption's reality.

Finally, I was afraid that Arias would tolerate stalling, the Communists playing their usual games of dragging things out, but he said "No." It has to be real change on a real deadline.

Why does Arias think that the Nicaraguan Communists can be driven from power? I found his analysis interesting.

He seems to believe that support for the Nicaraguan Communists is now so narrow that the regime is very vulnerable to coordinated political and diplomatic, economic isolation.

He said:

> If they fail and if they don't comply with what they have agreed to in Guatemala, they will be isolated. (McLaughlin's "One-on-One," September 12, 1987.)

That is a very important commitment. He says, "They will be isolated."

One of the great tests for the courage of Costa Rica, Guatemala, Honduras, and El Salvador will be whether or not on November 7, the key date, they will have the courage to tell the truth about whether or not communism has fundamentally changed, and then whether or not they will have the courage to begin to systematically isolate a Communist dictatorship.

Arias also suggests that the Nicaraguan Communists cannot survive as a dictatorship, that their future will be either voluntary or under coercion as exiles in Havana or Moscow, having been forced to flee after the collapse of dictatorship. In other words, if the countries of Central America and the United States together have the courage to confront communism, then there is no reason to believe the Communists can survive and stay in power as a dictatorship.

To quote Arias:

> Today the Sandinistas are the David fighting Goliath. Tomorrow if they don't comply with the Guatemala Accord, they will become the Goliath and the Nicaraguan people who want freedom and true democracy will become the new David.

That is from the Wall Street Journal, September 21, 1987.

It is very important to understand, as we look at poverty in Central America, at the need for economic growth, how important freedom and peace are to getting that growth and notice it is not peace first and later on we hope the slavery will disappear. It is freedom and then peace will come.

Arias says:

> In an atmosphere of democracy and freedom, we can return to the path of development that will enable a lasting peace.

His speech to the joint caucuses of Congress, September 22, 1987, since the democracies in the region including the United States represent such overwhelming strength in Central America, we can afford to be openly dedicated to and insistent on democracy in Nicaragua.

> Whenever you have embarked on a crusade to defend the free world from totalitarianism, small Costa Rica has never hestitated to join you.

That is President Arias speaking to the joint caucuses of Congress on September 22, 1987.

The challenge to we Americans is to have the courage to insist on telling the truth about what is happening in Nicaragua. If we will be honest, as Arias has been in his analysis, we will confront the reality that the Communists are in fact just that, Communists.

It is fascinating that even in the New York Times this morning in their lead editorial they said:

> The Sandinistas have a dreadful track record, and there is every reason to fear they betray their word, revert to repression and stifle debate once the pressure is off.

This is from the very liberal New York Times arguing frankly against the Reagan plan, but saying in advance, oh, we think that they are Communists, we think they are going to be repressive and lie and do bad things.

The problem with all of our friends in the left is, even those who will admit Ortega is a Communist, even those who will admit they are frightened by the Cuban and Soviet presence so close to the Panama Canal, even those who will admit that there is no reason to believe that a Communist dictatorship will remain peaceful, they then say oh, but we can't help the freedom fighters, we can't do anything.

The question is to be asked, so what is your policy? There is no current Democratic foreign policy.

The Presidential candidates, with one exception, have been rather pathetic. They have no answer except pious good wishes and resolutions, and Adolf Hitler would have enjoyed working, threatening, and bullying that particular set of people.

It is fair to say that one Democratic candidate, ALBERT GORE, has had the courage to call for sanctions against Nicaragua, has had the courage to say if necessary, we should join with our Latin American neighbors, even up to and including a blockade, and it is interesting to see at least he is trying to wrestle with the question, what do you do if there is a Communist dictatorship that will not dismantle itself.

There are three books which I want to refer briefly that tell us a lot about the choice America faces in Central America.

First, the "Bay of Pigs," the untold story by Peter Wyden, a Book of the Month Club selection, a fascinating book about what happened at the Bay of Pigs in Cuba.

It is worth looking at for every American for this reason. When we failed to have the courage to stop Castro, communism in Cuba, we allowed a base to develop for the Soviet empire that has haunted us ever since. Those of our friends on the Democratic left who say oh, don't do anything, we can contain Nicaragua, we need to look at what containing Cuba has involved.

I cite Timothy Ashby's "The Bear in the Backyard," Moscow's Caribbean strategy as an example of what we are talking about.

On page 165, Mr. Ashby explains what the leftwing Democratic policy of containment has gotten us in Cuba, how much the Soviets have gained.

Let me read from Tim Ashby's "The Bear in the Backyard:"

> The Soviet Union has achieved remarkable success in its utilization of Caribbean proxy forces to advance its strategic objectives not only in the Western Hemisphere but throughout the world. Today more than fifty-thousand uniformed Cuban military personnel are serving in sixteen known countries on four continents, and are engaged in combat against pro-Western forces in Nicaragua, Angola, and other countries.

In other words, those who say oh, we don't have to worry about a Communist Nicaragua, we can contain it, how is having Cuban Communists on 16 countries and four continents containment?

How many victories of this kind for the Democratic left can we stand and still be a free country?

Is it really containment if a country has thousands of troops in Angola, Ethiopia, Yemen, Nicaragua? Is that really our idea of success?

Mr. Ashby goes on to point out that there is a systematic pattern of subversion and of deception involved in the way in which the Soviets and their proxies extend the Soviet colonial empire in that it happens every time America is weak.

He said, for example, on page 157:

> Having been a keen observer of the United States' loss of international prestige during the 1970s due to a perceived deficiency in its national will (which the USSR was quick to exploit for its strategic benefit), the Soviet Union knows that a communist-dominated Central America would have a calamitous effect on U.S. allies and nonaligned nations in other parts of the world.

That is an important thing we have to confront in Congress. This Congress voted to cut and run in Vietnam. This Congress voted to cut and run in Angola. What is the result?

If you are a weak Third World nation, would you want to gamble in the U.S. Congress, rely on this Congress to protect you and believe we have any staying power at all?

Let us look at Nicaragua. I think this is a very important point to be made about what is going on in Nicaragua. The Government of the United States of America said to young Nicaraguans, if you want to rise up in rebellion against a Communist dictatorship, we will arm you, we will train you, we will help you. We are your allies. This is not the Reagan policy.

When I hear my leftwing Democratic friends talk about the Reagan policy, I think they never read the Constitution.

The House passed support for the freedom fighters. The other body passed support for the freedom fighters.

The President of the United States, not some Hollywood actor, the President of the United States, a man who carried 49 States, the legitimate constitutional Commander in Chief, signed the bill.

When a bill passes the House and the other body and is signed by the President, it is the law of the United States. It is not the policy of one party. It is not a question of ideology. It is not a question of partisanship.

It is the foreign policy of the United States of America. What have we had?

The foreign policy of the United States of America has to be, as President Arias said, Nicaragua today is a Communist dictatorship allied with the Soviets and Cubans subverting its neighbors.

Our reaction to that, because we are not Costa Rica, not a tiny country, and we did not disband our army in 1948, we are a great power. We are the most powerful nation in the Western Hemisphere.

It is our backyard, and our reaction has been to say that we will help those Nicaraguans who have the courage to fight for freedom; and the word went out, and thousands of people left their farms. They left their villages and migrated to the camps and said, "I want to fight on the side of the Americans, on the side of freedom," and we recruited them.

There are two things we must confront about that reality. The first is for us to now vote to betray those people would be a shameful act, a terrible tragedy.

They came to fight, because they were told we would help them win back their freedom. They did not ask American boys to die. They did not ask the American Marines to go in.

They said:

> I have the courage to fight communism, the Cubans and the Soviets. I have the courage to fight the HIND helicopters. Will America help me?

We said "Yes." For us to now cut them off is a vote to condemn them at a minimum to exile, and at a maximum to torture and death.

It would be one of the most shameful acts in modern history.

Second, those Members in the Congress who are currently coaching communism in Central America misunderstand what is going on. I have every regard for anybody who is an American who is elected to Congress who wants to come to this Hall and debate foreign policy. They can come and say everthing they want.

I have every regard for those in the other body who want to debate foreign policy on that floor.

They can say anything they want; but once the House and the other body have passed a bill, once the President has signed it, for a Member of Congress to go to Certral America to say to a Communist dictator, let me show you how little you have to do in order to undermine American foreign policy, to say to the neighboring countries, you better not side with the President of the United States, because when he leaves, we will punish you, I think you cannot have two American foreign policies, one for the President and the Congress, and the other for those leftwing Democrats who volunteered to form a second foreign policy.

I think this Congress has an obligation to face up to that question of how long are we going to tolerate a congressional leftwing foreign policy that coaches communism, as well as an official policy of the United States of America that is deliberately and systematically fighting with the freedom fighters to stop communism, and to make a democratized Nicaragua.

Finally, when our friends on the left in their pleasant and pious way promise us that we can disband the freedom fighters, we can appease the Communists, we can trust Ortega's dictatorship, we can cut a deal, and we should ask them to be honest with the American people.

It is my deepest hope that the President will instruct the Federal Emergency Management Administration to contact every mayor and every county commissioner, and ask them, in the two waves of refugees that are coming, how many they want to take. For example, the Speaker is from Fort Worth, a big city. Would Fort Worth like 20,000 or 30,000 refugees?

All of us now in our lifetime have seen three waves of refugees, two from Central America, one from Southeast Asia. Those who are old enough have seen refugees from Eastern Europe. Seven thousand Polish refugees came after Solidarity crashed in 1981.

Hundreds of thousands of Cubans came in the first wave after Castro took over, and in the second wave in 1980.

There are hundreds of thousands of Laotians and Vietnames and Cambodians who came all the way across the Pacific.

□ 1245

We have more El Salvadorans in southern California than in any city in El Salvador except the capital, and that is already.

Now, let us assume that our Democratic friends succeed, that we betray the freedom fighters and let them die, or we say to them, "Oh, come to America." That means that in 1988 we should accept, at a minimum, 400,000 Nicaraguan refugees. After all, if we decide to betray freedom, we should not let them stay in Costa Rica. We should not let them stay in Honduras. We have a moral obligation to the people who we encouraged.

Now, I have not heard a single member of the Democratic Party get up and say, "I'm in favor of 400,000 refugees and my district will take its 25,000," because what they want is a policy of all promise and no payment. "Oh, everything will work out fine. Please trust us. We can trust the Communists. We can appease the Communists. We know it will all work out."

But those of us who are old enough now to have lived through the Hungarian revolution, to have lived through the war in Vietnam, to have lived through the failure in Cuba, we know better. We know what is coming and we owe it to the American people to be truthful on what is coming.

If we allow Ortega and the Communists to violate the principles that Arias has outlined, if we allow them to survive as a Communist dictatorship without releasing the prisoners, without having them under censorship, without having kicked out the Cubans and the Soviets, then this is going to happen. There is going to be an initial wave of refugees in 1988, about 400,000.

I would say to my Democratic friends if they think this Government is going to be able to stop those refugees from getting here by next summer, they do not understand the power and speed of airplanes and the ability to walk north on the North American Continent. So about 400,000 to 500,000 refugees will arrive in 1988.

The Nicaraguan Communist dictatorship will strengthen itself. It will consolidate. There will no longer be any freedom fighters. The Cubans and the Russians and the Bulgarians and the East Germans will train even more secret police, even more terrorists. Honduras, Costa Rica, and El Salvador will begin to be undermined. The Mexicans will decide to appease communism even more than they already do and the number of refugees will start increasing. During the early nineties we will get, by the best estimates I have been able to find, between 10 and 15 million refugees. They will walk north across the Mexican border. They will come by boat. They will fly when possible, but they will do what we see them doing. If you think those numbers are large, remember, Afghanistan produced 5 million refugees in Pakistan because they could walk. Now, if you can get 5 million refugees out of a country the size of Afghanistan and you have a country the size of Mexico get scared, you can expect, based on the average we have seen since World War II, a minimum of 15 million and a maximum of 30 million refugees.

Now, does anyone seriously think we are going to stop them? Do you think we are going to machinegun them at the border, do you think we are going to put up barbed wire? Of course not.

Every time you hear a leftwing Democrat tell you, "Oh, we don't need the freedom fighters, we don't need to do anything about communism in Nicaragua," ask them in their congressional districts and in their home towns how many refugees do they want next year and how many will they accept annually in the 1990's?

Because there is a second cost. At some point, whether it is Costa Rica or Honduras or El Salvador or Guatemala or southern Mexico, at some point we are going to get scared and when we get scared, there are not going to be any freedom fighters. Having seen the American Congress betray Vietnam and having seen the American Congress betray Laos and having seen the American Congress betray Cambodia and having seen the American Congress betray Angola, and now if we betray Nicaragua, do you think any of those local countries are going to produce people who want to trust America? Oh, no. They are going to say, "Wait a second. We saw you betray the Nicaraguans. We know you won't do anything. If you want to save us, you save us with your children."

What they will say then and I have already heard it said, that senior Central American politicians in private already say this, they do not want the freedom fighters to survive because they want the 82d Airborne to come in and they want the 2d Marine Division to come in, because they want American children to fight in Nicaragua. They do not want Nicaraguans or Hondurans or Costa Ricans.

Now, we probably will not fight in Honduras. We say we will. We have built bases. We are ready, but we probably will not, so Honduras will collapse.

We may not fight in Guatemala, so Guatemala will collapse; but somewhere between Honduras and Mexico we will get very scared as a country.

Now, does this seem like it is unlikely? Look at the record around the world. Look at Ethiopia. Look at Angola. Look at Mozambique. Look at Hungary. Look at Poland. Look at Vietnam.

One final word, if the word "betray" sounds too strong. This year, 12 years after we fled Vietnam, thousands of people who were pro-American were released from prison. For 12 years they have been in prison in Vietnam because the Communists won.

Now, look at Nicaragua. There are 4,000 political prisoners, by the lowest count, maybe as many as 10,000 political prisoners, most of whom were pro-American. Who keeps them in prison? The Cubans, the Russians, the Bulgarians, the East Germans, the North Vietnamese, the North Koreans, and the Nicaraguan Communists.

And what do all our friends on the Democratic left say? They say, "Let's go ahead and betray the freedom fighters. We don't need to send any more aid. Let's cut and run once again."

Because after all, when Ortega comes back from his trip to Moscow, he will be a nice person. He will really be OK. I just say to those of you who wonder whether Ortega is changing any, take a look at this month's Playboy. Take a look at the interview with him where he says flatly and explicitly that his hero is Che Quevara. He wants to export the revolution. The day he no longer has to defend Nicaragua from the freedom fighters, he wants to go overseas to fight in other countries.

I think, Mr. Speaker, in this 100th Congress as we celebrate the 200th anniversary of the American Constitution, this Congress owes the public honesty above the level of corruption and ethical problems. This Congress owes the public honesty about the degree to which Congress has set up a second foreign policy and some Congressmen, in coaching Communists in Central America, are undermining the official policy of the United States and this Congress owes itself and its children and its citizens the courage to face the truth about a Communist dictatorship in Nicaragua and to take the appropriate steps to make sure that Arias' principles are enforced, that we get freedom in Nicaragua and that by getting freedom we get peace.

GOOD AND BAD NEWS ON THE NATIONAL ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, the good news is our national economy is now entering into the fifth year of erstwhile growth. The bad news is that the growth is illusory and remains too slow even as an illusion to give us any hope of attaining full employment.

The worst news is that interest rates are on the rise again, and the worst news of all is that unemployment is always going to rise right along with interest rates. Those interest rates and their increases are supposedly a puzzle to the present Chairman of the Federal Reserve Board, but I think that his quizzical look is only a pose. The rate rises are the direct result of deliberate action by the Federal Reserve, a matter that I will turn to shortly and will refer to a prepared text because of the fact that of necessity I want to be correct in reporting the facts and figures and the statistics that must be alluded to. Rarely has it been my ability to prepare in written form the special orders that I have had the privilege of presenting and have usually delivered extemporaneously on the House floor.

I will digress from the prepared text in order to round out and connect with what statements I have been making, not since the beginning of this Congress or the last or the one before last, but going back to 1963 and 1965.

At this point in which I am alluding to the fact that I will explain the deliberate policies of the Federal Reserve that account for the rather constant increases in the interest rate and which total an exponential increase in just a year's time.

The fact remains that those of us serving on the Banking Committee, as I have for 26 years, have been told repeatedly by a succession of Chairmen of the Federal Reserve Boards that interest rates are like an act of God, that is, not subject to anybody's control, that they, the Feds, cannot and should not accept responsibility.

The Congresses and the members of this Banking Committee—when I first came aboard it was known as the Banking and Currency Committee, today it is the Committee on Banking, Finance and Urban Affairs—have taken this question submissively. I have pointed this out at a time when it was not at all dreamed possible or imagined that the country would be flagellated, coerced, beaten down by usurious and extortionate rates of interest. As a matter of fact, even today, the people are way ahead of the Congress and the Congresses, because any colleague of mine who will care to, either in his district or anywhere in the United States, who will ask a citizen if it is against the law to charge usurious interest rates, the average citizen will say, "Yes, of course. There is bound to be a law."

The truth of the matter is that there is not and there has not been one since 1865, and the National Currency Act, as I have brought out on the House floor since 1963. In 1963, which was the actual second Congress that I attended and belonged to, the Banking Committee was experiencing very balmy days. In fact, the first year, in 1962, we had only one full committee meeting in the entire 62 sessions of the full Banking Committee. Then with the assumption of the chairmanship by my great fellow Texan and great American, Chairman Wright Patman, and his assumption of the chair of the Banking Committee, we began to have some new life. Of course, this great stalwart, Wright Patman, was known as the great enemy of interest rates; but at that time, my goodness, the prime interest rate was not anywhere near 6 percent. They thought that any time possible into the foreseeable future we would have prime interest rates exceeding that were just absolutely just not thought possible; so I am sure this great American, may his soul rest in peace, must have turned over at least 50 times in his grave, particularly in 1980—1979, and 1980 and the beginning of 1981—where interest rates, that is, the prime interest rate had reached such an unbelievable, astoundingly, astonishing cruel rate of 21 percent.

In 1963, at one of those first full hearings we had, I remember because I was relatively a freshman and in that day and time it was Mr. Patman that started the 5-minute rule, where every member of the committee would be given an opportunity for 5 minutes to ask questions of the witnesses or those attending the hearing to testify before the committee.

□ 1300

I think most of my colleagues today would be astonished to learn that that was a radical innovation because at that time nobody under the fourth tier or fourth rather Member on a committee seldom got recognized even in lengthy committee hearings. So I will never forget that particular meeting in the spring when we had the great name of Secretary of the Treasury Dillon, supposed to be an expert. In reality, he came from the same stable as almost every single Secretary of the Treasury since Morgenthau during the Franklin Roosevelt era. I might say by way of parentheses that even during the height of World War II, at which time over 46 percent of the gross national product was being utilized on the Federal level in order to prosecute and win the war, the Government never had to pay more than 2.5 at the most, and that was really after the war. But at the height of the war the Government never even had to pay 2 percent interest in its borrowing.

How can that be when the Government has reached the unbelievable proportion of paying on its Treasury yield and on its bills and on its notes as high as 14.5 percent? Where is all of this paid and who determines this?

I have brought out in special order after special order since that period that of course it is the Federal Reserve Board, because the Federal Reserve Board, through the Open Market Committee, and also emphasizing the fact that the Federal Reserve Board is not a Federal agency, it is not a Government agency, it is an agency privately owned and privately directly and privately controlled by the private banking system of the United States, and what that has reduced itself to in the last 10 years is control by the nine largest, most powerful financial institutions in the United States through the Open Market Committee. It is ironic that it should be called open when actually it is closed, and its deliberations are supposed to be so secret that they are not to be divulged, that is their deliberations and decisions, until 3 months after they have made a decision. But who are the ones making the decisions? Elected people by the people of the United States? No. Appointees by the Representatives of the people, the U.S. Congress? No. Appointees of the President of the United States? No.

The majority of the members of the Open Market Committee come from the largest banking institutions, principally in a 3-mile radius in New York City.

So I have predicted that we should not be surprised if we would find ourselves flagellating and floundering because of the beating taken by what I consider to be usurious, extortionate, and unconscionable rates of interest.

I pointed out as long ago as 1966, June 19, when we had the first so-called credit crunch in the post-war period, so-called postwar period, that we would have no ability to control because the National Currency Act of 1965, which is what was principally worrying President Lincoln the week he died, eliminated the National Usury or Anti-Usury Act that had prevailed in this country. Of course interest rates were controlled.

What has been left now is just a handful of States that still have stuck by their antiusury statutes. But just this week I voted no on the Agriculture Recovery Act and what we call title III which will ostensibly set up an agriculture secondary credit market which they now popularly call Aggie Mac, but which has a clause, and this is the reason I voted against the whole bill, that says that this law shall supersede all State antiusury laws. We have already decimated the usury protection on the State level through the FHA enactments of a similar nature and the veterans' land programs and veterans' home mortgage programs.

I have been bitterly opposed to that, and that was the reason I was one of the handful that voted "no" this week, because of that little clause in there that never was debated. It was just taken for granted that the big powers that be, that are apportioning out the credit in the United States, and which incidentally has been the source of the greatest concern from the very inception of our Nation, even during the two Continental Congresses when such men as Thomas Jefferson inveighed heavily against what he called bankers. Why if I were to use the terms of opprobrium that Thomas Jefferson used I would be lashed at by what these interests call themselves today. But actually there was a good reason, and that is that the most important power of all in any society, the power to allocate credit, is what this is all about, and so the interest rates that are determined by our central bank, because that is the way our Federal Reserve Board is known throughout the interior world are what are controlling our so-called erstwhile, and what I call ersatz prosperity. Ersatz is a word that was used, those of us that are old enough to remember, by the German period of the Hitler regime in which they developed ersatz or artificial products, everything from artificial food substances to the development of the techniques of synthetic gasoline, which processes, incidentally, we captured as prizes of war, but which have been retained by some of our biggest oil corporations who have held onto them, not made them available for the benefit of our Nation, even through the crisis of the oil embargo recently.

So there is no question about it, it is not a casual cause and effect, it is a direct result of the actions of the Federal Reserve Board that we have what we will continue to face, and that is constantly increasing rates of interest.

I have said since 1963, when Dillon appeared before us and asked that we abolish the silver transactions tax—what I am saying is all on record, it is not what I am saying in retrospect or hindsight. I was the only voice that raised objection, did not vote for and said Mr. Secretary, is it not a fact that the silver transactions tax was passed during war. He said yes, that is precisely why we want it repealed, because it was a wartime tax, and now that it is over with and the industrial use and demand for silver is so great that it will impact on our silver content or monetization of our currency. Remember at that time we had a coinage system that did contain silver. As a matter of fact, some of our coins contained as much as 90 percent, and even the little nickel had a certain amount.

So I raised the two issues and their connection, and I said, however, though, the reason for the imposition was to prevent speculation in the silver markets. The silver and gold markets have traditionally been the most speculative markets of all, but highly controlled by the gold merchants in London, Zurich, and incidentally, since the Soviet Socialist Republic, the nation of the Soviet Socialist Republic is now one of the greatest producers, extractors of gold, and their gold is noted throughout the world because it is stamped ".9999 pure." It is the only so-called gold bullion so designated, and because of that power production could create aberrations in the international market by just moving some of that in these international markets in Europe and creating pressure on the dollar as long ago as 6 years ago, all of which I reported 10 years ago when we went into the astounding practice of having the Secretary of State, William Simon, not only declare his defiance, but authorize the sale of a good portion of the gold bullion belonging to the United States, and with a weak voice such as mine saying but you should not because your notion that the world has demonetized is a mistaken one, it is a misperception, and the purchasers of this gold bullion are going to be the central banks in Europe. And he said it cannot be because we are prohibiting any bidder being from a government. And I just could not believe that our leaders would be so naive as to not realize that a bidder might be apparently not, but one who would the moment he successfully bid and bought the gold, would in effect deliver and end up in the vaults of central banks in France, which never has demonetized and prohibits the exportation or the possession of gold.

Then on January 1, 1976, we lifted the 1932 restriction all with a great ado. But all these things are tied in with the facts that are now bothering us so much with this interest rate rise, and what it has precipitated that I will refer to, because I will also relate to the other very serious disturbances in our economy.

After 5 years of Reagan prosperity, unemployment rates are still higher than they were in the bad old Carter days of 1979. Even though the statistical count is taken in such a way that if they were taking it the same way they were taking it in 1979 by the Bureau of Labor Statistics, and I think most Americans, maybe my colleagues do not realize that this method was changed just about in 1983 because the figures would look too bad, but if you did it the same way it was being done up to 1980 and 1981, the actual count on unemployment is not registered because those who are unemployed more than 6 months may have faded out of the picture, they are no longer in the statistical count, though they are still unemployed.

But anyway, among the unemployed the average length of unemployment has not shrunk at all. The average unemployed person today stays out of work for 3½ months. In the bad old days before this new Reagan prosperity came upon us the average length of unemployment was just under 3 months.

What is more significant, however, and far more significant than that, is that the percentage of people who are unemployed for 6 months or more is up enormously. In the bad old days only 10 percent of the unemployed were out of work for as long as 6 months. Today almost 15 percent of the unemployed have been out of work for more than 6 months.

For the poorest among us, this means the young of all kinds, minority, ethnic, racial, but also the young from what the sociologists call the dominant group, it has not improved one bit at all.

□ 1315

The unemployment rate for teenage workers today is the same as it was in 1979, 16 percent. For women who maintain families, times are not better, they are worse. In the bad old days of 1979, 8.3 percent of the women who worked to support their dependents were looking for a job, today it is 9 percent.

For black workers, unemployment is still the same today as it was in 1979, way over 12.4 percent, though among teenage blacks it is over 40 percent.

So that the average I gave awhile ago is an overall median average of the entire operation, but in these particular pockets it is a very serious dilemma we cannot just sweep under the rug no matter how much we want to.

If we just consider the raw numbers of people who are out of work, these 5 years of new style prosperity have not improved matters at all. There are still 7.2 million people in this country looking for work. These are the people that are still in the picture statistically and we have to increase that amount by some not less than 1 million to take in the others that dropped out of the statistical picture, but who are still there such as the automobile workers in the Detroit area. Of course, that is an optimistic number since it does not reflect the millions who have simply given up and are no longer actively seeking work.

This country remains a long way from full employment. It remains as far away as ever from reducing unemployment from among the poorest workers, the young, the single working women, and the minorities. These groups continue to suffer double and triple the unemployment rate of the population as a whole.

In fact, the current rate of unemployment hailed and applauded as it is by some, remains at levels which just a few years ago would have triggered cries of alarm and dismay.

I remember well when anything above 4 percent unemployment rate stirred concern and when anything like today's so-called prosperous 6-percent unemployment would have been considered a disaster.

As one who believes in full employment, for there is no question about it, we have the resources and have had them for some time and we proved that during the war when we were the arsenal for democracy, certainly if it can be done in time of such danger as war, it is possible to do so in time of peace, if as I say we use our wit and our will and do not deceive ourselves.

As one who believes in full employment I find no cause for celebration in today's economic news. After all, those in need are as bad off as ever. Those who are out of work remain out of work for unacceptably long periods of time. There is nothing more horrible in our human existence than not to have a job in a society such as ours. It destroys one. It diminishes one. That should never be allowed in the context of our American life.

The rate of unemployment is well above full employment levels and there is ample reason to believe we are at the high water mark of this so-called even illusory prosperity. It appears that unemployment will soon head upward.

Before I turn to the reasons why unemployment looks to be headed upward, let me point out that even for those who have found work under this new style prosperity, that times are not good. The best jobs in America are in manufacturing. Since 1979, more than 1 million—and that is a very conservative figure—manufacturing jobs have disappeared forever. These are in our industrial heartland, steel, autos, and in my part of the country, the oil business. These are the best paying jobs. All of those newly created jobs so much bragged about by this administration are what we call and what they call themselves service jobs. There are some 7 million new such jobs.

The rest of America's new jobs are in wholesaling, retailing, and the financial services industries and these are not the jobs that make for a prosperous working force.

In fact, each and every year under this new prosperity the value of average weekly pay has decreased. Since when, I ask, is it prosperity for the value of pay to go down instead of up? When does a steadily poorer work force made America better off?

In the past 10 years, the real value of weekly pay in this country has shrunk by 7 percent. How does that make us better off?

We have just as many unemployed today as we did before this new style prosperity. The worse off workers are still as bad off as ever and real pay has gone down. As I mentioned, the signs are that unemployment is headed back upward.

On Tuesday of this week the stock market registered the greatest 1 day decline in history, some 91 points on the Dow Jones average. Yesterday the market took another 51-point plunge. These declines were triggered by an increase of a half percentage point increase in the prime lending rate.

The stock market is reflecting what the interest rate shows, a declining confidence in this country's economic condition. That interest rate rise means it is time for the smart money to bail out. It means business is about to slow down and, of course, unemployment will rise.

The interest rate increase is no accident. It has to do with actions of our good old friendly central bank, the Federal Reserve Board. The Fed has a considerable problem. That problem has been called Reaganomics. The Reagan program has given us unprecedented Federal deficits. Mr. Reagan shows absolutely no interest in reducing those deficits.

Among the consequences of this is that our country is also running an unprecedented trade deficit. The only way to finance all of those is either to vastly expand the money supply, which to the Fed means stoking the flames of inflation, or to attract foreign investment, lots of it.

They and the Reagan administration chose the latter, that is heavy inflows of foreign investment. The Fed has kept our interest rate high, high relative to the rest of the world. This is like tilting a billiard table. The Fed jacks up one end of the table and money flows in the bizzare direction, and that is toward us. If the foreign funds stop flowing in, the Fed would have the choice of inflating of the money supply to make up the difference or allowing interest rates to rise very quickly. The trouble is the former creates inflation, the monster the Fed fears so much, but which as far as the individual family and citizen, I do not believe inflation has much been controlled. I do not know that when my wife and I go shopping that we are paying much less for individual food items than we were paying years ago. Rents have not gone down, they have gone up.

I am paying right here in Washington, DC, 300 percent more for the same little old apartment that I was in for 10 years. But the latter creates recession. That is, inflation.

The jacking up of the interest rates brings inflation.

The Republicans and the Fed fear that a tad less. So the Fed endeavors, maneuvers, and finagles to keep the foreign money flowing by jacking up the interest rates.

Unhappily for the Fed though, the administration has been trying to reduce the trade deficit by devaluing the dollar. This theoretically makes our goods cheaper to buy, and foreign goods more expensive which, presto, reduced the trade deficit. It makes our products apparently more attactive but the imported more expensive.

Though the dollar has been thoroughly trashed down, a weighted average of $1.43 down to 96 cents, just since 1985, less than 2 years, the trade deficit has remained at record levels. All of this trashing of the dollar not only has failed to budge the trade deficit, it has made those foreign investors nervous for they say the value of the dollar is shrinking. If much more of this continues to happen, the dollars stop flowing in and that would force the Fed to do what it does not want to do which is to inform President Ronald Reagan that voodoo economics is a total failure.

To make a long story short, the Federal Reserve last March decided that the dollar could not go any lower without jeopardizing foreign investment in our country. That is foreign investment in Treasury notes.

The result: First, immediately the dollar stabilized, stopped losing value on the world market and interest rates started going up. It has taken the stock market awhile to catch on, but the banks have been raising interest rates since last spring.

The idea is, as I say, to keep that foreign money flowing into the United States to cover the Reagan deficits. This administration has been under the delusion that through borrowing it can float the country into prosperity.

How important is this? Well, I have been trying to stress the importance in anticipation and actually after it happening now, for some time. To give you an idea, in 1986 net foreign purchases of U.S. stock quadrupled from $5 to $19 billion. As for bonds, net foreign purchases of U.S. bonds increased from $44 to $50 billion.

How important is foreign money to financing the Treasury debt? Let me tell you how important. Foreign investors currently own and therefore finance more of our debt than the Federal Reserve Board does itself. Remember that the definition of the Federal Reserve Board in the statute creating it is that it shall be the fiscal agent of the U.S. Treasury. I have been saying for many years that that is a lot of baloney. It is the other way around. The Treasury is now the agent or the errand boy of the Federal Reserve Board and where the Constitution says the Congress shall coin—not any longer. I have asked my fellow colleagues since 1966 and particularly after 1970, 1972, and 1973 to dip into their pocketbooks and look at the dollar bills and see if it does not say "Federal Reserve Note."

When I came to the Congress 26 years ago, if I fished into my pocket for a dollar bill the chances were 10 to 1 that the dollar bill would have on it "U.S. Treasury Note." Not today. You do not see any U.S. Treasury notes. They are all Federal Reserve notes. And that means private banks.

This is what the Founding Fathers feared only next to giving kingly powers to the executive of the country, such things as declaring war. It was a good reason why the Constitution says the Congress shall coin money. The only reason why it says only the Congress shall declare war. The only reason why it says the Federal purse must be in control of the Congress, not the President. So that who would believe today, and I have not seen this brought out in any presentable form yet, that foreign investors control our notes, bills, Treasury funds, and they are therefore financing more of our debt than our own Federal Reserve Board.

□ 1330

Who would believe that foreign investors control our own notes, bills, and Treasury funds and are, therefore, financing more of our debt than our own Federal Reserve Board? Yet, that is it. Since 1983 foreign interests have increased in the ownership of Treasury notes from $166 billion to over $265 billion, and that is a conservative figure at this point. The figures I have are a little behind.

This amounts to more than 10 percent of the whole Federal debt, and the consequences of foreign interests selling that off would, of course, be catastrophic.

At the end of 1986, Uncle Sam owed $257 billion to foreign interests, and the Federal Reserve itself only owed $211 billion of the debt.

Foreign investment is fickle. Just a couple of years ago we had the biggest failure up to now with the Chicago bank, the Continental. It took $6 billion, and these were tax dollars—although it was not called that—and it was the biggest relief act in the history of our Nation. It took 6 billion tax dollars that the Feds used in order to give the relief. If this would have happened to a country south of the border, we would have said they would have nationalized that bank, but that is not what we call it. We are still under the delusion that this is free enterprise. Anyhow it took $6 billion because the bank failed the moment those heavy foreign investors lost confidence and pulled their accounts from the Continental. That is when it collapsed.

So now our whole country and its debt structure are at the mercy of these external forces so that even if we wanted to or the Fed wanted to, we no longer would have control over our own financial, fiscal, monetary future or destiny because the interest rates now are controlled by foreign external forces that we have permitted to invade our land. In the words of Thomas Jefferson, it is "worse than a standing army occupying our country."

Should we be surprised that we have millions of homeless Americans divested from ownership of the only thing that identifies them with their country, their little house? How can we be surprised when we have allowed the sale of our heritage for this mess of pottage?

The investment flow has become endangered by the Treasury's downward float of the dollar. So presto, the dollar has been stabilized and interest rates have started back up, all the better to bring in the dollars that are needed to preserve this ersatz prosperity.

The Federal Reserve may be signaling Mr. Reagan that the party is over, but the Federal Reserve now cannot control those forces external to our shores. Moreover, he has failed to get the message thus far, so we can expect the signals in the form of higher interest rates to grow more insistent. So harking back to that decision 6 or 7 months ago to stabilize the dollar and keep that foreign money coming in to cover Mr. Reagan's hot checks, the 90-day T-bill rate has gone up each and every month, starting at 5.56 percent in March to the current 6.59 percent. Sure enough, all the other rates have followed along, drawn like cars behind a train.

It appears that the Fed has become a prisoner of Reaganomics. It is bound to increase interest rates because that is the only way to keep the foreign money coming in and thereby avoid a real crash, like the 1981 disaster. But the price, I say to my friends, is that unemployment will increase as a result. The mask of prosperity is being lifted, ever so slightly. Will the White House get the hint and abandon the last shreds of the Laffer curve and the last pretenses of Reaganomics?

Probably not. And that being so, real prosperity and real progress are not only a long way off but fading into the very distant future.

Now, as I said, I have inveighed long before this actually happened, but every time I did I also had suggestions and offered a specific suggested course of legislation. I regret that I have not been able to even get hearings in all cases since 1966, in even the committee I belong to. I regret that some of these things that could have been done by the Congress in anticipation have not been done. I believe in anticipatory action. I do not believe we should wait until we have a crisis.

This has been the thing I have developed as my contribution in political office ever since I started. I never had intended to get into politics, but ever since I found myself in the local legislative body known as the city council of the city of San Antonio, and in 5 years in the State Senate of Texas and in my 26 years here in the Congress, I have always attempted to devise anticipatory legislation.

Many times I had great success. The reason I am here today, without any particular resources of money or social standing, the reason I was able to get elected, is that the people came through because they saw what I actually did on the city council level by way of the anticipatory devising of actions by the city council to take on problems such as the annual strike on the part of the busdrivers in October. At that time the transit company was privately owned, and each year was a travail with the busdrivers going on strike and the city council having to get together and jack up the rates for the bus riders.

So in my first year there, in April and May, I proposed to the mayor that we anticipate the situation, and that the mayor appoint a committee of three to meet with both the company or the employer and the employees and anticipate what should be done so as to avoid these agitations. That was the first year that San Antonio did not get a bus strike.

So I am proud of such things, and I just mention that by way of example.

In other areas, I am the author of the Gonzalez amendment in international finance. After all, I was the chairman of the Subcommittee on International Finance for 10 years, and that was another reason why I kept anticipating these external forces that sooner or later would impact on us. All of that is on record.

I am not one that likes to get up and criticize destructively. I feel that the right to criticize and the right to speak, which is so much the hallmark of the freedom of our country, the like of which none of us can find anywhere else, also begets the responsibility to be accountable for that speech, and if one criticizes in a way that attempts to reduce something or somebody, then something constructive ought to be offered in place thereof.

I think I have done that. I have offered a whole kit of legislative packages, including such things as bringing back to accountability the Federal Reserve Board, which, after all, was not founded in heaven. It is not a divine institution. It was created by the Congress, and Congress has not seen fit to try to oversee it. There is no such thing as an inspector general in the Federal Reserve System. There is no accountability to the Congress as to the forging of its policies, and there is no accountability to the President. It all depends on the Fed, and I feel that was not the intention. After having read and studied diligently the history of the enactment of the Federal Reserve Board Act of 1913, I feel that the Congress needs to live up to its responsibility as a creator and restore to the people their rightful inheritance under this system of government.

So I rise today with quite a degree of sadness and disappointment to report these doleful statistics at this point. I think the forces that now impact on us are so great that we may or may not be able to control them, particularly since the development of the economic system announced in 1979 in the Bonn summit economic meeting, at which time President Carter attended and at which time they unveiled for the first time the European Monetary System, the EMS, and the European Currency Unit, the ECU.

I am not boasting when I say this, but I am the only Member of Congress, either on this side or the other, that has even mentioned these entities in any deliberation. I have been trying to see if we can get the proper committees to look into what has been emerging since 1979, and now that these entities have been fully fleshed out and since the Japanese have been making use for some 6 months of the EMS and the ECU, these are very serious implications to our dollar system. After all, we are still progressing on the theory that the American dollar is the chief reserve unit in the world currency markets, and that is why I say that with this erosion in confidence, we can face some very serious crises.

I am afraid that despite all my inveighing for some 24 years, and particularly in the last 20 years, we are back on square one, and that we will have to approach this thing now piecemeal, ad hoc.

But I will continue, as I always have, to place my basic faith in what I see as the inherent value of our system, and I do not despair at all. I may be pessimistic, although I am basically an optimistic individual. But I do not despair. I have not lost hope. It is just that I feel disappointed that we should have allowed conditions to develop without the proper anticipation of avoiding such conditions, and we could have attenuated what I foresee as a pretty heavy blow. I just hope that when our reaction comes, it will not be a kneejerk reaction and it will not be out of such panic that we do not do the constructive things.

Mr. Speaker, I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gingrich) to revise and extend their remarks and include extraneous material:)

Mr. Lewis of California, for 60 minutes, October 13.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Pease, for 5 minutes, today.

Mr. Gray of Pennsylvania, for 5 minutes, today.

Mr. Weiss, for 5 minutes, today.

Mr. Smith of Iowa, for 60 minutes, October 19 and 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Gingrich) and to include extraneous matter:)

Mr. Buechner.

Mr. Solomon.

Mr. Rinaldo.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Fazio.

Mr. Montgomery.

Mr. Wheat.

Mr. McMillen of Maryland.

Mr. Lancaster.

Mr. Stokes in two instances.

Mr. Pease.

Mr. Hall of Texas.

Mr. Wolpe.

Mr. Martinez.

Mr. Kanjorski in two instances.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until Tuesday, October 13, 1987, at 12 noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on FDA continues to permit the illegal marketing of carcinogenic additives (Rept. 100-361). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2472. A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration; with an amendment (Rept. 100-362). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2961. A bill to amend the Communications Act of 1934 to reauthorize the Federal Communications Commission, and for other purposes; with amendments (Rept. 100-363). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3189. A bill to amend the Public Health Service Act to revise and extend the program for the National Center for Health Services Research and Health Care Technology Assessment and the National Center for Health Statistics; with an amendment (Rept. 100-364). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 640. An act for the relief of the city of Dickinson, ND; with amendments (Rept. 100-365). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRANK: Committee on the Judiciary. H.R. 1574. A bill for the relief of Paulette Mendes-Silva (Rept. 100-366). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WAXMAN:

H.R. 3459. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs and for other purposes; to the Committee on Energy and Commerce.

By Mr. DOWDY of Mississippi (for himself, Mr. Smith of New Jersey, Mr. Montgomery, Mr. Solomon, Mrs. Patterson, Mr. Wylie, Mr. Jontz, Mr. Ridge, Mr. Evans, Mr. Dornan of California, Ms. Kaptur, and Mr. Kennedy):

H.R. 3460. A bill to amend chapter 41 of title 38, United States Code, with respect to veterans' employment and training; to the Committee on Veterans' Affairs.

By Mr. BUECHNER:

H.R. 3461. A bill to amend rule 24(a) of the Federal Rules of Criminal Procedure to require the court to permit the defendant, or the attorney representing the defendant, and the attorney for the Government to examine prospective jurors; to the Committee on the Judiciary.

H.R. 3462. A bill to amend rule 47(a) of the Federal Rules of Civil Procedure to require the court to permit each side to examine prospective jurors; to the Committee on the Judiciary.

By Mr. HALL of Texas (for himself and Mr. Sensenbrenner):

H.R. 3463. A bill to require the Secretary of Energy to make certain assessments with respect to the research and development of the Superconducting Super Collider Program; to the Committee on Science, Space, and Technology.

By Mr. JOHNSON of South Dakota:

H.R. 3464. A bill to amend title 38, United States Code, with respect to the Montgomery GI bill, and for other purposes; jointly, to the Committees on Armed Services and Veterans' Affairs.

By Mr. SOLOMON:

H.R. 3465. A bill to establish the Veterans' Administration as an executive department; to the Committee on Government Operations.

By Mr. PEASE (for himself, Mr. Porter, and Mr. Cooper):

H.R. 3466. A bill to amend the Internal Revenue Code of 1986 to permit donors of debt of developing nations to charitable organizations to obtain a charitable deduction equal to their basis in the debt; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 3467. A bill to amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to conduct a study regarding the management of infectious and pathologic waste; to the Committee on Energy and Commerce.

By Mr. SCHUMER (for himself, Mr. Foglietta, Mr. Bustamante, Mr. Sabo, Mr. Kastenmeier, Mr. Torres, Mr. Ackerman, Mr. Scheuer, Mr. Solarz, and Mrs. Collins):

H.R. 3468. A bill to amend the Truth in Lending Act to protect homeowners through the establishment of additional disclosure, interest rate, advertising, and other requirements for home equity loans; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HAMILTON:

H. Con. Res. 195. Concurrent resolution providing for the House and Senate Select Committees on Iran to file and print their reports as a joint report; jointly, to the Committees on House Administration and Rules.

By Mr. LEHMAN of California (for himself, Mr. Shumway, Mr. DeFazio, Mr. Fazio, Mr. Anderson, Mr. AuCoin, Mr. Badham, Mr. Beilenson, Mr. Berman, Mr. Bonker, Mr. Bosco, Mrs. Boxer, Mr. Brown of California, Mr. Chandler, Mr. Coelho, Mr. Craig, Mr. Dannemeyer, Mr. Dellums, Mr. Dicks, Mr. Dixon, Mr. Dornan of California, Mr. Dreier of California, Mr. Dymally, Mr. Edwards of California, Mr. Foley, Mr. Hawkins, Mr. Herger, Mr. Hunter, Mr. Konnyu, Mr. Lantos, Mr. Lagomarsino, Mr. Lewis of California, Mr. Levine of California, Mr. Lowery of California, Mr. Lowry of Washington, Mr. Lungren, Mr. Martinez, Mr. Matsui, Mr. McCandless, Mr. Miller of California, Mr. Miller of Washington, Mr. Mineta, Mr. Moorhead, Mr. Morrison of Washington, Mr. Packard, Mr. Panetta, Mr. Pashayan, Ms. Pelosi, Mr. Roybal, Mr. Denny Smith, Mr. Robert F. Smith, Mr. Stallings, Mr. Stark, Mr. Swift, Mr. Thomas of California, Mr. Torres, Mr. Waxman, and Mr. Wyden):

H. Res. 284. Resolution honoring the firefighters of the United States for their efforts and sacrifices during the summer fire season of 1987; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GRANT introduced a bill (H.R. 3469) for the relief of Therese Wesley Hosford; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 344: Mr. Hefley.

H.R. 579: Mr. Evans.

H.R. 723: Mr. Penny.

H.R. 898: Mr. Sawyer.

H.R. 1049: Mr. DeFazio and Mr. Miller of California.

H.R. 1108: Mr. Davis of Michigan.

H.R. 1119: Mr. Shays.

H.R. 1242: Ms. Kaptur and Mr. Miller of Washington.

H.R. 1707: Mr. Flake and Mr. Bonior of Michigan.

H.R. 1713: Mr. Hastert.

H.R. 1807: Mr. Thomas of Georgia and Mr. Lewis of Georgia.

H.R. 1808: Mr. Mrazek.

H.R. 2499: Mr. Pease.

H.R. 2517: Mr. Russo.

H.R. 2787: Mr. Russo.

H.R. 2972: Mr. Dornan of California.

H.R. 3019: Mr. Foglietta, Ms. Kaptur, Mr. Martinez, Mr. Gonzalez, Mr. Torres, Mr. Cooper, Mr. Brown of California, and Mr. Hochbrueckner.

H.R. 3044: Mr. English, Mr. Lancaster, and Mr. McCloskey.

H.R. 3045: Mr. English, Mr. Lancaster, and Mr. McCloskey.

H.R. 3054: Mr. Kennedy, Mr. LaFalce, and Mr. Foglietta.

H.R. 3071: Mr. AuCoin and Mr. McCloskey.

H.R. 3187: Mr. Wilson.

H.R. 3344: Mr. Lightfoot and Mr. Weber.

H.R. 3348: Mr. Hansen.

H.R. 3380: Mr. Towns, Mr. Bryant, and Mr. Dornan of California.

H.R. 3399: Mr. Wise and Mr. Fazio.

H.R. 3418: Mr. Swift, Mr. Conyers, Mr. Feighan, Mr. Donnelly, Mr. Gonzalez, Mr. Smith of Florida, Mr. Wyden, and Mr. Leland.

H.J. Res. 365: Mr. Bennett, Mr. Bryant, Mr. Bustamante, Mr. Chappell, Mrs. Collins, Mr. Derrick, Mr. Duncan, Mr. Dymally, Mr. Fascell, Mr. Gejdenson, Mr. Gonzalez, Mr. Olin, Mr. Owens of New York, Mrs. Patterson, Mr. Perkins, Mr. Porter, Mr. Richardson, Mr. Roe, Mr. Savage, Mr. Spence, Mr. Stallings, Mr. Sunia, Mr. Tallon, Mr. Watkins, and Mr. Whittaker.

H. Con. Res. 138: Mr. Borski, Mr. Barnard, and Mr. Miller of California.

H. Con. Res. 180: Mr. Lehman of Florida.

H. Res. 131: Mr. Mavroules.

H. Res. 185: Mr. Lewis of Georgia, Mr. Boland, Mr. Pashayan, Mr. Owens of Utah, Mr. Gallo, Mr. DeFazio, Mr. Tauke, Mr. Wheat, Mr. Daniel, Mr. Moorhead, Mr. Hansen, Mr. Roberts, Mr. Buechner, Mrs. Martin of Illinois, Mr. Thomas A. Luken, and Mr. Fascell.

H. Res. 189: Mrs. Collins.

SENATE—*Friday, October 9, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Come now, and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.—(Isaiah 1:18)

If we confess our sins, He is faithful and just to forgive us our sins and to cleanse us from all unrighteousness.—(I John 1:9)

Eternal God, loving, gracious, and merciful, the prophet Isaiah and the apostle John declare Your inexhaustible grace—always ready to forgive and renew. It is not just that we sin which is the problem, but we compound it by neglecting or refusing to come to You for Your perfect remedy and restoration. Help us, Father, not to allow discouragement, false self-abnegation or pride to withhold Your gracious forgiveness from us. We pray in His name whose love is unconditional and eternal. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC., October 9, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, I yield my 5 minutes to Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

WHY TODAY'S "GOOD" ECONOMIC TIMES ARE A MIRAGE

Mr. PROXMIRE. Mr. President, a proud claim of the Reagan administration is that they have brought our country the longest peacetime economic recovery in history. But how about this recovery? Is it sound? Can we build permanently on it? Or is it likely to collapse into a depression that could shake this great American economy to its foundations? In this Senator's judgment, the Reagan recovery is very shaky. Sooner rather than later this country will face serious, and I mean very serious economic trouble. But first let us honestly acknowledge the size and force of this recovery. Since the depth of the recession in 1982 the economy has added millions of new jobs. Inflation last year fell to the lowest level in decades. Prices have been rising a little faster this year. But inflation is still behaving like a pussycat compared to the country's experience in the 1970's. Interest rates, like inflation, are far lower than they were in the 1970's although they have lately begun to rise. Throughout this 5-year recovery, personal per capita income has been rising steadily. Unemployment has fallen to less than 6 percent for the first time in years. Like many recoveries this one has been erratic and spotty. New England is enjoying an economic boom. Parts of the South and the West still suffer hard times with agriculture and energy industries doing poorly. Our country's great manufacturing sector staggers along, much of it unable to compete effectively at home or abroad with foreign competition. Many American workers, particularly in manufacturing, have suffered a severe drop in their income even while the economy has been prospering. Nevertheless the steady improvement in jobs, and overall income with moderate levels of inflation and interest rates has continued for 5 years.

Mr. President, it is time we asked why these generally good times have continued. Are they simply the result of developments over which the administration and the Congress have little or no control? Are the economic policies of this administration and the Congress, in any major sense responsible for falling unemployment, rising income, and low inflation and interest rates? In the judgment of this Senator, the policies of the Congress and the administration have had a clear and positive effect in the last 5 years on economic growth.

Certainly the tough monetary restraint of the Federal Reserve Board, led by former Chairman Paul Volcker, broke the back of the inflation of the 1970's. In the process of doing this, the Fed brought interest rates down and sharply down. Does the administration or the Congress deserve any credit for this Volcker restraint? No way. In fact, the Congress and the administration was headed exactly the other way with the most reckless, irresponsible, and inflationary fiscal policy in the peacetime history of our country. The administration and leading Members of the Congress criticized the Fed virtually every step the Fed took to break inflation by tightening the money supply. It has worked. For the administration has now packed the Federal Reserve Board with "supply-siders" who have been critical of the Volcker policies of the late 1970's and early 1980's. Think of it. The Congress created a board more than 70 years ago with 14-year terms precisely because it wished to prevent any President from packing the board with his own ideologues. But resignations have knocked out every holdover member of the Board. The Reagan administration now has its own person in every single one of the six presently occupied seats on the Board. The President can fill the vacant seventh Fed seat any time, with another supply-sider.

So where does this leave the economic policies of our country? We have an administration, a Congress and now a new Federal Reserve Board with a majority that, on the basis of the past pronouncements of its members will under pressure follow a superinflationary policy. Oh sure, the Congress and the administration will fumble around with the Gramm-Rudman-Hollings so-called deficit reduction act. There may be a year or two when the deficit declines. It may even decline spectacularly for a year as, indeed, it did in 1987, but it will bounce back up the next year as it certainly will in 1988. Come the next recession, the country will be lucky if the Congress holds the deficit below $300 billion. Sure, the new Fed Chairman Alan Greenspan will strive to pursue antiinflation policies. But the Fed is firmly in the hands of the administration's hand-picked cabal. There are five solid votes on the Fed

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

with the administration to fight recession with easy money. So what happens when the next recession strikes? If this administration—or its heirs are still in office—we will certainly see a desperate effort to persuade the Fed to push our way out of the recession by reversing Volcker. You will, when the recession hits, see a swift and vigorous expansion of the Nation's credit supply by the Fed. Temporarily it will work. In the short run it will tend to hold down the price of credit, otherwise known as interest rates. But in the longer run it is certain to have the same effect that a big and sudden monetary stimulus always has. It will accelerate inflation. So what will happen to the price level with a $300 billion plus deficit and a fat dose of easy money? The answer is sure and simple. Inflation will zoom. And, as always, when inflation rises, interest rates will rise even faster than inflation. The result will be a national, in fact, a worldwide economic disaster.

What can we do about it? At this point—after living so far beyond our means, for as long as we have, even the wisest policies will bring us a period—perhaps a year or more of pain in the form of lower living standards, rising unemployment, failing businesses. But in the long run our economy will be far healthier if we accept the discipline of reduced Federal spending, higher taxes and a tougher, Volcker-style monetary policy of restraint. The sooner we recognize there are no gains without pains, the sooner we will get our great economy back on track.

Mr. President, I once again thank my good friend, the majority leader, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin has yielded the floor.

The majority leader.

VITIATION OF ORDER

Mr. BYRD. Mr. President, I ask unanimous consent that the earlier unanimous-consent order reached to authorize me to proceed to H.R. 2700, an act making appropriations for energy and water development, be vitiated.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

RESERVATION OF TIME OF MINORITY LEADER

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR DOMENICI

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico is recognized for not to exceed 20 minutes.

Mr. DOMENICI. I thank the Chair.

THE NOMINATION OF ROBERT H. BORK TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. DOMENICI. Mr. President, the U.S. Senate has been a focus of my life for nearly 15 years. I hold this body, and my colleagues, in the highest respect.

To a great extent, what I honor and hold dear is the civility with which we act, the decency with which we address each other and the issues of the day.

Sadly, I fear that our sense of decency and fair play has vanished in the rush by many to destroy a truly fine man, Robert H. Bork.

It has saddened me to reflect on the manner we savaged this decent gentleman, treating him in a manner that the Washington Post said "did not resemble an argument so much as a lynching."

I want my colleagues and the people of New Mexico to know that I support the nomination of Robert Bork to the Supreme Court. I do so, confident that Robert Bork would make, if given the opportunity, one of the great justices of this era.

I have heard from more than 5,000 New Mexicans on this issue—phone calls, post cards, and many thoughtful letters. A slight majority said they supported Judge Bork.

While these views are important to me, we have clearly not had an election in New Mexico on Robert Bork. The Constitution envisions no such referendum. Yet that is what many have wanted to convert the Bork nomination into.

And this has been full-bore political campaign, one that has been as negative as anything any member of the Senate has had to suffer. Is that what the framers of the Constitution contemplated?

The flags of the campaign have been full-page advertisements denouncing Mr. Bork in the most outrageous terms. One said Mr. Bork would likely allow States to "impose family quotas for population purposes * * * or sterilize anyone they choose."

Behind these ads has come a wave of junk-mail letters attacking Judge Bork, and not incidentally requesting a donation of "$25, $50, or $100" to go into the bank accounts of this or that special interest. Judge Bork has become a tool for fund raising. The Senate ought to investigate how much cash was raised through anti-Bork pleas.

I will place in the RECORD one that is an example of such an invitation to send to the Senator their opposition, but asking that they send $100 to the organization that is opposing the Judge.

And the TV ads. Ads as slick as anything peddling beer or soap, distorting a life in 30 seconds. Is this advice and consent?

I know. I have heard that he is a racist, that he holds views that are antiwomen, and anti most other groups that comprise this Nation.

As a Senator from a State of wide cultural and ethnic diversity, if I had the slightest suspicion that Judge Bork would roll back the progress made in civil rights, progress that has allowed Hispanics, Indians, blacks, women, and other groups to share in the American dream, I would be leading the campaign against him.

But the antiwoman, antiblack, anti-everything Robert Bork has no basis in reality. That is not the real Robert Bork. That is the Robert Bork of the advertisements financed by the merchants of fear who have taken over this issue, for some reason clearly peculiar to their own interest.

Again, let me quote from the Washington Post editorial, an editorial that referred to the "intellectual vulgarization and personal savagery" of the attacks on Judge Bork, "profoundly distorting the record and the nature of the man." That is the view of an unfriendly paper.

What frightens me, and should frighten anyone who believes in our Constitution, is the lack of fair play in the anti-Bork campaign. What does it portend for the furture?

Since the anti-Bork campaign could find no fault with his intellect, his experience, his morals, or his integrity, they had only distortion upon which to float their campaign. And, as a matter of fact, distortion is too kind a word.

Distortion is too kind a word.

Let me examine some of the specifics of Mr. Bork's record, particularly on the key issues of race and sex discrimination. In the eight cases that came before him on the Court of Appeals that involved substantive questions of civil rights, Judge Bork voted for the civil rights claimant in seven of the eight cases.

These cases involved claims of racial discrimination against the Navy, sex discrimination against an airline, sex discrimination against the State Department, violations of voting rights, and equal pay. In fact, and this will surprise both critics and supporters alike, Judge Bork ruled in favor of a homosexual who had been fired illegally.

Just as important is Judge Bork's record as Solicitor General of the United States, from 1973 to 1977. The most eleoquent testimony in this regard came from Jewel LaFontant. Ms. LaFontant served as Deputy Solicitor General with Robert Bork. She was the first woman Deputy Solicitor General. She also happened to be black.

Ms. LaFontant testified how Judge Bork personally halted attempts to discriminate against her. She also detailed his devotion to women's rights and his opposition to racial discrimination. She said:

> As a woman—and a black woman—I have no fear of entrusting my rights and privileges to Robert Bork.

The critics of Judge Bork argue that he stands outside the mainstream of legal thinking, citing a 1971 Indiana Law Review article. He is not like Justice Hugo Black, we are told, or like Chief Justice Earl Warren, or maybe like one of the real Supreme Court greats, Oliver Wendell Holmes.

What would have happened if we had hung those men on a past—and truly reprehensible—opinion or single incident, an opinion or incident much farther outside the mainstream than anything Robert Bork has been accused of saying or doing.

Justice Black was a member of the Ku Klux Klan.

While serving as attorney general of California, Earl Warren played a major role in the internment of American citizens of Japanese ancestry during World War II.

Justice Holmes wrote in support of forced sterilization of the mentally handicapped:

> Three generations of imbeciles are enough.

Would any of the three have survived the savage attacks those issues would justify in today's marketplace? I use the word with real thought—marketplace of advise and consent.

Maybe we should write into the English language a new word, "to Bork," meaning to destroy by inuendo or distortion.

Judge Bork has been painted as a constitutional Neanderthal. His opponents have defamed his wife. They rummaged through the records of his videotape rentals. I even received one letter complaining about his alleged drinking problem.

Under the Constitution, the Senate has the duty to offer "advice and consent" on judicial nominees. The Senate must scrutinize the nominee to determine whether he or she possesses the qualities that the people have a right to expect in judges. The Senate, however, must respect a President's right to appoint qualified persons to the judiciary.

As long as a nominee is otherwise qualified, the nominee's personal philosophy should never be a consideration unless that philosophy undermines the fundamental principles of our constitutional system or the nominee's dedication to his or her ideological principles is so strong that he or she cannot be an impartial judge.

I might add that I have voted to confirm very liberal judges. I voted to approve Judge Abner Mikva, even though I disagreed with his political philosophy. He was qualified.

It is not a question of whether I agree with everything Robert Bork has ever said. I disagree with his views on some issues. The question is, however, is Robert Bork, evaluating all the information that we have at our disposal, qualified to serve on the Supreme Court?

Clearly, the answer is "Yes," absolutely yes.

Judge Bork was evaluated by the Senate in 1973, when he was nominated to be Solicitor General. He was evaluated again in 1982, when he was nominated to the court of appeals.

In each case, Judge Bork was approved by the Senate. It is interesting that in 1982, when Judge Bork was approved unanimously, 73 of the current Members of the Senate were Members then and voted "aye" for Judge Bork.

Let us look at what some of the experts have to say.

Prof. Forrest McDonald, professor of history at the University of Alabama, did a study of Judge Bork's qualifications and compared them to the qualifications at the time of nomination of the eight 20th century Supreme Court Justices uniformly regarded by scholars as "great." Those Justices are: Holmes, Brandeis, Hughes, Stone, Cardozo, Black, Frankfurter, and Warren.

Professor McDonald testified before the Judiciary Committee that, of these great Justices, only Justices Holmes and Cardozo were better qualified than Judge Bork is. Professor McDonald ranked Judge Bork and Justice Frankfurter just about equal. Judge Bork was held to be better qualified than five of the remaining eight great Justices.

While Professor McDonald admits that his survey is "absolutely and totally unreliable," it does stress that, in terms of lucidity, learning in the law, intellectual keenness, and judicial experience, Judge Bork has the makings of a great justice.

The only question that can be raised is whether Judge Bork's judicial philosophy is in the mainstream of American legal thought.

Judge Bork's critics argue that he is outside the mainstream. I am more than a little confused by this allegation. In the next breath, these same critics argue Judge Bork would be the swing vote on the Supreme Court. How can this be?

If Judge Bork is truly outside the mainstream, he will be an ineffectual gadfly on the court. If Judge Bork will be a swing vote, then Judge Bork's critics believe that fully half of the current members of the Supreme Court are outside of the legal mainstream. In either case, the argument makes little sense.

Daniel J. Meador, professor of law at the University of Virginia, suggested an objective standard for determining whether a nominee's judicial philosophy is in the mainstream of American legal thought. Professor Meador formulated questions that the Senate should ask itself to determine whether a nominee is outside the mainstream.

The first question is: Is confirmation of the nominee supported by a substantial array of lawyers and legal scholars who are themselves well regarded and who come from various parts of the country and diverse legal settings?

The answer to that question must be a definite "yes." Just look at who testified on his behalf: Former President Ford, Former Chief Justice Warren Burger, six former Attorneys General of the United States—Edward Levi, William P. Rogers, Elliott Richardson, Griffin Bell, Herbert Brownell, and William French Smith—and eight former presidents of the American Bar Association.

Furthermore, both Justice Stevens and Justice White have indicated support for Judge Bork. The American Bar Association came forth and proclaimed Judge Bork "well qualified," its highest rating, to sit on the Supreme Court.

The second question is: Do the nominee's views about various legal doctrines and the task and approach to interpreting the Constitution have substantial support among other judges, lawyers, and legal scholars?

Once again, the answer must be "yes." Although Judge Bork has criticized a number of Supreme Court opinions, he is not alone in his criticism. Even the members of the Supreme Court did not all agree on those decisions.

For example, in the poll tax case, Justices Black, Harlan, and Steward dissented. Justice White dissented in Roe versus Wade; Profs. Archibald Cox, Alexander Bickel, and Gerald Gunther, among many others, have criticized that decision.

That is not to say that he is right or they are right. It merely leads to the conclusion that the decision is subject to interpretation by good legal jurisprudence and judicial minds.

Professor Cox and Prof. Laurence Tribe seem to agree with Judge Bork in his criticism of Shelly versus Kramer, the restrictive covenants case. Justices Black and Stewart dissented in the "one-man, one-vote" case.

I could go on. But my point is clear: In the majority of cases, Judge Bork's views are not eccentric, but rather find support in the views expressed by other respected scholars.

The final question is: Where the nominee is a judge already on a lower court, as is the case here, has he been a "lone wolf," an eccentric continual dissenter with very little company among his judicial colleagues, and has he been reversed a significant number of times by a higher court?

The answer is a resounding "no." Judge Bork has been in the majority in 95 percent of the cases he has heard. Not one of the 400 opinions that Judge Bork has written or joined has ever been reversed by the Supreme Court. In the six cases where Judge Bork has filed a dissenting opinion and the Supreme Court reviewed the case, the Supreme Court agreed with Judge Bork in every one.

On the court of appeals, Judge Bork voted with Judge Scalia, now Justice Scalia, 98 percent of the time. He has agreed with his liberal colleagues on the court in a high percentage of cases: Ruth Bader Ginsburg, 91 percent of the time; Abner Mikva, 82 percent; Harry Edwards, 80 percent; Patricia Wald, 79 percent; and J. Skelly Wright, 75 percent.

Where is the eccentricity? Where is the diversion from the mainstream of American legal thinking?

After reviewing the record, I am convinced that Judge Bork is clearly qualified to serve on the Supreme Court. He is a distinguished scholar and jurist who believes that his role is to interpret the law, not make it. There is certainly nothing wrong with that. Although he may disagree with certain established cases, he has the proper respect for precedent and clearly has judiciously indicated his reasons for dissent.

It is true he has said some provocative things, but when he said most of them, he was a law professor, and that was his job, to be provocative. It is a very different function from being a judge. Since going onto the court, he has demonstrated the moderation we expect.

Judge Bork has an inquiring and powerful mind. He sometimes changes it, but that is what happens when you have an inquiring mind. For my part, I would rather have an intelligent man who changes his mind than a lesser intellect who is not open to alternative views and new ideas.

Mr. President, I am convinced Robert Bork deserves to be confirmed by the U.S. Senate to be an Associate Justice of the U.S. Supreme Court.

In this year of the Constitution's bicentennial, which many of us celebrated in Philadelphia not long ago, I find it ironic that we as an institution may be undermining the independence of the judiciary.

If we allow a negative media blitz to determine who we put onto our courts, we may have undone much of what was accomplished that special summer 200 years ago in the city of Philadelphia.

I hope, I pray, that fairness and truth can return to our evaluation of judicial nominees.

Mr. President, I ask unanimous consent that the "Keep Bork off the Court" circular, obviously mailed to thousands of people, one finding itself in the hands of one of my constituents, including the solicitation accompanying it asking for a $100 donation, be made a part of the RECORD.

There being no objection, the circular was ordered to be printed in the RECORD, as follows:

[Reply Memorandum]

KEEP BORK OFF THE COURT

To: People of the American Way Action Fund: Robert Bork is 30 years out of step with America—we *must* stop his confirmation to the Supreme Court. Please forward the two Congressional Communications I have signed below.

Enclosed is my contribution towards the Action Fund "Keep Bork Off the Court" campaign of $100, $50, $35, $25, Other $——.

Please make check payable to People for the American Way Action Fund and return it with entire form to Post Office Box 96200, Washington, D.C. 20077-4627.

OFFICIAL CONGRESSIONAL COMMUNICATION

To: The Honorable Pete V. Domenici.

I urge you to reject President Reagan's nomination of Judge Robert H. Bork to the Supreme Court.

Bork's view of my rights rejects 30 years of progress in defending liberty, endangers many of my most fundamental rights under the Constitution and threatens the ideological balance of the Court.

Respectfully submitted.

J.C. ADAMS.

CALL OF THE ROLL

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 28]

Byrd
Conrad
Domenici
Johnston
Sanford

The PRESIDING OFFICER (Mr. CONRAD). A quorum is not present.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON: I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

Mr. DOLE. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. HATCH], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Carolina [Mr. THURMOND], and the Senator from Wyoming [Mr. WALLOP], are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND], would vote "yea."

Mr. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 72, nays 13, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—72

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kennedy
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sasser
Shelby
Specter
Stafford
Stennis
Trible
Warner

NAYS—13

Bond
Evans
Garn
Hecht
Helms
Kasten
Murkowski
Nickles
Quayle
Stevens
Symms
Weicker
Wilson

NOT VOTING—15

Armstrong
Biden
Boschwitz
Dodd
Gore
Gramm
Hatch
Inouye
Kerry
Sarbanes
Simon
Simpson
Thurmond
Wallop
Wirth

So the motion was agreed to.

The PRESIDING OFFICER. There are 72 yeas, 13 nays; the motion is agreed to. A quorum is present.

SCHEDULE

Mr. BYRD. Mr. President, I am going to now call up Senate Joint Resolution 194, but before I do that, let me state that during the day I hope it will be possible to take up the prompt payment legislation on which we have a short-time agreement. There would be probably a couple of votes on that. Before the day is over, I hope to lay down the catastrophic illness legislation under the order that was entered so that it would be made the unfinished business. I would not anticipate any action on it today.

Is that agreeable with the leader?

Mr. DOLE. Fine.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

Mr. BYRD. Mr. President, I ask that the Chair, under the order, lay before the Senate, Senate Joint Resolution 194.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 194) to require compliance with the provisions of the War Powers resolution.

The Senate proceeded to consider the joint resolution.

Mr. WEICKER. Mr. President, pursuant to the standing rules of the Senate and precedents, I would modify the resolution of Senator HATFIELD and myself and send the modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify the resolution. It will be so modified.

Mr. WEICKER. Mr. President, I ask that the clerk read the modification.

The PRESIDING OFFICER. The clerk will read the modification.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) modifies S.J. Res. 194 as follows:

On page 2, strike lines 3 through 5 and insert in lieu thereof the following:

"(2) on October 8, 1987, an Iranian vessel fired on a patrolling United States military helicopter necessitating a response of attack on Iranian patrol boats in the Persian Gulf by Armed Forces of the United States".

Mr. WEICKER. Mr. President, as one can deduce from the reading of the modification, all this does is to use yesterday's incident rather than the mine-laying incident as the basis for the resolution.

The PRESIDING OFFICER. The Senator will suspend for one moment.

Please let us have order in the Chamber so the Senator can be heard.

The Senator may proceed.

Mr. WEICKER. If the majority leader wishes the floor, I am prepared to yield at this time. I would just say, before getting into any of the matters of substance here, that I would hope that we could have a vote on the resolution. If there are those who care to table it, that is fine by me; vote on a tabling resolution, I do not care. If there are those who are going to filibuster, let them stand up and say, "We are not going to let it come to a vote." Let us find that out. I do not see that we really should be wasting each other's time here.

I am not going to harangue everybody on the substance. I think we have been all through this. I do not know why those who would not permit it to come to a vote should not announce their intention. We have other business to do. I hope we could have an up or down vote or a tabling motion so we could have a vote on this matter and on whatever other amendments that are associated with the substance of this resolution.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I shall not keep the floor. I hope, likewise, that the Senate can reach a vote up or down on a tabling motion or, if there are going to be amendments, perhaps we could reach an agreement, enter into an agreement. I understand Mr. WARNER may have an amendment. Perhaps we could reach an agreement on an amendment or two, vote on them today after a period of debate, and dispose of this one way or the other so we can go on to something else.

I yield the floor.

Mr. DOLE. If the Senator would yield, I think it is a good suggestion. I can check on this side. Maybe a tabling motion would at least test the relative strength of each position. Then, if that does not succeed, maybe there would be an amendment or maybe an up or down vote. I am not prepared to say, but I will certainly check for both the majority leader and the Senator.

Mr. WEICKER. I appreciate that.

Mr. WARNER. Mr. President, if I may speak to the issues for a moment?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I think the leadership has correctly stated this Senator's views that we should conduct reasonable debate on the pending matter and then follow with a tabling motion. We can address what alternatives may be open to the Senate, alternatives in the nature of a substitute procedure to that under the War Powers Act. I have drafted such a proposal. I take no great pride in authorship. I will momentarily just lay it at the desk for inspection by other Senators.

But, if the tabling motion were to fail, then it would be this Senator's intention to offer it to the Senate, formally, as an amendment which is in the nature of an alternative procedure, tailored to quickly address the policy issues involved in the Persian Gulf situation.

Mr. ADAMS. Would the Senator from Connecticut yield?

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. Mr. President, I yield the floor.

Mr. ADAMS. Mr. President, I want to echo the remarks of the Senator from Connecticut. As one who has worked with this for a long time, it is my belief that the War Powers Act has been triggered. The facts alone have done this. We should proceed with it immediately before any further steps have taken place.

I happen to favor the amendment that is proposed by the majority leader, Mr. BYRD, and myself and a number of others, as the method of proceeding. But I do not think we should have this an open-ended matter, and I think it should be debated only to the extent of establishing a policy.

I would raise with the Senator from Connecticut the possibility and potential, which at some point I will place with the Parliamentarian and the President, of the fact that the War Powers Act has been triggered by the fact that the report was supposed to have been sent. The act states that it is to be sent in 48 hours and if it is not sent that does not prevent it from being triggered. At that point they would be looking at expedited procedures on a motion, in effect, to carry out the functions of the act.

I simply do not want this Senate, once again, to go into a very long debate so that we have not spoken.

I think we look foolish to ignore the facts of what is occurring and to also allow incident after incident to lead us to a point where we are committed to a policy which we have had no real chance to impact on; and when we have not been able to unite the country behind the policy.

This is not a President's war or not an administration's war or conflict. It is one that the American people should speak on and this Senator, as a Member of this body, believes it is our constitutional duty and I am fully prepared to vote on this and I hope we will today.

I thank the President and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I would just like to make a few remarks and then I will yield the floor until such time as we are in debate.

I had the opportunity this morning to watch various of my colleagues address this matter in the news media; also, various administration officials addressing this matter in the news media; and, indeed, I had the opportunity to watch the news media itself comment upon this matter of war powers.

I would just like to, for a few minutes, dispel some of the thoughts that were projected to the American people, be it by Senators or Congressmen or newscasters or administration officials.

First of all, let us understand one thing, that enactment of the War Powers Act in nowise mandates the withdrawal of U.S. forces. The War Powers Act requires consultation between the President and the Congress. It is as simple as that. It does mean that the President and the Congress have to continually decide on whether Armed Forces introduced into a particular situation of hostility will remain in that situation of hostility. That, then, becomes a joint decision. That is all that is involved in the War Powers Act.

Now, to address some of the specifics that I heard this morning: One of my colleagues said, well, obviously this matter of the United States helicopters and the gunboats was defensive in nature, as far as we are concerned. It was a response to a hostile Iranian action.

I do not disagree. I do not disagree. But that has nothing to do with the War Powers Act. I searched mightily throughout the entire law and the words "offensive" and "defensive" never appear. The only operative word, the only operative word is "hostilities."

Those hostilities can be defensive. They can be offensive. But the only operative word is "hostilities."

So the fact that our forces were defending themselves has nothing to do with triggering the War Powers Act or not triggering it.

Hostilities:

> In the absence of a declaration of war, in any case in which the United States Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances.

Those are the only operative words.

Then I heard another colleague indicate: Well, this actually is not warfare, this is terrorism. I probably would find no fault with his description at all. But, again, there is no word "terrorism" in this act. The word is "hostilities," or "imminent hostilities."

And hostilities can take any form. It can take the form of terrorist activity—what we have come to define as warfare. I do not care what term you use. If it is "hostile," there is the operative word.

Then I heard a rather remarkable statement by somebody in the—I do not know if it was the Defense Department or the State Department—a Mr. Armitage. I wonder if I might ask my good friend, Mr. WARNER, who is Secretary Armitage?

Mr. WARNER. Mr. President, he is Assistant Secretary of Defense in the foreign policy area and you correctly stated it, his name is Armitage.

Mr. WEICKER. Well, I saw Secretary Armitage get on the screen with a straight face and say: Well, we do not see where anything has happened to invoke the War Powers Act.

Whether you agree or whether you disagree, I do not think any of us would say that nothing has occurred, in terms of hostilities.

Then I heard various newscasters refer to the President saying, well, this is unconstitutional, the War Powers Act.

Why is it unconstitutional? Something only becomes unconstitutional if it is so determined by our constitutional system. I cannot make something unconstitutional, as a Senator; and the President cannot make it unconstitutional as a President. The constitutional process, including the judicial branch of government, makes something unconstitutional.

So let us do away with all this saying it is unconstitutional or might be unconstitutional. We have a way of determining those things in this Government of ours.

Then my friends in the news media have come up with some very innovative words. I noticed one reporter from one of the networks indicating that this incident, Iranians attacking U.S. forces, this was hostilities; whereas last week in the mine laying incident, that was a passive attack.

You know—only in Washington, DC, only in Washington, DC. Listen to those words: "A passive attack."

What all this adds up to is everybody is bobbing and weaving, ducking, doing whatever they can to avoid the very straightforward, direct language of the law.

Clearly, hostile acts have taken place. Those hostile acts have been directed toward the United States and other nations of the world by the combatants in the Persian Gulf area.

I do not care whether it is the laying of mines, whether it is shooting missiles at our helicopters, whether it is missiles that damage our ships and kill and maim our personnel. Clearly, all these things have transpired and all these things, by any definition, are hostilities, and hostilities triggers the law of the land. It is not what I think or Senator WARNER thinks or the President thinks as far as the status of the law. If there be a challenge, let there be a challenge and let it be called unconstitutional.

I think it is necessary to put this in the proper focus. I know that it is a very strong suit that my opponents play when they try to give the impression that a vote on war powers in fact is a vote on policy. We certainly do not want to cut and run.

Somebody asked me the question earlier today how would I vote on the matter of our policy right now in the Persian Gulf. I would guess I would probably support the President. I would like to hear the debate. I would like to have all the facts before me as to exactly what has transpired in further detail from that which we already know.

I would guess that at this moment and for a time to come I would support the policy of the President. But that is separate and distinct from whether or not we are going to live up to the law that is on the books. No amount of speculation as to what the law is or is not substitutes for obeying the law, and no amount of fancy footwork on words can substitute for obeying the law. And no use of words such as "terrorism" or "defensive" substitutes for the language that is in the law.

I think we can handle this matter in the sense of both fulfilling our duties and obeying the law and in supporting our President and his policy. But the minute that we get into the type of fever over U.S. policy to the point where we disregard the law, then we are headed for trouble.

The matters of war and peace, whether by the Constitution or by the laws of this Nation, are matters to be decided jointly by the President of the United States and the Congress. Indeed, if there were weight to be given as to who has the primary responsibility, it clearly is the Congress of the United States. There is no power given to the President, either to declare war or to provide for war.

One last word: Let us at least have the courage to vote on the matter. I am perfectly satisfied to take a tabling motion. Obviously, I prefer it to be up or down. But I am not going to sit here and prolong debate today on this matter. We have gone through the exercise. Mine is a straight, clean War Powers Resolution. It does not mix policy and war powers. It cites the incident of yesterday and then brings into being the War Powers Act and all that entails.

So either let us vote or let us have those who do not want to vote stand up and say, "We do not want to vote. We want to delay this matter. We want either events to take us off the hook or a situation to occur which gives us a more favorable position."

Let them stand up and give their excuses why we should not vote. If we are not going to vote and there is going to be a lot of talk, so be it. Let it not be on the heads of those who are simply advocating that the Senate do its duty. I yield the floor.

(Mr. HARKIN assumed the chair.)

Mr. WARNER. Mr. President, I join once again with my colleague from Connecticut on the issue of what the

U.S. Congress should do now in the light of changing events in the gulf.

I have great respect for the distinguished Senator and indeed for his call for this body to do its duty under the War Powers Act, which is, and we do not dispute the fact, the law of the land.

But in the view of many of us, while it is the law of the land, it presents to us a Byzantine thicket laced with potholes and quicksand into which we can disappear and duck the issue. This could require the President to take certain actions because we trigger a timeclock, actions which could result in the withdrawal of our Armed Forces in the Persian Gulf at this critical time.

As he has stated, that is not, in all likelihood, the consensus of the U.S. Senate. I think if we are to reach a vote, say, on the simple issue, do we or do we not support the President, I would venture to predict that this Chamber today would say, "We support the President. But, Mr. President, we continue to feel that we must watch the situation, as is our Commander in Chief, and that at some point in time we may want to revisit the situation in the light of reports that he will send to this Congress of the United States."

I agree with my friend. I think it is futile here today to engage in a filibuster. This Senator has no intention of doing so, nor do I have any information that other Senators want to embark on a filibuster.

I wonder if my friend from Connecticut and I could engage in a colloquy, and perhaps others would wish to join us.

Given the situation we are now in, we now have a bill pending which calls for the implementation of the War Powers Act.

My first question to my friend is, do you concur that the War Powers Act does put us on a course of action whereby the Members of one body in the Congress could literally sit in their seats and become indecisive and that therefore a timeclock would be ticking away which, after a specific period, would require our President to withdraw the troops? Would that not be a very unwise course of action, given the progress which has been made to date in the gulf situation?

I am concerned, as is every other Member of the Congress, about the risks being taken by the men and women of the Armed Forces of this Nation in the gulf area today.

I might say, however, that I believe the consensus in this body is that we are very proud of the manner in which the Armed Forces of the United States, working in collaboration with the armed forces of other nations, are discharging their professional military responsibilities. I am proud of them and I am certain others are.

But that is not the issue today. The isue is, what do we do with a law that is on the books requiring the Congress to take certain actions, the President to take certain actions, given the circumstances. I will concede, for purposes of this debate, the facts of the last 24 hours. Our military units were attacked by Iranian hostile forces, and only as a consequence of that attack did we respond. It resulted in, the destruction of one naval craft of the Iranian forces, the seizure of two other craft, and the loss of life and bodily injury sustained by Iranian sailors.

We regret loss of life and injury for anyone, but it has happened. Now, what do we do? I am prepared to concede that under section 4(A) the facts may have been met. But should we not take upon ourselves today the responsibility of determining an alternative course of action to the War Powers Act which would in effect allow both the President and the Congress to act within the spirit of the objectives of the War Powers Act, and act now in a timely manner? One of the high risks that we are embarking on this morning, looking at this amendment, is that we could place the Congress on an indecisive road. Indecision is not what we want at this time because our enemies, be they Iran or others, could seize upon that indecision and modify their military tactics accordingly.

So my first question is, having now conceded in my judgment the facts seem to meet the War Powers Act, is the Senator willing to take a look at alternative procedures rather than this Byzantine thicket of the War Powers Resolution in which our voices could disappear, leaving a period of indecision, sending a signal around the world to other nations, to the allied forces that you had better stop where you are until the United States can make up its mind? Although the President has made up his mind, the Congress has now determined they are going to enter into the decisionmaking and we just do not know when the Congress might act.

Mr. WEICKER. In response to my good friend from Virginia, the only indecision that is now being displayed is being displayed by the Senate of the United States, the indecision whether or not we are going to obey the law. Some indecision has occurred on the other side of the argument. Now, let me refer to prospective indecision, which is the question of the distinguished Senator from Virginia. I think everybody should be well aware as to what the War Powers Act says. In effect, what it says is that after 60 days, the President shall terminate the use of troops unless extended by the Congress. It could be extended for 30 days, it could be extended for another 120 days, it could be extended for a year. But what it says is, yes, it shall terminate unless extended.

Now, the difficulty here is that the indecision of the Senate on voting on war powers really, I doubt, is going to have much political consequence on any Member around here. But can you imagine if either the House of Representatives or the Senate placed our troops in jeopardy by indecision? I can tell you, there would be a house-cleaning the likes of which you have never seen come election time.

Mr. WARNER. Then I say to my friend—

Mr. WEICKER. Let me finish. So what I am saying to the Senator is that the power that exists here is merely that if we move down the road of war, we do so together.

Now, there is no man who has a greater appreciation for this Constitution or its drafters than the Senator from Virginia, and he knows above all else that it was absolutely fundamental to this Nation that this decision be made by the Congress and its Chief Executive. Yes, the answer is to that extent the President is going to have some company and the President should have some company under our constitutional form of Government. And if people do not like that, then why not all of us pack up and go home? Between disregarding the War Powers Act and giving the President line item veto, we do not need a Congress. We just go ahead and have one man run the Government. Maybe there are some people who would like that, but I would suggest it has had its deficiencies in the past.

Mr. WARNER. Will the Senator yield for a short question? My good friend from Connecticut yesterday had a bit of audacity to point to the Chamber and say we would be fools—was that not the word the Senator used?

Mr. WEICKER. Right.

Mr. WARNER. To ignore the law and do nothing. Well, I say to my friend, who now takes a position that we would be fools to sit here and not affirmatively act, why did our predecessors put this law on the books allowing either Chamber or both to do nothing? Was that not a foolish act?

Mr. WEICKER. Because we were fools.

Mr. WARNER. Very well. Let us not repeat that.

Mr. WEICKER. I concede to the Senator from Virginia, had the Congress of the United States exercised its constitutional responsibilities, we did not need this law. It was sort of a courage bootstrapping operation—we have got to give ourselves a little more on the books to give us the courage to do what we are supposed to be doing anyway. But the Senator is absolutely right. Look at the foolishness that went on with Vietnam and look at the tragedy that resulted.

What I am trying to say is we were certainly fools then and we are being fools now. But what has happened—and the Senator has already stated the process—we are going to have another law, in other words, to go ahead and have us doing what war powers should have us doing, what the Constitution should have us doing. So the answer is that all of this really is only meant to say to each Senator and Congressman, will you please go ahead and do or perform the duties that have been imposed upon you. This is a great deal; it has a lot of perks. It also has some pretty tough moments and I think it is time people understood that.

Mr. WARNER. Mr. President, I know of no Member of this body who wants to dodge the issue. What we are confronted with is an unworkable law. Every President since 1973, Democrat and Republican, has worked within the spirit of the law and I think this President, Ronald Reagan, has even gone an added step by virtue of the number of consultations—and I will put in the RECORD momentarily the number of consultations—throughout this gulf period he has had with the leadership and Members of this body. But every President has determined that this law is unworkable for a variety of reasons. It is unenforceable. It is unconstitutional. And my good friend from Connecticut wants to start this engine down the rails today and try to have this body work within the framework of that law.

Mr. WEICKER. Can I make one quick response?

Mr. WARNER. Yes.

Mr. WEICKER. It is not this Senator. Please, it might be that President who does not want to invoke the law, but it is not this Senator who wants to go ahead and send this engine down the tracks. The law tells us what we have to do. That is the difference between the United States and other governments. It is not me. It is not President Reagan. The law tells us what we are supposed to be doing.

Mr. WARNER. On that point, and I think it is a very valid one, would my colleague take this question. Does the Senator know of any other nation in the world, particularly the Western world, that has this type of law on the books that could hobble its chief executive in trying to make decisions on behalf of the implementation of the troops of that nation? Is there any parallel to this situation to be found elsewhere in the Western world?

Mr. WEICKER. There is no parallel as far as I know, but, on the other hand, there is no parallel so far as our basic Government compared to any other government. So I cannot use that either as an excuse or as a reason for doing something.

Let me say again let us get rid of the word "hobble." My feeling is—and I think others feel likewise—that we are at our strongest when the decision is being made jointly by the President and the Congress. That means the people of this country are saying the policy is right and we support it and we are the stronger for it. We are hobbled when only one person is out there with a policy that may or may not be agreed with by the representatives of the people of the Nation.

Mr. WARNER. Mr. President, I join in that observation. We would be in a stronger position in the gulf today if the Congress were on the record as being supportive. In my judgment, informally we have done that to date through the consultation process. The Senator now wishes to formalize the support of the Congress for the President, and I am agreeable to having some procedure to do that, but with any procedure other than the War Powers Act, because it could be that while we are trying to get this body and the House of Representatives to act affirmatively, my friend must concede that the law does have loopholes by which we can skirt our responsibilities and sit.

The Senator argues that we do not have the courage to sit and do nothing. But the Senator has to concede that the law gives that option—the Byzantine thicket into which we can go and hide, at the time our troops are performing valiantly taking risks, while we do nothing.

Mr. WEICKER. First of all, I concede we certainly have loopholes. One of the loopholes being that the rules of the Senate makes it impossible to get a vote. So there is a loophole. Any new law that we write should say notwithstanding the rules of the U.S. Senate you can go ahead and vote. But let me say this: In the sense of trying to achieve what I think we are all looking for, why do we not have two votes? Why do we not have a vote on the War Powers Resolution, and why do we not have a vote on supporting the President in the Persian Gulf?

Now I have no problem with that, none whatsoever. As far as I am concerned, the Senator, and correctly so, wants the world to be aware of the fact that we support the actions of our troops, whether yesterday, or a week ago in the Persian Gulf. I support it. I suspect a heavy majority of the Senate supports it. Let us say so.

On the other hand, let us also say that we support the laws of our Government. If that is two votes, let us have two votes. Let us agree to that so nobody can duck out of either responsibility.

Mr. WARNER. Mr. President, I will reengage my distinguished colleague but I see other Senators and this Senator does not wish to monopolize this debate. So, for the moment, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I rise in opposition to the request to trigger the War Powers Act. As I heard the news there had been another successful operation carried out by the men and women of our Armed Forces in the Persian Gulf. I knew when I heard the news yesterday that as sure as the Sun would come up, we would see another outpouring on the Senate floor calling for invocation of the so-called War Powers Act. I might add that some call it the "retreat powers act."

We have seen very little praise for the outstanding work done by the men and women who are serving there under very difficult and arduous conditions, very little praise for the efficient operations which really in a very short timeframe allowed us to provide the men and women of the Armed Forces with the capability to repel acts of war.

Laying of mines in international waters is an act of war. Firing without provocation on a helicopter is indeed an act of war. Because of the defense buildup of the past few years, we were able to respond to those acts in appropriate fashion.

The question is, of course, whether we will spend a little time praising the work of those men and women in the Armed Forces. Whenever there are mistakes made, as often happens in military operations, there is a veritable cacaphony of criticism heaped upon those who are tasked with protecting the U.S. vital national interest.

We have an All-Volunteer Force today—men and women who have volunteered to serve this country. Presently in the Persian Gulf they are serving with distinction and with pride, and the morale is high. If they continue to hear this Nation's national policy derided and criticized, then those young men and women will be less likely to serve with efficiency and will be less likely to remain in the military.

In 1958 Gen. Maxwell Taylor chose to retire from the U.S. Army. He wrote a book which was read with great interest by then-Senator Jack Kennedy. When he became President, Kennedy called Maxwell Taylor from retirement and made him Chairman of the Joint Chiefs of Staff. The title of Taylor's book was "An Uncertain Trumpet." I came across a passage that aptly describes the effort underway here this morning. Maxwell Taylor said in 1959: "For if the trumpet give an uncertain sound, who shall prepare himself to battle?"

We are sounding an uncertain trumpet by attempting to tie the hands of the President of the United States, and in my opinion, in an unfortunate and dangerous way to legislate our withdrawal from the Persian Gulf.

Mr. President, peace in the world cannot be legislated by congressional restrictions on the President's defense powers. It can certainly not be legislated by telling our adversaries that all they have to do is wait 90 days until we withdraw our forces from a strategically important assignment. The caprice of legislative controls tell not only Iran but every other country who opposes us that the United States is irresolute, and that we are seriously weakened by division. That is exactly the wrong message to send.

The efforts underway here this morning will not repel the danger of war; they will increase them. Conflict cannot be avoided by running away from crisis, by denying the President the flexibility in his foreign policy, or by escaping our responsibilities as a world power.

Legislative constraints on the President's defense powers are a dangerous impediment to preserving peace. They should be rejected on the basis of common sense alone. They violate the original purpose the framers of the Constitution had in conferring upon the ultimate responsibility for the defense of the country and our freedoms.

The biggest mistake Congress could make is to compound the error of the War Powers Resolution. The mistake is the idea that Congress should have control over tactical military decisions, the authority to decide when, where, for what reasons and in what manner the Armed Forces can be used in defense of our national interests.

The truth is that the War Powers Resolution, is a modern day invention that lacks any support in the Constitution or our history. It runs directly counter to the experience gained by our Founding Fathers during the War of Independence, when impediments erected by the Continental Congress almost lost the struggle for liberty.

The framers of the Constitution, who met in Philadelphia 200 years ago, knew from firsthand experience that legislative muddling in General Washington's military decisions had disrupted his army's operations time after time. Many historians, for example, place the blame for the suffering at Valley Forge squarely on the indecision and incompetence of the legislature.

Of the 55 delegates attending the Constitutional Convention, 38 had performed military duty during the Revolutionary War. Those framers had firsthand experience of Washington's difficulties during the war. They also brought to Philadelphia the memory of Shay's Rebellion, in which Governor Bowdoin of Massachusetts had to raise an army single-handedly because a reluctant and divided legislature refused to act.

The framers of the Constitution wanted to correct the glaring weaknesses of the Articles of Confederation. They vested in the Chief Executive the power to defend the new Nation against foreign dangers.

It is easy to forget the perils faced by our Nation in its formative years. In 1797, the Nation was surrounded by hostile forces. Great Britain held onto northern military posts in violation of the Treaty of Paris, and excluded the United States from the St. Lawrence. Spain controlled the mouth of the Mississippi, occupied forts in Florida, and schemed to embroil a hostile Indian nation between its possessions and the United States. Finally, France sought to embroil us as a dependent nation in its own foreign conflicts.

The framers were practical people. In this setting, they knew our Nation could not survive if its defense were shackled by unrealistic rules. To meet the needs of national safety, the framers deliberately made the chief executive, the President, "Commander in Chief" of the military forces.

True, Congress was empowered to "declare war." The framers, however, specifically rejected a proposal to allow Congress "to make" war. I would suggest the invocation of the War Powers Act allows Congress to unmake war. There is a significant difference in these authorities. Samuel Johnson's dictionary of the English language, used in America at the time of the Constitutional Convention, defines "declare" as "to make known" or "to proclaim." The term "to make" means "to create" or "to bring into any state or condition," a power the framers specifically denied to the Congress during their deliberations.

Perhaps the best evidence of the framers' intent came during the Barbary wars. In prosecuting the war against the pirates, President Thomas Jefferson, and his Secretary of State, James Madison, himself a delegate to the Constitutional Convention, found no need for congressional involvement through a declaration of war.

I ask, Mr. President, if when we attacked the Barbary pirates, an operation carried out by a President, and a Secretary of State, James Madison, who was one of the authors of our Constitution, if they felt no requirement for a War Powers Resolution at that time, why in the world should we 200 years later?

The precedent of two centuries of American history provides further evidence of the framers' intent. Declarations of war have been voted only five times by Congress. Yet a Library of Congress study indicates that on nearly 200 occasions, Presidents have used American military units in overseas hostilities without any declaration of war.

More than 180 years after the Constitution was signed, Congress tried to assert its supremacy in military matters. At least 12 different statutes restricted American military activities in Indochina.

If there is ever an example in this Nation's history of shackling of a military effort so that it was guaranteed we could never be victorious, it was Vietnam. I find it interesting that the arguments used today for invocation of the War Powers Act were the same ones I listened to that eroded our ability to fight and win that war in Indochina.

More than 180 years after the Constitution was signed Congress tried to assert its supremacy in military matters, as I mentioned.

These limitations contributed directly to the later genocide in Cambodia, the fall of neutral Laos and the collapse of Vietnam.

Anyone who is proud of what has taken place in Indochina, after a United States departure that was basically willed by this Congress, has a different version of what has happened in that unhappy part of the world than I do; 3 million died in the hideous acts of Pol Pot; tens of thousands remain in reeducation camps in South Vietnam, and there are 30,000 Amerasian children who are unable to come to the United States. The horror stories go on and on.

Mr. President, it is time to put the Vietnam syndrome behind us. The revival of fortress America as a national doctrine, and the isolationist illusion that we can retreat from the problems of the world, must be brought to a halt before the United States commits the nearly fatal error of the 1930's. Congress, it will be recalled, mistakenly assumed that the neutrality acts of 1936 and 1937 could prevent the Nation from becoming involved in any future wars.

The free world can be grateful that Franklin Roosevelt ignored the unrealistic congressional restrictions. If the War Powers Resolution, or a measure like the one we have before us, had been in effect in 1941, President Roosevelt would have been precluded from keeping troops in Iceland and Greenland and ordering them to cooperate with the British armed forces already there. He could not have ordered American warships to escort and protect the lifelines that kept Britain alive. It is highly unlikely that Congress would have extended the President's authority after 60 or 90 days. In 1940, in fact, Congress had renewed the military draft by only a single vote.

The truth is that the War Powers Act, and the legislation before us now, would have created catastrophe in the early 1940's. It would, in all likelihood, bring about a disaster of equal dimensions today. Congress must stop trying to chain the President's ability to conduct an effective foreign policy.

If indeed the War Powers Act is triggered and we send a message that within 60 or 90 days American forces will be removed from the gulf—unless there is in the meantime an affirmative vote by both Houses of Congress—the Iranians will be encouraged to commit further acts of hostility, placing American lives in jeopardy and danger. I would suggest that the course of action being proposed today is reckless and dangerous.

I yield the floor.

Mr. WEICKER. Mr. President, I think a few of the remarks recently made deserve some response and if my distinguished friend from Arizona cares to stay on the floor, I will be glad to respond to them. If not, I will respond to them in any event.

First of all, I know of nobody, nobody who has derided the members of our armed services. Just as the distinguished Senator from Arizona enjoys a distinguished military career, there is much of this body that also enjoys that past and even those who have not take the utmost pride of what it is the men and women of our armed services do throughout the world.

One hundred Senators have an enormous pride in our armed services and back those armed services to the hilt utilizing the laws of a government of laws. That is one of the things that we fight for in the United States that we are a government of laws. Everybody mentions law and order, and then when there are those who seek to live by the law they are derided. They are portrayed as being something less than patriotic. I do not understand that at all.

The distinguished Senator from Arizona indicated that these have been very successful actions of the past week or so, and I would agree. They have been successful; they have been warranted. But let us understand that the operation as a whole still sits outside the law as it is written and it is the law of the land.

And whether they are successful or not has nothing to do with the case. There is nothing in the War Powers Act that says that if it is successful, you do not invoke it; if it is unsuccessful, you do. Success has nothing to do with it.

Indeed, if we want success or nonsuccess, I guess we could point to success in the Persian Gulf and not so much success in Central America.

The distinguished Senator from Arizona cites deliberations on the Constitution of the United States. But I suppose what we are left with, what we have to be guided by, is the Constitution of the United States and not just its deliberations leading to its enactment.

> Section 8. The Congress shall have Power To—
>
> To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures of Land and Water;
>
> To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;
>
> To provide and maintain a Navy;
>
> To make Rules for the Government and Regulation of the land and naval Forces;
>
> To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repeal Invasions;
>
> To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers,

Et cetera.

Article II, section 2:

> The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States.

That follows, in other words, on the primary duty that exists with the Congress. And I might add, in its wisdom, it is entirely correct. When Congress acts, then the President can take care of the details—after Congress acts. The reason for all this, of course, was that those who would have to pay with their money and their lives would make the decision in this Nation as they had not been able to do in the various countries from which they came. That is what distinguished the United States of America.

It is true, as the Senator from Arizona states, that throughout history we have tended to ignore that Constitution. Some of the times, it has been successful; some of the times, not too successful.

And maybe it is that the War Powers Act should be changed. I have never heard the term "retreat powers act." I do not quite understand the term.

I think I understand the fact that we are a stronger Nation, we are a stronger military presence, when the Nation itself decides on that presence.

Reference is made to an uncertain trumpet in the waging of war. There should never be an uncertain trumpet. That should be in the hands of the Commander in Chief and those who he designates. But there has to be now a certain trumpet for the fact that we are a government of laws, no matter how any of us feel. We had a chance to express those feelings and, by vote in a democracy, this law came into being. It was not ordered by this Senator. Indeed, it had to undergo the ultimate constitutional test, because it was vetoed by a President of the United States and that veto was overridden by the representatives.

Now, that is a far stiffer test than a simple plurality. It came through the toughest fires of our constitutional process. Instead of encouraging disobedience to the law, I would suggest those elected to positions of power, enforce the law. When they do that, they show as much patriotism as those in the Armed Forces of the United States.

I yield the floor.

Mr. WARNER. Mr. President, there are other Senators that wish to speak on this issue, and we do invite participation.

The majority leader, the Republican leader, and I have had a discussion as to a recommended procedure so that other Senators can plan their schedule this morning. I wonder if the distinguished Senator from Indiana would just withhold for a minute for the purpose of discussing the balance of the morning and then we will, of course, provide adequate time for the Senator from Indiana now to rejoin the debate with the Senator from Connecticut.

Mr. President, I yield the floor.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, this request, as I understand it, would be agreeable to the distinguished Republican leader; the distinguished Senator from Connecticut; the distinguished Senator from Virginia; the Senator from Washington, Mr. Adams; and the distinguished Senator from Arkansas, Mr. Bumpers.

I ask unanimous consent that at the hour of 10:45 a.m. this morning, the Senate proceed to the consideration of the prompt payment measure on which there is a time agreement—and it is not a lengthy one—and that the pending matter be temporarily laid aside until 12 noon, at which time the Senate will resume consideration of the pending matter; that there then be 30 minutes of debate, equally divided between Mr. Weicker and Mr. Warner, at the conclusion of which there will be a motion to table be made; and that meanwhile no amendments to the amendment by Mr. Weicker be in order.

Mr. WARNER. Mr. President, that is the agreement that has been discussed with the Republican leader here, who is present on the floor.

But, first, I wonder if we might inquire, does that provide adequate time for those Senators who wish to speak between now and 10:45?

Mr. QUAYLE. I apologize to the distinguished majority leader and the Senator from Virginia. I was back conversing with the Senator from Arizona, so I did not hear the entire unanimous consent request.

My desire would be to speak for a moment on this.

Mr. WARNER. That could be accommodated, I assure the Senator, under the proposal by the majority leader.

Mr. QUAYLE. For how long?

Mr. WARNER. Ten minutes.

Mr. QUAYLE. Once I talk for 10 minutes, it would take him 20 minutes to respond to what I have to say.

Mr. BYRD. He would not respond.

Mr. QUAYLE. I know, but he might want to.

Mr. BYRD. Not under the agreement.

Mr. QUAYLE. I know.

Mr. WEICKER. Anticipating the stirring remarks of the Senator from Indiana——

Mr. QUAYLE. Enlightening.

Mr. WEICKER [continuing]. I will absent myself from the floor when he starts to speak.

Mr. WARNER. Under the proposal, there will be another period of debate and I will be happy, as one of the managers, to yield the Senator some time.

Mr. DOLE. I want 10 minutes. Do not give it all away.

Mr. QUAYLE. Ten minutes now?

Mr. WARNER. No. The distinguished Republican leader desires 10 minutes between the hour of 12 and 12:30 and that, of course he will have.

Mr. BYRD. Mr. President, if we continue, we will not get any agreement at all.

Let us make that 12:45. That gives 45 minutes for debate beginning at 12.

Mr. QUAYLE. Can I have 10 minutes now for my enlightening remarks?

Mr. BYRD. The Senator can have 10 minutes now.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

Mr. BYRD. I thank all Senators.

Mr. WARNER. For the benefit of other Senators, the majority leader, the Republican leader, myself, and others will be working on some alternative proposal in the interim period.

Mr. BYRD. I thank all Senators.

I believe Mr. QUAYLE should be recognized under the order for 10 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. QUAYLE. Mr. President, do I have 10 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. QUAYLE. Will the Chair kindly tell me when I have just 8 minutes?

The PRESIDING OFFICER. The Chair will so advise the Senator.

Mr. QUAYLE. Mr. President, what I would like to put before the Senate at this time is what the War Powers Act actually says. That may be committing heresy, but I think we have heard—the Senator is not on the floor right now—we have heard that this is the law of the land and, therefore, the law of the land, by golly, ought to be complied with. And since we pass laws, we send them down to the President and it becomes a law, the only way it is going to be declared unconstitutional is if we get into court. I think it is going to be very difficult to get this into court, but let us just look at this law and see whether we are selectively complying with the War Powers Act.

Mr. President, the War Powers Act says, in section 4(a), to which the Senator from Connecticut's resolution refers, the introduction of Armed Forces "into hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances."

Now, you can argue whether you have hostilities or do not have hostilities or whether this is predicated upon going into a conventional type war, which I do not believe it is. I think what we have is terrorism.

I think this Act was written to prevent the United States from marching down the road to an undeclared war. I think this legislation was written so we could not go in on the side of a combatant nation like South Vietnam without the consent and without the invocation of the War Powers Resolution with the Congress.

That is not the case in the Persian Gulf. The Persian Gulf operation is one of stability and making sure that we have the navigation of the waters. We are not siding with a combatant nation. We are siding with Kuwait.

This legislation says that, within 60 days, the President, in fact, should report to the Congress. Let me just read section 5(b). "Within 60 days after a report is submitted or"—and these are the operative words, to get down to what this law says—"is required to be submitted pursuant to section 4(a)(1), whichever is earlier."

Mr. President, we have been debating the invocation of the War Powers Act for months now. Those that are the proponents of the War Powers Act say that imminent hostilities in the War Powers Act apply. I can tell you that over 60 days, over 60 days, according to their pronouncement, have, in fact, expired.

Then it goes on to say that any time, if in fact a resolution is not passed; if a resolution is not passed, then in fact, the deployment of that operation must cease and terminate.

It does not say whether the Congress in fact determines that there have been hostilities. The law merely says that when there have been, the President is required to submit a report.

Those that argue that we ought to have the War Powers Act certainly believe that the President should have been required to send a report up here more than 60 days ago. Therefore, the law itself says that we ought to terminate—ought to terminate our actions in the Persian Gulf.

So, what we should be voting on, and what the vote ought to be, if you want to read, strictly the War Powers Act, is whether they should be coming home or not.

I have heard the Senator from Connecticut and other Senators say: Well, this is not an amendment to bring them home. This is not an amendment to bug out of the Persian Gulf.

If you read the War Powers Act and it says that where the President should have submitted a report because of imminent hostilities, a literal reading of that means that they ought to come home.

I do not endorse that, but that is what is in this law that is, in fact, unconstitutional; that is unworkable; and I think there is a question of whether it should be applied here because I do not believe that we were taking into account terrorist types of activities.

Mr. President, this is not unusual for the Congress, trying to get into every foreign policy operation. It is not unusual for the Congress to try to have it both ways. Because from a clear statement of what is in the War Powers Act, the amendment that ought to be before us is to say: OK, let us come home.

I have been absolutely amazed at this debate that has gone on for several weeks and several months here because for some reason the Congress and many of the Senators and Congressmen will stand up and say: Well, Congress has got to be involved. You know, the President is going outside his scope of responsibility; that the Congress has got to be involved in this. There has been consultation and there will be more consultation. There will be consultation on this issue and this incident. But the Congress has to be involved.

Well, the Congress can clearly become involved whenever it wants to. I am amazed at the lack of respect for the authority that the Founding Fathers gave the Congress of the United States. Because the Founding Fathers gave the Congress of the United States the power of the purse and anytime somebody wants to stop what is going on over there, instead of this in between, indecisive, ambiguous, and I think harmful, ambiguous law, you vote on any foreign operation straight up or down.

Congress can do that. Congress is a powerful institution. Congress is on equal footing with the executive branch.

I do not think that Congress ought to be intimidated by the executive branch if they do not like what the executive branch is doing. Be straightforward about it. Be straightforward about it and what this law says. Because if you believe the technical definition of imminent hostilities happened more than 60 days ago, then there is a violation according to the law and the President has to cease operations over there. That is what the War Powers Resolution requires, which everybody says is such a great piece of legislation.

So, I really believe that this Congress can, in fact, do whatever it wants to do as far as the power of the purse.

Now the question is whether they will do it. I seriously doubt it. I have heard a number of statements by distinguished Senators who support the War Powers Resolution but say that they will vote for the policy. But I think that this policy or this moving or bringing up the War Powers Resolution—and I know it was scheduled to come up before this latest incident—but having it come up on every incident sends a message of vacillation, a message of uncertainty; a message that we are gripped with paralysis and indecision.

Unfortunately, I think that this Congress is indecisive; 535—it is very difficult, sometimes, to get a consensus. That is why we have a commander in chief. That is why we have one President who can, in fact, deploy forces. If the Congress does not like it, the Founding Fathers gave them the power to stop that, and that power ought to be exhibited if they feel that way.

But, no, we always sort of want to have it both ways. We do not have a straight up or down vote of what the War Powers Act says. The War Powers Act basically said, and these people said he should have invoked it, it says if he should have invoked it and if he is there over 60 days and the Congress has not acted in the affirmative that they have to come home.

That is the reading. That is the literal reading of the War Powers Act.

We do not want to get down to reading, really, what is in this thing because when you start to read what is in this thing it scares people. People know that this is simply an unworkable piece of legislation and we are not talking about a UDAG grant; we are not talking about farm credit—very important to our domestic situation. We are talking about foreign policy and we are talking about American lives. In fact, I believe the chances for greater instability increase when we do these kinds of things. That is my judgment and it is a judgment of a lot of others, that when we get into this kind of action and bringing these things up, we have to keep bringing them up every little time there is a hostility—I mean, hostilities happen all the time. You walk down the streets, you have hostile acts or potential hostile acts.

If we had to take the literal interpretation of this, we would not be doing anything but passing War Powers Resolutions all the time. This is a risky, hostile world. There are a lot of potential risks out there and, thank God, we have got the Armed Forces and the courageous men and women that volunteer to serve this country; we have got the cooperation of our allies—West Germany joined today. We have a policy that is moving forward, a policy that has, in fact, I think, been successful and will continue to be successful.

But this type of micromanagement, of messing around in foreign policy, is counterproductive to peace. It is counterproductive to having stability. It is counterproductive to seeing the national security interests of this country enhanced.

I wish that we would cease this conversation. It is going to keep coming up. It has come up in the past and I presume it will come up. But if you want to look at the reading of this resolution, if you want to read the wording of this resolution, Mr. President, the literal reading of this resolution means they ought to come home now. I do not believe there are too many that advocate that, but they certainly could. Congress has that power.

The **PRESIDING OFFICER.** The Senator's time has expired.

PROMPT PAYMENT ACT AMENDMENTS

The **PRESIDING OFFICER.** Under the previous order, the Senate will now proceed to consideration of Calendar No. 132, S. 328. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 328) to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act Amendments of 1987".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) the billpaying practices of most Federal Government agencies generally have improved, with certain exceptions, after four years of experience under the Prompt Payment Act (codified in chapter 39 of title 31, United States Code);

(2) the improvement in such billpaying practices has resulted in fairer treatment of contractors who furnish supplies, services, or construction to the Federal Government, especially small businesses;

(3) nonetheless, many contractors who deal with the Federal Government continue to experience persistent problems of untimely Government payments as a result of—

(A) the failure to implement the provisions of the Prompt Payment Act through the Government-wide Federal Acquisition Regulation;

(B) the implementation of the provisions of the Prompt Payment Act in a manner that denies the Act's protections in cases of certain contract payments, such as progress payments for work satisfactorily performed under construction contracts and payment of amounts which have been retained by a Federal Government agency during the performance of construction contracts and are to be released upon final acceptance of the construction work by the agency;

(C) the unlimited time presently afforded Federal Government agencies formally to accept supplies delivered or services performed by contractors, which may be improperly used by such agencies to deny late payment interest penalties to contractors delivering such supplies or performing such services in a timely manner as prescribed by the contract;

(D) the implementation of the provisions of such Act in a manner which has permitted Federal Government agencies to take discounts for early payment months after the expiration of the discount period specified in the contractor's invoice;

(E) the failure of the Act explicitly to require Federal Government agencies automatically to pay late payment interest penalties due to contractors;

(F) the absence of incentives effectively to dissuade Government employees from attempting to withhold late payment interest penalties which contractors are entitled to receive;

(G) the continued availability of certain payment grace periods which affords Federal Government agencies the opportunity to pay their bills late without incurring any late payment interest penalty and, thus, unilaterally to extend the payment due date upon which the contractors have based their contract prices;

(H) the failure of Federal Government agencies to implement the requirement in the Act to pay, during the contract period, for the periodic delivery of supplies or the periodic performance of services if permitted by the contract; and

(I) the failure of the Act explicitly to protect contractors doing business with the United States Postal Service;

(4) the Federal Government will realize substantial benefits if Government construction contracts require Government contractors to pay their subcontractors and suppliers in a timely manner, in accordance with prevailing industry standards, or be subject to the same late payment interest penalties prescribed in the Act; and

(5) a strengthening of the provisions of the Prompt Payment Act, and its vigorous enforcement, is a key recommendation made to the President and the Congress by the delegates to the 1986 White House Conference on Small Business.

DEFINITIONS AND APPLICATION

SEC. 3. (a) Section 3901(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) the head of the agency is deemed to receive an invoice on the later of—

"(A) the date on which the place or person designated by the agency to first receive such invoice actually receives a proper invoice; or

"(B) on the fifth day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or final performance of the services is actually completed, as the case may be, unless—

"(i) the agency has actually accepted such property or services before such fifth day; or

"(ii) the contract specifies a longer period for agency acceptance of the property or services.".

(b)(1) Section 3901 of such title is further amended by adding at the end the following new subsection (c):

"(c) This chapter, except section 3906 of this title, applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.".

(2) Section 410(b) of title 39, United States Code, is amended by inserting after clause (8) the following new clause (9):

"(9) Chapter 39 of title 31.".

INTEREST PENALTIES: REDUCTIONS IN GRACE PERIOD; INCREASED PENALTIES; OBLIGATION TO PAY PENALTIES

SEC. 4. (a)(1)(A) Section 3902(b) of title 31, United States Code, is amended by striking out "16th" in clause (3) in such sentence and inserting in lieu thereof "8th".

(B) Effective with respect to payments made on or after October 1, 1989, section 3902(b) of title 31, United States Code, is amended by striking out the second sentence.

(b) Section 3902 of such title is further amended by redesignating subsections (c) through (e) as subsections (e) through (g), respectively, and by inserting after subsection (b) the following new subsections (c) and (d):

"(c)(1) Any amount of an interest penalty of $1.00 or more which is owed a business concern under this section shall be paid without regard to whether the business concern has requested payment of such penalty.

"(2) If a business concern—

"(A) is owed an interest penalty by an agency;

"(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due;

"(C) is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

"(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty,

such business concern shall be entitled to receive an interest penalty equal to twice the amount of the interest payment that would otherwise be due.

"(d) The unavailability of funds to make a timely payment due for property or services does not relieve the head of an agency from the obligation to pay interest penalties under this section.".

INTEREST PENALTIES ON PROGRESS PAYMENTS AND RETAINED AMOUNTS UNDER CONSTRUCTION CONTRACTS

SEC. 5. Section 3903 of title 31, United States Code, is amended—

(1) by striking out clause (4);

(2) by redesignating clause (5) as (6); and

(3) by inserting after clause (3) the following new clause (4):

"(4) in the case of a construction contract, provide for the payment of interest on—

"(A) any progress payment due under the contract for—

"(i) a period of more than 7 days; or

"(ii) a longer period if the contracting officer determines that the prevailing practice in private construction contracts is to provide such longer payment period; and

"(B) any amount which has been retained during the performance of the contract and are due to be released to the contractor after final acceptance of the construction, if such retained amount is not paid to the contractor by the required payment date;".

PERIODIC PAYMENTS UNDER SUPPLY AND SERVICE CONTRACTS

SEC. 6. Section 3903 of title 31, United States Code, as amended by section 5, is further amended by inserting after clause (4) the following:

"(5) provide for periodic payments, in the case of a supply or service contract which authorizes periodic payments during the contract period, upon—

"(A) submission of an invoice for supplies delivered or services performed during the contract period, if an invoice is required by the contract; and

"(B) either—

"(i) acceptance of the supplies or services by an employee of an agency authorized to accept the supplies or services; or

"(ii) certification, by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract.".

PAYMENT CLAUSE FOR SUBCONTRACTS UNDER CONSTRUCTION CONTRACTS

SEC. 7. (a) Chapter 39 of title 31, United States Code, is amended—

(1) by redesignating sections 3905 and 3906 as 3906 and 3907, respectively; and

(2) by inserting after section 3904 the following:

"§ 3905. Payment clause for subcontracts under construction contracts

"(a) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include, in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract, a payment clause which obligates the prime contractor—

"(1) to pay the subcontractor promptly (as determined in accordance with the prevailing industry standard) out of such amounts as are paid to the prime contractor by the agency for work satisfactorily performed by the subcontractor under that contract; and

"(2) to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with such payment clause—

"(A) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

"(B) computed at the most current rate of interest that has been determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published by the Secretary in the Federal Register.

"(b) In addition to the payment clause required by subsection (a), a prime contractor may negotiate and include in the subcontract a provision which permits the prime contractor to make a determination, before making application to the agency for a payment for work performed by a subcontractor, that—

"(1) all or part of the subcontractor's request for payment may be withheld for good cause; and

"(2) a specified percentage of any progress payment otherwise due to the subcontractor may be retained for the protection of the prime contractor and be paid to the subcontractor within seven days after such amount is released to the prime contractor by the Government.

"(c) A prime contractor may not request payment from the agency of any amount withheld or retained in accordance with subsection (b) until such time as the prime contractor has determined and certified to the agency that the subcontractor is entitled to the payment of such amount.

"(d) A dispute between a prime contractor and a subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a subcontract clause conforming to the standards of subsection (a) does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

"(e) Except as provided in subsection (d), this section shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to a subcontractor or a contractor in the event of a dispute involving late payment or nonpayment by a prime contractor.

"(f) A prime contractor's obligation to pay an interest penalty to a subcontractor pursuant to the payment clause included in a subcontract under subsection (a) may not be construed to be an obligation of the United States. A contractor may not obtain reimbursement from the United States for such interest penalty. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.".

(b) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 3905 and 3906 and inserting in lieu thereof the following:

"3905. Payment clause for subcontracts under construction contracts.
"3906. Reports.
"3907. Relationship to other laws.".

LIMITATIONS ON DISCOUNT PAYMENTS

SEC. 8. Section 3904 of title 31, United States Code, is amended by inserting after the first sentence the following: "For the purpose of the preceding sentence, the specified time shall be calculated from the date the invoice under the contract is received by the office or employee of the agency designated by the agency to first receive such invoice until the date of payment.".

REPORTS

SEC. 9. Section 3906(a) of title 31, United States Code (as redesignated by section 7(a)(1), is amended to read as follows:

"(a)(1) By the 60th day after the end of the fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on the agency's payment practices during that fiscal year, including a description of the extent to which those practices satisfy the requirements of this chapter.

"(2) In addition to such other information as may be required by the Director, the report required by paragraph (1) shall include—

"(A) the number, dollar value, and percentage of invoices for which interest or other late payment penalties were paid, the amount of such late payment interest and other penalties, and the reasons the interest penalties were not avoided by prompt payment; and

"(B) the number, dollar value, and percentage of invoices paid after the required payment date without payment of an interest penalty or other late payment penalty, and the reasons no obligation to pay such penalties was incurred with respect to such invoices or no amount for such penalties were included in the payments of such invoices.".

IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION

SEC. 10. (a) The Federal Acquisition Regulation shall be modified to provide appropriate solicitation provisions and contract *clauses that implement chapter 39 of title 31, United States Code, and the regulations prescribed under section 3903 of such title.*

(b) The solicitation provisions and contract clauses required by subsection (a) shall include the following matters:

(1) Authority for a contracting officer to specify for a contract or class of contracts a specific payment period, which—

(A) in the case of payments for commercial items or services, is similar to the payment period of periods permitted in prevailing private industry contracting practices;

(B) in the case of payments for noncommercial items and services, does not exceed 30 days unless the circumstances of the procurement action require a longer period for payment; and

(C) in the case of progress payments under construction contracts, does not exceed 7 days, unless the contracting officer determines that the prevailing practice in private construction contracts requires a longer payment period.

(2) Requirements to make periodic payments, in the case of a supply or service contract which authorizes periodic payments during the contract period, upon—

(A) submission of an invoice for supplies delivered or services performed during the contract period, if an invoice is required by the contract; and

(B) either—

(i) acceptance of the supplies or services by an employee of the contracting agency authorized to accept the supplies or services; or

(ii) certification, by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract.

(3) A conclusive presumption, for the purposes of determining timely payment, that the Federal Government has accepted property or services by the fifth day after the date on which, in accordance with the terms and conditions of the contract, the property is delivered or final performance of the services is completed, unless the circumstances of the procurement require a longer period for acceptance by the Federal Government and such longer period is specified in the solicitation for such contract.

(4) The limitation that the Federal Government may take a discount offered by a contractor for early payment by the Federal Government only in accordance with the time limits specified by the contractor.

(5) The requirements of section 3902(c) of title 31, United States Code.

(c) The regulations required by subsection (a) shall be published as proposed regulations for public comment as provided in section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) within 120 days after the date of the enactment of this Act.

EFFECTIVE DATES

SEC. 11. (a) Section 3(a)(2) and the amendments made by sections 3(a)(1), 4, 5, 6, 7, and 8 shall apply to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after the date of the enactment of this Act.

(b) The amendments made by section 3(b) shall apply to payments under contracts awarded on or after October 1, 1988.

(c) The amendment made by section 9 shall apply to the report required by section 3906 of title 31, United States Code, for each fiscal year beginning after September 30, 1987.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I suggest the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, earlier this year I introduced S. 328, the Prompt Payment Act Amendments of 1987. At the time of introduction, the bill had some 56 original cosponsors. Since that time, the number of cosponsors has grown to 85. This, I have little doubt that this measure will be approved by an overwhelming majority in the Senate.

This broad base of support for S. 328 is not confined to this Chamber. An ever-growing list of business organizations supports this measure. At last count, more than 40 business organizations had registered their support for this bill. Mr. President, I ask unanimous consent that a list of the organizations supporting S. 328 be included in the RECORD at the conclusion of my opening remarks. I further ask consent that letters of support for this legislation from a variety of business groups appear in the RECORD at that point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SASSER. The support for this legislation is strong evidence of the desire to fulfill the promise inherent in the Prompt Payment Act—getting the Government to pay its bills on time. My colleagues will recall that we first focused attention on this issue in the 97th Congress. I introduced the first prompt payment bill in the Senate that session. The legislation which eventually became law was introduced at a later date by our colleagues, Senators DANFORTH and CHILES.

To refresh my colleagues' memory, the intent behind the Prompt Payment Act is simply enough. The Federal Government is the single largest purchaser of goods and services in this country. Yet, the Federal Government has a history of being notoriously slow in paying its bills. Such late bill paying increases costs to business.

At a time of high interest rates, it can increase the cost of doing business very, very substantially. Indeed, Mr. President, my attention was first attracted to this problem by complaints from small business people doing business with the Federal Government in and around Oak Ridge, TN. These small business owners indicated that they simply did not want any more Government business back in the days of very high interest rates because they could not afford to carry the Government for 45 to 60 to 90 days when interest rates were running 15, 16, and 17 percent. So that gives you some idea about how late bill paying can increase the cost of doing business to the point that some businesses simply do not want to do business with the Government.

These higher costs on Government contracts have two direct results. One, we see fewer and fewer firms wanting to do business with the Government. And two, those firms which continue to contract with the Government will raise prices to offset added costs associated with late payment.

The Prompt Payment Act uses a series of incentives to prod the Government into more timely payment of its bills. In short, the Prompt Payment Act seeks to make the Government a more efficient and reliable business partner. As the Government makes progress toward this goal we will see increased benefits. We will see a Government contracting system which attracts contractors, rather than one which turns them away. This should lead to increased competition on Government contracts and lower costs.

Government agencies have now had 4 years of experience with the Prompt Payment Act. And we have seen substantial improvement in the Government's bill paying practices. Most notably, we have seen a sharp drop in excessively late payments, those more than 60 days late. Unfortunately, improvements under the Prompt Payment Act have not been as great as we intended.

The General Accounting Office released a study of the effectiveness of the Prompt Payment Act in the summer of 1986. The title of this report just about sums up the present situation. The title reads "Prompt Payment Act—Agencies Have Not Fully Achieved Available Benefits."

The study goes on to find that the full potential of the Prompt Payment Act has not yet been realized. A significant percentage of bills are still being paid later than they should be. In the GAO study, 24 percent of the Government's bills were paid after the prompt payment due date. And the report points out that the number of excessively late payments remains too high. GAO found that 7 percent of the late payments in its sample were between 46 and 150 days late. Some 1.3 percent of the payments were more than 90 days late.

This situation is aggrevated by the fact that the interest penalty payments called for under the Prompt Payment Act are often not paid. Indeed, the GAO study shows that

Government agencies only paid one of every six interest penalties owed. Over one 4-month period, the GAO report found that the failure to pay interest penalties alone cost businesses some $15 million owed them.

The GAO report also found that some Government agencies are abusing discounts offered by businesses. Contractors will often offer the Government a discount if payment is made within a specified time frame. Yet, the GAO found that almost a fifth of the discounts taken by the Government occurred after the offered period had expired.

The problems documented in the GAO report are for the most part, directly attributable to agencies seeking to circumvent the act's provisions. Agency personnel have successfully found a number of loopholes in the act. By carefully exploiting these loopholes, Government bureaucrats have managed to undermine the intent of the Prompt Payment Act.

The legislation we are considering today will close these loopholes. S. 328 reaffirms that Congress meant what it said when we passed the Prompt Payment Act—the Government should pay its bills on time.

Mr. President, I would like to take a few minutes and discuss some of the loopholes which we close with S. 328.

One problem area has involved the 15-day grace period under the Prompt Payment Act. The act directed the Government to pay its bills within 30 days. However, the final version of the act provided agencies with a 15-day grace period in which to make timely payments. What we see are some Federal agencies routinely using the 15-day grace period to extend their payment terms. Thus, the 30-day payment deadline we thought we had established in the Prompt Payment Act has become a 45-day payment deadline in many cases.

This clearly flies in the face of the congressional mandate in the Prompt Payment Act. Yet, we see nearly a fifth of the payments covered in the GAO study were made during the grace period. I can only agree with the assessment of this abuse in the GAO report: "Paying almost a fifth of the payments during grace periods seems to defeat the purpose of having grace periods."

S. 328 speaks directly to this problem. Our bill phases out the grace period in two steps. The grace period is initially reduced to 7 days. And all grace periods are eliminated on October 1, 1989.

A second problem under the existing act has centered on automatic payment of interest penalties. The intent of the act and the regulations implementing the act are clear on this point—interest penalties are to be paid automatically when owed. Despite this clear directive some Federal agencies fail to pay interest when they pay their bills late. I indicated earlier that the GAO calculated that this practice cost business some $15 million over a 4-month period. I would add that GAO estimates there were some 278,000 unpaid interest penalties in that period.

The reason we see foot-dragging here is simple enough. Agency personnel look bad when they report they have to pay interest penalties. The Office of Management and Budget periodically reviews agency compliance with the Prompt Payment Act and focuses in on the question of interest payments. Thus, if a clever bureaucrat sends out a payment late, but withholds any interest penalty, he may be able to sneak by the eye of OMB. And the odds are that he or she will be successful.

A small business person who has waited to be paid on a Government contract will likely forego challenging the Government for the interest penalty. The business person has already seen how difficult it was to collect the billed amount. The owner can only imagine the headaches and paperwork which await if they try to obtain the interest penalty payment.

OMB's own figures suggest this particular abuse is widespread. OMB reported that for all of fiscal year 1985, some $7 million was paid in interest penalties. Contrast this with the $15 million in unpaid interest penalties GAO found over a mere 4 months. This huge discrepancy shows the Government is only paying a fraction of what it owes in interest penalty payments.

S. 328 squarely addresses this problem. First, we clarify that late payment interest "shall be paid without regard to whether the business concern has requested payment of such penalty." Now, such a directive standing alone is well and good. But, it is clear, Mr. President, that we need both the carrot and the stick when dealing with Government agencies. S. 328 also provides the stick.

Section 4 of the bill makes an agency liable for twice the interest penalty it owes a contractor when the following conditions are met. First, an agency must make a late payment to a contractor which contains only the principal amount due. No late interest penalty is included. Second, the contractor must make a written demand for the owed late interest penalty no sooner than 10 days, nor later than 40 days after the payment was made. Third, the agency is allowed 10 days from its initial payment to correct any inadvertent failure to include the interest penalty in the initial payment.

Given the poor track record of payment of interest penalties, I believe we have gone well out of our way to structure a system which stops the abuse in a responsible manner. The only officials which have anything to fear from this double interest penalty provision are those who are purposely withholding legitimate interest penalty payments.

Section 5 of the bill deals with interest penalties on progress payments and retainage. My colleagues who are versed in contract law and regulations will recall that progress payments are similar to partial payments for a partial delivery under a contract. And it was the intent of the original prompt payment act to include progress payments under the act's provisions. Unfortunately, some agencies have taken the attitude that progress payments are not covered by the Prompt Payment Act.

This poses a particularly acute problem for those in the construction industry. Construction contracts are often structured around progress payments. Failure to apply the Prompt Payment Act to these contracts leaves an important sector of our business community with no protection when the Government drags its feet on its bills.

Again, S. 328 speaks directly to this problem. Our bill contains language which makes it crystal clear that the Prompt Payment Act does apply to both progress payments and amounts retained by the Government on contracts.

Mr. President, S. 328 also addresses a problem continually cited by small businesses as a major concern—extending the protections of the Prompt Payment Act to subcontractors on Federal construction projects. We have been able to work with our colleagues, Senators LEVIN and QUAYLE, to fashion an approach to this problem which addresses many of their concerns while providing the fundamental protections we are all interested in. I will withhold further discussion of this language until we discuss the amendment which Senators LEVIN and QUAYLE will be offering as a committee amendment.

There are several other significant improvements to the Prompt Payment Act contained in S. 328. We clarify the act's application to periodic payments under some supply and service contracts. We clarify when the Government may legitimately claim a discount offered by a contractor. As I stated earlier, we had seen many cases where the Government was taking these discounts well after the discount period had expired. The changes to the act contained in S. 328 should cut down substantially on this particular abuse.

We also clean up some of the reporting requirements called for by the Prompt Payment Act. We have seen over the past few years that OMB's reports on the effectiveness of the Prompt Payment Act have left much to be desired. Current reporting requirements tend to present a distorted view of agency performance under the act. We believe that the reporting requirements contained in S. 328 will result in a more accurate and more complete picture of agency compliance under the Prompt Payment Act.

Mr. President, I stated at the outset of my remarks that S. 328 enjoys broad, bipartisan support. It addresses a very real and persistent problem—getting the Government to pay its bills on time. With this bill before us today we can address this problem and move closer to the goal we all are striving toward—making the Government a responsible business partner.

To underscore our commitment to this goal, I will be asking for the yeas and nays on S. 328. We need to send a strong signal to Government agencies and to our colleagues in the House that we are serious about improving the Government's bill paying practices. A solid vote in support of S. 328 will send that message loud and clear.

Mr. President, before yielding the floor, I would like to thank Bill Montalto, procurement policy counsel for the Senate Small Business Committee and Steve Ryan, chief counsel to the Governmental Affairs Committee for their valuable assistance on this measure. They have worked tirelessly with my own staff to expedite consideration of this measure and I appreciate their assistance.

I yield the floor.

EXHIBIT 1

S. 328, THE "PROMPT PAYMENT ACT AMENDMENTS OF 1987"

LISTING OF SUPPORTERS

[*Hearing record statement; + letter]

As of: October 6, 1987.

Organizations Supporting S. 328 [specific support for Section 7]:

National Federation of Independent Business*+ (key small business vote).

National Small Business United.*+

Small Business Legislative Council.*+

Coalition for Prompt Pay.*+

National Association of Credit Management.+

Professional Services Council.*+

Associated Builders and Contractors.+

Construction Management Association of America.+

Minority Business Enterprise Legal Defense and Education Fund.+

National Association of Minority Contractors.+

Building and Construction Trades Department, AFL-CIO.

American Subcontractors Association (ASA).*+

Associated Specialty Contractors (ASC).*+

Affiliated National Associations.

Mason Contractors Association of America.

Mechanical Contractors Association of America.*+

National Association of Plumbing-Heating-Cooling Contractors.*+

National Electrical Contractors Association.*+

National Insulation Contractors Association.

National Roofing Contractors Association.

Painting and Decorating Contractors of America.

Sheet Metal and Air Conditioning Contractors' National Association.*+

ADSC: The International Association of Foundation Drilling Contractors.+

American Architectural Manufacturers Association.

American Fire Sprinkler Association.

American Institute of Steel Construction.*

American Traffic Safety Services Association.+

Architectural Precast Association.

Association of the Wall & Ceiling Industries—International.+

Ceiling and Interior Systems Construction Association.+

Concrete Saving and Drilling Association.

Institute of the Ironworking Industry.

Insulation Contractors Association of America.+

National Association of Aircraft & Communication Suppliers.+

National Association of Elevator Contractors.

National Glass Association.+

National Ornamental of Miscellaneous Metals Association.

National Utility Contractors Association.+

Organizations Support S. 328 [in its entirety]:

American Consulting Engineers Council.+

American Logistics Association.+

ADAPSO.+

Association of Small Research, Engineering and Technical Services Companies.+

Computer and Business Equipment Manufacturers Association.+

Electronics Industry Association.+

National Association of Manufacturers.+

National Tooling & Machining Association.+

Scientific Apparatus Makers Association.*+

Organizations Supporting S. 328 [developing position on Section 7]:

U.S. Chamber of Commerce.*

Organizations Supporting S. 328 [opposing Section 7]:

Associated General Contractors of America.*+

COALITION FOR PROMPT PAY,
June 16, 1987.

Hon. JIM SASSER,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SASSER: On behalf of the Coalition for Prompt Pay, I am writing to convey our full and enthusiastic support for the Prompt Payment Act Amendments of 1987, S. 328 as reported out by the Senate Governmental Affairs Committee.

We have reviewed the changes which were made at your request by the Committee, and we are in full agreement with all the improvements in the bill. In fact, the bill is now stronger and more likely to achieve prompt payment than S. 2479, the version which was adopted by the 99th Congress on the Senate floor October 15, 1986.

We feel that S. 328 not only responds positively to the problems small businesses experience, but the bill also responds to the findings of the General Accounting Office's report on prompt pay titled Prompt Payment Act: Agencies Have Not Fully Achieved Available Benefits dated August, 1986. S. 328 also accomplishes one of the goals of the White House Conference on Small Business which made passage of prompt payment legislation one of its priorities.

In comparing the bill as reported to the statements of the witnesses testifying during the Senate hearing, March 19th, 1987, we feel S. 328 has captured fairly and equitably the concerns and suggestions of almost every witness.

We note that unlike the situation in 1981, when the Prompt Payment Act came to the Senate floor without the support of the Administration, S. 328 comes to the Senate floor with the support of Administration as relayed by the Office of Management and Budget.

During the committee mark up, only one amendment to your substitute was offered: to postpone by one year the effective date of the prompt pay for subcontractors provision. While that amendment was defeated, having attracted only three votes, in that it could be offered on the Senate floor during consideration of this bill, we feel it is important that you know the Coalition's position.

We support the subcontractor language (Section 7) in S. 328. Through bills and amendments, over the years the Senate has urged the Executive Branch to do more to involve small businesses, minority businesses, and women-owned businesses in performing work on Federal jobs and construction projects. Unfortunately, many small firms are not willing to do work on U.S. bases and installations because they fear being paid late by the general contractors who manage the overall contract for the government.

These small companies are unwilling to risk their company's credit rating, cash flow, and good will with employees by getting involved in a job where they may not be paid for months or where they have to suspend work before a job is done in order to secure promises that a previously unpaid bill will be paid.

When small subcontractors do not participate, the government gets less competition and higher prices.

Not all general contractors pay late when overseeing Federal work. But, enough do to cause subcontractors throughout the United States to come to the Coalition asking for our support, as they have come to you asking for your support. This is not the only place they have come: fifteen state legislatures have adopted prompt pay laws for subcontractors because subcontractors took their problems to the state capitols. As director of the Coalition for State Prompt Pay, I can report that there is keen interest in this subject among states that do not yet have a subcontractor provision in their state prompt pay law.

As reported by the Governmental Affairs Committee, S. 328 has new language which makes it very clear that the Federal government will not be involved in the enforcement of contractual agreements between general contractors and subcontractors. All S. 328 is doing is saying to general contractors: if you want to supervise billions of dollars worth of work for Uncle Sam, we want you to agree with each of your subcontractors that you will pay them according to industry standards—when you get paid, pay your subcontractors promptly.

Therefore, we see no need to amend this language in S. 328 further. We see no need to subject it to study, either by the General Accounting Office or by any other agency nor do we see a need to postpone the effective date of Section 7. The principle in Section 7 is very simple and should be effective on the same date as the rest of the law.

Senator Sasser, during the Committee mark-up you did a fine job of explaining S. 328 and I am confident you will succeed in presenting this bill to the Senate. You have the full support of the Coalition for Prompt Pay and the small business community.

KENTON PATTIE,
Director.

MEMBERS OF THE COALITION FOR PROMPT PAY

International Communications Industries Association (ICIA).
American Association of Nurserymen (AAN).
American Consulting Engineers Council (ACEC).
American Logistics Association (ALA).
American Meat Institute (AMI).
American Subcontractors Association (ASA).
Associated Builders and Contractors (ABC).
Associated Specialty Contractors (ASC).
Association for Information and Image Management (AIIM).
Association of the Wall & Ceiling Industries—International (AWCI).
Coalition for Common Sense in Government Procurement.
Door and Hardware Institute (DHI).
International Sanitary Supply Association (ISSA).
Mechanical Contractors Association of America (MCAA).
National Association of Manufacturers (NAM).
National Association of Plumbing-Heating-Cooling Contractors (NAPHCC).
National Association of Retail Druggists (NARD).
National Association of Wholesaler-Distributers (NAW).
National Association of Credit Management (NACM).
National Electrical Contractors Association (NECA).
National Moving and Storage Association (NMSA).
National Small Business United (NSBU).
Painting and Decorating Contractors of America (PDCA).
Sheet Metal & Air Conditioning Contractors National Association (SMACNA).
Small Business Legislative Council (SBLC).

NSBU,
March 4, 1987.

Hon. JAMES SASSER,
Senate Russell Office Building, Washington, DC.

DEAR SENATOR SASSER: On behalf of National Small Business United (NSBU), I want to express our steadfast support for S. 328, the Prompt Payment Act Amendments of 1987. NSBU, which is the merger of the former National Small Business Association and Small Business United, is a national network of local small business groups. Our 50,000 members strongly supported the passage of the legislation which became the Prompt Payment Act in 1982, and are as equally committed to S. 328, which strengthens the Act in many critical areas.

Although the Prompt Payment Act went a long way in compelling federal agencies to improve their billpaying practices, it is also clear that the Act's protections are being denied to far too many small businesses who provide supplies, services, and construction to the Government. After four and one-half years' experience under the Act, it is clear that the Federal agencies have successfully identified ambiguities and loopholes in the Act, and have exploited them to avoid the payment of the late payment interest penalties required if they fail to make timely payments. The hearings conducted by the Committee on Small Business during the 99th Congress thoroughly documented the problems being faced daily by small business government contractors. S. 328 provides the needed solutions.

The extent of the payment problems being suffered by government contractors have been further confirmed by a report issued by the General Accounting Office in August of 1986. GAO found that approximately 25 percent of the Government's invoices were still being paid after the due date. Early payment discounts, offered by contractors, were being improperly taken. GAO's auditors found unpaid interest penalties at 60 percent of the agency payment centers visited during their review. They found that some of these payment centers even had local policies not to pay a late payment interest penalty known to be due a contractor unless the contractor made a request. GAO found that 20 percent of the invoices which they sampled had been paid during the "grace periods" currently afforded to the Government by the Act, during which the agency may pay late without incurring any interest penalty.

On March 19, 1987, the Committee on Governmental Affairs has scheduled a hearing on S. 328. Representatives of the Office of Management and Budget will, no doubt, testify, arguing that legislation is unnecessary and that any necessary improvements can be made through changes to OMB Circular A-125 and the issuance of implementing procurement regulations. NSBU urges you to closely question their arguments. Such promises of administrative solutions have been made before, most recently to both the Senate Small Business Committee on June 19, 1986, and the House Government Operations Committee on July 29, 1986. Seven months later we are still awaiting publication of proposed changes to OMB Circular A-125 and for proposed procurement regulations that faithfully implement the Act, rather than seek to abrogate it. Further, many of us supporting S. 328 firmly believe that some of the most needed improvements to the Act can only be accomplished through changes to the law. For example, the bill's provisions relating to tightening the time available to the Government for acceptance of goods or services before incurring a late payment interest penalty for any delay and the gradual elimination of the "grace period," are just two needed improvements that require statutory changes.

NSBU also firmly believes that the amendments made by Section 7 are necessary to guarantee the protections of the Prompt Payment Act to subcontractors on federal construction projects. This important provision, which NSBU strongly supports as both workable and sound, will assure the Act's protections to construction subcontractors within the "four corners" of their agreements with the prime contractor. It provides the minimum essential deterrent to prime contractors who might otherwise be tempted to reap the financial gain of the interest accruing during whatever time (days, weeks, or months) such prime contractors might be able to stall the disbursement of funds received from the Government to one or more of their subcontractors for work identified to the Government as being complete and acceptable.

We trust that from your position on the Governmental Affairs Committee you will press for swift mark-up of S. 328 so that we may move toward fulfillment of Recommendation 32 of the 1986 White House Conference on Small Business, which calls for a strengthening of the Prompt Payment Act and the vigorous enforcement of the strengthened Act by the various Executive agencies. Many of us supporting this recommendation are hopeful that Congress will work toward its fulfillment by August of 1987.

Finally, we wish to thank you for carrying forward the work begun by Senator Trible in the 99th Congress. S. 328, the Sasser/Trible "Prompt Payment Act Amendments of 1987," will go a long way to attain the objective sought by both Congress and the small business community from the Prompt Payment Act of 1982.

Sincerely,

JACK GARDNER,
President.

SMALL BUSINESS LEGISLATIVE COUNCIL,
June 10, 1987.

HON. JAMES R. SASSER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SASSER: On behalf of the Small Business Legislative Council (SBLC), I wish to express our support for S. 328, The Prompt Payments Amendments Act, as reported by the Committee on Governmental Affairs.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of ninety trade associations representing over four million small businesses. Our sole mission is to represent the interests of small business in national policy matters.

Small business played an important role in securing passage of the original prompt payment act and at the 1986 White House Conference on Small Business, 1,800 small business owners voted to recommend enactment of the reforms included in this bill as one of their final sixty priorities.

We are pleased with the progress made to date as a result of the original law. However, as one might suspect, we could not anticipate all of the potential loopholes which existed in the original law. The bill reported by this Committee will result in significant improvements in the prompt payment system. We also believe it is time to recognize the importance of prompt payment to all businesses such as subcontractors, and we are pleased with the provisions of the bill which address this aspect of the problem.

We appreciate your efforts in sponsoring this legislation. We consider this matter most urgent and ask you to ensure consideration of this measure.

Sincerely,

JOHN S. SATAGAI,
President.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Alliance of Independent Store Owners and Professionals.
American Association of Nurserymen.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Dental Trade Association.
American Electronics Association.
American Machine Tool Distributions Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehousemen's Association.

Architectural Precast Association.
Associated Landscape Contractors of America.
Association of Physical Fitness Centers.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Warehouse Distributors Association.
Building Service Contractors Association International.
Business Advertising Council.
Chicago Gift Show Inc.
Christian Booksellers Association.
Dental Dealers of America, Inc.
Direct Selling Association.
Electronic Representatives Association.
Florists' Transworld Delivery Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Insurance Agents of America, Inc.
Independent Medical Distributors Association.
Independent Sewing Machine Dealers Association.
International Association of Refrigerated Warehouses.
International Bottled Water Association.
International Communications Industries Association.
International Franchise Association.
International Reciprocal Trade Association.
Jewelers of America.
Latin Amerian Manufacturers Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Mechanical Contractors Association of America, Inc.
Menswear Retailers of America.
National Association for the Self-Employed.
National Association of Aircraft and Communication Suppliers.
National Association of Brick Distributors.
National Association of Catalog Showroom Merchandisers.
National Association of Chemical Distributors.
National Association of Development Companies.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Manufacturing Opticians.
National Association of Personnel Consultants.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Realtors.
National Association of Retail Druggists.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Association of Women Business Owners.
National Candy Wholesalers Association.
National Chimney Sweep Guild.
National Coffee Service Association.
National Council for Industrial Innovation.
National Electrical Contractors Association.
National Fastener Distributors Association.
National Grocers Association.
National Independent Dairy-Foods Association.
National Moving and Storage Association.
National Office Products Association.
National Parking Association.
National Precast Concrete Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
Opticians Association of America.
Petroleum Marketers Association.
Printing Industries of America, Inc.
Retail Floorcovering Institute.
Small Business Council of America, Inc.
Smaller Manufacturers Council.
Society of American Florists.
Specialty Advertising Association International.
United Bus Owners of America.
Web Sling Association.

PROFESSIONAL SERVICES COUNCIL,
Washington, DC, April 16, 1987.

Hon. JAMES SASSER,
Committee on Governmental Affairs, Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: On behalf of the Professional Services Council (PSC), I want to thank you for introducing S. 328, the proposed "Prompt Payment Amendments of 1987". PSC supports and endorses the legislation and considers it a constructive effort to improve the Prompt Payment Act of 1982.

PSC's membership includes six trade associations and seventy-five companies in the professional and technical services industry, the majority of which are small. PSC members include research and development firms, independent laboratories and test facilities, architect and engineering firms, systems integration and support activities, program analysis and evaluation companies, computer software development companies, engineering houses and public accounting firms, to name a few. Their personnel include engineers, mathematicians, chemists, physicists, statisticians, computer scientists and programmers, artificial intelligence specialists, lawyers, accountants, program analysts, operations research experts, and specialists from numerous other disciplines. The typical member of PSC is actively involved in federal procurement.

During the past eighteen months, a number of procurement laws have been enacted or proposed which would have a severely negative impact on the professional service industry's ability to provide professional services of a high quality to its federal customers in a timely, cost-effective way.

These proposals include capping Department of Defense (DoD) appropriations for contractor support services, placing arbitrary limits on executive compensation levels for senior executives serving government contractors, and most recently, significantly reducing contract profit levels for the professional and technical services industry. By way of contrast, the proposed amendments to the Prompt Payment Act represent a very positive improvement in the present process which, if enacted, will treat services companies working for the federal government more equitably.

The pending legislation would also implement a major recommendation of the 1986 White House Conference on Small Business. The Conference urged that prompt pay legislation be strengthened through amendments to the 1982 Prompt Pay Act and vigorously enforced by all branches of government.

Additionally, during the 99th Congress the Senate Small Business Committee conducted two oversight hearings on the implementation of the Prompt Payment Act which verified that many government contractors are still plagued with untimely payments and related problems in securing reimbursement for legitimate fees and expenses incurred on government contracts, despite the modest improvements in recent years in the bill-paying practices of the federal government. Their 623 pages of printed hearing record has been well utilized by the Committee in considering S. 2479, the "Prompt Payment Act Amendments of 1986", unanimously reported by this Committee and passed by the Senate in the closing days of the last Congress.

One of the most significant aspects of the financial operations of a typical service firm, in particular a smaller firm, is cash flow. The timeliness with which a company can secure payment for its monthly invoices can make the difference between the ultimate success or failure for the smaller company. To state the obvious, cash flow represents the life blood of these types of companies. When the Prompt Payment Act was enacted into law several years ago, many in the government contracting community believed that, at long last, serious attention would be given to the timely payment of government contractor invoices and that the long delays in receipt of payments, which were the accepted practice, would be a thing of the past.

Sadly, the experience has been that agencies have exploited ambiguities and loopholes in the Act to strip away its protections in an ever growing number of cases. The Office of Management and Budget (OMB) has pressured agencies to adopt cash management techniques to hold down interest penalties benefiting the government at the expense of government contractors. When this practice became apparent, OMB witnesses in 1986 testimony before the Senate Small Business Committee and the House Government Operations Committee, promised prompt and effective administrative actions to correct the problem through an amendment to OMB Circular A-125 (Prompt Payment).

As of March, 1987, no proposed revision to OMB Circular A-125 has yet been published for public comment. On March 18, 1987, a day before the Committee's hearing, a proposed amendment to implement the Prompt Payment Act of 1982 to the government-wide Federal Acquisition Regulation (FAR) was published for comment, five years after Congress had requested the rules implementing the Act be promulgated. Very belatedly, the Reagan Administration endorsed the Prompt Payment Act Amendments in S. 328. This history of federal delays and inaction make the need for new legislation more apparent.

In further support of the pending bill, PSC would like to stress that professional services firms have experienced serious problems involving the taking of discounts by the government after the discount period specified in the contractor's invoice, the failure of the government to pay late payment interest penalties when due, and the abuse by the government of the fifteen-day payment grace period. Perhaps the most onerous deficiency in the present Prompt Payment Act is the unlimited time given to the executive agencies to accept the supplies or services provided by the contractor and grant approval for payment of the invoices associated with these supplies or services.

Typically, for an invoice submitted by a company in the professional and technical services industry, the payment clock does not start until a proper invoice is received at the government payment center. However, at many government agencies, a long and time-consuming approval process must transpire before the invoice is considered received at the payment center.

Under the present Prompt Payment Act, all of these approval hurdles must be successfully cleared before the invoices are sent to the government payment center and the 45-day (30 days + 15-day grace period) payment clock begins. Taken together, the three-step process described above can add as much as 32 days to the processing cycle for a legitimate professional services invoice.

Thus, with 32 days for approval and 45 days for payment processing and disbursement, the entire process can take nearly 80 days to complete. It should be noted that this 80-day period falls 15 to 30 days after the contractor has actually incurred the cost (i.e., payroll and related expenses) for the services provided.

The total timeframe can be in excess of three months, from contractor payment of expenses to contractor receipt of the cash from the government as reimbursement for such expenses. The significant delay falls in the time period for invoice approval, and represents the area in which the highest level of attention must be directed if the payment process is to be significantly improved.

The amendments to the current Prompt Payment Act that are embodied in the Committee's proposed legislation correct many of the deficiencies which exist in the present government payment process. The requirements for double interest penalties on late interest payments to contractors, the phase-out of the 15-day grace period, and the more stringent limitations on discount payments together represent important improvements in the Prompt Payment Act of 1982.

The proposed amendment in Section 3, which deals directly with the definition of agency receipt and which specifies that the head of the agency is deemed to receive an invoice on the later of the actual date of receipt of a proper invoice, or the fifth day after the date on which the property or services are delivered, is a noteworthy move toward a solution for the significant delays present in the agency aproval process for contractor invoices.

Amendments in Section 5 of the bill clarify that interest is payable for late progress payments and retained amounts on construction contracts, eliminating interpretation by agencies that the Act does not apply to progress payments.

Section 7 extends the protections of the Prompt Pay Act to subcontractors under federal construction contracts by establishing minimum standards for the payment clause to be included in the subcontract agreement between the prime contractor on a federal construction project and its subcontractors. It also entitles the subcontractor to a late payment interest penalty at the same rate prevailing between the government and the prime contractor in the event that the prime contractor fails to make timely payment in accordance with their subcontract agreement. The section recognizes the "prevailing industry standard" for payment of subcontractors by the prime contractor within seven days after receipt of payment from the government. We support this provision because timely payments of subcontractors is a sound business practice, and will significantly contribute to the timely completion of the public works being undertaken.

In total, the Prompt Payment Act Amendments of 1987 clearly represent a substantial improvement over current federal practices. PSC commends your leadership and continued support on the subject of prompt payment for government contractors and would welcome the opportunity to work with you to ensure passage of this important legislative initiative.

Sincerely,

VIRGINIA LITTLEJOHN,
Executive Director.

ASSOCIATED BUILDERS
& CONTRACTORS, INC.,
Washington, DC, April 29, 1987.

Hon. JOHN H. GLENN, Jr.,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GLENN: Associated Builders and Contractors (ABC) strongly urges you to support S. 328, the Prompt Payment Act Amendments of 1987, including Section 7, Prompt Pay for Subcontractors, during Government Affairs Committee markup on April 30.

ABC is a national construction industry trade association representing 19,000 general contractors, subcontractors, and construction industry suppliers. ABC members adhere to the Merit Shop construction philosophy and believe that construction contracts should be awarded to the lowest qualified bidder regardless of labor affiliation.

As you know, one provision sparking debate about S. 328 is Section 7 which requires prompt pay for subcontractors by general contractors on federal projects. Though ABC supports the right of subcontractors to receive timely payment for services rendered and has always urged our members to adhere to sound, equitable business practices, we have chosen in the past to remain neutral with regard to a federal requirement.

However, after extended analysis and discussion, ABC now believes that if a federal mandate is required to ensure subcontractor prompt pay on federal projects, it should be designed along the following guidelines.

ABC supports subcontractor prompt pay legislation if it encourages all members of the building team to include a reasonable payment provision in their contract, that such agreement result in timely payment for all parties once general contractors have received payment from the federal government, and that prompt pay requirements not apply when a dispute exists with regard to performance or payment. ABC strongly encourages both general contractors and subcontractors to pay suppliers in a timely fashion as well.

ABC believes that Section 7 is a good faith effort to meet these guidelines and urges the committee to pass S. 328 in its entirety.

Thank you for your time and consideration.

Sincerely,

CHARLES E. HAWKINS III, CAE,
Vice President, Government Affairs.

AMERICAN LOGISTICS ASSOCIATION,
Washington, DC, June 9, 1987.

Hon. JIM SASSER,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR SASSER: The American Logistics Association strongly supports S. 328, the Prompt Payment Act Amendments, to strengthen the Prompt Payment Act. We commend you for your leadership on this issue and look forward to Senate passage of the bill.

The American Logistics Association represents more than 450 companies who supply products for Department of Defense commissaries, exchanges, and troop subsistence systems. The association advocated the original prompt payment legislation so that the government would pay its bills on accepted commercial terms.

Failure of federal agencies to abide by commercial payment terms has been a continuing problem. Among the manufacturers who have encountered this difficulty are those who produce dairy, shortening and food oils products. In these industries, 10 day payment terms prevail.

In many cases the government has flatly refused to consider payment in less than 30 days. This has imposed substantial costs on many of our members. Moreover, although the government pays late, it insists on receiving prices as advantageous as the prices paid by private sector buyers paying on normal commercial ten day terms.

To remedy this problem, we urge you to support an amendment to S. 328 to require payment in ten days for dairy products, including cheese and process cheese products, along with food oils and shortenings products. It is worth noting that some agencies are now paying on ten day terms, so there is no question that the agencies have the capacity to pay on prompt terms. As you know, Congress has acted in the past to provide special payment terms for products such as meat that are sold on prompt payment terms in the private sector.

Without direct action by Congress, we fear that the government will continue to ignore commercial practice. Worse yet, we fear that the few agencies now honoring industry payment terms will be directed to follow slower payment practices.

Sincerely,

A. KOLBET SCHRICHTE,
Executive Vice President.

AEROSPACE INDUSTRIES ASSOCIATION
OF AMERICA, INC.,
Washington, DC, July 8, 1987.

Hon. JIM SASSER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SASSER: On behalf of the members of the Aerospace Industries Association (AIA), I urge your support of S. 328, the "Prompt Payment Act Amendments of 1987", as reported by the Committee on Governmental Affairs. If properly implemented these amendments will move the Federal Government's payment practices closer to the goals sought when the Congress enacted, and the business community supported, the Prompt Payment Act of 1982. Further, we urge you to oppose any amendments which would weaken or delay any of the bill's provisions. In particular, we would urge you to oppose any amendment which would directly or indirectly result in the slowing of progress payments to government contractors so long as these contractors are performing in accordance with their contractual obligations.

AIA is the national trade association for America's aerospace companies engaged in the research, development, and manufacture of the full array of aerospace products and services, including aircraft, missiles, space craft and their launch vehicles, and their propulsion, guidance, and control systems. AIA's 49 members had sales totalling $103.5 billion during 1986. Most of AIA's members are major Federal contractors.

S. 328 makes several valuable improvements to the Prompt Payment Act, which could improve the timeliness of payments due to contractors, if properly implemented. For example, it clarifies "receipt of invoice", shifts the burden to the Government of lengthy and unexpected "acceptance" periods, and emphasizes the Government's obligation to automatically pay interest penalties for untimely payments. It is of particular note to AIA's members that the Governmental Affairs Committee rejected the suggestion of the Office of Management and Budget to amend S. 328 to cover all progress payments. The Committee correctly observed that such action would likely result in the slowing of such payments, the exact opposite of the overall goal of the Prompt Payment Act.

Effective implementation of the Prompt Payment Act of 1982, can be enhanced through the enactment of S. 328. Timely payments are vital to all who furnish supplies and services to the Government.

Sincerely,

Don Fuqua.

ASRET,
Vienna, VA, July 21, 1987.

Hon. James R. Sasser,
U.S. Senator, Washington, DC.

Dear Senator Sasser: On behalf of the members of the Association of Small Research, Engineering and Technical Services Companies (ASRET), I urge you to support S. 328, the "Prompt Payment Act Amendments of 1987", as reported by the Committee on Governmental Affairs. Further, we strongly urge you to oppose any amendments to S. 328 which would weaken or delay *any* of its provisions.

ASRET represents a broad array of small professional services firms, across the Nation, who daily furnish important products and services to many federal offices within the Defense Department as well as the civilian agencies. As small businesses, ASRET's members are particularly sensitive to Government policies and practices impacting directly or indirectly on cash flow.

S. 328 clarifies the Prompt Payment Act in several very important areas which could substantially improve the timeliness of payments due to those who supply services, supplies or construction to the Federal Government, if properly implemented through the regulatory process. It is particularly important to ASRET's members that the Governmental Affairs Committee did not accept the recommendation of the Office of Management and Budget to modify the bill to cover progress payments for other than those associated with construction projects. The Committee correctly perceived that such an amendment would undoubtedly have resulted in the slowing of many progress payments, precisely the opposite of what is intended by the Act and the amendments contained in S. 328.

Can ASRET's members count on you to vote for S. 328 and to vote against amendments which would weaken or delay any of its provisions?

Sincerely,

R. Kenneth Misner,
President.

Mr. TRIBLE. Mr. President, I am pleased that the Senate is considering the Prompt Payment Act Amendments of 1987. This measure is virtually identical to legislation I sponsored last year which the Senate unanimously passed. This year Senator Sasser and I have joined forces in support of this measure. I thank him for his leadership.

Private industry and citizens are required to pay their bills on time or pay interest penalties if payment is late. However, it was only recently that the Federal Government began making timely bill-paying its normal practice. The Prompt Payment Act of 1982 established a payment system for the Federal Government: definite payment standards, penalties for failure to meet those standards and annual reporting to Congress on progress under the act.

As a result of the 1982 act, the Federal Government's payment practices have greatly improved.

However, problems remain and those problems are addressed in this legislation. The Prompt Payment Act requires the Federal Government to pay most bills within 30 days or pay interest on the late payment. Despite this statutory requirement, far too many contractors are required to wait more than 30 days to receive payment for their goods and services. When payments are finally made, they often fail to include the required interest or reflect a discount rate the Federal Government does not deserve.

Mr. President, these practices violate the letter and the spirit of the law. They are unfair to those people doing business with the Federal Government. Moreover, as a consequence of these practices, many highly qualified and competitive contractors now refuse to do business with the Federal Government. They have withdrawn from the Federal marketplace because many of them—especially small businesses—cannot afford the financial burdens Government work imposes. Thus competition for Government contracts is reduced, and everyone loses—contractors, the Government, and ultimately the taxpayers.

Today, we have the opportunity to adopt legislation which corrects problems associated with the original act and ensure that the Federal Government pays its bills on time. The Prompt Payment Act Amendments of 1987 closes loopholes in existing law and firmly establishes the principles of timely payment in all phases of federal procurement contracting.

This measure eliminates the lengthy period agencies take to receive, accept, and certify products and services. This process will now take no longer than 5 days unless the contract specifies a longer period.

This legislation ensures that no payments are held beyond the due date without payment of interest penalties. This is accomplished by eliminating the existing grace period, a feature which is no longer necessary now that agencies have substantial experience with the Prompt Payment Act.

Penalties for late payments are increased to improve the incentive to get the job done on time.

Existing law is strengthened to ensure that discount rates are taken only when payments are made within a specified time.

Progress payments and retainage under construction contracts are specifically included under the provisions of the Prompt Payment Act to ensure that the intent of the 1982 act is fully implemented.

This legislation also expands application of the Prompt Payment Act to include subcontractors under construction contracts. This is an important first step in ensuring payment when payment is due and paying interest if payment is late in all phases of Federal procurement.

Finally, this bill includes provisions aimed at improving the reports Congress gets for oversight purposes. We must have the right data to accurately assess the Government's bill-paying practices.

Mr. President, these provisions and others in the bill will eliminate the red-tape, delay, and complicated procedures and result in clear, efficient payment procedures for the Federal Government. Contractors and taxpayers deserve nothing less.

I urge my colleagues to support this reform measure.

So I urge my colleagues to support this reform measure. I understand that there are over 90 Members of the Senate who have now cosponsored this measure. I welcome their support.

Again I want to acknowledge the leadership of Senator Sasser who is the manager of this bill and has spoken in support of the measure. I also want to recognize the leadership of the Senator from Maine [Mr. Cohen] in the last Congress and in the 100th Congress. Senator Cohen has helped push this legislation forward.

Finally, I want to also acknowledge the very fine assistance rendered by a number of very able Senate staffers: Lori Beth Feld, my right arm, my legislative director; Senator Sasser's staff, Bill Montalto of the Small Business Committee who has played a very important role in making this legislation a reality. Also I want to acknowledge the efforts of the Governmental Affairs Committee staff, Mike Mitchell of Senator Roth's staff and Mary Gerwin of Senator Cohen's staff.

Then there are a number of outside organizations which have stood up and spoken out and underscored the importance of the Congress taking action: Kenton Pattie and the prompt payment coalition; the American Subcontractors Association, the Associated Specialty Contractors, and the National Federation of Independent Business.

There are others, but I want to specifically acknowledge the leadership of these organizations and the very able assistance of these talented Members of the Senate team.

Mr. TRIBLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. TRIBLE. I yield to the Senator from Delaware such time as he may require.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in support of S. 328, the Prompt Payment Act Amendments of 1987. This proposal is similar to legislation passed by the Senate in 1986, but not considered in the House of Representatives. S. 328 was the subject of a hearing before the Governmental Affairs Committee on March 19 of this year and on May 19 the committee voted unanimously to report the bill.

Mr. President, the legislation before us today presents an excellent opportunity for the Members of the Senate. The Prompt Pay Act amendments are an opportunity, first, because they permit us to take a good piece of legislation and make it better.

Congress enacted the original Prompt Pay Act in 1982 to improve the bill paying practices of Federal Government agencies. Before passage of the act, only 61 percent of the Government's bills were paid within 30 days, creating a particular hardship for small firms doing business with the Federal Government. Prior to 1982, bills routinely were paid without regard to contract terms, to the effect on vendors' cash-flow, or to the Government's interest costs.

By all indicators, the original Prompt Payment Act has substantially improved the bill paying practices of the Federal agencies. Analyses conducted by the General Accounting Office and other groups monitoring the implementation of the law indicate that the incidences of late payments by the agencies have been reduced by more than 50 percent.

Clearly, however, problems remain. Some agencies have interpreted the 1982 law in order to permit continued late payments to contractors, while others simply appear to be ignoring the provisions of the act. These Prompt Pay Act amendments now before the Senate are designed to remedy such problems and bring the remainder of the Federal agencies into compliance with the intent of the original act.

These amendments are an opportunity also, Mr. President, because they give us the chance to back our rhetoric with action in regard to our Nation's small business community. Small business is a vast job creating machine in our economy, far outpacing the job creating capacity of larger firms. The majority of firms contracting with the Federal Government are small businesses. And small businesses provide the foundation for the strong sense of community that we value so highly in our Nation.

While all firms doing business with the Federal Government will benefit from these amendments, small businesses are especially hurt by the Government's late payment practices and, therefore, will benefit the most from these changes. Today there are over 3,000 small business owners in the State of Delaware. In fiscal year 1986, small firms in Delaware transacted nearly $32 million in business with the Federal Government. These Delaware business owners will benefit directly from the passage of this important legislation.

The amendments clarify and strengthen the Prompt Payment Act in a number of important ways. They clarify the starting point for the act's payment clock by more clearly defining receipt of invoice and they specify the act's intent that late payment interest penalties be paid automatically. Increased penalties are permitted in the event that agency personnel withhold a late payment interest penalty due to a contractor.

Additionally, the amendments phase out the 15-day grace period for late payments which is routinely abused by some agencies. They underscore the act's prohibition against the Government taking "early payment" discounts after the expiration of the contractor's specified discount period and stipulate that subcontractors on Government jobs be paid promptly by the contractors for work adequately completed.

The amendments also state the act's coverage of contractors selling to the U.S. Postal Service, strengthen the act's requirements for Office of Management and Budget reports to Congress on implementation of the act and require that the act be implemented through the Governmentwide Federal Acquisition Regulation [FAR].

These amendments constitute a well-reasoned and legitimate effort to strengthen an act that has vastly improved the way that the Government does business. The Prompt Pay Act amendments will help to ensure that all businesses performing work of acceptable quality for the Federal Government will receive the money due them in a timely manner. I am pleased to cosponsor the legislation and encourage the support of each of my colleagues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Illinois.

Mr. DIXON. Mr. President, today I rise in support of the Prompt Payment Act Amendments of 1987. This legislation strengthens the position of prime contractors and subcontractors in dealing with Federal contracting agencies' bill paying practices.

The Prompt Payment Act originally became law in 1982. The intent of the act was to ensure that Federal agencies pay their contractors in a timely manner or face paying interest penalties on overdue invoices. However, in the 5 years since the law was enacted, many loopholes have been discovered. It is now time to fine tune the language of the law to mirror the original intent.

The disappointing results of last year's General Accounting Office survey of Federal agency payments are well chronicled. I will not take this opportunity to rehash the statistics. Suffice it to say, Government agencies do not all pay contractors on time and many of them are not paying the required interest penalty on late payments.

This legislation addresses those issues. It more clearly defines the starting point for the payment period as the receipt of a proper invoice by the payment office or the date of formal acceptance of material, service, or construction whichever is later.

Further, this law phases out the much-abused 15-day grace period for late payments and institutes automatic late payment penalties. It defines the discount time period as the date of receipt of the invoice until the date of payment and provides for periodic payments under supplies and services contracts.

Section 7, the section of the legislation that deals with payment of subcontractors under the construction clause, has received a great deal of attention. I understand that there are certain groups that have concerns about this section of the legislation and that a compromise amendment is to be introduced by my good friend from Michigan, Senator LEVIN.

There is a broad base of support for this legislation in the small business community. It is the small business community, the segment which can least afford payment delays, that bears the brunt of the Government fiscal mismanagement and delay. But all businesses that deal with the Federal Government deserve to be treated fairly, professionally, and within the spirit of enacted legislation. These people are in need of our help now. They need additional legislation to close the loopholes remaining from the 1982 Prompt Payment Act. And I am pleased to be a cosponsor of legislation that will do that.

Mr. President, I believe that the 1987 amendments to the Prompt Payment Act will send a message to the Federal agencies that they may no longer use their size and bureaucratic idiosyncrasies to their advantage. This legislation will provide an even footing for those seeking payment from the Federal Government for contracted work. It serves as the weapon to help the "Davids" of the business community perform under contract and receive prompt payment from the "Goliath" of government.

Mr. BYRD. Mr. President, passage of S. 328, the Prompt Payment Act Amendments of 1987, is of great importance to our Nation's businessmen that do business with the Federal Government. It is only proper that those businesses that provide important goods and services for our Government be paid in a timely manner.

This legislation will require the Government to pay its contractors by the due date specified in the contract or within 30 days in the absence of a contractural due date. If the payment is not made by the due date, the bill entitles the contractor to a late payment interest penalty.

Provisions of S. 328 are also of particular importance to our Nation's small businessmen. Small businessmen are the backbone of our Nation's free enterprise system. They are also the hardest hit when Government payments for goods and services are late.

Provisions in this legislation will ensure that small businessmen who subcontract on a Federal contract will be paid in a timely manner and not be forced to undertake expensive financing costs to cover their operation costs because they are not receiving payments on their Federal work in a timely fashion. The provisions in the bill will allow subcontractors to know in advance the payment terms when they enter into a Federal contract, and thus encourage more small business participation in Federal contracts.

I want to thank Senator SASSER and Senator TRIBLE for their continued hard work on this important piece of legislation, and I urge its enactment.

Mr. BURDICK. Mr. President, I've been a cosponsor of prompt pay legislation since the outset in 1982 and I'm pleased to lend my support to the third and, I hope, final effort here in the Senate to adopt a standard of 30 days for payment for Government purchases of goods and services.

The many businesses, particularly small firms, whom we have encouraged to take part in Government contracts want to continue to participate in these Government sales. They do not want, however, and cannot afford to carry the Government's unpaid bills for many months. S. 328 provides the tools by which we can assure that payments will be made reliably on time, or if not, companies will be compensated through the payment of interest penalties for the delay.

Those of us who supported the 1982 Prompt Payment Act were pleased that following enactment, there was a significant improvement in the Government's bill-paying performance. However, little by little, we became aware that too many payments were still slipping through cracks and agencies were finding too many ways to misinterpret the law and delay payments. The General Accounting Office in 1986 confirmed what many of us were hearing from our constituents: As many as 24 percent of Federal payments were still being made after the due dates. GAO also reported that interest penalties were seldom paid—only one in six interest penalties due during the test period was actually paid.

Following the publication of the GAO report, we passed a bill, S. 2479, in the 99th Congress which because of the pressures of adjournment did not clear the other body. We have before us today a new and improved version of the amending legislation, S. 328, and I urge my colleagues to join with me in voting for this bill.

Mr. President, S. 328 has been cosponsored by 83 Members of the Senate. Our endorsement is clear: We stand firm in our support of prompt pay.

Mr. SYMMS. Mr. President, I am proud to be an original cosponsor and strong supporter of S. 328, the Prompt Payment Act Amendments of 1987. The Prompt Payment Act was originally enacted in 1982, and the bill-paying practices of the Federal Government have undoubtedly improved. However, because of the loopholes in that 1982 legislation, some Government agencies have continued to exploit the services rendered by the contractors by not paying in a timely fashion. I believe S. 328 is important to ensure that our Federal Government continues to live up to its obligations to pay its bills on time.

S. 328 will enhance the original Prompt Payment Act by closing loopholes. The amendments are designed to clarify the date on which payments become due, make the payment of interest automatic, and to phase out a 15-day grace period that often has been abused by some Government agencies. These amendments will ensure that the Federal Government accords the same treatment to private businesses that those businesses expect and deserve from each other. Many businesses, especially small businesses, simply cannot afford the financial strain of waiting an inordinate period of time for the Feds to pay their bills. S. 328 provides greater protection to these businesses.

I am pleased this Congress is acting forcefully to close loopholes in the Prompt Payment Act of 1982. I encourage this and future administrations to fully implement the law as intended by Congress.

Mr. DIXON. Mr. President, if my colleagues have yielded back the remainder of their time on the remarks in support of the bill, I have an agreed upon amendment I would like to have adopted.

The PRESIDING OFFICER. The Senator may proceed.

There is a short period of 40 seconds which the Chair will reserve for the rights of Members. The Senator is in order in offering his amendment.

Mr. TRIBLE addressed the Chair.

The PRESIDING OFFICER. Is the Senator from Virginia addressing the Chair?

Mr. TRIBLE. I am, and simply to yield back the remainder of our time so we can proceed smartly ahead.

The PRESIDING OFFICER. The Chair thanks the Senator from Virginia.

The Senator from Tennessee.

Mr. SASSER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. Mr. President, my time has expired, has it not?

The PRESIDING OFFICER. The Senator still has 40 seconds remaining.

Mr. SASSER. I yield back the remainder of my time.

The PRESIDING OFFICER. The Chair thanks the Senator from Tennessee.

The general debate time has been yielded back.

The Senator from Illinois is recognized for the purpose of submitting an amendment.

Mr. DIXON. Mr. President, I thank the Chair. I thank my colleagues, the managers of the bill, the distinguished Senator from Tennessee and the distinguished Senator from Virginia.

AMENDMENT NO. 945

(Purpose: To provide for the prompt payment of contractors for dairy and other products)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself and Mr. KASTEN proposes an amendment numbered 945.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 17, strike out "(6);" and insert in lieu thereof "(7);"

On page 21, line 19, strike out "(4)".

On page 21, line 20, strike out "'(4) and insert in lieu thereof "'(5)".

On page 22, strike out lines 9 through 13, and insert in lieu thereof the following:

PAYMENTS FOR DAIRY AND CERTAIN OTHER PRODUCTS AND PERIODIC PAYMENTS UNDER SUPPLY AND SERVICE CONTRACTS

SEC. 6. Section 3903 of title 31, United States Code, as amended by section 5, is further amended—

(1) by inserting after clause (3) the following:

"(4) for the acquisition of dairy products as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e))), the acquisition of edible fats or oils, and the acquisition of food products prepared from edible fats or oils, provide a required payment date of not later than 10 days after the date on which a proper invoice for the amount due has been received by the agency acquiring such dairy products, fats, oils, or food products;"; and

(2) by inserting after clause (5) the following:

On page 22, line 14, strike out "'(5)" and insert in lieu thereof "(6)".

The **PRESIDING OFFICER**. The Senator from Illinois.

Mr. **DIXON**. Mr. President, in keeping with the intent of the Prompt Payment Act, I am today proposing an amendment to ensure that Federal bill paying practices are brought into line with the private sector for dairy products, as defined by the Dairy Products Stabilization Act of 1983, as well as edible fats and oils, and food products prepared from edible fats and oils.

A 10-day payment period is standard in this industry, but the Federal Government has been reluctant to adhere to those payment terms—even when the ten day payment is specified in the Federal supply contract. Some agencies and contracting officers have indicated they will only pay contractors on 30-day terms.

Mr. President, the irony of this situation is that the Government insists on being given "most-favored customer" status in this industry, but it doesn't want to abide by the conditions of the industry. The agencies want the best of both worlds. They want to take advantage of the lowest prices available to the dairy private sector, but they also want to be given three times the private-sector interval in which to pay for the products. They should not be allowed to take advantage of those with whom they do business.

This situation was noted in the report of the Committee on Governmental Affairs which was published in June of this year.

This is not just a "fair play" issue. There are firms in this industry which suffer financially when they do business with the Government. There is a heavy cost burden associated with these Government practices. The dairy industry and the purchasers of commercial dairy products are paying for the Government's abuse.

The dairy companies price their products anticipating the usual 10-day payment interval. So, any company that purchases from the dairy industry is compensating for the Government's slow payment. In addition, a payment delay of 30 to 60 days puts an administrative cost burden on the industry which can run into the million of dollars annually.

Mr. President, some Government agencies currently pay under these 10-day terms. So there is no question that it is possible. The agencies have the ability to pay on time. If the Government expects industry prices, it should pay on industry terms.

The purpose of the Prompt Payment Act is to bring Federal bill-paying practices in line with prevailing practices in the private sector. This amendment highlights an industry whose problems would remain unresolved by the improvements of the prompt payment legislation.

Mr. President, I urge the Senate to rectify the inequity of this situation.

I ask unanimous consent that letters from members of the industry explaining their grievances be printed in the RECORD, as well as a more detailed list of products to be covered by this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE LOGISTICS AGENCY,
Philadelphia, PA, December 9, 1985.

Mr. SAM PHELPS,
Vice President, Military and Export Sales, Kraft, Inc., Glenview, IL.

DEAR MR. PHELPS: I am in receipt of your letter dated November 8, 1985, wherein you expressed Kraft's dedication in improving support to our Commissaries throughout the world. Such support in behalf of Kraft is extremely important and appreciated.

Your concerns relative to payment terms have been reviewed and regrettably your request to have this Center change its current policy of paying invoices on a net 30 basis to a net 10 basis cannot be accommodated. DPSC is required to comply with Public Law 97-177, Prompt Payment Act, dated 21 May 1982 and all DOD/DLA directives pertaining to the act, which preclude such changes.

Internal cash management principles in conformity with Office of Management and Budget (OMB) Circular A-125 requires that payment by the Defense Logistics Agency in these circumstances will be made as close as possible to, but not later than, the thirtieth day after receipt of a proper invoice, or acceptance of the item, whichever is later.

Regarding your proposed alternative payment procedure, the Assignment of Claims Act of 1940, 41 U.S.C. 15, prohibits the transfer of Government Contracts, thus precluding us from making payments directly to your wholesale grocers, since this would be, in effect, a transfer of your Supply Bulletin. Accordingly, your proposal to have Kraft be paid by the wholesale grocers, who in turn would bill and be paid by the Commissary, is not consistent with the requirements of the Public Law.

As always, I appreciate your efforts to serve our customers and look forward to your continued support.

Sincerely,

JOHN H. RUEHLIN.

DEPARTMENT OF THE ARMY,
Fort Lee, VA, December 26, 1985.

Mr. SAM PHELPS,
Vice President, Military and Export Sales, Kraft, Inc., Glenview, IL.

DEAR MR. PHELPS: I am in receipt of your letter dated December 11, 1985 expressing concern over payment of military accounts receivables. It is hoped that a solution to the problem can be found and implemented. The Prompt Payment Act, at first glance, would appear to offer a solution since its intent is to ensure timely payment. However, the act is a two-edged sword. Its requirement to pay all accounts within 30 days coupled with DOD's cash management policies eliminate our capability to process any net account in less than 30 days. As a result, both the Defense Personnel Support Center and this Agency's contractual arrangements contain provisions which state net payment terms offered on less than a 30 day basis will not be accepted.

Your proposed option to have wholesale grocers sell and bill direct to CONUS commissaries may be a solution; however, it does have some drawbacks which must be considered. The contractual arrangements would have to be established with each individual wholesale grocer, who would then be in the position of determining the selling price to the government. This may hamper your current promotion policies, such as regional offers.

My staff is available to discuss your proposed option or other alternatives. Should you wish to discuss the matter further, please contact Mr. Crosby H. Johnson at (804) 734-3263.

Sincerely,

JAMES S. HAYES,
Brigadier General, U.S. Army.

KRAFT, INC.,
May 28, 1987.

Re S. 328, The Prompt Payment Act Amendments of 1987.

Hon. JOHN GLENN,
U.S. Senate, Committee on Government Affairs, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of Kraft, Inc., I commend the Governmental Affairs Committee for its approval of S. 328, The Prompt Payment Act Amendments of 1987. Kraft is a major supplier of dairy and other food products to the federal government. Like other suppliers, Kraft is concerned about prompt payment on its government accounts, and the Prompt Pay Act Amendments should go a long way toward addressing some of the most glaring problems that plague government contracts. In particular, we are pleased to note that the legislation would phase out the "grace period" that has been used by many agencies to extend payment dates well beyond the due date.

We are also pleased to see that the legislation would give express authority to contracting officers to provide payment periods in government contracts "similar to the payment . . . periods permitted in prevailing private industry contracting practices." Sec. 10(b). While we believe contracting officers have always had this authority, we are pleased that the Committee bill would give voice to the longstanding tenet that government agencies should pay their bills according to prevailing industry practices. Nevertheless, more is needed.

Kraft's product line basically consists of cheese and other dairy food products, together with margarine, cooking oil, and other oil-based food products such as mayonnaise. In these industries, the overwhelming majority of sales are on ten day payment terms. This is the prevailing industry practice.

On the average, military and other government sales account for only five percent of industry business in these product lines. Nonetheless, with isolated exceptions, the federal government flatly refuses to abide by standard industry payment terms and insists upon payment on thirty day terms. As a result, given current grace periods and a government time clock that starts several days after delivery, the government may fail to pay its bill for thirty, forty, or even sixty days or more and still maintain that it is abiding by the terms of the Prompt Payment Act. The result is that the government is paying its bills at a rate three, four, or even six times slower than the rate that prevails in the private sector.

The government insists that Kraft and other suppliers provide products at prices at least favorable as those afforded our best private sector customers. As a consequence, the government is demanding and getting the same prices we charge our best customers, while taking perhaps six times as long to pay. In our own case, this situation prevails even though Kraft operates under supply bulletins that expressly provide for payment in ten days; the government maintains that these supply bulletins are overridden by the thirty day terms that they write into supply orders. At times, agencies have even gone so far as to maintain that they are prohibited from honoring ten day payment schedules buy Circular A-125, a position we find hard to reconcile with the plain language of the circular. (See enclosed correspondence.)

This is wrong. When the government demands the best commercial price, it should be willing to pay on the same terms as our best commercial customers. Plainly and simply stated, our private sector customers are now picking up the tab for the government's slow payments. And that's not right.

The proposed grant of legislative sanction for prevailing industry terms is helpful, to be sure, in encouraging agencies to honor commercial practices, but our experience makes it clear that more is needed. We have found too few agencies willing to honor commercial terms—and we fear that even those agencies will ultimately be instructed to fall into line with agencies paying on thirty day terms. Moreover, as noted, even when we have succeeded in getting ten day terms written into our supply bulletins, the agencies have had little compunction about ignoring these terms and proceeding on the basis of supply orders with longer terms. While we have reluctantly supplied these orders to honor our commitment to provide supplies to the armed forces and their families, we have made no secret of our dislike for the "take it or leave it" attitude assumed by the government. Clearly, these policies do nothing to encourage competition for federal business.

In the past, Congress has seen fit to establish special payment terms on government contracts by law, in recognition of prevailing industry standards. For example, the current Prompt Payment Act provides for seven days payment on contracts for meat, and for ten day payment terms on contracts for fresh fruit and vegetables. We believe that the situation confronting our industries merits such special attention.

When the Prompt Payment Act is brought to the Senate floor, we urge you to support an amendment that would expressly provide ten day payment on contracts for dairy products—and on contracts for oil-based food products. There is no good reason to leave these markets at the mercy of agencies who have no real incentive to honor industry practices. The government should not be allowed to use its market power to create payment terms and schedules that would never be accepted in the private sector. As a matter of equity, we believe that it is only fair to hold the government to the same standards that prevail in the commercial marketplace.

Your help on this matter is greatly appreciated.

Sincerely,

JOHN J. BEATTY III.

DEPARTMENT OF THE ARMY,
Fort Lee, Va, March 7, 1986.

Mr. SAM PHELPS,
Vice President, Military and Export Sales, Kraft, Inc., Glenview, IL.

DEAR MR. SAM PHELPS: Acknowledgement is made of your letter to Mrs. Andrews, TSA, dated February 18, 1986, relative to Army Commissary delinquent accounts receivable as of February 14.

Certain ground rules, by which we must abide, need to be reiterated for all concerned.

a. First, the so called military clock, in all cases, starts with actual receipt of goods or the actual receipt of a valid invoice suitable for payment (one that does not have to be returned) whichever is later, and ends with the actual date of the check. This time period has not been changed since prompt pay began.

b. Second, the net terms recognized are as follows:

1. Net 7—encompasses meat, poultry meat, meat food products, poultry meat food products and egg or egg food products, as defined in section 2(A) (3) of the Packers and Stockyard Act of 1921 USC 182(3).

2. Net 10—encompasses perishable agricultural commodities, as defined in the Perishable Agriculture Commodities Act of 1930, 7 USC 499a(4).

3. All other net items will be net 30 days. Each procurement document cites "government will not consider net terms of less than 30 days."

4. Paragraphs b1 and b2 above do not apply to overseas contracts.

c. Third, Discount terms are as stipulated by the invoice as an added incentive when offered by the company.

d. Fourth, for multiple delivery items billing periods 1st-15th and 16th to the end of the month are standard and are written as a part of the particular Blanket Purchase Agreement or Blanket Delivery Order. Payment terms for these deliveries begin the day following the final date of the billing period or the date the correct invoice is received in the paying office, whichever is later.

e. Fifth, if the company elects to have payment based on delivery tickets/invoices provided at time of delivery, 5 additional calendar days are to be granted the government to transmit documents to the paying office.

Billing periods are not a new standardization procedure. As a matter of fact they have been around since prior to the Prompt Pay Act, 1 October 1982. All the TSA commissary regions are now using the same billing periods and orders requiring multiple deliveries (daily, weekly, bi-monthly) are a part of this procedure.

Blanket Delivery Orders, written against DPSC DLA's Supply Bulletins with "billing periods and terms of Net 30" are counter offers to the source document. your shipment against these orders constitutes acceptance of the Government counter offer.

Current payment procedures are in compliance with the Prompt Pay Act. All TSA regions make payments along these lines in a timely fashion. The aged accounts receivable listing which you sent is being analyzed. Appropriate instructions will be given to regions as required to eliminate any validated backlog and to keep payments timely in the future.

I appreciate your bringing these accounts to my attention. I believe that the TSA regions will clarify any delinquent position from your accounts receivable listing and take suitable action to clear them. If there is still some doubt or question in your mind, please feel free to visit this Agency to discuss our payment procedures and how we do business. The invitation includes your Comptroller, Chief Executive Office, Credit Manager, or any other officers you deem necessary to resolve any existing problems. In the event you wish to contact TSA by phone to set up such a visit, please call Area Code (804) 734-3600/1600 and ask for 1LT Titone, my aide, who will assure that the necessary arrangements are made.

Sincerely,

JAMES S. HAYES,
Brigadier General, U.S. Army.

DEPARTMENT OF THE NAVY,
HEADQUARTERS U.S. MARINE CORPS,
Washington, DC, March 17, 1986.

Mr. WILL COFER,
Morale, Welfare and Recreation Panel, House Armed Services Committee, House of Representatives, Washington, DC.

DEAR MR. COFER: This is in reply to your letter of February 27, 1986, on behalf of Kraft, Inc. concerning the late payments by the Marine Corps commissaries. Kraft's problem with the military commissaries stems from misinterpretation of contract terms. The company's terms which are contained in Defense Personnel Support Center's Supply Bulletin state that payments are due within 10 days. All commissary vouchers, however, are paid within 30 days unless the items fall within the Prompt Payment Act of 1982. To better understand this problem, the following government terms require explanation:

Receipt of Invoice.—The date on which the agency accepts the goods or the date a proper invoice is actually received in the designated payment office, whichever is later.

Payment Date.—The date on which a check for payment is dated.

Net-7.—Meat and meat food products, poultry meat, poultry meat food items, eggs and egg products, which must be paid within 7 days after delivery or receipt of invoice, whichever is later.

Net-10.—Perishable agricultural commodities which must be paid within 10 days after delivery or receipt of invoice, whichever is later.

Net-30.—All other net items will be paid within 30 days.

The Marine Corps commissaries are paying bills according to the terms outlined in the Purchase Orders, written against the

Supply Bulletin, with "billing period and terms of Net 30". Kraft's shipments against these orders constitute acceptance of the government counter offer. Further, the current payment procedures are in compliance with the Prompt Payment Act. Kraft's allegation on late payments from the Marine Corps is untrue.

The Marine Corps established an excellent voucher processing procedure, using centralized and automated system. In FY85, two commissary complexes processed 41,922 voucher for $119.6 million while incurring only $1,595 in interest for late payments. Kraft had not previously contacted the Marine Corps concerning payment problem they were experiencing. By dealing directly with the complexes, this problem could have been clarified at that level. To avoid spending unnecessary manpower in researching voluminous vouchers, request Kraft, Inc. provide a complete listing of late invoices and dollar amount by commissary for our review.

Your interest and concern in this matter is appreciated.

Sincerely,

J.P. Hoar,

Brigadier General, U.S. Marine Corps.

National Milk Producers Federation,

Arlington, VA, June 15, 1987.

Hon. John Glenn,

Chairman, Committee on Government Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The National Milk Producers Federation supports S. 328, the Prompt Payment Act Amendments, and hopes for its early passage by the Senate.

NMPF is the farm commodity organization representing America's dairy farmers who belong to dairy cooperations. Our members produce and market the vast majority of the nation's milk and are keenly interested in policy issues affecting the dairy industry.

While S. 328 promises significant improvement in the government's bill paying practices, one lingering problem remains for our industry. With few exceptions the federal government insists on paying its bills on thirty day terms. In many cases, the actual payments take even longer. This works a significant hardship on our members since our products are priced on the assumption that payment will be made in ten days, the prevailing terms on commercial contracts in the industry. Hence, the current government payment terms are costing the dairy industry millions of dollars annually.

As a matter of equity, we believe it is only fair for the government to abide by commercial payment terms when it buys commercial products. But the industry has been rebuffed in its attempts to get the government to honor ten day payment terms. If we are to secure fair treatment for our members, it is clear that Congress must act.

When S. 328 is considered on the Senate floor, Senator Dixon will offer an amendment to provide for ten day payment terms on contracts for dairy products. The Dixon amendment is consistent with actions taken by Congress in the past to ensure payment on commercial terms for meat and for fresh fruits and vegetables.

Without Congressional action, it is clear that the federal government will continue to pay its bills for dairy products on thirty day terms. This is not only unfair, it flies in the face of longstanding Congressional efforts to get federal agencies to abide by commercial practices on contracts for commercial goods. We urge you to support the Dixon amendment.

Sincerely,

James C. Barr, CAE,

Chief Executive Officer.

American Butter Institute,
National Cheese Institute, Inc.,

Alexandria, VA, June 4, 1987.

Hon. John Glenn,

U.S. Senate, Washington, DC.

Dear Senator Glenn: The American Butter Institute and the National Cheese Institute support S. 328, the Prompt Payment Act Amendments, and commend you for your leadership in securing Committee approval of the bill. The American Butter Institute and the National Cheese Institute are broadly representative of the nation's butter and cheese industries. ABI and NCI members represent between 80 and 90 percent of the butter and cheese marketed in the United States.

As you may know, a continuing problem in government contracting is the failure of federal agencies to abide by commercial payment terms. This is a particular problem for our industry, where ten days payment terms prevail. The flat refusal of many federal agencies to consider payment on terms less than thirty days imposes substantial costs on many of our members. Moreover, although the government pays late, it insists on receiving prices as advantageous as the prices paid by private sector buyers paying on ten day terms.

To correct this problem, we urge you to support an amendment to S. 328 to require payment in ten days for dairy products, including butter, cheese and process cheese products. It is worth noting that some agencies are now paying on ten day terms, so there is no question that the agencies have the capacity to pay on prompt terms if they are so inclined. As you know, Congress has acted in the past to provide special payment terms for products, like our products, that are sold on prompt payment terms in the private sector. Absent such direct action by Congress, we fear that the government will continue to ignore commercial practice. Worse yet, we fear that the few agencies now honoring industry payment terms will be directed to follow slower payment practices.

Please let us know if we can provide additional information.

Sincerely,

R.F. Anderson,

Executive Director.

American Logistics Association,

Washington, DC, June 9, 1987.

Hon. John Glenn,

U.S. Senate, Washington, DC.

Dear Senator Glenn: The American Logistics Association strongly supports S. 328, the Prompt Payment Act Amendments, to strengthen the Prompt Payment Act. We commend you for you leadership on this issue and look forward to Senate passage of the bill.

The American Logistics Association represents more than 450 companies who supply products for Department of Defense commissaries, exchanges, and troop subsistence systems. The association advocated the original prompt payment legislation so that the government would pay its bills on accepted commercial terms.

Failure of federal agencies to abide by commercial payment terms has been a continuing problem. Among the manufacturers who have encountered this difficulty are those who produce dairy, shortening and food oils products. In these industries, 10 day payment terms prevail.

In many cases the government has flatly refused to consider payment in less than 30 days. This has imposed substantial costs on many of our members. Moreover, although the government pays late, it insists on receiving prices as advantageous as the prices paid by private sector buyers paying on normal commercial ten day terms.

To remedy this problem, we urge you to support an amendment to S. 328 to require payment in ten days for dairy products, including cheese and process cheese products, along with food oils and shortenings products. It is worth noting that some agencies are now paying on ten day terms, so there is no question that the agencies have the capacity to pay on prompt terms. As you know, Congress has acted in the past to provide special payment terms for products such as meat that are sold on prompt payment terms in the private sector.

Without direct action by Congress, we fear that the government will continue to ignore commercial practice. Worse yet, we fear that the few agencies now honoring industry payment terms will be directed to follow slower payment practices.

Sincerely,

A. Kolbet Schrichte,

Executive Vice President.

Amendment

The Dairy Amendment includes such products as:

Cooking Oil, salad oils, salad dressings, mayonnaise, milk, cheese, processed chesse products, butter, yogurt, and ice cream.

Mr. DIXON. Mr. President, this amendment has been agreed to on both sides. It requires a 10-day payment period for dairy products which are perishable products. That is the industry standard, Mr. President, the Government is asked to comply with the industry standard since the Government buys at the lowest industry price.

I thank my colleagues and I thank the manager for the support of this amendment.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, we have examined the amendment of the distinguished Senator from Illinois and speaking for the majority we find much to recommend this amendment being offered by our friend from Illinois and we would accept it, subject to the acceptance of my friend from Virginia.

Mr. TRIBLE. Mr. President, as the Senator from Illinois said this establishes a 10-day payment term for dairy products. This conforms to industry standards. And the current act already contains special payment provisions for meat products and other perishable products. So it makes good sense. I support it on the Republican side and would urge us to act positively.

Mr. DIXON. I thank the managers.

Mr. KASTEN. Mr. President, I am pleased to join with Senator Dixon in offering an amendment to S. 328 that would ensure 10-day payment for contractors who supply the Government with dairy products, as defined in the Dairy Products Stabilization Act of 1983, including cheese and process cheese products, butter, yogurt, ice cream, and milk. The amendment would also provide for 10-day payment on contracts for food oils and oil-based food products, such as cooking oils, salad oils and dressings, margarine, and mayonaisse.

Mr. President, as everyone knows, the Prompt Payment Act requires the Federal Government to pay an interest penalty whenever it fails to pay its bills on time. As the Government has sought to gain control over its bill paying practices, it has moved to require payment within 30 days on its contracts for commercial products.

This is certainly an improvement over past practices, when payment was sometimes delayed for weeks, and the amendments made by S. 328 will close a number of loopholes that have allowed some agencies to perpetuate lackadaisical bill paying practices. But it is important to note that not all commercial products are priced and sold on the assumption that payment will be made in 30 days. In some industries, even prompter payment terms prevail. For example, meat is sold on 7-day terms, and fresh fruit and vegetables on 10-day terms.

The Prompt Payment Act recognizes these special cases by requiring that payment for meat be made within 7 days—and for fresh fruit and vegetables within 10 days. In the dairy industry—and in the food oil industry—10-day payment terms also prevail. Nonetheless, the Government has refused to honor industry practice and has insisted on 30-day terms in contracts for dairy and food oil products. Even in those rare cases where a company has succeeded in securing a 10-day payment commitment in its supply contract, the Government has countermanded that commitment in its supply orders, specifying that payment will be made in 30 days. Contractors are told to accept these payment terms or take their business elsewhere. This is bad enough—but to make matters worse the Government insists that these suppliers give the Government prices at least as advantageous as those provided private sector buyers who pay their bills in 10 days.

Mr. President, the whole purpose of the Prompt Payment Act is to ensure fair treatment for companies that do business with the Federal Government. The practices I've described are not fair. It is simply wrong for the Government to demand prevailing prices and then refuse to pay on prevailing payment terms. The fact that the Government has gotten away with this practice is no reason to permit it to continue. We have the opportunity to correct this problem in the Dixon-Kasten amendment, which would require prompt payment as a matter of law.

When the Government enters the commercial marketplace, as the committee report states, the Government "should conform its payment terms to those of the market, unless compelling reasons dictate otherwise." There are no compelling reasons here that would justify ignoring commercial terms. While the committee report urges agencies to honor commercial payment terms, I believe that the problems confronting the dairy and food oil industries demand a legislative solution. Indeed, the committee report cites the experience of these industries in highlighting the problems confronted by industries with prompt payment terms. I am pleased to learn, therefore, that the managers of the bill support this amendment. There simply is no point in waiting for an administrative fix for this problem when we know what the problem is and we know what it takes to fix it.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senators have yielded back their time on the amendment. All time has expired on the amendment.

The question occurs on the amendment of the Senator from Illinois.

The amendment (No. 945) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. I thank the managers.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 946

(Purpose: To permit a prime contractor and a subcontractor to agree not to include in a subcontract a payment clause that would otherwise be required to be included in such subcontract)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. QUAYLE, Mr. RUDMAN, Mr. BAUCUS, and Mr. BINGAMAN proposes an amendment numbered 946.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, line 12, insert "(1)(A)" before "Each".

On page 23, line 17, strike out all beginning with "which" through line 26 and insert in lieu thereof "described in subparagraph (B), unless the prime contractor certifies to the agency that such contractor—

"(i) has provided notice of payment terms in solicitations for subcontractor bids; and

"(ii) agrees to be bound by such payment terms in any subcontract resulting from such solicitations.

"(B) The payment clause included in a subcontract pursuant to subparagraph (A) shall obligate the prime contractor to pay the subcontractor promptly (as determined in accordance with the prevailing industry standard) out of such amounts as are paid to the prime contractor by the agency for work satisfactorily performed by the subcontractor under such contract.

"(2) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include, in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract, a clause which obligates the prime contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (1)(A) or the payment terms agreed to pursuant to divisions (i) and (ii) of paragraph (1)(A)—".

On page 24, line 12, insert "(1)(A)" after "(a)".

On page 25, lines 9 and 10, strike out "standards of subsection (a)" and insert in lieu thereof "standards of subsection (a)(1)(A), payment terms agreed to pursuant to divisions (i) and (ii) of subsection (a)(1)(A), or a payment clause included in the subcontract pursuant to subsection (a)(2)".

On page 25, line 21, insert "(2)" after "(a)".

Mr. LEVIN. Mr. President, this amendment is being offered on behalf of myself and Senator QUAYLE, also on behalf of the Governmental Affairs Committee.

Mr. President, before I briefly describe this amendment, let me congratulate our colleagues, Senators SASSER and TRIBLE, for the effort that they have made to bring this bill to the floor.

I happen to be one of the cosponsors of the prompt payment bill. It is a bill which is very necessary to close loopholes in the existing legislation which have allowed us to avoid the intent of the Prompt Payment Act, which is that we pay our bills on time or we pay interest to people who are owed money by the Federal Government.

Senator SASSER and Senator TRIBLE have really worked extraordinarily hard to get to the point where we are now and without their leadership this bill would not be here today. A number of hurdles have been raised and indeed I am one who has raised one of those hurdles, so I know personally about hurdle raising. I am the first to congratulate them, as one of their cosponsors and also as somebody who worked closely with them and the staffs who have worked together to try to work out a compromise on a very difficult section 7.

Section 7 of this bill is intended to provide for the subcontractors some equity. Senator SASSER and Senator TRIBLE have pointed out and others on the committee have pointed out and fought hard for the principle that where the general contractors of the Government are paid, the subcontractors should also be paid and that if the general contractor, our contractor, is paid promptly, their subcontractors should be paid promptly. There is a great deal of equity in that principle and they, being Senators who are sensitive to needs of equity, have pointed that out and they have put language in this bill which would provide a flow-through for the subcontractors.

I was troubled, frankly, by what I viewed as some inflexibility in this approach. The approach which was used is a requirement that a provision be inserted in the contracts between the generals and the subs which would require the general contractors in effect pay their subs within 7 days of being paid themselves on all Federal construction projects.

I felt that there was too much inflexibility in that approach, that there are times when the 7-day flow through provision would not be appropriate, that it also would be extraordinarily complex administratively to operate. And so, at the subcommittee level, I tried to delay the effective date of this provision. I failed there.

Along with Senator QUAYLE now, on the floor, we have worked out a provision which I believe would provide some flexibility but also keep the inherent fairness that Senator SASSER and Senator TRIBLE have insisted upon.

This provision would provide that general contractors can opt out of the 7-day flow-through payment requirement in very carefully defined circumstances: If the prime contractor certifies that he has provided notice of different payment terms in its solicitations for subcontract bids and that it will agree to be bound by those payment terms in any subcontract resulting from those solicitations, and if there is a contractual interest penalty for late payments to the subcontractors, whether or not the provision in the contract between the general and the subs is the section 7 provision or some alternative preannounced provision. Under those carefully defined and limited circumstances, we have then permitted an opt out on the part of the general contractor.

Mr. President, this maintains the essential equity which is sought under section 7, but it also permits some flexibility in the provision because of the unprecedented intrusion in private contracts which section 7 would otherwise have provided.

Mr. President, I know that the provision now has been worked out on both sides. Indeed this is now a subcommittee amendment.

Again, I want to thank my colleagues, the managers of this bill, for the hard work that they put in on the bill and their willingness to work with Senator QUAYLE and me to try to put in a provision which keeps the spirit of the equity which they have insisted on while allowing for some flexibility in the arrangement between these private parties.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

The Senator from Virginia controls 5 minutes on the amendment.

Mr. TRIBLE. I am happy to yield to my colleague from Tennessee.

Mr. SASSER. I thank my distinguished friend from Virginia.

Mr. President, the distinguished Senator from Michigan is correct. This has been a contentious amendment. I am pleased that we have been able to arrive at a conclusion here that I think will be equitable for all parties concerned.

I wish to congratulate and commend our colleague from Michigan and the distinguished Senator from Indiana [Mr. QUAYLE] for their cooperation in this effort.

Mr. President, I rise in support of the committee amendment dealing with section 7 of this bill. As originally drafted, section 7 of S. 328 sought to assure subcontractors on Federal construction projects of prompt pay for work performed. This committee amendment preserves that objective, but achieves it in a more balanced manner.

The need for extending prompt pay protection to construction subcontractors has been well established. This issue has been discussed in five hearings over several sessions of Congress. The most recent hearing was a March 19, Governmental Affairs Committee hearing which I chaired. Moreover, the delegates to the 1986 White House Conference on Small Business recommended extending prompt payment protection to such contractors as one of their final recommendations.

These hearings and debate within the small business community established clearly that when subcontractors are not paid promptly, the Government suffers—through higher costs, slower competition, and poorer quality. Now, my colleagues may wonder why this impact is so significant. Because on Federal construction projects, subcontractors perform at least 80 percent on the onsite construction.

To rectify this situation, we reported S. 328 out of the Governmental Affairs Committee with language extending the basic protections of the Prompt Payment Act to Federal construction subcontractors. To address concerns raised by our colleagues from Michigan and Indiana, we have restructured these important provisions in the bill. The language contained in this amendment would still protect subcontractors, but would do so by essentially mirroring what the Prompt Payment Act prescribes for the payment relations between the Government and the prime contractor.

My colleagues will recall that the 1982 act established a 30-day payment term between the Government and the prime contractor—unless the contract specifies otherwise. Section 5 of the bill we have before us today establishes a 7-day payment term between the Government and the prime contractor—unless the contract specifies otherwise. The Government is required to announce all the terms of the prospective contract in advance, that is, before soliciting bids from competing prime contractors.

The committee amendment under consideration would expand this principle of knowing the payment terms before bidding to subcontractors on Federal contruction.

Today, a subcontractor bids on a project without the knowledge of the subcontract terms. The subcontractor is legally bound to its bid on that project, since the prime contractor has relied on the subcontract bid, incorporating it into its bid price to the Government. Once the general contractor wins the construction contract with the Government, the general contractor begins to negotiate the terms of the subcontract agreement, starting from a subcontract offered by the general contractor. At this stage, with the Federal contract in its hands, the general contractor is in a very superior bargaining position. If the subcontractor refuses the subcontract terms, especially those relating to payment, the general contractor can shop the subcontract opportunity to other subcontractors until one is found that will accept the terms of its agreement and accept a payment schedule longer than the 7-day industry standard.

As reported by the Governmental Affairs Committee, section 7 would set a minimum standard for the payment provision a prime contractor must include in its subcontracts for Federal construction. It states that the subcontract clause must reflect the "prevailing industry standard." This currently is deemed to be payment of subcontractors by the prime contractor within 7 days of receipt of payment from the Government.

Under the amendment before us, section 7 would be modified to parallel the 1982 act and section 5 of S. 328. It would allow a prime contractor to elect to use an alternative payment term to the "prevailing industry standard." But, if the prime contractor elects to use a payment term other than the "prevailing industry standard" in its subcontracts, it must announce that payment term in its bid solicitations to potential subcontractors, and it must agree to be bound by the payment terms in any subcontracts resulting from those bid solicitations. Then, the prime contractor must certify to the contracting agency that it has actually taken these actions.

Section 7, as modified by this committee amendment, will bring greater certainty into the subcontract bidding process on Federal construction projects. Subcontractors will know prior to preparing their bids the time frame in which they will be paid. They will no longer be faced with the moving target they are now confronted with.

Because subcontractors will know the terms of payment in advance of preparing their bids, they will be able to factor in the cost of money. Prudent subcontractors will likely bid lower on projects with longer payment terms. Those prime contractors which offer untenable payment terms will receive higher bids from their subs and are unlikely to be the low bidder for the Government's contract.

Thus, market forces should work to keep subcontract payment terms reasonable in the Federal construction market. They will also serve to keep Federal construction prices lower because subcontractors will no longer have to inflate their bids against the contingency of extended payment terms being foisted upon them during the negotiation of the subcontract agreement.

Mr. President, I urge the adoption of this amendment.

I also have, Mr. President, an analysis of this particular section of the bill which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION AND STATEMENT OF INTENT

AMENDMENT TO SECTION 7 PAYMENT CLAUSE FOR SUBCONTRACTS UNDER CONSTRUCTION CONTRACTS TO BE OFFERED BY SENATORS LEVIN AND QUAYLE

Section 7 (Payment Clause for Subcontracts Under Construction Contracts) is designed to address payment problems faced by subcontractors on federal construction projects. As originally introduced, this provision requires that a payment clause meeting two minimum standards be included in each agreement between a federal construction prime contractor and its subcontractors. First, the subcontract payment clause must reflect payment of subcontractors by a prime contractor "promptly (as defined in accordance with the prevailing industry standard)", now deemed to be within seven days of receipt of payment from the Government. Second, Section 7 requires that the subcontract payment clause must entitle the subcontractor to payment of interest, at the same rate applicable between the prime contractor and the Government, if the prime contractor fails to make timely payment as requried by the clause mandated by Section 7.

During Committee consideration, clarifying amendments were made to Section 7 which addressed concerns raised by Senator Levin, Senator Stevens, and others. These amendments, derived from the section-by-section analysis that accompanied the bill at introduction, will: (a) protect the Government from becoming involved in the resolution of performance or payment disputes between the prime contractor and its subcontractors; (b) preserve the option for a prime contractor to manage its subcontractors through the use of the contract administration tools of "withholding" for good cause and "retainage" notwithstanding the minimum payment standard in Section 7; (c) provide that any amounts so withheld or retained from a subcontractor by the prime contractor shall remain in the hands of the Government until such time as the prime contractor determines that the subcontractor is entitled to be paid such funds; and (d) provide that any contractual, administrative, or judicial remedies presently available to contractors or subcontractors for the resolution of payment disputes shall be left unimpaired.

Despite these clarifying amendments, Senator Levin and other Committee Members continued to express concern that Section 7 might be insufficiently flexible to accommodate the myriad payment relationships that can exist between construction prime contractors and their subcontractors. Specifically, while Section 7, as reported, would permit the use of a payment clause resulting in subcontractor payment within seven days or less [for example, the three-day term specified in the AIA Form A-401 (Standard Form of Agreement Between Contractor and Subcontractor)], it would not permit the use of a payment clause that does not specify payment within this period.

An alternative payment clause may be appropriate for any number of valid reasons, and should not be presumed to be abusive of subcontractors. For example, the Committee has learned of a prime contractor who has an excellent reputation for fair dealings with subcontractors, but whose computerized payment system currently results in payments to subcontractors within ten days of payment by the owner, whether a private party or a governmental agency. Without the benefit of this amendment, Section 7 would require this prime contractor, and others in similar situations, to completely revise their subcontractor payment systems without any evidence that they have abused subcontractor funds.

Under the amendment offered by Senators Levin and Quayle, this inflexibility in Section 7 would be addressed by permitting a prime construction contractor to offer its own payment terms during the solicitation of subcontractor bids, if specified conditions have been met. As modified by the amendment, Section 7 would require each prime contractor on a federal construction project to reflect in its subcontracts the "prevailing industry standard" regarding timely payment (that is, payment of its subcontractors within seven days of payment by the federal government), unless the prime contractor has certified to the agency that (i) it has provided notice of alternative payment terms in its solicitations for subcontractor bids; and (ii) it will agree to be bound by such payment terms in any subcontract resulting from such solicitations.

Under the amendment, Section 7 would still require each prime construction contractor to include in all its subcontracts the interest penalty clause specified in Section 7(a)(2), irrespective of whether the subcontract payment clause reflects the prevailing industry standard or alternative payment terms announced during the solicitation of subcontract bids. This late payment interest penalty provision is necessary to ensure that prime contractors adhere to whatever payment terms are reflected in their subcontracts, thus helping to ensure that subcontractors are in fact paid in a timely manner.

The amendment is designed to mirror the treatment of payments to non-construction contractors under the Prompt Payment Act. Under the Act, a federal agency is required to pay a prime contractor on the date provided in the contract or, if no specific payment date is established in the contract, within 30 days after receipt of a proper invoice and acceptance of the goods or services by the Government. Similarly, Section 5 (Interest Penalties on Progress Payments and Retained Amounts Under Construction Contracts) of S. 328 requires payment of progress payments to prime contractors on construction contracts within seven days, unless the Government's contract solicitation announces a longer payment period reflecting prevailing private industry practice.

The amendment permits alternative "payment terms" rather than merely an alternative "payment date" because the amendment is intended to encompass a broad variety of alternative payment arrangements. In many cases, it is anticipated that the alternative payment clause would specify payment a certain number of days after the prime contractor's receipt of payment from the agency (for example, 10 days after receipt of payment or 20 days after receipt of payment). In other cases, the alternative payment clause might require payment by a specific date during the month (for example, by the 10th of each month). In yet other cases, the prime contractor's solicitation might establish specific dates for payment (for example, 10% to be paid on March 1, 10% on June 1, etc.).

Irrespective of the particular alternative payment terms established by the prime contractor's solicitation and reflected in the subcontract agreement, these terms must result in specific payment dates that can be objectively determined. A clause that specified subcontractor payment "whenever the prime contractor decides that payment is appropriate", to cite the extreme example, would not qualify as an alternative payment term under Section 7(a)(1). This requirement for specificity is necessary to avoid the inclusion of payment terms that would render meaningless the protections provided by Section 7 and its late payment interest penalty. If the date of payment can not be objectively determined, it will be impossible to determine when interest is due.

It is anticipated that Section 7 will enhance the ability of construction subcontractors to obtain fair and equitable payment terms in their subcontract agreements. At the same time, the amendment will assure much-needed flexibility for contractors to structure their own payment arrangements. Because prime contractors will be required to announce payment terms in their solicitations for subcontract bids and to adhere to the announced terms, subcontractors will be able to make an informed business judgment concerning these terms as they develop their bids and reflect their impact upon the prices offered, or the decision even to tender a bid.

For this reason, it is likely that prime contractors who include fair and reasonable payment terms in their solicitations can expect to receive lower subcontract bids, thus improving their position in the competition for federal construction contracts, which are awarded on a low bid basis. Conversely, prime contractors who insist upon unfair or unreasonable payment terms can expect to receive fewer bids and higher bids, substantially diminishing their chances of winning the prime contract.

This market pressure should result in favorable payment terms for subcontractors that may approach the "prevailing industry standard" while preserving the flexibility for private parties to vary from this standard. It should also improve the prices offered to the Government, since subcontractors, who perform 80% of the actual work on most federal projects, will no longer have to routinely inflate their bid prices against the contingency of unknown and extended payment terms. Certainty of payment terms should benefit the Government, the subcontractor, and the prime contractor.

ASSOCIATED SPECIALTY
CONTRACTORS, INC.,
Bethesda, MD, September 30, 1987.

Hon. JAMES SASSER,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: The Associated Specialty Contractors and its member organizations are especially appreciative of the strong and extensive efforts you have made on behalf of the specialty contract construction industry in the struggle to pass Prompt Payment Act amendments with protections for subcontractors doing Federal work. We continue to feel that the language of S. 328 as reported out of the Senate Governmental Affairs Committee would provide the most fair and equitable payment provisions for all parties.

However, the exigencies of the moment have mitigated against achieving the goal of bringing that bill to the floor in any kind of timely fashion. Alternative language has been developed in discussions with all parties, which provides more flexibility for prime contractors in setting terms of payment for their subcontractors. This language requires advance notice to subcontractors of any payment conditions outside of the prevailing industry standard and retains provisions for payment of an interest penalty on late payments not meeting those terms. This language is acceptable to the Associated Specialty Contractors.

This measure has been awaiting Senate floor action more than four months. We hope that our acceptance of this alternative will help move S. 328 to swift action and passage. Thank you, again, for your extensive and conscientious work in crafting and moving this legislation.

Sincerely yours,
DANIEL G. WALTER,
President.

AMERICAN SUBCONTRACTORS
ASSOCIATION, INC.,
Alexandria, VA, October 2, 1987.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: When the Senate takes up S. 328, the Prompt Payment Act Amendments of 1987, Senator Levin will introduce an amendment for the Governmental Affairs Committee, concerning Section 7. The American Subcontractors Association supports this amendment.

Section 7, as reported by the Governmental Affairs Committee, required a prime contractor to include a payment term reflecting the "prevailing industry standard" in its subcontracts for federal construction. The Committee amendment would allow a prime contractor to elect to use an alternative payment term to the "prevailing industry standard". But it the prime contractor elects to use a payment term other than the "prevailing industry standard" in its subcontracts, it must announce that payment term in its bid solicitations to potential subcontractors, and it must agree to be bound by the payment terms in any subcontracts resulting from these bid solicitations. Then, the prime contractor must certify to the contracting agency that it has actually taken these actions.

Section 7, as modified by the Committee Amendment, will bring greater certainty into the subcontract bidding process on federal projects. Subcontractors will know—prior to preparing their bids—the time frame in which they will be paid. Prudent subcontractors will tend to bid lower to prime contractors with shorter payment terms than to prime contractors with longer payment terms. Prime contractors who offer untenable payment terms, thus, are unlikely to be the low bidder for the Government's contract.

Senator Ruth, the members of ASA appreciate your ongoing support for "prompt pay for subcontractors".

Sincerely,
M.R. "MAC" SULLIVAN, Jr.,
Chairman,
Government Relations Committee.

Mr. SASSER. I thank my friend from Virginia.

Mr. TRIBLE. Mr. President, let me say at the outset that the Senator from Michigan [Mr. LEVIN] is an able and tenacious advocate for the point of view that he has voiced this day.

I strongly supported section 7 as reported by the Governmental Affairs Committee. However, I do believe that the amendment before us will provide subcontractors with the assurance of prompt payment for work performed, while providing prime contractors with additional flexibility. It seems that that is an equitable result and I support it, and I encourage my colleagues to support this amendment.

Mr. President, this provision will provide the basic payment protections of the Prompt Payment Act to subcontractors on Federal construction projects. I have long supported this concept.

As originally reported by the Governmental Affairs Committee, section 7 requires prime contractors on Federal construction to pay their subcontractors according to "prevailing industry standards." This standard is the minimum standard for the payment term a prime contractor must include in its subcontracts for Federal construction.

"Prevailing industry standard" is understood to be payment of subcontractors by the prime contractor within 7 days of receipt of payment from the Government. This is based on a joint policy statement adopted by the boards of directors of the Associated General Contractors of America, the American Subcontractors Association, and the Associated Specialty Contractors.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the AGC/ASA/ASC joint policy statement on prompt payment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT POLICY STATEMENT OF ASSOCIATED GENERAL CONTRACTORS OF AMERICA, AMERICAN SUBCONTRACTOR ASSOCIATION, AND ASSOCIATED SPECIALTY CONTRACTORS ON PROMPT PAYMENT

Undue delays by owner, architects/engineers, general contractors, subcontractors, and sub-subcontractors in processing amounts due to general contractors, subcontractors, sub-subcontractors, and suppliers, or in making timely payments of these amounts, impose hardships and improper financing burdens on the contractors and suppliers and amount to extensions of credit by the contractors and suppliers to their respective higher tiers.

Accordingly, it is the policy of Associated General Contractors and the American Subcontractors Association and the Associated Specialty Contractors that all payments must be made on all contracts promptly. This should include payment for all labor, services, and materials stored on the job site or other approved storage sites as of the closing date of requisitions. This applies to both progress payments and final payments.

All local chapters of the Associated General Contractors, the American Subcontractors Association and the Associated Specialty Contractors are urged to make efforts, singly or cooperatively where possible to persuade all owners, architects/engineers, general contractors, subcontractors and sub-subcontractors to adopt and adhere to this policy in the conduct of their business.

The following schedule of billings, certificates and payments by various participants in the construction process is recommended.

The schedule assumes normal trade contract terms allowing monthly progress payments for work performed and materials suitably stored through the end of the month. This schedule does not refer to payments to suppliers who are not subcontractors.

It is important to note that along the sequence of events, any recipient of a payment request who takes exception to an item of billing should immediately contact the initiating party by telephone and attempt to resolve the matter. Failing resolution, the party taking exception should notify the other party in writing the reasons for the action.

Day of calendar month, and event:

20th—Sub-subcontractors request payment from subcontractors.

25th—Subcontractors request payment from contractor, incorporating the sub-subcontractors request in the billing.

1st—Contractor submits to the owner's representative an itemized application for payment with the necessary supporting data, covering the monthly progress of the entire contract being performed.

5th—The owner's representative issues the certificate for payment to the owner for the amount requested.

10th or sooner—The owner makes payment to the contractor for the amount certified by the owner's representative.

No more than 7 days after receipt—The contractor pays each subcontractor the amount received from the owner on his account promptly but not later than seven days after receipt.

No more than 7 days after receipt—Each subcontractor pays each sub-subcontractor the amount received from the contractor on his account promptly but not later than seven days after receipt.

The schedule should be adjusted by making appropriate billings and payments on the last working day prior to any listed Saturday, Sunday or holiday. It is also recommended that collection efforts be commenced immediately following the day any payment due was not paid.

Mr. TRIBLE. Mr. President, I strongly supported section 7, as reported by the Governmental Affairs Committee. However, I believe the amendment before us will provide subcontractors with the assurance of prompt payment for work performed, while providing prime contractors with additional flexibility.

Congress recognized the need for flexibility in business dealings when we adopted the Prompt Payment Act in 1982. A 30-day payment standard for payments by the Government to prime contractors was established. We require that this 30-day payment term be met unless the Government sets forth a different payment term in its contracts. If a different payment term is used, this must be announced before a prime contractor prepares and submits his bid to the Government.

This amendment accords subcontractors the same rights as the prime contractor. It sets a 7-day payment standard for payments by the prime contractor to its subcontractors. However, if a prime contractor wishes to use a longer payment term in his subcontracts for Federal construction, he may—provided he meets certain conditions.

These conditions include announcing in his solicitations for subcontractors' bids what the alternative payment term will be before the subcontractors prepare and submit their bids. In addition, the prime contractor must agree to be bound by the payment term he announces. This provision will be enforced by requiring the prime contractor to certify to the Federal contracting agency that he has announced his payment term in advance and has agreed to be bound by it.

Mr. President, this provision will allow subcontractors to know the rules of the game in advance of bidding. It will allow subcontractors to know what the payment scheme on a contract will be before they are committed to performing work. The subcontractor can then bid each contract accordingly—bidding lower to prime contractors with shorter payment terms than to prime contractors with lengthy payment terms.

Mr. President, I believe we have crafted a system in which market forces will protect subcontractors from lengthy payment terms. At the same time, we will assure that the subcontractor gets paid in a timely manner or is reimbursed for the prime contractor's use of his funds.

Mr. President, I urge the adoption of the committee amendment to section 7 of S. 328.

Mr. QUAYLE. Mr. President, I urge the Senate to support this amendment offered by myself, Senator LEVIN, and the members of the Governmental Affairs Committee to S. 328, the proposed Prompt Payment Act Amendments of 1987.

The senior Senator from Tennessee and the Senator from Virginia have explained in some detail our amendment and its intent. I shall briefly share my perspective on the question.

The central goal of the original Prompt Payment Act, and these proposed amendments, is to ensure the Government pays its contractors in a timely fashion. The Prompt Payment Act substantially improved the Federal Government's record in this regard. Ambiguities in the act and in the implementing regulations that were drafted for the agencies have, however, enabled the certain agencies of the Government to not carry out the fullest intent of the Congress. S. 328 was drafted by the Governmental Affairs Committee, therefore, to rectify these problems and ambiguities. This was and is a worthy goal, and I am a cosponsor of the bill.

In examining the matter of improving the Prompt Payment Act, the Governmental Affairs Committee, however, heard many horror stories about undue delays that subcontractors have experienced in receiving payment from prime contractors employed by the Federal Government and its agencies. While this fell outside the scope of the original act, it was clearly a serious problem the committee felt it had to address.

I fully suport the call for fairness in the business dealings on our Nation's subcontractors with their prime contractors. I have been intimately familiar with the Federal procurement process, given my chairmanship of the Senate Armed Services Committee's task force, and the subcommittee, on the procurement reform. I fully agree with the committee that these experiences are unfortunate and need to be remedied.

I do not, however, believe this concern should be used to insert the Federal Government more deeply into the relationship of private parties—in this case the relationship of a prime contractor to its subcontractors. I questioned one particular aspect of S. 328 as it was reported by the committee—it simply mandated specified benefits and payment schedules, thrusting the Federal Government into the relationship of two private sector entities to control the form and time limitations of a certain portion their contractural relationship.

The evidence supporting title 7's remedy was not in my and Senator LEVIN's judgment sufficient to justify the unpallatable step of inserting the Federal Government's nose in the private business dealings between primes and subs. Further, the specific and narrow terms of section 7 do not make sufficient allowance for the wide range of conditions and special circumstances that face companies doing business in the real world.

Our proposed amendment offers an alternative in fulfilling the intent of the committee in drafting section 7—an alternative that avoids the direct insertion of the Federal Government into the relationship between a prime contractor and its subcontractors. Our amendment allows companies the flexibility needed to cope with reality.

Under our amendment, the prime is given the option of providing notice of payment terms in its solicitations for subcontractor bids and agreeing to be bound by such payment terms in any subcontract resulting from such solicitations. The primes under our amendment would be required as a matter of principle to pay their subs interest on the amounts due to the subs in cases where a prime has not made a payment to a sub in accordance with their contract's payment clause.

This agreement, I believe, satisfies the concern that the primes currently have no incentive or motivation to promptly pay their subs, yet keeps it the Federal Government from simply specifying in detail the exact arrangements the primes and subs shall adopt regarding payment terms and schedules.

I am very pleased that the members of the Government Affairs Committee have worked with us in addressing our concern, and I welcome their support for this compromise. I urge our fellow Senators to support this amendment.

The PRESIDING OFFICER. Does the Senator from Virginia yield back the balance of this time?

Mr. TRIBLE. The Senator from Virginia does.

The PRESIDING OFFICER. All time has been consumed or yielded back. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 946) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 947

(Purpose: To provide for interest payments on certain agricultural payments if prompt payment is not made)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], for himself, Mr. PRYOR, Mr. BUMPERS, Mr. EXON, Mr. KARNES, Mr. BOND, Mr. HEFLIN, Mr. CONRAD, Mr. NICKLES, Mr. GRASSLEY, Mr. DASCHLE, Mr. HARKIN, Mr. MATSUNAGA, Mr. DIXON, Mr. LEAHY, Mr. BENTSEN, Mr. DOLE, Mr. SYMMS, Mr. DURENBERGER, Mr. BURDICK, Mr. BOSCHWITZ, and Mr. KASTEN, proposes an amendment numbered 947.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, between lines 10 and 11, insert the following new subsection:

(c)(1) Section 3902 (as amended in subsection (b) of this section) is further amended by adding at the end thereof the following new subsection:

"(h)(1) This section shall apply to contracts for the procurement of property or services entered into pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714 et seq.).

"(2)(A) In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), an interest penalty shall be paid to the producers if the payment has not been made within 30 days after the date on which—

"(i) the producers fulfill all of the requirements for payment provided for in the agreement;

"(ii) the Secretary of Agricultural determines the amount of the payment to which the producers are entitled; and

"(iii) if applicable, the producers demand the payment from the Secretary.

"(B) Interest under this paragraph shall accrue beginning on the date the requirements described in this paragraph are met and ending on the date on which the amount owed under the agreement and the amount of the interest penalty is paid.

"(3) Payment of the interest penalty under this subsection shall be made out of funds available under section 8 of the Act of June 29, 1948.

"(4) Section 3906 shall not apply to interest penalty payments made under this subsection.".

(2) The amendment made by paragraph (1) shall not be construed to authorize—

(A) a modification of the payment practices (including practices relating to payment due dates) that are prevailing, in the case of agreements referred to in such amendment, on the date of the enactment of this Act; or

(B) a modification of any such agreement that is in effect on such date in order to extend the payment due date in such agreement.

(3) The amendment made by paragraph (1) shall take effect with respect to payments that a producer or business concern referred to in such amendment had not yet received or first became entitled to receive under the terms of an agreement referred to in such amendment on or after April 30, 1987.

Mr. DANFORTH. Mr. President, this amendment is offered on behalf of myself and Senators PRYOR, BUMPERS, EXON, KARNES, BOND, HEFLIN, CONRAD, NICKLES, GRASSLEY, DASCHLE, HARKIN, MATSUNAGA, DIXON, LEAHY, BENTSEN, DOLE, SYMMS, DURENBERGER, BURDICK, BOSCHWITZ, and KASTEN.

It would extend the prompt payment coverage to farmers and farm-related businesses who deal with the CCC.

Mr. President, during the past 2 years, there have been five separate occasions when farmers have not received CCC payments in a timely basis. These delays in payments have affected the farmers themselves, and they have affected agribusiness, as well. During the last delay, last July, from May to July, there was a delay in payment of some $2 billion in obligations nationwide. The delay lasted 71 days. Farmers around the country were literally hanging on by their fingernails.

Mr. President, what we are talking about here is farm programs that are contractual relationships between the Federal Government and the farmer. The farmer is told that if he does something, then the Government will pay him for his work product. It is like any other contractual relationship. My assumption had been that the Prompt Payment Act did in fact apply and I believe as a legal matter the Prompt Payment Act does apply to farmers and to agribusiness.

However, that has been called into question. And, therefore, the point of this amendment is to make it absolutely clear that the Prompt Payment Act does apply to farmers and does apply to those who do business with the Federal Government in the agribusiness sector.

I would submit, Mr. President, that it makes no sense whatever. If the Federal Government enters into a contract with a trucking company to haul corn of soybeans and does not pay its bill to the trucking company on time, that trucking company is covered by the prompt payments bill. But when the Federal Government enters into a contract with a farmer to raise the soybeans or the corn in the first place, that is not covered by the Prompt Payment Act.

Now a lot of people criticize the farm program. And I do not intend to open up the whole subject of the farm program and whether the farm program is a good one or a bad one. But the fact of the matter is, it is our program. We have agreed to it. I am sure that there are a lot of contracts that the Federal Government enters into that some of us might criticize.

But we enter into contracts regardless of any criticism that might come, and those contracts are covered by the Prompt Payment Act.

It would seem to me peculiar indeed if the Federal Government got into the business of entering into contracts with farmers, welshed on those promises, did not pay their bills on time—a 71-day delay in the most recent case—and then claimed that farmers are a special case and that they should not receive interest payments under the Prompt Payment Act.

Mr. President, some might say: Well, if the farm programs are covered, is that not a costly matter? CBO estimates that the cost is $12 million a year to cover farmers under the Prompt Payment Act. That $12 million, of course, under this amendment, does not come out of the Treasury. This does not require an additional appropriation, does not require the expenditure of additional dollars of Federal money. But, rather, it comes out of the basic CCC program, just as every other payment under the Prompt Payment Act, every other interest payment comes out of the basic program that was delayed in making the payment.

So, it absolutely mirrors the rest of the Prompt Payment Act. I believe it is eminently fair and it is my hope that the Senate would agree to this amendment.

Mr. McCONNELL. Would the Senator yield?

Mr. DANFORTH. How long would the Senator like?

The PRESIDING OFFICER. The Senator from Missouri has control of one-half of the time. The Senators in opposition have control of one-half the time. The Senator from Missouri has control on the amendment at this point.

Mr. DANFORTH. How much time?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. McCONNELL. May I have 4?

Mr. DANFORTH. I yield 4 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 4 minutes.

Mr. McCONNELL. I want to congratulate the Senator for his excellent amendment. It makes no sense for farmers not to be covered by the Prompt Payment Act.

However, what we ought to do is solve the problem entirely. Not only make farmers within or covered by the Prompt Payment Act but assure that this kind of problem does not occur again.

On June 10, I, along with my distinguished colleagues Senators BOND and KARNES, offered an amendment to the trade bill which was approved by a vote of 80 to 15. This amendment proposed to specify a current indefinite appropriation for the Commodity Credit Corporation which would cure this problem for the future.

I certainly think that, if farmer's payments were ever suspended again, it would be important for farmers to be covered under prompt payment and that is why I commend the Senator from Missouri for his leadership in advancing his amendment. The trade bill, of course, is still in conference and I along with Senators BOND and KARNES intend to offer the amendment, once again, in the Agriculture Committee as a part of the reconciliation measure in hopes that we can two track the process of trying to get this problem solved once and for all.

As my friend from Missouri has accurately stated, this is a contractual obligation between the Federal Government and the farmers of this country and we ought to honor it. If, perchance, it is not honored, certainly they ought to be covered by the prompt payment legislation.

So I commend my friend from Missouri. I would ask that he add me as a cosponsor to his amendment and point out to the Senate that Senators BOND, KARNES, and I will be offering, once again, the provision to provide a current indefinite appropriation for the Commodity Credit Corporation in the Agriculture Committee on budget reconciliation.

Mr. DANFORTH. I thank the Senator from Kentucky and I ask that he be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 minutes.

Mr. EXON. I thank the Chair and I thank my good friend and colleague from Missouri.

Mr. President, as a cosponsor I rise today in support of the amendment by my good friend from Missouri, Mr. DANFORTH. This amendment would require CCC contracts to be covered under the Prompt Payment Act.

As we all know, the Prompt Payment Act was passed because Uncle Sam was notoriously late in paying bills, especially those to private contractors. The bill we are now discussing tightens up a few very important loose ends. One of the most important loose ends, in my view, is the treatment of Commodity Credit Corporation contracts held by farmers all across the country.

Mr. President, this Senator was on the floor many times in May and June urging my colleagues to expedite funding for the CCC so it could make good on its contracts with America's farmers. As I am sure we all recall, the CCC ran out of money this past May and was without funds until July 11 when the President signed into law the supplemental appropriations bill. Mr. President, that is 2½ months that farmers waited for payments. That is unacceptable.

This amendment will allow those farmers to receive interest on payments which are more than 30 days late. Besides making things right with American farmers, this amendment acts as an incentive for us to get our work done on time. If interest payments are required for overdue CCC contracts, maybe we will not insist on adding every amendment under the Sun onto the CCC supplemental appropriations bills.

I am glad my colleague is offering this important amendment and I urge its timely adoption.

I reserve the balance of time and yield it back to my friend from Missouri.

Mr. GRASSLEY. Mr. President, I am pleased to cosponsor this amendment which provides an incentive for the Government to pay its bills to the agriculture sector on time.

As most of you know, farming requires a large investment of capital in the spring of the year. Combined with payments for crops harvested in the fall, the result is an uneven flow of money into the farm business. Thus, farmers must arrange some type of interim financing to pay the fertilizer dealers, the seed dealers and the other members of the agriculture supply industry. This financing is difficult for struggling farmers who cannot afford the additional interest charges.

Government farm programs had appeared to be a partial answer to this problem. Farm program payments reduced some of this uncertainty in planning a cashflow statement.

Unfortunately, Congress has put that uncertainty back into the business of farming by holding up farm payments five times since 1982. The last delay, from May 1 to July 13 of this year, hurt many farmers. It costs money to borrow money, and $30 million in USDA payments were held up to 2 months in Iowa alone. Our rural sector should not have to suffer while debate in Congress progresses at a snail's pace.

This amendment provides two major corrections to our current system. First, it provides interest payments for those who had to wait for the Government to meet its obligations. Some people could not afford to wait for Congress to settle its differences. Many farmers had to pay interest on operating capital borrowed to carry them until farm payments arrived. Providing interest payments to these people is consistent with the provisions of the prompt payment bill Congress passed in 1982. In fact, it is consistent with the IRS policy to pay interest on payments which are overdue. Second, this bill provides Congress an incentive. The supplemental appropriations process needs reform. The needless delay of payments forced upon our producers cause "invisible costs." Late charges on overdue bills, interest payments on temporary operating capital, and the cuts in family finances are not costs which can be easily counted in congressional analysis. But these costs are visible and real to the American people. Our constituents see an irony in a governmental system that reacts forcefully when they are late with their payments, but shows no concern when the Government is late in providing the money due its people. This provision forces Congress to be responsible for these costs.

Hopefully, this interest payment provision will not have to be used. Yesterday, I joined my colleagues on the Senate Appropriation's Subcommittee on Agriculture to increase the Commodity Credit Corporation's borrowing authority from $25 to $40 billion.

This will lessen the likelihood that the CCC will run out of authority to make farm payments and thus reduce the chance agriculture will be disrupted while Congress bickers over an urgent supplemental appropriations bill that turns into a Christmas tree.

In summary, these delayed Government payments cause great hardship to our farm sector. It is important, therefore, that my colleagues support this amendment.

Mr. HARKIN. Mr. President, I was a cosponsor of the Prompt Pay Act before it became law and am a cosponsor and a strong supporter of S. 328, the Prompt Pay Act Amendments of 1987. I am also pleased to be a cosponsor of the amendment before us.

Clearly, the U.S. Government has a responsibility to pay its bills on time. Businesses contract with the Government in good faith and when they perform their duties properly, they deserve to be paid in a timely manner.

One of the things that this bill accomplishes is that it clearly provides that all of the contractors such as the grain elevators and those that transport grain for the Commodity Credit Corporation are to be covered by the Prompt Pay Act. Certainly, that is only proper.

After lengthy examination, OMB has finally agreed with the General Accounting Office that present law requires those payments. In a July 29 letter to Senator GLENN, the chairman of the Government Affairs Committee, the Deputy Director of OMB, Mr. Wright said:

> The Prompt Payment Act already applies to vendor payments made by CCC. OMB has recently completed a review of the applicability of the Prompt Payment Act to CCC purchases of goods and services under contract. We agree with CCC that the act does apply in these situations, and will ask the Secretary of Agriculture for Assurance

that CCC is complying with OMB Circular A-125, prompt payment.

The amendment before us extends that same right to acquire the payment of interest to farmers.

The farmer, who in recent years has all to often been continually at the financial brink is not covered by the prompt pay law. I believe what is fair for Cargill is fair for the family farm.

I received a letter from Secretary Lyng which says that the CCC has a remarkable record of prompt payments. He says that studies show that less then 1 percent of the payments are late under normal circumstances. That is commendable. And, requiring prompt payment should not do anything to change that. However, for those payments that are not received on time, it does provide a proper and fair remedy: the payment of interest.

In reality, the considerable majority of farmers take their CCC checks from their county office and walk right over to the bank and use the proceeds to reduce the size of their loans or use it to buy necessary goods needed for farming. In either case, the CCC payment results in less interest paid by the farmer. When the check is late, the farmer has to pay that interest in spite of the fact that the Government has a legal obligation to make the payment.

Recently, farmers, elevator owners, and other contractors did not receive payments for over 2 months because the CCC ran out of funds. It does little good to discuss all of the budgetary and parliamentary reasons why that happened at this time. The fact is that it did. And, that was the fifth time there was a lapse in the CCC's authority to issue checks. Clearly, we need to work to change that. But, regardless of that effort, we should also assure that interest be paid.

I would also like to make a special note of the provision in the amendment which provides that nothing in this amendment is to be construed to place the CCC under a cash management system. That makes clear a congressional intent that we want the same procedure for check writing which we now have. Now, CCC issues checks at the county office as soon as they can, given the workload, after the requirements are met and appropriate efforts to see if the provisions of law have been met are accomplished.

I believe this amendment provides an important element of fairness for our farmers. I urge that it be adopted.

The PRESIDING OFFICER. The Senator from Missouri has used 10 minutes—has 10 minutes remaining. Does the Senator yield time or does the manager of the bill, the Senator from Tennessee? The Senator from Tennessee is recognized.

Mr. SASSER. I yield all time in opposition to this amendment to the distinguished Senator from Florida, Mr. CHILES.

The PRESIDING OFFICER. The time in opposition has been yielded by the managers to the Senator from Arkansas.

Mr. CHILES. The Senator from Florida?

The PRESIDING OFFICER. I am sorry, the Senator from Florida.

Mr. PRYOR. Mr. President, if I do not get a chance, I want it recorded that the Senator from Arkansas is definitely for the Danforth amendment.

The PRESIDING OFFICER. The Senator from Florida has 20 minutes. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I will not use all of that time. In fact, I will yield 3 minutes of that time to the distinguished Senator from Missouri, if he would like to have that time. But I would like to speak for a moment.

Mr. President, I reluctantly oppose the amendment of the distinguished Senator from Missouri to apply prompt payment to the Commodity Credit Corporation. I would like to ask him a couple of questions.

I understand he narrowed the amendment. If he would join with me and engage in a colloquy, I would like to ask: How has the amendment been narrowed? Does it apply to the entitlement programs now?

Mr. DANFORTH. The answer to that question would be no, it does not. I do not view this as any kind of precedent for entitlement programs.

The Prompt Payment Act was designed to apply to contractual arrangements between anyone who is doing business with the Federal Government and the Government itself. I would view this as exactly following the purpose of the Prompt Payment Act. I do not think that this has any application to entitlement programs generally.

I have to say that I, as a general principle, do not know that Congress has ever mustered up the political will to have any delay in any entitlement program. Maybe I am wrong in that, but it has been the farm programs that have been particularly susceptible to delays.

Mr. CHILES. I thank the Senator for his explanation.

Mr. President, I am not opposed to paying promptly, Commodity Credit payments. I think they should be. The Senator from Florida has worked in that regard.

In fact, we are now working in the Appropriations Committee, trying to do that. One of the ways, of course, is to put sufficient funding in. As you know, some of our brethren on the House side do not want to do that, because this is the vehicle in which they move a supplemental appropriation bill and then they tack other things on it.

So that is part of the problem here.

What I think we should really address is, looking at this bill: what was the purpose of it? What was it created for? Was it something that we were talking about putting commodity credit payments on? And we were not. We passed the prompt payment bill a few years ago. This is a means of trying to go back and amend it and reform that bill and to look at subcontractors under that bill.

It was intended for when the Government is a buyer and when it is principally a purchaser in the marketplace. It is intended for procurement programs when the Government is acquiring something for its own use. It could be paper clips, major weapons systems, food for the School Lunch Program, or uniforms for our troops overseas. The idea was that when the Government buys something it should pay its bills on time or pay an interest penalty.

What is the problem with commodity payments not being made? Is it that the Government is not sort of paying on time? Something in the administration?

Most of the time it is the problem of Congress. Right here. Now we are going to have interest paid because the Congress has not done its job properly? Where does the interest payment come out of? Out of the same funnel you are paying the commodity credits out of.

Does this do something to make Congress do its job a little better and on time?

We are chiding administration officials because they get a bill and they hold the bill on their desk and they do not pay it to people who sold something to the Federal Government. This is the problem. This should be dealt with on this bill. What you are doing is grafting another animal on something that we are trying to fix. I do not have much doubt that it will probably be grafted on. Whether the White House will have that happen or not, I do not know. I am afraid this is a precedent.

Are you now going to pay interest on any other Government program that we have? You can make an argument that the farmer has contracted with the Federal Government. Yes, he has. There is no doubt about that. But it is a little different from somebody who is selling something to the Federal Government. You have to think about that a little bit. Part of this is that the farmer has agreed to set aside part of his land. That is different from the little manufacturer who has gone out and made a widget that he is selling to the Government and he has put his money into that. He can generally collect from someone else he sells to, but here is the big Federal Government, and they do not pay.

We are trying to correct it. We are trying to say if some administration official is dilatory or deliberately sitting on this, the person ought to have interest. We know that will move a fellow. It will not look good on his record, if he is dilatory.

Now we are talking about having this because Congress is not addressing this problem properly.

Mr. President, it is totally different from what we are talking about. We really did not discuss this in our hearings. We did not look at the bill and see are we designing it for this kind of purpose. Is this something we had in mind? We did not look at that a few years ago when we first heard prompt payment.

When I first heard about this amendment, I said I could not believe it. I was one moving to amend the prompt payment bill to deal with subcontractors and I said we never tried to touch the thing. Why open it up now, in effect, prompt payment and interest payments, to different kinds of programs?

If you are going to do it with the farmers, I think you are going to have a hard time saying you should not do it with other programs. I think it is a mistake and I do not think we should be doing it. I had a hold on the bill for a while but I realized a lot of people wanted to move it. I am not surprised some want to do this.

But we have failed in our responsibility to do something that we have the ability to do here in the Congress. We are going to take a bill that is totally designed to keep the administration people from sitting on a billing and graft this on. It is a mistake.

Mr. President, I strongly support the amendments contained in S. 328 to the Prompt Payment Act of 1982. They are needed. They will work to reaffirm the Federal Government's commitment to pay its bills on time.

I had the good fortune to be a cosponsor with Senator DANFORTH, the Senate sponsor of the original Prompt Payment Act in 1982. At the time many of us felt legislation was needed because the executive branch was failing to live up to the responsibility of paying bills on time. The Government should not be a business practice. It ends up costing the taxpayer in the long run.

Difficulties within the Federal agencies led to the 1982 legislation. I think it is fair to say that we would not have these amendments before us today if those difficulties were not continuing.

I want to recognize the continuing oversight and work of my colleagues on the Governmental Affairs and Small Business Committees who have kept the spotlight on what Congress intends.

Senator SASSER, who sits on both committees, and is the sponsor, deserves particular thanks.

Hearings by the Governmental Affairs Committee as well as work by the General Accounting Office earlier this year described the problems these amendments address.

Too many payments are made late; interest due is seldom paid; the 15-day grace period is used routinely instead of when needed; and early payment discounts are abused by agencies.

I believe the amendments will go a long way to putting an end to the loopholes agencies have created to avoid paying interest on overdue bills.

The legislation also clearly extends the principle of prompt pay to subcontractors on federally financed construction projects.

Mr. President, I feel that section 7 of the bill takes a step in the right direction. We considered statutorily extending the prompt pay principle to subcontractors in the 1982 act but chose not to try to go that far in the first step. Since then, I have heard of a number of cases where subcontractors are not getting paid the Federal dollars owed them as quickly as are contractors. There is a problem. While some companies may be able to service late payments and continue to operate, almost all the small contractors on Federal projects operate on tight cash flow situations. A late payment can ruin them altogether.

I feel confident Congress can serve a constructive role in assuring all contractors, including subcontractors, get the Federal dollars owed them in a timely manner. In essence, the provision in this amendment says the following: When Federal dollars are involved, the Federal Government should support the practice that construction contractors treat subcontractors the same way the Government is to treat them.

Moreover, prompt pay for completed work is a principle all participants in the construction business agree to and claim they live up to already.

We have a prevailing industry standard here to which we are trying to give a little backbone.

There are practical questions. But I believe the committee has carefully examined these issues. For example, the right to withhold payment for cause, and the right to retainage have been adequately preserved as management tools for prime contractors.

Mr. President, I would remind Members, the Senate substantively passed this legislation last Congress with unanimous consent. We have taken the opportunity provided by this Congress to build on the record and strengthen the bill. We should act today.

I yield 3 minutes to the distinguished Senator from Arkansas and I then I yield back to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. The Senator yields first to the Senator from Arkansas for 3 minutes.

Mr. PRYOR. Mr. President, I will not use my entire 3 minutes. In fact, I am just going to take one or two moments to make one or two points. One, I am very proud to be an original cosponsor of Senator DANFORTH's bill. We think that this bill is entirely within the thrust of S. 328 offered today by Senator SASSER and Senator TRIBLE.

I would like to commend those two fine Senators for the work they have expended in bringing this bill to the floor at this time.

We think there is one amendment that is very vital to this legislation. That is this amendment offered by Senators DANFORTH, BUMPERS, myself, and others, to address the problem with the Commodity Credit Corporation.

The distinguished Senator from Florida just a moment ago said this does not really amount to a sale as we commonly think of selling goods to the Government.

Mr. President, I would respectfully submit in answer to my very good friend from Florida, the chairman of the Budget Committee, that the farmer has one thing, the farmer has one commodity, the farmer has one piece of equity, the farmer has one sole source of income, and that is the very land that he must grow food and fiber on. It is that particular land that is pledged to the CCC, a contractual arrangement entered into between that farmer and the CCC. When the CCC does not keep its end of the bargain and makes that payment late to that particular farmer, then, Mr. President, I submit that that contract needs to be strengthened and it needs to be bilateral in nature.

This amendment offered by Senators DANFORTH, BUMPERS, and myself, would make that relationship on what we might call an even playing field.

Finally, Mr. President, the farmer in receiving a late payment or not knowing when that payment is going to be made has only one option and only one opportunity to keep farming. That is to go and borrow additional money. That is costing that farmer additional interest.

So, Mr. President, we think the time is ripe to attach this amendment to S. 328, and I strongly hope, Mr. President, our colleagues will agree to it.

Mr. President, I rise today as an original cosponsor of the Danforth amendment to S. 328, the Prompt Payment Act Amendments of 1987. I urge my colleagues to join us in this effort to extend the Prompt Pay Act to cover Commodity Credit Corporation [CCC] payment procedures. I am pleased to associate myself with the common sense view that the Nation's farmers are as entitled to prompt payment of Government obligations as is any group owed money by Uncle Sam.

The Prompt Payment Act of 1982 was enacted to improve the often lax bill paying practices of the Federal Government. The act requires Federal agencies to pay interest when obligation are not paid on time, generally more than 30 days after submission of an invoice. This is standard operating procedure in the private sector and now applies to most Federal agencies. S. 328 is intended to eliminate the loopholes through which some agencies have managed to circumvent the original act.

Our amendent is entirely consistent with the thrust of S. 328. It simply requires that if the CCC fails to make its payments within the general 30-day time period, then at that point interest will begin to accrue. In addition, our amendment will "reach back" and apply to the most recent interruption of payment by the CCC, which occurred between May 1 and July 13, 1987, and which left many in the farming community in a unacceptable position.

Farmers and other members of the agricultural sector of our economy suffer chaos and disruption when payments they expect to receive are held hostage by those in Congress who refuse to deal responsibly with the CCC funding or supplemental appropriations bills. In fact, many farmers depend on these checks for the day to day subsistence of their families. Our amendment will serve as a pointed reminder that the consequences of failing to provide CCC funding are serious for the farmer and now will be serious for the Government. In this way, I believe we will discourage future lapses in funding similar to the one which occurred recently.

I believe interest penalties for failure to make timely payment are appropriate because farmers who do not receive their CCC checks still have their personal financial obligations to honor. Therefore, when checks are not paid on time, farmers frequently must borrow, and of course, then must pay interest on principal. Interest penalties are a way to hold the farmer harmless for Government conduct beyond his control which adversely affects him as he tries to survive in these difficult times for agriculture.

Mr. President, I think it essential that Congress require the Govenrment to be a responsible business partner, not just with vendors and service providers, but with those who participate in agricultural programs which entitle them to certain payments in a timely fashion. After all, farmers are taxpayers, and therefore deserve to have Government deal with them in a responsible manner. Our amendment simply gives the Government a meaningful incentive to behave in a businesslike manner.

I urge my colleagues to join us in adopting this amendment.

Mr. BUMPERS. Mr. President, what is the parliamentary situation on time?

The PRESIDING OFFICER. The Senator from Missouri has 10 minutes 12 seconds, and the Senator from Tennessee now controls the time which was yielded back by the Senator from Florida, 10 minutes 3 seconds. However, at 12 noon the Senate will resume consideration of Senate Joint Resolution 194.

Mr. BUMPERS. Will the Senator from Tennessee yield me 3 or 4 minutes?

Mr. SASSER. Does the Senator from Arkansas wish to speak in opposition?

Mr. BUMPERS. No, I am going to speak for the amendment.

Mr. SASSER. I control the time in opposition. Otherwise, I would be delighted to yield.

Mr. DANFORTH. Mr. President, I yield all the time that we have until noon to the Senator from Arkansas.

VISIT TO THE SENATE CHAMBER

Mr. WEICKER. Will the Senator from Arkansas yield for 10 seconds?

Mr. BUMPERS. I am happy to.

Mr. WEICKER. Mr. President, I ask unanimous consent that Mr. Beng Pufang of China, who is here as a representative from his nation on behalf of the China Fund for the Handicapped, be permitted access to the floor so that those of my colleagues who are here might avail themselves of this brief visit.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am pleased to join with Senator DANFORTH today in proposing an amendment to S. 328 that is of critical importance to farmers in Arkansas and across the country. Because of the delay in making payments from May 1, 1987 to July 12, 1987, 50 to 60 million dollars worth of payments in my State were held up at the worst possible time. Rowcrop farmers in Arkansas have become heavily dependent on advance deficiency payments or wheat loan payments to help them put in their spring crop because of the general lack of adequate capital available from conventional lenders. When ASCS payments were delayed for over 2 months, many farmers were irreparably harmed while others limped through at great sacrifice.

These farmers are not interested in who is to blame for the delay in payments. They only care that some effort is made to encourage prompt payment or to provide interest penalties should payments come late. Late payments usually cause these farmers to incur new interest expenses, if they are able to continue farming, and it is only fair that Congress acts to help to make them whole.

I am aware that the USDA and OMB have lobbied hard recently in an attempt to thwart the effort to provide prompt pay protection for farmers. The gist of their campaign is that: First, the amendment will not prevent delays because the fault lies with Congress, second, when money is available only 1 percent of all CCC payments are made late, third, CCC payments are entitlements and not contractual in nature, fourth, the administration has repeatedly requested permanent indefinite authority for reimbursement by the Treasury for CCC losses, fifth, there are no specified dates on making payments from which to determine timeliness, and sixth, this amendment would require the ASCS to centralize it's administration of payments thereby sacrificing the local level administration.

In response it should be pointed out that the idea behind the amendment is to make farmers whole who have been damaged by a delay of more than 30 days in receiving Government checks, payments on which most program farmers have become dependent. It only makes sense that the interest payments come from the same fund that the program payments come from, if interest payments become necessary.

Milton Hertz, ASCS Administrator, testifying before the House Small Business Committee, claimed that only 1 percent of all CCC payments are late. In fact, Mr. Hertz has claimed that the majority of all CCC payments are made within 10 days of the due date, and if this is true, this amendment will not hinder the normal operation of county offices in the least. I can't speak to the accuracy of Mr. Hertz' claim, but I can assure you that farmers in my State strongly refute this claim. And this situation only becomes worse when the CCC runs out of money. During the last delay $1.5 billion in payments were late, which, if this amendment had been in place, would have cost between $3 and $11 million in interest payments. This is money that was taken, in effect, from farmers pockets' at a time when they can afford it least.

The claim that this amendment will expand prompt pay protection to entitlements is true for CCC farmer program payments only. However, prompt pay legislation was not intended just to protect those with procurement contracts, but all persons engaged in commercial transactions with the Government. CCC programs are commercial transactions because farmers provide a guid pro quo for their payments—that is, laying out land, et cetera—in exchange for program payments. It is interesting to note that in considering prompt pay the USDA argues that program payments are entitlements, yet in cases before Federal district courts where the USDA has been sued over payment limitation decisions, the USDA has consistently challenged jurisdiction on the ground that only the Claims Court can hear cases involving contracts. Program enrollment is a contract or an entitlement depending on which animal suits the USDA at any particular moment.

As to the point that the USDA has repeatedly requested permanent indefinite authority to seek reimbursements from the Treasury or that the USDA has sought an increase in CCC borrowing authority from $25 billion to $40 billion, this is not important. The issue is not where to attach blame, but on how to best provide the most logical and efficient system of reimbursement to farmers in cases where farmers have been damaged for the lack of timeliness. If this amendment also encourages prompt pay in situations where ASCS personnel are solely responsible, or encourages the administration to request adequate funding and Congress to provide it, then this amendment provides another measure of protection.

The argument that the USDA will have to provide specific payment terms and centralize payment administration is a false argument. The amendment does not require the establishment of specific payment terms; it merely establishes that farmers have a right to interest payments when program payments are not made within 30 days of the date of entitlement. In fact, no changes in payment terms are in order because the amendment specifically bars modifications of the prevailing payment practice. Centralized management is not necessary because different entitlement dates are recognized and, if payments are made within 10 days as the ASCS claims is normal, the USDA does not face large interest penalties due to the lack of promptness on the part of USDA employees.

Finally, I want to address the issue concerning the amendment language that a farmer must make a demand for payment before the 30-day clock begins to tick. As requested by me and others, the Senator from Missouri modified his amendment adding the words "where applicable" to make clear that the amendment does not require a farmer to make demand when it is not in the normal course of business for a farmer to go into the ASCS office to receive his payment, as in the case where county offices mail checks to program farmers. I think this point must be made crystal clear to the USDA: The requirement that a demand for payment must be made is applied only "where applicable" and not in situations where ASCS county offices make payments by mail, without a demand for payment, as a normal course of business.

I urge the adoption of this amendment.

Mr. President, I went to school under the GI bill. I got a Government check before I got married for $75 the first of every month. If it happened to be 2 days late, this student was in big trouble. But it never was. I assumed at that point that the Government always paid its bills very promptly.

Then in 1957 I filed a lawsuit against the Federal Government over a defense contract and finally concluded it in 1964, over 7 years after it was begun. I got a judgment out of the Court of Claims for a little less than $100,000 and that was big money for a country lawyer from Charleston, AR. Not only did I have to enlist the help of a U.S. Senator 6 months after the court had rendered the judgment and the appeal time had run, but when we finally got the money there was not 1 dime of interest in the whole judgment, even though we had been nearly 8 years in trying it.

I am glad to see Members of the U.S. Senate come to the recognition that the Government ought to pay its bills and pay them in a timely fashion. When Milton Hertz, head of ASCS, said that only 1 percent of the payments by the Commodity Credit Corporation are paid late, I wanted to tell you that every one of those must be in Arkansas.

Then I hear the Senator from Nebraska [Mr. EXON] get up and tell us about how all the farmers in Nebraska are not being paid in a timely way. I find that almost every Senator here from an agricultural State says that the Commodity Credit Corporation and the ASCS are terrible about their payment record. So I do not believe that figure of 1 percent. The Senator from Florida makes the proposition that this is not like selling something to the Government, like selling them a tank or a load of beef for the Army or something.

Well, now, Mr. President, I have to take exception to that argument. The farmers in my State buy seed, fertilizer, and diesel fuel or gasoline and they go out and plant their crops in anticipation of a deficiency payment being paid in advance. They get credit for all of those things, depending on that deficiency payment being paid in a timely manner.

In short, Mr. President—I see my time has gone—the Government ought to pay its bill on time. I do not care whether it is to a farmer or General Motors or a contractor from Arkansas. The Government is out to pay their bills on time and that is all this amendment does. So I urge the adoption of the amendment.

The PRESIDING OFFICER. The hour of 12 noon has arrived and the Chair recognizes the majority leader.

Mr. BYRD. Mr. President, I simply say that the prompt payment legislation will come back at some point during the afternoon.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER (Mr. SANFORD). The Senate will resume consideration of Senate Joint Resolution 194. Time for debate is 45 minutes to be equally divided between Senator WEICKER and Senator WARNER.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I yield 7 minutes to the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator from Connecticut.

Mr. President, I had intended earlier this morning to engage in a colloquy with the distinguished Senator from Virginia, the floor manager of the bill. He is not here now so I will just ask and answer the questions because I do not think the Senator from Virginia or any other Member of this body could answer the questions.

Now, the first question I would ask is, What is it going to cost to continue our policy in the Persian Gulf? I have seen figures of $20 million a month. I have heard other figures of over $1 million a day. So the answer to that question is somewhere between $200 and $240 million a year and $500 million a year.

The second question is, of the people that this is designed to help, the Japanese, who get most of the oil out of the Persian Gulf; the Western Europeans, who get an inordinate amount, and other Western European countries, how much are they paying the United States? I do not mind embellishing a little. I just assume it is going to cost us $500 million. How much is Japan and Western Europe putting up to pay for this?

Now, all the Western European countries have about nine minesweepers in the Persian Gulf. Their cost is just peanuts compared to ours.

Third, how much is Kuwait paying? Kuwait, whose tankers we have reflagged and, in my opinion, have thereby demeaned our flag in the process, and that is not to denigrate Kuwait; it is simply saying we ought not put the American flag on the ships of everybody who asks us. So what is Kuwait putting up? So far as I know, the answer is zip, zero, none. What kind of landing rights for our fighter planes and our helicopters and what kind of berthing rights do our ships have in Kuwait? Zip, zero, none. Yes, we will put our flags on your ships, and we will put not six warships, as the President said, but 30 to 40 warships in there to protect them. And Kuwait says, "We really appreciate that, and we would like to let your ships berth in our ports, but we can't. We would like to let your planes land on our soil, but we can't."

I invite the Members of this body to stand up and defend that. What kind of nonsense is this? I would like to ask some Member of this body what is our objective? Is it to get oil out, as the President says? The answer has to be no. Before we ever got involved, 99 percent of the oil came out of the Persian Gulf. You can put the whole United States Navy in the Persian Gulf and you will not improve on that. Ninety-nine percent of the oil was coming out before we ever sent our first ship in there, and it still is. The best we can improve that is just 1 percent.

I would like for the President—and this is the reason I so strongly favor this amendment—to tell us how long we are going to be there. No. 1, if he says he does not know, that is pretty good grounds for invoking the War Powers Act. No. 2, if he says 3 months, then according to the arguments on the other side, it would be the President who is cutting and running. Incidentally, that is one of those typical distractions and divisions from the debate. Nobody is suggesting anybody cut and run. I know all those macho arguments that do nothing but get a lot of American boys killed.

If the President says, "Well, we are going to stay there until Iran comes to its senses," then he is saying our foreign policy is being dictated by Iran. We are at their mercy. If they want to keep the war going on forever and not ever come to their senses, we are there at their mercy.

Mr. President, the reason I keep getting so passionate about this policy is because I have seen it all happen before. History always repeats itself. It always repeats itself in spades. The arguments being made here are the same ones that got us into Vietnam: You cannot cut and run.

A bad policy blundered into is not going to get any better. It takes a big man and a big country to say that this is not in our national interest. Our national security is not at stake.

The reason the Senator from Connecticut, the Senator from Oregon, the Senator from Washington, the Senator from West Virginia, and this Senator keep hammering on this is that this is a matter of common sense. We are not trying to micromanage foreign policy. We are trying to save America's boys' lives. There is not a soul in this body that doubts for an instant where this is headed. Any Senator with common sense knows exactly where this policy is headed.

In Arkansas we used to say that if you send a bully out looking for trouble, he will sure find it. You remember that great trial lawyer from Tennessee in the Army-McCarthy hearings, Ray Jenkins from Nashville, TN. He said he always loved to defend a coward that had killed a bully because he could always make the jury want to dig the bully up and shoot him all over again.

What are we doing in the Persian Gulf? We are looking for trouble and we are going to get it. You can put the best face on it you want. You can talk about the great powerful United States and how we are not going to be kicked around; we are not going to be bullied. The truth is we are looking for trouble.

So my final question is, what are we going to do when an American ship is lost, an American airplane shot down with one of our own missiles? Incidentally, it would probably be with missiles that we so generously sold Iran, openly and covertly. What are we going to do when they use the Hawk missiles we sold them last year to shoot down American airplanes?

What is our response going to be? You know what it is going to be. The Senator from Connecticut and I are going to be on the short end. You saw that happen in Vietnam. The first time three or four American lives were lost, American opinion turned immediately in favor of the Vietnam war, and American opinion in this country shifts the minute a ship is sunk, or when American lives are lost the American public will say "We can't leave now. We have to teach those people a lesson."

I know how it goes. I know exactly where we are going to wind up on that. That is the reason before it gets completely out of hand some of us stand here screaming our heads off saying, "Let's come to our senses" and say to the President, "Mr. President, you do not have the prerogative, it is not your prerogative to declare the War Powers Act unconstitutional. Only the Supreme Court can do that. It is the law of the land. We want you to comply with it."

I thank the Senator for yielding.

Mr. WARNER. Mr. President, I yield to myself additional time as I may require.

Mr. President, the distinguished Senator from Arkansas and I started today together before sunrise debating this issue on national television, and we continue here today. Although I see him now ducking down behind the desk, I am hopeful I can regain his attention here momentarily.

Mr. BUMPERS. The Senator was doing something important. Now we can go ahead. [Laughter.]

Mr. WARNER. I thank my good friend. I wonder if we can sort of define our common goals and see whether or not there are a number of areas in which the Senators from Connecticut and Arkansas and I can be together.

We recognize that the War Powers Act is the law of the land. We recognize that it is a propitious time for the Congress of the United States to express its opinion. And I anticipate that opinion will be supportive of the President's policies in the gulf.

We are also deeply concerned, all of us, about the risks being taken by the men and women of the Armed Forces of the United States, and indeed the men and women of the Armed Forces of a number of other nations that have joined, Great Britain, France, Italy, and now in another area directly related to the gulf, West Germany will begin to participate.

There has been quite a groundswell of allied support and friendly nations support behind the President's objectives to bring about a more peaceful situation in the gulf, and hopefully a cessation of the Iran-Iraq war.

But, Mr. President, we all recognize, and we are not here nor do we have the time to debate the constitutionality of the War Powers Act, but we agree that there are provisions in that act which the foremost scholars in this Nation have addressed and for which they have indicated grave concern.

So what do we do today? We are momentarily going to vote on a motion to table, which I will offer, on the amendment by the Senator from Connecticut. And failing that I have been working with others in the Senate to provide an avenue by which the goals that I believe the two Senators present here now share with me are the ones that we should meet, namely let us have a report from the President, not in compliance with the War Powers Act, but in every respect as full, as complete, and indeed the document that I am working on requires for a more considerably expanded report then the one required by the War Powers Act. The President would be required to send that up here in no less than 60 days.

We as a body would then have an opportunity to consider that report, and then the document that I am working on would enable a resolution to be brought forward if in the judgment of the leadership, perhaps others, it was necessary, in the timeframe of late January, early February. That resolution would precipitate a debate in this body as well as the House of Representatives, indeed the Congress as a whole, to review the situation in the gulf as it has evolved from today until late January, to review the report of the President and to make our determination whether the Congress agrees or disagrees with the President's policies.

I know my colleagues have not had an opportunity to look at that. It is being refined at this point in time. But that meets, it seems to me, the objective we all seek, namely an expression by the President in clear form of his policy, the implementation of our troops in support of that policy, the degree to which our allies and friends are involved in the gulf, the situation relating to progress on diplomatic fronts, primarily the United Nations Security Council—all of these facts would be shared with the Congress. Then we would have the opportunity, not under the War Powers Act, to sit interminably, think and think about it, debate, be indecisive, and send a signal to the world we cannot make up our minds how to support the President or to disagree with him, but to act in a very timely fashion and express the feelings of the Congress of the United States.

So I believe that type of approach is far better then to insert ourselves into the Byzantine paths of the War Powers Act, strewn with potholes and quicksand into which we can fall and disappear.

No, Mr. President. I think we are rapidly approaching a solution, and I beg the indulgence of my colleague as we complete our document and the Senate shortly has an opportunity to express its thoughts with respect to the pending motion.

I yield the floor.

Mr. **LEAHY** and Mr. **ADAMS** addressed the Chair.

Mr. **ADAMS**. Mr. President, I ask that I be yielded 5 minutes.

The **PRESIDING OFFICER**. Who yields time?

Mr. **WEICKER**. Mr. President, I yield 5 minutes to the distinguished Senator from Washington.

Mr. **ADAMS**. I thank the Senator from Connecticut.

I would like to remind my colleagues—and in particular I would like the attention of the Senator from Virginia who is my good friend and a very distinguished Member of this body—that we passed through the Foreign Relations Committee a War Powers Resolution months ago. We are faced today in this body, and I think too many have not read the War Powers Act, with the fact that where imminent hostilities have occurred, the President shall submit within 48 hours this report. But in section 5(b) of the act it says "within 60 calendar days after the report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is the earlier, the President shall terminate the use of any forces."

Many of us have been on the floor hour after hour and in meeting hour after hour attempting to get from the President of the United States a simple admission, and submission of a report, as required by law, so we can operate on that report. Otherwise there will be a court suit that will say 60 days from the date of imminent hostilities they have to be withdrawn.

We have not tried to say that all forces be withdrawn. I have discussed this with my friend from Virginia. We have tried to form a policy. But it is very hard to form a policy when the Commander in Chief is out there with a policy and is not up here defining it.

I want to just go through the fact that this has happened, and more is going to happen. We started May 16 with the *Stark*; the 24th of July we had the *Bridgeton*; the 10th of August we had the F-14 firing; the 24th of August we had the *Kidd* firing; the 21st of August we sank a series of ships when we attacked the Iranian *Ajr*; and on the 18th of October, as has been amended into the motion, we have our ships being fired upon and our ships, helicopters in this case, returning fire.

I know because the Senator from Virginia is an honest and a direct man, and has stated this on the floor, that there are hostilities. These are not just imminent. They are hostilities.

The man from the State Department gets on and states we are in hostilities, there was a hostile act, we returned fire.

That has not been the point that we have all been trying to make and we continue to make and why I hope the motion to table is defeated.

The problem is we have a conflict going on. We have hostilities. And as these hostilities are going on the Nation should unite and unite behind a policy that says we are not going to be pushed out of the Persian Gulf. But many of us have tried to fashion a set of criteria of when can you declare victory and have tried to say to an administration, "Don't fight an administration war; if you are going to fight a war use the act that was created precisely for these purposes to say this is not an administration war, this is the United States united."

And that comes from the Senate passing a policy and the House passing a policy so that we have a national policy that says these are our goals, we are achieving them, our allies know what we are doing and we do not have what we have right now, and I know as a former Secretary of the Navy the Senator from Virginia is concerned we are out there right now with instructions to not only fire if fired upon but to fire if you think you might be fired upon. And we have a series of very hostile people who are going to be continuing to fire on us. So, let us have this policy.

I just do not understand why the administration has not long ago simply said "Here is our report, these are our goals, we want to do these things" so that there could be a reply here of say, well, reflagging is the wrong way to go about it, we want to join in a policy for maintaining ourselves in the gulf. These are the things that we are going to do.

I would close by saying this, that this has been a long fight for the Senator and it is going to be a much longer fight. I expect to be here a long time. And during this period of time we do not want to have to go to the appropriations process because we will do it and say we are going to cut off the money for these kinds of activities.

This act was provided to prevent the Congress from having to use slow-moving powers, and the criticism that I have and it is not a criticism personally at all of the Senator, because he has been a great man in working with us, but let us not go to January. There is going to be so many more incidents before then, that this body will be stampeded into action like the Gulf of Tonkin.

Let us get it done right now and I hope the motion to table is defeated.

I thank the Senator.

Mr. **LEAHY**. Mr. President, will the Senator yield?

Mr. **WARNER**. Mr. President, if I may just take a moment to reply to my good friend, first why do we not drop from this debate the term "war"? Yes; we are in hostilities in the gulf, but let us not be alarmist and describe this as a war of the proportions of Vietnam, Korea, or World War II.

We have our young men engaged in situations of hostilities. We concur in that.

But let us look at this thing I think with dispassion and come to the right judgment. Hopefully, shortly we will provide you with a roadmap of how we reach the goals. Goal No. 1 is for this body to go on record now today hopefully, or within a very short period of time, that we support the President in his overall objectives in the Persian Gulf and, Mr. President, we will be revisiting this issue at a point in time after the convening of the Congress in January, essentially a period of time not in any extent different than that under the war powers, if you track the time clock under that situation.

Mr. President, I want to reserve 10 minutes of my time and I ask the Chair to advise this Senator for the purpose of the distinguished Republican leader speaking on this issue.

Might I inquire as to the remainder of time?

The **PRESIDING OFFICER**. The Senator has 14 minutes and 58 seconds remaining.

Mr. **WARNER**. Is that the total amount of time for the Senator from Virginia?

The **PRESIDING OFFICER**. That is total amount of the Senator's time.

Mr. **WARNER**. Fourteen minutes and some fraction.

I thank the Chair.

The **PRESIDING OFFICER**. The Senator from Vermont.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. WEICKER. I yield 4 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank my friend from Connecticut.

Mr. President, this debate is not only an important one but one which I think the American people are watching a lot closer than some in the halls of Congress may realize.

Certainly, it is one which I hear discussed in my own State of Vermont each week when I am there.

We know that the Constitution gives Congress the sole power to declare war. But the War Powers Act says Congress must have a say when U.S. forces get involved in undeclared wars.

What we said when we passed the War Powers Resolution was no more Vietnams. If Americans are going to lose their lives in conflict in the world, then Congress has to share in that responsibility. No Tonkin Gulf resolution, but rather a War Powers Resolution.

Ever since Congress passed the War Powers Act in 1973 Presidents have resisted its implementation.

Those who argue against its use today maintain it is unconstitutional, that it should be modified. Perhaps it should be.

But I, for one, believe it is a good law. It allows the President to take immediate military action for up to 60 days. That lets the President deal with emergency situations.

Let us understand, Mr. President, what this debate is about. Nobody here is saying that we should withdraw our warships from the Persian Gulf or from any international waters. Nobody is saying that American ships cannot sail in international waters. Of course, they can. Neither Iran nor any other country can unilaterally keep us or the British, the French or the Soviets out of international waters.

But if we are going to be involved in hostilities the American people should have a say in how far we are going to go. If we are going to find ourselves in a protracted war in the Middle East or taking sides in one, then the American people should decide for how long.

The bottom line is this, Mr. President: If we do not like the War Powers Act, then let us have guts enough to repeal it. If the United States Congress constantly tries to find ways to avoid it even though this policy in the Persian Gulf clearly falls within its scope, we show a disrespect for the rule of law.

Whether you think the War Powers Act is good or bad law, it is the law. By not invoking it, Congress is ducking this issue and avoiding its responsibilities.

I yield back to the Senator from Connecticut.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, will the Senator yield to me?

Mr. WARNER. Mr. President, I wonder if I might just take a half-minute to address the distinguished Senator from Vermont.

In the question of the repeal of the War Powers Act it seems to me the critical timing of what confronts us today is such that we do not have the opportunity to go into a detailed analysis of the War Powers Act.

I am hopeful of introducing within the next 10 days a freestanding measure which would have the purport of appointing a commission, a commission not unlike the one that we had to resolve the gridlock between the executive and legislative branches on Social Security and which was quite successful in reaching a compromise on those issues, and the success resulted in both the executive and the legislative accepting the recommendations of that commission.

The purpose of this commission would, in a totally detached manner from the Persian Gulf situation, look at the War Powers Act and come up with some recommendation for both the executive and the legislative branches.

Mr. LEAHY. Mr. President, if I could just respond briefly to that, I applaud that idea. I think we should have somebody looking at it. It could be better written, but like Social Security, we did not ignore the Social Security law while we looked at ways to make it better. We did not stop paying Social Security checks. We did not ignore the Social Security Administration while we tried to make it better. And we should not ignore the War Powers Act while we are trying to make it better.

I agree that the War Powers Act could be better written, it could be better defined, but in the meantime it is on the books and we ought to either obey it, live up to it, or repeal it while we look for something new.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. WEICKER. I yield 3 minutes to the Senator from California.

Mr. CRANSTON. Mr. President, I think it is vitally important that we observe the law of the land. We are not doing so now, but I also think it is useful in this debate to take a look at the War Powers Act.

The Senator from Vermont suggested repealing it. The Senator from Virginia has suggested we have a study commission. I think that would be better undertaken by the Foreign Affairs Committee that has jurisdicition over this matter.

But let me say that we would not be in this rather absurd and, I think also, dangerous situation had we written the War Powers Act when it was considered back in 1973 and finally adopted in that year, or in 1974, had we stuck to the original Senate version. That version was the product of the work of the Senator from Mississippi, who is now on the floor, and of Senator Javits and of Senator Eagleton primarily.

It provided a war powers scenario that would have precluded the President from introducing troops into hostilities at any time, anywhere, or in areas of imminent hostilities without the prior consent of Congress, except in certain specified circumstances in order to rescue U.S. citizens or to respond to armed attack.

Plus, it would have taken the collective judgment of the President and the Congress before getting into the situation, rather than getting Congress in the act afterward when it is very difficult to withdraw, when Americans are under fire, and the flag is committed.

Therefore, I hope that we will have learned this lesson at long last—we should have learned it in Lebanon; we now have another opportunity—and that we overhaul the War Powers Act and go back to that original Senate version, which is really in accordance with the Constitution. And we have had a lot of discussion of original intent lately here in connection with another matter. It is very plain that the original intent of the Constitution's framers was to give the Congress the power to declare war and a War Powers Act in this earlier sense would preserve that right of the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as I have remaining to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

(Mr. LAUTENBERG assumed the chair.)

Mr. HATFIELD. Mr. President, we have sat here for 5 months making a mockery of our own law.

First we closed our eyes to the more than 300 attacks on shipping in the Persian Gulf during the last several years and pretended that there were no hostilities in those dangerous waters.

Then we closed our eyes to the fact that those attacks did not stop when the U.S. Navy went sailing into the Persian Gulf and pretended that hostilities were not imminent.

And then we closed our eyes to the fact that Iranian speedboats were laying mines all around those Navy ships and the reflagged Kuwaiti tankers and pretended that the involvement of U.S. Armed Forces in hostilities was not imminent.

In case anyone has forgotten what it is that triggers the War Powers Resolution, let me read it:

> In the absence of a declaration of war, any case in which United States Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated.

That's it. That is what triggers the war powers resolution.

And we have debated the issue for 5 months.

We debated it after two Iraqi missiles hit the U.S.S. *Stark* and 37 American servicemen were killed on May 17.

We debated it after the newly reflagged Kuwaiti tanker *Brigeton* struck a mine on July 24.

And we debated it after an Iranian mine-laying ship was attacked by a U.S. Navy helicopter on September 21.

We all know the saying: "When the going gets tough, the tough get going." Well when the going gets tough around here, Mr. President, we get unanimous consent to go on to another subject.

That is what we have done so far. We have avoided it. We've talked about definitions, about semantics. We've talked about whether War Powers is constitutional, why it is unworkable and how to fix it.

Mr. President, we have not been debating the applicability of the War Powers Resolution in these past 5 months. We could not: on that, there can be no question. What we have been debating is responsibility.

We have been debating whether or not we, the elected representatives of the people, want to share the responsibility for current U.S. policy in the Persian Gulf.

And behind all the definitions of hostile and imminent behind all the debate over constitutional authority and scholarly commissions, there is one simple fact: we are not willing—not willing to share the responsibility for current U.S. policy in the Persian Gulf.

We have heard all the excuses.

Excuse No. 1: We are going to undermine the President. If this policy is as bad as I think it is, maybe we will. I do not know. But our first loyalty is to the law, not the President.

Excuse No. 2: We are going to confuse our allies. Our allies are not stupid—they know that policy is made in this country by the President and Congress. And if the President has been telling them differently, that is not our fault.

Excuse No. 3: We do not have the constitutional authority to interfere in foreign policy. We are paying for this policy—to the tune of a million dollars a day. We have the right—constitutional right—to decide how public money is spent.

Excuse No. 4: The law is unconstitutional. Since when did we become the Supreme Court? Contrary to the currently popular belief, we do not elect our judges. If and when the Supreme Court does rule the War Powers Resolution unconstitutional, it will no longer be the law. Until it does, the law stands.

Excuse No. 5: The War Powers Resolution is unworkable and we need to rewrite it. In the absence of the political will to assert our proper role as partner in the conduct of foreign policy, the War Powers Resolution is never going to be workable. Rewrite it all you like, but you cannot legislate political will.

I am not going to stand here and debate these issues—these issues are excuses and I have grown weary of them.

All I want to do today is ask my colleagues to honor the law. For the first time in 5 months—in the face of more than 40 U.S. ships, more than 10,000 U.S. troops and frequent attacks—I ask only that we obey the law.

Ms. MIKULSKI. Mr. President, yesterday Iranian gunboats fired upon a U.S. helicopter in the Persian Gulf. U.S. helicopters in turn fired upon and sank three of the gunboats. Clearly, our ships and our military personnel in the gulf are threatened by imminent hostilities. The War Powers Act should be invoked and obeyed.

The War Powers Act is the law, and it is clear. It calls for a report from the President when U.S. Armed Forces are introduced * * * into situations where imminent involvement in hostilities is clearly indicated by the circumstances. That report in turn triggers other events and decisions.

Yesterday's incident involving an exchange of gunfire between United States and Iranian forces is the third time U.S. Armed Forces have been involved in actual hostilities in the gulf.

Thirty-seven Americans died in May when the U.S.S. *Stark* was hit with an air-to-sea missile.

Last month U.S. Navy helicopters attacked and sank an Iranian ship that was laying mines in the gulf.

There are other points that must be taken into consideration when the President and the Congress decide on invoking the War Powers Act:

The United States has over 50 ships in the region. Normally we have less than half that amount.

After the United States attacked the Iranian boats laying mines, the Iranian representative to the United Nations directly threatened the United States by saying the United States would regret the attack.

U.S. military personnel in the gulf are receiving imminent danger pay.

I have questions about the wisdom of reflagging Kuwaiti tankers and escorting them. I have questions about how long we should stay in the gulf. But today's debate does not concern the merits of U.S. policy. It's a question of obeying the law of the land.

The administration has not abided by the law. The responsibility has fallen upon the Congress to act.

I support the resolution offered by the Senator from Connecticut. If Congress must force the administration to abide by the law, then so be it.

Mr. LEVIN. Mr. President, we should pass this resolution calling on the President to invoke the War Powers Act for two straightforward reasons—it is the law and it is the right thing to do.

The War Powers Resolution was passed by Congress in 1973, and remains the law of the land. It stops being the law of the land only if it is repealed by act of Congress, or struck down by the Supreme Court as unconstitutional. We can debate its constitutionality here on the floor of the Senate until we're blue in the face, but our debate does not make it any more or less constitutional or any more or less a law.

Now, I happen to believe that the consultation and reporting requirements of the War Powers Resolution are clearly within the constitutional framework envisioned by the framers, who gave Congress the authority "to declare War," and "to make all Laws which shall be necessary and proper for carrying into Execution" this power. But what I think or what anyone else thinks about the War Powers Resolution is not the issue here.

What we're saying in this resolution is that the law should be faithfully executed. We are not passing judgment on the wisdom of current Persian Gulf policy. We are not advocating retreat from the defense of our vital interests in that region. We are saying merely that Congress has an important and proper role—given to us by the Constitution and recognized when the War Powers Resolution was passed in 1973—in decisions relating to the introduction of our Armed Forces into hostile situations.

Involving the War Powers Resolution in a situation where our Armed Forces have clearly been introduced "into hostilities" is the only legitimate thing to do from the standpoint of the law. But it is also the most practical thing to do if we hope for our long-term policy in the gulf to succeed.

The framers of the Constitution gave Congress an integral role in matters of war and peace because they wanted to ensure that military actions had the support of the people of the United States. If our democracy is to have real meaning, then military involvement overseas, which carries with it the risk that American lives will be lost, must be supported by the people and their representatives. And, as history has repeatedly shown, long-term military involvement can only succeed if it has broad support from the American people.

Opponents of this measure charge that both Weicker-Hatfield and the

War Powers Resolution, which it seeks to have invoked, are examples of Congress' "irresolution." They are examples, it is claimed, of our inability as an institution first to support swift and decisive action in defense of U.S. interests, and then to stay the course. The critics further charge that Weicker-Hatfield will send a signal of irresolution to our adversaries and thus encourage them to more and more acts of violence directed against the U.S. military and U.S. interests worldwide.

All these dire predictions assume that Congress is less committed to the defense of our national security and national interests than is the President. I don't believe this is so, and I don't think our enemies believe it either. The U.S. Congress understands the threats we face in that region, and will support a policy that protects our vital interests. We are not sending a weak signal to our enemies—we are sending a strong signal that Congress is concerned and interested about what is happening in the gulf, and that we ought to have and do have, under the Constitution, a role in formulating our policy there.

I urge my colleagues to send this strong signal today by supporting the Weicker-Hatfield resolution.

Mr. CONRAD. Mr. President, the Constitution provides in article 1, section 8 that—

> [t]he Congress shall have Power To declare War, and to make all Laws which shall be necessary and proper for carrying into Execution the [enumerated] Powers, and all Powers vested by [the] Constitution in the Government of the United States.

Pursuant to those provisions, Congress enacted the War Powers Act. It provides in part that—

> in any case in which United States Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances * * * the President shall submit within 48 hours * * * a report * * * setting forth the circumstances necessitating the introduction of United States Armed Forces.

The War Powers Act further provides that—

> [w]ithin sixty calendar days after a report is submitted * * * the President shall terminate any use of United States Armed Forces * * * *unless* the Congress (1) has declared war * * * [or] (2) has extended by law such sixty-day period. (emphasis added)

Finally, the War Powers Act provides that such 60-day period may be extended for an additional 30 days if the President certifies to Congress that military necessity requires additional time.

We have listened to a lot of debate the last few months about how invocation of the War Powers Act would end U.S. involvement in the Persian Gulf and signal America's retreat from a region of vital strategic importance. The plain language of the War Powers Act belies that argument. The statute does not predetermine a particular outcome; rather, it requires that Congress and the President make decisions about U.S. military involvement together.

The United States and the Western World have undeniable vital strategic interests in the Persian Gulf region, and the primary interest is to ensure access to world oil supplies. It is safe to say that those interests would become no less vital during the 90 days that Congress would debate a War Powers Resolution. The point is, Mr. President, that support for our presence in the gulf is not at issue today, and neither is the constitutionality of the War Powers Act. What is at issue today is whether Congress is willing to abide by the law.

This country has been engaged in the following acts of hostility in recent months:

The Iraqi attack on the U.S.S. *Stark* in which American servicemen were wounded and killed;

The capture of an Iranian ship in which American firepower was used and Iranian soldiers were captured; and

Just yesterday, the sinking of three Iranian gunboats by American military helicopters firing machineguns and rockets and the shooting of a U.S. patrol helicopter by Iranian military personnel. It strains credulity and invites disrespect for the law to argue that hostilities are not clearly indicated by the circumstances.

Congress must be mindful of why Congress enacted the War Powers Act. How many American ships must be fire upon, how many American servicemen and women must be killed or wounded, and how many prisoners of "hostilities" must America take before Congress ensures that America is not commiting itself to another decade and a half of conflict without its consent.

Mr. President, I am not arguing here for American withdrawal from the gulf. Indeed, I believe that America has vital interests in the region. Nor am I arguing that the Congress should encroach upon the President's authority to direct the Armed Forces of our Nation. There is, and can be, only one Commander in Chief. I am arguing, however, that this is a nation of laws, not men, and the Congress and the President have an obligation to uphold those laws. Invocation of the War Powers Act would not diminish the President's powers as Commander in Chief, and it would not mandate America's withdrawal from the gulf. It would ensure, however, that America's commitment in the region is a lawful commitment by the President and Congress—not just one man.

Mr. DOLE. Mr. President, I thank the Chair and I thank my colleague.

SUPPORTING AMERICAN FORCES

Mr. President, let me start out by seconding a sentiment expressed earlier today by the distinguished Senator from Arizona, Senator McCain. We all deeply regret the necessity for any military action, and doubly so, when human life is lost. But our regret would increase 10 or a hundredfold, if American forces were not successful in repelling an unprovoked attack, and if American lives were lost in the process.

I think, first of all, we ought to agree, and I think we do, that our forces did the right thing. They deserve our unqualified support as they do their duty; and our commendation for doing it, in this instance, with skill and dedication.

And what about the war powers issue?

CONSTITUTIONAL AND LEGAL QUESTIONS

We will hear and we have heard, a great deal of debate about the constitutional and legal questions surrounding the War Powers Resolution. And we should. Those are important questions.

My own view—as one who took part in the 1973 debate, and voted for the resolution—is that it was not crafted to handle the kind of situation we have in the gulf. It was intended to do one main thing: to keep what start out as "one-shot, in-and-out" interventions in shooting wars, from turning into permanent commitments; permanent American involvement in those wars.

There is language in the bill about hostilities; but the title of the bill is the War Powers Resolution. Fundamentally, it was meant to deal with wars—to make sure we did not jump into wars—and I say "wars"—without the involvement of Congress in the decisionmaking process.

WHY WE'RE IN THE GULF

We are not at war in the Persian Gulf. We are in a dangerous situation. There have been military incidents; there may be more. No one knows.

But we did not make an American commitment to engage in war. We did not take sides, Iraq against Iran—that is not the purpose of our being there. We are not there to threaten Iran, and certainly not to attack Iran.

We made an American commitment to protect innocent, nonbelligerent shipping carry out its normal commercial activities. We did so hoping our presence would help keep the shipping lanes open; and help keep the peace.

And we made a commitment that would be longer term than just a single-shot effort. We did not say we would escort tankers on one voyage; we said we would be there as long as we felt it was in our interest—and I underscore our interest and our presence would help insure—not endanger—freedom of navigation.

So to me, the question of whether or not there are imminent hostilities—while relevant—is not the whole question. To me, there is real doubt whether the War Powers Resolution, as written, debated and passed in 1973, really was meant to apply in these circumstances.

REVISITING THE WAR POWERS ISSUE

It may well be that we need to revisit the War Powers Resolution—to determine if it needs to be updated, expanded, better focused, fixed, or whatever, we might do to get on with our task.

But it just doesn't make much sense, in my view, to invoke in this instance a document whose relevance is, at best, debatable.

And the main reason it doesn't make sense is: This is not some kind of academic debate. Vital U.S. interests to some degree U.S. lives—could be at stake.

And that brings me to the second major point I want to make, which goes beyond the constitutional and legal question and—in this instance—is even more important.

AMERICA'S CREDIBILITY IS AT STAKE

We are in the gulf for a very good national security reason. It is in our interest and again I underscore the word "our" interest—in America's interest—that we be there. That is the President's judgment. I share it, and I think the majority of the American people do.

And let me add: That is the President's job—to make that kind of judgment. That is his job, not the job of the U.S. Congress.

And it is also in our interest that others share with us the burdens, responsibility and risks that do exist in the gulf. I doubt that anyone will dispute that. We need the help of our allies and friends; we deserve their help; we have the right to demand their help—because our presence helps them, too.

And I should say, as an aside, the information I am getting is that right now, we are getting pretty good help, both from our European allies and our friends in the gulf region. And we appreciate that and we need that help.

But certainly one key element in whether we get that help—whether we keep getting it—is how our presence and commitment is perceived.

THE BROADER IMPLICATIONS

Indeed, you can go way beyond this present situation: The basic U.S. position in that part of the world—whether we are seen as a solid, reliable, worthwhile ally, or friend—that basic perception is going to depend on how we stick with, or pull back, from the commitment we have made.

What is at stake, in short, is both the continued cooperation of our allies and friends, in pursuit of important American interests; and the credibility of America—and we should not forget the credibility of America—and America's commitments, in that vital region of the world.

The President says we are committed—and I would remind everyone here what some seem to have forgotten: We were told about the reflagging while it was still under discussion, before it was a done deal. And we really didn't do much about it—in fact, didn't raise a peep, one way or the other. We may like to sweep that fact under the rug; but it is a fact all the same—and we ought to just admit it.

And there have been consultations. In fact, at 1 o'clock today there is going to be a consultation about the most recent incident, or at least a report, by members of the administration in S-407. I invite my colleagues to go to S-407.

In any case, the President makes a commitment—and no sooner does he say it, then someone in Congress jumps up and says: "Oh, no you don't! No commitment; not unless I say it's OK."

I am not certain it is ever going to work that way. I do not think there is a Senator in this Chamber who believes we ought to leave the Persian Gulf. We made a commitment.

I do not quarrel with anyone's approach to whether or not the War Powers Resolution ought to be invoked. As I said, earlier, I do not think we are at war.

Finally, I would say this: We say: "OK, make your commitment—but we're putting you, Mr. President—and everyone else in the world—on formal notice that if 51 Senators, 60 or 90 days down the road, happen to decide they don't like the commitment, the commitment goes right down the drain."

That was the so-called fallback amendment of the distinguished majority leader and the Senator from Georgia.

And right along with it goes one more chunk of America's credibility. One more chunk of our influence in the world.

That is the issue here. Do we stick to our commitments? Do we stick to our word? Is America an ally, or a friend, that can be counted on? Is America a country with the will—the staying power—the guts to actually be the leader of the free world, with all the responsibilities and risks that entails.

Every time somebody fires a popgun in the Persian Gulf, we are going to have to debate on the War Powers Act. I do not think that was ever the intent of the act, as I look back and remember the debate. What is at stake is our credibility, our leadership, whether we are willing to back away. I think we ought to deal with the War Powers Resolution in a rational way, at the right time. Perhaps we can get this process started through this debate. I commend the distinguished Senator from Connecticut for wanting to get at the heart of this matter. That is the only purpose, I understand, of the Senator from Connecticut to bring it out here. Does the resolution apply or does it not apply? It seems to me that is something that ought to be addressed.

The distinguished Senator from Virginia had a suggestion, which I thought was pretty good. Get 30 experts and sit down, get a commission, people outside the Congress, and take a look at the War Powers Resolution. It ought to be updated. It ought to be modernized. It ought to be amended.

It does not say one word about terrorism. There is not one word there. If somebody commits an act of terrorism and the President responds, is he bound by the War Powers Act? I do not think so.

I just suggest it is a serious question. I do not quarrel with anybody who is going to debate on the other side, but I think the Constitution is a great document. The people are great people in this country. I think we have to raise a question about the durability of our commitment and that is what it is all about today.

There will be a motion to table this resolution. I would guess some would say: I do not want to do that, I want to vote for it substantively. But I would say one way to end this for the day, is to help us table the Weicker-Hatfield approach. Then we can get on with the effort to try to find some compromise or some middle ground.

The **PRESIDING OFFICER.** The Senator from Connecticut.

Mr. **WEICKER.** I yield to the distinguished Senator from Alaska.

Mr. **MURKOWSKI.** I thank my friend from Connecticut.

Mr. President, I would like to express a few thoughts on the issue of the War Powers Resolution as it relates to our military actions in the Persian Gulf.

I have previously joined several of my distinguished colleagues in cosponsoring legislation that would invoke the War Powers Resolution regarding current U.S. military actions in the Persian Gulf.

My purpose in doing so is to assert the proper role of the Senate as a partner in the decisions of war and peace. If we properly exercise that role, the President's policies will be strengthened—not weakened.

The War Powers Resolution is a statement of the shared responsibilities between the President and the Congress regarding a decision to send our sons into combat:

A statement that reflects the balance of power in our Constitution.

A statement that reflects the need for the support of the American people if a commitment of force is to succeed.

The War Powers Act requires the President to submit a report to Congress outlining the circumstances necessitating the introduction of U.S. Armed Forces, the purpose those forces are intended to serve, and the estimated scope and duration of the conflict.

On the basis of that information, Congress can determine whether to declare war, authorize the continued deployment of U.S. forces for the purposes indicated by the President, or require their withdrawal.

Mr. President, I think it is helpful to reflect for a moment on the genesis of the War Powers Resolution.

Why did the Congress pass it over President Nixon's veto in 1973?

What led the architect of the resolution, our friend and former colleague, Senator Jake Javits, of New York, to push for its adoption?

I believe that, at a difficult time in our history, Senator Javits saw a need to make the Constitution work.

I believe he saw a need for a commitment to share responsibility.

I believe he felt that if we are to ask young men to pay the human cost of combat, that we should assume our responsibility to send them into combat.

I believe he saw a need to prevent future generations from being involved in so-called undeclared wars.

Mr. President, our military involvement in the Persian Gulf is becoming greater with each passing day.

Any doubts that U.S. forces have been introduced, in the words of the War Powers Act, "Into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances," have been surely laid to rest. If ever there was a situation in which War Powers applied, this is it.

At present, the United States has over 30 warships and 15,000 troops in the gulf. Those forces have been publicly threatened by the Government of Iran. Already several incidents have occurred necessitating fire from U.S. warships or aircraft.

Most recently, as everyone knows, United States helicopters were fired upon by Iranian gunboats. In retaliation, we sank three of those boats.

And there are other serious elements in the Middle East that we need to examine in working with the President to set clear goals and policies in this vital region:

The war between Iraq and Iran goes deeper than a conflict between those governments. It is part of an historic struggle between Arabs of the Western Gulf and Persians of Iran. It involves mainstream Moslems and radical extremists.

Without a full appreciation of the elements that go into this conflict, we can't make meaningful decisions about military involvement.

For example, the attack on the shrine at Mecca by Iranians disguised as pilgrims and the Saudi defense of the shrine has caused the Iranian fanatics to call for the overthrow of Saudi Arabia. What will be our response if the Iranians invade Saudi Arabia? If the Saudis ask for our military support, what will we say?

I, for one, don't want to sit by the sidelines watching a number of ad hoc events take place that result in the United States being drawn into an undeclared war in the Persian Gulf or the Middle East.

Congress should not be a spectator in this region, we need to work with the President directly to fashion policy—to decide together what our military presence means now and in the future in this region of the world.

The important issue here, Mr. President, is congressional involvement, not the mechanism through which that involvement occurs.

Mr. President, congressional involvement in the decisions affecting the Persian Gulf is necessary if the President is to effectively carry out this Nation's policy in that region.

The President should not have to look over his shoulder while he carries out that policy. He must know he has the support of the Congress for his policy.

Invoking the War Powers Resolution will not tie the President's hands. The support of the Congress will free his hands.

With the support of Congress, the President as Commander in Chief can concentrate on his forward military and strategic objective and not worry whether he has congressional support in the rear.

On the other hand, without that support, success will be in doubt.

Mr. President, my objective in this endeavor is to accomplish what the War Powers Act was designed to accomplish—to ensure that both the Congress and the President share in making decisions that may get the United States involved in war or hostilities.

I am confident, Mr. President, that if the Congress is fully consulted on the question of our military presence in the Persian Gulf, that the President's policy would receive the strongest support.

This will strengthen the President's policy, not weaken it.

From my perspective, Mr. President, this debate has degenerated into a partisan dispute. There may be Senators who will vote to invoke the War Powers Resolution so they can demand that all of our military forces in the Persian Gulf be withdrawn and/or so they can embarrass the President.

That is unfortunate. The War Powers Resolution is the law of the land because the Congress and the President should share responsibility on the decisions of war and peace—not so the Congress can dictate to the Commander in Chief what those decisions should be.

I am prepared to share that responsibility, Mr. President, and that is why I will vote against the motion to table the Weicker/Hatfield resolution. I urge my colleagues to do likewise.

Mr. President, the intent of this Senator is to support the President's policy in the gulf. I want Congress to support it as well. I think the best way that Congress can support it is to invoke the War Powers Act.

I thank the Chair and I thank my colleague from Connecticut.

Mr. WEICKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes and ten seconds.

Mr. WEICKER. Mr. President, in his very eloquent remarks the distinguished Senator from Kansas, the minority leader, kept on saying we made a commitment to this, we made a commitment to that.

That is the issue before us. For, in fact, the only commitments made were by the President. He made a commitment and he is not the same as we.

It is the intention of the resolution, of the Senator from Connecticut to have it that we are making a commitment. The United States is making a commitment. That is the object of this exercise: That it is we instead of he.

There are those that think we can slip indirectly into a war and there is no price to be paid; that we can sit back and if he succeeds, we bask in the success. If he fails, we can condemn.

This is a shared responsibility. It is a shared commitment that I seek here this afternoon.

Success and failure do not fall on the head of one man. In this great Nation, as Ben Franklin put it, the people rule. Success or failure sits on all of our heads. If we are going to have a policy that makes sense then we ought to decide that. But most important, we ought to decide now as always that we remain a Government of laws and not let that be our casualty of the conflict in the Middle East.

So I would hope that the motion to table is rejected and that, now, we establish a partnership in U.S. policy; a partnership in risk, a partnership in success. If that partnership exists there will be no failure.

The PRESIDING OFFICER. The Senator from Virginia has 3½ minutes remaining.

Mr. WARNER. Mr. President, the distinguished Republican leader summarized the thoughts of this Senator and the other Senators speaking in opposition to the amendment.

I would like to yield back the balance of our time and see if we could not expedite the vote.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. The unanimous-consent agreement, was this not a motion to table? Who is going to make the motion?

Mr. WARNER. I join the distinguished leader in moving to table.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] and the Senator from Massachusetts [Mr. KERRY] would each vote "nay."

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Carolina [Mr. THURMOND], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND] and the Senator from Wyoming [Mr. WALLOP] would each vote "yea."

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 52, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—37

Armstrong
Bond
Boren
Chafee
Cochran
D'Amato
Danforth
DeConcini
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heinz
Helms
Humphrey
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Nickles
Pressler
Quayle
Reid
Roth
Rudman
Stafford
Stevens
Symms
Trible
Warner
Wilson

NAYS—52

Adams
Baucus
Bentsen
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Johnston
Kennedy
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Specter
Stennis
Weicker

NOT VOTING—11

Biden
Boschwitz
Gore
Inouye
Kassebaum
Kerry
Simon
Simpson
Thurmond
Wallop
Wirth

So the motion to lay on the table Senate Joint Resolution 194 was rejected.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROMPT PAYMENT ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate the prompt payment legislation.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 328) to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 947

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 minutes.

Mr. KARNES. Thank you, Mr. President.

Mr. KARNES. Mr. President, I rise today as a cosponsor of this amendment. I would like to compliment my friend from Missouri, Senator DANFORTH, and my two distinguished colleagues from Arkansas, Senators PRYOR and BUMPERS and others who have worked so hard to bring this important legislation to the floor.

Mr. President, this amendment comes on the heels of one of the worst whiplashings the Federal Government has inflicted on our Nation's farmers in recent years. Farmers signed up for farm programs in good faith, only to find out that the Federal Government could not keep its promise to pay.

On May 1, the Commodity Credit Corporation stopped issuing checks to farmers after it ran out of money. It took over 2 months for Congress to pass a supplemental appropriation in order for farm program payments to be continued.

In that amount of time, many farmers incurred large amounts of interest on bills they owed to various creditors. Some farmers were even forced to take out emergency loans just to stay afloat. This unnecessary delay also had a drastic effect on many agribusinesses already hurting from a sluggish farm economy.

The delay was not expected by farmers nor their creditors, and both groups suffered needlessly from it. Those farmers counted on prompt payment from the Government and their creditors likewise counted on prompt payment from the farmers who owed them. Yet, only creditors have the right to receive interest on late payments. Farmers are left holding the bag and end up paying interest on bills they would have normally paid on time.

The proposed legislation merely puts farmers and grain warehousemen on equal footing with other businessmen. The Commodity Credit Corporation would be required to pay interest on obligations due after 30 days. Furthermore, this legislation is comprehensive by covering all CCC operations.

The bottom line is fairness. Our farmers are businessmen and we should start treating them as such. They are perhaps the biggest risk takers in business today. They are forced to deal with such uncertainties as unpredictable weather and volatile markets. They do not need anymore uncertainties like interrupted farm program payments. This legislation will make the playing field even, but the odds are still against the farmers until the underlying problem is solved.

Mr. President, I am referring to the way the CCC is funded. I and many of my colleagues were pleased when this body overwhelmingly approved an amendment to the omnibus trade bill. If that amendment were enacted into law, the CCC would be assured of continued funding throughout the year.

I have been pursuing this matter with the Secretary of Agriculture and am hopeful that progress can be made on that front. However, until some resolution occurs it is important to continue a two-track approach to solving this problem.

I also note the action of the Senate Appropriations Agriculture Subcommittee yesterday, recommending that the borrowing authority for the CCC be raised from $25 billion to $40 billion on a permanent basis. I congratulate the efforts of the subcommittee as another good means for attacking some of the basic weaknesses in the CCC funding system. Increasing the borrowing authority will reduce the likelihood of shortfalls occurring again. However, if shortfalls do occur this amendment will give farmers protection they didn't have before.

I urge my colleagues on the conference committee to the trade bill to support it to the very end. But until that amendment is enacted, this amendment, before us today, is vital in order to instill fairness into the payment system. I urge my colleagues to join me in supporting this amendment. I yield the floor.

Mr. SASSER. Mr. President, I want to commend my colleagues for focusing on a very real problem. The chaos and confusion visited upon farmers in the wake of the shortfall in Commodity Credit Corporation funding earlier this year rightfully demands attention. This funding shortfall placed a tremendous financial burden on farm families across the country. I know that farmers in my home State of Tennessee have been very vocal in letting me know their displeasure with this shortfall. Their complaints raise a legitimate concern which does call out for congressional action.

Yet, while I commend the Senators' intentions with this amendment, I fear that S. 328 is not the appropriate vehicle for solving this problem. Indeed, I fear that we may create as many problems with this amendment as it seeks to solve.

I say this for a number of reasons. First, we must look at the payment timeframe set out in this amendment. As I read the amendment, interest penalty payments would be due farmers for CCC payments more than 30 days late. It seems to me that this language may well be providing a tremendous disincentive for timely CCC payments. It is my understanding that on some crops, CCC payments can be made within 5 to 10 days. By establishing a new 30-day standard, we may be undercutting such quick payments. Indeed, this language would remove any incentive for quick payments and give the CCC a green light to delay up until the 30-day limit.

I also fear that the general nature of this amendment could create a host of problems for farmers in dealing with the CCC. One thing we have learned about prompt payment—you better be specific. If you don't handle prompt payment matters in detail, you leave the door wide open to abuse. Indeed, that is why we have S. 328 before us today. Agency personnel had found enough loopholes in the original Prompt Payment Act to seriously undermine its effectiveness. As I read the language of this amendment, I fear that some crafty Government bureaucrats will find loopholes big enough to drive a truck through. And where does that put the farmer waiting for his CCC payment?

In addition to creating more problems for farmers, there are some serious questions about the substance of this amendment which have thus far not been answered. How much will the amendment cost? We have seen some figures relating to cost associated with the last CCC shortfall, but do we have any projections about cost in the years ahead?

Nor do we have much insight as to how the language of this amendment would be administered. What new regulatory burdens are we creating here and which agencies bear the responsibility of carrying these burdens? How does this addition to the Prompt Payment Act fit in with the rest of the act?

In point of fact, we could spend a great deal of time talking about that issue alone, Mr. President. I think the sponsors of this amendment would acknowledge that this is a very sweeping and very fundamental policy change. The amendment charts a new course for the Prompt Payment Act. The amendment creates a new class to be covered by the Prompt Payment Act.

Now, as I have indicated, Mr. President, it may well be that this change should be made. I certainly see strong merits in moving in this direction. However, a policy change of this magnitude ought to be carefully considered. We should not short-circuit the normal committee process when dealing with such matters. As it now stands, we are being asked to make a broad ranging policy change with little discussion and quite a few unanswered questions. We can only wonder if this process is the best way to achieve the results sought.

Finally, Mr. President, I think we need to ask ourselves what Pandora's box this type of amendment may be opening up. Some have made the argument that this amendment extends prompt payment to Government entitlement programs. Once we start down this road, where do we stop? Some want to see prompt payment extended to payments made under Medicare and Medicaid. Others are arguing that we should cover welfare payments. And once we begin this process, why shouldn't all entitlement programs be covered by the Prompt Payment Act?

Now some of my colleagues may argue that all entitlement programs should be covered by the Prompt Payment Act. But, Mr. President, that type of decision should be carefully weighed. It should be considered by the appropriate committees and fully debated.

That should have been what was done with this proposal. The idea is an appealing one. Given the difficulties farmers have had to contend with in the wake of CCC funding shortfalls, I certainly understand the desire to move forward with this amendment. For those of us from agricultural States, we are well aware that the hard times in farm communities are not over. We must keep the interests of farm families paramount. Yet, as we strive toward clearly laudable objectives, I am left again to ask whether this amendment on this bill is the best way to achieve these goals.

Mr. KASTEN. Mr. President, I rise in support of the Danforth amendment to S. 328, the Prompt Payment Act Amendments of 1987.

S. 328, which I have cosponsored, contains many useful changes in the Prompt Payment Act, a law designed to force the Government to pay its bills on time. It has been carefully put together, and I commend the Governmental Affairs Committee for its work on this legislation.

The Danforth amendment corrects a serious deficiency in current law relating to Commodity Credit Corporation payments to farmers and dairy processing plants. This deficiency has caused inconvenience and hardship to farmers and others, as well as embarrassment to the Government. Correcting it is of vital importance to farmers, dairy processing plants and other agriculture-related enterprises that do business with the Government.

Every year, the Commodity Credit Corporation runs out of money at least once. This is primarily because the House Appropriations Committee refuses to permit CCC the borrowing authority it needs to fund farm programs for an entire fiscal year.

The supplemental appropriation that then becomes necessary is a "must-pass" bill. Congress authorizes farm programs; they are the law of the land. But they cannot operate unless CCC is funded. So each supplemental becomes a vehicle for all sorts of amendments—some of them worthwhile, most of them not, very few of them related to the CCC.

The process of "decorating the Christmas tree" usually takes so much time that the CCC runs out of money, for days or weeks. This year, because of the insistance of the other body on including both new spending programs and completely irrelevant amendments on arms control, the CCC was out of money for almost 2 months.

This situation put farmers owed money in a difficult position. It puts dairy plants and co-ops selling butter and cheese to the Government under the price support program in an even more difficult position.

Both farmers and dairy plants have to pay their bills. Farmers can postpose some of their expenses. Dairy plants have to pay the farmers who supply them with milk—and under provisions both of Federal milk orders and state law in Wisconsin and elsewhere they are required to do so promptly.

Both farmers and processors have to borrow money to pay their bills when the Government cannot pay its bills.

They have to borrow money at high short-term interest rates, and under current law they get no compensation from the Government that has let them down.

Ten or twenty thousand dollars may not be much money to the Government, but it is a lot to a corn farmer owed deficiency payments. To a dairy farmer who has slaughtered his herd under the Dairy Termination Program and thereby given up his primary source of income, that money makes all the difference.

To a small cheese or butter plant in Wisconsin owed hundreds of thousands of dollars, the interest they must pay on borrowed money can make the difference between profit and loss for the year. And if they cannot borrow enough money to pay their farmers promptly, they can be closed down.

The Danforth amendment would mean simpy that when the Government breaks its word, farmers and dairy plants should be compensated with interest payments on the money they are owed.

When an individual or business is late paying taxes, the IRS assesses an interest penalty. The Government should be forced to play by the same rules.

Perhaps the knowledge that letting the CCC run out of money and will cost the Government millions in late interest charges and will encourage Congress to act promptly on appropriations bills, before CCC runs out of funds.

The Danforth amendment represents simple equity for all farm-related businesses that deal with the Government. I urge my colleagues to support it, and to approve the Prompt Payment Act Amendments.

Mr. President, I know of no other Senator who wishes to be heard on this amendment. If the Senator from Tennessee is willing to yield back the balance of his time, I am willing to yield back the balance of my time.

Mr. SASSER. Mr. President, I yield back any time remaining in opposition to the amendment.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Missouri [Mr. DANFORTH].

The amendment (No. 947) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa, Mr. GRASSLEY, is recognized.

AMENDMENT NO. 948

(Purpose: To establish a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities)

Mr. GRASSLEY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY), for himself, Mr. ARMSTRONG, Mr. COCHRAN, Mr. DECONCINI, Mr. PRESSLER, Mr. NICKLES, Mr. HELMS, and Mr. KARNES, proposes an amendment numbered 948.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following:

(d) Section 12 shall take effect on the date of enactment of this Act.

PRESIDENTIAL ADVISORY PANEL FOR COORDINATION OF GOVERNMENT DEBT COLLECTION AND DELINQUENCY PREVENTION ACTIVITIES

SEC. 12. (a)(1)(A) There is established a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities (hereafter in this section referred to as the "Panel"). The Panel shall consist of eleven members appointed by the President in accordance with subparagraph (B) and four members appointed in accordance with subparagraph (C).

(B) The President shall appoint eleven members to the Panel, of which—

(i) five members shall be representatives of debt collection agencies of various sizes;

(ii) five members shall be attorneys experienced in the field of debt collection; and

(iii) one member shall be an official of the Federal Government.

(C) Four members of the Panel (in addition to the members appointed under subparagraph (B)) shall be individuals experienced in the field of debt collection, of which—

(i) one member shall be appointed by the majority leader of the Senate;

(ii) one member shall be appointed by the minority leader of the Senate;

(iii) one member shall be appointed by the Speaker of the House of Representatives; and

(iv) one member shall be appointed by the minority leader of the House of Representatives.

(D) No person shall be appointed to the Panel who is, or is a member of a company or organization which is, retained to perform debt collection services for the Federal Government.

(2) Members shall be appointed to the Panel within sixty days after the enactment of this Act. Members of the Panel shall take office upon such date of appointment.

(3) The President shall designate from among the members of the Panel a Chairman and Vice Chairman. Vacancies in the membership of the Panel shall not affect the power of the remaining members to execute the functions of the Panel and shall be filled in the same manner as the original appointments.

(b) The Panel shall—

(1) review and evaluate Federal policies on debt collection and delinquency prevention;

(2) recommend uniform policies, procedures, and guidelines for the collection of debts owed to the United States Government;

(3) develop, after consulting with the Office of Management and Budget and other appropriate Federal agencies, the priority and manner of delinquent debt collections and procedures for the prevention of delinquencies;

(4) establish training manuals to increase the effectiveness of employees involved in collection activities; and

(5) undertake additional related tasks and make interim reports of its activities and recommendations as the President or Congress may determine necessary.

(c)(1) The Panel may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Panel unless a majority of the Panel assents.

(2) Each Federal agency shall make staff personnel and support services available to the Panel to enable the Panel to carry out its functions.

(3)(A) Subject to subparagraph (B), the members of the Panel may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Panel.

(B) Any member may decline the reimbursement of expenses.

(d)(1) The Panel shall submit a final report to the President and to the Congress not later than eighteen months from the date of the first meeting of the Panel, containing the findings and recommendations of the Panel with respect to matters described in subsection (b).

(2) The panel shall terminate within thirty days following the submission of the final report.

(e) There are authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the provisions of this section.

(f) Except where inconsistent with this Act, the provisions of the Federal Advisory Committee Act shall apply to the Panel.

Mr. GRASSLEY. Mr. President, I rise today to propose an amendment that provides for the development of uniform and comprehensive procedures of Federal Government Debt collection. These initiatives will be developed with the expertise of private industry, through participation on a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Activities.

Senators ARMSTRONG, COCHRAN, DECONCINI, PRESSLER, NICKLES, and HELMS are joining me as cosponsors.

Before I offer this amendment to the Senate for consideration, I would like to extend my appreciation to several members of the Senate for their cooperation regarding our amendment. In particular, I want to thank Mr. SASSER and Mr. TRIBLE, managers of the Prompt Payment bill; Mr. CHILES, chairman of the Subcommittee on Federal Spending, Budget, and

Accounting; Mr. GLENN and Mr. ROTH, chairman and ranking member of the Committee on Governmental Affairs; and their staffs. In addition to their cooperation with our amendment, I appreciate their work on past legislation dealing with the issue of debt collection.

My amendment takes a different route than past legislation. We focus on the prevention and collection of delinquent debt for all Federal agencies.

It is obvious that the U.S. Government must improve its debt collection procedures. Time and time again, studies by Federal agencies have pointed out the shortcomings and poor records of Government debt collection procedures. The General Accounting Office reports that over 20 Government agencies fail to rigorously collect the billions of dollars owed them.

According to the GAO, the total debt owed to the Federal Government at the close of fiscal year 1986 was over $363 billion. Of that amount, $68 billion was delinquent. Much of that $68 billion was significantly past due.

With annual deficits remaining at roughly $200 billion, it is totally unacceptable for the Government to continue to ignore or write off these debts. The American people expect, deserve, and demand fiscal responsibility and sound business practices from their Government officials.

My proposal simply creates a panel of experts from the private sector to evaluate Federal policies and procedures on debt collection and delinquency prevention. This panel will not be conducting a study. Goodness knows we don't need a study to show that we have a problem collecting our debts. Instead, this panel will develop a system for Federal Government agencies to actively go out and collect their debts. This panel will enable Federal agencies to implement a uniform and comprehensive policy.

An important aspect of the panel's effort will be to explore the potential for integration of private collection agencies and law firms in the Federal Government's total debt collection and delinquency prevention process. The panel will determine whether private resources may be needed to augment Government debt collection forces and to provide capabilities that the Federal Government might not be able to economically duplicate. It also means devising a Federal process that is continuous from first billing, on through litigation, when it might be necessary to go that far.

In order to develop an effective process, the panel will address the various statutes that now affect the debt collection process. These include the Federal Debt Collection Practices Act of 1982, the Fair Debt Collection Practices Act, and the last year's legislation, The Federal Debt Recovery Act of 1986, which establishes a pilot program for the use of private counsel to assist the Justice Department in litigating delinquent debt. Any gaps that might remain in the functions and policies of these laws must be filled.

The panel would be temporary, submitting a final report to the President and to the Congress within 18 months. It will terminate 30 days after it submits its report. The panel members will serve as volunteers, paid only for their travel and expenses. The panel will rely on staff of Federal agencies, its only direct expenses will be generated by printing the report it will issue.

More importantly, the actions of this panel will result in billions of dollars in revenue returned to the Federal Government.

We need a clear and consistent statutory and regulatory foundation. This foundation, on which Congress and the President can build a public/private process for prevention, collection, and litigation of delinquent debt, will be the result of the panel's work.

Mr. President, with the annual deficit and national debt getting larger day by day, it is absolutely vital that we do a better job of collecting what is owed to the American people. There is a large pool of talent available in the private sector for advising the Government on better ways to collect these debts and prevent future delinquency. We should take advantage of this expertise at the Federal level. This bill will make a very positive contribution toward Federal debt collection and delinquency prevention.

I believe this amendment has been cleared by both sides.

Mr. DECONCINI. Mr. President, I thank my distinguished colleague, Senator GRASSLEY, for offering this amendment and for allowing me to speak briefly on the amendment.

My friend from Iowa, along with other colleagues from other States, has offered what I believe to be a wise and throughtful measure. As you are aware, this amendment would create an advisory committee on Government debt collection. It is very limited in scope and its time has come. Actually, if it were up to me, Mr. President, I would go farther than merely establishing an advisory committee. Indeed, I have done this by offering a bill, S. 1270, which has the support and cosponsorship of some of the cosponsors of this amendment.

My bill would create an office of Under Secretary of the Treasury for Credit Management and Debt Collection which would be responsible for formulating a coherent policy on collecting debt and managing this Nation's massive credit system. Also, specific dollar targets would be set for collection of the massive amounts of debt owed this Nation. Additionally, my bill would use the expertise of the private sector and employ many of the methods used by the private sector to collect debt and manage credit.

This use of the know-how and practices of the private sector is one of the attractive features of the proposed amendment. The advisory committee called for in the amendment would be composed of 15 top-notch professional private debt collectors. These men and women would be experts in their field. They would study the debt collection practices of the Federal Government and determine where the problems in the Government's policies lie. The panel would make recommendations based on this information and devise effective collection procedures for the Government to follow.

I also want to thank Senator GRASSLEY for agreeing to my suggestion that the Advisory Committee on Government Debt Collection have the benefit of congresssional, as well as executive branch, input. The amendment, as it is now offered, calls for the President to appoint the majority of the members of the Advisory Committee, but it also allows the majority and minority leaders of each House to appoint one member each to the committee. This provides additional congressional oversight and involves the Congress more closely in the entire investigation and recommendation processes. I firmly believe that this addition strengthens the purpose and intent of the amendment.

In closing, Mr. President, let us face the facts. The Government has been unable to effectively collect the debt which it is owed. At the end of 1986, more than $68 billion of the debt owed the Government was delinquent. That is more than is spent on all foreign aid and is more than the cost of all federally funded scientific research and the entire National Space Program combined.

If the Government can only collect between 15 to 20 percent of its debt while the private sector can average a debt collection rate of 87 percent, clearly something is wrong. Obviously, the Government can do better with the assistance of the private sector. I urge my colleagues to vote for this amendment proposed by Senator GRASSLEY and support the creation of a temporary advisory panel.

Mr. ARMSTRONG. Mr. President, I commend the distinguished Senator from Iowa [Mr. GRASSLEY] for his determined leadership on this important issue. While we consider the Prompt Payment Act, designed to make the Federal Government pay its debts in a timely way, it also makes sense to make sure the Government collects debts owed to it in a timely way.

Make no mistake about the fact that this is a serious problem. People who don't repay Government loans are robbing America's future, and it is much worse than many Senators might imagine. By the end of 1986, the Government had direct loans outstanding of $252 billion, loans extended by Government sponsored enterprises amounted to $453 billion, and Government backed loan guarantees added another $450 billion of lending.

Altogether, the Federal Government is directly and indirectly involved in $1.2 trillion of lending activity. That's more than the entire Federal budget for 1987. Indeed, it is nearly half the entire accumulated national debt.

Worst of all, much of this debt is overdue for payment, and we are doing too little about it. As of last year, more than $68 billion of this debt was delinquent. Mr. President, that is more money than we spend on all foreign aid; it is more than twice what we spend on the entire Farm Program; more than all education programs combined; more than the entire Space Program and all other science research; more than all energy, natural resources, and environmental programs combined. All of my colleagues who are involved in the budget debate know how much good that much money could do elsewhere.

Worst of all, every year another $1 billion become unrecoverable because of the statute of limitations on collecting delinquent debts. In other words, the longer we do nothing about it, the more money we lose.

The frustrating thing is that we know most of these problems can be solved. Private companies collect bad debts all the time—no business could afford not to do so. The Office of Management and Budget reported in its fiscal year 1987 budget message that—

> Comprehensive policy guidelines and access to private sector practices were lacking. There was little emphasis on the need to implement a timely and effective system for servicing loans, collecting debts, and handling delinquencies.

The tragedy is that this situation is putting a cloud over the whole notion of Government loans. Many of these loans serve worthwhile purposes. Guaranteed student loans help make college affordable to disadvantaged families. Farmer's home loans are a vital component of the American agriculture system. Small business loans, HUD loan programs, veterans loans, and others are essential to thousands of Americans. But such loan programs have little future value if loans are to become grants, to be written off years later.

It is long past time that the Federal Government get serious about collecting delinquent debts. Clearly, the expertise of the private sector is needed, and we can have this expertise for nothing. This amendment would create a Presidential Advisory Committee on Government Debt Collection to advise the Government on how to collect this debt.

This is not another big program, it is not another Government study. It's a temporary committee made up of 15 top-notch professional private debt collectors who will examine Government procedures, determine what's wrong, devise effective collection procedures, and disband within 18 months. Its members will be volunteers, who will gladly share their expertise. After all, they're taxpayers, too.

Congress has tried several times to correct the program. In fact, a number of Senators have been quite outspoken on this issue. The Senator from Mississippi [Mr. Cochran], the Senator from New Mexico [Mr. DeConcini], the Senator from Delaware [Mr. Roth], the Senator from Virginia [Mr. Trible], the Senator from Illinois [Mr. Simon], the Senator from Wisconsin [Mr. Proxmire], and the Senator from Alaska [Mr. Stevens] have been actively involved, and I commend their work. This has been a bipartisan effort, and some progress has been made. We passed legislation allowing tax refunds to be withheld from "deadbeats," have allowed delinquent debt information to be shared between agencies, and have made various administrative changes.

Still, delinquent debt has continued to rise, increasing 129 percent since 1981. There is no good reason the Government can't get its collection successes up to the level of the private sector, which enjoys an 87 percent success ratio on debt collection, compared with Government's dismal 15 to 20 percent record. Since the Federal Government clearly does not know what to do, it makes sense to ask those who do.

We have heard enough horror stories about the delinquent well-to-do deadbeats who don't pay their old loans simply because nobody forces them to do so. The stakes are to high to continue ignoring this failure. We can turn it into one of the great success stories of the century if we take this first step toward getting serious about collecting our debts.

Mr. DOMENICI. Mr. President, I rise in support of this amendment which would create a Presidential Advisory Committee on Government Debt Collection.

Since 1981, delinquent debt owed the Federal Government has increased from $29.8 billion to $68.3 billion, or 129 percent.

Delinquent tax debt represents 60 percent of all delinquent debt, and therefore tends to dominate discussions on how to improve debt collection.

However, this does not mean that other types of delinquent Federal debt should be ignored—$24.6 billion in nontax debt is currently owed to the Federal Government.

Part of the reason that nontax debt has increased is that Federal credit management has not kept up with the rapid growth of our credit budget. Outstanding credit tripled from around $200 billion in the 1970's to over $600 billion in the 1980's.

During the past year, our experiences with loan asset sales have proved this to be painfully true. Some Federal loan portfolios were in such bad shape that sales had to be delayed while accounts were put in order. Incomplete information on accounts makes the loans harder to collect and less valuable to prospective buyers.

I would like to recommend that this Presidential Advisory Committee on Debt Collection examine the experience of the Federal Government with asset sale activities. This information should help Federal agencies design a better system for servicing loans, collecting debts, and handling delinquencies.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. What is the status of the amendment of the Senator from Iowa?

The PRESIDING OFFICER. The amendment of the Senator from Iowa is under a time agreement whereby he has 2½ minutes and the Senator from Tennessee has 2½ minutes.

Mr. SASSER. Mr. President, I relinquish all time in opposition to the Senator's amendment.

The PRESIDING OFFICER. All time has expired on the amendment.

The question occurs on the adoption of the amendment of the Senator from Iowa.

The amendment (No. 948) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there additional amendments?

Is there further debate on the bill?

AMENDMENT NO. 949

(Purpose: To make technical corrections and to codify a general provision of an appropriation law)

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Tennessee.

The legislative clerk read as follows:

> The Senator from Tennessee [Mr. Sasser] proposes an amendment numbered 949.

Mr. SASSER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 11, strike out "office or employee of the agency" and insert in lieu thereof "place or person".

On page 29, between lines 23 and 24, insert the following:

(6) The requirements of section 3905 of title 31, United States Code.

On page 30, between lines 3 and 4, insert the following:

CODIFICATION OF A DEFINITION PROVIDED IN AN APPROPRIATION LAW

SEC. 11. (a) Section 3903(2) of title 31, United States Code, is amended by inserting "and including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product)" after "182(3))".

(b) Section 2002 of the Supplemental Appropriations Act, 1984 (Public Law 98-181; 97 Stat, 1297) is amended by striking out "the terms 'meat' and 'meat food products' as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products; and".

On page 30, line 5, strike out "SEC. 11. Section 3(a)(2) and the" and insert in lieu thereof "SEC. 12. The".

Mr. SASSER. Mr. President, I send to the desk an amendment and ask for its immediate consideration. This amendment makes several technical corrections to S. 328, as reported by the Committee on Governmental Affairs. In addition, it codifies a definition contained in the Prompt Payment Act, which was modified by section 2002 of Public Law 98-191, the Supplemental Appropriations Act of 1984. Section 2002 amended the Prompt Payment Act to include within the definition of "meat and meat food products", edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product. The objective of my amendment is to bring this definition within the body of the Prompt Payment Act, as codified at chapter 39 of title 31, United States Code. The codification of this amendment does not present any policy issue, since it is already being implemented by the executive agencies and was included in the recent revision to OMB Circular A-125 (Prompt Payment).

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Without objection, all time is yielded back. The question occurs on the adoption of the amendment of the Senator from Tennessee.

The amendment (No. 949) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TRIBLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I rise today in support of S. 328, the Prompt Payment Act Amendments of 1987. I was pleased to join with my distinguished colleague, the senior Senator from Tennessee, as a cosponsor of this well-crafted legislation.

In 1982, in an attempt to improve the Government's appalling record of untimely payments to contractors, Congress passed the Prompt Payment Act. The measure before the Senate would strengthen and reform the 1982 act through a series of much needed amendments. Included in the provisions of S. 328 is a clarification of the starting point of the act's so-called "payment clock" by more clearly defining "receipt of invoice." It would also require the Government to announce, prior to contract, if formal "acceptance" will take longer than 5 days from the date of actual delivery of goods or performance of services to the contractor. Furthermore, S. 328 improves the act's reporting requirements to assure that Congress receives from OMB an accurate and complete picture of the act's implementation by the various agencies.

I believe that the vast majority of my colleagues support this legislation. At last count it had 86 cosponsors. So, there is little chance that S. 328 will not pass today. However, a number of concerns have been raised pertaining to section 7 of the bill, the payment clause for subcontractors under construction contracts. I, for one, see little merit to these arguments.

Section 7 requires a prime contractor on a Federal construction project to include a payment clause in the agreements which it negotiates with its various subcontractors. It also recognizes the prevailing industry standard as the payment term to be reflected in the subcontract payment clause.

It is not, as some might contend, an unwarranted intrusion by the Federal Government into private contractual relationships between prime Government contractors and their subcontractors. Nor will it involve the Federal Government in the administration of subcontract matters or embroil the Government in payment disputes.

Mr. President, private business contractors should not be made to suffer at the hands of an inefficient government. This legislation will expedite the payment of Government bills in a more timely fashion. I urge my colleagues to approve this much needed reform legislation.

Mr. HUMPHREY. Mr. President, today, the Senate is finally considering the Prompt Payment Act Amendments of 1987. As an original cosponsor of this measure, I am pleased to see that the difficulties which had temporarily prevented the Senate from taking it up have been resolved. The fact that 88 Members of this body are cosponsors of the bill is testimony to the need for speedy action.

When we adopted the Prompt Payment Act of 1982, which I also cosponsored, the Senate was attempting to address an acute problem—late payments to contractors by Federal agencies. It was the hope of this Senator, and many others, that the Prompt Payment Act would eliminate this inexcusable situation. And although progress has been made, Federal agencies continue to delay payments unnecessarily to firms—many of which are small businesses—with whom they contract.

The National Federation of Small Businesses has targeted the vote on this legislation as a "key small business vote"—and for good reason. No one is harmed more by late payments than our Nation's small businesses. Such delays cause severe hardships to the economy's major job-creating sector. This vote should be the easiest of all NFIB key votes for Members, and given the number of cosponsors, I would suspect that the vote on this bill will be unanimous.

Mr. President, it is my hope that the House will consider this bill in an expedited manner. There is no excuse for the Federal Government to delay payments to contractors. Similarly, there is no excuse not to pass this legislation and present it to the President for his signature before the end of the first session of the 100th Congress. The Prompt Payment Act Amendments of 1987 has the overwhelming support of the business community and was one of the key recommendations made by the 1986 White House Conference on Small Business. It deserves the overwhelming support of the U.S. Congress as well.

Mr. CONRAD. Mr. President, I rise today to support passage of S. 328, the Prompt Payment Act Amendments of 1987. The broad bipartisan support for this legislation indicates the importance of closing loopholes and eliminating the ambiguities of the Prompt Payment Act of 1982.

The Prompt Payment Act of 1982 was intended to insure that the Federal Government fulfilled the payment of its contractual obligations in a timely manner. However, by exploiting vagueness in the language of the act, Government agencies are able to circumvent the intention of Congress. Abuses such as avoiding early payment and avoiding the payment of interest penalties are common.

The Prompt Payment Act Amendments of 1987 will clarify language in the original act, shore up the protection provided to small businesses and contractors, and send a clear message to Federal agencies that vigorous enforcement and strict compliance is the goal of this Congress.

Protection of small businesses and contractors is of particular importance to me, coming from a State where a small business or a small general contractor is the rule rather than the exception. Often these small businesses and contractors are operating on such small margins of profit that delayed payments by our own Government can make the difference between success or failure of the enterprise. This Government does not need to be responsible for the success or failure of a business simply by manipulating payment schedules. We need to pay our contractors according to contract, not according to agency policy.

Of equal concern to me is the provision in the Prompt Payment Act Amendments of 1987 which affords payment protection to subcontractors. I do not agree with those who feel that the addition of a requirement that Government construction contractors include a provision guaranteeing prompt payment to their subcontractors is an unwarranted Government intrusion into private contractual rights. This provision merely extends to Federal law what most States already have in place, a form of protection for the subcontractor.

I urge my colleagues to vote for passage of this act. Let us end the continued stripping of the protections intended to be afforded by the original Prompt Payments Act. Let us end the business of Government agencies bankrupting small businesses by late contract payments. Let us start making the Federal Government reliable and credible in its business transactions.

Mr. COHEN. Mr. President, I wish to express my strong support for S. 328, the Prompt Pay Act Amendments of 1987, of which I am a cosponsor.

We currently have a law on the books which is supposed to ensure that the Government pay its contractors in a prompt manner and pay interest on the overdue amounts if it fails to do so. The current law, however, is not working well enough. Hearings held by the Governmental Affairs Committee and the Small Business Committee this year and last indicated that, while the current prompt payment law has generally improved the bill-paying practices of the Federal Government, agencies still pay nearly 25 percent of their bills after the due dates. Testimony revealed several tactics used by agencies to postpone payment to contractors. In some instances, agencies abuse the grace period by routinely paying invoices within this extended period and fail to pay the interest penalty on late payments. Some agencies take discounts offered by contractors for fast payment, although actual payment is made after expiration of the specified discount period. In other cases, agencies inform contractors, who inquire about the nonpayment of interest owed, that a written demand for the interest is required. Finally, and perhaps most disturbing, some agencies have policies that they will not pay interest owed unless specifically asked.

These practices by agencies, whether unintentional or deliberate, should not be tolerated. Many businesses who perform services for the Government cannot afford to wait for late payments by the Government. This is especially true in the case of small businesses, which constitute the vast majority of those who sell to the Government and who are hurt most by late payments. S. 328 will go far in closing the loopholes in the current prompt payment law and reaffirms the commitment of the Congress to making sure that the Government treats its vendors fairly. Specifically, the bill phases out the current 15-day grace period that is often abused; clarifies the starting point for the payment term so that days and weeks cannot slip by before the Government accepts an invoice; and provides for double interest penalties for agencies that fail to pay interest on overdue amounts.

The bill also requires that interest, when due, must be paid automatically without regard to whether the contractor has requested payment of such penalty; and clarifies that the act applies to progress payments and retained amounts for construction contracts.

I am particularly pleased that the bill before us today expands the principles of the Prompt Payment Act to subcontractors under Federal construction contracts. Excluding subcontractors from this protection is, in my opinion, an essential flaw of the current law that must be remedied.

Slow payment to subcontractors on Federal construction projects is a pervasive problem that impacts negatively upon the Government's overall construction program. Witnesses representing numerous small business groups, subcontractors, and other Government contractors made a persuasive case that the fundamental protections of prompt payment, as contained in this legislation, should be extended to subcontractors. Such extension will be in the best interest of the Government by increasing competition for Government contract work and by reducing delays and substitutions of inferior materials by subcontractors who will lose profits on their work due to delayed payments from prime contractors. Even more importantly, it is only fair that the same protections of prompt payment that are afforded to prime contractors working for the Government be extended to subcontractors as well.

In order to achieve these goals, I offered the so-called section 7 amendment to the prompt payment legislation that was introduced in the Senate last year. That provision, which was also included in S. 328, as reported by the Governmental Affairs Committee this year, would have required Government construction contractors to include the Government-mandated prompt payment obligations in their contracts with subcontractors.

As my colleagues are aware, this provision of S. 328 has proved to be very controversial Some believe that the Federal Government should not intervene in the relationship between the prime contractor and its subcontractor, while others believe that evidence does not exist to substantiate such expansion of prompt payment at this time. I strongly disagree with both of these contentions and maintain that section 7 embodies a basic principle of fairness.

Today an amendment to section 7 is being offered that would allow a contractor to establish a subcontract payment term longer than the "prevailing industry standard" if the prime contractor announces such a term during the solicitation of bids and agrees to be bound by the announced term in any subcontract agreement. While I believe that this provision is not as desirable as requiring the "prevailing industry standard" across the board, I have been assured by subcontractors that this approach will remedy the vast majority of their delinquent payment problems. It may also provide some flexibility in payment terms for those contractors who wish to establish longer payment terms for legitimate purposes, such as billing cycles which are slightly longer than the current industry standard of 7 days.

While I believe that competitive market forces will steer prime contractors toward the prevailing industry standard in their payment terms, the Congress should monitor the implementation of this provision to ensure that protracted payment periods to subcontractors does not continue to be a problem.

Mr. President, all of us, whether individuals or businesses, are expected to pay our bills on time and we should demand no less of the Federal Government. I am pleased that the impasses on this bill have finally been cleared, so that it can be promptly considered by the House of Representatives.

Mr. GLENN. I would like to enter into a colloquy with my distinguished colleague, the Senator from Tennessee.

Mr. SASSER. I would be pleased to enter into a colloquy with the distinguished chairman of the Committee on Governmental Affairs, the Senator from Ohio.

Mr. GLENN. It is my understanding that some concern has been expressed about section 3(a), 4(B) of S. 328 relating to the Government's obligation to measure the timeliness of its payments for property or services. The bill starts the payment clock 5 days after the property is actually delivered or the service is performed, unless the contract specifies a longer period for agency acceptance of the property or services. Specifically, there are reservations about the application of the section to brand name goods that are resold by Department of Defense commissaries. Some manufacturers have expressed worry that under these amendments the Government would still be able to set by contract unreasonably long acceptance periods for these commercial items. This would result in payments in excess of 30 days, which is already considerably longer than the 10- to 15-day term normally included in commercial contracts for the same items. With the Senator's indulgence, I would like to make some clarifying remarks about this issue based on my understanding of S. 328 as it was passed by the Committee on Governmental Affairs.

Mr. SASSER. I am aware of the problem you are describing and welcome your comments.

Mr. GLENN. I thank the Senator from Tennessee. While it is true that resale goods were not dealt with explicitly in S. 328, the committee's report on the bill did include language intended to address this important problem. I would like to quote directly from the report for the record:

> The implementing procurement regulations should strongly encourage that acceptance periods be kept to the maximum required based on experience. Contracting officers should be accorded the flexibility to prescribe an acceptance period that comports with the subject matter of the contract. For example, commercial items should require a shorter acceptance period than items fabricated to a Government design specification.

I think my distinguished colleague from Tennessee will agree that this language fairly clearly asserts that Federal agencies should not set unreasonable acceptance periods for resale goods. I would also like to point out that the committee recognized that there is a precedent in law for the fair treatment of brand name items. The Competition in Contracting Act of 1984 includes an express exemption from mandated competitive procedures when "* * * an agency's need is for a brand name commercial item authorized for resale;" I hope that this discussion clarifies the committee's intent on this important matter.

Mr. SASSER. I agree with the Senator and thank him for his remarks.

Mr. GLENN. I thank the Senator from Tennessee.

Mr. HELMS. Mr. President, I sincerely commend colleagues who have put so much time and effort into reaching a consensus on this bill. It is a bill of vital importance to many business, large and small, around the country. I'm pleased that the Senate will finally take action to pass this bill today.

For several years, the American business community has been working deligently to close the loopholes in the Prompt Payment Act of 1982 that have been exploited by Federal agencies. As everyone involved in this legislation can attest, there have been some very difficult issues and disagreements during this effort. Due to the dedication and hard work of the parties involved, an agreement has finally been reached so that this important legislation can be acted upon by the Senate.

The loopholes in the Prompt Payment Act of 1982 have resulted in a large percentage of both prime and subcontractors losing money because of the Government's failure to pay its bills on time. While they were losing money, they were also losing faith—faith in the Federal Government. We are fortunate to have the high quality of businesses across this country to perform Government contracts. We can't afford to waste that resource by fostering a sense of distrust throughout the business community.

If we hope to foster competition for Government contracts, we must ensure that those willing to bid on them are treated fairly and paid promptly. When private businesses enter into contracts with each other, they are expected to live up to their contractual commitments and pay their bills on time. If a businessman or woman in the private sector fails to pay bills on time, the business folds. We must require the Federal Government to live up to the same standard.

The bill will implement one of the recommendations of the 1986 White House Conference on Small Business. In doing so, it should restore some of the confidence that the business community has lost in the Federal Government. If the Federal Government can develop a reputation of paying bills on time, it only makes sense that more firms will want to compete for Government contracts. When competition for these contracts increases, everyone benefits—the Government, the business, and the taxpayer.

That, Mr. President, is why this bill is so important and why I'm glad to be a sponsor.

Mr. ROCKEFELLER. Mr. President, I rise today in support of S. 328, the Prompt Pay Act Amendments of 1987.

That this bill has 88 cosponsors—including myself—is testament to this body's strong bipartisan commitment to ensuring that the Federal Government pays its bills on time. When the original Prompt Pay Act passed the Senate by voice vote in 1982, it had 65 cosponsors—nearly two-thirds of the Senate. There is no question that Congress recognizes the need to establish by law the terms for payment on Government contracts that provide supplies, services, and construction to Federal agencies.

The 1982 Prompt Pay Act has greatly improved the U.S. Government's bill-paying practices. But, Mr. President, in many instances, Federal agencies have been able to create their own interpretations of ambiguous language, thus allowing them to exploit loopholes and avoid adhering to portions of the Prompt Pay Act.

Oversight hearings in the Small Business Committee in the 99th Congress clearly indicated there were problems, and the Senate agreed to a Governmental Affairs Committee bill last October aimed at amending the Prompt Pay Act. Regrettably, however, the House of Representatives did not act on the legislation before Congress adjourned for the year.

S. 328 is a needed reaffirmation of our commitment to timely payment to businesses—large and small—that have contracted with the U.S. Government to provide supplies, services, and construction. It was especially the problems of the small business community, Mr. President, that the original Prompt Pay Act addressed. Swift passage of these amendments will help to ensure that remaining problems are also resolved.

According to the Governmental Affairs Committee's report on S. 328, the most complaints about the Government's bill-paying practices have been heard from small business Government contractors. The committee's report indicated that, in 1978, the General Accounting Office found that nearly 40 percent of contractor invoices were being paid late—that is, more than 30 days after having been received by the contracting agency. Contractors were incurring an estimated $60 million annually in financing costs to cover delayed Government payments.

Mr. President, in a State such as West Virginia, where small businesses form the core of our State's economy, the costs associated with Federal footdragging on paying the bills were and still are completely intolerable. For this reason, a great many small business contractors and subcontractors in my State have sought my assistance in obtaining the improved protections that the prompt pay amendments will provide.

The wishes of West Virginia's business community echo the recommendations of the White House Conference on Small Business, held in August 1986. Among the top 40 recommendations from an agenda of over 400 issues, the White House Conference called for vigorous enforcement of the 1982 Prompt Pay Act and a series of amendments, including: the elimination of the 15-day grace period; automatic payment of interest penalties; and a requirement that prime contractors pay their subcontractors promptly after receiving payment from the Government or incur interest payment penalties.

Finally, Mr. President, I would like to commend my distinguished colleague, Senator Bumpers, who chairs the Senate Committee on Small Business, and his fine staff. Their efforts regarding this bill have proven invaluable to our staff and those of other Senators who are supporting S. 328. The Small Business Committee staff has gone to great lengths to follow this legislation's progress and assist all Senate offices interested in it.

Mr. President, I am pleased by the strong show of support for the prompt pay amendments. The prompt pay law was much needed and long overdue when it was finally passed in 1982. Likewise, these amendments are much needed, and I hope the Senate will pass them before they become overdue.

Mr. DeCONCINI. Mr. President, I rise today in support of S. 328, the Prompt Payment Act Amendments of 1987. This is one of the important pieces of legislation thoroughly examined during the last session of Congress but remaining to be acted upon this year. I congratulate the sponsors of S. 328, Senator Sasser and Senator Trible, for their diligence in bringing this issue before the full Senate and for allowing groups on all sides of this issue a full and fair hearing. I am also pleased that the new chairman of the Governmental Affairs Committee, Senator Glenn, and the ranking minority member, Senator Roth, have made S. 328 a priority item on the committee's agenda.

The fact that this legislation has 88 Senate cosponsors is an indication of the hard work which the sponsors of the bill have put into this bill and the necessity for this legislation. When Congress passed the Prompt Payment Act 5 years ago, we were responding to the need for the Federal Government to be a reliable partner when paying bills to the people with whom the Government does business. A General Accounting Office's [GAO] 1978 study found that up to 30 percent of the Government's bills were being paid late. Since the act was passed in 1982, the agencies of the Federal Government have made marked improvements in their payment of bills for contracted services, but certain deficiencies remain.

During the 1986 White House Conference on Small Business, small business contractors recited a litany of problems which continued to plague their businesses. They spoke of late payment of bills, lost invoices, nonpayment of interest on overdue accounts, and loss of early payment discounts for payments made long after the end of the discount period. As a result of these problems, the White House conference made prompt payment reforms—such as those embodied in S. 328—a top legislative priority of small business for the 100th Congress.

Also, the GAO's Prompt Payment Act report of August 1986 found that 24 percent of Federal vendor payments which it examined were made after the payment due date and that 7 percent of late payments were between 46 and 150 days late. Clearly, the law needs to be tightened, improved and amended.

S. 328, the Prompt Payment Act Amendments of 1987, makes these necessary improvements. The deadlines under which payments must be made are tightened and the definitions of terms are clarified. The present 15-day grace period is phased out and ultimately eliminated for solicitations issued after the beginning of fiscal year 1991. Now that Federal agencies are becoming used to and aware of the provisions of the act, the grace period has become nearly unnecessary. Private sector businesses do not customarily allow interest-free grace periods, so to the extent that the Government engages in commerce, the Government should be held to the letter of its contractual commitments in the same manner as is any other business partner.

Importantly, the amendments explicitly provide for the proper implementation of the Prompt Payment Act in Government regulations and statutes. It closes loopholes which have been exploited by agencies to delay making payments and avoid paying interest on late payments. And it also extends the interest penalty provisions of the act to the U.S. Postal Service. This provision is merely a correction of an oversight in the original act by which the USPS was excluded from its provisions. The Postal Service has since taken steps to assure that its contractors are paid in a timely manner consistent with the Prompt Payment Act.

Mr. President, one section of the bill has received a great deal of attention. It has generated a great deal of controversy and division within an otherwise fairly united industry. I am speaking, of course, about section 7 of S. 328. The general contractors claim that section 7 invades the privacy of the contracting process between the general contractor and his subcontractors. They say that this brings the heavy hand of Government into an area in which Government is not an expert and where it does not belong.

The subcontractors, however, claim that they are being frozen out by the primes. They say they are being driven out of business by the bad guys in general contracting circles because they are not paid on time for work completed and certified. They say they are only seeking the same protections for themselves that the general contractors sought and won in the 1982 Prompt Payment Act.

Who, Mr. President, is right? In my home State of Arizona, I know of a small subcontractor who claims he has lost nearly $330,000 since he started his business because of no pay by general contractors. He claims that he spends over 20 percent of his time tracking down and collecting late payments and that he has had to borrow money at interest rates as high as 23.5 percent because he has lacked the cash due his company by the general contractors with which he has done business.

After much discussion between the staff of the Governmental Affairs Committee and some Members who have had concerns about section 7, a compromise amendment has been reached. I am pleased to state that it is a compromise which I can support.

The inflexibility of section 7 which has been of concern to some groups should be redressed by the amendment of Senators Levin and Quayle. The amendment would permit a prime contractor to offer its own payment terms during the solicitation of subcontractor bids as long as certain conditions have been met. The modification to section 7 would require each prime contractor on a Federal construction project to reflect in its subcontracts the prevailing industry standard regarding timely payment for completed work—the basis of section 7—unless the prime contractor has certified to the Government agency that it has provided notice of alternative payment terms in its solicitations for subcontractor bids and that it will be bound by such payment terms in any subcontract resulting from the solicitations.

This means that section 7 will continue to require each prime contractor to include the interest penalty clause specified in section 7 in its subcontracts and that any subcontractor submitting bids on a Federal construction project with a prime contractor will be assured up front of the terms of payment for work completed. This amendment reflects the treatment of payments to nonconstruction contractors in the Prompt Payment Act. It will also be a self-patrolling amendment whereby subcontractors will know which primes do business fairly and equitably with their subs and which primes have a negative record in this regard. These alternative payment terms will allow all parties to be in agreement on payment when entering into a contract.

I believe the reported bill is fair and that it will work without unduly burdening contractors. If problems develop, I will be more than willing to revisit this issue in the future. I urge my colleagues to support this wise and necessary legislation. The Prompt

Payment Act has proven that it works—as far as it goes. The amendments upon which we shall soon be voting will ensure that the Prompt Payment Act works as it was intended to work.

Mr. SIMPSON. Mr. President, the Prompt Payment Act Amendments of 1987 is a crucial piece of legislation for all general and subcontractors in Wyoming. It finally clarifies the payment procedure between Federal agencies and contractors by establishing a variety of provisions including the requiring agencies to pay interest automatically if the payment is late; defining the date on which payments come due; and eliminating the grace period that agencies currently have to pay bills on time. Prompt payment is so very important to our Wyoming economy which is desperately in need of a sense of stability and consistency. Our contractors are of the most qualified nature and, in the past, have enjoyed very good relationships with Federal agencies. But they are facing economic conditions that do not allow for patience and leniency when collecting their accounts receivable. Excuses just don't sell at the banks anymore—if they ever did. The Wyoming folks are not asking for early payment, or advances or draws, we are just asking for prompt payment on work we have done—and you cannot fault a man for that. The prompt payment amendments do no more than reinforce what the government previously agreed to do, and what every other business must do—pay your bills on time.

I want to commend the efforts of all of those individuals and groups involved that helped reach the agreement regarding section 7 of this act. This section has been very controversial—an issue which divided the general contractors and the subcontractors. The Levin amendment as proposed today will extend the stability provided in this act to our subcontractors. The payment term offered by the general contractor will be made public as a part of the solicitation of bids. I see this as a very responsible and direct manner in which to run a business and I think all parties involved will profit from this amendment. I am very pleased to be a cosponsor of the Prompt Payment Amendments Act.

Mr. BINGAMAN. Mr. President, I rise today in support of the Prompt Pay Act Amendments of 1987. At the outset, I want to commend the distinguished chairman of the Government Affairs Committee, Senator **Glenn**, for his leadership and hard work on this issue. I also want particularly to commend my colleagues on the committee, Senators **Sasser** and **Trible**, the original cosponsors of the bill, and Senator **Levin**, for their considerable efforts on behalf of Government prime contractors and subcontractors.

The measure is necessary to eliminate the loopholes of the Prompt Payment Act (Public Law 97-177), that was passed in 1982. That legislation was passed by the 97th Congress to improve the Government's dismal record of untimely payments to its contractors. This unconscionable situation was an especially heavy burden on small- and medium-sized companies. Unfortunately, despite the well-intentioned provisions of this act, serious problems remained and loopholes in the act were exploited to keep contractors from receiving timely payments. The General Accounting Office reported that even 4 years after enactment of the act, approximately 25 percent of commercial payments are still late.

The measure sponsored by Senators **Sasser** and **Trible** will close these loopholes and ensure that contractors are paid promptly by the Government. The bill was reported to the full Senate in early June, but has been held up for nearly 4 months while several divisive issues were debated. The main point of contention has been section 7 of the bill, which would regulate the payment of subcontractors by prime contractors.

During hearings on the measure in the Governmental Affairs Committee, I became concerned about this section of the measure which I felt would allow possibly unwarranted Government intrusion into the private relation—ship between prime contractors and their subcontractors and into the sanctity of contract. I expressed these concerns to the committee during markup and supported an amendment offered by the distinguished Senator from Michigan, Senator **Levin**, to delay the enactment of section 7 regulations between prime and subcontractors for 1 year while the General Accounting Office made a comprehensive study of this matter.

I was prepared to support this amendment in the full Senate. I was hopeful, however, that compromise legislation would be forged that would be acceptable to all interested parties. I am pleased that just such an agreement has finally been reached. The Levin-Quayle amendment to S. 328, of which I am a cosponsor, would permit a subcontract payment term longer than the "prevailing industry standard" of 7 days. The prime contractor must announce these terms during the solicitation of bids from subcontractors and must agree to be held to them. I believe this amendment is a good compromise that will meet the special concerns of both prime contractors and subcontractors. I strongly support the amendment and I commend my colleagues for their persistent efforts to develop compromise language so that this important measure could be voted upon by the full Senate.

In summation, I believe this act will reestablish the original intent of Congress to ensure prompt payment of contractors by the Federal Government and eliminate the loopholes which have been exploited by Federal agencies. I am proud to be a cosponsor of this bill and I urge my colleagues to vote for its enactment.

Thank you Mr. President.

PROMPT PAYMENT: A SENSIBLE COMPROMISE

Mr. PELL. Mr. President, as a cosponsor of S. 328, the Prompt Payment Act Amendments of 1987, I am very pleased that the Senate can now vote on this important legislation. We should delay no longer in remedying the deficiencies in the 1982 act.

It seems to me that the solution proposed by Senator **Levin** to the controversy respecting the payment clause for subcontracts under construction contracts, is reasonable and statesmanlike. By requiring prime contractors to announce their payment terms in advance of subcontract commitments, adequate protection is given to subcontractors against unanticipated delays.

Earlier this year, I received a letter from Girard R. Visconti, executive secretary and general counsel of the Rhode Island Subcontractors Association, which went to the heart of this problem. His letter said in part:

> The fact is that when a subcontractor or supplier believes he will be paid late, he will increase his bid. If a subcontractor or supplier fails to identify a slow paying prime contractor before submitting his bid or signing the subcontract, problems are bound to develop on the job. After all, he will not be eager to perform or complete the job as required by the contract.

That, in brief, expresses both the essence of the problem the Levin amendment would correct and the dynamics it would rely on for self-enforcement. Forewarned subcontractors will have to increase their bids to cover the financing costs of slower payments. But prime contractors who want to submit winning bids will need to keep those add-on costs to a minimum.

It would be simpler and neater—and perhaps preferable—to simply legislate the "prevailing industry standard" of 7 days as the standard payment term for construction subcontractors. But in view of the controversy surrounding this issue, the compromise of the Senator from Michigan is a sensible route to the same end, and I fully support it.

Mr. BUMPERS. Mr. President, as chairman of the Committee on Small Business, it is with great satisfaction and a certain amount of pride that I rise in support of S. 328, the Prompt Payment Act Amendments of 1987. My pride is founded upon the continuing role which the Committee on Small Business has played in responding to the concerns of the small business community about untimely Government payments. My satisfaction is founded upon the realization that this bill represents the fulfillment of one of the recommendations of the 1986 White House Conference on Small Business, made just over 1 year ago.

The committee's attention to the payment problems of small business Government contractors can be traced back to the first session of the 95th Congress. Under the leadership of Chairman Gaylord Nelson, the committee held the first Senate hearing on this critical issue on June 21, 1977. At this hearing, the General Accounting Office provided the initial findings of their comprehensive review of Federal agency bill-paying practices. GAO's report to the Congress, issued in February 1978, documented and confirmed the magnitude of the late payment problem of which small businesses had so frequently complained. Almost 40 percent of the Government's payments to its contractors were paid late, that is, more than 30 days after receipt of invoice, based on the GAO's sample. Further, GAO estimated that contractors could have incurred upwards of $30 million in interest costs to cover the money tied up in these overdue bills. Clearly, the GAO study confirmed what small business Government contractors had been saying all along.

Now, how was the problem to be remedied? GAO made a series of recommendations for corrective actions by the Office of Management and Budget, the Treasury Department, and the agencies doing the contracting. Essentially, the initial solution offered was for the executive to take the needed remedial steps on its own—an administrative solution to what clearly was a management problem. But, unfortunately, all too few of the recommended solutions were implemented, so the problems persisted. And so did the complaints of small business Government contractors, compounded by interest rates that made borrowing to cover delayed Government payments commercially unacceptable, and sometimes ruinious, for small firms. Given the confirmed indifference of the executive agencies to take any effective remedial action to clean up the problem, the small business community, organized in a coalition for prompt pay, began urging Congress to take direct action, not through additional oversight and jawboning of agency management, but through a strong legislative remedy with the teeth to make the agencies change their behavior regarding timely payment for services rendered.

With the beginning of the 97th Congress, the Small Business Committee again stepped to the forefront in heeding the call for strong remedial legislation. Senator SASSER introduced the Late Payments Act of 1981, which became S. 30. Later, Senator DANFORTH introduced a second generation bill, S. 1131, the Delinquent Payments Act of 1981, with 22 original cosponsors including Senators WEICKER, CHILES, SASSER, and most of the members of the Small Business Committee. Referred to the Committee on Governmental Affairs, and its Subcommittee on Federal Expenditure, Research and Rules, the issue of timely payments to Government contractors, especially small business Government contractors, was made a priority item on the subcommittee's agenda. Under the able leadershp of Senators DANFORTH and CHILES, at the time the chairman and ranking minority member of the Subcommittee, a strong legislative solution to the late pay problem moved steadily forward, despite strong opposition from OMB and the procuring agencies. Their ultimate success was made possible though the determined support from a broad-based coalition for prompt pay, which was grounded upon an array of organizations representing small business but included in its ranks groups like the National Association of Manufacturers. With strong support in the House from Representatives JACK BROOKS and FRANK HORTON, the chairman and ranking minority member of the Committee on Government Operations, prompt payment legislation became a reality. S. 1331 was signed into law, as the Prompt Payment Act of 1982, Public Law 97-177, on May 21, 1982. It became effective on October 1 of that year.

On that date, Mr. President, the issue became would it produce the results expected by its sponsors, both in the Congress and within the business community. With any statute, but especially with one seeking to improve the management of the Executive, the measure of practical success is determined by the tenor and tenacity of its implementation by the executive agencies. The measure of success will also be affected very significantly by the tenacity of oversight of agency implementation brought to bear by the statute's sponsors. in this regard, we were fortunate for the Prompt Pay Coalition, and many of its member organizations closely monitored the development of the various regulations implementing the act and the actual billpaying practices of the various agencies.

This monitoring effort went on for 4 years. By 1985, the small business community and the Prompt Pay Coalition had come to two general conclusions. First, that the Prompt Payment Act had substantially improved the procuring agencies bill-paying practices from the dismal situation that previously existed; and second, that the agencies had discovered the ambiguities and loopholes in the statute, and were exploiting them to avoid paying the late payment interest penalties required. Given the problems being repeatedly faced by small business Government contractors, the Prompt Payment Coalition, and its member groups began to call for oversight hearings and consideration of amendments to the Prompt Payment Act to restore the act's protections, which were all too frequently being stripped away through deft agency action.

The problems being faced by small business Government contractors was brought home to the Small Business Committee during a meeting of its National Advisory Council in October 1985. The Council considered the implementation of the Prompt Payment Act and adopted a resolution outlining the problems being confronted. The resolution also called upon the Congress to conduct oversight hearings and consider remedial legislation.

Mr. President, I ask unanimous consent that a copy of the October 25, 1985 resolution of the Small Business Committee's National Advisory Council regarding the implementation of the Prompt Payment Act be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. Mr. President, the issue of agency implementation of the Prompt Payment Act was also discussed during many of the State and regional meetings that preceded the 1986 White House Conference on Small Business. Many small business Government contractors found that the same problems were being repeatedly faced across the country. Agency implementation of the Prompt Payment Act was made one of the agenda items for the White House conference, based on resolutions adopted at the various preliminary meetings. A resolution suggesting a series of amendments to the act and calling for vigorous oversight of its implementation ultimately finished among the top 40 recommendations, from a starting agenda that exceed 400 issue items.

Mr. President, I ask unanimous consent that a copy of the recommendation concerning the Prompt Payment Act adopted by the 1986 White House Conference on Small Business be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BUMPERS. Mr. President, given the resolution adopted by the committee's National Advisory Council, and calls for oversight coming from the Prompt Pay Coalition and many others in the small business community, the Committee on Small Business decided to undertake the oversight activities being requested. Senator TRIBLE took the lead. A field hearing was held in Norfolk, VA, on December

2, 1985. Representatives of small businesses providing various types of supplies, an array of services, and construction provided testimony. A very extensive statement was presented by the Coalition for Prompt Pay. Agency testimony was received from representatives of the Navy and the General Services Administration, to provide prospectives of defense and civilian agencies. On June 19, the committee held a day-long hearing in Washington, receiving testimony from 13 witnesses. In all, the Committee on Small Business compiled 623 pages of printed hearing record.

On May 21, 1986 Senator Trible introduced S. 2479, the Prompt Payment Amendments of 1986. He was joined by 20 original cosponsors that included most of the members of the Small Business Committee and many of the key sponsors of the original Prompt Payment Act legislation. Utilizing the extensive record developed by the Committee on Small Business, the Committee on Governmental Affairs was able to move expeditiously in its consideration of S. 2479. The oversight of Government Management Subcommittee, then under the leadership of Senator Cohen, with Senator Levin as the ranking minority member, gave this important small business legislation their careful attention. S. 2479 was marked up and unanimously reported on August 14, 1986. As reported, S. 2479 included a provision, section 7—payment clause for subcontracts under construction contracts—which provided the protections of the Prompt Payment Act to subcontractors under Federal construction contracts. As my colleagues are aware, Mr. President, this has been the most hotly debated provision of the bill we are now considering. But clearly, it was not a provision which burst upon the scene with the introduction of S. 328.

S. 2479 was subsequently given close scrutiny by the full Governmental Affairs Committee, which in turn made further refinements. It was unanimously reported on October 2, 1986. In the final days of the 99th Congress, the Senate passed S. 2479 by a voice vote on October 15. The Congress adjourned sine die, without any action being taken by the House of Representatives.

Clearly, Mr. President, the groundwork had been laid for congressional action on amendments to the Prompt Payment Act. At the time of its passage, S. 2479 had 44 cosponsors.

With the convening of the 100th Congress, Senator Sasser took the lead introducing the bill we are now about to pass. Senator Trible joined him as the principal cosponsor of the Prompt Payment Act Amendments of 1987, as did 54 other original cosponsors including virtually all members of the Committee on Small Business and the Committee on Governmental Affairs.

Senator Sasser and Senator Trible have already provided to this body the provisions of this legislation, and the history of its careful consideration before the Committee on Governmental Affairs. I will not duplicate their efforts. Mr. President, I will only add my thanks for their hard work on behalf of those who deal with the Government expecting to be paid in a timely fashion for services rendered, especially small business Government contractors.

Mr. President, among the amendments we have adopted today is the one relating to section 7, which was offered by Senator Levin. As I previously mentioned, this provision generated the most debate. I, for one, felt quite strongly that we needed to extend the protections of the Prompt Payment Act to subcontractors under Federal construction contracts. For me, they had made the case that a delayed payment problem clearly existed. Nonetheless, Mr. President, it was essentially in my view that our remedy of the subcontractors problems with some prime contractors, should not impair the ability of prime contractors to manage the construction projects for which they are responsible to the Government. That is why I was particularly pleased with the improvements made to section 7 by the Committee on Governmental Affairs. Those improvements provided important protections to the Government and the prime contractor, while maintaining the protections accorded to subcontractors. The amendment adopted today does not appear to impair the balancing of interests, which I believe is present in section 7, as reported by the Committee on Governmental Affairs. For that reason, I have supported it.

In closing, we on the Committee on Small Business have expended substantial effort in attempting to open the Federal procurement process for the participation of small business. Having won the contract opportunities, having successfully performed, these firms should not have to worry about timely payment. The Prompt Payment Act of 1982 was passed to address such problems. The Prompt Payment Act Amendments of 1987, if implemented fully and in good faith by the executive agencies, will bring us closer to the realization of that goal. I urge my colleagues to join me in voting in favor of S. 328.

EXHIBIT 1.

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON IMPLEMENTATION OF THE PROMPT PAYMENT ACT

Whereas, the members of the National Advisory Council to the Senate Committee on Small Business, having considered the Federal agency implementation of the Prompt Payment Act, Public Law 97-177, during the three years since it became effective on October 1, 1982, have found that the objectives of the legislation and the intent of Congress are not being fully attained;

Whereas, some Federal agencies continue to make payments beyond the payment date specified in its contracts or beyond the times specified in the Act, without the payment of interest;

Whereas, some Federal agencies are abusing the fifteen day "grace period" provided in the Act by failing to initiate payment action on contractors' invoices until the expiration of thirty days;

Whereas, some Federal agencies are delaying payments to small business contractors by rejecting their invoices as "improper" after the fifteen days provided by the Act;

Whereas, some Federal agencies are delaying payments to small business contractors by refusing formal acceptance of supplies, services or construction so as to delay the start of the payment periods mandated by the Act, after which interest must be paid;

Whereas, some Federal agencies are failing to automatically pay interest due to small business contractors, rather requiring them to make a demand for payment of interest contrary to the Act's self-enforcing intent;

Whereas, these problems with agency implementation of the Act are placing substantial financing burdens on small business government contractors, and acting as an obstacle to small business participation in the Federal procurement market, thus denying the Government the advantages of the competition, industry, and innovation provided by many small businesses: Therefore, be it

Resolved, That the National Advisory Council to the Senate Committee on Small Business calls upon the Congress, especially the Senate and House Committees on Small Business, the Senate Governmental Affairs Committee, and the House Government Operations Committee which were instrumental in the passage of the Prompt Payment Act, to:

1. conduct oversight hearings on the implementation of the Prompt Payment Act through OMB Circular A-125, the Federal Acquisition Regulation, and the implementing regulations of individual Federal agencies; and
2. to consider modifications to the Prompt Payment Act that will address demonstrated implementational abuses by some Federal agencies and assure attainment of Congressional intent and objectives in passing the Act.

EXHIBIT 2

FINAL RECOMMENDATION PERTAINING TO PROMPT PAYMENT ACT OF 1982

32. Prompt pay legislation should be extended to cover postal service and federally assisted procurement and strengthened through an amendment to the 1982 Prompt Payment Act to eliminate the fifteen day grace period; require automatic payment of interest penalties; more clearly define that the entire payment process, including acceptance, must occur within 30 days; include progress payments and retainage; and require prime contractors to pay their subcontractors within seven days after receiving payment from the government or incur interest payment penalties. In addition, when the government pays the prime contractors late, interest payments shall flow through from prime contractors to sub-contractors on a pro-rata basis. The Prompt

Payment Act shall be vigorously enforced by all branches of government. [R.A. 277, Procurement; 652 votes.]

Mr. DANFORTH. Mr. President, I am pleased to support S. 328, the Prompt Payment Amendments of 1987. These amendments reflect a strong bipartisan effort here in the Senate to ensure that the Government pays its bills on time. I commend the leadership and hard work of a number of my colleagues in their efforts to accomplish this goal. Senate concern about this problem dates back at least to the beginning of this decade.

Mr. President, I was one of the principal authors of the original Prompt Payment Act. I am pleased to say that the act has measurably improved the Government's bill payment performance. In 1978, the General Accounting Office found that 30 percent of Federal invoices were paid late for no reason whatsoever. During a 6-month sampling period, the GAO estimated that late payments on Federal contracts totaled $9.8 billion. That was a cost to Government contractors, many of them small businesses, of approximately $30 million. To correct this problem, the Prompt Payment Act requires specific payment terms in Government contracts, requires the Government to pay bills when due, and awards interest penalties to Government contractors when the Government pays late. Since 1983, the OMB has reported that 99 percent of Government contracts are paid on time. Moreover, the Prompt Payment Act has served as a model for similar State legislation. Forty-five States and the District of Columbia now have prompt pay laws. My own State of Missouri enacted a prompt pay law in 1985.

Despite the encouraging data provided by OMB, it has become clear that there is still work on the payment process that needs to be completed. In July, 1985, the GAO reported that agencies paid only 75 percent of their invoices on time. This disparity between the GAO and the OMB data can be attributed in large part to the fact that OMB did not consider a payment as late unless an interest penalty was paid. Clearly, the intent of Congress was to eliminate slow payments on all contracts whether or not an interest penalty was paid.

The Prompt Payment Amendments of 1987 will eliminate many of the ambiguities of the original Act and ensure that the agencies are responding to the intent of Congress. The amendments will gradually eliminate the grace period, strengthen requirements so that interest payments and progress payments will be paid promptly, and specify that the act applies to the Postal Service. These changes all make a great deal of sense and should be enacted as quickly as possible.

When the Prompt Payment Act was written, the grace period was not part of the original Senate bill. It was added by the House, at the urging of the executive branch, to avoid payment of numerous small interest penalties during the time it took for the executive branch to bring payment practices into line with the requirements of the act. It was intended, in effect, as a safety valve, and a temporary one at that. It was not intended to give the Federal Government carte blanche to pay its bills in 45 days. Indeed, the act explicitly requires the Government to pay its bills in 30 days.

This temporary grace period has proven to be an invitation to agencies to cut corners. The GAO reports that 20 percent of all invoices it reviewed in its recent survey were paid during the grace period. In testimony before the Senate Appropriations Committee last August, Deputy Secretary of Defense William Howard Taft IV testified that the Department of Defense was "reviewing the flexibilities available to us under the Prompt Payment Act" as a means of cutting costs. Mr. Taft proposed that the Department pay its bills 10 days into the grace period to reduce outlays. In my opinion, Mr. Taft's proposal is no way for the Federal Government to do business. Money the Federal Government saves by paying bills late is money earned at the expense of Government contractors—many of them small companies that can ill afford delays in payment. If the Federal Government promises payment in 30 days, it should pay its bills in 30 days—not 45.

The intent of the original bill was to eliminate the grace period within a few years. It is clearly time to reduce the payment time to the original 30 days.

The GAO has also found that agencies are not paying the interest penalties required by the original act. It reported that five out of every six vendors in their survey did not receive interest penalties to which they were entitled. In fact, 24 of the 39 payment centers reviewed in their study had unpaid penalties—and 3 of the 39 centers had local policies not to pay interest unless the vendors asked for it. This is a clear abuse of the intent of Congress.

Mr. President, if the Prompt Payment Act is to work as it was intended to work, interest penalties should be paid whenever bills are paid late. This is what the law requires now. The bill before us today would make it absolutely clear that any late payment interest penalties due to contractors are to be paid automatically.

On this important issue of late payment interest penalties, Senators PRYOR, BUMPERS, and I intend to offer an amendment to S. 328 that would require penalty interest payments on Commodity Credit Corporation [CCC] obligations unpaid after 30 days. Farms and farm-related businesses engaged in commercial dealings with the Federal Government have as much right as other private contractors to be paid on time or else receive interest penalties. I believe that this amendment would be a significant step toward ensuring that players in the farm economy are not repeatedly devastated by lengthy delays in receiving payments which they are owed.

In addition to these concerns, the Federal Government is taking discounts for prompt payment even when it fails to make payment in a timely fashion. The GAO reports that 18 percent of discounts taken by agencies in their sample were taken after the discount period had expired. The amendments expressly prohibit agencies from taking prompt payment discounts unless payment is made during the discount period. It should not take an act of Congress to prevent this sort of abuse, but apparently it does.

I am pleased that the bill addressed the problem of payment of subcontractors on Federal construction. Subcontractors perform as much as 80 percent of the work under such contracts and have much the same problems getting paid by the prime contractors as the prime contractors have in getting paid by the Government. In fact, their problems are exacerbated by the simple fact that they are further down the path of the cash flow.

Finally, I am pleased to note that the bill makes it clear that the U.S. Postal Service is covered by the requirements of the Prompt Payment Act. This has been a particularly vexing problem for several of my constituents. It was our intent to cover the USPS when the act was first written; it will make coverage explicit.

Mr. President, the provisions in this bill are nothing more than a simple matter of fundamental fairness. It is not fair when the Government promises payment to contractors in 30 days and pays its bills in 45 days—or longer. It is not fair when the Government ignores its responsibility to pay contractors interest penalties when it fails to pay its bills on time. And it is manifestly unfair when the Government takes prompt payment discounts without making prompt payment.

The seriousness of the Federal Government's failure to fully implement the Prompt Payment Act was demonstrated clearly by the fact that 1,800 delegates to the 1986 White House Conference on Small Business made prompt pay reform one of their 60 final recommendations to the Congress and the President. It should be noted that these 60 recommendations were culled from 2,232, recommendations examined and ratified at 57 State conferences.

Mr. President, the reforms made by this legislation are necessary. They eliminate ambiguities in the original act and ensure that the agencies are responding to the intent of Congress. I strongly support S. 328 and hope that it will be passed as quickly as possible.

Mr. WEICKER. Mr. President, I rise in support of S. 328, the Prompt Payment Act Amendments of 1987. As ranking member of the Senate Small Business Committee, I urge my colleagues to vote for this important legislation, which implements one of the recommendations of the 1986 White House conference on small business.

The Prompt Payment Act of 1982 had its origin in the Small Business Committee during the 97th Congress. The committee received an enormous amount of complaints from small contractors that the Government simply was not paying its bills on time. All too often, small businesses were put in a cash squeeze because of Government billpaying practices. The 1982 act, which was signed into law on May 21, 1982, sought to address this problem by requiring Government agencies to pay interest on overdue payments.

Mr. President, Government contractors, small businesses, and large firms, have now had 4 complete fiscal years of experience with agency billpaying practices subject to the Prompt Payment Act. This experience has been monitored by the prompt pay coalition and many of its member associations. This long-term monitoring effort leads to two conclusions: First, that the Prompt Payment Act has substantially improved the Government's billpaying practices from the dismal situation that existed prior to enactment; and second, that the agencies have frustrated full implementation of the act as intended by Congress by exploiting ambiguities and loopholes in the statute.

In October 1985, the national advisory council to the Senate Committee on Small Business held its annual meeting and adopted a resolution on the implementation of the Prompt Payment Act. That resolution called upon the committee to conduct oversight hearings on the act's implementation and to consider appropriate amendments to correct the glaring problems which so many small business Government contractors were facing due to the manner in which Federal agencies were implementing the act.

Senator Trible took the lead and conducted a series of oversight hearings on the Prompt Payment Act's implementation. The first was held in Norfolk, VA, on December 2, 1985, which was followed by a day-long full committee hearing on June 19, 1986. In all, the committee compiled 623 pages of printed hearing record.

As a result of these hearings, Senator Trible introduced the prompt payment amendments of 1986 [S. 2479]. It was referred to the Subcommittee on Oversight of Government Management, then chaired by the Senator from Maine [Mr. Cohen], with the Senator from Michigan [Mr. Levin] as the ranking minority member. The subcommittee gave the bill careful consideration, utilizing the record compiled by the small business committee. One of the principal improvements made to the bill by the subcommittee, in my view, was the addition of section 7. The bill was favorably reported by the subcommittee on August 14, 1986, and was favorably reported by the full committee on October 1, 1986, with a further refined version of section 7. S. 2479 passed the Senate in the 99th Congress, on a voice vote, on October 15, 1986.

The legislation before the Senate today tightens up the existing law and gives specific direction to the procuring agencies. The grace period was reduced from 15 days to 7 days and will be eliminated in 2 years. Furthermore, the legislation clarifies when the clock starts running to determine when the Government's payments are considered late and thus subject to interest penalties.

As I suggested, section 7 of the bill was virtually the only issue of controversy. It was drafted by the committee in response to a well-documented problem—that all too many subcontractors on Federal construction projects are being paid in an untimely fashion by their prime contractors.

The issue of delayed payments to subcontractors on Federal construction contracts has been before the Congress since 1981. At that time, the argument was urged upon us that specific coverage of the prime contractor/subcontractor relationship was unnecessary because if the prime contractor was timely paid, as the act would now require, timely payments would naturally flow to the subcontractors. Mr. President, let me be clear on this point, in many cases this is true.

The problem of late payments to construction subcontractors did not evaporate as predicted. Rather, subcontractors came before the committee on small business on several occasions to replead the case of extending the act's protections to them explicitly; they said the trickle down hadn't worked. In fact, the American subcontracting association conducted a survey in March 1987, to determine the scope of the problem.

The results of the survey were as follows:

> The majority of ASA members surveyed (62.7%) perform work on federal construction, which typically represents 10% to 15% of their annual volume.
>
> Smaller companies are more likely to serve as subcontractors on federal construction than larger companies. More than 70% of subcontractors with annual volume of less than $2 million perform federal construction, while only 28.6% of those with annual sales volume over $25 million perform federal construction.
>
> The average subcontractor that performs federal construction has performed ten federal construction projects since the implementation of the Prompt Payment Act in October 1982.
>
> Subcontractors wait an average of 60 days after submitting a request for a progress payment before receiving payment on federal construction.
>
> Prime contractors on federal construction retain an average of 10% of the progress payments otherwise due to their subcontractors.
>
> Subcontractors wait an average of 120 days after they last perform labor or supply material to a federal construction job before receiving final payment.
>
> Subcontractors use a variety of techniques to collect late pay on federal construction. The two most frequently used are: (1) directly pursuing payment from the general contractor (93.5%), and (2) requesting assistance from the Government's contracting officer (62.1%). More than 16% stopped work until payment was received.
>
> More than 40% of subcontractors have delayed work on federal construction until payment was received; more than 10% have substituted materials in order to compensate for lost profit due to late payments on federal construction.
>
> More than 60% of the subcontractors who perform federal construction increase their bids in anticipation of late payment by general contractors.
>
> Only 2.9% of the subcontractors who have been paid late on federal construction have received interest for late payments under the terms of their subcontracts.
>
> More than 60% of the subcontractors who have performed work on federal construction have lost money because of late payments by general contractors.
>
> The results of this survey must be viewed in the context of payment standards existing on both commercial and government construction. Under the terms of the AGC/ASA/ASC Joint Policy Statement on Prompt Pay, the subcontractor should be paid by the prime contractor within 24 days of the submission of a progress payment requisition to the prime contractor. Senior managers within the federal agencies with substantial construction programs indicate that payments are made to prime contractors within 10-25 days after submission of the prime contractor's progress payment requisition to the agency. This should result in payments being received by subcontractors on federal construction within a range of 24-39 days. The ASA survey results make clear that this is not the case.
>
> The ASA survey also clearly demonstrates that many problems are created for the federal government, as well as subcontractors, when prime contractors on federal construction delay payment to their subcontractors and suppliers. When subcontractors believe they will be paid late, they submit higher bids to the prime contractor, which are ultimately paid by the government and the taxpayer. On projects already under contract, when the subcontractors can no longer adjust their prices, nor expect to receive late payment interest penalties, the cost to the government takes the form of delay or reduced quality. To the subcontractor, delayed payments means lost profits or just losses, through no fault of their performance, only their inability to effectively enforce a right to timely payments due them.

What section 7 as reported by the committee, and is doing is to mandate a specific and enforceable subcontract payment provision to deter those prime contractors who might be tempted to deal unfairly with their subcontractors by delaying payments in order to earn the interest on the subcontractors's money. Section 7 takes the "profit motive" out of delaying subcontractor payments.

I am pleased a compromise with Senator LEVIN and others was agreed to on this issue. Failure to act would in the final analysis hurt the Federal Government. Extensive delays in payments from prime contractors force subcontractors to either delay work on Federal construction projects, or in some cases substitute materials in order to compensate for late payment. Furthermore, many subcontractors admit to increasing their bids in anticipation of late payments by general contractors. Faced with a serious cash-flow crunch, it is difficult to blame subcontractors for taking such action. However, the real losers from such a system is the American taxpayer, who is forced to pay more and get less.

S. 328 would not be going to passage today without broad support from the small business community. In the forefront was the prompt pay coalition, which also led the fight for the enactment of the original prompt pay legislation in 1982, monitored the implementation of that legislation and highlighted for the Congress the need for amendments such as those embodied in S. 328. The director of the prompt pay coalition, Kenton Pattie, a staff vice president with the International Communication Industries Association should be commended for spearheading the business community's effort to see that timely payments are made for the goods and services it provided to the Federal Government. The National Federation of Independent Business, National Small Business United, and the Small Business Legislative Council all made vital contributions to see that this legislation passed the Senate and, I am certain, will see it through the House and enacted into law.

It is important to note that S. 328 also has garnered the support of a broad array of associations that represent the "top 100" contractors with the Federal Government. It makes clear something that I have always believed—that cash-flow is important to all firms in that no one likes to find themselves having to drum payments out of any customer, including Uncle Sam.

Finally, I salute Senators TRIBLE, SASSER, LEVIN, BUMPERS, GLENN, and ROTH for their commitment to the principal of timely payment practices by the Government.

Mr. NUNN. Mr. President, as a cosponsor of the Prompt Payment Act of 1982, I am pleased to join with 87 of my colleagues today in sponsorship of S. 328, legislation providing necessary amendments to the act.

Our intent in 1982 was straightforward: To establish guidelines for Federal agencies to pay their suppliers in a timely fashion. The prompt pay legislation was born out of the fact that the Government, in essence, was borrowing money free of charge from those who supplied goods and services. At that time, millions of dollars were months past due. For many small- and medium-sized businesses, those unpaid Government invoices caused severe hardships.

Our intent in 1982 can be completely fulfilled with the adoption of the legislation before the Senate today. My colleagues will recall that we passed similar legislation in the closing days of the 99th Congress. Unfortunately, the House of Representatives failed to act on this legislation before adjourning. The Senate must again take the lead to ensure the payment of Federal agency bills in a more timely fashion.

During consideration of the Prompt Payment Act of 1982, Federal agencies indicated that they did not favor the legislation. They expressed the opinion that fiscal management of the taxpayers' money mandated that invoices be held as long as possible. Unfortunately, those savings to the Government really are nonrecoverable losses to the supplier. The reluctance to pay promptly did not stop totally with passage of the 1982 act, and has been a continuing problem in the last 5 years since passage.

Certainly, many invoices are being paid much more promptly today than 5 years ago. There is, however, certain disturbing behavior that these amendments can correct.

These amendments reiterate the intention of Congress that bills will be paid on time in a manner consistent with the standard practices of various business sectors. Interest payments owed on overdue payments are to be made automatically. Small- and medium-size businesses will no longer bear the brunt of Government agency dilatory payment practices.

Mr. President, I believe that these amendments will provide a clear message to the Federal agencies that paying bills on time is clearly consistent with congressional intent and a necessary component of sound fiscal management.

Mr. President, with these practical amendments I believe we provide the necessary tools to implement in all agencies the provisions of the 1982 Prompt Payment Act. I thank Senator SASSER for his leadership on this legislation and I urge adoption of the bill by the Senate.

Mr. GLENN. Mr. President, I rise today in support of S. 328, the Prompt Payment Act Amendments of 1987, a bill aimed at improving the Government's record of untimely payments to its contractors. As we all know, the Government's continuing failure to meet its prompt-pay obligations has been an ongoing and important problem for both small and large businesses.

The Committee on Governmental Affairs held a hearing on S. 328 on March 19, 1987. Witnesses at that hearing testified about the importance of this measure and the positive impact it will have on their cash-flow, and ultimately their entire business operation. As a former businessman myself, I know just how crucial timely payment is and can therefore readily sympathize with their concern. Through letters and calls to my office, many other businessmen from a wide variety of fields, have communicated a strong interest in seeing this legislation enacted.

The hearing also revealed the extent to which prompt payment problems in the construction industry affect subcontractors as well as contractors. The hearing testimony, as well as anecdotal evidence over the past 8 months, bears out the need for the subcontractor payment provision embodied in section 7 of the bill. The compromise language on section 7, which was worked out through long and careful negotiation, represents, in my view, the best possible middle ground—section 7 is preserved as a fair and necessary component of the larger measure but allowance is also made for prime contractors to specify longer payment periods when they solicit their subcontractors.

I want to emphasize that although differences remain among us over the various amendments being offered today, a spirit of compromise pervaded the committee's consideration of this bill and in the staff deliberations throughout the process. Furthermore, Mr. President, I would be remiss if I failed to note the excellent contributions of my distinguished colleagues on the Governmental Affairs Committee, Senators SASSER and TRIBLE, whose leadership, interest, and insight have been crucial elements in the success of this bill. I believe they are largely responsible for the reasonable compromise package we now have before us. S. 328, in my estimation, is worthy of quick action and the support of every Senator.

Mr. DURENBERGER. Mr. President, I rise today in strong support of S. 328, the Prompt Payment Act Amendments of 1987. This legislation completes the work begun by Congress in 1982 to reform the Federal Government's bill-paying practices, and I congratulate my colleagues from Tennessee and Virginia on their work in crafting such a widely supported measure. I am pleased to be one of the bill's original cosponsors.

I also rise in support of the amendment I am cosponsoring with my distinguished colleague from Missouri [Mr. DANFORTH] to extend the protections of the Prompt Payment Act to farmers and farm-related businesses that have entered into commercial agreements with the Commodity Credit Corporation. This amendment would require the CCC to pay an interest penalty to program participants on obligations that are 30 days overdue. I firmly believe that farmers and farm-related businesses who have entered into agreements with the CCC should be afforded the same protections as other entities engaged in business with the Federal Government; therefore, I hope this important measure will be adopted.

In 1982, Congress passed the Prompt Payment Act to improve the Federal Government's disgraceful bill-paying record. The Government was paying almost 40 percent of its invoices late, forcing contractors to incur an estimated $60 million in additional financing costs, and making contracted goods and services more expensive. The Federal Government did not save taxpayers money be delaying payments to contractors. Rather, it cost taxpayers more in the long run, because fewer businesses were willing to compete for Government contracts and contractors inflated their prices in anticipation of delayed payments.

The Prompt Payment Act of 1982 attempted to correct this abysmal situation by requiring Federal agencies to pay their bills within 30 days of receipt of a proper invoice—with an additional 15-day grace period—and to pay interest penalties on any late payments. Although the act has resulted in a significant improvement in the Government's bill-paying record over the last 5 years, Federal agencies have exploited ambiguities in the Prompt Payment Act and abused the 15-day grace period.

The bill before us today takes the final steps necessary to make the Federal Government a responsible bill payer. It clarifies the application of the act and its timetables, phases out the 15-day grace period, and requires prime contractors to pay their subcontractors in a timely manner. It also improves reporting requirements to ensure accurate implementation of the act.

Mr. President, there is one aspect of S. 328 which has caused concern to some general contractors. Section 7 as originally drafted required Government construction contractors to include a payment provision in their agreements with subcontractors, providing for payment in accordance with prevailing industry standards. It also required the payment of an interest penalty to the subcontractor for delayed payments.

I believe that section 7 is necessary to correct the problem of delayed payments by prime contractors to subcontractors. Throughout hearings and debate on S. 328, we have heard of far too many instances where general contractors withhold payments to subcontractors for no apparent reason. And because most subcontractors tend to be small companies, they are more prone to experience hardship from cash-flow delays.

I would prefer to retain section 7 in its original form. The authors of S. 328 carefully crafted this section to prevent it from intruding into the special relationship that exists between general contractors and subcontractors. Section 7 maintained the privity of contracts, retained the general contractor's right to withhold payment to a subcontractor for performance problems, and retained the ability of the general contractor to require performance and payment bonds from subcontractors. Simply put, section 7 would only provide subcontractors the same protections that are afforded prime contractors in the Prompt Payment Act.

Today, however, we are adopting an amendment to section 7 to address the concerns expressed by certain general contractors. The modification offered by my distinguished colleague from Michigan [Mr. LEVIN] retains the requirement for payment to subcontractors according to the prevailing industry standard, but it also provides an exception to this payment schedule. General contractors would be permitted to lengthen the subcontractor payment terms if they announce their payment terms during the solicitation of subcontract bids and if they agree to be bound by the terms of their announcement. With advance notice of payment terms, subcontractors would then be able to adjust their bids to cover their increased costs due to slower payments.

Proponents of the Levin amendment argue that market forces will drive payment terms offered by prime contractors toward the prevailing industry standard. They claim that because the competition for Federal construction contracts is so stiff, prime contractors will seek to obtain lower subcontractor bids by improving subcontractor payment terms. I only hope this will hold true in practice and that the Levin amendment will not compromise the integrity of section 7.

Mr. President, the Prompt Payment Act Amendments before us today are final steps toward ensuring a more responsible, more credible Federal Government. I urge my colleagues to adopt S. 328 so that we can finish the important task we began in 1982.

Mr. CHAFEE. Mr. President. I am pleased that the Prompt Pay Act Amendments of 1987, which I have cosponsored, have finally come to the floor for our quick deliberation.

The Prompt Payment Act of 1982 was passed to improve the Federal Government's record of timely payment to contractors, a matter of special concern to small businesses which have to self-finance the payment delays. Regretfully, this original intent has not been fully carried out. For example, the date on which deliveries of supplies or services are formally recognized by the Federal Government is at its discretion, which allows it to deny late payment interest penalties. The time period during which a price discount is legitimately available to a Government agency for early payment can be similarly abused. Interest penalties on late payments are not paid automatically. Accordingly, amendments are necessary to redress the situation. Let me commend Senator TRIBLE and Senator SASSER for their efforts in promptly responding to this significant problem.

These amendments make more explicit several terms and conditions in the original bill and should allow the original intent to be achieved. Of particular interest is section 7, which extends certain prompt pay obligations to the relationship between Federal Government construction contractors and their subcontractors. Section 7 would offer the subcontractor some assurances that it will not be financially taken advantage of in the carrying out of its duties, while not seeming to impair the ability of the general contractor to perform. This is an important part of the bill and fairly crafted.

Mr. President, these amendments are fair and just, and I move their immediate adoption.

Mr. EVANS. Mr. President, I am pleased today to join my colleagues as a cosponsor of S. 328, in supporting the Prompt Payment Act Amendments of 1987. This legislation proposes a series of needed amendments to the Prompt Payment Act of 1982, Public Law 97-177.

The Prompt Payment Act of 1982 was enacted because Government contractors were being devastated by the effects of delayed or untimely payments by the Federal Government. The act requires the Government to pay by the due date specified in the contract or within 30 days in the absence of a contractual due date, or to pay the contractor a late payment interest penalty. While the Government's bill-paying performance has improved since the 1982 act, agencies are still taking advantage of loopholes and ambiguities in the act. This is inconsistent with the congressional intent for the Prompt Payment Act of 1982. Passage of the Prompt Payment Act Amendments of 1987 will strengthen and clarify the Prompt Payment Act of 1982.

Because of the continuing billpaying problems faced by our small business community, Congress began to hear a call for oversight hearings and consideration of improvements to the act. This legislation will represent the resulting congressional answer to that call.

The Small Business Committee diligently developed a wide-ranging record documenting the act's deficiencies. Witnesses stated that Government billpaying practices have improved. However, they also objected strongly to the fact that agencies are taking advantage of the ambiguities and loopholes in the act. These ambiguities still allow late payments without incurring late payment interest penalties, essentially by delaying the start of the payment clock. And, it was found that agency implementing regulations have restricted the act's application and therefore its protections—particularly with certain types of payments due to contractors, for instance with construction progress payments, and partial and periodic payments under supply and service contracts.

The 1986 White House Conference on Small Business called for congressional action to strengthen the Prompt Payment Act of 1982. With this action today we will implement the requested strengthening provisions, by making such improvements to the 1982 act as: A clearly defined "receipt of invoice," a phasing out of the 15-day grace period, and requirements that interest penalties be paid automatically. These are just a few of the improvements which, taken together, will greatly strengthen the act.

It is significant that we demonstrate our support for the small business community with actions that aid small business' growth and contributions to our Nation's competitiveness. When the business community is burdened with receiving late payments we are merely hurting ourselves. Our small business community is vital to ensuring that our Nation remain infused with creative, independent thought while enhancing and broadening our economic base.

I would like to express my appreciation to those of my constituents who have taken the time to contact me on this issue. Many have relayed the personal frustrations they have suffered due to delayed payments. I have always found it disturbing that our Government expends great efforts to collect the money it is owed, yet they are not as expeditious in extending the same courtesy to those that they owe. I am hopeful that this legislation will correct this inconsistency.

Mr. President, I am pleased to be a cosponsor of the Prompt Payment Act Amendments of 1987 and would urge my colleagues to support passage of this legislation.

● Mr. GORE. Mr. President, I am pleased to lend my support to S. 328, the Prompt Payment Act Amendments of 1987. I particularly congratulate my friend and distinguished colleague, the senior Senator from my State [Mr. SASSER] for spearheading this much-needed legislation, which is designed to correct deficiencies in the bill-paying practices of the Government and prime contractors of the Government.

Indeed, the purpose of this legislation is simple. It will eliminate loopholes which allow some Federal agencies to pay contractors late while avoiding late payment interest penalties called for in the original Prompt Payment Act of 1982. That bill did improve the bill-paying practices of most agencies, but many contractors continue to experience problems. This legislation makes various improvements, and most of those problems will be addressed.

Slow pay is the No. 1 concern of subcontractors, and the 1986 White House Conference on Small Business listed prompt pay for subcontractors as a top priority. Most contractors have a good record of timely payment, and S. 328 will have little effect on them. For that minority which has a problem with slow payment, this legislation will act as a deterrent by requiring them to spell out the payment schedule in agreements with subcontractors. And the prime contractor retains the right to require a performance bond or other security from any subcontractor.

Section 7 of the bill, which requires a prime contractor on a Federal construction project to include a payment clause in agreements with subcontractors, is a necessary and appropriate provision. As my colleagues know, section 7 in its original form generated strong opposition from the Associated General Contractors; but it is my understanding that a compromise has been worked out which will protect the rights of subcontractors, while allowing the prime contractors some flexibility in their agreements.

Subcontractors depend on the cash flow generated by payments on account to meet their payrolls and loan payments and to pay their suppliers. They are entitled to prompt payment for the work they do on Federal construction. I am confident that a clear understanding of the payment problems faced daily by construction contractors will result in support for this legislation, and I urge my colleagues to act favorably on it.●

Mr. BOSCHWITZ. Mr. President, I rise to speak in support of the Prompt Payment Act Amendments of 1987. As my colleagues know, the Prompt Payment Act of 1982 was adopted to improve Federal agency performance in paying bills on time. It is perfectly proper to require the Federal Government to do so, just as the Government requires individuals to pay their bills on time. Small businesses already have plenty to worry about without having to shoulder the cash-flow problems of Federal agencies.

Although the Federal Government's payment policies have improved since the Prompt Payment Act was passed in 1982, many agencies have used loopholes in that legislation and have strayed away from the intent of the act. The Prompt Payment Act amendment being deliberated by this body will shore up some of the weaknesses in the 1982 act and improve the Federal Government's business relationship with private contractors.

The amendments proposed today arise from the efforts of many in the 99th Congress, including myself, who voted for a similar bill. Unfortunately, although the measure was approved by the Senate, it was not acted on by the House.

Mr. President, S. 328 contains improvements over last year's bill. S. 328 includes language protecting subcontractors, establishing a 10-day payment term for dairy products similar to that for contracts involving meat, poultry, and fresh fruits and vegetables, and applying the prompt payment provisions to nonprocurement Commodity Credit Corporation contracts. The number of Senate cosponsors of this legislation, currently 88, demonstrates the bipartisan support it enjoys.

The needs for revisions to the Prompt Payment Act are not seriously disputed. The White House Conference on Small Business adopted a recommendation calling for the extension of prompt pay legislation to the Postal Service and federally assisted procurement programs. Similarly, the National Federation of Independent Business has endorsed the prompt pay amendments citing the importance of maintaining "A steady cash-flow—which is exacerbated if bills owed by the Government are not payed on time." This measure provides all of us with an opportunity to say to the small business community: We hear you and we want to help.

I am particularly supportive of an amendment offered by Senator DANFORTH, myself, and others that would pay interest to farmers for future late Commodity Credit Corporation payments. Farmers have endured several instances of uncertain and late payments due to congressional disputes over appropriations legislation which have nothing to do with agriculture. If the Government feels obligated to pay interest on late payments to agribusiness because of these disputes then we should also feel obligated to make interest payments to farmers. The amendment we are offering will achieve such equality.

On that note, Mr. President, I am pleased to join my colleagues here in the Senate in moving adoption of the Prompt Payment Act Amendments of 1987.

Mr. GRASSLEY. Mr. President, I applaud Senator GLENN, Senator SASSER, and Senator TRIBLE and my other colleagues whose leadership and hard work brought this bill before us to make it possible for businesses contracting with the Federal Government to receive prompt payment. The Prompt Payment Act Amendments of 1987, S. 328, completes the task begun with the 1982 act.

This legislation provides the needed follow-through and oversight to insure that the intent of Congress is implemented when Federal agencies pay their bills. Many Federal agencies' payment policies have strayed far from the intent of the Prompt Payment Act of 1982. The current implementation resembles an exercise in hunting loopholes rather than paying invoices in a business-like fashion.

The prevailing private industry payment practices in a given area have not always been accepted by Goverment agencies. For example, private customers pay for Iowa food products, such as meat and dairy products, in less than 30 days. This is largely due to the way the food products and raw materials are procured and payment is made. The industry standard practice for a given commodity group should be accepted by Federal buyers as well.

Another problem occurs when Federal agencies stamp longer payment periods on the submitted offer. Suppliers who question this procedure are frequently informed that the agency cannot legally pay in less than 30 days. The result is unnecessary tension between the suppliers and Government agencies. Clearly such conflict was not the intent of the Prompt Payment Act; S. 328 will speed payment to food suppliers.

According to GAO, when invoices are paid late, interest is not paid unless the supplier requests the interest payment. It may be that Federal agencies are paying late in order to manipulate their cash flow for what they perceive to be better fiscal management. Prompt payment, however, is in the best interest of the Government, as it will stimulate more competition and better prices.

Mr. President, this bill is necessary specifically because of misinterpretations of the 1982 act. These amendments to the 1982 act, contained in S. 328, benefit the partnership between the Government and the private sector. Prompt payment will make Government more efficient and encourage more companies to compete for Government work. To complete the objective we clearly outlined in the 1982 act, I urge my colleagues to join me in adopting S. 328.

Mr. PRYOR. Mr. President, I rise today to urge approval of S. 328, the Prompt Payment Amendments of 1987. I am an original cosponsor and therefore very pleased to see this measure before the Senate.

The Government has improved its payment practices subsequent to the enactment of the original Prompt Payment Act of 1982. Prior to enactment of that legislation, approximately 49 percent of the Governments bills were paid late. The General Accounting Office [GAO] testified recently that late payments have now been reduced to approximately 25 percent. While this is a significant improvement, more must be done.

As a supporter of the original Prompt Pay Act of 1982, I am encouraged that the Committee on Governmental Affairs—of which I am a member—has seen fit to revisit and improve upon what was always a good idea: to require the Government to pay its bills on time. S. 328 represents a careful examination of what has worked and what has not under the original Prompt Pay Act. The bill incorporates meaningful improvements to current law which will foster prompter payment of Government debt to the private sector and see that Government agencies are not able to circumvent the intent of the bill with crafty paperwork techniques.

This legislation is particularly important for small business in America, as testified by the support of groups like the National Federation of Business [NFIB]. After all, it is small business which most needs to provide goods and services to the Government, but which can least afford to carry Uncle Sam when he does not pay his bills in a timely fashion. S. 328 will be a boon to small business as it seeks to survive and compete in the American economy.

S. 328 has been the subject of careful committee consideration and exhaustive staff discussion. On March 19, the Governmental Affairs Committee held a hearing on the bill, and a number of witnesses testified. On May 19, the committee reported the bill with a favorable recommendation. I should mention that the Small Business Committee, under the able chairmanship of my senior colleague from Arkansas, Senator BUMPERS, has also maintained an interest in this important legislation.

I want to also note the involvement of the Coalition for Prompt Pay, under the able leadership of Mr. Kenton Pattie. Mr. Pattie is truly a veteran in the war against late payment of Government debts. He deserves thanks for his efforts in this area.

Mr. President, private business simply cannot continue to be held hostage to the bureaucratic nonsense of late payment. Our bill simply requires Government to act as a responsible business partner. Contractors and taxpayers deserve nothing less.

Mr. HATFIELD. Mr. President, the bill now before the Senate, S. 328, the Prompt Payment Act Amendments of 1987, represents an effort by this body to clarify, restate, and strengthen the provisions of the Prompt Payment Act of 1982.

The enactment of the 1982 act represented an acknowledgment by Congress that the Federal Government's poor record of late payment to its contractors must be improved. The problem was particularly acute for small businesses, which typically had great difficulty in absorbing the additional financing costs arising from these late payments. The original Prompt Payment Act requires the Federal Government to pay its contractors by the due date specified in its contract, or within 30 days in the absence of a contractual due date, or face a late payment interest penalty charge.

While implementation of the 1982 act substantially improved the billpaying practices of the Government in those departments subject to its provisions, ambiguities in the legislation permitted many agencies to violate the spirit, though technically not the letter, of the law.

Problems in the application of the original legislation has been particularly difficult for the small business community. The problem has been sufficiently severe to prompt the White House Conference on Small Business, held in August of 1986, to adopt a resolution urging enhanced enforcement of the Prompt Payment Act and suggesting a number of amendments. That resolution found its way into the top 40 recommendations of the White House conference as recommendation No. 32.

S. 328 improves upon the 1982 act in a number of ways, including clarifying the starting point of the act's "payment clock," making explicit that late payment interest penalties be paid automatically, and phasing-out a 15-day grace period which permitted the Government to pay late without incurring a late payment penalty.

Clearly the most important, and most controversial, provision of S. 328 is section 7. Originally, that section required a general contractor on a Federal construction project to include a payment clause in its contract with the various subcontractors. Generally, section 7 placed the same responsibility on a general contractor for prompt payment to a subcontractor—or pay a late fee—as the Federal Government would have for prompt payment to a general contractor.

Although supported by every subcontracting trade union, section 7 was criticized by the administration and the Associated General Contractors as an unwarranted intrusion into the private contractual relationship between a general contractor and a subcontractor.

That controversy has now been resolved. The amendment agreed to by the floor managers of this bill will permit a subcontract payment term longer than the "prevailing industry standard" if the general contractor publicizes the existence of such an extended term during solicitation of bids and agrees to be bound by the announced term in any subsequent subcontract agreement. As the managers have indicated, it is believed that the announcement of this extended payment term will adequately protect subcontractors since they will be able to adjust their bids to cover the financing costs of the slower payments. In addition, it is expected that the competitive bid process will result in payment terms closer to the "prevailing industry standard," since general contractors will seek to lower their bids by contracting with subcontractors which have eliminated these additional costs to cover extended payment terms.

I am pleased to learn that this accommodation is supported by the American Subcontractors Association and the Associated Specialty Contractors. It is my hope that this matter will be quickly concluded and that S. 328 will become law by the end of the year. As an original cosponsor of the Prompt Payment Act of 1982, I am pleased to support S. 328, the Prompt Payment Act Amendments of 1987. I urge its adoption.

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for the Prompt Pay Act Amendments of 1987.

As a former businessman, Mr. President, I know well the problems that businesses can face when customers fail to pay on time. Small businesses in particular are especially vulnerable to late payments. Sometimes, a late payment is worth little more than no payment at all.

When a business performs services or provides goods for the Federal Government, there is simply no excuse why it should be forced to suffer from extensive delays before receiving the compensation to which it is entitled. Congress recognized this when it passed the Prompt Payment Act. Yet while this act has improved the Government's billing practices, too many businesses still suffer from excessive delays.

The Prompt Pay Act amendments will strengthen this important Federal law and provide additional protections for those who do business with the Government. This will benefit not only affected businesses, but also the taxpayers. By guaranteeing that payment are made on time, the Government can help ensure that businesses will be willing to offer their goods and services to the Government at reasonable prices.

Mr. President, today promises to be an important day for the small business community and for businesses around the country. The Prompt Pay Act Amendments of 1987 is important legislation that should be passed promptly. I urge my colleagues to support the bill.

Mr. LUGAR. Mr. President, I am pleased to be an original cosponsor of S. 328, the Prompt Payment Act Amendments of 1987. The Prompt Payment Act of 1982—which I also cosponsored—requires that the Government pay contractors on time and pay interest when those payments are late. Since the act took effect in October of 1982, the Federal Government's payment practices have improved dramatically. However, there is still substantial room for improvement.

I have heard from a great number of Hoosier contractors over the past several years who are troubled by glitches in the system which result in late payments and unpaid interest charges. Many have said that if improvements in the Federal Government payment practices are not made they may discontinue their efforts to bid for Federal contracts.

This is particularly true of the small businessmen who can ill afford to borrow funds to cover the costs of a project when they rightfully should have been reimbursed by the Government in a timely fashion. Prompt payment reform was a top priority of the 1986 White House Conference on Small Business. We must listen to the needs of small businesses in our country where such a large concentration of America's jobs now exist.

These amendments will work to close the existing loopholes in the current law, and, thus, restore the intent Congress exhibited when it passed the original act. I am committed to improving the Federal Government's bill-paying practices. S. 328 presents a straightforward and reasoned approach to achieving this end. I urge my colleagues to support the measure when we vote today.

Mr. METZENBAUM. Mr. President, for too long, the Federal Government had been setting a terrible example of late payments to its contractors. The Prompt Payment Act was enacted to address and correct this dismal record. Since its passage, there has certainly been some improvement in the Government's on-time payment performance, but there still are abuses.

It has been reported that the Government pays approximately 25 percent of its invoices late. That's no way to do business, Mr. President. Additionally, some Federal agencies have tried to take unfair discounts on the payments they make to contractors. A GAO study showed that 3 of 39 Federal payment centers don't pay required late fees, and 24 centers had outstanding penalties. The report also indicated that over $9.8 billion in Federal contracts were paid late over a 6-month period.

It is clear that although some progress has been made, many problems still exist. These are the problems that the Prompt Payment Act amendments will address. This legislation will specify the amount of time in which the Government must pay its contractors, and it will make clear the fact that any agency paying late must automatically pay legally mandated fees. The amendments further clarify the original provisions of the act to ensure timely payment to Government contractors—the original intent of the Prompt Payment Act.

It is only fair to enact these provisions. The Prompt Payment Act amendments will allow small business to compete freely and fairly with the knowledge that they will be paid on time for the work they perform. I was proud to be a cosponsor of the original Prompt Payment Act, and I am proud to be a cosponsor of these amendments.

Mr. PACKWOOD. Mr. President, I rise today in support of S. 328, the Prompt Pay Act Amendments of 1987. I was a cosponsor of the original act which is now public law and am pleased to be an original cosponsor of these amendments designed to close loopholes and eliminate ambiguities in the Prompt Pay Act of 1982. That act requires Federal agencies to pay its bills on time or suffer interest penalties. While the 1982 law dramatically improved the Government's bill-paying practices from the situation that existed prior to enactment, it failed to remedy all the late payment problems. Many contractors who deal with the Federal Government continue to experience persistent problems of untimely Government payments. About 25 percent of all Government bills are still paid late, and many are routinely paid during the 15-day grace period.

It is not surprising, then, that among the top 40 recommendations of delegates to the 1986 White House Conference on Small Business was one to extend and improve the Prompt Pay Act. The Prompt Pay Act Amendments of 1987, incorporating the suggestions of the conference delegates, eliminates the 15-day grace period and requires automatic payment of interest penalties. Additionally, it requires prime contractors to pay their subcontractors within 7 days after receiving payment from the Government or, alternatively, announce "extended" payment terms during the solicitation phase. Currently, subcontractors generally bid to prospective Federal construction prime contractors solely on the basis of the work to be performed, without knowledge of the terms of the subcontract agreement to be entered into. Under the "extended" payment terms, the prime construction contractor would agree to be bound by the announced term in any subsequent subcontract agreement.

Small businesses are especially concerned about prompt payment because late payments force them to borrow money, frequently at high interest rates, in order to maintain their operations. In my own State of Oregon, small businesses alone represent nearly 90 percent of businesses. These small businesses have generated over 80,000 new jobs since the start of the economic recovery in 1983. The importance of requiring the Government to pay its bills in a timely manner becomes apparent when one looks at the numbers. In Oregon, in fiscal year 1986, there were 5,032 procurement actions, representing $592,551,000 Federal contract dollars. Of that amount, 41 percent went to small businesses.

In light of late payment problems borne out by testimony of small business Government contractors and further substantiated by an extensive GAO report, it is evident that we must act without further delay to address the shortcomings of the 1982 act. This revised legislation is necessary not only to protect businesses which contract with the Federal Government, but also to send a firm message to the Government agencies that Congress expects them to pay their bills on time.

Mr. President, I urge adoption of the Prompt Pay Act Amendments of 1987.

Mr. SASSER. Mr. President, have the yeas and nays been requested on final passage?

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. SASSER. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, before we begin the rollcall, once this bill is disposed of, the Senate will return to the War Powers Resolution and hopefully an amendment can be agreed upon during the afternoon by various Senators on both sides that is being worked on. I will not say when it will be ready, however.

I will later today go to the catastrophic illness legislation under the previous order, but I do not anticipate any work on that today.

When the Senate adjourns later today that will be the business at adjournment thus making it the unfinished business when the Senate returns on Tuesday.

I am not at the moment prepared to say there will be no more rollcall votes. It will take a little while yet to make that determination.

I yield the floor.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico [Mr. BINGAMAN], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KERRY] would each vote "Yea."

Mr. DOLE. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Kansas [Mr. KASSEBAUM], the Senator from Wyoming [Mr. SIMPSON], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND] and the Senator from Wyoming [Mr. WALLOP] would each vote "Yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—86

Adams
Armstrong
Baucus
Bentsen
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kasten
Kennedy
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wilson

NAYS—0

NOT VOTING—14

Biden
Bingaman
Boschwitz
Dodd
Gore
Inouye
Kassebaum
Kerry
Simon
Simpson
Symms
Thurmond
Wallop
Wirth

So the bill (S. 328), as amended, was passed, as follows:

S. 328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act Amendments of 1987".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) the billpaying practices of most Federal Government agencies generally have improved, with certain exceptions, after four years of experience under the Prompt Payment Act (codified in chapter 39 of title 31, United States Code);

(2) the improvement in such billpaying practices has resulted in fairer treatment of contractors who furnish supplies, services, or construction to the Federal Government, especially small businesses;

(3) nonetheless, many contractors who deal with the Federal Government continue to experience persistent problems of untimely Government payments as a result of—

(A) the failure to implement the provisions of the Prompt Payment Act through the Government-wide Federal Acquisition Regulations;

(B) the implementation of the provisions of the Prompt Payment Act in a manner that denies the Act's protections in cases of certain contract payments, such as progress payments for work satisfactorily performed under construction contracts and payment of amounts which have been retained by a Federal Government agency during the performance of construction contracts and are to be released upon final acceptance of the construction work by the agency;

(C) the unlimited time presently afforded Federal Government agencies formally to accept supplies delivered or services performed by contractors, which may be improperly used by such agencies to deny late payment interest penalties to contractors delivering such supplies or performing such services in a timely manner as prescribed by the contract;

(D) the implementation of the provisions of such Act in a manner which has permitted Federal Government agencies to take discounts for early payment months after the expiration of the discount period specified in the contractor's invoice;

(E) the failure of the Act explicitly to require Federal Government agencies auto-

matically to pay late payment interest penalties due to contractors;

(F) the absence of incentives effectively to dissuade Government employees from attempting to withhold late payment interest penalties which contractors are entitled to receive;

(G) the continued availability of certain payment grace periods which affords Federal Government agencies the opportunity to pay their bills late without incurring any late payment interest penalty and, thus, unilaterally to extend the payment due date upon which the contractors have based their contract prices;

(H) the failure of Federal Government agencies to implement the requirement in the Act to pay, during the contract period, for the periodic delivery of supplies or the periodic performance of services if permitted by the contract; and

(I) the failure of the Act explicitly to protect contractors doing business with the United States Postal Service;

(4) the Federal Government will realize substantial benefits if Government construction contracts require Government contractors to pay their subcontractors and suppliers in a timely manner, in accordance with prevailing industry standards, or be subject to the same late payment interest penalties prescribed in the Act; and

(5) a strengthening of the provisions of the Prompt Payment Act, and its vigorous enforcement, is a key recommendation made to the President and the Congress by the delegates to the 1986 White House Conference on Small Business.

DEFINITIONS AND APPLICATION

SEC. 3. (a) Section 3901(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) the head of the agency is deemed to receive an invoice on the later of—

"(A) the date on which the place or person designated by the agency to first receive such invoice actually receives a proper invoice; or

"(B) on the fifth day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or final performance of the services is actually completed, as the case may be, unless—

"(i) the agency has actually accepted such property or services before such fifth day; or

"(ii) the contract specifies a longer period for agency acceptance of the property or services.".

(b)(1) Section 3901 of such title is further amended by adding at the end the following new subsection (c):

"(c) This chapter, except section 3906 of this title, applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.".

(2) Section 410(b) of title 39, United States Code, is amended by inserting after clause (8) the following new clause (9):

"(9) Chapter 39 of title 31.".

INTEREST PENALTIES: REDUCTIONS IN GRACE PERIOD; INCREASED PENALTIES; OBLIGATION TO PAY PENALTIES

SEC. 4. (a)(1)(A) Section 3902(b) of title 31, United States Code, is amended by striking out "16th" in clause (3) in such sentence and inserting in lieu thereof "8th".

(B) Effective with respect to payments made on or after October 1, 1989, section 3902(b) of title 31, United States Code, is amended by striking out the second sentence.

(b) Section 3902 of such title is further amended by redesignating subsections (c) through (e) as subsections (e) through (g), respectively, and by inserting after subsection (b) the following new subsections (c) and (d):

"(c)(1) Any amount of an interest penalty of $1.00 or more which is owed a business concern under this section shall be paid without regard to whether the business concern has requested payment of such penalty.

"(2) If a business concern—

"(A) is owed an interest penalty by an agency;

"(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due;

"(C) is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

"(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty,

such business concern shall be entitled to receive an interest penalty equal to twice the amount of the interest payment that would otherwise be due.

"(d) The unavailability of funds to make a timely payment due for property or services does not relieve the head of an agency from the obligation to pay interest penalties under this section.".

(c)(1) Section 3902 (as amended in subsection (b) of this section) is further amended by adding at the end thereof the following new subsection:

"(h)(1) This section shall apply to contracts for the procurement of property or services entered into pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714 et seq.).

"(2)(A) In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), an interest penalty shall be paid to the producers if the payment has not been made within 30 days after the date on which—

"(i) the producers fulfill all of the requirements for payment provided for in the agreement;

"(ii) the Secretary of Agriculture determines the amount of the payment to which the producers are entitled; and

"(iii) if applicable, the producers demand the payment from the Secretary.

"(B) Interest under this paragraph shall accrue beginning on the date the requirements described in this paragraph are met and ending on the date on which the amount owed under the agreement and the amount of the interest penalty is paid.

"(3) Payment of the interest penalty under this subsection shall be made out of funds available under section 8 of the Act of June 29, 1948.

"(4) Section 3906 shall not apply to interest penalty payments made under this subsection.".

(2) The amendment made by paragraph (1) shall not be construed to authorize—

(A) a modification of the payment practices (including practices relating to payment due dates) that are prevailing, in the case of agreements referred to in such amendment, on the date of the enactment of this Act; or

(B) a modification of any such agreement that is in effect on such date in order to extend the payment due date in such agreement.

(3) The amendment made by paragraph (1) shall take effect with respect to payments that a producer or business concern referred to in such amendment had not yet received or first became entitled to receive under the terms of an agreement referred to in such amendment on or after April 30, 1987.

INTEREST PENALTIES ON PROGRESS PAYMENTS AND RETAINED AMOUNTS UNDER CONSTRUCTION CONTRACTS

SEC. 5. Section 3903 of title 31, United States Code, is amended—

(1) by striking out clause (4);

(2) by redesignating clause (5) as (7); and

(3) by inserting after clause (3) the following new clause:

"(5) in the case of a construction contract, provide for the payment of interest on—

"(A) any progress payment due under the contract for—

"(i) a period of more than 7 days; or

"(ii) a longer period if the contracting officer determines that the prevailing practice in private construction contracts is to provide such longer payment period; and

"(B) any amount which has been retained during the performance of the contract and are due to be released to the contractor after final acceptance of the construction, if such retained amount is not paid to the contractor by the required payment date;".

PAYMENTS FOR DAIRY AND CERTAIN OTHER PRODUCTS AND PERIODIC PAYMENTS UNDER SUPPLY AND SERVICE CONTRACTS

SEC. 6. Section 3903 of title 31, United States Code, as amended by section 5, is further amended—

(1) by inserting after clause (3) the following:

"(4) for the acquisition of dairy products (as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e))), the acquisition of edible fats or oils, and the acquisition of food products prepared from edible fats or oils, provide a required payment date of not later than 10 days after the date on which a proper invoice for the amount due has been received by the agency acquiring such dairy products, fats, oils, or food products;"; and

(2) by inserting after clause (5) the following:

"(6) provide for periodic payments, in the case of a supply or service contract which authorizes periodic payments during the contract period, upon—

"(A) submission of an invoice for supplies delivered or services performed during the contract period, if an invoice is required by the contract; and

"(B) either—

"(i) acceptance of the supplies or services by an employee of an agency authorized to accept the supplies or services; or

"(ii) certification, by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract.".

PAYMENT CLAUSE FOR SUBCONTRACTS UNDER CONSTRUCTION CONTRACTS

SEC. 7. (a) Chapter 39 of title 31, United States Code, is amended—

(1) by redesignating sections 3905 and 3906 as 3906 and 3907, respectively; and

(2) by inserting after section 3904 the following:

"§ 3905. Payment clause for subcontracts under construction contracts

"(a)(1)(A) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include, in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material

supplier) for the purpose of performing such construction contract, a payment clause "described in subparagraph (B), unless the prime contractor certifies to the agency that such contractor—

"(i) has provided notice of payment terms in solicitations for subcontractor bids; and

"(ii) agrees to be bound by such payment terms in any subcontract resulting from such solicitations.

"(B) The payment clause included in a subcontract pursuant to subparagraph (A) shall obligate the prime contractor to pay the subcontractor promptly (as determined in accordance with the prevailing industry standard) out of such amounts as are paid to the prime contractor by the agency for work satisfactorily performed by the subcontractor under such contract.

"(2) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include, in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract, a clause which obligates the prime contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (1)(A) or the payment terms agreed to pursuant to divisions (i) and (ii) of paragraph (1)(A)—

"(A) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

"(B) computed at the most current rate of interest that has been determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published by the Secretary in the Federal Register.

"(b) In addition to the payment clause required by subsection (a)(1)(A), a prime contractor may negotiate and include in the subcontract a provision which permits the prime contractor to make a determination, before making application to the agency for a payment for work performed by a subcontractor, that—

"(1) all or part of the subcontractor's request for payment may be withheld for good cause; and

"(2) a specified percentage of any progress payment otherwise due to the subcontractor may be retained for the protection of the prime contractor and be paid to the subcontractor within seven days after such amount is released to the prime contractor by the Government.

"(c) A prime contractor may not request payment from the agency of any amount withheld or retained in accordance with subsection (b) until such time as the prime contractor has determined and certified to the agency that the subcontractor is entitled to the payment of such amount.

"(d) A dispute between a prime contractor and a subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a subcontract clause conforming to the standards of subsection (a)(1)(A), payment terms agreed to pursuant to divisions (i) and (ii) of subsection (a)(1)(A), or a payment clause included in the subcontract pursuant to subsection (a)(2) does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

"(e) Except as provided in subsection (d), this section shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to a subcontractor or a contractor in the event of a dispute involving late payment or nonpayment by a prime contractor.

"(f) A prime contractor's obligation to pay an interest penalty to a subcontractor pursuant to the payment clause included in a subcontract under subsection (a)(2) may not be construed to be an obligation of the United States. A contractor may not obtain reimbursement from the United States for such interest penalty. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.".

(b) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 3905 and 3906 and inserting in lieu thereof the following:

"3905. Payment clause for subcontracts under construction contracts.
"3906. Reports.
"3907. Relationship to other laws.".

LIMITATIONS ON DISCOUNT PAYMENTS

SEC. 8. Section 3904 of title 31, United States Code, is amended by inserting after the first sentence the following: "For the purpose of the preceding sentence, the specified time shall be calculated from the date the invoice under the contract is received by the place or person designated by the agency to first receive such invoice until the date of payment.".

REPORTS

SEC. 9. Section 3906(a) of title 31, United States Code (as redesignated by section 7(a)(1), is amended to read as follows:

"(a)(1) By the 60th day after the end of the fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on the agency's payment practices during that fiscal year, including a description of the extent to which those practices satisfy the requirements of this chapter.

"(2) In addition to such other information as may be required by the Director, the report required by paragraph (1) shall include—

"(A) the number, dollar value, and percentage of invoices for which interest or other late payment penalties were paid, the amount of such late payment interest and other penalties, and the reasons the interest penalties were not avoided by prompt payment; and

"(B) the number, dollar value, and percentage of invoices paid after the required payment date without payment of an interest penalty or other late payment penalty, and the reasons no obligation to pay such penalties was incurred with respect to such invoices or no amount for such penalties were included in the payments of such invoices.".

IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION

SEC. 10. (a) The Federal Acquisition Regulation shall be modified to provide appropriate solicitation provisions and contract clauses that implement chapter 39 of title 31, United States Code, and the regulations prescribed under section 3903 of such title.

(b) The solicitation provisions and contract clauses required by subsection (a) shall include the following matters:

(1) Authority for a contracting officer to specify for a contract or class of contracts a specific payment period, which—

(A) in the case of payments for commercial items or services, is similar to the payment period or periods permitted in prevailing private industry contracting practices;

(B) in the case of payments for noncommercial items and services, does not exceed 30 days unless the circumstances of the procurement action require a longer period for payment; and

(C) in the case of progress payments under construction contracts, does not exceed 7 days, unless the contracting officer determines that the prevailing practice in private construction contracts requires a longer payment period.

(2) Requirements to make periodic payments, in the case of a supply or service contract which authorizes periodic payments during the contract period, upon—

(A) submission of an invoice for supplies delivered or services performed during the contract period, if an invoice is required by the contract; and

(B) either—

(i) acceptance of the supplies or services by an employee of the contracting agency authorized to accept the supplies or services; or

(ii) certification, by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract.

(3) A conclusive presumption, for the purposes of determining timely payment, that the Federal Government has accepted property or services by the fifth day after the date on which, in accordance with the terms and conditions of the contract, the property is delivered or final performance of the services is completed, unless the circumstances of the procurement require a longer period for acceptance by the Federal Government and such longer period is specified in the solicitation for such contract.

(4) The limitation that the Federal Government may take a discount offered by a contractor for early payment by the Federal Government only in accordance with the time limits specified by the contractor.

(5) The requirements of section 3902(c) of title 31, United States Code.

(6) The requirements of section 3905 of title 31, United States Code.

(c) The regulations required by subsection (a) shall be published as proposed regulations for public comment as provided in section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) within 120 days after the date of the enactment of this Act.

CODIFICATION OF A DEFINITION PROVIDED IN AN APPROPRIATION LAW

SEC. 11. (a) Section 3903(2) of title 31, United States Code, is amended by inserting "and including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product)" after "182(3))".

(b) Section 2002 of the Supplemental Appropriations Act, 1984 (Public Law 98-181; 97 Stat. 1297) is amended by striking out "the terms 'meat' and 'meat food products' as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products; and".

EFFECTIVE DATES

SEC. 12. (a) The amendments made by sections 3(a)(1), 4, 5, 6, 7, and 8 shall apply to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter *which begins more than 90 days after the date of the enactment of this Act.*

(b) The amendments made by section 3(b) shall apply to payments under contracts awarded on or after October 1, 1988.

(c) The amendment made by section 9 shall apply to the report required by section 3906 of title 31, United States Code, for each fiscal year beginning after September 30, 1987.

(d) Section 12 shall take effect on the date of enactment of this Act.

PRESIDENTIAL ADVISORY PANEL FOR COORDINATION OF GOVERNMENT DEBT COLLECTION AND DELINQUENCY PREVENTION ACTIVITIES

SEC. 12. (a)(1)(A) There is established a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities (hereafter in this section referred to as the "Panel"). The Panel shall consist of eleven members appointed by the President in accordance with subparagraph (B) and four members appointed in accordance with subparagraph (C).

(B) The President shall appoint eleven members to the Panel, of which—

(i) five members shall be representatives of debt collection agencies of various sizes;

(ii) five members shall be attorneys experienced in the field of debt collection; and

(iii) one member shall be an official of the Federal Government.

(C) Four members of the Panel (in addition to the members appointed under subparagraph (B)) shall be individuals experienced in the field of debt collection, of which—

(i) one member shall be appointed by the majority leader of the Senate;

(ii) one member shall be appointed by the minority leader of the Senate;

(iii) one member shall be appointed by the Speaker of the House of Representatives; and

(iv) one member shall be appointed by the minority leader of the House of Representatives.

(D) No person shall be appointed to the Panel who is, or is a member of a company or organization which is, retained to perform debt collection services for the Federal Government.

(2) Members shall be appointed to the Panel within sixty days after the enactment of this Act. Members of the Panel shall take office upon such date of appointment.

(3) The President shall designate from among the members of the Panel a Chairman and Vice Chairman. Vacancies in the membership of the Panel shall not affect the power of the remaining members to execute the functions of the Panel and shall be filled in the same manner as the original appointments.

(b) The Panel shall—

(1) review and evaluate Federal policies on debt collection and delinquency prevention;

(2) recommend uniform policies, procedures, and guidelines for the collection of debts owed to the United States Government;

(3) develop, after consulting with the Office of Management and Budget and other appropriate Federal agencies, the priority and manner of delinquent debt collections and procedures for the prevention of delinquencies;

(4) establish training manuals to increase the effectiveness of employees involved in collection activities; and

(5) undertake additional related tasks and make interim reports of its activities and recommendations as the President or Congress may determine necessary.

(c)(1) The Panel may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Panel unless a majority of the Panel assents.

(2) Each Federal agency shall make staff personnel and support services available to the Panel to enable the Panel to carry out its functions.

(3)(A) Subject to subparagraph (B), the members of the Panel may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Panel.

(B) Any member may decline the reimbursement of expenses.

(d)(1) The Panel shall submit a final report to the President and to the Congress not later than eighteen months from the date of the first meeting of the Panel, containing the findings and recommendations of the Panel with respect to matters described in subsection (b).

(2) The Panel shall terminate within thirty days following the submission of the final report.

(e) There are authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the provisions of this section.

(f) Except where inconsistent with this Act, the provisions of the Federal Advisory Committee Act shall apply to the Panel.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I would like to thank Mr. Bill Montalto from the procurement counsel for the Small Business Committee and Steve Ryan, counsel for the Governmental Affairs Committee, who have both worked tirelessly with my own staff and that of Senator TRIBLE on this bill.

I want to express my appreciation to my distinguished comanager, Senator TRIBLE, for his efforts in behalf of this legislation and his continuing interest in seeing that the Government meet its obligations on time.

He has been a splendid colleague to work with and for that, I express my appreciation.

REQUIRING COMPLIANCE WITH THE PROVISIONS OF THE WAR POWERS RESOLUTION

Mr. BYRD. Mr. President, I ask that the Senate return to consideration of Calendar Order No. 360.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 194) to require compliance with the provisions of the War Powers Resolution.

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from Massachusetts.

RECENT EVENTS IN PANAMA

Mr. KENNEDY. Mr. President, two nights ago, the security forces of Panama took to the streets and proceeded to beat, arrest and detain scores of innocent citizens.

At first blush, the events of Wednesday night appear to be just one more chapter in General Noriega's history of human rights abuse in Panama. There is, however, a new and troubling theme that emerged in the course of last night's events.

According to the American Embassy in Panama, it appears that the security forces went out of their way to round up Americans. Nine American servicemen and one civilian were arrested and held overnight.

The servicemen—who were wearing civilian clothes—were held incommunicado for 6 hours. Most were picked up as they were simply walking near their hotel in downtown Panama.

Such barbaric conduct by the Panamanian Defense Forces is neither new nor surprising, but for General Noriega to go out of his way to arrest Americans—totally innocent and totally uninvolved Americans at that—is pushing the limit. At a minimum, General Noriega's most recent outrages should not pass without a strong protest from our Government. No matter how distracted or preoccupied the Senate might be—with Judge Bork or the Persian Gulf or War Powers or SDI—General Noriega seems determined to keep his unsavory character and abysmal record of human rights abuse in the forefront of our memory. And now he is targeting Americans.

Wednesday night's outrage was the result of a full day of meetings by the Panamanian cabinet. Those meetings ended with a national television appearance by President Delvalle.

The President announced that the Government, after hours of consultations and discussions, had concluded that the state of emergency would not be lifted and, more significantly, that the restrictions would be strengthened and tightened. There would be an unprecedented clampdown on the activities of the democratic opposition. The President announced that no more demonstrations would be permitted in the streets of Panama, and that anyone found to be participating in any such demonstrations—no matter how peaceful or nonviolent—would be immediately arrested, charged with crimes, and sent to jail. The people, understandably, reacted and took their objections to the streets.

Mr. President, 2 weeks ago, the Senate accepted the Dodd amendment to the Defense Authorization bill by the unanimous vote of 97 to 0.

That amendment contained a warning to General Noriega's government. Today, I want to remind the Members of this body—and the representatives of General Noriega's government in Washington, DC—and also the administration—that we in the Senate have made a solemn pledge—to cut off all assistance, military and economic, to end all intelligence cooperation, and to eliminate access to all United States grants, loans, leases or credits unless, within 45 days, the Government of Panama has taken concrete steps to restore political freedom and the rule of law to the people of Panama. We stand by that pledge.

Today the future of our relations with the Government of Panama is in the hands of the members of the Panama Defense Forces and the people of Panama. Today, we say to you once again: "The whole world is watching."

I ask unanimous consent that an article from today's Washington Post on this most recent action by General Noriega may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 9, 1987]

10 AMERICANS ARRESTED IN PANAMA—FORMER ENVOY'S SON RECEIVES JAIL TERM

PANAMA CITY, October 8.—Panamanian riot police arrested 10 Americans, nine of them U.S. servicemen, and five Panamanian civilians, including the son of a prominent opposition figure, police and a progovernment newspaper said today.

Col. Leonidas Macias, Panama's police chief, confirmed that the arrests took place last night. He said the nine soldiers were turned over to U.S. authorities early today, but refused to give further details.

In Washington, a State Department spokesman said the servicemen, who were wearing civilian clothes, were picked up by riot police "patrolling in the wake of demonstration activity." They were released 11 hours later, after being held incommunicado for six hours, he said. The United States "has taken up the issue with the Panamanian government," he said.

[A statement by the U.S. Southern Command in Panama said eight of the servicement—five Air Force and three Navy personnel—were visiting the country on temporary duty and staying in a hotel in downtown Panama City. They were picked up while walking near their hotel, the statement said. The ninth serviceman was an Air Force sergeant assigned to the Southern Command who was riding his motorcycle at the time of his arrest, it said.]

Macias did not say if the American civilian, an employe of the joint U.S.-Panamanian commission that administers the Panama Canal, was turned over to U.S. authorities.

Witnesses said the opposition to the military-dominated government tried to organize a demonstration last night after President Eric Arturo Delvalle addressed the nation on television.

Delvalle warned in the speech that he will not tolerate further antigovernment demonstrations, which have been occurring in the capital off-and-on since early June.

Macias said the five Panamanians were charged with disorderly conduct and sentenced last night to 180 days in prison.

The progovernment newspaper Critica identified the Panamanians as four businessmen and Jose Guillermo Lewis Navarro, son of former ambassador to the United States Gabriel Lewis Galindo.

[In Washington, Lewis claimed that his son was arrested when police searched his car at a roadblock and found two white handkerchiefs in his glove compartment. The opposition waves white handkerchiefs during antigovernment demonstrations. Lewis is conducting a campaign in Washington for the ouster of Panama's strongman, Gen. Manuel Antonio Noriega.

["By (arresting) American servicemen, (Noriega) is attempting to claim that the American government is a source of the opposition in Panama," Lewis said in an interview.

["The cowardly and unjust imprisonment of my son, and other innocent citizens, is designed to frighten me and others who criticize the government," Lewis said. "We fear for his life."]

Minutes after Delvalle's speech, security agents stopped cars at random downtown and arrested anyone carrying weapons or flying a white flag from radio antennas.

The newspaper and Macias claimed that the 10 Americans and five Panamanians who were arrested were inciting people to violence.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 30 minutes with Senators to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that no further action occur on the War Powers Resolutions until such time as the majority leader is back on the floor.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, reserving the right to object, if I might inquire of the distinguished majority leader, I wanted to offer an amendment to the War Powers Act. Might I ask when we might expect to see it back up?

Mr. BYRD. Mr. WARNER and some of the rest of us are working on an amendment and we were wanting to be protected on the floor until such time as we had the opportunity to get back to the floor. We hope to have it.

Mr. GRAMM. Mr. Leader, if we pull down the War Powers Act, might I inquire what we might go to?

Mr. BYRD. I am not talking about pulling it down. I am simply saying we would not want any action on it, any amendment offered to it or any motion in relation to it, until such time as Senator WARNER and I are back on the floor.

Mr. GRAMM. Would it be then the pending business here for debate the rest of the afternoon?

Mr. BYRD. Yes, it can be the pending business for quite some time. If the Senator wishes to debate it——

Mr. GRAMM. I would like, Mr. Leader, if it is not out of the ordinary, to reserve my right to offer an amendment to it.

Mr. BYRD. This Senator is not going to say anything other than it is the intention of the Senator from Virginia and my intention to offer an amendment. Until that occurs, I do not wish any amendments offered to it. We want to protect our own rights to offer one. We have been working on an amendment.

Mr. WARNER. Mr. President, throughout the morning I have been addressing indirectly the document which the majority leader and I and some others have been working on. I think Senators have been on notice informally that it is the likely intention of the majority leader and myself, and perhaps others, to propose an amendment to the pending joint resolution by the Senator from Connecticut.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. WARNER. Mr. President, reserving the right to object, and I do not intend to, I understand the Senator from Mississippi desires 15 minutes in morning business. I address that to the majority leader. I wonder if the period the majority leader is designating for morning business can include the time for the Senator from Mississippi.

Mr. BYRD. The period was requested in part to accommodate the Senator from Mississippi who indicated he wanted to speak for 15 minutes on the Bork nomination.

Mr. President, I ask unanimous consent that the period for morning business extend for not to exceed 1 hour and that Senators may speak therein and that no action be taken in the meantime until the majority leader is back on the floor in any way related to the War Powers Resolution.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, without objection, it is so ordered.

Mr. BYRD. I have no objection if Senators wish to discuss it. They can do that in morning business as well, and it could appear in the RECORD at another place.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

NOMINATION OF JUDGE ROBERT BORK

Mr. COCHRAN. Mr. President, it is most unfortunate, in the opinion of this Senator, that the processes surrounding the confirmation of Judge Robert Bork have deteriorated to the condition that we observe today. It is also very unfortunate for the institution of the U.S. Supreme Court and for this institution, the U.S. Senate.

We have seen the process contaminated by mass hysteria, intense partisanship, and unfairness. We have heard charges of racism, of sexism, of a police state mentality, of indifference to individual rights, and so on, made against the nominee.

The public mind has been set against Judge Bork by false charges, by insinuations, by inuendos, with a nationwide advertising campaign by special interest groups.

This campaign suggests, Mr. President, that precious American liberties and freedoms are at risk if the Senate confirms Judge Bork.

Of course, we know that that bears very little likeness to the real truth.

I recall, Mr. President, when I was first invited to an interview with a news-gathering agency here in Washington on the subject of the confirmation of Judge Bork. The television reporter came into my office and set up the camera. The first thing he asked was my reaction to Judge Bork's suggestion that the poll tax be reinstated. He wanted to know my reaction to that.

I first of all started to laugh because that was so absurd. I thought he was kidding me. But, this young reporter really believed that was a fact; that Robert Bork favored a poll tax.

Well, I then began trying to answer the question, to respond by saying that the Constitution of the United States had been amended some time ago to specifically repeal that kind of activity, and that there was absolutely no suggestion that that was going to be undone by the confirmation of Judge Bork.

But that is an illustration, Mr. President, of the kind of rumor that, begun as a rumor, takes on characteristics of fact and truth so that as a result of an effort to advertise viewpoints that really were not those held by Judge Bork on issues that would come before the Supreme Court, and past actions that really were not actions of Judge Bork or Solicitor General Bork, millions of Americans today have a mind set against Judge Bork because of the success of that advertising campaign.

I really am not speaking out against the expressions of opinions by anyone on a subject that is before the U.S. Senate. But what distresses me about the way this entire process has unfolded is that the Senate has become a part of the misinformation campaign by the conduct of the hearings in the Judiciary Committee that brought out information designed, in a way, to make the news each evening; it was conveying an appearance of fairness but in truth was not fair at all because essential facts from the record of this nominee were not given very wide circulation through the news or through advertisements that the opponents were getting with their paid campaign and with the coverage that was given to the charges against Judge Bork.

So today, just for a few minutes, because I did indicate early in the process that it was my intention to vote for the confirmation of Judge Bork, I want to tell the Senate why.

I happened to have been serving in the other body, the House of Representatives, during the time Solicitor General Robert Bork was serving at the Department of Justice, and I recall observing his conduct in that position, his performance of duty, as being exemplary. And then as a judge on the Court of Appeals for the District of Columbia, he was widely regarded as an astute jurist, participating in over 400 decisions as a member of that court and not once being reversed by the U.S. Supreme Court.

Before that, although I did not know him at the time, Robert Bork served as a professor, he served as a practicing attorney, and has been described by many who knew him during those times of his life as a brilliant scholar and lawyer.

It occurred to me in observing the proceedings in the Judiciary Committee that most of the charges against Judge Bork came from writings while he was a professor at Yale Law School. Not any real criticism of him was made of him as a judge by those who were trying to defeat his confirmation, and not any real criticism was made of his performance as Solicitor General in arguing in behalf of our Government in cases before the Supreme Court.

Rather, some said that if a person had the views that Judge Bork espoused in a few articles written while a professor, it was clear that he was a threat to individual rights and to rights of minorities and women if he were confirmed as a U.S. Supreme Court Justice.

First of all, there are nine members of the U.S. Supreme Court. If Judge Bork were confirmed, he would have only one vote.

(Ms. MIKULSKI assumed the chair.)

Mr. COCHRAN. Of course, his vote could be decisive in cases that were evenly divided where there were four Justices on one side in favor and four on the other side against. But that is assuming that there are four Justices now serving on the Supreme Court who are also threats to the individual rights of American citizens and to the rights of minorities and to women. I do not think this Senate believes that.

When the opposition makes the charge that Judge Bork is a threat to precious constitutional rights as a new member of this Court, it is in effect saying that our constitutional rights are already in jeopardy because of the current members who serve on the Supreme Court. Surely no reasonable Senator seriously contends that, and that is not the truth.

What is the real objection then to Judge Bork? It is simply that he is more likely to vote on the conservative side of most issues before the Supreme Court than on the liberal side. The fact, however, that a prospective nominee may more often vote in a conservative rather than in a liberal way, or vice versa, is no basis for rejection of a Presidential nominee by the Senate.

That is why the opposition had to manufacture other reasons to stir up citizens and to cause a stampede of Senators to trample this nominee into the dirt.

It should be noted that the charges against him are not based on his conduct as a judge, nor as Solicitor General. They are based only on what he has written as a law school professor. The opposition ignores his record of public service as Solicitor General and as judge of the U.S. Court of Appeals for the District of Columbia. Of course, it is true that as a professor he wrote provocative articles, he thought provocative thoughts and said provocative things. It has always been my understanding, Madam President, that that is what a law professor was supposed to do. I can remember in my law school that one of the most popular and best law professors was one who criticized every decision that we studied and every jurist who wrote the decisions in books. He made us think, he made us question the basis for these decisions by the U.S. Supreme Court and lower courts. It was part of the way you were challenged to think and to question, and that is what Judge Bork did at Yale Law School. For that he has been indicted by his opponents and convicted by a majority of the Senate Judiciary Committee.

But the point I want to make with respect to the charges of his being opposed to individual rights that are protected by the Constitution and insensitive to the rights of minorities and women is that those charges are unfair. They are inappropriate, even to Professor Bork and certainly to Judge Bork.

If you analyze the opinions and the decisions that Judge Bork has written and that he has participated in on the court of appeals, you find that those arguments collapse because there are no facts to support them. There is absolutely no evidence that Judge Bork has ever been unsympathetic to the constitutional rights of minorities or women.

One of the opposition's charges is that Judge Bork's view of the Constitution provides no protection for individual rights of privacy. They suggest that his view would encourage police state tactics against individual citizens. The opposition does not look at anything Judge Bork has written on that subject but only what Professor Bork suggested on a few occasions. The opponents complain that Professor Bork criticized, for instance, the Supreme Court decision in the case of Griswold versus Connecticut, implying and even stating that his view of that case made him unfit to sit on the Supreme Court.

The Griswold case, as the Senate remembers, was a case where Justice Douglas wrote the majority opinion. He found that a never-enforced State law making the use of contraceptives illegal was prohibited by the U.S. Constitution. In order to make that finding, Justice Douglas, in his opinion, said that the constitutional basis for the Court's authority was not in the Constitution and not in the Bill of Rights, but in suggestions "that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance."

That is not what I would call a very clearly expressed or easy to comprehend source for the Court's decision, and about that this was said: "The Court talks about a constitutional right of privacy as though there is some constitutional provision or provisions forbidding any law ever to be passed which might abridge the privacy of individuals. But there is not."

That sounds like something that the opponents of Judge Bork would accuse him of saying. Who said that, Madam President, was Justice Hugo Black in the dissent in the Griswold case. Robert Bork, in an article criticizing the decision, refers to Justice Black's criticism with approval.

There is also a quote from that same Supreme Court report attributed to Mr. Justice Stewart, who also dissented and made this argument against the Court's decision:

> [I] can find no such general right of privacy in the Bill of Rights, in any other part of the Constitution, or in any case ever decided by this Court.

So, unlike what the opposition would say about Judge Bork's comments about that case, he was in agreement with Justices who are widely praised by those same critics who suggest that Bork is way off base on the subject of that case.

Well, I think the conclusion is that Justice Black and Justice Stewart correctly criticized the foundation of the Court's ruling in that case, and they were not considered dangerous threats to the Constitution, although Judge Bork for having the same opinion is accused of being such a threat.

What does Judge Bork in his own words say about the right of privacy which has been brought up as an important issue? It is an important issue.

He says this:

> No civilized person wants to live in a society without a lot of privacy in it. And the framers of the Constitution protected privacy in a variety of ways. The first amendment protects free exercise of religion. The free speech provision of the first amendment has been held to protect the privacy of membership lists and persons in associations in order to make the free speech right effective. The fourth amendment protects the individual's home and office from unreasonable searches and seizures. It usually requires a warrant. The fifth amendment has a right against self-incrimination. There is much more. There is a lot of privacy in the Constitution.

Judge Robert Bork on the right of privacy. So much for the dangerous opinion of Judge Bork on the issue of privacy.

The question has to be asked, Madam President, what kind of judge would Robert Bork be on the Supreme Court? The answer has to lie in the answer we find when we learn what kind of judge Judge Bork has been on the U.S. Court of Appeals. I took pains to find out what kind of decisions he had made, what kind of rulings he had made as a member of that court.

And I was satisfied and still am, Madam President, that he has not been insensitive as a judge to the interests of minorities or of women, and he has shown that he is interested in ensuring the individual rights of citizens are protected by the courts of this land.

There are clear examples to support those conclusions. He has been a diligent and hardworking judge. He has written or participated in more than 400 opinions in 5 years. He has written on a wide variety of subjects dealing with regulatory problems, constitutional issues, and criminal law matters.

The efforts to attack his record as a judge in the hearings were minimal. And in my opinion, they have been altogether unsuccessful.

The opposition tried to show that he had ruled in favor of business in an inordinate number of cases. The analysis of those cases, however, showed he had not. There was a weak and feeble effort to try to prove that he had ruled against individuals in favor of Government as a general rule. Again, though, upon analysis, the facts did not support the charge. We have heard very little about that aspect of his judicial record since the accusations have been so successfully struck down and charges that the decisions he has made are pro business or anti-individual have fallen apart.

The result is that when the opposition examined the record with respect to minorities and women, they found the record to be without a blemish. Indeed, of the eight cases that might be characterized as involving women's rights, Judge Bork ruled in favor of women seven out of eight times.

Madam President, the first case that I read that Judge Bork handled as a Solicitor General presenting an argument before the Supreme Court involving women's rights was in 1976. This case involved General Electric Co. and the sickness and accident insurance that it provided for its employees. The plan provided a specific exclusion for disabilities arising from pregnancy. A class action was brought by women employees of General Electric alleging that this amounted to sex discrimination. Solicitor General Bork took their side and went to the Supreme Court as a friend of the court filing an amicus brief urging that the women were right.

As it turned out, the Supreme Court ruled against them but later the Congress adopted Judge Bork's suggestions that title VII of the Civil Rights Act of 1964 protected women against that kind of discrimination, and Congress has changed the law to clearly give effect to the very argument that Judge Bork was making in behalf of those women plaintiffs in that case. That is not characteristic of someone who is insensitive to the interests of women.

After coming to the court of appeals, Judge Bork had an occasion to hear a case on appeal from the district court in the District of Columbia. It involved women employees of the State Department. A suggestion was made that the Equal Pay Act was not compatible with the Foreign Services merit system. Women employees appealed a case that was adverse to their interests in the district court to the court of appeals. Judge Bork participated in a decision that reversed that case and remanded it saying that women employees of the Foreign Services were protected by the Equal Pay Act, and had a right to bring an action to enforce the administration of that law to protect them against unlawful discrimination.

That case is the case of Ososky versus Wick, that was decided in 1983.

Another case, Madam President, was Laffey versus Northwest Airlines, Inc. This case was fairly well known at the time that it was argued and decided by the court of appeals in 1984. Judge Bork sat on this panel, and he participated in this decision. In effect, it said that female and male cabin attendants working on airlines and doing the same jobs had to be treated alike as far as pay and benefits were concerned. The facts were that Northwest Airlines under its former employment practices called the female attendants "stewardesses" and called the male attendants "pursers." They would provide single rooms in overnight airport lodging facilities for the male "pursers," but the women "stewardesses" had to double up and put two or three in one room. The pay for "pursers" was greater but the court found as a fact that the jobs were substantially the same.

The case was appealed to the court of appeals. Judge Bork participated in a decision that said the women were right, they were being discriminated against, and they had a right under Federal law for damages and injunctive relief.

That was Judge Bork's decision. Is that a decision made by someone who is insensitive to the rights of women, and who would not use the power of the courts under the Constitution to protect their right to equal pay for equal work? That is what this case was all about.

Finally, Madam President, and I am concluding my review of cases in which Judge Bork has made decisions that show without any doubt that he is sensitive to the interests of women and blacks. There is a case decided in May of this year. It involved a retired naval officer who had spent a career in the Navy. He was black. His name was Emory. He had made captain. He was hoping to make rear admiral. He was passed over. He brought a suit alleging that the Navy unfairly and unlawfully discriminated against him by not having blacks on the selection board, and by the processes the Navy followed to make their selections for rear admiral. And in his case, he argued specifically that the Navy had discriminated against him because he was black.

The district court said you do not have a case; that the U.S. Constitution does not provide the Federal courts with the authority to look behind the Armed Forces selection process to see whether or not they are consistent with constitutional principles. He lost. He appealed to the court of appeals. Judge Robert H. Bork sitting with two other judges rules that he did have the right to fair treatment and to nondiscriminatory treatment even though he was a member of the Armed Forces.

They reversed the case and said that the Federal courts did have jurisdiction to ensure that the selection processes of the Navy were consistent with the constitutional rights against discrimination on account of race. Judge Robert Bork sitting with two other judges made that decision.

Madam President, it is just as clear to me as anything can be looking at the decisions and the writings, and the rulings that Robert Bork has made as a member of the court of appeals that he is a judge who is willing to use the power of the Federal courts to ensure that individual citizens are treated fairly by their Government, and by business, by employers, whether they are women, black, or are trying to assert any other individual right that is protected by the Constitution.

I think it is deplorable that we have seen someone who has a record like this described so successfully as someone who has just the opposite view of the law and of the role of the Federal courts. That is a tragedy.

On October 5, there was an article written in the New York Times by Arnold Burns, Deputy Attorney General. He talks about the confirmation process, the unfair treatment that Judge Bork has suffered at the hands of the Judiciary Committee and those groups who organized to attack and assassinate his character.

I ask unanimous consent that a copy of this New York Times article be included at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 5, 1987]

AS THE BORK VOTE APPROACHES HIS JUDICIAL RESTRAINT IS LAUDABLE

(By Arnold I. Burns)

WASHINGTON.—I am an enthusiastic supporter of the nomination of Judge Robert H. Bork to the Supreme Court. This should not surprise anyone. What should be surprising is that there is such a political hullaballoo over this nomination.

If our citizens do not find this surprising, then I would have to say there is an insufficient understanding out there of the role of the Federal judiciary in our constitutional democracy.

The most heated polemics about the Bork nomination come from people who worry about the policy outcomes they believe are apt to result from it. The fact that so many voices have politicized the nomination in this way suggests that our civics teachers have failed us. We no longer understand what judging is and how it differs from legislating.

I say "we," yet I believe it is not really the American people that are confused—merely the activist cadres that have mobilized on the Bork nomination, who treat the process of judging as meaningless in itself, important only in terms of the policy result to which it leads.

This way of thinking about the role of judges ignores or even denies the difference between that role and the role of legislators. To the result-oriented, judging is merely a continuation of legislation by other means, and the Supreme Court is in effect just a third house of Congress, sitting atop the other two, vetoing their enactments or changing those enactments beyond recognition.

Such a role for the judiciary is intolerable in a Government such as ours, where the people are the source of legislative legitimacy. Judges in our system of governance are supposed to adjudicate disputes between and among litigants—that is, to decide cases and controversies.

In the process of dealing with actual cases brought to them, judges must construe and interpret laws, including the Constitution, because, in the exercise of judicial review, they must insure that legislative or administrative actions do not transgress constitutional limits. If, however, judicial review goes beyond this role, and judges make instead of interpret the law, then the personal values of unelected judges are given the force of law. This is wrong.

The foregoing remarks on the nature of judicial review reflect closely the views of Judge Bork. His constitutional reasoning is pristine, and it is appropriate to note, as we celebrate the 200th birthday of our Constitution, his fidelity to the Framers' grand vision. Yet the ruckus goes on, confusing constitutional reasoning with policy preferences.

To take only the most talked about example, look at Roe v. Wade, which established a right to abortion. Judge Bork has been very discreet about his views, if any, on the merits of the abortion issue. This is fine. What are relevant are his views on the constitutional reasoning behind the Court's interpretation in this area.

That Roe is rickety in this regard has been recognized by scholars with widely differing views on abortion, including Justice Sandra Day O'Connor, Prof. John Hart Ely and Archibald Cox. But that has not stopped some from simplistically labeling Judge Bork "antiabortion."

The point is that it is possible to have an opinion on the merits of a decision separately from one's opinion on the merits of the issue. Pro-life groups support Judge Bork because they believe Roe cannot withstand unprejudiced scrutiny. But he has made no pledges, nor will he, nor should he.

In short, the nomination challenges every sector of politics that has been relying on the Court rather than the political process to achieve its agenda. That challenge is this: Can your goals survive being booted back into the truly democratic process—into the legislative arena?

Now, to confirm or not to confirm, that is the question. That issue should be decided on Judge Bork's record as a brilliant student, lawyer, professor, Solicitor General and court of appeals judge never reversed by the Supreme Court. It should be decided on a philosophy of judicial restraint honed over a lifetime. I inveigh against deciding it on pure symbolism—Judge Bork as the false boogeyman of the left who will singlehandedly veto all sorts of social programs and nullify individual rights, or Judge Bork as the ersatz champion of the right who will singlehandedly adopt a conservative policy agenda.

Stuff and nonsense. The American public, I am convinced, wants a decision on the merits.

Mr. COCHRAN. Madam President, on the same day, I happened to be reading the Washington Post and noticed an article written by Robert H. Bork, Jr., the son of Robert Bork. It was very moving to read a son's description of his father, as only a son can know a father.

On the subject of his views about minorities and minority interests, his sensitivity to those who may not always be treated fairly, the son describes a few instances that he knows about that make his father appear to be a much different kind of person from the one described by Gregory Peck in a paid advertisement on radio stations across the Nation. He said this:

The special-interest groups, ranging from the American Civil Liberties Union to the National Organization for Women, would like you to know an evil caricature of Robert Bork, Sr. I know a different picture. I know that:

He never has harbored any biases or prejudices. Our home was always open to our friends no matter who they were or where they came from.

He, as a junior associate, fought for and won a place at his Chicago law firm for a lawyer whom the senior partners didn't want to hire because he was Jewish.

> He came to the aid of a black female lawyer in the Justice Department who charged that she was being excluded from meetings by her white male colleagues.

Then he goes on to say:

> The special-interest groups are aware of many of these examples and many others where my father reached out personally and professionally to help people. But you don't hear them talking about these things. They know that the only way to kill his confirmation is to ignore the man, his sensitivity—to obscure his record with lies and distortions and assassinate his character.

Madam President, it is a tragedy today to look around the Senate and add up the numbers and find out that this campaign to assassinate character, to impugn the integrity and the record of an honorable and astute jurist, may have succeeded.

I hope that those managing confirmation proceedings in the future will not look to the Robert Bork confirmation proceeding as a model. I hope that they will resist the temptation in the future to become involved as Senators in a political campaign—in a political campaign that distorts the record, that unfairly criticizes the qualifications of a nominee for either a Supreme Court judgeship or a high-ranking position in the executive branch.

Our proceedings ought to be very carefully and thoughtfully managed, to ensure that we find out what the truth really is. I am confident that if Senators were to do that, Robert Bork would be confirmed.

Madam President, I ask unanimous consent to have printed in the RECORD the article by Robert Bork, Jr., to which I have referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1987]

AN "EVIL CARICATURE" OF THE NOMINEE

(By Robert H. Bork, Jr.)

Testimony, cross examination and scrutiny are part of the price of admission to the Supreme Court. But enough is enough. When will there be time for fairness?

Three months ago the president honored my father by nominating him to become an associate justice on the U.S. Supreme Court. Since then our family has endured a relentless and bitter campaign against my father, a campaign designed and executed for the purpose of instilling fear in the souls of all who would listen. It has been a campaign conducted with flash cards printed early by organizations and individuals desperately needing a cause.

Week by week the campaign has mounted. As the distortions were repeated over and over again, we watched my father portrayed as some villainous ideologue, a racist and a sexist. For his opponents the more he is made to look like a crazed neanderthal, the better for them. Indeed, one particularly ugly rumor spread by his opponents to injure him is that my stepmother, Mary Ellen, doesn't believe that the Holocaust happened.

These characterizations, these rumors, are vicious slander and they hurt. They hurt because the people I meet on the street who took the trouble to watch and listen to his testimony before the Senate Judiciary Committee know that they are untrue. My stepmother, brother, sister and I—who know him better than anyone—know they are untrue. And what's more, the special-interest groups that so masterfully have spread these lies know it, too.

But in Washington, if a rumor is sustained long enough, it eventually spills into the press and becomes credible. And it becomes damning.

My father has undergone the most thorough investigation and interrogation of any nominee for the bench, not once, but three times. He was investigated in 1973 when nominated to be solicitor general. He was investigated again in 1982 when he was named to the U.S. Court of Appeals for the District of Columbia Circuit. And every aspect of his life and work was probed and dissected again this summer. One newspaper even got hold of the list of his videocassette rentals hoping to find that he watches X-rated films. The worst they could say about him is that he has a penchant for Alfred Hitchcock and Cary Grant.

No, the special-interest groups ranging from the American Civil Liberties Union to the National Organization for Women, would like you to know an evil caricature of Robert Bork Sr. I know a different picture. I know that:

He never has harbored any biases or prejudices. Our home was always open to our friends no matter who they were or where they came from.

He, as a junior associate, fought for and won a place at his Chicago law firm for a lawyer whom the senior partners didn't want to hire because he was Jewish.

He came to the aid of a black female lawyer in the Justice Department who charged that she was being excluded from meetings by her white male colleagues.

I also know my father's professional record as solicitor general and as a federal judge. I know that at the Justice Department he argued that pregnancy discrimination by employers was illegal sex discrimination. I know that as a federal judge he voted in favor of female flight attendants at Northwest Airlines who had suffered pay discrimination; that he voted in favor of female foreign service officers at the State Department who believed that they had been discriminated against in pay and promotion; and that he voted in favor of a naval officer who claimed he had been passed over for promotion because he was black.

"It tees me off when people say he's uncaring. Bob is a truly decent human being." Those aren't my words. Those are the words of Guido Calabresi, dean of Yale Law School. He and my father disagree on many legal and political issues. But Dean Calabresi is a fair man.

The special-interest groups are aware of many of these examples and many others where my father reached out personally and professionally to help people. But you don't hear them talking about these things. They know that the only way to kill his confirmation is to ignore the man, his sensitivity—to obscure his record with lies and distortions and assassinate his character.

If truth, justice and common decency account for anything in the Senate, my father will win this fight in the end. Those who know him know that he is a compassionate, fair and open-minded man. I hope that the process of judging my father will be characterized as having been fair. Right now, I do not believe that it is. I remain hopeful.

Mr. COCHRAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIRMATION OF ROBERT BORK

Mr. DURENBERGER. Madam President, on July 1, Ronald Reagan made his appointment of Judge Robert Bork to fill the vacancy on the Supreme Court left by the retirement of Justice Powell. I stated then, and have repeated since, that I would support the President's choice unless and until the nominee talked himself out of the job, or convincing evidence was presented to me that he lacked the integrity or qualifications to hold that position. As of this moment, neither of those events has occurred.

I came to this Senate 9 years ago. One of the most important obligations I took on when I was sworn in was the constitutional responsibility to give advise and consent to appointments by the President to Cabinet secretaries, ambassadors and judgeships. As an attorney and former executive secretary to Minnesota Gov. Harold Levander, I participated in the process of selecting judges, so I am not a novice to the judicial system. The standard I established when I arrived in this body in 1979, and from which I have never deviated, was that the President of the United States, elected by all the people of the United States, has broad discretion under the appointment power. Absent clear deficiencies as to character, qualification or temperament, the Senate should not substitute its judgment for that of the President of the United States.

As a result, except on two occasions where the character of two Federal judges was in serious question, I have voted to approve each appointment which has come before me as a U.S. Senator, whether they were appointed by President Carter or President Reagan.

An independent judiciary is one of the bulwarks of American liberty. Insulation of our courts from political influence is one of the central features of our constitutional system, a fundamental principle that has often come under attack over our 200 years of history. Such has been our reverence for the place of the law in this society that we have scrupulously protected the structures of justice from the overt influence of politics of the moment.

The confirmation process, like any of our constitutional processes is not explicitly defined. Experience defines and redefines the process as it is used here in this Chamber. Consequently, the nomination of Judge Robert Bork and the process by which that nomination is to be consented to is not an isolated incident. It is precedent for the next appointment and the next and the next. In this Senator's judgment a long shadow today lies over our judicial branch of Government and may continue for decades to come.

Over 14,000 of my constituents communicated with me on the Bork nomination by mail, scores of others stopped me on street corners and literally hundreds talked to me at the Minnesota State Fair. I met with the leaders of various constituency groups, both in Minnesota and here in Washington. I welcome their input and do not mean to denigrate that sincere effort to get their views across. I thank them, each of them, for it.

But the barrage of mass mailings, full page newspaper ads, radio and television ads and enough issue papers to fill this Chamber from wall to wall to a depth of 6 inches—by both sides—have created an atmosphere of hysteria that columnist David Broder compared to a lynch mob. No American from the age of 2 up has been safe from the crush of the Bork propaganda—from both sides. And when judges become media stars, something very important has been lost to this system.

Madam President, I believe the confirmation process which has accompanied the appointment of Judge Bork has diminished from the place of law in this democracy. As much as I recoil from the trivilization of the election process in this country in 30-second TV ads, that is something the Republic can survive. But the "judgeship by plebiscite" which we have just conducted poses a far more serious threat. When judges have to run for office, the American people, especially minorities in society, will get less than the full protection the Constitution was designed to offer them. That is a momentous step backwards.

I am reminded of an encounter the Prophet Elijah had in the Old Testament. A great wind passed before Elijah and broke rocks around him. But the Lord was not in the wind. Next an earthquake occurred, but the Lord was not in the earthquake. Next fire, neither was the Lord in the fire. But it was in the still small voice that the truth could be heard.

In making my final decision, I will avoid the wind and the earthquake and the fire, and seek a still, small voice of my own. At this point in time, I find it in two places. Lloyd Cutler, White House counsel under President Carter testified:

> Based on my reading of this written record, and on 20 years of personal knowledge of Judge Bork, I have praised him as a highly qualified, conservative jurist, who is closer to the moderate center than the radical right.

Cutler then went on to caution liberals not to "give a hostage" to a future confirmation process where a nominee more to their liking would be judged by the same standards by which Judge Bork was being rejected today.

And Warren Burger, a son of Minnesota and former Chief Justice of the Supreme Court said:

> If Judge Bork is not in the mainstream, neither am I, and neither have I been.

I share the view of these distinguished jurists that Robert Bork, while holding some views at various times with which I disagree, cannot be disqualified on the basis of extremism.

The Constitution of the United States does not call on me to give my advice and consent to judges in such a way as to maintain balance on the Court. It does not call on me to use a different standard to evaluate a swing vote, such as Judge Bork is reported to be, than I used for Justices Scalia or O'Connor. It does not call on me to do a nose count of the Court on key issues and factor that into my decision.

In the judgment of this Senator, Judge Bork is a person of extraordinary intelligence and scholarship. He has shown in the hearings and during his tenure on the bench, a conviction to principle and the moral courage to stick by it. And he has demonstrated the admirable human quality of change and growth, throughout his life.

Madam President, I do not know if the moment will come in this Chamber when the Vice President will ask the clerk to call the roll on the confirmation of Judge Bork. Some hope they will not have to cast this vote. I am not one of them. My mind is not closed now, nor will it be until I cast that vote. But whatever the outcome is, I hope my colleagues and the American people grasp that, to some extent, we may all have been losers in the events that have taken place.

Mr. **HEFLIN**. Madam President, I ask unanimous consent that I be allowed to speak in the morning business until I conclude my speech, which I believe will be about 6 minutes or maybe 6½ minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The Senator from Alabama may proceed.

THE U.S. MARINE CORPS

Mr. **HEFLIN**. Madam President, I am delighted to rise today to congratulate Gen. Alfred M. Gray, Jr., who was recently appointed the Commandant of the U.S. Marine Corps. I believe that General Gray will provide outstanding leadership to the corps. I can think of no marine who knows more about the type of service the U.S. Marine Corps provides to this Nation. I have no doubt but that General Gray will lead the Marine Corps to outstanding accomplishments unparalleled in its 211-year history.

General Gray is, in all senses of the term, a marine's marine. He enlisted in the Marine Corps in 1950 and served overseas with the amphibious reconnaissance platoon in the Pacific attaining the rank of sergeant. He was commissioned a second lieutenant on April 9, 1952. After attending the basic school at Quantico, he has risen through the ranks performing his duties in an outstanding capacity in every assignment he held. Throughout his career, he has not only led his fellow marines, but he has taught them how to lead themselves. I believe that this tremendous example will continue. General Gray will, thus, be responsible for the future, as well as the present excellence of the U.S. Marine Corps.

In its 211-year history, the U.S. Marine Corps has had a highly impressive record. I am proud to be a marine, and to have served in the Pacific in World War II. I use the present tense here because, as they say, "Once a marine, always a marine." Such is the dedication that the Marine Corps instills in its personnel.

Lately, however, the corps has suffered a few blemishes. Marine Sgt. Clayton Lonetree, who was a Marine security guard at the U.S. Embassy in Moscow was convicted of espionage. Recently, Marine S. Sgt. Robert Stufflebaum, also stationed at the U.S. Embassy in Moscow, was convicted of two counts of dereliction of duty, the least serious charges lodged against him. Significantly, Sergeant Stufflebaum was cleared of the serious charges against him.

The reaction of the corps to information indicating that Marine personnel were suspected of espionage was shock and disbelief. Every marine has been hurt and embarrassed by the events of the last few months. We are a proud corps—proud of our service to the American people for over 211 years, proud of our fellow marines who have given so unselfishly of themselves so that our democracy might flourish, and proud of our battle record in defense of this Nation. These allegations and the conviction of spying have been like a knife in the heart.

Though the Marine Corps has suffered some embarrassment in the last few months, and the American people have every right to also be shocked and alarmed, I ask them not to judge this unique institution by the acts of a few, but, rather, by the patriotism and exemplary conduct which have been—

and will always remain—the Marines' basic heritage. At this moment, there are almost 200,000 marines on active duty around the world. As a group, they are the finest I have ever known. Likewise, they find the conviction of a fellow marine for treason to be reprehensible. Like their forebearers, they are still willing to lay down their lives in the defense of our country and the principles upon which the corps stand.

As a matter of highest priority, the Marines are working to determine the facts regarding these events so as to take appropriate corrective action. One thing is certain. They will leave no stone unturned.

Our young marines are as capable as anyone of resisting the insidious KGB threat. If we provide them the proper training, screen them even more thoroughly than in the past, and, most importantly, provide them the proper leadership both on the part of the Marine Corps and the State Department, I am certain that there will be no future cases such as this past one. The Marine Corps remains as solid as the Rock of Gibraltar. For over 200 years, it has answered each and every call in defense of our country with courage, selfless dedication, and honor.

The first marines were assigned to overseas diplomatic posts beginning in January of 1949. Since then, over 15,000 marines have performed such duties. With the exception of this recent episode, they have served with honor and distinction. Many of the cartoons appearing around the country have seriously attacked the tradition of the entire corps—not just the individuals who committed these acts. In my judgment, this is unfair.

Guarding American Embassies is a tough, thankless, sometimes lonely job. That is why it was given to marines in the first place. In the past 211 years, tens of thousands of marines have made the supreme sacrifice for freedom. To desecrate their memory because of the acts of two or three is not only ludicrous, it is an outrage. In their 38 years of service with the State Department, these so-called young marines have displayed countless acts of exemplary courage. They have saved lives, have put out dozens of Embassy fires, have administered life-saving first-aid, while others remain frozen in fear. They have even sacrificed their lives so their civilian charges might survive.

I believe that we should take every effort to recognize the outstanding efforts of the Marine Corps and of the marines assigned to Embassies throughout the world. By and large, Embassy marines are not recognized for their service and duty. I think it is shameful that they are now being attacked for the actions of one or two.

Over the last several years, a strong spontaneous support for the corps has developed among marines, both active and inactive. This support has been more and more apparent in recent months as the U.S. Marine Corps has been so unfairly attacked. As we were taught in basic training, when under attack or siege, we are to rally together and fight like mad. Over a period of time, a great tradition has been developed which, I believe, is representative of the loyalty, the rallying support, and the undying allegiance of marines to their corps. This support by all marines is especially moving whenever "The Marine's Hymn" is played. The minute any marine hears the opening bars of "The Marine Hymn," he stands at rigid attention, holding that stance until the final note. I believe that this shows the great respect that all marines—active and inactive—hold for the corps.

I believe that this custom should be encouraged. I might add that when the last note is played, all marines further signify their loyalty and dedication by proclaiming Semper Fidelis—always faithful. Indeed, despite the unwarranted attacks, despite the hurtful cartoons, and jokes which have been directed toward the Marine Corps, marines will be always faithful to their corps, and the corps will be forever faithful to the United States of America, and to our Nation's Constitution.

Thank you Mr. President.

The PRESIDING OFFICER. The Senator from Idaho.

THE NOMINATION OF JUDGE BORK

Mr. McCLURE. Madam President, even as I speak I understand that Judge Bork has been in conference with the President, now, for some several minutes—perhaps since 2 o'clock—to try to determine whether or not he should ask the President to withdraw his name as a nominee for Justice to the Supreme Court and I am informed that he may, indeed, be available to the press himself within just a few minutes.

Perhaps it is particularly appropriate, then, that at this particular time I try to bring some attention to a statement made by the Vice President on Tuesday of this week, because it has had very little attention in the press.

I mention that because I realize that a Vice President's support for a nomination made by the President is not necessarily great news. But I do believe that what he said and the way he said it has some relevance to the public discussion of the issues that are before the country and the nomination and the Senate's consideration of that nomination. I am going to take the time to read into the RECORD the entire statement that was released by the Office of the Vice President on Tuesday, October 6.

President Reagan made clear again today that he would not withdraw his nomination of Judge Robert Bork to the Supreme Court. Judge Bork said that he would not withdraw his own name. That is very good news to me.

The fight is not over. President Reagan has refused to be buffaloed, Judge Bork has refused to be buffaloed, and I refuse to be buffaloed. I am going to fight for Judge Bork's nomination, here in Washington and wherever I travel. I want it to go to the floor of the Senate, where America can hear the debate and where we can see how each and every Senator votes.

Judge Bork is an outstanding choice for the job. People around here have been talking about how politics always influences the choice of Supreme Court Justices, and it's true that no President is likely to nominate someone whose views repel him. But there must be limits to the politics. The nominee must be excellent. Judge Bork certainly is that.

He is not only an eminent legal scholar, but one whose ideals have helped shape debate in several areas of law. He served his country with honor as Solicitor General. His record in his present job, on the Court of Appeals, is first-rate. We're talking here about a man with a powerful, flexible mind and true character. Even on the Supreme Court, people like Judge Bork don't come along very often.

That is why Supreme Court Justice John Paul Stevens, Justice Byron White, former Chief Justice Warren Burger, and President Carter's Attorney General Griffin Bell have taken the unusual step of endorsing Judge Bork's candidacy.

But something else makes the issue of Judge Bork's nomination important. From the moment his name was announced, he was under an unprecedented kind of attack. I've been in Washington a long time and I don't get horrified at the sight of political bloodshed, but I've never seen anything like the bitterness of this assault. Judge Bork has been called everything from racist and sexist to an oppressor of the poor and a threat to the privacy of every American.

Judge Bork's opponents don't seem to want a real debate on these issues. They've been trying to create a political steamroller. They've put terrible pressure on vulnerable Senators to announce their opposition to Judge Bork, and they're trying to use these announcements to make the pro-Bork forces think that the fight is over and they should give up. The tactics of these opponents are simply destroying our ability to pick good federal judges.

I am going to continue to call on fellow Republicans and Democrats as well—even Democrats and Republicans who have announced their intention to vote against Judge Bork—to vote in his favor. Until the final vote, it is not too late for any Senator to change his mind. Their final decisions should be made free from political pressure and threats.

Judge Bork is superbly well qualified, but more than just his candidacy is at stake. We are facing a threat to the entire process of choosing an independent judiciary.

If this nomination goes down, the message will go out to the most brilliant legal minds: "Don't write, don't speak out, never be willing to alter a previously held view." Should that happen, the Federal Bench, and certainly the Supreme Court, will be the loser.

That is the end of the Vice President's statement delivered on Tuesday, October 6, and I think it is relevant as to where we are today.

Mr. President, I ask unanimous consent that an article by Andrew Sullivan appearing in the New Republic, entitled "End of the World, Part III: The Bork Screw," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

END OF THE WORLD, PART III: THE BORK SCREW

"In my defensive research of Bork I have discovered a compulsive insistence on the letter of the law. * * *"—Robert Rauschenberg, artist, September 22, 1987

As anti-Bork hysteria goes, Rauschenberg's was moderate. Apart from the Supreme Court nominee's worrying legalism, Rauschenberg's only other concern was the fate of human civilization: "The Supreme Court is a final discriminating force to guide us into the future of global concerns." What he failed to mention, of course, were the fetus funerals. According to Planned Parenthood's media package, if Judge Bork is nominated, there'll be no end to the little coffins. People for the American Way restricted itself to the slightly worrying chance that the day after Bork gets on the Court, mass sterilizations could be imposed. Their ads begin: "The nomination of Robert Bork * * * has caused a lot of controversy. And has a lot of people worried. With good reason." (Note the crescendo.) "But don't take our word for it. You be the judge * * * sterilizing workers * * * billing consumers for power they never got * * * no privacy * * * turn the clock back on civil rights? * * * no day in court * * *" In a complex summary of the constitutional arguments behind the carefully selected cases, the ad's climax hardly leaves the reader dangling in philosophic midair: "Judge Bork has consistently ruled against the interests of people." Anyone for animal rights?

There is serious case to be made against Bork, but so far in the media blitz, you're not likely to have heard it. This time round, the liberals get the prize for hype, even if it's only because the conservatives gave themselves the ridiculous handicap of defending an innocuous moderate. If you'd naively planned on a sex life after Bork, Planned Parenthood had news for you: "Robert Bork's Position on Reproductive Rights? You don't have any." In another flyer, they added: "State-controlled pregnancy? It's not as farfetched as it sounds." Carrying Bork's position to its logical end, "states could * * * impose family quotas for population purposes, make abortion a crime, or sterilize anyone they choose." And senators wonder why the polls show a drift away from the Bork nomination. It's the genital gap.

The disingenuousness of the Bork-hate campaign has been sustained by a variety of tactics. Some have relied on good old-fashioned lying. The National Women's Law Center, followed swiftly by the Feminist Men's Alliance, claimed that Bork testified before Congress in favor of the Human Life Act, when in fact he did the opposite. There were leaks of FBI records detailing Bork's two 1983 emergency room admissions after minor accidents with relatively high levels of alcohol in his blood. Americans United for the Separation of Church and State began their direct mail with the line: "Frankly, I'm scared." The Leadership Conference on Civil Rights sent out an emergency alert flyer. Ralph Nader's personal letters predicted a "plague on the next generation." NOW's president-elect restricted herself to calling Bork a "neanderthal."

There's a quick and easy way to manipulate a Bork case. Take the National Women's Law Center's citing of *Vinson* v. *Taylor.* A sexual harassment suit, it's useful for implying that Bork is sexist, against civil rights, and out of line with the rest of the Supreme Court, because it involved legal questions about the role of "voluntariness" in a defendant's giving in to sexual advances. In fact Bork was not involved in the original case at all, but in a third rehearing over whether there were unresolved questions of law that demanded another rehearing. His dissent was in favor of a rehearing, an opinion upheld by the Supreme Court when they decided to judge the case themselves. But this is both boring and accurate, and too laborious for TV.

Statistics also come in handy for Bork-baiting. A numbers game is central to the Public Citizen Litigation Committee's report. The approach is simple: focus on results and ignore the judicial process. This makes for a damning list of accusations: "Judge Bork's performance on the D.C. Circuit is not explained by * * * judicial restraint; in split cases, one can predict his vote with almost complete accuracy simply by identifying the parties in the case * * *. [He] voted against consumers * * * almost 100 percent of the time and for business in every case."

The real crunch is in the small print. By only considering split cases, the report rules out most of the cases in which Bork played a part and the vast majority of his opinions. More important, split cases don't necessarily mean much. They needn't turn on important legal principles, and can often rest on the random composition of panels, or an abstruse legal technicality. But you wouldn't guess it from the report, which implies that every anti-labor ruling is ipso facto proof that Bork ideologically favors big business. In fact, as the right-wing Center for Judicial Studies pointed out, if you count all the cases, Bork voted seven times in favor of the employee and seven times against. But that doesn't prove anything either. You just can't tell what's really at stake without a blow-by-blow account of the opinions. And no one can stay awake that long.

Bork's nerdy instincts make the whole process even more excruciating. In a typically pedantic Bork labor law ruling, the case rested on whether a structure on a building site should be termed a 'runway" or a "platform," hardly a decision requiring great ideological fervor. Still, People for the American Way was able to run the split-decision statistics as if they applied to every case Bork considered. The heading was: "big business is always right." All that was needed was a hypothetical case where fetus coffin-makers screwed over some single mother on a "runway" who couldn't make it to court. You can usually work in Bork somewhere.

Then again, if you're Bob Rauschenberg, you don't even have to do that. The ultimate anti-Bork tactic is irrelevance: "Democracy is not the product of law," Rauschenberg revealed, "democracy is the need of people to be free in dreams and reality." Dreams and reality? Wait, there's more: "Socrates and Plato, as seen on TV yesterday, are an 'in accord' [sic] disagreement for their time, but are no more than history." How's that again? "If this country is to remain the enviable land of growth and promise, that is what has to be gardened. Jurisdictional responsibilities begin before law." As Senator Edward Kennedy put it: "I have had the opportunity to read your testimony. It is just superb."

And he should know. His public statements have revealed a staggering desire to avoid legal or judicial philosophy, as well as a penchant for hype:

"Robert Bork's America is a land in which women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, rogue police could break down citizens' doors in midnight raids * * * and the doors of the federal courts would be shut on millions of citizens."

He opened his questioning on the subject of compulsory abortions, greeting Bork's occasional attempts to raise particular cases with a constant: "I was basically interested, rather than getting into the cases, just to get at the rationale * * *" In one of the more rambling passages of the hearings, in a reference to "other civilizations," he spent four minutes talking about book burnings without any reference to Bork's First Amendment decisions, or any other decisions for that matter: "The first book-burnings was [sic] the Bible I understand * * *" Throughout the hearings, he went for the Phil Donahue profundity "What I hear you saying is * * * ," paraphrasing a parody of Bork's apparent views, regardless of Bork's testimony, just for the camera. Ollie North would have been proud of him.

At one point in the increasingly irrelevant hearings, the novelist William Styron reflected on what he called a "fantasy scenario" in which philistinism could be foisted upon the American people by a radical justice. One less than fantasy scenario is that the Bork nomination will be defeated not on the merits of the case, nor on the debate in the Senate, but by special interest-group hysteria. The only nominee who in the future will be able to survive the demagoguery will be someone who can respond in kind. Some of Bork's opponents may soon run the risk of getting the Supreme Court justice they deserve.—ANDREW SULLIVAN.

Mr. McCLURE. Mr. President, that indicates some tactics of the opponents in their opposition, sometimes their mindless and sometimes overstated opposition, to Judge Bork. I think it makes excellent reading for those who are called upon to review and to think in their own minds the qualifications of this nominee.

I yield the floor.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JUDGE ROBERT BORK

Mr. NICKLES. Mr. President, today I rise in support of Judge Robert Bork for U.S. Supreme Court. Mr. President, at the outset let me state my strong distaste and displeasure for the conduct of some of my colleagues and many groups for the quite evident distortions and misinformation concerning Judge Bork's nomination. These same groups possibly were just warming up when we went through the confirmation process for Chief Justice Rehnquist. In my opinion, Justice Rehnquist has been an outstanding jurist and is doing an outstanding job as Chief Justice. Certainly the assault made on him was not only unnecessary, but also an embarrassment to the Senate, in this Senator's opinion.

Likewise, the attacks on Judge Bork have been unprecedented. In fact, we have had national TV ads and full-page newspaper ads completely distorting Judge Bork's outstanding record. I believe this is very unfortunate and sad for the Senate and for our country because seldom have we had such a qualified nominee for the U.S. Supreme Court.

Judge Bork was confirmed in 1982 for the U.S. court of appeals. During the confirmation process Judge Bork received the highest rating possible from the ABA, a unanimous rating which stated he was "exceptionally well qualified." Judge Bork was unanimously confirmed by the Senate, and since his appointment to the U.S. court of appeals he has been involved in over 400 majority opinions and he wrote the majority opinion in well over 100 of those decisions, none of which has been overturned by the U.S. Supreme Court. Judge Bork has dissented in 20 cases, 6 of which were reviewed by the Supreme Court and all of which were upheld by the U.S. Supreme Court.

His record since his appointment to the U.S. court of appeals has been outstanding by almost any standard. Is there anything that would cause any Senator during the period since he was appointed to the court of appeals to change his opinion in 1987 from what it was in 1982? I should think not.

Yet we have heard colleagues; we have heard various organizations state that Judge Bork is a radical. That he is to the far right, that he has extreme views. Former Chief Justice Burger in testifying before the Judiciary Committee stated, "It would astonish me to think that he is an extremist any more than I'm an extremist." He went on the say concerning the question of whether black citizens, minorities, or women should fear Judge Bork, "If they need to fear him, they should have been fearful of me. I can see nothing in his record that would suggest that or support it."

Is Robert Bork a radical? If he is a radical, he has only one vote and certainly would be in the minority of the U.S. Supreme Court. Would he swing the Court? Would his vote be the pivotal vote? If that is the case, there must be at least four others on the Supreme Court who would agree with his opinion. Do we have other radicals on the Supreme Court? How many of my colleagues want to state that Chief Justice Rehnquist, Judge Scalia, or Judge O'Connor would qualify under such a definition? I think not.

Again we have had personal attacks in the last several months that just flatly are contradicted by the facts. Judge Bork is not a radical. His decisions have been in the majority in most of the cases, and all have been upheld by the Supreme Court, in no way whatsoever should be viewed by this body or the American people as radical. Some have said that his votes might infringe upon the civil rights of Americans. In checking his record, he voted seven out of eight times for the claimant in civil rights cases before his court.

The real issue boils down to judicial restraint versus judicial activism. Many of my colleagues and many of the groups throughout the country are very supportive of judicial activism. I would suggest they reread the Constitution, which we have all revered so strongly this year during its 200th anniversary. It states in article I, section I that "all legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of the Senate and the House of Representatives." The Constitution also states in the 10th amendment that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively or to the people. Judge Bork stated it very well during his confirmation hearings when he stated:

> My philosophy of judging, Mr. Chairman, as you pointed out is neither liberal nor conservative. It is simply a philosophy of judging which gives the Constitution a full and fair interpretation, but where the Constitution is silent leaves the policy struggles to the Congress, the President, the legislatures, and executives of the 50 States, and to the American people.

I could not agree more.

I am angered when I see the Supreme Court legislating. It is common knowledge that in 1973 the Supreme Court in Roe versus Wade legalized abortion. Regardless of what your opinion is on abortion, Members of Congress and the American people should be bothered by the fact that the courts legalized abortion. If Congress wants to legalize abortion, then let Congress enact a statute legalizing abortion.

Let us bring it up for a vote in Congress. Let us pass it, yeas and nays, because article I of the Constitution says that Congress shall pass all laws, not the Supreme Court.

Again, in reading article I it says, "All legislative powers shall be vested in Congress." It did not say shall be vested in the Supreme Court. I think our forefathers had good common sense in doing so, knowing that the people have a call on the elected officials and if they don't like the laws that we pass then they can change the makeup of Congress. We don't have that option with the Supreme Court.

The courts are protected, but the courts are supposed to interpret the Constitution; they are not supposed to rewrite the Constitution. The courts are supposed to interpret the laws, not to legislate, not to pass laws.

I am angered when I see a court mandate the number of square feet that need to be in a prison cell or the size and shape of a prison or when we see the courts throw out evidence used in criminal cases that allow criminals to walk free or courts that give more protection to criminals than to the victims of crime.

I am aggravated as an elected official when I see the Court reorder and revamp the entire communications system instead of elected officials making those decisions.

Again, a lot of this issue boils down to whether or not we are going to have judicial activism or judicial restraint. I fall on the same side of the issue as Judge Bork in saying that the Court should interpret the Constitution, should interpret the laws as written and allow elected officials, whether it be the Congress or the State legislatures, to make the laws. That is the proper check and balance system established in the Constitution.

Seldom do we have a nominee come before Congress and share his thoughts and his past decisions in such depth and detail as did Judge Bork. Most will claim that such questions may come before the Court in the future and therefore they will respectfully decline to answer. I am sure that I probably would not agree with every decision that Judge Bork has made or that he will make. But I do not believe that the Senate has ever had a nominee state in such detail his thoughts and opinions on issues before the Court.

I am afraid the real losers in this nomination process will be the Senate and the American people because in the future the nominees will say, "Senator, I would like to answer that question but that is an issue that may well come before the Court and therefore I respectfully decline." And so we will be confirming judges in the future that will not be as open as Judge Bork and we really will not know how they will be coming down on a lot of critical issues.

I think the real losers in that process are the Senate and the American people.

Mr. President, in conclusion I wish to compliment Judge Bork for his performance before the Judiciary Committee and also to compliment him for the outstanding work that he has done on the U.S. Court of Appeals.

Mr. President, I apologize to Judge Bork and to his family for the misinformation and the abuse to which they have been subjected during this confirmation process. I am confident that Judge Bork will continue to serve this country very ably, very well, whether it be as a judge on the U.S. Court of Appeals or a Justice on the Supreme Court. I hope that it will be on the Supreme Court. If not, I think not only has Judge Bork lost a confirmation battle and the administration suffered a defeat, but I believe the real losers are the Senate, the confirmation process, and the American people. We will have denied the American people the opportunity of one of its brightest minds, keenest intellects; the most qualified nominees to serve on the U.S. Supreme Court.

Mr. President, I urge my colleagues to support and confirm the nomination of Judge Robert Bork to the U.S. Supreme Court.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, are we in morning business?

The PRESIDING OFFICER. If the Republican leader wishes to speak in morning business he should so request.

Mr. DOLE. I ask unanimous consent I may do so for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDGE BORK'S FIGHT

Mr. DOLE. Mr. President, first I wish to thank the distinguished Senator from Oklahoma for a very fine statement on Judge Bork. My primary reason for coming to the floor at this time is to take my hat off to Judge Bork, who is not going to give up the fight. He has just announced on television that he wants a vote. He is entitled to a vote. He is entitled to have some reasonable debate on this Senate floor by those who oppose and those who support his nomination; reasonable debate, not personal attacks and innuendo or slick advertising slogans.

He had two choices. One was to tuck his tail under his legs and run, because enough of the mighty Senators have announced against him. But he chose not to do that, which I think is a rather courageous thing to do. He is not going to change the vote, I do not believe, unless something happens that I do not expect. I assume there are more than 50 votes against Judge Bork. Maybe some will say, "It is foolish. What does he gain from it?"

Well, maybe it will keep his reputation intact. Maybe people will understand how the process should work. Maybe other good people, men and women, Democrats and Republicans, 5 or 10 years from now will not shy away from Government service because of the treatment Judge Bork received. Maybe by his example of courage it will mean we will have better people, men and women in Government.

But, I suppose in the final analysis, meeting with the President as he has earlier today, Judge Bork decided to stand and fight even though it was probably a lost cause. I certainly cannot fault anyone for that. That is what America is all about—fight against the odds. And the odds in this case are probably unbeatable—probably. There is always some hope that those who rush to judgment without much thought will become involved in the debate. Maybe we can depoliticize the Bork nomination. Maybe we can wring 1988 out of the Bork nomination. Maybe we can do a lot of things just suggested by both Senators McClure and Nickles and take a look at what a judge's role should be.

So I want to commend not only Judge Bork, but his wife Mary Ellen and his children because this, as I understand, was a family decision. I would hope that when Judge Bork left the meeting with about 16 or 18 of us on Wednesday he understood that he had all kinds of friends in this body. And some who may not vote for him are his friends. They are not enemies of Judge Bork. But I believe he left here on Wednesday knowing for the first time that there was a strong and a good number of Senators who were willing to stand up and make the fight with him, Senators who are willing to demonstrate to the American people that you cannot be run out of this town without a lot of good debate, without a chance for the American people to know what has happened. The people do not read the cases. They cannot tell you what happened in all these cases about which people are raising questions. Judge Bork was responding. And as he indicated on television, he was somewhat restricted in what he could say within the bounds of propriety and the fact that he is a circuit court judge. Those asking the questions could say anything.

So hopefully on this Senate floor sometime soon, maybe in a couple weeks, we will have a good debate about the process, about the system and about the importance of the judiciary as we celebrate the 200th anniversary of the Constitution. Are we going to tear it up because somebody does not like Judge Bork, because they can raise millions of dollars to lobby against Judge Bork, who happens to be a conservative? Maybe next time the nominee will be a liberal and they will raise millions of dollars to, in effect, to tear up the Constitution when it comes to the Supreme Court of the United States. So I salute Judge Bork. His announcement 10 minutes ago, a year from now, or 5 years from now or 10 years from now, will earn him a profile in courage.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent to proceed as if in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDGE BORK

Mr. McCLURE. Mr. President, I commend the distinguished Republican leader for the statement he just made with respect to Judge Bork's decision. As I said a few minutes ago, it was particularly appropriate perhaps to take the floor and say something about the judge's positions, the support that he had from the Vice President both for himself and for the process, and to illustrate some of the tactics by the opposition as illustrated in the article I quoted from New Republic, which was placed in the Record.

Now that the judge has made his decision, I too want to join the distinguished Senator from Kansas, our Republican leader in the Senate in saluting the judge's courage because I do believe the judge was exactly correct when he said that if it were just Bob Bork, he would ask his name to be withdrawn.

That is a human reaction and I think every one of us can sympathize with and can understand if that had been his decision. But at the same time I also have to agree with Judge Bork in the statement that he made a few minutes ago in which he said but there is more to this than just Bob Bork, for the issue is not Judge Bork. It is a larger issue. And indeed this Senate, after due deliberation and the opportunity perhaps to look more fully at the facts and not propaganda, may find it in our collective will and wisdom to confirm that nomination, and we may perhaps not do so. But if he is turned down, I hope that the President of the United States will promptly submit to this Senate a judge, a nominee for the office of Justice of the Supreme Court of the United States, a man who would have equally firm principles and conservative positions with respect to the Constitution and the role of the judiciary in making the laws, and reviewing the laws of the United States.

If indeed that is the course of events, that Judge Bork should be denied the opportunity to serve based upon action in this body, and the President does make another nomination of a man of similar legal opinions, then indeed you will find that Judge Bork is not the issue, that it is a larger and a different issue, we will find out perhaps, and the American public may find out what the real agenda was among those groups who has so vilified a man of such obvious ability.

I think the Senator from Oklahoma said it very well a moment ago when he said what is there to fear in the intellect of one man and his opinions if indeed he is one vote out of nine on the Supreme Court? Because even if he were, as some have suggested, out of the mainstream of thinking, as some have suggested and not as I do, out of the mainstream of thinking, he certainly could not hold sway in the Court based upon his own opinion alone. He would become an effective change in the Court's direction only if four other Justices agreed with the position that he took.

I do not see the danger to the Republic in that position. But I see a great danger to the Republic when what we do is politicize the choice based upon the political philosophy, not upon the qualifications or the ability of the nominee, and that I think is exactly what we have seen in the unprecedented attack upon Judge Bork and his nomination.

I thank the Chair. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I heard the President of the United States 2 days ago refer to the action in the Senate on Judge Bork as a lynch mob. I take exception to that from anybody, but from the President of the United States I find that offensive. I find a lot of things that have been said recently about his Bork nomination not only offensive, but apparently when people are losing, the winning side becomes a lynch mob. It is as though some kind of a cosmic event has descended on the Senate, and they have taken leave of their senses; or they have all succumbed to some gigantic multimillion dollar public relations scheme. Right now there are 32 U.S. Senators who have come out for Judge Bork, and there are 53 who have come out against him. And there will be more.

Now, who is to suggest—talk about arrogance—that 53 Senators paid no attention to the hearings and paid no attention to the writings of Judge Bork or to any of his speeches. Somehow or other they were influenced by this arcane, so far as I am concerned unseen, public relations campaign. The mail in my office started out 4 to 1 in favor of Judge Bork. It is about even now.

I can tell you before Judge Bork testified, he would have been confirmed in the Senate. I can tell you based on conversations I have listened to in this Cloakroom by Senators who were genuinely concerned about doing their duty as the Constitution demands they do, that they read, they listened, they studied, and they came to what they thought was a sensible principled decision. This has nothing to do with Judge Bork's integrity. It has nothing to do with his intellect. What it has to do with is an awesome responsibility on Judge Bork's part that 53 Senators have found they do not believe that he would do what they think ought to be done in interpreting the Constitution. It is just that simple.

I am one of them. I had absolutely nothing against Judge Bork, and I might also say the only thing I have seen in the way of a public relations campaign is four-page ads in the Washington Post, in the Washington Times, in USA Today. I have yet to see a full-page ad of that multimillion-dollar public relations campaign I keep hearing about.

Here is one Senator that takes the advise and consent role very seriously. I am not one of those people who thinks just because the President nominates somebody the Senate is supposed to roll over and play dead. I am not one that is going to be intimidated by people talking about a lynch mob. When did you ever see 53 Senators go against their constituents?

You look at the polls in this country and see where Judge Bork is. See what the American people think about him, the people who did not hear his testimony, the people who have not read his opinions, read his speeches, or read his law review articles. I think it is really sad that we cannot stand here and debate Judge Bork's philosophy so far as interpreting the Constitution is concerned, concerning how he feels about the ninth amendment, how he feels about free speech, and how he feels about the American people's right of privacy. No, all you hear is that somehow or other everybody here is distorting Judge Bork's record, and distorting what Judge Bork said.

I can tell you it is a curious thing to me that when you win around here it is a great victory for the American people, and when you lose it is a lynch mob mentality.

You know the Founding Fathers almost did not even give the President the right to nominate the Supreme Court Justices. They wanted to do it right here in the U.S. Senate. They voted four times on the nomination issue, and the President's right to nominate Supreme Court Justices was soundly defeated all four times. Finally, just before the constitutional convention ended they tried one more time. Somebody said, OK, we will give him the right to nominate, but the Senate has to approve that nomination because, "It would be much easier for him to intrigue with the President than it would with all the Members of the Senate."

Does that sound like the President has some kind of an exclusive God-given power to decide who ought to be on the Supreme Court? I am always reluctant to mention a speech made by a Senator that is not on the floor, but the Senator from Idaho a moment ago said in quoting the Senator from Oklahoma that Judge Bork would be just one of nine. It is not the end of the world. He is just one of nine Justices. There are a lot of people around here concerned about one of nine. A lot of decisions are made in the Supreme Court by a 5-to-4 vote. That one person is very important to the liberties and the freedoms of the people of this country. There are 100 Senators, 11 times more Senators than there are Supreme Court Justices, and who in this body has ever gone to the electorate in his home State and said, "I am running for the Senate. It really isn't important. I would be just one of a hundred"? Did you ever hear anybody run for the Senate that way, Senator? Of course, you have not, and you never will.

Being a U.S. Senator is a very important position. People who come here ought to understand the history of this country. They ought to understand the Constitution, who framed it, what was said, how they reached those decisions, and understand the awesome responsibilities of one Supreme Court Justice. One Supreme Court Justice can change the tide of history.

So I listened very carefully. I am not one of those people who made up his mind 10 minutes after the President nominated Judge Bork. I was concerned about the "Saturday night massacre." I was concerned about his so-called doctrine of original intent theory. I was concerned about some things he did in the past that he now rejects. I was concerned about the fact that he has shifted political philosophies three or four times.

As I said in my formal statement the other day, it made me ask, "Who is the real Robert Bork?"

So if there is some kind of scheme developing here to convince the American people that suddenly 53 Senators have taken leave of their senses because they oppose Judge Bork, that is not going to work. These Senators are living, breathing human beings, with just as much intellect and understanding of some of these issues as those who are for him.

I do not criticize, condemn, demean, or denigrate any of the 32 people who have come out for Judge Bork. They see it differently from the way I do. But that is not to impugn their integrity or suggest that they have somehow succumbed to idiocy because the Moon was full last night.

I have absolutely no quarrel with Judge Bork staying in this thing and refusing to withdraw his nomination before it goes to the Senate floor. I think it might be healthy for the country to hear for the first time in detail a full-blown, honest-to-God debate on national television about a Supreme Court nominee.

I never was a constitutional scholar and never professed to be. I studied constitutional law in law school, just as anybody else. I probably learned more about the Constitution since Judge Bork's nomination than I knew before, and from that standpoint it is healthy. It would be healthy for the American people to get involved in what these issues are and put that lynch mob junk aside, that PR campaign stuff aside, have an honest-to-God debate, and stop the namecalling. I have never seen that solve anything.

The people did not send me from Arkansas to the U.S. Senate to say, every time somebody disagreed with me, that he is un-American or there is a Communist hiding under his desk.

I was disturbed the other day when the President said—and I paraphrase this—that there was a time when Congress had committees that investigated even their own Members when they were suspected of Communist leanings. I am not sure of this, but I can only believe that the President was alluding to the House Un-American Activities Committee, which was created during a fairly shameful time in the history of this country, and a lot of innocent people got tarred with that brush.

I could not believe the President had said that. He is the President; he has a right to say anything he wants to. As a matter of fact, he is a free citizen, President or not, and he has a right to say that; and as long as I am in the U.S. Senate, he will retain that right.

I do not want to fall in the trap of one of the Presidential candidates, but I think it was Jean Cocteau—and I will defer to my distinguished colleague from New York, who would know.

Mr. MOYNIHAN. I believe it was Voltaire.

Mr. BUMPERS. Voltaire. He is absolutely right. I would never argue with a scholarly gentleman such as my colleague.

Voltaire said, "I disagree with what you are saying, but I will fight to the death your right to say it."

That is what has made this country great, and that is what will keep us great. The thing that will take us down to the dirt and mire, until people are confused and do not know what to think, is namecalling. So I hope it will stop very shortly.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Does the Senator from Arkansas wish to suggest the absence of a quorum?

Mr. BUMPERS. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF JUDGE ROBERT H. BORK TO THE U.S. SUPREME COURT

Mr. MOYNIHAN. Mr. President, for more than a quarter century, Judge Robert H. Bork has been an important intellectual force in the law. He has striven to develop a coherent constitutional philosophy to guide judicial decisionmaking. He has been a formidable critic of antitrust policy. His world has been that of reflection and action, having been a lawyer, professor, Solicitor General, and Federal appellate judge.

In all this Judge Bork has commanded the respect of those who disagree with him. I am one such. And more. I have, for example, the greatest admiration for his steadfast opposition to legislative efforts to strip the Supreme Court of jurisdiction in various areas of public policy. It is thus with regret that I must oppose his confirmation as a Justice of the Supreme Court.

I share with others an unease about Judge Bork's views on such issues as equality for women. And I must admit to great disappointment that a man of his powers chose to be so muddled in his testimony skirting on the already sufficiently muddled issue of "original intent." If we are to believe the Attorney General, Supreme Court Justices, in passing on the constitutionality of statutes, must look to the original intent of the writers of the Constitution.

This is a seemingly sensible statement. But let us, as Holmes once said, wash it with cynical acid and see what remains.

Little.

To begin with, we have no transcript of the proceedings of the Philadelphia convention. The debates were closed. Some notes were taken, but fitfully and subject to all the errors that attend after-the-fact reconstructions. All we know is what the Constitution itself states. The words of the document were clearly intended, and that is as far as the idea can take us.

But the great muddle, if I may be permitted, the howler in all this is that there is one thing of which we can be absolutely certain, which is that the framers never intended, never conceived, the possibility that the Court would assert for itself the power to judge the constitutionality of laws enacted by the Congress and approved by the President. There was absolutely no precedent for this in English law. To this day it would be unthinkable, or such is my understanding, for a British court to declare an Act of Parliament unconstitutional. The concept does not exist for the British. In effect, their Constitution consists of whatever basic law parliament enacts, along with traditions of the common law.

Judicial review of federal laws, as it is known, was wholly the invention of Chief Justice John Marshall in the celebrated case of Marbury versus Madison. This was handed down in 1803, some 16 years after the Constitution was adopted in Philadelphia. In a curious twist, the practice developed much as common law develops. It was asserted, then all but fell into desuetude. Then, a half century later, it was revived, in the Dred Scott decision, Scott versus Sanford, 1857. Then fell off again, then revived again, and after about a century and a half, came to be seen as an aspect of American governance. To cite Holmes in his study, the common law, "The life of the law has not been logic: it has been experience." Just so. After an extended, tentative experience, the people of the United States gradually got used to the idea that the Supreme Court could declare acts by other branches of the government to be unconstitutional, and that would be that for the time being at least. I myself have written that we are under no obligation to agree with the Supreme Court in such matters; our obligation is simply to obey it until by litigation and other lawful means we can persuade it to change its mind, if indeed it is of a mind to do. Which it does all the time. So much for original intent.

I regret imposing this diversion on the Senate, but the matter, in my view, needed stating.

To return to the central issue before us, which is to say, Judge Bork's constitutional views, I must say that it is his restricted vision of privacy which troubles me most. I cannot vote for a jurist who simply cannot find in the Constitution a general right of privacy.

Talk of original intent! Which, if I may be allowed a final digression, is somehow extended to the first 10 amendments which dated from 1791, although Massachusetts, Georgia, and Connecticut did not get around to giving their assent until 1939. Sic, as lawyers write. What possibly can the Congress have intended when it resolved in amendment III that "no soldier shall in time of peace be quartered in any house, without the consent of the owner * * *"? Or, in amendment IV concerning "The right of the people to be secure in their persons, houses, papers, and effects * * *." And amendment IX, which states that "the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." I am no legal scholar, but surely by this time one of the most popular understandings of

English common law was summed in the phrase, "the rain may come through your roof, but the King may not come through your door." Save, that is, by invitation or by warrant.

Of all the circumstances of life, privacy is perhaps that most treasured by a civilized people. The great lesson of the 20th century is that the annihilation of privacy is the ultimate goal of the totalitarian state. Any of us who have read George Orwell's 1984, will have experienced this annihilation in its "ideal" form. Any of us who have visited Moscow or Beijing will have encountered a chilling approximation.

Nor are democractic societies by any means immune.

Absent privacy, civilization loses its immune defenses, the body politic is ravaged; even memory mutates.

Yet, in his 1971 essay in Indiana Law Journal, "Neutral Principles and Some First Amendment Problems," Judge Bork denies the right of privacy. Evaluating the Supreme Court's decision in Griswold, striking down a Connecticut anti-contraceptive statute, he writes:

> The truth is that the Court could not reach its result in "Griswold" through principle. The reason is obvious. Every clash between a minority claiming freedom and a majority claiming power to regulate involves a choice between the gratifications of the two groups. "When the Constitution has not spoken, the Court will be able to find no scale, other than its own value preferences, upon which to weigh the respective claims to pleasure." Compare the facts in "Griswold" with a hypothetical suit by an electric utility company and one of its customers to void a smoke pollution ordinance as unconstitutional. The cases are identical.

That Judge Bork has persistently rejected a right of privacy is all the more puzzling in light of his recent testimony:

> Oh yes, there are several crucial protections of privacy in the Bill of Rights. The Framers were very concerned about privacy because they had been subjected to a very intrusive British Government, and they were very concerned that privacy be protected against the new national government.

Again, I find this muddled. Either there is or there is not a general right of privacy to be found in the Constitution. On the one hand Judge Bork says there is, on the other hand he says there isn't. Thus, in his testimony before the Judiciary Committee, he asks:

> Privacy to do what, Senator? You know, privacy to use cocaine in private? Privacy for businessmen to fix prices in a hotel room? We just do not know what it is.

Surely not. As Justice Stewart might say, I may not be able to define it, but I know it when I see it. To suggest that no general right of privacy exists simply because one can envision specific situations in which it might not, is logic-chopping and counter to all that experience teaches. Under such a construction, there would be no general right of free speech because we do not protect persons who shout, "Fire!" in a crowded theater, when in fact there is no fire.

The right of privacy is a fundamental protection for the individual and the family against unwarranted state intrusion. Its importance is such that I cannot support anyone for a Supreme Court appointment who would not recognize it.

I am not less troubled by Judge Bork's view that the Constitution does not bar racially restricted covenants or de jure segregation in the public schools of the District of Columbia. It is not sufficient that he is personally opposed to such practices, or that he would not overturn the cases of Shelley versus Kraemer and Bolling versus Sharpe because they are settled policy. Nor is it satisfactory that Judge Bork would bar racially restricted covenants under an interpretation of a statute—for if the legislation did not exist, then presumably he would find no prohibition against them.

Judge Bork finds the rationales in the Supreme Court's decisions to be wanting in the cases involving racially restricted covenants and de jure segregation in the public schools of the District of Columbia. But surely substantive rules of equal protection can be invoked to outlaw the former; and for that matter, the latter could be held unconstitutional because discrimination may be so unjustifiable as to violate due process.

In the context of a libel suit, Judge Bork wrote that:

> It is the task of the judge in this generation to discern how the Framers' values, defined in the context of the world they knew, apply to the world we know.

I agree. In the world we know, the Constitution will not tolerate racially restrictive covenants or de jure segregation in the public schools of the District of Columbia.

We have said goodby to all that. And without regret. Not long ago Bayard Rustin died in New York City. He who organized that great "March for Jobs and Freedom" here in Washington in the summer of 1963. The weather was glorious; the spirit was glorious. And the spirit truly was upon us. Few of my generation will ever forget Martin Luther King's address, with its great incantation: "I have a dream." Yet, at this moment on this floor I find myself thinking of Roy Wilkins' address on the same day. He was not a man of God, as ministers are described. He was a man of this world and its travail and its triumphs and he sensed triumph. The day is at hand, he said, when the black people of the Southland will be free. And so also will the white people be. That day has come. Carpe diem.

New York City Bar Association President Robert M. Kaufman spoke for many of my fellow New Yorkers when he testified that:

> Judge Bork's fundamental judicial philosophy, as expressed repeatedly and consistently over the past thirty years in his writings, public statements and judicial decisions, appears . . . to run counter to many of the fundamental rights and liberties protected by the Constitution.

I concur. I cannot consent to the confirmation of Judge Robert H. Bork as an Associate Justice of the Supreme Court.

NOMINATION OF JUDGE BORK

Mr. MELCHER. I am not critical of President Reagan for nominating Judge Robert Bork for the Supreme Court. Criticism directed at the President by those who are alarmed that Judge Bork would make the fifth swing vote in favor of conservatives should be weighed against the historic practice of previous Presidents, such as President Franklin D. Roosevelt's nomination to the bench of those attuned with the more liberal policies supported by that President.

Nor can I accept that a vote in the Senate for or against Judge Bork should be cast for the purpose of political gain. Our responsibility as Senators is to determine if Judge Bork's qualifications are exemplary and if his judicial understanding of the Constitution is worthy of the trust of the people.

I find Judge Bork's qualifications to be exemplary. But on the second point, I have concerns and doubts on Judge Bork's judicial interpretation of the Constitution, and I do not believe he merits the trust of the people to interpret the Constitution to protect their rights, their freedom and their accessibility to the Federal courts as arbiters to determine when Congress has enacted statutes or the executive branch has taken actions that violate the Constitution.

The people's trust in the checks and balances of the Constitution has been well nurtured by the Court's decisions over the 200 years since the Constitution's adoption. Those checks and balances have been defined by the decisions of the Court. Without access to the courts in the past, when the people sought to have the Constitution interpreted by the courts, the peoples' constitutional rights would have been denied. And, in the future, if the access to bring a case before the Federal courts is denied, the people's rights may be denied for lack of the Court's interpretation. I believe Judge Bork's history on the Appellate Court here in the District of Columbia and his decisions from 1982, when he was appointed, until 1985 demonstrated that he was in the mainstream on decisions of both the appellate court on which he serves and the Supreme Court. However, he shifted in 1985 in his dissenting opinion in Barnes versus Kline to recant some of his previous views and to make it much more difficult for some to gain standing to bring about a determination by the courts on consitutional matters. Judge Bork set himself apart from the rest of the appellate court in that dissenting opinon and I believe his shift to a narrower view was a radical shift and a dangerous shift that requires the Senate to reject his nomination to the Supreme Court.

It is not easy to exercise that right of bringing a case before the Federal courts to determine the constitutionality of Government action or to determine if an act of Congress is constitutional. The Federal courts determine the conditions of determining under what conditions "standing" is allowed so that a case will be heard. First, the governmental action claimed to be unconstitutional has to cause or result in injury to the party asserting that the governmental action is unconstitutional. Second, the Court must decide if the injury is a specific injury to the individual or organization rather than just a general type injury that is shared by all the people. Third, there has to be some convincing demonstration that the complaint and injury can be remedied.

Well, that is all tough enough to meet, to get a suit before the Court and have it heard.

The Federal court determines if the individual citizen or organization making the claim on the constitutionality of a Government action has demonstrated that injury has specifically occurred to them, and that a remedy for the injury can be applied. If those conditions are satisfied, then the case has standing and the Federal court will hear the case.

If a suit cannot be brought before the Federal courts, citizens or organizations can be denied the determination if governmental actions are constitutional. Only the Court can make that determination.

The great bulk of the discussion on Judge Bork's appointment to the Supreme Court has dwelled on other issues, but none of these is as fundamental as the question of "standing" to bring suit on the constitutionality of a governmental action. That is fundamental to a citizen's rights under the Constitution.

I shall vote against and shall vigorously oppose his appointment to the Supreme Court because Judge Bork in his opinion to restrict standing demonstrates that he would refuse to have political actions of Government reviewed for constitutionality. That is a dangerous position that dilutes constitutional protection that would be damaging to my constituents and all citizens whose rights we seek to uphold and protect.

Judge Bork's views and decisions on the appellate court regarding the standing of Members of Congress to bring suit in Federal court for constitutional interpretation are contrary to my own, are contrary to his own appellate court, and are contrary to what I believe is in the best interests of representative Government under the Constitution.

Judge Bork's decision regarding "standing" in the appellate court in the District of Columbia is only the view of an appellate judge. His decision on "standing" to have a case heard to determine if an act of Congress or an action of the executive branch is constitutional is not the opinion of the majority of the judges on the appellate court on which he sits. Therefore, he is overruled by his peers.

Judge Bork asserted that Members of Congress should not have "standing" in Federal courts writing his dissenting opinion in 1985 in Barnes versus Kline. He went not just to "standing" for Members of Congress, but also directly and indirectly to the question of "standing" for States to bring a suit and constitutionality for interpretation of the courts. His interpretation of Supreme Court decisions on this matter strayed from his appellate court colleagues.

In this particular case, Judge Bork wrote the dissenting opinion and the two other appellate judges held differently. Judge Bork's strong view opposing "standing" of Members of Congress before the Federal judiciary is not the prevailing view in that appellate court jurisdiction which must either agree or disagree with the decisions of the three-judge tribunals set to decide cases on appeal. His dissent is buried and, at present, is of no effect because his appellate court colleagues overrule his opinion. However, if he were on the Supreme Court and one of only nine Supreme Court Justices, his views would take on more weight and, for that reason, I believe he should stay at the appellate level.

In short, if Judge Bork's dissent on "standing" became the law of the land, it would nullify part of the constitutional review, and the fate of the Constitution would be unknown. It has been necessary since Marbury versus Madison to have judicial interpretation of the Court. Without that, the Constitution would not protect us, the Government would evolve differently, and individual and collective rights of the people would be in jeopardy.

I shall vote "no" on his nomination.

Mr. President, for more than 30 years I have held elective offices on the city council and as mayor of my town, Forsyth, located on the Yellowstone River in Montana, and have held offices both in the House and Senate in the Montana Legislature, and also in the U.S. House of Representatives, the seat of our Federal Government. Since 1977 I have been here in the Senate.

I have seen the effects of law on peoples' lives. I have observed the interlocking of city ordinances, State statutes, and Federal laws. And all those are based on the restraints of the U.S. Constitution.

The law at times seems harsh and demanding, but on balance individual freedoms, the peoples' rights, have been protected by the Constitution. Fundamental to that right is the right of correction of the excesses of those who, from time to time, have exceeded or infringed on the Constitution, and that right of correction is basic to the peoples' trust in our Government.

They rely upon Congress, upon the President, and upon the courts through the checks and balances embodied in the Constitution to protect and to preserve their rights.

Today is part of that checks and balances. Today, as part of that responsibility given to us here in the Senate to protect and to preserve the peoples' rights, I say no to the nomination of Judge Bork to the Supreme Court.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that the Senator from California [Mr. WILSON] be recognized to proceed as in morning business.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. I thank the Chair and I thank my friend from Montana.

THE DEATH OF CLARE BOOTH LUCE

Mr. WILSON. Mr. President, the 20th century has lost one of its formidable citizens, one of the most colorful, most charming figures to cross the stage of this century, a woman of formidable intellect and formidable charm. The stage has lost one of its most creative talents. In the world of politics, it has lost one of its most eloquent and thoughtful apostles in human freedom.

Clare Booth Luce is dead and it is not just Broadway whose lights will dim. The glow of Mrs. Luce's extraordinary life has brightened decades of American life. Her story is a fabulous one of precedents broken and obstacles demolished, a woman clearly ahead of her time.

She was a woman who shaped her time and the future, and she was, above all else, an articulate, witty, courageous patriot for all seasons.

Mrs. Luce cannot easily be summed up. She was a Renaissance figure, a woman of amazing versatility, a prize-winning playwright, a novelist, an editor, a diplomat, a politician, and of course, a phrasemaker extraordinaire.

Her first job was a lobbyist for women's rights. That was back in 1923. One way or another she devoted the next 64 years of her life to the cause of human emancipation. Exactly 50 years after her most famous play, "The Women," opened on Broadway, it remains a landmark in feminist expression and popular art.

Tragedy mingled with triumph in her personal life. Her only child, a daughter, was killed in an automobile accident in California in 1944. That was the same year that Mrs. Luce, fresh from her around-the-world travels as a war correspondent for Life Magazine, stole the show at the Republican National Convention and won a second term in Congress from Connecticut's 4th District. She did not hesitate to speak her mind. She declared Henry Wallace's lighter-than-air approach to foreign policy "globaloney," nor did she fail to take issue with New Dealers who in her opinion were guilty of "dictatorial bumbledom." She was an early and tireless advocate of Western resolve against Soviet totalitarianism. And yet if she took a lead and drew a bead upon foreign dictators, she was no less outspoken in assailing those who would deny on the home front the very freedoms for which American GI's were fighting abroad.

Long before the modern civil rights revolution took hold, Mrs. Luce presented bills to eliminate racial discrimination in the Armed Forces. She proposed a special bureau in the Labor Department to guarantee workers equal pay for equal work, regardless of race, creed, or color. In the 1950's, she helped persuade Republicans to nominate Dwight Eisenhower in 1952. The new President promptly named her U.S. Ambassador to Italy—only the second woman in U.S. history to represent this country in such a diplomatic outpost.

The rest of her long and remarkably useful life was spent in foreign policy, in staunch advocacy of U.S. military preparedness and in arguing the case for more women at every level of public life. She was an intellectual mainstay of the Reagan revolution. She was a familiar and much-quoted presence on the Washington intellectual and social scene. Most of all, Mr. President, Clare Boothe Luce was an American original, a woman who never stopped growing and who never stopped caring, a woman who never stopped giving. She once said, "I think I've been the most fortunate person alive. I was born at the right time and in the right country."

Mr. President, any time in which Clare Boothe Luce moved with the grace, the wit, the style, and the command not only of language but thought that she brought to dialog, both political and artistic, would have been the right time and any country to which she contributed the intellectual and moral leadership that she in fact brought to the United States would be a right country and, indeed, a better one, a very fortunate one for her presence, her very forceful presence.

Mr. President, it was America that was blessed by Clare Boothe Luce, and if this land she loved so deeply is indeed the right country, then it is in no small amount due to the pride and patriotism of Americans like Mrs. Luce. Just because there never was anyone quite like her does not mean we cannot all at least try to emulate her magnificent example. The effort alone will make the country a stronger, nobler, fairer place. To say she will be missed greatly understates the case. She was, indeed, an American original, one of a kind, but one that I hope others will seek to emulate.

I thank the Chair and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

VISIT OF MEMBERS OF THE SUPREME SOVIET

Mr. HELMS. Mr. President, yesterday a group of members of the so-called Supreme Soviet were admitted to the Senate floor, under the rule admitting foreign parliamentarians, as though this group of Communists could somehow be considered bona fide elected parliamentarians.

It is well known that the Supreme Soviet is a "parliament" in name only—that it is elected in a rigged, one-name-only selection of candidates; that representatives of only one party—the Communist Party—are allowed to "run" for office; that it is a rubber stamp for the proposals of the Politburo; that is mere window dressing for the 70-year-long dictatorial rule of the Communist Party, during which the Soviet totalitarian regime has exterminated tens of millions of Soviet citizens and committed unceasing aggression against the free world.

Mr. President, it is undoubtedly technically correct that these Soviet thugs are members of a parliament, and therefore entitled to admission to a deliberative body of the strongest Nation in the free world. But it is demeaning, Mr. President, in the judgment of this Senator, it is demeaning to the U.S. Senate, to our constitutional system, and to the American people to treat these agents of a totalitarian system as if they were genuine legislators and representatives of the silenced and oppressed people of the Soviet Union.

Such an implied moral equivalence between the American and the Soviet systems as is implied by the admission of the Supreme Soviet members to this Chamber is false and should not have been given credence by this distinguished body.

Mr. President, as I already pointed out, these men are the representatives not of the people of the Soviet Union, but of the politburo itself, the key ruling element of the Communist Party of the Soviet Union. It is the same politburo which, only 1 week ago, ordered that the State of Hawaii be bracketed for ICBM target practice. It is the same politburo which, only 1 week ago, sat in the command and control center in Moscow, and directly ordered and monitored the testing of over-the-pole ICBM flights aimed at the people of the United States. This particular type of test is a test which the United States has declined to make, because it is a test for a first strike.

These Soviets, Mr. President, were members of the delegation of what is called the Committees on Agroindustrial Complex. They were, in short, very knowledgeable about the plans to manufacture and deploy missiles against the United States.

I found myself wondering yesterday—and I speak candidly, because I feel I should—does the Senate feel no shame at admitting the enemies of our Nation, men whose Communist government, which they represent, chose the State of Hawaii for target practice and perhaps even a plaything?

Mr. President, I did not object yesterday when this was proposed. I did not object out of respect for my colleagues and my desire not to cause them any embarrassment. However, my sense of obligation to the oppressed people of the Soviet Union and the American people, watching their Senators at work, obliges me to point out the true nature of our visitors of yesterday.

Mr. BYRD. Mr. President, floor privileges, under rule XXIII of the U.S. Senate, are very clear, and they are as follows:

> Other than the Vice President and Senators, no person shall be admitted to the floor of the Senate while in session, except as follows:
>
> The President of the United States and his private secretary.

The President elect and Vice President elect of the United States.

Ex-Presidents and ex-Vice Presidents of the United States.

Judges of the Supreme Court.

Ex-Senators and Senators elect.

The officers and employees of the Senate in the discharge of their official duties.

Ex-Secretaries and ex-Sergeants at Arms of the Senate.

Members of the House of Representatives and Members elect.

Ex-Speakers of the House of Representatives.

The Sergeant at Arms of the House and his chief deputy and the Clerk of the House and his deputy.

Heads of the Executive Departments.

Ambassadors and Ministers of the United States.

Governors of State and Territories.

Members of the Joint Chiefs of Staff.

The General Commanding the Army.

The Senior Admiral of the Navy on the active list.

Members of National Legislatures of foreign countries and Members of the European Parliament.

Judges of the Court of Claims.

The Mayor of the District of Columbia.

The Librarian of Congress and the Assistant Librarian in charge of the Law Library.

The Architect of the Capitol.

The Chaplain of the House of Representatives.

The Secretary of the Smithsonian Institution.

The Parliamentarian Emeritus of the Senate.

Then it provides for members of staffs of the committees of the Senate and joint committees of Congress.

Mr. President, I may not approve—and do not approve—of the Soviet system. I do not approve of it any more than does any other Senator. I am not in sympathy with whatever the precepts and teachings of communism are or may be. But if these members yesterday were members of the national legislature of the Soviet Union—and I made inquiry as to whether or not that was the case and was told it was—then they had a right to the Senate floor, having been brought into the Senate and introduced by a Member of the Senate, as much so as the members of any other national legislature. It does not mean that any of us have to agree with their political system.

I do not think we should exclude members of the legislature of the Soviet Union or any East European country from this floor if a Senator wishes to bring them in and briefly introduce them to the Senate. That is all it amounts to. They do not come here and participate in the debate. They do not legislate. They are not allowed to expound their views here. They are allowed to come into other areas of the Capitol Building.

The leader of the Soviet Union sits down with the President of the United States at Reykjavik. I should think it passing strange if the President of the United States were to refuse to sit down with the leader of the Soviet Union and discuss peace or arms control or whatever just because we don't like their system or their political doctrine.

If we want to change the Senate rules and exclude members of all national legislatures of foreign countries from having the Senate floor privilege—and they only have it briefly in the event they are brought into the Chamber by a Member of the Senate. They cannot just walk unescorted through the door here. Members of many foreign legislatures are brought in here by Members of this body, and we do it all the time. We bring Members of the British Parliament, we bring the German legislators, the French, the Italians. It is a courtesy that we show them. When we visit foreign countries, we are extended the same privilege of visiting their parliaments or legislative bodies.

I see no reason for any Senator to feel embarrassed because he introduced those members here yesterday. I see no reason why the Senate should feel ashamed. Those members of the Soviet national legislature were not chosen by us. They may not have been chosen under a democratic system such as we have in our own country, but they are still the members representing the national legislatures of those countries, however, they were chosen. The Senate rules here, until they are changed, do not exclude the members of the Soviet legislative body.

Mr. HELMS. Mr. President, will the Senator yield,

Mr. BYRD. I yield.

Mr. HELMS. I know the Senator will allow me to stand by what I said.

Those Soviets did not come knocking at the door and say, "We want to go into your Chamber." They were invited, and I think it was a sad day. As I said, I did not want to embarrass any Senator yesterday, so I just stood at this desk until we were done.

The implicit dignity bestowed upon these representatives of a thug government offended me. I would be less than honest if I did not say so. A rose by any other name is a rose—right on, I guess. Well, maybe not.

But this is not a parliament they have. It is a one-party situation, as the Senator well knows.

But I just hope that we will not get in the business of inviting people from the Soviet Union to come from the Soviet Government as long as they are using Hawaii as a target practice and violating every arms control agreement that they ever entered into, that sort of thing.

I have no offense at the majority leader, and I think he read the rules and so did I. I understand what it says.

But they were invited to come on the floor of the Senate.

Mr. BYRD. They are invited by a Senator. That is why I said a moment——

Mr. HELMS. That is the point I am making.

Mr. BYRD. They cannot walk through the door on their own volition.

Mr. HELMS. That is correct. The Senator made the point for me.

Mr. BYRD. I am not attempting to make the Senator's point for him. I am simply saying they were invited. Of course, they were invited. So what?

Mr. HELMS. So a lot of things. I think that is exactly the point. I do not think they should have been invited.

Mr. BYRD. That is the Senator's opinion.

Mr. HELMS. I said that at the outset it is my opinion, and I said it through my statement. I am speaking only for this Senator.

Mr. BYRD. The Senator has spoken.

Mr. HELMS. Yes.

Mr. BYRD. There is another side to that.

Mr. HELMS. That is right, and the majority leader stated it.

Mr. BYRD. And I have expressed the other side.

Mr. HELMS. He sure did, and he did it well.

Mr. BYRD. I thank the Senator.

Mr. PELL. Mr. President, I would like to take some responsibility here because the Senator from New York asked me if he thought it would be a good idea to invite them on the floor, and I said I thought it would be a very good idea indeed. This is one of the questions where the Senator from North Carolina and I must agree to disagree. I think it was beneficial and that is why I encouraged the Senator from New York.

Mr. HELMS. I thank the Senator very much.

The PRESIDING OFFICER. The majority leader has the time.

Mr. BYRD. I thank the Senator. I do not feel it is any blot on the Senate's escutcheon that those members were here for a few minutes on yesterday.

If we want to change the rules, then let us change the rules and exclude all foreign dignitaries.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I hope that we will be able to propose an amendment to the war powers legislation that is before the Senate.

I thought the distinguished senior Senator from Virginia might be near the floor.

In the meantime let me reiterate that I believe the Bork nomination should be resolved as quickly as possible for the interest of the country and the Court. The vacant seat should be filled. It will not be filled in all likelihood by Judge Bork, but I would want to bring the matter to a vote as soon as possible after the committee reports the nomination to the Senate.

I cannot, under the rules, bring up the nomination until it is reported to the Senate by the committee, and it was my impression on this past Tuesday that the Judiciary Committee plans to report the nomination of Judge Bork to the Executive Calendar by Friday of next week, not Friday of this week, not today.

So, if it should be reported to the Senate on Friday of next week I could not call it up before the following week.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BYRD.** I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. DASCHLE). Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, there will be no more rollcall votes today.

I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

COLUMBUS

Mr. **BYRD.** Mr. President, 495 years ago tomorrow, Columbus and his little group of intrepid men agreed that they would sail 3 more days and that, if they did not by then sight land, they would return home; 2 days later, on October 12, which would be this coming Monday 495 years ago, they sighted land in the Bahamas at about 2 o'clock in the morning and discovered the new world.

We are much in Columbus' debt. He was one of the greatest navigators, one of the greatest of seamen of all times. His father was a wool weaver.

Columbus was self-taught. He had little schooling. He taught himself Latin.

He had one idea: that was that he could reach the East by sailing West. He underestimated the size of the globe and the distance across the ocean.

He tried to interest the king of Portugal, King John II, in his scheme of sailing West to the East Indies: India, China, Japan, and the Indies. And so he went to Spain to try to interest the king and queen of Spain.

Columbus was born in Genoa, then the capital of an independent Italian republic. He had married a Portuguese lady. They had one child, Diego. Columbus' wife died soon after the child's birth.

Columbus took Diego to Spain, near Barcelona. He came to a Franciscan friary, where he met a friar by the name of Juan Perez, who took a liking to him and who recommended him to Queen Isabella. Columbus wanted to have a fleet outfitted. He wanted titles and rank. He wanted to be awarded the governorship of lands that he might explore or discover, and he wanted certain percentages or royalties that might come from trade.

So he made his case to Ferdinand and Isabella. The Royal Treasurer of Spain persuaded Isabella that she ought to take advantage of this offer, and she decided that she would do so. So she sent a messenger after Columbus, who was riding a mule back toward home. The messenger caught up with Columbus and told him that the queen had decided to grant his request.

(Disturbance in the gallery.)

Mr. **BYRD.** Mr. President, may we have order in the galleries?

The **PRESIDING OFFICER.** The Senate will be in order.

Mr. **BYRD.** So there were three ships outfitted, the *Santa Maria*, the *Pinta*, and the *Nina*; the *Santa Maria* carrying 39 men, the *Pinta* carrying 26, and the *Nina* 22. To try to capture the picture of the perils and hardships that confronted this man would be impossible. He set sail from Palos, Spain, on August 3, 1492, and he went with his little flotilla of three ships to the Canary Islands. He left the Canaries on September 9. After they had been at sea for 1 week, they saw some floating seaweed; after they had been at sea another week they thought they saw a dove; and then at the end of the third week, September 30, they had been longer out of sight of land, sailing in a single direction, than had ever before been the case.

As I say, on October 10, they agreed that they would sail for 3 more days and if they did not sight land, they would return home.

Columbus' men were concerned about the return trip. The winds were from the East and they were afraid that they would not be able to get back home.

Columbus made four voyages. On that first voyage, he touched the Bahamas, Cuba, Haiti. The Santa Maria wrecked on the reefs in the area of Haiti on Christmas Eve in 1492. Columbus set sail homeward on January 16 with the two remaining ships, the *Pinta* and the *Nina*. He was on the *Nina*.

The trip back to Palos took less time than the trip across the Atlantic to the new world, but the ships encountered a cyclone. As a matter of fact, both ships were almost wrecked. The sails were blown off the *Nina*. The *Nina* encountered another severe storm after making it through the cyclone. Columbus felt that the ship would sink, so he put a written account of his discoveries in a cask and sealed the cask and threw it into the sea.

On the fourth trip, Columbus took with him his second son by his second wife. His second son was Ferdinand, 13 years old at the time of the voyage. Ferdinand wrote an account of the voyage several years later, but it is the best account that is available. Ferdinand wrote that by virtue of the heat and moisture the hardtack—or sea biscuits or hard biscuits—became so wormy that the sailors would wait until darkness to eat it so as to avoid seeing the maggots.

Food was cooked in a firebox by a wood fire, on the deck of the ship. There was no communication. The ships' compasses were good, but the ships' quadrants were crude and they were not accurate when the ships rolled. There were no ship logs, the measure distance. Just bunks enough for the officers to sleep upon. The wood plankings were eaten through by worms, causing leaks.

Columbus had to fight against armed rebels, against the Indians. He had to put down mutinies. He faced perilous storms. Imagine setting out on such a journey, with his frail sailing ships to cross an unexplored ocean, thousands of miles from home, with the poorest of medical facilities, scant medical knowledge, as a matter of fact, in those days.

We do not give this man credit enough for his achievement. We fail to grasp the greatness of this navigator, his tenacity, in the face of terrible odds, this man fighting against these odds, believing in his idea.

He was arrested, he and his crew of the *Nina* at the Portuguese island of Santa Maria in the Azores, on the homeward voyage. The Governor of the island thought he was lying, but let the crew go when Columbus threatened to shoot up the town.

When he was in Cuba on the first voyage, Columbus thought he had reached China. He thought by travelling upland he would find the emperor and be able to present letters from Ferdinand and Isabella. He did not find the emperor. Instead, he found natives smoking cigars, the first tobacco the Europeans had seen. Think of it. If Columbus or his men became ill, whom did they have for doctors? They could not telegraph ahead; they could not telephone home. They could not send messages ahead. Columbus thought he had discovered a new route to the East Indies so he called the inhabitants of the islands Indians—and they have retained the name, American Indians.

So on Monday, let us remember this great man. If he had not reached America of course, someone else would have, in time, but he not only discovered a new world, but he gave the human spirit a new vision. In 1492, people of the Old World probably felt they did not have much to look forward to. But 30 or 40 years later, after Columbus had made his four voyages, what a new world, and what a renewal of the human spirit.

Mr. President, I close with a fitting verse written by Joaquin Miller—"Columbus."

Behind him lay the gray Azores,
Behind the Gates of Hercules;
Before him not the ghost of shores
Before him only shoreless seas.
The good mate said: "Now must we pray,
For lo! the very stars are gone.
Brave Admiral, speak, what shall I say?"
"Why, say 'Sail on! sail on! and on!'
"My men grow mutinous day by day;
My men grow ghastly wan and weak."
The stout mate thought of home; a spray
Of salt wave washed his swarthy cheek.
"What shall I say, brave Admiral, say,
If we sight naught but seas at dawn?"
"Why, you shall say at break of day,
'Sail on! sail on! sail on! and on!' "
The sailed and sailed, as winds might blow,
Until at last the blanched mate said:
"Why, now not even God would know
Should I and all my men fall dead.
These very winds forget their way,
For God from these dread seas is gone.
Now speak, brave Admiral, speak and say"—
He said: "Sail on! sail on! and on!"
They sailed. They sailed. Then spake the mate:
"This mad sea shows his teeth to-night.
He curls his lip, he lies in wait,
With lifted teeth, as if to bite!
Brave Admiral, say but one good word:
What shall we do when hope is gone?"
The words leapt like a leaping sword:
"Sail on! sail on! sail on! and on!"
Then, pale and worn, he kept his deck,
And peered through darkness. Ah, that night
Of all dark nights! And then a speck—
A light! a light! a light! a light!
It grew, a starlit flag unfurled!
It grew to be Time's burst of dawn.
He gained a world; he gave that world
Its grandest lesson: "On! sail on!"

Mr. President, I will be happy to yield the floor to any Senator who wishes to speak. I had indicated to the distinguished Republican leader that it was my intent to lay before the Senate at the close of today, the catastrophic illness legislation, and inasmuch as he knew I was going to do that—and I have been authorized to do so after notification to the Republican leader—I shall do so at this time. There will be no action taken on the legislation today.

MEDICARE CATASTROPHIC ILLNESS COVERAGE ACT

Mr. BYRD. I ask, Mr. President, that morning business be closed and that the Chair lay before the Senate S. 1127.

The PRESIDING OFFICER. Morning business is closed. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1127), to provide for Medicare catastrophic illness coverage, and for other purposes.

PROGRAM

Mr. BYRD. Mr. President, when the Senate completes its business today, it will adjourn over until Tuesday. The vote will occur on the motion to invoke cloture on the Verity nomination at 10 o'clock. And that will be a rollcall vote, being the first rollcall of the day, and it will be a 30-minute rollcall.

There is an order which Mr. REID wished me to enter for him, a 15-minute order, and I will do that. I could have the Senate come in at 8:45 or 8:30, but if it would be agreeable with all Senators for us to simply agree that the vote on cloture would begin at 10 o'clock, so that the Senate would not have to come in an hour earlier under the rule, I would be happy to enter that order. Otherwise, I will just have to let the rule be self-operating.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDGE BORK'S COURAGE

Mr. HELMS. Mr. President, the announcement by Judge Bork today that he is remaining in the fight for his nomination until the final outcome is a decision that will delight and encourage his millions of supporters all over this country.

The nomination of Robert Bork has become a symbol. He has become a symbol giving us a choice of direction for this Nation. Those who want this country to go in one direction are opposed to Robert Bork; those who want this country to maintain its traditions of decency, rule of law, and respect for tradition want very much for Robert Bork to be confirmed.

But behind the symbol, Robert Bork, there is the man, Robert Bork. It is the man, Robert Bork, whom we have seen today in making his decision, a decision to continue in the confirmation fight to clear his name, to depend upon a full Senate debate to establish the facts and to delineate for the country the choice of direction that lies ahead, and this decision by Judge Bork reveals a depth of courage seldom encountered in public life today.

Even if Robert Bork should not be confirmed, he will be long remembered by the American people. He will be remembered not just for his great intellectual honesty and his gifted legal mind. He will be remembered as a man who stands and fights when the going gets tough.

As I told him when he and I talked just after he left the White House, I am very proud of him. He is a great American.

Speaking of great Americans, my father was one of the greatest Americans in the eyes of this son of his. My father was not famous, he was not rich, but he, too, had great integrity which he often expressed in sayings to me that conveyed great wisdom.

One of these I will never forget. He said to me one day, "Son, the Lord does not require you to win. He just expects you to try."

And that is precisely the lesson which Judge Bork has given us today. It is in the trying, the struggle against even impossible odds, that real character is revealed.

The odds for this Nation are so great, the outcome of this struggle is so important that it is essential for the sake of history that the outcome be clearly defined. Those who have been involved in the assault on Judge Bork must not be allowed to escape behind that same veil of so-called privacy which they assert gives women the right to kill their unborn babies. It is necessary, in a democratic nation, for the names of the proponents and the opponents of Judge Bork to have their names writ large on the documents of history.

It may well be true that a majority of Senators have publicly announced that they oppose the Bork nomination. But I yet have the hope that enough of my colleagues will reconsider their decision. After all, some who now say they oppose Robert Bork originally said that they would approve him. Indeed, most have already approved him twice for high office. I have enough faith in the integrity of my colleagues to believe, and certainly hope, that a fair and open debate in the Senate may sway some minds. If they have changed their minds once, who knows, they might change them twice.

In any case, Mr. President, the decision of Robert Bork makes it clear that the nomination debate will not be a debate between right and left. It will be a debate between right and wrong, between a man of character and those who seem not to recognize the need for character in public life.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1464

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may call up Calendar Order No. 353, S. 1464, a bill to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from VA facilities, at any time, and that the bill be considered under the following time limitations: 30 minutes on the bill to be equally divided between Senators CRANSTON and MURKOWSKI; 2 hours on a Murkowski substitute amendment for title III; 30 minutes on a Durenberger amendment to prevent the VA from consolidating VA insurance centers; and 60 minutes on a Chafee amendment, partial text of S. 1234, dealing with veterans' travel benefits; that there be no other amendments in order with the exception of the committee substitute; that there be 15 minutes on any debatable motion, appeal, or point of order, if submitted by the Chair for debate; that the agreement be in the usual form, and that no motions to recommit, with or without instructions, be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there is a committee substitute, so I would ask, of course, that that be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That the majority leader, after consultation with the minority leader, may call up S. 1464, a bill to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from VA facilities, and that the following amendments be the only amendments in order, with the exception of the committee substitute, with the time to be equally divided and controlled in the usual form between the Senator from California [Mr. Cranston] and the Senator from Alaska [Mr. Murkowski]:

Murkowski substitute amendment to title III, 2 hours.

Durenberger amendment to prevent the VA from consolidating VA insurance centers, 30 minutes.

Chafee amendment dealing with partial text of S. 1234 dealing with veterans travel benefits, 60 minutes.

Ordered further, That there be 15 minutes on any debatable motion, appeal, or point of order, if submitted by the Chair for debate.

Ordered further, That there be 30 minutes on the bill, to be equally divided and controlled in the usual form.

Ordered further, That no motions to recommit, with or without instructions, be in order.

Mr. BYRD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1127.

Mr. BYRD. Is that the catastrophic illness legislation?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair. I ask unanimous consent that that bill be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

Mr. BYRD. Mr. President, I ask the Senate to return to consideration of the war powers legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 951

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. BYRD, proposes an amendment numbered 951.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "findings" on page 1, line 5, and insert in lieu thereof the following:

(1) The Congress determines that the circumstances now existing in the Persian Gulf region, including the incidents involving U.S. military forces on September 21, 1987, and October 8, 1987, justify an Administration Report and a comprehensive Congressional review of the use of U.S. military forces in that region.

(2) The Congress expresses support for a continued U.S. presence in the Persian Gulf region and the right of nonbelligerent shipping to free passage in this region.

(3) Congress continues to express reservations about the convoy and escort operations of U.S. naval vessels in connection with tankers reregistered under the U.S. flag.

(b) Within 60 days after the date of enactment of this Act, the President shall submit a report to the Congress in classified and unclassified form. The report shall provide a complete review of the range of U.S. commitments and military involvements in the Persian Gulf region, including a discussion of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are or were registered under the flag of the United States. This report shall also include a discussion of the following—

(1) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(2) the anticipated duration of the operation;

(3) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(4) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(5) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(6) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(7) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(c) Within thirty days after the report required by paragraph (b) is submitted, or 90 days after enactment of this Act, the Congress shall act upon a Resolution, if such Resolution is introduced, as provided for in subsection (d)(2).

(d)(1) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution, the matter after the resolving clause of which shall pertain to the matters identified in subsections (b)(1) through (b)(7) above, as Congress shall determine, and may address such other matters related to policy and commitments in the Persian Gulf region, as Congress shall then deem warranted, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c) is received by Congress.

(3) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(4) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(5) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of such joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the consideration of the joint resolutions are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of. If any such motion to proceed is agreed to, it shall not be in order to move to proceed to the consideration of any other such resolution introduced in that House.

(B) Consideration of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between and controlled by the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. Amendments which are germane and relevant to the joint resolution are in order under a two-hour time limitation for each amendment. Within the 10-hour time limitation, an amendment which may be offered by the minority leader is in order under a one-hour time limitation. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(7) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House, if such resolutions are identical, or on the joint resolution of the other House if not identical, with the text of the resolution of the first House deemed inserted in lieu of the text of the resolution of the second House.

(C) all motions required for the disposition of amendments between the Houses shall be deemed without debate. Debate on a conference report on any such joint resolution shall be limited to one hour.

(8) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules, and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

AMENDMENT NO. 952

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of myself and Mr. WARNER and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. WARNER, proposes an amendment numbered 952 to amendment No. 951.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "Congress" the first time it occurs and insert in lieu thereof the following:

(1) The Congress determines that the circumstances now existing in the Persian Gulf region, including the incidents involving U.S. military forces on September 21, 1987 and October 8, 1987, justify an Administration Report and a comprehensive Congressional review of the use of U.S. military forces in that region.

(2) The Congress expresses support for a continued U.S. presence in the Persian Gulf region and the right of nonbelligerent shipping to free passage in this region.

(3) Congress continues to express reservations about the convoy and escort operations of U.S. naval vessels in connection with tankers reregistered under the U.S. flag.

(b) Within 60 days after the date of enactment of this Act, the President shall submit a report to the Congress in classified and unclassified form. The report shall provide a complete review of the range of U.S. commitments and military involvements in the Persian Gulf region, including a discussion of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are or were registered under the flag of the United States. This report shall also include a discussion of the following—

(1) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(2) the anticipated duration of the operation;

(3) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(4) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(6) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(7) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(c) Within thirty days after the report required by paragraph (b) is submitted, or should have been submitted, or on the first day of session thereafter, whichever is later, a Resolution, if such Resolution is introduced, shall be acted upon in accordance with subsection (d) below.

(d)(1) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution, the matter after the resolving clause of which shall pertain to the matters identified in subsections (b)(1) through (b)(7) above, as Congress shall determine, and may address such other matters related to policy and commitments in the Persian Gulf region, as Congress shall then deem warranted, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c) is received or should have been received, by Congress.

(3) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(4) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(5) If the committee to which is referred a joint resolution has not reported such joint resolution for an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of such joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points or order against the consideration of the joint resolutions are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagree to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of. If any such motion to proceed is agreed to, it shall not be in order to move to proceed to the consideration of any other such resolution introduced in that House.

(B) Consideration of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between and controlled by the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. Amendments which are germane and relevant to the joint resolution are in order under a two-hour time limitation for each amendment. Within the 10-hour time limitation, an amendment which may be offered by the minority leader is in order under a one-hour time limitation. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(7) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House, if such resolutions are identical, or on the joint resolution of the other House if not identical, with the text of the resolution of the first House deemed inserted in lieu of the text of the resolution of the second House.

(C) all motions required for the disposition of amendments between the Houses shall be deemed without debate. Debate on a conference report on any such joint resolution shall be limited to one hour.

(8) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules, and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

Mr. BYRD. Mr. President, the effect of the amendment by Mr. WARNER and myself will be essentially this. Congress would be determining that the circumstances now existing in the Persian Gulf region, including incidents involving the U.S. military forces on September 21 and October 8 of this year, justify an administration report and a comprehensive congressional review of the use of U.S. military forces in that region.

The amendment would express the support of Congress for a continued U.S. presence in the Persian Gulf region and the right of nonbelligerent shipping to free passage.

It would contain an expression by the Congress, of continued reservations about the convoy and escort operations; and it would provide for the submission of a report to the Congress by the President within 60 days after the date of enactment. The report would be in the classified and unclassified form. And the resolution—or the amendment sets forth certain specific items that are to be included in the report by the President to the Congress. And within 30 days after the report is required to be submitted or shall have been submitted or on the first day of session thereafter, a resolution, if such resolution is introduced, shall be acted upon in accordance with certain expedited procedures which are set forth in the amendment.

So what we have here, then, is legislation that would require, essentially, early in January action upon a resolution if such resolution is introduced in a timely fashion, action by the Congress on a resolution under expedited procedures that guarantee the avoidance of a filibuster on that resolution.

Contained in that resolution would be whatever the Congress felt to be desired. I am not saying that this would be in the resolution but it could be a declaration of war if Congress saw fit; it could be language that would preclude the further expenditure of funds for any given operation or whatever objective the Congress sought to achieve. I am not saying that it will be either of those drastic actions.

It could be something considerably less.

But whatever Congress seeks to provide within that resolution would be covered by this very tight time limitation and expedited procedures. It would not be subject to a filibuster. It therefore gives the President ample time in which to submit a report to the Congress. It requires certain information within that report that is set forth in the amendment, but it is not all inclusive. The information that is submitted by the President is not confined to the items which are specifically mentioned. The resolution deals only with the Persian Gulf region. That resolution, at that time, if such resolution is introduced, deals only with the Persian Gulf region; it does not open it up to various and sundry other matters dealing with other parts of the world or other extraneous matter.

It does not invoke the War Powers Act.

It does not repeal the War Powers Act.

As I say, it does not, in and of itself, require the removal of any of the U.S. forces from the gulf region.

It does not require that the reflagging and convoying be ended.

But it does express the reservations of Congress with regard to those operations and also expresses support for continued U.S. presence in the gulf region.

So I think that this is a good approach. It is a product of the work of several Senators and their staffs. I would hope that it would have the bipartisan support from a majority on both sides of the aisle.

Mr. President, I believe with that I shall yield the floor to my able colleague and cosponsor of the two amendments.

Mr. WARNER. Mr. President, the distinguished majority leader has quite fairly and objectively stated the purpose of this amendment. It is the work product of many, and it is our hope that it does in due course gain a large majority on both sides. Due to the lateness of the hour today, we were not able to have consultation with a number of colleagues on both sides of the aisle, and it is our expectation that perhaps on Tuesday we might receive some thoughts with regard to this amendment and they will be taken into consideration.

The amendment hopefully will put to rest a great concern that this Senator and many have had as to the disposition of the Congress toward the President's policies today in the gulf. The amendment clearly recites that Congress expresses support for a continued U.S. presence in the Persian Gulf region and the right of nonbelligerent shipping to free passage in this region. Acceptance of this amendment will be the spoken word of the Congress, certainly the Senate, and that will go a long way to dispel the uncertainty, which uncertainty I think could well work to the detriment of the peace efforts on behalf of many, including this President and other leaders around the world, and the Security Council.

Likewise, there is no timeclock, like the War Powers Act, clicking. We simply get the report. We have a reasonable period of time thereafter within which to consider this report. There is no provision in here like the War Powers Act triggering the withdrawal of the troops in a manner that is inconsistent with the wishes of the Commander in Chief, of the President.

Now, Mr. President, another very important feature to this legislation is that it requires action by the Congress. Unlike the War Powers Act wherein action could prevail, this requires action by the Congress.

It is my hope that on Tuesday when other Members of the Senate have an opportunity to examine this, we will receive strong support on both sides of the aisle. As it stands, it is bipartisan in nature and I hope that bipartisanship grows.

I thank the majority leader for his cooperation in bringing this amendment to the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia for his cooperation and the contribution he has made to the development of this amendment. He demonstrates a true spirit of bipartisanship, and more than that, he demonstrates a dedication to the Senate and to the country in that he is trying to involve the elected representatives of the people in the serious matter of peace and war. I know of no Senator on either side of the aisle who consistently demonstrates a spirit of goodwill, of bipartisanship, patriotism, realistic thinking, and intellectual honesty more so than does the distinguished Senator from Virginia. I thank him for his teamwork.

Mr. WARNER. Mr. President, I very much appreciate the thoughtful remarks of the distinguished leader of this body, but I assure him this subject of the war powers has been foremost in the minds of the leadership of the Senate, both majority and minority, for many, many weeks. We have listened with concern to the statements of others, the Senator from Kentucky, the Senator from Oregon, the Senator from Arkansas, the Senator from Washington, and the Senator from Georgia. We have slowly but I think surely gravitated to this particular amendment which preserves almost entirely the goals that were envisioned under the War Powers Act but at the same time, as the majority leader says, this amendment in no way touches that act.

And the most important thing is that we remove any doubt, hopefully within a short period of time, that the Congress of the United States is supportive of the leadership being given by the President today and other leaders of the world in the Persian Gulf.

I think that is a landmark achievement given the complexity of the War Powers Act, the complexity of the situation, and the diversity of views in this Chamber.

My hope is that other Senators will join us early next week, and that this matter can be put to rest within a reasonable period of time.

I thank the majority leader again for his leadership throughout these many weeks—not just today but throughout these many weeks—in arriving at this which I feel is a keystone for this compromise of views in this Chamber.

Mr. BYRD. Mr. President, I thank my friend.

Mr. President, the amendments have been printed in the Record. This will enable our colleagues to read and as well as other interested persons who may wish to read the contents of the amendments in their entirety.

Mr. President, I ask that this legislatio now be temporarily laid aside and that the Senate return to the consideration of the catastrophic illness legislation.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MEDICARE CATASTROPHIC ILLNESS COVERAGE ACT

The Senate resumed consideration of the bill.

THE 1987 GOLDEN POET AWARD

Mr. BYRD. Mr. President, poetry is an art in which language is refined and prosaic words are reshaped to create vivid images and to caress the emotions.

Not everyone possesses the poet's gift. To encourage those men and women who have poetic talent, however, every year World of Poetry magazine recognizes a writing poet with the bestowal of the "Golden Poet Award."

The 1987 winner of that award is Rena Marshall of Shepherdstown, WV. A lifelong poet, in 1963, Mrs. Marshall published a book of her poems, entitled "Young Rivers."

The specific poem that won for Mrs. Marshall her recent honor in the 1987 competition is "The Hungry Crying of the Children."

Mrs. Marshall's poem was printed as part of an article that appeared in the Evening Journal of Martinsburg, WV.

I ask unanimous consent that that article, with Mrs. Marshall's poem, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Martinsburg (WV) Evening Journal, July 13, 1987]

WHEN POETRY IS A LIFELONG TASK

(By Beth Gray)

When Rena Marshall was in the fifth grade, her teacher asked her to write a poem, not realizing it would become a lifelong assignment.

The teacher had given the class the assignment to help them to deal with grief over the death of a classmate. Marshall, who had recently lost her parents at the time, found poetry to be a therapeutic release.

"It was a means of getting my thoughts in order," Marshall said.

That first poem led to many others, but since she saw all of the poems as a release, Marshall ended up discarding much of her work.

"I'd write them and I'd get rid of them," she said.

Now a published poet whose work has appeared in anthologies. Marshall has received substantial recognition for her work. A member of the Shepherdstown Women's Club, she has been a winner in the West Virginia Women's Club Poetry Contest a number of times. She won first place in this year's competition with the poem "The Hungry Crying of the Children."

That same poem won Marshall the 1987 Golden Poet Award, sponsored by the World of Poetry. An awards program is scheduled to be held in Las Vegas in August, but ill health may prevent her from attending, she said.

In addition, the winning peom will be published in the World of Poetry's publication, "The Great American Poetry Anthology."

In 1963, Marshall published a book of poetry called, "Young Rivers," which she dedicated to West Virginia in honor of its 100th year of statehood.

Among Marshall's favorite works is the book's title poem. The "young rivers" represents her two sons, one of whom is now dead.

Marshall is currently writing another book of poetry, tentatively titled "Thank You, Miss Julia." The title refers to the woman who raised her—her grandmother, Julia Brown, and her sister, Julia Brown Gallia.

Her grandmother greatly encouraged her interest in poetry. When Marshall and one of her sisters argued over who would do the dishes, "Miss Julia" told them they could argue as much as they wanted, as long as it rhymed. Soon, the two sisters would collapse in laughter, Marshall said.

Marshall, a Shepherdstown resident, has lived within 12 miles of her current home all her life, with the exception of two years spent in Philadelphia and Washington, D.C. Her husband, Laird, has lived in the area all his life.

Marshall does not confine herself to certain topics, writing about "quite utterly anything." While she prefers to write poetry in a light, nonsensical vein, she is also drawn to serious topics, she said.

She finds rhyming verse easier to write, but has written poems in blank verse, she said.

Despite all the attention, Marshall is still very self-conscious about people reading her poetry. She feels that her poetry is a part of her, she said.

"It seems difficult to me to separate our lives into compartments," Marshall said. "So many things blend in with the others."

"When you give away a poem, you give away an integral part of yourself."

THE HUNGRY CRYING OF THE CHILDREN

(By Rena Marshall)

The children cry, the mothers curse,
The fathers run and hide.
Frustration, anger, hurt and shame,
An all-engulfing tide.
Hopeless, helpless, God, where are you?
Don't you hear their cry?
One by one they're calling.
One by one hopes die.
Faith, oh Lord, in Loving?
Faith, oh Lord, in Thee?
Faith, oh Lord, in mankind?
Faith, oh Lord, in me?
Who will feed thy children?
Jesus, meek and mild.
How can I teach faith and love
To any hungry child?
Who will feed thy flock, Lord?
Give comfort to the poor?
Who will feed thy children
Crying at the door?
Shepherd, feed my flock now,
The way is not too steep.
You will feed my children,
Shepherd, tend my sheep.

BICENTENNIAL MINUTE

OCTOBER 9, 1913: THE SENATE MEETS A MOVIE

Mr. DOLE. Mr. President, 74 years ago, on October 9, 1913, a movie was filmed in the Senate Chamber. Cameras recorded Vice President Thomas R. Marshall presiding, and Majority Leader John Worth Kern and other Senators at their desks.

Various Senate clerks sat at Senators' desks as well, to make the Chamber seem a little more occupied. The film was being made to show at the upcoming exposition in San Francisco, to accompany a lecture on the working of the Government of the United States.

The only problem was that it was against the rules of the Senate, even then, to take pictures inside the Senate Chamber. A day after the filming, Senator Lee Overman, chairman of the Senate Rules Committee, reminded his colleagues of this prohibition pointing out that the Rules Committee had not been consulted, and demanded to know under whose authority the motion pictures had been taken. The Sergeant-at-Arms claimed to have proceeded with the endorsement of the Vice President's staff, but the Vice President denied granting permission. It seems that everyone thought that someone else was in charge, not an unusual occurrence in Government, to be sure.

Despite the violation of the Senate rules, we would all probably enjoy seeing the film of the Senate at work three-quarters of a century ago, with Senators sitting at these very desks, in this Chamber, gesticulating perhaps a little more grandiosely than usual for the silent film. However, all attempts to track down the film have been unsuccessful. Most likely it was discarded, destroyed, or deteriorated in the years after it was shown at the exposition. It would not be until 1986 that the Senate permitted cameras into its Chamber on a daily basis to record an audiovisual image of its debates for posterity.

STATE DEPARTMENT BUDGET CUTS

Mr. PELL. Mr. President, the time has come for the Congress to recognize that deep cuts in the State Department budget threaten to undermine the ability of the United States to conduct an effective foreign policy and maintain a diplomatic presence around the world. Just yesterday, the Senate passed the Foreign Relations Authorization Act—a bill authorizing appropriations for our foreign policymaking establishment. That bill was carefully crafted to meet the fiscal constraints we face and, at the same time, protect those operations which are essential to carrying out a sound foreign policy.

Unfortunately, it seems unlikely that the State Department will receive the amounts provided for in that legislation. The House and Senate Appropriations Committees have passed legislation that, if enacted, would require cuts in the area which is most essential to the formulation and implementation of a sound foreign policy; namely, the people who make and execute that policy. As a front page article in today's Washington Post reports, the State Department is preparing to eliminate 1,200 jobs, or about 8 percent of its work force. These preparations are being undertaken in anticipation of the deep cuts which the Appropriations Committees made in the State Department's salaries and expenses account. The State Department projects that only $1.3 billion will be appropriated for salaries and expenses. This contrasts with the $1.6 billion for salaries and expenses authorized by the Foreign Relations Committee bill which the Senate passed yesterday. The $1.6 billion authorized by the bill passed yesterday is the level of funding necessary to maintain a strong cadre of Foreign Service officers and I hope that the Congress will ultimately move in that direction.

But the news is not all bad. Yesterday the Senate adopted an amendment of mine to the State Department authorization bill that would allow the State Department to use some of its unobligated balances to cover the expected shortfall in funds for salaries and expenses. This amendment would provide the Department with an additional $150 million to spend on salaries and expenses for ongoing diplomatic activities—more than enough to cover the $84 million shortfall the Department has projected. So if my amendment is agreed to in the conference with the House, the State Department should not have to take the draconian steps now under consideration.

Our Nation cannot afford to retreat from its worldwide responsibilities. We cannot afford to cut back on our foreign policymaking apparatus at the very time the Soviet Union under Gorbachev is pursuing a more creative and dynamic foreign policy than ever before. But how can we maintain our international presence if we don't provide the funding to keep our embassies and consulates open? And how can we meet the diplomatic challenges of the day if we force the State Department to retire our diplomats? The bulk of the Defense Department budget is spent on procuring and maintaining weapons systems. But the bulk of the State Department budget is people—people who are responsible for shaping our relations with the rest of the world. Therefore, when we cut the State Department budget, we reduce the number of those people who represent us overseas and those who fashion our policies here at home.

In short, the effect of cutting the State Department budget is to adopt a policy of retreat. The time has come for the Congress to face the reality that additional budget cuts will endanger our ability to shape and implement an effective foreign policy. The State Department authorization bill, which the Senate passed yesterday, provides an adequate level of funding. But if we don't provide the level of funding authorized by that bill, we will find our influence shrinking around the world.

ADVANCE NOTIFICATION—PROPOSED ARMS SALES

Mr. PELL. Mr. President, as many of my fellow Senators are aware, the administration informally proposed to Congress yesterday a major new arms package for Saudi Arabia.

I and other Senators have spent considerable time discussing this package and Saudi defense needs with the administration. I am pleased that the wise decision was made by the President to drop the proposal to sell 1,600 new Maverick missiles. Saudi Arabia already has more than ample supply of Mavericks, and a new sale of these missiles would have been far beyond Saudi needs and would have had an adverse impact upon the balance in the Middle East. One has only to look at the conflict in the Persian Gulf now to understand the prudence of following a course of restraint in arms transfers.

Because of the changes made in the sales proposal, I do not intend to oppose it. I am sure other Senators will be similarly gratified.

As chairman of the Committee on Foreign Relations, I want to make sure that the information on the revised informal proposal is made available to the Senate. Accordingly, I ask unanimous consent to have printed in the RECORD at this point the notifications which have been received.

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, October 8, 1987.

In reply refer to: I-02587/87ct.

Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHRISTIANSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost $50 million or more.

Because of the importance attached to this sale by the Administration and the Congress and the unusal degree of advance consultation already conducted, we have modified our advance notification procedures for this case. We are transmitting the notification in unclassified form to permit the fullest possible consideration of the details of the sale.

Sincerely,

CHARLES W. BROWN,
Director.

[Transmittal No. 88-AC]

ADVANCE NOTIFICATION OF POSSIBLE SECTION 36(b)(1) STATEMENTS, FOREIGN MILITARY SALES

(a) Prospective purchaser: Saudi Arabia.

(b) Description and quantity or quantities of articles or services under consideration for purchase: Twelve F-15C/D attrition/replacement aircraft in the multi-stage improvement [MSIP] configuration.

(c) Estimated value(s) of this case: $502 million.

(d) Description of total program of which this case is a part: Same as (b) above.

(e) Estimated value of total program of which this case is a part: Same as (c) above.

(f) Prior related cases, if any:

FMS case SFA—$1.6 billion—July 1978.

FMS case SFA amend #1—$436.0 million—September 1979.

FMS case SFA amend #2—$534.0 million—February 1981.

FMS case SFA amend #3—$239.0 million—June 1982.

FMS case YBM—$879.0 million—February 1980.

FMS case YBA—$964.0 million—June 1980.

FMS case TDA—$9.0 million—February 1980.

FMS case SGK—$47.0 million—November 1980.

FMS case YGC—$500.0 million—June 1984.

FMS case YGU—$205.0 million—June 1986.

(g) Military department: Air Force (SKC).

(h) Estimated date letter of offer/acceptance [LOA] ready for formal notification to Congress: October 1987.

(i) Date advance notification delivered to Congress: October 8, 1987.

POLICY JUSTIFICATION

SAUDI ARABIA—F-15C/D ATTRITION/REPLACEMENT AIRCRAFT

The Government of Saudi Arabia has requested the purchase of 12 F-15C/D attrition/replacement aircraft in the Multi-Stage Improvement [MSIP] configuration. The estimated cost is $502 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been and continues to be an important force for economic progress in the Middle East.

These 12 attrition/replacement aircraft are required to sustain the Saudi Arabian F-15 program at the force level validated by Congress in 1978 (60 aircraft). The required quantity is based on standard U.S. Air Force computational models using actual Saudi Arabian losses to date. All 12 attrition/replacement aircraft are being procured now, rather than incrementally, because the F-15C/D production line is scheduled to close in early 1988. Aircraft in excess of the 60 aircraft force level will be retained in the U.S. at Saudi Arabia's expense. As the number of operational aircraft will not exceed validated program levels, the proposed sale will not materially increase Saudi Arabia's military capability. Saudi Arabia will have no difficulty absorbing these aircraft into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the McDonnell Aircraft Company of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives in Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, October 8, 1987.

In reply refer to: I-15242/87.

Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHRISTIANSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost $50 million or more.

Because of the importance attached to this sale by the Administration and the Congress and the unusual degree of advance consultation already conducted, we have modified our advance notification procedures for this case. We are transmitting the notification in unclassified form to permit the fullest possible consideration of the details of the sale.

Sincerely,

CHARLES W. BROWN,
Director.

[Transmittal No. 88-AA]

ADVANCE NOTIFICATION OF POSSIBLE SECTION 36(b)(1) STATEMENTS, FOREIGN MILITARY SALES

(a) Prospective Purchaser: Saudi Arabia.

(b) Description and quantity or quantities of articles or services under consideration for purchase: Multi-stage improvement program [MSIP] retrofit kits for F-15 aircraft, support equipment, spares, simulators, and training equipment modification.

(c) Estimated value(s) of this case: $375 million.

(d) Description of total program of which this case is a part: Same as (b) above.

(e) Estimated value of total program of which this case is a part: Same as (c) above.

(f) Prior related cases, if any:

FMS case SFA—$1.6 billion—July 1978.

FMS case SFA Amend #1—$436.0 million—September 1979.

FMS case SFA Amend #2—$534.0 million—February 1981.

FMS case SFA Amend #3—$239.0 million—June 1982.

FMS case YBM—$879.0 million—February 1980.

FMS case YBA—$964.0 million—June 1980.

FMS case TDA—$9.0 million—February 1980.

FMS case SGK—$47.0 million—November 1980.

FMS case YGC—$500.0 million—June 1984.

(g) Military department: Air Force [YNA].

(h) Estimated date letter of offer/acceptance [LOA] ready for formal notification to Congress: October 1987.

(i) Date advance notification delivered to Congess: October 8, 1987.

POLICY JUSTIFICATION

SAUDI ARABIA—RETROFIT KITS FOR F-15 AIRCRAFT

The Government of Saudi Arabia has requested the purchase of Multi-Stage Improvement Program [MSIP] retrofit kits for F-15 aircraft, support equipment, spares, simulators, and training equipment modification. The estimated cost is $375 million.

This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. In a regional context, continuing support of the defensive capabilities of Saudi Arabia will also contribute to overall Middle East security.

The MSIP program involves a series of modifications that incorporate current technology and enhance the supportability of the F-15 aircraft. Saudi Arabian participation in this program is required for continuing cost-effective support of Saudi Arabian F-15s. This support is predicated on commonality between the export version of the F-15 and the U.S. Air Force version. As modifications are currently underway to the U.S. Air Force configuration, where appropriate, similar modifications must be made to the Saudi Arabian configuration. Modifications to the Saudi Arabian configuration will not include some of the upgrades planned for the U.S Air Force, such as the state-of-the-art AN/APG-70 radar. The updated technology provided by the MSIP modification results in modest improvements in operational capability.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the McDonnell-Douglas Corporation of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additional U.S Government personnel; however, 80 contractor representatives may be required in Saudi Arabia for three years.

There will be no adverse impact on U.S defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, October 8, 1987.

In reply refer to: I-02606/87ct.

Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHRISTIANSON. By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information is required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost $50 million or more.

Because of the importance attached to this sale by the Administration and the Congress and the unusual degree of advance consultation already conducted, we have modified our advance notification procedures for this case. We are transmitting the notification in unclassified form to permit the fullest possible consideration of the details of the sale.

Sincerely,

CHARLES W. BROWN,
Director.

[Transmittal No. 88-AD]

ADVANCE NOTIFICATION OF POSSIBLE SECTION 36(b)(1) STATEMENTS, FOREIGN MILITARY SALES

(a) Prospective purchaser: Saudi Arabia.

(b) Description and Quantity or quantities of articles or services under consideration for purchase: One hundred fifty conversion kits to modify 150 M60A1 tanks to the M60A3 Tank Thermal Sight configuration and contractor services to install the kits in Saudi Arabia.

(c) Estimated value(s) of this case: $120 million.

(d) Description of total program of which this case is a part: Same as (b) above.

(e) Estimated value of total program of which this case is a part: Same as (c) above.

(f) Prior related case, if any:

FMS case USK—$123.4 million—June 1976.

FMS case UZI—$42.4 million—September 1979.

FMS case VFS—$175.9 million—December 1983.

(g) Military department: Army [VIX].

(h) Estimated date letter of offer/acceptance [LOA] ready for formal notification to Congress: October 1987.

(i) Date advance notification delivered to Congress: October 8, 1987.

POLICY JUSTIFICATION

SAUDI ARABIA—TANK CONVERSION KITS

The Government of Saudi Arabia has requested the purchase of 150 coversion kits to midify 150 M60A1 tanks to the M60A3 Tank Thermal Sight configuration and contractor services to install the kits in Saudi Arabia. The estimated cost is $120 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for economic progress in the Middle East.

Saudi Arabia needs these tank conversion kits to standardize its U.S. origin armor force which currently includes M60 tanks in both the A1 and A3 configurations. The lack of standardization causes training and logistical problems which conversion will help to alleviate. Saudi Arabia will have no difficulty absorbing these tank conversion kits into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be General Dynamics Services Company of Sterling Heights, Michigan.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel: however, 27 contractor representatives will be required in Saudi Arabia for two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

JUDGE ROBERT BORK

Mr. COHEN. Mr. President, the nomination of Judge Robert Bork to the Supreme Court has set off frenzied attacks and endorsements that are unprecedented during my service in the Congress for the past 15 years.

His approval or rejection, while important, is not an imperative of fatal consequence to the Court. If approved, he would not lead the Court off over the edge of the right wing world. If rejected, the Court will continue to function with an excellence that has not been impaired by his absence.

But the manner in which the Senate goes about deciding his future and fate will have profound consequences for the country and for this institution.

I have spent the past few weeks reviewing articles and opinions written by Judge Bork as well as his testimony before the Senate Judiciary Committee. I have been asked to express support or opposition even before the Judiciary Committee voted on his nomination just 2 days ago. Apparently, we have reached the point in our political process where we insist upon a wonderland mandate of "verdict now, evidence later."

Frankly, I have been appalled by some of the pettiness and invective leveled against Judge Bork, just as I have been struck by some of the moral pieties of some of his supporters.

While I do not support much of the President's social agenda, the fact remains that the President is entitled to nominate individuals to the Supreme Court that he believes view the world through the same philosophical prism as he does. And it is my belief that the Senate, as an institution, must be convinced that his choice is so lacking in intelligence, personal or professional integrity, or judicial competence that the nominee's confirmation would result in a disservice to the Court and to the country.

While I do not share the restrictive interpretation of the Constitution that Judge Bork has articulated, I am not persuaded that his views are so extreme as to place him beyond the pale of judicial acceptability.

Judge Bork's past essays are valid objects of examination as they are key to understanding his deductive abilities and philosophical convictions. But his writings as a professor should not be viewed in isolation or without regard to his service as Solicitor General or on the Circuit Court of Appeals for the District of Columbia.

It is argued that he must be held to his words even though his views may have evolved. That is a standard to which we would not hold ourselves.

A number of Senators from the South, for example, resisted the coming of civil rights in the 1960's and the early 1970's and are now strong advocates of enforcing and, indeed, even enlarging those civil rights.

Justice Thurgood Marshall recently observed that President Johnson had the best record of any President on civil rights. As a President, perhaps; as a Senator, hardly. Were President Johnson's—and those of his Senate colleagues—change of views the result of pragmatic expediency or rather that of an evolving enlightenment? Few of us are able to look behind the words into the hearts of those that express them.

I don't know whether Judge Bork has changed his views in a calculated and cynical effort to appease his opponents or whether his expressions consist of a heartfelt admission that the Constitution was not etched in stone and handed down from Mount Sinai and that while the vessel that embodies our political and social values must be firm, it must also be flexible. I cannot make an absolute determination any more than I could pass judgment on the changing views of my distinguished colleagues. But I do know that Judge Bork is capable of change—from one who embraced socialism, then libertarianism, and now conservatism. I view that capacity for change as a positive element in his character.

Ironically, his capacity for change is now held against him. Predictability is the touchstone by which we shall pass judgment on his worthiness for the bench.

It is interesting to note that Judge Bork's opponents and supporters both subscribe to this view. Opponents view expression of doubt or change as craven expediency. His supporters fear the same. Ideologues, liberal or conservative, tend to view doubt or deviation from their totem pole of tests as unacceptable apostasy.

But Presidents have learned that party labels and prior philosophic views of nominees have not proven a reliable index to their future behavior. Were Oliver Wendell Holmes, Jr., Hugo Black, Earl Warren, and Lewis Powell known quantities before they went on the bench or did they shift into the unknown, the unpredictable, only after confirmation?

I am certain that Judge Bork does not share my views on a number of key issues. But if I were to apply the test of my views to those of past nominees, I would not have voted for Justices Black, Powell, O'Connor, Rehnquist, or Scalia.

Some have suggested that Judge Bork should be confirmed because his successor would be far worse. That is an idle threat because I would have no hesitancy to vote against any one I believe to be unqualified to sit on that august bench.

A more plausible argument is that if Judge Bork is defeated or withdraws, his replacement is likely to be more conveniently predictable, more mainstream, less provocative, and perhaps even rather mediocre by comparison.

I believe that if Judge Bork is confirmed, there are three results that could follow:

First. He, by the sheer force of his intellect, would pull the Court toward right wing radicalism—which I think is unlikely;

Second. His extremism would drive even the conservative members of the Court to the philosophical center—which is possible;

Third. He will evolve into the same kind of conservative centrist as the man that he is replacing—a result I regard as quite probable.

Late last night, I reread the papers of Justice Felix Frankfurter—"Of Law, Life and Other Things That Matter."

Upon his retirement, his fellow Justices wrote Frankfurter a wonderfully sensitive and touching letter. It was signed by Earl Warren, Hugo Black, William Douglas, Tom Clark, John Harlan, William Brennan, Jr., Potter Stewart, and Byron White. Justice Frankfurter responded in kind. In his letter "To his brethren," he left us with some characteristically important words:

> The nature of the issues which are involved in the legal controversies that are inevitable under our constitutional system does not warrant the nation to expect identity of views among the members of the Court regarding such issues, nor even agreement on the roots of thought by which decisions are reached. The nation is merely warranted and expecting harmony of aims among those who have been called to the Court. This means pertinacious pursuit of the processes of reason and the disposition of controversies that come before the Court. This presupposes intellectual disinterestedness in the analysis of the factors involved in the issues that call for decision. And this in turn requires rigorous self-scrutiny to discover with a view to curbing, every influence that may deflect from such disinterestedness.

Mr. President, I believe that Judge Bork is capable of measuring up to the intellectual vigor and moral responsibilities required by service on our Highest Court.

I yield back the balance of my time.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1988

(Yesterday, October 8, 1987, the Senate passed H.R. 1777, as amended by the Senate. The text of the bill as passed follows:)

H.R. 1777

Resolved, That the bill from the House of Representatives (H.R. 1777) entitled "An Act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1988".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—THE DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

Sec. 101. Administration of foreign affairs.
Sec. 102. Contributions to international organizations and conferences; international peacekeeping activities.
Sec. 103. International commissions.
Sec. 104. Migration and refugee assistance.
Sec. 105. The Asia Foundation and other programs.
Sec. 106. Reduction of capital construction account.
Sec. 107. Consular posts and diplomatic missions abroad.
Sec. 108. Contribution to the regular budget of the International Committee of the Red Cross.
Sec. 109. Restriction on use of funds for "public diplomacy" efforts.
Sec. 110. Allocation of funds for support and review of international parental child abduction cases.

PART B—ADMINISTRATIVE AND PERSONNEL PROVISIONS

Sec. 111. Restriction on supervision of Government employees by chiefs of mission.
Sec. 112. Pay level of ambassadors at large.
Sec. 113. Compensation.
Sec. 114. Extension of limited appointments.
Sec. 115. Repeal of Office of Policy and Program Review.
Sec. 116. Carry-over of Senior Foreign Service performance pay.
Sec. 117. Survivor and health benefits for certain former spouses.
Sec. 118. Benefits for certain former spouses of members of the Foreign Service.
Sec. 119. Elimination of unnecessary reporting requirements.
Sec. 120. Clarification of jurisdiction of Foreign Service Grievance Board.
Sec. 121. Protection of Civil Service employees.
Sec. 122. Compensation of Fascell fellows.
Sec. 123. Competence and professionalism in the conduct of foreign policy.
Sec. 124. Foreign Service career candidates tax treatment.

PART C—BUILDINGS AND FACILITIES

Sec. 131. Preservation of museum character of portions of Department of State building.
Sec. 132. Authority to insure the furnishings of State Department diplomatic reception rooms.
Sec. 133. Financial reciprocity with foreign countries.
Sec. 134. The new Soviet embassy.
Sec. 135. Embassy security.
Sec. 136. Prohibition on the use of funds for facilities in Israel, Jerusalem, or the West Bank.
Sec. 137. Studies and planning for a consolidated training facility for the Foreign Service Institute.

PART D—INTERNATIONAL ORGANIZATIONS

Sec. 141. Reform in the budget decision-making procedures of the United Nations and its specialized agencies.
Sec. 142. Immunities for the International Committee on the Red Cross.
Sec. 143. Israel's participation in the Economic and Social Council of the United Nations.
Sec. 144. Appointment of secretaries to the North Atlantic Assembly delegations.
Sec. 145. Protection of Tyre by the United Nations Interim Force in Lebanon.
Sec. 146. Privileges and immunities to offices of the Commission of the European Communities.

TITLE II—THE UNITED STATES INFORMATION AGENCY

Sec. 201. Authorization of appropriations; allocation of funds.
Sec. 202. Voice of America.
Sec. 203. Bureau of Educational and Cultural Affairs.
Sec. 204. National Endowment for Democracy.
Sec. 205. East-West Center.
Sec. 206. Posts and personnel overseas.
Sec. 207. The Arts America program.
Sec. 208. Congressional grant notification.
Sec. 209. Forty-year leasing authority.
Sec. 210. Receipts from English-teaching, library, motion picture, and television programs.
Sec. 211. Professorship on constitutional democracy.
Sec. 212. United States-India Fund.
Sec. 213. United States-Pakistan Fund.
Sec. 214. United States Information Agency programming on Afghanistan.
Sec. 215. United States Advisory Commission on Public Diplomacy.
Sec. 216. The Edward Zorinsky Memorial Library.
Sec. 217. Contractor requirements.
Sec. 218. Samantha Smith Memorial Exchange program.
Sec. 219. Cultural Property Advisory Committee.
Sec. 220. Audience survey of USIA Worldnet Program.

TITLE III—THE BOARD FOR INTERNATIONAL BROADCASTING

Sec. 301. Authorization of appropriations; allocation of funds.
Sec. 302. Currency gains.
Sec. 303. Certification of certain creditable service.

TITLE IV—THE GLOBAL CLIMATE PROTECTION ACT OF 1987

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Task Force on the Global Climate.
Sec. 404. Report to Congress.
Sec. 405. Ambassador at Large.
Sec. 406. International Year of Global Climate Protection.
Sec. 407. Climate protection and United States-Soviet relations.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Enforcement of Case Act requirements.
Sec. 502. Federal jurisdiction of direct actions against insurers of diplomatic agents.
Sec. 503. Prohibition on use of funds for political purposes.
Sec. 504. Prohibition on exclusion of aliens because of political beliefs.
Sec. 505. Authority to invest and recover expenses from international claims settlement funds.
Sec. 506. Payment of the claim of Joseph Karel Hasek from the Czechoslovakian Claims Fund.

Sec. 507. Prohibition on international first class air travel by congressional staff.
Sec. 508. Public access to United Nations War Crimes Commission files.
Sec. 509. Policy on Afghanistan.
Sec. 510. Policy toward the Iran-Iraq war.
Sec. 511. Iranian persecution of the Baha'is.
Sec. 512. Refugees from Southeast Asia.
Sec. 513. Policy toward South Korea.
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TITLE I—THE DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The following amounts are authorized to be appropriated for fiscal year 1988 for the Department of State under "Administration of Foreign Affairs" to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States:

(1) For "Salaries and Expenses" of the Department of State (other than the Diplomatic Security Program), $1,599,600,000.

(2) For representation allowances, emergencies in the diplomatic and consular service, and the payment to the American Institute in Taiwan, $17,839,000.

(3) For "Salaries and Expenses" of the Diplomatic Security Program, $100,000,000.

(4) For the protection of foreign missions and officials, $9,100,000.

(b) USE OF PRIOR FISCAL YEAR AND FISCAL YEAR 1988 DIPLOMATIC SECURITY FUNDS.—(1) Notwithstanding any other provision of law or any reprogramming requirement, the Secretary of State may use any funds appropriated pursuant to section 401(a)(1)(B) of the Diplomatic Security Act or funds appropriated for fiscal year 1988 pursuant to section 401(a)(3) of such Act for any component of the Diplomatic Security Program and for the "Acquisition and Maintenance of Buildings Abroad".

(2) Notwithstanding any other provision of law or any reprogramming requirement, of the funds appropriated pursuant to section 401(a)(3) of the Diplomatic Security Act for fiscal year 1988, $323,000,000 shall be available for the "Acquisition and Maintenance of Buildings Abroad" and $74,262,000 shall be available for "Salaries and Expenses" of the Diplomatic Security Program.

(c) The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives within 30 days of the end of each quarter of the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for Emergencies in the Diplomatic and Consular Service.

SEC. 102. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND CONFERENCES; INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) INTERNATIONAL ORGANIZATIONS.—There are authorized to be appropriated to the Department of State under "Contributions to International Organizations", $571,000,000 for fiscal year 1988 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations, of which amount—

(1) $193,188,000 shall be available only for the United States assessed contribution to the United Nations;

(2) $63,857,000 shall be available only for the United States assessed contribution to the World Health Organization;

(3) $31,443,000 shall be available only for the United States assessed contribution to the International Atomic Energy Agency;

(4) $44,915,000 shall be available only for the United States assessed contribution to the Organization of American States; and

(5) $38,659,000 shall be available only for the United States assessed contribution to the Pan-American Health Organization.

(b) INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated to the Department of State under "Contributions to International Peacekeeping Activities", $29,400,000 for fiscal year 1988 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities.

(c) INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated to the Department of State under "International Conferences and Contingencies", $5,460,000 for fiscal year 1988, of which such funds as may be necessary shall be available for the expense of hosting the 1987 General Assembly of the Organization of American States, in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies.

(d) INTERNATIONAL WHEAT COUNCIL.—Of the funds authorized to be appropriated for the fiscal year 1988 by this section, not less than $388,000 shall be available only for the United States contribution to the International Wheat Council.

SEC. 103. INTERNATIONAL COMMISSIONS.

There are authorized to be appropriated to the Department of State under "International Commissions", $29,200,000 for fiscal year 1988 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international commissions.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of State under "Migration and Refugee Assistance", $314,450,000 for fiscal year 1988 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to migration and refugee assistance.

(b) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated by subsection (a)—

(1) $25,000,000 shall be available only for assistance for refugees resettling in Israel; and

(2) $28,000,000 shall be available only for assistance for East Asian refugees.

SEC. 105. THE ASIA FOUNDATION AND OTHER PROGRAMS.

(a) THE ASIA FOUNDATION.—(1) Section 404 of The Asia Foundation Act (22 U.S.C. 4401 et seq.) is amended to read as follows:

"SEC. 404. There are authorized to be appropriated to the Secretary of State $15,000,000 for fiscal year 1988 for grants to The Asia Foundation pursuant to this title.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1987.

(b) OTHER PROGRAMS.—There are authorized to be appropriated for fiscal year 1988 to the Department of State for the following programs:

(1) For Bilateral Science and Technology Agreements, $1,900,000.

(2) For Soviet-East European Research and Training, $5,000,000.

SEC. 106. REDUCTION OF CAPITAL CONSTRUCTION ACCOUNT.

Section 401(a)(3) of the Diplomatic Security Act (22 U.S.C. 4851(a)(3)) is amended to read as follows:

"(3) CAPITAL CONSTRUCTION, FISCAL YEARS 1988 THROUGH 1990.—There are authorized to be appropriated for the Department of State for 'Acquisition and Maintenance of Buildings Abroad' for fiscal year 1988, $397,262,000, and for each of the fiscal years 1989 through 1990, $417,962,000, to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program.".

SEC. 107. CONSULAR POSTS AND DIPLOMATIC MISSIONS ABROAD.

(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act shall be available to pay any expense related to the closing of any United States consulate or mission abroad. No funds authorized to be appropriated by this Act shall be used to pay for any expense related to the Bureau of Administration of the Department of State or any of its functions if any United States consulate or mission is closed after January 1, 1987, and is not reopened.

(b) ALLOCATION OF FUNDS.—(1) Of the funds authorized to be appropriated by section 101 for the "Administration of Foreign Affairs", not less than $50,000,000 shall be available only to operate United States consulates in Salzburg, Strasbourg, Goteborg, Lyon, Dusseldorf, Tangier, Genoa, Nice, Porto Alegre, and Maracaibo.

(2) Of the funds allocated by paragraph (1), during fiscal year 1988, funds in excess of those needed to operate these consulates for such fiscal year may be used for other purposes under the "Administration of Foreign Affairs" if all consulates referred to in paragraph (1) are open and functioning.

(c) WAIVER.—Subsection (a) shall not apply to any post closed—

(1) because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located;

(2) where there is a real and present threat to American diplomats in the city where the post is located and where a travel advisory warning against American travel to the city has been issued by the Department of State; or

(3) when the post is closed so as to provide funds to open a new post, staffed by at least one full-time Foreign Service officer, and where the Secretary of State, prior to the closing of the post, prepares and transmits to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report stating that—

(A) the new post is a higher priority than the post proposed to be closed; and

(B) the total number of consulates and missions abroad is not less than the number of such posts in existence on January 1, 1987.

(d) The provisions of this section shall not take effect until 180 days after the date of enactment of this Act.

SEC. 108. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

(a) UNITED STATES CONTRIBUTION.—Pursuant to the provisions of section 109 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, the Secretary of State shall make a contribution to the regular budget of the International Committee of the Red Cross of an amount equal to not less than 20 percent of its regular budget. Such contribution may be made from the funds authorized to be appropriated by section 104 for migration and refugee assistance.

(b) REPROGRAMMING AUTHORITY FOR CERTAIN EARMARKED FUNDS.—Notwithstanding any other provision of law, allocations of funds within the account for "Migration and Refugee Assistance" for fiscal year 1988 may be reprogrammed for other purposes within that same account if the requirements of the designated programs are fully met.

(c) LIMITATION ON CONTRIBUTIONS.—Notwithstanding subsection (a), for fiscal year 1988, the United States contribution to the regular budget of the International Committee of the Red Cross shall not exceed nor be less than the amount contributed by the United States to the regular budget of the International Committee for the Red Cross in fiscal year 1987.

(d) RECOGNITION OF THE RED SHIELD OF DAVID.—It is the sense of Congress that a diplomatic conference of governments should grant identical status of recognition to the Red Shield of David (Magen David Adom) as that granted to the Red Cross and the Red Crescent and that the Red Shield of David Society of Israel be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

SEC. 109. RESTRICTION ON USE OF FUNDS FOR "PUBLIC DIPLOMACY" EFFORTS.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act for the Department of State may be used by any bureau, office, or other unit of the Department of State to make any contract or purchase order agreement, on or after the date of enactment of this Act, with any individual, group, organization, partnership, corporation, or other entity for the purpose of—

(1) providing advice or assistance for any program for foreign representatives of any civic, labor, business, or humanitarian group during any visit to Washington, D.C., or any other location within the United States;

(2) providing contact with any refugee group or exile in Washington, D.C., or elsewhere in the United States, including the arranging of any media event, interview, or public appearance;

(3) translating articles on regions of the world and making them available for distribution to United States news organizations or public interest groups;

(4) providing points of contact for public interest groups seeking to interview exiles, refugees, or other visitors;

(5) coordinating or accompanying media visits to any region of the world;

(6) providing source material relating to regional conflicts for public diplomacy efforts;

(7) providing or presenting, in writing or orally, factual material on security considerations, refugee problems, or political dynamics of any region of the world for use on public diplomacy efforts;

(8) editing briefs or other materials for use on public diplomacy efforts;

(9) conducting special studies or projects for use on public diplomacy efforts;

(10) designing or organizing a distribution system for materials for use on public diplomacy efforts; or

(11) directing the operation of this distribution system, including—

(A) development of specialized, segmented addressee lists of persons or organizations which have solicited materials or information on any region of the world;

(B) computerization, coding, maintenance, or updating of lists;

(C) retrieval, storage, mailing, or shipping of individual or bulk packets of publications;

(D) maintenance or control of inventory or reserve stocks of materials;

(E) distribution of materials;

(F) coordinating publication production; or

(G) conducting systematic evaluations of the system.

(b) EXCEPTION.—Subsection (a) does not apply to any contract or purchase order agreement made, after competitive bidding, by or for the Bureau of Public Affairs of the Department of State.

(c) LIMITATION ON USE OF FUNDS.—Of the funds authorized to be appropriated by this or any other Act, not more than $389,000 may be used in any fiscal year to finance the activities set forth in subsection (a).

SEC. 110. ALLOCATION OF FUNDS FOR SUPPORT AND REVIEW OF INTERNATIONAL PARENTAL CHILD ABDUCTION CASES.

Of the amounts authorized to be appropriated by section 101(a)(1), $250,000 shall be available only for the review and analysis of international parental child abduction cases on a case-by-case basis to enable the Department of State to provide appropriate legal or diplomatic support for parents seeking to recover abducted children.

PART B—ADMINISTRATIVE AND PERSONNEL PROVISIONS

SEC. 111. RESTRICTION ON SUPERVISION OF GOVERNMENT EMPLOYEES BY CHIEFS OF MISSION.

Section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) is amended—

(1) in subsection (a)(1), by inserting "executive branch" after "Government";

(2) in subsection (a)(2), by inserting "executive branch" after "Government" the second place it occurs; and

(3) in subsection (b), by inserting "executive branch" after "Any".

SEC. 112. PAY LEVEL OF AMBASSADORS AT LARGE.

(a) COMPENSATION.—Chapter 53 of title 5 of the United States Code is amended—

(1) in section 5313, by striking out "Ambassadors at Large."; and

(2) in section 5315, by adding at the end thereof the following:

"Ambassadors at Large.".

(b) APPLICATION.—The amendments made by subsection (a)(1) shall not affect the salary of individuals holding the rank of Ambassador at Large immediately before the date of enactment of this Act.

SEC. 113. COMPENSATION.

The State Department Basic Authorities Act (22 U.S.C. 2669 et seq.) is amended—

(1) in section 35(b), by inserting after the second sentence thereof the following new sentence: "The Coordinator shall be compensated at the annual rate for positions authorized by section 5315 of title 5, United States Code."; and

(2) in section 203(a), by inserting at the end thereof the following new sentence: "The Director shall be compensated at the annual rate for positions authorized by section 5315 of title 5, United States Code.".

SEC. 114. EXTENSION OF LIMITED APPOINTMENTS.

Section 309 of the Foreign Service Act of 1980 (22 U.S.C. 3949) is amended—

(1) by striking out "section 311(a)" and inserting in lieu thereof "subsection (b)";

(2) by designating the text, as so amended, as subsection (a); and

(3) by adding at the end thereof the following new subsection:

"(b) A limited appointment may be extended for continued service as—

"(1) a consular agent;

"(2) a family member as provided in section 311(a);

"(3) a career candidate, if continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under chapter 11; or

"(4) a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency.".

SEC. 115. REPEAL OF OFFICE OF POLICY AND PROGRAM REVIEW.

(a) REPEAL.—Subsection (b) of section 413 of the Diplomatic Security Act (22 U.S.C. 4861(b)) is repealed.

(b) CONFORMING AMENDMENTS.—Section 413(a) of such Act (22 U.S.C. 4861(a)) is amended—

(1) by striking out "(a)" and all that follows through "STATE.—"; and

(2) by redesignating paragraphs (1) through (5) as subsections (a) through (e), respectively.

SEC. 116. CARRY-OVER OF SENIOR FOREIGN SERVICE PERFORMANCE PAY.

Section 405(b) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)) is amended—

(1) in paragraph (4), by inserting at the end thereof the following: "Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year."; and

(2) by adding at the end thereof the following:

"(5) The Secretary of State shall prescribe regulations, consistent with section 5582 of title 5, United States Code, under which payment under this section shall be made in the case of any individual whose death precludes payment under paragraph (4) of this subsection.".

SEC. 117. SURVIVOR AND HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.

(a) IN GENERAL.—Chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended by inserting after section 829 the following new sections:

"SEC. 830. SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.—(a)(1) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 per centum of the greater of—

"(A) the full amount of the participant's or former participant's annuity, as computed under chapter 8 of this Act; or

"(B) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

"(2) A survivor annuity payable under this section shall be reduced by an amount equal to the amount of retirement benefits, not including benefits under title II of the Social Security Act, received by the former spouse which are attributable to previous employment of such former spouse by the United States.

"(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

"(c) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) the former spouse remarries before age 55;

"(2) the former spouse is less than 50 years of age; or

"(3) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

"(A) shall commence—

"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on the later of—

"(I) the 60th day after such date; or

"(II) the date such former spouse reaches the age 50; and

"(ii) in the case of any other former spouse, beginning on the latest of—

"(I) the date that the participant or former participant to whom the former spouse was married dies;

"(II) the 60th day after the effective date of this section; or

"(III) the date such former spouse reaches age 50; and

"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

"(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

"(e) The Secretary shall—

"(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

"(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

"(f) In any fiscal year, if the amount to be paid to all former spouses, as computed under this section, exceeds the appropriated funds available for such payment, then the amount to be paid to each person pursuant to this section shall be reduced on a pro rata basis to such extent that the total payments do not exceed the appropriated funds available for payment to all spouses.

"Sec. 831. Health Benefits for Certain Former Spouses.—(a) Except as provided in subsection (c)(1), any individual—

"(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

"(2) who, at any time during the eighteen-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

"(3) who was married to such employee for not less than ten years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

"(A) files an election for such enrollment; and

"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

"(2) The Secretary shall, as soon as possible, take all steps practicable—

"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

"(B) to notify each such former spouse of that individual's rights under this section.

"(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

"(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may an individual be covered under more than one enrollment under this section.

"(e) For purposes of this section, the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code.".

(b) Conforming Amendment.—The table of contents in section 2 of the Foreign Service Act of 1980 is amended by inserting after the item relating to section 829 the following new items:

"Sec. 830. Survivor benefits for certain former spouses.
"Sec. 831. Health benefits for certain former spouses.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1987, or 90 days after the date of enactment, whichever is later.

SEC. 118. BENEFITS FOR CERTAIN FORMER SPOUSES OF MEMBERS OF THE FOREIGN SERVICE.

(a) In General.—Subchapter I of Chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), as amended by section 117, is further amended by inserting after section 829 (22 U.S.C. 4069) the following:

"SEC. 832. RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

"(b) A former spouse shall not be entitled to benefits under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(c)(1) The entitlement of a former spouse to benefits under this section—

"(A) shall commence on the later of—

"(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or

"(ii) the first day of the month in which the divorce or annulment involved becomes final; and

"(B) shall terminate on the earlier of—

"(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

"(ii) the date the benefits of the participant terminates.

"(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

"(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

"(3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.

"(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

"(d) For the purposes of this section, the term 'benefits' means—

"(1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and

"(2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.

"(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

"(f) In any fiscal year, if the amount to be paid to all former spouses, as computed under this section, exceeds the appropriated funds available for such payment, then the amount to be paid to each person pursuant

to this section shall be reduced on a pro rata basis to such extent that the total payments do not exceed the appropriated funds available for payment to all spouses.".

(b) Conforming Amendment.—The table of contents in section 2 of the Foreign Service Act of 1980, as amended by section 117, is further amended by inserting after the item relating to section 831 the following new item:

"Sec. 832. Retirement benefits for certain former spouses.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1987, or 90 days after the date of enactment of this Act, whichever is later.

SEC. 119. ELIMINATION OF UNNECESSARY REPORTING REQUIREMENTS.

(a) Report on Personnel Actions in the Foreign Service.—Section 105(d)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3905(d)(2)) is amended to read as follows:

"(2) The Secretary shall transmit to each House of Congress the Department's reports on its equal employment opportunity and affirmative action programs and its minority recruitment programs, which reports are required by law, regulation, or directive to be submitted to the Equal Employment Opportunity Commission (EEOC) or the Office of Personnel Management (OPM). Each such report shall be transmitted to the Congress at least once annually, and shall be received by the Congress not later than 30 days after its original submission to the Equal Employment Opportunity Commission or the Office of Personnel Management.".

(b) Report on Use of Foreign Service Personnel by Federal Agencies.—Section 601(c) of such Act (22 U.S.C. 4001(c)) is amended by adding at the end thereof the following new paragraph:

"(4) Not later than March 1 of each year, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall—

"(A) describe the steps taken and planned in furtherance of—

"(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

"(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204;

"(B) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including, with respect to each of the relevant promotion competition groups, the projected ranges of rates of appointment, promotion, and attrition over each of the next 5 fiscal years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

"(C) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member.".

(c) Repeals.—(1) Subsection (f) of section 703 of such Act (22 U.S.C. 4023) and section 2402 (22 U.S.C. 4173) of such Act are repealed.

(2) Section 152(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 428) is repealed.

SEC. 120. CLARIFICATION OF JURISDICTION OF FOREIGN SERVICE GRIEVANCE BOARD.

(a) Board Decisions.—Section 1107(d) of the Foreign Service Act of 1980 (22 U.S.C. 4137(d)) is amended—

(1) in the third sentence, by striking out "would be contrary to law or"; and

(2) by adding at the end thereof the following new sentence: "Any recommendation of the Board which is not rejected by the Secretary on the basis that it would adversely affect the foreign policy or national security of the United States shall be considered to be a final action for the purposes of judicial review under section 1110 of this Act as of the time of the issuance of the recommendation by the Board.".

(b) Separation for Cause.—The second sentence of section 610(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)(2)) is amended—

(1) by inserting "and authority" after "The hearing";

(2) by striking out "hearing procedures" and inserting in lieu thereof "provisions"; and

(3) by striking out "section 1106" and inserting in lieu thereof "chapter 11".

(c) Application.—The amendments made by this section shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 before the date of enactment of this Act.

SEC. 121. PROTECTION OF CIVIL SERVICE EMPLOYEES.

(a) Findings.—The Congress finds that—

(1) the effectiveness and efficiency of the Department of State is dependent not only on the contribution of Foreign Service employees but equally on the contribution of the 42 percent of the Department's employees who are employed under the Civil Service personnel system;

(2) the contribution of these Civil Service employees has been overlooked in the management of the Department and that greater equality of promotion, training, and career enhancement opportunities should be accorded to the Civil Service employees of the Department; and

(3) a goal of the Foreign Service Act of 1980 was to strengthen the contribution made by Civil Service employees of the Department of State by creating a cadre of experienced specialists and managers in the Department to provide essential continuity.

(b) Equitable Reduction of Budget.—The Secretary of State shall take all appropriate steps to assure that the burden of cuts in the budget for the Department is not imposed disproportionately or inequitably upon its Civil Service employees.

(c) Establishment of the Office of the Ombudsman for Civil Service Employees.—There is established in the Office of the Secretary of State the position of Ombudsman for Civil Service Employees. The Ombudsman for Civil Service Employees shall report directly to the Secretary of State and shall have the right to participate in all Management Council meetings to assure that the ability of the Civil Service employees to contribute to the achievement of the Department's mandated responsibilities and the career interests of those employees are adequately represented.

(d) Definition.—For purposes of this section, the term "Civil Service employees" means employees of the Federal Government who are paid under chapter 53 or 54 of title 5, United States Code.

SEC. 122. COMPENSATION OF FASCELL FELLOWS.

Section 1005(b) of the Diplomatic Security Act (22 U.S.C. 4904(b)) is amended to read as follows:

"(b) Authorities.—Fellows may be deemed to be Federal employees for the purposes of the Foreign Service Act of 1980 (22 U.S.C. 301 et seq.), title 5 of the United States Code, and all other laws governing Federal employment, except that, in lieu of compensation under such authorities, Fellows may be compensated through a contractual agreement under the provisions of section 2(c) of the State Department Basic Authorities Act of 1956.".

SEC. 123. COMPETENCE AND PROFESSIONALISM IN THE CONDUCT OF FOREIGN POLICY.

(a) Policy on Training.—It is the sense of the Congress that the United States should have as a fundamental national goal the strengthening of competence and professionalism in the conduct of United States foreign policy. To accomplish this goal, the Congress finds that the national interest requires that the Department of State and other foreign affairs agencies make a maximum investment in programs to train its foreign policy professionals. The Congress further finds that the new national training center in foreign affairs, authorized by chapter 7 of the Foreign Service Act of 1980 and section 842(b) of the Military Construction Act, 1986, is cost effective and will provide the United States with significant new capabilities to meet this national goal.

(b) Policy on Designs for New Center.—It is further the sense of the Congress that the Secretary of State should, subject to the availability of funds and any reprogramming requirements, proceed with base architectural and engineering design programs for this national training center.

SEC. 124. FOREIGN SERVICE CAREER CANDIDATES TAX TREATMENT.

Section 301 of the Foreign Service Act of 1980 (Public Law 96-465 is hereby amended by adding the following after the words "career appointment." in section 301(d)(3): "Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to the Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.".

Part C—Buildings and Facilities

SEC. 131. PRESERVATION OF MUSEUM CHARACTER OF PORTIONS OF DEPARTMENT OF STATE BUILDING.

(a) Authority.—The Secretary of State shall administer and regulate the museum areas of the Department of State (hereafter in this section referred to as "the museum areas") by such means and measures as conform to the fundamental purpose of the museum areas, which purpose is to conserve the architecture, furnishings, and historic objects therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the use and enjoyment of future generations. In carrying out this section primary attention shall be given to the preservation and interpretation of their present museum character, but nothing done under this section shall conflict with the administration of the Department of State or with the use of the museum areas for official purposes of the Department of State.

(b) Articles Subject to Disposition.—Articles of furniture, fixtures, and decorative objectives of the museum areas, together with such similar articles, fixtures, and objects as may be acquired by the Secretary of State, when declared by the Secretary of State to be of historic or artistic interest, shall thereafter be considered to be the property of the Secretary of State in his official capacity and shall be subject to disposition solely in accordance with this section.

(c) Disposition of Articles.—Whenever the Secretary of State determines that any of the articles described in subsection (b) are no longer needed for use or display in the museum areas or that, in order to upgrade the museum areas, a better use of such article would be its sale or exchange, the Secretary is authorized, with the advice and concurrence of the Director of the National Gallery of Art, to sell the articles at fair market value or to trade them, without regard to the requirements of the Federal Property and Administrative Services Act of 1949. The proceeds of any such sale may be credited to the unconditional gift account of the Department of State, and items obtained in trade shall be the property of the Secretary of State under this section. The Secretary of State may also lend such articles, when not needed for use or display in the museum areas, to the Smithsonian Institution, or similar institutions, for care, repair, study, storage, or exhibition.

(d) Definition.—For purposes of this section, the term "museum areas of the Department of State" means the areas of the Department of State Building, located at 2201 C Street, Northwest, Washington, District of Columbia, known as the Diplomatic Reception Rooms (eighth floor), the Secretary of State's offices (seventh floor), the Deputy Secretary of State's offices (seventh floor), and the seventh floor reception area.

SEC. 132. AUTHORITY TO INSURE THE FURNISHINGS OF STATE DEPARTMENT DIPLOMATIC RECEPTION ROOMS.

Section 3 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2670) is amended—

(1) by striking out "and" at the end of subsection (i);

(2) by striking out the period at the end of subsection (j) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(k) obtain insurance on the furnishings, including works of art and antiques, which may from time-to-time be within the responsibility of the Fine Arts Committee of the Department of State for the Diplomatic Rooms of the Department.".

SEC. 133. FINANCIAL RECIPROCITY WITH FOREIGN COUNTRIES.

(a) Findings.—The Congress finds that—

(1) the cost of operating United States missions in the Soviet Union has been raised to excessive levels by the imposition of artificially high exchange rates which are virtually confiscatory and bear no reasonable relationship to the value of the Russian ruble on any free world market;

(2) the United States missions in the Soviet Union must pay either in artificially high rubles or in American currency calculated on the same artificial basis and, moreover, charges for services to the United States and other Western nations are higher than those charged to other nations; and

(3) in view of the current difficulties for the United States in operating its missions in other Eastern European countries as well as in the Soviet Union, it is time that these imbalances are corrected and reciprocity ensured.

(b) Reporting Requirement.—(1)(A) Beginning 12 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall determine and so report in writing to the Congress the extent to which the cost of operating a United States diplomatic, consular, or other official mission in the Soviet Union or in any country member of the Warsaw Pact, including the cost of acquiring currency necessary therefor, does not bear a reasonable relationship to—

(i) the cost of establishing and operating institutional activities by other entities in that country; or

(ii) the value of such currencies determined at a free market rate in accordance with standards established in coordination with the Secretary of the Treasury.

(B) The annual report required under subparagraph (A) shall be submitted by the Director of the Office of Foreign Missions as part of the annual report of the Department of State to the Congress.

(2) In the case of any country in which costs are determined not to bear a reasonable relationship to the cost or value established pursuant to paragraph (1), the Secretary of State shall adjust the cost to such country, including the Soviet Union, of any benefits (as defined in section 202 of the Foreign Missions Act) received in the United States.

(3) Not later than 60 days after the date of enactment of this Act, the Secretary of State, in coordination with the Secretary of the Treasury, shall report to the appropriate authorizing and appropriating committees of the Congress on plans to implement this section. Such plans shall include—

(A) the regulation of foreign missions' access to, and use of, financial services in the United States;

(B) the regulation of costs of acquisition and disposition of real property or other assets in the United States, including the regulation of amounts to be retained by such a mission as a precondition of authorizing a disposition of any property interest; and

(C) the use of surcharges authorized under the Foreign Missions Act.

(c) Definition of "Benefit".—Paragraph (1) of section 202(a) of the Foreign Missions Act (22 U.S.C. 4302(a)(1)) is amended—

(1) by striking out "and" at the end of clause (E);

(2) in clause (F), by inserting "and" after "services,"; and

(3) by inserting after clause (F) the following new clause:

"(G) financial and currency exchange services,".

SEC. 134. THE NEW SOVIET EMBASSY.

Notwithstanding any other provision of law, the Soviet Union shall not be permitted to occupy (including making use of any communication equipment or electronic surveillance equipment) the new chancery building at its new embassy complex on Mount Alto in Washington, D.C., or any other new facility in the Washington, D.C., metropolitan area until the Secretary of State and the Director of Central Intelligence certify to the Speaker of the House of Representatives and the chairmen of the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate that there is a new United States chancery building in Moscow which is secure and suitable for United States embassy operations, including operations involving classified information.

SEC. 135. EMBASSY SECURITY.

(a) The United States Chancery in Moscow.—Not later than August 31, 1987, the Secretary of State shall prepare and transmit to the chairman of the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Speaker of the House of Representatives a detailed and specific report which shall include—

(1) a complete list of options for disposition of the partially constructed United States chancery building in Moscow that will result in a secure facility, together with the amount of the anticipated cost of implementing each option and a comprehensive plan for the implementation of each option;

(2) a description of the recommended option of the Secretary of State for the disposition of the partially constructed chancery building in Moscow along with a detailed explanation of the reasons for selecting the recommended option and an action plan for promptly carrying out such recommendation; and

(3) a discussion of the feasibility of providing security for the new residential units in the United States Embassy compound in Moscow, along with the cost of any such program.

(b) Task Force on the Management of Security and Foreign Buildings by the Department of State.—(1) The Congress finds that—

(A) serious deficiencies exist in the management and construction by the Department of State of buildings overseas;

(B) the security function has been plagued by an inability to anticipate threats or to respond to threats; and

(C) the operations of the Foreign Buildings Office have been characterized by cost overruns, delays, inadequacies of design, deficient construction supervision, and other management flaws.

(2) There is established a Task Force on Management of Security and Foreign Buildings by the Department of State. The Secretary of State shall serve as Chairman of the Task Force and the Director of Central Intelligence shall serve as Vice-Chairman. Such representatives of other appropriate government agencies as the President may designate shall serve on the Task Force.

(3) Not later than August 31, 1987, the Chairman of the Task Force shall transmit to the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report to be prepared by the Task Force setting forth a program to improve the management of the security function and the Foreign Buildings Office so as to correct management deficiencies, to insure better protection of American personnel overseas, to safeguard adequately sensitive national security information, and to achieve efficient construction of embassies. Such report shall include a detailed analysis of the organization of the security and embassy construction functions within the Department of State, together with any recommendations for the reorganization and consolidation of these functions.

(c) Report on the Soviet Diplomatic Enclave at Mount Alto.—Not later than August 31, 1987, the Secretary of State, in consultation with the Director of Central Intelligence, shall prepare and transmit to the chairman of the Committee on Foreign Relations and the chairman of the Select Committee on Intelligence of the Senate and to the Speaker of the House of Representatives, in a suitably classified form, a report on the status of the Soviet diplomatic enclave on

Mount Alto in Washington, D.C. Such report shall include—

(1) an assessment of whether United States security interests would be better served by vitiating the agreements under which the Soviet Union will occupy the Mount Alto site, together with an assessment of the costs and consequences of vitiating the agreements;

(2) an assessment of the benefit to Soviet intelligence collection of the location of the Soviet chancery on Mount Alto and of the concomitant threat to sensitive United States Government communications;

(3) an enumeration of measures that could be taken to thwart Soviet intelligence collection activities from Mount Alto, together with the cost of each such measure; and

(4) a description of the personnel resources, office space, and housing facilities available to the United States in the Soviet Union and to the Soviet Union in the United States, together with an assessment as to whether parity exists and, if the United States does not have parity with the Soviet Union, the measures required to be taken to achieve parity.

(d) Accountability Review Board.—(1)(A) Not later than 30 days after the date of enactment of this Act, the Secretary of State shall establish an Accountability Review Board as described in title III of the Diplomatic Security Act, as amended by this section. Such Accountability Review Board shall review all government actions, procedures, and policies relating to the United States Embassy in Moscow and the Soviet Embassy in Washington, as called for by such title.

(B) The second sentence of section 301 of the Diplomatic Security Act, as added by this subsection, shall not apply to the Accountability Review Board established under subparagraph (A).

(2) Section 301 of the Diplomatic Security Act (22 U.S.C. 4831) is amended—

(A) by inserting after "mission abroad" the following: "or in any case of serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad,"; and

(B) by inserting after the first sentence thereof the following new sentence: "With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing the Accountability Review Board if he determines that doing so would compromise intelligence sources and methods and promptly so advises the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.".

(3) Section 304(a) of the Diplomatic Security Act (22 U.S.C. 4834) is amended in the text above paragraph (1) by inserting after "mission abroad" the following: ", or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be),".

(e) Certification by the Secretary of State.—No funds may be obligated or expended for the construction or major renovation of any diplomatic facility that is intended to be secure for the purpose of transmitting, storing, or receiving classified information unless the Secretary of State, with the concurrence of the Director of Central Intelligence, certifies in writing to the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives that the proposed construction project includes adequate safeguards for classified information and for the conducting of sensitive government activity.

(f) Policy on Periodic Inspections.—It is the sense of the Congress that the security of all diplomatic facilities and personnel would be significantly enhanced by periodic unannounced security inspections conducted by an appropriate agency of the United States Government.

(g) Certification of the Security of Recent Embassy Construction.—(1) Not later than December 31, 1987, the Secretary of State and the Director of Central Intelligence shall certify in writing to the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives that all United States foreign missions in the Soviet Union and all Eastern European countries provide—

(A) adequate protection for classified information and national security-related activities; and

(B) adequate protection for the personnel working in the diplomatic facility.

(2) For any mission for which the certification required by paragraph (1) cannot be made, the Secretary of State and the Director of Central Intelligence shall provide a description of the deficiencies which make such certification impossible.

(3) Not later than December 31, 1988, the Secretary of State shall certify to the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives the information described in clauses (A) and (B) of paragraph (1) and, where applicable, the information described in paragraph (2), with respect to all United States foreign missions in countries designated by the Secretary of State and the Director of Central Intelligence as "high threat" posts, including terrorist and intelligence threats.

SEC. 136. PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this Act, or any amendment made by this Act, may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank.

SEC. 137. STUDIES AND PLANNING FOR A CONSOLIDATED TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.

Section 123(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is amended—

(1) by inserting "(A)" immediately after "(1)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer up to $11,000,000 for 'Administration of Foreign Affairs' to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural and engineering planning under subsection (b).".

Part D—International Organizations

SEC. 141. REFORM IN THE BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) Findings.—The Congress finds that the consensus based decision-making procedure established by General Assembly Resolution 41/213 is a significant step toward complying with the intent of section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note; 99 Stat. 405), as in effect before the date of enactment of this Act.

(b) Reform.—Section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note; 99 Stat. 405), is amended to read as follows:

"SEC. 143. REFORM IN BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

"(a) Financial Responsibility in Budget Procedures.—To achieve greater financial responsibility in preparation of the assessed budgets of the United Nations and its specialized agencies, the President should continue vigorous efforts to secure implementation by the United Nations, and adoption and implementation by its specialized agencies, of decision-making procedures on budgetary matters which assures that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to such assessed budgets.

"(b) Limitation on Assessed Contributions.—(1) With respect to United States assessed contributions to the United Nations for each calendar year beginning with calendar year 1987—

"(A) 40 percent of the funds available for payment of such contributions may be used for such contributions beginning on October 1 of such calendar year;

"(B) 40 percent of such funds may be used for such contributions beginning on December 15 of the same calendar year if the President has determined and so reported to the Congress that the consensus based decision-making procedure established by General Assembly Resolution 41/213 is being implemented and its results respected by the General Assembly; and

"(C) 20 percent of such funds may be used for such contributions beginning on a date which is 30 legislative days after receipt by the Congress of the report described in clause (B) unless the Congress within such 30-day period enacts, in accordance with subsection (c), a joint resolution prohibiting the payment of the remaining 20 percent of such funds.

"(2) For each calendar year beginning with calendar year 1987, no payment may be made of an assessed contribution by the United States to any of the specialized agencies of the United Nations if such payment would cause the United States share of the total assessed budget for such agency to exceed 20 percent in any calendar year unless the President determines and so reports to the Congress that such agency has made substantial progress toward the adoption and implementation of decision-making procedures on budgetary matters in a manner that substantially achieves the greater financial responsibility referred to in subsection (a).

"(3) Subject to the availability of appropriations, when the presidential determinations referred to in paragraphs (1)(B) and (2) have been made, payment of assessed contributions for prior years may be made to the United Nations or its specialized agencies (as the case may be) without regard to the contribution limitation contained in this section prior to its being amended by the Foreign Relations Authorization Act, Fiscal Year 1988.

"(c) Definition and Procedures.—(1)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution described in subsection (a)(1)(C).

"(B) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced within 3 legislative days after the date on which the report of the President described in subsection (a)(1)(B) is received by Congress, the matter after the resolving clause of which is as follows: 'That the payment to the United Nations of those contributions described in section 143(b)(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is prohibited'.

"(C) For purposes of this subsection, the term 'legislative day' means a day on which the respective House of Congress is in session.

"(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th legislative day after its introduction.

"(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 legislative days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

"(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

"(B) Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

"(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

"(5) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

"(A) The joint resolution of the other House shall not be referred to a committee.

"(B) With respect to a joint resolution of the House receiving the joint resolution—

"(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the joint resolution of the other House.

"(6) This subsection is enacted by the Congress—

"(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(e) TERMINATION DATE.—This section shall terminate on September 30, 1989.".

SEC. 142. IMMUNITIES FOR THE INTERNATIONAL COMMITTEE ON THE RED CROSS.

The International Organizations Immunities Act is amended by inserting after section 12 (22 U.S.C. 228f-2) the following new section:

"INTERNATIONAL COMMITTEE OF THE RED CROSS; EXTENSION OF PRIVILEGES AND IMMUNITIES TO MEMBERS

"SEC. 12A. The International Committee of the Red Cross, in view of its unique status as an impartial humanitarian body named in the Geneva Conventions of 1949 and assisting in their implementation, shall be considered to be an international organization for the purposes of this Act and may be extended the provisions of this Act in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.".

SEC. 143. ISRAEL'S PARTICIPATION IN THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

Section 115 of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended by adding at the end thereof the following new subsection:

"(c) If Israel is denied its legal right to participate in the Economic and Social Council of the United Nations, or a subsidiary organ thereof, then the United States shall suspend participation in the Economic and Social Council until Israel is permitted to participate fully.".

SEC. 144. APPOINTMENT OF SECRETARIES TO THE NORTH ATLANTIC ASSEMBLY DELEGATIONS.

Section 1 of Public Law 84-689 is amended by adding at the end thereof the following new sentences: "Each delegation shall have a secretary. The secretaries of the Senate and House delegations shall be appointed, respectively, by the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives.".

SEC. 145. PROTECTION OF TYRE BY THE UNITED NATIONS INTERIM FORCE IN LEBANON.

(a) FINDINGS.—The Congress finds that—

(1) the archaeological site of the ancient city of Tyre is an important part of the heritage of the people of Lebanon and of people everywhere;

(2) war and civil strife threaten the survival of the archaeological site at Tyre;

(3) the purchase of artifacts from Tyre, including purchases allegedly made by troops of the United Nations Interim Force in Lebanon (UNIFIL), is encouraging illegal excavation and looting of the Tyre site; and

(4) the United Nations Interim Force in Lebanon (UNIFIL) could best protect the archaeological site of Tyre so as to preserve this treasure for future generations.

(b) EXTENSION OF MANDATE OF UNIFIL.—The Secretary of State is directed to request the Secretary General of the United Nations and the Security Council to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL) to include protection of the archaeological site of the ancient city of Tyre. The Secretary of State is further directed to seek an order prohibiting the purchase of any artifact from Tyre by any person associated with the United Nations.

(c) REPORTING REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, for as long as the United Nations Interim Force in Lebanon remains in Lebanon, the Secretary of State shall report in writing to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing this section.

SEC. 146. PRIVILEGES AND IMMUNITIES TO OFFICES OF THE COMMISSION OF THE EUROPEAN COMMUNITIES.

The Act entitled "An Act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and the members thereof", approved October 18, 1972 (86 Stat. 815), is amended by adding at the end the following: "Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

"(1) the privileges and immunities described in the preceding sentence; or

"(2) as appropriate for the functioning of a particular office, privileges and immunities equivalent to those accorded consular premises, consular offices, and consular employees, pursuant to the Vienna Convention on Consular Relations.".

TITLE II—THE UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Information Agency $377,000,000 for fiscal year 1988 for "Salaries and Expenses" to carry out international information, educational, cultural, and other exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorga-

nization Plan Number 2 of 1977, and other purposes authorized by law.

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated by this section, not more than $15,500,000 shall be available for the "Television and Film Service", including WORLDNET (the television service of the United States Information Agency), and not more than $2,000,000 shall be available only for exhibits.

SEC. 202. VOICE OF AMERICA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated $180,000,000 for fiscal year 1988 to the Voice of America for the purpose of carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act.

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated by this section, $10,000,000 shall be available only for the "Voice of America: Cuba Service".

(c) CONTINUATION OF SLOVENIAN BROADCASTS.—The Voice of America shall use such funds as may be necessary in order to provide, on a daily basis, broadcasts in the Slovenian language.

SEC. 203. BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated by section 201, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs $185,000,000 for fiscal year 1988 to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961. Of the funds authorized to be appropriated by this section, not less than—

(1) $93,000,000 shall be available only for grants for the Fulbright Academic Exchange Programs;

(2) $39,000,000 shall be available only for grants for the International Visitors Program;

(3) $5,250,000 shall be available only for grants for the Hubert H. Humphrey Fellowship Program;

(4) $2,000,000 shall be available only for the Congress-Bundestag Exchange;

(5) $500,000 shall be available only to the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington;

(6) $5,000,000 shall be available only for the Arts America Program; and

(7) $300,000 for books and materials to complete the collections at the Edward Zorinsky Memorial Library in Jakarta, Indonesia.

(b) ALLOCATION OF FUNDS FOR EXCHANGES BETWEEN THE UNITED STATES AND THE SOVIET UNION.—(1) Of the funds authorized to be appropriated by subsection (a), not less than $2,000,000 shall be available only for grants for exchange of persons programs between the United States and the Soviet Union.

(2) Funds allocated by paragraph (1) or (2) of subsection (a) may be counted toward the allocation required by this subsection to the extent that such funds are used, in accordance with their respective programs, for grants for exchange of persons programs between the United States and the Soviet Union.

SEC. 204. NATIONAL ENDOWMENT FOR DEMOCRACY.

In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency $17,750,000, for fiscal year 1988 to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than $250,000 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States Government may participate directly or indirectly in controlling, directing, or providing these funds to the free press and democratic civic opposition inside Nicaragua.

SEC. 205. EAST-WEST CENTER.

There are authorized to be appropriated $20,000,000 for fiscal year 1988 to carry out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960.

SEC. 206. POSTS AND PERSONNEL OVERSEAS.

(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act may be used to pay any expense associated with the closing of any post abroad. No funds authorized to be appropriated by this Act shall be used to pay for any expense associated with the Bureau of Management or with the "Television and Film Service" if a United States Information Agency post abroad is closed after April 1, 1987, and not re-opened within 90 days of the date of enactment of this Act.

(b) LIMITATION ON REDUCTION OF POSITIONS.—Reductions shall not be made in the number of positions filled by American employees of the United States Information Agency stationed abroad until the number of such employees is the same percentage of the total number of American employees of the Agency as the number of American employees of the Agency stationed abroad in 1981 was to the total number of American employees of the Agency at the same time in 1981.

(c) WAIVER.—Subsections (a) and (b) shall not apply to any post closed—

(1) because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located,

(2) where there is a real and present threat to American diplomats in the city where the post is located and where a travel advisory warning against American travel to the city has been issued by the Department of State, or

(3) when the post is closed so as to provide funds to open a new post, staffed by at least one full-time foreign service officer, and where the Director of the United States Information Agency reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that—

(A) the new post is a higher priority than the post proposed to be closed; and

(B) the total number of United States Information Agency posts abroad staffed by full-time Foreign Service employees of the Agency is not less than the number of such posts in existence on April 1, 1987.

SEC. 207. THE ARTS AMERICA PROGRAM.

Section 112(a) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(a)) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period following paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists in other countries.".

SEC. 208. CONGRESSIONAL GRANT NOTIFICATION.

(a) IN GENERAL.—Section 705(b) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477c(b)) is amended by striking out "1986 and 1987" and inserting in lieu thereof "1988 and 1989".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1987.

SEC. 209. FORTY-YEAR LEASING AUTHORITY.

Section 801(3) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471(3)) is amended by striking out "twenty-five" and inserting in lieu thereof "forty".

SEC. 210. RECEIPTS FROM ENGLISH-TEACHING, LIBRARY, MOTION PICTURE, AND TELEVISION PROGRAMS.

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows:

"SEC. 810. Notwithstanding the provisions of section 3302(b) of title 31, United States Code, or any other law or limitation of authority, all payments received by or for the use of the United States Information Agency from or in connection with English-teaching, library, motion picture, and television programs conducted by or on behalf of the Agency under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 may be credited to the Agency's applicable appropriation to such extent as may be provided in advance in an appropriation Act.".

SEC. 211. PROFESSORSHIP ON CONSTITUTIONAL DEMOCRACY.

(a) FEDERAL SUPPORT FOR PROFESSORSHIP.—The President, in support of the statutory program of American studies abroad, is directed to foster studies in constitutional democracy at the Santo Tomas University in the Republic of the Philippines by supporting at such university under section 102(b)(4) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(4)) a professorship on the subject of constitutional democracy, if such professorship is established by such university.

(b) FINANCIAL SUPPORT FOR THE PROFESSORSHIP.—If the professorship referred to in subsection (a) is established by the Santo Tomas University in the Republic of the Philippines, veterans of the Pacific theater in World War II and veterans of the Korean conflict and Vietnam era are encouraged to contribute funds under section 105(f) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f)) to support such professorship.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 1987.

SEC. 212. UNITED STATES-INDIA FUND.

Section 903 of the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (22 U.S.C. 290j-1) is amended by adding at the end thereof the following new subsection:

"(c) In accordance with the agreement negotiated pursuant to section 902(a), the moneys appropriated as described in subsection (b), as well as the earnings generated therefrom, may be made available for the purposes set out in section 902(a).".

SEC. 213. UNITED STATES-PAKISTAN FUND.

(a) Establishment of Fund.—The Director of the United States Information Agency (hereafter in this section referred to as the "Director") is authorized to enter into an agreement with the Government of Pakistan for the establishment of the United States Pakistan Fund for Cultural, Educational, and Scientific Cooperation (hereafter in this section referred to as the "Fund") for which the United States will provide a one time only grant for English language training or other cultural, educational, and scientific programs of mutual interest.

(b) Use of Foreign Currencies.—Subject to applicable requirements concerning reimbursement to the Treasury for United States-owned foreign currencies, the Director may make available to the Fund, to the extent and in the amount provided in an appropriation Act, for use in carrying out the agreement authorized by subsection (a), up to the equivalent of $598,176 in foreign currencies owned by the United States in Pakistan or owed to the United States by the Government of Pakistan. Such use may include investments in order to generate income which will be retained in the Fund and used to support programs pursuant to the agreement.

(c) United States Role in Administration of the Fund.—The United States representatives on any board or other entity created in accordance with the agreement to administer the Fund shall be designated by the Director, predominantly from among representatives of the United States Government agencies, including those administering programs which may be supported in whole or in part by the Fund.

(d) Use of the Fund.—United States Government agencies carrying out programs of the types specified in subsection (a) may receive amounts directly from the Fund for use in carrying out those programs.

SEC. 214. UNITED STATES INFORMATION AGENCY PROGRAMMING ON AFGHANISTAN.

(a) Findings.—The Congress finds that—

(1) the United States Information Agency lists Afghanistan as one of the "most significant international political/security interests expected to be confronting the United States during the program year of 1988";

(2) it is the stated policy of the United States Government to "recognize the high importance both of keeping the Afghanistan story on the world's front page and of getting the message of our admiration and support across to the Afghan people"; and

(3) Public Law 99-399 expresses the sense of the Congress that "the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through . . . a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world".

(b) The Afghanistan Country Plan.—(1) The Director of the United States Information Agency shall implement a formal, comprehensive country plan on Afghanistan based on the guidelines set forth in the United States Information Agency country plan instructions for fiscal year 1988.

(2) Not later than 60 days after the date of enactment of this Act, the Director of the United States Information Agency shall provide Congress in writing with the proposed comprehensive Afghanistan country plan.

SEC. 215. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

(a) Repeal.—Sections 601, 602, 603, and 604 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1466-1469) are hereby repealed.

(b) Establishment of Advisory Commission.—Title VI of the United States Information and Educational Exchange Act of 1948 is amended by adding the following new section:

"SEC. 601. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

"(a) There is hereby created the United States Advisory Commission on Public Diplomacy (hereafter in this section referred to as the 'Commission'). The Commission shall formulate and recommend to the Director of the United States Information Agency, to the Committee on Foreign Relations of the Senate and to the Committee on Foreign Affairs of the House of Representatives policies and programs for the carrying out of this Act and the Mutual Educational and Cultural Exchange Act of 1961.

"(b)(1) The Commission shall consist of 9 members. Five members shall be appointed by the President and shall serve for the remainder of the President's term in office. The 4 remaining members shall be appointed as follows:

"(A) Two members shall be appointed by the chairman and Ranking Minority Member of the Committee on Foreign Relations of the Senate, whichever is not of the same political party as the President.

"(B) Two members shall be chosen by the Chairman and Ranking Minority Member of the Committee on Foreign Affairs of the House of Representatives. whichever is not of the same political party of the President.

"(2) The congressionally appointed members shall serve for the remaining duration of the Congress in which they are appointed. Members of the Commission shall serve until their successors are appointed. A vacancy shall be filled in the manner in which the previous incumbent was selected and shall serve only to the end of the term to which the previous incumbent had been appointed.

"(c) The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, professional, cultural, scientific, business, technical and public service backgrounds. No person holding any compensated State or Federal office shall be eligible for appointment to the Commission.

"(d) The President shall designate a Chairman from among the members of the Commission.

"(e) The members of the Commission shall receive no compensation for their services as members but shall be entitled to reimbursement for travel and subsistence in connection with attendance of meetings away from their places of residence, as provided in paragraph (6) of section 801 of this Act.

"(f) The Commission may adopt such rules and regulations as it deems necessary to carry out the authority conferred upon them by this title.

"(g) The Commission shall have a staff Director appointed by the chairman with the concurrence of at least 5 members of the Commission. The Director of the United States Information Agency is authorized and directed to provide such additional personnel for the staff of the Commission as is necessary to carry out the work of the Commission. The Chairman is authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates not to exceed the equivalent of the annual rate of basic pay for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.".

SEC. 216. THE EDWARD ZORINSKY MEMORIAL LIBRARY.

(a) Memorial for Edward Zorinsky.—The United States Information Service library in Jakarta, Indonesia is named "The Edward Zorinsky Memorial Library".

(b) Memorial Plaque.—The Director of the United States Information Agency shall cause a plaque to be made and prominently displayed at the library described in subsection (a). The plaque shall bear the following inscription:

"THE EDWARD ZORINSKY MEMORIAL LIBRARY

This library is dedicated to the memory of Edward Zorinsky, United States Senator from Nebraska. As a Senator, Edward Zorinsky worked tirelessly to promote the free exchange of ideas and people between the United States and other countries. This library, which is a forum for the exchange of ideas and knowledge between the people of the United States and the people of Indonesia, was reopened after a hiatus of more than twenty years as a result of legislation authored by Senator Zorinsky.".

SEC. 217. CONTRACTOR REQUIREMENTS.

(a) Findings.—The Congress finds that the overriding national security aspects of the $1,300,000,000 facilities modernization program of the Voice of America require the assurance of uninterrupted logistic support under all circumstances for the program. Therefore, it is in the best interests of the United States to provide a preference for United States contractors bidding on the projects of this program.

(b) Preference for United States Contractors.—Notwithstanding any other provision of law, in any case where there are two or more qualified bidders on projects of the facilities modernization program of the Voice of America, including design and construction projects and projects with respect to transmitters, antennas, spare parts, and other technical equipment, all the responsive bids of United States persons or qualified United States joint venture persons shall be considered to be reduced by 10 percent.

(c) Exception.—

(1) Subsection (b) shall not apply with respect to any project of the facilities modernization program of the Voice of America when—

(A) precluded by the terms of an international agreement with the host foreign country,

(B) a foreign bidder can establish that he is a national of a country whose government permits United States contractors and suppliers the opportunity to bid on a competitive and nondiscriminatory basis with its national contractors and suppliers, on procurement and projects related to the construction, modernization, upgrading, or expansion of—

(i) its national public radio and television sector, or

(ii) its private radio and television sector, to the extent that such procurement or project is, in whole or in part, funded or otherwise under the control of a government agency or authority, or

(C) A foreign bidder can establish that the United States goods and services content of his proposal and the resulting contract will not be less than 60 percent of the value of his proposal and the resulting total contract: Provided, That the United States Trade Representative certifies to the United States Information Agency that the foreign bidder is

not receiving either direct or indirect subsidies from any government.

(D) the statutes of a foreign country prohibit the use of United States contractors on such projects within that country.

(2) An exception under paragraph (1)(C) shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions the Secretary has taken to urge the foreign country to permit the use of United States contractors on such projects.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "United States person" means a person that—

(A) is incorporated or otherwise legally organized under the laws of the United States, including any State (and any political subdivision thereof) and the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or otherwise legally organized in the United States for more than 5 years before the issuance date of the Invitation For Bids or the Request For Proposals with respect to a modernization project under subsection (b);

(D) proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project comparable in nature and technical complexity to that being contracted for;

(E)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States;

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the modernization project site; and

(F) has the existing technical and financial resources in the United States to perform the contract; and

(2) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons own at least 51 percent of the assets of the joint venture.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to any project with respect to which the Request For Proposals (commonly referred to as "RFP") or the Invitation For Bids (commonly referred to as "IFB") was issued after December 28, 1986.

SEC. 218. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.

(a)(1) The purpose of this section is to promote friendship and understanding between the United States and the Soviet Union through the establishment of a program for the exchange of youths of the two countries and to recognize the contribution made by Samantha Smith in furthering this goal.

(2) To carry out the purposes of this section, the Bureau of Educational and Cultural Affairs (hereafter in this section referred to as the "Bureau") is authorized to provide by grant, contract, or otherwise for educational exchanges, visits, or interchanges between the United States and the Soviet Union of American and Soviet youths under the age of 21.

(3) The President is authorized to enter into an agreement with the Government of the Soviet Union to carry out paragraph (2).

(b)(1)(A) The Bureau is authorized to award scholarships to exceptional students—

(i) who have not obtained 25 years of age;

(ii) who are enrolled in institutions of higher education;

(iii) who are studying in the Soviet Union in programs approved by such institutions; and

(iv) who meet the conditions of paragraph (2).

(B) In awarding scholarships under this paragraph, the Bureau shall consider the financial need of the applicants.

(C) Each scholarship awarded under clause (A) may not exceed $5,000 in any academic year of study.

(2) The Bureau shall prescribe such regulations as may be necessary to establish procedures for the submission and review of applications for scholarships awarded under this section.

(3)(A) A student awarded a scholarship under this subsection shall continue to receive such scholarship only during such periods as the Bureau finds that he or she is maintaining satisfactory proficiency in his or her studies.

(B) Not later than 30 days after the close of an academic year for which funds are made available under this section, each institution of higher education, one or more students of which have been awarded a scholarship under this section, shall prepare and transmit to the Bureau a report describing the level of proficiency achieved by such students in their studies.

(4) For purposes of this subsection, the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965.

(c) In addition to funds authorized to be appropriated for the Bureau for the fiscal year 1988, $2,000,000 shall be available in fiscal year 1988 only to carry out the purposes of this section.

(d) Activities carried out under this section may be referred to as the "Samantha Smith Memorial Exchange Program".

SEC. 219. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) TERMS OF SERVICE.—Section 306(b)(3)(A) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(3)(A) Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three year terms, four members to serve two year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.".

(b) VACANCIES; CHAIRMANSHIP.—Section 306(b)

(3)(B) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(B)(i) A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

"(ii) The President shall designate a Chairman of the Committee from the members of the Committee.".

SEC. 220. AUDIENCE SURVEY OF USIA WORLDNET PROGRAM.

(a) Of the funds authorized to be appropriated for USIA's Worldnet Program by section 201(b), not less than $500,000 shall be available only for the purpose of conducting a survey of the number of viewers in Europe who watch the daily passive (noninteractive) shows of USIA's Worldnet Program.

(b) Such survey shall be conducted by a company, such as the A.C. Nielson Company, which has a long established reputation for objective estimates of audience size and which has not less than 15 years of substantial experience in estimating audience size.

(c) Not later than 9 months after the date of enactment, the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the House Committee on Foreign Affairs containing:

(1) the best estimate by the company performing the audience survey of the number of persons in Europe who watch, on a daily basis, the passive (non-interactive) shows of USIA's Worldnet Program. Such estimate shall include an estimate of the number of persons who watch a part of the daily passive (noninteractive) shows of USIA's Worldnet Program and the number of persons who watch such programs in their entirety;

(2) a description of the demographic composition and nationality of the persons watching such programs;

(3) the entire report prepared by the company conducting the survey.

(d) At least 30 days prior to the approval by the Director of the United States Information Agency of a contract with a company conducting the survey required by this section, the Director shall provide the Chairman of the Senate Committee on Foreign Relations and the Chairman of the House Foreign Affairs Committee of the name of the company selected to conduct the survey together with a copy of the proposed contract.

TITLE III—THE BOARD FOR INTERNATIONAL BROADCASTING

SEC. 301. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877) is amended to read as follows:

"(A) $174,000,000 for fiscal year 1988; and".

(2) The amendment made by paragraph (1) shall take effect October 1, 1987.

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated by section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973, $12,000,000 shall be available only for radio transmitter construction and modernization.

SEC. 302. CURRENCY GAINS.

Section 8(b) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877) is amended by inserting after "RFE/RL, Incorporated," the following: "shall be certified to the Congress by the Director of the Office of Management and Budget and placed in reserve in a separate account in the Treasury only for the purpose of offsetting future downward fluctuations in foreign currency exchange rates in order to maintain the level of operations authorized for each fiscal year. Any such amount".

SEC. 303. CERTIFICATION OF CERTAIN CREDITABLE SERVICE.

The third to the last sentence of section 8332(b) of title 5, United States Code, is amended by inserting ", and the Secretary of State with respect to the Asia Foundation and the Secretary of Defense with respect to the Armed Forces Network, Europe (AFN-E)," after "Board for International Broadcasting".

TITLE IV—THE GLOBAL CLIMATE PROTECTION ACT OF 1987

SEC. 401. SHORT TITLE.

This title may be cited as the "Global Climate Protection Act of 1987".

SEC. 402. FINDINGS.

The Congress finds that—

(1) there exists compelling evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, and other trace gases into the atmosphere—may, in combination with deforestation, be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect;

(2) by early in the next century, this increase in Earth temperature could—

(A) so alter global weather patterns as to have disastrous effect on existing agricultural production and on the habitability of large portions of the Earth; and

(B) cause thermal expansion of the oceans and partial melting of the polar ice caps, resulting in rising sea levels and widespread coastal flooding around the world;

(3) while the effects of the greenhouse effect may not be felt until the next century, ongoing pollution and deforestation may be contributing now to an irreversible process, making timely action imperative if the climate is to be preserved;

(4) the global nature of this problem will require vigorous efforts to achieve international cooperation aimed at minimizing and responding to climate change; and

(5) effective international cooperation will require United States leadership, which will depend upon early arrival at, and implementation of, a coordinated national strategy.

SEC. 403. TASK FORCE ON THE GLOBAL CLIMATE.

(a) Establishment.—The President shall establish a Task Force on the Global Climate (hereafter in this title referred to as the "Task Force").

(b) Purpose.—The Task Force shall be mandated to determine and supervise the research necessary for a coordinated national strategy on the global climate, to develop such a strategy, and to initiate implementation of such strategy domestically and in the international arena. The Task Force also shall encourage and support activities of the United Nations Environment Program, the World Meterological Organization, and other international or national organizations which the Task Force determines to be appropriate, to—

(1) foster cooperation among nations to develop more extensive and coordinated research efforts with respect to the greenhouse effect;

(2) identify existing and potential strategies, including technologies and activities, to stabilize global climate, and atmospheric concentrations of greenhouse gases, at current levels; and

(3) increase the worldwide dissemination of information with respect to—

(i) the causes of the greenhouse effect;

(ii) the environmental and health consequences of the greenhouse effect; and

(iii) methods to alleviate or avoid the greenhouse effect and the consequences of such effect.

(c) Composition.—The Task Force shall be composed of the following, from among whom the President shall designate a Chairman and a Vice-Chairman"—

(1) the Secretary of State;

(2) the Administrator of the Environmental Protection Agency;

(3) the Director of the National Science Foundation;

(4) the Director of the National Academy of Sciences;

(5) the Administrator of the National Aeronautics and Space Administration;

(6) the Administrator of the National Oceanic and Atmospheric Administration;

(7) the Administrator of the Agency for International Development;

(8) the Director of the United States Geological Survey;

(9) the Secretary of Energy; and

(10) the heads of other appropriate Government agencies, and other persons knowledgeable about the problems of global warming, as the Chairman and Vice Chairman may determine.

(d) Advisory Role.—The chairmen and ranking minority members of the Committee on Foreign Relations; the Committee on Commerce, Science, and Transportation; the Committee on Governmental Affairs; and the Committee on Environment and Public Works of the Senate and the Committee on Foreign Affairs; the Committee on Science and Transportation; and the Committee on Energy and Commerce of the House of Representatives shall serve as advisors to the Task Force, along with any other Members designated by the majority and minority leaders of the Senate and the Speaker of the House of Representatives.

(e) Task Force Report.—Not later than 12 months after the date of enactment of this Act, the Task Force shall develop and transmit to the President a United States strategy on the global climate, which shall include—

(1) a full analysis of the global warming phenomenon, including its environmental and health consequences;

(2) a comprehensive strategy, including the policy changes, further research, and cooperative actions with other nations that would be required to stabilize domestic and international emissions of atmospheric pollutants at safe levels; and

(3) an analysis of the impact of deforestation worldwide on the global climate.

SEC. 404. REPORT TO CONGRESS.

Not later than 3 months after receipt of the United States strategy on the global climate, the President shall submit such strategy, together with recommendations for further legislative action, to the Speaker of the House of Representatives and the chairmen of the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Environment and Public Works of the Senate.

SEC. 405. AMBASSADOR AT LARGE.

To coordinate and lead the participation of United States Government agencies in various multilateral activities relating to global warming, including United States participation in planning for the International Geosphere-Biosphere Program scheduled for the early 1990's, the President shall appoint an Ambassador at Large, who shall also represent the Secretary of State in the operations of the Task Force.

SEC. 406. INTERNATIONAL YEAR OF GLOBAL CLIMATE PROTECTION.

In order to focus international attention and concern on the problem of global warming, and to foster further work on multilateral treaties aimed at protecting the global climate, the Secretary of State shall undertake all necessary steps to promote, within the United Nations system, the early designation of an International Year of Global Climate Protection.

SEC. 407. CLIMATE PROTECTION AND UNITED STATES-SOVIET RELATIONS.

In recognition of the respective leadership roles of the United States and the Soviet Union in the international arena, and of their joint role as the world's two major producers of atmospheric pollutants, the Congress urges that the President accord the problem of climate protection a high priority on the agenda of United States-Soviet relations.

SEC. 408. TERMINATION OF PROVISIONS.

This title shall terminate 12 months after the date of the enactment of this Act.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. ENFORCEMENT OF CASE ACT REQUIREMENTS.

None of the funds authorized to be appropriated by this Act or by any other Act shall be available to implement any international agreement the text of which is required to be transmitted to the Congress under section 112b.(a) of title 1, United States Code (also known as the "Case Act") after the 60-day period referred to in such section, until the text of such agreement is so transmitted.

SEC. 502. FEDERAL JURISDICTION OF DIRECT ACTIONS AGAINST INSURERS OF DIPLOMATIC AGENTS.

(a) Period of Liability.—Section 1364 of title 28, United States Code, as added by section 7 of the Diplomatic Relations Act, is amended by inserting after "who is" the following: ", or was at the time of the tortious act or omission,".

(b) Application.—The amendment made by subsection (a) shall apply to the first tortious act or omission occurring after the date of enactment of this Act.

SEC. 503. PROHIBITION ON USE OF FUNDS FOR POLITICAL PURPOSES.

(a) No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress; or

(2) to influence in any way the outcome of a political election; or

(3) for any publicity or propaganda purposes not authorized by Congress.

(b) Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate subsection (a), shall be fined not more than $1,000 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment.

SEC. 504. PROHIBITION ON EXCLUSION OF ALIENS BECAUSE OF POLITICAL BELIEFS.

(a) Admission of Certain Aliens.—Notwithstanding any other provision of law, no alien may be denied a visa or excluded from admission into the United States or subject to restrictions or conditions on the use of a visa solely because of any past or current political beliefs or political associations or on the basis of the expected content of the alien's statements in the United States.

(b) Construction Regarding Excludable Aliens.—Nothing in this section shall be

construed to affect the existing authority of the Executive branch to deny admission to any alien—

(1) for reasons such as foreign policy and national security other than those specified in subsection (a);

(2) who engages in terrorist activity or is a member of a terrorist organization, as defined in the Foreign Intelligence Surveillance Act (50 U.S.C. 1801);

(3) for the purpose of seeking reciprocity for the entry of Americans into a foreign country; or

(4) who represents a purported labor organization in a country where such organizations are in fact instruments of a totalitarian state.

(c) CONSTRUCTION REGARDING STANDING TO SUE.—Nothing in this section shall be construed as affecting standing in any Federal court or in any administrative proceeding.

SEC. 505. AUTHORITY TO INVEST AND RECOVER EXPENSES FROM INTERNATIONAL CLAIMS SETTLEMENT FUNDS.

(a) INVESTMENT AUTHORITY.—Section 8 of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) is amended by adding at the end thereof the following new subsection:

"(g) The Secretary of the Treasury is authorized and directed to invest the amounts held respectively in the 'special funds' established by this section in public debt securities with maturities suitable for the needs of the separate accounts and bearing interest at rates determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest earned on the amounts in each special fund shall be used to make payments, in accordance with subsection (c), on awards payable from that special fund.".

(b) REIMBURSEMENT OF EXPENSES.—The Act of February 26, 1896 (29 Stat. 32; 22 U.S.C. 2668a) is amended under the heading entitled "TRUST FUNDS."—

(1) by inserting ", subject to the deduction made under the fourth paragraph under this heading, if any," after "and certify the same" in the second sentence; and

(2) by inserting at the end thereof the following new paragraph:

"The Secretary of State shall deduct from moneys received from foreign governments and other sources as a result of an international arbitration or other international dispute settlement proceeding to which the United States is a party an amount equal to 5 percent of any moneys determined by the Secretary to be due a private United States claimant, as reimbursement for expenses incurred. The amount so deducted shall be covered into the Treasury to the credit of miscellaneous receipts. This paragraph shall not apply to any expenses incurred or amounts received in connection with the Iran-United States Claims Tribunal, or to any funds created under section 8 of the International Claims Settlement Act of 1949.".

(c) AUTHORITY TO ACCEPT REIMBURSEMENTS.—The Department of State Appropriation Act of 1937 (49 Stat. 1321; 22 U.S.C. 2661) is amended under the heading entitled "INTERNATIONAL FISHERIES COMMISSION" by inserting after the fourth undesignated paragraph the following new paragraph:

"The Secretary of State is authorized to accept reimbursement from corporations, firms, and individuals for the expenses of travel, translation, printing, special experts, and other extraordinary expenses incurred in pursuing a claim on their behalf against a foreign government or other foreign entity. Such reimbursements shall be credited to the appropriation account against which the expense was initially charged.".

SEC. 506. PAYMENT OF THE CLAIM OF JOSEPH KAREL HASEK FROM THE CZECHOSLOVAKIAN CLAIMS FUND.

(a) FINDINGS.—The Congress finds that—

(1) Private Law 98-54 provided that Joseph Karel Hasek should receive equitable relief to allow him to be compensated for his losses arising as a result of the unusual and unique circumstances of his departure from Czechoslovakia under the auspices of the United States Government;

(2) Private Law 98-54 required the Foreign Claims Settlement Commission, in determining the validity and amount of the claim of Joseph Karel Hasek, to consider any new evidence and unique circumstances relating to that claim; and

(3) Private Law 98-54 has not been implemented as intended by the Congress.

(b) DIRECTION TO PAY CLAIM.—Notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay $250,000 (less than 5 percent of his losses), together with interest calculated under subsection (c), to Joseph Karel Hasek out of funds covered into the Czechoslovakian Claims Fund under section 4(b)(1) of the Czechoslovakian Claims Settlement Act of 1981 not later than—

(1) 30 days after the date of enactment of this Act, or

(2) the beginning of the final distribution of payments made under section 8 of the Czechoslovakian Claims Settlement Act of 1981,

whichever comes first.

(c) COMPUTATION OF INTEREST.—The interest required to be paid by subsection (b) shall represent the amount of interest accruing on $250,000 from August 1, 1955, to August 8, 1958, at a rate which shall be determined by the Secretary of the Treasury.

(d) LIMITATION ON CERTAIN FEES.—No amount in excess of 10 percent of any amount paid pursuant to this section may be paid to or received by any attorney or agent for services rendered in connection with such payment, and any such excessive payment shall be unlawful, any contract to the contrary notwithstanding. Any violation of this section is a misdemeanor, and any person convicted of such a violation shall be fined not more than $1,000.

SEC. 507. PROHIBITION ON INTERNATIONAL FIRST CLASS AIR TRAVEL BY CONGRESSIONAL STAFF.

None of the funds authorized to be appropriated by this Act or by any other provision of law shall be available to fund international first class air travel for Congressional staff members, except that—

(1) one staff member accompanying a Member of Congress may be authorized first class air travel; and

(2) if no other means of air travel is available, first class travel may be authorized for a staff member.

SEC. 508. PUBLIC ACCESS TO UNITED NATIONS WAR CRIMES COMMISSION FILES.

(a) FINDINGS.—The Congress finds that—

(1) with the passing of time, it is important to document fully Nazi war crimes and crimes against humanity, lest the enormity of those crimes be forgotten; and

(2) the files of the United Nations War Crimes Commission deposited in the archives of the United Nations contain information invaluable to our knowledge of the genocidal actions of the Nazis.

(b) POLICY.—It is the sense of the Congress that—

(1) United States policy should be to support access by interested individuals and organizations to the files of the United Nations War Crimes Commission deposited in the archives of the United Nations;

(2) the Permanent Representative of the United States to the United Nations should advise the Secretary General of the United Nations of such policy; and

(3) all appropriate steps should be taken to persuade the former member states of the United Nations War Crimes Commission to adopt such policy.

SEC. 509. POLICY ON AFGHANISTAN.

(a) FINDINGS ON SOVIET ACTIONS IN AFGHANISTAN.—The Congress finds that—

(1) the Soviet Union has been waging war against the people of Afghanistan since the invasion of December 25, 1979;

(2) the victims of the Soviet invasion and occupation include more than 1,000,000 dead and more than 3,000,000 Afghans forced to find refuge in neighboring countries;

(3) Soviet military tactics have included the bombing and napalming of villages without regard to the human toll, the destruction of crops, agricultural land, and orchards so as to create famine conditions, and the massacre of hostages and other innocent civilians;

(4) children have been particular victims of Soviet aggression, with some being targeted for death by the dropping of booby-trapped toys while other children have been transported to the Soviet Union for indoctrinating;

(5) the Soviet-installed puppet regime has engaged in a consistent pattern of gross violations of the human rights of its own citizens, including torture and summary execution, for which its Soviet sponsors must also be held accountable; and

(6) Soviet actions in Afghanistan, therefore, constitute a violation of international law and of accepted norms of human decency and, therefore, must be condemned by civilized people everywhere.

(b) FINDINGS ON THE AFGHAN RESISTANCE.—The Congress further finds that—

(1) the Afghan people have heroically resisted the Soviet invaders in spite of the tremendous cost of so doing and now control most of their homeland;

(2) the provision of effective assistance to the Afghan people is an obligation of those who cherish freedom;

(3) a total and prompt withdrawal of all Soviet forces from Afghanistan is essential in order for the Afghan people to exercise their inalienable human right to self-determination; and

(4) a negotiated settlement providing for the total and prompt withdrawal of Soviet forces offers the best prospect for an early end to the suffering of the Afghan people.

(c) DECLARATION OF POLICY.—The Congress, therefore, declares it to be the policy of the United States—

(1) to provide such assistance to the Afghan people as will most effectively help them resist the Soviet invaders;

(2) to support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a time frame based solely on logistical criteria; and

(3) to communicate clearly to the Government and people of the Soviet Union the necessity of a Soviet withdrawal from Afghanistan as a condition for better relations between the United States and the Soviet Union.

(d) PROVISION OF ASSISTANCE.—The President and Secretary of State are directed to adopt policies and programs to insure that all assistance intended for the Afghan people reaches its intended recipients and that theft or diversion of such assistance not be tolerated.

SEC. 510. POLICY TOWARD THE IRAN-IRAQ WAR.

(a) FINDINGS.—The Congress finds that—

(1) the continuation of the Iran-Iraq war threatens the security and stability of all states in the Persian Gulf;

(2) stability in the Persian Gulf and the flow of oil is critical to world trade and the economic health of the West;

(3) the conflict between Iran and Iraq threatens United States strategic and political interests in the region;

(4) the conflict threatens international commercial shipping interests and activities; and

(5) the Iran-Iraq war has continued seven years with more than 1,500,000 casualties.

(b) POLICY.—The Congress declares it to be the policy of the United States—

(1) to support the total, unconditional withdrawal of both Iran and Iraq to internationally recognized boundaries;

(2) to support an immediate cease-fire;

(3) to endorse the peaceful resolution of this conflict under the auspices of the United Nations or other international organization or party;

(4) to encourage all governments to refrain from providing military supplies to any party refusing to participate in negotiations leading to a peaceful resolution of the war;

(5) to recognize that stability and security in the Persian Gulf will only be achieved if Iran and Iraq are at peace and agree not to interfere in the affairs of other nations through military action or the support of terrorism; and

(6) to urge strict observance of international humanitarian law by both sides and to support financially the International Committee of the Red Cross' special appeal for prisoners of war.

SEC. 511. IRANIAN PERSECUTION OF THE BAHA'IS.

(a) POLICY TOWARD THE BAHA'I COMMUNITY.—It is the sense of the Congress that—

(1) the Government of Iran has systematically discriminated against the Baha'i community, including the arbitrary detention, torture, and killing of Baha'is, the seizure of Baha'i property, and the outlawing of the Baha'i faith; and

(2) Iran's gross violations of the human rights of the Baha'i community are in direct contravention of the Charter of the United Nations and the United Nations Declaration of Human Rights.

(b) IMPLEMENTATION OF POLICY.—It is the sense of Congress that the President shall take all necessary steps to focus international attention on the plight of the Baha'i Community and to bring pressure to bear on the Government of Iran to cease its insidious policy of persecution.

SEC. 512. REFUGEES FROM SOUTHEAST ASIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as "displaced persons" or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975-1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history; and

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos;

(5) the United States will try to facilitate on a high priority basis the resumption of the Orderly Departure Program from Vietnam and the processing Amerasians from Vietnam; and

(6) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

SEC. 513. POLICY TOWARD SOUTH KOREA.

(a) FINDINGS.—The Congress finds that—

(1) the American people have an enduring commitment to the freedom of the Korean people, demonstrated by the sacrifices of the United States during the Korean War, by the ongoing defense treaty relationship between the United States and the Republic of Korea, including the stationing of nearly 40,000 United States troops in the Republic of Korea, and the provision by the United States of more than $12,000,000,000 in economic and military aid since 1953;

(2) the Republic of Korea's increasing role in the international economy has not been matched by a commensurate increase in the enforcement of internationally-recognized standards in civil and political rights;

(3) genuine democracy, governmental respect for internationally-recognized human rights, and internal stability together with effective defense forces best guarantee the security of the Republic of Korea against the threat of aggression from North Korea;

(4) a peaceful, democratic transition of governmental power could become the political landmark that will secure the path toward genuine democracy for South Korea;

(5) the Government of the Republic of Korea recognized the popular will by formally announcing that there will be direct election of the President as part of the nation's constitutional reform;

(6) the peaceful transition of government power promised for 1988 will respond to the hopes of millions of South Koreans and help alleviate pressure for political turmoil in that nation; and

(7) large numbers of citizens of the Republic of Korea have expressed dissatisfaction with the severe limits imposed by the authorities on freedom of expression and access to the political process.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States recognizes and supports the desire of the Korean people to achieve a level of political development commensurate with their outstanding economic, social, and cultural achievements;

(2) the deep interest of the United States in defending the Republic of Korea's sovereignty, as well as in securing democracy and human rights, would be best served by the peaceful establishment of genuine democratic institutions;

(3) the United States values and takes very seriously President Chun Doo Hwan's commitment to initiate the first peaceful transition of executive power in the Republic of Korea's history by stepping down in March 1988;

(4) the United States applauds the decision of the Chun government on June 29, 1987, to support efforts for constitutional reforms essential to a meaningful and peaceful transfer of power;

(5) the necessary condition for achievement of a genuine democracy in the Republic of Korea is flexibility and fairness by all parties to the constitutional reform negotiations in designing an electoral system which can give the people of that nation confidence that the outcome of elections will reflect their will;

(6) the necessary conditions of such elections are freedom of expression, freedom of the press, respect for due process of law, an independent judiciary, an end to the use of torture, the release of all political prisoners, the restoration of full political and civil rights, and legal guarantees for the proper and humane treatment of all political detainees;

(7) The United States welcomes the decision by the Republic of Korea to proceed with constitutional reform and continue the search for a peaceful agreement among Korean parties on this issue in the spirit of compromise essential to democracy;

(8) the United States applauds public and private statements by the South Korean Minister of Defense, senior officers and top government officials that they support the democratization process and that the military will not disrupt it in any way.

SEC. 514. POLICY TOWARD NORTH KOREA.

(a) Findings.—The Congress finds that—

(1) North Korea is one of the world's most regimented and totalitarian nations and its government comprehensively suppresses basic human rights;

(2) the North Korean regime has been directly implicated in acts of international terrorism, including the October 1983 bombing attempt on the life of the president of the Republic of Korea during his state visit to Burma, which resulted in the death of 17 people, including 4 Republic of Korea cabinet ministers;

(3) in 1985 North Korea unilaterally suspended negotiations with the Republic of Korea which were aimed at reducing tensions on the Korean peninsula;

(4) North Korea is constructing a large dam on the North Han River which poses a potential threat to the city of Seoul; and

(5) the United States remains firmly committed to the security of the Republic of Korea and will take all necessary measures to help defend it against foreign aggression.

(b) Policy.—It is the sense of the Congress that North Korea should—

(1) take steps to cease its domestic political repression and denial of basic human rights;

(2) end its support for international terrorism;

(3) accept the Republic of Korea's call for unconditional resumption of negotiations aimed at easing tensions on the Korean peninsula; and

(4) consider other steps to ease tensions between North and South and reduce North Korea's international isolation, including a commitment to participate in the 1988 Olympic Games in Seoul and to refrain from any action to disrupt them.

SEC. 515. POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION.

(a) Findings.—The Congress finds that—

(1) on August 1, 1975, the Final Act of the Conference on Security and Cooperation in Europe was signed at Helsinki, Finland, by thirty-three European countries, together with Canada and the United States;

(2) the signatories of the Helsinki Final Act committed themselves under Principal VII to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief, for all without distinction as to race, sex, language, or religion";

(3) persecution of individuals on the basis of religious beliefs and cultural heritage is in direct violation of the commitments to freedom of thought, conscience, expression, and religion made by the Union of Soviet Socialist Republic (hereafter in this concurrent resolution referred to as the "USSR") and by the countries of Eastern Europe as the signatories of the United Nations Universal Declaration of Human Rights, the Final Act of the Conference on Security and Cooperation in Europe, and the Madrid Concluding Document;

(4) in Albania, the only officially atheistic country in the world, the Constitution of which outlaws religion and defines all religious activities as criminal acts, there are documented cases of executions and murders of clergy and believers;

(5) in Bulgaria, where the Constitution of 1971 specifically guarantees freedom of religion, the organization of branches, missions, convents and charitable institutions of religious associations having headquarters or centers located abroad is nevertheless prohibited (by article 23 of the law of February 26, 1949), religious instruction to persons under sixteen years of age is prohibited, courts are authorized (by the Law on Family of March 15, 1968) to remove children from families that do not comply with the demand that "education of children be conducted in the spirit of socialism and communism," and special benefits are bestowed on individuals who renounce religion, while those who adhere to religious beliefs are severely harassed and imprisoned;

(6) in Czechoslovakia, where citizens are constitutionally guaranteed freedom of religion and "performance of religious rites, so long as it does not contradict the law," all churches and religious organizations are nevertheless subject to the control of a Secretariat for Religious Affairs that has "normative, guiding and controlling powers in all church and religious affairs," clergy are prohibited from serving the church without state license issued only after thorough investigation and revokable without explanation or right of appeal, all religious orders of brothers and nuns have been prohibited for decades from accepting new members and could soon die out, practicing Christians are discriminated against in housing, employment, and education, secret government agents are frequently present at church services, clergy are offered bribes to join religious "peace" movements which closely collaborate with the government, and many clergy and church members are invited to cooperate with the secret police;

(7) in the German Democratic Republic, where freedom of religion is guaranteed "in agreement with the Constitution and legal regulations in the GDR" by article 39 of the Constitution of 1968, religious education for Christian children is nevertheless officially discouraged so that teenagers receiving such education are often treated as second-class citizens, young people are forced to participate in the Communist ceremonies of "youth consecration" and required to pledge allegiance to Marxism-Leninism, and conscientious objectors and organizers and members of the unofficial peace movement, almost all practicing Christians, are persecuted;

(8) in Hungary, where the Constitution guarantees the equality of all citizens, provides that discrimination of citizens on the ground of religious faith is a punishable offense, guarantees freedom of conviction and freedom of religious worship, and decrees separation of church and state, all churches are nevertheless supervised and controlled by the State Office for Church Affairs of which special departments oversee the activities of individual districts and report their observations to the headquarters in Budapest, the State Office for Church Affairs exclusively appoints clergy and faculty of theological schools, admission of candidates for theological studies is drastically curtailed, and members of the "basic communities" are occasionally harassed for their independent religious activities;

(9) in Poland, where the Constitution guarantees freedom of religion and separation of church and state, and where, in 1982, the Patriotic Movement of National Renewal—a coalition of the Polish United Workers Party and its adjunct small political parties—declared equality under law for all citizens, activist priests and believers, primarily members of the Solidarity movement, have nevertheless become targets of persecution, and the Catholic Church operates under significant impediments in its pursuit of charitable, religious, and humanitarian goals;

(10) in Romania, where the Constitution guarantees freedom of religion, the Ministry of Cults is nevertheless granted (by article 51 of the Law on Rituals of 1948) "unrestricted control of church teachings and church administration," contacts with religious associations abroad is prohibited (by article 40 of such law) unless authorized by the Ministry of Cults and the Ministry of Foreign Affairs, the Romanian Orthodox Church, the second largest Orthodox church (after the Orthodox Church in the USSR) with some sixteen million members (out of twenty-one million Romanian citizens), is still tightly controlled by the government despite its special national status and some members of such Church suffer persecution, Catholics and Protestants are generally members of national minorities (Hungarians and Germans) that are frequent targets of persecution and discrimination especially in the provinces of Transylvania and Moldavia, the Uniate Church was officially and forcibly abolished and its members transferred to the Orthodox Church by government fiat, religious instruction is discouraged and restricted, religious instructors are not permitted to use any teaching aids and reading materials, agents of secret police shadow religious believers and clergy, trials of churchmen are frequent, and the government has engaged in the physical destruction of churches of all faiths regardless of their inestimable historical and cultural value;

(11) in Yugoslavia, where (although officially atheistic) authorities assert that there is wide tolerance of religious activities, the government has nevertheless responded to growing demands by the citizenry for more religious instruction for children by recently proposing a law providing for fines ranging from 2,000 to 20,000 dinars or thirty days in prison for persons "performing a religious ceremony where it is not permitted by law," and any citizen using a radio or film to spread religious material is subject to a fine ranging from 10,000 to 100,000 dinars;

(12) in the USSR, where article 124 of the Constitution guarantees both the freedom of religious faith and the freedom of atheism, the right to conduct atheistic propaganda is nevertheless fully realized while the right of evangelization is not extended to religious denominations and organizations, "religious propaganda" (defined by government authorities at various times to include sacred books, hymnals, prayer books and religious literature, as well as rosaries, pictures of saints, and other religious articles) is banned, the teaching of religion to persons under eighteen years of age is prohibited, practicing members of any religion cannot be appointed or elected to public offices or positions of influence and leadership and such members have no representation in any administrative and legislative bodies or educational and cultural institutions, the Ukrainian Catholic Church has been abolished, the Lithuanian Catholics and Latvian and Estonian Lutherans are subjected to religious and ethnic persecution, and police force is used to suppress religion;

(13) under the oppressive conditions in existence in the USSR and Eastern Europe, some clergy, church officials, and church members consent, however reluctantly, to collaborate with the government, allowing the government to involve such individuals and their churches in the service of the Communist system through such organizations as the PAX association in Poland, the Pacem im Terris Peace Movement of Catholic clergy in Czechoslovakia, the Religious

Circles Convocation (a new entity associated with the World Peace Council), and, most notably, the Christian Peace Conference, the headquarters of which are in Prague, Czechoslovakia, but the control of which is in the Kremlin; and

(14) the Christian Peace Conference is both pro-Soviet and undemocratic, the activities, orientation, and rhetoric of which remain biased in favor of the USSR, Cuba, other Marxist states, the PLO, and the theology of liberation, such that no condemnation of the Soviet aggression against Afghanistan, of the Soviet interventions in Ethiopia, Angola, and Mozambique, and of the Soviet violations of human rights in the Communist-dominated countries is allowed.

(b) POLICY.—Because the Congress is deeply disturbed by and opposed to the increased harassment of clergy and members of Christian faiths, as well as the use of clergy and believers on behalf of Soviet foreign policy goals, it is the sense of Congress that—

(1) the President of the United States should continue to express to the governments of the USSR and Eastern European countries the deep concern and opposition of the United States with respect to the harassment of Christians;

(2) the governments of the USSR and Eastern European countries should comply with their commitments under the United Nations Universal Declaration of Human Rights, the Final Act of the Conference on Security and Cooperation in Europe, and the Madrid Concluding Document; and

(3) the governments of the USSR and Eastern European countries should immediately cease persecuting individuals on the basis of their adherence to their Christian faiths and should afford them their fundamental human rights of religious expression.

SEC. 516. CONCERNING OBSERVANCE BY THE GOVERNMENT OF ROMANIA OF THE HUMAN RIGHTS OF HUNGARIANS IN TRANSYLVANIA.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Government of Romania has entered into treaties and accords (including the 1947 Paris Treaty of Peace with Romania, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the 1975 Helsinki Final Act of the Conference on Security and Cooperation in Europe) which guarantee the human rights of its citizens without any discrimination as to religion and national origin.

(2) The Constitution of the Socialist Republic of Romania ensures far-reaching rights to the "co-inhabiting nationalities" in Romania.

(3) The province of Transylvania, which has 2,500,000 Hungarians and which had constituted part of Hungary for a millennium, was originally ceded to Romania by the 1920 Trianon Treaty.

(4) The fate of the Hungarians in Transylvania has been systematic denationalization under the various Romanian Governments, whether Royalist, Fascist, or Communist.

(5) The Government of the Socialist Republic of Romania and its regional and local authorities pursue a policy of denationalization toward the Hungarians and people of other nationalities in Transylvania by measures approximating ethnocide, including—

(A) the destruction of Hungarian language schools and the Hungarian Bolyai University (still in existence in 1958) and the replacement of these schools by a steadily declining number of Hungarian sections in Romanian schools,

(B) the destruction, or the making inaccessible to the public and scholars, of the documents of the Hungarian past of Transylvania, and

(C) the conscious dispersion of the Hungarian intelligentsia into Romanian areas and the settlement of large numbers of Romanian colonists into the Hungarian areas of Transylvania.

(6) The Socialist Republic of Romania actively interferes with the internal affairs of all its religious communities, severely limiting or banning all their social and teaching activities and discriminates against their members in employment, education, and promotion, particularly with regard to the members of the Catholic and Protestant churches which are composed of Hungarians and Germans.

(7) The 2,500,000 Hungarians in Transylvania are entitled to the rights protected under the Helsinki Final Act of the Conference on Security and Cooperation in Europe.

(b) SENSE OF THE CONGRESS.—The Congress deplores activities of the Government of the Socialist Republic of Romania denying the rights of the Hungarians and people of other nationalities in Transylvania.

SEC. 517. INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION, MEMBERSHIP.

The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, and, upon entry into force of the amendments to such constitution approved in Geneva, Switzerland, on May 20, 1987, to continue membership in the organization under the name International Organization for Migration in accordance with such constitution and amendments. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incidental to United States participation in the Committee.

SEC. 518. SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

(a) FINDINGS.—Congress finds that—

(1) the subjugation of peoples to foreign domination constitutes a denial of human rights and is contrary to the Charter of the United Nations;

(2) all peoples have the right to self-determination and to establish freely their political status and pursue their own economic, social, cultural, and religious development, a right that was confirmed in 1975 in the Helsinki Final Act;

(3) on August 23, 1939, Soviet Foreign Minister V.M. Molotov and the Foreign Minister of Nazi Germany, Joachim von Ribbentrop, signed a nonaggression pact containing Secret protocols that consigned the Baltic States to a Soviet sphere of influence;

(4) on June 21, 1940, Armed Forces of the Soviet Union overran the independent Baltic republics of Estonia, Latvia, and Lithuania and forcibly incorporated them into the Soviet Union, depriving the Baltic peoples of their basic human rights, including the right to self-determination;

(5) the Government of the Soviet Union continues efforts to change the ethnic character of the population of Estonia, Latvia, and Lithuania through policies of Russification and dilution of their native populations;

(6) the United States continues to recognize the diplomatic representatives of the last independent Baltic governments and supports the aspirations of the Baltic peoples to self-determination and national independence, a principle enunciated in 1940 and reconfirmed by the President on July 26, 1983, when he officially informed all member nations of the United Nations that the United States has never recognized the forced incorporation of the Baltic States into the Soviet Union;

(7) the Baltic peoples continue to show their discontent with the foreign domination of their nations and their ardent hopes for liberty, most recently on August 23, 1987, when simultaneous demonstrations were held in Tallinn, Estonia, Riga, Latvia, and Vilnius, Lithuania to mark the 48th anniversary of the signing of the Molotov-Ribbentrop Pact; and

(8) the Soviet Union continues to deny the people of Estonia, Latvia, and Lithuania the right to exist as independent countries, separate from the Soviet Union and denies the Baltic peoples the right to freely pursue human contacts, movement across international borders, emigration, religious expression, and other human rights enumerated in the Helsinki Final Act.

(b) RECOGNITION AND ACTION BY PRESIDENT.—Congress—

(1) recognizes the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence from the Soviet Union; and

(2) calls on the President to—

(A) direct world attention to the right of self-determination of the people of the Baltic States by issuing on July 26, 1988, a statement that officially informs all member nations of the United Nations of the support of the United States for self-determination of all peoples and nonrecognition of the forced incorporation of the Baltic States into the Soviet Union;

(B) closely monitor events in the Baltic States following the peaceful public demonstrations in Riga on June 14, 1987, and in Tallinn, Riga, and Vilnius on August 23, 1987, and, in the context of the Helsinki Review Conference and other international forums, to call attention to violations of basic human rights in the Baltic States, such as the harassment, arrest, imprisonment, or expulsion of those who organize peaceful public demonstrations; and

(C) promote compliance with the Helsinki Final Act in the Baltic States through human contacts, family reunification, free movement, emigration rights, the right to religious expression and other human rights enumerated in the Helsinki Accords.

SEC. 519. LIMITATIONS ON HOUSING EXPENSES FOR UNITED STATES EMPLOYEES AT THE UNITED NATIONS.

(a) Section 119(1) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241) is hereby repealed.

(b) Section 9 of the United Nations Participation Act of 1945 is hereby amended by inserting a comma after the word "allowance" in subsection (1) and inserting the following "not to exceed $1,500 per month,".

SEC. 520. USSR BALLISTIC MISSILE FLIGHTS OVER UNITED STATES TERRITORY.

(a) FINDINGS.—The Congress finds that—

(1) the Union of Soviet Socialist Republics and the United States of America have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

(2) the Soviet Union has within the last few days conducted two tests of its intercontinental ballistic missile forces,

(3) the announced impact points for reentry vehicles from these tests are as close as two hundred miles northwest and southeast of the State of Hawaii

(4) the announced impact points would require the overflight of sovereign United States territory by a Soviet ICBM,

(5) the missile used in this test is a modern multiple warhead ICBM which probably is a violation of the "heavy ICBM" provision of the SALT II Treaty,

(6) the Soviet Union allegedly encrypted telemetry from the flight-tests, as is their standard practice, which would be a violation of the SALT II Treaty,

(7) the Soviet Union used a laser or other directed energy device to irradiate at least one United States aircraft in the region that was monitoring the tests, having the effect of interfering with our national technical means of verification,

(8) the Soviet Union appears to have been practicing with these tests a strike on the United States because of the use of trajectories of fire identical with those that would be used to attack Pearl Harbor,

(9) had this test misfired by only fractions of a second, Soviet ballistic missile test reentry vehicles could have landed on centers of population in the Hawaiian Islands, and

(10) this action cannot be explained as anything but a deliberate provocation toward the United States and a direct threat to our national security.

(b) Sense of the Congress.—It is the Sense of the Congress that—

(1) this test has increased rather than decreased the risk of nuclear war,

(2) the Congress of the United States condemns the Soviet Union for its actions that demonstrate an utter disdain for civilized and acceptable standards of international behavior and demands a public and immediate apology to the American people as well as assurances that tests this near United States territory will not occur in the future,

(3) the Congress condemns these probable new violations of the provisions of the SALT II Treaty, as interference with national technical means of verification, in conjunction with probable new violations of the SALT II Treaty, and as thoroughly inconsistent with improving relations between the two countries and indicating a contempt for the objectives of arms control,

(4) because the United States has not even a very limited defense against ballistic missiles, the possibilty of accidental impact of Soviet ballistic missile test re-entry vehicles in the population centers on the Islands of Hawaii could not have been prevented,

(5) the United States Government should officially and at the highest levels protest this action by the Soviet Government and should inform the Soviet Union that it cannot tolerate flight-tests of this sort in close proximity to United States territory, and

(6) the President should report to the Congress in ten days in both classified and unclassified forms on (A) the details of the tests; (B) Soviet explanations offered in response to United States diplomatic protests; (C) what steps the United States will take to ensure that such tests will not happen in the future; and (D) what effect a first-phase SDI system could have against a missile launched in similar proximity to United States territory.

SEC. 521. HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) Findings.—The Congress finds that—

(1) on October 1, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children, and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and twenty-seven Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to the United States Congress during his visit to Washington at the invitation of the Congress on September 21, 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) on September 27, 1987, the Chairman and Ranking Minority Member of the Senate Foreign Relations Committee, the Chairman and Ranking Minority Member of the House Foreign Affairs Committee, and the Co-Chairmen of the House Human Rights Caucus signed a letter to his Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step towards resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal.";

(5) beginning October 7, 1950, the People's Republic of China invaded and occupied Tibet, imposed military rule, and continues to exercise dominion over the Tibetan people through the presence of a large occupation force;

(6) over one million Tibetans perished in 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the occupation of Tibet by the People's Republic of China;

(7) after the Chinese invasion of Tibet in 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, have been destroyed and their irreplacable national legacy of art and literature either stolen or removed from Tibet;

(8) Tibet's vast mineral, forest, and animal reserves are being systematically exploited by the People's Republic of China, with limited benefit accruing to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) The People's Republic of China has undertaken a massive population transfer, entailing the immigration of millions of Chinese onto the Tibetan plateau in an apparent effort to make the Tibetan people a minority in their own homeland;

(11) the arrest and execution of Tibetan political and religious prisoners continues, with thousands of Tibetans currently interred in labor camps;

(12) Tibet, a nation dedicated to the principles of nonviolence and mutual coexistence for a millennia, has been militarized by the Chinese;

(13) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the one hundred thousand refugees forced into exile with him, has worked tirelessly for almost thirty years to secure peace and religious freedom in Tibet;

(14) since 1959, India has generously provided refuge and resources for Tibetan exiles so that they may maintain their unique culture and religion in the hope of returning to their homeland;

(15) the People's Republic of China continues to ignore United Nations General Assembly resolutions 1353, 1723, and 2079 calling for a cessation of human rights violations in Tibet and for implementation of the right of the Tibetan people to self-determination;

(16) 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China on July 24, 1985, expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetan Government-in-exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration"; and

(17) there has been no evidence of any such consideration being granted by the Government of the People's Republic of China.

(b) Statement of Policies.—It is the sense of the Congress that—

(1) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(2) the President should meet with His Holiness the Dalai Lama to express United States support for his efforts for world peace and particularly his efforts to find a peaceful solution to the Tibetan problem;

(3) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialog over the future status of Tibet;

(4) the United States, through the Secretary of State—

(A) should address and call attention to the rights of the Tibetan people, as well as other non-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Sinkiang), the Mongolians of Inner Mongolia, and the Manchus of Manchuria, and

(B) should support efforts to maintain Tibet's identity and preserve Tibetan culture and religion, both inside Tibet and among those in exile;

(5) congressional delegations should visit Tibet (including the areas of Kham and Amdo) and the Tibetans in exile in order to witness the progress being made and the problems faced; and

(6) the President should instruct the United States Ambassadors to the People's Republic of China and India to work closely with the Tibetan people to find areas in which the United States Government and people can be helpful.

(c) Any notification submitted to the Congress pursuant to the Arms Export Control Act with respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China shall be accompanied by a Presiden-

tial determination that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) Not later than sixty days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress of the human rights situation in Tibet and the transfer of millions of Chinese to Tibet.

(e) Of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, not less than $200,000 shall be available only for assistance for Tibetan refugees.

(f) For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than fifteen scholarships for study at institutions of higher education in the United States.

SEC. 522. INVITATION TO THE PRESIDENT OF ISRAEL FOR A STATE VISIT TO THE UNITED STATES.

(a) Findings.—The Congress finds that—

(1) The President of Israel has never been invited to make a state visit to the United States;

(2) President Chaim Herzog is admired by Americans of all faiths, not least because of his courageous fight in the United Nations against General Assembly Resolution 3379, which equated Zionism with racism.

(b) Policy.—It is the sense of Congress that the President of the United States should, at the earliest date possible, invite the President of Israel to make a state visit.

SEC. 523. POLICY TOWARD THE DETENTION OF CHILDREN IN SOUTH AFRICA.

(a) Findings.—The Congress finds that—

(1) the Government of the Republic of South Africa under its system of apartheid repeatedly has detained black children without charge or trial, and has denied parental access to these children for extended periods of time;

(2) the detainees' parents' support committee of South Africa has compiled information estimating that more than 25,000 people were detained since June 12, 1986, under state of emergency regulations, and approximately 10,000 of these were children, including some as young as age 10;

(3) the Government of the Republic of South Africa has stated on numerous occasions that it has detained children without charge, and that on a certain day in December 1986, 256 children under the age of 16 were in detention; that on a certain day in February 1987, 281 children under the age of 15 were in detention; that on a certain day in April 1987, 1,424 children under the age of 18 were in detention; and that on a certain day in May 1987, 280 children under the age of 16 were in detention; and that as of June 2, stated that eleven children under the age of 16 were in detention; and as of October, 69 children under the age of 18 are still in detention; and

(4) human rights groups in South Africa estimate that many more children have been detained under state of emergency regulations than the Government of the Republic of South Africa admits;

(5) the state of emergency regulations allow for the detention of individuals without charge for an indefinite period of time; and

(6) the United States Ambassador to South Africa Edward J. Perkins has stated that such detentions are "a most serious abuse of human rights, particularly so where detainees are children as young as 11".

(b) Policy.—The Senate hereby—

(1) calls for the cessation of the practice of detaining children under 18 years of age without charge or trial in South Africa;

(2) calls for the South African Government either to release all children in South Africa under state of emergency regulations and other laws which authorize detention without charge or trial or charge them and allow them their rights of a fair and public trial; and

(3) pending the release of the children, calls on the Government of the Republic of South Africa to—

(A) permit the detained children immediate and frequent access to parents and legal counsel;

(B) make public the names and locations of all the detained children;

(C) provide the detained children with adequate food, clothing, and protection; and

(D) permit a recognized, independent, and impartial international humanitarian organization to verify that the provisions of this section are being carried out and that the detained children are not being abused, tortured, held in solidary confinement, and are not being held in detention in the company of adults;

(4) calls for the apprehension and trial of all those individuals who execute children by violent activities, including necklacing, and the cessation of these activities.

SEC. 524. ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF.

(a) Findings.—The Congress finds that—

(1) According to Article 2 of the 1958 Geneva Convention on the High Seas, every state is entitled to exercise free and open use of the high seas for the navigation of its vessels;

(2) On September 22, 1987, United States Navy forces discovered the Iranian ship Iran Ajr laying mines in international waters of the Persian Gulf, and fired upon that ship to help terminate the mining;

(3) On September 23, 1987, President Reagan declared that this United States action was "authorized by law", and State Department spokeswoman Phyllis Oakley said that the United States had the right under international law to use "reasonable and proportionate force" to terminate the mining.

(b) Policy.—Is is the sense of the Congress that—

(1) By mining the high seas of the Persian Gulf without notifying neutral nations engaged in maritime commerce, the Government of Iran violated international law;

(2) the use of force by the United States Navy to terminate that Iranian mining was justified under international law;

(3) international law offers a framework for such positive action, and fostering broader adherence to law promotes the security interests of the United States.

SEC. 525. EMPLOYMENT OF FOREIGN SERVICE NATIONALS.

(a) Prohibition on Employment in Communist Countries.—

(1) After September 30, 1989, no national of a Communist country may be employed as a foreign national employee at United States diplomatic and consular missions in any country listed as a "Communist country" in section 620(f) of the Foreign Assistance Act of 1961.

(2) Paragraph (1) does not apply with respect to any foreign national employee who is not permitted access to—

(A) United States Embassy or consulate grounds, vehicles, or buildings which are sited in the compound of the Embassy or consulate (including living quarters); and

(B) the residence, wherever located, of the chief of mission or the deputy chief of mission.

(b) Termination of Benefits for Engaging in Hostile Intelligence Activities.—

(1) The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post who the Secretary reasonably believes engaged in intelligence activities directed against the United States.

(2) The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if—

(A) the Director of Central Intelligence requests such waiver, or

(B) the Secretary determines that such waiver is vital to the national security of the United States to do so and reports such waiver in advance to the appropriate committees of the Congress.

(c) Report to Congress.—Not later than 6 months after the date of enactment of this Act, the Secretary of State in consultation with the Director of Central Intelligence shall submit to the Congress a report discussing the advisability of employing foreign nationals at foreign service posts abroad (including their access to automatic data processing systems and networks).

SEC. 526. PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO UNITED STATES.

(a)(1) On and after the date of enactment of this Act, consular officers of the Department of State employed in the United States interest section in Havana, Cuba, and appropriate officers of the Immigration and Nationalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to insure the orderly process of available applicants.

(2) For purposes of this section—

(A) the term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications; and

(B) the term "refugee" has the same meaning as is given to such term by section 101(a)(42) of the Immigration and Nationality Act.

(b) On and after the date of enactment of this Act, consular officers of the Department of State, wherever situated, shall issue immigrant visas under section 203(a) or 202(e) of the Immigration and Nationality Act to Cuban nationals—

(1) without regard to section 212(f) or 243(g) of the Immigration and Nationality Act (relating to the refusal to accept the return of nationals);

(2) whether within or outside Cuba; in such cities as immigration visas may be issued to Cuban nationals; and

(3) without regard for the date of departure from Cuba of such applicants in the case of applications for such visas outside Cuba.

SEC. 527. POLICY ON ANGOLA.

(a) Findings.—The Congress finds that—

(1) the upcoming discussions between Secretary of State Shultz and Soviet Foreign Minister Shevardnadze, and the subsequent

summit between President Reagan and Secretary General Gorbachev provide the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(2) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the democratic opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(3) the Marxist MPLA regime, propped up by 37,000 Cuban troops, 2,500 Soviet military advisors and thousands of North Korean and East-bloc Communist forces, has refused to respond to diplomatic gestures by the democratic opposition forces, opting to prolong a war that has taken over 65,000 lives;

(4) a majority of the national budget is used to maintain this war effort, including $700,000,000 a year to pay Cuban mercenaries, and more than $1,000,000,000 this year alone to the Soviet Union for weapons;

(5) the people of Angola are starving because of the hardships resulting from 12 years of civil war and the inefficient Marxist economic policies;

(6) the Marxist regime has turned to the international community for $1,200,000,000 in food aid while it continues to pump billions of dollars into the war; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued occupation of Angola by Soviet and Cuban forces and the intransigence of the MPLA to negotiate with the democratic opposition, give new urgency to reach a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all Soviet, Cuban, and other Communist forces;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to the Soviet leaders at the upcoming conference and summit that the aggressive military build-up in Angola is a direct obstruction to positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the belligerent and ineffective policies of the Communist regime, and the regime should not have the opportunity to manipulate the distribution of food aid to achieve its own political objectives;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, but if the United States does so it should be in an evenhanded manner, so that Angolans throughout the entire divided country are provided with food and basic medical care;

(4) any humanitarian assistance should not be distributed by the government or government-operated institutions, but through apolitical agencies, private and voluntary organizations, and non-governmental organizations; and

(5) the Secretary of State should prepare and transmit to the Congress a report detailing the progress of the discussions between the Soviet Union and the United States on Angola as previously referred to and detailing any other bilateral negotiations affecting the Angolan conflict which were held in accordance with the President's priorities of regional conflicts with the Soviet Union such as Afghanistan and Nicaragua, as one of the crucial areas of bilateral relations.

SEC. 528. ADJUSTMENT TO PERMANENT RESIDENCE OF CERTAIN NATIONALS OF POLAND.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (20), (21), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since July 21, 1984.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien only if—

(1) the alien is a national of Poland;

(2) the alien arrived in the United States before July 21, 1984;

(3) the Immigration and Naturalization Service established a record of entry or other record with respect to the alien before July 21, 1984; and

(4) in the case of an alien who was admitted to the United States as a nonimmigrant, the alien's period of authorized stay as such a nonimmigrant expired not later than 6 months after July 21, 1984, through the passage of time or the alien applied for asylum under section 207 before July 21, 1984.

(c) RECORD OF PERMANENT RESIDENCE AS OF JULY 21, 1984.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of July 21, 1984.

(d) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(e) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(f) This section may be cited as the "Polish Permanent Resident Adjustment Act of 1987".

SEC. 529. VIETNAMESE OCCUPATION OF CAMBODIA.

(a) The Congress finds that—

(1) the armed forces of the Government of the Socialist Republic of Vietnam have invaded and occupied the territory of Cambodia, thereby undermining the sovereignty and political stability of Cambodia;

(2) by invading and occupying Cambodia, the Government of the Socialist Republic of Vietnam violated its obligation, undertaken upon becoming a member of the United Nations in 1977, not to use force against the territorial integrity or political independence of any state;

(3) the General Assembly of the United Nations has on eight separate occasions deplored the continuing occupation of Cambodia and called for the withdrawal of all foreign military forces from Cambodia;

(4) the United Nations General Assembly will be voting again next week on the issue of Cambodia;

(5) Prince Sihanouk and the Coalition Government of Democratic Kampuchea has called for the withdrawal of all armed forces of the Government of the Socialist Republic of Vietnam from Cambodia;

(6) the Government of the Socialist Republic of Vietnam has thus far rejected the efforts of the members of the Association of Southeast Asian Nations to resolve the situation in Cambodia; and

(7) the invasion and occupation of Cambodia by the armed forces of the Government of the Socialist Republic of Vietnam has caused hundreds of thousands of Cambodians to flee their own country and has caused untold suffering for untold numbers of Cambodians.

(b) The Congress therefore declares as follows:

(1) the Vietnamese occupation of Cambodia constitutes a gross violation of international law;

(2) the Government of the Socialist Republic of Vietnam, by its continuing occupation of Cambodia, is violating the fundamental human rights of the Cambodian people; and

(3) the Government of the Socialist Republic of Vietnam should immediately withdraw its occupation forces from Cambodia and agree to negotiate a settlement which restores self-determination to the Cambodian people.

SEC. 530. ASSISTANCE IN SUPPORT OF SOLIDARITY.

Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for each of the fiscal years 1988 and 1989, not less than $1,000,000 shall be available only for the unconditional support of the independent Polish trade union "Solidarity".

SEC. 531. INTERNATIONAL PARENTAL CHILD ABDUCTION.

(a) For purposes of this section—

(1) the term "child" means a person under the age of 18 at the time the offense occurred;

(2) the term "detains" means taking or retaining physical custody of a child, whether or not the child resists or objects; and

(3) the term "lawful custodian" means—

(A) a person or persons granted legal custody of a child or entitled to physical possessions of a child pursuant to a court order; or

(B) the mother of the child when the parents have not been married, the father's paternity has not been established by a court of law, and no other person has been granted custody of the child by a court of law.

(b) Whoever—

(1) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the person who has been granted sole or joint custody, care, or possession of the child;

(2) intentionally removes a child from the jurisdiction of the United States in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State or the United States;

(3) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the mother or lawful custodian of the child if the person is a putative father who has not established paternity of the child;

(4) being a parent of a child born out of wedlock if the paternity of the father has been established by a court of law but there has been no order of custody, removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the child's other parent;

(5) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States after filing a petition or being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody;

(6) being a parent of the child, and if the parents of such child are or have been married and there has been no court order of custody, conceals the child for 30 days outside the jurisdiction of the United States, and fails to make reasonable attempts within the 30-day period to notify the other parent to the whereabouts of the child or to arrange reasonable visitation or contact with the child;

(7) being a parent of the child, and where the parents of the child are or have been married and there has been no court order of custody, conceals or detains a child outside of the jurisdiction of the United States when the child was taken with physical force or the threat of physical force;

(8) at the expiration of visitation rights outside of the jurisdiction of the United States, intentionally fails or refuses to return or impedes the return of the child to the jurisdiction of the United States;

(9) conceals, detains, or removes the child outside the jurisdiction of the United States for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law;

(10) being a parent of the child, instructs another person to conceal, detain or remove a child when that act when committed by the parent would be a violation of this Act;

(11) aids or abets any person violating paragraphs (1) through (10), shall be guilty of child abduction and shall be fined in accordance with this section or imprisoned not more than 3 years, or both.

(c) It shall be an affirmative defense under this section that—

(1) the person acted within the provisions of a valid court order granting him or her legal custody or visitation rights and that order was in effect at the time of the offense;

(2) no court within the United States could exercise jurisdiction to determine custody of the child pursuant to the provisions of the Uniform Child Custody Jurisdiction Act;

(3) the person has physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified or made a reasonable attempt to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible; or

(4) the person was fleeing an incidence or pattern of domestic violence.

(d) If, upon sentencing, the court finds evidence of any of the following aggravating factors:

(1) that the defendant abused or neglected the child during the concealment, detention, or removal of the child or placed or caused the child to be placed in the care of another person who abused or neglected the child;

(2) that the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

(3) that the defendant demanded payment in exchange for return of the child or demanded that he or she be relieved of the financial or legal obligation to support the child in exchange for return of the child;

(4) that the defendant has previously been convicted of a State or Federal child abduction offense; or

(5) that the defendant committed the abduction while armed with a deadly weapon or the taking of the child resulted in serious bodily injury to another, the sentence imposed in accordance with this title shall be more severe than in the absence of such factors.

(e) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child abduction".

(f) This section and the amendments made by this section shall take effect 90 days from the date of enactment of this Act.

(g) Where the child was removed from the jurisdiction of the United States prior to the enactment of this Act, charges under this section may be approved only in cases involving the concealing or detaining of a child in violation of a court order that existed at the time of the child's removal from the jurisdiction.

(h) Criminal jurisdiction may be taken under this section only when a court within the United States could exercise jurisdiction to determine custody of the child pursuant to the provisions of the Uniform Child Custody Jurisdiction Act.

SEC. 532. RESTRICT CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) The Congress finds that the use of salary remission arrangements whereunder the nationals of member states of the United Nations serving as employees of the United Nations Secretariat or its specialized agencies are required to turn over their salaries to their national governments and retain only a portion of the salary paid to them by the United Nations violates the United Nations Charter and seriously compromises the independence of the United Nations' international civil service.

(b) The elimination of salary remission arrangements that compromise the independence of the international civil service should be a high priority of the United States in its efforts to reform the personnel practices of the United Nations system.

(c) Fifty percent of the funds made available for the fiscal year 1988 by any provision of law to meet the obligations of the United States for assessed contributions to the United Nations and its specialized agencies may not be obligated until the President certifies to the Congress that significant progress has been made within the United Nations Secretariat and the United Nations specialized agencies in eliminating—

(1) the excessive use of secondment by member states whereunder nationals of the member states serving as employees of the United Nations Secretariat are seconded to such employment on fixed-term contracts and not allowed to become regular career employees of the United Nations, with a view to implementing the recommendations of the Group of 18 with respect to limits on the use of secondment; and

(2) the blatant control of nationals of member states serving as employees of the United Nations Secretariat or the specialized agencies through regular supervision, consultation, and evaluation of such nationals of member states by their permanent missions to the United Nations or to the specialized agencies of the United Nations.

SEC. 533. APPLICATION TO CERTAIN COMMUNIST COUNTRIES.

The Foreign Missions Act (22 U.S.C. 4301 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION TO CERTAIN COMMUNIST COUNTRIES

"SEC. 215. (a) Notwithstanding any other provision of this title, the Secretary shall apply to each foreign mission in the United States of the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Rumania, and Cuba the same terms, limitations, restrictions, and conditions which are applied under this title to the foreign mission in the United States of the Soviet Union unless the President determines and so reports in a classified document to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that national security and foreign policy circumstances require that this section be waived in specific circumstances with respect to such country or particular agency of such country.

"(b) The Secretary shall prepare and transmit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report describing—

"(1) not later than thirty days after the date of the enactment of this section, the plans of the Secretary for implementing this section; and

"(2) not later than six months thereafter, the actions taken pursuant to these plans.".

SEC. 534. SENSE OF THE CONGRESS TOWARD A PARTIAL LIFTING OF THE TRADE EMBARGO AGAINST NICARAGUA.

SENSE OF CONGRESS.—It is the sense of Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua's independent print and broadcast media, private sector and trade union groups, nongovernmental service organizations, and the democratic civic opposition.

SEC. 535. PLAN FOR SHARING COSTS INVOLVED IN THE USE OF UNITED STATES ARMED FORCES IN THE PERSIAN GULF.

In order to pay for the costs of the protection provided by the United States Armed Forces for shipping in the Persian Gulf, it is the sense of Congress that:

(1) Countries which directly benefit from the United States policy of providing military protection to re-flagged Kuwaiti vessels and maintaining freedom of navigation in the Persian Gulf should share in the costs incurred by the United States Armed Forces in providing such protection.

(2) The President of the United States should enter into negotiations with such countries to secure reimbursements based on a pro-rata share of these costs.

(3) The President should prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

(A) his assessment of the costs incurred by the United States Armed Forces in carrying out the policy of protecting re-flagged Kuwaiti vessels and maintaining freedom of navigation in the Persian Gulf;

(B) his assessment of any costs which would be incurred by the United States and its citizens in the event that oil supplies transiting the Persian Gulf were not available to the United States;

(C) his determination as to which countries benefit directly from the United States re-flagging policy including—

(i) Kuwait;

(ii) Other Oil Producing Gulf States; and

(iii) countries purchasing Persian Gulf oil;

(D) an accounting of the amount of benefit derived by each of these countries from the United States re-flagging policy;

(E) an accounting of any assistance or support such countries are already providing the United States re-flagging policy;

(F) a plan apportioning out the costs of United States Naval protection among those countries directly benefiting from the United States re-flagging policy; and

(G) a discussion of the status of negotiations entered into for the purpose of implementing the plan.

SEC. 536. SENSE OF CONGRESS RELATING TO SUPPORT OF MUTUAL DEFENSE ALLIANCES.

(a) FINDINGS.—Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends more than $100,000,000,000 annually to provide the defense umbrella for the allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and Japan is not commensurate with their economic resources, and, as a result, the United States is forced to bear a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national products on defense, our NATO allies spend an average of 3.5 percent of their gross national product on defense and Japan spends only 1.0 percent of its Gross National Product on defense.

(5) The greatest weakness in the ability of the United States to provide for the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(6) The level of Federal spending must be reduced in order to reduce the Federal budget deficit and revitalize the economy.

(7) The continued unwillingness of the allies of the United States to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) POLICY.—It is the sense of Congress that—

(1) the President should enter into negotiations with countries which participate in mutual defense alliances with the United States, especially the member nations of the NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such negotiations with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; and

(3) The President should report to Congress, within one year after the date of the enactment of this Act, on the progress of such negotiations.

(4) If, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

SEC. 537. LATIN AMERICAN AND CARIBBEAN DATA BASES.

(a) The Secretary of State, in consultation with the appropriate departments and agencies of the United States, may maintain data bases on the Latin American and Caribbean region. In developing these data bases the State Department shall be required to satisfy the following conditions:

(1) Any new contractual agreement entered into for purposes of this section shall be subject to full and open competition among qualified United States institutions with strong Latin American and Caribbean programs; and

(2) The Secretary of State shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

(b) Contracts made under subsection (a) shall be subject to the availability of appropriations.

SEC. 538. SECURITY OF CONSTRUCTION PROJECTS IN COMMUNIST CONTROLLED COUNTRIES.

Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by any provision of law shall be available for undertaking any additional construction activity on any project planned or underway in any Communist-controlled country until 30 days after—

(1) receipt by the Congress of a detailed report submitted by the Secretary of State and approved by the Directors of the Central Intelligence Agency, Defense Intelligence Agency, and National Security Agency, on any such project. Such report shall include—

(A) an evaluation of all security-related factors which must be and are being considered in the planning and implementation of such project; and

(B) how any existing and potential security related issues and problems are being addressed in the planning and implementation of such project; and

(2) receipt by the Congress of a certification made by the President that appropriate and adequate steps have been taken to ensure that the project may proceed without undue risk that American security interests will be compromised thereby.

SEC. 539. REPORT TO CONGRESS.

Neither the Department of State, nor any other Executive department or agency engaged in negotiations with the government of any Communist-controlled country for the construction of diplomatic or other official facilities in such countries, shall make any binding commitments on behalf of the United States in regard to such projects, or similar projects of such country in the United States, until a report such as is described in section 538 shall be submitted to the Congress.

SEC. 540. PURCHASING AND LEASING OF OVERSEAS RESIDENCES.

(a) FINDINGS.—(1) The Congress finds that annual lease costs to the United States Government for leasing the official residences of United States Ambassadors, Deputy Chiefs of Missions, or other principal officers of the United States Government at the foreign mission posts of the United States exceeded $132,000,000 in fiscal year 1987; and

(2) This amount represented an increase of 14.8 percent over the previous fiscal year; and

(3) Substantial savings to the American taxpayer could result from purchasing rather than leasing such residences where necessary; and

(4) Foreign governments prohibit the United States Government from purchasing such residences at 26 percent of the locations in which the United States maintains an official diplomatic post.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that:

(1) The United States Department of State should make every effort to determine whether the purchasing rather than the leasing of the residences of the principal officers of the United States Government's overseas missions is in the best economic interest of the United States Government; and

(2) The United States Department of State should enforce a policy of fully reciprocal treatment toward foreign governments that prohibit the United States Government from purchasing foreign residential properties to house United States diplomatic personnel in their countries; and

(3) In its fiscal year 1989 budget presentations to the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives, the United States Department of State shall provide sufficient information on the advantages and disadvantages of purchasing rather than leasing such properties to enable the Congress of the United States to determine the specific amount of savings that would or would not be achieved by purchasing such properties. The Department also shall make recommendations to the Congress on the purchasing and leasing of such properties.

SEC. 541. FOREIGN DIGNITARIES VISITS TO UNITED STATES CAPITOL.

It is the sense of the Senate that the Department of State, in arranging visits of foreign dignitaries to the Capitol, shall have in mind that ours is a republican institution which by long established practice, and as a *matter of principle, conducts its affairs with a minimum of display. Individual Senators do not have official cars, do not have motorcycle escorts, do not have praetorian guards. The recurrent spectacle of screeching, self-important, heavily armed caravans of limousines, some decoys, bearing foreign visitors is discordant, disruptive, and scarcely a service to the visitors themselves. The Department of State is urged to consider that two unadorned automobiles and no motorcycles would ensure foreign visitors a warm welcome, and make clear to them that they are visiting the representative body of a democratic state, and not some besieged citadel of a fearful tyranny.*

SEC. 542. REPORT ON POLICIES PURSUED BY OTHER COUNTRIES IN INTERNATIONAL ORGANIZATIONS.

The last sentence of section 117 of the Department of State Authorization Act, fiscal years 1984 and 1985 is amended by inserting before the period the following: ", together with the amount and type of foreign assistance (if any) made available by the United States for the preceding fiscal year to each such country under the Foreign Assistance Act of 1961, the Arms Export Control Act, the Export-Import Bank Act of 1945, and the Peace Corps Act".

SEC. 543. PROBABLE EXEMPTIONS TO THE UNITED NATIONS EMPLOYEE HIRING FREEZE.

(a) Findings.—The Congress makes the following findings:

(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the "Group of 18 Experts").

(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was considering granting 156 exceptions to the hiring freeze.

(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

(6) According to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

(7) Other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus within the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(12) As of September 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are "seconded", that is, serve on short, fixed-term contracts.

(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effectively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

(b) Report to Congress.—(1) The Secretary of State shall report to the Congress not later than 90 days after the date of enactment of this Act and annually thereafter as to the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.

(2) Such report shall contain as a minimum, a thorough analysis of the following issues:

(A) The number of Soviet and Soviet-bloc nationals who are currently seconded to the United Nations system on short, fixed-term contracts in New York, Geneva, Vienna, and Nairobi, and the percentage such number is to the total number of Soviet and Soviet-bloc nationals so seconded.

(C) The number of Soviet and Soviet-bloc nationals who are currently employed in the United Nations system on long-term contracts.

(D) The measures undertaken by the United States to persuade the United Nations Secretariat to enforce the provisions of the United Nations Charter which specifically govern the behavior and activities of United Nations employees, especially Articles 100 and 101.

(E) The measures undertaken by the United States either through bilateral or multilateral channels with the Soviet Union and other members of the Soviet-bloc to end their abuse of secondment.

(F) The measures undertaken by the United States to challenge Soviet and Soviet-bloc nationals' credentials and to deny them entry visas, in order to keep Soviet and Soviet-bloc intelligence operatives out of the United States and United Nations.

(G) The counterintelligence efforts undertaken by the United States to protect United States national security from hostile intelligence activities directed against the United States by Soviet and Soviet-bloc intelligence operatives employed by the United Nations.

(c) Sense of the Congress.—It is the sense of the Congress that—

(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

(2) the President, through the Department of State and the United States mission to the United Nations, should express to the Secretary-General of the United Nations the insistence of the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

(6) the Soviet Union is hereby condemned for—

(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

(B) its abuse of secondment, and

(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the United Nations Charter to which every other member-nation must adhere.

(d) Definition.—For the purposes of this section, the term "Soviet-bloc" means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania.

SEC. 544. AMBASSADOR AT LARGE ON AFGHANISTAN.

(a) Findings.—The Congress finds that the Administration has failed to make Afghanistan a sufficient priority in the conduct of the foreign policy of the United States.

(b) Establishment of Position.—There is established in the Department of State the position of Ambassador at Large on Afghanistan who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Responsibilities.—The Ambassador at Large on Afghanistan shall coordinate the

activities of the United States Government with respect to Afghanistan, shall be the point of contact for Congress on the Afghanistan issue, shall represent the United States in public diplomacy meetings and conferences abroad on the Afghanistan issue, shall maintain contact with the Afghan Resistance Alliance, shall serve as liaison with foreign governments and international organizations on issues and programs regarding the war in Afghanistan.

(d) DURATION OF POSITION.—The Department of State shall retain an Ambassador at Large on Afghanistan until the President certifies to Congress that the following conditions have been met—

(1) the complete withdrawal of all Soviet troops from Afghanistan;

(2) the independent and nonaligned status of Afghanistan;

(3) the self-determination of the people of Afghanistan;

(4) the return of Afghan refugees in safety and honor.

SEC. 545. SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD LEBANON.

(a) FINDINGS.—The Congress finds that:

(1) After nearly 13 years of civil conflict and foreign intervention, the situation in Lebanon appears no closer to resolution.

(2) Through most of the last dozen years, the Lebanese have managed to continue economic activity sufficient to stave off economic collapse and provide its citizens with basic necessities.

(3) During the past year, however, the collapse in the value of the Lebanese pound from less than 40 to the dollar to nearly 300 has made the importation of wheat, rice, and other basic commodities prohibitively expensive.

(4) As a result, for the first time, the Lebanese are faced with the prospect of starvation.

(5) Hizballah and other radical elements are taking advantage of the current economic crisis by providing foreign supplied food. In so doing, they are winning converts to their cause and radicalizing the youth.

(6) It is in the interest of the United States to support the traditional Lebanese free enterprise system of distribution of food which until now has been able to compete successfully with these radical movements.

(b) It is the sense of the Congress that the United States should base its policy toward Lebanon on the following principles:

(1) Preservation of the unity of Lebanon.

(2) Withdrawal of all foreign forces from Lebanon.

(3) Recognition of and respect for the territorial integrity of Lebanon.

(4) Reassertion of Lebanese sovereignty throughout the nation and recognition that it is the responsibility of the Government of Lebanon for its safekeeping.

(5) Reestablishment of the authority of the Government of Lebanon throughout the nation is a prerequisite for a lasting solution to the problem of international terrorism emanating from Lebanon.

(c) It is the further sense of Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through Public Law 480, Title I and Section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States. Provision of this assistance will meet the United States policy objective of strengthening the Central Government as well as helping alleviate a serious hunger problem.

SEC. 546. UNITED STATES DEPARTMENT OF STATE FREEDOM OF EXPRESSION ACT OF 1987.

(a) This section may be cited as the "United States Department of State Freedom of Expression Act of 1987".

(b) FINDING.—Congress finds that the United States Department of State, on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) PROHIBITION.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

SEC. 547. UNDER SECRETARY OF STATE FOR SECURITY, CONSTRUCTION, AND FOREIGN MISSIONS.

(a) The Congress finds that—

(1) serious deficiencies exist in the management and construction by the Department of State of buildings overseas;

(2) the security function has been plagued by an inability to anticipate threats or to respond to threats; and

(3) the operations of the Foreign Buildings Office have been characterized by cost overruns, delays, inadequacies of design, deficient contruction supervision, and other management flaws.

(b) ESTABLISHMENT OF POSITION.—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State and for other purposes", approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "and an Under Secretary of State for Management" and inserting in lieu thereof "an Under Secretary of State for Budget and Administration, and an Under Secretary of State for Security, Construction, and Foreign Missions".

(c) RESPONSIBILITIES.—The Under Secretary of State for Security, Construction, and Foreign Missions shall be responsible for—

(1) the Bureau of Diplomatic Security (established by section 104 of the Diplomatic Security Act);

(2) the new building construction functions of the Office of Foreign Buildings (established to carry out the Foreign Service Buildings Act, 1926); and

(3) the Office of Foreign Missions (established pursuant to section 203 of the State Department Basic Authorities Act of 1956).

(d) AUTHORITIES.—The Under Secretary of State for Security, Construction, and Foreign Missions shall have the authority to prepare and submit a consolidated budget for the programs for which the Under Secretary is responsible and to develop and implement personnel systems for those programs, and to establish procedures for the procurement of goods and services for those programs including procedures to insure that the design and construction of new embassy buildings shall be performed under contract to United States construction firms.

(e) REORGANIZATION.—

(1) PERIOD FOR IMPLEMENTATION.—The Secretary of State shall complete implementation of the reorganization required by this section within 6 months after the date of enactment of this Act, including the transfer of personnel and funds to the Under Secretary of State for Security, Construction, and Foreign Missions.

(2) PLAN FOR IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the steps to be taken in reorganizing the Department of State pursuant to this section, including a plan for a separate personnel system and career service for the Diplomatic Security Service.

(3) ROLE OF PRIVATE SECTOR.—Such report shall address the role of United States private industry in embassy design and construction, including specific steps to enhance that role, so that the efficiency and expertise of the private sector can be fully utilized consistent with security. Such report shall also include a detailed justification of the current staffing levels in the Foreign Building Office assuming a maximum appropriate use of the private sector in embassy design and construction.

(f) The provisions of subsections (a) through (e) shall enter into force on April 1, 1988, unless the following conditions are met—

(1) the Department of State submits to the Senate Foreign Relations Committee and the House Foreign Affairs Committee no later than February 1, 1988, a plan for restructuring the Department which would (i) accord higher priority to diplomatic security; (ii) improve coordination between the Bureau of Diplomatic Security and the Offices of Foreign Buildings and Foreign Missions; (iii) insure that the design and construction of United States embassies is performed by United States firms as provided by relevant law; and

(2) the Congress approves this restructuring plan, or a modification thereof, by joint resolution;

(g) For the purpose of expediting the consideration and enactment of a joint resolution referred to in subsection (f), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, and as highly privileged in the House of Representatives.

SEC. 548. TAIWAN.

(a) The Congress finds—

(1) economic vitality, educational advancement and social progress have created conditions favoring the furtherance of democracy in Taiwan; and

(2) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the United States and the people of Taiwan; and

(3) the authorities on Taiwan are nurturing a transition toward more truly democratic and representative political institutions; and

(4) the lifting of Martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan.

(b) It is the sense of the Congress that—

(1) the United States Congress welcomes the democratic trends emerging in Taiwan and commend the progress that has been made recently in advancing democratic institutions and values; and

(2) the United States Congress encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions; and

(3) the United States Congress requests American representatives to convey this nation's continuing support for a free and prosperous Taiwan as stated in the Taiwan Relations Act and our encouragement for democracy to the leaders and the people of Taiwan.

SEC. 549. WAIVER OF CERTAIN NATURALIZATION REQUIREMENTS FOR CERTAIN FORMER CUBAN POLITICAL PRISONERS.

(a) Findings.—The Congress finds that the following individuals, now in the United States, were members of Brigade 2506 and imprisoned in Cuba for 25 years following the Bay of Pigs Invasion: Ricardo Montero Duque of Union City, New Jersey, and the following five individuals of Miami, Florida: Ramon Bernardo Conte Hernandez; Jose Rafael Machado Concepcion; Nicolas Edigno Hernandez Mendez; Rogelio Milian Perez; and Pedro Armando Santiago Villa.

(b) Waiver.—Notwithstanding section 316 of the Immigration and Nationality Act, no continuous residence or physical presence requirement shall apply to the eligibility for naturalization of the persons named in subsection (a).

SEC. 550. EMBASSY AGREEMENTS WITH SOVIET UNION.

(a) Findings.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance, having been offered to the Soviets at a time when electronic surveillance techniques and potentials were not fully understood in the West;

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of . . . real property . . . where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) New Agreement With Soviet Union.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) Embassy Agreements.—For the purposes of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", entered into force on May 16, 1969; and

(2) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

SEC. 551. CHIEF OF MISSIONS SALARY.

(a) Section 401 of the Foreign Service Act of 1980 is amended by adding at the end of paragraph 401(a) the following "Such salary shall be full compensation for the services of the Chief of Mission, who shall not be eligible for additional compensation in the form of hardship differential or other incentive or performance pay supplements (other than danger pay).".

(b) Subsection 302(b) of such Act is amended by inserting the word "not" between "may" and "elect" in the second sentence of such subsection.

SEC. 552. SANCTIONS ON DRUG-TRANSITING COUNTRIES.

(a) Section 802 of the Trade Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (7);

(C) by amending paragraph (7), as so redesignated, to read as follows:

"(7) take the action described in paragraph (6) and any combination of the actions described in paragraphs (1) through (5)."; and

(D) by inserting after paragraph (3) the following new paragraphs:

"(4) limit by one-half the number of visas that may be issued for aliens born in that country for nonimmigrant status described in section 101(a)(15)(B) of the Immigration and Nationality Act;

"(5) take the steps described in subsection (d) to curtail air transportation between the United States and that country;

"(6) withdraw the personnel and resources of the United States from participation in any arrangement with that country for the pre-clearance of customs by visitors between the United States and that country; or";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "corruption by government officials and" after "preventing and punishing";

(B) in paragraph (2)(A), by striking out "and" at the end thereof;

(C) in paragraph (2)(B), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new clause:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery."; and

(3) in subsection (c), by inserting "paragraph (1), (2), or (3) of" after "under"; and

(4) by adding at the end thereof the following new subsection:

"(d)(1)(A) The President shall notify the government of a country against which is imposed the sanction described in subsection (a)(5) of his intention to suspend the rights of any air carrier designated by the government of that country under the agreement between the United States and that country relating to air services to service the routes provided in the agreement.

"(B) Ten days after the imposition of the sanction described in subsection (a)(5), the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the government of that country under the agreement to provide service pursuant to the agreement.

"(C) Ten days after the imposition of the sanction described in subsection (a)(5), the President shall direct the Secretary of Transportation not to permit or otherwise designate any United States air carrier to provide service between the United States and that country pursuant to the agreement.

"(2)(A) The Secretary of State shall terminate the agreement between the United States and that country relating to air services in accordance with the provisions of that agreement.

"(B) Upon termination of such agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the government or nationals of that country from engaging in air transportation with respect to the United States.

"(C) The Secretary of Transportation shall prohibit the takeoff and landing in that country of any aircraft by an air carrier owned, directly or indirectly, or controlled by a national of the United States or by any corporation or other entity organized under the laws of the United States or of any State.

"(3) The Secretary of Transportation may provide for such exceptions from the prohibition contained in paragraph (1) or (2) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(4) For purposes of this subsection, the terms 'aircraft', 'air transportation', and 'foreign air carrier' have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).".

(b) The title heading of title VIII of the Trade Act of 1974 is amended to read as follows: "TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES".

SEC. 553. POLICY ON MIDDLE EAST PEACE CONFERENCE.

(a) Findings.—The Congress finds that—

(1) the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

(2) the Government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent initiative for direct, bilateral negotiations among the warring parties of the Middle East including the Camp David accords of 1979 and the Reagan plan of 1982;

(3) the Government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews who wish to live and work in the State of Israel; and

(4) a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements among the Arab and Israeli states.

(b) Policy.—(1) It is the sense of the Congress that the Soviet Union should not even be given consideration as a possible participant in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless and until the Government of the Soviet Union has first:

(A) re-established diplomatic relations with the State of Israel at the ambassadorial level;

(B) publicly re-affirmed its acceptance of United Nation Resolutions 181, 242, and 338, and finally,

(C) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within the Soviet Union who have applied for emigration to the State of Israel.

(2) It is the further sense of the Congress that in the event that the Soviet Union should perform these conditions, Soviet participation shall require the approval and joint invitation of the governments of Egypt, Israel, and Jordan.

SEC. 554. REPORT ON SECURITY OF UNITED STATES DIPLOMATIC OR OFFICIAL FACILITIES.

(a) The American Ambassador (or the highest ranking American official, when no Ambassador shall be present) to the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Rumania, Cuba, the People's Republic of China, Laos, Afghanistan, Nicaragua and Yugoslavia shall submit to the Under Secretary of State for Management no later than October 1 of each year a report—

(1) on the security of the United States diplomatic and offical facilities in such country and the existing or potential vulnerability of personnel attached to such facilities during the preceding year;

(2) describing any significant efforts by a foreign government or agent thereof to penetrate or compromise the security of the United States diplomatic or official facilities, or to recruit or manipulate any government employee with the aim of conducting espionage against the United States; and

(3) describing the security program or programs at such facilities for the upcoming year.

(b) The Under Secretary of State for Management shall, within ninety days after receiving the report described in subsection (a), transmit the report to the Congress, together with—

(1) an evaluation of the security program or programs described in subsection (a) to include a certification that the Under Secretary approves or disapproves of the program or programs; and

(2) any further statement, comments or recommendations he wishes to submit regarding the security of the United States diplomatic and official facilities and personnel which are the subject of the report.

SEC. 555. COMMISSION TO STUDY FOREIGN SERVICE PERSONNEL SYSTEM.

Section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007) is amended by adding the following subsection:

"(e) The Secretary, in consultation with the Committee on Foreign Relations of the Senate, and the exclusive representatives, shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service, and shall by June 1, 1988, transmit its report and recommendations to the Secretary of State and Chairman of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.".

SEC. 556. AUDIT OF MERIT PERSONNEL SYSTEM OF FOREIGN SERVICE.

The Director of the Office of Personnel Management shall conduct an audit and inspection of the operation of the merit personnel system in the Foreign Service and report to the Congress, not later than June 1, 1988, as to any improvements in the merit personnel system that the Director deems necessary. The report of the Director shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment and promotion of Foreign Service employees.

SEC. 557. RECORD OF GRIEVANCES AWARDED.

Section 1107 of the Foreign Service Act of 1980 is hereby amended by adding the following new subsection:

"(e) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor of the grievant. The Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such supervisor is nominated for any position requiring the advice and consent of the Senate. Under appropriate procedures to safeguard confidentiality, the Board shall provide access to the entire record of any proceedings of the Board to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such committee.".

SEC. 558. RELEASE OF YANG WEI.

(a) FINDINGS.—The Congress finds that—

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his masters of science degree in microbiology in 1986;

(2) In May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a PhD program at the University of Arizona;

(3) On January 11, 1987 while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau;

(4) Yang Wei has been held without charge or trial since January 11, 1987;

(4) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities;

(5) Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son;

(6) The Chinese Criminal Procedure law of 1979, sections 92, 97, 125 and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over six months, contrary to Chinese law;

(7) Yang Wei has not committed any crime under United States or Chinese law;

(8) Yang Wei and his wife only aspire to freedom and democracy;

(9) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities;

(10) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country.

(b) POLICY.—It is the sense of Congress that—

(1) The People's Republic of China should immediately release Yang Wei;

(2) The United States should offer extended voluntary departure status to those Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

SEC. 559. COMPLIANCE WITH LAW REQUIRING REPORTS TO CONGRESS.

(a) Within ninety days of the enactment of this Act, the Department of State shall submit to the chairmen and ranking members of the Senate Committee on Foreign Relations, the Senate Committee on Governmental Affairs, the House Committee on Foreign Affairs, and the House Committee on Government Operations, a report complying with the 1980 and 1984 requests of the Senate Committee on Governmental Affairs for a listing and description of all policy and supporting positions in the Department of State and related agencies. The report shall include a complete and thorough unclassified tabulation of the following:

(1) all Foreign Service officer positions subject to noncareer appointments;

(2) all positions in the Senior Foreign Service subject to noncareer appointment; and

(3) the name of the incumbent; location; type; level, grade, or salary; tenure; and expiration (if any) of each position.

(b) Notwithstanding any other provision of law, or of this Act, no funds authorized to be appropriated by this Act shall be obligated or expended unless the requirements described in subsection (a) have been fully and faithfully complied with.

SEC. 560. FLEXIBILITY TO TRANSFER FUNDS BETWEEN SALARIES AND EXPENSES.

Section 401(a)(4) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) is hereby repealed. Funds authorized to be appropriated by section 401(a)(1)(A) of that Act may be used for any "Salaries and Expenses" purpose, provided that use of funds for other than Diplomatic Security purposes shall be treated as a reprogramming.

SEC. 561. DISTRIBUTION WITHIN THE UNITED STATES OF USIA FILM ENTITLED "AMERICA THE WAY I SEE IT".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "America The Way I See It"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 562. CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES AND INCLUSION OF SPECIFIC AGENCY COMMENTS.

(a) Section 481(e) of the Foreign Assistance Act of 1961 is amended by striking out "March 1" and inserting in lieu thereof "February 15".

(b) Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"(7) Each report pursuant to this subsection shall include specific comments and

recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have cooperated fully with such agencies during the preceding year as described in subsection (h).".

(c) Section 481(h) of the Foreign Assistance Act is amended in subparagraph (A), by striking out "30" and inserting in lieu thereof "60".

SEC. 563. LIMITATION ON THE USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

(a) AMENDMENT TO FOREIGN MISSIONS ACT.—The State Department Basic Authorities Act of 1956 is amended by adding at the end of title II (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act") the following:

"USE OF FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION

"(a) ESTABLISHMENT OF LIMITATION ON CERTAIN USES.—A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

"(b) TEMPORARY LODGING.—For the purpose of this section, the term 'residence' does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

"(c) WAIVER.—The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'foreign mission' includes any international organization as defined in section 209(b); and

"(2) the term 'unaffiliated alien' means, with respect to a foreign country, an alien who—

"(A) is admitted to the United States as a nonimmigrant, and

"(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of anactment of this Act.

(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).

SEC. 564. ADMINISTRATION POLICY ON AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) Each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) Although the administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces," political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) In the absence of a coordinated and aggressive policy by the administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union;

(4) Despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) REPORT TO CONGRESS.—(1) Not later than sixty days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction;

(2) Not later than sixty days after the date of enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that will be withheld from the Soviet Union, if they do not withdraw all troops from Afghanistan within a date that is three months after the date of the enactment of this Act;

(3) A detailed and comprehensive report in a suitably classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments; and

(4) A status report on the structure, coordinating and military success of the Afghan Freedom Fighter Alliance.

SEC. 565. IRAN HUMAN RIGHTS VIOLATIONS.

(a) FINDINGS.—

(1) The United Nations has passed nine resolutions condemning the violation of human rights in Iran;

(2) The United Nations Subcommission on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that to date, more than two-hundred thousand Iranians have been imprisoned, tortured or executed because of their beliefs;

(3) The United Nations Commission on Human Rights confirms seven thousand executions in Iran between 1978 and 1985, and attests that the actual number is probably much higher;

(4) Despite the persistent requests over the past six years by the United Nations and by many human rights organizations that the Iranian Government allow a special representative of the United Nations Security Council to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian Government;

(5) Executions, including executions of children and members of religious minorities, apparently still take place in Iran;

(6) The Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

(7) Iran has rejected all proposals to end the seven year Iran-Iraq war;

(8) Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq war;

(9) The Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region;

(10) It is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy.

(b) Now therefore, the Congress—

(1) Expresses concern for those citizens who against their will must endure war and unprecedented repression;

(2) Supports an official United States policy of completely halting the shipment of any kind of armament to the Government of Iran;

(3) Urges that the President continue to make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons and to pressure Iran to permit inspection of Iranian prisons by an international delegation; and

(4) Expresses support for all efforts made through the United Nations Security Council to pressure the Khomeini government to accept peace and to end the carnage caused by the seven years of war.

SEC. 566. TERRORIST BOMBING IN HONDURAS.

(a) FINDINGS.—The United States Senate finds that—

(1) a terrorist bomb exploded on August 8, 1987, in the China Palace restaurant in Tegucigalpa, Honduras;

(2) the bomb was directed at American soldiers and did in fact wound American soldiers and an American contractor;

(3) the wounded American soldiers are identified as SFC Ronald W. Rodriguez (California), SFC Robin Jackson (New York), SFC Ian Holt (Colorado), SFC Direak McKeen (Illinois), and SFC David Lambert (Iowa), and the American contractor is Barry Stein (Florida);

(4) the United States military personnel were in Honduras assigned to Joint Task Force Bravo;

(5) Honduran authorities have named Alfonso Guerrero Ulloa as a suspect in this act of terrorism and have a warrant for his arrest;

(6) the Government of Mexico, contrary to accepted norms of international law on harboring terrorists, has granted asylum to Mr. Guerrero, and

(7) the United States Government has protested to the Government of Mexico.

(b) STATEMENT OF POLICY.—It is the sense of the Senate that—

(1) the United States Senate deplores the harboring of international terrorists, and

(2) the United States Government should call upon the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras.

SEC. 567. CLOSING OF DIPLOMATIC AND CONSULAR POST IN ANTIGUA AND BARBUDA.

(a) PROHIBITION ON USE OF FUNDS.—None of the funds made available for the Department of State for any fiscal year may be used for the expenses of maintaining a

United States diplomatic or consular post in Antigua and Barbuda.

(b) Effective Date.—The prohibition contained in subsection (a) shall take effect sixty days after the date of enactment of this Act.

SEC. 568. REPORT ON SOVIET VIOLATIONS OF ABM TREATY.

Within thirty days of the enactment of this section, the President shall report to Congress (1) whether Soviet violation of the ABM Treaty and the complete failure after the ratification of such treaty to reduce or limit the increase of Soviet offensive intercontinental nuclear weapons systems jeopardize the supreme national interest of the United States and (2) whether the United States should accordingly withdraw from such treaty.

SEC. 569. PROHIBIT ACQUIRING HOUSE FOR SECRETARY OF STATE.

Notwithstanding any other provision of law or of this Act, the Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State.

SEC. 570. PROHIBITION OF EXPULSION OF PERSONS SEEKING POLITICAL ASYLUM.

(a) Short Title.—This section may be cited as the "Miroslav Medvid Memorial Act of 1987".

(b) Suspension.—Any United States national employed by the United States Government who orders the expulsion from the United States, its territories, possessions, or special maritime jurisdiction, of any person seeking political asylum from a Communist country, without the review and rejection of the person's claim by the Secretary of State and the Attorney General, if such person is so expelled, shall be suspended without pay for no less than 365 days.

(c) Duties of Secretary of State and Attorney General.—The duties and obligations of the Attorney General and Secretary of State provided for in this section may not be delegated.

(d) Reports to Congress.—

(1) Not later than forty-eight hours after an expulsion of a person seeking political asylum described in subsection (b), the Secretary of State shall prepare and transmit to the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Foreign Relations of the Senate setting forth the reasons for the rejection of such person's claim.

(2) No later than January 31 of each full year following enactment of this section, the Secretary of State shall prepare and transmit to the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Foreign Relations of the Senate, a report on the whereabouts and welfare of individuals who have been denied political asylum since such denial.

(e) Publication of Applicability of Criminal Penalties.—Not later than 60 days after the date of enactment of this section, the head of each United States diplomatic mission or consular post in each Communist country shall cause to be publicly displayed at the principal entrance to such mission, in English and the official languages of the country in which the mission or post is located, a notice of the applicability of criminal and other penalties for conduct described in section 2 and copy of this section.

(f) Definitions.—For purposes of this section, the term "Communist country" refers to any country listed in section 620(f) of the Foreign Assistance Act of 1961, Nicaragua and Mozambique.

TITLE VI—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

SEC. 601. FINDINGS.

The Congress finds that—

(1) on December 19, 1986, the Forty-first Session of the United Nations General Assembly approved major reforms in the budget decisionmaking process, the administration, and the management of the United Nations;

(2) President Reagan characterized this achievement as "an historic step to adopt sweeping reforms of its organization and methods of operation";

(3) the United States Permanent Representative to the United Nations, Ambassador Vernon Walters, has stated that the adoption of these reforms is "the beginning, not the end, of a process of reforming and improving the United Nations in the interests of all its members";

(4) the cooperation of many other member states of the United Nations as well as the United Nations Secretary General was indispensable to this historic accomplishment;

(5) the United Nations (of which the United States is a member by treaty) was established for the purposes, as enunciated in the Charter, of maintaining international peace and security, developing friendly relations among nations based on respect to equal rights and self-determinations, achieving international cooperation in solving economic, social, cultural, and humanitarian problems, and promoting respect for human rights;

(6) the United Nations has also, on occasion, strayed from its original purposes and has served as a forum for irresponsible rhetoric and politicization, such as the adoption by the General Assembly in 1975 of Resolution 3379 equating Zionism with racism;

(7) in spite of such grave lapses, the United States remains committed to the United Nations and the purposes of the Charter, not only as a member of the United Nations and one of its earliest leaders and supporters, but also as host to the United Nations headquarters;

(8) testament to the continued relevance of the United Nation's purposes and principles can be found in the President's addresses to the United Nations General Assembly, in which he declared that "the vision of the United Nations Charter—to spare succeeding generations this scourge of war—remains real" and that the United States, "which has always given the United Nations generous support, will continue to play a leading role in the effort to achieve its noble purposes"; and

(9) this is an appropriate time for the United States public and its representatives in Congress to participate in the ongoing United Nations reform process and to recommend means of making that institution more effective and responsible, consistent with the national interests of the United States.

SEC. 602. ESTABLISHMENT OF COMMISSION.

The United States Commission on Improving the Effectiveness of the United Nations (hereafter in this title referred to as the "Commission") is hereby established.

SEC. 603. PURPOSES OF THE COMMISSION.

(a) Purposes.—The purposes of the Commission shall be to—

(1) examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses; and

(2) prepare and submit to the President and to the Congress recommendations on ways to improve the effectiveness of the United Nations system and the role of the United States in the United Nations system, including the feasibility of and means for implementing such recommendations.

(b) Special Attention.—In carrying out its responsibilities under subsection (a), the Commission shall pay special attention to the following:

(1) The mechanisms and procedures within the United Nations system for peacekeeping and conflict-resolution and ways in which they may be expanded or improved, examining in particular the functions of the Secretary General, the role of the Security Council, the use of the International Court of Justice, potential third-party dispute-solving mechanisms (as in the establishment of a United Nations Mediation and Conciliation Service), the possible creation of standing United Nations peacekeeping forces or antiterrorism units, the role of United Nations institutions in factfinding, and potential verification and inspection services to assist in enforcing compliance with international arms control agreements.

(2) Formal and informal decisionmaking procedures in the United Nations system and recommendations to modify those procedures which have emerged from various interested parties, examining in particular the role of consensus decisionmaking, the feasibility and advisability of weighted voting (including the so-called "binding triad" formula requiring multiple concurrent majorities based on one-nation-one-vote along with population and contributions), the possible modification of the Security Council veto, and the relationship of the principles of universality and democracy to decisionmaking procedures.

(3) The cost-effectiveness and administrative efficiency of the United Nations system, examining in particular the recently adopted budgetary, management, and administrative reforms, the role of the major donors in budget decisionmaking, the prioritization of programs, adjustments in assessments, potential alternative nongovernmental sources of revenue, salaries, benefits, hiring of consultants, contracts for goods and services, and appointment of staff in the Secretariat.

(4) The economic, social, humanitarian role of the United Nations system, examining in particular the optimum coordination of economic development programs, short-term and long-term response to crises and natural disasters, population health issues, refugee relief, the protection of the environment, narcotics control, the implementation of international human rights law, and the potential creation of a United Nations High Commissioner for Human Rights.

(5) United States participation in the United Nations system, examining in particular the strengths and weaknesses of United States performance, United States policy toward the International Court of Justice and international law, provisions in United States law relating to the United Nations system, ways in which the United States can better use the United Nations system to advance its national interests, the state of public opinion with regard to the United States role in the United Nations system, United States voluntary and assessed contributions, and the hiring of United States citizens in the United Nations system.

(6) Strategies and actions for promoting the implementation of recommended reforms in the United Nations system and the

United States role in the United Nations system.

(c) CONSULTATION REGARDING OTHER UNITED NATIONS REFORM EFFORTS.—In carrying out this section, the Commission shall make every effort to consult, where appropriate, with other public and private institutions and organizations engaged in efforts to reform the United Nations system, including efforts being made directly under the auspices of the United Nations.

SEC. 604. MEMBERSHIP OF THE COMMISSION.

(a) MEMBERS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 18 members, appointed as follows:

(A) Two Members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the Minority Leader of the Senate.

(B) Two Members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the Minority Leader of the House.

(C) Eight individuals from the private sector, two appointed by the President pro tempore of the Senate, two appointed by the Minority Leader of the Senate, two appointed by the Speaker of the House, and two appointed by the Minority Leader of the House.

(D) Six individuals appointed by the President, not more than three of whom may be from the same political party.

(2) CRITERION FOR APPOINTMENTS.—Individuals appointed pursuant to subparagraphs (C) and (D) of paragraph (1) shall be representative, to the maximum extent possible, of the full range of American society.

(3) APPOINTMENTS TO BE MADE PROMPTLY.—All appointments pursuant to paragraph (1) shall be made not later than sixty days after the date of enactment of this Act.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(b) ADVISORS.—Former United States Permanent Representatives to the United Nations who are not appointed to the Commission shall be invited by the Commission to serve as advisors to the Commission.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission, and Advisors serving pursuant to subsection (b), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Chairman and Vice Chairman shall be elected by the Commission from among members of the Commission.

(e) QUORUM.—Ten members of the Commission shall constitute a quorum for purposes of transacting business, except that four members shall constitute a quorum for holding public hearings.

SEC. 605. POWERS OF THE COMMISSION.

(a) IN GENERAL.—For the purpose of carrying out this title, the Commission may hold such hearings (subject to the requirements of subsection (b)) and sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to fulfill the purposes specified in section 603. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) MEETINGS.—

(1) MINIMUM NUMBER OF PUBLIC HEARINGS.—The Commission shall hold a minimum of five public hearings.

(2) OPEN MEETINGS.—Section 552b of title 5 of the United States Code shall apply with respect to the Commission.

(3) CALLING MEETINGS.—The Commission shall meet at the call of the Chairman of a majority of its members.

(c) DELEGATION OF AUTHORITY.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of any such Federal agency shall furnish such information to the Commission, to the extent authorized by law.

SEC. 606. STAFF.

(a) STAFF MEMBERS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for Level V of the Executive Schedule under section 5316 of title 5, United States Code;

(2) appoint and fix the compensation of such other staff personnel as the Chairman considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) DETAILING OF GOVERNMENT PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out this title.

SEC. 607. REPORT.

The Commission shall transmit to the President and to the Congress a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, including minority views. This report shall be transmitted not later than eighteen months after the date on which all members of the Commission have been appointed.

SEC. 608. FUNDING FOR THE COMMISSION.

(a) COMMISSION TO BE PRIVATELY FUNDED.—The Commission may accept and use contributions from private United States sources to carry out this title. No Federal funds may be made available to the Commission for use in carrying out this title.

(b) LIMITATION ON SIZE OF CONTRIBUTIONS.—The Commission may not accept contributions from any single source which have a value of more than—

(1) $100,000, or

(2) 20 percent of the total of all contributions accepted by the Commission.

(c) COMMISSION APPROVAL OF CERTAIN CONTRIBUTIONS.—The Commission may accept contributions having a value of $1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions.

(d) DISCLOSURE OF CONTRIBUTIONS.—

(1) PERIODIC REPORTS TO CONGRESS.—Every thirty days, the Commission shall submit to the chairman of the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding thirty days.

(2) FINAL REPORT.—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 607.

SEC. 609. GENERAL ACCOUNTING OFFICE AUDITS OF THE COMMISSION.

The provisions of subchapter II of chapter 7 of title 31 of the United States Code (relating to the general duties and powers of the General Accounting Office) shall apply with respect to the programs and activities of the Commission, including the receipt, disbursement, and use of funds contributed to the Commission, to the same extent as those provisions apply with respect to other agencies of the United States Government.

SEC. 610. TERMINATION OF THE COMMISSION.

The Commission shall cease to exist sixty days after submitting its report pursuant to section 607.

TITLE VII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SEC. 701. SHORT TITLE.

This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

SEC. 702. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the continued occupation of Cambodia by Vietnam and the instability of the governments of Vietnam, Cambodia, and Laos have led to a steady flight of refugees from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) because of our past military and political involvement in the region, the United States has a continued, special responsibility to the persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) in view of this special responsibility, the United States has placed a special priority on the resettlement and protection needs of the Indochinese refugees;

(4) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand, have been the front line countries bearing tremendous burdens caused by the flight of these refugees, distinguishing themselves as the leaders of an unprecedented humanitarian response to the plight of Indochinese refugees;

(5) largely in response to a lessened commitment among resettlement countries to the refugees of the region, these countries of first asylum have recently taken steps to close refugee camps. Such camp closings would seriously undermine the continuation of a humane refugee policy and are inimical to the resolution of refugee problems in the region;

(6) the United States bears a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of unnecessarily slow and complex resettlement procedures; prolonged and often questionable adjudications in humanitarian parole, immigration and refugee cases; failure to implement effective policies for the region's "long-stayer" populations; failure to adequately monitor refugee protection and screening systems along the Thai-Cambodian and Thai-Laotian borders; a policy of allocating admissions numbers to "carryover" refugees approved in previous years rather than qualified new cases; and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure for refugees from that country, including Amerasians and long-held "re-education camp" prisoners;

(7) the United Nations High Commissioner for Refugees (UNHCR) shares responsibility for the hardening of attitudes in first asylum countries. The UNHCR should be pressed to upgrade its staff presence and level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region; to pursue voluntary repatriation possibilities, but only in cases where monitoring is available and the safety of the refugees assured; and

(8) given the serious protection problem in Southeast Asian first asylum countries, and the need to preserve first asylum in the region, the United States must renew its commitment to an ongoing, generous refugee resettlement and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved.

SEC. 703. CONGRESSIONAL FINDINGS ON INDOCHINESE REFUGEE PROCESSING.

The Congress finds that—

(1) there have been numerous diplomatic problems arising from inconsistent refugee processing by the Immigration and Naturalization Service, most recently with respect to processing of Cambodian refugees at Khao I Dang, and also to the processing of Lowland Lao;

(2) there have been questionable documentation requirements of Indochinese refugees by the INS, leading to unjust adjudications to the detriment of deserving refugee cases;

(3) there have been historical problems with INS staffing commitments in the region, frequently precipitating delays and necessitating the assignment of temporary duty officers who lack expertise in Indochinese refugee processing;

(4) while the overall approval rates of Indochinese refugees has been acceptable, it has been achieved at the expense of multitudes of rejected cases which are contributing to a growing "long stayer" population in the region;

(5) the INS is an immigration service and is not well-suited to the sensitive area of refugee processing, particularly as it involves the fulfillment of commitments made by the Secretary of State in the conduct of United States foreign policy; and

(6) given the longstanding problems associated with INS processing, dating back to the disturbing INS performance in 1982-83 which led to the issuance of National Security Decision Directive Number 93 and to new INS processing guidelines, the United States must consider the possibility of denying the INS any further role in the processing of refugees.

SEC. 704. REPORTING REQUIREMENT.

The President shall submit a report within 120 days of enactment of this Act assessing the merit of transferring the authority to admit all refugees under the Immigration and Nationality Act from the Attorney General to the Secretary of State.

SEC. 705. ALLOCATIONS OF REFUGEE ADMISSIONS.

(a) Given the existing connection between ongoing resettlement and the preservation of first asylum, and to provide a stable and secure environment for refugees while dialogue is pursued on other long-range solutions, including voluntary repatriation and local settlement, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps, and

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), a number of admissions allocated in a fiscal year under priorities II and III of the Program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be at least 1,500.

(b)(1) It is the sense of the Congress that Indochinese refugees who have lived in camps for three years or longer are of special humanitarian concern to the United States and should be considered as eligible for refugee processing. Under the leadership of the United States, renewed international efforts should be made to resettle these long-stayers, as proposed in the Report of the Secretary of State's Indochinese Refugee Panel in April, 1986.

SEC. 706. ALLOCATION OF EDUCATIONAL ASSISTANCE FOR THAILAND.

Section 105 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) Of the amounts authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1988 and 1989 may be available for educational programs, projects, or activities along the Thai-Laotian border and the Thai-Cambodian border which are carried out by Thai or other nongovernmental organizations in conjunction with relief organizations and civilian camp leadership.".

SEC. 707. ALLOCATION OF ECONOMIC SUPPORT FUND ASSISTANCE FOR THAILAND.

Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is amended by adding at the end thereof the following new section:

"SEC. 536. ALLOCATION FOR THAILAND.—(a) The Congress finds that many Thai residents of villages located near the border with Laos and Cambodia have been adversely affected by artillery shelling and refugee migrations.

"(b) Of the amounts authorized to be appropriated to carry out this chapter for the fiscal years 1988 and 1989, $5,000,000 for each such fiscal year may be available to provide financial assistance for Thai villages affected by Indochinese refugee camps.".

SEC. 708. ALLOCATION OF INTERNATIONAL MILITARY EDUCATION AND TRAINING ASSISTANCE FOR THAILAND.

Chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) is amended by adding at the end thereof the following new section:

"SEC. 546. ALLOCATION FOR THAILAND.—Of the amounts to be appropriated to carry out this chapter for the fiscal year 1988 and 1989, $2,000,000 for each of such fiscal years may be available to train and deploy the Royal Thai Army to protect Indochinese refugees and those in refugee-like situations in Thailand.".

SEC. 709. POLICY TOWARD PROTECTION OF REFUGEE CAMPS.

It is the sense of the Congress that the international community should increase its efforts to assure that Indochinese refugee camps are protected and that international observers and relief personnel should be present on a twenty-four hours a day basis at camp "Site 2" and any other camp where it is deemed necessary.

TITLE VIII—MUNITIONS CONTROL ACT OF 1987

SEC. 801. SHORT TITLE.

This title may be cited as the "Arms Export Control Enforcement and Coordination Act of 1987".

SEC. 802. EXPORT LICENSES.

Section 38 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(g)(1)(A)(i) The Agency shall develop appropriate mechanisms to identify in connection with the export licensing process—

"(I) persons who have been indicted for or convicted of violations of this Act, the Export Administration Act of 1979, the Espionage Act, the Trading with the Enemy Act, the Foreign Assets Control Act, or

"(II) persons who have been indicted for or convicted of conspiracy to violate any of the statutes described in this subparagraph, and

"(III) persons who are ineligible to contract with or receive export or import licenses from any agency of the United States Government.

"(ii) The Agency shall require that each applicant for a license to export an item from the United States Munitions List shall identify in his application all parties to the proposed export.

"(B) If the Agency has reasonable cause to believe that an applicant or party to the export has violated any of the statutes cited in subparagraph (A) or has been indicted for violations of any of the statutes cited in subparagraph (A), the Agency may disapprove the application. The Agency shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

"(C) No person may be issued a license to export an item covered by the United States Munitions List if—

"(i) such person or any party to the export has been convicted of violating a statute referred to in subparagraph (A), or such person or any party to the export is at the time of the license review ineligible to contract with or receive export or import licenses from any agency of the United States Government, except as may be determined

on a case-by-case basis by the Agency, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to contract and a finding by the Agency that appropriate steps have been taken to mitigate any law enforcement concerns; or

"(ii) such person is a foreign person, except in cases in which an export has been agreed to under Foreign Military Sales authority.

"(2) The Agency shall have the authority to require an export license (or other authorization) for any item on the United States Munitions List before it is sold to, provided to, or taken possession by a foreign person or a person acting on behalf of a foreign person.

"(3) The President shall direct the Secretary of State, the Secretary of Defense, and the Secretary of Treasury to detail personnel with appropriate expertise to the Agency to assist in the initial screening of applications for export licenses under this section for the purpose of determining the need for further review of such applications for foreign policy, national security, and law enforcement concerns.

"(4) For purposes of this subsection—

"(A) the term 'Agency' means the United States Government agency charged with administration of this section;

"(B) the term 'foreign person' means any person who is not a citizen or national of the United States or a person lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act, and such term includes foreign corporations and their United States subsidiaries, international organizations, foreign governments, and any agency or subdivision of foreign governments, including diplomatic missions and embassies;

"(C) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities; and

"(D) the term 'party to an export' means any employee of, consultant to, or agent for the person requesting the export license who is involved in the sales or marketing of items covered by the United States Munitions List, any person that exports or causes to be exported the item or items being exported, and the end user of the item or items.".

SEC. 803. REGISTRATION.

Section 38(b)(1) of the Arms Export Control Act is amended—

(1) by inserting "(A)" immediately after "(1)"; and

(2) by adding at the end thereof the following new paragraph:

"(B) A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. Reports on such concerns shall be made to the Agency as may be deemed necessary.".

TITLE IX—INTERNATIONAL CHILD ABDUCTION ACT

SEC. 901. SHORT TITLE.

This title may by cited as the "International Child Abduction Act".

SEC. 902. FINDINGS AND DECLARATION OF PURPOSES.

The Congress finds that—

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The 1980 Hague Convention on the Civil Aspects of International Child Abduction establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(5) This title is designed to facilitate implementation of the Convention in the United States.

(6) The provisions of this title are in addition to and not in lieu of the provisions of the Convention.

(7) In enacting this title the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(8) The Convention and this title empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

SEC. 903. DEFINITIONS.

For the purposes of this title—

(1) "Convention" means the 1980 Hague Convention on the Civil Aspects of International Child Abduction;

(2) "United States Central Authority" means the agency of the Federal Government designated by the President to perform on behalf of the United States the functions of Central Authority set out in the Convention and this title;

(3) "court" means any court of competent jurisdiction of a State, the District of Columbia, a territory or possession of the United States, or the United States;

(4) "Federal Parent Locator Service" means the service established by the Secretary of Health and Human Services pursuant to section 453 of the Social Security Act (42 U.S.C. 653);

(5) "person" includes any individual, an institution, or any other legal entity or body;

(6) "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(7) "petitioner" means any person who files a petition in court seeking relief under the Convention and this title;

(8) "respondent" means any person against whose interests a petition is filed pursuant to the Convention and this title;

(9) "authorities" as used in article 15 of the Convention includes public officials and courts;

(10) "rights of access" means visitation rights;

(11) "wrongful removal or retention" includes a removal or retention of a child prior to the entry of a custody order regarding that child; and

(12) "commencement of proceedings" as used in article 12 of the Convention, with regard to the return of children located in the United States, means the filing of a petition in accordance with section 904(b).

SEC. 904. ADMINISTRATIVE AND JUDICIAL REMEDIES.

(a) The courts of the States, the District of Columbia, and the territories and possessions of the United States, and the United States district courts shall have concurrent original jurisdiction with regard to actions arising under the Convention and this title.

(b) Any person seeking judicial relief under the Convention and this title may commence a civil action by filing a petition in any court described in subsection (a) within the jurisdiction of which a child is located at the time the petition is filed.

(c) Notice of an action for the return of a child pursuant to the Convention and this title shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) A petitioner who seeks return of a child under the Convention and this title shall establish by a preponderance of the evidence that the child has been wrongfully removed or retained. A respondent who opposes return of the child has the burden of establishing by clear and convincing evidence that one of the exceptions set forth in the Convention applies.

(e) Full faith and credit shall be accorded by courts in the United States to the judgments of other courts in the United States ordering the return of a child pursuant to the Convention and this title or denying such return.

(f) The remedies established by the Convention and this title shall be in addition to remedies available under other laws or international agreements.

SEC. 905. PROVISIONAL REMEDIES.

(a) In furtherance of the objectives of the Convention and subject to the provisions of subsection (b), any court exercising jurisdiction over a petition filed pursuant to the Convention and this title, may, either directly or through an appropriate intermediary, take or cause to be taken provisional measures under Federal or State law, as appropriate, to protect the well-being of a child or to prevent the child's further removal or concealment prior to final disposition of the petition.

(b) No court exercising jurisdiction over a petition filed pursuant to the convention and this title may order a child provisionally removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

SEC. 906. ADMISSIBILITY OF DOCUMENTS.

Any application to the United States Central Authority or petition to a court submitted in accordance with the terms of the Convention, together with documents and any other information appended thereto or provided subsequently, shall be admissible in court without the need for any legalization or authentication.

SEC. 907. UNITED STATES CENTRAL AUTHORITY.

(a) The President shall designate a Federal agency to serve as Central Authority for the United States.

(b) The functions of the United States Central Authority and cooperating State and local authorities and agencies are those ascribed to the Central Authority by the Convention and this title.

(c) The United States Central Authority shall have authority to issue regulations to implement the Convention and this title.

(d) The United States Central Authority shall have authority to obtain information from the Federal Parent Locator Service under section 463 of part D of title IV of the Social Security Act.

SEC. 908. COSTS AND FEES.

(a) No Federal, State, or local authority shall impose on the applicant any fee in relation to the administrative processing of applications submitted under this Convention.

(b) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions and travel costs for the returning child and any accompanying persons, except as provided in subsection (c) or (d).

(c) Subject to subsection (d), legal fees or court costs incurred in connection with proceedings under the Convention or this title shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(d) Any court ordering the return of a child under the Convention shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of return proceedings, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

SEC. 909. COLLECTION, MAINTENANCE AND DISSEMINATION OF INFORMATION.

(a) Notwithstanding section 522a of title 5, United States Code and any other provision of law, the United States Central Authority may, under such conditions as it prescribes by regulation, receive from or transmit to any Federal, State, or foreign authority or person information for purposes related to the Convention. No information shall be disclosed by the United States Central Authority pursuant to this section, however, if such disclosure would contravene the national security or law enforcement interests of the United States or the confidentiality of census data.

(b) Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) Notwithstanding any other provision of law (but subject to subsection (d)), whenever the head of any department, agency, or instrumentality of the United States or of any State, territory, or possession of the United States receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the United States Central Authority, except that if any information is obtained the disclosure of which would contravene national security or law enforcement interests of the United States or the confidentiality of census data, such information shall not be transmitted. The responding agency shall be obligated to advise the United States Central Authority immediately upon completion of the requested search.

(d) To the extent that information the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Federal Parent Locator Service under the provisions of section 463 of the Social Security Act, such Central Authority shall use the procedure provided for under such section 463 in its efforts to obtain such information, and shall not request such information directly under the provisions of subsection (c) of this section.

(e) Nothing in this section shall be construed as permitting the United States Central Authority to obtain tax return information except as provided in section 6103 of the Internal Revenue Code of 1986 and section 453 of the Social Security Act.

(f) The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

SEC. 910. INTER-AGENCY COORDINATING GROUP.

(a) The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor operation of the Convention and to provide advice on its implementation. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the coordinating groups at rates not to exceed those authorized for Federal employees under title 5 of the United States Code.

(b) The interagency coordinating group shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App. I).

SEC. 911. AUTHORIZATION OF APPROPRIATION.

There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this title.

SEC. 912. AMENDMENT CONCERNING FEDERAL PARENT LOCATOR SERVICE.

Section 463 of the Social Security Act (42 U.S.C. 663) is amended—

(1) in subsection (b), by striking out "under this section" and inserting in lieu thereof "under subsection (a)"; and

(2) by adding at the end the following new subsection:

"(e) The Secretary shall enter into an agreement with the Central Authority designated by the President in accordance with section 907 of the International Child Abduction Act, under which the services of the Parent Locator Service established under section 453 shall be made available to such Central Authority for the purpose of determining the whereabouts of any parent or child when such information is to be used to locate such parent or child for the purpose of carrying out its responsibilities under that Act. The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

SEC. 913. AMENDMENT TO THE INTERNAL REVENUE CODE.

Subparagraph (B) of section 6103(l)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(6)(B)) is amended by inserting before the period at the end thereof the following: "and for purposes of, and to the extent necessary in, locating individuals in connection with the abduction or wrongful restraint or retention of a child".

TITLE X—DIPLOMATIC IMMUNITY ABUSE PREVENTION ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Diplomatic Immunity Abuse Prevention Act".

SEC. 1002. CRIMES COMMITTED BY DIPLOMATS.

Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act") is amended by inserting after section 204A the following:

SEC. 204B. CRIMES COMMITTED BY DIPLOMATS.

"(a) RECORDS.—(1) The Director shall develop and maintain records on each incident in which an individual with immunity from the criminal jurisdiction of the United States under the Vienna Convention who the Director reasonably believes has committed a serious criminal offense within the United States. Each such record shall include—

"(A) the identity of such individual;

"(B) the nature of the offense committed by such individual, including whether against property or persons;

"(C) whether such offense involved reckless driving or driving while intoxicated; and

"(D) the number and nature of all other criminal offenses committed in the United States by such individual.

"(2) The Director shall submit an annual report to the Congress on the incidents occurring during the preceding year. The report shall include the information developed and maintained under paragraph (1).

"(b) LOCAL LAW ENFORCEMENT INDIVIDUALS.—The Director shall take such steps as may be necessary—

"(1) to educate local law enforcement officials on the extent of the immunity from criminal jurisdiction provided to members of a foreign mission, and family members of such members, under the Vienna Convention; and

"(2) to assure that local law enforcement officials fully investigate, charge, and prosecute, to the extent consistent with immunity from criminal jurisdiction under the Vienna Convention, any member of a foreign mission, and any family member of such a member, who commits a serious criminal offense within the United States.

"(c) INFLUENCE OF LOCAL PROSECUTIONS.—

"(1) No officer or employee of the Department of State may seek to influence any investigation, charge, or prosecution by a State or local government of—

"(A) an alien who is a member of a foreign mission,

"(B) a family member of an alien described in subparagraph (A), or

"(C) any other alien,

not covered by immunity from the criminal jurisdiction of the United States under the Vienna Convention.

"(2) The Secretary may waive paragraph (1) with respect to an individual if the Secretary determines, and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after each such waiver, that such waiver is required by significant foreign policy considerations or the national security.

"(d) NOTIFICATION OF DIPLOMATIC CORPS.—The Director shall notify the members of each foreign mission of United States policies relating to criminal offenses (particularly crimes of violence) committed by such

members, and the family members of such members, including the policy of obtaining criminal indictments, requiring such members to leave the country, and declaring such members persona non grata.

SEC. 1003. REGISTRATION AND DEPARTURE PROCEDURES FOR INDIVIDUALS WITH DIPLOMATIC IMMUNITY.

Section 210 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4310) is amended—

(1) by inserting "(a)" after "Sec. 210."; and

(2) by adding at the end thereof the following:

"(b) The Director shall develop and implement registration and departure procedures for members of foreign missions, and the family members of such members, in order to identify those individuals in the United States with immunity under the Vienna Convention on Diplomatic Relations of April 18, 1961 (TIAS numbered 7502; 23 UST 3227.)".

SEC. 1004. WAIVER OF DIPLOMATIC IMMUNITY OR DECLARATION OF PERSONA NON GRATA WHEN CHARGED WITH A SERIOUS CRIME.

(a) Waiver.—When an individual who is entitled to immunity from the criminal jurisdiction of the United States under the Vienna Convention on Diplomatic Relations is believed to have committed a serious criminal offense (particularly a crime of violence), a summons for that individual to appear in court shall be issued. Thereupon the Secretary of State shall—

(1) request that the country such individual represents waive the immunity of that individual, or

(2) if such waiver is denied, immediately declare non grata such individual if there is a prima facie case against such individual which absent diplomatic immunity would lead to prosecution and thereby require that individual to leave the United States.

(b) Communication to Immigration and Naturalization Service.—The Secretary of State shall notify the Commissioner of the Immigration and Naturalization Service of each individual who voluntarily leaves, or is asked to leave, the United States because of that individual's alleged involvement in a serious criminal offense in order to prevent that person from reentering the United States.

(c) Exclusion of Aliens Previously Involved in a Serious Criminal Offense Committed in the United States.—Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended—

(1) by striking out the period at the end of paragraph (33) and inserting in lieu thereof "; and" and

(2) by adding after paragraph (33) the following new paragraph:

"(34) Any alien with respect to whom the Secretary of State has notified the Commissioner of the Immigration and Nationality Service under section 4 of the Diplomatic Immunity Abuse Prevention Act because of that alien's alleged involvement in a serious criminal offense, except that such alien may be admitted to the United States—

"(A) with respect to any proceeding regarding such crime, or

"(B) if the Attorney General, in consultation with the Secretary of State, determines that admitting such individual into the United States is in the national interest.".

SEC. 1005. AUTHORITY TO INSTITUTE AND MAINTAIN CRIMINAL PROSECUTIONS.

Section 5 of the Diplomatic Relations Act (22 U.S.C. 254) is amended by inserting before the period at the end of the first sentence the following: ", except that in the case of a criminal proceeding, prosecution may be instituted and maintained provided that no measure is taken in derogation of the diplomatically immune individual's inviolability or immunities from jurisdiction".

SEC. 1006. REVIEW OF UNITED STATES POLICY ON DIPLOMATIC IMMUNITY.

The Secretary of State and the Comptroller General of the United States shall separately review the policy of the United States of providing privileges and immunities to foreign missions, the members of the mission, their families, the diplomatic couriers, and others which result in treatment which is more favorable than the treatment required to be provided under the Vienna Convention on Diplomatic Relations. Within 180 days after the date of enactment of this Act, the Secretary and the Comptroller General shall each submit separately to the Congress recommendations—

(1) for such changes as may be necessary in such United States policy so that such privileges and immunities do not exceed United States treaty obligations; and

(2) to promote the observance by foreign missions, the members of the mission, their families, the diplomatic couriers, and others of United States law.

SEC. 1007. REVIEW OF PROCEDURES FOR ISSUING VISAS TO DIPLOMATS TO THE UNITED STATES AND THE UNITED NATIONS.

In order to ensure conformity with the treatment accorded to United States diplomats by other countries, the Attorney General, in consultation with the Secretary of State, shall review the procedures, and make such changes in the procedures as may be necessary, for issuing nonimmigrant visas to the aliens described in subparagraphs (A) and (G) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)). Within 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of such review and describing the changes, if any, made in such procedures.

SEC. 1008. DEFINITION OF FAMILY MEMBERS.

Paragraph (2) of section 2 of the Diplomatic Relations Act (22 U.S.C. 254a) is amended to read as follows:

"(2) the term 'family' means—

"(A) the spouse of a member of the mission and his or her unmarried children under 21 years of age, who are not members of some other household, and who reside exclusively in the principal's household;

"(B) unmarried children under 23 years of age who are attending an institution of higher education on a full-time basis; and

"(C) under exceptional circumstance and with the express advance approval of the Department of State, other persons who are not members of some other household, who reside exclusively in the principal's household, and who are recognized by the sending State as members of the family forming part of the household.".

SEC. 1009. MINIMUM INSURANCE COVERAGE.

Section 6(b) of the Diplomatic Relations Act (22 U.S.C. 254c(b)) is amended by adding at the end the following new sentence: "Such requirements shall provide that the minimum amount of insurance carried for injury resulting from the operation of any motor vehicle, vessel, or aircraft is $1,000,000 per incident.".

SEC. 1010. LIABILITY INSURANCE TO BE CARRIED BY DIPLOMATIC MISSIONS.

(a) Requirement.—Section 6 of the Diplomatic Relations Act (22 U.S.C 254(c)) is amended by adding at the end thereof the following new subsection:

"(d) The Director of the Office of Foreign Missions shall, by regulation, establish, and take such steps as he deems necessary to ensure compliance with, liability insurance requirements which can reasonably be expected to afford adequate compensation for injury to person or property resulting from or arising out of the activities of a mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, other than liability relating to risks described in subsection (b).".

(b) Conforming Amendment.—Subsection (a) of such section is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (d)".

SEC. 1011. PROCEDURES FOR CERTIFYING IMMUNITIES.

The Diplomatic Relations Act (22 U.S.C. 254) is amended—

(1) by redesignating sections "8" and "9" as "9" and "10", respectively; and

(2) by inserting after section 7 the following new section:

"PROCEDURES FOR CERTIFYING IMMUNITIES

"Sec. 8. Certification to the Court of immunity from criminal prosecution of any individual summoned under the procedures established under section 4 of this Act who is entitled to immunity under the Vienna Convention on Diplomatic Relations, or under section 3(b) or 4 of this Act, shall be made only if the request has been made by the foreign minister of the sending state to the chief of the United States mission in the sending state and such request is transmitted to the Secretary of State.".

SEC. 1012. DIPLOMATIC POUCHES.

The President shall—

(1) take such steps as may be necessary to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, and weapons and any material used to foster terrorism into the United States; and

(2) seek in every appropriate forum the adoption of measures which will ensure that diplomatic pouches are not used to smuggle illicit narcotics, explosives, weapons, and any material used to foster terrorism.

SEC. 1013. DEFINITIONS.

For purposes of this title, the term—

(1) "serious criminal offense" means any crime of violence, as defined in section 16 of title 18, United States Code, or reckless driving or driving while intoxicated or under the influence of alcohol or drugs; and

(2) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of April 18, 1961 (TIAS numbered 7502; 23 UST 3227), entered into force with respect to the United States on December 13, 1972.

TITLE XI—ANTI-TERRORISM ACT OF 1987

SEC. 1101. SHORT TITLE.

This title may be cited as the "Anti-Terrorism Act of 1987".

SEC. 1102. FINDINGS; DETERMINATIONS.

(a) The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this title referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee

is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine. Thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, it allies, and to international law and should not benefit from operating in the United States.

SEC. 1103. PROHIBITIONS REGARDING THE PLO.

It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this title—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) notwithstanding any provision of the law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

SEC. 1104. ENFORCEMENT.

(a) The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this section.

(b) Any district court of the United States for a district in which a violation of this title occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this title.

SEC. 1105. EFFECTIVE DATE.

(a) Provisions of this title shall take effect 90 days after the date of enactment of this Act.

(b) The provisions of this title shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

TITLE VI—EFFECTIVE DATE

SEC. 1201. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act, and the amendments made by this Act, shall take effect on its date of enactment.

THE CASE AGAINST TAX INCREASES

Mr. KASTEN. Mr. President, I call to the attention of my colleagues an excellent article by economics columnist Warren Brookes which appeared in the latest issue of Reader's Digest entitled "Don't Raise Taxes."

Mr. Brookes makes a compelling case against tax increases. He points out that the institutional incentives in Congress are skewed toward higher Federal spending. As a consequence, higher taxes lead to more spending and larger budget deficits.

Mr. President, I ask unanimous consent that the article be printed into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DON'T RAISE TAXES

(By Warren T. Brookes)

Americans have a right to be confused about the issue that opinion polls show is uppermost on their minds—cutting the massive federal deficit.

On Capitol Hill, Democrats have proposed a $19.3-billion tax hike. In opposition are the Reagan Administration and lawmakers who argue that scaling back the growth of our $1-*trillion*-plus federal budget is the only way to bring down the deficit.

Meanwhile, there is evidence of a growing suspicion that raising taxes will only increase spending by the politicians and do little or nothing to cut the deficit. Those suspicions are well-founded. A statistical study last may for Sen. William Roth (R., Del.) by Ohio University economists Lowell Gallaway and Richard Vedder reveals that since 1947 every $1 of tax increase has coincided with $1.58 in new spending—which is to suggest that tax increases have typically resulted in *higher* deficits.

Vedder and Gallaway explain: "Public officials are under pressure to boost funding for constituents. Raising taxes reduces their popularity. If taxes are to be raised, lawmakers tend to anticipate and compensate for this negative action by increasing government spending, thereby enhancing their popularity."

The two economists call this the "bait and switch tactic," in which "tax increases may be justified to the public as a means of deficit reduction, whereas the actual result will be to stimulate additional spending on programs favored by influential special-interest groups."

President Reagan knows exactly how this bait-and-switch approach works because he was the direct and all-too-willing victim of it in 1982 and again in 1984. Just seven months after he had told the nation, in the January 1982 State of the Union address, that "raising taxes won't balance the budget," the President was persuaded by his own aides to accept a $98.3-billion, three-year tax hike called TEFRA (Tax Equity and Fiscal Responsibility Act of 1982).

In return for this, he was promised by Congress "three dollars in reduction of outlays for every one dollar of increased revenues." This was supposed to reduce the fiscal year 1983 deficit from a projected $137 billion to $115 billion. Instead, fueled in part by prospects of higher tax revenues to spend, the deficit soared to $208 billion—driven up by a $63-billion (8.4 percent) *increase* in spending, some $51 billion *more* than the President had asked for.

In 1984 the President approved another "deficit reduction" package known as "son of TEFRA" or DEFRA (Deficit Reduction Act of 1984). Though it was a much smaller tax increase, it appeared to have the same effect. In 1985 deficit and spending levels rose to new, all-time highs.

As James Buchanan, a professor at George Mason University and winner of the 1986 Nobel Prize in economics, contends in his book *Democracy in Deficit:* elected politicians enjoy spending public monies for their constituents. Buchanan says this tendency was amplified by the Keynesian economic theory that deficits are beneficial during an economic downturn. But politicians made deficit budgets the *norm*, by ignoring the corollary theory which called for surplus budgets in times of expansion.

One problem, Buchanan writes, is motives: unlike business executives, who must make income greater than outgo to earn a profit, politicians win votes and elections by making outgo (spending) rise faster than income (taxes). And politicians will use any argument to support their spending habit.

The latest device consists of blaming the deficit on President Reagan and his 1981 tax cut (much of which was canceled by tax increases from 1982 to 1984), and suggesting that the only way out of the deficit mess is, in the words of House Speaker James Wright (D., Texas), "to bite the bullet on taxes."

Last January, in his response to President Reagan's State of the Union message, Wright told the country: "The President sometimes likes to criticize Congress for what he calls 'big spending,' but the plain truth is that for the six years of this Administration, Congress has actually appropriated less in total spending than Mr. Reagan has asked us to appropriate."

This astonishing assertion caused Rep. William Dannemeyer (R., Calif.) to ask the nonpartisan Congressional Budget Office (CBO) to compare the President's spending proposals with the actual outlays authorized by Congress. In that five-year period, CBO found that Congress had authorized $92 billion *more* than the President had requested. In other words, to put it in its kindest terms, Speaker Wright was simply wrong.

Over six budget years from 1982 to 1987, President Reagan asked for an average increase in spending of 3.5 percent. Congress appropriated an average increase of 5.9 percent, and actual spending annually rose an average of 7 percent.

So, even though revenues increased during this period by a very strong 43.3 percent, total spending rose by an even larger 49.5 percent, making the deficit soar from the $79-billion one inherited from President Carter in 1981 to more than $220 billion in 1986.

Small wonder that the public continues to blame Congress as much as the President for the size of the deficits—and to disbelieve the notion that higher taxes will make them come down. Unfortunately, the budget debate we have watched this past summer suggests that nothing has changed. Once again the President has been pressed to fall for the old "bait and switch."

This time, Congressional Democrats offered $19.3 billion in new taxes in return for "budget reforms" and an alleged reduction in the deficit of about $37 billion. Yet at the very moment this offer was being made, the 1987 deficit was already coming *down* by $65 billion, from $220 billion to $155 billion, through a combination of less than three-percent spending growth and more than 11-percent revenue growth, in an economy not trammeled, so far, by additional taxes.

What voters should understand is that the only thing Congress has to do is hold spending growth to three percent annually and the deficits will automatically come down $30 billion to $50 billion a year, because revenue in our expanding economy is growing faster than that.

But Congress has other things in mind, like a $2.4-billion highway and tunnel project in Boston, and water and sewer funds for nearly every Congressional district. Congress also wants welfare "reform," homeless relief, trade-dislocation assistance, increased farm-export subsidies, and a costly catastrophic-health-insurance plan.

A consequence of this seemingly endless list was that the final budget agreed to by Congress last June called for a total spending level (when you strip away all the fakery) of $1070 billion—or about $30 billion more than the President's proposal. This would mean a growth-of-spending rate of more than six percent. Furthermore, as usual, the new spending spree is not confined to the immediate figures for one year. For example, the House welfare-reform bill will add more than $5 billion over the next five years—but only $192 million of that would be "showing" in the 1988 budget. The trick is to "blackload" the new spending into later years and keep the initial outlays relatively small so as to obscure their explosive effect on future spending.

The point is clear: the prospect of new taxes provides an irresistible temptation for Congress to go on a new spending spree—to try to reverse even the modest progress we have been making in the last couple of years toward slowing down the federal juggernaut.

Milton Friedman, another Nobel Laureate economist, has argued that it is not the deficit we should watch so much as the level of actual spending. Whether that spending is financed by taxes or borrowing, it still comes from funds available to the private economy, which pays the freight.

The good news is that since its all-time high of 24.3 percent of Gross National Product (GNP) in 1983, federal spending fell to 22.9 percent in 1987, and if the present spending trend of three-percent growth continues, this would fall to 22.1 percent in 1988, the lowest level since 1980.

One of President Reagan's accomplishments has been to reverse the traditional Washington wisdom that government spending is good for the economy. Instead, there is now a growing consensus here and abroad that too much government spending can be a bad thing. An analysis by Richard Rahn, chief economist of the U.S. Chamber of Commerce, shows that as the seven major countries in Europe's Organization for Economic Cooperation and Development have increased their spending, their economic-growth rates have plunged, in almost exact proportion. Rahn found that "for many countries economic-growth rates significantly decline and unemployment rates increase when government spending exceeds 15 to 30 percent of GNP."

The recent U.S. spending levels, at around 35 percent (including federal, state and local spending), are close to the "critical mass" that has stagnated Europe. So the key to staying competitive, particularly with the developing Pacific nations, is keeping our spending on a downward path.

This is what motivates President Reagan to call for a constitutional amendment requiring a balanced budget—such as 49 states in effect now have.

Meanwhile, the public should be suspicious of any politican who says he is going to "reduce the deficit" by raising your taxes. It simply does not happen.

FIRE IN THE WEST—NATIONAL FIRE PREVENTION WEEK

Mr. DOMENICI. Mr. President, a war of major proportions was fought this summer in California and Oregon.

During the final few days of August, a front of thunderstorms moved up from Mexico, through California, and into southern Oregon. Lightning from these thunderstorms ignited at least 2,000 fires.

The natural, sometimes beneficial, process of lightning fires in our wildlands became an uncontrolled fury as dry August winds spread the fires rapidly.

At the height of battle, an army of 25,000 men and women, using an air force of 250 planes and helicopters, fought a holocaust of fire exceeding anything this Nation has experienced over the past 75 years.

The Sun was darkened by smoke and ash over portions of three Western States during 2 weeks in September. The pall was so extensive that some research scientists were able to conduct studies on the potential impact of "nuclear winter."

As the smoke cleared, we had paid a great price: Nine firefighters were dead and nearly 900,000 acres of forest were burned, destroying over $300 million in natural resources and property. Costs of suppressing these fires was $80 million.

With 3.3 billion board feet of timber charred, these fires were the most damaging to Western timbered lands since the fires of 1910.

The response to this emergency was heartening. Every level of government rallied. Army and National Guard units from coast to coast joined the struggle. The lumber industry contributed skilled woodsmen and machinery.

Of particular pride to me was the effort in the Southwest. Even though we had no serious fire problem, we provided the largest support effort in our history, sending more than 4,000 skilled firefighters and 149 fire engines into the fight.

From New Mexico alone, more than 125 skilled fire crews were provided by agencies such as the Forest Service, the Bureau of Indian Affairs, Bureau of Land Management, and State Forestry Division.

Over a month has passed and many still toil in the heat, smoke, and dust to suppress the most stubborn of the fires.

I think it appropriate that the U.S. Senate recognize the great effort and sacrifice of those who worked so very, very hard to minimize the loss of life and resources during this fearful period of forest fires.

Above all, we must reflect upon the sacrifice of those nine firefighters who gave their lives.

This Sunday, October 11, at noon I ask that my colleagues join me and firefighters all over the Nation and pause for a moment of silence to honor those firefighters who lost their lives in the line of duty.

On that day, my thoughts and prayers will go especially to the families and friends of Allen Baca, Anthony Pecos, Andrew Waquie, and Benjamin Waquie. These New Mexican firefighters, members of the famed Jemez Eagles crew from the Jemez Pueblo in New Mexico, will have their names enshrined at the National FireFighters Memorial in Maryland along with other firefighters who lost their lives last year throughout our Nation.

This ceremony marks the beginning of National Fire Prevention Week, and is a good time for us all to renew our commitment and support to prevention and suppression of this common enemy.

KATHY MARTINEZ AND MENTAL ILLNESS AWARENESS WEEK

Mr. DOMENICI. Mr. President, last week New Mexicans got a grim reminder of the realities of mental illness. Kathy Martinez, a lovely New Mexican, who was both mentally retarded and mentally ill, was found dead. On September 28, a rancher found her unclothed body curled into the fetal position. Kathy was just 5 miles from our State psychiatric hospital in Las Vegas, NM. She was 21 years old.

Kathy showed symptoms of both schizophrenia and a manic-depressive disorder at the age of 15. While hospitalized she was diagnosed with encephalitis. This brain inflammation led to her mental retardation.

Both of New Mexico's institutions for the mentally retarded refused to admit Kathy because she functioned too well. The Las Vegas Medical Center also refused to admit Kathy on three separate occasions. She was finally admitted to Las Vegas Medical Center where her condition improved.

Kathy was lonely in Las Vegas and did not like the confinement. She wanted to be with her family and friends in Albuquerque and escaped on September 15, 1987, by climbing a service ladder to the roof.

Beth Martinez, Kathy's mother, worked frantically to find her daugther. Mrs. Martinez called every organization and agency that might offer help. She contacted my offices in Albuquerque and Washington, DC. We called the director of the Las Vegas hospital on her behalf.

Unfortunately, the escape of a mentally ill person is treated routinely with no real urgency. The local and State police were called, but no organized search occurred until Beth Martinez herself organized a search party.

The day after the search party effort, a rancher spotted Kathy's body in a pond used to water cattle.

Mr. President, the tragedy of Kathy's death is that she did not fit into any existing support program, and inadequate efforts were made to accommodate her special needs.

Beth Martinez has asked that her daughter's death be used to call attention to the poor treatment available for the mentally retarded who also have serious mental illnesses. She wants to help save others from a similar fate.

Mr. President, I ask unanimous consent that an article by David Staats of the Albuquerque Journal, October 3, 1987, be printed in the Record after my remarks. This article describes in further detail the circumstances surrounding the tragic death of Kathy Martinez.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhbit 1.)

Mr. DOMENICI. "When she got sick, she became like my small child again," said Mrs. Martinez, tears in her eyes. "I'd rather give 100 percent to her than be without her. * * * If I'd known anything like this could happen, I would have kept her here even if she tore the whole house apart."

When I first considered making a statement for Mental Illness Awareness Week, Mr. President, I decided to focus on the good news in mental health this year. I still want to discuss these positive developments, but I want to emphasize that Kathy's death has served as an important reminder of the enormous job remaining to be done to treat and protect mentally ill Americans like Kathy Martinez.

On September 17, 1987, I was honored to help present the First Annual Lieber Prize for Outstanding Achievement in Mental Health Research. Dr. Benjamin Stephen Bunney of Yale University received a prize of $50,000 for his excellent research into the brain's dopamine system. This system has been implicated as a part of the major nueronal dysfunction in schizophrenia.

This prize was awarded as a part of a larger effort by private citizens, mostly parents of mentally ill persons, who, like Beth Martinez, became frustrated with the lack of answers to mental illness and decided to do something about it.

In less than one year of existence, NARSAD, the National Alliance for Research on Schizophrenia and Depression, has raised over $1 million under the leadership of Mrs. Gwill Newman. This money will be spent to further the cause of research into serious mental illness.

Nancy Domenici and I serve as honorary chairmen of NARSAD. Our 3-year goal is to raise $10 million in private funds to encourage outstanding investigators. We want research in mental disorders to become competitive with other fields.

Mr. President, on September 16, 1987, I made a statement on the floor of the Senate about the excitement of giving the first Lieber Prize and 10 research grants of $25,000 each. I ask unanimous consent that this statement be reprinted in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhbit 2.)

Mr. DOMENICI. On July 24, 1987, President Reagan signed Public Law 100-77. This new act brings the Federal Government into the vast network of churches and nonprofits who feed and shelter the homeless. As a new partner, we have a lot to learn from the cooperative efforts of churches, cities, counties, and State government. We authorized $1 billion in new program efforts for the homeless in fiscal years 1987 and 1988. For 1987, the Congress appropriated $335 million.

These funds will provide additional shelter space, transitional housing, primary health services, mental health services, demonstration programs in job training, community support, drug and alcohol treatment, surplus Federal property, food stamps, and other needed community services for the homeless.

Most Federal agencies have published public notices about the availability of these funds. Many local governments and local service providers are now faced with the challenge of determining the best use of these new funds. As the cold weather approaches, we are hoping that the required applications and plans will be submitted so that the Federal partner will be an effective partner.

For Mental Illness Awareness Week, I would particularly like to remind my colleagues about the mental health block grant that we enacted in Public Law 100-77. It is essentially the idea that I worked to create from demonstration projects funded by the Community Support Program at the National Institute of Mental Health [NIMH].

My friend from Illinois, Senator Simon, was the original cosponsor of S. 763. We worked hard to maintain the basic notion that the homeless mentally ill should receive four basic services, buttressed by improved shelter staff training.

In the end, Congress and the President agreed that the homeless mentally ill need:

(1) Outreach, because we cannot expect them to come to us. We must go to them.

(2) Transitional housing to provide a semipermanent setting for any other assistance—medical or social—to take hold. Without this housing, we cannot expect any other effort on their behalf to have much of a positive effect.

(3) Psychiatric and/or psychological medical treatment. In many cases, the unpredictable symptoms of mental illness can be tamed. When those cases can be identified, I believe we have an obligation to bring forth the best of our available medical help.

(4) Case management to provide the needed individual care and attention that can make a difference. In simple terms, a case manager is a friend who is able to help with the daily needs and challenges. This friend will remind the client about taking prescribed medication on time. The case manager/friend will help to obtain available benefits such as food stamps, health care, supplemental security income payments, and continued medical care.

Each State will have a minimum of $275,000 for the homeless mentally ill. California will receive the largest block of funds—$4.5 million—and New York State will receive $2.7 million. Each State is required to provide a 25-percent match.

Mr. President, I am now working with several congressional leaders from the Senate and the House to organize an oversight meeting with the administration. We want to know the status of the available funds and the steps needed to be taken by local service providers to secure the available funding from the Stewart B. McKinney Homeless Assistance Act. We want the public and the homeless to know that the Federal Government will be an active partner in the fight against homelessness and its causes.

The final news I would like my colleagues to know about during Mental Illness Awareness Week is the funding of these vital plans. Congress authorized these comprehensive plans at $10 million in the 99th Congress. The House did not fund the program, nor did the administration request funding.

Last week, the Senate Labor/HHS Appropriations Subcommittee unanimously agreed to my amendment to add $5 million for this purpose. It is clear to me, and the Kathy Martinez tragedy emphasizes the fact, that more local coordination is needed. I hope the House agrees to this and it becomes law.

There is no good reason to treat Kathy like she does not belong to one program or the other. She needed to know that both the mental retardation treatment centers and the mental illness treatment facilities were interested in helping her. Instead she was rejected by both until one doctor finally took up her cause. Unfortunately, her treatment needs were not recognized, and her family is now paying the consequences.

A comprehensive plan does not guarantee all the solutions we need, but, at a minimum, we will know more about the weaknesses that need our attention. Hopefully, as Beth Martinez has asked, we can avoid more tragic deaths or permanent injuries.

As we learn more about mental illness, Mr. President, I am more hopeful that we will be able to provide better treatment and rehabilitation. Kathy Martinez is a stark reminder, however, that while our progress is encouraging, we have a long way to go.

Exhibit 1

[From the Albuquerque Journal Oct. 3, 1987]

Kin Mourn Retarded Patient Who Died Fleeing Hospital

(By David Staats)

Eileen Martinez, 14, remembers the times her older sister, Kathleen, used school lunch money to buy Eileen treats. Although separated by seven years in age, the two swam, jogged and played together. Their fun would keep Kathy happy for days at a time.

Despite an IQ of 80, Kathy read the entire Bible one summer. At age 16, she was baptized at the Berean Baptist Church at 3800 Eubank NE. "Even when I was real little, she would win prizes for reciting verses from the Bible," Eileen recalls.

Those times are over. On Monday, authorities found Kathy's unclothed body, curled into the fetal position, in a pond used to water cattle about 5 miles west of Las Vegas, N.M.

She had escaped 13 days earlier from a high-security area of the Las Vegas Medical Center, the state psychiatric hospital, where she had been receiving medication and therapy since August for her mental illness.

The struggle by 21-year-old Kathleen Martinez and her family for a normal life ended when Kathleen fled the institution she hated in what her mother believes was an attempt to find her way back home. Alone and unprepared, Kathleen died in the countryside.

She was buried Thursday.

Kathy's mother, Beth Martinez, said her daughter was a quiet child who had trouble with learning and coordination, but could spell and swim well. She liked Beach Boys tapes and idolized Ralph Macchio, star of "The Karate Kid."

Kathy was first hospitalized at age 15 for mental illness. She showed symptoms of both schizophrenia and a manic-depressive disorder. While still in the hospital, she was diagnosed with encephalitis. Mrs. Martinez said the brain inflammation led to her retardation.

At first, Mrs. Martinez, a divorcee, tried to keep Kathy's problems quiet, fearing neighbors would not understand. "After about a year, I said I didn't care what they thought, I would just concentrate on making her happy."

Life at their modest home on Arvilla NE was stressful, with Kathy occasionally becoming abusive verbally, breaking dishes or forgetting to turn off the bath water. She had trouble sleeping.

But there were joyful times. "At Winrock (Center) she would see guys and say 'Isn't that one cute?' She could be a lot of fun," Mrs. Martinez said in an interview.

Kathy never admitted she was sick, but saw a private psychiatrist repeatedly and was admitted to New Mexico psychiatric hospitals perhaps 10 times, including one stay in Las Vegas three years ago, Mrs. Martinez said.

"She wanted to go places by herself, but I knew she wasn't able to," her mother said. Eventually, they agreed Kathy could go out alone if she was back by 6 p.m. and took her medication faithfully.

One day this year, Kathy rebelled against the restrictions and wound up on Interstate 25, where police found her. They took her to the psychiatric hospital at the Bernalillo County Mental Health-Mental Retardation Center.

She stayed there four months. Her mother tried to get her into one of the state's two institutions for mentally retarded people, but both refused, saying she functioned too well. The Las Vegas Medical Center—which is supposed to serve the mentally ill, not the mentally retarded—refused her three times until a doctor at the mental health center talked a medical center physician into admitting her, Mrs. Martinez said.

Her condition improved at Las Vegas, but she was lonely. "She wanted to come home. She voiced that to everybody that would listen," Mrs. Martinez said.

On the afternoon of Sept. 15, Kathy somehow got out of the locked building where she was treated, possibly by climbing a service ladder to the roof. Mrs. Martinez said she knew instinctively that Kathy would go into the woods and attempt to head west.

"She was trying to go through the woods to Albuquerque," Mrs. Martinez said. "I had told her not to walk on highways. Also, I knew she would really be hiding from them (the hospital)."

The day she escaped—Tuesday, Sept. 15—a state hospital official searched the grounds and nearby Las Vegas streets in a car. The official found nothing, the search was called off, and police were notified.

The following day, Mrs. Martinez said, she told police to look for her daughter in the woods. No one searched for her. Before they could undertake a search, police said, they would need a tangible clue about where Kathleen had gone.

Days passed. The Martinezes left their doors unlocked whenever they weren't home, just in case Kathy appeared. Mrs. Martinez pasted notes around the house, promising her daughter she would not be returned to the hospital.

Last Sunday, a small Albuquerque support group for parents of mentally ill people organized a search, 12 days after Kathy's disappearance. They found nothing, but a rancher spotted her body the next day.

"When she got sick, she became like my small child again," said Mrs. Martinez, tears in her eyes. 'I'd rather give 100 percent to her than be without her . . . If I'd known anything like this could happen, I would have kept her here even if she tore the whole house apart."

Exhibit 2

[From the Congressional Record, Sept. 16, 1987]

First Annual Lieber Prize for Outstanding Achievement in Mental Health Research

Mr. Domenici. Madam President, today is a special day in the history of mental health research. Today Dr. Benjamin Stephenson Bunney, professor of Psychiatry and Pharmacology and vice chairman of the Department of Psychiatry at Yale University School of Medicine, became the first recipient of the annual Lieber Prize of $50,000. The Lieber Prize was endowed by Stephen and Constance Lieber of New York State and is awarded for outstanding achievement in research on mental illness. This prize is particularly significant because it marks a new initiative to raise private funds for expanding our Nation's research into serious mental illness.

The exciting new technologies and discoveries for mental health research, largely funded by the Federal Government, have sparked a private sector interest in helping to find more answers to the problems of understanding and treating major mental illness not only in our country but for anyone anywhere.

The organization formed last year to raise private resources to advance the study of mental illness is NARSAD, the National Alliance for Research on Schizophrenia and Depression. Four energetic citizens' groups helped to form NARSAD. They are the National Alliance for the Mentally Ill, National Mental Health Association, National Depressive and Manic Depressive Association, and the Schizophrenia Research Foundation.

NARSAD is the sponsor of the first annual Lieber Prize. In addition, NARSAD is giving 10 research grants of $25,000 each to research scientists. These are scientists who have a record of accomplishment and a promise of future achievement. Our hopes are with them. Our search is for new knowledge in the understanding and treatment of schizophrenia and depression.

My wife Nancy and I have each been honored to be named honorary chairmen of this private sector fund raising initiative. The Mental Illness Research Campaign, to raise $10 million over the next 3 years. The other honorary chairman is Barry Bingham, Sr., former publisher of the Louisville Courier Journal.

NARSAD sponsors include Katherine Graham, Rosalynn Carter, Carl Sagan, Senator Daniel Patrick Moynihan, Arnold Palmer, Peter Ueberroth, Sally Struthers, Julian Bond, Ted Turner, Joanne Woodward, the Rev. Theodore Hesburgh, and Rabbi Alexander Schindler.

In a fairly short time, we have raised $1,000,000.

The honorary chairmen of the NARSAD Scientific Council are equally eminent: Nobel Laureate Dr. Julius Axelrod and Dr. Eli Robins. Dr. Herbert Pardes of Columbia University is president of the distinguished NARSAD Scientific Council. The Scientific Council selects the Lieber Prize winner and the grant award winners.

Research in mental illness has been starved. As a nation, we spend about $7 in research for each American with schizophrenia or depression. The comparable amount for each cancer patient is $203, and $88 is spent in research for each heart patient. Currently, less than 15 percent of mental illness research is privately funded.

By comparison, 42 percent of cancer research funds come from the private sector.

The NARSAD Mental Illness Research Campaign is designed to channel increased private funding into investigations of the origins, causes, and possible cures of mental illness.

Schizophrenia and depression afflict more than 14.5 million Americans, at best disabling them for a period, at worst shattering their lives and those of their families. About 40 percent of the homeless on our city streets have serious mental illnesses. In our Nation's hospitals, mentally ill patients occupy more beds than those with any other illness, more than the victims of heart disease, cancer, and respiratory illness combined.

The estimated cost to the United States of America for providing medical and social services to these unfortunate victims exceeds $20 billion annually.

The prestigious Lieber Prize's first winner, Dr. Benjamin S. Bunney, of Yale University, has dedicated his life to understanding the origins and, possibly, the cure for schizophrenia. Dr. Bunney's research career has focused on the brain's dopamine system, which has been implicated as a part of the major neuronal dysfunction in schizophrenia.

Dr. Bunney, 48, has conducted all of his research at Yale University. He has been on the faculty of the Yale School of Medicine since 1971. His work has included pioneering research on the effects of antipsychotic drugs in the brain and the effect of these drugs on the transmissions in the dopamine system.

To quote Dr. Bunney: "This is a particularly exciting time to be working in the area of brain function. There has been an explosive growth in both the fields of neuroscience and population and molecular genetics. Because of this, the tools are now becoming available which allow us to answer questions that we did not have the means to answer before."

After honoring Dr. Bunney for his excellent work, we at NARSAD awarded 10 grants of $25,000 each for the continuation of fine research into schizophrenia and depression. The 10 grants were awarded to:

First. Davangere Devanand, M.D., Columbia University.

Second. David Miklowitz, Ph.D., University of California at Los Angeles.

Third. J. Frank Nash, Ph.D., Case Western Reserve University.

Fourth. Sergio Starkstein, M.D., Johns Hopkins University.

Fifth. George Volger, Ph.D., Washington University.

Sixth. Royce Waltrip II, M.D., University of Maryland.

Seventh. Steven Faux, Ph.D., Harvard University.

Eighth. Ezra Susser, M.D., M.P.H., New York State Psychiatric Institute, Columbia.

Ninth. Scott Cain, M.D., Duke Univeristy.

Tenth. Sari Gilman, M.D., University of Pittsburgh.

Mrs. Gwill Newman, president of the NARSAD Board of Trustees, expressed our pride in the early successes of this fine organization when she said, "We are very proud of the young researchers from outstanding universities who have won these first NARSAD awards. We are certain their accomplishments and their investigative focus, will encourage other scientists to move seriously into the field of mental illness research."

Because NARSAD is so new and because we will be hearing more from this spirited organization in the coming years, I would like to inform my colleagues about NARSAD's goals:

First. Raising funds for creative research into the causes, prevention, and cure of severe mental illnesses;

Second. Discovering, encouraging and supporting young investigators so that research into mental disorders becomes competitive with other fields;

Third. Supporting university-based research centers where vital interaction of a variety of disciplines can be brought to bear on the profoundly complex problems of brain disease; and

Fourth. Making the most advanced technology available to mental illness researchers so that they can gain a clear image of the brain's activity in their efforts to diagnose and treat the body's most complex organ.

Mr. President, I applaud NARSAD and its committed and talented leadership. I applaud Dr. Benjamin S. Bunney for his commitment to a most worthy cause. His work will be an inspiration to young researchers who are considering committing their lives and talents to this worthy cause. They are needed, Mr. President, and they can make a difference in the daily lives of many suffering human beings.

I also applaud our 10 outstanding research grant recipients and wish them all the best. We can all be proud of their efforts to push back the frontiers of knowledge in a very complicated but exciting field.

Finally, Mr. President, I would like to thank the Members of the Senate and the House of Representatives for seeing the value of research into serious mental illness and for committing important but scarce resources to this purpose. This commitment has come at a time when additions to domestic spending are more difficult to make.

It is indeed heartening to see this fine private effort come into being. NARSAD will help carry the financial burden for research. We, as a Nation, are looking for answers to one of the most puzzling problems to ever face humanity—serious mental illness. With continued congressional support and fast growing interest outside of Government, Americans can expect accelerated gains in this noble effort.

Until we understand more about our own brain and nervous systems, we will remain unable to bring sufficient help to many who suffer from schizophrenia and serious depression. We are now able to relieve the symptoms and stabilize many patients, but each patient who remains beyond our assistance is another spur to dig deeper into the causes and cures.

The potential is tremendous. The challenge has been made. Our technologies can be refined and our knowledge sharpened. We are at the crossroads of new discoveries. The next 10 years can bring the most important breakthroughs yet. We will know more about the forces that direct our mental energies than we have ever known in the history of mankind.

Mr. President, today's Lieber Prize marks the beginning of a new partnership. The public and private research communities can enrich each other. We can be more optimistic about the next decade of truly exciting research and treatment possibilities for the serious mentally ill.

Madam President, even though I have not used my 5 minutes, I yield back the remainder of any time I might have and yield the floor at this time.

S. 1772—TO PROVIDE A WHITE HOUSE CONFERENCE ON INTERNATIONAL TRADE IN SERVICES

Mr. MOYNIHAN. Mr. President, yesterday I introduced S. 1772, a bill to provide a White House Conference on International Trade in Services. At that time I inadvertently did not ask that the text of the bill be printed in the RECORD. I now ask unanimous consent that the text of S. 1772 be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "White House Conference on International Trade in Services Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) the service sector is a critical element of our Nation's trade policy;

(2) services trade now accounts for one quarter of all world trade;

(3) the United States is the largest single-nation trader of services with over 21 percent of the world receipts;

(4) the establishment of international rules for services trade is a major United States objective for the Uruguay round of negotiations under the General Agreement on Tariffs and Trade (hereafter in this Act referred to as the "GATT"); and

(5) trade in services is an important element of bilateral negotiations, including the free trade agreement with Israel and the proposed free trade agreement with Canada.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Conference" means the White House Conference on International Trade in Services.

(2) The term "services" includes, but is not limited to, accounting, advertising, banking and other finance, data processing, education, employment, engineering and construction, franchising, health care, insurance, leasing, lodging, motion pictures, telecommunications, tourism, transportation, management, consulting, public relations, law, and other business, professional, marketing, and technical services.

(3) The term "Director" means the Director of the White House Conference on International Trade in Services.

ESTABLISHMENT OF THE WHITE HOUSE CONFERENCE ON INTERNATIONAL TRADE IN SERVICES

SEC. 4. (a) The President shall call and conduct a White House Conference on International Trade in Services by no later than the date that is one year after the date of enactment of this Act in order to provide for an aggregation of effort by academics, professionals, government and congressional representatives for the purpose of assisting the United States Trade Representative and the Secretary of the Treasury in formulating United States priorities for international negotiations on trade in services.

(b) The Conference shall provide for an exchange of information and views on the following international negotiations concerning trade in services:

(1) proposed international rules on trade in services;

(2) the services trade negotiating agenda of the United States for the Uruguay round of negotiations under the GATT;

(3) bilateral negotiations on trade in services, including free trade agreement negotiations; and

(4) negotiating priorities of the United States for trade in services in other international fora.

(c) The President, in consultation with the United States Trade Representative and the Secretary of the Treasury, shall select participants for the Conference from the private sector of the economy, private sector advisory bodies, trade associations, the Congress, the Federal Government, independent agencies of the Federal Government, and councils, commissions and Congressionally chartered private organizations with a mandate to study services trade negotiations.

(d) Members of international organizations with a concern in international negotiations on trade in services may attend the Conference as observers.

REPORT OF THE CONFERENCE

SEC. 5. (a) A final report of the Conference shall be submitted to the President by the Director by no later than the date that is 120 days after the close of the Conference. The report shall include a review of international negotiations on trade in services, the position of the United States in such negotiations, the positions of other nations in such negotiations, and recommendations for improving the position of the United States in current and future negotiations.

(b) The Director is authorized to publish and distribute for the Conference the report submitted to the President under subsection (a). Copies of such report shall be provided by the Director to the Federal depository libraries.

ADMINISTRATION

SEC. 6. (a) The President shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of a Director and of such additional personnel as the President considers advisable to assist in carrying out the provisions of this Act, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(b) The Director is authorized to procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for the heads of agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of such title.

(c) The Director shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out the provisions of this Act, and

(2) prepare and make available background materials for the use of participants in the Conference and prepare and distribute report of the Conference.

(d) Each Federal department and agency shall cooperate with, and provide assistance to, the Director upon request made by the Director under subsection (c)(1). For that purpose, each Federal department and agency is authorized to detail personnel to the Director.

FUNDING

SEC. 7. (a) Notwithstanding any other provision of law, the Director is authorized to solicit and accept, on behalf of the Conference, contributions to pay the expenses incurred in connection with the Conference.

(b) All contributions received by the Director under subsection (a) shall be deposited into a separate account in the Treasury of the United States. The Secretary of the Treasury is authorized and directed to pay out of such account such amounts as may be necessary to pay any expenses incurred in carrying out the provisions of this Act, including the salaries of any individuals appointed or detailed under section 6.

(c) There are authorized to be appropriated for each of the fiscal years 1988 and 1989, such sums as may be necessary to carry out the provisions of this Act, but only to the extent the amount of funds in the special account described in subsection (b) are insufficient to pay all expenses incurred in carrying out the provisions of this Act.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DETERMINATION ON REDUCTION OF TRAVEL, TRANSPORTATION, AND SUBSISTENCE EXPENDITURES—MESSAGE FROM THE PRESIDENT—PM 77

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with section 515(b) of the Supplemental Appropriations Act of 1987, P.L. 100-71, I herewith transmit a report specifying my determination of the uniform percentage necessary to reduce outlays for travel, transportation, and subsistence by $18 million governmentwide in Fiscal Year 1987. Federal agencies have been instructed to make the required reductions.

RONALD REAGAN.

THE WHITE HOUSE, *October 9, 1987.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1972. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the reapportionment of certain appropriated funds for Radio Free Europe/Radio Liberty, Inc.; to the Committee on Appropriations.

EC-1973. A communication from the President of the United States, transmitting, pursuant to law, offsetting amendments to the request for appropriations for the fiscal year 1988 for the Department of Defense-Civil; to the Committee on Appropriations.

EC-1974. A communication from the Assistant Secretary of the Army (Financial Management), transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter April 1, 1987, through June 30, 1987; to the Committee on Armed Services.

EC-1975. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, an Annual Report to Congress on the Rental Rehabilitation Program for Fiscal Year 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-1976. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Urban Mass Transportation Administration Quarterly Report for the third quarter of Fiscal Year 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-1977. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to authorize occupancy of substandard family housing units by members of the Coast Guard on the same basis as members of the Armed Forces; to the Committee on Commerce, Science, and Transportation.

EC-1978. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, a report entitled "Liability Risk Retention Act of 1986: Implementation Report;" to the Committee on Commerce, Science, and Transportation.

EC-1979. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1980. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1981. A communication from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting, pursuant to law, a report on the status of the Alaska Natural Gas Transportation System (ANGTS); to the Committee on Energy and Natural Resources.

EC-1982. A communication from the Secretary of Transportation, transmitting, pursuant to law, a draft of proposed legislation entitled "Toll Highways Act of 1987;" to the Committee on Environment and Public Works.

EC-1983. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, a report on imports during April 1987 of strategic and critical materials from countries of the Council for Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-1984. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, reports of imports of strategic and critical materials from observer and member countries of the Council of Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-1985. A communication from the Acting Archivist of the United States, transmitting, a draft of proposed legislation "To amend chapter 25 of title 44, United States Code, to clarify the National Historical Publications and Records Commission programs and for other purposes;" to the Committee on Governmental Affairs.

EC-1986. A communication from the Assistant Secretary for Health, Department of Health and Human Services, transmitting, pursuant to law, a report of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1987. A communication from the Acting Secretary for Health, Department of Health and Human Services, transmitting, pursuant to law, (3) copies of a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1988. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1989. A communication from the Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1990. A communication from the Chief Immigration Judge, Department of Justice, transmitting, pursuant to law, a report on certain grants of Suspension of Deportation; to the Committee on the Judiciary.

EC-1991. A communication from the National Treasurer, American Gold Star Mothers, Inc., transmitting, pursuant to law, a report and financial statements for the 12 months period ending June 30, 1987; to the Committee on the Judiciary.

EC-1992. A communication from the Chairman, Committee on the Budget, transmitting, a report relative to legislation in compliance with section 9 of the Budget Resolution dealing with the Welfare Reform initiative; to the Committee on Appropriations.

PETITIONS AND MEMORIALS

The following petitions and memorials we laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-335. A joint resolution adopted by the Legislature of the State of California; to the Select Committee on Indian Affairs.

"ASSEMBLY JOINT RESOLUITON No. 55

"Whereas, There presently reside in California more than 200,000 Native Americans, also known as Indians of whom approximately 75,000 are in rural areas; and

"Whereas, The health needs of California Native Americans are documented to be the most critically acute of any population; and

"Whereas, The vast majority of these Native Americans receive most of their health care services through federal government funding, particularly the Department of Health and Human Services operating through the Indian Health Service; and

"Whereas, The Department of Health and Human Services has announced its intention to publish a regulation imminently that redefines who is an Indian for purposes of eligibility to receive federally funded health services through the Indian Health Service; and

"Whereas, This new definition narrows who is an Indian to those who are (1) members of a federally recognized Indian tribe, and (2) reside within a designated health service delivery area, a geographic area determined by the Indian Health Service; and

"Whereas, Current federal and state law defines who is an Indian eligible for federal health services through the Indian Health Service as those persons of Indian descent who are regarded as Indian by the community in which they live and who reside on or near an Indian reservation (Section 36.12 of Title 42 of the Code of Federal Regulations); and

"Whereas, The vice of the new definition by the Department of Health and Human Services limiting 'Indians' to 'members of federally recognized tribes' is that most Native Americans indigenous to California are not members of federally recognized tribes because these are tribes having treaties with the United States, and many treaties with California Indians were never ratified in 1850 because of the discovery of gold and the United States Senate's reluctance to cede land to California Indians that contain valuable gold deposits; and

"Whereas, The impact of the regulation redefining Indian to 'members of federally recognized tribes' is to deprive more than half of California's Native American population, and two-thirds of the rural Native Americans in this state, of critically needed health services or shift an exorbitant burden to meet these needs upon the state and local governments; and

"Whereas, It would be a grave injustice to California Indians and an unfair burden on California for the federal government to adopt a new definition of Indian for health care purposes that ignores the federal government's historical role in depriving them of 'federally recognized' tribal status; now, therefore be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California urge the Secretary of Health and Human Services to not publish, or to rescind if published, the regulation that limits the eligibilty of Indians for critically needed health care services to those who are members of federally recognized tribes; and be it further

"*Resolved,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation that will define 'Indian' for the purposes of eligibility to receive federal health care benefits in a manner consistent with current regulatory practice and sensitive to the historical anomaly of California Native Americans who do not have federally recognized tribal status; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Health and Human Services."

POM-336. A resolution adopted by the City Council of Cleveland, OH, opposing the nomination of Robert Bork to the Supreme Court; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LAUTENBERG, from the Committee on Appropriations, with amendments.

H.R. 2890: A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and September 30, 1988, and for other purposes [Rept. No. 100-198].

By Mr. BENTSEN, from the Committee on Finance:

Special report entitled "Finance Committee Allocation of Budget Totals—Fiscal Year 1988" [Rept. No. 100-199].

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Frederick Phillips Brooks, Jr., of North Carolina, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1992;

Noreen C. Thomas, of Washington, to be a Member of the National Advisory Council on Educational Research and Improvement for a term expiring September 30, 1988;

Moneesa L. Hart, of Virginia, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1990;

Judith D. Moss, of Ohio, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1990;

Lieutenant General William W. Quinn, U.S. Army, Retired, of the District of Columbia, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of six years;

Dean Burch, of Maryland, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of six years;

Jerald Conway Newman, of New York, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1992;

Aram Bakshian, Jr., of the District of Columbia, to be a Member of the National Council on the Humanities for a term expiring January 26, 1992; and

Joy Cherian, of Maryland, to be a Member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1988.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. FOWLER (for himself and Mr. Nunn):

S. 1779. A bill to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS:

S. 1780. A bill for the relief of Edita De Leon; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself and Mr. Mitchell):

S. 1781. A bill to amend the Internal Revenue Code of 1986 to permit donors of debt of developing nations to charitable organizations to obtain a charitable deduction equal to their basis in the debt; to the Committee on Finance.

By Mr. BOREN (for himself, Mr. Dole, Mr. Melcher, Mr. Burdick, and Mr. Conrad):

S. 1782. A bill to require the Secretary of Agriculture to make available in advance a portion of the emergency compensation payments payable under the 1987 wheat program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. METZENBAUM (for himself, Mr. Heinz, Mr. Riegle, Mr. Lugar, Mr. Shelby, Mr. Heflin, Ms. Mikulski, Mr. Sarbanes, Mr. Durenberger, and Mr. Glenn):

S. 1783. A bill to extend certain protections under title 11 of the United States Code, the Bankruptcy Code.

By Ms. MIKULSKI:

S. 1784. A bill for the relief of Solange Ohnouna; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. Glenn, Mr. Warner, Mr. Wilson, Mrs. Kassebaum, Mr. Kerry, Mr. Durenberger, Mr. Packwood, Mr. Matsunaga, Mr. Sanford, Mr. Lautenberg, Mr. Moynihan, Mr. Garn, Mr. Sarbanes, Mr. Exon, Mr. Gore, Mr. Bradley, Mr. McClure, Mr. Mitchell, Mr. Stennis, Mr. Stafford, Mr. Karnes, Mr. Boschwitz, Mr. Nickles, Mr. Nunn, Mr. Fowler, Mr. Dodd, Mr. Pryor Mr. Levin, Mr. Simon, Mr. Grassley, Mr. Johnston, Mr. Inouye, Mr. Thurmond, Mr. Chafee, Mr. Daschle, Mr. D'Amato, Mr. Heflin, Mr. Adams, Mr. Bumpers, Mr. Boren, Mr. Armstrong, Mr. Weicker, Mr. Breaux, Mr. Danforth, Mr. Chiles, Mr. Pressler, Mr. Domenici, Mr. Graham, Mr. Quayle, and Mr. Ford):

S.J. Res. 198. Joint resolution to designate the week beginning on November 2, 1987, and ending November 8, 1987, as "National Tourette Syndrone Awareness Week"; to the Committee on the Judiciary.

By Mr. BYRD:

S.J. Res. 199. Joint resolution to designate the month of April, 1988, as "Trauma Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FOWLER (for himself and Mr. Nunn):

S. 1779. A bill to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

JIMMY CARTER NATIONAL HISTORIC SITE

● Mr. FOWLER. Mr. President, I rise today to introduce legislation establishing the Jimmy Carter National Historic Site and Preservation District in Plains, GA—to commemorate the life and achievements of our 39th President.

Jimmy Carter served with distinction in the U.S. Navy and as Governor of Georgia before winning the Presidency in 1976.

He started out as a virtually unknown candidate nationwide, and proved that the American ideal—that any of our citizens with the necessary dedication and commitment has the opportunity to serve our people in the highest capacity—is still alive.

As he rose in his Nation's service, he never lost his identification with his local roots in Plains. Amid all the distracting influences of his office in the Nation's Capital, he never forgot the rich, gently rolling fields of Sumter County, GA, where his life and character were shaped. And I think it is significant that he returned home to Plains after serving his country.

Jimmy Carter displayed the true spirit of public service to his community, his State, and his Nation.

He served as President, with unsurpassed dedication, during difficult times. He raised our awareness of human rights around the world, and that is a proud legacy that remains with us today. I believe his stature as a President will only grow as the years pass and history makes its account.

Therefore, I believe it is important for us to take the steps needed to preserve and protect for future generations of Americans the legacy of the man from Plains who rose to the Presidency of our country. And I ask the support of my colleagues for this bill to establish the Jimmy Carter National Historic Site and Preservation District. This legislation has already passed the House, and I hope that Senators from around the country will agree with those of us in Georgia that this is an important part of our national heritage.●

By Mr. BUMPERS:

S. 1780. A bill for the relief of Edita De Leon; to the Committee on the Judiciary.

RELIEF OF EDITA DE LEON

● Mr. BUMPERS. Mr. President, I rise today to introduce private relief legislation to prevent the deportation by the Immigration and Naturalization Service of Sister Edita De Leon, a member of the Carmel of Saint Teresa of Jesus monastery in Little Rock, AR.

Sister Edita, a Panamanian citizen, came to the United States on August 4, 1985, on a B-1—Business—visa, which she and other members of the Carmelite Order believed to be permanent; she had checked the wrong box on her I-140—request for visa—form when filing it in Panama. The B-1 visa was extended to August 4, 1986, which was further extended to September 16, 1987.

The INS ordered her voluntary departure by October 22, 1987 by refusing her third extension. She has subsequently applied for a permanent, sixth preference visa, but her priority date for consideration by the INS is September 16, 1987, which means her case will not be considered until sometime in 1989. In the meantime, the voluntary deportation order is in effect and the deportation proceedings will begin.

I do not believe that the United States should deport Sister Edita. As Sister Mary Magdalen, the Superior of the Monastery of Saint Teresa of Jesus, has written on Sister Edita's application for alien employment certification:

> Sister [Edita] will be a member of our contemplative religious community whose main purpose in life is prayer to glorify God and to intercede for the country and for all people. Sister [Edita] will be engaged in household tasks, such as sewing, cleaning, gardening, etc. She will do some art work or correspond with people asking for prayers and will be studying religious subjects. The main work we do to support ourselves is to bake and sell alter bread (communion wafers). Sister [Edita] will be helping with this work.

The Carmelite Sisters simply did not know that Sister Edita had checked the wrong form on her original application to immigrate. They were literally "shocked" when her application for a third extension of her B-1 visa was denied. Because of this simple and wholly honest error, she now may face deportation.

I fully realize that the Judiciary Committee, according to its own rules, will not act on this legislation until all administrative and judicial remedies are exhausted. However, I wanted to go on record at the earliest possible date that I will oppose any action by the INS to deport Sister Edita. I intend to follow the proceedings in this matter closely, and hope that my colleagues on the Subcommittee on Immigration and Refugee Affairs will take note of my deep concern on this matter.●

By Mr. CHAFEE (for himself and Mr. Mitchell):

S. 1781. A bill to amend the Internal Revenue Code of 1986 to permit donors of debt of developing nations to charitable organizations to obtain a charitable deduction equal to their basis in the debt; to the Committee on Finance.

CHARITABLE DEDUCTION FOR DONORS OF DEBT OF DEVELOPING NATIONS

Mr. CHAFEE. Mr. President, I am today joining with my colleague, Senator Mitchell, to introduce what I consider to be a very ingenious tax bill designed to help developing nations convert a portion of their growing debt into conservation programs.

We are all too familiar with the very difficult problems facing many of the developing nations as a result of the so-called Third World debt crisis. We have learned that in addition to being a significant handicap to the economy of the developing nation itself, the existence of these huge debts also has ramifications for our balance of trade, the soundness of our financial institutions, and the general political stability of these developing countries.

The bill I am introducing today is not going to solve the Third World debt crisis, but it is an example of taking a very bad situation and salvaging a little good out of it.

In the midst of this debt crisis, it is very difficult for a developing nation to spend money on the environment—on parks or preserving the rain forests—when there are many other competing human needs that must be met. International environmental groups are well aware of this dilemma, and they have developed an imaginative way to help developing nations implement and maintain conservation programs.

A recent article in the August 31, 1987, issue of Newsweek, entitled "Buying Debt, Saving Nature" describes what these environmental groups are doing:

> In 20 years the forest of the tropics will be largely stripped bare unless Third World countries slow their ravenous logging and mining. Countless species of plants and animals will die in "the greatest extinction since the end of the age of the dinosaurs." But biology lectures carry little clout with poor countries desperate for cash to pay huge foreign debts. Now U.S. environmental groups are making an imaginative offer to Third World governments: We'll pay your debts if you'll spare your trees.

In the so-called debt-for-nature swaps, conservation organizations acquire Third World debt from U.S. banks and negotiate with a Third World country to redeem the debt in local currency which is then used for a conservation program in that country. Conservation organizations believe that debt-for-nature swaps provide a significant opportunity for leveraging a relatively small donation into a much larger source of capital for conservation programs. Because the funds are being used for a local conservation purpose, foreign countries are willing to redeem their debt from conservation organizations for amounts in excess of the prices at which the debt is traded in U.S. markets.

Two recent transactions illustrate the extraordinary potential of these innovative programs. Conservation International, a Washington-based organization, has agreed to buy $650,000 of Bolivian debt from banks at a discounted price of $100,000. In return for the redemption of that debt, Bolivia will set aside 3.7 million acres of forest and grasslands of Amazon River country around the existing Beni Biosphere Reserve, which protects endangered species of cats and monkeys. In another recent transaction, World Wildlife Fund of Washington, DC, has agreed to purchase $270,000 of Costa Rica's foreign debt for $100,000. The debt will then be redeemed by Costa Rica and the proceeds used to purchase 40,000 acres of parkland that will become part of that country's national park system. This step is ecologically significant because it will protect the largest fragment of tropical dry forest left in Central America.

In these two transactions, the U.S. conservation organizations are purchasing the debt from the holders of the debt. My bill is designed to encourage the lenders or other holders to donate that debt to the conservation organizations.

Existing tax law limits the charitable deduction to the market value of the loan when such value is below the face value or the cost basis of the loan. Thus, if a lender donates Third World debt with a market value below its cost basis to a charitable organization, the lender would be unable to recover its entire cost basis in the debt through the charitable deduction.

This places the lender in a worse position than if it had sold the debt and donated the proceeds of the sale to charity. For example, if a lender sold debt with a cost basis of $1,000 for $500 and donated the proceeds to charity, it would be able to deduct a $500 loss on the sale and would also receive a $500 charitable deduction. If, on the other hand, it simply donated the debt to charity, it would not be entitled to a loss and would be limited to a $500 charitable deduction. It is difficult to justify that distinction.

The purpose of our bill is to place the lender in the same position when it donates debt to charity as it would have been in had it sold the debt and donated the proceeds to charity. Thus, the bill would permit donors of Third World debt to obtain a charitable deduction equal to their basis where the donation; first, is a qualified debt instrument relating to certain specified countries; second, is donated to an organization qualifying for exemption under section 501(c)(3) of the International Revenue Code; and third, is for a qualifying international conservation purpose.

A June 25, 1987, letter to Dr. Thomas E. Lovejoy, executive vice president of the World Wildlife Fund, from Secretary of the Treasury, James A. Baker III is supportive of this proposal, noting the importance of protecting the environment and judiciously using a country's limited natural resources. The Treasury Department also noted that the proposal gives some further impetus to swapping debt for equity and for debt conversions which Treasury was encouraged to help reduce debt and debt service burdens. Finally, the Treasury Department estimated that the revenue cost of the proposal is negligible.

This modest amendment to the Tax Code has the potential for enormous good in the fight to preserve the world's environment for generations to come and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that Secretary Baker's letter, several newspaper articles describing the debt for nature swaps, and the text of the bill be printed in the RECORD immediately following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE DEDUCTION FOR CONTRIBUTION OF DEBT OF DEVELOPING NATIONS TO CONSERVATION GROUPS.

(a) IN GENERAL.—Section 170 of the Internal Revenue Code of 1986 (relating to charitable contribution deductions) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CONTRIBUTIONS OF QUALIFIED DEBT INSTRUMENTS FOR INTERNATIONAL CONSERVATION PURPOSES.—

"(1) IN GENERAL.—In the case of a qualified debt contribution, the amount of the deduction otherwise allowable under this section shall not be less than the donor's basis in the debt instrument being contributed.

"(2) QUALIFIED DEBT CONTRIBUTION.—For purposes of this subsection, the term 'qualified debt contribution' means a contribution—

"(A) of a debt instrument (as defined in section 1275(a)(1)(A)) evidencing a loan to a foreign state (as defined in section 1603 (a) and (b) of title 28, United States Code) eligible for World Bank or International Development Association financing,

"(B) to a qualified organization (within the meaning of subsection (h)(3)), and

"(C) with respect to which the taxpayer receives from the donee a written statement that such debt instrument (or the proceeds therefrom) will be used for an international conservation purpose.

"(3) INTERNATIONAL CONSERVATION PURPOSE.—For purposes of this subsection, the term 'international conservation purpose' means the expenditure of funds in or with respect to the foreign country that is the obligor (or is the residence of the obligor) of the qualified debt instrument for one or more of the following purposes:

"(A) a purpose described in clause (i) or (ii) of subsection (h)(4)(A);

"(B) the support of museum, park, conservation, and nature and conservation education personnel and programs;

"(C) the facilitation of cohabitation between inhabitants of a particular area and fish, wildlife, plant, or similar ecosystems in the area;

"(D) research and experimentation in connection with any of the purposes as described in subparagraphs (A) through (C); and

"(E) the support of international, national, and local governmental programs to accomplish any of the purposes described in subparagraphs (A) through (D).

"(4) WAIVER OF REPORTING REQUIREMENTS.—Section 6050L shall not apply to the redemption of a qualified debt instrument that qualifies for deduction under this subsection."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions after the date of the enactment of this Act.

THE SECRETARY OF THE TREASURY,
Washington, DC, June 25, 1987.

Dr. THOMAS E. LOVEJOY,
Executive Vice President, World Wildlife Fund—U.S., Washington, DC.

DEAR DR. LOVEJOY: With apologies for the delay in responding to your presentation last February, I would like to inform you that the Treasury Department has no objection to your proposal.

The proposed amendment to the Internal Revenue Code Section 170 would provide lenders who donate Third World debt to non-profit conservation organizations with a charitable deduction equal to the face value of the debt rather than its market value.

We estimate that the revenue cost of the proposal is negligible.

We find the intention behind your proposal useful. We see nothing that inherently conflicts with the U.S. strategy for addressing developing country debt issues. In fact, your proposal gives some further impetus to swapping debt for equity and for debt conversions which we have encouraged to help reduce debt and debt service burdens.

More broadly, we recognize the importance of protecting the environment and judiciously using a country's vital, limited natural resources. Implementation of your proposal would encourage conservation measures.

I hope that these views will be useful to you.

Sincerely,

JAMES A. BAKER III.

BUYING DEBT, SAVING NATURE

In 20 years the forests of the tropics will be largely stripped bare unless Third World countries slow their ravenous logging and mining. Countless species of plants and animals will die in "the greatest extinction since the end of the age of the dinosaurs," says Harvard biologist E. O. Wilson. But biology lectures carry little clout with poor countries desperate for cash to pay huge foreign debts. Now U.S. environmental groups are making an imaginative offer to Third World governments: we'll pay your debts if you'll spare your trees.

The notion won't cure the world's debt or deforestation problems—but it has had some immediate takers. Conservation International, a Washington organization, struck the first big deal last month. It will buy $650,000 of Bolivia's $4 billion external debt at a discounted price of $100,000 from banks eager to dump the mostly uncollectible loans. In exchange Bolivia will set aside 3.7 million acres of Amazon River country around the existing Beni Biosphere Reserve, home to endangered species of cats and monkeys. The Bolivians will retain ownership and management of the land. Costa Rica is financing its Guanacaste National Park with a similar deal, and Ecuador recently announced it, too seeks foreign benefactors. A bill introduced recently in Congress would encourage the World Bank to suspend loan payments for tropical countries which protect forests. "We've just begun to scratch the surface," says Thomas Lovejoy of the World Wildlife Fund, the inventor of the swap concept.

Bankers are increasingly willing to trade their bad loans for investments in developing nations, but hotels and factories are more what they have in mind. Swapping for national parks "will work only where the banks have written the debt down to next to nothing and can claim some real benefits from a tax or political perspective," says Gary Caesar, head of international asset sales at BankAmerica Corp. in New York. Otherwise, the bank's shareholders might protest. Caesar thinks Bolivia is the perfect charity case. Its debts have been discounted to 10 to 15 cents on the dollar since its economy collapsed in the early 1980s from low tin prices and high inflation. By contrast, Brazil's debt goes for 60 cents on the dollar, substantially raising the cost of a tree's ransom.

Environmentalists face a tough sell convincing countries with ambitious development plans. Lovejoy argues that the tremendous diversity of life in virgin forests may be invaluable in the future to genetic engineers searching for new drugs or crops. Nations should "protect their biological capital," he says. But Brazil, which holds Third World records for both debt and deforestation, is bushwhacking ahead on a vast scheme for highways, farming and iron production in Amazonia in hopes that the profits will someday far outweigh its foreign loans. The World Bank, under criticism for financing Amazon projects, is now negotiating to lend Brazil another $100 million, this time for forest conservation.

Ultimately environmentalists must confront another problem: a park in the Third World is an island in a sea of poverty. William Conway, general director of the New York Zoological Society, warns that the preserves will need continuing subsidies for rangers to save them from the hungry and the greedy. Bolivia already has 26 refuges and parks that exist only on paper and do little to shield wildlife, according to local environmental activist Javier Lopez. Recently the Bolivian government charged that several former cabinet ministers were involved in a scheme to export 100,000 skins of rare mountain pigs to Europe. Conway predicts that Costa Rica will run out of firewood in 1990 and that scavengers could descend on its parks. Environmentalists may learn that the Third World has a way of turning its debts into the First World's obligations—something that the bankers could have told them.

[From the New York Times, July 14, 1987]

BOLIVIA TO PROTECT LANDS IN SWAP FOR LOWER DEBT

(By Philip Shabecoff)

WASHINGTON, July 13.—The Bolivian Government agreed today to protect millions of acres of threatened tropical lowlands in return for a reduction of its foreign debt.

Under the agreement, signed at the Bolivian Embassy here and hailed as the first of its kind, Conservation International, a nonprofit United States group, purchased $650,000 of Bolivia's $4 billion external debt. In return, the Bolivian Government committed itself to setting aside 3.7 million acres in three conservation areas adjacent to the existing Beni Biosphere Reserve in the Amazon Basin.

The agreement, which the participants said could set a broad precedent, seeks to deal simultaneously with two critical and interrelated global problems: the huge external debt pressing down on many developing countries and the rapid destruction of tropical rainforests and their plant and animal species.

Momentum is now building to make further use of the "debt-for-nature" concept. Aides to Representative John E. Porter, an Illinois Republican, said he would introduce legislation within the next 10 days requiring the United States to encourage international lending institutions like the World Bank to set up "debt-for-nature" pilot programs. And in the Senate, there are plans for legislation that would pave the way for tax credits for commercial banks that forgive debts of countries that agree to conserve ecologically important land.

The executive director of Conservation International, Peter Seligmann, said at the signing ceremony today that there was now a "global debt and environmental crisis" in which tropical forests and watersheds are being destroyed at "an unprecedented rate and we are in the midst of an extinction unprecedented even by the extinction of the Pleistocene era." Most of this disaster, he said, is taking place in the developing countries of the tropics.

"Environmental degradation and weak economies, deforestation and poverty, overpopulation and hunger are now recognized as clearly interrelated," Mr. Seligmann said, explaining that many countries under pressure to pay off their external debt seek "quick-fix solutions" that use up their natural resources and thus the country's economic potential.

The amount of money involved in today's exchange is only a small fraction of Bolivia's $4 billion external debt. But Fernando Illanes de la Riva, the Bolivian Ambassador here, said at a news conference that the arrangement was "a major breakthrough, not only as a means to reduce Bolivia's debt burden, but also as an effective way to protect the natural resources upon which our country's long-term economic health depends."

PROTECTION BY LAW

Bolivia's 334,200-acre Beni Biosphere Reserve was created by administrative decree in 1982 as a model for the protection of local ethnic groups as well as for the area's plants, animals and water. Under the agreement today the expanded reserve would have protection under the law, rather than under a decree that could be withdrawn.

The new lands, all owned by the Bolivian Government, will serve as buffer zones around the reserve. They included the 2.9-million-acre Chimane Forest reserve, which is home to the nomadic Chimane Indians, as well as the Yacuma Regional Park and the Cordebeni Hydrological Basin, which together exceed 800,000 acres. The area is habitat for 500 species of birds, supports 13 endangered species of plants and animals and has more species of trees than all of North America.

Currently some of the forest is being cut down for cattle ranching and lumbering operations. With the land now set aside for conservation reserves, the forest will be managed for "sustainable development" Ambassador Illanes said. While there would be economic activity within the reserves, some sections would be completely protected for wildlife, for hunting by Indians or for other uses.

DEBT BOUGHT AT DISCOUNT

The Bolivian Government has also agreed to set up a trust fund with the equivalent of $250,000 for administering and protecting the expanded reserve.

The $650,000 in debt was purchased at a discount by the Citicorp Investment Bank, acting as agent for Conservation International, from other lenders in the secondary market. The debt was purchased for $100,000, roughly an 85 percent discount, the participants said. The $100,000 was supplied to Conservation International for the purpose by the Connecticut-based Frank Weeden Foundation. Donald Weeden, director of the foundation, said the foundation was planning two other $100,000 awards for similar projects. Mr. Weeden said the swap arrangement signed today was an "extraordinary precedent."

The Bolivian Government will hold title to the conservation areas and administer them in partnership with the Bolivian Association for the Conservation of Nature, a private group. Conservation International will be an official adviser.

Mr. Seligmann expressed hope that "this new debt-for-nature swap will encourage future negotiations of this kind that confront the debt crisis worldwide with workable, long-term alternatives; and that the current trends in global resource destruction, which are exacerbated by the debt crisis, will soon be reversed."

[From the New York Times, July 28, 1987]

USING DEBT TO SAVE NATURE

(By Spencer B. Beebe and Peter W. Stroh)

PORTLAND, ORE.—Bolivia's commitment to protect more than four million acres of forest and grasslands in the Amazonian lowlands of the Beni River in return for foreign-debt relief of $650,000 signals a new and promising approach to two of Latin America's most pressing problems; the debt crisis and environmental degradation. Now, it is up to corporations, philanthropies and public agencies, notably the World Bank, to implement similar plans on a larger scale, as has already been suggested to halt widespread destruction of Brazil's Amazon Basin rain forest.

The deal with Bolivia—called a debt-for-nature swap—works like this. Armed with a $100,000 donation, Conservation International has agreed to purchase $650,000 of deeply discounted Bolivian debt, which will then be turned over to the Bolivians to retire.

For its part, Bolivia is putting together a public-private partnership to develop a program that combines ecosystem conservation and regional development planning in the Beni. The newly protected land will be zoned for a variety of uses: undisturbed areas for research; forest reserves in which traditional hunting and gathering by native Chimane Indians will still be allowed; and watershed forests where productive, sustainable forestry and agricultural development will be encouraged.

Economic development in the Beni will be based on ecological constraints. The future productivity of soils, waters, forests and grasslands will be protected, along with the full variety of native plants and animals.

But this approach should not be limited to Bolivia and a few other forward-looking nations. Many countries are, economically and ecologically, living beyond their means. Heavy foreign debt sometimes encourages countries to use their resources without regard for the future. The resulting destruction of natural resources undermines long-term economic and political health and stability. Many African nations are a long way down that road, as are Haiti and, to a lesser extent, El Salvador. The vicious cycle diminishes both the diversity of life on earth and the social and economic choices available to the vast majority of the world's rural poor.

In the Beni, the Bolivians have demonstrated overriding principles—first, that sovereign nations must solve their own problems. Developed nations can help, but no amount of money or direction from outside will build the national capacity and the internal commitment necessary. The second is a recognition that economics and ecology have converged and that the problems and solutions are inextricably intertwined.

Mexico, Peru and Brazil all have an exceptional abundance of biological diversity and foreign debt. New policies and legislation are needed to encourage support of these and other countries by American corporate and philanthropic interests, private organizations, international banks and the foreign assistance community.

The World Bank's plan to increase its environmental staff from 15 to 100 officers is promising. So, too, was a recent speech in which its president, Barber Conable, said "the problems of natural resource degradation are development problems" and that "we must be bold in both the scope of our enterprise and in testing untried ideas." As the holder of billions of dollars of third world debt, the bank has an important opportunity to encourage conservation programs while easing the debt burden.

Beyond that, the Agency for International Development's $2.5 million fund for biological diversity should be greatly expanded. And Congress should clarify the tax laws to permit charitable deductions for corporations for the full face value of gifts of foreign debt notes to international conservation organizations.

Debt-for-nature swaps and other innovative financial tools should be encouraged. The sum of Latin America's external debt plus "blocked funds"—money belonging to multi-national corporations being held in foreign countries in local currencies—probably approaches $500 billion. Obviously, not all of this money can be used for conservation. But the more that can be swapped for land or local currency to underwrite better land management, the more the twin problems of Latin debt and environmental degradation will be reduced.

In addition, debt-for-nature swaps offer the promise not only of better protection of biological diversity but also of greater hard-currency earnings from tourism for nations that preserve their natural heritage. People will travel in growing numbers to these "museums of the outdoors."

Whatever is done to help solve the world's interrelated problems of ecology and economics, it should be done in the context of helping sovereign nations determine their own future.

[From the New York Times, Sept. 5, 1987]

BUY BONDS, SAVE RAIN FORESTS

Imagine that there was a way to preserve endangered environments like the Amazon rain forest, one that also eased the foreign debt burden blocking third world development. Environmentalists and development proponents, often at odds, would cheer. Thanks to the Frank Weeden Foundation of Connecticut, there's no need to imagine. It has provided a way to buy, in effect, bonds for biology.

In July, Conservation International, a nonprofit U.S. environmental group, used a $100,000 Weeden grant to buy discounted Bolivian debt certificates. Then it swapped these to the Bolivian Government in exchange for its agreement to expand the Beni Biosphere Reserve. The reserve, in Bolivia's Amazon basin, is home to 13 species of endangered plants and animals, more than 500 different varieties of birds and more species of trees than all North America.

In August, Costa Rica launched a more systematic program, run through its Ministry of Natural Resources. Potential donors are now being solicited to buy $5.4 million of outstanding debt, to be recycled through the Central Bank for local currency bonds. Revenues will go for land acquisition, park management and reforestation. For Costa Rica, reforestation also makes possible future export earnings from harvests of precious woods.

The third world's low credit rating these days actually works to multiply the value of an environmentally linked donation. Bankers' jitters about possible debt moratoriums and defaults have driven debt prices well below face value. U.S. dollars used to buy up debt certificates thus yield for more than their normal equivalent in local funds. In the case of Costa Rica, a donation of $250,000 would pay for environmental bonds worth $500,000.

Swaps like these can meet only a fraction of outstanding third world debt. Costa Rica's program aims to convert a little more than 10 percent of its total debt burden, Bolivia's about 15 percent. But the bonds do give interested donors a way to help conquer two urgent third world problems.

Governments and multinational institutions could play an even greater role. Senators Alfonse D'Amato of New York and Robert Kasten of Wisconsin, and Representatives John Porter of Illinois and David Obey of Wisconsin, are sponsoring legislation that would direct the U.S. representatives at the World Bank to propose an environmentally linked debt relief program through the bank. The idea merits Congressional attention and support.

[From the New Scientist, Aug. 6, 1987]

COSTA RICA SWAPS ITS DEBT FOR FORESTS IN GUANACASTE

President Oscar Arias of Costa Rica last month announced a bold plan to recreate tropical forest by exchanging foreign debt for trees. The president visited Guanacaste Province, in the northwest of Costa Rica on the border with Nicaragua, to declare two new protected areas and to announce the innovative "debt swap" plan.

Guanacaste Province supports some of Central America's last remaining areas of dry tropical forest. Dan Janzen, professor of biology at the University of Pennsylvania, has been coordinating a project to extend the existing reserve in the area and to more than double the amount of dry tropical forest benefiting from protection (New Scientist, 23 October 1986, p 26).

President Arias announced that a parcel of 15,000 hectares of land, known as Santa Elena, is to become a national park. The US's Central Intelligence Agency used a secret airstrip in Santa Elena to service the Contras of Nicaragua until it was discovered in mid-1986. "The airstrip returns to mud in the rainy season," Janzen said, "and we'll soon have trees growing on it."

The relisting of Santa Elena means that three-quarters of the proposed Guanacaste National Park is secure. Arias also announced that the remainder of the land is to become a Zona Protectora. This means that owners cannot change the use they make of the land. "Nobody else will want to buy the land," Janzen said, "so we should get it, but the hard fact is that we're still stuck with a bill of about four million dollars."

The debt swap arrangement will make it easier to raise the outstanding money. Costa Rica has one of the highest foreign debts per capita in the world, roughly $3.7 billion in total. The idea is for donors to use their dollars to write off some of the debt.

It works like this. Foreign debt in Costa Rica sells for 38 cents on the dollar. That is, with your $38,000, the Costa Rican government can write off $100,000 of foreign debt. The government will then give Guanacaste National Park $75,000 worth of local currency in the form of a secure bond that earns a high rate of interest. On the strength of that bond, the park can borrow the same amount of money from a local bank, at a much lower rate of interest.

The park uses the borrowed money to buy the land from owners while the bond sits earning interest. When the bond matures, part of the interest earned goes to paying off the local loan. The rest provides an endowment for running Guanacaste National Park.—*Jeremy Cherfas.*

By Mr. BOREN (for himself, Mr. DOLE, Mr. MELCHER, Mr. BURDICK, and Mr. CONRAD):

S. 1782. A bill to require the Secretary of Agriculture to make available on advance a portion of the emergency compensation payments payable under the 1987 Wheat Program; to the Committee on Agriculture, Nutrition, and Forestry.

DEFICIENCY PAYMENTS FOR 1987 WHEAT CROP

● Mr. BOREN. Mr. President, today I am introducing a bill, on behalf of Senators DOLE, MELCHER, BURDICK, CONRAD, and myself, which would require the Secretary of Agriculture to make available, in advance, a portion of the special payments, the so-called "Findley payments," under the 1987 Wheat Program.

Let me make it perfectly clear at the outset, Mr. President, that this bill will not increase the cost of the Wheat Program. According to CBO, the bill will not increase outlays under either the February baseline or the August baseline. Consequently, this bill is not subject to a point of order.

The Food Security Act of 1985 includes a provision which requires a portion of the deficiency payment to be determined on the basis of the reduced loan rate or the average price received by farmers during the marketing year. In the past, the entire deficiency was based on the loan rate or the average price during the first 5 months of the marketing year. Under previous law, producers could get their entire deficiency payment 5 months after the beginning of the marketing year. For wheat, that meant producers received their deficiency payments in November or December. Under the Food Security Act producers can get a portion of their deficiency payment in December, but must wait until June or July of the next year to receive the balance.

The 1985 farm bill provides for two deficiency payments, in essence. The regular deficiency payment is based on the difference between the target price and the statutory loan rate or the average market price during the first 5 months of the marketing year, whichever is higher. The Secretary has the authority under the law to reduce the loan rate by up to 20 percent. If the Secretary uses this authority, which he has for the 1987 wheat crop, the producer is then entitled to another deficiency payment. This payment, the so-called "Findley payment," is based on the difference between the statutory loan rate and the new loan rate on the average market price during the entire marketing year, whichever is higher.

The 1987 program for wheat provides for a target price of $4.38 per bushel. The statutory loan rate is $2.85, providing for a maximum deficiency payment of $1.53. The Secretary did use his authority to drop the loan rate to $2.28, thereby providing for a second deficiency payment with a maximum rate of 60 cents. It is the second deficiency payment which is determined by using the market price for the entire marketing year. As the law stands now, farmers must wait until June or July of 1988 to receive this second payment on a crop that is harvested, in Oklahoma, in May of 1987. For wheat, the marketing year ends in May the year after the crop is harvested. When this provision was included, it is obvious that little thought was given about the effect this would have on producers' income and their ability to pay their operating loans or their ability to cashflow.

American farmers are having a very difficult time generating enough cash to meet their current expenses right now. If they cannot get all of their deficiency payment until the summer of 1988, many will be unable to raise enough cash to pay all operating expenses for the 1988 crop. Farmers need to receive their payments in a prompt manner; they cannot afford to wait an entire year to be paid for their crop. Creditors will be hesitant to provide a farmer money for the 1988 crop if the farmer cannot pay off his loan for the 1987 crop.

Mr. President, the Senate, last year adopted an amendment very similar to this legislation on three different occasions. The provision was enacted into law as part of the Futures Trading Act of 1986, Public Law 99-641. The provision, however, was only applicable to the 1986 crop, because at that time, it was difficult to know whether or not the provision, when applied to other crops, would increase the cost of the program.

The bill I am introducing today will require the Secretary of Agriculture to estimate the average market price for the entire marketing year and make 90 percent of the "Findley payment" available to wheat producers by December 15, 1987. The remainder of the payment would be made at the end of the marketing year, in June or July of 1988. Drafting the bill this way is necessary if we are to have a bill which is budget neutral according to the August CBO baseline. The August baseline estimates that the price of wheat will be higher over the entire marketing year than during the first 5 months of the marketing year. Consequently, we could not simply require the Secretary to make the payment based on the first 5 months of the marketing year, as we did for the 1986 crop. In addition, since we are using an estimate of the price received for the entire marketing year, it is necessary to provide a cushion in case the estimate is incorrect, and thus, only 90 percent of the estimated payments are made in December.

Mr. President, this bill is very important to wheat producers and will not increase the cost of the Wheat Program. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 107D(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3) is amended by adding at the end thereof a new clause as follows:

"(iii) Notwithstanding any other provision of this Act, by December 1, 1987, the Secretary shall estimate the national weighted average market price, per bushel of wheat, for the 1987 crop, and shall use that estimate to make available to producers by December 15, 1987, not less than 90 percent of the payments estimated to be payable under this subparagraph.".●

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. RIEGLE, Mr. LUGAR, Mr. SHELBY, Mr. HEFLIN, Ms. MIKULSKI, Mr. SARBANES, Mr. DURENBERGER, and Mr. GLENN):

S. 1783. A bill to extend certain protections under title 11 of the United States Code, the Bankruptcy Code; read twice and placed on the calendar.

EXTENSION OF CERTAIN BANKRUPTCY PROTECTIONS

● Mr. METZENBAUM. Mr. President, this measure extends the stop-gap measure which currently protects retiree life and health insurance benefits when companies file for bankruptcy.

I hope that the House will act soon on S. 548, a measure to provide a permanent change in the bankruptcy laws to protect these important retiree benefits. It is my understanding that the House Judiciary Committee is moving forward, and, therefore, I believe that Congress should extend the stop-gap measure.●

● Mr. DURENBERGER. Mr. President, I am pleased to join the distinguished Senator from Ohio, Senator METZENBAUM, in introducing legislation that will extend the requirement that companies that file chapter 11 bankruptcy petitions must continue to provide medical and disability benefits to company retirees. This is an interim measure which is necessitated by the fact that the current law requiring continuation of retiree benefits expires on October 15.

Mr. President, after the LTV Corp. and Reserve Mining Corp. file chapter 11 bankruptcy petitions last year, Senator METZENBAUM and I cosponsored interim and permanent legislation preventing companies from failing to fulfill their health and disability commitments to their retirees. In July of this year, the Senate unanimously adopted legislation which permanently resolves this issue. However, since the House has not completed action on its version of this legislation, it is essential that we quickly adopt this interim legislation.

In Minnesota, there are more than 1,100 Reserve retirees, and hundreds of LTV retirees who cannot afford the possibility of having their company-provided health benefits terminated. In the case of Reserve, the bankruptcy trustee has approved a plan that requires continuation of most of these benefits. However, for many other retirees, continuation of benefits depends entirely on the Congress adopting this interim legislation.

Mr. President, I will do everything to ensure that both the Senate and the House act quickly to resolve this issue. I also want to thank Senator METZENBAUM for his leadership and commitment on this issue.●

By Mr. METZENBAUM (for himself, Mr. GLENN, Mr. WARNER, Mr. WILSON, Mrs. KASSEBAUM, Mr. KERRY, Mr. DURENBERGER, Mr. PACKWOOD, Mr. MATSUNAGA, Mr. SANFORD, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. GARN, Mr. SARBANES, Mr. EXON, Mr. GORE, Mr. BRADLEY, Mr. MCCLURE, Mr. MITCHELL, Mr. STENNIS, Mr. STAFFORD, Mr. KARNES, Mr. BOSCHWITZ, Mr. NICKLES, Mr. NUNN, Mr. FOWLER, Mr. DODD, Mr. PRYOR, Mr. LEVIN, Mr. SIMON, Mr. GRASSLEY, Mr. JOHNSTON, Mr. INOUYE, Mr. THURMOND, Mr. CHAFEE, Mr. DASCHLE, Mr. D'AMATO, Mr. HEFLIN, Mr. ADAMS, Mr. BUMPERS, Mr. BOREN, Mr. ARMSTRONG, Mr. WEICKER, Mr. BREAUX, Mr. DANFORTH, Mr. CHILES, Mr. PRESSLER, Mr. DOMENICI, Mr. GRAHAM, Mr. QUAYLE, and Mr. FORD):

S.J. Res. 198. A joint resolution to designate the week beginning on November 2, 1987, and ending November 8, 1987, as "National Tourette Syndrome Awareness Week"; to the Committee on the Judiciary.

NATIONAL TOURETTE SYNDROME AWARENESS WEEK

● Mr. METZENBAUM. Mr. President, I rise today to introduce legislation which would designate the week of November 2, 1987 as "National Tourette Syndrome Awareness Week."

Tourette syndrome is a mysterious neurological disorder which occurs in children between the ages of 2 and 16 and usually lasts for a lifetime. Tragically, the disorder manifests itself in an especially humiliating way: Afflicted persons experience repeated movements called tics and involuntary vocalizations.

In nearly 95 percent of cases, the first sign of the syndrome arises by age 11. A simple exaggerated eye blink eventually leads to facial twitches, teeth grinding, spasmodic jerks of the head, and other uncontrollable body movements. People with Tourette also experience involuntary vocalizations such as humming, grunting, barking, and even shrieking which can progress to obscene or socially unacceptable utterances. Throughout history, tourette sufferers have been diagnosed as possessed by the devil and burned as witches, characterized as degenerates and incarcerated in lunatic asylums, and subjected to endless psychotherapy by doctors who assumed the condition was emotional in origin.

Until recently, Tourette sufferers faced a life of agony because few doctors could diagnose their disorder. Even by the early 1980's, the average time between the onset of the tics and the diagnosis was more than a decade. People with the condition often became social outcasts who struggled hopelessly to control their tics.

Only in the last 25 years has Tourette syndrome been identified as a neutrological disorder which can often be treated chemically. Today, it is estimated that 100,000 Americans suffer from Tourette syndrome, and another 3.5 million suffer from less severe tic disorders. A number of medical researchers are investigating the causes and treatments for the disorder, and a much greater number of doctors are now aware of its symptoms and treatments.

However, we still have a long way to go. Although the medical community has made great advances in the last two decades, we need to encourage further research into the causes and treatments of Tourette syndrome. National Tourette Syndrome Awareness Week will focus public and medical attention on the disorder and help to hasten the day when those afflicted can be cured.

I urge my colleagues to cosponsor this important legislation which will offer hope to thousands of sufferers and their families.●

● Mr. D'AMATO. Mr. President, I rise today in support of a joint resolution, introduced by my distinguished colleague, Senator METZENBAUM, to designate the week of November 2-8, 1987, as "National Tourette Syndrome Awareness Week."

Tourette syndrome is a debilitating neurological disorder which afflicts more than 100,000 Americans. Typically, this syndrome is first noticed in children between the ages of 2 and 16, and lasts for the lifetime of each afflicted child. It's symptoms, which include repeated tic movements and involuntary vocalizations, can be socially crippling and emotionally devastating. Because of the potential social stigma associated with Tourette syndrome, it remains largely unknown to the general public.

The National Tourette Syndrome Association, which is headquartered in Bayside, NY, is seeking to broaden public awareness of this disorder. For 12 years, the members of this association have dedicated themselves to educating both the public and the professional medical community about Tourette syndrome. In addition, this association provides needed support services aimed at helping people with Tourette syndrome to reach their full potential. One such service is being provided in New York City, where the association is sponsoring two professional caseworkers who provide counseling to residents with Tourette syndrome.

Ultimately, the Tourette Syndrome Association seeks a cure for this disorder by supporting research into its causes and treatment. Although a cure is presently out of reach, the National Institutes of Health have been conducting promising research into Tourette syndrome. Current longitudinal studies of families with Tourette syndrome are shedding light on the genetic nature of the disease. More significantly, current research into brain chemicals holds the promise of yielding better drug treatments for people with this disease.

Until a cure is found, we need to encourage greater public awareness and understanding of this syndrome. We will contribute greatly to this effort by designating November 2-8, as "National Tourette Syndrome Awareness Week." I encourage my colleagues to join me in supporting this joint resolution, and I urge its immediate passage.●

ADDITIONAL COSPONSORS

S. 346

At the request of Mr. Exon, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of S. 346, a bill to amend the Railroad Retirement Act of 1974 to allow a worker to be employed in any nonrailroad employment and still qualify for an annuity, subject to current deductions in the tier-1 benefit on account of work and new deduction in the tier-2 benefit if the employment is for his last nonrailroad employer.

S. 373

At the request of Mr. Pell, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 373, a bill to reauthorize the program of finance assistance to meet special educational needs of disadvantaged children, and to reauthorize chapter 2 of the Education Consolidation and Improvement Act of 1981, through fiscal year 1993.

S. 533

At the request of Mr. Thurmond, the name of the Senator from Arizona [Mr. McCain] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 912

At the request of Mr. Exon, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 912, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment of Federal financing bank loans made to rural electrification and telephone systems, and for other purposes.

S. 953

At the request of Mr. Heflin, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 953, a bill to amend the Federal Rules of Civil Procedure with respect to the examination of prospective jurors.

S. 954

At the request of Mr. Heflin, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 954, a bill to amend the Federal Rules of Criminal Procedure with respect to the examination of prospective jurors.

S. 1220

At the request of Mr. Kennedy, the name of the Senator from Maryland [Mr. Sarbanes] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1230

At the request of Mr. Karnes, his name was added as a cosponsor of S. 1230, a bill to amend title XVIII of the Social Security Act to permit payment for services of physician assistants outside institutional settings.

S. 1232

At the request of Mr. Exon, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of S. 1232, a bill to amend the Agricultural Act of 1949 to make Commodity Credit Corporation stocks available to promote the production of liquid fuels, and for other purposes.

S. 1246

At the request of Mr. D'Amato, his name was added as a cosponsor of S. 1246, a bill to authorize the Administrator of General Services to convey property to the Museum of the American Indian, and for other purposes.

S. 1369

At the request of Mr. Rockefeller, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1369, a bill to strengthen the technological literacy of the Nation through demonstration programs of technology education.

S. 1475

At the request of Mr. Melcher, the name of the Senator from Washington [Mr. Evans] was added as a cosponsor of S. 1475, a bill to establish an effective clinical staffing recruitment and retention program, and for other purposes.

S. 1519

At the request of Mr. Lautenberg, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

S. 1522

At the request of Mr. Riegle, the names of the Senator from Maine [Mr. Cohen] and the Senator from Missouri [Mr. Bond] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1539

At the request of Mr. Exon, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 1539, a bill to amend the Federal Railroad Safety Act and for other purposes.

S. 1572

At the request of Mr. Pell, the names of the Senator from New Mexico [Mr. Bingaman], and the Senator from Iowa [Mr. Grassley] were added as cosponsors of S. 1572, a bill to create a National Education Savings Trust; to prescribe the powers and duties of the Trust and of its Board of Trustees; to provide for advance tuition payment plan agreements; to establish an advance tuition payment fund and to provide for its administration, and for other purposes.

S. 1620

At the request of Mr. Pell, the names of the Senator from Virginia [Mr. Warner], the Senator from North Dakota [Mr. Burdick], the Senator from Maine [Mr. Cohen], and the Senator from Illinois [Mr. Simon] were added as cosponsors of S. 1620, a bill to reauthorize and revise the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) relating to Federal impact aid, and for other purposes.

S. 1630

At the request of Mr. Heflin, the names of the Senator from Kansas [Mrs. Kassebaum], the Senator from Mississippi [Mr. Cochran], and the Senator from Florida [Mr. Chiles] were added as cosponsors of S. 1630, a bill to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes.

S. 1663

At the request of Mr. Dodd, the names of the Senator from Connecticut [Mr. Weicker], the Senator from Washington [Mr. Adams], the Senator from California [Mr. Cranston], the Senator from Mississippi [Mr. Cochran], the Senator from Maryland [Ms. Mikulski], the Senator from Vermont [Mr. Stafford], the Senator from Ohio [Mr. Metzenbaum], and the Senator from Indiana [Mr. Quayle] were added as cosponsors of S. 1663, a bill to reauthorize the Child Abuse Prevention and Treatment Act and other related Acts dealing with adoption opportunities and family violence.

S. 1709

At the request of Mr. Kasten, the names of the Senator from Nevada [Mr. Hecht] and the Senator from Idaho [Mr. Symms] were added as cosponsors of S. 1709, a bill to amend the Internal Revenue Code of 1986 and the Congressional Budget and Impoundment Control Act of 1974 to improve the tax policy process, provide more accurate information to the Congress and the executive branch, and to provide for improved measurement of tax expenditures.

S. 1715

At the request of Mr. Dixon, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of S. 1715, a bill to amend the Internal Revenue Code of 1986 to provide that certain transfers of a commodity pledged as collateral for Commodity Credit Corporation loans not be taken into account in computing Federal income tax liability.

S. 1729

At the request of Mr. Leahy, the name of the Senator from Mississippi [Mr. Cochran] was added as a cosponsor of S. 1729, a bill to promote rural development, and for other purposes.

S. 1774

At the request of Mr. Pryor, the names of the Senator from Virginia [Mr. Trible] the Senator from Rhode Island [Mr. Pell], the Senator from Delaware [Mr. Biden], and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

SENATE JOINT RESOLUTION 35

At the request of Mr. McCain, the names of the Senator from Arkansas [Mr. Bumpers], the Senator from Massachusetts [Mr. Kennedy], the Senator from New York [Mr. Moynihan], the Senator from New Jersey [Mr. Bradley], the Senator from North Carolina [Mr. Sanford], the Senator from North Dakota [Mr. Burdick], the Senator from Ohio [Mr. Glenn], the Senator from Florida [Mr. Chiles], the Senator from Georgia [Mr. Fowler], the Senator from Ohio [Mr. Metzenbaum], the Senator from Maine [Mr. Mitchell], the Senator from Alabama [Mr. Shelby], the Senator from Texas [Mr. Bentsen], the Senator from Utah [Mr. Garn], the Senator from Alaska [Mr. Murkowski], the Senator from Oregon [Mr. Packwood], the Senator from Idaho [Mr. McClure], the Senator from Rhode Island [Mr. Chafee], the Senator from Minnesota [Mr. Durenberger], the Senator from New Mexico [Mr. Domenici], the Senator from Pennsylvania [Mr. Heinz], the Senator from Nebraska [Mr. Karnes], the Senator from Mississippi [Mr. Cochran], the Senator from Rhode Island [Mr. Pell], the Senator from California [Mr. Wilson], the Senator from Indiana [Mr. Lugar], the Senator from Washington [Mr. Evans], the Senator from New Hampshire [Mr. Rudman], the Senator from Alaska [Mr. Stevens], the Senator from Oklahoma [Mr. Nickles], the Senator from Idaho [Mr. Symms], the Senator from Minnesota [Mr. Boschwitz], and the Senator from Missouri [Mr. Bond], were added as cosponsors of Senate Joint Resolution 35, a joint resolution relating to the commemoration of January 28, 1988, as a "National Day of Excellence".

SENATE JOINT RESOLUTION 66

At the request of Mr. Burdick, the names of the Senator from Colorado [Mr. Armstrong], the Senator from Missouri [Mr. Bond], the Senator from Minnesota [Mr. Boschwitz], the Senator from Massachusetts [Mr. Kennedy], the Senator from Arizona [Mr. McCain], the Senator from Idaho [Mr. McClure], the Senator from Maine [Mr. Mitchell], the Senator from New York [Mr. Moynihan], the Senator from Oklahoma [Mr. Nickles], the Senator from Oregon [Mr. Packwood], the Senator from Indiana [Mr. Quayle], the Senator from Wyoming [Mr. Wallop], the Senator from California [Mr. Wilson], the Senator from Colorado [Mr. Wirth], the Senator from Washington [Mr. Adams], and the Senator from New Mexico [Mr. Domenici] were added as cosponsors of Senate Joint Resolution 66, a joint resolution to designate the week of November 22 through November 28, 1987, as "National Family Week."

SENATE JOINT RESOLUTION 97

At the request of Mr. Hatch, the names of the Senator from California [Mr. Wilson], the Senator from Missouri [Mr. Bond], the Senator from Minnesota, [Mr. Boschwitz], the Senator from New Mexico, [Mr. Domenici], the Senator from Vermont [Mr. Leahy], the Senator from Maryland [Ms. Mikulski], the Senator from Illinois [Mr. Simon], the Senator from Washington [Mr. Adams], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Louisiana [Mr. Johnston] were added as cosponsors of Senate Joint Resolution 97, a joint resolution to designate the week beginning November 22, 1987, as "National Adoption Week."

SENATE JOINT RESOLUTION 98

At the request of Mr. Hatch, the names of the Senator from Connecticut [Mr. Weicker], the Senator from Iowa [Mr. Grassley], the Senator from Kansas [Mrs. Kassebaum], the Senator from Missouri [Mr. Danforth], the Senator from Virginia [Mr. Trible], the Senator from Indiana [Mr. Lugar], the Senator from Nevada [Mr. Hecht], the Senator from New York [Mr. D'Amato], the Senator from Montana [Mr. Baucus], the Senator from Michigan [Mr. Riegle], the Senator from South Carolina [Mr. Hollings], the Senator from Arkansas [Mr. Pryor], the Senator from Colorado [Mr. Wirth], and the Senator from Florida [Mr. Graham] were added as cosponsors of Senate Joint Resolution 98, a joint resolution to designate the week of November 29, 1987, through December 5, 1987, as "National Home Health Care Week."

SENATE JOINT RESOLUTION 105

AT the request of Mr. Lautenberg, the names of the Senator from Vermont [Mr. Stafford], the Senator from Virginia [Mr. Trible], the Senator from Kanasas [Mrs. Kassebaum], the Senator from California [Mr. Wilson], and the Senator from New Mexico [Mr. Domenici] were added as cosponsors of Senate Joint Resolution 105, a joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 126

At the request of Mr. Packwood, the names of the Senator from Washington [Mr. Adams], the Senator from Texas [Mr. Bentsen], the Senator from Tennessee [Mr. Gore], the Senator from Alabama [Mr. Heflin], and the Senator from Minnesota [Mr. Boschwitz] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 141

At the request of Mr. Nickles, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day."

SENATE JOINT RESOLUTION 196

At the request of Mr. Packwood, the names of the Senator from Indiana [Mr. Lugar], the Senator from Ohio [Mr. Metzenbaum], and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of Senate Joint Resolution 196, a joint resolution to designate February 4, 1988, as "National Women in Sports Day."

SENATE CONCURRENT RESOLUTION 76

At the request of Mr. Inouye, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of Senate Concurrent Resolution 76, a concurrent resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the Development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.

SENATE RESOLUTION 246

At the request of Mr. Moynihan, the names of the Senator from Illinois [Mr. Simon], the Senator from South Carolina [Mr. Thurmond], the Senator from Maryland [Ms. Mikulski], the Senator from Arizona [Mr. McCain], the Senator from Iowa [Mr. Grassley], the Senator from Alaska [Mr. Murkowski], the Senator from Idaho [Mr. McClure], the Senator from Maine [Mr. Mitchell], the Senator from Washington [Mr. Adams], the Senator from Oklahoma [Mr. Nickles], and the Senator from Wyoming [Mr. Wallop] were added as cosponsors of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

AMENDMENTS SUBMITTED

PROMPT PAYMENTS ACT

DIXON (AND KASTEN) AMENDMENT NO. 945

Mr. DIXON (for himself and Mr. Kasten) proposed an amendment to the bill (S. 328) to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes; as follows:

On page 21, line 17, strike out "(6);" and insert in lieu thereof "(7);".

On page 21, line 19, strike out "(4)".

On page 21, line 20, strike out "(4)" and insert in lieu thereof "(5)".

On page 22, strike out lines 9 through 13, and insert in lieu thereof the following:

PAYMENTS FOR DAIRY AND CERTAIN OTHER PRODUCTS AND PERIODIC PAYMENTS UNDER SUPPLY AND SERVICE CONTRACTS

Sec. 6. Section 3903 of title 31, United States Code, as amended by section 5, is further amended—

(1) by inserting after clause (3) the following:

"(4) for the acquisition of dairy products (as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e))), the acquisition of edible fats or oils, and the acquisition of food products prepared from edible fats or oils, provide a required payment date of not later than 10 days after the date on which a proper invoice for the amount due has been received by the agency acquiring such dairy products, fats, oils, or food products;"; and

(2) by inserting after clause (5) the following;

On page 22, line 14, strike out "(5)" and insert in lieu thereof "(6)".

LEVIN (AND OTHERS) AMENDMENT NO. 946

Mr. LEVIN (for himself, Mr. Rudman, Mr. Baucus, Mr. Bingaman, and Mr. Quayle) proposed an amendment to the bill S. 328, supra; as follows:

On page 23, line 12, insert "(1)(A)" before "Each".

On page 23, line 17, strike out all beginning with "which" through line 26 and insert in lieu thereof "described in subparagraph (B), unless the prime contractor certifies to the agency that such contractor—

"(i) has provided notice of payment terms in solicitations for subcontractor bids; and

"(ii) agrees to be bound by such payment terms in any subcontract resulting from such solicitations.

"(B) The payment clause included in a subcontract pursuant to subparagraph (A) shall obligate the prime contractor to pay the subcontractor promptly (as determined in accordance with the prevailing industry standard) out of such amounts as are paid to the prime contractor by the agency for work satisfactorily performed by the subcontractor under such contract.

"(2) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include, in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract, a clause which obligates the prime contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (1)(A) or the payment terms agreed to pursuant to divisions (i) and (ii) of paragraph (1)(A)—".

On page 24, line 12, insert "(1)(A)" after "(a)".

On page 25, lines 9 and 10, strike out "standards of subsection (a)" and insert in lieu thereof "standards of subsection (a)(1)(A), payment terms agreed to pursuant to divisions (i) and (ii) of subsection (a)(1)(A), or a payment clause included in the subcontract pursuant to subsection (a)(2)".

On page 25, line 21, insert "(2)" after "(a)".

DANFORTH (AND OTHERS) AMENDMENT NO. 947

Mr. DANFORTH (for himself, Mr. Pryor, Mr. Bumpers, Mr. Exon, Mr. Karnes, Mr. Bond, Mr. Heflin, Mr. Conrad, Mr. Nickles, Mr. Grassley, Mr. Daschle, Mr. Harkin, Mr. Matsunaga, Mr. Dixon, Mr. Leahy, Mr. Bentsen, Mr. Dole, Mr. Symms, Mr. Durenberger, Mr. Burdick, Mr. Boschwitz, Mr. Kasten, and Mr. McConnell) proposed an amendment to the bill S. 328, supra; as follows:

On page 21, between lines 10 and 11, insert the following new subsection:

(c)(1) Section 3902 (as amended in subsection (b) of this section) is further amended by adding at the end thereof the following new subsection:

"(h)(1) This section shall apply to contracts for the procurement of property or services entered into pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714 et seq.).

"(2)(A) In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), an interest penalty shall be paid to the producers if the payment has not been made within 30 days after the date on which—

"(i) the producers fulfill all of the requirements for payment provided for in the agreement;

"(ii) the Secretary of Agriculture determines the amount of the payment to which the producers are entitled; and

"(iii) if applicable, the producers demand the payment from the Secretary.

"(B) Interest under this paragraph shall accrue beginning on the date the requirements described in this paragraph are met and ending on the date on which the amount owed under the agreement and the amount of the interest penalty is paid.

"(3) Payment of the interest penalty under this subsection shall be made out of funds available under section 8 of the Act of June 29, 1948.

"(4) Section 3906 shall not apply to interest penalty payments made under this subsection.".

(2) The amendment made by paragraph (1) shall not be construed to authorize—

(A) a modification of the payment practices (including practices relating to payment due dates) that are prevailing, in the case of agreements referred to in such amendment, on the date of the enactment of this Act; or

(B) a modification of any such agreement that is in effect on such date in order to extend the payment due date in such agreement.

(3) The amendment made by paragraph (1) shall take effect with respect to payments that an producer or business concern referred to in such amendment had not yet received or first became entitled to receive under the terms of an agreement referred to in such amendment on or after April 30, 1987.

GRASSLEY (AND OTHERS) AMENDMENT NO. 948

Mr. GRASSLEY (for himself, Mr. Armstrong, Mr. Cochran, Mr. DeConcini, Mr. Pressler, Mr. Nickles, Mr. Helms, and Mr. Karnes) proposed an amendment to the bill S. 328, supra; as follows:

At the end, add the following:

(d) Section 12 shall take effect on the date of enactment of this Act.

PRESIDENTIAL ADVISORY PANEL FOR COORDINATION OF GOVERNMENT DEBT COLLECTION AND DELINQUENCY PREVENTION ACTIVITIES

Sec. 12. (a)(1)(A) There is established a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities (hereafter in this section referred to as the "Panel"). The Panel shall consist of eleven members appointed by the President in accordance with subparagraph (B) and four members appointed in accordance with subparagraph (C).

(B) The President shall appoint eleven members to the Panel, of which—

(i) five members shall be representatives of debt collection agencies of various sizes;

(ii) five members shall be attorneys experienced in the field of debt collection; and

(iii) one member shall be an official of the Federal Government.

(C) Four members of the Panel (in addition to the members appointed under subparagraph (B)) shall be individuals experienced in the field of debt collection, of which—

(i) one member shall be appointed by the majority leader of the Senate;

(ii) one member shall be appointed by the minority leader of the Senate;

(iii) one member shall be appointed by the Speaker of the House of Representatives; and

(iv) one member shall be appointed by the minority leader of the House of Representatives.

(D) No person shall be appointed to the Panel who is, or is a member of a company or organization which is, retained to perform debt collection services for the Federal Government.

(2) Members shall be appointed to the Panel within sixty days after the enactment of this Act. Members of the Panel shall take office upon such date of appointment.

(3) The President shall designate from among the members of the Panel a Chairman and Vice Chairman. Vacancies in the membership of the Panel shall not affect the power of the remaining members to execute the functions of the Panel and shall be filled in the same manner as the original appointments.

(b) The Panel shall—

(1) review and evaluate Federal policies on debt collection and delinquency prevention;

(2) recommend uniform policies, procedures, and guidelines for the collection of debts owed to the United States Government;

(3) develop, after consulting with the Office of Management and Budget and other appropriate Federal agencies, the priority and manner of delinquent debt collections and procedures for the prevention of delinquencies;

(4) establish training manuals to increase the effectiveness of employees involved in collection activities; and

(5) undertake additional related tasks and make interim reports of its activities and recommendations as the President or Congress may determine necessary.

(c)(1) The Panel may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Panel unless a majority of the Panel assents.

(2) Each Federal agency shall make staff personnel and support services available to the Panel to enable the Panel to carry out its functions.

(3)(A) Subject to subparagraph (B), the members of the Panel may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Panel.

(B) Any member may decline the reimbursement of expenses.

(d)(1) The Panel shall submit a final report to the President and to the Congress not later than eighteen months from the date of the first meeting of the Panel, containing the findings and recommendations of the Panel with respect to matters described in subsection (b).

(2) The panel shall terminate within thirty days following the submission of the final report.

(e) There are authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the provisions of this section.

(f) Except where inconsistent with this Act, the provisions of the Federal Advisory Committee Act shall apply to the Panel.

SASSER AMENDMENT NO. 949

Mr. SASSER proposed an amendment to the bill S. 328, supra; as follows:

On page 26, line 11, strike out "office or employee of the agency" and insert in lieu thereof "place or person".

On page 29, between lines 23 and 24, insert the following:

(6) The requirements of section 3905 of title 31, United States Code.

On page 30, between lines 3 and 4, insert the following:

CODIFICATION OF A DEFINITION PROVIDED IN AN APPROPRIATION LAW

SEC. 11. (a) Section 3903(2) of title 31, United States Code, is amended by inserting "and including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product)" after "182(3))".

(b) Section 2002 of the Supplemental Appropriations Act, 1984 (Public Law 98-181; 97 Stat. 1297) is amended by striking out "the terms 'meat' and 'meat and food products' as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products; and".

On page 30, line 5, strike out "SEC. 11. Section 3(a)(2) and the" and insert thereof "SEC. 12. The".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

CRANSTON (AND OTHERS) AMENDMENT NO. 950

(Ordered to lie on the table.)

Mr. CRANSTON (for himself, Mr. Murkowski, Mr. Matsunaga, Mr. DeConcini, Mr. Graham, Mr. Bingaman, and Mr. Danforth) proposed submitted an amendment intended to be proposed by them to the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On page 41, line 22, strike out "$10,080,000,000" and insert in lieu thereof "$10,123,000,000".

On page 41, line 24, strike out "$6,475,500,000" and insert in lieu thereof "$6,503,400,000".

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am delighted to be submitting today—on behalf of myself, the Committee's distinguished ranking minority member (Mr. Murkowski), Committee members Matsunaga, DeConcini, and Graham, and Senators Bingaman and Danforth—Amendment No. 950 to H.R. 2783 as reported by the Appropriations Committee, the fiscal year 1988 HUD-Independent Agencies Appropriations bill, providing an additional $45.2 million in funding in three vitally important areas in the Veterans' Administration medical care account. First, our amendment would add $20 million to help in meeting the additional costs which the VA is experiencing in furnishing care to veterans with AIDS.

The Appropriations Committee noted in its report accompanying H.R. 2783—S. Rept. No. 100-192, page 90—its concern "over reports that VA medical centers treating AIDS patients are being furnished inadequate resources." Thus, the Committee noted:

> While the agency's resource allocation methodology [RAM] presently provides funding of approximately $8,000 per AIDS patient, it costs VA facilities an estimated $24,000 per year to treat such a patient. This amount does not include the cost—approximately $9,000 per patient per year of azidothymidine [AZT], the only drug presently approved for AIDS, which is being used to treat approximately 500 VA AIDS patients. The Committee understands that the agency has treated more than 2,000 persons with AIDS since 1981 and expects to treat an estimated * * * 1,900 in fiscal year 1988.

Our amendment will help to address these pressing needs that the Committee believed it was unable to meet within the constraints of its budget allocation for this bill.

Second, our amendment provides $21.2 million in additional funding for bonus pay and tuition assistance necessary to recruit and retain high-quality health-care personnel. This would make a partial restoration of the total $45 million in add-ons that the House-passed bill provided for special pay rates and tuition assistance payments for nurses and others in hard-to-recruit medical specialties. Due to increasing competitiveness among hospitals and other health-care facilities, the VA is experiencing very serious difficulties in recruiting and retaining the health professionals it needs in order to furnish quality services to our Nation's veterans. I am hopeful that, in the final version of H.R. 2783, Congress will be able to provide the agency with additional necessary funding to maintain a highly qualified cadre of health-care professionals.

Third, our amendment restores the $4 million that the House of Representatives provided for startup costs for six VA outpatient clinics—in Albuquerque, NM; Austin, TX; Fort Worth, TX; Lawton, OK; Mount Vernon, MO; and San Jose, CA.

Mr. President, our amendment would provide for these funds through an additional appropriation of $38 million to the medical care account and the earmarking of $2.2 million provided in that account in the Committee-reported measure but not designated for any specific use.

I would also note that I am advised by the Budget Committee that this increase is within the Appropriations Committee's budget allocation to the HUD-Independent Agencies Subcommittee under section 302(b) of the Budget Act. It has recently come to light that that subcommittee has available to it $36.2 million more in outlays under that allocation than had been believed it had. This translates to $3.8 million in budget authority given the outlay rate—84.59 percent—in the VA medical care amendment. In my view, there is no higher priority than veterans' health-care needs for the use of these additional funds.

Thus, I urge all of my colleagues to support this amendment—to add $43 million more VA medical care—when it is proposed during the full Senate's consideration of H.R. 2783.

WAR POWERS RESOLUTION

WARNER (AND BYRD) AMENDMENT NO. 951

Mr. WARNER (for himself and Mr. Byrd) proposed an amendment to the joint resolution (S.J. Res. 194) to require compliance with the provisions of the War Powers Resolution; as follows:

Strike all after the word "findings" on page 1, line 5 and insert in lieu thereof the following:

(1) The Congress determines that the circumstances now existing in the Persian Gulf region, including the incidents involving U.S. military forces on September 21, 1987 and October 8, 1987 justify an Administration Report and a comprehensive Congressional review of the use of U.S. military forces in that region.

(2) The Congress expresses support for a continued U.S. presence in the Persian Gulf region and the right of non-belligerent shipping to free passage in this region.

(3) Congress continues to express reservations about the convoy and escort operations of U.S. naval vessels in connection with tankers reregistered under the U.S. flag.

(b) Within 61 days after the date of enactment of this Act, the President shall submit a report to the Congress in classified and unclassified form. The report shall provide a complete review of the range of U.S. commitments and military involvements in the Persian Gulf region, including a discussion of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are or were registered under the flag of the United States. This report shall also include a discussion of the following—

(1) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(2) the anticipated duration of the operation;

(3) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(4) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(5) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(6) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(7) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(c) Within thirty days after the report required by paragraph (b) is submitted, or 90 days after enactment of this Act, the Congress shall act upon a Resolution, if such Resolution is introduced, as provided for in subsection (d)(2).

(d)(1) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution, the matter after the resolving clause of which shall pertain to the matters identified in subsections (b)(1) through (b)(7) above, as Congress shall determine, and may address such other matters related to policy and commitments in the Persian Gulf region, as Congress shall then deem warranted, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c) is received by Congress.

(3) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(4) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(5) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) When the committee to which a joint resolution is referred has reported or has been deemed to be discharged under paragraph (3) from further consideration of such joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution and all points of order against the consideration of the joint resolutions are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of. If any such motion to proceed is agreed to, it shall not be in order to move to proceed to the consideration of any other such resolution introduced in that House.

(B) Consideration of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between and controlled by the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. Amendments which are germane and relevant to the joint resolution are in order under a two-hour time limitation for each amendment. Within the 10-hour time limitation, an amendment which may be offered by the minority leader is in order under a one-hour time limitation. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(7) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House, if such resolutions are identical, or on the joint resolution of the other House if not identical, with the text of the resolution of the first House deemed inserted in lieu of the text of the resolution of the second House.

(C) all motions required for the disposition of amendments between the Houses shall be deemed without debate. Debate on a conference report on any such joint resolution shall be limited to one hour.

(8) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

BYRD (AND WARNER) AMENDMENT NO. 952

Mr. BYRD (for himself and Mr. Warner) proposed an amendment to amendment No. 951 proposed by Mr. Warner (Mr. Byrd) to the joint resolution (S.J. Res. 194), supra; as follows:

Strike all after the word "Congress" the first time it occurs and insert in lieu thereof the following:

determines that the circumstances now existing in the Persian Gulf region, including the incidents involving U.S. military forces on September 21, 1987 and October 8, 1987, justify an Administration Report and a comprehensive Congressional review of the use of U.S. military forces in that region.

(2) The Congress expresses support for a continued U.S. presence in the Persian Gulf region and the right of non-belligerent shipping to free passage in this region.

(3) Congress continues to express reservations about the convoy and escort operations of U.S. naval vessels in connection with tankers reregistered under the U.S. flag.

(b) Within 60 days after the date of enactment of this Act, the President shall submit a report to the Congress in classified and unclassified form. The report shall provide a complete review of the range of U.S. commitments and military involvements in the

Persian Gulf region, including a discussion of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are or were registered under the flag of the United States. This report shall also include a discussion of the following—

(1) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(2) the anticipated duration of the operation;

(3) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(4) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(5) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(6) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(7) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(c) Within thirty days after the report required by paragraph (b) is submitted, or should have been submitted, or on the first day of session thereafter, whichever is later, a Resolution, if such Resolution is introduced, shall be acted upon in accordance with subsection (d) below.

(d)(1) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution, the matter after the resolving clause of which shall pertain to the matters identified in subsections (b)(1) through (b)(7) above, as Congress shall determine, and may address such other matters related to policy and commitments in the Persian Gulf region, as Congress shall then deem warranted, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c) is received or should have been received, by Congress.

(3) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(4) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(5) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of such joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the consideration of the joint resolution are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of. If any such motion to proceed is agreed to, it shall not be in order to move to proceed to the consideration of any other such resolution introduced in that House.

(B) Consideration of the joint resolution, and all amendments and debateable motions in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between and controlled by the majority and miniority leaders or their designees. A motion further to limit debate is in order and not debatable. Amendments which are germane and relevant to the joint resolution are in order under a two-hour time limitation for each amendment within the 10-hour time limitation, an amendment which may be offered by the Minority Leader, is in order under a one-hour time limitation. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(7) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House, if such resolutions are identical, or on the joint resolution of the other House if not identical, with the text of the resolution of the first House deemed inserted in lieu of the text of the resolution of the second House.

(C) all motions required for the disposition of amendments between the Houses shall be deemed without debate. Debate on a conference report on any such joint resolution shall be limited to one hour.

(8) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) For purposes of this section, the term "registered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

NOTICE OF HEARING

SPECIAL COMMITTEE ON AGING

Mr. MELCHER. Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a hearing on the proposed Medicare Part B premium increase.

The hearing will take place on Monday, November 2, 1987, at 10 a.m. in room 628 of the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Max Richtman, staff director at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. BYRD. Mr. President, I ask unanimous consent that the subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, October 9, 1987 in open session to receive testimony on the morale, welfare and recreation programs of the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the committee on Armed Services be authorized to meet during the session of the Senate on Friday, October 9, 1987 in open session to consider the nominations of Mr. John J. Welch, Jr., to be Assistant Secretary of the Air Force for Research, Development and Logistics and Ms. Kathleen A. Buck, to be General Counsel of the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, October 9, 1987, to hold hearings on the Federal Government's handling of Soviet and Communist bloc defectors.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE OF FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 9, 1987. To hold a hearing on an ambassadorial nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO MISS KAYE LANI RAE RAFKO, MISS AMERICA 1988

● Mr. RIEGLE. Mr. President, I would like to call the attention of the Senate to the remarkable achievements of Kaye Lani Rae Rafko, Miss America 1988.

Miss Rafko is a registered nurse from Monroe, MI, where she works with terminally ill patients at St. Vincent's Hospital. Her career goal is to own and operate her own hospice for terminally ill cancer patients. With the scholarship money presented by the Miss America Pageant, Miss Rafko will pursue a bachelor of arts and masters degree in nursing, specializing in oncology.

By winning the Miss America Contest, Miss Rafko has provided an excellent example for young women of today across the country. The vitality, optimism, and professionalism that she reflects is a goal we, men and women alike, should strive to attain.

Michigan is proud and honored to claim Miss Rafko as a citizen of our great State. She joins Nancy Fleming and Pamela Eldred as the third Michiganian to be crowned Miss America. I ask my colleagues to join with me today to celebrate her title, her outstanding career achievements, and the honor she brings to Michigan.●

INFORMED CONSENT: OKLAHOMA

Mr. HUMPHREY. Mr. President, virtually all serious medical procedures have some risk of negative effects. Abortion is similar to other operations in that regard. However, abortion differs from other procedures in that medical personnel often do not fully inform patients considering abortion of the risks, effects and alternatives. The outcome is that many women are suffering years after their abortions with medical and emotional problems they were never told might occur.

Such has been the case for several Oklahoma women, whose letters I bring to your attention today. These letters, like hundreds sent to my office from every State, detail the enormous burden placed on the women of who encounter abortion uninformed or even deceived.

I, therefore, urge my colleagues to support my informed consent legislation, S. 272 and S. 273, which would bring informational requirements regarding abortion up to the level of other medical procedures. This is the only just thing to do, and it makes medical sense.

I ask unanimous consent that the letters from Oklahoma be entered into the RECORD.

The letters follow:

[Undated]

AFTERMATH OF AN ABORTION

I went to mom and dad to break the news; I was pregnant. This was so difficult for me because I loved my parents and never wanted to hurt them. They took the news calmly enough as though they were not surprised. My dad talked with me, and advised adoption so this was my plan.

Mom and dad had to go out of town that weekend, my sister was having her first baby. I had a lot of time to myself that weekend, and I thought about the pros and cons of having a child. I thought about my friends who had kids and how they dumped them on their parents so they could do their own thing. Well, I knew I didn't want this for mom and dad; they didn't need another burden on their hands. They had had enough problems with me.

I knew very little about abortion but decided this was the easiest way out. I felt abortion was wrong but I found out if you think on it long enough, you can justify your actions. I looked in the phone book and all I could find was: "Abortion Clinics," "Planned Parenthood-Reproductive Service," "Hope, Inc.—Abortion Referral Service." So what hope did I have? The words would jump at me. Abortion!

When I went through the preliminaries of getting ready for my abortion, I had one particular lady tell me "Honey, it's like writing on a chalkboard, you can easily erase it and get on with your life." * * * This advice was given to me from one of the largest centers in Tulsa—Family Planning, also known as Reproductive Services and is financed by the Federal Government.

My parents did not know about the abortion until it was over. It devastated all of them. Little did I realize then that the day of my abortion was the very same day my nephew was born. I feel now if I could have seen the other side * * * "Alternatives to abortion," "Education on what abortion really is," I would have chosen another alternative.

Below is a poem written by my mother 8 years after my abortion and also during the time that the Lord healed her. My mother is now president of Oklahomans for Life in Muskogee, OK, and I am serving as regional director over six States for Open ARMS (Abortion Related Minstries):

Grandma Opposes Abortion

A happy event—A tragic event—
Tuesday, April 11, 1978
Birth of the first grandchild,
And infanticide—another one's fate.

A birthday to remember,
A happy day to rejoice
A wicked day to forget,
A sad day of remorse.

Two helpless, innocent babies,
Each fighting for its life
One loved and wanted,
The other one met strife
A soft little bundle,
A bouncing baby boy,
Blonde hair and brown eyes,
Bringing happiness and joy.

Our other grandchild died—mutilated
A deliberate act of extortion,
From the doctor's bloody-lucre hands
It's legally called abortion.

SUE THURBER,
Open ARMS.
GLENPOOL, OK.

MARCH 27, 1987.

DEAR MR. HUMPHREY: Yes, I had an abortion in 1980, and I was not counseled against having an abortion. The clinic I went to was in Wichita, Kansas. I received no information, and was not told that my baby was going to feel pain. I was almost four months pregnant and they used a sea-weed plug the day before the actual abortion to kill my baby. At no time did they even tell me that the plug was going to literally kill the baby or how it operated. They made the ordeal sound like the baby was an abnormal growth that needed to be flushed out, and that I should encourage others that abortion was right. I know that I made the choice, but if I had known all the facts, my baby would be about seven years old now.

If I had only known the God-given side, I would have never gone through with killing my baby. I'll never forget the ordeal—My Lord Jesus has healed me, but the psychological damage will always be with me. I have to learn how to live with the consequences of my sinning against God. I strongly agree that a law should be passed that all women wanting to kill their babies should hear the side God wants us to hear. Make it mandatory before consent could be signed.

The doctor even encouraged me to fight for abortion politically, since I was a political science major in college. I feel that I never had the chance to make the right decision. The abortion cost a measly $200.00 and only took about 20 minutes.

We must abolish abortion from our laws in this country. It is not right to murder another human being that God created and bless for us. Whatever support you need that I can do, you can count on my support.

Thank you.

God Bless You,

MRS. BRENT E. SHAIN,
Oklahoma.●

NORTHERN VIRGINIA COMMUNITY FOUNDATION AWARD TO MR. AND MRS. JOHN T. HAZEL, JR.

● Mr. WARNER. Mr. President, I rise today to bring to the attention of my colleagues the outstanding contributions of two distinguished Virginians, Mr. and Mrs. John T. Hazel, Jr.—known to many of us as "Til" and "Jinx."

On October 17, the Northern Virginia Community Foundation will honor the Hazels with their Founder's Award, which is presented annually for outstanding service and dedication to the betterment of northern Virginia.

The NVCF is a nonprofit community trust dedicated to enhancing the quality of life in northern Virginia by providing a central source for charitable giving.

Native northern Virginians, both Til and Jinx were born in Arlington.

The 40 years since their graduation from Washington and Lee High School in the class of 1947 have been filled with major accomplishments and numerous awards.

Jinx graduated from the Washington School for Secretaries and attended Western Maryland University.

Til pursued academic studies at Harvard College, the University of Virginia, and Harvard Law School.

Service in the U.S. Army Infantry and Judge Advocate General Corps was followed by a return to northern Virginia and the practice of law.

Serving as a county attorney, Til specialized in real estate law, later becoming the founder of the firm Hazel, Beckhorn & Hanes, presently the firm of Hazel, Thomas, Fisk, Beckhorn & Hanes, P.C.

Moving vigorously into the development arena, the partnership of Hazel/Peterson Co. was formed.

The Hazels welcomed three sons, Dick, Jim, and Jack, and one daughter, Leigh Ann, into their growing family and devoted many hours of community service to insuring the enrichment of the educational and cultural environment of northern Virginians.

Jinx's many volunteer hours included the chairmanship of the Fairview School PTA, district commissioner of the Arlington/Fairfax Pony Club, secretary of the Fairfax Symphony, and 6 years' service on the George Mason University Gala Committee.

In addition to serving on the board of directors of the Greater Washington Board of Trade, Fairfax County Chamber of Commerce Board, and the Board of Washington Dulles Task Force, Til has served as a member and rector of the George Mason University Board of Visitors and is currently the president of the board of trustees of the GMU Foundation, Inc.

He is a member of the executive board, National Capital Area Council, Boy Scouts of America; trustee, Greater Washington Research Center; chairman, board of governors, St. Stephen's School; and member of the executive committee, Harvard College Fund.

Recent honors bestowed upon the Hazels include Til's receiving in 1986 the Northern Virginia Builder's Association Man of the Year Award, the District of Columbia Builders Association Man of the Year, and the Old Dominion Chapter of the Public Relations Society of America Thomas Jefferson Award.

In 1987, Til was the first recipient of the George Mason University Medal and Jinx was the first recipient of the Women of St. Stephen's Award.

Mr. and Mrs. Hazel recently stated that they feel that all of their achievements and awards, including especially their family, have been jointly accomplished.

I know my colleagues join me in sending my warmest congratulations to the Hazel family, who are an inspiration to all of us to contribute our time and talents to others.●

ARMS SALE PACKAGE TO SAUDI ARABIA

● Mr. EVANS. Mr. President, I wish to commend my colleagues and the administration for their efforts to reach agreement on a controversial issue—an arms sale package to Saudi Arabia. I do not know whether this is the time for us to sell arms to Saudi Arabia or whether the package is an appropriate one. But I certainly believe that it is important for us to examine the proposal closely and carefully and not make our mind up before the fact.

I took the occasion yesterday to address this body during our consideration of the Foreign Relations Authorization Act for fiscal year 1988. I raised a number of my concerns about our often cockeyed approach to foreign policy and its operations. One of my concerns was our approach to arms sales and our unwillingness to review whether or not our past decisions have brought us any closer to our goals.

We have a prescribed process with which to examine matters as they come before this body. I believe it is time for us to acknowledge the expertise and work of the committees of the Senate. I am confident that left to its task, the Foreign Relations Committee can and will examine the proposed sale with utmost diligence.

Mr. President, I wish to again commend my colleagues for their efforts to find some consensus on this issue. Let us hope this is the beginning of a trend in which our foreign policy is formed through consultation, discussion, and consensus rather than division.●

A STRATEGIC APPROACH TO TRADE

● Mr. HEINZ. Mr. President, once again I take the floor to address a problem which has been of great interest and concern to all of us lately—our massive trade deficit. Economists all seem to have the answer. Weaken the dollar, they say, and all of our problems will magically vanish. Introduce draconian measures to protect U.S. industry, and the deficit will shortly become a surplus. Sanctions, embargoes, agreements: These are all proffered as the single solution, as the ultimate economic tool.

A paper recently delivered by Alan Wolff, a partner in the law firm of Dewey, Ballantine, and a former deputy U.S. Trade Representative, to the Institute for International Economics, is of interest, I believe, because it dispels these simplistic notions. Mr. Wolff presents a view which I have long shared, and which is the basis for the trade bill presently in conference. He argues that the United States has never had a truly comprehensive, coordinated trade policy. Important governmental trade decisions are made in response to single factors and ignore the interconnection between these decisions related to a particular branch or facet of one industry and the industry as a whole. These actions often have unexpected consequences and repercussions far beyond what was intended.

He points in particular to the steel, auto, and textile industries. Here, Wolff argues, it is practically impossible to discern a sound, well-thought-out governmental policy or any general principle beyond the fact that the Government reacts to individual cases and the political pressures which arise from those cases. This by the way, is not just an indictment of the current administration, in my judgment, but of most others as well. We lack a coherent frame of reference for making trade policy beyond political expediency. The result is trade policy chaos, which helps no one.

Wolff's paper is not completely negative in its outlook. He addresses the machine tool problems of 1982-86 and lauds the beginnings of a strategic approach to trade employed by the Government in this case. The multitiered proposal finally implemented by the President in 1986, with voluntary restraint agreements on imports, integration of the machine tool industry into the military framework, Federal funds for research and development, and monitoring of progress by the Secretary of Commerce, shows a distinct, positive development on the part of the Government and the beginnings of a strategic approach to trade, at least in this sector, Wolff argues. It may also be an illustration of the old proverb that even a blind hog gets an acorn now and then. The government understood that help for the machine tool industry was needed for the good of the U.S. economy as a whole, and as a result attempted to assemble a coherent, strategic appraoch.

Wolff continues his paper by discussing another domestic industry where he believes the Government is progressing in its approach, and that is the semiconductor sector. Here, he argues, the Government is approaching trade issues involving the semiconductor industry in a coherent, multifaceted manner which can be catalyst

for efficient and orderly growth of the industry.

This growth is vital to our economic and strategic strength, and, according to Wolff, it marks a positive change in governmental trade policy. It is in this industry that Wolff sees the best example of the Government using a strategic approach to trade, and he argues that this positive change should be expanded to all facets of the American economy.

Mr. President, this paper is important because it clearly shows that a coordinated, comprehensive policy, such as the one found in our current trade bill, is both vital and viable. I ask that the text of Mr. Wolff's comments be printed in the Record.

The comments follow:

The Trade Policy of the United States: An Overview

(Remarks of Alan Wm. Wolff)

By and large, U.S. trade policy over the last few decades has been determined on an ad hoc basis, by a blend of three key elements. First, jurisprudence—the attempt to grant equity to industries under trade remedy statutes. Secondly, the application of a laissez faire philosophy, the belief that the market should be free to operate. And lastly, and equally important, and often decisive, the balance of politics.

Thus, U.S. trade policy had been largely atomistic. Each case has been handled largely on its own, without being integrated into a broader strategy, without analysis which is more extensive than that barely necessary to discharge statutory responsibilities.

This is not a particularly partisan comment. Although the Carter administration was more pragmatic and the first Reagan administration was highly ideological, neither integrated individual decisions into a broader strategy, either with respect to the specific industry involved at the time, or more generally as they might relate to the country's national economic or commercial interests. Indeed even the phrase "national commercial interest" sounds foreign, perhaps French, British, or Japanese—certainly not American.

The largest trade measures—those involving the most trade, perversely has been the subject of the least analysis. It is hard to explain exactly what the government is seeking to achieve, for example, in steel, autos, textiles, or sugar. No one can answer what the government would wish these trade measures to look like in ten years, or five, for that matter. The United States is even in the odd position of denying that it wishes the largest of these trade measures to exist at all, the auto "voluntary" export restraint imposed by Japan.

The trade decisions taken in these cases are entirely reactive, made in response to trade cases, threatened legislation or plain political pressure. The form that the actions take is little more than the provision of a safety net, forced by the obvious fact that something has gone terribly wrong. Jobs declined, plants closed, social costs became evident. The overvaluation of the dollar contributed. Whatever the causes, the government has reacted primarily with a single tool—protection, with shockingly little factual or economic analysis. It utilizes an intellectually impoverished method of decisionmaking, relying almost entirely on arcane jurisprudence, woolly philosophical notions, and politics.

International negotiations, with the exception of major rounds of trade negotiations—in which circumstances force the setting of priorities, that is, there are limits to what one can obtain from others and what one can give in return—have fared little better. Trade policy toward Japan, for example, has consisted (with brief exceptions) of a compilation of complaints rather than being based on thorough analysis and made part of a longer-term strategy. The comment has been made that it was a U.S. policymaker's nightmare that Japan would one day do everything that the United States was requesting of it, and United States shipments to Japan would only improve by some $8 billion to $10 billion. This did not mean, however, that there were not policies that could have been adopted that could have achieved markedly better results (with a more satisfactory measurement of success). It meant mainly that the United States was not asking for the right things, and that it was not prepared to make the necessary changes at home to correct the problems that it was itself causing.

All of this would be sufficiently depressing as to be a cause for despair if it were not changing, albeit slowly. First, very few involved in the trade policy decisionmaking process would still be indifferent to the valuation of the dollar on the foreign exchange markets. That is a marked change from just two years ago.

Secondly, and on a different plane, the individual trade decisions being taken, are much more informed. The copper case, detailed in Mac Destler's excellent and incisive work, "The Politics of Antiprotection," describes an instance in which trade policy makers engaged in a more extensive analytical process, even if this was primarily the result of an external cause, the effective organization of copper using industries. The defeat of sugar quota legislation several years ago is another example.

These cases could be put down as having been isolated and idiosyncratic. Sugar, after all, reverted to the pattern that had preceded the removal of quotas. But there is other evidence that this is a transitional period—that the United States is moving toward adoption of a different trade policy. While there is still a lot of confusion in trade policy formulation, the startling decline in a number of industries has given rise to a feeling that there is some degree of national interst in how some industries fare in international competition and what kind of competition is being faced. The decisions in the machine tool case and the last steel case were responses ot these concerns, and may prove to be good examples of U.S. trade policy in transition.

The debate in these cases was traditional—whether or not to protect (although the Defense Department ultimately did throw in a small sum for R&D). The approach to the decision to be made was also traditional, although more muddled than usual. Before a decision was reached regarding these two industries, it proved necessary to wade through a confusing mix of almost every legal remedy proceeding on the statute books—unfair trade practice cases, countervailing duty cases, antidumping cases, an import relief case, and a national security case. In the machine tool case, an articulation of national interest, to be seen as legitimate, had to be clothed in terms of national security. Nevertheless, the concept that some government response was required, largely because of the importance of the industry to the economy, was beginning to emerge.

The beginning of a strategic approach made its appearance in the case of semiconductors. Somewhat in the case of machine tools, more so in the case of semiconductors, the U.S. government began to think about the composition of the U.S. economy in a way that it has not done since wartime. For semiconductors the debate was not the traditional simplistic argument between the granting or denial of protection. Instead, a strategic response was required, and began to be formulated, to the challenge of foreign industrial policy. The elements of the response were the prevention of dumping in all markets and the negotiation of quantifiable access to the Japanese market. That the Agreement touched close to the heart of the national interest was clearly demonstrated by the Administration's imposition of sanctions against Japan on April 17 for its noncompliance with the Agreement. Economic retaliation by the United States, without the blessing of the GATT, had no precedent since the founding of the GATT. Economic sanctions against Japan too closely recalled the events of the late 1930's to have been undertaken lightly against what is now a close friend.

The Agreement itself was unprecedented and little understood by the public, accustomed to a time-honored vision of the clash between protectionism and free trade. In fact, critics of the Semiconductor Agreement could not see that protectionism was not the issue. Indeed, the consultations this last week in Washington between the United States and Japan focused on American concerns over consumer interests. In the name of prevention of dumping and in violation of the Agreement the Japanese industry and Government had restricted production and exports and collaborated to increase prices in excess of costs. Unprecedented was the call from U.S. producers to have the U.S. government take a strong stance against Japanese interference with supplies of potentially competing product to U.S. customers—the domestic producers' own customers.

The next chapter in the semiconductor story is even more interesting. It involves government investment in an industry research consortium for manufacturing technology—Sematech. The reason for doing so is the direct benefit of the national defense, as the military is highly dependent on access to the latest technology in computer chips. And for the first time, an American industry had gotten together with its suppliers of materials and its customers and found a common interest, and the government discovered that it had an interest as well. This is new and different, and goes beyond consideration of trade policy in a vacuum.

Arguably the cases of supercomputers, and perhaps large commercial aircraft, demonstrate a greater awareness of the potential existence of a national interest in international competitive outcomes. This heightened awareness has spread as well to superconductors, where the U.S. government has announced its backing for a program of basic research, partially for reasons of international competition, without even the appearance of imports on the horizon.

The change to a more conscious, more analytically based trade policy is one of the more important features of the trade bills being considered by the House-Senate Conference Committee this month. This is not what gets the headlines—those are reserved for requirements for giving notice when plants close and the reporting requirements for foreign investment. But these are not what is most important.

It is worth quoting the first few lines of the first section of the House bill entitled "National Trade Policy".

"(a) Congressional Findings.—The Congress finds that—

(1) the United States is confronted with a fundamental disequilibrium in its trade and current account balances and a rapid increase in its net external debt;

(2) such disequilibrium and increase are a result of numerous factors, including—

(A) disparities between the macroeconomic policies of the major trading nations,

(B) the large United States budget deficit;

(C) instabilities and structural defects in the world monetary system;

(D) the growth of debt throughout the developing world;

(E) structural defects in the world trading system;

(F) governmental distortions and barriers;

(G) serious inadequacies in United States trade policy; and

(H) inadequate growth in the productivity and competitiveness of United States firms and industries relative to their overseas competition; * * *."

This hardly sounds like a preamble to a new Smoot-Hawley Act, and it isn't. The above is the beginning of as clear a view of what the challenges are as any, and the statute that follows it could easily emerge from Conference, with sufficient Administration leadership, as a excellent modernization of U.S. trade laws.

The new Trade Act would give the next Administration a number of things which are very much needed:

(1) A mandate from Congress for the multilateral trade negotiations. This is important. Congress does not authorize negotiations after the fact, and the results have been very unfortunate every time an Administration has ignored the necessity of taking Congress into a partnership of negotiation and implementation of trade agreements.

(2) Providing a process to facilitate adjustment of industries seeking import relief—which all agree is necessary.

(3) Delegation of trade authorities to the U.S. Trade Representative—to reduce the degree to which foreign and domestic politics color trade decisions, to improve the process of trade policy formulation, and to strengthen the hand of the U.S. chief negotiator at the bargaining table.

(4) Clarifying and settling the rules for dealing with natural resource subsidies;

(5) Providing a mandate for telecommunications negotiations; and

(6) Providing an effective response mechanism to foreign industrial targeting (existing law being limited to the imposition of trade measures).

There are a host of other provisions in these thousand page bills. Many of them would move the Administration of trade policy to a greater level of consciousness of the world in which the United States finds itself and the consequences of public policies and private actions for the standard of living which the people of this country (and its trading partners) will enjoy in the future.

The changes have been and will continue to be incremental, but there will be a vast difference between America's policies of 1981 and those of 1989, whether the next Administration is Republican or Democrat. Every one of the candidates stresses international competitiveness, productivity, and education as it relates to these subjects. Each succeeding year has seen the United States have a better-informed trade policy than in the year proceeding, and this evolution is likely to continue. If a trade bill is not enacted this year or next, the new Administration will spend its first year or two obtaining it, wasting precious time. What is coming to be recognized is that international economic policy, including trade policy, has become too vital to the nation's well-being to be left as an after-thought.●

FRAUD OF THE DAY—PART 5

● Mr. **HEINZ.** Mr. President, once again I want to address the growing problem of customs fraud. My previous frauds of the day have concentrated mainly on manufactured goods, such as ball-bearings and photo albums, or on big ticket items such as steel. Today, I want to discuss customs fraud in an area where one might not expect it: sugar. This seemingly innocent commodity has many producers who are apparently quite willing to commit fraud when importing their product into the United States. The fact that sugar, a basic commodity in our daily diets, falls victim to frequent customs fraud clearly shows that such fraud is present in all aspects of our economy, from industry to commerce, manufacturing to agricultural production.

Today's fraud centers on Operation Bittersweet. This extensive Customs Service investigation took place in 1985 and has had many positive results. As of September 1985, 11 corporations and 11 individuals had received fines and sentences as a result of their conviction on charges of filing false documents on drawback entries covering refined sugar.

The penalties for these transgressions have been substantial: Incarceration for up to 40 months, $140,000 in criminal fines, restitution ordered in the amount of $573,232, and the forfeiture of $1 million in illegal profits.

This fraud also illustrates another obvious, but depressing, fact: Fraud is most likely to occur in those areas where imports are subject to restraint. Tariff levels in this country are relatively low—although there are exceptions—and the temptation to misvalue to avoid normal duties is also relatively low. Goods subject to special restraints, however, like dumping or countervailing duties or quantitative limits, present much more tempting targets since the gain is so much greater. In particular, steel, textiles and apparel, and sugar, among other things, are subject to quantitative restraints, and it is in these areas that much of Customs' enforcement efforts are focused. In addition, industries like the photo album industry, which I referred to in my comments the other day, which have made antidumping or countervailing duty complaints and have won substantial duties in those cases have also been major victims of fraudulent activity.

Unfortunately, it is often these sectors that are subject to import restraints that are some of the most sensitive sectors in our economy precisely because of substantial import pressure from fairly traded items. To allow importers to add further to those pressures through illegitimate fraudulent actions is unconscionable.

My amendment to the trade bill currently under consideration would certainly help stem this rise. A private right of action would allow domestic sugar producers to act on their own behalf in the Court of International Trade. In this way, the penalties paid by the sugar importers apprehended through Operation Bittersweet could have been supplemented by civil damages as well as the criminal fines, restitution, and forfeiture of profits already assessed. This would be a much more effective deterrent to further sugar fraud.

The deterrent value of the private right of action is only one of many reasons that I believe that such action is necessary and beneficial. Compensation for those financially injured by customs fraud, the saving of money which would otherwise be lost due to such fraud, the bringing to bear of private resources and initiative on the problem of fraud, all of these reasons join deterrence in making private right of action a necessary and beneficial part of any progressive trade bill.●

ASSISTING TRADE-IMPACTED WORKERS

● Mr. **HEINZ.** Mr. President, I rise today to bring to the attention of my distinguished colleagues reactions regarding efforts to improve the Trade Adjustment Assistance Program.

As we are all too aware, as a result of foreign competition, too many of our best workers are either unemployed or underemployed. Of the 5 million American workers displaced in recent years by imports, plant closings and other causes, only about 3 million have found full-time work. More than half of those who found new jobs are struggling to make ends meet with lower paying jobs. Nearly one in three earn at least one-fifth less than they did in their old jobs.

The Trade Adjustment Assistance Program was designed to retrain displaced workers who have lost their jobs due to foreign competition and get them back into the work force. Under this program, workers go through a certification processs and when certified they receive benefits which include up to 52 weeks of cash assistance, while they pursue retraining, job search, and, if necessary, relocation assistance.

But, Mr. President, our experience last spring, when the money ran out for this critical program, illustrated that this program needs to be improved and expanded. There are a number of areas where we can improve our job training programs.

The Trade Adjustment Program is slow in responding to the needs of affected workers. The required certification of trade impact often means a long wait before benefits are on line for many meritorious cases. There are few workers who can afford to put the welfare on their families aside for months at a time in order to enter training. Bureaucratic delays often result in workers receiving only a few weeks training before their cash benefits run out. Our workers simply do not have the resources to survive while they train for work that they were originally eligible for. In addition, there is little information available on the services provided to displaced workers; too few are being helped.

I have sponsored legislation which would correct this desperate situation and would bring America back on the competitive track. The legislation is currently attached to H.R. 3, the Omnibus Trade Act. On September 24, 1987, members of the Pennsylvania delegation to Congress wrote to Chairman Dan Rostenkowski urging his support for this legislation. We conveyed our hope that the conference committee will accept the best provisions from the Senate and House bills. I ask unanimous consent that this letter be printed in the Record at this point.

The letter follows:

U.S. Senate,
Washington, DC.

Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

Dear Dan: We, as members of the Pennsylvania delegation, are writing to ask your support for provisions of H.R. 3 which revamp Trade Adjustment Assistance benefits for import-impacted workers. It is our hope that the Conference Committee will accept the best provisions from the House and Senate bills.

Specifically, it is our strong desire to see the following provisions of the House and Senate versions of H.R. 3 included in the final legislation.

FROM THE HOUSE VERSION:

1. Section 142(b)

This provision entitles eligible workers to a $4,000 training voucher. The Senate bill also would make training an entitlement, but only after the imposition of an import fee. The House bill does not include a delay, but rather makes training an entitlement upon enactment of the legislation.

Our support for this provision is based on our recent experience with TAA training. As you are well aware, all appropriated funds for training were expended by April and no new training could be approved. As a result, tens of thousands of displaced workers were without services. By creating an entitlement, upon date of enactment, the House bill would help remedy this inequitable situation. We urge the conferees, however, to grant the entitlement to all eligible workers, and not only those covered by petitions filed on or after the date of enactment, as is presently the case in the House bill. This provision, if not changed, could needlessly penalize eligible workers who are presently certified or will be certified prior to enactment of H.R. 3.

2. Section 141(a)

This provision allows workers to use Trade Readjustment Allowances as a wage supplement should they take a lower-paying job. This provision would allow workers to take on work which would later lead to higher pay, or start a small business, without fear of becoming destitute.

3. Section 142(a)(B)

This provision waives the training requirement in the event that a worker has a reasonable prospect of returning to his former employment. This provision thus protects laid-off workers from a training requirement which may be unnecessary, and therefore a misuse of training funds.

FROM THE SENATE VERSION:

1. Section 215(a)

This subsection requires the use of the most recent separation from employment to determine a worker's eligibility for Trade Readjustment Allowances. In the past, the Department of Labor has used the first separation, including a brief lay-off, to determine eligibility. This has led to denials of benefits to workers who were separated, recalled, and then permanently separated years later. We urge the inclusion of this language in the final legislation, with one modification. On page 123, line 12, insert "qualifying" between the words "recent" and "incident." Without this change the language may not operate as intended.

2. Section 215(b)

This subsection applies the change made in paragraph (a) to workers who were denied TAA by the use of the first separation. This provision would allow workers separated between 1981 and 1986, who were denied benefits for which they were eligible, to receive those same benefits *if they enter training.* Without this provision, workers in our state are not able to retrain for new employment, creating an extended drain on both the regional and national economy.

3. Section 212

This section requires the Department of Labor to notify workers of their eligibility for TAA. Notification should be a standard practice; unfortunately it is not. As a result, in our state, thousands of workers have had to file appeals with the state Office of Employment Security because they were misinformed about their benefits and failed to receive either training or cash assistance.

4. Section 214(g)

This provision allows workers who experience breaks in training—usually semester breaks—of less than two weeks to receive cash assistance during the break. The unfortunate current practice denies workers cash assistance during any break in training, including a Christmas break when classes are not held.

5. Section 214(a)(6)(B)

This provision allows workers to apply funds from any and all Federal programs to the cost of their training. Current regulations prohibit the use of non-TAA funds for TAA training. As both versions of H.R. 3 place a $4,000 cap on training funds per worker, this "commingling" provision will be essential for workers attempting more intensive, and thus more costly, training.

6. Section 211(c)

This subsection modifies a TAA certification. This provision allows a small group of workers whose certification expired before their plant closed to receive the benefits for which they are eligible. Failure to include this provision in the Conference agreement will deny these workers their benefits.

We strongly support the above-mentioned provisions. Recent experience with the Trade Adjustment Assistance program clearly demonstrates that improvements in administration and eligibility are sorely needed. In Pennsylvania, thousands of workers have lost benefits, and failed to receive adequate retraining. The reasons for this inequity include quirks in the legislation, lack of appropriated funds for training, or because of misinformation, or no information, provided to eligible workers. These provisions would help solve these problems, and return import-impacted workers to meaningful employment. We believe a Conference agreement on Trade Adjustment Assistance should include these measures.

Your attention to our concerns is greatly appreciated.

Sincerely,

Arlen Specter, Joseph M. Gaydos, Joe McDade, Gus Yatron, William J. Coyne, John Heinz, Joe Kolter, Don Ritter, Austin J. Murphy, Paul E. Kanjorski, Thomas M. Foglietta, Peter H. Kostmayer, Bob Borski, Will H. Gray, Tom Ridge, Doug Walgren, John P. Murtha.

Mr. President, I also recently asked Pennsylvanians to provide me with their thoughts on job training programs and efforts to improve them. I think their responses speak eloquently of the need for such legislation. I would like to take this opportunity to share with my colleagues just some of their reactions.

Mr. David Taylor of Coraopolis wrote that he was employed at LTV Steel until he was laid off in April 1982. He was told he was not eligible for job training assistance because of the date of his dismissal. Mr. Taylor now works for a cemetery at $5 an hour. He emphasized:

> We need government financing of our retraining and also unemployment compensation to carry us while we are retraining. The time has come for money to be allocated for the unemployed who, through no fault of their own, have lost their jobs to unfair imports.

Mr. Stephen Yazlowski of Sworysville wrote:

> I support your legislation to improve job training assistance for displaced workers. I am one of those workers. The owner of the plant where I worked said he had to close because he had lost a lot of work due to imports. I am thirty seven years old with a wife who has Multiple Sclerosis and a son. I've put my application in many places, but all they will pay is minimum wage, on which I could not exist.

Mr. Joseph Cherkes of Pittsburgh, who has a wife and two teen-aged children, wrote:

> I have been out of work for 14 months, and it has been pure hell. We are now getting food stamps, which is a help; however, what I need is a steady job. My unemploy-

> ment has run out. My wife works 35 hours a week but we cannot make ends meet. I cannot understand why someone who wants to work doesn't get the jobs. I do support your legislation to improve federal job training.

Mrs. Karen Byerly of North Huntingdon wrote:

> I am in favor of your bill for job-training assistance. My husband lost his job almost two and one-half years ago, after 17 years service, and it's been downhill ever since. It would be nice if he could go to school and be retrained for a new career, but what would we live on in the meantime? It's a shame that at our ages (38 and 40) we have to scrape harder to make ends meet than we did when we first got married.

Mr. William Simon of Norwood, who lost his job due to a plant closing after 25 years of service, wrote:

> I do need some type of training for a new career so that I may return to the labor market. It's ludicrous for a productive worker who wants to work but has no job or career to be refused federal job training.

I have received many, many more such letters. We must recognize that an improved and expanded program of Federal job assistance to displaced workers is money well spent. It is an ongoing investment in our national competitiveness and well-being. I urge my colleagues to join me in ensuring that the job training provisions which emerge from the trade conference are ones that correct the inequities in the current program.●

TRIBUTE TO CARL J. WEINGARTNER, NEW MEXICO'S NATIONAL DISTINGUISHED PRINCIPAL

● Mr. BINGAMAN. Mr. President, I wish to call the attention of my colleagues to the selection of Mr. Carl J. Weingartner as New Mexico's National Distinguished Principal. Mr. Weingartner is being so honored by the National Association of Elementary School Principals at special ceremonies in Washington today.

Mr. Weingartner came to New Mexico in 1961 to teach on the Navajo Reservation. Since then, he has devoted his career to the improvement of education in our State. After teaching for 5 years in the Albuquerque Public Schools, he entered graduate school and earned a master's degree in education. He then returned to the Albuquerque schools to serve as assistant principal of Grant Middle School, principal of Chelwood Elementary School, and principal of Montezuma Elementary School, the position for which he now is being honored.

During his 26 years of service in the field of education, Mr. Weingartner continually has demonstrated exceptional leadership in the promotion of educational excellence. In the 1970's, he served on the New Mexico Legislative School Study Subcommittee, helping to develop criteria for school administrators to use in developing evaluation procedures for teachers. He has served on various educational boards, including the Albuquerque Public Schools District Superintendents Advisory Board, and he was honored as New Mexico's outstanding principal by Governor Bruce King in 1981. During the 1985-86 academic year, he served as president of New Mexico's South Central Zone No. 8 of the National Association of Elementary and School Principals.

In his current capacity as principal of Montezuma Elementary School, he has developed several innovative and beneficial educational projects. Montezuma Elementary is noted for its special education program, "side by side," which encourages progress among students with special educational needs. Montezuma also enjoys a highly successful after-school tutoring program that brings staff members, university students, and elementary students together to reinforce learning in difficult subjects. One of the most innovative projects undertaken at Montezuma, and one that should serve as a model for schools across the country, is its program of extended care before and after school. This program is particularly beneficial for working parents and their children. Describing him as very "child oriented," a close staff member explains that the key to Mr. Weingartner's success in these projects is his excellent rapport with children.

I commend Mr. Weingartner on bieng named a National Distinguished Principal and for serving as a model of excellence for others in the education field. I'm sure my colleagues join me in saluting this outstanding educator.●

WESTBURY HIGH SCHOOL

● Mr. MOYNIHAN. Mr. President, on October 5, 1987, President Reagan and Education Secretary honored 271 secondary school for their success in the pursuit of educational excellence. Among those schools was Westbury High School, located on Long Island in New York State.

In earning this 1987 distinction, the Westbury district distinguishes itself as a model school system. Previous to this award, the district's Park Early Childhood Center received national recognition in 1986 from the U.S. Department of Education for pursuing excellence. And in June 1987, the district's Drexel Elementary School received similar recognition from the New York State Education Department for its exemplary educational progress.

The New York State Commissioner of Education, Thomas Sobol, has spoken of the challenges schools will face in the year 2000. He foresees a public school population in which diversity will be the norm. The critical challenge will be to develop a structure of educational programs to serve all adequately. The Westbury community would seem already to have faced this challenge—and to have responded with success.

It is in the implementation of programs for students—ranging from the gifted to those needing a little extra help—that Westbury has displayed its distinctiveness. It is in raising every child's expectations in life that the instructional team measures its success. It is seeing and respecting every child's individuality that has contributed to the district's overall uniqueness. Put simply, it is for instilling hope in every child that we salute Westbury today.

I draw attention to Westbury's accomplishment today so that we in the Senate may congratulate the staff, the community and the children of Westbury, Long Island, for accepting the challenge of change.●

TAX REFORM BILL REVISION

● Mr. SASSER. Mr. President, I am pleased to join today as a cosponsor of S. 1520. This bill would provide much-needed relief from one of the more burdensome aspects of the 1986 tax reform bill. My colleagues will recall that the 1986 tax reform bill broke new ground in the area of accounting rules. Among the many changes in accounting procedures was a requirement that most partnerships, S. corporations, and personal services corporations adopt their taxable year to that of their owners.

S. 1520 would help rectify the situation. The bill would allow certain types of subsidiaries to avoid the inefficiencies and inequities attendant to this drastic change in accounting rules. Moreover, it does so while still generating the revenues the Tax Act sought in the first place.

Mr. President, I have long-believed that the benefits of any change in accounting rules and procedures must outweigh any additional burden placed on businesses by the change. Last year's changes on calendar year accounting do not pass this test. The practical effect of this change was to force many small businesses to adopt calendar year accounting. This requirement is wreaking economic havoc in the business community and is creating an administrative nightmare for countless small firms. Mandatory adoption of calendar year accounting is impractical for many businesses.

As a result of this change, the American Institute of Certified Public Accountants estimates that tax accountants would be forced to handle an additional 2 million extra returns between January 1 and April 15. We can easily envision the avalanche in requests for time extensions and the general mayhem which will follow this new work-load. Not only will this change create such a burden; the new calendar year will also disrupt the normal tax cycle. Both accountants and business taxpayers are accustomed to preparing the businesses' year-end books and returns well before it is necessary to prepare the individual owners' returns. It will be difficult, if not impossible, to finish calculating the taxes of partnerships, S corporations and personal service corporations in enough time to allow the partners and shareholders in these firms to file their individual tax returns accordingly.

In addition, small businesses will be burdened with the expense of closing their books two times and filing two sets of tax returns for each of the two periods ending calendar 1987. The required change in tax year could be disruptive and counterproductive to the economy inasmuch that contracts, compensation arrangements, and retirement and employee benefit plans will have to be amended due to the change in the calendar year.

As you can see, the objections being voiced are due to the hardships imposed by the new time constraints of this Tax Act, not due to the actual tax payment or experienced increase in taxable income. Thus, the small business community is in support of S. 1520, which could generate $1.7 billion in revenue in addition to retaining the calendar year. Their complaints are an efficiency, not monetary, concern.

It is important to stress that S. 1520 does not ignore the legitimate revenue concerns raised during consideration of the 1986 tax bill. It contains provisions which allow a partnership or S corporation the option of retaining its current fiscal year if the owners agree to pay any necessary additional taxes based on calculated deferred income. The bill also modified provisions affecting the deductibility of certain expenses. Hence, this bill is a revenue-neutral proposal which would allow the Government to generate the revenue originally intended in the 1986 Tax Act without imposing undue burdens on small businesses and their accountants.

Mr. President, given the vital role of small business in our economy, we must be careful not to create tax rules which include measures which are both costly and detrimental to their well-being. We must address the special problems and needs of small businesses in our Federal tax and regulatory policies. We need the jobs, the innovation, and the productivity of small firms too badly to do anything less.●

MARK TERLITSKY AND HIS FAMILY

● Mr. EXON. Mr. President, 8 years ago, in 1979, Jewish emigration from the Soviet Union was at its peak of 51,320. Tragically, the number declined rapidly over the years and began to show a turnaround only in 1985. The number that year was a mere 1,140 men and women fortunate enough to begin new lives in the free world. In 1986, even this slight positive trend evaporated with only 914 Soviet Jews allowed to emigrate.

I submit that this is unacceptable to the American people and free people throughout the world. We do not understand the Soviet harassment and imprisonment of people simply because they are Jewish. The Soviets cannot explain this clear-cut violation of human rights and must hide behind the smokescreen of security concerns and bureaucratic obstacles in a feeble attempt to justify their actions.

Among the many victims of this inhumane charade is the Terlitsky family. Mark Terlitsky, his wife, daugther, and mother first applied for permission to emigrate to Israel in 1976. They were refused an exit visa then and in 1977 and 1978. Finally, in 1979, they were promised permission to leave in 1980. However, they were subsequently refused permission to emigrate to Israel for 3 more years. Permission to emigrate to the United States and join Mark's brother Leonard was denied in 1983, 1985, and 1987.

The reason for these continuous denials was "Mark's possession of secret information." This is one of several bureaucratic reasons Soviet officials use to deny permission for emigration. In Mark's case, it is totally without foundation. Mark is an architect by profession. In the paranoid security state that is the Soviet Union, even architectural knowledge seems to pose some kind of threat. Mark did in fact have a security clearance, yet he never worked on any classified projects nor worked with any classified materials. In fact, his clearance was administratively revoked in 1975, a year before he first applied for emigration. Furthermore, he has not been able to pursue his profession for 12 years and has had no opportunity to subsequently learn anything classified. In short, the Soviet claim is ridiculous.

Mark's brother Leonard has tried several times to visit his family in the Soviet Union to see what he could do to assist them. He was finally able to obtain permission to visit them and recently saw them for the first time in 11 years. Leonard attempted to deal with the Soviet bureaucracy and was given the runaround. Finally, after one fruitless meeting after another, Leonard learned that a commission appointed to review emigration requests had, in fact, considered the Terlitsky case, were divided over it, and that the request would have to be considered all over again.

That is where the issue remains. What is clear is that the Soviet officials will not resolve this case favorably on humanitarian grounds. They will only do so when appeals on behalf of the Terlitsky family have become so frequent and overwhelming that the Soviets will be glad to let them go just to end the pressure.

This does not happen often, but it is often the reason the Soviets will finally relent. Perhaps the Terlitsky family will eventually be given permission to emigrate; I will certainly continue working for that.

But how many refuseniks remain unknown in the Soviet Union? In a way, Mark Terlitsky is fortunate. He at least has someone in the West who can make his situation known. Given the obstacles that Mark has encountered, what chance do others less fortunate have? This is the tragic reality for many, if not most, Soviet Jews.

So it is for these men, women, and children, as well as the Terlitsky family, that I urge the Soviets to change their policy. I urge our own officials of the State Department to press the Soviet Union on this. I hope that we will see meaningful progress soon and the reunion of the Terlitsky family.●

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, does the distinguished Senator from Virginia, the acting Republican leader, have any further statement or business?

Mr. WARNER. Mr. President, I bring to the attention of the majority leader these three items.

Mr. BYRD. All right. I thank the Senator.

ORDER PLACING S. 1783 ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1783 be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. That bill was introduced earlier today by Mr. METZENBAUM and others dealing with LTV retiree benefits.

REFERRAL—S. 1085

Mr. BYRD. Mr. President, I ask unanimous consent that the bill S. 1085 be referred to the Committee on Armed Services, that the committee have the authority to report amendments only to title I of the bill, and that the committee be discharged from all further consideration of the measure if it has not reported the bill by November 2, 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, may I inquire of the distinguished Senator from Virginia, the acting Republican leader, as to whether or not on the Executive Calendar, Calendar Orders numbered 317 and 318 have been cleared for action?

Mr. WARNER. Mr. President, the majority leader is correct.

Mr. BYRD. Mr. President, I thank my friend.

I ask unanimous consent, Mr. President, that the Senate go into executive session to consider Calendar Order Nos. 317 and 318; that the nominations be considered en bloc and agreed to en bloc; that the President be immediately notified of the confirmation of the nominees; that the motion to reconsider be laid on the table; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR

William John Maroni, of Rhode Island, to be an Assistant Secretary of Labor. (New position.)

David F. Demarest, of Virginia, to be an Assistant Secretary of Labor. (New position.)

ORDER TO REPRINT SENATE JOINT RESOLUTION 194

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Joint Resolution 194, Calendar Order No. 360 be reprinted to show the modification by its author.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, October 13, 1987

Mr. BYRD. Mr. President, Tuesday is the first day following the Columbus Day holiday.

ADJOURNMENT UNTIL 9 A.M., TUESDAY, OCTOBER 13, 1987

I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order on Tuesday next the distinguished Senator from Nevada, Mr. REID, be recognized following a 5-minute order for Mr. PROXMIRE, and that Mr. REID's order be not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on Tuesday next be reduced to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR QUORUM CALL

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 9:30 a.m. on Tuesday next there be an automatic quorum call, and that the time on the motion to instruct the Sergeant at Arms be limited to 30 minutes, and that the call for the regular order be automatic at the conclusion of the 30 minutes on that rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR YEAS AND NAYS

Mr. BYRD. Mr. President, I ask unanimous consent it be in order at this time to order the yeas and nays on a motion to instruct the Sergeant at Arms to request the attendance of absent Senators on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

PROGRAM

Mr. BYRD. Mr. President, at 9:30 a.m. on Tuesday next there will be the rollcall vote on the motion to instruct the Sergeant at Arms. That will be a 30-minute rollcall vote. The call for the regular order will be automatic, which means that is the end of the time on the rollcall.

Following that rollcall vote, the Senate will be on the catastrophic illness legislation. Under the authority that has previously been granted to the majority leader, after consultation with the minority leader, the Senate may shift back and forth between action on catastrophic illness and the war powers legislation.

ORDER FOR CONSIDERATION OF VERITY NOMINATION ON TUESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 12 o'clock noon on Tuesday next, the Senate go into executive session to resume consideration of the Verity nomination; that there be 45 minutes of debate thereon, 30 minutes to be under the control of the minority leader, 15 minutes to be under the control of the majority leader; provided, further, that at the hour of 12:45 p.m. on Tuesday next, the Senate stand in recess until the hour of 2 o'clock p.m. to accommodate the regular meetings of the two parties in the Senate.

I ask unanimous consent that at the hour of 2 o'clock p.m. on Tuesday next, and without further debate, and with no further quorum call to be in order, the Senate proceed to vote on the motion to invoke cloture on the Verity nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. This would mean, Mr. President, that if the motion to invoke cloture succeeds, then the Senate must proceed on that nomination, to the exclusion of all other business, until that business is completed. If the motion to invoke cloture does not succeed, then it will be my intention to either stay on that nomination or go back to legislative session and pick up where we left off on catastrophic illness or the war powers legislation.

So, we have various measures and matters that will be before the Senate on Tuesday next, any one of which can and will in all likelihood require rollcall votes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, OCTOBER 13, 1987

WAIVER OF CALENDAR CALL

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived under rule VIII on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that resolutions, over, under the rule, not come over on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a brief period for morning business following the special orders and prior to the automatic quorum not to exceed 5 minutes and that Senators may speak therein for not to exceed 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNFINISHED BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that catastrophic illness legislation be the unfinished business on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, in closing, I want to thank the Republican leader for his cooperation in helping to move the work of the Senate along. During these recent days, he has given me authority to move to take up various appropriation bills after consultation with him. This courtesy and cooperation extended to me has benefited the Senate and I look forward, hopefully, to this kind of continued cooperation.

The minority leader cannot give it unless other Senators on his side, of course, allow him to give it. It will enable the Senate to complete its work at an earlier date if we can continue to have this kind of cooperation so that we can move to legislation, sometimes set it aside, take up other legislation, and make the best of our time, hopefully, in an effort to have the Senate complete its work by November 21, just prior to Thanksgiving week. It will take a lot of cooperation.

There are several appropriation bills remaining to be done on the Senate side. Appropriation bills are somewhat different, of course, in many ways from other legislation. Other legislation passed by the Senate may go to conference with the House and may remain there, conference reports may be reported back next January or February and acted on by both Houses, and nothing untoward is impaired or injured by the delay. But if we hope to have appropriation bills acted upon before the continuing resolution, which is the final omnibus appropriation measure, is sent to the President, then these appropriations bills, after they are passed by the Senate, have to go to a conference with the House.

This means we do not have a lot of time. We have 6 weeks left beginning with next week and inclusive of Saturday, November 21. So we have 6 weeks in which to send these appropriation bills to conference, have them acted upon in conference and brought back to both Houses in the form of conference reports, acted upon, sent to the President and have his signature before the final continuing resolution is developed.

Therefore, this cooperation is greatly appreciated. I feel that we do the country a service if we do send these measures down to the President so that he can have the opportunity to veto them individually, if he sees fit. That is the way it has been done throughout the years.

The more we can avoid cramming every appropriations measure into one gargantuan continuing resolution, I think the better it serves the country. Obviously, we will not be able, I do not think, to act on all 13 appropriations bills simply by the very nature of 1 or 2 of them. But, who knows? We might be able to. The more we can send the President, certainly the better. If the President vetoes them, then we would have to fold them into the continuing resolution.

So I want to close the RECORD for the week and for this day on that note of appreciation to the Republican leader and, again, to my friend the acting Republican leader, Mr. WARNER.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished majority leader on behalf of the Republican leader. Again, if it were not for the teamwork between the two, very little would move, and I appreciate the opportunity to work once again, throughout the day with our distinguished majority leader, my neighbor from West Virginia; and I thank him for his friendship.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

ADJOURNMENT TO TUESDAY, OCTOBER 13, 1987, AT 9 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with previous order, that the Senate stand in adjournment until the hour of 9 o'clock on Tuesday morning next.

The motion was agreed to; and at 6:56 p.m., the Senate adjourned until Tuesday, October 13, 1987, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 9, 1987:

DEPARTMENT OF STATE

JOHN R. DAVIS, JR., OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO POLAND.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

KATHLEEN C. BAILEY, OF CALIFORNIA, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY, VICE LEWIS A. DUNN, RESIGNED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE TERMS INDICATED:

FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1991:

RAYMOND J. PETERSEN, OF CONNECTICUT, VICE KENNETH Y. TOMLINSON, RESIGNED.

FOR TERMS EXPIRING JULY 19, 1992:

SALLY JO VASICKO, OF INDIANA, VICE JOHN E. JUERGENSMEYER, TERM EXPIRED.

JULIA LI WU, OF CALIFORNIA, REAPPOINTMENT.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE REASSIGNED IN HIS CURRENT GRADE TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. RICHARD A. BURPEE, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES B. DAVIS, [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

LT. GEN. JAMES E. LIGHT, JR., [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

LT. GEN. EDWARD L. TIXIER, [redacted]FR, U.S. AIR FORCE.

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT AS A RESERVE COMMISSIONED OFFICER OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. JAMES F. FRETTERED, [redacted]

To be brigadier general

COL. JOHN W. SCHAEFFER, JR., [redacted]
COL. SIMON C. KREVITSKY, [redacted]

THE U.S. ARMY RESERVE OFFICERS NAMED HEREIN FOR APPOINTMENT AS RESERVE COMMISSIONED OFFICERS OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. CLYDE R. CHERBERG, [redacted]
BRIG. GEN. ROBERT C. HOPE, [redacted]
BRIG. GEN. ALVIN W. JONES, [redacted]
BRIG. GEN. FELIX A. SANTONI, [redacted]
BRIG. GEN RICHARD E. STEARNEY, [redacted]
BRIG. GEN. MARK W. TENNEY, [redacted]

To be brigadier general, USAR

COL. WOODROW A. FREE, [redacted]
COL. BARCLAY O. WELLMAN, [redacted]
COL. STEPHEN H. SEWELL, JR., [redacted]
COL. CLAUDE J. ROBERTS, JR., [redacted]
COL. PAUL R. LISTER, [redacted]
COL. PAUL N. REVIS, [redacted]
COL. GENE P. HALE, [redacted]
COL. ROGER H. BUTZ, [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate October 9, 1987:

DEPARTMENT OF LABOR

WILLIAM JOHN MARONI, OF RHODE ISLAND, TO BE AN ASSISTANT SECRETARY OF LABOR.

DAVID F. DEMAREST, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

ADL HELPS BLACK-JEWISH COOPERATION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. FRANK. Mr. Speaker, under the leadership of Executive Director Leonard Zakim and such committee chairmen as Richard Glovsky and Richard Morningstar, the New England regional office of the Anti-Defamation League of B'nai B'rith has done outstanding work in a number of areas. One area where it has been especially important is that of relations between the Jewish and black communities. At a time when a number of people have tried to disrupt the alliance on issues of public policy that has linked these two communities for a number of years, I very much admire the work that Leonard Zakim and his colleagues have done, in cooperation with black leaders in Boston, and to remind people that these two communities continue to have a great deal in common in their views of proper public policy.

Recently, a delegation of black and Jewish leaders from Boston returned from a 10-day trip to Israel sponsored by the Anti-Defamation League. As the accompanying articles from the Jewish Advocate and the Jewish Times make clear, this trip was an excellent example of the solid work that black and Jewish leaders in Boston have done to preserve their ability to work together on behalf of their communities.

As the articles note, one of the things that occurred on this trip was a meeting between the American participants and Israeli officials in which the Americans made their case for increased Israeli sanctions against South Africa.

I congratulate the New England region of the Anti-Defamation League and the black leaders who have worked with ADL on their excellent efforts, and I insert the articles discussing their work here:

[From the Jewish Advocate, Sept. 24, 1987]

JEWS, BLACKS BACK FROM ISRAEL; VOW COOPERATION

(By Allison Barnet)

Stressing the positive isn't always the easiest thing to do when faced with a group of reporters.

At a September 18 press conference, black and Jewish leaders who had just returned from a 10-day trip to Israel sponsored by the Anti-Defamation League fended off questions about Jesse Jackson and Minister Louis Farrakhan and geared discussion toward successful joint efforts which, they said, more accurately reflect the relationship between blacks and Jews in 1987.

"We're not about to let black/Jewish relations be defined by any one person," said Leonard Zakim, ADL Regional Director and coleader of the black/Jewish mission to Israel. "The Farrakhan problem is not a black/Jewish problem; it's a problem of bigotry."

When pressed to say whether the group would issue a statement about Farrakhan (who spoke in Boston last weekend), delegation coleader Rev. Charles Stith of Boston's Union United Methodist Church and national president of the newly-formed Organization for a New Equality (O.N.E.) said, "It is important to speak cogently and clearly on any issues of racism. But not to create a flashpoint where there is none. He's been saying what he's saying for thirty years."

"The real strength of black/Jewish relations is in the communities where we are working together," said Zakim. "Efforts are going on in many places around the country that haven't been focused on by the media, who have focused on the strains."

Zakim, emphasizing the "bridge-building" goal of the mission, said the group is committed to working on an alliance between blacks and Jews that is relevant in 1987. "This is no longer the 1960s. The relationship between blacks and Jews is different than it was in the '60s." He said it is important to spread the word about cooperative efforts and accomplishments.

Zakim and Stith spoke to the press with others who had visited Israel with them: George Bachrach, City of Boston Treasurer George Russell, State Rep. Susan Schur and Dr. Nathan Allen of the Lena Park Community Center. Twenty-five black and Jewish leaders in all from across the country participated in the trip.

In Israel, the delegation met with Foreign Minister Shimon Peres and Political Director General Yossi Beilin, as well as a number of other officials, to raise issues that concern blacks and Jews in the United States. A major issue was Israel's economic and military ties to South Africa.

"It was kind of a unique meeting," said Zakim. "We raised together in a strong voice our concerns as Americans about policy in South Africa."

The group was pleased—and surprised—when on September 17 the Israeli government announced the imposition of new sanctions on South Africa. "It was satisfying to hear that a process which we expected to take a couple of months was accelerated," said Zakim.

"We were pleased . . . that we played a role," said Stith. "As important as the steps against South Africa is that black and Jewish Americans raised the issue."

The group is now committed to raising the issue with Japan, South Africa's number one trade partner and a complier with the Arab boycott of Israel, they said.

"There was no lack of radical statements on the part of the participants on this trip," said Rep. Schur, when a reporter implied that "radical" leaders were not included in the mission. "I'm proud we could come up with our strong statement on South Africa."

Meetings with officials in Israel were "candid" and "very intense," all participants agreed. The group sought the broadest range of opinions available, said Zakim, and did not shy away from negative issues.

"We met with Black Hebrews and got a sense of their concerns, and the need for greater care and humanitarian treatment by Israel (as well as the U.S.) is something we felt we should address," said Bachrach.

"We met with the editor of the largest Palestinian newspaper and could understand his feelings about the right of self-determination—not a minor concern for any of us. It was by no means an Israel cheerleading mission."

The group was struck by the complexity and multi-sided nature of many of Israel's problems—from the status of the Black Hebrews to the West Bank—but came away with a great deal of hope.

"It's important to realize that Israel is really a Third World country," said Zakim. "Israel is struggling to find its identity."

Zakim said, "one of the most beautiful scenes" of the trip was a visit to a kindergarten class in an absorption center where Ethiopian children were being assimilated along with Canadians and Americans. "But not without respect for their different cultures," he said. "We were pleased at the extent of that absorption and only wish immigrants to America were so quickly absorbed."

[From the Boston Jewish Times, Sept. 24, 1987]

BOSTON'S BLACK-JEWISH DELEGATION RETURNS FROM TRIP TO ISRAEL

(By Susan Bloch)

Returning from an intensive nine-day trip to Israel, the Rev. Charles R. Stith of the Union Methodist Church and Leonard Zakim, New England Director of the Anti-Defamation League, convened a press conference to describe the results achieved by the 25-member group of Blacks and Jews.

They were joined for their presentation by Dr. Nathan Allen of the Lena Park Community Center, Atty. George Bachrach, former Massachusetts legislator, Boston City Treasurer George Russell and State Representative Susan Schur.

In addition to releasing a four-page statement which they said took the duration of the trip to work out, they described their delight in Israel's recent announcement of new sanctions on dealing with South Africa. While they were loath to take the credit for the Israeli move, they pointed out that theirs had been the first Black-Jewish group to meet with Foreign Minister Shimon Peres. At that meeting, they stressed the issue of Israel's relationship with South Africa.

"As important as Israel's recent initiative on South Africa," Rev. Stith said, "was the fact that Black and Jewish Americans raised this issue together."

The group went to Israel, Stith said, "to get a better feel for Israel's significance to the American Jewish community; and to share our respective concerns about issues that impact on Black-Jewish relations with one another and with Israeli leaders and people."

An important outcome of the trip, Zakim said, was the decision by the two communities, Black and Jewish, to confront the Japanese government on their foreign policies. Japan is the world's #1 trade partner with

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

South Africa, he said. Japan is also prominently in compliance with the dictates of the Arab boycott of Israel.

"Our two communities are on the receiving end of Japan's ill-aimed policies," Zakim said. The groups have agreed to raise the issue jointly with Japanese diplomats in Boston, New York and Washington.

Schur characterized the groups' interaction as open and honest. Many different opinions were expressed during the trip and discussions tended to get intense at times. The process reinforced the bridge-building between the two communities and led to a better mutual understanding.

Among the participants was Martin Luther King III, the son of the late Martin Luther King, Jr. Zakim said that a particularly poignant moment of the trip came when the delegation planted young saplings in Israel's Martin Luther King forest. Young King received considerable media attention while in Israel.

The group spent quite a bit of time dealing with the issue of the Black Hebrews, a non-Jewish, American sect which has taken up residence in Israel and created quite a bit of controversy. They met with Black Hebrew leader Ben-Ami Carter to get a better understanding of the situation and urged both the American and Israeli governments to deal with the problem more expeditiously.

They also met recent Ethiopian immigrants, who are both black and Jewish. They marveled at the integration of the Ethiopian children in a kindergarten class. They met with American Blacks who have settled in Israel and who told the group of the near absence of color bias in that country.

Zakim pointed out that one of the purposes of the trip was to overcome the strains which have existed between the two communities in recent years and to create an agenda of common concern for the future. He feels that was accomplished.

Questioned about Black leadership response to Louis Farrakhan, Rev. Stith said that it is important to speak cogently and clearly in response to any instance of racism or anti-Semitism. "Our efforts, however, must be proactive rather than reactive."

Rev. Stith added, "I don't care to give him a backdrop against which to respond."

Zakim said that the Black leadership of this community have made it clear they do not support Farrakhan's efforts. "Farrakhan is a Black-Jewish problem," he said. "But it is also a problem of bigotry."

A question was also raised about the anti-Israel and possibly anti-Semitic pronouncements of South African Bishop Desmond Tutu. Allen said that he felt Israel and Black South African leaders should get together and resolve the issues. He said that a member of the group was close to Bishop Tutu and felt that he would convey some sense of Israel's position to Bishop Tutu.

In his opening remarks, Rev. Stith said that members of the Black community went to Israel as friends and the Jewish members of the delegation went as family. It was obvious, upon their return that both entities had a better understanding of Israel and that they had forged personal and community friendships which will positively serve the two groups in the future.

DOUGLAS FRASER TRIBUTE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. WOLPE. Mr. Speaker, on Saturday, October 17, 1987, the Michigan Women's Studies Association will present its prestigious Michigan Women's Hall of Fame Philip A. Hart Award to one of this country's truly great labor leaders, former UAW President Douglas A. Fraser.

The Philip A. Hart Award was established to honor each year one male Michigan citizen who "* * * has demonstrated unique understanding and support of women's issues and concerns * * *" in the conscientious manner of our admired former Senator Philip Hart. During his many years of union representation and public service, Doug Fraser has repeatedly exhibited these admirable qualities. In addition to his determined advocacy of the equal rights amendment, within the UAW Doug Fraser steadfastly sought to advance the rights of women with respect to union and corporate decisionmaking, collective-bargaining agreement, and pay rates; he appointed the first woman to serve as a UAW administrative assistant, and he helped to secure the appointment of the first woman on the International UAW Executive Board.

There have been many highlights in Doug Fraser's long and successful association with the auto industry and labor interests in Michigan. Beginning modestly as a metal finisher in the DeSoto plant of Chrysler Corp., he became active in the UAW Local 227 and was elected to various local offices, including the local presidency in 1943. Appointed to the UAW International staff in 1947, he was selected by President Walter P. Reuther to be his administrative assistant in 1951. He held that position, as he held many of his subsequent positions, both elected and appointed, for several terms. Elected codirector of Region 1A in 1959, he served on the international executive board as a member in 1962, a vice president in 1970, and president in 1977. His long presidency of the UAW, his membership as a UAW representative on the Chrysler Board of Directors, and his membership on the executive council of the AFL-CIO stand out as exceptional accomplishments in an extraordinary career.

While Doug Fraser is officially retired from the UAW, it is fitting that the Women's Hall of Fame would bestow the Philip A. Hart award upon him at this time. He played a key role in many of the UAW's historic achievements on behalf of women. But more importantly now, retirement has hardly slowed Doug's advocacy for women's rights. His continued involvement with several labor, civic, and government organizations—including the Aspen Institute for Humanistic Studies, the Leadership Conference on Civil Rights, the United Way of America, the Governor's Commission on Jobs and Economic Development, all attest to Doug's continued dedication to his struggle for social justice that has been the distinguishing characteristic of his entire life.

Mr. Speaker, I am sure that my colleagues will want to join with me in saluting Douglas Fraser for his outstanding contributions to the effort to assure equal rights for all in the workplace, in Michigan, and throughout the Nation. We would also want to congratulate him on the recognition he is being accorded by his selection as this year's recipient of the Michigan Women's Hall of Fame Philip A. Hart Award.

AGENT ORANGE AND THE NEXT CHAPTER FOR VETERANS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. FLORIO. Mr. Speaker, when our Nation's servicemen went to Vietnam in the 1960's and 1970's as part of the Armed Forces fighting the Vietnam war, they served their country bravely. But at the same time that they were fighting an often hidden enemy, they were fighting another hidden enemy that attacked them from their own side, agent orange.

Intended to destroy the leaf cover hiding the Vietcong from American servicemen, agent orange, a defoliant, contained a powerful chemical, dioxin.

For thousands of veterans affected by this toxic chemical, the consequences have been nightmarish.

The consequences of agent orange have the potential to be far reaching, since dioxin has been proven to be carcinogenic in lab tests with animals. In fact, dioxin is one of the most potent, carcinogenic chemicals known to man.

Not only were thousands of servicemen put at risk when they were initially exposed to agent orange in the jungles of Vietnam, but also the next generation of those servicemen's children are also at risk of developing numerous forms of cancer.

But the treatment that the Veterans' Administration and the Centers for Disease Control have accorded this vital concern of Vietnam veterans leaves a great deal to be desired.

Only after the report was made public through unofficial sources, the VA finally released a study that shows a higher incidence of cancers in a survey of the death certificates of 52,000 marines. In that survey, Vietnam marines who were likely to have been exposed to agent orange were shown to have developed cancer in numbers that are disproportionate to the rate observed in nonexposed veterans.

In particular, the study shows a correlation between the number of cancers overall and the number of marines who were exposed to agent orange.

That study itself shows that exposure to agent orange in Vietnam translates into a greater likelihood of developing cancer.

At the same time that the results of the VA report finally became public, the Centers for Disease Control came out with its own assessment of the agent orange investigation. Instead of providing any substantive information to show for the $63 million set aside for the study, the CDC simply responded that there is no way that it can track down the servicemen who were exposed to agent orange in order to test them for any defoliant-related cancers.

However, that claim by the CDC flies in the face of the study results from the VA.

On the one hand, the VA itself comes out with a study that raises questions and the possibility that agent orange is, in fact, to blame for the high number of cancers among the veterans exposed to this toxic defoliant, and on the other, the CDC says that there is no way that it can arrive at a satisfactory conclusion.

That is obviously a contradiction.

One Federal agency does have figures, and another says that no figures are available.

Between those two different accounts of the agent orange investigation, the thousands of Vietnam servicemen who were exposed to the rain of agent orange are left hanging.

They served their Nation proudly. Although they were armed to defend their lives against the physical threats that befell them, as it turns out, they were not even aware of the long-term dangers that they were facing from the defoliants sprayed around them.

Scientific studies with animals have shown that agent orange and dioxin are some of the most potent and toxic chemicals manufactured by man. Indeed, these studies have shown agent orange and related herbicides to be directly responsible for several cancers, notably non-Hodgkin's lymphoma and lung cancer.

As if to underline further the significance of the animal studies and the concerns of exposed veterans, the VA study of several hundred marines indicates that Vietnam marines had much higher incidences of non-Hodgkin's lymphoma and lung cancer, diseases that have been linked to dioxin exposure.

The CDC, in its final study, did not actually exhaust all the avenues of exploration available to them. Indeed, in my State of New Jersey, the New Jersey Agent Orange Commission has developed a method which can, in fact, test for the link between cancer and agent orange in affected veterans.

With these options available to them, with all of the evidence already amassed ready for investigation, there is no reason why the Federal Government cannot proceed in an expeditious manner to compensate these veterans for their sacrifices.

Recognizing the damage done and compensating the servicemen who suffered as a result of exposure to agent orange is a first step in alleviating the pain that these veterans have endured.

One of the exposed veterans is Terry Stalberg, the editor of the Philadelphia Daily News. I am including below his recent editorial on his experience in Vietnam and his reaction to the latest developments in the agent orange situation:

[From the Philadelphia Daily News, Sept. 21, 1987]

LETTER FROM THE EDITOR

(By Zachary Stalberg)

The first full day I spent in country was on the beach at Cam Ranh Bay.

I remember the brilliant sun and the clean sand, rimmed by lush green trees that followed the shoreline out into the warm, clear waters of the South China Sea.

Just above the treetops to the distant left and right were gunships, hunting. But violence felt very far away and Vietnam still seemed to me a place of untouchable beauty.

The second day I went to Long Binh.

Red dust covered every jeep, every boot, every inch of exposed flesh. Within the camp's 47-mile perimeter, a few mutant bushes fought their way out of the cracked and rusty earth. Defoliants had taken everything else.

In 1962, and for eight years that followed, the U.S. Government sprayed the defoliant Agent Orange in Vietnam in a fruitless effort to deprive the enemy of places to hide. Agent Orange contained Dioxin, which has been proven to be highly toxic to animals. The spraying is suspected to have caused high rates of cancer in veterans and Vietnamese and birth defects in their children.

Twenty-five years later our government will not compensate veterans for health problems that could have been caused by Agent Orange. And it won't even aggressively pursue the research necessary to alert veterans and their families to the hazards they might eventually face. The government insists there is no known link between the herbicide and the health disorders.

But, hold it, don't reach for that Dioxin cocktail yet.

Despite pressure from Congress to finally perform conclusive Agent Orange research, government scientists in August aborted a multimillion dollar study, casting real doubt on the notion that there was a connection between the spraying and illnesses. The battle seemed lost.

Then a few weeks ago someone in the Veterans Administration leaked key portions of a different study to the New York Times.

It turned out that the VA had suppressed for six months the largest mortality study of Vietnam veterans yet conducted. It revealed that Marines who served in Vietnam had a 58 percent higher rate of death from lung cancer than would be expected and a 110 percent higher rate of death from several rare types of cancer of the lymph system. While the study did not identify the cause, the Agent Orange issue was reignited.

"There is only one reason the people in Washington don't want to find out the real effects of Agent Orange," says Camden County Congressman James Florio, a leader on the issue. "It's budgetary."

We've seen the movies "Platoon" and "Full Metal Jacket" and "Hamburger Hill" and now there's even a weekly TV drama on the Vietnam War. Last week the grunts merited a float in the Constitution Day parade and next month they get a parade all their own here. America has finally recognized the Vietnam vets.

But when do we admit we poisoned them?

ALERT TO COSPONSORS OF VA CABINET LEVEL LEGISLATION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. SOLOMON. Mr. Speaker, this is to alert those Members of Congress who are currently cosponsors of legislation (H.R. 1707) to make VA a Cabinet level department. It is imperative that these cosponsors contact my office or the Veterans' Affairs Committee at 5-9758 as soon as possible to join as a cosponsor of new Cabinet level legislation which is very similar to H.R. 1707.

The bill I am introducing today contains technical amendments which have been worked out with the Veterans' Affairs Committee and the Veterans' Administration. The Government Operations Committee has agreed to hold hearings on this matter on October 27.

I respectfully request the 240 Members of Congress who are currently cosponsoring H.R. 1707 to contact us at 5-9758 as soon as possible and sign onto the corrected version of the legislation.

This bill has insignificant costs to the Federal Treasury, is bipartisan and is strongly supported by every veterans' organization in the United States.

COSPONSORS—H.R. 1707

Mr. Ackerman of New York.
Mr. Akaka of Hawaii.
Mr. Annunzio of Illinois.
Mr. Applegate of Ohio.
Mr. Badham of California.
Mr. Baker of Louisiana.
Mr. Bateman of Virginia.
Mr. Bennett of Florida.
Ms. Bentley of Maryland.
Mr. Bevill of Alabama.
Mr. Biaggi of New York.
Mr. Bilbray of Nevada.
Mr. Bilirakis of Florida.
Mr. Blaz of Guam.
Mr. Boehlert of New York.
Mrs. Boggs of Louisiana.
Mr. Boner of Tennessee.
Mr. Bonior of Michigan.
Mr. Borski of Pennsylvania.
Mrs. Boxer of California.
Mr. Broomfield of Michigan.
Mr. Brown of California.
Mr. Bryant of Texas.
Mr. Beuchner of Missouri.
Mr. Burton of Indiana.
Mr. Bustamante of Texas.
Mrs. Byron of Maryland.
Mr. Callahan of Alabama.
Mr. Chappell, Jr. of Florida.
Mr. Clinger of Pennsylvania.
Mr. Coats of Indiana.
Mr. Coelho of California.
Mr. Coleman of Texas.
Mr. Conte of Massachusetts.
Mr. Conyers of Michigan.
Mr. Craig of Idaho.
Mr. Crockett of Michigan.
Mr. Daniel of Virginia.
Mr. Daub of Nebrasks.
Mr. Davis of Illinois.
Mr. Davis of Michigan.
Mr. DeFazio of Oregon.
Mr. de la Garza of Texas.
Mr. DeLay of Texas.
Mr. Dellums of California.
Mr. de Lugo of the Virgin Islands.
Mr. Derrick of South Carolina.
Mr. DeWine of Ohio.
Mr. Dicks of Washington.
Mr. DioGuardi of New York.
Mr. Donnelly of Massachusetts.
Mr. Dornan of California.
Mr. Dowdy of Mississippi.
Mr. Downey of New York.
Mr. Dreier of California.
Mr. Duncan of Tennessee.
Mr. Durbin of Illinois.
Mr. Dyson of Maryland.
Mr. Dymally of California.
Mr. Eckart of Ohio.
Mr. Edwards of Oklahoma.

Mr. Emerson of Missouri.
Mr. English of Oklahoma.
Mr. Evans of Illinois.
Mr. Fauntroy of the District of Columbia.
Mr. Fascell of Florida.
Mr. Fazio of California.
Mr. Fields of Texas.
Mr. Flake of New York.
Mr. Flippo of Alabama.
Mr. Florio of New Jersey.
Mr. Ford of Michigan.
Mr. Frank of Massachusetts.
Mr. Fuster of Puerto Rico.
Mr. Gallegly of California.
Mr. Garcia of New York.
Mr. Gejdenson of Connecticut.
Mr. Gekas of Pennsylvania.
Mr. Gephardt of Missouri.
Mr. Gilman of New York.
Mr. Goodling of Pennsylvania.
Mr. Gordon of Tennessee.
Mr. Grandy of Iowa.
Mr. Grant of Florida.
Mr. Gray of Illinois.
Mr. Guarini of New Jersey.
Mr. Gunderson of Wisconsin.
Mr. Hall of Texas.
Mr. Hall of Ohio.
Mr. Hammerschmidt of Arkansas.
Mr. Hansen of Utah.
Mr. Hastert of Illinois.
Mr. Hawkins of California.
Mr. Harris of Alabama.
Mr. Hayes of Illinois.
Mr. Hefner of North Carolina.
Mr. Hochbrueckner of New York.
Mr. Holloway of Louisiana.
Mr. Hopkins of Kentucky.
Mr. Horton of New York.
Mr. Howard of New Jersey.
Mr. Hubbard, Jr. of Kentucky.
Mr. Huckaby of Louisiana.
Mr. Hughes of New Jersey.
Mr. Hunter of California.
Mr. Hutto of Florida.
Mr. Jeffords of Vermont.
Mr. Jenkins of Georgia.
Mr. Johnson of South Dakota.
Mr. Jontz of Indiana.
Mr. Kanjorski of Pennsylvania.
Mr. Kastenmeier of Wisconsin.
Ms. Kaptur of Ohio.
Mr. Kostmayer of Pennsylvania.
Mr. Kildee of Michigan.
Mr. Kolter of Pennsylvania.
Mr. Lagomarsino of California.
Mr. Lancaster of North Carolina.
Mr. Lantos of California.
Mr. Leath of Texas.
Mr. Lehman of California.
Mr. Levine of California.
Mr. Lewis of Florida.
Mr. Lewis of Georgia.
Mr. Lewis of California.
Mr. Lightfoot of Iowa.
Mr. Lipinski of Illinois.
Mr. Lloyd of Tennessee.
Mr. Lujan of New Mexico.
Mr. Luken of Ohio.
Mr. Madigan of Illinois.
Mr. Markey of Massachusetts.
Mr. Marlenee of Montana.
Mrs. Martin of Illinois.
Mr. Martin of New York.
Mr. Martinez of California.
Mr. Matsui of California.
Mr. Mavroules of Massachusetts.
Mr. McCollum of Florida.
Mr. McDade of Pennsylvania.
Mr. McEwen of Ohio.
Mr. McGrath of New York.
Mr. McMillan of North Carolina.
Mr. Mica of Florida.
Mr. Moakley of Massachusetts.
Mr. Molinari of New York.
Mr. Montgomery of Mississippi.
Mrs. Morella of Maryland.
Mr. Morrison of Washington.
Mr. Mrazek of New York.
Mr. Murphy of Pennsylvania.
Mr. Murtha of Pennsylvania.
Mr. Myers of Indiana.
Mr. Neal of North Carolina.
Mr. Nielson of Utah.
Mr. Nichols of Alabama.
Ms. Oakar of Ohio.
Mr. Oberstar of Minnesota.
Mr. Owens of New York.
Mr. Owens of Utah.
Mr. Packard of California.
Mr. Panetta of California.
Mr. Parris of Virginia.
Mr. Pashayan of California.
Ms. Pelosi of California.
Mr. Penny of Minnesota.
Mr. Pepper of Florida.
Mr. Perkins of Kentucky.
Mr. Petri of Wisconsin.
Mr. Pickett of Virginia.
Mr. Price of Illinois.
Mr. Quillen of Tennessee.
Mr. Rahall II of West Virginia.
Mr. Rangel of New York.
Mr. Ravenel of South Carolina.
Mr. Regula of Ohio.
Mr. Rhodes of Arizona.
Mr. Richardson of New Mexico.
Mr. Ridge of Pennsylvania.
Mr. Robinson of Arkansas.
Mr. Rodino of New Jersey.
Mr. Roe of New Jersey.
Mr. Roemer of Louisiana.
Mr. Rose of North Carolina.
Mr. Rowland of Connecticut.
Mr. Rowland of Georgia.
Mr. Savage of Illinois.
Mr. Saxton of New Jersey.
Mr. Schaefer of Colorado.
Mr. Scheuer of New York.
Miss Schneider of Rhode Island.
Mr. Schuette of Michigan.
Mr. Shaw of Florida.
Mr. Sisisky of Virginia.
Mr. Slattery of Kansas.
Mr. Slaughter of Virginia.
Ms. Slaughter of New York.
Mr. Smith of Florida.
Mrs. Smith of Nebraska.
Mr. Smith of New Hampshire.
Mr. Smith of New Jersey.
Mr. Smith of Oregon.
Ms. Snowe of Maine.
Mr. Solomon of New York.
Mr. Spence of South Carolina.
Mr. Staggers of West Virginia.
Mr. Stangeland of Minnesota.
Mr. Stenholm of Texas.
Mr. St Germain of Rhode Island.
Mr. Stratton of New York.
Mr. Studds of Massachusetts.
Mr. Stump of Arizona.
Mr. Sunia of American Samoa.
Mr. Sundquist of Tennessee.
Mr. Swift of Washington.
Mr. Swindall of Georgia.
Mr. Tallon of South Carolina.
Mr. Taylor of Missouri.
Mr. Thomas of Georgia.
Mr. Torres of California.
Mr. Torricelli of New Jersey.
Mr. Towns of New York.
Mr. Traficant of Ohio.
Mr. Udall of Arizona.
Mr. Valentine of North Carolina.
Mr. Volkmer of Missouri.
Mrs. Vucanovich of Nevada.
Mr. Watkins of Oklahoma.
Mr. Weldon of Pennsylvania.
Mr. Weiss of New York.
Mr. Whittaker of Kansas.
Mr. Wise, Jr. of West Virginia.
Mr. Whitten of Mississippi.
Mr. Wolf of Virginia.
Mr. Wortley of New York.
Mr. Wylie of Ohio.
Mr. Yatron of Pennsylvania.
Mr. Young of Alaska.
Mr. Young of Florida.

TRIBUTE TO RAY MADDEN

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. SMITH of Iowa. Mr. Speaker, I am pleased that the gentleman from Indiana who now represents the district once represented by Ray Madden has requested a special order so that colleagues may express our respect and admiration for him.

By the time I came to Congress in January 1959, Ray Madden was well established as a power in Congress and had a national reputation for standing up for what he thought was right and being attuned to the views of his constituents and the American public in general.

I served with Ray on some special committees in the House and he was a personal friend. I found him to be a man of outstanding integrity who was always eager to listen to every point of view before making a decision, but who never hesitated to make a decision based upon his informed opinion. He had a long and distinguished career upon which to draw in forming those opinions and he served his country during troubled times with great wisdom and honor. I cherish his memory and feel blessed to have known and worked with Ray Madden.

TRIBUTE TO THE LATE HONORABLE RAY J. MADDEN

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. JONTZ. Mr. Speaker, I would like to thank the gentleman from Indiana's First District, Mr. VISCLOSKY, for holding this special order.

The Honorable Ray John Madden was a truly remarkable man. I am deeply saddened by his passing.

Mr. Madden first entered the political realm at the age of 23 when he ran for city judge in Omaha. He was first elected to Congress in 1942 and went on to serve Indiana's First District for 34 years as a consistent supporter of labor. He also served as a delegate to every Democratic National Convention from 1940 through 1968. Mr. Madden was a graduate of Creighton University Law School, and served under our Nation's Armed Forces during World War I.

I first met Mr. Madden when, as a college student, I traveled to Washington to lobby my State's congressional delegation about some issues I was interested in at the time. I remember very well Mr. Madden taking me into his office, showing the photos and memorabilia he had collected over the years, and giving me the red carpet treatment. I was not a constituent of Mr. Madden's, and he had no reason to take his valuable personal time with a college student from another part of Indiana. But, the fact that he was such a gracious host reflected his genuine concern about people.

Today I represent Indiana's Fifth District in Congress which includes a substantial part of Lake County and the district which Mr. Madden represented for so many years. I know, not only from my personal experience, but from what so many of my Lake County constituents have told me about Mr. Madden's service to them and their families, that he was truly a friend of labor, working people, and northwestern Indiana.

Ray Madden should not only be remembered as a gifted statesman but also as a fine human being who displayed qualities of benevolence and virtue throughout his life. He will be missed by all who knew him.

LEGISLATION ON INFECTIOUS AND PATHOLOGIC WASTE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. RINALDO. Mr. Speaker, medical debris found along the shores of my home State of New Jersey this past summer has increased the public's awareness about infectious and pathologic waste, also known as red bag waste. A 50-mile-long slick of used hypodermic needles, body parts, pill vials, and blood bags in addition to a high bacterial count caused the unprecedented closing of popular New Jersey beach resorts. Although the incident resulted in millions of dollars in lost revenue for the State's booming tourist industry, no one knows the impact it could cause to the health and safety of the public or the environment.

This is not an issue isolated to New Jersey. National concern about AIDS has also increased the public's sensitivity about infectious substances. In Indiana, a dozen children were discovered playing with vials of blood they found discarded in a trash container outside a medical office. Two of the vials contained blood contaminated with the AIDS virus.

In Corlandt, NY, authorities investigating complaints of a foul ordor emanating from a warehouse next to a facility serving children, found tons of hospital, and medical debris stored in the building. Included in the debris were surgically removed body parts and hypodermic needles. In another case, Brooklyn firefighters responding to an alarm at a warehouse found discarded medical waste, including bloody gauze pads, dried plasma bags, and hypodermic needles.

In another chilling incident, New York sanitation workers found a load of red-bag wastes at a marine terminal that contained not only hypodermic needles but materials from chemotherapy and dialysis treatment, a bag marked AIDS, and another marked with a radiation emblem.

On an even more alarming note, late last year, St. Louis' major newspaper reported that several cases of hepatitis, AIDS, and bacterial meningitis were connected to the improper handling or disposal of infectious waste.

Although EPA defines infectious waste as "waste capable of producing an infectious disease," there are no regulations on managing its generation, transportation, treatment, storage, or disposal. It is therefore up to States to develop their own recommendations on handling red-bag waste. Although most States have some standards governing its proper treatment, fewer than 30 enforce them. A 1983 EPA survey revealed that even in States with set guidelines, the procedures were either contradictory or too difficult to follow. Consequently, many health care facilities are free to determine their own ways of treating red-bag waste. This lack of direction or consistency is troubling and the Nation can't afford a catastrophe of Chernobyl proportions to spur it into action.

The unknown nature of hospital discards found at landfills, trash bins, and on our shores has frightened the public, and a responsible Government must take action.

I, therefore, Mr. Speaker, am introducing legislation which will require EPA to review and describe the characteristics of infectious and pathologic waste, and to determine whether such substances should be subject to regulations provided under the Solid Waste Disposal Act. I urge my colleagues to join me in sponsoring and passing this vital piece of legislation.

YOUNG AMERICANS—A RESPONSIBLE GENERATION

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. MONTGOMERY. Mr. Speaker, I recently met with Jerry Jennings, the Acting Director of the Selective Service System, and was most impressed with the job he is doing to encourage young American men to register. The Selective Service System is in good hands.

I believe it is essential for every American to understand and appreciate the importance of selective service registration, its role in defense preparedness, and the heartening statistic that over 96 percent of America's young men are fulfilling their obligation by registering.

I wish to insert into today's RECORD an article entitled, "Young Americans—A Responsible Generation." This article was coauthored by our colleague, Congressman GERALD SOLOMON, author of the Solomon amendments, and Jerry Jennings. It highlights the fact that young men approaching the age of 18 need to be made aware that eligibility for many Federal and State benefits and opportunities, such as student assistance and Federal employment, is conditioned on compliance with the selective service registration requirement.

Mr. Speaker, I have worked closely with selective service officials and with my friend JERRY SOLOMON in the passage of laws conditioning Federal benefits on compliance with the registration requirement and am proud to place these comments in the CONGRESSIONAL RECORD.

YOUNG AMERICANS—A RESPONSIBLE GENERATION

(By Jerry Solomon and Jerry D. Jennings)

A successful U.S./Soviet arms control treaty eliminating intermediate range nuclear weapons in Europe will increase NATO's reliance on conventional forces. It will mean that America must be capable of quickly augmenting its conventional forces in Europe and elsewhere.

The prospects of greater dependence on conventional troops provides yet another cogent reason why our nation's young men must visit any U.S. Post Office to complete a simple Selective Service registration form when turning 18. Simply stated, peacetime registration allows our nation to continuously take stock of its manpower and save valuable time upon mobilization. This serves as a deterrent. Our adversaries know that we have over 14 million registrants, and in any future crisis causing Congress to direct a return to a draft, men could be ordered to duty in a matter of days instead of months.

In 1982, after extensive debate, Congress approved legislation (Solomon Amendment) which made a man's compliance with the registration requirement a condition of eligibility for student federal financial assistance. Conditioning government related benefits to compliance with Selective Service law has proven to be a practical, inexpensive and highly successful way to encourage on-time registration. Today, the Solomon Amendment applies to over three million young men who receive student federal financial assistance each year. Within the past 18 months, over 50,000 men have registered with Selective Service as a direct result of computer matching between the Department of Education and Selective Service. Young men who fail to comply with the law do not receive federal assistance. They also risk felony prosecution and, if convicted, face a fine of up to $250,000 and/or a jail term of up to five years.

In 1983 Congress approved a similar measure conditioning federal job training under the $5 billion Job Training Partnership Act to the registration requirement. To date, over 100,000 registrations have been attributed to this program.

Additionally, in 1985, Congress approved legislation prohibiting federal employment within the Executive Branch to men who were required to register but willingly failed to do so. As a follow-up, the U.S. Postal Service issued a bulletin on August 13th of this year precluding USPS employment of non-complying men. Over three million people apply for employment with the USPS each year.

In America, 5,000 young men turn 18 every day. The message communicated through these laws is loud and clear—along with the benefits of living in our free society come the responsibilities of complying with the law.

Peacetime registration is a success by any measure. We can take pride in the fact that over 96 percent of men aged 18 through 25 are registered. By doing so, they demonstrate that theirs is a responsible generation. They are aware they might be called upon to set aside their normal pursuits and serve, should the need ever arise. By filling out a form they have made a simple but invaluable contribution to our national defense. In their readiness, they guarantee America's strength and protect America's future.

THOMAS SAWYER "EDUCATION IS THE KEY TO COMPETITIVENESS"

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. FEIGHAN. Mr. Speaker, I would like to share with my colleagues a profile of Representative TOM SAWYER that recently appeared in the Clevelander magazine. At a time when we face difficult decisions concerning the Federal budget and the competitive stance of our Nation, I think my colleagues would benefit from learning about TOM SAWYER and his commitment to strengthening and extending the educational opportunities available to all Americans. Mr. SAWYER places the education of our children and our workforce at the very center of our strategy to redefine and improve our country's competitive stature.

THOMAS SAWYER: "EDUCATION IS KEY TO COMPETITIVENESS"

Thomas C. Sawyer's career has taken him from public school classrooms to the Ohio legislature, the Akron mayor's office and the U.S. House of Representatives.

But he's living proof that taking a teacher from the classroom doesn't diminish his interest in and concern for education.

In an appearance before the Growth Association's Public Affairs Committee and an interview with The Clevelander, Sawyer repeatedly stressed the vital link between education and economic development.

"Education may be the single most important infrastructure of our community and our nation. No legislator, no economic developer, no chamber of commerce can afford not to place education at the pinnacle of its priority list," he said.

"As a nation with 16,000 public school districts and 16,000 educational policies, we cannot compete globally against major industrial powers whose educational policies are the bedrock of their economies," he added.

"We need to readjust our funding and our thinking and to recognize that our economic viability is defined by the educational systems we have in place."

Sawyer, serving his first term as representative of Ohio House District 14, is a member of the Education and Labor and Government Operations Committees as well as the Select Committee on Children, Youth and Families.

From 1983 to 1987, he served as mayor of Akron and from 1977 to 1983, was a member of the Ohio House of Representatives where he chaired the House Education Committee and represented the House on the Ohio Board of Regents.

A native of Akron, Sawyer taught in the Cleveland public schools and was an administrator at a state school for delinquent boys before entering the political arena.

Sawyer recalled that two years ago, when he was mayor, Akron placed on the ballot its first school levy in 15 years.

"I took on the leadership of that campaign even though people told me I was out of my mind," he said. "But if I hadn't worked to get the school levy passed, all the other things I did as mayor would have diminished in effect. We all view education as a school board and state legislature responsibility but everyone of us—public and private sector—needs to be concerned."

Sawyer believes that this nation's "greatest impediment to economic growth is lack of resilience in our workforce."

He said America's workforce and educational system are "inextricably linked. As a nation we must make a serious, concerted effort to update our system of school and workplace education. We must invest in our human capital to ensure the vitality of our economic future."

Sawyer said it is becoming more and more evident that the American view of education—12 years of schooling or 12 plus two or four years of college—"is no longer the way that lives and careers evolve.

"It is becoming clear that the norm is for people to shift career directions at least once, twice or three times during the course of a productive lifetime," he said. "The workplace has got to become part of the educational infrastructure. The workplace is the most opportune instrument for retaining and continuing education which goes beyond specific job skills to include creative thinking and problem solving."

As evidence of his capabilities as a freshman legislator, provisions introduced by Sawyer dealing with teacher training and retraining were incorporated into HR 5, also called the Critical Skills Improvement Act of 1987. The bill has been approved by the House and is now in the Senate Labor and Human Resources Committee.

The bill would authorize $400 million annually for a variety of programs to improve math and science teaching skills and would target the funds to the local level. Improving the quality of instruction in math and science in elementary and secondary schools would result in a better trained, more efficient workforce, he contends.

Sawyer said the shrinking of industries which were once the mainstays of our national and regional economies is leaving urban areas with enormous probems.

"But we react with outdated economic devleopment policies. Government and industry are not investing enough in infrastructure, capital equipment, new plants and employee development—investments fundamental to sustained growth in productive capacity," he said.

Sawyer is particularly concerned about the staggering increase in business mergers and acquisitions, noting that in 1986, $150 billion was spent on such transactions.

"That's a devastating figure," he said, adding that Akron's Goodyear Tire and Rubber Company spent $2.6 billion fighting its recent takeover attempt. "That money could have been invested in technological improvements in Goodyear's Akron plant and in modernizing its Maryland plant which has been closed.

"Mergers and acquisitions are using up enormous amounts of capital which could have gone into research and development," he noted. "If we continue to waste precious investment capital, we will fail to achieve our potential."

TWENTY-FIFTH ANNIVERSARY OF THE GREATER ODENTON CHAMBER OF COMMERCE

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. McMILLEN of Maryland. Mr. Speaker, I rise to commemorate the 25th anniversary of the Greater Odenton Chamber of Commerce.

The Greater Odenton Chamber of Commerce is an organization composed of approximately 75 small- to medium-sized businesses. The objective of the Greater Odenton Chamber of Commerce is to promote business and commerce in the area. Additionally, the Greater Odenton Chamber of Commerce has come to mean so much to the surrounding community.

In conjunction with the Providences Community Association, the Greater Odenton Chamber of Commerce is currently involved with cleaning up a sedimentation problem at Lake Marian. Lake Marian feeds into the Severn River, which is a tributary of the bay. This project will be very helpful in the ongoing cleanup efforts for the bay.

The Greater Odenton Chamber of Commerce has also been active in the Odenton Clean-up Program and the Odenton Beautification Program. These efforts have been very successful in enhancing the natural beauty of the Odenton area of Anne Arundel County.

Also a member of the Anne Arundel County Trade Council and the Maryland Chamber of Commerce, the Greater Odenton Chamber of Commerce is very active in education efforts for its members and others with an active interest in local business. A series of briefings this year have focused on business topics as diverse as the liability insurance crisis and school redistricting. I have benefited from the Greater Odenton Chamber of Commerce's education efforts in their advice on legislative initiatives, and issues of local, State, and national importance.

Mr. Speaker, the Greater Odenton Chamber of Commerce was founded by nine businesspeople with a vision for Odenton and a concern for the economic development of their area, and the State of Maryland. Their success is demonstrated by the thriving growth of both Anne Arundel County and Maryland. It is a pleasure to call the attention of the House to the Greater Odenton Chamber of Commerce.

A TRIBUTE TO GENERAL CASIMIR PULASKI

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. ANNUNZIO. Mr. Speaker, on October 11, 1779, the great American patriot and courageous military leader, Gen. Casimir Pulaski, sacrificed his life for the cause of American independence during the Battle of Savannah.

Casimir Pulaski was born in the Province of Podolia in 1748 to an aristocratic and distinguished family. Rejecting a life of leisure, Count Pulaski spent 31 years of his life fighting to free his native land of Poland from foreign encroachments. He had fought bravely to prevent the partitioning of Poland, and although he was unsuccessful in his efforts, his deep commitment to the ideals of freedom never diminished. Count Pulaski recalled his selfless reasons for joining the American colonies in their fight for independence, stating:

> As an enthusiastic Zeal for the glorious cause which animated America, when I came over, and a contempt of death, first introduced me in your service.
>
> I could not Submit to Stoop before the Sovereigns of Europe. So I came to hazard all the freedom of America, and desirous of passing the rest of my life in a Country truly free and before settling as a Citizen, to fight for liberty.

Arriving in Boston during the summer of 1777, Pulaski volunteered his services and expertise to General Washington's army, and distinguished himself at the Battle of Brandywine. Because of his meritorious efforts, the Continental Congress granted him a commission as a brigadier general and placed him in charge of a newly created American cavalry.

General Pulaski exercised great military skill and ability in his task of organizing this independent corps of cavalry and light infantry, known as the Pulaski Legion, and his forces contributed to the successes of the American military cause throughout 1778. The following year in several fierce encounters against the British in South Carolina, Pulaski reinforced his reputation as a superior military commander. Sadly, however, on October 9, 1779, in a final act of bravery, General Pulaski lost his life on the battlefield while leading his famous cavalry legion in driving the British out of Savannah, GA.

Pulaski neither lived to see victory achieved on the battlefield, nor did he live to see America win her fight for independence, yet his valiant efforts were instrumental in establishing this great country, and his actions are representative of the many outstanding contributions that Polish-Americans have made to our Nation.

President Reagan has issued a proclamation commemorating the courageous actions of General Pulaski, designating October 11 as "General Pulaski Memorial Day," and a copy of that proclamation follows:

[Proclamation 5715 of Oct. 1, 1987]

GENERAL PULASKI MEMORIAL DAY, 1987

By the President of the United States of America

A PROCLAMATION

The American people proudly and gratefully observe every October 11 in memory of General Casimir Pulaski, because on that date in 1779 this young Polish count and cavalry officer, wounded two days before while leading a charge during the siege of Savannah, gave his life for our country.

Before casting his lot with America, Casimir Pulaski had fought bravely against tyranny and foreign domination in his beloved Poland and had been forced into exile. He and other Polish freedom fighters well understood that humanity's battle for liberty and self-government is indivisible around the world; with the immortal cry, "For your Freedom and Ours," they went forth to many nations in support of freedom, justice, independence, and individual rights. These ideals are forever part of Poland's heritage; they are dear to the Polish people, and this devotion continues to inspire America and the rest of the world.

The freedoms for which General Pulaski fought and died—the freedoms he helped America win—have not yet been realized in many parts of the globe. The United States of America will always champion religious, political and economic liberty, tolerance, and human rights around the world. Wherever mankind's fight for freedom continues, there stands the spirit of Pulaski and there stands the hope, the commitment, and the help of the United States—"For Your Freedom and Ours."

Now, therefore, I, Ronald Reagan, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Sunday, October 11, 1987, as General Pulaski Memorial Day, and I direct the appropriate government officials to display the flag of the United States on all government buildings on that day. In addition, I encourage the people of the United States to commemorate this occasion as appropriate throughout our land.

In witness whereof, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

RONALD REAGAN.

Mr. Speaker, General Pulaski made the supreme sacrifice in the timeless struggle for freedom, and I am proud to join with Americans of Polish descent in the 11th Congressional District of Illinois which I am honored to represent, and Polish Americans all over this Nation in commemorating the 208th anniversary of General Pulaski's inspiring acts of courage and his unwavering commitment to the ideals of freedom during our American Revolutionary War.

HONORING STATE SENATOR HENRY PANETHIERE

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. WHEAT. Mr. Speaker, this Saturday evening the Kansas City chapter of the American Sons of Columbus will hold its annual banquet. Although I will not have the privilege of attending this event, I take pleasure in joining the Sons of Columbus in honoring their special guest, Missouri State senator, Henry Panethiere. Today, I rise in recognition of Senator Panethiere's many admirable accomplishments and his valuable contributions to the community.

Senator Panethiere and I went to the State capitol together after my election to the Missouri House of Representatives and his election to the State Senate in 1976. While I served in the Missouri House of Representatives, I came to know Senator Panethiere as a hard-working legislator who kept the interests of his constituency at heart. I worked with the Senator on many bills during our years together in Jefferson City, and his knowledge of and interest in labor, aging, education, and community improvement issues gained my respect for his fairness and integrity.

Senator Panethiere is a native of Kansas City and a graduate of Manual High School and the University of Missouri at Columbia, where he received an A.B. in economics in 1949 and his J.D. in law in 1952. His education at the University of Missouri was interrupted by his distinguished military service during the World War II, when he served for over 5 years and saw combat in the Pacific. Upon returning from the service, he received his degree and spent several years practicing law. Senator Panethiere established his own law firm in 1973 and has appeared before the Supreme Court regarding labor issues.

Senator Panethiere presently serves on nine committees and is chairman of the Committee on Mental Health and Aging. He has received numerous awards for his distinguished service, including the Outstanding Legislator Award of the Missouri Association of Public Employees, the Horace Mann Award of the Missouri National Education Association, and 1 of the 10 Best Legislators Award of the Missouri Times. His outstanding legislative and community service have also been recognized by such organizations as the Missouri Bar Association, the United Auto Workers, and the Fraternal Order of Police. Senator Panethiere is also an active member of many civic organizations.

Although I no longer have the honor of working with Senator Panethiere, I still value him as a friend and a trusted colleague in government. I wish to take this opportunity to congratulate Senator Panethiere on this honor and extend to him my very best wishes for continued success on all his future endeavors.

HALL AND SENSENBRENNER INTRODUCE SSC LEGISLATION

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. HALL of Texas. Mr. Speaker, today I and my colleague from Wisconsin, the ranking member of the Subcommittee on International Scientific Cooperation, Mr. SENSENBRENNER, are introducing a bill that will assist the Congress in determining the true extent of interest in foreign participation and support for the proposed superconducting super collider.

I believe that the bill is a necessary first step in getting a better and more realistic understanding of what the total Federal outlays will have to be if this project is built. Cost estimates range from $4.4 to $6 billion, and I think it is important that we begin now to determine, to the extent we can, how much of the total could be offset through foreign support and thereby reduce the cost to the American taxpayer.

Other than the location of the site for the SSC, one of the big unknowns is the level and forms of possible foreign participation and support for this project. I think it is important for the Congress to have the most current information available on possible foreign support as it considers authorizations and appropriations for this project over the next few years.

Our bill directs the Secretary of Energy, as the administration's designated lead agency for the project, to make formal inquiries of foreign governments through the appropriate channels and to consult with the Committee on Science, Space, and Technology and the Senate Committee on Energy and Natural Resources on what the Department has learned by the beginning of the next budget cycle. The consultations would include, but not be limited to, the likely nature and extent of foreign participation in the SSC, usefulness and budgetary impact of such assistance, any potential national security problem and the implications of foreign participation on domestic competitiveness.

We hope that this legislation will be considered quickly by the House Science Committee and brought before the House very soon.

DEMOCRACY IS THE ONLY GUARANTEE OF PEACE

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. BUECHNER. Mr. Speaker, President Reagan called for "full democracy in Nicaragua" in his address to the organization of American States. The peace plan, while containing elements of democracy, is not a guarantor of complete freedom. The Congress of the United States has made a commitment to father democracy in Central America, and by this we must abide. We are obligated under a moral contract, to insure—not just peace—but peace with full democracy in the region.

I applaud the initial response to the Guatemala peace plan. I recognize the reopening of La Prensa, although underestimated, and Radio Catolica, although underpowered, as fundamental advances toward democratic reform. It is my hope that these are only the beginnings of long-lasting peace and enduring democracy in Central America.

As the voices of the Latino Americas demand freedom as their birthright, so we, Norte Americanos, must settle for nothing less. I call upon the Congress of the United States of America to stand behind our commitment to support the Nicaraguan resistance until the peace plan is complete. We must remain steadfast in our faith that democracy is the only guarantee of peace.

AMERICAN TROOPS IN GERMANY WIN INTERNATIONAL AWARDS

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. LANCASTER. Mr. Speaker, it was my pleasure and good fortune to recently participate in a U.S. Army Quick Look visit with our troops in Germany, an experience that I would commend to each of my colleagues.

On this visit, I heard some very good news that demonstrates the high level of competence and training of our troops in Germany, but which news has received little notice in this country or in Congress.

Therefore, Mr. Speaker, I wish to bring to the attention of this body two international awards recently won by our soldiers in Germany. A team of tankers from the 3d Armored Division, won the 15th Canadian Army Trophy Competition. Soldiers of the 11th Armed Cavalry Regiment won the 1987 Boeselager Cup. These are premier international competitions pitting our troops against the best from other allied countries.

In the 14 previous competitions for the Canadian Army Trophy, no American team had ever won. This competition pits platoons against each other in a tank gunnery exercise to evaluate gun accuracy, speed of engagement, and platoon fire control. Points are awarded on the basis of percentage of main gun target hits, machine gun target hits, and the amount of time used. Firing from the M1 Abrams, soldiers from the 1st Platoon, D Company, 4th Battalion, 8th Cavalry, 3d Armored Division, beat 24 tank crews from six NATO countries. Placing third was 1st Platoon, A Company.

This victory in the Canadian Army Trophy competition culminated almost 1 year of rigorous training and real sacrifice on the part of the men involved. Long hours in the field away from their families were rewarded in this unprecedented win. 1st Lt. Ed Massar and his crew are to be commended for bringing this great honor to our country.

In a similar competition for cavalrymen, soldiers of the 1st Squadron, 11th Armored Cavalry Regiment, won the 1987 Boeselager Cup Competition, beating 22 NATO teams. The week-long contest consisted of air reconnaissance, night operations patrol, enemy identification, mounted armor reconnaissance patrol, swimming, small arms fire, vehicle driving, and a 3,500-meter-cross-country course with manmade obstacles and grenade throw targets. This is one of the most grueling of all international soldier competitions. Victory would not have been possible without tremendous sacrifice, extensive training, and great skill.

Mr. Speaker, I am sure that you and our colleagues in the House join with me in commending and congratulating these fine soldiers on the honor they have brought us by winning these important, international competitions.

CONTINUING TRAGEDY IN THE PUNJAB

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. HERGER. Mr. Speaker, I want to again rise to shed light on the continuing tragedy in the Punjab State in India. As I have said on a number of occasions, I believe that it would be unfortunate if those of us in this body were to ignore what has become a struggle of international concern. While the U.S. State Department continues to defend the Indian Government from charges that it is intimately involved in these actions, the evidence implicating Prime Minister Gandhi's oppressive government mounts.

Recently, the Indian Parliament, which is controlled by Mr. Gandhi's party, Passed legislation which authorizes the detention of prisoners in the Punjab without trial for up to 2 years. Sikhs, since they constitute the majority of the population in this region, have reason to be fearful of this legislation which gives police broad authority and denies justice to innocent opponents of the Gandhi regime. Indian Jurist V.M. Tarkunde was quoted earlier this month in the Christian Science Monitor as stating that this law actually increases the possibility of terrorism: "Sikhs think that the laws are aimed at them, and since anyone now can be arrested arbitrarily and denied bail, Sikhs feel like second class citizens. These laws are indeed encouraging terrorism."

On September 1 of this year, hundreds of Indian Security Forces raided the offices of the independent newspaper Indian Express. This publication has been in the forefront of investigations into alleged corruption in Mr. Gandhi's government. The police seized documents, searched the premises, and threatened employees of the paper; reprehensible infringements on the constitutional guarantee of a free press that should be condemned in the strongest terms.

Now, spurred by these actions, four of the five chief priests for the Sikh religion have declared their support for those whose goal is a separate Sikh nation in the Punjab. Gandhi's refusal to recognize the basic human rights of his constitutents promises to bring further bloodshed to the nation. His Union Environment Minister, Mr. Bhajan Lal, recently stated that any Sikhs suspected of terrorism should be shot dead on sight, claiming that they do not deserve to be arrested and tried by courts of law. Is this the kind of action that our State Department condones? I would certainly hope not.

Mr. Speaker, I would like to submit for the record an article from the New Delhi Sunday Observer which details the case of a 27-year-old British citizen who was detained without trial or charges for 19 months simply because of his Sikh heritage. When he finally was allowed to appear before court, the judge stated that "the material placed before me in no way disclosed any criminal offense against the accused person." This is only one of the numerous similar examples of the discrimination taking place in the Punjab. After discussions with officials from the Indian Government, as well as Sikh Leaders, including Dr. Gurmit Singh Aulakh, I remain convinced that this serious condition continues. I would urge the State Department to reconsider their analysis of the situation in the Punjab, and the Indian Government to abandon their oppressive tactics and recognize the need for a more constructive agenda for the region.

TRIBUTE TO DELTA TOWNSHIP AREA OF EATON COUNTY, MI

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. WOLPE. Mr. Speaker, I rise to pay to special tribute to the Delta Township area of Eaton County, MI, as it celebrates 160 years of colorful and successful history, together with the celebration of the county and State sesquicentennials.

The Delta Township area's history began with a man named Musgrove Evans, who first platted the fertile and densely forested land of this region in 1827; 1835 saw the arrival of Erastus and Sally Ingersoll and their family of 12 children, the area's first settlers. When the township was organized in 1842, its growing number of citizens elected nine of the Ingersolls to township offices; chose the name Delta, representing the shape of an island in the Grand River nearby; and established such practical policies as the decree that bulls and boar hogs must be fenced in.

Bulls or boar hogs did not remain a staple of Delta Township's economy for long. Indeed, from its settlement through the early 1900's, this area was largely supported by farming, grist mills, and sawmills. Around 1940, the area's economy began to grow dramatically. The population mushroomed from less than 3,000 in 1940 to nearly 28,000 in 1987. The State tax evaluation grew at the same time from $1.48 million to the current level of $475 million. Encouraged in its expansion by the attainment of charter status in 1962, Delta soon became known as the fastest growing township in Michigan. Farms gave way to residential neighborhoods. An extensive recreation facility was built. Large industrial, merchandizing, commercial, and hotel centers were established. Though Delta is still a township without an incorporated local unit of government within its boundaries, it offers services comparable to those of cities its size that have a "big city" government.

Economic progress is the hallmark of Delta Township. At the same time they have preserved a strong sense of the importance of their history. This is evidenced by such historical structures as the clapboard township hall, built in the 1870's and still in use as late as 1955; and a log cabin called the Sands Moon house, which dates from the 1850's and was moved from an industrial site to the Woldumar Nature Center in 1980, where it has become a demonstration museum commemorating Delta's early pioneers.

Mr. Speaker, I feel privileged to represent the capable and confident people of Delta Township. I celebrate with them their area's history of great success. Truly, as this community continues to thrive and grow, it continues to offer its citizens just what its first settlers were seeking when they arrived in Delta, MI: a "great place to live, work, and play".

ADMINISTRATION AND ENFORCEMENT OF WORKER RIGHTS LAWS MUST BE IMPROVED

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. PEASE. Mr. Speaker, this week the GSP Subcommittee, under the direction of the Office of the U.S. Trade Representative, conducted its first annual review since new provisions to the GSP law were enacted in 1984. The purpose of such annual reviews is to hear testimony and build a public record for decisions due next April from USTR on what countries and products will receive duty-free access to the U.S. market.

They provided the first forum for concerned individuals and organizations to present detailed information about why certain foreign countries ought not be eligible for GSP because they continue to systematically deny basic worker rights to get ahead in international trade. It was also the first chance to point out the serious shortcomings in how the Reagan administration has enforced the new sections of the law. Following is a copy of my testimony in these proceedings. It reveals yet another case where the Reagan administration, not approving of changes in the law enacted by the Congress, has consciously been working to evade and minimize enforcement of the law.

The material follows:

STATEMENT OF CONGRESSMAN DON J. PEASE BEFORE GSP SUBCOMMITTEE OF TRADE POLICY STAFF COMMITTEE

I appear before you today as the author of the provision enacted in 1984 that prohibits the awarding of GSP benefits to foreign countries that do not respect the fundamental rights of their working people. First, I want to comment on the pending review of country eligibility for South Korea and Chile. Second, I want to emphasize in the strongest of terms widespread concern in the Congress about inadequate enforcement of this section of the law and willful disregard of the clear intent of the Congress on the part of USTR and the other executive agencies represented on this inter-agency committee in the conduct of this annual review.

Regarding South Korea, in the past few months the world has witnessed a stirring example of the importance of promoting respect for basic worker rights to establishing a democracy. I am mindful that this committee determined, upon conclusion of your general review last January, that the Government of South Korea had taken sufficient steps to revise a long-established pattern of brutal labor repression to avoid loss of GSP benefits. Six months later the workers of South Korea took nonviolent action of their own that exposed the timidity of your earlier determination.

Now, as South Korea strives to meet the challenge of becoming a democracy, the U.S. Government has at our disposal GSP leverage to ensure fuller participation by the working people of South Korea in that process. A change of Government policy and attitude toward respect for worker rights has been promised in South Korea. If recent and encouraging Government pronouncements about worker rights are not followed between now and next April with concrete action, then GSP preferences should be withdrawn. Beneficence is no substitute for rights.

As for Chile, I frankly was surprised that GSP eligibility was not withdrawn last January. You heard extensive testimony during your general review on the severity of worker rights violations perpetrated by the Pinochet regime, complete with accounts of the murder, kidnapping and torture of trade unionists. Yet, an improvised determination was made to put Chile on probation, in effect, during 1987 without any loss of GSP preference pending further review.

Even more disturbing is information relating to your inaction that first came to light on Capitol Hill last January. I refer to this memorandum, which I request be made a part of the hearing record, written by the Director of the U.S. Labor Department's Office of Foreign Relations in the Bureau of International Labor Affairs in which he challenges a policy decision to not even raise questions of murder, kidnapping, and torture as concerns of the U.S. Government in its GSP consultations and negotiations with the Government of Chile.

In the case of Chile, this administration has been willing to go to extreme lengths to minimize the law in order to sustain GSP eligibility. A more tortured policy determination can hardly be imagined.

The determinations made in prior worker rights cases brought against South Korea and Chile, to cite just two examples, call into question the commitment your agencies have to administering and enforcing the law in good faith. Without improvement on your part, additional legislation may be necessary.

Let me focus upon two aspects of this administrative review process as it pertains to worker rights cases that urgently need to be changed. The same problems may also have arisen in formal requests alleging violations of intellectual property rights.

First, I must protest this committee's decision to reject without so much as a public hearing the formal requests filed for the first time to review worker rights conditions in El Salvador, Singapore, and Zambia during this year's GSP annual review. This action is at odds with the clear intent of the Congress as expressed in the legislative history of the worker rights provision of the GSP law. Specifically, the report language to accompany the law reads:

It is the subcommittee's intent that USTR establish a formal procedure through which parties interested in the implementation and protection of internationally recognized worker rights *at least once a year can offer testimony or submit written comments during at least one public hearing* on issues pertaining to countries' eligibility for designation as beneficiary developing countries."

Moreover, refusal to hear criticism of these countries significantly undermines the efficacy of the administrative review process. It sets a very bad and dangerous precedent for arbitrarily restricting public input into the formulation of U.S. trade policy.

In actuality, the Congress intended for this inter-agency committee to regularly examine the status of worker rights in all countries eligible for GSP preferences. Short of that, certainly when serious challenges are brought to USTR alleging worker rights violations in one or more countries for the first time, the request ought to be scheduled for a public hearing during the GSP annual review. If the allegations are not well-founded and if contradictory information is available through official channels to that presented in the requests, then USTR and other agencies represented on the inter-agency committee can and should bring those facts to light in the public hearing itself or during the subsequent six months during which a determination is made on what action will be taken pursuant to each request.

I have not heard any good reason why the three country requests regarding El Salvador, Singapore and Zambia were not accepted for hearing and discussion at this time. The right of Americans to petition our Government and be heard is one of our most cherished freedoms that ought not be abridged. I urge this committee to amend your plans and accept for public hearing in the next 4-6 weeks the timely requests filed in relation to GSP benefit and worker rights in El Salvador, Singapore, and Zambia. It is not too late to stop flouting the will of the Congress. Ample time is available to hear these concerns and respond by next April.

Second, this inter-agency committee has done a very poor job of establishing and publishing a clear, readily accessible public record and of reporting to the Congress on the content of each formal worker rights challenge brought to USTR, the issues covered in the corresponding negotiations with the foreign countries concerned, and the final disposition of those issues. I suspect the same is true regarding intellectual property rights cases.

In 1985 and 1986, during conduct of the general review, detailed challenges and testimony were presented alleging worker rights violations in 11 countries (14 countries have been challenged in this year's annual review). Action was taken last January against 3 countries, while a fourth was continued under review. Since that time, only a short, sketchy memorandum has been released to the general public to very generally explain the policy decisions made in response to hundreds of pages of testimony. In a few cases, those parties who brought formal country challenges typically received brief 1½ page letters by way of an official explanation of what had been decided in response to their requests. But if such responses were not specifically and persistently sought, then no information or response for the public record appears to have been provided by USTR.

There is a practical, simple solution to this problem. The USTR should assemble and publish in one volume each year (without being statutorily required to do so) a report for Congress including the oral and written testimony presented during the annual review of worker rights cases along with detailed official explanations of the decisions reached in each case and the supporting factual documentation. (The same types of report should be produced upon the compeletion of any general review as well.) In fact, looking at the agenda for these October hearings, such reports can reasonably be expected to speak to any and all GSP country challenges brought pursuant to the mandatory 502(b) criteria, including worker rights violations. This sort of annual USTR report to the Congress need not be unwieldy or administratively burdensome. But every effort should be made to declassify as much material as possible pertaining to official consultations with foreign governments that are designed to promote respect for worker rights or intellectual property rights, for example, and any commitments made therein by the foreign governments in question and to include it in the report.

This report to the Congress will be very helpful to all parties concerned. From a production standpoint, much of the work is assembly and reproduction of the information exchanged in these hearings and the rest is committing to paper the basic reasoning that goes into the official policy determinations made by the executive branch for each country challenge. Building a strong written record and explaining policy determinations to the Congress and the concerned public are very important in this increasingly important dimension of U.S. relations with the rest of the trading world. Policy-makers throughout the Government will then have a yardstick by which to measure progress over time toward making certain that the benefits of GSP are spread more evenly with working people within beneficiary developing countries.

U.S. Department of Labor,
Bureau of International
Labor Affairs,
Washington, DC, June 24, 1986.

Memorandum for: James F. Taylor.
From: Jack Buchanek.
Subject: GSP Process on Chile.

The purpose of this memoradum is to alert you to the direction that the GSP process on Chile has taken and the trouble that this may cause for ILAB.

About a year ago, the AFL-CIO, one union, and Americas Watch petitioned the USTR to remove Chile from the GSP list. These groups cited several violations of internationally recognized worker rights which were substantiated in the ILAB review.

The most serious violation is the murder, torture and arrest of trade union leaders. Another important violation is the government's refusal to allow unions to engage in political activity. A third serious violation is the prohibition of collective bargaining in state-financed companies and agencies or on an industry-wide basis. It is one thing to prohibit strikes but much worse to prohibit collective bargaining.

For some reason, USTR has decided to drop these three items from the negotiating table, with the exception of the prohibition of industry-wide bargaining which would be pursued. (Attached is the latest TPSC draft paper.) As you know, OFR is concerned about the legal defensibility of any process that leaves out such serious violations. The point of this memo, however, is not to re-raise that issue, but rather to raise a point about the Administration's strategy and ILAB's credibility.

If USTR wants to drop the murders and other issues from the negotiations than I think USTR ought to notify the petitioners that it is doing so. Such timely notification would benefit the Administration in two ways. First, if the Administration gives the petitioners the bad news now, we will be laying the groundwork for a more positive assessment of the concessions that we ultimately receive from Chile. If, on the one hand, the US gets the AFL-CIO and others to lower their present expectations, then they may be heartened by the concessions that we get in the future. On the other hand, if we don't tell them what's going on then whatever concessions we announce in January will probably be ridiculed.

My second concern relating to ILAB's credibility is that we are participating in meetings with the AFL-CIO in which they are being told that all of their allegations are being pursued. When the AFL-CIO eventually finds out that certain allegations were not pursued, we will have injured our special relationship with them. The AFL-CIO can understand that foreign policy considerations could dictate the Administration's timid approach to the Chileans. What the AFL-CIO will not understand is ILAB's participation in the misrepresentation of what the U.S. is trying to achieve.

TPSC Paper

Chile.—Complaints regarding workers rights in Chile center on freedom of association and the right to organize and bargain collectively. Some of the complaints were found to be unsubstantiated. However, many were found to be valid. In some cases, the problems are inherent in particular Chilean laws, while in other cases the problems stem from the manner in which the law is applied or from extra-legal actions. It should also be noted that application of certain laws in Chile is subject to limitation during declared states of national emergency and siege, during which freedoms of persons and institutions are substantially restricted, and abuses have occurred affecting the rights of trade unions and their leaders. The key complaints are as follows:

(1) It is legally possible for all unions in Chile to form an overall confederation, crossing industrial and/or professional lines, and have that confederation include the existing federations and local unions. The process necessary to accomplish this, however, is quite restrictive and appears to be time consuming.

(2) Unions are prohibited from engaging in political activities, although union members and officers have the right to be individually active in politics or political organizations.

(3) Chilean law provides for oversight of unions by the government. Unions are required to submit their end-of-year balance to the Ministry of Interior, which can only take legal action if there are discrepancies in the statement of how the union officers used member's dues during the year. Election of union officers can be certified by the Labor Ministry or a notary public.

(4) The Government has, at times, interfered in union activities through the search of union offices, the seizure of union records, and arrest and internal banishment of union leaders. (There have also been substantiated reports of torture of individual union activities by security forces and allegations of government involvement in the murder of 2 union leaders.)

(5) Collective bargaining is only permitted by individual unions organized at the company level. Federations and confederations are prohibited from negotiating collective bargaining agreements on an industry-wide or sectoral basis, though they can and do provide expertise to affiliated unions to use in bargaining and can coordinate the bargaining of affiliated unions. This restriction harms the negotiating strength of unions and has had a specially negative impact on workers in small economic units. Revisions affecting port workers (law 18.462) have hindered rather than helped union activities.

(6) Limitations on the right to strike exist. For example, if a strike exceeds 59 days, all strikers are considered to have voluntarily resigned and forfeit any benefits.

(7) Collective bargaining is prohibited in state-financed companies or government agencies and in institutions with over 50 percent of their budgets provided by the government.

(8) Strikes are prohibited by law in all public utilities and the Chuquicamata copper mine ("strategic industries"). If the two sides in a dispute cannot agree on an arbitrator, the government has the right to appoint one.

It is recommended that we advise the Government of Chile that these practices are the key problem areas under the worker rights provisions of the GSP program. We also should advise them that we would be prepared to consider a package of actions similar to the following as "taking steps":

(a) Permitting collective bargaining at a level beyond that of individual enterprises.

(b) Elimination of the provision relating to the automatic termination of employment contracts of striking workers at the end of 59 days.

(c) Elimination of Labor Ministry audits except by court order.

(d) Amendment of labor legislation to allow for easier formation of larger cross-sectoral confederations.

(e) Greater protections for collective bargaining in strategic industries denied the right to strike, such as giving unions participation in establishment of the list of arbitrators for settlement of labor disputes in these industries.

(f) A commitment not to interfere in the legitimate activities of unions and their officers, including refraining from the search of union offices and seizure of union records, prior to completion of judicial review.

U.S. Department of Labor,
Bureau of International
Labor Affairs,
Washington, DC, June 26, 1986.

Memorandum for Jack Buchanek, Director, Office of Foreign Relations.

From: James F. Taylor, Associate Deputy Under Secretary, International Affairs.

Subject: GSP Process on Chile.

I have these comments concerning your memorandum of June 24, 1986 concerning "GSP Process in Chile":

You say "USTR has decided to drop these three items [murder, torture and arrest of trade union leaders; prohibition of political activity; prohibition of collective bargaining in state-financed companies or on an industry-wide basis] from the negotiating table".

I do not think this is true.

1. The TPSC paper, on page 1, refers to "substantiated reports of torture . . . murder" and on page 2 recommends ". . . that we advise the Government of Chile that these practices are the key problem . . ." and under action item (f) calls for ". . . commitment not to interfere in the legitimate activities of unions and their officers. . . ."

2. The TPSC paper records, on page 1, the allegation about political activity and on page 2 includes this as one of the "practices" we consider to be "the key problem."

3. The TPSC paper records, on page 1, the allegation about collective bargaining restrictions, says on page 2 that this practice is a "key problem", and includes, as action item, (a) "Permitting collective bargaining at a level beyond that of individual enterprises."

I do not think the TPSC paper warrants you using language like "If USTR wants to drop the murders and other issues from the negotiations . . . if the Administration gives the petitioners the bad news now . . . the Administration's timid approach to the Chileans. . . . What the AFL-CIO will not understand is ILAB's participation in the misrepresentation of what the U.S. is trying to achieve."

I do not think that we are guilty of duplicity where the AFL-CIO is concerned, I think that "all of their allegations are being pursued" with sincerity, seriousness and integrity.

MAY THE CHINESE PEOPLE PROSPER

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. MARTINEZ. Mr. Speaker, I rise today to speak of the important ongoing changes in the Republic of China. As many of you know the 10th of October is Taiwan's National Day. On this day, I want to talk to you about two types of progress which is occurring in the Republic of China; economic and democratic.

Today when economists talk of Taiwan, they talk of a dragon—they talk of soaring growth that has transformed a small island into one of the world's most important economies. The numbers are startling: Taiwan has become the fifth largest trading partner of the United States. Its per capita income is the fourth highest in East Asia and 10 times higher than Communist China's. The ties between Taiwan and my home State of California are particularly close. In 1985, Taiwan was California's second largest international trade partner.

But with Taiwan, trade is not a one-way street. They have built what I consider a model for the world: the Taipei World Trade Center. Taiwan is encouraging the United States and others to bring their products and services to the trade center, to set up sales offices, and to sell to Taiwan.

In August, a Hispanic trade and cultural mission visited Taiwan to establish better relations between the Hispanic community and the Taiwanese people. What we saw was a model of economic success to the world. Taiwan's prosperity was evident: Hundreds of skyscrapers dotting the Taipei cityscape; American and Japanese autos snarling downtown Taipei traffic; stylish men and women engaging in the business of making even more money and Taiwan's central banks bulging with 60 billion United States dollars in reserve. Taiwan is a country where everyone has a chance to make a good living and it has a government dedicated to nationalism, democracy, and the social well being of its people.

Politically, there's a new opposition party, its formation being the result of President Chiang Ching-kuo's determination to open the political system to all political parties. We understood that the ruling Kuomintang is also planning to overhaul the aging parliamentary system, to grant even more political freedoms to the people and to possibly lift its travel ban to mainland China.

In short, it would seem that the national government itself never intended martial law to last beyond their need to establish a stable democracy. In justification of that belief, we now see an important change. The Republic of China has decreed an end to the martial law that had to be imposed 38 years ago. The powers the military has administered are being put into civilian hands. Civilians are now to be tried in civilian courts. Taiwan has made reforms of its financial system. All of this proves that democracy works and evolves. As Fredrick Chien said:

> These are exciting times for the Chinese people in Taiwan. Martial law has ended. The military has turned over censorship powers to the civilian Government Information Office. Foreign exchange controls have been cut back permitting free capital outflow.

Yes, Ambassador Chien is right.

Taiwan is displaying a new political confidence and maturity to go with its economic prosperity. Psychologically and politically this combination is a courageous and significant step toward building a stronger democracy in Taiwan. As an American and a believer in democracy, I congratulate Taiwan on its progress and hope that it continues to strive toward even greater economic and democratic success.

And on the occasion of the 76th birthday of the Republic of China, I wish to compliment President Chiang Ching-kuo on these accomplishments. He has transformed an impoverished island country into an economic giant all within a period of 25 years. The Chinese people are fortunate to have Mr. Chiang as their leader. May the Chinese people prosper.

THE PROBLEM WITH H.R. 3030

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. MADIGAN. Mr. Speaker, Farm Credit System representatives came to the Agriculture Committee early this year indicating that the system needed financial assistance and further legislation to remain viable, despite previous passage of the 1985 and 1986 amendments. Because I, like most Members of the House, have always supported a strong, cooperative farm lender, we spent most of this year working on a legislative remedy to the system's problems. After months of effort, however, I find myself unable to support the bill as passed by the House.

The Farm Credit System came to Congress asking for a $6 billion no interest loan with up to 60 years to repay the taxpayer. At no time was the Agriculture Committee able to obtain a single generally accepted amount of financial assistance that the system needed. This bill that the House passed Tuesday provides $2.5 billion for next year and such sums as are necessary for later years. In addition, the House adopted an amendment that has the potential to increase the total cost of the bill by several hundred million dollars.

Recent profit/loss estimates coming from the Farm Credit System itself show that their fortunes are dramatically improved over their own previous projections. It is reasonable to wonder on balance whether they really want this bill with all its attendant restrictions and subsidized competitors. House Members with agriculture constituencies may also wonder about whether or not money given to the Farm Credit System will exacerbate the Gramm-Rudman implications for the agriculture function of the budget in future years.

The improved estimates of the system's financial health are in large part due to farm income levels being higher than system experts expected them to be. A variety of Government payments is the major component in this improved farm income level. Is it not fair to question whether it makes sense to give money to the Farm Credit System and, as a consequence, deny payments to farmers who then will be unable to repay their mortgages from the Farm Credit System? Is it really wise to put large sums of money into a system that may or may not need, it, that may indeed hold the money in a reserve that would be necessary only if income to farmers dropped, when the consequence of that action would insure that income to farmers would drop?

The House Committee on Agriculture thought it wise to vest a greater degree of decisionmaking in local credit associations, that is, production credit associations and Federal land bank associations, in a basic reorganization of the system. On the floor, however, Members reversed that decision and adopted an amendment that vests authority in a group of new regional banks, reducing the number of banks from 36 to 6. This amended reorganization scheme makes each bank's territorial responsibility greater and its activities even more remote from local concerns. By leaving the bank with control over the basic decision whether money will or will not be made available to the associations, H.R. 3030 does little to strengthen the local control of the association members and leaves entirely too much power in the hands of the regional banks.

H.R. 3030 also provides, for the first time, Government financial guarantees of competition for the Farm Credit System from commercial banks and insurance companies. This takes the form of a 90-percent Federal guarantee of farm real estate loans sold into the newly established secondary market or "Farmer Mac." Because the Farm Credit System has many troubled farm real estate loans and these new competitors do not, the system will be operating at a disadvantage. The already weakened system will face the loss of many of its best borrowers to the newly created secondary market, forcing an increase in interest rates on its remaining borrowers.

The disadvantage of the system is exacerbated because the bill imposes borrower rights and affirmative action requirements on the Farm Credit System, but not on its newly enfranchised competitors. One other fact about the secondary market should be noted. Under the House-passed bill the Government could be assisting a multimillion-dollar purchase of agricultural properties by foreign investors. Why should this be the responsibility of the American taxpayer?

These are among the reasons that led me to oppose the Farm Credit System bill on final passage, even though I, as ranking member of the committee, was a part of the overwhelming 41-2 majority that voted the bill favorably out of committee earlier this year. I will continue to work through the full legislative process to make H.R. 3030 a more acceptable reform of the Farm Credit System.

CONGRESSMAN MILLER HONORS CARL REHFUSS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. MILLER of California. Mr. Speaker, on Friday, October 23, 1987, over 100 friends and dignitaries will gather at the Richmond, CA, Rotary Club to honor Carl W. Rehfuss on the occasion of his 90th birthday. I join with his many friends in saluting a dedicated citizen and businessman who has given many years of leadership and service to Richmond, CA.

Mr. Rehfuss graduated from Stanford University in 1922 and joined Standard Oil of California, now Chevron USA, in 1924. Carl retired from Standard Oil as the Richmond refinery general manager in 1962 after 38 years of service. During his tenure at Standard Oil, Carl began an association with the Richmond Rotary which continues to this day. He joined the Rotary in 1944 and served as Richmond Rotary Club president from 1952-53; district governor, Rotary International, 1967-68; secretary of Richmond Rotary, 1969-87; and is currently secretary emeritus. Both he and his wife Elizabeth are Paul Harris fellows of Rotary.

In addition, Carl has served the city of Richmond in many capacities. He is the past president of the Council of Richmond Industries, Navy League, Richmond Boy's Club, and Chamber of Commerce. Carl has also been a board member of Children's Hospital of the East Bay, two-term Contra Costa grand jury member and Richmond Youth Center Board.

Carl Rehfuss has helped make Richmond, CA, a unique place to live and work and is one of the city's truly outstanding citizens. I congratulate him on his many achievements and wish him, his wife Elizabeth, their children, grandchildren, and great-grandchildren much happiness in the years ahead.

A GREAT ITALIAN—CHRISTOPHER COLUMBUS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. CONTE. Mr. Speaker, I rise today to commemorate a great figure in our national history and a great Italian. Before we celebrate the Federal holiday on Monday, I want to share with my colleagues a few remarks about the proud origins and world-shaping achievements of Christopher Columbus.

According to the great Harvard historian, Samuel Eliot Morison, there are no fewer than 11 countries that claim to be the homeland of Christopher Columbus. But as an American of Italian descent, there is no doubt in my mind about the native origin of that great explorer and cartographer of the late 15 century. Cristoforo Colombo was an Italian.

When Cristoforo Colombo drafted his will before his third expedition to the Americas, he ordered his heirs to maintain a home in Genoa, "because from it I have come and in it I was born." This indisputable evidence is reason for pride among Italian Americans.

Christopher Columbus has served as a role model for all Americans. His courage has remained as a reminder to all of us of that determination in the face of skepticism is a meritorious trait.

Yet the ethnic origin of Columbus is not what the Nation celebrates on October 12 of each year. We celebrate the beginning of the European migration to this hemisphere and the dawning of a new era in the history of man. The land discovered by Columbus and by all the men and women who followed his path across the Atlantic has contributed inexplicably to the development of man and the wealth of new nations.

I hope that my colleagues will join me in celebrating Columbus Day and in recognizing the full importance of the voyage made by that great Italian almost 500 years ago.

A TRIBUTE TO WILLIAM BOBOLIS

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Mr. William Bobolis. An accomplished musician, a dedicated teacher, and a devoted member of his church, Bill will be presented with the Medal of St. Paul at a dinner in his honor, October 18, 1987.

Bill is the son of Greek immigrants. His parents, James and Hrisagye (Dedes) Bobolis, came to the United States from Megali Valsa, Corinth, Greece.

With a desire to share his love and devotion of music with others, Bill became a music educator 35 years ago. He is the choir director at the Annunciation Church in Sacramento and is currently the music department chairperson at Sacramento Senior High School. Under Bill's direction for the past 24 years, the Annunciation choir has become one of the largest choirs in the Western Choir Federation and his high school group—the Starmakers—is often asked to perform throughout the country.

Since moving to Sacramento in 1963, Bill has performed numerous baritone roles in local operas and oratorios. His wife, Evelyn, and his daughters, Stephanie, Kristie, and Jamie, share his musical talent and sing in the Annunciation choir.

Bill Bobolis is truly a community leader. Devoted to his family, his church, music, and teaching, he has touched us all.

Mr. Speaker, Bill Bobolis is appropriately being honored with the prestigious medal of St. Paul. I join His Grace, Bishop Anthony and Bill's family and friends in commending him for the many accomplishments and great gifts he has shared with this community.

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HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

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HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

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HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1987

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